

A Yezidi Commentary by Mawlānā Muḥammad al-Barqal'ī Şîroveyeke Êzîdîtiyê ya Mewlana Mihemedê Berqel'î

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ABSTRACT:

There is a natural tendency in dealing with the Yezidism of becoming overwhelmed by the fascinating and complex details of its present situation, oral tradition, and sacred texts that, however, it is safe to say, defy simple comprehension and adequate explanation. My purpose here, however, is possibly much simpler and that is to suggest what role the Muslim Kurds played against the Yezidis in the 10th/16th century Kurdistan. In part the comments that follow here are especially about the Kurdish Muslim polemics against the Yezidi religion. And depend on an earlier study of mine entitled “The Fatwā of Malā Şāliḥ al-Kurdī al-Hakkārī”, which may be consulted for the background and sources (Dehqan, 2008). What is provided in the present essay has two sections: i. some notes on the newly-found manuscript of a commentary by Mawlānā Muḥammad al-Barqal'ī who has written it on the *fatwā* of Mawlānā Şāliḥ, and ii. the edition and English translation of the text which is given here for the first time.

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KURTE:

Di xebatên Êzîditiyê de meyleke xwezayî heye ku ew bi hûnguliyên ecêb û tevlîhev ên rewşa niha, kevneşopiya devkî û metnên pîroz ve bîr tepisandin, lê dîsa jî, li cih e bê gotin ku têgehîştin û ravekirinên lêhatî pir zehmet e. Li vê derê armanca min piçekî hêsantir e, ezê wê rola Kurdên Misilman rave bikim ku li Kurdistana sedsalên X-XVem de li hember Êzîdiyan hatiye lîstin. Ji aliyekî ve, şîroveyên li vê derê bi taybetî jî derbarê wan mînaqêşeyên Kurdên Misilman de ne yên li hember dîne Ezîditiyê. Herweha ew pala xwe didin xebata min a bi navê “Fetwaya Mela Salihê Kurdê Hekkarî” ku dikare ji bo paşxan û çavkaniyan ji vê xebatê sûd bê wergirtin (Dehqan, 2008). Ev gotara me jî du beşan pêk tê: 1. Hin notên derbarê destxetêke tefsîreke Mewlana Mihemedê Berqelî ya ku nû hatiye dîtin ku ew tefsîr li ser fetwaya Mewlana Salih hatiye nivîsîn; 2. Edîsyon û wergera wê metnê bi zimanê Îngilîzî, ya ku cara ewil li vê derê tê pêşkeşkirin.

I. MANUSCRIPT AND AUTHOR

The second Arabic manuscript against the Yezidis I ever had the joy of handling on a visit to the Library of Āstān Quds, in Mashhad, was at the first glance merely a copy of Mawlānā Sālih al-Kurdî's *fatwā*; although it was a manuscript of four folios (fols.127r.-130r.) with precisely the same incipit and the same material at least in its first folios, my curiosity was aroused by a further mention of the 10th/16th century Kurdish ‘*ālim* Mawlānā Muḥammad al-Barqal’ī. On return home I managed to identify the text as both a complete manuscript of the work of Mawlānā Sālih (re-written by Barqal’ī), that escaped my eye during its edition, and Barqal’ī’s own commentary on the same work, both belonging to the *qalam* of one of the representatives of the legal experts from Kurdistan.

The present manuscript survives in a *majmū’a* (Mashhad, Ar.14292/3, measuring 21.2x15.5). The *majmū’a* in question is comprised of three works. The first one is a commentary on *Fawā'id al-Ziyā'īyya* by ‘Iṣām al-Dīn Ibrāhīm b. Muḥammad b. ‘Arabshāh Asfarā’īnī (873-1468/951-1544). The compiler shows also his interest in the *Sharḥ Taṣrīf* by ‘Izz al-Dīn Zanjānī: the second manuscript. The colophon attributes the copying of these given manuscripts including the third one, that of Barqal’ī, to Muḥammad¹ b. Shams al-Dīn Khudāwirdī. The manuscript, in *naskh* script, is written on 1 Muḥarram 1005/24 August 1596, in Anatolia. In the Library’s catalogue there are no details about the manuscript’s depository, except for a general reference to the origin of Barqal’ī’s commentary as coming from the collection of Sayyid Muḥammad Bāqir Shīrāzī, a contemporary Shiite *faqīh* and author of *al-Fiqh al-Islāmī wa Siyr al-Zaman*, who dedicated the *majmū’a* as an inalienable religious endowment (*waqf*) to the Āstān Quds, in Muḥarram 1405/October 1984 (‘Irfānīyān, 1991, ix, 336). The text which is the

