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‘AMAL V HADĪTH IN ISLAMIC LAW
THE CASE OF *SADL AL-YADAYN* (HOLDING ONE’S HANDS BY
ONE’S SIDES) WHEN DOING THE PRAYER*

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Abstract

Most Muslims today understand the term *sunna* to refer to the *sunna*, or normative practice, of the Prophet as contained in the standard collections of Prophetic *hadīth*. Because of the relatively late appearance of these collections, and the frequent anomalies between their contents and those of early *fiqh* sources, many Western scholars have concluded that the concept of the “*sunna* of the Prophet” is a secondary development that is not reflected in the earliest stages of Islamic law. The issue of *sadl al-yadayn*, where a substantial body of Sunni—and all non-Sunni—opinion holds to a judgment based on ‘*amal* (“practice”) in overt rejection of numerous Prophetic *hadīths*, suggests that we have to reinstate the traditional picture of an early concept of the *sunna* of the Prophet, but as defined by ‘*amal* rather than *hadīth*.

Introduction

IN HIS *ORIGINS*, Schacht, following Margoliouth, put forward the idea that *sunna* as a principle of law meant originally the ideal or normative usage of the community and that only later, particularly as a result of the efforts of al-Shāfi‘ī (d. 204/820), did it acquire the restricted meaning of precedents set by the Prophet.¹ Because of what Schacht considered to be a constant divergence between the “old” concept of *sunna* or “living tradition” of the individual schools of law, and the later concept of *sunna* as the “*sunna* of the Prophet” embodied exclusively in authentic *hadīths*, he concluded that these *hadīths* were, generally-speaking, later fabrications used as a device to give authority to the doctrines of the individual schools.² For this reason he saw the concern for the *sunna* of the Prophet that is evident in the concern for Prophetic *hadīth* as a later development within Islamic law.

* This essay was originally presented at the Joseph Schacht Conference on Theory and Practice in Islamic Law, Amsterdam and Leiden, 6-10 October 1994.

¹ See Joseph Schacht, *The Origins of Muhammadan Jurisprudence* (Oxford: Clarendon Press, 1950), 58.

² See *Origins*, 80.

On the Muslim side, all Sunnī Muslims—as their name implies—purport to derive their *fiqh* from the *sunna* or normative practice of the Prophet, after the primary source of the Qur’ān. However, there has never been agreement among them on how to define this *sunna*, for although the Hanafis, Shāfi‘is and Hanbalis effectively equate *sunna* with *hadīth*, this has never been the position of the traditional Mālikīs, for whom ‘*amal*, that is, the inherited practice of the people of Madina, is seen as a more trustworthy source of *sunna*, and therefore higher than *hadīth*. Thus it is that from the Mālikī point of view there are not only many *hadīths* which do not represent *sunna*, but also many aspects of *sunna* which are not recorded in *hadīth*, which is to say not only that *hadīth* may or may not record *sunna* but also that *sunna* may or may not be recorded by *hadīth*. Since the Mālikī school (*madhhab*) represents the earliest and most conservative form of Islamic law, namely, that of Madina in the first and second centuries AH, an understanding of this attitude of theirs to *sunna*, *hadīth* and ‘*amal* in contrast to that of the later schools is crucial to an understanding of the nature and development of early Islamic law.

In this article I investigate one specific instance of ‘*amal* being preferred to *hadīth* by Mālik and the Madinans, namely, the issue of *sadl v qabd*, i.e. whether the hands should be held freely by one’s sides while doing the prayer, or whether they should be held in front of one with the right hand clasping the left, either above or below the navel. This is a particularly interesting example in that it shows a concerted body of later Sunnī opinion against the Mālikīs on this point, but agreement with them on the part of certain earlier Sunnī authorities and all the non-Sunnī sects. Within the Sunnī camp what we find is a basic disagreement on how to define *sunna*, with the simple claim of the Mālikīs being that the non-textual source of ‘*amal* is a better representative of *sunna* than the textual source of authentic *hadīth*. The corollary of this claim is that, contrary to the views of both Schacht and al-Shāfi‘ī and their followers among modern Western and traditional Muslim scholars respectively, there is a concept of the *sunna* of the Prophet that is accepted by (certain) traditional Muslim scholars that does not necessarily have anything to do with the collections of *hadīth* that are later assumed to be the sole repositories of “the *sunna*”.

Furthermore, although this detail of *sadl al-yadayn* comes under the heading of the more private zone of acts of worship (‘*ibādāt*) rather than the more public one of interpersonal dealings (*mu‘āmalāt*), it nevertheless illustrates a principle that applies throughout Islamic law.

Indeed, it is precisely about the juxtaposition of theory or, we might say, a theoretical approach (the interpretation of what was recorded as texts, or *hadīth*) and practice (what was transmitted as action, or '*amal*'), always an area of tension throughout the history of Islam. It helps us understand what *sunna* originally meant in the discourse of the Muslims and illustrates how an essential change in the theoretical definition of the word led to an essential change in the development and practical expression of the law.

The case of sadl al-yadayn

In his *Muwatta'*, Mālik (d. 179/795) records the following two texts—understood to be Prophetic *hadīths*—in a chapter entitled “Putting One Hand Over the Other When Doing the Prayer”

Yaḥyā told me, from Mālik, that 'Abd al-Karīm b. Abī al-Mukhāriq al-Baṣrī said “Among the words of prophecy (*min kalām al-nubuwwa*) are: If you do not feel ashamed, do as you wish, putting the hands one over the other when doing the prayer, that is, putting the right over the left, and hurrying to break the fast and delaying the pre-dawn meal.”

He also told me, from Mālik, from Abū Hāzim b. Dinār, that Sahl b. Sa'd said “People used to be told that a man should put his right hand over his left arm when doing the prayer.” Abū Hāzim added, “As far as I know, he traces that back [i.e. to the Prophet].”³

In the *Mudawwana*, on the other hand, Ibn al-Qāsim (d. 191/806) relates that Mālik said, about putting the right hand over the left when doing the prayer: “I do not know of this practice as far as obligatory prayers are concerned (*lā a'rifu dhālika fī al-farīda*), but there is no harm in someone doing it in voluntary prayers (*nawāfil*), if he has been standing for a long time, in order to make things easier for himself.” Saḥnūn, the transmitter of the *Mudawwana*, then records a *hadīth* from Ibn Wahb, from Sufyān al-Thawrī, from “more than one (*ghayr wāhid*)” of the Companions of the Prophet, that they had seen the Prophet doing the prayer having put his right hand over his left.⁴

³ Mālik b. Anas, *al-Muwatta'*, transmission of Yaḥyā b. Yaḥyā al-Laythī, (Cairo: Maṭba'at Muṣṭafā al-Bābī al-Halabī, 1370/1951) [hereinafter *Muw*], vol. i, 133.

⁴ *Al-Mudawwana al-kubrā*, opinions of Mālik, Ibn al-Qāsim and others, compiled by Saḥnūn (Cairo: Maṭba'at al-Sa'āda, 1323-24 [1905-06]) [hereinafter *Mud*], vol. i, 74; cf. Ibn Rushd [al-Jadd], *al-Bayān wa'l-taḥṣīl*, ed. Muḥammad Ḥajjī (Beirut: Dār al-Gharb al-Islāmī, 1404-07/1984-87), vol. xviii, 71. There are four other views recorded from Mālik, namely: (i) the transmission of the Egyptian Ashhab (d. 204/819) and the Madinan Ibn Nāfi' (d. 186/802) in the '*Uṭbiyya*, that both *sadl* and *qabd* are equally acceptable in both obligatory and voluntary prayers.

If we look at the classical collections of *fiqh*, we find that most of the Mālikis go by the judgment in the *Mudawwana*, i.e. that *sadl* is preferable (although there are some Mālikis who do not hold this view),⁵ but that the other surviving Sunni *madhhabs*—the Hanafis, Shāfi‘is and Hanbalis—are agreed on *qabḍ*.⁶ The non-Sunni *madhhabs*, however—the Ithnā ‘Ashari Shī‘a, the Zaydis, the Ismā‘īlis and the Ibādīs (Kha-wārij)—are all agreed, along with the majority of the Mālikis, on *sadl*.⁷

It is this seeming discrepancy in the Sunni position and the implications behind it that are the subject of this essay

(see Ibn Rushd, *Bayān*, vol i, 394-95, vol xviii, 71; *Mud* vol i, 74, n 1; Muḥammad ‘Ābid b al-Shaykh Husayn, *al-Qawl al-faṣl fī ta’yīd sunnat al-sadl* (Makka: Maṭba‘at al-Taraqī al-Mājidiyya, 1329 [1911]), 23, quoting al-Bannāni’s *Hāshiya*); (ii) the transmission from the Iraqī followers of Mālik that *qabḍ* should not be done in either (see al-Bāji, *al-Muntaqā, sharh al-Muwaṭṭa’* (Cairo: Maṭba‘at al-Sa‘āda, 1331 [1913]), vol i, 281; Muḥammad ‘Ābid, *Qawl*, 19, 21, quoting al-‘Abbī’s *Sharḥ* on Muslim and Khalīl’s *Tawḍīḥ*); (iii) a transmission specifically from the Basrans among the Iraqis that *sadl* is recommended for obligatory prayers and *qabḍ* for voluntary ones (see Muḥammad ‘Ābid, *Qawl*, 20-21, quoting al-Nawawī’s *Sharḥ* on Muslim); (iv) the transmission of the Madīnans Mutarrif (d 214/829) and Ibn al-Mājishūn (d 212/827) in the “Wāḍiḥa,” as also of the Egyptian Ibn ‘Abd al-Hakam (d 214/829) and, according to al-Bāji, one of two transmissions from the Iraqis, that *qabḍ* is recommended in both (see Ibn Rushd, *Bayān*, vol i, 395, vol xviii, 72; *Mud* vol i, 74, n 1; al-Bāji, *Muntaqā*, vol i, 281; Muḥammad ‘Ābid, *Qawl*, 19, 23, quoting al-Zayn al-‘Irāqī’s *Sharḥ* on al-Tirmidhī and al-Bannāni’s *Hāshiya*) However, in cases of disagreement it is Ibn al-Qāsim’s transmission from Mālik, or more generally that of the Egyptians, that is usually given preference (see Ibrāhīm al-Zaylā‘ī, Introduction to *Masā’il lā yu’dharu fihā bi-l-jahl, sharḥ al-‘allāma al-Amīn ‘alā manẓumat Bahrām* (2nd ed., Beirut: Dār al-Gharb al-Islāmī, 1406/1986), 10; Muḥammad ‘Ābid, *Qawl*, 26-27, 34; also below, n 85)

⁵ For the standard Mālikī position of later times, see, for example, Khalīl, *Mukhtaṣar Khalīl*, ed Tāhir Aḥmad al-Zāwī (Cairo: Dār Iḥyā’ al-Kutub al-‘Arabīyya, n d), 29, where “*sadl yadayhi*” is given as one of the recommended aspects of the prayer. Among Mālikī authorities preferring *qabḍ*, Ibn ‘Abd al-Barr (d 463/1071), al-Lakhmī (d 478/1085), Ibn Rushd [al-Jadd] (d 520/1126), Abū Bakr b al-‘Arabī (d 543/1148), al-Qāḍī ‘Iyāḍ (d 544/1149), Ibn ‘Abd al-Salām (d 660/1262), al-Qarāfī (d 684/1285) and Ibn Juzayy (d 741/1340) are mentioned by Muḥammad ‘Ābid (*Qawl*, 23)

⁶ Hanafis: Mālik b Anas, *al-Muwaṭṭa’*, transmission of Muḥammad b al-Ḥasan al-Shaybānī, ed ‘Abd al-Wahhāb ‘Abd al-Laṭīf (Beirut: Dār al-Qalam, n d) [hereinafter *Muw Sh*], 104; al-Sarakhsī, *al-Mabsūṭ* (Cairo: Maṭba‘at al-Sa‘āda, 1324-31 [1906-12]), vol i, 23-24. Shāfi‘is: al-Muzani, *al-Mukhtaṣar*, on the margin of al-Shāfi‘ī, *Kitāb al-Umm* (Cairo: al-Maṭba‘a al-Kubrā al-Amīriyya, 1321-26 [1903-08]), vol i, 70-71. Hanbalis: Ibn Qudāma, *al-Mughnī* (Cairo: Hajar li-l-Ṭibā‘a etc, 1406/1986), vol ii, 144-45.

