

Classical Islam

A sourcebook of
religious literature

Edited and translated by

**Norman Calder, Jawid Mojaddedi
and Andrew Rippin**

Ḥadīth

3.1 Mālik ibn Anas, selection from *al-Muwaṭṭā'* on *zakāt*

Mālik ibn Anas was a Muslim jurist from Medina and the eponymous patron of the Mālikī school of law (*madhhab*). He was born in about 93/711 and died in 179/795. During his life, Mālik's role was as the repository of local norms, and he was also involved in public and political judicial affairs. He has always been pictured as someone staunchly opposed to the governors of the time but able to act as a shrewd statesman in his interactions with them.

Mālik is portrayed as very strict in his judgement of the authenticity of *ḥadīth* reports. His legal text *al-Muwaṭṭā'*, therefore, has relatively few prophetic reports. As the representative of the Medinan practice, his work makes constant reference to that element, asserting it as a source of law. Mālik is also seen as not favouring intellectual speculation in matters of law; he deemed the answer 'I don't know' to a question an essential component of wisdom.

The *Muwaṭṭā'* became available in a number of different transmissions (nine are known today) and is, in its basic format, one of the earliest of Muslim legal texts. It represents an attempt to bring every aspect of Muslim life – from the most serious to the most mundane – under the framework of the divinely guided *sharʿa*. It foregrounds prophetic traditions but also contains much discursive material in Mālik's name. The section translated below, covering various aspects of the giving of charity, illustrates the ordering of material and the relative status of each type: prophetic *ḥadīth*, non-prophetic *ḥadīth*, Mālik's representation of the Medinan practice and the practice of the caliphs.

Further reading

Aisha Abdurrahman Bewley (trans.), *Al-Muwaṭṭa' of Imam Malik ibn Anas: the first formulation of Islamic law*, London 1989; a full translation of the work of Mālik. Norman Calder, *Studies in early Muslim jurisprudence*, Oxford 1993, chapter 2. Yasin Dutton, *The origins of Islamic law: the Qur'ān, the Muwaṭṭa' and Madinan 'amal*, Richmond 1999. A. Zysow, 'Zakāt,' in *Encyclopaedia of Islam*, new edition.

Source text

Mālik ibn Anas, *Muwaṭṭā'*, ed. Muhammad Fuʾād 'Abd al-Bāqī, Cairo 1951, vol. 1, pp. 268–70.

I Chapter on prohibiting oppression of the people in the giving of charity

1. Yahyā told me on the authority of Mālik from Yahyā ibn Sa'īd from Muḥammad ibn Yahyā ibn Ḥabbān from al-Qāsim ibn Muḥammad from 'Ā'isha, wife of the prophet, that she said that 'Umar ibn al-Khaṭṭāb passed by some sheep which were a part of charity. Among them he saw a sheep with a large udder flowing with milk. 'Umar said, 'What is with this sheep?' They replied, 'This is a sheep which is part of charity (*sadaqa*).' 'Umar said, 'The owners of this sheep did not give it willingly. Do not torment the people. Do not take the best animals of the Muslims, leaving them without food.'

2. Yahyā told me on the authority of Mālik from Yahyā ibn Sa'īd from Muḥammad ibn Yahyā ibn Ḥabbān who said that two men from the Ashjā' tribe informed him that Muḥammad ibn Maslamat al-Anṣārī used to come to them to collect their charity. To those who had possessions, he would say, 'Bring me charity from what you have!' He would accept a sheep as payment of the amount owed.

3. Mālik said, 'This is the *sunna* for us. What I have seen the people of knowledge doing in our region is that they would not create hardship for the Muslims in their payment of *zakāt* and that they would accept from them what they offered of their possessions.'

II Chapter on taking charity and who is permitted to take it

1. Yahyā told me on the authority of Mālik from Zayd ibn Aslam from 'Aḥī' ibn Yasar that the messenger of God said, 'Charity is not permitted to be given to a rich person except in five cases: someone fighting in the way of God; someone working collecting charity; someone who has suffered loss; someone who buys it with his own money; and someone who has a poor neighbour who is given charity and the poor person gives some to the rich one.'

2. Malik said, 'For us, the dividing up of charity can only be done using individual judgement by the possessor of what is to be given. Whichever group of people has the most need and are most numerous are to be given preference as the giver decides is appropriate. It is possible that it could change to another group after one, two or more years. Preference is always given to the people who are in need and most numerous. This is the way the people of knowledge with whom I am pleased have acted.'

3. Malik said that there is no set amount to be given to the collector of charity other than what the *imām* decides is appropriate.

III Chapter on taking charity and being firm in doing so

1. Yahyā told me on the authority of Malik that it reached him that Abū Bakr al-Ṣiddiq said, 'If they hold back from me even a small portion of one year's charity, I will declare a *jihad* against them over it.'

2. Yahyā told me on the authority of Malik from Zayd ibn Aslam that he said that 'Umar ibn al-Khaṭṭāb drank some milk which he enjoyed, so he asked the person who had given it to him, 'Where did this milk come from?' He told him that he went to a water hole (which he named) and he found some livestock given in charity drinking there. He was given some of their milk which he put in his container, and that was the milk (he had given to 'Umar). So 'Umar ibn al-Khaṭṭāb made himself regurgitate it, using his own hand.

3. Malik said, 'For us, if anyone refuses any of the obligations of God and the Muslims are unable to extract it from that person, *jihad* is a right which they have until such time as they get the obligation from that person.'

4. Yahyā told me on the authority of Malik that it had reached him that one of the tax collectors under 'Umar ibn 'Abd al-'Azīz had written to him mentioning that a man had refused to give *zakāt* on his possessions. 'Umar wrote to the tax collector telling him to leave the man alone and not take any *zakāt* from him along with that of the Muslims. Word of that reached the man and things became very difficult for him. After that he paid the *zakāt* on his possessions. The tax collector wrote to 'Umar mentioning that to him. 'Umar then wrote back saying that he could now take it from him.

3.2 Al-Bukhārī, selection from *al-Ṣaḥīḥ* on *zakāt*

Muḥammad ibn Ismā'il al-Bukhārī, who lived from 194/810 to 256/870, is the compiler of one of the six authoritative books of *ḥadīth* in Sunni Islam. Born in Bukhara, he spent much of his life in Nishapur, returned to Bukhara and then went to Samarkand towards the end of his life.

Al-Bukhārī is said to have travelled throughout the Middle East in order to hear *ḥadīth* reports from as many sources as possible; he is said to have listened to some 1,000 transmitters. He is reported to have had an astounding memory which he cultivated from a young age and to have accumulated some 600,000 reports which he reduced down to about 2,762 distinct items (although there are 7,397 entries in the work when one includes the duplicated traditions) that he considered reliable enough according to his own strict criteria for inclusion in his book. Organized by subject matter, al-Bukhārī's *al-Ṣaḥīḥ* is considered to be the most reliable collection of authenticated reports along with that of Muslim ibn al-Hajjāj (d. 261/875); as a pair, these works are considered by Sunni Muslims as second only to the Qur'ān in authority. The work, which took sixteen years to compile, is organized according to books (of which there are ninety-seven) and chapters (3,450 in total) following the established agenda of juristic and theological problems of the time. Some of the chapter headings have no *ḥadīth* reports under them, indicating that the structure of the work was pre-established.

