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THE ROLE OF THE BIOGRAPHER IN CONSTRUCTING IDENTITY AND DOCTRINE: AL-ᶜABBĀDĪ AND HIS *KITĀB ṬABAQĀT AL-FUQAHĀ ᵓ AL-SHĀFIᶜIYYA*

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This paper explores the role of the biographer in compiling a biographical dictionary, focusing on al-ᶜAbbādī's (d. 458/1066) work on the Shāfiᶜī 'school' of law. The paper argues that al-ᶜAbbādī straddles a fine line of faithful transmission of school doctrines and artful arrangement of the materials in order to shape the identity, authority structures, and doctrines of the school according to his vision. To highlight al-ᶜAbbādī's role in constructing the identity and authority structures of the school the paper focuses on three areas: first, how al-ᶜAbbādī lays out his vision of the school in the entry of the eponym of the school by delineating the areas of law that distinguish al-Shāfiᶜī from other founders of schools of law; second, how al-ᶜAbbādī deals with contradictory positions held among members of the school; third, how he gives the school of law also a theological identity (Ashᶜarism) by discussing such topics as free will, the createdness of the Qurᵓān, and the definition of faith (*īmān*). The paper details the author's range of editorial hints and techniques of presentation that guide his audience to the 'correct' Shāfiᶜī doctrine. It presents reasons why al-ᶜAbbādī takes recourse to these measures and points to the effects of his presentation of school doctrines.

Introduction

A particular feature of Arab-Muslim literature and culture is its vast numbers of biographical dictionaries.[1] Among the earliest of which we

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[1] Biographical notes are known by a variety of terms; widely used are the Arabic *ṭabaqa*, pl. *ṭabaqāt*, or *tarjama*, pl. *tarājim*, as well as *sīra*, pl. *siyar*. They are found in a variety of literature. Depending on how broadly one defines the genre, biographical information appears in historical narratives that, sometimes more as a side note, elaborate on people who lived during the time period under consideration or list those who died in a particular time span; in works specifically dedicated to a particular group of people; and in those devoted to a particular figure (usually called *manāqib*). For overviews of the breadth and depth of this genre with extensive bibliographical references, see Sir Hamilton Gibb, 'Islamic Biographical Literature,' in *Historians of the Middle East*, eds. B. L. Lewis and P. M. Holt (London: Oxford University Press, 1962), 54–8; Franz Rosenthal, *A History of Muslim Historiography* (Leiden: Brill, 2nd revised ed. 1968), 100–6; M. J. L. Young, 'Arabic Biographical Writing,' in *Cambridge History of Arabic Literature: Religion and Learning in the ᶜAbbasid Period*, eds. M. J. L. Young, J. D. Latham

know are Ibn Saʿd's (d. 230/845) *Kitāb al-Ṭabaqāt al-kabīr* and Ibn Sallām al-Jumaḥī's (d. 231/846) *Kitāb Ṭabaqat al-fuḥūl al-shuʿarāʾ*, devoted to *ḥadīth* transmitters and poets respectively. A more recent example of this type of literature is ʿAbd al-Raḥmān al-Jabartī's (1754–1829) *ʿAjāʾib al-athār fī l-tarājim wa-l-akhbār*. While many biographical works concentrate on religious figures, such as Companions, *ḥadīth* transmitters, Qurʾān readers, jurists, mystics, and theologians, it is not a religious phenomenon; there is no shortage of works dedicated to poets, musicians, philosophers, caliphs, as well as to people with unusual attributes or even afflicted with some disease. Among the curiosities preserved by biographers is the *Burṣān wa-l-ʿurjān* of al-Jāḥiẓ (d. 255/868), which mentions litterateurs who were lepers, lame, blind, and squint-eyed; Abū Ḥātim al-Sijistānī (d. 248/862) devotes a book on people blessed with longevity (*al-Muʿammarūn wa-l-waṣayā*);[2] and someone thought it sufficiently noteworthy to compile a list of tall men whose big toes dragged on the ground when riding.[3]

The forms that biographical notices take are just as varied as their subjects, ranging from mere lists of names or genealogies to extensive entries which include stories and anecdotes of the individual's life and professional accomplishments, or book-length biographies on important personalities. The type of information mentioned in a biographical entry depends on factors such as the sources available to the author and the purpose of the biography, and may vary widely within one and the same work. Frequently included in a biography are the death date of a person (and, if known, also the birth date); his/her genealogy and residence(s); education received, including teachers in specific subjects and students taught; travels undertaken; people/scholars met; works written or *ḥadīth* transmitted; professional appointments; and anecdotes or stories that are

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and R. B. Serjeant (Cambridge: Cambridge University Press, 1990), 168–87; Charles Pellat, 'Manāḳib,' *Encyclopaedia of Islam*, 2nd edition (henceforth, *EI²*), vol. 4, 349–57; R. Stephen Humphreys, *Islamic History: A Framework for Inquiry* (Princeton: Princeton University Press, revised ed. 1991), 187–208; and Wadād al-Qāḍī, 'Biographical Dictionaries: Inner Structure and Cultural Significance,' in *The Book in the Islamic World*, ed. George N. Atiyeh (Albany: State University of New York Press, 1995), 93–122. Paul Auchterlonie provides a fairly comprehensive list of works in his *Arabic Biographical Dictionaries: A Summary Guide and Bibliography* (Durham: Middle East Libraries Committee, 1987).

[2] Al-Qāḍī, 'Biographical Dictionaries,' 95.

[3] Michael Cooperson, Classical Arabic Biography: The Heirs of the Prophets in the Age of al-Maʾmūn (Cambridge: Cambridge University Press, 2000), 3.

relevant for understanding the personality and the significance of the biographee.[4] However, the information gleaned from biographical entries often says less about the individual than the collective entity that this person belongs to because it captures primarily those aspects that associate that individual to the group. The biography reveals to the reader a framework within which to place the person in Islamic society, establishing the individual's doctrinal or political affiliations and/or whether s/he is a reliable transmitter of knowledge.

Despite the wealth of information that can be derived from biographical works, there are obvious limitations to this genre. The author selects the individuals he includes; it is neither all-inclusive nor a random distribution of people belonging to that group, which makes generalizations difficult to sustain.[5] Moreover, the biographer is not just a neutral compiler of information. Not only may he have his own 'agenda', but he also follows the cultural attitudes and literary conventions of his time. When highlighting an aspect of someone's personality, he draws on metaphors and topoi known and accepted by his audience. Tāj al-Dīn al-Subkī (d. 771/1370), for example, organized his biographical dictionary of the Shāfiᶜī school according to centuries, based on the common belief in a prophetic report that every century a renewer (*mujaddid*) of the faith appears. Hence, he lists at the start of every century a reformer who, not surprisingly, came from among the ranks of Shāfiᶜī jurists, with al-Shāfiᶜī as the reformer for the third century AH.[6] An amusing detail of the 'fictional' character of some biographical information is Ibn Farḥūn's (d. 799/1397) account of Mālik

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[4] A good representative of the genre is al-Khaṭīb al-Baghdādī's (d. 463/1071) *Taʾrīkh Baghdād*. In it, the author frequently captures the societal context of an individual by recounting not only biographical facts but also anecdotal material associated with the person. About Ibn Isḥāq, the compiler of a biography of the Prophet Muḥammad, al-Khaṭīb mentions several stories that, irrespective of their historical truth, convey that Ibn Isḥāq was a controversial figure who elicited praise as well as blame from his contemporaries. See Abū Bakr Aḥmad b. ᶜAlī al-Khaṭīb al-Baghdādī, *Taʾrīkh Baghdād aw Madīnat al-Salām*, 14 vols (Cairo: Maktabat al-Khānjī, 1349/1931), vol. 1, 214–34.

[5] For a discussion of the pitfalls of prosopographical studies, see Lawrence Stone, 'Prosopography,' *Daedalus* 100 (1971), 46–79.

[6] Al-Qāḍī, 'Biographical Dictionaries,' 107; see for the *mujaddid* theme Ella Landau-Tasseron, 'The 'Cyclical Reform': A Study of the *Mujaddid* Tradition,' *Studia Islamica* 70 (1989), 79–117.

b. Anas (d. 179/795), the eponym of the Mālikī school of law[7]. He states that Mālik was in his mother's womb for three years[8] – evidently a reflection of Mālik's doctrine of the 'sleeping fetus,' which holds that pregnancies may last up to three years.

The study of such biographical notes, though far from having exhausted the material, reveals important insights into Islamic civilization. [9] As Wadād al-Qāḍī poignantly states: 'biographical dictionaries are indeed a mirror in which are reflected some important aspects of the intellectual and cultural development of the Islamic community'.[10] The aim of this essay is to investigate the role the author of a biographical dictionary plays in shaping the identity of the group he documents by arranging and presenting his information in a particular way. In order to understand that role one must also look at the function this genre of literature serves. While the most important function of biographical works is to preserve history, it is a particular view of history that is portrayed in such works. Generally, one finds a somewhat idealized and mythologized version of history that pays attention not so much to events, but to fields of knowledge or expertise that characterize

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[7] Leder argues that despite a disdain for fiction in non-fictional Arabic narratives, the factuality of the information presented is frequently an illusion. Fictional elements may be used for educational or entertaining purpose, as narrative techniques or appeal to the cultural framework of the audience. See Stefan Leder, 'Conceptions of Fictional Narration in Learned Literature,' in *Story-Telling in the Framework of Non-Fictional Arabic Literature*, ed. Stefan Leder (Wiesbaden: Harrassowitz, 1998), 34–60.

[8] Ibrāhīm b. ʿAlī b. Farḥūn, *al-Dībāj al-Mudhahhab fī maʿrifat aʿyān ʿulamāʾ al-madhhab*, ed. Muḥammad al-Aḥmadī Abū l-Nūr (Cairo: Dār al-Turāth, 1972), 89.

[9] For studies that successfully use the biographical literature to gain understanding of aspects of Islamic civilization see, for example, Cooperson, *Classical Arabic Biography: The Heirs of the Prophets*; idem, 'Ibn Hanbal and Bishr al-Hafi: A Case Study in Biographical Traditions,' *Studia Islamica* 86 (1997), 71–101; Nimrod Hurvitz, 'Biographies and Mild Asceticism: A Study of Islamic Moral Imagination,' *Studia Islamica* 85 (1997), 41–65; Asma Afsaruddin, 'In Praise of the Caliphs: Re-Creating History from the Manaqib Literature,' *International Journal of Middle East Studies* 31 (1999), 329–50; Fedwa Malti-Douglas, 'Controversy and its Effects in the Biographical Tradition of al-Khaṭīb al-Baghdādī,' *Studia Islamica* 46 (1977), 115–31.

[10] Al-Qāḍī, 'Biographical Dictionaries,' 94.

the commonality of the group.[11] Works that are devoted to a specific
professional or doctrinal group of people tend to focus on the 'founder'
as fountainhead of knowledge of the particular field the group represents
(grammar, law, music, etc.) and how this knowledge is transmitted from
one member in the group to another.[12] While the main function of a
biographical work about such a group is to preserve the history of
transmission of the professional knowledge and doctrines that
distinguishes it, the biographer also engages in constructing its identity.
As will be shown in more detail below, he describes and, thereby,
defines its characteristics, its distinctiveness from similar groups, its
membership,[13] its boundaries, and its continuity. The biographer also
determines the place of individual members within that group.[14] This is
done, as illustrated below, by stating the opinions of a member and
relating his/her views to those of other members or those accepted
among the group as a whole. Upon reading such biographies, future
members of the group receive a 'who's who' of past generations, but are

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[11] See Michael Cooperson, 'Classical Arabic Biography: A Literary-Historical
Approach,' in *Understanding Near Eastern Literatures: A Spectrum of
Interdisciplinary Approaches*, eds. Verena Klemm and Beatrice Gruendler
(Wiesbaden: Reichert, 2000), 177–87 (pp. 178–9).

[12] Cooperson points out that al-Marzubānī (d. 368 or 384/979 or 994), who
compiled an early work on grammarians, styled Abū l-Aswad al-Duʾalī (d. 69/688)
as the 'founder' of the discipline, who learned it from none other than ʿAlī b. Abī
Ṭālib (Cooperson, *Classical Arabic Biography: The Heirs of the Prophets*, 12).
Hallaq masterfully documents how in schools of law the eponymous founder was
later elevated to have single-handedly created the doctrines of the school by cutting
him off from any reference to previous jurists from whom he might have learned
and by projecting contributions of his disciples to the doctrinal body of the school
onto the founder. See Wael B. Hallaq, *Authority, Continuity and Change in Islamic
Law* (Cambridge: Cambridge University Press, 2001), 24–56.

[13] As documented widely, works on, for example, members of a school of law
frequently list jurists also claimed by another school (see Christopher Melchert, *The
Formation of the Sunni Schools of Law, 9ᵗʰ–10ᵗʰ Centuries C.E.* (Leiden: Brill,
1997), 44–5, 72, 75–6, 81, and 146; F. Kern, 'Ṭabarī's Iḫtilāf alfuqahāʾ,' *Zeitschrift
der deutschen morgenländischen Gesellschaft* 55 (1901), 61–95 (pp.72–3); al-
ʿAbbādī, too, states on occasion that a jurist he lists is also claimed by another
school. See *Kitāb Ṭabaqāt al-fuqahāʾ aš-šāfiʿīya: Das Klassenbuch der Gelehrten
Šāfiʿiten des Abū ʿĀṣim Muḥammad b. Aḥmad al-ʿAbbādī*, ed. Gösta Vitestam
(Leiden: Brill, 1964), 20–1, 41, and 89.

[14] Cooperson, Classical Arabic Biography: The Heirs of the Prophets, xii, 7–8,
and 15.

also given information about which view is accepted (or acceptable) and authoritative. One may find, for example, a comment that a particular view is a minority one or not in line with that of the founder.[15] The biographer constructs lines of authority by indicating the relationships between members of the group, especially to the founder or origins of the group. Biographical works on a specific group, however, are not only written for internal consumption by the members of the group. They also define the group's place in the wider history of Islamic civilization. Compiling the biographical entries, the author declares to the whole of the community its significance and contribution. He demonstrates the legitimacy of its professional activities and why it is authoritative in the field it represents.[16]

In the enterprise to describe and define the identity of a group as well as its authority in society the biographer is crucial. Although he, doubtlessly, bases his narrative on already existing sources and information he received from previous generations, he is the one who selects whom to include and exclude from the group;[17] he adduces reports to reinforce the genealogy, the achievements, and the identity of the group; and he is the one who decides how to present his material. He is, thus, an active participant in shaping the group, its self-perception, and its image in society.

In what follows, I will illustrate how Abū ʿĀṣim al-ʿAbbādī helped to mold the identity of the Shāfiʿī school of law in his *Kitāb Ṭabaqāt al-fuqahāʾ al-shāfiʿiyya*. For this purpose, I am paying more attention to the ways in which he presents information on jurists and doctrines of the Shāfiʿī school, rather than the historicity of his narrative. Furthermore,

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[15] As Hallaq has shown, a particular ruling that is designated at one point as a minority view does not have to remain that way. Later generations might accept it and elevate it to represent an acceptable alternative to the dominant doctrine of the school, cf. Hallaq, *Authority, Continuity and Change*, 194–208.

[16] Cooperson, *Classical Arabic Biography: The Heirs of the Prophets*, xii and 13–7. Cooperson points out that Ibn al-Muʿtazz (d. 296/908) aimed in his biographies of poets (*Ṭabaqāt al-shuʿarāʾ al-muḥdathīn*) at legitimizing the 'new' poetic style of *badīʿ* (ibid., 12).

[17] That the membership of a group changes is evident, for example with the famous historian and exegete Muḥammad b. Jarīr al-Ṭabarī (d. 319/923). While al-ʿAbbādī counts him among the members of the Shāfiʿī school (al-ʿAbbādī, *Kitāb Ṭabaqāt*, 52), the bibliographer Ibn al-Nadīm (d. 385/995) considers al-Ṭabarī to have had his separate following, independent of those of al-Shāfiʿī. See Melchert, *Formation of the Sunni Schools of Law*, 178.

instead of pointing out that al-ᶜAbbādī's biographical work serves ideological purposes, I focus on how he achieves this goal by showing the range of techniques and editorial devices he uses.[18]

Abū ᶜĀṣim al-ᶜAbbādī's Kitāb Ṭabaqāt al-fuqahāʾ al-shāfiᶜiyya

Abū ᶜĀṣim Muḥammad b. Aḥmad al-ᶜAbbādī, the author of *Kitāb Ṭabaqāt al-fuqahāʾ al-shāfiᶜiyya*, was born in Herat in 375/985, where he began his education before studying in Nīshāpūr under leading scholars of Shāfiᶜī law and Ashᶜarī theology.[19] He is said to have traveled extensively, and returned, probably after 440/1048, to Herat where he was appointed *qāḍī*. He died there or, according to some accounts, in Marw in 458/1066. Al-ᶜAbbādī is not only remembered as a Shāfiᶜī judge, author of several works on law (mainly on legal practice, *furūᶜ*) and biographer of the school, but also as the leading Ashᶜarī theologian of Herat of his time.

Al-ᶜAbbādī finished his work on members of the Shāfiᶜī school in 435/1044,[20] before starting his judgeship in Herat. The book contains the names of 238 jurists,[21] starting with the eponymous founder and

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[18] George Makdisi has shown that some of the presentational techniques used by al-Subkī (d. 771/1370) in his *Ṭabaqāt al-Shāfiᶜiyya* were intended to highlight that Ashᶜarī theology is compatible with Shāfiᶜism. See George Makdisi, 'Ashᶜarī and the Ashᶜarites in Islamic Religious History I,' *Studia Islamica* 17 (1962), 37–80 (pp. 57–79).

[19] For a more detailed biography of al-ᶜAbbādī see the editor's introduction to *Kitāb Ṭabaqāt*, English pagination 5–11 (unless otherwise stated, the page numbers refer to the Arabic pagination), where the editor has collected most biographical information available on al-ᶜAbbādī; Heinz Halm, *Die Ausbreitung der šāfiᶜitischen Rechtsschule von den Anfängen bis zum 8./14. Jahrhundert* (Wiesbaden: Reichert, 1974), 11 and 78; Joseph Schacht, 'al-ᶜAbbādī,' *EI²*, vol. 1, 5; Abū l-ᶜAbbās Shams al-Dīn Aḥmad b. Muḥammad Ibn Khallikān, *Wafayāt al-aᶜyān*, ed. Iḥsān ᶜAbbās (Beirut: Dār Ṣādir, 1397/1977), vol. 4, 214.

[20] Al-ᶜAbbādī, *Kitāb Ṭabaqāt*, 114.

[21] Several jurists listed by al-ᶜAbbādī appear, however, to be instances of *tafrīq*, i.e. duplicating the same person. Instances of *tafrīq* seem to be, for example, the entries on Abū Muḥammad al-Rabīᶜ (pp. 12 and 16); Abū Muḥammad ᶜAbd al-Raḥmān b. Abī Ḥātim (pp. 29 and 43); Abū l-Qāsim al-Anmāṭī (p. 51); and the three persons listed with the name al-Karābīsī (p. 109) are probably only two (cf. also editor's note, English pagination 59). That such 'mistakes' were commonly made, even by eminent scholars, is pointed out by al-Khaṭīb al-Baghdādī, who composed a book elucidating instances of conflating (*jamᶜ*) and duplicating (*tafrīq*) individuals in al-Bukhārī's *al-Taʾrīkh al-kabīr*. See Aḥmad b. ᶜAlī al-Khaṭīb al-

presenting six generations (*ṭabaqāt*), the last of which recorded the author's contemporaries. The length of each generation and the number of jurists listed therein varies without recognizable pattern, and is likely to have been the result of the information available to al-ᶜAbbādī.[22] Of the six generations, numerically the largest is the fourth (83 jurists), followed by the first (49 jurists). Both represent also the longest generations, containing individuals whose death dates cover a range of approximately 80 years.[23] The members of the fourth, and largest, generation, whose death dates fall predominantly into the second half of the fourth/tenth century, seem to be either better known to al-ᶜAbbādī, or they reflect a growth period within the Shāfiᶜī school; in contrast, the author lists only 26 jurists for the third and 33 for the fifth generation. Hallaq speaks of a growing Shāfiᶜī school during the fourth/tenth century due to the numerous students of Ibn Surayj (d. 306/918), who are said to have spread the Shāfiᶜī *madhhab*.[24] Halm documents that it was during this period that Shāfiᶜī jurists were appointed as judges in cities such as Shīrāz, Nīshāpūr, Qom, and Damascus, taking offices previously occupied mainly by Ḥanafīs.[25]

The purpose behind the Kitāb Ṭabaqāt al-fuqahāʾ al-shāfiᶜiyya

Al-ᶜAbbādī's dictionary of Shāfiᶜī jurists is remarkable in many ways. It is probably the earliest extant source devoted to members of the Shāfiᶜī school,[26] written more than 200 years after the death of its eponym,

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Baghdādī, *Muwaḍḍiḥ awhām al-jamᶜ wa-l-tafrīq*, ed. ᶜAbd al-Muṭᶜī Amīn Qalᶜajī (Beirut: Dār al-Maᶜrifa, 1407/1987).

[22] Al-ᶜAbbādī does not say much about his sources, though it is obvious from some references that he drew on written and oral sources, cf. al-ᶜAbbādī, *Kitāb Ṭabaqāt*, 6, 86, and 91.

[23] In the first generation, al-ᶜAbbādī lists two persons who doubtlessly have to be counted among the second generation of Shāfiᶜī jurists, cf. al-ᶜAbbādī, *Kitāb Ṭabaqāt*, 29 and 36.

[24] Wael B. Hallaq, 'Was al-Shafii the Master Architect of Islamic Jurisprudence? ' *International Journal of Middle East Studies* 25 (1993), 587–604 (pp. 595–6). Melchert provides a list of 27 identifiable students of Ibn Surayj and mentions a few more who probably studied with him. See Melchert, *Formation of the Sunni Schools of Law*, 92–4.

[25] Halm, *Ausbreitung*, 20–9.

[26] Other biographical works on the Shāfiᶜī school that are not extant are attributed to al-Muṭṭawwiᶜī (d. 400/1009–10) and to Abū l-Ṭayyib al-Ṭabarī (d. 450/1058), who was one of al-ᶜAbbādī's teachers. See Melchert, *Formation of the Sunni Schools of Law*, 145; al-ᶜAbbādī, *Kitāb Ṭabaqāt*, 114.

Muḥammad b. Idrīs al-Shāfiᶜī (d. 204/820). Somewhat surprising, however, is that it does not provide the typical information otherwise found in biographical works of its time, such as al-Khaṭīb al-Baghdādī's (d. 463/1071) *Taʾrīkh Baghdād*. Almost completely absent are any vital dates on the jurists listed or descriptions of personal traits and anecdotal accounts – elements that give the *Taʾrīkh Baghdād* its richness and make its subjects come to life. The reason for this void in al-ᶜAbbādī's work becomes apparent when looking at the author's introduction. There he writes that he sees himself in the tradition of the elders (*salaf*),[27] who recorded what they knew about the Companions, the Successors, the Successors of the Successors, and the eminent scholars who came after them, out of an obligation to emulate and to be guided by their example. Their importance, according to al-ᶜAbbādī, lies in being the intermediaries (*wasāʾiṭ*) between 'us' and the Companions of the Prophet.[28] For al-ᶜAbbādī, it is not so much the individual personalities who are important in the link between the Companions and his own generation, than their function as transmitters of legal knowledge. He states that they are the ones who passed on the methods of jurisprudence (*manāhij al-fiqh*), the rulings (*aḥkām*), and knowledge of the precise meanings (*maᶜānī*) and signs (*aᶜlām*) from which legal rulings are derived.[29] Al-ᶜAbbādī's purpose, thus, is to document and preserve knowledge of the fundamentals of law-finding. Although the author here insinuates that this knowledge has been transmitted to the current generation from the Companions, he makes no efforts to show any link between al-Shāfiᶜī and the Companions or legal figures of generations preceding the eponym. Only once does he mention al-Shāfiᶜī's teachers, and that occurs in the entry of a Shāfiᶜī jurist of the fourth generation, where a chain of transmission between al-Shāfiᶜī going back to the Prophet is listed in the way one usually finds for *ḥadīth* transmitters. Interestingly, no actual ruling or statement is tied to this chain.[30] Al-ᶜAbbādī's claim that the legal knowledge of the Shāfiᶜī school has been

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[27] Al-ᶜAbbādī obviously considers the term *salaf* in its broad meaning of predecessors or forefathers, not restricted to the Companions or the first three generations of Muslims.

[28] Al-ᶜAbbādī, *Kitāb Ṭabaqāt*, 1.

[29] Ibid., 1.

[30] The chain of transmission goes from Muslim b. Khālid al-Zanjī and Saᶜīd b. Sālim al-Qaddāḥ to Ibn Jurayḥ, ᶜAṭāʾ b. Abī Rabāḥ, ᶜAbdallāh b. ᶜAbbās and Ibn ᶜUmar, of which the last two have received their knowledge from the Prophet (ibid., 84).

passed down to its members from the Companions, rather than having substantive value, is intended to evoke the image that the legal doctrine of the school perpetuates the legal tradition of the early community. Furthermore, starting his biographical work with the eponym of the school suggests an analogy: just as *ḥadīth* transmission has as its source of origin the Prophet, so al-Shāfiʿī is the fountainhead of legal knowledge for his followers. Similar to *ḥadīth* transmission, al-ʿAbbādī takes care in the individual entries to list, whenever he knows, the relationship among jurists of the Shāfiʿī school, especially their relationship to al-Shāfiʿī and his immediate disciples, and from whom they transmit. As for the concrete legal rulings that are transmitted, he concentrates, as he said in the introduction, on three areas: legal methodology (or what he calls *manāhij*),[31] applied law (*aḥkām* or *furūʿ*), and determining the meanings and signs by which to extend the existing law to situations not expressly stated (which would fall under the various types of law-finding loosely subsumed under *qiyās* during the author's time period).[32]

Yet, there is another purpose behind al-ʿAbbādī's composition. He explicitly states that he wished to provide for the Shāfiʿī school that which Ḥanafīs had done for theirs, namely listing and praising all those jurists who belong to their 'school'.[33] Al-ʿAbbādī's desire to imitate the way Ḥanafīs commemorate their members reflects that his purpose in writing this book it also one of identity-building for the Shāfiʿī school; his work will delineate the membership of the group,

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[31] Makdisi points out that the term *uṣūl al-fiqh* was not commonly used to designate works on legal theory until the late 4th/10th–early 5th/11th century. See George Makdisi, 'The Juridical Theology of Shâfiʿî: Origins and Significance of Uṣûl al-Fiqh,' *Studia Islamica* 59 (1984), 5–47 (pp. 7–9).

[32] Cf. Wael B. Hallaq, 'Non-Analogical Arguments in Sunni Juridical *Qiyās*,' *Arabica* 36 (1989), 286–306.

[33] Al-ʿAbbādī, *Kitāb Ṭabaqāt*, 1. Al-ʿAbbādī provides a long list of names of Ḥanafī jurists (ibid., 1–6). He probably had some type of book naming Ḥanafī jurists at his disposal. He may have had access to a biographical work on Abū Ḥanīfa and Ḥanafīs by al-Ṣaymarī (d. 436/1045) called *Akhbār Abī Ḥanīfa wa-aṣḥābih*, which was completed in 404/1014. See Eerik Dickinson, 'Aḥmad b. al-Ṣalt and His Biography of Abū Ḥanīfa,' *Journal of the American Oriental Society* 116 (1996), 406–17 (p. 408); Melchert, *Formation*, 145.

its doctrines, how they relate to its eponym and his teaching, and how they are different from other schools' teachings.[34]

Al-ᶜAbbādī's vision of the eponym of the school
Al-ᶜAbbādī's vision of the Shāfiᶜī school is exemplified in his entry on the eponymous founder, Muḥammad b. Idrīs al-Shāfiᶜī.[35] One notices that any actual biographical information concerning dates or events in al-Shāfiᶜī's life is missing, most likely because he assumes that such information is already known to the reader. That al-ᶜAbbādī knew details of al-Shāfiᶜī's biography is evident throughout the book. Dispersed in entries on other jurists, he makes comments regarding al-Shāfiᶜī's life and family,[36] his personal traits,[37] and behavior,[38] and he includes refutations against accusations that the eponym had Shīᶜī sympathies.[39] Instead of recounting aspects of al-Shāfiᶜī's personal life or views he held in the entry on the eponym, al-ᶜAbbādī focuses on delineating those areas that, in his view, represent the intellectual contribution of al-Shāfiᶜī and are the reason why he is superior to Mālik b. Anas and Abū Ḥanīfa (d. 167/750), the eponyms of two of the four Sunnī schools of law,[40]

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[34] Al-ᶜAbbādī's introduction, thus, reflects what al-Qāḍī says about the appearance of biographical works on the schools of law; they appear after the consolidation of the school's doctrines by the end of the 4th/10th century and with a growing rivalry between the schools of law, especially in Baghdad and the East. See al-Qāḍī, 'Arabic Biographical Literature,' 113.

[35] Al-ᶜAbbādī, *Kitāb Ṭabaqāt*, 6–7.

[36] Ibid., 31, 38, 52, and 73.

[37] Ibid., 20.

[38] Ibid., 49, 56–7, and 60.

[39] Ibid., 35 and 57; Ibn al-Nadīm (d. 385/995), the author of the *Fihrist*, calls al-Shāfiᶜī a fervent Shīᶜī. See Eric Chaumont, 'al-S̲h̲āfiᶜī,' *EI²*, vol. 9, 181–5 (p. 182).

[40] Interestingly, al-ᶜAbbādī does not mention the Ḥanbalīs as a school of law, though he lists Aḥmad b. Ḥanbal (d. 245/855) as a student of al-Shāfiᶜī and then refers to the Ḥanbalīs as a group elsewhere in the book (see al-ᶜAbbādī, *Kitāb Ṭabaqāt*, 14–15, where Ibn Ḥanbal is called the 'sword of the Sunna' and it is emphasized that Ibn Ḥanbal learned much from al-Shāfiᶜī who held him in high esteem; for Ḥanbalīs as a distinct group, see ibid., 46). When al-ᶜAbbādī mentions eponyms of other schools of law, he usually does not include Aḥmad b. Ḥanbal among them, though he sometimes lists Sufyān al-Thawrī (d. 161/778) (ibid., 55). It appears, thus, that even in the first few decades of the 5th/11th century the Ḥanbalīs were not deemed a school of law (as opposed to a school of thought more generally) in the eastern part of the Islamic world where al-ᶜAbbādī was active. He obviously did not perceive Ḥanbalīs as a rival school, like Ḥanafīs and Mālikīs.

and why scholars and common people adopt the Shāfiʿī school as their *madhhab*.[41]

After presenting al-Shāfiʿī's full name and genealogy, he refers to several prophetic *ḥadīth*s all stating the exceptional status of the Quraysh, the tribe to which al-Shāfiʿī belonged and which made him a distant relative of the Prophet.[42] The leadership status of al-Shāfiʿī, however, is not based on descent alone.[43] Rather, his superiority stems from the fact that:

> 'he classified the fundamentals [of law-finding] (*al-uṣūl*), then based upon them the derivation of law (*al-furūʿ*); further, he was more careful [in law-finding] than [Mālik and Abū Ḥanīfa] because he took greater care in matters relating to ritual purity (*ṭahārāt*), provisions for acts of worship (*sharāʾiṭ al-ʿibādāt*), issues relating to marriage (*ankiḥa*), and sale contracts (*biyāʿāt*)'.[44]

In this brief entry (fourteen lines) on al-Shāfiʿī, al-ʿAbbādī articulates that which he considers the defining characteristics of his school that originate and are personified in the eponymous founder. The Shāfiʿī school is distinguished by its knowledge of legal methodology and, hence, the correct derivation of rulings in key legal areas. When understanding the above mentioned areas of law broadly, then al-Shāfiʿī—and by extension his whole school—is superior in legal interpretation of matters concerning religious worship and dietary laws, personal status law, and commercial contracts, that is to say, the most important legal areas regulating Muslim religious and social life.

The entry on al-Shāfiʿī sets the stage for the information presented on the group as a whole. Al-ʿAbbādī continuously addresses the same legal topics that he considers al-Shāfiʿī's specialty in other members' entries. The most prominent legal themes discussed are matters concerning ritual purity, especially as it relates to worship and dietary laws[45], as well as

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[41]　Al-ʿAbbādī, *Kitāb Ṭabaqāt*, 6–7.

[42]　Ibid., 6.

[43]　Notwithstanding the *ḥadīth*s that express that leadership belongs to the Quraysh, al-ʿAbbādī also presents al-Shāfiʿī as rejecting superiority based on descent in a statement in which al-Shāfiʿī rejects ʿAlī's claim to leadership based on his relationship to the Prophet (ibid., 35).

[44]　Ibid., 7.

[45]　Al-ʿAbbādī refers to questions over the permissibility of eating, for example, hoopoe, fox, and magpie (see ibid., 46, 47, and 50). Some of the debate over the permissibility of eating certain animals was probably mere casuistic, as many of

personal status and inheritance law. One notices, however, that despite al-ᶜAbbādī's statement that al-Shāfiᶜī was an expert in contract law he pays rather little attention to it when presenting the doctrines held by members of the Shāfiᶜī school; contract law[46] is mentioned less than issues pertaining to linguistic knowledge[47] or theological doctrines. Legal methodology is also not a prominent topic, receiving less space than theology and grammar. The few times matters of legal theory are addressed, they refer mainly to *ijtihād* and *qiyās* – terms that al-Shāfiᶜī considers to be of the same meaning or rather that *qiyās* is a form of *ijtihād*.[48] In addition to the reasons elaborated by Hallaq,[49] this lacuna regarding legal theory, perhaps, also reflects al-ᶜAbbādī's own interest in substantive law, as indicated by his works in that field.

Yet, al-ᶜAbbādī also goes beyond the framework in which he presents the legal contribution of al-Shāfiᶜī. In addition to the above-mentioned fields of legal knowledge, there are other topics that are constant threads throughout the book. One is al-ᶜAbbādī's emphasis on the school's superiority in knowledge of Arabic grammar and lexicography, a pre-condition for deriving legal rulings.[50] Al-Shāfiᶜī was renowned for his eloquence and mastery of the Arabic language, receiving praise from no

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them would not be eaten in any case. Cf. Ignaz Goldziher, *Introduction to Islamic Theology and Law*, translated from the German by Andras and Ruth Hamori (Princeton: Princeton University Press, 1981), 53–4.

[46] For mentioning of legal issues concerning contract law see, for example, al-ᶜAbbādī, *Kitāb Ṭabaqāt*, 67, 89, 92, 93, 104, and 109–10.

[47] See, for example, ibid., 11, 27, 47, 58, 62–3, 78–82, 97, and 109.

[48] Cf. Muḥammad ibn Idrīs al-Shāfiᶜī, *al-Risāla fī uṣūl al-fiqh: Treatise on the Foundations of Islamic Jurisprudence*, translated with an Introduction, Notes, and Appendices by Majid Khadduri (2nd ed., Cambridge: Islamic Texts Society, 1987), 228; al-ᶜAbbādī, *Kitāb Ṭabaqāt*, 15, 18–19, 24, 36, 69, 96–7, and 107–8.

[49] Hallaq argues convincingly that al-Shāfiᶜī himself has contributed little to legal theory. His research suggests that despite the medieval dictum that 'al-Shāfiᶜī is to *uṣūl al-fiqh* what Aristotle was to logic' the image of al-Shāfiᶜī as founder of legal theory was established sometime after Ibn Abī Ḥātim al-Rāzī (d. 327/938) and before al-Bayhaqī (d. 458/1066). See Hallaq, 'Was al-Shafii the Master Architect,' 587–8 and 600. Al-ᶜAbbādī's work, finished in 435/1044, gives in the eponym's entry the initial impression of his expertise in *uṣūl al-fiqh* but does not support this with actual doctrines and opinions on legal theory transmitted from al-Shāfiᶜī or his immediate disciples.

[50] See, for example, al-ᶜAbbādī, *Kitāb Ṭabaqāt*, 11, 27, 47, 58, 62–3, 78–82, 97, and 109.

other than the famous litterateur al-Jāḥiẓ (d. 255/869).[51] Al-ʿAbbādī's concern for showing superiority in the Arabic language of al-Shāfiʿī and his followers has to be seen in contradistinction to what is said about Abū Ḥanīfa's linguistic competence. Abū Ḥanīfa is accused of foreign origin (that is to say, non-Arab, usually Persian or Afghan) and of speaking with an accent.[52] The resulting inferiority in Arabic of those jurists following Abū Ḥanīfa's legal teaching is showcased by al-ʿAbbādī in several references to the debate over the permissibility of drinking *nabīdh*. The question in this debate is whether the Arabic terms *nabīdh* and *khamr* are to be considered synonymous or not. The Qurʾān mentions only the word *khamr* as a prohibited drink,[53] thus leaving it unclear whether inebriating beverages called *nabīdh* (made, for example, out of honey, barley, spelt, or dates)[54] also fall under the Qurʾānic prohibition. Many Ḥanafīs differentiate between *khamr* and *nabīdh*, permitting moderate use of the latter.[55] Al-ʿAbbādī quotes al-Shāfiʿī as saying that the Arabs of Mecca and Medina used both terms synonymously and that *nabīdh*, therefore, is included in the Qurʾānic prohibition of *khamr*.[56] He gives this doctrine even more weight by citing it in the entry of the third/ninth-century jurist Abū Saʿīd ʿUthmān al-Dārimī, who was an eminent Ḥanafī jurist before switching to the Shāfiʿī school later in life[57] – thus, one may say, joining the school of law that is more knowledgeable in Arabic and, thus, more precise in adhering to God's ordinances.

Al-ʿAbbādī also pays much attention to matters that lie more within the realm of *adab* and social etiquette than law proper. He refers to legal

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[51] Cf. Chaumont, 'al-Shāfiʿī,' vol. 9, 181.

[52] See, for example, al-Khaṭīb al-Baghdādī, *Taʾrīkh Baghdād*, vol. 13, 324–6.

[53] See Qurʾān 5: 90–1.

[54] For a more detailed discussion of *nabīdh* and *khamr* see A. J. Wensinck, 'Khamr,' *EI²*, vol. 4, 994–8; P. Heine, 'Nabīdh,' *EI²*, vol. 7, 840.

[55] A. J. Wensinck, 'Khamr,' vol. 4, 996; Melchert, *Formation of the Sunni Schools of Law*, 49–50. *Ḥadīth* collections fill many pages about the permissibility of drinking beverages called *nabīdh*. Most of the *ḥadīth*s listed, for example, in Abū Daʾūd's *Sunan* point to the permissibility of drinking it prior to a certain stage of fermentation. See Sulaymān b. al-Ashʿath Abū Dāʾūd al-Sijistānī, *Sunan Abī Dāʾūd*, ed. Muḥammad ʿAbd al-ʿAzīz al-Khālidī (Beirut: Dār al-Kutub al-ʿIlmiyya, 1416/1996, vol. 2, 'Kitāb al-Ashriba,' 531–42).

[56] Al-ʿAbbādī, *Kitāb Ṭabaqāt*, 40 and 46.

[57] Ibid., 45–6.

opinions on sneezing,[58] eating,[59] drinking,[60] laughing,[61] and honor (*murūʾa*),[62] some of which allegedly portray al-Shāfiʿī's personal behavior.[63] While the purpose of including these legal views is not immediately apparent, it may reflect the author's own interest in the topic of proper social manners as he himself composed a work on the etiquette of judges (*adab al-qāḍī*).[64] Perhaps, the author meant to give the impression that the founder of the school was a well-mannered person of high moral standing.

Taking a stand among contradictory doctrines
When looking at al-ʿAbbādī's work as a whole, it becomes clear that he considers the members of the school and their doctrines a coherent *madhhab*. They represent what the school stands for and they perpetuate the teachings of the founding father(s). Al-ʿAbbādī's double role as compiler of extant information and active participant in shaping the identity of the school comes to the fore when Shāfiʿī jurists depart from the master's teachings or when they hold contradictory views. In most cases he does not simply document these doctrinal disputes, but employs a number of authorial devices to point the reader to the 'correct' Shāfiʿī position.

One such way al-ʿAbbādī deals with contradictory views held by Shāfiʿī jurists is to present them without further comment, leaving it for the reader to decide which to follow. In general, al-ʿAbbādī only does this when the jurists involved do not belong to the circle of the founding fathers, and when no continuous link to al-Shāfiʿī or his direct disciples can be established. For example, he states under the entry of Abū Marwān Ismāʿīl b. Marwān, a jurist of the third generation whose teachers remain unnamed, a disagreement among Shāfiʿīs over whether it is permissible to specify an obvious meaning by means of analogy (*takhṣīṣ al-ẓāhir bi-l-qiyās*), that is to say, limiting the applicability of an obvious textual ruling by one arrived at in analogy to a textual statement.

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58 Al-ʿAbbādī, *Kitāb Ṭabaqāt*, 37 and 43.

59 Ibid., 36.

60 Ibid., 43.

61 Ibid., 61.

62 Ibid., 49 and 56–7.

63 Ibid., 49, 56–7, and 60.

64 Ibid., English pagination 8; Carl Brockelmann, *Geschichte der arabischen Litteratur*, zweite, den Supplementbänden angepasste Auflage (Leiden: Brill, 1937ff), vol. 1, 389; Ibn Khallikān, *Wafayāt al-aʿyān*, vol. 4, 214.

Abū Marwān is cited as authority by al-ᶜAbbādī's teacher Abū ᶜUmar al-Bisṭāmī (d. 407/1016) that this practice is prohibited, claiming it to be the doctrine of al-Shāfiᶜī. Instead of leaving this view as is, al-ᶜAbbādī refers to Abū Saᶜīd[65] (most likely either al-Iṣṭakhrī [d. 328/939] or Ibn Ḥarbawayh [d. 319/931]), who held that this type of specification is permissible. He concludes this debate by saying 'God knows best what is correct',[66] giving no clear indication of the correct view or the one he prefers.

Not quite as indifferent in his presentation is al-ᶜAbbādī when presenting the controversy within the Shāfiᶜī school over a person who frivolously neglects to utter the name of God when slaughtering an animal. The question is whether or not that person is deemed an unbeliever (*kāfir*) and whether the meat can be lawfully consumed. Al-ᶜAbbādī states that the third generation jurist Abū ᶜAbdallāh Muḥammad b. Isḥāq al-Saᶜdī al-Harawī transmitted on the authority of al-Shāfiᶜī that the eponym held that the intentionally neglectful butcher is not an unbeliever, but that the slaughtered meat is not lawful for consumption. This view, we are told, is analogous to the ruling that it is not permissible to eat the meat slaughtered by a Jew who uttered other than the name of God over the animal, a position attributed to ᶜAlī b. Abī Ṭālib (r. 35–40/656–61) and also advocated by Abū Ḥanīfa. Yet, despite such endorsement, al-ᶜAbbādī says that some Shāfiᶜīs (*baᶜḍ aṣḥābinā*) differ. They pronounce the meat lawful and the butcher an unbeliever as he frivolously omitted the name of God, drawing on the Companion Ibn ᶜAbbās' (d. 68/687) statement that the meat slaughtered by a *dhimmī* is permissible even when he uttered other than God's name during slaughter. Al-Saᶜdī, under whose entry this debate is recorded, opts for the permissibility of the slaughtered meat (the status of the butcher remains unclear), transmitting this view on authority of Ibn ᶜUmar (d.73/693).[67]

One may ask why al-ᶜAbbādī does not unambiguously endorse the eponym's ruling on the intentionally neglectful butcher since no support for the contrary position of al-Saᶜdī can be found among prominent

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[65] While al-ᶜAbbādī generally gives the full name of a jurist at the beginning of his entry, he often refers only to the patronymic of a person when presenting actual rulings. As many jurists go by the same name, it often makes it difficult to identify the person with confidence. In the case of Abū Saᶜīd, several jurists by that name are potential candidates. I have drawn attention to the most likely ones.

[66] Al-ᶜAbbādī, *Kitāb Ṭabaqāt*, 69.

[67] Ibid., 66–7.

Shāfiʿīs. It seems that he intends to present an alternative ruling to that of the eponym because he does not agree with it. The view that the neglectful butcher remains a believer despite committing an act of unbelief goes against the Ashʿarī view that faith includes acting in accordance with one's conviction (see below). Declaring the intentionally neglectful butcher a believer is more in line with the Māturīdī–Ḥanafī position that the verbal expression of faith determines the status of the believer as opposed to his/her actions. Since al-ʿAbbādī, who hails al-Shāfiʿī as a beacon to emulate, cannot reject the eponym's ruling outright, he gives subtle hints that it might be suspect by also attributing it to Abū Ḥanīfa, the rival, who is associated with Muʿtazilī theological doctrines. Furthermore, he presents an alternative ruling, accepted by some unnamed Shāfiʿīs, which is supported by eminent Companions (Ibn ʿAbbās and Ibn ʿUmar) who are not tainted by any Shīʿī suspicions.[68] Despite not expressing a clear stand in favor of one or the other ruling, al-ʿAbbādī here provides enough information to guide like-minded Shāfiʿī–Ashʿarīs to the 'correct' doctrine.

Al-ʿAbbādī is equally subtle in indicating his preferred ruling when dealing with contradictory views transmitted from eminent Shāfiʿīs of the first generation. This is the case, for example, in disputes between two of al-Shāfiʿī's disciples, Abū Ibrāhīm Ismāʿīl b. Yaḥyā al-Muzanī (d. 264/878) and Abū Thawr Ibrāhīm b. Khālid al-Baghdādī (d. 240/854). Abū Sulaymān Dāʾūd b. ʿAlī al-Iṣbahānī (d. 270/883) is said to have followed Abū Thawr in the opinion that the Friday prayer (*jumʿa*) does not have to be performed in the congregational mosque (*al-jāmiʿ*) but Muslims are allowed to pray in their local mosques. Abū Thawr supported his view with a report that the second caliph ʿUmar (r. 13–23/634–44) had written to Abū Mūsā al-Ashʿarī (d. ca. 42/662) to perform the prayer wherever they were. Al-ʿAbbādī contrasts this opinion with that of al-Muzanī. Al-Muzanī is said to have objected to this view based on a transmission from ʿAlī that insists on observing the Friday prayer in the congregational mosque.[69] Although al-ʿAbbādī does not indicate here whose view a 'good' Shāfiʿī should follow, there are several hints about his preference. Given the public nature of the issue, it is not far-fetched to assume that ʿUmar as well as ʿAlī uttered their ruling during their tenure as caliph. As the fourth caliph, ʿAlī's

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[68] Ibn ʿAbbās and Ibn ʿUmar are also listed in the chain of people from whom al-Shāfiʿī received his knowledge, though in this case the eponym does not follow their teachings (cf. ibid., 84).

[69] Al-ʿAbbādī, *Kitāb Ṭabaqāt*, 58–9.

ruling would be later than that of his predecessor and, hence, abrogate or rather supercede it. More importantly, al-ᶜAbbādī already set the tone for which of al-Shāfiᶜī's disciples is more authoritative in the entries of Abū Thawr and al-Muzanī. Al-Muzanī, an Egyptian disciple of al-Shāfiᶜī, is showered with praise for his piety, legal acumen, and linguistic competence as well as for his skillful argumentation which, as al-Shāfiᶜī himself observed, would silence even the devil.[70] By comparison, Abū Thawr, an Iraqi disciple of al-Shāfiᶜī, is portrayed as challenging the master.[71] Furthermore, al-ᶜAbbādī mentions in his entry cases about which several of al-Shāfiᶜī's immediate students, namely al-Muzanī, al-Buwayṭī, al-Karābīsī, and Abū Thawr, all held different opinions.[72] Abū Thawr's legal doctrine is, thus, associated with controversies and disputes among the early disciples, whereas that of al-Muzanī is not. The latter is also commemorated by al-ᶜAbbādī as the one whose disputation skill prompted Ibn Ṭūlūn (r. 254–70/868–84) to elevate the Shāfiᶜī school over the Mālikī in Egypt.[73] This leaves the impression that in case a later Shāfiᶜī jurist comes across contradictory rulings by these two jurists, he may safely follow al-Muzanī's teaching. The existence of Shāfiᶜīs like Abū Sulaymān al-Iṣbahānī, who adopted the views of Abū Thawr, only underscores al-ᶜAbbādī's attempts in his work of uniting the school behind the teachings of al-Muzanī – at least for future generations.

In addition to giving preference to a particular disciple of al-Shāfiᶜī, al-ᶜAbbādī also uses difference in geographical location as a way of indicating the preferred among contradictory views held by Shāfiᶜī jurists. He often rationalizes inconsistencies in Shāfiᶜī doctrine by assigning them to different periods of al-Shāfiᶜī's life, namely an early period spent in Ḥijāz and Iraq, and a later period in Egypt. The implied assumption is that the views al-Shāfiᶜī pronounced in Egypt represent his final teaching and that his Egyptian disciples are of higher authority because they purportedly reflect and perpetuate al-Shāfiᶜī's later doctrines – the principle of abrogation (*naskh*) is at work here too. In the above-mentioned case, al-Muzanī as the Egyptian disciple trumps the Iraqi Abū Thawr.

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[70] Al-ᶜAbbādī, *Kitāb Ṭabaqāt*, 9–12.

[71] Abū Thawr is considered to have established his own school, see Joseph Schacht, 'Abū Thawr,' in *EI²*, vol. 1, 155.

[72] Al-ᶜAbbādī, *Kitāb Ṭabaqāt*, 22–3.

[73] Ibid., 10.

Another example in which geography plays a role is cited in the entry of Abū Isḥāq Ibrāhīm b. Aḥmad al-Marwazī (d. 340/951), who held the view that one ought to fast part of the night. Al-ʿAbbādī states that Abū Saʿīd (here probably al-Iṣṭakhrī) disagreed with him. He hints at which view should be the preferred by saying that al-Marwazī was part of the circle of Shāfiʿī jurists[74] in Egypt, thereby implying that he follows the Egyptian doctrine of al-Shāfiʿī which is deemed most authoritative.[75]

In another controversy, al-ʿAbbādī directly takes the side of the Egyptian doctrine. The matter is listed under the entry of Yūnus b. ʿAbd al-Aʿlā (d. 264/877), whom al-ʿAbbādī calls the traditionist (*muḥaddith*) and *muftī* of Egypt, and identifies as an associate of al-Shāfiʿī. Yet, despite his Egyptian credentials, al-ʿAbbādī also links him to the Ḥijāzī period by saying that he studied together with al-Shāfiʿī under the Meccan traditionist Ibn ʿUyayna (d. 196/811).[76] Yūnus is said[77] to have asked al-Shāfiʿī whether it is permissible to shoot at a group of unbelievers when women and children are among them. According to Yūnus, al-Shāfiʿī rejected its permissibility citing that the Prophet prohibited killing women and children.[78] Al-ʿAbbādī then comments that al-Shāfiʿī retracted this view in his Egyptian *Risāla*, implying that Yūnus' report is based on the outdated Ḥijāzī/Iraqi teachings of the master. In support of the new doctrine, al-ʿAbbādī refers to an unspecified report (*khabar*) that the women and children belong to the

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[74] Literally, *qaʿada fī majlis al-Shāfiʿī bi-Miṣr*. However, the death date of Abū Isḥāq al-Marwazī, who is counted among the third generation of Shāfiʿīs, is 340 AH, and thus it is implausible that al-ʿAbbādī meant that he actually attended the circle of al-Shāfiʿī. Furthermore, contrary to his usual practice, al-ʿAbbādī did not write the eulogy *raḥimahu llāh* after al-Shāfiʿī, though it might have been forgotten by a later copyist.

[75] Al-ʿAbbādī, *Kitāb Ṭabaqāt*, 68–9. Al-Marwazī was a follower of al-Muzanī and wrote an eight-volume commentary on the latter's *Mukhtaṣar*. See A. Arazi and H. Ben Shammay, 'Mukhtaṣar' in *EI²*, vol. 7, 536–40 (p. 538).

[76] Al-ʿAbbādī, *Kitāb Ṭabaqāt*, 18; Susan A. Spectorsky, 'Sufyān b. ʿUyayna,' *EI²*, vol. 9, 772. Yūnus must have been quite young at the time Ibn ʿUyayna died, given that he himself died in 264/877.

[77] The legal issue is raised under the entry of Abū Muḥammad ʿAbd al-Raḥmān b. Abī Ḥātim al-Rāzī (p. 43), though it may belong to the person listed prior, namely Abū Bakr ʿAbdallāh b. Muḥammad b. Ziyād al-Naysābūrī (p. 42), since it is prefaced with 'Abū Bakr said, I heard Yūnus b. ʿAbd al-Aʿlā say…' (p. 43).

[78] A *ḥadīth* to that effect made it into the collection of Abū Dāʾūd (*Sunan Abī Dāʾūd*, 'Kitāb al-Jihād,' vol. 2, 210).

unbelievers and that those who shoot at them do not sin nor do they have to atone for it (*lā ithma ᶜalayhim wa-lā kaffārata*).[79] Interestingly, in the way al-ᶜAbbādī presents the matter, he accepts al-Shāfiᶜī's ruling that is based on a report which is not further identified over his earlier view that is explicitly said to be supported by a prophetic saying. One may surmise that al-Shāfiᶜī (as well as al-ᶜAbbādī) was less the champion of adherence to prophetic *ḥadīth* than frequently portrayed.[80]

The negative attitude toward al-Shāfiᶜī's Iraqi teaching comes out most clearly in a quote by the latter's close companion and disciple al-Buwayṭī (d. 231/845), about whom al-ᶜAbbādī said that he succeeded the master after his death.[81] In the entry of Abū Ismāᶜīl al-Tirmidhī (d. 280/893), al-Buwayṭī is quoting al-Shāfiᶜī who proclaimed that he does not permit transmitting from him what he wrote in Iraq.[82] Here and elsewhere, al-ᶜAbbādī emphasizes that the school's doctrines circulating in the Eastern part of the Islamic world, that is to say, where he himself studied, are based on al-Shāfiᶜī's Egyptian works which Isḥāq b. Ibrāhīm al-Ḥanẓalī, who met al-Shāfiᶜī in Egypt, had copied and taken back with him to the East.[83]

Although the Iraqi doctrine was delegitimized by the eponym himself, his command was not heeded by later generations, as the documented persistence of Iraqi doctrines show. Even al-ᶜAbbādī, who displays a strong preference for al-Shāfiᶜī's Egyptian teaching, occasionally makes an exception, as in a dispute between al-Muzanī and al-Ḥusayn b. ᶜAlī al-Karābīsī (d. 245 or 248/859 or 862). Al-Karābīsī is presented as one of the eminent jurists of Iraq and an important transmitter of Shāfiᶜī teaching. When al-Muzanī remarks that he does not know the doctrine al-Karābīsī holds on authority of al-Shāfiᶜī regarding a sale transaction involving wheat, al-ᶜAbbādī defends al-Karābīsī's ruling saying that the reason is because al-Muzanī did not hear the old Iraqi doctrines of al-Shāfiᶜī.[84] Moreover, al-Muzanī does not provide an alternative ruling. One is left with the impression that in this case it is al-Muzanī's shortcoming not to know al-Karābīsī's report of al-Shāfiᶜī's Iraqi

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[79] Al-ᶜAbbādī, *Kitāb Ṭabaqāt*, 43.

[80] Cf. Joseph Schacht, *The Origins of Muhammadan Jurisprudence* (Oxford: Clarendon Press, 1950), 150.

[81] Al-ᶜAbbādī, *Kitāb Ṭabaqāt*, 7.

[82] Ibid., 57.

[83] Ibid., 38 and 57.

[84] Ibid., 24.

doctrine; the ruling itself is still valid. In this instance, it seems likely that al-ᶜAbbaldī is unwilling to dismiss al-Karābīsī's view because the latter is deemed an important transmitter not only of the eponym's legal teachings, but also his political doctrines. He is the reference, for instance, of al-Shāfiᶜī's affirmation of the caliphate of Abū Bakr who, according to al-Shāfiᶜī, was the most excellent person after the death of the Prophet. Al-ᶜAbbādī interprets al-Karābīsī's report to mean that the leadership of the excelled candidate is not legitimate (*imāmat al-mafḍūl lā tajūz*).[85] Al-Shāfiᶜī's position on the caliphate, as reported by al-Karābīsī, ties in with other references al-ᶜAbbādī includes throughout the book that seem to be intended to fend off accusations of Shīᶜī tendencies directed against al-Shāfiᶜī. The Shīᶜī claim that ᶜAlī deserved the caliphate after the death of the Prophet because he was the most suitable person is clearly rejected as falling outside the teachings of the Shāfiᶜī school.[86]

We also find instances in which al-ᶜAbbādī explicitly points out the 'correct' Shāfiᶜī position. Yūnus b. ᶜAbd al-Aᶜlā, who, as noted above, may not have known al-Shāfiᶜī's final doctrine on killing women and children of infidels in combat, nevertheless also transmits legal views on authority of al-Shāfiᶜī that al-ᶜAbbādī deems correct. He is credited with relating from al-Shāfiᶜī the following ruling: When, among a group of people, a woman does not have a legal guardian, she can transfer her affairs to a man of that group in order that he can give her in marriage because it is a necessity[87] – the presumption is that no near male relative or judge is at hand to fulfill the function of guardian to give the woman in marriage. The transmission (*riwāya*) of this view is rejected by some Shāfiᶜīs and by others accepted. Al-ᶜAbbādī sides with the latter, calling it correct (*wa-huwa al-ṣaḥīḥ*).[88]

Sometimes, however, al-ᶜAbbādī objects not just to a particular view a Shāfiᶜī jurist holds, but also rejects all of that person's transmissions. He mentions under the entry of Abū ᶜAbd al-Raḥmān al-Shāfiᶜī (d. after 221/836; we are told he received this *nisba* because he was a student [*tilmīdh*] of the eponym) that al-Shāfiᶜī himself prohibited him from

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[85] Al-ᶜAbbādī, *Kitāb Ṭabaqāt*, 24.

[86] Throughout the *Kitāb Ṭabaqāt*, al-ᶜAbbādī repeatedly mentions that al-Shāfiᶜī embraced the legitimacy of the first three caliphs and that he did not elevate ᶜAlī above other Companions. See ibid., 17, 24, 35, 57, and 61.

[87] Al-ᶜAbbādī does not use a technical term here but says: *idhā ḍāqa (al-amr) ittasaᶜ* (ibid., 19).

[88] Ibid., 19.

reading and teaching his books because he had such a low opinion of him, saying that he errs in his legal responsa. Al-Muzanī, again, appears as the savior against false doctrines, refuting one of Abū ᶜAbd al-Raḥmān's views as contrary to consensus (*ijmāᶜ*).[89] Discrediting the transmissions of Abū ᶜAbd al-Raḥmān must not have been successful for not all Shāfiᶜīs shared the eponym's misgivings. The later Shāfiᶜī scholar Ibn Kathīr (d. 774/1373) reports that Abū ᶜAbd al-Raḥmān's legal rulings were faithful to al-Shāfiᶜī and were followed still in his own time. Al-ᶜAbbādī's report that the legal rulings of this student of al-Shāfiᶜī are categorically to be rejected may be due less to the inadequacies of the student's legal competence, but a result of his being well known for holding Muᶜtazilī tenets, in particular the createdness of the Qurᵓān.[90] By mentioning that the eponym himself renounced all of Abū ᶜAbd al-Raḥmān's rulings, al-ᶜAbbādī clearly distances the school from association with anyone holding unambiguously Muᶜtazilī doctrines.

As the above examples show, al-ᶜAbbādī quite successfully guides the reader to the correct doctrine of the school.[91] He indicates his preference in case of contradictory positions by presenting alternative rulings, having rivals to the Shāfiᶜī school endorse one of the competing views, commenting on the geographic location and chronology of a ruling pronounced, how close a disciple was to the eponym, or even stating which legal ruling is correct. These presentational devices point toward those legal views of the school which the author deems authoritative amidst contradictory rulings transmitted by, and associated with, members of the Shāfiᶜī school. As one would expect, in most cases—but certainly not in all—al-Shāfiᶜī's views enjoy foremost authority, followed by those of his Egyptian disciple al-Muzanī.

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[89] Al-ᶜAbbādī, *Kitāb Ṭabaqāt*, 26.

[90] Melchert, *Formation of the Sunni Schools of Law*, 78, 84, and 181.

[91] Al-ᶜAbbādī seems to be much more hands-on than what Makdisi says about the later biographer of the Shāfiᶜī school al-Subkī. According to Makdisi, al-Subkī affirms the doctrine of the double legal truth, i.e. that if there are two contradictory transmissions of al-Shāfiᶜī's doctrine, one cannot determine which one is true and, hence, it is left to the individual jurist to decide which to follow according to his own estimation (*ijtihād*). See George Makdisi, 'Ashᶜarī and the Ashᶜarites in Islamic Religious History II,' *Studia Islamica* 18 (1963), 19–39 (p. 35).

The Shāfiᶜī school and theology: harmonizing al-Shāfiᶜī's opposition to kalām *with Ashᶜarī theology*

Doubtless, a matter of concern for al-ᶜAbbādī was the discrepancy between al-Shāfiᶜī's reported negative attitude toward speculative theology (*kalām*) and his own intellectual pursuits in that field. Al-ᶜAbbādī, as mentioned above, had studied with some of the foremost Ashᶜarī theologians of his time, counting among his teachers Abū Isḥāq al-Isfarāʾīnī (d. 418/1027) and Abū Ṭayyib Sahl al-Suᶜlūkī (d. before 404/1014, son to the more famous Abū Sahl al-Suᶜlūkī [d. 369/980]), and he himself was considered an Ashᶜarī theologian of some renown.[92] Since the late fourth/tenth century, many leading Shāfiᶜīs tended to be affiliated in theology with Ashᶜarism.[93] One may speak of a certain rapprochement between Ashᶜarī theology and Shāfiᶜī law.[94] Although al-Subkī later criticizes al-ᶜAbbādī for not paying enough attention to Ashᶜarī members of the school,[95] it is safe to assume that al-ᶜAbbādī tended more toward a rationalist Ashᶜarī interpretation of theology than to traditionalism.[96] Instead of hiding al-Shāfiᶜī's opposition to theology al-ᶜAbbādī tries to present that his own (and that of other Shāfiᶜīs) pursuit of theology is in line with the theological beliefs of the eponym and that the theology disparaged by al-Shāfiᶜī is only directed against Muᶜtazilī teachings.

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[92] Ibn Khallikān, *Wafayāt al-aᶜyān*, vol. 4, 214.

[93] The Ashᶜarī theologians Ibn Fūrak (406/1015) and al-Isfarāʾīnī adhered in law to the Shāfiᶜī school as did later Ashᶜarīs, such as Imām al-Ḥaramayn al-Juwaynī (d. 478/1085), Abū Ḥāmid al-Ghazālī (d. 505/1111), and Fakhr al-Dīn al-Rāzī (d. 606/1209).

[94] Cf. Hallaq, 'Was al-Shafii the Master Architect,' 598–601; Makdisi, 'Juridical Theology of Shâfi'î,' 21–2. Makdisi attributes the 'infiltration' of Ashᶜarīs in the Shāfiᶜī school also by the former's efforts to receive the status of orthodoxy by affiliating themselves with a school of law. Since Muᶜtazilism was mainly associated with the Ḥanafī school, traditionalism with the Ḥanbalī school, and both the Mālikī and Ẓāhirī school too weak, the Shāfiᶜī school of law appealed as a home to Ashᶜarī-leaning jurists. See Makdisi, 'Ashᶜarī and the Ashᶜarites I,' 46–8.

[95] Makdisi, 'Ashᶜarī and the Ashᶜarites I,' 77.

[96] In addition to al-ᶜAbbādī's portrayal of theological doctrines of the school, the relative scarcity of *ḥadīth* to support legal as well as non-legal doctrines also point to his non-traditionalist leanings. In discussions of theology, hardly any *ḥadīth* are cited in favour of mainly Qurʾānic verses.

The opposition that al-Shāfiᶜī expressed against engaging in *kalām* is well documented by al-ᶜAbbādī. Associates of al-Shāfiᶜī report that he prohibited *kalām*, [97] and said that those garbing themselves with theology do not prosper. [98] Worse still, according to al-Shāfiᶜī, theologians (*ahl al-kalām*) should be whipped, paraded on a camel, and it be publicly proclaimed that this is their recompense for abandoning the Book and the Sunna and taking up theology.[99] This last tirade against theologians is documented in the entry of no other than the famous *ḥadīth* collector and critic al-Bukhārī (d. 256/870), who reports it on the authority of two of al-Shāfiᶜī's close associates al-Karābīsī and Abū Thawr. [100] Al-Muzanī reports that al-Shāfiᶜī advised him against engaging in *kalām* saying it is a science (*ᶜilm*) that 'if you are correct in it, you do not receive reward and if you err, you commit unbelief – so stick with law'.[101] One notices a slight gradation in how vehemently al-Shāfiᶜī condemns theology. The most negative comments are transmitted by personalities who knew al-Shāfiᶜī during his stay in Iraq, whereas al-Muzanī's report represents the Egyptian doctrine. One gets the impression that while in Iraq, the hotbed of Muᶜtazilī activity, al-Shāfiᶜī rejected any engagement in speculative theology. In Egypt, where he pronounced his new teaching, he softened in his condemnation and only warned about its potentially harmful consequences.[102]

Since later Shāfiᶜī jurists were busily engaged in theology, al-ᶜAbbādī goes to great length in establishing that the theological positions that Shāfiᶜīs like him hold are actually in harmony with the theological

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[97] Al-ᶜAbbādī, *Kitāb Ṭabaqāt*, 34.

[98] Ibid., 61.

[99] Ibid., 54.

[100] Al-ᶜAbbādī explains the fact that al-Bukhārī did not transmit on authority of al-Shāfiᶜī in his *Ṣaḥīḥ* saying that al-Bukhārī had sought the company of the eponym but al-Shāfiᶜī had just passed away (ibid., 53). Other sources report that al-Bukhārī as well as other *ḥadīth* scholars did not deem al-Shāfiᶜī a trustworthy transmitter. See Hallaq, 'Was al-Shafii the Master Architect,' 593–4; Chaumont, 'al-S̲h̲āfiᶜī,' vol. 9, 184.

[101] Al-ᶜAbbādī, *Kitāb Ṭabaqāt*, 11. Makdisi says that al-Subkī also mentions this warning to al-Muzanī in his *Ṭabaqāt al-Shāfiᶜiyya*. See Makdisi, 'Ashᶜarī and the Ashᶜarites I,' 67.

[102] The later biographer of the Shāfiᶜī school, al-Subkī, speaks of two doctrines of al-Shāfiᶜī regarding engaging in *kalām*; one rejecting it and the other endorsing it in case of need but then only by the one qualified to undertake such study (see ibid.,' 67–8).

teachings of the eponym.[103] As mentioned above, questions of theology are more prominently addressed by al-ᶜAbbādī than those pertaining to legal methodology, the supposed *forte* of the school. Three topics receive special attention in his book: free will (*qadar*), the uncreatedness of the Qurʾān, and the definition of faith (*īmān*). In discussions of the first two, al-ᶜAbbādī establishes that al-Shāfiᶜī's opposition to *kalām* is directed against Muᶜtazilī doctrines of free will and the createdness of the Qurʾān; and a discussion of faith shows that later Ashᶜarī teachings are in line with al-Shāfiᶜī's own convictions.

*Free will (*qadar*) and compulsion (*jabr*)*
In several places, al-ᶜAbbādī reports on authority of al-Rabīᶜ, al-Shāfiᶜī's servant and transmitter of his Egyptian teachings, that the eponym refuted the doctrine of free will (*qadar*). Al-Shāfiᶜī is credited with saying that apart from God's will, His creatures do not have a will. Al-ᶜAbbādī includes a poem al-Shāfiᶜī is said to have composed which expresses that God is the Creator of everything, of good and evil, and that He is the one to decide people's fate.[104] According to al-Rabīᶜ, al-Shāfiᶜī goes even further and condemns praying behind proponents of free will and intermarrying with them,[105] thus effectively declaring them heretics.

In addition to documenting that al-Shāfiᶜī and the early members of the school denied free will, al-ᶜAbbādī also guards against Shāfiᶜīs appearing to be proponents of predestination. The view that God foreordains all of a person's life and that s/he does not really act but only God is associated with the so-called 'compulsionists' (the Mujbira or Jabriyya).[106] The compulsionists are frequently identified with the traditionalists, a somewhat amorphous group that is associated with Ibn Ḥanbal (d. 241/855) and his teachings, or more generally with those who

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[103] Makdisi points out that while al-Shāfiᶜī was thoroughly anti-*kalām* in his *al-Risāla*, the theology he rejected was the rationalist–philosophical theology of the Muᶜtazila as opposed to the traditionalist, juridico–moral theology that was concerned with human's obligation toward God and his/her fellow creatures. See Makdisi, 'Juridical Theology of Shâfi'î,' 41–2 and 47.

[104] Al-ᶜAbbādī, *Kitāb Ṭabaqāt*, 13, 34, and 62.

[105] Ibid., 12–13.

[106] For a brief description of the Mujbira see W. Montgomery Watt, 'Ḏjabriyya,' *EI²*, vol. 2, 365.

reject the doctrine of free will.[107] Al-ʿAbbādī couches the defense against accusations that Shāfiʿīs are compulsionists[108] in a lengthy discussion over invoking God in prayer (*duʿāʾ*).[109] He relates under the entry of Abū Sulaymān Ḥamd b. Muḥammad b. Ibrāhīm al-Khaṭṭābī (d. 388/998) that he declared it senseless to do so because God decrees everything prior to creating the person and, thus, everything is preordained.[110] Al-ʿAbbādī presents a long refutation of this view, which is somewhat unusual in its form. Contrary to his usual practice of attributing doctrines to a particular person, the identity of the refuters is left unspecified; he refers to them only as a 'group' (*ṭāʾifa*) or 'others' (*ākhirūn*), yet emphasizes that their view is that of the *madhhab* and of the people of the Sunna (*wa-hādhā huwa l-madhhab wa-qawl ahl al-sunna*).[111] Furthermore, no mention is made to any authority figures of the Shāfiʿī school. The arguments brought forth are all based on verses of the Qurʾān and prophetic *ḥadīth*. Al-ʿAbbādī's long elaboration appears not so much as a documentation of any particular doctrine held by a specific member of the school but rather a summary of how Shāfiʿīs ought to think and argue about preordination. When read in connection with statements on free will, it situates Shāfiʿīs doctrinally between the extreme positions of free will (*qadar*) espoused by the Muʿtazila and of compulsion (*jabr*) as attributed to the traditionalist camp. This middle position reflects the later Ashʿarī self-representation of their doctrine of acquisition (*kasb*).[112] Al-ʿAbbādī, thus, aligns the Shāfiʿī doctrine on

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[107] The doctrines of free will (*qadar*) and compulsion or predestination (*jabr*) have a complex, interdependent history that rises out of questions regarding the omnipotence of God, His justice, and human responsibility for their acts. The complexities of Muslim views on these questions are portrayed, for example, in A. J. Wensinck, *The Muslim Creed: Its Genesis and Historical Development* (New York: Barnes and Noble, 1965); Tilman Nagel, *The History of Islamic Theology: From Muhammad to the Present*, transl. from the German by Thomas Thornton (Princeton: Markus Wiener, 2000); W. M. Watt, *The Formative Period of Islamic Thought* (Edinburgh: Edinburgh University Press, 1973).

[108] Al-Shāfiʿī's Iraqi disciple, al-Ḥusayn al-Karābīsī, is said to have been a strong supporter of predestination. See Carl Brockelmann, 'al-Karābīsī,' *EI²*, vol. 4, 596.

[109] Al-ʿAbbādī, *Kitāb Ṭabaqāt*, 94–6.

[110] Ibid., 94.

[111] Ibid., 94–5.

[112] Watt, 'D̲j̲abriyya,' *EI²*, vol. 2, 365.

free will with that of the Ashᶜarī school of theology[113] and, at the same time, distinguishes them from the extreme traditionalist position of preordination.

The uncreatedness of the Qurʾān

To further situate the school in its theological doctrines, al-ᶜAbbādī also emphasizes that the early adherents of the school professed the uncreatedness of the Qurʾān. While publicly pronouncing the Qurʾān created was not yet an issue for al-Shāfiᶜī as it came to be official policy only after his death,[114] we find his immediate disciples suffering persecution during the inquisition, the *miḥna* (which lasted from 218/833 to 235/850), when many scholars were asked to proclaim the government doctrine that the Qurʾān is the created word of God.[115] We are told that al-Shāfiᶜī's close companion al-Buwayṭī, about whom al-Shāfiᶜī is said to have predicted that he will die in 'iron,' was made to appear before the authorities in fetters and asked to profess the createdness of the Qurʾān, but refused and was incarcerated.[116] Al-Buwayṭī is further credited with stating that he who says that the Qurʾān is created is an infidel (*kāfir*), which, as al-ᶜAbbādī asserts, was also the view of al-Muzanī and al-Rabīᶜ, both of whom transmit it from al-Shāfiᶜī.[117] Of another Shāfiᶜī jurist, Yūsuf b. ᶜAbd al-Aᶜlā, who is described as a contemporary of al-

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[113] In contrast to al-ᶜAbbādī, other Shāfiᶜīs with Ashᶜarī leanings (for example, Ibn Fūrak, Abū Isḥāq al-Isfarāʾīnī, Abū Muḥammad al-Juwaynī, and al-Subkī) insist that al-Ashᶜarī himself belonged to the Shāfiᶜī school. See Makdisi, 'Ashᶜarī and the Ashᶜarites I,' 68.

[114] While discussions over the nature of the Qurʾān were common prior to and during al-Shāfiᶜī's lifetime, pronouncing it to be created did not become official government doctrine until 218/833. For the origins of the debate, see Wilferd Madelung, 'The Origins of the Controversy Concerning the Creation of the Koran,' in *Orientalia Hispanica sive studia F. M. Pareja octogenario dicata*, ed. J. M. Barral (Leiden: Brill, 1974), 504–25.

[115] Nawas points out that the main target of the caliphal inquisition were judges, jurists, and *ḥadīth* transmitters, i.e. men of intellectual quality and social influence (John A. Nawas, 'The Miḥna of 218 A.H./833 A.D. Revisited: An Empirical Study,' *Journal of the American Oriental Society* 116 (1996), 698–708 (pp. 704–5 and 708).

[116] Al-Buwayṭī died in prison holding firm that the Qurʾān is not created. See Martin Hinds, 'Miḥna,' *EI²*, vol. 7, 2–6 (p. 4).

[117] Al-ᶜAbbādī, *Kitāb Ṭabaqāt*, 8.

Muzanī,[118] al-ʿAbbādī says that he stood up against the doctrine of the created Qurʾān in Egypt and, thereby, 'rendered the people of the Sunna victorious'.[119]

That al-ʿAbbādī mentions the *miḥna* and that the early members of the Shāfiʿī school rejected, despite persecution, the createdness of the Qurʾān highlights the extent to which the Shāfiʿī school was from its inception opposed to Muʿtazilī doctrines. This may also be the reason behind al-Shāfiʿī's outright rejection of the legal views of the above-mentioned Abū ʿAbd al-Raḥmān, who is said to have agreed in theology with Muʿtazilī tenets. Although al-Shāfiʿī did not address the nature of the Qurʾān in his writings, al-ʿAbbādī documents that his immediate disciples attest that he opposed the createdness of the Qurʾān doctrine. More importantly, al-ʿAbbādī's presentation of the Shāfiʿī doctrine on the Qurʾān also conveys the message that Ibn Ḥanbal was not the sole champion of the inquisition, but that prominent Shāfiʿī jurists formed part of the intellectual heritage that later informed Sunnī orthodoxy. This is of particular significance as al-ʿAbbādī does not consider Ḥanbalīs a school of law – as opposed to a school of thought or traditionalist attitude more generally.[120] His book, thus, documents that among schools of law it was the Shāfiʿī school that defended the doctrine of the uncreatedness of the Qurʾān.[121] In contrast, Ḥanafīs are primarily associated in the historical sources with the Muʿtazilī position and some Mālikīs are mentioned among the supporters of the *miḥna*.[122]

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[118] This Yūsuf b. ʿAbd al-Aʿlā (see al-ʿAbbādī, *Kitāb Ṭabaqāt*, 52) may be an instance of *tafrīq* with Yūnus b. ʿAbd al-Aʿlā, who belonged to the first generation of Shāfiʿīs (ibid., 18). Al-ʿAbbādī's comment that Yūsuf b. ʿAbd al-Aʿlā was an associate of al-Muzanī would also better fit Yūnus than a member listed under the third generation of Shāfiʿīs.

[119] Ibid., 52.

[120] See above, footnote 40.

[121] In revisiting those individuals who were said to have been interrogated during the *miḥna*, Nawas emphasizes that the caliph targeted in particular *ḥadīth* transmitters as they and their teaching had become a rival force to the authority of the caliph, see Nawas, 'The Miḥna of 218 A.H.,' 702–8. That some Shāfiʿī jurists were among those questioned (as is confirmed for al-Buwayṭī) means that the circle of scholars around al-Shāfiʿī was deemed closely associated with the *ḥadīth*-transmitter movement.

[122] Madelung, 'Controversy Concerning the Creation of the Koran,' 509–11; Hinds, 'Miḥna,' *EI*², vol. 7, 4; Melchert, *Formation of Sunni Schools of Law*, 8. For

Yet, al-ᶜAbbādī's portrayal of the school's opposition to the government doctrine of the created Qurʾān and its alignment with the traditionalist camp is not necessarily all that has been said about the theological persuasions of the early Shāfiᶜī school. Many sources associate al-Shāfiᶜī with prominent Muᶜtazilī figures, in particular Bishr al-Marīsī (d. 218/833).[123] Association, of course, does not mean that al-Shāfiᶜī had to agree with the views of his associate – one may simply see him as very tolerant in his attitudes.[124] However, it would be more difficult for al-ᶜAbbādī to dismiss any intellectual proximity between teacher and student. Two of al-Shāfiᶜī's teachers are counted among the Muᶜtazila, namely Ibrāhīm b. Abī Yaḥyā al-Madīnī and Muslim b. Khālid al-Zanjī.[125] If al-Zanjī's Muᶜtazilī pedigree was known to al-ᶜAbbādī, he does not let on; the latter is acknowledged by al-ᶜAbbādī as al-Shāfiᶜī's teacher without further comment.[126] Ibrāhīm b. Yaḥyā does not find his way into al-ᶜAbbādī's work. Nor does al-ᶜAbbādī give any indication that some of al-Shāfiᶜī's students held theological views that were not in line with the doctrine of the uncreated Qurʾān. He manages to avert any intellectual connection to Abū ᶜAbd al-Raḥmān by reporting that al-Shāfiᶜī himself condemned the legal thought of this student of his; *a fortiori* one may extend this also to his theological positions. Furthermore, al-Shāfiᶜī's student al-Karābīsī, whom al-ᶜAbbādī frequently cites as authority, is remembered for asserting the pronunciation of the Qurʾān to be created – a view that drew the ire of the traditionalists.[127] While I do not wish to imply that al-Shāfiᶜī had Muᶜtazilī leanings,[128] my point here is that al-ᶜAbbādī selects what he presents of the theological persuasions of the early followers of al-Shāfiᶜī in a manner that fits into his view of the school at his own time,

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an account of how the Ḥanafī school and Abū Ḥanīfa was slowly disassociated from the created Qurʾān doctrine see ibid., 54–60.

