- 5. A section on the possibility that the Lawgiver has made it a duty to act in conformity with what  $qiy\bar{a}s$  dictates.<sup>20</sup>
- 6. A section on the denial of the incumbency of qiyās.<sup>21</sup>

The second section, at first blush, appears out of place, but the inclusion of a discussion of this is justified in the introduction. The legitimacy of qivās is first a matter of dispute between those who consider it to be a legal indicator (dalīl sharī) and those who do not. The former claim that qiyās can justify a legal ruling in the same way that a piece of textual evidence justifies a particular ruling; that is, it is an indicator of a legal ruling just as the texts are indicators. Murtadā wishes though to take the argument one step backwards, by asking whether or not a legal indicator is always a necessary support for a ruling. Evidence that this may not be the case is examined in the second section. The argument runs that since the Prophet was, due to theological considerations, sinless, whatever he decided in response to a legal dispute or question was correct, even if he had no indicator (i.e. no communication from God) to guide him. That is, did his sinlessness obviate the need for him to act on the basis of a dalīl? The theological question at the root of this dispute is the relationship between God and the Prophet: did the Prophet have choice (ikhtiyār) in deciding legal issues, or was every decision dictated to him by God? The legal question concerns whether or not God has a complete Sharī'a, or merely a partial one (leaving some matters up to the Prophet's decision)? Murtadā argues that the Prophet did not have the faculty of choice with regard to legal matters, and that all his legal decisions were based on dalīls from God. By arguing in this way, Murtada is heading off, at the outset, a possible argument for qiyās: that even though qiyās is not a legal indicator, it is, at times, permitted to make legal decisions without legal indicators, because the Prophet himself did this, as he was given choice in such matters by God. If the Prophet was delegated choice, then it is possible also for the scholar to be delegated choice. Even if qiyās is not a legal indicator, it may be possible to make legal decisions on its basis. This possible line of argument is clearly linked to the much debated issue of hal kull mujtahid musīb (are all mujtahids correct in

<sup>&</sup>lt;sup>20</sup> Dharī'ah, 675-697. I am influenced in my translation of al-ta'bbud bi'l-qiyās by Weiss's translation based on Ibn Ḥājib's gloss on the phrase. Weiss, God's Law, 634-635.

<sup>&</sup>lt;sup>21</sup> Dharī ah, 2:697-791.

their judgements)? If God has only a partial Sharī'a (or even a complete Sharī'a which is only partially knowable), and there are areas in which the *mujtahid* may exercise his personal reasoning (based on interpretative procedures such as *qiyās*), then the status of the *mujtahid*'s rulings in such matters are, in relation to the divine law, in some sense irrelevant (since God has withheld the criteria on which to judge the *mujtahid*'s answers).<sup>22</sup> Murtaḍā, by denying that the Prophet had such delegated choice, closes off this possible line of argument immediately.

It is Murwis b. Imran who is credited by Murtada with the position that the Prophet was delegated choice. He claimed, Murtada states, that there was no difference between God giving a ruling, and God delegating the making of a ruling to a sinless Prophet. Murtada's counter argument is detailed, and at times tortuous, and involves the accusation of contradiction. If God delegates sinless ikhtiyār to a person, then what that person chooses is not the true law until he has made the choice: only after he has made his choice can one say that what he chose is the correct course of action. This would be true for the Prophet and Imams (who are also sinless according to Imāmī doctrine). Murtadā declares such a position to be contradictory. The man may perform action A at time T1. At this point, there is nothing to recommend the action as legal. He later is designated a Prophet by God, and at time T2, he once more performs action A. Action A has now become law, whilst previously it was not. The law has been created by the action of a man's choice. There is, then, no quality of action A which makes it legally correct, except for the fact that a man (the Prophet) has chosen it.<sup>23</sup> This means that God's law is subject to a man's choice (albeit a sinless man). "A dumb man cannot speak poetry without having some prior knowledge, and an illiterate man cannot write without having prior knowledge of a writing system", Murtadā states.<sup>24</sup> Similarly, a

<sup>&</sup>lt;sup>22</sup> On this issue see the excellent discussions of É. Chaumont, "Tout chercheur qualifié dit-il juste? (hal kull mujtahid muṣīb) La question controversée du fondemont de la légitimité de la controverse en Islam" in A. Le Boulluec, ed., La controverse religieuse et ses formes (Paris: Les Editions du Cerf, 1995), 11–27; "La problematique classique de l'ijtihād et la question de l'ijtihād du prophete: ijithād, waḥy et 'iṣma'', Studia Islamica 75 (1992), 105–139.