The section translated below from the book on *zakāt* illustrates the organizational principles of the work as well as the way in which al-Bukhārī constructed his text to align the *ḥadīth* with the Qur'ān, and to privilege the Qur'ān as a source of Muslim practice. The topic of how charity is to be distributed clearly demanded close attention to both sources of authority in order to deal with what, given the structure and content of the chapter headings in al-Bukhārī's text, was bound by some well-established practices.

Further reading

Ignaz Goldziher, *Muslim studies*, London 1971, vol. 2, pp. 216-26.
 Muḥammad Zubayr Ṣiddiq, *Ḥadīth literature: its origin, development and special features*, revised edition, Cambridge 1993, pp. 53-8.

Source text

Al-Bukhārī, *Al-Ṣaḥīḥ*, Cairo 1981 (reprint), vol. 2, pp. 115-17.

I Chapter

1. Musā ibn Ismā'il told us that Abū 'Awāna told him on the authority of Firās from al-Sha'bī from Masrūq from 'Ā'isha that some of the wives of the prophet said to him, 'Which of us will be the first to die after you?' He replied, 'Whichever of you has the longest hand.' So they began measuring their hands with a stick and discovered that Sawda had the longest hand. Later they came to know that giving charity was called 'the longest hand'. She was the first to die after him and she loved giving charity.

II Chapter on giving charity openly

1. This is as in the saying of God, *Those who give of their possessions at night and during the day in secret and openly . . . none of them will grieve* (Q 2/274).

III Chapter on giving charity secretly

1. Abū Hurayra reported on the authority of the prophet that he said that a person giving charity can do it secretly such that his left hand does not know what his right hand is doing. About this God said, *If you give charity openly it is good, but if you do it secretly and give it to the poor, that is better for you* (Q 2/271).

IV Chapter on giving charity to a rich person unknowingly

1. Abū 'l-Yamān told me that Shu'ayb informed him that Abū Zinād told him on the authority of al-Ā'raj from Abū Hurayra that the messenger of God said that a man said, 'I will certainly give some charity!' So he took his charity and gave it to a thief. The next morning he was informed that he had given charity to a thief. He said, 'God, Praise be to You. I will certainly give charity (again)!' So he took his charity and gave it to an adulterer. The next morning he was informed that he had given charity to an adulterer the night before. He said, 'God, Praise be to You over an adulterer. I will certainly give charity (again)!' So he took his charity and gave it to a rich person. The next morning he was informed that he had given charity to a rich person. He said, 'God, Praise be to you over a thief, an adulterer and a rich person.' Someone came up to him and said, 'The charity you gave to a thief may make him abstain from stealing, and perhaps the adulterer will abstain from adultery. As for the rich person, perhaps he will learn a lesson from it and give of what God has given him.'

V Chapter on giving charity to one's son without realizing it

1. Muḥammad ibn Yūsuf told us that Isrā'īl told him that Abū 'l-Juwayriya told him that Ma'n ibn Yazīd told him that he, his father and his grandfather pledged allegiance to the messenger of God, who then proposed Ma'n in marriage and then

had him married. Ma'n said, 'I went to him with a problem concerning my father, Yazīd, who had taken some money to be given in charity and placed it with a man in the mosque. I then went and took it and brought it to my father.' His father said, 'By God, I did not wish to give it to you!' So Ma'n took the problem concerning this to the messenger of God who said, 'Yazīd, you will have what you intended in reward. Ma'n, what you took is yours!'

VI Chapter on charity given with the right hand

1. Musaddad told us that Yahyā told him on the authority of 'Ubayd Allāh who said that Khubayb ibn 'Abd al-Rahmān told him on the authority of Ḥafṣ ibn 'Āṣim from Abū Hurayra from the prophet who said, 'Seven types of people will be shaded by God in His shadow on the day on which there will be no shade other than His: a just ruler; a young man raised in the worship of God; a man whose heart is attached to mosques; two people united in the love of God who join for Him and separate for Him; a man who is summoned by a noble and beautiful woman to whom he says, "I fear God"; a person who gives charity secretly such that his left hand does not know what his right hand is giving; and a person who remembers God in seclusion and whose eyes fill with tears.'

2. 'Alī ibn al-Ja'd told us that Shu'ba informed him saying that Ma'bad ibn Khālīd said he heard Ḥāritha ibn Wahb al-Khuzā'i saying that he heard the prophet saying, 'Give charity! A time will come when people will walk around with their charity and someone to whom it is offered will say, "If you had come yesterday, I would have taken it from you. Today, however, I have no need of it."'

3.3 Ibn Hajar, commentary on *Ṣaḥīḥ al-Bukhārī* on *zakāt*

Shihāb al-Dīn Ahmad Ibn Hajar al-ʿAsqalānī (d. 852/1449) was one of the giants of Sunnī *ḥadīth* scholarship. He was born, in 773/1372, into a wealthy family of merchants based in Egypt. Though he was orphaned in childhood, his family's affluence enabled him to live comfortably and pursue his interests in religious scholarship. He began his career as a scholar and teacher at a relatively young age, and before reaching the age of forty became the head of the Baybarsiyya college, a position he was to hold for some thirty years. He also held the position of chief judge of Egypt for some twenty years in total. But it is his extraordinary literary output that has earned him the highest of reputations in Sunnī *ḥadīth* scholarship.

Ibn Hajar composed his first works on *ḥadīth* in his early thirties, before starting work on his magnum opus, his massive *ḥadīth* commentary entitled *Fatḥ al-bārī: sharḥ Ṣaḥīḥ al-Bukhārī*, which is widely regarded as the most important work of the *sharḥ al-ḥadīth* (*ḥadīth* commentary) genre. He completed it towards the end of his life, in 842/1438, some thirty years after starting. Its importance was immediately recognized, and it is even reported that, before the whole work was finished, powerful and wealthy individuals tried to acquire copies of the volumes he had already written. Ibn Hajar also wrote many other works in the *ḥadīth* sciences, including highly esteemed biography collections.

As a work of the *sharḥ al-ḥadīth* genre, the *Fatḥ al-bārī* presents the text of the *ḥadīth* collection on which it is based, segment by segment, in a way similar to that in which *tafsīr* works present the text of the Qurʾān. This format is in order to allow each segment to be followed by commentary, which, in the passage given below for instance, can range from variant readings and grammatical explanations to a consideration of the legal and ethical implications. He cites the opinions of previous commentators which he has collected from a rich variety of literary and oral sources. His task also includes justifying the arrangement of the text on which he is commenting, and taking into account variant transmissions of it. This enables Ibn Hajar to develop the argument that the donor's charity was accepted by God even though he repeatedly failed to give it to someone qualified to receive it. The overall effect of the form of this *ḥadīth* commentary can be seen as a broadening of the possible meaning of the text of al-Bukhārī's canonical *ḥadīth* collection through the historical experience of the Sunnī community.

