

Abū ‘Ubaid al-Qāsim b. Sallām’s
K. al-nāsikh wa-l-mansūkh

(MS. Istanbul, Topkapı, Ahmet III A 143)

Edited with a Commentary by John Burton,
University of St Andrews

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ELIAS JOHN WILKINSON GIBB

and to promote those researches into the History, Literature, Philosophy and Religion of the Turks, Persians and Arabs, to which, from his Youth upwards, until his premature and deeply lamented Death in his forty-fifth year, on December 5, 1901, his life was devoted.

تَبَيَّنَ آثَارُنَا تَدُلُّ عَلَيْنَا • فَانظُرُوا بِمَدَنَّا إِلَى الْآثَارِ

*“These are our works, these works our souls display;
Behold our works when we have passed away.”*

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Abū ʿUбайд al-Qāsim b. Sallām's *K. al-nāsikh wa-l-mansūkh* (MS. Istanbul, Topkapı, Ahmet III A 143) edited with a commentary by John Burton, University of St. Andrews.

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Transliteration

Arabic Letter	Transliteration	Short Vowels
ء	'[hamzah]	
ب	b	ا
ت	t	و
		ي
ث	th	Long Vowels
ج	j	آ
ح	ḥ	أ
خ	kh	ؤ
د	d	إ
ذ	dh	Diphthongs
ر	r	أو
ز	z	أى
س	s	آ
ش	sh	
ص	ṣ	
ض	ḍ	
ط	ṭ	
ظ	ẓ	
ع	°[cain]	
غ	gh	
ف	f	
ق	q	
ك	k	
ل	l	
م	m	
ن	n	
ه	h	
و	w	
ي	y	

Abbreviations

Baih.	al-Baihaqī
GAL	Brockelmann
Bu.	al-Bukhārī
DQ	al-Dāraquṭnī
Dār.	al-Dārimī
A.D.	Abū Da'ūd
Dha.	al-Dhahabī
F	Fihrist
G	Gottschalk
F.B.	Faṭḥ al-Bārī
<i>Baḥr</i>	ibn Ḥayyān (<i>al-Baḥr al-Muḥīṭ</i>)
HK	Hajjī Khalīfah
TB.	<i>Ta'riḫ Baghdād</i> (al-Khaṭīb al-Baghdādī)
bM	ibn Mājah
Māl.	Mālik b. Anas
Muw.	<i>al-Muwatta'</i>
Mus.	Muslim
N., Naḥ.	al-Naḥḥās
Nas.	al-Nasā'ī
Naw.	al-Nawawī
GdQ.	<i>Geschichte des Qorans</i>
Qaṣṭ.	al-Qaṣṭallānī
Qurt.	al-Qurtubī
Qut.	ibn Qutaibah
Mukht.	<i>Ta'wīl mukhtalif al-Ḥadīth</i>
Mud.	<i>al-Mudawwanah</i>
Sar.	al-Sarakhsī
GAS.	<i>Geschichte des Arabischen Schrifttums</i>
Suy.	al-Suyūṭī
Shāf.	al-Shāfi'ī
Ris.	<i>al-Risālah</i>
Shaib.	al-Shaibānī
Ṭab.	al-Ṭabarī
Ṭah	Ṭahdhīb
Ṭay.	al-Ṭayālīsī
Ṭir.	al-Ṭirmidhī
AU	Abū °Ubaid
Zam.	al-Zamakhsharī

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K. *al-nāsikh wa-l-mansūkh*

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Introductory essay: 'The meaning of naskh'

The term *naskh* has in Muslim Arabic usage, three meanings of which, however, only two can be traced in the Qur'ān:

1. *suppression*:

Q 2,106: *mā nansakh min āyah aw nunsi hā . . .*

Q 22,52: *fa yansakh allāh mā yulqī al-shaitān . . .*

I have shown elsewhere that a one-sided interpretation of this second verse lay behind the invention of the celebrated exegetical fable of 'the satanic verses'.¹

2. *transcription*:

Q 45,29: *kunnā nastansikh mā kuntum ta' malūna . . .*

We shall see that this verse and this meaning played only a minor rôle in the attempts to define *naskh*.

A third use of the term *naskh* is as a technical term used by the Islamic scholars to designate a variety of alleged 'phenomena' discussed in the tertiary science of *uṣūl al-fiqh*. The 'phenomena' had a common basis in the concept of 'replacement', introduced to resolve the problems of conflict of sources. Thus, the third meaning of *naskh* is

3. *supersession*. It is this third sense of the term that forms the subject matter of the science of *al-nāsikh wa-l-mansūkh*, to which a large number of works has been devoted.

The Islamic sources: Qur'ān and Sunna.

The primary written source of the *Fiqh* was the Qur'ān, or rather, the exegesis of the Qur'ān, the *tafsīr*. The Qur'ān is the Book of God taught to the Prophet Muḥammad. It obviously had had to be acknowledged as the primary source before all, in a sub-science devoted to identifying the bases of the *Fiqh*.

In addition to the Qur'ān, the Muslims claimed to possess what they regarded as the personal detailed instruction of the Prophet as given to his contemporaries. These teachings had reached them either as verbatim reports of the Prophet's utterances, and eye-witness accounts of his actions, as transmitted by individual members of Muḥammad's entourage; or as reports emanating from leading members of the Prophet's circle, regarded individually and collec-

tively as best qualified by long personal experience of the Prophet's attitudes, and acquaintance with his idiom, to pronounce on the meanings of his words and of the words of the divine revelation. Reports on the actions and views of Muḥammad's immediate successors, the divinely-guided caliphs, were held to have special merit as evidence for the attitudes, beliefs and practices of the Prophet's company. All such reports amplified and even supplemented the divine instruction conveyed in the Qur'ān.

Transmitted mainly orally since the days of the Prophet in the form of narrative [*ḥadīth*] this supplementary teaching was known by the collective title of Sunna, and along with the Qur'ān, the Sunna represented Muḥammad's bequest to his community of believers.

The theories of naskh

The Sunna literature (whether oral or written) soon achieved immense proportions and in the patient analyses of these accumulated source materials, undertaken to help determine acceptable Islamic practice, the Muslims detected many apparent inconsistencies. Frequently in the subsequent literature (including the present work) these contradictions are simply noted. In other cases, however, contradiction was resolved by the application of a simple harmonising device for which the name *naskh* especially commended itself on the grounds of the occurrence of the term in Q 2,106 – although we have seen that Qur'ānic usage provides no warrant for the meaning thereby assigned to the term, sc, 'replacement' or 'supersession', the third of the above meanings we noted.

The term *naskh* does not denote a single theory concerned with immediate problems of Qur'ān exegesis alone. Rather, it refers to a number of hypotheses that had greatly facilitated the understanding by a generation of scholars, the *uṣūlīs*, of decisions taken by earlier scholars, the *fuqahā'*, in the course of the first attempts to extract and codify the rules laid down in the twin sources of Qur'ān and Sunna.

In ancient discussions centred upon the application of those rules, every instance of conflict between: one Qur'ān verse and another, or between a Qur'ān verse and a *ḥadīth*, or between one *ḥadīth* and another, it was urged, had been noted, analysed and already solved by the *fuqahā'*, as they set out, chapter by chapter, the Islamic rulings enshrined in the *Fiqh*. Re-tracing the thinking of the *fuqahā'*, the *uṣūlīs* thought that they could note that any instance of conflict of

sources that had not been solved by the application of the numerous harmonising techniques available to the *fuqahā'*, had been resolved by the rejection of one of the conflicting documents, be it verse or *ḥadīth*, in favour of the other which alone showed the ruling that had been decided upon by the *fuqahā'*. That is, the *uṣūlīs* assumed appeal by the *fuqahā'* to a principle of repeal, or abrogation. Having ascertained the relative dates of both Qur'ān verses, or of both *ḥadīths*, or of *ḥadīth* and verse, the *fuqahā'* had selected the later and rejected the earlier of any two conflicting statements. The selected, later, document is the *nāsikh*; the rejected, earlier statement is the *mansūkh*, while the process of repeal or abrogation is known as *naskh*. This theory of *naskh*, or supersession was thus applied indifferently to Qur'ān and Sunna, being by no means restricted solely to the field of Qur'ān exegesis alone. There are therefore no grounds for the hasty assumption that the technique had originated in the exegesis of the Qur'ān.² Linguistic considerations and close examination of the Qur'ān contexts in which functions of the root *n s kh* occur, make it extremely improbable that the basic, primary meaning of the term is indeed, 'replacement'. As we saw earlier, in the Qur'ān *naskh* means: suppression, obliteration, which meaning accords with the use of the term in the cognate languages. But sanction was claimed by the theorists for the meaning they gave to the term to reside in the wording of Q 2,106 which reads: *mā nansakh min āyah aw nunsī hā na'ti bi khairin minhā aw mithlihā*: "Whatever āyah We *naskh* or cause to be forgotten, We shall bring one better than it, or (at least) similar to it." Whatever *naskh* may mean in this context, it is by no means convincing to argue that it can mean 'to replace' for that is the sense conveyed by the final clause: *na'ti bi khairin minhā . . .* which speaks of the consequence of *mā nansakh min āyah . . .*

The technical name given in their jargon by the scholars to the outline theory of repeal set out above was: *naskh al-ḥukm dūna al-tilāwah*: the earlier of two *rulings* has been set aside without any effect upon the earlier *wording*, which has continued to be transmitted alongside the wording of the later statement, and is still to be found in the texts of either the Qur'ān or the Sunna – but as a dead letter.

Thus the definition of *naskh* focused upon the suppression of the earlier of two rulings, while conceding the non-suppression of the earlier of the two relevant texts. This is thus a definition which fails to disguise conflation of two irreconcilable because competing definitions of *naskh*.

Further scholarly discussions centred exclusively upon the implications for the Qur'ān texts of the operation of the alleged phenomena of *naskh*. Here two additional theories evolved.

1. *naskh al-ḥukm wa-l-tilāwah*: the *naskh* had affected both the ruling and the wording of the 'earlier' of a pair of revealed verses. But not one single instance of this mode of *naskh* has been propounded in the literature. That is because in this formula, the term *naskh* means only 'suppression' as opposed to 'supersession'. Both wording and ruling of a Qur'ān verse have been suppressed, both have disappeared, having been withdrawn from the texts of the revelation later collected into the *muṣḥaf*. Verses had been revealed to the Prophet who subsequently forgot, or rather, was caused to forget them. It being impossible to point to the verses which had 'replaced' them, scholars have contented themselves with merely claiming that what the *muṣḥaf* now contains compensates for the loss of what it no longer contains.

Ex hypothesi, the formula *naskh al-ḥukm wa-l-tilāwah* can refer only to the Qur'ān. It had certainly originated in the *tafsīr* of the Qur'ān, in verses which seem to hint at the possibility of Muḥammad's forgetting portions of the text. The legend of 'the satanic verses' has already been mentioned, stemming from: *fa yansakh allāh mā yulqī al-shaiṭān* [Q 22,52] in which the stem *naskh* can mean nothing but 'suppress'. But reference should also be made to the exegeses of Q 87, 6–7 *sa nuqri' uka fa lā tansā illā mā shā'a allāh*: "We shall teach you the Qur'ān and you will forget none of it – save only what God wills."³ Addressed to Muḥammad whose forgetting appears to be envisaged, the verse recalls Q 2,106 which uses two stems: *mā nansakh min āya aw nunsihā*: *naskh* and *nisyān* employed in close association. Taken together, Q 2,106 and Q 87,6–7 could be made to appear to refer to two phenomena which were envisaged as acting upon the revealed texts:

supersession: *naskh al-ḥukm dūna al-tilāwah* [Q 2,106.]

suppression: *naskh al-ḥukm wa-l-tilāwah* [Q 2,106; Q 87.]

2. The second theory to evolve solely in the Qur'ān sphere: *naskh al-tilāwah dūna al-ḥukm* alleges the removal of a Qur'ān wording without any effect upon the validity of the ruling conveyed in a 'once-revealed' Qur'ān verse. The wording does not now appear in our texts collected in the *muṣḥaf*. This theory was contributed to the discussion on *naskh* by one group of *uṣūlīs*, following a dispute on a particular ruling of the *Fiqh*. Only two instances of this mode of *naskh* have ever been alleged, and since its first appearance – which

can be dated – it has never been universally acknowledged.⁴

Abū 'Ubaid makes not a single reference to it in his work.

The Qur'ān, like the Sunna, had originally relied for its dissemination upon oral transmission, and Muḥammad, it has been hinted above, is pictured in some of the exegeses of Q 87 as failing to retain in his memory all the materials revealed to him by Gabriel. Portions of the Qur'ān are thus conceived to have been irrecoverably lost before the Prophet had communicated them to his followers. In the case of the revelations which Muḥammad had successfully communicated, the quality of his memory is irrelevant. The Companions assumed the responsibility for their memorisation and preservation.⁵ Subsequently, certain of the texts, intended by their divine author not to appear in the version of the Qur'ān to be transmitted to posterity, were withdrawn from the memories of Muḥammad and his associates.⁶

What may be termed 'total omission from the *muṣḥaf*' has been stoutly defended by some in the lengthy discussions on the implications of the exegesis of Q 87, regarded as a divine reference to God's intended intervention in the processes of Muḥammad's memory. Similarly, Q 2,106 which associated *naskh* with forgetting (or causing forgetting) has been alleged to convey a parallel reference to intended divine intervention in the processes of both Muḥammad's and the Companions' memories. The exegeses of both verses are thus reflected in the classical theory of *naskh* as: *naskh al-ḥukm wa-l-tilāwah*. Both the ruling and the wording of certain once-revealed Qur'ān verses have been suppressed. They had been forgotten.

But alleged omission from the *muṣḥaf* may be only partial. In *naskh al-tilāwah dūna al-ḥukm*, only the wording [!] not the ruling of a once-revealed Qur'ān verse has been suppressed. This partial 'omission from the text' has been suggested by some of the *uṣūlīs* to explain cases in which the *fuqahā'* appear to have identified an 'original' Qur'ān ruling as the source of the *Fiqh* ruling – but where no Qur'ān wording corresponding to that ruling is to be found in the texts collected into the *muṣḥaf*. The 'wording', it is assumed, had already 'disappeared' before the Qur'ān texts had been collected into the *muṣḥaf*.

In the tertiary science of *uṣūl al-fiqh*, the term Qur'ān thus represents two designata: the 'totality' of the divine revelations historically granted to Muḥammad; and that percentage of those divine revelations now preserved in writing in the texts transmitted to posterity, the *muṣḥaf*. Of the two, only the latter, *muṣḥaf*, denotes a physical object. Qur'ān, on the contrary, can refer to an abstract

idea, whose contents can, however, be re-constituted when we compare the present contents of the *muṣḥaf* with those of the *Fiqh*. That re-establishes the ‘totality of the revelations’ brought by Gabriel.

Of the three, only one mode of *naskh* has relevance for the Sunna: *naskh al-ḥukm dūna al-tilāwah*, a mode that is shared with the Qur’ān. Occurrences of this mode are appealed to only in cases of conflict of sources, when *ḥadīth* clashes with *ḥadīth* or Qur’ān verse, and where Qur’ān verse clashes with Qur’ān verse, or with *ḥadīth*. The concept of ‘omission’ would be meaningless in relation to the Sunna. The final collection of the Sunna did not get fully underway until the 3rd/9th century, following the work of the *fuqahā’* and the *uṣūlīs*. Only then was it enclosed in a special literature, and so one will not expect to encounter references to the ‘omission’, total or partial, or to the suppression of the wording alone, or of both wording and ruling of a *ḥadīth*. That would be a contradiction in terms, since the *ḥadīth* or narrative, to be a topic of discussion, must first exist.

Abū ‘Ubaid makes it abundantly clear in his Introduction, as also, incidentally, in the text of his book, (and this is confirmed by the shape assumed by our theories of *naskh*) that, alongside the masses of accumulated contradictory *ḥadīth* reports which they must patiently sift through, the Muslim scholars all worked from a single common Qur’ān text.⁷ There can therefore be no mistake on this question of ‘omission’ from the Qur’ān. What is ‘missing’ from one scholar’s *muṣḥaf* is ‘missing’ from everybody’s text. The question of the so-called ‘variant readings’ refers, as we shall see, precisely to the alleged presence in one man’s *muṣḥaf* of something that is absent from everybody else’s *muṣḥaf*. For that reason, it will not figure in the discussions on *naskh*. This phenomenon, which might be referred to as ‘particular omission’ rather than the universally admitted ‘omission’, is encountered in Abū ‘Ubaid’s study, but under the heading of exegesis rather than of *naskh*.⁸

The wording of the three *naskh* formulae, as given above, is late, although the first, *naskh al-ḥukm dūna al-tilāwah*, represents an attitude already present in Mālik’s *Muwatta’*.⁹

The wording of the three-fold formulation fails to hide the confusions arising from the *uṣūlīs*’ regular understanding of *naskh* as ‘replacement’ which had, somehow, to be reconciled with the Qur’ān’s use of the term to mean: ‘suppression’.

1. *naskh al-ḥukm dūna al-tilāwah*: both ruling and wording of an ‘earlier’ document had allegedly been replaced because the ‘earlier’

ruling had actually been suppressed. That means there had been observed an apparent conflict between two of the sources: a Qur’ān verse had allegedly repealed a Qur’ān verse or a *ḥadīth*; or a *ḥadīth* had repealed another *ḥadīth* or a Qur’ān verse. Only this theory of the three applies equally to both sources. Qur’ān abrogates Qur’ān and Sunna. Sunna abrogates Sunna and Qur’ān.

2. *naskh al-ḥukm wa-l-tilāwah*: both ruling and wording of an ‘earlier’ document had allegedly been suppressed. They were never replaced. Neither ruling nor wording is, however, of the least relevance for the *Fiqh*, since neither now exists. This is a mode of *naskh* of interest solely to the exegetes.

3. *naskh al-tilāwah dūna al-ḥukm*: A Qur’ānic wording had allegedly been ‘suppressed’. It had never been replaced and it is absent from the *muṣḥaf*. The ‘ruling’ derived from that ‘wording’ was, nevertheless, never replaced either. It was ‘known’ to the *fuqahā’* who had derived from its ‘wording’ its particular ruling.

We have seen that it was the *uṣūlīs*’ function to account for the conclusions reached by the *fuqahā’*. If the *fuqahā’* – who, as we have seen, all had precisely the same Qur’ān text in front of them – reached different answers, that might be explicable if *imām* A had seized upon verse A, while *imām* B had fastened upon verse B, which addressed the same legal question but provided a different answer from the other verse. Both competing conclusions might be equally ‘correct’ in terms of logic, but only one – that handed down from the *imām* of one’s own school – was ‘legally’ correct, having been derived from the later of the two verses to have been delivered to the Prophet. The later revelation had improved, modified or even replaced the earlier. The ‘error’ of the other *imām* had lain in his seeking to deduce rulings from earlier, repealed sources. In this way, *naskh* may be seen as an instrument of inter-school competition, and it is certainly so used. But the schools are not in conflict on every question. They share many views and on these, may still be seen to make a common, shared appeal to *naskh*. Noting that the relevant statements transmitted in the relevant source, Qur’ān or Sunna, contradicted each other, the scholars solved this problem also, in the way just outlined, incidentally justifying their procedure by appealing to the Qur’ān source: Q 2,106. But this appeal to the Qur’ān for verification of the procedure occurs whether the conflicting documents chance to be both Qur’ān verses, or *ḥadīths*. Where, however, one document is a verse and the other a *ḥadīth*, it is in the highest degree significant that only a majority of the scholars appeal to

naskh. The claim that the theory of *naskh* and its application by the *fuqahā'* could be justified by the Qur'ān was itself only one aspect of the scholars' general habit of appealing for evidence to one of the two sources, the Qur'ān or the Sunna, and in the case of *naskh*, one scholarly procedure has reached back to the Qur'ān for an unassailable 'proof-text' in favour of its own legitimacy. It thus remains the responsibility of the reader interested in these discussions to ensure for himself that, in the case of *naskh*, this appeal to this Qur'ān verse, (or any other verse) is in fact justified and the claim to find Qur'ānic support for the theory fully sustained. We earlier expressed doubts as to whether *mā nansakh min āyah aw nunsī hā na'ti bi khairin minhā aw mithlihā* – which undoubtedly refers to *naskh* – refers to this theory of *naskh*, as we have thus far outlined it. If, as we have stated, the reference to 'replacement' is conveyed by the words *na'ti bi khairin minhā aw mithlihā*, it becomes clear that the verse's term *naskh* refers to something preceding that replacement, making replacement necessary.

For the moment, let us merely note that the term *naskh* to designate the theories we have outlined, was advisedly chosen. If the instances of *naskh* which the theorising was designed to solve were not confined to Qur'ān–Qur'ān conflict, but extended to cover also Sunna–Sunna conflict, the reading of the sense 'replacement' into the Qur'ān's term *naskh* need not of necessity have first struck the scholars only in relation to one type of source-conflict. It could as well have occurred in connection with the clash of two *ḥadīths* as in connection with the clash of two verses. At all events, the term *naskh* does not occur exclusively in the case of school–school conflict, but crops up also in cases of school–school accord on *Fiqh* conclusions themselves in conflict with one of the sources. In such instances, the theory of *naskh* transcends the inter-school conflict, which points to one of two conclusions: either that the appeal to *naskh* had not originated in inter-school squabbles; or, as we shall hope to establish, that in these instances where general accord prevails over the ordinary discord, and the schools are united on a particular *Fiqh* conclusion, but disunited on the details of its verification, they remain united in their appeal to *naskh*, differing merely as to precise identification of the *nāsikh* while agreeing on the *mansūkh*.

In the most significant such instance, the *mansūkh* source was the Qur'ān, and the scholarly procedure adopted unanimously by the schools all of whom appealed to *naskh*, suggests that included in the instances in which appeal is had to *naskh* was a situation in which a universally agreed element of the *Fiqh* collided head-on with the

contents of the *muṣḥaf*. The *fuqahā'* had had (at least) two sources to contend with: Qur'ān and Sunna. It would appear that the *uṣūlīs* had, however, three sources to contend with: Qur'ān, Sunna and the *Fiqh* itself.

One question discussed, and already alluded to above, was whether the Qur'ān may be held to have ever *naskhed* the Sunna, and whether the Sunna had ever been seen to have *naskhed* the Qur'ān. Here, the answers given demarcate the attitudes adopted by the majority and the minority referred to on a previous page.¹⁰ That is a question which we propose, however, to leave for the moment, in order first to concentrate upon the occurrences in the Qur'ān of the root *n s kh* which was thought admirably adapted to serve as the general designation of the theories here outlined. We need merely repeat that in the three formulae set out above, the term *naskh*, representing the concept of 'suppression', has been temporarily (although unsatisfactorily) reconciled with the quite unrelated concept of 'supersession', by means of the judicious use of the negative particle *dūna*.

A related use of the term *naskh* is found in the Hebrew of the Bible with, on each occasion, the sense of 'eradication', and, according to Jeffery, comparison with the cognate languages indicates that "the original sense of the root is clearly: 'to remove', 'tear away' (*evellere*) which original meaning is found in Q 2,100/106; Q 22,51–52, where the word is used, as Hirschfeld [Beiträge, 36] points out, precisely as in: Deut. XXVIII 63; Ezr. VI 11."¹¹

More than once already we have drawn attention to the use of the root *n s kh* in Q 22,52, where God speaks of the 'suppression of that which the Devil insinuates' – a reference expanded by e.g. Ṭabarī into a narrative about God's removing from the Qur'ān what had never been intended to be part of the Qur'ān. Ṭabarī exploits the tale to 'verify' his contention that one [!] of the possible meanings of the term *naskh* is 'suppression'. The motivation behind the invention of the tale of 'the satanic verses' had been the need of one of two parties of exegetes engaged in a furious dispute about the meaning of the exceptive clause of Q 87,6–7 (noted above) to furnish from the Qur'ān source itself irrefutable 'evidence' that not all that Muḥammad had given out as being Qur'ān revelation was now present in the *muṣḥaf*. That was a clear instance of exegesis being used to entirely technical ends. Ṭabarī himself was among those exegetes who insisted that Q 87 'proved' that it was indeed possible that Muḥammad had forgotten parts of the 'original' Qur'ān revelations. He interprets Q 87,6–7: "You [Muḥammad] will not forget, unless We desire to

cause you to forget parts of the Qur’ān by suppressing or withdrawing them.”

Curiously, Abū ‘Ubaid makes not a single reference to Q 22. He nonetheless establishes that, in addition to ‘replacement’, the word *naskh* does, in fact, include a reference to certain ‘omissions’ from the ‘original’ Qur’ān revelation. It is interesting, therefore, to note that here, he relies exclusively upon *ḥadīth*-narratives which he deploys in confirmation of his exegesis of Q 87 as a reference to Muḥammad’s forgetting – an idea which he thinks of as nothing particularly out of the way. For him, ‘forgetting’ is one of the modes of *naskh*, although he refers to it as *raf‘* – (withdrawal). This is the very word used by Ṭabarī which we have just rendered ‘withdrawing’.¹² For ‘suppression’, the mode of *naskh* allegedly mentioned in Q 22, Ṭabarī selected, instead, the term *ibṭāl*, ‘to nullify’.¹³

Abū ‘Ubaid establishes the equivalence *naskh* = *nisyān* merely on the grounds of the juxtaposition of both roots in Q 2,106, whose meaning is ‘indicated’ by both Q 87 and certain *ḥadīths* showing Muḥammad ‘forgetting’ this or that element of the revelations. Forgetting is reported also from the Companions. Thus, in Abū ‘Ubaid’s day, *naskh* had already achieved twin definitions: ‘replacement’ [supersession] and ‘omission’ [suppression].

The exegesis of Q 2,106 had occasioned the keenest disagreements, now reflected in the multiplicity of reported ‘variant readings’ and the range of the varying interpretations advanced in the names of several Companions and Successors. Abū ‘Ubaid exhibits familiarity with a number of ‘readings’ and exegeses, as discussed by an earlier generation of scholars. He reports ibn ‘Abbās as having commented: *mā nansakh min āyah*: ‘Whatever verse We replace,’ [*nubaddil*]; *aw nansahā*: ‘We leave it as it is, [*natruk hā*] We do not replace it.’

The *tafsīr* amounts only to an allegation that ‘proof’ for the formula: *naskh al-ḥukm dūna al-tilāwah* can be discovered in this very verse.

Q 13,39: *yamḥū allāh mā yashā’ wa yuthbit* allegedly meant: ‘God will replace [*yubaddil*] whatever part of the Qur’ān He pleases; He will then suppress it [*fa yansakhuhu*]. Similarly, God will endorse [*yuthbit*] whatever part of the Qur’ān He pleases – He will not replace it. The entirety of the Qur’ān, its *nāsikh* and its *mansūkh*, exists in the divine presence in its Heavenly original – *wa ‘indahū umm al-kitāb.*’

A Mujāhid report ‘clarifies’ the ibn ‘Abbās statement: Q 2,106 is a reference to the divine endorsement of a Qur’ān wording, even if its ruling has been replaced: *naskh al-ḥukm dūna al-tilāwah*. Both *tafsīrs*

are secondary to the formulae which they purport, on the basis of Qur’ān citation, to vindicate. There may possibly also lurk in the ibn ‘Abbās report an echo of Q 22: *fa yansakhuhu: fa yansakh allāh mā yulqī al-shaiṭān*. Q 13’s *yamḥū* undoubtedly means ‘to expunge’, although what God speaks of expunging has not been examined. Equally, there is in the ibn ‘Abbās use of the term *yubaddil*, an undisguised resonance from Q 16,101: *wa idhā baddalnā āyah makāna āyah . . .*

The interpretation of Q 2, 106 which Abū ‘Ubaid favours is that the verse refers to the ‘well-known phenomenon’ familiar to everyone: the *nāsikh* and the *mansūkh* of the Qur’ān. He rejects the ibn ‘Abbās *tafsīr* to the extent of arguing that the expression: *aw nansahā* derives, not from *n s y* meaning: ‘to leave something where it is’. It comes from *n s y* meaning ‘to forget’. Hence, it is a Qur’ānic reference to the omission of Qur’ān material from the *muṣḥaf*. That was the ‘reading’ of the senior Companions Ubaiy b. Ka‘b, ‘Abdullāh b. Mas‘ūd and Sa‘d b. abī Waqqāṣ. Besides, the reports on the ibn ‘Abbās ‘reading’ and interpretation, as they are known to the author, are conflicting. He therefore proposes to ignore them. To these major Companions, he adds the Successors: Sa‘id b. al-Musaiyab; al-Ḍaḥḥāk b. Muzāḥim. In addition, he refers to the Medinese and Kūfan scholars. Ubaiy read: *mā nansakh min āyah aw nunsika*; ibn Mas‘ūd read: *mā nunsika min āyah aw nansakh hā*. Both agreed in inflecting the *n s y* root in a causal form, a reading likewise traced from al-Ḍaḥḥāk: *aw nunsi hā*.

That the reading and interpretation of Q 2,106 had both been influenced by the exegesis of Q 87, is shown by Abu ‘Ubaid’s account of a dispute on the reading of the Q 2 verse, the substance of which can be re-constructed, despite the absence of diacritics. “Sa‘d b. abī Waqqāṣ recited: *mā nansakh min āyah aw tansa hā*, and it was pointed out to him that Sa‘id b. al-Musaiyab recited it: *aw nansa hā* [*aw nunsi hā*] perhaps: [*aw tansa hā*]. Sa‘d replied, with some heat: ‘The Qur’ān was not revealed to the Musaiyab family. Elsewhere in the Qur’ān, evidence can be found for the *tansa* reading: *wa udhkur rabbakā idhā nasīta* [Q 18,24] while, in Q 87, we find: *sa nuqri’uka fa lā tansā illā mā shā’a allāh.*’ ”

The latter verse left no doubt as to the possibility that the Prophet might forget some part of the Qur’ān text.¹⁴

The exegetical point of the quarrel is perfectly clear: is there or is there not Qur’ānic evidence to suggest that Muḥammad had been capable of forgetting parts of the Qur’ān? Is the exceptive clause of Q 87 effective, or merely rhetorical? What we have here is the

conundrum: Can a man acknowledged to be a Prophet forget the divine communications? Can a book of divine authorship survive in an incomplete form? Q 87 speaks of God's will, while Q 2,106 speaks of: causing to forget [*aw nunsi hā*]. God's will is omnipotent. God can choose to cause His Prophet to forget whatever He likes.

The association of 'causing to forget' with the root *naskh* in a single verse enabled the scholars to incorporate what looks like the dangerous notion of their Prophet's forgetting into extended *naskh* formulae, simultaneously 'confirming' the latter while substantially minimising the former. The concept of *naskh* is a good deal less uncomfortable than just forgetting.

The exegesis of Q 87 conformed with that of Q 13, Q 22. It was 'confirmed' by and, in turn, 'confirmed' the exegesis of Q 2, and for Abū 'Ubaid, the meaning of Q 2,106 was of considerably greater moment than its precise 'reading'. Its reference to the Prophet's forgetting is, he suggests, quite unmistakable, whether one reads *tansa*, as directly addressed to Muḥammad, or *nunsi* [even *tunsa*] as ascribed to God's intervention, since, as Prophet, Muḥammad functioned solely as God determined.¹⁵ The omission of verses from the Qur'ān has therefore, he concludes, indeed occurred. His strong conviction is next reinforced by reference to *ḥadīths*.

The author's close scrutiny of the alleged 'variant' readings and his analysis of the *ḥadīth*-stories shows the extremely detailed nature of the discussions conducted in an earlier period. The exegeses he reviews indicate that Q 2,106 had long since been placed alongside other verses of the Qur'ān and been made to furnish the Qur'ānic justification for the equation of *naskh* with 'replacement'. Especially if read in tandem with and in the light of Q 13,39 and Q 16,101, Q 2,106 can be said to indicate: *naskh al-ḥukm dūna al-tilāwah*; the wording that conveyed the now abrogated ruling is left where it is [*nansa; yuthbit*] in the *muṣḥaf* while the new ruling is introduced in a new verse [*nubaddil*].

In presenting the materials available to him in the Tradition, for the 'readings' and interpretation of Q 2,106, Abū 'Ubaid permits us, in addition, to sense the influence of certain scholars who shrank from any attribution of forgetting to God. They had re-interpreted all Qur'ān verses in which occurred the root *n s y* to derive a less obnoxious meaning. *atarka āyātunā fa nasītahā wa kadhālika al-yauma tunsā: nasū allāh fa nasiyahum*: both Q 20,126 and Q 9,67 together with Q 2,106 [*aw nansahā*] refer, not to 'forgetting' – God neither errs nor forgets – but to 'ignoring', 'leaving alone'.

By degrees, the effect of the root *n s y* in Q 2,106 was minimised, as

the semantic freight of the root *n s kh* was simultaneously extended. The two roots imperceptibly merged: *naskh al-ḥukm dūna al-tilāwah*. God suppresses the earlier ruling, but leaves the earlier wording where it is, in the *muṣḥaf*. No early scholar suggested that the root *āyah* might refer to anything other than to a verse of the Qur'ān. Thus, gradually, Q 2,106 was rendered the seeming equivalent of Q 16,101: *idhā baddalnā āyah makāna āyah* – a much more 'satisfactory' proof (which the Qur'ān might more often have been called upon to furnish) that *naskh* means 'replacement'. The appeal to Q 16,101 was, we have noted, indirect. There are, after all, theological difficulties attaching to the admission that the Divinity can change His mind. The appeal to Q 16 was nevertheless there, and it incidentally enabled the scholars to sidestep the fact that the Qur'ān's use of the stem *n s kh* (like the Bible's) implies suppression – i.e. outright and total removal. The wording of verses whose rulings have allegedly been abandoned, has not been removed from our texts of the revelation. Repugnance for the notion that the Divine Legislator might change His view on some matters dictated a scrupulous avoidance of the Q 16 term *tabdīl*, and a preference for a more neutral term, *naskh*. *Tabdīl* is a word best not spoken aloud, or too often.¹⁶

Even fewer scholars have suggested that *aw nunsihā/nansahā aw tansahā/tunsaḥā* might be a mere gloss on *mā nansakh*.¹⁷

To this point, we have witnessed how further Qur'ānic usage might be summoned to support the assertions as to the 'reading' and the interpretation of specific expressions. The Muslims were, however, prepared to go even further, not hesitating to tamper with the Qur'ān text itself, in the interest of interpretation, especially if they could contrive to avoid interfering with the agreed consonantal matrix. We already saw something of the sort in the variant vowel 'readings' proposed, and in the variation of the diacritics. The transmitted collected texts had been handed on without either symbols representing the short vowels, or any system of distinguishing several consonant-phonemes which shared a similar written outline. Some scholars were prepared to experiment with symbols additional to, but outside the outline. The alternative technique for avoiding the repugnant 'forgetting' is reflected in the further variant proposed for the phrase: *aw nansahā / aw tansahā / aw tunsahā / aw nunsihā*. The reading: *aw nansa'hā* enjoyed a certain vogue. The root *n s '* refers to *ta'khīr*, 'to defer', 'postpone', 'put off' which may have either temporal or physical, i.e. spatial connotations. Taken in this latter sense, 'driving off', 'pushing off to arm's length', i.e. driving verses

away from the Qur'ān texts, or from the breasts of the Muslims, as the shepherd drives off the wolves from his flock, using his *mīnsa'* or staff, the root *n s* ' amounts to exactly the same notion as 'suppression' but escapes the theological penalty attaching to 'forgetting'. Both *tafsīrs* can be claimed to be synonymous.¹⁸

If, however, taken in the temporal sense of 'postponing', the verse can be explained as meaning that, at certain points in the Prophet's mission, God had 'put off', 'deferred' the revelation of certain regulations until a later moment. This interpretation can have, in turn, the effect of imposing upon the stem *n s kh* its secondary meaning 'transcribing' i.e. from the Heavenly Tablet, therefore – 'revealing'. The meaning of the key verse, Q 2,106, radically alters in consequence: *mā nansakh min āyah aw nansa'hā na'ti bi khairin minhā aw mithlihā*: "Whatsoever verse We reveal, or postpone revealing, We shall reveal in the meantime, one better than it, or at least as good." As usual, this interpretation could appeal for the support of further Qur'ānic usage: Q 9,37 states that *nasi'u*, or the postponing of one of the sacred months to a later season for human convenience is a particular example of contumely towards the divine laws.

It could be objected that the entire Qur'ān has self-evidently not been replaced [!] as this interpretation appears to imply: are verses which have been revealed and verses which have been 'held back' in the divine presence for a determined period of time, equally to be thought to have been replaced?¹⁹ Possibly on account of the lesser degree of utility which this interpretation offered, it failed to wrest the primacy from its rival interpretation. Abū 'Ubaid here attributes it to 'Aṭā', Mujāhid, 'Ubaid b. 'Umair and 'many of the Readers', among them Abū 'Amr and other Baṣrans. The interpretation was not, however, lost. It became, not the principal, but certainly a subordinate reserve explanation of the verse, of use in the solution of several problems of source-conflict, chief among them the 'history' of Q 4,15. Thus, other scholars of the calibre of Shāfi'ī, Zamakhsharī and Baiḍāwī accepted the 'postponement' interpretation of the stem *naskh*, in addition to the 'replacement' interpretation of which it now offered further confirmation. In their hands, the 'postponement' etymology led to subtle refinement in the application of the theory of *naskh*, and extended its definition.²⁰

We merely observe here, that Abū 'Ubaid comments that the interpretation, which would attribute *naskh* to the whole of the Qur'ān is not the interpretation which he favours.

Differing from both ibn 'Abbās and 'Aṭā', in that he personally

finds no difficulty in attributing forgetting to the Prophet, Abū 'Ubaid finds in Q 2,106, in which both the roots *n s kh* and *n s y* occur side by side, divine evidence for the occurrence of two discrete, unrelated phenomena:

1. 'the well-known' phenomenon of repeal, abrogation [*tabdīl*];
2. the omission – rather, the divinely controlled removal – of verses, both from the written records of the revelation and from the memories of the Prophet and those around him.

1. 'The well-known phenomenon'

From the ibn 'Abbās *tafsīr* of Q 3,7: *huwa alladhī anzala 'alaika al-kitāb minhu āyāt muḥkamāt hunna umm al-kitāb wa ukhar mutashābihāt . . .* scholars had derived a quasi-technical term for verses in which no form of *naskh* is involved. These are the *muḥkam* verses [cf. Q 22,52] which are to be accepted and acted on. They are accepted as divine regulations still in force: *yu'man bihā wa yu'mal bihā*. Contrasted with them were the *mutashābihāt*: a further divine allusion to *al-nāsikh wa-l-mansūkh*. The *mutashābihāt* include verses which, although to be accepted as divine regulations, are not still in force: *yu'man bihā wa lā yu'mal bihā*. They are no longer practised.

These paraphrases highlight from the outset the chief characteristic of Abū 'Ubaid's book on the *nāsikh* and the *mansūkh* of the Qur'ān [and the Sunna]. The work was not designed as a mere theoretical study of an abstract theory. It seems, rather, that its author planned it as a helpful handbook to guide the practising *qāḍī* by supplying the evidence that would enable him to distinguish between [still] valid and [no longer] valid statements in the revelation. A retired *qāḍī*, Abū 'Ubaid seeks to explain the provenance of current 'practice' and the practical aspect of the *Fiqh* is several times stressed in the course of the present work. We leave to the Commentary remarks as to the 'actuality' of what Abū 'Ubaid seems to regard as the 'practice'.

His discussions enlighten our understanding of the evolution of the academic theories of *naskh* by, for example, showing that the ibn 'Abbās *tafsīr* of Q 2,106 was already a secondary development based on unstated, but implicit reference to the exegesis of Q 16,101: *idhā baddalnā āyah . . .* the sole Qur'ānic source of the equivalence *naskh: tabdīl*. Q 13,39 was then pressed into service to confirm this identification and to support the allegation that, in certain instances of *naskh* – i.e. in all instances of 'replacement', the wording of both supposedly conflicting verses has remained part of the collected texts of the Qur'ān.

One appreciates that these identifications with Q 16 and Q 13 were made the more plausible, given the continuation of Q 2,106: *na'ti bi khairin minhā aw mithlihā*. With perfect justice, this part of the verse – but *only* this part of the verse – can legitimately be appealed to in Qur'ānic support of any theory of replacement (although that raises in acute form the question of the meaning of the verse's term: *āyah*). The definition of Q 2,106's protasis: *mā nansakh* as meaning "Whatever We replace" is undoubtedly erroneous, it being an avoidable tautology to promise to replace what one has replaced.

Here, it is worth mentioning that the same verse's *āyah* has not universally been taken to mean: a verse of the Qur'ān.²¹ Insistence that that is what the word does mean carries the penalty of implying that certain Qur'ān verses are 'superior' to other Qur'ān verses. Moreover, *naskh* is not confined to the texts of the Qur'ān, but is said also to affect the *ḥadīths*, there being the parallel phenomenon of the *naskh* of the Sunna. Where the Sunna is said to have replaced the Qur'ān's ruling, how far may one suppose that the *ḥadīth* involved is 'superior' to the divine *āyah*? or even 'similar' to it?

Mujāhid's gloss on the ibn 'Abbās *tafsīr* was thus a theoretical advance of sorts, taking the 'replacement' notion away from Q 2,106's use of elatives, although Q 16 which uses the term *tabdīl*, also still uses the term *āyah*. Mujāhid's wording simultaneously, in its use of Q 13 vocabulary, accommodated the exegesis more neatly to the *uṣūl* theory: *nuthbit khaṭṭahā wa nubaddil ḥukmahā* is a precise reflection of: *naskh al-ḥukm dūna al-tilāwah*. The formula may now as easily be applied to the texts of the *Ḥadīth* as to the verses of the Qur'ān. According to another theological doctrine, the Qur'ān is *mu'jaz*. The inimitable wording of one divinely-composed *āyah* may not be held to be, in the literary sense, 'superior' to the inimitable wording of a second divinely-composed *āyah*. Nor could the humanly-composed wording of a *ḥadīth* ever be thought to be 'similar' – let alone 'superior' – to the divinely-worded text of a single Qur'ān verse. But the *ruling* of any *āyah*, even the *ruling* of any *ḥadīth* may be either similar to, or even superior to the *ruling* of another *āyah*. It may be just as easy to perform, or easier, or, if more difficult to perform, presumably productive of a richer reward hereafter in consideration of the greater effort expended.²²

Such thinking processes demonstrate how an Arabic root meaning 'to suppress' had gradually assumed in the scholars' shorthand the preferred technical sense of 'supersession'. That the same scholars had, nonetheless, not lost sight of the fact that the Qur'ān does use the root *naskh* in the sense of 'suppress' is the only construction that

one may put upon the wording of their three formulae in which clumsy concessions to the basic meaning of the term *naskh* have had to be made:

1. *naskh al-ḥukm dūna al-tilāwah*: the suppression of the ruling, but NOT of the wording;
2. *naskh al-ḥukm wa-l-tilāwah*: the suppression of BOTH wording and ruling.

While it may just be possible to attempt to make the case – (and the attempt is frequently encountered in the literature) – that in the two foregoing formulae, the term *naskh* might be translated 'replacement', the attempt is doomed to failure in respect of the third of the three formulae, where the term *naskh* can mean nothing but 'suppression':

3. *naskh al-tilāwah dūna al-ḥukm*, the only examples of which are both instances in which the *Fiqh* recognises a ruling (said to have been once-revealed), notwithstanding the suppression of the wording – the wording does not appear in the *muṣḥaf*.

The first of the three formulae Abū 'Ubaid expresses: *inna al-āyah al-nāsikhah wa [al-āyah] al-mansūkhah thābitātāni fī al-tilāwah wa fī khaṭṭ al-muṣḥaf illā anna al-mansūkhah minhumā ghair ma'mūl bihā wa-l-nāsikhah hiya allatī awjaba allāh 'azz wa jall 'alā al-nās ittibā'ahā wa-l-akhdh bihā*. i.e. *naskh* means 'supersession' of the ruling.

The second mode of *naskh* discussed by the author is that which he terms *raf'*, or withdrawal: a verse, once-revealed, is subsequently removed from the memories of the Muslims *and* from all written records of the revelation. But this is an exegesis which he bases on and sustains by reference to *ḥadīths*.

Some man learned a part of the Qur'ān by heart. Seeking to recite it at prayer by night, he found that he could not recall a syllable. A similar adventure befell two others and all three reported this to the Prophet next morning. Muḥammad told them that that section *rufi'at* [alt. *nusikhat*] that very night. *naskh* = *raf'* = withdrawal = suppression.

Here, the connection with Q 2,106 is quite broken, since nothing in the story corresponds with: "We shall bring another, superior to it, or at least similar to it." The *ḥadīth* embodies a *tafsīr* not of *mā nansakh*, but of *aw nunsihā* – or of Q 87: *fa lā tansā illā mā shā'a allāh*: "and you will forget nothing of it – except only what God wishes [you to

forget].” Under the aegis of discussions on *naskh*, the exegesis of Q 2,106 had merged with that of Q 87.

Absent from the body of the text as preserved in the MS., but recorded in the margin, is the celebrated story of the *muṣḥaf* of ibn Mas‘ūd. ‘Abdullāh reports that the Prophet had instructed him in the recitation of a *sūrah*. ‘Abdullāh got it by heart, and wrote it out in his personal *muṣḥaf*. Wishing to introduce the new *sūrah* into his devotions, he finds that he cannot recall a word of it. He checks his *muṣḥaf*, only to find the page blank! In the morning ‘Abdullāh reported these disquieting facts to the Prophet who informs him that that very *sūrah* had been withdrawn that very night.²³

Equally celebrated is the story of Muḥammad’s praying in the mosque by night and, hearing some man reciting the Qur’ān, exclaiming: ‘May God have mercy on that man! He has just reminded me of such-and-such a portion of the Qur’ān that I had quite forgotten.’²⁴

This well-known *ḥadīth* may have been intended to occur at this point in our MS. Unhappily, however, an entire passage, consisting of at least ff. 8b and 9a has been lost. Side 8a ends: *ṣallā rasūl*, which affords a strong presumption, but admittedly, only a presumption that the above *ḥadīth* might be expected. We have, in any case, Abū ‘Ubaid’s earlier assurance that he finds no difficulty in the admission that the Prophet could have forgotten (or been caused to forget) parts of the Qur’ān. Moreover, he knew the *ḥadīth*, for he comments upon it in the *Gharīb*.²⁵

Unhappily, Nöldeke-Schwally missed the point. Treating the story as an ‘historical’ document, they failed to note that it had emerged from the exegetical tradition. They thus arrived at a quite incorrect view of the implications of the *ḥadīth* for the Muslim account of the history of the collection of the Qur’ān texts into the *muṣḥaf*.²⁶

Apart from the difficulties encountered by the *uṣūlīs* in their self-imposed task of reconciling the findings [*aḥkām*] of the *fuqahā’* with the present condition of the Qur’ān texts; and apart from the inherited exegeses of the key verse on the question of forgetting Qur’ān, Q 87,6–7 – (a definite divine affirmation, it was thought, that Muḥammad would forget, or be caused to forget parts of the Qur’ān text) – there remained the ineluctable fact that Q 2,106 appeared to speak of forgetting in the same breath as *naskh*. Provision had, in the event, to be made for forgetting – that is, for ‘omission’ – in the *naskh* formulae. Hence, *naskh al-ḥukm wa-l-tilāwah*.

Such ‘omission’, as we have just seen embodied in the above *tafsīr-ḥadīths*, had not, of course, occurred accidentally nor hap-

hazardly. It had not occurred by reason of Muḥammad’s carelessness, nor yet through any human failing on his part nor on the part of the Companions. Omission from the Qur’ān was part of the divine redactional plan. It had been divinely pre-determined, and occurred under strict divine control. Given the Qur’ān’s supposed association of *raf‘* [withdrawal] with *naskh* [replacement] it was therefore natural that the Muslims should associate the one ‘phenomenon’ with the other. But only one of the two was the technical *naskh*, the ‘well-known phenomenon’ of Qur’ānic *nāsikh* and *mansūkh*. The other represented the alleged removal during the Prophet’s lifetime of certain once-revealed Qur’ān passages. Once removed, forgotten, withdrawn or suppressed, such passages could not be collected together with the other revelations now present in our *muṣḥaf*. They had been withdrawn by their divine author for His own unfathomable reasons. The rulings (if any) had also been suppressed, and had therefore never been of the least interest to the *fuqahā’*. Where the actual wording of these withdrawn passages is discussed – (for, in some instances, ‘examples’ of this class of *naskh* are presented in *ḥadīths* by individuals who claim to have preserved the wording in their proverbial memories) – the interest shown in it by the Muslims is more than merely antiquarian. The *ḥadīths* serve the very useful exegetical rôle of ‘confirming’ from an extra-Qur’ānic ‘source’ the *tafsīrs* of Q 87 and of Q 2, held to ‘indicate’ this very brand of *naskh*.²⁷ The mere existence of these *ḥadīths* placed the exegeses for our author, and for Ṭabarī and for the host of the exegetes, beyond any doubt. Here is an instance in which the *tafsīr* inspires *ḥadīths* which are then used to secure its own ‘verification’.

The second class of ‘omissions’ from the Qur’ān is very different. In *naskh al-tilāwah dūna al-ḥukm*, only the revealed wording has supposedly been suppressed. Its ruling has always allegedly been regarded as retaining its force. As in the above case, *ḥadīths* have kept alive the ‘memory’ of the wording, but the consensus of the Prophet’s surviving Companions as to what should and what should not be included in the *muṣḥaf*, now that the revelation is ‘completed’ with the Prophet’s death and can at last be collected together from the written fragments scattered among the population of Medina, in addition to their memories, guarantees their having been aware of the divine author’s intent to exclude those ‘verses’ from the texts.

Abū ‘Ubaid’s theory of naskh

Of the three, Abū ‘Ubaid acknowledges only two modes of *naskh*:

replacement and forgetting [withdrawal of wording and ruling]. The third mode: the withdrawal of the wording alone, with the retention of the 'revealed' ruling in the *Fiqh*: *naskh al-tilāwah dūna al-ḥukm*, he does not recognise, nor even mention. We must enquire into this circumstance.

Following the exegetical section of his Introduction, in which he set down the basic 'facts' pertaining to *naskh*, the author never again shows any interest in the supposed withdrawal of once-revealed Qur'ānic matter, i.e. in 'omission' from the *muṣḥaf*. Throughout the remainder of his study, he is concerned solely to identify individual regulations of the *Fiqh* which, although reported to have been in vigour in the Prophet's day, have, since that time, fallen into disuse. In other words, his work concentrates upon conflicting reports as to the 'practice' in the time of the Prophet and since. The regulations which he examines had been either commands or prohibitions and had been enunciated in either the Qur'ān or the Sunna. Quite simply, what this means is that scholars had had to take account of the problems created for them by the transmission of inconsistent accounts of the 'practice' of the Prophet, of his Companions or the Successors.

The instances of *naskh* which he examines, therefore, include examples drawn from both the Qur'ān and the Sunna and had been chosen to illustrate both the *naskh* of the Qur'ān by the Qur'ān and the *naskh* of the Sunna by the Sunna. There are, in addition, a few instances in which a Qur'ān ruling was thought to have superseded a Sunna ruling – but very much more significant is one instance of a Qur'ān ruling which had allegedly been replaced by a Sunna ruling. This arises in the course of the author's treatment of the Islamic penalties for sexual misconduct. It was on this precise question that the views of the *uṣūlīs* were so profoundly differentiated as to produce a sharply defined line dividing two diametrically opposed trends in *uṣūl al-fiqh*. On one side of the line stood our author; on the other side stood the *imām* Shāfi'ī, whose views we ought now to consider, in order to appreciate why it is that one of the three *naskh* formulae is absent from the vocabulary of Abū 'Uбайд.

Shāfi'ī and naskh

Credit is generally given to Shāfi'ī for the first attempt to lay down precise formal rules governing the *uṣūl al-fiqh*, the science of the recognised sources drawn upon by the makers of the *Fiqh* and above

all, to determine the mutual status of those sources. As the *Fiqh* had existed before Shāfi'ī, his work is retrospective and his rules descriptive, except insofar as he criticises scholars who had, in his view, gone wrong. In this case, Shāfi'ī's work may be described as prescriptive, as it certainly is as far as concerns the theory of *naskh*.

Shāfi'ī was probably the greatest polemicist of his day and in numerous works he covered most aspects of the *Fiqh*, showing conspicuous originality in *uṣūl*, or source-theory. Many are the tributes that have been paid to his pioneering work on theoretical questions, not least, on *naskh*. In his *Ikhtilāf al-Ḥadīth*, he sets out his methods for determining the choice to be made between conflicting *ḥadīths*, while in the *Risālah*, he patiently and lucidly confronted the problem of the occasional for him, merely *apparent* conflict between Qur'ān statements and *ḥadīth*-reports.