¹ The name Muḥammad is written in *muqatta’a* letters: *m+h+m+d*.

subject of this study is to my knowledge unique. In no other Arabic collection that I considered is there such a range of commentaries on the Yezidi religion as reflected in the eyes of Barqal'ī.

Who was the author in ethnic and social terms? What was the relationship between Barqal'ī and Mawlānā Şāliḥ? It is hard to answer. In comparison with Mawlānā Şāliḥ, this is a more famed case but we must confess that we do not yet (or any longer) know satisfactory details on Mawlānā Muḥammad Barqal'ī.

The name Barqal'ī fortunately is twice buried in the pages of the *Sharaf-nāma*. Although the reading Barqal'ī still seems to me doubtful but, according to *Sharaf-nāma* and some other primary sources it is a possible close reading of the orthography we have. Sharaf Khān removes any doubt about Barqal'ī's roots when, in the introductory sentences to the Bitlīs section of the *Sharaf-nāma*, he mentions Barqal'ī as one of the celebrities of his respected ancestral town. Mawlānā Muḥammad, Sharaf Khān says, was raised (and perhaps born) in Bitlīs. We also know from the *Sharaf-nāma* that Barqal'ī was connected with the rule of Sharaf Khān's grandfather. This connection will be proved by the *ḥāshīyas* he wrote in *nahw* and dedicated them to the chronicler's grandfather-Sharaf Khān the Killed (Scheref, 1860, i, 341-42).

In their geographical and travel memories Kâtib Çelebi and I'timād al-Saṭana offer, among some other things, two brief allusions to Barqal'ī, but they contain no any important information (Kâtib Çelebi, 1824, 415; I'timād al-Saṭana, 2010, 775). For a better thought about the subject treated in this article, one may mention the Arabic treatise of 'Alī Afandī, simply called *Risāla*. This is written in 1297/1880, but its concepts and some of the contents emerge from 10th/16th century. Besides some other Kurdish 'ulamā discussed in the manuscript, in particular those of Ardalān, and an allusion to Mawlānā Şāliḥ, we learn from 'Alī Afandī that Barqal'ī, here known as Muḥammad al-Barqal'ī, was a very active Kurdish scholar against the Shiites ('Alī Afandī, fols.9v.-10r.). In his *al-Aḥkām al-Dīnīyya fī Takfīr al-Qizilbāsh*, an anti-Shiite Arabic polemic (written on 3 Rabī' I 986/19 May 1578 and dedicated to Süleymān I), Mullā Ḥusayn b. 'Abd Allāh Shirwānī has also included Barqal'ī among the Sunni 'ulamā who provided *radds* against the Shiites. The Kurdishness of Barqal'ī is attested to by Shirwānī². What can we make of these material is that Barqal'ī wrote at least a polemic against the Shiites. It is easy to accept that he struggled against all non-orthodox Kurds.

As regards the present commentary, there seems to be general agreement on some points. The commentary forms what Barqal'ī terms simply the Yezidis without, it would seem, naming any positive sense or good Yezidi characteristic that he might include in this commentary. We need to note here that Barqal'ī was known as a person who had critical views on Yezidi issues. A *fatwā* of Barqal'ī (if it would not be the same we are dealing here) is mentioned by Şem'î Efendi in his Turkish translation of the *Sharaf-nāma*³. Yet, despite this rejection mentioned elsewhere and also his expressed definite rejection of the Yezidis and their doctrines here, we can see quite well that his thinking depended on a somewhat more humanistic manner. From the text that follows it is clear that Barqal'ī

² The name here is also given as محمد البرقلعي (Shirwānī, fol.4r.).

