

Shāfi‘ī Jurists and Legal Theorists on the Imamate

Yousef Wabb

This short piece presents five translated excerpts from authoritative Shāfi‘ī works in the fields of positive law (*fiqh*) and legal theory (*uṣūl al-fiqh*). These excerpts represent the school’s broad perspective on imamate, or caliphate,¹ and the communal obligation to maintain leadership, which plays a vital role in ensuring political and social stability, access to justice for all, and preserving the higher objectives of religion.

The first passage is taken from Abū Muḥammad al-Baghawī’s (d. 516/1122) *al-Tahdhīb*, which is a condensed version of his teacher, the renowned Shāfi‘ī judge Ḥussein al-Marwazī’s (d. 462/1069) book, *al-Ta‘līqah*², which in turn is one of three notable Shāfi‘ī works based on *al-Mukhtaṣar* (*Epitome of Law*), authored by al-Shāfi‘ī’s (d. 204/829) companion al-Muzanī (d. 264/877). *Al-Tahdhīb* is frequently cited by al-Nawawī (d. 676/1277) in his renowned work, *Rawḍat al-ṭālibīn*.

The second passage is derived from Ibn al-Rif‘ah’s (d. 710/1310) *Kifāyat al-nabīh*, which is an extensive commentary on *al-Tanbīh* by Abū Ishāq al-Shīrāzī (d. 476/1083). *Al-Tanbīh* is highly regarded as one of the most widely circulated Shāfi‘ī law texts, with al-Nawawī considering it among the top five. It is based on another *Ta‘līqah* written by an earlier Shāfi‘ī authority, Abū Ḥāmid al-Marwazī (d. 362/973) on al-Muzanī’s *al-Mukhtaṣar*. Notably, in his discussion of the chapter on imamate, Ibn al-Rif‘ah extensively draws upon and summarizes, sometimes even verbatim, from al-Juwainī’s (d. 478/1085) seminal treatise on the laws of political theory, *al-Ghiāthī*.

The third excerpt features Zakariyā al-Ansārī’s (d. 926/1520) commentary on Ibn al-Muqrī’s (d. 837/1433) *Rawḍ al-ṭālib*, which serves as an abridged version of al-Nawawī’s *Rawḍat al-ṭālibīn*. Al-Ansārī’s commentary, known as *Asnā al-maṭālib*, has emerged as a crucial reference for later periods of Shāfi‘ī jurisprudence. To provide further clarity, the translation is accompanied by explanatory comments from Shihāb al-Dīn al-Ramlī (d. 957/1550), a distinguished student of

¹ The terms “caliphate” and “imamate” are often used interchangeably in the Islamic tradition. Imamate encompasses various meanings, including the imamate of revelation, which refers to prophethood; the imamate of being the Prophets’ heirs, which pertains to possessing knowledge; the imamate of worship, which involves leading the prayer; and the imamate of public interest, which signifies the role of caliphate. The Prophet ﷺ himself embodied all four aspects of imamate. In the Islamic tradition, when imamate is mentioned without specification, it typically refers to caliphate by default. Occasionally, it is referred to as the highest imamate (*al-imāma al-‘uzmā*) to distinguish it from other connotations. The appointed leader is referred to as the Caliph or Imam. The term caliph (*khalīfa*) denotes that the individual is a successor to the Prophet ﷺ in leading the umma. The term imam likens the leader to the imam of prayer, as people follow and adhere to their guidance. The term sultan emerged later in the tradition, signifying a shift in the prevailing circumstances with the presence of multiple leaders, many of whom lacked the necessary eligibility criteria, and the absence of a legitimate appointment process.

² The term *ta‘līqah* refers to a specific genre of scholastic legal literature that emerged in the 3rd/9th century. As George Makdisi notes, “The term *ta‘līqa*, taken as a work prepared by the student in the last phase of his legal studies, was a repertoire of legal questions which the student had to be able to reproduce from memory on being examined by the professor of law.” See Makdisi, *The Rise of Colleges: Institutions of Learning in Islam and the West*, (Edinburgh: Edinburgh University Press, 1981), 116-8.

Zakariyā al-Ansārī. The translated excerpts from this commentary exemplifies the school's consistent doctrinal stance on imamate and the preservation of its laws, which maintain their effectiveness regardless of any situational exigencies that may affect their ideal application.

Although the issue of imamate primarily falls under substantive law, discussions surrounding it have also found their place within the fundamental disciplines of theology and legal theory. This typological diversity is often justified by the significance of imamate and the heightened debates that arose throughout Muslim history, sometimes leading to positions on imamate serving as markers of identity. This piece provides examples from the legal theory literature by presenting the cumulative scholarship on a highly esteemed work on legal theory written by Tāj al-Dīn al-Subkī (d. 771/1370), titled *Jam' al-jawāmi'*. Drawing from nearly 100 sources, al-Subkī offers a comprehensive and systematic analysis of various legal theory topics, including the sources of Islamic law, the methodology and hermeneutics of legal reasoning, and the role of customs and practices in shaping Islamic legal norms. *Jam' al-jawāmi'* has been extensively studied and annotated by subsequent generations of scholars, resulting in numerous commentaries and glosses.

The translation features one of the book's most significant commentaries written by al-Maḥallī (d. 864/1460), which continues to be taught in traditional Islamic learning institutions to this day. Additionally, the translation includes comments from the gloss of Ḥasan al-'Aṭṭār (d. 1250/1835), a late Shāfi'ī scholar who lived during the French invasion of Egypt, engaged with the rising European civilization, and later became the Grand Imam of Al-Azhar. Notably al-'Aṭṭār composed a concise monograph on the topic of the caliphate, offering an overview of the successive Muslim dynasties starting from the Umayyads and emphasizing the commendable aspects of the Ottoman Caliphate.