<sup>&</sup>lt;sup>23</sup> The connection with the issue of legal rulings before revelation here is obvious, on which see A. Kevin Reinhart, *Before Revelation: The Boundaries of Muslim Moral Thought* (New York: SUNY Press, 1995).

<sup>24</sup> Murtadā, *Dharī* a, 2:663.

man, such as the Prophet or one of the Imāms, cannot choose the right path without some knowledge of the right path. One would not have to be a Mu'tazilī to argue in this manner. An Ash'arī might also feel uncomfortable about the Prophet being accorded this level of legal power without any reference to God's rulings. By denying ikhtivār to the Prophet, one is making no specific commitment to the ontology of moral properties in the world. Murtada's conclusion is, then, one with which some of his (theological and proqiyās) opponents might concur: God decrees that every hukm requires a dalīl, and even the Prophet did not give ahkām on the basis of his own whim and without reference to adillah. This is sufficient for Murtadā to eliminate the possible argument that even though qivās is not a dalīl sharī, it still might be used to derive legal rulings. The argument here is based on the presumption that God's law is complete, it is merely human perception of it that at times is inadequate. The idea that a human being might be able to create the law through choice violates divine supremacy.<sup>25</sup>

Having disposed of this possible line of enquiry, Murtadā lists, in section 4, the various opinions regarding  $qiy\bar{a}s$ . These basically divide into four groups of scholars:

- 1. Those who reject  $qiy\bar{a}s$  because it is unproven by reason ('aql).
- 2. Those who reject it because it is unproven by revelation (sam').
- 3. Those who accept it on the basis of 'aql.
- 4. Those who accept it on the basis of sam'.

The arguments for and against qiyās can therefore be categorised as rational and revelatory and form the subject matter of sections 5 and 6. Murtaḍā's own opinion was stated at the outset:

We shall prove that  $qiy\bar{a}s$  is not an indicator of the  $ahk\bar{a}m$  even if it is permitted by reason that it may be an indicator.<sup>26</sup>

The reader is faced with the initially confusing phenomenon of Murtadā arguing for the rational permissibility of qiyās in section 5,

<sup>&</sup>lt;sup>25</sup> The implications of such a doctrine for Shī'ī conceptions of the relationship between God, the Prophet and the Imāms are clear. The Prophet and the Imāms only ever acted on instructions from God; they, in a sense, had no free choice in matters pertaining to the law; their every action is an indicator of God's law. With this level of intimacy, the independent identity of God and his servants becomes problematic. On this issue see A. Sachedina, *Islamic Messianism* (Albany: SUNY Press, 1981), 17–25.

<sup>&</sup>lt;sup>26</sup> Murtadā, *Dharī'a*, 2:657.

and for its impermissibility based on a lack of revelatory evidence in section 6.

Section 5 examines the numerous rational arguments for the permissibility of qiyās. The first argument appears to be that of Mufīd: qiyās is rejected because it does not bring 'ilm. Murtadā expresses this argument in terms of 'ilm and zann; knowledge and supposition. Qiyās, according to this argument, brings only a supposition that the transferred ruling governs the novel case. There is no certainty that this is so, and certainty is the only basis on which to declare rulings. Murtadā's response is to give a number of examples in which zann does give rise to valid rulings. For example, a judge makes a decision in most court cases on the basis of the testimony of two witnesses: the judge's decision is the law. There is 'ilm that this is a legally valid ruling. It is (rationally speaking) possible that the two witnesses are mistaken or lying, and the judge's decision is based on false testimony. Hence the judge can never have 'ilm that the witnesses have testified accurately; he can only have zam of this. However, there are revelatory dicta which indicate that a decision based on the testimony of two witnesses is legally valid; God has decreed this to be the procedure in such cases. It follows, then, that although the judge's decision is based on zann, it is still the law. It also follows then that the ahkām can, in certain circumstances, be based on zann, as long as there is revelation to guarantee that the zann-based decision is procedurally valid. Those who argue against qiyās on the basis of the resultant ruling being merely zann are on weak ground. If the qivās procedure is known to be valid with certainty (that is, if it is justified by revelatory evidence, as is the case with the sufficiency of the testimonies of two witnesses), then zann can act as a basis for the ahkām. In another example, Murtadā states:

