The Light of Lights on the Commentary of Al-Manaar

Volume II

Author: Imaam Ahmad Mulla Jeewan al-Hanafi
Translator: Mufti Muhammad Huzaifah ibn Adam aal-Ebrahim
Edited, Checked & Approved by: Mufti A.H. Elias

Nidaa-ul-Haqq Publications
Noor-ul-Anwaar fee Sharh-il-Manaar
(The Light of Lights on the Commentary of Al-Manaar)
Volume II

Author: Imaam Ahmad Mulla Jeewan al-Hanafi رحمة الله عليه.
Translated by: Mufti Muhammed Huzaifah ibn Adam aal-Ebrahim

Checked and Approved by: Mufti A.H. Elias

Nidaa-ul-Haqq Publications


**Index:**

**Part Two, From Section One: Al-‘Aam**

- **Definition of `Aam** P.6
- `Aam Including a Number of Constituents by Way of Encompassing P.6
- There is no `Umoom in Meanings P.7
- The Negating Nakirah Includes Constituents by Way of Replacing P.8
- Istigbraaq is Not a Condition in `Aam According to Imaam al-Bazdawi P.8
- According to Sadr-ush-Sharee `ab, Istigbraaq is a Condition P.8
- Its Ruling Before Takhssees P.9
- `Aam is Qat`iyy (Absolute) Before Takhssees P.10
- `Aam is Equal to Khaas P.10
- Abrogation of Khaas with `Aam is Valid P.11
- Sub-Branches From This Principle: P.11
  - The First: The Abrogation of the Hadeeth of `Uraynah P.11
  - The Second: Bequeathing a Ring to Someone and the Stone to Another P.13
- A Discussion on the Aayah: {"And do not eat from that upon which the Name of Allaaah was not mentioned..."} P.15
- The Proof of "Man" That the Limbs Are Part of Wealth and Not of the Being P.17
- Its Ruling After Takhssees P.20
  - The First Opinion: `Aam after Takhssees is Speculative, Whether it Has Been Made Khaas with Something Known or Unknown P.20
  - The Linguistic Definition of Takhssees P.21
  - Takhssees with the Intellect, or Senses, or Habit, is Not Technically Takhssees, and `Aam Does Not Become Speculative on Account of It P.21
  - Examples of Takhssees Using Something Known or Unknown P.22
  - The Second Opinion: `Aam Cannot be Used as Evidence After Takhssees P.29
  - The Third Opinion: `Aam Remains Qat`iyy Even After Takhssees P.31
  - The Fourth Opinion: `Aam Remains Qat`iyy If the Proof of Takhssees is Unknown, or Known and Does Not Accept Ta`leel P.32
  - The Word-Forms of `Umoom P.33
  - The Types of `Aam from the Aspects of Word-Form and Meaning P.34
  - The Types of `Aam from the Aspect Meaning but not Word-Form P.34
  - A Discussion on "Man" and "Maa" P.36
  - By Default, They Are Used for `Umoom, But They Can Also Be Used for Khusoos P.36
- The Statement That They Are for Khusoos in Akhbaar is Incorrect P.36
  - "Man" is For Those With `Aql, and "Maa" is For What Does Not Possess `Aql P.36
- Sub-Branches from This: P.37
  - Whosoever Among my Slaves Desires Freedom P.37
If He Says to His Slave-Girl: "If what is in your womb is a boy..." P.39
"Maa" is Sometimes Used to Mean "Man", by Way of Metaphor P.39
A Discussion on "Kull" P.40
A Discussion on "Jamee" P.44
The Difference Between the 'Uloom (Generality) of "Man", "Kull" and "Jamee" P.45
"Kull" Carries the Possibility of Khusoos P.46
"Man" is not Muhkam in 'Uloom (Generality) P.46
The 'Uloom of Nakirah When Used in a Place of Nafi (Negation) P.47
Their 'Uloom When Used in a Place of Ithbaat (Affirmation) P.48
Mutlaq Remains Upon Its Ilaaq P.51
Nakirah That is Qualified with a Qualifier That is `Aam Becomes `Aam P.51
Nakirah That is Made Definite with Laam (Other Than `Abd) Becomes `Aam P.56
The Default Laam is Laam-ut-`Abd P.56
When Alif and Laa Enter Upon a Plural, The Consideration of Plurality Falls Away P.61
The Benefit of Nakirah When it is Repeated as Ma`rifah P.63
The Benefit of Nakirah When it is Repeated as Nakirah P.63
The Benefit of Ma`rifah When it is Repeated as Ma`rifah P.64
The Benefit of Ma`rifah When it is Repeated as Nakirah P.65
What Khusoos Ends At is of Two Types P.67
The Ruling: The Lowest Plural P.68

Part Three, from Section One:
Al-Mushtarak P.71
Definition of Mushtarak P.71
A Discussion on the Word "Shay"" P.72
An Example of Mushtarak P.73
The Ruling of Mushtarak P.73
A Discussion on the Word Quroo' P.74
Mushtarak Does Not Become `Aam P.75
Al-Mu'awwal P.77
Definition of Mu'awwal P.77
Ruling of Mu'awwal P.79

Section Two: The Words Which Have Clear Meanings

Part One, from Section Two
Azb-Zhaahir P.80
Definition of Zhaahir P.80
Ruling of Zhaahir P.81

Part Two, from Section Two
An-Nass P.82
Definition of Nass P.82
Ruling of Nass P.84
Al-Mufassar  P.85
Definition of Mufassar  P.85
Ruling of Mufassar  P.86
Al-Mubkam  P.86
Definition of Mubkam  P.86
Ruling of Mubkam  P.87

Section Three: Hidden Meanings  P.96

Part One, from Section Three  P.96
Al-Khafî  P.96
Definition of Khafî  P.96
Ruling of Khafî  P.97

Part Two, from Section Three  P.100
Al-Mushkil  P.100
Definition of Mushkil  P.100
Ruling of Mushkil  P.101

Part Three, from Section Three  P.104
Al-Mujmal  P.104
Definition of Mujmal  P.104
Ruling of Mujmal  P.106
Al-Mutashaabih  P.109
Definition of Mutashaabih  P.109
Ruling of Mutashaabih  P.110
Part Two, from Section One:

القسم الثاني من التقسيم الأول

العام

Al-`Aam (General)

Now that the author has completed his explanation on al-khaas, its rulings and its categories, he now commences his explanation on al-`aam (general), so he says:

تعريفه

1. Its Definition:

(وأما العام: فما يتناول أفراداً منفقة الحدود على سبيل الشمول)

"As for `aam (general), then it (is such a thing that) includes (a number) of individuals all of which are the same in terms of their boundaries and limits\(^1\), by way of encompassing all of them."

\(^1\) The meaning of what the author said is that, the different individuals are in agreement in terms of the truthfulness of the meaning which is pointed out to by the word. The meaning of them being the same or in agreement in terms of boundaries/limits is not that they are the same in terms of their beings or how they are, because that would mean that animals do not fall under `aam, because the maahiyat (the how, or being, or essence) of each animal is different. Such a notion is incorrect. Rather, animals as a whole fall under `aam, because though their beings or essences are different, they all fall under the broad meaning of the word "animal."

6
So the word "maa" refers to a word that is placed, because there is no `umoom (generality) in the meanings (of words, i.e. the meanings are not described with "generality", neither in a literal sense nor in a metaphorical sense), and `aam is from the categories of the types of the text in placement, like khaas (specific).

By him saying, "It comprises of individuals," khaas has been excluded. Khaas is of three types:

1. Khaas-ul-`Ayn (Khaas of an individual).
2. Khaas-ul-Jins (Khaas of a species).

As for khaas-ul-`ayn (specifying a particular individual, like “Zaid”), then why it has been excluded (from being `aam) is obvious. As for khaas-ul-jins (i.e. insaan or human being) and khaas-un-nauw` (i.e. man or woman), then it is because they comprise of one complete, absolute meaning, or one individual though being able to include many as well, but their subject-matter is not individuals (afraad).

Similarly, asmaa-ul-`adad (numerals, like three, four, etc.) have been excluded because they comprise or relate to parts (ajzaa), not individuals (afraad). [The difference between the two is that ajzaa refers to pieces of a whole, and which, if they are joined together, that whole is formed, but each individual part cannot be taken to refer to the whole. For example, if it is said, "Zaid's hand." Hand (yd) here is a juz` (part) of a whole. Zaid is the whole. Zaid is not his hand. The hand is a part (juz`) of Zaid.]
Similarly, mushtarak has been excluded because it comprises of and deals with meanings (i.e. having one or more meanings), not individuals.²

Thereafter, the statement of the author: "Having agreement in terms of their limits/boundaries, by way of encompassing."

This is to clarify the essence of `aam and is not for the purpose of limiting.

It has also been said that the statement of the author: "Having agreement in terms of their limits/boundaries", is to separate it and exclude mushtarak, because mushtarak includes those individuals that are different in terms of their limits/boundaries. And the author saying: "by way of encompassing," is to exclude the negating nakirah (indefinite), because it includes individuals by way of substitute, not by way of encompassing.

The author sufficed with saying "including" rather than using the term "istikhraaq", which gives the meaning of fully encompassing (literally, istakhraqa - yastaghriqu - istikhraaqan, is to plunge something into water, and this term is used metaphorically to denote absolute an absolute encompassing), because he is following Fakhr-ul-Islaam (Imaam al-Bazdawi رحمه الله عليه), because according to Fakhr-ul-Islaam, istikhraaq (full encompassing) of all the individuals is not a shart (condition) when it comes to `aam, because plural, be it definite or indefinite, all of it is `aam. However, according to the author of at-Tawdheeb, istikhraaq of all individuals is a shart when it comes to `aam, and an indefinite plural is (according to him) in the middle between being `aam and being khaas.

² The subject of mushtarak will be explained in detail later on in this Kitaab.
2. Its Ruling Prior to Takhsees

The author says:

"It necessitates complete knowledge and understanding in that which it includes." (i.e. the word "hukm" here means `ilm and fahm (understanding).) Qat'an is connected to the verb "yoojibu" (necessitates) and is a tamyeez (clarifier) for it. The meaning given by qat'an here is: "a meaning that is most `aam, i.e. the negation of any evidence-based possibility of something else.)

This is an explanation of the ruling of `aam after having explained its meaning.

فقوله: (وجب الحكم) رد على من قال أنه مجمل لاختلاف أعداد الجمع فلا يكون موجباً أصلاً، بل يجب التوقف حتى يقوم الدليل على معين وقوله: (فما يتعلق) رد على من قال: لا يوجب الفرد إلا الواحد ولا الجمع إلا الثلاث، والباقي موقوف على قيام الدليل وقوله: (قطعًا) رد على الشافعي رحمه الله حيث ذهب إلى أن العام ظني لأنه ما من عام إلا وقد خص منه البعض، فيحتمل أن يكون مخصوصًا منه البعض وإن لم نقف عليه، فيوجب العمل لا العلم كخبر الواحد والقياس ونقول: هذا إحتمال ناش بدل دليل وهو لا يعتبر وإذا خص منه البعض كان إحتمالًا ناشأً عن دليل فيكون معتبرًا

فعدنا: العام قطعي، فيكون مساوياً للخاص
So the statement of the author: "it necessitates knowledge," this is a reply to those who say that it is *mujmal* due to the different numbers of plural, thus in essence it cannot necessitate (anything), but rather, reserving judgement is necessary until some evidence has come about to make it *mu`ayyan* (specific).

His statement, "in that which it includes," is a response to those who say that *fard* (singular) does not necessitate except one, and plural does not necessitate except three, and to establish more than that, there is a need for proof.

His statement, "absolutely," is a response to Imaam ash-Shaafi`ee رحمة الله عليه because of him saying that `aam is *zhami* (speculative), because there is no `aam except that part of it is *kbaas*, so there is the possibility of it being *maksuus minbul ba`di* (part of it is specific) even if we do not come across any evidence (for that), so it necessitates action, not knowledge, like a *khabr-e-waahid* and *qiyaas* (analogical reasoning).

We say: "This is a (claim of) possibility that has no proof and therefore is not considered. If part of it is *kbaas*, then the *ibtimaal* (possibility) would be evidence-based and in that case it would be considered.

Thus, according to us, `aam is *qat`iyy* (absolute, not speculative), so it is equal to *kbaas.*
فهذا الحديث خاص ببول الإبل يدل على طهارته وحله، وله تسمك محمد رحمه الله في أن بول
ما يؤكل لحمه طاهر، ويحل شربه للنداوي وغيره.
وعندما نسخ بقوله عليه الصلاة والسلام: إِسْتَنْزِيُوْا مِنَ الْبَوْقِ، وَلَا لْمَأْكُوْلَ اللَّحْم
وغيره، فقد نسخ الخاص بهذا العام.

The author says:

"So much so that it is permissible to abrogate khaas through it."

Meaning, through `aam, because one stipulation when it comes to abrogation is that the abrogator must be equal to or greater than the thing being abrogated.

The author says:

"Like the Hadeeth of the `Uraniyyeen; it is mansookh (abrogated) by the statement of Rasoolullaah صلى الله عليه وسلم, "Keep away from urine."

The `Uraniyyoon were a tribe from `Uraynah, which is a valley near `Arafaat. The Hadeeth concerning them has been narrated by Hadhrat Anas ibn Maalik رضي الله عنه. He narrates that a group of people came to Madeenah, but it (its weather, conditions) did not agree with them, so their skin turned yellow and their stomachs became swollen. Rasoolullaah صلى الله عليه وسلم commanded them to go to the camels of the sadaqah, and to drink from their milk and their urine. They did so and they were cured. Thereafter, they became Murtadd, killed the shepherds and chased away the camels. Rasoolullaah صلى الله عليه وسلم sent some (Sahaabah) after them. They were caught, and Rasoolullaah صلى الله عليه وسلم ordered that their hands and feet be cut off, their eyes be burnt (with iron rods), and that they be left in the heat (of the desert) until they died.

This Hadeeth is khaas with regards to the urine of the camel, and points out to its tabaarab (purity) and its permissibility. Imaam Muhammad رحمة الله عليه used this as proof for his view that the urine of those animals whose meat is halaal is taahir, and that to drink it as cure is permissible, etc.
According to (Imaam Abu Haneefah رحمة الله عليه and Imaam Abu Yusuf رحمة الله عليه), it is mansookh (abrogated) with the Hadeeth of Rasoolullaah صلی الله عليه وسلم: "Keep away from urine." Because this Hadeeth is `aam, encompassing those animals that are permissible to eat and those that aren't, so that kbaas has been abrogated by this `aam.

Thus, the urine of all animals - be they balaal or baraam - is najis (impure) and baraam. It is not permissible to drink it and use it as medicine, according to Imaam Abu Haneefah رحمة الله عليه. According to Imaam Abu Yusuf رحمة الله عليه, it is permissible to use it as medicine in the case of dharoorah (dire necessity).

The story of this Hadeeth which abrogates the Hadeeth of ʿUraynah, is that it has been narrated that after Rasoolullaah صلی الله عليه وسلم completed the burial of one pious Sahaabi who was trialled with ʿAdhaab in the qabr, he went to the wife of this Sahaabi and asked her about his aʿmaal. She said that he used to be a shepherd for sheep and did not protect himself from the urine (of these animals). Rasoolullaah صلی الله عليه وسلم then said, "Keep away from urine, because the majority of the ʿAdhaab in the qabr is on account of it."
From the aspect of the *shaan-e-nuzool* also, it is *khaas* for the urine of permissible animals, just as the abrogated (Hadeeth) is *khaas* for (those animals as well), but the lesson is derived from the generality of the words.

Another thing that shows that the Hadeeth of `Uraynah is abrogated is the fact that *muthiba* (mutilation) mentioned in the Hadeeth of `Uraynah is *mansookh* according to *ittifaq* (consensus), because it had been in the beginning of Islaam.

The author says: "If a person makes a *wasiyyat* (bequest) of a ring for a certain person, and thereafter makes a *wasiyyat* of the stone (gem) in that ring for another person, the (ruling is) that the ring belongs to the first person and the stone is jointly owned between both of them."

This is a strengthening for an introduction that is understood from what (has been mentioned) before, and that is: `Aam is equal to *khaas*, in a *Fiqhi* ruling, which is that if a person gives a *wasiyyat* to another, for a ring, and thereafter makes another *wasiyyat*, in a conversation or speech that is disconnected from the first (*wasiyyat*), in which he gives as *wasiyyat* the stone of that ring to another person, then in this case, the ring belongs to the first person in a way that is *khaas* (exclusively for him), and the stone is jointly owned between both of them equally. That is because the ring is `aam, i.e. like `aam, because the linguistic meaning of `aam is that which encompasses (different) individuals, and the ring cannot truthfully be applied except to one individual, but it is like `aam in that it encompasses both the ring as well
as the stone, whereas the stone is \textit{kbaas} for its \textit{madlool} (that which the word points out to) only.

So if a person mentions \textit{kbaas} after \`aam, with a speech that is disconnected, then a conflict occurs between them with regards to the stone (of the ring), so the stone belongs to both of them, making \`aam equal to \textit{kbaas}.

بخلاف ما إذا أوصى بالفص بكلام موصول فإنه يكون بياناً. لأن المراد بالخاتم فيما سبق الحلقة فقط. فتكون الحلقة للأول والفص للثاني.

وعدل أبي يوسف رحمه الله يوم الفص لكل الفص للثاني البينة سواء أو يكّلام موصول أو مفصول. لأن الوصية إنما تلزم بعد مماته لا في حياته. فكان الموصول والمفصول سواء، كما في الوصية بالرقية لإنسان ويدعمنه لآخر. يكون الرقبة للموصى له الأول والخدمة للثاني سواء كان بكلام موصول أو مفصول.

وئنحت قلنا: الوصية بالرقية لا تتناول الخدمة لأنهما جنسان مختلفان بخلاف الخاتم فإنه يتناول الفص لا محالة فيكون كالقياس مع الفارق.

ثم إن في هذا المقام عماين إختلف فيه الشافعي مع أبي حنيفة رحمهما الله. وليس كذلك مخصوصان عند أبي حنيفة رحمهما الله. وليس كذلك.

تقرير الأول: أن في قوله تعالى: وَلاَ تَأْكُلُوْا مِم ا لَمْ يُذْكَرِ اسْمُ اللهِ عَلَيْوِ، كلمة “ما” عامة لكل ما لم يذكر اسم الله عليه عامداً أو ناسياً في ينبغي أن لا يحل متروك التسمية أصلاً كما ذهب إليه مالك رحمه الله.

ولكنكم خصصتم الناسي من هذا وقلتم إنه يجوز متروك التسمية ناسياً، والآية محمولة على العائم فقط.

قلنا: إذا نخص العائم منه أيضاً بالقياس على الناسي ويخر الواحد وهو قوله عليه الصلاة.

والسلام.
This is contrary to the case of him giving a *wasiyyat* of the stone (of the ring) to another person in a speech that is connected (to the first *wasiyyat*), because in that case it would act as an explanation, because the intended meaning of ring in that which has preceded is only the circle, thus the circle (the ring without the stone) will go to the first person and the stone will go to the other.

According to Imaam Abu Yusuf رحمة الله عليه, the stone belongs to the second person no matter what, regardless of whether the speech (in which that *wasiyyat* was made) is connected to the first or disconnected, because a *wasiyyat* only becomes binding after the death of the one making the *wasiyyat*, not during his life, and thus whether the speech is connected or disconnected is the same, like in the case of a person giving *wasiyyat* of a slave to a certain person but giving *wasiyyat* of the service of that slave to another. In this scenario, the slave will belong to the first person and the service of the slave will belong to the second, regardless of whether the speech (in which the second *wasiyyat* was made) was connected to the first or not.

We (the Ahnaaf) say: "The *wasiyyat* of (giving) the slave does not include the service (of the slave), because they are two different *jins* (species), unlike the case of the ring, because the ring includes the stone absolutely, so this is like *qiyaas ma`al faariq* (analogy with discrepancy).