Substantive Law (*Fiqh*) Texts

1) Abū Muḥammad al-Baghawī³ in *al-Tahdhīb*

خَلَقَ اللهُ تَعَالَى الْعِبَادَ، وَكَلَّفَهُمُ الْعِبَادَةَ، وَلَمْ يَتْرِكْهُمْ سُدىً، وَبَعَثَ إِلَيْهِمُ الرِّسَالَ؛ أَئِمَّةً يَهْدُونَهُمْ عَلَى سِوَاءِ الصِّرَاطِ، وَيَعْلَمُونَهِمُ الشَّرَائِعَ، وَخَتَمَهُمُ بِسَيِّدِ الْمُرْسَلِينَ مُحَمَّدٍ - صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ وَعَلَيْهِمْ أَجْمَعِينَ - ثُمَّ بَعْدَهُ لَمْ يَكُنْ لِلنَّاسِ بُدٌّ مِنْ رَاعٍ يَرَعَاهُمْ، وَوَاظِعٍ يَرَعُهُمْ، وَسَاعٍ يَسْعَى فِي إِحْيَاءِ أَمْرِ الدِّينِ وَإِقَامَةِ السُّنَّةِ، وَيَنْتَصِفُ لِلْمَظْلُومِينَ؛ لَمَا فِي طَبَاعِ النَّاسِ مِنَ التَّنَافُرِ، فَاتَّفَقَتِ الصَّحَابَةُ - رَضِيَ اللهُ عَنْهُمْ - عَلَى خِلاَفَةِ أَبِي بَكْرٍ الصِّدِّيقِ ثُمَّ اسْتَخْلَفَ أَبُو بَكْرٍ بَعْدَهُ عُمَرَ، ثُمَّ كَانَتْ الْخِلاَفَةُ بَعْدَ عُمَرَ لِعُثْمَانَ، ثُمَّ لِعَلِيِّ - رَضِيَ اللهُ عَنْهُمْ - ثُمَّ تَتَابَعَتِ الْوَلَاةُ هَلُمَّ جَرًّا إِلَى زَمَانِنَا، فَإِذَا أَتَى عَلَى النَّاسِ زَمَانٌ لَمْ يَكُنْ فِيهِ إِمَامٌ يَجِبُ عَلَى أَهْلِ الْحُلِّ وَالْعَقْدِ [مِنْهُمْ] أَنْ يَجْتَمِعُوا فَيَنْصِبُوا إِمَامًا يَقُومُ بِإِعْلَاءِ كَلِمَةِ اللهِ تَعَالَى، وَأَمْرِ الْجِهَادِ، وَرِعَايَةِ أَمْرِ الرِّعِيَةِ، وَإِقَامَةِ الْحُدُودِ، وَاسْتِيفَاءِ الْحَقُوقِ، وَإِنكَاكِ الْأَيَامِي، وَغَيْرِ ذَلِكَ، ثُمَّ عَلَى النَّاسِ كَافَّةً طَاعَتُهُ فِي [طَاعَةِ] اللهِ، لِقَوْلِهِ تَعَالَى: {أَطِيعُوا اللَّهَ وَأَطِيعُوا الرَّسُولَ وَأُولِي الْأَمْرِ مِنْكُمْ} [النساء: 59]، وَأَرَادَ بِ"أُولِي الْأَمْرِ" الْوَلَاةَ.

Allah, the Exalted, created humankind and enjoined upon them the duty of worshipping Him. He did not leave them without guidance. He sent them messengers as leaders to guide them on the straight path and teach them the divine laws. He sealed them with the master of all messengers, Muhammad (peace be upon him and all messengers). After him, humanity has been in need of a leader to look after them, a warner to alert them, and a dedicated individual who diligently works towards revitalizing religious matters, upholding the Sunnah, standing up for the oppressed, considering the inherent tendency of people to diverge and clash.

The companions—Allah be pleased with them—unanimously agreed on the succession of Abū Bakr al-Siddīq. Abū Bakr appointed ‘Umar as his successor. Then the caliphate passed to Uthman, and then to Ali—Allah be pleased with them. Successive rulers continued until our time. When a period comes upon people where there is no appointed leader, it becomes obligatory on those who enact and repeal community decisions (*ahl al-ḥall wal-‘aqd*)⁴ among them to gather

³ Abū Muḥammad al-Ḥussein ibn Muḥammad al-Farrā’ al-Baghawī was a renowned Shāfi’ī jurist hailing from Khorasān. He received his education under the tutelage of esteemed jurists, including the judge Ḥussein al-Marwazī. Al-Baghawī earned several accolades, notably being recognized as The Reviver of Sunnah (*Muḥiyī al-Sunnah*) due to his significant contributions to the literature on the Sunnah. He also authored a significant work on Qur’ānic exegesis (*tafsīr*).

⁴ The term “*ahl al-ḥall wal-‘aqd*” was not used in the technical sense of appointing Imams or Caliphs during the Prophetic period or the reigns of the four Caliphs. This usage likely emerged later, possibly during the middle Abbasid era. One of the earliest references to the term in this technical sense was made by al-Ash‘arī (d. 324/936), who described the companions who recognized ‘Alī’s imamate as “*ahl al-ḥall wal-‘aqd* of the Companions.” Abū al-Ḥasan al-Ash‘arī, *al-Ibānah ‘an Uṣūl al-Dīyanah*, ed Fawqīyya Maḥmūd (Cairo: Dār al-Anṣār, 1977), 258. However, during the reigns of the four caliphs, the term was generically used to denote the rulers and deputies appointed by the caliphs for specific regions or districts. The Shāfi’ī school defines “*ahl al-ḥall wal-‘aqd*” as

and appoint an imam who will uphold the word of Allah, command jihad, safeguard the interests of the subjects, establish legal punishments, ensure the fulfillment of rights, conduct marriages for single women, and other such matters. Then it is the responsibility of all people to obey him in [matters that are in accordance with] obeying Allah, as Allah says: “Obey Allah, obey the Messenger, and those in authority among you.”⁵ By “those in authority,” it refers to the rulers.⁶

