



**UMMATICS**



**Early Ḥanafī Authorities on  
the Imamate**

*Asim Ayub*

# Early Ḥanafī Authorities on the Imamate

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This article presents six annotated translations of excerpts on governance/political authority from early (pre-7<sup>th</sup> century Hijri) classical Ḥanafī works across a few genres, Islamic law (*fiqh*), rational theology (*kalām*), and Quranic exegesis (*tafsīr*).<sup>1</sup> This piece will be followed—Allah willing—by another dedicated to later authorities in the school. Collectively, these excerpts are representative of the Ḥanafī position that the imamate (or caliphate) is a communal obligation on the Umma, which is necessary, as with any political authority, to establish social and political order, but also, in its uniquely Islamic dimension, to preserve the dīn and advance its dunyawī and ukhrawī interests. These passages articulate the reasoning for the obligation and expand on the roles, benefits, and importance of the imamate. Where the earlier authorities express these points in basic form, the same points are reiterated in the later authorities in a more systematic and codified form—with, for instance, explicit definitions of the imamate—giving a cogent and standard position on these matters in the Ḥanafī school as a whole.

Proceeding chronologically, the first passage is from arguably the most famous student of Abū Ḥanīfa (d. 150/767) himself, Abū Yūsuf (d. 182/798). *Kitāb al-Kharāj*, an epistle written by Abū Yūsuf for the Abbasid Caliph Hārūn al-Rashīd (d. 193/809), provides moral-legal guidance on public finance and land taxation. The introductory chapter serves as an exhortation to the Caliph, encouraging him towards justice and reminding him of his duties to the people. The rest of the work moves through various matters of land taxation through Islamic legal techniques, ultimately placing the responsibility of choosing an opinion in the hands of the Caliph/Imām.

The second excerpt is from another very early authority, Abū Bakr al-Jaṣṣāṣ (d. 370/981), whose work on legal exegesis, *Aḥkām al-Qurʾān*, is the first exegetical work to systematically analyse the verses of the Qurʾān bearing legal import according to the Ḥanafī school. The Imam's position in the school and the overwhelming acceptance of his work by later exegetes makes it a perfect exposition of Ḥanafī political theory from the Qurʾān itself. The chosen excerpt is part of a larger discussion on the necessity of justice and moral restraint by political authority.

The majority of scholarly reflection on the imamate is found in theological works, in spite of it being a legal issue. For the Ḥanafīs, this means in works of Māturīdī theology. Our next three passages, from the 5<sup>th</sup> and 6<sup>th</sup> century Hijrī, are all of this type. The first of these comes from one of the earliest Māturīdī creedal tracts, Abū Shakūr al-Sālimī's (d. after 460/1066) *al-Tamhīd*, though al-Sālimī may contend with that description. Apart from those texts directly attributed to Imām Abū Ḥanīfa, this may be one of the most “Ḥanafī” theological works in existence. The author is nearly fully reliant, for all his positions, on the founder of the Ḥanafī school himself, never quoting from Abū Manṣūr al-Māturidī. The Ashʿarī school is referenced but is mentioned under the label of heterodoxy (*ahl al-bidʿa*), with Sunnī Islam mostly assumed to be a Ḥanafī endeavour. The author's unique contribution to the discussion on imamate is to mobilise all three major sources of Islamic law – Quran, Sunna and consensus

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(*ijmā*), to prove its obligation, whereas other Māturidī authors would generally suffice with consensus alone, or with some prophetic narrations.

Abū al-Yusr al-Bazdawī's (d. 493/1100) *Usūl al-Dīn* gives us our fourth passage and second Māturidī extract. The author acknowledges, in his introduction to this unique work of Māturidī theology due to its strong focus on heresiology, that there are already prevalent writings of the scholars of Samarqand in his time, but feels they are insufficient. This statement stands out, bearing in mind both al-Sālimi and Abū al-Mu'īn al-Nasafī live in the same period and within the same geographical area. His unique take on the imamate is to respond to a particular contention against it being an obligation due to the sufficiency of the Qur'ān—an objection that stands out due to its absence from other works.

Our fifth extract is from Abū al-Mu'īn al-Nasafī (d. 508/1115), referred to by one contemporary researcher as the “Ghazālī of the Māturidī School”.<sup>2</sup> His works are the most thorough and rigorous in presenting the opinions of the school, and by testament of Ḥanafī biographers, he is second only to the founding Imām in terms of his station in the school. The chosen extract is from his most important work, *Tabṣirat al-Adilla*, which would serve as the launching pad for a variety of summaries and explanations from the verifying scholars of the school after him. The substance of the extract, even much of its wording, appears time and again in later Maturidī works. Notably, al-Bazdawī's and Abū al-Mu'īn's work is heavily relied on by their common student, Abū Ḥafṣ 'Umar al-Nasafī (d. 537/1147), in his famous Nasafī Creed (*al-'Aqāid al-Nasafīyya*).

The sixth and final passage comes from a sixth-century legal work. 'Ala al-Dīn al-Kāsānī's (d. 587/1191) renowned *Badā'i' al-Ṣana'i'* discusses the necessity of the imamate in the context of articulating the obligation of a functioning judiciary and legal system in an Islamic polity. The *Badā'i'*, written within what some have termed as a “theological turn” in the Ḥanafī school, is a commentary on Kāsānī's teacher 'Alā al-Dīn Samarqandī's (d. 450/1058–9) *Tuḥfat al-Fuqahā'*. The core system and structure of the work revolves around the very Ḥanafī notion of systemizing and rationalizing fiqh as a coherent whole, with the extract in this piece serving as a good example of that.

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<sup>2</sup> 'Awwād Sālim, *Al-Madrassa al-Kalāmiyya al-Maturīdiyya* (Cairo: Dār al-Imām al-Rāzī, 2022), 43.