Thereafter, in this issue there are two `aams wherein Imaam ash-Shaafi`ee رحمة الله عليه differed with Imaam Abu Haneefah رحمة الله عليه, because he thought that they were *makhsoos* (specified) according to Imaam Abu Haneefah رحمة الله عليه whereas that is not the case.

The first of these differences is that, in the Aayah:

{"*And do not eat from that upon which the Name of Allaah was not mentioned...*"}

The word "*maa*" mentioned in this Aayah is `aam, and thus it encompasses everything upon which the Name of Allaah was not recited (with regards to meat), whether the recitation of *Tasmiyah* was omitted intentionally or
forgetfully; thus, according to this, it should be the case that the animal upon which the *Tasmiyah* was not recited should not be permissible, as is the view of Imaam Maalik رحمه الله عليه. However, you (i.e. the Ahnaaf) have specified (made *khaas*) the forgetful one from this and thus have said that if the recitation of *Tasmiyah* was omitted forgetfully, then the animal is permissible and the Aayah is referring only to one who leaves it out intentionally.

We (the Ahnaaf) say: "We make *khaas* (specific) from it the one who does so intentionally as well, through *qiyaas* (analogy) upon the one who forgets and by a *khabr-e-waahid*, which is the Hadeeth:

"The Muslim slaughters upon the Name of Allaah, whether he recited the (*Tasmiyah*) or not."

Thus, nothing remains in the Aayah except that which had been slaughtered in the names of the idols.

The second difference is with regards to the Aayah:
The word "whosoever" is `aam, encompassing all of those who enter the Ka`bah even after killing a person or cutting off his limbs, or someone who enters the Ka`bah and thereafter kills someone inside of it. This would then necessitate that all such people be granted security (because they have entered the Haram). But you (Ahnaaf) have excluded from this (Aayah) the one who kills inside the Haram after having entered it or who enters it after having cut off someone's limbs, and you say qisaas (retribution) is exacted from both such people even inside the Haram.

We (the Ahnaaf) say: "We exclude the third scenario as well, which is the one who enters the Ka`bah after having killed someone, and we say that qisaas is exacted from him as well through qiyaas (analogical reasoning) upon the first two scenarios, and with a khabr-e-waahid, which is the Hadeeth:

"The Haram does not grant protection to one disobedient (to Allaah) nor one who is running away on account of blood (i.e. murder)."

Thus, nothing remains under this `aam except the one who is secure from the `Adhaab of the fire of Jahannam.
The author: رحمة الله علیه responds on behalf of Imaam Abu Haneefah رحمة الله علیه by saying:

"It is not permissible to do takhsees (make specific) the Aayah:

{"And do not eat from that upon which the Name of Allaah was not mentioned..."}

And the Aayah:

{"And whosoever enters it shall be secure..."}

Using qiyaas and a khabr-e-waahid."

Meaning, it is not permissible for Imaam ash-Shaafi`ee رحمة الله علیه to specify the one who purposely omits the Tasmiyah, in the Aayah: {"And do not eat from that upon which the Name of Allaah was not mentioned..."} by using qiyaas upon the one who omits it forgetfully and by a khabr-e-waahid, which is the Hadeeth: "A Muslim slaughters upon the Name of Allaah, whether he recites (the Tasmiyah) or not." And it is also not permissible for him to specify the one who enters the Ka`bah after killing someone, in the Aayah: {"And whosoever enters it shall be secure..."} by using qiyaas upon the one who kills after entering and upon the one who had cut off the limbs (of another person), and by the Hadeeth: "The Haram does not protect one who is disobedient (unto Allaah Ta`alaa) nor one who has run away because of blood (i.e. murder)."

The author says:

"Because they are not makhsoos (specified)."
This is to explain his statement, "it is not permissible," i.e. because these two `aams are not makhsoos in the first place like you claim (i.e. the Shaafi`iyyah), so much so that a second can be made khaas of through qiyaas and a khabr-e-waahid, because the forgetful one is not included in the Aayah: {"And do not eat from that upon which the Name of Allaah was not mentioned..."} because he is part of the meaning of one who remembers, so he is not made khaas of from the Aayah so much so that qiyaas can be made upon the one who omits the Tasmiyah intentionally.

Similarly, the one upon whom qisaas is due on account of having severed the limbs of another, he is not made khaas of from (the Aayah mentioning) security, because the meaning of secure there is secure in life, and it is as though the limbs are not part of life but rather, part of wealth.

وَوَكُذِّا الْقَاتِلُ بَعْدَ الدَّخُولِ فِيهِ. إِذْ مَعْنَى قُوْلُهُ تَعَالَى:

وَمَنْ دَخَلَ وَأَمَنَ 

من دخله بعد ما صار مباح الدم بردة, أو زنا, أو قصاص, لا أنه باشر هذه الأمور بعد الدخول.

فهو خارج عن مضمون الآية لا أنه مخصص منها.

لا يقال إن ضمير "دخله" راجع إلى البيت، والمقصود بيان آمن الحر, لأننا نقول: إن حكمهما واحد بدليل قوله تعالى:

اَوْ لَمْ يَرَوْا أَنْ اَمَنَا حَرَماً آمِناً 

أَوْ لَمْ يَرَوْا أَنَا جَعَلْنَا حَرَماً آمِناً

Similarly, the one who kills after entering it, because the meaning of the Aayah:

{"And whosoever enters it shall be secure..."}

This refers to the one who enters it after having become mubaah-ud-damm (one whose blood is permissible to be shed) on account of riddah, or zinaa or qisaas, not that he perpetrates these crimes after having entered (the Ka`bah) because then he would be outside the scope of this Aayah, not specified from it.
It is not to be said that the pronoun in the word "whosoever enters it" (i.e. the "it") is a reference to the Ka`bah and the intended meaning is the security of the Haram, because we say: their ruling is word, using as evidence the Aayah:

{"Do they not see that We have made the Haram a place of security..."}

4. Its Ruling After Takhsees

Thereafter, the author رحمة الله عليه, after completing his explanation on `aam of which nothing of it is makhsoos, he now commences his explanation on al-`aam al-makhsoos (`aam, a part of which is makhsoos). He mentions three Madhaahib regarding it, and he explains each Madh-hab with evidence, and he then resembles it to a Fiqhi ma'alah, so he says:

"So if a known or unknown khusoos (specification) is attached to it, it will not remain as qat`iyy, but it can still be used as evidence."

Meaning, if this `aam which was qat`iyy gets a khusoos (specification) attached to it, be that khusoos one which has a known meaning or unknown meaning, then the chosen view is that its status as qat`iyy falls away; however, it is still
**waajib** to act upon it as is the case with all of the *zhanni* (speculative) evidences, such as *khabr-e-waahid* and *qiyaas*.

From a terminology point of view, *takhsees* (specifying) is to restrict or shorten `*aam* from some of its particulars, with an independent speech that is connected (to it). If it is not speech, such as it being something understood through the intellect, or through the senses, or a habit, etc., then this will not be the technical meaning of *takhsees* and it (`*aam*) will not become *zhanni* (speculative).

The same is the case if it is not *mustaqill* (independent) but rather a *ghaayab* (objective), or a *shart* (condition), or a *sifab* (quality), and further details about this will be mentioned later on. The same is also the case even if it is not connected but rather it is delayed: it will not be termed *takhsees*, but rather, it will be *naskh* (abrogation), and this will be explained later on.

This is as they have said.

> وَعند الشافعي رحمه الله كل ذلك يسمى تخصيصاً لأنه عنده هو قصر العام على بعض المسمايات مطلقاً

According to Imaam ash-Shaafi`ee رحمه الله, all of that is referred to as *takhsees*, because *takhsees*, according to him, is to reduce `*aam* (or shorten `*aam*) from some of its particulars, generally.

> وكثيراً ما يطلق التخصيص على المتراعي مجازاً عندنا أيضاً

Often does *takhsees* get used in a general way to refer to something that is delayed or deferred, by way of metaphor.

> نظر الخصوص المعلوم والمجهول قوله تعالى:

> وَأَحَلَّ اللَّهُ الْبِيعَ وَحَرَّمَ الرُّبَا

> فإن البيع لفظ عام لدخول لام الجنس فيه وقد خص الله منه الربا وهو في اللغة: الفضل ولم يعلم أي فضل يراد به. لأن البيع لم يشرع إلا للفضل. فهو حينئذ نظر الخصوص المجهول

An example of *khusoos* that is *ma`loom* (known) and *khusoos* that is *majbool* (unknown) is the Aayah:
And Allaah permitted business (buying and selling) and prohibited ribaa..."

Bay’ (business, or buying and selling) is a term that is `aam because it contains the laam-ul-jins (i.e. al), and Allaah has excluded from it ribaa (interest), and ribaa, linguistically, is: surplus. It is not known what type of surplus is intended, because bay’a (business) is for the sake of surplus, so it then is an example of khusoos that is majhool (unknown).

Then, Nabi صلى الله عليه وسلم explained it by saying: "Wheat for wheat, barley for barley, dates for dates, salt for salt, gold for gold, silver for silver, equal for equal, hand to hand, and surplus is ribaa."

That, then, is an example of khusoos that is known; however, the state of what is other than the six mentioned things is not known, and for this reason Hadhrat `Umar رضي الله عنه said: "Nabi صلى الله عليه وسلم left us (i.e. passed away) and he had not explained the categories of ribaa." Meaning, he had not given a complete explanation of the different types and categories.

Thus, the Fuqahaa and Mujtahideen resorted to ta’leel (giving `illats) and istimbaat, so according to Imaam Abu Haneefah رحمه الله, the `illat is amount, species, taste and value. According to Imaam Maalik رحمه الله, it is that which can be used for nourishment (food) and that which can be stored.

فاحتابوا إلى التعليل والإستنباط فعلل أبو حنيفة بالقدر والجنس بالطعم والثمنة، ومالك رحمه الله بالإثبات والإدخار

فعمل كل بمثتضى تعليله في تحريم أشياء وتحليل أشياء على ما يأتي في باب القياس إن شاء الله تعالى
Thus, each one acted according to their ta’leel (reasoning) in declaring some things as prohibited and some things as permissible, and this will be explained in further detail in the chapter on qiyaas (analogical reasoning), إن شاء الله تعالى.

The author says:

"In accordance with that which resembles istithnaa (exclusion) and naskb (abrogation)."

A ta’leel for the chosen Madh-hab. 3

The explanation of it is that the evidence of takhseees, which is the Aayah:

{"And He prohibited ribaa..."}

It resembles istithnaa (exclusion), if you take into consideration its ruling, which is that the mustathnaa (that which has been excluded), just as it does not enter into what was before, so too does a makhsoos not enter under `aam.

---

3 The meaning of “the chosen Madh-hab” is the Madh-hab (or the Fiqhi position on this issue) chosen by Imaam an-Nasafi, and Imaam al-Bazdawi, and Imaam ad-Daboosi, etc., which is that when you have `aam after takhseees, then you can use it as evidence, but this evidence will be zhanni (speculative) and not qat’iyy (absolute), regardless of whether the makhsoos is majhool (unknown) or ma’loom (known).
And it resembles naasikh (an abrogator) from the aspect of its word-form, because its word-form is independent like naasikh, so it is necessary for us to take into consideration both of the resemblances and to increase the portion of each of the two, whether the kbusoos is known or unknown. We cannot restrict ourselves to the first resemblance as is done by the people of the second Madh-hab, nor do we restrict ourselves to the second resemblance as is done by the people of the third Madh-hab.

We (the Ahnaaf) say: "If the evidence for kbusoos is known, then, taking into consideration the resemblance of exclusion necessitates that the status of `aam remains, because a mustathnaa, when it is known, then the mustathnaa minhu (that which is excluded from it) remains upon its state in the remainder of its individuals.

Taking into consideration the resemblance of naasikh necessitates that as a rule it is not valid to use `aam as evidence, because naasikh is independent, and every mustaqill (independent) can accept ta’leel (justification; warranting) even if the naasikh itself does not accept ta’leel, so that no contradiction comes about between the ta’leel and the nass (clear text).

وإذا قبل التعليم فلا يدرى كم يخرج بالتعليم وكم بقي فيصير مجهولاً وجهاله تؤثر في جهالة العام

فإفراية الشهبين جعلنا العام بين بين، وقلنا: لا يبقى قطعاً ولكن يصح التماسك به
And if it accepts ta`leel, then it is not known how much goes out with the ta`leel and how much remains, thus it becomes majhool, and its status of being unknown has an accept on making the `aam unknown as well.

So, due to taking into considerations both possibilities or resemblances, we make `aam as being in-between, so we say: it does not retain its status as being qat`iyy (absolute), but at the same time, it is still valid to hold on to it.

When the daleel of khusooos (specification) is unknown, then the ma`loom (what is known) becomes reversed, i.e. taking into consideration the resemblance of istithnaa necessitates that it not be valid to hold onto `aam, as a rule, because the jabaalat (status of being unknown) of the mustathnaa affects the jabaalat of the mustathnaa minhu, and something that is unknown gives no meaning at all.

Taking into consideration the resemblance of naasikh necessitates that the `aam remains as qat`iyy (absolute), because the unknown naasikh (abrogator) itself falls away, so due to taking into consideration both resemblances, we make `aam here also in-between, so we say: it does not remain qat`iyy, but nonetheless it is valid to hold on to it.

The author says:

"So it becomes like how if he were to sell two slaves for a thousand (dinars or dirhams), on condition that he has a choice with regards to one of them, and he names his price."
The author here is drawing a resemblance between the evidence of *khusoos* and a *Fiqhi mas’alah*.

What he means by this is that the evidence of *khusoos* (specification), according to the chosen Madh-hab (point of view), is an example of this *Fiqhi mas’alah*, which is that the seller keeps the right of *khiyaar* (option to take back) for one of the two slaves that he has sold him, and he names the price of that slave with a limit, and that is because there are four different scenarios to this *mas’alah*:

1. The seller makes known to the buyer which one of the two slaves the seller will have *khiyaar* in, and the seller mentions the price as well. (for example, the seller sells two slaves, one named `Amr and one named Zaid, and he says to the buyer that each one is being sold for 500 dirhams, making the complete sale 1,000 dirhams, and he says that he will have the right of *khiyaar* with regards to `Amr.)

2. The seller sells the two slaves to the buyer, telling him that he will have the right of *khiyaar*, but he does not tell the buyer the price of each individual slave and he also does not tell the buyer which slave he will have the option of *khiyaar* for.

3. The seller sells the two slaves to the buyer. He tells the buyer which slave (whether `Amr or Zaid) he will have *khiyaar* for, but he does not tell the buyer the price of each individual slave.
4. The seller sells the two slaves to the buyer. He names the price of each individual slave, but he does not tell the buyer which one of the two he will have the right of *khiaar* for.

Now in this case, the slave in whom there is the right of *khiaar*, he is part of the contract but not part of the ruling. The slave enters into the contract because *ejeab* has taken place on both slaves, but he is not part of the ruling (*hukm*) because of the fact that, the ruling of the transaction is that the buyer will come into possession (of the slave), but when *khiaar* is for the seller, then, that slave which the seller has *khiaar* for will not leave his possession or ownership and will not enter into the ownership of the buyer.

From the aspect of him being part of the contract, the returning of the sold commodity (this slave) through *khiaar* will be a *tabdeel* (exchange of the contract), so it is like abrogation.

From the aspect of this slave not entering into the *hukm* (ruling), then, returning him clarifies that he had never entered (into the ruling), so it is like *istithnaa* (exclusion), so it is like *mukhassas* (that which has been specified) which has a resemblance to *istithnaa* (exclusion) and a resemblance to *naskh* (abrogation).
Taking into consideration the resemblance with *naskh* (abrogation) necessitates that the sale be valid in all four above-mentioned scenarios, because both slaves are - looking at it from the perspective of *eejaab* (an offer or proposal) - are sold with one sale, so it is not a sale with its portion (price) in the beginning, but rather, in the end. [What he means by this is, both slaves are sold in one sale, so returning one of them through *khiyaar-ush-shart* will act as a nullification of the sale entirely. If you say: if one of the two slaves is returned through *khiyaar-ush-shart*, and the sale is maintained with the other slave, then the price of 1,000 (dinars or dirhams) is split according to the value of each slave, so whatever the other is worth becomes binding upon buyer, and this is *al-bay` bil-bissab*, and it is invalid due to the price being unknown. The answer is that this is *al-bay` u bil-bissab*, yes, but at the end, not in the beginning, and what is invalid is when *al-bay` u bil-bissab* is at the beginning, such as by saying: "I sell you this slave with its portion from the price of 1,000 which is divided according to its value and the value of the other slave. - Qamar-ul-Aqmaar, p.147.]

Taking into consideration the aspect of resemblance with *istithmaa* (exclusion) necessitates that the sale be invalid in all four above-mentioned scenarios due to it making what is not sold a stipulation for the acceptance of that which is being sold. Due to taking into consideration both resemblances, we say: if the slave in which there is *khiyaar* is known and the price is known as well, which is (the scenario) mentioned in the text (of this Kitaab), then the sale is valid due to the resemblance with *naskh*.

No consideration will be given here to the making of what is not being sold a condition for the accepting of that which is sold, like how it is considered if he joins between a slave and a free person and he separates the price, because the free person is not capable of being sold, and thus making the accepting of him a condition is not from the necessities of the contract.

In our *mas`alah*, the slave in whom there is *khiyaar* enters into the contract, so attaching him does not contradict the necessity of the contract.

If one of them or both of them are unknown, then the sale is invalid due to the resemblance with *istithmaa* (exclusion).

ففي صورة جهل كليهما يصير كأنه قال بعت هذين الع两点ن بآلف إلا أحدهما بحصة ذلك وذلك باغل

وفي صورة جهل المبيع يصير كأنه قال بعت هذين الع两点ن بآلف إلا أحدهما بخصائصه
وفي صورة جهل الثمن يصير كأنه قال بعثهما بألف إلا هذا بحصة من الألف
وألم يعتبر في هذه الصور شبه الناسح لأن الناسخ المجهل يسقط بنفسه فيبطل شرف الخيار
وبلازم العقد في العبدين وهو خلاف ما قصده القائل

(وقيل إنه يسقط الإحتجاج به كالاستثناء المجهل لأن كل واحد منهما لبيان أنه لم يدخل)

وهو المذهب الثاني وليه ذهب الكرخي وعيسى بن أبان

In the scenario of neither of them being known, it becomes as though he had said: I am selling both of these slaves for 1,000 (dinars or dirhams), except one of them with the portion of that, and that is invalid.

In the scenario of the commodity being unknown, it becomes as though he had said: I am selling both of these slaves for 1,000, except one of them for 500.

In the scenario of the price being unknown, it becomes as though he had said: I am selling both of these slaves for 1,000, except for this one with (a portion) from the 1,000.

No consideration is given in these scenarios to the resemblance with naasikb, because an unknown naasikb falls away by itself and thus the shart of khyiar is nullified and the contract becomes binding with regards to both of the slaves, and that is contrary to what the speaker had intended.

The author says:

"And it is said: using it as evidence falls away, like an unknown istithnaa (exclusion), because each of them explains that it had not entered."

This is the second Madh-hab (point of view) which was adopted by Imaam al-Karkhi and Imaam `Eesa ibn Abaan.

وهؤلاء قد فرضوا في هذا العام المختص البعض ويقولون لا يبقى العام قابلاً للتمسك أصلاً سواء
كان المخصص معلوماً كما إذا قيل: أُقِلُلوْا المُشْرِكِينَ وَلَا تَقْتُلُوْا أَيْلَ الدِّمَاءِ
أو مجهولاً كما إذا قيل: أُقِلُلوْا المُشْرِكِينَ وَلَا تَقْتُلُوْا بعضاً

وشهدوا بالإستثناء فقط لأنهم لا يراعوا جانب الصيغة بل اعتبروا المعنى فقط وهو عدم الدخول
They had become negligent with regards to *al-`aam al-mukhassas al-ba`adh* ("aam from which part is khaas"), and they said that the "aam cannot be adhered to, as a rule, regardless of whether the makhsosos (exception or those excluded) is known, like how if it is said: "Kill the Mushrikeen but do not kill the Ahl-udh-Dhimmah." (here, the makhsosos is known, which is the people of Dhimmah) or if it is unknown, like how if it is said: "Kill the Mushrikeen but do not kill some of them." (here, the makhsosos is unknown, because it is not known exactly who "some of them" are.)