وتَثَبَّتْ الإمامة بأحد الأشياء الثلاثة: إما بالبيعة مثل إمامة الصديق وتثبت الإمامة أبي بكر؛ كانت بيعة من الصحابة، - رضي الله عنهم - أو باستخلاف من قَبِلَ الإمام؛ كإمامة عمر؛ كانت باستخلاف أبي بكر إياه. ولو جعل الإمام الأمر شورى بين جماعة، فاختاروا واحداً منهم للإمامة كان كاستخلاف؛ كما أن عمر - رضي الله عنه - جعل الأمر شورى بين ستة نفرٍ بين عليٍّ، وعثمان، وطلحة، والزبير، وسعد بن أبي وقاصٍ، وعبد الرحمن بن عوفٍ، وقال: "فَلْيُعَيِّنْ خَمْسَتَكُمْ سَادِسَكُمْ" فاتَّفَقوا على عثمان. وإما بالقهر والغلبة، فإنَّ مَنْ ظهر بشوكته وقوّته، وقهر العباد بالسيف، وتسلَّط عليهم كان والياً، عربياً كان أو عجمياً، وإن كان عاصياً بالقهر، تجب طاعته في طاعة الله، ولا يجوز الخروج عليه بالسيف، ورؤي عن عوف بن مالك، عن النبي - صلى الله عليه وسلم - قال: "من وَلِيَ عليه والٍ فرآه يأتي شيئاً من معصية الله فليكره ما يأتي من معصية الله ولا يَنْزِعَنَّ يداً من طاعته". وإذا ثبتت الإمامة لرجل، فخرج عليه باغٍ فقهره، وغلب عليه - نُظِرَ: إن تَبَتَّتْ ولايته بالبيعة أو بالاستخلاف لا يعزل بالقهر، وإن ثبتت بالقهر يعزل، ويصير القاهر والياً؛ لأن ولايته ثبتت بالغلبة، فزالت بزوالها.

The establishment of imamate is confirmed through one of three ways:

1. through a pledge of allegiance (*bay'ah*), as in the case of the imamate of al-Siddīq; his imamate was based on the *bay'ah* of the companions—Allah be pleased with them.
2. through appointment by the current imam, as exemplified by the appointment of ‘Umar by Abū Bakr. If the imam chooses to consult a group of people and they collectively select one individual for the imamate, this method is akin to appointment. For instance, ‘Umar—Allah be pleased with him—entrusted the decision [of his successor] to six individuals: ‘Alī, ‘Uthmān, Ṭalḥah, al-Zubair, Sa‘d ibn Abī Waqqāṣ, and ‘Abdulrahmān ibn ‘Awf. ‘Umar stated, “Let five of you choose the sixth.” They unanimously agreed on ‘Uthmān.
3. or through coercion and predominance. If someone demonstrates strength and power and subjugates people by force and authority, they become the ruler regardless of whether they

scholars, community leaders, and other socially and politically influential figures whom people often follow. The Shāfi‘ī legal manuals and treatises on political theory provide further details on the required number of individuals for a valid appointment of an Imam and the logistical aspects of reaching an agreement among them.

⁵ Q. “Al-Nisā” 4:59.

⁶ Abū Muḥammad al-Baghawī, *al-Tahdhīb fī fiqh al-Imām al-Shāfi‘ī*, eds ‘Ādil ‘Abdulmawjūd and ‘Alī Mu‘awwad, 1st ed, 8 vols., (Beirut: Dār al-Kutub al-‘Ilmiyya, 1997), 7:264.

are Arab or non-Arab, even if they are sinful for usurping power through coercion, and obedience to them becomes obligatory in [matters that are in accordance with] the obedience to Allah. It is not permissible to revolt against them with the sword. It is narrated that ‘Uthmān ibn Mālik reported from the Prophet ﷺ who said, “If anyone has a governor whom he sees committing an act of disobedience to Allah, he must disapprove of the disobedience to Allah, but must not withdraw from obedience to him.”⁷ If imamate is established for a person and another person rebels against him, overpowering and subduing him, the situation should be examined as follows: if the overthrown person’s leadership was established through a pledge of allegiance or appointment, he should not be removed through coercion. However, if his leadership was established through coercion, he should be removed, and the one who overpowers him becomes the new leader, as his leadership was based on predominance and it ceases when that predominance is no longer present⁸

2) Abū al-‘Abbās ibn al-Rif‘ah⁹ in *Kifayat al-nabīh sharh al-tanbīh*

السلطان... مشتق من السلاطة، وهي النجدة والقهر. وقيل من السليط وهو الزيت لأنه يُستضاء به في دفع الظلم، وتخليص الحقوق. والمراد به هاهنا: الإمام الأعظم القائم بالخلافة النبوية في حراسة الدين وسياسة الدنيا.

The term “sultan” is derived from [the word] “*salāṭa*” which means rescue and domination. It is also said to be derived from “*salīf*” which means oil, as it illuminates [the path of] repelling injustice and establishing rights. [However,] in this context,¹⁰ sultān refers to the greatest Imam who upholds the Prophetic Caliphate, safeguarding the religion and administering temporal affairs.¹¹

ولا شك في أن الإمامة رياسة تامة ورعاية عامة تتعلق بالخاصة والعامة في مهمات الدين والدنيا، كما عليه حُرْمنا متضمنًا: حفظ الحوزة، ورعاية الرعيّة، وإقامة الدعوة بالحجة والسيف، وكف الجنف والحيف، والانتصاف للمظلومين من الظالمين، واستيفاء الحقوق من الممتنعين، وإيفائها على المستحقين، وهذه جمل يأتي تفصيلها.

⁷ Ṣaḥīḥ Muslim, #4911.

⁸ Al-Baghawī, *al-Tahdhīb*, 7:266-71.

⁹ Najm al-Dīn Abū al-‘Abbās Aḥmad ibn Muḥammad ibn al-Rif‘ah al-Anṣārī was a prominent 14th century jurist of the Shāfi‘ī school of law. He taught at the Ma‘azziya School in Cairo and served as the Muḥtasib of Egypt. Al-Isnawī (d. 772/1370), another prominent Shāfi‘ī jurist, referred to him as “the imam of Egypt, and all of the other regions.” Ibn al-Rif‘ah authored several books on law and political theory.

¹⁰ The chapter on imamate, which he titled *Adab al-Sulṭān*, indicating the literature of sultanic ethics.

¹¹ Abū al-‘Abbās ibn al-Rif‘ah, *Kifayat al-nabīh sharh al-tanbīh*, ed Majdī Baslūm, 21 vols., (Beirut: Dār al-Kutub al-‘Ilmiyyah, 2009), 18:3.