For Shāfi'ī, the revelations in the Qur'ān and the correctly ascertained 'practice' of the Prophet could never conceivably conflict. Such instances as had troubled the Muslims he tirelessly repeats are merely apparent, having arisen from an inadequate appreciation of the true historical relationship between Qur'ān and Sunna. In the Qur'ān, God insisted in numerous verses that the believer must unhesitatingly accede to the Prophet's every command and unquestioningly obey his every instruction.²⁸ This thesis is easily established on the basis of massive citation of Qur'ān verses. Shāfi'ī further draws attention to the equally numerous verses in which God equates obedience to His Envoy with obedience to Himself, or disobedience to Muḥammad with disobedience to Himself. In the *shahādah*, or basic confession of faith in Islam, God has linked Muḥammad's name with His own. For Shāfi'ī all such verses are divinely stated evidence that Muḥammad had been granted in matters pertaining to religion a status conferred on no other human being, however eminent. The Muslim's loyalty to God's Prophet must, therefore, be quite unconditional.

The rôle of Muḥammad as Prophet, Shāfi'ī states, was two-fold: to mediate to Man in the Qur'ān God's revealed commands; and to explain to Man on God's behalf (or, perhaps, under divine inspiration: *'an allāh*) the precise meaning of God's message and the precise manner in which He intended His commands to be carried out. Not merely had God sent down His Qur'ān in Arabic, the mother-tongue of His Prophet; God had granted Muḥammad – alone among humans – a comprehensive and perfect command and understanding of the language.²⁹ That thus rules out any claim to the right to exercise private interpretation of the holy texts, however brilliant a man's

linguistic attainments. Among the many problems which confront the ordinary believer in his endeavour to comprehend God's Holy Book is one presented by the Qur'ān's style. Part of the genius of the Arabic language is that frequently it does not distinguish verbally statements intended to have a universal import [*ʿāmm*] from statements intended to have only specific application [*khāṣṣ*].³⁰ In many instances, a second Qur'ān statement suffices to show that the apparently general import of a verse was, in fact, all along intended to carry a specific meaning. Shāfi'ī calls this type of clarification *takhṣīs*. It goes without saying, following the above preamble on the function of the Prophet within the economy of the divine revelation, that just as frequently, the badly-needed clarification is provided not in and by the Qur'ān, but by the reported behaviour of the Prophet in relevant situations – in and by the Sunna, as recorded in the appropriate *ḥadīth*-reports. The verbal explanations and the behavioural glosses supplied by the Prophet were quite indispensable to an accurate understanding of much of the Qur'ān text.

For instance, the Qur'ān lays down only a general command to pray, to fast, to make the pilgrimage and to pay *zakāt*. Nowhere does the Qur'ān provide any details as to the number or the manner of performing the ritual prayers, their frequency, or the hours at which they should be performed. The rites of the pilgrimage have neither been enumerated nor described. The articles on which *zakāt* is payable have not been specified, nor the rates listed. For the communication of these practical details, God has relied upon the personal example and verbal instruction to be provided by the Prophet. God has thus made men totally dependent upon the Prophet for the knowledge of the greater part of their religion.

The Muslims have been obliged to rely upon Muḥammad for guidance on all matters to which the Qur'ān referred only in general terms. How much more dependent are they upon the Prophet's instruction in matters to which there is no reference in the Qur'ān. But here also they have followed his lead, faithfully submitting to God's command that they obey His Prophet in all things.³¹

There is doubtless much force in these arguments of Shāfi'ī's. Insofar as they might be taken to refer to the contemporaries of the Prophet, we can have little quarrel with him. Where, however, we cannot follow him is in his categorical determination to identify with what he calls Muḥammad's 'verbal and practical instructions' the contents of one single branch of Islamic literature – the *Ḥadīth*.³² Shāfi'ī states that he is reluctant to believe that any Muslim believing in the reality of an afterlife, would consciously tamper with, let alone

fabricate a report purporting to represent information on Muḥammad's words and actions.³³ He thus requires our assent to the proposition that the *ḥadīth* reports, so long as they are said to emanate from the Prophet or his circle, and so long as they have been transmitted by individuals recognised in Shāfi'ī's circle as trustworthy, are authentically the sole absolutely reliable record of the instructions of the historical Muḥammad.³⁴ Information supplied as from Muḥammad, the Prophet of God, can, Shāfi'ī insists, in no sense be conceived to conflict with information communicated in the Qur'ān, the Book of God. Where Muḥammad's teaching differs from the Qur'ān, it may not be described as opposing the Qur'ān. On the contrary, if more fully worded, it fills out, complements, even supplements, the Qur'ān revelation. The Qur'ān source alone is certainly not sufficient.³⁵ The two sources, Qur'ān and Sunna, jointly present the revelation of God's will. So long as it is reliably reported to come from the Prophet, the Sunna can never be set aside in favour of the statements of any source – not even those of the Qur'ān. No statement occurring in the Qur'ān may be used as grounds for suggesting that perhaps the Prophet did not say what he is reported as saying, merely because it does not happen to agree with the Qur'ān.³⁶ The Sunna must be accepted without question. It is the Qur'ān which so commands. Accepting the Sunna, therefore, by divine command, the Muslim makes use of every sound *ḥadīth* to complete his understanding of the content and the intent of the divine revelation.

The Sunna and Qur'ān interpretation

Certain sunnas confirm and reinforce the Qur'ān statements. Others clarify the Qur'ān's meanings, especially where differing constructions might be placed upon the Qur'ān wording. In such cases, one does not choose between men's competing interpretations; it is the Sunna which indicates the 'correct' interpretation, sc. the Prophet's interpretation. In not one single instance has the Qur'ān superseded a ruling of the Sunna. If the Prophet had established a sunna on some matter on which God subsequently indicated *naskh* by revealing a verse at variance with that sunna, the Prophet would immediately introduce a second sunna in conformity with the latest Qur'ān statement, expressly to demonstrate the abandonment of his first sunna.³⁷ In every such instance, Shāfi'ī insists, the later, the *nāsikh* sunna, has invariably survived, having been handed down with scrupulous care from generation to generation in its appropriate

ḥadīth.³⁸ The Qur'ān has never once repealed the Sunna. Only a later sunna repeals the earlier sunna. Only a later Qur'ān verse repeals an earlier Qur'ān verse. For the purposes of *naskh*, the scholar must keep Qur'ān and Sunna strictly apart. Only Qur'ān abrogates Qur'ān and Qur'ān abrogates only Qur'ān. Only Sunna abrogates Sunna and Sunna abrogates only Sunna. God Himself confirmed this when He said: *mā nansakh min āyah*, for He stated that *He* would take charge of the *naskh* of Qur'ān verses, and that He would take charge only of the *naskh* of Qur'ān verses. God thus confined Himself to the *naskh* of His Qur'ān verses, implying that He would inspire His Prophet to *naskh* his own sunna.

This is only a very clever device to head off any appeal from any sunna back to the Qur'ān.³⁹ Shāfi'ī was much more concerned to divert attention away from the possibility of the *naskh* of the Sunna by the Qur'ān than of the *naskh* of the Qur'ān by any of the Sunna, which was for him not a serious technical problem, in the circumstances of his time. Of much greater moment was the problem of the relation between reports from the prophet and reports from the Companions. By Sunna, Shāfi'ī means only the Sunna of the Prophet. Now, in Q 2,106, God had said: *mā nansakh min āyah aw nunsihā na'ti bi khairin minhā aw mithlihā*. As nothing is similar to a Qur'ān saving only a second Qur'ān, so also, nothing is similar to a sunna, save only a second sunna. Sunna may *naskh* Sunna – but only Sunna may *naskh* Sunna, for nothing is similar to any sunna save only another sunna, God not having granted to *any other human* the status vis-à-vis His religion which He had granted to His Prophet. Thus, in the presence of a sunna, we ignore reports from any other quarter. The Sunna can never be thought to have been superseded by any Companion-report. That had never, could never happen.⁴⁰

An alleged instance of the naskh of the Qur'ān by the Sunna

The *fuqahā'* were unanimous that the Islamic penalty for adultery was death by stoning. The task of the *uṣūlī* was to trace the individual *ḥukm* of the *Fiqh* to its ultimate source.

In Abū 'Ubaid's day, the *uṣūlīs* traced this penalty to the Sunna, as he is content to report approvingly [ff. 89a–90b].

Comparing the *Fiqh* penalty with the Qur'ān, which lays down a flogging penalty for sexual misconduct [Q 24,2] Abū 'Ubaid's informants, reporting from ibn 'Abbās and especially from 'Ubadah b.

al-Ṣāmit, [both considered to be Companions] asserted that, as opposed to the Qur'ān, the Sunna had made a distinction between fornication and adultery, applying appropriate penalties in each case. The author accepts the reports with no discussion whatever, and without the least hint of any dissent or disagreement among earlier or contemporary *uṣūlīs* on the question. He accepts without demur that this is one ascertained instance of the *naskh* of the Qur'ān by the Sunna. In this, his attitude is the same as that of the older *imāms*, Mālik [d. 179/795] and Abū Ḥanīfah [d. 141/758].

The sharpest possible contrast is provided by the attitude of his contemporary Shāfi'ī [d. 204/819]. Shāfi'ī has devoted to this question a lengthy and painstaking analysis and an understanding of his position is of importance. Although he was a near-contemporary of Shāfi'ī, dying 224/838, Abū 'Ubaid does not know Shāfi'ī's ideas – indeed, not once throughout his lengthy study shall we find the name of Shāfi'ī so much as mentioned. Accepting, like the other *imāms*, that the Islamic penalty for adultery is indeed death by stoning, Shāfi'ī seeks to demonstrate that here we have an exact illustration of the interdependent relationship between Sunna and Qur'ān that he had laboured long and skilfully to develop in the *Risālah*. From the outset, it should be noted that this discussion does not lie wholly within Shāfi'ī's exposition on *naskh*. Rather, it is conducted in the light of his theory of *takhsīṣ*, which, as we shall see, is a theory of exclusion.

The Qur'ān's flogging penalty does not carry the general application it might seem to. Indeed, the Qur'ān itself, Q 4,25, informs us that flogging was not intended as a universal ruling. Slave-women it is said [Q 4] shall be subject to one-half of the penalty appointed for [free] females. Slave-women are thus already excluded from Q 24,2's apparently general ruling which imposed 100 lashes for sexual misconduct. The 100 lashes must refer to free offenders only. The penalty for the slave will be, in that event, 50 lashes.⁴¹

Similarly, the Prophet distinguished the penalty for fornication from that for adultery. 'Ubadah reports that the Prophet said, 'for the unmarried, 100 lashes and twelve months' banishment; for the married, 100 lashes and death by stoning'.⁴²

Q 4,25 has spoken of the slave-woman's penalty as one-half of that appointed for the free. As it would be absurd to speak of one-half of death by stoning, it is the Qur'ān once more which indicates that the slave-women are excluded from the stoning penalty, wherefore their penalty must be 50 lashes and six months' banishment.⁴³ The penalty for free offenders is thus two-fold: according to the Qur'ān, flogging;

according to the Sunna, flogging *and* banishment or flogging *and* stoning. Having access to the Sunna, we can confidently apportion the penalties to each of these three categories of offenders. In all three instances, the Sunna has ‘endorsed’ the Qur’ān’s flogging element of the penalty,⁴⁴ while, appropriately to each category, amplifying the rule established by Q 24,2. Shāfi‘ī refers to this amplification of the Qur’ān’s intent as *bayān* or *tafsīr*. As stated, it lies outside his theory of *naskh*.

The Sunna reported from the later stages of the Prophet’s career clearly shows an alleviation of the Sunna penalty previously introduced by Muḥammad. Certain late *ḥadīth*-reports to the effect that, although he endorsed his earlier sunna on the penalty for fornication, the Prophet had modified his penalty for adultery by dispensing altogether with the flogging element of the two-fold penalty, show the operation of *naskh*.

What we actually witness here, is a conflict of sunnas. Shāfi‘ī chooses, rather, to treat it as a matter of dating: the later reports abrogate the earlier.⁴⁵ His conclusion is that stoning alone abrogated the earlier stoning-with-flogging. Throughout the long history of the penalty, the Sunna had provided, on God’s behalf, the perfect elucidation of His intent. Q 4,25 modified Q 24,2; that is an instance of *takhṣīs*. The stoning sunna modified the stoning-with-flogging sunna; that is an instance of *naskh*, the Sunna had *naskhed* the Sunna. Both Qur’ān and Sunna had supplied the *bayān* of Q 24,2. Qur’ān and Sunna therefore jointly served in this instance to make clear the divine intent.

From the foregoing, it is clear the Shāfi‘ī has obeyed his own injunction that the study of the *naskh* of the Qur’ān is to be kept severely separate from the study of the *naskh* of the Sunna. In his hands, the two never intersect.

Both before and since Shāfi‘ī’s times, intelligent men have failed to grasp that one can properly speak of stoning as the ‘elucidation’ of flogging. They (and with them, Abū ‘Uбайд) could but conclude that, on this question, the ruling of the *Fiqh* unmistakably pointed to the *naskh* of a ruling of the Qur’ān by a ruling of the Sunna. Yet other scholars, especially the later adherents of the school of *Fiqh* set up in memory of Shāfi‘ī, long accustomed to their *imām*’s theories of *naskh*, and heirs to his detailed and closely-argued analysis of this problem of the penalty for adultery and its ultimate source, arrived at a (historically) interesting conclusion. Shāfi‘ī’s exposition had been, for once, marred by some carelessness in the use of language quite uncharacteristic of his normal style, and pondering his argument that

‘Ubādah had conveyed ‘the first penalty to have been revealed’ following the revelation of Q 4,15;⁴⁶ that reports on Muḥammad’s later ‘practice’ showed that stoning was the *nāsikh* of stoning-plus-flogging; that flogging was *mansūkh* in the case of those whom the Prophet merely stoned (thus alleviating the earlier penalty);⁴⁷ that only the Qur’ān may *naskh* the Qur’ān and the Sunna may never be held to have done so – his pupils perceived that this must be an instance of the *naskh* of the Qur’ān by the Qur’ān. A Qur’ānic stoning penalty must have abrogated a Qur’ānic flogging penalty. They further perceived that, since its first institution, the stoning penalty had been applied consistently in cases of adultery by the Prophet, and after him, by the caliphs, and after them, by the Muslims. It had unanimously and consistently been upheld by the *fuqahā’* down to their own day. Without a doubt, stoning was the Islamic penalty for adultery.

But in this particular instance of the *naskh* of the Qur’ān by the Qur’ān, they further observed that the relevant wording is now absent from our texts of the Qur’ān, the *muṣḥaf*. From further *ḥadīths* that had come into circulation, they were familiar with the ‘wording’ of the stoning-‘verse’. Naturally they concluded that this must now be accepted as an instance of a third mode of *naskh*: *naskh al-tilāwah dūna al-ḥukm*.

In this, they went beyond the somewhat equivocal conclusions of Shāfi‘ī himself on the question of stoning.

It was on quite a different topic – *raḍā‘ al-kabīr* – (unmentioned by Abū ‘Ubaid) that Shāfi‘ī himself, in deference to a *ḥadīth* from the Prophet’s widow, ‘Ā’ishah, committed himself to basing his *Fiqh* conclusion (on which he separated himself from his teacher, Mālik) upon an alleged Qur’ān ‘verse’ which, however, he acknowledged, is no longer to be found in the *muṣḥaf*.⁴⁸

Combining this argument with their *imām*’s known views on the relation of Sunna to Qur’ān in respect of *naskh*, later Shāfi‘ites habitually speak of the stoning penalty and of *raḍā‘ al-kabīr* as the two ascertained and documented instances of *naskh al-tilāwah dūna al-ḥukm*. This third mode of *naskh* is thence taken over into the *naskh* works as the third type of verse represented in the third of the now familiar formulae.

Here is the evidence of the split in the ranks of the *uṣūlīs* we spoke of earlier. We can distinguish and identify those who insist upon three modes of *naskh* and those who accept that there are only two. Among the latter, we can count our author, Abū ‘Ubaid.

The preceding discussion has made it clear that the third of the

classical modes of *naskh*: the suppression of the wording without, however, the suppression of the ruling, was introduced into the theory by scholars who agreed with their opponents on the *Fiqh* ruling whose source they were seeking to identify. *Uṣūl-al-fiqh* thus comprises two activities:

1. tracing the agreed *Fiqh* to its putative source;
2. in the event of a clash of *Fiqh* ideas, tracing one's own *Fiqh* conclusion to a source in either Qur'ān or Sunna.

But, should the attempts to trace *an agreed Fiqh conclusion* lead to varying statements as to the source of that ruling, the disagreement carries over into modifications of the source-theories of the disputants as, in the present instance of the penalty for adultery, the result has been modification of the theory of *naskh*. That had arisen for the Shāfi'is owing to their inability to accept that the Sunna might, on even one occasion, be admitted to have abrogated the Qur'ān.

By pursuing such differences in theoretical approach back to their origins, we can successfully dismantle the elegant three-fold articulation of the mature *naskh* theory. The Muslim writers on *naskh* were well aware of all the factors that had contributed to these developments and, as we shall see in the Commentary, expressed them openly. It is from them that we learn that the third mode of *naskh* had been the work of scholars unable to concede that the Sunna had, even in one instance, ever abrogated the Qur'ān. Those, on the contrary, and Abū 'Uбайд is found to be among their number, who saw no difficulty in drawing from the evidence of the *Fiqh* the conclusion that the Sunna, in this matter of stoning, had clearly abrogated the ruling of Q 24,2, dispensed entirely with this third mode.

Not merely does the Sunna abrogate rulings of the Qur'ān. Equally, on occasion, Abū 'Uбайд argues, the Qur'ān abrogates rulings of the Sunna. One instance he adduces concerns the discipline of the ritual prayer. A most interesting series of *ḥadīths* occurs at ff. 13a–b. 'Abdullāh b. Mas'ūd alleges that before he emigrated to Ethiopia, he had been in the habit of saluting the Prophet who would return his greeting, even if engaged in the prayer. On his return to Mecca, 'Abdullāh greeted the Prophet as usual, but Muḥammad remained silent. Completing the prayer, the Prophet explained, "God introduces what new regulations He pleases, and He has now ruled that we must not speak during the ritual prayer."

Their earlier sunna had therefore been abandoned. The second report, also from 'Abdullāh, merely rationalises the change: "During the prayer one is pre-occupied."

It is the third report which is the most intriguing. The Muslims had been in the habit of chatting during the ritual prayer until God revealed: "*wa qūmū lillāh qānitīn*".

The first report leads only to the conclusion that *wahy* supersedes *wahy*. The second implies that the Prophet, as his spirituality developed, changed some of his earlier, easy-going ways. The third report, however, brings together several of the features characteristic of the materials assembled by our author. Here, we see a type of report which shows exegesis operating on the basis of appeal to *asbāb* – that is, the claim to be able to derive a clearer understanding of the meaning of a given verse, given information as to the circumstances in which its revelation had been provoked. We can apply no control, other than linguistic test to the content of such reports, or comparison with the total Qur'ān context in which the given verse occurs. This report invites one to concede that the root *q n t* refers to 'silence'. It simultaneously asserts that here is unequivocal evidence of the Qur'ān's abrogating the Sunna. We must be constantly alert to the question of whether the sunna would even exist, but for the Muslim's problems with this verse.

'Abdullāh is prominent in a further *ḥadīth*-series on the institution of the Ramaḍān Fast. The celebrated Islamic observance was asserted by many to have replaced an earlier fast which Muḥammad had allegedly adopted, in honour of the Day of 'Āshūrā'. There is not one single direct reference in the Qur'ān to any such fast. On the other hand, it is known that many Muslims, reading the passage in which the Ramaḍān fast is imposed, "Enjoined upon you is the obligation to fast, as fasting was imposed upon those before you," understood the reference to be to the timing of the fast, rather than merely to the *fact* of imposition. In their eagerness to run down every single allusion in the Sacred Book, – since exegesis abhors a vacuum – they sought to identify the fast that had been imposed on "those before". Some decided that it had been the 'Āshūrā' fast, observed by the Jews before the coming of Islam. Thinking that the fast of those before them had been imposed upon them by the Qur'ān, and knowing that the Ramaḍān fast had also been imposed upon them by the Qur'ān, and was still being observed universally throughout Islam, they naturally supposed that 'Āshūrā' was either still an obligation for the Muslim, or that its obligatory observance had been overtaken, dislodged and replaced by the Ramaḍān fast, and so suppressed. *Ḥadīths* in circulation support each of these two propositions. In one report, 'Abdullāh remarks that 'Āshūrā' had merely been a day which Muḥammad had marked with a *voluntary* fast

before the imposition of Ramaḍān. When Ramaḍān was instituted, °Āshūrā' was abandoned.⁴⁹ The report is a counter-*ḥadīth* designed to deny that this was an instance of *naskh*. °Āshūrā' had never been obligatory. A second counter-*ḥadīth* from °Ā'ishah makes both time-scale and exegetical influence somewhat clearer: °Āshūrā' was a pre-Islamic custom which Muḥammad had observed in the Jāhiliyah. He continued to observe it and commend it to his followers until the imposition of Ramaḍān, since which time, °Āshūrā' has continued to be optional for the Muslim. Since °Āshūrā' is not now and never was obligatory, there is no need to assume *naskh*. But, if °Āshūrā' had never been mentioned, there would have been no need to assume *naskh*. °Ā'ishah's view of the history of °Āshūrā' does not break the link between alleged pre-Islamic custom and the Qur'ān's reference to fasting, "as fasting was imposed upon those before you". By substituting pre-Islamic Arabs for Jews in its alternative exegesis of "those before you", the report was calculated to break the alleged connection between Muḥammad's supposed 'practice' and Jewish practice, just as reports alleging that, while still at Mecca, Muḥammad had prayed towards Jerusalem before the revelation of the Meccan *qiblah*, taking care to place the Ka'bah between him and his line of sight towards the Temple, had been calculated to counter the claim that Muḥammad had borrowed the first *qiblah* from the Jews of Medina.⁵⁰

References to pre-Islamic custom are, as we shall see, a commonplace in the *ḥadīths*, and if not as here, visibly triggered by the Qur'ān's wording, are not to be taken as more than exegetical efforts to 'get behind' the Qur'ān wording. Alleged links with the Jāhiliyah were also intended to include by extension reference to custom in 'the early days of Islam'.⁵¹ This betrays the rôle of such reports within a sub-science crucially dependent for information on dating which determines its ability to distinguish 'the earlier' from 'the later'.

Reports about ibn °Umar's determined refusal ever to acknowledge °Āshūrā' as an Islamic practice show us an aspect of the later contention among the Muslims, while the foregoing discussion shows the general point at issue. The ibn °Umar evidence aimed to counter the evidence of those who now argued that although 'abrogated', °Āshūrā' remains a commendable act of Muslim piety.

One may thus tease out from all this material, a minutely detailed exegetical squabble over the function of the word "as" in Q 2,183: "as fasting was imposed upon those before you". Had the word been read as a mere conjunction (rather than as a relative) and seen to address the mere *fact* of imposition, rather than the manner of fasting, the

exegetical, *ḥadīth* and *naskh* literature on the subject would have been considerably thinner. The mere allegation that the Prophet had observed the fast of °Āshūrā' sufficed to add this fast to the Sunna. When their exegesis of the verse was challenged, the proponents of this view could now urge the Sunna in its support. Of particular interest to us must be the procedure adopted throughout by the opponents of this "°Āshūrā' exegesis". Some were prepared to concede, for the sake of argument, that Muḥammad and his followers had, indeed, observed the °Āshūrā' fast in 'the early days of Islam'. They thus quietly deferred to the *ḥadīths* to this effect. They nevertheless 'neutralised' the *ḥadīths* by assigning to them an early date. Some could even accept that the *ḥadīths* referred to 'the early Medina days' and rationalised the Prophet's conduct as having been motivated by expediency when he still entertained hopes of conciliating the Jews and of winning them for Islam. The manoeuvre failed, Ramaḍān was revealed and °Āshūrā' "reverted" to its voluntary status. Other reports spoke of °Āshūrā's being abandoned. Shāfi'ī, however, would wholly re-interpret these reports: °Āshūrā' had at no time been obligatory for Muslims; the Prophet had never declared it so, and thus the Qur'ān's imposition of the Ramaḍān fast cannot be held out as one instance of the *naskh* of the Sunna by the Qur'ān. It is not even an instance of the *naskh* of the Sunna by the Sunna.⁵²

The third view, that it represented an instance of the *naskh* of the Qur'ān by the Qur'ān, had been the outcome of the comparison of Qur'ān verse with Qur'ān verse. The Qur'ān's fasting pericope, Q 2, 183–7, had been subjected to a hypermeticulous exegetical analysis. Q 2,183 was alleged to refer to the imposition of a fast – the fast of those "before the Muslims" – prior to the imposition of Ramaḍān in Q 2,185.

The *ḥadīths* on this subject appear in Abū °Ubaid's study of the 'abandonment' of the °Āshūrā' fast, and, indeed, he states that, on its revelation, Ramaḍān was considered to have replaced this 'earlier fast'. The whole discussion affords a valuable illustration of the minute attention to Qur'ānic detail in the earlier exegetical debates. That had resulted in the 'atomisation' of the Qur'ān texts, as individual words, ["as"] came to be separated from their contextual position. We have seen this in the case of "those before you" and it occurred also in the case of "ayyāman ma'ḍūdātin".⁵³ This fragmentation of the Qur'ān texts led to the creation of multiple intra-Qur'ān sub-contexts each discussed in isolation from the passage in which it occurs in the texts. Naturally, that led to the multiplication of 'early sunnas'. Several fasts could be discussed as

having been imposed upon Muslims before the imposition of Ramaḍān. The references in the Qur'ān to these other fasts occur on the page before the first mention of Ramaḍān by name. The exegetical procedures, in turn, created opportunities for re-multiplying the number of cases to which the principle of *naskh* required to be applied.

From these, and numerous similar instances, to which attention will be drawn in the Commentary, we now perceive that the reports we have to deal with in the *ḥadīths* purporting to describe the Sunna, had been directly exegetical in origin. The reports [sunnas] sprang from the words and the lay-out of the Qur'ān, although they had been inspired not by the actual words of the Qur'ān, but rather, by the words of an intervening exegesis. That becomes apparent if we refuse superficially to accept the resultant *ḥadīths* as 'historically true' documents for the Prophetic age, preferring to subject them to the same meticulous analysis and dissection to which the Muslims had subjected the Qur'ānic texts.

Enabled to re-trace the steps of the Muslim exegetes, we would do well to guard against the natural tendency of their successors to treat Qur'ān and Sunna as distinct and unrelated streams of Islamic Tradition. That attitude had resulted in the formation of the concept of *naskh*. Finding countless instances in which his 'two' supposed sources were in conflict, the Muslim scholar's first instinct was to seek a means of bringing his two conflicting statements into harmony. Subtle hermeneutics can often, by appeal to semantic or syntactic considerations, remove an apparent gulf between sources and show their incompatibility to be more superficial than substantial. On the question, for example, of fasting when on a journey in Ramaḍān, two opposing attitudes were equally 'soundly' reported as from the Prophet. Muḥammad, we are told, fasted when travelling; Muḥammad, we are told, broke his fast when travelling. He is reported to have declared: 'Piety does not consist in fasting while travelling.' But according to the Ramaḍān regulations, as detailed in the Qur'ān, the traveller would appear to be granted the concession of postponing the fast until he had completed his journey. Some Muslims, however, shrank – so great was their veneration for the sacred month – from breaking the fast, even in conditions when they might, with clear conscience, do so. They were of the opinion that the Qur'ān's "but to fast is *khair*," meant: "but to fast [when travelling] is nevertheless, the more meritorious course." In support of their own scruples, they pointed at the Prophet's supposed conduct. Abū 'Ubaid takes the opposing view and, following exhaustive comparison of numerous

versions of the relevant reports, finally concludes that it is reliably reported that the Prophet had done both: he had both fasted on some journeys, and broken the fast on others. Interpreting one set of *ḥadīths* in the light of the other [*ta'wīl*] and deciding that either course is equally legitimate, he suggests that the Prophetic dictum: 'Piety does not consist in fasting when travelling,' is to be construed in the spirit of 'Piety does not consist [solely] in fasting when travelling.' Not fasting when travelling may thus equally be described as Muslim piety, if one does not perversely decline the gracious concession granted by God to the traveller, nor aim to show disdain for the Sunna of the Prophet. "God desires for the Muslims ease; He does not desire for them that they be over-burdened." The scrupulous view, the result of a much stricter exegesis, had failed to convince him.⁵⁴ Abū 'Ubaid then rationalises his choice: fasting when travelling may render a man incapable of the proper performance of his other religious obligations, such as the ritual prayers.

On the parallel question of abbreviating the ritual prayer when travelling, he addresses himself to the contradictions in the reported 'practice' of both 'Ā'ishah and 'Uthmān. To the former is attributed the helpful information that the prayer had 'originally' been revealed [and hence, 'practised'] as consisting of two *rak'ahs* only, later increased to four *rak'ahs* for all except the traveller. There circulated, however, a counter-*ḥadīth* to the effect that, notwithstanding this utterance, 'Ā'ishah herself invariably completed the four *rak'ahs* when she was travelling. Similar parallel sets of reports on 'Uthmān's 'practice' were likewise available. The contradictions were, in Abū 'Ubaid's view, susceptible of *ta'wīl*, and he proceeds to rationalise each set of *ḥadīths*.

In this instance, his enthusiasm for harmonising the conflicting reports leads to his failure, either to quote the relevant Qur'ān verse, or to note that 'Ā'ishah's supposed statement on the first imposition of the ritual prayers is in stark contradiction to the Qur'ān's wording [Q 4,101.] "You will incur no guilt in that you *shorten* the prayer [when on a journey, you fear that you may be attacked when you pray]."

In this instance, Abū 'Ubaid's work enables us to participate in discussions conducted, not indeed, without any reference to the Qur'ān, although certainly conducted without direct reference to the Qur'ān text. The material of these discussions had been the exegetically originated *ḥadīths*.

Frequently we shall note that the exegetical discussions had developed their own inner momentum and proceeded along lines

dictated by the nature of the materials on which they focused. That was especially clearly brought out by the above type of discussion which fastened upon a single phrase, “those before you”, or even upon a single word, “as”, torn from its original Qur’ānic context.

In theory, although accounts from the Prophet’s Companions are all equally reliable, some are more reliable than others, for example, the caliphs, spoken of by our author as not only ‘rightly-guided’ [*rāshidūn*] but even as ‘inspired’ [*mahdīyūn*]. Numbers count too, and Abū ‘Ubaid expressly states that he prefers to follow the greater number of reports.

Further, there are considerations other than verbal reliability, veracity and good memory to be taken into account. The relative dating of the *ḥadīth* reports is crucial. The primitive (but adequate) rationalisation of the application of the *naskh* principle, as transmitted by Mālik from Zuhri, is known to our author: ‘They used to adhere only to the latest-known of the Prophet’s words and acts.’⁵⁵ The technical requirement that the dates of both conflicting reports be known gave rise to the science of biography [*rijāl*] whose twin, in the Qur’ān sphere is the *asbāb al-nuzūl ḥadīth*. The presumption was that the data made available in this type of *ḥadīth* enabled scholars to distinguish the later *āyah* from the earlier *āyah* as the basis on which to speak of *naskh*.

Naskh is thus merely one among several harmonising techniques called into being by the all-too-frequent occurrence (or claim) of conflict between the sources.

Not the least merit of Abū ‘Ubaid’s book is that it enables us today to see more clearly, and in a work dating from the formative period of the Islamic sciences, coming from the pen of one of the founders of those sciences, the various techniques of which the scholar of that time might avail himself and, particularly, this being the oldest systematic treatment of the theories of *naskh* yet discovered, we learn how those theories had found increasing favour as harmonising devices, admirably adapted to resolve the problems raised by the frequent clash of *ḥadīth* with *ḥadīth* and of exegesis with exegesis.

Whether there is any actual Qur’ān–Qur’ān clash, and if so, whether God, in His Book, has made any reference to any such eventuality, remains to be decided by the reader on the basis of his perusal of the work itself. The work’s special significance lies in its being the oldest known systematic analysis and illustration of the application of the theories of *naskh* to both the Qur’ān and the Sunna sources.

The discovery of the Topkapı MS. carries the theoretical literature

on *al-nāsikh wa-l-mansūkh* at one stroke, back one whole century. Hitherto, the oldest known available work was one somewhat dubiously attributed to Abū ‘Abdullāh Muḥammad b. Ḥazm [d. ca. 320/932].⁵⁶

Slightly earlier is the *K. al-nāsikh wa-l-mansūkh* of the Zaidī author, ‘Abdullāh b. al-Ḥusain [d. 300/912] MS. Berl. 10226, Istanbul, Bagdatlı Vehbi 189. The work attributed to the same man’s grandfather, al-Qāsim b. Ibrāhīm [d. 246/860] Berl. 4876, is not, in fact, a study of *naskh* and can here be disregarded as a case of careless cataloguing.^{56a}

Perusal of the work by ‘Abdullāh leads to the strong impression that its similarity to Abū ‘Ubaid’s work is unlikely to be accidental. The detailed lay-out of the individual sections is set out in an appendix for ease of comparison with the section headings of Abū ‘Ubaid’s book. From this it will be noted that the arrangement of the first eleven sections of both works is identical; sections 12 and 13 are interchanged, resulting in the separation of the discussion of the *waṣīyah* from that of the *mīrāth* in ‘Abdullāh’s work; sections 18 and 19 are also displaced relative to the Abū ‘Ubaid order, coming between Abū ‘Ubaid’s 15 and 16, although it is noteworthy that the two sections still come together. The order of the remaining sections coincides with that in Abū ‘Ubaid’s arrangement. Most striking, however, is the repetition of the discussion on the application of the *ḥudūd* to the *dhimmīs* [Abū ‘Ubaid’s 15, ‘Abdullāh’s 16]. Common to both texts, this repetition is not easily explained. As to ‘Abdullāh’s discussions, many arguments, familiar from Abū ‘Ubaid, re-appear. This is particularly noticeable in the lengthy discussions on the Fast. Here, Abū ‘Ubaid’s classification of the Muslims in terms of their responsibility vis-à-vis fasting in various circumstances [referred to by Abū ‘Ubaid as four *firaq*] appears as ‘Abdullāh’s classification of four schools of opinion, also *firaq*. A like degree of similarity is to be found in the long passages on the Prophet’s treatment of war captives, and to a less degree, although still remarkable, in most other sections. Once only does ‘Abdullāh refer to a topic unmentioned by Abū ‘Ubaid, in touching briefly on the topic of the *ʿitikāf*.

Both works may well have drawn upon a common original. Much more probable is the likelihood that ‘Abdullāh drew upon the work of earlier writers on the subject and that the book by Abū ‘Ubaid provided him with the bulk of the materials he needed set out in the most convenient form. There is serious ground therefore for questioning the originality of this Zaidī work, while its usefulness to scholars is much reduced by the almost total lack of *isnāds*.

The early date of the Topkapı MS. alone suffices to imbue the present work with a particular historical value for our study of the development of Islamic thinking on *naskh*. Indeed, we have already seen something of its utility in the light it shed on the internal development within the theory insofar as it has enabled the historian of *naskh* to appreciate the factors which fostered the differentiation of the *naskh* concept leading to the emergence of the youngest of the three modes listed in the *naskh* works. That had been added to the theory in direct consequence of the contribution made to *naskh* thinking by Shāfi'ī, who died only twenty years before Abū 'Uбайд himself, and who, although a younger contemporary of our author (whose work, indeed, appears to be still unknown to our author), had already debated many of the topics treated of by Abū 'Uбайд, enabling a convenient comparison to be made between their two very different approaches, especially at the theoretical level.

The attitudes and assumptions represented by Abū 'Uбайд exhibited an outlook not merely independent of what was to become the overpowering influence of Shāfi'ī on technical questions of the *uṣūl*, but, it may be suggested, typical of an older less formalised, and much less sophisticated pre-Shāfi'ī style of scholarship on these technical questions. Abū 'Uбайд had accomplished his learned contribution to the discussion of *naskh* before Shāfi'ī's reputation was established and before the significance of his methods became apparent. In his comparative studies of the views of the Hijāzīs, the 'Irāqīs and the Syrians, he has in mind the views of Mālik, Sufyān and Awzā'ī. He thus fills in the gaps in our knowledge of the techniques employed in the *uṣūl* and the arguments deployed especially in the area of *naskh* in the generation between Mālik and the appearance of Shāfi'ī's influence on the discussion of these questions. The opportunity the present work provides for the study of those 'pre-Shāfi'ī' techniques will emphasise, in turn, the magnitude of Shāfi'ī's contribution which, more than that of any comparable figure of his time, would determine the direction and spirit of the next stage in the development of the religious sciences of Islam.

Shāfi'ī's *Risālah*, drafted to provide the answer of *ahl-al-Sunna* to the current anti-*Ḥadīth* tendencies, succeeded all too brilliantly. We perceived that it was aimed primarily at two targets. *Ahl al-ra'y* advocated the right of the properly equipped scholar to private interpretation of the revealed texts. They did not mean by this to assert the right to draw their own conclusions by the exercise of mere unaided human speculation. For they are seen to rely upon *ḥadīth* statements from the Prophet, the Companions and the Successors

and a host of lower 'authorities'. This term *ra'y* may, perhaps, relate to their attitude to Qur'ān interpretation, particularly to their views on the relative weight to be attached to linguistic criteria, in contradistinction to the emerging tendency to rely primarily upon the Sunna as the key to *tafsīr*. They thought it legitimate to apply the canons of logic and of the 'Arabīyah equally to the texts of the Qur'ān and the Sunna, comparing verse with verse and *ḥadīth* with *ḥadīth*, as they strove to fashion for their scholarly needs improved methods of analogical reasoning. Shāfi'ī deprecated their approach as the path to individualism, thus to inconsistency in the *Fiqh*, to disunity, fragmentation and a weakening of Islam's stance vis-à-vis internal and external critics. For critics were to be found not only among the unbelievers.

There was a second group of Muslims who might tentatively be called *ahl al-qur'ān*. They opposed *ahl al-ḥadīth* by declaring themselves content with the Qur'ān, God's Word, as a sufficient source for the knowledge of the divine will – and for the construction of an Islamic *Fiqh*. They were inclined, in consequence, to minimise the need for the intervention between the Qur'ān and the Muslim of the *Ḥadīth*. Some were inclined to reject all *ḥadīths*; the more moderate were inclined to reject *ḥadīths* which did not have at least a basis in the Qur'ān – i.e. they accepted only *tafsīr-ḥadīths*.⁵⁷ They pertinently asked what control could be applied to other classes of *ḥadīth*. They advanced two main arguments: *ahl-al-ḥadīth* harboured in their ranks some simple-minded souls who offered uncritical and indiscriminating reception to countless reports purporting to come down from the Prophet but although equipped with *isnāds*, inspiring little confidence in thoughtful men. In far too many instances, the reports were mutually incompatible; many reports were repugnant to Reason, but worse than that, many flatly contradicted statements in the revealed Book of God.⁵⁸ Reports of that kind were a standing affront to the intelligent believer, and an insurmountable stumbling-block to the intelligent unbeliever. The activities of *ahl-al-ḥadīth* could be said to be bringing the faith into disrepute, and exposing it to ridicule both within and without the community of the believers.

Secondly, they were uneasy about the efficacy of that control which *ahl-al-ḥadīth* claimed to have over their material. As to the divine origin of the Qur'ān and the integrity of its texts there could be no possibility of doubt or hesitation. The revelations had been divulged by the Prophet in public to an entire generation, to whose transmission the Muslims are forever indebted both for the preservation of the texts and for the guarantee of their authenticity. Compared with

that, the *ḥadīths* had, in many instances, been handed on by two or three, in some cases, by only one man whose veracity and accuracy (let alone trustworthiness) could never be demonstrated. *Ḥadīths* were too much taken on trust. Further, the men of the *isnāds* were human and, unlike the Qur'ān, carried no divine guarantee of inerrancy. The texts of the *ḥadīths* ought to be exposed to comparison with the texts of the Book. What agreed with the Qur'ān could with confidence be accepted; what disagreed with it ought summarily to be dismissed.⁵⁹

Shāfi'ī was familiar with this argument, ironically, cast in the form of a *ḥadīth!* – underlining, it might be thought, the force of the criticism. The Prophet himself had allegedly warned the Muslims to beware: 'Compare any utterance purporting to come from me with the Book of God. Whatever agrees with it, I have actually said; whatever disagrees with it, I have not said.'⁶⁰ Shāfi'ī refused to acknowledge this as an authentic Prophetic dictum – the *isnād* was unsatisfactory! He refers to a counter-statement: 'Let me find none of you comfortably ensconced in his couch saying when a command or a prohibition issued by me reaches him: "I don't know about this. We shall follow what we find in the Book of God."'⁶¹

Here, Shāfi'ī insists, we learn from the lips of the Prophet himself that God has left no loophole through which men can escape the obligation to accept and humbly accede to the Sunna of His Prophet.⁶² Tirelessly, Shāfi'ī reiterates this doctrine on the divine imposition of the obligation to adhere to the Sunna and, since the opposition to the Sunna place their entire emphasis upon the Qur'ān, it is from the Qur'ān that he produces the evidence against them. We have already considered how many citations from the Qur'ān it was possible for Shāfi'ī to marshal. For him, as we saw, Islam stood on the twin foundations of Qur'ān and Sunna, always parallel, always in perfect accord, complementary and acting in unison to make known the plenitude of God's Will.⁶³

In the interest of strict consistency and uniformity, Shāfi'ī equally tirelessly insists upon the uniqueness of the Sunna of the Prophet. If it cannot be set aside on account of a statement of the Qur'ān, it certainly cannot be set aside in favour of the reported views or actions of the Companions, the Successors or even lower authorities. In the presence of the Sunna of the Prophet, no other statement is of any account. Where a statement of the Prophet is available, the Muslim has no option but to adhere to it.⁶⁴ As the Muslims of Shāfi'ī's generation have no access to the Prophet's views and actions, save through the *ḥadīths*, it follows that the Muslims are bound by the

divine command to accede to the contents of the reports reaching them from the Prophet. That is the very core of Shāfi'ī's doctrine on the Sunna, provoked by the methods of those Muslims who, although aware of reports from the Prophet on many questions, were to be seen regularly setting their Prophetic *ḥadīths* aside, in favour of reports from Companions on the allegation that the Companions knew the Prophet's mind best, or from Successors, or later figures. Reports from the Prophet were being ignored by those who preferred to take their knowledge from lower, even quite recent personalities. Worse still, statements from the Prophet were frequently abandoned arbitrarily, not even in favour of *ḥadīths* from other authorities, but simply because they proved inconvenient to some local view, based perhaps, on nothing higher than a man's own, or his teacher's opinion.

Shāfi'ī's arguments had been provoked and determined by the prevailing contemporary situation in the Islamic sciences, and mainly by criticism of the *ḥadīth* reports currently in circulation. He was primarily motivated by the necessity to place the reports from the Prophet in a special category out of reach of any allegation that the utterances and actions of the Companions could safely be taken as the most reliable indicator of the validity of this regulation or the invalidity of that. Shāfi'ī had discovered a method of navigation which promised safe passage through the shoals of confusion and currents of complexity which bedevilled every scholar launching on to the ocean of the *Ḥadīth*. A formally acceptable report from the Prophet rendered the multiple contrary indications from the countless Successors and Companions irrelevant, because redundant. Knowledge of the Sunna is provided only in reports from the Prophet. Sunna is to be compared with Sunna and with nothing else. But his comparing the Sunna with the Qur'ān in terms of the wording of Q 2,106, while it solved, for the moment, an immediate problem, would fall apart as soon as the immediate problem receded. His producing from Q 2,106's: *na'ti bi khairin minhā aw mithlihā*, the argument that nothing is like the sunna of the Prophet, save only another sunna of the Prophet, and thus nothing could *naskh* a sunna save only a second, later sunna, had been aimed at his contemporaries who were arguing that the sunna of the Companions, or even of the Successors 'indicated' the *naskh* of the relevant sunna of the Prophet.⁶⁵ Other *uṣūlīs* could claim, with like justification, that whereas nothing may be thought to be 'superior' to the verses of the revelation, the verses are presumably 'superior' to the dicta of Muḥammad.

Shāfi'ī's advocacy of the Sunna pushed him in the direction of regarding the Sunna of the Prophet as, in some sense, inspired. He certainly knew the expressions: *wahy matlū* and *wahy ghair matlū*⁶⁶ and the impact of his doctrine on the Sunna of the Prophet revolutionised the Muslim attitude to the sources. Thus, although Shāfi'ī himself forbore from ever alleging the *naskh* of the Qur'ān by the Sunna, a matter that for him had been settled once and for all by Q 2,106's: *mā nansakh min āyah* and by Q 16,101's: *idhā baddalnā āyah makāna āyah*, or by Q 10,15's: *mā yakūn li an ubaddilahu min tilqā'i nafsi*, it does not come as a great shock to discover that later in the century the Prophetic dictum in circulation: 'I have been granted the Book, and with it, its like,' *ūtūtu al-kitāb wa mithlahu ma'ahu*, was being interpreted in the sense that Gabriel who brought the Prophet the Qur'ān also brought him the Sunna, from which could be drawn the inference that, being "alike" the Qur'ān could abrogate the Sunna, and the Sunna could abrogate the Qur'ān.⁶⁷

A *Fiqh* specialist, Shāfi'ī had no interest in the purely exegesis-originated mode of *naskh al-tilāwah wa-l-ḥukm*. Legal regulations that 'might once have been' did not interest him. He recognised, therefore, only two modes of *naskh*. Both Qur'ān and Sunna, but each separately in its own sphere, indicated occurrence of *naskh al-ḥukm dūna al-tilāwah*. In the field of Qur'ān regulation alone, the *ḥadīth* of 'Ā'ishah on *raḍā'* led him to a single instance of the mode: *naskh al-tilāwah dūna al-ḥukm*. A second instance was to be added, as we have seen, by the *uṣūlīs* of the Shāfi'ī school who speak of the Qur'ān's alleged stoning-'verse'.

By contrast, Abū 'Uбайд, as we have also seen, had accepted the *Fiqh*'s stoning penalty as an instance in which the Sunna ruling had abrogated the Qur'ān's flogging ruling. His interest in exegesis, displayed, not only in the Introduction to the present work, but also in his composition of a separate work devoted to Qur'ān commentary, explains his acknowledgment of two modes of *naskh*: the *raf'* 'phenomenon', derived from the notion of Muḥammad's forgetting parts of the Qur'ān – itself the result of the 'explication' of Q 87,6–7. This is the classical theory's *naskh al-ḥukm wa-l-tilāwah*. It had been ignored by Shāfi'ī, and is referred to by the author only in the general introductory discussion for which he had assembled the necessary exegetical materials to 'prove' from the Qur'ān and the *Ḥadīth* the 'reality' of the various phenomena known collectively as *naskh*.

Then, as with Shāfi'ī, his legal training and professional interests explain the preponderant emphasis he places upon: *naskh al-ḥukm dūna al-tilāwah* – or 'repeal' proper. This is the mode, he states more

than once, that is known to all the Muslims. This *naskh* concerns changes in the 'practice' and everyone knows that, in this instance, both the superseded and the superseding verses, the *mansūkh* and the *nāsikh* may still be recited in the prayers, and are still recorded in writing in the *muṣḥaf*, as are the *mansūkh* and the *nāsikh* still to be found in the records of the *Ḥadīth* [Sunna].

Thus, during the lifetime of Shāfi'ī, the three-fold structure of the classical *naskh* theories had already come into being. Of the three, one had been the produce of pure exegesis, whilst Shāfi'ī himself had invented the second. The third, alone of the three, operates in both Qur'ān and Sunna spheres. It had behind it a long history and by far represented the major interest of the *uṣūlī*. It concerned everyday 'practice' and had evolved from the Muslims' rationalisations of the conflicts apparent both within and between their two sources: conflict between two exegeses of the one Qur'ān verse, or the exegesis of two or more verses on a related topic; conflict between one *ḥadīth* and another; conflict between a *ḥadīth* and a Qur'ān verse.

As both the Qur'ān and the *Ḥadīth* served the scholars as their primary literary sources, one may, with confidence follow Abū 'Uбайд in speaking, not so much of conflict of sources, but rather, of conflict of interpretation [*ta'wīl*] and of the resultant conflict between regionally-organised schools of *uṣūl*. That, of course, may be to speak of conflict of regionally-organised *Fiqh* with regionally-organised *Fiqh*. But also involved was conflict of unanimously accepted *Fiqh* with the contents of the *muṣḥaf*, i.e. the contrast between the unanimity of all the *Fiqh*-schools on the stoning penalty and the ruling found in the unanimously agreed texts of Q 24.

Even to this instance of conflict, the majority of the schools would have applied the mode: *naskh al-ḥukm dūna al-tilāwah*. That mode is thus the key to the analysis of the Islamic theories of *naskh*. It is the central, unchanging element in the theory, acknowledged and regularly deployed by all the regional schools of *uṣūl*. It was undoubtedly the seed from which developed the tripartite formulation of the classical theory of *naskh*. Originating in the field of *uṣūl*, it served, we have seen, the dual function of: explaining both the conflicts between the regional views of the *Fiqh* and its sources, and the conflict between the universally agreed *Fiqh* conclusions and the contents of the Qur'ān. That explains why, alone of the three modes of *naskh*, it applies equally to both Qur'ān source and Sunna source. It did not arise from the Qur'ān, then later extend its utility to the Sunna. Qur'ān vocabulary and usage do not, in fact, support the meaning attached to *naskh* in the *uṣūl*.

It did not arise from the Sunna, then later extend its utility back into the Qur'ān. It arose in both Qur'ān and Sunna simultaneously. This is not intended as a paradox. This mode of *naskh*, whether applied to Qur'ān text, or to the *ḥadīths* of the Sunna, is, as Abū 'Uбайд recognises, but a single technique, for the good and simple reason that, in either of its applications, it is exercised upon one and the same object – the *tafsīr* of the Qur'ān. For, what Abū 'Uбайд helps one to realise is that much that is known as “sunna” is, in actual fact, mere exegesis (as we have seen above, in the case of fasting and the traveller's prayer). Indeed, so frequently do clashing exegeses form the actual topic of its individual studies, that Abū 'Uбайд might, with perfect justice, have entitled his work: *Ikhtilāf al-ʿulamā' fī al-ta'wīl*, the phrase is so seldom lacking from its pages.

Notes to the introductory essay

1. J. Burton, 'Those are the high-flying cranes', *Journal of Semitic Studies*, XV, 1970, pp.246–65.
2. Th. Nöldeke, *Geschichte des Qorāns*, 2^e Auflage, Fr. Schwally, Leipzig, 1909, pt.1, p.54, note 3, with reference to Q 2,106; Q 16,101.
3. cf. e.g., Ṭabarī, *Tafsīr*, (ed. Shākir) v.2, p.480. “God tells us [Q 87] that He will cause Muḥammad to forget what He pleases of the Qur'ān. What God has ‘made away with’ is what is referred to here in the Exceptive clause.”
4. Naḥḥās, p.9; M. Zaid, *al-Naskh fī al-Qur'ān al-Karīm*, 2 vols., Cairo, 1383/1963, v. 1, pp.283–5
5. Tab., loc. cit., p.479.
6. *ibid.*, pp.479–80.
7. cf. text, f. 27b.
8. cf. text, f. 42b.
9. Muw., *Ṣiyām: mā jā'a fī al-ṣiyām fī al-safar*; cf. Muw., Shaibānī, p.126.
10. Naḥḥās, pp.6–7.
11. A. Jeffery, *The Foreign Vocabulary of the Qur'ān*, Baroda, 1938, p.279. W. Gesenius, *A Hebrew and English Lexicon of the O.T.*, tr. Ed. Robinson, and edd. Fr. Brown, S.R. Driver, C.A. Briggs, Oxford, 1952, p.650.
12. *Tafsīr*, ad Q 87,6–7.
13. *Tafsīr*, ad Q 22,52.
14. cf. I. Goldziher, *Richtungen*, pp.24–5; Ṭab., v. 2, p.475. Given the references to Q 18,24, Q 87,6–7, it seems more probable that both Sa'īd and Sa'īd would have used the 2nd. pers., Masc., sing., Sa'īd reading in the Active, Sa'īd in the Passive. Abū 'Uбайд [f. 6a] was uncertain as to

- the reading, which possibly affected the vowel, rather than the consonants [*tansa/tunsa*].
15. text, f. 6b.
16. *Uṣūl al-Sarakhsī*, v.2, p.54.
17. Jeffery, *Materials*, p.185 [°Alī; Ubaiy b. Ka'ib].
18. cf. Zamakhsharī, ad Q 2,106; Ṭab., v.2, p.479.
19. Here is one instance of the scholars becoming confused by their own terminology: °Aṭā' did not, of course, think that the entire Qur'ān had been replaced; but he did believe that the entire Qur'ān had been revealed. This objection to °Aṭā's ‘reading’ and ‘interpretation’ points up that the true source of the ‘replacement’ etymology for *naskh* lay in: *na'ti bi khairin minhā aw mithlihā*.
20. Shāfi'ī, *Risālah*, [ed. Shākir] p.108; Zamakhsharī, ad Q 2,106; Baiḍāwī, do.
21. For the views, e.g. of Abū Muslim al-Isfahānī, vide, Rāzī, *Tafsīr*, ad Q 2,106.
22. Ṭab., v.2, pp.482–3.
23. Ḥibatullāh, pp.5–6; the exegetical origin of this and all other, similar *ḥadīths*, is betrayed by their shared use of the term *aqra'anī* – derived from Q 87,6–7 [cf. Suyūṭī, *Itqān*, *naw'c* 47 (v.2, p.25)].
24. Bukhārī, *K. Faḍā'il al-Qur'ān*, bāb: *nisyān al-Qur'ān*. Note that Bu., in this *tarjamah*, quotes Q 87,6–7!
25. *Gharīb al-Ḥadīth*, s.v. *nasiya*; *nussiya*; vide: Mud., v.1, p.107.
26. GdQ 2, v.1, p.54; (cf. *ibid.*, pp.47–8).
27. Ṭab., v.2, pp.479–80.
28. *Ris.*, passim, esp. pp.41, 106–113.
29. *ibid.*, p.42.
30. *ibid.*, p.52.
31. *ibid.*, pp.32–3.
32. *ibid.*, p.109.
33. *ibid.*, pp.394 ff.
34. *Umm*, v.7, pp.250 ff.
35. *Ris.*, p.113.
36. *ibid.*, p.112.
37. *ibid.*, p.108.
38. *ibid.*, p.109.
39. *ibid.*, p.108.
40. *ibid.*, p.109.
41. *ibid.*, p.133.
42. *ibid.*, pp.129 ff.
43. *ibid.*, pp.133–4.
44. *ibid.*, p.131.
45. *ibid.*, p.132.
46. *ibidem*: *awwal mā nazala fa nusikha bihi al-ḥabs wa-l-adhā*. [Q 4, 15–16.]