The  $ahk\bar{a}m$  are always known ( $ma'l\bar{u}m$ ), and are never proven by a procedure which is known [to be valid]. However, the means of reaching the  $ahk\bar{a}m$  is sometimes by 'ilm and sometimes by zann. If we think [i.e. have a supposition] that there is a wild animal on the road, then it is obligatory for us to avoid taking that route on the basis of a ruling which states that it is wrong to take [that route]. The obligation to avoid [the road] is known with certainty, not mere supposition ( $ma'l\bar{u}m$   $l\bar{u}mzn\bar{u}n$ ), even though the means of reaching this certainty was zann . . . zann is associated with there being a wild animal on the road; 'ilm is associated with the [ruling that] it is wrong to take the road.<sup>27</sup>

<sup>&</sup>lt;sup>27</sup> Dharī ah, 679-680.

This rather loquacious statement means, in effect, that, though we do not know whether there is an animal on the road ahead, we do know that it is obligatory to avoid roads on which there may be animals. Our decision to avoid the road is based on *zann*, but we are following an obligation which we know to be true. The procedure is certain, whilst the facts are uncertain. Rulings, then, can be based on *zann*, as long as the means of reaching these rulings is a procedure which is known by *'ilm*. If *qiyās* is known to be such a procedure, then although its results may be *zannī*, they are nonetheless valid.

Another rational argument against *qivās* was, according to Murtadā, that used by Ibrāhīm al-Nazzām (d.220-230/835-840). This argument is similar to that found in the akhbār of the Imāms. Nazzām argued that qiyās would be legitimate, if there was evidence that God makes a ruling according to some coherent pattern. Nazzām argues that this is clearly not the case. The example of a menstruating woman, who must repeat her fast but not her prayer, is once more used. However, Murtadā argues that the fact that the rulings in this case (and similar cases) differ for prayer and fasting is not evidence that the system is incoherent. It is quite possible that there is a coherence which we do not fully understand. It may be the case that the rulings relating to prayer and fasting are based on different reasons ('ilal), though we have not discerned what they might be. The difference between prayer and fasting, and between rulings in apparently similar examples, could involve a difference in essence (dhāt) between the two duties which we have not recognised.

Finally Murtaḍā examines the position attributed to Dāwūd al-Zāhirī (d.270/883). Dāwūd argues that  $qiy\bar{a}s$  is not permitted because it would force God to act in a coherent manner, when God is beyond such restrictions. Murtaḍā expresses his argument thus:

It is not permitted that the most high judge [i.e. God] be restricted to [always selecting] the most appropriate of two explanatory cases by the *mukallaf* [who has adopted  $qiy\bar{a}s$ ].<sup>28</sup>

Murtaḍā's refutation of the Zāhirī argument is based on the epistemological distinction between knowledge which is immediately gained ('ilm ḍarūrī) and knowledge which is gained after some reflection ('ilm iktisābī). These can be termed necessary and acquired knowledge

<sup>&</sup>lt;sup>28</sup> Dharī'ah, 693. Mukallaf here means a human subject—that is, someone charged (taklīf) with a duty to obey God.

respectively. Both are of the same level of certainty in Muslim epistemology; it is merely the means whereby this knowledge is reached that differs. For Murtaḍā's refutation of the Ṭāhirī argument, it is crucial that his opponents accept this distinction (which Murtaḍā claims the Ṭāhirīs do).

If God is not bound by the rules of coherence in making the law, and therefore can choose whichever ruling he wishes, then, by force of logic, he must reveal his ruling to humanity. Since these rulings will bear no logical relationship to one another, the human being's knowledge of these rulings must be necessary knowledge ('ilm darūrī) and not acquired knowledge ('ilm iktisābī'). This is patently incorrect, as the parties to the dispute all agree that acquired knowledge is appropriate in certain circumstances. For example, all agree that prayer should be directed towards Mecca (i.e. the qibla). They all agree that if the qiblah is not known, the believers should attempt to calculate the direction of Mecca. Whether one accords the results of their calculations 'ilm or zann, it is clear that the results are acquired and are not immediate in character. Hence the Zāhirīs are involved in a contradiction: denying qiyās in the manner they do, involves a denial of the darūrī/iktisābī distinction; and yet elsewhere they accept this distinction.

