

THE LEGAL METHODOLOGY OF THE MAHDI  
IN THE SUDAN, 1881-1885:  
ISSUES IN MARRIAGE AND DIVORCE\*

AHARON LAYISH

Muḥammad Aḥmad b. °Abd Allāh (Muḥammad al-Mahdī) headed a religious-political movement for the revival and reform of Islam (the Mahdiyya) with a view to restoring, on the basis of the Qur°ān and the Sunna, the Islamic theocracy that prevailed in the days of the Prophet Muḥammad and the 'Righteous Caliphs' (*al-khulafā' al-rāshidūn*). The idea of Mahdism had manifested itself in the Sudan as early as the seventeenth century. The Mahdist movement was motivated by eschato-

\* The purpose of this study is to describe and analyse, from the standpoint of the Sharī°a, the Mahdī's legal methodology, its sources of inspiration, and its actual application on the basis of a rich variety of proclamations (*manshūrāt*), rulings (*ahkām*), warnings (*indhārāt*), visions (*ḥadrāt*), etc. issued by the Mahdī from the time of his manifestation (*zuhūr*) in 1881 until his death in 1885. A great deal of this material pertains to religious legal issues par excellence, including legal opinions (*fatwās*) and judicial decisions. These documents appeared in various editions, in lithograph press and printing. The hypothesis presented in the introduction and the conclusion are tentative pending revision in the course of research. This research is supported by a grant from the Israel Science Foundation.

Most of the material for this research has been collected at the University of Bergen. I would like to thank Professor R.S. O'Fahey of the Department of History; Dr Knut S. Vikør, Director, and Mrs. Sylvia Liland, Secretary of the Centre for Middle Eastern Studies, for the warm hospitality extended to me during my visits to the Centre in 1995, 1996 and 1997. I am also grateful to Professor P.M. Holt who graciously placed his personal collection of the Mahdī's documents at my disposal during my sabbatical stay in Oxford in 1993 and commented on my research proposal. Professor G.R. Warburg (University of Haifa),

logical expectations whose source of inspiration can be traced to Egypt in the eighteenth and nineteenth centuries. In its initial stages the Mahdist movement had many features of a social and political protest movement. Its main causes were as follows: the conquest of the Sudan by Egypt under Muḥammad °Alī; the decline of the socio-political status of the indigenous religious functionaries and their replacement by orthodox °ulamā° who were supported by the Turco-Egyptian regime; the annexation of Darfur to Egypt in the last quarter of the nineteenth century; and the attempts to put an end to the slave-trade with the assistance of Christians (Europeans and Americans), attempts that antagonised Sudanese vested interests.<sup>1</sup> In the following I shall present briefly the hypothesis of the study and some of its findings and conclusions on the basis of part of the documentation.

Sudanese society was well entrenched in tribal customary law (and identified by its affiliation with popular Sufi *ṭarīqas*). P.M. Holt maintains that a distinction should be made between the more sophisticated settled riverain tribes and the nomadic tribes of the interior, especially the West. The former group provided most of the personnel of the Mahdist bureaucracy, financial administration and judiciary, while the latter formed the revolutionary army and (under the Khalifa) the Ta°āīshī ruling elite.<sup>2</sup> The success of the Mahdi's endeavour to consol-

my collaborator in research on the revival of Islamic law in the Sudan under Numayrī, has initiated me into the field of Sudanese studies and whetted my curiosity with respect to the Mahdi's legal methodology, for which I am most grateful. I am also grateful to Professor Pessah Shinar for his guidance and inspiration and to Professors Etan Kohlberg, David Powers and Dr Ahmad I. Abu Shouk who read the manuscript and made important comments. I would also like to thank the editors of *SAJHS*, and especially Professor John O. Hunwick, Dr Vikør and Dr Stefan Reichmuth, for their generous assistance and valuable comments and suggestions.

- 1 The most authoritative source on the Mahdist state is P.M. Holt, *The Mahdist State in the Sudan, 1881-1898*, 2nd edn, Oxford 1970; in particular pp 19ff.; *idem*, 'al-Mahdiyya', *EI* (2), v, 1247 ii ff.
- 2 Holt's letter to the author of 25 March 1996.

idate a radical theocracy in such a society was dependent on the mitigation of the orthodox Shari'ah to the extent that was necessary to meet custom half-way (while maintaining strict uncompromising puritanism in matters pertaining to morality and ethics), and enabling a charismatic leader enough scope of manœuvre to solve daily political and social problems arising within a theocracy. For this purpose the Mahdi created a unique legal methodology that provided him with unlimited authority to enact positive rules without any institutional restriction on the part of orthodox 'ulamā'.

The Mahdi's legal methodology, though simple and unsophisticated, seems to have been effective in enabling him to achieve his goals. He ignored all schools of law (*madhāhib*)<sup>3</sup> and disregarded their legal literature, thus releasing himself from the burden of *taqlīd*,<sup>4</sup> and the positive law as consolidated within these schools.

The Mahdi acknowledged in his rulings three sources of law, although he did not present them as a consolidated legal methodology. These sources, according to the order of their presentation, are: the Prophetic Sunna, the Qur'ān, and the inspiration (*ilhām*) transmitted to him by the Prophet Muḥammad.<sup>5</sup> From this order it may be inferred that the Sunna as a source of law is more important than the Qur'ān. This conclusion is sustained by the Mahdi's understanding of *naskh*, that is, abrogation of one textual provision (*naṣṣ*) by another textual provision. This procedure was intended to identify God's will

3 For a general review see Jeanette A. Wakin, 'Islamic Law', in Joseph R. Strayer (general ed.), *Dictionary of the Middle Ages*, New York 1986, 485-9.

4 See Muḥammad Ibrāhīm Abū Salīm (ed.), *al-Āthār al-kāmila li'l-Imām al-Mahdī*, Khartoum 1990-4, i, 164, 190; iii, 319-20; iv, 485; v, 367; cf. Muḥammad Ibrāhīm Abū Salīm, *al-Ḥaraka al-fikriyya fī 'l-mahdiyya*, 3rd edn, Khartoum 1989, 86; °Abd Allāh °Alī Ibrāhīm, *al-Ṣirā' bayna al-Mahdī wa'l-'ulamā'*, 2nd edn, n.p.: Dār Nūbār, 1994, 34; H. Shaked, *The Life of the Sudanese Mahdi*, New Brunswick, NJ 1978, 59, 219, and J. Schacht, 'Taqlīd', *EI* (1), viii, 630-1.

5 On inspiration from God and the Prophet, see D.B. Macdonald, 'Ilhām', *EI* (2), iii, 1119-20.

in case of a doubt arising from contradictions in the textual sources. One first had to exhaust the substantive material before resorting to the mechanism of *ijtihād*. According to the classical procedure, accepted by most of the *fuqahā*, a Qurʾānic provision cannot abrogate a *ḥadīth*, and *vice versa*.<sup>6</sup> The Mahdī's understanding of *naskh* appears to have vacillated. Thus, in one case, he categorically maintained that a valid *ḥadīth* abrogates a valid *ḥadīth*, and a Qurʾānic verse abrogates a Qurʾānic verse.<sup>7</sup> In another case, however, he maintained that 'Qurʾān abrogates (*yansakh*) Qurʾān and *ḥadīth* abrogates Qurʾān'.<sup>8</sup> He also seems to have favoured adherence to the literal, external (*ẓāhir*) meaning of the textual sources, in conformity with Ibn Ḥazm's Zāhirī school of law, originally founded by Dāwūd b. ʿAlī b. Khalaf (d. 270/883).<sup>9</sup>

The Mahdī denied allegations that he reserved for himself the right of *ijtihād*. In one case he was asked to issue a