47. ibidem: *nasakh al-jald^can al-zāniyain al-ḥurraim al-thaiyibain*.
48. *Umm*, v.5, p.23–4; v.7, p.208.
49. text, f. 45a.
50. Naḥḥās, p.14.
51. ibn al-^cArabī, *Aḥkām al-Qurʾān*, v.1, p.207.
52. *Ikhṭilāf al-Ḥadīth*, [*Umm*, v.7,] pp.102 ff.
53. cf. Tab., v.2, p.482 – curiously, in his comment upon Q 2,106, not in his comment on Q 2,183–4!
54. text, ff. 33b–34a.
55. text, f. 30a.
56. pr. on marg. of *Tafsīr al-Jalālain*, ʿĪsā al-Bābī al-Ḥalabī, Cairo, 1342/1924. There occur certain verbal similarities between statements in this work and statements in the *Iʿtibār* of Hamdānī, (otherwise known as ibn Ḥāzim). cf. Abū ^cAbdullāh, p.149 with *Iʿtibār*, pp.5–6.
- 56a. cf. W. Madelung, *Der Imām al-Qāsim b. Ibrāhīm und die Glaubenslehre der Zaiditen*, Berlin, 1965, p.126.
57. *Ris.*, p.92.
58. ibn Qutaibah, *Taʾwīl*, passim.
59. *K. Jimāʿ al-ʿIlm*.
60. *Ris.*, p.224.
61. *ibid.*, p.226.
62. *ibid.*, p.89.
63. *ibid.*, pp.221–2.
64. *ibid.*, p.330.
65. *ibid.*, pp.108–9.
66. *Umm*, v.7, p.251.
67. ibn Qutaibah, *op. cit.*, p.166.

Appendix to the introductory essay

^cAbdullāh b. al-Ḥusain, *K. al-nāsikh wa-l-mansūkh*

Section headings:

1. Definitions of *naskh* [Q 2,106; Q 13,39; Q 16,101]
2. The ritual prayer
3. The *zakāt*
4. The Fast
5. Marriage
6. Dissolution of marriage
 - i. *khulʿ*
 - ii. ^c*iddah*

7. Corporal penalties
 - i. stoning of adulterers
 - ii. judging *dhimmīs*
8. The talion
the apostate's punishment
9. Legal testimony
 - i. transactions
 - ii. sexual misconduct
 - iii. testimony of *dhimmīs*
10. The pilgrimage: *ifrād* / *qirān* / *faskh* / *mut^cah*
11. The *Jihād*
 - i. obligatory / optional
 - ii. treatment of captives
12. Inheritances
 - i. Muhājir – A^crābī
 - ii. *ḥalīf* – *muḥālīf*
 - iii. adoption
13. Domestic etiquette
14. The *waṣīyah*
15. Management of the property of orphans
16. Judging cases involving *dhimmīs*
17. Private audiences with the Prophet
18. The Night Prayer
19. Food and entertaining
20. Fermented beverages
21. *Taqwā*
22. Homicide and repentance
23. A man's innermost thoughts
24. Conversion must be voluntary
25. Praying for the soul of the unbeliever
26. *al-amr bi-l-ma^crūf wa-l-nahy^can al-munkar*

The author: Abū °Ubaid al-Qāsim b. Sallām

Regrettably, we cannot claim to know Abū °Ubaid except superficially and externally. Of the personality of the man we know nothing, and the many questions which arise must remain for the present unanswered. Little is known of his movements during important periods of his life. We have no information on his education, and are thus unable to form any judgment on the formation and development of his views on any of the wide variety of topics which formed the training curriculum of the young scholar of his generation. As will be seen from the list of his writings, the range of his intellectual activities was broad, embracing (as was the case with so many of his contemporaries) the principal Islamic sciences of: Grammar, lexicography and syntax; Qur'ān text and *tafsīr*; *Hadīth*, *isnād* and *Fiqh* studies, poetry, *gharīb* and dialect studies. To certain of these fields he contributed pioneer studies of major significance, and in all of them he displayed a degree of erudition and reached a level of achievement which won the acclaim of contemporary scholars of the stature of Aḥmad b. Ḥanbal, and the patronage of great men of State, including that of the caliph.

Professor Madelung has provided an admirable analysis of Abū °Ubaid's view on the meaning of the term faith [*īmān*]¹ but, as to the stance he adopted on the most critical question tormenting the Muslims of his day, that of the createdness or uncreatedness of the Qur'ān and his demeanour throughout the period of terror inaugurated by Ma'mūn to whose inquisition the leading scholars and office-holders of the Empire were subjected, we remain totally ignorant.

The greater part of the work embodying his scholarly achievements is unknown to us, while those of his writings which have survived, cannot with certainty be related to each other in terms of content or chronological order.

The barest outlines of Abū °Ubaid's career have been painstakingly pieced together by Dr. Gottschalk, upon whose labours the following brief sketch is chiefly dependent.²

Abū °Ubaid al-Qāsim b. Sallām [b. Miskīn b. Zaid] was born at Herāt between 150 and 157 A.H./ 767–773 A.D. The colourful anecdote in which his father (allegedly a slave of Byzantine origin)

addresses in execrable Arabic the schoolmaster to whose instruction the boy was first entrusted, is more legendary than reliable. It was probably designed to emphasise the brilliance of the achievements of the renowned philologist-to-be, drawn, like so many of the creators of Islamic culture, from the ranks of the *mawālī* of the eastern provinces. At all events, the detail is unmentioned in the earliest biographical study which reaches us from one of Abū °Ubaid's immediate pupils, the *rāwī* of several of his works, including the present one, °Alī b. °Abdul °Azīz.³ The name of the author's father (as given in the *Fihrist*) would also tend to indicate that the adherence of the family to Islam dated from at least the time of the author's paternal great-grandfather. The arabisation of the family was probably as old. His family's client relationship with the tribe of Azd would explain the close connection Abū °Ubaid early formed with the scholars of Baṣrah and, in addition, probably also accounts for his later relationship both with Thābit b. Naṣr and with the princely house of Ṭāhir.

That Abū °Ubaid visited Kūfah in the course of his studies is likely, yet not known with certainty. The Kūfan authorities whom he cites are known to have been active at Baghdād. That he visited Baṣrah does, however, seem likely since, quite apart from his family's affiliation, he records his regret at never having met the great Baṣran *Hadīth* expert, Ḥammād b. Zaid, who was already dead when Abū °Ubaid arrived. This would place his Baṣran visit after the year 179/794. Similarly, his arrival in Baghdād would fall before the year 176/792 in which al-Faraj b. Fuḍālah, one of his immediate informants, reportedly died. Thus, precisely when Abū °Ubaid came to °Irāq, and how long he stayed, is unknown, but, as can be seen in the list of his informants, he was in touch with some of the greatest figures in the history of Islamic scholarship, among them the founders of several branches of learning, as well as with their immediate pupils. The range of the death-dates of these men is 176–206/792–821. It would appear that Abū °Ubaid had come to °Irāq in his twenties. As to when he left Baghdād, and where he spent the years immediately prior to 192/807, we have no information. On the strength of the *Fihrist* report that he had served as tutor in the household of the Harthamids, and in view of his later dependence upon the generosity and protection of the Ṭāhirids, Dr. Gottschalk assumes an early return to his native Khurāsān, although admitting that this is far from certain.

The greatness of his literary success, the extent of his acquaintance with the views of scores of his contemporaries, and the evident

insatiability of his intellectual curiosity, his alleged connection with the Court, and the possibility of his making the acquaintance of his patrons at the great houses they maintained in the capital, all make it equally likely that his residence in ʿIrāq was more prolonged. In any case, Dr. Gottschalk recognises the many difficulties presented by the incompleteness of our sources.

The period 192–210/807–825, it seems reasonably certain, he spent in Syria. Thābit b. Naṣr b. Mālik, having been invested by Hārūn with the Governorship of the *thughūr*, made his seat at Ṭarsūs and appointed Abū ʿUбайд as his *qādī*. Thābit was a Khuzāʿī, and thus of a branch of the great tribe of Azd to whom Abū ʿUбайд’s other patrons, the Ṭāhirids, like his own family, were clients.⁴ Thābit died in 208/823 and Abū ʿUбайд is reported to have demitted office some two years later.

It was to his personal experience of the military, political and fiscal problems faced by the administrators of a frontier province that Dr. Gottschalk attributed the genesis of our author’s most famous work in *Fiqh*, his *K. al-Amwāl*, which shares with the present work (although doubtless to a greater degree) evidence of concern with the practical aspects of the Law and exhibits an intimate knowledge of the views and opinions of the jurists of a wide variety of centres throughout the Islamic world. Where Abū ʿUбайд went on leaving Ṭarsūs in 210/825 is unknown. The year 213/828 finds him, according to ibn Ḥajar,⁵ in Egypt, in the company of the great Baghdād *Hadīth* expert, Yaḥyā b. Muʿīn. Nor do we know whether he then turned from Egypt to ʿIrāq, or whether (the *miḥnah* now raging) he had already sought the comparative peace and seclusion of Mecca to resume his literary activity. Certain it is that the most prominent of his *rāwīs*, ʿAlī b. ʿAbdul ʿAzīz, to whom we are indebted for the transmission of several of Abū ʿUбайд’s works, including the present work, and of whose presence at Baghdād there is no mention in the sources, had settled there.⁶

We can be equally certain, in view of the frequency of references to Syrian and Egyptian informants, several of whom long out-lived the author, that his *nāsikh wa-l-mansūkh* was compiled in the latest stage of Abū ʿUбайд’s life. He died at Mecca in 224/838.

On the basis of a remark of ibn Durustawaihi’s quoted in *Taʾriḫh Baghdād*, to the effect that Abū ʿUбайд had adopted the *Fiqh* views of Mālik and Shāfiʿī, Dr. Gottschalk describes the author’s legal attitudes as poised mid-way between those of the two Ḥijāzī masters. This, Gottschalk thinks, fits in with the ‘eclectic character’ of Abū ʿUбайд’s scholarship. It is true, as Gottschalk points out, that he was

to be claimed by later Shāfiʿites as a member of their school. It is equally true that he was to be similarly claimed by the Ḥanbalites.⁷ This perhaps tells us more about the thinking of later generations of scholars than about the character of Abū ʿUбайд’s personal contribution to the legal sciences.

The impression left by the perusal of his work is rather that it had been compiled by a scholar who felt himself both at liberty and qualified on the basis of his lengthy training in the sciences of Arabic linguistic studies, *Ḥadīth*, *qirāʾāt*, *tafsīr/taʾwīl* and *Fiqh*, to review the current condition of Islamic scholarship nation-wide. In a detailed study of numerous chapters of the *Fiqh*, he has examined a series of legal and ritual questions, considered the various views that had been expressed by the leaders of Islamic opinion in the various regions. He submits them to a comparative analysis, taking account of the several traditions of Qurʾān ‘reading’ and interpretation, *Ḥadīth* evidence, the linguistic, logical and systematic arguments that had been variously urged on the different topics by the ʿIrāqīs, Ḥijāzīs, Egyptians, Syrians, *aṣḥāb al-raʾy*, *aṣḥāb al-āthār* and ‘others’, until, in each instance, he arrives at his own personal *ikhtiyār*, both stating which of the sundry views he considers preferable and explaining why. In other words, he acts as a *mujtahid*.

One perceives an understandable loyalty to the ʿIrāqī centre in which he had been nurtured. One also, on occasion, sees the completeness of his sense of intellectual freedom when the more convincing arguments propounded by the Ḥijāzīs lead him to abandon Sufyān’s view in favour of that of Medina.

The value of the present work lies, therefore, in the opportunity it affords the reader to witness the operation of the mind of an outstanding Muslim scholar as he achieves his independent results. In the lone confrontation of the accumulated and dauntingly complex masses of traditional documentation and argumentation, he provokes a high degree of admiration for the confident and skilful control he maintains [in Islamic terms] over the voluminous materials which his perception and insight enable him to unravel with minimum confusion to the reader. Patiently he sifts, expounds and weighs the opposing arguments in simple, yet elegant language.

Apart from Mālik and the Ḥijāzīs, Awzāʿī and the Syrians, Sufyān and the ʿIrāqīs, perhaps also, to a less defined degree, *aṣḥāb al-raʾy* and *aṣḥāb al-āthār*, none of the groupings known to us as the Islamic *madhʿhabs* appears as yet to have emerged. There is, for example, throughout this work no reference by name to Abū Ḥanīfah and his celebrated associates – unlike the *Amwāl*, in which we find frequent

references to them, derived from the author's personal contact with Shaibānī.⁸ Nor, despite the author's sojourns in Baghdād, Egypt and the Hijāz, and the familiarity he displays with the views of the leading scholars of those parts, is there one single mention of Shāfi'ī. This may perhaps be accounted for on the supposition that the fame of Shāfi'ī, Abū 'Ubaid's near contemporary, was not yet established in the wider world of Islamic learning. Like the creation of the Shāfi'ī school, the creation of the Shāfi'ī reputation we must presume to have been the work of the following generation. It is also incidentally true that, despite the occurrence of some celebrated names in his *isnāds*, the author never once uses the term *Shī'ah* either. Possibly the same holds true in this case also.

Notes

1. W. Madelung, 'Early Sunnī doctrine concerning faith as reflected in the Kitāb al-Īmān of Abū 'Ubayd al-Qāsim b. Sallām (d. 224/839),' *Studia Islamica*, XXXII (1970).
2. *Der Islam*, 23, 1936, pp. 264-83 (see also the relevant articles in EI¹ and EI²) and see: R. Sellheim, *Die Klassisch Arabischen Sprichwörter Sammlungen*, Mouton, 's-Gravenhage, 1954.
3. *Ta'rikh Baghdād*, v.12, p.403.
4. *Der Islam*, 23, p.271.
5. *Tahdhīb*, v.8, pp.315-6.
6. As *rāwī* of the present work, he is, however, referred to as 'al-Baghdādī thumma al-Baghawī' ff. 1b, 2a, 210a.
7. ibn abī Ya'ālā, *Ṭabaqāt al-Ḥanābilah*, v.1, pp.259-62. cf. 'Abdul Wahhāb b. 'Alī al-Subkī: *Ṭabaqāt al-Shāfi'īyah al-Kubrā*, 6 vols., Cairo, 1383/1964, v.2, p.158, and especially p.160.
8. See, e.g., *Amwāl*, pp. 29, 52, 72, 90, 369, 419. p. 519 (reference to Abū Yūsuf).
There is still, however, not one single reference to Shāfi'ī throughout the whole of the *Amwāl*.

Description of the MS: Istanbul, Topkapı, Ahmet III, A 143

The existence of this work was unknown to Brockelmann.¹ Sezgin, although referring to the title, does not mention the survival of the work, nor its present whereabouts.² The work is first recorded, therefore, by Karatay³ who describes it as: "written on treated cream paper; 198mm. long by 135mm. wide. 209ff., script: *naskhī*. Text occupies 90mm., with 16 lines per folio. The copyist⁴ was Abū al-Ḥasan 'Abdul Bākī b. Fāris b. Aḥmed al-Ḥomsī, in 392 A.H. (1001-2 A.D.). Headings are in red ink and the volume is bound in brown leather and paper. *K. al Nāsikh wa'l Mansūh*, Abū 'Ubaid al-Qāsim b. Sallām al-Haravī, (d. 223/4 - 827/8) on nāsikh and mansūh."

The MS is an unicum. Although a number of references to at least one other copy occur from f. 116b of the Topkapı MS., no other copy has as yet come to light.⁵

1. C. Brockelmann, *Geschichte der Arabischen Litteratur*, v.1, pp.106-7; S1, pp.106-7; p.166.
2. F. Sezgin, *Geschichte des Arabischen Schrifttums*, v.1, pp.18; 48.
3. F.E. Karatay, *Topkapı Sarayı Müzesi Kütüphanesi Arabça Yazmalar Kataloğu*, v.1, Kur'an ilimleri tafsirler, 1962, pp.591-2, 2167, A.143, Ahmet III.
4. By 'copyist', Karatay refers to the technical term *kitābatan*, found on f. 210a, or to the term *bikhaṭṭihi*, found on f. 2a - in each case, in the *isnād* of the work.
5. The work was still available for Suyūfī to draw upon freely in both his *Itqān* and *Durr*. As he died in 1505, it presumably made its way to Istanbul following the Ottoman occupation of Egypt in 1517.

The transmission of the text

1. °Alī b. °Abdul °Azīz b. al-Marzubān b. Sābūr al-Baghawī, paternal uncle of Abū al-Qāsim °Abdullāh b. °Abdul °Azīz al-Baghawī, (author of a *Musnad*). °Alī settled in Mecca and is a well-known associate of Abū °Ubaid, several of whose works he transmitted, including: *Gharīb al-Ḥadīth*; *K. al-Ḥaiḍ*; *K. al-Ṭuhūr [Ṭahārah (?)]*; *K. al-Amthāl*; *K. al-Amwāl*, in addition to *K. al-nāsikh wa-l-mansūkh*. He was further responsible for the transmission of *K. Faḍā'il al-Qur'ān*.¹ According to Yāqūt, °Alī was himself the author of a *Musnad*.² Although regarded by Dāraquṭnī and ibn abī Ḥātim as reliable, and mentioned by ibn Ḥajar among the lesser informants of Nasā'ī,³ °Alī was criticised for his materialistic and commercial attitude. It is said that he would read the works of Abū °Ubaid to pilgrims during the season, only if he received a fee. He was nevertheless regarded by no less a personage than al-Dānī as the greatest and most trustworthy of Abū °Ubaid's associates. °Alī died in Mecca in 287/900, sixty-three years after the death of Abū °Ubaid. When °Alī was born, when he came to Mecca, and when he first met Abū °Ubaid is unknown. Dhahabī states that he was over ninety years of age at his death.⁴

1. al-Fāsī, *K. al-Iqd*, v.6, p.185.
2. *Irshād*, v.6,5, p.247.
3. *Tahdhīb*, v.7, p.362.
4. *Ṭabaqāt al-Ḥuffāz*, v.2., p.178.

2. Abū Bakr Aḥmad b. Muḥammad b. abī al-Maut, named by Fāsī as: Aḥmad b. Muḥammad b. Aḥmad b. Aḥmad.¹ Fāsī gives the death-date 351/962, on the authority of Dhahabī who adds that at his death, he was ninety years old. That would give a birth-date circa 260/873.² Aḥmad reports hearing °Alī b. °Abdul °Azīz in Mecca in 284/897.

3. Abū °Abdullāh Muḥammad b. Aḥmad b. Muḥammad b. °Ubaid b. Mūsā al-Washshā'. UNTRACED. In 392/1001, he related to:

4. Abū al-Ḥasan °Abdul Bāqī b. abī al-Faṭḥ Fāris b. Aḥmad al-Ḥimṣī al-Miṣrī,³ noted teacher of *qirā'āt* in Egypt, son of an even more renowned *muqri'*. The father, born at Ḥimṣ, settled in Egypt and counted among his students, in addition to his son, the celebrated Abū °Amr al-Dānī.⁴ °Abdul Bāqī died after 'a long life' in 450/1058.

His father, Fāris, born in 321–334/933–45 died 401 – 2/1010–11, aged between 68–80.

5. Abū al-Ḥasan °Alī b. al-Husain b. °Umar al-Farrā' al-Mauṣilī, born 433/1041, died 519/1125.⁵

6. Abū °Abdullāh Muḥammad b. Ḥamd b. Ḥāmid al-Artāḥī, al-Anṣārī al-Miṣrī al-Ḥanbalī, d. 601/1204, aged ninety.⁶

1. op. cit., v.3, p.128.

2. *Ibar*, pt. 7, p.290. cf. *Mizān*, v.1, p.152, no. 599.

3. ibn al-Jazarī, *Ghāyat al-Nihāyah*, v.2, p.357. cf. Dhahabī, *Ma'rifat al-Qurrā' al-Kibār*, v.1, p.341.

4. *Ghāyat al-Nihāyah*, v.2, p.5.

cf. Suyūṭī, *Ḥusn al-Muḥāḍarah*, v.1, p.492.

5. *Ibar*, v.4, p.44.

6. *ibid.*, v.5, p.2.

Abū 'Uбайд's literary output

1. Gharīb al-Ḥadīth	GAS	F	HK	GAL	G
2. Gharīb al-Muṣannaf		F	HK	GAL	G
3. K. al-Amthāl		F	HK	GAL	G
4. K. Faḍā'il al-Qur'ān wa-ādābihi	GAS	F	HK	GAL	G
5. K. al-īḍāḥ				GAL	
6. K. khalq al-insān wa-nu'ūtihi				GAL	
7. K. al-aḍḍād wa-l-ḍidd fī al-lughah				GAL	
8. K. al-na'īm wa-l-bahā'im wa-l-waḥsh wa-l-sibā' wa-l-ṭair wa-l-hawwām wa-ḥasharāt al-arḍ				GAL	
9. K. al-īmān wa-ma'ālimihi wa-sunnatihi wa-istikmālihi wa-darajātihi				GAL	
10. K. al-khuṭab wa-l-mawā'iz				GAL	
11. K. fa'ala wa-af'ala				GAL	
12. K. al-Amwāl		F		GAL	G
13. K. fīmā ishtabaha al-lafẓ wa-ikhtalafa al-ma'nā				GAL	
14. K. al-ajnās min kalām al- ^c Arab wa-mā ishtabaha				GAL	
15. K. mā khālafat fīhi al- ^c ammah lughat al- ^c Arab				GAL	G
16. K. Faḍā'il al-faras [al-Furs (?)]				GAL	G
17. K. ma'ānī al-shi'r				GAL	
18. K. maqātil al-fursān				GAL	
19. K. Gharīb al-Qur'ān		F	HK	GAL	G
20. K. al-nāsikh wa-l-mansūkh	GAS	F	HK		G
21. K. adab al-qāḍī		F	HK		G
22. K. fī al-qirā'āt		F	HK		G
23. K. al-aḥḍāth		F	HK		G
24. K. al-aimān wa-l-nudhūr		F	HK		G
25. K. al-ḥaiḍ		F	HK		G
26. K. al-mudhakkār wa-l-mu'annath		F	HK		G
27. K. al-maqsūr wa-l-mamdūd		F	HK		G
28. al-Musnad			HK		
29. K. ma'ānī al-Qur'ān		F	HK		
30. K. al-shu'arā'		F			G
31. K. al-nasab		F			G
32. K. 'adad āy al-Qur'ān		F			G
33. K. al-ḥijr wa-l-taflīs		F			G
34. K. al-ṭahārah		F			G
35. K. adab al-Islām					G

The author's chapter headings

		<i>Folios</i>
1. The merit of the knowledge of <i>al-nāsikh wa-l-mansūkh</i>		2b–9a
2. The ritual prayer		9a–14a
3. The <i>zakāt</i>		14b–20b
4. The Fast		20b–46b
5. Marriage		46b–74b
6. Dissolution of marriage:		
i. <i>khul'</i>		74b–87a
ii. <i>'iddah</i>		87a–89a
7. Corporal penalties:		
i. the stoning of adulterers		89a–92b
ii. the talion		92b–94b
iii. the apostate		94b–97b
8. Legal testimony		
i. transactions		97b–99b
ii. sexual misconduct		99b–105b
9. The testimony of <i>ahl al-kitāb</i>		105b–116a
10. The pilgrimage rites		
i. <i>faskh</i>		116a–123b
ii. <i>mut'ah</i>		123b–136a
11. The <i>Jihād</i>		
i. obligatory or optional?		136a–150b
ii. treatment of captives		150b–157a
12. Domestic etiquette		
i. slaves		157a–160b
ii. minors		160b–161a
13. Inheritances:		
i. <i>muhājirūn – Ā'crāb</i>		161a–162a
ii. <i>ḥalīf – muḥālīf</i>		162a–163b
iii. adoption		163b–165b
iv. the <i>waṣīyah</i>		165b–170b
14. Management of the property of orphans		170b–173a
15. Jurisdiction of Muslim magistrates in cases involving <i>dhimmīs</i>		173a–175a
16. Entertaining		175a–180a
17. Fermented beverages:		
i. <i>khamr</i>		180a–183a
ii. <i>sakar</i>		183a–185a
18. The Night Prayer		185a–186a

19.	The fee payable in advance of a private audience with the Prophet	186a–187b
20.	<i>Taqwā</i>	188a–188b
21.	Death-bed repentance	189a–190b
22.	The repentance of the homicide	190b–197a
23.	God’s holding one to account for one’s innermost thoughts	197a–200b
24.	Conversion must be voluntary	200b–201b
25.	Praying for the soul of the unbeliever	201b–203b
26.	<i>al-amr bi-l-maʿrūf wa-l-nahy ʿan al-munkar</i>	203b–209a

Editor’s commentary on the text

Abū ʿUбайд’s introductory section provides ample illustration of the complex and confused state of the Muslim discussions on *naskh* [alt. *al-nāsikh wa-l-mansūkh*]. Fully to profit from his Introduction and to place it in perspective, it will be worthwhile first to consider the main definitions traditionally offered of the term *naskh*. These have broadly been three: 1. *ibtāl*, / *izālah*, that is, *suppression*. 2. *naql* / *ibdāl*, that is, *transfer*, *removal*, that is, *supersession*. 3. *naql* / *istinsākh* / *iktitāb*, that is, *making a copy of some written matter*, *duplication*.

The evidentiary citations adduced to support these varying definitions are taken alternately from the use of the term in the sacred texts and from profane speech. For example, Hamadhānī [*Iʿtibār*, p.8.] declares: *naskh* in Arabic conveys two meanings:

- a. removal, in the sense of ceasing to exist: [*inʿidām*]
- b. removal, in the sense of change of position: [*intiqāl*]

The first meaning has also two aspects: ceasing to exist, in the sense of yielding place to another:

Old age replaced youth;	sunlight replaced shadow.
<i>nasakha al-shaib al-shabāb</i>	<i>nasakhat al-shams al-zill</i>

or, ceasing to exist and being replaced by nothing else: i.e. total suppression: The wind obliterated the traces.

nasakhat al-rīḥ al-āthār.

The second meaning of removal, in the sense of change of position [*naql*]: *nasakha al-Kitāb* – he transferred the matter of the book from one exemplar into a second, without causing the first exemplar to cease to exist. cf. Q 45,29: *innā kunnā nastansikh mā kuntum taʿmalūna.*

Similarly Naḥḥās, [p.8.] traces a dual etymology:

1. *nasakhat al-shams al-zill*. This usage is exemplified in Q 22,52: *fa yansakh allāh mā yulqī al-shaiṭān.*

2. *nasakha al-kitāb*: i.e. ‘transfer’ – *al-nāsikh wa-l-mansūkh* derives from this usage. Some activity will be lawful for a period, then it is transferred into the unlawful category, or vice-versa. [cf. Ṭabarī, 2,

p.471–2.] The greater part of the *naskh* of the Qur'ān is of this kind. The (original) ruling ceases to exist, the faithful having been re-directed to a second ruling on the same topic. In this case, the *mansūkh* verse continues to form part of the recited Qur'ān, whereas in the Q 22,52 type of *naskh*, God removes the first verse entirely. It ceases to be recited, and it is not recorded in the *muṣḥaf*.

Suyūṭī lists, as the meanings of *naskh*, the following:

1. *ibṭāl / izālah*, obliteration, as in Q 22,52.
2. *ibdāl*, substitution, as in Q 16,101: *wa idhā baddalnā āyah makāna āyah . . .*
3. *naql / taḥwīl*, transfer from place to place.

In *nasakha al-kitāb*, 'he copied the book', he transferred what was in the original, duplicating the wording. This type of *naskh* cannot properly be said to occur in the Qur'ān, and the scholars have taken Naḥḥās to task for saying that it does, since, in the Qur'ān, the *nāsikh* does not reproduce the exact wording of the *mansūkh* verse. The *nāsikh*, indeed, brings a wording different from that of the *mansūkh*. Sa'īdī rose in Naḥḥās' defence declaring that what he had said is borne out by Q 45,29 and by Q 43,4: . . . 'it is in *umm al-kitāb*, in Our divine Presence . . . ' It is known that what was sent down to Muḥammad is like all that is in the *Umm*, or the Preserved Tablet. [*Itqān*, naw^c 47.]

Makkī (f.3) argued that the meaning of *nasakhtu al-kitāb* is: 'I reproduced in another book an exact copy of the original,' which has nothing to do with the *naskh* which means the suppression of a ruling whose wording has been retained, nor with the *naskh* meaning the suppression of both the wording and the ruling of a revelation. *Nasakhtu al-kitāb* is like the usage of Q 45,29 and is unconnected with the idea of the *naskh* of one thing by another. Linking the [technical] *naskh* with Q 45,29 and its synonym in every-day parlance: *nasakhtu al-kitāb* is an error. There is a second use of *naskh* derived from the Arabs' usage: *nasakhat al-shams al-zill* – sunlight replaced shadow, dislodging it and taking its place. The majority of instances of *naskh* in the Qur'ān are of this type which has two aspects: 1. The ruling of one verse is dislodged by that of another, or of a widespread [*mutawātir*] *ḥadīth*. The wording of the superseded verse may be retained in the *muṣḥaf*, although no longer representing the ruling which is the basis of the practice. 2. Both wording and ruling may be dislodged by a second ruling and wording. [cf. Ṭabarī, 2, p.472.]

(f.6a) Some have sought to base the occurrence of *naskh* in relation

to the Qur'ān on Q 22,52: *fa yansakh allāh mā yulqī al-shaitān* – but that verse merely shows the divine *naskh* of matter insinuated by Satan, not the divine *naskh* of matter that God Himself revealed and commanded.

(f.7a) The third use of *naskh* is from the Arabs' usage: *nasakhat al-rīḥ al-āthār*: the wind obliterated the traces. That means: obliterated without any replacement. Our knowledge of this type of *naskh* is wholly derived from *ḥadīth* reports. The evidence that *naskh* actually affects the Qur'ān lies in Q 16,101: *wa idhā baddalnā āyah makāna āyah* – i.e. the ruling of one verse is replaced by that of another. A second Qur'ānic indication of this type is Q 2,106 which clearly points to the *naskh* of the Qur'ān by the Qur'ān: *Mā nansakh min āyah aw nunsī hā na'ti bi khairin min hā aw mithlihā*.

The 'classic type of *naskh*' with regard to both Qur'ān and Sunna, is, for Hamdhānī (p.8) the suppression [*ibṭāl*] of the earlier ruling with retention of the earlier wording.

Suyūṭī, like Hibatullāh before him [p.5] was content that, in relation to the Qur'ān, *naskh* fell into three types:

1. *naskh al-tilāwah dūna al-ḥukm*;
2. *naskh al-tilāwah wa-l-ḥukm*;
3. *naskh al-ḥukm dūna al-tilāwah* – and it was on this third type that the scholarly works on *naskh* had concentrated.

The contradictions between the above attempts by the scholars to justify from the Qur'ān source the fact of *naskh* in all its three-fold modality are undeniable. They are to be traced to the perceptible tension between the Qur'ān's uses of the term *naskh*. Q 45,29, Q 22,52, and Q 2,106 use the word in a range of meanings varying from the *iktitāb* of the first verse and the *ibṭāl* of the second and third. This second meaning, *ibṭāl* equates with our term suppression. Only Q 16,101 employs the term *tabdīl* [supersession] but it does not use the term *naskh*, although it does share with Q 2,106 use of the term *āyah*. From the earlier definitions we can see that it was observable conflict of rulings that governed the search for a global definition of *naskh*. We note that, for one of the modes of *naskh*, Makkī states that our knowledge that it had even occurred is dependent upon *ḥadīth* reports. The disavowal of the evidence from Q 22,52 is disingenuous, as are the 'instances' of Arab usage supplied from profane speech. For the latter, no less than the scholarly definitions are clearly no more than attempts to fit a theory to Qur'ānic usage.

Abū 'Uбайд's Introduction: f. 2b. the 'Alī *ḥadīth*. Suyūṭī [loc. cit.]:

Countless scholars have devoted monographs to this subject, among them: Abū °Ubaid al-Qāsim b. Sallām; Abū Da'ūd al-Sijistānī, Abū Ja'far al-Naḥḥās, Makkī, ibn al-°Arabī and others. The imāms have stated that it is not permitted to anyone to engage in the exegesis of the Qur'ān until he has familiarised himself with the *nāsikh* and the *mansūkh*. °Alī asked a *qāḍī*: Do you know the *nāsikh* from the *mansūkh*? The man replying that he did not, °Alī declared: You have endangered your own soul and the souls of others.

Naḥḥās [p.6] with an *isnād* which agrees with that of our author from Sufyān Thawrī upwards, has: *rajul ya'iz al-nās*; other *isnāds* [p.5–6] have: *rajul yukhawwif al-nās*; *yudhakkir al-nās*; *qāṣṣ yaquṣṣ*; *rajul muḥaddith*.

Hibatullāh even knows the man's name [p.4]. He was Abū Yaḥyā °Abdul Raḥmān b. Da'b, an associate of Abū Mūsā. A circle had formed around him in the main mosque at Kūfa, but in his replies, he confused commands with prohibitions, and what is permitted with what is forbidden. [cf. Ṭabarī, 2, p.471–2.] On that account, °Alī expelled him from the mosque, warning him never to return in the rôle of *qāṣṣ*. The story thus featured either a *qāḍī* or a *qāṣṣ*, or popular preacher. In Arabic, the difference amounts to only a single dot, and the uncertainty gave rise to a second family of *ḥadīths* on the gravity of delivering *fatwās*, or legal opinions. Hibatullāh [loc. cit.]: Ḥudhaifah said, 'Let no man address [*q ṣ ṣ*] the people except only one of three men: an *amīr*, one deputed by an *amīr*, or a man who knows the *nāsikh* and the *mansūkh*. Anyone else is a self-appointed fool!'

Naḥḥās (p.6) knows the story: Only one of three men may deliver *fatwās*: he who knows which parts of the Qur'ān have been abrogated – and that is °Umar [cf. Bu. 6, Q 2,106.] a *qāḍī* who has no option but to give a decision, and a self-appointed meddler.

Multiple attribution of stories to different Companions is a common feature of this type of literature and Hibatullāh has heard that what °Alī said to this man, [°Abdullāh] b. °Umar and [°Abdullāh] b. °Abbās said to another man. Presumably underlying this was the semi-anonymous attribution to an °Abdullāh – literally, any believer, a title which could as well refer to °Alī.

Abū °Ubaid's title: the merit of knowing the *nāsikh* and the *mansūkh* of the Qur'ān and the interpretation of *naskh* in the Qur'ān and the Tradition. Knowledge of *naskh* is a prerequisite for addressing the faithful on the range of their obligations. °Alī (and ibn °Abbās) are represented as insisting that such knowledge is indispensable for

salvation. The ibn °Abbās *ḥadīth*: Naḥḥās (p.6) has the story as here, from Salamah b. Nabīṭ, from al-Daḥḥāk b. Muzāḥim; while from Bakr b. Sahl, he also reproduces, as here, from Abū Šāliḥ, only the first part of the ibn °Abbās *tafsīr* of Q 2,269. The verse is interpreted by ibn °Abbās as referring to knowledge of the *awjuh* of the Qur'ān: *nāsikh*; *mansūkh*; *muḥkam*; *mutashābih*; inversion; imposition; prohibition; parable. [cf. *Itqān*, *naw'* 43 (v.2, p.2ff.)] The *awjuh* have been variously numbered and identified. This ibn °Abbās list contains rhetorical as well as interpretive *awjuh*. Only the latter interest our author, and mention of two of them triggers his reference to Q 3,7. The *muḥkam* verses consist of: the *nāsikh* verses, declarations as to what is required of the Muslim and what is forbidden, what is still accepted and acted upon – i.e. all Qur'ān verses whose rulings are considered by the Muslims to be still valid and relevant for the cult. We find here, at the very outset of the work, an emphasis upon the practical needs of the *Fiqh*. This it is that sets the tone of the work – as, indeed (in theory) of the entire science of *al-nāsikh wa-l-mansūkh*.

In addition to the rhetorical-literary features of the Qur'ān style, *mutashābih* includes the *mansūkh*, or what is accepted as being the word of God, yet not acted upon – i.e. Qur'ān verses which are not regarded as forming the basis of contemporary Muslim action.

The definition of *naskh*: the ibn °Abbās *tafsīr* [f. 3b]. Two Qur'ān contexts are considered in association: Q 2,106: *mā nansakh min āyah*: whatever verse We replace, [*nubaddil*]; *aw nansa hā*: We leave it, We do not replace it. Q 13,39: *yamḥū allāh mā yashā' wa yuthbit*: God alters, [*yubaddil*] What He pleases of the Qur'ān then *naskhs* it. He endorses [*yuthbit*] what He pleases. He does not alter it.

From the practical point of view then, the Qur'ān consists of verses whose rulings [?] have been replaced, and of verses whose rulings have not been replaced. The juxtaposition of two Qur'ān verses illustrates a technique frequently resorted to by the exegetes – the use of one verse to explain – that is, to confirm the exegesis of – another verse. The usual interpretation of the Q 2,106 terms *āyah* as 'a verse of the Qur'ān' and the apparently scribal references of Q 13's terms *yamḥū* [expunges] and *yuthbit* [records] facilitated the restriction of *naskh* in the present discussion, to its supposed operation upon the *texts* of the Qur'ān. *Naskh* would appear to consist in: the suppression of a Qur'ān *ruling* followed by either: suppression of the (original) wording as well, or by the endorsement of the (original) wording for inclusion in the *muḥṣaf* text. The text of the entire revelation made to

the Prophet, both the verses included in the *muṣḥaf*, and verses 'once-revealed' but later suppressed, together form the text of *umm al-kitāb*, or at least, part of it. The Heavenly proto-type or original (*umm*) dwells in God's Presence. In respect of their contents, both *umm* and *muṣḥaf*, have been the result solely of the operation of the divine Will.

In addition to the reference to Q 13,39, there would appear to be in the ibn ʿAbbās definition of *naskh* an implied if unspoken allusion to Q 22,52: *fa yansakh allāh mā yulqī al-shaiṭān*, where the term *naskh* can mean nothing but suppression. The reference to Q 13 was intended to convey that whereas *naskh* (allegedly spoken of as *yamḥū*) certainly means suppression, the suppression occurs following *tabdīl*, replacement, while *yuthbit* refers to non-replacement. To that extent, there is a further implied but unspoken glance towards Q 16,101: *wa idhā baddalnā āyah makāna āyah . . .*

f. 4a. In a second *ḥadīth*, ibn Juraij reports from Mujāhid the exegesis of Q 2,106: We endorse the [existing] wording of the verse [for inclusion in the *muṣḥaf*] while altering the ruling of the verse by replacing it [*nubaddil*], i.e. substituting a second ruling. At f. 7a, Abū ʿUбайд reads the Mujāhid *tafsīr* as a 'clarification' of the ibn ʿAbbās *tafsīr*: *naskh = ibdāl*. That would seem to guarantee the wording of this Mujāhid *tafsīr* as it appears on f. 4a. For Naḥḥās, confusingly, reproduces from ibn abī Najīh, Mujāhid's exegesis of Q 2,106: We suppress [*nuzīl*] the (existing) ruling of the verse, while endorsing the (existing) wording [which still appears in the *muṣḥaf*] (p.9).

This use of the stem *azāla* conforms more closely with the ibn ʿAbbās express appeal to Q 13,39 [*yamḥū*: *yuthbit*] and with the implied allusion to Q 22,52 [*fa yansakhuhu*] and the second implied reference to Q 16,101 [*idhā baddalnā*]. Apparently, ibn ʿAbbās was saying: Some verses God alters, [*yubaddil*] – i.e. He alters their rulings; and some verses God does not alter – their rulings remain valid. In addition, God alters the Qurʾān by expunging parts of the Book. Here our problem is that it is difficult to know whether *fa yansakhuhu* [f. 3b.] is intended to gloss the [*yubaddil*] in which case, *naskh = tabdīl = supersession*; or whether it intends to state that *naskh* [suppression] is a consequence of *naskh* [supersession] – i.e. the (original) ruling is first altered and then the (original) Qurʾān wording can be *azāla*, suppressed, [*yamḥū*]. Suppressing the (existing) ruling of a Qurʾān verse, while retaining the (original) wording of the verse amounts, in the mechanics of *naskh*, to exactly the same end-result as

replacing the existing wording of the verse. But, suppressing a verse is not the same as suppressing the ruling of the verse: *ibdāl* is not the same as *ibtāl*. In addition to our immediate concern with the theories of *naskh*, we have to take into account the parallel because consequent question of the history of the *muṣḥaf*, of the Qurʾān texts. In these discussions, appeal to Q 22,52 yields results very different in their implications from the results of appeal to Q 16,101. The Mujāhid exegesis of Q 2,106, adduced by the author, (which shows indirect appeal to Q 13,39) in fact, far from confirming the view credited to ibn ʿAbbās (f. 3b.) departs from it. For ibn ʿAbbās, Qurʾān verses allegedly fell into two classes, according as their rulings had been altered or not. The wording of those verses whose rulings had been replaced might subsequently be removed from the written (and memorised) records of the revelation. For Mujāhid, on the contrary, Q 2,106 refers to verses whose wording has been retained in the records [*muṣḥaf*] notwithstanding the replacement of the rulings of those verses by other rulings. The ibn ʿAbbās juxtaposition: *naskh: maḥū nasiya: ithbāt* exposes the identification of *naskh = tabdīl* without, however, quite disguising awareness that *naskh* really means not supersession, but suppression. The emphasis upon the replacement aspect of this definition of *naskh* is unmistakable at f. 3b. and signals an implicit reference to Q 16,101, which was then taken by Abū ʿUбайд (f. 7a) to have provided the basis of the ibn ʿAbbās *tafsīr* of Q 2,106. The replacement definition of *naskh* underlines concentration upon the rulings of the Qurʾān, with correspondingly less concern for the effects for the wording of the Qurʾān of the alleged operation of *naskh* upon the texts. The interest, in other words, is centred upon the application or non-application in the *Fiqh* of the rulings of Qurʾān verses. Abū ʿUбайд read the Mujāhid *tafsīr*, (as that was known to him) as clarifying the ibn ʿAbbās *tafsīr*: Whatever verse We replace – i.e. We replace the ruling, but not the wording. That equates *naskh* with *tabdīl* as ibn ʿAbbās is said to have done, reading Q 2,106 in the light of Q 16,101. But it restricts the *tabdīl* to the ruling alone, and applies Q 2,106's *aw nansa hā* to the wording alone, the latter term being explained as 'non-suppression' rather than 'non-replacement'. For Mujāhid, the wording of the verse whose ruling had been altered, was endorsed, and hence included in the *muṣḥaf*. That interpretation invites comparison of *naskh* (alleged to mean 'to alter') with *naskh*, meaning 'to copy', possibly with *nuskah*, codex – an interpretation which does not shrink from conceding the observable fact of tension between the present texts of the Qurʾān and the present rulings of the *Fiqh*.

f. 4a. *naskh* = 'to copy out' – sc. from *umm al-kitāb*, i.e. 'to reveal to Muḥammad', is the basis of a third interpretation of Q 2,106, attributed, not only to 'Aṭā', among others, but also to Mujāhid!

Abū 'Uбайд considers this interpretation unproductive. In that light, Q 2,106 would apparently state that God will either reveal verses to Muḥammad, or retain them in the divine presence, in *umm al-kitāb*, but that in either event, He will bring something similar or even better. That might imply that God proposed to replace the entire Qur'ān.

If one read *naskh* meaning 'to copy out' – i.e. 'reveal', one could then read *aw nansa hā* [as ibn 'Abbās allegedly did read] to mean: 'to leave it where it is' – not to *naskh*. 'Aṭā', however, allegedly read *aw nansa' hā* – 'to leave the verse where it is', i.e. 'and not reveal it'.

f. 4b. We are informed that this 'Aṭā' reading had been shared by Mujāhid, 'Uбайд b. 'Umair, 'many of the Readers', among them, Abū 'Amr and 'others in Baṣra' and that this hamzated reading can be justified on the grounds of the occurrence of *n s* ' in the texts of both Qur'ān and Sunna. An instance of its Qur'ānic use is Q 9,37, and in the Sunna, the Prophet's words: 'He who desires an extension of his life-span . . . ' Abū 'Uбайд could make little of the *tafsīr*: 'Whatever verse We reveal, or do not reveal, We shall bring one better than it, or similar to it.' It left him somewhat non-plussed, and he preferred to pass on rapidly to 'the generally recognised phenomenon' of the *nāsikh* and the *mansūkh* of the Qur'ān. In other words, *naskh* had already achieved an accepted definition and, in common with 'everyone else' of his generation, being content with that, Abū 'Uбайд had little interest in alternative definitions.

Yet, we find that Shāfi'ī, a contemporary of the author, seemed for his part, to make sense of that 'Aṭā' definition. In Q 2,106, God informs us that the *naskh* of the Qur'ān and the deferment [*ta'khīr*] of its revelation occur solely at the hands of the Qur'ān. [Ris., pp.107–8.] For Shāfi'ī, the verse refers specifically to rulings and *naskh*, for him the contrary of *ithbāt*, he equates with *izālah* [*ibṭāl*].

What precisely is meant by the *ta'khīr* of the Qur'ān is, perhaps, made clearer by Suyūfī [*Itqān*, 2, p.21]. *Naskh* is of several types: 1. the suspension of a ruling before it is even put into practice. This, which is 'true' *naskh*, is exemplified by Q 58,12–13. 2. The *naskh* of the laws of those before us, for example, the law on retaliation, replaced in Islam by the institution of the wergeld [*diyāh*] . . . 3. Rulings may be imposed for a specific reason, and then disappear with the disappearance of that reason [*'illah*]. For example, the

command to be patient in the days when the Muslims were few and militarily weak, was eventually to be superseded by the command to make war. This is not *naskh*. This is really *insā'*, as God said: *aw nansa' hā*. The command to fight is the *munsa'*, that is, a ruling that God had deferred until the Muslims acquired military strength. Many scholars include the verse demanding patient forbearance among the verses which were abrogated by the 'sword verse' [Q 9,5]. That is not the case as these verses are not *mansūkhah*, but *munsa'ah*. Every revealed ruling is to be put into practice in accordance with the '*'illah*' underlying its revelation, and for as long as the '*'illah*' persists. When, however, the '*'illah*' ceases to apply, the ruling ceases. But by *naskh* is meant the suppression of a ruling so that its implementation becomes forbidden forever.

From this, it would appear that the 'Aṭā' *tafsīr* of Q 2,106 should be read: 'Whatever verse of the Qur'ān We reveal, or do not reveal, but defer, We shall [in the meantime] bring one better than it, or similar to it.' It thus does not refer to the entire Qur'ān. This *tafsīr* not only makes sense, it is perhaps more comprehensive than that favoured by the author.

f. 5a. The *ḥadīth*: *man sarrahu al-nasi' fī-l-ajal . . .*

cf. Mus., K. al-birr wa-l-ṣīlah wa-l-ādāb, bāb: ṣīlat al-raḥīm.

Bu., K. al-Buyūc, bāb: man aḥabb al-basaṭ fī-l-rizq;

Ādāb, bāb: man busiṭa lahu fī-l-rizq;

The *isnāds* differ from Abū 'Uбайд's.

For ibn 'Abbās, *naskh* appeared to mean replacement of Qur'ān verses.

For Mujāhid, it appeared to mean replacement of Qur'ān rulings, but not necessarily replacement of the wording.

For ibn 'Abbās, *nisyān* meant non-replacement of rulings.

For 'Aṭā' and Mujāhid, *nasā'* meant non-revelation.

Abū 'Uбайд's *ikhtiyār*: f. 5b. The author rejects both 'Aṭā's 'reading' and his *ta'wīl*. He prefers the 'reading' of the major Companions and Successors. Q 2,106 does not refer to the entire Qur'ān but only to those parts of the Qur'ān which are *mansūkh* in the 'generally accepted' sense of the word. He read *aw nansa hā* without final hamzah, as the Medinan and Kūfan scholars had done, linking it with the root *nasiya*, meaning 'to forget'. This was how the verse was understood by Ubaiy b. Ka'b, 'Abdullāh b. Mas'ūd, Sa'd b. abī Waqqāṣ, and by ibn 'Abbās [!] – although the reports from him vary. That was also the reading of Sa'id b. al-Musaiyab and of al-Ḍaḥḥāk. The 'readings' reported from the two major Companions, Ubaiy and

°Abdullāh b. Mas'ūd reinforced the reading of *aw nansa hā* without hamzah:

Ubaiy read: *mā nansakh min āyah aw nunsika . . .*

°Abdullāh: *mā nunsika min āyah aw nansakh hā . . .* while

Daḥḥāk read: *mā nansakh min āyah aw nunsī hā . . .*

Their readings point to a 'forgetting' *tafsīr*.

A dispute has been recorded involving ibn abī Waqqāṣ and ibn al-Musaiyab. The first recited: *aw tansa hā*. The other read: *aw nunsī hā* [*nansa hā?*] possibly even *aw tansa hā*. Abū °Ubaid is uncertain, probably owing to the condition of the script. Sa'īd repudiated Sa'īd's reading urging in favour of his own, parallel Qur'ān contexts: Q 87,6–7: *fa lā tansā illā mā shā'a allāh . . .* Q 18,24: *w-udhkur rabbaka idhā nasīta . . .* Both contexts speak of 'forgetting' and predicate it of Muḥammad.

The Medinese Readers, Abū Ja'far and Shaibah [both d. 130] and Nāfi° [d. 169] all read: *aw nunsī hā*, which was also the reading of the Kūfans.

f. 6b. Abū °Ubaid expresses a common-sense approach and is not prepared to enter further into subtle minutiae. Whether the word is read with *tā'* or with *nūn*, the reference is to 'forgetting' and it makes no difference whether Muḥammad forgot, or God caused him to forget parts of the Qur'ān – they are forgotten. He now suggests that the ibn °Abbās *tafsīr* had probably been analogically derived from Q 20,126, Q 9,67, and guided by the realisation that, of course, God neither errs nor forgets. The ibn °Abbās *tafsīr* and the °Aṭā' reading had both equally represented a flight from:

a. reading Q 2,106: *aw nansa hā* [with *nūn*] and

b. understanding God to say: 'or We forget the verse . . .'

The term 'naskh'

f. 7a. The term has three uses in Qur'ān and Sunna.

1. The *naskh* which refers to verses still present in the *muṣḥaf*, but not acted upon in the *Fiqh*. This is the 'well-known phenomenon' referred to by ibn °Abbās and Mujāhid [sc. *naskh al-ḥukm dūna al-tilāwah*]. The evidence in favour of this view, in Abū °Ubaid's eyes, had been ibn °Abbās' implied reference to Q 16,101: *idhā baddalnā āyah makāna āyah*. Where this mode of *naskh* occurs, both *nāsikh* and *mansūkh* verses are still present in the *muṣḥaf*, save only

that the ruling of the *nāsikh* verse alone is operative [cf. *I'tibār*, 8]. The wording of both *nāsikh* and *mansūkh* verses may be recited in the ritual prayer.