⁷ Ithnā ‘Ashari Shī‘a: al-Hurr al-‘Āmīlī, *Wasā’il al-Shī‘a* (4th ed., Beirut: Dār Iḥyā’ al-Turāth al-‘Arabī, 1391 [1971]), vol ii (part 2), 710. Zaydis: Ibn al-Murtaḍā, *al-Bahr al-zakḥkhār* (Cairo: Maṭba‘at al-Sa‘āda, 1366-68/1947-49), vol i, 241. Ismā‘īlis: al-Nu‘mān b Muḥammad, *Da‘ā’im al-Islām*, ed Aṣḥaf ‘Alī Aṣghar Fayḍī [Fyze] (Cairo: Dār al-Ma‘ārif, 1383/1963), vol i, 159. Ibādīs: al-Muṣ‘abī, *Kitāb al-Nīl wa-shifā’ al-‘alīl* (Cairo: al-Maṭba‘a al-Bārūniyya, 1305 [1888]), vol i, 57

The ḥadīth texts

Since the Sunnīs, as we have noted, all purport to base their *fiqh* on “the *sunna*,” understood to be the *sunna* of the Prophet, and since most of them consider this *sunna* to be recorded in the books of *ḥadīth*, particularly the “Six Books” of al-Bukhārī, Muslim, Abū Dāwūd, al-Tirmidhī, al-Nasā’ī and Ibn Mājah, we shall first see what these books have to say about *qabḍ* and *sabl*, having already noted the two *ḥadīths* that Mālik records on the subject

Al-Bukhārī (d 265/870)

In his *Ṣaḥīh*, al-Bukhārī records one *ḥadīth* on the subject, namely, the same that Mālik records from Sahl b Sa’d in the *Muwatta’a*’ (Al-Bukhārī relates it from Mālik, via al-Qa’ nabī)⁸

Muslim (d 261/875)

In his *Ṣaḥīh*, Muslim records a *ḥadīth* from Wā’il b Hujr who describes how, when he visited Madina, he saw the Prophet doing the prayer with his right hand over his left⁹

Abū Dāwūd (d 275/888)

Abū Dāwūd, in his *Sunan*, records nine *ḥadīths* indicating *qabḍ* three versions of the Wā’il *ḥadīth*, a report from Ibn al-Zubayr¹⁰ to the effect that *qabḍ* is “part of the *sunna*”, a *ḥadīth* from Ibn Mas’ūd to the effect that the Prophet saw him praying with his left hand over his right and so took hold of his right hand and put it over his left instead, a report from ‘Alī that it is *sunna* to put one hand over the other when doing the prayer, below the navel, another to the effect that ‘Alī used to do the prayer with the right hand holding the left, but above the navel, one from Abū Hurayra to the effect that *qabḍ* should be below the navel, and a *mursal ḥadīth* from Ṭāwūs that the Prophet used to pray with *qabḍ*. There is also a report from Sa’id b Jubayr that *qabḍ* should be

⁸ See al-Bukhārī, *al-Jāmi’ al-Ṣaḥīh*, ed Ludolf Krehl (Leiden: E J Brill, 1862-1907), vol i, 191-92

⁹ See Muslim, *al-Jāmi’ al-Ṣaḥīh*, ed Muḥammad Dhahabī (Istanbul: Dār al-Ṭibā’a al-‘Āmirā, 1329-33/1911-15), vol ii, 13

¹⁰ That is, the Companion ‘Abdallāh b al-Zubayr rather than the Successor ‘Urwa, for which identification, see, for example, Ibn ‘Abd al-Barr, *al-Tamhīd li-mā fī al-Muwatta’a’ min al-ma’ānī wa’l-asānīd* (Mohammedia: Wizārat al-Awqāf wa’l-Shu’ūn al-Īslāmiyya, 1397-1411/1977-91), vol xx, 74, 73; al-Shawkānī, *Nayl al-awṣiār* (Beirut: Dār al-Jil, 1973), vol ii, 200; Muḥammad ‘Abid, *Qawl*, 18, quoting Ibn Baṭṭāl’s *Sharḥ al-Bukhārī*

above the navel and one from Abū Mijlaz that it should be below the navel ¹¹

Al-Tirmidhī (d c 279/892)

Al-Tirmidhī, in his *al-Jāmi' al-ṣahīh* (also known as *al-Sunan*) records a *hadīth* from Hulb al-Ṭā'ī to the effect that the Prophet used to lead them in prayer and hold his left hand with his right. He also mentions that there are *hadīths* on the subject from Wā'il b Hujr, Ghuta'f b al-Hārith,¹² Ibn 'Abbās, Ibn Mas'ūd and Sahl b Sa'd ¹³

Al-Nasā'ī (d 303/915)

In his *Sunan*, al-Nasā'ī records three *hadīths* on *qabḍ* two versions of the Wā'il *hadīth* and a *hadīth* from Ibn Mas'ūd similar to the one that Abū Dāwūd records ¹⁴

Ibn Mājah (d 273/886)

In his *Sunan*, Ibn Mājah records three *hadīths* on the subject the *hadīth* from Hulb as in al-Tirmidhī, a version of the Wā'il *hadīth*, and a version of the Ibn Mas'ūd *hadīth* similar to that recorded by Abū Dāwūd and al-Nasā'ī but using the verb “passed by” rather than “saw”¹⁵

¹¹ See Abū Dāwūd, *Sunan Abī Dāwūd*, on the margin of al-Zurqānī, *Sharḥ al-Muwatta'* (Cairo: al-Maṭba'a al-Khayriyya, 1310/1893), vol i, 201, 202, 210-11

¹² For the confusion surrounding this man's name, see Ibn 'Abd al-Barr, *al-Isṭi'āb fī ma'rifat al-aṣḥāb* (Hyderabad: Dā'irat al-Ma'ārif, 1336 [1917]), vol ii, 516; idem, *Tamhīd*, vol xx, 73. Al-Tirmidhī mentions only “Ghuta'f b al-Hārith.” Ibn Abī Shayba gives “al-Hārith b Ghuta'f or Ghuta'f b al-Hārith” (see Ibn Abī Shayba, *al-Muṣannaf* [Hyderabad: al-Maṭba'a al-'Aziziyya, 1386/1966], vol i, 390; also below, p 22), as does al-Ṭabarānī (*al-Mu'jam al-kabīr* [2nd ed, Mawṣil: Maṭba'at al-Zahrā' al-Hadītha, 1984], vol iii, 276; also below, p 20). The *Musnad* of Aḥmad b Ḥanbal includes *hadīths* under the headings “Ghuta'f b al-Hārith” and “Ghuta'f b al-Hārith” and then gives the options “al-Hārith b Ghuta'f” and “al-Hārith b Ghuta'f” respectively in the actual *isnāds* (see Aḥmad, *al-Musnad* [Cairo: al-Maṭba'a al-Maymaniyya, 1313 (1895)], vol iv, 105, vol v, 290; also below, p 19), although Ibn 'Abd al-Barr quotes him as saying that the name is “al-Hārith b Ghuta'f” (see Ibn 'Abd al-Barr, *Tamhīd*, vol xx, 73). Al-Bayhaqī gives only “al-Hārith b Ghuta'f” (see al-Bayhaqī, *al-Sunan al-kubrā* (Hyderabad: Dā'irat al-Ma'ārif, 1344 [1925-26]), vol ii, 29, n 1; also below, p 21)

¹³ See al-Tirmidhī, *al-Jāmi' al-ṣahīh* (or *al-Sunan*), ed Aḥmad Muḥammad Shākir (Cairo: Maṭba'at Muṣṭafā al-Bābī al-Halabī, 1356/1937), vol ii, 32

¹⁴ See al-Nasā'ī, *Sunan al-Nasā'ī* (Cairo: al-Maṭba'a al-Miṣriyya, 1348/1930), vol ii, 125-26

¹⁵ See Ibn Mājah, *Sunan Ibn Mājah*, ed Muḥammad Fu'ād 'Abd al-Bāqī (Cairo: Dār Iḥyā' al-Kutub al-'Arabiyya, 1373/1954), vol i, 266

This is what we find in the Six Books referred to above. To these can be added the following:

Aḥmad ibn Hanbal (d. 241/855)

In his *Musnad*, Aḥmad records *hadīths* on *qabḍ* similar to those mentioned above from ‘Alī (“part of the *sunna* is ”), Sahl b. Sa‘d, Wā’il b. Hujr (11 versions) and Hulb (6 versions). He also records three versions of one from Ghudayf/Ghuṭayf b. al-Hārith or al-Hārith b. Ghudayf/Ghuṭayf¹⁶ (“Whatever I forget, I will never forget that I saw the Messenger of Allah, may Allah bless him and grant him peace, doing the prayer having put his right hand over his left”), and one from Jābir similar to that from Ibn Mas‘ūd mentioned above to the effect that the Prophet once passed by someone who was praying with his left hand over his right and so put his right hand over his left instead.¹⁷

Al-Dārimī (d. 255/923)

In his *Sunan* (or *Musnad*), al-Dārimī records a version of the *hadīth* from Wā’il b. Hujr.¹⁸

Al-Bazzār (d. 292/905)

In his *Zawā’id*, al-Bazzār records a *hadīth* from Shaddād b. Shuraḥbil similar to that from “al-Hārith b. Ghuṭayf” recorded by Aḥmad (“Whatever I forget, I will never forget etc.”)¹⁹

Ibn Khuzayma (d. 311/924)

In his *Ṣaḥīḥ*, Ibn Khuzayma records four versions of the Wā’il *hadīth*.²⁰

Ibn Hibbān (d. 354/965)

Ibn Hibbān records two *hadīths* on the subject in his *Ṣaḥīḥ*: a version of the Wā’il *hadīth* and a “three things” *hadīth* from Ibn ‘Abbās.²¹ (A “three things” *hadīth* is one which, like the *hadīth* that Mālik records

¹⁶ For the uncertainty about this man’s name, see above, n. 12.

¹⁷ See Aḥmad, *Musnad*, vol. i, 110 (‘Alī); vol. iii, 381 (Jābir); vol. iv, 105, 290 (“Ghudayf” etc.), 316-19 (Wā’il); vol. v, 226-27 (Hulb), 336 (Sahl).

¹⁸ See al-Dārimī, *Sunan* (Damascus: Maṭba‘at al-‘Itidāl, 1349 [1930]), vol. i, 283.