- 6 There were jurists, however, who maintained that it was possible to abrogate a Qurʾānic provision by a *ḥadīth* and a *ḥadīth* by a Qurʾānic provision, but this view was disputed by the *fuqahā*. Al-Shāfiʿī, driven by his intention to promote the Sunna to the status of a major source of law, along with the Qurʾān, rejected this view altogether; see J. Burton, 'Naskh', *EI* (2), vii, 1009ff., and N.J. Coulson, *A History of Islamic Law*, Edinburgh 1964, 58, 76.
- 7 Abū Salīm, *al-Āthār al-kāmila*, i, 338.
- 8 *Manshūrāt al-Imām al-Mahdī*, repr. Khartoum 1963-64, iii: al-Aḥkām wa'l-ādāb, 101.
- 9 *Ibid.*, 19. A case in point is the prophetic *ḥadīth* to the effect that prohibition of marriage on grounds of fosterage is regulated in parallel fashion to the prohibition on grounds of kinship (*yuhram min al-riḍāʿ man yuhram min al-nasab*). The orthodox schools maintain that this is not applicable in circumstances where the link producing prohibition on grounds of fosterage is not common to all blood relatives. Thus, the foster mother or sister of one of two blood brothers is not prohibited from marrying the other brother (see Muḥammad Muṣṭafā Shalabī, *Aḥkām al-usra fī 'l-islām. Dirāsa muqārana banya fiqh al-madhāhib al-sunniyya wa'l-madhhab al-Jaʿfarī wa'l-qānūn*, Beirut 1393/1973, 178-9, 182). The Mahdī, on the other hand, ruled that according to the literal meaning of that *ḥadīth*, this prohibition should be absolute with no exception; see Abū Salīm, *al-Āthār al-kāmila*, iii, 33-5.

decision in a matter of *khul<sup>c</sup>* divorce, that is, the release of a woman by her husband in return for compensation (such as handing back of the dower). The issue was whether such a divorce should be counted as one of the three repudiations after which an intermediate marriage was required in order that the woman might legally remarry her first husband. The Mahdi ruled that if the husband did not pronounce the word *ṭalāq* then the *khul<sup>c</sup>* should not count as a divorce and the husband may restore the wife without resorting to intermediate marriage unlike in the case where he pronounced *ṭalāq*. The Mahdi explained that in giving this ruling he did not make use of his personal legal discretion (*ra<sup>2</sup>y* or *ijtihād*), since he resorted to the established rule as manifested in the aforementioned three sources. In another case the Mahdi ruled, in a matter pertaining to the distribution of booty (*ghanīma*), that a *ḥadīth* abrogates a Qur<sup>ā</sup>nic provision. The Mahdi argued, with regard to this issue, that had his critics believed in his doctrine they would not have accused him of being a *mujtahid*.<sup>10</sup> The Mahdi's version of *ijtihād* is not compatible with the classical theory.<sup>11</sup> Similar to the Salafī concept common among revivalist and reformist movements preceding the Mahdiyya (such as the Wahhābiyya and the Sanūsīyya),<sup>12</sup> the Mahdi, too, emphasized the Qur<sup>ā</sup>n and the Prophetic Sunna<sup>13</sup> as sources of law.<sup>14</sup> However, *qiyās*<sup>15</sup> or analogical reasoning based on the textual sources of the Qur<sup>ā</sup>n and the Sunna was apparently replaced by the Mahdi with direct inspiration (*ilhām*) from the Prophet Muḥammad.<sup>16</sup> It should be mentioned in

10 Abū Salīm, *al-Āthār al-kāmila*, III, 119, and *Manshūrāt al-Imām al-Mahdī*, III, 101, respectively. Cf. Holt, *The Mahdist State*, 122n.

11 See J. Schacht and D.B. MacDonald, 'Idjtiḥād', *EI* (2), III, 1026-7.

12 See Holt, *The Mahdist State*, 19-20, and Knut S. Vikør, *Sufi and Scholar on the Desert Edge: Muḥammad b. ʿAlī al-Sanūsī and his Brotherhood*, London 1995, 218ff.

13 See J. Robson, 'Ḥadīth', *EI* (2), III, 23-28.

14 See, e.g., Abū Salīm, *al-Āthār al-kāmila*, III, 351-2.

15 See M. Bernard, 'Ḳiyās', *EI* (2), V, 238-42.

16 See e.g., Abū Salīm, *al-Āthār al-kāmila*, III, 119.

this connection that the Mahdi regarded himself as heir (*wārith*) to, and successor of, the Prophet Muḥammad (*khalīfat rasūl Allāh*),<sup>17</sup> and that he claimed the ability to communicate with the Prophet by means of visions (*ḥadrāt*).<sup>18</sup> The enlistment of Prophetic sanction was apparently meant to place him outside public criticism, that is, outside the control of the *‘ulamā’*. In other words, the positive rulings established by means of Prophetic inspiration were not subject to the consensus (*ijmā‘*)<sup>19</sup> of the jurists, as required by the classical theory of Islamic law. This situation resembles the competition, dating back to the formative period of Islamic law, between *ahl al-ra’y*, who emphasized legal reasoning as a method for the creation of positive law, and *ahl al-ḥadīth*, who mobilized the Prophet’s authority by means of *ḥadīths* attributed to him in order to impose their views in legal disputes between jurists.<sup>20</sup> Moreover, it seems that *ilhām* ranks even higher than *ḥadīth* since, contrary to the *ḥadīth*, it is impossible to doubt its authenticity by means of the procedure of *al-jarḥ wa’l-ta’dīl*, that is, by disparaging and declaring a transmitter of *ḥadīths* as untrustworthy.<sup>21</sup>

In the Mahdi’s legal methodology to the extent that it can be reconstructed on the basis of his rulings, there is no explicit mention of custom (*‘āda*, *‘urf*) although in Sudanese society tribal custom reigns almost supreme in many domains. This is not unusual, since even in the classical theory of Islamic law custom has no status as a formal source of law in spite of its important contribution to the material development of Is-

17 For a description of the Mahdi’s installment as caliph see Abū Salīm, *al-Āthār al-kāmila*, IV, 491; v, 448.

18 See, e.g., Abū Salīm, *al-Āthār al-kāmila*, IV, 442 (*atatnā al-waṣīyya min al-ḥaḍra*); v, 449ff. (*ḥaḍra nabawīyya*).

19 See M. Bernard, ‘Idjmā‘’, *EI* (2), III, 1023-6.

20 J. Schacht, ‘Ahl al-ḥadīth’, *EI* (2), I, 258-9, and Coulson, *A History of Islamic Law*, 52, 56, 61. Cf. *ahl al-sunna* in Abū Salīm, *al-Ḥaraka al-fikriyya fī ‘l-mahdiyya*, 164.

21 See J. Robson, ‘al-Djarḥ wa’l-Ta’dīl’, *EI* (2), II, 462. I owe this assessment to Etan Kohlberg.

lamic law. This is due to fact that the classical theory was interested not in the historical but rather the systematic aspect of Islamic law.<sup>22</sup> As might be expected, the *fuqahā'* were not ready to place custom, which is determined from below by patterns of social behaviour binding in virtue of themselves, on the same level as the eternal textual sources of the Qur'<sup>ān</sup> and the Sunna. Moreover, recognition of custom as a formal source of law would have placed the development of the legal norm outside of the *fuqahā'*'s control and undermined the nature of Islamic law as a jurists' law. At the same time, it is likely that custom did not disappear completely from the Sharī<sup>ʿ</sup>a in its Mahdist version, as was the case with the orthodox Sharī<sup>ʿ</sup>a, where custom was assimilated by the mechanism of *ijtihād*. In other words, new legal rules were created by the jurists on the basis of legal precedents in the textual sources while taking into consideration social pressures from below. Similarly, it stands to reason that the impact of custom on positive law as shaped by the Mahdi in the light of political and social requirements, can be discerned in proclamations, rulings, judgments and decisions handed down by him, as well as in sayings (*aqwāl*) attributed to him after his death.<sup>23</sup>