2. *raf'*. f. 7b. This *naskh* refers to the withdrawal of verses both from the written records and from the memories of the Muslims. Our knowledge of this type of *naskh* derives from *ḥadīths* reporting its occurrence [cf. Tab., 2,479]. The *ḥadīth* which Abū °Ubaid cites is one form of the familiar report on 'the lost *sūrah*'. The *isnād* is Ḥijāzī and the adventure is said to have befallen three men. Use of the report equates *naskh* with *raf'*.

Also quoted, but only in the margin, is the celebrated report on ibn Mas'ūd's *muṣḥaf*. A third, and final *ḥadīth* which features the Prophet is incomplete, owing to the loss at this point [f. 8b] of at least one whole folio. From the opening words, this would seem to have been a version of the equally celebrated *ḥadīth* of the Prophet's being reminded by a man's recital in the mosque by night of Qur'ān verses which Muḥammad had quite forgotten. Abū °Ubaid certainly knew the *ḥadīth* in question, since he refers to it in his *Gharīb al-ḥadīth*, s.v. *n s y*. [cf. Bu., K. *Faḍā'il al-Qur'ān*, *bāb: nisyān al-Qur'ān*.] In his own *Faḍā'il al-Qur'ān*, Abū °Ubaid could amass a number of *ḥadīths* under the rubric: What was withdrawn [*rufi'a*] from the Qur'ān following its revelation and is thus not recorded in the *muṣḥaf*. The whole section has been taken over by Suyūṭī [*Itqān*, 2, p.25 ff.] to illustrate: *naskh al-ḥukm wa-l-tilāwah*. In his *Faḍā'il*, Abū °Ubaid comments: The scholars have neither repudiated these fragments we have cited, nor denounced as unbelievers those who do not accept them. They regard them as 'like' what is in the *muṣḥaf*, although they do not recite them in the ritual prayers.

Both from the wording of these *ḥadīths*, however, and also from the wording of the Bukhārī heading cited above, it is clear to the reader that the *ḥadīths* themselves were merely part of the ammunition used by those exegetes who took Q 87,6–7 to be a clear divine hint that Muḥammad could forget, and had, in fact, forgotten, parts of the Qur'ān. In: *sanuqri'uka fa lā tansā' illā mā shā'a allāh*, the *illā* exceptive clause attracted the bulk of the exegetical study. 'You, Muḥammad will not forget – *except what God wills*.' The scholars divided into those who regarded the exceptive as 'ineffective' – as merely part of the Qur'ān's rhetoric, and those who regarded it as effective – as necessarily to occur, but, as it had occurred under divine control, to be placed [under the aegis of Q 2,106 which consisted of two clauses: *mā nansakh* and *aw nunsī hā*] with the other

categories of *naskh*. One mode of *naskh*: *naskh al-ḥukm wa-l-tilāwah jamīʿan*, consisted entirely of Qurʾān verses which Muḥammad had been caused to forget. The others, more precisely, preferred to keep the two ‘phenomena’ of *naskh* and of Muḥammad’s forgetting entirely separate, as has neatly been illustrated in a further *ḥadīth*: The Prophet performed the *ṣalāt*, but omitted an *āyah* in the course of his recital. After the prayer he asked, ‘Is Ubaiy in the mosque?’ Ubaiy spoke up, ‘Here I am.’ The Prophet asked him why he had not prompted him. Ubaiy replied that, as the Prophet had omitted the verse, he had presumed it had been abrogated. Muḥammad replied, ‘It was not abrogated – I forgot it.’ [cf. Mud., 1, p.107; Rāzī, ad Q 87.]

Finding *naskh* referred to in one verse, and forgetting in another, some had concluded that they were discrete, their opponents insisting that both are referred to in Q 2,106, and therefore associated. There are in this view, two modes:

<i>naskh al-ḥukm dūna al-tilāwah</i>	[Q 2,106 ^a <i>mā nansakh</i> ; Q 16,101].
<i>naskh al-tilāwah wa-l-ḥukm</i>	[Q 87,6–7 <i>illā mā shāʾa allāh</i>]. [Q 2,106 ^b <i>aw nunsi hā</i> .]

The ‘more precise’ scholars of whom we speak would prefer to appeal to Q 22,52: *fa yansakh allāh mā yulqī al-shaiṭān thumma yuḥkim allāh āyātihi*. They criticised Abū ʿUbaid’s reference to the *rafʿ* of Qurʾān matter which had been revealed to the Prophet, then later withdrawn, so that it is neither recited in the prayer, nor recorded in the *muṣḥaf*. The *ḥadīths* on which he relied had sound *isnāds*, but he had misinterpreted them. Arguing on the basis of other verses: ‘If We wished, We would remove what We have revealed to you’, [Q 17,86] his critics insisted that this made it inconceivable that Muḥammad would be, or had been deprived of anything that had once been revealed to him. Alternatively, his error lay in reading *naskh* into these *ḥadīths*, when, in fact, they merely spoke of his forgetting. We have already seen, however, f. 6b. that it is quite immaterial whether Muḥammad forgot, or whether God caused Muḥammad to forget – for our author, Muḥammad had not behaved other than as God had directed. When God caused him to forget, he forgot. [cf. Naḥḥās, p.9; Ṭabarī, 2, p.479.]

3. Following the break caused by the missing folio, Abū ʿUbaid appears to have already passed to the third meaning of *naskh*. That this was the *iktitāb* definition, derived from: *nasakhtu al-kitāb*, is guaranteed by his referring to Q 45,29 but also, again by Naḥḥās’

assurance [p.9] that Abū ʿUbaid mentioned only these three meanings of the term *naskh*.

f. 9a. The author reminds us of ʿAṭā’s *tafsīr* of *mā nansakh*, based on this same *iktitāb* meaning, i.e. ‘to copy’ [reveal]. The degree of scholarly confusion is shown by Naḥḥās’ adding: Mujāhid and Qatādah interpreted: *aw nansa hā* to mean ‘forgetting’ – the interpretation of ibn abī Waqqāṣ. Two further interpretations are reported as from ibn ʿAbbās: *mā nansakh = mā narfaʿ*; *aw nansa hā = We leave it – We do not naskh it*.

It has also been reported that some interpreted *aw nunsi hā* to mean: We assign to you the prerogative of abandoning the ruling imposed in a Qurʾān verse. The best interpretation of the Baṣran reading: *aw nansaʾ hā*, is: We leave it where it is – We do not *naskh* it: *naskh = copy, reveal*; or *naskh = replace or suppress* [p.9].

Thus, both here, as above, *nansa/nansaʾ = We leave it*, can coincide in meaning, although non-coincident in sound!

Abū ʿUbaid had isolated two meanings for *naskh*:

1. *naskh al-ḥukm wa-l-tilāwah*: i.e. the ‘omission’ from our Qurʾān texts [*muṣḥaf*] of ‘verses’ originally revealed. They had subsequently been forgotten by Muḥammad (or by the Companions). There occurs no further reference throughout his work to this supposed mode of *naskh*. The author had noted that it is properly of interest solely to exegetes.

2. *naskh al-ḥukm dūna al-tilāwah*: the alteration of the ruling of a Qurʾān verse, despite the survival of the wording of the verse in the *muṣḥaf*. The formula applies also to the alteration of the ruling of a sunna, despite the survival of the wording of the sunna in the *Ḥadīth*. The *naskh* of Qurʾān rulings, or of Sunna rulings, is the subject of the remaining chapters of this book.

Similarly, Ṭabarī [v.2, p.479] seemed not to grasp the significance of the proposed reading: *mā nansakh: aw nansaʾ*. For him, *nansaʾ*, meaning *taʾkhīr*, was tantamount to *nansa*, meaning not to *naskh*, that is, not to replace. Ṭabarī isolated from the one clause: *mā nansakh min āyah* two phenomena: the alteration of the ruling and the preservation of the original wording; and the alteration of the ruling with the (subsequent) suppression of the wording.

ff. 9a–14a. *Instances of ‘nāsikh’ and ‘mansūkh’ in the Qur’ān and the Sunna documents dealing with the ritual prayer*

Having divided the Qur’ān revelations roughly into the Meccan and Medinan periods, the Islamic scholars agreed that no instance of *naskh al-ḥukm dūna al-tilāwah* affected the Meccan revelations. Replacement of rulings is Medinan. Thus, the earliest instance of this type of *naskh* is dated to the period after the Hejrah. The first alteration of a Qur’ān ruling was that concerned with the direction of prayer, the *qiblah*. The ibn ‘Abbās *ḥadīth* implies that the choice of *qiblah* had at first been delegated to the Prophet who had chosen to pray facing the Temple at Jerusalem. Later, God imposed upon the Muslims the direction of the Meccan *Ḥaram*, as a test of the obedience of Muḥammad’s followers. It is not here stated whether this is to be regarded as an instance of the *naskh* of the Qur’ān by the Qur’ān, or of an allegedly Qur’ān-based sunna by the Qur’ān. The Abū ‘Ubaid *ḥadīth* is based on the ‘Aṭā’ Khurāsānī *riwāyah*; the Naḥḥās *ḥadīth* on the ‘Alī b. abī Ṭalḥah transmission. Abū ‘Ubaid has: to distinguish the people of certainty from the people of doubt and uncertainty: *al-shakk wa-l-raibah*. Naḥḥās has: to distinguish the people of certainty from the people of *shirk*. He comments: *shirk* here means: *shakk wa-l-raibah* [p.14]. The Naḥḥās *ḥadīth* is much longer and is almost a meld of the ibn ‘Abbās and Barrā’ *ḥadīths* which in Abū ‘Ubaid are separate. Barrā’: the Jerusalem *qiblah* lasted 16 or 17 months. ibn ‘Abbās: When he transferred to Medina, the majority of whose inhabitants were Jews, God ordered him to pray facing Jerusalem. To the delight of the Jews, he did so for something above ten months . . . The Prophet would have preferred the *qiblah* of Abraham, and kept praying to God and looking skyward. Following the change, the Jews said, ‘What has turned them from the *qiblah* they have been following?’ cf. with this Naḥḥās version Abū ‘Ubaid’s laconic remark: the ‘thoughtless’ [*sufahā*] Q 2,142, are the Jews. Hibatullāh [p.12–3]: Qatādah, Ḍaḥḥāk and ‘others’ reported that he prayed towards Jerusalem for about seventeen months; Qatādah said 18 months; Ibrāhīm al-Ḥarrānī said 13 months. Naḥḥās [p.14] Zuhri – ‘Abdul Raḥmān b. ‘Abdullāh b. Ka‘b b. Mālik: The *qiblah* was changed to the Ka‘bah in Jumāda 2 A.H.; ibn Ishāq said, ‘in Rajab’; Wāqidī said, ‘in mid-Sha‘bān.’ The Prophet arrived at Medina in Rabī‘ I, i.e. 16 months before Jumāda 2 – the period mentioned by ibn ‘Abbās. According to the ibn ‘Abbās

report, it was God Who had imposed the Jerusalem *qiblah*, then abrogated it. Others held that God abrogated the act of the Prophet who imitated the sunna of the previous prophets until informed that that had been abrogated; yet others said that Q 2,115 was here abrogated by Q 2,144. This last view is mentioned also by Hibatullāh [p.12]. He also, however, mentions that some people argued that Q 2,115 was God’s response to the question ‘What has turned them from the *qiblah* they have [hitherto] been following?’ – after the change of *qiblah*; cf. f. 10a, the *ḥadīth* from Barrā’.

Resistance to any suggestion that any of Muḥammad’s Sunna was mere borrowing from the Jews of Medina is represented in the Mujāhid-ibn ‘Abbās *ḥadīth* [Naḥḥās, p.14]: While still in Mecca, Muḥammad faced Jerusalem, placing the Ka‘bah between himself and the Temple. He continued praying towards Jerusalem for 16 months after transferring to Medina . . .

This ‘facing towards Jerusalem’ is nowhere mentioned in the Qur’ān which [Q 2,142] merely rationalises a change of direction. We have no information on what was that direction here said to have been abandoned. All mention of Jerusalem and the Temple is mere exegetical guesswork.

f. 11a. This is an instance of the *naskh* of the Qur’ān. Naḥḥās prefers the ibn ‘Abbās conclusion: an order from God was abrogated by an order from God. He brushes aside the attacks on the ‘Alī b. abī Ṭalḥah transmission. ‘Alī is said never to have met ibn ‘Abbās, but to have acquired the ibn ‘Abbās *tafsīr* at second-hand from Mujāhid and ‘Ikrimah. Naḥḥās: all three men are trustworthy.

ff. 11a–14a. *Instances of ‘naskh’ in the Sunna relating to ritual prayer*
In this section, the introduction of regulation *ibtidā’an* is treated as change, and all change is *naskh*. The earlier situation had been one of non-regulation. This indicates a rather loose use of the term *naskh* which, in the hands of Shāfi‘ī, was already a precise technical term. [Ris., p.122.]

Adhān; *iqāmah*; *al-i’timām bi-l-imām*; *al-qaḍā’* are the four aspects of ritual prayer treated in a single compendious report from a single Companion, Mu‘ādh b. Jabal. The *ḥadīth* is *marfū‘* and betrays part of its purpose in attributing to the Prophet the commendation of ‘the sunna of Mu‘ādh’. f. 12a.

1. the *adhān*: ‘Abdullāh b. Zaid al-Anṣārī. cf. Suyūṭī, *Durr*, 1, p.175, for Mu‘ādh’s *ḥadīth*. In this version, the first change is the *qiblah*; the

second, that of the *adhān*. Here, °Umar had received the same vision as °Abdullāh, but °Abdullāh reported his first.

b.M. *abwāb al-adhān*; Dār., *Ṣalāt, fī bad' al-adhān*. Suyūṭī's third change is the *qaḍā* of the late-comer. Dār., [*al-sunna fī man subīqa bi ba'ḍ ṣalātihī*] "I adhere to the view of the Kūfans in this matter of the *qaḍā*'. A man should treat that part of the prayer which he missed as something that has to be 'made up'."

DQ, 1, p.402: the same is reported as from °Alī.

f. 12b. This is already reported as from the Prophet.

Chatting during the ritual prayers

2. Three reports indicate that the 'earlier' practice had been suppressed. Two come from °Abdullāh b. Mas'ūd. The first implies change of a sunna by divine inspiration: *naskh* of the *waḥy* by the *waḥy*. This suggests, but does not state, that the Sunna is revealed: *al-waḥy ghair al-matlū*. The second *ḥadīth* merely states the common-sense rationalisation: at prayer, one is pre-occupied. The third, f.13b from Zaid b. Arqam, places this change into the category of the *naskh* of the Sunna by the Qur'ān.

A.D., 1, p.211–2; b.M. 1, p.319; Mus., 2, p.70: 'The ritual prayer is not an appropriate place for mere profane talk. Prayer consists of divine praise, extolling the greatness of the Creator and reciting the Holy Book.'

Naḥḥās [p.17] . . . °Abdullāh b. al-Mubārak – Ismā'īl b. abī Khālid – al-Ḥārith b. Shibl – Abū °Amr al-Shaibānī – Zaid: (approximately what author reports.) Naḥḥās: some say *qunūt* means 'to stand'; others report from the Prophet that he said it means 'obedience'. This is borne out by the above *ḥadīth* whose *isnād* is *ṣaḥīḥ*. The meaning of the verse is thus, 'Stand in obedience to God's command that you leave off chatting during the ritual prayers.'

cf. Bu., Tafsīr, Q 2,238; Tir., *abwāb al-ṣalāt*– both from Abū °Amr al-Shaibānī. cf. *Fūbār*, p. 73 where *ḥadīths*, assembled as from °Uthmān b. Maḥ'ūn, °Ammār b. Yāsir, report only 'the earlier situation': the Prophet returned greeting even when at prayer. Amassed against these reports are others which, unlike them, are neither *mursal* nor *munqaṭīc*, but *ṣaḥīḥ*. These include the Abū °Amr report from Zaid and a report from ibn Mas'ūd whose second half declares that the Prophet said, 'God has introduced a new ruling concerning ritual prayer: that you should not engage in profane talk,

but only in praising God *and* that you should stand before him *qānitīn*.'

Abū °Ubaid does not attempt to solve the question of whether this represents the *naskh* of the Sunna by the Qur'ān. He is content merely to cite the conflicting reports, being interested more in the *fact* than in the precise mechanism of this instance of *naskh*.

f. 13b. *The traveller's ṣalāt*

The scholars are agreed that the Muslim traveller has been granted the concession of abbreviating the ritual prayers. This opinion is allegedly based on Q 4,101: 'and when you travel in the land, you will incur no guilt in shortening the ritual prayer *if you fear* that those who reject the Prophet will assault you . . .' whereas the verse uses the root *q ṣ r*, abbreviate, the °Ā'ishah *ḥadīth* states that the ritual prayer, having been originally imposed as consisting of only two *rak'ahs*, was later *increased* to four *rak'ahs* for the sedentary, remaining at two *rak'ahs* for travellers. Using the Qur'ān's reference to 'abbreviation', ibn °Abbās achieved the conclusion that the traveller's prayer, in that event, consisted, in time of fear, of only one *rak'ah* [*Umm*, 1,159]. Abū °Ubaid's discussion of this question, in its excessive brevity – he does not even refer to the Qur'ān text – contrasts strangely with the intensive and extensive discussion of this very topic in the *tafsīr* and *Ḥadīth* works. He appears to have allowed himself to get caught up in the resolution of the conflicting reports on the 'practice' of °Ā'ishah and of °Uthmān.

ff. 13b–14a. °Ā'ishah's *ta'wīl* is mentioned also by Muslim: as from ibn °Uyainah – Zuhri – °Urwah – °Ā'ishah, as given here; and, as given at the end of f. 14a., by Naḥḥās [p.77] cf. Naḥḥās [p.115]: 'in my view, there is here neither *nāsikh* nor *mansūkh*. Those who say that the Prophet's sunna repealed the 'fear element' of Q 4,101 are mistaken . . . The verse does not prohibit the shortening of the prayer in the absence of fear, it permits the shortening of the prayer in the presence of fear. Nor does it refer to the number of *rak'ahs*, but to the curtailing of the constituent features of the *ṣalāt*: *iqāmah*; *rukūc*; *sujūd*, etc . . . The majority of the *fuqahā*' say that the Qur'ān ruling concerns the traveller's prayer – two *rak'ahs* only, when there is fear. The traveller's prayer when there is no fear – two *rak'ahs* – is the ruling derived, not from the Qur'ān, but from the Sunna.' [cf. *Umm*, 1, p.159.] Both sources therefore, the Qur'ān and the Sunna, are thought to have regulated the relevant matters independently one of

the other. There is thus no occasion to talk of *naskh*. cf. Muw., 1, p.124: Mālik – ibn Shihāb – a man of the family of Khālid b. Usaid who said to ʿAbdullāh b. ʿUmar: We find the ‘fear prayer’ in the Qurʾān, but we do not find the ‘travel prayer’. ibn ʿUmar replied, ‘God sent us Muḥammad when we knew nothing at all. We simply do as we saw him do.’

Mus., A.D.: Yaʿlā b. Umayyah said to ʿUmar: ‘Why do the people abbreviate the prayer when God says, “if you fear”. Surely in our day that cause has disappeared?’ ʿUmar said, ‘I was surprised as you are now, so I asked the Prophet and he replied, “That is a concession [*rukḥṣah*] God has granted, so accept it.”’ The matter was obviously disputed. cf. *Umm*, 1, p.159. Shāfiʿī’s discussion was occasioned by the insistence of his opponents that to shorten the prayer when travelling is not an option, but an obligation. The question also involves a dispute as to whether the *imām* is free to complete the prayer at Minā during the Pilgrimage. The opponents persist, using the ʿĀʾishah statement. Shāfiʿī replies, using reports about her ‘actual practice’. For him, the only prayers which the traveller may abbreviate are those consisting of four *rakʿahs*: *zuhr*; *ʿaṣr* and *ʿishā*. In the *Ikhtilāf*, Shāfiʿī takes his stand on the ʿĀʾishah report: The Prophet did both; when travelling he completed the prayer, and at other times, abbreviated it. cf. Baihaqī, 3, p.141. According to Ṭabarī, the phrase ‘if you fear’ was lacking in Ubaiy’s reading of Q 4,101, cf. v.9, p.127. *ibid.*, p.125, Abū al-ʿĀliyah referred to both Q 4,101 and Q 48,27 [!]: *āminīn muḥalliḳīn ruʿūsakum wa muqaṣṣirīn* . . . The modality of the ‘fear prayer’ exercised the scholars mightily: Muw., 1, p.149; Ris., pp. 180–2; 244; 267, cf. 259ff. *Umm*, 1,186; Bu. [Fath] 3,81–5; 7,428–9; 8,420–8; Ṭay., 1,150; Mus., 2,212–4; Naw., 4,127; A.D., 1,192ff.; Tir., 3,42 ff.

ff. 14b–20b. *The Zakāt*

The scholars have disputed the *naskh* of certain verses:

1. Q 4,8: The discussion reflects differing exegeses of the term *rizq*. Those taking that to refer to ‘funds’ or ‘property’, connect this verse with their thinking on the *waṣīyah*. A more primitive *tafsīr*, taking the term in its most basic sense, discusses the provision of food. The

initial *ḥadīths* assume that the verse is not *mansūkhah*. This view attributed to: Saʿīd b. Jubair; ʿAbidah; ʿĀʾishah, and ʿAbdullāh b. ʿAbdul Raḥmān b. abī Bakr.

f. 16a. ‘Partial *naskh*’ of Q 4,8 is hinted at, possibly referring obliquely to the exclusion of heirs from benefit by *waṣīyah*. Abū Mūsā said to have implemented the apparent ruling of the verse. Mujāhid, also connecting it with the inheritance regulations, considered the ruling valid and commendable.

f. 16b. Ḥasan, ʿIkrimah and ibn al-Musaiyab all regarded Q 4,8 as superseded by Q 4’s inheritance regulations.

Abū ʿUbaid is content to report the differences without seeking either to resolve them, or to express a preference. Naḥḥās mentions three positions on Q 4,8: it is *mansūkhah*; it is *muḥkam* and *wājib*; it is *muḥkam* but only recommended. To the above names of those who thought it had not been abrogated, he adds those of: ʿUrwah; Mujāhid; ʿAṭāʾ; Ḥasan [!] Zuhri; Yaḥyā b. Yaʿmur and ibn ʿAbbās. Naḥḥās himself prefers the view that the verse commends charitable giving to those attending the division of an estate.

Bu. [4, p.8] produces an ibn ʿAbbās *tafsīr* to the effect that the verse has not been abrogated.

2. Q 6,141: f. 17a. According to Ḥasan, the verse refers to *ṣadaqah* on cereals and fruit. According to ibn ʿAbbās, it refers to *zakāt* and is still in force.

f. 17b. Mujāhid harmonises the two views. Abū ʿUbaid distinguishes: ibn ʿAbbās and Ḥasan took the verse to refer to *zakāt*; Mujāhid thought it referred to something other than *zakāt* – it imposes a further obligation on the Muslims. All three thought the verse still valid.

ff. 17b–18a: Saʿīd b. Jubair, Abū Jaʿfar and ibn ʿAbbās all considered the verse to have been abrogated. Abū Jaʿfar puts this into the form of legal tags: *zakāt* replaced *ṣadaqah*; Islamic slaughter replaced all ritual slaughter; Ramaḍān replaced all fasts.

f. 18b. Abū ʿUbaid expresses his preference for the view that the verse is *muḥkamah* and is still in force. This is more in conformity with two *marfūʿ* *ḥadīths* which, for him, are the deciding factor. Further, he knows a *fatwā* from ibn ʿUmar in close agreement with the view transmitted as having been that of the Prophet.

f. 20a. A statement from Shaʿbī as to the meaning of Q 2,177 reinforces Abū ʿUbaid’s certainty, while the deliberate and conscious

dating of Q 2,177 reported from ibn ʿAbbās who placed its revelation later than that of the inheritance regulations, is finally decisive. The beggar, the destitute and the protégé therefore have a God-given right in the Muslim's property (f.20b).

Nahḥās [p.140] mentions five views on Q 6,141:

It was abrogated by the Qurʾān – by the *zakāt*; it was abrogated by the ʿ*ushr* (introduced in the Sunna); it is not abrogated, but refers to the *zakāt* itself; it is still valid and refers to something other than the *zakāt*; it is still valid, but only as a recommendation. Nahḥās thinks the verse, which is Meccan, cannot refer to *zakāt* itself, imposed only at Medina; further, if the reference were to *zakāt*, the *zakāt* would have to be paid at the moment of the harvest, which is not the case. *Zakāt* would also be payable on fruit and on all agricultural produce, which is also not the case. *Zakāt* is levied on only four crops: wheat, barley, dates and grapes – that is the Sunna. cf. *Amwāl*, p.470.

f. 19b. The ibn ʿUmar *ḥadīth*: cf. *Amwāl*, pp.357; 570.

f. 18a. Mujāhid: *zakāt* abrogated every *ṣadaqah* mentioned in the Qurʾān. cf. *Amwāl*, loc. cit. That was not the view of ibn ʿUmar and Abū Hurairah. The Companions are better informed on the *tafsīr* of the Qurʾān and they are to be followed. The views of Ṭāwūs and Shaʿbī (f. 20a) were that there are rights in the Muslim's property over and above the *zakāt*; for example, filial piety, charity towards blood-kin, hospitality to guests. There are also duties towards dumb animals.

f. 20b. For the dating of Q. 2,177, cf. *Amwāl*, p. 358.

f. 18a. Abū Jaʿfar – cf. Hibatullāh, p.11, p.20. He mentions Abū Jaʿfar b. Zaid b. al-Qaʿqāʿ.

ff. 20b–46b. *The Fast*

The exegetes focused their attention in the first place on two questions: the precise function of the particle *kamā*; and the identification of 'those before you'.

Q 2,183: "Fasting is imposed upon you, as fasting was imposed upon those before you . . ."

The widest divisions reign among the commentators. For Jaṣṣāṣ [v. 1, p.202] there is no indication in the *kamā* of the number of days, the manner or the time of the fast imposed upon 'those before you'. The

expression is, thus, general and uninformative. If we did know the answer to these two questions, the verse might possibly refer to the manner and the modality of the previous fast, but that knowledge could not be used by us to imitate that fast. Qurṭubī [1, p.472] points out the two possible functions of *kamā*: it may be merely a conjunction, addressing the *fact* of the imposition of fasting; or, it may be a relative *mā* suggesting similarity in the modalities of fasting. Shaʿbī and Qatādah interpreted it as indicating the timing. Ramaḍān had been imposed upon both the Jews and the Christians, but both had altered its character. Mujāhid, Ḥasan and ibn ʿUmar stated that Ramaḍān had been imposed in every pre-Islamic revealed religion – i.e. the fast of one complete month. There is also a *marfūʿ* transmitted by ibn ʿUmar. Suyūṭī, [*Durr*, I, p.172] The Prophet said exactly this. Qaṣṭallānī [3, p.343] the *isnād* is, however, unsatisfactory.

The comparison is general, referring to the *fact* of imposition, the number of days, the modalities of the fast in all its aspects. For example, the People of the Book were prohibited from eating, drinking and sexual intercourse during the period of the fast, after they had had the first sleep of the night – some say after the ʿ*ishā* prayer. [ibn Ḥayyān, *Bahr*, 2, p.48]

A comment from Suddī [Qaṣṭ., loc. cit.] that the ruling of this verse was *in conformity with* what had been imposed upon the People of the Book indicates the source of much of the exegesis and its attendant *ḥadīth* evidence in this *kamā*. The Christians were forbidden to eat, drink and have sexual intercourse during the month's fast. The same prohibition operated at first in the Muslim fast. Saʿīd b. Jubair reported that, if one of them slept before breaking his fast, food and women were forbidden until he broke his fast on the following day. That prohibition remains in force in 'their' fast, but has been relaxed in yours [*Durr*, p.176].

Finally, what establishes the methods by which these 'facts' were extracted from the sources is fully illustrated in the ibn ʿAbbās declaration: The fast was imposed upon the Christians, just as it has been imposed upon you. The verification of this statement may be found in the Book of God [*Durr*, loc. cit.].

Hibatullāh reads the verse as an encomium [p.16]: Some say the reference is to all pre-Islamic religions. God sent no prophet without imposing upon him and his community the fast of the month of Ramaḍān. All previous communities fell away from belief and only the followers of Muḥammad remained firm. Others held that the reference is to the Christians who were forbidden to eat, drink and enjoy sexual intercourse upon breaking the fast if they first fell

asleep. This ruling originally applied to the Muslims, upon whom an additional condition was imposed: if they first fell asleep, or prayed the ‘*ishā*’ prayer.

f. 21a. The scholars’ knowledge of the details of the ‘previous’ fast and the identity of those upon whom it was imposed had been the result of thoughtful reflection upon the wording of the Qur’ān’s fasting pericope, and more especially of their extraction of the negatives from the imperatives of Q 2,187: “It is declared lawful that you approach your wives in the nights of the fast . . . God knows that you have heretofore been betraying yourselves, but He has relented and forgiven. Now approach them . . . and eat and drink . . .”

The ibn ‘Abbās *ḥadīth*: the ‘original’ fast had been imposed upon Muḥammad and his group. The strict nature of the ‘first’ fast is known by what may be termed *asbāb al-nuzūl* in reverse. Q 2,187 had been revealed ‘to correct’ the behaviour of the first Muslims, and from the contents of that verse, the ‘earlier situation’ can easily be reconstructed.

The very words, “It is declared lawful . . .” show that, until their revelation, it had been unlawful. [*Bahr*, 2, p.48] The scholars are agreed that these words indicate *naskh*. For knowledge of the *mansūkh* regime, we are in need of some indication, and there is none, other than the comparison stated in: “as fasting was imposed upon those before you.” [Rāzī, 1, p.69]

The uncertainty as to when the fast re-commences: after the ‘*ishā*’ [‘*atamah*’] prayer, or after the first sleep, results from uncertainty as to the definition of ‘night’ in Q 2,187: “then maintain a complete fast until night.”

Uncertainty as to the meaning of ‘*ishā*’ is indicated by Zuhair’s report which uses, instead of ‘*ishā*’ the verb *yata‘ashshā*, i.e. to have supper. [Nas. 4,147; Naḥḥās, p.24.] Early exegeses are actualised in the reports about ‘Umar: ‘night’ is determined by when one goes to bed; and about Ṣirmah: night is determined by ‘*ishā*’, meaning suppertime. Sleep is the limit when both ‘Umar transgresses the ban on sexual intercourse and Ṣirmah does *not* transgress the ban on eating and drinking. Their stories represent the different guesses available to the primitive *tafsīr* of Q 2,187.

f. 21b. The ‘sleep limit’ is lacking in the second *ḥadīth* from ibn ‘Abbās, while the reference to eating lacks specific identification of the persons involved.

The need to define also the moment of the re-commencement of each day’s fast [*al-fajr*] leads to the lengthy digression concerned with

this clause of Q 2,187. The two reports, that from ‘Adī and that from Sahl, are lacking in the studies of Hibatullāh and Naḥḥās. These *ḥadīths* present superb examples of early exegetes’ gossip, but especially of the extreme atomisation of the Qur’ān texts for the purposes of their discussion. A literalist interpretation: “until the white thread is distinguishable from the black”, is explained on the basis of quite spurious *asbāb* showing the predicament of the Muslims *before* the revelation of the two final words of Q 2,187: *min al-fajri*, which had had to be sent down as an explanatory gloss. (Sahl.)

f. 21b. cf. Bu., 5, 34; 9, 249 which has the same *isnād*.

f. 22a. cf. Ṭab., 3,512 – also via Mujālid – The Prophet said, ‘But didn’t I say to you : “*min al-fajri*”?’

f. 22a. The Sahl *ḥadīth*: cf. Bu., 5,35, with same *isnād*.

f. 23a. The reference to the ban on sexual intercourse is intrusive in this Ṣirmah story which concentrates upon the ban on eating and drinking. The detail prefigures the ‘Umar story [f. 23b].

‘Self-betrayal’ appears to have two aspects: *action*, in ‘Umar’s case; *inaction* in Ṣirmah’s case.

According to Hibatullāh, the ‘Umar story occurred before the Ṣirmah story and God referred to ‘Umar’s case first (in Q 2,187) since the transgression of the sexual ban was more grievous than the transgression of the ban on eating and drinking. cf. Ṭab., 3,498–9; *Durr*, 197: Ṣirmah fell asleep and did not waken until after the Prophet had performed the ‘*ishā*’. Ṣirmah *then ate and drank*, but God forgave them . . . cf. Ṭab., p. 503, the report from ‘Ikrimah.

Naḥḥās [p.24]: Q 2,187 abrogated Q 2,183: *kamā kutiba*. (Abū al-‘Āliyah; ‘Aṭā’.) Others said that Q 2,187 abrogated their actions. [cf. Ṭab., 494: what they had done was Sunna. (ibn abī Lailā.)]

Naḥḥās, the Zuhair *riwāyah*: If a man fell asleep before he had had supper [*yata‘ashshā*] he might not then eat . . .

Abū ‘Ubaid accepts the *ḥadīths* as evidence of *naskh*, but does not commit himself as to what was abrogated – the Qur’ān verse, or the Sunna. The instances that he has illustrated had derived, not from the Qur’ān texts, but from the naive exegeses constructed directly from the wording of the verses.

f. 24a-b. The second instance of *naskh* in the Qur’ān’s fasting pericope concerned the question of the *fiḍyah*. This is the most complex, as it undoubtedly was the most debated aspect of the fasting regulations.

Q 2,184: *wa ʿalā alladhīn yuṭīqūnahu fīdiyāt taʿām miskīn.*

f. 24b. ibn abī Lailā bluntly asserts the *naskh* of the verse.

ibn ʿAbbās: the fast of Ramaḍān had ‘originally’ been optional. It was first declared obligatory by Q 2,185. Salamah b. al-Akwaʿ, ʿAlqamah, Zuhri are proponents of the same view, (f. 25a–b).

f. 25a. Salamah: cf. Bu., 9,247, ‘the following verse’ is not precisely identified. Ṭab., 3,423, ‘the following verse’ identified (as here) as Q 2,185. *Durr*, 178, Bu., 5,90, Ṭab., 3,424, ‘the following verse’ was, in fact: *wa an taṣūmū khairun lakum*, (ibn abī Lailā).

f. 25b. Zuhri: the *fīdyah* had ‘originally’ been a universal concession available to all who could fast.

f. 26a. Zuhri: fasting had originally been optional. Anyone who could manage the fast, whether entirely well or ill, travelling (or sedentary) could opt out of the fast by providing the *fīdyah* of feeding one of the poor. He had no further obligation vis-à-vis the Ramaḍān fast.

cf. Ṭab., 3, 422: the Zuhri *ḥadīth* continues: when God made fasting binding, the physically fit were required to fast – [cf. f. 25b.: the concession of the *fīdyah* was suppressed for all those physically capable of fasting.] – [Ṭab., contd.] the sick and the traveller were [now] required to fast a number of other days, while the *fīdyah* remained available to the elderly who cannot manage the fast [cf. f. 26b]. The *nāsikh* was Q 2,185.

ibn ʿAbbās deduces the suppression of the *fīdyah e silentio*: “in the ‘later’ fast, God made no mention of the *fīdyah*. It must have been abrogated.” [Ṭab., 3,422.]

But, cf. Ṭab., 3, 425: ibn ʿAbbās: Q 2,185 permits only the aged who are physically incapable of fasting to continue to proffer the *fīdyah*. *ibid.*, 429,430: ibn ʿAbbās: Q 2,184 was *never* abrogated. Since the day it was revealed, it has applied restrictively to the elderly who cannot fast. *ibid.*; p. 432: ibn ʿAbbās: the *fīdyah* remains available solely to those who cannot manage the fast, save with the greatest distress. They shoulder their painful burden; they force themselves. They try to shoulder the burden of fasting, but simply cannot manage it.

f. 26b. ʿIkrimah read: *yuṭawwaqūnahu . . .*

f. 27a. Saʿīd b. Jubair read *yuṭawwaqūnahu . . .*

Mujāhid, f. 27b., ibn ʿAbbās read it thus.

Ṭab., 3,430: ʿIkrimah said: those who can manage the fast shall fast; those about whose necks it hangs like a millstone cannot manage the

fast. This contrasts *yuṭīqūnahu* with *yuṭawwaqūnahu*.

The reading of: ibn ʿAbbās; ʿAʿishah; ʿIkrimah; Saʿīd b. Jubair; ʿAṭāʾ; Mujāhid; Tāwūs; ʿAmr b. Dīnār was: *yuṭawwaqūnahu* – [*Bahr*, 35; Ṭab., 430; Bu. 9,246].

ʿIkrimah read *yuṭawwaqūnahu*, explaining: ‘Were it *yuṭīqūnahu*, they would fast.’ [*Durr*, citing Ṭabarī, but this is lacking in Ṭabarī.]

Naḥḥās [p.22] argues the *naskh* of Q 2,184 on the strength of the wording of the verse, and the words of two of the Companions: ibn ʿAbbās and Salamah.

Bahr [p.35]: It has also been suggested that the words: *wa ʿalā alladhīn yuṭīqūna* referred to those who, although sick, were yet still capable of fasting. They were presented with the choice between abandoning the fast and providing the *fīdyah*, and completing the fast. That choice was then abrogated by Q 2,185.

Note: Q 2,184: *wa ʿalā alladhīn yuṭīqūnahu* uses the particle *ʿalā*, the particle of imposition, as opposed to the particle implying concession, *li*.

Further, since God says: *wa ʿalā alladhīn yuṭīqūnahu*, it is clear that both the variant readings proposed and the alternative proposal to re-introduce the ‘missing’ negative: *wa ʿalā alladhīn [lā] yuṭīqūnahu* are parallel flights from the existing wording which was simply incomprehensible to the exegetes. An alternative interpolation is suggested by Suddī: “and incumbent upon those who [in the past were] capable of fasting, [but who have now become by reason of their great age and fast-failing physical powers incapable of fasting] the *fīdyah* . . . [Ṭab., 3,427].

Some dismissed the variant reading as no reading. It was merely a *tafsīr*. [*Bahr*, loc. cit.]

f. 27b. What is recorded in the *muṣḥafs* of the people of the Ḥijāz, ʿIrāq, Syria and other lands is: *wa ʿalā alladhīn yuṭīqūnahu*. In that event, the verse can be nothing other than *mansūkhah*, as we have already reported from: ibn ʿAbbās, Salamah, ibn abī Lailā, ʿAlqamah b. Qais and ibn Shihāb. The reading of the entire body of Muslims is: *yuṭīqūnahu*. That is what is found in their *muṣḥafs*, and that is the reading which none may question, given its transmission generation after generation. [Ṭab., 3,418.]

As for *yuṭawwaqūnahu*, that is a reading at variance with what we find in the *muṣḥafs* of the Muslims. It is simply not permitted to anyone among the Muslims to pit his *raʿy* against what all of the

Muslims have transmitted as their inheritance from their Prophet, openly and publicly and in a manner which admits of no doubt or uncertainty. What is thus universally transmitted is the truth that none can doubt, nor question that it comes from God, nor is it to be opposed on the basis of *ra'y*, supposition or stray opinions. [Ṭab., 3,438; Nahḥās, 22]

The contextual position of the two expressions in Q 2,184: *fa man taṭawwa^c khairan fa huwa khairun lahu*, and *wa an taṣūmū khairun lakum*, induced some to find here a contrast with the *fiḍyah*. If, in 'the first fast', the Muslims were free to choose between fasting and paying the *fiḍyah*, which of the two courses had been the preferable? The question already exhibits the exegetical assumption that one of the three uses of *khair* represents an Elative, rather than a Substantive.

f. 26a. Zuhri: to fast *and* pay the *fiḍyah* is *khair*; that is to volunteer to do something that is not obligatory.

Tāwūs: volunteering *khair* is to feed *two* poor men. This *tafsīr* depends upon reading here *miskīn* rather than *masākīn*. Although the scribe writes *masākīn* throughout, it seems more likely, given his reception of these and other similar *ḥadīths* that Abū °Ubaid would have read: *miskīn*. [cf. Ṭab., 3,439–40]

f. 26b. Zuhri: *wa an taṣūmū khairun* – fasting is more meritorious than opting out of the fast and paying the *fiḍyah*.

This is also attributed to Ubaiy, whose reading was: *wa al-ṣiyām/wa al-ṣawm khairun*. [Qurṭ., p. 290; Baḥr, loc. cit.] The verse is said to be addressed to all sedentary Muslims in good health; or to the sick and the traveller; or to all who are permitted to break the fast for some good cause. That was before the occurrence of *naskh* [in Q 2,185]. This exegesis highlights yet another instance of *taqdīr*. It becomes clear that there is an 'omission' in the verse: *wa °alā alladhīn yuṭīqūnahu [fa aṣṭarū]* . . . or, alternatively, *fa man kāna minkum marīḍan aw °alā safarin [fa aṣṭar]* . . . then: *fa °iddah min ayyāmin ukhar* – but, that you fast is *khair* . . .

There was also confusion as to the antecedent of the *hu* of *yuṭīqūnahu*. Farrā' suggested that it might refer either to the fast, or to the *fiḍyah*. [Qurṭ., p.288.] cf. Jaṣṣāṣ, p.210; Ṭab., 3,434; Baḥr, 36. Durr, p.178, quoting °Abd b. Ḥumaid, as from Sha°bī: He reported that the rich used to break the fast, leaving fasting to the less well-off.

The quarrel over the function of *khair* will re-appear in the discussion of the obligation of the sick and the traveller.

Thus, whereas the Qur'ān mentioned the obligation of those who *yuṭīqūnahu*, the bulk of the scholarly discussions have centred upon defining the obligation of those who cannot fast. This class was extended beyond the aged to accommodate other groups of persons who might be unable to manage the fast of Ramaḍān. The verse is abrogated – but only partially, for the mention of the *fiḍyah* represents a ruling which continued to be acknowledged in the *Fiqh*.

Bu., *Tafsīr*, Q 2,184: As for the elderly who cannot fast, Anas b. Mālik reportedly fed one poor man bread and meat every day he broke the fast in his old age.

ibn Kathīr, 1, p.215: When Anas became too weak to fast, he prepared a dish of *tharīd*, invited thirty of the poor and fed them.

Ṭab., 3, p.422: °Aṭā': 'Q 2,185 made fasting obligatory for all except the sick and the traveller and aged gentlemen like myself who may provide the *fiḍyah*.'

In these 'historical' *ḥadīths*, exegesis is concretised.

f. 28b. In terms of Q 2,184, as repeated in Q 2,185, the sick and the traveller have the choice between fasting during Ramaḍān, or postponing the fast until they are better able to observe it: *fa °iddah min ayyāmin ukhar* . . . Those who say that the sick and the traveller who are unable to fast, without acute distress, are *obliged* to break the fast and 'make it up' when they are able, apply the expression: *wa °alā alladhīn yuṭīqūnahu* to those sick and travellers who are, nevertheless, well able to observe the fast, but who choose not to do so. If these people decide to break the fast, they are required to provide the *fiḍyah*. [Rāzī, p.79.]

Ṭabarī reports the view that the sick are obliged to break the fast, and that any traveller who observes the fast must *repeat* the fast on his arrival. The obligation is: *°iddah min ayyāmin ukhar*. The first of these two extreme views he attributes to: ibn °Umar; ibn °Abbās and Ḍaḥḥāk; the second to: ibn °Umar; Abū Hurairah and °Urwah. Sālim reports that ibn °Umar never fasted on a journey; °Urwah reports that °Ā'ishah invariably fasted on a journey.

[Ṭab., pp.465–6.] Q 2,185 closes with the expressions: "God desires for you the easy path, He does not desire for you the difficult path," and ibn °Abbās held that the easy path means: breaking the fast on a journey; the difficult path means observing the fast on a journey. Thus, what God desires, He commands. [Ṭab., p.475.]

The Companions, Successors and *fuqahā'* agreed that the traveller may fast, if he chooses, and does not have to repeat the fast on his

arrival. That is because there is in *wa man kāna minkum marīḍan aw ʿalā safar* an omission: [fa aḥṣar] – fa ʿiddah min ayyāmin ukhar. Thus, if the traveller breaks his fast, he must ‘make it up’ later. That is a concession [rukḥṣah] to the traveller.

In addition to the personalities spoken of above by Ṭabarī, ibn Ḥayyān adds as from ʿAbdul Raḥmān b. ʿAwf: He who fasts on a journey is as bad as he who neglects to fast when settled at home.

The extreme view that the traveller cannot observe a valid fast, his obligation being to break the fast, was favoured by the Zāhirīs – i.e. by scholars who disdain appeal to the assumption of interpolation [taqdīr]. But, it had been ‘soundly’ established on the basis of widespread ḥadīth reports from: Abū al-Dardā; Salamah b. al-Muḥannaq; Abū Saʿīd al-Khudrī; Jābir b. ʿAbdullāh; Anas b. Mālik and ibn ʿAbbās that the Prophet fasted while travelling. It is also reported from him that he said that the traveller is free to choose whether to fast or not. [Bahr, p.34.]

f. 29a. The ḥadīth of Ḥamzah b. ʿAmr al-Aslamī [see above line]. Among the opponents of fasting while travelling, ibn Ḥajar names Zuhri and Ibrāhīm [F.B. 5, p.86]. The Ḥamzah ḥadīth comes via two ṭarīqahs: as reported by ʿĀʾishah, Bu., Ṣawm; Mus., Ṣawm; b.M. Ṣawm; Tir., Ṣawm; Dār., Ṣawm.

Mālik, Ṣawm; Ṭay., Ṣawm; Muw. Shaib., Ṣawm; Mus., loc. cit., all report without mentioning ʿĀʾishah.

Abū ʿUbaid knows both ṭarīqahs [f. 29a.] ibn Daqīq al-ʿId noted that Ḥamzah did not specifically refer to Ramaḍān. ibn Ḥajar counters this with two comments: Mus., mentions that to break the fast was, in the Prophet’s words a *rukḥṣah*. That word implies that the discussion concerned an obligatory fast. [cf. Mus., 3,145.] Secondly, in A.D.’s version, Ḥamzah specifically mentions Ramaḍān. [A.D. 1,377; F.B. 5, p.82.] Certain ibn ʿUmar ḥadīths have been set up to counter the Ḥamzah-Prophet ḥadīth: ‘I prefer to break the fast when travelling in Ramaḍān to observing it. Breaking the fast is a *ṣadaqah* that God has granted His creatures.’

‘It is a *rukḥṣah* granted from Heaven – reject it at your peril.’ [cf. above, p.74 the travel-prayer is a *rukḥṣah*.]

‘If you gave alms to some man and he rejected your *ṣadaqah* would you not be angry?’

A man consulted ibn ʿUmar, saying, ‘I am able to fast when travelling.’ ibn ʿUmar now reports that he had heard the Prophet say, ‘He who does not accept this divine *rukḥṣah* incurs guilt equivalent in

mass to the volume of Mt. ʿArafah.’ [Durr, p.193.] The word here translated ‘guilt’ is *ithm*.

In the Mus., version of the Ḥamzah-Prophet exchange: Ḥamzah said, ‘I find I have the strength to fast when travelling, would I thereby incur any guilt?’ [junāh] The Prophet replied, ‘It is a concession [rukḥṣah] from God. Whoever accepts it, well and good; whoever prefers to fast, incurs no guilt.’ This, in turn, suggests the claim that the Prophet would have regarded the *khair* in: *wa an taṣūmū khair*, as Substantive, rather than Elative. The dispute really concerns the exegesis of this one phrase.

A man consulted al-Qāsim b. Muḥammad. ‘We travel in winter-time during Ramaḍān, and would find it easier to fast than than break the fast and have to “make it up” in warmer weather.’ al-Qāsim [as ʿUmar b. ʿAbdul ʿAzīz is also said to have done] recited: “God desires for you the easy path; He does not desire for you the difficult path.” [Ṭab., 468–9]

f. 29b–30a. The ibn ʿAbbās ḥadīth dating the Prophet’s conduct to the Year of the Conquest. The ḥadīth was used too by Mālik [loc. cit.] and Suyūṭī [Tanwīr] quotes al-Qābisī: This is a Companion-*mursal*, since ibn ʿAbbās was not present on this expedition, but was at home with his parents in Mecca. In the Bu., version, we do not find the expression: The Companions would adhere to the latest-known act of the Prophet. It is present in the Mus., versions, where questions as to precisely whose these words are were raised. It was thought reasonable to suppose that they went no further back than Zuhri. The Companions would have taken the Prophet’s latest ascertained act as their guide: it would have been regarded as the *muḥkam*, the *nāsikh* of his earlier acts. But, since Abū Saʿīd is reported [Mus., 3,144] as averring that they had fasted on a later expedition with the Prophet, the scholars have not accepted Zuhri’s view that fasting while travelling had definitely been abandoned. [F.B.5, p.84]

Similarly, Suyūṭī can report via al-Khaṭīb from Muʿādh: ‘The Prophet fasted following the revelation of the concession to break the fast when travelling.’ [Durr, p.190.] On this question, abrogation was not ascertained. The matter, it was thought, must therefore be left to the discretion of the individual Muslim. It is optional.

f. 30b. The Prophet both fasted and broke the fast when travelling. The continuing pressure from: “and that you fast is *khair*” [more meritorious] is visible in the report of Abū ʿIyād: the Prophet fasted – as was to be expected.

f. 31a. The Abū Saʿīd report: ‘Those who were not fasting did not

criticise those who were; nor did those who were fasting criticise those who were not,' is occasionally reversed. 'Those men who were fasting did not criticise those who were not, nor did those who were not criticise those who were.' [f. 31b.]

The linkage between the questions of prayer and fasting when travelling is shown in °Ā'ishah's statement: 'The Prophet, when travelling, did both: he fasted, and broke the fast; he completed and he shortened the ritual prayers.' [Durr, 195]

f. 32b. The matter is thus wholly discretionary, and the negative statements reported from the Prophet can be satisfactorily resolved by *ta'wīl* [re-interpretation]. *wa an taṣūmū khair lakum*: the scholars nevertheless, following agreement that the matter was optional, further divided on the question of which course was the more meritorious [*khair*]. The exegesis of this one word underlay the appearance of a number of *ḥadīths*, the most celebrated being the Prophet's saying: *laisa [min] al-birr al-ṣiyām [an taṣūmū] fī al-safar*.

Ṭab., p.468: Sa'īd b. Jubair, Mujāhid and Ibrāhīm held that to fast when travelling was more meritorious.

f. 32b. To continue to fast when travelling might so weaken a man that he is rendered incapable of correctly performing his other religious obligations. Abū Sa'īd reports that the Prophet told his army that to continue to fast would weaken their military capability. [Mus., 3,144.]

Jābir reports Muḥammad's impatience with those who persisted in fasting after he himself had broken his fast: 'Those are disobeying their Prophet.' In a second version, Muḥammad was informed that the fast was proving a serious hardship to his troops who were waiting to see what he would do. He therefore decided to break his fast. [Muw. Shaib., p.126.] Mālik and Abū Ḥanīfah thought that to fast was preferable. The Mālikīs, distinguishing military expeditions from other journeys, preferred that, on the former, the fast be broken, on the basis of the Prophet's words, 'In the morning, you will be confronted by the enemy.'

Shāfi'ī thought that to break the fast when travelling was the more meritorious, on account of the Prophet's words: *laisa min al-birr al-ṣawm fī al-safar*. Further, the latest recorded act of the Prophet was to break the fast. The correct view is that to observe the fast is the more meritorious act, given the verse: *wa an taṣūmū khair*.

The Prophet broke his fast on one journey, but that was because he had been informed that the people were enduring hardship. The scholars are not divided in the view that he who experiences grave

difficulty in observing the fast may break his fast. [ibn al-°Arabī, *Aḥkām*, 1,80-1.]

Anas b. Mālik declared: The more meritorious course is to observe the fast. The concession to break the fast was revealed in the days when we were still poor, and half-starved most of the time. [*Baḥr*, 34.]

That the more meritorious course was to break the fast was the view of Awzā'ī, Aḥmad, and Ishāq, as it had been the view also of ibn °Umar, ibn °Abbās, ibn al-Musaiyab, Sha°bī, °Umar b. °Abdul °Azīz, Mujāhid and Qatādah, although °Umar and Mujāhid are reported as having said that the better course was whichever a man found the easier.