The rational arguments against  $qiy\bar{a}s$  are, then, insufficient in Murtaḍā's view; they do not prove that  $qiy\bar{a}s$  cannot act as a  $dal\bar{a}l$ . The revelatory arguments against  $qiy\bar{a}s$  are also unimpressive in Murtaḍā's view. At the beginning of section 6, Murtaḍā examines some of the Qur'ānic verses used by the opponents of  $qiy\bar{a}s$ . First there are the verses:

Do not follow what you do not know (\*ilm). (Isrā': 17.36) [Satan commands] that you say of God what you do not know. (al-Bagra: 2.169)

Both verses elevate 'ilm . If  $qiy\bar{a}s$  leads to zann, then these verses disprove its validity. Murtadā states that unfortunately the proposer of  $qiy\bar{a}s$  claims 'ilm as to the procedure of  $qiy\bar{a}s$ . Therefore, the one who bases his action on the results of  $qiy\bar{a}s$  is not basing his action on zann but 'ilm. The procedure is known to be supported by a  $dal\bar{a}l$ , though the resultant ruling is, admittedly, zann. These verses are therefore not a proof against  $qiy\bar{a}s$ . Murtadā also discusses the following verses:

Do not put yourselves forward before God and his messenger. (Ḥujurāt: 49.1)

We have not left out anything from the Book. (An'ām: 6.38)

These are not proofs against  $qiy\bar{a}s$  because if  $qiy\bar{a}s$  is proven to be an indicator, then using it is not putting oneself before God, since he himself sanctioned  $qiy\bar{a}s$ . Similarly, if God has sanctioned  $qiy\bar{a}s$  (in the Book or the Sunna), using  $qiy\bar{a}s$  is not going against the Book, but obeying it.

Murtaḍā, interestingly, offers no further revelatory arguments against qiyās. He does not, for example, utilise the many akhbār in which qiyās is condemned by the Imāms. These, for Shīʿīs, would have been conclusive proof. It seems unlikely that Murtaḍā was unaware of these akhbār. The reason for their omission can be traced to the intended readership of al-Dharīʿah. Murtaḍā clearly hoped to offer non-Shīʿī uṣūlīs justification of the Shīʿī position, based on proofs which both groups would find acceptable. Imāmic akhbār would simply fail to fulfil this purpose; hence he did not cite them. The only Shīʿī argument he used in his refutation of qiyās is ijmāʿ al-imāmīyah, which he claimed to have shown to be a proof (hujja) of the Sharīʿa, but this argument is not expanded further.<sup>29</sup>

It seems clear, then, that Murtadā sees the burden of proof lying with the proposers of  $qiy\bar{a}s$ . If they can prove that  $qiy\bar{a}s$  is a possible indicator of the law, alongside texts  $(nus\bar{u}s)$ , then they have to provide evidence for this. It is an examination of this evidence which occupies most of Murtadā's discussion of  $qiy\bar{a}s$ , and his conclusion is that, ultimately, it is insufficient. The revelatory evidence is divided into six different elements of proof. The first is that the companions of the Prophet agreed on the validity of  $qiy\bar{a}s$ .<sup>30</sup> This is refuted at length through a series of statements and responses  $(fa'in q\bar{a}l\bar{u}...quln\bar{a})$ . Interestingly, the standard Shī'ī argument that the opinions of the Prophet's companions do not constitute a proof of God's law is never mentioned (evidence again of the intended non-Shī'ī readership). The proponents' argument, as presented by Murtadā, rests

<sup>&</sup>lt;sup>29</sup> What he means by the *ijmā' al-imāmīyah* being a proof is that the consensus of the Shī'a includes the opinion of the Imām. The opinion of the Imām is a proof. He claims to have demonstrated this on rational grounds. See *Dharī'ah*, 603–656 and R. Gleave, *Inevitable Doubt* (Leiden: Brill, 2000), 55–60,79–84, and references therein.

<sup>&</sup>lt;sup>30</sup> Murtadā, *Dharī* ca, 2:705-708.

on the fact that there were divergent opinions amongst the companions on matters of legal doctrine. These divergent opinions cannot come from the Prophet himself; they must come from the companions' own use of qiyās (al-qawl fī al-masā'il al-latī dhakarūhā lam yakun illā lil-qiyās).<sup>31</sup> Murtaḍā replies firstly that the evidence for divergent opinions amongst the companions is a series of isolated reports (khabar al-wāḥid) and he has already proven these to be epistemologically insufficient.<sup>32</sup> Secondly, divergent opinions do not come from the use of qiyās alone. They can, for example, emerge from differing interpretations of texts. Thirdly, if the companions did hold divergent opinions, they never gave the legal reasoning (istidlāl) behind their opinions, hence we can never know if they used qiyās.