³ The text runs: *Kürdistan alimlerinin bazıısı hususen Mevlana Mehmed Berkal'î ki zamane munşi idi, şöyle fetva virmişdür ki bu Yezidi taifesinin emval ve erzakını kifayet mikdarı almak mübahdur* (Şem'î Efendi, fol.4v.).

had a critical view on Mawlānā Şālih and what he said in his *fatwā*. Although Barqal'ī is himself an anti-Yezidi Muslim scholar, yet he has tried to soften the fundamentalist view of Mawlānā Şālih. It seems to me that Barqal'ī disliked the religion but he tried to give a fair religious discussion, avoiding personal judgments.

Let us here back to the *Sharaf-nāma* and his other reference to Barqal'ī. Accordingly, Barqal'ī had entered the court of Badr Bayg, son of Shāh-'Alī Bayg, the ruler of Jazīra during the reign of Süleymān I to train as a scholar (Scheref, 1860, i, 128). From the words of Sharaf Khān it is clear that Barqal'ī was an influential scholar of the area of Jazīra and probably a private secretary to Badr Bayg. Moving away from Bitlīs, his attention presumably began to turn more and more towards the religious minorities of Jazīra where a considerable community of the Yezidis was from earlier times inhabited. The possibilities of Barqal'ī's daily life help us grasp the way in which a Muslim 'ālim encountered some Yezidi laymen (if not necessarily intellectuals) who were not similar to what claimed by Mawlānā Şālih. Changes in form, however, can be seen as perhaps a reaction against the very harsh fundamental norms of a previous age, but more significantly, a change in form enabled Barqal'ī to show a much softer view regarding a reality of Jazīra and some other parts of Kurdistan. Perhaps patterns for human relations within society influenced the way relations between Kurdish humans and gods were imagined. Again-I stress that his argument is not that the Yezidis were not so bad as they seem and that they deserve to be rehabilitated. Their religious status, as a heterodox sect, does not interest him as all. Whether they were good or bad is not the point. What does interest me is his style and objections against another Kurdish scholar of the time.

I should like to make a further point relating mainly, but not only, to these two scholars. Were Barqal'ī and Mawlānā Şālih rivals? I do not think that the explanation lies in the personal hostility of Barqal'ī, a younger scholar, towards his contemporary predecessor, though undoubtedly it helped. As far as Yezidism, as a 10th/16th century problem at a Kurdish level is concerned, it seems also relevant that the Kurdish 'ulamā of the later generations had probably to cope with a more organized Yezidi clergy, and perhaps a more number of elites, to whom the cheap way of doing abusive polemics was not effective. In other words, Barqal'ī presumably had the intellectual Yezidi audience in mind. A high sense of endurance, self-control, and religious honor is visible in the commentary. Such a religious morality was common enough among those traditionalists, writers, and mystics who aimed at giving practical advice to their readers.

II. TEXT AND TRANSLATION

To analyze some basic problems of Mawlānā Şālih's work a distinguished model of interpretation is applied: *majzī* 'mixed' commentary. After the complete mention of the text of *fatwā*, ending with *qāla Mawlānā Şālih alayhi al-raḥma*, through his own text (the commentary) the interpreter (the commentator) again mentions some basic discussions of the *fatwā* as headlines and then interprets it to the recipients and the readers of the commentary as the problem or real message of that legal text. As is indicated above, there are many correspondences between contents of Barqal'ī's commentary and the *fatwā* of Mawlānā Şālih. What is mentioned from *fatwā* or is referred to the words of Mawlānā Şālih is here given in **bold**.

A number of *fiqhī* problems are given here that hardly can be understood, even by the persons with a Shāfi'ī knowledge. The text is written in relatively clear handwriting, but there are some orthographical and grammatical mistakes, perhaps when relating matters so unfamiliar that later copyists had no idea of what they were writing.

The language is mostly unproblematic, whereas the contents are often difficult to explain. The commentary (fols.128v.-130r.) reads as follows:

قال: «إعلم أنهم متفقون على أباطيل من عقائد» إلى قوله: «ويزعمون أنه كذب».

