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THE ROLE OF THE BIOGRAPHER IN CONSTRUCTING
IDENTITY AND DOCTRINE: AL-ʿABBĀDĪ AND HIS
KITĀB ṬABAQĀT AL-FUQAHĀʾ AL-ShāFIʿIYYA

Felicitas Opwis
GEORGETOWN UNIVERSITY

This paper explores the role of the biographer in compiling a biographical
dictionary, focusing on al-ʿAbbādī’s (d. 458/1066) work on the ShāFIʿī
‘school’ of law. The paper argues that al-ʿAbbādī 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-ʿAbbādī’s role in
constructing the identity and authority structures of the school the paper
focuses on three areas: first, how al-ʿAbbādī lays out his vision of the school in
the entry of the eponym of the school by delineating the areas of law that
distin GUish al-ShāFIʿī from other founders of schools of law; second, how al-
ʿAbbādī deals with contradictory positions held among members of the school;
third, how he gives the school of law also a theological identity (Ashʿarism) by
discussing such topics as free will, the createdness of the Qurʾān, 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’ ShāFIʿī
doctrine. It presents reasons why al-ʿAbbādī 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 ʿAbbasid 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-Jumāḥī’s (d. 231/846) Kitāb Ṭabaqat al-fuḥūl al-shuʿarāʾ, devoted to hadīth transmitters and poets respectively. A more recent example of this type of literature is ʿAbd al-Rahmān al-Jabarī’s (1754–1829) ʿAjīb al-athār fī l-tarājim wa-l-akhbār. While many biographical works concentrate on religious figures, such as Companions, hadīth 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-Muʿammārān wa-l-waṣāyā);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 hadīth transmitted; professional appointments; and anecdotes or stories that are

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2 Al-Qāḍī, ‘Biographical Dictionaries,’ 95.
relevant for understanding the personality and the significance of the biographee. 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. 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 Shāfi‘ī 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 Shāfi‘ī jurists, with al-Shāfi‘ī as the reformer for the third century AH. An amusing detail of the ‘fictional’ character of some biographical information is Ibn Farḥūn’s (d. 799/1397) account of Mālik
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.


\(^10\) 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


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-Du’ālī (d. 69/688) as the ‘founder’ of the discipline, who learned it from none other than ‘Alī 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 Iḥṭilāf al-fuqahāʾ,’ 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-ṣāfiʿīya: Das Klassenbuch der Gelehrten Śafiʿīten des Abū ʿĀsim Muhammad b. Ahmad al-ʿAbbādī, ed. Gösta Vite bast (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.\textsuperscript{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.\textsuperscript{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;\textsuperscript{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 Āṣīm al-ʿAbdī helped to mold the identity of the Shāfīʿī school of law in his Kitāb Ṭabaqāt al-fuqahāʾ al-shāfīʿīyya. For this purpose, I am paying more attention to the ways in which he presents information on jurists and doctrines of the Shāfīʿī school, rather than the historicity of his narrative. Furthermore,\textsuperscript{18}

\textsuperscript{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.

\textsuperscript{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 ḏāfī (ibid., 12).

\textsuperscript{17} That the membership of a group changes is evident, for example with the famous historian and exegete Muḥammad b. Ḥanīf al-Ṭabarī (d. 419/930). While al-ʿAbdī counts him among the members of the Shāfīʿī school (al-ʿAbdī, 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-Shāfīʿī. See Melchert, Formation of the Sunni Schools of Law, 178.
instead of pointing out that al-ʿAbbādī’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.  

Abū ʿĀshīm al-ʿAbbādī’s Kitāb Ṭabaqāt al-fuqahāʾ al-shāfiʿiyya
Abū ʿĀshīm Muḥammad b. Ṭūḥaḥ al-ʿAbbādī, the author of Kitāb Ṭabaqāt al-fuqahāʾ al-shāfiʿiyya, was born in Herat in 375/985, where he began his education before studying in Nīṣābūr under leading scholars of Shāfiʿī law and Ashʿarī theology. He is said to have traveled extensively, and returned, probably after 440/1048, to Herat where he was appointed gāḍī. He died there or, according to some accounts, in Mār w in 458/1066. Al-ʿAbbādī is not only remembered as a Shāfiʿī judge, author of several works on law (mainly on legal practice, fiqh) and biographer of the school, but also as the leading Ashʿarī theologian of Herat of his time.

Al-ʿAbbādī finished his work on members of the Shāfiʿī school in 435/1044, before starting his judgeship in Herat. The book contains the names of 238 jurists, starting with the eponymous founder and

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18 George Makdisi has shown that some of the presentation techniques used by al-ʿAbbādī in his Ṭabaqāt al-Shāfiʿiyya were intended to highlight that Ashʿarī theology is compatible with Shāfiʿī ism. See George Makdisi, ‘Ashʿarī and the Ashʿarites in Islamic Religious History I,’ Studia Islamica 17 (1962), 37–80 (pp. 57–79).


20 Al-ʿAbbādī, Kitāb Ṭabaqāt, 114.

21 Several jurists listed by al-ʿAbbādī 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-Rabīʿ (pp. 12 and 16); Abū Muḥammad ʿAbd al-Raḥmān b. Abī Ḥātim (pp. 29 and 43); Abū l-Qāsim al-ʾAnnāfī (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 (jāmʿ) and duplicating (tafrīq) individuals in al-Bukhārī’s al-Taʿrīkh al-kabīr. See Ahmad b. ʿAffī 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-ʿAbbādī.\(^{22}\) 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-ʿAbbādī, or they reflect a growth period within the Shāfiʿī school; in contrast, the author lists only 26 jurists for the third and 33 for the fifth generation. Hallaq speaks of a growing Shāfiʿī school during the fourth/tenth century due to the numerous students of Ibn Surayj (d. 306/918), who are said to have spread the Shāfiʿī madhhab.\(^{24}\) Halm documents that it was during this period that Shāfiʿī 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-shāfiʿīyya**

Al-ʿAbbādī’s dictionary of Shāfiʿī jurists is remarkable in many ways. It is probably the earliest extant source devoted to members of the Shāfiʿī school,\(^{26}\) written more than 200 years after the death of its eponym,

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\(^{22}\) Al-ʿAbbādī does not say much about his sources, though it is obvious from some references that he drew on written and oral sources, cf. al-ʿAbbādī, Kitāb Ṭabaqāt, 6, 86, and 91.

\(^{23}\) In the first generation, al-ʿAbbādī lists two persons who doubtlessly have to be counted among the second generation of Shāfiʿī jurists, cf. al-ʿAbbādī, Kitāb Ṭabaqāt, 29 and 36.


\(^{25}\) Halm, Ausbreitung, 20–9.

\(^{26}\) Other biographical works on the Shāfiʿī school that are not extant are attributed to al-Muṭṭawwiʿī (d. 400/1009–10) and to Abū l-Ṭayyīb al-Ṭabarī (d. 450/1058), who was one of al-ʿAbbādī’s teachers. See Melchert, Formation of the Sunni Schools of Law, 145; al-ʿAbbādī, Kitāb Ṭabaqāt, 114.
Muḥammad b. Idrīṣ al-Shāfiʿī (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-ʿAbbādī’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-ʿAbbādī, lies in being the intermediaries (wasāʾif) between ‘us’ and the Companions of the Prophet.28 For al-ʿAbbādī, 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 (manāḥij al-fiqh), the rulings (aḥkām), and knowledge of the precise meanings (maʿānī) and signs (aʿlām) from which legal rulings are derived.29 Al-ʿAbbādī’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-Shāfiʿī and the Companions or legal figures of generations preceding the eponym. Only once does he mention al-Shāfiʿī’s teachers, and that occurs in the entry of a Shāfiʿī jurist of the fourth generation, where a chain of transmission between al-Shāfiʿī 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-ʿAbbādī’s claim that the legal knowledge of the Shāfiʿī school has been

27 Al-ʿAbbādī 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-ʿAbbādī, Kitāb Ṭabaqāt, 1.
29 Ibid., 1.
30 The chain of transmission goes from Muslim b. Khālid al-Zanjī and Saʿīd b. Sālim al-Qaddāḥ to Ibn Jurayḥ, ʿAṭāʾ b. Abī Rabāḥ, ʿAbdallāh b. ʿAbbās and Ibn ʿUmar, of which the last two have received their knowledge from the Prophet (ibid., 84).

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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 manāḥif), applied law (ahkām 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,

31 Makdisi points out that the term ʿusūl al-ʿfiḥ 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 Shâfiʿī: Origins and Significance of Uṣūl al-Fiqh,’ Studia Islamica 59 (1984), 5–47 (pp. 7–9).
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 Ḥanīfah and Ḥanafīs by al-Ṣaymarī (d. 436/1045) called Akhbār Abī Ḥanīfa wa-ashabāḥīh, which was completed in 404/1014. See Eerik Dickinson, ‘ʿAhmad b. al-Ṣalt and His Biography of Abū Ḥanīfah,’ 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.\textsuperscript{34}

Al-ʿAbbādī’s vision of the eponym of the school

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

\textsuperscript{34} Al-ʿAbbādī’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.

\textsuperscript{35} Al-ʿAbbādī, Kitāb Ṭabaqāt, 6–7.

\textsuperscript{36} Ibid., 31, 38, 52, and 73.

\textsuperscript{37} Ibid., 20.

\textsuperscript{38} Ibid., 49, 56–7, and 60.

\textsuperscript{39} Ibid., 35 and 57; Ibn al-Nadrīm (d. 385/995), the author of the Fihrist, calls al-Shāfiʿī a fervent Shiʿī. See Eric Chaumont, ‘al-Shāfiʿī,’ \textit{EI2}, vol. 9, 181–5 (p. 182).

\textsuperscript{40} Interestingly, al-ʿAbbādī does not mention the Ḥanbalīs as a school of law, though he lists Ahmad b. Ḥanbal (d. 245/855) as a student of al-Shāfiʿī and then refers to the Ḥanbalīs as a group elsewhere in the book (see al-ʿAbbādī, 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-Shāfiʿī who held him in high esteem; for Ḥanbalīs as a distinct group, see ibid., 46). When al-ʿAbbādī mentions eponyms of other schools of law, he usually does not include Ahmad 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-ʿAbbādī was active. He obviously did not perceive Ḥanbalīs as a rival school, like Ḥanafīs and Mālikīs.
and why scholars and common people adopt the Shāfīʿī school as their madhhab.⁴¹

After presenting al-Shāfīʿī’s full name and genealogy, he refers to several prophetic hadīths all stating the exceptional status of the Quraysh, the tribe to which al-Shāfīʿī belonged and which made him a distant relative of the Prophet.⁴² The leadership status of al-Shāfīʿī, 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 (jahārāt), provisions for acts of worship (sharāʿīf al-ʿibādāt), issues relating to marriage (ankiḥa), and sale contracts (biyāʿāt)’.⁴⁴

In this brief entry (fourteen lines) on al-Shāfīʿī, al-ʿAbbādī articulates that which he considers the defining characteristics of his school that originate and are personified in the eponymous founder. The Shāfīʿī 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-Shāfīʿī—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-Shāfīʿī 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-Shāfīʿī’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 laws⁴⁵, as well as

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⁴¹ Al-ʿAbbādī, Kitāb Ṭabaqāt, 6–7.
⁴² Ibid., 6.
⁴³ Notwithstanding the hadīths that express that leadership belongs to the Quraysh, al-ʿAbbādī also presents al-Shāfīʿī as rejecting superiority based on descent in a statement in which al-Shāfīʿī 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-ʿAbbādī’s statement that al-Shāfiʿī was an expert in contract law he pays rather little attention to it when presenting the doctrines held by members of the Shāfiʿī school; contract law is mentioned less than issues pertaining to linguistic knowledge 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 *ijtiḥād* and *qiyyās* – terms that al-Shāfiʿī considers to be of the same meaning or rather that *qiyyās* is a form of *ijtiḥād*. In addition to the reasons elaborated by Hallaq, this lacuna regarding legal theory, perhaps, also reflects al-ʿAbbādī’s own interest in substantive law, as indicated by his works in that field.

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

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46 For mentioning of legal issues concerning contract law see, for example, al-ʿAbbādī, *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.
49 Hallaq argues convincingly that al-Shāfiʿī himself has contributed little to legal theory. His research suggests that despite the medieval dictum that ‘al-Shāfiʿī is to *usūl al-fiqh* what Aristotle was to logic’ the image of al-Shāfiʿī 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-Shafīi the Master Architect,’ 587–8 and 600. Al-ʿAbbādī’s work, finished in 435/1044, gives in the eponym’s entry the initial impression of his expertise in *usūl al-fiqh* but does not support this with actual doctrines and opinions on legal theory transmitted from al-Shāfiʿī or his immediate disciples.
50 See, for example, al-ʿAbbādī, *Kitāb Ṭabaqāt*, 11, 27, 47, 58, 62–3, 78–82, 97, and 109.
other than the famous litterateur al-Jāḥīz (d. 255/869). 51 Al-ʿAbbāḍī’s concern for showing superiority in the Arabic language of al-ʾShāfiʿī 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-ʿAbbāḍī in several references to the debate over the permissibility of drinking nabīdḥ. The question in this debate is whether the Arabic terms nabīdḥ 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 nabīdḥ (made, for example, out of honey, barley, spelt, or dates) 54 also fall under the Qurʾānic prohibition. Many Ḥanafīs differentiate between khamr and nabīdḥ, permitting moderate use of the latter. 55 Al-ʿAbbāḍī quotes al-Shāfiʿī as saying that the Arabs of Mecca and Medina used both terms synonymously and that nabīdḥ, 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-ʿAbbāḍī also pays much attention to matters that lie more within the realm of adab and social etiquette than law proper. He refers to legal

52 See, for example, al-Khaṭīb al-Baghdādī, Taʾrīkh Baghdād, vol. 13, 324–6.
53 See Qurʾān 5: 90–1.
56 Al-ʿAbbāḍī, Kitāb Ṭabaqāt, 40 and 46.
57 Ibid., 45–6.
opinions on sneezing, eating, drinking, and honor (murū‘a), some of which allegedly portray al-Shāfi‘ī’s personal behavior. 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). 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-`Abbādī’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-`Abbādī’s double role as compiler of extant information and active participant in shaping the identity of the school comes to the fore when Shāfi‘ī 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’ Shāfi‘ī position.

One such way al-`Abbādī deals with contradictory views held by Shāfi‘ī jurists is to present them without further comment, leaving it for the reader to decide which to follow. In general, al-`Abbādī only does this when the jurists involved do not belong to the circle of the founding fathers, and when no continuous link to al-Shāfi‘ī or his direct disciples can be established. For example, he states under the entry of Abū Marwān Ismā‘īl b. Marwān, a jurist of the third generation whose teachers remain unnamed, a disagreement among Shāfi‘īs 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.

58 Al-`Abbādī, Kītab 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.
Abū Marwān is cited as authority by al-ʿAbbādī’s teacher Abū ʿUmar al-Bistāmī (d. 407/1016) that this practice is prohibited, claiming it to be the doctrine of al-Shāfiʿī. Instead of leaving this view as is, al-ʿAbbādī refers to Abū Saʿīd65 (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-ʿAbbādī when presenting the controversy within the Shāfiʿī 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-ʿAbbādī states that the third generation jurist Abū ʿAbdallāh Muḥammad b. Ishāq al-Saʿīdī al-Harawī transmitted on the authority of al-Shāfiʿī 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 ʿAlī b. Abī Ṭālib (r. 35–40/656–61) and also advocated by Abū Ḥanīfa. Yet, despite such endorsement, al-ʿAbbādī says that some Shāfiʿīs (baʿd 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 ʿAbbās’ (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-Saʿīdī, 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 ʿUmar (d.73/693).67

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

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65 While al-ʿAbbādī 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 Saʿīdī, several jurists by that name are potential candidates. I have drawn attention to the most likely ones.
66 Al-ʿAbbādī, 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 Ḥanīfah, the rival, who is associated with Muʿtazī 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. 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 ʿĪsā ibn Yahyā al-Muẓanī (d. 264/878) and Abū Thawr Ibrāhīm b. Khālid al-Baghdādī (d. 240/854). Abū Sulaymān Dāʿūd b. ʿAlī al-ʿIṣbahānī (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-Muẓanī. Al-Muẓanī 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. 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-ʿAbbādī already set the tone for which of al-Shāfiʿī’s disciples is more authoritative in the entries of Abū Thawr and al-Muzanī. Al-Muzanī, an Egyptian disciple of al-Shāfiʿī, is showered with praise for his piety, legal acumen, and linguistic competence as well as for his skillful argumentation which, as al-Shāfiʿī himself observed, would silence even the devil. By comparison, Abū Thawr, an Iraqi disciple of al-Shāfiʿī, is portrayed as challenging the master. Furthermore, al-ʿAbbādī mentions in his entry cases about which several of al-Shāfiʿī’s immediate students, namely al-Muzanī, al-Buwayṭī, al-Karābīsī, and Abū Thawr, all held different opinions. 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-ʿAbbādī as the one whose disputation skill prompted Ibn Ṭūlūn (r. 254–70/868–84) to elevate the Shāfiʿī school over the Mālikī in Egypt. This leaves the impression that in case a later Shāfiʿī jurist comes across contradictory rulings by these two jurists, he may safely follow al-Muzanī’s teaching. The existence of Shāfiʿīs like Abū Sulaymān al-ʿIṣbahānī, who adopted the views of Abū Thawr, only underscores al-ʿAbbādī’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-Shāfiʿī, al-ʿAbbādī also uses difference in geographical location as a way of indicating the preferred among contradictory views held by Shāfiʿī jurists. He often rationalizes inconsistencies in Shāfiʿī doctrine by assigning them to different periods of al-Shāfiʿī’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-Shāfiʿī pronounced in Egypt represent his final teaching and that his Egyptian disciples are of higher authority because they purportedly reflect and perpetuate al-Shāfiʿī’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-ʿAbbādī, 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-ʿAbbādī, Kitāb Ṭabaqāt, 22–3.
73 Ibid., 10.
Another example in which geography plays a role is cited in the entry of Abū Ḥusayn b. Abū Ḥātim al-Raḍā̀ (p. 43), though it may belong to the person listed prior, namely Abū Bakr ʿAbdallāh b. Muḥammad b. Ziyād al-Naysabūrī (p. 42), since it is prefaced with ʿAbū Bakr said, I heard Yūnus b. ʿAbd al-Raʿīs al-Saḥrāʿī (d. 766/1364) directly takes the side of the Egyptian traditionist in support of the new doctrine, al-ʿAbbādī states that Abū Saʿīd (here probably al-Iṣṭakhri) disagreed with him. He hints at which view should be the preferred by saying that al-Marwazī was part of the circle of Shāfiʿī jurists74 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 said77 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 fi majlis al-Shāfiʿī bi-Miṣr. However, the death date of Abū Ḥusayn 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 rahimahu llāh after al-Shāfiʿī, though it might have been forgotten by a later copyist.


76 Al-ʿAbbādī, Kitāb Ṭabaqāt, 18; Susan A. Spectorisky, “Sufyān b. ʿUyayna,” EJ, 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-Raḍā̀ (p. 43), though it may belong to the person listed prior, namely Abū Bakr ʿAbdallāh b. Muḥammad b. Ziyād al-Naysabūrī (p. 42), since it is prefaced with ʿAbū Bakr said, I heard Yūnus b. ʿAbd al-Aʿlā say…” (p. 43).

78 A hadīth to that effect made it into the collection of Abū Daʿūd (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 ʿalayhim wa-lā kaffārata). Interestingly, in the way al-ʿAbbādī presents the matter, he accepts al-Shāfiʿī’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-Shāfiʿī (as well as al-ʿAbbādī) was less the champion of adherence to prophetic hadīth than frequently portrayed.

The negative attitude toward al-Shāfiʿī’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-ʿAbbādī said that he succeeded the master after his death. In the entry of Abū Ismāʿīl al-Tirmidhī (d. 280/893), al-Buwayṭī is quoting al-Shāfiʿī who proclaimed that he does not permit transmitting from him what he wrote in Iraq. Here and elsewhere, al-ʿAbbādī 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-Shāfiʿī’s Egyptian works which Ishāq b. Ibrāhīm al-Ḥanẓālī, who met al-Shāfiʿī in Egypt, had copied and taken back with him to the East.

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-ʿAbbādī, who displays a strong preference for al-Shāfiʿī’s Egyptian teaching, occasionally makes an exception, as in a dispute between al-Muzanī and al-Ḥusayn b. ʿAlī 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 Shāfiʿī teaching. When al-Muzanī remarks that he does not know the doctrine al-Karābīsī holds on authority of al-Shāfiʿī regarding a sale transaction involving wheat, al-ʿAbbādī defends al-Karābīsī’s ruling saying that the reason is because al-Muzanī did not hear the old Iraqi doctrines of al-Shāfiʿī. 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-Shāfiʿī’s Iraqi

79 Al-ʿAbbādī, Kitāb Ṭabaqāt, 43.
81 Al-ʿAbbādī, 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-ʿAbbādī is unwilling to dismiss al-Karābīṣī’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-Shāfīʿī’s affirmation of the caliphate of Abū Bakr who, according to al-Shāfīʿī, was the most excellent person after the death of the Prophet. Al-ʿAbbādī interprets al-Karābīṣī’s report to mean that the leadership of the excelled candidate is not legitimate (imāmat al-mafḍūl lā taḥzū).85 Al-Shāfīʿī’s position on the caliphate, as reported by al-Karābīṣī, ties in with other references al-ʿAbbādī includes throughout the book that seem to be intended to fend off accusations of Shīʿī tendencies directed against al-Shāfīʿī. The Shīʿī claim that ʿAlī 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 Shāfīʿī school.86

We also find instances in which al-ʿAbbādī explicitly points out the ‘correct’ Shāfīʿī position. Yūnus b. ʿAbd al-ʿlā, who, as noted above, may not have known al-Shāfīʿī’s final doctrine on killing women and children of infidels in combat, nevertheless also transmits legal views on authority of al-Shāfīʿī that al-ʿAbbādī deems correct. He is credited with relating from al-Shāfīʿī 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 necessity87 – 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 Shāfīʿīs and by others accepted. Al-ʿAbbādī sides with the latter, calling it correct (wa-huwa al-ṣaḥīḥ).88

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

85 Al-ʿAbbādī, Kitāb Ṭabaqāt, 24.
86 Throughout the Kitāb Ṭabaqāt, al-ʿAbbādī repeatedly mentions that al-Shāfīʿī embraced the legitimacy of the first three caliphs and that he did not elevate ʿAlī above other Companions. See ibid., 17, 24, 35, 57, and 61.
87 Al-ʿAbbādī does not use a technical term here but says: idhā ḍāqa (al-amr) ittasaʿ (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 ʿAbd al-Raḥmān’s views as contrary to consensus (ijmāʿ).89 Discrediting the transmissions of Abū ʿAbd al-Raḥmān must not have been successful for not all Shāfiʿīs shared the eponym’s misgivings. The later Shāfiʿī scholar Ibn Kathīr (d. 774/1373) reports that Abū ʿAbd al-Raḥmān’s legal rulings were faithful to al-Shāfiʿī and were followed still in his own time. Al-ʿAbbāḍī’s report that the legal rulings of this student of al-Shāfiʿī 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 Muʿtazī tenets, in particular the createdness of the Qurʾān.90 By mentioning that the eponym himself renounced all of Abū ʿAbd al-Raḥmān’s rulings, al-ʿAbbāḍī clearly distances the school from association with anyone holding unambiguously Muʿtazī doctrines.

As the above examples show, al-ʿAbbāḍī 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 Shāfiʿī 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 Shāfiʿī school. As one would expect, in most cases—but certainly not in all—al-Shāfiʿī’s views enjoy foremost authority, followed by those of his Egyptian disciple al-Muzanī.