[123] Hallaq, 'Was al-Shafii the Master Architect,' 593.

[124] Although the above-mentioned ruling not to pray behind a proponent of free will would belie such tolerance.

[125] Hallaq, 'Was al-Shafii the Master Architect,' 593.

[126] Al-ᶜAbbādī, *Kitāb Ṭabaqāt*, 84.

[127] Melchert, *Formation of the Sunni Schools of Law*, 71–3.

[128] Hallaq makes it quite clear that al-Shāfiᶜī belonged neither to the rationalist nor the traditionalist camp; if at all, he says that it was al-Muzanī who was thought of as sympathizing with Muᶜtazilī teachings (Hallaq, 'Was al-Shafii the Master Architect,' 594).

neglecting any evidence that points toward a different assessment of their theological views.

*The definition of faith (*īmān*)*

In addition to the school's opposition to the created Qurʾān doctrine, al-ʿAbbādī also establishes al-Shāfiʿī's position on faith (*īmān*). In a peculiar entry he presents a lengthy, three-page exposition on the definition of faith under a person of the first generation whose name cannot be ascertained.[129] Contrary to al-ʿAbbādī's usual practice of identifying jurists in their entries with their patronymic (*kunya*), their given name and that of their forefathers (sometimes going back several generations), and their *nisba*(s), we find here only the patronymic Abū ʿAmr and the *nisba*, which, as we are told by the editor of the work, is in the manuscripts used for the edition variously rendered al-Zanbarī, al-Zubayrī or written only as skeletal letters without diacritics after the initial *zāʾ*.[130] Missing is also any indication of how Abū ʿAmr came to receive the information he is transmitting on authority of al-Shāfiʿī – we are only told that 'he related that someone asked al-Shāfiʿī about faith'.[131] The answer that follows is very detailed, citing numerous Qurʾānic verses, and touches on all the main points that distinguish the 'Shāfiʿī' from the Murjiʾī and Māturīdī–Ḥanafī positions, without being identical to the traditionalist/Ḥanbalī definition of faith.[132]

In his answer, al-Shāfiʿī first defines faith as practice (*ʿamal*), adding that verbal expression (*qawl*) is part of it and affirming that faith is not immutable, but can reach utmost perfection and clear deficiency.[133]

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[129]   Al-ʿAbbādī, *Kitāb Ṭabaqāt*, 31–3.

[130]   Ibid., 31, note 5.

[131]   Ibid., 31.

[132]   Muslim conceptions of faith are not easily summarized as each school of thought has various definitions of faith. The main two conceptions among Sunnīs are that of the Murjiʾīs, on which the Māturīdī–Ḥanafī positions are built, and the traditionalists/Ḥanbalīs, with the general features of which Ashʿarīs agree. The main differences (very simplified) between them are that the first camp emphasizes the word (*qawl*) or confession (*iqrār*) as the main element of faith (disregarding the works), whereas the second defines faith as work (*ʿamal*) and word together; furthermore, the first camp considers that faith is immutable and the second that it can increase and decrease according to the works performed. For a quick overview over the main definitions and points of contention, see Louis Gardet, 'Īmān,' *EI²*, vol. 3, 1170–4; a more detailed discussion is presented by Wensinck in *The Muslim Creed*, esp. 36–49.

[133]   Al-ʿAbbādī, *Kitāb Ṭabaqāt*, 31.

God, al-Shāfiʿī continues, imposes upon the heart various ways in which to practice faith, namely by confession (*iqrār*), knowledge (*maʿrifa*), resolution (*ʿaqd*), acceptance (*riḍan*), and acknowledging (*taslīm*) that there is no god but God, who has no partner, who neither took a companion nor a son and that Muḥammad is His servant and His messenger, as well as by confessing to the reality of the prophets and scriptures God sent to humankind.[134] The sentences that follow in the text make clear that al-Shāfiʿī considers the heart the fountainhead (*raʾs*) of faith from which the performance of acts of faith springs forth. God, we are told, imposes on limbs and parts of the body certain acts which are part of faith and constitute the performance of it.[135] The divine impositions listed in the text are supported by Qurʾānic verses. The tongue (*lisān*) is to give expression to what the heart resolves and professes; the ear (*samʿ*) ought to refrain from listening to what God prohibited and instead turn to listening to what He imposed; the eyes ought not look upon and lower their glances from that which God prohibited; the hands are not to seize (*baṭasha*) what God prohibited but labor (*baṭasha*) toward that which He commanded, such as charitable deeds (*ṣadaqa*), bonds of kinship (*ṣilat al-raḥim*), striving on the path of God (*jihād fī sabīl llāh*), and ritual purities; the legs are not to go where God prohibited them to go; and the face is to bend in prostration.[136] Al-ʿAbbādī ends his presentation of al-Shāfiʿī's definition of faith with the confirmation that faith is cumulative and may reach various degrees. Citing Qurʾānic verses that express that faith, evil deeds as well as guidance may increase, the concluding remarks of this passage are that there is 'increase and decrease with regard to deeds and reward for deeds' (*fa-l-ziyāda wa-l-nuqṣān fī l-ʿamal wa-thawāb al-ʿamal*).[137]

In this entry of Abū ʿAmr al-Zanbarī, who otherwise is unknown,[138] we find a sophisticated understanding of faith, much of which is closely

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[134] Al-ʿAbbādī, *Kitāb Ṭabaqāt*, 31.

[135] The text several times has a phrase 'it belongs to faith and this is how it is practised' (*huwa min al-īmān wa-dhāka ʿamluhu*). See al-ʿAbbādī, *Kitāb Ṭabaqāt*, 32, line 5–6 and 13–4, both said about the ear.

[136] Ibid., 32–3.

[137] Ibid., 33.

[138] That al-Zanbarī is not further known despite being roughly contemporaneous with al-Muzanī, al-Zaʿfarānī, al-Rabīʿ and other important transmitters of al-Shāfiʿī's teaching suggests that he may have been invented and inserted by al-ʿAbbādī (or someone else) to give the impression that the eponym's

in line with later Ashᶜarī teaching. The defining characteristics of faith are the heart's conviction, its knowledge and pronouncement of the truth of God, His messenger and His message. In contrast to the Ḥanbalī understanding that faith is word and deed together, here we find word, that is to say, professing Islam, subsumed under the action which begins in the heart, emphasizing conviction as the source of the limbs' works of faith. Different from the theological doctrine of the Murjiʾī and Māturīdī–Ḥanafī school, faith can grow and decrease. Thus, al-ᶜAbbādī situates the Shāfiᶜī conception of faith squarely within the Ashᶜarī position, just as he did regarding free will and the nature of the Qurʾān.[139]

Concluding remarks
The presentation of the author's role in composing a biographical dictionary has brought to the fore that the author is not merely a compiler of pre-existing information. Instead, he has an important impact on shaping the identity, the doctrine, and the authority structures of the group. It would be going too far to say that al-ᶜAbbādī invented the image and doctrine of the Shāfiᶜī school of law – as he surely did not make up all the information he presents.[140] Nevertheless, by arranging the information he collected in a certain manner and deciding which rulings to include and leave aside out of the many opinions held by each of these jurists he captures the identity of the *madhhab* at a certain point in time (first half of the fifth/eleventh century) and from a certain point of view (his own at least, if not representative for the Eastern part of the Islamic world). Fixing this identity in writing preserves it and influences how future generations view the school.

Al-ᶜAbbādī shapes the identity of the Shāfiᶜī school in various ways. In the introduction and in the entry on al-Shāfiᶜī he presents his vision of

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theological position on faith is in line with or a precursor of later widely accepted doctrine in the Shāfiᶜī school.

[139] Al-ᶜAbbādī is not the only one who addresses theological topics when commemorating the members of his school of law. Al-Subkī is blamed to have used his work on Shāfiᶜī jurists as propaganda work for Ashᶜarism (Joseph Schacht and C. E. Bosworth, 'al-Subkī,' *EI²*, vol. 9, 743–5, (p. 744); Makdisi, 'Ashᶜarī and the Ashᶜarites I,' 43 and 57–79).

[140] While there is generally little reason to doubt that the jurists actually espoused the doctrines attributed to them, in some entries it is, however, doubtful that the person to whom a view is attributed held or articulated it in the manner presented by al-ᶜAbbādī, especially when it concerns matters of theology or other non-legal matters.

the school: superior to the Ḥanafī and Mālikī schools of law on account of the eponym's brilliance in understanding the authoritative texts and his insight in deriving rulings from them, in particular in the areas of worship, family law, and commercial transactions. Intellectual excellence, in al-ʿAbbādī's view, also manifests itself in one's personal conduct as al-Shāfiʿī's record in matters of etiquette and honor shows. From the outset of his book, al-ʿAbbādī conveys the message that following and emulating al-Shāfiʿī in his doctrines, methodologies, and conduct guarantees a jurist the best possible way of law-finding and marks a jurist as a member of the Shāfiʿī school.

Throughout the pages of his work al-ʿAbbādī manages to emphasize that the doctrines of the school represent a continuum and form a unity. He frequently states that a particular opinion is that of al-Shāfiʿī or goes back to one of the founding fathers – the immediate disciples of al-Shāfiʿī who either transmit the rulings of the eponym or whose own opinions are arrived at following his teaching. Important for constructing the doctrinal identity of the school are al-ʿAbbādī's subtle hints and editorial comments when he presents controversies among Shāfiʿī jurists. He takes recourse to a variety of authorial devices to indicate what the doctrine of the school, at least in his eyes, should be: He provides alternative rulings by lesser known or unnamed Shāfiʿīs, thereby providing an acceptable precedent for espousing the alternative; he associates a doctrine with a rival school, thereby making it less desirable for the true Shāfiʿī; he identifies geographical differences for positions held by jurists, with Egyptian doctrines generally being deemed superior to Iraqi rulings without the latter necessarily invalid; or he expresses clearly which ruling is correct.

Furthermore, by pointing out that a disciple of al-Shāfiʿī belonged to the Iraqi or Egyptian circle of the eponym, al-ʿAbbādī forms a hierarchy of authority and of authority clusters among the early members of the school, and by extension among later jurists who follow them. We notice in his work a tendency to elevate al-Muzanī as the 'true heir' of the master; he is frequently presented as the final voice in disputes among the followers. Later biographers of the Shāfiʿī school do not necessarily share al-ʿAbbādī's high view of al-Muzanī. Al-Subkī and al-Nawawī (d. 676/1277) distance the Shāfiʿī school from him, speaking of a separate *madhhab* of al-Muzanī.[141]

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[141] Dedicating a separate school to al-Muzanī is likely due to the fact that in his main work, *Mukhtaṣar*, al-Muzanī pronounces some of al-Shāfiʿī's views to be wrong. See W. Heffening, 'al-Muzanī,' *EI²*, vol. 7, 822.

The position of authority that a jurist holds among the group extends also to his rulings. A ruling is not only a reflection of a jurist's decision at a particular point in time, but becomes authoritative and worthy to be adhered to by a 'true' Shāfiʿī. To accomplish this doctrinalization, al-ʿAbbādī hardly ever refers to the circumstances in which a ruling was pronounced and which informed it.[142] The ruling, thereby, is stripped of its specific context and becomes generally applicable to that type of situation. This guarantees that the ruling will be continuously applied and, thus, leads to an identifiable position of the school concerning this legal question. Taking a stand in controversies, al-ʿAbbādī shapes the view of future generations of Shāfiʿīs about authoritative rulings when looking for guidance from the decisions of previous jurists of the school.

However, that which defines the Shāfiʿī school is not only its legal doctrine. Shāfiʿīs are portrayed by al-ʿAbbādī to have a very particular theological outlook as well,[143] irrespective of the eponym's reported distaste for theology: they reject free will (*qadar*), though not subscribing to predestination either; they oppose the doctrine of the created Qurʾān; and they consider faith to emanate from the heart by profession of faith by the tongue and acts of faith by the limbs. To convey the theological outlook of the Shāfiʿī school, al-ʿAbbādī uses more obvious authorial devices than when presenting the legal doctrine of the school. In contrast to legal rulings, which are generally brief and emphasize the transmitter, al-ʿAbbādī often devotes long, well-constructed passages to theological discussions which cite Qurʾān and occasionally *ḥadīth* to support the respective view taken. The transmitters of theological statements are often irrelevant and not necessarily from among the well-known figures of the early Shāfiʿī school. The theological positions that al-ʿAbbādī reports to have been held by the eponym have close affinity—one may even call it prescience—to views that later came to be associated with Ashʿarī thought. In light of the differences in the way al-ʿAbbādī presents the school's legal doctrines and its theological views, it is difficult not to

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[142] Al-ʿAbbādī is in no way exceptional in the way he presents past rulings. It is typical of legal literature to rarely mention the specific circumstances of a case unless in order to argue that it has to be ruled differently from the ruling that generally applies to it (i.e., in cases of specification, *takhṣīṣ*).

[143] Al-ʿAbbādī's view of the Shāfiʿī school is not limited to legal and theological doctrines. What he says about politics, grammar and interpretation of language also deserves closer analysis, though it was impossible to include in the scope of this paper.

suspect that some statements, in particular the lengthy ones, were inserted by al-ᶜAbbādī to craft or support the theological identity of the school; an identity that is less a representation of historical reality than a reflection of al-ᶜAbbādī's own outlook.

Yet, although al-ᶜAbbādī is certainly an active participant in shaping the legal and theological identity of his school, he is also a compiler of information passed on from previous generations. This is evident in the fact that he does not streamline his account of the members of the Shāfiᶜī school in a manner that is without contradictions or without any difference of opinions among them. In his dictionary, he manages to straddle the line—sometimes more successful, sometimes less so—between truthful transmission of the information received and fruitful arrangement and commentary on it in a manner that reflects how he would like the Shāfiᶜī school to be seen. Hence, while al-ᶜAbbādī's *Kitāb Ṭabaqāt al-fuqahāʾ al-shāfiᶜiyya* remains an important document for the historical development of the Shāfiᶜī school, it has to be read with the author's time and concerns in mind.

DIE *MARṮIYA* DES AʿŠĀ BĀHILA AUF SEINEN HALBBRUDER AL-MUNTAŠIR. EINE THEMATISCHE UNTERSUCHUNG

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In some medieval anthologies of classical Arabic poetry we find a poem by the pre-Islamic poet Aʿšā Bāhila, who probably died in the beginning of the seventh century AD. This widely appreciated poem is a dirge in commemoration of his half-brother al-Muntašir b. Wahb, who died in battle. In this article, the poem is analysed and evaluated, and from the number of textual variants it becomes clear that both the text and the verse order are severely damaged. The number of transmissions of this poetic text can effectively be limited to three. A more essential factor that contributed to the dismembering of the text is that it may have become entangled with another dirge, composed by the sister of the deceased, Daʿǧāʾ uḫt al-Muntašir. Based on our knowledge of structure and thematic development of dirges composed by women, we are able to dissect these poems, and, in the process, we can 'reconstruct' both.

Einführung[1]

In seinem Kapitel über die Struktur der altarabischen Dichtung[2] greift Wagner auf Kowalskis Auffassung über die molekulare Struktur altarabischer Gedichte zurück. Einige wichtige Begriffe, die er zu diesem Thema hervorhebt, sind "Komposition", "Aufbau" und "innerer Zusammenhang". Unverbundenheit verschiedener Themen und sogar Unverbundenheit der Einzelverse innerhalb eines Themas seien die Gründe dafür, dass man Einzelverse zwar übersetzen könne, aber das Gedicht als Ganzes dennoch nicht verstehe.

Andererseits erwähnt Wagner die Möglichkeit, dass das arabische Publikum die traditionelle Verknüpfung gängiger Themen sosehr als bekannt und selbstverständlich empfunden habe, dass es für den Dichter gar nicht mehr notwendig war, einen logischen Themenablauf anzustreben.

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[1] Prof. Dr. Geert-Jan van Gelder und Prof. Dr. Harald Motzki haben mit ihren Bemerkungen entscheidend zu diesem Artikel beigetragen.

[2] E. Wagner: *Grundzüge der klassischen arabischen Dichtung*. Darmstadt 1987, I, S. 145–9.

Die altarabische Dichtung mag in hohem Masse gleichförmig gewesen sein – obwohl in jüngster Zeit auch darüber Zweifel aufkommen[3] –, dieser Gedanke setzt aber beim damaligen Publikum Vieles als bekannt voraus und lässt wenig Raum für die Möglichkeit, dass es thematische Innovationen wiedererkennen und schätzen konnte. Es ist eher wahrscheinlich, dass man als Literaturkonsument einen gewissen Erwartungshorizont hatte, aber thematische Spielereien und Experimente dennoch genießen konnte, vielleicht sogar auch erwartete.

Außerdem ist gegen Kowalskis Ideen einzuwenden, ob man bei einer molekularen Struktur, in der offensichtlich kein Aufbau oder keine Komposition zu erkennen sind, noch von einer *Struktur* sprechen kann.

Während des Cairo International Bookfair (*al-Maᶜriḍ al-Dawlī li-l-Kitāb*) in 2004 wurde eine CD-Rom auf den Markt gebracht mit dem Titel: *al-Mawsūᶜa al-Šiᶜrīya* 2003, eine Ausgabe der Cultural Foundation der Vereinigten Arabischen Emirate in Abu Dhabi. Die CD enthält eine Sammlung von 2,4 Millionen Versen arabischer Dichtung[4], sowie eine *maktaba*, d.h. eine Auswahl an älteren Quellen lexikalischer[5] und literaturtheoretischer Art sowie *adab*-Werke. Das ganze Projekt ist von erstaunlichem Umfang und die meisten dargebotenen Texte können nach Wörtern und Wortkombinationen durchsucht werden. Es wäre sogar fast das ideale Werkzeug des Arabisten, wenn die CD mit Verweisen auf Quellen und unterschiedliche Textrezensionen versehen worden wäre. Das ist aber leider nicht der Fall. Zum Teil geht es in der vorliegenden Untersuchung darum, festzustellen, ob und inwiefern diese Sammlung ihren Nutzen hat.

Gegenstand dieser Untersuchung ist ein Gedicht des Aᶜšā Bāhila, das von einigen arabischen Literaturkritikern sehr geschätzt wird. Was hat diese Kritiker dazu veranlasst, diesem Gedicht eine besondere Bedeutung beizumessen?

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[3] Th. Bauer: *Liebe und Liebesdichtung in der arabischen Welt des 9. und 10. Jahrhunderts*. Wiesbaden 1998, S. 27–8; über die thematische Eigenheit des altarabischen Nasīb bemerkt der Autor: „Beurteilt wird der Dichter danach, ob es ihm gelingt, die den Hörern bekannten Themen und Motive geschickt und originell umgeformt zu haben."

[4] Es geht laut Text auf dem Umschlag um 2300 Dichter(innen), die vor 1952 gestorben sind.

[5] Alle geläufige Lexika, wie der *Lisān al-ᶜArab*, der *Tāǧ al-ᶜArūs* usw., sind nachsuchbar.

Den Beinamen Aᶜšā (der Nachtblinde) gab man mehreren Dichtern. Aᶜšā Bāhila ist vor allem bekannt wegen der längeren *marṯiya*, die er auf seinen Halbbruder al-Muntašir komponierte.

Nach al-Baġdādī[6] sind die Gründe für die Bedeutung des Gedichts die folgenden:

—es ist *nādira qallamā tūǧad*: „in einer selten anzutreffenden Weise außergewöhnlich"

—es ist gut in seinem "Bereich" (*ǧayyida fī bābihā*)

—viele Verse daraus werden in den Büchern der Gelehrten zitiert (... *anna kaṯīran min abyātihā šawāhid fī kutub al-ᶜulamāʾ*)

Al-Baġdādī sagt am Anfang des Paragraphen, der die Geschichte vom Tode Muntaširs erzählt, dass das Gedicht 34 Verse umfasst.[7] Diese Bemerkung ist nicht selbstverständlich, weil in der arabischen linguistischen und literaturtheoretischen Tradition meist über einen isolierten Vers, manchmal über eine kleine Versgruppe gesprochen wird. In diesem Fall ging es al-Baġdādī offenbar ausnahmsweise um ein Gedicht als Ganzes.

Auch al-Murtaḍā, von al-Baġdādī zitiert, lässt sich in seinen *Amālī*[8] lobend über das Gedicht aus: es gehöre zu den besten (*mufaḍḍala*) *marāṯī* und es sei als ein ausgezeichnetes Gedicht bekannt (*barāᶜa*), auch wegen seiner rhetorischen Finesse (*balāġa*).

Die obigen Aussagen über das Gedicht sind hier zu prüfen:

—Was macht das Gedicht „außergewöhnlich gut" ("*nādira qallamā tūǧad*")?

—Was macht das Gedicht "gut" als *marṯiya*?

—Wird es tatsächlich oft zitiert und, wenn ja, wieso?

Ein erster Eindruck

Zuerst folgt hier die vorläufige Übersetzung nach dem Text in al-Baġdādīs *Ḫizāna*:

1. Es erreichte mich ein Bericht, worüber ich mich nicht freuen kann, (und zwar) aus dem hohen Teil des Naǧd, ein ungewöhnlicher, aber

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[6] al-Baġdādī: *Ḫizānat al-Adab wa-Lubb Lubāb Lisān al-ᶜArab* (ed. ᶜA. Hārūn). Kairo 1979, I, S. 188 ff., zitiert al-Murtaḍā: *al-Amālī* (ed. M. A. Ibrāhīm). Kairo 1998, II, S. 24

[7] al-Baġdādī: *Ḫizāna*, I, S. 187.

[8] al-Murtaḍā: *al-Amālī,* II, S. 24.

nicht verwunderlicher Bericht, wofür man mich nicht auch noch tadeln sollte (wegen meiner Trauer).[9]

2. Ich war eine Weile traurig, verwirrt,[10] beklagte ihn; ich hatte ihn doch gewarnt; wenn meine Warnung nur genutzt hätte.

3. Mir wurde schwindlig, als alle ankamen und ein Reiter ankam, aus Taṯliṯ, zu Besuch.

4. Er ritt an den Leuten vorbei, bog nicht zu dem einen oder anderen ab, bis wir uns begegneten, und ganz Muḍar stand uns gegenüber.

5. "Derjenige für dessen Todesansage Du aus Taṯliṯ ausgeritten bist, sein ist die Freigebigkeit, das Verbieten und das Gebieten".[11]

6. Er verkündet den Tod eines Mannes, dessen Kochtopf dem Stamm nicht nur ab und zu vergönnt wurde, wenn der Regen, das Auf- und Untergehen der Sterne vorbeigeht.

7. Wenn die Kamelinnen nach ihrer Stillzeit mit verdorrten Schultern und staubigen Haaren einherziehen, die Kamelinnen, deren Fett und Haut schlecht geworden sind.

8. Wenn der weiße Reif am Hund ihn einen Unterschlupf suchen lässt und die Verstecke dem Stamm Unterschlupf bieten gegen seinen (d.h. des Winters) Schlag.

9. Dann ist die Versorgung des Stammes mit Essen seine oberste Pflicht – das wussten sie seit jeher – und dann (wenn es kein Essen mehr gibt) der Gang zu den Kamelen, wenn ihnen (d.h. dem Stamm) die Vorräte ausgegangen sind.

10. Die (neunjährigen) Kamele zerren an ihren Stricken, wenn sie ihn bemerken, sosehr, dass die Stricke sich in ihre Kehlen schneiden.

11. Ein Freigebiger von Sachen, die er gibt und um die er gebeten werden kann; Ungerechtigkeit hält er von ihm (dem Bittenden) fern, der freigebige *sayyid*.

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[9] In der Übersetzung von E. W. Lane: *An Arabic–English Lexicon*. London 1863 (Neuauflage: Cambridge 1984), II, S. 2144: "Verily information has come to me by which I shall not be rejoiced….from the higher….parts of Nejd….at which there is no wondering, as at a thing that is improbable, nor any scoffing". Wahrscheinlich ist bei "scoffing" zu denken an "*lawm*" als Anfang einer *marṯiya*: siehe u.a. G. J. A. Borg: *Mit Poesie vertreibe ich den Kummer meines Herzens, eine Studie zur altarabischen Trauerklage der Frau.* Istanbul-Leiden 1997, S. 115–7.

[10] Besser: *ḥayrān* (verwirrt, betrübt), wie z.B. in den Editionen nach al-Mubarrad und al-Quraší, als *ḥarrān*.

[11] Für die Erklärung von *ġiyar* in dieser Bedeutung, siehe al-Baġdādī, *Ḫizāna*, I, 192–3.

12. Du wirst keinen Streifen Land finden, keinen hören, der da wohnt, ohne dass es da von den ersten Schritten seines Absteigens eine Spur gibt.
13. Wenn du ihn bittest, zu warten, dann hat er keine Eile, und wenn du ihm freundlich begegnest, zeigt er keine Grobheit.
14. Wenn ein Feind dich eines Tages in einem Streit trifft, dann wirst du (dank ihm) die Oberhand bekommen und gewinnen.
15. In dessen Güte es keine Wohltat gab, mit der er einen Freund verstimmte, und in deren (d.h. der Wohltat) Sauberkeit etwas Verschmutztes war.
16. Ein Bruder der Trinker, ein Geber (eigentlich: Gewinner), wenn sie mittellos waren, und in der Furcht vor ihm vereinigen sich (beim Gegner) Ernst und Vorsicht.
17. (Wie) ein in den Krieg geworfener Stein und ein Licht, dessen Glut man sucht, so wie der Mond die Schwärze des Schattens beleuchtet.
18. Von hagerem Bau, schmal in den Hüften, abgenutzt hängt sein Kleid vom Leibe, das Reisen in der Nacht geringschätzend.
19. Hungrig in den Eingeweiden, sich aufmachend für die Anstrengung inmitten seiner Leute in der Nacht, wo es kein Wasser und keinen Baum gibt.
20. Er findet eine Sache nur so lange schwer, bis er sie in Angriff nimmt[12] und er nimmt alles auf sich, außer etwas Böses.
21. Er deckt nicht die Verhüllung einer Frau auf, die er ansieht, und sein Blick hängt sich nicht an seine Nachbarinnen.
22. Er nähert sich nicht dem, was er im Kochtopf sieht, und die "Hungerschlange" nagt nicht an seinen Rippenenden.
23. Er fühlt nicht nach dem (wenigen) Fett an seinem Bein wegen Hunger und Erschöpfung und er bleibt dem Stamm voraus bei der Verfolgung der Spur.
24. Auf keinem Wege trauen die Leute seinem Gehen am Abend oder am Morgen, (denn) auch wenn er keinen Angriff plant, wird dieser doch (immer) erwartet.
25. Ein längsgeschnittenes, geröstetes Stückchen Leber, das er isst, genügt ihm, und sein Durst wird getränkt mit einem kleinen Trinknapf.
26. Das ältere Kamel traut seiner Feindseligkeit nicht, ebenso wenig wie das junge Kamel, wenn die Reise lang dauert.

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[12] Nach der Übersetzung H. Reckendorfs in: *Arabische Syntax*. Heidelberg 1921, S. 480–1.

27. Es ist als ob, nachdem die Leute sich der Verzweiflung sicher sind, von ihm aus die guten Nachrichten ausstrahlen.
28. (Im Notfall) veranlasst er die Leute nicht dazu, dass ihre Töpfe schnell kochen, und er reitet während der Nacht, bis der Blick wieder weit wird.
29. Wir lebten eine Zeitlang mit ihm zusammen, als er noch lebte, aber jetzt hat er uns verlassen; so bricht die Lanze mit ihren beiden eisernen Enden.
30. Wenn wir außer uns sind vor Trauer, dann ist es, weil unser Schicksal uns gebrochen hat, und wenn wir ausharren, dann ist es, weil wir eine Sippe von Ausharrenden bilden.
31. Du hast in unserem Tabu-Gebiet den Bruder-des-Vertrauens getroffen, Hind bint Asmāᶜ, möge der Sieg dir nicht bekommen!
32. Wenn die Nufayl ihn nicht verraten hätten – sie sind nun mal verräterisch, dann hätte er den Stamm morgens zum Tränken geführt, eine Führung zum Wasser, die ohne das Verlassen der Wasserstelle geblieben wäre (d.h. immer wieder).
33. Als er die Pferde aus Taṯliṯ in eure Richtung führte; nur (die Stellen) Raġwān und Ḥaḍar drückten den Pferden die Augen zu.(??)
34. Wenn du jetzt dem Weg folgst, dem du folgst, geh' dann, und möge Gott dich nicht verloren gehen lassen, Muntašir.

Dass Gedicht zeigt die folgenden Merkmale auf, die für eine *marṯiya* typisch sind:
—es ist die Rede von einem Todesbericht (*y/tanᶜā*) [Vers 1,5]
—die aus den *marāṯī* bekannte Redewendung *lā yubᶜidanka llāhu* ist anzutreffen in [34]
—der Reim (*rawīy*) folgt dem Namen des Verstorbenen: *-ru* / *Muntaširu* [34]

Ansonsten ist eigentlich schwer festzustellen, woher dieses Gedicht als vollständige Komposition den Ruf hatte, "gut" zu sein: abgesehen von einigen kleineren Versgruppen ist das Ganze – thematisch gesehen – ein ziemliches Durcheinander.

Die Versfolge
Wie steht es also um den Text? Schon Geyer hat einen Überblick geboten, aus dem hervorgeht, dass dieses Gedicht in sehr unterschiedlicher Form überliefert ist. [13] Hier folgt noch eine

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[13] R. Geyer: *Gedichte von Abū Baṣīr Maimūn Ibn Qays al-Aᶜšā nebst Sammlungen von Stücken anderer Dichter des gleichen Beinamens und von al-Musayyab Ibn ᶜAlas*. London 1928, S. 250, deutscher Text.

schematische Übersicht, die auf al-Qurašīs Version basiert, nicht weil sie die beste wäre, sondern aus praktischen Gründen, weil sie die längste Version ist:

(v = unwesentliche Varianten und **V** = erhebliche Varianten im Vergleich zu al-Qurašīs Version)

Qurašī[14]	Murtaḍā *Amālī*[15]	*Ḫizāna*[16]	Mubarrad[17]	Ibn al-Šağarī[18]	al-Qurašī al-Nağafī[19]	Yazīdī[20]	Aṣmaʿī[21]	al-Baṣrī[22]	Ṭayālisī[23]	Tawḥīdī[24]
1	1v	1v	1v	1v	1	1v	1**V**	1v	1	1
2	-	-	-	-	-	-	-	-	2	-
3	4v	4v	4v	4	4	4v	4	24b	4	3**V**
4	-	-	-	-	-	-	-	3**V**	-	-
5	2**V**	2**V**	2**V**	2v	2**V**	2v	2**V**	2**V**	-	5**V**
6	3	3	3	3	3	3v	3	3v	3	3
7	5v	5v	-	5v	5v	5v	5	5**V**	5	-
8	6v	6v	5v	6v	6	6v	6	9	6	5v
9	7	7	-	7	7	7	7v	-	7	-
10	8v	8v	-	-	8**V**	8**V**	8**V**	-	8	-

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[14] (Abū Zayd Muḥammad ibn Abī l-Ḫaṭṭāb) al-Qurašī: *Jamharat Ašʿār al-ʿArab*. Kairo 1308 AH (Neuauflage: Beirut 1983), S. 135–7. Diese Version ist fast identisch mit der Qurašī-Version in der *Mawsūʿa Šiʿrīya* mit den folgenden Unterschieden: 6b: *Mawsūʿa* hat *muʿammiru* statt *muʿtamiru*, 14a *Mawsūʿa* liest Hamzaträger *ʾalif* statt *yāʾ* in *ysʾlhʾ*; 20b *Mawsūʿa* hat *ḥdd* statt *ğdd*; 21b *Mawsūʿa* hat *ḍḥyyt* statt *ṯḥyyt*; 28b *Mawsūʿa* hat *yaġtafiru* statt *yaqtafiru*; 30a *Mawsūʿa* hat wieder Hamzaträger *ʾalif* statt *yāʾ*.

[15] al-Murtaḍā: *al-Amālī* , II, S. 19–24.

[16] al-Baġdādī: *Ḫizāna*, I, S. 187–200.

[17] al-Mubarrad: *al-Kāmil fī l-Luġa wa-l-Adab*. Beirut s.d., II, S. 348–50.

[18] Ibn al-Šağarī: *Muḫtārāt*, S. 31–42.

[19] d.h. al-Qurašī al-Nağafī: *Ḥamāsat al-Qurašī* (von der *Mawsūʿa* übernommen).

[20] al-Yazīdī: *Marātī*, S. 57–66.

[21] al-Aṣmaʿī: *al-Aṣmaʿīyāt*. (ed. A. M. Šakir, ʿA. Hārūn), Kairo 1964, S. 91.

[22] al-Baṣrī: *al-Ḥamāsa al-Baṣrīya*, (ed. ʿA. S. Jamāl), Kairo, 1999, II, S. 701–5.

[23] al-Ṭayālisī: *al-Mukāṯara ʿinda l-Muḏākara*, (ed. R. Geyer), Wien & Leipzig, 1927, 8–10.

[24] Abū Ḥayyān al-Tawḥīdī: *al-Imtāʿ wa-l-Muʾānasa*, (von der *Mawsūʿa* übernommen)

Qurašī	Murtaḍā *Amālī*	Kizāna	Mubarrad	Ibn al-Šağarī	al-Qurašī al-Nağafī	Yazīdī	Aṣmaʿī	al-Baṣrī	Ṭayālisī	Tawḥīdī
11	9v	9v	-	8v	9	9	9v	15	9	-
12	26V	25V	8V	11v	25V	26V	10	16	23	8v
13	10v	10v	9V	12	10	10	11v	7V	10	9v
14	11v	11v	-	21v	11v	11v	17	11v	11	-
15	15	15	6v	9	15	15	15v	9	14	6v
16	12V	12V	-	-	12V	12V	12V	12V	12	-
17	27V	26V	-	23V	26v	27V	25V	28V	24V	-
18	13	13	23V	30V	13	13	13	13	13	21V
19	14V	14V	19V	27V	14V	14V	14V	-	27V	17v
20	16v	16v	-	20	16v	16v	16	27	-	-
21	17v	17v	21V	26V	17V	17v	33V	22	16	19v
22	18	18	14v	17	18	18	21	10	17	14
23	-	-	-	-	-	-	-	23	-	-
24	19	19	7v	10v	19	19	20v	24V	18	7
25	21	22	12a-13bv	14	21	22	19a-18b	18	33	12
26	24v	25v	11v	13v	24v	25v	24v	20v	22	11V
27	23	24	18V	22	23	24	23	17V	21	16V
28	27V	28V	-	-	27v	28V	26v	14v	25	-
29	22v	23v	13a-12bv	15v	22	23v	18a-19b	19	20	13
30	28V	29V	15V	19v	28V	29v	27v	-	26	15V
31	-	-	-	-	-	-	-	-	-	-
32	29v	31v	-	25v	29v	30v	30v	29v	28	-
33	-	30V	16V	28v	-	-	28V	25	29	-
34	30V	32V	20V	24v	30V	31v	32V	-	30	18V
35	-	-	-	-	-	-	-	-	-	-
36	32v	34v	22v	29v	32v	33v	31v	26	32	20v
-	20	20	10	16	20	20	22	21	19	10
-	-	21	-	-	-	21	-	-	-	-
-	31	33	-	-	31	32v	-	-	31	-
-	-	-	17	-	-	-	29	-	-	-
-	-	-	-	18	-	-	-	-	-	-
-	-	-	-	-	-	-	-	-	34	-

Aus diesem Schema lässt sich entnehmen, dass wir es mit drei Rezensionen zu tun haben:

Die erste: al-Qurašī (1. Hälfte des 10. Jh.) [– *al-Mawsūᶜa*].

Die zweite: al-Aṣmaᶜī (gest. 828) – al-Yazīdī (922) – al-Ṭayālisī (2. Hälfte des 10. Jh.) – al-Murtaḍā (1044) – [al-Qurašī (al-Nağafī) (?)] – al-Baġdādī (1682).

Die dritte: al-Mubarrad (899) – al-Tawḥīdī (vor 1023) – Ibn al-Šaǧarī (1147).

Die Versfolge in der zweiten, weitest verbreiteten Rezension ist bis zu Vers 20 klar und würde nach der al-Qurašī-Zählung lauten:

1–5–6–3–7–8–9–10–11–13–14–16–18–19–15–20–21–22–24–20.

Danach wird die Versfolge unsicher.

In der dritten Rezension ist die Versfolge des Gedichts nur am Anfang nachzuvollziehen: 1–5–6–3–7–8. Danach wird die Folge unsicher, mit der Besonderheit, dass die Verse 12 und 13 zerschnitten sind.

Ein näherer Blick auf die Rezensionsgeschichte des Gedichts, wie sie aus den unterschiedlichen Sammlungen hervorgeht, lässt erkennen, wie die meist vorkommende Reihenfolge historisch überliefert ist: die älteste Sammlung ist die von al-Aṣmaᶜī (gest. 828 AD). Ihr folgen al-Yazīdī (922 AD), al-Murtaḍā (1044 AD), al-Baġdādī (1682 AD).

Al-Qurašīs Rezension ist einzigartig. Die anderen Gelehrten folgten ihr offenbar nicht. Dennoch ist sie alt, denn wir müssen mit einem Datum in der ersten Hälfte des 10. Jahrhunderts rechnen, also zeitgleich mit der Sammlung al-Yazīdīs.

Von der späteren Sammlung der *Ḥamāsa* des al-Baṣrī kann gesagt werden, dass sie ebenfalls einigermaßen für sich steht, obwohl sie einige Merkmale sowohl mit der al-Qurašī- als auch mit der al-Aṣmaᶜī-Rezension teilt.

Auch al-Mubarrads Rezension geht weit zurück: gegen 900 AD. Man kann eigentlich nicht sagen, dass Ibn al-Šaǧarīs Rezension darauf basiert, eher, dass beide Rezensionen außerhalb des *mainstream* stehen.

Über die unterschiedlichen Rezensionen lässt sich Folgendes bemerken:

In der al-Qurašī-Rezension sind Verse zu finden, die aus keiner anderen Rezension bekannt sind: 2–4–31–35.

Vers 18 der Version Ibn al-Šaǧarīs ist als Nachdichtung zu Vers 10 in seiner Rezension zu betrachten (= ungefähr gleichlautend mit al-Qurašī 24): *talqāhu ka-l-kawkabi l-durriyyi munṣalitan * bi-l-qawmi laylata lā naǧamun wa-lā qamaru.* Geyer[25] lässt beide Verse nebeneinander stehen. Es sind die Verse 28–29 in seiner Ausgabe.

Al-Mubarrad 17 (= al-Aṣmaᶜī 29) wird von den modernen Editoren, ausser von Geyer, ausgeklammert. Wir werden später sehen, wie dieser Vers zu beurteilen ist.

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[25] R. Geyer: *Gedichte*, S. 267 (Arabischer Text).

Al-Yazīdī 21 (= *Ḫizāna* 21) ist zwar wenig belegt, aber an sich interessant, weil dieser Vers eine besondere Tugend beleuchtet: Keuschheit und Rücksicht auf Frauen.

Vers *Ḫizāna* 20 ist in allen Rezensionen mit Ausnahme von al-Qurašī zu finden. Dieser Vers steht nicht im Widerspruch zum Thema des Gedichts und ist deshalb wohl beizubehalten.

Ḫizāna 33 ist ein schwieriger Fall. Er kommt in den meisten Rezensionen vor, wird aber unterschiedlich vokalisiert. Die Vokalisierung ist ausschlaggebend. Liest man *wa-aqbala l-ḫayla* oder *wa-aqbala l-ḫaylu*? Die erste Lesung setzt voraus, dass Muntašir sein Pferd aus Taṯlīṯ heranführte, die zweite, dass das Pferd des *nāʿī* aus der Gegend von Taṯlīṯ her ritt. Andererseits hat dieser Vers kaum einen Bezug auf den Text als Ganzes. Man könnte daraus schließen, dass ein Beleg (*šāhid*) für den Ortsnamen Taṯlīṯ auf irgendeine Weise irrtümlich seinen Weg in das Gedicht gefunden hat. Das Wort *raġwān* ist in den Lexika nicht zu finden, nur in Yāqūts *Muʿjam al-Buldān*, wo eine nähere Bestimmung des Ortes fehlt. Es wird lediglich Aʿšāʿs Vers zitiert.[26]

Obwohl es einzelne Versgruppen gibt, die einen inneren Zusammenhang aufweisen, lässt sich eine logisch zusammenhängende, thematische Versfolge für das ganze Gedicht eigentlich nicht feststellen.

Die Urheberschaft von Muntaširs Marṯiya[27]

Für seine Ausgabe der „Gedichte von Abū Baṣīr Maymūn Ibn Qays al-Aʿšā nebst Sammlungen von Stücken anderer Dichter des gleichen Beinamens usw." hat Rudolf Geyer alle Textfragmente zusammengebracht, die zu seiner Zeit mit diesem Gedicht in Verbindung gebracht werden konnten. Dazu gehören auch die drei Anfangsverse, die aber auch der Dichterin al-Daʿǧāʿ zugeschrieben werden, einer Tochter oder Schwester des al-Muntašir,[28] oder gar der Laylā (al-Aḫyalīya), was sicherlich falsch ist.

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[26] Yāqūt: *Muʿjam al-Buldān*, Dār Ṣādir, Beirut, 1977, III, 54.

[27] Die in diesem Artikel benutzte Transkription ist als Transliteration des arabischen Originals gedacht. Deshalb sind die metrisch erforderlichen Formen der Suffixe ebenso ignoriert wie die Länge der Endvokale der Verse. Damit versuche ich, den Eindruck zu vermeiden, dass wir uns eine Aussage über die Weise, wie diese Gedichte geklungen haben könnten, erlauben können. Wer die Frage nach der metrischen Struktur aufwirft, kann sie aufgrund eigener Kenntnisse sowie der Transliteration selber lösen.

[28] Sie dazu R. Geyer: *Gedichte*, 249–51 (deutscher Text); Ibn Rašīq: *al-ʿUmda*. (ed. ʿA. M. Hārūn), Kairo 1934, II, S. 144; L. Cheikho: *Riyāḍ al-Adab fī Marāṯī Šawāʿir al-ʿArab*. Beirut 1897, S. 118.

Geyer entschließt sich dennoch dazu, das Gedicht als Ganzes dem al-Aʿšā zuzuschreiben, was aber aus inhaltlicher und thematischer Sicht fragwürdig ist:

—Einerseits erfolgt am Anfang des al-Aʿšā-Textes (*atānī lisānun...*) eine detaillierte Beschreibung des Anreitens des *nāʿī*, andererseits heißt es bei Geyer Vers 5, dass die Nachricht *muraǧǧama* war, verwirrend, unklar.[29] Das Eine schliesst das Andere aber aus. Man kann ja kaum eine Nachricht als unklar empfinden, wenn sie in aller Öffentlichkeit deutlich angekündigt und ausgesprochen wird.

—In Geyer Vers 2 heißt es: *qad kuntu aʿhaduhu wa-l-dāru ǧāmiʿatun*: ich lebte mit ihm zusammen (d.h. zur gleichen Zeit) im selben Haus. Das könnte zwar auf einen Halbbruder wie al-Aʿšā zutreffen, ist jedoch eher mit einem direkten Familienmitglied in Verbindung zu bringen wie z.B. mit Muntašīrs Schwester oder Tochter al-Daʿǧāʿ.

—Mit diesen zwei Versen (Geyer 1 und 4) hat diese *marṯiya* eigentlich zwei Anfänge:

    1. *hāǧa l-fuʿāda ʿalā ʿirfānihi l-ḏikaru...*

    4. *innī atānī lisānun lā usarru bihi...*

—Die Ausgaben von Cheikho und Geyer stellen als einzige diese drei Verse dem Gedicht voran.

Man könnte also annehmen, dass wir es hier eigentlich mit zwei unterschiedlichen Anfangsversgruppen zu tun haben, die fälschlich zusammengebracht worden sind. Das könnte bedeuten, dass hier eigentlich zwei verschiedene *marāṯī* mit einander verwoben wurden: eine von al-Aʿšā und die andere von al-Daʿǧāʿ. In diesem Fall könnte man erwarten, dass in unserem Text noch mehr Verse aus der *marṯiya* der al-Daʿǧāʿ zu finden sind.

Zu einer möglichen *marṯiya* von al-Daʿǧāʿ könnten auch die folgenden Verse gehören (nach der Zählung Geyers):

5. *ǧāʿat muraǧǧamatan qad kuntu aḫḏaruhā law kāna yanfaʿunī l-išfāqu wa-l-ḥaḏaru,*

aus dem oben bei der Besprechung von *muraǧǧamatan* angegebenen Grund.

6. *iḏā yuʿādu lahā ḏikrun ukaḏḏibuhu ḥattā atatnī bihā l-anbāʿu wa-l-ḫabaru.*

Wenn dieser Vers zu al-Aʿšās Text gehört, dann liegt eine Dublette und ein innerer Widerspruch vor, da in Vers 4b steht: *lā kiḏbun minhu wa-lā saḥaru*: eine nicht zu leugnende Nachricht.

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[29] R. Geyer: *Gedichte*. S. 266 (arabischer Text): 5. *ǧāʿat muraǧǧamatan qad kuntu aḫḏaruhā ....*

7. *fa-bittu muktaᶜiban ḥarrāna andubuhu wa-lastu adfaᶜu mā yaᵗī bihi l-qadaru*.[30]

Dieser Vers ist in der thematischen Folge von al-Aᶜšā eigentlich fehl am Platz, weil es ihm im darauf folgenden Vers schwindlig wird, als der *nāᵗī* aus Taṯlīṯ einreitet, und von einer Nacht noch gar nicht die Rede ist. Außerdem ist die Einsamkeit der Nacht eher ein Thema der Frauen*marṯiya*.[31]

25. *warrādu ḥarbin šihābun yustaḍāʾu bihi kamā yuḍīʾu sawāda l-ẓulmati l-qamaru.*

Der Vers fängt mit einer Formel an (*faᶜᶜālu faᶜlin*), die in *marāṯī* von Frauen nicht ungewöhnlich ist *(tarṣīᶜ)*.[32]

26. *ḍaḫmu l-dasīᶜati mitlāfun aḫū ṯiqatin ḥāmī l-ḥaqīqati minhu l-ǧūdu wa-l-faḫaru* stellt eine Häufung von Epitheta dar, die für die Frauen*marṯiya* nicht ungebräuchlich sind. Manche Teile dieses Satzes sind wörtlich in anderen *marāṯī* zu finden.

28 und 29. Die Verse sind einander sehr ähnlich; man könnte sie sogar als austauschbare Varianten aufzufassen:

talqāhu ka-l-kawkabi l-durrīyi munṣalitan bi-l-qawmi laylata lā naǧmun wa-lā qamaru

ṭāwī l-maṣīri ᶜalā l-ᶜazzāᶜi munṣalitun bi-l-qawmi laylata lā māʾun wa-lā šaǧaru

Der zweite Vers passt besser in die Thematik der Hagerkeit al-Muntaširs als 28; letzterer thematisiert eher eine allgemeine körperliche Schönheit und Leichtigkeit, sich unter Leuten zu bewegen. Deshalb würde ich 29 in al-Aᶜšāᶜs *marṯiya* aufnehmen und 28 eher in die der al-Daᶜǧāᶜ. Über die Möglichkeit einer gegenseitigen Beeinflussung lässt sich nur spekulieren.

31. Der Vers spricht ein typisches Thema an, dem man in der Frauen*marṯiya* begegnet: Keuschheit und Scheu den Frauen gegenüber.[33]

lā yahtiku l-sitra ᶜan unṯā yuṭāliᶜuhā wa-lā yušaddu ilā ǧārātihi l-naẓaru

Dieser Vers gehört wohl auch in die *marṯiya* der al-Daᶜǧāᶜ.

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[30] Die Einsetzung männlicher Adjektive ist in *marāṯī* von Frauen in solchen Fällen nicht selten: al-ḫansāᶜ, *Dīwān*, (ed. I. ᶜAwaḍayn), al-Manṣūra, 1985, S. 58: *abat ᶜaynī wa-ᶜāwadati l-suhūdā wa-bittu l-layla muktaᶜiban ᶜamīdā*. In einer anderen *riwāya* heist es: ... *ǧāniḥatan ᶜamīdā*.

[31] So z.B. Suᶜdā bint al-Šamardal in al-Aṣmaᶜī: *Aṣmaᶜīyāt*. S. 101, Verse 1–2.

[32] Siehe dazu G. J. A. Borg: *Poesie*. S. 83–90.

[33] Siehe G. J. A. Borg: *Poesie*. S. 149–50.

41. Der Vers ist seinem Inhalt zufolge wohl einige Zeit nach dem Tod al-Muntaširs zu datieren:

innī ašuddu ḥazīmī [34] *ṯumma yudrikunī minka l-balāʾu wa-min ʾālāʾika l-ḏikaru*

Ich reiße mich zusammen, dann ergreift mich aber der Schmerz um dich und die Erinnerungen an deine Wohltaten.

Da al-Aʿšās *marṯiya* anscheinend kurz nach dem Tod al-Muntaširs verfasst wurde, nehme ich an, dass auch dieser Vers zu der *marṯiya* der al-Daʿǧāʿ gehört.

44. Die an die Mörder al-Muntaširs gerichtete Drohung, dass ihre Frauen zu Gefangenen werden können, passt wohl auch eher in die Gedankenwelt einer Frau:

in taqtulūhu fa-qad tusbā nisāʾukumū wa-qad yakūnu lahu l-maʿlātu wa-l-ḫaṭaru.

Wenn ihr ihn schon getötet habt, dann ist es doch so, dass eure Frauen gefangengenommen wurden, während er eine vornehme und ehrenwerte Stellung einnahm.

46. Der letzte Vers dieser *marṯiya* ist äusserst konventionell – der Abschied:

fa-iḏā salakta sabīlan kunta sālikahā fa-ḏhab fa-lā yubʿidanka llāhu muntaširu.

Wenn du jetzt einen Weg gehst, dem du schon immer gefolgt bist, dann gehʾ ihn auch, und möge Gott dich nicht verloren gehen lassen, Muntašir.

Die folgenden Verse gehören also wahrscheinlich zu einer *marṯiya* der Daʿǧāʿ. Obwohl wir kaum einen Anhaltspunkt für Versfolge und Vollständigkeit des Textes haben, scheint es sinnvoll, die Verse 5 und 6 umzudrehen. Sie werden damit 4 und 5 in diesem Gedicht:

1. *hāǧa l-fuʾāda ʿalā ʿirfānihi l-ḏikaru wa-zawru (ḏikru) maytin ʿalā l-ayyāmi yaḫtaṣiru*

2. *qad kuntu aʿhaduhu wa-l-dāru ǧāmiʿatun wa-l-dahru fīhi ḏahābu l-nāsi wa-l-ʿibaru*

3. *iḏ naḥnu nunbaʾu aḫbāran nukaḏḏibuhā wa-qad atānī wa-law kaḏḏabtuhu l-ḫabaru*

4. *iḏā yuʿādu lahā ḏikrun ukaḏḏibuhu ḥattā atatnī bihā l-anbāʾu wa-l-ḫabaru*

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[34] Die Mawsūʿa al-Šiʿrīya verweist auf eine Stelle in der *Ṣiḥāḥ* wo es heisst: *al-ḫayzūmu wasaṭu l-ṣadri wa-mā yuḍammu ʿalayhi l-ḥizām; wa-l-ḫazīmu miṯluhu. yuqāl: šadadtu li-hāḏā l-amri ḥazīmī.*

5. *ğāʾat muraǧǧamatan qad kuntu aḫḏaruhā law kāna yanfaʿunī l-išfāqu wa-l-ḥaḏaru*

6. *fa-bittu muktaʾiban ḫayrāna andubuhu wa-lastu adfaʿu mā yaʾtī bihi l-qadaru*

7. *warrādu ḥarbin šihābun yustaḍāʾu bihi kamā yuḍīʾu sawāda l-ẓulmati l-qamaru*

8. *ḍaḫmu l-dasīʿati mitlāfun aḫū ṯiqatin ḥāmī l-ḥaqīqati minhu l- ǧūdu wa-l-faḫaru*

9. *talqāhu ka-l-kawkabi l-durrīyi munṣalitan bi-l-qawmi laylata lā naǧmun wa-lā qamaru*

10. *lā yahtiku l-sitra ʿan untā yuṭāliʿuhā wa-lā yušaddu ilā ǧārātihi l-naẓaru*

11. *innī ašuddu ḥazīmī ṯumma yudrikunī minka l-balāʾu wa-min ālāʾika l-ḏikaru*

12. *in taqtulūhu fa-qad tusbā nisāʾukumū wa-qad yakūnu lahu l-maʿlātu wa-l-ḫaṭaru*

13. *fa-iḏ salakta sabīlan kunta sālikahā fa-ḏhab fa-lā yubʿidanka llāhu muntaširu*

Übersetzung:

1. Die Erinnerungen überfielen das Herz, als es zur Einsicht kam, und das Gedenken eines Toten zerbricht das Herz für ewig.[35]

2. Ich war mit ihm zusammen, weil unser Haus uns vereinigte, aber im Schicksal liegt das Gehen der Menschen fest und das Vergießen der Tränen.

3. Weil uns Berichte erreichen, die wir nicht wahr haben wollen; mich erreichte (auch) ein Bericht, auch wenn ich ihn nicht wahrhaben wollte.

4. (Auch) als sie immer wiederholt wurden, blieb ich sie von mir weisen, bis sie mir andere Berichte brachten (die seinen Tod bestätigten).

5. Die Berichte kamen als Gerüchte; ich fürchtete sie schon, wenn nur Besorgnis und Furcht etwas nützten.

6. Ich verbrachte die Nacht in Trauer, verwirrt beklagte ich ihn, aber ich kann nicht von mir fernhalten, was das Schicksal bringt.

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[35] Der zweite Halbvers ist problematisch, vor allem wegen "*zawr*". Cheikho liest *wa-zawru maytin ʿalā l-ayyāmi muḫtaṣaru* und scheint dies zu interpretieren als "und das Besuchen eines Toten ist für immer abgebrochen"; Ibn Rašīq liest *wa-ḏikru ḫawdin* (var.: *maytin*) *ʿalā l-ayyāmi mā yaḏaru*: "das Nennen eines Mädchens ist, was für immer gelassen wird". Mein Vorschlag würde lauten: *wa-ḏikru maytin ʿalā l-ayyāmi yahtaṣiru*. Für die Belegstellen siehe Anm. 26.

7. Immer unterwegs zum Kampf, ein Feuer, dessen Glut ersehnt wird, wie der Mond die Schwärze der Finsternis erleuchtet.

8. Generös, verschwenderisch mit seinem Besitz, ein Vertrauenswürdiger, Verteidiger dessen, was Schutz verdient; von ihm kommen Güte und Stolz.

9. Du begegnest ihm gleich dem leuchtenden Stern, strahlend unter den Leuten in der Nacht, wo es kein Stern- oder Mondlicht gab.

10. Er nimmt nicht die Verhüllung einer Frau weg, und betrachtet sie, und sein Blick wird von den Nachbarinnen nicht gefesselt.

11. Ich reiße mich zusammen, dann ergreift mich aber der Schmerz um dich und die Erinnerungen an deine Wohltaten.

12. Wenn ihr ihn schon getötet habt, dann ist es doch so, dass eure Frauen gefangengenommen wurden, während er eine vornehme und ehrenwerte Stellung einnahm.

13. Wenn du jetzt einen Weg gehst, dem du schon immer gefolgt bist, dann geh' ihn auch, und möge Gott dich nicht verloren gehen lassen, Muntašir.[36]

Damit haben wir ein Gedicht vor uns, das alle Merkmale einer Frauen*marṯiya* hat:

a. Die Verszahl ist für eine *marṯiya* normal: ein mittellanges Gedicht

b. Die thematische Gliederung ist normal:

- Das Eintreffen der Todesnachricht und die erste Trauer **(1–2)**
- (Verweise auf) Dialoge in der ersten Unsicherheit **(3–5)**
- Die losbrechende Trauer **(6)**
- Die Legitimation der Trauer: *madīḥ* **(7–10)**
- Erneutes Aufkommen der Trauer infolge der Erinnerungen **(11)**
- Rachedrohung gerichtet an die Gegner: *taḥrīḍ* **(12)**
- Abschied und Segenswunsch **(13)**

Nach der Ausklammerung der *marṯiya* der Daʿǧāʿ uḫt al-Muntašir bleiben uns in der Zählung von Geyer noch 46–13 = 33 Verse. Von diesen ist Vers 43 (*wa-aqbala l-ḫayla min taṯlīṯa muṣǧiyatan…*) auszuschließen, weil er in diesem Kontext keinen Sinn ergibt. Weiterhin ist Vers 19 wohl als alternative Rezension zu Vers 21 zu verstehen:

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[36] An diesem Vers – offensichtlich der Schlussakkord des Gedichts – ist gut zu erkennen, wie unterschiedliche Rezensionen ähnlich und zugleich verschieden sein können: al-Baġdādī: *iḏā salakta sabīlan anta sālikuhu * fa-ḏhab fa-lā yubʿidanka llāhu muntaširu*. Al-Qurašī: *fa-in salakta sabīlan kunta sālikahā * fa-ḏhab fa-lā yubʿidanka llāhu muntaširu*. Beide Rezensionen sind ihrem Sinne nach gleich, aber wegen des Perfekts *kunta* bei al-Qurašī gebe ich doch der al-Baġdādī–Rezension den Vorzug.

19: *yamšī bi-baydāʾa lā yamšī bihā aḥadun wa-lā tuḥassu bihā ᶜaynun wa-lā aṯaru*

21: *lam tara arḍan wa-lam tasmaᶜ bi-sākinihā illā bihā min bawādī waqᶜihi aṯaru*

Es bleiben also 31 Verse, die eine *marṯiya* bilden, die im Nachfolgenden wiederherzustellen ist. Dabei habe ich mich von einem sinnvollen, zusammenhängenden Themenablauf führen lassen. Es folgt die Rekonstruktion mit den Verszahlen von Geyers Ausgabe an jedem Versende:

1. Es erreichte mich ein Bericht, über den ich mich nicht freuen kann, (und zwar) aus dem hohen Teil des Naǧd, ein ungewöhnlicher, aber nicht verwunderlicher Bericht, wofür man mich nicht auch noch tadeln sollte (wegen meiner Trauer). **(4)**

2. Mir wurde schwindlig, als alle ankamen und ein Reiter aus Taṯliṯ zu Besuch kam (8)

3. Er ritt an den Leuten vorbei, bog nicht zu dem einen oder anderen ab, bis wir uns begegneten, und ganz Muḍar stand uns gegenüber. **(9)**

4. "Derjenige für dessen Todesansage Du aus Taṯliṯ ausgeritten bist, sein ist die Freigebigkeit, das Verbieten und das Gebieten." **(10)**

5. "Du[37] verkündest den Tod eines Mannes, dessen Kochtopf dem Stamm nicht nur ab und zu vergönnt wurde, wenn der Regen die Frist des Untergangs der Sterne überschritt".[38] **(11)**

Dann folgt der am klarsten zusammenhängende Teil dieser *marṯiya*, d.h. die von *iḏā* abhängigen Sätze mit dem sinnvollen Übergang zur Pflicht, den Stamm zu versorgen, die in Zeiten des Hungers von Muntašir ernst genommen wurde:

6. Wenn die Kamelinnen nach ihrer Stillzeit mit verdorrten Schultern und staubigen Haaren umherziehen, die Kamelinnen, deren Fett und Haut schlecht geworden sind. **(12)**

7. Wenn der weiße Reif am Hund ihn einen Unterschlupf suchen lässt und die Verstecke dem Stamm gegen seine (= des Reifs) Kälte Unterschlupf bieten. **(13)**

8. Dann ist die Versorgung des Stammes mit Essen seine erste Pflicht – das wussten sie seit jeher – und dann (wenn es kein Essen mehr gibt) der Gang zu den Kamelen, wenn ihnen (d.h. dem Stamm) die Vorräte ausgegangen sind. **(14)**

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[37] Die zweite Person hier im Anschluss an die Edition Geyers.

[38] Hier ist doch wohl eher mit der Mehrzahl der Rezensionen *aḫṯā* zu lesen statt *ḫawwā* bei al-Qurašī.

Weil es darum geht, dass die Kamele in Zeiten von Hungersnot geschlachtet werden, lassen sich hier noch gut die Verse 15 und 16 anreihen:

9.   Das ältere Kamel traut seinem Vorbeigehen (oder: Schlagen[39]) mit dem Schwert nicht, wenn die Reise schnell vorangeht.[40] **(15)**

10.   Die (neunjährigen) Kamele zerren an ihren Stricken wenn sie ihn bemerken, sosehr dass die Stricken sich in ihre Kehle schneiden.[41] **(16)**

An dieser Stelle wäre es m.E. treffend, die Thematik der Hagerkeit Muntaširs einzuführen als Gegensatz zu seiner Bereitwilligkeit, in Zeiten des Hungers seine Kamele für die Leute des Stammes zu schlachten:[42]

11.   Von hagerem Bau, schmal in den Hüften, abgenutzt hängt sein Kleid vom Leibe, das Reisen in der Nacht geringschätzend. **(27)**

12.   Er lungert nicht herum bei dem, was im Kochtopf ist, spähend, und die "Hungerschlange" nagt nicht an seinen Rippenenden. **(32)**

13.   (Nein...) ein längsgeschnittenes, geröstetes Stückchen Leber, das er zufällig bekommt, genügt ihm und sein Durst wird mit einem kleinen Trinknapf gelöscht. **(34)**

14.   Hungrig in den Eingeweiden, sich aufmachend für die Anstrengung inmitten seiner Leute in der Nacht, in der es kein Wasser und keinen Baum gibt. **(29)**

15.   Die Leute des Stammes zwingt er nicht zur Eile, um die Töpfe am Morgen zum Kochen zu bringen, wenn man sich das Auge noch nicht ausgerieben hat.[43] **(36)**

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[39] ʿ*adwa* oder *ḍarba*.

[40] Im zweiten Halbvers bin ich Geyers Text gefolgt.

[41] Auch hier scheint mir die Variante in der Mehrheitsrezension besser: *ḥīna tubṣiruhu* statt *ḥīna yafǧaʿuhā*, denn von einem unerwarteten Kommen, kann aus der Sicht der Tiere kaum die Rede sein.

[42] Die Lebhaftigkeit dieses Abschnitts wird hoffentlich durch die Präsens-Übersetzung unterstrichen.

[43] Dieser Vers ist ziemlich kompliziert. Es gibt im wesentlichen zwei Rezensionen. Al-Qurašī Vers 28: *al-muʿǧilu l-qawmi an taġlī marāǧiluhum / qabla l-ṣabāḥi wa-lammā yumsaḥi l-baṣaru*. Die anderen Rezensionen mit kleineren Varianten: *lā yuʿǧilu l-qawma an taġlī/ā marāǧilu/ahum / wa-yudliǧu l-layla ḥattā yafsu/aḥa l-baṣaru*. In der ersten Rezension macht Muntašir also etwas (Qurašī Vers 28), in der anderen jedoch nicht. Der Ausdruck *yafsa/uḥa l-baṣaru* ist schwer zu verstehen. Ich habe mich letztendlich dazu entschlossen, die Mehrheitsrezension für 18A zu wählen und die al-Qurašī-Rezension für 18B.

16.   Er fühlt nicht (als Entschuldigung) nach dem (wenigen) Fett an seinem Bein als Folge von Hunger und Erschöpfung, und er blieb dem Stamm voraus die Spur folgen. **(33)**

Jetzt, nachdem Muntašir als verzichtender Held beschrieben ist, der trotz Hunger und Durst dem Stamm voraus geht, kann er umso effektvoller als Kämpfer dargestellt werden:

17.   Ein "Bruder der Kriege", ein Gewinner, wenn sie in Not waren, und in der Furcht vor ihm (beim Feind) stecken Ernst und Vorsicht. **(24)**

18.   Es ist als ob, nachdem die Leute sich der Verzweiflung sicher sind, vor ihnen die guten Nachrichten strahlen. **(20)**

In Krisensituationen ist Muntašir also immer vorne im Kampf dabei. Krisen sind in seiner Anwesenheit jedoch ständig zu erwarten. Dennoch gewinnt er immer.

19.   Du wirst keinen Streifen Land finden, keinen hören, der da wohnt, oder es gibt da von den ersten Schritten seines Absteigens eine Spur.[44] **(21)**

20.   Auf keinem Pfad trauen die Leute seinem Gehen am Abend oder am Morgen, (denn) auch wenn er keinen Angriff plant, wird dieser doch (immer) erwartet. **(35)**

21.   Wenn dann ein Feind dich eines Tages in einem Streit trifft, dann wirst du gleich auch schon die Oberhand bekommen und gewinnen (d.h. mit Muntaširs Hilfe). **(23)**

22.   Er, der der Schlucht folgt, während das Geschick ihm günstig ist, ist das Gift für die Feinde und (mit der Lanze) kämpft er gegen den Gegner.[45] **(45)**

Jetzt sind Muntašir's Aufopferungsbereitschaft und sein Mut im Kampf dargestellt und gepriesen. Damit wird es Zeit, seine sonstigen Tugenden zu erwähnen:[46]

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[44] Eine völlig andere, aber dem Sinne nach einigermaßen identische Rezension in al-Qurašī: *Ǧamhara*. S. 136: *yamšī bi-baydāʾa lā yamšī bihā aḥadun * wa-lā yuḥassu ḫalā l-ḫāfī bihā aṯaru*: er läuft herum in einer Wüste, wo keiner geht, und abgesehen von den *jinnen* wird da keine Spur wahrgenommen.

[45] *al-sāliku l-ṯaġra wa-l-maymūnu ṭāʾiruhu sammu l-ᶜudāti li-man ᶜādāhu muštaǧiru*.

[46] Ich habe 22 und 23 wegen des Gegensatzes so aneinander gereiht: einerseits geht er alleine in die unbekannte Wüste, andererseits wird ihm sogar dann nicht getraut, wenn er mit den Stammesgenossen unterwegs ist.

23.   Ein Freigebiger von allen Sachen, die man sich wünschen kann: er gibt sie (spontan) oder er wird darum gebeten;[47] Ungerechtigkeit weist er zurück[48] als edler *sayyid,* der er ist.[49] **(17)**

24.   (ein Mann) in dessen Güte es keine Wohltat gab, mit der er einen Freund verstimmte, und in deren (d.h. der Wohltat) Sauberkeit nichts Verschmutztes war. **(18)**

Damit sind aus dem Tugendkatalog schon einige Elemente genannt: selbstlose und uneingeschränkte Freigebigkeit, seine Verantwortung dem Stamm gegenüber, Aufopferung und Verzicht, Mut und Hilfsbereitschaft im Kampf, Dreistigkeit und Rückhaltlosigkeit. Daran schließen sich die folgenden Tugenden an:

25.   Wenn du ihn zu warten bittest, dann hat er keine Eile und wenn du ihm freundlich begegnest, zeigt er keine Grobheit.[50] **(22)**

26.   Er findet eine Sache nur so lange schwer, bis er sie in Angriff nimmt, und er nahm alles auf sich außer etwas Bösem. **(30)**

27.   Wie gut (oder wie viel besser) geht es dir, wenn du ihn herbei bittest, wenn es dir gut geht, und wie gut geht es dir auch dann, wenn du ihn einlädst, wenn es dir schlecht geht. **(38)**

28.   Wenn die Nufayl ihn nicht verraten hätten – sie sind nun mal verräterisch – dann hätte er den Stamm morgens zur Tränke geführt, eine Führung, die ohne das Verlassen der Wasserstelle geblieben wäre (d.h. immer wieder). **(42)**

29.   Du hast in unserem Tabu-Gebiet den Bruder-des-Vertrauens getroffen, Hind bint Asmāᶜ (oder Salmā). Möge der Sieg dir nicht bekommen! **(39)**

Allmählich geht das Gedicht zur Kommunikation über: in 29 wurde der Mörder angesprochen; in 30 wendet sich der Dichter den Stammesgenossen zu und schließlich in 31 dem verstorbenen Muntašir:

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[47] Es wird hier *yasᵓaluhā* und *yusᵓaluhā* gelesen.

[48] Mit al-Yazīdī, *Marāṯī*, 61 und anderen Rezensionen ist hier wohl *yaᵓbā* zu lesen statt *yaḫšā*.

[49] Der al-Yazīdī-Kommentar fasst *minhu* als *muᵓakkada li-l-kalām* auf: *liᵓannahu l-nawfalu l-zufaru.*

[50] Der Wortwahl lässt auch auf diese Versfolge schließen: [25] *man laysa....*[26a] *wa-laysa....*[26b] *wa-laysa ...*

30.   Wenn wir außer uns sind vor Trauer, dann ist es, weil unser Schicksal uns gebrochen hat, und wenn wir ausharren, dann ist es, weil wir eine Sippe von Ausharrenden sind. **(40)**

31.   Wir lebten eine harte Zeit lang mit ihm zusammen, aber dann hat er uns verlassen;[51] so ergeht es der aus zwei Stücken gemachten Lanze: sie zerbricht. **(37)**

Die "Zitierbarkeit" dieser Gedichte

Wenn es nach al-Baġdādī so ist, dass diese Verse vielfach von den Gelehrten zitiert werden, dann müssten wir davon noch Spuren finden können. Dazu habe ich einen Suchbefehl in der *Mawsūᶜa* benutzt und dabei sind die folgenden Stellen ans Tageslicht gekommen;[52]

(die Zahlen der Verse folgen der Verszählung Geyers)

Quelle	Verse
Ibn al-Sikkīt, *Iṣlāḥ al-Manṭiq*	24 (3x), 32a + 33b (2x), 4
Ibn Durayd, *al-Ištiqāq*:	8b, 39
Abū ᶜUbayd bn Sallām, *al-Amtāl*:	8b
Abū al-Barakāt al-Anbārī, *al-Aḍdād*:	32, 34
Abū Ḥayyān al-Tawḥīdī, *al-Baṣāᶜir wa-al-Dakāᶜir*:	35
Ibn Ḥamdūn, *al-Tadkira al-Ḥamdūnīya*	11 (v), 18, 22, 17, 21, 35, 34, 30, 40, 44a + 37b, 46, 23 (V)[53]
Ibn Abī ᶜAwn, *al-Tašbīhāt*:	34
Al-Mubarrad, *al-Taᶜāzī wa-l-Marātī*:	4, 33a + 32b, 29 (V), 20
Ğāḥiẓ, *al-Ḥayawān*:	13
Abū ᶜUbayda, *al-Dībāğ*:	4, 9 (V), 46, 35, 33a + 32b, 34, 32a + 3
Al-Āmidī, *al-Muᶜtalif wa-l-Muktalif*:	4
Ibn Qutayba, *al-Maᶜānī l-Kabīr fī*	36 (V), 32b, 34

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[51] Qurašīs Wortwahl ist vielleicht schöner und moderner: *fa-waddaᶜanā* ("er hat von uns Abschied genommen) statt *fa-fāraqanā* ("er hat uns verlassen"), aber meist sind es wohl doch die Hinterbliebenen, die sich vom Toten verabschieden statt umgekehrt.

[52] Ich verfüge leider nicht über all diese Quellen; daher können die bibliographischen Angaben nur lückenhaft sein.

[53] Diese Verse werden in dieser Reihenfolge als ganzes Gedicht präsentiert.

Abyāt al-Maʿānī:

Al-Āmidī, *al-Muwāzana* usw.:	35
Al-Ǧurǧānī, *al-Wasāṭa* usw.:	35
Abū Hilāl al-ʿAskarī, *Ǧamharat al-Amtāl*:	34 (2x)
Al-Zamakšarī, *Rabīʿ al-Abrār wa-Nuṣūṣ al-Aḫbār*:	40 (v), 46
Ibn al-Ǧawālīqī, *Šarḥ Adab al-Kātib*:	33, 32
Ibn Qutayba, *ʿUyūn al-Aḫbār*:	17 (v), 22
Taʿlab, *Qawāʿid al-Šiʿr*:	25 (V), 35
Al-Rāġib al-Iṣfahānī, *Muḥāḍarāt al-Udabāʾ*:	33a + 32b
Al-Muzaffar al-ʿAlawī, *Naḍrat al-Iġrīḍ*:	23a + 44b
Qudāma bn Ǧaʿfar, *Naqd al-Šiʿr*:	30 (v)

Aus anderen Quellen:[54]

Ibn Sallām al-Ǧumaḥī (ed. Šākir, Cairo 1974), *Ṭabaqāt*, 210–2: 35, 33, 41, 40, 46, 30

al-Ǧāḥiẓ, *Bukalāʾ* (ed. al-Ḥāǧirī, Cairo, z.j.), 119: 34, 32/33

al-Ǧāḥiẓ, *Burṣān* (ed. Hārūn, Beirut, 1990), 244–45, 276: 33a/32b, 35

al-Qālī, *Amālī*, I, 16; II, 201: 34, 32

Ibn Abī Ṭāhir Ṭayfūr (Cairo, 1987), *Balāġāt*, 254: 27, 34 (Var. *kumaru* für *ġumaru*)

al-Iṣfahānī, *Aġānī* (Cairo, Dār al-Kutub), XI, 25–26: 27, 35 (eine anonyme Frau)

al-Murtaḍā, *Amālī*, II: 27, 35 (Laylā al-Akyalīya)

al-Anbārī, *Šarḥ al-Qaṣāʾid al-Sabʿ al-Ṭiwāl* (ed. Hārūn, Cairo, 1969), 58: 27

Ibn Durayd, *Ǧamharat al-Luġa* (ed. R.Baʿlabakī): 34 (5x), 39, 17 (3x), 32 (2x), 4 (2x), 21

al-Marzubānī, *Nūr al-Qabas* (ed. Sellheim), 250: 27, 35 (Laylā al-Akyalīya)

al-Kālidīyān, *al-Ašbāh wa-l-Naẓāʾir* (ed. Muḥ. Yūsuf, Cairo, 1958-65), II, 213: 35 (ukt al-Muntašir)

Abū Hilāl al-ʿAskarī, *Ǧamharat al-Amṯāl* (Beirut, 1988), I, 102, 195: 34; (II, 305): 32

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[54] Diese Angaben sind von Geert-Jan van Gelder.

al-Ḥātimī, *Ḥilyat al-Muḥāḍara* (Baghdad, 1979), I, 441: 4

Abū ᶜUbayd al-Bakrī, *Faṣl al-Maqāl* (ed. I. ᶜAbbās & ᶜAbd al-Majīd
ᶜĀbidīn, Beirut, 1983), 509: 4, 7, 8, 11

Abū l-ᶜAlāᶜ al-Maᶜarrī, *al-Ṣāhil wa-al-Šāḥiǧ* (Cairo, 1984), 580: 4

Yāqūt, *Muᶜǧam al-Buldān*, s.v. Taṯlīṯ Vers 8, s.v. Ḥaḍar und *Raġwān*
Vers 43.

Und noch:

Ibn Qutayba, *K. al-Maᶜānī al-Kabīr* (ed. ᶜAbd al-Raḥmān al-Yamānī,
Hyderabad, 1949) I, 405–6: 32 (*ṣaqaru* statt *ṣafaru*), I, 373: 36, II,
1108–9: 34, III, 1231: 33a/32b

Der Kontext, in dem diese Verse zitiert werden, kann unterschiedlich
sein: so werden die Verse in al-Ǧumaḥīs *Ṭabaqāt* in einem Kapitel
(*ṭabaqa*) genannt, das den *aṣḥāb al-marāṯī* gewidmet ist, zusammen mit
Mutammim ibn Nuwayra und al-Kansāᶜ; in Ibn Qutaybas *Maᶜānī* geht es
um Abschnitte, die einzelnen Themen gewidmet sind. So Vers 32 im
Kontext der Bewirtung der Gäste mit Milch (und Milchprodukten), *al-
qirā bi-l-laban*, I, 398–406; und Vers 36 in einem Abschnitt über
Kochgerät, *abyāt maᶜānin fī l-qudūr*, I, 365–74, beide als Teile des
Kapitels über Nahrung und Gastfreundschaft (*kitāb al-ṭaᶜām wa-l-
ḍiyāfa*). In einem Abschnitt über Nachbarschaft, Bündnis und
Hilfeleistung (*bāb al-ǧiwār wa-l-ḥilf wa-l-iġāta*) ist dieser Satz zu
finden: *al-ᶜarab takrah fī l-rajul kutra al-ṭaᶜm wa-lā taṣif bih al-šuǧāᶜ
bal taṣifuh bi-qilla al-ṭaᶜm wa-minhu qawl Aᶜšā bāhila* (die Beduinen
lehnen es ab, dass ein Mann viel isst, und den Helden beschreiben sie
damit nicht, sondern eher mit Nahrungsmangel, so Aᶜšā Bāhila...(folgt
Vers 34.). Und in einem Abschnitt mit dem Titel *abyāt al-maᶜānī fī l-
ādāb* steht fast am Anfang von Aᶜšā Bāhila Verse. 33a/32b.

In einem Abschnitt aus al-Qālīs *Amālī* (I, 16) fragt eine ältere Frau
ihre drei Töchter nach männlichen Qualitäten. Jede Tochter hat
selbstverständlich ihren Vorzug. In einem Kommentar wird erklärt, was
denn eine *ḥudda* ist, ein Stückchen Fleisch, und dann wird Vers 34 zitiert
(obwohl Geyer *ḥuzza* liest) und als Erklärung für das Verb *ᶜarrā /
yataᶜarrā* wird (in II, 201) Vers 32 angeführt.

So unterschiedlich die Kontexte sein mögen, klar ist, dass die
folgenden Verse aus dem Gedicht des Aᶜšā Bāhila ein gewisses Interesse
bei den Gelehrten fanden, und zwar aus verschiedenen Gründen:

Vers 4 (1 in der „normalen" Fassung von Aᶜšā, möglicherweise weil
der Vers als "Titel" des Gedichtes diente)

Vers 46, weil er ein starker Schlussvers ist, der den Namen des Verstorbenen enthält, der "monumentale" Schlussvers (der aber nach meiner Auffassung der Daʿǧāʿ zuzuschreiben ist).

Die Verse 27, 32, 34, 35 und (weniger) 33 scheinen besonders unter den Gelehrten populär gewesen zu sein. Der Grund dafür mag sein, dass in diesen Versen auf Hagerkeit des Aussehens und Verzicht auf Essen und Trinken als *madīḥ*-Elemente Bezug genommen wird. Zur Steigerung des Effekts dient Vers 33: der Verstorbene beruft sich nicht auf seine Hagerkeit, geht aber stolz dem Stamm im Kampf voran. Könnte es sein, dass in den städtischen Kreisen des arabischen Reiches der Abbasidenzeit eine solche Haltung des Verzichts auf Essen und Trinken, der Aufopferungsbereitschaft gepaart mit Mut und Führungqualitäten als bemerkenswert galt?

Damit ist noch nicht erklärt, was die Zitierbarkeit von Vers 35 ausmacht. Auch da muss man spekulieren: es könnte sein, dass die Verlässlichkeit des Verstorbenen angezweifelt wird (eine scheinbare Sünde in der *marṯiya*-Gattung) – die Stammesmitglieder fürchten sich vor seinen Ausflügen, d.h. er war unzuverlässig – aber das eigentliche, tiefer liegende Thema ist dann doch wieder *madīḥ*, weil Muntašir unablässig dazu neigt, andere Stämme zu überfallen, dazu jede Gelegenheit wahrnimmt, auch wenn dies nicht verabredet wurde. Dies kann sicher als eine kunstvolle Gestaltung gewertet werden: der scheinbare Tadel wird am Ende (d.h. mit dem letzten Wort) plötzlich auf subtile Weise in Lob umgestaltet.