We have heard the extreme view expressed by some of the Companions: he who fasts on a journey shall repeat the fast on his arrival. His fast was regarded as quite invalid. °Abdul Raḥmān b. °Awf is alleged to have said: 'He who fasts on a journey is as bad as he who fails to observe the fast at home.' [ibid.] We find this dictum attributed to the Prophet himself. [Ṭab., 3,463]

f. 33b. The appeal to Q 2,185: "God desires for you the easy path. He does not desire for you the difficult path," underlies Abū °Ubaid's rationalisation of the Prophet's reported attitude, as it was said to have prompted the view of °Umar II. Those who insisted that the traveller could not validly observe a fast were those who rejected the suggestion that there is an 'omission' in Q 2,184 [*fa aftar*]. His obligation was clear: *°iddah min ayyāmin ukhar*. [Qur., 286]

f. 33b. The deciding factor for Abū °Ubaid lay in the words: *alladhīn yuṭīqūnahu* [Q 2,184] and that that expression determined the view of the *fuqahā'* is clear from Tirmidhī's reports. [p.231] This entire wide-ranging debate had sprung from the exegeses of the different sections of the Qur'ān's far from clearly worded fasting pericope. The scholars differed because they had seized on different fragmentary expressions in Q 2,184-5. The choice determined also their selection of evidentiary *ḥadīths*, the 'debris' of earlier similar exegetical differences. *Tafsīr* thus begets *ḥadīths*. *Ḥadīths*, being Sunna, are next exploited to 'confirm' *tafsīr*.

fa °iddah min ayyāmin ukhar;

wa °alā alladhīn yuṭīqūnahu fīdyat ṭa°ām miskīn.

The Muslim who breaks the fast of Ramaḍān for good reason must fast an equivalent number of days when he can. But those who break the fast since it is simply beyond their physical powers cannot be expected ever to 'make up' the fast.

f. 34b. Zuhri had said that the *fidyah* – abrogated for all able-bodied Muslims – had remained available to the aged whose incapacity has become permanent.

fa man taṭawwa^c khairan: cf. supra, ff. 26a–b.

Zuhri: to fast and provide the *fidyah* is *khair*.

Ṭawūs: to feed two poor men is *khair*.

Zuhri: to fast is better than to provide the *fidyah*.

Qurṭ.: both *khairs* are Elatives. [p.290.]

Durr: ibn ʿAbbās: *fidyat ṭaʿām miskīn [wāḥid]*.

fa man taṭawwa^c khairan – feeding two poor men.

ʿIkrimah: to feed two poor men. Anas fed four poor men every day.

Mujāhid: to feed the poor man a whole *ṣā^c* instead of just half a *ṣā^c*. [p.179.]

Mujāhid: to add to the number of the poor [Baḥr, p.36]. This is then reported from ibn ʿAbbās, Ṭawūs, ʿAṭāʾ and Suddī [cf. Naḥḥās, p.23].

f. 35b. Qais b. al-Sāʾib: a man may break the fast of Ramaḍān on undertaking to feed one poor man daily. But, feed, on my behalf, two poor men daily [DQ, no. 18] with the same upper *isnād* as here.

Qais: Two *mudds* daily suffice – but give in my name three *mudds*. [Jaṣṣāṣ, p.210.]

f. 36b. Abū Hurairah, cf. DQ no. 19.

Ḥijāz: 1 *mudd* = $\frac{1}{4}$ *ṣā^c* = 1, $\frac{1}{3}$ pints. 1 *ṣā^c* = 5, $\frac{1}{3}$ pts.

ʿIrāq: 2 *mudds* = $\frac{1}{2}$ *ṣā^c* = 4pts. 1 *ṣā^c* = 8 pts. [Lane, s.v.]

Apart from confusion over the measures, disputes appear to have resulted from differing approaches to: *taṭawwa^c*.

The Q 2,184 *fidyah* provision had been abrogated, but only for the able-bodied, sedentary Muslim. Zuhri alleged that it had remained in force for the aged. [Naw., p.134]: the *fidyah* verse had been only partially abrogated.

Naḥḥās: Just as Q 4,15, although abrogated, laid down the ruling that is to be applied still in the *Fiqh* in the matter of the number of witnesses required in cases of adultery, so also the *fidyah* provision remains operative in the case of the elderly. The wording of both verses remains in the *muṣḥaf*. [p.23.]

f. 38a. Rabīʿah and Mālik thought the aged who could not fast incurred no penalty, although Mālik hoped that they would provide the *fidyah*. Anas, ibn ʿAbbās, Qais b. al-Sāʾib and Abū Hurairah thought the aged should provide the *fidyah*. That is also the view of

Shāfiʿī for the aged are neither sick nor journeying. [cf. Naḥḥās, loc. cit.]

cf. Muw., Māl., p.224: I do not think the *fidyah* is incumbent upon the aged, although I prefer that they offer it, *if they can*. [Mālik's comment upon the Anas *ḥadīth*.]

If Ramaḍān comes around and a man, who had not fasted the previous Ramaḍān for good cause, has not yet 'made up' his previous year's fast, although well able in the meantime to do so, he should observe the new Ramaḍān *and* provide the *fidyah* in respect of the unfulfilled previous fast. [Baḥr, 36.]

cf. Q 2,184: *wa ʿalā alladhīn yuṭīqūnahū*, which does read like a *dual* imposition.

f. 38b. Their differences reflect their different *taʾwīls*. Those who say the aged have no obligation, consider that God imposed the fast on those capable of fasting. They had, before *naskh*, the choice: to fast, or pay the *fidyah*. After *naskh*, the *fidyah* was withdrawn and they were required to fast. Q 2,185 is silent on those who are *incapable* of fasting – they therefore have no obligation.

These scholars drew the analogy between fasting, *zakāt* and *Ḥajj*, none of which is obligatory for those lacking the means. The others argued that fasting does not resemble either *zakāt* or *Ḥajj*. The analogy therefore collapses. God has revealed a substitute for fasting which He imposed upon those not able to fast – the *fidyah*. This is analogous to *tayammum*, the substitute for *wuḍūʾ* where water is unavailable; or the gestures which are the substitute for *rukūʿ* and *sujūd* in the event of physical disability. No substitute was ever appointed for either *zakāt* or *Ḥajj* which ought, therefore, to form the basis of no analogy. This explains why Sufyān and the ʿIrāqīs consider that the elderly who do not observe the fast must provide the *fidyah*.

f. 39b. Jaṣṣāṣ [p.208] Abū Ḥanīfah, Abū Yūsuf, Muḥammad and Zufar all said that the elderly who are unable to fast should break their fast and provide $\frac{1}{2}$ *ṣā^c*. If a man break his fast owing to illness, and does not recover before death, he has no fast obligation. His obligation was a number of alternative days. Since he was never capable of fasting the number of other days, he has no further obligation. The elderly are not expected ever to be able to fast the other days. That cannot, therefore, be their obligation. Wherefore, their obligation must be the *fidyah*.

The referent of the 'hu' of 'yuṭīqūnahū' was disputed. Naw., [p.134] Ḥasan and others thought the 'hu' referred to the *fidyah*, not to the fast.

Durr, [p.178] Sha‘bī: ‘The rich used to feed the poor, leaving the fasting to the less well-off.’ i.e. the rich could afford the *fidyah*.

Umm, 3,88: applies the ‘*hu*’ to both fast and *fidyah*: The elderly who cannot fast, but can afford the *fidyah*, should provide it. This is based both on reports from Companions, and on the analogy with inability to perform the *Ḥajj*. In the latter case, proxy performance is valid.

[Proxy fasting is impermissible, there having been instituted a substitute for fasting – the *fidyah*.]

f. 39b. *Pregnant women and nursing mothers.*

Scholars, both ancient and modern have disagreed. Three differing analogies have been proposed: their obligation is the same as that of the elderly; it is the same as that of the sick; it is the same as that of the traveller.

1. They should break the fast, pay the *fidyah* and observe the fast when they recover.

f. 40a. Attributed to ibn ‘Umar and Mujaḥid [*Durr*, p.179.] Naḥḥās [p.23] adds the name of Shāfi‘ī.

2. They should break the fast, pay the *fidyah*, but there is no obligation on them to ‘make up’ the fast.

f. 41a. Attributed to ibn ‘Abbās and to ‘those who accept his reading [*yuṭawwaqūnahū*] and his *fatwā*.’

Ṭab., [p.428]: ibn ‘Abbās said to an *umm walad* of his, who was either pregnant or nursing an infant, ‘You are in the category of those who simply cannot manage the fast. Feed the poor and break your fast. There is no need for you to ‘make up’ the fast later.’ [*qaḍā*]

Durr, [p.179 from DQ (p.207)]: this is reported from a second ‘Abdullāh – [ibn ‘Umar] *ibid.* and from Sa‘īd b. Jubair.

Naḥḥās [p.23] adds: ‘Ikrimah.

3. They should break their fast and ‘make it up’ later.

f. 41b. Attributed to Ibrāhīm; Ḥasan; ‘Aṭā; Ḍaḥḥāk.

Naḥḥās adds: and the Medinese.

f. 42a–b. The differences arose from their differing *ta’wīls*.

Qiyās 1 was based on precautionary application of two verses: *fidyat ta‘ām miskīn* and *fa‘iddah min ayyāmin ukhar*.

Qiyās 2 was based on the consideration that these women are neither sick nor travelling, to which categories the obligation ‘to make up’ the

fast pertains. ibn ‘Abbās *ta’wīl* [and those of ‘Ikrimah, Sa‘īd b. Jubair and Mujaḥid] reflected his reading. [f. 42b.]

Qiyās 3 was based on the proposition that both pregnancy and breast-feeding are quasi-indispositions. This was the basis of the view of Sufyān and the ‘Irāqīs, and of Mālik and the Ḥijāzīs, Awzā‘ī and the Syrians.

Baḥr [p.36]: Shāfi‘ī took the view that they were both covered by the provision of Q 2,184 and, in addition, by the analogy with the elderly. They thus both pay the *fidyah* and ‘make up’ the fast. Abū Ḥanīfah pointed out that the aged do not have ‘to make up’ the fast, whereas these women must. If, in addition, we insisted that they also provide the *fidyah*, we should have imposed upon them two substitutes for one infringement. ibn ‘Umar and Ḥasan said the same.

Umm, 3,88. Shāfi‘ī concentrates on ability to fast: If capable of fasting, the two women must fast, if they have no fears for the safety of the infant. If they do fear for him, they should break the fast, pay the *fidyah* and ‘make up’ the fast when that fear recedes. If they cannot manage the fast, they are analogous to the sick – they break their fast and later, on recovering, ‘make up’ the fast. We insist on the *fidyah* on the basis of *ḥadīths*. Besides, they break their fast not on their own account, but on that of another. Ṭab., [p.432] ibn ‘Abbās: Q 2,184 refers to the aged who cannot fast, to pregnant women, nursing mothers and to the chronically sick. [cf. *Durr*, p.177.]

Durr, p.179: Ḥasan said that the nursing mother should break her fast, if she has any fear, and pay the *fidyah*. The pregnant woman who fears that fasting will affect her own health should break the fast and ‘make it up’. She is analogous to the sick.

Mud. [p.210]: The nursing mother, fearing for the infant, should break the fast, pay the *fidyah* and fast later. The pregnant do not pay the *fidyah*, they merely fast later. The pregnant are sick, the nursing mother is not sick. Mālik knew and admired the ibn ‘Umar *fatwā* to the effect that the pregnant should provide the *fidyah*, but Mālik did not make that *fatwā* the basis of his view, for he took pregnancy to be a form of illness, and for the sick, the Qur’ān has made a clear ruling.

Thus, whereas ibn ‘Umar had relied upon one clause in Q 2,184: *wa‘alā alladhīn yuṭiqūnahū fidyah*, Mālik had relied on the other clause: *fa‘iddah min ayyāmin ukhar*.

Qurṭ., p. 289: among those who were of the view that the pregnant woman and the nursing mother might break the fast without incurring

the *fidyah*, since they are in the same class as the sick who break the fast and fast later, were: Ḥasan; ʿAṭāʾ; Ḍaḥḥāk; Ibrāhīm; Zuhri; Rabīʿah; Awzāʿī; *aṣḥāb al-raʾy*; Abū ʿUbaid and Abū Thawr. Mālik applied this ruling to the pregnant, but required of the nursing mother both the *fidyah* and the ‘making up’ of the fast. Shāfiʿī and Aḥmad applied both *fidyah* and *qaḍāʾ* to both women.

f. 43a. That pregnancy and nursing are analogous to illness and that the women involved are, in terms of the ruling, analogous to the sick and the traveller was the view held by: Sufyān and the ʿIrāqīs, Mālik and the Ḥijāzīs, Awzāʿī and the Syrians, in addition to the Successors listed.

f. 44a. The matter is clinched for Abū ʿUbaid by one solitary *marfūʿ ḥadīth* conveying the Prophet’s instruction: This Anas b. Mālik al-Kaʿbī is not the celebrated *ṣaḥābī*, but an obscure person from whom only this one *ḥadīth* from the Prophet is known. Abū ʿUbaid nevertheless defers to it. Tir. [p.236] In the view of the scholars, this *ḥadīth* provides the ruling for these women.

Ṭab., relays the *ḥadīth* via Sufyān from Ayyūb. [p.435]

Nas., (as here) via Ismāʿīl b. ʿUlaiyah, with, however, in this version, no mention of these women. He also knows the Ṭab. version, and both he records. The *ḥadīth* from this man, and a *ḥadīth* from an Abū Umaiya al-Damarī are given. Both come down through Sufyān b. ʿUyainah, via Ayyūb. They branch off into one line through ibn ʿUlaiyah and another through an ʿAbdullāh. A further line, through Sufyān Thawrī [as here, via Ayyūb] provides a *ḥadīth* similar to Abū ʿUbaid’s.

Nas. knows the Abū Umaiya version through numerous *isnāds*. In none of them are women mentioned. [Nas., 4, 181] That is also the case with Dār. [1, p.342.]

Mālik alone appears to have identified one class of Muslims upon whom lay a dual imposition arising from Q 2,184: *wa ʿalā alladhīn yuḥiqūnahū*. [Bahṛ, p.36; Muw., p.225.]

ff. 44b–46b. *The fast of ʿĀshūrāʾ*

Not only has Ramaḍān itself undergone modification. By its revelation a ‘previous’ fast had been superseded. This Ashʿath b. Qais-ibn Masʿūd exchange reads like a calque upon the preceding Anas-Prophet exchange [f. 43b.] or vice-versa: [cf. Mus., 3, p.149].

f. 45a. The Prophet used to observe the fast of ʿĀshūrāʾ before the revelation of Ramaḍān.

ʿĀʾishah: the people of the Jāhiliyah – [i.e. before Islam] observed the fast of ʿĀshūrāʾ, and the Prophet observed it.

ʿĀʾishah: in the Jāhiliyah, Quraish observed ʿĀshūrāʾ and the Prophet used to observe it in the Jāhiliyah. When we came to Medina, he continued to observe it and commanded his followers to observe it. Then, when Ramaḍān was imposed, that became the sole obligation and ʿĀshūrāʾ became optional [cf. Mus., 3, p.147; Muw., p.279].

f. 45b. ibn ʿUmar: The Prophet said, ‘Quraish observed the ʿĀshūrāʾ fast in the Jāhiliyah; whoever wishes may observe it, or not, as he pleases.’ ibn ʿUmar chose never to observe it, unless it chanced to coincide with an Islamic fast-day. [Dār., 1, p.355.]

f. 46a. Jābir b. Samurah. [cf. Mus., loc. cit.] [Naḥḥās, p.21.]

f. 46b. Qais b. Saʿd. Both Qais and Jābir maintain that once Ramaḍān was revealed, they were not forbidden to continue observing ʿĀshūrāʾ. The ʿĀʾishah-ibn ʿUmar *ḥadīths* are designed to counter the Ibn ʿAbbās tradition that the Prophet had borrowed the ʿĀshūrāʾ observance from the Jews, *after* the Hejrah. [Mus., 3,149.] Both traditions represent alternative guesses as to the identity of “those before you”. cf. F.B. 5,149–50: perhaps Quraish had borrowed ʿĀshūrāʾ from those before them.

Abū ʿUbaid’s interest in the *fact* of this instance of *naskh* outweighs his interest in the historical details. The main debate as to the ‘facts’ had apparently not yet begun. cf. Muw., 220; Bu., 3,44; Shāfiʿī, *Ikhtilāf*, pp.102–3.

ff. 46b–74b. *Marriage*

Abū ʿUbaid’s materials have been provided in *ḥadīths* on the Sunna and on the *taʾwīl* of the Qurʾān.

Temporary marriage: *nikāḥ al-mutʿah*.

al-Rabīʿ b. Sabrah al-Juhanī. The date. It is not clear which *ʿumrah* is here intended: that of the year 6–7, i.e. Ḥudaibiyah is probably ruled out, since the Muslims did not reach Mecca. The fulfilled *ʿumrah* of the following year is indicated [cf. Ḥasan’s statement, f. 47b.]

The Sunna materials are very confused as to the date of the authorisation of temporary marriage and of its prohibition. They are equally confused as to who authorised it and who had forbidden it.

Rabī^c reports from his father the Prophet's claim that he had authorised *mut^cah*, and that it was God Who had prohibited it 'until Judgment Day'. That is an instance of the *naskh* of the Sunna. There occur in this *ḥadīth* certain quasi-Qur'ānic 'reverberations': cf. Q 2,229; Q 4,20. Both verses refer to the dower passed to the wife in formal Islamic marriage.

The Prophet is said to have countenanced *mut^cah* 'in the early days of Islam', it having been a pre-Islamic custom; he is said to have permitted it on one of his expeditions, when his Companions were still young; he is reported to have permitted it at the time of the Khaibar raid, or at the time of his *umrah*, or at the time of the Conquest of Mecca, or on the Awṭās raid, or the journey to Tabūk, or at the time of the battle of Hunain. This last is a graphic confusion with Khaibar [cf. Nas., 6,126].

f. 47b. Hasan shares with Rabī^c the *umrah* dating.

Sabra's *ḥadīth* mentions the 'fee': two cloaks. Hasan's mentions the 'stipulated period': three nights.

Bu., *nikāḥ al-mut^cah*: Jabīr and Salamah b. al-Akwa^c mention an expedition; the three nights' period.

f. 48a–b. The ^cAlī *ḥadīth* in Muw., [2,12] lacks the mention of ibn ^cAbbās. Note the wording used here by ^cAlī: 'the Prophet prohibited the *mut^cah* with women at Khaibar, and the consumption of the flesh of domestic donkeys.' Mālik's wording would render Abū ^cUбайд's rehabilitation of ^cAlī's *ḥadīth* [f. 48b.] impossible. cf. Bu., [7, p.12]: ^cAlī said: 'The Prophet prohibited both *mut^cah* and the flesh of domestic donkeys at the time of the Khaibar raid.'

f. 49a. As to the *date* of the prohibition of *mut^cah*, total confusion reigns. As to the *fact* of the prohibition, total unanimity reigns. *Mut^cah* is forbidden to the Muslims. ibn ^cAbbās would appear to commend the 'practice', while ibn al-Zubair was stern in its denunciation. cf. Mus., 4,133: Zuhri reports from ^cUrwah b. al-Zubair that ^cAbdullāh b. al-Zubair delivered a public address at Mecca: 'There are men whose wits God has confounded, and whose vision He has confused who commend *mut^cah*.' He was hinting at one man in particular, whom he now summoned. This fellow defied him, claiming that it had been 'practised' in the days of the 'leader of the Saints'. ^cAbdullāh told this man that he had sinned against his own soul. He should try practising what he preached, in which case, ^cAbdullāh would have him stoned.

f. 49b. As to what was, in fact, forbidden, and by whom, total

confusion re-emerges. The Jābir *ḥadīth* illustrates the entanglement of one *Fiqh* topic with another, quite unrelated to it. They had practised *tamattu^c* in the company of the Prophet. The report illustrates the attribution to the *Sīrah* of an action, merely on account of the fact that the Qur'ān legislates for that 'action'. Q 2,196. *fa man tamatta^c* . . . ^cUmar reminds the Muslims that the revelation of the Qur'ān is now complete. God says [Q 2,196]: Complete the *Ḥajj* and the *umrah* . . . *fa man tamatta^c bi-l-umrah ilā al-Ḥajj* . . . ^cUmar appears to be discussing the *mut^cah* of the *Ḥajj*. The rest of this *ḥadīth*, however, affects to discuss the *mut^cah* with women. ^cUmar regards that as an abomination and he threatens to apply the penalty for illicit sexual conduct [*zinā*] to anyone who practises *mut^cah*. cf. Mus., 4,131: A man informed Jābir of the altercation between ^cAbdullāh b. ^cAbbās and ^cAbdullāh b. al-Zubair concerning the two *mut^cahs*. 'We certainly practised both in the company of the Prophet,' asserts Jābir, 'until ^cUmar forbade both.'

b M [1, p.605]: ibn ^cUmar reports that when ^cUmar acceded to the caliphate, he delivered a public address: 'The Prophet permitted us to engage in *mut^cah* for three nights. Later, he forbade *mut^cah*. I shall not hear of any *muḥṣan* person who *tamatta^c*, but I will stone him.'

Mus., [4, p.38] relates the Jābir *ḥadīth* from Shu^cbah – Qatādah – Abū Naḍrah, as at f. 49a – but his chapter-heading is: the *mut^cah* of the *Ḥajj* and the *umrah*!

f. 49b. Shu^cbah himself avers that he has transmitted his *ḥadīth* from three men, only one of whom, Qatādah, adverted to the stoning penalty. We should, therefore, perhaps, excise from the Jābir-^cUmar *ḥadīth* all references to women. The expression 'the marriage of these women' and 'who marries a woman for a stipulated [temporary] period' might well have crept into the narrative as a gloss, dislodging an original simple reference to *mut^cah* – i.e. *mut^cah* of the *Ḥajj*.

Naḥḥas [p.34]: but, as for the report in which ^cUmar is supposed to have said, 'If I hear of some man doing it, I will punish him,' it refers to the other *mut^cah*. One of the two *mut^cahs* has been prohibited, i.e. the *mut^cah* with women. That is tantamount to adultery [*zinā*]. The second *mut^cah*, sc. the *mut^cah* of the *Ḥajj*, or *faskh*, cannot be read into ^cUmar's dictum, since God has expressly permitted it, Q 2,196.

f. 50a. ibn ^cUmar is in no doubt as to what ^cUmar's view of the *mut^cah* with women would have been.

f. 47a–b. Sabra b. Ma^cbad provides one more instance of quasi-Qur'ānic reverberation: In the time of the Prophet, *istamta^ctu* with a

woman . . . cf. Q 4,24–5 the verse which regulates Islamic marriage. *fa mā stamta^ctum bihi minhunna fātūhunna ujūrahunna*. The dowry is paid in consideration of the sexual enjoyment of the wife by the husband.

Naḥḥās [p.105]: Here, the scholars are divided, although those 'whose word is law' have unanimously insisted that *mut^cah* is prohibited by both the Book of God and the Sunna. It is likewise prohibited on the basis of the teachings of the caliphs, and by °Alī's setting ibn °Abbās to rights on this very question. °Alī said to him, 'You are a man astray. The Prophet of God forbade *mut^cah*.'

Some scholars said that Q 4,24 refers exclusively to Islamic marriage. God had never sanctioned *mut^cah* in the Qur'ān. [These were Ḥasan and Mujāhid.]

Others held that *mut^cah* had once been lawful but was later suppressed by the Word of God in the Qur'ān. [Reported of: Sa'īd b. al-Musaiyab; °Ā'ishah; al-Qāsim b. Muḥammad; Sālim b. °Abdullāh. This is also attributed to ibn °Abbās.]

f. 50b. al-Qāsim reports that whenever *mut^cah* was mentioned, °Ā'ishah would explicitly refer to Q 23,6; Q 70,30. Only Islamic marriage and the right to enjoy one's slave-women occur in the Qur'ān.

Naḥḥās [p. 106] Zuhri's conversation with Sālim – f. 51a.
His conversation with al-Qāsim – f. 51a.

[p.105] ibn °Abbās: Q 4,24 was abrogated by Q 65,1.

[Q 65,1 regulates the divorce law.] ibn al-Musaiyab: The inheritance regulations [Q 4] abrogated *mut^cah*.

Mut^cah consists of the man's saying to the woman: 'I wish to marry you for a day or so on condition that you will have to observe no °iddah [Q 65,1] there will be no mutual rights of inheritance [Q 4,12] no divorce procedure [Q 65,1] and no witnesses.' Naḥḥās says: i.e. outright adultery [p.106.] ibid. Abū °Ubaid's view was that *mut^cah* had been prohibited by both the Qur'ān and the Sunna. [f. 51b.]

No Companion is known to have taken a permissive view of *mut^cah*, apart from ibn °Abbās, and he recanted.

f. 52a. The *ḥadīth* Abū °Ubaid reports as from ibn °Abbās may be given a construction other than that he appears to place upon it. He reads it as ibn °Abbās' resigned acceptance of °Umar's prohibition of *mut^cah*. It can also read, however, as ibn °Abbās' reproof of °Umar's unthinking impetuosity in banning something which God had

granted out of His solicitude for the Muslims. But for °Umar's prohibition of *mut^cah*, none would have to resort to adultery, except those whom, in any case, God had pre-destined to Hellfire. For, ironically, the same *ḥadīth* is to be found used against the Sunnī rejection of *mut^cah* by those who claimed that *mut^cah* remained a valid Islamic practice. [Rāzī, 10, pp.51–2]

One can see how it is possible to render Q 4,24 into a seeming permission to practice *mut^cah*, given readiness to subject the verse to the interpolations suggested here by °Atā'. The crudity of the Qur'ān's vocabulary aids and abets this kind of *ta'wīl*: *istamta^ctum*; *ujūr*. But *ujūr* is a Qur'ānic cliché for *ṣaduqah* or *donatio propter nuptias* – cf. Q 4,24; 25; Q 5,5 and Q 33,50 which is addressed to the Prophet himself.

In the Salamah b. al-Akwa^c report above, it was alleged that the Prophet explained that on the expiry of the three nights' *mut^cah*, it was open to the partners to negotiate an extension, if they so desired, prolonging the 'stipulated period'.

Naḥḥās [p.107]: some impudent but unlearned fellows have attempted to foist this kind of *ta'wīl* upon God's words: 'after both sides have agreed the dowry, there is no harm in re-negotiating an increase, on the basis of mutual assent.' [Q 4,24 – cf. Q 4,4 which mentions the possibility of the wife's offering to commute part of the *ṣaduqah* the husband had undertaken to provide.]

f. 53a. Tir., [5,48]: ibn °Abbās said, '*Mut^cah* occurred in 'the early days of Islam'. A man would arrive in a strange town where he knew nobody. He would marry a wife for a stipulated period to look after him and his merchandise during his stay. This lasted until the revelation of Q 23,6; Q 70,30.'

ibn abī °Amrah remonstrates with ibn °Abbās. *Mut^cah*, in 'the early days of Islam' was permitted only *in extremis*, like the permission to eat carrion and other prohibited food-stuffs, for the saving of human life.

f. 53b. the satirical song:

1. (*I'tibār*, p.180):

I said to the elder who had been long imprisoned:

"My friend, would you like to take advantage of ibn °Abbās' legal opinion?

Would you like a tender-limbed companionable young woman
To entertain you until the men return?"

2. Qurṭubī, 5, p.153:

2a. I say to my travelling companions when we have been long on the road:

“My friend, would you like to take advantage of ibn ‘Abbās’ legal opinion?”

Would you like a soft, plump, tender and supple-limbed young companion

To entertain you until the men come back?”

2b. The traditionist said after a long study session:

“My friend, would you like to take advantage of ibn ‘Abbās’ legal opinion?”

ibn ‘Abbās has now appropriated the ibn abī ‘Amrah rationalisation.

I‘tibār [p.178]: ‘Alī reputedly said: ‘*Mut‘ah* was once permitted – but only to those who could not raise the dowry.’ [What is still permitted to those who cannot raise the dowry for marriage with a free woman, is marriage with a slavegirl.]

f. 54a. The entire body of Sunnī scholars is unanimously of the view that *mut‘ah* is in no circumstances permitted. It has been prohibited once and for all.

The scholars needed never to have conceded that *mut‘ah* had ever been permitted to a Muslim, but for their respect for the *ḥadīths*, which in turn, owed their existence solely to exegetical pedantry in the handling of the term *ujūr* of Q 4,24.

f. 54b. A kind of marriage, once prohibited, that became lawful is marriage with the women of the People of the Book. The entire discussion is exegetical, and centred upon the meaning of the term *mushrik* in Q 2,221: “Do not marry [?] *mushrik* females until they become believers.”

Those who take the word to mean simply non-Muslim, could argue that Q 5,5 ‘now’ excepted *kitābiyāt*. For some of the scholars, ‘exception’ is tantamount to *naskh*, being ‘change’.

f. 55a. The author exhibits his ever lively interest in *qirā‘āt*, although, here, he is not sure whether this is a variant reading, or just a transmitter’s error.

Among those he can list as regarding this as an instance of the *naskh* of the Qur‘ān by the Qur‘ān, were: ibn ‘Abbās; Awzā‘ī; Sufyān; Mālik, and several Companions and Successors. ibn ‘Umar, on the contrary, taking the extreme view, did not think that the ‘ban’ on marriage between Muslims and non-Muslim females had ever been relaxed. This represents a very selective *tafsīr*, since food, [which he accepts] and marriage [which he rejects] are mentioned in a

single verse, Q 5,5. This insistence upon the Q 2,221 ruling marks a narrowing attitude on the part of some Muslims towards the Scriptures.

f. 56b. ‘One verse permits it; a second verse prohibits it.’ To determine an instance of *naskh*, the scholar must be able to determine which of the two verses is the later. ibn ‘Umar did not have this information, and exercised *iḥtiyāt*.

56b. What was the conduct of the Companions and caliphs? ‘Uthmān, who was already married to Muslim ladies, took the Christian Nā‘ilah as his wife. Some residual anti-*kitābi* animus is evident in the acid comment of Sha‘bī’s on al-Zubair’s marriages. If he is not the man intended by Sha‘bī in his comment that ‘one of the six’ [members of the *shūrā*] had married a Jewess, Abū ‘Ubaid states that it might have been Ṭalḥah, of whom that is known. Ḥudhaifah had also married a Jewess. Neither Hasan nor Ibrāhīm, nor Sha‘bī saw anything amiss in marrying *kitābi* women.

f. 58a. A Muslim might even marry his full quota of four wives from the *kitābis*, in Ḥasan’s view.

That we are dealing simply with exegesis, is made clear by Sa‘īd b. Jubair’s reading of Q 2,221: it refers only to non-*kitābi* women – idolatresses and *majūsi* women.

f. 58b. Abū ‘Ubaid reports that the Muslims in his day accept that the ‘concession’ abrogated the prohibition. This shows that *naskh* is the harmonising device best calculated to resolve conflicts between *ḥadīths* which, although clashing, are, on both sides of the argument, conceded to be ‘sound’ – *ṣaḥīḥ*. cf. Hibatullāh, p.24; Naḥḥās, p. 57.

f. 59b. We glimpse here something of Abū ‘Ubaid’s expert knowledge of *isnāds*. The *ḥadīth*, related as *marfū‘*, is, in fact, *mursal*. In addition to his keen interest in *ḥadīths* as a whole, one notes his preference for the *ḥadīths* from the Prophet, where these are available.

iḥṣān: this problem, crucial for the imposition of the stoning penalty in cases of *zinā*, was never resolved, since the Muslims did not achieve an agreed definition of the qualification. cf. J. Burton, ‘The meaning of *iḥṣān*’, *JSS*,19,1974.

Umm, 6, p.143: When a man marries a free woman, Muslim or Jewish or Christian, or cannot raise the dowry for a free woman and marries a believing slavegirl, and has intercourse with her, being of adult years, he becomes thereby *muḥṣan*. When a free Muslim or *dhimmi*

woman marries a Muslim, free or slave and consummates their union, she being of adult years, she becomes thereby *muḥṣanah*. Should either thereafter commit adultery, the penalty is death by stoning.

cf. K. *Ikhtilāf Abī Ḥanīfah wa ibn abī Lailā*: Abū Ḥanīfah insists on Islam as a condition of *iḥṣān*; ibn abī Lailā does not. Nāfi^c – ibn ʿUmar: The Prophet stoned a Jew and a Jewess.

Mabsūṭ [9, p.39] Our learned – except for Abū Yūsuf – insist upon Islam as a condition of *iḥṣān*. (Like Shāfiʿī, Abū Yūsuf relied on the above ibn ʿUmar report.) Our evidence is: the Prophet’s words: ‘He who is *mushrik* cannot confer *iḥṣān*.’ Baihaqī reports the *ḥadīth* concerning Kaʿb b. Mālik, while, in the *Kharāj*, Abū Yūsuf relates that ibn ʿUmar thought that the *mushrik* female could not confer *iḥṣān*. Mughīrah reported from Ibrāhīm and Shaʿbī that a free Muslim married to a *kitābī* woman would merely be flogged and not stoned for *zinā*. The *kitābī* wife does not confer *iḥṣān*. Abū Ḥanīfah is reported to have relayed the Ibrāhīm opinion that a Muslim male cannot confer *iḥṣān* on a *kitābī* female or on a slavegirl.

f. 60a. Abū ʿUbaid is scandalised at the suggestion that the *iḥṣān* employed in the Prophet–Kaʿb exchange is the jurists’ technical term – as if the Prophet could contemplate *zinā* on the part of any of his associates! The author’s own *taʿwīl* of the Prophet’s intent is scarcely convincing. Besides, how could ibn ʿUmar deliver himself of the *fatwā* that the *mushrik* cannot confer *iḥṣān* – it was ibn ʿUmar who reported the Prophet’s stoning of the two Jews.

f. 60b. ibn ʿUmar had already included *kitābīs* among the *mushriks*. [f.56a.]

Interestingly, no reference is made throughout this entire section to the Prophet’s own marital record.

That the Qurʾān [Q 5,5] characterises the *kitābī* women whom the Muslims may marry as *muḥṣanāt*; that ʿUmar, ibn ʿUmar and the Prophet were reluctant to approve of marriage with *kitābī* women, on the ostensible grounds that they do not confer *iḥṣān*; that ibn ʿUmar, nevertheless did report the Prophet’s stoning of a Jewish couple – which must mean that they were *muḥṣan* in the technical sense – which sense is not, however, that intended by the Prophet when he counselled Kaʿb, nor by ibn ʿUmar in his *fatwā* – can only mean that the term *muḥṣan* has more than one meaning. f. 54b; f. 59a; f. 59b; and f. 60a. convey reference to the second meaning: chaste.

f. 61a. Further, the only *kitābī* women the Muslims may marry are *dhimmi* women. Marriage with *kitābī* women of *dār-al-ḥarb* is

forbidden. Women of the *majūs* and idolatresses are most certainly forbidden, the ban, in their case, never having been relaxed in either Qurʾān or Sunna.

f. 62a. The negative conditions allegedly placed upon the acceptance of *jizyah* from the *majūs* of Hajar, tend to underline the positive approach adopted in Q 5,5 to the People of the Book, whose food and women are declared lawful to the Muslims. The reader should note, incidentally, the verse’s use of the word *ujūr*, in connection with dowries.

This entire discussion was exegetical, but was rendered necessary by the existence of the *ḥadīths* here reviewed. They, in turn, had been the product of an earlier stage in the exegesis.

One might, in addition to the oblique reference conveyed by the ibn ʿUmar *ḥadīth* at f. 56a. have expected an explicit mention of Q 9,31, where the *kitābīs* are actually referred to as *mushriks*. Naḥḥās [p.59] repairs this omission. Further, in his comments on ibn ʿUmar’s views, he settles the question of which of the two verses in the later, and hence the *nāsikh*.

f. 61b. Abū ʿUbaid reports that he knows of no scholar who questioned the general disapproval of the Muslim’s marrying a *ḥarbīyah*. Naḥḥās conceded that that is what had been reported from ibn ʿAbbās and Ibrāhīm, but, claimed that Shāfiʿī and Mālik are among scholars who argued that Q 5,5 contains nothing to support this restriction. If they had disapproved of it, that was only from fear that the children might be brought up in the other faith.

We have seen that *muḥṣan* was said to have more than one meaning. Similarly, in addition to ‘marriage’, *nikāḥ* has another, more basic meaning.

Q 2,221: *lā tankihū al-mushrikāt ḥattā yuʿminna*

wa laʿammah muʿminah khair min mushrikah

f. 62b. ibn Masʿūd deplored sexual intercourse with a slavegirl who was either *mushrikah* or less than chaste. This presents the alternative *tafsīr* of the verse. The statement from Ibrāhīm is mere paraphrase of the verse. The same is true of the other statements cited, ff. 62b–63b. Abū ʿUbaid is alive to the origin of the two doctrines, one on marriage, the other on concubinage, in the *tafsīrs* of the verse, and of a third doctrine, that which distinguishes marriage from concubinage, forbidding the first, but allowing the second. f.64a.

The influence of the growing doctrine of the ‘pure Prophet’ will not, however, permit him to extend the distinction back into the *Sīrah*.

Ḥadīths on the Awtās campaign must be subjected to a fairly transparent *ta'wīl* [re-interpretation].

f. 65b. A further point of contention concerned Muslim prostitutes, centred upon the wording of Q 24,3. Some said the ruling was abrogated, others that it was still in force. Those who argued the *naskh* of this verse, held Q 24,32 to be the *nāsikh*. Again, the crux appears to be *nikāh*.

Mujāhid: Some men wished to consort with women who still plied a trade they had pursued in the Jāhiliyah. When told that that was forbidden, they sought to marry them – but even marriage was not permitted. Both ibn al-Musaiyab and Mujāhid thought that such marriages had been forbidden at first, then permitted on the revelation of Q 24,32.

f. 66b. The 'evidentiary' *ḥadīths* adduced in support of this *ta'wīl* of the verses, open up the discussion by confusing prostitution with fornication. Although imposing upon the fornicators the appropriate penalty, Abū Bakr did nothing to impede their eventual marriage. This *tafsīr-ḥadīth* is based on the wording of Q 24,3 and keeps fornication apart from prostitution [cf. f. 90a].

f. 67b. Whereas the Abū Bakr *ḥadīth* read Q 24,3 as a 'permissive' verse, °Umar almost reads it as mandatory. The ibn Mas°ūd *ḥadīth* turns this *tafsīr* into a legal dictum. Jābir b. °Abdullāh and ibn °Abbās were proponents of this view. °Imrān b. Ḥuṣain, Jābir b. Zaid, Ḥasan and other °Irāqīs were opposed to this line of thinking. [Bu., v.7, p.11.]

Abū Hurairah, ibn al-Musaiyab, °Urwah and Zuhri took the first view, reported also as from °Alī.

f. 68a. The ibn °Abbās metaphor, attributed to Ḍaḥḥāk in Hibatullāh [p.67].

Conviction for fornication does not bar the partners from eventual marriage, even to third parties.

Shāfi°ī, [*Umm*, 5, p.10]: A man marries a woman, unaware of her previous fornication, but learns of it before consummating his union with her: she is not barred from being his wife, whether her sin preceded or followed the marriage. He may not seek the return of the dowry, nor dissolve the marriage on the grounds that the contract was irregular. He may either persist with the marriage, or dissolve it by divorce.

f. 68a–b. This is so, in °Aṭā's view, even if the man witnesses the wife's misconduct.

The discussion has now advanced from the question of the initiation of marriage by fornicators, to the maintenance of marriage despite the fornication of one of the partners.

f. 68b. In such instances, the authorities may not seek to dissolve the marriage: [Mujāhid; Ḍaḥḥāk; Sha°bī.]

The verse, in this view, having been abrogated, does not form the basis of a *Fiqh* ruling.

A second view, that the verse is still in force, leads to the argument that the authorities may dissolve the union.

f. 69a–b. The detail of whether the union had or had not been consummated, is relevant only for the question of the dowry, and for the establishment of *iḥṣān*, [cf. supra, p.99].

f. 69b. The doctrine attributed to Ḥasan is mere exegete's re-wording of Q 24,3. His view is explained by the author as having been the result of analogical deduction. What is interesting is that these results are now carried back to affect the wording of the verse for *ta'wīl* purposes. The basis of the analogy had been Q 24,6–7, referring to the procedure known as *li°ān*, resorted to when a husband suspects his wife of misconduct, but is unable to produce the four witnesses demanded by the Qur°ān [Q 4,15; Q 24,4].

Although Abū °Ubaid's view is almost the same as Shāfi°ī's – that the husband's knowledge of the wife's misconduct is insufficient to dissolve the marriage automatically without resort to the established procedures – he nevertheless feels that the husband ought to initiate, or failing that, be ordered to initiate divorce. He suspects that the man would be transgressing the implicit requirement of wifely chastity he finds in Q 5,5. He is thus driven to presume that those scholars who took the apparently lenient line, acted on their knowledge that the wife had shown both repentance and amendment. Others argued on the basis of their interpretation of a report on the Prophet's attitude to the same question.

Their interpretation is flatly counter to Q 24,6ff [f. 71b], to Q 5,5 and to the Sunna of the Prophet. For Muḥammad is ascertained to have insisted on separating the two partners in the *li°ān* procedure, never again to be brought together. The author's *ḥadīth*-expertise is illustrated by his:

1. exposing this *matn* to that of a second Prophetic report in which he was questioned about a slavegirl;
2. exposing the interpretations [*ta'wīl*] of this *matn* to the Qur°ān verses, and to further Sunna materials;

3. exposing the interpretations to his linguistic skills and to the lexicon of the Arab poets.

The lascivious slavegirl: [Bu., *Muḥārabīn*, Muw., *Hudūd*; Mus., *Hudūd* (°an Mālik): all state that the Prophet was asked what to do in the event that a slavegirl misbehaved – if she is non-*muḥṣanah* – all reporting from Abū Hurairah.] They also all cite from Abū Hurairah the same report without the restriction: if she is non-*muḥṣanah*. b.M. has: ‘if she misbehaves before becoming *muḥṣanah*’ [*Hudūd*].

Mālik insists that, if the slavegirl has a husband, only the *imām* – not the owner – may apply the penalty, for the Prophet spoke of slavegirls who were non-*muḥṣanah*.

Shāfi‘ī knew both versions of the slavegirl *ḥadīth*. He used both in his definition of *iḥṣān*. The term has a wide variety of connotations, among them: Islam; liberty; marriage; consummation of marriage; being kept closely confined. His concern, at this point, is to argue that no mamluke is ever stoned for *zinā*, whatever the foundation of her *iḥṣān*. His discussion was provoked by Q 4,25’s reference to the penalty for the erring slavegirl who is *muḥṣanah*. Since the Qur’ān states merely that her penalty shall be half that appointed for the *muḥṣan*, the scholars found themselves in considerable difficulty as to how to interpret these two uses of the term, deciding finally that its meaning clearly alters according to the status of the individual [Ris., pp. 135–6].

The difficulty with the main *ḥadīth* which, in this section, causes Abū ‘Ubaid such problems, is that the wife who ‘could never refuse any man’s overtures’ was undoubtedly *muḥṣanah* in the technical sense. Yet the Prophet told the husband to retain her as his wife. There is no mention in the *ḥadīth* of *li‘ān*; would the Prophet, who took such a stern line with slavegirls, be sanguine on the misconduct of a free woman?

f. 72a. The *ḥadīth* cannot be ‘soundly’ reported. Both *rāwīs*, Hārūn b. Riyāb and °Abdul Karīm, transmit it as a *mursal*. Nas., [*Nikāḥ*]: this *ḥadīth* is known in both *marfū‘* and *mursal* forms. °Abdul Karīm carries it back to ibn °Abbās. Hārūn does not. Thus, the *ḥadīth* is not established. Besides, °Abdul Karīm is not ‘strong’. Hārūn reports it only from °Abdullāh b. °Ubaid b. °Umair. [cf. *Umm*, 5, p.10.]

f. 72a. If there be a ‘sound’ basis to the *ḥadīth*, then resort must be had to *ta’wīl*. The man had said, ‘My wife cannot resist the overtures of any grasping hand’ – i.e. grasping the husband’s property. Abū °Ubaid conceded, however, that the other interpretation can be justified on the basis of everyday vernacular usage.

f. 72b. But °Alī warned us to be careful always to interpret the Prophet’s utterances in the most wholesome possible sense. Abū °Ubaid’s opponents could refer to Q 5,6 or Q 4,43. He can reply with reference to Q 6,7. Further, he can appeal to a line from Jarīr’s *qaṣīdah* beginning:

“Then greet the remains of the dwellings whose outline traces are fading,

The place where foals were tethered and the welcoming hearth ablaze for him who sought a fire”

declaring that this poet is acceptable evidence for Arabic usage, and that he has used the expression to refer to those who had designs on the tribe’s property and wealth.

f. 73b. ibn °Abbās interpreted the term *nikāḥ* [Q 24,3] in the now familiar basic sense. The Muslim ceases to be a Muslim at the moment that he is engaged in what is unlawful. cf. Bu., *Hudūd*: ibn °Abbās reported that the Prophet said: ‘A man cannot simultaneously be a fornicator and a Muslim; no man can simultaneously be a thief and a Muslim.’

cf. *Muḥārabīn*, *ithm al-zunāt*: nor drink and be a Muslim, nor kill and remain a Muslim.

ff. 74a–b. The second meaning of *nikāḥ*. The word is capable of bearing both meanings in Arabic.

ff. 74b–89a. *Ṭalāq*

The author knows of only two instances of *naskh*:

1. *fidyat al-Khul‘* 2. *‘iddat al-wafāt*. In view of the inclusion here, of the second topic, it seems more appropriate to translate the *ṭalāq* of the title as the dissolution of marriage.

ff. 74b–87a. Q 2,229. The occurrence of references to both spouses and to the Muslims appears to have led to division as to the locus of competence in *khul‘*.

Some would consider *khul‘* a strictly private inter-spouse arrangement; some considered competence to reside solely in the husband’s hand, while others thought competence lay with the authorities, acting on behalf of the community.

f. 75a. ibn °Abbās again equates exception with *naskh*. He sees a

breach in the solemn prohibition of a man's seeking restitution of all, or part of the dowry. The first series of *ḥadīths* makes the point that the *fidyah* is a quasi-penalty imposed for the matrimonial offence of the wife.

Attempts have been made to define and delimit the precise nature of the offence, and to suggest general formulae. Statements specifying character and behaviour faults on the wife's part are attributed to ibn ʿAbbās; Ibrāhīm; ʿAṭāʾ, who adds the qualification that the wife's consent is needed for the institution of proceedings leading to *khulʿ*, i.e. to her surrender of property in exchange for the dissolution of the marriage.

f. 76a. ʿAṭāʾ, ʿAmr b. Shuʿaib and Zuhri attempt more precise definitions of the nature of the wifely misconduct. Jābir b. Zaid held that only the wife may initiate *khulʿ*.

f. 76b. Ḥasan, who regarded *khulʿ* as a form of divorce, and thus assigned the initiative to the husband, does not depart from the wording of Q 4,34.

f. 77a. Both ʿUrwah and Ṭāwūs repudiated the attempts to devise formulae such as those illustrated at f. 75a–b. The Qurʾān provides no warrant for these, or for any other forms of words. Abū Qilābah interprets Q 4,19 in the sense that a husband may pressure an erring wife into the surrender of the *donatio propter nuptias* – although that is otherwise strictly prohibited elsewhere in the Qurʾān.

f. 77b. Abū ʿUбайд defines *khulʿ*: it is the purchase by the wife of her liberty from the marriage. By offering the husband a fee, or by agreeing to waive the *donatio*, she induces him to divorce her.

Both sides in this dispute as to whose prerogative it is to initiate *khulʿ* – the husband's or the community's – can find support in the *ḥadīths* that have reached them.

f. 78a. The author accepts both views and can distinguish differing circumstances in which each can be justified. Primary prerogative lies with the parties to the marriage. They may complete all the formalities on the basis of free mutual consent and have their separation formally witnessed, without reference to the authorities. Only if they fail to reach mutual agreement, the wife refusing to surrender her rights, or the husband reluctant to release the wife, and they then apply to the authorities, does the prerogative pass out of their hands to become the sole prerogative of the courts.

f. 75a. This formula repeated by Hibatullāh [p. 25] but already

dismissed by Bu. [7,46] as the mouthings of fools. Bu., [nikāḥ, khulʿ] repeats the Ṭāwūs *tafsīr* [f. 77a].

f. 79a. Ḥabībat ibnat Sahl's story is celebrated.

cf. Mālik, 2,22; b.M. 1,633; Nas., 6,169; Dār., 2, 85. A.D. 1,348.

f. 80a. ʿan fulān qad sammāhu ʿan ʿIkrimah: Bu. [7,47]: ʿan Ayyūb ʿan ʿIkrimah – cf. Abū ʿUбайд's next *isnād*.

f. 80b. ʿan ʿIkrimah ʿan Khālid – with no mention of ibn ʿAbbās – cf. Bu., [7,47].

f. 80a. The wife is unnamed. Her identity is uncertain.

f. 81a. Jamīlah ibnat Ubaiy. cf. Bu., ʿIkrimah calls her the sister of ʿAbdullāh b. Ubaiy; elsewhere, he names her Jamīlah: b.M.1,633; Nas., 6,169 for Ḥabībah ibnat Sahl; b.M. do. Nas., 6,186 for Jamīlah, daughter of ʿAbdullāh b. Ubaiy. The story of Jamīlah is said to be Baṣran; the story of Ḥabībah is said to be Medinese. Other versions mention Mīriam al-Mughālīyah [Nas., 6,187].

f. 80a. [Baṣran *isnād*]: the Prophet separated them.

f. 80b. The Prophet ordered Thābit to divorce her.

f. 81a. [Baṣran *isnād*]: the Prophet ordered etc. . . The wife is named for the first time [Jamīlah.]

ff. 79a–81a: Medinan or Baṣran, all the *ḥadīths* show the wife applying to the Prophet for a decision.

f. 81a. A brief domestic comedy provides a moment of humour. The story is *tafsīr* of Q 4,35 which, however, it breaks into two separate clauses. The story establishes the principle that the spouses may withdraw their invitation to the authorities to act. The verse says: "If they desire to 'make up', God will assist them." This was preceded by: "If you fear they will split up, send a representative from his people and another from her people to arbitrate between them. . ."

The connection between Q 4,35 and Q 2,229 was facilitated by the juxtaposition in Q 2 of "unless the two fear. . ." with "and if you fear. . ."

Men are forbidden to seek the return of the *donatio*, or any part of it, "unless the two fear that they cannot abide by the limits set by God. But, if you fear that they cannot, there is no guilt in their agreeing that she provide the *fidyah*. . ." Hence the vacillation in the *tafsīrs* and *ḥadīths* as to the locus of the prerogative to initiate separation.

f. 81b; f. 76a.b. The references to *nushūz* derive from Q 4.

The confusion as to where the prerogative lay: with the wife, the husband or the authorities arose from Q 2's discussions on divorce and its financial implications.

f. 82a. The *ḥadīths* meld the Q 2 and Q 4 contexts.

°Alī is said to regard the two arbiters as plenipotentiary. The allegation that that was his reading of the relevant Qur'ān statements is clearly stated.

f. 82b. The same view attributed to Shuraiḥ.

f. 83a. It is attributed to Sa'īd b. Jubair; Sha'ebī and Ibrāhīm who is said to grant the arbiters the power to declare the separation either revocable or absolute.

f. 83b. But the two arbiters must agree – °Alī; Sha'ebī. If they do not agree, others must be appointed, Sha'ebī.

f. 84a. The two arbiters may reconcile the spouses; they may not separate them – Zuhri. The question of separation is for the *imām*, not the arbiters.

f. 84b. *Khul'* is the exclusive prerogative of the *sultān*: Ḥasan; ibn Sīrīn; Daḥḥāk.

Abū °Ubaid points out that the Prophet did not leave the discretion to Thābit. Muḥammed separated the couple. That had also been °Alī's view, ibn °Abbās' and Mu°āwiyah's.

f. 85b. The caliph may endorse *khul'* after agreement has been reached by the spouses. °Umar; °Uthmān; Shuraiḥ had all recognised this, thus acknowledging the right of the spouses to act independently.

f. 86b. Shuraiḥ teaches his associates that *khul'* is a form of divorce.

f. 87a. Abū °Ubaid is of the opinion that the spouses may separate by mutual consent, but that their act requires the ratification of the authorities for its validity.

Umm, 5,178: The *ḥadīth*: ibn Sīrīn – °Abīdah – °Alī [f. 81b.] Shāfi'ī denies the arbiters the power to separate the couple. They are agents of the husband and may not offer him any part of the *donatio*, except as agents of the wife. God stated that He would help if they desired to be reconciled – He said nothing in Q 4,35 about their separating. The *imām* ought to invite the spouses to agree to appoint arbiters between them, deputised to act on their behalf.

Although Abū °Ubaid does not mention the *°iddah* of *khul'*, he does mention the story of al-Rubai' ibnat Mu°awwidh.

f. 86a. [cf. Muw., *Ṭalāq al-mukhtali'ah*]: al-Rubai' informs ibn °Umar that she had sought from her husband and obtained his consent to her *khul'*. °Uthmān had come to hear of this and did not repudiate it. [cf. f.86b.]