They resembled it to *istithnaa* (exclusion) only, because they did not take into consideration the aspect of word-form, but rather, they took into consideration the meaning only, and that is "the absence of entering". They resembled it to *al-istithnaa al-majhool* (the unknown exclusion) because, if the evidence of the khsusosos is unknown, then on the apparent it is like the
majbool (unknown), and if it is known, then with the ta’leel it becomes majbool (unknown) even if the istithnaa in itself is from that which cannot accept ta’leel.

The author says:

"So it becomes like the sale which is attached to a free man and a slave with a single price."

This is an example to show the evidence of this Madh-hab (point of view) using a Fiqhi mas’alah which has been mentioned, because, if a person sells a slave and a free man with one price, such as by saying: "I sell both of them for 1,000." Then, the free man does not enter into the sale, so it is istithnaa (exclusion) in his case and a bay` (transaction) in the case of the slave with the slave’s portion from the 1,000, from the onset, because the free man does not enter into the transaction from the onset, but it is invalid due to the price (of each one) being unknown. This is contrary to the case where he separates the prices, by saying: "I have sold the slave for 500 and the free man for 500."

This is permissible according to Imaam Abu Yusuf رضى الله عليه and Imaam Muhammad رضى الله عليه, but it is not permissible according to Imaam Abu Haneefah رضى الله عليه. The reason Imaam Abu Haneefah رضى الله عليه does not regard it as being permissible is because in this bay` (transaction), the seller has made something unsellable (i.e. the free man) as being a stipulation for the acceptance of the commodity which is sellable (i.e. the slave).

The author says:

"And it has been said: It (`aam) remains as it had been, taking into consideration the aspect of naasikh (abrogator), because each of the two (the free man and the slave) is mustaqill (independent) by themselves, unlike istithnaa (exclusion)."

This is the third Madh-hab (point of view), and these (`Ulamaa) have gone to great lengths with regards to `aam, by keeping it as qat`iy (absolute) like how it had been, and they resemble it to naasikh (an abrogator) only, from the aspect of the independence of the word-form, and they did not turn to taking into consideration the aspect of istithnaa (exclusion) whatsoever.

Thus, if the evidence of khusooos is known, then on the apparent a known naasikh (abrogator) has no effect on changing what remains from the
individual parts (of `aam) which are not abrogated, and if it (the evidence of khusus) is unknown, then an unknown naasikh (abrogator) falls by itself and its jabaalat (being unknown) has no effect on changing what was before it.

(فصار كما إذا باع عبدين وهلك أحدهما قبل التسليم)

تشبه لدليل هذا الذهب بمسألة فقهية مذكورة فإنه إذا باع عبدين بينم واحد بأن قال: بعتهما بألف. ومات أحد العبدين قبل التسليم بقي البيع في الآخر بحصة من الألف لأنه بيع بالحصة بقاء، فكان نسخ البيع في العبد الميت بعد انعقاده وهو جائز.

وهاهنا مذهب رابع مذكور في التوضيح وغيره ولم يذكره المصنف وهو أن دليل الخصوص إن كان مجهولاً يسقط الإحتجاج به على ما قاله الكَرخَيْي وإن كان معلوماً فكالإسناء وهو لا يقبل التعليل فبقى العام قطعاً على ما كان قبل ذلك.

The author says:

"So it is like the case of a seller selling two slaves, but one of the slaves dies prior to them being handed over to the buyer."

Here, the author is resembling the evidence of this Madh-hab (point of view) with a Fiqhi mas'alab which he has mentioned. The mas'alab is: If a person sells two slaves for a single price, such as by saying: "I have sold both of them for 1,000." Thereafter, one of the two slaves dies before they are handed over to the buyer, then in this case, the sale still remains for the other slave who is alive, with his portion (from the price), because this is a case of bay` bil-bissah (sale with a portion) as an end-result, not in the beginning (i.e. it had not been the case when agreeing upon the sale.) Thus, is like an abrogation for the sale in the case of the slave who had died after the conclusion of the sale, and this is permissible.

Here, there is a fourth Madh-hab (point of view) which has been mentioned in at-Tawdheeh and elsewhere, but the author has not mentioned it. This Madh-hab is that, if the evidence of khusos is unknown, then it is not valid to use it as evidence, as has been mentioned by Imaam al-Karkhi, but if the evidence of khusos is known, then it is like istithnaa (exclusion) and it does not accept ta`leel, so the `aam remains qat`iyy (absolute) just as how it had been before that.
4. The Word-Forms of \textit{Umoom} (Generality)

ولما فرغ المصنف عن بيان تخصيص العام شرع في ذكر ألفاظه فقال:

(والأعموم إما أن يكون بالصيغة والممعنى جميعاً، أو بالممعنى لا غير كرجال وقوم)

يعني أن العام على نوعين:

أحدهما: ما تكون الصيغة والممعنى كلاهما عاماً دالاً على الشمول بأن تكون الصيغة صيغة جمع والممعنى مستوعباً في الفهم منه.

والآخر أن لا تكون الصيغة دالة على العام ويكون المعني مدلولاً بالإستبعاد.

ولا يصور عكسه لأن إخلاء المعني عن اللفظ العام الموضوع غير معقول، إلا بالخصوص وذلك شيء آخر.

فالأول مثاله: رجال ونساء وغيرهما من الجموع المنكرة والمعروفة، والقلة، والكثرة. لكن في القلة من الثلاثة إلى العشرة، وفي الكثرة قيل: من الثلاثة، وقيل: من العشرة إلى ما لا ينتهي.

لكن هذا مatoriopx فخير الإسلام لأنه لا يشترط الاستبعاد في معرفة العام، بل يكفي بالنظام جميع من المسميات.

أما عند من يشترط الاستبعاد والاستغراق فيه فيكون الجمع المنكر واسطة بين الخاص والعام على ما ذكر في التوضيح.

والآخر مثاله: قوم، ورهط فإن القوم صيغته صيغة مفرد بدلاً بهنئي ويجمع يقال: قومان وأقوم.

لكن معناه المعني العام لأنه يطلق على الثلاثة إلى العشرة. كما أن رهطاً يطلق إلى النسبة، ولكن يشترط في إطلاق لفظ القوم أن تكون الآحاد مجتمعة.

 وإنما يصح الاستثناء لواحد في قولك: جاءني القوم إلا زيداً، باعتبار أن مجيء الجمع لا يكون إلا باعتبار مجيء كل واحد.
After the author completed his explanation on takhssees-ul-`aam (making something specific from `aam), he now begins to mention the words of `aam, so he says:

"`Umoom (generality) can be either with both word-form and meaning, or with the meaning alone, like rijaaal (men) and qowm (nation)."

What he means is that, `aam is of two types:

The first is that in which both the word-form and the meaning is `aam and they point out to shumoos (comprehensiveness), by the word-form being the plural word-form and the meaning being comprehensiveness in what is understood from it.

The second type (of `aam) is that in which the word-form does not point out to `umoom (generality), but the meaning points out to plurality and inclusiveness (for all of its individual parts).

The opposite cannot be imagined, because for a word that is `aam to be devoid of the meaning of `aam would be illogical, except with takhssees, but that is another matter.

An example of the first type of `aam is: rijaaal (men), nisa`a (women), etc, from the types of plural, be they indefinite, or definite, or jam`-ul-qillah, or jam`-ul-kathrah. Jam`-ul-Qillah is from 3 to 10. Jam`-ul-Kathrah is from 3, and some say it is from 10 until infinity.

However, this is the chosen view of Fakhr-ul-Islaam (i.e. Imaam al-Bazdawi رحمة الله عليه), because he does not set as a shart (condition) that there be istee`aab (complete inclusiveness and comprehensiveness) in the meaning of `aam, but rather, he suffices with there being a gathering of a group of particulars or named things.

As for those who stipulate istee`aab and istighraaq (complete covering of all individual particles) in it (`aam), then to them, an indefinite jam` (plural) is of a stage between kbaas and `aam, as has been mentioned in at-Tawdheeb.

An example of the second type of `aam is: qowm (nation), rahl (group; tribe). That is because the word-form of qowm (nation) is mifrad (singular), because it can be made dual and it can be made plural, i.e. qowmaan (dual), and aqwaam (plural). However, its meaning is the meaning of `aam, because it is generally used to refer to 3 to 10, just as how rahl is generally applied to 9; however, when it comes to using the word qowm (nation), there is a
condition that all of the individual components (individual people) must be
together, not separated. [For example, if a person says, "The qowm that
enters this fortress will receive such-and-such, or will be protected." Then, if
the "qowm" enters as a whole, a group, i.e. if that qowm consists of 1,000
people, and all thousand of those people enter the fortress at one time, then
only will this apply. If they enter it individually, one at a time, at different
times, then the stipulated condition will not have been met and thus they
will not be entitled to anything. This is how it has been explained by Imaam
at-Taftaazaani رحمه الله عليه in at-Talweeh.]

Isithnaa (exclusion) of a single individual is only valid when saying, for
example: "The qowm (nation or people) came except for Zaid." This is due to
taking into consideration the arriving of all of them cannot be except with
considering the arriving of each one.

بخلاف ما إذا قيل: يطيق رفع هذا الحجر القوم إلا زيداً، لأن الحكم هاهنا متعلق بالمجموع من

Isithnaa (exclusion) of a single individual is only valid when saying, for
example: "The qowm (nation or people) came except for Zaid." This is due to
taking into consideration the arriving of all of them cannot be except with
considering the arriving of each one.

بخلاف ما إذا قيل: يطيق رفع هذا الحجر القوم إلا زيداً، لأن الحكم هاهنا متعلق بالمجموع من

Isithnaa (exclusion) of a single individual is only valid when saying, for
example: "The qowm (nation or people) came except for Zaid." This is due to
taking into consideration the arriving of all of them cannot be except with
considering the arriving of each one.

بخلاف ما إذا قيل: يطيق رفع هذا الحجر القوم إلا زيداً، لأن الحكم هاهنا متعلق بالمجموع من

Isithnaa (exclusion) of a single individual is only valid when saying, for
example: "The qowm (nation or people) came except for Zaid." This is due to
taking into consideration the arriving of all of them cannot be except with
considering the arriving of each one.

بخلاف ما إذا قيل: يطيق رفع هذا الحجر القوم إلا زيداً، لأن الحكم هاهنا متعلق بالمجموع من

Isithnaa (exclusion) of a single individual is only valid when saying, for
example: "The qowm (nation or people) came except for Zaid." This is due to
taking into consideration the arriving of all of them cannot be except with
considering the arriving of each one.

بخلاف ما إذا قيل: يطيق رفع هذا الحجر القوم إلا زيداً، لأن الحكم هاهنا متعلق بالمجموع من

Isithnaa (exclusion) of a single individual is only valid when saying, for
example: "The qowm (nation or people) came except for Zaid." This is due to
taking into consideration the arriving of all of them cannot be except with
considering the arriving of each one.

بخلاف ما إذا قيل: يطيق رفع هذا الحجر القوم إلا زيداً، لأن الحكم هاهنا متعلق بالمجموع من

Isithnaa (exclusion) of a single individual is only valid when saying, for
example: "The qowm (nation or people) came except for Zaid." This is due to
taking into consideration the arriving of all of them cannot be except with
considering the arriving of each one.

بخلاف ما إذا قيل: يطيق رفع هذا الحجر القوم إلا زيداً، لأن الحكم هاهنا متعلق بالمجموع من

Isithnaa (exclusion) of a single individual is only valid when saying, for
example: "The qowm (nation or people) came except for Zaid." This is due to
taking into consideration the arriving of all of them cannot be except with
considering the arriving of each one.
This is different to the case of saying: "The qowm (nation) are able to lift this stone except for Zaid," because the ruling in this case is attached to the group from the aspect of being a group (altogether). For this reason, it is valid to say: "The ten came except for one," but it is not valid to say: "The ten got married except for one."

The author says:

"The words "man" and "maa" carry the possibility of both `umoom (generality) and khusooos (exclusivity), but their default is `umoom (generality)."

What he means is that, by default, when they are used they are used in the meaning of `umoom. Sometimes they are used for khusooos, but there will be external factors that point out to the meaning of khusooos being intended, regardless of whether they are used in istifbaam (interrogation), or shart (stipulation), or khabr (predicate).

As for what has been said: "Khusooos is in akhbaar (what he means by akhbaar here is to use "man" as mawsoolah or mawsoofah, and not in shart or istifbaam)," then this is incorrect.

The author says:

"Man is used for those that possess `aqil (intellect), just as maa is used for those that do not possess `aqil (intellect)."

Meaning, the default rule with regards to "man" is that it is for those that have `aqil, like in the Hadeeth:
"Whosoever kills (a Kaafir fighter on the battlefield) then (it is his right) to take his booty (i.e. the spoils of war derived from that Kaafir, like his sword, etc.)"

Sometimes, however, "man" is used for those that do not possess `aql, by way of metaphor or allusion, like in the Aayah:

{"So from them (i.e. animals) are those that walk upon their stomach..."}

The default rule with regards to "maa" is that it is for those that do not possess `aql. It is said: "What is in the house?" Then an appropriate response to that could be: "Dirhams," or, "Dinars." You cannot respond to it by saying: "Zaid." or "Amr." Sometimes, however, it is used for other than that, as will be explained later on.

The author says:

"So if it is said: Whosoever desires to be free from among my slaves, then he is free."

This is a sub-branch with regards to the word "man" being `aam.

وذلك لأن معناه: كل من شاء العتق من بين عبدي فهو حر

وكلمة من في نفسها عامّة ووصفت بصفة عامّة وهي المشينة

ومن يحتعل البيان فإن شاء الكل لابد أن يعتقوا جميعاً عملاً بعموم كلمة من، بخلاف ما إذا قال: من شئت من عبدي عتقه، بإسناد المشينة إلى المخاطب، فإن له حينئذ أن يعتقهم إلا واحداً عند أبي حنيفة رحمه الله، لأن كلمة من للعموم ومن للتبعيض، فلا يستقيم العمل بهما إلا إذا بقي واحد منهم غير معتق وذذا المشينة صفة خاصة للمخاطب

وقيل: كلمة من للتبعيض في كل من المتالين، لكن في المثال الأول كل من العبد الشائي بعض مع قطع النظر عن غيره فيعطق الكل، وفي المثال الثاني الشائي واحد يتعلق مشينته بالكل دفعة فلا يستقيم إلا بتخصيص البعض

ولكن يرد عليه: أنه إن شاء الكل على الترتيب، فحينئذ يصدق على كل واحد أنه شاء عتقه حال

كونه بعضًا من العبيد فحامل فيه
The word "man" on its own is `aam, and it has been qualified with a qualifier that is `aam (in this scenario), and that qualifier is "al-mashee'ab" (the will).

The word "min" carries the possibility of bayaan (explanation; clarification); thus, if all of the slaves desire freedom, then he has to free all of them, acting in accordance with the generality of the word "min", and this is contrary to the case of saying: "Whosoever I desire freedom for from my slaves," wherein he is attributing the mashee'ab (will) to himself as the speaker, because in such a case, he can free all of them except for one, according to Imaam Abu Haneefah رحمة الله عليه, because the word "man" is for `umoom and the word "min" is for tab`eedh (partitioning, or to denote just a part of something). Thus, in this scenario, acting on both of them will only be possible if one slave remains unfreed, and similarly, the quality of mashee'ah (will) is khaas for the speaker.

It has been said: "The word "min" is for tab`eedh (partitioning) in both of the examples; however, in the first example, every single one of the slaves that desire to be freed is "ba`db" (part), without having to look at other than himself (i.e. each slave fulfills this condition of being "part" of the whole), and thus, all of them will be freed. In the second example, however, the one who desires (has mashee'ab) is only one person, and his mashee'ab is connected to all of them at one, so it is not valid unless there is the exclusion of some of them (even if it be just one). [The reason for this is because of him using the word "min" (from).]

However, a reply to that has been given that, if he intends all of them by way of succession or consecutively, then in this case, it is valid for each and every one of the slaves that he intended to free them, because each one of them is "ba`db" (part, or just one) from the slave, so ponder over this.

The author says:
"So if he says to his slave-girl: "If what is in your womb is a boy, then you are free." And thereafter she gives birth to a boy and a girl, she will not be freed."

This is a sub-branch with regards to the word "maad" being `aam, because the meaning in this case is: "If "all" of what is in your womb is a boy, then you are free." But she gave birth to a boy and a girl, which means that not "all" of what was in her womb was a boy. Part was a boy and part was a girl, and thus the condition had not been met.

لا يقال: فحينئذ ينبغي أن يجب قراءة جميع ما تيسر من القرآن في الصلاة بقوله تعالى:

فافرووا ما تيسر من القرآن
لأنا نقول بناء الأمر على التيسير ينافي ذلك

It is not to be said: "That would necessitate that the Aayah mentioning: "Recite what is easy for you from the Qur'aan," that you have to recite everything that is easy for you from the Qur'aan in that particular Salaah." The reason why it is not the case is because we (Ahnaaf) say that the amr (command) is based on tayseer (facilitation), thus, this precludes that from being the case.

(وما يجيء بمعنى من مجازاً)

كقوله تعالى:

والسماء وما ينافاها

The author says:

"Sometimes, "maa" is used to mean "man", by way of metaphor."

Like in the Aayah:

{"By the heavens and What (i.e. Who) built it..."}

ولم يعرَض لمثل ذلك في من على ما ذكرت لقلته

Only rarely does "man" get used to mean "maad", however.
The author says: "Sometimes, "maa" is used for those that possess `aql as well."

You say: "What is Zaid?" A possible response is: "Noble."

Another example is the Aayah:

{"Marry what (maa) is pleasing to you..."}

Meaning, those women that are pleasing to you.

The author says:

"The word "kull" is for ibaatab (encompassing), by way of infiraad (isolating)."

Meaning: the word kull makes each and every fard (individual) as though it is alone and there is nothing else with it, thus, this is termed "`umoom-ul-infiraad" (the generality of isolating).
The author says:

"It enters upon the nouns and makes them `aam."

Meaning: it makes nouns `aam but not verbs, because it always comes as *idbaaafab*, and the *mudbaaf ilaybi* has to be an *ism* (noun).

[The author is explaining the meaning of "`alaa sabeel-il-ifraad" (by way of isolating). For example: A person has four wives, and he says: "Every wife of mine who enters the house is divorced." Then, one wife enters the house. Immediately she is divorced, and the *talaaq* is not hinged upon the other three wives entering. This is what is meant by "ifraad", as opposed to "ijtimaa" (altogether). Even though the word *kull* is being used, because it is "`alaa sabeel-il-ifraad", it applies upon each individual that falls under "*kull*". If he had said "`alaa sabeel-il-ijtimaa", then the *talaaq* would not fall unless all four of the wives enter the house. - *Qamar-ul-Aqmaar.*]

So if a person says: "Every woman I marry is divorced." Then, this applies for every woman that he marries, and *talaaq* does not fall on one wife twice (i.e. if he marries that woman again, the *talaaq* will not fall a second time.)

The word *kull* makes those under it general. The author says:

"Thus, if it is used for a word that is munkar (indefinite), it will be a case of `umoom-ul-ifraad (generality of each individual)."

Because that is what is pointed out to by it, linguistically.

ولما كانت كلمة كل لعوم مدخلها
(فإن دخلت على المنكر أوجبت عموم أفراده)
لأنه مدلولها لغة

(فإن دخلت على المعروف أوجبت عموم أجزاءه)
لأنه مدلولها عرفًا.
The author says:

"And if it is used for a word that is mu`arraf (definite), then it will make all of its ajza` (parts) general."

Because that is what is pointed out to by it, customarily.