قال: الإمامة فرض على الكفاية، لإجماع من أشرق عليه الشمس شارقةً وغاربةً، واتفاق مذاهب العلماء قاطبةً. وقد رأى أصحاب رسول الله صلى الله عليه وسلم البدار إلى نصب الإمام، وتركوا بسببه التشاغل بتجهيز رسول الله صلى الله عليه وسلم مخافة أن يتغشاهم هاجمة، والمعنى فيه: أنه لو ترك الناس فوضى لا يجمعهم على الحق جامع، ولا يزعهم وازع، ولا يردعهم عن اتباع خطوات الشيطان رادع، مع تعيين الأذى وتفرق الأهواء، لهلك الأنام، وتوثب الطغاة والعوام، ونشبت الخصومات، واستحوذ على أهل الدين ذوو الغرامات. وقد أشار الله تبارك وتعالى إلى ذلك في الكتاب المبين بقوله تعالى وهو أصدق القائلين: {وَلَوْلَا دَفْعُ اللَّهِ النَّاسَ بَعْضَهُمْ بِبَعْضٍ لَفَسَدَتِ الْأَرْضُ وَلَكِنَّ اللَّهَ ذُو فَضْلٍ عَلَى الْعَالَمِينَ} [البقرة: 251].

Undoubtedly, the imamate encompasses complete leadership and general guardianship that pertains to both the public and the elite in essential aspects of religion and society. The Imam bears the responsibility of preserving our sanctioned prohibitions, including the protection of the land, taking care of the subjects,¹² establishing the call [to Islam] through evidence and the sword, preventing harm and injustice, supporting the oppressed against the oppressors, taking the rights from the abstainers, and giving them to the deserving. These goals will be elaborated in further detail.¹³

[Al-Juwainī]¹⁴ said that imamate is a communal obligation (*farḍ kifāyah*)¹⁵ according to the consensus of all those upon whom the sun rises and sets and the agreement of all scholarly doctrines. The Companions of the Prophet ﷺ acted quickly to appoint an imam and delayed the

¹² Al-Shāfi'ī is reported to have compared the position of the Imam with the subjects to that of a guardian of an orphan. This analogy draws from a statement by 'Umar ibn al-Khaṭṭāb (ra), who also linked his responsibility over the public treasury with that of an orphan's guardian. As a result, Shāfi'ī jurists formulated a legal maxim emphasizing that "The Imam's actions must be guided by the public interest" (*taṣarruf al-Imam manūṭ bil-maṣlaḥa*). Al-Suyūṭī further elaborated on this maxim by discussing nine of its legal applications. Jalāl al-Dīn al-Suyūṭī, *al-Ashbāh wa-al-naẓā'ir*, 2nd ed. (Mecca: Maktabat Nizār Muṣṭafā al-Bāz, 1997), 202-3.

¹³ This as well as some of the following paragraphs appear nearly identical to a passage in al-Juwainī's (d. 478/1085) *al-Ghiāthī* and is paraphrased similarly in numerous subsequent Shāfi'ī works. See 'Abdulmalik al-Juwainī, *al-Ghiāthī*, ed 'Abdul'azīm al-Dīb, 3rd, (Jeddah: Dār Al-Minhāj 2011), 217.

¹⁴ In this chapter, ibn al-Rif'ah summarizes the views of al-Juwainī without explicitly referencing him.

¹⁵ Tāj al-Dīn al-Subkī defines *farḍ kifāyah* as: "An important essential of existence, whether pertaining to religious or temporal matters, which the Lawgiver has mandated to be fulfilled without specifying the identity of its performer, but by prescribing it as an obligation, because the [nature of the] action necessitates someone to carry it out." Tāj al-Dīn al-Subkī, *al-Ashāb wa-al-naẓā'ir* (Beirut: Dār al-Kutub al-'Ilmiyah, 1991), 2:89. The word "important" (*muhimm*) is used to emphasize the significance and urgency attached to those prescribed acts, highlighting the crucial need for their fulfillment. Ḥasan al-'Aṭṭār, *Hāshiyah 'alā jam' al-jawāmi'* (Cairo: Dār al-Baṣā'ir, 2009), 1:236. Examples of *farḍ kifāyah* obligations encompass various areas, such as acts of worship, social services, enjoining good and forbidding evil, educational and *da'wah* activities, and civic duties. Specifically related to the context of imamate, these civic duties include engaging in jihad (including preparation of the army and equipment, as well as protecting borders), freeing captives, establishing and improving proper Islamic governance, appointing qualified judges in the absence of a functioning judicial system, fulfilling testimonial responsibilities in court, assisting the judiciary in restoring people's rights, and assuming positions of leadership (whether political or judicial).

preparation the Prophet's funeral out of fear that they might be suddenly struck.¹⁶ The intended meaning of this fact is that leaving people in chaos without someone to unite them towards what is right, warn them [against falsehood], and deter them from following Satan's footsteps, while harm and discord are already prevailing, humanity will perish, tyrants and mobs will upsurge, disputes will flare up, and evil forces will take over the people of religion. Allah has pointed to this in the Clear Book by saying, "if Allah did not drive some back by means of others, the earth would be completely corrupt, but Allah is bountiful to all."¹⁷

لكن هل وَجَبَ ما ذكرناه بالعقل [أو الشرع] فيه خلاف حكاه الماوردي، واستدلّ للأول بقول الأئمة الأودى وهو جاهلي:

لا يصلحُ الناس فوضى لا سِـرارةَ لهم
ولا سِـرارةَ إذا جُهِـأَ لهم سادوا

وقد نسب الإمام هذا إلى شردمة من الروافض، والقاضي في كتاب الجنائيات إلى طائفة المتكلمين. والذي عليه جماهير الأمة مُقابله، وقد استدللّ له بقوله تعالى: {يَا أَيُّهَا الَّذِينَ آمَنُوا أَطِيعُوا اللَّهَ وَأَطِيعُوا الرَّسُولَ وَأُولِي الْأَمْرِ مِنْكُمْ} [النساء: 59]، ففرض علينا طاعة أولي الأمر فينا وهم الأئمة [المتأمرون علينا]، وقد روى أبو هريرة أن رسول الله صلى الله عليه وسلم قال: «سيليكم بعدي [ولاة]، فيليكم البرّ بيّره، والفاجر بفجوره، فاسمعوا لهم وأطيعوا في كل ما وافق الحقّ، فإن أحسنوا فلکم [ولهم]، وإن أساؤوا فلکم وعليهم».