He said: “know that they are in agreement upon futile beliefs” to his words: “and calling them lies”.

أقول: إنا لا ننكر كفرهم، و لا نشكل فيه، بل النزاع إنما هو في تعيين نوعه.

[To this] I say: we do not deny their blasphemy, and we do not make difficulty in that (judgment); but the dispute is over its kind.

قوله: «و أن مثل هذيانات شيخ فخر» هي المعتمد عليها و التي يجب أن يتمسك بها.

His words: “they believe in absurd statements such as those of Sheikh Fakhr, and the like; to which they think they must cling”.

[أقول:] الصواب في لفظة «شيخ» التعريف باللام، كما أن الأولى في ضمير «عليها» التذكير؛ وحذف لفظة «مثل» إلا أن يحمل على الكناية.

[To this I say:] it is better to mention the word “sheikh” with the definite article *al-* as it is also better to mention the pronoun “alayhā” in masculine, and eliminating the word “mithl”; unless he uses these for belittling them.

ثم لبيت شعري أنهم في أي شيء يزعمون إنها المعتمد عليها و التمسك بها مع ما سمعنا فيها. ليست تبني عن اعتقاد و لا مما يتعلق بها عمل إلا أن يريد في كونها أنفع في الاستماع إليها من القرآن.

Then, according to what we heard, I wish I knew on which matter they find him trustworthy and cling to him. There is not believing in him and no (religious) act belongs to him; unless it is intended to say implicitly that they get more benefit from listening to him than Qur’ān.

قوله: «و منها: أنهم يمكنون شيوخهم».

His words: “these include: that they give their sheikhs access”.

[أقول:] لا عدّ التمكين الذي هو من الأفعال، إمّا من العقائد أو من الأقوال. ولا يستقيم إلّا على إرادة عموم مجاز منها، وذلك مستبعد جداً. فإنّ اطلاق «الفعل» عليها مشهور فيما بينهم بدون العكس. فالصواب والأولى في العبارة أن يقول: «أنهم يمكنون شيوخهم مستحليين ذلك» وكذلك الكلام في قوله: «منها: أنهم يحبّون اللالش».

[To this I say:] the obedience (from their Sheikhs) is not reckoned among the acts, but it is whether of ideas or sayings. It is incorrect; unless it is intended to be a metaphorical (not real) expression which seems highly improbable. So, the application of “act” to them, without its ‘aks (conversion)⁵, is well-known among them. So, it was better and preferable to say: “they give their sheikhs authority and regard this as a lawful act”. In the same way, it was better to say “these include: they love Lālish”.

قوله: «وثانيتها هي الذين».

His words: “secondly they are those (in feminine)”.

[أقول:] الأولى أن يقول «هم الذين» لا تطباقه على الطريقتين دون «هي».

[To this I say:] because of its conformity with those two other sects, it was preferable to say “those (in plural masculine) who” and not “those (in singular feminine) who”.

قوله: «فهم إمّا كفرة أصلية، كما نقل عن بعض كتب المذهب» إلى قوله: «والبطن الثاني كفار أصليون».

His words: “they are pure unbelievers as it has been stated in some religious books” to his words “the second group is the unbelievers”.

[أقول:] يلزمه أن يكون أكثر بلاد الإسلام ديار الحرب، لظهور أحكام الكفر فيه؛ وهو باطل. على أنّ المنقول في الكتب المتصنّف في مذهب الشافعي «أنّ حكم المرتد لا يختلف ببقائه في قبضة الإمام والتحاقه بدار الحرب». وأيضاً المشهور من المنقول عن كتاب «المتفق والمختلف»⁶ هو «أنّ أهل الردة إذا استقلوا بالدار، فلهم حكم أهل الحرب». ومع ذلك فلا ينطبق على ظاهر مذهب الشافعي. فلا بدّ من التأوّل في المنقول الذي ذكره. وما قيل: من «استرقاق أولاد المرتدين و اغتنام أولادهم» ففرع على القول: «بأنهم كفار أصليون»؛ وهو مرجوع عند الشافعي.