For this reason, if a person says to his wife: "You are divorced kullat tatleeqah (with every divorce)," then all three tala`aqs will fall (in this scenario, the person is using tatleeqah in the indefinite form). However, if he says: "You are divorced kull at-tatleeqah (with all of the divorce)," then one tala`aq will fall (because by making the tatleeqah definite by adding "al", the meaning now changes to: "all of this particular divorce", i.e. the entirety of this one divorce).

The author says:

"So much so that they differentiated between a person saying: "every pomegranate is eaten," and between a person saying: "All of the pomegranate is eaten." The first they judge as being truthful and the second as being a lie."
Meaning, they judge the first sentence to be true and the second sentence to be false, because the meaning of the first one is: "Every individual pomegranate is fit for consumption," and that is truthful. The meaning of the second is: "Every part (juz') of the pomegranate is from what is eaten," which is false, because the skin of the pomegranate is never eaten.

The author says:

"And if he attaches it to that which makes actions general."

Such as by the person saying: "Every time I marry a woman, she is divorced." Then the meaning of this is: "Each time that I marry a woman, then she is divorced." This is intended (by him), and it applies to all (his) marriages in general.

The author says:

"It includes the generality of nouns as well."

Because generality of marrying cannot take place except by the generality of women; thus, this applies everytime that he marries, regardless of whether he marries the same woman over and over, or he marries one woman after another.
The author says:

"Like the generality of the actions when using *kull*.

Meaning: Like how generality of actions is affirmed through usage of the word 
"*kull*", included under the generality of nouns, unlike the word
"*kullamaa*".

The author says:

"Usage of the word "*jamee*" necessitates `umoom-ul-ijtimaa`, not `umoom-ul-infiraad."

Like how it is when using the word *kull*; thus, "*jamee*" (all) of what can
truthfully fall under it is included, altogether, joined (not separate).

The author says:

"So much so that if a person says: "All (*jamee*) of those who enter this
fortress first, they will receive such-and-such a prize." Then, 10 people enter
the fortress all at once. In this case, the prize is distributed amongst all of
them together.

The word "*nafal*" (with a *fathab* on both the noon and the faa) used by the
author refers to a gift given by the Khaleefah of the Muslims to a person in
addition to what he receives from his portion of the spoils of war.

So, if ten people enter altogether, then this "*kull*" is shared between that
promised *nafal* (prize or gift), acting according to the literal.

If, however, they enter it individually, then only the first person who enters
will be entitled to the *nafal*, acting according to the *majaaz* (metaphorical),
which is that he will be made the meaning of "*kull*" (i.e. *kull* will refer to him
alone).

An objection is raised by some that, in this scenario, *jami`* (joining) should be
done between the literal and the metaphorical.
The answer to this is that: the actual meaning of *kull* is now used, because had it been so, then the "*kull*" would have gotten the complete prize in the scenario wherein they all enter together. Rather, it is metaphorical, referring to the one who is first in entering, be it alone or in a group, and thus, a group will receive one prize, just as how in the case of one person entering, he receives one prize (nafal), acting thereby according to `umoom-ul-majaaż.

It would have been better to say: the purpose behind this speech (i.e. behind the person promising the prize to whosoever enters the fortress first, his intention is to see who is brave). Thus, if a group of people become entitled to it due to taking into consideration the apparent of its literal meaning, then for one person to become entitled to it is even more rightful, due to *dalaalat-un-nass* (what is pointed out to by the explicit text), because in one person alone doing it, this demonstrates perfect bravery.

[`Umoom-ul-majaaż` refers to intending a comprehensive, inclusive meaning for the literal and metaphorical of speech. An example is a person saying: "I will not put my foot in the house of so-and-so." He says "I will not put my foot," but he is actually referring to entering, i.e. "I will not enter the house of so-and-so." Entering encompasses the placing of his foot in that house be it barefoot or wearing a sandal. More will be explained in the discussion on majaaz.]

(وفي كلمة كل يجب لكل منهم النفل)

يعني: إذا قال: كل من دخل هذا الحصن أولاً فله من النفل كذا فدخل عشرة معاً. يجب لكل واحد منهم نفل تام. لأن كلمة كل للإحاطة على سبيل الإفراد. فاعتبر كل واحد من الداخلين كان ليس معه غيره. وهو أول بالنسبة إلى من تخلف من الناس ولم يدخل. ولو دخل عشرة فرادى كان النفل للأوٍس خاصة لأنه الأول من كل وجه

كلمة كل يحتمل الخصوص
The author says:

"In (using) the word "kull", a nafal (prize) becomes binding for each one of them."

Meaning, if the person says: "Everyone [kull] who enters this fortress first [awwalan], then he will receive such-and-such a prize." Then, 10 people enter altogether. It becomes necessary for him to give each of them a complete nafal (prize), because the word kull is for ibaatah (encompassing) `alaa sabeel-il-ifraad (by way of isolating), so it is as though each of the 10 people who entered had no one else with them, and he is the first relative to the people who had sat back and not entered. If the 10 people entered individually, then the nafal (prize) would be only for the first person, exclusively, because he is then the first in every aspect.

The author says:

"Usage of the word "man" nullifies the prize."

Meaning, if the person says: "Whosoever [man] enters this fortress first, then he will receive such-and-such a prize." Then, 10 people enter altogether. Not a single one of them will be deserving of the prize, because "awwal" (first) refers to the first individual, the one who entered first. This condition was not met. Rather, they entered as "daakhiloon" (enterers), "awwaloon" (firsts).

The word "man" is not clear in `umoom so much so that it can affect change in the word "awwalan", unlike the words "kull" and "jamee`, because those two words are able to change the word "awwalan".

ولو دخل عشرة فرادى يستحق الأول النفل خاصة دون الباقيين
If 10 people entered individually, then only the first one who entered would be entitled to the prize, not the rest of them.

Now that the author has completed his explanation on those that type of `aam which is `aam in both word-form and meaning, he now commences his explanation on those which which, their being `aam becomes clear through some external factor which evidences their being `aam, so he says:

"Nakirah (indefinite) used in the place of nafi (negation) becomes `aam."

That is because it is originally used for maabiyyah (the essence)), or for one individual who is unspecified, according to the different viewpoints. So, when nafi (negation) enters it, it becomes `aam, because the nafi (negation) of the maabiyyah or the unspecified individual cannot be except like that.

So if it includes the meaning of "min", then it is nass in it, like in the saying: "There is no man in the house." And the Kalimah: "Laa Ilaaha Illallaah." And if not, then it is clear in it, and carries the possibility of khusoos. [What this means is that, the negating nakirah which occurs after "lāa allattee li-nafyiil jins" is nass (clear, explicit) in `umoom, due to it including the meaning of "min al-istigbraaqiyyah". As for the negating nakirah which is not like that, then it is apparent in its `umoom whilst carrying the possibility of khusoos if evidence for khusoos is found. - Qamar al-Aqmaar.]
The evidence for its `umoom is ijmaa` (consensus), and usage (among the people of Arabic), and the Aayah:

{"When they said: Allaah did not reveal anything upon man.' Say: 'Who revealed the Kitaab which Moosaa brought..."}"

فَلَوْ لَمْ يَكُن قَولُهُ: عَلَىٰ بَشَرٍ، وَقَوْلُهُ: مِنْ شَيْءٍ، مِفِيدًا لِلسَّلْبِ الكِلَّيِّ، لَمْ كَانَ قَوْلُهُ: ﷺ مَنْ أَنْزَلَ الْكِتَابَ، رَدًّا لَهُ عَلَى سَبِيلِ الإِيْجَابِ الجزِيْنِ لَأَنَّ السَّلْبِ الجزِيْنِ لَا يَنَافِضُ الإِيْجَابِ الجزِيْنِ

So, if the Aayah: "Upon man," and the Aayah: "Anything," did not give the meaning of complete seizing (i.e. their saying implies that Allaah Ta`alaa never revealed anything upon any person ever), then the Aayah: "Say: Who revealed the Kitaab (i.e. Towraah) which Moosaa brought..." would not have been a refutation of them by way of partial affirmation, because partial rejection (literally: snatching) does not negate partial affirmation.

(وفي الإثبات تحص لكنها مطلقة)

أي إذا لم تكن تحت النفی بل كانت في الإثبات فتكون خاصة لفرد واحد غير معين

The author says:

"(When Nakirah is used) in itbaat, it becomes kbaas, but it is mtlaq (unrestricted)."

Meaning, if it is not under nafi (negation), but rather, under itbaat (affirmation), then it becomes kbaas for one unspecified individual.

لكنها مطلقة بحسب الأوصاف كما إذا قلت: أَعْقِبَ رقٍّ يَدَلَّ عَلَى أَعْقِبَ رقِّيَةٍ واحِدَةٍ مَحِتمَلَةٍ

لِأَوْصَافِ كَثِيرةٍ بَنَ تَكُون سُوْدَاءٌ، أَوْ بَيِّضَاءٌ، أَوْ غَيْرَ ذَلِكَ

وإذا قلت: جاءني رجل. يفهم منه مجيء واحد منهم مجهول الوصف. وليس المراد بالمطلق 

هَاهُنَا هَوَّ الْدَّالَّ عَلَى الْمَهْوَى مِنْ غَيْرِ دَالَّةٍ عَلَى الْوَاحِدَةِ، بَلْ هِيَ الْدَّالَّة عَلَى الْوَاحِدَةِ مِنْ غَيْرِ دَالَّةٍ عَلَى تَعْيِنِ الأَوْصَافِ

وَهَذَا هُوَ الَّذِي غَرَّ الشَّافِعِي رَحْمَهُ اللَّهُ فِي ظَنِّهَا عَامَةٌ وَهُوَ مَعْنَى قَوْلُهُ:

(وعند الشافعي رحمة الله تعالى، حتى قال بعموم الرقة المذكورة في الظهار)
فإن يقول: إن لفظ رقبة في قوله تعالى

فتخريج رقبة

عامية. شاملة للمؤمن والكافر والسوداء والبيضاء والزمنة والمجنونة، والمبتذلة والمذبلة، وغيرها.

ونحن نقول: إن تخصيص الزمنة ليس بتخصيص، بل هي غير داخلة تحت الرقبة المطلقة، إذ هي

فائتة جنس المنفعة والرقبة المطلقة ما تكون سليمة عن العب والمدبرة غير مملوكة من وجه، فلا يتناولها اسم الرقبة ولا ينبغي أن يقاس عليها الكافرة في

التخصيص

But it is mutlaq (unrestricted) from the aspect of qualities, like if you say:

"Free a neck (i.e. slave)," it points out to freeing a single neck (slave), though it carries the possibility of many different qualities, such as (the slave) being black, or white, etc.

If you say: "A man came to me." What is understood from this is (simply) the coming of one man, ambiguous, his description unknown. The meaning of mutlaq here is not to point out to the maahiyyah (essence) without pointing out to singularity; rather, it points out to singularity without pointing out to the specifying of qualities.

This is what deceived Imaam ash-Shaafi`ee رحمه الله عليه in his thinking it (i.e. nakirah in the place of ithbaat) to be `aam, which is the meaning behind the author saying:

"According to Imaam ash-Shaafi`ee رحمه الله عليه, it is `aam, so much so that he held the view of the generality (`umoom) of the mentioned slave when it comes to zhibaar as well."

Because he says: "The word raqabah (neck, i.e. slave) in the Aayah:

{"Then the freeing of a neck (i.e. slave)..."}
mudabbir (slave that becomes free after the death of the master, because the master has promised this), etc. What has been excluded - by *ijmaa* - is the disabled/lame one, and the *mudabbir*, etc. I exclude the Kaafir slave, through *qiyaas* (analogical reasoning) upon it.

We (the Ahnaaf) say: Excluding the lame/disabled slave is not exclusion because it (that kind of slave) does not fall under the meaning of "*raqabab*" when it is used unrestrictedly in the first place, because it lacks the capability of benefiting (the master), and when *raqabab* is used in an unrestricted sense, it refers to that which is free from flaws. As for the *mudabbir*, then from one angle it is not exactly owned, and thus the word *raqabab* does not include it, and also it is not appropriate to do *qiyaas* upon it in the case of a Kaafir, when it comes to *takhsees*.

ولنا في هذا المقام ضابطتان: إحداهما: أن المطلق يجري على إطلاقه، والثانية: أن المطلق ينصرف إلى الفرد الكامل
فالأول في حق الأوصاف كالإبمان والكفر، والثاني في حق الالدانة كالزمانة والعصي
وقال صاحب التلويح: إن هذا النزاع لفظي إذ لا يقول الشافعي بتحرير رقبات في الظهر، وإنما
يقول: بتحرير رقبة واحدة فقط

ونحن أيضاً ما قلنا إلا بعدم الأوصاف. فسواء إن سمى هذا إطلاقاً أو عموماً

(وان وصفت بصفة عامة تعم)

هذا بمنزلة الاستثناء مما سبق. كأنه قال: وفي الأئتات تخص إلا إذا كانت موصوفة بصفة عامة فإنها تعم لكل ما وجدت فيه هذه الصفة وإن كانت خاصة في إخلاء ما عداها

وهذا بحسب العرف والإستعمال، وإلا فمفهوم الصفة هو الخصوص والتقييد بحسب الظاهر

ولهذا لم تكن عامة إذا كانت تلك الصفة في نفسها خاصة

كقولك: والله لا أضرب إلا رجلاً ولدنا، فإن الوالد لا يكون إلا واحداً، ولكن هذا الأصل أكثر
لا كلي، وإلا فقد تعم بدون الصفة، كما في قوله:
We (the Ahnaaf) have two principles with regards to this issue:

1. *Al-Mutlaq yajree `alaa itlaaqihee* (That which is mutlaq (unrestricted) remains upon its unrestrictedness.)
2. *Al-Mutlaq yansarifu ilal-fardil kaamil* (Mutlaq goes to the complete individual.)

The first is with regards to qualities, like Imaan and Kufr. The second is with regards to the being itself, such as disability, blindness, etc.

The author of *at-Talweeb* says: "This disagreement is semantical, because ash-Shaafi`ee did not say that in the case of *zhihaar, raqabaat* (plural of *raqabah*, i.e. slave) must be freed. He said only one *raqabah* (slave) must be freed. We (the Ahnaaf) also hold the view of `umoom (generality) of qualities, so it is the same whether this is termed `umoom or itlaaq."

The author says:

"If it is qualified with a quality which is `aam, it becomes `aam."

This is on the category of *istithnaa* (exclusion) from what was previously mentioned. It is as though he said: "In the case of *ithbaat, it (nakiral)* becomes kbaas, except if it is qualified with a quality which is `aam, because in that case it becomes `aam for everything in which this quality is found, even though it is kbaas in excluding what is besides that.

This is according to `urf (custom) and the usage of people; otherwise, what is understood from the quality is kbusoos and tagveed (restricting) according to the apparent. For this reason, it is not `aam if that quality in itself is kbaas."
It is like your saying: "By Allaah, I will not hit except a man who begot me."
Because, the father can only be one person; however, this principle is *akthari* (applicable in most cases) not *kulli* (applicable in all cases). Otherwise, it can become `aam without the quality, like in the saying: "A date is better than a locust."

And in the Aayah:

{"Every nafs (soul) knows (will know) what it has presented."}

And in the Aayah:

{"Every nafs will know what it has sent forward..."}

The author says:
"Like the saying: By Allaah, I will not speak to anyone except a Koofi man (man from Kufa)."

This is an example of what is known as `umoom-un-nakirah (generality of nakirah) which is mawsoofah (qualified with a quality), because "rajulan" (man) was nakirah in affirmation, khaas (specific) to one man, and that is how it would have been had he not added the adjective: "Koofiyyan" (from Kufa). Thus, he would be breaking his oath if he spoke to two men. But when he said: "Koofiyyan" (from Kufa), this is `aam for all of the men of Kufa; thus, his oath does not break even if he speaks to all of the men of Kufa.

The author says:

"And like the saying: By Allaah, I will not approach the two of you except a day in which I approach the two of you."

This is a second example of `umoom-un-nakirah al-mawsoofah (the qualified generality of the indefinite article). This is addressed by a man to his two wives. By him saying, "A day," this is nakirah (indefinite) referring to one day. Thus, had he not qualified it with the qualifying statement: "In which I approach the two of you," then eeala would apply after approaching them just one day, because this statement of his (had it been devoid of the qualifying phrase) would have resulted in permanent eeala, not eeala that is restricted to four months and thus the four months become reduced by one day.

However, he qualified this statement by saying: "In which I approach the two of you." By saying this, eeala does not apply, because every day in which he approaches them, this then becomes mustathnaa minhu (excluded from) the oath, because of this quality which is `aam, and thus he would not be breaking his oath.

(وَكَذَا إِذَا قَالَ: أَيَّ عَبْيَدِي ضَرِبْكَ فَهُوَ حَرِ. فَبِضْرِبْهُ إِنَّهُمْ يَعْقُونَ)

مثال ثالث لكون النكرة عامة بعوم الوصف على سبيل التشبيه للقاعدة، فإن قوله: أي عبيدي، ليس بنكرة نحوية لكونه مضافة إلى المعرفة ولكن يشبه النكرة في الإبهام وصف بصفة عامة وهو قوله: ضربك. فبعموم الصفة يتعق كل منهم إن ضربوا المخاطب جملة مجتمعة أو متفرقة.

بخلاف ما إذا قال: أي عبيدي ضربته فهو حر، فإضافة الضرب إلى المخاطب يجعل العبيد
ضروبين، فإنهم لا يعتقيون كلهم إذا ضرب المخاطب جميعهم، بل إن ضربهم بالترتيب عنق الأول لعدم المزاحم، وإن ضربهم دقة يخير المولى في تعين واحد منهم

وجه الفرق على ما هو المشهور أن في الأول وصفه بالضارة فيعم بعفوم الصفة، وفي الثاني قطع عن الوصفية لكونه مسداً إلى المخاطب دون أيّ فلا يعم، ويضار على أخص الخصوص

وعتراض عليه بأنكم إن أردتم الوصف النحوي فليس شيء من المثالين من قبيل الوصف لأن أياً

إما موصولة أو شرطية

وإنا أردتم الوصف المعنوي ففي كل من المثالين حاصل لأنه في الأول وصفه بالضارية وفي الثاني بالضرورة

لا ترى أن في قوله: إلا يوماً أقربكما فيو، وجد العفو مع أياً يوماً وقع مفعولاً فيه لا فاعلاً فينغي

أن يكون في المفعول به كذلك

وأجيب بأن الضرب يقوم بالضارب فلا يقوم بالضرورة والمفعول به فضلة لا يتوقف الفعل عليه

بخلاف يوماً وهو معفول فيه فإنه جزء من الفعل لأنه عبارة عن الحدث مع الزمان فينافمان

The author says:

"Similar is the case if he says: Whichever one from my slaves hits you, then he is free. So, they all hit him. In this, all of them will be freed."

This is a third example of nakirab being `aam with `umoom-ul-wasf (generality of description) by way of resembling it to the principle, because him saying: "Whichever one from my slaves," is not the grammatical nakirab (indefinite article) due to it being mudhaaf (attached) to something which is ma`rīfah (definite). However, it resembles nakirab (indefinite) in ambiguity, and it is qualified with a quality which is `aam, and that is his statement: "Who hits you." Thus, it becomes `aam with `umoom-us-sifah (the generality of quality; description; adjective), and thus all of them (the slaves) will get freed if they all hit the person the speaker was speaking to, whether they do so altogether or individually, contrary to the case of him saying: "Whichever one from my slaves I hit, then he is free." In this scenario, he is making the hitting (dharb) mudhaaf (attached) to himself as the speaker, and is making the slaves the
ones that are hit (madbroobeen). Thus, they are not all freed if he as the speaker hits all of them. Rather, if he hits them consecutively, only the first slave will get freed due to the absence of crowding. If he hits all of them at once, then he has the choice of choosing which one to free.

The difference between them according to what is well-known is that in the first case, he qualified it with "dhaaribiyyah" (the quality of hitting, i.e. them as the slaves doing the hitting), and thus it becomes `aam with the `umoom-us-sifab (generality of quality; adjective). In the second case, the wasfiyyah (descriptiveness) is cut off because of it being linked to the speaker, not to "any" (i.e. any of the slaves), so it does not become `aam, and it goes to the most kbaas form of kbusoo.

