

# Hadith and *Fiqh* in the Ottoman Period Between Egyptian and Rumelian Ḥanafīs, 9<sup>th</sup>-11<sup>th</sup> Centuries A.H.

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## Introduction

The exact relationship between hadith and *fiqh* was one of the most contentious issues in the formative period of Islamic law. While all leading legal authorities claimed to follow and give highest regard to the teachings of the Prophet in their legal pronouncements, what exactly constituted reliably conveyed Prophetic teachings and what exactly the role of the mind was in interpreting and drawing legal rules from these teachings remained an issue of debate between rationalists (*ahl al-ra'iy*), who gave great agency to the mind in the formulation of legal rules, and the traditionists (*ahl al-ḥadīth*), who gave highest authority to hadiths, or transmitted Prophetic utterances. It has been said that the scholarship of Muḥammad ibn Idrīs al-Shāfi'ī (d. 204/820) offered a decisive compromise position between the two camps by both arguing that hadiths deemed *ṣaḥīḥ* (authentic) by leading traditionists must be taken as a basis for Islamic law, while defending the role of the mind through a well-defined process of *qiyās* (legal analogy).<sup>1</sup> Despite the important compromise championed by al-Shāfi'ī, the Ḥanafī school continued to develop a distinct approach to this question by not giving primary importance to such *ṣaḥīḥ* hadiths, but rather continuing an earlier, formative-period approach of

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1 See Ahmed El Shamsy, *The Canonization of Islamic Law: A Social and Intellectual History* (Cambridge: Cambridge University Press, 2013), Chapters 1-3.

identifying strong reports not from the analysis of traditionists but by the understandings of leading teachers of law.<sup>2</sup>

The current essay argues that the effects of this early debate of *fiqh* and hadith continued *within* the Ḥanafī tradition of the Ottoman period, with the rise of two Ottoman schools representing two distinct approaches to hadith: the Rumelian/Anatolian school and the Egyptian/Syrian school.<sup>3</sup> While both schools traced their intellectual lineages back to the Central-Asian early classical school of the 5<sup>th</sup> and 6<sup>th</sup> Islamic centuries<sup>4</sup> – where the great ‘classics’ of Ḥanafī substantive law and legal theory were authored<sup>5</sup> – they developed on very different lines based on their understanding of the relationship between hadith and *fiqh*. As both schools grow out of the same Central-Asian tradition, the teachings of that tradition provide a helpful basis from where to understand developments in the two Ottoman schools. This essay shows, by a careful comparison of works of legal theory (*uṣūl al-fiqh*) and substantive law (*furū‘ al-fiqh*) between the Central-Asian and Ottoman schools, that the Rumelian/Anatolian school represents a continuation of the early classical tradition in its approach to hadiths, while the Egyptian/Syrian tradition strove hard to chart a new course in this regard by bringing Ḥanafī legal doctrine in line with the prevalent non-Ḥanafī approach of giving highest regard to hadiths deemed *ṣaḥīḥ* by traditionists.

This essay is divided into three sections. The first section presents the general approach to hadiths in the early classical school, with a brief foray into dis-

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- 2 Sohail Hanif, *A Theory of Early Classical Ḥanafism: Authority, Rationality and Tradition in the Hidāyah of Burhān al-Dīn ‘Alī ibn Abī Bakr al-Marghīnānī* (d. 593/1197) (PhD Diss.: University of Oxford, 2017), 49-59.
- 3 For the purpose of the current study, what is meant by the Ottoman Egyptian/Syrian school is the scholarship in Egypt and Syria that occurred after the Ottoman victory over the Mamlūks in 922/1517.
- 4 The primacy of Central-Asian Ḥanafī scholarship is clear from a study of the westward migration of Ḥanafī scholars from Central Asia. See Wilferd Madelung, “The Westward migration of Ḥanafī scholars from Central Asia in the 11<sup>th</sup> to 13<sup>th</sup> centuries”, *AÜİFD* 43/2 (2002): 41-55; Wilferd Madelung, “The Spread of Māturīdism and the Turks”, in *Actos IX Congresso de Estudos Árabes e Islâmicos Coimbra-Lisboa 1968* (Leiden: Brill, 1971), 109-168.
- 5 On the works from this period, and specifically from Central Asia, forming the most continuously referenced authoritative texts in Ḥanafī substantive law, see Talal Al-Azem, *Rule Formulation and Binding Precedent in the Madhhab-Law Tradition: Ibn Quṭlūbughā’s Commentary on The Compendium of Qudūrī* (Leiden: Brill, 2017), 50-84. To illustrate the centrality of legal theory works from this era, we can note that al-Nasafī’s (d. 710/1310) *Manār al-anwār*, a summary of the two *uṣūl* works of al-Sarakhsī (d. c. 483/1090) and al-Bazdawī (d. 482/1089), was the most commented-upon work of Islamic legal theory after the *Mukhtaṣar* of Ibn al-Ḥājīb (d. 646/1249): see Aron Zysow, “Mu’tazilism and Māturīdism in Ḥanafī Legal Theory”, in *Studies in Islamic Legal Theory*, ed. Bernard Weiss (Leiden: Brill, 2002), 235-265, at 238.

cussions from both legal theory and substantive law. The second section focuses on legal theory in the two Ottoman schools and explores developments in hadith theory in Ḥanafī *uṣūl al-fiqh*. The third focuses on the approach to hadiths in works of substantive law from the two Ottoman schools. The essay shows that both Ottoman schools altered important aspects of their hadith theory in legal theory works in a way that brought them closer to the theory of the non-Ḥanafī *uṣūl* tradition. However, in substantive law, the Rumelian/Anatolian school stayed close to the approach of the Central-Asian tradition, which saw correspondence to the legal cases transmitted from Abū Ḥanīfa's circle the main determiner of the strength of a hadith, while the Egyptian/Syrian school sought to construct Ḥanafī doctrine on a scaffolding of hadith sciences that drew from the wider non-Ḥanafī hadith tradition. In so doing, the Egyptian/Syrian tradition will be shown to be consciously responding to and building on the work of the Mamlūk Egyptian Ḥanafī scholar Muḥammad ibn 'Abd al-Wāḥid al-Sīwāsī, known popularly as Kamāl al-Dīn ibn al-Humām (d. 861/1457), the first Ḥanafī author to apply, in a consistent, thorough and honest manner, the new developments of Ḥanafī hadith theory to Ḥanafī substantive law. Fascinatingly, the Rumelian/Anatolian school was fully aware of the work of Ibn al-Humām and the scholarship that built on this work, yet they consciously chose not to construct their scaffolding of Ḥanafī thought on the approach to hadith of this competing Ḥanafī *fiqh* tradition.

