CHAPTER FOUR:

CERTAINTY AND THE AGREEABLE SOURCES OF SHARĪ‘AH
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The present chapter aims at evaluating the level of certainty that the agreeable sources of The Sharī‘ah enjoy. The agreeable sources of the The Sharī‘ah (Qur’an, Sunnah, Ijmā‘ and Qiyās) constitute the bedrock of legislation in Islam. Their authenticity is inherent and demonstrative, and their hierarchy is a prerequisite in the process of legislation. However, jurists have relatively adopted variant views with regards to the authenticity of these sources. While they are unanimous in respect of the reliability of the four sources, they have, more or less, differed on the certainty underlying them.

4.1 Formal certainty of the divine text:

It is worth mentioning that, in this chapter, we shall focus on a particular form of certainty. That is the certainty pertaining to the procedures and methods followed to consider the authenticity of the four agreeable sources. We will focus on how these sources have been confirmed genuine and authentic. In other words, we shall focus on Qaṭi ‘iyyat al-Thubūt (the certainty of the methods confirming the divine originality of the legal text) of these sources, that is weighting the value of the methods whereby these sources are confirmed. We shall call this type of certainty: formal certainty. That is in contrast with the

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1 It should be noted that we are advocating the view of the majority of jurists who maintain that the major sources of Sharī‘ah are Qur’an, Sunnah, Ijmā‘ and Qiyās. We have, therefore, purposely avoided the debate over the exact number of the agreeable sources of The Sharī‘ah.
one studied earlier, which has focused mainly on the meanings and connotations (semantic certainty).

Both certainties complement each other to manifest the solid ground of the Shari‘ah. The combination of both has produced the so-called Qaṭ‘iy al-thubūt Qaṭ‘iy al-dilālah (certain in both origin and meaning), the yardstick of the theory of certainty in the Islamic legal system. We shall now endeavor to scrutinize the criterion of originality (thubūt) and assess its capacity of imparting positive knowledge. We shall begin our contention with a text quoted from the pioneer of demonstration in the legal field, al-Imam al-Juwayni, in his renowned book Al- Ghiyāthī. He maintained that” Qawāṭi‘ (certainties) in religion are three:

1- Al-Nass.

2- Al-Mutawātir (Recurrent Hadith).

3- Ijmā‘

Undoubtedly, this selective approach applied by al-Juwaynī aims at establishing the most plausible and even the rational part of the Shari‘ah. Al-Nass symbolizes the revealed text that enjoys absolute certainty, as it is originated from Allah (S.W.T). Al-Mutawatir imparts positive knowledge as it is widely reported by a large number of reporters. Al-Ijmā‘ engenders certainty, as the scholars taking part in it are unlikely to meet to agree upon an error. We shall attempt to shed some light on the plausibility of Qiyyās as a fourth source of...

\footnote{Al-Juwaynī, \textit{Al- Ghiyāthī}, 1/39.}
the Shari‘ah. For its speculation, as widely ascertained by Jurists, can be revised based on the set of criteria that we would suggest afterwards.

Looking into these four sources of the Shari‘ah from the rational perspective, we would observe that “reason” is the most common platform upon which the certainty of these sources stands. Reason, in this respect, is summoned to go from gradual reasoning to a more confined one at which the mind becomes “compelled” to accept. That in the status of mind that those Qawāṭi‘ are set to put our mind in so that firm belief is automatically generated.

We shall start with the revealed text and assess the certainty of its Originality.

**Feasibility of the revealed text (Qur‘an)**

_Qur‘an_ literally means reading or recitation. Technically, it is the speech of Allah (S.W.T) revealed to the Prophet Muhammad (S.A.W) in Arabic and transmitted to us through the process of tawātur.⁴

This definition serves as a good ground to unveil the definitive aspect underlying the revelation of _Qur‘an_. Two notions have to be scrutinized: The process of revelation and the process of transmission (tawātur). First, we shall tackle the notion of revelation whereas tawātur is to be addressed in the next item.

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³ Al-Zarqānī, _Al-Manāhil_, 1/10
The divine originality of Qur'an is contingent upon three major factors, Prophethood, miracle, and the universal norms. They operate in a combination observing a hierarchy that keeps descending until the certainty of Qur'an is well perceived. The hierarchy suggests the following figure:

![Diagram](image)

**Figure 5**

The foregoing figure suggests that the key element behind the certainty of the Qur'an's divine originality is indeed, Prophethood. But the latter is to be proved by conclusive evidence, which happens to be the miracle. The miracle itself will not enjoy any plausibility if the uniformity of the universal norms is not well conceived. Hence, We find ourselves in front of a triplex system that needs to be grasped in its entirety after its components, in their turn, are proved certain. In other words, before we substantiate the certainty of the revealed
text, we badly need to substantiate the certainty of Prophethood. The latter stipulates two other types of certainties, the certainty of the miracle and that of the uniformity of the universal norms. Unless the certainty of the last two is proved, Prophethood would remain a subject of dispute.

We shall contend that the claimant of Prophethood should have conclusive evidence supporting his claim. The plausibility of his claim varies in proportion of the degree of certainty of the evidence he is forwarding. In this respect, the miracle comes to dazzle the mind as it encroaches upon the norms that have been uniformly established ever since the universe was created. This has been accompanied by a total failure on the part of the miracle witnesses to have a hand in its occurrence, reverse, modification or annulment. Therefore, the whole picture can be portrayed as follows:

- The astonishment on the part of people witnessing the miracle would prove for certain that the norms of universe are uniformly established.
- The failure on the part of people would prove the certainty of the miracle.
- The certainty of the miracle would prove the certainty of Prophethood of its claimant.
- And the certainty of Prophethood would prove the certainty pertaining to the divine originality of the presumed revealed text.

Yet, once this descending order is established, it would begin an ascending order to serve the same components. In other words, once the certainty of the revealed text is established, it begins a new task to prove the certainty of Prophethood and other miracles.
This has been exemplified by the dual relationship between Qur'an and Sunnah. As soon as the prophecy of Moḥammad (S.A.W) was confirmed certain by the miracle of Qur'an, the latter turned to substantiate the Prophet’s sayings and deeds. But the then pagan Arabs would not have converted to Islam and listened to Qur'an had the prophecy of Muhammad was yet to be confirmed. This has produced a form of circularity that was needed to prove the certainty of both Qur'an and Sunnah. That is, the certainty of Prophethood is necessary to prove the certainty of Qur'an and vice versa. But could it be considered that miracle is a retarded element overriding the doctrine of the uniformity of nature? If is so, then the miracle of Qur'an is ought to be ignored as long as it is not encroaching upon uniformed pattern of norms.

Scholars like al-Shatibi,4 took up the task to vanish this fallacy by differentiating between two types of norms: universal and particular norms (ʾĀdāt Kulliyah wa Juzʿiyyah). The former are meant to maintain the stability and balance of the universe as a whole, whereas the latter are meant to maintain the same balance but in a particular way. The miracle would not dare to encroach upon the universal norms; otherwise, the universe would come to an end. It can only operate within the particular norms that require the encroachment upon some of them only to serve the purpose in question. Therefore, it is imperative to preserve the plausibility underlying the components of the hierarchy of certainty mentioned earlier, be it in the descending or ascending order.

4 Al-Shāṭibī, Al- Muwāfaqāt, 2/281.
4.2 The logical certainty of Mutawātir (recurrent report)

The process of transmitting a report is essential to judge its credibility. And when the report happens to be a religious injunction dating back to a preceding era, enquiring into its originality is a must. Wahy, be it Qur'an or Sunnah, have to be confirmed certain so that the last message (Islam) is perpetuated and its rational is accepted.

The only accurate way warranting the perpetuity and rationality of religion is “the methodology of tawātūr”. It is also another method that would have to deal with rational frames of reference so that the mind would be, again, in a state of “compulsion” to accept things. In this part of research, we shall assess the criteria of tawātūr that are presumably conducive to certainty. We shall refer to the applicability of tawātūr in Qur'an and Sunnah respectively, but the Sunnah will be covered in a more lengthy way.

Al-Tawātūr literally refers to the successive recurrence of something. Technically, “it means a report by an indefinite number of people in such a way that precludes the possibility of their agreement to perpetuate a lie. Such a possibility of lie is inconceivable owing to the large member of transmitters involved, the diversity of their residences and reliability”. The main element underlying the certainty of this method is ‘the impossibility

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5 Al-Ghazālī, *al-Mustasfā*, 1/256.
of fabricating and lie’, and the main basis behind this impossibility is the element of ‘number’ that is large enough to achieve it. This would seem to spell out a logical equivalence between the ‘number’ and ‘belief’ in as much as the latter is contingent on the former. But before we dive into outlining this relationship, we shall revise the conditions of tawāțur as prescribed by Muslim jurists.

A report is classified as Mutawāṭir only when it fulfills the following conditions. Yet, we shall begin with the agreeable ones:

1- The number of transmitters must be large enough to preclude any possibility of fabricating a lie:

The jurists have disagreed as to the number generating the said impossibility. They adopted different numbers rooted in verses referring to different occasions:

1.1- Number 5.

1.2- Number 12, in reference to the number of delegates sent by Allah (S.W.T) to the Jews (5:12)

1.3- Number 20: this is analogous to the verse referring to the number of fighters who should remain steadfast against their enemies (Anfāl: 65).

1.4- Number 40: this is analogous to the number of people who first converted to Islam and with whom the Prophet (S.A.W) was asked to take hold (Anfāl: 64)

1.5- Number 70: this is analogous to the number of men whom the Prophet Mūsā (A.S) chose for an appointment with Allah (S.W.T) (SWT). (A ‘rāf: 155).
1.6- Number 314: this is analogous to the number of fighters participating in the battle of Badr.

1.7- Number 1400: this is analogous to the number of companions who took the pledge (Bay 'ah of Riḍwān) in 6th year of Hijrah.  

However, it is held that the number of tawātur is not limited, and that the determining factor, whereby positive knowledge is imparted rests mainly on ‘Ādah (custom). That is to refer to a variety of factors that are presumably different from one era to another, and from one society to another, and even from one class of society to another. This is to avoid any arbitrary analogies, as shown earlier, so that the certainty of tawātur is well justified.

It has been contended that the numbers of tawatur suggested earlier would not overrule the possibility of agreeing on lie. For it appears that the “number” is not the sole determinant of certainty. For “it is possible for a large number of people to agree on a lie as it may happen in the case of a king agreeing with his army commanders to hide a plan for a raid...” Therefore, the impossibility of a lie, as suggested by al-Juwaynī,
should rely on Qarā'īn	extsuperscript{10} (Signifiers) in the broadest sense of the word. It is very interesting to note that al-Juwaynī stipulates the number of tawatur only as a signifier. He put it:

"if the number of transmitters is large enough to preclude any possibility of agreeing on a lie, and it is ascertained that this impossibility is not jeopardized by elements of bias and subjective intentions,

this combined factor would become a signifier (Qarina) by itself to be added to the rest of signifiers upon which tawatur would entail [certainty]".\textsuperscript{11}

I would argue that, beside the number factor, the certainty of tawatur rests mainly on three major factors: Reason, intuition and signifiers. They operate interchangeably but in a cohesive way. I would perceive the mechanism of this ternary body in the following figure in the next page:

\textsuperscript{10} Ibid.

\textsuperscript{11} Ibid. 1/375
The foregoing figure emphasizes on two types of certainties from which the genuine certainty of *tawātur* stems, i.e.: The rational and intuitive certainties. The report
transmitted through *tawātur* would cling on these two types respectively. Reason would receive it and presupposes its plausibility. That is why the researcher would contend that the rational certainty could be achieved merely from one single incident or a report. Yet, intuition would hang up from the first report received and does not assume its plausibility anyway. At this stage, there is an alternate process between the increasing number of reporters and that of the signifiers corroborating each other in various ways. The process of corroboration, as the researcher sees it, is of two phases: Spontaneous and systematic.

The former would assume the interchangeable corroboration between the "number" of transmitters and "signifiers", though the former may transcend over the latter. At this stage, it is not clear when certainty is set to emerge at least as a presupposition in the mind of the report recipient. For, we might have a small number of reports corroborated by a multitude of signifiers. Similarly, we might have a big number of reporters corroborated by a shallow amount of signifiers. That is why the spontaneous corroboration is necessary but not decisive. In other words, the rational certainty and the intuitive certainty are reciprocally incoherent. This would prompt the systematic corroboration that would play a role of schematization.

At this phase, the number of transmitters and signifiers would be subjected to a subtle scrutiny. The augmentation of the number of transmitters would get itself attached to the relevant signifiers and move all together towards a point where the "number" and "signifiers" take a parallel form. Once the two stabilize on this complementary form of
corroboration, the rational certainty generated by the mere “number” will be corroborated by the intuitive certainty corroborated by an ensemble of “signifiers” and “numbers” alike. The two certainties would merge to give birth to the logical certainty that constitutes the cornerstone of tawātir.