¹⁹ See al-Haythamī, *Kashf al-astār ‘an Zawā’id al-Bazzār*, ed. Habib al-Raḥmān al-A‘zamī (Beirut: Mu‘assasat al-Risāla, 1399/1979), vol. i, 253.

²⁰ See Ibn Khuzayma, *al-Ṣaḥīḥ*, ed. Muḥammad Muṣṭafā al-A‘zamī, vol. i (Beirut: Dār al-Qalam, 1970), 242-43.

²¹ See Ibn Hibbān, *Ṣaḥīḥ*, ed. Shu‘ayb al-‘Arna‘ūt (Beirut: Mu‘assasat al-Risāla, 1404-12/1984-91), vol. v, 109, 67-68.

from ‘Abd al-Karīm b Abī al-Mukhāriq, lists three things—one of which is *qabḍ*—as being part of the practice of the prophets)

Al-Ṭabarānī (d 360/971)

In his *Kabīr* (i.e. *al-Mu‘jam al-kabīr*), al-Ṭabarānī records similar *hadīths* to those recorded by Aḥmad from “al-Hārith b Ghuṭayf,” by al-Bazzār from Shaddād b Shuraḥbil, and by Ibn Hibbān from Ibn ‘Abbās (two versions) He also records versions of the “three things” *hadīth* from Ya‘lā b Murra and Abū al-Dardā’, a *hadīth* from ‘Uqba b Abī ‘Ā’isha to the effect that he saw the Companion ‘Abdallāh b Jābir al-Bayādī doing the prayer with *qabḍ*, and a *hadīth* from Mu‘ādh to the effect that the Prophet “would let his hands rest by his sides (*arsalahumā*) after saying the initial *takbīr* and then be silent for a while, and that sometimes (*rubbamā*) he would put one hand over the other”²² According to al-Haythamī, al-Ṭabarānī also records, in his *Awsaṭ*, the same *hadīth* from Jābir that Aḥmad records²³

Al-Dāraquṭnī (d 385/995)

Al-Dāraquṭnī, in his *Sunan*, records fifteen *hadīths* on the subject of *qabḍ* two versions of the Wā’il *hadīth*, the same *hadīths* from Ibn Mas‘ūd that Abū Dāwūd and al-Nasā’i record plus a third descriptive *hadīth* from him to the effect that the Prophet would hold his left hand in his right while doing the prayer, a version of the Hulb *hadīth* similar to one recorded by Aḥmad, two versions of the “part of the *sunna*” *hadīth* recorded by Abū Dāwūd and Aḥmad from ‘Alī, as also a *tafsīr hadīth* from him to the effect that the command *wa-nhar* in the Qur’anic phrase *fa-ṣalli li-rabbika wa-nhar* (Q 108 2) refers to putting the right hand over the left in prayer, “three things” *hadīths* from ‘Ā’isha, Ibn ‘Abbās and Abū Hurayra, as well as a “part of the *sunna*” *hadīth* from the latter, the “passed by” *hadīth* from Jābir recorded by Aḥmad and al-Ṭabarānī, and a *hadīth* of rather indeterminate meaning from Anas to the effect that when the Prophet stood for the prayer he would say

²² See al-Ṭabarānī, *Mu‘jam*, vol iii, 276 (“al-Hārith b Ghuṭayf”); vol vii, 272-73 (Shaddād); vol xi, 6, 159 (Ibn ‘Abbās); vol xx, 63 (Mu‘ādh); vol xxii, 216-17 (Ya‘lā) For the *hadīth* from Abū al-Dardā’, see al-Haythamī, *Majma‘ al-zawā’id* (Cairo: Maktabat al-Qudsi, 1352 [1933-34]), vol ii, 105; al-Suyūṭī, *Tanwīr al-hawālik*, on the margin of *Muw*, vol i, 133 For the *hadīth* from ‘Uqba b Abī ‘Ā’isha, see al-Haythamī, *Majma‘*, vol ii, 105; Ibn Hajar, *al-Iṣāba fī tamyiz al-ṣahāba* (Cairo: Maṭba‘at al-Sa‘āda and al-Maṭba‘a al-Sharafiyya, 1323-25 1905-07), vol iv, 45

²³ See al-Haythamī, *Majma‘*, vol ii, 105

“Like this and like this” on his right and his left (*qāla hākadhā wa-hākadhā ‘an yamīnihi wa-‘an shimālihi*)²⁴

Al-Bayhaqī (d 458/1066)

Among later works, special mention should be made of the *Kitāb al-Sunan al-kubrā* of al-Bayhaqī. This extensive compendium, which duplicates much of the material referred to above, contains a total of twenty-five reports from thirteen Companions on the subject of *qabḍ*, namely five versions of the *hadīth* from Wā’il, three versions of the descriptive and/or “part of the *sunna*” *hadīths* from ‘Alī and four of the *tafsīr hadīth* from him, *tafsīr hadīths* of the same ilk from Ibn ‘Abbās and Anas, “three things” *hadīths* from Ibn ‘Umar, Ibn ‘Abbās, Abū Hurayra and ‘Ā’isha, a “part of the *sunna*” *hadīth* from Abū Hurayra, standard versions of the *hadīths* from Sahl b Sa’d, Ibn Mas‘ūd, Hulb, al-Hārith b Ghudayf (*sic*), Shaddād b Shuraḥbil and Ibn al-Zubayr, and also the reports on the subject from Sa‘īd b Jubayr and Abū Mijlaz referred to by Abū Dāwūd²⁵ In addition, al-Bayhaqī’s commentator, Ibn al-Turkumānī (d c 750/1349), quoting Ibn Hazm, mentions a “three things” *hadīth* from Anas²⁶

The above selection—and there are many other possible sources²⁷—represents the “classical” collections of *hadīth*. However, mention should also be made here of two important “pre-classical” collections, namely, the *Muṣannaf* works of ‘Abd al-Razzāq al-Ṣan‘ānī (d 211/827) and Ibn Abī Shayba (d 235/849)

‘Abd al-Razzāq

As far as I have been able to ascertain, ‘Abd al-Razzāq’s *Muṣannaf* contains no material on *qabḍ*, although there is a short section of Successor material on *sadl*²⁸ I am not sure of the reason for this hiatus, if hiatus it be

Ibn Abī Shayba

Ibn Abī Shayba records fifteen reports on the subject of *qabḍ* in his *Muṣannaf*: two versions of the Wā’il *hadīth*, three reports from ‘Alī (a

²⁴ See al-Dāraquṭnī, *Sunan* (Beirut: ‘Ālam al-kutub, n d), vol 1, 283-87

²⁵ See al-Bayhaqī, *Sunan*, vol ii, 26, 28-32

²⁶ See Ibn al-Turkumānī, *al-Jawhar al-naqī* (on the margin of al-Bayhaqī’s *Sunan*), vol ii, 32

²⁷ Ibn ‘Abd al-Barr’s *Tamhīd* (vol xx, 71-9), for instance—to mention but one source—duplicates much of the above material

²⁸ See ‘Abd al-Razzāq, *al-Muṣannaf*, ed Habīb al-Raḥmān al-A‘zamī (Beirut: al-Majlis al-‘Ilmi, 1970-72), vol ii, 276, nos 3345-47; also below, pp 26-27

tafsīr hadīth, a description *hadīth*, and a “part of the *sunna*” *hadīth*), the *hadīths* from al-Hārith b Ghuṭayf (or Ghuṭayf b al-Hārith), Hulb and Abū ‘l-Dardā’ mentioned above, a *mursal hadīth* from al-Hasan [al-Baṣrī] (“It is as if I am looking at the learned men of the Bani Isrā’īl doing the prayer with their right hands over their left”),²⁹ a *mursal hadīth* from Abū ‘Uthmān [al-Nahdī] of the “passed by” type, similar to those from Jābir and Ibn Mas‘ūd mentioned above,³⁰ and reports about the subject from the Successors Ibrāhīm [al-Nakha‘ī], Abū Mijlaz, Abū Ziyād the *mawlā* of the Āl Darrāj (“Whatever I forget, I will never forget ”, referring to Abū Bakr), Mujāhid and Abū al-Jawzā’³¹

As in ‘Abd al-Razzāq’s *Muṣannaf*, there is a section on *sadl* (referred to as *irsāl al-yadayn*) with material from various Successors and, in this instance, one Companion³²

What is immediately noteworthy from the above is the complete absence of any pro-*sadl* material in the “classical” collections but its presence in the form of (mainly) Successor *hadīth* in the “pre-classical” collections of ‘Abd al-Razzāq and Ibn Abī Shayba (and of course the

²⁹ This particular *hadīth* might lead to the consideration that there is an element of *mukhālafat ahl al-kitāb* in the question of *sadl v qabd*, as, for instance, there is with the question of *raf’ al-yadayn* (see Maria Isabel Fierro, “La polémique à propos de *raf’ al-yadayn fī l-ṣalāt* dans Al-Andalus,” *Studia Islamica*, vol v [1987], 69-70) However, apart from this single *hadīth*, which indicates a seemingly positive attitude to the *ahl al-kitāb*, I have found nothing in either the traditional literature or in Western scholarship on the subject (e.g. Ignaz Goldziher, “Usages juives d’après la littérature des musulmans,” *Revue des Études Juives*, vol xxviii [1894], 75-94; Arent Jan Wensinck, *Muhammad and the Jews of Medina*, tr and ed Wolfgang Behn [Freiburg im Breisgau: Klaus Schwarz Verlag, 1975], 72-103 [a French translation of this section of the book, by G H Bousquet and G-W Bousquet-Mirandolle, was published under the title “L’influence juive sur les origines du culte musulman” in *Revue Africaine*, vol xcvi (1954), 84-112; the original Dutch version of the book was first published as *Mohammed en de Joden te Medina* in Leiden in 1908]; Georges Vajda, “Juifs et musulmans selon le *hadīth*,” *Journal Asiatique*, vol ccxxxix [1937], 57-127, esp 84) to suggest that this is the case in this issue

³⁰ The presence of Abū ‘Uthmān in the *isnād* of this particular version links it to the Ibn Mas‘ūd *hadīth* related by Abū Dāwūd, Ibn Mājah, Ahmad and al-Dāraquṭnī, but the third-person referent of Ibn Abī Shayba’s version (“[He] passed by a man”) rather than the first-person referent of the Ibn Mas‘ūd *hadīth* (“[He] saw/passed by me”) links it rather to the Jābir *hadīth* related by Ahmad, al-Ṭabarānī and al-Dāraquṭnī (“[He] passed by a man”) A comparison between *isnād* and content as regards this and the other *hadīths* on the subject would make an interesting future study

³¹ See Ibn Abī Shayba, *Muṣannaf*, vol i, 390-91; cf Ibn ‘Abd al-Barr, *Tamhīd*, vol xx, 73, 74, 77, 79

³² See Ibn Abī Shayba, *Muṣannaf*, vol i, 391-92; also below, p 27 For the identification of “Ibn al-Zubayr” as the Companion ‘Abdallāh b al-Zubayr, see above, n 10

fiqh text from Mālik in the *Mudawwana*, ‘*Utbiyya*, etc) We shall return to the significance of this point later

If we organise this material according to the Companions from whom it is transmitted (I am assuming for the purposes of the present discussion that the *isnāds* are an essentially accurate representation of the transmission process), we arrive at the following systematization (arranged roughly in order of their appearance above)