89 Al-ʿAbbāḍī, Kitāb Ṭabaqāt, 26.
90 Melchert, Formation of the Sunni Schools of Law, 78, 84, and 181.
91 Al-ʿAbbāḍī seems to be much more hands-on than what Makdisi says about the later biographer of the Shāfiʿī school al-Ṣubkī. According to Makdisi, al-Ṣubkī affirms the doctrine of the double legal truth, i.e. that if there are two contradictory transmissions of al-Shāfiʿī’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, ‘Ashʿarī and the Ashʿarites in Islamic Religious History II,’ Studia Islamica 18 (1963), 19–39 (p. 35).
The Shāfi‘ī school and theology: harmonizing al-Shāfi‘ī’s opposition to kalām with Ash‘arī theology

Doubtless, a matter of concern for al-ʿAbbādī was the discrepancy between al-Shāfi‘ī’s reported negative attitude toward speculative theology (kalām) and his own intellectual pursuits in that field. Al-ʿAbbādī, as mentioned above, had studied with some of the foremost Ash‘arī theologians of his time, counting among his teachers Abū Ḥishāq al-Isfarā‘īnī (d. 418/1027) and Abū Ṭayyib Sahh al-Su‘lūkī (d. before 404/1014, son to the more famous Abū Sahh al-Su‘lūkī [d. 369/980]), and he himself was considered an Ash‘arī theologian of some renown. Since the late fourth/tenth century, many leading Shāfi‘īs tended to be affiliated in theology with Ash‘arism. One may speak of a certain rapprochement between Ash‘arī theology and Shāfi‘ī law. Although al-Subkī later criticizes al-ʿAbbādī for not paying enough attention to Ash‘arī members of the school, it is safe to assume that al-ʿAbbādī tended more toward a rationalist Ash‘arī interpretation of theology than to traditionalism. Instead of hiding al-Shāfi‘ī’s opposition to theology al-ʿAbbādī tries to present that his own (and that of other Shāfi‘īs) pursuit of theology is in line with the theological beliefs of the eponym and that the theology disparaged by al-Shāfi‘ī is only directed against Mu‘tazilī teachings.

93 The Ash‘arī theologians Ibn Fūrak (406/1015) and al-Isfarā‘īnī adhered in law to the Shāfi‘ī school as did later Ash‘arīs, 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-Shafi‘i the Master Architect,’ 598–601; Makdisi, ‘Juridical Theology of Shâfi‘ī’; 21–2. Makdisi attributes the ‘infiltration’ of Ash‘arīs in the Shāfi‘ī school also by the former’s efforts to receive the status of orthodoxy by affiliating themselves with a school of law. Since Mu‘tazilism was mainly associated with the Ḥanafi school, traditionalism with the Ḥanbalī school, and both the Mālikī and Zāhīrī school too weak, the Shāfi‘ī school of law appealed as a home to Ash‘arī-leaning jurists. See Makdisi, ‘Ash‘arī and the Ash‘arites I,’ 46–8.
96 In addition to al-ʿAbbādī’s portrayal of theological doctrines of the school, the relative scarcity of hadīth to support legal as well as non-legal doctrines also point to his non-traditionalist leanings. In discussions of theology, hardly any hadīth are cited in favour of mainly Qur‘ānic verses.
The opposition that al-Shāfiʿī expressed against engaging in kalām is well documented by al-ʿAbbādī. Associates of al-Shāfiʿī report that he prohibited kalām, and said that those garbing themselves with theology do not prosper. Worse still, according to al-Shāfiʿī, 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. 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-Shāfiʿī’s close associates al-Karābīsī and Abū Thawr. Al-Muzanī reports that al-Shāfiʿī advised him against engaging in kalām saying it is a science (ʿilm) that ‘if you are correct in it, you do not receive reward and if you err, you commit unbelief – so stick with law’. One notices a slight gradation in how vehemently al-Shāfiʿī condemns theology. The most negative comments are transmitted by personalities who knew al-Shāfiʿī 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 Muʿtazilī activity, al-Shāfiʿī 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.

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

97 Al-ʿAbbādī, Kitāb Ṭabaqāt, 34.
98 Ibid., 61.
99 Ibid., 54.
100 Al-ʿAbbādī explains the fact that al-Bukhārī did not transmit on authority of al-Shāfiʿī in his Ṣaḥīḥ saying that al-Bukhārī had sought the company of the eponym but al-Shāfiʿī had just passed away (ibid., 53). Other sources report that al-Bukhārī as well as other hadīth scholars did not deem al-Shāfiʿī a trustworthy transmittter. See Hallaq, ‘Was al-Shafii the Master Architect,’ 593–4; Chaumont, ‘al-Shafii,’ vol. 9, 184.
101 Al-ʿAbbādī, Kitāb Ṭabaqāt, 11. Makdisi says that al-Subkī also mentions this warning to al-Muzanī in his Ṭabaqāt al-Shafiiyya. See Makdisi, ‘Asḥaʾarī and the Ashʿarites I,’ 67.
102 The later biographer of the Shafīʿī school, al-Subkī, speaks of two doctrines of al-Shafīʿī 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. As mentioned above, questions of theology are more prominently addressed by al-ʿAbbādī 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-ʿAbbādī establishes that al-Shāfiʿī’s opposition to kalām is directed against Muʿtaṣīfī doctrines of free will and the createdness of the Qurʾān; and a discussion of faith shows that later Ashʿarī teachings are in line with al-Shāfiʿī’s own convictions.

**Free will (qadar) and compulsion (jabr)**
In several places, al-ʿAbbādī reports on authority of al-Rabīʿ, al-Shāfiʿī’s servant and transmitter of his Egyptian teachings, that the eponym refuted the doctrine of free will (qadar). Al-Shāfiʿī is credited with saying that apart from God’s will, His creatures do not have a will. Al-ʿAbbādī includes a poem al-Shāfiʿī 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. According to al-Rabīʿ, al-Shāfiʿī goes even further and condemns praying behind proponents of free will and intermarrying with them, thus effectively declaring them heretics.

In addition to documenting that al-Shāfiʿī and the early members of the school denied free will, al-ʿAbbādī also guards against Shāfiʿīs 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). 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-Shāfiʿī was thoroughly anti-kalām in his al-Risāla, the theology he rejected was the rationalist–philosophical theology of the Muʿtaṣīfī 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 Shāfiʿī,’ 41–2 and 47.
104 Al-ʿAbbādī, Kitāb Ṭabaqāt, 13, 34, and 62.
105 Ibid., 12–13.
reject the doctrine of free will. Al-ʿAbbādī couches the defense against accusations that Shāfiʿīs are compulsionists in a lengthy discussion over invoking God in prayer (duʿāʾ). 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. 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). 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). Al-ʿAbbādī, thus, aligns the Shāfiʿī doctrine on free will and compulsion with these extreme positions.

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.
free will with that of the Ashʿarī school of theology 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-ʿAbbādī 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-Shāfīʿī as it came to be official policy only after his death, 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. We are told that al-Shāfīʿī’s close companion al-Buwayṭī, about whom al-Shāfīʿī 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. Al-Buwayṭī is further credited with stating that he who says that the Qurʾān is created is an infidel (kāfir), which, as al-ʿAbbādī asserts, was also the view of al-Muzanī and al-Rabīʿ, both of whom transmit it from al-Shāfīʿī. Of another Shāfīʿī jurist, Yūsuf b. ʿAbd al-Aʿlā, who is described as a contemporary of al-

113 In contrast to al-ʿAbbādī, other Shāfīʿīs with Ashʿarī leanings (for example, Ibn Fūrak, Abū Ishāq al-Isfārāʾīnī, Abū Muhammad al-Juwainī, and al-Subkī) insist that al-Ashʿarī himself belonged to the Shāfīʿī school. See Makdisi, ‘Ashʿarī and the Ashʿarites,’ 68.

114 While discussions over the nature of the Qurʾān were common prior to and during al-Shāfīʿī’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.


116 Al-Buwayṭī died in prison holding firm that the Qurʾān is not created. See Martin Hinds, ‘Miḥna,’ ʿEI’, vol. 7, 2–6 (p. 4).

117 Al-ʿAbbādī, Kitāb Tabaqāt, 8.
Muzanī,\textsuperscript{118} al-ʿAbbadī says that he stood up against the doctrine of the created Qurʾān in Egypt and, thereby, ‘rendered the people of the Sunna victorious’.\textsuperscript{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-Rahmān, 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.\textsuperscript{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.\textsuperscript{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.\textsuperscript{122}

\textsuperscript{118} This Yūsuf b. ʿAbd al-Aʿlā (see al-ʿAbbādī, Kitāb Tabaqāt, 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.

\textsuperscript{119} Ibid., 52.

\textsuperscript{120} See above, footnote 40.

\textsuperscript{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.

\textsuperscript{122} Madelung, ‘Controversy Concerning the Creation of the Koran,’ 509–11; Hinds, ‘Miḥna,’ EI², vol. 7, 4; Melchert, Formation of Sunni Schools of Law, 8. For
Yet, al-ʿAbbādī’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 Shāfiʿī school. Many sources associate al-Shāfiʿī with prominent Muʿtazilī figures, in particular Bishr al-Marṣī (d. 218/833). Association, of course, does not mean that al-Shāfiʿī had to agree with the views of his associate – one may simply see him as very tolerant in his attitudes. However, it would be more difficult for al-ʿAbbādī to dismiss any intellectual proximity between teacher and student. Two of al-Shāfiʿī’s teachers are counted among the Muʿtazila, namely İbrāhīm b. Abī Yahyā al-Maḍīnī and Muslim b. Khālid al-Ẓanṭī. If al-Ẓanṭī’s Muʿtazilī pedigree was known to al-ʿAbbādī, he does not let on; the latter is acknowledged by al-ʿAbbādī as al-Shāfiʿī’s teacher without further comment. İbrāhīm b. Yahyā does not find his way into al-ʿAbbādī’s work. Nor does al-ʿAbbādī give any indication that some of al-Shāfiʿī’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 ʿAbd al-Raḥmān by reporting that al-Shāfiʿī himself condemned the legal thought of this student of his; a fortiori one may extend this also to his theological positions. Furthermore, al-Shāfiʿī’s student al-Karābīṣī, whom al-ʿAbbādī 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. While I do not wish to imply that al-Shāfiʿī had Muʿtazilī leanings, my point here is that al-ʿAbbādī selects what he presents of the theological persuasions of the early followers of al-Shāfiʿī in a manner that fits into his view of the school at his own time.

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-ʿAbbādī, Kitāb Ṭabaqāt, 84.
128 Hallaq makes it quite clear that al-Shafii 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 Muʿtazilī 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-ʿAbbāḍī 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-ʿAbbāḍī’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 Murjiʿī 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

129 Al-ʿAbbāḍī, 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 Murjiʿīs, 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 (iqrāʾ) 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,’ EF, vol. 3, 1170–4; a more detailed discussion is presented by Wensinck in The Muslim Creed, esp. 36–49.
133 Al-ʿAbbāḍī, Kitāb Ṭabaqāt, 31.
God, al-Shāfiʿī continues, imposes upon the heart various ways in which to practice faith, namely by confession (iqrāʿ), knowledge (maʿrifā), resolution (ʿaqād), acceptance (ridan), 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. The sentences that follow in the text make clear that al-Shāfiʿī considers the heart the fountainhead (ras) 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. 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 (batasha) what God prohibited but labor (batasha) toward that which He commanded, such as charitable deeds (ṣadaqa), bonds of kinship (silat 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. 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 lʿamal wa-thawāb alʿamal).

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

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 ʿamhuhu). 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 Ash‘arī 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 Murji‘ī and Māturīdī–Hanafī school, faith can grow and decrease. Thus, al-ʿAbbādī situates the Shāfiʿī conception of faith squarely within the Ash‘arī position, just as he did regarding free will and the nature of the Qurʾān.  

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-ʿAbbādī invented the image and doctrine of the Shāfiʿī school of law – as he surely did not make up all the information he presents. 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-ʿAbbādī shapes the identity of the Shāfiʿī school in various ways. In the introduction and in the entry on al-Shāfiʿī he presents his vision of

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139 Al-ʿAbbādī 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 Shāfiʿī jurists as propaganda work for Ashʿarism (Joseph Schacht and C. E. Bosworth, ‘al-Subkī,’ *EI2*, vol. 9, 743–5, (p. 744); Makdisi, ‘Ashʿarī and the Ashʿarites 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-ʿAbbādī, 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-Shāfīʿī’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-Shāfīʿī 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 Shāfīʿī 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-Shāfīʿī or goes back to one of the founding fathers – the immediate disciples of al-Shāfīʿī 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 Shāfīʿī 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 Shāfīʿīs, 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 Shāfīʿī; 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-Shāfīʿī 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 Shāfīʿī school do not necessarily share al-ʿAbbādī’s high view of al-Muzanī. Al-Subkī and al-Nawawī (d. 676/1277) distance the Shāfīʿī 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, Mukhtasar, al-Muzanī pronounces some of al-Shāfīʿī’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. 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, 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, takhsīs).

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-ʿAbbādī 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-ʿAbbādī’s own outlook.

Yet, although al-ʿAbbādī 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 Shāfiʿī 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 Shāfiʿī school to be seen. Hence, while al-ʿAbbādī’s Kitāb Ṭabaqāt al-fuqahāʾ al-shāfiʿīyya remains an important document for the historical development of the Shāfiʿī school, it has to be read with the author’s time and concerns in mind.
DIE MARTIIA DES AʿŠĀ BĀHILA AUF SEINEN HALBBRUDER AL-MUNTAŠIR.
EINE THEMATISCHE UNTERSUCHUNG

Gert Borg

RADBOUD UNIVERSITEIT, NIJMEGEN

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, Daʿğāʾ uḥt 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.

Einleitung¹

In seinem Kapitel über die Struktur der altarabischen Dichtung² 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 verstehre.

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.

¹ Prof. Dr. Geert-Jan van Gelder und Prof. Dr. Harald Motzki haben mit ihren Bemerkungen entscheidend zu diesem Artikel beigetragen.
Die altarabische Dichtung mag in hohem Masse gleichförmig gewesen sein – obwohl in jüngster Zeit auch darüber Zweifel aufkommen3 –, 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.


Gegenstand dieser Untersuchung ist ein Gedicht des Aʿšā 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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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-ʿArab*, der *Ṭāḡ al-ʿArūs* usw., sind nachsuchbar.
Den Beinamen Aʿšā (der Nachtblinde) gab man mehreren Dichtern. Aʿšā Bāhlīa ist vor allem bekannt wegen der längeren *martiya*, die er auf seinen Halbruder al-Muntaṣir komponierte.

Nach al-_bagdādī⁶ sind die Gründe für die Bedeutung des Gedichts die folgenden:
— es ist *nādira qallamā tūجاد*: „in einer selten anzutreffenden Weise außergewöhnlich”
— es ist gut in seinem “Bereich” (*gayyida fi bābihā*)
— viele Verse daraus werden in den Büchern der Gelehrten zitiert (… *anna kaṭīra min aḥyātihā šawāhid fī kutub al-ʿulamā’*).

Al-_bagdādī sagt am Anfang des Paragraphen, der die Geschichte vom Tode Muntaṣirs 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-_bagdādī offenbar ausnahmsweise um ein Gedicht als Ganzes.

Auch al-Murtadā, von al-_bagdādī zitiert, lässt sich in seinen *Amālī⁸* lobend über das Gedicht aus: es gehöre zu den besten (*mufadḍala*) *marāṭī* und es sei als ein ausgezeichnetes Gedicht bekannt (*baraʿa*), auch wegen seiner rhetorischen Finesse (*balāqa*).

Die obigen Aussagen über das Gedicht sind hier zu prüfen:
— Was macht das Gedicht „außergewöhnlich gut“ ("*nādira qallamā tūجاد")?
— Was macht das Gedicht “gut” als *martiya*?
— Wird es tatsächlich oft zitiert und, wenn ja, wieso?

Ein erster Eindruck
Zuerst folgt hier die vorläufige Übersetzung nach dem Text in al-_bagdādī’s *Ḥizāna*:
1. Es erreichte mich ein Bericht, worüber ich mich nicht freuen kann, (und zwar) aus dem hohen Teil des Nağd, ein ungewöhnlicher, aber

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nicht verwunderlicher Bericht, wofür man mich nicht auch noch
tadeln sollte (wegen meiner Trauer).\footnote{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 marṭiya: 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.}

2. Ich war eine Weile traurig, verwirrt,\footnote{Besser: ḥayrān (verwirrt, betrübt), wie z.B. in den Editionen nach al-Mubarrad und al-Quraštī, als harrān.} 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 Taṭlit 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 Taṭlit ausgeritten bist,
sein ist die Freigebigkeit, das Verbieten und das Gebieten”\footnote{Für die Erklärung von ġiyyar in dieser Bedeutung, siehe al-Bağdādī, Ḥizāna, I, 192–3.}

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 vorbeigeh.

7. Wenn die Kamelinnen nach ihrer Stillzeit mit verdornten Schultern
und staubigen Haaren einherzogen, 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 Freigeber von Sachen, die er gibt und um die er gebeten
werden kann; Ungerechtigkeit hält er von ihm (dem Bittenden) fern,
der freigegebige sayyid.

13. Wenn du ihn bittest, zu warten, dann hat er keine Eile, und wenn du ihm freundlich begegnest, zeigt er keine Grobschlägt.

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 verstimme, und in deren (d.h. der Wohltat) Sauberkeit etwas Verschmutztes war.


17. (Wie) ein in den Krieg geworfener Stein und ein Licht, dessen Glut man sucht, so wie der Mond die Schwärze des Schattens beleuchtet.


20. Er findet eine Sache nur so lange schwer, bis er sie in Angriff nimmt\(^\text{12}\) 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.


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 längsgeschneitenes, 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.

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.


31. Du hast in unserem Tabu-Gebiet den Bruder-des-Vertrauens getroffen, Hind bint Asmāʾ, 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 Tatlīt in eure Richtung führte; nur (die Stellen) Ragwān 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 marṭiya typisch sind:
— es ist die Rede von einem Todesbericht (y/tanʿā) [Vers 1,5]
— die aus den marāṭi bekannete Redewendung lā yubʾidanka llāhu ist anzutreffen in [34]
— der Reim (rawʾiy) folgt dem Namen des Verstorbenen: -ru / Muntaširu [34]


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

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)

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19 d.h. al-Qurašī al-Naḡfī: Ḥamāsat al-Qurašī (von der Mawsūʿa übernommen).


23 Abū Ḥayyān al-Tawḥīdī: al-ʿIntāʾ wa-l-Muṭāna, (von der Mawsūʿa übernommen)
Aus diesem Schema lässt sich entnehmen, dass wir es mit drei Rezensionen zu tun haben:


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

Danach wird die Versfolge unsicher.


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-Aṣmaʿī (gest. 828 AD). Ihr folgen al-Yazīdī (922 AD), al-Murtaḍā (1044 AD), al-Bağdādī (1682 AD).


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-Quraṣī- als auch mit der al-Aṣmaʿī-Rezension teilt.


Über die unterschiedlichen Rezensionen lässt sich Folgendes bemerken:

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


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


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 Muntašīrs Martiya


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 nāʾī, andererseits heißt es bei Geyer Vers 5, dass die Nachricht murağğama 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.


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

1. hāγa l-fuʿāda ʿalā ʿirfānihi l-ḏikaru...
2. 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 marāṭī mit einander verwoben wurden: eine von al-Aʿšā und die andere von al-Daʿāĝā. In diesem Fall könnte man erwarten, dass in unserem Text noch mehr Verse aus der marṭīya der al-Daʿāĝā zu finden sind.

Zu einer möglichen marṭīya von al-Daʿāĝā könnten auch die folgenden Verse gehören (nach der Zählung Geyers):

5. ǧāʿat murağğamatan qad kuntu aḥḍaruhā law kāna yanfaʿunī l-ṭṣfāqu wa-l-ḥadaru,

   aus dem oben bei der Besprechung von murağğamatan angegebenen Grund.

6. idā ʿuʿdū lahā ḏıkrun ukaddibuhu ḥattā atatnī bihā l-anbāʿu wa-l-ḥabarū.


29 R. Geyer: Gedichte. S. 266 (arabischer Text): 5. ǧāʿat murağğamatan qad kuntu aḥḍaruhā ....
7. fa-bittu muktaʿiban ḥarrāna andubuhu wa-lastu adfaʿu mā yaʿṭī bihi l-qadaru.30

Dieser Vers ist in der thematischen Folge von al-Aʿšāª eigentlich fehl am Platz, weil es ihm im darauf folgenden Vers schwindlig wird, als der nāʾī aus Taṭīt einreitet, und von einer Nacht noch gar nicht die Rede ist. Außerdem ist die Einsamkeit der Nacht eher ein Thema der Frauenmartiya.31

25. warrādu ḥarbin šihābun yustaḍāʾu bihi kamā yuḍūʾu sawāda l-zulmati l-qamaru.

Der Vers fängt mit einer Formel an (faʿʿālu faʿʿin), die in marātī von Frauen nicht ungewöhnlich ist (tarṣī).32

26. ʿaštar l-dasāʾati mitlāfun aḥū tīqatin ḥāmi l-ḥaqīqati minhu l-ġādu wa-l-faḥaru stellt eine Häufung von Epitheta dar, die für die Frauenmartiya nicht ungebräuchlich sind. Manche Teile dieses Satzes sind wörtlich in anderen marātī zu finden.

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

talqāhu ka-l-kawkabi l-durrīyī munṣalitan bi-l-qawmi laylata l-ḏūʾun wa-l-qamaru

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-Aʿšāªs marṭiya aufnehmen und 28 eher in die der al-Daʾḡāª. Über die Möglichkeit einer gegenseitigen Beeinflussung lässt sich nur spekulieren.

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

lā yaḥtiku l-sitraʾun antā yuṭāʾīˈuḥā wa-l-qamaru ilā ḥarīthi l-nazaru

Dieser Vers gehört wohl auch in die marṭiya der al-Daʾḡāª.

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

\[ \text{innī āshuddu ḥazīmī}^{34} \text{ tumma yudrikūni minkā l-balāʿu wa-min } \text{ālāʾika l-dīkaru} \]

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

Da al-ʿAšās marṭya anscheinend kurz nach dem Tod al-Muntaširs verfasst wurde, nehme ich an, dass auch dieser Vers zu der marṭya der al-Daʿḡā gehörte.

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:

\[ \text{in taqtulūhu fa-qad tusbānisāʿukumū lahu l-maʿlātu wa-l-ḥaṭaru.} \]

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 marṭya ist äusserst konventionell – der Abschied:

\[ \text{fa-idā salakta sabīlan kunta sālikaḥā fa-dḥab fa-lā yubʿidanka llāhu muntaširu.} \]

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

Die folgenden Verse gehören also wahrscheinlich zu einer marṭya der Daʿḡā. 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. ḥāḡa l-fuʿāda ʿalā ʿirfānihi l-dīkaru wa-zawru (dīkrū) maytin ʿalā l-ayyāmi yahaṭṣiru
2. qad kuntu aḥaduhu wa-l-dāʿrū ǧāmīʿatun wa-l-dāhru fīhi dāḥābū l-nāṣi wa-lʿibaru
3. ʿid nāḥmu nunbaʿu aḥbārān nukaddibuhā wa-qad atānī wa-law kaddabhuḥu l-ḥabaru
4. ʿidā ʿuḍu laḥā dīkrūn ukaddibuhu ḥattā atatnī bīhā l-anbāʿu wa-l-ḥabaru

5. ǧā’at murağgamatan qad kuntu aḥḍaruhā law kāna yawan’u l-iṣfāqū wa-l-ḥadāru
6. fa-bittu mukta’iban ḥayrāna andubuhu wa-lastu adfa’u mā ya’tī bihi l-qadaru
7. warrādu ḥarbin šihābun yustaḏā’u bihi kamā yuḏī’u sawāda l-zulmati l-qamaru
8. daḥmu l-dasrī’ati milāfūn aḥū ṭiqatīn ḥāmī l-ḥaqiqati minhu l-ġūdu wa-l-ḥaḍaru
9. talqāhu ka-l-kawkabi l-durūyī munṣalītan bi-l-qawmi laylata lā næṣmun wa-l-qamaru
10. lā yaḥṭiku l-sitra ‘an unjā yuṭālī’uhā wa-lā yuṣaddu ilā ġurāṭīhi l-nazāru
11. innī aṣuddu ḥazīmī ṭumma yudrikunī minka l-balā’u wa-min ġalā’ika l-dikaru
12. in qaṭṭulūhu fa-qad tusbā nisā’ukumū wa-qad yakūnu lahu l-ma’lātū wa-l-ḥaḍaru
13. fa-id salakta sabillan kunta sālikahā fa-dḥab fa-lā yubīdanka llāhu muntaṣiru

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 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.