2- The reporters must base their report on sense perception:

This is a condition stipulating a direct encounter with the incident purporting to be recurrently transmitted. The reporters, therefore, are basing their report on necessary knowledge that discards any rational inference. Accordingly, central issues in religion like the creation of the world and the Prophecy of Muhammad (S.A.W) cannot be proved by sense perception, paving the way for them to be recurrently transmitted. The creation of the world, though essential to generate a genuine faith, is fully contingent on reason to prove its plausibility. Further, any rational inference is doomed to speculation unless it is emboldened by “demonstration”.

But what constitutes a necessary Knowledge? According to the above-mentioned explanation, sense perception is the vehicle of necessary knowledge. But that seems to be disputable in some ways:

(a)- Sense-perception, as a condition, is vague. For the reporters would use different faculties to receive the report. Their variant faculties including, hearing, seeing, sensing are so variant that the rules accrued thereof are not necessarily consistent. It follows that what one reporter hears would not necessarily conform to what the other reporter has heard. And

12 Al-Shawkānī, Irshād al-Fuḥūl, p. 47
what one reporter has seen cannot be fully accorded by another reporter seeing the same thing.

(b)- *Qarā'īn* (signifiers) are part and parcel of a knowledge purporting to be necessary.

As far as necessary knowledge is concerned, sense perception alone cannot be decisive. For senses can be either deceptive or falling short of leading to necessary knowledge. The deception of senses is undeniable as they are swayed by emotions, inner feelings and outer circumstances. That is why, the redness of the face is expressive of one of two things: Shyness or anger. To use sense perception alone to judge someone by the redness of his face is extremely wrong. For the sense we are using would never be able to ascertain that the redness of someone’s face is expressive of his anger. We, therefore, are obliged to resort to an ensemble of signifiers\(^\text{13}\) that would help complement our judgement. Hence, if we see that the one with a red face, starts shouting arguing vehemently, raising his hands, kicking objects, coming back and forth; after observing all these signifiers, there should not be any doubt that this man with a red face is angry. Consequently, sense-perception must be corroborated by signifiers to impart necessary knowledge.

3- The number of reporters throughout the whole chain of transmission (*sanaād*) must be relatively the same. That is to say, the number constituting *tawātur* must not change from the origin of the chain of transmission to the very end. For it is

\(^{13}\) Ibid
possible for a recurrent report (Mutawātir) to turn into solitary (Āḥād) at any stage of the chain of transmission and vice-versa. The point of contention here is that how far the combined condition explained earlier (number + signifiers) is observed throughout the whole chain of transmission. Is it guaranteed that this combined condition operates without missing, at least, one component at any stage of the Sanad?

These questions would force us to search for a type of report that meets certain criteria so that its transmission and dissemination throughout the ages is not affected. This is to say that not every report can be transmitted through tawātūr. That is why it is very essential to know the type of report that can be transmitted recurrently without having its authenticity affected.

Reports are mainly of three categories: Definitive true reports - Definitive false reports - uncertain reports.

1- Definitive true reports:

This is of two types: a report in conformity with reason and that, which is not. The former imparts necessary knowledge and the latter would impart an inferential one.

The former is like a knowledge accrued from sense perception and logical propositions like 2 is bigger than 1. And the latter is like the knowledge accrued form experiments and rational inference. This can be presented in the following figure:
2- Definitive false report:

This is of two types: a report that is at odds with reason and that which is at odds with custom. The former is clear, as it does not conform to any axiomatic pattern of thought. The second would refer to a custom where a report is widely circulated and accepted. If the custom requires that such and such incident would prevail and circulate at a large scale, but it did not, we would ascertain that the report carrying this incident is false or less genuine. For if it was true, it would have been widely circulated. Hence, the wide circulation of a report is a definitive evidence of its genuineness. That is why jurists held that any report gaining a wide range of popularity and acceptability is ought to be true.\(^{14}\) Besides, this circulation expands and shrinks alternately owing to the previous factors, i.e. the number of

\(^{14}\) Ibid. 1/379
transmitters and the signifiers surrounding the report. This is presented in the following figure:

![Diagram](image)

**Fig. 7**

These are the most conclusive conditions prescribed for a report recurrently transmitted (*Mutawātir*). There are, yet, other conditions prescribing the residence, belief, lineage and the circumstances surrounding the reporters. But, they are all disagreeable, as they lack plausibility and consistency. Besides, by looking at the sources of certainty we would find that *Mutawātirat* (recurrent reports) are essential sources of certainty. Philosophers as well as scholars identified five major sources of certainty; they are:

**(One)- Primaries (*Awwaliyyāt):**

These are the pure rationalities that reason would conceive without using sense perception or imagination. This is like the knowledge of someone about the existence of himself; and “two contradictory propositions would not converge”.

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(Two)- The inner feelings (*Al-Mushāhadāt al-Bāţinah)*:

These are the esoteric feelings that a creature would find without using sense perception. For they are neither tangible nor rational. This is like feeling hungry or thirsty.

(Three) The apparent tangibles (*Al-Maḥsūsāt al-Zāhirah)*:

This would include knowledge from sense perception.

(Four) Experiments based on the uniformity of nature (*Al-Tajri biyyāt)*:

This is a source generating a knowledge based on a number of experiments and observations, like knowing that objects fall, the fire burns and water evaporates.

(Five)- Recurrent reports (*Mutawātirāt)*: this is a source generating knowledge about reports recurrently transmitted by a large number of transmitters.\(^{15}\)

Although these sources generate certain knowledge at once, *Mutawātirāt* seem to have contained most of these sources. For *Mutawātirāt* contain “Primaries” in that the reporters have to transmit the report in line with the requirements of “Primaries”. *Mutawātirāt* also contain “the apparent tangible things” in that the transmitters have to use their senses to transmit the report. *Mutawātirāt* also contain the “the experimental notions” in that the recipients of the report would presume the authenticity of *Mutawātir* owing to many experiments that proved the impossibility for a large number of people to agree on a lie.

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\(^{15}\) Ibn Qudamah al-Ḥanbalī, *Rawḍāt al-Nāẓir* (Cairo: Dār al-Fikr al-‘Arabī, n.d), 1/79
After this analysis, what kind of knowledge does Mutawātīrāt impart: is it necessary or inferential? The bulk of Muslim scholars maintain that Mutawātīrāt imparts necessary knowledge (‘Ilm Darūrī). They often quote four reasons:

1- If Mutawātīr imparts inferential knowledge, people with mental disabilities and children would not be able to conceive it. And since they did, i.e. they are able to conceive Mutawātīrāt despite their weaknesses and disabilities; this would prove that Mutawātīr imparts necessary knowledge.

2- Every human being would find himself compelled to believe the existence of a place like Makkah or Madīnah, though such a believe does not require any prior knowledge or need to subject that information to further experiment.

3- The knowledge generated from tawātur cannot be abolished by rumors. For after all the billions of Muslims who have visited Makkah since the construction of Ka‘bah, a piece of news emerges to suggest that there is no such a place on earth. Surely, this rumor would do nothing to shake our belief that Makkah really exists.

4- If the knowledge generated from Mutawātīrāt were inferential, it would be disputable anyway. And since Mutawātīrāt have not been disputed by people of sound mind, not the recalcitrant, this would prove that Mutawātīrāt engender necessary knowledge.16

However, these justifications did not convince scholars like Al-Ka‘bī17 and Abū al-

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17 Abdullah bin Ḥamd bin Maḥmūd al-Ka‘bī (d.319/A.H). He was a leading advocate of the Mu’tazilite tenets. He is reputed for his views that happened to oppose the bulk of scholars including the Mu’tazilites
Hussayn al-Basri\textsuperscript{18} (both are Mu'tazilites) and al-Daqqaq\textsuperscript{19} (a Shafi'i jurist d. 392 A.H) who maintained that Mutawatirat impart inferential knowledge ('Ilm Naizational). They forwarded two reasons:

a- The knowledge imparted by Mutawatir in fully contingent on the assumption that the transmitters would resort to sense-perception while transmitting the report; that the number of transmitters is in full conformity with the number whose transmitters would not agree on a lie; that there is no reason whatsoever for those transmitters to agree on a lie. These things are known even though inference and reasoning, a matter that would make the knowledge imparted by Mutawatirat inferential too.

b- The knowledge imparted by Mutawatirat is not self-necessary.

In order for knowledge to be called necessary, it is required to have a full awareness of this attribute when confronting it. And this is lacking as far as the reliability of Mutawatirat is concerned. For the certitude of this necessary themselves. His books would include: al-Tafsir; Ta'yiid Maqalah Abi al-Hudhayl and Adab al-Jadal. See Siyar A'lam al-Nabat\textsuperscript{18} of al-Imam al-Dahabi (3/255)

\textsuperscript{18} Muhammed bin 'Ali al-Tayyib Abii al-Husayn al-Basri (d.436A.H). He was born in Basra (Iraq) and was a leading scholar of the Mu'tazilite sect. He was a sharp-witted Jurist and left an outstanding legacy in Usuli al-Fiqh. His writings would include: al-Mu 'tamad Fi Usuli al-Fiqh; Ta\textsuperscript{a}affuh al-Adillah and Kitab al-Imamah wa Usuli al-Din. See Wafayat al-A'yan (1/482).

\textsuperscript{19} Muhammad bin Muhammad bin Ja 'far al-Baghdadi al-Shafi'i, well known as Ibn al-Daqqaq (306-392A.H). He was a leading jurist and a judge in Baghdad and left a few writings that include: Usuli al-Fiqh; Sharh al-Mukhtasar and Faw\textsuperscript{a}id al-Faw\textsuperscript{a}id. See Tabaqat al-Shirazi of al-Imam al-Shirazi, p.118.
knowledge is gradually generated without realizing how and when, and that is exactly what is stripping this kind of knowledge from being “necessary”.

The researcher would contend that this disagreement revolves around terms rather than substance. The two groups agree that no matter what kind of knowledge Mutawatir would impart, necessary or inferential, abiding by both carries the same weight of commitment. For those upholding necessary knowledge, would not overrule the inferential aspects needed to prove the hypothesis of the knowledge purporting to be “necessary”. And for those upholding inferential knowledge, would not overrule the full plausibility that the mind will find in connection to a Mutawātir report.

At the end of this item, we may say that Mutawātir is a definitive true report imparting necessary or inferential knowledge. Both knowledge are the exclusive expression of a formidable merger between the rational and intuitive certainties, which once they are parallel, they would produce the logical certainty of tawātur. The “number” of transmitters and “signifiers”, together with “reason”, would corroborate each other spontaneously then systematically to achieve the parallel status, and thereby establishing the logical certainty of tawātur.
4.3 Certainty of Ijmā‘ (Consensus of opinion)

The power of agreement is worth studying in the Islamic Shari‘ah. It accumulates various views and melts them down in a more potent view. At the stage where agreement is achieved, the credibility of the subject matter agreed upon would start enjoying a high deal of plausibility and authenticity.

It so happened that individual reasoning falls short of achieving ultimate truth, especially under the impact of various inner and outer factors. Throughout history, human being proved to be depending on others in many ways, especially when confusion blurs his vision to observe verities. Besides, this shortage features the entire human activity, though the latter is perceived by sense perception, which is made at the disposal of all human beings.

Human being would rush to consult others as the threat of confusion and uncertainty looms large in his mind. This instinctive attitude is meant to warrant the societal dimension in the individual reasoning, and therefore, boosting the element of “dependency” that is necessary in every society.

As human being roam in quest of certainty, he is challenged by the absolute certainty that places itself beyond the palpable aspects of this world. It is the divine certainty that requires different methods of reasoning meant chiefly to understand the divine speech in its sublime and sacrosanct tone. Therefore, it seems possible to summon a number of scholars to mirror
their views on the most acceptable view that seems expressive of the divine’s will. This is what has come to be termed “Al-Ijmā’”.

The main objective behind this item is to disclose the origin of certainty that Ijmā’ enjoys. We shall discuss this certainty in two levels: Certainty underlying the authenticity of Ijmā’ and the certainty underlying the view concluded from a genuine Ijmā’. But an overview on the doctrine of Ijmā’ seems necessary before tackling its.