Further reading

Norman Calder, 'History and nostalgia: reflections on John Wansbrough's *The sectarian milieu*', in Herbert Berg (ed.), *Islamic origins reconsidered: John Wansbrough and the study of Islam*, special issue of *Method and theory in the study of religion: Journal of the North American Association for the Study of Religion*, 9 (1997), pp. 47–73.

Mohammed Fadel, 'Ibn Hajar's *Hadī al-sārī*: a medieval interpretation of al-Bukhārī's *al-Jāmiʿ al-ṣaḥīḥ*: introduction and translation,' *Journal of Near Eastern studies*, 54 (1995), pp. 161–97.

Franz Rosenthal, 'Ibn Hajar al-ʿAsqalānī,' in *Encyclopaedia of Islam*, new edition.

Source text

Ibn Hajar al-ʿAsqalānī, *Fatḥ al-bārī sharḥ Ṣaḥīḥ al-Bukhārī*, Cairo 1978, vol. 4, pp. 39–41. The *ḥadīths* on which the following commentary is based are presented in continuous form in section 3.2 above, parts III and IV; in this translation, the sections from al-Bukhārī have been italicized.

Commentary on: Chapter on giving charity secretly

1. *Abū Hurayra said on the authority of the prophet that he said that a person giving charity can do it secretly such that his left hand does not know what his right hand is doing. God said, If you give charity openly it is good, but if you do it secretly and give it to the poor, that is better for you (Q 2/271). Section: If one gives charity to a rich person unknowingly.*

This is followed by the *ḥadīth* of Abū Hurayra about the person who took his charity and gave it to a thief, then to an adulterer and finally to a rich person. This is how the transmission by Abū Dharr reads.

1.1. The latter is found in the transmissions of others under the separate rubric, 'Chapter on giving charity to a rich person unknowingly'. This is the way it is presented by al-Ismaʿīlī, followed by the citation of the *ḥadīth*. Its appropriateness is evident for the entry title 'giving charity secretly' was limited in direct relevance to that *ḥadīth* commenting on the citation from the Qurʾān.

1.2. The content of Abū Dharr's transmission requires a link between the entry title 'giving charity secretly' and the *ḥadīth* about the person who gives charity. What is meant is that the acts of giving charity that are mentioned took place at night, as indicated by the words in the *ḥadīth*, *The next morning he was informed*. In *Ṣaḥīḥ Muslim* the explication of this fact can be found in the following words of the *ḥadīth*: 'I will certainly give some charity at night . . .'. This indicates that his giving of charity was secret, since if it were in broad daylight the identity of the rich person would not have been hidden from him, as it is most likely not to be hidden in daylight, unlike that of the adulterer and the thief. This is also why the rich person is singled out in the heading of this entry from amongst the three.

2. The *ḥadīth* of Abū Hurayra prior to this one actually forms a part of another *ḥadīth* which is presented in its entirety in another chapter 'Concerning someone who sat in the mosque in expectation of the ritual prayer'. It is the strongest evidence for the superiority of giving charity secretly.

2.1. The Qurʾānic verse in that [*If you give charity openly it is good, but if you do it secretly and give it to the poor, that is better for you (Q 2/271)*] also ostensibly gives preference to giving charity secretly, but the majority hold the view that it was revealed only in relation to voluntary charity.

2.2. Al-Ṭabarī and others report that the consensus is that in the giving of obligatory charity it is preferable to do it openly than secretly, while the opposite applies for voluntary charity.

2.3. Yazid ibn Ḥabīb disagreed, saying that the verse was revealed in relation to the giving of charity to Jews and Christians; he said that the meaning is that if you give it openly to the people of the book there is a reward for you, but it is better for you if you give it secretly to your own poor brethren. He says also that the prophet used to command secrecy in all cases of the giving of charity, without exception.

2.4. Abū Ishāq al-Zajjāj reports that in the time of the prophet giving *zakaṭ* secretly was preferable, but afterwards opinion went against those who gave it secretly, and thus openness in obligatory *zakaṭ* became preferable. Ibn ‘Aṭīya says that this is comparable with the fact that in our time secrecy in giving obligatory charity is preferable, for the obstacles to this have increased, and giving openly has become liable to ostentation and so forth. Moreover, the pious predecessors used to give their charity to the collectors and those who gave it secretly used to be accused of failing to pay up. Today, however, everyone has started to give *zakaṭ* openly for their own benefit, and so giving it secretly has become preferable. God knows best.

2.4.1. Al-Zayn ibn al-Munīr says that if it should be argued that it depends on the changing circumstances that would not be inconsistent, for if the governor should be a tyrant and the property of the person obliged to pay should be hidden, then secrecy is better. On the other hand, if he is a volunteer donor who is emulated and followed and concerns are expressed about his volunteering in accordance with the proper manner, but his intention is sound, then giving openly is better. God knows best.

Section on giving charity to a rich person unknowingly.
That is to say that his charity was acceptable nonetheless.

On the authority of al-Aʿraj from Abū Hurayra.

In Maṭik’s transmission given in al-Dāraqutnī’s *Charāʾib Maṭik* it is on the authority of Abū Zinād that ‘Abd al-Rahmān ibn Hurmuz informed him that he heard it from Abū Hurayra.

A man said

I could not discover his name. According to Ahmad, by way of Ibn Lahfā on the authority of al-ʿAʿraj, he was an Israelite.

‘I will certainly give some charity!’

In Abū ʿAwāna’s transmission on the authority of Abū Umayya, on the authority of Abū ʿI-Yamān with this *isnād*, it reads, ‘I will certainly give some charity at night!’ It is repeated in this form in three instances: Ahmad expressed it like this (through Waraqā), as well as Muslim (through Mūsā ibn ʿUqba) and al-Dāraqutnī in *Charāʾib Maṭik*, each of them on the authority of Abū Zinād.

His saying, *I will certainly give some charity!* is binding, as in for example a vow. An oath is implied, as if he had said, ‘By God, I will certainly give some charity!’

8. *He gave it to a thief*
That is to say that he did not know that he was a thief.

9. *The next morning he was informed that he had given charity to a thief*
Abū ʿUmayya’s transmission reads, ‘He gave charity to a thief at night,’ while Ibn Lahfā’s transmission reads, ‘He gave charity at night to “such and such” a thief.’

9.1. I have not discovered from the sources the identity of any of the three recipients of charity [i.e., the thief, the adulterer and the rich man]. *Tusuddiqā* [given charity] is with a ‘u’ vowel (*ḡumma*) at the beginning according to the passive pattern.

10. *He said, ‘God, praise be to You.’*

That is to say, ‘I am not accountable for the fact that my charity fell into the hands of someone who did not deserve it, and *praise be to You* since this was carried out by your will, not by my own volition, and God’s will is always for the best.’

10.1. Al-Ṭibī said, ‘After he resolved to give charity to someone deserving he handed it to an adulterer. He praised God that he was unable to give charity to someone worse than that; or he praised God for using him as a witness to what causes amazement leading to the magnification of God, for when they were amazed by his actions, he too was amazed, and so he said, *God, praise be to You over an adulterer*,’ meaning, by ellipsis, the one to whom he had given charity....’