An objection was raised against this, that: If you intend the grammatical wasf (description), then nothing in either of the two examples are from the category of al-wasf (description), because "ayy" (any) is either mawsoolah or shartiyyah. And, if you intend the figurative wasf (description), then in both of the two examples it is found, because in the first example, he qualified it with dhaaribiyyah, and in the second example, he qualified it (did wasf) with madbroobiyyah (the quality of being one who was hit.)

Do you not see that in his saying: "Except the day in which I approach the two of you," `umoom (generality) is found despite the fact that "yowman" (a day) occurs as a maf`ool feehi and not as a faa’il (active participle); thus, it should be the same in the case of maf`ool bihee.

An answer is given that, the dharb (hitting) takes place from the dhaarib (hitter), not from the madbroob (one who gets hit). A maf`ool bihee is extra and the verb or action is not suspended upon it, unlike "yowman" (a day) which is maf`ool feehi and is part of the fi`l (action) because it refers to the occurrence of the action along with the tense, thus binding them together.

وقيل في الفرق بينهما: أن في الصورة الأولى لما علق العتق بضرب العبيد يسارع كل منهم إلى ضربه لأجل عتقه فلا يمكن التخیر فيه للمولى بلا مرجح فيعمل، بخلاف الصورة الثانية فإنه علق فيها على ضرب المخاطب فلا ينبغي له أن يضربهم جميعاً ليعتق فبخير فيه المولي بين واحد منهم

(وكذا إذا دخلت لام التعريف فيما لا يحتمل التعريف بمعنى العهد أوجبت العموم)
It has been said that the difference between the two of them is that in the first scenario, *dharb* (hitting) is connected to the slaves; thus, all of them race to hitting him (the person who was addressed) for the purpose of being freed, so it is not possible for the master to choose between them without giving preference (to one over the others), so it becomes `aam, contrary to the second scenario wherein *dharb* (hitting) is connected to the speaker and it is not possible for him to hit all of them at the same time so that they can be freed, and thus he is given a choice regarding which one of them to free.

The author says:

"The same is the case when *laam-ut-ta`reef* (the defining *laam*) enters upon something which does not carry the possibility of *ta`reef* (being definite), in the meaning of `*abd* (i.e. *laam-ul-`abd*), then `*umoom* (generality) is necessitated."

What he means is that, like how *nakirah* (indefinite), when it is qualified with a qualifier that is `*aam*, it becomes `*aam*, so too is it that when *laam-ul-*ma`rifah (or *laam-ut-ta`reef*, which is *ال*) enter upon a form (i.e. a word) which cannot validly give the meaning of *at-ta`reef al-`abdi*, then `*umoom* becomes necessitated (i.e. it becomes as *laam-ul-jinsiyyah* rather than *laam-ul-`abdiyyah*). This is the case whether the `*umoom* is for *jins*, as is the view of Fakhr-ul-Islam and those who followed him, or *istighraaq*, as is the view of the experts of Arabic and the majority of the Usooliyyeen.

[Translator's note: Before proceeding further, we will present a brief explanation on the issue of *ال*.

**Types of *ال***:

1. The *Al Al-`Abdiyyah* (called *Laam-ul-`Abd*)
2. The *Al Al-Jinsiyyah* (called *Laam-ul-Jins*)
3. The *Al Al-Istighraaqi* (called *Laam-ul-Istighraaq*)
As for *Laam-ul-`Abd* (al-`Abdiyyah), then, when it is attached to a *nakirab*, that *nakirab* becomes *ma`rifah* (definite) and points out to a particular individual. For example:

"He honoured the man."

Compare this to the saying:

"He honoured a man."

When you say, "He honoured a man," this is indefinite. You have not specified any individual. On the other hand, when you say, "He honoured the man," then this is definite (*ma`rifah*), and it is specific. You are referring to a particular individual.

The *laam-ul-`abdiyyah*, then, functions as a specifier. It makes a previously indefinite word definite, and it denotes specification, i.e. that you are referring to a particular individual, or object.

*Laam-ul-`Abd* is then further divided into two types:

1. *Dhikri*
2. *Dhibni*

If the thing, be it an object or a person, that are you referring to and specifying with the *laam-ul-`abdiyyah* has been mentioned prior to that within the conversation, then this is known as "*Laam-ul-`Abd Dhikriyyan*". An example of this is the Aayah:

"Indeed, We sent unto you a Rasool (Messenger) as a witness upon you, as We had sent unto Fir`own a Rasool, but Fir`own disobeyed the Rasool..."}

Here, the *laam-ul-`abdiyyah* is on "ar-Rasool". "The Rasool (Messenger)". This is *ma`rifah* (definite). It is *dhikri* because the one being specified in the *laam-ul-`abdiyyah* has been mentioned within the conversation previously: "As We had sent unto Fir`own a Rasool..." Here, Rasool is in the *nakirab* (indefinite) form. A
Rasool (Messenger). Then in the following Aayah, it is made *ma´rifah* (definite): "So Fir´own disobeyed the Rasool..." So the Rasool being specified, its *dhikr* (mention) has already come in the previous Aayah, as the Rasool who was sent to Fir´own. Therefore, it is *Laam-ul-´Abd Dhikri*. It is also known as *Laam-ul-´Abd Khaariji*.

The other type is *Laam-ul-´Abd Dhibni*, and this is the opposite of *Laam-ul-´Abd Khaariji/Dhikri*, because the thing being specified is one that was not mentioned previously in the conversation. An example of this is the Aayah:

"When they gave bay`ah to you beneath the tree..."

Here, "*ash-Shajarah*" is *ma´rifah* (definite). It is specified. "The tree," meaning a particular tree. However, there was no mention of this tree previously in the Soorah, hence it is *Laam-ul-´Abd Dhibni*. It is called "*dhibni*" because it is in the *dhihn* (mind) of the listeners, i.e. the listeners know what is being referred to even without it having been mentioned.

To summarise: the difference between *laam-ul-`ahd dhikri/khaarji* and *laam-ul-`ahd dhihni* is that in the case of *dhikri*, the specific constituent is known, and in the case of *dhihni*, the specific constituent is unknown.

Then, the *Al Al-Jinsiyyah*. This is when *al* is attached to a formerly *nakirah* word, making it *ma´rifah*. However, unlike with `abdi, a specific constituent is not intended, i.e. you are not specifying one particular individual or object. Rather, you are referring to all of the constituents from the constituents which fall under that *jins* (species). An example of this is the Aayah:

"Man was created of haste..."

Here, even though *al-Insaan* is *ma´rifah*, *ال* being attached to it, a specific constituent is not intended. Meaning, it is not referring to one particular individual. Rather, it is referring to every single individual that falls under the *jins* of "insaan", so the entire human race as a whole. This is *alif and laam jinsiyyah*. 
Al Al-Istigbraaqiyah is very similar to Al Al-Jinsiyyah. However, the difference between the two is that laam-ul-jinsiyyah specifies all of a concept whereas istigbraaqi specifies all of the constituents. For example:

الرجل قوي من الصبيان

“Men are stronger than children.”

This is laam-ul-jinsiyyah. Ar-Rajul is ma`rifah, specified, but what is being specified here is “man” as a concept or as a species, rather than referring to all of the individual constituents of men.

On the other hand, an example of laam-ul-istighraaq is the Aayah:

والعصر، إن الإنسان لبني خسر

{“By time, verily man is in a state of loss…”}

Here, all of the individual constituents of “insaan” are being specified by the ta`reef done on “insaan”. “Al-Insaan”. Thus, this includes every single person that falls under the meaning of “insaan”. - End of note.]

This shows that by default, when al is used, the type meant is laam-ul-`abd. Therefore, as long as the meaning of `abd is applicable, that will be the intended meaning and a different meaning of al will not be assumed, and
this is the case whether the \`abd be dbibni or kbaariji, as some have mentioned.

It has also been said that this applies only to \`abd kbaariji and not \`abd dbibni, and that \`abd kbaariji is the default when it comes to ta\`reef (making definite), because the specified thing in dbibni in meaning is like nakirah (indefinite).

However, if the meaning of \`abd is not applicable, such as by there not being individuals that are being specified or its dbikr (mention) has not come previously, then it will be carried upon the meaning of laam-ul-jins, thus carrying the possibility of both the lowest number as well as all (kull), according to capability of that place to accept it. Or, it is carried upon the meaning of laam-ul-istigbraaq, thus covering all (kull), like in the Aayah:

{"Indeed, man is in a state of loss, except those who have Imaan and do good deeds..."}

وقوله:

السارقُ والسارقةُ

و

الزانيةُ والزاني

وأمثاله

And like in the Aayah:

{"The male thief and the female thief..."}

And the Aayah:

{"The adulteress and the adulterer..."}

And other such examples.

(حتى يسقط اعتبار الجمعية إذا دخلت على الجمع عملاً بالدليلين)
The author says:

"The plurality is dropped when it enters upon that which is plural, acting according to the two evidences."

This is a branching off from his statement, "It necessitates `umoom (generality)." Meaning, this amount, if the laam enters upon a mufrad (singular). If it enters upon a plural, however, then the fruit of the `umoom is that it causes the meaning of plurality to fall away, so its least amount is no longer three, because, if the plural status remains there would be no purpose behind the laam, and it would not be `abd, or jins, or istighraaq. Thus, it is necessary that it be carried upon the meaning of jins (laam-ul-jins), so that what is less than three can fall under jins and what is over that for plural.

The author says:

"Thus, his oath breaks if he marries even one woman, if he had taken an oath not to marry women."

If the meaning of plurality had remained, then his oath would not be broken by marrying less than three. (What he means by this is that, even though when making the oath the person used the plural form, which is "women," his oath breaks by marrying even one woman, though one woman is singular and not plural, because plural is three or more.)

"وَلَوْ كَانَ مَعْنِيُّ الْجَمْعِ بَاقِيًا لَمْ حَنْثَ بِمَا دَفُّ الْثَلَاثَ"
Examples of this are the Aayats:

{"After this, (other) women are not permissible for you..."}  

And the Aayah:

{"The sadaqaat (i.e. zakaat) is for the fuqaraa and the masaakeen..."}  

فتكفي الصدقة لجنس الفقير والمسكين  
وعبد الشافعي رحمه الله لابد أن يصرف إلى الفقراء الثلاثة والمساكين الثلاثة عملاً بالجمع  

الآية

This is the limit of what has been mentioned with regards to this issue, so ponder over it.

ثم إنه لما ذكر إفادة النكرة والمعرفة التعميم أورد في تقريبه بيان ما ورد النكرة والمعرفة في مقام واحد وإن لم يكن ذلك من مباحث الاعتدال في الحال في مقال (والنكرة إذا أعيدت معرفة كانت الثانية عين الأولي).

والنكرة إذا أعيدت معرفة أورد في التعريف باللام أو الإضافة دون الأعلام ونحوها. فإذا أعيدت باللام كان ذلك إشارة إلى ما سبق فيكون عليه كقوله تعالى:

إِنَّا أُرْسِلْنَا إِلَيْكُمْ رَسُولًا شَاهِداً عَلَيْكُمْ كَمَا أُرْسِلْنَا إِلَيْ فِرْعَوْفَ رَسُولًا.  فَعَصِّبَتْ فِرْعَوْفُ الرُّسُولَ  

62
After mentioning that both nakirah and ma`rifah give the meaning of ta`meem (making `aam), he enters into a discussion regarding a case wherein there is both nakirah and ma`rifah in one place - even though this is not part of the discussions on `aam itself - but he says:

"When nakirah is repeated as ma`rifah, the second is the same as the first."

This does not occur except in ta`ref with laam or with idhaafah, not with proper nouns, etc. So when it is repeated with (alif) and laam, that is a sign pointing out to what had preceded, so it is the same thing, like in the Aayah:

{"Indeed, We sent unto you a Rasool (Messenger) as a witness upon you, as We had sent unto Fir`own a Rasool, but Fir`own disobeyed the Rasool..."}

The author says:

"When it is repeated as nakirah, then the second is other than the first."

Because had it been the same as the first, then the type of specification would have become specified and no indefiniteness would have remained, whereas the reality is opposite to this.

The author says:
"When ma`rifah is repeated as ma`rifah, the second is the same as the first."

Because the laam points out to the specified thing which was mentioned previously.

An example of these two principles is the Aayah:

{"Verily, with hardship comes ease. Verily, with hardship comes ease."}

In this Aayah, `usr (hardship) was repeated as in the form of ma`rifah (al-`usr), and thus in both it is a reference to same `usr (hardship). With yusr (easiness), on the other hand, it was repeated in the form of nakirah, which shows that the second is different from the first (i.e. the second time easiness is mentioned, it refers to an easiness separate from the first easiness, because nakirah is being used). From this it becomes known that with every hardship, there are two (periods of) ease.

وهو معنى قول ابن عباس رضي الله عنهما مروياً عن النبي صلى الله عليه وسلم: لَنْ يَغْلِبَ عُسْرٌ يُسْرَيْنِ،

وقال الشاعر:

إذا اشتدت بك البلوى ففكر في إلم نشرت،
فغير بين بسرين إذا فكرته ففرح.

وقال فخر الإسلام: عندي في هذا المقام نظر لأنه يحتل أن تكون الجملة الثانية تأكيداً للأولى.

كما أن قولنا: إن مع زيد كتاباً إن مع زيد كتاباً. لا يدل على أن معه كتابين. فيكون العسر واحداً واليسر واحداً.

(وذا أعيدت نكرة كانت الثانية غير الأولى)

ولأنها لو كانت عين الأولى لتعين بلا إشارة حرف بدل عليه وهو باطل. ولم يوجد لهذا مثل في النص. وقد جعلوا في مثله ما إذا أقر بالله مقصود بصك بحضور شاهدين في مجلس ثم بالله غير مقصود بصك بحضور شاهدين آخرين في مجلس آخر، يكون الثاني غير الأول ويلزمهу ألفان.

وبيني أن يقول أن هذا كله عند الإطلاق وخلوا المقام عن القرآن إلا وقد تعاد النكرة معرفة مع المغايرة. كقوله تعالى:
وَهَذَا كِتَابٌ أُنْزِلَ لَكُمْ مِنْ فِيْلَةٍ مَّيْلٍ فَاتْبِعُوهُ وَاتْقُواَ عَلَيْهِمْ نَزْحَمٍ أَنْ تَقُولُواَ إِنَّنَا نُزِّلْنَا لَكُمْ عَلَى طَوْافَتَيْنِ مِنْ قَبْلَا

فالكتاب الأول: القرآن، والكتاب الثاني: التوراة والإنجيل

وَالَّذِي فِي السَّمَاءِ إِلَى الْأَرْضِ إِلَى

This is the meaning of what Hadhrat `Abdullaah ibn `Abbaas رضي الله عنهما narrated from Nabi صلى الله عليه وسلم, that he said: "One hardship will not overcome two (periods of) ease."

The poet says:

"When the calamity becomes severe upon you, ponder over Alam Nashrah. For indeed, a difficulty situated between two periods of ease, when you ponder over this, rejoice."

Fakhr-ul-Islam said: "I have a different view with regards to this issue, because it is possible that the second sentence can simply be a ta'keed (emphasis) for the first sentence, like when we say: "Indeed, with Zaid is a kitaab. Indeed, with Zaid is a kitaab." This does not mean that with Zaid are two kitaabs. Similarly, `usr can be one and yusr can be one."

The author says:

"When it is repeated as nakirah, the second is different to the first."

Because had it been the same as the first, then it would have become specified despite not having any sign - even a letter - that points out to it, which is false. No example such as this was found in the nass. They have made as an example that, if a person admits to owing 1,000 (dinars or dirhams) attached to a document, in the presence of two witnesses in one sitting, and thereafter at a later stage he admits to owing 1,000 (dinars or dirhams) unattached to any document, in the presence of two other witnesses in a different sitting, then the second debt of 1,000 will be different to the first and he will be liable to repay both.

It must be known that all of this applies in the case of itlaaq and when there are no external factors that point out to the case being different from that;
otherwise, sometimes nakirah is repeated as ma`rifah with a change (in the two), such as in the Aayah:

{"And this is a Mubaarak Kitaab which We have revealed; therefore follow it and have Taqwaa so that you may receive (the) Mercy (of Allaah). (Lest) you say: The Kitaab was only revealed on two groups before us..."}

The first mention of Kitaab is a reference to the Qur’aan, and the second reference to Kitaab is a reference to the Towraah and the Injeel.

And sometimes even nakirah is repeated without there being a change in the two, like in the Aayah:

{"And He it is Who is the Ilaah in the heavens and the Ilaah on earth..."}

And sometimes ma`rifah is repeated as ma`rifah with a change (between the two), like in the Aayah:

{"And He it is Who sent down the Kitaab with Truth, confirming that which came before it from the Kitaab (i.e. the Towraah and the Injeel)..."}

And sometimes ma`rifah is repeated as nakirab with no change between them, like in the Aayah:

{"Indeed, your Ilaab is One Ilaab..."}

And other such examples.

وقد تعاد المعرفة معرفة مع المغايرة كقوله تعالى:

وَهُوَ الَّذِي أَنْزَلَ عَلَيْكَ الْكِتَابَ بِالْحَقِّ مُصَدِّقًا لِّمَا بَيْنَ يَدَيْكَ مِنَ الْكِتَابِ

وقد تعاد المعرفة نكرة مع عدم المغايرة كقوله تعالى:

إِنَّمَا إِلَيْهِمْ إِلَهٌ وَاحِدٌ

وأمثال ذلك

And some such examples.

ثم بعد ذلك ذكر المصنف رحمه الله أقصى ما ينتهي إليه التخصيص في العام. وكان ينبغي أن يذكر في مباحث التخصيص لكن لما كان موقفاً على بيان ألفاظه آخره عنها فقال:
The author now mentions the furthest point takhsees reaches in `aam. It was more appropriate for him to have mentioned it under the discussions on takhsees, but because it is suspended on the explanation of its words, he delayed it. He says:

"That which khusoos ends at is of two types."

Meaning, the amount which does not exceed to that below it is of two types:

"The first type: one, in that which is singular."

With its word-form, like "man", and "maa", and taa'ifab (a group), and ism-ul-jins which has been made definite by laam.

The author says:

"Or connected to it."

"Like the plurals which are made definite by laam-ul-jins, because had they been free of one as well, then the word would have lost what it refers to."

"Like a woman, and women."
This is *nasbr `alaa tarteeb-il-laff*. The woman is a singular, in the word-form of singular, made definite by *laam (al-mar’ab)*. Women are plural, having no "one" (*waabid*), also made definite by *laam-ul-jins*. Their *takhsees* ends at one, absolutely.

(والنوع الثاني: الثلاثة فيما كان جمعاً صيغة ومعنى)

كرجل ونساء منكراً مما لم يدخله لام الجنس. ويلحق به ما كان معني فقط تقوم ورهط

The author says:

"The second type: three in that which is plural, with its word-form and meaning."

Like *rijaal* (men), *nisaa* (women), in the form of *nakirab, laam-ul-jins* not having entered upon them. What is connected to this type also is that which is plural in meaning only, like *qowm* (nation) and *rabt* (a group).

(لأن أدنى الجمع الثلاثة بإجماع أهل اللغة)

The *takhsees* of all of these ends at three.

The author says:

"Because the least amount of plural is three, according to the consensus of all the experts of the Arabic language."

فلو لم يبق تحته ثلاثة أفراد لفات اللفظ عن مقصوده وقال بعض أصحاب الشافعي ومالك رحمهما الله: إن أقل الجمع اثنان فينتهي التخصيص إليه تمسكاً بقوله عليه الصلاة والسلام: إِثْنَانِ فَمَا فُؤْقهُمَا جَمَاعَةٌ فأجاب عنه المصنف رحمه الله بقوله:

(وقوله عليه الصلاة والسلام: إِثْنَانِ فَمَا فُؤْقهُمَا جَمَاعَةٌ, محمول على المواريث والوصايا)
So, if three individuals did not remain under it, then the word would have lost its purpose.