(i) the *hadīth* from Sahl b Sa‘d (“People used to be told etc”) recorded by Mālik, al-Bukhārī, Aḥmad and al-Bayhaqī, and referred to by al-Tirmidhī

(ii) the *hadīth* of Wā’il b Hujr (“I saw the Messenger of Allah etc”) recorded in various versions by Ibn Abī Shayba, Muslim, Abū Dāwūd, al-Nasā’ī, Ibn Mājah, Aḥmad, al-Dārimī, Ibn Khuzayma, Ibn Hibbān and al-Bayhaqī, and referred to by al-Tirmidhī

(iii) Ibn al-Zubayr’s “part of the *sunna*” *hadīth* recorded by Abū Dāwūd and al-Bayhaqī

(iv) two *hadīths* from Ibn Mas‘ūd, i e the “passed by” type *hadīth* (“The Prophet saw me/passed by me etc”) recorded by Abū Dāwūd, al-Nasā’ī, Ibn Mājah, al-Dāraquṭnī and al-Bayhaqī, and the descriptive *hadīth* recorded by al-Dāraquṭnī

(v) three *hadīths* from ‘Alī, i e the “part of the *sunna*” *hadīth* recorded by Ibn Abī Shayba, Abū Dāwūd, Aḥmad and al-Dāraquṭnī, the descriptive *hadīth* about him (“I saw ‘Alī/‘Alī used to etc”) recorded by Ibn Abī Shayba, Abū Dāwūd and al-Bayhaqī, and the *tafsīr hadīth* recorded by Ibn Abī Shayba, al-Dāraquṭnī and, in various versions, al-Bayhaqī

(vi) three *hadīths* from Abū Hurayra, i e the “*sunna*” *hadīth* recorded by Abū Dāwūd, al-Dāraquṭnī and al-Bayhaqī, the “three things” *hadīth* recorded by al-Dāraquṭnī and al-Bayhaqī, and, in addition to these two, a descriptive *hadīth* recorded from him by Ibn ‘Abd al-Barr to the effect that the Prophet would put his right hand over his left after saying the initial *takbīr* in the funeral prayer (*janāza*)³³

(vii) the *hadīth* from Hulb (“I saw the Messenger of Allah /The Messenger of Allah used to etc”) recorded by Ibn Abī Shayba, al-Tirmidhī, Ibn Mājah, Aḥmad, al-Dāraquṭnī and al-Bayhaqī

(viii) the *hadīth* of al-Hārith b Ghuṭayf (or Ghuṭayf b al-Hārith, etc) (“Whatever I forget, I will never forget etc”) recorded by Ibn

³³ See Ibn ‘Abd al-Barr, *Tamhīd*, vol xx, 79

Abī Shayba, Aḥmad, al-Ṭabarānī, al-Dāraquṭnī and al-Bayhaqī, and referred to by al-Tirmidhī

(ix) the *hadīth* of Jābir (“The Messenger of Allah passed by a man etc”) recorded by Aḥmad, al-Ṭabarānī and al-Dāraquṭnī

(x) the *hadīth* of Shaddād b Shuraḥbīl (“Whatever I forget, I will never forget etc”) recorded by al-Bazzār, al-Ṭabarānī and al-Bayhaqī

(xi) two *hadīths* recorded from Ibn ‘Abbās, i e the “three things” *hadīth* recorded by Ibn Hibbān, al-Ṭabarānī, al-Dāraquṭnī and al-Bayhaqī, and the *tafsīr hadīth* recorded by al-Bayhaqī

(xii) the “three things” *hadīth* recorded from Ya‘lā b Murra by al-Ṭabarānī

(xiii) the “three things” *hadīth* recorded from Abū al-Dardā’ by Ibn Abī Shayba and al-Ṭabarānī

(xiv) the *hadīth* of Mu‘ādh recorded by al-Ṭabarānī

(xv) the “three things” *hadīth* recorded from ‘Ā’isha by al-Dāraquṭnī and al-Bayhaqī

(xvi) three *hadīths* from Anas, i e the *tafsīr hadīth* recorded by al-Bayhaqī, the “three things” *hadīth* recorded by al-Bayhaqī’s commentator, al-Turkumānī, and the indeterminate *hadīth* recorded from him by al-Dāraquṭnī

(xvii) the “three things” *hadīth* recorded from Ibn ‘Umar by al-Bayhaqī

(xviii) the *mursal hadīth* (descriptive) from Ṭāwūs recorded by Abū Dāwūd

(xix) the *mursal hadīth* from al-Hasan (“It is as if I am looking at the learned men of the Banī Isrā’īl etc”) recorded by Ibn Abī Shayba

(xx) the *mursal hadīth* of the “passed by” type from Abū ‘Uthmān al-Nahdī recorded by Ibn Abī Shayba (This should probably come under either the “passed by” *hadīth* of Jābir or Ibn Mas‘ūd, see above, n 30)

(xxi) the *hadīth* of ‘Uqba b Abī ‘Ā’isha about ‘Abdallāh b Jābir al-Bayāḍī praying with *qabḍ* recorded by al-Ṭabarānī

(xxii) the descriptive report from Abū Ziyād about Abū Bakr (“Whatever I forget, I will never forget etc”) recorded by Ibn Abī Shayba

[NOTE This material can also be organised according to theme. If we do so, the following six categories emerge

(i) the description category (“I saw etc”), under which come the numerous transmissions from Wā’il b Hujr, the *hadīth* of Hulb, one about ‘Alī, one from Ibn Mas‘ūd, the *hadīth* from Mu‘ādh, the “indeterminate” *hadīth* from Anas, the *hadīth* from Ṭāwūs and, as a sub-category, those *hadīths* which begin with the formula, “Whatever I forget, I will never forget etc,” which include the *hadīths* from “al-Hārith b Ghuṭayf” and Shaddād b Shuraḥbīl and the Companion *hadīths* about ‘Abdallāh b Jābir al-Bayādī (from ‘Uqba b Abī ‘Ā’isha) and Abū Bakr (from Abū Ziyād) Under this category also comes the funeral-prayer *hadīth* of Abū Hurayra and, perhaps, the *mursal hadīth* from al-Hasan (“It is as if I am looking at the learned men of the Banī Isrā’īl etc”)

(ii) the “passed by” category, under which come the *hadīths* of Jābir, one of two from Ibn Mas‘ūd, and the *mursal hadīth* from Abū ‘Uthmān al-Nahdī

(iii) the “part of the *sunna*” category, under which come the *hadīths* of this type recorded from ‘Alī, Abū Hurayra and Ibn al-Zubayr

(iv) the “three things” category, under which come the *hadīths* of ‘Ā’isha, Ibn ‘Umar, Abū al-Dardā’, Ya‘lā b Murra, one of three *hadīths* recorded from Abū Hurayra, one of three *hadīths* recorded from Anas, one of two *hadīths* recorded from Ibn ‘Abbās, and the *hadīth* recorded by Mālik from ‘Abd al-Karīm b Abī al-Mukhāriq

(v) the *tafsīr* category, under which come the *hadīths* of this type recorded from ‘Alī, Ibn ‘Abbās and Anas

(vi) the “people used to be told” category of the Sahl b Sa’d *hadīth* which has no obvious parallel in any of the other *hadīths* on the subject]

There are thus at least thirty distinct, albeit closely-related, *hadīths* (in the sense of reports from either the Companions or the Prophet) from or via nineteen Companions and three Successors that seem to indicate that it is desirable, if not obligatory, to do the prayer with *qabḍ*³⁴

³⁴ This at least is the assumption of those such as al-Shawkāni (d 1250/1832) and Muḥammad al-Makkī b ‘Azzūz al-Tūnisī (d 1334/1916) who use this number to bolster their arguments for *qabḍ*. Al-Shawkāni (*Nayl*, vol ii, 201, 202) refers to “twenty *hadīths* from eighteen Companions” (he fails to include either Anas or Abū Bakr but includes Hudhayfa) “and two Successors” and uses the words *mashrū‘iyya* (part of the *sharī‘a*) and *wujūb* (obligatory) to describe *qabḍ*. Muḥammad al-Makkī, in his *Risāla*, refers to “twenty *hadīths* from about eighteen Companions” and uses the word *maṭlūbiyya* (desirable, required) to describe *qabḍ*

Nevertheless, the early Sunnī *fuqahā'* were by no means agreed on the desirability of *qabḍ* when doing the prayer

The views of the fuqahā'

Speaking first of the four surviving Sunnī *madhhabs*, we have already noted that the Hanafīs, Shāfi'īs and Hanbalīs, as well as some of the Mālikīs, take the view that the prayer should be done with *qabḍ*. According to Ibn 'Abd al-Barr, this was also the view of several other major Sunnī authorities, among whom he mentions Sufyān al-Thawrī (d 161/778), al-Hasan b Ṣāliḥ (d 167/783-4), Ishāq [b Rāhawayh] (d 238/853), Abū Thawr (d 240/854), Abū 'Ubayd (d 224/838), Dāwūd b 'Alī (d 270/884) and al-Ṭabarī (d 310/923). All these people, he says, take this view because it is "a *sunna* that has been laid down (*sunna masnūna*)," by which he and they clearly mean that it is something about which there are formal reports from the Prophet which thus indicate his *sunna* and which thus cannot be gainsaid.³⁵

However, we have also noted that Mālik (according to Ibn al-Qāsim's report from him in the *Mudawwana* and the *'Utbiyya*) and, following him, most of the Mālikīs, take the view that *qabḍ* is disliked in obligatory prayers (rather, *sadl* is what is required), although *qabḍ* is acceptable in voluntary prayers if someone has been standing in the prayer for a long time and wants to make things easier for himself. Ibn 'Abd al-Barr tells us that this was not only the view of Mālik but also that of his Egyptian contemporary al-Layth b Sa'd (d 175/791).³⁶ (This is significant because we know that al-Layth, despite his great respect for Mālik and Madinan *fiqh*, was not averse to delivering judgments against the Madinan position if he felt the reasoning behind them to be weak, as his letter to Mālik rejecting several Madinan judgments clearly shows.)³⁷ Ibn 'Abd al-Barr also tells us, quoting 'Abd al-Razzāq, that this was the way Ibn Jurayj (d 150/767) used to

(see Muḥammad 'Ābid, *Qawl*, 1)

³⁵ See Ibn 'Abd al-Barr, *Tamhīd*, vol xx, 75; cf the arguments of al-Shawkānī and Muḥammad al-Makkī in the immediately preceding note. In his *Kāfi*, however, Ibn 'Abd al-Barr refers to both *qabḍ* and *sadl* as *sunna* (see Ibn 'Abd al-Barr, *al-Kāfi fī fiqh ahl al-Madīna al-Mālikī* [Riyadh: Maktabat al-Riyāḍ al-Hadītha, 1400/1980], vol i, 206).

³⁶ See Ibn 'Abd al-Barr, *Tamhīd*, vol xx, 74-75; also al-Shawkānī, *Nayl*, vol ii, 201 (quoting al-Nawawī); Muḥammad 'Ābid, *Qawl*, 19 (quoting al-'Aynī's commentary on al-Bukhārī and al-Zayn al-'Irāqī's commentary on al-Tirmidhī).