10.2. So he praised God for that state because God is the one who deserves praise for all states. He did not praise the reprehensible deed rather than him. It has been established that the prophet used to say when he saw wealth that amazed him, ‘*God, praise be to You over all states.*’

11. *Someone came up to him and said,*

It is stated in al-Ṭabṛānī’s variant in the *Musnad* of the Syrians (on the authority of Ahmad ibn ‘Abd al-Wahhāb, on the authority of Abū ʿI-Yamān by the same *isnād*), ‘That event tormented him, and someone came to him in his dream.’

11.1. Abū Nuʿaym also draws out this interpretation, and likewise al-Ismaʿīlī (through ‘Alī ibn ‘Ayyāsh, on the authority of Shuʿayb) whose variant specifies one of the possibilities mentioned by Ibn al-Ṭiz and others. For instance, al-Kirmānī says, ‘Its use of *came to him* means that he saw something in a dream, or he heard the voice of an angel or someone else, or a prophet informed him, or a scholar gave him a *fatwā*.’ Others add, ‘or an angel came and spoke to him, for angels would talk to some people about certain matters.’

11.2. It has emerged through a sound transmission that none of the above actually took place apart from the first version.

12. *The charity you gave to a thief.*
Abū Umayya adds, 'was accepted'. The variant of Mūsā ibn 'Aqaba and Ibn Lahī'a reads, 'The charity which you gave was accepted.' Al-Tabrānī's variant reads, 'God has accepted your charity.'

12.1. The *ḥadīth* indicates that the charity was in the observers' view meant specifically for those in need from amongst the righteous, and consequently they were surprised by the giving of charity to the three different recipients.

12.2. It also suggests that if the intention of the donor was correct then the charity was accepted, even if the aim was not fulfilled.

12.3. The jurists are at variance regarding the permissibility of this for obligatory charity. There is nothing in the *ḥadīth* to indicate either permissibility or prohibition. That is why the *Muṣannaf* [of Ibn Abī Shayba] presents the passage in the form of a question without declaring the ruling.

13. It is said that the report applies only to a specific story, and that the information about it was presented here in relation to the issue of the acceptance of charity by means of a corroborative dream. So, how can there be general applicability for the ruling? The answer is that the point of this report is the hope of future abstention from sins on the part of the recipients, which serves as proof of the validity of the ruling, for the acceptance of the charity must be linked to these factors. The report expresses the preference for giving charity secretly and being sincere, as well as the recommendation to pay the charity again if it has not been carried out correctly (the ruling applies to the outward action, even if it ends up with the same result), the blessing of surrender and contentment with God's will, and the blameworthiness of anxiety over destiny. As one of the pious predecessors has said, 'Do not refrain from worship even if it seems obvious to you that it will not be accepted!'

3.4 Abū Dāwūd, selection from *al-Sunan on zakāt*

The compiler of one of the authoritative books of *ḥadīth* reports in Sunni Islam, Sulaymān ibn al-Ash'ath Abū Dāwūd al-Sijistānī, was born in 202/817 in Sijistan, lived in Basra and died there in 275/889. He is reported to have travelled widely and learned in the process at least 500,000 *ḥadīth* reports, of which 4,800 were included in his collection. Devoted to juridical matters alone, Abū Dāwūd's *al-Sunan* is considered to have been less stringent in its criteria for inclusion of traditions than compilers such as al-Bukhārī, with the most attention being placed on the plausibility of the *isnād* transmission chain rather than the text (*matn*) of the report. Abū Dāwūd often includes explanatory comments supporting his decision to include less than totally authenticated reports and discussing the relative value of reports. He also adds remarks about the various transmissions of the reports, including variant readings and traditions.

The selection translated below illustrates both the organizational principles of Abū Dāwūd's work and the manner in which he provides comments, glosses and variant traditions. The main tradition is reported with variants, lexicographical explanations and reports of supplementary transmission paths following in sequence afterwards.

Further reading

Ignaz Goldziher, *Muslim studies*, London 1971, vol. 2, pp. 229–34.
James Robson, 'The transmission of Abū Dāwūd's *Sunan*', *Bulletin of the School of Oriental and African Studies*, 14 (1952), pp. 579–88.
Muḥammad Zubayr Siddiqī, *Ḥadīth literature: its origin, development and special features*, revised edition, Cambridge 1993, pp. 61–3.

Source text

Abū Dāwūd, *Al-Sunan*, ed. Muḥammad Muḥyī 'l-Dīn 'Abd al-Ḥamid, Tunis 1977, vol. 2, pp. 93–5 (parts I and II) and pp. 105–6 (part III).

I *Kitāb al-zakāt*

1. Qunayba ibn Sa'īd told us that Layth told him on the authority of 'Uqayl from al-Zuhri that 'Ubayd Allāh ibn 'Abd Allāh ibn 'Utha informed him on the authority of Abū Hurayra saying that when the messenger of God died and Abū Bakr was made caliph after him and some among the Arabs disbelieved, 'Umar ibn al-Khaṭṭāb asked Abū Bakr how he could fight the people when the messenger of God had said, 'I have been ordered to fight the people until they say, "There is no god but God." Those who say there is no god but God have protected their property and themselves from me other than what is due [in charity]. Their reckoning is with God.' Abū Bakr replied, 'By God, I will fight those who make a distinction between prayer and *zakāt*. *Zakāt* is due on

possessions. By God, if they hold back from me even a small portion of one year's charity which they used to give to the messenger of God, I will declare a *jihad* against them over its refusal.' Umar ibn al-Khaṭṭāb said, 'By God, then I understood that God had opened the breast of Abū Bakr to fighting and I said, "I understand that this is right."'

1.1. Abū Dāwūd said that Rabāḥ ibn Zayd and 'Abd al-Razzāq have transmitted this on the authority of Mā'mar from al-Zuhri with its own *isnād*. Some transmitters have included the word *'iqāl*, 'a small portion of one year's charity [lit. "a rope used to hobble a camel"]', while Ibn Wabb transmits it from Yūnus with the word *'anāq*, 'a young female goat'.

1.2. Abū Dāwūd said that Shu'ayb ibn Abī Ḥamza and Mā'mar and al-Zubaydī say on the authority of al-Zuhri that this report reads, 'if they hold back from me a young female goat'. Anbasa transmits on the authority of Yūnus on the authority of al-Zuhri that this report reads, 'a young female goat'.

Ibn Sarḥ and Sulaymān ibn Dāwūd told us that Ibn Wabb told them that Yūnus told him on the authority of al-Zuhri that Abū Bakr said, 'The obligation is the payment of *zakāt*'. He also said, 'A young female goat.'

II Chapter concerning what necessitates *zakāt*

1. 'Abd Allāh ibn Maslama told us that he repeated to Mālik ibn Anas on the authority of 'Amr ibn Yahyā al-Māzinī from his father, who said that he heard Abū Sa'īd al-Khudrī report that the messenger of God said, 'There is no charity payable on less than five camels, less than five units of silver or on less than five camel loads (of agricultural produce).'