Es sei noch darauf hingewiesen, dass keiner der oft zitierten Verse mit denen der *marṯiya* der Daʿǧāʿ in Verbindung gebracht werden kann.

Schluss. Das Gedicht und der Dichter Aʿšā Bāhila
Wir haben es mit einem Dichter zu tun, dessen Lebensgeschichte und dessen Dichtung nicht auffallend oder wichtig genug waren, um ihm einen Platz in den großen Sammlungen der arabischen Literatur als selbständige Persönlichkeit zu sichern: in den *Aġānī* sucht man vergebens nach einem Kapitel über Aʿšā Bāhila. Es ist als einziges nennenswertes Gedicht nur die *marṯiya* auf Muntašir bekannt.
Obwohl diese *marṯiya* als gutes Gedicht anerkannt war, ist ihr Text in der

Überlieferung der arabischen Dichtung offenbar schon früh auseinander-

gebrochen Die ältesten bekannten Rezensionen zeigen schon erhebliche Divergenzen: al-Aṣmaʿī, al-Mubarrad und al-Qurašī nehmen das Gedicht im Laufe des 9. Jahrhunderts mit erheblichen Unterschieden in ihre Sammlungen auf.

Dass es, obwohl fragmentiert, als "gut" bekannt war, ist erstaunlich. Wahrscheinlich verdankt es seine Popularität der Zitierbarkeit bestimmter Fragmente – besonders über die Themen Hagerkeit und Verzicht – und der Eigentümlichkeit seines Themas: eine längere *marṯiya* auf den Tod eines Halbbruders.

2. Die Dichterin Daʿǧāʿ bint Wahb und ihre *marṯiya* auf ihren Bruder al-Muntašir.

Diese Dichterin wird an einigen Stellen erwähnt, aber ihre tatsächliche Existenz oder Spuren ihrer Dichtkunst sind nirgendwo mit Sicherheit nachzuweisen[55]; der ursprüngliche Text der *marṯiya* auf Muntašir wird in seiner Gesamtheit sowohl ihr als auch Aʿšā zugeschrieben. Sie existiert nur als angebliche Verfasserin dieses Textes.

Welche Argumente gibt es, ihr einen Text zuzuschreiben, wenn auch nicht den ganzen, so doch einige Fragmente daraus?

—Ihr Name wird in verschiedenen Quellen erwähnt, was wohl kaum der Fall gewesen wäre, wenn ihr gar nichts zuzuschreiben ist.

—Der Text als Ganzes – entweder Aʿšā oder Daʿǧāʿ zugeschrieben – ist in den Fassungen von Cheikho und Geyer unzusammenhängend überliefert und zeigt kaum einen inneren, thematischen Zusammenhang. Sieht man genauer hin, stellt sich heraus, dass die *marṯiya* einen doppelten Anfang hat, ein sicheres Indiz dafür, dass wir es mit zwei Texten zu tun haben.

—Aus dem ursprünglichen Gedicht lassen sich einzelne Themen ausklammern, die mit dem Themenverlauf einer Frauen*marṯiya* in Einklang zu bringen sind.

—Die verbleibenden Verse sind als selbständige *marṯiya* – in diesem Falle von Aʿšā – ohne Weiteres sinnvoll zu deuten.

—Die Verknüpfung der beiden Texte ist aus dem gleichen Reim (der sich dem Namen des Verstorbenen anschließt) und dem gleichen Metrum zu erklären; außerdem sind beide Personen eng verwandt.

Der Nutzen der Mawsūʿa *CD*
Inwieweit hat die *Mawsūʿa*-CD-ROM zu dieser Studie beigetragen? Es ist klar, dass eine umfassende Untersuchung wie die nach den Zitaten aus

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[55] Sie wird öfter auch als Tochter des al-Muntašir identifiziert. So z.B. Ḥ. ʿAbbūd: *Nisāʾ Šāʿirāt*. Beirut 2000, S. 107; ʿU. R. Kaḥḥāla: *Aʿlām al-Nisāʾ*. Beirut 1959, I, S. 411–3; ʿA. Muhannā: *Muʿǧam al-Nisāʾ al-Šāʿirāt*. Beirut 1990, S. 86–8. Dagegen ist einzuwenden, dass eine Verwandtschaft als Schwester wahrscheinlicher ist. Wenn der Held jung stirbt, hat eine Tochter in vielen Fällen doch wohl weniger Erfahrung im traditionsgemäßen Schaffen einer *marṯiya* als eine Schwester des Helden.

dieser *marṯiya* ohne die *Mawsūᶜa*-CD aus praktischen Gründen unmöglich gewesen wäre, weil eine solche Vielzahl an Quellen in kurzer Zeit nicht zu überblicken ist. Andererseits bringt die Benutzung der *Mawsūᶜa*-CD auch Probleme mit sich. Wie schon in der Einleitung erwähnt, enthält die CD keine Hinweise auf die Editionen (oder Handschriften), die dem Textbestand der CD zugrunde liegen. Das erschwert eine Kontrolle der Texte und ist daher ein Handicap, das den Wert der CD für wissenschaftliche Untersuchungen auf den ersten Blick fraglich erscheinen lässt. Andererseits zeigen Textvergleiche mit mir zugänglichen Editionen und die Erfahrung, die ich mit den Texten der CD gemacht habe, dass diese im Allgemeinen nicht schlechter sind als gedruckte Neueditionen von älteren Editionen. So war es z.B. möglich, zweifelsfrei festzustellen, dass der digitalen Ausgabe der *marṯiya* des Aᶜšā Bāhila die al-Qurašī-Rezension zugrunde gelegen hat.

Dennoch ist eine Neuausgabe der *Mawsūᶜa*-CD, die Hinweise auf die schriftlichen Quellen enthält, auf denen die digitalen Texte beruhen, und die in den Seitenzahlen mit den Originalen übereinstimmt, ein Desiderat. Eine solche Textsammlung wäre von großem wissenschaftlichen Wert.

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TOKENS OF RESENTMENT: MEDIEVAL ARABIC NARRATIVES ABOUT GIFT EXCHANGE AND SOCIAL CONFLICT

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Stories about gift exchange can confirm individual relationships and communal bonds, but they can also articulate social conflict. This analysis focuses primarily on stories in the first of two extant monographic compilations on gift exchange, the tenth-century *Book of Rarities and Gifts* by the Khālidiyyān, and concludes with a story from the anonymous eleventh-century *Book of Treasures and Rarities*. It explores expressions of social conflict through the features of rhetorical focal points, silence, communication at a distance, and the incongruity between fine gifts and tense situations. The discussion examines social conflict by following the development of main characters in other stories. These features of gift exchange stories suggest an interest in emotional experience, and the relationships among different stories about the same person imply an interest in character development. The pleasant practice of gift exchange offers a counterpoint to and a commentary on social conflicts.

Gift exchange stories in medieval Arabic literature appear as part of a broader interest in exploring social life through the intersection of refined rhetoric and material wealth. The topics of avarice, party-crashing, the figure of the Bedouin, the genre of the *maqāma*, and stories about the patronage of panegyric poetry also revolve around the intersection of refined rhetoric and material wealth. Gift exchange has received less attention than these topics in modern research although it is a significant theme in medieval Arabic literature. This analysis focuses on stories in the first of two extant monographic compilations on gift exchange, *The Book of Rarities and Gifts* by the Khālidī Brothers, who lived in the 4th/10th century in Iraq and Syria.[1] It concludes with a story

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[1] Abū Bakr Muḥammad b. Hāshim al-Khālidī died in 380/990 and Abū ʿUthmān Saʿīd b. Hāshim died in 390/999. According to their poetry, they moved from Khālidiyya to Mosul, and then to Baghdad, Aleppo and Damascus. (Abū Bakr Muḥammad and Abū ʿUthmān Saʿīd al-Khālidiyyān, *Dīwān al-Khālidiyyān*, ed. Sāmī al-Dahhān (Beirut, 1992/1412), pp. 9–20). Unlike some poets of their time, they were more interested in composing poetry for pleasure than for patrons (al-Khālidiyyān, *Dīwān*, p. 25). They were connected to Sayf al-Dawla 337/948–

from the second of the two extant monographs, *The Book of Treasures and Rarities* by an anonymous author who lived in the 5th/11th century in Egypt.[2] It also investigates other stories about characters in the stories that are the focus of the discussion, and that complement those gift exchange stories.

As in most narratives in medieval Arabic prose literature, gift exchange stories are brief and often feature historical characters. Rhetorical focal points amplified by silence, the motif of communication at a distance in writing, and the jarring contrast between pleasant gifts and tense situations within individual stories, as well as the implied comparison and contrast of gift exchange stories with other stories about the same characters, enable writers to depict the complexity of characters and their relationships. In particular, gift exchange stories offer a diversion from, and a commentary on, a range of social tensions and conflicts. They complement other stories about the same characters that also explore these tensions and conflicts. Characters take shape in gift exchange stories, and in related stories, as figures of these broader social issues.

Gift exchange stories often involve historical characters with historical events in the background. The combination of the determinate quality of reality and the indeterminacy of the imaginary, involving selection and

346/957, for whom they worked as librarians, and to al-Muhallabī and especially Abū Isḥāq al-Ṣābī 349/960–352/963 (Abū Bakr Muḥammad and Abū ʿUthmān Saʿīd al-Khālidiyyān, *Kitāb al-Tuḥaf wa-l-hadāyā*, ed. Sāmī Dahhān, Cairo, Dār al-maʿārif, 1956, p. *mīm*). Patronage is mentioned in the book of gifts, but it is not clear to whom it was dedicated.

[2] The editor of the *Dhakhāʾir* proposes that the author is the Qāḍī Ibn Zubayr, who worked for the Buwayhids and then lived in the fifth century in Egypt, based on a comparison of some passages with the eighth-century *adab* collection by al-Ghuzūlī (*Kitāb al-Dhakhāʾir wa-l-tuḥaf*, ed. Muḥammad Ḥamīd Allāh, Kuwait, 1959, pp. 12–3). The translator argues that this attribution is not convincing because other passages that are parallel in the two works are attributed to three other authors. Instead, she explains that internal evidence in the book shows that the author was probably a Fatimid official who was in Cairo 444/1052-463/1070 (*Book of Gifts and Rarities*, tr. Ghāda al-Ḥijjāwī al-Qaddūmī, (Cambridge, Massachusetts, 1996), pp. 12–3). The author uses oral and written sources, but not the Khālidīs' book, although there are several parallel passages in the two works (*Gifts*, pp. 17 and 24).

combination, can occur in texts that mask their fictionality, not for the purpose of deceit, but to offer an explanation of the world that would not otherwise be effective.[3] Mimesis in work by al-Jāḥiẓ is based on the imaginary as well as verisimilitude with reality, and other prose writers follow him in valorizing the combination of reality and fiction for literary, philosophical, and ethical ends.[4] Verisimilitude can be understood as a public consensus on reality.[5] The imaginary dimension of public consensus is a built-in feature in the real. Stories with historical characters and events allow the audience to contemplate experience, historical and contemporary, from different angles, and possibly change the course of their own experiences in response.[6] Gift exchange stories thus provide responses to the question of how *adab* relates to politics.[7]

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[3] Wolfgang Iser, *The Fictive and the Imaginary: Charting Literary Anthropology*, (Baltimore, 1993), p. 12.

[4] Ibrahim Geries, "L'*adab* et le genre narratif fictif" in Stefan Leder, ed., *Story-telling in the framework of non-fictional Arabic literature* (Wiesbaden, 1998) pp. 168–95, pp. 170, 195.

[5] Tzvetan Todorov, *The Poetics of Prose*, tr. Richard Howard (Ithaca, 1977), p. 82.

[6] Similar techniques are used in the configuration of sequences of events in narratives that are found in texts that are thought of (then and now) as literary and texts that are thought of as historical (Robert Hoyland, "History, fiction and authorship in the first centuries of Islam" in Julia Bray, ed., *Writing and Representation in Medieval Islam: Muslim horizons*, (London, 2006) pp. 16–46). Writers craft stories with historical characters and events in a range of ways. See Julia Bray, "Figures in a Landscape: The Inhabitants of the Silver Village", in Leder, ed., *Story-telling*, pp. 79–93; Julia Bray, "Tanūkhī's *al-Faraj baᶜd al-shidda* as a Literary Source", in Alan Jones, ed., *Arabicus Felix: Luminosus Britannicus* (Oxford, 1991, pp. 108-28); Andras Hamori, "Exemplum, Anecdote, and the Gentle Heart in a Text by al-Jahshiyārī", *Asiatische Studien* 50/2 (1996), pp. 363–70; Andras Hamori, "Tinkering with the Text: Two Variously Related Stories in the *Faraj Baᶜd al-Shidda*" in Leder, ed., *Story-telling,* pp. 61-78; Letizia Osti, "Al-Qāsim b. ᶜUbayd Allāh, the Vizier as Villain: On Classical Arabic Gossip" in James E. Montgomery, ed., *ᶜAbbāsid Studies: Occasional Papers of the School of ᶜAbbāsid Studies* (Leuven, 2004, pp. 233–47; Ulrich Marzolph, "Arabische Witze als Quelle für die materielle Kultur" in *Ex Oriente Fabula: Beiträge zur Erforschung der narrativen Kultur des islamischen Vorderen Orients*, 2 vols. (Dortmund, 2005), 1:134–52.

[7] Julia Bray poses and discusses this question (Bray, Julia, "ᶜAbbasid myth and the Human Act: Ibn ᶜAbd Rabbih and others" in Kennedy, ed., *On Fiction and*

These stories are part of an expanding cultural sphere in which poets and writers define a world apart from politics that is also very much in, and of, the political sphere. They seem like a re-use of historical characters and events; and a re-use of cultural production may be a way to resist hegemonic sites of cultural activity.[8] However, gift exchange stories do not so much as resist the serious moral and historiographical inquiry that circulates about major events and issues, as they represent a kind of "adabification" of that serious inquiry.[9]

In this process of adabification, gift exchange may be both a diversion from and a feature of social tensions and conflicts. As Marcel Mauss has shown, communities embed the exchange of material gifts in social life so that gifts establish and maintain communal bonds, and so that the refusal to engage with others through gift exchange is tantamount to aggression.[10] Similarly, a miser's refusal to interact with others through generosity displays his alienation from social life.[11] Failed gift exchange

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Adab *in Medieval Arabic Literature*, Wiesbaden: Harrassowitz, 2005, pp. 1–50, pp. 48–9). It is also discussed in Abdallah Cheikh-Moussa, "L'Historien et la literature Arabe medieval" *Arabica* 43 (1996), pp. 152–88.

[8] Michel de Certeau, *The Practice of Everyday Life*, tr. Steven Rendall (Berkeley, 1984), p. 18. Muhsin al-Musawi views nonverbal elements in the *Thousand and One Nights*, including material objects, as nonverbal narratives that work in collaboration with the verbal narrative or as an offsetting practice (Muhsin J. al-Musawi, "Scheherazade's Nonverbal Narratives", *Journal of Arabic Literature* 36/3 (2005), pp. 338–62, pp. 338 and 340).

[9] Andras Hamori, "Prudence, Virtue, and Self-respect in Ibn al-Muqaffaᶜ" in Angelika Neuwirth and Andreas Christian Islebe, eds., *Reflections on Reflections: Near Eastern Writers Reading Literature* (Wiesbaden, 2006), pp. 161–80, p. 175; he uses "adabization" and I seem to have changed the term inadvertently; it is the same idea. "Ababification" in this sense is an eclectic elaboration on characters and events that had already appeared in earlier texts, and it offers new perspectives on those characters and events.

[10] Marcel Mauss, *The Gift: The Form and Reason for Exchange in Archaic Societies*, tr. W. D. Halls (London, 1990). Samī al-Dahhān observes that *adab* chapters on gift exchange usually begin with citations of the Qurᵓan and hadith— but not in the book by the Khālidī brothers (Al-Khālidiyyān, *Tuḥaf*, p. 13). The religious sources on gift exchange are beyond the scope of this project.

[11] Daniel Beaumont, "*Min Jumlat al-Jamādāt*: The Inanimate in Fictional and Adab Narrative" in Philip F. Kennedy, ed., *On Fiction and* Adab *in Medieval Arabic Literature* (Wiesbaden, 2005), pp. 55–68 (p. 65).

can display social problems; in addition, gift exchange that takes place can convey tensions and conflicts. One critic observes that Mauss sometimes asserts that the material gift is embedded and expressive of social relations, and sometimes denies any real difference between the disembedded exchange of goods, as in a typical modern economy, and the embedded exchange of goods in the more traditional economies that Mauss discusses.[12] This ambivalence about the social and ethical versus the material value of the gift appears in many chapters or selections on gifts in medieval Arabic literary culture. The ambivalence about gift exchange parallels the anxiety about the professional use of panegyric poetry.[13]

The material gift is packaged in refined rhetoric within the story and in the broader range of notices, stories, and poems relating to the characters that appear in the story.[14] Long narratives play a relatively marginal role in medieval Arabic literature.[15] While the individual stories, notices, and poems relating to a particular person are often short, the extended family of texts can be quite large. Although long narratives were relatively marginal in medieval Arabic literature, biography—a genre that delineated individual and communal identity and that both documented and shaped conflicts within and between groups—was absolutely central.[16] Families of texts about a particular person, whether situated in biographical or other kinds of compilations, can convey the complexity of characters, character development and the concatenation

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[12] Scott Cutler Shershow, *The Work and the Gift* (Chicago, 2005), pp. 96–114.

[13] Jocelyn Sharlet, Patronage and Poetry in the Islamic World: Social Mobility and Status in the Medieval Middle East and Central Asia (London, forthcoming 2010), chapters one and eight.

[14] In addition to gift exchange poetry, which became established among tenth century poets who worked with or near the Khālidī brothers, gift exchange is featured in a number of chapters of *adab* compilations (for a summary of their contents, see Jocelyn Sharlet, "The Thought that Counts: Poetry about Gift Exchange by Kushājim, al-Ṣanawbarī, and al-Sarī al-Raffāʾ", *Middle Eastern Literatures*, forthcoming 2011, note 6).

[15] Jaakko Hämeen-Anttila, "Development of Arabic Prose from around A.D. 1000 to 1150 A.D." in S. Leder et al., eds., *Studies in Arabic and Islam* (Leuven, 2002), pp. 205–16.

[16] Michael Cooperson, *Classical Arabic Biography: The heirs of the prophets in the age of al-Maʾmun* (Cambridge, 2000).

of events in sequence as if in a long narrative. [17] Instead of the heteroglossia of a long narrative, families of texts offer a range of voices and perspectives on social tensions and conflicts by way of particular characters. [18] This discussion investigates gift exchange that draws attention to the issues of the wrong words and the right gifts, rhetoric and relationship problems, political conquest, aggression and social tensions, and political crises, and further explores these issues in other stories about the characters involved in gift exchange.

The wrong words and the right gifts

Flawed rhetoric is the focus of the following two gift exchange stories. The flawed rhetoric entails a risk of failure of the gift exchange and the relationship that it expresses. However, the flaw in the rhetoric leads to a more abundant gift. In the first example, a friend of the Umayyad and then Abbasid general Maʿn b. Zāʾida (d. 152/769), who was killed fighting the Khārijī opposition movement, wrote to him at his post in a province of Azerbayjan, "If the commander sees fit, please order for me a mount, for I am without a mount." Maʿn wrote back, ordering for him a whole series of mounts, both male and female of each category, whether of body or in grammatical gender of the word, including female and male horses, mules, donkeys, camels, a cow and a bull, a ship and a boat, female and male slaves, and slippers and sandals, and expressing his hope to send elephants in the future.[19] Conversely, in another story, a man wrote to a generous secretary of the Barmakid politicians, asking for a gift of a female slave in a description that is absurdly detailed in its elaborate use of rhetoric. The secretary wrote back that to the effect that he tried to find such a person and failed, but was sending a thousand gold coins so that the man can look for her himself. He promised to send the

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[17] See for example Antonella Ghersetti, "L'Anecdote-accordéon ou comment adapter le sense du récit au contexte narratif" and Abdallah Cheikh-Moussa, "Mouvance narrative et polysémie dans la littérature d'adab : le cas d'Abū Ḥayya al-Numayrī/Abū Aġarral-Nahšalī" in Frédéric Bauden, Aboubakr Chraïbi, and Antonella Ghersetti, eds., *Le Répertoire Narratif Arabe Médiéval: Transmission et Ouverture* (Liège, 2008).

[18] M. M. Bakhtin, "Discourse in the Novel", in *The Dialogic Imagination*, ed. Michael Holquist, tr. Caryl Emerson and Michael Holquist (Austin, 1981), pp. 259–422.

[19] Al-Khālidiyyān, *Tuḥaf*, pp. 104–5.

full price when she is found.[20]

In these brief stories, the prospective patron takes advantage of the wrong rhetoric in the request to demonstrate his munificence. The request that is too vague leads to a broad interpretation and every possible gift, and the request that is too detailed leads to a down payment and a blank check to cover the slave who is sought in excessive detail. These stories show that patrons enjoyed the factor of surprise and the unexpected.[21] The factor of the unexpected helps writers to make patronage exchange into stories.

It does not really matter in the first story that the general was talented and successful, and was killed defending the imperial frontier. Likewise, in the second story, it does not matter that the Barmakids and their allies were one of the most powerful administrations in Islamic history and were purged in one of the major dramas of medieval Arabic literary culture. Instead, these stories show that when they were not busy defending the empire or managing its finances, Maᶜn b. Zāʾida and the Barmakids' allies demonstrated their refinement. The comic yet lucrative outcomes of underdoing it and overdoing it in flawed rhetoric are comedies of manners that are integral to, yet distinct from the more serious business of politics.

Rhetoric and relationship problems in gift exchange
The writers in each of the following three short gift exchange stories use rhetoric that foregrounds the writer's difficulties. As in the flawed rhetoric gift exchange stories about Maᶜn b. Zāʾida and the Barmakids' secretary, in these stories of the writer's difficulties, a surfeit of gifts bursts out of the boundaries of the rhetoric in which it is packaged. The amplification of the material gift in the course of the brief story is set against the backdrop of the characters' professional relationship problems. The clever turn of a phrase or apt use of fine verses serves as the rhetorical basis for the amplification of the gift, as well as a reference to relationship complications.[22]

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[20] Al-Khālidiyyān, *Tuḥaf*, pp. 101–4.

[21] Beatrice Gruendler, "Meeting the Patron: An *Akhbâr* Type and Its Implications for *Muhdath* Poetry" in S. Günther, ed., *Ideas, Images, Methods of Portrayal: Insights into Arabic Literature and Islam* (Wiesbaden, 2005), pp. 59–88.

[22] Fine rhetoric may be a theme in its own right in addition to its use as a medium for the story (Andras Hamori, "Going Down in Style: The Pseudo-Ibn Qutayba's Story of the Fall of the Barmakīs", *Princeton Papers in Near Eastern*

In the first story, the leading musician Isḥāq b. Ibrāhīm al-Mawṣilī presented a note that he received from the member of the imperial family and musician Ibrāhīm b. al-Mahdī on the occasion of Isḥāq's son's circumcision. In the note, Ibrāhīm apologized for falling short of what was expected of him. He explained that he would hate to be left out of the gift-giving, so he is sending a measure of salt and a measure of soap. Isḥāq continued, "Then gifts from him that are beyond description came to me".[23] The initial gift is too modest, but is amplified by the polite message that acknowledges the occasion, Ibrāhīm's obligation, and the need for a more substantial gift. The polite message gives way to Isḥāq's concluding statement about the surfeit of gifts that followed. The message is like a catalyst that calls attention to the fact that the gift is too small, and also brings on the surfeit of gifts, which bursts out of the bounds of rhetoric. The gifts cannot be expressed in language.

The gift exchange story occurs in the context of tales about the tense yet collegial relationship between the professional musician Isḥāq b. Ibrāhīm al-Mawṣilī and the aristocrat and amateur musician Ibrāhīm b. al-Mahdī. The latter (d. 224/838) served as caliph for a short time and went into hiding after the army revolted. He was imprisoned and pardoned, and returned to court life where he became known for his life of music and poetry. As an amateur musician, Ibrāhīm was part of a significant trend of political elites participating in refined cultural activities for which they had once been only an audience.[24] On the other hand, Isḥāq (d. 235/849) was a leading professional musician and also the son of a leading musician. They promoted different styles of music and became intense rivals. In spite of their rivalry, Isḥāq b. Ibrāhīm al-Mawṣilī and Ibrāhīm b. al-Mahdī sometimes appear as parallel characters in stories about refined manners and elegance.[25]

Stories about Isḥāq and Ibrāhīm often combine rivalry and refinement. In a story that emphasizes the tension between them, Isḥāq and Ibrāhīm argued while the caliph al-Rashīd was out of the room. Ibrāhīm insulted Isḥāq, and Isḥāq said that he would insult Ibrāhīm if he were not from

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Studies 3 (1994), pp. 89–125).

[23] Al-Khālidiyyān, *Tuḥaf*, p. 120.

[24] J. E. Bencheikh, "Les musiciens et la poésie. Les écoles d'Isḥāq al-Mawṣilī (m. 225 H.) et d'Ibrāhīm Ibn al-Mahdī (m. 224 H.)", *Arabica* 22/2 (1975), pp. 114–52 (p. 131).

[25] Antonella Ghersetti, "Musiciens, parasites et amoureux: le récit du 'Mariage d'Isḥāq'", *Quaderni di Studi Arabi* nuovo serie 1 (2006), pp. 113–28.

the royal family. Ibrāhīm complained to the caliph, who got the story
from the servants, and told Ibrāhīm to drop it. The caliph spoke privately
to Isḥāq after the gathering and said, "Do you really think I would ever
stand up for you in opposition to my own family member? If he had his
slave boys kill you, do you think I would kill him for it?!" He summoned
Ibrāhīm next, and Isḥāq, who was beloved by servants, told them to let
him know what was said. The next day, he learned that the caliph told
Ibrāhīm, "Who do you think you are, treating my servant, protégé, and
drinking companion, the son of my drinking companion, servant, and
protégé, that way in my gathering? What do you know about singing,
and what do you know about what he is? What makes you think you
could equal him, when he's a professional through and through? So help
me God, if anything happens to him, I'll kill you." The next time the
caliph hosted them together, he had them make amends.[26]

Gift exchange complements patronage, and one story expresses the
collegial rivalry in terms of the uncertainties of patronage. Isḥāq relates a
story in which Ibrāhīm complained to Isḥāq that he did not give him
enough affection or stop by often enough. Isḥāq said, "I'll visit day and
night just like I perform the five prayers, and then I'll skip some [just as I
skip some of the prayers]." Ibrāhīm laughed and said, "Who can match
singers!" Isḥāq responded, "Someone who takes singing for himself and
no one else." Ibrāhīm laughed again and gave him a servant, a mount,
money, and a robe. Al-Muᶜtaṣim heard the story and gave Ibrāhīm
double that.[27] Just as the gift exchange problem leads to a surfeit of gifts
in the wake of Ibrāhīm's brief but apt message, this patronage
complication gives way to a surfeit of gifts due to a clever verbal
exchange.

In the second of these three short gift-exchange stories that feature the
writer's difficulties, a generous and refined secretary of al-Ṣaffār
(perhaps Yaᶜqūb b. Layth, the provincial ruler in Iran) had an elegant
poet among his companions. The secretary's friends gave him some large
gifts for the Persian New Year's holiday, Nowruz. The poet was
impoverished. The secretary asked him for some gifts, saying, "You

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[26] Al-Baghdādī, *Tārīkh Baghdād*, 5:306. The narrator of one story explains that
Ibrāhīm used to hound musicians until Isḥāq showed up, and that Ibrāhīm used to
bait him but he wouldn't fall for it, so that Isḥāq was his undoing (Abū l-Faraj al-
Iṣfahānī, *Kitāb al-Aghānī*, 27 vols., ed. ᶜAbd A. ᶜAlī Muḥannā and Samīr Jābir,
Beirut, 2002/1422, 5:302).

[27] Al-Iṣfahānī, *al-Aghānī*, 5:329.

have to give me something." The poet said that he would. He bought a lot of roses and wrote a poem to go with them that described the roses as the cheeks of Greek slave girls drinking wine, a glass of wine like a moon circulating in the hand of the wine pourer, and a general sense of well-being. When he read the verses, the secretary was so pleased that he gave all that he had received for Nowruz to the poet.[28]

The Nowruz poem is intended to amplify the poet's modest gift in response to his patron's pressure and the competition of his peers. It is so successful in doing so that it ends up leading to the patron's delight, a surfeit of gifts, and a clear victory over the other companions. The poem addresses the problem behind the gift exchange, the poet's poverty and the patron's pressure on him to live up to his gift-giving obligations. The characters in this Persian New Year story refer to the serious business of uncertainty and risk in patronage, while implying a step back from this serious business that validates refined manners as a less stressful alternative.

In the third gift story that foregrounds the writer's difficulties, al-Buḥturī coveted a male slave who belongs to Muḥammad b. Ḥumayd b. ᶜAbd al-Ḥamīd (d. 214/829), known as a son of the Abbasid general who helped to defeat the rebel Bābak, and as a refined poet. Al-Buḥturī composed a poem in which he requested the male slave as a gift and also complained about his other male slaves.[29] Other elites who heard the poem were so impressed that they sent slaves as well. The Khālidī brothers cite a long section of the poem, which includes a description of the slave.[30] Al-Buḥturī amplifies his request for his patron's slave with the poem, which in turn leads to a surfeit of gifts that far exceeds the initial request. The refined rhetoric of the poem alludes to the problem that offers a context for the request, al-Buḥturī's acquisitiveness. The link between the poem and the surfeit of gifts addresses the problem by getting al-Buḥturī what he wants.

The acquisitiveness in this brief gift exchange story takes place in the realm of manners and echoes al-Buḥturī's acquisitiveness in the more serious business of political panegyric. In his work as a highly successful panegyrist and avid admirer of slave boys, al-Buḥturī (d. 284/897) was sometimes described as excessively acquisitive. In terms of panegyric, he

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[28] Al-Khālidiyyān, *Tuḥaf,* p. 36.

[29] Al-Buḥturī, *Dīwān al-Buḥturī,* 5 vols, ed. Ḥasan Kāmil al-Ṣīrafī (Cairo, n.d.), 1:39.

[30] Al-Khālidiyyān, *Tuḥaf,* pp. 71−3.

became famous for switch his loyalties to sell poetry. He was at the gathering where the caliph al-Mutawakkil was assassinated, but was able to use intercession with the minister Ibn al-Khaṣīb to connect with al-Mutawakkil's son al-Muntaṣir, who was part of the plot and who became the next caliph. Later, when the caliph al-Mustaʿīn purged Ibn al-Khaṣīb, he supported him. He praised al-Mustaʿīn and then composed invective on him after he was deposed.[31] In the realm of manners, he is said to have sold his favorite slave boy, Nasīm, and schemed to put him in the possession of the kind of people who supported literature. He would then compose poetry to win him back.[32] In stories about al-Buḥturī, the theme of acquisitiveness links the serious business of politics and the less formal realm of manners.

In each of these three short stories that begin with the writer's difficulties, about Ibrāhīm b. al-Mahdī, the poet on Nowruz, and al-Buḥturī, rhetoric is more significant than the initial gift that is given or requested, and leads to a surfeit of gifts. The rhetoric, the initial gift, and the surfeit of gifts convey the complications of relationships. Ibrāhīm b. al-Mahdī and Isḥāq b. Ibrāhīm al-Mawṣilī are rival colleagues, the poet in Iran is poor but under pressure to offer a gift, and al-Buḥturī is acquisitive in both formal and informal settings. A gift not given or a gift not accepted, according to Mauss' theory of socially embedded gifts, implies a breakdown of communal bonds. These three brief stories show that socially embedded gifts that *are* exchanged can convey relationship problems. The overwhelming success of each exchange, in which rhetoric amplifies a relatively modest gift and leads to a surfeit of gifts, helps to illuminate the social tensions that serve as a backdrop for the interaction.

Gifts of aggression and social tension
In brief gift exchange stories like the ones discussed above, the rhetorical focal point of an apt phrase or a verse dominates the text. In contrast, the following pair of longer stories examines the causes and consequences of gift exchange more gradually, while the rhetorical focal points help to reinforce the significance of the interaction. Other stories help to situate the gift exchange as a marginal, yet meaningful, intervention into the

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[31] Hāshim Mannāʿ, *al-Buḥturī: ḥayātuhu wa-shiʿruhu* (Beirut, 2002).

[32] Al-Iṣfahānī, *Aghānī*, 21:52. Rowson compares this version with another less negative one (Everett K. Rowson, "The Traffic in Boys: Slavery and Homoerotic Liaisons in Elite ʿAbbāsid Society", *Middle Eastern Literatures* 11/2 (2008), pp. 193–204).

more serious business of political life. In these gift exchange stories, business as usual is turned around, either temporarily or permanently, and the gift exchange, including the gift and the rhetoric that circulates with it, reflects this unexpected turn of events.

Several features define the two stories about social tension in this section, as well as the two stories about political crisis in the following section. First, the pleasure of the material gift appears incongruent with the anxiety surrounding social tension, and throws it into relief. Second, in each story, the rhetorical focal point reverberates in the silence that surrounds it. This silence is as important as the rhetorical focal point itself in conveying the aggression and anxiety through which the gift exchange displays clashes over social tension. Finally, each story includes confrontation that occurs at a distance, either through the use of writing or the sending of messages, which serves as another way to amplify social tension. The conventions of stories narrated by transmitters about historical characters preclude extensive, explicit portrayals of the inner life of characters.[33] However, these conventions not only make space for implicit portrayals of inner life, they foreground them. The features that define these gift exchange stories—the incongruence between the fine gift and the tense situation; the use of rhetorical focal points and tense silence; and communication at a distance that allows confrontations to unfold in a gradual way—combine to provide implied perspectives on the inner life of characters. The emotional life of historical characters in texts like these takes shape in public gestures.[34] These three features of the stories are on display in the narrative, so that they are in effect public gestures. It is as if the individual's emotional experience were understood through a communal consensus, in which emotion is encoded in the features of the stories.

The following story features the Abbasid *wazīr* al-Fayḍ b. Abī Ṣāliḥ, who was born in Nishapur and is said to have been a slave of the highly skilled writer and secretary Ibn al-Muqaffaʿ, which would have allowed

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[33] Stefan Leder, "The Literary Use of the Khabar: A Basic Form of Historical Writing" in Averil Cameron and Lawrence I. Conrad, eds., *The Byzantine and Early Islamic Near East: Problems in the Literary Source Material* (Princeton, 1992).

[34] James Montgomery, "Convention as Cognition: On the Cultivation of Emotion" in Marle Hammond and Geert J. van Gelder, eds., *Takhyīl: Source Texts and Studies* (Warminster, 2007).

him to gain skills in administrative work.[35] In this story, Fayḍ and the secretary Aḥmad b. Junayd clash over the conflict between the social hierarchy at work and the value of mutual respect in their community of professionals.

> Aḥmad b. Abī Khālid relates that al-Fayḍ b. Abī Ṣāliḥ and Aḥmad b. Junayd and a group of high-ranking secretaries left the residence of al-Maʾmūn on their way home on a rainy day. Fayḍ went first followed by Aḥmad b. Junayd, and Fayḍ's mount splashed rain water on Aḥmad's clothes. Aḥmad said "Uff!" in disgust and annoyance and said to Fayḍ, "By God, this is a really vile way to travel together. What gave you the right to precede us?" Fayḍ remained silent until he got home, and then summoned his assistant and ordered him to prepare a hundred chests, each containing a shirt, pants, an undergarment, and a tall hat. And he did so. Then he said, take these chests on the backs of a hundred porters to Aḥmad b. Junayd's house and say to him: "This is what gave us the right to proceed you, that we have the likes of this to give to you as a gift to you when we ruin your clothes. And if you were to give the likes of this to us when you preceded us and your mount ruined our clothes, we would let you go ahead of us."[36]

At work, the minister Fayḍ precedes the secretary Aḥmad, but Aḥmad seems to think that on the way home, they owe each other the mutual respect of sharing the road. Aḥmad thinks that professional hierarchy is bounded by more egalitarian values of good manners and mutual respect, and is outraged when these values are ignored. Fayḍ's reaction to his outburst shows that he sees professional hierarchy as a total definition of the identity of each man. For Aḥmad, the social and bodily discomfort of having his clothes ruined by Fayḍ's mount is a disruption of the values of manners and mutual respect, and his outburst says as much. For Fayḍ, it is Aḥmad's objection, not the ruined clothes, that represents a disruption of professional hierarchy. The story offers a view of social order as a contested practice rather than a fixed framework for interaction.

Fayḍ asserts his view in two ways: first in his passive aggressive silence in response to Aḥmad, and then in the preparation of the gift and the rhetorical focal point of the aggressive message to accompany it. The surfeit of gifts reinforces Fayḍ's assertion of his view in response to Aḥmad's demand for good manners and mutual respect. The comfort

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[35] Dominique Sourdel, *Le vizirat ᶜAbbāside de 749 a 936*, 2 vols. (Damascus, 1959), 1:111.

[36] Al-Khālidiyyān, *Tuḥaf,* pp. 117–8.

associated with the luxurious gift is used in an incongruous way to convey Fayḍ's aggressive point about subordinating Aḥmad. The excessive number of outfits makes the gift echo the theme of ceremonial robes at court to assert the giver's superiority, the recipient's subordination, and the value placed on social hierarchy. However, a contrast is implied. The subordinate person would offer a tactfully performed service or well-wrought rhetoric, not have his clothes ruined by a riding animal, as a reason to receive a ceremonial robe. The ruined outfit is a social and bodily sign that displays Aḥmad's subordination. In addition, the series of outfits may be a social and bodily sign that Aḥmad is ultimately as replaceable as his clothing.

The rhetorical focal point of Aḥmad's outburst reverberates in the silence of Fayḍ The gift and the message are prepared and portrayed but not actually given in the story. The confrontation expressed in Fayḍ's message takes place at a distance. Like Aḥmad's outburst followed by Fayḍ's silence, the message reverberates in Aḥmad's implied silence. The parallel of each man's angry words followed by the other's silence implies the conflict between their views of social status.

Aḥmad's objection is inscribed within Fayḍ's assertion of social hierarchy, but is also disruptive of it. Fayḍ's message, explaining why the gift means that Fayḍ is superior to Aḥmad, also refers to the hypothetical possibility that Aḥmad could ruin Fayḍ's clothes if he could give Fayḍ such a gift. In this comment, Fayḍ clarifies that the importance of social hierarchy is ranked positions, not the people who occupy them.

Other depictions of Fayḍ complement his aggressive deployment of the gift in this story. He was known to be generous and noble as well as arrogant, domineering, and haughty. In one story, Fayḍ went to see the caliph Hārūn al-Rashīd, who extended his hand for Fayḍ to kiss, but instead of bending down to kiss it, he lifted it to his mouth and kissed it. Al-Rashīd said, "If he were not so lowly and stupid, I would kill him." [37]

Fayḍ's generosity could be a weapon of aggression, as it is in the story about the hundred outfits, as well as a benefit to others, as it is in the following story. The Abbasid Umm Jaᶜfar had a secretary who threw a man in prison because he owed money from Umm Jaᶜfar's agricultural land. The man in prison appealed to two friends, who set out to meet the secretary. Fayḍ saw them on the road, asked them what was going on, and offered to help out when he learned about their mission. In one version, the men had the secretary write to ask for their friend's release,

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[37] Abū ᶜAbd Allāh Muḥammad b. ᶜAbdūs al-Jahshiyārī, *Kitāb al-Wuzarāʾ wa-l-Kuttāb*, (Cairo, n.d.), p. 123.

and Umm Jaᶜfar responded, "Not without the money." One man got up to go. In the other version, the same thing happens, but the friend said "We have fulfilled our obligation to the man. Umm Jaᶜfar will not release him unless the money is paid. Let's go." This version emphasizes the friend's failure to make an effort and Fayḍ's virtue in the scene that follows in both versions. Fayḍ said, "It's as if we came here (merely) to confirm that the guy is in prison! By God, we'll pay the money for him." He took the inkstand and wrote out a document for payment. Umm Jaᶜfar decided that she was more suited to the good deed and had the document returned to Fayḍ. The story concludes with the observation that Fayḍ did not even know the man in prison, and he just went to help out his two friends.[38] The contrast between the gift exchange story and the debt relief story, also a kind of gift exchange, demonstrates that gift exchange did not have an inherent ethical or emotional value, but could be loaded with aggressive or benevolent value according to circumstances. Likewise, the contrast between the two stories demonstrates the complexity of Fayḍ as a character.

The following gift exchange story displays social tension through an argument between a caliph and his wife over the caliph's *mawlā*, or client. The client of the Abbasid caliph Abū l-ᶜAbbās al-Saffāḥ, ᶜUmāra b. Ḥamza, and the caliph's wife, Umm Salama bint Yaᶜqūb b. Salama al-Makhzūmiyya, clash because of the caliph's effort to use ᶜUmāra against Umm Salama, who was a former member of the Umayyad dynasty, in an argument about social status. Their argument alludes to tensions between the Abbasids and the Umayyads, and between patron elites and client elites. The story of Fayḍ and Aḥmad features Aḥmad's failed challenge to social hierarchy, as well as Fayḍ's hypothetical inversion of hierarchy ("If you could buy us a hundred outfits, you could ruin our clothes"). In contrast, the gift exchange story about the caliph, his wife, and the caliph's client depicts a more successful challenge to social hierarchy and an actual inversion of it.

> ᶜAlī b. ᶜAbbās the secretary related to us saying: Abū al-ᶜAbbās al-Saffāḥ knew his client ᶜUmāra b. Ḥamza for his arrogance, haughtiness, and dignity. One day Abū al-ᶜAbbās had an altercation with Umm Salama al-Makhzūmiyya, his wife, in which she bragged to him about the superiority

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[38] Al-Jahshiyārī, *Wuzarāʾ*, p. 124; Al-Qāḍī Abū ᶜAlī al-Muḥassin b. ᶜAlī al-Tanūkhī, *al-Faraj baᶜd al-shidda*, 5 vols., ed. ᶜAbbūd al-Shāljī (Beirut, 1978/1398), 2:120–1. The minister Yaḥyā b. Khālid al-Barmakī, who used to demur when praised for his generosity, would say "you should have seen Fayḍ!" (Al-Jahshiyārī, *Wuzarāʾ*, p. 123).

of her family, and he said to her, "I will bring to you this minute, with no preparation, a client of mine the likes of whom you will not find in your family."

Then he commanded that ʿUmāra b. Ḥamza be brought as is, and the messenger went to him; and ʿUmāra tried to change his clothes but the messenger would not let him. He brought him to Abū l-ʿAbbās while Umm Salama was behind the curtain, and ʿUmāra was in clothes scented with musk, having sprinkled his beard with perfume until it laid straight and his hair was concealed. He said, I did not want the commander of the faithful to see me like this. And Abū l-ʿAbbās threw him a container with perfume in it that he had in front of him and ʿUmāra said, commander of the faithful, do you see a place for that in my beard?

Then Umm Salama passed to him a necklace of great value, and the servant gave it to him and ʿUmāra left it in front of him. He thanked Abū l-ʿAbbās and stood up. Umm Salama said to Abū l-ʿAbbās, he forgot it. He said to the servant, catch up with him and tell him that this is a gift from Umm Salama to you, why did you leave it behind. The servant followed him and said, this is for you, why did you leave it? And he said, it's not mine, take it back. When the servant notified him that Umm Salama gave it to him as a gift, he said, if you're telling the truth, then I've given it to you as a gift.

The servant departed with the necklace, and notified Abū l-ʿAbbās of what happened, and Umm Salama said, return my necklace to me. The servant refused to return it, and said, he gave it to me as a gift just as you gave it to him as a gift, and she did not stop until she had bought it from him for 10,000 gold coins.[39]

The location of the story at the head of the Khālidīs' chapter on people who refused a gift out of pride, complements the broader issue of ʿUmāra's contradictory position as a client and the use of gift exchange to articulate social tension.

The story turns on the incongruous combination of al-Saffāḥ's pride in his client, who is therefore summoned without advance notice to serve as evidence in his argument with his wife, and the degradation that this sudden summons entails for ʿUmāra. ʿUmāra's haughtiness makes him the perfect weapon for al-Saffāḥ in his altercation with his wife, while being used in this way is also particularly degrading for ʿUmāra due to his pride. His degradation is a social and bodily experience of awkward discomfort, which he sums up when he tells Abū l-ʿAbbās that he did not want to be seen that way.

The scene in which the caliph tosses some perfume to his distraught

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[39] Al-Khālidiyyān, *Tuḥaf,* pp. 143–5.

client serves as a kind of prelude to the Umm Salama's attempt to give ᶜUmāra the necklace. Although ᶜUmāra appears without advance notice, with some hasty and minimal adjustments, he seems to find the caliph's gift of perfume both unnecessary and insulting, as his indignant retort conveys. The sensory pleasure associated with perfume is incongruent with the rudeness of the summons and the insult felt by ᶜUmāra at this modest gift. Because it is perceived as rude and insulting, the act of Abū al-ᶜAbbās tossing perfume to ᶜUmāra is a distortion of gift exchange.

ᶜUmāra's indirect confrontation with Umm Salama may be just the kind of thing that Abū al-ᶜAbbās had in mind when he summoned him. It is resistance to Umm Salama's assertion of superiority over ᶜUmāra in her attempt to give him the necklace. At the same time, the indirect confrontation contributes to Abū l-ᶜAbbās' assertion of his own superiority over Umm Salama. Like ᶜUmāra's refusal of the perfume, his refusal of the necklace relates to his social and bodily disgrace due to being summoned without notice, and his insistence that he has no need for any improvements. The gracious voluntariness that is identified with gift exchange throws the coercive quality of this attempted gift exchange into relief. When he ignores the necklace and rises to leave, ᶜUmāra acts out his subordination with his polite thanks for the degrading encounter, while also doing his own thing. His polite thanks for the rude treatment reverberate in the silence with which he responds to the gift of the necklace. Similarly, the distortion of gracious gift exchange, in which Umm Salama says that he has forgotten it, reverberates in the silence with which ᶜUmāra responded to the gift of the necklace.

While servants are merely agents who deliver Umm Salama's aggressive gift, and who redeliver the gift on the orders of her husband, ᶜUmāra disrupts the social hierarchy when he gives the gift to a servant without ever having touched it himself. In this scene, ᶜUmāra moves beyond the subdued resistance of his comment that he did not want to be seen that way, the indignant resistance in his refusal of the perfume, and his passive aggressive resistance in ignoring the gift. His confrontation with Umm Salama takes place at a distance, by way of the servant. Umm Salama fails to subordinate ᶜUmāra and is herself subordinated by him, if only in an indirect and roundabout way, when she finds herself in the ridiculous situation of buying back her own gift from the servant. Abū l-ᶜAbbās's client is not only better than her family, he's better than her. The aggression of the gift is matched by the aggression of the refusal, especially ᶜUmāra's act of giving the gift to the servant instead of simply walking away from it. It's not clear whether ᶜUmāra's action has served Abū l-ᶜAbbās's original purpose, when he offered ᶜUmāra as an example

to his wife as a token of his resentment, or has gone overboard.

The tension between the Abbasids and the Umayyads, who had been deposed or had fled to Spain, is the context for this story. During the reign of Abū l-ʿAbbās (r. 132/749–136/753), the first Abbasid caliph, the dynasty worked with a variety of factions but excluded the Umayyads, the former ruling dynasty.[40] ʿUmāra b. Ḥamza, a secretary and a client of Abū l-ʿAbbās al-Saffāḥ and two other caliphs, was known for his eloquence and supervised agricultural land that had belonged to the Umayyad dynasty, so that the tension over the social status of clients intersects with the tension between the Abbasids and the Umayyads in this story.[41] ʿUmāra enjoyed considerable power but his status was limited by his position as a client. Though she married into the Abbasid dynasty, Umm Salama remained a figure of the transition between the Umayyads and the Abbasids.

Umm Salama's role as a transitional figure between the Umayyads and the Abbasids appears in stories about her marriage to Abū l-ʿAbbās. Abū l-ʿAbbās was the first caliph of the Abbasid Empire and Umm Salama had been married and widowed twice, to two members of the Umayyad royal family. Brides are typically given in marriage. In one story, Umm Salama gave Abū l-ʿAbbās a gift of money and in effect offered herself as a gift instead of being given in marriage. Umm Salama was sitting one day when Abū l-ʿAbbās, who was very handsome, passed by. She asked about him and found out who he was, and sent a female client of hers to propose to him. Umm Salama said, "Tell him, here's seven hundred gold coins that I'm sending to you." The client approached him with a great deal of money, jewels, and many followers and made the proposal. Abū l-ʿAbbās responded, "I'm broke," accepted the money, and thanked Umm Salama's client graciously. He arranged the marriage with Umm Salama's brother and used the money that she gave him for his own marriage-related financial obligations. On the wedding night, she lied down on her bridal bed, every part of her body covered with jewels. He could not consummate the marriage. She called one of her slave girls, changed into a dyed garment, and made a bed for him on the floor. He still could not consummate the marriage. She said, "Don't worry about it, the same thing has happened to other men." She

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[40] Hugh Kennedy, *The Prophet and the Age of the Caliphates*, (London, 1986), pp. 128–30.

[41] Yāqūt, *Muʿjam al-Udabāʾ*, 7 vols., ed. Iḥsān ʿAbbās (Beirut, 1993), 5:2054–6.

did not give up until they consummated the marriage, and he appreciated her and swore that he would never go near another woman, free or slave. She had two children by him and dominated him, so that he would not do anything without consulting her.[42] The marriage story is followed by a second marriage-related story that underscores the power of Umm Salama in the match, in which she prevented her husband from pursuing other women. [43] While ᶜUmāra is the go-between in the conflict between Abū l-ᶜAbbās and Umm Salama in the gift exchange story about the necklace, in which Abū l-ᶜAbbās wins, a friend of Abū l-ᶜAbbās is the go-between in their marriage conflict in the story about preventing other relationships with women, in which Umm Salama wins. The friend was the one who suggested to Abū l-ᶜAbbās to enjoy other women, but he changed his tune quickly after Umm Salama sent some men to his house to threaten him, and he enjoyed her generous reward as a result of his revised advice to Abū l-ᶜAbbās.

Umm Salama serves as an important transitional figure, and another "gift exchange" story about her appears in the second extant book on gift exchange from the fifth/eleventh century. The deposed Umayyads turned over their jewels to Abū l-ᶜAbbās, but Umm Salama said, "Why don't I see ᶜAbda's vest?" The jewel-studded vest was missing. One version of the story, which is defined by two writers as a gift exchange story, is enhanced by the fact that ᶜAbda is marked for catastrophe. Her husband, the Umayyad caliph Hishām, noticed a birthmark on her neck when she had taken off her jewelry. He burst into tears and when she asked him what was wrong, he explained "They say that the daughter and wife of a caliph with a birthmark on her neck is doomed." She asked him why he told her such a thing when nothing could be done. Umm Salama insisted that ᶜAbda be brought from Syria to Iraq to deliver the missing vest in person, but ᶜAbd Allāh b. ᶜAlī, who was in charge of her, could not stand the idea of her being taken. He had her killed by his own men on the road, in a dramatic scene in which she asked to be allowed to cover herself in her robe (and, in the later version, pray), and covered her entire body except for her neck. ᶜAbd Allāh b. ᶜAlī said that she was killed by

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[42] Al-Masᶜūdī, *Murūj al-dhahab wa-maᶜādin al-jawhar*, 4 vols, ed. Mufīd Muḥammad Qumayḥa (Beirut, n.d.), 3:315–6.

[43] Ibid., 3:316–20. The story is really a combination of stories (Jaakko Hämeen-Anttila, "Short Stories in Classical Arabic Literature: The Case of Khālid and Umm Salama" in Lale Behzadi and Vahid Behmardi, *The Weaving of Words: Approaches to Classical Arabic Prose* (Beirut, 2009), pp. 35–54).

the Bedouin, and the vest remained with him until it was taken by another caliph.[44] Umm Salama mediates the transition between the Umayyads and the Abbasids by way of jewels when Umm Salama gives herself to Abū l-ᶜAbbās covered in jewels, albeit consummating the marriage only after changing into less dazzling attire, and when she tosses her necklace to ᶜUmāra in her argument over the relative merits of her family and her husband's clients. Likewise, she plays a crucial role in the circulation of the legendary jeweled vest as a figure of the transfer of power from the Umayyads to the Abbasids.

Depictions of ᶜUmāra complement his role in the gift exchange story and clarify the contradictions of client status. ᶜUmāra was said to combine the positive quality of nobility and the negative quality of haughtiness.[45] As in the depiction of Fayḍ, this characterization emphasizes the complexity of personality in the dynamics of social hierarchy. While the depiction of Fayḍ in the story of the hundred outfits focused on his superior position as minister, the depiction of ᶜUmāra in the necklace story focuses on his contradictory position as a powerful yet subordinate client. ᶜUmāra, as a man with a chip on his shoulder, can be compared to pompous and proud characters such as Ibn al-Muqaffaᶜ, who trained Fayḍ b. Abī Ṣāliḥ, and members of the Barmakid family.[46] They are perceived as pompous and proud in the context of the assumption that they are actually subordinate no matter how high they may rise in the elite. For ᶜUmāra, refusing the necklace is a way to claim status that is denied to him because of his position as a client.

Other stories about ᶜUmāra offer insights into his contradictory status in the necklace story. Some stories emphasize his noble character in the context of administrative work, such as one in which the minister Yaḥyā b. Khālid al-Barmakī urgently needed help in a financial crisis. When Abū Jaᶜfar said:

> "Who do you think can help?" Yaḥyā said, "I don't know," and Abū Jaᶜfar responded, "Yes you do, ᶜUmāra b. Ḥamza, go tell him what's going on." Yaḥyā said, "I went to his residence on the other side of the river and explained the problem, and ᶜUmāra told me to meet him at the bridge in the morning and said nothing else. I returned dejected, but Abū l-ᶜAbbās said, 'Don't worry, that's just the way he is.' The next day, I went to the bridge

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[44] Al-Dhakhāʾir wa-l-Tuḥaf, pp. 93–5; Al-Ghuzūlī, Maṭāliᶜ al-Budūr fī Manāzil al-Surūr (Port Said, 2000/1419), p. 455.

[45] Al-Jahshiyārī, *Wuzarāʾ*, p. 60; Yāqūt, *Muᶜjam al-Udabāʾ*, 5:2054.

[46] Sourdel, *Vizirat*, p. 178.

but the Tigris had flooded and broken the bridge. A small boat approached, appearing and disappearing in the waves as people cried, 'Someone's drowning! Help them!' until it approached the shore and it was ᶜUmāra and a sailor. He had left his slave boys and mount behind. When I saw him, he was noble in my eyes and I was all choked up. I went down and greeted him, and said, 'I can't tell you how much I appreciate your coming on a day like this,' and he said, 'Did you think I would make an appointment with you and stand you up, my friend'?"[47]

This story emphasizes ᶜUmāra's nobility by juxtaposing Yaḥyā's uncertainty with the reassurances of the two members of the royal family, and by turning an administrative appointment on a stormy day into a heroic act.

Some stories about ᶜUmāra offer a comic perspective on his sometimes uncomfortable position as a client. ᶜUmāra went to the caliph al-Mahdī and the caliph expressed his respect for him. When he rose to leave, a man (or men) from Medina from Quraysh said, "Who is this guy to whom you expressed so much respect?" The caliph said, "This is my client ᶜUmāra b. Ḥamza." ᶜUmāra heard what he said and returned to him and said, "O caliph, you made me sound like one of your bakers or servants, if only you had said ᶜUmāra b. Ḥamza b. Maymūn the client of ᶜAbd Allāh b. ᶜAbbās so that people would know my place!"[48] As a client, ᶜUmāra was powerful, yet vulnerable. When the Abbasid Mūsā al-Hādī heard of the beauty of ᶜUmāra's daughter, he got in touch with her and eventually arranged to meet her for a secret date in a room that had been prepared for him. ᶜUmāra walked in on the meeting and said to al-Hādī, "Greetings, prince, what are you doing here? We've made you the heir to the throne, not the stallion for our women." ᶜUmāra laid him down on the floor and beat him lightly before sending him home, and al-Hādī always resented him for it.[49] As in the story with Umm Salama, ᶜUmāra's status as a client made him vulnerable to insults, while his ample self-confidence enabled him to respond in an assertive or even aggressive way. The circulation of gifts in the stories about Fayḍ b. Abī Ṣāliḥ and Aḥmad b. Junayd, and about Abū l-ᶜAbbās, Umm Salama, and ᶜUmāra, show that gift exchange can articulate social tensions as well as communal bonds.

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[47] Al-Jahshiyārī, *Wuzarāʾ*, p. 61–2.

[48] Ibid., p. 107; Yāqūt, *Muᶜjam al-Udabāʾ*, 5:2062.

[49] Al-Jahshiyārī, *Wuzarāʾ*, p. 107.

Gifts and political crisis

The tensions surrounding social status and political hierarchy in the stories of Fayḍ and Aḥmad, and of Abū l-ᶜAbbās, Umm Salama, and ᶜUmāra, sometimes gave way to crisis. The Khālidī brothers interpret the caliph Hārūn al-Rashīd's purge of the powerful Barmakid administrative family in terms of a "gift exchange" story. Similarly, the anonymous Fatimid author of the eleventh-century *Book of Treasures and Rarities* elaborates on the assassination of the caliph al-Mutawakkil by his Turkish generals and his own son in a "gift exchange" story. The question of how to share material luxuries serves as an occasion to reflect on the significance of political crises. As in the stories about gifts and social tension, three features define these stories about gifts and political crisis. First, the pleasure of the material gift appears incongruent with the anxiety surrounding the crisis and throws it into relief. Second, in each story, the rhetorical focal point stands out in the silence that surrounds it. This silence is as important as the rhetorical focal point itself in conveying the aggression and anxiety through which the gift exchange displays the crisis. Finally, each story includes confrontation that occurs at a distance, either through the use of writing or the sending of messages, which serves as another way to amplify the crisis. As in the stories about social tension, these features combine in the stories about gift exchange and political crisis to provide implied perspectives on inner life.

Like many writers before and after them, the Khālidī brothers bring the story of the fall of the Barmakids, the most powerful administrative family in the Abbasid Empire, into their treatment of their topic, gift exchange. They were known for centralizing the administration, and as a result, their consolidation of administrative power threatened other elites, including the military and eventually the Abbasids themselves. The Abbasid Hārūn al-Rashīd became caliph in 170/786 and Yaḥyā, and later his two sons Jaᶜfar and al-Faḍl, became important figures in the Abbasid government. In 180 their power began to decline, partly because Hārūn no longer wanted to be dominated by any one faction, and their famous fall occurred in 187/802.[50] In spite of the political causes of their demise, the legends that circulate about the family's downfall after seventeen years of running the Abbasid administration seem to be about surprise and shock at the way close relationships can fall apart.[51]

The immediate context of the story in the Khālidīs' book is a series of

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[50] Kennedy, *Prophet*, pp. 140–3.

[51] Barthold, W., Sourdel, D. "al-Barāmika or Āl Barmak", *EI²*, 1033–6.

gift notices accompanied by poems that define the way they analyze their Barmakid story. It is significant that this series of gift notices with poems, which culminates with the Barmakid story, is right at the beginning of the book, after the brief introduction, in the first chapter (Those Who Gave a Gift Accompanied by Poetry). Given this initial focus on gift exchange that is extremely problematic, it is not surprising that gift exchange as an expression of relationship problems, ranging from transient altercations to deadly confrontations, features prominently in the rest of the book.

The prelude to the Barmakid story consists of four notices about gifts to ruling elites—a sword for the general Yazīd b. Mazyad, who succeeded his uncle Maʿn b. Zāʾida as a tribal leader of Shaybān; a falcon for Muḥammad b. ʿAbd Allāh b. Ṭāhir; a horse for the caliph al-Mutawakkil, who was assassinated; and a sword for the general (and poet and musician) Abū Dulaf. The theme of hunting and war in the series of gifts contributes to the literary interest in gift exchange as an expression of coercion and conflict in the Barmakid story. Most importantly, each poem includes the motif that it is *ḥarām* for the servant to keep what is suitable for the master (instead of giving it to him). Fayḍ b. Abī Ṣāliḥ, in the story discussed above, pointed out that if Aḥmad b. Junayd could buy a hundred outfits for Fayḍ, then he could get mud all over Fayḍ's clothes. This view of status that follows from wealth contrasts with the series of gift notices that lead up to the Barmakid story, where wealth follows status. The servant cannot rise in status relative to the master due to his wealth. Instead, he must turn that wealth over to the master in recognition of the latter's status and to help maintain it. To keep what is suitable for the master instead of giving it as a gift would be tantamount to rebellion, and this is how the Barmakid demise is imagined.

In their transition from the series of gift notices with poetry to the Barmakid story, the Khālidī brothers seem to imply that they are adding on their story of the Barmakid demise as an afterthought. It is hard to take this implication at face value, given the enormous influence of the event in Arabic literary culture. This implication seems to be about reinforcing the fact that they are embedding the famous story in the series of notices that revolve around poems about gift exchange. The story is transmitted by a descendant of the Barmakid ministers who was known as a musician, literary type, and companion to an Abbasid caliph. The descendant as transmitter lends the story immediacy, and the contrast between the administrative power of the ministers and the entertainment position of the descendant calls attention to the fact that

the family was marginalized but not destroyed. The "gift exchange" story of the Barmakids is not really about gift exchange, and the series of notices with poetry that leads up to it is not really story. However, the Khālidī brothers weave the story and the poetry notices together to forge a gift exchange story, and to offer a perspective on the ubiquitous topic of the fall of the Barmakids.

> We do not know anything with this exact meaning—[that it is forbidden for the servant to keep what is suitable for the master instead of giving it to him as a gift]—aside from what we've mentioned, other than a verse in some verses that we deem sound in an anecdote told to us by Jaḥẓā al-Barmakī. Jaḥẓā l-Barmakī related to us, saying: "The most certain of causes for the killing of my uncle Jaᶜfar b. Yaḥyā l-Barmakī and the cease of benefit for his family is some verses that a poet composed when Jaᶜfar built his house at the Shāmisiyya Gate, and threw in the pile of scrap paper, and that ended up in the hands of al-Rashīd when he had sat down to preside over court. When he read it, his face changed, and he looked at it again, over and over, then stamped it and gave it to one of his servants and ordered him to keep it, and he would call for it every day and look at it and stamp it again and give it to the servant until he deposed the Barmakids, and then he showed what was in it, and it was:
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> "Say to the one who is trustworthy for God among His creation, who is given the power to loose and bind,
> This Ibn Yaḥyā Jaᶜfar has become like you with no boundary between (the two of) you;
> Your command depends on his, and his does not depend on anything.
> And we fear that he will inherit your kingdom when you disappear into the grave;
> For he has built the residence that has no semblance or peer on earth
> The likes of which the Persians did not build, nor the Greeks or the Indians;
> And your grandfather al-Manṣūr, if he had visited it, would not have called it—his own castle—'paradise'.
> Pearls and rubies are its pebbles, and its dust is ambergris
> He has equaled you in property, for his doors are crowded with visitors
> And the servant does not vie with his lords unless the servant is insolent'."

The final verse of these verses is an inversion of what al-Ḥarīrī said [with his gift of a horse to the caliph al-Mutawakkil in the series of verses that lead up to the Barmakid story], "Ownership of what is appropriate for the commander is forbidden to the servant".[52]

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[52] Al-Khālidiyyān, *Tuḥaf*, pp. 13–8.

In this gift exchange story , the Khālidī brothers are interested in the counterpoint between the coercive, yet orderly, social hierarchy implied by the four gift notices with poetry, and the disruption of social hierarchy in the story about the Barmakids. The gifts of swords, a falcon, and a horse are about beauty, status, and power. As a counterpoint to these gift, Jaᶜfar's palace is described as a wretched excess of beauty, status, and power. It is only through this comparison that Jaᶜfar's palace can be understood as a failure to give a gift to the caliph, like the initial failure of the impoverished poet to give a Nowruz gift to his patron in the brief story discussed above. The beauty and luxury of the palace offer a stark contrast to the fate of Jaᶜfar and his family. The Khālidīs generate insights into historical characters and events through their topic of gift exchange.

Jaᶜfar was known for his eloquence, but is verbally represented only indirectly, by the anonymous poet's boast about the palace. The poem that al-Rashīd reads but that is withheld from the audience leads to his silent neurosis. Authority figures in medieval Arabic literary culture would write eloquent and morally relevant responses upon letters that they received, in the genre known as *tawqīᶜāt*.[53] Hārūn's repeated review of the poem resembles the practice of writing *tawqīᶜāt*, but instead of writing an authoritative, eloquent, and morally relevant response, he simply stamps the poem and continues to mull over the problem until he has Jaᶜfar killed.

Hārūn's obsessive re-reading and stamping of the offending poem in this story resembles the repeated retelling of the Barmakid story in Arabic literature. While the experience of trauma leads to efforts to achieve mastery over an event through repetition, the possibility of mastery is undermined by the compulsive nature of the repetition—instead of gaining control of the traumatic event, the person is controlled by it through compulsion—and the fragmentation of the experience that occurs in the process of repetition.[54] Hārūn's prolonged silence about the poem serves as a kind of echo chamber for the undisclosed contents of the scrap paper. This echo chamber amplifies the eventual revelation of the offending poem as a rhetorical focal point.

The Khālidīs' final comment is a kind of zoom lens. It magnifies the

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[53] Hāshim Mannāᶜ, *Al-Nathr fī l-ᶜaṣr al-ᶜabbāsī* (Beirut, 1999), pp. 212–36; Beatrice Gruendler, "*Tawqīᶜ* (Apostille)" in Behzadi and Behmardi, eds., *Weavers of Words*, pp. 101–30.

[54] Kaja Silverman, *Male Subjectivity at the Margins* (New York, 1992), p. 57.

inversion of social hierarchy by way of the inversion of al-Ḥarīrī's motif in the verse about Jaᶜfar's palace. The fact that al-Ḥarīrī's motif of social hierarchy and gift exchange is directed toward the caliph al-Mutawakkil, who was assassinated by his Turkish generals with the help of his own son, compares the rebellious assassination to Jaᶜfar's failure to share his wealth with his patron. The comparison is also ironic, since the rebel generals were perpetrators of violence, while Jaᶜfar was a victim.

The Khālidī brothers turn the Barmakid problem into a gift that should have been given but was not, and a poem that should have been a gift exchange poem but was instead a boast about a gift that was not given. The gift that was not given might have been bearable, but the boast about it is too much for Hārūn al-Rashīd to take. Jaᶜfar ends up resembling a miser who alienates himself by not participating in exchange, with the important difference that miser stories are comic and his story is tragic.

Like any new media technology, the expanding use of writing offered new ways to experience secrecy, disclosure, alienation, and intimacy, as well as anxiety, obsession, and compulsion. Writing is a motif of anxiety in the depiction of Hārūn al-Rashīd, as he repeatedly reviews the offending poem in the gift exchange story about the palace. Writing also offered new opportunities for comparison to highlight the significance of political crises. The Khālidī brothers could draw on the expanding range of bookstores as well as the resources that they enjoyed as librarians in the court of Sayf al-Dawla.[55]

Modern research often views implications of privacy and individualism in medieval Arabic literary culture in a positive way, perhaps because these implications make medieval characters and writers seem more like the way modern people value themselves. In the case of Hārūn, privacy is a condition of misery and anxiety. In the case of Jaᶜfar, individualism is defined by the Khālidīs as a failure to be socially engaged, and a failure to cope with social hierarchy so as to take advantage of its privileges and protection. For Hārūn, privacy is a private Hell from which he can never really escape, and for Jaᶜfar, individualism is a tragic flaw. In many cases in medieval Arabic literature, word tames

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[55] "Introduction" in Kushājim, Maḥmūd b. al-Ḥusayn, *Dīwān kushājim* ed. al-Nabawī ᶜAbd al-Wāḥid Shaᶜlān (Cairo, 1997/1417); Shawkat M. Toorawa, "Ibn Abī Ṭāhir Ṭayfūr versus al-Jāḥiẓ, or: Defining the *Adīb*" in James E. Montgomery, ed., *'Abbasid Studies: Occasional Papers of the School of 'Abbasid Studies* (Leuven, 2004), pp. 247–62; "Introduction" in Al-Khālidiyyān, *Tuḥaf.*

power.[56] In this case, the anti-gift exchange poem incites the caliph to violence.

The Khālidī brothers' gift exchange story about Hārūn and Jaᶜfar complements other stories about their relationship and the crisis. Yaḥyā b. Khālid al-Barmakī was in charge of the caliph Hārūn al-Rashīd's education, and Yaḥyā and Hārūn's mother were responsible for paving his way to the caliphate. Each of Yaḥyā's sons Faḍl and Jaᶜfar was in charge of the education of one of Hārūn al-Rashīd's heirs. Faḍl was nursed with Hārūn al-Rashīd and Jaᶜfar was Hārūn's closest companion. Faḍl was known for his great generosity and Jaᶜfar for his eloquence.[57] The whole family did well, but the caliph was particularly interested in Jaᶜfar.[58] The danger of this close relationship with the ruler did not go unnoticed. Yaḥyā would censure Jaᶜfar for being so involved with al-Rashīd and warn about the consequences, and he explained his view to al-Rashīd as well.[59] The gift exchange story, with its narrow focus on the caliph's anxiety about the relationship, evokes the tense intimacy between the caliph and his companion.

Stories about the rivalry that smolders between Jaᶜfar and Hārūn complement the gift exchange story, especially one story about the palace that is described in the verses. His father could persuade Jaᶜfar to give up his reckless pursuit of pleasure, so he told him to build a palace on the other side of the river out of sight of those who might disapprove of his pleasure-seeking. When it was done Jaᶜfar toured it with some friends, and they offered clever descriptions of it in prose or verse, except for one friend who remained silent. Jaᶜfar said, "What's the matter? Why don't you join in?" The friend said, "The others have said enough for me." Jaᶜfar could tell he was hiding something and pressured him. The friend told him, "To tell you the truth, I'm worried. What would you think if you went to a friend's palace and it was nicer than yours?" Jaᶜfar said, "Enough, I see what you mean." The friend advised him to tell the caliph that he built the palace for the caliph's son al-Maᵓmūn, Jaᶜfar's student. As predicted, the caliph was upset when he

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[56] Hamori, "Going Down in Style".

[57] Barthold, W., Sourdel, D. "al-Barāmika or Āl Barmak", *EI²*, 1033–6.

[58] Al-Rashīd would say to Yaḥyā, you are for al-Faḍl and I am for Jaᶜfar (Al-Jahshiyārī, *Wuzarāᵓ*, p. 145). Al-Rashīd is said to have put Jaᶜfar in charge of the west and al-Faḍl in charge of the east, and al-Faḍl went to look after his regions while Jaᶜfar stayed with Rashīd.

[59] Al-Jahshiyārī, *Wuzarāᵓ*, pp. 177–8.

learned of the palace. Jaᶜfar told him that it was for al-Maʾmūn, and that there were some expenses left for the furnishings that he would take from the treasury. The caliph's mood improved, as he boasted that all remaining expenses would of course come from his own funds.[60] Jaᶜfar's friend Ibrāhīm b. al-Mahdī also situates the palace in the context of gift exchange. He said, "Your adversary will take a certain angle, saying to him, 'If he spent twenty thousand on his house, where are his funds for expenses? Where are his gifts? What about the misfortunes that befall him? What do you think is behind that?' And those are words that go straight to the heart…".[61] Jaᶜfar echoed the palace problem himself, saying, "Our house has no flaw except that its owner won't last long," referring to himself".[62] The Khālidīs' gift exchange story complements these stories of the gift exchange that should have taken place but did not.

The Khālidī brothers appear to suggest that had Jaᶜfar followed the formula in the poetry notices, then it would have been *ḥarām* for the servant to have kept that which is appropriate for the master. When Jaᶜfar follows the formula, it works. Al-Rashīd had Jaᶜfar race a horse and it beat al-Rashīd's own horse, so that al-Rashīd became angry. Another official at the race stepped in to try to appease the caliph with a story, and told al-Rashīd a story of a similar situation that occurred between the caliph Abū l-ᶜAbbās al-Saffāḥ and Jaᶜfar's grandfather Khālid, in which Khālid's horse beat the caliph's horse and Khālid told the caliph to go and collect his prize. The caliph agreed that the prize was his, for Khālid was his protégé, so everything that belonged to Khālid was really his. Al-Rashīd's mood improved.[63]

The gift exchange that does not take place represents an inversion of social hierarchy that is ominous, but the same theme also appears in a comic context when Jaᶜfar played caliph for a day. He went out of town with his friend Ibrāhīm b. al-Mahdī for a cupping treatment and a party, and gave orders to allow a certain ᶜAbd al-Malik into the gathering because he had business with him. The doorman accidentally let in a different ᶜAbd al-Malik, ᶜAbd al-Malik b. Ṣāliḥ al-Hāshimī, who had a reputation for being too uptight to enjoy such a gathering, but whose

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[60] Yāqūt, *Muᶜjam al-Buldān*, 7 vols. (Beirut, 1995), 2:3–4.

[61] Al-Ṭabarī, *Tārīkh al-Umam wa-l-mulūk*, 6 vols. (Beirut, 2001/1422), 4:659.

[62] Ibid. 4:659.

[63] Al-Jahshiyārī, *Wuzarāʾ*, p. 161.

high social status made it inappropriate to ask him to leave. The uninvited guest managed to participate in the party in an awkward yet adequate way, and Jaᶜfar said:

> "You've been such a good sport, what can I do for you?" ᶜAbd al-Malik said, "The caliph is angry at me, make him content." Jaᶜfar responded, "The caliph is content with you." ᶜAbd al-Malik said, "I owe 4,000 in gold coins." Jaᶜfar responded, "It's ready to go, from the caliph's money, which is better than my own." ᶜAbd al-Malik said, "I want my son Ibrāhīm to marry into the caliph's family." Jaᶜfar responded, "The caliph hereby marries him to his cherished daughter ᶜĀ᾿isha." ᶜAbd al-Malik said, "I want to see governor's banners flying over his head." Jaᶜfar responded, "The caliph has put him in charge of Egypt."

Ibrāhīm b. al-Mahdī expressed amazement at Jaᶜfar's presumptuousness, but Jaᶜfar went to al-Rashīd the next day and he loved it, and executed all of Jaᶜfar's commands on his behalf.[64] The juxtaposition in the sources of the tragic and comic versions of the theme of the inversion of social hierarchy is like a metanarrative about inversion.

The surprise and shock associated with the Barmakid demise are about the way relationships can fall apart on the inside while appearing to function on the outside. This theme is particularly important in the context of medieval Muslim social and professional life, which revolved around individual, informal, and shifting alliances more than formal institutions such as aristocracy, caste, guilds, or civil service systems.[65] The question of distinguishing reality from appearances was a crucial aspect of refined manners, in the use of close observation and elegant rhetoric in love, friendship, and pleasure pastimes. Likewise, refined manners were a crucial aspect of professional training.[66]

The exchange of women between men in marriage resembles gift exchange, and like gift exchange, it can generate conflict instead of bonds between men. In one story, Hārūn had Jaᶜfar marry Hārūn's sister ᶜAbbāsa as a matter of form so that they could all spend time together, stipulating that they would not interact except as party companions in al-

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[64] Ibn ᶜAbd Rabbih, *Al-ᶜIqd al-farīd*, 7 vols., ed. Muḥammad al-Tūnjī (Beirut, 2001), 5:66–7.

[65] Roy P. Mottahedeh, *Loyalty and Leadership in an Early Islamic Society* (Princeton, 1980), pp. 4–6.

[66] Norbert Elias, *The Court Society*, tr. Edmund Jephcott (Oxford, 1983), pp. 101–11; Gadi Algazi and Rina Drory, "L'Amour à la cour des abbassides: Un code de competence sociale", *Annales* 6 (2000), pp. 1255–82.

Rashīd's presence, so would not have sex.[67] This peculiar marriage reinforces the problem of intimacy, since the marriage makes Jaᶜfar closer to the caliph, but the stipulation keeps him distant. Unlike a material gift, a human one can change the terms of gift exchange. ᶜAbbāsa fell for Jaᶜfar, and after ingratiating herself with Jaᶜfar's mother, as if in a normal marriage, she was able to disguise herself and trick Jaᶜfar into having sex with her, and a child was born. This theme of physical misrecognition implies the psychological misrecognition that complicates relationships. The legitimate yet illegitimate child was whisked off to Mecca (a location that offers an ethical counterpoint to the problem of failing relationships), but Hārūn found out about the child from his mother and planned to kill Jaᶜfar. In both the palace stories and the marriage story, the breakdown of the relationship is imagined as exchange that has gone awry because one friend withholds what he ought to give to the other. The external action in the marriage story reflects the inner turmoil that Hārūn displays in the gift exchange story.

The caliph's ambivalence about Jaᶜfar and his death appears in one version of al-Rashīd's reaction. He could not stand to look at the executioner and ordered him killed.[68] The caliph's traumatic inability to stop looking at the offending poem in the gift exchange story complements his traumatic inability to lay eyes on the executioner. The more or less real climate of disquiet and various advance signs of the disgrace did not prevent the downfall from being viewed as brutal and mysterious.[69] Even political problems do not seem to explain the unusual brutality of the treatment of Jaᶜfar, whose remains were left exposed in Baghdad for a year.[70] The Khālidī brothers' gift exchange story explores a crisis of intimacy, reality and appearances in relationships, differences of social status and the inversion of social hierarchy.

While the palace and marriage stories focus on the failure gift exchange to secure relationships across boundaries of status, the Khālidī brothers also include a gift exchange story about Jaᶜfar's brother al-Faḍl

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[67] Al-Ṭabarī, *Tārīkh*, pp. 4:660–1; Al-Masᶜūdī, *Murūj al-Dhahab*, pp. 3:459-62; For a detailed analysis of the love story and the discussion about love that accompanies it, see Julie Scott Meisami, "Masᶜūdī on Love and the Fall of the Barmakids", *Journal of the Royal Asiatic Society* (1989), pp. 252–77.

[68] Al-Masᶜūdī, *Murūj al-Dhahab*, 3:465.

[69] Sourdel, *Vizirat*, 1:157.

[70] Barthold, W., Sourdel, D. "al-Barāmika or Āl Barmak", *EI²*, 1033–6.

b. Yaḥyā al-Barmakī that offers successful gift exchange as a counterpoint to the far more famous failure. Faḍl, who was known for his generosity, rejected gifts from a subordinate and protégé, Ibrāhīm b. Jibrīl. The story is amplified in three ways that emphasize the connection between gift exchange and coercion in social hierarchy. First, at the beginning of the story, Faḍl summoned his resentful subordinate and terrified him in doing so. He said, "Don't worry, my power over you prevents me from harming you," and gave him a series of lucrative jobs. Second, at the end of the story, Faḍl refused gifts in his grateful protégé's house, and said, "I didn't come here to plunder you," implying that he could if he wanted to. Finally, before leaving, Faḍl accepted a Sijistānī whip from the protégé, who had held a lucrative position in Sijistān, and said, "This is one of the pieces of equipment used by [noble] cavalrymen" The choice of the whip alludes to his power over his protégé.[71]

These features of the story amplify Faḍl's generosity, and they also contrast with Hārūn's treatment of Jaᶜfar. Faḍl's power prevented him from harming his protégé, but Hārūn's power did not prevent him from harming Jaᶜfar. Faḍl explained to his protégé that he did not come to plunder him, and Hārūn did plunder Jaᶜfar. Faḍl accepted the gift of a whip, which evokes coercion, but the whip is, as Faḍl observes, the equipment for noble men. Hārūn was anything but noble in his treatment of Jaᶜfar. The rhetorical focal points in this gift exchange story are about Faḍl's nobility toward Ibrāhīm b. Jibrīl even after he was resentful. In contrast, the legend of the downfall is about Hārūn's violence toward Jaᶜfar even though Jaᶜfar was not resentful. The counterpoint between the two gift exchange stories implies that the failure in the case of Hārūn and Jaᶜfar was not inevitable, and it did not have to happen that way.