[To this I say:] a state of fighting within most of the Islamic lands, because of the pronouncement of the judgment of blasphemy there, is a requisite for this word which is a vain word. According to what mentioned in Shāfi‘ī books, the judgment of the apostate does not change with remaining at the hand of *imām*, and joining to the Land of War (for holy war). Also, according to the famous saying of *al-Muttafiq wa al-Mukhtalif*, “when the apostates inhabit in a land, their judgment is like those who involved in the holy war”. Notwithstanding it is not in accordance with the school of Shāfi‘ī, so we are forced to paraphrase what is mentioned. What is said on “keeping the younger generations of the apostates in bondage, and spoiling their possessions” is a secondary concern in

⁵ For ‘aks as a technical term of *fiqh*, see (Ḥusaynī, 2006, 345).

⁶ Unidentified.

comparison with the following saying: “they are unbelievers”, which is rejected by Shāfi‘ī.

قوله: «و من لم يكفر... الخ».

His words: “those who do not call...etc”.

[أقول:] كأنه تجاهل منه و إلّا فكفرهم أشهر و أظهر من الشمس، يعرفه كلّ أحد؛ حتى الصبيان و المجانين. وظنّ أنّ من حرم أموالهم ظنّ إسلامهم.

[To this I say:] it seems that he feigned to be ignorant of this matter, otherwise their blasphemy is more famous and clear than sun; all persons, even the children and the insane ones, know their blasphemy. It is supposed that everyone, who prohibited their possessions, considered them as Muslim.

قوله: «بتقيّة و سترأ... الخ».

His words: “(they) dissimulate and veil...etc”.

[أقول:] كأنه نسى ما قال الرسول: «هنا تشققت قلبه».*

[To this I say:] it seems that he has forgotten Prophet’s saying: “his heart should be cleaved”.

قوله: «أو طمع فيما في أيديهم».

His words: “or covet their possessions”.

[أقول:] و لا يخفى أنّ ما ذهب إليه أدلّ على الطمع فيما في أيديهم، مع أنّ مجرد الكفر لا يوجب حلّ أموالهم، و النزاع فيه.

[To this I say:] it is not hidden that what he believed in denotes his covetous desire for their possessions. We cannot lawfully extort their possessions, merely because of their blasphemy; and the dispute is here.

قوله: «الجواب أنّ الظاهر من عبارة الفقهاء».

His words: “the response: the decision of the Islamic lawyers”.

⁷ Text has بغيّة.

⁸ This represents a prophetic *ḥadīth*. See (Abī Dā’ūd, 2002, ii, 286), where a somewhat different and more complete version is given.

أقول: الظاهر من عبارة الفقهاء: أنّ توبة المرتد فيه تفصيل، كما في توبة الكفار الأصلي، وأن الرجوع عما اعتقد والتبرؤ عن كل دين يخالف الإسلام إنما هو في كافر ومرتد يقرّان بالوحدانية ونبوة محمد أو استباحة محرّم مثلاً و أمّا غيرهما فيكفي في توبته الإتيان بالشهادتين؛ ثمّ يجري على سائر الأحكام و الأظهر في ذلك عبارة «الروضة». فأما يوافق التفصيل على مدعاه تركه و ذكر الإجمال تغليظاً.

[To this] I say: the decision of the Islamic lawyers reveals that: as the repentance of the unbelievers, the repentance of the apostates includes details. Indeed, his rejection of what he previously believed and freeing himself from religions which are opposite to Islam merely relate to those unbelievers and apostates who bear witness that there is no God except Allāh and Muḥammad is the Apostle of God, or, for example, declaring unlawful matters among the religious acts that may or may not be performed. For the cases other than these, it is enough to bear the *shahādatayn* (two declarations of faith); then, this runs over other judgments. *al-Rawḍa*'s expression is more obvious here. He omitted to mention what is in accordance with the details of his claim and only mentions a summary emphatically.

قوله: «و توبة الزنديق لا يقبل في وجه».

His words: “the repentance of the *zindīq* (unbeliever) is not accepted”.