فرغ: إذا قام من فيه الكفاية بالإمامة سقط الفرض عن الباقي، وإن عُرضت على [أكثرهم] ولم يكملهم فلم يقبلها لم يجبر [عليها] لأنها عقدٌ مرضاةٍ واختيار لا يدخله الإكراه والإجبار، ويُعدل عنه إلى من سواه من مستحقّيتها، كذا قاله الماوردي

¹⁶ The Shāfi'ī school commonly uses the fact that the Prophet's ﷺ companions were immediately concerned with appointing a leader for the society after his death, even before preparing his funeral, as evidence for the prioritized obligation of such an appointment. It is important to distinguish between the consensus on the obligation of appointing a leader and the consensus on appointing Abū Bakr as the first Caliph. In *uṣūl al-fiqh*, a consensus (*ijmā'*) must have a support (*mustanad*) to be valid, which can be based on a text or analogy (*qiyās*). The consensus on appointing a leader is said to be passed on in the practice of the companions and their early deliberations on the matter, which was also indicated by Abū Bakr in his first speech after his appointment as a Caliph. However, the consensus on appointing Abū Bakr was based on analogy, according to al-Qāḍī Ḥussein al-Marwazī. Al-Marwazī referenced the companions' statement that since the Prophet ﷺ appointed Abū Bakr to lead us in prayer, which is a religious matter, then we should approve of his appointment to lead our temporal affairs as well. This analogy is considered obscure (*khafī*), and its proof-value is debatable as to whether it is definitive or not. It should be noted that the differentiation lies primarily in the status of the denier of consensus. If the consensus is definitively established, its denier may be excommunicated from Islam. Ḥussein ibn Muḥammad al-Marwazī, *al-Ta'liqah*, eds 'Alī Mu'awwaḍ & 'Ādil 'Abdulmawjūd, 2 vols., (Mecca: Maktabat Nizār Muṣṭafā al-Bāz, n.d.), 1:166-8.

¹⁷ Q. "al-Baqarah," 2:251. Ibn al-Rif'ah, *Kifayat al-nabīh*, 18:4.

وغيره. فإن امتنعوا ولم يُقَم بها أحد، قال الماوردي: خرج من الناس فريقان: أحدهما أهل الاختيار حتى يختاروا إماماً للأمة. والثاني أهل الإمامة حتى يُنتصب أحدهم. وليس على من عدا هذين الفريقين من الأمة في تأخير الإمامة حرجٌ ولا مأثمٌ.

However, there is a difference of opinion regarding whether what we have mentioned [the imamate] is obligatory by reason or by revelation (*sharʿ*), as reported by al-Māwardī. In support of the former view, he referenced the [poetic] verse of al-Afwah al-ʿAwdī, a pre-Islamic poet,

*People cannot be saved from chaos without a leader
Nor can they be saved with ignorant leaders*

This view was attributed by the Imam [al-Juwaynī] to a group of the Rafīdites,¹⁸ and by the judge [Ḥussein al-Marwazī]¹⁹ in the “Chapter of Crimes” to a group of theologians.²⁰ The majority of the ummah is on the opposite side of this opinion. The opinion [that imamate is a revelatory obligation] was supported by Allah’s saying, “O you who have believed, obey Allah and obey the Messenger and those in authority among you.”²¹ Thus, Allah obligated us to obey those in authority over us, who are the rulers that lead us. Abū Hurairah reported that the Prophet ﷺ said,

After me there will be leaders; the righteous will lead you with righteousness and the evildoer [will lead you] with evil. So, listen to them and obey them in everything that aligns with the truth. If they do well, it will be for your benefit and theirs, and if they do wrong, it will be on them and not on you.²²

A legal question (*farʿ*): If a qualified person takes up the imamate, the obligation falls off the others.²³ If the majority of them, including the most qualified, are offered the position and decline, they cannot be coerced into accepting it as it is an optional and consensual contract that does not allow coercion or compulsion.²⁴ Rather, the offer should then be extended to another eligible candidate, as stated by

¹⁸ Al-Juwaynī, *al-Ghiāthī*, 219-20.

¹⁹ In the legal works of the Shāfiʿī school of Khorasan, the term “al-Qāḍī” refers specifically to Ḥussein al-Marwazī. He was one of *aṣḥāb al-wujūh*, a group of early Shāfiʿī specialists who carefully analyzed al-Shāfiʿī’s statements, compared different positions within the school, and applied them to new cases.

²⁰ The reference is likely to al-Qāḍī Ḥussein’s commentary on al-Muzanī’s *Mukhtaṣar*, *al-Taʿlīq*. However, al-Qāḍī Ḥussein authored two commentaries on *al-Mukhtaṣar*, which he titled the “large” and “small” *Taʿlīqas*. The only printed edition available today for one of the *Taʿlīqas* is incomplete and does not include the cited chapter on *al-Jināyāt*.

²¹ Q. “Al-Nisā’,” 4:59.

²² Sunan al-Daraqutnī, #1784

²³ *Farḍ al-kifāyah* fosters a collective sense of responsibility within the community, regardless of the specific individuals who fulfill it, in order to promote both religious and temporal public interests. The concept of shared responsibility implies that if the obligation is fulfilled by a sufficient number of morally accountable individuals (*mukallaḥīn*), then all members of the community are relieved of the religious responsibility associated with that obligation. However, if no one fulfills the obligations, then all members of the specific community will be held accountable for the negligence.

²⁴ Shāfiʿī jurists classify contracts involving more than one party into three categories: non-binding for both parties (which signifies the fundamental freedom to contract), binding only for one party, and binding for both parties. The imamate falls into the second category, as it binds *ahl al-hall wal-ʿaql* but does not bind the Imam.

al-Māwardī and others. If all eligible candidates refuse and no one accepts the position, al-Māwardī proposes that two groups of people must take initiative: the first being the people of choice until they choose a leader for the ummah, and the second group being the qualified individuals for the imamate until one of them accepts it. Delaying the establishment of the imamate does not constitute harm or sin for anyone else in the ummah beyond these two groups.²⁵

3) Zakariyā al-Ansārī²⁶ & Shihāb al-Dīn al-Ramlī²⁷ in *Asna al-matālib sharh rawd al-tālib*, with al-Ramlī's Gloss

زكريّا الأنصاري على الرّوض لابن المُقري: (باب الإمامة) العظمى (وهي فرضٌ كفايةٌ) كالتّضاء إذ لا بدّ للأمة من إمام يُقيم الدينَ ويُنصّر السنّة ويُنصّف المظلومين ويستوفي الحقوق ويَضَعُها مواضعها.