1. Imām Abū Yūsuf<sup>3</sup> (d.182/798), *Kitāb al-Kharāj*

يا أمير المؤمنين، إن الله—وله الحمد—قد قلدك أمراً عظيماً: ثوابه أعظم الثواب، وعقابه أشد العقاب؛ فلدك أمر هذه الأمة، فأصبحت وأمسيت وأنت تبني لخلق كثير، قد استرعاكهم الله وأثمنتك عليهم وابتلاك بهم وولاك أمرهم، وليس يلبث البنيان إذا أسس على غير التقوى أن يأتيه الله من القواعد فيهدمه على من بناه وأعان عليه؛ فلا تضعن ما قلدك الله من أمر هذه الأمة والرعيّة، فإنّ القوّة في العمل بإذن الله.

Commander of the Faithful, Allah—for Him is all praise—has bestowed upon you a great responsibility; its reward is most magnificent and its punishment most severe. He bestowed upon you the responsibility of leading this Umma, so now your mornings and evenings are spent working for a large portion of Allah’s creation. Allah has made you responsible for their affairs and given you trusteeship over them. He has tested you through them and made you responsible for their well-being. A building will not remain standing if it is built on anything other than consciousness (*taqwā*) of Allah. It won’t be long before Allah removes its [flimsy] foundations, collapses it upon those who built and supported it. Do not waste this responsibility of taking care of this Umma and the people entrusted to your care. Indeed, strength is in striving [to fulfil your responsibility] with the permission of Allah.<sup>4</sup>

وإنّ الله بمنّه ورحمته جعل ولاة الأمر خُلفاء في أرضه، وجعل لهم نوراً يُضيء للرعيّة ما أظلم عليهم من الأمور فيما بينهم وبين ما اشتبه من الحقوق عليهم. وإضاءة نور ولاة الأمر إقامة الحدود وردّ الحقوق إلى أهلها بالثبّت والأمر بالبين وإحياء السنن التي سنّها القوم الصالحون أعظم موقعا، فإنّ إحياء السنن من الخير الذي يحيا ولا يموت. وجور الراعي هلاك للرعيّة، واستعانتها بغير أهل الثقة والخير هلاك للعامة. فاستتيم ما آتاك الله يا أمير المؤمنين من النعم بحسن مجاورتها، والتمس الزيادة فيها بالشكر عليها؛ فإنّ الله تبارك وتعالى يقول في كتابه العزيز {لئن شكرتم لأزيدنكم} ولئن كفرتم إن عذابي لشديد [إبراهيم: 7]. وليس شيء أحبّ إلى الله من الإصلاح، ولا أبغض إليه من الفساد، والعمل بالمعاصي كفر النعم، وقيل من كفر من قوم قطّ النعمة ثم لم يقزعوا إلى التوبة إلا سلّبوا عزهم وسلط الله عليهم عدوهم.

Allah, through His mercy and compassion, has made rulers vicegerents upon his earth. He gave them a light that illuminates those affairs that remain unclear between the people as well as the rights/responsibilities that they may be unaware of. This illuminating light that the rulers have lies in the establishment of the penal code, returning rights to those deserving of them with

<sup>3</sup> Abū Yūsuf is the teknonym (*kunya*) of Ya‘qūb ibn Ibrāhīm al-Anṣārī, the most prominent student of the founding Imām of the Ḥanafī school, albeit not his immediate successor. He spent many years under the tutelage of Imām Abū Ḥanīfa, from a young age all the way up until adulthood, ultimately taking on the responsibility of teaching many of the Imām’s students after his passing. In the reign of Hārūn Al-Rashīd, the fifth Abbasid Caliph, he was appointed to the office of Chief Judge, a position he held until his passing. His most famous extant works include the *Kitāb al-Kharāj* and *Ikhtilāf ibn Abī Layla wa Abī Ḥanīfa*.

<sup>4</sup> Abū Yūsuf, *Kitāb al-Kharāj*, ed. Tāhā ‘Abd ar-Ra’ūf Sa‘īd (Cairo: Maktaba al-Azhariyya Litturāth, 2016), 13.

verification and justice, and reviving the noble practices (*sunan*) that pious Muslims initiated. This final duty is of great significance because reviving noble practices is a goodness that lives eternally. On the other hand, the oppression of the ruler is destruction for the ruled, as is seeking aid [in governing] from other than the noble and trustworthy. Seek to meet those blessings Allah has given you, O Commander of the Faithful, through the best of response. Seek more of them by being grateful for them, for Allah ﷻ says in his Noble Book: “And remember when your Lord proclaimed, ‘If you are grateful, I will certainly give you more. But if you are ungrateful, surely My punishment is severe.’”<sup>5</sup> There is nothing more beloved to Allah than restoration, and nothing more despicable to Allah than corruption, bad deeds, and ingratitude towards blessings. Very rarely have a people been ungrateful for divine blessings and refused to repent for this [ingratitude] except that Allah has removed their power and given their enemies dominion over them.<sup>6</sup>