2. Ayyūb ibn Muḥammad al-Raqī told us that Muḥammad ibn 'Ubayd told him that Idris ibn Yazīd al-Awḍī told him on the authority of 'Amr ibn Murrat al-Jamālī, from Abū Ḵ-Bukhtārī al-Ḵāṭī, from Abū Sa'īd al-Khudrī, attributed to the prophet, the saying, 'There is no *zakāt* payable on less than five camel loads (of agricultural produce)'. One camel load is sixty measures.

2.1. Abū Dāwūd said that Abū Ḵ-Bukhtārī did not hear reports from Abū Sa'īd.

2.2. Muḥammad ibn Qudāma ibn A'yan told us that Jarīr told him on the authority of al-Mughīra, from Ibrāhīm, who said that a camel load is sixty measures as established by al-Ḥajjāj.

3. Muḥammad ibn Bashshār told us that Muḥammad ibn 'Abd Allāh al-Anṣārī told him that Sadr ibn Abī Manāzil said that he heard Ḥabīb al-Mālikī reporting that a man said to 'Imrān ibn Ḥusayn, 'Abū Nujayd, you transmit reports for which we do not find any basis in the Qur'ān!' 'Imrān became angry and said to the man, 'Do you find that for every forty dirhams you must pay one dirham (in *zakāt*)? Or that for a certain number of goats one is due? Or that for a certain number of camels a certain number is due? Do you find this in the Qur'ān?' 'No,' he admitted. 'So,' 'Imrān said, 'where did you get this from? You got it from us and you got it from the prophet of God.' He mentioned many similar things.

III Chapter on pleasing the collectors of charity

1. Mahdī ibn Ḥafṣ and Muḥammad ibn 'Ubayd, agreeing in the sense of the report, told me that Ḥammād told them on the authority of a man called Daysam – Ibn 'Ubayd said he was from the tribe of Sudūs – from Bashīr ibn al-Khaṣṣiyya – Ibn 'Ubayd said in his version that his name was not Bashīr but that the messenger of God had named him that – who said that they asked Muḥammad, 'If the collectors of charity act unjustly towards us [by taking more than is due], may we hide our possessions to the extent that they are unjust?' He said, 'No.'

1.1. Al-Ḥasan ibn 'Alī and Yahyā ibn Mūsā told us that 'Abd al-Razzāq told them (this same report) on the authority of Mā'mar, from Ayyūb, with the same *isnād* and wording, except that Bashīr said that they said, 'Messenger of God, the collectors of charity act unjustly.'

1.2. Abū Dāwūd said that 'Abd al-Razzāq transmitted this report on the authority of Mā'mar.

2. 'Abbās ibn 'Abd al-'Azīm and Muḥammad ibn al-Muthannā told us that Bishr ibn 'Umar told them on the authority of Abū Ḵ-Ghuṣn, from Ṣīhr ibn Ishāq, from 'Abd al-Rahmān ibn Jābir ibn 'Atīk, from his father, that the messenger of God said, 'Riders who are disliked will come to you. When they come, you must welcome them and let them have what is necessary. If they are just, it will be to their credit. But if they are unjust, it will count against them. Satisfy them for the completion of your *zakāt* lies in satisfying them. They will seek a blessing for you.'

2.1. Abū Dāwūd said that Abū Ḵ-Ghuṣn is Thābit ibn Qays ibn Ghuṣn.

3. Abū Kāmil told us that 'Abd al-Wāḥid, that is Ibn Ziyād, told him that 'Uthmān ibn Abī Shayba told him that 'Abd al-Rahīm ibn Sulaymān told him that this is the report of Abū Kāmil, transmitted on the authority of Muḥammad ibn Abī Ismā'īl, who was told by 'Abd al-Rahmān ibn Hilāl al-'Absī on the authority of Jarīr ibn 'Abd Allāh, who said that some Bedouin came to the messenger of God and said that collectors of charity had come to them and acted unjustly. The messenger of God said, 'Satisfy those who collect charity from you.' They replied, 'Messenger of God, even if they act unjustly towards us?' He said, 'Satisfy those who collect charity from you.'

3.1. 'Uthmān adds here, 'even if they act unjustly'.

3.2. Abū Kāmil said in his version that Jarīr said, 'After I heard this from the messenger of God, every collector of charity who departed from me was satisfied with me.'

3.5 Ibn Bābawayh, selection from *Man lā yaḥduruh al-faqīh* on *khums*

Abū Jaʿfar Muḥammad ibn Abī ʿI-Ḥasan Ibn Bābawayh (or Ibn Bābūya), commonly referred to by the title al-Shaykh al-Ṣādiq, was born in Qum sometime after 305/917. His many surviving works indicate that he travelled extensively in Persia, Iraq and Transoxiana to collect Twelver Shiʿi *ḥadīth*, and died in Rayy in 381/991. His early works reveal him to have been a staunch traditionalist among the leading representatives of the jurists in Qum. He was at first strongly opposed to the increasing influence of Muʿtazilite rationalism on Twelver Shiʿism in his time, but came under its influence himself, as his later works indicate.

The most famous of the hundreds of works traditionally attributed to Ibn Bābawayh is *Man lā yaḥduruh al-faqīh* ('He who has no jurist present'). This is considered to be one of the four canonical collections of Shiʿi *ḥadīth*, alongside Shaykh al-Tāʾifa Muḥammad ibn Ḥasan al-ʿUṣī's two collections, *Tahdhīb al-aḥkam* and *al-Istibṣār*, and al-Kulaynī's *Kitāb al-kāfī fī ʿilm al-dīn*, the latter being often considered to be the most authoritative of all. Ibn Bābawayh is reported to have written his collection during a period of residence in Balkh, in present-day northern Afghanistan, sometime before 372/983. The similarity of its title to that of the work by the famous physician and philosopher Abū Bakr al-Rāzī (d. 311/923 or 320/932), *Man lā yaḥduruh al-ṭabīb* ('He who has no doctor present') is accounted for by the tradition that Ibn Bābawayh compiled his *ḥadīth* collection after being asked specifically to prepare the juristic equivalent of al-Rāzī's work.

The passage presented here is the chapter on *khums*, a term which means literally 'one fifth', and is a religious tax acknowledged by both Sunnis and Shiʿis, albeit with significant differences in definition and procedure. The practice is based on the verse in the Qurʾān which is cited in paragraph 8 below. The Shiʿi jurists have interpreted this tax as having a much wider applicability than have their Sunni counterparts such that, in addition to spoils of war, it includes minerals, treasure-trove, precious stones from the ocean, profits from trade, agriculture and crafts, land bought by a non-Muslim of protected status (*dhimmī*) from a Muslim, and lawful goods which have become mixed with unlawful goods. This chapter provides proof of the validity of this list by means of *ḥadīths* about the Imāms. A number of these *ḥadīths* also allude to the fact that this is not merely a fiscal issue (although it did eventually provide Shiʿi jurists with a considerable financial advantage over their Sunni counterparts), but also a reflection of the Twelver Shiʿi world-view, in which the whole world belongs rightfully to the Imāms.