1. Meaning of Ijmā’:

Ijmā’ is the verbal noun of the Arabic word ajma’a, which has two meanings: to determine and to agree upon something.20 As far as Ijmā’ is concerned, the ‘unanimous agreement’ is the meaning around which our discussion would revolve. Technically, Ijmā’ is defined as “the unanimous agreement of the Mujtahidin of the Muslim community of any age following the demise of the Prophet Muhammad (S.A.W) on any matter”.21

2. Views of scholars on the type of Ijmā’ engendering certainty:

As a matter of fact, scholars were not unanimous on the type of Ijmā’ yielding certainty. By certainty we mean that the view concluded through Ijmā’ is unequivocal so that no disagreement would be tolerated afterwards. As far as the certainty of Ijmā’ is concerned, we have identified four relevant trends:

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20 Al-Āmīdī, al-Aḥkām, 2/214
21 Khallāf, ‘Ilm Uṣūl al-Fiqh, p.50
(a) *Ijmā'* concluded on what is necessarily known from Religion (*al-Maʿlūm min al-Dīn bi al-Ḍarūrah*). The supporters of this trend maintain that the genuine *Ijmā'* is the one involving the whole *Umrah* of Moḥammad (S.A.W). It is primarily held on issues known as necessary in the Islamic Religion. Al-Shāfiʿī pioneered this view by saying that this type of *Ijmā'* had been held on many issues. This would include "*the fundamental duties that are not to be ignored*". These are the issues that "*every scholar would agree upon like the number four in relation to the prayer of Zuhr, and the prohibition of wine*". This is why Ibn Ḥazm held that this *Ijmā'* is the most certain one, and its rejection would amount to disbelief.

The main element throwing its weight behind this type of *Ijmā'* is "corroboration". The latter would make the view agreed upon like the one transmitted through *tawātūr*. As a matter of fact, it is the methodology of *tawātūr* that is shaping the certainty of *Ijmā'*. Commenting on the previous view of Ibn Ḥazm, al-Sheykh Aḥmad Shākir, the editor of Ibn Ḥazm's *Aḥkām*, observed that,

"what Ibn Ḥazm had held is the most authentic one, thus, it should emphatically adopted... as for the *Ijmā'* claimed by the bulk of jurists, it appears that it is

22 Al-Shāfiʿī, *Al-Umm*, 7/257
23 Al-Shāfiʿī, *al-Risālah*, p.543
25 The one that will be discussed according to the fourth trend that defined *Ijmā'*. 
unconceivable and can never materialize as it is mere imagination\textsuperscript{26}

(b) \textit{Ijmā	extsuperscript{1}} is the consensus of the whole \textit{Ummah}.

Some jurists maintain that no \textit{Ijmā	extsuperscript{1}} would be valid until the whole \textit{Ummah}, scholars and laymen alike, would take part in it\textsuperscript{27}. This type of \textit{Ijmā	extsuperscript{1}} is also unconceivable as it is impossible for the whole \textit{Ummah} to agree upon one thing, given the farness of their residences and the impossibility to reach them out all together without exception.\textsuperscript{28}

(c) \textit{Ijma	extsuperscript{4}} of Sahabah (the Prophet’s companions):

Some jurists held that the only valid \textit{Ijmā	extsuperscript{1}} is that which was concluded by the Prophet’s companions. This is the view of Dawūd al-Ẓāhirī\textsuperscript{29}, Ibn Taymiyyah and Aḥmad ibn Ḥanbal\textsuperscript{30} as attributed to them by many jurists. This is also the view of some

\begin{footnotesize}
\begin{enumerate}
\item Aḥmad Shākir, commentary on Ibn Ḥazm’s \textit{Aḥkām} in the margin of \textit{Al-Aḥkām}, 1/507
\item Al-ʿĀmidī, \textit{Al-ʿIḥkām}, 1/127
\item Ibn Qudamah, \textit{al-Rawdah}, p.69. This is also the view of al-Nazzām and some scholars from Shīʿah. See Muhammad Muṣṭafā Shalabi, \textit{Uṣūl al-Fiqh al-İslāmi}, (Dar al-Nahdah al-ʿArabiyyah, 1986). p.157
\item Dawūd bin ‘Alī bin Khalaf, known as Dawūd al-Ẓāhirī (201-270 A.H.). He was born in Kūfah (Iraq) and settled in Iraq. He was the founder of the Ẓāhirī Mazhab, a school of jurisprudence that tends to derive legal rules from the apparent meanings of the texts of \textit{Qur'ān} and \textit{Sunnah}. This school also denies \textit{Qiyās} and \textit{Taʿwīl} (interpretation). He presided over the lecturing chair in Iraq and wrote many books namely, \textit{Iḥtīāl al-Qiyās}; \textit{Kitāb Khabar al-Wāḥid} and \textit{al-Khuṣūs wal Umūm}. See \textit{al-Fihrist} of ibn al-Nadīm (1/216).
\item Aḥmad bin Muḥammad bin Ḥanbal (164-241 A.H.). He was the founder of the Ḥanbalī Mazhab and a strong upholder of \textit{Sunnah}. He was born in Baghdad and traveled worldwide in quest of knowledge. At the reign of al-Maʿmūn, he was caught in a spiral of a dogmatic debate in which he was forced to maintain ‘the creation of \textit{Qur'ān}'. His refusal to uphold such a view cost him 28 months in jail and a bitter torture inflicted upon him by the Khalifah al-Mu ‘taṣim in 218 A.H. Yet, the subsequent ruler al-Mu ‘taṣim’s son al-Wāṭhīq released him from jail and was more tolerant than his predecessors. Ibn Ḥanbal was not very keen to author books but his students, especially his son ‘Abd Allah, tried to compile their teacher’s views and \textit{Aḥādīth}. This would include \textit{al-Musnad}; \textit{Kitāb al-Tafsīr} and \textit{Kitāb al-Sunnah}. See \textit{al-Bidāyah wa al-Nihāyah} of Ibn al-ʿArīf (10/325-343).
\end{enumerate}
\end{footnotesize}
contemporary scholars like al-Sheykh Moḥammad Abū Zahrah\textsuperscript{31} who reiterated the contention of this group of scholars that the number of companions was comparatively small, let alone their presence in one place that would make their \textit{Ijmāʿ} highly possible. This advantage was lacking after the era of the companions when scholars migrated to other places, rendering the unanimity of their agreement almost impossible\textsuperscript{32}.

The point of contention of this group has been rejected by scholars like Ibn Ḥazm. The latter maintains that the companions did, indeed, spread and settled in different places after the demise of the Prophet. Therefore, it is unlikely for all the companions to have unanimously agreed on one single view while being dispersed.\textsuperscript{33}

Recent studies on \textit{Ijmāʿ} suggest that this type of consensus has never taken place. It was merely the agreement of the companions witnessing the issue being raised. That was the practice of the pious caliphs like Abū Bakr and ‘Umar ibn al-Khaṭṭāb who used to summon their “elites” for consultation (\textit{Shūrā}). For many scholars were scattered all over the Arabian Peninsula and some were as far as Armenia in the north and Yemen in the south.\textsuperscript{34} The supporters of this trend argued that this type of \textit{Ijmāʿ} has really taken place. They cited the following examples:

- The \textit{Ijmāʿ} of Ṣahābah that the grand mother gets 1/6 as a share of inheritance.

\textsuperscript{31} Muḥammad Abū Zahrah, a modern Egyptian jurist who lived in Egypt and presided over the Azhar for many years. He left a huge legacy in \textit{Fiqh}, \textit{Uṣūl al-Fiqh} and Muslim theology. His writings include: \textit{Uṣūl al-Fiqh: a biography of the four Imams and al-Milkiyyah wa Naẓarīyyat al-‘Aqd}.

\textsuperscript{32} Abū Zahrah, \textit{Uṣūl al-Fiqh}, p.202

\textsuperscript{33} Ibn Ḥazm, \textit{Al-Akhām}, 1/510

\textsuperscript{34} Khallaf, \textit{‘Ilm Uṣūl al-Fiqh}, p.50
• The *ilmā* of Sahabah that the marriage of a Muslim woman with a non-Muslim man is void.

• The *ilmā* of Ṣahābah upon the validity of the contract of marriage without naming the prescribed dower (*Mahr*).

• The *ilmā* of Sahabah that the conquered land shall be retained instead of distributing it to the conquerors.

• The *ilmā* of Sahabah that the son would prevent the grand son from inheritance.\(^{35}\)

However, this proof does not seem to have convinced the critics of this trend. They maintained that *ilmā* must lean on a legal text, which is either definitive or speculative. If it is definitive, the *ilmā* becomes redundant as relying on that definitive text would be enough. And if it is speculative, then custom has proved that it is impossible to have unanimity on speculative meanings.

The bulk of jurists contend that in case of a definitive proof, *ilmā* would remarkably boost its authenticity. And in case of a speculative proof, *ilmā* would categorically elevate it and turn it definitive.\(^{36}\) We shall return to this later.

(d) *ilmā* is the consensus of opinion of the Mujtahidīn in one era.

This trend emphatically stresses on the “elite” as the sole body capable of achieving a valid unanimity. Examining the definitions laid down by this trend, we note the following:

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\(^{35}\) Abd al-Karīm Zidān, *Al-Wajīż fī Uṣūl al-Fiqh*, p.190

• The agreement of ‘Ulamā’ (scholars): Ijmāʿ ‘ is the agreement of scholars of a particular era on any religious matter.\(^{37}\)

• The agreement of Ahl al-ḥall wal ‘Aqd (people possessing the capacity of knowledge, wisdom and power): Ijmāʿ ‘ is the agreement of Ahl al-ḥall Wal ‘Aqd from the Ummah of Muḥammad (S.A.W) on a legal rule.\(^{38}\)

This is the kind of Ijmāʿ ‘ widely referred to when jurists talk about Ijmāʿ ‘.

To know the extent of certainty that Ijmāʿ ‘ enjoys, we shall identify, from the types of Ijmāʿ ‘ mentioned earlier the one that is workable and suitable to be held at any era.

There have been “flares-up” among jurists, notably al-Shāfi‘ī, Ibn Ḥazm and Aḥmad Ibn Ḥanbal from one side and the rest of the jurists from the other.

The first group, led by al-Shāfi‘ī,\(^{39}\) appears to have favored the Ijmāʿ ‘ held on a well known matter of The Shari‘ah (al-Ma‘īm min al-Dīn bi al-Ḍarūrah). According to al-Shāfi‘ī, this kind of Ijmāʿ ‘ is the only one that can materialize.\(^{39}\) It is an Ijmāʿ ‘ on issues that have been widely known and circulated among Muslims such as the fundamental duties of Islam including prayer, fasting, alms giving and pilgrimage. As for the Ijmāʿ ‘ that stipulates the agreement of all the Mujtahidīn in one era, its credibility is prone to many disputes:

(One) The disagreement over the qualifications of the Mujtahidīn taking part in Ijmāʿ ‘. Al-Shāfi‘ī\(^{39}\) raised the possibility for Muslim theologians (Mutakallimūn) taking part in Ijmāʿ ‘.

\(^{37}\) Ibn Qudāmah, Al-Rawḍah, 1/67


\(^{39}\) Al-Shāfi‘ī, al-Riṣālah, p. 543
Al-Qādī al-Bāqillānī⁴⁰ raises the possibility for the well-versed scholars, who have not attained the status of Ijtihād, to take part in Ijmā‘. Al-Āmīdī believes that the heretical Mujtahid (Al-Mujtahid al-Muktadi‘ī) whose heresy would not amount to disbelief, is worth considering prior Ijmā‘.⁴¹

(Two) Falling short of meeting each other due to their scattered residences. For jurists would stipulate the agreement of all the Mujtahdin without exception, a matter that puzzled some scholars such as al-Shawkānī⁴². The latter held that it is impossible to identify all the Mujtahdin living in one era, let alone reaching them all together.⁴³ This task would become more difficult when communication falls short of bridging places of long distances. Perhaps, that too, needs to be reviewed today when communication seems to transcend over the time-space limits.

(Three) The impossibility for mankind to agree on a speculative issue. According to many scholars, as reported by al-Juwaynī, the Ummah by no means can agree on a speculative

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⁴⁰ Muḥammad bīn-Ṭayyib bīn Muḥammad bīn Ja‘far, known as al-Bāqillānī (d.403A.H), a Mālikī jurist who was born in Baṣrā and settled in Iraq. He ended up presiding over the Malikis in Iraq and was a strong upholder of the Ash ‘arī doctrine. He wrote: Sharḥ al-Luma‘; al-Tamhīdand al-Imāmah al-Kabīrah. See wafayāt al-A‘yān of Ibn Khilikān (1/909)
⁴¹ Al-Āmīdī, Al-Iḥkām, 1/169.
⁴² Muḥammad bīn ‘Alī bīn Muḥammad bīn ‘Abd Allah al-Shawkānī (1173-1250A.H). He was born in Shawkān (a province in Yemen) and lived in San ‘ār and was assigned the post of a judge in 1129 A.H. He acquired all the prevailing sciences at a young age and was a leading Imam of al-Zaydiyyah Madhab. He is known to have prohibited Taqlīd (imitation) and advocated Ijtihād at a large scale, a matter that earned him a lot of criticism from many scholars. His writings would include: Nāyi al-Awfi‘; Irshād al-Fuḥūl and al-Durar al-Baḥiyyah Fīal-Maṣā‘īl al-Fiqhiyyah. See al-A‘lām of al-Zarkālī (7/190).
⁴³ Al-Shawkānī, Irshād al-Fuḥūl, 1/72.
issue.\textsuperscript{44} For the diversity of their faculties, enriched by customary and situational factors would make their agreement on a speculative issue merely imaginative.