22 See J. Schacht, *An Introduction to Islamic Law*, Oxford 1964, 62.

23 See, e.g., Abū Salīm, *al-Āthār al-kāmila*, v, 457-60. In this document the following sayings are attributed to the Mahdi: his nomination as *khalīfa* by God, in the presence of the Prophet and ʿAbd al-Qādir al-Jilānī; confirmation from God, through angels, prophets and saints, of the appearance of the Mahdiyya; accusation of infidelity (*takfīr*) of anyone who does not believe in the Mahdi; obtaining permission from God and the Prophet to fight the Turks, 'the unbelievers who corrupt on the earth'; the Messenger of God tells the Mahdi, by means of a Prophetic vision, that after he has conquered al-Ubayyīḍ and performed the prayer in its mosque, he will pray in (i.e., having conquered) the mosques of Khartoum, Berber, Mecca, Egypt, Jerusalem, Iraq and Kūfa; two thirds of the people will die by sword or otherwise, and the last third will apply to God (i.e., believe in the Mahdi); the Prophet's will to the effect that the Mahdi and his adherents cover themselves with loincloths, and put crowns and turbans on their heads; three things cause damage to a human being: envy, deceit and negligence of prayer; warning against stealing spoils (*ghanīma*), and a call to repent

This phenomenon resembles the Prophetic Sunna, that is, normative custom as reflected in the sayings and behaviour of Muḥammad.<sup>24</sup>

To sum up, we are dealing here with a unique version of personal *ijtihād* bound by the textual sources not by *qiyās*, as required by the classical theory, but rather by *ilhām*. This kind of *ijtihād* confers upon the Mahdi a degree of discretion wider than allowed by analogical reasoning. Moreover, the legal norm shaped in this way by the Mahdi was, contrary to the mechanism of classical *ijtihād*, final and irrevocable rather than a tentative rule or conjecture (*ẓann*) awaiting the consensus (*ijmāʿ*) of the *ʿulamāʾ*.<sup>25</sup> Indeed, it seems—as was maintained by one of the Mahdi’s advocates—that the Mahdi’s authority was infallible (*maʿṣūm min al-khataʾ*) due to the direct inspiration obtained from the Prophet.<sup>26</sup>

The Mahdi’s legal methodology no doubt was inspired by revivalist and reformist movements in Arabia (Wahhābiyya) and North Africa (Sanūsiyya) dating back to the eighteenth and nineteenth centuries, respectively, as well as by various *ʿulamāʾ* whom he may have met and from whom he may have derived his knowledge in his formative period. It is likely that the inspiration was transmitted through intermediaries. Thus, e.g., *ʿAbdullāhi al-Dufāni* provided a link between Aḥmad b. Idrīs, the famous Moroccan mystic, and the Mahdiyya, since he taught the Sufi litanies (*awrād* and *aḥzāb*) of Ibn Idrīs to Muḥammad Aḥmad before the latter was proclaimed *mahdī*. Ibn Idrīs plays a vital role in Muḥammad Aḥmad’s visions (*ḥaḍrāt*) announcing his manifestation as the ‘Expect-

and restore the spoils [to the *bayt al-māl*].

24 Cf. G. Libson, ‘On the Development of Custom as a Source of Law in Islamic Law: *al-Rujūʿu ilā al-ʿurfī aḥadu al-qawāʿidi al-khamsi allatī yatabannā ʿalayhā al-fiqhu*’, *Islamic Law and Society*, iv, 2, 1997, 131-55.

25 Cf. Coulson, *History of Islamic law*, 78.

26 Al-Ḥasan b. Saʿd b. Muḥammad al-ʿAbbādī, *al-Anwār al-saniyya al-māhiya li-ẓalām al-munkirīn ʿalā ʿl-ḥaḍra al-mahdiyya*, Omdurman 1305 [1888], 233-4.

ed' (*muntazar*) *mahdī*.<sup>27</sup> This issue will be clarified in the light of the Mahdi's *shar'ī* legal education and training.

The Sufi background of the Mahdi may also have contributed to his legal reformism, as most of the revivalist movements of the eighteenth and early nineteenth centuries were associated in one way or another with a *ṭarīqa* tradition. There seems to be a causal connection between the Mahdi's legal reformism and his association with a Sufi *ṭarīqa*, the Sammāniyya.<sup>28</sup> The new Sufi *ṭarīqas* put special emphasis on adherence to the Prophet's virtues (*al-takhalluq bi-akhlāq al-nabī*) and even claim to have met the Prophet in person, as in the case of the Mahdi,<sup>29</sup> which may perhaps explain the growing interest in the study of Prophetic *ḥadīths* characteristic of revivalist movements.<sup>30</sup> In this connection it is significant to recall that the Mahdi regarded himself as the Prophet's successor and that he received direct inspiration from him. A satisfactory answer to this issue will be possible only after acquaintance with the legal methodology of revivalist movements and '*ulamā*' that may have shaped the Mahdi's spiritual world.

The application of the Mahdi's legal methodology, which—to the best of my knowledge—was never formulated in one comprehensive legal treatise,<sup>31</sup> enabled the Mahdi to

27 R.S. O'Fahey, *Enigmatic Saint: Ahmad Ibn Idris and the Idrisi Tradition*, London 1990, 178-9, and Abū Salīm, *al-Āthār al-kāmila*, 1, 336.

28 Holt, *Mahdist State*, 21.

29 Cf. Bernd Radtke, 'Ibrīziāna: Themes and sources of a seminal Sufi work', *SAJHS*, 7, 1996, 121-3. I am indebted to my colleague Prof. Hava Lazaus-Yafeh and the editors of *SAJHS* for clarifying this issue.

30 John O. Voll, 'Linking Groups in the Networks of Eighteenth-Centuries Scholars. The Mizjaji Family in Yemen', in N. Levtzion and John O. Voll (eds.), *Eighteenth-Century Renewal and Reform in Islam*, Syracuse 1987, 86-7, and N. Levtzion and G. Weigert, 'Religious Reform in Eighteenth-Century Morocco', *Jerusalem Studies in Arabic and Islam*, xix, 1995, 179.

31 Cf. Ahmad Ibrahim Abu Shouk [Abū Shūk], '*Minhajjiyyat al-tashrī' al-mahdawī bayn al-zāhir wa'l-bāṭin*', a paper submitted to the conference on Sufi studies held at the University of Khartoum 28 October 1995. I am indebted to Dr Abu Shouk for letting me read the

legislate without any restriction and introduce innovations, some of which were far-reaching deviations from the orthodox Sharīʿa. For instance, the Mahdi announced on various occasions that the Ottomans (against whom he had declared war) had rejected Islam (*takfīr*) in every respect.<sup>32</sup> This is why he did not hesitate to rule that if a woman stayed in Mahdist territory while her husband was left behind in Turkish territory, the marriage bond between them was null and void regardless of whether or not the wife had initiated dissolution by legal proceedings (a Muslim woman cannot be married to a non-Muslim). The Mahdi found support for this view in Qurʾān 10:60 which deals with the status of emigrating women (*muhājirāt*).<sup>33</sup> The ‘infidel’ husband’s property was deemed, naturally, as spoils (*ghanīma*).<sup>34</sup> The Mahdi also abrogated the validity of a suspended divorce by means of an oath (‘*alayya ’l-ṭalāq* or ‘*alayya ’l-ḥarām*, ‘[my wife] shall be forbidden to me’) intended to reinforce a pronouncement made by the husband in a matter not necessarily connected with the wife, that is to say, the element of intent (*niyya*) to divorce is absent here—this too in reliance on the Qurʾān and the Prophetic Sunna.<sup>35</sup> Suspended divorce, which is valid under all schools of law, was abrogated by statutory legislation in some countries only in the twentieth century.<sup>36</sup> The Mahdi acted as a legislator in circumstances of political, social and personal exigencies. In this respect, too, there is a strong resemblance

typescript; see also Rudolph Peters, ‘*Idjtihād and Taqlīd in 18th and 19th Century Islam*’, *Die Welt des Islams*, xx, 3-4, 1980, 133 n. 4.

32 See e.g., Abū Salīm, *al-Āthār al-kāmila*, v, 417.

33 See e.g., Abū Salīm, *al-Āthār al-kāmila*, ii, 94; iii, 70; *Manshūrāt al-Imām al-Mahdī*, iii, 5.

34 See e.g., Abū Salīm, *al-Āthār al-kāmila*, iii, 163.

35 *Manshūrāt al-Imām al-Mahdī*, iii, 11-12, and Muḥammad Ibrāhīm Abū Salīm (ed.), *Manshūrāt al-Mahdiyya*, Beirut 1969, 200. Cf. A. Layish, *Divorce in the Libyan Family*, New York and Jerusalem 1991, 31, 100, 107-8.