³⁷ For al-Layth's letter to Mālik, see al-Fasawī, *Kitāb al-Ma'rifa wa'l-tā'ikh*, ed Akram Diyā' al-'Umārī (Beirut: Mu'assasat al-Risāla, 1401/1981), vol i, 687-95; Ibn Qayyim al-Jawziyya, *I'lām al-muwaqqi'īn* (Cairo: Idārat al-Ṭibā'a al-Muniriyya, n d), vol iii, 72-77.

pray, and that both *sadl* and *qabḍ* were considered equally acceptable by al-Awzā'ī (d 154/774) and 'Aṭā' [b Abī Rabāḥ] (d 114/732)³⁸ In 'Abd al-Razzāq's *Muṣannaf* we also find a report that Ibrāhīm [al-Nakha'ī] (d 96/715) used to pray with *sadl*,³⁹ which is also recorded by Ibn Abī Shayba who, in his section on *sadl*, adds reports to the same effect from al-Hasan [al-Baṣrī] (d 110/728), ['Abdallāh] b al-Zubayr (d 73/692),⁴⁰ Ibn Sīrīn (d 110/728), Sa'īd b al-Musayyab (d c 94/713) and Sa'īd b Jubayr (d 95/714)⁴¹ Ibn Abī Shayba also includes a report from Ibrāhīm to the effect that there is no harm (*lā ba's*) in *qabḍ*,⁴² thus echoing the view of al-Awzā'ī and 'Aṭā' mentioned above. He also includes a report from Mujāhid (d 104/722) which, although included by him in the section on *qabḍ*, is construed by Ibn 'Abd al-Barr to be an anti-*qabḍ* report.⁴³

We thus have two groups among the Sunnīs—those who say, following the outward interpretation of the various *hadīths* on the subject, that *qabḍ* is the preferable way, and those who, for some other reason, say it should be *sadl* (For the moment the unanimous Shī'a/Khawārij position on *sadl* need not concern us.)

The question we then have to ask is: Why is it that this second group should prefer *sadl*? More particularly: Why is it that Mālik, who himself includes two *hadīths* in his *Muwatta'* ostensibly indicating *qabḍ*, should nevertheless—according to the dominant opinion related from him—prefer *sadl*?

The answer to this question lies in the definition of the word "sunna" and the extent to which *sunna* is or is not reflected by *hadīth*.

³⁸ See Ibn 'Abd al-Barr, *Tamhīd*, vol xx, 75. See also 'Abd al-Razzāq, *Muṣannaf*, vol ii, 276, no 3346 ('Aṭā' and Ibn Jurayj); al-Sarakhsī, *Mabsūṭ*, vol i, 23-24 (al-Awzā'ī); al-Shawkānī, *Nayl*, vol ii, 201, quoting Ibn Sayyid al-Nās (al-Awzā'ī); Muḥammad 'Ābid, *Qawl*, 19, quoting the commentaries of Ibn Baṭṭāl and al-'Aynī on al-Bukhārī and al-Zayn al-'Irāqī's commentary on al-Tirmidhī ('Aṭā' and al-Awzā'ī).

³⁹ See 'Abd al-Razzāq, *Muṣannaf*, vol ii, 276, no 3347.

⁴⁰ For this identification, see above, n 10.

⁴¹ See Ibn Abī Shayba, *Muṣannaf*, vol i, 391-92; also Ibn 'Abd al-Barr, *Tamhīd*, vol xx, 74, 76; al-Shawkānī, *Nayl*, vol ii, 201; Muḥammad 'Ābid, *Qawl*, 18-19, quoting the commentaries of Ibn Baṭṭāl and al-'Aynī on al-Bukhārī and al-Zayn al-'Irāqī's commentary on al-Tirmidhī.

⁴² See Ibn Abī Shayba, *Muṣannaf*, vol i, 391; Ibn 'Abd al-Barr, *Tamhīd*, vol xx, 76.

⁴³ See Ibn Abī Shayba, *Muṣannaf*, vol i, 391; Ibn 'Abd al-Barr, *Tamhīd*, vol xx, 79.

Sunna or ḥadīth?

For the average Muslim today, *sunna* is effectively what is recorded in the books of *ḥadīth* that are assumed to contain all the reported sayings, acts and tacit approvals of the Prophet, otherwise known as his *sunna*. More specifically, it is what is recorded in the two *Ṣaḥīḥ* collections of al-Bukhārī and Muslim, although extended to include also the other four of the Six Books and others like them, according to the awareness of the individual concerned.

Two things, however, should be noted about these compilations. Firstly, almost all of them date from the middle of the third century (Hijri) or later. That is, the men who compiled them were working in or around the middle of the third century or later. The important exceptions to this rule are the collections of Mālik (d. 179/795), ‘Abd al-Razzāq (d. 211/827) and Ibn Abī Shayba (d. 235/849), who all lived and worked in the second part of the second or early part of the third century.

Secondly, if we compare these two types of *ḥadīth*-material—the earlier and the later—we find one major difference: the earlier works contain considerable material from the Successors as well as from the Prophet and the Companions, whereas the later works consist almost entirely of “Prophet-only” material (with some allowance for the first four caliphs). In other words, what one could describe as a massive editing process has taken place, which we can date to somewhere in the first half of the third century. Before that date the choice of material is very wide, after that date it is almost exclusively Prophetic.

The date of the Muwaṭṭa’

At this point a short digression is necessary before continuing with our main theme. Calder has recently expressed doubt as to second century nature of what is normally considered to be Mālik’s *Muwaṭṭa’*, suggesting that it is a Cordoban production of the latter part of the third century.⁴⁴ My own view is that the *Muwaṭṭa’* is not only a product of Mālik in Madina before his death in 179 AH, but was also substantially in place before the year 150 AH, thus making it our earliest extant text of this nature. The evidence for this is fourfold.

Firstly, there exists a papyrus fragment of the text which Abbott dates by textual evidence—particularly the characteristics of the script, the absence of glosses, the unsystematic order of the *ḥadīths* and, most

⁴⁴ See Norman Calder, *Studies in Early Muslim Jurisprudence* (Oxford: Clarendon Press, 1993), 38, 146.

significantly in her opinion, the consistent use of 'an in the *isnāds* together with the absence of any initial transmission formula such as *qāla*, *akhbaranī*, *haddathanī*, etc—to Mālik's own day in the second half of the second century AH⁴⁵

Secondly, we possess an early parchment fragment, dated 288 AH, of 'Alī b Ziyād's (d 183/799) transmission of the *Muwatta'*, transmitted by a certain Hasan b Aḥmad⁴⁶ from Jabala b Hammād (d 299/911) from Saḥnūn (d 240/854) from 'Alī b Ziyād, who was Saḥnūn's main teacher⁴⁷ Ibn Ziyād, who is credited with being the first to introduce the *Muwatta'* into Ifriqiya,⁴⁸ returned to Tunis in 150 AH, which year his transmission must therefore predate⁴⁹ At the very least we are told that he was teaching it to Saḥnūn before the latter's departure for Egypt at the beginning of the year 178 AH⁵⁰ We should also bear in mind that this is the same Saḥnūn who was responsible for transmitting the *Mudawwana* from Ibn al-Qāsim, himself another transmitter of the *Muwatta'* from Mālik (see below), which poses problems for Calder's claim that the *Mudawwana* is the earlier of the two books if in fact they are both related by or from the same person—Ibn al-Qāsim—who died in 191/806

Thirdly, a comparison of Ibn Ziyād's and the other transmissions currently available either wholly or partly in printed form, i e those of Yaḥyā b Yaḥyā al-Laythī (d 234/848), al-Shaybānī (d 189/805) and

⁴⁵ See Nabia Abbott, *Studies in Arabic Literary Papyri* (Chicago: University of Chicago Press, 1957-72), vol ii, 114, 121-28, esp 127, where she says: "Thus the paleography, the scribal practices, the text, the order of the traditions and the *isnād* terminology of the papyrus show a remarkable degree of conformity with the scholarly practices of Mālik and his contemporaries. On the strength of this internal evidence the papyrus folio can be safely assigned to Mālik's own day."

⁴⁶ For a possible identification of this man, see *Muwatta' al-Imām Mālik, qiṭ'a minhu bi-riwāyat Ibn Ziyād*, ed Muḥammad al-Shādhilī al-Nayfar (Beirut: Dār al-Gharb al-Islāmī, 1400/1980) [hereinafter *Muw Ibn Ziyād*], Introduction, 99-101

⁴⁷ For this fragment, see *Muw Ibn Ziyād*; also Joseph Schacht, "On Some Manuscripts in Kairouan and Tunis," *Arabica*, vol xiv (1967), 227-28. For Ibn Ziyād being Saḥnūn's main teacher, see *Muw Ibn Ziyād*, Introduction, 44-45

⁴⁸ See al-Qādī 'Iyād, *Tartīb al-madārik*, ed Aḥmad Bakir Mahmūd (Beirut and Tripoli: Dār Maktabat al-Hayāt and Dār Maktabat al-Fikr, 1387/1967), vol i, 326.

⁴⁹ See Muhammad Al-Aroosi Abdul-Qadir, "The Reception and Development of Malikite Legal Doctrine in the Western World" (unpublished Ph D thesis, Edinburgh University, 1973), 14, also 11, citing Ibn 'Ashūr's *A'lām al-fikr al-Islāmī*, 25. This accords with Ibn Qutayba's (d 276/889) suggestion that the *Muwatta'* was completed in or around 148 AH (see Muḥammad Yūsuf Gurāyā, "Historical Background of the Compilation of the *Muwatta'* of Mālik b Anas," *Islamic Studies*, vol 7 [1968], p 387, citing Ibn Qutayba's *al-Imāma wa'l-siyāsa* [Egypt, 1348 (1929), p 155] Gurāyā himself [p 388] opts for 147 or 152 AH)

⁵⁰ See *Muw Ibn Ziyād*, Introduction, 44, 104

al-Qa'nabī (d 221/836),⁵¹ shows that all four are remarkably similar in their basic content and thus clearly represent one text. It is true that al-Shaybānī's transmission shows certain marked differences from the other three, but these are in the nature of editorial changes necessitated by al-Shaybānī's purpose in using Mālik's *hadīth* in his teaching of Kufan *fiqh*. Thus, firstly, the order, chapter divisions and titles used for al-Shaybānī's material are very different from those of the other versions that we know. Secondly, and more importantly, he consistently excludes Mālik's own comments and references to Madinan *'amal*, as well as excluding other reports, especially from the Successors, but also, on occasions, *hadīths* from the Prophet. Instead, he includes his own references to the views of Abū Hanīfa and the *fuqahā'* of Kufa, often adding his own *hadīths*. Thus, for instance, the sections on "*Tayammum*" and "Reciting When Praying Behind an *Imām*" (to take random examples) in the transmissions of Yaḥyā and al-Qa'nabī are almost identical,⁵² whereas al-Shaybānī, although retaining the Prophetic and Companion *hadīths*, excludes all the comments by Mālik, adds his own comments, and, in the case of the second section mentioned above, adds thirteen more *hadīths* from various authorities, including the Prophet.⁵³ In his chapter on *li'ān*,⁵⁴ al-Shaybānī relates only one short Prophetic *hadīth* from Mālik, to which he adds a comment that this is in accord with the Kufan position, whereas Yaḥyā's transmission contains, in addition to the same short *hadīth*, another much longer one—about the *sabab al-nuzūl* ("occasion of revelation") of the *li'ān* verses—which does not accord with the Kufan position, as well as a quotation by Mālik of the verses in question, and numerous reports from him concerning details arising from the same.⁵⁵ Al-Shaybānī's editing is even more evident when we consider Ibn Ziyād's transmission, which, although perhaps some thirty years earlier than Yaḥyā's, is nevertheless remarkably similar to it, although not quite as much as al-Qa'nabī's. The chapters in Ibn Ziyād's transmission on

⁵¹ For the transmission of Yaḥyā, see above, n 3; for that of al-Shaybānī, see above, n 6. For the published fragment of al-Qa'nabī's transmission, see *Muwatta' al-Imām Mālik, riwāyat al-Qa'nabī*, ed 'Abd al-Hafīz Maṣṣūr (Kuwait: al-Shurūq, c 1392/1972) [hereinafter *Muw Q*].