[Imamate] is a communal obligation, comparable to the obligation of establishing the judiciary, as it is necessary for the ummah to have an Imam who upholds the religion, supports the Sunnah, protects the oppressed, ensures the fulfillment of rights, and assigns them to their rightful places.²⁸

الزّلمي على أسنى المطالب: (باب الإمامة العظمى) قال قومُ الإمامة رئاسة عامّة في أمور الدين والدنيا لشخصٍ من الأشخاص. فقَيّد العموم احترازٌ عن القاضي والرئيس وغيرهما، ونَقَضُ هذا التعريف بالنّبوة، والأوّلَى أن يقال هي خلافة

‘Abdullāh ibn Hījāzī al-Sharqāwī, *Hāshiyat al-Sharqāwī ‘alā Tuḥfat al-Ṭullāb bi-Sharḥ Tahrīr Tanqīh al-Lubāb*, (Cairo: Muṣṭafā al-Ḥalabī, n.p.), 2:4-7

²⁵ Ibn al-Rif‘ah, *Kifāyat al-nabīh*, 18:4-5. Only individuals who are eligible for the obligation bear the responsibility of fulfilling a *farḍ kifāya*. For instance, women are not held accountable for their non-participation in jihad or congregational prayer. Similarly, someone without the ability to swim is not considered sinful for not rescuing a drowning person. However, in cases where those who are eligible fail to fulfill the obligation, others may have a responsibility to encourage or assist them within their capabilities, by virtue of enjoining what is good and forbidding what is evil (*al-amr bil-ma‘rūf wal-nahy ‘an al-munkar*). The *farḍ al-kifāya* of imamate specifically applies to two groups: *ahl al-ḥall wal-‘aqd* and the qualified candidates. This understanding sheds light on the delayed appointment of ‘Uthmān ibn ‘Affān after the death of ‘Umar. While the six individuals involved in the consultation process were deliberating, the rest of the community was not deemed sinful for the delay.

²⁶ Zakariyyā ibn Muḥammad ibn Zakariyyā al-Ansārī was a renowned Shāfi‘ī jurist, who served as a Chief Judge and was given the title of Shaykh al-Islām. He received education in various disciplines from distinguished scholars, and his extensive knowledge allowed him to teach and author books on most fields of Islamic studies. Due to his long life, he was able to connect several generations of scholars together, and his works continue to be taught in many prestigious learning institutions.

²⁷ Shihāb al-Dīn Abū al-‘Abbās Aḥmad ibn Ḥamza al-Ramlī was a distinguished student of Zakariyyā al-Ansārī, who granted him the exclusive permission to edit his works during and after his life. Al-Ramlī authored several legal works and issued numerous legal opinions (*fatāwā*). He was also the father of the renowned late Shāfi‘ī jurist Shams al-Dīn al-Ramlī (d. 1004/1596), who authored one of the famous commentaries on al-Nawawī’s *al-Minhāj*.

²⁸ Zakariyyā al-Ansārī & al-Ramlī, *Asnā al-Matālib Sharḥ Rawḍ al-Ṭālib & Hāshiyat al-Ramlī*, 4 vols., (Beirut: Dār al-Kitāb al-Islāmī, n.d.), 4:108.

الرسول في إقامة الدين وحفظ حوزة الملة بحيث يجب أتباعه على كل كافة الأمة. (قوله وهي فرض كفاية) للإجماع، وقد بادَرَ الصحابة إليها، وتركوا التشاغل بتجهيز النبي - صلى الله عليه وسلم - مخافة أن يدهمهم أمرٌ، وأيضاً لو ترك الناس فوضى لا يجمعهم على الحق جامع، ولا يردعهم عن الباطل رادع لهلكوا، ولا استحوذ أهل الفساد على العباد، قال الله تعالى {وَلَوْلَا دَفْعُ اللَّهِ النَّاسَ بَعْضَهُمْ بِبَعْضٍ} [البقرة: 251].

Some [scholars] have defined that imamate as a general leadership in both religious and temporal matters, assigned to a person among the people. The qualifying term “general” is used to exclude the judge, the chief, and others. This definition, [however], was deemed nonexclusive, as it does not exclude the position of prophethood.²⁹ Therefore, imamate should be defined as the succession of the Prophet in establishing the religion and preserving the community’s affairs, such that he must be followed by the entire ummah. His [al-Ansārī’s] statement “and it is a communal obligation” is based on the consensus [of scholars]. [This is evidenced by] the companions’ haste in appointing an imam, and their delay in preparing the Prophet’s ﷺ funeral out of fear that they might be suddenly struck by an important affair [requiring leadership]. Moreover, if people were left in chaos without someone to unite them towards what is right and deter them from falsehood, they would perish and the corrupt people will take over the faithful. Allah, the Almighty, said, “if Allah did not drive some back by means of others.”³⁰

²⁹ The definition is criticized for including attributes that are not exclusively associated with the definiendum. A formal and complete definition should consist of the proximate genus and differentia. If it relies on a remote genus (*jins ba’īd*) of the definiendum, the definition may not be exhaustive (*jāmi’*) and exclusive (*māni’*). By incorporating the qualifying term “succession of the Prophet” into the definition, it becomes more exclusive precise.

³⁰ Q. “Al-Baqarah”, 2:251.