36 N. Anderson, *Law Reform in the Muslim World*, London 1976, 123-4, and A. Layish, ‘Ṭalāk’, *EI* (2) (forthcoming).

to the legislative activity of the Prophet Muḥammad. The Mahdi also introduced various prohibitions that were intended to regulate public morals, especially in regard to women's chastity.<sup>37</sup> The Mahdi's deviations from normative positive law brought him into conflict with orthodox 'ulamā' who backed the Turco-Egyptian regime, for which reason he designated them 'ulamā' al-sū' (scholars of evil).<sup>38</sup>

The Mahdi's legal opinion on several issues pertaining to divorce and polygamy, which is the primary subject of this short essay, is intended to serve as a tangible illustration of the application of the Mahdi's unique legal methodology and as an instructive example of the adaptation of the Shari'a to his requirements.

### *The Background of the Legal Opinion*

The legal opinion under review was intended to solve problems created during the initial stages of the expansion and consolidation of the Mahdist movement. Since the Mahdi deemed the Turks to be unbelievers, a question emerged regarding the legal status of families some of whose members stayed in Mahdist territory while others were left behind the Turkish lines. Should the latter be treated as Muslims who are bound in matters of personal status (and otherwise) by the Shari'a? The Mahdi answered in the negative. This legal opinion was also intended to solve the Mahdi's personal problems in matters of divorce and polygamy.

The four Sunnī schools of law make a clear distinction between a revocable repudiation (*talāq raj'ī*) and an irrevocable (*bā'in*) repudiation. The former does not dissolve the marriage instantly, provided it has been consummated. The husband

37 See e.g., Abū Salīm, *al-Āthār al-kāmila*, II, 263-4 (women are required to use a veil, *ḥijāb*); III, 109-12 (greeting a woman entails a sanction, women are prohibited from assuming masculine manners, *mutarajilla*).

38 Cf. Abū Salīm, *al-Āthār al-kāmila*, IV, 481-2, and Holt, *Mahdist State*, 116; *idem*, 'al-Mahdiyya', 1248 i.

may resume marital relations with his wife, even without her consent, during the waiting period (*‘idda*) of the divorce which—according to the Mālikī school—lasts for three periods of legal purity. If the husband does not reinstate his wife during this period, the revocable repudiation becomes irrevocable. Irrevocable repudiation dissolves the marriage instantly with all its legal and financial consequences. The husband may reinstate his divorced wife, but only with her consent and by means of a new marriage contract and dower. After the third repudiation—whether revocable or irrevocable—the divorced woman cannot be legally restored to her former husband unless she has married another man, that marriage has been dissolved, and the waiting period has been observed. The Mālikī school does not acknowledge a fictitious intermediate marriage intended to render the woman lawfully permitted to her first husband. In other words, the marriage of the divorced woman to a third party and her divorce by the latter should be in good faith. The waiting period, introduced by the Qurʾān, was intended to remove any doubt as to the paternity of a child, whereas the intermediate marriage was intended to avoid a hasty divorce by the husband. The latter purpose was frustrated by the *fuqahāʾ*’s recognition of triple divorce at one and the same session.<sup>39</sup>

The type and number of divorces are thus of the utmost significance in daily life. Disregard of the number of divorces, as well as the mere existence of a *sharʿī* marriage in circumstances in which one of the spouses remained in Turkish territory, created legal uncertainty regarding the marital status of the spouses, and the parties concerned resorted to the Mahdi with a view to extricating them from the predicament. As is evident from the legal opinion, the issue was of concern to the Mahdi himself since he had exhausted the quota of three

39 See Layish, *Divorce in the Libyan Family*, 97-101 and the sources there. On intermediate marriage by means of *al-muḥallil min al-ṭalāq*, ‘the one who renders [a triply divorced woman] lawfully permitted [to her former husband]’; see A. Layish, *Women and Islamic Law in a Non-Muslim State*, New York and Jerusalem 1975, 132, 173-5.

repudiations with regard to some of his wives. In at least one instance the Mahdi wished to restore his divorced wife without her having to go through the embarrassing procedure of intermediate marriage.

The issue pertaining to polygamy concerns only the Mahdi. The orthodox Sharīʿa permits a man to marry up to four wives on condition that he treat them equally and justly (*ʿadl*) with respect to matters that can be measured in quantitative terms (such as maintenance and conjugal rights), although not in matters pertaining to sentiment (*mayl al-qalb*), in which area a human being cannot be expected to maintain equality between his wives.<sup>40</sup> From the legal opinion presented here it is clear that the Mahdi sought permission for himself to maintain more than four wives.

The Mahdi's legal opinion, which deviates substantially from the orthodox Sharīʿa, is based on Qurʾānic verses and *ḥadīths*, as interpreted in the light of direct inspiration (*ilhām*). This inspiration was received during revelations and visions (*ḥadrāt*), occasionally entailing sharp physical sensation, manifested to the Mahdi by the Prophet or the 'angel of inspiration' whose identity the Mahdi fails to disclose.<sup>41</sup> In other words, the Mahdi did not, in regard to the interpretation of the textual sources, deem himself bound to either the classical theory of the sources of law (*uṣūl al-fiqh*) or the positive law of the Sharīʿa. Moreover, it seems that the Mahdi sought support for his personal problems in precedents from the Prophet Muḥammad concerning the solution of some of the Prophet's problems in matters pertaining to marriage and divorce, namely, the option to maintain concurrently more than four wives and to restore his triply divorced wife without having recourse to an intermediate marriage.

40 Q 4:3, 129; Muḥammad ʿAbduh, *Tafsīr al-qurʾān al-ḥakīm al-shahīr bi-tafsīr al-Manār*, ed. Muḥammad Rashīd Riḍā, 3rd edn, [Cairo] 1367h, 348-51.

41 Usually, the 'Angel of Inspiration' is identified with Gabriel (I owe this clarification to Etan Kohlberg). Cf. ʿAbbādī, *Al-Anwār al-saniyya*, 233-4. See below, the legal opinion.

The Mahdi's legal opinion is not a mere instrument for clarifying religio-legal doctrine on issues which have no solution under Islamic positive law. Rather, it is a political instrument—similarly to a circular (*manshūr*), order, decision (*ḥukm*), or warning (*indhār*)—intended to impose the legal norm, inspired by the Mahdi's political, economic and social considerations, on a society subject to his rule. Contrary to the regular legal opinion of a *muftī*, the acceptance of which is a matter of personal choice of the individual who requests it (*mustaftī*), the Mahdi's legal opinion was incumbent not only on the *mustaftī* but also on the entire community; it was tantamount to a statutory provision anchored in the sanction of a ruler who did not hesitate to excommunicate, by declaring him infidel (*takfīr*), any individual who did not submit himself to the Mahdi's doctrine. According to the normative conception, Islam does not recognize a hierarchy of degrees among independent *muftīs*. However, the Mahdi was not only a supreme political-military leader; he also placed himself as the supreme religio-legal authority. The integration of all these functions in his personality provided a coercive dimension to his legal opinion.<sup>42</sup>

*The fatwā*<sup>43</sup>

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

الحمد لله الوالى الكريم والصلاة على سيدنا محمد وآله مع

42 Cf. Muhammad Khalid Masud, Brinkley Messick and David S. Powers (eds.), *Islamic Legal Interpretation. Muftis and Their Fatwas*, Cambridge: Harvard University Press 1996, 3-32.

43 The legal opinion, together with the footnotes of the editor appears in Abū Salīm, *al-Āthār al-kāmila*, iv, 192-6. The legal opinion was copied from this source in A. Layish (ed.), *The Mahdī's Legal Methodology and its Application in the Sudan: A Selection from the Mahdī's Documents (1881-1885)*, Jerusalem: Academon 1996, 55-9.