[أقول:] كأنه غفل عما قيل عليك بالسواد الأعظم.

[To this I say:] it seems that he is unaware of what has been said about the Larger Sawād¹⁰.

قوله: «و لا نزاع في حرمة الخ».

His words: “there is no dispute about the ban...etc”.

[أقول:] نفي النزاع على العموم في المذكورات، مع أنّ للنزاع مجال في عقد الجزية معهم؛ إذا قيل «إنهم أولاد المرتدين» بناء على القول: «بأنهم كفار أصليون» قد جوز ذلك الإمام. و كذلك في اطلاق وجوب قتلهم و مقاتلهم نظر ظاهر.

[To this I say:] there can be no discussion of the generality of what said before but there are problems with the levying *jizya* (poll tax) on them when “they are younger generation of the apostates”, or that *imām*, based on “they are unbelievers”, allows levying *jizya* on them. In the same way, the viewpoint is clear about killing them and fighting against them.

قوله: «إذ ما في أيديهم لا يخلو عن هذين القسمين».

⁹ For this, see (Dehqan, 2008, 150, n.66).

¹⁰ A name used for 'Irāq, or the irrigated and cultivated districts within an area (Yāqūt, 1866, iii, 174).

His words: “because their possessions, as will be evident, are not unaffected by these two conditions”.

[أقول:] فيه إن ما في أيديهم يحتمل قسمًا ثالثًا غير الفىء و المال الضايغ؛ فإنه يحتمل أن يكون مما اكتسبوه بالاحتطاب و الاصطياد فإن تملكه موقوف كما أن ملكه موقوف على القول الأصح.

[To this I say:] this presents a problem that perhaps their property would be a third condition, something other than *fay'* (legitimate booty) and the property that has been lost. It is probable that it would be of those things they gained by firewood selling and hunting. So, both taking possession of it and its ownership depend on a more correct saying.

قوله: «فما عرف المأخوذ منه».

His words: “in case the owner of the property is known”.

[أقول:] كأنه اختار في العبادة الوجه الرجوع ليثاب المدعى في الباب.

[To this I say:] it seems that he chose a rejected section of *'Ibāda* (act of devotion)¹¹ so as he would be remunerated for his claim.

قوله: «فعلم أنه لا يتصور لهم مال في الغالب».

His words: “I know that it is not normally conceivable that they own property”.

[أقول:] قيد «في الغالب» زائدة على ما زعم لا طائل تحته.

[To this I say:] the stipulation “fi al-ghālib” is superfluous and it seems that there is no need to mention it.

قوله: «كان حكم الأموال الكائنية بأيديهم على ما ذكرنا... الخ»¹².

His words: “the legal situation regarding their properties is as was mentioned”.

[أقول:] فيه ما قدمناه و كأنه التزم ذكر متعلقات الظروف العامة فلذا كرر.

[To this I say:] here there is the same problem we mentioned previously. It seems that he found it necessary to mention the appurtenances of the general capacities. So, it is repeated.

¹¹ For *'Ibāda*, see (Ḥusaynī, 2006, 327-28).

¹² The manuscript repeats قوله كان حكم الاموال الكائنية قوله كان حكم الاموال الكائنية بأيديهم. The first is apparently superfluous.

قوله: «قلنا: القول بإسلام صبياتهم مرجوح، زيفه صاحب «الروضة» و جزم بأنهم مرتدون».

His words: “we say: the author of *al-Rawḍa* has cited [a passage] about the Islam of their younger generation and expressed the definite opinion that they are apostates”.

أقول: قال صاحب «الروضة»: قلت كذا صححه؛ يعني إسلام المرتدين. البغوي¹³ فتابعه الرافعي¹⁴. و الصحيح إنه كافر أصلي و به قطع جميع العراقيين. و نقل القاضي أبو الطيب¹⁵ في كتابه «المجرد»: «إنه لا خلاف فيه في المذهب و إنما الخلاف في إنه كافر أصلي أم مرتد؛ الأظهر أنه مرتد و الله اعلم». هذه عبارة «الروضة». و ليس فيها جزم، بأنهم مرتدون، كما ترى مع أنه قوله: «الأظهر مرتد» ليس بمعتمد به، لأنّ الولد إذا انعقد من كافرين أصليين و له جد مسلم يجعل مسلماً تبعاً لجدّه. فان تبع أبويه في الإسلام الذي كان قبل الردة أولى. و تبعية الأبوين في غير الإسلام إنما يكون في كفر أصلي و التبعية في الردة ضعيفة أو محالة. نقل أن نصوص الشافعي بذلك.