## 2. Aḥmad ibn ‘Alī al-Jaṣṣāṣ<sup>7</sup> (d. 370/981), *Aḥkām al-Qur’ān*

وقوله تعالى: {إِنِّي جَاعِلُكَ لِلنَّاسِ إِمَامًا} فَإِنَّ الْإِمَامَ مَنْ يُؤْتَمُّ بِهِ فِي أُمُورِ الدِّينِ مِنْ طَرِيقِ التُّبُوءِ، وَكَذَلِكَ سَائِرُ الْأَنْبِيَاءِ أُمَّةٌ عَلَيْهِمُ السَّلَامُ لِمَا أَلَزَمَ اللَّهُ تَعَالَى النَّاسَ مِنْ اتِّبَاعِهِمْ وَالْإِثْمَامِ بِهِمْ فِي أُمُورِ دِينِهِمْ. فَالْخُلَفَاءُ أُمَّةٌ لِأَنَّهُمْ رَتَّبُوا فِي الْمَحَلِّ الَّذِي يُلْزَمُ النَّاسَ اتِّبَاعَهُمْ وَقُبُولَ قَوْلِهِمْ وَأَحْكَامِهِمْ، وَالْقَضَاةُ وَالْفُقَهَاءُ أُمَّةٌ أَيْضًا. وَلِهَذَا الْمَعْنَى الَّذِي يَصَلِّي بِالنَّاسِ يُسَمَّى إِمَامًا، لِأَنَّ مَنْ دَخَلَ فِي صَلَاتِهِ لَزِمَهُ الْإِثْمَامَ لَهُ وَالْإِثْمَامُ بِهِ. وَقَالَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: "إِنَّمَا جُعِلَ الْإِمَامُ إِمَامًا لِيُؤْتَمَّ بِهِ إِذَا رَكَعَ فَارْكَعُوا، وَإِذَا سَجَدَ فَاسْجُدُوا" وَقَالَ: "لَا تَخْتَلِفُوا عَلَيَّ إِمَامِكُمْ" فَتَبَّتْ بِذَلِكَ أَنَّ اسْمَ الْإِمَامَةِ مُسْتَحَقٌّ لِمَنْ يُلْزَمُ اتِّبَاعَهُ وَالْإِقْتِدَاءَ بِهِ فِي أُمُورِ الدِّينِ أَوْ فِي شَيْءٍ مِنْهَا، وَقَدْ يُسَمَّى بِذَلِكَ مَنْ يُؤْتَمُّ بِهِ فِي الْبَاطِلِ، إِلَّا أَنَّ الْإِثْمَامَ لَا يَتَنَاوَلُهُ، قَالَ اللَّهُ تَعَالَى: {وَجَعَلْنَاهُمْ أُمَّةً يَدْعُونَ إِلَى النَّارِ} [القصص: 41] فَسَمَّوْا أُمَّةً لِأَنَّهُمْ أَنْزَلُوهُمْ بِمَنْزِلَةٍ مَنْ يَقْتَدِي بِهِمْ فِي أُمُورِ الدِّينِ وَإِنْ لَمْ يَكُونُوا أُمَّةً يَجِبُ الْإِقْتِدَاءُ بِهِمْ، كَمَا قَالَ اللَّهُ تَعَالَى: {فَمَا آغْنَتْ عَنْهُمْ آلِهَتُهُمُ الَّتِي يَدْعُونَ} [هود: 101] وَقَالَ: {وَأَنْظُرْ إِلَى إِلَهِكَ الَّذِي ظَلْتَ عَلَيْهِ عَاكِفًا} [طه: 97] يَعْنِي فِي زَعْمِكَ وَاعْتِقَادِكَ. وَقَالَ النَّبِيُّ عَلَيْهِ السَّلَامُ: "أَخَوْفُ مَا أَخَافُ عَلَى أُمَّتِي أُمَّةٌ مُضِلُّونَ". وَالْإِثْمَامُ إِنَّمَا يَتَنَاوَلُ مَنْ يَجِبُ الْإِثْمَامُ بِهِ فِي دِينِ اللَّهِ تَعَالَى وَفِي الْحَقِّ وَالْهَدْيِ. أَلَا تَرَى أَنَّ قَوْلَهُ تَعَالَى: {إِنِّي جَاعِلُكَ لِلنَّاسِ إِمَامًا} قَدْ أَفَادَ ذَلِكَ مِنْ غَيْرِ تَقْيِيدٍ، وَأَنَّهُ لَمَّا ذُكِرَ أُمَّةُ الضَّلَالِ قِيْدَهُ بِقَوْلِهِ: {يَدْعُونَ إِلَى النَّارِ} [البقرة: 221]. وَإِذَا ثَبَتَ أَنَّ اسْمَ الْإِمَامَةِ

<sup>5</sup> Qur'an, Ibrāhīm: 7.

<sup>6</sup> Abū Yusuf, *Kitāb al-Kharāj*, 15-16.

<sup>7</sup> Abū Bakr Aḥmad ibn ‘Alī al-Rāzī al-Jaṣṣas was born in Rayy and later studied and settled in Baghdād. Notwithstanding his expertise in Ḥadīth—he was a student of the great Imām al-Ṭabarānī (d. 360/971)—his main calling was in Fiqh, ultimately inheriting the chair of Ḥanafī Fiqh in Baghdād from his teacher Abū al-Ḥasan al-Karkhī (d. 340/952). He authored many works that have great standing in the Ḥanafī School, including reputable commentaries on the works of Imām Muḥammad ibn al-Ḥasan al-Shaybānī (d. 189/805) and Abū Ja‘far al-Ṭahāwī (d. 321/933), and a legal exegesis, *Aḥkām al-Qur’ān*.

يتناول ما ذكرناه، فالأنبياء عليهم السلام في أعلى رتبة الإمامة، ثم الخلفاء الراشدون بعد ذلك، ثم العلماء والقضاة العُدُول ومن أَلزم الله تعالى الاقتداء بهم، ثم الإمامة في الصلاة ونحوها.

As for the verse, “I will make you a leader [imām] of people”<sup>8</sup>, the leader [imām] is the one who is followed in the affairs of the dīn by virtue of his being a prophet [in this case]. This holds true for all the prophets due to Allah obliging the people to follow and obey them in their religious affairs. The caliphs are also imāms because they are placed in a position where the people are obliged to follow them and accede to their rulings. The judges and jurists are also imāms, and for this very reason (that an imām is one who is followed), the one who leads the prayer is also called an imām because those who join the prayer and required to follow him [in the actions of the prayer]. The Prophet ﷺ said, “The imām has been made such so that he be followed, so when he bows, you must bow, and when he prostrates, you must prostrate.”<sup>9</sup> He also said, “Do not oppose your imām.”<sup>10</sup> All of this establishes that the name “imām” applies to anyone whose obedience and following is obligated in affairs of the dīn, or some part thereof.