It is also clear from a number of reports of the companions (including one from Imām 'Alī) that the companions disapproved of  $qiy\bar{a}s$ . Murtaḍā lists these reports. If the companions differed over matters of legal doctrine (and in many cases this is still unproven due to *khabar al-wāḥid*), they did so on the basis of conflicting texts ( $nus\bar{u}s$ ) or conflicting interpretations of these texts.<sup>33</sup>

The second argument is that the companions used ra'y, and  $qiy\bar{a}s$  is a type of ra'y. This is refuted in a similar manner (that is, the evidence that they used and/or approved of ra'y is inconclusive at best; furthermore,  $qiy\bar{a}s$  is not necessarily a type of ra'y as Murtaḍā had shown in section 3). The third argument is expressed in the form of the famous  $had\bar{a}th$  of the Prophet to Mu'ādh b. Jabal in which the Prophet approves of Mu'ādh's declaration that he will use his  $ijtih\bar{a}d$ . Since  $qiy\bar{a}s$  is part of  $ijtih\bar{a}d$ , this  $had\bar{a}th$  proves  $qiy\bar{a}s$ . Murtaḍā argues that this report is also  $khabar\ al$ - $w\bar{a}hid$ . Furthermore, there are variants of this report in which the Prophet implies his disapproval of Mu'ādh's use of  $ijtih\bar{a}d$ . The fourth argument concerns the Qur'ānic verse:

So consider (fa'tabirū)! O you who have eyes. (Ḥashr: 59.2)

The order "consider!" supposedly implies  $qiy\bar{a}s$ . Murtaḍā responds that this verse is specific to the context (relating to the unbelievers) and cannot be generalised beyond this case. Inevitably, Murtaḍā also uses a lexical argument to prove that the word  $i'tib\bar{a}r$  has no linguistic connection (in terms of usage or etymology) with the word  $qiy\bar{a}s$ .

<sup>31</sup> Dharī'ah, 717.

<sup>32</sup> Dharī'ah, 519-528.

<sup>33</sup> Dharī'ah, 734-740.

The last two arguments listed by Murtaḍā are perhaps the most interesting. In the fifth, the proponents of qiyās argue that the companions agreed, not on qiyās, but on the need to discover the aḥkām in cases not explicitly mentioned in the text. Qiyās is, they argue, the only means of doing this, hence qiyās is a necessity. The sixth argument similarly argues that there is an ijmā' of the jurists on the need for qiyās (Muḥammad al-Shāfi'ī (d.205/820) is quoted in this regard). Just as we are ordered to search for the qibla, so we are ordered to search for aḥkām. Both arguments state that qiyās may not be explicitly sanctioned by the texts, but the need to discover rulings is so sanctioned. These can be seen as a retreat position for proponents of qiyās after the first four arguments have failed to convince. Murtaḍā's reply is that in these cases, the proponents are discussing the course of action when there is no textual indicator. Murtaḍā claims that the texts are clear on the solution to such problems:

- 1. The ruling may be known through reason ('aql).
- 2. The ruling cannot be known, and hence there is no moral duty (taklif) associated with the case in question.
- 3. God has no ruling concerning the case, and therefore has ruled that any course of action is permitted  $(j\bar{a}^2iz)$ .

If reason provides no hukm, the ruling is either existent and unknown, or existent and permitted. If the former, God will not (cannot?) hold the agent responsible for failing to perform a duty he has had no means of knowing, and hence any course of action in the case is permitted. If the latter, God is unconcerned with the case, and similarly any course of action is permitted. Murtaḍā's conclusion, then, is that in cases of revelatory silence, where there is no textual indicator to guide the subject as to the law, either reason provides a ruling or any action is permitted. Though there is a commandment to find rulings in cases of uncertainty, this does not entail the legitimacy of  $qiy\bar{a}s.^{34}$ 

Having examined the various textual arguments, based on the Qur'ānic text, Prophetic reports or the situation of the companions, Murtaḍā concludes that there is no evidence that the Lawgiver (i.e.

<sup>&</sup>lt;sup>34</sup> Murtadā further comments that Shāfi'ī's argument that all cases of textual uncertainty require *ijtihād* and *qiyās*, just as is required whilst searching for the *qibla*, is itself a case of *qiyās*. Until *qiyās* is proven, the analogy between the *qibla* and textual uncertainty must be considered illegitimate. This is therefore a *petitio principii*! *Dhaā'ah*, 786.