Legal Theory (*Uṣūl al-Fiqh*) Texts

- 1) Jalāl al-Dīn al-Maḥallī³¹ in his commentary on Tāj al-Dīn al-Subkī's³² *Jam' al-jawāmi'*

المَحَلِّي عَلَى جَمْعِ الْجَوَامِعِ: (وَيَجِبُ عَلَى النَّاسِ نَصْبُ إِمَامٍ) يَقُومُ بِمَصَالِحِهِمْ كَسَدِّ الثُّغُورِ وَتَجْهِيزِ الْجِيُوشِ وَقَهْرِ الْمُتَغَلِّبَةِ وَالْمُتَلَصِّصَةِ وَقَطَّاعِ الطَّرِيقِ وَغَيْرِ ذَلِكَ لِإِجْمَاعِ الصَّحَابَةِ بَعْدَ وَفَاةِ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - عَلَى نَصْبِهِ حَتَّى جَعَلُوهُ أَهَمَّ الْوَاجِبَاتِ وَقَدَّمُوهُ عَلَى دَفْنِهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَلَمْ يَزَلِ النَّاسُ فِي كُلِّ عَصْرِ عَلَى ذَلِكَ (وَلَوْ) كَانَ مَنْ يُنْصَبُ (مَفْضُولًا) فَإِنَّ نَصْبَهُ يَكْفِي فِي الْخُرُوجِ عَنْ عَهْدَةِ النِّصْبِ، وَقِيلَ: لَا بَلْ يَتَّعَيْنُ نَصْبُ الْفَاضِلِ، وَذَهَبَتْ الْخَوَارِجُ إِلَى أَنَّهُ لَا يَجِبُ نَصْبُ إِمَامٍ وَالْإِمَامِيَّةُ إِلَى وَجُوبِهِ عَلَى اللَّهِ تَعَالَى.

In his commentary on al-Subkī's statement, "It is obligatory upon people to appoint an Imam, even if he is less qualified [than other candidates]," al-Maḥallī said,³³

(It is obligatory upon people to appoint an Imam) who takes care of their interests, including protecting the borders, preparing the armies, suppressing rebellious elements, thieves, muggers, and such other matters. [This obligation is] based on the consensus of the companions of the Prophet ﷺ after his death, peace be upon him, as they deemed it one of the most important duties, even more so than burying the Prophet ﷺ. People have continued to adhere to this practice in every era. (Even if the appointed Imam is less qualified [than other available candidates]), his appointment [still] suffices for the duty of appointment.³⁴ Some scholars have differed on this point, arguing that the most qualified candidate must be appointed. [However,] the Khārijites did

³¹ Jalāl al-Dīn Abū 'Abdullāh Muḥammad al-Maḥallī was a prominent jurist of the Shāfi'ī school. He was born in Cairo and studied with leading scholars of his time. Al-Maḥallī authored many works on law, legal theory, Qur'ānic exegesis, among other subjects. He held teaching positions in various institutions and was appointed as a judge in Cairo during his lifetime. Al-Maḥallī's scholarship had a significant impact on Islamic learning, and his works remain widely studied and respected in the Islamic world.

³² Abū Naṣr Tāj al-Dīn 'Abdulwahhāb ibn 'Alī al-Subkī was a prominent scholar and historian who lived in Damascus during the Mamluk era. He was a leading figure in the Shāfi'ī school and wrote extensively on various subjects including Islamic law, hadith, and history. He also served as the Chief Justice of Damascus during his lifetime.

³³ Jalāl al-Dīn al-Maḥallī, *al-Badr al-tāli' fī ḥall jam' al-jawāmi'*, ed. Murtaḍā al-Dāghistānī, 2 vols. (Beirut: Risala Foundation, 2012), 2:446.

³⁴ Jurists and theologians have raised the question of why the appointment of an Imam, if obligatory, has been neglected by the umma throughout history, especially considering that many historical Imams lacked the necessary qualifications, particularly after the Abbasid dynasty. Additionally, there is a reported statement of the Prophet ﷺ: "Caliphate will remain in my Umma for thirty years, then there will be monarchy after that." This query suggests that neglecting an obligation is a form of disobedience, and the entire umma should not unite upon misguidance, as mentioned in another hadith. In response to this objection, scholars have argued that it would only be considered misguidance if the umma deliberately abandoned the appointment of an Imam, rather than being unable to fulfill it or being coerced. They also propose that the hadith regarding the replacement of caliphates with monarchies can be interpreted as referring to the ideal system of Caliphate.

not consider it obligatory to appoint an Imam, while the [Shia] Imāmiyya held that it is obligatory upon Allah.³⁵

2) Hasan al-‘Attār in his gloss on al-Mahallī’s commentary³⁶

العطار على المحلي: قوله (ويجب) أي شرعاً لا عقلاً خلافاً لبعض المعتزلة وأما عامتهم فموافقون لنا، وقال قوم من الخوارج ليس بواجب، وقال أبو بكر الأصم من المعتزلة لا يجب عند ظهور العدل والإنصاف لعدم الاحتياج إليه ويجب عند ظهور الظلم، وبعضهم يجب عند ظهور العدل لإظهار شعائر الشرع لا عند ظهور الظلم؛ لأن الظلمة ربما لم يُطيعوه ويصير سبباً لزيادة الفتن.

قوله: (على الناس) أي أهل الحل والعقد، والآحاد تبع لهم، من غير اشتراط عدد ولا اتفاق في سائر البلاد، بل لو تعلق الحل والعقد بواحد يطاع كفت بيعته.

قوله: (نصب إمام) من الإمامة وهي رئاسة عامة في الدين والدنيا خلافاً عن النبي - صلى الله عليه وسلم - وبهذا القيد خرجت النبوة وبقيد العموم خرج مثل القضاء والرئاسة في بعض النواحي وكذا رئاسة من جعله الإمام نائباً عنه على الإطلاق. ونصبه من فروض الكفاية ولا خفاء أن ذلك من الأحكام العملية دون الاعتقادية ولكن لما شاعت بين الناس في باب الإمامة اعتقادات فاسدة واختلافات، لا سيما من فرق الروافض والخوارج، ومالت كل فئة إلى تعصبات تكاد تُفضي إلى رفض كثير من قواعد الإسلام وبعض عقائد المسلمين والقدح في الخلفاء الراشدين، مع القطع بأنه ليس للبحث عن أحوالهم واستحقاقهم وأفضليتهم ما يتعلق بأفعال المكلفين، ألحق المتكلمون مبحث الإمامة بمباحث علم الكلام.

قوله: (وقدموه على دفنه) تعليلاً لما قبله، روي أن أبا بكر - رضي الله عنه - لما تُوفي النبي - صلى الله عليه وسلم - خطب فقال يا أيها الناس من كان يعبد محمداً فإن محمداً قد مات، ومن كان يعبد رب محمد فإنه حي لا يموت، لا بد لهذا

³⁵ The disparity between the Mu‘tazilī and the Imāmī perspectives centers on the source of obligation. According to the Mu‘tazilites, establishing the imamate is an obligation upon individuals, as it serves to promote temporal benefits and mitigate temporal harms. In contrast, Imāmī scholars view the imamate as an obligation upon Allah, as it reflects Allah's benevolent grace towards humanity and safeguards them from rationally identified vices. The Imāmī stance is grounded in the theological doctrine of optimism (*al-ṣalāḥ wal-aṣlah*), which posits that Allah is bound to act in a manner that produces the greatest good and happiness for humanity.