“Imām” may also be used for those who are obeyed in acts of evil, though if the word is used without qualification, it does not denote this meaning. Allah says, “We made them leaders inviting (others) to the Fire.”<sup>11</sup> They (Pharaoh and his entourage) are referred to as “imams” [in this verse] due to their people considering them as leaders in the affairs of their dīn, even though they were not (in actual fact) leaders whose obedience was obligated [by Allah]. A similar usage is found in the saying of Allah, “The gods they invoked beside Allah were of no help at all”<sup>12</sup> and in His saying, “Now look at your deity to which you have been devoted”<sup>13</sup>, meaning according to your claim and belief.<sup>14</sup> Likewise, the Prophet ﷺ said, “The one thing I fear most for my Umma is misguided imāms.”<sup>15</sup> The word imām, when used without qualification, means a person who must be followed in the religion of Allah and in truth and guidance. Consider the words of Allah, “I will make you a leader of people”, where the word imām is used without qualification, as opposed to when the leaders of evil are mentioned with the qualification, “who call to the Fire.” Having established what the meaning of the word imāma (leadership) encompasses, it is worth nothing that the prophets are at the highest rank of leadership, followed

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<sup>8</sup> Qur’an, al-Baqara: 124.

<sup>9</sup> *Ṣaḥīḥ al-Bukhārī*, #689; *Ṣaḥīḥ Muslim*, #414.

<sup>10</sup> This is not a separate hadith. Some narrations of the previously cited hadith include a phrase to this effect, such as those cited in the previous note.

<sup>11</sup> Qur’an, al-Qaṣaṣ: 41.

<sup>12</sup> Qur’an, Hūd: 101.

<sup>13</sup> Qur’an, Tāhā: 97.

<sup>14</sup> The point here with the example of “ilāh”, following the example of “imām”, is that sometimes a word is used in reference to individual cases not because it applies to them in fact but because some people (wrongly) consider it as such. In such cases, the name is used with a qualification indicating the exceptional usage.

<sup>15</sup> *Musnad Aḥmad*, #27485.

by the rightly guided caliphs, then honest scholars and judges and anyone else whose obedience Allah has obliged, and then those who lead in prayer and its like.<sup>16</sup>

3. Abū Shakūr al-Sālimī<sup>17</sup> (d. after 460/1066), *al-Tamhīd fī Bayān al-Tawhīd*

اعلم بأن الخلافة ثابتة، والإمارة قائمة مشروعة واجبة على الناس أن يروا على أنفسهم إمامًا بدليل الكتاب والسنة وإجماع الأمة. أما الكتاب فقولته تعالى {يَا أَيُّهَا الَّذِينَ آمَنُوا أَطِيعُوا اللَّهَ وَأَطِيعُوا الرَّسُولَ وَأُولِي الْأَمْرِ مِنْكُمْ}. وأما السنة فإنه لما توفي رسول الله عليه السلام اجتمعت الصحابة رضي الله عنهم في سقيفة بني ساعدة الخزرجي المهاجرون والأنصار، فقالوا: سمعنا رسول الله عليه السلام يقول: "من مات ولم ير علي نفسه إمامًا مات ميتة جاهلية" فلا يجب أن يمضي علينا يومٌ ولا نرى لأنفسنا إمامًا. وهذا يدل على أن من لم ير الإمام حقًا فإنه يكفر.

Know that the caliphate is an established matter [in the dīn] and that political leadership is an established and legislated affair. It is obligatory on the people that they appoint for themselves an imām. This is proven by the Qurʾān, the Sunna, and the Consensus of the Umma. As for the Qurʾān, Allah says, “O you who believe, obey Allah, obey the Messenger, and those in authority among you.”<sup>18</sup> As for the Sunna, when the Prophet ﷺ passed away the Companions, the Muhājirūn and the Ansār, gathered in the roofed shelter of Banī Sāʿida al-Khazrajī and said: “We heard the Messenger of Allah ﷺ say, ‘Whoever dies without an imām over him dies a jāhilī death’<sup>19</sup>; it is thus not right that a day pass over us without an imām.” This indicates that whoever denies the necessity of the Imām commits disbelief.<sup>20</sup>

<sup>16</sup> Abū Bakr al-Jaṣṣās, *Aḥkām al-Qurʾān*, ed. Muḥammad Qamḥāwī, 5 vols. (Beirut: Dār al-Iḥyā al-Turāth al-ʿArabī, 1992), 1:84-85.

<sup>17</sup> Abū Shakūr Muḥammad b. ʿAbd al-Sayyid b. Shuʿayb al-Sālimī is a Māturīdī scholar who lived in Transoxania in the fifth/tenth century. There is scant biographical information available about him. Born towards the beginning of the fifth century, he mentions meeting the great Ḥanafī jurist, Shams al-Aʿimma al-Ḥalwānī (d. 452/1060) and studying fiqh in Samarqand under Abū Bakr Muḥammad al-Khaṭīb. He lived in a period populated by some of the most authoritative Māturīdī theologians including Abū al-Yusr al-Bazdawī and Abū al-Muʿīn al-Nasafī. His only known work is *Al-Tamhīd fī Bayān al-Tawhīd*. The author of *Ishārāt al-Marām* lists al-Sālimī as one the Imams of the Māturīdī school. See Abū Shakūr al-Sālimī, *Al-Tamhīd Fī Bayān Al-Tawhīd*, ed. ʿUmar Turkmān. (Beirut: Dār ibn Ḥazm, 2017), 17-19.

<sup>18</sup> Qurʾan, al-Nisāʾ: 59.