(Four) Laying down tough conditions. This would include:

- Possessing all the conditions of a Mujtahid.
- The end of the era in which \textit{Ijmā} ‘has taken place.
- The view of every Mujtahid taking part in \textit{Ijmā} ‘ should be transmitted through \textit{tawātur}.

Al-Shāfi‘ī vehemently rejected these conditions as they are beyond the capacity of mankind.\textsuperscript{45} However, scholars, like al-Qādī al-Bāqillānī, subscribed to the view that this \textit{Ijmā} ‘, though looks a far-reaching one, is likely to materialize.

After we have exposed the four major trends in perceiving \textit{Ijmā} ‘, the researcher feels that the concept of \textit{Ijmā} ‘ should take a more flexible way to materialize in the actual life of people. I would maintain that \textit{Ijmā} ‘ should neither be too rigid like the one explained in definition Number four nor too shallow to the extent that laymen, especially the illiterates would take part in it. The \textit{Ijmā} ‘, being an institution of establishing legal rules and unveiling the intention of Allah (S.W.T) on certain issues, would have to vary its conditions according to the variations of the time-space factor. \textit{Ijmā} ‘, in this sense, would have to adapt to the requirements of the age in which it is to be held. Hence, if a particular age is rich of Mujtahidīn then \textit{Ijtihād} may be stipulated as a prerequisite for a valid \textit{Ijmā} ‘.

\textsuperscript{44} Al-Juwaynī, \textit{Burhān}, 1/432.
\textsuperscript{45} Al-Shāfi‘ī, \textit{Al-Umm}, (Beirut: Dār al-Fikr al-‘Arabī, 1987), 7/356
But if a particular age fails to produce a *Mujtahid*, then the most knowledgeable people must take the responsibility of establishing legal rules for the prevailing issues. It is this type of *Ijma* that we believe the Prophet (S.A.W) referred to when he said, "*My Ummah shall never agree on a error.*" The *Hadīth* bears a stance of a perpetual trait that the *Ummah* enjoys until the Day of Judgment. Hence, we shall discuss the certainty of *Ijma* held by scholars of reputable knowledge on what occasionally befall the *Ummah*.

As stressed earlier, we shall scrutinize the certainty of *Ijma* at two levels:
The certainty of *Ijma* as a valid source of The Shari‘ah, and the certainty of the view finalized through *Ijma*.

4.3.1 The definitive originality of *Ijma*:

The certainty of *Ijma*, as a source of The Shari‘ah, is to be confirmed by two types of evidences, individual and corroborative legal evidences.

1- Individual evidences:

Scholars would resort to certain *Āyāt* or Prophetic reports to substantiate the authenticity of *Ijma*. Yet they tend to confine themselves in single evidences, referring mainly to linguistic and rational interpretations.

- The *Āyah*(4:59), Ordering the obedience of Allah (S.W.T), His Messenger and those in charge of people’s affairs( *Ulū al-Amr*). This verse stresses the infallibility of *Ijma* as Allah (S.W.T) would not order such an obedience if the assembly of *Ulū al-Amr*

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46 *Ib Mājah, Sunan ibn Mājah*, hadith No 3490 in Kitāb al-Fitan.
culminates in errors. The most frequently quoted verse in support of *Ijmāʿ* is the following:

- "Any one who splits off with the Messenger after the guidance has become clear to him and follows a way other than the believers, we shall leave him in the path he has chosen and land him in Hell." (4:115)

This verse warned against departing from the believers’ way, as this would lead the departing person to dwell in Hell. This assumes that the path of believers is infallible, making their views enjoy a high deal of certainty. Yet, this verse was disputed by Jurists like al-Juwaynī who maintained that the verse does not justify the authenticity of *Ijmāʿ*. Ibn Taymiyyah concluded that the act of “splitting off” would apply to the Messenger and the believers respectively. For splitting off with the believers would amount to splitting off with the Messenger as the believers should rely on the Prophet to concur in their purport.

The rest of the verses would include:

1- “You are the best community that has been raised for mankind. You enjoin right and forbid evil and you believe in Allah (S.W.T).

(3:109).

Had the *Ummah* been able to agree on a lie, *Qur’ān* would not have praised it.

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47 Al-Juwaynī, *Burhān*, 1/435
48 Ibn Taymiyyah, *Al-Fatāwā*, 19/179-201
2- "Thus we have made you a middle nation 
(Ummatan Waṣatan) that you may be 
witnesses over mankind". (2:143)

Had the Ummah been able of committing injustice when it shows moderation, 
Qur'an would not have praised it.

3- "And those we created are a nation who 
direct others with truth and dispense justice 
on its basis". (7:181).

The Ummah in its entirety is able to uphold the truth and pursue justice.

4- "Cling firmly together by means of God's 
rope and do not separate" (3:102).

This verse implies that success in both worlds rests on collectively holding fast to the rope of Allah (S.W.T).

5- "And in whatever you differ, the 
judgement with Allah" (42:10).

Implicitly, the verse implies certain situations in which Muslims are able to 
reach a consensus (Ijmāʿ),

6- "Then if you dispute over something, 
refer it to Allah (S.W.T) and the 
Messenger..." (4:59)
By implication, this Ayah too upholds the authenticity of all that is agreed upon by the community.49

Al-Ghazâlî observes that “all of these are apparent indications (Zawâhir), none of which amounts to a Nass (clear text) on the subject of Ijmâ’.50

This is mainly due to the speculative meanings underlying the above-mentioned verses. The word “Ummah” has been recurrent in most of these verses and yet, its meaning ranged from referring to a small community in charge of da’wah (Islamic propaganda) to a large community in charge of implementing the laws of Allah (S.W.T) in this earth.

The Sunnah was so affluent that more than a dozen of Prophetic reports revolved around the concept of Ijmâ’. We may quote the following examples:

1- “My community shall never agree on an error” (La tajamû ummatî `Alâ `Dalâlah). This is a solitary Hadîth (Hadîth Ahâd) that may not be able to prove Ijmâ’ as a decisive source of The Shari`ah. Al-Juwaynî would reject it as it falls short of proving the authenticity of Ijmâ’ that requires definitive evidences. For the individual speculative would not confirm the definitive universal. Besides, the solitary Prophetic reports are prone to many interpretations, making it difficult to

49 Kamâli, The Principles, p. 222
50 Ibid.
settle down on a single meaning. The above-mentioned Ḥadīth could possibly mean that the Ummah will not apostatize until the Day of Judgment.\footnote{al-Juwa.ynī, al-Burhān, 1/436.}

2- Al-Shāfiʻī quoted the following Ḥadīth:

\textit{Abū Yasār reported on the authority of 'Umar Ibn al-Khaṭṭāb that the latter delivered a sermon at Al-Jābiyyah}\footnote{A place between Makkah and Madīnah.} saying: \textit{“the Prophet (SAW) stood before us as I am standing before you then said: “Be generous to my companions then those coming after them; then those coming next; then those coming next; then falsehood would appear until one would be asked to take on Oath but he refuses; he would be asked to take a stand as a witness but he refuses; Nay, Anyone yearning to dwell in heaven must stick to the group (Jamā‘ah) as Satan is always with the individual , when alone, but far from two(individuals).”.}\footnote{Al-Shāfiʻī ṭī, Risālah, 473}

This Ḥadīth\footnote{A Prophetic report.} implicitly refers to the power of the group consensus. Although it does not refer explicitly to the institutions of \textit{Ijmā‘} as a body exercising \textit{Ijtihād}, it implicitly stresses the ultimate truth and guidance that lies with the group.

3- \textit{“My community shall never agree on a error (al-Khata’)”}
4- "Allah will not let my community agree upon an error"\textsuperscript{55}.

5- "I beseeched Allah Almighty not to bring my community to the point of agreeing on dalalah and He granted me this"\textsuperscript{56}.

6- "Those who seek the joy of residing in paradise will follow the community. For Satan can chase the individual but he stands further away from the two".

7- "The hand of Allah is with the community (Jamā'ī 'ah), and he who opposes jama 'ah would secure a place in Hell."\textsuperscript{57}.

8- "Whoever leaves the community or separates himself from it by the length of a span is breaking his bond with Islam"\textsuperscript{58}.

9- "A group of my ummah shall continue to remain on the right path. They will be the dominant force and will not be harmed by the opposition of dissenters"\textsuperscript{59}.

10- "Whoever separates himself from the community and dies, dies the death of ignorance\textsuperscript{60}".

11- And the well known saying of Abdullah Ibn Mas'ud, which is as follows "whatever the

\textsuperscript{55} Al-Tirmidhī, \textit{Sunan al-Tirmidhī}, in \textit{Kitāb al-Fitan}, Ḥadīth No 2093.

\textsuperscript{56} Aḥmad bin Ḥanbal, \textit{Musnad Aḥmad}, in \textit{Musnad al-Qabā'īl}, Ḥadīth No 25966.

\textsuperscript{57} Al-Tirmidhī, \textit{Sunan}, Ḥadīth No 2093.

\textsuperscript{58} Ibid; Ḥadīth No 2790, in \textit{Kitāb al-Amthāl}.

\textsuperscript{59} Muslim, \textit{Ṣaḥīḥ Muslim}, Ḥadīth No 2310, in \textit{Kitāb al-Imarah}.

\textsuperscript{60} Al-Bukhārī, \textit{Ṣaḥīḥ al-Bukhārī}, Ḥadīth No 6531, in \textit{Kitāb al-Fitan}.

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Muslims deem to be good is good in the eyes of God.

The foregoing Prophetic reports fall short of definitive legal proof when individually considered, for there is a considerable level of speculation featuring their originality. Besides, the connotation of those Prophetic reports is comparatively speculative. While some of them stresses on the impossibility of error, it is not clear whether this refers to an absolute impossibility or a relative one. The term “Ummah” itself is vague and by no means can be born on the religious elite of the community alone. The consensus implicitly understood from those Prophetic reports is not clear whether it occurs on religious or secular affairs or both.

These probabilities degrade those Prophetic reports to stand as decisive proofs for *ljinū* in. This would prompt the consideration of those Prophetic reports in their entirety, paving the way for the universal proof to substitute the particular one. Therefore, the certainty of those Prophetic reports is not achievable as this is hindered by a considerable level of speculation underlying both their Thubūt (confirmation) and Dilālah (connotation). The next discussion will highlight the corroborative aspect featuring the new strong evidence of *ljinū* in.

2- Corroborative evidences:

We have already concluded that the verses and Prophetic reports presumably referring to *ljinū* in fall short of being definitive proofs when individually considered. Yet,
setting up a universal framework within which the same proofs, deemed speculative, would eventually engender certainty. This is done by applying the methodology of corroboration that aims at setting up universals instead of particulars. As such, all these proofs would be projected on a general layout, transcending over the linguistic and rational obstacles featuring many single proofs, be they from Qur’an or Sunnah. To attain this status, the single proofs, deemed speculative, would gradually begin a process of corroboration, lending each other strength as they move towards a common ground. As corroboration is in progress, certainty is born at one point, which may not be plainly visible.

The process is similar to that of tawātur, the item explained earlier. In fact, the same method can be applied to confirm Ijmāʿ as a definitive proof. Al-Imām Fakhr al-Dīn al-Rāzī 62 mentioned about eighteen Ḥadīth confirming the authority of Ijmāʿ. He noted that those Prophetic reports would corroborate each other on the meaning contained in the previous Ḥadīth: “My Ummah shall never agree on an error”, making it like a Mutawātir Ḥadīth. 63 But al-Rāzī noted that it is a Mutawātir Maʿnawī (connotative recurrent Ḥadīth) as it is the meaning that is being corroborated not the text as such.