Some of the companions of Imaam ash-Shaafi`ee and Imaam Maalik رحمة الله عليهما said: "The least amount of plural is two, and thus takhsees ends at it."

They based this on the Hadeeth:

"Two and what is above that (more than two) is a group (i.e. plural)."

The author رحمة الله عليه responds to this by saying:

"The Hadeeth: "Two and what is above that is a group (i.e. plural), is a reference to meeraath (inheritance) and wasaayaa (bequests).""

Because when it comes to meeraath, two people get the ruling of a group (plural), as a right and an evidence, because two daughters and two sisters get two-thirds, just as how three or more daughters and three or more sisters get, and the presence of even two brothers reduces the mother's share of one-third to one-sixth, just as three or more brothers do.

والوصية أخت الميراث في كونها إستخلافاً بعد الموت وتتبع الميراث تبعية النفل للفرض. فإن أوصي لموالي فلان وله موليان أو لاخوة زيد وله أخوان يستحقان الكل (أو على سنة تقدم الإمام)

إي إذا كان المتقدى أثنيين يقدموهما الإمام كما يتقدم على الثلاثة خلافاً لأبي يوسف رحمه الله فإنه عنده توسطهما. وذلك لأن الإمام محصور في الجماعة كلها إلا في الجمعه فإن فيها تشرط ثلاثة رجال سوى الإمام خلافاً لأبي يوسف إذ عنده يكفي أثنيان سوى الإمام

ولم يذكر المصنف رحمه الله الجواب الثالث الذي ذكره غيره. وهو أنه محمول على المسافة بعد قوة الإسلام. فإنه عليه الصلاة والسلام نهي أولاً عن مسافرة الواحد والإثنين لضعف الإسلام وغلبة الكفار. فقال: الواحذة شيطان والإثنان شيطانان والثلاثة ركب.
Wasiyyah is the sister of meeraath in its coming into effect after the death (of the one who makes the bequest), and it follows meeraath the way nafl follows fardh. So, if he makes a wasiyyat for the mawaali (slaves) of so-and-so - and that person has just two slaves - or he makes a bequest for the brothers (ikhwah) of Zaid - and Zaid only has two brothers - then in all such cases, despite them only being two, they will take all the bequest (i.e. even though the person had used the word plural, which is for three or more, and they are only two, but despite this it will go entirely to them.)

The author says:

"Or upon the Sunnah of the Imaam standing in front."

Meaning, if there are two muqtadis, the Imaam will stand a bit in front and lead the Salaah, just as how he would do in the case of there being three muqtadis, which is contrary to the view of Imaam Abu Yusuf رحمة الله عليه, who said that in the case of two muqtadis, he will stand between them and lead the Salaah.

The reason behind this is that, the Imaam is counted as being part of the jamaa`ah, except in the case of Jumu`ah. In the case of Jumu`ah, it is stipulated that there be three muqtadis besides the Imaam. Imaam Abu Yusuf رحمة الله عليه, however, held the view that two muqtadis besides the Imaam is sufficient.

The author رحمة الله عليه did not mention the third answer which had been mentioned by other (`Ulamaa of the Ahnaaf), which is that the Hadeeth is interpreted to be a referene to travelling after the establishment and strengthening of Islaam. In the early days, Rasoolullaah صلى الله عليه وسلم had prohibited travel in groups of one and two (i.e. one person travelling alone, or two people travelling alone.) He said, "One (traveller) is a Shaytaan. Two
(travellers) are two Shaytaans. Three is a group." Meaning, three are sufficient.

Later on, when Islaam became strong, Rasoolullah صلى الله عليه وسلم permitted travelling in groups of two, hence his saying, "Two, and what is above that is a jamaa`ab (group)." However, the ruling remained the same in the case of travelling alone (one person). [However, Mulla `Ali al-Qaari رحمه الله عليه mentions that later on, when Islaam became established and the Muslims were powerful, Rasoolullah صلى الله عليه وسلم permitted men to travel alone as well. - Qamar-ul-Aqmaar.]

The remainder of the objections of the opposition (i.e. the Maalikis and the Shaafi`is) as well as the answers to those objection have been mentioned in the lengthier (books of shuroob, and have been omitted here for brevity.)

القسم الثالث من التقسيم الأول

Part Three, from Section One:

المشترك

Al-Mushtarak (Shared Words)

Now that the author has completed his explanation on `aam, he begins his explanation on mushtarak, so he says:

تعريفه

1. Its Definition

(وأما المشترك فما يتناول أفراداً مختلفة الحدود على سبيل البدل)
"As for mushtarak⁴, then it refers to that which includes individuals (or objects) having different borders; boundaries; limits, by way of substituting or replacing."

أراد بالأفراد ما فوق الواحد ليتناول المشترک بين المعنيين فقط، وهو يخرج الخاص

وقوله: مختلفة الحدود يخرج العام على ما مر

وقوله: على سبيل البديل لبيان الواقع، أو احتراع عن قول الشافعي رحمة الله أنه على سبيل الشمول كما سيأتي. وقيل: إنه احتراع عن لفظ الشيء فإنه باعتبار كونه بمعنى الموجود مشترک معنوی خارج عن هذا المشترک، وباعتبار كون أفراده مختلفة الحقائق داخل في المشترك اللفظی

What the author means by saying "afraad" (constituents) is that they be more than one, so that mushtarak joins between two meanings only (i.e. not less than that), and so this excludes khaas.

His saying: "Having different borders; boundaries; limits", excludes `aam, as has preceded (i.e. that in `aam, the borders/boundaries/limits of the different constituents are the same.)

His saying: "By way of badl (replacing or substituting) is to explain the reality, or it is to avoid the statement of Imaam ash-Shaafi`ee who said: "It is by way of shumool (encompassing)." This will be explained later on.

It has also been said that it is to avoid the word “ash-shay” (thing), because taking into consideration its meaning “that which exists” (i.e. anything which exists can fall under shay), it is figuratively mushtarak, though outside of this (actual) mushtarak, and by taking into consideration its constituents that are different in terms of their realities, it enters into literal mushtarak.

(كالقرء للحيض والطهر)

⁴ Mushtarak refers to words that have two or more meanings, and these meanings can be vastly different, referring to completely different things entirely. For example, the word جارية “jaariyah” is mushtarak, because one meaning is a ship, another meaning is a female slave, and another meaning is a young girl. The word مشتري is mushtarak because it can refer to a buyer or it can refer to a star in the sky. When it comes to mushtarak, then, if evidence is found that shows that just one meaning from the meanings of that mushtarak word is meant, then the other meanings will fall away and only that one meaning will be kept.
The author says:

"Like al-qur', having both the meaning of haidh and also of tuhr (purity)."

Because the word al-qur' is mushtarak, i.e. shared between these two meanings which cannot join up (because a woman is either in tuhr or in haidh. She cannot be in both states at the same time. Similarly, both meanings cannot be applicable at one and the same time.)

Imaam ash-Shaafi‘ee رحمه الله عليه has interpreted al-qur' to be a reference to tuhr (purity), whereas Imaam Abu Haneefah رحمه الله عليه interpreted it to be a reference to haidh, as you know.

2. Its Ruling

(وحكمه التوقف فيه بشرط التأمل ليترجح بعض وجهه للعمل به)

يعني التوقف عن اعتقاد معين من المعاني والتأمل لأجل ترجح بعض الوجه لألجل العمل لا
للعلم القطعي كما تأملنا في القرء عدة أوجه:

أحدها: بصيغة ثلاثة
والثاني: يكون أقل الجمع ثلاثة علی ما مر
والثالث: أنه بمعنى الجمع والانتقال

The author says:

"The ruling of mushtarak is that reservation is done, i.e. no judgement is passed initially, until it has been pondered over (looking into the evidences), so that one of the meanings can be given preference over the other meanings, and then this meaning can be acted upon."
Meaning, reservation is done regarding believing one particular meaning to be the intended meaning (until research has been done), and until it has been carefully considered and thought over to do tarjeeb to one meaning over the other meanings, and this is for the purpose of acting upon (this meaning); it is not to say that after this, one will know with certainty (qat`an) which meaning was the intended one. This is as we have thought over the issue or al-qur’ (and we, that is, the Ahnaaf, arrived at the conclusion that it refers to haidh and not tuhr), and that is due to a number of reasons:

1. Due to the word-form of "three" (i.e. because quroo’ is plural, and the minimum plural is three, and if the intended meaning of qur’ is tuhr like Imaam ash-Shaafi’ee said, then it would go against the rule of plural, because there would not be three equal periods of tuhr. On the other hand, there are three full periods of baidb, so that conforms to the plural meaning conveyed by quroo’).
2. Due to the least amount of plural being three, as has been mentioned previously.
3. Because it (qur’) conveys the meaning of gathering and also of moving.

The thing which gathers is the blood (damm) during the days of baidb, and also, the thing which moves (which does intiqaal) is the blood as well, during the days of baidb. Thus, if the baidb is the blood, then it is the thing which gathers and which moves even though it is not a gatherer, unlike tuhr, because tuhr is not a gatherer, not does it gather, nor does it move (i.e. it does neither jam` nor intiqaal, which are the meanings of qur’). If it is the days of bleeding, then that (i.e. those days) are the place (time) of gathering and moving, unlike the days of tuhr (purity), because no moving takes place,
even though it may be (considered) a place for gathering (i.e. the blood gathering) from what is apparent, and I have clarified that in at-Tafseer al-Ahmadi, (and I have omitted mentioning it here) because the place is not big enough for it (i.e. it would make the discussion at hand too lengthy, so it has been omitted for the sake of brevity).

The author says:

"There is no `umoom for it."

Meaning, there is no `umoom for mushtarak, according to us (Ahnaaf). Thus, it is invalid to intend both meanings of a mushtarak word at the same time. According to Imaam ash-Shaafi`ee, however, it is valid to intend both meanings at the same time.

An example of this (where a mushtarak is used and both meanings are intended, according to Imaam ash-Shaafi`ee) is the Aayah:

{"Indeed, Allaah and His Malaa`ikah send Salaah upon the Nabi..."}

When the word Salaah is used with regards to Allaah Ta`aala, it means Rahmah. When it is used with regards to the Malaa`ikah, it means istighfaar. Thus, both meanings have been intended with the same word.

We (the Ahnaaf) say: The Aayah was brought to make binding upon the Mu'mineen that they follow Allaah Ta`aala and that they follow the Malaa`ikah, and that is not possible except by adopting a word that is `aam, encompassing of everything, and that word is "al-i'tinaa", i.e. paying
attention to the Sha'\n (status) of Nabi صلى الله عليه وسلم, thus making the meaning of the Aayah: "Indeed, Allaah and His Malaa'ikah pay attention to his Sha'\n. O you who have Imaan, you also pay attention to his Sha'\n."

When that *i'tinaa* is used with regards to Allaah Ta`aala, it refers to Rahmah, and when it is used with regards to the Malaa'ikah, it refers to *istighfaar*, and when it is used with regards to the Mu'mineen, it refers to Du`aa.

> وتحرير محل النزاع أنه هل يجوز أن يراد بلفظ واحد في زمن واحد كل من المعنيين على أن يكون مراداً ومناطاً للحكم أم لا؟ فعندنا لا يجوز ذلك لأن الواضع خصص اللفظ للمعنى بحيث لا يراد به غيره. فاعتبار وضعه لهذا المعنى يوجب إرادته خاصة، وباعتبار وضعه لذلك المعنى يوجب إرادته خاصة. فيلزم أن يكون كل منهما مراداً وغير مراد. فلا يكون ذلك إلا بأن يراد أحد المعنيين على أنه نفس الموضوع له والأخر على أنه يناسبه. فيكون جميعاً بين الحقيقة والمجاز وهو باطل.

> وعنده يجوز ذلك بشرط أن لا يكون بينهما مضادة، فإذا كان بينهما مضادة كالحيض والطهر لا يجوز بالإجماع. وكذا لا تجوز إرادة المجموع من حيث هو مجموع بالإتفاق. وتحقيق ذلك في التلويح.

Settling the difference can be done through finding out: is it valid to intend - with one word, in one time - both meanings, by way of it being the intended meaning and (at the same time being the) thing upon which the ruling is connected to, or not? According to us (Ahnaaf), it is not valid, because the one who placed that word, he had specified a particular meaning in such a way that no other meaning can be intended. Thus, taking into consideration the fact that it had been placed (i.e. used, be it in speech or writing) for this particular meaning, necessitates that only that meaning be intended, and taking into consideration that it was placed for that meaning necessitates that only that meaning be intended, and that would result in a condition wherein both meanings are both intended and not intended, and that cannot be except in the case of a person intending both meanings in a way that, one meaning is the main reason behind why the word was used (i.e. the primary meaning) and the other meaning simply conforms to it (i.e. a secondary meaning), so it would be a joining between *bagueeqat* (reality) and *majaaz* (metaphor), which is invalid.
According to Imaam ash-Shaafi`ee رحمه الله عليه, it is valid on condition that there be no conflict or contradiction between the two meanings. If there is a contradiction between the two meanings (like in the case of the word quroo', which can refer either to) haidb or to tuhr, then according to ijmaa` it is invalid. Similarly, it is invalid to intend all of the meanings from the facet of being all (the meanings), according to consensus, and this is clarified in at-Talweeb.

المؤول

Al-Mu`awwal (The Interpreted Meaning)

ثم ذكر المصنف بعده المؤول. فقال:

Thereafter, the author mentions mu'awwal, so he says:

تعريفه

1. Its Definition

"As for mu'awwal, then it refers to the meaning of a mushtarak word that has been given tarjeeb according to the strongest opinion."

Meaning, mushtarak, as long as one of its meanings can be given tarjeeb to (but one specific meaning has not yet been given tarjeeb to) then it remains as mushtarak. However, once one of its meanings has been chosen and given tarjeeb to by a Mujtahid, then that mushtarak now becomes mu'awwal.
It has been counted as being from the types of nazhm, even though it is arrived out through the action of a Mujtahid, because the ruling after ta’weel (i.e. after it has been made mu’awwal) is connected to the word-form, so it is as though it had appeared in the nass.

He restricted (made taqyeed of it) by saying: "from mushtarak," because the intended meaning here is this mu’awwal which comes after (it had been) mushtarak. Otherwise, khafi, musbikil and mujmal all become mu’awwal if their ambiguity is removed through speculative evidence; however, they are from the categories of bayaan.

The meaning of "ghaalib-ur-ra‘i" is the strongest thought (in the mind of the Mujtahid or the one doing ta’weel of the mushtarak word), regardless of whether it is attained through a khabr-e-waahid, or qiyaas, etc.

Thus, it cannot be said: "It does not encompass the case of the ta’weel being obtained through a khabr-e-waabid. It must only be through qiyaas."
Thereafter, doing *tareeb* to one meaning of a *mushtarak* can be through pondering over its word-form, and it can also be through contemplating its context, as we mentioned in the case of *al-qur‘*, by looking at the word itself and by looking at the (mention of) three (i.e. *qurroo‘*, which is plural, and the minimum plural is three).

It can also be by looking at the context, like in the Aayah:

{"It has been made permissible for you, on the night of fasting (i.e. the nights of Ramadhaan, to) have relations (with your wives)..."}  

It is known that the "*uhilla*" mentioned in this Aayah refers to *al-Hill* (permissibility). And in the Aayah:

{"(The One Who) out of His Fadhl has granted us (residence) in a land that will last forever..."}  

It is known that the "*aballa*" mentioned in this Aayah refers to *al-Hulool* (to give residence to).

### حكمه

2. Its Ruling

(وحكمه العمل به على احتمال الغلط)

اي حكم المؤول ووجب العمل بما جاء في تأويل المجتهد مع احتمال أنه غلط ويكون الصواب في الجانب الآخر

والحاصل أنه ظني وواجب العمل غير قطعي في العلم فلا يكتفر جاحده

The author says:

"Its ruling is that it is acted upon while bearing in mind the possibility of error."

Meaning, the ruling of *mu‘awwal* is that it is *waajib* to make `*amal` on what has come from the *ta’weel* of a Mujtahid, whilst bearing in mind the possibility that it can be an error and that the correct view is with the other side.

79
In summary, it is *zhanni* (speculative), *waajib* to act upon, and it is not *qat’iiyy* (absolute) in terms of *Ilm*, and thus the one who rejects it does not become a Kaafir.

**Section Two: The Words Which Have Clear Meanings:**

The author now begins the second section (of the Kitaab), so he says:

**الظاىر**

*Azh-Zhaahir* (The Apparent)

**تعريفه**

1. **Its Definition**

(وأما الظاهر فاسم لكلام ظهر المراد به للسامع يصيغته)

أي لا يحتاج إلى الطلب والتأمل كما في مقابلاتها ولا يزاد على الصيغة شيء آخر من السوق

ونحوه كما في النص

فخرج هذا كله من قوله: بصيغته

The author says:

"As for *zhaahir*, then this is a noun (word) used to refer to such speech (*kalaam*), the meaning of it is apparent to the listener just by its word-form alone."

Meaning, it does not require the listener to search or ponder over it, unlike with the other types of words (like *khafi*, *mushtarak*, *mujmal*, *mushkil*, etc). Also, nothing extra is added to its word-form, such as context, etc., unlike
with nass (with nass, context is added). All of this is derived from his statement: "By its word-form."

ولكن يشترط في هذا كون السامع من أهل اللغة

However, a condition has been stipulated that the listener be from the people of the language (i.e. someone who is fluent in the language).

وفي ازدياد لفظ الكلام إشارة إلى أن هذا التقسيم مما يتعلق بالكلام كالرابع، كما أن الأول والثالث يتعلق بالكلمة

By the (author) having added the word "speech" (kalaam), this shows that this category section is from that which is connected to speech (kalaam), like the fourth, just as the first and third (sections) were connected to (dealing with) the word (kalimah).

والمراد من الظهور في قوله: ما ظهر، الظهور اللغوي، فلا يرد أن هذا تعريف الشيء بنفسه

The meaning of zhuboor (being apparent) in his statement: "It is apparent," is that it is apparent from a linguistic perspective, so it is not to be responded that: this is defining a thing by itself.

حكمه

2. Its Ruling

(وحكمه واجب العمل بالذي ظهر منه)

The author says:

"Its ruling is that it is waajib to make `amal on it according to what is apparent from it."

على سبيل القطع واليقين، حتى صح إثبات الحدود والكافارات بالظاهر لأن غاية أنه يتحمل المجاز. وهو احتمال غير ناشئ من دليل فلا يعتبر

Meaning, by way of absoluteness and certitude, so much so that it is valid to establish budood and kaffaaraat using the zhaaahir, because its limit is that it
carries the possibility of majaz (metaphor), and that is a possibility which has not risen from evidence and thus is not considered.

القسم الثاني من التقسيم الثاني: النص

Part Two, from Section Two: An-Nass

النص

Nass (Clear Text)

تعريفه

1. Its Definition

The author says:

"Nass is that which, its (meaning) becomes clearer than zhaahir because of a meaning from the speaker, not due to the word-form itself."

Meaning, a meaning is understood from it which is not understood from zhaahir, due to the fact that the speaker (mutakallim) brought that speech for that meaning, and this meaning is not simply understood from the word-form alone.
Translator's Note: An example of the difference between *nass* and *zhaahir* is the Aayah:

{"And Allaah made bay` permissible and prohibited ribaa..."}

*Nass* is the reason for which the speech is brought, i.e. the reason why the person says this, or his purpose behind saying it. The purpose for this Aayah being brought was to show the difference between *bay`* and *ribaa*, because the Mushrikeen had said that *bay`* and *ribaa* is the same thing. Thus, this Aayah had been brought to show that this is not the case, and therefore, the *nass* of this Aayah is *tafriqah* (to show the difference between the two). Then, just by reading the Aayah or hearing it, two rulings are known, which is: 1) *Bay`* is *Halaal*. 2) *Ribaa* is *Haraam*. This is known just by hearing the Aayah or reading it. This, then, is known as *zhaahir* (*zhaahir* in the permissibility of trade and the prohibition of *ribaa*).