<sup>19</sup> This narration is found with slightly different wordings in Ṣaḥīḥ Muslim, #1851; Musnad Aḥmad, #16876; Ṣaḥīḥ Ibn Ḥibban, #4573; and others. The wording of the soundest report (Muslim) is, “Whoever dies without a pledge of allegiance on their neck (to an imām) dies a jāhilī death.” A “jāhilī death”, as Ibn Hajar explains, is to die in a state of disobedience (not disbelief) that resembles the death of the people of Pre-Islamic period in a state of being astray and without an imām who is obeyed (*Fath al-Bārī*, ed. Muhibb al-Dīn al-Khaṭīb, 13 vols., Beirut: Dar al-Maʿrifa, 1379, 13:7).

<sup>20</sup> Kufr is entailed in the outright rejection of the obligation—as opposed to not acting on it—as is the case with the rejection of any matter established definitively to be of the dīn. Abū Shakūr al-Sālimī, *Al-Tamhīd Fī Bayān Al-Tawhīd*, ed. ʿUmar Turkmān (Beirut: Dār ibn Ḥazm, 2017), 309.

4. Abū al-Yusr al-Bazdawī<sup>21</sup> (d. 493/1100), *Usūl al-Dīn*

قال عامة أهل القبلة: يجب على الناس أن يختاروا واحداً للإمامة ويفترض عليهم، إلا أنه فرض كفاية إن قام به البعض سقط عن الباقيين. وقال أبو بكر الأصم من المعتزلة وبعض الخوارج: إنه لا يجب ذلك، بل يجب على الناس أن يعملوا بكتاب الله تعالى، وأولئك قالوا: إن بكتاب الله تعالى كفايةً وغنيةً عن الإمام فلا يجب عليهم تعيين أحدٍ للإمامة. وجه قول عامة أهل القبلة: أن الصحابة بعد وفاة النبي ﷺ اشتغلوا بتعيين الإمام وقدموه على سائر الفرائض. ولولا أنه فريضة لما قدموه على سائر الفرائض كقتال الكفار والكسب وغير ذلك، ولأنه لا بقاء للعالم إلا بدفع المنازعات وإنصاف المظلوم من الظالم وقتل السُّعاة في الأرض بالفساد؛ فإن المنازعة تؤدي إلى التفاني وإلى فساد العالم، ولا يقوم ذلك إلا بالإمام، فيجب على الناس تعيين أحد للإمامة، ولكن إذا قام به البعض يسقط عن الباقيين. [وأما] قولهم: كتاب الله تعالى يُغني عن الإمام، فنقول: كل أحد من الناس لا يعمل بكتاب الله تعالى، هكذا أجرى الله تعالى العادة بين عباده، ولهذا ما أخلى الله تعالى زماناً عن سائس في حق المؤمنين والكفار جميعاً.

The People of the Qibla [the Muslims] hold that it is necessary for, and obligatory on, the people to choose one person [among them] for the position of the imamāte. However, this is a [communal] obligation of sufficiency; if some people fulfil it, the obligation drops from the rest.<sup>22</sup> Abū Bakr al-Aṣamm from the Mu'tazila and some of the Khawārij held [in dissent] that appointing an imām is not obligatory. They argued that the people are obliged only to uphold the Book of Allah ﷻ in which there is sufficiency from appointing an imām. The reasoning of the People of the Qibla is that the Companions busied themselves after the death of the Prophet with the task of selecting and appointing the Imām. They prioritised this task above all other obligations—such as fighting the disbelievers, earning a living, and the like—something they would not have done had it not been an obligation. They also reason that organising the world requires preventing social discord, securing justice for the oppressed from the oppressors, seizing

<sup>21</sup> Abū al-Yusr Muḥammad ibn Muḥammad al-Bazdawī, also lauded as *Ṣadr al-Islām* (the dawn/heart of Islam) and *al-Qāḍī* (the Judge), was born in the early 5th century in Bukhāra, where he also passed away. His elder brother was the famous Ḥanafī legal theorist, Fakhr al-Islām Abū al-Hasan al-Bazdawī (d. 482/1089), and their grandfather, or great grandfather according to some sources, had studied directly under the eponymous founder of the Mātūrīdī school, Abū Maṣnūr al-Mātūrīdī. From his illustrious students is the famed author of the Nasafī Creed, 'Umar al-Nasafī, who describes him as, “the teacher (*Shaykh*) of our peers in Transoxania, considered to be the Imam of all the Imams, with delegations coming to visit him from all over the world. The East and West are filled with his writings on theology and jurisprudence, and he was the Chief Justice of Samarqand.” His most famous writings are a work in legal theory, *Ma'rifat al-Hujaj al-Shar'iyya*, and a theological tract, *Uṣūl al-Dīn*, from which the above passage is taken.

<sup>22</sup> The farḍ kifāya is that obligatory act the accomplishment of which is sought by the lawgiver from the community in general, as opposed to the farḍ 'ayn whose accomplishment is required from a specific individual or every legally responsible individual. With the former, in turn, if some people from the community fulfill the task, the responsibility falls from everyone since the task has been accomplished. If the task remains unaccomplished, all (able to contribute to the given task) are accountable. See al-Sarakhsī, *al-Mabsūt* (Beirut: Dār al-Ma'rifa, 31 vols.), 30:263; Ibn 'Abidīn, *Radd al-Muhtār* (ed. 'Adil Aḥmad 'Abdul Mawjūd and 'Alī Muḥammad Mu'awwad, 14 vols., Riyāḍ: Dār 'Ālam al-Kutub, 2003, 1: 42, 352); al-Mahlāwī, *Tashīl al-Wusūl ilā 'ilm al-Usūl* (Karachi: Maktabat al-Bushra, 2012), 319.