### *Scholars and Works in This Study*

The following scholars and works are investigated in this paper. While the works studied give sufficient breadth to uphold the findings of the paper, future work with a much larger set of sample texts is needed to further substantiate and develop the findings.

### Early Classical Writers

Aḥmad ibn Abī Sahl al-Sarakhsī – one of the leading teachers of the early classical school.<sup>6</sup> His work in legal theory, known popularly as *Uṣūl al-Sarakhsī*, forms one of the two main texts of legal theory that are, in the study below, taken as representative of the main legal theory tradition<sup>7</sup> in the early

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6 Al-Azem shows that the beginning of *madhhab* as a social guild in Central Asia occurs with al-Sarakhsī: see Al-Azem, *Rule-Formulation*, 67-77.

7 The primary legal theory tradition in the early classical Ḥanafī school that continued to be the main basis for study and commentary after the early classical period is the *uṣūl* tradition that is legal in its formulation, i.e. its discussions are presented primarily as a means to better understand the legal cases of Abū Ḥanīfa's circle. The *uṣūl* works of al-Sarakhsī and al-Bazdawī, that were summarised by al-Nasafī in his *Manār*, became the most influential works of this genre. A second legal theory tradition also existed in the early classical school,

classical school. He also authored an important legal commentary entitled *al-Mabsūṭ*.

Fakhr al-Islām ‘Alī ibn Muḥammad al-Bazdawī – the author of *Kanz al-wuṣūl ilā ‘ilm al-uṣūl*, a highly influential work in legal theory, taken below as the second main text of legal theory to represent early classical thought.

‘Alī ibn Abī Bakr al-Marghīnānī (d. 593/1197) – one of the leading authors of the early classical school. His legal commentary, *al-Hidāya*, was arguably the greatest ‘classic’ produced by the early classical tradition,<sup>8</sup> and, in the study below, it is taken as representative of the legal commentary tradition of the early classical school.

### Mamlūk Writers

Ibn al-Humām – a renowned Ḥanafī author of the Mamlūk period. His *Fatḥ al-Qadīr lil-‘ajjiz al-faqīr* is a commentary on the *Hidāya* of al-Marghīnānī. In the commentary, Ibn al-Humām offers an honest engagement with hadith criticism that influenced the Egyptian/Syrian school after him. His work in legal theory, *al-Taḥrīr*, was an influential work that sought to combine discussions from the Ḥanafī *uṣūl* tradition with those from Shāfi‘ī *uṣūl* tradition.

Qāsim ibn Quṭlūbughā (d. 879/1474, Cairo) – a student of Ibn al-Humām. His short work in legal theory, *Khulāṣat al-afkār sharḥ Mukhtaṣar al-Manār*, offers a helpful overview of developments in Ḥanafī legal theory in Mamlūk scholarship.

Jamāl al-Dīn ‘Abd Allāh ibn Yūsuf al-Zayla‘ī (d. 762/1360, Cairo) – an Egyptian Ḥanafī hadith scholar of Somalian origin who authored one of the most important studies of the hadiths used in *fiqh* works, the *Naṣb al-rāya fī takhrīj ahādīth al-Hidāya*. He is not to be confused with his teacher Fakhr al-Dīn ‘Uṭhmān ibn ‘Alī al-Zayla‘ī (d. 743/1343, Cairo), the author of *Tabayīn al-ḥaqā‘iq*, a renowned work of legal commentary.

Badr al-Dīn Maḥmūd ibn Aḥmad al-‘Aynī (d. 855/1451, Cairo) – author of a

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but it did not assert the same level of influence. This other tradition was primarily theological in its formulation, i.e. its discussions are presented to be faithful to the implications of Māturīdī theology. On this theological tradition, see Dale Correa, “Taking a Theological Turn in Legal Theory: Regional Priority and Theology in Transoxanian Ḥanafī thought”, in *Locating the Sharī‘a: Legal Fluidity in Theory, History and Practice*, ed. Sohaira Siddiqui (Leiden: Brill, 2019), 111-126, and Dale Correa, *Testifying Beyond Experience. Theories of Akhbār and the Boundaries of Community in Transoxanian Islamic Thought, 10<sup>th</sup>-12<sup>th</sup> centuries CE* (PhD Diss.: New York University, 2014).

8 The *Hidāya* was the most referenced work in Ibn Quṭlūbughā’s survey of Ḥanafī legal thought: see Al-Azem, *Rule-Formulation*, 71.

large commentary on the *Hidāya* entitled *al-Bināya*, replete with detailed discussions on hadith evidence and criticism.

### Ottoman Writers – Egyptian/Syrian School

Ibrāhīm al-Ḥalabī (d. 956/1549-50, Istanbul) – a leading teacher in Ottoman Istanbul, holding the prestigious position of imam of Istanbul's Sultan Muḥammad Khān Grand-mosque and teacher of the Dār al-Qurrā' *madrassa* established by Sa'dī Çelebī (d. 945/1539). It would appear curious to include a scholar from Istanbul among the Egyptian/Syrians. His inclusion here is in view of his training, which took place in Aleppo and Egypt, prior to his travel to Istanbul, and in view of his written work, which clearly situates him in the intellectual milieu of the Egyptian/Syrian school, particularly his work in substantive law that we will study below, the *Ghunyat al-mutamallī sharḥ Munyat al-muṣallī*, known popularly as *al-Ḥalabī al-kabīr*.<sup>9</sup>

Zayn al-Dīn ibn Ibrāhīm ibn Nujaym (d. 970/1563) – a student of the aforementioned Qāsim ibn Quṭlūbughā and arguably the leading representative of the Egyptian Ottoman school. His *al-Baḥr al-rā'iq sharḥ Kanz al-daqa'iq* is an encyclopaedic exposition of Ḥanafī law, and is studied below, as is his work in legal theory, *Fath al-Ghaffār sharḥ al-Manār*.<sup>10</sup>