[To this] I say: the author of *al-Rawḍa* said that I said this and also corrected it, i.e. the Islam of the apostates. Baghawī and Rāfi‘ī followed him. The correct matter is that the unbelievers are carried into account (here) and all ‘Irāqī *‘ulamā* certainly accepted this. In his book *al-Mujarrad*, Qādī Abū Ṭayyib states that “there is no difference about that in the religious books. Indeed, the difference is about that whether they are unbelievers or apostates. Apparently, they are apostates. God knows best”. This is *al-Rawḍa*’s expression. It reveals no certainty that they are apostates. As you see, his words: “apparently, they are apostates”, is not trustworthy. For, when a child, whose grandfather was a Muslim, was born from two unbelievers, he should, after his grandfather, be reckoned as Muslim. It is preferable that he would be his father’s follower when the latter was a Muslim and before he committed apostasy. Following those fathers and grandfathers, who left Islam, indeed is similar the following of the unbelievers. It is a weak or even impossible matter that one follows those fathers and grandfathers who are apostates. These are mentioned in the Shāfi‘ī texts.

فوجب القول على مذهب الشافعي: «بأنهم مسلمون» و بطل القول: «بأنهم كفار أصليون»، لأنه نقل إنه قد نص في جميع كتبه «أنّ ولد المرتد لا يسبي» و الذين يقولون هذا القول: «إنه يسبي» ولم يصح عن الشافعي القول: «بأنه مرتد» و يرد على الاتفاق الذي نقله القاضي أبو الطيب أنه شهادة على النفي، فلا يقبل. و كيف و قد نقل الرافعي و البغوي الخلاف فيه و صححا القول: «بأنه مسلم»؟

¹³ This is Abū Muḥammad Ḥusayn b. Mas‘ūd Baghawī (432/1041-516/1122), better known as Muḥī al-Sunna, an influential Shāfi‘ī scholar originally from Baghsūr in northern Bāghdīs. For more information on Baghawī, famed for his Salafism, see the introductions to his own published works: *Sharḥ al-Sunna* and *Maṣābiḥ al-Sunna* (→ references).

¹⁴ Probably Barqalī refers to ‘Abd al-Karīm Rāfi‘ī Qazwīnī (d.623/1226), one of the great Shāfi‘ī *faqīhs*. He was also known as Imām al-Dīn. For some details, see the following work and its introduction: *al-Qism al-Tāsi‘ min Kitāb Fath al-‘Azīz fī Sharḥ al-Wajīz* (→ references).

¹⁵ The reference is to Abū Ṭayyib Ṭabarī, Ṭāhir b. ‘Abd Allāh b. Ṭāhir (348/959-450/1058), a *faqīh* of Shāfi‘ī school, who was born in Āmul and played a very significant part in promoting Shāfi‘ī law in ‘Irāq. For a long time Abū Ṭayyib Ṭabarī, also known as *qāḍī* or shaikh of ‘Irāq, was the main judge of Baghdad (Khaṭīb, 1931, ix, 358-60; Subkī, 1933, iii, 178-82).

¹⁶ Text has *al-Tajarrud* which should certainly be emended to *al-Mujarrad*. For this *risāla* as one of the less-known works of Abū Ṭayyib Ṭabarī (ibn Qāḍī, 1978, i, 238; Subkī, 1933, iii, 176).