What is well-known among the people is that when it comes to *nass*, then there is a stipulation that the speech was brought for it (i.e. *nass* is that for which the speech was brought. In other words, it is the crux of the matter.) In *zhaahir*, it is stipulated that this is not so (that the speech was not brought for it), so there is a difference between them.

So if it is said: "The people came to me." This is *nass* regarding the coming of the people. If it is said: "I saw so-and-so when the people came to me." This is *nass* regarding seeing that individual, and *zhaahir* regarding the coming of the people.

However, it has been mentioned in most of the books that *zhaahir* is too `aam (encompassing) for there to be a stipulation or no stipulation of *sooq* (that the speech was brought for it, or that the speech was no brought for it). However, when it comes to *nass*, then *sooq* is a condition for it absolutely.

Similar is the status of each one of the types above is, such as mufassar and muhkam, because some of them are more rightful than others, in terms of
what is less being found in that which is above it, so there is, between them, `umoom and khusos, unrestrictedly.

حكمه

2. Its Ruling

(وحكمه: وجوب العمل بما واضح على احتمال تأويل هو في حيز المجاز)

The author says:

"Its ruling is that it is waajib to make `amal on what is clear, while bearing in mind the fact that there is a possibility for ta'weel, so it is in the category of majaaz.

أي حكم النص وجوب العمل بالمعنى الذي واضح منه مع احتمال تأويل كان في معنى المجاز

Meaning, the ruling of nass is that it is waajib to act on the meaning which is clear from it with the possibility of ta'weel which is in the meaning of majaaz (i.e. it is not based on evidence).

[Meaning, when nass is `aam, it carries the possibility of takhsees, and when nass is not `aam, but rather, it is khaas, for example, then it carries the possibility of majaaz. - Qamar-ul-Aqmaar.]

وهو التأويل قد يكون في ضمن التخصيص بأن يكون عاماً يحتوي التخصيص. وقد يكون في ضمن غيره بأن يكون حقيقة تحتوي المجاز فلا حاجة إلى أن يقال على احتمال تأويل أو تخصيص كما ذكره غيره

And this ta'weel can either be through takhsees, such as (nass) being `aam and carrying the possibility of takhsees, or it can be through other than it, such as (the nass) being baqeeqat while carrying the possibility of majaaz, and thus it is not necessary for it to be said, "and carrying the possibility of ta'weel or takhsees," as others have mentioned.

[Ta'weel is to change the word from its zhaahir (apparent; literal) meaning to the opposite, whether it is with takhsees or with majaaz. - Qamar-ul-Aqmaar.]
Because nass carries this possibility, zhaahir, which is less than it, is more right to carry the possibility (of ta'weel). However, the likes of these possibilities do not harm that which is qat`iyy (absolute. Meaning, because these possibilities are not founded upon solid evidence, they are not capable of harming that which is qat`iyy).

المفسر

_Mufassar_ (Explained)

تعريفه

1. Its Definition

(وأما المفسر فما ازداد وضحاً على النص على وجه لا يبقى معه احتمال التأويل والتخصيص)

 سواء انقطع ذلك الاحتمال بيان النبي صلى الله عليه وسلم بأن كان مجملًا فلحقه بيان قاطع بفعل النبي صلى الله عليه وسلم أو بقوله فصار مفسراً، أو بإيراد الله تعالى كلمة زائدة يسدّ بها باب التخصيص والتآويل كما سيأتي

The author says:

"_Mufassar_ is that which, its clarity is even more than that of nass, in such a way that no possibility of ta'weel or takhsees remains."

This is the same whether that possibility has been cut off due to the explanation of Nabi صلى الله عليه وسلم by, for example, it having been _mujmal_ (ambiguous), and thereafter a clear explanation becomes attached to it through an action of Nabi صلى الله عليه وسلم or a statement of his, and thereafter it becomes _mufassar_ (explained clearly), or through Allaah Ta`ala adding an extra word by which the door of takhsees and ta'weel becomes closed, as will be explained later on.
2. Its Ruling

(وحكمه وجوب العمل به على احتمال النسخ)

أي حكم المفسر وجوب العمل به مع احتمال أن يصير منسوخاً. وهذا في زمن النبي عليه الصلاة والسلام. فاما فيما بعده فكل القرآن محكم لا يحتمل النسخ.

The author says:

"Its ruling is that it is *waajib* to make `*amal` on it though it is possible to have been abrogated."

Meaning, the ruling of *mufassar* is that it is *waajib* to act on it while bearing in mind the possibility that it can become *mansookh* (abrogated), but that was in the era of Nabi صلى الله عليه وسلم. As for the time after that, then all of the Qur'an is *muhkam* and there is no possibility of anything becoming abrogated."

المحكم

*Muhkam* (Clear and Strong)

1. Its Definition

(وأما المحكم فما أحكم المراد به عن احتمال النسخ والتبديل)

تعدية "عن" هنالك يتضمن معنى الإمتاع. أي أحكم المراد به حال كونه ممنوعاً عن احتمال النسخ والتبديل. سواء كان احتمال النسخ لمعنى في ذاته كآيات الوحد والصفات وسعى محكماً لعينه أو بوفاة النبي صلى الله عليه وسلم ويسمى محكماً لغيره.

والمحكم في تعريفه لفظ ازداد كما ذكر فيما سبق تنبيهاً على أن المحكم ما ازداد وضوحاً على المفسر بشيء وإنما ازداد عليه بقوة فيه وهو عدم احتمال النسخ فمراتب الظهور قد تمت على المفسر
The author says:

"As for mubkam, then it is that which, its meaning is clear and strong to such an extent that any possibility of abrogation or ta’weel falls away."

The addition of "`ayn" here includes the meaning of abstaining, i.e. the intended meaning of it is clear and strong whilst it abstains from carrying the possibility of naskh (abrogation) or tabdeel (changing), regardless of whether that possibility is cut off through a meaning within itself, like the Aayaat of Tawheed and the Sifaat (Qualities of Allah Ta’alaa), and that is termed mubkam `aynibi, or with the passing away of Nabi صلى الله عليه وسلم, and that is termed mubkam ghayr ibi.

The word "increase" (izdaada) has not been mentioned in its definition unlike how it was mentioned previously, which shows that mubkam is that which, its clarity is stronger than that of mufassar, and it increased upon it because of a strength in it which is the absence of the possibility of naskh, so the categories of zhimboor end with mufassar.

\[\text{حكمه}\]

\[2. \text{Its Ruling}\]

(وحكمه ووجب العمل به من غير احتمال)

The author says:

"Its ruling is that it is waajib to make `amal on it and there is no possibility (of anything else, like ta’weel, or takhsees, etc)."

لا احتمال التأويل والتخصيص ولا احتمال النسخ فهو أتم القطعيات في إفادة اليقين

Not ta’weel, nor takhsees, nor naskh, etc. Thus, it is the most complete type of qat`iyy in conveying yaqeen (certitude).

ثم شرع في بيان أمثلة كل هؤلاء فقال:

Thereafter, the author begins explaining some examples of these, so he says:

(كقوله تعالى: وَأَخْلَىِ اللَّهُ ٱلْبِيْسَعَ وَحَرَّمَ الْوَٰنَ)
The Aayah:

{"And Allaah permitted bay` and prohibited ribaa..."}

This is the example of *zhaahir* and *nass*, because it is *zhaahir* with regards to the permissibility of *bay`* and the prohibition of *ribaa*, and it is *nass* regarding the difference between the two of them, because the Kuffaar used to believe that *ribaa* is permissible, so much so that they resembled *bay`* to it, saying: "Indeed, *bay`* is like *ribaa*." So Allaah Ta`aalaa responded that, how can that be when Allaah has permitted *bay`* and prohibited *ribaa*.

Its example which is mentioned in most of the books is the Aayah:

{"So marry those that are pleasing to you from the women, in twos, threes and fours..."}

This Aayah is *zhaahir* is permitting *nikaah*, *nass* in mentioning the number (of wives), because the Aayah was brought for that, as will be explained later on.
The author says:

"The Aayah: {"So the Malaa'ikah made Sajdah, all of them, altogether, except Iblees..."}"

This is an example of mufassar. The Aayah, {"So the Malaa'ikah made sujood,"} is zhaahir regarding the Malaa'ikah having made sujood, and it is nass regarding the honouring of Nabi Aadam عليه السلام. However, it carried the possibility of takhsees, i.e. some of the Malaa'ikah having made sujood, such as by al-Malaa'ikah being `aam makhsoos-ul-ba`dh. It also carried the possibility of ta'weel, i.e. that the Malaa'ikah could have made sujood altogether or individually.

The first possibility, i.e. that of takhsees, was removed by the Aayah saying: {"All of them."}

The second possibility, i.e. that of ta'weel, was removed by the Aayah saying: {"Altogether."}

Thus, it became mufassar.

It is not to be said that the possibility still remains of them having made the sujood either in a circle or in rows, because that causes no harm to the honouring of Nabi Aadam عليه السلام. However, we do not claim that it is mufassar from all angles, but rather, we say that it is mufassar from some angles.

Similarly, it is not to be said that Iblees has been excluded from it and so how can it be mufassar, because istithnaa (excluding) is not from the category of takhsees and does not harm (i.e. does not effect it) the speech being mufassar, because it is istithnaa that is munqat or based on majority.
Similarly, it is not to be said that it is khabr having no possibility of naskh and so it should be an example of mubkam, because the asl of this speech carried the possibility of naskh, but this possibility was removed because of an extenuating factor, which is that of it being khabr, and so there is no harm in it.

For this reason, the author of at-Tawdeeb writes: "The best example of mufassar is the Aayah: {"And fight the Mushrikeen entirely (kaaffah, i.e. completely)."} Because it is from the Ahkaam of the Sharee`ah, unlike the Aayah: {"So the Malaa'ikah made sujood..."} because that is from the narrations and stories.

The author says:

"The Aayah: {"Indeed, Allaah is All-Knowing over everything."}

This is an example of mubkam, because it is nass in that which it incorporates, so it does not carry the possibility of ta'weel, or naskh, because it is related to `Aqaa'id (beliefs) and explaining Tawheed and the Sifaat (Qualities) of Allaah Ta`aalaa.

And why is it not said that this is khabr having no possibility of naskh, and so it should be an example of mubkam, because the asl of this speech carried the possibility of naskh, but this possibility was removed because of an extenuating factor, which is that of it being khabr, and so there is no harm in it.

وَلَهَذَا قَالَ فِي التَّوْضِيحِ: إِنَّ الْأُولِيَّةَ فِي مَثَالِ المُفْسَرِ هُوَ قُوْلُهُ تَعَالَى:

وَقَاتِلُوَا الْمُشْرِكِينَ كَافَّةً

لِأَنَّهُ مِنْ أَحْكَامِ الْشَّرْعِ، بِخَلافِ قُوْلُهُ تَعَالَى:

فَسْجَدَ الْمَلَائِكَةُ

فِي نَصِّ مَثَالِ الْمَحْكَمِ، لِأَنَّهُ نَصٌّ فِي مَضْمُونِهِ فَلْمَ يَحْتَمَّ الْتَّوْاَلِ وَالْنَّسْخُ إِذْ هُوَ مِنْ بَابِ العِقَالِدِ فِي بِيَانِ التَّوْحِيدِ وَالصِّفَاتِ

مثَالٌ لِلْمَحْكَمِ لِأَنَّهُ نَصٌّ فِي مَضْمُونِهِ فَلْمَ يَحْتَمَّ الْتَّوْاَلِ وَالْنَّسْخُ إِذْ هُوَ مِنْ بَابِ العِقَالِدِ فِي بِيَانِ التَّوْحِيدِ وَالصِّفَاتِ

The author says:

"The Aayah: {"Indeed, Allaah is All-Knowing over everything."}

This is an example of mubkam, because it is nass in that which it incorporates, so it does not carry the possibility of ta'weel, or naskh, because it is related to `Aqaa'id (beliefs) and explaining Tawheed and the Sifaat (Qualities) of Allaah Ta`aalaa.

وَلَمْ يَكُنْ هَذَا مِنْ أَحْكَامِ الْشَّرْعِ قَالَ صَاحِبُ التَّوْضِيحِ هَذَا أَيْضاً إِنَّ الْأُولِيَّةَ فِي مَثَالِ الْمَحْكَمِ
Because this was not from the Ahkaam of the Sharee`ah, the author of at-Tawdheeh said: "The best example of mubkam is the Hadeeth: "Jihaad will continue until the Day of Qiyaamah."

Because it is relating to Ahkaam and carries no possibility of naskh (abrogation), because of it giving a time-frame (i.e. until the Day of Qiyaamah), so it is established as nass.

The author says:

"In the case of conflict, that which is lower is abandoned for that which is higher."

Meaning, the differences in level between these four (types) does not appear in zhanniyyah (speculative cases) and qat’iyyah (absolute cases) because all of them are qat’iyy. The difference only shows up in the case of conflict, and thus that which is higher will be acted upon rather than that which is lower (in level).

So when there is a conflict between zhaahir and nass, nass will be acted upon. When there is a conflict between nass and mufassar, mufassar will be acted upon. When there is a conflict between mufassar and mubkam, mubkam will be acted upon.
However, this type of conflict is only a figurative conflict and not a literal one, because a literal conflict is a contradiction between two proofs that are on the same level, neither one being (stronger) than the other, and that is not the case here.

مثال تعارض الظاهر مع النص قوله تعالى:

An example of a conflict between *zhaahir* and *nass* is the Aayah:

وَأَحْلَلْ لَكُمْ مَّا وَزَاءَ ذَلِكَمْ أَنْ تَنْتَغَيْنَ بَأَمْوَالِكُمْ

مع قوله تعالى:

فَاخْرَجُوا مَا طَابَ لَكُمْ مِنَ النِّسَاءِ مِنْ ثَلَاثِ وَرُبُعٍ وَثُلَاثِ وَرُبُعٍ

{"And permitted for you is what is beyond that, that you seek with your wealth..."}

With the Aayah:

{"So marry those that are pleasing to you from the women, in twos, threes and fours..."}

فإن الأول ظاهر في حل جميع المحلولات من غير قصر على أربعة قصير أن تحل الزائدة عليها

والثاني نص في أنه لا يجوز التعدي عن الأربعة لأنه سبق لأجل العدد فتعارض بينهما، فترجح النص ويقتصر عليها

وقيل الأول نص في حق اشتراط المهر والثاني ظاهر في عدم اشتراطه لأنه ساكت عن ذكره

ومنطق عليه فوقع التعارض بينهما فترجح النص ويجب المال

The first Aayah is *zhaahir* in the permissibility of all those women that are permissible to marry, without any restriction, and thus it should be that it is permissible to marry extra. The second Aayah is *nass* regarding that it is not permissible to exceed upon four wives, because the Aayah was brought for the purpose of `adad (i.e. establishing a particular number, which is four wives), so there is a conflict between them. Thus, *tarjeeb* is given to *nass* and men are restricted to marrying four wives.

It has also been said that the first Aayah is *nass* regarding the stipulation of *mahr* and that the second Aayah is *zhaahir* in that there is no stipulation of *mahr*, because it (the second Aayah) does not mention it and it is
unrestricted from it, so a conflict arises between them and *tarjeeb* is given to *nass*, and thus the *maabr* is *waajib*.

An example of a conflict between *nass* and *mufassar* is the Hadeeth:

"The *mustabaadbab* performs a fresh *wudhoo* for every Salaah."

And the Hadeeth:

"The *mustabaadbab* performs a fresh *wudhoo* at the time of every Salaah."

The first Hadeeth is *nass* necessitating a fresh wudhoo for every Salaah regardless of whether it is *adaa* or *qadbaa*, and regardless of whether it is *fardb* or *nafl*. However, it carries the possibility of *ta'weel*, such as by the *laam* giving the meaning of time, so one *wudhoo* is then sufficient in each time, so she performs with that one *wudhoo* as many Salaats as she want, *fardb* or *nafl*.

The second Hadeeth is *mufassar*, not carrying the possibility of *ta'weel* due to the presence of the word "*waqt*" (time) in it clearly mentioned in it. Thus, when there is a conflict between them, *mufassar* is given *tarjeeb* and so one *wudhoo* is sufficient in each Salaah time, once.
Imaam ash-Shaafie`ee had not realised this, so he acted according to the first Hadeeth.

ومثال تعارض المفسر مع المحكم قوله تعالى:

وأشهدوا ذوي عدل منكم

مع قوله تعالى:

ولا تقبلوا لهم شهادة أبداً

An example of a conflict between *mufassar* and *muhkam* is the Aayah:

{"And make as witnesses two people of `adl from among you..."}  

And the Aayah:

{"And do not accept their shahaadah (testimony) ever..."}  

فإن الأول مفسر يقتضي قول شهادة محدودين في القذف بعد التوبة لأنهما صاراً عدلين حينئذ وَلا تَقِبْلُوا لَهُمْ شَهَادَةً أَبَداً

والثاني محكم يقتضي عدم قبولها لوجود التأبيد فيه صريحاً. فإذا تعارض بينهما يعمل على المحكم

هكذا في كتب الأصول

Because the first Aayah is *mufassar*, necessitating the acceptance of the *shabaadah* (testimony) of two appointed people in the case of *qadhf* (a woman being accused of *zinaa*) after *tawbah*, because both of them once again become `aadil after that (after repenting).

The second Aayah is *muhkam*, necessitating the absence of accepting their testimony due to the word "ever" being used clearly. So, when there is conflict between the two of them, *muhkam* is acted upon.

This is how it has been mentioned in the books of Usool.
As for what has been said, that there exists no example of a conflict between 
*mufassar* and *mubkam*, then this (statement) is due to a lack of research.

ثم إن المصنف ذكر مثالاً لتعارض النص مع المفسر من المسائل الفقهية على سبيل التفرع 
فقال:

Thereafter, the author mentions an example of a conflict of *nass* with 
*mufassar* from some *Fiqhi masaa'il*, by way of branching off, so he says:

(حتى قلنا إنه إذا تزوج امرأة إلى شهر أنة متعة)

"So much so that we say: if a man marries a woman for a month, it is 
*mut`ab.*"

Meaning, his statement "*tazawwaja*" (to marry) is *nass* regarding *nikaah*, but it 
carries the possibility of *ta'weel*, by it being a *nikaah* that lasts until an 
appointed time, and thus it is *mut`ab* (temporary marriage). His statement, 
"until a month," is *mufassar* regarding this meaning, carrying no possibility of 
it being except *mut`ab*, so it is carried upon mut`ah.

However, this is not free of laxity, because him saying: "Until a month," is 
connected to his statement: "*Tazawwaja (to marry)," and it is not 
independant speech by itself so much so that it can be *mufassar* that conflicts 
with it, so it is as though what he meant is that this speech moves between 
being *nikaah* and being *mut`ab*, so *tarjeeb* is given to (it being) *mut`ab.*
Section Three: Hidden Meanings

The author says:

"As for *khafi*, then it is such a word, the intended meaning of which is hidden due to an extenuating factor other than the word-form, and which cannot be acquired (i.e. the hidden meaning) except with searching."

"يعني أن الخفي اسم لكلام خفي مراده بسبب عارض نشأ من غير الصيغة إذ لو كان مشؤه الصيغة لكان فيه خفاء زائد، ويسمي بالمشكل والمجمل فلا يكون مقابلًا للظاهر الذي فيه أدنى ظهور"
Meaning, *khafi* is the name for such speech which, the intended meaning is hidden due to an extenuating factor which does not arise from the word-form, because had it arisen from the word form, then there would have been an addition aspect of *khafaa* in it, and it would have been called *mushkil* and *mujmal*, and thus would not have been the opposite of *zhaahir* in which there is the least amount of *zhuhoor* (being apparent), because all of these (i.e. categories of *khafi*) are of different ranks (i.e. in some, the quality of being hidden is greater than in others) like the different ranks of *zhuhoor*, because if there is in *zhaahir* the least amount of *zhuhoor*, then it is necessary that there be, in *khafi*, the lowest amount of *khafaa*, and so on. Thus, its intended meaning is not acquired except through searching, and it is like a person who hides away in a city through some trick, without changing his clothing or manner.