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.


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 Frauenmarṭiya hat:

a. Die Verszahl ist für eine marṭiya 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: tahrīḍ (12)
- Abschied und Segenswunsch (13)


19: *yamšī bi-baydā‘a lā yamšī bihā ʾāhadun wa-lā tuḥassu bihā ῥaʿyuṁ wa-lā ʾataru*

21: *lam tara ṣardan wa-lam tasma‘ bi-sākinihā illā bihā min bawādī waq‘īhi ʾataru*

Es bleiben also 31 Verse, die eine *marṭiya* 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 Taṭlīt 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 Taṭlīt ausgeritten bist, sein ist die Freigebigkeit, das Verbieten und das Gebieten.” (10)

5. “Du 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”. (11)

Dann folgt der am klarsten zusammenhängende Teil dieser *marṭiya*, d.h. die von ḫāḏī 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)

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

38 Hier ist doch wohl eher mit der Mehrzahl der Rezensionen ḥāṭā zu lesen statt ḥawwā 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) mit dem Schwert nicht, wenn die Reise schnell vorangeht. 40

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

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. 43

12. Er lungert nicht herum bei dem, was im Kochtopf ist, spähend, und die “Hungerschlange” nagt nicht an seinen Rippenenden. 44

13. (Nein...) ein längsgeschnitzenes, geröstetes Stückchen Leber, das er zufällig bekommt, genügt ihm und sein Durst wird mit einem kleinen Trinknapf gelöscht. 45

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. 46

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. 47

39 ʻadwa oder ʻdarba.

40 Im zweiten Halbvser bin ich Geyers Text gefolgt.

41 Auch hier scheint mir die Variante in der Mehrheitsrezension besser: ḥīna tubširuḥu statt ḥīna yağṣaʿuhā, 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.

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.


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 Gif für die Feinde und (mit der Lanze) kämpft er gegen den Gegner. (45)

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


45 al-sāliku l-ṭāgra wa-l-maymūnu ḫā’iruḥu sammu l-ʿudāti li-man ʿādāhu muṣṭaṣ̄iru.

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; Ungerechtigkeit weist er zurück als edler sayyid, der er ist. (17)

24. (ein Mann) in dessen Güte es keine Wohltat gab, mit der er einen Freund verstimme, 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. (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)


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:

47 Es wird hier yasʿaluḥā und yusʿaluḥā gelesen.

48 Mit al-Yazīḍī, Marāṭṭī, 61 und anderen Rezensionen ist hier wohl yaʾbā zu lesen statt yaḥṣā.


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

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

Die "Zitierbarkeit" dieser Gedichte
Wenn es nach al-Baḍāḍī 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 Mawsū’a benutzt und dabei sind die folgenden Stellen ans Tageslicht gekommen;

(die Zahlen der Verse folgen der Verszählung Geyers)

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51 Qurašīs Wortwahl ist vielleicht schöner und moderner: fa-wadda’anā (“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-Ǧurğānī, al-Wasāṭa usw.: 35
Abū Hilāl al-ʿAskarī, Ǧamharat al-Amtāl:
Al-Zamakšarī, Rabīʿ al-ʿAbrār wa-Nuṣūṣ al-ʿAbbār:
Ibn al-Ǧawīlīqī, Šarḥ Adab al-Kātib: 34 (2x)
Al-Zamakšarī, Ṣharḥ Adab al-Kātib: 33, 32
Ibn Abū Hīlāl al-ʿAskarī, Ǧamharat al-ʿAmṭāl (Beirut, 1988), I, 102, 195: 34; (II, 305): 32

Aus anderen Quellen:
al-Ǧāḥiẓ, Bukalāʾ (ed. al-Ḥagīrī, Caire, z.j.), 119: 34, 32/33
al-Ǧāḥiẓ, Bursān (ed. Hārūn, Beirut, 1990), 244–45, 276: 33a/32b, 35
al-Qārī, Amāšī, I, 16; II, 201: 34, 32
Ibn Abī Ṭāhir Ṭayfūr (Cairo, 1987), Balāḡāt, 254: 27, 34 (Var. kumaru für ġumaru)
al-Ǧusṭāfīr, Ġānīfīr (Caire, Dār al-Kutub), XI, 25–26: 27, 35 (eine anonyme Frau)
al-Murtaḍā, Amāšī, II: 27, 35 (Laylā al-Akylīya)
al-Anbārī, Šarḥ al-Qaṣāʾid al-Sabʿ al-Ṭiwāl (ed. Hārūn, Cairo, 1969), 58: 27
Ibn Durayd, Ǧamharat al-Luqā (ed. R.Baʿlabakī): 34 (5x), 39, 17 (3x), 32 (2x), 4 (2x), 21
al-Marzūbānī, Nūr al-Qābas (ed. Sellheim), 250: 27, 35 (Laylā al-Akylīya)
Abū Hilāl al-ʿAskarī, Ǧamharat al-ʿAmṭāl (Beirut, 1988), I, 102, 195: 34; (II, 305): 32

Diese Angaben sind von Geert-Jan van Gelder.
al-Ḥātimī, *Hilyat al-Muhādara* (Baghdad, 1979), I, 441: 4


Abū l-ʿAlāʾ al-Maʿarrī, *al-Ṣāhil wa-al-Ṣāḥiǧ* (Cairo, 1984), 580: 4

Yāqūt, *Muʿgam al-Buldān*, s.v. Taṭlīt Vers 8, s.v. Ḥaḍar und Raḡwān Vers 43.

Und noch:


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 ʿarrā / yataʿarrā wird (in II, 201) Vers 32 angeführt.

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

Vers 4 (1 in der „normalen“ Fassung von Aʾṣā, 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 Daʿğā zu zuzuschreiben ist).


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 martiya-Gattung) – die Stammesmitglieder fürchten sich vor seinen Ausflügen, d.h. er war unzuverlässig – aber das eigentliche, tieferliegende 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 martiya der Daʿğā in Verbindung gebracht werden kann.

Schluss. Das Gedicht und der Dichter Aʿšā Bāhila


2. Die Dichterin Daʾgāʿ bint Wahb und ihre marṭiya auf ihren Bruder al-Muntaṣir.

Diese Dichterin wird an einigen Stellen erwähnt, aber ihre tatsächliche Existenz oder Spuren ihrer Dichtkunst sind nirgendwo mit Sicherheit nachzuweisen55; der ursprüngliche Text der marṭiya auf Muntaṣir wird in seiner Gesamtheit sowohl ihr als auch Aʾṣā zugetrafft. 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.
— Aus dem ursprünglichen Gedicht lassen sich einzelne Themen auskammern, die mit dem Themenverlauf einer Frauenmarṭiya in Einklang zu bringen sind.
— 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

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


Dennoch ist eine Neuausgabe der Mawsū‘a-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.

LITERATURVERZEICHNIS

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 Khālidīyyān, 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. It concludes with a story.

1 Abū Bakr Muḥammad b. Ḥāshim al-Khālīfī died in 380/990 and Abū ʿUthmān Saʿīd b. Ḥāshim died in 390/999. According to their poetry, they moved from Khālidiyā to Mosul, and then to Baghdad, Aleppo and Damascus. (Abū Bakr Muḥammad and Abū ʿUthmān Saʿīd al-Khālīdiyyān, Dīwān al-Khālīdiyyān, ed. Šāmī 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-Khālīdiyyān, 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

\(^2\) 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-tuhaf*, ed. Muḥammad Ḥamd 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-Ḥījāwī 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. Mimesis in work by al-Jāḥīz 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. Verisimilitude can be
understood as a public consensus on reality. 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. Gift exchange stories
thus provide responses to the question of how adab relates to politics.

3 Wolfgang Iser, The Fictive and the Imaginary: Charting Literary

Story-telling in the framework of non-fictional Arabic literature (Wiesbaden,

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
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 ba’d 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 Ba’d al-Shidda” in Leder,
ed., Story-telling, pp. 61-78; Letizia Osti, “Al-Qāsim b. ‘ Ubayd Allāh, the
Vizier as Villain: On Classical Arabic Gossip” in James E. Montgomery, ed.,
‘Abbāsid Studies: Occasional Papers of the School of ‘Abbāsid Studies
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, “‘Abbasid myth and
the Human Act: Ibn ‘ Abd 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. 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.

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. Similarly, a miser’s refusal to interact with others through generosity displays his alienation from social life. Failed gift exchange


Andras Hamori, “Prudence, Virtue, and Self-respect in Ibn al-Muqaffa” 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.


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. 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.

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. Long narratives play a relatively marginal role in medieval Arabic literature. 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. 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

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 Kushājīm, al-Ṣanawbarī, and al-Sarī al-Raffā,” *Middle Eastern Literatures*, forthcoming 2011, note 6).
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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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, Maʿn b. Zāʿida 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 Maʿn b. Zāʿida 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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\(^{22}\) 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 Ishāq 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 Ishāq’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. Ishāq continued, “Then gifts from him that are beyond description came to me”. 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 Ishāq’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 Ishāq 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. On the other hand, Ishāq (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, Ishāq b. Ibrāhīm al-Mawṣilī and Ibrāhīm b. al-Mahdī sometimes appear as parallel characters in stories about refined manners and elegance.

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


23 Al-Khālidīyyān, Tāhaf, p. 120.


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 Ishāq 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 Ishāq, 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. Ishāq relates a story in which Ibrāhīm complained to Ishāq that he did not give him enough affection or stop by often enough. Ishāq 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!” Ishāq 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-Mu’tasim 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 Ya’qūb 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

26 Al-Baghdādī, Tārikh Baghdād, 5:306. The narrator of one story explains that Ibrāhīm used to hound musicians until Ishāq showed up, and that Ibrāhīm used to bait him but he wouldn’t fall for it, so that Ishāq was his undoing (Abū I-Faraj al-Iṣfahānī, Kitāb al-Aghānī, 27 vols., ed. ‘Abd A. ‘Alī Muḥannā and Samīr Jābir, Beirut, 2002/1422, 5:302).

have to give me something.\textsuperscript{28} 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.\textsuperscript{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-Buḥtūrī coveted a male slave who belongs to Muḥammad b. Humayd b. ‘Abd 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-Buḥtūrī composed a poem in which he requested the male slave as a gift and also complained about his other male slaves.\textsuperscript{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.\textsuperscript{30} Al-Buḥtūrī 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-Buḥtūrī’s acquisitiveness. The link between the poem and the surfeit of gifts addresses the problem by getting al-Buḥtūrī what he wants.

The acquisitiveness in this brief gift exchange story takes place in the realm of manners and echoes al-Buḥtūrī’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-Buḥtūrī (d. 284/897) was sometimes described as excessively acquisitive. In terms of panegyric, he

\textsuperscript{28} Al-Khālidīyyān, \textit{Tuḥaf}, p. 36.
became famous for switching 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.\footnote{Hāshim Mannāʾ, \textit{al-Buḥturī: ḥayātuḥu wa-shiʿruḥu} (Beirut, 2002).} In the realm of manners, he is said to have sold his favorite slave boy, Naṣīm, 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.\footnote{Al-Iṣfahānī, \textit{Ağhānī}, 21:52. Rowson compares this version with another less negative one (Everett K. Rowson, “The Traffic in Boys: Slavery and Homosexual Liaisons in Elite ʿAbbāsid Society”, \textit{Middle Eastern Literatures} 11/2 (2008), pp. 193–204).} 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 Ibrāḥīm 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. Ibrāḥīm b. al-Mahdī and Iṣḥāq b. Ibrāḥīm al-Mawṣīlī 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.

\textit{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
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. 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. 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-Muqaffā‘, which would have allowed


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

Ahmad b. Abi Khailid relates that al-Fayd b. Abi Sallih and Ahmad b. Junayd and a group of high-ranking secretaries left the residence of al-Ma’mun on their way home on a rainy day. Fayd went first followed by Ahmad b. Junayd, and Fayd’s mount splashed rain water on Ahmad’s clothes. Ahmad said “Uff!” in disgust and annoyance and said to Fayd, “By God, this is a really vile way to travel together. What gave you the right to precede us?” Fayd 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 Ahmad 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.”

At work, the minister Fayd precedes the secretary Ahmad, but Ahmad seems to think that on the way home, they owe each other the mutual respect of sharing the road. Ahmad thinks that professional hierarchy is bounded by more egalitarian values of good manners and mutual respect, and is outraged when these values are ignored. Fayd’s reaction to his outburst shows that he sees professional hierarchy as a total definition of the identity of each man. For Ahmad, the social and bodily discomfort of having his clothes ruined by Fayd’s mount is a disruption of the values of manners and mutual respect, and his outburst says as much. For Fayd, it is Ahmad’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.

Fayd asserts his view in two ways: first in his passive aggressive silence in response to Ahmad, 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 Fayd’s assertion of his view in response to Ahmad’s demand for good manners and mutual respect. The comfort...

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associated with the luxurious gift is used in an incongruous way to convey Fayd’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 Fayd. The gift and the message are prepared and portrayed but not actually given in the story. The confrontation expressed in Fayd’s message takes place at a distance. Like Aḥmad’s outburst followed by Fayd’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 Fayd’s assertion of social hierarchy, but is also disruptive of it. Fayd’s message, explaining why the gift means that Fayd is superior to Aḥmad, also refers to the hypothetical possibility that Aḥmad could ruin Fayd’s clothes if he could give Fayd such a gift. In this comment, Fayd clarifies that the importance of social hierarchy is ranked positions, not the people who occupy them.

Other depictions of Fayd 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, Fayd went to see the caliph Hārūn al-Rashīd, who extended his hand for Fayd 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.”

Fayd’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 Jaʿfar had a secretary who threw a man in prison because he owed money from Umm Jaʿfar’s agricultural land. The man in prison appealed to two friends, who set out to meet the secretary. Fayd 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.

and Umm Jaʿfar 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 Jaʿfar 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 Jaʿfar 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 ʿAbbās al-Saffāḥ, ʿUmāra b. Ḥamza, and the caliph’s wife, Umm Salama bint Yaʿqūb b. Salama al-Makhzūmiyya, clash because of the caliph’s effort to use ʿUmāra 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 Ahmad features Ahmad’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.

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

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-Saffāh’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-Saffāh 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

client serves as a kind of prelude to the Umm Salama’s attempt to give ʿUmāra the necklace. Although ʿUmāra 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 ʿUmāra at this modest gift. Because it is perceived as rude and insulting, the act of Abū al-ʿAbbās tossing perfume to ʿUmāra is a distortion of gift exchange.

ʿUmāra’s indirect confrontation with Umm Salama may be just the kind of thing that Abū al-ʿAbbās had in mind when he summoned him. It is resistance to Umm Salama’s assertion of superiority over ʿUmāra in her attempt to give him the necklace. At the same time, the indirect confrontation contributes to Abū l-ʿAbbās’ assertion of his own superiority over Umm Salama. Like ʿUmāra’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, ʿUmāra 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 ʿUmāra 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, ʿUmāra disrupts the social hierarchy when he gives the gift to a servant without ever having touched it himself. In this scene, ʿUmāra 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 ʿUmāra 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-ʿAbbās’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 ʿUmāra’s act of giving the gift to the servant instead of simply walking away from it. It’s not clear whether ʿUmāra’s action has served Abū l-ʿAbbās’s original purpose, when he offered ʿUmāra 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. Hamza, 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

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. 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. While ʿUmāra is the go-between in the conflict between Abū l-ʿAbbās and Umm Salama in the gift exchange story about the necklace, in which Abū l-ʿAbbās wins, a friend of Abū l-ʿAbbās 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-ʿAbbās 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-ʿAbbās.

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-ʿAbbās, but Umm Salama said, “Why don’t I see ʿAbda’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 ʿAbda 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 ʿAbda be brought from Syria to Iraq to deliver the missing vest in person, but ʿAbd Allāh b. ʿAlī, 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. ʿAbd Allāh b. ʿAlī said that she was killed by

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the Bedouin, and the vest remained with him until it was taken by another caliph. Umm Salama mediates the transition between the Umayyads and the Abbasids by way of jewels when Umm Salama gives herself to Abū l-ʿAbbās covered in jewels, albeit consummating the marriage only after changing into less dazzling attire, and when she tosses her necklace to ʿUmāra 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 ʿUmāra complement his role in the gift exchange story and clarify the contradictions of client status. ʿUmāra was said to combine the positive quality of nobility and the negative quality of haughtiness. 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 ʿUmāra in the necklace story focuses on his contradictory position as a powerful yet subordinate client. ʿUmāra, as a man with a chip on his shoulder, can be compared to pompous and proud characters such as Ibn al-Muqaffāʾ, who trained Fayḍ b. Abī Ṣāliḥ, and members of the Barmakid family. 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 ʿUmāra, refusing the necklace is a way to claim status that is denied to him because of his position as a client.

Other stories about ʿUmāra 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 Yahyā b. Khālid al-Barmakī urgently needed help in a financial crisis. When Abū Jaʿfar said:

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

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45 Al-Jahshiyāʾīr, Wizarāʾ, p. 60; Yāqūt, Muʿjam al-Udabāʾ, 5:2054.
46 Sourdél, 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 ‘Umāra 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 ‘Umāra’s nobility by juxtaposing Yahyā’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 ‘Umāra offer a comic perspective on his sometimes uncomfortable position as a client. ‘Umāra 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 ‘Umāra b. Ḥamza.” ‘Umāra 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 ‘Umāra b. Ḥamza b. Maymūn the client of ‘Abd Allāh b. Abbās so that people would know my place!”48 As a client, ‘Umāra was powerful, yet vulnerable. When the Abbasid Mūsā al-Hādī heard of the beauty of ‘Umāra’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. ‘Umāra 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.” ‘Umāra 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, ‘Umāra’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 Śāliḥ and Aḥmad b. Junayd, and about Abū l-ʿAbbās, Umm Salama, and ‘Umāra, show that gift exchange can articulate social tensions as well as communal bonds.

48 Ibid., p. 107; Yāqūt, Mu’jam al-ʿUdabā’, 5:2062.
Gifts and political crisis

The tensions surrounding social status and political hierarchy in the stories of Fayḍ and Ahmad, and of Abū l-ʿAbbās, Umm Salama, and ʿUmāra, 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 Yahyā, and later his two sons Jaʿfar 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. 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.

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

50 Kennedy, Prophet, pp. 140–3.
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. Zāʿida 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). Fayd b. Abī Ṣāliḥ, in the story discussed above, pointed out that if Aḥmad b. Junayd could buy a hundred outfits for Fayd, then he could get mud all over Fayd’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 Jahžā al-
Barmakī. Jahžā l-Barmakī related to us, saying: “The most certain of causes
for the killing of my uncle Jaʿfar b. Yahyā l-Barmakī and the cease of
benefit for his family is some verses that a poet composed when Jaʿfar 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:

“Say to the one who is trustworthy for God among His creation, who is
given the power to loose and bind,

This Ibn Yahyā Jaʿfar 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

52 Al-Khālidīyyān, Tuhaf, 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, Ja'far’s palace is described as a wretched excess of beauty, status, and power. It is only through this comparison that Ja’far’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 Ja’far and his family. The Khālidīs generate insights into historical characters and events through their topic of gift exchange.

Ja’far 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 tawqīʿāt. Hārin’s repeated review of the poem resembles the practice of writing tawqīʿāt, 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 Ja’far killed.

Hārin’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. Hārin’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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inversion of social hierarchy by way of the inversion of al-Ḥarīrī’s motif in the verse about Jaʿfar’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 Jaʿfar’s failure to share his wealth with his patron. The comparison is also ironic, since the rebel generals were perpetrators of violence, while Jaʿfar 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. Jaʿfar 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.

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 Jaʿfar, 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 Jaʿfar, individualism is a tragic flaw. In many cases in medieval Arabic literature, word

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

The Khālidī brothers’ gift exchange story about Hārūn and Jaʿfar complements other stories about their relationship and the crisis. Yahyā b. Khālid al-Barmakī was in charge of the caliph Hārūn al-Rashīd’s education, and Yahyā and Hārūn’s mother were responsible for paving his way to the caliphate. Each of Yahyā’s sons Faḍl and Jaʿfar was in charge of the education of one of Hārūn al-Rashīd’s heirs. Faḍl was nursed with Hārūn al-Rashīd and Jaʿfar was Hārūn’s closest companion. Faḍl was known for his great generosity and Jaʿfar for his eloquence. The whole family did well, but the caliph was particularly interested in Jaʿfar. The danger of this close relationship with the ruler did not go unnoticed. Yahyā would censure Jaʿfar for being so involved with al-Rashīd and warn about the consequences, and he explained his view to al-Rashīd as well. 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 Jaʿfar and Hārūn complement the gift exchange story, especially one story about the palace that is described in the verses. His father could persuade Jaʿfar 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 Jaʿfar toured it with some friends, and they offered clever descriptions of it in prose or verse, except for one friend who remained silent. Jaʿfar said, “What’s the matter? Why don’t you join in?” The friend said, “The others have said enough for me.” Jaʿfar 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?” Jaʿfar 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-Maʿmūn, Jaʿfar’s student. As predicted, the caliph was upset when he

56 Hamori, “Going Down in Style”.
58 Al-Rashīd would say to Yahyā, you are for al-Faḍl and I am for Jaʿfar (Al-Jahshiyārī, *Wazarāʾ*, p. 145). Al-Rashīd is said to have put Jaʿfar in charge of the west and al-Faḍl in charge of the east, and al-Faḍl went to look after his regions while Jaʿfar stayed with Rashīd.
learned of the palace. Jaʿfar 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 Jaʿfar’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 befell him? What do you think is behind that?’ And those are words that go straight to the heart…”61 Jaʿfar 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 Jaʿfar 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 Jaʿfar follows the formula, it works. Al-Rashīd had Jaʿfar 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-ʿAbbās al-Saffāḥ and Jaʿfar’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 Jaʿfar 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 ṣAbd al-Malik into the gathering because he had business with him. The doorman accidentally let in a different ṣAbd al-Malik, ṣAbd al-Malik b. Ṣāliḥ al-Hāshimī, who had a reputation for being too uptight to enjoy such a gathering, but whose

62 Ibid. 4:659.
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 Jaʿfar said:

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

Ibrāhīm b. al-Mahdī expressed amazement at Jaʿfar’s presumptuousness, but Jaʿfar went to al-Rashīd the next day and he loved it, and executed all of Jaʿfar’s commands on his behalf. reflective of 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. 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.

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 Jaʿfar marry Hārūn’s sister ʿAbbāsā 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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Rashīd’s presence, so would not have sex. 67 This peculiar marriage reinforces the problem of intimacy, since the marriage makes Jaʿfar closer to the caliph, but the stipulation keeps him distant. Unlike a material gift, a human one can change the terms of gift exchange. ‘Abbāsa fell for Jaʿfar, and after ingratiating herself with Jaʿfar’s mother, as if in a normal marriage, she was able to disguise herself and trick Jaʿfar 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 Jaʿfar. 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 Jaʿfar 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 Jaʿfar, 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 Jaʿfar’s brother al-Faḍl

b. Yahyā 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] cavalymen” 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 Ja’far. Faḍl’s power prevented him from harming his protégé, but Hārūn’s power did not prevent him from harming Ja’far. Faḍl explained to his protégé that he did not come to plunder him, and Hārūn did plunder Ja’far. 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 Ja’far. 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 Ja’far even though Ja’far was not resentful. The counterpoint between the two gift exchange stories implies that the failure in the case of Hārūn and Ja’far 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

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. Yahyā 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. Yahyā b. Khāqān and al-Fatḥ b. Khāqān and put his sons in charge of provinces that had been held by Turkish generals. 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 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. 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. The situation was probably exacerbated by al-Mutawakkil’s own ministers, who tended to favor al-Muʿtazz over al-Muntaṣir. 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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75 Ibid. 5:334.
river bank broken so that he could escape in a small boat. 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. 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-Maʿmūn 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. In the story that follows this notice, ʿAlī b. al-Munajjim relates the main story:

One night, we were with al-Mutawakkil ʿalā Allāh.ʿUbayd 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. ʿUbayd 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-Maʿmūn.” 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 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.
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-Ma‘mūn.” Al-Mutawakkil was embarrassed that he had called ‘Ubayd Allāh a liar and ordered a gift for him. He summoned his minister ‘Ubayd Allāh b. Yahyā 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-Mutamid ʿalā Allāh occupied the caliphate, and ordered the return of ‘Ubayd Allāh b. Yahyā b. Khāqān to his position as minister.