God) has recommended  $qiy\bar{a}s$  as a  $dal\bar{\imath}l$ . For it to be an indicator of the law it would need this textual evidence, just as was the case with  $kit\bar{a}b$ , sunnah and  $ijm\bar{a}^c$ .

Though Murtadā's argument against qiyās is based on the absence of revelatory proof, he does provide an argument which might be loosely-called rational.<sup>35</sup> This argument takes him into the ontology of legal properties. Every action which is classed as obligatory by God, is so classified because of a quality (sifah). This quality, Murtadā claims, is either known through reason ('agl) or through revelation (sam'). An example of the former is the obligation to gain knowledge about God (wujūb ma'rafat allāh). Through reason alone, a person can reach the conclusion that, since it is possible that there is a divine being who has decreed a law for humanity, it is obligatory for the person to find out what this possible law might entail. To ignore this obligation, given the possibility of God's existence, would be irrational (presumably due to the fact that if God does exist, it would be foolhardy to risk his wrath by disobeying his law). It is reason alone which leads a rational person to the conclusion that it is obligatory to gain knowledge about God.

The qualities of the second kind (known through revelation) encompass all those relating to legal duties (shar'īyāt). Can we, from a revelatory text, deduce why an action is classified as obligatory? Murtadā's position is that at times we can, but only in a very general way. For example, the Qur'anic verse "Prayer wards off abomination and evil" ('Ankabūt: 29.45) establishes that prayer is obligatory. It also establishes that one of the reasons why it is obligatory is that it wards off evil and abomination. The ability of prayer to perform this function is a quality of prayer which leads to its classification as obligatory. Murtadā calls this quality "the aspect of obligation" (wajh al- $wij\bar{u}b)$  present in prayer. From this example, we can make a valid analogy with other actions which ward off evil, and say that they too are obligatory. This, however, does not amount to qiyas, in Murtada's view. For qiyas to be operative here, one would have to know how prayer wards off evil. That is, if one wishes to analogise from this case to novel cases, one has to know that the actions in these novel cases have the ability to ward off evil: they too must have this wajh al-wujūb. One must, therefore, know how prayer per-

<sup>35</sup> This argument is found in the first part of section 6, Dharī'ah, 698-705.

forms this function, and be able to detect the same process occurring in the novel case. The knowledge of how prayer performs this function is, however, unavailable through reason; it is only available through another revelatory text which decrees that the action in the novel case wards off evil.  $Qiy\bar{a}s$ , then, is based on a knowledge which is unobtainable with respect to  $shar^c\bar{t}$  rules.<sup>36</sup>

Murtaḍā expands on this example to produce a general theory of the nature of God's rules. God gives his law to humanity in the form of rules. These rules may be simple demands, which appear to have no rational basis (Murtaḍā terms these dawā'i). An example of this is the command to pray. It is obeyed simply because the Lawgiver has commanded it. Other rules are provided with additional reasons. An example of this is the verse just quoted ('Ankabūt: 29.45). There is, in these commands, an indication of the benefit (maṣlaḥah) for the people in performing the action prescribed. However, one only knows that this benefit accrues to the people because God has revealed that it does: knowledge of the benefit is entirely dependent upon God's grace (lutf) in revealing it to humanity. Without this text (and ones like it), prayer would have remained a simple command from God (i.e. one of the dawā'ī).

Now, although a ruling may be known (through revelation) and although the reason for the ruling may also be known (through revelation), the believer is not justified in making an analogy from the known case to an unknown, novel, case where the reason is also present. God, when he revealed the reason for a ruling in the known case, was declaring a specific benefit coming from a specific action. In the novel case, it is not known whether the benefit will arise as it has done in the first case. It is possible that there may be a "difference in benefits" (khilāf al-maṣāliḥ) between the cases. Suppose, for example, that it is known that grape-wine is forbidden (through revelation). Suppose also that it is known that the reason why it is forbidden is because it is intoxicating (also through revelation). Some benefit accrues to the people through avoiding grape-wine because it is intoxicating. For Murtaḍā, a person cannot, from this case,

<sup>&</sup>lt;sup>36</sup> This argument, however, does not necessarily commit Murtaḍā to the theistic subjectivism of the Ash'arites. Even Mu'tazilīs recognised that certain elements of the law (prayer is obligatory, fasting during Ramaḍān, for example) are not available to reason directly. They are known to be obligatory because God and the Prophet has commanded them directly. See my discussion of these matters in a Shī'ī context in *Inevitable Doubt*, 183–219.