Muḥammad ibn 'Abd Allāh ibn Aḥmad al-Tumurtāshī (d. 1004/1595-6, Gaza) – a scholar from Gaza who studied in Egypt under the aforementioned Zayn al-Dīn ibn Nujaym. He authored an influential epitome (*mukhtaṣar*) of Ḥanafī *fiqh* entitled *Tanwīr al-abṣār* and a commentary on it entitled *Minaḥ al-Ghaffār*.<sup>11</sup>

'Alā' al-Dīn Muḥammad ibn 'Alī al-Ḥaṣḥakafī (d. 1088/1677, Damascus) – mufti of Damascus, whose studies occurred in Damascus, Jerusalem and Rumelia. His teachers include Khayr al-Dīn al-Ramlī (d. 1081/1671), a Palestinian Ḥanafī scholar who trained in Cairo at al-Azhar. His *Ifāḍat al-anwār*, studied below, is a concise work in legal theory that offers a commentary on al-Nasafī's *Manār al-anwār*. (Al-Ḥaṣḥakafī's *al-Durr al-Mukhtār*, a commentary on the aforementioned *Tanwīr al-abṣār* of al-Tumurtāshī, does not feature in the present study despite its popularity as a teaching text. This is because it does not fit into the same genre of legal writing as the other commentaries in the current study, as

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9 Taşköprüzade, *al-Shaqā'iq al-nu'māniyya fī 'ulamā' al-dawla al-'uthmāniyya* (Beirut: Dār al-Kitāb al-'Arabī, 1975), 295-296.

10 Ibn al-'Imād, *Shadharāt al-dhahab fī akhbār man dhahab*, ed. Maḥmūd al-Arna'ūtī, 11 vols. (Damascus & Beirut: Dār Ibn Kathīr, 1986), 10: 523.

11 Al-Muḥibbī, *Khulāṣat al-athar fī a'yān al-qarn al-hādī 'ashar*, 4 vols. (Beirut: Dār Ṣādir, n.d.), 4: 19-20. On his importance to the Ottoman Ḥanafī tradition see Samy Ayoub, *We're Not in Kufa Anymore: The Construction of Late Ḥanafism in the Early Modern Ottoman Empire, 16<sup>th</sup>-19<sup>th</sup> Centuries CE* (PhD Diss.: University of Arizona, 2014), 57-116.

these other commentaries focus on providing justificatory arguments for the rules on which they are commenting, which is not the focus of al-Ḥaṣkafī's work.)

Ḥasan ibn 'Ammār al-Shurunbulālī (d. 1069/1659, Cairo) – a leading Egyptian mufti and teacher at al-Azhar. His *Imdād al-Fattāḥ* was a commentary on *Nūr al-īdāḥ*, an influential epitome of his own authorship on the rules of ritual worship.

### Ottoman Writers – Rumelian/Anatolian School

Mullā Khusraw, Muḥammad ibn Farāmūz ibn 'Alī, (d. 885/1479-80, Istanbul) – son of a Rumelian convert to Islam who became a teacher in Bursa and judge in Istanbul. He authored influential original works in both legal theory and substantive law. In legal theory he authored *Mir'āt al-uṣūl*, a commentary on his own *Mirqāt al-wuṣūl ilā 'ilm al-uṣūl*; and in substantive law he authored *Durar al-ḥukkām*, a commentary on his own *Ghurur al-aḥkām*, both texts studied below.<sup>12</sup>

Ibn Kamāl Pāshā, Aḥmad ibn Sulaymān (henceforth Kamāl Pāshā-Zāde) (d. 940/1533-4, Istanbul) – one of the more renowned Shaykh al-Islāms of the Ottoman empire. Two of his works are studied below: his work in legal theory entitled *Taḡhyīr al-Tanqīḥ* – a critical engagement with Ṣadr al-Sharī'a's (d. 747/1346-7) *Tanqīḥ al-uṣūl* – and his work in substantive law *al-Īdāḥ*, a commentary on his own *al-Iṣlāḥ*, which was written as a critical engagement with Ṣadr al-Sharī'a's *Sharḥ al-Wiqāya*.<sup>13</sup>

Muṣṭafā ibn Sulaymān Bālī-Zade (d. 1069/1658-9, Südlīja [Sütlüce], on the outskirts of Istanbul) – a scholar of Bosnian origin whose teaching career was based in Istanbul, and who occupied the post of Shaykh al-Islām for a six-month period. His *al-Farā'id fī ḥall al-masā'il wa-al-qawā'id*, a commentary on al-Nasafī's *Kanz al-daqa'iq*, is studied below.<sup>14</sup>

Abū Sa'īd al-Khādīmī (d. 1176/1762-3?, Khādīm) – a scholar of Bukharan origin who was born and died in Khādīm at the outskirts of Konya and taught also in Istanbul. His work in legal theory *Manāfi' al-daqa'iq*, a commentary on his own *Majāmi' al-ḥaqā'iq*, is studied below. The brief engagement with his *uṣūl* work below is the only engagement in this paper with a work from the 12<sup>th</sup> Islamic century.

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12 Al-Laknawī, *al-Fawā'id al-bahiyya fī tarājim al-Ḥanafīyya*, ed. Muḥammad Badr al-Dīn al-Na'sānī (Cairo: Maṭba'at al-Sa'āda, 1324/1906-07), 184.

13 Al-Laknawī, *al-Fawā'id al-bahiyya*, 22.

14 Aḥmad Ṣidqī Shuqayrāt, *Tārīkh mu'assasat shuyūkh al-islām fī al-'ahd al-'Uthmānī* (Irbid, Jordan: Dār al-Kindī, 2002), 535-537.

'Abd al-Raḥmān ibn Muḥammad ibn Sulaymān, known as Dāmād Efendi and Shaykhī-Zāde (henceforth Shaykhī-Zāde) (d. 1078/1667-8) – originally from Gelibolu, a military judge who authored, in Edirne, his *Majma' al-anhur*, a commentary on *Multaqā al-abḥur*, an influential epitome (*mukhtaṣar*) authored by the aforementioned Ibrāhīm al-Ḥalabī.