The man said, “When ‘Ubayd Allāh b. Yahyā 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 (khumāsiyas) 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 khumāsiyas. 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 manās, so take half and leave half.’ I kept cajoling him until he allowed me to take 150 raṭlās. 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 khumāsiyas, 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.’” ‘Ubayd 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 ‘Ubayd 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

81 A village near Baghdad known for its wine (Yāqūt, Mu‘jam al-Buldān, 4:371).
82 Al-Dhakhāʿīr, 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 delightful 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. Yahyā 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 Ḥārūn’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 Ḥārūn’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. 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 ʿUmāra’s encounter with Abū l-ʿAbbās 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-Buhtūri 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

be modest, not arrogant. 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 ʿUbayd 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 Fatḥa, “We’re the only ones left to listen!” and started crying. 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 ʿUbayd Allāh b. Yāḥyā. 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”. Al-Buḥṭurī 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”. 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. 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-Buḥṭurī contributes to the expanding historiography about it. This expansion of historiography complements the aloe perfume story, which views the event from a marginal point of view. Al-Masʿūdī 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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86 Ibid. 4:138.
87 For a detailed discussion of this gift, see Ali, “Singing Samarra”.
89 Ibid. 4:139.
90 Ali, “Singing Samarra”.

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noting that there are other stories about the event. 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 ʿUmāra, Hārūn and Jaʿfar, and al-Mutawakkil and ʿUbayd Allāh b. Yahyā, 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-Masʿūdī, Murtūj al-Dhahab, 4:139.
PUBLIC EXECUTION IN THE UMAYYAD PERIOD: EARLY ISLAMIC PUNITIVE PRACTICE AND ITS LATE ANTIQUE CONTEXT*

Andrew Marsham

UNIVERSITY OF EDINBURGH

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-ard). 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’ (qatʿ 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

*Various aspects of this paper were presented at the Mellon Foundation Sawyer Seminar on Violence and Authority at Christ Church College, Oxford in May 2007, at a panel on popular revolt at the Leeds Medieval Congress in July 2010, and at the ‘Constantine’s Dream’ workshop on Religion and Violence in Late Antiquity in January 2011. I am grateful to the organisers of all three: respectively, Chase Robinson and Petra Sijpesteijn, Bernard Gowers, and Kate Cooper and Dirk Rohmann. I would also like to thank the other participants at all three occasions for much useful criticism and comment, especially Alex Metcalfe for pertinent and helpful questions and suggestions. Thanks, too, to Farrhat Arshad and Richard Todd for help and advice. I take responsibility for all errors that remain. Most of the time for researching this paper was funded by a British Academy Postdoctoral Research Fellowship, held at the University of Manchester in 2007–8.
Islam. The death penalty, which was the punishment for apostasy from Islam (irtīdād), 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-ārd 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-ārd). That is their recompense in this world, while in the afterlife they will have a severe punishment (ʿadhāb ʿażīm). Except for those who repent before you defeat them. Know that God is forgiving, merciful (Qurʾān 5.33–4).

If two parties (al-ṭāʾifātān) 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 hirāba verse against their political

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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.
4 Abou El Fadl, Rebellion, 52–3.
6 F. E. Vogel, ‘Ṣalb’, EI², viii, 935-6. Kraemer relates the Arabic term to the Assyrian silbu, ‘a crosswise arrangement of bandages or wood’ and notes that the Targum translates the Hebrew tālāḥ by the Aramaic s’lab: ‘Apostates’, 67, n. 129.
7 Hawting, ‘Jaʿḍ 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

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, ‘Hijāzi monotheism’), as expressed in the Qur‘ān 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’ (khulafā’ 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-Mansūr, 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 Qur’ān.

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 Qur’ān 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 Qur’ān where it suited them,11 and so this absence of the ‘classical’ texts appears to reflect a situation where the ḥirāba 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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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 *hirāba* verse. (i) It is argued that the verse relates to ‘people of the book’ (*ahl al-kitāb*) who ‘had made a peace agreement (*muwādaʿa*) but they broke the covenant (*ʿahd*) and spread corruption in the land (*afṣadū fī l-ard*).12 (ii) There is the claim that it is the punishment to be inflicted on unrepentent idolaters defeated in battle.13 (iii) It is said to deal with the Bānū Ḥīlāl, 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 Bānū ʿIsrāʾīl, or, (v) the Ḥarīṣīyya (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 ʿAlī 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-tard*) “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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15 Ibid., 49
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: ‘Ukl and ‘Urayna are the most common; Fazāra, Sulaym and Ṭabba 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 Muhammad 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.

18 Abou El Fadl, Rebellion, 49, n. 80.
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-ard) and the pledge of allegiance (bay’a)

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 hirāba verse by the Umayyad caliphs and their representatives should be examined. The evidence for Umayyad invocation of the hirāba 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 hirāba verse to the Umayyad governor of Iraq (and notorious crucifier), al-Hajjāj (r. 694–715), and then bitterly regret having provided an oppressive ruler with justification for his actions. In another account, ʿUmar II (r. 717–20) seeks to restrain a governor who quotes the more severe punishments of the hirāba verse in justifying his treatment of robbers. 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 ʿUmar II.

A more reliable instance of Umayyad authorities invoking the verse may be the sermon said to have been delivered by Yūsuf b. ʿUmar (r. 738–44) at Kufa after he had executed the Hashimite rebel Zayd b. ʿAlī 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 (hāraba Allāh wa-rasūlāhu) 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 (‘ahd, mīthāq et al.) through violation of the pledge of allegiance (bay’a) to His Caliph in an act of violent rebellion (khurāj, fasād fī l-ard 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 allegiance (no. 7 in the Appendix); in 94/712–3, al-Hajjāj invoked Saʿīd b. Jubayr’s violations of his bay’as 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 (bay’a) from the Umayyad period, the Muslims swore the oath ‘upon the covenant of God’ (‘alā ‘ahd Allāh or mīthāq Allāh) to ‘hear and willingly obey’ (al-

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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, ‘Ja’d b. Dirham’, 37, and above, n. 7.
samʿ wa-l-tāʿa) the caliph. This formula is reminiscent of other Near Eastern loyalty oaths, and, importantly, also reminiscent of the Quranic description of the mithāq 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 surat 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 ʿahd) 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 surat 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, samʿ and fāʿa, appear together:

Remember the favour (niʿma) of God towards you and His covenant and His covenant (mithāq) which He covenanted (wāthaqa) with you when you said, “We hear and obey (samiʿ wa-aṭāʿan).” And fear God, for God knows the secrets of your breasts (Qurʾān 5.7).

While the bayʿa 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 bayʿa’ (aymān al-bayʿa). In their classical form, a perjurer lost his wives and his property and had

26 A. Marsham, Rituals of Islamic Monarchy: Accession and Succession in the First Muslim Empire (Edinburgh, 2009), esp. 168–78.
27 wa-avfā biʿ-ahdi ʿllāhi idhā ʿāḥadum wa-lā tanqudā ʿl-aymāna baʿda tawktidhihā wa-qad jaʿamental Allāha ʿalaykum kaflīn inna ʿllāha yaʿlamu mā tafʿalāna.
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:

\[
\text{God has imposed the duty of jihād on His servants and required obedience to those who govern them (wulāt al-amr)} \ldots \text{He who defies the governors and rightful authorities brings down God’s wrath on himself, merits corporeal punishment (al-’uqāba fi basharihi), and makes himself liable to confiscation of his property as spoil, cancellation of his stipend, and exile to the most remote and evil of lands.}\]

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In the following year al-Ḥajjāj is said to have preached a similar khutba—and it is al-Ḥajjāj who is remembered as the instigator of the ‘oaths of the bay’a’ 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 corporeal 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


seen to act brazenly against his laws’. 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.

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’ (‘āthū fi 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 (tawjīḥak īlā ʿaddawwi ʿl-lāh al-jalīf 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-raʿāʿīhi alladhīna ʿāthū fi l-arḍ fasādan wa-intahak ḫurmat [l-islām] istikhfāfan wa-baddalū niʿam Allāh kufran wa-istiḥlāli dimaʿ ahl silmihi jahlan)—wished to commission you and enjoin you, concerning the subtleties of your affairs and the generalities of your concerns…

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34 On Roman and Ancient Near Eastern law, see further below, 116–20.
Closely related ideas are found in a letter written by ʿAbd al-Ḥamīd from Marwān II to Saʿīd b. ʿAbd 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 bayʿatihim). 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 anrihim) 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-ʿAbbās 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 ʿahd 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 (fāsiqūn), (27) who break the covenant of God after its confirmation (yanquḍūna ʿahd Allāh min baʿd mithaqihi) and cut asunder what God has ordered to be joined and cause corruption in the land (yufṣidūna fī l-ard); 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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37 al-Ṭabarānī, 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. ‘Affī when it was displayed in Medina in 122/739–40:

Indeed, O violator of the covenant (nāqid al-mithāq), rejoice in what has brought you disaster.

You betrayed the contract (naqaḍt al-ʻahd) 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’ (yuhāribūna Allāh) and ‘violating God’s covenant’ (yānguḍūna ʻahd Allāh) with the consequence of ‘corruption in the land’ (al-fasād fī l-ard).\(^{40}\)

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-rasā’il, ʻAbd 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 (ʻāda) 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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\(^{39}\) 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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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 (ṣunkīla and *naqma* in a letter of al-Walīd II (r. 743–4).
antiquity by the time of the coming of Islam. The conceptual interconnections between apostasy, treason and (to some extent) adultery had also been established in the ancient Middle East. 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. The amputation of hands and the gouging of eyes both occur as punishments in some ancient laws. Immolation may be justified by some Egyptian laws and is prescribed as a penalty in one Assyrian law pertaining to the royal harem.

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. 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 hešerem at Jericho; it is also found in the story of Esther and the Targum. An apostate town is also to be destroyed by fire in the book of Deuteronomy.

46 Ibid., 76, 77.
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.
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-Birūnī: al-Birūnī,
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. 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. 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 illustrius who was called Scombrus, and Elpidius illustrius. 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

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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.
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.\(^{66}\)


\(^{60}\) The Letter of Tansar, tr. and intr. M. Boyce (Rome, 1968), 1–25.


\(^{62}\) Letter of Tansar, 47.


\(^{64}\) Letter of Tansar, 48; Jullien, ‘Péines et supplices’, 260.

\(^{65}\) For example, Elishê, History of Vardan, 92, 111, 175, 225.

\(^{66}\) Letter of Tansar, 42–3.
cutting off of hands before beheading is mentioned by Armenian sources;\textsuperscript{67} beating to death and dragging over sharp rocks are other methods of execution.\textsuperscript{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’;\textsuperscript{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;\textsuperscript{70} a seventh-century account of events in the sixth century describes prisoners of war with ‘their hands tied on their shoulders’.\textsuperscript{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.\textsuperscript{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 \textit{hiรำba} 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

\textsuperscript{68} Elishè, \textit{History of Vardan}, 210, 231–2.
\textsuperscript{70} Elishè, \textit{History of Vardan}, 188.
\textsuperscript{71} Thomson, et al., \textit{Sebeos}, i, 23.
\textsuperscript{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 Kharajites. In Kharijite

73 See above, n. 53.
74 The Lakhmid king of al-Hira al-Nuʿmān b. Mundhir (r. c. 580–602) is said to have used crucifixion as a penalty for ‘highway robbery’: J. ʿAlī, al-Muṣaffal fi l-taʾrīkh al-ʿarab qabl al-Īslām (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 Ṣaḥīḥ, 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 Pharaoh (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, Taʾfīr, x, 244, and above, 106–8.
rasā’il and khutab execution, blinding and the amputation of limbs are closely associated with the caliphs’ repressive measures against pious critics: Sālim b. Dhakwān’s account of ‘Uthmān’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-Mukhād—‘the one with the mutilated arm’—a sort of ‘legendary arch-Kharijite’, whose story gained eschatological 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 (tanasṣub) 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 hadith 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

77 See above, 108.
79 See nos 2 and 4, below.
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. Given the importance of the corpse of the deceased to the
Judaeo-Christians in the late antique Mediterranean, the near-complete
destruction of the body by fire was a terrible penalty, with possible
implications at the Resurrection. As the hadith reserving the punishment
for God indicates, it also recalled the image of Hell itself as a place of
fiery torment.

The other late antique context is the veneration of martyrs’ relics. 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-
Shi‘ite’ 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 hirāba 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’. Read with accounts of Roman

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 (\textit{vis publica} in Roman terms) in these empires brought about similar penalties to \textit{naqḍ}, \textit{ḥirāba} and \textit{fasād fi l-ard} 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, \textit{vicarii Dei}, Arabic, \textit{khulafāʾ Allāh}). Sasanian kings were also ‘manifestations’ or ‘descendants’ 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 \textit{Novel} from 536:

\begin{quote}
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.\(^{88}\)
\end{quote}

Crone and Hinds’ 1986 book, \textit{God’s Caliph}, has left little doubt that the Umayyads understood their law-making powers in quite similar terms.\(^{89}\) ‘Umar’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 \textit{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


\(^{89}\) Crone and Hinds, \textit{God’s Caliph}. See further, P. Crone, \textit{Medieval Islamic Political Thought} (Edinburgh, 2004), 33–47.

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-ard 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 ḥay’a 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-ard 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.

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 *hirāba* verse in particular, it was the principle of God’s covenant which underpinned Umayyad rhetoric about the punishment of rebellion: ‘throwing off’ (*khalʾ*) one’s pledge of allegiance in order to defy the state with violent rebellion (*fasād fi l-ard*) 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 Muhammad was dead, ‘Umar b. al-Khaṭṭāb is said to have prophesied that the Prophet would return to cut off the hands and feet cut off of those who claimed that he had died.94

2. Abū Bakr is said to have killed al-Fujāʿa of Banū Sulaym by immolation in the ‘prayer ground’ (*musallā*), or the *Baqīʾ* cemetery (*al-baqīʾ*) at Medina. Al-Fujāʿa had converted to Islam and asked to be armed before attacking, robbing and killing Muslims and others.95

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92 On *khalʾ* 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 *bayʿa* taken to ‘the son of those outlawed by God’s Messenger’ (*tarīdī rasūl Allāh*) in Zubayrid rhetoric, see al-Yaʿqūbī, *Taʾrīkh*, ii, 324.


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.'

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 ṣanān 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 Bahrāyn before returning to Basra and eventually being executed having had a violation of the terms of his return (that he stay in his tribal misr) 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. Zaḥr al-Ṭāʾī revolted (kharaṭa) with seventy or eighty followers; when they had been defeated,
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. ‘Adī, 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 Mu‘āwiyah; seventy Kufan witnesses had been found to say that Ḥujr b. ‘Adī 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, ‘Ubayd Allāh b. Ziyād, 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 ‘Īd al-Fitr 58/678. The body of its leader, Ṭawwāf b. Allāq was crucified on the orders of Ziyād; his corpse was taken down and buried by his relatives.102

9. In 58/677–8, ‘Ubayd Allāh b. Ziyād, is said to have killed ‘Urwa 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 ‘Urwa b. Udayya and his daughter, and beheaded them both; Abū Bilāl himself was imprisoned and then released. ‘Ubayd 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 ‘Ubayd Allāh b. Ziyād (r. c. 674–86), named Bathjāʾ (or Baljāʾ), allowed herself to be arrested and was executed in the marketplace at Basra.106

11. In 61/680 al-Ḥusayn was killed by ‘Ubayd Allāh b. Ziyād; his severed head was displayed in public.107

100 al-Baladurī, Anašīb (Wiesbaden/Beirut), i, 175–7. Cf. al-Ṭabarī, Ta‘rīkh, ii, 90–1 (where they are simply ‘killed’); Wellhausen, Factions, 40.
103 al-Baladurī, ibid., i, 386–7.
104 al-Ṭabarī, Ta‘rīkh, 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!’

13. Al-Mukhtar’s commander, Yazīd b. Anas, had 300 prisoners beheaded at a battle with Umayyad forces at Banāt Talā, near Mosul in 66/685–6.

14. Al-Mukhtar 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; one of the executed is said to have been burned or flayed alive.


16. After the killing of ‘Amr b. Sa‘īd b. al-ʿĀṣ, in 69/688–9, ‘Abd al-Malik was persuaded by ‘Abd al-‘Azīz b. Marwān not to kill ‘Amr’s sons, Yahyā and ʿAnbasa, on the basis that they were Umayyads; they were imprisoned (hubisa) instead.

17. In 71/690–1, Muṣʿab b. al-Zubayr rounded up known supporters of ‘Abd 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. Others were killed and had their property destroyed or seized.

18. The corpse of ʿAbd al-Malik’s rival for the caliphate, ʿAbd Allāh b. al-Zubayr, was crucified by the Umayyad commander, al-Hajjāj, at Mecca in

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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, Taʾrikh, ii, 786–92.
113 Ibid., ii, 792–3.
114 Ibid., ii, 801–3.
115 Ibid., ii, 803.
72/692. This event generated an extensive ḥākīrāt literature. In one account a dead dog was attached to his body, and his son, ʿUrwa, was also crucified. Al-Ḥajjāj despatched Ibn al-Zubayr’s head to ʿAbd al-Malik. In another account his head was sent to one of his supporters as evidence of his death.

19. In 72/691–2, ʿAbd Allāh b. Khāzim refused allegiance to ʿAbd al-Malik; ʿAbd 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 ʿAbd al-Malik. In some accounts, ʿAbd Allāh b. Khāzim had cut off the hands and feet of the messenger sent by ʿAbd al-Malik to request his pledge of allegiance before beheading him.

20. After his arrival in Kufa in 75/694–5, al-Ḥajjāj beheaded those who had deserted the jiḥād.

21. In 77/696–7, the heads of defeated Kharījītes in Ṭabaristān were sent to al-Ḥajjāj; he sent their leader’s head to the caliph, ʿAbd al-Malik.

22. Advised that one of his commanders was plotting to break his pledge of allegiance and rebel, Umayya b. ʿAbd 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.

23. In c. 84/703–4 two defeated rebels who had been led by Ibn al-ʿAshʿath, ʿAtiya b. ʿAmr al-Anbarī and Kharasha b. ʿAmr al-Tamīmī, were crucified on the doors of their houses by al-Ḥajjāj.

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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.
119 al-Ṭabarī, Taʾrīkh, ii, 834–5.
121 al-Ṭabarī, Taʾrīkh, ii, 835.
122 Ibid., ii, 869–70.
123 Ibid., ii, 1020–1.
125 al-Balādhurī, Ansāb (Damascus), vi, 475.
24. In 80/699, or 85/704, or before 90/708, al-Ḥajjāj or ʿAbd al-Malik executed Maʿbad al-Juhānī, probably because of his involvement in the rebellion of Ibn al-Ashʿath.\(^{126}\)

25. After al-Ḥajjāj regained control of Iraq in 83/702–3 he demanded that everyone give the pledge of allegiance 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. Saʿd b. Abī Waqqāṣ, having accused him of, among other things, having refused the pledge of allegiance to Yāzīd b. Muʿāwiya and having compared himself to ʿḤusayn and Ibn ʿUmar. Three other members of Ibn al-Ashʿath’s rebellion, were beheaded on the same occasion.\(^{128}\) One, Fayrūz b. Ḫusayn was tortured before he was killed.\(^{129}\) Al-Ḥajjāj was said to have killed 11,000 of the rebels led by Ibn al-Ashʿath 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-Ṭālaqān] 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’ (tahaṣṣaṇa wa-ʿasā 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 (lusūṣ)’ there, while the chief in al-Ṭālaqān 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

\(^{126}\) 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-Yaʿqūbi, Taʾrīkh, ii, 342.

\(^{133}\) al-Yaʿqūbi, 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. Later in the same year, Qutayba beheaded and crucified Nizak himself, with two of his fraternal nephews ‘beside a spring named Wakhsh Khāšbān at Iskāmisht’; the number of those beheaded on the same occasion is said to have been either 700 or 12,000. There are various stories about Nizak’s imprisonment prior to his execution.

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-qataʿa aydiyā kharīn wa-arjulahum).

30. In 94/712–13, the new governor of Medina, ‘Uthmān b. Ḥayyān al-Murrī, ‘imprisoned and punished’ (ḥabasahum wa-ʿāqabahum) two Iraqis before sending them, and the other Iraqis in Medina, to al-Hajjāj ‘in neck collars’ (fi jawāmiʿ). ‘Uthmān ‘pursued the heretics’ (atbaʿa ahl al-ahwā’) and seized two Kharijites, Haysam 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.

31. In 94/712–13, al-Hajjāj 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-Hajjāj 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-Hajjāj’s words.

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 tuḥḍithū ḥadathan fī qaṭ wa-ṣalb ḥattā tuʿāmirūn) …

134 al-Ṭabarī, Taʿrikh, ii, 1218.
136 al-Ṭabarī, Taʿrikh, ii, 1224–5.
138 al-Ṭabarī, Taʿrikh, ii, 1258; Anonymous, Kitāb al-ʿUyūn, 16.
139 al-Ṭabarī, ibid., ii, 1264f.
33. After he was appointed governor of Iraq in 106/724–5, Khālid al-Qasrī is said to have executed and then crucified ‘Ikrima 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. ʿAbd 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. ʿAbd Allāh is said to have captured a group of ʿAbbasid missionaries in Khurasan, killing (qatala baʿdahum) 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. ʿAbd Allāh killed the rebel ʿAmmār 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 ʿunqahu bi-shātiʾ l-nahr).146

38. In 118/736–7, al-Kirmānī was besieging a castle at al-Tubūshkān, in Upper Ṭukhāristān; he made a kḥaba 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 …

141 Khalifa, Taʾrīkh, ii, 490 (for his appointment); al-Dinawarī, Akhbār, 336 (the crucifixions).
142 al-Ṭabarī, Taʾrīkh, ii, 1560.
143 al-Yaʿqūbī, Taʾrīkh, ii, 383.
145 al-Ṭabarī, Taʾrīkh, ii, 1588–9; see al-Ṭabarī, History, xxv, 125, n. 466 concerning the Khurramīyya.
146 al-Ṭabarī, Taʾrīkh, 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 Wāṣiṭ. 151

40. In 119/737, Wazār 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 Yusuf b. ʿUmar. 153 A very extensive martyr literature is associated with this event. Zayd’s corpse is said to have been carried 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

147 al-Ṭabarī, Taʾrīkh, ii, 1590–1.
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.
153 Abou El Fadl, Rebellion, 53, n. 92.
154 al-Yaʾqūbī, 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 crucifixion 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-Adhā 124/742 or 125/743, Jaʿd b. Dirham was killed by Khalid 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, Yahyā 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 criticized on the basis that, ‘Only the head of the rebel is displayed’ (innamā yunṣabū 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)

157 al-Dinawarī, Akhbār, 345.
158 al-Baladhurī, Ansāb (Damascus), ii, 545–7.
159 al-Ṭabarī, Taʾrīkh, ii, 1733; see further W. M. Watt, The Formative Period of Islam (Edinburgh, 1973), 86.
161 Kraemer, ibid., 54; Hawting, ‘Jaʿd b. Dirham’.
162 al-Ṭabarī, Taʾrīkh, ii, 1770, 1773–74; cf. al-Baladhurī, Ansāb (Damascus), ii, 545–7.
163 al-Ṭabarī, ibid., ii, 1773.
165 Khalīfa, Taʾrīkh, ii, 548–51; al-Ṭabarī, Taʾrīkh, ii, 1807.
on the city gate that led south to al-Jābiya; his head was sent to Marwān.166

In another account, Marwān II crucified Ibrāhīm b. al-Walīd alongside ʿAbd al-ʿAzīz,167 and in another ʿAbd al-ʿAzīz 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 ʿAṭīyya. Heads were despatched to Marwān b. Muḥammad. Ibn ʿAṭīyya was himself killed later that year when he was mistaken for a fleeing Kharijite.173

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167 al-Balādhūrī, Ansāb (Damascus), ii, 115, vii, 165.
168 Ibid., vii, 550.
169 Ibid., vii, 569.
171 al-Balādhūrī, Ansāb (Damascus), iii, 144–5; al-Yaʿqūbī, Taʾrīkh, ii, 407–8 (no fish); al-Ṭabarī, Taʾrīkh, ii, 1975. The fish was to cast aspersions on the Azd of ʿUmān (al-Ṭabarī, History of al-Ṭabarī, Volume xxvii: The ʿAbbāsid Revolution, tr. and ann. J. A. Williams, (Albany, 1985) 85, n. 230; al-Balādhūrī, 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.
THE ʿUbāda B. Al-Ṣāmit Tradition at the Crossroads of Methodology

Pavel Pavlovitch

Sofia University “St. Kliment Ohridski”

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 (ḥadīths), Western Islamicists expressed varying opinions about reliability of lines of narrative transmission (ʿIsnāds), 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 ʿIsnād and the matn. For them, the ʿIsnād 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 ʿIsnād. 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 ʿIsnād may be described as ʿIsnād-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 ʿIsnād-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.