At this stage, the single hadith would begin the process of corroboration with a speculative status and end up with a definitive one. It follows the same procedures of

62 Muḥammad bin ʿUmar bin al-Ḥasan, known as Fakhr al-Dīn al-Rāzī (455-606 A.H). He was born in Rayy (a province in Iran). He traveled worldwide and acquired knowledge of every field. He was a well-known opponent of al-Khawārij and the heretical groups that prevailed in his time. His writings were unique and would include: al-Maḥṣūl Fī Usūl al-Fiqh; Ṭalā’il al-Ghayb and Maʿālim al-Uṣūl. See Tabaqāt al-Shāfiʿīyyah (5/33)
63 Al-Rāzī, Al-Maḥṣūl, 1/183.
64 Ibid.
tawātur mentioned earlier, including the descending and ascending orders respectively. The researcher would argue that the certainty of Ijmā‘ as a source of the Shari‘ah lies in two inter-related evidences, i.e.: the signifiers and the inductive method. The former has been extensively explained in the previous chapter and the latter will be addressed in the last chapter. Yet, both would be used to support the point we are about to raise.

The researcher would classify the present discussion under the following question:

How far a solitary Ḥadīth (Ḥadīth Āhād) imparts certainty? , as the Prophetic reports supposedly referring to Ijmā‘ are all solitary by status.

In this respect, the researcher shall patronizes the views of al-Nāẓūm, al-Rāzī, al-Āmidī, ibn al-Ḥājib65 and ibn al-Subkī who held that a solitary Ḥadīth imparts definitive knowledge if it is supported by enough signifiers. Al-Rāzī held that,

"Qarīnah (signifier) may impart [necessary] knowledge... in general, he who tracks down 'Urf (custom), would know that the basis upon which the certainty of reports stands is but Qarā'in (signifiers) ...".66

Ibn al-Subkī reiterated this view by saying:

"The solitary report (Khabar al-Wāḥid) would impart positive knowledge (‘Ilm) only by virtue of Qarīnah (signifier)".67

65 'Uthmān bin ‘Umar bi Abī Bakar bin Yūnus, known as Ibn al-Ḥājib (570-646A.H). He was born in Asna (Egypt) and grew up in Cairo. He was a Malikī jurist and a great authority in Arabic Language. He excelled in Fiqh and Usūl al-Fiqh and was a leading theologian who upheld the Ash‘āri Doctrines. He wrote: Muntahā as-sawī wa al-Amal Fi ‘Ilmā‘ al-Uṣūl wa al-Jadal; Sharḥ al-Mufassal fo al-Zamakhshārī and al-Kāfiyyah Fī al-Naḥw. See Wafayāt al-A‘yan (1/314)

66 Ibid. 2/402.

67 Al-Banānī, Ḥāshiyyat al-Banānī, 1/309.
The signifiers elevating a solitary Hadīth to assume a definitive rank are of two sorts: connected and disconnected.

(One) Connected signifiers:

This would include 3 levels of connection:

1- The Qualifications of the transmitters (Ruwwāt)

2- The conformity of the Hadīth Ahad with the objectives of Sharī'ah.

3- Having corroborative texts revolving around the same meaning.

Al-Imām Ibn Ḥajar al-‘Asqalānī addressed the Hadīth surrounded by signifiers; he held that it is of different categories:

(i) The Hadīth narrated by the two Imams (Al-Shaykhān, Bukhārī and Muslim),

which has not been transmitted through tawātūr; this hadith is surrounded by the following signifiers:

1- The indisputable reputation of al-Shaykhān.

2- Their concern to give preference to the Hadīth Sahīh (a genuine Prophetic report) alone.

3- The acceptability of their books by the bulk of scholars worldwide.

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68 Al-Sarakhsi attributed the view that Khabar al-wāhid imparts ‘Ilm without signifiers to some scholars of Hadīth, and Ibn al-Ḥasib attributed the same view to al-Imām Aḥmad. See al-Imām al-Bāqillānī, al-Taqrīb wa al-Irshād, 1st edn. Ed. Dr. Abū Zunaid, (Beirut: Mu‘assat al-Risālah, 1993), 1/pp-221-222

69 Al-Ḥafānawi, Dirāsāt Usūlīyyah fī al-Sunnah al-Nabawīyyah, p. 177.

(ii) The Ḥadīth Mashhūr (widespread Ḥadīth) whose chain of transmission is safe from weak narrators and shortcomings (‘Ilāl).

(c) The Ḥadīth adopted by the most prominent scholars. This is a Ḥadīth transmitted by narrators, going all the way back to prominent scholars like al-Shafi‘ī, Mālik and Āḥmad Ibn Ḥanbal.⁷¹

Based on these criteria, we would conclude that the ḥadīth “My Ummah shall never agree on a error” imparts definitive knowledge based on the following:

1- It met criterion number three mentioned by Ibn Ḥajar and the leading figures of the science of Ḥadīth. For the ḥadīth is narrated by a prominent Muḥaddith (Scholar in the science of Ḥadīth), al-Imām Āḥmad ibn Ḥanbal in his Musnad. His version reads:

“Allah (S.W.T) (S.W.T) will never gather my Ummah but on true guidance”.⁷²

2- It met the criterion of “corroboration” by other Prophetic reports as pointed out by al-Rāzī, al-Ghazālī and al-Shāfī‘ī. For this ḥadīth is corroborated by more than a dozen Ḥadīths revolving around the same meaning, all of which constitute connected signifiers.

⁷¹ Ibid.
⁷² Āḥmad Ibn Ḥanbal, Al-Musnad, 5/145.
3- It proved to be akin to al-Ḥadīth al-Mutawātir that always imparts positive knowledge. The meaning of "the Ummah shall never agree on an error" has not been overruled throughout the span of Islamic history.

4- The process through which this Ḥadīth has been corroborated is inductive in form. In this respect, we are able to exercise a complete induction, as the reports revolving around the infallibility of the Ummah are countable. The complete induction, as ascertained by logicians, philosophers and jurists, imparts definitive knowledge and its corollaries are indisputable. As such, the pioneer of induction (Istiqrā') in the legal field, al-Shāṭibī, ascertains that the certainty of Ijmā' stands firmly on induction.\(^{73}\)

5- It proved to be in line with the objectives of the Shari‘ah. The interest of the Ummah requires that the truth must associate itself with the bulk of the Ummah, and that comes as the last resort to finalize things of religious and civilization values.

6- Although the Ḥadīth "My Ummah shall never agree on an error" is not genuine (Sahih), as Bukhārī and Muslim did not mention it in their collections, abiding by it is obligatory (Wajib). For it is not necessary to have a consensus over the originality of a Ḥadīth in order to be practiced.\(^{74}\) It suffices to have a Ḥadīth less genuine, but this genuineness is achieved through Qarā'in (signifires). Al-Imām al-Āmidī put it as follows:

\(^{73}\) Al-Shāṭibī, al-Muwāfaqāt, 1/37.

"... if we assume an ensemble of signifiers corroborating each other to engender positive knowledge, it is possible for a speculative report (Hadith) to be connected with a speculative signifier standing in the place of another report, those speculative signifiers would keep corroborating each other unceasingly until a positive knowledge is born as it is done in the Mutawatir report"75.

(Two) Disconnected signifiers:
This would have to apply the theory of Siyāq addressed in chapter two. It has more to do with external signifiers than internal. We shall skip this item as the main aspects of it have already been tackled.

I would add that what I called earlier, al-Qarā’in al-Istiqrā’iyyah (the inductive signifiers), i.e. signifiers that have been inductively traced, are the main evidences proving the certainty of Ijmāʿ as a valid source of Shari‘ah.

4.3.2 The certainty of the view concluded by Ijmāʿ ʿ

Ijmāʿ ʿ basically engenders certainty. It is a definitive source of the Shari‘ah76 due to the overwhelming agreement by those taking part in it. Al-Imām al-Shīrāzī77 reiterated this

75 Al-Āmīdī, Al-Iṣkām, 3/226.
76 Al-Juwaynī, Al-Burhān, 1/675
77 Ibrāhīm bin ‘Alī bin Yūsuf al-Shīrāzī Abū Iṣhāq (393-476A.H). He was a leading jurist of the Shafi‘Ī Madhhab and was a full authority in Arabic Language. He wrote al-Tanbīḥ; al-Luma ʿ and al-Ṭabṣirah Fī Uṣūl al-Fiqh. See al-Bidāyah wa al-Nihāyah (10/169)
opinion and stressed the certainty underlying it.\textsuperscript{78} Al-Qaḍī Abu Ya‘lā al-Ḥanbālī\textsuperscript{79} went as far as to suggest the infidelity of anyone opposing \textit{Ijmāʿ}.\textsuperscript{80} This emphasis finds its plausibility in the feasibility of \textit{Ijmāʿ} that we have pointed out earlier. As such, the view arrived at through \textit{Ijmāʿ} is certain as long as the “impossibility for the \textit{Ummah} to agree on an error”, is logically and legally justified. To weight the certainty of the view arrived at through \textit{Ijmāʿ}, we shall question the platforms underlying such a view. The view concluded by \textit{Ijmāʿ} is baked by two types of evidence: speculative and definitive.

1-Speculative evidence:

If the speculative evidence constitutes the ground for \textit{Ijmāʿ}, the certainty of the view upon which this \textit{Ijmāʿ} is concluded would not be affected, for this is effectively supported by \textit{‘Aḍah} (uniformity of nature). Thus, the latter would lend support to the \textit{Ijmāʿ}\textsuperscript{81}, substantiating its certainty and sustaining its ground, however its speculation might be. Further, this speculative evidence turns out to be certain by virtue of this process.

2-Definitive Evidence:

\textsuperscript{79}Muḥammad bin al-Ḥusayn bin Muḥammad bin Khalaf, known as al-Qaḍī Abū Ya‘la (380-458A.H). He was born in Iraq and studied under prominent scholars like Abū al-Ḥasan al-Sukkārī and produced prominent students like Abū Bakr al-Khaṭīb (the author of \textit{Ta̲rīkh Baghdād}). He criticized the Ash‘arites for adopting \textit{Ta’līl} in their interpretations of Allah (S.W.T)’s attributes and names. He wrote: \textit{Aḥkām al-Qur‘ān; al-Uddāh Fī Uṣūl al-Fiqh and Masā’il al-Imām.} See \textit{Ta̲rīkh Baghdād} of Abu Bakr al-Khaṭīb (2/256)
\textsuperscript{80}\textit{Al-Tayymiyyah al-Thalāth, Al-Muswaddah Fī Uṣūl al-Fiqh}, 315.
\textsuperscript{81}Juwaynī, \textit{al-Burhān}, 1/438
This is where the certainty of the view arrived at through ḡjmāʿ becomes more plausible. For the ḡjmāʿ to be more decisive, it needs a decisive evidence. But then one would argue that ḡjmāʿ becomes redundant so long as the definitive evidence exists. The answer to this question is two folds:

a- ḡjmāʿ boosts the certainty of the definitive evidence so that it would not be subjected to any inference whatsoever.

b- If such an ḡjmāʿ is claimed, the definitive evidence would be ready to sustain such an ḡjmāʿ unlike the speculative evidence.

In short, two pieces of evidence seem to sustain the certainty of the view resulted from ḡjmāʿ: ʿAdah (uniformity of nature and habits) and the evidences, both speculative and definitive, all are backing ḡjmāʿ. The former is normative and the latter is situational, linguistic and rational.

Consequently, certainty shaping ḡjmāʿ as a source of The Shariʿah and the certainty of the view concluded thereof are now well justified. This would make ḡjmāʿ a truly definitive source upon which legislation can rely.
4.4 Certainty of Qiyās (Analogical deduction)

Analogy as a method of inference made its presence in the entire body of the Shari‘ah. It is one of the tools that prompt Sharī‘ah to meet the emerging issues indefinitely. Yet, reason seems to synthesize the major components constituting Qiyās, engendering various levels of plausibility and rational feasibility. Since its inception by the Aristotelian logic, Qiyās appears to have been the most favorable mode of reasoning in the philosophical studies. Being formal in nature, the Aristotelian analogy did not seem to fit the modes of thinking that the Islamic The Shari ‘ah came to set up.

With the advent of Islam, the companions of the Prophet exercised Qiyās, sometimes in a lengthy manner. Qiyās then, was taken up by both scholars of Kalām (Muslim theologians) and Uṣūl al-Fiqh. They embarked upon criticizing, analyzing and mending the flaws of the Aristotelian analogy, making a remarkable shift in the realm of analogical deduction. The most noticeable shift was that the possibility to obtain certainties from Qiyās. As such the main questions that will be addressed are the following:

1- Can Qiyās impart positive knowledge?

2- Is the formal analogy feasible in Sharī‘ah?

3- How far the interchangeable placement of the premises of Qiyās plays a role in yielding certainty?

4- Can the speculation featuring the Qiyās of the jurists be boosted so that it turns definitive?
5- How far the logical plausibility of analogy corroborates the religious plausibility and what impact this corroboration has on the certainty of Qiyās?