Further reading

Norman Calder, 'Khums in Imāmi Shiʿi jurisprudence, from the tenth to the sixteenth century AD,' *Bulletin of the School of Oriental and African Studies*, 45 (1982), pp. 39–47.
 Juan R. I. Cole, 'Khums,' in John L. Esposito (ed.), *The Oxford encyclopedia of the modern Islamic world*, New York/Oxford 1995, vol. 1, pp. 431–2.
 Martin McDermott, 'Ebn Bābawayh (Bābūya), Shaikh Ṣādiq,' in *Encyclopaedia Iranica*.
 Abdulaziz Sachadina, 'Al-Khums: the fifth in the Imāmi Shiʿi legal system,' *Journal of Near Eastern studies*, 39 (1980), pp. 276–89.

Source text

Ibn Bābawayh [Bābūya], *Kitāb man lā yaḥduruh al-faqīh*, ed. ʿAlī-Akbar al-Ghaffārī, Qum 1983, vol. 2, pp. 39–45.

1. Abū ʿI-Ḥasan Mūsā ibn Jaʿfar was asked, 'Is *zakāt* to be paid on pearl, ruby and chrysolite extracted from the sea, and on mines of gold and silver?' He answered, 'If its value totals at least one dinar, then *khums* must be paid on it.'
2. 'Ubayd Allāh ibn ʿAlī al-Hulabī asked Imām Abū ʿAbd Allāh (Jaʿfar al-Ṣādiq) how much is to be paid on treasure-trove? He answered, 'A fifth (*khums*).' Then he asked about mines [of gold and silver]. Jaʿfar answered, '*Khums*.' Then he asked about lead, zinc, iron and the contents of the mines. He answered, 'The same amount is taken from them as is taken from mines of gold and silver.'
3. Al-Ḥasan ibn Maḥbūb related that ʿAbd Allāh ibn Sinān said that he heard Imām Abū ʿAbd Allāh (Jaʿfar al-Ṣādiq) say, 'There is no *khums* except specifically on material profit.'
4. Ahmad ibn Muḥammad ibn Abī Naṣr related on the authority of Imām Abū ʿI-Ḥasan al-Ridā, saying that he asked him about how much treasure-trove is required in order for *khums* to be payable, and he replied, 'The same amount that makes *zakāt* on such wealth obligatory.'
5. Muḥammad ibn Muslim asked Imām Abū Jaʿfar (Muḥammad al-Bāqir) what salt-mines are, to which he replied, 'Salty marsh in which water has collected, turning it into salt. *Khums* is due on it just like other mines.' Ibn Muslim then asked, 'Sulphur and oil are extracted from the earth so [are they also liable for *khums*]?' He answered, '*Khums* is due on them and other comparable things.'
6. Imām al-Ṣādiq said, 'When God prohibited us from receiving alms, he sent down for us *khums*; for us, alms is forbidden while *khums* is obligatory, so favour to us is lawful.'
7. It is related that Abū Baṣīr said that he asked Imām Abū Jaʿfar (al-Bāqir), 'What is the smallest thing for which a servant will enter hellfire?' He said, 'By spending one dirham of the property of orphans! We are the orphans!'
8. Zakariyā ibn Maʾlik al-Juʿfī asked Imām Abū ʿAbd Allāh (al-Ṣādiq) about God's words, *Know that of whatever you acquire as material profit/body a fifth (khums) belongs to God and the messenger. to those related to him, the orphans, the needy and the wayfarers* (Q 8/41). He replied, 'God's share goes to the messenger, the messenger's share goes to his relatives in addition to their own share since they are "those related" to the messenger. The orphans are the orphans belonging to the messenger's family. Thus God has determined that these four shares go to the family of the messenger. The shares of the poor and the wayfarers are met by their receipt of alms, since we do not receive that as it is not lawful for us.'

9. In the responses of Imām Riḍā to Ibrāhīm ibn Muḥammad al-Hamadānī, one finds: '*Khums* is calculated after the expenses for provisions are taken into account.'
10. Abū 'Ubayda al-Hadhā'ī related that Imām Abū Ja'far (al-Bāqir) said, 'Whichever *dhimmī* buys land from a Muslim must pay *khums* on it.'
11. Muḥammad ibn Muslim related that either Imām al-Bāqir or al-Ṣādiq said, 'The worst thing that can happen to people on the day of resurrection is for someone owed *khums* to stand up and say, "Lord, where is my *khums*?" We made the payment of *khums* agreeable for our Shī'a in order that they should be pure.'
12. A man came to the commander of the faithful, 'Alī, to ask, 'Commander of the faithful, I acquired wealth, the legitimacy of which I am uncertain; must I repent?' He answered, 'Bring me a fifth of it (*khums*).' So he brought him a fifth of it. Then he continued, 'The remainder belongs to you; if a man repents, so does his wealth.'
13. Imām Abū 'l-Ḥasan (al-Riḍā) was asked about a man, the *zakāt* on whose wealth, or the *khums* on whose booty, or the *khums* on things extracted from mines for him was taken from him by those tyrants. Can it be counted as his *zakāt* and *khums*? He answered, 'Yes.'
14. It was related that Abū 'Alī ibn Rāshid said that he said to Imām Abū 'l-Ḥasan III, 'Something was brought to me with the message, "We consider this as having belonged to Imām Abū Ja'far (al-Bāqir)," so what should I do with it?' He answered, 'Whatever belonged to my father because of his Imamate now belongs to me, and anything besides is inherited according to the Qur'ān and the *sunna* of his prophet.'
15. 'Abd Allāh ibn Bukayr related that Imām Abū 'Abd Allāh (al-Ṣādiq) said, 'I take a dirham from each of you, even though I am one of the wealthiest people of Medina, simply in order to purify you.'
16. It was related that Yūnus ibn Ya'qūb said that he was with Imām Abū 'Abd Allāh (al-Ṣādiq) when one of the sheep-dealers entered before him to say, 'Profit, wealth and merchandise has come my way which I know includes your share, but I have overlooked that.' Al-Ṣādiq said, 'It would not be unfair of me to charge you today.'
17. It was related that 'Alī ibn Mahziyār said, 'I read in one of Imām Abū Ja'far's (al-Bāqir) letters to a man who asked him to make his food and drink lawful with regards to *khums* that he wrote in response, in his own handwriting, "Whoever is in need of something rightfully belonging to me is allowed to use it."'
18. Abān ibn Taghlib related that Imām Abū 'Abd Allāh (al-Ṣādiq) was asked about what happens when a man dies without an heir or client. He answered,
19. Dāwūd ibn Kathir al-Raqī related that al-Ṣādiq said, 'People live off the surplus of what is rightfully ours and which has been taken unlawfully, apart from our Shī'is for whom we have made it lawful.'
20. Ḥafṣ ibn al-Bakhtārī related that Abū 'Abd Allāh (al-Ṣādiq) said, 'The angel Gabriel dug out with his feet five rivers, and a gush of water flowed into them: the Euphrates, the Tigris, the Nile, Mihrān and Balkhāb. Whatever land is watered by them belongs to the Imām, as well as the sea that encircles the planet. The latter is called "Afsikūn" [the Caspian Sea].'