1 A version of this paper was presented on 11 September 2010 at the 25th Congress of Union Européenne des Arabisants et Islamisants. I would like to thank Dr Jens Scheiner for the reading of the first draft of the article. His in-depth critique contributed immensely to the improvement of my analysis. Thanks are also due to the anonymous JAIS readers of the article for their useful comments.
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 isnāds, 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 isnāds as fictitious authentication devices that do not carry tenable information about the origin and the ways of transmission of the matns, especially when they purport to link these matns to authorities from the first century AH.3 Instead of the isnāds, these scholars prefer to study the

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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 isnāds 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 isnāds. Nevertheless, these scholars generally agree that, provided certain methodological stipulations are met, a considerable part of the transmission line is authentic and

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 Muhammad and finally to Muhammad” (Andrew Rippin, “Ṭafsīr Ibn `Abbās and Criteria for Dating Early Tafsīr Texts,” *JSAS, 18* [1995], 61). Norman Calder raised to a new level the skepticism about the utility of the isnāds 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 `Abbās. After undertaking a statistical analysis of the stylistic devices employed by Ibn `Abbās’ 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 ḥadīths of my sample cannot have originated with Ibn `Abbās as their isnāds contend. Therefore, if neither Ibn `Abbās nor his students can be linked with these isnāds, I must conclude that the claims of the isnāds are false. At the very least, the first two (and most critical) links in the isnāds 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

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 ʿIṣqahā’ 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, “Nāfi’, 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 isnāds 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 isnāds 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: “Nāfi’, 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 ʿUbāda 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 ʿUbāda tradition, however, remained fairly marginal to the topic of their studies. 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 ʿUbāda tradition.

Muslim jurists employ the term zīnā (also zināʾ) to describe sexual transgression in general. With regard to the penalty for zīnā, two categories of offenders (zunāʾ, 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 ihšān, 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-ladhīlam yuḥṣān), and the term “adulterer” and its cognates to designate the non-virgin transgressor (i.e. thayyib or muḥṣān).

John Burton has discussed the role of the ʿUbāda tradition in the context of the abrogation (naskh) theory. He focused primarily on al-Shāfiʿī’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 ʿUbāda 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-Shāfiʿī’s approach derives from a legal fiction that has nothing to do with the actual history of the ʿUbāda 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 ʿUbāda 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 ʿUbāda tradition itself (Christopher Melchert, “Quranic Abrogation Across the Ninth Century: Shāfiʿī, Abū ʿUbayd, Muhāsibī and Ibn Qutayba,” in Studies in Islamic Legal Theory, ed. Bernard G. Weiss [Brill, 2002]).
Methodological criteria in the study of the ʿUbāda tradition

In the section devoted to textual analysis I will apply Wansbrough’s exegetical typology. 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. Insofar as some of these exegetical works include hadīth material, they will make possible a chronological arrangement of the attending traditions, including those associated with ʿUbāda 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 (ṭabarīn 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 (lōći 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 (“Qur’ānic Abrogation”).
Sha'mit. Consequently, this chronology will be compared with the dating based on isnād-cum-matn analysis.

In a further section I will analyse the ‘Ubāda 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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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 isnāds, 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, “Nāfi”; idem, ECH).


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. 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 hadīth 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).

only those matns 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\textsuperscript{15} and, consequently, of distilling a meaningful narrative core.\textsuperscript{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 \textit{isnād-cum-matn} analysis, I shall account for the following possible \textit{isnād} configurations in their correlation with the matns:

1. An \textit{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 matns provided by the collectors sitting at the top of each spider leg may either concur or

\textsuperscript{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 Hadīth,” in \textit{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 (\textit{Charakter und Authentie}, 11–12, 166).

\textsuperscript{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 \textit{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 *matns*, 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 *isnāds* 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 *isnāds*. If the PCLs and the single strand *isnāds* 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, 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 aḥbār, 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.}

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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. 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 *isnāds*. 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 *isnāds* 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 *isnāds* both below and above the early CLs, is tantamount to circular reasoning. Therefore, when consulting the *rijāl*


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 fulāns populating the single-strand *isnāds*. 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 *isnāds* 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 *isnāds* 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 4:15–620 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 *zānin* (fem. *zāniyatun*) 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 ‘Ubāda 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

[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 Hadith Criticism,” *JAOS*, 121:1 [2001], 10, quoting Abū ʿAli Ṣāliḥ b. Muḥammad).


21 *Al-zāniyatī wa-l-zānī fā-jildī kullī wāḥidī min-humā miʿatī jaldatīn*...: The female sexual transgressor and the male sexual transgressor, flog each one of them a hundred lashes...
However difficult it may be to recognize the text as Mujāhid’s, 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 hadd (a punishment for the transgression of Allāh’s ordinances); but he stops short of explicitly mentioning flogging and stoning. Unlike Mujāhid, his contemporary al-Dāḥḥāk (d. 105/723) specifies the way mentioned in Qurʾān 4:15 as both hadd and al-jald aw al-rajm. 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-Dāḥḥāk by a later transmitter. A similar halakhic leaning is observed at the end of Mujāhid’s commentary ad Q. 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-hadd fī sūrat l-nūr al-

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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 (EF, s.v. “Muṣṭāfī b. ʾAbd al-Makkī” [Andrew Rippin]).


ḥabsa fi l-buyūt). He bases his exegesis on a multilevel paraphrastic explanation of smaller or larger segments of the Quranic verses. Ad “Wa-l-lāti ya’tīna l-fāḥisha min nisā’-kum” (And those of your women who commit abomination) Muqātil comments: “(1) ya’nī l-ma’ṣiyat, (2) wa-hiya l-zinā, (3) wa-hiya l-mar’at 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 ḥāshisha (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 (ya’nī/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 l-thayyib taznī wa-la-hā zawj) and fornicators [from both sexes] (thumma dhakara l-bikrayni l-ladhayni lam yuḥṣanū). The application of takhṣīṣ, a characteristically halakhic device, marks the point whence Muqātil’s commentary departs from that of Mujahīd. Whereas Mujahīd 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-lāhī 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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Having stated that Allāh revealed Qurʾān 24:2 specifically about the fornicators (thumma anzala l-lāhū fī l-bikraynī “Fa-jlidū kullī wāḥidīn min-humā miʿātī jaldatīn”...), Muqātil continues with a grammatically awkward clause: “…fa-n-s-khat hādhi-hi l-āyatī l-latī fī-l-nūr ‘al-zāniya wa-l-zāni fā-aqlidū kullī wāḥidīn min-humā miʿātī jaldatīn’...” 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-zāni as bikraynī) 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-lāhū ‘azza wa-jalla bi-l-jald
2. qāla l-nābī, šaʾl’am: Allāh akbar, qad jāʾa l-lāhū bi-l-sabīl
3. (a) al-bikrū bi-l-bikrī jaldī miʿātīn wa-nafṣīn sanatīn, (b) al-thayyibū bi-l-thayyibi jaldī miʿātīn wa-rajmīn bi-l-hijāra.

1. When Allāh the Almighty, the Exalted ordained flogging.
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 habībverse (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 ʿUbayd (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 ʿAbbās. 29 Unlike the halakhic parts of Muqātil’s commentary, the Ibn ʿAbbās 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-maʿr’a; al-raʾjul) as clearly indicated by the specific pronominal and verbal forms.

Like Muqātil, Abū ʿUbayd 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 ʿAbbās has reportedly expressed the opinion that the sunna provides a legal basis for the stoning of adulterers (wa-in kānā muḥṣanayn rujmā

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, Jāmiʿ, 6:493, 499–500).
bi-sunna rasūl l-lāh fa-huwa sabīl-humā l-ladhī ja’ala l-lāh” ‘azza wa-jalla la-humā). Such a clear distinction between the Qurʾān and the sunna contradicts Wansbrough’s view that “status as Qurʾān or sunna was hardly operative in his [Abū ‘Ubayd’s, P.P.] formulation of the rules”.30

The next two traditions, both passing through ‘Ubayda b. al-Ṣāmit,31 provide substance to Ibn ‘Abbās’ view that the adulterers are stoned according to the prophetic practice. The first ‘Ubayda 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’ala l-lāh la-humā la-hunna sabīls, which, in addition to linking the sunna to Qurʾān 4:15, implies that the ensuing prophetic utterance has abrogated the Qurʾān. Abū ‘Ubayd does not overlook the issue and offers a simple solution: he adduces a second variant of the ‘Ubayda 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 ‘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 Qurʾān.33 Nonetheless, he never mentions this putative verse and the ‘Ubayda tradition in a single context, which suggests that, in Abū ‘Ubayd’s view, the stoning verse did not function as an alternative to the problematic sunna that abrogates the Qurʾān.

Even though Abū ‘Ubayd does not discuss chronology, he marshals his traditions in a manner suggesting that the ‘Ubayda tradition is subsequent at least to Qurʾān 4:15–6. Furthermore, it is not gratuitous that Abū ‘Ubayd chooses to place the tradition that describes the Prophet’s uttering of khudhū ‘an-nī as divine revelation after the tradition that does not mention revelation symptoms. This order reflects sequential stages in the development of the ‘Ubayda hadīth, where the

30 Wansbrough, Quranic Studies, 198. Jens Scheiner has pointed to me that his study of Abū ‘Ubayd’s Kitāb al-Amwāl has shown a clear distinction between the Qurʾān and sunna.
32 Melchert rightly observes that “here at least is the rude beginning of a theory that Qurʾān and sunna are equally the products of divine inspiration.” (Melchert, Qurʾānic Abrogation, 87).
non-revelation account was followed by a variant tradition describing khudhūʿ ‘an-nī as divinely revealed words.

Al-Muḥāsibī (d. 243/857–58) cites an awkwardly abridged version of the non-revelation tradition. It is possible that al-Muḥāsibī knew the revelation version as it appears in Abū ʿUbayd’s treatise on abrogation, but he would not cite it because he preferred to justify the stoning penalty by the Qurʾān. On two occasions, al-Muḥāsibī refers to the stoning verse (āyat al-rajm): al-shaykh wa-l-shaykhah idhā zanayā fa-rjumū-humā l-battatā (The mature male and female, if they commit zinā, stone them outright). The verse is said to have been part of the Qurʾān; its script was eventually withdrawn, but its words remained in the hearts (rufiʿa rasmi hu min al-kitāb wa-lam yurfāʿ ḥafız hu min al-qulūb). The sunna confirms the ordinance of the removed verse (thabata l-rajmu bi-l-sunna).

Al-Muḥāsibī’s attempt to reconcile the sunna and the Qurʾān 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 Qurʾān”. 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, Qurʾān 24:2 defines the punishment of the

34 Khudhūʿ ‘an-nī qad jaʿala l-lāḥ la-humna sabīf al-bikr bi-l-bikr jald miʿat wa-rajmu bi-l-hijāra (Al-Muḥāsibī, al-ʿAql wa-Fahm al-Qurʾān, 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 unskilful 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-ʿAql, 398, 455.
36 Ibid., 398.
37 Ibid., 401.
38 Melchert, “Qurʾānic Abrogation”, 85.
fornicators, whereas the stoning verse defines the punishment of the adulterers (fa-nusikha hadda l-bikrayni bi-l-jald wa-nusikha [hadda] l-thayyibayni bi-ma kana nazala fi l-Qur'an min al-rajm thumma rufi'a rasmu-hu min al-kitab wa-baqiya wujubu-hu).[^39]

Al-Muḥāṣibī’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 Qur'an 24:2 and the ‘Ubāda tradition alike. Al-Muḥāṣibī’s indeterminate expression in this case is not fortuitous. Even though he considers the Qur’an as the pre-eminent source for defining the punishment for zinā, he cannot dispense with the sunna. Unlike Muqātil and Abū ‘Ubayd, who tacitly imply that in the case of rajm the sunna abrogates the Qur’an, al-Muḥāṣibī professes that this is an instance of naskh:

[^39]: Al-Muḥāṣibī, al-'Aql, 455.

Fa-nasakha l-lāh hadda l-bikrayni min al-adhā wa-l-habsi wa-l-jald bi-l-thayyibayni bi-ma bayyana l-nabī, saf'am, an Allah 'azza wa-jalla...

Then Allah abrogated the punishment of the fornicators, which was rebuke, confinement (i.e. Qur'an 4:15–6) and flogging (i.e. Qur'an 24:2), by elucidation; [that is], by what was elucidated by the Prophet [by an inspiration] from Allah the Almighty, the Exalted.[^40]

[^40]: Ibid., 455.

Note that al-Muḥāṣibī assumes that both of Qur’an 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-Muḥāṣibī 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-Muḥāṣibī’s explanation of the relationship between the Qur’an 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-Muḥāṣibī brings to mind al-Shāfi‘ī’s treatment of the same issue. Unlike al-Shāfi‘ī, however, al-Muḥāṣibī does not emphasize the sovereignty of the Qur’an and the sunna. Nor does he speak of a single penalty for adultery.

Al-Shāfi‘ī (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-Shāfi‘ī’s assumption that the
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-lāh l-hunna sabīl, 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 rasūl l-lāh “Khudhū ‘an-nī qad jaʿala l-lāh l-hunna sabīl...” awwal mā nazala fa-nusikha bi-hi l-ḥabsa wa-l-adhā ‘an 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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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 (tanzil).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 Māʿīz 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 Māʿīz 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 tradition47 but only to refute it promptly by a reference to the traditions about Māʿīz b. Mālik and the employer’s wife. Unlike the ʿUbāda and Māʿīz 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 Māʿīz, 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

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.
is true that for Mujāhid the Qurʾānic sabiḥ is identical to hadd, but there is nothing in his exposition that may elucidate his notion of hadd in this case.

Muqātil b. Sulaymān’s Taṣfīr 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 Taṣfīr.

The tension between the sunna and scripture comes to the fore in the works of Abū ʿUbayd and al-Muḥāṣibī. 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-Muḥāṣibī goes a step further in asserting the divine origin of rajm. Instead of emphasizing the revealed character of khudhū ʿan-nī, which he mentions only in passing, al-Muḥāṣibī 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-Muḥāṣibī 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-Muḥāṣibī 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-Muḥāṣibī 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

traditions, which are central to al-Shāfi‘ī’s treatment of rajm. Given that the Risāla should have been known in Baghdād, 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-Shāfi‘ī’s masterful work. Melchert’s view—that al-Risāla as we know it should be re-dated to a period after 256/912–13—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”.

According to Ibn Ḥazm (d. 456/1054), the fuqahā 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), Ishāq b. Rāh[al]wayh (d. 238/850).
and the founder of the Zāhirī madhhab, Dāwūd b. Khalaf (d. 279/884). Ibn Rushd (520–95/1126–98) adds to the list Ṭālib b. Hanbal (d. 241/855), while excluding al-Ḥasan b. Hayy. The name of al-Ḥasan al-.Busrī 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 of the ‘Ubādā tradition. Al-Ḥasan b. Hayy does not appear in the ‘Ubādā isnād, on which account Ibn Rushd may have omitted his name. The extant Musnad of Ibn Rāḥ[a]wayh does not raise the dual penalty issue; the same goes for Ibn Hanbal’s Musnad. The later collections of questions put to Ibn Hanbal by his students (Masā’ilī) are equivocal about his attitude towards the dual penalty for adultery. Apparently, they endorse Ṭālib’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 In his collection of questions to Ibn Hanbal and Ibn Rāḥ[a]wayh, al-Kawsaj (d. 251/863) states that Ibn Ḥanbal advised a single penalty for adultery, whereas Ibn Rāḥ[a]wayh insisted on the dual penalty (Masā’il al-Imām Ahmad b. Ḥanbal wa-Iṣlāh b. Rāḥ[a]wayh Riwayat Iṣlāh b. Manṣūr al-Kawsaj, eds. Abū l-Ḥusayn Khālid b. Mahmūd al-Rabī‘, Wī‘ām al-Ḥawshī and Jum‘at Fathi‘, 2 vols. [1st ed., Riyadh: Dār al-Hijra li-l-Nashr wa-l-Tawzī‘, 2004/1425], 2:250). According to Ṭālib’s son, Ẓāhir b. Manṣūr al-Kawsaj (d. 266/884), his father held the opinion that the muḥṣan sexual transgressor should be stoned but not flogged (Masā’il al-Imām Ahmad b. Ḥanbal Riwayat ‘Ibn-hi Abī l-Fadl Ẓāhir b. Ẓāhir b. Ẓāhir b. ‘Awād Allāh b. Muḥammad [1st ed., Riyadh: Dār al-Waṭan li-l-Nashr, 1420/1999], 310, no. 1163). Ibn Hānī‘ (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 (Masā’il al-Imām Ahmad b. Ḥanbal Riwayat Iṣlāh b. Ibrāhīm b. Ẓāhir b. al-Naysābūrī, ed. Zuhayr al-Shāwīsh, 2 vols. [Beirut: al-Maktab al-İslāmî, 1300/1980], 2:90, no. 1566). Note that al-Kawsaj’s question (Qulta: Al-bikrānī yujladā bi wa-yunjayānī wa-l-thayyib bānī yurjumānī wa-l-shaykh bānī yujladānī wa-yurjumānī?) 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 Hānī‘’s question (al-shaykh idhā zanā) is an apparent paraphrase of the alleged stoning verse (al-shaykh idhā zanā bi-rumānī al-li-bhāt). By referring to this verse Ibn Hānī‘ 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 Zāhirī Ibn Ḥazm. Al-Marwazi’s anonymous locution ṭā’ifat’ān min ahl ‘ayr’-nā wa-qurb’-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-Shāfi‘ī’s demise in 204/820. If al-Marwazi’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 Masā’il 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 inconsistencies 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 fiqh issue. The same cannot be said about Ibn Qutayba (d. 276/889), whose last work, Taʾwil Mukhtalīf al-Ḥadīth, is devoted to contested prophetic traditions. On two occasions Ibn Qutayba does refer to the traditions about Māʾiz b. Mallik and the woman’s servant in a polemical context, 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-Shāfi‘ī merely suggested a dual penalty for adultery; it was only several decades later that the Zāhirīyya contested his view. This may explain why Ibn Ḥanbal remained silent.

Hanbal’s response. Uneasiness about Aḥmad’s attitude, however, may be discerned in the somewhat later Masā’il 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.

The first has a bearing on the relationship between the Qurʾān and the sunna (Ibn Qutayba, Taʾwil Mukhtalīf al-Ḥadīth, ed. Muḥāmmad ʿAbd al-Ḥārin [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 (Taʾwil, 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-Muhāsibī 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 Qur’ān 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 Qur’ān. Later on, probably in the last quarter of the third century AH, the traditions about Māʾiz 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 Māʾiz 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 ʿUbāda b. al-Šāmit tradition: isnād-cum-matn analysis

I have chosen to analyse the ʿUbāda 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 ʿUbāda 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 ʿUbāda 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 ʿUbāda bundle is Qatāda b. Diʿāma (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-orientations,” Juynboll still maintains that “Ḥasan may be considered as at least one of Islam’s earliest fiqhāʾ 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 yujład wa-yunfā wa-l-thayyib yujład 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. Diʿāma (60–117/680–735) seems more suitable for a CL who circulated the maxim in the

56 *ECH*, 442.  
57 Loc. cit.  
form of a prophetic tradition. Belonging to the generation after Muḥāhid b. Jāb (21–100/642–718), Qatāda fits better in the span between the deaths of Muḥāhid 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 Ḥudūda 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 matns 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 Ḥudūda b. Di‘āma 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 Ṣhūʿa b. al-Ḥajjāj cluster

The Baṣran mawla Shūʿa b. al-Ḥajjāj (born 82–6702–7, died 160/776) is the clear focus of an isnād bundle dedicated to the punishment for adultery and fornication. Shūʿa’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-Jāʾid (d. 230/844–45) is the most important key figure relating from Shūʿa (Diagram 1, p. 166). To facilitate the following analysis, I have divided the short matn into several clauses:

(1) ḫudhū ṣa-n-nī! (2) Qad jaʿala l-lāhī la-hunna sabīlīn. (3a) Al-bikrī bi-l-bikrī (3b) wa-l-thayyibī bi-l-thayyibī. (4a) Al-bikrī tujlad wa-tunfā (4b) wa-l-thayyibī tujlad wa-yurjam.

(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-Ja’d’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 (yujišd-yunfš-yujišd-yurjam). According to the editor’s footnote the manuscript preserved in Dār al-Kutub al-Zāhiriyya in Damascus features singular feminine verbal forms. Given that most of the transmitters who cite Ibn al-Ja’d opt for the feminine form of the verbs, one may think that the feminine form was Ibn al-Ja’d’s original preference. It may be explained by the textual interplay between the ‘Ubāda tradition and Qur’an 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-Ja’d’s tradition.

The matns provided by Ibn al-Mundhir, al-Ṭaḥāwī and Ibn Hibbān overlap with the matn of Ibn al-Ja’d to the smallest detail.60 Abū ‘Awāna 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 ‘Awāna substitutes taghrīb (exiling to a remote place) for nafy (banishment). He also defines jald as one hundred [lashes] (jaldu miʾatin) and specifies the period of exile as one year (taghrībāʾ āmīn). In sum, Abū ‘Awāna 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. ʿAbd al-Ṣāmād and Abū Qilāba. Below the tier of Abū Qilāba, the collective isnād branches to Bakr b. Bakkār and Ibn al-Ja’d. Abū ‘Awāna was most likely confused about the exact source of his tradition, which seems to be other than Ibn al-Ja’d. This confusion shows that collective isnāds are of little utility for the isnād-cum-matn analysis.

Diagram 1 - The Non-Revelation Cluster, the Shu'ba Version

- Al-Bazzār
- Muḥ. b. al-Muṭṭahādī
- Muslim: “w-a-Isḥāq Hāshimī”
- Ibn al-Jaʿfar Ghundar, d. 193/808-
- Al-Ṭabarī
- Muḥ. b. al-Muthammatī
- Al-Shāhī
- İbn al-Maṣūdī
- Muḥ. b. AR al-Sāmī
- İbn al-Jaʿfar Ghundar, d. 230/844-5
- Bakr b. Bakkār
- İbn al-Jaʿfar, d. 230/844-5
- Tik b. Aḥmad
- İbn Aḥī Dāwūd
- İbn Aḥī Qālībā
- Muḥ. b. al-Muthammatī
- Al-Ṭabarī
- Al-Tahāwī
- Al-Shāhī
- İbn Hībbān
- Muḥ. b. ‘AR al-Sāmī
- Yūnus
- ‘Uḥdā b. al-Ṣāmi
- Ādam b. Aḥī Yūsuf
- Ikṣāṣ b. ‘Al.
- Al-Iṣāṣī
- Muḥ. b. al-Qāsim al-Laythī, d. 207/822-3
- Mahbūb b. al-Ṣāmī
- Shabīḥa b. Sawwār, d. 284/899-900
- Khālid b. Aḥmad
- Hashimī
- İbn al-Mundhir
- Al-Bazzār
- Al-Ṭabarī
- Al-Shāhī
- İbn Junayd
- Muḥ. b. ‘Al.
- ‘Abd Allāh
- Ibn Abī ‘Ubayd
- ‘Abd al-Rahmān
- ‘Abd al-Ṣāmī
- ‘Abd Allah
- ‘Abd al-Rahmān
- Muhammad

Collective imaṭā
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 ṣuŷl wa-yunfā wa-l-thayyib ṣuŷl wa-yurjam tradition. The evidence of the isnāds is less unequivocal, however. There being no direct CR citation of Ibn al-Jaʿd, the isnāds 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-jarraḥ 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-Hajjāj, 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

the few transmitters “who memorized and reproduced ya to a single unaltered wording” (\(\text{\footnotesize related from Shu}\))

The best of my knowledge, the surviving works of Ibn al-Madīnī include the disparaging comment about Ibn al-Ja’d’s \(\text{\footnotesize hadīth}\), but are of 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-Ja’d’s \(\text{\footnotesize hadīth}\). According to al-Thakhtālī (d. 322/934), ‘Alī b. al-Madīnī abandoned (\text{\footnotesize taraka}) a number of \(\text{\footnotesize hadīth}\) transmitters on the authority of Shu’ba, including ‘Alī b. al-Ja’d. When asked about his reasons for shunning Ibn al-Ja’d’s \(\text{\footnotesize hadīth}\), Ibn al-Madīnī answered: “I found that his words [related] from Shu’ba differ” (\(\text{\footnotesize ra ayu alfāz}-\text{\footnotesize hu ‘an Shu’ba takhtalif}\)). It is difficult to tell whether Ibn al-Madīnī meant that Ibn al-Ja’d preferred to adhere to the meaning of the traditions (\(\text{\footnotesize al-riwāya bi-l-ma’rūnā}\)) instead of reproducing them verbatim (\(\text{\footnotesize al-riwāya bi-l-laftū}\)).