Before addressing the certainty of Qiyās, an overview on the juristic Qiyās seems necessary. Qiyās literally means measuring the length, weight or quality of something. It also means comparison between two things to figure out their similarities or equality.\(^{82}\)

Technically, Qiyās is the process of extending a legal ruling form a case originally established in the legal sources (Qurʾan and Sunnah) to a new emerging case, which does not have direct reference in Qurʾan and Sunnah,\(^{83}\) provided the two cases share the same ʿillah (legal cause). The application of this process is, therefore, justified only when no apparent legal text appears to be available to cover the emerging issue in question.

Obviously, there is a high deal of ratiocination (Taʿlīl) to be applied with every step of Qiyās. Establishing the similarity between the original case and the new one depends mainly on the genuine confirmation of the legal cause (ʿillah). Yet, jurists regard ratiocination processes relatively speculative, rendering the whole evidence of Qiyās speculative too.

The speculation embodied in Qiyās is found in four (4) levels:

Level 1: Identifying the genuine original case (Aṣ l)

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\(^{82}\) Al-Ghazālī, Mustasfā, 2/54.

\(^{83}\) Ibid.
Level 2: Identifying the new case (Far‘)

Level 3: Establishing the similarity between the Āsl and the Far‘, through identifying the common ‘illah.

Level 4: Extending the legal rule from the Āsl to the Far‘.

The speculation featuring Qiyās operates at each level, especially level 3 where the genuine ‘illah would have to be clear, constant and transient (Muta‘addiyah).

Al-Imām al-Ghazālī summarized the view of al-Jumu‘ah who patronize the speculation underlying Qiyās. He maintained that the Qiyās used by jurists is contingent on the element of “similitude” (Shabah) between the Āsl and Far‘. “This is not plausible”,84 contends al-Ghazālī, for the similitude seemingly apparent between Āsl and Far‘ would not require their similitude in bearing the same legal ruling.85 Hence, the analogy applied by jurists is not similar to that applied by the formal logic. Accordingly, the inferences applied by the jurists as well as Muslim theologians were not genuine form the formal point of view. And in order for this Qiyās to be conducive to valid conclusions, it must be referred to one of the forms of the logical analogies adopted by the Aristotelian logic.86 That is because the speculation underlying Qiyās has nothing to do with the form within which it must be formulated. Rather, it has a lot to do with its premises that appear to be speculative in nature.

86 Ibid. p. 186.
It is clear that al-Ghazālī is trying to project the Aristotelian analogy over the entire body of jurisprudence. This step, according to al-Ghazālī, is apt to obtain a type of *Qiyyās* imparting plausible knowledge. But his stand did not seem to please the opponents of the Aristotelian logic like Ibn Taymiyyah who looked at the plausibility of *Qiyyās* from a different angle.

It is worth mentioning that Muslim theologians as well as many jurists, before the era of al-Ghazali, considered the juristic *Qiyyās* conducive to certainty. The same scholars would consider the Aristotelian analogy conducive to mere speculation.

Before we scrutinize the certainty presumably attributed to *Qiyyās*, we shall differentiate between the various types of *Qiyyās* adopted by Muslim jurists. For not every type of *Qiyyās* is deemed speculative as there are some that enjoy full plausibility.

There are two major types of *Qiyyās*: *Maʿlūm* (known) and *Māznūn* (speculative).

(i) *Maʿlūm*: This is definitive form of *Qiyyās* as the transition from one premise to another is fully justified and hence, logically true. This is of three categories:

(1) Referring the ruling for which the text is silent to the one for which it is explicit.

E.g. referring the different kinds of harm to the one mentioned in Qur’an like *Tāʾjīf* (saying *Uff* to parents). Al-Imām Tāj al-Dīn al-Subkī puts it:

"*Qiyyās* is either definitive or speculative; this question consists of two topics: the first is that *Qiyyās* is divided into definitive and

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87 Al-Nashshār, *Manāhīj al-Baḥth*, p. 104

88 A disgusting Arabic word expressing dissatisfaction towards someone.
speculative. The former is contingent on understanding the ‘illah of al-‘Aṣl, then confirming the existence of that ‘illah in al-Far ‘...and this type of Qiyyūs is definitive...this is applicable to Qiyyūs between Ta‘īf and beating [parents], as the ‘illah is Adhā (harm) [in prohibiting Ta‘īf] which is also found in ‘beating’, though the confirmation of the ḥukm in Ta‘īf is speculative’\[^89\]

The bulk of jurists would not consider this a true form of Qiyyūs. Rather, they would consider it a proposition pertaining to the semantic requirements.\[^90\]

(2) The ‘illah is expressly mentioned in the text, using terms of causal connotation.

E.g. "in order that it may not (merely) make a circuit between the wealthy among you."

(59:7)

(3) Referring something to a case covered by a text, even when no ‘illah (legal cause) can be identified.

E.g. referring the case of a female slave, which is not covered by the texts, to the male slave that is already covered by the texts.


\[^90\] The issue of Ta‘īf is widely quoted in reference to Mafhūm al-Muwāfaqah (the Argumentum A Fortiori).

The latter is either speculative or definitive. The definitive one, also called al-Nāsṣ according to al-Juwaynī, is the one whose ratiocination (Ta‘īf) is definitive. This would perfectly fit the issue of Ta‘īf. See Khalīfah Ba Bakr, Ma‘nāhif al-Uṣūlīyyin, p.140
This refers to the Hadīth that gives the right of Shuf'ah (preemption) to emancipate a male slave. By analogy, the female slave would also enjoy emancipation. This is the case of a male slave owned jointly by two persons. One of them would set the slave free to the extent of his own share. It would become necessary for the Imām⁹¹ to pay the owner of the other part of the slave his share and have him freed in return. Although this ruling is explicit in the case of a male slave, the female slave would enjoy the same right by virtue of analogy.⁹²

Al-Imām al-Juwayni considers the above-mentioned forms of Qiyās purely definitive.⁹³ Although these forms of Qiyās have been disputed on whether they constitute genuine analogies, the pillars of Qiyās (Ašl, Far 'ī, 'illah and Ḥukm al-Ašl) appear to shape all the above-mentioned types of Qiyās.

(b) Maznīn:

The second category of Qiyās is the Maznīn (speculative). This is the type of Qiyās adopted by jurists when they apply analogical deduction, and it is also known as al-Qiyās al-Usūlī (the juristic analogy).

It is of a great interest to ascertain that al-Qiyās al-Usūlī is different from the Aristotelian analogy, which proved to be speculative and inconclusive even.⁹⁴

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⁹¹ The Imām is the legal authority in the Muslim society. In the modern world, the concept refers only to a person leading Muslims in Ṣalāt (prayer).
⁹³ Al-Juwaynī, Al-Burhān, 2/574.
We shall attempt to unveil the certainty of Qiyās through two major themes: Taʿlīl (legal causation) and the form and the substance of Qiyās.

4.4.1 Taʿlīl (Ratiocination) and the certainty of Qiyās:

The quest for the genuine ʿillah (the legal cause) is the ultimate aim of the process of causation in the legal field. Being the sign that points to the legal rule, its identification (Tahqīq al-Manāfī), revision (Tanqīḥ al-Manāfī) and extraction (Takhrij al-Manāfī) are the backbone of the operation of Qiyās.

In this respect, the jurists shaped Qiyās in a form similar to the scientific induction,95 which enjoys full credibility, especially when it is complete. Being inductive in form, two laws appear to boost the certainty of Qiyās: the law of universal causation and the law of the uniformity of nature. The former presupposes that every effect has a cause. Thus, the intoxication (Iskār) found in wine would automatically make it ḥarām. And the second law presumes that the existence of the same cause would generate the same effect. Hence, if intoxication were found in another substance, the same ḥukm, that is prohibition, would apply.96

Shaping Qiyās according to the inductive method would make it different from the Aristotelian analogy. For the forms of analogy suggested by Aristotle generated formal analogy rather than a substantial one.

95 Al- Nashār, Al-Manāḥij, 105.
96 Ibid.
Besides, the bulk of jurists are of the opinion that it is necessary to have 'illah between Asl and Far. In other words, there must be a causal connection between Asl and Far in order to enhance the plausibility of Qiyās. Further, this 'illah must be identified, revised and extracted before Qiyās can materialise. These methods would help discover the 'illah in so far as the whole operation of Qiyās depends chiefly on it. The way the 'illah is proved and discovered determines to a large extent the certainty of Qiyās. This would necessitate an enquiry into the methods applied to discover the genuine 'illah, or (Masālik al-'illah).

These methods are of two sorts:

Methods referring to the infallible sources of The Shari‘ah (Qur’an, Sunnah and Ijmā‘) and rational methods like al-Sabr wa al-Taqsīm (classification and annulment), al-Munāsabah (compatibility), al-Shabah (similitude), al-Tard (constancy,) Al-Dawārān (rotation). Undoubtedly, the first sort of methods is fully justified, as they are plainly understood from the infallible sources of Shari‘ah. The second sort, in its turn, manifests the high level of reasoning the jurists can reach while extracting 'illah. We shall scrutinize these two sorts as follows:

4.4.1.1 Ta‘īl and the infallible sources of the Shari‘ah.

Qiyās is divided into two kinds: certain and uncertain. The former is the one whose 'illah is confirmed by definitive methods and the latter is the one whose 'illah is determined by speculative methods.
It is widely believed that the definitive methods are two: *Nass* (clear text) and *Ijmāʿ* (consensus).

i- *Al-Nass*:

By *Nass* we mean the text of a Qur’anic verse or of a tradition of the Prophet that indicates expressly a certain quality of a rule of law to be its cause.\(^97\) The text, if it were *Ṣarīḥ* (explicit), would exclusively indicate its *‘illah* as understood from its original wording.\(^98\)

Al-Imām al-Āmidī divided *Ṣarīḥ* into two kinds: (1) a text in which it has been expressly mentioned that a certain quality is the *‘illah* or *Sabab* of such and such rule by mentioning that the *‘illah* is so and so, or the *Sabab* is so and so; (2) a text in which some words expressing causation occur such as *lam, kaf, min, inna and ba‘*.\(^99\) The following examples would clarify this:

1. **Min Ajli or Li Ajli (Because of ....)**

   - “*Because of this incident (min ajli dhālika) we laid down for the children of Israel...* (5:32)

   - “*The rule of seeking permission has been given on account of gaze (Li Ajli al-Basar)*”\(^100\).

   - “*I prohibited you to store the meat of sacrificial animals on account of the caravan*”

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\(^{98}\) Al-Āmidī, *Al-İḥkām*, 2/150


\(^{100}\) Al-Bukhārī, *Ṣaḥīḥ al-Bukhārī*, ḥadīth No 5772, in Kitāb al-Istī‘dhān.
(Min Ajli al-Dāffah) which came to you. Now eat and store.”

2—Lām (in order to):

• “And I have not created the jinn and men except that they should serve Me (Liya‘budūn) (51:56).

• “A Book which We have revealed unto thee, in order that thou mightest lead mankind out of the depths of darkness” (14:1)

3-Kayv (so that)

“So that (Kay) it be not a thing taken in turns among the rich of you” (59:7).

4-Bā’

“.... A recompense for that (bima) they labored” (56:24).

5-Inna (for)

“And I call not my self sinless, for (inna) man’s self is prone to command evil” (12:53).

6-An (for that)

“Shall we turn away the reminder from you altogether because (an) you are a prodigal people? (43:5).

Al-Āmidī is of the opinion that words like lām, kāf, min, ajl, fā‘, inna and bā‘ indicate causation expressly. When they are attached to a legal rule, it is necessary to have

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101 Muslim, Ṣahīh Muslim, hadith No 3643, in Kitab al-Adāhī.
the belief of ratiocination (Ta‘īl), except when there is evidence proving that it does not stand for ratiocination.\textsuperscript{102}

However, there is a difference of opinion amongst the jurists on the exact number of verses that are indicative of ‘illah. This can be decided by referring these words to philology and grammar.\textsuperscript{103} This can also be elucidated by applying the theory of Siyāq, which we have explained in the previous chapter. This can materialize through adducing the objectives of the text in light of the objectives of the Shari‘ah. Hence, this would determine the figures out of which the foregoing specific texts are indicative of the genuine ‘illah.

\textit{b–Ijmā‘:}

Considering the certainty of Ijmā‘ that we have proven earlier, its implication on ‘illah is so vivid that its certainty is well conceived. The following examples show the role of Ijmā‘ to establish the certainty of ‘illah:

\textbf{Example1: Distribution of land by ‘Umar Ibn Al-Khaṭṭāb.}

It is contended that ‘Umar Ibn al-Khaṭṭāb justified his refusal to distribute the conquered land among the Muslim army by that the wealth would remain circulating among the soldiers only, something abhorred by Qur‘an in the following Āyah:

\begin{quote}
\textit{“So that it be not a thing taken in turns among the rich of you.”} \textit{(59:7)}
\end{quote}

\textsuperscript{102} Al-Āmīdī, \textit{al–Iḥkām}, 2/153

\textsuperscript{103} Ahmad Ḥasan, \textit{Analogical Reasoning}, 238.
The cause (‘illah) of controlling the land by the state, as stated by ‘Umar, was accepted by the companions. Hence, Ḥijmā‘ was held on the effective cause underlying the above Āyah i.e.: preventing wealth from being circulated among the rich people only, and thus, it would be fairly distributed.

