

Dr Mahmoud Morvarid

A Decision-Theoretic Approach to the *Hujjiyya* of the Regulative Verses

There is a consensus among the various schools of classical Islamic jurisprudence that the Quran is the main source of Islamic law. Nevertheless, there is also a great deal of controversy as to under what conditions a regulative verse is *hujja* in the sense that it can be relied upon in the course of *istinbāt* (i.e. deriving divine rulings). According to the late Shiite *uṣūlīs*, if a regulative verse explicitly indicates a divine ruling in such a manner that it is incapable of any alternative interpretation, then that verse is unconditionally *hujja*, because it provides certainty regarding the divine ruling expressed therein. But in general the regulative verses are not that explicit, and instead (to use an *uṣūl* jargon) only have a *zuhūr* in divine rulings, that is, although they appear to indicate the rulings in question, they could also be interpreted in other ways. The received view in the late Shiite *uṣūl* is also highly permissive regarding the *hujjiyya* of this latter type of regulative verses. According to this view, the *zuhūr* of a regulative verse is *hujja* as long as one does not obtain 'credible evidence' to the contrary, regardless of the degree of probability the subject eventually assigns to the ruling indicated by the verse, and regardless of the degree of stake involved in complying with that ruling. Drawing on ideas from the contemporary Bayesian decision theory, I will challenge the received view just outlined, and propose a decision-theoretic approach to the *hujjiyya* of the *zuhūr* of the regulative verses. In a nutshell, the idea is that the *hujjiyya* of *zuhūr* is constrained by the general principle of rational decision making. According to this principle, an action is rational when it maximizes the expected utility, where the expected utility is a function of the subject's preferences and the probability s/he assigns to the relevant propositions. As we apply this general conception of rationality to the case of regulative verses, we get a very different picture of *hujjiyya*. Accordingly, a regulative verse with a *zuhūr* to the effect that the performance of action A is obligatory will not suffice to make the subject obligated to perform A. Rather, whether or not the subject ought to perform A will be a function of two factors: (i) the probabilities the subject assigns, given her or his total evidence, to A's being obligated, prohibited, or permitted by the Lawgiver, and (ii) the amount of *maslaha* (positive value) which would be promoted by performing A (provided A is obligated by the Lawgiver), and the amount of *mafsada* (negative value) which would be produced by doing A (provided that A is prohibited by the Lawgiver). I will also explore some ramifications of the decision-theoretic approach to *hujjiyya*. For example, in this approach, *istinbāt* is a holistic procedure in which not only Quran and Hadith (and other traditional sources of *istinbāt*), but also moral intuitions and argumentations as well as scientific investigations (albeit tentative and non-certain) could play a crucial role.



Dr Mahmoud Morvarid

Institute of Research in Fundamental Science

Dr Mahmoud Morvarid studied Islamic and Shiite studies at the Seminary of Qom, and he is now a member of the School of Analytic Philosophy at the Institute for Research in Fundamental Sciences (IPM) in Tehran. His areas of interest include metaphysics, philosophy of religion, Islamic philosophy, and comparative studies. He is also interested in exploring possible connections between different branches of analytic philosophy, on the one hand, and the intellectual heritage of Islamic tradition in philosophy, *kalām*, and the Principles of Jurisprudence (*uṣūl al-fiqh*), on the other hand. He has publications both in English and Farsi.