To the best of my knowledge, the surviving works of Ibn al-Madīnī do not include the disparaging comment about Ibn al-Ja’d. Later rijāl critics mostly disregarded Ibn al-Madīnī’s alleged remark and preferred to it an appreciative comment by Abū Hātim who portrayed Ibn al-Ja’d as one of the few transmitters “who memorized and reproduced \(\text{\footnotesize hadīth}\) according to a single unaltered wording” (\(\text{\footnotesize yahfazu wa-ya’ī bi-l-hadīth ‘alā laftū wāḥīd} \text{\footnotesize lā-yughayyiru-hu}\)). Ibn Ḥajar tried to reconcile the conflicting reports about the reliability of Ibn al-Ja’d’s transmission (including that from Shu’ba). He proposed a chronological solution according to which Ibn al-Ja’d was not steadfast at the beginning (\(\text{\footnotesize kāna fī awwal l-hāl lam}\)).

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yathbut) but eventually became reliable.\(^{68}\) Even if Ibn Hajar’s comment should be lent credence, it still leaves room for doubt in our specific case. The traditions related by Ibn al-Ja’\(d\) on the authority of Shu’ba remain susceptible to criticism, since the audition must have taken place exactly at the beginning of Ibn al-Ja’\(d\)’s career as a traditionist.

The chronological problems that beset Ibn al-Ja’\(d\)’s audition from Shu’ba may be alleviated if one assumes the existence of an intermediate written source. Ibn al-Ja’\(d\) is known to have possessed books, which he showed to a number of renowned Baghdādī traditionists.\(^{69}\) Whether the ‘Ubāda tradition was part of these books is difficult to say; Ibn al-Ja’\(d\) 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 Shu’ba’s possible CL status.

After ‘Alī b. al-Ja’\(d\), the Baṣran traditionist Muḥammad b. Ja‘far Ghundar (d. 233/848–50) is the second most conspicuous candidate for a PCL status. Muḥammad b. Ja‘far 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. Ja‘far Ghundar will be proved, which in turn will bolster Shu’ba’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-Ja’\(d\):

\begin{quote}
“(1) Khudhū ḍan-nil! (2) Qad ja‘ala l-lāh la-hunna sabīlīn. (3b) Al-thayyibī bi-l-thayyibī (3a) wa-l-bikrī bi-l-bikrī. (4b) Al-thayyibī yujlad wa-yurjam (4a) wa-l-bikrī yujlad wa-yunfū."
\end{quote}

“(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-

\(^{68}\) Ibn Hajar, ibid., 7:292.


On comparison, the differences between Ibn Ḣanbal and Ibn al-Jaʿd 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 Ḣanbal opts for a masculine form of the verbs in clause 4. All changes are minor but still important. They may indicate that Ibn Ḣanbal did not copy Ibn al-Jaʿd’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 Ḣanbal’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 Ḣanbal and al-Ṭabarī. Muslim provides a collective *isnād* that involves Muḥammad b. al-Muthannā and Muḥammad b. Bashshār citing the line Ghundar → Shuʿba; and Muḥammad b. Bashshār citing Muʿādh b. Hishām and his father Hishām al-Dastūwāʾī → Qatāda. Muslim states that both *isnāds* convey a *matn* that is similar to the immediately preceding one supported by an *isnād* Muḥammad b. al-Muthannā and Muḥammad b. Bashshār → ʿAbd al-Aʿlā → Saʿīd b. Abī ʿArūba → Qatāda → al-Ḥasan al-Baṣrī → Ḥiṭṭān b. ʿAbd Allāh → ʿUbāda b. al-Ṣāmit. Unlike the *matns* of Ibn Ḣanbal 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 Muʿādh b. Hishām al-Dastūwāʾī and his father does not contain *sana* and *miʿa* 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 ʿan-nī! (2) Qad jaʿala l-lāhā la-hunna sabītan. (3a) - (3b) -. (4a) Al-bikru bi-l-bikri jaldu miʿa wa-taghribīn ʿām (4b) wa-l-thayyibī bi-l-thayyib jaldu miʿa 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-Ja‘d, 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. Ja‘far Ghundar → Shu‘ba 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 matns, whereas the remaining two differ in a distinct way. One of the identical matns 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. Ja‘far 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 Shu‘ba, al-Ṭabarī’s matn is part of the Shu‘ba 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 Shu‘ba.

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 Shu‘ba, 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 Ḥanbalīs72 as a possible explanation of the former’s decision to avoid mentioning the latter’s’ eponym.

Although the scenario according to which Għundar is the PCL of Shu‘ba may be thought as the most likely one one, the other scenarios should not be ignored. Therefore it is preferrable to consider Għundar as a (S)PCL instead of a fully-fledged PCL.

Another possible PCL is the Iraqi traditionist Shabābā 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 ʿīsā b. ʿAbd Allāh’s transmission from Shabābā.74 Ibn Abī Shayba’s variant reads:

(1) Khudhū ʿan-nī! (2) Qud jaʿala l-lāhī la-humma sabīlā. (3b) Al-thayyibī bi-l-thayyibī (3a) wa-l-bikr bi-l-bikr. (4a) Al-bikr yujlad wa-yunfā (4b) wa-l-thayyib 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-Jaʿd, 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-Jaʿd’s order in clauses 4a and 4b. Similarly to the cluster through Għundar, 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-Jaʿd. Hence, Shabābā may be considered as a PCL of Shuʿba b. al-Ḥajjāj.

72 Al-Khaṭṭīb al-Baghdādī, Tārīkh, 2:551.
Finally, two more isnād lines converge in the Baghdādī traditionist Abū al-Nadr Ḥāshim b. Qāsim al-Laythī (d. 207/822–3). He is cited by the direct CR, Abū ʿUbayd (d. 224/839?). There is no need to adduce the matn as it agrees almost completely with ʿAlī b. al-Jaʿd’s tradition. The only difference between Abū ʿUbayd and Ibn al-Jaʿd is the masculine verbal form that the former prefers in clause 4.

The second tradition through Abu al-Nadr is found in the Musnad of Abū ʿAwāna. As in the case of the isnāds passing through Ghundar, the analysis of Abū ʿAwāna’s tradition is complicated by its reliance on a confused collective isnād. Abū ʿAwāna adduces three isnāds: (1) Yazīd b. ʿAbd al-Ṣāmād → Ādam b. Abī Īyās → Shuʿba; (2) Ibn Junayd → Abū al-Nadr → Shuʿba; (3) Abū Qilāba → Abū Bakr b. Bakkār and Ibn al-Jaʿd → Shuʿba. To the last isnād, which doubles above the tier of Shuʿba and comes together in Abū Qilāba, Abū ʿAwāna attaches a matn that stands aloof from the other matns included in the Shuʿba cluster. I have already pointed to its numerous differences, when I analysed the traditions through Ibn al-Jaʿd. Suffice it to say that Abū ʿAwāna’s matn is identical with al-Bazzār’s matn attached to the cluster through Muḥammad b. Jaʿfar 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 Shuʿba b. al-Ḥajjāj. For the current analysis Abū ʿAwāna’s matn has a negative value: its evidence excluded, we are left with Abū ʿUbayd’s isnād as a single attribution to Abū al-Nadr, which is far from sufficient to consider the latter a PCL.

Summing up the analysis of the Shuʿba cluster, I should emphasize the predominantly homogenous structure of the matns 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 riwāyas point to a common source of information and independent ways of transmission. That Shuʿba 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 Shuʿba, Ibn al-Jaʿd, is quoted exclusively in single-strand isnāds none of which is associated with a CR. Add to this that Ibn al-Jaʿd must have been a near centenarian (and

75 Abū ʿUbayd, al-Nāsikh wa-l-Mansūkh, 133, no. 240.
76 Abū ʿAwāna, 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 mātns 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 isnāds in the traditions that pass through them. Shābāb b. Sawwār is the only indubitable CL of Shuʿba, but note that Shabāba appears in only two isnāds. 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 isnāds, 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 ‘Ubāda tradition may be found in the parallel isnād and mātn 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 Wāsiti traditionist Hushaym b. Bashīr (104–5/722–4–799) is one of the key figures in the ‘Ubāda bundle (Diagram 2, p. 175). Qutayba b. Saʿīd (148–50/765–8–854), 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 mātn:

(1) Khudhū ‘an-nī! (2) Fa-qad jaʿala l-lāhā la-hunna sabīlim. (3a) Al-thayyībī bi-l-thayyībī jaldī miʿatū thummū l-rajm (3b) wa-l-bikrī bi-l-bikrī jaldī miʿatū wa-nafyū šāna.

(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

Diagram 2 - The Non-Revelation Cluster: the Hushaym b. Bashīr Version

Al-Bayhaqi

Abū ‘Al. al-Hadīr

Abū al-Nadr al-Faṣḥī

Al-Ibīn

Abū ‘Al. b. Abīlān

Al-Māwarī

Muh. b. Nuṣr

Al-Dārūdī

Abū ‘Al. Aswāna

Ibn al-Jā’rūd

Muh. b. ‘Abd al-Malik

Ṣṭāhār b. ‘Al. al-Rā‘ī

Al-Naṣīḥī

Ṣāliḥ b. ‘AR

Al-Ṭabarānī

Al-Ṭanīshī

Al-Nasīḥī

Abū ‘Al. b. Ṣa‘īd b. Bashīr, d. 299/911-12

Al-Munṣufī

Muḥ. b. ‘Abd al-‘Awn b. ‘Ubayd al-Sā‘īr

Al-Bayhaqī

Abū Ḥamīd b. Ḥāqal-Khashṣāb?

Al-Nuṣrī b. Sa‘īd b. Bashīr, d. 299/911-12

ʿAmr b. Rā‘īf

d. 234/848-9

Abū Ḥamīd al-Faṣḥī

Ibn al-Jā’rūd

Yaḥyā b. Yaḥyā al-Tamīmī
d. 226/840

ʿAmr b. ‘Awn

Ibn al-Jā’rūd

Yaḥyā b. Yaḥyā al-Tamīmī
d. 226/840

ʿAmr b. ‘Awn

Hushaym b. Bashīr, 105-183/723-799, Wāṣīf

Ṣāliḥ b. ‘AR

Ibn Ḥanbal

Ṣāliḥ b. Manṣūr

Al-Taḥāwī

Ṣāliḥ b. ‘AR

‘Amr b. Ṣa‘īd b. Bashīr, d. 299/911-12

Al-Nahḥās

ʿAmr b. Ṣa‘īd b. Bashīr, d. 299/911-12

Muḥ. = Muḥammad

ʿAl. = ‘Abd Allāh

ʿAM = ‘Abd al-‘Awn

‘AR = ‘Abd al-Rahmān

Alm. = Abū Ḥamīd

Alm. = Ahmad

= Collective isnād
connective wāw instead of thumma in clause 3a. 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-Ṭirmidhī’s in clause 1, in which Ibn Ḥibbān has opted for a twofold repetition of the Prophet’s exclamation: Khudhū ‘an-nī! Khudhū ‘an-nī! Similarly to what we observed in the Shuʿba cluster, Abū ʿAwāna relies on a collective isnād. In the present case, however, his matn is identical with al-Ṭirmidhī’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 riwāyas 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. Bāshīr. Portrayed as one of the most reliable traditionists in Khurāsān, Yaḥyā b. Yaḥyā is not surprisingly cited by Muslim b. Ḥajjāj:

(1) Khudhū ‘an-nī! Khudhū ‘an-nī! (2) Qad jaʿala l-lāh la-hunna sabīḥā. (3b) Al-bikr bi-l-bikr jaldū miʿat wa-naṣīḥa sana (3a) wa-l-thayyib bi-l-thayyib jaldū miʿat 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.

Al-Marwazī, who is another direct CR of Yaḥyā b. Yaḥyā, provides an identical matn. The much later al-Bayhaqī differs only in clause 1, in which he abandons the twofold repetition of the Khudhū ‘an-nī!

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80 Abu ʿAwāna, Musnad, 4:120, no. 6248.
81 Muslim, Ṣaḥīḥ, 11:270, no. 1690.
82 Al-Marwazī, al-Sunna, 238, no. 370.
This innocuous change cannot belittle the value of his tradition as evidence of Yaḥyā’s PCL status. Yaḥyā’s version differs from Qutayba’s by the twofold repetition of Khudhū ‘an-nil! 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. Yaḥyā’s version differs from Qutayba’s by the twofold repetition of Khudhū ‘an-nil! 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.

The Baghdādi traditionist Ya’qūb b. Ibrāḥīm al-Dawraqī (166–252/782–3–866) is another key figure above the tier of Hushaym b. Bashīr. Ibn al-Jārudī is a direct CR of Ya’qūb:


Ibn Hibbān repeats the matn with a single difference: he opts for sanatma instead of ‘āmm to define the period of banishment at the end of clause 3b. This simple substitution does not preclude a conclusion that both Ibn al-Jārudī and Ibn Hibbān cite one tradition, which most probably goes to Ya’qūb b. Ibrāḥīm al-Dawraqī. Note that al-Dawraqī’s matn is distinguished by a feature that sets it clearly apart from the other matns included in the Hushaym b. Bashīr cluster. In clause 3b it combines the nominal compound (jald’ mi’al’) with the verbal clause (wa-yunfayānī ‘āmm). 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 Shu’ba cluster, which employs exclusively verbal clauses to describe the penalties for adultery and fornication. Note that al-Dawraqī has preferred the dual verbal form yunfayānī, which is conditioned by the dual subject in clause 3b contrary to the Shu’ba version, in which a single subject is preferred.

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85 Ibn Hibbān, Ṣahīḥ, 10:272, no. 4426.
While it is conceivable that al-Dawraqī’s *matn* partly draws on the tradition of Shuʿba, (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 *īsnād* evidence, must have attended the lessons of very old *shaykhs*, while being themselves in their (early) teens. Such catenae of traditionists and their informants, when employed frequently, leave the impression of artificial *īsnād*-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 Shuʿba cluster.

The Wāṣiṭ traditionist ʿAmr b. ʿAwn (d. 225/839–40) cannot be considered a PCL as his name occurs in two collective *īsnāds*. The earlier one is provided by al-Dārimī,87 who attaches it to a differently worded *matn*, which is an unmistakable conflation of the Shuʿba and Hushaym versions. As for al-Bayhaqī, his *īsnād* suggests that he had in


mind a *matn* identical to that through Yahyā b. Yahyā al-Naysābūrī. 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 *isnāds* 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 *isnāds* 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 Yahyā b. Yahyā al-Tamīmī. 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 Yahyā b. Yahyā’s position as a PCL of Hushaym and may therefore be considered as an indirect indication of Hushaym’s CL status. ʿAmr b. ʿAwn cannot be considered a PCL; collective isnāds once again prove to be highly unreliable as a means for dating traditions.

Al-Ṭabarānī cites a variant that is identical with the tradition through al-Dawraqī. 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-Nahlās. It concurs with the variant of Yahyā b. Yahyā al-Tamīmī, save for the clause 1, in which *Khudhū ‘an-nil* 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-Nahlās does not allow us to exclude the possibility that someone along the transmission line borrowed Yahyā b. Yahyā’s tradition and fitted it out with a new *isnād*, which imparts to it an appearance of an independent hadīth. Al-Nahlās’ 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. More

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89 Muslim, *Ṣaḥīḥ*, 11:272, no. 1690.
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-Miẓān*, 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 tādlīs. According to al-Dāraqūṭnī, he related single traditions not supported by parallel lines of transmission (tafarrada bi-ashyāʿa; ḥaddatha bi-aḥādīthu lam- yutābaʿ ʿelay-hā). 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 isnāds, Ibn Ḥanbal and Saʿīd b. Maṇṣūr are direct CRs of Hushaym b. Bashīr. Saʿīd b. Maṇṣūr differs from the other traditions in the Hushaym cluster mainly in employing the locution taghrīb ʿāmīn instead of the attested nafy sanaʿām. 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. Maṇṣūr 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 Yahyā b. Yahyā 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 Yahyā b. Yahyā al-Tamīmī and Qutayba b. Saʿīd. At the same time, neither Yaʿqūb al-Dawrāqī nor ʿAmr b. ʿAwn can be ascertained as PCLs of Hushaym b. Bashīr. Note however that the number of isnāds converging in Yahyā b. Yahyā and Qutayba b. Saʿīd exceeds the number of attributions to Yaʿqūb al-Dawrāqī and ʿAmr b. ʿAwn. In terms of quality, the attributions to Yahyā 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. Maṇṣūr 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.
middle of the second century AH. In the preceding chapter I have suggested that Shu‘ba b. al-Ḥajjāj may have been the original disseminator of the tradition. Nevertheless, due to isnād irregularities, I preferred to leave the question about Shu‘ba’s CL status open until further evidence is derived from parallel lines of transmission. Although Shu‘ba is not present in Hushaym’s isnād, he must have known the ʿUbāda tradition. This is indicated by the fact that Shu‘ba’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 matns cited by Hushaym and Shu‘ba. Hushaym’s narrative differs from Shu‘ba’s in three main points: (1) it merges Shu‘ba’s clauses 3 and 4 into a single locution; (2) it substitutes verbal nouns for the verbs occurring in Shu‘ba’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 Shu‘ba version, but, likewise, Shu‘ba’s tradition may have been an expansion of Hushaym’s narrative. In the latter case the tradition would have been back-projected onto Shu‘ba. 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 Shu‘ba 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 diverging transmission lines

Diagram 3 (p. 184) comprises a number of isnāds that belong to the non-revelation group but cannot be attributed with certainty to key figures as early as Shu‘ba 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 Baṣra mawlā Saʿīd b. Abī Ṭārūba (d. 156–59/772–76). On closer inspection, one finds that Saʿīd is quoted by
Yahyā b. Saʿīd al-Qaṭṭān (120–98/738–813), who is present in five isnāds, 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. 

(1) Khudhū ʿan-nī! Khudhū ʿan-nī! (2) Qad jaʿala l-lāḥa la-hunna sabīla.

(3a) Al-thayyibu bi-l-thayyibi jaldu miʿatīn wa-ramyun bi-l-ḥijāra

(3b) wa-l-bikru bi-l-bikri jaldu miʿatīn wa-nafyu 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 rajmun bi-l-ḥijāra to ramyun bi-l-ḥijāra in clause 3a. Abū Dāwūd’s matn most likely reflects the original wording of the tradition; rajm 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 Yahyā 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 sanāt 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 ramyur/rajm 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.
98 Al-Nasāʾī, Sunan, 10:60, no. 11027.
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 ṭamīm bi-l-ḥijāra for the earlier ṭajīm. Later traditionists who based their riwāyas on al-Qaṭṭān partly corrected his reading by reinstating ṭajīm, 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 isnāds 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, it is an unmistakable copy of Shuʿba’s tradition. The only element that links al-Ṭabarī’s matn with the tradition of Yahyā b. Saʿīd al-Qaṭṭān (but also with the tradition of Hushaym b. Bashr) is the closing clause, in which al-Ṭabarī prefers nominal expressions (i.e. jaldū miʿat wa-nafy ”sanat”) 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 Yahyā 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. Instead, al-Qaṭṭān prefers Saʿīd b. Abī ʿArūba, although no relationship between the two is attested by early biographers like Ibn Saʿīd (230/845), Ibn Maʿmūn (d. 233/847), Ibn al-Madīnī (d. 234/848), al-Bukhārī (d. 256/870) and al-Ijīlī (d. 261/874–5). To the best of my knowledge, Aḥmad b. Ḥanbal, according to his son’s testimony, was the

100 Al-Ṭabarī, Jāmiʿ, 6:496.
101 Al-Khaṭīb, Tārikh, 16:204–5.
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. Bashir, 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. Bashir’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 taghrīḥīb ʿāmīn.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-thiqatu min ahl ʿilm), which speaks much to the detriment of his collective isnād. Unlike al-Shāfiʿī, al-Nasāʾī cites a tradition that avoids the taghrīḥ 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-nīf 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


103 Although Hushaym is from Wāṣīt, he was reportedly active in Baṣr, 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. ‘Ubayd will remain highly tentative unless one finds additional lines of transmission that evoke more confidence than al-Nasā‘ī’s single strand and al-Shāfi‘ī’s collective attribution which essentially boils down to another single strand. Al-Shāfi‘ī’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. ‘Ubayd as a CL or PCL.

Ibn Ḥanbal and al-Ṭabarānī cite the Kūfan traditionist Wakī b. al-Jarrāḥ (129–197/746–812) in an *isnād* that reaches al-Ḥasan al-Baṣrī through the agency of al-Fadl b. Dalham.106 Below al-Ḥasan’s tier, instead of relying on Ḥiṭṭān b. ʿAbd Allāh and ʿUbāda b. al-Ṣāmit, the transmission line takes an odd detour to Qabīsa b. Ḥurayth and Salama b. al-Muḥabbīq (see Diagram 3, p. 184, the dashed line). Although Ibn Ḥanbal and al-Ṭabarānī cite identical *matn* s, there is no reason to assume a CL older than Wakī b. al-Jarrāḥ. One may suspect that like his Baṣrī colleague, Yaḥyā b. Saʿīd al-Qaṭṭān, Wakī based his version on the tradition of Hushaym b. Bashīr.107 Unlike Yaḥyā, who changed rajmūn to *ramyun bi-l-ḥijāra* in the concluding clause of the *matn*, Wakī preserved Hushaym’s tradition in its original form. At the same time Wakī preferred a strange *isnād* that avoids Ḥiṭṭān b. ʿAbd Allāh and ʿUbāda 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 *isnāds* none of which may substantiate al-Ḥasan’s position as a CL of the *khudhūʿ an-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

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prefers a tradition based on the *rajm\textsuperscript{um} bi-l-hijāra* locution.\footnote{Ibn Abī Ḥātim, *Tafsīr*, ed. Asʿad Muhammad al-Ṭayyib, 10 vols. (1st ed., al-Makka al-Mukarrama–Riyadh: Maktabit Nizār Muṣṭafā al-Bāz, 1417/1997), 8:2517, no. 14091.} 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 Yahyā b. Saʿīd al-Qaṭṭān and Wālī 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’ *isnāds*.