**Example 2: Flogging the drunken 80 stripes.**

The punishment of 80 flogs for wine drinking was determined on the analogy of the punishment of slander (Qadhf) prescribed by the Āyah (24:4), which is 80 lashes. ‘Alī (R.A) is reported to have said: when a person drinks, he gets intoxicated and eventually falls into raving (Hadhy). And when he raves, he commits slander. This ‘illah deduced by ‘Alī through exercising analogy with slander was tacitly approved by the companions, as no one objected to it.\(^{104}\)

**Example 3: According to the Āyah (4:6), the property is not to be handed over to minors until they attain maturity. During their minority, there will be a guardian (Waliyy) who would be in charge of managing their property. The ‘illah of appointing a guardian or a manager over the property of the minor has been determined by Ḥijmā‘. This rule of appointing guardianship would be extendible to cover the marriage of minors. They cannot marry without the permission of their guardians on the basis of the same ‘illah.\(^{105}\)**

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\(^{104}\) Ibid, 234.

\(^{105}\) Ibid.
Yet, this type of *Ijmāʿ* is disputed in the same way the doctrine of *Ijmāʿ* was. For to argue that there is consensus of companions on a specific *illah*, is indeed questionable. In the event of distributing the land among the Army, it is reported that some companions objected to the view of ‘Umar, notably Bilāl ibn Rabī‘ah. Perhaps this is the reason why some scholars contend that the advocates of *Qiyās* do not constitute the entire Muslim community and their opinion is no authority as the adversaries of *Qiyās* are also a part of the community. The opponents of *Qiyās* may constitute a body that can overrule *Ijmāʿ* as such.

Consequently, *Qiyās* is certain if *illah* is proved by a definitive text or an incontrovertible *Ijmāʿ*.

There are some rational methods used to confirm the *illah*. They have been selected on the ground of their possibility to unveil the genuine *illah* purporting to be used in *Qiyās*. Their resemblance to the inductive method, based on the laws of uniformity and universal causation, granted *Qiyās* the feature of certainty. The latter, though disputable, invokes logical grounds and rational maxims to which reason would eventually succumb. These notions are to be advocated by one of the leading figures in logic, al-Imam Ibn Taymiyyah in the criticism he addressed to the Aristotelian logic. This will be illustrated in the following item.
4.4.1.2 Ta ‘īl and the rational modes of inference

1- Al-Dawarān (Rotation):

This method requires that whenever the ‘illah exists the ḥukm would automatically exist, and whenever it disappears the ḥukm would disappear as well. Hence, grapes are ḥalāl, but if they are fermented until intoxication, they become ḥarām. If the intoxication disappears, they turn ḥalāl again. The most important aspect shaping Al-Dawarān is experiment.\footnote{106} As matter of fact, the jurist would consider Dawarān and experiment two identical modes of inference.

Al-Imam al-Qarāfī ascertains that Dawarān is fully contingent on experiment. For if experiment is applied constantly and continuously, it would generate certainty.\footnote{107} This is because experiment rests on the doctrine of the uniformity of nature that would have to consider the law of causality embedded therein. This is what led scholars like al-Razi to ascertain that experiment imparts definitive knowledge.\footnote{108} However, the credibility of this assertion depends on the true transition from the steps constituting experiment as well as its steady recurrence towards the hypothesis purporting to be a law. Accordingly, if experiment proves that whenever there is intoxication there would be prohibition, then projecting this doctrine on any intoxicant substance would be a definitive process. The latter would have to be binding upon all Muslims. As such there should be no room whatsoever to doubt the

\footnote{106}{Al-Nashār, Al-Manāḥij, 120.}
\footnote{107}{Al-Qarāfī, Nasf”is al-Uṣūl fi Sharḥ al-Maḥṣūl in al-Manāḥij of al-Nashār, p. 120.}
plausibility of such a process; otherwise, it would be prejudicial to the due process of law enactment. However, we can record four stands vis a vis the certainty of *Dawrān*:

**i- Dawrān engenders certainty:**

This view is held by the jurists of the Muʾtazilah who maintained that *Dawrān* is the supreme mode of evidence. This view is also supported by some Ashʿarites who held that experiment would entail certainty if it occurs recurrently. Al-Īmām al-Qarāfī maintained that *Dawrān* would engender rational certainty like the rotation existing between the acquisition of knowledge and knowledge as such. In other words, if knowledge exists, one would be knowledgeable; if it disappears, one would lack knowledge. *Dawrān* would also entail certainty based on custom such as the cutting of the head would lead to death. Many philosophers also maintain that *Dawrān* is the strongest way to discover and prove the effective causes.\(^{109}\)

**ii-Dawrān leads to Žann (speculation) irrespective of the recurrence of experiment.** This view is held by the bulk of jurists of the Ashʿarites sect. They argued that *ʾillah* is self-determinant of the legal rule, for it is merely a sign or signifier indicating the existence of the *Hukm*.

**iii-Dawrān is a condition upon which the validity of ʾillah stands.**

\(^{109}\) Al-Nasīr, *al-Manāhīj*, 121
iv-Dawarān is not a proof that can ascertain the validity of ‘illah.¹¹⁰

2-Al-Sabr wa al-Taqsīm (classification and elimination):

This method aims at observing a number of relevant causes that would be subjected to a process whereby they would be all eliminated except one. The latter is deemed the most appropriate to be the cause for the legal rule in question.¹¹¹

The bulk of jurists would divide this method into two: (1) Al-Munḥasir (limited), that is the accumulation of the attributes that can serve as causes then eliminating the invalid ones through definitive evidences. (2) Al-Muntashir (unlimited), this is of two sorts: either we fail to confirm or annul the attributes in hand, or we manage to do so but through speculative evidence.¹¹² Therefore, it is deduced that al-Munḥasir is certain leading to certainty in contrast to al-Munatashir, which is uncertain leading to mere speculation.¹¹³

3-Tanqīḥ al-Manāt (Refining the legal cause):

This method tends to eliminate the invalid causes and appoint the valid one.¹¹⁴ It is, however, different from al-Sabr Wa al-Taqsīm in that the latter only annuls the invalid causes whereas Tanqīḥ al-Manāt would annul and appoint the valid cause.

¹¹⁰ Ibid., p. 122.
¹¹¹ Al-Juwaynī, Al-Burhān, 2/322.
¹¹³ Al-Nashār, Al-Manāhīj, 115.
¹¹⁴ Al-Subkī, Al-Minhāj, 1/300
The researcher would argue that *Tanqīḥ al-Manāq* would culminate in refining the genuine *‘illah* if the process of confinement is contextual and exhaustive. This would require an accumulation of causes drawn from the general requirements of *Siyāq*. That is an operation aiming at achieving a set of compatibilities among the contexts from which the causes are drawn. The researcher would argue that the perfect way to derive the genuine *‘illah* is through a perfect harmony among all the contexts at hand. The ideal harmony, as the researcher would see it, is the one that brings the textual *‘illah* and the situational *‘illah* and establish them on more coherent ground.

### 4.4.2 The form and the substance of *Qiyās*: an emendable approach

The overwhelming view pertaining to the authenticity of *Qiyās* is that it is speculative source of Shari‘ah. Perhaps one of the reasons for holding such a view is that there was a general conception that the syllogism used by jurists is identical to that of Aristotle. Many jurists regarded the latter as speculative evidence in both its form and substance, i.e. content.

According to the Aristotelian rules of syllogistic inference, there are 64 possible syllogistic forms. But they are reduced to four figures only:

1. All $M$ are $P$: The Middle term is the subject of the major premise and the
   Some $S$ are $M$: predicate of the minor premise.
   Some $S$ are $P$

2. All $P$ are $M$: The Middle term is the predicate of both premises.
   Some $S$ are $M$

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Some S are P :

(3)-All M are P  ‹ The Middle term is the subject of both premises.
Some M are S
Some S are P :

(4)-All P are M ‹ The Middle term is the predicate of the major premise
Some M are S and the subject of the minor.\textsuperscript{115}
Some S are P

These figures of syllogism are governed by the following rules:
1- The middle term is distributed at least once.
2- Every term distributed in the conclusion is also distributed in a premise.
3- No valid syllogism has two negative premises.
4- Any valid syllogism has at least one negative premise if and only if it has a negative conclusion.
5- No syllogism valid from the hypothetical viewpoint has two universal premises and a particular conclusion. And the most important rule emphasized by all logicians is that "\textit{A syllogism must have only three terms}". It is equally important to add other rules like "\textit{No valid syllogism has two particular premises}".\textsuperscript{116} Aristotle believes that a syllogism meeting the above-mentioned rules would entail certainty.\textsuperscript{117} Nonetheless, if syllogism has

\textsuperscript{117} Al-Nashar, \textit{Al-Manahij}, 250.
two particular premises may be validated, but would be merely speculative. We shall call a syllogism having two premises, one is universal and the other is particular "comprehensive syllogism" (Qiyās al-Shumūl) and the syllogism having two particular premises "similitude syllogism". (Qiyās al-Tamthīl). These two will be used to address the possible certainty of Qiyas.

4.4.2.1 Amendment at the level of the form of Qiyās:

We will see that scholars like al-Ghażālī and Ibn Taymiyyah in their capacity as logicians endeavored to mend the flaws of Qiyās used by jurists. Ibn Taymiyyah went as far as to rebuke the basis upon which the whole Aristotelian logic stands. Their efforts were aimed at elevating the status of Qiyās from speculation to certainty.

I- Al-Ghażālī:

The "similitude syllogism" (drawing analogy between two particular premises) was regarded by al-Ghażālī as non-demonstrative from the formal viewpoint. In order to have valid syllogism form the logical viewpoint, al-Ghażālī suggested the amendment of Ḥukm al-Asl (the legal ruling of the original case in Qiyās) by turning it into a universal premise that would assume the first premise in the logical syllogism. The process of "turning" would be through eliminating some attributes so that the Ḥukm gets extended and hence, would be more general.118 Therefore, if the Asl is "Khamr" (wine) and its Ḥukm is "prohibition", the "similitude Qiyās" would be: "Nabīdāh (fermented grapes) is prohibited on analogy with the prohibited Khamr."

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118 Al-Ghażālī, al-Mustasfā, 1/250.
This analogy can be rendered into a logical syllogism (comprehensive syllogism) through turning Ḥukm al-Āṣl (wine is prohibited) into a universal premise, “Every intoxicant is prohibited”. Therefore, we can formulate the previous “similitude syllogism” into a logical syllogism of **form 1**:  

- Every intoxicant is prohibited \[\rightarrow\] first premise  
- Al-Nabīdḥ is intoxicant (*Muskir*), \[\rightarrow\] second premise  
- Al-Nabīdḥ is prohibited. \[\rightarrow\] Conclusion

Through this amendment, “the similitude Ḍiyās” used in the Islamic law would be able to escape speculation and a possible fallacy.

**B-Ibn Taymiyyah:**

Perhaps, the most daring effort done by Ibn Taymiyyah in reference to logic is his “extension of the inferential logic”. Although this extension is in a form of censure against logicians, it was constructive in so far as this tool of inference (logic) is used in *Ijtihād*. His extension of the logical inference operates in two levels:

**The form and the substance (*māddah*) of the logical inference.**

Through these two levels, Ibn Taymiyyah aimed at reviewing the “speculation” ascribed to the juristic Ḍiyās and see how far the latter can yield certainty. He also tried to criticize the rules of syllogism mentioned earlier so that other forms may also be validated.
We shall explore Ibn Taymiyyah's view through two levels of amendment: Amendment at the level of the form and amendment at the level of the substance (Maddah) of Qiyās.

1-Amendment at the level of the form of Qiyās.

The Aristotelian logic confined the inference leading to certainty only to syllogism with its figures mentioned earlier. The main aspect featuring those four (4) forms is "interrelation" (Tadākhul) governing the premises of syllogism. The confinement of the number of premises, i.e.: 3, painted syllogism with a "rigid" form of inference. Ibn Taymiyyah rejected these formal restrictions, and chose in stead, the word dalīl (evidence) as the typical model for the logical inference. This is, in turn, workable within two levels: the inferential relations upon which dalīl stands, and the elements forming these relations.