⁵² See *Muw* vol i, 57-9, 80-82; *Muw Q*, 68-74, 136-40.

⁵³ See *Muw Sh*, 48-49, 59-63.

⁵⁴ *Li'ān*, or "mutual invocation of curses," is the procedure whereby a man who accuses his wife of adultery without sufficient witnesses may avoid the penalty for *qadhf* (accusations of illicit sexual intercourse), and she the penalty for adultery, by their both swearing that they are telling the truth on pain of bringing the curse of Allah on themselves if they are lying (see Qur'ān 24:6-9).

⁵⁵ *Muw Sh*, 199; *Muw* vol ii, 23-25.

“Game of the Sea” (*ṣayd al-bahr*) and “The ‘*Aqīqa* Sacrifice,” for instance (again, to take random examples), are very similar to those in Yaḥyā’s transmission, although Ibn Ziyād includes some extra comments from Mālik Al-Shaybānī, on the other hand, excludes most of the later, post-Companion material and again adds his own comments.⁵⁶ The difference is obviously that whereas Yaḥyā, al-Qa’nabī and Ibn Ziyād agreed with Mālik’s *madhhab* and method, al-Shaybānī did not, but chose rather to include in his version only that material which he considered useful for his own teaching purposes, i.e. that which accorded with what was taught in Iraq. What concerns us here is that, despite whatever editing has taken place, it is still Mālik’s *Muwatta’*, rather than some other text, that has been edited. Indeed, this overall similarity between the different transmissions speaks highly for the authenticity of the text and its attribution to Mālik.

We might also mention here the evidence of the *Umm* of al-Shāfi‘ī (d. 204/820), another transmitter of the *Muwatta’* from Mālik.⁵⁷ In his sustained argument against Mālik and the Madinans, he quotes extensively from “Mālik’s book,”⁵⁸ and his quotations reflect a text almost identical with that of Yaḥyā b. Yaḥyā’s transmission, both in the wording and the order of the reports quoted.⁵⁹

We should also take into consideration that fragments of four, possibly five, other transmissions of the *Muwatta’* also survive, namely, those of Ibn Bukayr (d. 226/840 or 231/845),⁶⁰ Ibn al-Qāsim (d. 191/806),⁶¹ Abū Sa‘īd al-Hadathānī (d. 240/854),⁶² Abū Muṣ‘ab al-

⁵⁶ *Muw* vol. i, 325-6, 328-9; *Muw Ibn Ziyād*, 189-97; *Muw Sh*, 221, 225-26

⁵⁷ For references, see n. 66 below

⁵⁸ For this expression see, for example, al-Shāfi‘ī, *Umm*, vol. vii, 214, l. 21

⁵⁹ See the section entitled “*Kitāb Ikhtilāf Mālik wa-l-Shāfi‘ī*” in al-Shāfi‘ī, *Umm*, vol. vii, 177-249

⁶⁰ Ibn Bukayr’s transmission was published under the title of *Muwatta’ al-imām al-mahdī* by the Gouvernement Générale de l’Algérie (Algiers, 1323/1905). For a discussion of this transmission in general and the attribution of the printed text to Ibn Bukayr, see Joseph Schacht, “Deux éditions inconnues du *Muwatta’*,” in *Studi Orientalistici in Onore di Giorgio Levi Della Vida* (Rome: Istituto per l’Oriente, 1956), vol. ii, 483-92; idem, “On Some Manuscripts in the Libraries of Morocco,” *Hespéris Tamuda*, vol. ix (1968), 31-33

⁶¹ Fragments of Ibn al-Qāsim’s transmission exist in manuscript form in Tunis and Qayrawān (see *Muw Ibn Ziyād*, Introduction, 69; Schacht, “Manuscripts in Kairouan,” 228-30), while all the *musnad hadīths* from this transmission as collected by al-Qāsimī in his *Mulakhkhaṣ* (or *Mulakhkhiṣ*) have been published under the title *Muwatta’ al-Imām Mālik ibn Anas, riwāyat Ibn al-Qāsim wa-talkhiṣ al-Qāsimī*, ed. Muḥammad b. ‘Alawī b. ‘Abbās al-Mālikī (2nd ed., Jeddah: Dār al-Shurūq, 1408/1988)

⁶² There is an incomplete, but substantial portion of the transmission of Abū Sa‘īd al-Hadathānī in the Zāhiriyya Library in Damascus (see Schacht, “Deux éditions,” 478ff)

Zuhri (d 242/856)⁶³ and, possibly, Ibn Wahb (d 197/812)⁶⁴ Since in the latter part of his life Ibn Ziyād was in Tunis, Yahyā in Cordoba, al-Shaybānī in various parts of Iraq, Syria and Khurāsān, al-Qa'nabī in Basra (or perhaps Makka),⁶⁵ Ibn Bukayr, Ibn al-Qāsim, Ibn Wahb and al-Shāfi'ī—if we include these last two—in Egypt, Abū Sa'īd in Iraq (al-Hadītha), and Abū Muṣ'ab in Madina, the only common link from which their transmissions could reasonably have derived is precisely that which is claimed in the sources to be the case, i e Mālik in Madina

Fourthly, we have the secondary evidence of the biographical literature which tells us of numerous individuals transmitting the *Muwaṭṭa'* directly from Mālik,⁶⁶ and also of several commentaries being written on it before Calder's proposed date of c 270 for the book's emergence,

⁶³ Various portions of the transmission of Abū Muṣ'ab al-Zuhri exist in manuscript form in Tunis (see *Muw Q*, 15), Qayrawān (see Schacht, "Manuscripts in Kairouan," 242-44; idem, "On Abū Muṣ'ab and his *Mukhtaṣar*," *Andalus*, vol xxx [1965], 7), Damascus (see Fuat Sezgin, *Geschichte des arabischen Schrifttums*, vol 1 [Leiden: E J Brill, 1967], 460) and Dublin (Chester Beatty MS 5498/3, entitled *al-Muntaqā min al-Muwaṭṭa'* [Sezgin, *GAS*, vol i, 464], which consists of *hadīths* from the *Muwaṭṭa'* according to the transmission of Abū Muṣ'ab)

⁶⁴ The recently published fragment of Ibn Wahb's "*Muwaṭṭa'*" (see 'Abdallāh b Wahb, *al-Muwaṭṭa' Kitāb al-muḥāraba*, ed Miklos Muranyi [Wiesbaden: Otto Harrassowitz, 1992]; also, for the original manuscript, Schacht, "On Some Manuscripts in Kairouan," 230-31) represents a text which is far more than just another transmission of the *Muwaṭṭa'*. As well as containing distinctively "Muwattan" material—such as reports containing expressions relating to Madinan 'amal (e g Arabic text, 47-48, fol 18r 15-21 [= *Muw* vol ii, 188])—it also contains extensive material now recorded specifically in either the *Mudawwana* (e g Arabic text, 49-50, fol 6r 24 - fol 7r 10 [= *Mud* vol iii, 4], fol 7r 15 - 7v 4 [= *Mud* vol iii, 4-5], *et passim*) or the '*Utbiyya* (e g Arabic text, 15, fol 6r 22 - 6v 9 [= *Bayān*, vol xvi, 373]) Indeed, much of the material is closer textually to the *Mudawwana* than to the *Muwaṭṭa'* (e g Arabic text, 25, fol 10r 7-10 [= *Mud* vol iii, 50; cf *Muw* vol ii, 208], and 51, fol 19v 7-11 [= *Mud* vol xvi, 166; cf *Muw* vol ii, 188]) However, whatever we care to call Ibn Wahb's book, it clearly confirms a second- rather than third-century origin for the basic material in the *Muwaṭṭa'*, *Mudawwana* and '*Utbiyya* (Nor does it exclude the possibility that he also transmitted the *Muwaṭṭa'* in a form more recognisably similar to that of the other transmissions that we know)

⁶⁵ Al-Qa'nabī settled in Basra and died either there or, according to some reports, in or on the way to Makka (see 'Iyād, *Madārik*, vol i, 397-99; Ibn Hajar, *Tahdhīb al-tahdhīb* [Hyderabad: Dā'irat al-Ma'ārif, 1325-27 (1907-09)], vol vi, 31-33)

⁶⁶ Muranyi, for instance, lists seventy-nine transmitters of the *Muwaṭṭa'* from Mālik (see Miklos Muranyi, *Materialien zur Mālikitischen Rechtsliteratur* [Wiesbaden: Otto Harrassowitz, 1984], 127-30). A collation of these names with those given by al-Zurqānī (*Sharḥ*, vol i, 6), 'Iyād (*Mad* vol i, 203), al-Suyūṭī (*Tanwīr*, vol i, 8-9), 'Abd al-Bāqī (Mālik, *al-Muwaṭṭa'*, ed Muḥammad Fu'ād 'Abd al-Bāqī [Cairo: Dār Ihyā' al-Kutub al-'Arabiyya, 1370/1951], 7) and al-Nayfar (*Muw Ibn Ziyād*, 80-82) results in a total of at least ninety-three named persons known to have transmitted the *Muwaṭṭa'* from Mālik

e.g. those of al-Akhfash (d. before 250/864)⁶⁷ and Ibn Muzayn (d. c. 259/873)—this latter itself compiled from the commentaries of ʿĪsā b. Dīnār (d. 212/827), Yaḥyā b. Yaḥyā al-Laythī (d. 234/849), Muḥammad b. ʿĪsā (d. 221/836 or 222/837) and Aṣḥab b. al-Faraj (d. 225/840)⁶⁸—not to mention those of Ibn Nāfiʿ (d. 186/802), Ibn Wahb (d. 197/812)—of which an early parchment fragment, dated 293 AH and transmitted by an unknown scribe from Yaḥyā b. ʿAwn (d. 298/910-11) from ʿAwn b. Yūsuf (d. 239/853) from Ibn Wahb, survives⁶⁹—and others⁷⁰. These transmissions and commentaries would not of course have been possible had the text not existed.⁷¹

Given then that the earliest of three early works mentioned above is that of Mālik, we shall concentrate on Mālik's view on this question of *sadl* versus *qabḍ* as reflected in the seemingly contradictory reports transmitted from him in the *Muwattaʿ* and the *Mudawwana*. We shall then consider the implications of this for a clearer understanding of the development in Islamic legal theory that led to the appearance of the Prophet-only *hadīth* collections such as those of al-Bukhārī and Muslim and the effective “de-throning” of books such as the *Muwattaʿ*—which al-Shāfiʿī had once considered to be the most accurate book on the face of the earth after the Qurʾān⁷²—in their favor.