Abū Jaʿfar Muḥammad ibn Yaʿqūb al-Kulaynī (or al-Kulīnī) came from a village called Kulayn, near Rayy in present-day Iran. Very little is known about his life. He eventually moved to Baghdad, where, apparently over the course of two decades, he compiled his only surviving work, the voluminous *Kitāb al-kāfi fī ʿilm al-dīn* ('The sufficient in the science of religion'). This is widely regarded by Shiʿī Muslims to be the most authoritative of their four canonical *ḥadīth* collections. Through this monumental work, al-Kulaynī has acquired a lofty status in Shiʿism, which is indicated by the fact that he is considered to have been the 'renewer' of the Shiʿī faith (*mujaʿdid*) for the fourth century after the prophet's lifetime. He died in about 329/940 in Baghdad, where his tomb is a major pilgrimage site for Shiʿīs from across the world.

As its title suggests, al-Kulaynī's *al-Kāfi* was meant to be a comprehensive account of the religious sciences through the traditions of the Imāms. It is divided into two parts, devoted to the sciences of theology and jurisprudence, respectively. There is also an appendix at the end, consisting of miscellaneous traditions. *Al-Kāfi*'s reputation as an authoritative source of traditions seems to have developed slowly, rising to prominence only after Muḥammad al-Ṭūsī, Shaykh al-Ṭāʾifa, made extensive use of it for his foundational works of Shiʿī jurisprudence. Since then it has attracted numerous commentaries and translations, especially during the Safavīd period.

The passage presented here comes from the chapter of al-Kulaynī's *al-Kāfi* which offers juristic traditions about temporary marriage (*mutʿa*; lit. 'enjoyment') from the section of the work devoted to marital issues. The permissibility in Shiʿism of temporary marriage, which is forbidden in Sunni Islam, is one of the most controversial differences between these two Muslim traditions. Shiʿī scholars point to sanction for this practice in the Qurʾān (Q 4/24; cited a number of times in the passage below) and the *sunna* of the prophet, and accuse the second caliph, ʿUmar ibn al-Khaṭṭāb, of innovation for forbidding what had been allowed during the prophet's life. In addition to *ḥadīths* of the Imāms which prove the legitimacy of the practice for Twelver Shiʿīs, this passage also contains a typical polemical narrative, in which the Sunni jurist Abū Ḥanīfa is outsmarted by his Shiʿī counterpart, whom he has approached specifically to refute the Shiʿī argument for the permissibility of temporary marriage.

On the variant reading of Q 4/24 in paragraph 3 below, attributed to Ibn ʿAbbās and Ibn Masʿūd, see Arthur Gibbetz, *Strange bedfellows: Mutʿat al-nisāʾ and Mutʿat al-ḥajj: a study based on Sunni and Shiʿī sources of tafsīr, ḥadīth and fiqh*, Berlin 1994, pp. 51–2. For Sunni opinion of this variant reading, see al-Ṭabarī, *Tafsīr al-Ṭabarī*, ed. M. M. Shākir, A. M. Shākir, 16 vols, Cairo 1954–68, vol. 8, pp. 176–9.

Further reading

Shahla Haeri, *Law of desire: temporary marriage in Iran*, London/Syracuse 1989.
Willi Heffening, 'Mutʿa,' in *Encyclopaedia of Islam*, new edition.
Ahmad Kazemi Moussavi, 'Ḥadīth ii. In Shiʿism,' in *Encyclopaedia Iranica*.
Wilfried Madelung, 'Al-Kulaynī (or al-Kulīnī), Abū Jaʿfar Muḥammad,' in *Encyclopaedia of Islam*, new edition.

Andrew J. Newman, *The formative period of Twelver Shiʿism: ḥadīth as discourse between Qum and Baghdad*, Richmond 2000.

Source text

Al-Kulaynī, *Al-Furūʿ min al-Kāfi*, ed. M. al-Ākhundī, Tehran 1983, vol. 5, pp. 448–50.

Chapter: on temporary marriage

- On the authority of a number of my associates, on the authority of Saḥl ibn Ziyād and ʿAlī ibn Ibrāhīm, both on the authority of the latter's father, on the authority of Ibn Abī Najrān, on the authority of ʿĀṣim ibn Ḥamīd, on the authority of Abū Baṣīr, who said, 'I asked Imām Abū Jaʿfar (Muḥammad al-Bāqir) about *mutʿa*. He replied that it was revealed in the Qurʾān, *Since you enjoy them (istamtaʿtum), give them their recompense; but if you decide together on an alternative after the sun has already been prescribed, you will have done no wrong (Q 4/24).*'
- On the authority of Muḥammad ibn Ismāʿīl, on the authority of al-Fadl ibn Shādhān, on the authority of Ṣafwān ibn Yahyā, on the authority of Ibn Miskān, on the authority of ʿAbd Allāh ibn Sulaymān, who said that he heard Abū Jaʿfar (Muḥammad al-Bāqir) say that 'Alī used to say, 'If it were not for what al-Khaṭṭāb [i.e., ʿUmar, the second caliph] did before me, there would have been little formation committed.'
- On the authority of ʿAlī ibn Ibrāhīm, on the authority of his father, on the authority of Ibn Abī ʿUmayr, from someone who mentioned it on the authority of Abū ʿAbd Allāh who said, 'It has been revealed, *Since you enjoy them until an appointed time, give them their recompense.*' [variant reading of Q 4/24]
- On the authority of ʿAlī, on the authority of his father, on the authority of Ibn Abī ʿUmayr, on the authority of ʿUmar ibn Udhayna, on the authority of Zurāra who said that 'Abd Allāh ibn ʿUmayr al-Laythī came before Imām Abū Jaʿfar (Muḥammad al-Bāqir) and said to him, 'What do you say concerning the *mutʿa* of women?' He replied, 'God made it lawful in His book and according to the words of his prophet: therefore it is lawful until the end of time.' ʿAbd Allāh said, 'Abū Jaʿfar, how can someone like you say this when ʿUmar forbade it?' Abū Jaʿfar responded, 'It makes no difference if he did that!' ʿAbd Allāh said, 'God forgive you for pronouncing legitimate what ʿUmar has prohibited!' Abū Jaʿfar said, 'You follow the opinion of your companion, while I follow the opinion of the messenger of God himself. Come here! May I be damned if the correct opinion is not that of the messenger of God, and the void opinion that of your companion.' Zurāra continued his narration saying that 'Abd Allāh ibn ʿUmayr turned around and said, 'So you are happy that your woman, daughters, sisters and cousins should do this.' Zurāra said that Abū Jaʿfar turned away when he mentioned them.

5. On the authority of Muḥammad ibn Yahyā, on the authority of 'Abd Allāh ibn Muḥammad, on the authority of 'Alī ibn al-Ḥukm, on the authority of Abān ibn 'Uthmān, on the authority of Abū Maryam, on the authority of Imām Abū 'Abd Allāh (Ja'far al-Sādiq), who said, 'Mu'ā was revealed in the Qur'ān, and was mentioned in the *sunna* of the messenger of God.'