A- Extending the inferential relations upon which dalīl stands:

Ibn Taymiyyah held that the typical inferential relation of a dalīl is called Luzūm (concomitance). Hence, every proposition necessitating the existence of another, and that necessity is predicated upon a concomitant relationship would be called dalīl. 119

Luzūm, therefore, is the new relation featuring valid evidence. Ibn Taymiyyah went as far as to extend it to cover two types of concomitance: Demonstrative, featured by its certainty, and argumentative, featured by its speculation.

As a result of this new shift in the logical relations underlying “inference”, Ibn Taymiyyah was able to place *Luzūm* as the new criterion for syllogism, prompting a reshaping of its infamous figures. He would conclude the following:

Similitude syllogism (*Qiyās al-Tamthil*) comprises three concomitant relations:

- The concomitance of ‘*illah* to both *Ašl* (original case) and *Far* ‘ (new case).
- The concomitance of the *Hukm* (legal rule) to ‘*illah*.
- The concomitance of the *Hukm* to *Far* ‘.\(^{120}\)

Consequently, the concomitant relationship is the backbone of *Qiyās* and ought to be the most appropriate logical platform for syllogism.

**B- extending the components of dalil featured by “concomitant relations”**.

This has three facets:

1-Repealing the ternary premises of *Qiyās*:

Ibn Taymiyyah would not restrict the number of premises out of which *Qiyās* is formed into three. Since *Qiyās* is an evidence, it could require “*one premise or two or as many premises as needed by people, for their needs explicitly vary*”.\(^{121}\) Accordingly, the number of premises in *Qiyās* is determined according to what the concomitant relation would stipulate. Back to the valid logical inference, the form of any valid syllogism must consider two rhetorical principles:

\(^{120}\) Ibid. pp. 120-121.

\(^{121}\) Ibid. p. 110
• **Maxim of quantity**: The premises of inference are to be added according to the need.

• **Maxim of quality**: Postulate premises are to be avoided. This would apply to premises tacitly implicated into the existing premises, making the former redundant.\(^{122}\) Obviously, the syllogism that Ibn Taymiyyah is advocating would conform to the previous maxims and therefore, advocating the certainty of the juristic *Qiyās* would be a more plausible hypothesis.

**2- Repealing “causality” as a condition pertaining to the middle term in *Qiyās*.**

The idea that Ibn Taymiyyah is demolishing is that the middle term in *Qiyās* is conditioned and must be equated to *‘illah*. He refutes this contention, as he does not see it a logical necessity. The “concomitance relations”, according to him, are the only valid liaisons linking the premises of *Qiyās* together.\(^{123}\) “Causality”, therefore, could be the middle term itself and can escape being a mere attribute to the middle term.

Through this new categorization of the middle term, Ibn Taymiyyah is achieving two goals:

• Refining the method of inference applied in *Qiyās* by eliminating the unnecessary steps in the analogical deduction.

• Reducing the interval separating the “hypothesis” from the “conclusion”, thereby minimizing the possibility of speculation underlying the analogical deduction.


As the scope of speculation diminishes through the previous suggestions, the conclusion arrived at would more likely to be certain.

3- Referring *Qiyās al-Shumūl* (comprehensive *Qiyās*) to *Qiyās al-Tamthīl* (similitude *Qiyās*):

Logicians claim that if *Qiyās* contains a universal proposition as one of its premises, it would entail certainty (Demonstrative *Qiyās*) whereas *Qiyās al-Tamthīl* would entail speculation, as it is not required to have a universal proposition. It suffices to have two particular propositions out of which *Qiyās* is drawn.\(^{124}\)

Ibn Taymiyyah rebuffed this classification, ascertaining the following:

(a) *Qiyās al-Shumūl* is contingent on *Qiyās al-Tamthīl*.

If *Qiyās al-Shumūl* is certain and *Qiyās al-Tamthīl* is speculative, then this categorization is disputable in many ways:

- The universal premise in *Qiyās al-Shumūl* is obtained through the similitude pattern.
  1- Resembling *Nabīdh* (the absent) with *Khamr* (present).
  2- Resembling the legal rule of *Khamr* to that of *Nabīdh*.
  3- The two previous resemblances are conceivable only with the resemblance of *Iskār* (intoxication) featuring *Khamr* and *Nabīdh* alike.\(^{125}\)

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Therefore, *Qiyāṣ al-Shumūl* would eventually lean on *Qiyāṣ al-Tamthīl* and vice versa.

The difference between the two analogies is twofold:

- In *Qiyāṣ al-Shumūl*, the elements covered by it partake in the ruling (*ḥukm*) comprehensively. Whereas, in *Qiyāṣ al-Tamthīl*, the *ḥukm* is shared only between the two particular premises out of which *Qiyāṣ* is drawn.
- *Qiyāṣ al-Tamthīl* contains an original case (*Aṣl*) that is symmetrical to the new case (*Far‘*) (minor term), whereas *Qiyāṣ al-Shumūl* does not have this characteristic.126

(b)-The formal similitude between *Qiyāṣ al-Shumūl* and *Qiyāṣ al-Tamthīl*.

There is a noticeable resemblance between the formal structures of both analogies. They are featured by the following:

1- The middle term in *Qiyāṣ al-Shumūl* is no more than the ‘*illah in Qiyāṣ al-Tamthīl*.

2- The minor term in the former is also the minor case in the latter.

3- The major term in the former is the *ḥukm* (legal rule) in the latter.

(c)- *Qiyāṣ al-Tamthīl* is more certain than *Qiyāṣ al-Shumūl*.

This certainty refers to the additional element embedded in *Qiyāṣ al-Tamthīl*, which is *Aṣl* (the original case). *Aṣl* plays various roles in the analogical deduction:

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1- Al-Asl helps the mind to know that the ḥukm of the Far ‘is not self-existent. It is generated through resembling it with Al-Asl. 127

2- Al-Asl aims at establishing “universality”. For the common attribute between the two premises of Qiyās is universal in nature and so is the ḥukm. This universality is to be achieved only through the Asl. 128

These advantages that Qiyās al-Tamthīl enjoys would make it more plausible and necessary to be taken into consideration before any analogical deduction can materialize.

Besides, Qiyās al-Tamthīl always precedes Qiyās al-Shumūl. For the universal premise, according to Ibn Taymiyyah, is to be known only through Qiyās al-Tamthīl. 129

4.4.2.2- Amendment at the level of the substance (māddah) of Qiyās.

This is the second level at which Ibn Taymiyyah sought to reform the credibility of inference in logic. Logicians divided the substance of logical propositions into three:

1- Definitive propositions: This would include: Awwaliyyāt (primaries), Ḥissiyāt (tangibles), Mujarrabāt (Experiments), Mutawātirāt (recurrent reports).

2- Speculative propositions: This would include: Mashhūrāt (wide spread reports), Maqbūlāt (plausible propositions), Maṣnūnāt (conjectures).

3- Quasi-definitive propositions and quasi-speculative propositions: This would include Wahmiyyāt (illusions) and Mughālaṣṭāt (Fallacies).

127 Ibid, 271
128 Ibid, 271.
129 Ibid, 371.
The central debate between Ibn Taymiyyah and logicians revolves around the certainty featuring the substance of *dalīl* “evidence”. Logicians classified evidences according to the weight of certainty they carry. They are:

1. *Awwaliyyāt* (primaries).
2. Propositions known through the middle term.
5. *Hadasiyyāt* (intuitions).
6. *Mutawātirāt* (recurrent reports or incidents).

According to this classification, a hierarchy of certainty is set up, which implies the following:

(One) Logicians distinguish between absolute certainty and relative certainty.

(Two) They distinguish in the absolute certainty between *Awwaliyyāt* (primaries) and propositions known through the middle term.

(Three) They distinguish in the relative certainty between what is binding for “all” and for “some”.

(Four) What is binding for “some” varies in proportion of *Tajribiyyāt*, *Hadasiyyāt* and *Mutawātirāt*.
(Five) *Mashhūrat*, are not binding at all, and therefore, they cannot be used in *Burhān* (Demonstration).\(^{130}\)

We can present the substance of inference as classified by logicians, in the following table\(^{131}\):

<table>
<thead>
<tr>
<th>Certainty value</th>
<th>Categories</th>
<th>Binding force</th>
</tr>
</thead>
<tbody>
<tr>
<td>Absolute certainty:</td>
<td>- <em>Awwaliyyāt</em></td>
<td>Binding upon all.</td>
</tr>
<tr>
<td></td>
<td>- Propositions known through the middle term.</td>
<td></td>
</tr>
<tr>
<td>Relative certainty:</td>
<td>- <em>Al-Ḥissiyyāt</em></td>
<td>Binding upon some.</td>
</tr>
<tr>
<td></td>
<td>- <em>Al-Tajribiyyāt</em></td>
<td></td>
</tr>
<tr>
<td></td>
<td>- <em>Al-Hadasiyyāt</em></td>
<td></td>
</tr>
<tr>
<td></td>
<td>- <em>Al-Mutawātirāt</em></td>
<td></td>
</tr>
<tr>
<td><em>Zann</em> (speculation):</td>
<td>- <em>Mashhūrat</em></td>
<td>Not binding at all.</td>
</tr>
</tbody>
</table>


Ibn Taymiyyah categorically rejects this hierarchy, though he believes in the difference between the absolute certainty and relative certainty. He also refuses to consider Mashhūrat speculative.

As far or Qiyās is concerned, its certainty varies in proportion of the categories of propositions cited in the table above. Ibn Taymiyyah objected to this hierarchy by reconstructing its order. He would not see a substantial privilege of Hissiyyāt over Mutawātirāt and Tajribiyyāt and Ḥadasiyyāt. He also refuses to classify Mutawātirāt in the lowest level of relative certainty. He also believes that Mashhūrat are in the highest level of certainties, as they are widely known by all nations, making it necessary to believe in them. Consequently, Qiyās would entail certainty even though its premises are merely Mashhūrat.

\[\text{\textsuperscript{132}} \text{Ibn Taymiyyah, Al-Radd, 430}\]
To sum up, Ibn Taymiyyah’s theory of Qiyās transcended over the established patterns of logic. It particularly stressed on the following:

1- Qiyās al-Tamthīl entails certainty, as it is similar to Qiyās al-Shumūl (certain from the logical point of view).

2- Certainty of Qiyās, according to Ibn Taymiyyah, refers to the substance of premises, unlike the Aristotelian syllogism that focuses merely on the form.

3- The only valid knowledge in Ibn Taymiyya’s theory of knowledge is the knowledge of the particular (Al-Juzʿ i).\textsuperscript{133}

4- The universal proposition is not a source of knowledge but the experiment.\textsuperscript{134}

The latter, according to Ibn Taymiyyah, engenders certainty.\textsuperscript{135} This is based on his belief that Ḥissiyāt are the vehicle for certainties.\textsuperscript{136}

5- The hierarchy of evidences is to be looked at from the practical dimension. As such, the same category may entail certainty in one situation and speculation in another. Therefore, there is no rigid form of Qiyās that would entail either certainty or uncertainty. This can be highlighted as follows:

\textsuperscript{133} Al-Nashār, Al-Manāḥīj, 250.
\textsuperscript{134} Ibid. 236.
\textsuperscript{135} Ibid. 219.
\textsuperscript{136} Muḥammad Ḥusnī al-Zīn, Manṭiq Ibn Taymiyyah (The logic of Ibn Taymiyyah), 1\textsuperscript{st} edn. (Beirūt: Al-Maktab al-Islāmī, 1979), p.53
Consider we have a form of *Qiyās* whose premises are the following:

E.g: 1  *Nass* (Text) \(\text{1}^{\text{st}}\) premise \(\text{Mutawātirāt} \quad \text{2}^{\text{nd}}\) premise \{  

\text{Definitive as long as} \text{Mutawātirāt} \text{ are still recurrent.}

\}

Conclusive *Qiyās*

The foregoing form of *Qiyās* engenders certainty as long as the case under investigation is still recurrent. Yet, if it ceases to recur or turns out to be *Aḥād* in nature then *Qiyās* would be degraded to assume a speculative status.

Consider the following form of *Qiyās* whose premises are definitive and speculative respectively.

E.g: 2  *Mutawātirāt*  \(\text{1}^{\text{st}}\) premise  

*Mashhūrāt*  \(\text{2}^{\text{nd}}\) premise

\(\text{Valid Qiyās}\)

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Although this form of *Qiyās* is regarded as speculative by the bulk of jurists due to the speculation of *Mashhūrāt*, Ibn Taymiyyah would consider such a *Qiyās* definitive. For *Mashhūrāt* are definitive according to him.

Consequently, Ibn Taymiyyah's theory of inference would, therefore, generate a flexible scale of argument. The latter would have to operate within pure situational contexts that are limited by a minimum set of logical boundaries, which must not be transgressed.