Al-Khādimī is the only 12<sup>th</sup> century Ottoman scholar in the study, the rest span the 9<sup>th</sup> to the 11<sup>th</sup> centuries, and with the exception of al-Khādimī, the careers of the other Rumelian/Anatolian scholars were based in Istanbul and Edirne, both in Rumelia. Thus, this school will henceforth be referred to as simply the Rumelian school. Similarly, the scholars of the Egyptian/Syrian school in the study were either all based in Egypt or studied there, with the exception of al-Ḥaṣkafī, who connects to Egypt indirectly through his teachers. Furthermore, their school will be shown to be a continuation of the school of the Egyptian Ibn al-Humām. Thus, this school will henceforth be referred to simply as the Egyptian school.

### Section One: Hadith in Early Classical Ḥanafī Thought

What I refer to as the 'early classical' school is primarily the scholarship of the fifth and sixth Islamic centuries, a scholarship that produced the main classics of the Ḥanafī literary tradition, works in substantive law and legal theory that eclipsed earlier works as the main teaching texts of the school, and that retained their popularity and importance throughout Islamic history. The main centre of early classical Ḥanafī scholarship was Central Asia.

The most influential early classical works in legal theory are the *uṣūl* works of al-Sarakhsī and Fakhr al-Islām al-Bazdawī. The summary below represents key discussions on the topic of hadiths. The most influential early classical works in legal commentary include the *Mabsūṭ* of al-Sarakhsī and the *Hidāya* of al-Marghīnānī. The discussion below captures the main features of these texts in how they present hadiths.

#### *Legal Theory (uṣūl al-fiqh)*

The discussions of legal theory present a fully developed *fiqh*-based method for assessing the strength of Prophetic reports. In short, the discussions present strong hadiths as those which were upheld by leading teachers of law from the *salaf*, the first two to three generations of Muslims, and weak hadiths as those that were not upheld by these teachers and violated the general patterns of the law. These works show little regard for the intricate science of hadith criticism developed by traditionists. The following summary presents main features of this *fiqh*-based, *salaf*-based approach to hadiths.

### *Chains of transmission*<sup>15</sup>

While assessing the connectedness of chains of transmission is the hallmark of traditionists in assessing the strength of hadiths, Ḥanafī legal theory gives little regard to the topic. We are told, instead, that the *mursal* report – one which omits the chain that connects to the Prophet – is acceptable from anyone in the first three generations of Muslims. In other words, anyone from the first three generations may say, “The Prophet said...” and it would be as strong, according to these works of legal theory, as someone naming a full chain of transmission back to the Prophet. We are told that for narrators after the first three generations there is a disagreement: al-Karkhī (d. 340/952) held that their *mursal* reports were acceptable if they were found to be upright (*ʿadl*) and reliable (*ḍābiṭ*), while ʿIsā ibn Abān (d. 221/835-6) held that they were only accepted if the *mursal* narrations of such people were widely considered of high quality. While this discussion seems to equate all narrators from the first three generations, it would appear a more consistent reading to understand this to be a reference to leading teachers of law from these generations, as much of the hadith theory revolves around the judgements of these figures, as we will see.

### *Narrators*<sup>16</sup>

Traditionists study the uprightness (*ʿadāla*) and precision (*ḍabṭ*) of hadith narrators when assessing the strength of a hadith’s transmission. These investigations they apply to all narrators after the Companions (*ṣaḥāba*), as the Companions are assumed to be above such investigations by virtue of their uprightness.<sup>17</sup> The Ḥanafī works of legal theory provide an alternative theory of narrator critique. Interestingly, their critique is directed explicitly only against narrators from the Companions, and they are silent about narrators after the Companions. In this theory, it is the experts in law from the earliest generations of Muslims who are presented as the absolute authorities in sound hadith transmission. Those who narrated directly from the Prophet are divided into three categories:

- a. Narrators known for *fiqh*, i.e., they were upheld as leading authorities in the law. This group of narrators includes the Rightly-Guided Caliphs, the

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15 Al-Sarakhsī, *Uṣūl al-Sarakhsī*, ed. Abū al-Wafā’ al-Afghānī, 2 vols. (Hyderabad: Iḥyā’ al-Ma’ārif al-Nu’māniyya, 1372/1952-53; reprint, Beirut: Dār al-Kutub al-ʿIlmiyya, 1993), 1: 359-364; al-Bazdawī, *Uṣūl al-Bazdawī: Kanz al-wuṣūl ilā ma’rifat al-uṣūl* (Karachi: Mīr Muḥammad Kutub Khānah, n.d.), 171-173.

16 Al-Sarakhsī, *Uṣūl*, 1: 338-345; al-Bazdawī, *Uṣūl*, 158-163.

17 On the uprightness of all Companions in traditional hadith criticism, see Ibn Kathīr, *al-Bā’ith al-ḥathīth sharḥ ikhtisār ‘ulūm al-ḥadīth*, ed. Aḥmad Muḥammad Shākir (Beirut: Dār al-Kutub al-ʿIlmiyya, n.d.), 176-179.



‘Abd Allāhs – Ibn Mas‘ūd (d. 32/652-3), Ibn ‘Umar (d. 73/692-3), Ibn ‘Abbās (d. 68/687-8)<sup>18</sup> – Zayd ibn Thābit (d. 45/665-6), Mu‘ādh ibn Jabal (d. 17/638-9 or 18/639-40), Abū Mūsā al-Ash‘arī (d. 44/665) and ‘Ā’isha (d. 58/678).

Hadiths narrated by these narrators are to be followed, whether they agree with the *qiyās* – i.e. their content accords with what would be expected from a study of the law – or they disagree with the *qiyās* – i.e. their content seems to break away from what would be expected from a study of the law.<sup>19</sup>

- b. Narrators known for uprightness (*‘adāla*), precision (*ḥusn al-ḍabt*) and memory, but were little by way of *fiqh* (*lākinnaḥu qalīl al-fiqh*). These include Abū Hurayra (d. 58/774-775 or 59/775-776) (the most prolific hadith narrator) and Anas ibn Mālik (d. 93/711-2).