Like the Barmakid crisis, the assassination of the caliph al-Mutawakkil and his minister al-Fatḥ b. Khāqān in 247/861, committed by Turkish generals with the help of one of the caliph's sons, turned into a legendary theme.[72] If the Barmakid theme addresses the relationship between the administrators of the empire and the executive, the Mutawakkil theme addresses the issue of the relationship between the

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[71] Al-Khālidiyyān, *Tuḥaf,* pp. 147–48.

[72] On the development of historiography about the event in conjunction with al-Buḥturī, see Samer Mahdy Ali, "Singing Samarra (861–956): Poetry and the Burgeoning of Historiography upon the Murder of al-Mutawakkil," *Journal of Arabic and Islamic Studies* 6 (2005–6).

military and civilian authority. In stories, both themes are about relationships that break down. The following gift exchange story about the caliph al-Mutawakkil and his minister ʿUbayd Allāh b. Yaḥyā b. Khāqān appears in the second of the two extant monographic compilations on gift exchange, an anonymous work that was probably written by a Fatimid official in the eleventh century in Egypt. In this story, the circulation of a gift of the finest aloe perfume in the world is an indirect retelling of the assassination and an interpretation of its significance.

Al-Mutawakkil set the stage for the conflict that led to the assassination that lurks in the background of this gift exchange story. He was appointed caliph following his brother's death by a committee consisting of a minister, a judge, and two Turkish generals. He then deposed the minister, the judge, and one of the generals. He appointed the ministers ʿUbayd Allāh b. Yaḥyā b. Khāqān and al-Fatḥ b. Khāqān and put his sons in charge of provinces that had been held by Turkish generals.[73] Al-Mutawakkil recruited a new army, established a new capital in Iraq, and changed the theological policy of the empire. His approach to dealing with the military alienated him from most of the powerful Turkish generals, and he arranged to take land from one general and give it to his minister Fatḥ.[74] Likewise, his approach to dealing with his son and first choice for heir, al-Muntaṣir, undermined their relationship, especially his decision, on the last Friday of Ramadan 247/861, to not lead the congregational prayer himself and instead to have al-Muntaṣir do it, and then his change of plans to have his other son al-Muʿtazz lead the prayer.[75] The situation was probably exacerbated by al-Mutawakkil's own ministers, who tended to favor al-Muʿtazz over al-Muntaṣir.[76] A group of Turkish generals and the caliph's son al-Muntaṣir had al-Mutawakkil and his minister al-Fatḥ b. Khāqān assassinated in his palace gathering. ʿUbayd Allāh was working in his office at the palace. He found the exits locked and had the door to the

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[73] Modern sources disagree about whether ʿUbayd Allāh b. Yaḥyā b. Khāqān was al-Fatḥ's nephew (Kennedy, *Prophet*; Al-Buḥturī, *Dīwān,* 1:516*).

[74] Al-Ṭabarī, *Tārīkh*, 5:334.

[75] Ibid. 5:334.

[76] See Kennedy, *Prophet,* p. 171. Why the caliph started to turn away from al-Muntaṣir is not clear. Tayeb al-Hibri, *Reinterpreting Islamic Historiography: Hārūn al-Rashīd and the Narrative of the ʿAbbāsid Caliphate* (Cambridge: Cambridge University Press, 1999), p. 188.

river bank broken so that he could escape in a small boat.[77] He went into exile after the assassination but was later reappointed. During the nine years of disorder, four caliphs reigned, three of whom were killed.[78] The assassination and its aftermath loom in the background of the gift exchange story. The story leads us away from the crisis (all the way to India) to the values of material pleasure, refined manners, and mercantile exchange, but keeps us thinking about the crisis.

This gift exchange story about the best aloe incense in the world is preceded by a straightforward notice that brings the gift to Baghdad. On the occasion of the marriage of his daughter Būrān to the caliph al-Maʾmūn in the year 210/825, an Indian king gave gifts to the minister al-Ḥasan b. Sahl that included a basket of women's toiletries, including Indian aloe the likes of which had never been encountered before.[79] In the story that follows this notice, ᶜAlī b. al-Munajjim relates the main story:

> One night, we were with al-Mutawakkil ᶜalā Allāh. ᶜUbayd Allāh b. al-Ḥasan b. Sahl was with us. He was a refined and elegant person who had experience with people and had witnessed the best of them. Al-Mutawakkil had had a cupping treatment that day, and was weakened, so the doctors instructed him to use good quality, fresh aloe incense, and he did that. Everyone who was present in the gathering swore that they had never ever smelled the likes of that aloe incense. ᶜUbayd Allāh b. al-Ḥasan b. Sahl said, "That's from the aloe incense that the king of India gave to my father for the wedding of my sister Būrān to al-Maʾmūn." Al-Mutawakkil accused him of lying, and called for the small chest from which the piece of aloe incense had been taken. Less than one *awqiya*[80] of the aloe was found, along with a letter in which was written: "This aloe is a gift from the king

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[77] Al-Ṭabarī, *Tārīkh*, 5:337.

[78] Kennedy, *Prophet*, p. 171; Al-Ṭabarī, *Tārīkh*, 5:478; Al-Yaᶜqūbī, *Tārīkh al-Yaᶜqūbī*, 2 vols. (Beirut, 1960/1379), 2:507. In an analysis of two contradictory poems by al-Buḥturī on the occasion of the assassination of the caliph al-Mutawakkil, Samer Ali suggests that these poems may be about the destruction of one order for the sake of a new one. See Samer M. Ali, "Praise for Murder? Two Odes by al-Buḥturī Surrounding an Abbasid Patricide" in Beatrice Gruendler and Louise Marlow, eds., *Writers and Rulers: Perspectives on Their Relationship from Abbasid to Safavid Times* (Wiesbaden, 2004), pp. 1–38(p. 30).

[79] Al-Dhakhāʾir, p. 32.

[80] Less than one ounce according to Qaddūmī, see *Book of Gifts and Rarities*, p. 81.

of India to al-Ḥasan b. Sahl for the wedding of Būrān to al-Maʾmūn." Al-Mutawakkil was embarrassed that he had called ʿUbayd Allāh a liar and ordered a gift for him. He summoned his minister ʿUbayd Allāh b. Yaḥyā b. Khāqān and said, "Get a reliable man from among your friends immediately, give him a thousand gold coins for expenses, and have him carry with him gifts in the amount of ten thousand gold coins that cannot be found in India, and tell the messenger to inform the king of India: 'We do not want any recompense for this except whatever he has of aloe perfume'." The messenger executed his task, and returned to Samarra the night that al-Mutawakkil was killed. He held on tight to what he brought of aloe perfume until al-Muʿtamid ʿalā Allāh occupied the caliphate, and ordered the return of ʿUbayd Allāh b. Yaḥyā b. Khāqān to his position as minister.

The man said, "When ʿUbayd Allāh b. Yaḥyā b. Khāqān returned to the position of minister, I went to see him and when he looked at me he said, 'You are our messenger to the king of India?' I said, 'Yes, I left Samarra to do what you ordered, and I entered Baghdad, and I had carried with me three hundred bottles (*khumāsiya*s) of wine from Quṭrabbul.[81] When the sea water became salty for me, I started mixing it with that wine. So I arrived in India after I had drunk a hundred *khumāsiya*s. I went to see the king and turned over the gift to him and he was pleased by it. I told him about the aloe wood for which I had come. He said, 'That is something that my father sent, and by God I have none in my treasuries except for a hundred *manā*s, so take half and leave half.' I kept cajoling him until he allowed me to take 150 *raṭl*s. Then he had me attend his meal. When we ate, they brought *nārjīl* wine, and I said to him, 'I don't drink this.' I brought out some of the wine from Quṭrabbul that I had carried with me and when he saw it, smelled it and tasted it, he said 'What is this?' I said, 'Grape juice.' He said, 'Do you die [become intoxicated] if you drink it?' I said, 'Yes.' He said, 'Because you mix it strong and stay up late drinking it.' He said, 'So I gave him a hundred *khumāsiya*s, and he ordered for me a hundred thousand silver coins, clothes, perfume and other things like that for me. And I departed and drank the rest of what I had on the way, and I reached Samarra when what happened to al-Mutawakkil had happened, and here is the aloe wood that I saved.'" ʿUbayd Allāh said to him, 'All that you took is yours with blessings except the aloe wood. Bring it to me unopened.' And he did that, and ʿUbayd Allāh took it all. And people used to describe the perfume of its scent to each other. And it was that aloe incense that he used to burn, nothing else.[82]

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[81] A village near Baghdad known for its wine (Yāqūt, *Muʿjam al-Buldān*, 4:371).

[82] *Al-Dhakhāʾir*, pp. 32–5.

In this gift exchange story, the manners of gift exchange intersect with the moral problems of coercion and conflict. These moral problems are exemplified by the contrast between the first and second theft of the aloe. The theft in the first half of the story, before the crisis, is accidental. It is committed by the caliph who is acting on doctor's orders and not feeling well. ʿUbayd Allāh b. al-Ḥasan b. Sahl, who is described as both elegant and experienced, does the right thing by sticking up for his father, and politely calling al-Mutawakkil's attention to the wedding gift. The social engagement of gift exchange that is implied by the wedding gift is briefly undermined when al-Mutawakkil calls ʿUbayd Allāh b. al-Ḥasan b. Sahl a liar. However, thanks to the written note, al-Mutawakkil restores the legacy of the gift and its symbolic meaning of harmony between the royal family and its ministers. The caliph's immediate and costly effort to right the mistake is commensurate with the material value of the amazing perfume and its symbolic value of harmony between the rulers and their ministers.

The theft in the second half of the story, after the crisis, is purposeful. ʿUbayd Allāh b. Yaḥyā b. Khāqān tells the messenger to help himself to the other gifts that he was given but bring the aloe unopened. In the second theft, nobody sticks up for al-Mutawakkil or the legacy of the gift. Instead of a written note, there is the tacit knowledge, of the minister, the messenger, the people who continue to praise the perfume, and the audience, that the perfume has been confiscated.

The original wedding gift signifies harmony between the royal family and their ministers, and the executive and the administration in general, in conjunction with transnational mercantile harmony between the empire based in Iraq and India.[83] Harmony between the executive and the administration, and between the Abbasids and India, implies good government that is rooted in sound management of the military and regional resources, as well as a flourishing economy that also yields prosperity through trade. In the second theft, the legacy of the gift is compromised. The stolen gift now signifies betrayal and echoes the assassination. The luxury of the gift corresponds to the value of marriage

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[83] "Although the devastation wrought by the Mongol conquest of Iraq in the thirteenth century makes it difficult to trace the impact of these eastern imports on the artistic production of the Abbasid heartlands, the cultural flows of the period were clearly multidirectional, suggesting that the relationship between center and periphery was considerably more complex than has usually been assumed" (Finbarr B. Flood, *Objects of Translation: Material Culture and Medieval "Hindu-Muslim" Encounter* (Princeton, 2009), pp. 15–6).

as a figure of political harmony, and it is incongruous with the crisis of assassination and betrayal.

The aloe is about mercantile harmony, in which the Abbasid elite can be as delighted with the aloe as the Indian king is with the wine. The messenger's excessive enjoyment of the wine all the way to India and back contributes to the theme of delighful cruise. This utopia of mercantile delights is at odds with the violence of the assassination that occurs on the night of the messenger's return, and with the political unrest that follows the assassination, during which the messenger hides his stash of perfume until ʿUbayd Allāh b. Yaḥyā b. Khāqān returns to power, since he is the one who sent him to India on al-Mutawakkil's behalf. Finally, the gift exchange as mercantile delight is most at odds with the outcome of the trustworthy messenger's mission, when the minister who ordered it on al-Mutawakkil's behalf, for the sake of the legacy of the married couple as a figure of political harmony, not only confiscates the aloe, but also ostentatiously consumes it. While the wine circulates outward into the world in a display of trade relations, the aloe spirals inward, into the political turmoil at the heart of the Abbasid Empire, and finally into the hands of the minister who betrays his late ruler and patron, and the legacy of the married couple.

Rhetorical focal points help to define the significance of the aloe. The discovery of the note uncovers the first theft, in contrast to the silence in response to the second theft. The first comment by the people who experience the fragrance is about manners, the sociable appreciation of sensory pleasure and fine things. The second comment by the people, in which they describe the aloe to each other, occurs in the context of the second theft and seems to reverberate in the silence about the theft and the assassination. Like Hārūn's traumatic repetition in his re-reading of the offending poem, the comment about people continuing to describe the aloe to each other resembles a traumatic repetition. The pleasant experience of the aloe takes the place of the difficult experience of assassination, political turmoil, and betrayal. And like Hārūn's traumatic repetition, the repetition that is implied in the comment about people describing the aloe to each other opens out onto the continuous retelling of stories about the political crisis.

Another example featuring a trip to India and designated as story about gifts shows how the strangeness and delights of India are used to explore danger in Arabic-speaking political centers. According to this story, the scion of the Barmakid family, Barmak, used to visit Indian kings, perhaps a reflection of the fact that the Barmakids supported the integration of Indian science and culture in Arabic scholarship. At the

court of an Indian king, Barmak ate his fill and then the king ordered him to eat more. [84] When he said that he was done, the king had a baton brought in to threaten him repeatedly, so that Barmak felt that he has done the wrong thing and overate. The feeling of doing the wrong thing emphasizes the strangeness of the place for Barmak, while overeating is a distortion of material pleasure. After this forced overindulgence, Barmak looked at an official's ruby and the official threw it in the water, so that Barmak again felt that he had done the wrong thing, and told this to the official when he was asked about why he looked so dejected. The official said that it was no problem, and displayed a silver fish that had swallowed the ruby. Once again, strangeness and material delight go together. However, this discomfort about doing the wrong thing while in India is nugatory in comparison with Barmak's discomfort at his reception by the Umayyad caliph Hishām. He related his adventures to him, and Hishām ordered him to procure some fine food. Soon afterward, Barmak was summoned as is when he had just taken off his clothes to wash up. This sign of trouble resembles ᶜUmāra's encounter with Abū l-ᶜAbbās and Umm Salama in the story discussed above. Barmak was sent back home, got cleaned up, and then returned to Hishām to find out what was wrong. Hishām explained that he had a ruby that changes color if someone possessing poison came to see him. He said that the ruby changed color when Barmak met with him. Apparently Barmak had been working with (perhaps using?) opium while filling the caliph's order. As in the aloe perfume story, in this story, India is strange but safe, while the imperial center is familiar but dangerous. Barmak feels that he did the wrong thing when he stared at the jewel in India, but it is no problem; he does nothing wrong in Damascus, but the caliph discovers from his magic jewel that there is something wrong with Barmak. The story about Barmak links Muslim West Asia and India through the jewel, just as the story about al-Mutawakkil links the two locations through the aloe perfume. In both stories the point of the link is to heighten the contrast.

One sequence of signs culminates with a gift exchange that leads into the assassination, and helps to explain the aloe story. Al-Buḥturī is the intermediary. In the first sign, the people in the caliph's gathering were discussing the arrogance of kings, and al-Mutawakkil withdrew from the discussion, turned in the direction of prayer, put dirt on his head out of humility, and said that he would return to earth so it was right for him to

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[84] Al-Ghuzūlī, *Maṭāliᶜ*, pp. 453–4.

be modest, not arrogant. [85] In the aloe perfume story, it is al-Mutawakkil's power which leads him to appropriate the gift and his arrogance that leads him to call ᶜUbayd Allāh b. al-Ḥasan b. Sahl a liar when he objects. In contrast, it is his humility that makes him go to great lengths to replace the stolen aloe. The religious theme serves as an ethical backdrop for the problem of the assassination. In the second sign, al-Mutawakkil was enjoying a song and suddenly said to Fatḥ, "We're the only ones left to listen!" and started crying.[86] Just as pleasant music contrasts with impending doom in this story, the aloe perfume story juxtaposes the delight in the incense with the assassination and the problematic confiscation of the aloe by ᶜUbayd Allāh b. Yaḥyā. The series culminates with the third sign. Qabīḥa gave al-Mutawakkil a fine garment and he tore it, saying, "Let no one wear it after me".[87] Al-Buḥturī commented, "I said to myself, we belong to God and to Him we return [what one says when a death occurs], it's all over now".[88] The tearing of the robe may echo the tearing of collars in mourning. The contradiction between the luxurious robe and the act of tearing it out of anxiety about the future is amplified after the assassination takes place, in one version of the burial. Qabīḥa wrapped al-Mutawakkil in the torn robe as a shroud.[89] The connection of the same person giving the robe as a gift and wrapping al-Mutawakkil in it as a shroud, and their intimate relationship, reinforce the theme of pleasure joined to catastrophe. In this story as in the aloe perfume story, gift exchange is linked to marriage, and the combined pleasure offers a counterpoint of pleasure to catastrophe.

The commentary on the assassination in poetry by al-Buḥturī contributes to the expanding historiography about it.[90] This expansion of historiography complements the aloe perfume story, which views the event from a marginal point of view. Al-Masᶜūdī concludes his assassination stories by explaining, "And there are other stories of how al-Mutawakkil was killed, and this is what we have chosen in this context, for it had the best wording and the most accessible style…" and

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[85] Al-Masᶜūdī, *Murūj al-Dhahab*, 4:138.

[86] Ibid. 4:138.

[87] For a detailed discussion of this gift, see Ali, "Singing Samarra".

[88] Al-Masᶜūdī, *Murūj al-Dhahab*, 4:138.

[89] Ibid. 4:139.

[90] Ali, "Singing Samarra".

noting that there are other stories about the event.[91] The aloe perfume story does not appear in major historical accounts of al-Mutawakkil – perhaps it is one of those other stories.

In these longer gift exchange stories, about Fayḍ and Aḥmad, Umm Salama and ᶜUmāra, Hārūn and Jaᶜfar, and al-Mutawakkil and ᶜUbayd Allāh b. Yaḥyā, writers investigate the emotional experience that weaves together material delights and political crisis. These stories relinquish moral authority in favor of manners, while also commenting on much more serious business.

Gift exchange stories may offer an indirect commentary on social issues through the themes of the wrong rhetoric, relationship problems, social tensions, and political crisis. They take a step away from serious social issues to offer an oblique angle for interpretation of them. The incongruence of fine gifts and tense situations, and the use of rhetorical focal points, silence, and communication at a distance provide implied perspectives on the inner life and emotional experiences of characters. Families of texts about a particular character amplify and modify these perspectives on inner life and political crisis. In *adab* literature in general, and in gift exchange stories in particular, major historical events and serious moral inquiry undergo a kind of "ababification" that makes them less serious, though no less significant. Manners become a kind of mannerism, feeding off of more serious discourse, and also feeding back into it.

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[91] Al-Masᶜūdī, *Murūj al-Dhahab*, 4:139.

PUBLIC EXECUTION IN THE UMAYYAD PERIOD: EARLY ISLAMIC PUNITIVE PRACTICE AND ITS LATE ANTIQUE CONTEXT*

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Executions can be understood as symbolic events and part of wider political culture. Recent commentators on early Islamic execution have observed that Umayyad punishment of apostates, rebels and brigands was 'pre-classical'. There is less agreement about the extent to which 'Islam' affected Umayyad practice. Epistles and poetry provide a more secure basis for understanding Umayyad public capital punishment than the problematic anecdotal evidence of other sources. Umayyad punitive practice was indeed not 'classical', and its justification does not seem to have explicitly invoked Prophetic precedent. However, it was sometimes justified with reference to the Qurʾān, and in particular with reference to ideas about violation of God's covenant (*nakth*) and public violence (*khurūj* and *fasād fī l-arḍ*). Furthermore, when the supposed forms of punishment are considered in their late antique context, features of Umayyad-era penal culture that appear to have been shaped by the wider, monotheist context can be identified.

Introduction

Classical Islamic legal thought distinguished between two main kinds of public violence by Muslims: 'brigandage' (*ḥirāba*) and 'rebellion' (*baghy*). The former, also often referred to as 'highway robbery' (*qaṭʿ al-ṭarīq*), was understood to mean the use of public violence for material gain; the latter was rebellion on the basis of an interpretation (*taʾwīl*) of

Islam. The death penalty, which was the punishment for apostasy from Islam (*irtidād*), was also usually associated with 'brigandage' and 'highway robbery'. The two relevant passages from the Qurʾān were held to be 5.33–4 and 49.9–10, respectively:

> The recompense of those who make war (*yuḥāribūna*) against God and His Messenger and cause corruption on the earth (*yasʿawna fī l-arḍ fasādan*) is only that they be killed (*tuqattalū*), or crucified (*yuṣallabū*), or their hands and their feet be cut off on opposite sides (*min khilāf*), or that they be banished from the land (*yunfaw min al-arḍ*). That is their recompense in this world, while in the afterlife they will have a severe punishment (*ʿadhāb ʿaẓīm*). Except for those who repent before you defeat them. Know that God is forgiving, merciful (Qurʾān 5.33–4).

> If two parties (*al-ṭāʾifatān*) among the believers fight each other (*iqtatalū*), then make peace between them. But if one of them transgresses (*baghat*) against the other, then fight, all of you, against the one that transgresses until it complies with the command of God. But if it complies, then make peace between the two parties with justice and be fair, for God loves those who are fair and just. The believers are but a single brotherhood. So reconcile your two brothers, and fear God so that you will receive His mercy (Qurʾān 49.9–10).

The classical legal position not only depended upon the verses themselves, but also upon an extensive exegetical and jurisprudential tradition that had evolved over more than three centuries.[1]

Two scholars have recently addressed the question of the relationship between the Quranic material as interpreted in classical Islam and earlier, Umayyad penal practice. Both Khalid Abou El Fadl and Gerald Hawting see Umayyad practice as pre-classical: that is, both historians assume that the complex, classical Islamic positions on 'apostasy', 'rebellion' and 'brigandage' had yet to achieve their 'orthodox' status (or even to develop at all). However, the two scholars put rather different emphases on the role of the Qurʾān in Umayyad legal thought and practice. On the one hand, Khalid Abou El Fadl observes, 'it is rather clear that the Umayyads, in the first century of Islam, applied, or at least used, the dogmatic symbolism of the *ḥirāba* verse against their political

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[1] On the classical Islamic law for brigandage, rebellion and apostasy, see: J. Schacht, 'Ḳatl' in *Encyclopedia of Islam* (2nd edition), iv, 771 (Leiden, 1990); J. L. Kraemer, 'Apostates, Rebels and Brigands', *Israel Oriental Studies*, 10 (1980), 34–73; K. Abou El Fadl, *Rebellion and Violence in Islamic Law* (Cambridge, 2001).

opponents'.[2] On the other hand, Gerald Hawting argues for much less importance for the Qurʾān in Umayyad times: 'forms of punishment for heretics were still quite arbitrary in the later Umayyad period, based on inherited practice and not showing much sign of the impact of Islamic or Quranic regulations'.[3]

The common basis for these divergent conclusions is the testimony of the later Islamic tradition. Abou El Fadl tends to note the parallels between the prescriptions of the Qurʾān and Umayyad practice: 'the language and the penalties of the *ḥirāba* verse were co-opted and imitated …Eventually it became common practice for the Umayyads and early Abbasids to execute rebels and mutilate their bodies'.[4]

On the other hand, Hawting takes the view that in the early period, 'we might expect a reasonably arbitrary and random pattern [of execution and punishment] …that would serve to underline the power of the rulers and the limited restraints on them'.[5] For Hawting, the prevalence of 'crucifixion' (*ṣalb*, often the gibbeting of a beheaded corpse, but sometimes execution by exposure and wounding)[6] in later accounts of early Islamic practice is not in itself significant: 'crucifixion was a traditional punishment in the Middle East, and it is likely that its use simply represented a continuation of tradition'.[7]

What the disagreement between the two scholars highlights is the great difficulty of recovering early Islamic history from the later tradition and the consequent importance of the models and theories brought to the

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[2] Abou El Fadl, *Rebellion*, 57, 52–61.

[3] G. Hawting, 'The Case of Jaᶜd b. Dirham and the Punishment of "Heretics" in the Early Caliphate' in C. Lange and M. Fierro, eds, *Public Violence in Islamic Societies* (Edinburgh, 2009), 37. For previous scholarship on the question of the punishment of unrest and rebellion in the Umayyad period and Islam, see especially: J. Schacht, 'Ḳatl', *EI*², iv, 771; Kraemer, 'Apostates, Rebels and Brigands'.

[4] Abou El Fadl, *Rebellion*, 52–3.

[5] Hawting, 'Jaᶜd b. Dirham', 35.

[6] F. E. Vogel, 'Ṣalb', *EI*², viii, 935-6. Kraemer relates the Arabic term to the Assyrian *ṣilbu*, 'a crosswise arrangement of bandages or wood' and notes that the Targum translates the Hebrew *tālāh* by the Aramaic *sᵉlāb*: 'Apostates', 67, n. 129.

[7] Hawting, 'Jaᶜd b. Dirham', 35. However, Hawting does also observe that it 'may … be possible to argue … that rulers took some care to justify … executions in religious terms'—that is, he suggests that political opposition was often represented as 'heresy' (ibid., 37). This often appears to be true, although some 'rebels' who may have understood their cause in religious terms appear to have been killed as 'mere robbers', see below, 113, 126 and n. 93.

analysis of the evidence: Abou El Fadl and Hawting do not much disagree about the forms of punitive practice used by the Umayyads, but their wider assumptions about early Islam and the Umayyad period determine what these forms are taken to mean. For Hawting these penalties are 'quite arbitrary' and 'based on inherited practices'; for Abou El Fadl, 'the co-option' of the Quranic *ḥirāba* verse became important in the rhetoric of Umayyad punishment.

A list of some of the evidence for the use of capital punishment in the narrative sources down to the end of the Umayyad period is presented in the Appendix to this article.[8] 'Crucifixion' features very prominently in the treatment of defeated rebels (for example, nos 5–8, 12, 18, 23, 27–28, 32–33, 35–42, 43–44, 47–48, 50), as does the presentation of severed heads to rulers and their public display (11, 18–19, 21, 41, 46, 50). There is widespread mention of the amputation of limbs (1, 3, 9, 14, 19, 29–31, 35, 38, 41–42, 44, 46, 49), as well as occasional reference to immolation (2, 4, 14, 39). Other less frequently mentioned penalties include blinding (37, 49), cutting-out of tongues (37, 42), flaying (14), exposure (17) and trampling by animals (4), as well as the burning of the corpses of the executed (14, 40, 41, 44). Various associated humiliations, including fettering and bridling (15, 30, 36), the breaking of teeth (15, 36), beating (17, 36), parading on beasts of burden (19, 41), and the shaving of hair and beards (17, 36) are all also mentioned in connection with executions in the sources.

For all that the later tradition may have been subjected to embellishment and tendentious reshaping, this list does tend to support the more impressionistic assessments of both Abou El Fadl and Hawting about the forms of early Islamic punitive practice (and so also their divergent conclusions). This article takes two new approaches to attempting to resolve the question of the theoretical basis and symbolic meaning of Umayyad practice. First, it examines Umayyad justifications for the death penalty in their sermons, letters and poetry: the Umayyads did not explicitly cite the *ḥirāba* verse but they did they justify the execution of rebels, deploying 'inherited practice' to symbolic effect. Second, it considers further the late antique context for Umayyad practice: there were important continuities from pre-Islamic practice, but these do seem to have been interpreted as having particular new symbolic meanings.

That is, this article seeks to approach the question of the punishment of rebels as not just a matter of legal theory, or the assessment of

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[8] Below, 126.

'influences', but as an aspect of the history of political culture and even ritual practice – the symbolic communication of claims to legitimate authority. The meaning of Umayyad executions resided not just in choices about punishments, but also in the claims made about them and, further, in the way that they were understood by those who witnessed them. This approach also acknowledges the interplay between Realpolitik and ambient ideas about justice and legitimate authority: punitive practice by rulers rarely, if ever, coincides with the theories of lawyers, theologians, or other sources of 'legitimate' authority beyond the royal court. At the same time, all governments are restrained to some extent by the expectations of those they seek to rule and the limits of their coercive and persuasive power.

This historically contingent and contextualised approach allows us to divest ourselves of preconceptions about what an 'Islamic' punitive rhetoric 'ought' to look like: the alternatives are not between Umayyad use of elements of what would become 'classical' jurisprudence (Abou El Fadl) and the absence of any distinctively 'Islamic' practice (Hawting). Rather, we must reconstruct the pre-classical, late antique context within which the Umayyad elite sought to consolidate and maintain power. It is argued here that in Umayyad-era Islam there was a close connection between 'apostasy', 'brigandage' and 'rebellion' as capital crimes, deserving of humiliating public execution. In this, the Umayyads perpetuated ancient and late antique ideas about religious and political authority. However, 'pre-classical Islam' (even, 'Ḥijāzī monotheism'), as expressed in the Qurʾān and in a wider religious discourse, did shape the Umayyads' response to rebellion. In particular, two principles underpinned the Umayyads' justification of capital punishment: their claim to represent God's covenant on earth as 'God's Caliphs' (*khulafāʾ Allāh*), and their obligation as such to punish illegitimate public violence.

The Umayyads and the ḥirāba *verse*
Neither the *ḥirāba* nor the *baghy* verse are prominent features of Umayyad caliphal rhetoric. Indeed, the first reasonably secure evidence for the explicit invocation by caliphs of the *ḥirāba* verse comes from just *after* the Umayyad period. An Abbasid 'state letter' of 145/762 AH/CE, said to have been composed during the reign of al-Manṣūr, invokes the text. It is a letter to the Alid rebel Muḥammad b. Ibrāhīm:

> In the name of God, the Merciful, the Compassionate: From the Servant of God, ʿAbd Allāh, the Commander of the Faithful, to Muḥammad b. ʿAbd Allāh: "The recompense for those who war against God and His Messenger

and on earth strive for iniquity is that they will be slaughtered or crucified or their hands and feet on alternate sides shall be severed or they shall be exiled from the land. That is their disgrace in this world, while in the Hereafter theirs will be a severe punishment, except for those who repent before you overpower them. Know that God is forgiving, merciful." I am obligated to you by God's compact and His covenant, His promise of protection and that of His Messenger, so that if you repent and turn back before I overpower you, I will grant immunity to you…[9]

If this text is accepted as authentic then it is the first evidence—some twelve years after the fall of the Umayyad dynasty—for the quotation of the *ḥirāba* verse *in extenso* in a caliphal text. It also implies that the caliph is limited in punishing rebels by the prescriptions of the Qurʾān.

In contrast, Umayyad rhetoric tended to legitimate capital punishment through allusion to broadly Quranic language and symbolism, but not to the 'classical' verses in particular. This might be seen merely as a function of the form of Umayyad rhetoric: written reference to whole Qurʾān verses had yet to be established as a dominant element in legitimating discourse.[10] However, the later Umayyads at least do appear to have cited the Qurʾān where it suited them,[11] and so this absence of the 'classical' texts appears to reflect a situation where the *ḥiraba* and *baghy* verses had yet to assume their later pre-eminent significance.

The ḥirāba *verse in Umayyad times*
Despite the absence of quotation of the *ḥirāba* verse from Umayyad rhetoric, it is of course very possible that ideas about the verse were

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[9] al-Ṭabarī, *Taʾrīkh al-rusul wa-l-mulūk*, ed. M. J. de Goeje (Leiden, 1879–1901), iii, 208; tr. J. Dammen McAuliffe in al-Ṭabarī, *The History of al-Ṭabarī Volume xxviii: ʿAbbāsid Authority Affirmed*, ed. E. Yar-Shater (New York, 1995), 166. Cf. al-Balādhurī, *Ansāb al-ashrāf*, ed. M. al-Fardūs al-ʿAẓm (Damascus, 1996–2004), ii, 420. The verse also occurs in one version of the last testament of al-Manṣūr to his son, in 158/775: al-Ṭabarī, *Taʾrīkh*, iii, 447. However, cf. the version of the testament in al-Balādhurī, *Ansāb al-ashrāf*, ed. ʿA. al-Dūrī (Beirut, 1978), iii, 270–1, where the Quranic passage does not occur.

[10] W. al-Qāḍī, 'The impact of the Qurʾān on the epistolography of ʿAbd al-Ḥamīd', in G. Hawting and A. Shareef, eds, *Approaches to the Qurʾān* (London, 1993), 285–313; W. al-Qāḍī, 'The Religious Foundation of Late Umayyad Ideology and Practice', in *Saber religioso y poder politico in el Islam: Actas del Simposio Internacional Granada, 15–18 Octubre, 1991* (Madrid, 1994), 231–74.

[11] See, for example, the letter of al-Walīd II discussed by P. Crone and M. Hinds, *God's Caliph: Religious authority in the first centuries of Islam* (Cambridge, 1986), 116–26.

already in circulation (and also that ideas about it reached the ears of Umayyad caliphs and governors). Indeed, there is good evidence that a debate about the verse's significance and application was already well under way in some circles by the early 700s.

Tafsīr (Quranic exegesis) gives at least six explanations for the *ḥirāba* verse. (i) It is argued that the verse relates to 'people of the book' (*ahl al-kitāb*) who 'had made a peace agreement (*muwādaᶜa*) but they broke the covenant (*ᶜahd*) and spread corruption in the land (*afsadū fī l-arḍ*)'.[12] (ii) There is the claim that it is the punishment to be inflicted on unrepetent idolaters defeated in battle.[13] (iii) It is said to deal with the Banū Hilāl, who broke their treaty with the Muslims and raided people seeking an alliance with Islam.[14] (iv) It is claimed that it was revealed regarding the Banū Isrāʾīl, or, (v) the Ḥarūriyya (Kharijites).[15] Finally, (vi) there is the most detailed explanation, which was eventually used by classical exegetes and lawyers to connect the punishments of the verse to 'brigandage' and 'highway robbery', as opposed to 'rebellion'.[16] An early version of this last explanation is provided by Muqātil b. Sulaymān (d. 767). This relates the story of a group of recent converts to Islam who stole camels from the Muslims after killing their shepherd. After they were captured by ᶜAlī b. Abī Ṭalib, they were brought to the Prophet:

> …[The Prophet] ordered that their hands and feet be cut off and that their eyes be gouged out. God, may He be praised and magnified, sent down to them: "Truly the reward of those who make war on God and His Prophet", meaning unbelief after Islam, "and spread corruption on the Earth" (that is), killing and the taking of property, (is that) "they will be killed, or crucified, or their hands and feet will be cut off on opposite sides", meaning the right hand and the left foot. The Imam has the choice concerning that: killing, crucifying and cutting off the hand and the foot. "Or they will be exiled from the land": He says they will be sent away from the land—the land of the Muslims; they will be banished by being driven away (*al-ṭard*) "that" is their reward, "the reward for them is a reward in this life"—the cutting off of the hand or the foot, killing, and crucifying in this world—"and they will have a severe chastisement in the world to come", meaning much and

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[12] For example, al-Ṭabarī, *Tafsīr al-Ṭabarī: jamīᶜ al-bayān fī tafsīr al-Qurʾān*, ed. A. and M. Shākir (Cairo, 1955–), x, 243–4; Kraemer, 'Apostates', 60; Abou El Fadl, *Rebellion*, 49.

[13] Kraemer, 'Apostates', 60, 62; Abou El Fadl, *Rebellion*, 49.

[14] Abou El Fadl, *Rebellion*, 49.

[15] Ibid., 49

[16] Kraemer, 'Apostates', 61f; Abou El Fadl, *Rebellion*, 49f.

abundant without interruption. Then He made an exception, and said, may He be praised and magnified: "Except for those who repent" from idolatry "before they fall into your power"; you established a limit with regard to them so that you may not act against them...[17]

Very similar material is also found in later *tafsīr*, although the tribe in question varies: ᶜUkl and ᶜUrayna are the most common; Fazāra, Sulaym and Ḍabba are all also mentioned.[18]

To what extent any of this material might reflect genuine Prophetic practice is very difficult to say; six very divergent accounts of the original context of the verse suggest real confusion among eighth- and ninth-century exegetes. Schacht suggests that the original context of the verse itself was probably the break with the Jews of Medina;[19] Kraemer does see the story of the recidivist Bedouin as reflecting the political problems faced by Muḥammad later in his career.[20] In turn, Abou El Fadl is more sceptical, and describes the same story as most probably 'an Umayyad invention'.[21] Certainly, as discussed below, there are features of the latter story that echo Umayyad problems with nomads, Kharijites and other rebels (and this is almost certainly the origin of the anachronistic explanation that the verse responds to the problem of the Ḥarūriyya/Kharijites). The recidivist nomads of the *tafsīr*, who had abandoned their *hijra* to Medina and their new religion and who committed violent robbery look rather like prototypes of the deserters and rebels who carried out brigandage against the Umayyad authorities in the seventh and eighth centuries.[22]

Any original context for the verse itself is probably irrecoverable. What is more striking about most of the explanations in the *tafsīr*, is the emphasis placed on the dual factors of the breaking of a covenant and the use of illegitimate violence as the justification for the death penalty. In this, they echo a wider, early Islamic discourse about rebellion and its punishment, which was much more central to Umayyad rhetoric about legitimate punishment than the *ḥirāba* verse.

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[17] Muqātil b. Sulaymān, *Tafsīr Muqātil b. Sulaymān 80–150 H*, ed. A. M. Shaḥāta, 5 vols. (Cairo, 1979–89), i, 471–2.

[18] Abou El Fadl, *Rebellion*, 49, n. 80.

[19] J. Schacht, 'Ḳatl', *EI*², iv, 771.

[20] Kraemer, 'Apostates', 62.

[21] Abou El Fadl, *Rebellion*, 52–3, 59.

[22] Cf. the remarks of Abou El Fadl, ibid., 52–3, 59. See further, below, 121–2.

Perjury (nakth, naqḍ), *public violence* (fasād fī l-arḍ) *and the pledge of allegiance* (bayᶜa)

For the Umayyads, capital punishment was a right of the caliphs as the representatives of God's covenant with Humanity. This was justified in Quranic language, but not through quotation of the two particular verses that became central to later 'classical' thought. Instead, the main Umayyad-era justification for the death penalty *per se*, whatever its exact form, was the twin accusation of violation of the pledge of allegiance to the caliph (and hence of God's primordial covenant which the caliph claimed to represent), and of public violence against persons and property.

Before reviewing this distinctive, pre-classical punitive rhetoric of the Umayyad elite, the equivocal evidence for the specific invocation of the *ḥirāba* verse by the Umayyad caliphs and their representatives should be examined. The evidence for Umayyad invocation of the *ḥirāba* verse is equivocal because it is most likely the product of later literary formulation. For example, some accounts attributed to Anas b. Mālik (d. *c*. 709–11) have the Basran lawyer explain traditions about the origin of the *ḥirāba* verse to the Umayyad governor of Iraq (and notorious crucifier), al-Ḥajjāj (r. 694–715), and then bitterly regret having provided an oppressive ruler with justification for his actions. In another account, ᶜUmar II (r. 717–20) seeks to restrain a governor who quotes the more severe punishments of the *ḥirāba* verse in justifying his treatment of robbers.[23] Neither story looks like secure evidence for actual Umayyad theory and practice. Both are probably best understood as political and legal arguments and commentary couched in narrative form: the former report highlights the potential for the verse to justify tyranny; the latter conforms to the tendency of the later tradition to emphasise the piety of ᶜUmar II.

A more reliable instance of Umayyad authorities invoking the verse may be the sermon said to have been delivered by Yūsuf b. ᶜUmar (r. 738–44) at Kufa after he had executed the Hashimite rebel Zayd b. ᶜAlī in 120/738–9:

> …For you are people of rebellion and dissension (*ahl baghy wa-khilāf*). There is not one of you who does not make war on God and His Messenger (*ḥāraba Allāh wa-rasūlahu*) except Ḥākim b. Sharīk al-Muḥāribī; I have

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[23] Abou El Fadl, *Rebellion*, 58–60.

asked the Commander of the Faithful to help me with respect to you, and if he permits it, I will kill your soldiers and imprison your families.[24]

The sermon alludes to the *ḥirāba* verse in its concept of 'making war on God and His Messenger' to justify 'killing soldiers and imprisoning families'. Coming only about two decades before the Abbasids invoked the same ideas (also against Alid rebels), it appears to reflect Umayyad recognition of the need to engage with evolving ideas about legitimate rebellion, linked to the *ḥirāba* verse. However, the report is transmitted on the authority of Abū Mikhnaf (d. 774) and is found only in 9th- and 10th-century collections; that is, it remains a report of a public speech found only in a much later Abbasid-era texts, and so is far from secure evidence.

Whether or not this sermon is accepted as authentically Umayyad, Quranic material other than the *ḥirāba* verse is much more prominent in Umayyad justifications of their use of the death penalty. Violation of God's covenant (*ʿahd*, *mīthāq* et al.) through violation of the pledge of allegiance (*bayʿa*) to His Caliph in an act of violent rebellion (*khurūj*, *fasād fī l-arḍ* et al.) provided the justification for the death penalty in most of the public executions carried out by the Umayyads or their representatives. In some accounts of particular executions, the connection is made absolutely explicit: in 51/671, Ḥujr b. ʿAdī is said to have only been executed after Ziyād had collected seventy testimonies for Muʿāwiya that Ḥujr had, indeed, violated his pledge of allegience (no. 7 in the Appendix); in 94/712–3, al-Ḥajjāj invoked Saʿīd b. Jubayr's violations of his *bayʿa*s to ʿAbd al-Malik before ordering his execution (no. 31). Peace agreements with non-Muslims were governed by the same covenant: in 90/708–9, the rebels in al-Ṭalaqān are said to have been executed after breaking a peace treaty (*sulḥ*) (no. 27). The main exceptions to this pattern are those executions that appear to have been justified on the basis of heresy or sorcery (for example, no. 42).[25]

In almost every documented pledge of allegiance (*bayʿa*) from the Umayyad period, the Muslims swore the oath 'upon the covenant of God' (*ʿalā ʿahd Allāh* or *mīthāq Allāh*) to 'hear and willingly obey' (*al-*

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[24] al-Ṭabarī, *Taʾrīkh*, ii, 1716; cf. Anonymous, *Kitāb al-ʿUyūn wa-l-ḥaqāʾiq fī akhbār al-ḥaqāʾiq*, 'Fragmenta Historicorum Arabicorum, ii', ed. M. J. de Goeje and P. de Jong (Leiden, 1869), 100; Abou El Fadl, *Rebellion*, 56.

[25] This is the kind of justification Hawting appears to have in mind when he remarks that it, 'may … be possible to argue … that rulers took some care to justify … executions in religious terms': Hawting, 'Jaʿd b. Dirham', 37, and above, n. 7.

samᶜ wa-l-ṭāᶜa) the caliph.[26] This formula is reminiscent of other Near Eastern loyalty oaths, and, importantly, also reminiscent of the Quranic description of the *mīthāq Allāh*, God's primordial covenant with Man, which guaranteed all agreements between believers. All human compacts were understood as guaranteed by God's covenant, as set out in verse 91 of *sūrat al-Nahl* (Qurʾān 16.91):

> Fulfil the covenant of God when you have entered into it; and break not your oaths after you have confirmed them; indeed you have made God your surety; for God knows all that you do.[27]

This text is quoted in full with reference to a prior treaty (*ṣulḥ* and *ᶜahd*) in an original papyrus letter of 141/758 from the governor of Egypt to the Christian king of Nubia.[28] The same idea of 'God's covenant' is prevalent throughout the Qurʾān and is invoked in accounts of early treaties made by the Muslims. Because the Umayyad caliphs claimed to be God's representatives on earth, they could argue that all benefits, material and spiritual flowed from this compact; a point made at length in the elaborate metaphors of their panegyricists.[29]

One of the most important Quranic expressions of these ideas is verse seven of *sūrat al-Māʾida* (Qurʾān 5.7), which describes God's primordial covenant with all Humanity. It is the only place where the terms from the pledge of allegiance, *samᶜ* and *ṭāᶜa*, appear together:

> Remember the favour (*niᶜma*) of God towards you and His covenant and His covenant (*mīthāq*) which He covenanted (*wāthaqa*) with you when you said, "We hear and obey (*samiᶜnā wa-aṭāᶜnā*)." And fear God, for God knows the secrets of your breasts (Qurʾān 5.7).

While the *bayᶜa* could be understood as being God's covenant enacted on earth, it also came to be guaranteed by more worldly oaths. These eventually became known as the 'oaths of the *bayᶜa*' (*aymān al-bayᶜa*). In their classical form, a perjurer lost his wives and his property and had

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[26] A. Marsham, *Rituals of Islamic Monarchy: Accession and Succession in the First Muslim Empire* (Edinburgh, 2009), esp. 168–78.

[27] *wa-awfū bi-ᶜahdi 'llāhi idhā ᶜāhadtum wa-lā tanquḍū 'l-aymāna baᶜda tawkīdihā wa-qad jaᶜaltum Allāha ᶜalaykum kafīlan inna 'llāha yaᶜlamu mā tafᶜalūna.*

[28] M. Hinds and H. Sakkout, 'A letter from the governor of Egypt concerning Egyptian-Nubian relations in 141/758', in W. al-Qāḍī, ed., *Studia Arabica et Islamica: Festschrift for Iḥsān ᶜAbbās* (Beirut, 1981), 209–29.

[29] Marsham, *Rituals*, 102–10.

to expiate his treachery by making thirty *ḥajj* pilgrimages. In practice, there is little evidence that such oaths were actually expiated, although there are traces in the later compilations of legal traditions that debate the legitimacy of vows to walk barefoot to the Kaʿba. It seems that the oaths became largely symbolic and were simply indicative that the perjurer had ceased to be a Muslim-indeed, that he had become an outlaw in the literal sense of being beyond all the usual rights accorded to a Muslim.[30]

These oaths first appear in their classical form in ninth-century copies of documents relating to oaths of allegiance from the early Abbasid period (750s and 760s), but there is good evidence that they—or very similar oaths—were already in use in the Umayyad period. Khālid al-Qasrī was said to have written a letter to be read out to Kufan deserters in 74/693–4, explaining that desertion is disobedience of God and His caliphs, with consequences very similar to those in the classical oaths:

> God has imposed the duty of *jihād* on His servants and required obedience to those who govern them (*wulāt al-amr*) …He who defies the governors and rightful authorities brings down God's wrath on himself, merits corporal punishment (*al-ʿuqūba fī basharihi*), and makes himself liable to confiscation of his property as spoil, cancellation of his stipend, and exile to the most remote and evil of lands.[31]

In the following year al-Ḥajjāj is said to have preached a similar *khuṭba*-and it is al-Ḥajjāj who is remembered as the instigator of the 'oaths of the *bayʿa*' in much later tradition. Muṣʿab b. al-Zubayr's treatment of those loyal to ʿAbd al-Malik in 71/690–1 also seems to reflect similar ideas (no. 17).[32]

However, mere desertion or disobedience rarely seems to have been perceived to merit capital, as opposed to corporal punishment. It was a necessary but not a sufficient condition; as noted above, *public* rebellion was also usually required. Ideas about this in mid-to-late seventh-century Syria may be reflected in the words of the Christian chronicler, John Bar Penkayē (fl. *c*. 690), who wrote that, '[the Muslims] kept to the tradition of Muḥammad …they inflicted the death penalty on anyone who was

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[30] Marsham, *Rituals*, 96–110, 145, 239–41, 296–7, 302.

[31] al-Ṭabarī, *Taʾrīkh*, ii, 858; tr. E. K. Rowson, in al-Ṭabarī, *The History of al-Ṭabarī*, *Volume xxii: The Marwanid Restoration*, ed. E. Yar-Shater (New York, 1989), 6. Cf. the *khuṭba* of al-Ḥajjāj the following year: al-Ṭabarī, *Taʾrīkh*, ii, 865–6; tr. M. K. Rowson, ibid., 15–6.

[32] Marsham, *Rituals*, 107.

seen to act brazenly against his laws'.[33] The emphasis on *brazen*, or public, violation perhaps echoes the Roman notion of *vis publica* ('public violence'), which was one of the main crimes to be punishable by death in Roman law. The reference to Muḥammad's 'tradition' and 'laws' also appears to reflect an early connection in Islamic thought—as in ancient Middle Eastern thought—between rebellion, apostasy and the death penalty.[34]

Umayyad rhetoric and capital punishment
The best evidence for Umayyad justification of capital punishment dates from the 740s, which was last decade of Umayyad rule. The surviving 'state letters' of the scribe ʿAbd al-Ḥamīd (d. 750) provide comparatively full evidence for late Umayyad ideas about rebellion and its punishment. Poetry composed in the 710s and 730s indicates that similar ideas were already important in Umayyad justification of the death penalty.

In the opening lines of a letter written on behalf of Marwān II in the 740s, ʿAbd al-Ḥamīd describes the Kharijite rebels against whom Marwān was sending his son, 'causing harm in the land corruptly' (*ʿāthū fī l-arḍ fasādan*) and 'exchanging the favours of God for unbelief' (*baddalū niʿam Allāh kufran*); that is, the rebels are accused both of destroying property and lives and with breaking with God's covenant and hence becoming unbelievers:

> To begin: the Commander of the Faithful—when he resolved upon sending you against the enemy of God, the thick, coarse Bedouin (*tawjīhakā ilā ʿaduwwi 'llāh al-jalif al-jāfī al-aʿrābī*) wandering aimlessly in the perplexity of ignorance, the obscurity of impious discord and the ravines of destruction, and against his ruffians who cause harm in the land corruptly, violate the sanctity (of Islam) lightly, exchange the favours of God for unbelief and make lawful the blood of the people of peace in ignorance (*wa-raʿāʿihi alladhīna ʿāthū fī l-arḍ fasādan wa-intahakū ḥurmat [l-islām] istikhfāfan wa-baddalū niʿam Allāh kufran wa-istiḥallū dimāʾ ahl silmihi jahlan*)—wished to commission you and enjoin you, concerning the subtleties of your affairs and the generalities of your concerns…[35]

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[33] R. Hoyland, *Seeing Islam as Others Saw It: A Survey and Evaluation of Christian, Jewish and Zoroastrian Writings on Early Islam* (Princeton, 1997), 196–7.

[34] On Roman and Ancient Near Eastern law, see further below, 116–20.

[35] I. ʿAbbās *ʿAbd al-Ḥamīd b. Yaḥyā al-Kātib wa-mā tabqā min rasāʾilihi wa-rasāʾil Sālim Abī al-ʿAlāʾ* (Amman, 1988), 215–6, citing: Ibn Abī Ṭāhir Ṭayfūr, *Ikhtiyār al-manẓūm wa-l-manthūr* (Cairo, n.d.), xiii, 201; al-Qalqashandī, *Ṣubḥ al-aʿshā fī ṣināʿat al-inshāʾ*, ed. M. A. Ibrāhīm (Cairo, 1913–20), x, 195 et al.

Closely related ideas are found in a letter written by ᶜAbd al-Ḥamīd from Marwān II to Saᶜīd b. ᶜAbd al-Malik on the occasion of Yazīd b. al-Walīd's call for throwing off allegiance to al-Walīd II in 126/744:

> It has reached me that a group of fools from your household (*ahl baytika*) have followed a course that their deliberation brought about, according to what they agreed upon concerning violation of their pledge of allegiance (*naqḍ bayᶜatihim*). They have opened a door that God will not close for them until much of their blood is spilled, while I am occupied with the important matter of the Muslims' frontier being breached. Would that you bring me and them together, in order that I might repair the corruption of their affair (*fasād amrihim*) by my hand and my tongue; I fear God concerning neglecting that on account of my knowledge of what the consequences of division are regarding corruption of religion and the world (*fasād al-dīn wa-l-dunyā*).[36]

Among the Marwanids, al-ᶜAbbās b. al-Walīd was persuaded; he is said to have remarked, 'In the breaking of the covenant of God is corruption of religion and the world' (*inna fī naqḍ ᶜahd Allāh fasād al-dīn wa-l-dunyā*).[37]

Both the scribe and the prince were paraphrasing verse twenty-seven of *sūrat al-Baqara* (Qurʾān 2.27), which explicitly connects the idea of 'corruption in the earth', found in the *ḥirāba* verse, with violation of God's covenant, found in verse 91 of *sūrat al-Nahl* and verse seven of *sūrat al-Māʾida*:

> …He does not cause to err by it [any] except transgressors (*fāsiqīn*), (27) who break the covenant of God after its confirmation (*yanquḍūna ᶜahd Allāh min baᶜd mīthāqihi*) and cut asunder what God has ordered to be joined and cause corruption in the land (*yufsidūna fī l-arḍ*); these it is that are the losers.

Hishām is also said to have written of another rebel in 737 that he was a 'transgressor (*fāsiq*) who had killed, burned and plundered' and should not be allowed to live (no. 40). Alongside verse seven of *sūrat al-Māʾida*, verse 27 of *sūrat al-Baqara* is arguably at least as important to Umayyad legal theory and practice as the *ḥirāba* verse of later classical thought.

Some of the best evidence for the importance of treachery in justifying execution is found in the poetry. A verse by the Umayyad panegyricist,

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[36] ᶜAbbās, *ᶜAbd al-Ḥamīd*, 300, no. 62, citing: al-Ṭabarī, *Taʾrīkh*, ii, 1786.

[37] al-Ṭabarī, ibid., ii, 1784.

Jarīr (d. 111/729), is linked by tradition to al-Ḥajjāj's execution of Saʿīd b. Jubayr:

> How many a breaker of the two pledges of allegiance have you left, with his beard dyed with the blood of [his] jugular veins.[38]

An unnamed Anṣārī poet is said to have denigrated the head of Zayd b. ʿAlī when it was displayed in Medina in 122/739–40:

> Indeed, O violator of the covenant (*nāqiḍ al-mīthāq*), rejoice in what has brought you disaster.
> You betrayed the contract (*naqaḍta al-ʿahd*) and the covenant of olden times which preceded you.
> Iblīs has violated an oath (*akhlafa*) regarding what he promised you.[39]

The caliphs' claims to represent God's covenant on earth made rebellion against them also a rebellion against God. Violent rebels were, therefore, 'making war on God' (*yuḥāribūna Allāh*) and 'violating God's covenant' (*yanquḍūna ʿahd Allāh*) with the consequence of 'corruption in the land' (*al-fasād fī l-arḍ*).[40]

The punishments in Umayyad rhetoric
In contrast to their clear justification for executions, Umayyad texts give little insight into the precise punishments themselves. In general, they simply emphasise the Umayyads' God-given right to mete out exemplary and humiliating punishment. Thus, in a letter full of blood-curdling threats against insurgents, also from the last decades of Umayyad rule, the head of their *dīwān al-rasāʾil*, ʿAbd al-Ḥamīd writes:

> God will assist us with His angels and help us with His military support, with what His custom (*sunna*) brings and His tradition (*ʿāda*) has established; and we will impose the penalties (*naqamāt*) from God, the exemplary punishments (*nakāl*) and deadly might (*saṭawāt muhlika*); you have seen that in the revelations (*al-manāzil*), and you have known it on the battlefields upon which wrong meets right. So hear the good news from us

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[38] *yā rubba nākithi bayʿatayni taraktahu wa-khiḍābu liḥyatihi damu al-awdājī.* Ibid., ii, 1265; tr. M. Hinds, in al-Ṭabarī, *The History of al-Ṭabarī, Volume xxiii: The Zenith of the Marwānid House*, ed. E. Yar-Shater (New York, 1990), 212; Jarīr b. ʿAṭīya, *Sharḥ dīwān Jarīr*, ed. M. I. A. al-Sāwī (Cairo, 1934; reprint. Beirut, n.d.), 110.
[39] al-Ṭabarī, *Taʾrīkh*, ii, 1714.
[40] Cf. ibid., ii, 1758, where a letter of al-Walīd II cites Qurʾān 2.251.

about what sorrow comes to you; may you be led by a halter, as camels bridled with a bit are led.[41]

The rhetoric is replete with Quranic allusions.[42] However, references to the punishments are general ones to *naqamāt* and *nakāl*: 'penalties' and 'exemplary punishments'.[43] These are terms for the punishment of rebels against the caliph that also appear elsewhere in late Umayyad rhetoric.[44] The only specific penalty is described in a simile that reflects the pre-Islamic (and ancient and late antique Middle Eastern) custom, continued in Islamic times, of humiliating captives by leading them like animals.

Umayyad capital punishment in its late antique context
For detail on the forms of capital punishment used by the Umayyads, we must turn from surviving Umayyad rhetoric to the problematic evidence of the later historical sources, some of which is collected in the Appendix below. These sources present problems of interpretation. Nonetheless, it is possible to draw some tentative conclusions. One way to approach the anecdotal evidence is to look for continuities with ancient and late antique punitive practice. In what follows it is argued that the evidence does tend to suggest that the Umayyads and their representatives in the provinces selected from a repertoire of penalties that were long established in the Middle East as the punishments for brigandage, apostasy and rebellion. However, there is some evidence for particular punishments being more widely used than others; this appears to be a function of the particular form of West Arabian monotheism which was an important ideological context for the Umayyad caliphate.

Nearly all the variations on capital punishment found in the late antique and early Islamic Middle East have precedents in ancient Near Eastern practice. The prescription of capital punishment for the crimes of brigandage, adultery, heresy, treason and sorcery was of very great

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[41] ʿAbbās, *ʿAbd al-Ḥamīd*, 214–5, no. 19, citing: al-Qalqashandī, *Ṣubḥ*, viii, 268–9.

[42] Qurʾanic allusions include: 4.138; 5.115; 9.25. See also below, n. 43.

[43] *Nakāl* occurs in three places in the Qurʾān: 2.66; 5.42; 79.25. *Naqma* is not Quranic.

[44] For example, al-Ṭabarī, *Taʾrīkh*, ii, 1759 (*yunkilu* and *naqma* in a letter of al-Walīd II (r. 743–4).

antiquity by the time of the coming of Islam.[45] The conceptual interconnections between apostasy, treason and (to some extent) adultery had also been established in the ancient Middle East.[46] In the ancient Middle East, as in Islam, public exposure of a corpse after execution was more common than execution by hanging; the usual associated humiliations such as stripping, parading led by a halter, and flogging were often used.[47] The amputation of hands and the gouging of eyes both occur as punishments in some ancient laws.[48] Immolation may be justified by some Egyptian laws and is prescribed as a penalty in one Assyrian law pertaining to the royal harem.[49]

Both the Hebrew Bible and much later Judaic tradition reflect this wider ancient Middle Eastern context: beheading and the public display of corpses occur in the Hebrew Bible, as does the amputation of the limbs of executed murderers.[50] The burning of executed corpses is found in the book of Joshua, where it appears to be associated with the removal of contamination of the sacred *ḥerem* at Jericho;[51] it is also found in the story of Esther and the Targum.[52] An apostate town is also to be destroyed by fire in the book of Deuteronomy.[53]

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[45] R. Westbrook, 'The Character of Ancient Near Eastern Law', in R. Westbrook, ed., *A History of Ancient Near Eastern Law*, 2 vols. (Leiden, 2003), i, 76, 77–80, 81.

[46] Westbrook, 'Character', 76, 77.

[47] Ibid., 74–5, 76–81.

[48] J. B. Pritchard, *Ancient Near Eastern texts relating to the Old Testament*, 3rd revised edition (Princeton, 1969), 203 (gouging of eyes), 531 (amputation of a thief's hand); for the latter, cf. I. Marquez Rowe, 'Alalakh', in Westbrook, *History*, i, 715.

[49] R. Jasnow, 'Egypt: Middle Kingdom and Second Intermediate Period', in R. Westbrook, ed., *A History of Ancient Near Eastern Law*, 2 vols. (Leiden, 2003), i, 256; R. Jasnow, 'Egypt: New Kingdom', in Westbrook, *History*, i, 343; K. R. Veenhof, 'Old Assyrian Period', in Westbrook, *History*, i, 456.

[50] Gen. 40.18–22 for decapitation and impaling or crucifixion by Pharoah; Deut. 1.22–3 for the prohibition of leaving someone executed for a capital crime hanging during the night; 1 Sam. 31.9–12 for the Philistines beheading of Saul and the display of his body on the city walls; 2 Sam. 4.12 for King David's beheading of murderers, the amputation of their limbs and the hanging of their corpses by a pool. See further, T. Frymer-Kenski, 'Israel', in Westbrook, *History*, ii, 1027–42.

[51] Josh. 7.24–5; cf. Frymer-Kenski, 'Israel', 1014.

[52] B. Grossfeld, ed. and tr., *The First Targum to Esther According to MS Paris Hebrew 110 of the Bibliotheque Nationale* (New York, 1983), 194 and 200. This material is also repeated by the tenth-century Muslim polymath, al-Bīrūnī: al-Bīrūnī,

The empires of late antiquity owed much to this ancient heritage: in both Rome and Iran, apostasy, brigandage, rebellion and sorcery were punishable by public execution. Justinian's *Digest* (publ. 533 CE) prescribes the death penalty for brigands, traitors, murderers, adulterers and poisoners among others.[54] Of brigands it comments:

> The practice approved by most authorities has been to hang notorious brigands (*latrones*) on a gallows in the place where they used to haunt, so that by the spectacle others may be deterred from the same crimes, and so that it may, when the penalty has been carried out, bring comfort to the relatives and kin of those killed in that place where the brigands committed their murders; but some have condemned these to the beasts.[55]

Immolation was also common in Roman law.[56] Precedents for the 'Islamic' practice of amputating limbs are not prominent in Roman legal theory. However, the use of amputation is found in late Roman *practice* as recorded in historical sources. A notable example is the execution of Elpidius in 605, recorded in the near-contemporaneous *Chronicon Paschale*. Elpidius and others were accused of having plotted to overthrow the emperor Phocas:

> …there were beheaded Theodore, the praetorian prefect…[seven others] …Andrew *illustris* who was called Scombrus, and Elpidius *illustris*. Elpidius had his tongue cut out and his four extremities removed; he was paraded on a stretcher and carried down to the sea; when his eyes had been gouged out, he was thrown into a skiff and burnt. The other people aforementioned were beheaded, on the grounds that they were discovered plotting against the emperor Phocas.[57]

Kitāb al-Āthār al-bāqīya ᶜan al-qurūn al-khālīya, ed. E. Sachau (Leipzig, 1978), 280.

[53] Deut. 13.13–19; cf. Frymer-Kenski, 'Israel', 1041.

[54] *The Digest of Justinian*, ed. T. Mommsen, P. Krueger and A. Watson, 4 vols (Philadelphia, 1985), Bk 48.4, 5, 6, 8 and 19. On public execution in the Roman Empire, see: B. Shaw, 'Bandits in the Roman Empire', *Past and Present* 105 (1984), 20ff.

[55] *Digest*, Bk 48.19.28.

[56] Ibid., 48.19.28 and J. Harris, *Law and Empire in Late Antiquity* (Cambridge, 1999), 188, 140–1.

[57] *Chronicon Paschale 284–628 AD*, tr. and ann. M. and M. Whitby (Liverpool, 1989), 145–6 (s.a. 605).

Similarly gruesome late Roman punitive practices are attested in the Armenian tradition, where we read of rebels being beheaded and their bodies burned.[58]

The relative paucity of sources for Sasanian Iran presents some difficulties. Later legal sources, such as the *Book of a Thousand Judgements*, are important.[59] Other late sources, such as the *Letter of Tansar*, which are often held to reflect Sasanian practice, have perhaps undergone some literary reshaping under the influence of later Islamic practice. Nonetheless, they do also appear to preserve some features of late Sasanian penal culture.[60] Syriac and Armenian historiography and hagiography also give some important insights into Sasanian punishment of rebels and apostates.[61]

In Iran, as elsewhere, the capital crimes of 'sorcery', 'heresy' and 'highway brigandage' were closely connected.[62] The *Letter of Tansar* lists the 'cow', the 'donkey' and the 'tree' alongside trampling by elephants as relevant punishments. The 'cow' was a hollow 'cow' containing molten lead into which a prisoner was thrown; the 'donkey' was a tripod from which prisoners were hung; both are associated with 'sorcery', 'heresy' and 'highway robbery' by the *Letter of Tansar*, as was trampling by elephants.[63] The 'tree' (a reference to crucifixion) was a punishment for 'highway robbers' and 'sorcerers'.[64]

The most common means of executing rebels was probably beheading.[65] In the *Letter of Tansar*, amputation of a hand was the punishment for a thief, and 'four times as much is exacted in recompense from a brigand', which suggests the amputation of four limbs.[66] The

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[58] *The Armenian History attributed to Sebeos*, tr. and ann. R. W. Thomson, J. Howard-Johnston and T. Greenwood, 2 vols (Liverpool, 1999), i, 106–7.

[59] *The Book of a Thousand Judgements*, ed. and tr. A. Perikhanian, 'Persian Heritage Series, 39' (Zurich, 1997).

[60] *The Letter of Tansar*, tr. and intr. M. Boyce (Rome, 1968), 1–25.

[61] C. Jullien, 'Peines et Supplices dans les Actes des Martyrs Persans et droit sassanide: Nouvelles prospections', *Studia Iranica* 33 (2004), 243–69.

[62] *Letter of Tansar*, 47.

[63] Boyce, Ibid., 47–8. For trampling of rebels in the narrative sources: Ełishē, *History of Vardan and the Armenian War*, tr. R. W. Thomson (Cambridge, MA, and London, 1982), 99; Łazar Pʻarpetsʻi, 'The Armenian War', tr. R. W. Thomson, as an appendix to Ełishē, *History of Vardan*, 287; Thomson, et al., *Sebeos*, i, 23.

[64] *Letter of Tansar*, 48; Jullien, 'Peines et supplices', 260.

[65] For example, Ełishē, *History of Vardan*, 92, 111, 175, 225.

[66] *Letter of Tansar*, 42–3.

cutting off of hands before beheading is mentioned by Armenian sources;[67] beating to death and dragging over sharp rocks are other methods of execution.[68] Humiliating parades prior to execution are also mentioned: a late third-century Sasanian inscription refers to a defeated Sasanian rebel being brought 'bound …on a maimed donkey';[69] the parading of a prisoner, 'bound hand and foot, set like a woman on a mare' on their journey to the prison where all those condemned to death were kept is described in a fifth-century Armenian source;[70] a seventh-century account of events in the sixth century describes prisoners of war with 'their hands tied on their shoulders'.[71]

A variety of tortures directed at apostates from Zoroastrianism are attested in Syriac hagiography, including beating, flogging, breaking of limbs, laceration with iron teeth and the removal of the tongue. These tortures usually ended with the beheading of the prisoner, although the slitting of the throat like a sacrifice is also attested. Apostates from Zoroastrianism were sometimes subjected to the 'nine deaths' by progressive amputation at the fingers, toes, hands, feet, elbows, knees, thighs, ears, nose and then neck (or some variation on this), sometimes over several days.[72]

When looking for continuities from late antiquity into early Islam there are many reasons not to trust the anecdotal evidence of the Islamic sources: on the one hand, punishments may have been described in terms that echo later, Abbasid-era expectations about 'proper' Islamic punishments; on the other hand, particular 'tyrants' may have been associated with what were considered particularly 'un-Islamic' penalties. Nonetheless, with these reservations in mind, the penalties of 'crucifixion' (5–8, 12, 18, 23, 27–28, 32–33, 35–42, 43–44, 47–48, 50) and 'amputation' (1, 3, 9, 14, 19, 29–31, 35, 38, 41–42, 44, 46, 49), both of which are mentioned in the *ḥirāba* verse, are very prominent in the sources. Some Umayyad crucifixions beside water (nos 28 and 37) also appear to echo Biblical precedent, but this may have more to do with

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[67] Eḷishē, *History of Vardan*, 224; Ḷazar P'arpets'i, 'The Armenian War', tr. R. W. Thomson, in Eḷishē, *History of Vardan*, 303.

[68] Eḷishē, *History of Vardan*, 210, 231–2.

[69] H. Humbach and P. O. Skjærvø, *The Sasanian Inscription of Paikuli*, Part 3.1 Restored text and translation (Munich, 1983), 29, §58.

[70] Eḷishē, *History of Vardan*, 188.

[71] Thomson, et al., *Sebeos*, i, 23.

[72] Jullien, 'Peines et supplices', 260–3.

these locations being public places than with any conscious evocation of David's example.[73]

Given the contrast between the plethora of penalties listed in the sources for the pre-Islamic period and the somewhat narrower range of punishments recorded for Islamic times, one cannot help but suspect that certain penalties were seen as 'customary' and 'proper' by the early Muslims. This may simply have been Arabian custom rather than any conscious effort to conform to Quranic prescriptions. Certainly, the later tradition refers to pre-Islamic kings 'crucifying' and 'amputating limbs', and both the Qurʾān and Umayyad practice probably do reflect a distinctive pre-existing Arabian penal culture.[74]

However, there are also a number of indications that there was more symbolic meaning to the penalties used by the early Muslims. This symbolic meaning may have been quite un-classical. Certainly, the penalties inflicted are not always those that would later be recognised as strictly Quranic or even 'Islamic'. Blinding and the cutting out of tongues (both penalties with many Roman and Sasanian precedents) occur (nos 37, 42, 49); references to the Prophet mutilating the victims of the prescriptions of the *ḥirāba* verse and then prohibiting the penalty for the future almost certainly reflect ongoing debate about this pre-Islamic penalty.[75]

The penalty of the amputation of limbs, which is Quranic, may have had particular associations with the killing of Kharijites. In Kharijite

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[73] See above, n. 53.

[74] The Lakhmid king of al-Ḥīra al-Nuʿmān b. Mundhīr (r. *c.* 580–602) is said to have used crucifixion as a penalty for 'highway robbery': J. ʿAlī, *al-Mufaṣṣal fī l-taʾrīkh al-ʿarab qabl al-Islām* (Beirut, 1968–71), v, 608. Cf. al-Yaʿqūbī, *Taʾrīkh*, ed. M. Houtsma, 2 vols. (Leiden, 1883), i, 240. Khubayb b. ʿAdī al-Anṣārī was remembered as the first Muslim to suffer crucifixion (at the hands of the Meccans in 3/625): Ibn Isḥāq, *The Life of Muhammad*, tr. A. Guillaume, 429–33; al-Ṭabarī, *Taʾrīkh*, i, 1436–7 and 1439–40. See further M. Ullman, *Das Motiv der Kreuzigung in der arabischen Poesie des Mittelalters* (Harrasowitz, 1995), 115–9. The only references to crucifixion (*ṣalb*) in the Qurʾān apart from the *ḥirāba* verse and the denial of Christ's crucifixion in *sūrat al-Nisāʾ*, are, like the references to prison, connected to Pharoah (Qurʾān 4.157; 7.124; 12.41; 20.71; 26.49). In three of them amputation of hands and feet 'on opposite sides' (*min khilāf*) is also mentioned; this is a departure from the Biblical narrative and therefore may well be reflection of early seventh-century Arabian practice. (Cf. the replacement of donkeys with camels in the same story: Qurʾān 12.65 and 12.72).

[75] al-Ṭabarī, *Tafsīr*, x, 244, and above, 106–8.

rasāʾil and *khuṭab* execution, blinding and the amputation of limbs are closely associated with the caliphs' repressive measures against pious critics: Sālim b. Dhakwān's account of ʿUthmān's orders concerning his Egyptian critics is one instance of this (no. 3); another is Abū Hamza's depiction of Marwān II as someone who blinds and amputates limbs (no. 49). The story of al-Mukhdaj—'the one with the mutilated arm'—a sort of 'legendary arch-Kharijite', whose story gained eschatalogical associations, suggests that the penalty of amputation was closely associated with pious rebellion against the state.[76] Furthermore, the penalties that are said to have been inflicted on Kharijites by the Umayyads (for example, nos 5, 7, 8, 9, 21, 50), do appear to indicate that amputation of limbs was perhaps particularly associated with the punishment (or oppression) of Kharijism. As noted above, the exegesis of the *ḥirāba* verse also appears to reflect this association.[77] The public display (*tanaṣṣub*) of the executed is also said to have been understood by the Umayyads themselves as something appropriate only for 'rebels' (as opposed to defeated members of their own family).[78]

Two of the most interesting instances of the non-classical punishments are immolation and the burning of the corpses of the executed (nos 2, 4, 14, 39, 40, 41, 44). Neither penalty is mentioned in the Qurʾān. Even if it is conceded that some accounts of burning may simply be tropes to emphasise the 'un-Islamic' tyranny of the ruler carrying out the burning, the debate surrounding the issue does suggest that some of the burnings really took place. In the *ḥadīth* the Prophet declares that this punishment was reserved for God alone; at the same time, the burning of apostates is also attributed to at least one of Abū Bakr's commanders and to ʿAlī b. Abī Ṭālib.[79] Hawting also observes the possible paradox that all of the references to burning are located in post-Sasanian Iraq, where fire was considered sacred and corpses a pollutant; burning would probably not have been considered a suitable means of execution by Zoroastrians.[80]

The answer to this apparent paradox appears to lie both in the pattern of the application of this punishment in the sources and also in the late antique Judaeo-Christian context of the rise of Islam (a context just as

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[76] J. Wellhausen, *The Religio-Political Factions in Early Islam*, ed. and tr. R. C. Ostle, tr. M. Walzer (Amsterdam, 1975), 22 and n.6.

[77] See above, 108.

[78] al-Ṭabarī, *Taʾrīkh*, ii, 1807; cf. Khalīfa b. Khayyāṭ al-ʿUsfurī, *Taʾrīkh*, ed. S. Zakkār (Damascus, 1967–8), ii, 550.

[79] See nos 2 and 4, below.

[80] Hawting, 'Jaʿd b. Dirham', 36.

relevant in Iraq as in Syria or Egypt). First, it is notable that burning had a good Judaeo-Christian heritage: it was used against the worst offenders in Judaic law and maintained a similar position in the Christian Roman Empire.[81] Given the importance of the corpse of the deceased to the Judaeo-Christians in the late antique Mediterranean,[82] the near-complete destruction of the body by fire was a terrible penalty, with possible implications at the Resurrection. As the *ḥadīth* reserving the punishment for God indicates, it also recalled the image of Hell itself as a place of fiery torment.[83]

The other late antique context is the veneration of martyrs' relics.[84] Fire destroys the corpse of the executed person and so makes veneration of their corpse as a relic difficult or even impossible. In this connection, it is very notable that many of the better-attested instances of immolation and the burning of corpses were carried out by Umayyads against Alid and Hashimite rebels in the late 730s and early 740s (39, 41, 44). In two cases, the ashes were said to have been scattered in the Euphrates (41, 44), leaving no tomb. Here the context appears to be growing Alid and Hashimite feeling in Iraq, perhaps including veneration for 'proto-Shiʿite' martyrs. The connection between burning and ideas about the bodily resurrection in late antiquity and early Islam deserves further investigation.

Conclusions

Examination of the Umayyads' own claims about capital punishment allows us to move beyond the contrasting interpretations of the anecdotal evidence presented by Abou El Fadl and Hawting. The choice is not between, on the one hand, a somewhat teleological interpretation of the Umayyads as co-opting early 'classical' ideas about the *ḥirāba* verse and, on the other, a view of the Umayyads as acting in an 'arbitrary' fashion, unfettered by 'Quranic' or 'Islamic' prescriptions. Rather, we should consider the Umayyads as part of what has recently been described as 'Islamic late antiquity'.[85] Read with accounts of Roman

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[81] See above, 117–8.

[82] On burial practices in the Middle East in late antiquity, see L. Halevi, *Muhammad's Grave: Death Rites and the Making of Islamic Society* (New York, 2007), 76–7, 80–1.

[83] See Appendix, no. 4, and note.

[84] Halevi, *Muhammad's Tomb*, 81.

[85] T. Sizgorich, 'Narrative and Community in Islamic Late Antiquity', *Past and Present* 185 (2004), 9–42.

and Iranian practice in mind, the conduct of the early caliphs and their representatives does look very much like a continuation of Roman and Iranian theory and practice: rebellion, apostasy and public violence (*vis publica* in Roman terms) in these empires brought about similar penalties to *naqḍ*, *ḥirāba* and *fasād fī l-arḍ* in Islam. Indeed, penalties imposed by the Umayyads on Alid rebels in the 730s and 740s were very similar to those imposed on traitors by the Romans in the seventh and eighth centuries.[86]

Like sixth- and seventh-century Roman emperors before them, the Umayyad caliphs claimed to be 'God's deputies' (Latin, *vicarii Dei*, Arabic, *khulafāʾ Allāh*). Sasanian kings were also 'manifestations' or 'descendents' of the Gods.[87] If taken seriously, such a claim might place God's appointed ruler above the law, as Justinian (r. 527–65) states in a *Novel* from 536:

> The imperial station, however, shall not be subject to the rules which we have just formulated, for to the emperor God has subjected the laws themselves by sending him to men as the incarnate law.[88]

Crone and Hinds' 1986 book, *God's Caliph*, has left little doubt that the Umayyads understood their law-making powers in quite similar terms.[89] ᶜUmar's reservation of his right to innovate in amputation and crucifixion might be a manifestation of similar Umayyad claims (no. 32). As Foucault noted, pre-modern kings regarded 'punishment as a political tactic';[90] Umayyad executions were in the tradition of Near Eastern royal power, on which the claim to be the *khalīfat Allāh* was the Islamic calque.

As such, their powers were quite unrestricted and, indeed, sometimes quite arbitrary. Nonetheless, like their Roman and Iranian precursors, the

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[86] See above, 118. Further examples include the usurper Phocas, who had his throat cut before Heraclius in 610: 'Byzantine-Arab Chronicle of 741', §6 in Hoyland, *Seeing Islam*, 613. The rebel Artabasdas was blinded, tortured and exiled by Constantine V in 741, 'Hispanic Chronicle of 754', in Hoyland, *Seeing Islam*, 629.

[87] J. Wiesehöfer, *Ancient Persia from 550 BC to 650 AD*, tr. A. Azodi (London, 1996), 165–6.

[88] F. Dvornik, *Early Christian and Byzantine Political Philosophy: Origins and Background* (Washington, 1966), 722, citing Justinian, *Novel*, 105.2.4.

[89] Crone and Hinds, *God's Caliph*. See further, P. Crone, *Medieval Islamic Political Thought* (Edinburgh, 2004), 33–47.

[90] M. Foucault, *Discipline and Punish*, tr. A. Sheridan Smith (London, 1991), 23.

Umayyads did seek to justify their use of the death penalty: monarchs were answerable to both their subjects and to God, and usually sought to justify the execution of their enemies accordingly. The Umayyads' theoretical justification, based upon violation of the covenant and public violence, was expressed in distinctively 'Islamic' and 'Quranic' terms. However, these terms were not especially 'classical'. The absence of the Prophet from Umayyad pronouncements on execution is notable. This may be reflected in the absence of quotation of the *ḥirāba* verse, which mentions 'God's Messenger'. Rather, Umayyad rhetoric echoes the Qurʾān in its references to *fasād fī l-arḍ* and *naqḍ al-mīthāq*. The *ḥirāba* verse is merely one of a number of Quranic texts that are important to understanding this Umayyad rhetoric (notably Qurʾān 2.27; 5.7; 16.91).