**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 ‘Ubāda 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 Baṣrān 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 Wāṣiṭī 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 Baṣrān Yahyā b. Saʿīd al-Qaṭṭān, and his Kūfan counterpart Wālī b. al-Jarrāḥ, spread variants of Hushaym’s tradition. Instead of the single word *rajm* used by Hushaym, al-Qaṭṭān chose the locution *ramyun bi-l-hijāra* to describe the
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 Shu’ba’s original tradition, clauses 3a and 3b had come to rely on three longer locutions (nafyu sanatin on one occasion and jaldu mi’atin on two occasions) followed by a single word (al-rajm). Al-Qaṭṭān substituted the compound locution ramyun bi-l-hijāra 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, Wakī 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 Wakī undertook, the base legal requirements in ‘Ubāda 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 Qurʾān 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 ‘Ubāda 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 ‘Ubāda non-revelation cluster (Diagram 4, p. 190). The isnād chart shows two (P)CLs, Shu’ba b. al-Hajjāj and Yahyā b. Sa’īd al-Qaṭṭān, converging on Qatāda b. Di’āma as their common informant. Thus, by the evidence of the isnāds 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. Wakī’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. Di’āma), it may be cautiously interpreted as bespeaking al-Ḥasan al-Baṣrī’s contribution to the circulation of the ‘Ubāda 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 Shu’ba b. al-Hajjāj may be assumed to have faithfully named Qatāda b. Di’āma as his direct informant, Yahyā b. Sa’īd al-Qaṭṭān does not quote Qatāda directly, but through the agency
of Saʿīd b. Abī ṣArūba. It should be recalled that we failed to prove Ibn Abī ṣArūba’s CL status. The same goes for Manṣūr b. Zādḥān who is Hushaym b. Basḥūr’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. Basḥūr.

Coming to the matns, we have seen that Shuʿba b. al-Hajjāj circulated an early matn, which was edited by Hushaym b. Bashīr and Yahyā b. Saʿīd al-Qaṭṭān. That is to say, both Hushaym and Yahyā 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-Hajjāj, 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 Ḥubāda 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 Ḥubāda 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 Qurʾān and the sunna.
Diagram 4 - The Non-Revelation Cluster Summarized

Wākid, d. 197/812

 crossAxisAlignment

Al-Faḍl b. Dalham al-Qasīb, d. ?

Hushaym b. Bashīr, 105-183/723-799, Wāsīf

Maṣūr b. Zādhān

Shu‘ba b. al-Ḥajjāj, d. 160/776

Sa‘īd b. Abī ‘Arūba, d. 156/772

Qatāda b. Di‘āma, 66-117/681-735

Yaḥyā b. Sa‘īd al-Qatān, d. 198/813

Al-Ḥasan al-Baṣrī, d. 110/728

Qabīsa b. Hurayth

Hiṭṭān b. ʿAbd Allāh

Salama b. al-Muḥabbiq

ʿUbāda b. al-Ṣāmit

The source of al-Qatān

The source of Hushaym
That is to say, the chronological sequence Qurʾān 4:15—the Ubāda tradition implied the question of whether the sunna may abrogate the Qurʾān. A positive answer would allow for accepting Ubāda 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 ʿAlīb (d. 156/772–786). Below the tier of Ibn Abī ʿAlīb, the isnād includes Qatādā b. Diʿāma, al-Hasan 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 Yahyā 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 ʿAlīb cluster. Upon closer inspection, however, three key figures may be singled out. One of them is the Baṣrī traditionist Yazīd b. Zurayʿ (101–Shawwal 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 rasūl l-lāḥi, saʿīd, idhā nazala/nuzzila ʿalay-hi kariba li-dhālika wa-tarabbada la-hu waqfi-hu (1b) fa-nazala/nuzzila ʿalay-hi dhuṭaymī fa-laqiyd ʿan-hi qāla: (2) “Khudhū ʿan-nīl! (3) Qad jaʿala l-lāḥi la-humna sabīlīn, (4a) Al-bikr bi-l-bikr jaldī miʿalīn wa-naqīkhīn sana (4b) wa-l-thayyībī bi-l-thayyīb jaldī miʿalīn wa-l-rajīm.”

(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 Al-Nasāʾī, al-Sunan al-Kubrā, 6:405, no. 7105.
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 *anziš l-lāh* ṣ*alay-hi dhāř† yawm* instead of al-Nasāʾī’s shorter *fa-nazala/nuzzila ṣalay-hi dhāř† yawm*. 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 *rajmu 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 *ramyun/rajmu bi-l-ḥijāra* has been identified as a version-specific feature that distinguishes the tradition of Yaḥyā b. Ṣaʿīd al-Qaṭṭān from the tradition of Hushaym b. Bashīr who prefers the single-worded *wa-l-rajm*.

One may surmise that Yazīd b. Zurayq (d. 182/798–9) transmitted a similar tradition to each of Bishr b. Muʿādh and Muḥammad b. ṬAbīʿ al-Aʿlā, 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. Zurayq. 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. Zurayq lived and worked in Basra, therefore we may exclude a direct influence from the Wāsīṭī traditionist Hushaym b. Bashīr. Yahyā b. Ṣaʿīd al-Qaṭṭān is not known to have related traditions on the authority of Yazīd b. Zurayq. Nor, for that matter, is Yazīd b. Zurayq known to

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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.\footnote{Ibn Abī Ḥātim, Jarḥ, 9:263.}

An either direct or indirect borrowing is not the only possible explanation of the similarity between the tradition of Yazīd b. Zurayqī and those of Hushaym b. Bashīr and Yahyā b. Saʿīd al-Qaṭṭān. Both al-Qaṭṭān and Ibn Zurayqī rely on Saʿīd b. Abī ʿArūba 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 Saʿīd b. Abī ʿArūba. If, notwithstanding the single-strand isnāds in the traditions of al-Ṭabarī and Abū ʿAwāna, we accept Yazīd b. Zurayqī as a (S)PCL of Saʿīd b. Abī ʿArūba, the same would likely apply on al-Qaṭṭān. Having conceded two possible PCLs of Ibn Abī ʿArūba, we may consider him as an earlier CL, and by extension as a hypothetical PCL of Qatāda b. Diʿāma.

Does the matn evidence support the testimony of the isnāds? Al-Qaṭṭān, it should be recalled, is an unambiguous transmitter of a version of the non-revelation tradition; Yazīd b. Zurayqī, on his part, would have transmitted a matn that includes the revelation preamble. As al-Qaṭṭān and Yazīd b. Zurayqī 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. Zurayqī’s matn. The spider branches over the tier of Yazīd b. Zurayqī 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 ʿAwāna cites Yazīd b. Sinān (d. 264/878) and Muḥammad b. Iḫšāq al-Ṣaghānī (d. 270/883), whereas al-Shāshī relies on Muḥammad b. Iḫšāq al-Ṣaghānī and Aḥmad b. Mulāʿib (d. 275/888). Such double attributions indicate doubts about the actual transmitter of the tradition. Nevertheless, since both Abū ʿAwāna 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 ʿAwāna’s matn:

(1a) Kāna rasūl l-lāh’, salʿam, idhā nazala/nuzzila ʿalay-hi kurība li-dhālika wa-tarabbada la-hu wajhā ʿazza wa-jalla

(1b) fa-awḥā l-lāh” azza wa-jalla
ilay-hi dhat’ yawm” fa-lammâ surriya ‘an-hu qâla: (2) “Khudhâ ‘an-nî! (3) Qad ja’ala l-lâhî la-hunna sabîrîn”. (4a) Al-thayyib” bi-l-thayyib (4b) wa-l-bikr” bi-l-bikr (5a) Al-thayyib” jald” mi’al” thumn” rajm” bi-l-hijâra (5b) wa-l-bikr” jald” mi’al” thumn” nafyu sana.”

(1a) When [a revelation] descended upon the Messenger of Allâh, may Allâh bless him and grant him peace, he would be overwhelmed by grief and his face would grow pallid (1b) One day Allâh sent upon him a revelation. When he [the Messenger of Allâh] regained his composure, he said: (2) “Take it from me! (3) Allâh 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-Shâshî115 relates a similar matn, albeit with some differences. The most prominent of them is observed in clause 1b, which in al-Shâshî’s tradition reads, Fa-ūhiya ilay-hi dhâta yawmin fa-laqiya dhâlika fa-lammâ surriya ‘an-hu qâla (“One day he received a revelation, whereupon he experienced this [kind of symptoms]. When he regained his composure, he said”). By using the passive āhiya ilay-hi, al-Shâshî has come with a revelation preamble that sounds much like the preamble in al-Ṭabarî’s tradition on the authority of Ibn Zuray’, whereas Abû ‘Awâna stands closer to al-Nasâ’î’s variant through Ibn Zuray”.

The prophetic dictum that follows the preamble bears resemblance to the version of Shu’bā b. al-Ḥajjâj in dividing the penal maxim into two parts (clauses 4a and 4b); and to the version of Yahyâ b. Sa’îd al-Qâṭîân in employing the locution rajm” bi-l-hijâra. The last feature once again brings to the fore the possibility of the matn’s going back to a core version circulated by Sa’îd b. Abû ‘Arûba. Nevertheless, the collective attribution to al-Saghânî, Aḥmad b. Mulâ’îb and Yazîd b. Sinân in addition to its single-strand isnâd 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 Abî ‘Arûba cluster (Diagram 5 p. 192) is the near-centenarian Baghdâdî collector al-Ḥârith b. Abî Usâma (186–282/802–896), an author of a currently lost Musnad.116 The earliest

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. At the same time they depart from Abū Nuʿaym’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 (nuqabā’) 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 l-Madīna al-Munawwara, 1992]). The volume’s author, Ibn Ḥajar al-Haythami (d. 807/1404–5), paid no attention to the khudūʿ an-nī tradition. 117 Abū ‘Awāna, Musnad, 4:121, no. 6250.


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 Āwāna 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-Bayḥaqī. 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 Ārubā by Abī al-Wahḥāb b. ʿĀṭāʾ. Although one may point to the possibility of al-Ḥārith’s having obtained from Abī al-Wahḥāb b. ʿĀṭāʾ a written copy of Ibn Abī Ārubā’s alleged Muṣannaf, the single strand does not allow us to judge about the matn of the tradition at the time of Ibn Abī Ārubā, but rather only about its wording in Abī al-Wahḥāb’s written source, which may have undergone later redactions.

In the traditions of Abū Nuʿaym and al-Bayḥaqī, the penal maxim is similar to that in the tradition via al-Ṣaghānī, Abī b. Mulāʾib and Yazīd b. Sinān. In each case, the matn reveals traces of both the Shuʿba b. al-Ḥajjāj and al-Qaṭṭān matns. On the other hand, we have seen that the penal maxim in the variants through Yazīd b. Zurayf 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 Ārubā?

An answer may be sought in the considerable number of single-strand isnāds that make up the Ibn Abī Ārubā cluster (Diagram 5, p. 192). The maxims cited by Ibn Ḥanbal (no. 22734),121 Muslim122 and Ibn

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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: ʿidhā nazala ʿalay–hi l-wahy aththara ʿalay–hi karbun 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, Sahih, 11:273, no. 1690.
Hībbān\(^{123}\) agree nearly verbatim with the maxims found in the tradition of Abū Nuṣaym and al-Bayhaqi through al-Ḥārith b. Abī Usāma and the tradition of al-Shāshī (no. 1322) through Muḥammad b. Ishāq al-Ṣaghānī and Ahmad b. Mulā‘ib. 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 Zuray‘. Thus, one gets the impression that the penal maxim in the Ibn Abī Ṭā’ūba was greatly influenced by the traditions of Shu‘ba and al-Qaṭṭān.

It is perilous, however, to draw conclusions on the basis of single-strand isnāds, 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 Ṭā’ūba there is one hypothetical (S)PCL, Yazīd b. Zuray‘, 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 Ṭā’ūba 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 Ṭā’ūba. Due to the precarious character of the isnād evidence, it will be unwarranted to consider it as an unambiguous proof of Ibn Abī Ṭā’ūba’s CL status.

Unlike the ambiguous testimony of the isnāds, the narrative structure of the traditions making up the Ibn Abī Ṭā’ūba 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 Shu‘ba b. al-Ḥajjāj, the penal maxim describes the punishment for sexual transgressions in two separate clauses. First, it states *al-bikru bi-l-bikr i wa-l-thayyibu bi-l-thayyib*.


\(^{124}\) 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*<sup>th</sup> *bi-l-hijāra* is a clear reference to the version of Yahyā 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 *isnāds*? I have noted that Yahyā 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-Dastuwāṭī was regarded as one of the most reliable transmitters from Qatāda b. Diʿāma.<sup>125</sup> 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 *isnāds* of the revelation traditions that pass through Ibn Abī ʿArūba do not reveal but a single (S)CL, Yazīd b. Zuray. 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*<sup>th</sup>-*hu, kuriba li-dhālika* and *fa-lammā surriya ūan-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*<sup>th</sup>-*hu, kuriba li-*

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dhālika); the second one comes to light when these symptoms are removed from the narrative:

*(1) Kāna rasūl 1-lāḥ, ṣal’am, idhā nazala/nuzzila ‘alay-hi (2) fa-nazala/nuzzila ‘alay-hi dha’t yawmi fa-lammā surriya ‘an-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‘āma cluster**

In addition to the traditions through Sa‘īd b. Abī Arūba, the revelation cluster includes a number of isnāds that look at first sight as likely dives under the CL (Diagram 5, p. 192). May these isnāds indicate a CL that is earlier than Ibn Abī Arūba 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-Fākihī126 cite a tradition on the authority of Ḥammād b. Salama, thereby circumventing Sa‘īd b. Abī Arūba. This version differs from the other revelation traditions in relying on the collective transmission of Ḥumayd al-Ta’wīl (d. 142/759–60) and Qatāda b. Di‘āma (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-ʿAlāʾ b. ʿAbd 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-ʿAlāʾ b. ʿAbd 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-ʿAlāʾ b. ʿAbd al-Jabbār is established, and if that variant concurs with the matn of Ibn Ḥanbal.

Compared to the traditions in the Ibn Abī Arūba cluster, Ibn Ḥanbal, Ibn al-Mundhir and al-Fākihī partly dispose of clause 1b, which

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otherwise serves to introduce the notion that the following prophetic 
dictum is divinely inspired:

(1a) Anna l-nabī, ṣalʿam, kāna idhā nazala ‘alay-hi l-wahy‘ kuri ba la-hu 
wa-tarabbada wajh‘-hu (1b) wa-idhā surriya ‘an-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 ‘an-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-Fākiḥī, 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 Khudū ‘an-nil! not two, but 
three times (thala‘itha ṣīrah). 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. Di‘āma and Ḥumayd 
at-Tawfīl, one may imagine that Ibn Ḥanbal had the dual-repetition 
formula before his eyes.

Ibn Ḥanbal’s clauses 4 and 5 ([4a] al-thayyyib‘ bi-l-thayyyib [4b] wa-l-
jald‘ mi‘at‘ wa-nafy‘ sana) call to mind the early tradition of Shu‘ba 
(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-Fākiḥī prefer a matn 
in which clause 4 (al-thayyyib‘ bi-l-thayyyib‘ wa-l-bikr‘ 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-Fākiḥī are highly consistent. Insofar as both isnāds pass through 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 Hanbal is clearly inclined towards a variant based on the tradition of Shuʿba b. al-Hajjāj. 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). 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 ʿAwānā cite a tradition based on the family isnād: Muʿādh b. Hishām (d. 200/815) ➔ his father, Hishām al-Dastuwaṭī (d. 151–4/768–71):

(1a) Anna l-nabīyyā, ʿālām, kāna idhā nazala “alay-hi l-wahy” nakkasa raʾs-hu wa-nakkasa ashūb-hu ruʾūs-hum (1b) Fa-lammā surriya ʿan-hu rafaʿa raʾs-hu fa-qāla: (2) Khudhū ʿan-nī (3) Qad jaʿala l-lāh la-hunna sabīḥ. (4) Al-thayyibī bi-l-thayyibī wa-l-bikr bi-l-bikr (5a) Ammā l-

127 Al-Dārimī, Sunan, 3:1500, no. 2372.
thayyib fa-yujladu thumma yurjamu (5b) wa-ammā l-bikr 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-Ṭabarî’s variant, clause 1a lacks the image of grief and sorrow conveyed by the verb kurība; in fact, it lacks even the pallid-face section, which is usually present in the other narratives. Thus the dramatic context of the kurība-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 (rafaʿa raʾs-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-Ṭabarî’s in a notable way. Instead of al-Ṭabarî’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 nabiyya l-lāhi, ʿalʿam, unzila ʿalay-hi dhāt yawm”, fa-nakkasa ashābi-hu ruʿūs-hum, (1b) fa-lammā surriya ʿan-hu rafaʿā ruʿūs-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 yawm” 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-Ṭabarî and Abū ʿAwāna seem to convey an early version of the preamble, which is evident from the absence of the later

128 Al-Ṭabarî, Jāmi’, 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-Ṭabarî’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-Ṭabarî may have been influenced by the versions of the revelation tradition that begin with the fictionalized clause anna l-nabiyya, ẓal’am, kāna idhā nazala/uzzila/uzzila ʿalay-hi.

The above issue may be solved, if we succeed in distilling a common narrative core from the traditions of al-Ṭabarî and Abū ʿAwāna. When we remove the head-bending clauses, the following wording emerges:

*(1) Anna nabiyya l-lāhī, ẓalʿam, unzila ʿalay-hi/kāna idhā nazala ʿalay-hi [l-wahy] (2) fa-ʿidhā/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-nabiyya, ẓalʿam, unzila ʿalay-hi [l-wahy] dhāta yawmā [(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-Ṭabarî and Abū ʿAwāna via Muʿādh b. Hishām are almost identical and greatly overlap with the corresponding part in the tradition of Shuʿba b. al-Hajjāj. 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
hypothesised version emerges when we combine the already reconstructed preamble with the prophetic dictum:

*(1a) Anna l-nabiyya, ṣal’ām, unzila ‘alay-hi [l-wahy] dhāta yawm* {1b) fa-lammā surriya ‘an-hu qāla:} “(2) Khudhū ‘an-nī (3) Qad ja’ala l-lāh la-hunna sabīl”. (4) Al-thayyibī bi-l-thayyibī wa-l-bikr bi-l-bikr (5a) Ammā l-thayyibī fa-yu’jadu thumma yurjam (5b) wa-ammā l-bikrī fa-yu’jadu 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 Muʿādh 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 Muʿādh b. Hishām gives an insight into that narrative, which, I think, would have been void of the connective clause fa-lammā surriya ‘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 Muʿādh.

Did Muʿādh b. Hishām receive his tradition from Qatāda b. Dīʿāma? In addition to Muʿādh, 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 Shuʿba’s tradition, which is the core of Muʿādh’s prophetic dictum, and may therefore go to Qatāda b. Dīʿāma. Nevertheless, Ibn Ḥanbal deviates considerably from Shuʿba in preferring genitive compounds to Shuʿba’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. Dīʿāma.

ʿAbd al-Razzāq al-Ṣanʿānī cites a tradition that may help us verify the above reconstruction of Muʿādh b. Hishām’s matn and decide whether it goes to Qatāda b. Dīʿāma. On the authority of Maʿmar b. Rāshid via Qatāda, ʿAbd al-Razzāq cites the following matn:
(1) Īḥiya ilā l-nabī, şal’am, fa-qāla: “(2) Khudhū! Khudhū! (3) Qad fa’ala l-lāh la-hunna sabīlān. (4a) Al-thayyib i bī-l-thayyib jald‘ mi’atū wa-l-rajmūn (4b) wa-l-bikrū bi-l-bikrē jald‘ mi’atū wa-nafyū 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 ʿAbd 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 ‘an-hu, which, as already noted, gives the impression of a superfluous accretion to the matn of Mu‘ādh 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.

ʿAbd al-Razzāq’s preamble (clause 1) bears resemblance to the reconstructed version of Mu‘ādh b. Hishām:

<table>
<thead>
<tr>
<th>ʿAbd al-Razzāq</th>
<th>Mu‘ādh b. Hishām (reconstructed)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Īḥiya ilā l-nabī, şal’am</td>
<td>*Anna l-nabiyya, şal’am, unzila ēlay-hi [l-wahyū]</td>
</tr>
</tbody>
</table>

The variation between unzila l-wahyū and īḥiya 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. Dīʿāma.

Clauses 2–4 in ʿAbd al-Razzāq’s matn repeat the wording of Hushaym b. Bashīr’s non-revelation tradition. Since the tradition of the (S)CL, Mu‘ādh b. Hishām, is identical with the early version of Shu’ba b. al-Ḥajjāj, it will be unwarranted to regard ʿAbd al-Razzāq’s dual-penalty maxim as going back to an earlier version circulated by Qatāda b. Dīʿāma. ʿAbd al-Razzāq’s variant of the Prophet’s exclamation

129 ʿAbd al-Razzāq, Musannaf, 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-nabyya, ṣalʿam, unzila ʿalay-hi dhāt yawmī fa-tarabbada wahḥ-hu (1b) fa-lammā surriya ʿan-hu qāla: “(2) Khudhū ʿan-nī! (3) Fa-īnna l-lāhī qād jaʿala la-humma sabīlū (4) al-thayyibī bī-l-thayyibī wa-l-bikrī ṣī-l-bikrī (5a) al-thayyibī yuqadda thumma yurjam (5b) wa-l-bikrī yuqaddu thumma yunfū sanāʿa.”

(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-nabīyya, ṣalʿam, unzila ʿīlay-hi, and not ʿāḥiyā ʿilā 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 matts 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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simple and uniform core variant: *anna l-nabīyya, ṣal'am, unzīla 'alay-hi [l-wahy]/ūḥiya ilā l-nabī, ṣal'am.* This variant may be attributed to Qatāda b. Diʿāma. In comparison to the variants of the preamble found in the Saʿīd b. Abī ʿArūba cluster, their counterparts in the Qatāda b. Diʿāma 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 ʿArūba almost invariably draw on the dual-penalty maxim as found in the traditions of Shuʿba b. al-Ḥajjāj and Yahyā b. Saʿīd al-Qaṭṭān, there are no traces of al-Qaṭṭān’s *rajmun bi-l-ḥijāra* in the Qatāda cluster. In fact, the latter lacks the uniformity of the *dictum* variants that pass through Ibn Abī ʿArūba. At times we stumble at the Shuʿba version (Muʿādh b. Hishām), at others we find the Hushaym b. Bashīr version (ʿAbd al-Razzāq and al-ʿAlāʾ b. ʿAbd al-Jabbār), and in still others we face instances of compound narratives that draw on features specific of both Shuʿba and Hushaym (Ibn Ḥanbal and al-Ṭabarānī).

References to the wording of Shuʿba and Hushaym may in general be considered as an indication of an earlier provenance compared to narrative features specific of Shuʿba’s and Yahyā b. Saʿīd al-Qaṭṭān’s *matns.* In particular, however, one expects to find in the Qatāda cluster a far more consistent bearing on the Shuʿba tradition. Shuʿba, 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. Diʿāma.

A far greater problem is that Shuʿba, 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 ʿArūba. How can one reconcile the versions of Shuʿba and al-Qaṭṭān, which exclude the revelation preamble, with the versions of their informants, Ibn Abī ʿArūba 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-Hasan al-Baṣrī cluster
Abū `Ubayd (a direct CR) and al-Shāshī no. 1325¹³¹ cite a tradition said to have been received from al-Hasan 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 `Awāna 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 `Awāna 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 rasūl-l-lāh, ẓal'am, (1a') idhā nazala ‘alay-hi l-wahy” ‘arafnā dhūlika fī-hi (1a²) wa-ḥammadā ‘aynay-hi wa-tarabbada wahjī-hi (1b) Qalā (?) “Fa-nazala/nuzzila ʿalay-hi fa-sakatnā fa-lammā surriya ‘an-hū qāla: (2) Khudhū-hunna! Iqbalū-hunna! (3) Qad jaʿala l-lāhā la-hunna sabīlū. (4a) Al-bikru bi-l-bikru ḥallū miʿat thumma nafy ʿāmū. (4b) wa-l-thayyib bi-l-thayyib ḥallū miʿat thumma l-rajm.”