Hadiths narrated by these narrators are to be followed on the condition that they accord with a possible *qiyās* – i.e. there is a way to see that their content can accord with known precepts in the law.

- c. Unknown narrators. These are narrators not known to have kept the company of the Prophet for an extended period. Rather, they are only known by their narrating a hadith or two. These include Wābiṣa ibn Ma‘bad (d. c. 60/679-80), Salama ibn al-Muḥabbiq (d. ?) and Ma‘qil ibn Sinān al-Ashja‘ī (d. 63/683).

Hadiths narrated by these narrators are only followed if they are accepted by at least some leading teachers of the law from the *salaf*, the first two to three generations of Muslims.

### *Narrator criticism – al-jarḥ wa-l-ta‘dīl*<sup>20</sup>

Another pillar of traditionist hadith criticism is the elaborate science of *al-jarḥ wa-al-ta‘dīl*, whereby individual narrators are critiqued to assess their precision (*ḍabt*) and uprightness (*‘adāla*). The Ḥanafī legal theory works make only a slight reference to this field within a section dedicated to reasons for rejecting a report. Addressing the critique of narrators by hadith scholars (*a‘immat al-*

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18 The ‘Abd Allāhs’ (*al-‘abādila*) is a phrase employed differently by Ḥanafī jurists and hadith scholars. Ḥanafī jurists refer to the three Abd Allāhs mentioned above, while hadith scholars refer to four younger Companions: Ibn ‘Abbās, Ibn ‘Umar, Ibn ‘Amr (d. 63/682-83 or 65/684-85) and Ibn al-Zubayr (d. 73/692). See al-Bābartī, *al-‘Ināya sharḥ al-Hidāya*, 10 vols. (Beirut: Dār al-Fikr, n.d.), 3: 17.

19 I leave the term *qiyās* untranslated, as what is meant by its use in Ḥanafī legal theory is a deep reflection across the breadth of the law to grasp its underlying patterns, not simply a narrowly defined process of ‘legal analogy’ as the term is often translated. See Hanif, *A Theory*, 59-70.

20 Al-Sarakhsī, *Uṣūl*, 2: 9-11; al-Bazdawī, *Uṣūl*, 196-200.

*ḥadīth*), the legal theory offers a warning: these critiques are all to be ignored, unless (1) the critic gives a clear reason for discrediting a narrator, (2) the reason given is agreed upon by scholars to be a reason for discrediting a narrator, (3) the critic is not known for enmity (*‘adāwa*) and partisanship (*ta’āṣṣub*). We can see that this short engagement with this core science of traditionist hadith theory is designed to minimise the effect of this science, since much of the critiques offered by leading critics are not accompanied by reasons, and, where reasons are presented, many of these are not agreed-upon reasons to critique a narrator, and, in the rare cases where this is all satisfied, we must then contend with the possible partisanship of the critic, as traditionists are often seen as being partisans of the *ahl al-ḥadīth* against narrators from the *ahl al-ra’y*, and therefore against the Ḥanafis.<sup>21</sup> These conditions will therefore work, in the vast majority of cases, to allowing the Ḥanafī jurist to safely ignore traditionist narrator criticism, and focus instead on the *fiqh*-based, *salaf*-based methods offered for critiquing reports that have been summarised above.

### **Substantive Law**

A survey of legal commentaries from the early classical school – including large commentary works such as al-Sarakhsī’s *al-Mabsūṭ* and al-Kāsānī’s (d. 587/1191) *Badā’i’ al-ṣanā’i’*, and more concise commentaries such as al-Marghīnānī’s *al-Hidāya* and Qāḍīkhān’s (d. 592/1196) *Sharḥ al-Jāmi’ al-ṣaḡhīr* – reveals a unified approach to the use of hadiths in the exposition of substantive law. This approach has two clear parts. On the one hand, these works are filled with hadiths to justify and uphold Ḥanafī legal doctrine; hadiths were certainly important to these authors. Yet, on the other hand, no attempt is made to strengthen these hadiths by referencing hadith collections in which they may be found. There is also the noted absence of the classifications of traditionists in grading hadiths as *ṣaḥīḥ* (authentic), *ḥasan* (good) or *ḍā’if* (weak). In short, the science and works of traditionists are not summoned to uphold the hadiths that are quoted to justify the cases of substantive law transmitted from Abū Ḥanīfa’s circle. This raises a conundrum. The hadiths are quoted os-

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21 See, for example, al-Bukhārī’s (d. 256/870) stating that he only wrote hadiths from teachers who held that faith (*īmān*) consists of both belief and practice (*qawl wa-‘amal*): al-Lālakāṭī, *Sharḥ uṣūl i’tiqād ahl al-sunna wa-al-jamā’a*, ed. Aḥmad ibn Sa’d al-Ghāmīdī, 9 vols. (Riyadh: Dār Tayba, 2003), 5: 959. This statement purposely excludes Abū Ḥanīfa and many of his circle as they upheld a doctrine of *irjā’*, whereby faith is only constituted by belief, not actions. This expected partisanship of traditionist hadith critics is hinted at by al-Bazdawī, who includes amongst narrator criticisms that must be ignored, “the criticism of those who follow the school of al-Shāfi’ī against some of our early associates (*aṣḥābunā al-mutaqaddimīn*) [meaning Abū Ḥanīfa’s circle]”: al-Bazdawī, *Uṣūl*, 200.

tensibly to justify Ḥanafī law, but no attempt is made to show that the hadiths quoted are actually strong. One is forced to conclude that the hadiths quoted are themselves strengthened by their correspondence to Ḥanafī law and any supporting rational arguments that these commentaries offer. This seemingly circular use of hadiths – the law is correct because of the hadith, and the hadith is correct because it accords with the law – appears in one sense the logical consequence of the hadith theory summarised above. Abū Ḥanīfa’s *fiqh* is presented in legal theory as an approach to *fiqh* that is faithful to the transmitted teachings of early teachers of law and their rational insights. Hadiths that accord with these teachings are therefore strong – as per the theory – and are plausibly the basis for the transmitted teachings that influenced Abū Ḥanīfa’s teachings. This seems the most reasonable conclusion of what has been called here a *fiqh*-based, *salaf*-based approach to hadiths, and can be seen to be consistent between legal theory and legal commentary.<sup>22</sup>