those who seek to sow corruption in the land, and the like, because discord leads to violence and corruption. None of these can be achieved without the Imām. Appointing an imām is thus obligatory, although if some people fulfil it, the responsibility falls from everyone else. As regards the position of the dissenters that the Book of Allah is sufficient and renders the Imām unnecessary, we assert that not everyone upholds the Book of Allah. Thus is how Allah ﷻ has rendered [His] Divine habit (‘*āda*) among His slaves [that some act rightly, while others do not]. For this reason, Allah ﷻ has not left any era without a political leader for the believers and disbelievers alike.<sup>23</sup>

##### 5. Abū al-Mu‘īn al-Nasafī<sup>24</sup> (d. 508/1115), *Tabsirat al-Adilla*

إِنَّ الْمُسْلِمِينَ لَا بُدَّ لَهُمْ مِنْ إِمَامٍ يَقُومُ بِتَنْفِيزِ أَحْكَامِهِمْ؛ وَإِقَامَةِ حُدُودِهِمْ وَسَدِّ ثُغُورِهِمْ؛ وَتَجْهِيزِ جُيُوشِهِمْ؛ وَأَخْذِ صَدَقَاتِهِمْ؛ وَحِمَايَةِ بَيْضَتِهِمْ؛ وَقَطْعِ مَادَّةِ شُرُورِ الْمُتَغَلِّبَةِ وَالْمُتَلَصِّصَةِ وَقَطَّاعِ الطَّرِيقِ؛ وَإِقَامَةِ الْجَمْعِ وَالْأَعْيَادِ؛ وَقَطْعِ الْمُنَازَعَاتِ الْوَاقِعَةِ بَيْنَهُمْ؛ وَقَبُولِ الشَّهَادَاتِ الْقَائِمَةِ عَلَى الْحَقِّ لئَلَّا يُؤَدِّي التَّمَادِي فِي الْمُنَازَعَةِ إِلَى التَّقَاتُلِ وَالتَّفَانِي؛ وَتَرْوِيجِ الصَّغَارِ وَالصَّغَائِرِ الَّذِينَ لَا أَوْلِيَاءَ لَهُمْ؛ وَقِسْمَةِ مَا أَفَاءَ اللَّهُ عَلَيْهِمْ مِنَ الْغَنَائِمِ؛ وَلِهَذَا أَجْمَعَتِ الصَّحَابَةُ عَلَى نَصْبِ الْإِمَامِ؛ وَكَذَلِكَ طَلَبُوهُ وَلَمْ يَجْرَ بَيْنَهُمْ نِزَاعٌ فِي وَجُوبِ طَلْبِهِ وَتَعْيِينِهِ بَلْ جَرَى ذَلِكَ فِي التَّعْيِينِ إِلَى أَنْ انْعَقَدَ الْإِجْمَاعُ عَلَى نَصْبِ أَبِي بَكْرٍ الصَّدِيقِ ﷺ ثُمَّ مَعَ مَا بَيَّنَّا مِنْ إِجْمَاعِ الصَّحَابَةِ عَلَى ذَلِكَ وَالْحَاجَّةِ الْمَاسَةِ إِلَيْهِ لِمَا بَيَّنَّا مِنَ الْأُمُورِ.

It is necessary for the Muslims to have an imām who enforces their legal judgments, maintains their penal punishments, protects the borderlands, prepares their armies, collects their alms, safeguards their territories, cuts off the evil of criminal gangs, thieves, and highway robbers, establishes the Friday and Eid congregational prayers, resolves disputes that arise among them, establishes legal and judicial procedures of testimony and rights so as not to allow persistence in disputation to culminate in violence and destruction, facilitates the marriage of those without guardians, and distributes what Allah has granted them of the war booties. For this reason, the Companions concurred upon the [duty of] appointing of an imām and actively sought this. There was no debate amongst them regarding the obligation of selecting and appointing a

<sup>23</sup> Abū Yusr al-Bazdawī, *Usūl al-Dīn*, ed. Han-Peter Linss and Ahmad Hijāzi al-Saqā (Cairo: Maktabat al-Azhariyya li al-Turath, 2003), 191.

<sup>24</sup> Abū Mu‘īn Maymūn ibn Muḥammad ibn Mu‘tamad al-Nasafī comes from an erudite line of Ḥanafī jurists and Maturīdī theologians. One of his ancestors is claimed to have studied with the eponymous founder of the Maturīdī school. Not much is known about his teachers, but his students include notable luminaries such as Najm al-Dīn ‘Umar al-Nasafī (d. 537/1142), author of the famous Nasafī Creed, and the reputable Ḥanafī jurist, Alā al-Dīn al-Kāsānī (d. 587/1191). He is seen as the second most important figure in the development of Maturīdī creed with his *Tabsirat al-Adilla* being one of the centrepiece texts in the Maturīdī tradition, so much so that later scholars such as Nūr al-Dīn al-Ṣabūnī (d. 580/1184) and Abū Mu‘īn’s own student, ‘Umar al-Nasafī, sufficed by summarising his larger work in their own creedal texts—all of which are central to studying Maturīdī kalām until today.

leader. Rather, dispute only occurred regarding whom to appoint, until finally they concurred on appointing Abū Bakr ﷺ.<sup>25</sup>