(1a) When a revelation descended upon the Messenger of Allāh, may Allāh bless him and grant him peace, (1a') 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 `Ubayd 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 `Ubayd 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 ‘alay-hi l-wahy”) instead of the

indefinite *idhā nuzzila/nazala ʿalay-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’). The following symptoms (closed eyes and pallid face [clause 1a’2]), which specify the preceding clause (viz., 1a’), are introduced by the additive connective “*wa-*,” which separates the clauses instead of underlining the causal relationship between 1a’ and 1a’2. Phrasal coherence may be restored in two ways. If we remove *ʿarafnā dhālīka fī-hi* as an intrusive clause, the resulting original clause 1a would read, *kāna rasūl l-lāh*, *ṣalʿam, idhā nazala ʿalay-hi l-wahy* ghammadā ʿaynay-hi waar-tarabbada wajhʿ-hu. Alternatively, we may remove clause 1a’2. In this case we will be left with the following wording: *kāna rasūl l-lāh*, *ṣalʿam, idhā nazala ʿalay-hi l-wahy* *ʿarafnā dhālīka fī-hi*. This clause (without clause 1a’2) comfortably links with clause 1b, which opens with the words, *fa-nazala/nuzzila ʿalay-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 afoof from the other traditions in the revelation cluster. It should be recalled that the traditions that pass through Saʿīd b. Abī ʿArūba 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. Dīʿāma are less fictionalized and more inconsistent in their description of the symptoms of revelation. The variants of ʿAbd al-Razzāq and Muʿādh 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 Ḥamīd 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 lī-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. Dīʿāma, 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 1a1, 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. Dīʿāma 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 l-lāhī, ṣalīm, idhū unzila ʿalay-hi [l-waḥy]/ʿarafnā dhālika fi-hi (1b) Qāla [?]: Fa-nazala/nuzzila ʿalay-hi fa-lammā surriyya 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-nabiyya*, ṣalīm, unzila ʿalay-hi [l-waḥy]/ʿaḥiya ilā l-nabī, ṣalīm), 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 ‘arafnā dhālika fi-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 Muʿādh b. Hishām and Qatāda b. Dīʿāma, and therefore cannot be traced back to al-Ḥasan al-ʿBaṣrī.

In the prophetic dictum, instead of the ubiquitous Khudhū ‘an-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 ‘Quranic 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 isnāds that converge on al-Ḥasan al-ʿBaṣrī, 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-ʿBaṣrī by single-strand isnāds that mention different intermediaries (viz. Maymūn al-Maraʾī/Marāʾī and Manṣūr b. Zādhan). Yazīd’s informant, Maymūn al-Maraʾī/Marāʾī, is known for his tadlis on the authority of al-Ḥasan al-ʿBaṣrī.132 Hence, his appearance in the isnād speaks rather to the detriment of the line below Yazīd. What is more, Maymūn al-Maraʾī/Marāʾī 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-Maraʾī/Marāʾī. However, his failure to state that he had an audition from al-Ḥasan is interpreted as a sign of tadlis (Ibn Hanbal, ʿIlal, 2:523, no. 3450). Ibn Ḥajar summarizes the predominantly lukewarm assessment of al-Maraʾī/Marāʾī in Tahdhib al-Tahdhib, 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 Ma‘mūn al-Mara‘ī/Marā‘ī and cannot be considered as belonging to al-Ḥasan al- Баṣrī. Second, Yazīd’s and Hushaym’s matsn 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. Dī‘āma 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 matsn is superior to most of the matsn 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- Баṣrī. At the same time one should not brush away the possibility that it contains important narrative relics.

Abū Dāwūd al-Ṭayūlī (d. 203/819–20)133 and ʿAbd Allāh b. Ahmad b. Ḥanbal134 cite a tradition on the authority of the Baṣrī traditionist Jarīr b. Ḥāzim (d. 170/786–7) quoting al-Ḥasan al- Баṣrī. 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-Ṭayūlī cites the following matsn:

(1a) **Anna rasūla l-lāhī, ṣal’am, kāna idhā unzila ʿalay-hi l-waḥyī ‘urjīfā dhālīka fi-hi** (1b) **Fa-lammā unzilat “aw yaj‘a l-lāhī la-hunna sabīli” wa-raṭṭa‘a l-waḥyī qāla rasūla l-lāhī, ṣal’am; (2) Khudhū ḥidhrū‘-kum! (3) Qad ja‘ala l-lāhī la-hunna sabīli** (4a) **Al-bikrī bi-l-bikrī jaldī mi‘alāw wa-nafsī sanāṭ** (4b) **wa-l-thayīibī bi-l-thayīibī jaldī mi‘alā wa-rajīmī bi-l-thayīibī.**

(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.”


134 Ibn Ḥanbal, Musnad, 37:442–3, no. 22780.
ʿAbd Allāh b. ʿAbd Allāh b. Ḥanbal’s tradition through Shaybān b. Abī Shayba → Jārīr b. Ḥāzim is supplemental (ziyāda) to Aḥmad’s hadith corpus. Its revelation preamble differs quite notably:

(1a) Nazala ‘alā rasūl l-lāḥ, ṣal’am, “wa-l-lāḥi yathīna l-fāḥishat” (1b) Qāla (?) “Fa-fa’alā dhālika bi-hinna rasūl l-lāḥ, ṣal’am (2a) Fa-bayn-mā rasūl l-lāḥ, ṣal’am, jālis wá-na-dihi ḥawf-hu (2b) wa-kāna idhā nazala ‘alay-hi l-wahy a’rāda ‘an-nā wa-a’rādā ‘an-hu (2c) wa-tarbābada wajh-l-wahy hu wa-kurība li-dhālika (3) fa-lammā rufi’a ‘an-hu l-wahy 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-Ṭayālīṣī’s matn, the narrative of ʿAbd 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, ʿAbd Allāh, or to his son’s informant, Shaybān b. Abī Shayba. Despite the high degree of fictionalization, it is possible to divide ʿAbd 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 ‘alay-hi l-wahy in clause 2b) influenced by the other narratives in the revelation cluster, and partly (clause 2a; a’rāda ‘an-nā wa-a’rādā ‘an-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 zīnā 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

135 Thus, a considerable number of traditions dealing with the voluntary confession of Māʿīz b. Mālik state that the Prophet turned away from Māʿīz (a’rāda ‘an-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 ‘alā rasūl ʿl-lāhī, ʿalām, “wa-l-lāhī yaʾtiynā l-fāhishat” (3) fa-lammā ruṣṭaʿa ʿan-hu l-wahlī gāla.

*(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-Ṭayālīṣī provides us with important corroborative evidence. In clause 1a al-Ṭayālīṣī points out that when a revelation would be sent down upon the Prophet, the symptoms of ṭaḥy would be recognizable on him (ʿurifā dhālika fī-hi). This clause is not present in the version of ʿAbd Allāh b. Ṣaʿīd b. Hārūn, which indicates that al-Ṭayālīṣī did not receive it from the common informant, Jarīr b. Ḥāzim. Al-Ṭayālīṣī’s wording, however, immediately calls to mind clause 1a in the tradition through Yazīd b. Ḥārūn (idhā nazala ʿalay-hi l-wahlī ʿarafnā dhālika fī-hi). Because Yazīd b. Ḥārūn and al-Ṭayālīṣī 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. Ḥārūn’s informant, Maymūn al-Maraʾī is a suspicious fulān.

Clause 1b in al-Ṭayālīṣī’s matn is far more important than clause 1a. Upon comparison with the clause that we isolated from the matn of ʿAbd Allāh b. Ṣaʿīd b. Hārūn, it turns out to feature a notably similar wording:

<table>
<thead>
<tr>
<th>Abū Dāwūd al-Ṭayālīṣī (clause 1b)</th>
<th>ʿAbd Allāh b. Ṣaʿīd b. Hārūn (reconstructed)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fa-lammā unzilat ʿaw yaʾjala l-lāhī la-hunna sāḥībana wa-ruṣṭaʿa l-wahlī gāla rasūl ʿl-lāhī, ʿalām:</td>
<td>*Nazala ala rasūl ʿl-lāhī, ʿalām, “wa-l-lāhī yaʾtiynā l-fāhishat” fa-lammā ruṣṭaʿa ʿan-hu l-wahlī gāla:</td>
</tr>
</tbody>
</table>

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-Ṭayālīṣī’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-Ṭayālīsī and ʿAbd 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 ruḥ‘a l-waḥy‘ qāla rasūl l-lāh, ṣal‘am:

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, ʿAbd Allāh b. Aḥmad b. Ḥanbal or his informant was aware of the problem; on this account he preferred to add an interjective 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-Ṭayālīsī’s tradition provides important evidence to this end.

In the Ḥaydarābād edition of al-Ṭayālīsī’s Musnad the prophetic dictum opens with the exclamation Khudhū ḥidhra-kum! (Beware yourselves!). In the edition of Muḥammad b. ʿAbd 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. Ḥārūn’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 Quranic 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. Ḥārūn’s tradition:

*(1) Unzilat “Qurʾān 4:15” fa-lammā ruḥ‘a l-waḥy‘ qāla rasūl l-lāh, ṣal‘am: (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. Ḥāzim’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-Maraṭṭī al-Marāṭṭī. 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! Iqbalī-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. Dīʿāma. Unlike the remaining traditions in that cluster, ʿAbd al-Razzāq cites a short preamble stating, ʿūḥiya 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 ʿūḥiya ilā l-nabī is a likely residue of al-Ḥasan’s exegetical tradition (i.e. ʿūḥiya ilā l-nabī [Qurʾān 4:15]), which reached Maʿmar through the agency of Qatāda b. Dīʿāma. 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 yuft 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-
Hasan 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: Shu’ba b. al-Ḥajjāj (d. 160/776), Hushaym b. Bahṣīr (d. 183/799) and Yaḥyā b. Saʿīd al-Qaṭṭān (d. 198/813). As shown in Diagram 4 (p. 190), the isnāds of Shu’ba and al-Qaṭṭān converge on Qatāda b. Diʿāma. Al-Qaṭṭān quotes Qatāda through the agency of Saʿīd b. Abī ṣArūba, about whose possible CL status in the non-revelation cluster I expressed doubts. My analysis of Ibn Abī ṣArūba’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 ṣArūba include a penal maxim that shares narrative features with the non-revelation traditions of Shu’ba → Qatāda and al-Qaṭṭān → Abī ṣArūba → Qatāda. Shu’ba was reportedly acquainted with Ibn Abī ṣArūba, whereas al-Qaṭṭān is a clear (P)CL in the non-revelation cluster. Contrary to our expectations fostered by Ibn Abī ṣArūba’s presence as a possible CL in the revelation cluster (Diagram 5, p. 192), neither Shu’ba, nor al-Qaṭṭān relates a tradition that includes the revelation preamble. It stands to reason, therefore, that Ibn Abī ṣArūba 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 ṣArūba and Shu’ba b. al-Ḥajjāj. On this basis we may proceed to reconstructing Qatāda’s version. Insofar as Shu’ba’s tradition was definitely void of the revelation preamble, and Ibn Abī ṣArūba’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. Bahṣīr → 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. Diʾāma altered al-Ḥasan’s tradition
The earliest modifications of al-Ḥasan’s exegetical tradition may have been introduced by Qatāda b. Diʾāma (60–117/680–735). This is suggested by ʿAbd al-Razzāq’s revelation tradition that opens with the words, ʿāhiya 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. Diʾāma, 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. Diʾāma.

It is therefore Qatāda who circulated the preamble anna l-nabīyyaʾ, 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 ‘an-nī; khudhū hidhr-u-kum; khudhū) and its absence in the tradition of al-Ṭabarī on the authority of Muʿādh 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, Saʿīd b. Abī ʿArūba (d. 156/772), Shuʿba b. al-Ḥajjāj (d. 160/776), Yazīd b. Zurayr (d. 182–3/798–9), Hushaym b. Bashīr (d. 183/799), Yahyā b. Saʿīd al-Qaṭṭān (d. 198/813). But if there was a common source, to wit, Qatāda b. Diʿāma, 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, Shuʿba, 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. Shuʿba 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 Shuʿba’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.

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 Ṭurūba. There is no unambiguous isnād and matn evidence that may support such a course of events; moreover if Ibn Abī Ṭurūba 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 Ṭurūba 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 Ṭurūba’s preamble. Did Ibn Abī Ṭurūba 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 Ṭurūba in the revelation cluster. The issue is compounded by the fact that Yahyā b. Saʿīd al-Qaṭṭān, who is by far the most conspicuous PCL quoting Ibn Abī Ṭurūba, does not know (or does not pay attention to) the revelation preamble.

To avoid the above issues, one may surmise that Ibn Abī Ṭurūba 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 ṣArūba suffered from memory deterioration (ikhtalaṣa) during the last eleven years of his life,137 but there is no confirmation that he related the ṢUbāda tradition or parts thereof during that period of his life to al-Qaṭṭān, Ibn Zurayḍ or any other traditionist.

It is also possible that like Shuʿba, Hushaym and al-Qaṭṭān, Ibn Abī ṣArūba decided to transmit only the dual-penalty maxim from Qatāda’s hypothetical compound tradition. If, however, neither Ibn Abī ṣArūba nor Shuʿba, who are the PCLs of Qatāda, transmitted the revelation preamble, this introduces a rupture in the transmission process. While Ibn Abī ṣArūba and Shuʿba 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 isnāds, 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-Ṭayālīṣī and ʿAbd al-Razzāq al-Ṣanʿānī 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-Ṭayālīṣī (d. 203–4/819–20). Although al-Ṭayālīṣī 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-Ṭayālīṣī 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-Ṭayālīṣī 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

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.

ʿAbd 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. Dīʿāma (d. 117/735). This conclusion has clashed with other isnād evidence: Qatāda is quoted by Shuʿba, whose variant tradition does not include the revelation preamble. To avoid this pitfall, I will stick now to ʿAbd 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 ʿAbd 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, ʿAbd al-Razzāq knows an accomplished version of the revelation preamble. 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 ʿAbd al-Razzāq himself, as he relies on a highly suspect isnād, ʿAbd Allāh b. Muḥarrar (d. 150–60/767–7) → Ḥiṭṭān b. ʿAbd Allāh (d. 71/690–91). Even if ʿAbd Allāh b. Muḥarrar died in 150/767, he must have been a nonagenarian in order to meet Ḥiṭṭān b. ʿAbd 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 ʿUbayd (d. 224/839) cites both the non-revelation and the revelation matns.140 His marshaling of the traditions indicates a chronological development from the former to the latter. In comparison with ʿAbd al-Razzāq, Abū ʿUbayd’s revelation preamble includes an

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138 ʿAbd al-Razzāq, Muṣannaf, 7:329, no. 13359.
139 He is described as weak (daʿīf) and a liar (kadhdhāb) whose traditions should be avoided (matrāk al-ḥadīth). ʿAbd Allāh b. al-Mubārak reportedly said that he would prefer a camel turd to ʿAbd Allāh b. Muḥarrar (lammā raʾaytum-hu kānat baʿrālī ahabbī ilayya min-hu) (al-Mīzzi, Tahdhib al-Kāmil, 16:30 ff, especially 32; Ibn Ḥajar, Tahdhib al-Tahdhib, 5:389–90).
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 ʿUbayd has preserved a phrase that is a hapax legomenon in the entire ʿUbāda cluster: Khudhū-hunna! Iqbalū-hunna! This relic of al-Ḥasan al- Баṣrī’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 Saʿīd b. Abī ʿArūba, Qatāda b. Diʾāma or even al-Ḥasan al-_BUSī 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-_BUSī circulated an early tradition that considered the Qurʾān 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, Shuʿba b. al-Ḥajjāj, Hushaym b. Bashir and Yaḥyā b. Saʿīd al-Qaṭṭān. Their relationship with Qatāda b. Diʾāma is hard to prove, but, in the worst-case scenario, Shuʿba 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 Saʿīd b. Abī ʿArūba, Qatāda b. Diʾāma and al-Ḥasan al-_BUSī. As the evidence is provided by single-strand isnāds 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 Saʿīd b. Abī ʿArūba, not to mention the attributions below his tier.
Moving to the *matns*, 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 Shu‘ba b. al-Ḥajjāj and coming to its completion in the *matn* of Yahyā b. Sa‘īd al-Qaṭṭān. Contrary to this, the *matns* of the revelation traditions are notably unstable. My analysis of the Ibn Abī Ḍu‘ayb cluster has indicated that it may have excluded the revelation preamble. Conversely, the Qatāda b. Di‘āma 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. Di‘āma and possibly to al-Ḥasan al-Ḍu‘aybī 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 *riwayas*. 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 *matns* are compounds of the non-revelation traditions of Shu‘ba b. al-Ḥajjāj, Hushaym b. Bashīr and Yahyā b. Sa‘īd al-Qaṭṭān. One may hardly avoid the impression that the transmitters of the revelation *matns* 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 ʿAbd al-Razzāq al-Ṣan‘ānī are witnesses to the gradual elaboration of the revelation tradition, which was brought to completion in Abū ʿUbayd’s *al-Nāṣikh wa-l-mansikh*. 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 refers back to al-Ḥasan al-Ḍu‘aybī’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. Di‘āma nor Sa‘īd b. Abī Ḍu‘ayb 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, Shu‘ba b. al-Ḥajjāj, but
Shu‘ba’s non-revelation version indicates that Qatāda’s version did not include the revelation preamble. Above Qatāda, a similar contradiction is observed in the Sa‘īd b. Abī ʿArūba cluster. If Sa‘īd was a CL, he appears to have transmitted a tradition that described the symptoms of revelation; Sa‘īd’s most salient CL, Yahyā b. Sa‘īd 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 _hadīth_ 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 ʿArūba.

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 _matns_ 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 ʿUbāda 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. Di‘āma and Sa‘īd b. Abī ʿArūba. 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 ʿUbāda tradition has left ambiguities.

In the table overleaf, I have summarized my efforts to reconstruct the historical development of the ʿUbāda tradition:
<table>
<thead>
<tr>
<th>The traditionist (CL/PCL)</th>
<th>The reconstructed wording of the CL/PCL</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>Al-Ḥasan al-Baṣrī (d. 110/728)</td>
<td>(1) Unzilat “Qurʾān 4:15” fa-lammā rusīʿa l-waḥīṣ qūla rasūl l-lāḥī, šalʾam; (2) “Khudhū-hunna! Iqbal-hunna!”</td>
<td>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.</td>
</tr>
<tr>
<td>Qatāda b. Dīʿāna (d. 117/735)</td>
<td>Al-Ḥasan’s exegetical tradition in its original form</td>
<td>OR Anna l-nabiyya, šalʾam, unzila ʿalay-hi in a volatile conjunction with the dual-penalty maxim</td>
</tr>
<tr>
<td>Saʿīd b. Abī ʿArūba (d. 156/772)</td>
<td>(1) “Khudhū ʿan-nī! (2) Ḥad ʾaʿala l-lāḥī la-hunna sabīlīn. (3a) Al-thayyibī bi-l-thayyib (3b) wa-l-bikrī bi-l-bikr (4a) Al-thayyibī jalāʾ miʿatū thummū rajmīn bi-l-hijāra (4b) wa-l-bikrī jalāʾ miʿatū thummū ʿanfū ʿana. ”</td>
<td>OR (1a) Kāna rasūl l-lāḥī, šalʾam, idhā nazala/nuzzila ʿalay-hi kuriba li-dhālika watarabda la-hu wajihī-hu (1b) fa-nazala/nuzzila ʿalay-hi dhaṭʿ yaqūnī fa-laqiya dhālika fa-lammū surriya ʿan-hu qīla: (2) “Khudhū ʿan-nī! (3) Ḥad ʾaʿala l-lāḥī la-hunna sabīlīn. (4a) Al-bikrī bi-l-bikrī jalāʾ miʿatū wa-nafū ʿana (4b) wa-l-thayyibī bi-l-thayyibī jalāʾ miʿatū wa-l-rajm.”</td>
</tr>
<tr>
<td></td>
<td></td>
<td>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.</td>
</tr>
</tbody>
</table>
Shu’ba b. al-Ḥajjāj (d. 160/776)

(1) Khudhā ‘an-nil! (2) Qad ja’ala l-lāhī la-hunna sabīlīn.
(3b) Al-thayyibī bi-l-thayyibī (3a) wa-l-bikrī bi-l-bikrī. (4a) Al-bikrī yujład wa-yufūfā (4b) wa-l-thayyibī yujład 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) Khudhā ‘an-nil! (2) Qad ja’ala l-lāhī la-hunna sabīlīn.
(3a) al-thayyibī bi-l-thayyibī (3b) wa-l-bikrī bi-l-bikrī (4a) al-thayyibī jaldī mī‘atīn wa-l-rajmī (4b) wa-l-bikrī jaldī mī‘atīn wa-nafyīn sana

Hammād is quoted in two revelation traditions and a single tradition in the non-revelation cluster. The penal-maxim attributed to Hammād draws on the wording of Shu’ba b. al-Ḥajjāj and Hushaym b. Bashīr. The ismāʿīl above Hammād form ‘a spider’.

Jarīr b. Ḥāzim (d. 170/786–7)

Unzilat “Qurʾān 4:15” fa-lammā ruṣī’a l-waḥyī qāla rasūlī l-lāḥī, sal’am:


(1) Khudhā ‘an-nil! (2) Fa-qad ja’ala l-lāhī la-hunna sabīlīn. (3a) Al-thayyibī bi-l-thayyibī jaldī mī‘atīn thummī l-rajmī (3b) wa-l-bikrī bi-l-bikrī jaldī mī‘atīn wa-nafyīn sana.

Hushaym’s tradition is based on the tradition of Shu’ba b. al-Ḥajjāj.
| Yaḥyā b. Saʿīd al-Qaṭṭān (120–98/738–813) | (1) *Khudhū ḍan-nī! Khudhū ḍan-nī!* (2) *Qad jaʿala l-lāḥ* la-hunna sabīlā. (3a) *Al-thayyibī* bi-l-thayyibī jaldī miʿālā wa-ramyām bi-l-hijāra (3b) wa-l-bikrī bi-l-bikrī jaldī miʿālā wa-nafyā sana. | Al-Qaṭṭān’s tradition is based on the tradition of Hushaym b. Bashīr. |
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-Ḍāḥḥāk (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-Ḍāḥḥāk. Al-Ḥasan al-北京赛车 (d. 110/728) most likely circulated the following short tradition:

*(1) Unzilat “Qurʾān 4:15” fa-lammā ruʾī’a l-waḥy qāla rasūl l-lāhī, šalʿām: (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-Ḍāḥḥāk, 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-Ḍāḥḥāk may be considered as a halakhic accretion that goes to the credit of (much) later transmitters of the text.

Muqāṭīl 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, Muqāṭīl’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-Ḍāḥḥāk. 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
Thus, the literary analysis of Muqātil’s commentary has shown that the reference to what was to become the ‘U바da 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 isnāds and matus in the ‘U바da cluster has shown the Başran mawla Shu’ba 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 Shu’ba, 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 ‘U바da 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) 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 Shu’ba, 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 ‘U바da cluster open with khudhū ‘an-nī (clause 1) immediately followed by qad ja’ala l-lāh la-hunna sabīl (clause 2). Muqātil’s alternative clause 1 indicates that khudhū ‘an-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 Qurīan 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 Yahyā 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 rajmn 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-Ṭayālīṣī 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 Muqāṭṭāt’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-Hasan al-Baṣrī in its entirety, it may have been compiled by redactors as early as Qatāda b. Di‘āma (d. 117/735) and Sa‘īd b. Abī Ṣūrā (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-Ṭayālīsī (d. 203–4/819–20) and ‘Abd al-Razzāq al-Ṣān‘ānī (d. 211/827).

If spread by Qatāda b. Di‘āma or Ibn Abī Ṣūrā, 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, Shu‘ba b. al-Ḥajjāj and Yahyā b. Sa‘īd al-Qaṭṭān, also apparent PCLs of Qatāda and Ibn Abī Ṣūrā. 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 Ṣūrā 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 ‘Ubāda 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 isnāds 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 fiqahāʾ,”1 Juynboll has regarded the penal part of the ʿUbāda tradition as a legal maxim, the basic elements of which are “most probably due to Ḥasan [al- Başrī]”.2 Insofar as Juynboll’s method dwells on the isnāds while paying little attention to the matns, 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 summa 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 summa source had preceded the more serious consideration of the Qurʾān source7

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1 Juynboll, “Some Notes,” 290.
2 ECH, 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 usūlīs in their inter-regional dispute.” (Burton, Collection, 44, cf. ibid., 41–2).
6 Burton, Collection, 72 ff.
7 Ibid., 161, 187.
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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 DAEP9 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-Ṭuhrī (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 sunnaique ruling, represented by the ‘Ubāda 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-Zuhri (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.