Mālik and the Muwattaʿ

Firstly, it should be noted that the *Muwattaʿ* is not simply a book of *hadīth*, even if that word is defined broadly to include reports from Companions and even Successors as well as from the Prophet. It is, rather, a book of *ʿamal* (“practice,” but not, as we shall see, simply “local practice”) or, to be more precise, a book of *hadīth* put into the context of *ʿamal*. That is, the book is ostensibly a record of various types of *hadīth*, but the key phrases in it are not so much those in the actual *hadīths*—which may be at variance with one another—as those

⁶⁷ See ʿIyād, *Madārik*, vol. i, 200; Schacht, “Some Manuscripts in Kairouan,” 244-45; Sezgin, *GAS*, vol. i, 460.

⁶⁸ See ʿIyād, *Madārik*, vol. i, 200; Schacht, “Some Manuscripts in Kairouan,” 235-37; Sezgin, *GAS*, vol. i, 460.

⁶⁹ See ʿAbdallāh b. Wahb, *Kitāb al-muḥāraba*, 54.

⁷⁰ See ʿIyād, *Madārik*, vol. i, 200, 357 (Ibn Nāfiʿ), 433 (Ibn Wahb).

⁷¹ For a more extensive critique of Calder's thesis, the reader is referred to my review of his *Studies in Early Muslim Jurisprudence* in *Journal of Islamic Studies*, vol. v (1994), 102-08.

⁷² See Mālik, *al-Muwattaʿ*, ed. ʿAbd al-Bāqī, Introduction, i; Ibn Abī Hātim, *Taqdimat al-maʿrifā li-kitāb al-jarh waʾl-taʿdīl* (Hyderabad: Dāʾirat al-Maʿārif, 1371/1952), 12.

in which Mālik sums up a point by saying *al-sunna 'indanā* (“the *sunna* here”), or *al-sunna allatī lā ikhtilāfa fihā 'indanā* (“the *sunna* about which there is no dispute here”), or *al-amr 'indanā* (“the practice here”), or *al-amr al-mujtama' 'alayhi 'indanā* (“the agreed practice here”), or *al-amr alladhī lā ikhtilāfa fihi 'indanā* (“the practice about which there is no dispute here”), or some such phrase. In other words, there may be different, conflicting reports on a subject, but what should be done in any one case is what is, or was, done in Madina.⁷³

Secondly, it is important to recognise Mālik’s high reputation for excellence and accuracy in *hadīth*-transmission, indeed in the transmission of knowledge in general. He was a past-master at the formal report and is praised as such by all the major scholars of *hadīth*.⁷⁴ Indeed, the *isnād* “Mālik-Nāfi‘-Ibn ‘Umar,” for instance, is considered by al-Bukhārī and others to be the “golden chain” of authority (*silsilat al-dhahab*).⁷⁵ However, as is implicit in the first point, it is not the formal report that primarily concerns him but rather the *fiqh*, or correct understanding (to use the word in its original sense), of such reports

⁷³ It should be briefly noted here that *'amal* as used in this context is understood to derive from the time of the Prophet (the “*sunna*” element), along with an additional element of *ijtihād*, “independent judgment,” from later authorities (implicit in the term “*amr*”). For a fuller discussion of the different terms used by Mālik to distinguish different categories of *'amal*, and the nature and authority of Madinan *'amal* in general, the reader is referred to my article, “*Sunna, Hadīth* and Madinan *'Amal*,” *Journal of Islamic Studies*, vol. iv (1993), esp. 7-10, 13-14.

⁷⁴ For praise of Mālik by later scholars it is sufficient to look at any of the entries on him in the main biographical works, e.g. Ibn Abī Hātim, *Taqdīm*, 11-25, 30-31; Abū Nu‘aym, *Hilyat al-awliyā'* (Cairo: Matba‘at al-Sa‘āda, 1351-57/1932-38), vol. vi, 316-32; al-Dhahabī, *Tadhkirat al-huffāz* (Hyderabad: Dā‘irat al-Ma‘ārif, 1375-77/1955-58), vol. i, 189-92; Ibn Hajar, *Tahdhīb*, vol. x, 5-9. It is interesting to note that one modern scholar who has worked intensively on *hadīth* confirms this judgment on Mālik, coming to the conclusion that *hadīths* narrated through Mālik are not only highly consistent but “outstanding in their uniformity” (see Iftikhar Zaman, “The Science of *Rijāl* as a Method in the Study of Hadīths,” *Journal of Islamic Studies*, vol. v [1994], 3, 11, 18).

⁷⁵ See, for example, al-Nawawī, *Tahdhīb al-asmā'*, ed. Ferdinand Wüstenfeld (Göttingen: London Society for the Publication of Oriental Texts, 1842-47), 531; Ibn Khallikān, *Wafayāt al-a‘yān* (Cairo: Matba‘at Būlāq, 1299 [1882]), vol. ii, 198; al-Dhahabī, *Siyar a‘lām al-nubalā'* (Beirut: Mu‘assasat al-Risāla, 1401-09/1981-88), vol. viii, 102; Ibn Hajar, *Tahdhīb*, vol. x, 6. Schacht’s criticism of this *isnād* (*Origins*, 176-79) has in turn been criticized by, among others, James Robson (“The *Isnād* in Muslim Tradition,” *Transactions of the Glasgow Oriental Society*, vol. xv [1954; published 1955], 22-23) and Muhammad Mustafa Azmi (*Studies in Early Hadīth Literature* [Beirut: al-Maktab al-Islāmī, 1388/1968], 244-46; idem, *On Schacht’s Origins of Muhammadan Jurisprudence* [Riyadh, New York & c: King Saud University, John Wiley & Sons, 1985], 171). A recent article by Juynboll also casts doubt—to my mind unconvincingly—on the historicity of this *isnād* but, interestingly, finds fault with Schacht’s criticism (see Gautier H. A. Juynboll, “Nāfi‘, the *mawlā* of Ibn ‘Umar,” *Der Islam*, vol. xx [1993], esp. 217, n. 7).

Accuracy of transmission is only one requirement what is more important is an accurate understanding of the material

Mālik combined both these qualities He was described by Aḥmad b Hanbal as “an *imām* in *hadīth* and *fiqh*,”⁷⁶ while the famous *hadīth* scholar Ibn Mahdī expressed the idea very clearly when he said “Al-Thawri is an *imām* in *hadīth* but not an *imām* in *sunna* Al-Awzā‘ī is an *imām* in *sunna* but not an *imām* in *hadīth* Mālik, however, is an *imām* in both”⁷⁷ Being an *imām* in both meant, firstly, that he knew the context in which to evaluate the normative value of *hadīths*, secondly, that he knew the opinions of his predecessors arising from, but not necessarily covered by, those *hadīths*, and thirdly, that he knew how to derive his own secondary judgments from this primary material That is, he had an understanding (*fiqh*) of the *dīn* and its normative form (*sunna*) Without this understanding, *hadīths*, however authentic, could easily be a source of misguidance and error rather than a source of knowledge and enlightenment Thus Ibn Wahb is recorded as saying, “Anyone who knows a *hadīth* but does not have an *imām* in *fiqh* is astray (*ḍāll*), and if Allah had not saved us through Mālik and al-Layth we would have gone astray”,⁷⁸ and Ibn ‘Uyayna is recorded as saying, “*Hadīths* are a source of misguidance (*maḍilla*) except for the *fuqahā*”⁷⁹

If, therefore, Mālik records a *hadīth* and then gives a judgment seemingly to the contrary, we have to assume that there was a good reason for him doing so

What could that reason be?

A very significant statement is recorded about Mālik on this point ‘Iyāḍ records that both Ibn al-Qāsim and Ibn Wahb said, “I saw that with Mālik *‘amal* was stronger than *hadīth*”⁸⁰ Now, what does this mean—about Mālik, the past-master at relating *hadīth*, and the man

⁷⁶ See ‘Iyāḍ, *Madārik*, vol i, 132; al-Dhahabī, *Siyar*, vol viii, 84

⁷⁷ See ‘Abū Nu‘aym, *Hilya*, vol vi, 332; ‘Iyāḍ, *Madārik*, vol i, 132; also Ignaz Goldziher, *Muhammedanische Studien* (Halle: Max Niemeyer, 1889-90), vol ii, 12

⁷⁸ Ibn Abi Zayd al-Qayrawānī, *Kitāb al-Īmī‘* (Beirut, Tunis: Mu‘assasat al-Risāla, al-Maktakba al-‘Atīqa, 1402/1982), 119; cf Ibn ‘Abd al-Barr, *al-Intiqā‘ fi fadā‘il al-‘imma al-thalātha al-fuqahā‘* (Maktabat al-Qudsi, 1350 [1931]), 31

⁷⁹ Ibn Abi Zayd, *Īmī‘*, 118

⁸⁰ ‘Iyāḍ, *Madārik*, vol i, 66; Robert Brunschvig, “Polémiques médiévales autour du rite de Mālik,” *Andalus*, vol xv (1950), 418 For similar comments by Mālik, see Ibn Abi Zayd, *Īmī‘*, 117; ‘Iyāḍ, *Madārik*, vol i, 224; Muḥammad ‘Ābid, *Qawl*, 22 (quoting the *Bayān* of Ibn Rushd, the *Madkhal* of Ibn al-Hājj and the *Īmī‘* of Abū Yūnus); also the report from Muḥammad b Abi Bakr in the citation from ‘Iyāḍ in the following paragraph

whose commitment and accuracy in the transmission of *hadīth* are second to none?

Let us consider two more reports about the subject ‘*Īyāḍ* continues ⁸¹

Mālik said “There were people among the men of knowledge of the Successors who would narrate certain *hadīths* and hear other *hadīths* from others They would say, ‘We are not ignorant of this, but the ‘*amal* that has come down to us is different ’”⁸²

Mālik said “I once saw Muḥammad b Abū Bakr b Hazm—who was a *qāḍī*—being reproached by his brother ‘Abdallāh—who was an honest man with an extensive knowledge of *hadīth*—for giving a judgment on a case when there was a *hadīth* giving a different judgment ‘Abdallāh said, ‘Hasn’t such-and-such a *hadīth* come down about this?’ Muḥammad replied, ‘It has ’ ‘Abdallāh said, ‘Then why don’t you give your judgment according to it?’ Muḥammad replied, ‘But what is the position of the people with regard to it?’—i e [what is] the agreed ‘*amal* in Madina, by which he meant that the ‘*amal* of Madina was stronger than *hadīth* ’”⁸³

Again, why should this be so? What does this mean?