وَلَا عِبْرَةَ لِحُلَافِ أَبِي بَكْرٍ الْأَصَمِّ وَهَشَامِ بْنِ عَمْرٍو مِنْ رُؤَسَاءِ الْقَدَرِيَّةِ وَقَوْلِهِمَا إِنَّ ذَلِكَ لَيْسَ بِوَاجِبٍ؛ وَتَعْلِيلِ الْأَصَمِّ أَنَّ النَّاسَ لَوْ كَفُّوا عَنِ الْمَظَالِمِ لاسْتَعْنَوْا عَنِ الْإِمَامِ؛ لَا عِبْرَةَ لِهَذَا لِأَنَّ قَوْمًا لَوْ اسْتَعْنَوْا عَنْهُ لَكَانَتِ الصَّحَابَةُ – رِضْوَانُ اللَّهِ عَلَيْهِمْ – مَعَ جَلَالِ أَقْدَارِهِمْ وَشِدَّةِ احْتِرَاصِهِمْ عَمَّا لَا يَحِلُّ الشَّرِيعَةُ وَلَا يَجْمَلُ فِي الْمَرْوَعَةِ وَامْتِنَاعِهِمْ عَنِ الظُّلْمِ وَالتَّعَدِّيِّ أَوْلَى النَّاسِ بِالِاسْتِعْنَاءِ عَنِ ذَلِكَ، وَحَيْثُ لَمْ يَسْتَعْنِ عَنْهُ دَلٌّ أَنَّ ذَلِكَ لَيْسَ بِشَيْءٍ، مَعَ أَنَّ وِرَاءَ قَطْعِ الْمَنَازَعَاتِ وَإِنْصَافِ الْمَظْلُومِ مِنَ الظَّالِمِ أَمُورًا أُخْرَى لَا يَتِمَكَّنُ مِنَ الْقِيَامِ بِهَا إِلَّا الْإِمَامُ عَلَى مَا بَيَّنَّا. وَالدَّلِيلُ عَلَيْهِ مَا رُوِيَ عَنِ النَّبِيِّ عَلَيْهِ السَّلَامُ أَنَّهُ قَالَ: "مَنْ مَاتَ وَلَيْسَ لَهُ إِمَامٌ عَامَّةٌ فَقَدْ مَاتَ مَيِّتَةً جَاهِلِيَّةً" فَثَبَتَ بِذَلِكَ بَطْلَانُ مَقَالَتَيْهِمَا وَتَقَرَّرَ وَجُوبُ نَصْبِ الْإِمَامِ، وَاللَّهُ الْمُؤَقِّقُ.

There is no consideration for the opposition of Abū Bakr Al-Aṣamm and Hishām ibn ‘Amr, both from the leading exponents of the Qadarīs, and their claim that it is not obligatory (to appoint an imām). Al-Aṣamm reasons that as long as the people are able to prevent oppression and wrongdoing among themselves, there is no need for an imām. There is no consideration given to this because if there ever were any people that had no need for an imām, it would have been the Companions, given their incredibly elevated rank, deep desire to avoid all that contradicted the Sharī‘a and was not befitting of chivalric morality [*murū‘a*], and their refusal to take part in any oppression or transgression. All these factors would have made them the most likely candidates to have no need for establishing this institution, yet this was not the case, which shows that this objection carries no weight. Further, there are other affairs beyond the establishment of justice and resolving disputes that we already mentioned, all of which cannot be achieved without the Imām. A [revelatory] proof for our position is the ḥadīth of the Prophet ﷺ: “Whoever dies without an imām dies a death of [pre-Islamic] Ignorance.”<sup>26</sup> With this proof, the invalidity of the claim of the two objectors is clearly shown and the obligation of appointing an imām is confirmed – and Allah is the one who enables.<sup>27</sup>

<sup>25</sup> Ḥanafī proofs for the imāmate overwhelmingly rely on textual evidence. Firstly, the unanimous practice of the Companions in the immediate aftermath of the Prophet’s ﷺ passing is referenced widely. Secondly, the fact that so many legal rulings in the Sharī‘a depend on the existence of an imām, specifically those that aim at social stability and the preservation of communal Islam. Therefore, that which establishes an obligation is itself an obligation becomes a leading refrain as evidence. A further argument shared by both Sunnis and Mu‘tazila is the need of political authority for the sake of general human welfare, with the latter deriving this from mostly rational principles, and the former leaning more heavily on scripture. See Abū al-Thanā al-Ālūsī, *Nahj al-Salāma ilā Mabāḥithil Imāma*, ed. ‘Abdullāh al-Bukhārī, (Cairo: Dār ibn ‘Affān, 2018), 135-137.

<sup>26</sup> On this ḥadīth, see note 19 above.

<sup>27</sup> Abū al-Mu‘īn al-Nasafī, *Tabsiratul Adilla*, ed. Claude Salame, 2 vols. (Damascus: Al-Ma‘had al-‘Ilmī al-Faransī lil Dirāsāt al-‘Arabiyya, 1993), 2: 823-825.

6. 'Ala' al-Dīn al-Kāsānī<sup>28</sup> (d. 587/1191), *Badā'i' al-Ṣana'i'*

(أما) الأول فنصب القاضي فرض؛ لأنه يُنصب لإقامة أمر مفروض، وهو القضاء، قال الله سبحانه وتعالى {يَدَاوُدُ إِنَّا جَعَلْنَاكَ خَلِيفَةً فِي الْأَرْضِ فَاحْكُم بَيْنَ النَّاسِ بِالْحَقِّ} [ص: 26]؛ وقال تبارك وتعالى لنبينا المكرم عليه أفضل الصلاة والسلام: {فَاحْكُم بَيْنَهُمْ بِمَا أَنْزَلَ اللَّهُ} [المائدة: 48]؛ والقضاء هو الحكم بين الناس بالحق، والحكم بما أنزل الله عز وجل، فكان نصب القاضي لإقامة الفرض، فكان فرضاً ضرورياً؛ ولأنَّ نصب الإمام الأعظم فرض، بلا خلاف بين أهل الحق، ولا عبرة بخلاف بعض القدرية لإجماع الصحابة - رضي الله عنهم - على ذلك، ولمساس الحاجة إليه؛ لتقييد الأحكام، وإنصاف المظلوم من الظالم، وقطع المنازعات التي هي مادة الفساد، وغير ذلك من المصالح التي لا تقوم إلا بإمام، لما عُلم في أصول الكلام، ومعلوم أنه لا يمكنه القيام بما نُصِب له بنفسه، فيحتاج إلى نائب يقوم مقامه في ذلك وهو القاضي؛ ولهذا كان رسول الله - صلى الله عليه وسلم - يبعث إلى الآفاق قضاة، فبعث سيدنا معاذاً - رضي الله عنه - إلى اليمن، وبعث عتاب بن أسيد إلى مكة، فكان نصب القاضي من ضرورات نصب الإمام، فكان فرضاً، وقد سماه محمد فريضة محكمة؛ لأنه لا يحتمل النسخ؛ لكونه من الأحكام التي عُرف وجوبها بالعقل، والحكم العقلي لا يحتمل الانتساح، والله تعالى أعلم.