6. On the authority of 'Alī ibn Ibrāhīm, on the authority of his father, on the authority of Ibn Abī 'Umayr, on the authority of 'Alī ibn al-Ḥasan ibn Ribāʿ, on the authority of Ḥaʾīz, on the authority of 'Abd al-Rahmān ibn Abī 'Abd Allāh, who said that he heard Abū Ḥanīfa ask Imām Abū 'Abd Allāh (Ja'far al-Sādiq) about *mu'ā*, and he replied, 'About which of the two *mu'ās* are you asking?' He said, 'I've already asked you about the *mu'ā* of *ḥajj* [the enjoyment of the freedom of normal life after the pilgrim's state of ritual consecration], so inform me about the *mu'ā* of women. Is this a man's right?' He replied, 'Glory be to God! Have you not read in the book of God, *Since you enjoy them, give them their recompense* (Q 4/24)?' Abū Ḥanīfa said, 'By God, it is as if I have never read that verse!'

7. On the authority of 'Alī ibn Ibrāhīm, on the authority of his father, on the authority of Ibn Maḥbūb, on the authority of 'Alī al-Sā'i, who said that he said to Imām Abū 'I-Ḥasan ('Alī al-Hādī), 'May I become your sacrifice! I used to have *mu'ās*, but I began to dislike the practice and regarded it as wrong, and so I made a promise to God while between the Ka'ba and the Station of Abraham. I obliged myself to fast and make an offering, promising that I would not have any further *mu'ās*. But then it became hard for me, and I regretted my vow, and not having the ability to marry openly again.' The Imām said to me, 'You made a vow to God that you would be disobedient to Him, and, by God, you were indeed extremely disobedient to Him!'

8. 'Alī Ra'fa said that Abū Ḥanīfa asked Abū Ja'far Muḥammad ibn al-Nu'mān Ṣāhib al-Ṭāq, 'What do you say, Abū Ja'far, concerning *mu'ā*? Do you consider it lawful?' He replied, 'Yes.' Abū Ḥanīfa then asked, 'What stops you from instructing your women to have *mu'ās* on your authority?' Abū Ja'far answered him, 'Not all activities are desirable even if they should be lawful. People have different capacities and ranks, and they can increase their capacity. But what do you say, Abū Ḥanīfa, about (date) wine? Do you consider that lawful?' He answered, 'Yes.' Abū Ja'far countered, 'So what stops you from seating your women behind the liquor-stalls to drink on your authority?' Abū Ḥanīfa responded, 'It is one strike each, but your arrow has hit the mark! Abū Ja'far, the *ḍiya* which is found in the *sūra* that opens with "The questioner asked" [i.e., Q 70] conveys the prohibition of *mu'ā* (Q 70/29–30), and the tradition about the messenger of God abrogates the permission for *mu'ā*.' Abū Ja'far responded to him, 'Abū Ḥanīfa, the *sūra* that opens with "The questioner asked" is Meccan, while the verse about *mu'ā* is Medinan, and your prophetic tradition is an unsound transmission.' Abū Ḥanīfa countered, 'The *ḍiya* about inheritance also pronounces the abrogation of *mu'ā*.' Abū Ja'far responded, 'It is proven that there can be marriage without inheritance.' Abū Ḥanīfa asked, 'On what basis do you say this?' Abū Ja'far answered, 'If a Muslim man marries a Jewish or

Christian woman and then dies, what do you say should happen?' Abū Ḥanīfa said, 'She does not inherit anything from him.' Abū Ja'far concluded, 'Therefore the possibility of marriage without inheritance has indeed been proven! Then they parted company.'

Chapter: 'They have the same status as slave-girls and are not limited to a total of four'

1. 'Alī ibn Ibrāhīm, on the authority of his father, on the authority of Ibn Abī 'Umayr, on the authority of 'Umar ibn Udhayna, on the authority of Imām Abū 'Abd Allāh (Ja'far al-Sādiq), whom he asked, 'How many *mu'ās* are lawful?' He replied, 'They have the same status as slave-girls.'

2. On the authority of al-Ḥasan ibn Muḥammad, on the authority of Ahmad ibn Ishāq al-Ash'arī, on the authority of Bakr ibn Muḥammad al-Azdi, who said, 'I asked Imām Abū 'I-Ḥasan ('Alī al-Hādī) about *mu'ā*, whether it is limited to a total of four, and he replied, "No."'

3. On the authority of Muḥammad ibn Yahyā, on the authority of Ahmad ibn Muḥammad, on the authority of Ibn Maḥbūb, on the authority of Ibn Ri'āb, on the authority of Zurāra ibn A'yan, who said that he asked, 'What total is lawful for *mu'ā*? He replied, 'As many as you like.'

4. On the authority of al-Ḥusayn ibn Muḥammad, on the authority of Mu'allī ibn Muḥammad, on the authority of al-Ḥasan ibn 'Alī, on the authority of Hammād ibn 'Uthmān, on the authority of Abū Basīr, who said that Imām Abū 'Abd Allāh (Ja'far al-Sādiq) was asked whether *mu'ā* is limited to a total of four, and he answered, 'No, and neither is it limited to seventy!'

5. On the authority of Muḥammad ibn Yahyā, on the authority of Ahmad ibn Muḥammad ibn 'Īsā, on the authority of al-Ḥusayn Sa'īd, also on the authority of Muḥammad ibn Khalīd al-Barqī, on the authority of al-Qāsim ibn 'Urwa, on the authority of 'Abd al-Ḥamīd, on the authority of Muḥammad ibn Muslim, on the authority of Imām Abū Ja'far (Muḥammad al-Bāqir), who said concerning *mu'ā*, 'It is not limited to four because it does not involve divorce and inheritance, since it is merely something you lease.'

6. On the authority of 'Alī ibn Ibrāhīm, on the authority of his father, on the authority of Ibn Abī 'Umayr, on the authority of 'Umar ibn Udhayna, on the authority of Ismā'īl ibn al-Faḍl al-Hāshimī, who said that he asked Imām Abū 'Abd Allāh (Ja'far al-Sādiq) about *mu'ā* and he said, 'Find 'Abd al-Malik ibn Jurayj and ask him about it, for he has a lot of information about it.' So I met him, and he dictated to me a lot of material about its legitimacy, including the following. 'It does not have a specific duration, nor is it limited to a specific number of temporary wives; they have only the rank of slave-girls, so one can marry as many as one pleases, and a man with four wives can also marry as many as he pleases. No agent is required, nor witnesses. When the agreed termination point arrives, she parts from him without divorce and he gives her

something relatively small. Her period of abstinence (*idda*) is two menstrual cycles, or, if she does not menstruate, then forty-five days.' I took what I had written down of this dictation to Abū 'Abd Allāh (Ja'far al-Ṣādiq) and repeated it all to him. He responded, 'It is correct, and I personally confirm that.'

6.1. Ibn Udhayna said that Zurāra ibn A'yan used to say this and then swear that it is the truth, with only the following discrepancy: 'If she menstruates then her *idda* should be one menstrual cycle, and if she does not menstruate, then a month and a half.'

7. On the authority of al-Ḥusayn ibn Muḥammad, on the authority of Ahmad ibn Ishāq, on the authority of Sa'dān ibn Muslim, on the authority of 'Ubayd ibn Zurāra, on the authority of his father, who said that he asked Imām Abū 'Abd Allāh (Ja'far al-Ṣādiq) whether *mu'ā* is limited to a total of four, and he replied, 'Marry a thousand of them, for they are simply leased.'