Rubai's story features in the discussions on the *°iddah* of *khul'*. ibn °Umar declared that this *°iddah* is the same as that of any divorced woman – Mālik had heard that Sa'īd b. al-Musaiyab, Sulaimān b. Yasār and ibn Shihāb had been of the view that it was the same as for divorce – three cycles. Tir., *Ṭalāq, khul'*: Sulaimān b. Yasār-Rubai' reports that she obtained *khul'* in the time of the Prophet, and that he ordered her to observe the *°iddah* of one menstrual cycle. From ibn °Abbās, he also reports this of Thābit's wife; [cf. f. 79b.] The Prophet ordered her to observe an *°iddah* of one menstrual cycle. cf. A.D., *khul'*; Nas., [*Ṭalāq, °iddah*]. In Nas., [*°iddat al-mukhtali'ah*] the transmitter is Rubai' relaying the story of Jamīlah! The Prophet ordered her, (she was Thābit's wife) to observe an *°iddah* of one cycle. [Nas., *°iddat al-mukhtali'ah*.] The above is followed by the story of Rubai' informing °Uthmān of her *khul'* and enquiring what her *°iddah* is. °Uthmān tells her she has no *°iddah* to observe, unless she had married very recently, in which case she should observe one cycle as *istibrā'*. [Nas., 6,187.] cf. ibn al-°Arabī, [*Sharḥ Tir.*, loc. cit.]. Rubai's story in Muw. is incomplete. It ought to continue: Her uncle asked °Uthmān if she might leave the matrimonial home. °Uthmān said she might. There would be no mutual rights of inheritance, and she had no *°iddah* obligation, but was not free to re-marry immediately. She should wait for one cycle as *istibrā'*. ibn al-°Arabī explains that these scholarly differences had sprung from the different views the *imāms* had formed of the *khul'* institution: Mālik, for example, saw *khul'* as a form of divorce, while one report from Shāfi'ī suggests that he regarded it as the dissolution of the contract [*faskh*]. The differences ante-dated both *imāms*. If *khul'* is divorce, the *°iddah* is of three menstrual cycles; if *khul'* is *faskh*, the *°iddah* is of one cycle only.

ff. 87a–89a. *The °iddah of the widow.*

I'tibār [p.8]: the abrogation of Q 2,240 by Q. 2,234 is a 'classic instance' of the *naskh* of the Qur'ān by the Qur'ān. Both *nāsikh* and *mansūkh* verses remain in the *muṣḥaf*, save only that the ruling of the *mansūkh* verse no longer applies.

f. 87a. The ibn °Abbās *tafsīr-ḥadīth* reads Q 2,234 in implied association with Q 65,4 and, compared with Q 2,240 suggests that:

the widow's 'iddah had 'originally' been for twelve months [Q 2,240]; that it was later reduced to four months and ten nights [Q 2,234] for all widows who were *not* pregnant. Pregnant widows were dealt with at Q 65,4. The second ibn 'Abbās *ḥadīth*: financial provision for the widow and her accommodation for twelve months [Q 2,240] were superseded by the inheritance revelations of Q 4,12.

The present is one of only two instances in which the *nāsikh* verse precedes the *mansūkh* verse in the literary arrangement of the *muṣḥaf*. [Hibatullāh, p. 26.]

Bu., [Tafsīr, Q 2,234] ibn al-Zubair asked 'Uthmān why he had recorded Q 2,240 and left it in the *muṣḥaf*, when he knew it had been replaced by Q 2,234. 'Uthmān replied that it was not his place to alter the arrangement of the revelations. For the theories of abrogation, the literary lay-out of the Qur'ān is irrelevant, only the chronological order of the revelation of the verses is brought into account. Hence the significance of yet another branch of the *Ḥadīth* literature, the *asbāb al-nuzūl*.

The exegeses of Q 2,240 [and Q 2,180] had clashed with the results of the exegeses of Q 4 on inheritances. Shāfi'ī, arguing that the Qur'ān revelations are 'ambiguous' sought the help of the Sunna: Q 2,180 and Q 2,240 could mean that the *waṣīyah* to parent, nearest kin, and widows was still required. They would benefit twice: by *waṣīyah* and by inheritance; or, it could be that the inheritance verses abrogated the *waṣīyah* provisions of both Q 2 verses. Of two *ḥadīths* known to him, one, transmitted by Syrians, contains in the *isnād* persons unknown to the specialists. He accepts the second, the Hījāzī tradition, circulated by the *maghāzī* scholars in a report on which the scholars are all agreed. This version he prefers – although it is *munqaṭī'*: 'in the *Year of the Conquest* of Mecca, the Prophet said, "there is to be no *waṣīyah* in favour of any heir.'" [Ris., pp. 138–43.] This *ḥadīth*, and its unanimous acceptance among the scholars indicates that Q 4 abrogated the two Q 2 verses.

b M [*waṣāyā*]: Abū Umāmah said, 'I heard the Prophet say, *at the Farewell Pilgrimage*, "God has granted to all who are entitled their due rights – there is to be no *waṣīyah* in favour of any heir.'" ' Anas b. Mālik reports the same. Nas., [*waṣāyā*]: 'Amr b. Khārijah reports: 'The Prophet said, "God has assigned to every man his due share of the inheritance. A *waṣīyah* in favour of any heir is not valid.'" ' cf. Dār., *waṣāyā*; *Sīrah*, 2, p.605. [f. 87b. for this wording.]

This wording is more pointed in its prohibition of the *waṣīyah*, and in stating that God [i.e. the Qur'ān, Q 4] had been the *nāsikh*, not the

Sunna, i.e. the words of the Prophet: *lā waṣīyah li wārith* – as others have supposed.

Muw., 2,133: 'The established sunna, in our view, on which there is no disagreement, is that a *waṣīyah* in favour of any heir is not permissible – unless authorised by the man's other heirs.' Here, there is no trace of the above *ḥadīth*, which, as we saw, was in Shāfi'ī's day, still defective.

To sustain the claim that Q 2,240 had been abrogated, the first point to establish is that the 'iddah had, in fact, 'originally' been for twelve months. The most satisfactory technique is to cast that 'ruling' back into the Jāhiliyah.

f. 88a. Zainab reports from two widows of the Prophet.

cf. Bu., *Ṭalāq*, [7,59]: Humaid – Zainab – Umm Ḥabībah: When the report of her father's [Abū Sufyān] death reached her, she called for some unguents and smeared herself, saying, 'I don't really need perfume, but I heard the Prophet say, "It is not lawful for a woman who believes in God and the Last Day [Q 2,232; Q 65,2] to mourn the dead for more than three nights – save only her husband whom she should mourn for four months and ten nights.'" ' [Using Mālik's *isnāds*.] cf. Muw., *Ṭalāq*, [2,39] Humaid – Zainab. . . Mālik gives three *ḥadīths*, the first, like the foregoing, the second, also like the foregoing, but featuring Zainab ibnat Jaḥsh, on the occasion of the death of her brother; the third, Zainab from Umm Salamah, as given here by Abū 'Ubaid. Mālik also reports from 'Ā'ishah and Ḥafṣah, as before.

The function of the *ḥadīths* was to instil the notion that mourning is actually an obligation, incidentally inculcating the parallel notion that the longer 'iddah of the Jāhiliyah and [by extension] of 'early Islam' had been 'reduced' by the revelation of Q 2,234. Mujāhid is supposed to have reversed this order: [Bu., *Tafsīr*, Q 2,240]: Q 2,234 imposed the 'iddah which the widow must observe in the matrimonial home, four months and ten nights; God then imposed in Q 2,240 on the heirs the additional seven months and twenty nights, granting her accommodation if she chose to avail herself of it – i.e. for a whole year. She might remove from the matrimonial home on the expiry of the 'iddah of four months and ten nights.

Naḥḥās [p.75]: Qatādah said, 'the provision of the widow's accommodation for twelve months during which she might not be evicted from the matrimonial home, was abrogated by the revelation of Q 4: the period mentioned, twelve months, was abrogated by Q 2,234.' He gives also the ibn 'Abbās *ḥadīth*, as at f.87a–b, but with extended

wording: ‘God revealed her inheritance in Q 4, so her *waṣīyah* and the expenditure [upon her accommodation and subsistence] ceased.’

Those who excluded the pregnant widows from the Q 2,234 *‘iddah*, on the grounds that their obligation was revealed in Q 65, argued on the basis of the *ḥadīth* in which ‘Abdullāh b. Mas‘ūd exclaimed: ‘I am prepared to engage in mutual oath-taking with any man to the effect that the “shorter *sūrah* on women” [Q 65] was revealed later than the “longer” – i.e. the Q 2 passages.’ This was the view of the majority of Companions, Successors and *fuqahā’*: ‘Umar; ibn ‘Umar; ibn Mas‘ūd; Abū Mas‘ūd; Abū Hurairah; ibn al-Musaiyab; Zuhri; Mālik; Awzā‘ī; Thawri; *aṣḥāb al-ra’y*; *aṣḥāb al-ḥadīth*; Shāfi‘ī and Abū Thawr.

Those who wished to harmonise the two verses, Q 2,234 and Q 65,4, argued that the widow should observe the longer of the two periods: the four months and ten nights, or the period of the pregnancy. If the woman gave birth before the expiry of the Q 2,234 period, she should continue until the end of that period. This view was represented by ‘Alī and ibn ‘Abbās. The opposing view was held by ‘Umar who argued that if the widow gave birth before even the husband had been interred, she had no further *‘iddah* obligation. The quarrel was settled by the appearance of a further *ḥadīth*. Umm Salamah reports the Prophet as saying to Subai‘ah that she was free to re-marry immediately. She had informed him that she had given birth only nights after the death of her husband. [Muw., 2,36.]

All are agreed that a pregnancy greater than four months and ten nights determines the longer *‘iddah* to be observed. Naḥḥās [p.77] mentioned Mālik’s *ḥadīths* from Ḥumaid. Among their many provisions was the widow’s obligation to mourn. One may therefore ignore Ḥasan’s denial that mourning is obligatory. The Prophet did, however, exempt from this obligation the pregnant widow, since he restricted his remarks to widows whose *‘iddah* is for four months and ten nights! [p.79]: if the widow is pregnant, the Ḥijāzīs do not permit her accommodation nor her subsistence to be deducted from the deceased husband’s estate; the ‘Irāqīs (including Abū ‘Ubaid) allow her her maintenance from the [undivided] capital.

These discussions, with their *tafsīr-ḥadīths* expose the extent to which the exegetes had confused a number of unrelated questions: Q 2,240’s regulation of the *waṣīyah* to provide the widow’s keep, its insistence upon her right to the accommodation for the full twelve months, if she wished to avail herself of it, whatever the man’s other heirs said. The period is long enough to provide for all normal pregnancies. The distinction between pregnant and non-pregnant

widows is thus a complete red herring. In this regard, cf. *Mishnah*, Ket., 12³: “If a widow said, ‘I do not wish to leave my husband’s house,’ the heirs cannot say to her, ‘Go to thy father’s house, and we will maintain you,’ but they must maintain her in her husband’s house and give her a dwelling befitting her position.” This is precisely what Q 2,240 regulates. It has nothing to say about the *‘iddah*. That is the topic of Q 2,234. The widow may not contemplate re-marriage for at least four months and ten nights from the date of the husband’s decease. The exegetes have further denied the widow her *waṣīyah*, on the grounds of Q 4,12’s having allotted her a specific share in the inheritance. Yet, Q 4,12 twice mentions that estates are to be divided only after the deduction of any *waṣīyah* the decedent may have made. Shāfi‘ī himself had conceded this much.

Q 65 has nothing to do with widows. It regulates the *‘iddah* to be observed by the divorced wife. ibn al-‘Arabī tries to argue that the fact that the verse concerns divorced women does nothing to limit its general application to all *‘iddahs*. It applies to all pregnant women observing an *‘iddah*. [*Aḥkām*, 1, p.208.] Q 2,234 and Q 2,240 share no topic in common; they cannot be in conflict, therefore there can be no *naskh*.

ff. 89a–97b. Corporal and capital penalties

ibn ‘Abbās’ linking of Q 4,15 with Q 65,1 on the basis of the presence in each of the term *fāḥishah*, illustrates the common technique of verse comparison. This present link had interesting consequences for the vowelling, first, of Q 65,1, and thence, of Q 2,240. Consideration of the exegesis of the verses, and that of Q 24,2 – (together with a reference to ‘current practice’) – seemed to point to the relative dating of the three contexts.

Q 4,14: *aw yaj‘al allāh lahunna sabīl* – the *sabīl* which God subsequently brought for these women was flogging [Q 24,2] and stoning [Sunna] – the ‘Aṭā’ Khurāsānī transmission.

f. 89b. The ‘Alī b. abī Ṭalḥah transmission: Q 24,2 abrogated the rulings of both Q 4,15 & 16. The Sunna, however, established the death penalty for the *muḥṣan* who committed an act of illicit sex. That was the penalty God brought for *these men and women* – *lahumā*.

f. 90a. The ‘Ubādah *ḥadīth*: God has now brought His *sabīl lahunna*:

for virgins, flogging and banishment; for the non-virgins: flogging and stoning. Thus, this first version deals exclusively with women [cf. Q 4,15].

“Take it from me”: cf. Q 59,7: “Whatsoever the Prophet gives you, accept it; whatsoever he denies you, be denied.” This is one of the most over-worked Qur’ānic proofs of the divine requirement that men accept and act upon the Sunna of the Prophet. In fact, the verse discusses, as is clear from the context, the division of the spoils of battle. The above penalties were established by the Sunna.

f. 90b. °Ubādah, version 2.: the penalties were revealed.

Abū °Ubaid offers no comment or explanation of the mechanics of this alleged instance of *naskh*.

Hibatullāh [p.33]: house-arrest [Q 4,15] was abrogated by the Sunna, not by the Qur’ān. The verse referred solely to the *muḥṣan*, males and females, i.e. adulterers. Q 4,16 referred only to the non-*muḥṣan*, male and female, i.e. to fornicators, whose ruling was abrogated by Q 24,2, the flogging verse. The penalty for the *muḥṣan* is stoning. Naḥḥās [p.98] Q 4,15 [house-arrest] applied at first to all, i.e. fornicators and adulterers. That was first abrogated by Q 4,16. The offenders were now subjected to physical and verbal abuse. This was next abrogated by the distinction between fornication and adultery. For the former, the penalty was flogging and banishment; for the latter, it was flogging and stoning. This was the view of °Ikrimah, and has been related by Ḥasan from °Ubādah [f. 90b].

A second view, Qatādah’s, was that Q 4,15 referred to the *muḥṣan* alone; Q 4,16 referred to the non-*muḥṣan*. Ṭabarī inclined to this opinion.

Thirdly, Q 4,15 referred to all female offenders, Q 4,16 to all male offenders. This, the view of Mujaḥid, has been reported also as from ibn °Abbās. Naḥḥās regards this as the soundest of all the exegeses.

[p.99] cf. °Ubādah 1, f. 90a. The Prophet’s saying: ‘God has now brought His *sabīl lahunna*,’ shows that Q 4,15 had not been abrogated before this was uttered.

[p.100] Naḥḥās derived the view which he prefers from the °Alī b. abī Ṭalḥah transmission [f. 89b.] although his wording is slightly varied.

Whereas some scholars, including °Alī; Ḥasan b. Šāliḥ b. Ḥaiy; al-Ḥasan b. al-Ḥasan and Ishāq maintained both elements of the penalty for the *muḥṣan*, as established in the °Ubādah *ḥadīth*, arguing that the flogging had been imposed in the Qur’ān, and the stoning by the Sunna, others, including °Umar; Zuhri; Nakha’ī; Mālik; Thawri; Awzā’i and Shāfi’ī; Aḥmad; Abū Thawr and *aṣḥāb al-ra’y*, dispensed

with the flogging element and imposed stoning alone. That was because in *ḥadīths* illustrating the Prophet’s stoning of adulterers, flogging is ‘no longer’ mentioned.

Ris., p.20: Shāfi’ī confuses the issue by speaking of both *takhṣīṣ* and *naskh*: God abrogated the Q 4 verses by the Qur’ān. The Sunna shows that flogging is the penalty for the non-*muḥṣan* only; flogging is *mansūkh* in respect of the *muḥṣan*. The °Ubādah *ḥadīth* was the first revelation to follow that of Q 4,15–16, which it *abrogated*.

cf. K. *Ikhtilāf °Alī wa °Abdullāh b. Mas°ūd* [p.167].

f. 90b. *The penalties applicable to the dhimmīs.*

Ibrāhīm and Sha°bī: the Muslim judge is free to hear cases brought by the People of the Book, but he must judge on the basis of the Book of God. Q 5,42 is *muḥkamah*.

f. 91a. Q 5,49 abrogated Q 5,42: ibn °Abbās; Mujaḥid; °Ikrimah.

Ibrāhīm and Sha°bī had not explained which Book of God they had in mind. The expression is a re-working of the Q 5,49 verse: “on the basis of what God has revealed.”

f. 91b. The Ibrāhīm Taimī remark throws some interesting light both on this, and on a possible origin of the stoning penalty. Note: f. 92b. Abū °Ubaid: This is what has come down concerning the abrogation of the penalties for *zinā*! Is that what the discussions on Q 5 were about? If so, Taimī’s remark takes on considerable importance.

cf. Bu., [Muḥārabīn, *aḥkām ahl al-dhimmah*]: Mūsā b. Ismā’īl – °Abdul Wāḥid – Shaibānī: ‘I asked °Abdullāh b. abī Awfā about stoning. He replied, “The Prophet stoned.” I asked, ‘Before or after the revelation of Q 24?’ He said that he did not know.’

cf. Mus., [bāb *rajm al-yahūd*]: Abū Kāmil al-Jaḥdarī – °Abdul Wāḥid – Abū Bakr b. abī Shaibah – °Alī b. Mus’hir – Shaibānī: ‘I asked °Abdullāh b. abī Awfā, “Did the Prophet ever stone?” He said that he had. I asked, “Before or after the revelation of Q 24?” He said that he did not know.’ Bu. adds the footnote: In some versions this reads: ‘Before or after the revelation of Q 5?’ – but the more correct version is the one mentioning Q 24.

The mention of Q 5, nevertheless, recalls Taimī’s remark. Bu., follows up the question as to whether the Prophet had ever stoned with the ibn °Umar report to the effect that the Prophet had stoned two Jews. Stoning is the penalty in the Torah. *Which* Book of God did Ibrāhīm and Sha°bī mean?

ff. 92b–94b. *Retaliation*

Sha^cbī's *ḥadīth* is the *sabab* of the revelation of Q 2,178. The verse 'introduced' order into the question of weregeld. cf. Hibatullāh [p.15].

f. 93a. ibn ^cAbbās sees *naskh* here. Q 5,45 abrogated Q 2, 178, This is a second *asbāb ḥadīth*. For ibn ^cAbbās, what has been introduced is the ruling that free persons, male and female, exercise mutual retaliation in cases of deliberate assault, whether the result is death or merely wounding. Previously, men had not been killed for the murder of women, nor vice-versa. They had formed separate retaliation categories.

f. 93b. Abū ^cUbad's intervention: ibn ^cAbbās did not regard Q 5,45 as the *nāsikh* of Q 2,178. He took both verses to be still valid. Q 5,45 presented the *tafsīr* of Q 2,178. In cases of homicide, men and women form a single category, free persons. Similarly, the slave class are a category.

f.94a. There is no retaliation across the categories, whether in cases of homicide, or lesser assaults. This was the view of Mālik and the Ḥijāzīs. Some of the ^cIrāqīs, on the other hand, thought Q 2,178 had been abrogated by Q 5,45. On account of the latter's expression: "a life for a life" they permitted cross-category retaliation – but only in cases of homicide. Abū ^cUbad prefers the Medinese view:

1. on account of the ibn ^cAbbās *tafsīr*;

2. because the Medinese view is the more consistent. The ^cIrāqī position is selective, since Q 5,45 is not, in fact, restricted to homicide. The verse mentions wounding also. Hibatullāh [p.15]: if it be objected that Q 5,45 was imposed upon the Jews, not upon the Muslims, one replies that the verse ends with the insistence that men should judge on the basis of what God has revealed.

The Ḥijāzīs and others point to Q 17,33: "Let there be no excess in killing." To kill a Muslim in retaliation for an unbeliever, or a free man for a slave would, indeed, be excessive.

Naḥḥās [p.17] Ḍaḥḥāk reports from ibn ^cAbbās that Q 5,45 abrogated Q 2,178.

[p.18] Sha^cbī, as at f. 92b., although abbreviated.

[pp.18–19] Naḥḥās explains the Kūfan view that permits retaliation upon the free for the homicide of the slave: it had been based on a Prophetic proclamation which ^cAlī had preserved in his sword-case. This stated, among other things, "the blood of all the believers is equal".

Shāfi^cī, K. *Ikhtilāf Abī Ḥanīfah wa ibn abī Lailā* [p. 137] AH: there

is no retaliation between men and women for non-fatal assault, nor between free and slave for non-fatal assault. Ibn abī Lailā replied: retaliation is wholly unrestricted, whatever the gravity of the assault.

Shāfi^cī himself permits retaliation between men and women for all, including fatal assaults. The same applies to the slave class, but within their own category. Shāfi^cī shows that here, he is arguing from the major to the minor.

f.95a. *The Sunna penalties: the penalty for apostasy*
cf. Mus., [*al-Muḥārabīn wa-l-murtaddīn*] same *ḥadīth*.

Noting the discrepancy between this *ḥadīth* and Q 5,33, the scholars have concluded that the ruling shown in the *ḥadīth* has been superseded. Although it occurred at Medina, it occurred before the revelation of the Islamic penalties.

f.95b. It occurred in 'early Islam'.

Mus., Sulaimān Taimī – Anas: The Prophet put their eyes out because they had put out the eyes of the herdsmen, i.e. this was retaliation, not a penalty.

Bu., [*Muḥārabīn*] via Abū Qilābah, these people stole; they killed; they made war on God and His Prophet . . . [cf. Q 5,33] they stole; they killed; they apostatised; they made war on God and His Prophet.

s m r/s m l [Bu.,: *k ḥ l*] cf. *Gharīb al-Ḥadīth*, 1, p.173. The penalty of the *murtadd* [apostate] is death. Putting out the eyes is mutilation, which is forbidden.

f. 96b. The ibn ^cAbbās *ḥadīth*: the penalties mentioned in Q 5,33 are listed as alternatives. The *tafsīr-ḥadīth* mirrors the verse perfectly; so too, at f. 97a.

Naḥḥās [p.125]: scholars have said that Q 5,33 abrogated the Prophet's practice when he mutilated the group from ^cUrainah, putting out their eyes, and leaving them to die of exposure. ibn Sīrīn said that when the Prophet acted in that way, he was admonished and that 'practice' was abrogated [p.126]. Suddī said, 'The Prophet was on the point of doing this, when he was forbidden to do it, and the penalties were revealed.'

Some accept that the penalties of Q 5,33 are alternatives. The *imām* is free to apply whichever he chooses.

Others say that the penalties are a tariff reflecting the gravity of the crime.

[p.127] The first view is reported from Mālik and ibn ʿAbbās; Saʿīd b. al-Musaiyab; ʿUmar b. ʿAbdul ʿAzīz; Mujāhid and Ḍaḥḥāk.

The second view is attributed to Ḥasan; ʿAṭāʾ; Saʿīd b. Jubair; Abū Mijliz; and ibn ʿAbbās!

f. 97a. But this second view is attributed to ibn ʿAbbās in the *ḥadīth* of Ḥajjāj b. Arṭāt via ʿAṭiyah from ibn ʿAbbās. Ḥajjāj and ʿAṭiyah are not highly regarded by the *ḥadīth* specialists. The second view was that adopted by Awzāʿī and Shāfiʿī; *aṣḥāb al-raʾy*; Sufyān and Abū Ḥanīfah; Abū Yūsuf, although they did not agree on the order of the penalties.

f. 97a. The ibn ʿAbbās tariff
A man who rebels, acts the high-wayman and steals, his hand and opposite foot are cut off; if, in addition, he kills he is crucified; if he kills but does not steal, he is killed; if he neither stole nor killed, he is banished.

cf. Naḥḥās [p.129]
A man who rebels and kills, is killed; if he steals but does not kill, his hand and foot are cut off; if he steals and kills, he is killed then crucified.

ff. 97b–105b. *The section on witnesses*

ff. 97b-99b. 1. Witnessing sales.

Q 2,282 is absolute in its requirement that all transactions be witnessed, however trifling the amount. Debts should, in addition, be recorded in writing. ʿAṭāʾ, Ibrāhīm and ibn ʿUmar insisted on witnesses to all sales, although ibn ʿUmar did not insist on their being recorded.

Naḥḥās [p.84] adds the names of: Abū Mūsa; ibn Sīrīn; Abū Qilābah; Ḍaḥḥāk; Jābir b. Zaid; Mujāhid. These men took the Qurʾān wording literally.

f. 98a. He reproduces the ʿAṭāʾ and Ibrāhīm statements, and now adds the name of Ṭabarī [Naḥḥās, loc. cit.].

Q 2,283 regulates the same matters for travellers. As they cannot always expect to find a clerk capable of recording their transactions, they may exchange pledges instead. The recipient of such a pledge will be expected to turn it over to its owner on the completion of the transaction. Ḥakam; Shaʿbī and Ḥasan thought of Q 2,283 as

abrogating Q 2,282. Naḥḥās adds: and ʿAbdul Raḥmān b. Zaid. These scholars would seem to have understood the Q 2,283 term *amina* to mean 'to trust'; the context suggests, however, that it refers to the handing over of the pledge [*amānah*]. The demand for witnesses is here repeated.

Ṭabarī insists that this verse is mandatory and he challenges the view of those who take it as a simple recommendation – said to be the view of Shaʿbī; Mālik; Shāfiʿī and *aṣḥāb al-raʾy*. The Qurʾān's orders are not to be construed as other than commands, without good evidence. There being no second Qurʾān verse which says, "Do not record, and do not call witnesses", Ṭabarī will not accept this claim of *naskh*. Naḥḥās admires this analysis, but, since those *fuqahā*' whose words 'are regarded' have pronounced, the majority are satisfied that this is not obligatory. Ṭabarī had defined *naskh* as the negating of an earlier ruling. But ibn ʿAbbās had interpreted Q 2,106's *aw nansa hā* to mean 'abandon'. *Naskh* can thus refer to the abandonment of an earlier ruling without the revelation of any replacement ruling. [This is *al-naskh lā ilā badl: nasakhat al-rīḥ al-āthār* – i.e. simple suppression, as opposed to supersession.]

Shāfiʿī, [*Umm*, 3, p.76] regards Q 2,282 as 'ambiguous'.

It may be a recommendation; it may be a command. He prefers that sales be witnessed, not because the Qurʾān says so, but since this is obviously commercially prudent. He knows a *ḥadīth* in which the Prophet, on one occasion, was embarrassed because he had failed to have a transaction recorded.

[cf. Naḥḥās, p.86.] Muḥammad's action on that occasion, shows that the verse does not impose a command.

Q 24,4: *bearing witness against the chastity of females.*

f.99b. Four witnesses are required. Those who libel others and are unable to produce four witnesses, are to be flogged. Thereafter, they will be quite unacceptable as witnesses to any transaction – unless they repent of what they have done. The disputes among the scholars centre upon the range of this exception. ibn ʿAbbās restricted the effects of the exceptive to the description of those involved as 'wrongdoers.' The exception in no way re-habilitates their suitability to give evidence. His view shared by Shuraiḥ; Ḥasan; Ibrāhīm, and Saʿīd b. Jubair. [The ʿAṭāʾ Khurāsānī transmission.]

f. 100b. The ʿAlī b. abī Ṭalḥah transmission, on the contrary, ibn ʿAbbās had held that repentance purges both the moral guilt and the disqualification to give evidence.

That view was shared by: °Umar; Zuhri; al-Qāsim and Sālim.

The clash of the two most common *tarīqahs* from ibn °Abbās appears to represent a clash between Hijāzī and °Irāqī views.

f. 101a. cf. Bu., [Shahādāt, *bāb shahādat al-qādhif*]: [3,170] °Umar flogged Abū Bakrah, Shibl b. Ma°bad and Nāfi° for their libelling Mughīrah. He then asked them to repent, stating that, if they did, he would re-instate their evidence. This is said to have been the view also of: °Abdullāh b. °Utbah; °Umar b. °Abdul °Azīz; Sa°id b. Jubair; Tāwūs; Mujāhid; Sha°bī; °Ikrimah; Zuhri; Muḥārib b. Dithār; Shur-aiḥ; Mu°āwiyah b. Qurrah; Abū al-Zinād and Qatādah.

cf. Shāfi° [Umm, 6, p.214] The criterion for the rejection of the *qādhif*'s testimony is not whether or not he was flogged, but the *fact* of the libel, in the absence of any sign that he has repented.

Mālik, using the 'shorthand' of the other scholars, sees this exception: "except those who repent" as re-habilitating the °*adālah* of the *qādhif*. [Muw., 2, p.108]

A *marfu° ḥadīth* declares that the Islamic penalties 'wipe the slate clean': Mus., [al-ḥudūd *kaffārah*].

cf. b.M. bāb: *dhikr al-tawbah*. But, cf. Tir., bāb: *man lā tajūz shahādaturu*: °Ā°ishah – Prophet: 'The *shahādah* of neither the treacherous, nor those who have been flogged for an offence, is acceptable.' Tir., does 'not know the meaning of this report'. On the basis of the *isnād*, the *ḥadīth* is 'unsound'.

f. 103b. The °Irāqīs would on no account ever re-instate the *qādhif* as witness. This regional difference reflects the exegetical dispute as to the function of the exceptive. The tension between the Qur'an's 'ahādan' and 'illā' was too great to be ignored.

Not for the first time, Abū °Ubaid prefers the Hijāzī view. It was that of the majority, including some of the most senior Muslims; it was systematically more satisfying, since he who merely utters evil is scarcely to be thought more reprehensible than he who actually commits evil. If they repented, the convicted were re-instated as acceptable witnesses. He who merely bore witness against them [even if falsely] or if unable to produce three or more witnesses, is surely less criminal, especially after he belies his earlier statement. The repentant are *as if they had never sinned*, and if God is prepared to accept their repentance, mere fellow-creatures ought to be even readier to accept it. Besides, there are further Qur'an contexts whose use of the exceptive is analogous to that of Q 24,4: e.g. Q 5,33; Q 4,43. If repentance can divert the penalty from the apostate, it can surely do the same for the *qādhif*.

ff. 105b–116a. *The testimony of dhimmīs against Muslims*

The acceptability of the testimony of *dhimmīs* to the *waṣīyah* of the dying Muslim when, on a journey, Muslim witnesses are not available, seems to be referred to in Q 5,106.

The majority of the ancients took this verse in this sense. Others, conceding that this is the sense, insisted that the verse had been abrogated. A third group denied that there is in the verse any reference to non-Muslims.

ff. 106a–b; 107b–108a. Two very lengthy *ḥadīths*, the first, [°Ikrimah] affects to set the scene for the revelation of the verse. The *ḥadīth* uses the *asbāb al-nuzūl* method to present the exegesis of the verse. The atomism of the *tafsīr* separates the circumstances in which each of the two verses had been revealed. *ākharāni min ghairikum* has been interpreted as a reference to non-Muslims. The ibn Mas°ūd tale purports to represent an event which occurred *after* the revelation of the verses. This is straightforward exegesis. *ākharāni min ghairikum* is here shown to refer to Jews and Christians.

Both 'sīrah-type' narrative exegeses are mere re-working of the vocabulary and materials presented by the Qur'an.

Hibatullāh [p.42–3] has the detail that the two Christians killed the *mawlā* of the °Āṣ family. He names the two: Tamīm al-Dārī and °Adī b. Zaid. His confused tale has the phrase *aw ākharāni min ghairikum* revealed in consequence of events which occurred 'in early Islam'. The testimony of non-Muslims was later rejected by Q 65,2. In a second version, 'Adī is now the *mawlā* of the °Āṣ family who, together with Tamīm, murdered a second *mawlā* of the °Āṣ family.

f. 107a. The verse speaks of 'concealing testimony'.

The *ḥadīth* speaks of concealing merchandise. Q 5,107, the two secondary witnesses are drawn from the aggrieved kin-group of the deceased [as at f. 107a]. Their rôle is to rebut the testimony of the witnesses to the *waṣīyah*, in the event of suspected fraud.

f. 107b. The Qur'an's *aw ākharāni min ghairikum* has here become *wa ākharāni min ghairikum* [?] there being now two ranks of witnesses: the Muslims to whom the dying man had entrusted his *waṣīyah*, and the witnesses to the Muslims' receipt of the man's property. The *ḥadīth* does not specify that the Muslim witnesses were

in any degree related to the dying man, other than by their common religion.

Q 5,107 calls them: *awlayāni*. In the second *ḥadīth*, the rebuttal witnesses are the second rank of those who attended the dying man – the Jews [and Christians]. The dead man's kin are called upon merely to confirm the testimony here given by non-Muslim witnesses.

The °Ikrimah *ḥadīth* refers to events in the Prophet's lifetime and is therefore *mursal*. The °Abdullāh *ḥadīth* refers to the reign of °Uthmān, some dozen years after the death of the Prophet.

f. 109b. Naḥḥās [p.133] that the testimony of the People of the Book against Muslims, in the case of the *waṣīyah* of the traveller, is acceptable was the view of: two of the Companions, ibn °Abbās and Abū Mūsā. Naḥḥās can produce an ibn °Abbās *tafsīr-ḥadīth*, while Abū °Ubaid has none. If the testimony of the non-Muslim witnesses be suspect, two of the Muslim's kin can rebut it [*awlayāni*].

f. 109b. Naḥḥās [p.134]: Shuraiḥ; Sa°id b. al-Musaiyab; Sa°id b. Jubair; °Abīdah; ibn Sīrīn; Sha°bī; Yaḥyā b. Ya°mur and Suddī; and of the *fuqahā'*, Thawrī and Abū °Ubaid were among those who took this view.

Abū °Ubaid adds the names of Mujāhid and Ibrāhīm. These scholars interpreted *min ghairikum* as: non-Muslims.

f. 111b. These views are reinforced by the numerous *ḥadīths* which stress how few occurrences of *naskh* affected Q 5.

1. The Prophet. 2. °Ā'ishah. 3. Abū Maisarah [cf. f. 92b]. 4. Ḥasan [cf. f. 92a].

f. 112b. Those who insist that Q 5,106 is abrogated stress Q 65,2 and Q 2,282, arguing that the Qur'ān suggests that only the testimony of Muslims is acceptable. Hibatullāh [p.44] calls Q 65,2 'the verse stressing Islam'. Naḥḥās [p.134]: the verse is abrogated (comparison of Q 5,106 and Q 24,4). Zaid b. Aslam; Mālik; Shāfi°; Abū Ḥanīfah of this opinion.

f. 112b. Abū °Ubaid does not know to whom among the ancients they could have traced this view, although it has been adopted by Mālik and the Ḥijāzīs and many of the °Irāqīs, but not by Sufyān.

f. 113a. Second report from Abū Mūsā, contrary to the above [f.109a]. Here, he comments that the witnesses must all be Muslims.

Ḥasan: *minkum* = of your tribe; *min ghairikum* = of another tribe, but all must be Muslims.

f. 113b. Abū °Ubaid accepts the view of the majority, among whom are some of the most senior Companions. Besides, there are inconsistencies in the opposing view. As for this second report from Abū Mūsā, Sha°bī had related the contrary.

Ḥasan's report is unacceptable, since the Qur'ān opens this passage as a direct address to the believers. God then says: *min ghairikum*, which can refer only to non-believers. The last report from Zuhri is also to be rejected, for it confuses disagreement among the man's heirs, some of whom may raise claims against others. But God is speaking of *shahādah*, i.e. testimony, not *iddi°ā'* [claim and counter-claim]. (Has the author here, perhaps overlooked the verse's phrases: *wa law kān dhā qurbā; istahaqqa °alaihim al-awlayāni*?) Further, since when has the testimony of the Muslim witness been acceptable at only one hour of the day? (after the °aṣr prayer). Note Abū °Ubaid's tacit acceptance of this detail of Ibrāhīm's *tafsīr* [f. 110b.] and since when has it been Islamic practice to have witnesses swear or take the oath?

In addition to the view expressed by the Companions, and the Successors, Abū °Ubaid is swayed by Sufyān's view [f. 115a]. Then, too, he has noted the number of occasions on which the Qur'ān is prepared to make concessions to the traveller: shortening of the ritual prayer [Q 4,101]; *tayammum* [Q 4,43]; combining two ritual prayers [Sunna, not Qur'ān]; breaking the fast in Ramaḍān [Q 2,184].

The eating of carrion is permitted *in extremis*. Is the plight of the Muslim, overtaken by death when far from home and kin, not the kind of parallel situation of extreme need in which God would permit him to call upon the testimony of men of other faiths? The Muslims have acknowledged the testimony of females unaccompanied by that of males in matters pertaining exclusively to females (although ordinarily that is not acceptable). That is nowhere referred to in either the Qur'ān or the Sunna. It is a practice that has grown up in response to need. Now, Q 5,106 admits of the exegesis that the *dhimmi* may bear witness to the *waṣīyah* of the Muslim, in the absence of Muslim witnesses. The ruling to that effect may, thus, be said to be somewhat more firmly established than the rule about accepting exclusively female testimony.

Perhaps their *ta'wīl* that the prayer mentioned in this verse as the time when the testimony of non-Muslims is to be examined, refers to the °aṣr prayer, is sound, for, from personal observation, the author reports that the hours of sunrise and sunset are times when they particularly pray.

Shāfi° [Umm, 6, p.127] knows the *ta'wīl*: *min ghair qabīlatikum*;

they are to be examined after the prayer – but the *mushriks* have no formal prayer, and they would have no qualms about concealing testimony. He has also heard that Q 65,2 abrogated Q 5,106–7. Shāfi'ī is familiar with the views of the *muftīs* of Medina who restrict testimony to Muslims of impeccable 'adālah.

ff. 116a–136a. *The pilgrimage rites*

The author knows of no *naskh* affecting the Qur'ān. But there were apparently two practices current in the time of the Prophet – *faskh al-iḥrām* and *mut'at al-nisā'* [!] on which some of the *imāms* have formed a different view. He can explain this only by presuming that the *imāms* knew of a second, *nāsikh* regulation, or realised that the two practices had been restricted solely to the time of the Prophet.

ff. 116a–123b. Interruption of the *iḥrām*:

f. 116b. cf. b.M. bāb: *faskh al-Ḥajj*: Barrā': They had assumed the *iḥrām* for the *Ḥajj*. On reaching Mecca, the Prophet ordered them to alter their *ihlāl* [*nīyah*].

f. 117a. cf. Mus., *ḥijjat al-nabī*.

f. 117b. cf. Mus., *bāb al-taqṣīr fī-l-ʿumrah*.
Mus., *bāb: wujūh al-iḥrām* – also from Jābir.

f. 118a. ʿĀ'ishah and al-Qāsim; cf. Mus., loc. cit.

cf. b.M. loc. cit., Nas., *ifrād al-Ḥajj*.

f. 118b. Abū Mūsā: cf. Mus., – same *isnād*.

f. 119a. *fa inna al-nabī lam yaḥill ḥattā naḥar al-hadya*.

cf. Q 2,196: *ḥattā yablugh al-hadyu maḥillahu*.

cf. Bu., *Ḥajj: man ahalla fī zamān al-nabī* [via Suyfān].

Bu., has: *lam yaḥill ḥattā naḥar al-hadya* but he also has: *lam yaḥill ḥattā yablugh al-hadyu maḥillahu* [bāb: *mattā yaḥill al-mu'tamir*]. cf. Q 2,196. cf. Dār., *fī al-tamattu'*.

f. 119b. Ḥafṣah: cf. Mus., *bāb inna al-qārin lā yataḥallal*. The Prophet replied [as here, except for the last phrase].

Instead of: *ḥattā aḥilla min al-Ḥajj* Mus., has:
ḥattā anḥura hadyī.

f. 119b. The author's expression: *illā man sāq al-hadya*. Mus., *wujūh al-iḥrām*, has: The Prophet said, 'Whoever has a *hady* should form

the intent to perform the *Ḥajj* with his *ʿumrah*. He should not then abandon *iḥrām*, until he does so for both rites.' ʿĀ'ishah also reports the Prophet's saying, 'He who assumed *iḥrām* for the *ʿumrah* and has no *hady* may abandon *iḥrām*. He who assumed *iḥrām* for the *ʿumrah* and has a *hady*, may not abandon *iḥrām* until he has sacrificed his *hady*. He who proclaimed the intent to perform the *Ḥajj* must complete his *ḥajj*.'

cf. f. 119a: ʿUmar's appeal to Q 2,196: Complete the *Ḥajj* . . . The criterion which permits *faskh*, abandonment of *iḥrām*, appears to be absence of *hady*.

f. 119a. Abū Mūsā had no *hady*, and the Prophet ordered him to abandon his *iḥram*. ʿĀ'ishah and Jābir: He ordered those who had no *hady* to abandon their *iḥrām*. Mus., *wujūh al-iḥrām*: ʿĀ'ishah, the Prophet said, 'But that I have driven a *hady*, I would have proclaimed my intent to perform the *ʿumrah*.' Jābir, the Prophet said, 'But for my *hady*, I would abandon *iḥrām*, as you are now doing. If I had my time over again, I would not bring a *hady*.' [The same, from ʿĀ'ishah.]

The criterion for proclaiming one's intent to perform the *Ḥajj*, would appear to be the presence of the *hady*.

cf. Bu., *bāb al-mu'tamir*: ʿĀ'ishah: The Prophet, and some of the Companions (who had some wealth) had the *hady*. They were thus debarred from performance of the *ʿumrah*. Jābir: The Prophet had a *hady*, and so could not *faskh*.

f. 120a. ibn al-ʿArabī [*Sharḥ Tir.*, 4,39]: ibn ʿUmar reports: The Prophet appointed ʿAttāb b. Usaīd *amīr* of the *Ḥajj* and he proclaimed his intent to perform the *Ḥajj* alone [*afrada*]. In the year 9 A.H., he appointed Abū Bakr who *afrada*. The Prophet himself, in the year 10 A.H., *afrada*; when the Prophet died, Abū Bakr, succeeding, sent ʿUmar who *afrada*; ʿUmar, throughout his own caliphate, *afrada*; when ʿUmar died and ʿUthmān succeeded, he *afrada*. When ʿUthmān was shut up in Medina, he sent ʿAbdullāh b. ʿAbbās who *afrada*.

f. 120a. ʿAlī did not abandon his *iḥrām*.

cf. Mus., *bāb al-ifrād wa-l qirān*; Muw., *bāb ifrād al-Ḥajj*.

ff. 120b–121a. Bilāl b. al-Ḥārith al-Muzanī. Abū Dharr: *faskh* was restricted to the time of the Prophet.

f. 121a. *faskh* means: altering one's proclaimed intent to perform the

Ḥajj [ihlāl] into one to perform an *ʿumrah*. But *mutʿah* also = *faskh* = altering one's *ihlāl*.

cf. Nas., *bāb al-tamattuʿ*; Muw., *bāb al-tamattuʿ*.

Dār., *al-tamattuʿ*.

Bilāl b. al-Hārith: cf. b.M. *bāb faskh al-Ḥajj*; Nas., *ibāḥat faskh al-Ḥajj*; DQ, Dār., *faskh al-Ḥajj*.

Abū Dharr: cf. DQ *mawāqīt*, 26; 'the *mutʿah* of the *Ḥajj* was not permitted – i.e. that one should proclaim the intent to perform the *Ḥajj*, then *faskh* that, and turn it into an *ʿumrah*' [and cf. DQ,25].

cf. Mus., *jawāz al-tamattuʿ*: that was a concession to us [alone] – sc. *mutʿah* during the *Ḥajj*. The *two mutʿahs* were permitted to us alone – sc. *mutʿah* with women and *mutʿah* of the *Ḥajj*. cf. Nas., loc. cit. *Mutʿah* was a concession to us alone.

f. 121b. ʿĀ'ishah. cf. Muw., *bāb ifrād al-Ḥajj*.

f. 122b. ibn ʿAbbās, cf. Mus., *al-taqṣīr fī al-ʿumrah*.

Mus. has: *tashaghghafta / tashaghghabta / tafashshagha*.

f. 123a. The view adopted by some scholars who countenance *faskh*, in our day, would be unexceptionable, but for Bilāl's and Abū Dharr's *ḥadīths*; and but for the view of the caliphs who are the best informed on the Sunna of the Prophet and its *ta'wīl*.

f. 121b. The Ḥijāzīs, ʿIrāqīs, Syrians: Sufyān, Mālik, *ahl al-ra'y* and others do not think the pilgrim who proclaims the intent to perform *Ḥajj* alone, and the man who proclaims the intent to perform *Ḥajj* and *ʿumrah* jointly in a single journey may abandon *iḥrām* before *Yaum al-Naḥr*.

ff. 120a–b. Abū ʿUбайд distinguishes *faskh* from *mutʿah*.

f. 123b. cf. Muw., *bāb al-tamattuʿ*.

f. 124a. Ghunaim b. Qais, cf. Mus., *bāb jawāz al-tamattuʿ*.

f. 123b. ʿUmar forbade it; Tir., *bāb al-tamattuʿ*: Ibn ʿUmar said, 'Suppose my father did forbid it, but the Prophet did it. Whose word should we follow, ʿUmar's or Muḥammad's?'

f. 124b. cf. Bu., *bāb: ʿumrat al-tanʿīm*; Mus., *wujūh al-iḥrām*.

Nas., loc. cit., b.M. *faskh al-Ḥajj*; note the usual alternation: *mutʿah/tamattuʿ*.

Bilāl and Abū Dharr represent the opposition to *faskh*.

f. 124b ff. Surāqah b. Mālik represents the pro-*mutʿah* faction.

f. 125a. The Prophet's dictum: 'The *ʿumrah* has been incorporated into the *Ḥajj* until the Last Day.'

Mus., *jawāz al-ʿumrah*: ibn ʿAbbās: 'The Prophet said, "This is an *ʿumrah istamtaʿnā bihā* – he who has no *hady* may abandon *iḥrām* and all its tabus." He added, "The *ʿumrah* has been incorporated into the *Ḥajj* until the Last Day.''

The confusion of the vocabulary of Q 2,196 and Q 4,24 is the key to this entire section.

cf. b.M. [Surāqah]: *bāb al-tamattuʿ bi-l-ʿumrah ilā al-Ḥajj*. Abū ʿUбайд: The Prophet's dictum is susceptible of two possible interpretations:

1. by 'the incorporation of the *ʿumrah* into the *Ḥajj*' is meant *faskh*. That is, that a man proclaims his intent to perform the *Ḥajj* but, on completing the *ṭawāf* of the Kaʿbah, [which counts as an *ʿumrah*] he abandons the *iḥrām* which he had assumed for the *Ḥajj*.

2. It may be a reference to *mutʿah*. That is defined as: performing the *ʿumrah* in the pilgrimage months, and, having completed it, and shaved the head, deciding to participate in the same year's *Ḥajj*, by renewing a proclamation for the *Ḥajj*. In the pre-Islamic era, the Arabs were unfamiliar with the performance of the *ʿumrah* in the *Ḥajj* season. They did not acknowledge it – indeed even deplored it. This is related as from Ṭāwūs, while others relate it as from ibn ʿAbbās. [cf. Mus., *jawāz al-ʿumrah fī ashhur al-Ḥajj*. Bu., *bāb: al-tamattuʿ wa-l-qirān wa-l-ifrād*, etc. Nas., loc. cit.] The Surāqah *ḥadīth* refers to this. When the Prophet ordered them to abandon *iḥrām*, that is why they protested. He then insisted, stating that the *ʿumrah* had been incorporated into the *Ḥajj* for all time. Then the Qurʾān revealed the *rukḥṣah*, permitting this practice, Q 2,196. The Prophet demonstrated also the sunna of *qirān* – i.e. the proclamation of one's intent to perform *Ḥajj* and *ʿumrah* jointly in the course of a single visit to Mecca.

f. 126a. Mus., *bāb: al-ifrād wa-l-qirān*, Anas b. Mālik: I heard the Prophet proclaim his intent to combine *Ḥajj* and *ʿumrah*. cf. Dār., *qirān*; b.M. *al-iḥrām*; *man qaran al-Ḥajj wa-l-ʿumrah*; Nas., *al-qirān*; for *ḥadīths* from: ibn ʿAbbās; ʿAlī; ʿImrān. Nas., from the Prophet, 'If I had my time over again, I would do as you are now doing; but I have brought a *hady* and have *qaran*.'

Thus the Prophet [who made only one pilgrimage] is credited with: *faskh*; *afrada*; *tamattuʿ*; *qirān*.

f. 126a. ʿImrān: the Prophet *jamaʿ* *Ḥajj* and *ʿumrah*. He never

subsequently forbade their combination, nor did the Qur'ān ever come down to declare that unlawful.

f. 126b. ibn ʿAbbās – Abū Talḥah: cf. b.M. loc. cit. Anas opposed by ibn ʿUmar, cf. Mus., loc. cit.

ʿImrān's is the most celebrated and widely reported *ḥadīth*. Mus., *jawāz al-tamattuʿ*, reproduces the following versions:

1. [Shuʿbah]: the Prophet *jamaʿ bainā ḥijjah wa ʿumrah*;
2. No qur'ān came down [to forbid it] nor did the Prophet forbid us to combine them, whatever some man's *ra'y*.
3. We *tamattaʿ* with the Prophet . . .
4. The Prophet *tamattaʿ* and we *tamattaʿ* with him . . .
5. The *mutʿah* verse was revealed in the Qur'ān – i.e. the *mutʿah* of the *Ḥajj*. The Prophet ordered us to do it, and no verse has ever been revealed to abrogate the *mutʿah* verse, nor did the Prophet ever forbid it – whatever some man's *ra'y*.
6. In the course of his Farewell Pilgrimage, the Prophet *tamattaʿ* the *ʿumrah* into the *Ḥajj*. He had a *hady* and he proclaimed the intent to perform the *ʿumrah*, then the intent to perform *Ḥajj*. The people did as he did . . . He told those who had a *hady* not to abandon *iḥrām*; he told those who had no *hady* to abandon the *iḥrām* following the *ṭawāf*, to renew the intent to perform the *Ḥajj* and to offer a *hady*; he told those who could not afford a *hady* to fast for three days during the *Ḥajj* and seven days on their return. [cf. Q 2,196.] cf. Bu., Q 2,196; Dār., *qirān*, ʿImrān says: '*Mutʿah* is lawful in the Book of God . . .' cf. Nas., *qirān*, ʿImrān says: 'The Prophet *jamaʿ* . . .'

There cannot remain any doubt, following version 6 above, and Bu.'s placing of the ʿImrān *ḥadīth*, that we are here dealing solely with the exegesis of Q 2,196.

ff. 127a–b. cf. b.M. *bāb: man qaran al-Ḥajj wa-l-ʿumrah*; Nas., *bāb al-qirān*; Shaqīq b. Salamah calls Ṣubaiy 'a man of Taghlib'. Shaqīq and Masrūq kept going back to ask Ṣubaiy to repeat his *ḥadīth*. Ṣubaiy had consulted a man of his own tribe who had advised him that he might combine *Ḥajj* and *ʿumrah*. He should then offer what sacrifice he could afford. There is here no mention of Abū Mūsā.

f. 128a. ʿAlī-ʿUthmān: cf. Mus., *jawāz al-tamattuʿ*.

cf. Bu., *bāb al-tamattuʿ wa-l-qirān*, etc. for the *ḥadīth* of Marwān; Nas., *qirān* – both Bu. and Nas. have: ʿUthmān forbade *mutʿah* and combining *Ḥajj* and *ʿumrah*. Mus., loc. cit. has also: ʿAlī said to ʿUthmān: 'You know very well that we *tamattaʿ* in the company of the Prophet.' ʿUthmān conceded but insists: 'That was because we were in fear of enemy attack.'

The addition would seem to carry us back to the *ʿumrah* in the year of Ḥudaibiyah. Refused entry to Mecca, the Prophet and his company were obliged to abandon *iḥrām* without ever reaching the Kaʿbah and to sacrifice their *hady* which could not reach the Kaʿbah. [cf. Muw.: *mā jā'a fī man uḥṣir bi ʿadūw* (1,260)]. Shāfiʿī insists that Q 2,196 was revealed at Ḥudaibiyah. *Umm*, 2, p.135: *ḥīna uḥṣir al-nabī* . . .

cf. DQ *mawāqīt*: Abū Dharr said, '*Mutʿah* was lawful only to us and to the *muḥṣar* – [the obstructed] cf. Q 2,196. 'It was permitted exclusively to the Companions of the Prophet. It is not permitted to others – except the *muḥṣar*.'

Ironically, ʿImrān and ʿAlī have joined ibn ʿAbbās as chief witnesses appealed to by the proponents of *mutʿah*, in the sense of 'temporary marriage'! [cf. Rāzī, 10, p.52.]