As for the first issue, the appointment of a judge is obligatory because his appointment facilitates the carrying out of an obligation, namely, judicial ruling [*qadā'*].<sup>29</sup> Allah ﷻ says, “O Dāwūd! We have surely made you an authority in the land, so judge between people with truth.”<sup>30</sup> Allah ﷻ also says to our Prophet ﷺ, “So judge between them by what Allah has revealed.”<sup>31</sup> Judicial ruling [*qadā'*] is the judging between people by the truth and by that which Allah has revealed. Thus, the appointment of a judge facilitates an obligation and is therefore itself an obligation necessarily. Another way to prove the necessity of appointing judges is derived from the obligation of appointing the Imām, which is unanimously considered to be obligatory without any disagreement among the scholars of truth—with no consideration given to the opposition of some of the Qadirīs—because of the consensus of the Companions upon it and the dire need for it [in relation of various functions]: implementing the rulings [of the

<sup>28</sup> Abū Bakr ibn Mas'ūd ibn Aḥmad Al-Kāsānī, nicknamed “King of the Scholars” (*Malik al-'Ulamā*), is a prominent Ḥanafī jurist who wrote one of the most reliable reference works in the Ḥanafī school, *Badā'i' al-Ṣana'i' fi tartīb al-Sharā'i'*, along with some writing in the science of rational theology. After a court dispute, he was sent by the Seljuk Sultan as an emissary to Nūr al-Dīn Al-Zengī (d. 570/1174) in Aleppo where he was appointed as a teacher of Ḥanafī jurisprudence at the Ḥalāwiyya Madrassa. He studied under the likes Abū al-Mu'tin al-Nasafī and 'Alā al-Dīn al-Samarqandī and taught pupils including Jamāl al-Dīn al-Ghaznawī (d. 593/1196). He passed away in Aleppo and is buried next to his wife at the Maqām of the Prophet Ibrāhīm ﷺ.

<sup>29</sup> This passage is from a section on the judiciary [Kitāb Ādāb al-Qādhī] in which the author breaks up the discussion into various subtopics. The “first issue” is related to the obligation of appointing judges. It is relevant for our purposes because the author relates this obligation to the obligation of appointing the Imām.

<sup>30</sup> Qur'an, Ṣāḍ: 26.

<sup>31</sup> Qur'an, al-Mā'ida: 7

Shari‘a], giving justice to the oppressed against their oppressors, resolving disputes, which are the (potential) material of corruption, and a whole host of other interests that cannot be secured except by an imām—as is elaborated in the works of rational theology (*kalām*). It is also a fact that the Imām cannot carry out all these functions on his own; he requires a deputy to take his place for them—this deputy is the judge.<sup>32</sup> For this reason, the Messenger ﷺ sent judges to different provinces. For example, our Master Mu‘ādh ؓ was sent to Yemen and ‘Atāb ibn Usayd was sent to Makka. Therefore, the appointment of judges is from the requirements of appointing an Imām, and thus is itself obligatory. Muḥammad [Ibn al-Ḥasan] referred to it as a definitive obligation (*farīda muḥkama*) because it is not subject to abrogation; it is an obligation known through reason, and rational rulings are not subject to abrogation.<sup>33</sup> Allah knows best.<sup>34</sup>

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<sup>32</sup> With regard to the proof for obligating the imamate, the consensus of the Companions carries unique import in the Ḥanafī school, given its focus on salaf-based praxis, albeit that other schools also use this proof. An interesting argument that is more unique to Ḥanafis is the heavy reliance within public symbolic acts of worship upon the presence of the Imām. This includes the Friday prayer, the ‘Īd prayer, the Funeral prayer and collecting the Zakāt among other things. An interesting study would look to flesh out the obligation of the imamate from a Ḥanafī standpoint, relying solely on worship-based acts, rather than administrative duties of state. See Ṣalāh Abū al-Ḥājj, *Al-Siyāsa al-Rāshida Fī Dawlat al-Mājida* (Amman: Dār al-Fārūq) and *Madkhal al-Mufaṣṣal ilā al-Fiqh al-Ḥanafī* (Amman: Dār al-Fath, 2017).

<sup>33</sup> Al-Kāsānī’s reasoning here points to the rational necessity of maintaining human welfare, a move away from the more revelational leanings of other Māturidī/Ḥanafī thinkers. This seems to be indicative, as far as legal thought is concerned, of a “theological turn” that tries to merge the newly-consolidated Māturidī theological school into Ḥanafī legal theory—a phenomenon that took place in 7<sup>th</sup> and 8<sup>th</sup> century Transoxania. See Sohail Hanif, “Al-Kāsānī”, *Encyclopaedia of Islam*, 3rd edition, forthcoming.

<sup>34</sup> ‘Alā al-Dīn al-Kāsānī, *Badā’i ‘al-Ṣana’i fī Tartīb al-Sharā’i*, ed. ‘Adil Aḥmad ‘Abdul Mawjūd and ‘Alī Muḥammad Mu‘awwaḍ, 10 vols. (Beirut: Dār al-Kutub al-‘Ilmiyya, 2002), 9: 82-85.