## التسليم

وبعد ، فمن عبد ربه محمد المهدي بن السيد عبد الله .  
 انه قد كثر التضرر والتشكى اليّ وطلب الغوث من الانصار  
 الحاصل منهم الطلاق قبل زمن المهديّة ، ولا يخلى ذلك من  
 الضيق والخرج منهم ومن نسائهم ، وقد تابوا والى الله انابوا،  
 وللألفة والاجتماع في دين الله طلبوا ، ومرارا اعرض عن ذلك  
 واقول : أليسوا كانوا مؤمنين ؟ وافتي للبعض ان عدم الحسبة  
 في الطلاق لاهل القيقر والنساء اللاتي لم يكن مؤمنات لانهن  
 لا عصم لهن فلا يكن لهن حسبة طلاق ، حتى كثر التضرر  
 في ذلك والتردد فاهتمت بذلك وتضرعت وابتهلت الى الله  
 في ذلك ليحصل فرقان من كتاب الله تعالى ، لانه سبحانه قد  
 وعد بالفرقان والمخرج للمتقين .

وفوضت الامر الى الله وتركته حتى ورد عليّ وارد في آخر ورد  
 الراتب . وقد كان هذا الامر خارجا من بالي ، فوردت لي هذه  
 الآية وهي قوله تعالى : ﴿ وما جعل عليكم في الدين من  
 حرج ﴾ مع الالهام انها المخرج من ذلك التضرر الحاصل في  
 الطلاق قبل المهديّة .

وان الطلاق قبل المهديّة لا يحسب لمن تمت الثلاثة ولو بعد

المهدية ، وسبق طلاق قبل المهدية . وبعد المهدية لا تكون الفتاوى التي كان العلماء يفتون بها في مطلقة الثلاث وقد وقع في قلبي حينئذ - اعنى في وقت ذلك<sup>44</sup> الوارد لنا من رسول الله ﷺ - اننا لما نخرج من ابا الى الغرب فالناس يدخلون في دين الاسلام جديدا عليّ او كما قال .

وقد وقع لبعض نسائي تمام عدد الطلاق ، وقد وقع بعضها قبل المهدية وقد تضرروا بانفسهم وباهلهم بعض الاصحاب وامرتهم بان يتزوجوا فلم يرتضوا حتى ورد الخبر بمنع ذلك بالخصوصية التي ياتي ذكرها . ولا زالوا يتضررون فقلت لا سبيل الى ذلك الا بشيء ياتي لنا من الله ورسوله ﷺ مع وقوع بعض حضرات في حسبتها من نسائي ووقوفها معهم في التصفية ، وبعض حضرات حصل فيها الامر برجوعها مع كثير من رأوي صالحة في حسبتها من نسائي .

وبكل ذلك كنت اجد في نفسي الحرج من الرجوع لها مع تمام حسبة الطلاق حتى ورد لي الوارد فيها مع ذلك الوارد المتقدم ذكره ، وهو قوله تعالى : ﴿ لِكَيْلَا يَكُونَ عَلَيْكَ حَرَجٌ وَكَانَ

44 *Al-Āthār al-kāmila* (iv, 193) inserts a dash here (neither dash appears in the *Manshūrāt*). For a better reading this has been moved to ﷺ.

الله غفوراً رحيماً ﴿ الآية . فلا ادري الا وقد انفرج ما بي من ذلك الخوف وانشرح لها صدري بغير ما اعهده والامر لله ، والله تعالى في كل وقت شان . وقد جاء الاخبار من رسول الله ﷺ ان ملك الالهام من الله يسدني وعينه<sup>45</sup> . فمن هذا الخبر النبوي علمت ان الذي يلهمني الله به بواسطة ملك الالهام لو كان رسول الله ﷺ حاضراً لفعله :

وقد ورد لي مراراً الخصوصية التي كانت له ﷺ في نساءه مع التوصية منه ﷺ ان تنزل نسائي كمنزلة نساءه ﷺ ولما اهديت اليّ النساء مع الوارد لي من رسول الله فيهن اخذني خجل من ربي سبحانه في امرهن . وانا<sup>46</sup> في ذلك فجاءني سلام سمعته بجميع جسدي من غير حرف ولا صوت ولا سر ولا جهر ولا قرب ولا بعد . ولا اقدر على تكييف شيء منه ، فدلني على اسرار كثيرة ، والله المثل الاعلى ، وتعالى الله عن كل ما يخطر ببال ، وامر ذلك مفوض الى الله تعالى .

ولكن ما حصل لي ، مع ذلك الالهام الذي يحصل لي ، فانشرح لي به الصدر وانحل قلبي مما كنت مهتما به ،

45 Thus in *Manshūrāt* and *al-Āthār al-kāmila*, sc. ويُعِينُنِي .

46 See *al-Āthār al-kāmila*, iv, 194 n. 3, sc. وبينما انا .

وحصلت لي اسرار كثيرة يغمض فهمها . وقد حصل لي مثل واقعة هذا السلام شيء يشبه ذلك في كيفية بعض النساء بشارة<sup>47</sup> نسبتها مع تسمية الولد والبنت الذين يجعلهما الله تعالى منها ، فسمعتة بسائر جسمي باطناً وكل ذلك بحول الله وفضله لا لشغف<sup>48</sup> بالنساء ولا ابرئ نفسي الا ان يزكيني ربي ، وعلم حالي عند ربي ، واعلم ان ظن المؤمنين بي حسن ولكن الخوف دخول الشيطان على من ضعف قلبه مع العلم ان خلافتي لرسول الله ﷺ لا كخلافة الخلفاء السابقين . وسأبين بعض النصوص المذكورة في بعض التفاسير في قوله تعالى ﴿ لا يحل لك النساء من بعد ﴾ لينحل قلب بعض الاخوان الذين تقع في قلوبهم عداوة الشيطان بسبب النساء اللاتي ارادهن لي ربي سبحانه ، وانما الشيطان يجري من ابن آدم مجري الدم . فاذا فقد العبد كثرت<sup>49</sup> انوار المحبة واليقين بالحقيقة التي نحن عليها اخاف ان يضره الشيطان .

قال عكرمة والضحاك : لا تحل لك النساء من بعد ، اي : الا اللاتي احللنا لك وهي قوله : ﴿ انا احللنا لك ازواجك

47 *Ibid.*, 193 n. 4.

48 *Ibid.*, n. 5.

49 *Manshūrāt*: كثرة.

اللاتي اتيت اجورهن ﴿ الآية . ثم قال لا تحل لك النساء من بعد ، اي اللاتي احللنا لك بالصفة التي تقدم ذكرها . وقيل لابي بن كعب : لو مات نساء رسول الله ﷺ أكان يحل له ان يتزوج ؟ قال : وما يمنعه من ذلك ؟ قيل : قوله تعالى : ﴿ لا يحل لك النساء من بعد ﴾ قال انما احل الله ضربا من النساء فقال تعالى ﴿ يا ايها النبي انا احللنا لك ازواجك ﴾ الآية ، ثم قال : ﴿ لا يحل لك النساء من بعد ﴾ وبين بعضهم في هذا المقام انه ﷺ تجوز له ثلاثمائة امرأة . وقال مجاهد ما معناه : لا تحل لك اليهوديات ولا النصرانيات بعد المسلمات . ﴿ ولا ان تبدل بهن من ازواج ﴾ ، يقول : ولا ان تبدل بالمسلمات غيرهن من اليهود والنصارى . يقول لا تكون ام المؤمنين يهودية ولا نصرانية ، ﴿ ولو اعجبك حسنهن الا ما ملكت يمينك ﴾ . احل الله له ما ملكت يمينه من الكتابيات ان يتسرى بهن ، وروي عن الضحاك : ولا أن تبدل بهن من ازواج ، يعني : ولا ان تبدل بازواجك اللاتي هن في حبالك ازواجا غيرهن بان تطلقهن فتنكح غيرهن . فحرم عليه طلاق اللواتي كن عنده وحرمنه على غيره حين اخترنه فاما نكاح غيرهن فلم يمنع عنه . وغير ذلك من نحو هذا .

اقول : وبعد هذا قد حصلت لي في هذا المعنى اسرار كثيرة يطول ذكرها ، والحمد لله على خاصيتنا برسول الله ﷺ وعنايته بنا ودعائه لنا قديما وحديثا ، فان شرف التابع من شرف المتبوع ، والسلام .