Both Umayyad prose and poetry show that the caliphs sought to represent rebellion against them as rebellion against God, with violation of the *bayʿa* amounting to violation of 'God's covenant'. Nonetheless, there is some evidence that the language of the *ḥirāba* verse counted for something in caliphal circles before the 760s, when very clear evidence for its invocation by caliphs finally appears: *fasād fī l-arḍ* and associated terms in the prose of the 730s and 740s echo the verse. John Bar Penkayē does also suggest that specific *Prophetic* precedent was already important in some circles in Syria in the 680s. We can perhaps glimpse here an aspect of *sunna* in its pre-classical sense, as agreed-upon, uniting custom; indeed, *sunna* and *ʿāda* appear to be invoked in just this sense by ʿAbd al-Ḥamīd in the letter to rebels quoted above.[91]

When it comes to punitive practice, continuities with the punitive practices of the ancient and late antique Middle East are very clear. Beheading and 'crucifixion' (usually, it seems, in the sense of the display of a corpse in a public place) were common penalties for public violence across the Middle East, and were of very great antiquity. Exile was also a well-established substitute for execution. Amputation of limbs is not prominent in Roman legal theory. However, it is found in examples of actual historical practice, such as the execution of Elpidius in the *Chronicon Paschale*; it was very frequently used in Sasanian Iran according to all the sources. Furthermore, it seems that the wider Judaeo-Christian milieu of the Roman Near East may have been a particularly important context. Beheading, the public display of corpses, the amputation of the limbs of murderers and immolation and the burning of the dead are all found in the Hebrew Bible and Judaic tradition.

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[91] See above, 115.

Most of these punishments were probably already well established in Arabia before Islam. Nonetheless, the new Islamic dispensation demanded that they be justified with reference to the *sunna* (in its pre-classical sense) and the Qurʾān. Rather than the *ḥirāba* verse in particular, it was the principle of God's covenant which underpinned Umayyad rhetoric about the punishment of rebellion: 'throwing off' (*khalᶜ*) one's pledge of allegiance in order to defy the state with violent rebellion (*fasād fī l-arḍ*) was held to place one outside the law.[92] Such 'outlaws' were liable to the grievous earthly penalties that were typical of the pre-modern world. As in other polities, the designation of 'outlaw', or 'brigand' could also be deployed against political enemies in an attempt to undermine any legitimacy they might have; the introduction of Marwān II's letter to his son uses just this rhetoric against ideological rivals.[93] Where negotiation failed, or the offense was too insolent or threatening to be dealt with in other ways, the language of 'brigandage' and 'violation of God's covenant', together with humiliating and violent public punishments, made a statement about the relationship between the punished victim and God's justice as represented by Umayyad authority.

Appendix: The execution of rebels c. *632–748 in the later Islamic tradition*
The following list is very far from exhaustive, but it is hoped that it gives an indication of the representation of capital punitive practice from the death of the Prophet to the end of the Umayyad period.

1.   In 632, unwilling to believe that Muḥammad was dead, ᶜUmar b. al-Khaṭṭāb is said to have prophesied that the Prophet would return to cut off the hands and feet cut of those who claimed that he had died.[94]

2.   Abū Bakr is said to have killed al-Fujāᶜa of Banū Sulaym by immolation in the 'prayer ground' (*muṣallā*), or the *Baqīᶜ* cemetery (*al-baqīᶜ*) at Medina. Al-Fujāᶜa had converted to Islam and asked to be armed before attacking, robbing and killing Muslims and others.[95]

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[92] On *khalᶜ* and its pre-Islamic precedents, see Marsham, *Rituals*, 96–9.

[93] Similar rhetoric is found in an account of an Umayyad general's response to an earlier Kharijite rebellion: al-Ṭabarī, *Taʾrīkh*, ii, 923. Cf. ibid., ii, 647. For a *bayᶜa* taken to 'the son of those outlawed by God's Messenger' (*ṭarīdī rasūl Allāh*) in Zubayrid rhetoric, see al-Yaᶜqūbī, *Taʾrīkh*, ii, 324.

[94] Ibn Isḥāq, *Life of Muhammad*, 682–3; al-Ṭabarī, *Taʾrīkh*, i, 1815–6.

[95] al-Ṭabarī, *Taʾrīkh*, i, 1903–4; Kraemer, 'Apostates', 45, n. 39.

3.   In the *Epistle* of the Kharijite Sālim b. Dhakwān, which probably dates from the mid-eighth century, ʿUthmān b. ʿAffān is said to have applied the prescriptions of the *ḥirāba* verse to Muslim rebels from Egypt who rebuked him in the 650s:

When the Muslims left him (ʿUthmān) to go back, having reproached him for his sins against God and told him to desist, he wrote to the governor of Egypt about their leaders, (claiming) that they had made war on God and His Messenger. Some he ordered to be killed, others to have their hands and feet cut off alternately. He also wrote to Muʿāwiya, 'Send me the Syrians …for the people of Medina have turned infidel and renounced their obedience.'[96]

Similar material is also found in al-Ṭabarī.[97]

4.   ʿAlī is said to have burned apostates alive; in some accounts they were first killed by trampling, or beheading.[98]

5.   Muʿāwiya's governor in Iraq, Ziyād b. Abīhi punished two rebels from Basra, Sahm b. Ghālib al-Hujaymī and al-Khaṭīm (Yazīd, or Ziyād, b. Mālik al-Bāhilī). They had rebelled with a group of followers and were killed and crucified (Sahm) and killed (al-Khaṭīm), in *c.* 45/665–6 and *c.* 49/*c.* 669–70, respectively. They were said to have been given an *amān* by Ziyād's predecessor, ʿAbd Allāh b. ʿĀmir (who killed some of their companions in one account). Other details also vary: in one account, al-Khaṭīm was exiled to Baḥrayn before returning to Basra and eventually being executed having had a violation of the terms of his return (that he stay in his tribal *miṣr*) betrayed to Ziyād. Both are described as Kharijites in some accounts. According to a number of accounts, Ziyād went on to fight and kill, imprison and execute many more Kharijites during his tenure as governor of first Basra and then Iraq.[99]

6.   In 50/670, Qarīb b. Murra and Zuḥḥāf b. Zahr al-Ṭāʾī revolted (*kharaja*) with seventy or eighty followers; when they had been defeated,

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[96] P. Crone and F. Zimmerman, *The Epistle of Sālim ibn Dhakwān* (Oxford, 2000), 88–9, §52.

[97] al-Ṭabarī, *Taʾrīkh*, i, 2964–5, 2983–4.

[98] Kraemer, 'Apostates', 44–5 and nn. 39 and 40; Hawting, 'Jaʿd b. Dirham', 36 and n. 31. Among the early traditions is one given by al-Bukhārī in his *Ṣaḥīḥ*, where Ibn ʿAbbās' opposition to burning as opposed to merely killing are noted. For doubt about the historicity of ʿAlī's burning of 'heretics', see: W. F. Tucker, *Mahdis and Millenarians: Shīʿite Extremists in Early Muslim Iraq* (Cambridge, 2008), 13.

[99] Khalīfa, *Taʾrīkh*, i, 235, 241, 246; al-Balādhurī, *Ansāb al-ashrāf*, ed. I. ʿAbbās (Wiesbaden and Beirut, 1979), iva, 172–3; al-Ṭabarī, *Taʾrīkh*, ii, 15f., 83f; Wellhausen, *Factions*, 39–40.

they and some of their followers, including one of their slave-girls and their wives, were crucified on the orders of Ziyād b. Abīhi.[100]

7.   In 51/671 an outspoken opponent of Umayyad rule in Kufa, Ḥujr b. ᶜAdī, was pursued by Ziyād b. Abīhi, who threatened retribution against the head of Ḥujr's clan if he did not surrender his kinsman. Ḥujr was imprisoned and then sent with about twelve others to Muᶜāwiya; seventy Kufan witnesses had been found to say that Ḥujr b. ᶜAdī had violated his pledge of allegiance; six of the prisoners, including Ḥujr, were executed by beheading.[101]

8.   After initially releasing Kharijites from prison, Ziyād's successor in Iraq, ᶜUbayd Allāh b. Ziyad, cracked down on them. One band was forced to fight one another, with those who killed one of their former companions being released. This prompted another revolt, which was put down on ᶜĪd al-Fitr 58/678. The body of its leader, Ṭawwāf b. ᶜAllāq was crucified on the orders of Ziyād; his corpse was taken down and buried by his relatives.[102]

9.   In 58/677–8, ᶜUbayd Allāh b. Ziyād, is said to have killed ᶜUrwa b. Udayya, the outspoken brother of the Kharijite leader Abū Bilāl, by crucifixion.[103] In another account, he cut off the hands and feet of ᶜUrwa b. Udayya and his daughter, and beheaded them both; Abū Bilāl himself was imprisoned and then released. ᶜUbayd Allāh later executed many Kharijite captives and killed others, including Abū Bilāl, in fighting.[104] He also 'imprisoned on suspicion'; this was said to have been a departure from the conduct of Ziyād.[105]

10.   A female critic of ᶜUbayd Allāh b. Ziyād (r. *c.* 674–86), named Bathjāʾ (or Baljā), allowed herself to be arrested and was executed in the marketplace at Basra.[106]

11.   In 61/680 al-Ḥusayn was killed by ᶜUbayd Allāh b. Ziyād; his severed head was displayed in public.[107]

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[100] al-Balādhurī, *Ansāb* (Wiesbaden/Beirut), iva, 175–7. Cf. al-Ṭabarī, *Taʾrīkh*, ii, 90–1 (where they are simply 'killed'); Wellhausen, *Factions*, 40.

[101] al-Balādhurī, ibid., iva, 242ff.; Wellhausen, ibid., 96–101; Abou El Fadl, *Rebellion*, 53.

[102] al-Balādhurī, ibid., iva, 178–80; Wellhausen, ibid., 40–1.

[103] al-Balādhurī, ibid., iva, 386–7.

[104] al-Ṭabarī, *Taʾrīkh*, ii, 185ff., 390–1; Abou El Fadl, *Rebellion*, 53, n. 92.

[105] Wellhausen, *Factions*, 41.

[106] Ibid., 41.

[107] Abou El Fadl, *Rebellion*, 53.

12.   In 64/683–4, during tribal conflict between Azd and Muḍar at Basra, Ashyam b. Shaqīq ascended the *minbar* and said, 'Any Muḍarī whom you find, crucify him!'[108]

13.   Al-Mukhtār's commander, Yazīd b. Anas, had 300 prisoners beheaded at a battle with Umayyad forces at Banāt Talā, near Mosul in 66/685–6.[109]

14.   Al-Mukhtār killed those accused of killing al-Ḥusayn in 61/680; the tradition describes various methods of execution, including having their limbs amputated, being tied up and shot with arrows, and run-through with spears; some of the dead were burned;[110] one of the executed is said to have been burned or flayed alive.[111]

15.   In 69/688–9, ʿAbd al-Malik b. Marwān defeated his paternal uncle, ʿAmr b. Saʿīd b. al-ʿĀṣ, who had rebelled against him. Breaking the safe-conduct (*amān*) he had given him, ʿAbd al-Malik had ʿAmr bound in a neck collar and broke his front tooth before having him beheaded; in some accounts he slit ʿAmr's throat himself.[112]

16.   After the killing of ʿAmr b. Saʿīd b. al-ʿĀṣ, in 69/688–9, ʿAbd al-Malik was persuaded by ʿAbd al-ʿAzīz b. Marwān not to kill ʿAmr's sons, Yahyā and ʿAnbasa, on the basis that they were Umayyads; they were imprisoned (*ḥubisa*) instead.[113]

17.   In 71/690–1, Muṣʿab b. al-Zubayr rounded up known supporters of ʿAbd al-Malik and abused them in public, had them beaten and their beards shaved, exposed them to the sun for three days, forced them to divorce their wives and swear not to remarry.[114] Others were killed and had their property destroyed or seized.[115]

18.   The corpse of ʿAbd al-Malik's rival for the caliphate, ʿAbd Allāh b. al-Zubayr, was crucified by the Umayyad commander, al-Ḥajjāj, at Mecca in

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[108]   al-Ṭabarī, *Taʾrīkh*, ii, 464. A different version gives, 'kill him': al-Balādhurī, *Ansāb* (Wiesbaben/Beirut), iva, 406.

[109]   al-Ṭabarī, ibid., ii, 648.

[110]   Ibid., ii, 667–79.

[111]   Ibid., ii, 678; cf. al-Balādhurī, *Ansāb al-ashrāf*, ed. S. D. F. Goitein (Jerusalem, 1936), v, 239.

[112]   al-Ṭabarī, *Taʾrīkh*, ii, 786–92.

[113]   Ibid., ii, 792–3.

[114]   al-Ṭabarī, *Taʾrīkh*, ii, 801–3.

[115]   Ibid., ii, 803.

72/692.[116] This event generated an extensive *akhbār* literature. In one account a dead dog was attached to his body, and his son, ᶜUrwa, was also crucified.[117] Al-Ḥajjāj despatched Ibn al-Zubayr's head to ᶜAbd al-Malik.[118] In another account his head was sent to one of his supporters as evidence of his death.[119]

19.   In 72/691–2, ᶜAbd Allāh b. Khāzim refused allegiance to ᶜAbd al-Malik; ᶜAbd al-Malik's governor of Khurasan fought him and killed him. His body was carried on a mule, balanced by tying a stone to the corpse's loins. He was beheaded and the head despatched to ᶜAbd al-Malik.[120] In some accounts, ᶜAbd Allāh b. Khāzim had cut off the hands and feet of the messenger sent by ᶜAbd al-Malik to request his pledge of allegiance before beheading him.[121]

20.   After his arrival in Kufa in 75/694–5, al-Ḥajjāj beheaded those who had deserted the *jihād*.[122]

21.   In 77/696–7, the heads of defeated Kharijites in Ṭabaristān were sent to al-Ḥajjāj; he sent their leader's head to the caliph, ᶜAbd al-Malik.[123]

22.   Advised that one of his commanders was plotting to break his pledge of allegiance and rebel, Umayya b. ᶜAbd Allāh, the governor of Khurasan, had the commander arrested and imprisoned, along with other plotters; Umayya then had one of his own tribe kill him with his own sword; his assassin was later himself assassinated; the killer was captured, imprisoned and killed.[124]

23.   In *c.* 84/703–4 two defeated rebels who had been led by Ibn al-Ashᶜath, ᶜAṭiyya b. ᶜAmr al-Anbarī and Kharasha b. ᶜAmr al-Tamīmī, were crucified on the doors of their houses by al-Ḥajjāj.[125]

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[116] al-Dīnawarī, *Kitāb Akhbār al-ṭiwāl*, ed. V. Guirgass (Leiden, 1888), 321; al-Yaᶜqūbī, *Taʾrīkh*, ii, 319–20.

[117] al-Balādhurī, *Ansāb* (Damascus), vi, 237–39. Abou El Fadl, *Rebellion*, 54, n. 92, gives an account in which he was crucified with a cat in a mosque.

[118] 'The Byzantine-Arab Chronicle of 741', §34, in Hoyland, *Seeing Islam*, 622.

[119] al-Ṭabarī, *Taʾrīkh*, ii, 834–5.

[120] Ibid., ii, 832–5. Cf. al-Balādhurī, *Futūḥ al-Buldān*, ed. M. J. de Geoje (Leiden, 1866), 415–6.

[121] al-Ṭabarī, *Taʾrīkh*, ii, 835.

[122] Ibid., ii, 869–70.

[123] Ibid., ii, 1020–1.

[124] al-Ṭabarī, *Taʾrīkh*, ii, 1029–31, 1048f.

[125] al-Balādhurī, *Ansāb* (Damascus), vi, 475.

24. In 80/699, or 85/704, or before 90/708, al-Ḥajjāj or ᶜAbd al-Malik executed Maᶜbad al-Juhānī, probably because of his involvement in the rebellion of Ibn al-Ashᶜath.[126]

25. After al-Ḥajjāj regained control of Iraq in 83/702–3 he demanded that everyone give the pledge of allegience on the basis that they had previously been in a state of unbelief; if they refused they were beheaded.[127]

26. In 83/702–3, al-Ḥajjāj beat and then beheaded Muḥammad b. Saᶜd b. Abī Waqqāṣ, having accused him of, among other things, having refused the pledge of allegiance to Yazīd b. Muᶜāwiya and having compared himself to 'Ḥusayn and Ibn ᶜUmar'. Three other members of Ibn al-Ashᶜath's rebellion, were beheaded on the same occasion.[128] One, Fayrūz b. Ḥusayn was tortured before he was killed.[129] Al-Ḥajjāj was said to have killed 11,000 of the rebels led by Ibn al-Ashᶜath in fighting and by execution at the battle of al-Zāwiya; a total for the number of captives that al-Ḥajjāj killed in his career was said to have been 120,000 or 130,000.[130]

27. In 90/708–9, Qutayba b. Muslim, al-Ḥajjāj's appointee as governor of Khurasan, is said to have crucified people while prosecuting his war against the Hephthalite leader, Nīzak Tarkhān, in Transoxiana. In one account, 'he crucified [the people of al-Ṭalaqān] in two straight rows four parasangs (about twelve miles) long' on account of their king making common cause with Nīzak in breaking a peace treaty.[131] Another account has a certain Bādhām 'fortifying himself, rebelling and apostatising' (*taḥaṣṣana wa-ᶜaṣā wā-irtadda*) in al-Ṭālaqān; Qutayba 'killed his son and crucified him, and group that was with him' and then fought Bādhām and killed him.[132] In another account, placed in the year 91/709–10, he 'crucified brigands (*luṣūṣ*)' there, while the chief in al-Ṭalaqān remained neutral.[133]

28. In 91/709–10, Qutayba b. Muslim is said to have killed and crucified two of the *marzbān* of Marw Rūdh's sons after the *marzbān* himself

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[126] Kraemer, 'Apostates', 53 and n. 73.

[127] al-Ṭabarī, *Taʾrīkh*, ii, 1096–8.

[128] Ibid., ii, 1120–1.

[129] Ibid., ii, 1122.

[130] Ibid., ii, 1123

[131] Ibid., ii, 1206; tr. M. Hinds, in al-Ṭabarī, *History*, xxiii, 155.

[132] al-Yaᶜqūbī, *Taʾrīkh*, ii, 342.

[133] al-Yaᶜqūbī, *Taʾrīkh*, ii, 1218; H. A. R. Gibb commented in his *Arab Conquests in Central Asia* (London, 1923), on 'hopelessly confused' traditions about al-Ṭalaqān at this time (p. 37).

had fled.[134] Later in the same year, Qutayba beheaded and crucified Nīzak himself, with two of his fraternal nephews 'beside a spring named Wakhsh Khāshān at Iskīmisht'; the number of those beheaded on the same occasion is said to have been either 700 or 12,000.[135] There are various stories about Nīzak's imprisonment prior to his execution.[136]

29.   When one of his companions deserted him for Sulaymān in 91/709–10, Qutayba b. Muslim arrested a group of the traitor's family (*qawman min ahl baytihi*), killed them and cut off the hands and feet of others (*fa-qatalahum wa-qaṭaʿa aydiy ākharīn wa-arjulahum*).[137]

30.   In 94/712–13, the new governor of Medina, ʿUthmān b. Ḥayyān al-Murrī, 'imprisoned and punished' (*ḥabasahum wa-ʿāqabahum*) two Iraqis before sending them, and the other Iraqis in Medina, to al-Ḥajjāj 'in neck collars' (*fī jawāmiʿ*). ʿUthmān 'pursued the heretics' (*atbaʿa ahl al-ahwāʾ*) and seized two Kharijites, Hayṣam and Manḥūr; the former either suffered 'amputation' (*qaṭaʿahu*), or, on the orders of al-Walīd, had his hand and foot cut off before being killed.[138]

31.   In 94/712–13, al-Ḥajjāj executed Saʿīd b. Jubayr, one of two former rebels who had been sent to him by the governor of Mecca. (The other was imprisoned until al-Ḥajjāj died; a third had died *en route* to Iraq.) Saʿīd was beheaded after an exchange about the pledge of allegiance; both his legs were then cut off – perhaps as a result of a misunderstanding of al-Ḥajjāj's words.[139]

32.   A cluster of traditions credits the caliph ʿUmar b. ʿAbd al-ʿAzīz (r. 717–20) with seeking to restrict the use of amputation and execution by his governors, while reserving authority on the matter to himself. One version of the relevant decree is:

…and do not bring about an innovation in amputation and 'crucifixion' without consulting me (*wa-lā tuḥdithū ḥadathan fī qaṭʿ wa-ṣalb ḥattā tuʾāmirūnī*) …[140]

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[134] al-Ṭabarī, *Taʾrīkh*, ii, 1218.

[135] Ibid., ii, 1222–4. Cf. al-Balādhurī, *Futūḥ*, 420.

[136] al-Ṭabarī, *Taʾrīkh*, ii, 1224–5.

[137] al-Yaʿqūbī, *Taʾrīkh*, ii, 354; cf. al-Ṭabarī, ibid., ii, 1218, 1289–90 and al-Ṭabarī, *The History of al-Ṭabarī Volume xxiv: The Empire in Transition*, tr. D. S. Powers (New York, 1989), 13, n. 57.

[138] al-Ṭabarī, *Taʾrīkh*, ii, 1258; Anonymous, *Kitāb al-ʿUyūn*, 16.

[139] al-Ṭabarī, ibid., ii, 1264f.

[140] al-Yaʿqūbī, *Taʾrīkh*, ii, 366. Cf. Abou El Fadl, *Rebellion*, 59–60.

33.   After he was appointed governor of Iraq in 106/724–5, Khālid al-Qasrī is said to have executed and then crucified ᶜIkrima and Ḥayyān, missionaries for the Hashimite movement in Khurasan.[141]

34.   In 113/731–2 al-Junayd killed one of the Hashimite missionaries and declared their blood lawful.[142]

35.   At some time after 111/729–30, Asad b. ᶜAbd Allāh 'arrested a group' of those who had pledged allegiance to the Banū Hāshim 'and cut off their hands and feet and crucified them'.[143]

36.   In 117/735–6, Asad b. ᶜAbd Allāh is said to have captured a group of Abbasid missionaries in Khurasan, killing (*qatala baᶜḍahum*) some, mutilating (*maththala*) some and imprisoning (*ḥabasa*) some. One of the captives had his teeth broken with a donkey's bridle, his nose broken and his beard shaved, before being flogged with 300 lashes. He was saved from crucifixion by the intervention of a leading member of his tribe.[144]

37.   In 118/736–7, Asad b. ᶜAbd Allāh killed the rebel ᶜAmmār b. Yazīd (Khidāsh), a Hashimite missionary, and also, allegedly, a Khurramī (a Mazdakite revivalist).[145] According to one account, Khidāsh was insolent to Asad and so he had his hand cut off, his tongue torn out and his eye gouged out; according to another, he had a doctor remove his eye and his tongue before handing him over to the governor of Amul to be killed and crucified. Asad was also brought a certain Ḥazawwar, who was 'beheaded on the edge of the river' (*fa-ḍaraba ᶜunqahu bi-shāti' l-nahr*).[146]

38.   In 118/736–7, al-Kirmānī was besieging a castle at al-Ṭubūshkān, in Upper Ṭukhāristān; he made a *khuṭba* to those of his own troops who were from Balkh, from whom he feared treachery:

> …By Him in Whose hand is my soul, no report will reach me of a man among you having written a letter to (the besieged) attached to an arrow, but that I will cut off his hand and his foot and crucify him …

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[141] Khalīfa, *Ta'rīkh*, ii, 490 (for his appointment); al-Dīnawarī, *Akhbār*, 336 (the crucifixions).

[142] al-Ṭabarī, *Ta'rīkh*, ii, 1560.

[143] al-Yaᶜqūbī, *Ta'rīkh*, ii, 383.

[144] al-Ṭabarī, *Ta'rīkh*, ii, 1586–8; see al-Ṭabarī, *The History of al-Ṭabarī, Volume xxv: The End of Expansion*, tr. and ann. K. Y. Blankinship (New York, 1989), 124, n. 463.

[145] al-Ṭabarī, *Ta'rīkh*, ii, 1588–9; see al-Ṭabarī, *History*, xxv, 125, n. 466 concerning the Khurramiyya.

[146] al-Ṭabarī, *Ta'rīkh*, ii, 1589.

After the castle surrendered, al-Kirmānī obeyed Asad's written orders, sending fifty of the leaders to him to be executed. Of the 1,200 who remained, al-Kirmānī, as ordered, crucified a third, cut off the hands and feet of a third and cut off the hands of a third.[147]

39.   In 119/737, al-Mughīra b. Saʿīd and Bayān b. Samʿān al-Tamīmī led a small rebellion. The rebels were arrested and executed by Khālid al-Qasrī.[148] Extremist Alid beliefs and sorcery were imputed to al-Mughīra.[149] In some accounts he is said to have been 'killed and crucified' (*qatalahu wa-ṣalabahu*). However, other accounts describe him being tied to bundles of reeds, covered in tar and burned in the congregational mosque at Kufa, followed by Bayān.[150] In other accounts he was executed near Wāsiṭ.[151]

40.   In 119/737, Wazīr al-Sakhtiyānī rebelled at al-Ḥīra leading a small group. He was captured and imprisoned by Khālid al-Qasrī, who found his erudition and piety comforting; Hishām wrote to Khālid demanding that he execute his prisoner: 'Do not allow a criminal (*fāsiq*) who has killed, burned and plundered property to live.' Khālid was ordered to kill him and burn him (*qatlihi wa-iḥrāqihi*). He and his companions were burned by Khālid.[152]

41.   In 121/738–9, the Alid rebel, Zayd b. ʿAlī, was killed and beheaded at Kufa by the Umayyad governor Yūsuf b. ʿUmar.[153] A very extensive martyr literature is associated with this event. Zayd's corpse is said to have been carrried on a donkey, before being beheaded, burned and scattered in the Euphrates and in the fields. His head was displayed separately on a pole.[154] Later it was displayed in Medina, where it was denigrated in verse by one of the Anṣār.[155] In another account, Zayd's body was buried, before being exhumed and crucified.[156] In yet another version he was beheaded, and

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[147]   al-Ṭabarī, *Taʾrīkh*, ii, 1590–1.

[148]   Cf. Kraemer, 'Apostates', 46; Hawting, 'Jaʿd b. Dirham', 36 and n. 29.

[149]   al-Ṭabarī, *Taʾrīkh*, ii, 1619f. Cf. al-Ṭabarī, *History*, xxv, 152f, nn. 544, 545.

[150]   al-Ṭabarī, *Taʾrīkh*, ii, 1620.

[151]   al-Ṭabarī, *History*, xxv, 152f, n. 544.

[152]   al-Ṭabarī, *Taʾrīkh*, ii, 1628f.; cf. Hawting, 'Jaʿd b. Dirham', 36 and n. 30.

[153]   Abou El Fadl, *Rebellion*, 53, n. 92.

[154]   al-Yaʿqūbī, *Taʾrīkh*, ii, 391.

[155]   al-Ṭabarī, *Taʾrīkh*, ii, 1714–5. Cf. al-Balādhurī, *Ansāb* (Damascus), ii, 522 (where the poetry is associated with the display of the head in Damascus). On the poetry recited about the crucixifion of Zayd, see Ullman, *Kreuzigung*, 25–6, 84–6.

[156]   al-Ṭabarī, ibid., ii, 1715.

his corpse crucified at al-Kunāsa just outside Kufa.[157] Other accounts refer to his hands and feet being cut off, as well as the display of his head.[158]

42.   A dispute between Ghaylān (an advocate of the Qadarī doctrine) and Maymūn (an Umayyad official) was held before Hishām (r. 724–43). Hishām ordered Ghaylān's hands and feet to be cut off.[159] In some accounts, Ghaylān's tongue was also cut out and he was then crucified.[160]

43.   On ʿĪd al-Adḥā 124/742 or 125/743, Jaʿd b. Dirham was killed by Khālid al-Qasrī in the same manner as a slaughtered sacrifice; other accounts have him crucified and then killed.[161]

44.   In 125/743, in Khurasan, Yaḥyā b. Zayd is said to have suffered a similar fate to that of his father. He was killed, beheaded and crucified (at Kufa, it seems). Then his corpse was taken down and burned; the ash was scattered into the Euphrates from a boat.[162] One of his supporters is singled out as having had his hand and foot cut off.[163]

45.   In 125/743, two supporters of pledging allegiance to Hishām's son, Maslama, instead of his nominated successor, al-Walīd II, were paraded in public at Medina and then tortured and killed on the basis that they had embezzled money.[164]

46.   After al-Walīd II was killed in 126/744, his left hand and his head were cut off and sent to Yazīd III; the head was displayed on a spear at the congregational mosque in Damascus and paraded around the town; Yazīd III was critcized on the basis that, 'Only the head of the rebel is displayed' (*innamā yunṣabu raʾs al-khārijī*).[165]

47.   After the fall of Yazīd III in 126/744, Abū Muḥammad b. ʿAbd Allāh b. Yazīd b. Muʿāwiya took power in Damascus, took the *bayʿa* to Marwān II, and crucified ʿAbd al-ʿAzīz b. al-Ḥajjāj upside down (*mankūsan*)

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[157] al-Dīnawarī, *Akhbār*, 345.

[158] al-Balādhurī, *Ansāb* (Damascus), ii, 545–7.

[159] al-Ṭabarī, *Taʾrīkh*, ii, 1733; see further W. M. Watt, *The Formative Period of Islam* (Edinburgh, 1973), 86.

[160] Kraemer, 'Apostates', 53–4; see also Hawting, 'Jaʿd b. Dirham', 36 and n. 28.

[161] Kraemer, ibid., 54; Hawting, 'Jaʿd b. Dirham'.

[162] al-Ṭabarī, *Taʾrīkh*, ii, 1770, 1773–74; cf. al-Balādhurī, *Ansāb* (Damascus), ii, 545–7.

[163] al-Ṭabarī, ibid., ii, 1773.

[164] Ibid., ii, 1768. Cf. al-Yaʿqūbī, *Taʾrīkh*, ii, 397; al-Ṭabarī, ibid., ii, 1742.

[165] Khalīfa, *Taʾrīkh*, ii, 548–51; al-Ṭabarī, *Taʾrīkh*, ii, 1807.

on the city gate that led south to al-Jābīya; his head was sent to Marwān.[166] In another account, Marwān II crucified Ibrāhīm b. al-Walīd alongside ᶜAbd al-ᶜAzīz,[167] and in another ᶜAbd al-ᶜAzīz and Yazīd b. Khālid al-Qasrī were crucified together.[168] In yet another, he was given an *amān* on condition that he divest himself of all claim to the caliphate.[169] The body of Yazīd III was subsequently exhumed and crucified.[170]

48.   129/746–7, al-Kirmānī went over to Abū Muslim but was caught by the Umayyad governor, Naṣr b. Sayyār; he was killed and crucified alongside a fish in a jibe at his tribal affiliation.[171]

49.   In his sermon preached in 129 or 130 (746–8), Abū Ḥamza criticizes Marwān II for and amputating the limbs of his enemies and blinding them.[172]

50.   In 130/748 Kharijite rebels were defeated and killed at Mecca; Abū Ḥamza and other leaders were crucified by the Umayyad commander, Ibn ᶜAṭiyya. Heads were despatched to Marwān b. Muḥammad. Ibn ᶜAṭiyya was himself killed later that year when he was mistaken for a fleeing Kharijite.[173]

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[166] Khalīfa, ibid., ii, 565–6.

[167] al-Balādhurī, *Ansāb* (Damascus), ii, 115, vii, 165.

[168] Ibid., vii, 550.

[169] Ibid., vii, 569.

[170] Khalīfa, *Taʾrīkh*, ii, 566. Cf. Ibn Qutayba, *Kitāb ᶜUyūn al-akhbār*, ed. A. Z. al-ᶜAdawī (Cairo, 1925–30), ii, 249; al-Balādhurī, *Ansāb* (Damascus), vii, 552.

[171] al-Balādhurī, *Ansāb* (Damascus), iii, 144–5; al-Yaᶜqūbī, *Taʾrīkh*, ii, 407–8 (no fish); al-Ṭabarī, *Taʾrīkh*, ii, 1975. The fish was to cast aspersions on the Azd of ᶜUmān (al-Ṭabarī, *History of al-Ṭabarī, Volume xxvii: The ᶜAbbāsid Revolution*, tr. and ann. J. A. Williams, (Albany, 1985) 85, n. 230; al-Balādhurī, *Ansāb* (Damascus), iii, 145, n.2); Abou El Fadl, *Rebellion*, 54, n. 92.

[172] Crone and Hinds, *God's Caliph*, 132; Abou El Fadl, *Rebellion*, 54, n. 94.

[173] al-Iṣfahānī, *Kitāb al-Aghānī*, Būlāq, xx, 110–4; Wellhausen, *Factions*, 88.

THE ʿUBĀDA B. AL-ṢĀMIT TRADITION AT THE CROSSROADS OF METHODOLOGY[1]

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During the past few decades Western studies of the origin of Islam have made considerable advances in assessing sources which have long been considered a repository of exegetic, legal and historical material about the first centuries of Islam. Growing scepticism towards the Islamic foundation narratives and the traditional accounts of Islamic history undermined the notion that, unlike other religions, Islam "was born in the full light of history" and "its roots are on the surface" (A. Renan). The study of the first centuries of Islam has thus become the focus of clashing methodologies, often yielding conflicting accounts on how, when and where Islam emerged. While studying Muslim traditions (*ḥadīth*s), Western Islamicists expressed varying opinions about reliability of lines of narrative transmission (*isnād*s), which, according to the traditional Muslim view, control the authenticity of the information included in the substantive part of the tradition (*matn*). One pole of the spectrum is represented by scholars who reject the link between the *isnād* and the *matn*. For them, the *isnād* is a fictitious authentication device that does not give any information about the historical development of the narrative. These scholars prefer to study the relationship between topically affiliated narratives, whence they derive information about the chronological development of the concepts conveyed by these narratives (literary analysis). The other part of the spectrum varies in the degree of acceptance of the *isnād*s. Nevertheless, these scholars generally agree that, provided certain methodological stipulations are met, a considerable part of the transmission line is authentic and correctly represents the ways through which the traditions were transmitted. With certain qualifications, the method of scholars who accept the *isnād* may be described as *isnād-cum-matn* analysis. In this article, I study the famous ʿUbāda tradition dealing with the punishment for adultery and fornication (*zinā*). First, I follow the historical development of the tradition by means of literary analysis. Then I apply to the same tradition the principles of *isnād-cum-matn* analysis. Although different in their treatment of the *ḥadīth* material, the two approaches are shown as capable of yielding results that are not mutually exclusive.

Introduction

During the past few decades, Western studies of Islamic origins made a considerable advance in assessing the sources that have for a long time been considered a repository of exegetic, legal and historical material about the first centuries after the Hijra (AH). Growing skepticism towards Islamic foundation narratives and the traditional accounts of Islamic history undermined the notion that, unlike other religions, Islam "was born in the full light of history" and "its roots are on the surface".[2] The study of the first centuries of Islam became the focus of clashing methodologies that often yielded conflicting accounts on how, when and where Islam emerged on the historical scene. With skepticism cast over every aspect of early Islamic history as constructed by the traditional sources, the implications of the methodological debate during the past few decades have been predominantly negative. An important consequence of this debate has been the realization that a sound methodology for dating early Muslim traditions is needed.

In the course of the methodological debate, Western Islamicists expressed varying opinions about the epistemological value of the formal lines of narrative transmission, known as *isnād*s, which, according to the traditional Muslim view, control the authenticity of the information included in the substantive part of the tradition, known as *matn*. At one pole of the spectrum stand the scholars who dismiss the *isnād*s as fictitious authentication devices that do not carry tenable information about the origin and the ways of transmission of the *matn*s, especially when they purport to link these *matn*s to authorities from the first century AH.[3] Instead of the *isnād*s, these scholars prefer to study the

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[2] Ernest Renan, "Muhammad and the Origins of Islam," in *The Quest for the Historical Muhammad*, edited and translated by Ibn Warraq (New York: Prometheus Books, 2000), 128–9.

[3] The origin of this view goes back to J. Schacht's division of the *isnād* into a "higher, fictitious part" that reaches back from the original promoter (N. N. or the Common Link in Schacht's terminology) to a Companion or the Prophet; and a lower, presumably authentic, part, which extends from N. N. to the later collectors (Joseph Schacht, *The Origins of Muhammadan Jurisprudence* [Oxford: Clarendon Press, 1950], 171 ff). In terms of chronology, this means that "the evidence of legal traditions carries us back to about the year 100 AH only" (ibid., 5). N. J. Coulson tried to mitigate the implications of this conclusion by stating that there is no direct relationship between the authenticity of the *isnād* and the historicity of the tradition attached to it. While admitting that in their great majority the *isnād*s are fictitious, Coulson argues that "where …the rule fits naturally into the circumstances of the Prophet's community at Medina, then it should be tentatively accepted as authentic

relationship between topically-affiliated narratives, whence they derive information about the chronological development of the concepts conveyed by these narratives. The other part of the spectrum varies in the degree of acceptance of the *isnād*s. Nevertheless, these scholars generally agree that, provided certain methodological stipulations are met, a considerable part of the transmission line is authentic and

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until reason for the contrary is shown" (Noel J. Coulson, *A History of Islamic Law* [Edinburgh: Edinburgh University Press, 1964], 70). John Wansbrough regarded the *isnād* as an exegetical embellishment that emerged by the end of the second century AH. (John Wansbrough, *Quranic Studies: Sources and Methods of Scriptural Interpretation* [New York: Prometheus Books, 2004], 179, 183) He rejected formal ascriptions to vindicating authorities as "pseudo-historical projections of a halakhic dispute" (John Wansbrough, *The Sectarian Milieu: Content and Composition of Islamic Salvation History* [New York: Prometheus Books, 1986], 81). The Schachtian paradigm clearly influenced one of Wansbrough's closest followers, Andrew Rippin. In his view, "it would always have been possible, after all, for a later editor to add an *isnād* to an earlier authority in order to give validity. That is, of course, what happened with individual reports as found in all the *ḥadīth* collections; where an opinion is simply ascribed to a prominent scholar in an earlier text, in a later text an *isnād* is attached to the report, tracing the information back to one of the companions of Muḥammad and finally to Muḥammad" (Andrew Rippin, "*Tafsīr Ibn ᶜAbbās* and Criteria for Dating Early *Tafsīr* Texts," *JSAI*, 18 [1995], 61). Norman Calder raised to a new level the skepticism about the utility of the *isnād*s for the historical reconstruction of traditions. Unlike Schacht, who considered the traditions as having originated in the time of the Common Link (henceforth CL), Calder thought that the CLs had emerged as a result of mutual *isnād* criticism practised by later conflicting factions who sought to support their views and to impugn their opponents' views by attributing traditions to commonly accepted early authorities via different lines of transmission (Norman Calder, *Studies in Early Muslim Jurisprudence* [Oxford: Clarendon Press, 1993], 235–41). More recently, Schacht's theory found support in H. Berg's study of exegetical traditions linked with Ibn ᶜAbbās. After undertaking a statistical analysis of the stylistic devices employed by Ibn ᶜAbbās' purported students and comparing them with the corresponding devices found in the *Tafsīr* of al-Ṭabarī and his direct informants, Berg reaches the conclusion that "most, if not all, of the *ḥadīth*s of my sample cannot have originated with Ibn ᶜAbbās as their *isnād*s contend. Therefore, if neither Ibn ᶜAbbās nor his students can be linked with these *isnād*s, I must conclude that the claims of the *isnād*s are false. At the very least, the first two (and most critical) links in the *isnād*s are incorrect" (Herbert Berg, *The Development of Exegesis in Early Islam: The Authenticity of Muslim Literature from the Formative Period* [London, New York: RoutledgeCurzon, 2000], 228).

correctly represents the ways through which the traditions were transmitted from their source of origin to the later recipients.[4]

In this essay I will apply both approaches to the ʿUbāda b. al-Ṣāmit tradition,[5] which deals with the punishment for adultery and fornication.[6]

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[4] Drawing on Schacht's theory, G. H. A. Juynboll considers the CL as the person who invented the single strand between himself and the Prophet "in order to lend a certain saying more prestige" (G. H. A. Juynboll, "Some Notes on Islam's First *Fuqahāʾ* Distilled from Early *Ḥadīth* Literature," *Arabica*, 39:3 [1992], 292). Unlike Schacht, Juynboll stipulates that in order to be historically tenable, the CL must be cited by a number of tradents (whom Juynboll terms Partial CLs [PCLs]), who, in order to be accepted as historically tenable PCLs, must have transmitted to a number of later transmitters or/and collectors (G. H. A. Juynboll, "Some *Isnād*-Analytical Methods Illustrated on the Basis of Several Woman-Demeaning Sayings from *Ḥadīth* Literature," *al-Qanṭara*, 10:2 [1989], 352; idem, "Some Notes," 293; idem, "Nāfiʿ, the *Mawlā* of Ibn ʿUmar, and His Position in Muslim *Ḥadīth* Literature," *Der Islam*, 70:2 [1993], 210–1; idem, *Encyclopedia of Canonical Ḥadīth* [Leiden and Boston: Brill, 2007], XIX [henceforth *ECḤ*]). In his reconstruction of the PCL and the CL variants, Harald Motzki assumes that single-strand *isnād*s both below and above the CL have a good chance of being authentic and may therefore serve as historical evidence. In Motzki's view the *isnād*s should be read from "above" to "below"; that is, from the vantage point of the collector, not from the position of the alleged source of information. In such a case, it is easy to imagine that a collector would not cite all of his informants. His collection would rather include traditions he personally chooses from the bulk of the material known to him. The CLs, starting with the generation of Successors, should be considered as the first systematic collectors of traditions who, as a rule, received their traditions or parts thereof from the persons they name as their informants. Motzki points out that not all variant traditions that had once existed would have survived to our time, and not all students of a given teacher would have engaged in passing their teacher's traditions to the following generations (Harald Motzki, "*Quo vadis, Ḥadīṯ*-Forschung? Eine kritische Untersuchung von G. H. A. Juynboll: "Nāfiʿ, the *mawlā* of Ibn ʿUmar, and his position in Muslim *Ḥadīth* Literature," *Der Islam*, 73:1–2 [1996], 45–54, 227; idem, "Dating Muslim Traditions: A Survey," *Arabica*, 52:2 [2005], 217, 228–9, 238).

[5] Throughout the article I will call the tradition at issue "the ʿUbāda tradition," although I realize that this term is rather loose. The tradition cannot be ascertained as going back to ʿUbāda and therefore, strictly speaking, cannot be named after him. At times, I will use the phrase "dual-penalty maxim" and "penal maxim" to describe the specific part of the tradition that deals with the punishment for sexual transgressions. This part may also be described as "the prophetic dictum," although, as we shall see, at the earliest stages of its development the tradition may not have been associated with the prophetic authority.

In addition to its importance for Islamic jurisprudence (*fiqh*), the ᶜUbāda tradition has considerable exegetical implications. It has a bearing on the issue of abrogation (*naskh*), the relationship between the prophetic tradition (*sunna*) and scripture, and by extension, on the concept of revelation (*waḥy*). For a long time, these aspects have aroused the interest of Western students of Islamic exegesis and *fiqh*; the historical development of the ᶜUbāda tradition, however, remained fairly marginal to the topic of their studies.[7] Although I cannot avoid discussion of the attendant exegetical and legal environment in the present article, it will serve mainly to facilitate the historical reconstruction of the ᶜUbāda tradition.

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[6] Muslim jurists employ the term *zinā* (also *zināʾ*) to describe sexual transgression in general. With regard to the penalty for *zinā*, two categories of offenders (*zānin*, pl. *zunāt*) are distinguished by additional qualifications. These are the virgin *zānin*, known as *bikr*, and the non-virgin *zānin*, known as *thayyib*. A related *fiqhī* term is *iḥṣān*, which denotes the state of lawful marital relationship of a free person professing Islam. In this article, I will use the term "fornicator" and its cognates to designate the virgin transgressor (i.e. *bikr* or *al-ladhī lam yuḥṣan*), and the term "adulterer" and its cognates to designate the non-virgin transgressor (i.e. *thayyib* or *muḥṣan*).

[7] John Burton has discussed the role of the ᶜUbāda tradition in the context of the abrogation (*naskh*) theory. He focused primarily on al-Shāfiᶜī's elaborate theory that tries to reconcile the view that the Qurʾān and the *sunna* are self-subsistent sources of law with the fact that the ᶜUbāda tradition alters the Quranic ordinance for 100 lashes in a way tantamount to *naskh* (John Burton, "The Meaning of 'Ihsan'," *JSS*, 1 [1974], 47–75; idem, *The Sources of Islamic Law* [Edinburgh: Edinburgh University Press, 1990], 122–64; idem, "The penalty for adultery in Islam," in *Approaches to the Qurʾān*, ed. G. R. Hawting and Abdul-Kader A. Shareef [London and New York: Routledge, 1993], 269–84). Albeit ostensibly historical, al-Shāfiᶜī's approach derives from a legal fiction that has nothing to do with the actual history of the ᶜUbāda tradition. Patricia Crone has referred to the stoning penalty in general to elucidate the rupture between the Quranic ordinances and the laws enacted by means of *sunna* (Patricia Crone, "Two Legal Problems Bearing on the Early History of the Qurʾān," *JSAI* 18 [1994], 15). Christopher Melchert has dealt with the ᶜUbāda tradition as part of his study of the Quranic abrogation during the third century AH, but, due to the thematic confines of his article, is not interested in the development of the ᶜUbāda tradition itself (Christopher Melchert, "Quranic Abrogation Across the Ninth Century: Shāfiᶜī, Abū ᶜUbayd, Muḥāsibī and Ibn Qutayba," in *Studies in Islamic Legal Theory*, ed. Bernard G. Weiss [Brill, 2002]).

Methodological criteria in the study of the ᶜUbāda tradition
In the section devoted to textual analysis I will apply Wansbrough's exegetical typology.[8] In addition, I will follow the unfolding of the *rajm* concept in the works of Muslim exegetes and jurists during the second and the third centuries AH. The degree of conceptual refinement will be decisive for the relative dating of the exegetical works that draw upon the penalty for *zinā*.[9] Insofar as some of these exegetical works include *ḥadīth* material, they will make possible a chronological arrangement of the attending traditions, including those associated with ᶜUbāda b. al-

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[8] Wansbrough has outlined five exegetical types: haggadig (narrative), halakhic (legal), masoretic (linguistic), rhetorical and allegorical (*Quranic Studies*, 119). Each exegetical type can be recognized by its almost invariable utilization of specific "explicative devices." Thus, haggadic exegesis typically employs anecdote, prophetic tradition and identification (ibid., 141); halakhic exegesis makes use of the historicizing occasions of revelation (*asbāb al-nuzūl*), the thereto related theory of abrogation (*naskh*) and inductive analogy; (ibid., 170–202; Rippin disagreed with Wansbrough about the function of occasions of revelation. According to Rippin this exegetical type is haggadic in both function and origin [Andrew Rippin, "The Function of *Asbab al-Nuzul* in Quranic Exegesis," in *The Quest for the Historical Muhammad*, edited and translated by Ibn Warraq (Amherst, New York: Prometheus Books, 2000), 392–419]); while masoretic exegesis is characterized by the use of periphrasis, lexical and grammatical explanation, deductive textual analogy and derivation of linguistic evidence (*loci probantes*) from the vast pool of the Arabic poetry and, at times, from the customary use (*usus loquendi*) (*Quranic Studies*, 202–27, especially 226). Occasionally, explicative devices characteristic of one exegetical type may encroach upon another type, but this usually signals a later intrusion. The exegetical types (and their respective explicative devices) "exhibit a minimal overlapping" and, according to Wansbrough, "might almost be chronologically plotted" (ibid., 119).

[9] Schacht has studied polemical traditions with the aim of establishing their chronology. According to Schacht, "[c]ountertraditions are of course later than the doctrine and practice which they are meant to rebut" (*Origins*, 152). With slight modifications concerning the issue of the tradition's *Sitz im Leben*, this principle was accepted by Coulson. He states that "[w]here the legal rule enunciated clearly represents an advanced stage in the development of doctrine, or where it concerns problems which cannot have faced Muslim society until well after the death of the Prophet, the presumption of falsehood is overwhelming" (*History*, 70). Beside the polemical use of a certain tradition, the conceptual elaboration of the doctrine expressed thereby may also serve as an important chronological indicator. The latter approach has been applied by Melchert in his study of the abrogation in several third/ninth-century works ("Qurʾānic Abrogation").

Ṣāmit. Consequently, this chronology will be compared with the dating based on *isnād-cum-matn* analysis.

In a further section I will analyse the ᶜUbāda tradition by means of *isnād-cum-matn* analysis. In addition to the well-known tenets of this method,[10] I will apply several additional criteria that allow for more terminological and methodological precision.

For the sake of clarity, I distinguish between the key figure and the Common Link (henceforth CL).[11] Gautier Juynboll did allude to this difference,[12] but I shall state it in more definite terms. The key figure is any transmitter in the *isnād* bundle at whose level the *isnād* branches to several other transmitters. The CL is the earliest key figure who *can be proven* to have circulated a given tradition.[13] The PCL is any key figure

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[10] One of the earliest applications of *isnād-cum-matn* analysis may be traced to Josef van Ess who studied the *matn*s of exegetical traditions in conjunction with their *isnād*s (Josef van Ess, *Zwischen Ḥadīṯ und Theologie. Studien zum Entstehen prädestinatianischer Überlieferung* (Berlin, New York: Walter de Gruyter, 1975). Subsequently, G. Schoeler and H. Motzki took advantage of van Ess' method, which they applied in the field of *sīra* and legal traditions (Gregor Schoeler, *Charakter und Authentie der muslimischen Überlieferung über das Leben Mohammeds* [Berlin–New York: Walter de Gruyter, 1996], augmented and translated into English as Gregor Schoeler, *The Biography of Muḥammad: Nature and Authenticity*, transl. Uwe Vagelpohl, ed. James E. Montgomery [New York and London: Routledge, 2011; Motzki, "*Quo vadis*").

[11] The CL is identifiable when the variants of a single tradition are collated in a graphical diagram. In such a diagram, which may comprise scores of *isnād*s, the CL is the transmitter at whose level the *isnād* branches out into several strands. Juynboll contributed immensely to the elaboration of the CL theory (See Juynboll, "Some *Isnād*-Analytical Methods"; idem, "Some Notes"; idem, "Nāfiᶜ"; idem, *ECH*).

[12] Juynboll, "Nāfiᶜ," 210, 212, 214, 226–7; *ECH*, xx–xxii; Andreas Görke uses the terms "key figure" and "common link" synonymously (Andreas Görke, "Eschatology, History and the Common Link: A Study in Methodology," in *Method and Theory in the Study of Islamic Origins*, ed. Herbert Berg [Leiden and Boston: Brill, 2003], 179–208, especially 198).

[13] Three different explanations of the CL phenomenon have been advanced since Schacht coined that term. According to Juynboll, the CL is the person who invented the single-strand *isnād* back to the Prophet "in order to lend a certain saying more prestige". Consequently, "the historicity of transmissions represented in an *isnād* bundle starts being conceivable *only after* the spreading out has begun, namely at the cl level, and *not before* that" (Juynboll, "Some *Isnād*-Analytical Methods," 353). According to Motzki, the CL is the first major collector of traditions and, therefore, the CL tradition is older than the CL himself (Motzki,

above the level of the CL who *can be proven* to have transmitted a variant of the CL tradition. At first sight, the oldest key figure in the *isnād* bundle may appear as the CL of the tradition. Such an impression, however, is often misleading, and the oldest key figure turns out to be a seeming CL (henceforth, SCL). In such a case there is a chance to locate the real CL above the tier of the SCL. A comparison between the substantive part (*matn*) and the formal part (*isnād*) of a tradition; that is, *isnād-cum-matn* analysis, helps us to determine whether a key figure is a historically tenable CL/PCL.

Matn consistency is a main issue in the *isnād-cum-matn* analysis. Corresponding literary motifs and partial overlap of narrative fragments have been sufficient for a number of researchers to consider traditions as sharing a common origin.[14] While such an approach is rewarding in the field of historical traditions, which have come to us in the form of larger narratives, the same does not necessarily apply to legal traditions. Many of them are characterized by a neat juristic style, and, apart from the occasional 'historical' adornment, often consist of short legal pronouncements. It should be noted that in the course of the *isnād-cum-matn* analysis, the attempted reconstruction of the older variants is based on *ḥadīth* collections that were composed mainly in the third century AH and often reached us through even later recensions. As a result, one may reconstruct approximate PCL variants, which are then used for the reconstruction of the base CL version. Undoubtedly the most important methodological implication of this procedure is that the deeper the attempted reconstruction, the more tentative are its results. To minimize methodological arbitrariness, I will consider as belonging to a CL/PCL

"*Quo Vadis*," 45, cf. idem, "Dating," 238–42). Without explicitly referring to the CL, Schacht pointed to the scenario where traditions and counter traditions are ascribed to the same main authority (*Origins*, 155 ff). Calder has refined this argument and explained the CL as the figure to whom a number of later authorities, who were engaged in a process of mutual *isnād* criticism, ascribed a certain tradition (*Studies*, 235–41). In the latter case the CL has nothing to do with the circulation of the tradition, which is the work of later traditionists. (For a review of the CL definitions, see A. Görke, "Eschatology, History and the Common Link," 188–90).

[14] Schoeler, *Charakter und Authentie*; Harald Motzki, "The Murder of Ibn Abī l-Ḥuqayq: On the Origin and Reliability of Some *Maghāzī*-Reports," in *The Biography of Muḥammad: The Issue of the Sources*, ed. Harald Motzki (Leiden, Boston and Köln: Brill, 2000), 170–239; Jens Scheiner, *Isnād-cum-matn* -Analyse und historische *aḫbār*: Überlieferungs- und Ereignisgeschichte am Beispiel der Eroberung von Damaskus," Ph.D. thesis, Nijmegen (2009).

only those *matn*s which exhibit a limited degree of structural instability, which may be attributed to the peculiarities of the transmission process, rather than to polygenesis. Larger narratives, which underwent an apparent process of fictionalization, will be compared with one another with the aim of removing later fictional accretions[15] and, consequently, of distilling a meaningful narrative core.[16] This approach, albeit not conducive to restoring what might seem to be an early narrative perhaps going back to the first century AH or to the time of the Prophet, will allow me, to some extent, to avoid epistemological uncertainty while reconstructing the hypothetical CL versions from the versions of their PCLs. In my *isnād-cum-matn* analysis, I shall account for the following possible *isnād* configurations in their correlation with the *matn*s:

1. An *isnād* cluster in which only single strands branch from the key figure (i.e. 'a spider' according Juynboll's terminology). In this case I will follow Juynboll's skeptical approach; the key figure is not a historically tenable CL but a seeming CL (SCL). The *matn*s provided by the collectors sitting at the top of each spider leg may either concur or

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[15] Fictionalization does not necessarily preclude authenticity. Fictional elements may be attached to a non-fictional narrative that refers to actual facts. By introducing temporal or spatial indicators and grammatical delimiters, the narrator constructs a plot consisting of more or less easily identifiable sections of acting. In Islamic legal traditions, one notices distinct layers of fictionalization signalled by the introduction of details relating to specific locations, historical periods, actors and their emotional states and attitudes. In some cases, I will divide the tradition into consecutively numbered clauses that reflect either fictionalization or the non-fictional activity of linguistic elucidation and legal amendment. On fictionalization in the Islamic tradition, see Sebastian Günther, "Fictional Narration and Imagination within an Authoritative Framework: Towards a New Understanding of Ḥadīth," in *Story-Telling in the Framework of non-Fictional Arabic Literature*, ed. Stefan Leder (Wiesbaden: Harrassowitz, 1998). Although he does not use the term 'fictionalization', Schoeler, following Noth, also speaks of a process of modification or reshaping ('Veränderungs-' oder 'Umgestaltungsprocess') in the course of which *topoi*, bias and stylization affect the base narrative (*Charakter und Authentie*, 11–12, 166).

[16] The narrative deficiency of the reconstructed CL versions has been highlighted by Melchert, who points out that, "Motzki talks of identifying a kernel of historical truth, but if that is taken to be whatever element is common to his multiple versions, it seems to be normally so small as to be virtually worthless." (Christopher Melchert, "The Early History of Islamic Law," in *Method and Theory in the Study of Islamic Origins*, ed. Herbert Berg [Leiden and Boston: Brill, 2003], 303).

vary to different degrees. If they concur, the spider is always a suspect of *isnād* proliferation. If they disagree, one can say little or nothing about the wording of the hypothetical CL tradition. Neither can one detect the those who altered the *matn*s, as the possibilities multiply proportionally to the number of the spider legs and the intermediate links between the SCL and the collectors.

2. An *isnād* cluster with one historically tenable PCL and one or several single-strand *isnād*s branching from the key figure. Even if the single strands carry (almost) identical *matns* that resemble the PCL's matn, such evidence may only with qualifications be accepted as a proof of the key figure's being a CL. An *isnād* cluster in which the key figure is followed by two historically tenable PCLs and one or several single-strand *isnād*s. If the PCLs and the single strand *isnād*s concur in their *matns*, we may accept that the key figure referred to by the PCLs and the single strands is a CL.

3. An *isnād* cluster in which the key figure is followed by three or more historically tenable PCLs. In such obvious cases one does not need the evidence of the single strands for reckoning the key figure as the actual CL of the tradition.

Admittedly, the last scenario is rare and, apart from the spider structures, we are usually left with scenarios "b" and "c". This leads to a degree of epistemological uncertainty. Clearly, the study of early Muslim tradition cannot be described in pedestrian explicative schemata. To avoid simplicity, I shall temper the above scheme with an important qualification. If a key figure is quoted directly by a Collector (henceforth, CR), that is to say, by the compiler of an extant *ḥadīth* collection, chronicle or biographical lexicon, such an unmediated single-strand quotation enjoys, unless proven otherwise, every chance of being an authentic representation of the relationship between the CR and his immediate informant.[17] It should not be automatically dismissed as, say,

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[17] Scheiner has used a similar criterion for assessing Muslim historical traditions about the conquest of Damascus. According to him, if a tradition is found in a certain collection, then it is safe to conclude that the tradition in question is at least coeval with the collection in which it appears (*Isnād-cum-matn –Analyse und historische aḫbār*, 15). This approach has its antithesis in the assumption that the absence of a tradition in a certain collection means that the tradition in question was not known to the collection's compiler and, most probably, to his colleagues in the same regional center. Such an assumption, which goes to Schacht's famous principle that a tradition cannot be proven to have existed in a certain time if it was not used as a polemical argument in a legal dispute, was applied by Juynboll (G. H.

part of a spider before its *matn* is compared with the other *matn*s that pass through the same key figure. If a sufficient degree of overlap is established, the evidence of the CR inevitably increases the degree of certainty. The greater the number of CRs who quote a key figure, the stronger the chances of that key figure's being a CL/PCL.

Reference to Islamic biographical lexica (*kutub al-rijāl*) has been seen as a rewarding part of the *ḥadīth* analysis.[18] Despite its exhaustive contents, the *rijāl* corpus should be treated with caution. Most of the synoptic *rijāl* dictionaries, as those composed by al-Khaṭīb al-Baghdādī (d. 463/1071), Ibn ʿAsākir (d. 571/1176), al-Mizzī (d. 742/1341), al-Dhahabī (d. 747/1374) and Ibn Ḥajar (d. 852/1449), were produced long after the *isnād* had been established as an authentication device. Tedious listing of informants—both to and from a certain transmitter—leaves an impression that late *rijāl* critics recovered names through a retrospective review of the *isnād*s. Although this approach may have enriched their biographical collections with numerous names of alleged early *ḥadīth* transmitters, one doubts the appropriateness of such deduction. Its value is impaired by the possible errata in the manuscripts from which the names had been transcribed and by the inevitable inclusion of either dubious or fictitious *isnād*s as a basis of deductive exercises. To rely on the (repetitive) evidence of the biographical literature in the case of the numerous barely known tradents, who appear with notable frequency in the single strand *isnād*s both below and above the early CLs, is tantamount to circular reasoning.[19] Therefore, when consulting the *rijāl*

A. Juynboll, *Muslim Tradition* [Cambridge: Cambridge University Press, 1983], 96–134), but rightly criticized by Motzki for drawing conclusions from silence ("Dating," 214–9, especially 218).

[18] Such references have been extensively used by J. van Ess in *Zwischen Ḥadīṯ und Theologie*. See also Juynboll, *Muslim Tradition*, 161–218. In his later research Juynboll cautioned against credulous acceptance of the numerous *fulān*s populating the single-strand *isnād*s. According to his criteria, only those master–pupil relationships should be trusted that are attested in a sufficiently large number of *isnād* bundles ("Early Islamic Society," 156–7).

[19] According to H. Berg's remark, "biographical materials … were produced symbiotically with the *isnād*s they seek to defend." (*Development*, 26) This view has been criticized by H. Motzki, who maintains that, "Berg's claim that the biographical materials were produced symbiotically with the *isnād*s and that the two sources are not independent has not been substantiated by him or anyone else until now and it is certainly questionable in its generalization." (Harald Motzki, "The Question of the Authenticity of Muslim Traditions Reconsidered: A Review Article," in *Method and Theory in the Study of Islamic Origins*, ed. Herbert Berg

literature caution is in order. It is preferable to look for information in the earliest available sources, notably in the *rijāl* books produced by contemporaries and near-contemporaries.

The early development of the stoning concept: an analysis of the narrative content

Between the end of the first century and the middle of the second century AH, a number of Muslim exegetes discussed the sources of the penalty for sexual transgression. Their commentaries focused on Qurʾān 4:15–6[20] and 24:2,[21] with the concept of abrogation (*naskh*) and the prophetic *sunna* playing an increasingly important role in the elucidation of the Quranic norms. By referring to *naskh* and *sunna*, the exegetes sought to justify the legal requirement for punishing the adulterers with *rajm*, a penalty never mentioned in the received text of scripture. A concomitant process was the split of the generic term $zān^{in}$ (fem. $zāniyat^{un}$) into two separate categories of sexual offenders with respect to the diversified penalty for adultery and fornication. The exegetical discussion of *rajm*, which I follow in the present chapter, is of great import for the chronological ordering of the respective material, including the ʿUbāda tradition.

To the best of my knowledge, the earliest Quranic commentary that discusses the penalty for *zinā* is the *Tafsīr* attributed to Mujāhid b. Jabr

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[Leiden and Boston: Brill, 2003], 214). Motzki may have disregarded an important report according to which al-Bukhārī would look into the books of every Bukharan who came to him from Iraq and would add to his *rijāl* dictionary, often mistakenly, any name he did not know or hadn't in his books (Christopher Melchert, "Bukhārī and Early Ḥadīth Criticism," *JAOS*, 121:1 [2001], 10, quoting Abū ʿAlī Ṣāliḥ b. Muḥammad).

[20] (15) *Wa-l-lātī yaʾtīna l-fāḥishat^a min nisāʾi-kum fa-stashhidū ʿalay-hinna arbaʿat^{an} min-kum fa-in shahidū fa-amsikū–hunna fī l-buyūt ḥattā yatawaffā-hunna l-mawt^u aw yajʿala l-lāh^u la-hunna sabīl^{an}.* (16) *Wa-l-ladhāni yaʾtiyāni-hā min-kum fa-ādhū-huma fa-in tābā wa-aṣlaḥā fa-aʿriḍū ʿan-humā inna l-lāh^a kāna tawwāb^{an} raḥīm^{an}:* (15) And those of your women who commit abomination, call four of you to witness against them, and if they witness, then detain them in their houses until death takes them or Allāh appoints for them a way. (16) And when two [masculine dual] of you commit abomination, punish them both, but if they repent and amend, then leave them; Allāh is forgiving and all-compassionate.

[21] *Al-zāniyat^u wa-l-zānī fa-jlidū kull^a wāḥid^{in} min-humā miʾat^a jaldat^{in}…:* The female sexual transgressor and the male sexual transgressor, flog each one of them a hundred lashes…

(d. 100–4/718–22).[22] However difficult it may be to recognize the text as Mujāhid's,[23] one may easily notice the narrative (*haggadic*) character of his commentary *ad* Q. Qurʾān 4:15–6. Mujāhid confines his exegesis to paraphrases by which he explains that *fāḥisha* (abomination) means *zinā* (although a specification cannot be excluded here) and interprets *al-sabīl* (way) as an unspecified *ḥadd*[24] (a punishment for the transgression of Allāh's ordinances); but he stops short of explicitly mentioning flogging and stoning. Unlike Mujāhid, his contemporary al-Ḍaḥḥāk (d. 105/723) specifies the way mentioned in Qurʾān 4:15 as both *ḥadd* and *al-jald aw al-rajm*.[25] The latter qualification, which Mujāhid intertwines with the concept of *naskh*, may represent a halakhic distortion of the narrative, and may, therefore, have been ascribed to al-Ḍaḥḥāk by a later transmitter. A similar halakhic leaning is observed at the end of Mujāhid's commentary *ad* Qurʾān 4:15–6. Mujāhid's statement that Qurʾān 4:16 was abrogated by Qurʾān 24:2 (*nasakhat-hā*) may have resulted from a subsequent interpolation. Neither Mujāhid nor his redactor is troubled by the fact that the abrogating verse (Qurʾān 24:2) applies to all categories of *zinā*. As a result, no reference is made to the prophetic *sunna* as a possible solution to the apparent contradiction.

Muqātil b. Sulaymān (d. 150/767) states that the ordinance of Qurʾān 4:15 was abrogated by Qurʾān 24:2 (*fa-nasakha l-ḥadd^u fī sūrat^i l-nūr al-*

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[22] Mujāhid b. Jabr, *Tafsīr*, ed. Muḥammad ʿAbd al-Sallām Abū al-Nīl (1st ed., Madīnat Naṣr [Cairo]: Dār al-fikr al-islāmī al-ḥadītha, 1989/1410), 269–70.

[23] Mujāhid's commentary has reached us through the recension of the Meccan *qadarī* Ibn Abī Najīḥ (d. 131–32/748–49) (*GAS*, 1:29; Josef Van Ess, *Zwischen Ḥadīṯ und Theologie*, 78), which should have been committed to writing only towards the middle of the second century AH (Claude Gilliot, "Kontinuität und Wandel in der 'klassischen' islamischen Koranauslegung [II./VII.–XII./XIX. Jh.]," *Der Islam*, 85:1 [2009], 7–8). Al-Ṭabarī cites Mujāhid on numerous occasions (Heribert Horst, "Zur Überlieferung im Korankommentar aṭ–Ṭabarīs," *ZDMG*, 103 [1953], 296–8). As shown by Stauth and Leemhuis, the extant manuscript attributed to Mujāhid is neither a source for, nor an extract from, al-Ṭabarī (*EI^2*, s.v. "Mudjāhid b. Djabr al-Makkī" [Andrew Rippin]).

[24] Al-Ṭabarī prefers to explicate Mujāhid's term as *al-ḥadd al-mafrūḍ* (al-Ṭabarī, *Jāmiʿ al-Bayān ʿan Taʾwīl Āy al-Qurʾān*, 26 vols., ed. ʿAbd Allāh b. ʿAbd al-Muḥsin al-Turkī [1st ed., Cairo: Hajar li–l-Ṭibāʿa wa-l-Nashr wa-l-Tawzīʿ wa-l-Iʿlān, 1422/2001], 6:504).

[25] Al-Ḍaḥḥāk, *Tafsīr*, 2 vols., ed. Muḥammad Shukrī Aḥmad al-Zawīytī (Cairo: Dār al-Salām, 1419/1999), 1:278.

ḥabs^a fī l-buyūt).[26] He bases his exegesis on a multilevel paraphrastic explanation of smaller or larger segments of the Quranic verses. *Ad* "*Wa-l-lātī yaʾtīna l-fāḥishat^a min nisāʾi-kum*" (And those of your women who commit abomination) Muqātil comments: "(1) *yaʿnī l-maʿṣiyat^a*, (2*) wa-hiya l-zinā*, (3) *wa-hiya l-marʾat^u l-thayyib taznī wa-la-hā zawj*" ([1] that is a disobedience, [2] and it is *zinā*, [3] and it is *zinā* committed by a woman who has a legally consummated marriage and who has a husband). Behind this series of glosses, it is easy to note the gradual development of the understanding of *fāḥisha* (abomination), which is understood as (1) a disobedience of the divine law; (2) a sexual transgression in general; and (3) a specific sexual transgression (adultery). Varying connectives (*yaʿnī/wa-hiya/wa-hiya*) signal an interpolation, whereby clause 1, which employs paraphrasis, is glossed by clauses 2 and 3, which are based on specification (*takhṣīṣ*), which effectively narrows the meaning of the terms used in each preceding clause.

It is the device of *takhṣīṣ* that allows Muqātil to maintain that the pronominal subjects in Qurʾān 4:15 and 4:16 refer respectively to [female] adulterers (*al-mar'at^u l-thayyib taznī wa-la-hā zawj*) and fornicators [from both sexes] (*thumma dhakara l-bikrayni l-ladhayni lam yuḥṣanā*). The application of *takhṣīṣ*, a characteristically halakhic device,[27] marks the point whence Muqātil's commentary departs from that of Mujāhid. Whereas Mujāhid mentions abrogation only in passing, Muqātil's *tafsīr ad* Qurʾān 4:15–6 ends in a halakhic exposition devoted to *naskh*.

Muqātil opens his deliberation with a statement that Qurʾān 24:2 was revealed about fornicators (*thumma anzala l-lāh^u fī l-bikrayni*). The commentator makes his point by specifying *al-zāniya wa-l-zānī* in the opening section of Qurʾān 24:2 as *bikrayni*. Due to this semantically narrowing shift, Qurʾān 24:2 now abrogates specifically Qurʾān 4:16, whose ordinance Muqātil confines to fornicators. This, however, contradicts Muqātil's already mentioned statement that Qurʾān 24:2 abrogates Qurʾān 4:15. Alternatively, Muqātil may have meant that Qurʾān 24:2 abrogates both Qurʾān 4:15 and 4:16. Such a conclusion, however, would entail that both categories of offenders are punished by flogging, thus putting into question the appropriateness of Muqātil's differentiation between adulterers and fornicators.

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[26] Muqātil b. Sulaymān, *Tafsīr*, ed. Aḥmad Farīd, 3 vols. (Beirut: Dār al-Kutub al-ʿIlmiyya, 2003/1424) 1:220 *ad* Qurʾān 4:15–6.

[27] J. Wansbrough, *Quranic Studies*, 191; cf. John Burton, *Sources*, 138–9.

Having stated that Allāh revealed Qurʾān 24:2 specifically about the fornicators (*thumma anzala l-lāh^u fī l-bikrayni "Fa-jlidū kull^a wāḥid^{in} min-humā miʾat^a jaldat^{in}"...*), Muqātil continues with a grammatically awkward clause: "...*fa-n-s-khat hādhi-hi l-āyat^u l-latī fi-l-nūr ʿal-zāniya wa-l-zānī fa-ajlidū kull^a wāḥid^{in} min-humā miʾat^a jaldat^{in}'.*" The verb *n-s-kh* may be read in the active voice (*nasakhat*) or in the passive voice (*nusikhat*). The active voice implies that Qurʾān 24:2 (in which Muqātil specifies *al-zāniya wa-l-zānī* as *bikrayni*) abrogated something, which, given the absence of an accusative object, remains unclear (i.e. the text is understood as, "This verse, which is in Sūrat al-Nūr, that is, 'The female sexual transgressor and the male sexual transgressor, flog each one of them a hundred lashes', abrogated [something]").

The passive voice removes the semantic deficiency by making Qurʾān 24:2 an object of abrogation (i.e. "This verse, which is in Sūrat al-Nūr, that is: 'The female sexual transgressor and the male sexual transgressor, flog each one of them a hundred lashes', was abrogated"). The abrogation is effected by means of the prophetic *sunna*:

1. *Fa-lammā amara l-lāh^u ʿazza wa-jalla bi-l-jald*
2. *qāla l-nabī, ṣalʿam: Allāh^u akbar, qad jāʾa l-lāh^u bi-l-sabīl*
3. (a) *al-bikr^u bi-l-bikr^j jald^u miʾat^{in} wa-nafy^u sanat^{in}*, (b) *al-thayyib^u bi-l-thayyib^i jald^u miʾat^{in} wa-rajm^{un} bi-l-ḥijāra.*

1. When Allāh the Almighty, the Exalted ordained <u>flogging</u>,
2. The Prophet, may Allāh bless him and grant him peace, said: "Allāh has come with the way"
3. (a) A virgin with a virgin [punish them with] one hundred strokes and a year's banishment, (b) A non-virgin with a non-virgin [punish them with] one hundred strokes and stoning

By mentioning the divine order for flogging, clause 1 apparently invokes the *jald* verse (The female sexual transgressor and the male sexual transgressor, flog each one of them a hundred lashes [Qurʾān 24:2]). It should be immediately recalled, however, that the reference to Qurʾān 24:2 is equivocal. It may be considered either as abrogating specifically Qurʾān 4:16, because Muqātil has already stated that both verses are devoted to virgin offenders; or as abrogating Qurʾān 4:15, because Muqātil has also stated that the verse in Sūrat al-Nūr abolishes the requirement for detainment (i.e. Qurʾān 4:15). The contradiction is removed by means of the prophetic *sunna* (clauses 2 and 3). The use of *sabīl* in clause 2 signals a chronological and substantive dependence on the *ḥabs* verse (Qurʾān 4:15). To justify the stoning of the adulterers, Muqātil introduces the sunnaic requirement for a dual penalty for each

category of sexual offenders (clause 3). Thus he establishes a hierarchical relationship between the case of the adulterers (Qurʾān 4:15), the abrogating verse (Qurʾān 24:2) and the abrogating *sunna*, which imposes on the adulterers the dual penalty of flogging and stoning.

While referring to the *sunna*, Muqātil disregards the ensuing notion that the prophetic practice now abrogates the scriptural ordinance, which, it should be recalled, does not mention stoning. Nor does he consider explicitly the possibility of a single penalty for adultery.

The halakhic ending of Muqātil's commentary *ad* Qurʾān 4:15–6 and the contradictory relationship between Qurʾān 4:15–6 from one side and Qurʾān 24:2 from another side most likely signal editorial intrusions in the original narrative. The paraphrastic exposition at the beginning of the commentary reflects an early stage of exegetic development, but is not free from apparent interventions. Most notably, the identification of the pronominal subjects in Qurʾān 4:15 as female adulterers, and in Qurʾān 4:16 as fornicators from both sexes is a result of a development that postdates Muqātil by at least a century.[28] The multiple levels of *takhṣīṣ* and the discussion of *naskh* also seem foreign to what would have been Muqātil's original narrative.

In his treatise on abrogation (*al-Nāsikh wa-l-Mansūkh*) Abū ᶜUbayd (d. 224/839) adduces a number of traditions treating the abrogation of Qurʾān 4:15–16. He opens the chapter *Al-ḥudūd wa-mā nusikha min-hā* with two Companion traditions attributed to Ibn ᶜAbbās.[29] Unlike the halakhic parts of Muqātil's commentary, the Ibn ᶜAbbās traditions do not specify the pronominal subjects in Qurʾān 4:15 and 4:16 as respectively adulterers and fornicators. Nor do they translate *al-zānī* and *al-zāniya* in Qurʾān 24:2 as *bikrayni*. The only notable distinction is drawn between female and male offenders (*al-marʾa; al-rajul*) as clearly indicated by the specific pronominal and verbal forms.

Like Muqātil, Abū ᶜUbayd first points out that Qurʾān 24:2 abrogates both Qurʾān 4:15 and 4:16, and then resorts to the prophetic *sunna* to specify the punishment for adultery. In his commentary *ad* Qurʾān 24:2, Ibn ᶜAbbās has reportedly expressed the opinion that the *sunna* provides a legal basis for the stoning of adulterers (*wa-in kānā muḥṣanayni rujimā*

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[28]   To the best of my knowledge, this distinction will not recur in the exegesis of Qurʾān 4:15–6 before the *Tafsīr* of al-Ṭabarī (d. 310/922) (al-Ṭabarī, *Jāmiᶜ*, 6:493, 499–500).

[29]   Abū ᶜUbayd, *al-Nāsikh wa-l-Mansūkh*, ed. Muḥammad b. Ṣāliḥ al-Mudayfir (Riyadh: Maktabat al-Rushd, 1411/1990), 132, nos. 238–9.

bi-sunnat^i rasūl^i l-lāh fa-huwa sabīl^u-humā l-ladhī ja^{c}ala l-lāh^u ^{c}azza wa-jalla la-humā). Such a clear distinction between the Qur°ān and the *sunna* contradicts Wansbrough's view that "status as Qur'ān or *sunna* was hardly operative in his [Abū ^{c}Ubayd's, P.P.] formulation of the rules".[30]

The next two traditions, both passing through ^{c}Ubāda b. al-Ṣāmit,[31] provide substance to Ibn ^{c}Abbās' view that the adulterers are stoned according to the prophetic practice. The first ^{c}Ubāda tradition emphasizes the Prophet's statement that fornicators should be flogged and banished, whereas adulterers should be flogged and stoned. The *matn* opens with the characteristic tag *qad ja^{c}ala l-lāh^u la-hunna sabīl^{an}*, which, in addition to linking the *sunna* to Qur°ān 4:15, implies that the ensuing prophetic utterance has abrogated the Qur°ān. Abū ^{c}Ubayd does not overlook the issue and offers a simple solution: he adduces a second variant of the ^{c}Ubāda tradition, in which the Prophet speaks amid symptoms characteristic of the way he used to receive divine revelation (*waḥī*).[32]

It must be noted that Abū ^{c}Ubayd was apparently aware of yet another solution to the stoning conundrum. Elsewhere, he discusses the existence of a stoning verse (*āyat al-rajm*) that was later withdrawn from the Qur°ān.[33] Nonetheless, he never mentions this putative verse and the ^{c}Ubāda tradition in a single context, which suggests that, in Abū ^{c}Ubayd's view, the stoning verse did not function as an alternative to the problematic *sunna* that abrogates the Qur°ān.

Even though Abū ^{c}Ubayd does not discuss chronology, he marshals his traditions in a manner suggesting that the ^{c}Ubāda tradition is subsequent at least to Qur°ān 4:15–6. Furthermore, it is not gratuitous that Abū ^{c}Ubayd chooses to place the tradition that describes the Prophet's uttering of *khudhū ^{c}an-nī* as divine revelation after the tradition that does not mention revelation symptoms. This order reflects sequential stages in the development of the ^{c}Ubāda *ḥadīth*, where the

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[30] Wansbrough, *Quranic Studies*, 198. Jens Scheiner has pointed to me that his study of Abū ^{c}Ubayd's *Kitāb al-Amwāl* has shown a clear distinction between the Qur°ān and *sunna*.

[31] Abū ^{c}Ubayd, *al-Nāsikh wa-l-Mansūkh*, 132, nos., 240–1.

[32] Melchert rightly observes that "here at least is the rude beginning of a theory that Qur°ān and *sunna* are equally the products of divine inspiration." (Melchert, *Qur°ānic Abrogation*, 87).

[33] Abū ^{c}Ubayd, *Faḍā°il al-Qur°ān*, ed. Marwān al-^{c}Aṭiyya and others (Damascus: Dār Ibn Kathīr, 1415/1995), 318–22.

non-revelation account was followed by a variant tradition describing *khudhū ᶜan-nī* as divinely revealed words.