It is worth noting here that this seeming disregard for the hadith literature of traditionists in *fiqh* works is not the result of ignorance regarding this literature. In fact, this generation of Ḥanafī writers gave great importance to hadith transmission and the study of well-known hadith works, and mentioned their transmissions within their scholarly biographies. A case in point is the renowned author of the *Hidāya*, al-Marghīnānī, who records in his scholarly autobiography that he attended a full audition of the *Jāmi‘* of al-Tirmidhī (d. 279/892), and received it also through an *ijāza*, permission from a shaykh to transmit the book, and that he travelled to Merv, where he read most of the *Ṣaḥīḥ* of al-Bukhārī with a leading hadith transmitter. And this is all in addition to the many instances of hadith transmission from individual teachers that he records.<sup>23</sup> So we can see that the study of hadiths through well-known traditionist compilations was something they gave importance to, but, at the same time, they felt that the science of *fiqh* represented its own art, with its own standard for acceptable evidence, and that works of traditionists did not satisfy these standards.

## Section Two:

### Hadiths in *Uṣūl al-Fiqh* Between Egyptian and Rumelian Ḥanafīs

Important developments occurred in the legal theory writings of both Egyptian and Rumelian authors. As the claim of this paper is that developments in Egyptian Ottoman *fiqh* draw on developments from the Mamlūk era, we will

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<sup>22</sup> See a detailed study of the *Hidāya* in Hanif, *A Theory*, esp. Chapter Three.

<sup>23</sup> Hanif, *A Theory*, 20-23.

include discussions from the *uṣūl* work of Ibn Quṭlūbughā, the teacher of Ibn Nujaym. We will see that, with the exception of the Rumelian Mullā Khusraw, authors from both Ottoman schools altered the legal theory in important ways to draw closer to traditionist hadith criticism. For ease of comparison, the discussions will be arranged under the same headings presented above, and we will note only divergences from the ‘standard’ presentation summarised above.

### Chains of transmission

On the question of chains of transmission, we can note that all of our authors maintained the Ḥanafī doctrine of accepting the *mursal* report from the first three generations of Muslims. None felt the need to compromise on this point that set the Ḥanafīs apart from legal theorists on the conditions of hadith transmission. They all presented the debate between al-Karkhī and Ibn Abān on the conditions for accepting *mursal* reports after the first three generations, with most authors not offering a preference between these two positions, though Ibn Quṭlūbughā and Ibn Nujaym do give explicit preference for the position of al-Karkhī, namely, that *mursal* reports are accepted from narrators of all generations who are known for their uprightness and precision.<sup>24</sup>

### Narrators

Mullā Khusraw faithfully reproduces the early classical distinction between narrators from the Companions based on their respective expertise in *fiqh*. Surprisingly, no one else from the texts studied did so. They all agreed to equate Companions by ignoring the condition of *fiqh*. In so doing, both schools were following the developments in Ḥanafī *uṣūl* in Mamlūk and earlier works.<sup>25</sup> Here is a summary of their presentations.

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24 Mullā Khusraw, *Mir'āt al-uṣūl sharḥ Mirqāt al-wuṣūl*, in *Ḥāshiyat al-Fāḍil al-Izmīrī 'alā Mir'āt al-uṣūl*, 2 vols. (Istanbul: Sharikat al-Ṣahāfiyya al-'Uthmāniyya, 1309/1891-92), 2: 215-218; Kamāl Pāshā-Zāde, *Taghyīr al-Tanqīh* (Istanbul: Jamāl Efendi, 1308/1890-91), 147-148; al-Khādīmī, *Manāfi' al-daqa'iq fī sharḥ Majāmi' al-ḥaqā'iq* (Istanbul: Dār al-Ṭibā'a al-'Āmīra, 1273/1856-57), 199; Ibn Quṭlūbughā, *Khulāṣat al-afkār sharḥ Mukhtaṣar al-Manār*, ed. Zuhayr ibn Nāṣir al-Nāṣir (Beirut: Dār Ibn Kathīr & Dār al-Kalim al-Ṭayyib, 1993), 122-125; Ibn Nujaym, *Fath al-Chaffār bi-sharḥ al-Manār al-ma'rūf bi-Mishkāt al-anwār fī uṣūl al-Manār* (Beirut: Dār al-Kutub al-'Ilmiyya, 2001), 289-292; al-Ḥaṣkafī, *Ifāḍat al-anwār*, in *Sharḥ sharḥ al-Manār lil-'Allāma al-Shāmī* (Karachi: Idārat al-Qur'ān, 1418/1997-98), 185-186.

25 This was upheld in Ibn al-Humām, *al-Taḥrīr*, in Amīr Bādshāh, *Taysīr al-Taḥrīr*, 4 vols. (Cairo: Muṣṭafā al-Bābī al-Ḥalabī, 1932), 3: 52-53, and before him in 'Abd al-'Azīz al-Bukhārī, *Kashf al-asrār sharḥ Uṣūl al-Bazdawī*, 4 vols. (Cairo: Dār al-Kitāb al-Islāmī, n.d.), 2: 383-384.

## I. Rumelians

*Mullā Khusraw*

Same as early classical presentation.<sup>26</sup>

*Kamāl Pāshā-Zāde*

After mentioning the early classical position, he argues for a contrary position:

In the *Kashf* [*al-asrār*, commentary on the *Uṣūl* of al-Bazdawī by ‘Abd al-‘Azīz al-Bukhārī (d. 730/1329-30)] is what indicates that this distinction [between the narrator known for *fiqh* and the narrator not known for *fiqh*] is invented (*mustahḍath*) and that the singular report (*khbar al-wāhid*) [i.e. a hadith whose chains do not reach the level of the mass-transmitted (*mutawātir*) or the well-known (*mashhūr*)] is preferred over the *qiyās* without any further qualifications.<sup>27</sup>

*Al-Khādimī*

Al-Khādimī, interestingly, does not even entertain the breakdown of narrators into those known for *fiqh* and those not known for *fiqh*, neither in his epitome nor his commentary. His epitome reads, “The report of every upright (*‘adl*) precise [narrator] (*ḍābiṭ*) is given preference over *qiyās*, and to this [position] is the inclination of most scholars (*mayl akthar al-‘ulamā*).”<sup>28</sup> In the commentary he identifies this position with al-Karkhī.