١٨ ربيع اول سنة ١٣٠٢

*Translation of the Legal Opinion*<sup>50</sup>

In the name of God, the Beneficent, the Merciful.

Praise be to God, the Noble Ruler, and may God bless our Lord Muḥammad, and his family and grant them peace.

Now to our topic. Issued by the slave of his Lord,<sup>51</sup> Muḥammad al-Mahdī b. *al-sayyid*<sup>52</sup> °Abd Allāh.

An increasing number of complaints pertaining to damage caused and asking for help have reached me from the *anṣār*<sup>53</sup> who have repudiated their wives by means of a unilateral divorce (*ṭalāq*) in the period preceding [the manifestation of] the Mahdiyya. This caused them and their wives distress and anguish, even after they had turned to God in repentance, seeking love and union in God's religion. Repeatedly I refrained

50 The translation is as literal as possible, in an effort to preserve the original style of the *fatwā* to the extent that it does not cause any difficulty in understanding the text. Short explanations appear in the body of the translation in square brackets.

51 Quite often the Mahdī uses the formula 'the slave who is in need (*al-muṭtaqir*) of God'; Abū Salīm, *al-Āthār al-kāmila*, iv, 192 n. 2.

52 That is, a descendant of the Prophet Muḥammad (*sharīf*, pl. *ashrāf*). Muḥammad Aḥmad b. °Abd Allāh adopted this status after the announcement of his manifestation (*ẓuhūr*) as *mahdī*; see Abū Salīm, *al-Āthār al-kāmila*, i, 339 (his message to Muḥammad al-Mahdī al-Sanūsī).

53 The Mahdī's supporters. The term is derived metaphorically from the Prophet's *anṣār*; see Holt, *Mahdist State*, 56n., and W. Montgomery Watt, 'al-Anṣār', *EI* (2), i, 514-15.

from dealing with this issue, wondering: ‘Were they not believers?’ but I gave some of them a formal legal opinion (*uftī*) to the effect that it is not required to take into account (*ḥisba*) [the number of] divorces with regard to the inhabitants of the [Turkish] fortified camps (*al-qayqar*)<sup>54</sup> and women who were not [regarded as] believers, because they were not subject to matrimonial authority [that is, not married]. Therefore, no account should be taken of the number of divorces.<sup>55</sup> When the complaints regarding damage in this matter increased and recurred, I paid attention to the matter and beseeched and supplicated God in this matter in the expectation of some evidence (*furqān*) from the Book of God [the Qurʾān], Exalted is He, since He, praise be to Him, had promised a *furqān* and way out to the godfearing.

[Subsequently] I left the matter in God’s hand and refrained from dealing with it until an insight reached me (*warada ʿalayya wārid*)<sup>56</sup> while performing the last devotion (*wird*) of *al-Rātib*.<sup>57</sup> This matter had escaped my mind. This verse reached me, and this is the word of God, Exalted is He, ‘[God] hath not laid upon you in religion any hardship’ [Q 22:78],<sup>58</sup> together with a [Prophetic] inspiration (*ilhām*)<sup>59</sup> that this might

54 Cf. ‘*al-qaqra*’ in Abū Salīm, *al-Āthār al-kāmila*, vii, Glossary, 398.

55 In other words, the mere presence of of a woman in Turkish territory renders her a non-Muslim, thereby invalidating her marriage from a *sharʿī* point of view, with the result that the question of the number of her divorces ceases to be relevant.

56 The insight being both the Qurʾānic verse that came to his mind and the solution to the divorce problem that came by inspiration; see Abū Salīm, *al-Āthār al-kāmila*, vii, Glossary, 399, ‘*al-wāridāt*’.

57 *Rātib al-Imām al-Mahdī*, the devotional manual compiled by the Mahdi (lithograph press, n.d., n.p.); see Holt, *Mahdist State*, 165; J. Spencer Trimmingham, *The Sufi Orders in Islam*, Oxford 1971, Glossary, and *ALA*, i, 328.

58 In other words, God provides solutions for any given problem. The translation of this and the following verses is based on M.M. Pickthall, *The Meaning of the Glorious Koran*, New York 1953.

59 According to Abū Salīm, the resort to inspiration indicates that the Mahdi intended to hand down a valid decision in *sharʿī* terms as if it

provide a way out from that hardship resulting from the divorces which took place before the Mahdiyya.

The divorces which took place before the Mahdiyya should not be taken into account [within the *sharʿī* quota of divorces] even if someone completed three after the Mahdiyya, provided that [at least] one of the divorces preceded the Mahdiyya.<sup>60</sup> After the Mahdiyya no [validity is attached] to any legal opinion issued by the jurists [of evil]<sup>61</sup> concerning a triply divorced woman [repudiated before the Mahdiyya].<sup>62</sup> And it came to my heart at that time [I mean at the time of that insight to us from the Messenger of God], may God bless him and grant him peace, that when we go forth from Abā<sup>63</sup> to the West, people would newly enter into the religion of Islam through my intervention,<sup>64</sup> or words [of the Prophet] to that effect.

One of my wives has completed the quota of divorces,<sup>65</sup> some of which had occurred before the Mahdiyya.<sup>66</sup> Some of

had been issued by the Prophet; see Abū Salīm, *al-Āthār al-kāmila*, iv, 193 n. 2.

60 In other words, the enumeration of the divorces begins only after the manifestation of the Mahdiyya. Any divorce that preceded the Mahdiyya—a period that is tantamount, in the Mahdi’s eyes, to the Jāhiliyya—has no significance from a *sharʿī* point of view, and should therefore not taken into account. Cf. Abū Salīm, *al-Āthār al-kāmila*, iv, 193 n. 4.

61 See above, n. 38.

62 It seems that what is meant here are *fatwās* requiring a woman to resort to an intermediate marriage with a view to rendering her legally permitted to her first husband.

63 An island on the White Nile. It was here in March 1881 that the Mahdi first announced secretly to his disciples his manifestation as the ‘Expected (*al-muntaẓar*) mahdī’. See Holt, *Mahdist State*, 46ff.; *idem*, ‘al-Mahdiyya’, 1248 ii-1249 i.

64 This implies that everything that precedes the Mahdiyya belongs to the period of heresy; see Abū Salīm, *al-Āthār al-kāmila*, iv, 192 n. 6.

65 That is, they were repudiated three times.

66 According to Abū Salīm, the Mahdi refers here to his wife Fāṭima bt. Ḥājī, his paternal cousin. He married her in Khartoum. Then he repudiated her prior to the manifestation of the Mahdiyya and reinstated

the adherents (*aṣḥāb*)<sup>67</sup> suffered hardship in regard to their persons and families, and I told them to [feel free] to marry [this divorced wife of mine], but they did not agree to this.<sup>68</sup> Then came the [divinely inspired] message forbidding that, owing to the exclusivity (*khuṣūṣiyya*)<sup>69</sup> [of the the divorced wives to the Mahdi] which will be mentioned [later]. When they continued to suffer hardship,<sup>70</sup> I said, ‘There is no way out with respect to this matter except by something coming to us from God and His Messenger, may God bless him and grant him peace, upon the occurrence of some visions (*ḥadrāt*) concerning her being counted among my wives and her standing with them, solving this matter’.<sup>71</sup> Some visions [occurred], in which came the instruction of her

her [without resorting to an intermediate marriage] in the period of the Mahdiyya. In what follows he deals with the circumstances of her reinstatement because of its *sharʿī* significance; see Abū Salīm, *al-Āthār al-kāmila*, iv, 192 n. 7.