Therafter, regarding his statement: "Due to an extenuating factor not arising from the word-form," there is some laxity, and it is better to have said: "Due to an external factor from other than the word-form, like it appears in the text of Shams-ul-A'immah, Imaam al-Hulwaani رحمه الله عليه.

His statement: "It is not acquired except with searching," is not restrictive, but rather, it is an explanation of the reality, and an emphasis for the *khafaa*.
The author says:

"Its ruling is that it is looked into to ascertain whether its khafaa is more or less, and through this the intended meaning becomes apparent."

Meaning, the ruling of khafi is that it is looked into, which is the first talab (searching), to ascertain if its khafaa is due to an increase in meaning inside of it above the zhaar (apparent), or due to a decrease in it, and thereafter the intended meaning becomes apparent, and in the case of increase, it is judged according to what is known from the apparent, and no judgement is done in the case of decrease.

The author says:

"Like the Aayah of stealing, in the case of the tarraar (one who steals from people while they are awake, due to his skill in theft), and the nabbaash (one who steals the kafans from dead people)."

Because the Aayah:

{"The male thief and the female thief, cut of their hands..."}
We pondered over this and we discovered that the *tarrar* has a different name to the *saariq* (regular thief) due to an increase in the meaning of theft in his case (the *tarrar*), because *saraqah* (stealing) is to take wealth which is sacred (i.e. not permissible to take), guarded, and hidden, whereas the *tarrar* steals from a person who is awake, guarding his money (due to the skill the *tarrar* has in stealing), during a time when the person is oblivious or weak.

Thus, we apply the ruling of cutting to the *tarrar* due to the increase in meaning in him through *dalaalat-un-nass*, and we do not apply it in the case of the *nabbaash* due to the decrease in meaning in him. If the grave is in a house that is locked, then it is said that still the *nabbaash*’s hand is not cut, due to what we have mentioned, whereas others say it is cut because of the presence of guarding (i.e. the wealth being guarded) in a place even if no one protecting it is there, and all of this is according to us (i.e. Ahnaaf).

Imaam Abu Yusuf and Imaam ash-Shaafie`ee said: "The hand of the *nabbaash* is cut in all cases, due to the Hadeeth:

"Whosoever does *nabash* (i.e. steals the *kafans* from the dead), we cut (his hand)."
We say: "This is carried upon the meaning of *siyasaab* (politics, i.e. the discretion of the Khaleefah), because of the Hadeeth:

"There is no cutting upon the *mukhtaaf*.

In the language of the people of Madeenah, it refers to the *nabbaash*.

القسم الثاني من التقسيم الثالث

**Part Two, from Section Three:**

المشكل

*Al-Mushkil* (The Ambiguous)

تعريفه

1. Its Definition

(وأما المشكل فهو داخل في أشكاله)

The author says:

"As for *mushkil*, then it refers to (the word which) enters into its likenesses (i.e. those words that it resembles)."

[**Translator's Note:** *Mushkil* refers to a word which is more ambiguous than *khafi* because, along with its *bajeeqat* being hidden from the listener, it also resembles other words that are similar to it in such a way that its intended meaning cannot be ascertained except with searching and pondering, until it is distinguished from those words which it resembles.]
أي الكلام المشتبه فيه أمثاله فهو كرجل غريب يختلط بسائر الناس بتغيير لباسه وزيته. ففيه زيادة خفاء على الحفي فيقابل النص الذي فيه زيادة ظهور على الظاهر. فلهذا يحتاج إلى النظر في الطلب ثم التأمل على ما قال.

Meaning, that speech which resembles its likenesses, so it is like a strange man who blends in with other people by changing his clothes and his manner. Thus, in it is an increase of khafa above that of khafi, so it is the equal of nass, because nass has an increase of zhuhoor above that of zhaahir.

For this reason, it requires two glances: first searching, then pondering (over the meaning), as he had said.

حكمه

2. Its Ruling

(وحكمه امتثال الحقيقة فيما هو المراد ثم الإقبال على الطلب والتأمل فيه إلى أن يتبين المراد)

أي حكم المشكل أولاً هو امتثال الحقيقة فيما كان مراد الله تعالى بمجرد سماع الكلام. ثم الإقبال على الطلب أي أنه لأي معنى يستعمل هذا اللفظ. ثم التأمل فيه بأنه أي معنى يراد هاهنا من بين المعاني فيبين المراد.

The author says:

"Its ruling is that a person is to believe that whatever the intended meaning is, it is Haqq. Thereafter, one searches for the meaning, and ponders over it, until the intended meaning becomes clear."

Meaning, the ruling of mushkii is, first, to believe that it is Haqq regarding whatever the meaning intended by Allaah Ta`ala is, and this is just by hearing it. Thereafter, to search, i.e. find out for what meanings is this word used. Thereafter, to ponder over it, to ascertain which of those meanings are intended here from among all of those meanings, and thus the intended meaning becomes clear.

ومثاله قوله تعالى:
An example of it is the Aayah:

{"Go unto your tilth however you will."}

Because the word "an-naa" used in this Aayah is mushkil. Sometimes it is used in the meaning of "from where", like in the Aayah:

{"From where did you get this?"}

Meaning, from where do you get this rizq which comes every day.

وتارة بمعنى كيف كما في قوله تعالى:

أَيْ يَكُونُ لَيْ غَلاَمٌ

وَيَكُونُ لَيْ غَلاَمٌ

أي كيف يكون لي غلام فاشتبه هاهنا أنه بأي معنى

Sometimes it is used in the meaning of "however," like in the Aayah:

{"How can there be for me a child..."}

Meaning, "kayfa" (how) can I have a child. Thus, there is ishtibaab here regarding which meaning is intended.

If it is in the meaning of "from where," then the meaning would become: "Go to your wife in any place that you want, whether in the front private part or the back private part." And thus, for him to have sodomy with his wife would have been permissible.
And if it is in the meaning of "however," then the meaning would be: in whichever manner you want, whether standing, or sitting, or lying down, and thus it would be pointing out to ta’meem (encompassing) all conditions rather than referring to place.

When we pondered over the word "harth" used in the Aayah, we found that the intended meaning of annaa in the Aayah has to be "kayfa", because the back private part is not a "tilth", but rather, it is a place of excrement, and thus for him to have sodomy with his wife is baraam. However, its hurmat is zhanni, and so the one who regards it as permissible is not a Kaafir.

This sodomy with his wife is based on qiyaas regarding having relations with his wife whilst she is in haidh, because doing so (whilst she is in haidh) causes harm (the `illat for the prohibition is harm). With regards to men, however, its hurmat is qat’iyy, established from Qur’aan, Sunnah and ijmaa’, as we have written in at-Tafseer al-Ahmadi.

So this type of mnsbkil can enter into the kind of mnsbtarak which, one of its meanings has been given tarjeeb to with ta’weel, and so it becomes mu’awwal. The ishkaal can also be due to a cryptic, unique isti’araab, like in the Aayah:

"Glasses from silver..."
Regarding the vessels of Jannah. There is *ishkaal* in it from the angle that, a *qaaroorah* is not made from silver, but rather, from *glass* (*zujaaj*). When we searched, we found that a *qaaroorah* has two descriptions: *hameedah* (praiseworthy, i.e. high-quality) and *dhameemah* (blameworthy, i.e. low-quality). The *hameedah* type is the one that is transparent, whereas the *dhameemah* (low-quality) is the one that is black. We also found that silver has two descriptions: *hameedah*, which is white, and *dhameemah*, which is the one that is not clear. When we pondered over it, we found that the vessels of Jannah possess the clarity of the *qaaroorah* and the whiteness of silver, so reflect (on this).

**القسم الثالث من التقسيم الثالث**

**Part Three, from Section Three:**

المجمل

*Al-Mujmal* (Concise)

تعريفه

1. Its Definition

وجاما المجمل فما ازدحمت فيه المعاني واشتبه المراد به إشتباه لابدرك بنفس العبارة بل

(بالرجوع إلى الاستفسار ثم الطلب ثم التأمل)

The author says:

"As for *mujmal*, then it is that word in which there is a crowding of meanings and there is *ishtibaah* with regards to the intended meaning; such an *ishtibaah*
that, it cannot be comprehended from the text itself, but rather, there is a
need to first do istifsaar (seeking explanation), then talab (searching), then
ta'ammul (pondering)."

The meaning of "izdhihaam-ul-ma`aani" is that the meanings are crowded into
this one word without there being tarjeeh for one of the meanings, like how
when the door of tarjeeh is closed in the case of mushtarak. Or, the
strangeness of the word is considered, like the word "haloo " mentioned in
the Aayah:

إِذَا مَسَّهُ الشَّرُّ جَزَّؤَاً،ْ وَإِذَا مَسَّهُ الخَيْرُ مُنْوِعاً

{"Indeed, man was created impatient; irritable when touched by evil, and niggardly when
touched by good."}

فإن قيل بيانه تعالى كان مجمولاً لم يعلم مراده أصلاً، فبينه بقوله تعالى:

إِذَا مَسَّهُ الشَّرُّ

الآية

Because before Allaah Ta`aalaaa explained it, it was mujmal, and its intended
meaning was not known at all. Thereafter, Allaah Ta`aalaaa explained it by
saying: {"When evil touches him..."}

فهو جنس شامل للمشترک والخفي وال المشكل. فخرج بقوله: واشتهي المراد به اشتباهاً الخ. فإن
الخفي يدرك بمجرد الطلب والمشترک وال المشكل بالنامل بعد الطلب, بخلاف المجمل. فإنه قد
يحتاج إلى ثلاثة طلبات

الأول: الاستفسار عن المجمل, ثم الطلب للاوصاف بعده. ثم النامل للفئين

So it is a jins that encompasses mushtarak, and khafi, and mushkil, so it comes
out by his saying: "And there is ishtibaab with regards to its intended
meaning..."
That is because 

khafi

is comprehended through 

talab (searching) alone, and 

mushtarak and mushkil is comprehended with 

ta'ammul (pondering) after talab (searching), unlike mujmal, because mujmal requires three searches.

The first is istifsaar (seeking explanation) regarding the mujmal, then talab (searching) for the qualities after that, and then ta'ammul (pondering) to specify the intended meaning.

So it is like a strange man who lives his homeland and lives among a group of people. He cannot be found except after istifsaar among the people. Thus, in it is an additional 

khafaa above that of mushkil, so it is equal to mufassar which has an increase of 

zhuhoor above that of nass.

Thereafter, though mujmal is known after three searches, mutashaabib is still excluded, because it is not permissible to search (for its meaning), and its 

baqeqqat is not known regardless of what search it undertaken.

2. Its Ruling

(وحكمه إعتقاد الحقيقة فيما هو المراد والتوقف فيه إلى أن يتبين بيان من المجمل)

The author says:

"Its ruling (i.e. that of mushkil) is to believe the intended meaning - whatever it may be - to be Haqq, and to reserve judgement regarding it until it becomes clear with a clarification from mujmal."

سواء كان بيانًا شافياً، كالصلاة والزكاة في قوله تعالى:
Regardless of whether it is a complete clarification or explanation, like Salaah and Zakaah in the Aayah:

وَأَقِيمُوا الصَّلَاةَ وَآتِيوا الزَّكَاةَ

{"Establish Salaah and give Zakaah..."}

فإن الصلاة في اللغة: الدعاء، ولم يعلم أي دعاء يراد فاستفسرا فبينها النبي عليه الصلاة والسلام بأفعاله بياناً شافياً من أولها إلى آخرها

Because Salaah, linguistically, refers to Du`aa, and it is not know what kind of Du`aa is intended, so we did isti\jsaar, and it had been clarified by Nabi صلى الله عليه وسلم by his actions, with a complete clarification, from beginning to end.

ثم طلبا أن هذه الصلاة على أي معان تشمل، فوجدناها شاملة على القيام والقعود والركوع والسجود والتحريمة والقراءة والنسبيات والأذكار

Thereafter, we did talab (searched) and found that this Salaah, what meanings does it encompass? We found that it encompasses qiyaam, qu`ood, ruko`o`, sujood, tabreemah, qiraa`ab, the tasbeehaat and the adhkaar.

فلا تأملنا علمنا أن بعضها فرض وبعضها واجب وبعضها سنة وبعضها مستحبة، فصار مفسراً بعد أن كان مجملًا

When we pondered over it, we found that some parts are far\dbh, some are waajib, some are sunnah, and some are mustababb. Thus, it becomes mufassar after having been mujmal.

وهكذا الزكاة معناها في اللغة: النماء، وذلك غير مراد فبينها النبي عليه الصلاة والسلام يقوله:

هَأَنَّا رَزَّقْنَاهُ عَشَرَ أَثْلَالَكُمُ

Similar is Zakaah. Its linguistic meaning is "increase", but that is not the intended meaning, so Nabi صلى الله عليه وسلم explained it by saying: "Give a quarter of a tenth (i.e. 2.5%) of your wealth."
And the Hadeeth: "There is no (Zakaah) due upon you in gold until it reaches 20 mithqaal, and there is no (Zakaah) due upon you in silver until it reaches (the value of) 200 dirhams."

Similar has been said regarding animals.

Thereafter, we searched regarding the asbaab (causes), and the shuroot (conditions), and the awsaaaf (qualities), and the `ilal (reasons), and we found that possession of the nisaab is the `illat, and the passing of one lunar year is the shart, and so on.

Or the explanation is not complete, like ribaa in the Aayah:

"And (Allaah) prohibited ribaa."

Because it was mujmal until Nabi ﷺ explained it by saying:

"Wheat for wheat, barley for barley, dates for dates, salt for salt, gold for gold, silver for silver, equal for equal, hand to hand, and surplus is ribaa."
Thereafter, we searched for the *awsaaf* (qualities) which resulted in this *tabreem* (prohibition), so that the state of those things other than the mentioned six can be known. So, some (of the Fuqahaa) mentioned that the `illat (for tabreem) is *qadr* (quantity) and *jins* (species), and others gave the `illat as taste (in those things which can be consumed) and price (in those things that have a price). Some of them gave the `illat as that which can be used for nourishment (food) and that which can be stored. Thus, each of them branched off according to the `illat which they had arrived at.

In summary, the explanation was not complete; hence, it went from being *mujmal* to being *mushkil*.

For this reason, Hadhrat `Umar رضي الله عنه said: "Nabi صلى الله عليه وسلم left us (i.e. passed away) and he had not explained to us the categories of ribaa."

This is as they have said.

المتشابه

*Al-Mutashaabih* (The Unclear)

تعريفه

1. Its Definition

(وأما المتشابه فهو اسم لما انقطع رجاء معرفة المراد منه)
The author says:

"As for mutashaabib, then it refers to such a word which, there is no hope of understanding its intended meaning (in this Dunyaa)."

Not even its apparent meaning (is known), so it is in the highest level of khafaa, thus being on the same level as mubkam, which is in the highest level of zhuhoor. So it is like a man who is lost from his town, and there is no trace of him, and his friends and neighbours have died.

2. Its Ruling

The author says:

"Its ruling is that you believe it to be Haqq even without knowing the meaning."

Meaning, you believe the intended meaning to be Haqq even though you do not know it and will not know it until the Day of Qiyaamah. As for after the Day of Qiyaamah, then it will be maksboof (revealed) to all those from the Ummah of Rasoolullaah صلى الله عليه وسلم (i.e. the Muslims). As for Rasoolullaah صلى الله عليه وسلم himself, then it is already known to him, because had it not been, then there would have been no faa'idah (benefit) in him having been addressed by it, and it would have been an addressing with that
which is meaningless, like the case of speaking in the language of the Zanj (African) people to an Arab, and this is according to us (Ahnaaf).

Imaam ash-Shaafi`ee, however, and the majority of the Mu` tazilah had said that the Ulamaa who are raasikheen (firmly-grounded in `Ilm) also know the meaning (of the mutashaabibaat).

The difference arises from the Aayah:

"And none knows its ta'weel but Allaah. And the raasikhoon fil-`Ilm (the Ulamaa firmly-grounded in `Ilm) say: We believe in it...")

According to us (Ahnaaf), it is waajib to stop at, "but Allaah," and thus, "ar-Raasikhoona fil-`Ilm" is a new sentence, because Allaah Ta`aalaa has declared the following of the mutashaabibaat to be the portion of those in whose hearts there is a disease. As for the portion of the raasikheen fil-`Ilm, then for them is simply to accept and submit.

Another reason for the difference is that there is a Qiraa'ah of some in which the Aayah is: "Ar-Raasikhoon," without the mention of "and", and in another Qiraa'ah: "And the Raasikhoon say."
According to Imaam ash-Shaaf`ee رحمه الله عليه, there is no stopping on "but Allaah", and the Aayah, "war-Raasikboon" is ma`toof upon "Allaah", and "Yaqooloon" is the baal, making the meaning: "None knows its meaning except Allaah and the `Ulamaa who are firmly-grounded in `Ilm."

However, this is a semantical argument, because those who say that the Raasikbeen know the ta'weel, what they mean is that they know it in a speculative way (rather than definitively).

ومن قال: لا يعمل الراضخون تأويله, يريدون لا يعلمون التأويل الحق الذي يجب أن اعتقده عليه

And those who say that the Raasikbeen do not know its ta'weel, they mean they do not know its true ta'weel which is waajib to believe in.

فإن قلت: فما فائدة إزالة المشابهات على مذهبك؟ قلت: الإبتلاء بالوقف والتسليم، لأن الناس على ضربين:

So if you say: "What then was the benefit of having revealed the mutashaabihaat, according to your point of view?" I say: "Testing them with reservation of judgement and submission." Because there are two types of people (regarding this):

ضرب يبتلوا به جهل فابتلوه أن يتعلموا العلم ويستغلو بالتحصيل

وضرب هم علماء فابتلاوه أن لا يفكروا في مشابهات ومستودعات أسراره، فإنها سر بين الله ورسوله لا يعلمها أحد غيره

The first type is those who are tested with jahl, and thus their test is to engross themselves with acquiring `Ilm.

The second type are the `Ulamaa, and their test is to restrain themselves from searching into the mutashaabihaat and the hidden secrets, because it is a secret between Allaah and His Rasool صلى الله عليه وسلم, and no one else knows it.

لأن ابتلاء كل واحد إنما يكون على خلاف متمناه وعكس هواه, فلهوي الجاهل ترك التحصيل والخوض فيه فيبتلي به, وهو العالم إطلاع كل شيء فيبتلي بتركه

112
That is because each one is given a test which is opposite to that which he desires. The desire of the jaahil (ignoramus) is to abandon acquisition (of `Ilm) and engrossing himself in it, so his test is to do so. The desire of the `Aalim is to have knowledge of everything, so he is tested with abandoning searching into this issue.

Then, mutashaabib is of two types:

The first type is that which, its meaning is not known whatsoever, like the Huroof-e-Muqatta’at at the beginning of some of the Soorahs, like Alif-Laa-Meeem, Haa-Meeem, etc. Because each of those letters are cut off from the others in speech, and its meaning is not know because in Arabic, it is not used as a word but rather is used to form sentences.

The second type of mutashaabib is that which, the linguistic meaning is known, but the intended meaning of Allaah Ta`aalaa is not known, because the zhaahir (of this type of mutashaabib) is contrary to the mubkam, like the Aayah:

"The Yad of Allaah."

"The Wajh of Allaah."

And the Aayah:

الرَحْمَانُ عَلَى الْعَرْشِ اسْتَوَى
"Ar-Rahmaan has istawaa upon the `Arsh."

و

And the Aayah:

وُجُوهٌ يُؤْشِيَّانَ نَاصِرَةً إِلَى رَبِّهَا نَاظِرَةً

"(Some) faces on that day will be radiant, looking at their Rabb."

وأمثاله

Etc.

وتسمى هذه آيات الصفات. وقد طُوِّلنا الكلام في تحقيقها وتأويلاتها في التفسير الأحمدي

فليطالع ثمة

These are called the "Aayaat-us-Sifaat". We have gone to great lengths regarding their interpretations in at-Tafseer al-Ahmadi, so those who wish to do so may research further there.