Al-Muḥāsibī (d. 243/857–58) cites an awkwardly abridged version of the non-revelation tradition.[34] It is possible that al-Muḥāsibī knew the revelation version as it appears in Abū ᶜUbayd's treatise on abrogation, but he would not cite it because he preferred to justify the stoning penalty by the Qurᵓān. On two occasions, al-Muḥāsibī refers to the stoning verse (*āyat al-rajm*): *al-shaykhᵘ wa-l-shaykhatᵘ idhā zanayā fa-rjumū-humā l-battatᵃ* (The mature male and female, if they commit *zinā*, stone them outright).[35] The verse is said to have been part of the Qurᵓān; its script was eventually withdrawn, but its words remained in the hearts (*rufiᶜa rasmᵘ-hu min al-kitāb wa-lam yurfaᶜ ḥafẓᵘ-hu min al-qulūb*).[36] The *sunna* confirms the ordinance of the removed verse (*thabata l-rajmᵘ bi-l-sunna*).[37]

Al-Muḥāsibī's attempt to reconcile the *sunna* and the Qurᵓān in the issue of *rajm* is not free from contradictions. As noted by Melchert, al-Muḥāsibī "implicitly considers the precept and the example of the Prophet…to have a lesser rank than the Qurᵓān".[38] Nevertheless, he could not disregard the existence of the dual-penalty tradition, which is legally more comprehensive than the stoning verse. Note the clear legal conditions set out in the prophetic tradition: sexual transgressors are divided into two categories—adulterers and fornicators—who incur separate penalties. Conversely, the stoning verse refers to a single category of sexual transgressors, *shaykh* and *shaykha*. These are ambiguous terms that may easily foster legal arbitrariness: it is difficult to define the age whence one becomes *shaykh* and the relation between *shaykh* and *bikr* is not necessarily antithetic. Moreover, the stoning verse does not offer a clue on how to punish transgressors who fall outside the age group meant by *shaykh*. Al-Muḥāsibī offers a twofold solution to the latter problem. In his view, Qurᵓān 24:2 defines the punishment of the

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[34] *Khudhū ᶜan-nī qad jaᶜala l-lāhᵘ la–hunna sabīlᵃⁿ al-bikrᵘ bi-l-bikrʲ jaldᵘ miᵓatⁱⁿ wa-rajmᵘⁿ bi-l-ḥijāra* (Al-Muḥāsibī, al-ᶜAql wa-Fahm al-Qurᵓān, ed. Ḥusayn al-Quwatlī [Beirut: Dār al-Kindī wa-Dār al-Fikr, 1398/1978], 455). This version, which literally imposes stoning upon the fornicators, most likely resulted from an unskillful abridgement, whereby al-Muḥāsibī (or a later transmitter of his work) removed all but the opening and the concluding clauses of the *matn*.

[35] Al-Muḥāsibī, *al-ᶜAql*, 398, 455.

[36] Ibid., 398.

[37] Ibid., 401.

[38] Melchert, "Qurᵓānic Abrogation", 85.

fornicators, whereas the stoning verse defines the punishment of the adulterers (*fa-nusikha ḥaddᵘ l-bikrayni bi-l-jald wa-nusikha [ḥaddᵘ] l-thayyibayni bi-mā kāna nazala fī l-Qurʾān min al-rajm thumma rufiᶜa rasmᵘ-hu min al-kitāb wa-baqiya wujūbᵘ-hu*).[39]

Al-Muḥāsibī's above statement that flogging has abrogated the punishment of the virgins is not free from ambiguity. Flogging, it must be recalled, is justified by Qurʾān 24:2 and the ᶜUbāda tradition alike. Al-Muḥāsibī's indeterminate expression in this case is not fortuitous. Even though he considers the Qurʾān as the pre-eminent source for defining the punishment for *zinā*, he cannot dispense with the *sunna*. Unlike Muqātil and Abū ᶜUbayd, who tacitly imply that in the case of *rajm* the *sunna* abrogates the Qurʾān, al-Muḥāsibī professes that this is an instance of *naskh*:

> *Fa-nasakha l-lāhᵘ ḥaddᵃ l-bikrayni min al-adhā wa-l-ḥabsⁱ wa-l-jaldⁱ bi-l-tabyīnⁱ bi-mā bayyana l-nabī, ṣalᶜam, ᶜan Allāhⁱ ᶜazza wa-jalla…*

> Then Allāh abrogated the punishment of the fornicators, which was rebuke, confinement (i.e. Qurʾān 4:15–6) and flogging (i.e. Qurʾān 24:2), by elucidation; [that is], by what was elucidated by the Prophet [by an inspiration] from Allāh the Almighty, the Exalted.[40]

Note that al-Muḥāsibī assumes that both of Qurʾān 4:15–1 and 24:2 apply to virgins; that is, unlike Muqātil he does not assign to each verse a different category of sexual offenders. This lack of differentiation suggests that either al-Muḥāsibī was not acquainted with Muqātil's more advanced view or, more likely, that the respective part of Muqātil's commentary is a later addition.

Al-Muḥāsibī's explanation of the relationship between the Qurʾān and the *sunna* combines the notions of *bayān* (elucidation) and *naskh* (abrogation) to describe the complex interplay between the two legal sources in the issue of *rajm*. In so doing al-Muḥāsibī brings to mind al-Shāfiᶜī's treatment of the same issue. Unlike al-Shāfiᶜī, however, al-Muḥāsibī does not emphasize the sovereignty of the Qurʾān and the *sunna*. Nor does he speak of a single penalty for adultery.

Al-Shāfiᶜī (d. 204/820) constructed the most elaborate early chronology of the stoning verses and the attending sunnaic narratives. His treatment of the origins of *rajm* is often blurred by equivocal vocabulary. The problems stem from al-Shāfiᶜī's assumption that the

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[39] Al-Muḥāsibī, *al-ᶜAql,* 455.

[40] Ibid., 455.

sunna and the Qurʾān are self-subsistent and sovereign sources of law: the Qurʾān may abrogate only the Qurʾān, and the *sunna* may abrogate only the *sunna*.[41]

On several occasions al-Shāfiʿī states that Qurʾān 24:2 abrogates Qurʾān 4:15–6,[42] then he adduces the ʿUbāda tradition. Such ordering is consistent with the assumed sovereignty of the Qurʾān and the *sunna*. On other occasions, noted by Burton and Melchert,[43] al-Shāfiʿī's treatment of the stoning penalty is inconsistent. Although according to al-Shāfiʿī the *sunna* cannot abrogate the Qurʾān, at least in one instance he explicitly states the opposite. According to him, the ʿUbāda tradition, which opens with the words *qad jaʿala l-lāhᵘ la-hunna sabīlᵃⁿ*, is "the first to have been revealed [after Qurʾān 4:15–6, P.P.], on which account detainment and rebuke of the sexual transgressors were abrogated." (*Qawlᵘ rasūlⁱ l-lāhⁱ "Khudhū ʿan-nī qad jaʿala l-lāhᵘ la-hunna sabīlᵃⁿ…" awwalᵘ mā nazala fa-nusikha bi-hi l-ḥabsᵘ wa-l-adhā ʿan al-zāniyyayn*).[44]

Unlike Abū ʿUbayd, al-Shāfiʿī does not cite the revelation version of the ʿUbāda tradition, probably because for him the *sunna* only interprets the Qurʾān in the case of *rajm*. This notion, however, is contradicted by the specific terminology that al-Shāfiʿī uses to describe the relationship between scripture and the tradition. He opts for the term *nazala*, which denotes divine revelation, to describe how the ʿUbāda tradition was communicated to the Prophet. The choice of *nazala* is not gratuitous, since in the immediately following clause al-Shāfiʿī asserts that the prophetic tradition abrogated (*nasakha*) the Quranic verse. Insofar as the

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[41] For al-Shāfiʿī's theory see Burton, *Sources*, 138–9; Melchert, "Qurʾānic Abrogation," 86–7; idem, "The Meaning of *qāla 'l-Shāfiʿī* in Ninth-Century Sources," in *ʿAbbasid Studies*, ed. James E. Montgomery (Orientalia Lovanistica Analecta 135, Leuven: Peeters, 2004), 289.

[42] Al-Shāfiʿī, *Risāla*, ed. Aḥmad Muḥammad Shākir (Beirut: Dār al-Kutub al-ʿIlmiyya, n.d.), 129, 245–46.

[43] Burton acknowledges that according to al-Shāfiʿī the ʿUbāda tradition has abrogated the Qurʾān (Burton, *Sources*, 145). According to Melchert al-Shāfiʿī never expressly admits or denies that the *sunna* might abrogate the Qurʾān; there are instances in which the *Risāla* refers to parts of the Quranic penalty for *zinā* as having been abrogated without stating what has done the abrogation ("Qurʾānic Abrogation," 86; "The Meaning," 289).

[44] Al-Shāfiʿī, *Risāla*, 132.

sunna did the abrogation of the Qurʾān, it needs to proceed from the same divine source (*tanzīl*).[45]

The ʿUbāda tradition is the unmistakable crux of al-Shāfiʿī's justification of the stoning penalty. It, however, institutes a dual penalty for both the adulterers and fornicators. Insofar as al-Shāfiʿī advocates a single stoning penalty for adultery, he has to look elsewhere for its origin. To this end, he takes advantage of two prophetic traditions. In the first, the Prophet punishes a man identified as Māʿiz b. Mālik after his voluntary confession to adultery. The second tradition relates the story of a servant (*ajīr*) who committed *zinā* with the wife of his employer. The servant, who was *bikr*, was flogged and banished; his master's wife, who was *muḥṣana*, was stoned. In both cases, the adulterer is stoned but not flogged. These traditions allow al-Shāfiʿī to conclude (*e silentio*) that the actual prophetic practice emended (*nasakha*) the ordinance of the ʿUbāda tradition so that flogging was excluded from the adulterers' punishment.[46] Hence, the adulterers must be stoned but not flogged.

Thus, al-Shāfiʿī considers the Māʿiz b. Mālik and the employer's wife as traditions subsequent to the ʿUbāda tradition. Al-Shāfiʿī seldom turns his attention to other traditions that argue for or against the dual penalty for *zinā*. At one occasion he cites the Sharāḥa tradition[47] but only to refute it promptly by a reference to the traditions about Māʿiz b. Mālik and the employer's wife. Unlike the ʿUbāda and Māʿiz traditions, which al-Shāfiʿī marshals in a chronological order, he does not speak about the chronology of the Sharāḥa tradition. Nevertheless, the context in *Kitāb al-Umm* suggests that at the time of its composition (and the time of the composition of *al-Risāla*, for that matter) the narratives about Māʿiz, the employer's wife and Sharāḥa coexisted as polemical arguments in the debate about the possibility of inflicting a dual penalty for adultery.

The works of Mujāhid b. Jabr, Muqātil b. Sulaymān, Abū ʿUbayd, al-Muḥāsibī and al-Shāfiʿī show a tendency of gradual elaboration in their treatment of the stoning penalty. Mujāhid's work represents, to my mind, the earliest stage in this development. To Mujāhid's rude paraphrastic exegesis, one adds his lack of interest in the origin of the *rajm* penalty, which he does not discuss either *ad* Qurʾān 4:15–6 or *ad* Qurʾān 24:2. It

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[45] The problematic nature of al-Shāfiʿī's insistence on the sovereignty of the Qurʾān and the *sunna* later led Shāfiʿīya to accept that the *sunna* might abrogate the Qurʾān (Melchert, "Qurʾānic Abrogation," 86–7; idem, "The Meaning," 290).

[46] Al-Shāfiʿī, *Risāla*, 132.

[47] Al-Shāfiʿī, *Kitāb al-Umm*, ed. Muḥammad Zuhrī al-Najjār, 8 vols. (1st ed., Cairo: Maktabat al-Kulliyyāt al-Azhariyya, 1381/1961), 7:180.

is true that for Mujāhid the Qurʾānic *sabīl* is identical to *ḥadd*, but there is nothing in his exposition that may elucidate his notion of *ḥadd* in this case.

Muqātil b. Sulaymān's *Tafsīr* is the earliest exegetical work that includes the prophetic *sunna* in the discussion of the punishment for adultery and fornication. The halakhic ending of the commentary *ad* Qurʾān 4:15–6 is suspect of being a later addition to the preceding paraphrastic narrative. Although the dual-penalty tradition is not supported by a formal *isnād*, which indicates an undeveloped wielding of the *sunna*, its presence in a halakhic narrative does not allow us to consider it as part of Muqātil's original *Tafsīr*.

The tension between the *sunna* and scripture comes to the fore in the works of Abū ʿUbayd and al-Muḥāsibī. Abū ʿUbayd cites the dual penalty tradition, which he supports by an *isnād* going back to the authority of ʿUbāda b. al-Ṣāmit. To avoid an impression that the Quranic ordinance was abrogated by a decree of a lesser order, Abū ʿUbayd maintains that *khudhū ʿan-nī* ensued from divine inspiration (*waḥy*), thereby sharing a common source with scripture. Al-Muḥāsibī goes a step further in asserting the divine origin of *rajm*. Instead of emphasizing the revealed character of *khudhū ʿannī*, which he mentions only in passing, al-Muḥāsibī maintains that there was an actual stoning verse in the Qurʾān. Although formally withdrawn from the received text, *āyat al-rajm* remained binding in the cases of adultery. The works of Abū ʿUbayd and al-Muḥāsibī clearly show that by the first quarter of the third century AH the exegetical discussion of *rajm* centered on the relationship between scripture and the *sunna*. The legal content of the ʿUbāda tradition was abundantly clear: exegetes and jurists were not interested in the issue of a single versus a dual penalty for adultery.

Al-Shāfiʿī, who is conversant with these developments, adds to his exposition even more prophetic traditions. Not only does al-Shāfiʿī marshal ʿUbāda after Qurʾān 4:15–6, but he also adduces the Māʿiz tradition and the tradition about the employer's wife to support his claim that adultery incurs a single penalty; that is, *rajm*. Melchert has noted that Abū ʿUbayd and al-Muḥāsibī apparently ignore al-Shāfiʿī's skillful treatment of abrogation.[48] To this I may add that al-Shāfiʿī's insistence on a single penalty for adultery clearly sets him apart from the other works that I studied section. It is remarkable that neither Abū ʿUbayd nor al-Muḥāsibī seem to have been aware of al-Shāfiʿī's advocacy of a single penalty for adultery. Both of them disregard the Māʿiz and the *ajīr*

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[48] Melchert, "Qurʾānic Abrogation," 91–2.

traditions, which are central to al-Shāfiʿī's treatment of *rajm*. Given that the *Risāla* should have been known in Baghdād,[49] it is surprising that both Abū ʿUbayd and al-Muḥāsibī are apparently unaware of its treatment of the *rajm* issue. If they chose to disregard the *Risāla*, one wonders about the reasons that made both of them eschew al-Shāfiʿī's masterful work. Melchert's view—that *al-Risāla* as we know it should be re-dated to a period after 256/912–13[50]—points to a possible exit from this conundrum.

Al-Marwazī's *Sunna* includes a reference that is indicative of the chronology of the *Risāla*. Al-Marwazī (202–294/817–907) must have witnessed the dual-penalty dispute, as he states, "A group of scholars from our age and the adjacent one demanded that the ʿUbāda tradition be applied according to its outward meaning. They demanded that the fornicators be flogged according to the Book of Allāh and banished for a year according to the *sunna* of the Messenger of Allāh; they also demanded that the adulterers be flogged according to the Book of Allāh and stoned according to the *sunna* of the Messenger of Allāh".[51] Al-Marwazī points out that the advocates of the dual penalty supported their view by references to the practice of ʿAlī and the personal opinion of Ubayy b. Kaʿb. According to the representatives of this unspecified group, al-Shāfiʿī's insistence on a single penalty for adultery rests on flawed reasoning. Al-Shāfiʿī's opponents held that he illegitimately drew arguments from silence. In their view, the fact that flogging is not mentioned in the cases to which al-Shāfiʿī refers does not necessarily entail that the Prophet did not flog the adulterers in these cases (*yajūzu an yakūna l-nabī qad jalada-humā*).

According to Ibn Ḥazm (d. 456/1054), the *fuqahāʾ* who upheld the dual penalty for adultery were al-Ḥasan al-Baṣrī (d. 110/728), al-Ḥasan [b. Ṣāliḥ] b. Ḥayy (d. 169/785–86), Isḥāq b. Rāh[a]wayh (d. 238/850)

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[49] Ibn Ḥanbal is said to have been acquainted with both the old (*qadīm*) and the new (*jadīd*) redactions of the *Risāla* (al-Bayhaqī, *Manāqib al-Shāfiʿī*, ed. al-Sayyid Aḥmad Ṣaqr, 2 vols. [1st ed., Cairo: Dār al-Turāth, 1390/1970), 1:234–5.

[50] Melchert, "Qurʾānic Abrogation," 96.

[51] *Wa-qad dhahabat ṭāʾifatun min ahli ʿaṣri-nā wa-qurbi-hi ilā ījābi l-ʿamali bi-ḥadīthi ʿUbāda ʿalā wajhi-hi fa-awjabū ʿalā l-zāniyayni l-bikrayni jaldan miʾatin bi-kitābi l-lāhi wa-nafyan sanatin bi-sunnati rasūli l-lāhi, ṣalʿam, wa-awjabū ʿalā l-zāniyayni l-thayyibayni l-jalda bi-kitābi l-lāhi wa-l-rajma bi-sunnati rasūli l-lāhi, ṣalʿam* (Al-Marwazī, al-Sunna, ed. ʿAbd Allāh b. Muḥammad al-Buṣayrī [Riyadh: Dār al-ʿĀṣima li-l-Nashr wa-l-Tawzīʿ, 1422/2001], 243).

and the founder of the *Ẓāhirī madhhab*, Dāwūd b. Khalaf (d. 279/884).[52] Ibn Rushd (520–95/1126–98) adds to the list Aḥmad b. Ḥanbal (d. 241/855), while excluding al-Ḥasan b. Ḥayy.[53] The name of al-Ḥasan al-Baṣrī has most likely made its way into the lists of both Ibn Ḥazm and Ibn Rushd because of al-Ḥasan's presence in most of the *isnād*s of the ᶜUbāda tradition. Al-Ḥasan b. Ḥayy does not appear in the ᶜUbāda *isnād*s, on which account Ibn Rushd may have omitted his name. The extant *Musnad* of Ibn Rāh[a]wayh does not raise the dual penalty issue; the same goes for Ibn Ḥanbal's *Musnad*. The later collections of questions put to Ibn Ḥanbal by his students (*Masāʾil*) are equivocal about his attitude towards the dual penalty for adultery. Apparently, they endorse Aḥmad's acquaintance with the issue, but one should not overlook their contradictory accounts, which occasionally employ terminology that reflects later stages in the development of the dual-penalty dispute.[54]

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[52] Ibn Ḥazm, *al-Muḥallā*, ed. Aḥmad Muḥammad Shākir, 11 vols. (Egypt: Maṭbaᶜat al-Nahḍa, n.d.), 11:234.

[53] Ibn Rushd, *Bidāyat al-Mujtahid wa-Nihāyat al-Muqtasid*, 2 vols. (6th ed., Beirut: Dār al-Maᶜārif, 1982/1402), 2:435.

[54] In his collection of questions to Ibn Ḥanbal and Ibn Rāh[a]wayh, al-Kawsaj (d. 251/853) states that Ibn Ḥanbal advised a single penalty for adultery, whereas Ibn Rāh[a]wayh insisted on the dual penalty (*Masāʾil al-Imām Aḥmad b. Ḥanbal wa-Isḥāq b. Rāh[a]wayh Riwāyat Isḥāq b. Manṣūr al-Kawsaj*, eds. Abū l-Ḥusayn Khālid b. Maḥmūd al-Rabāṭ, Wiʾām al-Ḥawshī and Jumᶜat Fatḥī, 2 vols. [1st ed., Riyadh: Dār al-Hijra li-l-Nashr wa-l-Tawzīᶜ, 2004/1425], 2:250). According to Aḥmad's son, Ṣāliḥ (d. 266/879–80), his father held the opinion that the *muḥsan* sexual transgressor should be stoned but not flogged (*Masāʾil al-Imām Aḥmad b. Ḥanbal Riwāyatᵘ Ibnⁱ-hi Abī l-Faḍl Ṣāliḥ*, ed. Ṭāriq b. ᶜAwḍ Allāh b. Muḥammad [1st ed., Riyadh: Dār al-Waṭan li-l-Nashr, 1420/1999], 310, no. 1163). Ibn Hāniʾ (d. 275/888–9) maintains the opposite; according to him, if the *shaykh* perpetrates adultery, he incurs flogging and stoning on account of the greater severity of his offense (*Masāʾil al-Imām Aḥmad b. Ḥanbal Riwāyatᵘ Isḥāq b. Ibrāhīm b. Hāhiʾ al-Naysābūrī*, ed. Zuhayr al-Shāwīsh, 2 vols. [Beirut: al-Maktab al-Islāmī, 1300/1980], 2:90, no. 1566). Note that al-Kawsaj's question (*Qultu: Al-bikrāni yujladāni wa-yunfayāni wa-l-thayyibāni yurjamāni wa-l-shaykhāni yujladāni wa-yurjamāni*?) discloses an acquaintance with the later harmonizing interpretation according to which the young adulterer should be stoned, whereas the *shaykh*–adulterer should be flogged and stoned. Ibn Hāniʾ's question (*al-shaykhᵘ idhā zanā*) is an apparent paraphrase of the alleged stoning verse (*al-shaykhᵘ wa-l-shaykhatᵘ idhā zanayā fa-rjumū–humā l-battatᵃ*). By referring to this verse Ibn Hāniʾ seems to have been primarily interested in the justification of the stoning penalty by scripture; nevertheless the dual-penalty issue lurks in the background of Ibn

Although no works of Dāwūd b. Khalaf have survived, one may think that his name is of foremost significance in the argumentation of the *Ẓāhirī* Ibn Ḥazm. Al-Marwazī's anonymous locution *ṭā'ifat^un min ahl^i ʿaṣr^i-nā wa-qurb^i-hi* along with Ibn Ḥazm's list of those proponents may be construed as an indication that the dual-penalty dispute unfolded some time after al-Shāfiʿī's demise in 204/820. If al-Marwazī's death in 294/907 be thought of as the *terminus ante quem* for the dual penalty dispute, the *terminus post quem* may be defined by an argument from silence. Ibn Ḥanbal (d. 241/855) does not cite any traditions that indicate his acquaintance with the dual-penalty issue. However, the collectors of several *Masāʾil* works attribute to Aḥmad contradictory pronouncements, some of which endorse the dual penalty, while others go in the opposite direction. Still other collectors prefer to remain silent about Aḥmad's attitude towards the dual-penalty issue. Clearly, these inconsistences call for additional research, but at present a comparison with the works of al-Muḥāsibī and Ibn Qutayba may suffice. Al-Muḥāsibī (d. 243/857–8) does not address the dual-penalty dispute, but one may argue that due to the exegetical nature of his work, he was not interested in such a *fiqhī* issue. The same cannot be said about Ibn Qutayba (d. 276/889), whose last work, *Taʾwīl Mukhtalif al-Ḥadīth*, is devoted to contested prophetic traditions. On two occasions Ibn Qutayba does refer to the traditions about Māʿiz b. Mālik and the woman's servant in a polemical context,[55] but in neither case does he mention the dual-penalty issue. If Ibn Qutayba was unaware of the dispute, then it would have arisen only in the last decades of the third century AH. If, on the other hand, Ibn Ḥanbal is proven to have discussed with his students the dual-penalty question, the above date will have to be pushed back to the first half of the second century AH.

Of course, one should not ignore the possibility that while, towards the end of the second century AH, al-Shāfiʿī merely suggested a dual penalty for adultery; it was only several decades later that the *Ẓāhiriyya* contested his view. This may explain why Ibn Ḥanbal remained silent

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Ḥanbal's response. Uneasiness about Aḥmad's attitude, however, may be discerned in the somewhat later *Masāʾil* collections of Abū Dāwūd al-Sijistānī (d. 275/888) and Aḥmad's son, ʿAbd Allāh (d. 290/903), which do not discuss the dual-penalty issue.

[55] The first has a bearing on the relationship between the Qurʾān and the *sunna* (Ibn Qutayba, *Taʾwīl Mukhtalif al-Ḥadīth*, ed. Muḥammad ʿAbd al-Raḥīm [Beirut: Dār al-Fikr, 1995/1415], 88–90); in the second Ibn Qutayba discusses the number of voluntary confessions needed for the imposition of *rajm* (*Taʾwīl*, 175–7).

about the issue, whereas some of his followers did decide to discuss their master's respective attitude. Such a possibility, however, not only allows for a considerable time gap between the expression of al-Shāfiʿī's original view and the emergence of its opposite, but also brings to the fore the question of why the opinion of al-Shāfiʿī (and of Ibn Ḥanbal, if such had existed) remained unknown to Abū ʿUbayd, al-Muḥāsibī and Ibn Qutayba.

Taking into account the peculiarity of al-Shāfiʿī's position in the evolution of the *rajm* notion, I proceed to reconstruct the chronology of the stoning traditions. My conclusions are based solely on the internal development observed in the heretofore analysed works, and do not take into account external factors like the authenticity of the attributions or the quality of the tradents.

During most of the second century AH there was no sunnaic material related to the exegesis of the Quranic verses about the punishment for illicit sexual conduct (namely Qurʾān 4:15–6 and 24:2). Towards the end of the second century AH, a prophetic tradition was circulated stating that fornicators must be separated from adulterers in the cases of *zinā*. The former category incurs flogging and banishment, whereas the latter incurs flogging and stoning. Shortly thereafter, the dual-penalty tradition came to be perceived as a divinely inspired ordinance. At the same time some exegetes advocated the existence of a stoning verse in the Qurʾān. Later on, probably in the last quarter of the third century AH, the traditions about Māʿiz b. Mālik and the woman's servant came into play as arguments that the actual prophetic practice abolished the dual penalty for adultery in favor of a single penalty, to wit, *rajm*.

The inclusion of prophetic traditions in the exegetical treatment of *rajm*, does not necessarily mean that they emerged exactly within this context and are contemporary with it. Nevertheless, there is a considerable chance that the time gap between the circulation of these traditions and their inclusion in the *rajm* polemics was not a long one. Therefore it will be fruitful to check the chronology based on the internal evolution of the *rajm* concept against dating attained through *isnād* and *matn* analysis. For the best results, the analysis should include the ʿUbāda tradition, the Māʿiz b. Mālik tradition, the tradition about the employer's wife and a number of other traditions that argue either for or against the dual penalty, or refer to the existence of a putative stoning verse in the Qurʾān. Such a study will by far exceed the volume of a journal article; therefore I will confine myself to the ʿUbāda tradition.

The ᶜUbāda b. al-Ṣāmit tradition: isnād-cum-matn *analysis*

I have chosen to analyse the ᶜUbāda tradition for several reasons: it is the main argument in favor of the dual penalty for adultery; it bears upon Qurʾān 4:15–6 and 24:2; and it seems to be the oldest sunnaic material included in the exegesis of these verses. The last point is of special significance for the current study. Even though the reference to the ᶜUbāda tradition in Muqātil's commentary seems as a later intrusion, *isnād-cum-matn* analysis may show that the tradition existed before the middle of the second century AH. If this is the case, then the ᶜUbāda tradition may have been part of the original Muqātil narrative, and the results of our literary analysis will have to be reconsidered.

G. H. A. Juynboll maintains that the most likely CL in the ᶜUbāda bundle is Qatāda b. Diᶜāma (61–117/681–735). Juynboll reckons that in its basic elements the legal maxim treating the punishment for adultery and fornication "is most probably due to Ḥasan [al-Baṣrī], while the beginning of the discussion on the punishment may go back to the lifetime of the Prophet".[56] Although conceding that "the strands converging in Ḥasan are technically speaking deficient and have the appearance of later back-projections," Juynboll still maintains that "Ḥasan may be considered as at least one of Islam's earliest *fuqahāʾ* who underlined the said punishments for adultery in this maxim".[57] Juynboll's conclusion, which is apparently at odds with his own *isnād*-analytical criteria, is most likely derived from Schacht's principle, according to which short legal maxims reflect an early stage in the development of Islamic jurisprudence.[58]

If al-Ḥasan al-Baṣrī (d. 110/728) should be recognized as one of the earliest jurists who defined the penalty for adultery and fornication in terms of the legal maxim *al-bikr yujlad wa-yunfā wa-l-thayyib yujlad wa-yurjam* (The virgin should be flogged and banished, and the non-virgin should be flogged and stoned), one wonders why the maxim was unknown to al-Ḥasan's contemporary, Mujāhid b. Jabr. Various reasons may be put forward to explain Mujāhid's ignorance: the maxim may have been unknown in the Hijaz; or it may have been omitted from Mujāhid's commentary in the process of transmission. Another possibility is that the maxim emerged after both Mujāhid and al-Ḥasan al-Baṣrī had passed away. Qatāda b. Diᶜāma (60–117/680–735) seems more suitable for a CL who circulated the maxim in the

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[56] *ECḤ*, 442.
[57] Loc. cit.
[58] Schacht, *Origins,* 180–9.

form of a prophetic tradition. Belonging to the generation after Mujāhid b. Jabr (21–100–104/642–718–22), Qatāda fits better in the span between the deaths of Mujāhid and Muqātil. Therefore, he may be credited with the circulation of the maxim that Muqātil subsequently used to gloss at Qurʾān 4:15–6. Nonetheless, this hypothesis needs substantiation through *isnād* and *matn* analysis.

To facilitate the following analysis, I divide the ʿUbāda cluster into two large groups. To this end, I have chosen a salient feature, to wit, the presence of a preamble that describes the symptoms of revelation (*waḥy*) descending upon the Prophet. Aiming to convey the notion that the immediately following ordinance is a divine revelation, this preamble is present in a considerable group of *matn*s and lacks in the others. Accordingly, first I analyse the group in which no revelation preamble is included, and second, I analyse the group that features the revelation preamble. Whenever needed for the sake of convenience, I single out smaller *isnād* and *matn* clusters that are most likely to expose hypothetical PCLs/CLs. After the analysis of the two said groups, I will return to Juynboll's hypothesis about the role played by Qatāda b. Diʿāma and al-Ḥasan al-Baṣrī in the formulation and dissemination of the legal maxim *al-bikr yujlad wa-yunfā wa-l-thayyib yujlad wa-yurjam.*

The group of traditions that do not include the revelation preamble: the Shuʿba b. al-Ḥajjāj cluster

The Baṣran *mawlā* Shuʿba b. al-Ḥajjāj (born 82–6/702–7, died 160/776) is the clear focus of an *isnād* bundle dedicated to the punishment for adultery and fornication. Shuʿba's role in the circulation of the tradition has to be confirmed through the analysis of his potential PCLs. The Baghdādī collector (CR) ʿAlī b. al-Jaʿd (d. 230/844–45) is the most important key figure relating from Shuʿba (Diagram 1, p. 166). To facilitate the following analysis, I have divided the short *matn* into several clauses:

(1) *Khudhū ʿan-nī*! (2) *Qad jaʿala l-lāhᵘ la-hunna sabīlᵃⁿ*. (3a) *Al-bikrᵘ bi-l-bikrⁱ* (3b) *wa-l-thayyibᵘ bi-l-thayyib*. (4a) *Al-bikrᵘ tujlad wa-tunfā* (4b) *wa-l-thayyibᵘ tujlad wa-turjam.*

(1) Take it from me! (2) Allāh has appointed a way for them. (3a) A virgin with a virgin (3b) and a non-virgin with a non-virgin. (4a) The virgin

should be flogged and banished, (4b) the non-virgin should be flogged and stoned.[59]

In the edition of Ibn al-Jaᶜd's *Musnad* that I used for the present study the verbs in clauses 4a and 4b are enclosed in parentheses and come in singular masculine form (*yujlad-yunfā-yujlad-yurjam*). According to the editor's footnote the manuscript preserved in Dār al-Kutub al-Ẓāhiriyya in Damascus features singular feminine verbal forms. Given that most of the transmitters who cite Ibn al-Jaᶜd opt for the feminine form of the verbs, one may think that the feminine form was Ibn al-Jaᶜd's original preference. It may be explained by the textual interplay between the ᶜUbāda tradition and Qurʾān 4:15, which is formally restricted to females. On this account I preferred to restore the feminine verbal forms in the *matn* of Ibn al-Jaᶜd's tradition.

The *matn*s provided by Ibn al-Mundhir, al-Ṭaḥāwī and Ibn Ḥibbān overlap with the *matn* of Ibn al-Jaᶜd to the smallest detail.[60] Abū ᶜAwāna is the only exception to the overall *matn* consistency.[61] He provides a differently worded *matn* in which the verbs in clauses 4a and 4b are replaced with nominal forms (*jald-taghrīb-jald-rajm*). Abū ᶜAwāna substitutes *taghrīb* (exiling to a remote place) for *nafy* (banishment). He also defines *jald* as one hundred [lashes] (*jald^u miʾat^in*) and specifies the period of exile as one year (*taghrīb^u ᶜām^in*). In sum, Abū ᶜAwāna provides a notably different *matn*, most probably as a result of an *isnād* confusion.

His *matn* is carried by a collective *isnād* that passes through Ibn Junayd, Yazīd b. ᶜAbd al-Ṣamad and Abū Qilāba. Below the tier of Abū Qilāba, the collective *isnād* branches to Bakr b. Bakkār and Ibn al-Jaᶜd. Abū ᶜAwāna was most likely confused about the exact source of his tradition, which seems to be other than Ibn al-Jaᶜd. This confusion shows that collective *isnād*s are of little utility for the *isnād-cum-matn* analysis.

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[59] Ibn al-Jaᶜd, *Musnad*, ed. ᶜAbd al-Mahdī b. ᶜAbd al-Qādir b. ᶜAbd al-Hādī (Kuwait: Maktabat al-Falāḥ, 1405/1985), 1:513, no. 1018.

[60] Ibn al-Mundhir, *Tafsīr*, ed. Saᶜd b. Muḥammad al-Saᶜd (Medina: Dār al-Maʾāthir li-l-Nashr wa-l-Tawzīᶜ, 1422/2001), 1:602, no. 1468. Al-Ṭaḥāwī, *Sharḥ Maᶜānī al-Āthār*, ed. Muḥammad Zuhrī al-Najjār and Muḥammad Sayyid Jād al-Ḥaqq, 5 vols. (1st ed., Beirut: ᶜĀlam al-Kutub, 1414/1994), 1:134, no. 4832. Ibn Ḥibbān, *Ṣaḥīḥ*, ed. Shuᶜayb al-Arnaʾūṭ, 17 vols. (2nd ed., Beirut: Muʾassasat al-Risāla, 1414/1993), 10:273, no. 4427.

[61] Abū ᶜAwāna, *Musnad*, ed. Ayman b. ᶜĀrif al-Dimashqī, 5 vols. (1st ed., Beirut: Dār al-Maᶜrifa, 1419/1998), 4:121, no. 6251.

Diagram 1 - The Non-Revelation Cluster, the Shuᶜba Version

Ibn Ḥibbān

Al-Ṭaḥāwī

Ibn al-Mundhir

Muḥ. b. ᶜAR al-Sāmī

Al-Ṭabarī

Al-Bazzār　Muslim

Abū ᶜAwāna

Yūnus

Al-Shāshī

Mūsā b. Hārūn

Ibn Abī Dāwūd

Abū Qilāba

Ibn Junayd

Abū ᶜUbayd

Muḥ. b. al-Muthannā;
Muslim: "wa-Ibn Bashshār"

Yazīd b. ᶜAbd al-Ṣamad

Ibn Ḥanbal

ᶜĪsā b. Aḥmad　Ibn Abī Shayba

Ibn al-Jaᶜd, d. 230/844-5

Bakr b. Bakkār

Ādam b. Abī Iyās

Abū al-Naḍr Hāshim b. al-Qāsim al-Laythī, d. 207/822-3

Asad b. Mūsā

Muḥ. b. Jaᶜfar Ghundar, d. 193/808-9

Shabāba b. Sawwār, d. 204/819-20

Shuᶜba b. al-Ḥajjāj, d. 160/776

Qatāda b. Diᶜāma

ᶜAl. = ᶜAbd Allāh

ᶜAR = ᶜAbd al-Raḥmān

Muḥ. = Muḥammad

⋯⋯⋯➤ Collective *isnād*

Al-Ḥasan al-Baṣrī

Ḥiṭṭān b. ᶜAl.

ᶜUbāda b. al-Ṣāmit

In the collective *isnād*, a *matn* is attached to a number of transmitters, none of whom may be proven as the originator of that specific *matn*'s wording.

Save for Abū ʿAwāna's confused tradition, the *matn* bundle through Ibn al-Jaʿd is sufficiently consistent as to allow us to consider Ibn al-Jaʿd as the CL or PCL in the *al-bikr^u yujlad wa-yunfā wa-l-thayyib^u yujlad wa-yurjam* tradition. The evidence of the *isnād*s is less unequivocal, however. There being no direct CR citation of Ibn al-Jaʿd, the *isnād*s that branch from him form a spider structure. This issue is compounded by a biographical problem. According to the biographical dictionaries, Ibn al-Jaʿd died in 230/845, which means seventy lunar years after the death of Shuʿba in 160/776. Such a long period is suspect: the pupil must have lived at least eighty to eighty-five lunar years in order to have heard from his alleged teacher, assuming that the audition occurred towards the end of the teacher's life. I am skeptical about such coincidences, which abound in Islamic tradition as convenient *isnād*-shortening devices. That is not to say that such relationships did not occur at all; rather, one should take them with a pinch of salt as possible instances of the so called 'age trick'.[62] In the present cluster, the question stands whether Ibn al-Jaʿd heard from Shuʿba, or their alleged relationship boils down to such an 'age trick'.

The information provided by the *rijāl* critics engaged in the process of *al-jarḥ wa-l-taʿdīl* (depreciating and appreciating transmitters) may be useful, albeit with qualifications. An entry on ʿAlī b. al-Jaʿd is present in the early biographical dictionary of Ibn Saʿd. Ibn Saʿd (d. 230/845) was a contemporary of Ibn al-Jaʿd. According to Ibn Saʿd, Ibn al-Jaʿd related from a number of second century authorities as Shuʿba b. al-Ḥajjāj, Sufyān al-Thawrī and Ḥammād b. Salama. More importantly, Ibn al-Jaʿd reportedly said that he had been born towards the end of the reign of the first Abbasid caliph, Abū l-ʿAbbās (d. 136/754). Ibn al-Jaʿd died more than ninety-six lunar years later, at the end of Rajab 230/April 845.[63] Thus he would have been twenty-four years old at the time of Shuʿba's demise in 160/776. Add to this that according to Ibn al-Jaʿd's own words cited by al-Khaṭīb al-Baghdādī, he came to Basra in 156/773–4.[64] Even

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[62] For more on the 'age trick', see G. H. A. Juynboll, "The Role of *Muʿammarūn* in the Early Development of *Isnād*," *WZKM* 81 (1991), 155–75.

[63] Ibn Saʿd, *Kitāb al-Ṭabaqāt al-Kabīr*, ed. ʿAlī Muḥammad ʿUmar, 11 vols. (Cairo: Maktabat al-Khānjī, 1421/2001), 9:240–1.

[64] Al-Khaṭīb al-Baghdādī, *Tārīkh Baghdād*, ed. Bashshār ʿAwwād Maʿrūf, 17 vols. (Beirut: Dār al-Gharb al-Islāmī, 2001), 13:281–2.

if this was his first visit to the city, he would have had about four years to listen from Shuᶜba b. al-Ḥajjāj.

The almost century-long life of Ibn al-Jaᶜd is confirmed by all but a few biographical dictionaries that devote entries to him. This unanimity notwithstanding, there are some voices of discord. I will not digress to doctrinal accusations that impute to Ibn al-Jaᶜd disrespect of prophetic companions, leaning towards the *jahmī* doctrine, and conniving at rationalists who claimed that the Qurᵓān had been created.[65] These charges may have provided an ideological ground for rigid traditionalists to abandon Ibn al-Jaᶜd's *ḥadīth*, but are of a little value for the present study. Far greater importance should be attached to an early remark that casts doubt on the quality of Ibn al-Jaᶜd's transmission from Shuᶜba. According to al-ᶜUqaylī (d. 322/934), ᶜAlī b. al-Madīnī abandoned (*taraka*) a number of *ḥadīth* transmitters on the authority of Shuᶜba, including ᶜAlī b. al-Jaᶜd. When asked about his reasons for shunning Ibn al-Jaᶜd's *ḥadīth*, Ibn al-Madīnī answered: "I found that his words [related] from Shuᶜba differ" (*ra'aytu alfāẓᵃ-hu ᶜan Shuᶜba takhtalif*).[66] It is difficult to tell whether Ibn al-Madīnī meant that Ibn al-Jaᶜd preferred to adhere to the meaning of the traditions (*al-riwāya bi-l-maᶜnā*) instead of reproducing them verbatim (*al-riwāya bi-l-lafẓ*). To the best of my knowledge, the surviving works of Ibn al-Madīnī do not include the disparaging comment about Ibn al-Jaᶜd. Later *rijāl* critics mostly disregarded Ibn al-Madīnī's alleged remark and preferred to it an appreciative comment by Abū Ḥātim who portrayed Ibn al-Jaᶜd as one of the few transmitters "who memorized and reproduced *ḥadīth* according to a single unaltered wording" (*yaḥfaẓu wa-ya'tī bi-l-ḥadīthⁱ ᶜalā lafẓⁱⁿ wāḥidⁱⁿ lā-yughayyiru-hu*).[67] Ibn Ḥajar tried to reconcile the conflicting reports about the reliability of Ibn al-Jaᶜd's transmission (including that from Shuᶜba). He proposed a chronological solution according to which Ibn al-Jaᶜd was not steadfast at the beginning (*kāna fī awwalⁱ l-ḥāl lam*

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[65] Al-ᶜUqaylī, *Kitāb al-Ḍuᶜafāᵓ*, ed. Ḥamdī b. ᶜAbd al-Majīd b. Ismāᶜīl al-Salafī, 4 vols. (1st ed., Riyadh: Dār al-Ṣumayᶜī, 1420/2000), 2:953–4; al-Khaṭīb al-Baghdādī, *Tārīkh*, 13:384–6; al-Mizzī, *Tahdhīb al-Kamāl fī Asmāᵓ al-Rijāl*, ed. Bashshār ᶜAwwād Maᶜrūf, 35 vols. (2nd ed., Beirut: Muᵓassasat al-Risāla, 1403/1983–), 20:346–8; Ibn Ḥajar, *Tahdhīb al-Tahdhīb*, 12 vols. (1st ed., Hydarabad: Dāᵓirat al-Maᶜārif al-Niẓāmiyya, 1327), 7:290–2.

[66] Al-ᶜUqaylī, *Kitāb al-Ḍuᶜafāᵓ*, 2:954.

[67] Ibn Abī Ḥātim, *al-Jarḥ wa l-Taᶜdīl*, 9 vols. (Beirut: Dār Iḥyāᵓ al-Turāth al-ᶜArabī, n.d.), 6:178, no. 974. Cf. al-Mizzī, *Tahdhīb al-Kamāl*, 20:350; Ibn Ḥajar, *Tahdhīb al-Tahdhīb*, 7:292.

yathbut) but eventually became reliable.[68] Even if Ibn Ḥajar's comment should be lent credence, it still leaves room for doubt in our specific case. The traditions related by Ibn al-Jaᶜd on the authority of Shuᶜba remain susceptible to criticism, since the audition must have taken place exactly at the beginning of Ibn al-Jaᶜd's career as a traditionist.

The chronological problems that beset Ibn al-Jaᶜd's audition from Shuᶜba may be alleviated if one assumes the existence of an intermediate written source. Ibn al-Jaᶜd is known to have possessed books, which he showed to a number of renowned Baghdādī traditionists.[69] Whether the ᶜUbāda tradition was part of these books is difficult to say; Ibn al-Jaᶜd does not provide any indication that he derived it from a written source.

A review of the other variant traditions that converge in potential PCLs may provide more information about Shuᶜba's possible CL status.

After ᶜAlī b. al-Jaᶜd, the Baṣran traditionist Muḥammad b. Jaᶜfar Ghundar (d. 193/808–9) is the second most conspicuous candidate for a PCL status. Muḥammad b. Jaᶜfar is cited directly by Ibn Ḥanbal (d. 241/855),[70] whereas Muslim (d. 261/875), al-Ṭabarī (d. 310/923) and al-Bazzār (d. 292/904–5)[71] are all separated from him by the Baṣran jurist Muḥammad b. al-Muthannā (see Diagram 1, p. 166). If a sufficient *matn* consistency is established, the PCL status of Muḥammad b. Jaᶜfar Ghundar will be proved, which in turn will bolster Shuᶜba's chances of being the actual CL of the tradition.

Ibn Ḥanbal cites a *matn* that in many respects resembles the tradition found in the *Musnad* of Ibn al-Jaᶜd:

"(1) *Khudhū ᶜan-nī*! (2) *Qad jaᶜala l-lāhᵘ la-hunna sabīlᵃⁿ*. (3b) *Al-thayyibᵘ bi-l-thayyibⁱ (3a) wa-l-bikrᵘ bi-l-bikr*. (4b) *Al-thayyibᵘ yujlad wa-yurjam* (4a) *wa-l-bikrᵘ yujlad wa-yunfā*."

"(1) Take it from me! (2) Allāh has appointed a way for them. (3b) A non-virgin with a non-virgin (3a) and a virgin with a virgin. (4b) The non-

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[68] Ibn Ḥajar, ibid., 7:292.

[69] Al-Khaṭīb al-Baghdādī, *Tārīkh*, 13:283; al-Mizzī, *Tahdhīb al-Kamāl*, 20:344–45; Ibn Ḥajar, *Tahdhīb al-Tahdhīb*, 9:290.

[70] Ibn Ḥanbal, *Musnad,* ed. Shuᶜayb al-Arnaᵓūṭ and ᶜĀdil Murshid, 50 vols. (1st ed., Beirut: Muᵓassasat al-Risāla, 1416–/1996–), 37:400, no. 22730.

[71] Muslim b. al-Ḥajjāj al-Naysābūrī, *Ṣaḥīḥ*, 18 vols. (2nd ed., Muᵓassasat Qurṭuba, 1994/1414), 11:273, no. 1690; al-Ṭabarī, *Jāmiᶜ*, 6:497; al-Bazzār, *al-Baḥr al-Zakhkhār al-Maᶜrūf bi-Musnad al-Bazzār*, ed. Maḥfūẓ al-Raḥmān Zayn Allāh, 13 vols. (1st ed., Beirut, Medina: Muᵓassasat ᶜUlūm al-Qurᵓān, Maktabat al-ᶜUlūm wa-l-Ḥikam, 1988/1409), 7:134, no. 2686.

virgin should be flogged and stoned, (4a) the virgin should be flogged and banished."

On comparison, the differences between Ibn Ḥanbal and Ibn al-Jaᶜd boil down to a narrative rearrangement whereby the non-virgin is put before the virgin in clause 3. Consequently, the punishments are rearranged in clause 4. In addition, Ibn Ḥanbal opts for a masculine form of the verbs in clause 4. All changes are minor but still important. They may indicate that Ibn Ḥanbal did not copy Ibn al-Jaᶜd's version, but rather received it from a different source. If confirmed by the remaining variants through Ghundar, these changes may substantiate his PCL status.

Expectedly, al-Ṭabarī has a *matn* that overlaps with Ibn Ḥanbal's tradition to the slightest detail. Conversely, however, Muslim cites a tradition that upsets the expectation of *matn* uniformity engendered by the traditions of Ibn Ḥanbal and al-Ṭabarī. Muslim provides a collective *isnād* that involves Muḥammad b. al-Muthannā and Muḥammad b. Bashshār citing the line Ghundar → Shuᶜba; and Muḥammad b. Bashshār citing Muᶜādh b. Hishām and his father Hishām al-Dastuwāʾī → Qatāda. Muslim states that both *isnād*s convey a *matn* that is similar to the immediately preceding one supported by an *isnād* Muḥammad b. al-Muthannā and Muḥammad b. Bashshār → ᶜAbd al-Aᶜlā → Saᶜīd b. Abī ᶜArūba → Qatāda → al-Ḥasan al-Baṣrī → Ḥiṭṭān b. ᶜAbd Allāh → ᶜUbāda b. al-Ṣāmit. Unlike the *matn*s of Ibn Ḥanbal and al-Ṭabarī, the *matn* to which Muslim attaches his collective *isnād* opens with a description of the symptoms of revelation and therefore falls outside the scope of the present cluster. Muslim remarks that the *matn* through Muᶜādh b. Hishām al-Dastuwāʾī and his father does not contain *sana* and *miʾa* as qualifications of *nafy* and *jald*, but says nothing about the revelation-symptoms preamble. This preamble, it will be noted, has appeared at a later stage in the development of the tradition. Therefore, one has to conclude that Muslim was confused about the exact wording of the *matn*, which excludes his tradition as potential evidence of the existence of a variant going back to Muḥammad b. al-Muthannā and Ghundar.

The version of al-Bazzār adds even more perplexity to our analysis. According to him the Prophet said:

(1) *Khudhū ᶜan-nī!* (2) *Qad jaᶜala l-lāhᵘ la-hunna sabīlᵃⁿ*. (3a) - (3b) -. (4a) *Al-bikrᵘ bi-l-bikrⁱ jaldᵘ miʾatⁱⁿ wa-taghrībᵘ ᶜām* (4b) *wa-l-thayyibᵘ bi-l-thayyibⁱ jaldᵘ miʾatⁱⁿ wa-l-rajm.*

(1) Take it from me! (2) Allāh has appointed a way for them. (3a) - (3b) - (4a) A virgin with a virgin [punish them with] one hundred strokes and a year's exile to a remote place, (4b) a non-virgin with a non-virgin [punish them with] one hundred strokes and stoning.

Al-Bazzār's version completely drops clause 3 and apparently merges it with clause 4 for compensation. But clause 4 has undergone even more changes. Al-Bazzār substitutes nominal forms denoting the types of punishment for the verbs found in clause 4 of the versions of Ibn al-Jaᶜd, Ibn Ḥanbal and al-Ṭabarī. These nominal forms come as first parts of genitive compounds in which the second parts serve as modifiers specifying the number of strokes and the duration of banishment. Both the merger of clause 3 into clause 4 and the appearance of the qualifications point to a subsequent development of the *matn*. Al-Bazzār may have attached a *matn* he had known from elsewhere to the *isnād* Muḥammad b. al-Muthannā → Muḥammad b. Jaᶜfar Ghundar → Shuᶜba b. al-Ḥajjāj. The wording of al-Bazzār's version points to the Hushaym b. Bashīr cluster, which will be discussed in the following chapter, as the most likely source from which al-Bazzār derived his tradition. As a result, the tradition cluster through Ghundar contains only two identical *matn*s, whereas the remaining two differ in a distinct way. One of the identical *matn*s is cited by a direct CR (Ibn Ḥanbal), whereas the second, after the exclusion of Muslim's and al-Bazzār's contradictory evidence, turns out to be a single strand (al-Ṭabarī → Ibn al-Muthannā → Muḥammad b. Jaᶜfar Ghundar), which presents us with several possible transmission scenarios.

Al-Ṭabarī may have faithfully reproduced a tradition he heard from Ibn al-Muthannā. This is suggested by the fact that unlike the versions of Muslim and al-Bazzār, which obviously belong to *matn* clusters other than that of Shuᶜba, al-Ṭabarī's *matn* is part of the Shuᶜba cluster. Moreover, insofar as it overlaps with the *matn* of Ibn Ḥanbal's tradition through Ghundar, one may think that Ghundar is a PCL of Shuᶜba.

Alternatively, al-Ṭabarī may have been as confused about the source and wording of the tradition through Ibn al-Muthannā as were Muslim and al-Bazzār. The degree of *matn* variation suggests that the traditions at issue may have been accidentally ascribed to Ibn al-Muthannā as a result of bewilderment about their exact provenance. Al-Ṭabarī may have known the tradition as associated with Shuᶜba, while still vacillating about its exact *isnād*. Therefore, he would have decided to draw the *isnād* through one of his familiar informants, Ibn al-Muthannā. Note that Ibn al-Muthannā is quoted by one of the most renowned tradition

collectors, Muslim al-Naysābūrī, which may have influenced al-Ṭabarī's choice of *isnād*.

Isnād proliferation is another possible explanation of al-Ṭabarī's line of transmission. Al-Ṭabarī has never met Ibn Ḥanbal on which account he may have chosen to mention Ibn al-Muthannā instead of the actual source. One should not discount the strained relationship between al-Ṭabarī and the *Ḥanbalī*s[72] as a possible explanation of the former's decision to avoid mentioning the latters' eponym.

Although the scenario according to which Ghundar is the PCL of Shuᶜba may be thought as the most likely one one, the other scenarios should not be ignored. Therefore it is preferrable to consider Ghundar as a (S)PCL instead of a fully-fledged PCL.

Another possible PCL is the Iraqi traditionist Shabāba b. Sawwār (d. 204–6/819–22). He is cited directly by Ibn Abī Shayba (d. 235/849).[73] Al-Shāshī (d. 335/946–7) relies on ᶜĪsā b. Aḥmad's transmission from Shabāba.[74] Ibn Abī Shayba's variant reads:

(1) *Khudhū ᶜan-nī*! (2) *Qad jaᶜala l-lāh^u la-hunna sabīl^{an}*. (3b) *Al-thayyib^u bi-l-thayyib^i* (3a) *wa-l-bikr^u bi-l-bikr*. (4a) *Al-bikr^u yujlad wa-yunfā* (4b) *wa-l-thayyib^u yujlad wa-yurjam*.

(1) *Khudhū* Take it from me! (2) Allāh has appointed a way for them. (3b) A non-virgin with a non-virgin (3a) and a virgin with a virgin. (4a) The virgin should be flogged and banished (4b) The non-virgin should be flogged and stoned.

Compared to the variant of Ibn al-Jaᶜd, Ibn Abī Shayba's tradition changes the places of clauses 3a and 3b, but preserves the order of 4a and 4b. Al-Shāshī adheres to Ibn al-Jaᶜd's order in clauses 4a and 4b. Similarly to the cluster through Ghundar, both Ibn Abī Shayba and al-Shāshī prefer the masculine form for the verbs in clause 4. In sum, the differences are as negligible as to allow a conclusion that Ibn Abī Shayba and al-Shāshī cite a *matn* that is essentially similar with the *matn* of Ibn al-Jaᶜd. Hence, Shabāba may be considered as a PCL of Shuᶜba b. al-Ḥajjāj.

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[72] Al-Khaṭīb al-Baghdādī, *Tārīkh*, 2:551.

[73] Ibn Abī Shayba, *al-Muṣannaf*, ed. Ḥamad b. ᶜAbd Allāh al-Jumᶜa and Muḥammad b. Ibrāhīm al-Laḥīdān, 16 vols. (1st ed., Riyadh: Maktabat al-Rushd Nāshirūn, 2004), 7:420, no. 29259.

[74] Al-Shāshī, *Musnad*, ed. Maḥfūẓ al-Raḥmān Zayn Allāh, 3 vols. (1st ed., Medina: Maktabat al-ᶜUlūm wa-l-Ḥikam, 1414/1993), 3:221, no. 1321.

Finally, two more *isnād* lines converge in the Baghdādī traditionist Abū al-Naḍr Hāshim b. Qāsim al-Laythī (d. 207/822–3). He is cited by the direct CR, Abū ᶜUbayd (d. 224/839?).[75] There is no need to adduce the *matn* as it agrees almost completely with ᶜAlī b. al-Jaᶜd's tradition. The only difference between Abū ᶜUbayd and Ibn al-Jaᶜd is the masculine verbal form that the former prefers in clause 4.

The second tradition through Abu al-Naḍr is found in the *Musnad* of Abū ᶜAwāna.[76] As in the case of the *isnād*s passing through Ghundar, the analysis of Abū ᶜAwāna's tradition is complicated by its reliance on a confused collective *isnād*. Abū ᶜAwāna adduces three *isnād*s: (1) Yazīd b. ᶜAbd al-Ṣamad → Ādam b. Abī Īyās → Shuᶜba; (2) Ibn Junayd → Abū al-Naḍr → Shuᶜba; (3) Abū Qilāba → Abū Bakr b. Bakkār and Ibn al-Jaᶜd → Shuᶜba. To the last *isnād*, which doubles above the tier of Shuᶜba and comes together in Abū Qilāba, Abū ᶜAwāna attaches a *matn* that stands aloof from the other *matn*s included in the Shuᶜba cluster. I have already pointed to its numerous differences, when I analysed the traditions through Ibn al-Jaᶜd. Suffice it to say that Abū ᶜAwāna's *matn* is identical with al-Bazzār's *matn* attached to the cluster through Muḥammad b. Jaᶜfar Ghundar. This *matn*, as noted, most likely derives from the Hushaym b. Bashīr cluster and therefore should not be associated with the cluster revolving around Shuᶜba b. al-Ḥajjāj. For the current analysis Abū ᶜAwāna's tradition has a negative value: its evidence excluded, we are left with Abū ᶜUbayd's *isnād* as a single attribution to Abū al-Naḍr, which is far from sufficient to consider the latter a PCL.

Summing up the analysis of the Shuᶜba cluster, I should emphasize the predominantly homogenous structure of the *matn*s constituting its narrative fabric. The occasional rearrangement of some clauses does not affect the meaning; it has probably resulted from spontaneous changes that accompanied the oral transmission of the narrative. Both the homogeneity and the insignificance of variations across a considerable number of *riwāya*s point to a common source of information and independent ways of transmission. That Shuᶜba b. al-Ḥajjāj is the source in question is suggested by the *isnād* evidence, which, nevertheless, presents us with some problems that should not be overlooked. The main knot of *isnād* convergence above Shuᶜba, Ibn al-Jaᶜd, is quoted exclusively in single-strand *isnād*s none of which is associated with a CR. Add to this that Ibn al-Jaᶜd must have been a near centenarian (and

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[75] Abū ᶜUbayd, *al-Nāsikh wa-l-Mansūkh*, 133, no. 240.

[76] Abū ᶜAwāna, *Musnad*, 4:121, no. 6251.

is, indeed, said to have been so) in order to have met his alleged informant, Shuʿba b. al-Ḥajjāj. Muḥammad b. Jaʿfar Ghundar is another important key figure in the Shuʿba cluster. Due to the discrepant *matn*s associated with Ghundar's apparent PCL, Muḥammad b. al-Muthannā, Ghundar may be considered cautiously as a (S)PCL. The importance of another key figure, Abū al-Naḍr, is belittled by the existence of confused collective *isnād*s in the traditions that pass through them. Shabāba b. Sawwār is the only indubitable CL of Shuʿba, but note that Shabāba appears in only two *isnād*s. Thus, at least two of the four key figures may be thought, albeit not without a shade of hesitation, as transmitters of a tradition going back to Shuʿba b al-Ḥajjāj. Consequently, the remaining *isnād*s, most especially those associated with Ibn al-Jaʿd, enjoy greater chance of being authentic attributions to Shuʿba. Additional evidence in support of Shuʿba's contribution to the early circulation of the ʿUbāda tradition may be found in the parallel *isnād* and *matn* clusters. One of these clusters, to which I proceed now, is associated with Hushaym b. Bashīr.

The Hushaym b. Bashīr cluster
Alongside Shuʿba b. al-Ḥajjāj, the Wāsiṭī traditionist Hushaym b. Bashīr (104–5–183/722–4–799) is one of the key figures in the ʿUbāda bundle (Diagram 2, p. 175). Qutayba b. Saʿīd (148–50–240/765–8–854), who hailed from Balkh but was also active in Baghdad, is an important key figure above the level of Hushaym b. Bashīr. Al-Tirmidhī (d. 279/892), who s a direct CR of Qutaybacites the following *matn*:

(1) *Khudhū ʿan-nī*! (2) *Fa-qad jaʿala l-lāh^u la-hunna sabīl^{an}*. (3a) *Al-thayyib^u bi-l-thayyib^i jald^u miʾat^{in} thumm^a l-rajm* (3b) *wa-l-bikr^u bi-l-bikr^j jald^u miʾat^{in} wa-nafy^u sana.*

(1) Take it from me! (2) Allāh has appointed a way for them. (3a) A non-virgin with a non-virgin [punish them with] one hundred strokes then stoning, (3b) a virgin with a virgin [punish them with] one hundred strokes and a year's banishment.[77]

Al-Nasāʾī, who like al-Tirmidhī is in the position of a direct CR, cites an identical tradition. The formal differences boil down to al-Nasāʾī's use of *fa-qad* instead of *qad* at the beginning of clause 2, and of the

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[77] Al-Tirmidhī, *Sunan*, ed. Aḥmad Muḥammad Shākir, 5 vols. (2nd ed., Cairo: Muṣṭafā al-Bābī al-Ḥalabī, 1398/1978), 4:41, no. 434.

Diagram 2 - The Non-Revelation Cluster: the Hushaym b. Bashīr Version

Aḥm. = Aḥmad

ᶜAl. = ᶜAbd Allāh

ᶜAR = ᶜAbd al-Raḥmān

Muḥ. = Muḥammad

........................▸ Collective *isnād*
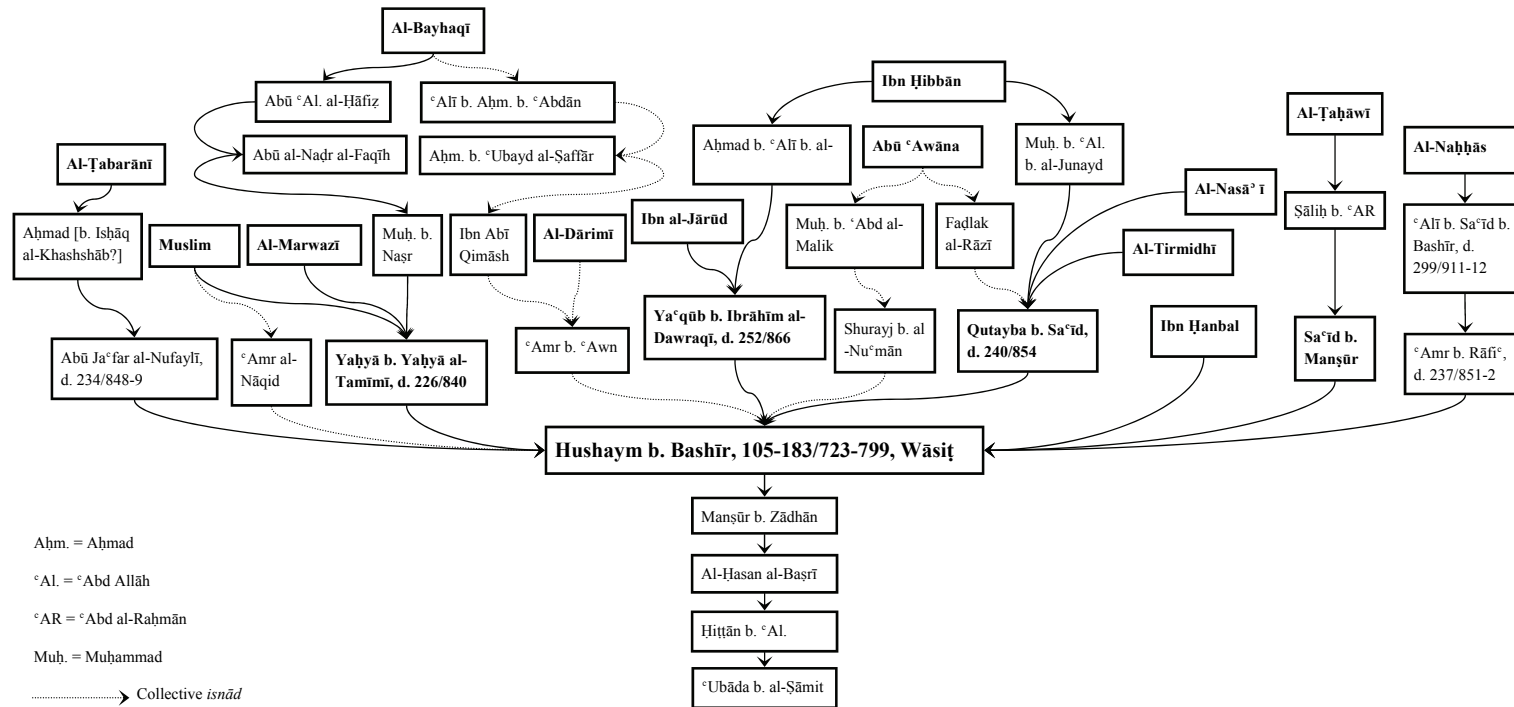
connective *wāw* instead of *thumma* in clause 3a.[78] Ibn Ḥibbān, who quotes Qutayba b. Saʿīd through the agency of Muḥammad b. ʿAbd Allāh b. al-Junayd, provides another, nearly identical, variant. His *matn* differs from al-Tirmidhī's in clause 1, in which Ibn Ḥibbān has opted for a twofold repetition of the Prophet's exclamation: *Khudhū ʿan-nī*! *Khudhū ʿan-nī*![79] Similarly to what we observed in the Shuʿba cluster, Abū ʿAwāna relies on a collective *isnād*.[80] In the present case, however, his *matn* is identical with al-Tirmidhī's with the exception of clauses 3a and 3b, which come in a reverse order. This rather spontaneous rearrangement does not negate the value of Abū ʿAwāna's tradition, but suggests that the collector was perplexed about the exact wording, most probably because of his reliance on a collective *isnād*. In sum, the traditions through Qutayba b. Saʿīd are sufficiently homogenous as to allow us to conclude that Qutayba is a PCL. Trivial variations in the wording of the different *riwāya*s suggest individual ways of transmission of a base tradition, which is indubitably linked with the name of Qutayba.

Yaḥyā b. Yaḥyā al-Tamīmī (142–226/759/60–840) is another key figure in the transmission of the version of Hushaym b. Bashīr. Portrayed as one of the most reliable traditionists in Khurāsān, Yaḥyā b. Yaḥyā is not surprisingly cited by Muslim b. Ḥajjāj:

(1) *Khudhū ʿan-nī*! *Khudhū ʿan-nī*! (2) *Qad jaʿala l-lāh^u la-hunna sabīl^{an}*. (3b) *Al-bikr^u bi-l-bikr^j jald^u miʾat^{in} wa-nafy^u sana* (3a) *wa-l-thayyib^u bi-l-thayyib^i jald^u miʾat^{in} wa-l-rajm*.

(1) Take it from me! Take it from me! (2) Allāh has appointed a way for them. (3b) A virgin with a virgin [punish them with] one hundred strokes and a year's banishment, (3a) a non-virgin with a non-virgin [punish them with] one hundred strokes and stoning.[81]

Al-Marwazī, who is another direct CR of Yaḥyā b. Yaḥyā, provides an identical *matn*.[82] The much later al-Bayhaqī differs only in clause 1, in which he abandons the twofold repetition of the *Khudhū ʿan-nī*!

[78] Al-Nasāʾī, *al-Sunan al-Kubrā*, ed. Shuʿayb al-Arnāʾūṭ and Ḥasan ʿAbd al-Munʿim Shalabī, 12 vols. (1st ed., Beirut: Muʾassasat al-Risāla, 1421/2001), 6:406, no. 7106.

[79] Ibn Ḥibbān, *Ṣaḥīḥ*, ed. Shuʿayb al-Arnāʾūṭ, 18 vols. (Beirut: Muʾassasat al-Risāla, 1414/1993),10:271–2, no. 4425.

[80] Abu ʿAwāna, *Musnad*, 4:120, no. 6248.

[81] Muslim, *Ṣaḥīḥ*, 11:270, no. 1690.

[82] Al-Marwazī, *al-Sunna*, 238, no. 370.

exclamation.[83] This innocuous change cannot belittle the value of his tradition as evidence of Yaḥyā b. Yaḥyā's PCL status. Yaḥyā's version differs from Qutayba's by the twofold repetition of *Khudhū ʿan-nī*! and by the reverse order of clauses 3a and 3b. None of these changes however affects the essence of the tradition nor do they alter the *matn* in a way that prevents us from discerning the details of the base narrative. These changes bespeak independent transmission on behalf of Yaḥyā b. Yaḥyā al-Tamīmī and Qutayba. Hence, both Yaḥyā and Qutayba are best seen as transmitters of a single *matn* that goes to the credit of Hushaym b. Bashīr.

The Baghdādī traditionist Yaʿqūb b. Ibrāhīm al-Dawraqī (166–252/782–3–866) is another key figure above the tier of Hushaym b. Bashīr. Ibn al-Jārūd is a direct CR of Yaʿqūb:

(1) *Khudhū ʿan-nī*! (2) *Qad jaʿala l-lāh^u la-hunna sabīl^{an}*. (3a) *Al-thayyib^u bi-l-thayyib^i jald^u miʾat^{in} thumma l-rajm* (3b) *wa-l-bikr^u bi-l-bikr^i jald^u miʾat^{in} wa-yunfayāni ʿām^{an}*.

(1) Take it from me! (2) Allāh has appointed a way for them. (3a) A non-virgin with a non-virgin [punish them with] one hundred strokes then stoning, (3b) a virgin with a virgin [punish them with] one hundred strokes and they should be banished for one year.[84]

Ibn Ḥibbān repeats the *matn* with a single difference: he opts for *sanat^{an}* instead of *ʿām^{an}* to define the period of banishment at the end of clause 3b.[85] This simple substitution does not preclude a conclusion that both Ibn al-Jārūd and Ibn Ḥibbān cite one tradition, which most probably goes to Yaʿqūb b. Ibrāhīm al-Dawraqī. Note that al-Dawraqī's *matn* is distinguished by a feature that sets it clearly apart from the other *matn*s included in the Hushaym b. Bashīr cluster. In clause 3b it combines the nominal compound (*jald^u miʾat^{in}*) with the verbal clause (*wa-yunfayāni ʿām^{an}*). The dissonant verbal clause was probably introduced by al-Dawraqī under the influence of a tradition he had known for a while. This earlier specimen can easily be found in the Shuʿba cluster, which employs exclusively verbal clauses to describe the penalties for adultery and fornication. Note that al-Dawraqī has preferred the dual verbal form *yunfayāni*, which is conditioned by the dual subject in clause 3b contrary to the Shuʿba version, in which a single subject is preferred.

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[83] Al-Bayhaqī, *al-Sunan al-Kubrā*, 10 vols. (1st ed., Hydarabad, 1344), 8:222.

[84] Ibn al-Jārūd, *al-Muntaqā*, ed. ʿAbd Allāh ʿUmar al-Bārūdī (1st ed., Beirut: Dār al-Janān, Muʾassasat al-Kutub al-Thaqāfiyya, 1408/1988), 205, no. 810.

[85] Ibn Ḥibbān, *Ṣaḥīḥ*, 10:272, no. 4426.

While it is conceivable that al-Dawraqī's *matn* partly draws on the tradition of Shuᶜba, (Diagram 2, p. 175) shows that the relationship between al-Dawraqī and his stated informant, Hushaym b. Bashīr, stumbles at a chronological problem. Al-Dawraqī is said to have died almost seventy years after the death of Hushaym, which means that the pupil must have lived at least eighty-five years in order to have heard traditions from his teacher. According to later biographers this condition is fulfilled, as al-Dawraqī is said to have been born in 166/782–3; that is, he was about seventeen years old at the time of Hushaym's death. Thus, al-Dawraqī is yet another representative of the large group of traditionists who, according to the *isnād* evidence, must have attended the lessons of very old *shaykh*s, while being themselves in their (early) teens. Such catenae of traditionists and their informants, when employed frequently, leave the impression of artificial *isnād*-shortening devices.

Although Muslim biographers are confident that al-Dawraqī heard traditions from Hushaym, their information on al-Dawraqī is very limited. The biographical accounts usually boil down to al-Dawraqī's dates of birth and death and statements that he was reliable (*thiqa*) and trustworthy (*ṣadūq*).[86] Given the obvious chronological problem, the scant biographical information on al-Dawraqī, and the absence of indications that he possessed a written source with Hushaym's traditions, to accept al-Dawraqī as a PCL of Hushaym b. Bashīr would require an excess of credulity. As the *matn* peculiarities suggest, al-Dawraqī's tradition was coined under the influence of the Shuᶜba cluster.

The Wāsiṭī traditionist ᶜAmr b. ᶜAwn (d. 225/839–40) cannot be considered a PCL as his name occurs in two collective *isnād*s. The earlier one is provided by al-Dārimī,[87] who attaches it to a differently worded *matn*, which is an unmistakable conflation of the Shuᶜba and Hushaym versions. As for al-Bayhaqī, his *isnād* suggests that he had in

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[86] Ibn Abī Ḥātim, *Jarḥ*, 9:202; Ibn Ḥibbān, *Thiqāt*, 10 vols. (Hydarabad: Majlis Dāʾirat al-Maᶜārif al-ᶜUthmānīyya, 1973–1983), 9:286; Abū Yaᶜlā al-Khalīl b. ᶜAbd Allāh b. Aḥmad al-Qazwīnī, *Al-Irshād fī Maᶜrifat Rijāl al-Ḥadīth*, ed. Muḥammad Saᶜīd b. ᶜUmar Idrīs, 3 vols. (Riyadh: Maktabat al-Rushd, n.d.), 2:603; al-Khaṭīb al-Baghdādī, *Tārīkh*, 16:407–8; Ibn al-Qaysarānī, *Kitāb al-Jamᶜ baynᵃ Kitābay Abī Naṣr al-Kalābādhī wa-Abī Bakr al-Iṣbahānī*, 2 vols. (2nd ed, Beirut: Dār al-Kutub al-ᶜIlmiyya, 1405/1985), 2:589; al-Mizzī, *Tahdhīb al-Kamāl*, 32:311–4; Ibn Ḥajar, *Tahdhīb al-Tahdhīb*, 11:381–2.

[87] Al-Dārimī, *Sunan*, ed. Ḥusayn Salīm Asad al-Dārānī, 4 vols. (1st ed., Riyadh: Dār al-Mughnī, 1421/2000), 3:1500, nos. 2372–3.

mind a *matn* identical to that through Yaḥyā b. Yaḥyā al-Naysābūrī.[88] If so, then al-Bayhaqī would have thought of a *matn* that differs notably from the one meant by al-Dārimī. As a result ʿAmr b. ʿAwn cannot be considered a PCL; collective *isnād*s once again prove to be highly unreliable as a means for dating traditions.

In addition to the discussed key figures, Diagram 2 (p. 175) shows a number of single-strand *isnād*s reaching down to Hushaym b. Bashīr. Muslim cites an *isnād* through ʿAmr al-Nāqid which is said to carry a *matn* identical with the one through Yaḥyā b. Yaḥyā al-Tamīmī.[89] Such a collective *isnād* cannot be considered as a direct proof of Hushaym b. Bashīr's CL status. It nevertheless provides additional evidence in support of Yaḥyā b. Yaḥyā's position as a PCL of Hushaym and may therefore be considered as an indirect indicationof Hushaym's CL status. Al-Ṭabarānī cites a variant that is identical with the tradition through al-Dawraqī.[90] As al-Dawraqī is not present in al-Ṭabarānī's *isnād*, it is likely that the latter reflects an attempted dive under the seeming PCL. The third single strand is provided by al-Naḥḥās.[91] It concurs with the variant of Yaḥyā b. Yaḥyā al-Tamīmī, save for the clause 1, in which *Khudhū ʿan-nī*! occurs only once. This minor change may indicate an authentic transmission from Hushaym b. Bashīr. At the same time, the single-strand *isnād* provided by al-Naḥḥās does not allow us to exclude the possibility that someone along the transmission line borrowed Yaḥyā b. Yaḥyā's tradition and fitted it out with a new *isnād*, which imparts to it an appearance of an independent *ḥadīth*. Al-Naḥḥās' informant, ʿAlī b. Saʿīd b. Bashīr (d. 299/911–12) is a barely known traditionist whose *tarjama* contains contradictory information about his merits and demerits. Disparaging accounts about ʿAlī b. Saʿīd b. Bashīr may have been conditioned partly by his close relationship with the rulers.[92] More

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[88] Al-Bayhaqī, *al-Sunan al-Kubrā*, 8:222.

[89] Muslim, *Ṣaḥīḥ*, 11:272, no. 1690.

[90] Al-Ṭabarānī, *al-Muʿjam al-Awsaṭ*, eds. Abū Maʿādh Ṭāriq b. ʿAwaḍ Allāh b. Muḥammad, Abū al-Faḍl ʿAbd al-Muḥsin b. Ibrāhīm al-Ḥusaynī, 10 vols. (Cairo: Dār al-Ḥaramayn, 1415/1995), 2:32, no. 1140.

[91] Al-Naḥḥās, *al-Nāsikh wa-l-Mansūkh*, (al-Maktaba al-ʿAllāmiyya, 1357/1938), 99.

[92] ʿAlī b. Saʿīd b. Bashīr is said to have been appointed a governor of some village (*qarya*) in Egypt. When the local people refused to pay their land tax (*kharāj*), ʿAlī b. Saʿīd would let the pigs into the mosque (Ibn Ḥajar, *Lisān al-Mīzān*, ed. ʿAbd al-Fattāḥ Abū Ghudda, 5 vols. [Maktab al-Maṭbūʿāt al-Islāmiyya, n.d.), 5:543.

importantly, ʿAlī b. Saʿīd is known to have practised *tadlīs*.[93] According to al-Dāraquṭnī, he related single traditions not supported by parallel lines of transmission (*tafarrada bi-ashyāʾ*[in]*; ḥaddatha bi-aḥādīth*[a] *lam-yutābaʿ ʿalay-hā*).[94] If the biographical information about ʿAlī b. Saʿīd should be lent credence, it suggests that he may have devised the *isnād* to Hushaym b. Bashīr.

Beside the single-strand *isnād*s, Ibn Ḥanbal and Saʿīd b. Manṣūr are direct CRs of Hushaym b. Bashīr.[95] Saʿīd b. Manṣūr differs from the other traditions in the Hushaym cluster mainly in employing the locution *taghrīb*[u] *ʿām*[in] instead of the attested *nafy*[u] *sana/ʿām*. The *taghrīb*-version is scattered over various clusters of the non-revelation tradition and cannot be associated with a specific PCL, or CL for that matter. It is conceivable that Saʿīd b. Manṣūr knew the tradition from Hushaym and altered the *matn* inadvertently under the influence of another variant tradition, which was known to him from a different source.

Ibn Ḥanbal's no. 22666 is completely identical with the variant of Yaḥyā b. Yaḥyā al-Tamīmī. It stands to reason that both traditionists collected a same tradition from a common source, which can be safely associated with Hushaym b. Bashīr.

Our analysis of the cluster through Hushaym b. Bashīr (Diagram 2, p. 175) has succeeded in evincing two unambiguous PCLs, namely Yaḥyā b. Yaḥyā al-Tamīmī and Qutayba b. Saʿīd. At the same time, neither Yaʿqūb al-Dawraqī nor ʿAmr b. ʿAwn can be ascertained as PCLs of Hushaym b. Bashīr. Note however that the number of *isnād*s converging in Yaḥyā b. Yaḥyā and Qutayba b. Saʿīd exceeds the number of attributions to Yaʿqūb al-Dawraqī and ʿAmr b. ʿAwn. In terms of quality, the attributions to Yaḥyā and Qutayba are superior: their analysis exhibits no *isnād* irregularities, whereas both traditions through ʿAmr b. ʿAwn are based on confused collective lines of transmission. The evidence of the CLs is seconded by the existence of two CRs, to wit, Ibn Ḥanbal and Saʿīd b. Manṣūr who quote Hushaym b. Bashīr in an unmediated way. Therefore, Hushaym is best seen as the actual CL of the currently studied variant tradition.