Despite the reports of ibn ʿUmar and ʿĀ'ishah, the author settles the question of the Prophet's *iḥlāl* mathematically.

f. 129a. The majority report that he *qaran*, and they include: ʿUmar, who assured Ṣubaiy that he had been guided to the Sunna of the Prophet. Suyūṭī [*Tanwīr*, 1,245] and Nawawī [5,251] show how the conflicting reports are to be harmonised.

f. 129b. A fuller *ḥadīth* wording is not grounds for suspicion: some transmitters retain more than others. In any event, *mutʿah* of the *Ḥajj* is mentioned in the Qur'ān; *qirān* is found only in the Sunna. Both represent alleviation, *rukḥṣah*, concessions to the Muslims.

f. 130b. ibn ʿUmar's *ta'wīl* of Q 2,196 shows that *mutʿah* and *qirān* are, however, permitted only to non-Meccans.

But, cf. Muw., *tamattuʿ*: non-Meccans are penalised for *mutʿah*.

f. 131b. ʿUmar is reported to have forbidden this *mutʿah*. That cannot be the case, since it is mentioned in both Qur'ān and Sunna. The reports must, therefore, be re-interpreted.

ʿUmar either had in mind Q 2,197: "The *Ḥajj* is in well-known months", – i.e. the *Ḥajj alone*; or he was solicitous for the economic welfare of the city, and preferred to see the stream of visitors distributed throughout all the months of the year.

f. 132a. cf. Muw., *jāmiʿ mā jā'a fī-l-ʿumrah*: ʿUmar said: 'Keep your *ḥajj* separate from your *ʿumrah* – that is *atamm* for both the *Ḥajj* and the *ʿumrah*. It is *atamm* for your *ʿumrah* that you perform it outwith the *Ḥajj* months.' [cf. Q 2,196: *atimmū* . . .] cf. Mus., *fī-l-mutʿah bi-l-Ḥajj wa-l-ʿumrah* [as here, f. 132b]. He makes it clear that this is *tafsīr* of the two verses.

f. 131a. Abū ʿUбайд espouses ibn ʿUmar’s *tafsīr* of Q 2,196: Some scholars had declared that Meccans might with impunity perform either *mutʿah* or *qirān*. But ibn ʿUmar took the opposite view: God granted this concession only to non-Meccans, “that is for those whose families do not dwell in the precincts of the Sacred Mosque.” cf. Muw., *tamattuʿ*: the *hady*, or its alternative, the fast, are imposed [ʿalā!] non-Meccans. The Qurʾān and the ibn ʿUmar *tafsīr* both say *li* – the particle of concession!

f. 133b. cf. Muw., *tamattuʿ*: ibn ʿUmar said, ‘By God! I prefer the performance of the *ʿumrah* before the *Ḥajj* and to offer a *hady* to performing the *ʿumrah* after the *Ḥajj* in *dhū-l-Ḥijjah*.’ cf. Bu., *bāb* Q 2,196: ibn ʿAbbās said, ‘God declared that permitted to all men – except the Meccans.’

The *Ḥajj* months: Shawwāl; dhū-l-Qiʿdah; dhū-l-Ḥijjah. Anyone who *tamattaʿ* during these months incurs the duty either to offer a *hady*, or to observe the fast.

cf. Bu., *bāb*: the *Ḥajj* is well-known months: ibn ʿUmar said: the months of the *Ḥajj* are: Shawwāl; dhū-l-Qiʿdah and ten nights [only] of dhū-l-Ḥijjah. ibn ʿAbbās said: The Sunna is that one may not assume *iḥram* for the *Ḥajj* except in the *Ḥajj* months.

f. 134a. The *ḥadīths* represent the interpolation into Q 2,197 of the word [only]: [only] the *Ḥajj* may be performed during the ‘well-known months’. cf. f. 131b. ʿUmar’s view.

f. 134b. The ʿAlī statement is opposed to the ʿUmar view. cf. Naḥḥās [p.34]: Commenting upon Q 2,196, ʿUmar said: ‘The “completion” of the *Ḥajj* and *ʿumrah* is that you do not *faskh*.’ ʿAlī said: ‘It is that you assume *iḥrām* from your home’ [*min duwairat ahlika*]. Abū ʿUбайд thinks ʿAlī too great a scholar to suppose that the *iḥrām* is to be assumed from one’s homeland. That would be contrary to the Sunna of the Prophet on the *mawāqīt*. Perhaps ʿAlī was referring to the intent with which one left home. One should intend solely the performance of the *ʿumrah* and devote one’s journey to that sole aim. Naḥḥās reports from Sufyān: One should have no ulterior intent, such as, for example, to combine the journey with commercial activities. Abū ʿUбайд would add that one ought not to intend either to take advantage of the same journey for the performance of the *Ḥajj*.

Shāfiʿī, *Umm*, 2,113: takes the view that the *hady* required of the *qārīn* and the *mutamattiʿ* is on account of their having performed one of the two rites from Mecca, without returning to the *mawāqīt*.

f. 135b. Q 5,2. Naḥḥās [p.117–8] produces approximately the same ibn ʿAbbās *ḥadīth*. By the same *isnād*, he quotes also: The *mushriks* used to venerate the *Ḥajj*, and to lead their *hady*, and regard the Sacred House with the greatest degree of respect. The Muslims hoped to alter [*yughaiyirū*] that state of affairs, but God revealed Q 5,2.

cf. Hibatullāh [p.40–1] On the occasion of the fulfilled *ʿumrah*, the Muslims heard the *talbiyah* of the unbelievers, including that of Bakr b. Wāʿil among whose number was a man who had apostatised and stolen some of the Prophet’s livestock [!] The prophet was on the point of attacking [*yughīr*] but was prevented by God’s revealing: “*wa lā amīn al-bait* . . . do not be led into error on hearing gloating of people who prevented you from reaching the Sacred Mosque. Do not let yourself be goaded into transgression . . .” This verse was, in turn, abrogated by ‘the sword verse’ – [Q 9,5].

f. 136a. Q 9,28: Naḥḥās [p.167]: the verse was revealed to abrogate the agreement the Prophet had made with the *mushriks* to the effect that he would not bar anyone from entering the Sacred Mosque. The verse means that they should now be barred from entry to the entire *Ḥaram*. Mālik and ʿUmar b. ʿAbdul ʿAzīz extended this ban to all non-Muslims and to every mosque. Shāfiʿī forbids the entry of *mushriks* to the Sacred Mosque, but does not include other mosques in the ban. Abū Ḥanīfah, Abū Yūsuf and Zufar do not forbid Jews and Christians entry to mosques, even to the Sacred Mosque. They argue that the term *mushrik* means ‘polytheist’, ‘idolator’. But God Himself calls the People of the Book *mushriks* in Q 9,31.

ff. 136a–157a. *The Holy War*

f. 136b. The Zuhri *ḥadīth*, cf. Naḥḥās [p.190]: ibn ʿAbbās declared: Q 22,39 was the first verse revealed to permit fighting the enemies of Islam.

f.137a. Q 9,5, ‘the sword verse’ abrogated, in the words of Hibatullāh, [p.51] 124 Qurʾān verses.

Q 9,29, cf. Naḥḥās [p.168].

ff. 137b–138a. The two *ṭarīqahs* do not agree:

ʿAlī b. abī Talḥah: Q 9,45 reproaches the lukewarm;

cf. Naḥḥās [p.170]. Q 24,62 excuses the believers.

ʿAṭāʾ Khurāsānī: Q 24,62 abrogated Q 9,45.

f. 138a. Abū °Ubaid accepts that Q 8,66 abrogated Q 8,65.

Hibatullāh [p.49]: there can be no alleviation, except from something more onerous.

Takhfif is one of the synonyms of *naskh* – Shāfi°ī Ris., p.106.

But, Naḥḥās [p.158] distinguishes *naskh* from *takhfif*: the meaning of *naskh* is the withdrawal of the entire earlier ruling. The entire earlier ruling has not here been withdrawn. God did not say, ‘A Muslim may not fight ten unbelievers.’ Similarly one would not say that the concession to break the fast during Ramaḍān is *naskh*. It is an alleviation, a concession. To observe the fast [is not forbidden. Indeed, it is] more meritorious.

Bu., Tafsīr, Q 8,65–6: Sufyān – ibn °Abbās: ‘When Q 8,65 was revealed, they were required not to flee from ten.’

Sufyān repeated more than once: that twenty should not flee from two hundred. Q 8,66 was revealed and one hundred were required not to flee from two hundred. Sufyān added once: God revealed Q 8,65, ‘‘Oh Prophet! incite the Muslims to war.’’

From °Ikrimah, Bu. adds: ‘When the number was decreased, the reward was decreased.’

Shāfi°ī, Ris., [p.127] Sufyān – °Amr b. Dīnār – ibn °Abbās: Q 8,65 was revealed and they were required that twenty should not flee from two hundred [as above]. The matter is as ibn °Abbās has said. God made His ruling clear in the verse which requires no *tafsīr* [!]

f. 139a. cf. ibn Ḥazm, *Iḥkām* [4, p.462]: ‘Some allege that Q 8,66 abrogated Q 8,65. That is wrong. This view is not based on *ijmā°*. There is no indication of *naskh*. The verses concern the obligation to confront the *mushriks*. When the two forces meet, it is not permitted to any Muslim to turn his back on the entire *mushrik* population of the world. Is there any mention in the verse of fleeing? The verse merely announces [in advance] future victory conditional upon patience and it promises divine assistance to the steadfast.’

f. 139b. Q 8,61. Hibatullāh [p.49]: revealed to regulate relations with the Jews, but abrogated by Q 9,29 which laid down acceptance of the *jizyah*.

Naḥḥās [p.157]: Qatādah said the *nāsikh* was ‘the sword verse’ [Q 9,5], ibn °Abbās said the *nāsikh* was Q 47,35 – which Naḥḥās thinks is ‘not impossible’.

f. 140a. Those who argue that ‘the sacred months’ refers to the

months of the *Ḥajj*, and therefore, to something different from the four months’ moratorium mentioned in Q 9,2, require two groups of Arabs to whom to attach these two periods of four months and fifty nights. The latter is made to refer to those Arabs who have no treaty relation with Muḥammad. This is all *tafsīr*. Q 9,7 makes clear that neither period refers to the Meccans, ‘as long as they abide by their undertakings’.

Q 9,4 makes clear that neither period applies to other Arabs with whom Muḥammad does have treaties and who have scrupulously observed the treaty terms. The implication appears to be that Q 9,1 refers to Arabs, in treaty relation with Muḥammad, who have breached the terms of their agreements.

f. 140b. Mujāhid notes that ‘the sacred months’ refers to the same four months already mentioned, i.e. the period during which war with the Arabs will be forbidden. They are called ‘the sacred months’ and are consecutive.

f. 141a. Abū Hurairah’s *tafsīr* of “*yaum al-Ḥajj al-akbar*” as *yaum al-naḥr*. [cf. Ṭab., 14, pp.113–30.]

We have also here the harmonisation of two distinct traditions as to who had been the bearer of *Barā°ah*: Abū Bakr or °Alī. The date of the proclamation of Muḥammad’s denunciation of treaties with certain Arabs [10th dhū-l-Ḥijjah] underlies the fifty nights’ calculation of one of the two alleged periods, reference to which is now repeated [f. 141b].

cf. Bu., Tafsīr, Q 9,1–5.

If the end of the period is the last day of Muḥarram, the four months can also be calculated to give the date of the revelation of the verse in Shawwāl [cf. Naḥḥās, p.163].

f. 142a. Q 4,90. Hibatullāh [p.38] abrogated by Q 9,5. Naḥḥās [p.110]: the interpreters are agreed that this was abrogated by the command to engage in Holy War.

[p.111]: same *isnād* as here, but without reference to Q 60,8. ibn °Abbās says that Q 4,90 was abrogated by the sword verse. So also from Qatādah.

[p.112]: following *Barā°ah*, all Arabs had one choice: Islam or war.

Abū °Ubaid: Q 9 was the great watershed. It abrogated the armistice, cancelled all treaties and summoned the Muslims to the Holy War. Q 9,41 was thought to have imposed the obligation to fight upon the individual Muslim. This appears to be the view attributed to the

Companions: Miqdād; Abū Aiyūb; Abū Ṭalḥah.

f. 143b. It was Mujāhid's *tafsīr*, Abū Ṣāliḥ's and Ibrāhīm's.

Numerous verses inciting to warfare reinforced this view. There are equally large numbers of Prophetic statements.

f. 144a. Q 2,216: abrogated the command that they endure and show patience, issued to the Muslims at Mecca, before the *Hejirah*. The verse, in turn, was thought to have been abrogated by Q 9,122 which also abrogated Q 9,41. Others thought that *jihād* was an inescapable obligation. °Aṭā' thought it an obligation – but not on the Muslims of his own day. The verses had been addressed to the Prophet and his contemporaries.

Nahḥās [p.31]: those *fuqahā'* 'whose word is law' say that the *jihād* is, indeed, an obligation, but one which some fulfil on behalf of others.

f. 144b. The *ḥadīth*: cf. Bu., Jihād, *wujūb al-naḥr*, reporting from Mujāhid-Ṭāwūs-ibn °Abbās. cf. also *bāb lā hijrah ba'd al-fath*: The Prophet said to a man: 'There is no *hejirah* after the Conquest of Mecca, but I will accept your fealty on the basis of your acceptance of Islam.' Bu. reports also from: °Amr, and ibn Juraij that °Aṭā' said to him and °Ubaid b. °Umair, 'The *hejirah* ceased with God's granting victory at Mecca to His Prophet.' Nas., Bai'ah, *bāb dhikr al-ikhtilāf fī inqitā' al-hijrah*: The Prophet said, 'I will accept your fealty on the basis of your acceptance of the *jihād*.' To another, he said, 'There has been no *hejirah* since the Conquest of Mecca, only the *jihād* and [pure] intent – if you are summoned to war, come out and fight.' Nas., also has the above Ṭāwūs-ibn °Abbās version. In addition, °Umar said, 'There has been no *hejirah* since the death of the Prophet.' cf. Dār, Siyar, *bāb: lā hijrah ba'd al-fath* [from ibn °Abbās].

cf. *Amwāl* [p.217]: the *hejirah* has been abrogated. After the Conquest, the Prophet said, 'There is no *hejirah* after the Conquest.' [p.218.] °Amr b. Dīnār reports from Ṭāwūs that he related from the Prophet, 'Stay on your tribal lands. The *hejirah* has come to an end. There is only *jihād* and [pure] intent. If you are summoned to war, come out and fight.'

Here, Abū °Ubaid reports further versions, e.g. that of Fudaik, and a long version of Ṭāwūs' and °Ubaid's visit to °A'ishah.

Nas., loc. cit. A man said to the Prophet, 'They allege that the *hejirah* has come to an end.' The Prophet replied, 'It will not come to an end, as long as there are unbelievers to fight.' Abū °Ubaid explains this as figurative. Every man who believes and strives will be

regarded as on the same level as those who made the *hejirah*. The Prophet said, 'There are two *hejirahs*: when the Arab is summoned, he must come and do as he is ordered; the *hejirah* of the townsman is a greater trial and will be better rewarded.'

Dār. has the *tarjamah*: the *hejirah* will never come to an end. Here, Mu°āwiyah claims to have heard the Prophet say, 'The *hejirah* will not come to an end until repentance comes to an end, and repentance will not come to an end until the sun rises from where it normally sets.'

Suyūṭī [*Sharḥ Nas.*, loc. cit]. They explain this as the *hejirah* from *dār al-ḥarb* to *dār al-Islām*, which will always remain open until the Last Day. They interpret the Prophet's *ḥadīth* to mean: There has been no further *hejirah* from Mecca since the city became part of *dār al-Islām*. But, by engaging in the *jihād*, and showing good will in every act, men can acquire similar merit.

This is similar to what Abū °Ubaid quotes from Fudaik to whom the Prophet said, 'Keep up prayer, pay the *zakāt* and eschew [*uhjur*] evil – then dwell where you please in your tribal land.'

Bu., Jihād, *bāb*: the duty of the *jihād* will persist as a duty under the pious and the impious ruler on account of the Prophet's words: Good is intertwined in the manes of horses until the Last Day.

cf. *Dīwān Imru' al-Qais*, ed. Muḥammad Abū al-Faḍl Ibrāhīm, Cairo, 1958, p. 48, l.1: [although the attribution is questioned]:

As long as sun rises and sets, good

Is to be sought [it is] intertwined in the manes of horses.

[See, pp. 225; 437.]

cf. A.D., Jihād, °Imrān reported the Prophet as saying: A party of my people will never cease the armed struggle on behalf of the Truth, and they will vanquish those who are hostile, until the last of them engage the lying Messiah.

This *ḥadīth* comes down through four transmitters:

1. ibn °Umar Muw., Jihād, *khail*; Ṭay., *faḍl al-khail*;
Bu., Jihād s.v.; b.M. *irtibāt al-khail*.
2. Abū Hurairah Ṭay., loc. cit. cf. *wujūb al-zakāt*; b.M.,
Nas., K. al-khail.
3. Anas Bu., loc. cit.
4. °Urwah b. abī al-Ja°d Ṭay., loc. cit.; Bu., loc. cit.;
Tir., Jihād; Dār., *faḍl al-khail*.

°Urwah's *ḥadīth* usually glosses 'khair' as: reward and booty. Aḥmad [Tir., loc. cit.]: The *Jihād* will persist with every ruler until the Last Day.

A.D. bāb: the manes and tails of steeds are not to be shorn; a *marfūc* *ḥadīth*, longer than Abū °Uбайд's.

f. 145a–b. °Abdullāh b. °Amr b. al-°Āṣ: *Jihād* is the sixth 'pillar of Islam'; °Abdullāh b. °Umar: There are only five!

Mus., bāb *qawl al-nabī*: Islam is built on five things: A man said to °Abdullāh b. °Umar, 'Don't you participate in the *jihād*? [K al-īmān] Bu., īmān, bāb: *du°ā'ukum īmānukum*. Tir., *abwāb al-īmān*; Nas., īmān.

Bu., Tafsīr, Q 2,193 – here, the *ḥadīth* varies between *marfūc* and non-*marfūc*, as Abū °Uбайд states.

Naḥḥās [p.31]: That the *jihād* is obligatory had been the view of °Abdullāh b. °Amr and of Ḥudhaifah.

f. 146b. The expression *farḍ kifāyah* is used by neither Abū °Uбайд nor Naḥḥās.

f. 147a. Naḥḥās [p.31] disagrees. Q 9,122 does not *naskh* the command to fight. It states that the Muslims should not all go out together. [p.169]: There must be Muslims left behind to protect *dār al-Islām* from the attacks of unbelievers. [p.31–32]: Those who argue that the *jihād* is *nāfilah* as opposed to obligatory, argue on the basis of the *ḥadīth* in which ibn °Umar said that the Prophet had said, 'Islam is built on five foundations' [f. 145b]. That proves nothing. ibn °Umar stated that he had 'worked that out' [*istanbaṭtuhu*] he did not attribute it to the Prophet. But, even if he had attributed it to the Prophet, it still would not prove anything. The Prophet might have omitted mention of the *jihād* since it was already mentioned in the Qur'ān, or since some people fulfil that obligation on behalf of others. The obligatoriness of the *jihād* is certainly mentioned in both Qur'ān and Sunna. Mālik quotes from ibn °Umar that the Prophet said, 'Good is intertwined with the manes of horses until the Last Day.' The scholars have explained that that refers to warfare.

f. 147b. Bu., *Jihād bāb wujūb al-nafīr*: ibn °Abbās on Q 4,71. He said it means 'separate night patrols' [*sarāyā*].

The Sing. of *thubāt* is *thubah* [cf. Hibatullāh (p.38)].

f. 148a. cf. A.D., *Jihād, bāb fī naskh nafīr al-°āmmah bi-l-khāṣṣah*. cf. Naḥḥās [p.30,ft.].

f. 149a. The status of Q 9,36 and Q 2,217. God had imposed the duty of warfare, but He had prohibited fighting in certain holy periods. The scholars have disputed whether this prohibition has, or has not been abrogated.

Hibatullāh [p.20]. In the Jāhiliyah, fighting was tabu during the holy months. Warfare between Medinan Islam and the Meccans dated from the raid by °Abdullāh b. Jaḥsh, in the course of which, fighting broke out and some of the unbelievers were killed – it is said, at the very end of Jumādā II, others say after the beginning of Rajab. The Arabs were scandalised at this breach of the ancient tabu, and Q 2,217 was revealed: "fighting in a sacred month is a grave offence, but preventing men from God's way and disbelief in God is even graver."

Hibatullāh says the verse was abrogated by Q 9,5.

Naḥḥās [p.32]: The scholars – except °Aṭā' – are agreed that Q 2,217 has been abrogated and that fighting the unbelievers in the holy months is permitted. °Aṭā' argued on the basis of the Jābir *ḥadīth* to the effect that the Prophet would suspend warlike operations during the holy months – unless the Muslims were attacked. Jābir's *ḥadīth* might even refer to the period *before* the revelation of Q 2,217.

f. 150a. Naḥḥās: ibn °Abbās; Sa°id b. al-Musaiyab; *Sulaimān b. Yasār; Qatādah and Awzā°i all held that Q 2,217 had been abrogated by Q 9,5 – 'the sword verse'.

From his personal service on the frontier, Abū °Uбайд can report the current opinion among the Muslims there. Fighting is permitted in every single month, sacred or not. He knows of no disagreement among the scholars of Syria or Iraq on the question, and thinks that may also be the position of the scholars of the Ḥijāz. Their sanction lies in Q 9,5 – where, incidentally, the term *ḥaiṭhu* would appear to have been interpreted to mean 'in whatever circumstances', thus including time as well as place.

ff. 150b–156a. *Treatment of prisoners of war*

According to ibn °Abbās, Q 8,67 was revealed at about the time of Badr, when the Muslims were militarily weak. When they had become strong, God revealed Q 47,4, which appears to suggest the choice between magnanimity or, at worst, releasing prisoners against ransom. ibn °Abbās' 'reading' of the verse suggested: execution; ransom or enslavement. Abū °Uбайд is uncertain about the last option. Naḥḥās [p.158] has the same ibn °Abbās *ḥadīth*, with the same *isnād*, although he does not report it from Abū °Uбайд, and it

would seem to secure the mention of enslavement. In his *Amwāl*, the author is still having problems with the wording of the *ḥadīth*, although he is now more positive: 'but they cannot be enslaved'. Here, he reproduces the Suddī *tafsīr* [p.128].

f. 151b. ibn Juraij disagrees with ibn ʿAbbās, in placing the revelation of Q 47,4 *before* Badr, since, at Badr, the Prophet had killed ʿUqbah b. abī Muʿaiṭ, after his capture.

cf. *Amwāl*, p.128 for the Saʿīd b. Jubair *ḥadīth*.

p.121 for the Ḥasan, ʿAṭā' opinions. The scholars have disagreed over the interpretation of the verses.

f. 152b. The reference to the Ḥasan and ʿAṭā' views has become misplaced – see f. 152a.

The Abū ʿUbaid opinion: all the verses are *muḥkamah*, none is *mansūkhah*. This is grounded in his knowledge of the *sīrah-maghāzī* reports on the various phases of the Prophet's life, which show that, in various campaigns, he killed, or ransomed or granted free release to prisoners taken in war.

Tir., *abwāb al-siyar*: (the *isnād* goes back to ʿAlī): The Prophet said that Gabriel had come to him and said, 'Let your Companions choose in relation to prisoners taken at Badr between death or ransom, on the condition that some of them will die in future campaigns.' They chose death for themselves and for the prisoners on that occasion, they chose ransom.

f. 153a. Abū ʿUbaid: All options remained open to the Prophet throughout his entire career, and he applied each of them. There is no *naskh* here. At Badr, he killed ʿUqbah b. abī Muʿaiṭ and al-Naḍr b. al-Hārith after the battle. The other prisoners were either ransomed or released. At the battle of the Trench, he executed the fighting men of Qurayzah and enslaved the women and children. He offered free pardon to al-Zubair b. Bāta on the intercession of Thābit b. Qais. Thereafter, he captured Muṣṭaliq, none of whom he killed, but shortly after, released them all. He was magnanimous at Khaibar, killing only those who breached the terms of the surrender. At the Conquest of Mecca, he had Hilāl b. Khaṭal and Miqyās b. Duḅābah and a few others put to death, releasing everyone else. He was generous to Hawāzin, following Ḥunain. The Prophet thus applied all three rulings: execution, ransom or free pardon. For example, he freely released Abū ʿUzzā al-Jumaḥī at Badr, but then killed him at Uḥud for appearing among the combatants. He ransomed the Fazārī woman captured by Salamah b. al-Akwaʿ, exchanging her for two

Muslims who were in the hands of the Meccans.

[cf. b.M. Jihād, *bāb fidā' al-asārā*; Tir., *bāb qatl al-asārā wa-l-fidā'*; Dār., *bāb: fidā' al-asārā*.] *Amwāl*, p.106: The Tradition shows that the Prophet applied three sunnas to prisoners: free release; release against ransom; death. All three are mentioned in the Qur'ān: the first two in Q 47,4; the last in Q 9,5. cf. p.133: The three rulings had been applied to Arabs. Male Arabs are not reduced to slavery.

ʿUmar released prisoners taken during the Jāhiliyah, returning them and any sons born of slave women, as free persons to their tribes, in exchange for ransom to be paid to those in whose hands they were found, who had now become Muslim.

[p.135]: The taking of Arab prisoners is now a thing of the past. The Muslims conquered the lands of the non-Arabs and applied *four* rulings, adding the enslavement of prisoners taken.

Naḥḥās [p.220]: Some say that Q 47,4 is abrogated. It had applied to the idolators, but their treatment is now laid down in Q 9,5, 'the sword verse'. Others say it refers to all non-Muslims, but is now abrogated. Still others say it is, in fact, the *nāsikh* which forbids them to be killed. Prisoners may be only either set free forthwith, or ransomed. Some say the *imām* is free to choose whether to ransom or to kill, while yet others say the verse is *muḥkamah*, the choice being the *imām*'s.

f. 151b. ibn Juraij said the verse was abrogated by Q 9,5. That is also the view of Suddī and of many of the Kūfans. Others, who hold this, permit ransom only in the case of female prisoners. Women may not be killed by the Muslims. Males, however, may not be either released or ransomed. These people set no store by the traditions as to the attitudes of the caliphs which they interpret in a variety of ways to explain why they never killed prisoners.

Naḥḥās [p.221] commenting upon the ibn ʿAbbās *ḥadīth* [f. 151a] to the effect that the Prophet had been given the choice between killing, enslaving, ransoming or granting free release to prisoners, states: thus, the two verses [Q 47,4; Q 9,5] are both *muḥkamah*, since *naskh* can be decided only on the very firmest evidence. Where, however, two verses can both be put into effect, it is meaningless to argue for the *naskh* of one of them. The enemy can always be killed before being taken captive. After capture, he may be killed, ransomed, or freed. All depends upon which course is most conducive to the Muslim good. This is the view related as from the people of Medina, Shāfiʿī and Abū ʿUbaid. [cf. *Iʿtibār* p.9, *al-jamʿ yamnaʿ al-naskh*.]

The views ascribed to Ḥasan and ‘Aṭā’ engender the thought that the discussion centred upon Q 47,4 which can easily be juxtaposed with Q 8,67 with which it shares use of the root *athkhan* – to effect great slaughter. The root occurs in Q 47 just after mention of ‘striking necks’ giving rise to the idea that the choice offered to the Muslims by Q 47,4 was three-fold, ‘striking necks’, free release or ransom. It is noteworthy that ‘Aṭā’ and Ḥasan were thought to have concentrated solely on that one verse. Q 9,5 need never have been mentioned in a discussion on prisoners of war. Q 47,4 makes no mention of the enslavement of prisoners.

ff. 156a–157a. *The spoils of war*

f. 156b. Q 8,1. They will ask you about the *anfāl*.

Hibatullāh [p.48] the ‘about’ [*an*] is otiose. The meaning is: they will ask you for the *anfāl* – they had asked the Prophet to gift to them the *anfāl*. At the time of Badr, seeing their weak state and lack of provisions, to urge them on and encourage them, the Prophet had said, ‘He who kills his enemy may have his personal accoutrements; he who takes a prisoner, will have the ransom money.’ Following the battle, he saw that the booty would not suffice his men and the verse was revealed: “They will ask you for the *anfāl*. Say, ‘The *anfāl* belong to God and to the Prophet.’” Q 8,1 was abrogated by Q 8,41. *Amwāl*, p.305: the author reports the first *tafsīr-ḥadīth*, adding, after the first verse, i.e. the *ghanīmah*. According to the traditional interpretation, *anfāl* are *ghanīmah*, which refers to everything that falls into Muslim hands from the enemy. At first the *anfāl* were the exclusive property of the Prophet. At Badr, Muḥammad distributed them as he saw fit, under divine guidance. He did not divide them into five portions. Later, Q 8,41 was revealed, the verse of the ‘fifths’ and Q 8,1 was abrogated. The *anfāl* originate from the *ghanīmah*, of which one-fifth is exclusive to the groups nominated in Q 8,41, as has been illustrated by the Sunna. In Arabic, *anfāl* means: a free gift, with no element of obligation attaching to it, on the part of the donor. God has granted this community the free gift of the *ghanīmah*, alone of all religious-based communities!

Naḥḥās [p.151] reports that it is the view of the majority that Q 8,41 abrogated Q 8,1. Since Q 8,1 was among the first of the Medina revelations, dating from the time before the Prophet was commanded to divide the booty into five parts, the distribution of the booty being, at that time, the sole prerogative of Muḥammad, it is clear that the revelation of the command to divide the booty must have abrogated

the earlier situation. They say that *anfāl* here means booty. God has granted booty as a free gift to the community of Muḥammad.

Others say that Q 8,1 is not abrogated. It is for the *imām* to decide what, and to whom, to grant, in the light of his judgment of the advantage to Islam as a whole. These scholars distinguish *anfāl* from *ghanīmah*. The word *anfāl* implies ‘addition’ and thus refers to any bonus, over and above a man’s share of the booty. Others thought the word referred to slaves or cattle straying from the enemy side into Muslim hands [*Amwāl*, p. 304]. The *imām* might give it to whom he pleased, if he saw in that any advantage to Islam [‘Aṭā’: Ḥasan]. Others have argued that *anfāl* is what is seized by patrols, while yet others explained *anfāl* as referring to the ‘fifth’ itself.

Naḥḥās quotes the ibn ‘Abbās *ḥadīth* [f. 156b]. It was also the view of Mujāhid. He quotes the view of ibn Juraij (of which he had been informed as from Sulaim, *mawlā* of Abū ‘Alī, reporting from Mujāhid). ‘Ikrimah had taken the same view, as had also Ḍaḥḥāk, Sha‘bī, Suddī and the majority of the *fuqahā’*, although most of them said that the *imām* was not at liberty to grant to any individual a gift taken from the *ghanīmah*, except from the fifth reverting to the *imām* himself. The four-fifths allotted by God to the participants in the fighting are quite outwith the *imām*’s control.

Amwāl [p.308]: four sunnas govern the *anfāl*:

1. no fifth is deducted from the personal accoutrements [*aslāb*] taken during the battle;
2. patrols may receive one-quarter or one-third of the residue of the four-fifths, after deduction of the fifth;
3. the *imām* is at liberty to gift freely from his fifth if he sees some advantage in that to the Muslim cause;
4. the *imām* is also at liberty to pay, from the as yet undivided booty, fees to guides and herdsmen whose rôles benefit the army as a whole.

The disputed question was, since *anfāl* means ‘gift’ whether this refers to God’s gift to the Muslims, in that He granted to them a law on the division of the booty; or whether it implies the making of a free gift of any of the materials captured in war, and whether that lies in the discretion of the Muslim leader. The scholars can generally be seen to wish to limit the *imām*’s discretion. Nevertheless, Abū ‘Ubaid’s four sunnas show that they knew that there was a difference between *anfāl* and *ghanīmah*– (except for the purposes of a discussion on *naskh*).

f. 157a. cf. Bu., *Jihād bāb sahm al faras*; ibn ʿUmar reports that the Prophet allotted two shares to the horse, and one to the owner.

cf. Mus., *Jihād, bāb kaifiyat qismat al-ghanimah*;

A.D. *Jihād, bāb fī sihmān al-khail*; Dār, *Siyar, fī sihmān al-khail*.

ff. 157a–161a. *Seeking permission to enter*

Q 24,58: Mujāhid: the ruling refers to male slaves; Abū ʿAbdul Raḥmān al-Sulamī: it refers solely to females who must seek permission at the hours specified. Males must seek permission at all hours.

f. 158a. Abū ʿUbaid knows of no-one who argues the *naskh* of this ruling. On the contrary, they insist on its observance. Naḥḥās [p.197]. Saʿīd b. al-Musaiyab: the verse is abrogated. ibn Jubair: it is no longer acted upon. Abū ʿAbdul Raḥmān’s view is wrong. The verse says ‘*alladhīna*’; that, being Masc., can refer only to males. ibn ʿUmar said the verse refers exclusively to male slaves.

f. 159a–b. ibn ʿAbbās. cf. Naḥḥās [p.198]. Abū ʿUbaid: the people do not act upon this verse. But ibn ʿAbbās has not told us that a Qurʾān abrogated it, or that a sunna brought a relaxation. ʿAṭā’ relates his words, ‘The people do not act upon this verse,’ as a criticism of their neglect of the ruling [f.158a]. That ʿAṭā’ recension serves to elucidate this ʿIkrimah version [f.159b]. In that case, the verse is *muḥkamah*. Neither Qurʾān nor tradition from the Prophet, the Companions nor the Successors, suggests any relaxation of the ruling. There is the Ḥasan view to the effect that there is no harm in a living-in maid’s entering without first seeking permission.

Reference to *naskh* was intended to rationalise the observed non-application of the ruling. Shaʿbī, insisting that the verse had not been abrogated, deplored the fact that its ruling was being ignored [f.158b]. The ʿIrāqīs would appear to take the ruling more seriously than others.

f. 159b. The ʿIkrimah version: altered circumstances bring altered rulings. Naḥḥās takes this report to indicate that the ruling had lapsed, not, indeed, on account of *naskh*, but on account of what Suyūṭī would call *insā*. The ʿillah which had originally called for the ruling had lapsed.

f. 158a. cf. Naḥḥās [p.199].

The verse is *muḥkamah*: Shaʿbī; al-Qāsim; Jābir b. Zaid.

Q 24, 58 mentioned three times of the day when this ruling should be observed. cf. Muw., *bāb al-isti’dhān*: A man asked the Prophet, ‘Should I knock before going in to see my mother?’ The Prophet said he should. The man explained, ‘But I am her personal attendant, and I live in the same house.’ The Prophet told him that that made no difference. He should always knock, unless he wished to find her at some time in a state of undress.

Abū Mūsā reports that the Prophet said, ‘One should knock three times, and enter when permitted. If there is no reply, one should go away.’ He had knocked at ʿUmar’s door once, seeking permission to enter, three times. He then left. ʿUmar sent after him to ask why he had not come in. Abū Mūsā repeated the words he had heard the Prophet use. ʿUmar asked for corroboration of the *ḥadīth*, using a threatening tone. Abū Mūsā went off to seek someone who would confirm his report. At the mosque, in what was called the *Anṣār* circle, he explained what had happened and those present told Abū Saʿīd to return with Abū Mūsā to ʿUmar. Being their youngest member, Abū Saʿīd confirmed what Abū Mūsā had said. ʿUmar explained to Abū Mūsā that he had not doubted him, but that he feared that people might father views and words upon the Prophet.

cf. Bu., *K. al-isti’dhān*; Mus., *Adab*; Dār., Tir., *isti’dhān*.

Abū Mūsā’s “knock three times” looks like a confusion of Q 24,58’s: ‘three times’ – i.e. at three hours of the day: before the dawn prayer; when men lie down after the noon prayer to take their siesta; and after the ʿishā’ prayer.

The foregoing *ḥadīth* material illustrates the extreme attention to Qurʾānic detail which was the cause of what has earlier been referred to as the ‘atomism’ of much of the *tafsīr*.

f. 106b. Hibatullāh [p.70]. The ruling affecting the immature was abrogated by the later expression referring to the mature, i.e. Q 24,59.

Q 24,58: *minikum*: that is interpreted: from your class, i.e. free persons.

f. 161a. This ibn Sīrīn *ḥadīth* is a precise illustration of the construction of a *ḥadīth*-report from the wording presented in the relevant Qurʾān verse.

ff. 161a–170b. *Inheritance*

Muhājir–non-*Muhājir* inheritance. The *hejrah* to Medina obliterates

blood-relationship with those who have not made the *hejirah*, while establishing a special relation between *muhājir* and *Anṣār*.

Some thought use of the term *awliyā'* in Q 8,72 reflected the legal meaning: i.e. prospective heirs. The *muhājir* ceased to regard the non-*muhājir* as relative, and consequently, mutual inheritance ceased, even if the non-*muhājir* were also a Muslim. Q 8,75 was said to have abrogated this ruling, re-establishing the normal rules of inheritance.

Abū 'Uбайд accepts the two ibn 'Abbās *tafsīr* statements without further discussion, regarding this as an ascertained instance of the *naskh* of the Qur'ān by the Qur'ān. cf. *Amwāl*, p.215: The Sunna of the Prophet, like the Qur'ān, has its *nāsikh* and its *mansūkh*. The only thing that can *naskh* a sunna is a second sunna, or the Holy Qur'ān.

At first, the Prophet denied any share in the *ghanimah* or the *fai'* to those who would not undertake the *hejirah*. That was his principle in 'the early days of Islam': that the *hejirah* severed the links between *muhājirs* and non-*muhājirs*. That applied to *wilāyah*, inheritance and inter-marriage as well as to the distribution of the *fai'*. The Qur'ān then revealed that ruling and the sunna acted on that basis. The Prophet said, 'They get nothing of the *ghanimah* or the *fai'*.' The Qur'ān said what we now read: Q 8,72. (Here, the ibn 'Abbās *ḥadīth*, cf. f. 161b.)

[p.216] 'Umar used to say, on that account, 'The Muslim will not inherit from the unbeliever, nor vice-versa.' Thus they understood Q 8,72. The believer who would not make the *hejirah* and the unbeliever were treated alike, excepting only the words, 'but, if they seek your help in respect of preserving their belief, then you must help.'

Naḥḥās [p.159] mentions the blood-brother bond established between the *muhājirs* and the *Anṣār*; on its basis, the two sides practised mutual inheritance until the revelation of Q 8,75, whereupon they reverted to inheriting by kinship.

f. 162a. Two further modes of inheritance which had been practised, came to be suppressed:

Inheritance by *ḥilf*: Q 4,33: the Mujāhid *ḥadīth* speaks of a form of 'practice' which is at variance with the practice of the Muslims. *Naskh* is assumed, and the *mansūkh* 'practice' is best projected back into the Jāhiliyah. This illustrates neatly how exegetical myths come into being.

Q 4,33 repeats and re-emphasises in summary form the regulations laid down in Q 4,11–12 in which were stipulated the inheritance shares of: parents, spouses and nearest kin. 'Abdullāh b. al-Zubair argued that the *nāsikh* was Q 8,75!

f. 163a. This was the *tafsīr* of [ʿAbdullāh] b. 'Abbās.

cf. *Amwāl* [p.216] for the ibn al-Zubair *ḥadīth*; Shuraiḥ interpreted the verse as referring to kin-relations excluding persons related by *walā'*. cf. Bu., *Tafsīr*, Q 4,33: *mawālī* means: *awliyā'*, heirs. 'āqadat *aimānukum*: *mawlā al-yamīn*, i.e. *ḥalīf*. *mawālī* also refers to cousins, benefactors, manumitters, manumitted, mamlukes. From ibn 'Abbās, he cites: *mawālī* means heirs. He next refers Q 4,33 to Medina, i.e. to the *muhājir-anṣārī* bond, which was abrogated by Q 4,33. Mutual inheritance ceased, but they could always make *waṣīyah* provision in each other's favour. vide Bu., *Kaffālah*, Q 4,33; *Farā'id*, do. *bāb: dhawī al-rahīm*.

Mention of the Jāhiliyah always includes, by extension, 'the early days of Islam', cf. Hibatullāh [p.37].

Naḥḥās [p.107] adds the names of ibn al-Musaiyab and Sha'cīb to those who speak of the *naskh* of the *ḥilf*. Ḥasan also speaks of *naskh*, but at least the *nāsikh* is Q 4,11–12.

Qatādah mentioned Q 8,75; Ḍaḥḥāk agreed with Ḥasan, while ibn 'Abbās [cf. f.163b] saw in Q 8,75, the *nāsikh*.

Mujāhid and ibn Jubair interpreted Q 4,33: give them their due share of the *diyāh*, of counsel, aid and comfort – narrowing down the application of the verse, then arguing that it is *muḥkamah*. Naḥḥās prefers this view. One appeals to *naskh* only where that is inevitable – where the rulings conflict. Where, however, a feasible interpretation has been achieved (more especially of a verse which still appears in the *muṣḥaf*) appeal to *naskh* is uncalled for.

The Prophet declared: 'There is to be no *ḥilf* in Islam. Any *ḥilf* that was entered into in the Jāhiliyah is only strengthened by the coming of Islam.' The *ḥadīth* shows that the institution of *ḥilf* mentioned above has not been abrogated. The verse is thus *muḥkamah*. In the Jāhiliyah people used to inherit from each other by adoption; in Islam, they did so by brotherhood bond. Both customs were abrogated by Q 4.

The scholars have pursued this circuitous route only because, whereas Q 4,33 reads: 'āqadat *aimānukum*, – with short 'a' in 'āqadat, – the *ḥadīths* and the *tafsīrs* consistently lengthen the 'a': 'āqadat. That pre-supposes an institution referred to in their discus-

sions as *mu'āqadah*, *mu'āhadah*, for which *hīlf* is a near enough synonym. That the scholars, following their lengthy detour, have come back to the view that the abrogation was effected by the Q 4 inheritance verses, means that no harm has been done in the meantime. That does, however, bring out the degree to which all their discussion was purely academic and that, in turn, underlines their ceaseless fascination with every single word in the Qur'ān and with every single possibility in the exegesis.

f. 163b. Unabashed, the scholars can now refer Q 4,33 to legal adoption and its consequences for inheritance.

Naḥḥās [p.108] reports Zuhri's *ḥadīth* from ibn al-Musaiyab: Q 4,33 refers to *both* the Jāhili *hīlf* and adoption. Again, in *ʿāqadat*, the 'a' is long and here is the alternative *tafsīr*, that the term refers to adoption. At least, Q 33,4-5 refers to adoption and its consequences for proper names.

f. 165a. cf. Bu., *Tafsīr*, Q 33,4-5, reproducing this ibn ʿUmar *ḥadīth*; cf. Naḥḥās [p.207] this is an instance of the *naskh* of the Sunna by the Qur'ān. The ibn ʿUmar *ḥadīth* [f. 165a].

f. 165b. The ibn ʿAbbās *ḥadīth*: Q 8,73-5 is easily brought into association with the similar wording of Q 33,6.

ff. 165b-170b. *The waṣīyah*

Q 2,180: according to ibn ʿAbbās, has been abrogated.

ʿIkrimah: it was abrogated by the inheritance regulations.

ibn ʿAbbās: Q 2,180 [*waṣīyah*] was abrogated by the Q 4,7 assignment of an obligatory interest in the estate.

Mujāhid expands upon this: the property used to pass to the descendants, the ascendants and nearest kin benefiting by *waṣīyah*. God specified a definite entitlement for each of: the offspring; the parents; the spouse [Q 4].

f. 166b. This Mujāhid exposition is attributed by Dār., *bāb*: *al-waṣīyah lil wārith*, to ibn ʿAbbas himself. So also Bu., *K. al-waṣāyā*; *bāb lā waṣīyah li wārith*, where the *isnād* is the same as in Dār. [2,302].

Hibatullāh [p.16]: Q 2,180 was abrogated by both Qur'ān and Sunna: the Qur'ān *nāsikh* was Q 4; the sunna *nāsikh* was the Prophet's pronouncement: *lā waṣīyah li wārith*.

Naḥḥās [p.20]: those who admit the *naskh* of the Qur'ān by the Sunna, say that Q 2,180 was abrogated by the Prophet's words: *lā*

waṣīyah li wārith. Those *fuqahā'* who do not admit the possibility that the Qur'ān might be abrogated by the Sunna, say that the *nāsikh* of Q 2,180 was Q 4. (Here, there is a conflation of the ibn ʿAbbās and Mujāhid *ḥadīths*.)

f. 167a. Naḥḥās produces the Ḥasan opinion without *isnād*. The Ḥasan opinion now attributed to ibn ʿAbbās, as from ʿAlī b. abī Talḥah – but without *isnād*.

Shaʿbī and Ibrāhīm held that Q 2,180 was discretionary, not mandatory. Others held that it was a mandate, providing they are not among the heirs – interpreting Q 2,180 in the light of: *lā waṣīyah li wārith*. This view attributed to Ḍaḥḥāk, Ṭāwūs. Naḥḥās himself thinks that Q 2,180, which remains in the *muṣḥaf*, has not been abrogated, since it and Q 4 can be jointly implemented. Hibatullāh listed as maintaining this same view: Ḥasan; Ṭāwūs; al-ʿAlā' b. Zaid and Muslim b. Yasār.

Naḥḥās [p.20] Ṭāwūs said, 'Any man who, having near kin, makes a *waṣīyah* in favour of unrelated persons, makes a void arrangement. The *waṣīyah* will be diverted instead, to his nearest kin.' Ḍaḥḥāk maintained that it was sinful to fail to make a *waṣīyah*. (Hibatullāh attributes this dictum to the Prophet.) Ḥasan held that, in the event that a man made a *waṣīyah* in favour of unrelated persons, the strangers would be given one-ninth [a third of a third] while the remaining two-thirds would revert to his nearest kin [f. 167a] providing they are not among his heirs.

Abū ʿUbaid: To this view the Sunna coming down from the Prophet tends, and thus, the views of the *fuqahā'* and their unanimous acceptance, both in the ancient and in the modern period, of the notion that the *waṣīyah* in favour of any heir has been suppressed. They agree that *waṣīyah* may be drawn up in favour of those near of kin who are not among the heirs. They are not so agreed on the question of the *waṣīyah* in favour of quite unrelated persons.

f. 167b. al-ʿAlā' [Abū ʿUbaid calls him ibn Ziyād] and Muslim b. Yasār excluded unrelated persons, on the letter of the Qur'ān.

f. 168a. ʿUbaidullāh distinguished between specific nomination, which he honoured, and general assignment, which he would base on the Qur'ān's reference to the nearest kin.

f. 168a. cf. Shāfi'ī, *Ris.*, p.143: The verse might be interpreted as Ṭāwūs read it, in the sense that *waṣīyah* to quite unrelated persons is not permitted. But Shāfi'ī knows the story of the man who made

waṣīyah provision for the manumission of his six slaves. The Prophet allowed the manumission of only two of the six [one-third]. The owner was an Arab. No Arab holds in bondage any related person. Therefore, a *waṣīyah* in favour of unrelated persons must be unexceptionable.

Shāfiʿī prefers that a man make a *waṣīyah* in favour of his kin, providing they are not among his heirs.

All the scholars Abū ʿUbaid mentioned had interpreted the verse. f. 169a. The scholars of the Ḥijāz, Tihāmah, ʿIrāq, Syria, Egypt, among them Mālik, Sufyān, Awzāʿī, Laith, all the people of the *āthār*, and *aṣḥāb al-raʿy* agreed and acted upon the view that a man may make a *waṣīyah* in favour of all and sundry, excepting only a person who is an heir. This view was based on the Prophetic dictum: *lā waṣīyah li wārith*, of which Abū ʿUbaid knows the version: the *waṣīyah* in favour of an heir is unlawful.

f. 169a. Cf. *Sīrah* [2, p.605] cf. also supra, f. 87b.

The precision of the Prophet’s exclusion of heirs from benefiting by *waṣīyah* shows that all other persons whoever may so benefit. Unlike Shāfiʿī, Abū ʿUbaid gives no *isnād* for his reference to the Arab who owned the six slaves. These materials and several supplementary reports as to the ‘practice’ of the Companions on this question, will all be found to be confirmed by the interpretation of Q 33,6. The scholars had taken that to be a reference to the *waṣīyah* in favour of the *ḥilf*-partner and adopted sons – both of which groups are not related by blood to the decedent.

f. 170a. Dār., *fī al-rajul yūṣī li ghair qirābatihī*: Sālim b. ʿAbdullāh, asked about this, replied that the dying man’s wishes must be respected. Informed of Ḥasan’s view, he promptly repudiated it in somewhat strong terms.

Dār., bāb: *idhā awṣā fī shaiʿ “fī sabīl allāh”*: Told that a man had assigned a camel “*fī sabīl allāh*”, at a time when there was no raiding, ibn ʿUmar replied that the *ʿumrah* and *Ḥajj* are “*sabīl allāh*”. He attributed this view to his father, the caliph.

ff. 170b–172b. *The property of orphans*

f. 170b. ibn ʿAbbās: *sabab nuzūl* of Q 2,220.

Worried about the terms of Q 4,10, the Muslims asked Muḥammad.

The verse begins: “they will ask you about the orphans . . .” This is the most elementary form that a *tafsīr-ḥadīth* can adopt. cf. Bu., *waṣāyā*, Q 2,220 – from Ṭawūs.

f. 171a. A second ibn ʿAbbās *ḥadīth* [via ʿAṭāʾ] is more economically worded.

Nas., *waṣāyā*: *bāb mā lil-waṣī min māl al-yatīm idhā qāma ʿalaihi . . .* [from ibn Jubair]: ibn ʿAbbās said, ‘When Q 6,152 was revealed: “Do not approach the orphan’s property other than by what is better,” the people kept their distance from the orphan’s property and food. Finding that very onerous, they complained to the Prophet and God revealed Q 2,220.’

On Q 4,10 he said, ‘The guardian used to keep on one side the food, drink and crockery of the orphan, and that proving onerous, God revealed Q 2,220: “if you associate with them, they are your brothers . . .”’

The *tafsīrs* show their usual propensity for extrapolating negatives from imperatives, the better to establish the ‘pre-revelation’ situation.

Hibatullāh [p.32] Q 4,10 was revealed and the *Anṣār* kept orphans on one side, not associating with them in respect of any property of theirs. That was not conducive to the betterment of the orphans’ property, so God revealed Q 2,220 which refers to exercising their animals, and drinking their milk, since, to go on neglecting them would be harmful to the beasts. God permits good management, but forbids exploitation. [Q 4,6] “*Maʿrūf*”, in this latter verse, means taking loans from the property of the orphans under one’s guardianship. When the guardian’s circumstances improve, he will repay any such loans. If he dies in poverty, he owes nothing [f. 172a].

According to Naḥḥās [p.94] the final section of the Hibatullāh *tafsīr* would have been the view of: ʿUmar; ʿAbīdah; Abū al-ʿĀliyah and Saʿīd b. Jubair and Mujāhid. This was said to have been the view adopted by the Kūfan *fuqahāʾ*. Abū Qilābah said that the guardian might allow himself a loan – but from the profits, never from the capital.

Those who speak of the guardian’s repaying loans he had taken from the orphan’s property, probably had in mind the vocabulary of Q 4,6: “and when you *hand over to* them their property.” Naḥḥās [loc. cit.] i.e. repay. Others, taking the verse literally, argued that the guardian might take his food from the orphan’s property. Ḥasan said “*maʿrūf*” means ‘his food’. That was the view of Qatādah and

‘Ikrimah. The reports from ibn ‘Abbās are very confused. There are some [p.96] reports said to be from the Prophet, but, in fact, they are *ḥadīths* of the *shaikhs* – not the sort of thing that is attested.

Abū Yūsuf, Abū Ḥanīfah and Muḥammad were of the opinion that the guardian might take nothing from the property of his ward, unless he were to travel on his behalf and reimbursed himself only for his expenses. [cf. Muw., Shaib., p.331.]

f. 172a. Our author is among those who permit the guardian to aggregate to his own household expenses what he considers sufficient from the orphan’s property to provide for his keep. Q 2,220 is thus a *nāsikh*, revealed to relieve the anxieties the people had felt at first, given the language of Q 4,10.

Clearly, what has here been altered, is not the ruling of one Qur’ān verse by another, but only the understanding of the meaning and practical application of one verse, following discussions on the implications of another verse. This whole section reflects only a gradual relaxation of an earlier, and severer interpretation, resulting from the development in the techniques employed by the Muslims in the course of a meticulous examination of the wording and meaning of the verses apparently related in subject matter.

ff. 173a–174b. *Jurisdiction over the dhimmīs*

This section has surely been misplaced [cf. ff. 91a–92a].