- 67 Synonym of *anṣār*, this too—by analogy from the Prophet’s *aṣḥāb*; see Abū Salīm, *al-Āthār al-kāmila*, v, 455 (the Prophet said to the Mahdi: ‘Your adherents are like my adherents’).
- 68 In other words, according to the Shariʿa, after the quota of three divorces has been exhausted the divorced wife must marry somebody else in an intermediate marriage before she is rendered legally permissible to her first husband, that is, in the case under review, the Mahdi. The *anṣār*, however, did not want the Mahdi’s divorced wives to marry someone else beside him, thus making it easier for him to reinstate them without resorting to an intermediate marriage. Cf. Abū Salīm, *al-Āthār al-kāmila*, iv, 193 n. 8. An alternative reading of this paragraph, assuming an influence of Sudanese colloquial usage to refer to a single wife [Fāṭima] in the plural, would read: ‘I ordered them [Fāṭima] to marry [somebody else in intermediate marriage] but they [she] did not consent’.
- 69 On the exclusive status (*khuṣūṣiyya*) of the Prophet Muḥammad with regard to women, such as marriage with no dower, or marriage with more than four women concurrently; see Shalabī, *Aḥkām al-usra fi ʿl-islām*, 108.
- 70 Due to fact that Fāṭima could not marry because of the legal uncertainty.
- 71 In other words, the Mahdi’s legal opinion was meant to solve a general problem of women who had been triply divorced prior to the manifestation of the Mahdi.

reinstatement [to the Mahdi without an intermediate marriage] in addition to many appropriate visions concerning counting her among my wives.

However, in spite of all this I was distressed with respect to her reinstatement [without an intermediate marriage] after having completed the number of divorces, until there came to me an insight (*al-wārid*) concerning her, along with the aforementioned one.<sup>72</sup> This is His word, Exalted is He, ‘That thou mayst be free from blame, for Allah is Forgiving, Merciful’ [Q 33:50], (to the end of the verse).<sup>73</sup>

Suddenly, the fear within me was driven away, and my heart was opened up to her in a manner never experienced before. The matter is left in God’s hands, and God—Exalted is He—is at every moment engaged in [some new] task.<sup>74</sup> Reports from the Prophet, may God bless him and grant him peace, have reached [me] to the effect that the Angel of Inspiration (*malak al-ilhām*),<sup>75</sup> on behalf of God, shows me the right way and assists me. From this Prophetic report I learned

72 In the edition of *Manshūrāt al-Mahdiyya* the text reads *al-mutaqaddim*.

73 This verse relates in its original context to polygamy. (See Abū Jaʿfar Muḥammad b. Jarīr al-Ṭabarī [d. 310/923], *Jāmiʿ al-bayān ʿan taʾwīl āyāt al-Qurʾān*, 2nd edn, [Cairo] 1373/1954, xxii, 24, ll. 8-14). It seems, however, that the Mahdi attempted to adapt it to the purpose of reinstatement of his triply divorced wife without resorting to an intermediate marriage that would render her legally permitted to him. This privilege, among others, was granted to the Prophet Muḥammad; see Q 33:51; *The Korān*, trans. G. Sale, London [n.d.], 416 n. 1.

74 This may be an oblique reference to Qurʾān 55:29, ‘*Kull yawm huwa fi shaʾn*’, which Sufis interpret to mean that God is continually displaying Himself in new ways, or is always preoccupied with some new task (*shaʾn*). See William C. Chittick, *The Sufi Path of Knowledge: Ibn al-ʿArabī’s metaphysics of imagination*, Albany, NY 1989, 96. I am indebted to John Hunwick for drawing my attention to the Qurʾānic verse and to source indicated in the reference.

75 The Mahdi does not disclose the identity of the Angel of Inspiration in the Circular of Propagating his Mission (*manshūr al-daʿwa*) and in the Vision of his Nomination (*ḥaḍrat al-tanṣīb*) as a *khalīfa*. In this context al-Khiḍr and ʿAzrāʿīl are mentioned; see Abū Salīm, *al-Āthār al-kāmila*, iv, 193 n. 2, and Holt, *Mahdist State*, 106. See n. 41 above.

that what the inspiration that God conferred upon me (*yulhimunī*) by means of the Angel of Inspiration, if the Messenger of God, may God bless him and grant him peace, had been present [at this very moment] he would have conducted himself in like manner.

I was repeatedly approached [by means of visions] by the notion of the exclusivity which the Prophet, may God bless him and grant him peace, enjoyed as regards his wives, together with a recommendation by the Prophet that the status of my wives be similar to the status of his wives, may God bless him and grant him peace. When wives were conferred upon me, in accordance with the *wārid* that had reached me from the Messenger of God with regard to them, I was seized by [a sense of] shame concerning them from my Lord, Sublime is He. And while being preoccupied with this matter, I was approached by a sense of serenity which I heard with the entirety of my body, without a word or a voice, without secrecy or publicity, without [a sensation of] proximity or remoteness. I cannot describe the quality of anything thereof.<sup>76</sup> [The Qurʾānic verse] guided me toward many secrets, ‘and Allah’s is the Sublime Similitude’ [Q 16:60], and God shall ascend above anything that comes to one’s mind. This matter is entrusted to the hands of God, Exalted is He.

However, what occurred to me, by means of that inspiration I received, is that I became happy and relieved in regard to the matter with which I was preoccupied.<sup>77</sup> Many secrets, whose understanding was unclear, were vouchsafed to me. Similar to the occurrence of this serenity, I experienced something resembling it in regard to the appearance of a certain woman, an announcement of joyous news<sup>78</sup> which I connected with the naming of a son and a daughter which God would

76 This is clear evidence of the confusion of senses that the Mahdi experienced during the vision of revelation and inspiration.

77 It seems that the Mahdi refers here to the number of his wives.

78 Assuming the alternative *bi-bishāra*, as suggested by Abū Salīm (see n. 47, above).

bestow upon me from her. I heard it with my whole body in an inward fashion.<sup>79</sup> And all of that was through the power of God and His grace, not through passion for women. I do not absolve myself from guilt, still my Lord vindicates me. My Lord is well acquainted with my situation. I know that the believers think well of me.<sup>80</sup> However, it is feared that Satan will dominate those whose hearts became weak due to the message that my status as the successor (*khalīfa*) of the Messenger of God, may God bless him and grant him peace, is not the same as the status of the successorship of the former caliphs.<sup>81</sup> I shall clarify some of the texts (*nuṣūṣ*) mentioned in some of the commentaries pertaining to God's saying, Exalted is He, 'It is not allowed thee to take (other) women henceforth' [Q 33:52],<sup>82</sup> in order that relaxation be imposed

- 79 The Mahdi is excusing himself for being captivated by the beauty of a woman who was not his wife just as the Prophet was captivated by Zaynab. He made his feelings obvious to his companions and then had to explain this away. He says that he received an inspiration that he would marry her and have children from her, thus seeking in some way to legitimize his passion. I owe this explanation to John Hunwick.
- 80 In spite of his deviation from the quota of four women who are legally permitted to other Muslims.
- 81 Abū Salīm explains that the caliphate of the Mahdi is different from that of the 'Rightly-guided Caliphs' (*al-khulafā' al-rāshidūn*) in the sense that the Mahdi could afford to ignore the schools of law due to the guidance received through the Mahdist inspiration, which singled him out from the rest of the people; see Abū Salīm, *al-Āthār al-kāmila*, iv, 195 n. 1.
- 82 See Abū Salīm, *al-Āthār al-kāmila*, iv, 195 n. 2. The commentators disagree over the meaning of this verse. Some maintain that it was meant to prohibit Muḥammad from marrying women in addition to the nine women already under his matrimonial authority, disregarding the quota of four women permissible to other Muslims. Other commentators maintain that Muḥammad was prohibited from marrying any woman in place of one of the women that might die or be divorced. And some maintain that Muḥammad was prohibited from marrying any woman save those belonging to the four categories specified in verse 50 (See Sale, *The Korān*, 416, n. 2). For more details see al-Ṭabarī, *Jāmi' al-bayān*, xxii, 28ff., and Abū 'Abd Allāh Muḥammad b. Aḥmad al-Qurṭubī, *al-Jāmi' li-aḥkām al-Qur'ān*, Cairo 1387/1967, xiv, 141.

on some of the *ikhwān* whose hearts are dominated by the hostility of Satan, due to the women whom my Lord, praise be to Him, wanted to be under my matrimonial authority. Yet, Satan flows in man as blood in the veins.<sup>83</sup> If a human being loses the abundance of the lights of love and the certainty of reality in which we exist,<sup>84</sup> I am afraid Satan might cause him harm.<sup>85</sup>

°Ikrima<sup>86</sup> and al-Ḍaḥḥāk<sup>87</sup> said, ‘[Concerning the verse] “It is not allowed thee to take (other) women henceforth”, that is, “save those whom We declared legally permissible to you”, who are, in God’s words, “[O Prophet! Lo!] We have made lawful unto thee thy wives unto whom thou hast paid their dowries” (to the end of the verse)’.<sup>88</sup> Subsequently °Ikrima said, “It is not allowed thee to take (other) women henceforth”, that is, “save those whom We declared legally permissible to you in the above-mentioned manner”. Ubayy b. Ka°b<sup>89</sup> was asked, ‘If the wives of the Messenger of God, may God bless him and grant him peace, die, is it legally permissible to him to marry?’ Ubayy asked, ‘What prevents him from doing so?’ He was answered, ‘[What

83 In other words, the presence of Satan, which here embodies the jealousy due to the permission the Mahdi availed himself of to marry more than four wives, in the heart of human being, is—according to the Mahdi—natural and self explanatory.