The existence of a variant going back to Hushaym b. Bashīr (d. 183/799) shows that the non-revelation tradition existed around the

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[93] Ibn Ḥajar, *Lisān*, 5:343.

[94] Ibid., 5:342–3.

[95] Ibn Ḥanbal, *Musnad*, 37:338, no. 22666; Saʿīd b. Manṣūr, *Sunan*, ed. Saʿd b. ʿAbd Allāh b. ʿAbd al-ʿAzīz al-Ḥumayyid, 6 vols. (1st ed., Riyadh: Dār al-Ṣumayʿī li-l-Nashr wa-l-Tawzīʿ, 1414/1993), *K. al-Tafsīr*, 3:1191, no. 594.

middle of the second century AH. In the preceding chapter I have suggested that Shuᶜba b. al-Ḥajjāj may have been the original disseminator of the tradition. Nevertheless, due to *isnād* irregularities, I preferred to leave the question about Shuᶜba's CL status open until further evidence is derived from parallel lines of transmission. Although Shuᶜba is not present in Hushaym's *isnād*, he must have known the ᶜUbāda tradition. This is indicated by the fact that Shuᶜba's lifespan partly overlaps with that of Hushaym; by the *isnād* and *matn* evidence discussed in the preceding chapter; and not least by a comparison between the *matn*s cited by Hushaym and Shuᶜba. Hushaym's narrative differs from Shuᶜba's in three main points: (1) it merges Shuᶜba's clauses 3 and 4 into a single locution; (2) it substitutes verbal nouns for the verbs occurring in Shuᶜba's clause 4; and (3) it qualifies the verbal nouns by genitive additions that define the number of lashes and the duration of banishment. Arguably, the first two points do not allow us to consider one of the versions as preceding its counterpart. That is to say, in the first point of difference Hushaym's variant may have been a slight abridgement of the earlier Shuᶜba version, but, likewise, Shuᶜba's tradition may have been an expansion of Hushaym's narrative. In the latter case the tradition would have been back-projected onto Shuᶜba. Similarly, preference for verbal nouns or verbs in the second point of difference is not revealing about the relative chronology of the two variant traditions. The genitive additions to the verbal nouns, however, evince a development, in which the vague call for flogging and banishment was elucidated by the respective qualifications. In other words, traditions void of qualifications must have been earlier than the qualified ones. Insofar as the qualified expressions clearly go to the credit of Hushaym b. Bashīr, it stands to reason that the unqualified traditions go back to an authority as early as Shuᶜba b. al-Ḥajjāj. Consequently, the non-revelation tradition should have existed as early as the second quarter of the second century AH.

Additional clusters and diving transmission lines

Diagram 3 (p. 184) comprises a number of *isnād*s that belong to the non-revelation group but cannot be attributed with certainty to key figures as early as Shuᶜba b. al-Ḥajjāj (d. 160/776) and Hushaym b. Bashīr (d. 183/799). That is not to say that some *isnād* bundles do not appear as converging in early transmitters, but rather that these key figures cannot be attested as actual CLs. By far the most interesting bundle in Diagram 3 is the one going back to the Baṣran *mawlā* Saᶜīd b. Abī ᶜArūba (d. 156–59/772–76). On closer inspection, one finds that Saᶜīd is quoted by

Yaḥyā b. Saʿīd al-Qaṭṭān (120–98/738–813), who is present in five *isnād*s, and al-Ṭabarī, who relies on a single-strand *isnād* through Ibn Bashshār and ʿAbd al-Aʿlā. I start with the analysis of traditions through al-Qaṭṭān. According to Abū Dāwūd (d. 275/889) on the authority of Musaddad, al-Qaṭṭān related the following *matn*:

(1) *Khudhū ʿan-nī! Khudhū ʿan-nī!* (2) *Qad jaʿala l-lāh^u la-hunna sabīl^{an}*. (3a) *Al-thayyib^u bi-l-thayyib^i jald^u miʾat^{in} wa-ramy^{un} bi-l-ḥijāra* (3b) *wa-l-bikr^u bi-l-bikr^j jald^u miʾat^{in} wa-nafy^u sana*.

(1) Take it from me! Take it from me! (2) Allāh has appointed a way for them. (3a) A non-virgin with a non-virgin [punish them with] one hundred strokes and [an execution by] stones thrown, (3b) a virgin with a virgin [punish them with] one hundred strokes and a year's banishment.[96]

Al-Maḥāmilī (235–330/849–943) and al-Shāshī (d. 335/946–7)[97] cite a similar *matn*. Both differ insignificantly from Abū Dāwūd in preferring *rajm^{un} bi-l-ḥijāra* to *ramy^{un} bi-l-ḥijāra* in clause 3a. Abū Dāwūd's *matn* most likely reflects the original wording of the tradition; *rajm^{un} bi-l-ḥijāra* is a pleonasm which most likely emerged in the course of transition from a descriptive locution to a terminological formulation.

Al-Nasāʾī's *matn* resembles that of al-Maḥāmilī and al-Shāshī but reverses the order of clauses 3a and 3b.[98] It will be recalled that this is far from being an isolated case, as the order of these two clauses is fluid, while its reversal does not affect the meaning of the tradition. Insofar as al-Nasāʾī preserves all the peculiarities present in the other three traditions, his version may be considered as evidence supporting the status of Yaḥyā b. Saʿīd al-Qaṭṭān as a PCL or CL of the present bundle.

Unfortunately, the same cannot be said about the tradition found in the collection of Ibn Māja.[99] He cites a variant of the *taghrīb^u sanat^{in}* tradition, the origin of which cannot be identified. At the same time Ibn Māja omits the main peculiarity of al-Qaṭṭān's *matn*, represented by the locution *ramy^{un}/rajm^{un} bi-l-ḥijāra*. Even though one may concede that Ibn Māja's tradition generally belongs to the cluster at issue, it cannot serve as a proof of al-Qaṭṭān's CL/PCL status.

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[96] Abū Dāwūd, *Sunan*, 4:370–1, no. 4415.

[97] Al-Maḥamilī, *Āmālī*, ed. Ibrāhīm Ibrāhīm al-Qaysī (1st ed., ʿAmmān, Riyadh: al-Maktaba al-Islāmiyya, Dār al-Qayyim:, 1412/1991), 374, no. 421; al-Shāshī, *Musnad*, 3:222.

[98] Al-Nasāʾī, *Sunan*, 10:60, no. 11027.

[99] Ibn Māja, *Sunan*, ed. Muḥammad Fuʾād ʿAbd al-Bāqī, 2 vols. (Beirut: Dār al-Fikr, n.d.), 2:852–3, no. 2550.

Ibn Māja's irregular tradition notwithstanding, there is sufficient *isnād* and *matn* material that substantiates al-Qaṭṭān's role as either PCL or CL of the cluster through Ibn Abī ʿArūba.

Al-Qaṭṭān most probably contributed to the development of the *matn* by substituting *ramy^{un} bi-l-ḥijāra* for the earlier *rajm*. Later traditionists who based their *riwāya*s on al-Qaṭṭān partly corrected his reading by reinstating *rajm*, albeit in a partly pleonastic conjunction with *al-ḥijāra*.

Apart from al-Qaṭṭān's contribution to the circulation of the present tradition, one has to look for his sources. Saʿīd b. Abī ʿArūba is invariably quoted as al-Qaṭṭān's informant in the present *isnād*. Such a single line of transmission cannot attest to the authenticity of al-Qaṭṭān's attribution to Ibn Abī ʿArūba unless supported by parallel PCL or CR *isnād*s that converge in Ibn Abī ʿArūba. There is only one parallel line that leads to Saʿīd b. Abī ʿArūba without relying on the authority of al-Qaṭṭān.

Cited by al-Ṭabarī, [100] it is an unmistakable copy of Shuʿba's tradition. The only element that links al-Ṭabarī's *matn* with the tradition of Yaḥyā b. Saʿīd al-Qaṭṭān (but also with the tradition of Hushaym b. Bashīr) is the closing clause, in which al-Ṭabarī prefers nominal expressions (i.e. *jald^u miʾat^{in} wa-nafy^u sanat^{in}*) instead of verbal phrases used in Shuʿba's *ḥadīth*. Thus, al-Ṭabarī has come out with an awkward compound, which draws on several different traditions in the non-revelation cluster. Consequently, his single strand cannot be conducive to proving Ibn Abī ʿArūba's CL status.

Apart from al-Ṭabarī's tradition, which is foreign to the Ibn Abī ʿArūba cluster, there are no other transmission lines capable of evincing a CL earlier than Yaḥyā b. Saʿīd al-Qaṭṭān. While pondering over al-Qaṭṭān's actual source of information, one is perplexed to observe that al-Qaṭṭān does not cite Shuʿba whom he reportedly accompanied for twenty years.[101] Instead, al-Qaṭṭān prefers Saʿīd b. Abī ʿArūba, although no relationship between the two is attested by early biographers like Ibn Saʿd (230/845), Ibn Maʿīn (d. 233/847), Ibn al-Madīnī (d. 234/848), al-Bukhārī (d. 256/870) and al-ʿIjlī (d. 261/874–5). To the best of my knowledge, Aḥmad b. Ḥanbal, according to his son's testimony, was the

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[100] Al-Ṭabarī, *Jāmiʿ*, 6:496.
[101] Al-Khaṭīb, *Tārīkh*, 16:204–5.

Diagram 3 - The Non-Revelation Cluster, the Yaḥyā b. Saʿīd al-Qaṭṭān Version
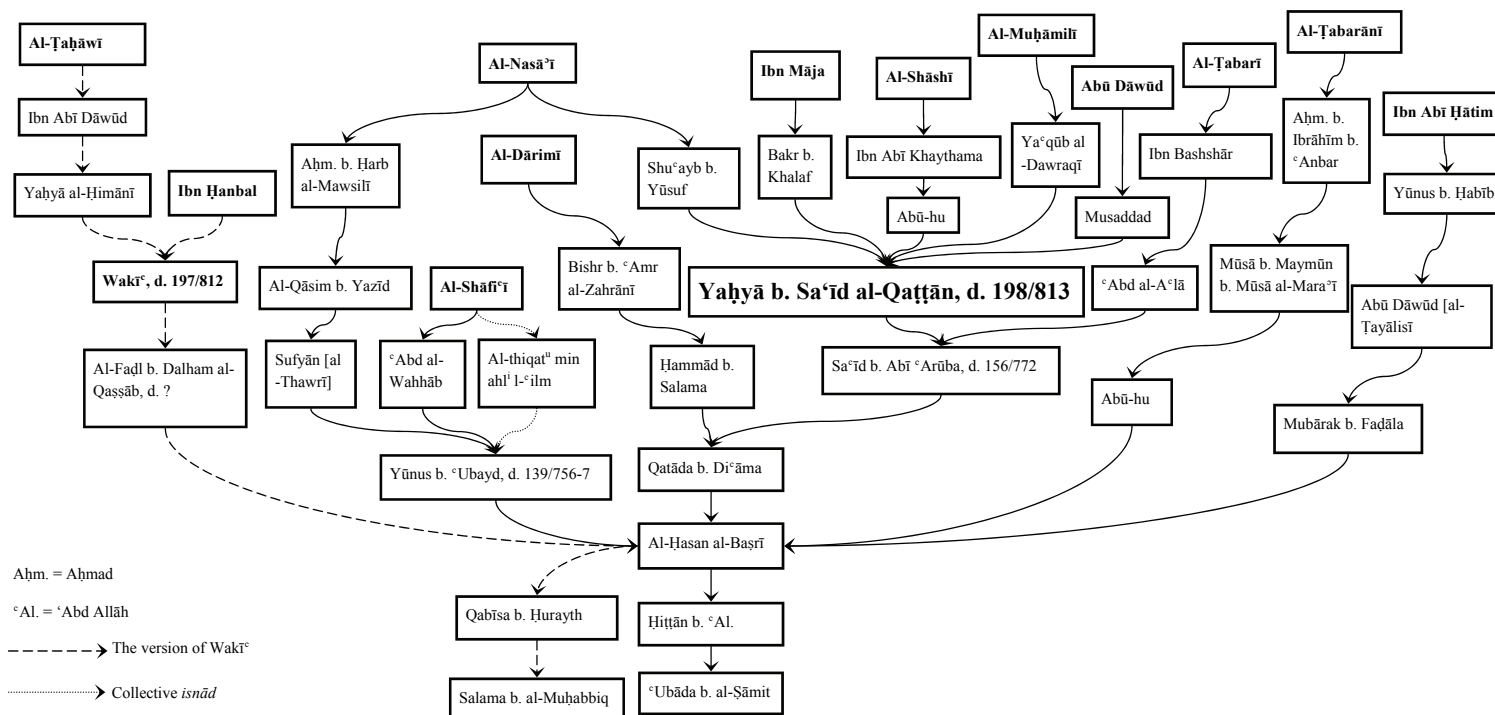
first to mention briefly that al-Qaṭṭān was knowledgeable in the traditions of Ibn Abī ʿArūba.[102]

Given that al-Qaṭṭān spent twenty years together with Shuʿba, it is reasonable to expect that he was acquainted with Shuʿba's version of the ʿUbāda tradition. Therefore, one may think that al-Qaṭṭān chose to disregard Shuʿba's tradition in favor of another version that may have been preferable by al-Qaṭṭān's standards. The version of Hushaym b. Bashīr, it will be recalled, improves Shuʿba's tradition by specifying the number of lashes and setting the exact period of banishment. Therefore it is not gratuitous to conclude that Hushaym b. Bashīr's tradition served al-Qaṭṭān as a base for his version which he fitted out with a new *isnād* involving Saʿīd b. Abī ʿArūba.[103]

In addition to Saʿīd b. Abī ʿArūba, Diagram 3 (p. 184) shows another key figure, Yūnus b. ʿUbayd (d. 139/756–7). He is cited by al-Shāfiʿī and al-Nasāʾī. Al-Shāfiʿī's *isnād* through ʿAbd al-Wahhāb b. ʿAṭāʾ → Yūnus b. ʿUbayd carries a *matn* that is characterized by the already observed use of *taghrīb^{u} ʿām^{in}*.[104] Additionally, al-Shāfiʿī chooses to support the first *isnād* with a second one, said to carry the same *matn*. Note, however, al-Shāfiʿī's reference to an anonymous "trustworthy [authority] among the people of knowledge" (*al-thiqat^{u} min ahl^{i} l-ʿilm*), which speaks much to the detriment of his collective *isnād*. Unlike al-Shāfiʿī, al-Nasāʾī cites a tradition that avoids the *taghrīb* in favor of the wider-accepted *nafy*.[105] Another point of departure from al-Shāfiʿī is al-Nasāʾī's preference for a single *Khudhū ʿan-nī*! instead of the dual exclamation found in the *matn* of al-Shāfiʿī. Finally, al-Shāfiʿī inverts the order of the ultimate and the penultimate clauses in the *matn*. Although none of these changes on its own signals tampering with the tradition, taken on aggregate they suggest that al-Shāfiʿī and al-Nasāʾī derived their respective traditions from dissimilar sources. An alternative interpretation would be that while the traditions belong to a single source (viz. Yūnus b. ʿUbayd), the differences arose from an unstable oral

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[102] Ibn Ḥanbal, *Kitāb al-ʿIlal wa-Maʿrifat al-Rijāl*, ed. Waṣī Allāh b. Muḥammad ʿAbbās, 4 vols. (2nd ed., Riyadh: Dār al-Khānī, 1422/2001), 1:338, no. 2494; 1:335, no. 2571.

[103] Although Hushaym is from Wāsiṭ, he was reportedly active in Baṣra, Baghdād and Kūfa (al-Mizzī, *Tahdhīb al-Kamāl*, 30:279–80). Al-Qaṭṭān must have been well acquainted with Hushaym's traditions, as he had a positive opinion about Hushaym's transmission from Ḥuṣayn b. ʿAbd al-Raḥmān (ibid., 30:281).

[104] Al-Shāfiʿī, *Risāla*, 129, no. 378.

[105] Al-Nasāʾī, *Sunan*, 6:405, no. 7104.

transmission. The degree of *matn* instability, however, hardly allows for the reconstruction of the base version. Its association with Yūnus b. ᶜUbayd will remain highly tentative unless one finds additional lines of transmission that evoke more confidence than al-Nasāʾī's single strand and al-Shāfiᶜī's collective attribution which essentially boils down to another single strand. Al-Shāfiᶜī's suspect reference to an anonymous trustworthy authority may be thought as a token of manipulation. Be that as it may, the *isnād* and *matn* evidence in its present state does not allow me to consider Yūnus b. ᶜUbayd as a CL or PCL.

Ibn Ḥanbal and al-Ṭaḥāwī cite the Kūfan traditionist Wakīᶜ b. al-Jarrāḥ (129–197/746–812) in an *isnād* that reaches al-Ḥasan al-Baṣrī through the agency of al-Faḍl b. Dalham.[106] Below al-Ḥasan's tier, instead of relying on Ḥiṭṭān b. ᶜAbd Allāh and ᶜUbāda b. al-Ṣāmit, the transmission line takes an odd detour to Qabīṣa b. Ḥurayth and Salama b. al-Muḥabbiq (see Diagram 3, p. 184, the dashed line). Although Ibn Ḥanbal and al-Ṭaḥāwī cite identical *matn*s, there is no reason to assume a CL older than Wakīᶜ b. al-Jarrāḥ. One may suspect that like his Baṣran colleague, Yaḥyā b. Saᶜīd al-Qaṭṭān, Wakīᶜ based his version on the tradition of Hushaym b. Bashīr.[107] Unlike Yaḥyā, who changed $rajm^{un}$ to $ramy^{un}$ bi-l-ḥijāra in the concluding clause of the *matn*, Wakīᶜ preserved Hushaym's tradition in its original form. At the same time Wakīᶜ preferred a strange *isnād* that avoids Ḥiṭṭān b. ᶜAbd Allāh and ᶜUbāda b. al-Ṣāmit as the lowest parts of the transmission line. This irregular *isnād* was suspected of forgery by a number of Muslim *rijāl* critics.[108]

Diagram 3 (p. 184) includes two single-strand *isnād*s none of which may substantiate al-Ḥasan's position as a CL of the *khudhū ᶜan-nī* tradition. Whereas al-Ṭabarānī cites a *matn* that concurs verbatim with Hushaym b. Bashīr's *matn* (Diagram 2, p. 175),[109] Ibn Abī Ḥātim

[106] Ibn Ḥanbal, *Musnad*, 25:250–1, no. 15910; al-Ṭaḥāwī, *Sharḥ Maᶜānī al-Āthār*, 3:134, no. 4853.

[107] Ibn Ḥajar lists Hushaym among the informants of Wakīᶜ (Ibn Ḥajar, *Tahdhīb al-Tahdhīb*, 11:59)

[108] Al-Bukhārī, *al-Tārīkh al-Kabīr*, 9 vols. (Beirut: Dār al-Kutub al-ᶜIlmiyya, 2001), 7:116–7; Ibn Abī Ḥātim, *ᶜIlal*, ed. Saᶜd b. ᶜAbd Allāh al-Ḥumayyid, Khālid b. ᶜAbd al-Raḥmān al-Juraysī and others, 7 vols. (1st ed., Riyadh: 1427/2006), 4:207–8; al-Mizzī, *Tahdhīb al-Kamāl*, 23:221.

[109] Al-Ṭabarānī, *al-Muᶜjam al-Awsaṭ*, 2:286, no. 2002.

prefers a tradition based on the *rajm^un bi-l-ḥijāra* locution.[110] The latter was introduced by al-Qaṭṭān, who, therefore, may have been the original source whence Ibn Abī Ḥātim derived his tradition.

Summing up our investigation of the present *isnād* cluster, we may conclude that it contains two CL traditions, which are associated with Yaḥyā b. Saʿīd al-Qaṭṭān and Wakīʿ b. al-Jarrāḥ. None of these traditions may be attested as going to a transmitter earlier than the CL. Both CLs apparently based their variants on the tradition of Hushaym b. Bashīr, to which they added slight *matn* modifications and 'independent' *isnād*s.

Summary: The historical development of the non-revelation cluster according to the isnād and matn analysis

The *isnād* and *matn* analysis of the non-revelation cluster of the ʿUbāda tradition shows that variants thereof circulated in the Iraqi centers of learning during the second half of the second century AH. They were based on the version that the Baṣran traditionist Shuʿba b. al-Ḥajjāj had spread before the middle of the second century AH. Shuʿba's tradition required a dual penalty for adulterers and fornicators alike: the adulterers were to be flogged and stoned, whereas the fornicators were to be flogged and banished.

A few decades after Shuʿba, the Wāsiṭi traditionist Hushaym b. Bashīr edited Shuʿba's *matn* as to include two important emendations. While reaffirming the dual penalty for both categories of sexual offenders, he specified the number of lashes as one hundred and set the period of banishment to one year. Such stipulations are a clear sign of development in which the earlier vague requirement for flogging and stoning/flogging and banishment was modified by additional qualifications. Along with these additions, Hushaym b. Bashīr preferred to describe the punishment for adulterers and fornicators by genitive compounds in which the first part signifies the punishment while the second introduces the respective quantitative or temporal modifier. These genitive compounds superseded the verbal forms occurring in the earlier Shuʿba tradition.

During the last quarter of the second century AH the Baṣran Yaḥyā b. Saʿīd al-Qaṭṭān, and his Kūfan counterpart Wakīʿ b. al-Jarrāḥ, spread variants of Hushaym's tradition. Instead of the single word *rajm* used by Hushaym, al-Qaṭṭān chose the locution *ramy^un bi-l-ḥijāra* to describe the

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[110] Ibn Abī Ḥātim, *Tafsīr*, ed. Asʿad Muḥammad al-Ṭayyib, 10 vols. (1st ed., al-Makka al-Mukarrama–Riyadh: Maktabat Nizār Muṣṭafā al-Bāz, 1417/1997), 8:2517, no. 14091.

penalty for adultery. This redaction apparently sought to bring syntactical uniformity to the penal clauses of the tradition. As a result of Hushaym's redaction of Shuᶜba's original tradition, clauses 3a and 3b had come to rely on three longer locutions (*nafy^u sanat^{in}* on one occasion and *jald^u mi^{ɔ}at^{in}* on two occasions) followed by a single word (*al-rajm*). Al-Qaṭṭān substituted the compound locution *ramy^{un} bi-l-ḥijāra* for *al-rajm*. Thus, he sacrificed the terminological expression in order to meet the recipient's expectation of a compound concluding clause. Unlike al-Qaṭṭān, Wakīᶜ preferred to restore Hushaym's wording, but at the same time chose to rely on an alternative *isnād* circumventing the two earliest authorities in Hushaym's transmission line.

Notwithstanding the interventions that al-Qaṭṭān and Wakīᶜ undertook, the base legal requirements in ᶜUbāda tradition had acquired their final shape already in the second quarter of the second century AH. The penal part of the *matn* insisted on a dual penalty for adultery and fornication. The introductory exclamation by the Prophet clearly referred to Qurɔān 4:15 the ordinance of which the tradition sought to emendate. Although such an intertextual relationship signals the tradition's dependence on scripture, none of the variants that we considered so far portrays the prophetic *dictum* as a divinely revealed ordinance.

At this point, one faces the question about the existence of an even earlier disseminator of the ᶜUbāda tradition as suggested in Juynboll's analysis. To check this hypothesis, I have compiled a combined diagram of the hitherto revealed (P)CLs in the ᶜUbāda non-revelation cluster (Diagram 4, p. 190). The *isnād* chart shows two (P)CLs, Shuᶜba b. al-Ḥajjāj and Yaḥyā b. Saᶜīd al-Qaṭṭān, converging on Qatāda b. Diᶜāma as their common informant. Thus, by the evidence of the *isnād*s Qatāda looks as an older (P)CL who may have received the tradition from al-Ḥasan al-Baṣrī. This hypothesis finds additional support in the *isnād* of yet another (P)CL, Hushaym b. Bashīr who draws his line of transmission via al-Ḥasan. Wakīᶜ's irregular *isnād* is of little corroborative force on its own, but if taken in conjunction with the existence of an attested PCL (Qatāda b. Diᶜāma), it may be cautiously interpreted as bespeaking al-Ḥasan al-Baṣrī's contribution to the circulation of the ᶜUbāda non-revelation tradition. Inevitably, this would push the tradition's history back to the second half of the first century AH.

The above optimistic scenario, however, must be tempered with important qualifications. While Shuᶜba b. al-Ḥajjāj may be assumed to have faithfully named Qatāda b. Diᶜāma as his direct informant, Yaḥyā b. Saᶜīd al-Qaṭṭān does not quote Qatāda directly, but through the agency

of Saʿīd b. Abī ʿArūba. It should be recalled that we failed to prove Ibn Abī ʿArūba's CL status. The same goes for Manṣūr b. Zādhān who is Hushaym b. Bashīr's intermediary to al-Ḥasan al-Baṣrī. There is no evidence that allows us consider Manṣūr as the tradition's CL instead of Hushaym b. Bashīr.

Coming to the *matn*s, we have seen that Shuʿba b. al-Ḥajjāj circulated an early *matn*, which was edited by Hushaym b. Bashīr and Yaḥyā b. Saʿīd al-Qaṭṭān. That is to say, both Hushaym and Yaḥyā based their versions of the tradition of Shuʿba. At the same time neither Hushaym may be proven to have derived his *matn* from al-Ḥasan al-Baṣrī, nor al-Qaṭṭān to have received his version from Qatāda b. Diʿāma. If a core version of Qatāda had existed, one may conjecture that it is represented by the tradition of Shuʿba b. al-Ḥajjāj, who quotes Qatāda directly. Note, however, that we do not possess Shuʿba's CL version, but have reconstructed it tentatively from later collections. We are uncertain about the wording of Shuʿba's tradition as for instance clauses 3 and 4 in its *matn* have the appearance of a later expansion of an earlier *matn*. One also wonders whether the exclamation *Khudhū ʿan-nī*! and the following reference to Qurʾān 4:15 were part of the original *matn*, which might have been confined to the dual-penalty *dictum*.

The degree of epistemological uncertainty increases dramatically as we try to delve into the single line below Shuʿba. An attribution to Qatāda may be based on the conjecture that Shuʿba has transmitted correctly the *matn* of his informant. If one concedes further a version of al-Ḥasan al-Baṣrī on the assumption that Qatāda in turn has also given correctly the name of his informant, one would wonder about the contents of al-Ḥasan's tradition, which, at present, could be construed only in terms of Juynboll's hypothetical legal maxim.

The revelation cluster

Our study of the ʿUbāda cluster has shown that during the second half of the second century AH Iraqi traditionists spread and developed a stoning tradition that came to be closely associated with Qurʾān 4:15–6. Although Qurʾān 24:2 could be treated as the verse that abrogates the ordinance of Qurʾān 4:15–6, it mentions only flogging as punishment of the sexual offenders. Consequently, the stoning penalty for adultery needed justification. Given the lack of an explicit requirement for stoning in the Qurʾān, the ʿUbāda tradition provided the sunnaic basis for the stoning of the adulterers. The resort to the *sunna*, however, brought forward as an unavoidable corollary the issue of the relationship between the Qurʾānand the *sunna*.

Diagram 4 - The Non-Revelation Cluster Summarized
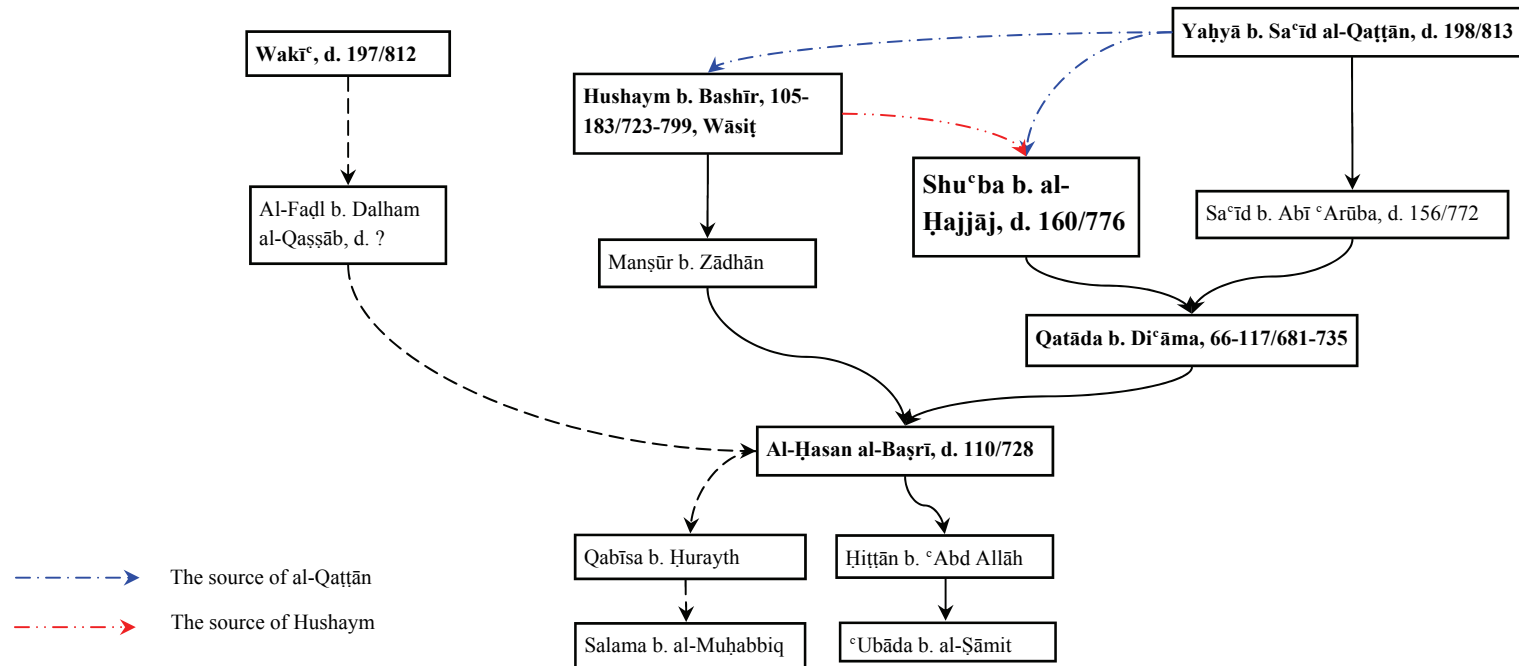
That is to say, the chronological sequence Qurʾān 4:15 – the ʿUbāda tradition implied the question of whether the *sunna* may abrogate the Qurʾān. A positive answer would allow for accepting ʿUbāda as capable of modifying the Quranic ordinance in a way tantamount to abrogation; a negative answer would mean that the origins of the stoning penalty had to be found in scripture. There was a middle way, however. This is evident from a large group of traditions that describe the dual-penalty maxim as a divinely inspired prophetic utterance.

Diagram 5 (p. 192) shows an extensive *isnād* and *matn* bundle, which converges—albeit not exclusively—in Saʿīd b. Abī ʿArūba (d. 156–59/772–76). Below the tier of Ibn Abī ʿArūba, the *isnād* includes Qatāda b. Diʿāma, al-Ḥasan al-Baṣrī, Ḥiṭṭān b. ʿAbd Allāh and ʿUbāda b. al-Ṣamit. Upon comparison, this part of the *isnād* turns out to be exactly the same as the corresponding part of the *isnād* that Yaḥyā b. Saʿīd al-Qaṭṭān used to support his variant of the non-revelation tradition. This analogy will be important for the analysis of the revelation cluster. For more clarity, I divide this chapter into three parts corresponding to each potential CL.
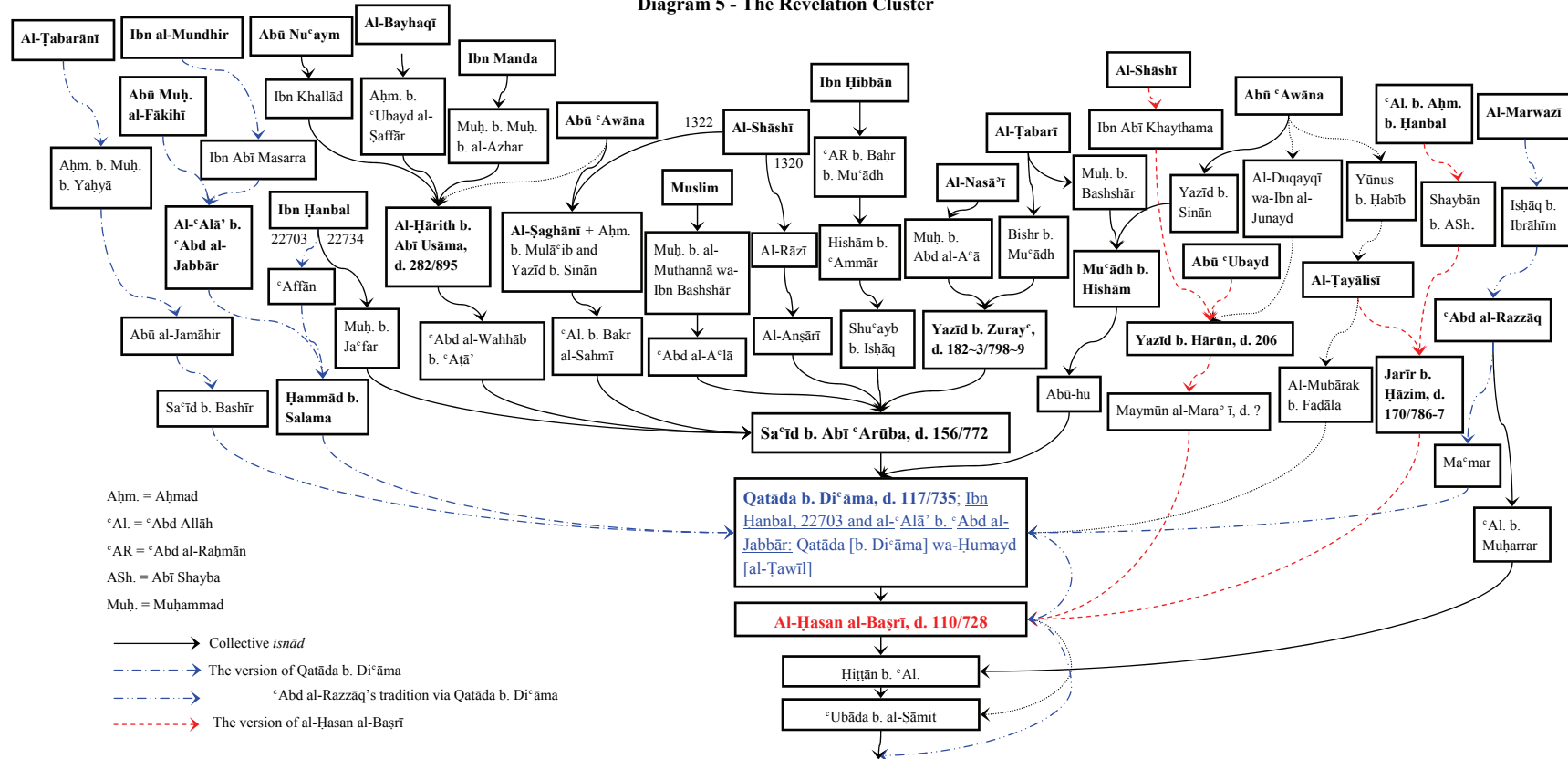
The Ibn Abī ʿArūba cluster
A brief look at the *isnād* structure (Diagram 5, p. 192) suffices to show that single lines of transmission predominate in the Saʿīd b. Abī ʿArūba cluster. Upon closer inspection, however, three key figures may be singled out. One of them is the Baṣran traditionist Yazīd b. Zurayʿ (101–Shawwāl 182 or 183/719–20 – November 798 or 799), a relatively early key figure immediately above the tier of Ibn Abī ʿArūba. Ibn Zurayʿ's tradition is cited by al-Nasāʾī and al-Ṭabarī. Al-Nasāʾī's variant runs as follows:

(1a) *Kāna rasūlᵘ l-lāhⁱ, ṣalʿam, idhā nazala/nuzzila ʿalay-hi kuriba li-dhālika wa-tarabbada la-hu wajhᵘ-hu* (1b) *fa-nazala/nuzzila ʿalay-hi dhatᵃ yawmⁱⁿ fa-laqiya dhālika fa-lammā surriya ʿan-hu qāla:* (2) "*Khudhū ʿan-nī!* (3) *Qad jaʿala l-lāhᵘ la-hunna sabīlᵃⁿ.* (4a) *Al-bikrᵘ bi-l-bikrⁱ jaldᵘ miʾatⁱⁿ wa-nafyᵘ sana* (4b) *wa-l-thayyibᵘ bi-l-thayyibⁱ jaldᵘ miʾatⁱⁿ wa-l-rajm.*"

(1a) When [a revelation] descended upon the Messenger of Allāh, may Allāh bless him and grant him peace, he would be overwhelmed by grief and his face would grow pallid (1b) One day [a revelation] descended upon him, whereupon he experienced this [kind of symptoms]. When he [the Messenger of Allāh] regained his composure, he said: (2) "Take it from me! (3) Allāh has appointed a way for them. (4a) A virgin with a virgin [punish them with] one hundred strokes and a year's banishment (4b) A non-virgin with a non-virgin [punish them with] one hundred strokes and stoning".[111]

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[111] Al-Nasāʾī, *al-Sunan al-Kubrā*, 6:405, no. 7105.

Diagram 5 - The Revelation Cluster

Al-Ṭabarānī

Ibn al-Mundhir

Abū Nuʿaym

Al-Bayhaqī

Ibn Manda

Al-Shāshī

Ibn Ḥibbān

Abū ʿAwāna

Al-Shāshī

Abū ʿAwāna

ʿAl. b. Aḥm. b. Ḥanbal

Al-Marwazī

Abū Muḥ. al-Fākihī

Ibn Khallād

Aḥm. b. ʿUbayd al-Ṣaffār

Muḥ. b. Muḥ. b. al-Azhar

Abū ʿAwāna

1322

Ibn Abī Khaythama

Al-Ṭabarī

Muḥ. b. Bashshār

Yazīd b. Sinān

Al-Duqayqī wa-Ibn al-Junayd

Yūnus b. Ḥabīb

Aḥm. b. Muḥ. b. Yaḥyā

Ibn Abī Masarra

ʿAR b. Baḥr b. Muʿādh

Al-Nasāʾī

Shaybān b. ASh.

Isḥāq b. Ibrāhīm

Al-ʿAlāʾ b. ʿAbd al-Jabbār

Ibn Ḥanbal

22703   22734

Al-Ḥārith b. Abī Usāma, d. 282/895

Al-Ṣaghānī + Aḥm. b. Mulāʿib and Yazīd b. Sinān

Muslim

1320

Hishām b. ʿAmmār

Muḥ. b. Abd al-Aʿā

Bishr b. Muʿādh

ʿAffān

Muḥ. b. al-Muthannā wa-Ibn Bashshār

Al-Rāzī

Muʿādh b. Hishām

Abū ʿUbayd

Al-Ṭayālisī

ʿAbd al-Razzāq

Abū al-Jamāhir

Muḥ. b. Jaʿfar

ʿAbd al-Wahhāb b. ʿAṭāʾ

ʿAl. b. Bakr al-Sahmī

ʿAbd al-Aʿlā

Al-Anṣārī

Shuʿayb b. Isḥāq

Yazīd b. Zurayʿ, d. 182~3/798~9

Yazīd b. Hārūn, d. 206

Jarīr b. Ḥāzim, d. 170/786-7

Saʿīd b. Bashīr

Ḥammād b. Salama

Abū-hu

Maymūn al-Maraʾī, d. ?

Al-Mubārak b. Faḍāla

Maʿmar

Saʿīd b. Abī ʿArūba, d. 156/772

ʿAl. b. Muḥarrar

Aḥm. = Aḥmad

ʿAl. = ʿAbd Allāh

ʿAR = ʿAbd al-Raḥmān

ASh. = Abī Shayba

Muḥ. = Muḥammad

Qatāda b. Diʿāma, d. 117/735; Ibn Hanbal, 22703 and al-ʿAlāʾ b. ʿAbd al-Jabbār: Qatāda [b. Diʿāma] wa-Ḥumayd [al-Ṭawīl]

Al-Ḥasan al-Baṣrī, d. 110/728

Ḥiṭṭān b. ʿAl.

ʿUbāda b. al-Ṣāmit

→ Collective *isnād*

–·–·→ The version of Qatāda b. Diʿāma

–··–··→ ʿAbd al-Razzāq's tradition via Qatāda b. Diʿāma

----→ The version of al-Ḥasan al-Baṣrī

The narrative consists of what we may term a revelation preamble (clause 1) and the prophetic (dual-penalty) maxim (clauses 2–4) as we know it from the non-revelation cluster. Al-Nasāʾī's preamble is notably fictionalized; the description of the Prophet's pallid face, his grief and his relief after the withdrawal of revelation are a dramatic prelude that clearly aims to convince the recipient that the following penal maxim was divinely inspired.

Al-Ṭabarī's variant tradition[112] differs from that of al-Nasāʾī in several respects. In clause 1b al-Ṭabarī chooses the explicative locution *anzala l-lāh^{u} ᶜalay-hi dhāt^{a} yawm^{in}* instead of al-Nasāʾī's shorter *fa-nazala/nuzzila ᶜalay-hi dhāt^{a} yawm^{in}*. By introducing an explicit subject, al-Ṭabarī offers a *lectio facilior*. It removes the ambiguity in the reading of the predicate in al-Nasāʾī's *matn*, which—as the *lectio difficilior*—signals the earlier version. Al-Ṭabarī also prefers a reverse order of the final two clauses; that is, he puts 4b before 4a. As noted, such changes are most probably inadvertent and cannot be treated as evidence pointing to a dissimilar source of information. Far from inspiring similar confidence is the third difference between al-Ṭabarī and al-Nasāʾī. While the former chooses *rajm^{un} bi-l-ḥijāra* to describe the punishment for adultery, the latter prefers the single-worded *wa-l-rajm*. It must be recalled that the locution *ramy^{un}/rajm^{un} bi-l-ḥijāra* has been identified as a version-specific feature that distinguishes the tradition of Yaḥyā b. Saᶜīd al-Qaṭṭān from the tradition of Hushaym b. Bashīr who prefers the single-worded *wa-l-rajm*.

One may surmise that Yazīd b. Zurayᶜ (d. 182–3/798–9) transmitted a similar tradition to each of Bishr b. Muᶜādh and Muḥammad b. ᶜAbd al-Aᶜlā, who in turn transmitted it to al-Ṭabarī and al-Nasāʾī. But how can one account for the differences between the variants of al-Ṭabarī and al-Nasāʾī from one side, and, from another side, the peculiarities of Yazīd's *matn*, which betray an acquaintance with two important versions that belong to the non-revelation cluster? The first question is impossible to answer because of the spider *isnād* structure above Yazīd b. Zurayᶜ. Although this leaves us wondering about the original wording of Yazīd's hypothetical tradition, let us, for the sake of argument, proceed to the second question. It entails two hypotheses.

Yazīd b. Zurayᶜ lived and worked in Basra, therefore we may exclude a direct influence from the Wāsiṭī traditionist Hushaym b. Bashīr. Yaḥyā b. Saᶜīd al-Qaṭṭān is not known to have related traditions on the authority of Yazīd b. Zurayᶜ. Nor, for that matter, is Yazīd b. Zurayᶜ known to

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[112] Al-Ṭabarī, *Jāmiᶜ*, 6:496.

have transmitted from al-Qaṭṭān. Nevertheless, al-Qaṭṭān was reportedly acquainted with Yazīd, which indicates that transmission of knowledge between the two was not impossible.[113]

An either direct or indirect borrowing is not the only possible explanation of the similarity between the tradition of Yazīd b. Zurayᶜ and those of Hushaym b. Bashīr and Yaḥyā b. Saᶜīd al-Qaṭṭān. Both al-Qaṭṭān and Ibn Zurayᶜ rely on Saᶜīd b. Abī ᶜArūba as their common informant. It should be recalled that when analyzing al-Qaṭṭān's role in the non-revelation cluster (Diagram 3, p. 184), I could not prove that his version or parts thereof go to the credit of Saᶜīd b. Abī ᶜArūba. If, notwithstanding the single-strand *isnād*s in the traditions of al-Ṭabarī and Abū ᶜAwāna, we accept Yazīd b. Zurayᶜ as a (S)PCL of Saᶜīd b. Abī ᶜArūba, the same would likely apply on al-Qaṭṭān. Having conceded two possible PCLs of Ibn Abī ᶜArūba, we may consider him as an earlier CL, and by extension as a hypothetical PCL of Qatāda b. Diᶜāma.

Does the *matn* evidence support the testimony of the *isnād*s? Al-Qaṭṭān, it should be recalled, is an unambiguous transmitter of a version of the non-revelation tradition; Yazīd b. Zurayᶜ, on his part, would have have transmitted a *matn* that includes the revelation preamble. As al-Qaṭṭān and Yazīd b. Zurayᶜ agree on an almost identical version of the dual-penalty *dictum* and disagree on the existence of the revelation preamble, the latter may be considered intrusive in Yazīd b. Zurayᶜ's *matn*. The spider branches over the tier of Yazīd b. Zurayᶜ do not allow us to make a definite conclusion about the redactor who added the preamble to Yazīd's original tradition. The issue may become more transparent, as we progress through the revelation bundle.

The next knot of *isnād* convergence to which I turn now draws on three key figures instead of the usual one (Diagram 5, p. 192). Abū ᶜAwāna cites Yazīd b. Sinān (d. 264/878) and Muḥammad b. Isḥāq al-Ṣaghānī (d. 270/883), whereas al-Shāshī relies on Muḥammad b. Isḥāq al-Ṣaghānī and Aḥmad b. Mulāᶜib (d. 275/888). Such double attributions indicate doubts about the actual transmitter of the tradition. Nevertheless, since both Abū ᶜAwāna and al-Shāshī share al-Ṣaghānī as their common informant, he may have been the actual CL/PCL of the tradition. *Matn* analysis may help us in substantiating al-Ṣaghānī's contribution. Let us start with Abū ᶜAwāna's *matn*:

(1a) *Kāna rasūlᵘ l-lāhⁱ, ṣalᶜam, idhā nazala/nuzzila ᶜalay-hi kuriba li-dhālika wa-tarabbada la-hu wajhᵘ-hu* (1b) *fa-awḥā l-lāhᵘ ᶜazza wa-jalla*

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[113] Ibn Abī Ḥātim, *Jarḥ*, 9:263.

ilay-hi dhat^a yawmⁱⁿ fa-lammā surriya ᶜan-hu qāla: (2) "*Khudhū ᶜan-nī*! (3) *Qad jaᶜala l-lāh^u la-hunna sabīl^{an}*. (4a) *Al-thayyib^u bi-l-thayyib (4b) wa-l-bikr^u bi-l-bikr* (5a) *Al-thayyib^u jald^u miʾatⁱⁿ thumm^a rajm^{un} bi-l-ḥijāra* (5b) *wa-l-bikr^u jald^u miʾatⁱⁿ thumm^a nafy^u sana*."

(1a) When [a revelation] descended upon the Messenger of Allāh, may Allāh bless him and grant him peace, he would be overwhelmed by grief and his face would grow pallid (1b) One day Allāh sent upon him a revelation. When he [the Messenger of Allāh] regained his composure, he said: (2) "Take it from me! (3) Allāh has appointed a way for them. (4) A non-virgin with a non-virgin and a virgin with a virgin (5a) A non-virgin [should suffer] one hundred strokes then an execution with stones, (5b) a virgin [should suffer] one hundred strokes then a year's banishment".[114]

Al-Shāshī[115] relates a similar *matn*, albeit with some differences. The most prominent of them is observed in clause 1b, which in al-Shāshī's tradition reads, *Fa-ūḥiya ilay-hi dhāt^a yawmⁱⁿ fa-laqiya dhālika fa-lammā surriya ᶜan-hu qāla* ("One day he received a revelation, whereupon he experienced this [kind of symptoms]. When he regained his composure, he said"). By using the passive *ūḥiya ilay-hi*, al-Shāshī has come with a revelation preamble that sounds much like the preamble in al-Ṭabarī's tradition on the authority of Ibn Zurayᶜ, whereas Abū ᶜAwāna stands closer to al-Nasāʾī's variant through Ibn Zurayᶜ.

The prophetic *dictum* that follows the preamble bears resemblance to the version of Shuᶜba b. al-Ḥajjāj in dividing the penal maxim into two parts (clauses 4a and 4b); and to the version of Yaḥyā b. Saᶜīd al-Qaṭṭān in employing the locution *rajm^{un} bi-l-ḥijāra*. The last feature once again brings to the fore the possibility of the *matn*'s going back to a core version circulated by Saᶜīd b. Abī ᶜArūba. Nevertheless, the collective attribution to al-Ṣaghānī, Aḥmad b. Mulāᶜib and Yazīd b. Sinān in addition to its single-strand *isnād* precludes a more definite conclusion about the historical roots of this version. One may confidently say only that it was influenced by the wording of traditions that belong to both the revelation and the non-revelation cluster.

The third key figure in the Ibn Abī ᶜArūba cluster (Diagram 5 p. 192) is the near-centenarian Baghdādī collector al-Ḥārith b. Abī Usāma (186–282/802–896), an author of a currently lost *Musnad*.[116] The earliest

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[114] Abū ᶜAwāna, *Musnad*, 4:120–1, no. 6249.

[115] Al- Shāshī, *Musnad*, 3:222, no. 1322.

[116] A volume of *Zawāʾid* (Addenda) to the *Musnad* of al-Ḥārith was published in 1992. (Al-Haythamī, *Bughyat al-Bāḥith ᶜan Zawāʾd Musnad al-Ḥārith*, ed. Ḥusayn Aḥmad Ṣāliḥ al-Bākirī, 2 vols. [1st ed., Medina: al-Jāmiᶜa al-Islāmiyya bi-

collection that refers to al-Ḥārith's tradition is the *Musnad* of Abū ʿAwāna (d. 316/928–9).[117] Unfortunately, Abū ʿAwāna's tradition on the authority of al-Ḥārith is a collective *isnād*. According to Abū ʿAwāna the *isnād* through al-Ḥārith b. Abī Usāma carries a *matn* that is identical with the one he received via Yazīd b. Sinān and Muḥammad b. Isḥāq al-Ṣaghānī → ʿAbd Allāh b. Bakr al-Sahmī → Saʿīd b. Abī ʿArūba.

The revelation preambles in the traditions of Ibn Manda (d. 395/1005), Abū Nuʿaym (d. 430/1038) and al-Bayhaqī (d. 458/1066) through al-Ḥārith b. Abī Usāma are almost identical.[118] At the same time they depart from Abū ʿAwāna's *matn* that is carried by the above mentioned collective *isnād* in an important detail: Ibn Manda, Abū Nuʿaym and al-Bayhaqī choose to adduce a short biographical note on ʿUbāda b. al-Ṣāmit. In their words, ʿUbāda was one of the representatives (*nuqabāʾ*) of the people of Yathrib who swore allegiance to the Prophet on the hill of ʿAqaba, and subsequently fought along the Prophet in the battle of Badr. This note was most likely introduced by Ibn Manda, the earliest collector to include it in his variant tradition. Ibn Manda is known to have compiled a biographical dictionary about the Companions (*Maʿrifat al-Ṣaḥāba*),[119] which explains his interest in such a personal detail. Abū Nuʿaym took advantage of Ibn Manda's note in his own biographical dictionary, *Maʿrifat al-Ṣaḥāba*. Insofar as Abū Nuʿaym reproduces verbatim Ibn Manda's note, it is highly likely that the former copied the latter without revealing his actual source. Al-Bayhaqī would have copied either Ibn Manda or Abū Nuʿaym, without paying attention that the biographical note on ʿUbāda is superfluous to his *ḥadīth* collection, and, for that matter, to al-Ḥārith b. Abī Usāma's *ḥadīth* collection.

Apart from the biographical note about ʿUbāda, one may ask what is the chance of Ibn Manda, Abū Nuʿaym and al-Bayhaqī's reproducing

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l-Madīna al-Munawwara, 1992]). The volume's author, Ibn Ḥajar al-Haythamī (d. 807/1404–5), paid no attention to the *khudhū ʿan-nī* tradition.

[117] Abū ʿAwāna, *Musnad*, 4:121, no. 6250.

[118] Ibn Manda, *Kitāb al-Īmān*, ed. ʿAlī b. Muḥammad b. Nāṣir al-Faqīhī, 2 vols. (2nd ed., Beirut: Muʾassasat al-Risāla, 1406/1985), 2:700–1, no. 696; Abū Nuʿaym, *Maʿrifat al-Ṣaḥāba*, ed. ʿĀdil b. Yūsuf al-ʿAzzāzī, 7 vols. (1st ed., Riyadh: Dār al-Waṭan li-l-Nashr, 1998/1419), 3:1923, no. 4840; al-Bayhaqī, *al-Sunan al-Kubrā*, 8:210.

[119] *EI*², s.v. "Ibn Manda" (F. Rosenthal). There is no entry on ʿUbāda b. al-Ṣāmit in the surviving text of Ibn Manda's *Maʿrifat al-Ṣaḥāba* (Ibn Manda, *Maʿrifat al-Ṣaḥāba,* ed. ʿĀmir Ḥasan Ṣabrī, 2 vols. (1st ed., al-ʿAyn: Jāmiʿat al-Imārāt al-ʿArabiyya al-Muttaḥida, 1426/2005).

faithfully a core variant that goes to al-Ḥārith b. Abī Usāma. Given the overlap of the revelation preamble, such possibility may not be excluded. The evidence of the remaining part of the tradition is ambiguous. Ibn Manda has chosen to remove from his *matn* the entire penal maxim, save for the opening exclamation *Khudhū ʿan-nī*! Since Abū ʿAwāna has a collective *isnād*, which cannot be used as corroborative evidence, while Ibn Manda cites an incomplete *matn*, which is also of little utility, one is left with the traditions of Abū Nuʿaym and al-Bayhaqī. In this case al-Ḥārith might seem as a (S)PCL, albeit a suspicious one because of the spider branches above his tier. Furthermore, al-Ḥārith is separated from Ibn Abī ʿArūba by ʿAbd al-Wahhāb b. ʿAṭāʾ. Although one may point to the possibility of al-Ḥārith's having obtained from ʿAbd al-Wahhāb b. ʿAṭāʾ a written copy of Ibn Abī ʿArūba's alleged *Muṣannaf*,[120] the single strand does not allow us to judge about the *matn* of the tradition at the time of Ibn Abī ʿArūba, but rather only about its wording in ʿAbd al-Wahhāb's written source, which may have undergone later redactions.

In the traditions of Abū Nuʿaym and al-Bayhaqī, the penal maxim is similar to that in the tradition via al-Ṣaghānī, Aḥmad b. Mulāʿib and Yazīd b. Sinān. In each case, the *matn* reveals traces of both the Shuʿba b. al-Ḥajjāj and al-Qaṭṭān *matn*s. On the other hand, we have seen that the penal maxim in the variants through Yazīd b. Zurayʿ is similar to the corresponding part of the non-revelation tradition associated with Hushaym b. Bashīr. May one of these variants be traced back to Ibn Abī ʿArūba?

An answer may be sought in the considerable number of single-strand *isnād*s that make up the Ibn Abī ʿArūba cluster (Diagram 5, p. 192). The maxims cited by Ibn Ḥanbal (no. 22734),[121] Muslim[122] and Ibn

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[120] For more on Ibn Abī ʿArūba's *Muṣannaf*, see Schoeler, "Oral Tora and *Ḥadīṯ*," in idem, *The Oral and the Written in Early Islam*, translated by Uve Vagelpohl, ed. James E. Montgomery (London and New York: Routledge, 2006), 114–5.

[121] Ibn Ḥanbal, *Musnad*, 37:402–3, no. 22734; cf. ibid., 37:388, no. 22715 with slight changes in 1a, where Ibn Ḥanbal describes the symptoms of revelation with the following words: *idhā nazala ʿalay–hi l-waḥy aththara ʿalay–hi karb^{un} li–dhālika wa-tarabbada la–hu wajh^{u}–hu* (When a revelation came upon him, he would be affected by grief and his face would grow pallid).

[122] Muslim, *Ṣaḥīḥ*, 11:273, no. 1690.

Ḥibbān[123] agree nearly verbatim with the maxims found in the tradition of Abū Nuʿaym and al-Bayhaqī through al-Ḥārith b. Abī Usāma and the tradition of al-Shāshī (no. 1322) through Muḥammad b. Isḥāq al-Ṣaghānī and Aḥmad b. Mulāʿib. The only exception to this rule is al-Shāshī, no. 1320,[124] whose maxim is similar to that in al-Ṭabarī's tradition on the authority of Ibn Zurayʿ. Thus, one gets the impression that the penal maxim in the Ibn Abī ʿArūba was greatly influenced by the traditions of Shuʿba and al-Qaṭṭān.

It is perilous, however, to draw conclusions on the basis of single-strand *isnād*s, except in the cases that allow for additional assessment criteria. They include citations by immediate CRs, overlap with already established CL variants, and narrative peculiarities that bear witness to relationship with other (older) traditions, vaguer formulations and difficult readings. Although speculative, if applied carefully these criteria may be helpful in dating Muslim traditions.

In the case of Ibn Abī ʿArūba there is one hypothetical (S)PCL, Yazīd b. Zurayʿ, whereas another two key-figures, al-Ṣaghānī and al-Ḥārith b. Abī Usāma (who may only with great reservations be treated as [S]CLs/[S]PCLs) are removed from Ibn Abī ʿArūba by single lines of transmission. The same goes for the traditions cited by the CRs, Ibn Ḥanbal, Muslim and Ibn Ḥibbān: in each case there is a single strand leading to Ibn Abī ʿArūba. Due to the precarious character of the *isnād* evidence, it will be unwarranted to consider it as an unambiguous proof of Ibn Abī ʿArūba's CL status.

Unlike the ambiguous testimony of the *isnād*s, the narrative structure of the traditions making up the Ibn Abī ʿArūba cluster reveals three consistent traits:

1. Despite some slight variations, the revelation preamble is narratively consistent. Its two most salient features are the description of the Prophet's pallid face and his being overwhelmed by grief while receiving divine revelation.
2. Like the tradition of Shuʿba b. al-Ḥajjāj, the penal maxim describes the punishment for sexual transgressions in two separate clauses. First, it states *al-bikr^u bi-l-bikr^j wa-l-thayyib^u bi-l-thayyib*,

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[123] Ibn Ḥibbān, *Ṣaḥīḥ*, 10:291, no. 4443. The *isnād* is not included on Diagram 4. It runs as follows: Ibn Ḥibbān → ʿAbd al-Raḥmān b. Baḥr b. Muʿādh al-Bazzār → Hishām b. ʿAmmār → Shuʿayb b. Isḥāq → Saʿīd b. Abī ʿArūba.

[124] Al-Shāshī, *Musnad*, 3:219, 1320.

and then adds a second clause describing the exact punishment to be meted out to each category of transgressors.

3. In its second clause, the maxim digresses from Shuʿba's version by preferring genitive compounds to the verbal forms used by Shuʿba. The locution *rajm^{un} bi-l-ḥijāra* is a clear reference to the version of Yaḥyā b. Saʿīd al-Qaṭṭān.

Do these features allow us to conclude that Ibn Abī ʿArūba is a CL, notwithstanding the rather negative evidence of the *isnād*s? I have noted that Yaḥyā b. Saʿīd al-Qaṭṭān relates his non-revelation tradition on the authority Saʿīd b. Abī ʿArūba. Another important CL in the non-revelation cluster, Shuʿba b. al-Ḥajjāj, was acquainted with Ibn Abī ʿArūba and together with him and Hishām al-Dastuwāʾī was regarded as one of the most reliable transmitters from Qatāda b. Diʿāma.[125] Given that neither Shuʿba (d. 160/776) nor al-Qaṭṭān (d. 198/813) appear to have been familiar with the revelation version, Saʿīd b. Abī ʿArūba (d. 156/772) would have been hardly so. One may think that if Ibn Abī ʿArūba should be treated as al-Qaṭṭān's actual informant and that he knew a tradition that was confined to the dual-penalty maxim. The revelation preamble would have been attached to Ibn Abī ʿArūba's tradition much later, perhaps only after the death of al-Qaṭṭān.

Alternatively, al-Qaṭṭān may have forged his *isnād* through Ibn Abī ʿArūba. In this case we face considerable problems, as the *isnād*s of the revelation traditions that pass through Ibn Abī ʿArūba do not reveal but a single (S)CL, Yazīd b. Zurayʿ. By any standard, this is far from sufficient to substantiate conjectures about the wording of Ibn Abī ʿArūba's *matn*. It should be noted that the constituent traditions of the Ibn Abī ʿArūba cluster, albeit taking advantage of a resembling wording and a similar set of revelation imagery, draw exclusively on external narrative material. The penal maxim is entirely dependent on the non-revelation cluster. As noted, the revelation preamble is a highly fictionalized narrative. Units of expression like *idhā nazala/nuzzila ʿalay-hi*, *tarabbada wajh^u-hu*, *kuriba li-dhālika* and *fa-lammā surriya ʿan-hu* are widespread in the Muslim exegetical and juristic literature. They are commonly used to describe the theophany and may not be treated as unique to any specific tradition. Nevertheless, it is possible to divide the revelation preamble into two textual layers. The first one includes the symptoms of revelation (*tarabbada wajh^u-hu*, *kuriba li-*

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[125] Al-Mizzī, *Tahdhīb al-Kamāl*, 11:9.

dhālika); the second one comes to light when these symptoms are removed from the narrative:

(1) Kāna rasūl^u l-lāhⁱ, ṣal^cam, idhā nazala/nuzzila ^calay-hi (2) fa-nazala/nuzzila ^calay-hi dhat^a yawmⁱⁿ fa-lammā surriya ^can-hu qāla:

The division of the preamble into the above textual layers will be helpful at the next stages of our analysis.

The Qatāda b. Di^cāma cluster
In addition to the traditions through Sa^cīd b. Abī ^cArūba, the revelation cluster includes a number of *isnād*s that look at first sight as likely dives under the CL (Diagram 5, p. 192). May these *isnād*s indicate a CL that is earlier than Ibn Abī ^cArūba or they are mere dives? What was the wording of the hypothetical early CL version if it existed at all? Let us turn to these traditions for possible answers.

Ibn Ḥanbal, Ibn al-Mundhir and Abū Muḥammad al-Fākihī[126] cite a tradition on the authority of Ḥammād b. Salama, thereby circumventing Sa^cīd b. Abī ^cArūba. This version differs from the other revelation traditions in relying on the collective transmission of Ḥumayd al-Ṭawīl (d. 142/759–60) and Qatāda b. Di^cāma (d. 117/735) from al-Ḥasan al-Baṣrī. Due to the considerable age difference between Ḥumayd and Qatāda, it seems as an *isnād* irregularity that Ḥumayd and Qatāda are juxtaposed at a single tier of transmission. Ḥumayd would have been a more likely intermediate link between Qatāda and Ḥammād b. Salama (d. 167/784), but neither al-Fākihī nor Ibn Ḥanbal nor Ibn al-Mundhir indicates this possibility.

Above the tier of Ḥammād b. Salama, one finds a key figure, al-^cAlā' b. ^cAbd al-Jabbār (d. 212/827–8), who is quoted directly by the CR, al-Fākihī, and indirectly by Ibn al-Mundhir. A CR quotation accompanied with a single-strand *isnād* may point to al-^cAlā' b. ^cAbd al-Jabbār's CL/PCL status, provided that the traditions that pass through him are textually consistent. Ibn Ḥanbal's *isnād* to Ḥammād b. Salama is a single strand, but it may serve as corroborative evidence of Ḥammād's CL status if a consistent *matn* variant of al-^cAlā' b. ^cAbd al-Jabbār is established, and if that variant concurs with the *matn* of Ibn Ḥanbal.

Compared to the traditions in the Ibn Abī ^cArūba cluster, Ibn Ḥanbal, Ibn al-Mundhir and al-Fākihī partly dispose of clause 1b, which

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[126] Ibn Ḥanbal, *Musnad*, 37:376, no. 22703; Ibn al-Mundhir, *Tafsīr*, 1:602, no. 1469; Abū Muḥammad al-Fākihī, *Fawā'id*, ed. Muḥammad b. ^cAbd Allāh b. ^cĀyiḍ al-Ghabbānī (1st ed., Riyadh: Maktabat al-Rushd, 1419/1998), 433–4, no. 209.

otherwise serves to introduce the notion that the following prophetic *dictum* is divinely inspired:

(1a) *Anna l-nabī, ṣalᶜam, kāna idhā nazala ᶜalay-hi l-waḥy^u kuriba la-hu wa-tarabbada wajh^u-hu* (1b) *wa-idhā surriya ᶜan-hu qāla*

(1a) When a revelation descended upon the Prophet, may Allāh bless him and grant him peace, he would be overwhelmed by grief and his face would grow pallid (1b) When he [the prophet] regained his composure, he said

The only residue of clause 1b is the locution *fa-idhā surriya ᶜan-hu*. Due to the removal of the words stating that one day Allāh sent upon the Prophet a revelation, clause 1b sounds as an odd interjection between clause 1a, which describes the symptoms of revelation in generic terms, and the dual-penalty *dictum*, which may only by a stretch of imagination be understood as a specific instance of divinely revealed words. The obvious narrative rupture in clause 1b betrays either a redactional intervention in a *matn* that already contained the entire revelation preamble, or an early stage of transformation of the non-revelation tradition into its revelation counterpart.

Whereas the revelation preamble is identical in the traditions of Ibn Ḥanbal, Ibn al-Mundhir and al-Fākihī, which points to a common source that may be hypothetically identified with Ḥammād b. Salama, the same may hardly be said about the prophetic *dictum*. To the best of my knowledge, Ibn Ḥanbal is the only author of a surviving collection according to whom the Prophet exclaimed *Khudhū ᶜan-nī*! not two, but three times (*thalāth^a mirār*). The three-fold repetition is a sign of later fictionalization of the narrative, but it leaves us wondering about the wording of the original *matn*. As Ibn al-Mundhir repeats the exclamation only twice, while relying on the same lower part of the *isnād*, to wit, Ḥammād b. Salama on the authority of Qatāda b. Diᶜāma and Ḥumayd al-Ṭawīl, one may imagine that Ibn Ḥanbal had the dual-repetition formula before his eyes.

Ibn Ḥanbal's clauses 4 and 5 (*[4a] al-thayyib^u bi-l-thayyib [4b] wa-l-bikr^u bi-l-bikr [5a] al-thayyib^u jald^u miʾat^{in} wa-l-rajm^u [5b] wa-l-bikr^u jald^u miʾat^{in} wa-nafy^u sana*) call to mind the early tradition of Shuᶜba (the two-part-clause structure of the penal maxim), and its subsequent redaction by Hushaym b. Bashīr (the use of genitive compounds in clause 5). Unlike Ibn Ḥanbal, Ibn al-Mundhir and al-Fākihī prefer a *matn* in which clause 4 (*al-thayyib^u bi-l-thayyib^i wa-l-bikr^u bi-l-bikr*) is removed and apparently merged with clause 5. In so doing they have

come out with a prophetic *dictum* that is almost similar to that of Hushaym b. Bashīr, but is notably different from the tradition of Ibn Ḥanbal.

The above *matn* analysis shows that the traditions of Ibn al-Mundhir and al-Fākihī are higly consistent. Insofar as both *isnād*s pass trough al-ʿAlāʾ b. ʿAbd al-Jabbār, he may safely be considered as a CL/PCL. At the same time, al-ʿAlāʾ's *matn* wording departs considerably from Ibn Ḥanbal's *matn*. Whereas al-ʿAlāʾ sticks to the wording of Hushaym b. Bashīr, Ibn Ḥanbal is clearly inclined towards a variant based on the tradition of Shuʿba b. al-Ḥajjāj. If one assumes that there was a version of Ḥammād b. Salama, it should be divided into two separate parts. Insofar as Ibn Ḥanbal and al-ʿAlāʾ b. ʿAbd al-Jabbār agree almost verbatim on the formulation of the prophetic preamble, it may be considered as part of Ḥammād's tradition. With regard to the prophetic *dictum*, it is impossible to define the contents of Ḥammād's version because of the distinct wordings of Ibn Ḥanbal and al-ʿAlāʾ b. ʿAbd al-Jabbār. It should be recalled here that al-Dārimī cites a non-revelation variant on the authority of Ḥammād b. Salama which includes a dual-penalty *dictum* identical with that of al-ʿAlāʾ b. ʿAbd al-Jabbār (Diagram 3, p. 184). [127] Since al-Dārimī's variant excludes the revelation preamble, it frustrates our effort to reconstruct Ḥammād's *matn*. Given the *matn* variations, Ḥammād b. Salama may be considered at best as a (S)CL of a tradition that consisted either of the revelation preamble alone (because of the dissimilar penal maxims in the traditions of Ibn Ḥanbal and the CL/PCL al-ʿAlāʾ b. ʿAbd al-Jabbār) or the penal maxim alone (because al-Dārimī does not cite the preamble as part of Ḥammād's tradition). As the preamble is not semantically self-subsistent, only the second possibility seems feasible. Al-Dārimī or his informant, Bishr b. ʿAmr, may have edited the *matn* as to exclude the preamble, but this cannot be proven because of the single line of transmission to Ḥammād b. Salama.

Al-Ṭabarī and Abū ʿAwāna cite a tradition based on the family *isnād*: Muʿādh b. Hishām (d. 200/815) → his father, Hishām al-Dastuwāʾī (d. 151–4/768–71):

(1a) *Anna l-nabiyyᵃ, ṣalʿam, kāna idhā nazala ʿalay-hi l-waḥyᵘ nakkasa raʾsᵃ-hu wa-nakkasa aṣḥābᵘ-hu ruʾūsᵃ-hum* (1b) *Fa-lammā surriya ʿan-hu rafaʿa raʾsᵃ-hu fa-qāla:* (2) *Khudhū ʿan-nī* (3) *Qad jaʿala l-lāhᵘ la-hunna sabīlᵃⁿ.* (4) *Al-thayyibᵘ bi-l-thayyibⁱ wa-l-bikrᵘ bi-l-bikr* (5a) *Ammā l-*

127   Al-Dārimī, *Sunan*, 3:1500, no. 2372.

thayyib^u fa-yujladu thumma yurjamu (5b) *wa-ammā l-bikr^u fa-yujladu thumma yunfā*."

(1a) When a revelation descended upon the Prophet, may Allāh bless him and grant him peace, he would bend down his head and his companions would bend down their heads (1b) When he [the Prophet] regained his composure, he raised his head and said: "(2) Take it from me (3) Allāh has appointed a way for them. (4) A non-virgin with a non-virgin and a virgin with a virgin. (5a) As for the non-virgin, he/she should be flogged then stoned (5b) and as for the virgin, he/she should be flogged and banished".[128]

In al-Ṭabarī's variant, clause 1a lacks the image of grief and sorrow conveyed by the verb *kuriba*; in fact, it lacks even the pallid-face section, which is usually present in the other narratives. Thus the dramatic context of the *kuriba*-version is absent in favor of the lackluster head-bending. The clause according to which the Prophet's companions would also bend down their heads is superfluous, whereas the section of clause 1b according to which the Prophet raised his head (*rafa^ʿa ra^ʾs^a-hu*) was most likely added to the narrative to compensate for the incongruity between the generic meaning of clause 1 and the specific instance introduced by clause 1b.

It should be noted that Abū ʿAwāna's version of the revelation preamble differs from al-Ṭabarī's in a notable way. Instead of al-Ṭabarī's clause 1a, which is grammatically disconnected from clause 1b and the ensuing prophetic *dictum*, Abū ʿAwāna provides us with a more consistent narrative:

(1a) *Anna nabiyy^a l-lāh^i, ṣal^ʿam, unzila ʿalay-hi dhāt^a yawm^in, fa-nakkasa aṣḥāb^u-hu ru^ʾūs^a-hum*, (1b) *fa-lammā surriya ʿan-hu rafa^ʿū ru^ʾūs^a-hum fa-qāla*

(1a) One day the revelation was sent down upon the Prophet of Allāh, and his companions bent down their heads. (1b) When he [the Prophet] regained his composure, they raised their heads and he [the Prophet] said

By employing the locution *unzila ʿalay-hi dhāt^a yawm^in* Abū ʿAwāna's tradition clearly refers to a specific case of revelation thus removing the abrupt transition from general to specific in clauses 1a and 1b.

While both al-Ṭabarī and Abū ʿAwāna seem to convey an early version of the preamble, which is evident from the absence of the later

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[128] Al-Ṭabarī, *Jāmiʿ*, 6:496; Abū ʿAwāna, *Musnad*, 4:121, no. 6253.

fictional elements, one faces the question of whose variant preamble stands closer to the earliest version and what might have been the wording of this version? It may seem that al-Ṭabarī's clumsy wording is earlier, whereas Abū ʿAwāna has edited the *matn* in order to make it more consistent. Nevertheless, the possibility should not be overlooked of a reverse process. Al-Ṭabarī may have been influenced by the versions of the revelation tradition that begin with the fictionalized clause *anna l-nabiyy[a], ṣalʿam, kāna idhā nazala/nuzzila/unzila ʿalay-hi*.

The above issue may be solved, if we succeed in distilling a common narrative core from the traditions of al-Ṭabarī and Abū ʿAwāna. When we remove the head-bending clauses, the following wording emerges:

(1) Anna nabiyy[a] l-lāh[i], ṣalʿam, unzila ʿalay-hi/kāna idhā nazala ʿalay-hi [l-waḥy[u]] (2) fa-idhā/fa-lammā surriya ʿan-hu qāla.

This wording may be attributed to Muʿādh b. Hishām. Once again, caution is in order, because of the spider structure above Muʿādh, whom I prefer to consider as an (S)CL. Upon comparison with the hypothetical version of Ḥammād b. Salama and the basic narrative elements that we extracted from the traditions in the Ibn Abī ʿArūba cluster, we may observe that Abū ʿAwāna's preamble includes an outstanding feature. All revelation preambles that I studied up to now are based on a temporal/conditional clause marked by the use of the respective particle, *idhā*. This clause requires a complement, which is usually found in the following clause (clause 1b) that serves more or less consistently as a link with the dual penalty *dictum*. Abū ʿAwāna departs from the above elaborate clause structure in favor of a simpler expression:

(1) Anna l-nabiyy[a], ṣalʿam, unzila ʿalay-hi [l-waḥy[u]] dhāta yawm[in] [(2) fa-lammā surriya ʿan-hu qāla].

Apparently clause 1, which does not call for any specific complement, stands closest to the version of the (S)CL Muʿādh b. Hishām.

Unlike the inconsistent penal-*dictum* wording in the traditions via Ḥammād b. Salama, the *dictum* variants in the traditions of al-Ṭabarī and Abū ʿAwāna via Muʿādh b. Hishām are almost identical and greatly overlap with the corresponding part in the tradition of Shuʿba b. al-Ḥajjāj. Note the use of unqualified verbal forms to describe the punishment for adultery and fornication. It will be recalled that such verbal forms are an exclusive feature of Shuʿba's tradition (Diagram 1, p. 166). Such similarities suggest that the prophetic *dictum* goes back to an early transmitter, most likely Muʿādh b. Hishām. Muʿādh's

hypothetical version emerges when we combine the already reconstructed preamble with the prophetic *dictum*:

(1a) Anna l-nabiyy^a, ṣal^{c}am, unzila ^{c}alay-hi [l-waḥy^u] dhāta yawm^{in} [(1b) fa-lammā surriya ^{c}an-hu qāla:] "(2) *Khudhū ^{c}an-nī (3) Qad ja^{c}ala l-lāh^u la-hunna sabīl^{an}*. (4) *Al-thayyib^u bi-l-thayyib^i wa-l-bikr^u bi-l-bikr* (5a) *Ammā l-thayyib^u fa-yujladu thumma yurjam (5b) wa-ammā l-bikr^u fa-yujladu thumma yunfā*".

This reconstruction makes the narrative fairly cohesive: it disposes of the awkward relationship between the revelation preamble and the following dual-penalty maxim as observed in the traditions of Ibn Ḥanbal and Ibn al-Mundhir via Ḥammād b. Salama and the tradition of al-Ṭabarī via Mu^{c}ādh b. Hishām. It seems that if there was an early version of the tradition, it would have been based on the looser narrative structure. The reconstructed version of Mu^{c}ādh b. Hishām gives an insight into that narrative, which, I think, would have been void of the connective clause *fa-lammā surriya ^{c}an-hu qāla*. This clause is a necessary complement to the preceding conditional clause as observed in the majority of the preamble variants, but becomes dispensable in the reconstructed variant of Mu^{c}ādh.

Did Mu^{c}ādh b. Hishām receive his tradition from Qatāda b. Di^{c}āma? In addition to Mu^{c}ādh, we have found only one possible (S)CL, Ḥammād b. Salama. His status however is precarious; we do not know whether he transmitted the revelation preamble. Even if he did, his variant is based on the more developed conditional-clause structure, which does not allow us to advance any hypothesis about the wording of Qatāda's tradition. Furthermore, the variants of the dual-penalty *dictum* on the authority of Ḥammād differ to a degree that does not allow us to attribute them to a single source. It is true that Ibn Ḥanbal's variant via Ḥammād shares structural features with Shu^{c}ba's tradition, which is the core of Mu^{c}ādh's prophetic *dictum*, and may therefore go to Qatāda b. Di^{c}āma. Nevertheless, Ibn Ḥanbal deviates considerably from Shu^{c}ba in preferring genitive compounds to Shu^{c}ba's earlier verbal forms. Thus one is left wondering about the wording of both the revelation preamble and the prophetic *dictum* if they were transmitted by Qatāda b. Di^{c}āma.

^{c}Abd al-Razzāq al-Ṣan^{c}ānī cites a tradition that may help us verify the above reconstruction of Mu^{c}ādh b. Hishām's *matn* and decide whether it goes to Qatāda b. Di^{c}āma. On the authority of Ma^{c}mar b. Rāshid via Qatāda, ^{c}Abd al-Razzāq cites the following *matn*:

(1) *Ūḥiya ilā l-nabī, ṣalᶜam, fa-qāla*: "(2) *Khudhū! Khudhū!* (3) *Qad jaᶜala l-lāhᵘ la-hunna sabīlᵃⁿ*. (4a) *Al-thayyibᵘ bi-l-thayyibⁱ jaldᵘ miʾatⁱⁿ wa-l-rajmᵘ* (4b) *wa-l-bikrᵘ bi-l-bikrʲ jaldᵘ miʾatⁱⁿ wa-nafyᵘ sana*."

(1) [One day] a revelation was sent down to the Prophet, may Allāh bless him and grant him peace, whereupon he said: "(2) Take it! Take it! (3) Allāh has appointed a way for them. (4a) A non-virgin with a non-virgin [should be punished with] one hundred strokes and stoning (4b) and a virgin with a virgin [should be punished with] one hundred strokes and a year's banishment".[129]

Clause 1 is by far the most remarkable part of ᶜAbd al-Razzāq's tradition. Unlike the versions of the revelation preamble that I studied up to now, it does not contain any hint at the symptoms of revelation. Neither does it include the clause *fa-lammā surriya ᶜan-hu*, which, as already noted, gives the impression of a superfluous accretion to the *matn* of Muᶜādh b. Hishām. The locution *fa-qāla* at the end of clause 1 may be interpreted as an element of fictionalization aimed at combining the two otherwise disconnected clauses in a narrative unity. Without the connective, clause 1 would seem as a trace of a different narrative that was probably devoted to the revelation of some part of the Qurʾān. Even though the exact Quranic citation that would have followed is unknown, it is clear that the preamble in this form did not refer to the following penal maxim.