³⁶ Ḥasan ibn Muḥammad ibn Maḥmūd al-‘Aṭṭār was a renowned scholar of Moroccan descent who lived during the French invasion of Egypt (1798-1801). He fled the French persecution in Cairo and settled in Upper Egypt for 18 months. Later, he returned to Cairo and became the Grand Imam of Al-Azhar. He traveled to multiple Muslim countries, engaged with modern European sciences, and authored works in several Islamic disciplines. One of his most significant contributions to legal theory is his gloss on al-Maḥallī’s commentary on *Jam‘ al-jawāmi‘*.

الأمر ممن يقوم به فانظروا وهاتوا آراءكم رَحِمَكُمُ اللهُ، فتبادر الناس من كل جانب وقالوا صدقتَ ولكنَّا نَنظُرُ في هذا الأمر ولم يُقَلَّ أحدٌ إنَّه لا حاجة إلى الإمام.

His [al-Maḥallī's] statement “And it is obligatory” means that it [imamate] is obligatory according to revelation (*sharʿan*), not according to reason, which is contrary to the view of some Muʿtazilites. However, the majority of them agree with us [the Sunnis].³⁷ Some Khārijites have denied the obligation of [imamate] altogether. Abū Bakr al-Aṣṣamm, a Muʿtazilite, has argued that imamate is not obligatory when justice and fairness are established because it is not needed, but becomes obligatory when injustice arises.³⁸ Some Muʿtazilites have also argued that imamate is obligatory when justice arises to manifest the symbols of Sharia, but not when injustice arises because the unjust people may not obey the Imam, which will cause further unrest.³⁹

His statement, “upon the people” refers to *ahl al-ḥall wal-ʿaqd*, and the common people follow their decision. There are no specific conditions regarding the number or agreement of these individuals across different regions. Even if *al-ḥall wal-ʿaqd* was assigned to one influential individual, his pledge of allegiance [to someone making him an Imam] is sufficient.

His statement “the appointment of an Imam” refers to the imamate, which is a general leadership in both religious and temporal affairs, succeeding the Prophet ﷺ. This qualification [of succession] excludes prophethood, while the qualification of generality excludes positions such as the judiciary, presidency over some territories, and authority of one whom the Imam appointed as his general deputy. The appointment of an Imam is one of the communal obligations, and it is clear that it is a matter of practical legal rulings, not theology.

However, due to the prevalence of corrupt beliefs and disagreements regarding the imamate, especially among the Rāfiḍites and Khārijites, each group leaned towards fanaticism, which almost led to the rejection of many fundamental Islamic principles and some of the foundational beliefs of Muslims, as well as defaming the Rightly Guided Caliphs—while it is evident that investigating their circumstances, worthiness, and superiority does not pertain to the actions of legal agents

³⁷ The Muʿtazilites, except for Abū Bakr al-Aṣṣamm, agreed on the obligation of appointing an Imam, but they differed on the ground for its obligation. The Basra school believed that it is an obligation derived from revelation, as reason alone does not necessitate it. Meanwhile, the Baghdad school, as well as al-Jāḥiẓ (d. 255/868) and Abū al-Ḥussain (d. 436/1044) from the Basra school, held that reason alone recognizes the obligation of establishing the imamate.

³⁸ Al-Aṣṣamm (d. 279/892) is recognized as the sole Muʿtazilite who maintained this stance. However, later Muʿtazilites have argued that al-Aṣṣam's viewpoint does not contravene the consensus of the ummah, as it is customary for a leader who governs and adjudicates the affairs of society to be essential for bringing about order. It is improbable that al-Aṣṣamm believed that people's affairs could be rectified without a leader. Therefore, al-Aṣṣamm technically affirmed the obligation of leadership in all circumstances. For further information on the Muʿtazilite perspectives concerning the imamate, see the Muʿtazilite theologian Ibn Abī al-Ḥadīd's (d. 656/1258) commentary on ʿAlī ibn Abī Ṭalīb's renowned rejoinder to the Khārijites' declaration, “No ruling but Allah's.” Ibn Abī al-Ḥadīd, *Sharḥ nahj al-balāgha*, ed Muḥammad Ibrāhīm, 1st ed, 11 vols., (Baghdad: Dār al-Kitāb al-ʿArabī, 2007), 1:417-8.

³⁹ This opinion is attributed to Hishām al-Fuaṭī, a renowned 3rd/9th century Muʿtazilite.

(*mukallaḥfīn*)—[this prompted] the theologians to include the topic of imamate in the discussions of dialectic theology (*kalām*).⁴⁰

His statement “and they prioritized it over burying the Prophet” is an explanation for the preceding statement [that appointing an Imam is the one of the most important duties]. It is reported that when the Prophet ﷺ died, Abu Bakr (may Allah be pleased with him) delivered a speech in which he said: “O people, whoever worships Muhammad, then Muhammad has died, and whoever worships the Lord of Muhammad, then He is alive and does not die. This matter [of leadership] must be handled by someone, so deliberate and express your views, may Allah have mercy on you.” The people came forward from all directions and said, “You spoke the truth, but we need to think about this matter.” However, no one asserted that there was no need for an Imam.⁴¹

Shaykh Yousef Wahb is an Islamic Law Instructor at the University of Windsor’s Faculty of Law, LexisNexis Canada Family Law Author, and holds a Masters of Law LL.M from the University of Windsor and a Bachelor in Islamic Studies from Al-Azhar University.

Suggested citation:

Yousef Wahb, “Shāfi‘ī Jurists and Legal Theorists on the Imamate,” *Ummatics*, June 27, 2023, <https://ummatcs.org/papers/shafi-i-jurists-and-legal-theorists-on-the-imamate/>.

⁴⁰ This paragraph represents extensive theological literature on the subject of imamate and can be found nearly word-for-word in numerous earlier theological works.

⁴¹ Al-‘Aṭṭār, *Hāshiyah ‘alā jam‘ al-jawāmi‘*, 2:486-7.