84 This may be regarded as a recommendation that people resign themselves to the idea that the Mahdi is entitled to marry more than four wives.

85 The Mahdi seems to be worried that some of the people might find it difficult to overcome their jealousy due to the permission that he availed himself of.

86 Qur°ān commentator, died 105/723-24; see J. Schacht, ‘°Ikrima’, *EI* (2), III, 1081-2.

87 Qur°ān commentator, died 723.

88 Q 33:50. The rest of the verse mentions female slaves that one hand is able to possess from one’s share in the booty, paternal and maternal cousins that immigrated with Muḥammad from Mecca to Medina, but not others; see Sale, *The Korān*, 415 n. 4.

89 Qur°ān commentator, died c. 29-34/649-54.

prevents him is] the saying of God, Exalted is He, “It is not allowed thee to take (other) women henceforth”.’ Ubayy said, ‘God permitted [polygamous marriage] only with respect to a certain category of women [as specified in verse 50], since He, Exalted is He, said, “O Prophet! Lo! We have made lawful unto thee thy wives” (to the end of the verse)’.<sup>90</sup> Then He said, “It is not allowed thee to take (other) women henceforth”.<sup>91</sup> One of them clarified with regard to this point that the Prophet, may God bless him and grant him peace, was legally permitted [to marry] three hundred women. Mujāhid<sup>92</sup> gave an interpretation the meaning of which is, ‘It is not legally permissible for you [to marry] Jewish or Christian women after Muslim women’, [citing the Qurʾān:] ‘nor that thou shouldst change them for other wives’ [Q 33:52].<sup>93</sup> Mujāhid said, ‘neither to replace Muslim women by other—Jewish and Christian—women’, and said, ‘The “Mother of the Believers” cannot be a Jewish or a Christian<sup>94</sup> woman’. [As to the verse] ‘even though their beauty pleased thee, save those whom thy right hand possesseth’ [i.e., female slaves; Q 33:52], [Mujāhid said], ‘God made permissible for him to take as concubines what his right hand possessed from women of the revealed religions’.<sup>95</sup> It was transmitted from al-Ḍaḥḥāk, [‘With respect to the verse] “nor that thou shouldst change them for other wives”, that is, “nor [is it permissible to you] to replace your wives who are tied to you by strings [i.e., by marriage

90 Cf. al-Ṭabarī, *Jāmiʿ al-bayān*, xxii, 29, ll. 18-22.

91 Cf. al-Dārimī, *Sunan*, Nikāḥ 44 (edn 2 vols, Beirut n.d., ii, 154). I owe this reference to Dr Vikør.

92 Died c. 100-04/718-22.

93 That is, by divorcing a wife and marrying another woman in her stead. Some maintain that what is meant here is the exchange of women between married couples, a common practice among the pagan Arabs; see Sale, *The Korān*, 419 n. 3; al-Qurṭubī, *al-Jāmiʿ li-aḥkām al-qurʾān*, xiv, 142.

94 See al-Qurṭubī, *al-Jāmiʿ li-aḥkām al-qurʾān*, xiv, 141-3.

95 Cf. al-Ṭabarī, *Jāmiʿ al-bayān*, xxii, 31, ll. 5-6.

contract] by other women, namely, by repudiating them and subsequently marrying other women'.<sup>96</sup> God forbade him to repudiate those women who were at his disposal [i.e., in his matrimonial authority] and rendered them prohibited to others when the women had chosen him. As regards marriage with other women than them, he was not prevented from doing this', and other related issues.

I say: Subsequently there came to me many secrets of a like kind whose specification might take too long. Praise be to God for entitling me [to benefit from the same privilege] that was reserved for the Messenger of God,<sup>97</sup> may God bless him and grant him salvation, and for his [the Prophet's] concern for us and his praying for us in former and latter times. The honour of the adherent (*tābi*<sup>c</sup>) derives from the honour of the leader, and let it be done with that.

18 Rabī<sup>c</sup> I 1302 [5 January 1885].

### *Conclusion*

This legal opinion illustrates very clearly the Mahdi's unique style of deviating from positive Islamic law and the classical theory of the jurisprudence in an effort to replace them with new methodological elements, the most important of which is Prophetic inspiration, promoted here to the status of a source of law in its own right, while displacing analogical reasoning (*qiyās*) from the textual sources. In the alternative legal methodology of the Mahdi there is no room for the consensus (*ijmā*<sup>c</sup>) of the *fuqahā*<sup>?</sup>. The Mahdi's attempt in matters of personal status to avail himself of the options that were available to the Prophet coincides with his efforts to consolidate himself as *khalīfat rasūl Allāh*, a status which ranks higher than that of the 'Righteous Caliphs'.<sup>98</sup>

96 Cf. *ibid.*, xxii, 31, ll.10-11.

97 That is, the option to marry more than four women concurrently.

98 See Abū Salīm, *al-Āthār al-kāmila*, iv, 494; *Manshūrāt al-imām al-mahdī*, iii, 97; *Manshūrāt al-mahdiyya*, 303.

It is likely that the Mahdist state was one of the most important sources of inspiration for president Numayrī who initiated the revival of Islamic law in the Sudan in the early 1980s. The modern Sudanese experiment is not an anomalous historical development nor a break in the process of secularizing Islamic law which has been taking place in the Muslim world since the middle of the nineteenth century; it is rather a reflection of latent desires, since the suppression of the Mahdist rebellion in the late nineteenth century, to revive the theocratic state. Surely, the reinstatement of Islamic law in modern Sudan presents a strange synthesis of Islamic law with English law in its Anglo-Muhammadan version, precedents of national courts, local custom, and above all—the right of civil judges to exercise *ijtihād* to shape legal norms on the basis of all these sources.<sup>99</sup> However, what is common to Numayrī's experiment and to the Mahdi's legal methodology is the emphasis placed on the Qur'ān and the Sunna. Moreover, Warburg has demonstrated that a wide range of Mahdist elements and symbols, such as *bay'ca* (vow of allegiance), *jihād* (holy war against the infidels), *bayt al-māl* (public treasury), *ghanīma* (booty), and *ṣadaqa* (charitable gift) have been adapted to the conditions of modern Sudan.<sup>100</sup>

The Mahdi's attempt to establish a theocracy in tribal and sedentarized tribal society, regulated by the Qur'ān and the Sunna, resembles in some respects the experience of the Prophet Muḥammad himself. Finally, the acquaintance with the interaction between the Sharī'ca (in the Mahdi's unique version) and tribal law may facilitate the understanding of the Islamization process at work within tribal societies.

99 See A. Layish and G.R. Warburg, *The Revival of Islamic Law in Sudan under Numayrī: Background, Methods, Application, Assessment and Repercussions* (in progress).

100 See G.R. Warburg, 'From Revolution to Conservatism: Some Aspects of Mahdist Ideology and Politics in the Sudan', *Der Islam*, lxx, 1, 1993, 88-111, and *idem*, 'Mahdism and Islamism in the Sudan', *International Journal of Middle East Studies*, xxvii, 1995, 219-36.