It is necessary, according to the Shafī'ī school, to say that “they are Muslims”. As it is mentioned in all his books that “it is impossible to keep the child of apostate in bondage”, it is a futile word that “they are unbelievers”. Some say “it is possible to keep the child of apostate in bondage” (while) Shafī'ī do not acknowledge their apostasy. According to the consensus that Qādī Abū Ṭayyib mentioned, it is unacceptable. How we can accept that Rāfi'ī and Baghawī had cited a different view about it and, at the same time, acknowledged that the younger generation of the apostates “are Muslim”?

فالحاصل: إن القول: «بحرمة أموالهم» أولى وأرجح من القول: «بحلها» لأنه ما اجتمع الحلال والحرام إلا وقد غلب الحرام على الحلال وإته اسلم و الاخذ بالإسلام¹⁷ أولى وأرجح.

The conclusion: the word on “the ban of their properties” is preferable to “make it licit” as licit and forbidden matters do not come together; unless forbidden matters would prevail against licit ones. He is Muslim and it is preferable to consider him as Muslim.

و في الجملة قد سلك مؤلف الكلمات في هذا الباب المغالطة. ألا ترى أنه قد أتى بالمرجوحات في صورة الراجحات و المقيدات في صورة المطلقات¹⁸؟ و ترك ما يستنبط و استنبط¹⁹ لا يحصد غير أنه ليس في عبادته عزم²⁰ صحيح حتى يجيب الله. كى تركت التعرض له في الأكثر حذراً عن الإكثار و الغيبة. فكأنه غمض عينيه و صمم أذنيه فظن أنه لا يرى مبصر و لا يسمع و اع. و السبب في ذلك أنه لما قال من غيظ صدره قول و رأى العوام قد تلقوه بالعيق لكونه ممّا اشتتهه أنفسهم و قاس الغائب على الشاهد حملة ذلك على امضائه، فأجر و ارتكب ما نوى من الأقوال الواهية إلا أنّ في مثل هذا المقام كظم الغيظ واجب و الندم ما صدر منه لاذب. جنبنا الله من الجدل و العناد في الدين و الهما بفضله الصواب و اليقين. اللهم اهدنا الحق و اجعله لنا فطنا و لا تجعلنا من²¹ الذين يرون أقيح ما يأتونه حسناً.

In short, the author of these words has showed chicanery. Are you not seeing that he has mentioned *marjūhāt* (forbidden and reprehensible duties) as *rājihāt* (obligatory and desirable duties)²² and *muqayyadāt* (limited duties) as *muṭlaqāt* (unlimited duties)²³? He withdraws what is understandable and deduces something that cannot be obtained; there is no pure intention in his worship so as would be acceptable by God. Because of abstention from talkativeness and backbiting, I left to object him more. So, it seems that he has closed his eyes and turned the deaf ears, and he thought that no spectator can see that and no vigilant can hear that. The reason for this is that he angrily spoke (of the Yezidis) and saw that the illiterate people welcomed it as they accepted it with relish. He (mistakenly) compared *ghā'ib* (absent) with *shāhid* (witness) and imagined this (enough) to execute that judgment. So, he valued that and accepted the futile words whereas it is necessary to repress the anger; and it is not one's benefit to be regretful of what he has done. May God remove from us dispute and contumacy to religion; grant us, with His favour, a pious act and certainty. O God, show us the truth, and make us of intelligent ones, not of those who see the indecency but do not operate good deed.

¹⁷ Text spells بالاسلم.

¹⁸ Spelled المطلقا.

¹⁹ استنبط and يستنبط.

²⁰ عظم This is wrongly written given here.

²¹ Both من and مع are given here. The second is in line, but the first was preferable to me.

²² For *marjūh* and *rājih*, see (Husaynī, 2006, 229).

²³ For *muqayyad* and *muṭlaq*, see (ibid, 2006, 481, 502).

قاله مولانا محمد البرقلعي عليه الرحمة و الرضوان و صلى الله على محمد و آله و أصحابه أجمعين الطيبين الطاهرين و سلم تسليماً كثيراً و الحمد لله وحده. تمت.

It is said by Mawlānā Muḥammad al-Barqalī. May God forgive him, and enter him into the paradise. God bless Prophet, his family, and his companions all virtuous and pure; and grant him abundant peace. Praise merely belongs to God. It is finished.

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