Q 5,42, which gave the Muslim *qādī* discretion either to hear or to ignore cases brought by *dhimmīs*, was said by Mujāhid and ‘Ikrimah, to have been abrogated by Q 5,49. The latter verse made it obligatory to hear them and to base one’s judgment on what God had revealed. That, says the author, is the ‘Irāqī view. It is legitimate to consult the legal needs of *dhimmīs*, when they appeal to Islamic courts for justice, both on account of Q 5,49 and because the Prophet had stoned two Jews.

f. 173b. The Ḥijāzīs, on the contrary, do not accept the legitimacy of applying the Islamic [!] penal system to *dhimmīs*, who, under their agreements with the Muslim state, have been left in undisturbed unbelief – surely more grave than the non-application of penalties which they do not acknowledge. The Ḥijāzīs re-interpret the reports about the Prophet’s having stoned Jews. They were not then *dhimmīs*, the *jizyah* not, as yet, having been introduced. They would have

been merely treaty-related persons, living under the Pax Islamica. But the *imām* of the Muslims does have the responsibility to prevent corruption and mutual bad treatment within the *dhimmī* communities. The author’s own view is that Q 5,49 is, indeed the *nāsikh* of Q 5,42 and therefore places upon the Muslim judge the duty to hear *dhimmīs*, providing they voluntarily come seeking his decision. The *ḥadīth* evidence available does not settle the argument as to whether those Jews were punished by the Prophet before or after the introduction of the *jizyah*. But, were that the case, then it is even more clear that the Muslim judge ought to hear such cases, now that *jizyah* is accepted from the *dhimmīs*. Before its introduction, they would have been analogous to present-day non-Muslim foreign states entering into a truce with the Islamic state. The Muslim writ does not run for the citizens of such states. Abū ‘Uбайд can thus insist that the *dhimmī* is as much under the rule of Islamic law as is the Muslim. That consequence flows from their agreeing to pay the *jizyah* and to the Muslims’ agreeing to accept it. The Muslim *imām* may not refer them to their confessional courts. To do so, would be merely to make oneself an accessory to the corruption that prevails among their judges and to the injustice that they mete out to their co-religionists. God Himself has drawn attention to the deficiencies of their system of justice, in both Q 5,42 and Q 5,50.

Doubts about the status and the meaning of Q 5,49 focus upon what is meant by “Judge them on the basis of what God has revealed.” For Shāfi‘ī, there was no such doubt. For him, the verse states: “Judge between them on the basis of what God has revealed to you, Muḥammad.” [Umm, 6, p.124.] Q 5,42 gave Muḥammad the choice to hear or not to hear. It further imposed upon him the duty, should he decide to hear them, to judge between them “*bi-l-qist*”. *Qist* means the decision of God – sc. what God had revealed to Muḥammad, the pure, the truthful, in the latest of all God’s communications. God thus told him to judge by what had been revealed to him. ‘I have heard a scholar whom I approve say that Q 5,49 states: “Judge between them on the basis of what God has revealed [if you decide to judge].” His choice has not been removed. He did decide, in the case of two Jews, to judge; they had committed adultery, and he stoned them. That is the Prophetic exemplification of Q 5,42 and of Q 5,49. That shows most clearly that any Muslim judge must judge them on the basis of Islamic laws. What the Prophet decided in the case of the two Jews is his sunna which is applied to Muslim offenders. No other system of laws may be applied by a Muslim judge. Claims of *naskh* must be based upon a *ḥadīth* from the

Prophet, or upon an uncontradicted Companion-report, or the unanimity of the scholars . . . The Jews whom the Prophet stoned were not *dhimmīs*. They were treaty-related persons. We have not heard that one of the caliphs heard cases involving *dhimmīs*. If they had, news of some cases would surely have reached us. The Prophet did not judge *dhimmīs*; the *imām* must, therefore, retain the choice.’

ff. 175a–180a. Section on food

The wording of Q 2,188 gave rise to extremely simplistic *tafsīr*-cum-*asbāb* reports: “Do not consume your property among you unprofitably.” The word ‘consume’ was taken to refer to food, and the verse was said to ban dinner-parties.

f. 175a. As from ibn ‘Abbās. Mujāhid, ‘reading back’ from Q 24,61, purports to establish the ‘pre-revelation’ situation.

f. 176a. The Zuhri comment is more sensible. It exploits the word ‘keys’, Q 24,61. *Sīrah*-type exegetical narratives assign varying *asbāb* to the revelation of the verse. Following vv. 58-9, the passage on the need to seek permission before entering, Q 24,61 does not mention permission. The discussion thus centred upon whether one might consume food in other people’s houses without their permission.

f. 177a. A repeated, but abbreviated version of the ibn ‘Abbās *tafsīr* [f. 175a]. Naḥḥās [p.199] refers to this interpretation [*isnād* p.200].

Either the blind, the halt and the lame refrained from accepting invitations to dine; or the Muslims refrained from extending invitations to them. This was abrogated by Q 24,61.

f. 177b. The Mujāhid statement is incorporated by Naḥḥās in his version of the ibn ‘Abbās *ḥadīth* [p.200].

People used to interpret this as permitting the property of relatives specifically, with or without their permission. When the permission was revealed, the liberty was then extended to the property of strangers. Abū ‘Ubaid rejects this *tafsīr* which conflicts with the *ḥadīths* which he has accepted. Further, the verse opens with the primary reference to the blind, the halt and the lame, only later extending the ruling to relatives. Thus, what reserve or inhibition is now removed from relations, applies even more forcibly to the primary subject of the verse – the invalid and the incapable. Abū ‘Ubaid calls upon the analogy furnished by the parallel case of the

guardian’s management of the orphan’s property. Serious scruples, arising from Q 4,10, had affected the Muslims. Their fear had been relieved by the revelation of Q 2,220, and finally removed by the revelation of Q 4,6. Similarly, the Muslims had refrained from partaking of other people’s food, even with their permission, without giving something in exchange. God had had to inform them that that was not forbidden. He went further, assigning to the classes mentioned in Q 24,61, the aged, the destitute and the relatives, positive rights in the property of the rich. That is to be seen in the imposition of *ṣadaqah* [Q 9,60] with which Q 17,26 should be compared.

The alternative interpretation to the effect that the verse relieved the scruples people felt about entertaining the blind, the halt and the lame, on account of their disabilities, would have called for a reading such as: “You need feel no anxiety in respect of the blind, the halt and the lame . . .” But the verse actually opens with the words, “The blind, the halt and the lame need feel no anxiety . . .” Further, Abū ‘Ubaid prefers the interpretation set out above, since that was the one preferred by the majority of the scholars.

ff. 175b–176a. Naḥḥās refers to the Zuhri *ḥadīths* and to the views of ‘Ubaidullāh and of ibn al-Musaiyab, but cites only the later [p.201], attributing a similar exegesis to ibn ‘Abbās and to ‘Ā’ishah. This is the *tafsīr* Naḥḥās prefers, since it comes down from the Companions and Successors.

The extent of the Muslim discussions on the meanings and implications of the Qur’ān verses, and the confusion rife in the interpretation are clear in this section. The author shows a disposition to accept *tafsīr-ḥadīths* at face value, while exposing conflicting exegeses to a close analysis of the syntactical structure of the verses, and resorting, in addition, to systematic argument. He accepts here, as in the section on orphans, ibn ‘Abbās’ account of the scruples ‘originally’ felt by the Muslims. Abū ‘Ubaid himself shows a high degree of literalism in his approach to the Qur’ān wording. Satisfied as to the justness of the ibn ‘Abbās *ta’wīl*, he goes beyond his source in the juxtaposition of relevant Qur’ān verses which, in his view, have granted the needy and the relative positive rights in the Muslim’s property. He draws our attention to certain rationalistic interpretations of Q 24,61, returning finally to express preference for the ibn ‘Abbās interpretation on the grounds that the majority have favoured it, and that it more nearly corresponds with the diction of the Qur’ān which ought to be interpreted in the light of that interpretation which offers the greatest clarity and is based upon the most correct semantic and syntactical principles.

f 175b. The author allows an opportunity to comment upon an erroneous citation of the Qur'ān to pass without editorial intervention.

ff. 180a–185a. *Fermented beverages*

Two beverages, once lawful, have been declared unlawful.

1. *Khamr*: ibn ʿAbbās presents Q 2,219; Q 4,43; Q 5,90 as the successive stages in the progressive regulation of the use of wine.

f. 180b. Bu., *Tafsīr*: Q 5,90, produces ibn ʿAbbās' statement on divining arrows and the altars of the heathens. In the ibn ʿAbbās *tafsīr*, the *asbāb* are constructed from a literal interpretation of the verses, while the verses themselves are exploited to 'explain' the Qur'ānic lexicon.

f. 181a. Once more, a Qur'ānic prohibitive is used as the starting-point for the extrapolation of the 'pre-revelation' situation. Q 4,43:

a. "Do not approach the mosque when drunk";

b. "until you know what you are saying."

a. They would not drink at or near the times of prayers. They would wait until they had prayed the last prayer of the day, the *'ishā'* – then they would drink.

b. They would grow quarrelsome in their cups, and say things displeasing to God.

Hibatullāh [p.20] has an even more simple-minded account of their drinking habits. He lists five stages in the progressive prohibition of drinking: Q 16,67; Q 2,219; Q 4,43; Q 5,90; Q 7,33.

Q 16,67: "Of the fruits of the date-palm and the grapevine you take *sakar* [a beverage which intoxicates] and a lawful sustenance." Using *taqdīr* [interpolation] Hibatullāh says: This means . . . "[but you ignore] a lawful sustenance."

On the revelation of this criticism, some people abandoned alcohol, while others persisted in its use. When the Prophet moved to Medina, an altercation between his uncle Ḥamzah, who was drunk, and an *Anṣārī* [!] led to Muḥammad's displaying his disapproval of alcohol.

Q 2,219. The benefits mentioned in the verse were the profits they made from importing wine from Syria cheaply and selling it at high

prices in the Ḥijāz. But, when God said, "in *maisir* and wine there is much wrong", more abandoned its use, although others persisted. Muḥammad b. ʿAbdullāh b. ʿAwf sent out invitations to dinner. He provided his guests with wine until they were drunk. When the time for the *maghrib* prayer came, they appointed one of their number, the best versed in the Qur'ān, to be their *imām*. He was, however, so drunk, that in the recitation of Q 109, he interchanged the 'I worship' and the 'I do not worship' verses. The Prophet was very upset by this event and God revealed Q 4,43: they then avoided drinking around prayer times.

Saʿd b. abī Waqqāṣ gave a dinner-party attended by *Anṣār* and *Muhājirūn*, during the course of which tempers ran high on account of their mutual taunting. Saʿd was injured by one of the guests and complained to the Prophet. God revealed Q 5,90. This verse definitely declared wine to be quite unlawful and the prohibition was reinforced by the revelation of Q 7,33.

f. 181b. Naḥḥās [p.41] reverses the order of the verses referred to in the ʿUmar *ḥadīth*. In his version of the Saʿd story, Saʿd is one of the guests, not the host [p.42].

Naḥḥās [p.109]: ibn ʿAbbās argued that Q 4,43 had been repealed by Q 5,6, which introduced the *wuḍū'*. This is clarified by Ḍaḥḥāk's comment: *wa antum sukārā* – befuddled with sleep. "When you rise . . ." i.e. get up out of bed. *Wuḍū'* wakes a man.

[p.110]: the story of the man who muddled the verses of Q 109 retold by ʿAlī b. abī Ṭālib who calls the man: ʿAbdul Raḥmān b. ʿAwf – the well-known Companion! Hibatullāh had named him Muḥammad b. ʿAbdullāh b. ʿAwf, and the drunken *imām* was: Abū Bakr b. abī Jaʿfarah [p.22].

f. 182a. Nas., K al-Ashribah, *bāb taḥrīm al-khamr*: A.D. do., both reproduce the ʿUmar prayer, with the order of the verses referred to [f. 181b] reversed, as in the Abū Razīn report, f. 182a. Q 2, Q 4, Q 5.

ff. 182–183a. *Amwāl*, [p.102] ʿAbdul Raḥmān b. Maḥdī – al-Muthannā b. Saʿīd – ʿUmar b. ʿAbdul ʿAzīz wrote to ʿAbdul Ḥamīd b. ʿAbdul Raḥmān, his governor at Kūfa: 'Wine is not to be transported from market town to market town. Any wine you find in any ship, turn it into vinegar.'

ʿAbdul Ḥamīd thereupon wrote to Muḥammad b. al-Muntashir, his agent at Wāsiṭ. The ships arrived, and water and salt were poured into every amphora, to turn the wine into vinegar.

2. *Sakar*: mentioned in Q 16,67 – therefore abrogated along with the prohibition of *khamr*. This was the view of: Ibrāhīm; Sha^cbī, and Abū Razīn.

f. 184a. Naḥḥās [p.180–1] (different *isnād*): ibn ʿAbbās: *Sakar* is what was prohibited of their fruits, and the lawful sustenance is what was declared permitted. Naḥḥās adds to the above proponents of *naskh*, Mujāhid and Sa^cd b. Jubair.

From Qatādah, he reports that the lawful sustenance is the food they derive from them, the vinegar they make and the *nabīdh* they get from infusing grapes (raisins) or dates. Some say that *sakar* is the (solid) food they derive from the plants. The verse was revealed, according to Qatādah *before* the prohibition of wine.

ff. 184a–b. In Q 16,67, God speaks of two objects: “Of the fruits of the date-palm and the grapevine, you take *sakar* and a lawful sustenance.” So men seek to find one that is lawful and one that is unlawful. This is to be done by the consideration of other Qurʾān contexts. They have also been influenced by the precise vocabulary used here, as is clear in the basic exegesis of ibn Jubair and ibn ʿAbbās. ‘Lawful sustenance’ triggers thoughts of ‘unlawful sustenance’, aided by use of the term *sakar*.

f. 184b. cf. f. 183b. The views of Ibrāhīm, Sha^cbī and Abū Razīn.

cf. Bu., Ashribah, *bāb al-khamr min al-ʿinab*. ʿUmar said: The prohibition of wine has been revealed. *Khamr* is derived from five materials: grapes, dates, honey, wheat, barley.

Khamr is anything that befuddles the wits. [cf. Hibatullāh p.21; Naḥḥās, p.46: this is reported from both ʿUmar and the Prophet.] Naḥḥās spends considerable time attempting to define both *khamr* and intoxication. One would have expected the author to have made some mention of the dispute as to the status of *nabīdh*.

cf. A.D. for the *ḥadīth* from ʿUmar; cf. also, his *bāb al-khamr mā hiya?* Abū Huraira: The Prophet said, ‘*Khamr* comes from both the date-palm and the vine.’ *bāb al-nahy ʿan al-muskir*: ibn ʿUmar: the Prophet said, ‘All that intoxicates is *khamr* and every intoxicant is prohibited.’ This is reported as from ʿĀʾishah: cf. Bu., *bāb: al-khamr min al-ʿasl*;

Mus., *tahrīm al-khamr*: The Prophet said, ‘Every beverage that intoxicates is prohibited.’ [Vide Naḥḥās, pp.41–45.]

ff. 185a–186a. *The Night Prayer*

One might have expected this section to appear in that on the ritual prayers.

f. 185a. ibn ʿAbbās asserts that Q 73,1 is Meccan.

Q 73,20 can safely be referred to Medina, given the reference to warfare. Q 73, 1 can then be placed ‘earlier’ than v. 20, to allow for the necessary time-lapse, needful for *naskh*.

f. 185b. The second ibn ʿAbbās *ḥadīth* describes Q 73,20 as an instance of *takhfīf* – alleviation – a synonym, as we have seen, for *naskh*. This derives from the verse’s expression: *fa tāba ʿalaikum* – yet another of the terms listed in the works on *naskh* as indicative of the occurrence of *naskh*.

God’s ‘relenting towards’ the Muslims points, it was thought, to the substitution of a ‘lighter’ for a ‘heavier’ ruling. The “classic instance” of such divine relenting occurs in Q 2,187: *fa tāba ʿalaikum wa ʿafā ʿankum*, examined earlier. A second occurrence of the “classic expression” will occur in the following section. Other terms met with in the course of our study were: *tawsiʿah*; *taisīr*, while Q 73,20 also carries a similar expression: *mā tayassara* . . .

f. 186a. The third ibn ʿAbbās *ḥadīth* places the revelation of Q 73,20 one year after that of Q 73,1.

Mus., *ṣalāt, bāb jāmiʿ ṣalāt al-lail*: Sa^cd b. Hishām asked ʿĀʾishah about the Prophet’s conduct. ‘Do you not recite the Qurʾān,’ she asks, ‘the Qurʾān is the Prophet’s conduct. God imposed night prayer at the beginning of this *sūrah* and the Prophet and the Companions practised that for a whole year. God retained the final verse in His divine Presence for twelve months, revealing at the end of this *sūrah*, alleviation. At that, the vigils became voluntary after having been originally obligatory.’

This is a fair illustration of the way in which the texts of the Qurʾān are made to offer materials for the biography of the Prophet and his Companions. Read in this light, the phenomenon in Q 73 is less *naskh* than *insāʾ*, or deferment of the revelation of a specific ruling until the appropriate time. In the meantime, the Muslims will act on the basis of the interim ruling.

Naḥḥās [p.250] has an ibn ʿAbbās *ḥadīth* which makes Q 73,1 ‘early Medinan’. He also produces the Sa^cd b. Hishām *ḥadīth* to establish that Q 73,1 was not addressed exclusively to the Prophet. The

exegetes had noted that v. 1 is cast in the Sing., but v. 20 in the Plural. [p.251] the third ibn ʿAbbās *ḥadīth* [f. 186a].

the first ibn ʿAbbās *ḥadīth* [f. 185a–b].

[p.251–2] Naḥḥās reproduces Shāfiʿī's comparison between Q 73 and Q 17,79, directed at determining whether the summons in Q 73,20 that the Muslims 'recite what will not be burdensome' by night introduced a sixth ritual prayer. Q 17,79 is cast in the Sing., and is thus addressed to the Prophet alone. Besides, the verse describes the Prophet's *tahajjud* as *nāfilah* – even for Muḥammad, it did not impose an obligation. He learned from Mālik the *ḥadīth* in which a beduin asks Muḥammad to instruct him in the essentials of the faith. The Prophet told this man that what was required of every Muslim was *five* ritual prayers each day. For Shāfiʿī, the Sunna clarifies this call to recite the Qurʾān by night. It must be a voluntary pious exercise [*taṭawwuʿ*]. Q 73 thus abrogated the requirement to engage in nightly vigils. The number of obligatory prayers in Islam does not exceed five. [Ris., pp.113–7.]

Abū ʿUbaid contents himself with merely reporting the three ibn ʿAbbās *tafsīr-ḥadīths*. For him, the matter was not a live issue.

ff. 186a–187b. *The fee payable before a private audience*

f. 186b. The bald assertion from ibn ʿAbbās that Q 58,13 had abrogated Q 58,12 is scarcely a hazardous contention, in view of the wording of the verses.

The second ibn ʿAbbās *tafsīr*, presented by the second *ṭarīqah*, is merely common-sense comment and elaboration. The roots *khaffafa* and *wassaʿa* are here both in use.

f. 187a. Hibatullāh [p.89] notes that these verses record the virtues [*manāqib*] of ʿAlī. In the second ʿAlī *ḥadīth* [f. 187b.] having exchanged his *dīnār* for dirhams, ʿAlī could have asked at least ten questions. The Naḥḥās version of the ʿAlī *ḥadīth* fails to make it clear that the abrogated verse had actually been put into practice, an indispensable condition, in the view of many of the scholars, for the substantiation of any occurrence of *naskh*. An alternative version [p.231] makes precisely that desired point.

f. 186b. The second ibn ʿAbbās *tafsīr* may show consideration of Q 5,101.

It is probably not fortuitous that this section follows immediately upon the preceding section, which we thought might be somewhat misplaced in the arrangement of the work. The two topics have nothing more in common than that they are regularly adduced in the *naskh* works as among the 'clearest' indisputable evidence for the *fact* of the occurrence of *naskh* in the Qurʾān, and instances of the divine rationalisation of the phenomenon. Q 58,13 carries the expression: *fa tāba ʿalaikum*; Q 8,65–6; Q 73,1,20; Q 58,12–13 all feature prominently in lists of 'undoubted' instances of *naskh*.

It is possible that the juxtaposition of the two Q 73 and Q 58 sections suggests that the present work was perhaps influenced by the lay-out of an earlier literary model.

ff. 188a–b. *Pious caution [taqwā]*

[ʿAbdullāh] b. ʿAbbās and [ʿAbdullāh] b. Masʿūd are both cited, not as averring the *naskh* of Q 3,102, but as expounding their interpretation. The *isnād* of the ibn Masʿūd *ḥadīth* has met with some criticism, while Abū ʿUbaid himself has forgotten the *isnād* of another *ḥadīth*, reporting that Q 64,16 had abrogated Q 3,102. This merely shows the juxtaposition of two Qurʾān contexts which were thought to employ the term *taqwā* in somewhat differing emphases.

f. 188b. ibn Masʿūd's comment is delivered in *saḥ*. 'The true quality of *taqwā* is that God be obeyed, not disobeyed; borne in mind, not forgotten; shown gratitude, not ingratitude.'

cf. Naḥḥās [p.90]. According to Qatādah, Q 64,16 presents the alleviation of the Q 3 requirement. Naḥḥās has difficulty with the propensity of some scholars to find here an instance of *naskh*; the meaning of *naskh* is 'suppression' [*izālah*] and the revelation of an opposing ruling [supersession]. It is quite absurd to suppose that the fear of the Lord has been suppressed. This is supported by the first ibn ʿAbbās *ḥadīth* [f. 188a]: true fear of the Lord is to engage in the *jihād* with all one's might; to avoid in one's conduct all possible occasions of censure; to judge according to the revealed laws, even if to one's own, or one's family's disadvantage. That is the effect of the ibn Masʿūd comment. As for Qatādah's claim that Q 3,102 is *mansūkhah*, and that the *nāsikh* was Q 64,16, that merely implies that

Q 64,16 was revealed with a wording similar to that of Q 3,102. This is not the technical sense of the term *naskh*, but rather draws upon the linguistic sense 'duplication' [*nuskhah*] of the root [cf. Q 45,29 *nastansikh*].

Hibatullāh [p.30]: When Q 3,102 was revealed, they did not understand it and had to ask the Prophet. He replied: 'The true quality of *taqwā* is that God be obeyed, not disobeyed . . .' (cf. supra, under ibn Mas'ūd). Q 22,78, revealed shortly afterwards, was even more severe, but Q 64,16 eventually abrogated what had been revealed before it.

ff. 189a–190b. *Death-bed repentance*

f. 189a. Abū 'Uбайд's uncertainty over the first *isnād* was occasioned by his written sources. The ibn 'Abbās *tafsīr* restricts the denial of the efficacy of death-bed repentance to unbelievers. Comparison of Q 4,18 with Q 4,48 shows a more lenient view adopted by God towards the Muslim. The discussion concerns 'justification by faith' with allusion [f. 189b] to the principle of *irjā'*. No true believer need despair of the divine mercy.

For 'Abdullāh b. 'Umar, forgiveness is available as long as the soul has not departed the body of the dying believer. The Prophet is alleged to have said as much [f. 190a]. The Companion, 'Uthmān Fuqaimī: God accepts repentance one year; one month; the space between two milkings, before the death of the believer.

f. 190a. The ibn 'Umar *ḥadīth*: cf. b.M., *bāb dhikr al-tawbah*. We also find the *marfū'*: the repentant believer is as if he had never sinned. [cf. supra, f. 104a.]

f. 190b. 'Uthmān Fuqaimī: cf. Hibatullāh [p.34]: The Prophet, asked to define repentance, replied, 'He who repents before his death by a year, that will be accepted.' He added, 'But that is a long time! He who repents before his death by half a year, that will be accepted. But that is a long time! He who repents a month before his death – but that is a long time! He who repents a week before his death – but that is a long time! He who repents one day before his death – but that is a long time! He who repents an hour before his death – but that is a long time! He who repents before his death-rattle, God will accept that.' He then commented, 'As long as it precedes death repentance will be early.' Hibatullāh thinks that Q 4,18 was abrogated in respect of unbelievers, but is still applicable to the Muslim.

ff. 190b–197a. *Homicide*

f. 191a. ibn 'Abbās extrapolates the positives from the negatives of Q 25,68. Q 39,53 bids men believe that God forgives all sins – they should not despair of the divine mercy.

f. 191b. Are Q 25,68 and Q 4,93 reconcilable? There is no difficulty in supposing that Q 25,68 was addressed to unbelievers. The verse lists the chief forbidden acts. Q 25,70 promises forgiveness, given repentance. The Sa'īd b. Jubair *ḥadīth* is broken into two parts.

f. 192a. The question now concerns the reconcilability of Q 4,93 and Q 25,70. There can be no acceptable repentance for the deliberate killing of a Muslim by another Muslim [Q 4,93].

Q 25,70 was not addressed to Muslims. The offer of forgiveness here, was uttered in the Jāhiliyah, and is no longer valid in Islam. The question of *al-nāsikh wa-l-mansūkh* was clearly of some urgency.

f. 192b. Q 4,93 abrogated Q 25,70.

f. 193a. Q 4,93 was revealed seven months after Q 25,70.

f. 193b. Q 4,93 was revealed six months, or four months later.

Nothing ever subsequently abrogated Q 4,93.

f. 194b–195a. The severe view endorsed in two *ḥadīths* from the Prophet himself.

f. 195b. Hasan derives the severe view from Q 5,32. The fact that the verse is concerned with the Israelites does nothing to lessen its intended deterrent effect upon the Muslims.

f. 196a. There is an alternative *tafsīr* from ibn 'Abbās based upon linguistic criteria: Admittedly, Q 4,93 says: Hell is the fate deserved by him who deliberately murders a Muslim. It does not say that Hell is definitely his destination. If God wishes, He may pardon him; if He wishes, He may punish. But [f. 196b] Abū 'Uбайд is dissatisfied with the *isnād*. He therefore replies with his own linguistic comment: God did not say that the murderer of a Muslim would languish in Hell *if* God were angry enough. The verse is not conditional, but straightforwardly indicative. God had, therefore, expressed the severe view. That the term *jazā'* refers, not to a murderer's 'rich deserts', but to his actual retribution, can be seen by comparison with the other occurrences of the same word in the Qur'ān: Q 18,88; Q 56,24; Q 76,12.

cf. Nas., K. *al-Qasāmah*, *bāb ta'wīl* Q 4,93, for the *ḥadīth*: Sa'īd b.

Jubair – ibn ʿAbbās [f. 191b.] Q 4,93 is *muḥkamah* – it has never been abrogated. Hibatullāh [p.39] on the contrary, reports the *ijmāʿ* of the Companions and Successors – with the exception only of [ʿAbdullāh] b. ʿAbbās and [ʿAbdullāh] b. ʿUmar – to the effect that the verse has been abrogated. ʿAlī had disputed ibn ʿAbbās’ view to his face, alleging that Q 4, 93 had, indeed, been abrogated by Q 4,48 and by Q 4,116. Other exegetes referred also to Q 25,70.

f. 193b. Saʿīd b. Jubair – ibn ʿAbbās; cf. Bu., *Tafsīr*; and cf. *ibid.*, ad Q 25,68–70.

f. 193a. The Zaid *ḥadīth*; cf. Naḥḥās [p.112]

f. 192a. The Saʿīd *ḥadīth*; cf. Naḥḥās [p.113] and *ibidem*: ibn ʿUmar reports the Prophet’s saying: ‘The passing away of the Earth is of less moment to God than the murder of a Muslim.’

f. 195a. [p.113] Abū Bakrah reports hearing the Prophet say, ‘If Muslims exchange blows and one kills another, the killer and his victim are both consigned to Hell.’ Further severe Prophetic dicta outlawing civil war are related by ibn Masʿūd. The more lenient view is traced by Naḥḥās from ibn ʿUmar, Zaid and ibn ʿAbbās! The support of this view was found in Q 20,82; Q 9,104.

ff. 193a–b. Naḥḥās knows this dating proposed by Zaid. He also knows reports from Zaid which reverse the dates of the two verses (Q 25 and Q 4). [p.114]. The notion of leaving judgment to God alone Naḥḥās reports from Abū Hanīfah and his associates, and from Shāfiʿī. The view that Q 4,93 is a conditional he traces to Abū Mujāshīʿ, and his rejection is the same as that of Abū ʿUbaid [f. 196b].

ff. 197a–200b. *God’s judging men’s innermost thoughts*

Mujāhid: Q 2,284 refers to inner doubts.

ʿIkrimah and ibn ʿAbbās thought the reference was to withholding testimony; cf. Naḥḥās [p.87].

f. 197b. ibn ʿAbbās also reports that the Companions thought this verse referred to one’s innermost, but unspoken thoughts. Both [ʿAbdullāh] b. ʿAbbās and [ʿAbdullāh] b. Masʿūd thought the verse had been abrogated by Q 2,285–6. The Companion interpretation of Q 2,284 is also (indirectly) attributed to the third ʿAbdullāh [b. ʿUmar].

f. 198b. The author displays his *isnād* expertise.

That the foregoing was a common interpretation is shown by the list of prominent scholars to whom it has been attributed: Mujāhid; Ḥasan; Ibrāhīm.

f. 199b. The alternative *ṭarīqah* from ibn ʿAbbās now reports his denial that Q 2,284 had ever been replaced. It refers to the Last Judgment, when God will inform men of their innermost thoughts, pardoning only the believers. Of the others, God will punish whom He pleases and forgive whom He pleases.

f. 200a. ʿĀ’ishah relates a *marfūʿ ḥadīth*: the verse seems to be a reference to the problem of evil which afflicts even Muslims. Afflictions purify believers. The author’s difficulties with the *isnād* point again to written sources. The second version of the ʿĀ’ishah *tafsīr* does not mention the Prophet.

f. 198a. Mus., *īmān*, *bāb bayān* Q 2,284: a lengthy *ḥadīth* on the anxiety of the Companions, relayed by Abū Hurairah. It is followed by a similar report from ibn ʿAbbās. Also from Abū Hurairah, the report that the Prophet said, ‘God overlooks the thoughts which members of my community entertain privately, as long as they do not speak them aloud, or translate them into action.’

f. 197a. The ibn ʿAbbās *ḥadīth* cf. Naḥḥās [p.87] (and Mujāhid).

f.200a. An approximation to the ʿĀ’ishah *tafsīr*, but again, with no mention of the Prophet.

Naḥḥās does not accept this instance of *naskh*. Q 2,284 is a statement.

ff. 200b–201b. *There is to be no compulsion in matters of religion [Q 2,256]*

f. 200b. Sulaimān b. Mūsā: Q 9,73 abrogated Q 2,256.

Naḥḥās [p.81] adds: because the Prophet made war upon the Arabs until they accepted Islam.

f. 201a. Shaʿbī: Naḥḥās: some scholars say it is not abrogated. The verse was revealed concerning the People of the Book who are not to be compelled to accept Islam, so long as they pay the *jizyah*. Those with whom compulsion may be used are the heathen idolators, concerning whom God revealed Q 9,73.

Zaid b. Aslam relates from his father, “I heard ‘Umar say: (to an aged Christian crone): ‘Turn Muslim and you will be safe.’ She replied, ‘I am an old Christian woman whose death is near at hand.’” ‘Umar then recited Q 2,256.

f.200b. Naḥḥās cites from ibn abī ‘Adī, as from ibn ‘Abbās, the story of the women’s vowing to devote any surviving child to Judaism. Naḥḥās [p.82] thinks this is the most correct view of the verse: the like of this could not be achieved only on the basis of *ra’y* [supposition].

f.201a. cf. *Amwāl* [p.35]: ‘Umar interpreted the verse as a reference to some Christians and Byzantines. Here follows the tale of Wusuq the Greek, with the addition: ‘When ‘Umar’s death approached, he manumitted me and said, “You may now go where you please.”’

‘Abdul Raḥmān b. Maḥdī – Sufyān – Abū Hilāl al-Ṭā’ī: ‘I saw the man ‘Umar manumitted. He was a Christian.’

Abū ‘Ubaid: ‘Umar’s is the most satisfactory *ta’wīl*.

Hibatullāh [p.27] has an approximation to the Sha‘bī report, but without *isnād*. Q 9,5 abrogated Q 2,256.

ff. 201b–203b. *Praying for divine pardon of unbelievers*

Honouring one’s father and mother does not extend to begging God’s pardon on their behalf, if they be unbelievers.

Q 17,24 says: “Say, God have mercy on them; they brought me up when I was small.” Q 9,13: “The Prophet and those who believe in him may not pray for God’s forgiveness of unbelievers once it has become clear that they shall be among the denizens of Hell, even if they be related.”

Abraham had asked God’s pardon for his father, but only as a result of a promise that he had made to him. When it became clear that his father was an enemy of God, Abraham denounced him.

f. 202a. Mujāhid avers that Abraham forbore from begging God’s pardon for his father when he died.

Q 60,1–3 calls upon the Muslims to break all ties with their unbelieving families. Abraham’s attitude towards his people provides a model for the attitude the Muslims should adopt, except in one

particular: Abraham’s promising his father that he would pray to God on his behalf (although Abraham could not guarantee that his intercession with God would be efficacious).

f. 202b. Q 9,80. This Mujāhid *ḥadīth* has emerged from circles which have failed to react to the Qur’ān’s rhetoric. Q 63,6 describes not the heathen, but the *munāfiq* [the lukewarm].

f. 203a. The ibn ‘Umar *tafsīr* is as poor as Mujāhid’s.

Q 9,80 hardly offers the Prophet a free choice. It too occurs in a passage describing the *munāfiq*. Reference to the death of ‘Abdullāh b. Ubaiy (prince of the *munāfiqs*) at least is relevant to the spirit of Q 9. Q 9,84 is uncompromising: “Never pray over one of them who dies, and do not attend at his grave.” The atomism of the *tafsīr* is demonstrated by the claim that Q 9,84 was revealed separately. The words of ‘Abdullāh’s son: ‘Give me your shirt for his shroud and I shall pray over him,’ – in the MS., the *ālif* is unmistakable: *uṣāllī* – [f. 203a] *I shall pray*. ‘Abdullāh’s son proposes to perform the obsequies over his father’s bier. cf. Bu., *Tafsīr*, Q 9,80: ‘Abdullāh’s son asked the Prophet for his shirt so that he might wrap his father in it. He gave him the shirt. The son next asked the Prophet to pray over the father’s bier: *an yuṣalliya ‘alaihi*. Bu.’s *isnād* comes through ‘Ubaidullāh – Nāfi‘ – ibn ‘Umar. The same *isnād* and the same version occurs in Mus., *ṣifat al-munāfiqīn*; Nas., *janā’iz*, ‘and pray over him’, i.e., here it is Imperative. The Nas. *isnād* is the closest to Abū ‘Ubaid’s, coming down through Yaḥyā.

Our MS. continues: The Prophet gave him the shirt and said, ‘When you are ready to pray over him, send for me,’ which is agreeable with the reading showing the *ālif*, and, of course, with the remainder of the *ḥadīth*.

f. 203b. Bu. [loc. cit.] conveys under the same *isnād*, an approximation to this ‘Umar *ḥadīth*, although with fuller wording.

Patently, the entire discussion stemmed from the exegetes’ reading the “aw” of Q 9,80 as the particle of choice.

Naḥḥās [p.176]. The Zuhri *ḥadīth* from ‘Umar [same *isnād*]: ‘The family of ‘Abdullāh asked the Prophet to pray over him.’ [p.177] The Prophet said to ‘Umar, ‘God has not forbidden me to pray over them – He has left me to choose whether to pray or not to pray,’ – the Prophet himself is here stating that “aw” is the particle of choice! The atomism of the exegesis is underlined by Naḥḥās’ further comment: Some thought that Q 9,84 abrogated Q 9,103: “Pray for them, for your prayers will calm them.” No wonder the scholars disapprove of

people engaging in exegesis until they know certain basic things, among them the *ḥadīths*. There is no dispute among the experts that Q 9,103 concerns an entirely different group from that mentioned in Q 9,84. Q 9,104 states that the people mentioned in Q 9,103 had repented and been forgiven.

ff. 203b–209a. *al-amr bi-l-ma^crūf wa-l-nahy^c an al-munkar*

According to Abū ʿUbaid, the sole verse in the entire Qurʾān to contain both *nāsikh* and *mansūkh* in the same sentence is Q 5,105.

We are informed in some of the *ḥadīths* that the *taʿwīl* of the verse had been deferred [*irjāʿ* – *not insāʿ!*] from the early period until sundry later times.

f. 204b. This interpretation is embodied in a lengthy *malḥamah* reported from the Prophet, who foretells in very oracular language the difficult times that lie ahead for the true Muslim.

cf. b.M. *bāb* Q 5,105, for this *ḥadīth* from Hishām b. ʿAmmār.

cf. A.D. K. *al-malāḥim*, *bāb al-amr wa-l-nahy* – different *isnād*.

Tir., *abwāb al-fitan*, from Anas, the Prophet said: ‘There will come a time when he who patiently preserves his faith will be like one grasping red-hot coals.’

It is now suggested in a lengthy three-part *ḥadīth* from Abū al-Dardāʾ and Ka^cb that Q 5,105 was being interpreted in a quietistic sense. Ka^cb rejects that interpretation on the argument that the Muslim must be active in defence of God’s Law until the *taʿwīl* of the verse is manifested. This awakened Abū al-Dardāʾ’s interest. He offers a second *malḥamah* referring, as Abū Musʿhir explains, to events in the reign of al-Walīd b. ʿAbdul Malik. The author seizes the opportunity to mention his own visit to Damascus.

f. 205b. According to ibn Masʿūd, the Qurʾān contains verses referring to events which preceded their revelation; some verses refer to events in the lifetime of the Prophet; some refer to events which fell out shortly after the Prophet’s death; some refer to events still future, some to the concomitants of the Last Day, and others to the Last Judgment. The situation referred to in Q 5,105 has not yet materialised, but, so long as the Muslims remain united and do not split up into sects, [*shīya^c*] and do not fight among themselves, they

should command good and forbid evil. If they divide and fight, they should run to make provision for the Hereafter, for Q 5,105 will then have come.

f. 206a. An alternative *taʿwīl* does not regard the verse as eschatological. Abū Bakr is said to have disagreed with the general *taʿwīl*. He had heard the Prophet state that, if the Muslims saw evil in their midst and did nothing to alter the matter, God would visit the entire community with His wrath. In saying this, Abū Bakr did not seek to oppose the *ḥadīth* to the verse. Rather, his aim was to remind the people that they had a duty to command the good and to forbid evil, and to show them that this verse referred to that duty, which might not be abandoned. Had the verse really the quietist meaning they were applying to it, the Prophet would certainly not have said something at variance with the verse.

cf. b.M. *bāb al-amr bi-l-ma^crūf*, for this Abū Bakr *ḥadīth*.

A.D., *bāb al-amr wa-l-nahy*, both from Ismāʿīl from Qais.

f. 207a. Abū ʿUbaid refers to a *ḥadīth* from each of Mujāhid and Saʿīd b. Jubair, but does not adduce the latter.

They had suggested, or so Abū ʿUbaid had understood, that God has permitted Christians and Jews to continue to uphold their theological errors, and has not permitted the Muslims to use force to seek to correct them, in exchange for their paying the *jizyah* to the Muslims. The verse certainly does not permit failure to alter evil or disobedient acts, or the expression of theological doubts on the part of Muslims.

Similarly, Abū Bakr would not have countenanced failure to intervene to alter such acts or correct such doubts.

A Prophet statement, relayed by Ḥudhaifah, now confirms what Abū Bakr had said.

f. 207b. cf. Tir., *bāb al-amr bi-l-ma^crūf*; b.M. produces the same formula, but via ʿĀʾishah; similarly, b.M. and A.D. [loc. cit.] for the Jarīr report.

Ṭay. *īmān*, reported from Ḥudhaifah, [cf. Naḥḥās, p.31].

f. 208a. Abū ʿUbaid demonstrates his interest in *isnāds*.

f. 208b. Ḍaḥḥāk saw Q 3,104 as imposing the duty of the *amr* and the *nahy*. It is therefore obligatory, whereas, for Mujāhid, Q 3,110 made clear that fulfilling the *amr* and the *nahy* occurred in a conditional context: i.e. as long as the Muslims remembered to command the good and restrain others from evil, maintaining their belief in God, they would continue to be the best of all nations in human history.

f. 209a. ibn Shubrumah used as his yardstick for the numbers whom the Muslim was required to command to do good and restrain from evil, the ibn ʿAbbās interpretation of Q 8,66 – i.e. two persons was the maximum a man might be expected to constrain. Abū ʿUбайд can think of no better base on which to construct the analogy, since it derives from a Qurʾānic ruling.

Q 5,105: “Oh ye who believe! consider your own souls. It does you no harm that some are astray, whoever they may be, providing you have accepted guidance. Unto God will be your return, and He will inform you of what you have been doing.”

cf. Hibatullāh [p.42] where the text has become definitely corrupted: Abū ʿAbdullāh, al-Qāsim b. Sallāmah, the author’s father, said there is no verse in the Book of God which combines both *nāsikh* and *mansūkh*, save this one verse. The *shaikh*, Abū al-Qāsim, the present author [i.e. Hibatullāh himself] said, ‘That is not so. There is this verse, and there are others.’ Here, there now follows an approximation to the *marfūʿ hadīth* we noted above at f. 207b.

cf. f. 204a. Abū ʿUбайд [al-Qāsim b. Sallām] said: ‘The sole verse in the entire Qurʾān to contain both *nāsikh* and *mansūkh* in a single sentence is Q 5,105.’

Abū ʿUбайд’s name appears to have been confused by one of Hibatullāh’s transmitters with the full name of that author: Hibatullāh b. Sallāmah, whose *kunyah* was Abū al-Qāsim.

Other works on *al-nāsikh wa-l-mansūkh*

1. The *Fihrist* list:

p. 57 al-Ḥasan b. Wāqid
pp. 62–3 Ḥajjāj al-Aʿwar
Abū ʿUбайд al-Qāsim b. Sallām
ibn abī Daʿūd al-Sijistānī
Muqātil b. Sulaimān
Jaʿfar b. Mubashshir
Abū Ismāʿīl al-Zubaidī
Abū Muslim al-Kajjī
Ismāʿīl b. abī Ziyād
Abū al-Qāsim al-Ḥallāj al-Zāhid
ibn al-Kalbī
Hishām b. ʿAlī b. Hishām
Aḥmad b. Ḥanbal
al-Zubair b. Aḥmad
ʿAbdul Raḥmān b. Zaid
Abū Ishāq Ibrāhīm al-Muʿaddib
Ibrāhīm al-Ḥarbī
Abū Saʿīd al-Naḥwī
al-Ḥārith b. ʿAbdul Raḥmān

2. The Ḥajjī Khalīfah list [v.6, p.289]:

Makkī b. abī Ṭālib al-Qaisī Al-Muqriʿ
Abū Jaʿfar al-Naḥḥās
Abū Bakr Muḥammad b. ʿAbdullāh al-Maghribī
Abū Daʿūd al-Sijistānī [?]
Abū ʿUбайд al-Qāsim b. Sallām
Abū Saʿīd ʿAbdul Qādir b. Ṭāhir al-Tamīmī
Jalāl al-Dīn al-Suyūṭī
Abū al-Qāsim Hibatullāh b. Sallāmah
Abū al-Ḥusain Muḥammad b. Muḥammad al-Nisāpūrī
ibn al-Munādī, Aḥmad b. Jaʿfar b. Muḥammad

13515: Authors of works on *nāsikh al-Ḥadīth wa mansūkhuhu*:

Abū Muḥammad Qāsim b. Iṣbigh al-Qurṭubī

Abū Bakr Muḥammad b. 'Uthmān al-Ja' d al-Shaibānī
Aḥmad b. Ishāq al-Anbārī
Abū Ja'far Muḥammad b. Muḥammad al-Naḥḥās
Abū Bakr Muḥammad b. Mūsā al-Ḥāzimī
Abū al-Qāsim Hibatullāh b. Sallāmah
Abū Ḥafṣ 'Umar b. Shahīn al-Baghdādī – [with an
ikhtisār by Ibrāhīm b. 'Alī, ibn 'Abdul Ḥaqq]
'Abdul Karīm b. Hawāzin al-Qushairī
Muḥammad b. Baḥr al-Iṣfahānī

3. The Muṣṭafā Zaid list [v.1, pp.295 ff.]:

[* denotes a work known to M. Zaid]

Sa'īd b. abī 'Urūbah – [an Qatādah]
Abū al-Naḍr Muḥammad b. al-Sā'ib al-Kalbī
Muqātil b. Sulaimān b. Bishr al-Azdī
al-Ḥusain b. Wāqid al-Marwazī
'Abdul Raḥmān b. Zaid
'Abdul Wahhāb b. 'Aṭā' al-Baṣrī
Ḥajjāj b. Muḥammad al-A'war
Abū 'Ubaid al-Qāsim b. Sallām
Ja'far b. Mubashshir b. Aḥmad al-Mu'tazilī
Suraij b. Yūnus al-Marwazī
Aḥmad b. Ḥanbal
Abū Da'ūd al-Sijistānī
Muḥammad b. Sa' d al-'Awfī
Abū Ishāq Ibrāhīm al-Ḥarbī
Abū Muslim al-Kajjī
al-Ḥusain b. Manṣūr al-Ḥallāj
Abū Bakr b. abī Da'ūd al-Sijistānī
al-Zubair b. Aḥmad b. Sulaimān al-Zubairī
*Abū 'Abdullāh Muḥammad b. Ḥazm
Muḥammad b. 'Uthmān al-Shaibānī
Muḥammad b. al-Qāsim b. Bashshār, ibn al-Anbārī
Aḥmad b. Ja'far, Abū al-Ḥusain b. al-Munādī
*Aḥmad b. Muḥammad b. Ismā'īl, Abū Ja'far al-
Naḥḥās
Muḥammad b. 'Abdullāh al-Barda'ī
Mundhir b. Sa'īd al-Balūṭī
Abū Sa'īd al-Naḥwī
*Hibatullāh b. Sallāmah
*Abū Manṣūr 'Abdul Qāhir b. Ṭāhir al-Baghdādī

Makkī b. abī Ṭālib.
Abū al-Walīd Sulaimān b. Khalaf al-Bājī
*Muḥammad b. Barakāt b. Hilāl al-Sa'īdī
Abū Bakr b. al-'Arabī
*Abū al-Faraj b. al-Jauzī
Abū al-Ḥasan 'Alī b. Muḥammad b. al-Ḥaṣṣār
Jalāl al-Dīn al-Suyūṭī
*Mar'ah b. Yūsuf b. Qudāmah al-Karmī

4. For a more recent listing of works on *al-nāsikh wa-l-mansūkh*, see:
al-Mawrid, Baghdād, 1977, pp.195–6.

Abū 'Uбайд's immediate informants

	TB	Tah	
°Abbād b. °Abbād [d. 180]	5798	5, 95	
°Abbād b. al-°Awwām [d. 183–7]	5799	99	
°Abdullāh b. Idrīs [d. 192]	5028	144	
°Abdullāh b. Šālih [d. 222]	5110	256	
°Abdul Ghaffār b. Da'ūd [d. 228]		6, 365	
°Abdullāh b. al-Mubārak [d. 181]	5306	5, 382	G
ibn abī °Adī [d. 194]		9, 12	
Aḥmad b. Khālīd [d. 214]		1, 26	
Abū Aḥmad al-Zubairī [d. 204]	2919	9, 254	
Abū al-Aswad [d. 219]		10, 440	
°Abdul Raḥmān b. Mahdī [d. 198]	5366	6, 279	G
°Abdul Wahhāb b. °Abdul Majīd [d. 194]	5687		
°Abdul Wahhāb b. °Aṭā' [d. 204]	5688	6, 450	
°Alī b. °Ašim [d. 201]	6348	7, 344	
°Alī b. Ma°bad [d. 218]	6549	384	
Abū Bakr b. °Aiyāsh [d. 193]	7698	12, 34	G
Bishr b. °Abdullāh b. °Umar b. °Abdul °Azīz			
al-Faraj b. Fuḍālah [d. 176]	6856	8, 260	
Ḥajjāj b. Muḥammad [d. 206]	4342	2, 205	G
Ḥafṣ b. Ghaiyāth [d. 194]	4313	415	G
al-Haitham b. Jamīl [d. 213]	7395	11, 90	
Hishām b. °Ammār [d. 245]			
Hushaim b. Bashīr [d. 183]	14,85	59	G
Ibrāhīm b. Sa°d [d. 183–5]	3119	1, 121	
Ishāq b. °Īsā [d. 215]	3375	245	
Ishāq b. Sulaimān al-Rāzī [d. 199–200]	3368		
Ishāq b. Yūsuf [d. 195]	3365		G
Ismā'īl b. Ibrāhīm [d. 193]	6, 229	1, 275	G
Ismā'īl b. Ja°far [d. 180]	218	287	G
Ismā'īl b. °Umar [d. 200]	3280	319	
Abū Ismā'īl al-Mu'addib	3121	125	
Jarīr b. °Abdul Ḥamid [d. 188]	3744	2, 75	G [?]
Khālīd b. °Amr	4401	3, 109	

Mālik b. Ismā'īl [d. 219]		10, 3	
Marwān b. Shujā° [d. 184]	7129	94	
Marwān b. Mu°āwiyah [d. 193]	7130	97	G
Muḥammad b. Ja°far [d. 206]	509		
Mu°ādh b. Mu°ādh [d. 196]	7118	10, 194	
Muḥammad b. Kathīr [d. 216]		9, 415	
Muḥammad b. Rabī°ah [d. 190]		162	
Muḥammad b. Yazīd [d. 188–92]	1487	527	
Muḥammad b. °Uбайд [d. 204]	877	9, 326	
Muḥammad b. °Abdullāh [d. 214]	2920	9, 274	
Sa°id b. abī Miryam [d. 224]		4, 17	
Abū Muṭī° al-Khurāsānī [d. 199]	4336		
Abū Mus°hir [d. 218]	5750	6, 98	
Abū Mu°āwiyah [d. 193]		9, 137	
Nu°aim b. Ḥammād [d. 227–9]	7285	10, 458	
Abū al-Naḍr [d. 207]	7406	11, 18	
Abū Nūḥ [d. 187]		6, 247	
Qabiṣah [d. 213]	6947	8, 347	
Sa°id b. °Abdul Raḥmān [d. 176]	4654	4, 55	
Sufyān b. °Uyainah [d. 198]	9, 174	4, 117	G
Shuraik [d. 177]	4838	333	G
°Amr b. Ṭariq [d. 219]		8, 33	
°Uthman b. Šālih [d. 219]		7, 122	
Abū al-Yamānī [d. 222]		2, 441	
Yaḥyā b. Bukair [d. 208]	7469	11, 190	
Yaḥyā b. Sa°id [d. 198]	7461	216	G
Yazīd b. Hārūn [d. 206]	14, 347	366	G
Yaḥyā b. Šālih al-Ḥimṣī			
Yaḥyā b. abī Zā'idah [d. 182]	7454	208	

Abū 'Uбайд's isnāds

	f.
<i>°Abbād b. °Abbād</i>	
– Hishām – ibn Sīrīn – °Abīdah – °Alī	82b
– Yazīd al-Raqāshī – Anas – <i>Prophet</i>	5a
<i>°Abbād b. al-°Awwām</i>	
– Ash°ath – Sha°bī	110a
– Ḥajjāj b. Arṭāt – °Aṭā' – °Abdul Raḥmān b. abī Bakr	15b
– Juwaibir – al-Ḍaḥḥāk	41b
– Sufyān b. Ḥuṣāin – Ḥakam – Mujāhid – ibn °Abbās	61a
– Sufyān b. Ḥuṣāin – Zuhri – Sālim – °Abdullāh b. °Umar & °Abdullāh b. °Abbās	198a
<i>°Abdullāh b. Idrīs</i>	
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	10 170b	75 161b–165b	6 50b–51a
	15–16 89a		
	18 189a–190b	Q 9	Q 24
	19 77b	1–11 142a	2 89b

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3 65b-74b	<i>Q</i> 47	<i>Q</i> 64
4 99b-105b	4 151a-156a	16 188b
32 66a	35 144a	
58 157a-160b		<i>Q</i> 65
61 175a	<i>Q</i> 50	1 54a
62 137b-138a	45 137a	2 112b
<i>Q</i> 25	<i>Q</i> 56	<i>Q</i> 73
68 191a	24 196b	1 185a
70 191b		20 185a
<i>Q</i> 33	<i>Q</i> 58	<i>Q</i> 76
5 164b	2-13 186a-187b	12 196b
6 170a		
	<i>Q</i> 59	<i>Q</i> 87
<i>Q</i> 39	13 158a	6-7 6a
53 191a		
	<i>Q</i> 60	<i>Q</i> 88
<i>Q</i> 45	8 142a	22 137a
14 137a		
29 8b		