## II. Egyptians

*Ibn Quṭlūbughā*

In his short commentary on legal theory, he does not give any conditions for reliable narrators other than intellect, being Muslim, uprightness and precision.<sup>29</sup> His presentation, therefore, gives no space to *fiqh* in assessing the strength of a narrator’s reports.

*Ibn Nujaym*

After presenting the standard doctrine, he mounts a detailed defence of the contrary position, namely, that a narrator’s being well-known for *fiqh* is not a condition for giving preference to their reports over *qiyās*, but, rather, it is sufficient that they be known for uprightness (*‘adl*) and precision (*ḍābiṭ*). He attributes this position to al-Karkhī and al-Dabūsī and quotes Abū al-Yusr al-Bazdawī as attributing this position to most scholars. He ends his

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<sup>26</sup> Mullā Khusraw, “Mir’āt al-uṣūl”, 2: 210-215.

<sup>27</sup> Kamāl Pāshā-Zāde, *Taghyīr*, 144-146.

<sup>28</sup> Al-Khādimī, *Manāfi’ al-daqa’iq*, 198.

<sup>29</sup> Ibn Quṭlūbughā, *Khulāṣat al-afkār*, 125.

passage by observing that one advantage of following this position is that it “counters the accusations of critical partisans in saying that Ḥanafīs are rationalists (*aṣḥāb ra’y*).”<sup>30</sup>

#### *Al-Ḥaṣkafī*

After explaining the standard doctrine, he supports that “the truth” is to accept the reports of upright narrators absolutely and references Ibn Nujaym.<sup>31</sup>

We can see then that all authors, with the exception of Mullā Khusraw, moved to avoid *fiqh* as a determiner for the strength of a narrator’s narrations. A question that must be addressed concerns the motivation was for this move: Was it simply to fit in with the dominant traditionist paradigm for evaluating hadiths? This seems insufficient, given that these authors all defended the reliability of the *mursal* report, in opposition to what traditionists held. Was the reason a genuine development in Ḥanafī legal thought, whereby hadiths were approached differently within substantive law itself? The next section will demonstrate that only Egyptian Ḥanafīs attempted such a project. So why then this universal move to change how Companion narrators are viewed?

The most obvious answer is that this reflects developments in notions of Sunni orthodoxy, not a development in actual legal thought and argumentation. Early classical works saw no issue with denigrating from the reliability of Abū Hurayra’s narrations based on his not being known for *fiqh* in the age of the Companions. It would appear that the traditionist doctrine of *‘adālat al-ṣaḥāba*, the uprightness – and therefore reliability – of all Companions, became a hallmark of Sunni orthodoxy, in the face of heterodox movements, such as Shī’īs, who stand out by their denigrating some of the Companions. The doctrine of *‘adālat al-ṣaḥāba* is treated as axiomatic in traditionist hadith discourse, such that critique of Companion narrators not countenanced, and the whole edifice of hadith criticism is constructed around this axiom. It seems that a necessary nod to this marker of Sunni orthodoxy is what compelled Ḥanafīs in Rumelia to subscribe to this development; otherwise, we will show that this did not affect their working with hadiths in substantive law.

#### *Narrator Criticism – al-Jarḥ wa-al-ta’dīl*

Mullā Khusraw and al-Ḥaṣkafī continued the early classical discussion which sought to minimise the effect of the traditionist discourse of *al-jarḥ wa-al-ta’dīl* by stipulating that the *jarḥ* (narrator criticism) must be (1) qualified, (2) an agreed-upon reason to critique a narrator, and (3) that the critic not be known

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30 Ibn Nujaym, *Fatḥ al-ghaffār*, 287-288.

31 Al-Ḥaṣkafī, *Ifādat al-anwār*, 180.

for partisanship. All other Ottoman authors shifted this doctrine. The doctrine advanced by these authors is that the criticism of a renowned hadith critic is accepted, even if the critique is unqualified, in view of the high standing and acceptance awarded to these hadith critics. Here is a summary of their presentations:

## I. Rumelians

*Mullā Khusraw*

Same as standard presentation.<sup>32</sup>

*Kamāl Pāshā-Zāde*

After describing the standard doctrine he says, “The truth (*al-ḥaqq*) is that if the critic (*jāriḥ*) is reliable (*thiqa*), has insight into reasons for narrator critique and the disagreements concerning that (*baṣīran bi-asbāb al-jarḥ wa-mawāqī’ al-khilāf*) with a precise grasp (*ḍābiṭan li-dhālika*), his unqualified critique (*jarḥuhu al-mubham*) will be accepted, otherwise not.”<sup>33</sup>

*Al-Khādīmī*

After a short presentation of the standard doctrine, he presents the position found in Kamāl Pāshā-Zāde i., above, that a criticism from the ‘hadith masters’ (*a’immat al-ḥadīth*) is accepted, even when not qualified, because the general state (*ghālib*) of such people is truthfulness and insight into reasons for criticism. One senses his preference for this second position. His epitome reads, “If [the criticism of a narrator] is from the hadith masters, then if it is unqualified, it will not be accepted; but it has been said that it can be accepted if he is trustworthy (*thiqa*) and learned (*ālīm*). It has been said that this [latter position] is the truth (*qīla innahu al-ḥaqq*).”<sup>34</sup>

## II. Egyptians

*Ibn Quṭlūbughā*

He offers a detailed listing of traditionist terms used for narrator criticism, all unqualified in their formulation, showing thereby the authority of traditionist narrator criticism.<sup>35</sup> Although, later he also presents that only qualified, agreed-upon criticisms should be accepted. He highlights, as do early classical authors before him, that criticism for *tadlīs*, concealing a break in a chain or naming a teacher in a way that conceals his identity, are not to be considered.<sup>36</sup>

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32 Mullā Khusraw, *Mir’āt al-uṣūl*, 2: 229.