ᶜAbd al-Razzāq's preamble (clause 1) bears resemblance to the reconstructed version of Muᶜādh b. Hishām:

ᶜAbd al-Razzāq	Muᶜādh b. Hishām (reconstructed)
Ūḥiya ilā l-nabī, ṣalᶜam	**Anna l-nabiyyᵃ, ṣalᶜam, unzila ᶜalay-hi [l-waḥyᵘ]*

The variation between *unzila l-waḥyᵘ* and *ūḥiya* is not critical to our reconstruction efforts; both verbs denote revelation and are used in passive form, which suggests their derivation from a common origin identifiable with Qatāda b. Diᶜāma.

Clauses 2–4 in ᶜAbd al-Razzāq's *matn* repeat the wording of Hushaym b. Bashīr's non-revelation tradition. Since the tradition of the (S)CL, Muᶜādh b. Hishām, is identical with the early version of Shuᶜba b. al-Ḥajjāj, it will be unwarranted to regard ᶜAbd al-Razzāq's dual-penalty maxim as going back to an earlier version circulated by Qatāda b. Diᶜāma. ᶜAbd al-Razzāq's variant of the Prophet's exclamation

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[129] ᶜAbd al-Razzāq, *Muṣannaf*, 7:310, no. 13308.

Khudhū! (Take it!) is void of the usually observed possessive pronominal construct, *min-nī* (from me). At present I cannot assess the full significance of this change, but, if not inadvertent, it may have been somehow related to the suggested independence of clause 1 from the rest of the narrative. I will return to this issue in the next section.

In addition to the already analysed traditions, the Qatāda b. Diʿāma cluster includes a single-strand *isnād* provided by al-Ṭabarānī:

(1a) *Anna l-nabyy^a, ṣalʿam, unzila ʿalay-hi dhāt^a yawm^{in} fa-tarabbada wajh^u-hu (1b) fa-lammā surriya ʿan-hu qāla*: "(2) *Khudhū ʿan-nī*! (3) *Fa-inna l-lāh^a qad jaʿala la-hunna sabīl^{an}* (4) *al-thayyib^u bi-l-thayyib^i wa-l-bikr^u bi-l-bikr* (5a) *al-thayyib^u yujladu thumma yurjam* (5b) *wa-l-bikr^u yujladu thumma yunfā sana*."

(1a) One day a revelation was sent down to the Prophet, may Allāh bless him and grant him peace, and his face became pallid (1b) When he regained his composure, he said: "(2) Take it from me! (3) For Allāh has appointed the way for them (4) A non-virgin with a non-virgin and a virgin with a virgin (5a) The non-virgin should be flogged then stoned (5b) and the virgin should be flogged then banished for a year".[130]

Clause 1 in al-Ṭabarānī's version may be identified with the corresponding clause in the tradition through the (S)CL Muʿādh b. Hishām. Because of al-Ṭabarānī's single strand of transmission, one cannot say with certainty whether the clause was copied from Muʿādh or belongs to the version of Qatāda b. Diʿāma. If the latter be true, al-Ṭabarānī's formulation would be a clear indication that Qatāda's tradition read, *anna l-nabyy^a, ṣalʿam, unzila ʿlay-hi*, and not *ūḥiya ilā l-nabī, ṣalʿam*, as in the version of ʿAbd al-Razzāq.

Al-Ṭabarānī's use of verbal forms in the prophetic *dictum* corresponds to the respective part of Shuʿba's tradition. Unlike Shuʿba, al-Ṭabarānī, or one of the tradents along his single line of transmission, has preferred to specify, like Hushaym b. Bashīr, that the fornicator should be banished for one year. Such an admixture of early and later *matn*s combined with a single line of transmission prevents us from using al-Ṭabarānī's tradition as an unambiguous evidence of Qatāda b. Diʿāma's CL status.

In sum, the cluster through Qatāda b. Diʿāma reveals three major features. First, the cluster is based on a version of the revelation preamble that, upon removal of the fictional elements, boils down to a

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[130] Al-Ṭabarānī, *Musnad al-Shāmiyīn*, ed. Ḥamdī ʿAbd al-Majīd al-Salafī, 4 vols. (1st ed., Beirut: Muʾassasat al-Risāla, 1409/1989), 4:40, no. 2675.

simple and uniform core variant: *anna l-nabiyy^a, ṣal^{c}am, unzila ^{c}alay-hi [l-waḥy^u]/ ūḥiya ilā l-nabī, ṣal^{c}am*. This variant may be attributed to Qatāda b. Di^{c}āma. In comparison to the variants of the preamble found in the Sa^{c}īd b. Abī ^{c}Arūba cluster, their counterparts in the Qatāda b. Di^{c}āma cluster reveal a lesser degree of fictionalization and may be associated with the CL with a higher degree of confidence.

Second, a considerable number of the preamble variants through Qatāda are grammatically disconnected from the prophetic *dictum*. Furthermore, they do not state unambiguously that the notion of revelation relates to the dual-penalty maxim. The obvious cleavage between the preamble and the following prophetic *dictum* may be thought as an indication of two independent traditions having been merged into a single narrative.

Third, whereas the traditions on the authority of Ibn Abī ^{c}Arūba almost invariably draw on the dual-penalty maxim as found in the traditions of Shu^{c}ba b. al-Ḥajjāj and Yaḥyā b. Sa^{c}īd al-Qaṭṭān, there are no traces of al-Qaṭṭān's *rajm^{un} bi-l-ḥijāra* in the Qatāda cluster. In fact, the latter lacks the uniformity of the *dictum* variants that pass through Ibn Abī ^{c}Arūba. At times we stumble at the Shu^{c}ba version (Mu^{c}ādh b. Hishām), at others we find the Hushaym b. Bashīr version (^{c}Abd al-Razzāq and al-^{c}Alā, b. ^{c}Abd al-Jabbār), and in still others we face instances of compound narratives that draw on features specific of both Shu^{c}ba and Hushaym (Ibn Ḥanbal and al-Ṭabarānī).

References to the wording of Shu^{c}ba and Hushaym may in general be considered as an indication of an earlier provenance compared to narrative features specific of Shu^{c}ba's and Yaḥyā b. Sa^{c}īd al-Qaṭṭān's *matn*s. In particular, however, one expects to find in the Qatāda cluster a far more consistent bearing on the Shu^{c}ba tradition. Shu^{c}ba, it will be recalled, is the earliest CL in the non-revelation cluster; his wording therefore should bear the closest relationship to the wording of the dual-penalty maxim that would have been circulated by Qatāda b. Di^{c}āma.

A far greater problem is that Shu^{c}ba, who quotes Qatāda directly and should have been well aware of his version, does not cite the revelation preamble. As we have seen, the same goes for al-Qaṭṭān with respect to Ibn Abī ^{c}Arūba. How can one reconcile the versions of Shu^{c}ba and al-Qaṭṭān, which exclude the revelation preamble, with the versions of their informants, Ibn Abī ^{c}Arūba and Qatāda, which include the preamble? Was the revelation preamble as we know it part of the traditions that might have circulated in the first half of the second century AH or even earlier? Let us turn to the cluster of al-Ḥasan al-Baṣrī for a possible answer

The al-Ḥasan al-Baṣrī cluster

Abū ᶜUbayd (a direct CR) and al-Shāshī no. 1325[131] cite a tradition said to have been received from al-Ḥasan al-Baṣrī through the agency of Yazīd b. Hārūn (118–206/736–821) and Maymūn b. Mūsā al-Maraʾī/al-Marāʾī (death date unknown). Abū ᶜAwāna does also provide an *isnād* on the authority of Yazīd b. Hārūn but it is of a very limited corroborative force, since this is yet another instance in which Abū ᶜAwāna relies on a collective line of transmission. The *matn* of the tradition through Yazīd b. Hārūn deserves closer attention since it is markedly different from the other narratives that make up the revelation cluster:

(1a) *Kāna rasūlᵘ l-lāhⁱ, ṣalᶜam,* (1a¹) *idhā nazala ᶜalay-hi l-waḥyᵘ ᶜarafnā dhālika fī-hi* (1a²) *wa-ghammaḍa ᶜaynay-hi wa-tarabbada wajhᵘ-hu* (1b) *Qāla [?]: "Fa-nazala/nuzzila ᶜalay-hi fa-sakatnā fa-lammā surriya ᶜan-hu qāla:* (2) *Khudhū-hunna! Iqbalū-hunna!* (3) *Qad jaᶜala l-lāhᵘ la-hunna sabīlᵃⁿ.* (4a) *Al-bikrᵘ bi-l-bikrⁱ jaldᵘ miʾatⁱⁿ thumma nafyᵘ ᶜāmⁱⁿ* (4b) *wa-l-thayyibᵘ bi-l-thayyibⁱ jaldᵘ miʾatⁱⁿ thumma l-rajm."*

(1a) When a revelation descended upon the Messenger of Allāh, may Allāh bless him and grant him peace, (1a¹) we would recognize this on him, (1a²) he would close his eyes and his face would grow pallid (1b) [?] said: "Then a revelation came down upon him, whereupon we fell silent. When he [the Messenger of Allāh] regained his composure, he said: (2) 'Take them [plural feminine] from me! Accept them [plural feminine] from me! (3) Allāh has appointed a way for them. (4a) A virgin with a virgin [punish them with] one hundred strokes then a year's banishment (4b) and a non-virgin with a non-virgin [punish them with] one hundred strokes then stoning'."

Insofar as Abū ᶜUbayd and al-Shāshī's variants differ insignificantly, one is on safe ground to assume that both derive from an early version of the revelation tradition that would have been spread by Yazīd b. Hārūn towards the end of the second century AH. What is more, Abū ᶜUbayd is a direct CR, which increases our confidence that, in the case of Yazīd b. Hārūn, we are dealing with a fully-fledged CL. Let us now take a closer look at the *matn* and assess the significance of its differences from the other traditions in the revelation cluster.

In clause 1a of the preamble Yazīd b. Hārūn has preferred to explicate the grammatical subject (*idhā nazala ᶜalay-hi l-waḥyᵘ*) instead of the

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[131] Abū ᶜUbayd, *al-Nāsikh wa-l-Mansūkh*, 133–4, no. 241; al-Shāshī, *Musnad*, 3:223, no. 1325.

indefinite *idhā nuzzila/nazala ᶜalay-hi*, found in a considerable number of the revelation traditions. Such a clarification indicates a development from a vaguer to a clearer formulation, which suggests that Yazīd's tradition is an improvement over an earlier narrative. The structure of clause 1a betrays a further redactional intervention. The authorial voice controlling the narrative informs us that when the Prophet received a revelation, the Companions would recognize this (clause 1a^1). The following symptoms (closed eyes and pallid face [clause 1a^2]), which specify the preceding clause (viz., 1a^1), are introduced by the additive connective "*wa-*," which separates the clauses instead of underlining the causal relationship between 1a^1 and 1a^2. Phrasal coherence may be restored in two ways. If we remove *ᶜarafnā dhālika fī-hi* as an intrusive clause, the resulting original clause 1a would read, *kāna rasūl^u l-lāh^i, ṣalᶜam, idhā nazala ᶜalay-hi l-waḥy^u ghammaḍa ᶜaynay-hi wa-tarabbada wajh^u-hu*. Alternatively, we may remove clause 1a^2. In this case we will be left with the following wording: *kāna rasūl^u l-lāh^i, ṣalᶜam, idhā nazala ᶜalay-hi l-waḥy^u ᶜarafnā dhālika fī-hi*. This clause (without clause 1a^2) comfortably links with clause 1b, which opens with the words, *fa-nazala/nuzzila ᶜalay-hi*.

Clause 1a^2 may help us choose one of the above possibilities. In that clause we observe a change that sets Yazīd b. Hārūn's variant aloof from the other traditions in the revelation cluster. It should be recalled that the traditions that pass through Saᶜīd b. ᶜArūba contain a highly fictionalized description of the symptoms of revelation: the Prophet's face grows pallid and the Prophet is overwhelmed by grief (*karb*). Contrary to this, the revelation preamble in the traditions that pass through Qatāda b. Diᶜāma are less fictionalized and more inconsistent in their description of the symptoms of revelation. The variants of ᶜAbd al-Razzāq and Muᶜādh b. Hishām are almost entirely void of fictional elements, the variant of al-Ṭabarānī does not mention the Prophet's grief (*karb*), and only the tradition via Ḥammād b. Salama contains a fuller set of revelation symptoms (grief and pallid face). Notably, in clause 1a^2, Yazīd b. Hārūn has preferred to avoid the notion of *karb* and replaced it with the Prophet's closed eyes.

Two scenarios may explain the narrative peculiarities of Yazīd b. Hārūn's clause 1a^2. Yazīd may have felt uncomfortable about the image of inner disturbance and sorrow conveyed by the root *k-r-b* and its derivatives. On this account he would have chosen to suppress *kuriba li-dhālika* by the statement that the Prophet would merely close his eyes and his face would grow pallid. Note, however, that the mention of grief is occasional already at the tier of Qatāda b. Diᶜāma, which makes it hard

to decide whether a deletion of *kuriba li-dhālika* has ever taken place at the hands of Yazīd b. Hārūn. The closed eyes may have been an element of fictionalization that Yazīd added to an early variant of the preamble that did not include the description of grief. Al-Ṭabarānī's *matn* in the Qatāda cluster bears witness to the existence of such variant.

This leads us to the second scenario. Yazīd b. Hārūn's tradition may be an intermediate stage in the development of the revelation preamble. Judging by clause 1a[1], Yazīd may have had before his eyes a tradition which only mentioned that when the Prophet received a revelation, the companions around him would recognize this. Muʿādh b. Hishām's tradition on the authority of Qatāda b. Diʿāma indicates that such wording is not mere conjecture. It will be recalled that Muʿādh relates a preamble according to which, when the Prophet received a revelation, the Companions would bend down their heads. This variant does not mention the symptoms of revelation experienced by the Prophet. It stands to reason that Yazīd b. Hārūn, who was Muʿādh's contemporary, was acquainted with a version of the preamble that did not mention any specific symptoms of revelation. To make the early narrative more persuasive, Yazīd fictionalized it by borrowing the pallid face from elsewhere and adding to it the Prophet's closed eyes and the Companions' falling silent. These additions would have been Yazīd's contribution to the expanding description of the symptoms of revelation. At the same time, Yazīd chose to preserve the clause according to which the symptoms would be recognized by the Companions. By so doing he did introduce an obvious narrative instability in his *matn*.

After removing the elements of fictionalization, we may tentatively reconstruct the core narrative upon which Yazīd b. Hārūn's based his preamble:

(1a) Kāna rasūl[u] l-lāh[i], ṣalʿam, idhā unzila ʿalay-hi [l-waḥy[u]] ʿarafnā dhālika fī-hi (1b) Qāla [?]: Fa-nazala/nuzzila ʿalay-hi fa-lammā surriya ʿan-hu qāla.

One should note immediately the interjectory quotation mark *qāla* [?]. It is difficult to identify the referent of the verbal subject, but, more importantly, the quotation mark signals an addition to the original narrative which in this case would have been confined to clause 1a. Even though clause 1a may seem to correspond to Qatāda's reconstructed preamble (*anna l-nabiyy[a], ṣalʿam, unzila ʿalay-hi[l-waḥy[u]]/ ūḥiya ilā l-nabī, ṣalʿam*), such similarity could be deceptive. The use of the conditional/temporal particle *idhā* sets Yazīd's tradition apart from that of Qatāda as represented in the traditions of Muʿādh b. Hishām and ʿAbd

al-Razzāq. Unlike them, Yazīd already implies a consequence that will result from the fact of revelation: the Companions will recognize the symptoms of revelation. One may attempt to remove the conditional particle and *ᶜarafnā dhālika fī-hi*, but this will be an arbitrary reduction as there is no way to decide whether Yazīd b. Hārūn based his tradition on such a version. Hence, one would be on a safe ground to conclude that Yazīd b. Hārūn related a variant preamble that is later than the reconstructed versions of Muᶜādh b. Hishām and Qatāda b. Diᶜāma, and therefore cannot be traced back to al-Ḥasan al-Baṣrī.

In the prophetic *dictum*, instead of the ubiquitous *Khudhū ᶜan-nī*!, Yazīd b. Hārūn has preferred a rather strange expression based on plural feminine pronouns (clause 2). As these pronouns usually signify persons, the phrase does not make much sense in conjunction with the following prophetic words, except if we assume, for the sake of argument, that *-hunna* refers to ᵓQuranic verses (*ayāt*). Although grammatically possible, such reference is inexplicable given that what follows is a prophetic *dictum*, not scripture.

The remaining part of the prophetic *dictum* (clauses 3–4) reproduces almost literally the non-revelation tradition of Hushaym b. Bashīr. While it is possible that Yazīd's wording was partly influenced by the tradition of Hushaym, because of the latter's clear definition of the number of strokes and the duration of banishment, the ambiguous exclamation *Khudhū-hunna*! *Iqbalū-hunna*! might point to an earlier *matn* variant. Insofar as both Yazīd b. Hārūn and Hushaym b. Bashīr provide *isnād*s that converge on al-Ḥasan al-Baṣrī, one may ask whether that hypothetical version can be back-credited to al-Ḥasan. At present, such a conclusion would be highly tentative for several reasons. First, Yazīd b. Hārūn and Hushaym b. Bashīr are separated from al-Ḥasan al-Baṣrī by single-strand *isnād*s that mention different intermediaries (viz. Maymūn al-Maraᵓī/Marāᵓī and Manṣūr b. Zādhān). Yazīd's informant, Maymūn al-Maraᵓī/Marāᵓī, is known for his *tadlīs* on the authority of al-Ḥasan al-Baṣrī.[132] Hence, his appearance in the *isnād* speaks rather to the detriment of the line below Yazīd. What is more, Maymūn al-Maraᵓī/Marāᵓī is present in the single-strand *isnād* of al-Ṭabarānī which carries a variant of the non-revelation tradition (Diagram 3, p. 184). The penal maxim in al-Ṭabarānī's tradition differs from that in Yazīd's

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[132] According to Ibn Ḥanbal there is no harm in al-Maraᵓī/Marāᵓī. However, his failure to state that he had an audition from al-Ḥasan is interpreted as a sign of *tadlīs* (Ibn Ḥanbal, *ᶜIlal*, 2:523, no. 3450). Ibn Ḥajar summarizes the predominantly lukewarm assessment of al-Maraᵓī/Marāᵓī in *Tahdhīb al-Tahdhīb*, 10:392–3.

tradition, which, together with the absence of the revelation preamble in the former, indicates that at least one of the traditions was ascribed to Maymūn al-Maraʾī/Marāʾī and cannot be considered as belonging to al-Ḥasan al-Baṣrī. Second, Yazīd's and Hushaym's *matn*s differ considerably: Yazīd has the irregular opening of the prophetic *dictum*, Hushaym has the usual opening; Yazīd cites the revelation preamble, Hushaym does not cite it. Third, in the cluster through Qatāda b. Diʿāma we observed a distorted connection between the revelation preamble and the following penal maxim, which I interpreted as an indication of the original independence of these two parts. Contrary to this, in the tradition of Yazīd b. Hārūn the two parts are well connected. In other words, Yazīd's *matn* is superior to most of the *matn*s in the Qatāda cluster, which indicates that Yazīd's tradition in general may hardly be traced to as early a source as either Qatāda or al-Ḥasan al-Baṣrī. At the same time one should not brush away the possibility that it contains important narrative relics.

Abū Dāwūd al-Ṭayālisī (d. 203–4/819–20)[133] and ʿAbd Allāh b. Aḥmad b. Ḥanbal[134] cite a tradition on the authority of the Baṣran traditionist Jarīr b. Ḥāzim (d. 170/786–7) quoting al-Ḥasan al-Baṣrī. If Jarīr b. Ḥāzim may be proven as the tradition's CL, his version would be conducive to the reconstruction of al-Ḥasan's hypothetical tradition. Al-Ṭayālisī cites the following *matn*:

(1a) *Anna rasūlᵃ l-lāhⁱ, ṣalʿam, kāna idhā unzila ʿalay-hi l-waḥyᵘ ʿurifa dhālika fī-hi* (1b) *Fa-lammā unzilat "aw yajʿala l-lāhᵘ la-hunna sabīlᵃⁿ" wa-rtafaʿa l-waḥyᵘ qāla rasūlᵘ l-lāhⁱ, ṣalʿam:* (2) *Khudhū ḥidhrᵃ-kum!* (3) *Qad jaʿala l-lāhᵘ la-hunna sabīlᵃⁿ* (4a) *Al-bikrᵘ bi-l-bikrⁱ jaldᵘ miʾatⁱⁿ wa-nafyᵘ sanatⁱⁿ* (4b) *wa-l-thayyibᵘ bi-l-thayyibⁱ jaldᵘ miʾatⁱⁿ wa-rajmᵘⁿ bi-l-ḥijāra.*

(1a) When a revelation would be sent down upon the Messenger of Allāh, may Allāh bless him and grant him peace, this would be recognizable on him. (1b) When [the verse] "or Allāh appoints a way for them" was revealed and the revelation withdrew, the Messenger of Allāh said: (2) "Beware yourselves! (3) Allāh has appointed a way for them (4a) A virgin with a virgin [punish them with] one hundred strokes then a year's banishment (4b) and a non-virgin with a non-virgin [punish them with] one hundred strokes then execution with stones."

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[133] Al-Ṭayālisī, *Musnad* (Hydarabad: Maṭbaʿat Majlis Dāʾirat al-Maʿārif al-Niẓāmiyya, 1331), 79–80; idem., *Musnad*, ed. Muḥammad b. ʿAbd al-Muḥsin al-Turkī, 4 vols. (Dār Hajar, 1999), 1:478, no. 585.

[134] Ibn Ḥanbal, *Musnad*, 37:442–3, no. 22780.

ᶜAbd Allāh b. Aḥmad b. Ḥanbal's tradition through Shaybān b. Abī Shayba → Jārīr b. Ḥāzim is supplemental (*ziyāda*) to Aḥmad's *ḥadīth* corpus. Its revelation preamble differs quite notably:

(1a) *Nazala ᶜalā rasūlⁱ l-lāhⁱ, ṣalᶜam, "wa-l-lātī yaʾtīna l-fāḥishatᵃ"* (1b) *Qāla [?]: "Fa-faᶜala dhālika bi-hinna rasūlᵘ l-lāhⁱ, ṣalᶜam* (2a*) Fa-baynᵃ-mā rasūlᵘ l-lāhⁱ, ṣalᶜam, jālisᵘⁿ wa-naḥnu ḥawlᵃ-hu* (2b) *wa-kāna idhā nazala ᶜalay-hi l-waḥyᵘ aᶜraḍa ᶜan-nā wa-aᶜraḍnā ᶜan-hu* (2c) *wa-tarabbada wajhᵘ-hu wa-kuriba li-dhālika* (3) *fa-lammā rufiᶜa ᶜan-hu l-waḥyᵘ qāla."*

(1a) [The verse] "And those of your women who commit abomination" was revealed to the Messenger of Allāh, may Allāh bless him and grant him peace. (1b) [?] said: "And the Messenger of Allāh did this with them (plural feminine). (2a) [One day] while the Messenger of Allāh, may Allāh bless him and grant him peace, was sitting, and we were surrounding him (2b) when the revelation came down upon him, he would turn away from us and we would turn away from him (2c) and his face would grow pallid and he would be overwhelmed by grief (3) when the revelation was withdrawn from him, he said."

Unlike al-Ṭayālisī's *matn*, the narrative of ᶜAbd Allāh b. Aḥmad b. Ḥanbal has undergone considerable fictionalization; together with the variant of Yazīd b. Hārūn it features the most elaborate version of the revelation preamble. Insofar as Aḥmad b. Ḥanbal does not seem to have known this variant of the preamble, it should be attributed either to his son, ᶜAbd Allāh, or to his son's informant, Shaybān b. Abī Shayba. Despite the high degree of fictionalization, it is possible to divide ᶜAbd Allāh's preamble into several textual layers. Even a cursory look at the narrative suffices to show that the entire clause 2 is intrusive. It was partly (clause 2c; *wa-kāna idhā nazala ᶜalay-hi l-waḥyᵘ* in clause 2b) influenced by the other narratives in the revelation cluster, and partly (clause 2a; *aᶜraḍa ᶜan-nā wa-aᶜraḍnā ᶜan-hu* in clause 2b) draws on narratives that have not been observed in the other versions of the revelation preamble, but are present in other *zinā* traditions.[135] Although it is difficult to speculate about the exact origin of the intrusive clauses, one should note that they do not form a single narrative unit. Clause 2b is clearly disconnected from clause 2a. It is also disconnected from clause 1b, which, in turn, is an indubitable gloss at clause 1b. If we remove

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[135] Thus, a considerable number of traditions dealing with the voluntary confession of Māᶜiz b. Mālik state that the Prophet turned away from Māᶜiz (*aᶜraḍa ᶜan-hu*) upon his confession to adultery.

from the narrative clause 1b and the entire clause 2, we would be left with the following clause:

*(1a) *Nazala ᶜalā rasūlⁱ l-lāhⁱ, ṣalᶜam, "wa-l-lātī yaʾtiyna l-fāḥishatᵃ"* (3) *fa-lammā rufiᶜa ᶜan-hu l-waḥyᵘ qāla.*

*(1a) [The verse] "And those of your women who commit abomination" was revealed to the Messenger of Allāh, may Allāh bless him and grant him peace. (3) When the revelation was withdrawn from him, he said.

By isolating this narrative core, we may have reconstructed the version of Jarīr b. Ḥāzim. The tradition of Abū Dāwūd al-Ṭayālisī provides us with important corroborative evidence. In clause 1a al-Ṭayālisī points out that when a revelation would be sent down upon the Prophet, the symptoms of *waḥy* would be recognizable on him (ᶜurifa dhālika fī-hi). This clause is not present in the version of ᶜAbd Allāh b. Aḥmad b. Ḥanbal, which indicates that al-Ṭayālisī did not receive it from the common informant, Jarīr b. Ḥāzim. Al-Ṭayālisī's wording, however, immediately calls to mind clause 1a[1] in the tradition through Yazīd b. Hārūn (*idhā nazala ᶜalay-hi l-waḥyᵘ ᶜarafnā dhālika fī-hi*). Because Yazīd b. Hārūn and al-Ṭayālisī rely on different informants, it is impossible to say which of them is responsible for this formulation. Arguably, they may have received it from al-Ḥasan al-Baṣrī, but such a conjecture is hard to prove for two reasons. Jarīr b. Ḥāzim, who may turn out to be a CL of al-Ḥasan does not seem to have used this formulation; and Yazīd b. Hārūn's informant, Maymūn al-Maraʾī/al-Marāʾī is a suspicious *fulān*.

Clause 1b in al-Ṭayālisī's *matn* is far more important than clause 1a. Upon comparison with the clause that we isolated from the *matn* of ᶜAbd Allāh b. Aḥmad b. Ḥanbal, it turns out to feature a notably similar wording:

Abū Dāwūd al-Ṭayālisī (clause 1b)	ᶜAbd Allāh b. Aḥmad b. Ḥanbal (reconstructed)
Fa-lammā unzilat "aw yajᶜala l-lāhᵘ la-hunna sabīlᵃⁿ" wa-rtafaᶜa l-waḥyᵘ qāla rasūlᵘ l-lāhⁱ, ṣalᶜam:	*Nazala ᶜalā rasūlⁱ l-lāhⁱ, ṣalᶜam, "wa-l-lātī yaʾtiyna l-fāḥishatᵃ" fa-lammā rufiᶜa ᶜan-hu l-waḥyᵘ qāla:*

Their similarity notwithstanding, the two variants differ in a way that does not allow us to reconstruct Jarīr's wording in an exact way. Nevertheless, al-Ṭayālisī's introductory *fa-lammā* may safely be discarded as an element of fictionalization, which served to connect clauses 1a and 1b. In addition to this, one may consider the passive

verbal forms as the older units of expression. Al-Ṭayālisī and ᶜAbd Allāh b. Aḥmad b. Ḥanbal cite different parts of Qurʾān 4:15, which indicates that Jarīr b. Ḥāzim may have cited the verse *in toto*. Consequently, his version would have read:

Unzilat "Qurʾān 4:15" *fa-lammā rufiᶜa l-waḥy*ᵘ *qāla rasūl*ᵘ *l-lāh*ⁱ, *ṣalᶜam*:

But how does this preamble relate to the prophetic *dictum*? What were the Prophet's words that followed? Why should the Prophet alter the Quranic ordinance immediately after its revelation? Apparently, ᶜAbd Allāh b. Aḥmad b. Ḥanbal or his informant was aware of the problem; on this account he preferred to add an interjectory clause according to which the Prophet would, for some time, act in accordance with the Quranic norm. Is this another indication that the revelation preamble was initially independent from the penal maxim? Al-Ṭayālisī's tradition provides important evidence to this end.

In the Ḥaydarābād edition of al-Ṭayālisī's *Musnad* the prophetic *dictum* opens with the exclamation *Khudhū ḥidhr*ᵃ*-kum*! (Beware yourselves!). In the edition of Muḥammad b. ᶜAbd al-Muḥsin al-Turkī the same clause reads, *Khudhū*! *Khudhū*! (Take it! Take it!). One may hardly doubt that the second formulation is the earlier one. But how should one assess its significance?

While analyzing Yazīd b. Hārūn's tradition, I was puzzled by the plural feminine pronouns (*Khudhū-hunna*! *Iqbalū-hunna*) at the beginning of the prophetic *dictum*, which, I argued, might be interpreted as referring to Quranic verses. The main difficulty, at which such a hypothesis stumbles, is that no ᵒQuranic verses are mentioned in the tradition through Yazīd. If, however, we take the exclamation *Khudhū-hunna*! *Iqbalū-hunna*! from Yazīd's narrative and position it mentally in Jarīr b. Ḥāzim's reconstructed *matn*, it will make perfect sense. The following is an attempt to isolate the earliest wording of the revelation preamble. Clause 1 of the hypothetical *matn* is based on Jarīr b. Ḥāzim's reconstructed *matn*; clause 2 belongs to Yazīd b. Hārūn's tradition:

(1) Unzilat "Qurʾān 4:15" *fa-lammā rufiᶜa l-waḥy*ᵘ *qāla rasūl*ᵘ *l-lāh*ⁱ, *ṣalᶜam*: (2) "*Khudhū-hunna*! *Iqbalū-hunna*!"

*(1) [The verse] "Qurʾān 4:15" was revealed and when the revelation was withdrawn, the Messenger of Allāh, may Allāh bless him and grant him peace, said: (2) "Take them [these verses]! Accept them [these verses]!"

Does this short exegetical tradition belong to al-Ḥasan al-Baṣrī? The *isnād* and *matn* evidence points to the existence of a CL, Jarīr b. Ḥāzim.

But is Jarīr also a PCL of al-Ḥasan al-Baṣrī? Yazīd b. Hārūn's tradition is an important, yet not altogether unambiguous, indication of al-Ḥasan role as a possible CL. Note that Yazīd relies on the *fulān*, Maymūn al-Marāʾī/al-Marāʾī. Unlike the tradition of Jarīr b. Ḥāzim, Yazīd's revelation preamble does not depart from the other narratives in the revelation cluster in a way that suggests a dissimilar origin. The same goes for the prophetic *dictum*, which differs only in its awkward use of *Khudhū-hunna*! *Iqbalū-hunna*.

Much more conspicuous is the tradition of ʿAbd al-Razzāq via his teacher Maʿmar b. Rāshid, which puzzled me while I analysed the cluster through Qatāda b. Diʿāma. Unlike the remaining traditions in that cluster, ʿAbd al-Razzāq cites a short preamble stating, *ūḥiya ilā l-nabī*. The prophetic *dictum* according to ʿAbd al-Razzāq opens by the exclamation *Khudhū*! *Khudhū*!; that is, exactly by the same phrase that we have assumed to have been present in al-Ṭayālisī's narrative on the authority of Jarīr b. Ḥāzim and al-Ḥasan al-Baṣrī. It is reasonable to think that the clause *ūḥiya ilā l-nabī* is a likely residue of al-Ḥasan's exegetical tradition (i.e. *ūḥiya ilā l-nabī* [Qurʾān 4:15]), which reached Maʿmar through the agency of Qatāda b. Diʿāma. The same is indicated by ʿAbd al-Razzāq's 'defective' *isnād*. The fact that the transmission terminates at the tier of al-Ḥasan al-Baṣrī suggests that in this case ʿAbd al-Razzāq cites an early tradition, which was probably couched as a personal opinion not going back to the Prophet himself.

Note that the narrative of ʿAbd al-Razzāq, while preserving an indication that the original tradition was a personal opinion of al-Ḥasan al-Baṣrī (*kāna l-ḥasan^{u} yuftī bi-hi*), suppresses its original content. It does not refer to Qurʾān 4:15 in a direct way and, as already noted, leaves the impression that the preamble and the following penal maxim had been independent narratives. But who removed the direct reference to the said Quranic verse? Who altered al-Ḥasan's tradition by emphasizing the dual penalty maxim as abrogating the ordinance of Qurʾān 4:15? And who circulated the compound tradition which not only insists that the dual-penalty maxim regulates the penalty for *zinā*, but also presents that maxim as divine revelation?

The order of the above questions already suggests a sequence of development where the earliest call for applying the ordinance of Qurʾān 4:15 was altered by the introduction of the penal maxim, which, most likely in the course of a subsequent polemic, came to be presented as a divinely revealed prophetic utterance. The preamble, in its unadulterated form, may have existed in the lifetime of al-Ḥasan al-Baṣrī. But did al-

Ḥasan know the dual-penalty maxim as an independent tradition? And who attached the maxim to al-Ḥasan's exegetical tradition?

Approaches to the reconstruction of the revelation tradition

The non-revelation cluster is a suitable starting point in our quest to answer the above questions. Our analysis of the non-revelation traditions has uncovered three PCLs: Shuʿba b. al-Ḥajjāj (d. 160/776), Hushaym b. Bashīr (d. 183/799) and Yaḥyā b. Saʿīd al-Qaṭṭān (d. 198/813). As shown in Diagram 4 (p. 190), the *isnād*s of Shuʿba and al-Qaṭṭān converge on Qatāda b. Diʿāma. Al-Qaṭṭān quotes Qatāda through the agency of Saʿīd b. Abī ʿArūba, about whose possible CL status in the non-revelation cluster I expressed doubts. My analysis of Ibn Abī ʿArūba's position in the revelation cluster has allowed me to reconsider this conclusion, albeit not without hesitation.

The numerous revelation traditions passing through Ibn Abī ʿArūba include a penal maxim that shares narrative features with the non-revelation traditions of Shuʿba → Qatāda and al-Qaṭṭān → Abī ʿArūba → Qatāda. Shuʿba was reportedly acquainted with Ibn Abī ʿArūba, whereas al-Qaṭṭān is a clear (P)CL in the non-revelation cluster. Contrary to our expectations fostered by Ibn Abī ʿArūba's presence as a possible CL in the revelation cluster (Diagram 5, p. 192), neither Shuʿba, nor al-Qaṭṭān relates a tradition that includes the revelation preamble. It stands to reason, therefore, that Ibn Abī ʿArūba knew a tradition that included the penal maxim but did not include the revelation preamble. If accurate, this inference would allow us to concede two PCLs of Qatāda b. Diʿāma, namely, Saʿīd b. Abī ʿArūba and Shuʿba b. al-Ḥajjāj. On this basis we may proceed to reconstructing Qatāda's version. Insofar as Shuʿba's tradition was definitely void of the revelation preamble, and Ibn Abī ʿArūba's tradition was likely so, Qatāda would have related the penal maxim alone.

At this stage, the question arises whether Qatāda heard the penal maxim from al-Ḥasan al-Baṣrī? The optimistic answer would be that, having proven Qatāda's CL status with respect to al-Ḥasan, we may consider the single strand Hushaym b. Bashīr → Manṣūr b. Zādhān → al-Ḥasan (Diagrams 2 and 4, pp. 175 and 190) as a limited evidence of al-Ḥasan's contribution to the circulation of the dual-penalty maxim. When asked about the punishment for *zinā*, al-Ḥasan would express his personal opinion (*raʾy*) according to which the virgin should be flogged and banished and the non-virgin should be flogged and stoned. In reality, this optimistic conclusion stumbles at a major obstacle.

Our analysis has shown that al-Ḥasan has most likely maintained that sexual transgressors should be treated according to the ordinance of Qurʾān 4:15. If al-Ḥasan did circulate the dual-penalty maxim, his *raʾy* would clearly contradict his own view concerning Qurʾān 4:15. A reasonable exit from the conundrum would be to posit that al-Ḥasan did not relate the dual-penalty maxim as a separate *dictum*; even less so in conjunction with the revelation preamble. Hence, one concludes, that the maxim was ascribed to al-Ḥasan by a person or persons who wanted to negate his pro-Quranic stance and to prove that the *sunna*, not scripture, regulates the punishment for *zinā*. But who may have been that person(s)? Several scenarios are possible.

Qatāda b. Diʿāma altered al-Ḥasan's tradition
The earliest modifications of al-Ḥasan's exegetical tradition may have been introduced by Qatāda b. Diʿāma (60–117/680–735). This is suggested by ʿAbd al-Razzāq's revelation tradition that opens with the words, *ūḥiya ilā l-nabī*. Whereas al-Ḥasan's PCL Jarīr b. Ḥāzim has preserved the original reference to Qurʾān 4:15 almost intact, ʿAbd al-Razzāq's tradition via Maʿmar has gone a step further; that it included a citation of Qurʾān 4:15 may be inferred only by way of comparison with the reconstructed tradition of al-Ḥasan al-Baṣrī. Hence, ʿAbd al-Razzāq has most likely transmitted an early specimen of the altered *matn*; it mentions revelation but drops the reference to the Qurʾān. Insofar as ʿAbd al-Razzāq's tradition reaches al-Ḥasan al-Baṣrī through the single-strand *isnād*, Maʿmar b. Rāshid → Qatāda b. Diʿāma, if considered on its own, it does not provide sufficient information about the identity of the redactor.

Indirect indications seem to put ʿAbd al-Razzāq beyond suspicion; in the *Muṣannaf* he relates a tradition with a highly fictionalized revelation preamble, about which we will discuss later.[136] Thus, he knew the later version of the tradition, but nevertheless preserved the older *matn*, probably in the form he received it from Maʿmar b. Rāshid. Maʿmar b. Rāshid is apparently also beyond suspicion. We have seen that Muʿādh b. Hishām is a (S)CL of a tradition that contains a resembling preamble, but reaches Qatāda through an alternative *isnād*. This indicates that Maʿmar and Muʿādh derived their altered variants from a common source, which should be identified as Qatāda b. Diʿāma.

It is therefore Qatāda who circulated the preamble *anna l-nabiyy^a*, *ṣalʿam*, *unzila ʿalay-hi*. That is to say, he preserved the revelation part of

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136 ʿAbd al-Razzāq, *Muṣannaf*, 7:329, no. 13359.

al-Ḥasan's tradition but removed the citation of Qurʾān 4:15. This redaction made the narrative semantically deficient; the complementary clause, however, is difficult to reconstruct. Arguably, Qatāda wanted to shift the emphasis of al-Ḥasan's *matn* from the ordinance of Qurʾān 4:15 to the norm conveyed by the dual-penalty maxim. To this end he would have attached the prophetic *dictum* to the altered variant of al-Ḥasan's tradition. Judging by the variations in the prophetic exclamation (*khudhū ᶜan-nī; khudhū ḥidhrᵃ-kum; khudhū*) and its absence in the tradition of al-Ṭabarī on the authority of Muᶜādh b. Hishām, one may surmise that no exclamation was present in Qatāda's version. In that case, however, Qatāda would have related a dual-penalty maxim that seems more like a part of the Qurʾān which it is not. A possible solution would be to posit that the early traditions of al-Ḥasan and Qatāda reflect a stage where the *sunna* and the Qurʾān had not yet emerged as discrete entities from the syncretic body of ancient prophetical logia.

Be that as it may, Qatāda's altered tradition would have passed to the PCLs, Saᶜīd b. Abī ᶜArūba (d. 156/772), Shuᶜba b. al-Ḥajjāj (d. 160/776), Yazīd b. Zurayᶜ (d. 182–3/798–9), Hushaym b. Bashīr (d. 183/799), Yaḥyā b. Saᶜīd al-Qaṭṭān (d. 198/813). But if there was a common source, to wit, Qatāda b. Diᶜāma, and, furthermore, if that source already knew a variant of the revelation preamble, why do the most conspicuous of his PCLs exclude the preamble from their traditions? There is no easy answer to that question. Arguably, Shuᶜba, Hushaym and al-Qaṭṭān may have decided to delete the preamble from their traditions – but why?

While analyzing the Qatāda cluster, I observed that the connection between the preamble and the dual-penalty maxim is volatile. This indicates that Qatāda combined two independent traditions into a single narrative with the aim to prove that the dual-penalty maxim was divinely revealed. Shuᶜba probably felt the weakness of this conjunction, on which account he decided to confine his tradition to the dual-penalty maxim. The same holds true for Hushaym and al-Qaṭṭān, who base their traditions on Shuᶜba's.

For the sake of argument, one may conjecture that Qatāda transmitted either the preamble or the penal maxim, but not both of them. In this case, Qatāda is more likely to have transmitted the preamble, as it is attested as part of his original tradition. Since the preamble in its later form is not semantically independent, one must concede that Qatāda transmitted al-Ḥasan's original tradition, which would have been altered at the hands of a later redactor.

This hypothesis has a major disadvantage: if Qatāda, like al-Ḥasan,

was unaware of the dual-penalty maxim, then he could not have been the actual source of Shuʿba. If Shuʿba concealed his source, Hushaym and al-Qaṭṭān, who base their versions on Shuʿba, would have (inadvertently) done the same. It is impossible to prove, however, that Shuʿba received his tradition from an alternative source. Hushaym and al-Qaṭṭān, on their side, should have been unaware of Shuʿba's forgery in order to repeat his error.

In sum, if Qatāda altered the original tradition, he should be held responsible for the initial merger of two independent traditions. The awkwardness of this combination would have been felt by Qatāda's contemporaries and the following generation of traditionists, but gradually it would be obliterated by the introduction of more skillfully worded traditions. If, on the other hand, Qatāda's tradition did not include the dual-penalty maxim, one would expect that Qatāda transmitted al-Ḥasan's exegetical tradition in its original form.

Saʿīd b. Abī ʿArūba altered al-Ḥasan's tradition

This scenario is feasible only on condition that Qatāda b. Diʿāma related a copy of al-Ḥasan's exegetical tradition which he passed intact to Ibn Abī ʿArūba. There is no unambiguous *isnād* and *matn* evidence that may support such a course of events; moreover if Ibn Abī ʿArūba and his informant, Qatāda, had known only al-Ḥasan's exegetical tradition, this would imply that Shuʿba received the non-revelation tradition from an unknown alternative source, whereupon he forged the link to Qatāda.

If Qatāda altered al-Ḥasan's original tradition, it is possible that Ibn Abī ʿArūba received from Qatāda the altered variant which he passed to his pupils. Such a scenario is not altogether free of potential pitfalls. One has to explain the high degree of fictionalization in Ibn Abī ʿArūba's preamble. Did Ibn Abī ʿArūba introduce the description of the Prophet's grief and pallid face into the text himself? Did he edit the *matn* as to obtain better cohesion between its originally independent parts? These questions are difficult to answer because of the absence of unambiguous PCLs immediately above Ibn Abī ʿArūba in the revelation cluster. The issue is compounded by the fact that Yaḥyā b. Saʿīd al-Qaṭṭān, who is by far the most conspicuous PCL qouting Ibn Abī ʿArūba, does not know (or does not pay attention to) the revelation preamble.

To avoid the above issues, one may surmise that Ibn Abī ʿArūba related different variants of the same tradition during his lessons. But the non-revelation and the revelation traditions are much more than mere variants of a single narrative: the latter is a clear development of the former and aims at substantiating that the *sunna* may abrogate the Qurʾān because it derives from the same divine source. One cannot rule

out the possibility that the confusion occurred when Ibn Abī ᶜArūba suffered from memory deterioration (*ikhtalaṭa*) during the last eleven years of his life,[137] but there is no confirmation that he related the ᶜUbāda tradition or parts thereof during that period of his life to al-Qaṭṭān, Ibn Zurayᶜ or any other traditionist.

It is also possible that like Shuᶜba, Hushaym and al-Qaṭṭān, Ibn Abī ᶜArūba decided to transmit only the dual-penalty maxim from Qatāda's hypothetical compound tradition. If, however, neither Ibn Abī ᶜArūba nor Shuᶜba, who are the PCLs of Qatāda, transmitted the revelation preamble, this introduces a rupture in the transmission process. While Ibn Abī ᶜArūba and Shuᶜba decided to rid their traditions of the preamble, someone conversant with Qatāda's compound version, would have restored it and edited the compound narrative as to remove its original incoherence. Do we have indications that such a development is not a mere conjecture?

The evidence of the earliest ḥadīth collections
In addition to the evidence of the *isnād*s, which may be contradictory and impossible to sort out, one should reckon with the earliest collections that mention a given tradition. In the case of the revelation tradition, I have already taken advantage of the traditions cited by Abū Dāwūd al-Ṭayālisī and ᶜAbd al-Razzāq al-Ṣanᶜānī to uncover the earliest version of the revelation preamble, which turned out to be an independent exegetical tradition related by al-Ḥasan al-Baṣrī. May one use the same collections to reconstruct the history of the compound tradition?

The earliest surviving *ḥadīth* collection that includes the compound tradition is the *Musnad* of Abū Dāwūd al-Ṭayālisī (d. 203–4/819–20). Although al-Ṭayālisī has preserved the original citation of Qurʾān 4:15, he adds to it two important clauses. In the first clause, which precedes the citation of Qurʾān 4:15, al-Ṭayālisī states that when the revelation came down upon the Prophet, the Companions would recognize this. In the second clause, which comes after the citation of Qurʾān 4:15, al-Ṭayālisī states that when the revelation was complete, the Prophet uttered the dual-penalty maxim. This version of the preamble is free from all elements of fictionalization that other traditionists borrowed from external narratives on revelation. Consequently, it should be treated as the earliest surviving instance of the compound narrative. The

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[137] Ibn Saᶜd, *Ṭabaqāt*, 9:273. Ibn Abī ᶜArūba's illness began in 145/762–3 (Ibn Ḥanbal, *ᶜIlal*, 1:163, no. 86; 1:355, no. 677; 1:484, no. 1110; 2:355–6, no. 2572).

additional clauses serve the purpose of connecting the preamble with the dual-penalty maxim. Nevertheless, the structure of the narrative clearly indicates the original independence of the revelation and the penal parts, which were joined together at the hands of al-Ṭayālisī.

ᶜAbd al-Razzāq (d. 211/827) has a version that has undergone more editing. Unlike al-Ṭayālisī, he does not cite Qurʾān 4:15. I have already pointed out that the *isnād* evidence may be interpreted as an indication that the editing of the *matn* had taken place as early as the lifetime of Qatāda b. Diᶜāma (d. 117/735). This conclusion has clashed with other *isnād* evidence: Qatāda is quoted by Shuᶜba, whose variant tradition does not include the revelation preamble. To avoid this pitfall, I will stick now to ᶜAbd al-Razzāq's *Muṣannaf* as the earliest surviving source that includes the tradition at issue without discussing his possible sources. Upon comparison with al-Ṭayālisī tradition, one may say that ᶜAbd al-Razzāq considered the Quranic citation as superfluous to the narrative. On this account he decided to remove the citation completely.

In addition to the already discussed tradition, ᶜAbd al-Razzāq knows an accomplished version of the revelation preamble.[138] He mentions the Prophet's pallid face, but is still unaware of his closed eyes and the notion of grief expressed by the verb *kuriba*. The *matn* wording most likely goes to ᶜAbd al-Razzāq himself, as he relies on a highly suspect *isnād*, ᶜAbd Allāh b. Muḥarrar (d. 150–60/767–7) → Ḥiṭṭān b. ᶜAbd Allāh (d. 71/690–91). Even if ᶜAbd Allāh b. Muḥarrar died in 150/767, he must have been a nonagenarian in order to meet Ḥiṭṭān b. ᶜAbd Allāh towards the very end of the latter's life. If Ibn Muḥarrar died later in the fifties of the second century AH only a centenarian lifespan would have made possible his audition from Ḥiṭṭān. The age-related problem is compounded by the derogatory and at times insulting statements that *rijāl* critics used to describe Ḥiṭṭān.[139]

Abū ᶜUbayd (d. 224/839) cites both the non-revelation and the revelation *matn*s.[140] His marshaling of the traditions indicates a chronological development from the former to the latter. In comparison with ᶜAbd al-Razzāq, Abū ᶜUbayd's revelation preamble includes an

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[138] ᶜAbd al-Razzāq, *Muṣannaf*, 7:329, no. 13359.

[139] He is described as weak (*ḍaᶜīf*) and a liar (*kadhdhāb*) whose traditions should be avoided (*matrūk al-ḥadīth*). ᶜAbd Allāh b. al-Mubārak reportedly said that he would prefer a camel turd to ᶜAbd Allāh b. Muḥarrar (*lammā raʾaytu-hu kānat baᶜratⁱⁿ aḥabbᵃ ilayya min-hu*) (al-Mizzī, *Tahdhīb al-Kamāl*, 16:30 ff, especially 32; Ibn Ḥajar, *Tahdhīb al-Tahdhīb*, 5:389–90).

[140] Abū ᶜUbayd, *al-Nāsikh wa-l-Mansūkh*, 133–4, nos. 240–1.

enriched list of symptoms of revelation: the Prophet's face grows pallid and he closes his eyes, whereas the Companions fall silent. Nevertheless, at the beginning of his version of the prophetic *dictum*, Abū ᶜUbayd has preserved a phrase that is a *hapax legomenon* in the entire ᶜUbāda cluster: *Khudhū-hunna! Iqbalū-hunna!* This relic of al-Ḥasan al-Baṣrī's original tradition was obliterated in the later versions of the prophetic *dictum*.

By the beginning of the second quarter of the third century AH, the revelation narrative acquired its final shape. Traditionists and jurists who upheld the notion that the dual-penalty maxim was divinely revealed would attach the revelation preamble to the earlier non-revelation version of the prophetic *dictum* and attribute these compound narratives to the authorities mentioned in the lower part of the non-revelation *isnād*. Such back projection would have been responsible for the impression that Saᶜīd b. Abī ᶜArūba, Qatāda b. Diᶜāma or even al-Ḥasan al-Baṣrī circulated versions of the revelation tradition. The random character of the ascriptions explains the untidy *isnād* structure of the revelation cluster (Diagram 5, p. 192). It also explains the *matn* inconsistencies of the revelation traditions, which often draw on more than one tradition from the earlier non-revelation cluster.

An organic development of the narrative

My effort to reconstruct the historical development of the revelation tradition has yielded results that not always fit into a logically coherent pattern. While it is conceivable that al-Ḥasan al-Baṣrī circulated an early tradition that considered the Qurᵓān as the sole source of the punishment for *zinā*, the ensuing development of this tradition and the attendant dual-penalty maxim is at times refractory to reconstruction.

The *isnād* evidence is not without problems. In the non-revelation cluster there are three unambiguous CLs, Shuᶜba b. al-Ḥajjāj, Hushaym b. Bashīr and Yaḥyā b. Saᶜīd al-Qaṭṭān. Their relationship with Qatāda b. Diᶜāma is hard to prove, but, in the worst-case scenario, Shuᶜba would be the oldest historically tenable CL of the non-revelation tradition.

The *isnād* chart of the revelation traditions (Diagram 5 p. 192) shows a welter of attributions to Saᶜīd b. Abī ᶜArūba, Qatāda b. Diᶜāma and al-Ḥasan al-Baṣrī. As the evidence is provided by single-strand *isnād*s and intermittent CR quotations, we may cautiously speak of some key-figures' beings CLs or (S)CLs. Nevertheless, the level of epistemological uncertainty is fairly high with regard to Saᶜīd b. Abī ᶜArūba, not to mention the attributions below his tier.

Moving to the *matn*s, one observes a high level of narrative consistency in the non-revelation traditions. Their development can be easily marshaled in a historical sequence originating with Shuᶜba b. al-Ḥajjāj and coming to its completion in the *matn* of Yaḥyā b. Saᶜīd al-Qaṭṭān. Contrary to this, the *matn*s of the revelation traditions are notably unstable. My analysis of the Ibn Abī ᶜArūba cluster has indicated that it may have excluded the revelation preamble. Conversely, the Qatāda b. Diᶜāma cluster has allowed me to reconstruct an early form of the preamble, which may have been loosely connected to the dual-penalty maxim.

Even though traces of an ancient narrative going back to Qatāda b. Diᶜāma and possibly to al-Ḥasan al-Baṣrī have been recovered from the preamble, one should not overlook the fact that its wording, as found in the surviving *ḥadīth* collections, varies considerably between the different *riwāya*s. Apparently, the narrative was fictionalized by the introduction of a number of symptoms of revelation: the Prophet's face grows pallid, the Prophet closes his eyes, the Prophet is overwhelmed by grief and so on. The symptoms are distributed among the various traditions in a haphazard manner that precludes a consistent hypothesis about their possible association with specific CL/CLs.

The penal part of the revelation tradition is likewise beset by narrative instability. Without exception, the *matn*s are compounds of the non-revelation traditions of Shuᶜba b. al-Ḥajjāj, Hushaym b. Bashīr and Yaḥyā b. Saᶜīd al-Qaṭṭān. One may hardly avoid the impression that the transmitters of the revelation *matn*s took advantage of their non-revelation counterparts which they would attach quite erratically to the revelation preamble.

The process of composition is easy to observe in the earliest surviving *ḥadīth* collections. The *Musnad* of Abū Dāwūd al-Ṭayālisī and the *Muṣannaf* of ᶜAbd al-Razzāq al-Ṣanᶜānī are witnesses to the gradual elaboration of the revelation tradition, which was brought to completion in Abū ᶜUbayd's *al-Nāsikh wa-l-mansūkh*. Consequently, the revelation tradition developed during the last decades of the second century AH and the beginning of the third century AH based on several originally independent narratives. These included the non-revelation tradition in its three major variants, and the revelation preamble that referrs back to al-Ḥasan al-Baṣrī's original tradition.

It is difficult to decide who was responsible for the initial alteration of al-Ḥasan's exegetical tradition. My analysis has shown that neither Qatāda b. Diᶜāma nor Saᶜīd b. Abī ᶜArūba may be excluded. Qatāda is invariably present in the lower part of both the non-revelation cluster and its revelation counterpart. He is quoted by an unmistakable CL, Shuᶜba b. al-Ḥajjāj, but

Shuᶜba's non-revelation version indicates that Qatāda's version did not include the revelation preamble. Above Qatāda, a similar contradiction is observed in the Saᶜīd b. Abī ᶜArūba cluster. If Saᶜīd was a CL, he appears to have transmitted a tradition that described the symptoms of revelation; Saᶜīd's most salient CL, Yaḥyā b. Saᶜīd al-Qaṭṭān, however, cites a non-revelation *matn*. To compensate for the ambiguity of the *isnād* and *matn* evidence, I brought into play the evidence of the *ḥadīth* collections. It indicates that the preamble was attached to the dual-penalty maxim only towards the end of the second century AH; that is long after the deaths of Qatāda and Ibn Abī ᶜArūba.

While I realize that one cannot work out all of the above analytical inconsistencies, I think that a process of organic development of the revelation tradition may provide alleviation. The *matn*s of the traditions that pass through Qatāda and al-Ḥasan al-Baṣrī, it should be recalled, have preserved sufficient information for the reconstruction of al-Ḥasan's original tradition. At the same time they reveal multiple layers of editorial deletions and accretions whereby the early versions were changed more than once at the hands of later redactors. Elements of fictionalization that describe vividly the Prophet's symptoms of revelation were introduced to strengthen the volatile link between the revelation preamble and the dual-penalty maxim. None of these fictional elements is unique to the ᶜUbāda tradition; almost without exception they draw on the generic imagery of revelation found in a number of narratives about the Prophet's revelatory experience.

As the supporters of the revelation notion in the third century AH became increasingly convinced that the dual-penalty maxim has always been part of the wider revelation narrative, they would project their own understanding of that narrative's contents onto the earlier links in the *isnād* chain, such as Qatāda b. Diᶜāma and Saᶜīd b. Abī ᶜArūba. The narrative transformation has at times followed paths inexplicable to the present-day researcher. We surely miss a lot of *isnād* and *matn* variants that, if uncovered, would shed ampler light on the development of the revelation tradition. At the present stage of our knowledge, we have to concede that our effort to reconstruct the revelation version of the ᶜUbāda tradition has left ambiguities.

In the table overleaf, I have summarized my efforts to reconstruct the historical development of the ᶜUbāda tradition:

The traditionist (CL/PCL)	The reconstructed wording of the CL/PCL		Remarks
	The non-revelation cluster	**The revelation cluster**	
Al-Ḥasan al-Baṣrī (d. 110/728)	(1) *Unzilat* "Qurʾān 4:15" *fa-lammā rufiʿa l-waḥyᵘ qāla rasūlᵘ l-lāhⁱ*, *ṣalʿam*: (2) "*Khudhū-hunna! Iqbalū-hunna!*"		Al-Ḥasan most likely circulated an exegetical tradition in which he voiced his opinion that sexual offenders should be punished in accordance with Qurʾān 4:15.
Qatāda b. Diʿāma (d. 117/735)	Al-Ḥasan's exegetical tradition in its original form	**OR** *Anna l-nabiyyᵃ*, *ṣalʿam*, *unzila ʿalay-hi* in a volatile conjunction with the dual-penalty maxim	
Saʿīd b. Abī ʿArūba (d. 156/772)	(1) "*Khudhū ʿan-nī*! (2) *Qad jaʿala l-lāhᵘ la-hunna sabīlᵃⁿ*. (3a) *Al-thayyibᵘ bi-l-thayyib* (3b) *wa-l-bikrᵘ bi-l-bikr* (4a) *Al-thayyibᵘ jaldᵘ miʾatⁱⁿ thummᵃ rajmᵘⁿ bi-l-ḥijāra* (4b) *wa-l-bikrᵘ jaldᵘ miʾatⁱⁿ thummᵃ nafyᵘ sana.*"	**OR** (1a) *Kāna rasūlᵘ l-lāhⁱ*, *ṣalʿam*, *idhā nazala/nuzzila ʿalay-hi kuriba li-dhālika wa-tarabbada la-hu wajhᵘ-hu* (1b) *fa-nazala/nuzzila ʿalay-hi dhatᵃ yawmⁱⁿ fa-laqiya dhālika fa-lammā surriya ʿan-hu qāla:* (2) "*Khudhū ʿan-nī!* (3) *Qad jaʿala l-lāhᵘ la-hunna sabīlᵃⁿ*. (4a) *Al-bikrᵘ bi-l-bikrⁱ jaldᵘ miʾatⁱⁿ wa-nafyᵘ sana* (4b) *wa-l-thayyibᵘ bi-l-thayyibⁱ jaldᵘ miʾatⁱⁿ wa-l-rajm.*"	Ibn Abī ʿArūba's *matn* most likely excluded the revelation preamble. The preamble attributed to Ibn Abī ʿArūba is composed of fictional elements borrowed from the generic descriptions of the theophany. The penal maxim attributed to Ibn Abī ʿArūba draws on features specific of the non-revelation traditions of Shuʿba and al-Qaṭṭān.

Shuʿba b. al-Ḥajjāj (d. 160/776)	(1) *Khudhū ʿan-nī!* (2) *Qad jaʿala l-lāhᵘ la-hunna sabīlᵃⁿ.* (3b) *Al-thayyibᵘ bi-l-thayyibⁱ* (3a) *wa-l-bikrᵘ bi-l-bikr.* (4a) *Al-bikrᵘ yujlad wa-yunfā* (4b) *wa-l-thayyibᵘ yujlad wa-yu jam.*		This is the earliest attestable variant of the non-revelation tradition. Divides the penal part into two clauses. Uses unqualified verbal forms. The wording may have been based on Qatāda's tradition.
Ḥammād b. Salama (d. 167/784)	(1) *Khudhū ʿan-nī! Khudhū ʿan-nī!* (2*) Qad jaʿala l-lāhᵘ la-hunna sabīlᵃⁿ.* (3a) *al-thayyibᵘ bi-l-thayyib* (3b) *wa-l-bikrᵘ bi-l-bikr* (4a) *al-thayyibᵘ jaldᵘ miʾatⁱⁿ wa-l-rajmᵘ* (4b) *wa-l-bikrᵘ jaldᵘ miʾatⁱⁿ wa-nafyᵘ sana*	**OR** (1a) *Anna l-nabī, ṣalʿam, kāna idhā nazala ʿalay-hi l-waḥyᵘ kuriba la-hu wa-tarabbada wajhᵘ-hu (1b) wa-idhā surriya ʿan-hu qāla*	Ḥammād is quoted in two revelation traditions and a single tradition in the non-revelation cluster. The penal-maxim attributed to Ḥammād draws on the wording of Shuʿba b. al-Ḥajjāj and Hushaym b. Bashīr. The *isnād*s above Ḥammād form 'a spider'.
Jarīr b. Ḥāzim (d. 170/786–7)		*Unzilat "Qurʾān 4:15" fa-lammā rufiʿa l-waḥyᵘ qāla rasūlᵘ l-lāhⁱ, ṣalʿam:*	
Hushaym b. Bashīr (104–5–183/722–24–799)	(1) *Khudhū ʿan-nī!* (2) *Fa-qad jaʿala l-lāhᵘ la-hunna sabīlᵃⁿ.* (3a) *Al-thayyibᵘ bi-l-thayyibⁱ jaldᵘ miʾatⁱⁿ thummᵃ l-rajm* (3b) *wa-l-bikrᵘ bi-l-bikrʲ jaldᵘ miʾatⁱⁿ wa-nafyᵘ sana.*		Hushaym's tradition is based on the tradition of Shuʿba b. al-Ḥajjāj.

Yaḥyā b. Saʿīd al-Qaṭṭān (120–98/738–813)	(1) *Khudhū ʿan-nī*! *Khudhū ʿan-nī*! (2) *Qad jaʿala l-lāh^u la-hunna sabīl^{an}*. (3a) *Al-thayyib^u bi-l-thayyibⁱ jald^u miʾatⁱⁿ wa-ramy^{un} bi-l-ḥijāra* (3b) *wa-l-bikr^u bi-l-bikr^j jald^u miʾatⁱⁿ wa-nafy^u sana.*		Al-Qaṭṭān's tradition is based on the tradition of Hushaym b. Bashīr.
Muʿādh b. Hishām al-Dastuwāʾī (d. 200/815)		(1) *Anna l-nabiyy^a, ṣalʿam, unzila ʿalay-hi [l-waḥy^u] dhāta yawmⁱⁿ [(2) fa-lammā surriya ʿan-hu qāla] (3) Khudhū ʿan-nī (4) Qad jaʿala l-lāh^u la-hunna sabīl^{an}. (5) Al-thayyib^u bi-l-thayyibⁱ wa-l-bikr^u bi-l-bikr (6a) Ammā l-thayyib^u fa-yujladu thumma yurjam (6b) wa-ammā l-bikr^u fa-yujladu thumma yunfā*"	The *isnād* above Muʿādh forms a spider structure. Muʿādh relies of a single-strand *isnād* through his father Hishām al-Dastuwāʾī. The dual-penalty maxim attributed to Muʿādh is based on the version of Shuʿba b. al-Ḥajjāj.
Yazīd b. Hārūn (d. 206/821–2)		(1a) *Kāna rasūl^u l-lāhⁱ, ṣalʿam, idhā unzila ʿalay-hi [l-waḥy^u] ʿarafnā dhālika fī-hi* (1b) *Qāla [?]: "Fa-nazala/nuzzila ʿalay-hi fa-sakatnā fa-lammā surriya ʿan-hu qāla:* (2) *"Khudhū-hunna! Iqbalū-hunna!* (3) *Qad jaʿala l-lāh^u la-hunna sabīl^{an}.* (4a) *Al-bikr^u bi-l-bikr^j jald^u miʾatⁱⁿ thumma nafy^u ʿāmⁱⁿ* (4b) *wa-l-thayyib^u bi-l-thayyibⁱ jald^u miʾatⁱⁿ thumma l-rajm."*	Yazīd b. Hārūn's preamble is highly fictionalized and bears upon a number of later preambles. The penal maxim overlaps with the corresponding part of Hushaym b. Bashīr's tradition

General conclusions Literary analysis vs. isnād-cum-matn analysis

Between ca. 100 AH and ca. 250 AH the stoning narratives in Islamic exegesis had seen a considerable measure of evolution. As the existing sources show, at the beginning of the second century AH the penalty for *zinā* was considered in terms of Qurʾān 2:15–6 and Qurʾān 24:2. The surviving commentaries of Mujāhid b. Jabr (d. 100–4/718–22) and al-Ḍaḥḥāk (d. 105/723)—so long as the attributions to these exegetes are genuine—show little exegetical elaboration; no need is felt to explain the punishment for *zinā* by extra-Quranic evidence. What is more, neither of the two exegetes is interested in the stoning penalty for *zinā*, nor do they seem to recognize different categories of sexual offenders (viz. adulterers and fornicators).

The results of the *isnād-cum-matn* analysis of the revelation cluster tally with the evidence derived from the works of Mujāhid and al-Ḍaḥḥāk. Al-Ḥasan al-Baṣrī (d. 110/728) most likely circulated the following short tradition:

*(1) *Unzilat* "Qurʾān 4:15" *fa-lammā rufiᶜa l-waḥyᵘ qāla rasūlᵘ l-lāhⁱ, ṣalᶜam*: (2) "*Khudhū-hunna! Iqbalū-hunna!*"

*(1) [The verse] "Qurʾān 4:15" was revealed and when the revelation was withdrawn, the Messenger of Allāh, may Allāh bless him and grant him peace, said: (2) "Take them [these verses]! Accept them [these verses]!"

Much like the comments of Mujāhid and al-Ḍaḥḥāk, al-Ḥasan's tradition is confined to exegesis of Qurʾān 4:15. It does not refer to any alternative source of legislation in the case of *zinā*. Insofar as al-Ḥasan does not mention terms like *ḥadd* and *rajm*, their limited appearance in the commentaries of Mujāhid and al-Ḍaḥḥāk may be considered as a halakhic accretion that goes to the credit of (much) later transmitters of the text.

Muqātil b. Sulaymān's (d. 150/767) *Tafsīr* is the earliest exegetical work that discusses stoning in some detail. It distinguishes between virgin and non-virgin offenders, and resorts to the prophetic *sunna* to elucidate the ordinance of Qurʾān 2:15–6 and by extension that of Qurʾān 24:2. On closer inspection, Muqātil's commentary *ad* Qurʾān 4:15–6 leaves the impression that several narrative layers coalesced in a single narrative. The earliest of these layers consists of simple paraphrastic exegesis similar to that employed by Mujāhid and al-Ḍaḥḥāk. At a later stage, the original narrative has apparently undergone more paraphrastic accretions. Eventually a *halakhic* ending was attached to the narrative, in which the prophetic *sunna* justifies the penalties for

zinā. Thus, the literary analysis of Muqātil's commentary has shown that the reference to what was to become the ᶜUbāda tradition is intrusive and was not part of the original narrative.

Isnād-cum-matn analysis seems to contradict the latter conclusion. Our study of the *isnād*s and *matn*s in the ᶜUbāda cluster has shown the Baṣran *mawlā* Shuᶜba b. al-Ḥajjāj (born 82–6/702–7, died 160/776) as the earliest disseminator of the non-revelation tradition. It is therefore feasible that the tradition was known to Muqātil, who, like Shuᶜba, lived and worked in Basra. If so, *isnād-cum-matn* analysis belies the results of the literary analysis by allowing an earlier date of the circulation of the ᶜUbāda tradition. Before one settles on this conclusion, however, one has to look more thoroughly at Muqātil's narrative. To facilitate the task, I cite the full *matn* of the dual-penalty tradition found in Muqātil's commentary:

(1) *Allāhᵘ akbar*! (2) *Jāʾa l-lāhᵘ bi-l-sabīl*. (3a) *Al-bikrᵘ bi-l-bikrⁱ jaldᵘ miʾatⁱⁿ wa-nafyᵘ sana*. (3b) *Wa-l-thayyibᵘ bi-l-thayyibⁱ jaldᵘ miʾatⁱⁿ wa-rajmᵘⁿ bi-l-ḥijāra*.

(1) Allāh is great! (2) Allāh has come with a way. (3a) A virgin with a virgin [punish them with] one hundred strokes and a year's banishment (3b) and a non-virgin with a non-virgin [punish them] with one hundred strokes and execution with stones.

Before all, one should note that the tradition does not include the revelation preamble. Neither do the surrounding sentences indicate that the Prophet's words are divinely revealed. Like Shuᶜba, Hushaym and al-Qaṭṭān, Muqātil, or the later redactor who ascribed to him the halakhic commentary, knew only the non-revelation tradition, which, it will be recalled, developed over the course of the second century AH. This is however too broad a frame; it does not allow us to determine whether the prophetic tradition was present in Muqātil's original narrative.

The opening clauses of the prophetic *dictum* in Muqātil's commentary depart from the established wording of the dual-penalty traditions in a way that suggests either dissimilar origin or different stages in the narrative development. Most of the traditions in the ᶜUbāda cluster open with *khūdhū ᶜan-nī* (clause 1) immediately followed by *qad jaᶜala l-lāhᵘ la-hunna sabīlᵃⁿ* (clause 2). Muqātil's alternative clause 1 indicates that *khūdhū ᶜan-nī* may have not been present in the original tradition, which, therefore, would have been an early legal maxim independent of the prophetic and scriptural authority. Clause 2 in Muqātil's tradition is transitional. Whereas most of the dual-penalty traditions repeat the wording of Qurʾān 4:15; Muqātil refers to the same verse in paraphrase.

This paraphrastic version most likely bears witness to an early stage in the development of the tradition, at which the relationship between Qurʾān 4:15 and the prophetic *dictum* was not articulated as clearly as in the later ʿUbāda traditions. Does the paraphrastic opening allow us to date the entire tradition into the first half of the second century AH?

Although clauses 1 and 2 of Muqātil's *ḥadīth* indicate its early origin, the remaining part of the *matn* points in the opposite direction. In clause 3 Muqātil reproduces verbatim the tradition of Yaḥyā b. Saʿīd al-Qaṭṭān (d. 198/813). It will be recalled that according to our *isnād-cum-matn* analysis, al-Qaṭṭān's tradition, which is marked by the use of the genitive compound *rajmun bi-l-ḥijāra*, emerged during the last quarter of the second century AH. That is to say, the prophetic *dictum*, as found in Muqātil's commentary, reflects a stage in the narrative development that postdates Muqātil by at least twenty-five years. Consequently, the prophetic tradition should be considered as a later addition to Muqātil's original narrative, which is perfectly in line with the results of the literary analysis. To my mind, however, a gap of a quarter of a century should not be overstated. The stages of organic development are difficult to tell apart from the distance of twelve centuries. Even several decades would have sufficed to obfuscate the earliest chapters in the narrative evolution. Therefore, it stands to reason that redactional interventions in Muqātil's original text may account for the chronological gap at issue. Insofar as al-Qaṭṭān's tradition represents the latest stage in the development of the non-revelation cluster, it would have been a likely basis for later interpolations. No wonder, therefore, that a later transmitter would have abandoned Muqātil's original wording and brought his narrative into the line with the wording that the non-revelation tradition had acquired by the end of the second century AH.

Note, however, that the hypothetical redactor did not change clauses 1 and 2 of Muqātil's tradition in accordance with the later standards. This indicates that these introductory clauses were fluid in the early non-revelation narrative and probably remained so until the end of the second century AH. A similar fluidity is attested in the respective clauses of the revelation traditions of al-Ṭayālisī and ʿAbd al-Razzāq, which were circulated at the turn of the second century AH. The wording of clauses 1 and 2 seems to have acquired its final shape only in the third century AH. If so, the appearance of these clauses in the non-revelation traditions may have resulted from later interpolations in the earlier narrative. Insofar as the dual-penalty maxim does not need the Prophet's exclamation for its semantic integrity, one suspects that the respective clauses were glued to the original non-prophetic maxim in the course of its addition to the

revelation preamble. Whatever the case, the prophetic *dictum*, as found in Muqātil's narrative, may have been either a later intrusion, which occurred during the last decades of the second century AH, or a later redaction of the original prophetic *dictum*, which was undertaken during the same period. The first option would confirm the outcome of our *isnād* and *matn* analysis, whereas the second one would contradict it.

The *isnād-cum-matn* analysis of the revelation compound has entailed several possibilities. Even though the composite tradition cannot be associated with al-Ḥasan al-Baṣrī in its entirety, it may have been compiled by redactors as early as Qatāda b. Diʿāma (d. 117/735) and Saʿīd b. Abī ʿArūba (d. 156/772). If one of these traditionists circulated the initial variant of the revelation tradition, then it would have existed several decades before making its way into the collections of Abū Dāwūd al-Ṭayālisī (d. 203–4/819–20) and ʿAbd al-Razzāq al-Ṣanʿānī (d. 211/827).

If spread by Qatāda b. Diʿāma or Ibn Abī ʿArūba, the compound revelation traditions would have coexisted with the non-revelation versions. This would not have been much of a problem, were not the most salient CLs in the non-revelation cluster, Shuʿba b. al-Ḥajjāj and Yaḥyā b. Saʿīd al-Qaṭṭān, also apparent PCLs of Qatāda and Ibn Abī ʿArūba. How could the PCLs have been unaware of the revelation preamble? Tampering with the *matn* and fictitious attributions should not be discounted, especially in the case of al-Qaṭṭān, but this does not prove in any way that Qatāda or Ibn Abī ʿArūba are CLs of the compound revelation tradition. The analysis of their possible contribution to the formulation and the circulation of that tradition has faced insoluble contradictions.

On the whole, we are left with the evidence of the literary sources about the revelation tradition. There is nothing to compare with the results of the literary analysis. It clearly shows that the revelation narrative has undergone a development whereby two originally independent traditions were merged into a single narrative. The stages of this process are difficult to follow, but, arguably, it would have started some time in the last quarter of the second century AH.

Our study of the ʿUbāda tradition has shown that literary analysis and *isnād-cum-matn* analysis need not be treated as competitive methods in the study of the Islam's formative centuries. There are instances in which both approaches may yield identical results. The cases of contradiction do not negate the merits of each method; what is more, literary analysis becomes indispensable when there are no *isnād*s to analyze, or where the *isnād* evidence is indecisive.

Isnād *analysis versus* isnād-cum-matn *analysis*

Following his postulate that the early development of Muslim jurisprudence started with personal opinions expressed by "certain *fuqahāʾ*,"[1] Juynboll has regarded the penal part of the ᶜUbāda tradition as a legal maxim, the basic elements of which are "most probably due to Ḥasan [al-Baṣrī]".[2] Insofar as Juynboll's method dwells on the *isnād*s while paying little attention to the *matn*s, the exact wording of his "basic elements" is left to the reader's intuition. *Isnād-cum-matn* analysis, which draws conclusions from a comparative study of the *isnād* bundles and the attendant *matn* bundles, shows that Juynboll's supposition is acceptable only in its part that links al-Ḥasan to the issue of the punishment for *zinā*. Contrary to Juynboll's conjecture that al-Ḥasan must have formulated the "basic elements" of the dual-penalty maxim, our analysis has shown that al-Ḥasan expressed the view that the sexual offenders should be treated in accordance with what is presently known as Qurʾān 4:15. As for the dual-penalty maxim, it was not a factor in the legal debates in the floruit of al-Ḥasan; even less so in the period of early Islam, as Juynboll seems to suggest.[3]

Discontinuity between the Qurʾān and the sunna as legal sources

The issue of *rajm* seems to buttress Schacht's thesis that "anything which goes beyond the most perfunctory attention given to the Koranic norms and the most elementary conclusions drawn from them, belongs almost invariably to a secondary stage in the development of doctrine."[4] Burton's dichotomy between the "Qurʾān document" and the "Qurʾān source"[5] has mitigated Schacht's skepticism, at least when it comes to its possible implications on the very existence of the Qurʾān as a commonly-accepted text during the first century AH. Burton, nonetheless, has considered a number of instances, the issue of *rajm* being the most outstanding, in which there exists a rupture between the Qurʾān source and the *sunna* source.[6] Burton's conclusion that the development of the *sunna* source had preceded the more serious consideration of the Qurʾān source[7]

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[1] Juynboll, "Some Notes," 290.

[2] *ECḤ*, 442.

[3] Loc. cit.

[4] Schacht, *Origins*, 227.

[5] "As a document, the Qurʾān had existed and was widely known before it was called upon to behave as the source of the *uṣūlīs* in their inter-regional dispute." (Burton, *Collection*, 44, cf. ibid., 41–2).

[6] Burton, *Collection*, 72 ff.

[7] Ibid., 161, 187.

endorses the Schachtian rupture between the Qurʾān and the *sunna* as sources of law. Together with other works that treat the discontinuity between the Qurʾān and Sharīʿa, Burton's discussion of the penalty for *zinā* has led Crone to infer that "all [these works, P.P.] suggest that Schacht underestimated the discontinuity to which he drew attention: of rules based on the Qurʾān from the start we no longer possess a single clear-cut example".[8] From her study of the DAEP[9] rule, Crone concluded that the Muslim jurists started taking into the consideration the Quranic rules on the inheritance of the cognates between the years 90 and 120 AH.[10] This led her to the following important conclusion: "the evidence of the DAEP rule suggests a mid-Umayyad date for the arrival of the canonical scripture".[11]

The results of Crone's study await a more thorough inspection by means of *isnād-cum-matn* analysis. Nevertheless, the present investigation of the early doctrine of the penalty for *zinā* entails a chronological conclusion that greatly overlaps with Crone's. If al-Ḥasan al-Baṣrī (d. 110/728) had relied on the scriptural ruling on *zinā*, then, already towards the end of the first century AH, scripture, or at least what was to become part of the Qurānic *textus receptus*, would have served as the basis for derivation of legal pronouncements. Contrary to Schacht's theory, in the case of *zinā* scripture appears to have been the primary stage in the development of the legal doctrine. The sunnaic ruling, represented by the ʿUbāda tradition, unfolded as a secondary stage of legal elaboration during the second century AH. Thus one observes at least one case, in which the development of the *sunna* source ensued from the Qurʾān source. One should note, however, that these are preliminary conclusions; their correctness depends on the study of other traditions dealing with the punishment for *zinā*.[12]

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[8] Crone, "Two Legal Problems," 10–11.

[9] This acronym was coined by Crone. It stands for *Dhawū l-Arḥām* Exclude Patrons.

[10] Crone, "Two Legal Problems," 36.

[11] Ibid., 37.

[12] My investigation of other *zinā* traditions has hitherto shown that already Ibn Shihāb al-Zuhrī (d. 124/742) considered *rajm* as the normative penalty for adultery deriving from the prophetic practice. (Pavel Pavlovitch, "Early Development of the Tradition of the Self-Confessed Adulterer in Islam. An *Isnād* and *Matn* Analysis," *al-Qanṭara*, 31:2 [2010], 371–410). Nevertheless, a further study of the *rajm* traditions is needed before one may define the earliest date of their circulation.