It means, quite simply, that Mālik saw ‘*amal* as a better indicator of *sunna* than *hadīth* As Rabī‘a, one of Mālik’s main teachers, is recorded to have said, “One thousand from one thousand is preferable to me than one from one One from one would tear the *sunna* right out of your hands ”⁸⁴ “One thousand from one thousand” means a large number of Successors taking from a large number of Companions, which was only possible in Madina, and implies a transmission that was primarily by practice (‘*amal*) rather than by text (*hadīth*) “One from one,” on the other hand, was the situation in the rest of the Muslim world where individual Successors took their knowledge from individual Companions, and on a more overtly textual basis (“Textual” here does not necessarily mean “documented in written form” so much

⁸¹ See ‘*Īyāḍ*, *Madārik*, vol i, 66; Brunshvig, “Polemiques,” 418

⁸² This report is also transmitted in the ‘*Utbiyya* (see Ibn Rushd, *Bayān*, vol xvii, 604; also Schacht, “On Some Manuscripts in Morocco,” 29) and in Ibn Abi Zayd’s *Jāmi‘* (118)

⁸³ For the same report, with slight variations, see Ibn Rushd, *Bayān*, vol xvii, 331; al-Ṭabarī, *Tārīkh al-rusul wa’l-mulūk*, ed Michiel Johannes de Goeje *et al* (Leiden: E J Brill, 1879-1901), vol iii, 2505 (mentioned in Schacht’s *Origins*, 64); Wakī‘, *Akhbār al-quḍāt*, ed ‘Abd al-‘Aziz Muṣṭafā Marāghī (Cairo: Maṭba‘at al-Istiḳāma, 1366/1947), vol i, 176; Ibn Abi Zayd, *Jāmi‘*, 118 For variants in the *Madārik* report itself, see ‘*Īyāḍ*, *Madārik*, ed Muḥammad Tāwīt al-Ṭanjī *et al* (2nd ed., Mohammedia: Wizārat al-Awqāf wa’l-Shu‘ūn al-Islāmiyya, 1402-03/1982-83), vol. i, 45

⁸⁴ See ‘*Īyāḍ*, *Madārik*, vol i, 66; Brunshvig, “Polémiques,” 419

as “transmitted in a fixed, linguistic form,” such as is the case, for instance, with the “text” of the Qur’an) Thus this ‘amal of the Madinans—this “one thousand from one thousand” knowledge of how the *sharī‘a* was put into practice—automatically had in their view a higher authority than most *hadīths*, since ‘amal had the status of being *mutawātir*, that is, transmitted by so many Companions that there could be no reasonable doubt about its authenticity, whereas most *hadīths* were not *mutawātir* but *akhbār al-āhād*, that is, reports only from individual authorities

It should, however, be emphasised that ‘amal and *hadīth* are by no means mutually exclusive. Rather, ‘amal may or may not be recorded by *hadīth*, and *hadīth* may or may not record ‘amal. Where they overlap they are a strong confirmation of each other, but where there is a contradiction ‘amal is preferred to *hadīth* by Mālik and the Madinans, even when the sources of these *hadīth* are completely trustworthy.

It is for this reason that *sadl* is preferred to *qabḍ* by Mālik and the Madinans,⁸⁵ even though, as we have seen, there are numerous *hadīths* to the contrary in the major collections and nothing in them that overtly contradicts this position. This way of standing for the prayer with one’s hands by one’s sides, as also the standard way of doing the *adhān* in Madina, or the way of reciting the *Fātiha* in the prayer without beginning with *bi-smi‘llāhi ‘l-rahmāni ‘l-rahīm*, or the size of the measures known as *ṣā‘* and *mudd*, to name but a few other examples, were matters that were not initially recorded in the form of *hadīth* but were nevertheless generally known amongst the people and understood to have originated as *sunna* in the time of the Prophet.⁸⁶ Other practices, although recorded in authentic *hadīths* and even transmitted, for example, in the *Muwaṭṭa’*, were not acted upon precisely because they did

⁸⁵ For exceptions to this generalised statement about “Mālik and the Madinans,” see the opinions noted in n 4 above, especially the view recorded from Muṭarrif and Ibn al-Mājishūn—two Madinan followers of Mālik—that the preferred way is *qabḍ*. However, despite their being in Madina, it is never claimed that these two authorities had the best knowledge of Mālik’s opinions, which is considered rather to be the especial preserve of his Egyptian followers, particularly Ibn al-Qāsim (see above, n 4). It is also evident from the argument for ‘amal outlined above that Mālik would not have preferred *sadl* unless it were the practice of at least a large number of the ‘ulamā’ of Madina at and before his time (of whom the famous Madinan Successor and *faqīh* Sa‘id b. al-Musayyab would have been one; see above, p 27).

⁸⁶ It may be noted here that the *hadīth* recording the Madinan way of doing the *adhān* in *Mud* vol i, 57, has a Makkan *isnād*, while the *hadīth* about beginning the prayer without the *basmala* (*Muw* vol i, 78; *Mud* vol i, 67) has a Basran *isnād*. In other words, there were no *hadīths* on these subjects in Madina because there was no need for them.

not represent the *sunna*. In other words, they were either exceptional instances, or earlier judgments that had later been changed, or otherwise minority opinions that held little weight and which, even though they derived from the Prophet, were nevertheless outweighed by other judgments also deriving from the Prophet. This was why Ibn ‘Uyayna could say that *hadīths* were a source of misguidance except for the *fuqahā*, and Mālik that ‘*amal* was more reliable than *hadīth*’⁸⁷

It is here that we can also see the significance of the Shi‘a/Khawārij agreement on *sadl*. These groups split away from the main body of the Muslims at a very early date and on questions of belief and political authority rather than on details of *fiqh*. Their agreement on *sadl* is thus strong confirmation of the “ancient,” indeed Prophetic, origin of this ‘*amal*, since there would have been no reason for them to invent such a detail. The obvious inference is that they were merely continuing an already established practice.

The implications of this are far-reaching. Firstly, it means that, like the modern, revisionist school of Western scholarship represented by Schacht and his followers, we must seriously question the view of “*sunna* equals [Prophetic] *hadīth*” that is taken by the average Muslim scholar today, and has been taken by most since somewhere in the middle of the third century AH. However, unlike the revisionists, the above critique does not enable us to discard the vast majority of *hadīth* as a belated attempt to give authority to what was originally local practice. The *hadīth* literature (albeit in a predominantly oral form) existed—Mālik’s *Muwatta*’ is ample testimony to that—but it was subservient to ‘*amal*. What we see happening in the burgeoning of the *hadīth* collections of the third century is a response to this redefinition of *sunna* within the ranks of the ‘*ulamā*’ and the concomitant creation of a Prophetic-*hadīth* imperative. Once *fiqh* became based on Prophetic *hadīth* rather than Prophetic *sunna*, it was a natural and necessary step to seek to collect everything one could by way of a *hadīth* from the Prophet, even if perhaps a little “weak,”⁸⁸ and at the same time discard, or disregard, the material from later, post-Prophetic authorities. Hence the highly “edited” nature of all the major third century collections of *hadīth*.

As for the ‘*amal*, or practice, of Madina being local, it was indeed local in that it originated, flourished and was first recorded in Madina.

⁸⁷ See above, pp 35-36

⁸⁸ Ibn Ḥanbal, for example, is known for preferring a weak *hadīth* to no *hadīth* at all (see ‘Iyād, *Madārik*, vol i, 96)

rather than anywhere else, but that was because the *sunna* of the Prophet originated, flourished and was first recorded in Madina rather than anywhere else. No other city in the Muslim world ever claimed the same authority for its own *'amal* as did the Madinans (to the extent, that is, that any other city could be said to have had its own *'amal*). Rather, there was Madina, the center of the Prophetic phenomenon, and there were individuals who went out from it. There was "one thousand from one thousand" in Madina, and there was "one from one" everywhere else. However, with the advent of the work of those such as al-Shāfi'ī (d. 204/820) who, in the face of wide disagreement on details among the *fuqahā'* of his time, wanted to impose some sort of logical standard on the entire corpus of *fiqh*, the traditional, non-textual argument of *'amal* was subjected to the logical standards of textual, particularly *isnād*-, criticism. Thus *sunna*, which had once been contained in Madinan *'amal* (Mālik's "*al-sunna 'indanā*" and "*al-sunna allatī lā ikhtilāfa fihā 'indanā*") became redefined as Prophetic *hadīth*, and the anonymous, no-*isnād*-nature of the authority underlying *'amal* was rejected in the face of the demands of the new scholarship for an authentic *isnād* in which every man had to be known and trustworthy. "Who are these people," al-Shāfi'ī effectively asks, "because of whose *'amal* these *hadīths* are not acted upon?"⁸⁹ thus putting his own position and that of those like him very clearly. Indeed, one would agree with Schacht that it is al-Shāfi'ī, with his insistence that only those rulings backed up by good *textual* credentials should be accepted as the basis of the *sharī'a*, who should be considered responsible for, or at least at the forefront of, the widespread acceptance of the idea that

⁸⁹ E.g. al-Shāfi'ī, *Umm*, vol. vii, 214 (l. 31): *fa-'amal man ta'nī tukhālifu bihi sunnat rasūli-llāh* ("Whose *'amal* is it by whose authority you go against the *sunna* of the Messenger of Allah?"); *ibid.*, vol. vii, 217 (margin): *fa-qad a'yānā an najida 'inda aḥad 'ilm hā'ulā'i alladhīna idhā 'amilū bi'l-ḥadīth thabata 'indahu wa-idhā tarakū al-'amal bihi saqāṭa 'indahu fa-yā layta shi'ī man hā'ulā'i alladhīna lam a'lamhum khuliqū thumma yuhtajju bi-tarākihim al-'amal wa-ghaflatihim* ("We have failed to find anyone who has the knowledge [i.e. presumably, of texts] of these people, such that if they have acted according to a *hadīth*, he will consider it reliable, but if they have not acted according to it, he will reject it. If only I knew who these people were who I do not even know to have been born but whose lack of *'amal* and unawareness [i.e. presumably, ignorance of, or refusal to consider, a *hadīth*] is used as an authoritative argument!") For the same attitude in the Iraqi scholar Abū Yūsuf (d. 182/798), see, for example, *ibid.*, vol. vii, 311 (l. 28): *fa-man al-imām alladhī 'amila bi-hādihā wa'l-'ilm alladhī akhadha bihi hattā nanẓura a-huwa ahl li-an yuhmala 'anhu ma'mūn 'alā al-'ilm aw lā* ("Who then is the authority who acted in this way, and [what is] the knowledge [i.e. *hadīth*] that he based it upon, so that we can judge whether he is a suitably qualified and trustworthy transmitter of knowledge or not?")

“*sunna* equals *hadīth*,” although one would also agree with Schacht that the tendency seems to have begun in Iraq⁹⁰

What we thus see illustrated by the major third century collections of *hadīth* in their almost total reliance on Prophetic material to the exclusion of any other, and what we see reflected in the rejection of *sadl* for *qabḍ* by the later Sunnī *madhhabs* (and several later Mālikīs) is the rejection of *sunna* as transmitted by ‘*amal* in favor of *sunna* as transmitted by *hadīth*. In both cases this *sunna* was understood as being the *sunna* of the Prophet. What differed was the methodology by which such knowledge was arrived at, and thus the details of its practical expression, namely, the differences in the details of *fiqh*. The rejection of ‘*amal* in favor of *hadīth* was the triumph of the methodology of “one from one” over that of “one thousand from one thousand” and, as the report from Rabi‘a continues, “One from one would tear the *sunna* right out of your hands.” This suggests that if we want to arrive at a clearer picture of the original “*sunna* of the Prophet,” we would do better to look at Madinan ‘*amal* than at the classical collections of *hadīth*.

⁹⁰ See Schacht, *Origins*, 58, 59, 77, 80, where the shift in definition of the word *sunna* evident from al-Shāfi‘ī’s writings is most forcefully noted (This indeed I consider the strongest point in Schacht’s critique. What I disagree with is his understanding of what *sunna* meant *before* it became redefined as *hadīth*.) For this shift happening *via* Iraq, see, for example, Zafar Ishaq Ansari, “The Early Development of Islamic Fiqh in Kufa” (unpublished Ph.D. thesis, McGill University, 1968), *passim*, esp. 14, 23-24, 176, 212, 234, 243, 250, 370, 377, 381; also *Origins*, 73, 77, 80, 223, where Schacht argues that Islamic jurisprudence—which one can see as the formalisation of ‘*amal—began in Iraq. Note also the attitude expressed in Abū Yūsuf’s comment in n. 89 above.*