33 Kamāl Pāshā-Zāde, *Taghyīr*, 152.

34 Al-Khādīmī, *Manāfi’ al-daqa’iq*, 202.

35 Ibn Quṭlūbughā, *Khulāṣat al-afkār*, 125-126.

36 Ibn Quṭlūbughā, *Khulāṣat al-afkār*, 137-138.

*Ibn Nujaym*

After explaining the standard doctrine, he offers a defence for the opposing position, that the criticism of scholars of narrator criticism are accepted, even when unqualified. He calls this position 'the truth', referencing al-Taftāzānī's (d. 793/1390) *al-Talwīḥ*, and mentions that Ibn al-Humām declared this position 'correct' (*ṣaḥīḥ*) in his *uṣūl* work, *al-Taḥrīr*.<sup>37</sup>

*Al-Ḥaṣkafī*

He only offers an explanation of the standard doctrine and does not indicate the presence of an opposing position.<sup>38</sup>

We can note that the consequence of this theoretical shift that is defended as 'the truth' by most of our Ottoman legal theorists is, in principal, huge, as it opens the door for accepting the vast literature of narrator criticism for assessing the validity of hadiths used in *fiqh*. That might be expected to bring along with it a greater concern for connected chains of transmission, as a greater concern for identifying critiqued narrators would be expected to coincide with greater concern for avoiding unnamed narrators. It is therefore surprising to note that this doctrine did not coincide with a more developed theory on the importance of connected chains of transmission. As we will see below, Egyptian Ḥanafīs embarked on the ambitious project of reimagining Ḥanafī proofs and doctrine through this larger literature of hadith criticism supported by these changes in legal theory, but the Rumelians did not embark on such a journey. Again, this raises the question of why they would alter their legal theory in such a way. As this point is not one connected directly to orthodox beliefs, unlike the topic of *'adālat al-ṣaḥāba*, we can only posit that it facilitated and coincided with an interest in upholding the value of the *ahl al-ḥadīth* project as a whole and its well-known hadith collections.

### Section Three:

#### Substantive Legal Writing Between Egyptian and Rumelian Ḥanafīs

In this section we will see two sets of case studies to illustrate how both schools dealt with hadiths in their legal commentary works. The first set of case studies look at justificatory arguments for the chapter of *sunna*, or highly recommend acts, in ritual ablutions (*wuḍū'*). This is typically a short, non-rational topic whose actions are justified with Prophetic reports, making it a good case study to observe how our authors engage with hadiths in their re-

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<sup>37</sup> Ibn Nujaym, *Fatḥ al-Ghaḥfār*, 307.

<sup>38</sup> Al-Ḥaṣkafī, *Ifāḍat al-anwār*, 191.



spective commentaries. The second set of case studies addresses legal cases from the book of ritual prayer where the Egyptian school changed doctrine based on hadith reports, and assesses how both groups of authors interacted with those reports.

### *Case Study One: Sunna Acts of Ritual Ablutions*

In this section we will see ten actions which are deemed *sunna*,<sup>39</sup> or highly recommended, to be performed in ritual ablutions. For each, I have summarised the hadith discussions in our commentary works, starting first with Rumelian Ḥanafīs. Hadiths will typically be fully translated in their first instance, and at the end of each *sunna* there will be a short analysis of the data. In addition, notes will be added to show how these sources continue the use of hadiths from Central-Asian early classical commentaries – primarily the *Hidāya* – and from leading Mamlūk sources – primarily Ibn al-Humām’s *Fatḥ al-Qadīr*. We will see that the Rumelians use hadiths as their Central-Asian forebears, by (1) not referencing known hadith collections, (2) not referencing hadith terminology for ranking hadiths, i.e. *ṣaḥīḥ*, *ḥasan*, *ḍaʿīf*, *gharīb*, etc., and (3) generally transmitting hadiths with wordings found in previous Ḥanafī commentaries. On the converse, we will see Egyptians regularly referencing hadith compilations and employing terms for grading hadiths, and even where authors might not do this, we will see them regularly preferring wordings for hadiths that reflect those of hadith collections, not earlier legal commentaries. Interestingly, we can note that neither Mullā Khusraw nor Kamāl Pāshā-Zāde mention any hadiths to support Ḥanafī doctrine in the entire section.

The discussion below will only present the hadith arguments, and only hadiths quoted as such, so mere references to Prophetic practice will not be treated as a hadith. These works present the *sunnas* in various orders. The list below reflects the ordering of *Multaqā al-abḥur*, the epitome on which we find the commentary of Shaykhī-Zāde, the commentator most given to quoting hadiths from the Rumelian authors in our study. The word “unreferenced”, below, signifies that the author did not make reference to a hadith collection. I have decided to translate the various statements of blessings on the Prophet, as it gives a sense of how hadiths were employed, and the sacred nature of such quotations in these works. Although the translations below appear to make the presentation of this first set of case studies unduly lengthy, I have preferred to present it in full to give a direct taste of the hadith arguments in these commentaries.

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39 There are actually a total of twelve *sunnas* in most of these works, but the Ḥanafī position for two of them, the intention (*niyya*) and performing ablutions as one continuous act (*wilāʾ*), is not upheld with hadith evidence so they have been omitted from the analysis below.

## First *Sunna*: Washing hands at the beginning of ablutions

### I. Rumelians

*Shaykhī-Zāde*, *Kamāl Pāshā-Zāde*, *Mullā Khusraw*

No hadiths.

*Bālī-Zāde*

- i. This is a *sunna* “due to what has come in the hadith: ‘When one of you wakes up from his sleep, then let him *surely* not dip his hand into a water container until he washes it three times, for he does not know where his hands [moved] in the night.’<sup>40</sup> Unreferenced.

### II. Egyptians

*Al-Tumurtāshī*

No hadiths.

*Ibrāhīm al-Ḥalabī*

- i. This is *sunna* “due to what is narrated in the *Ṣaḥīḥayn* [the collections of al-Bukhārī and Muslim] from the hadith of ‘Abd Allāh ibn Zayd ibn ‘Āṣim (d. 63/682-3) that he – upon him be peace – washed his hands three times, i.e., at the beginning of ablutions.”
- ii. “And they [the *Ṣaḥīḥayn*] also present the hadith of Abū Hurayra, that he – upon him be blessings and peace – said, ‘When one of you awakes, then let him not dip his hand into a water container until he washes it three times, for he knows not where his hand [moved] at night.’”
- iii. “And in the *Musnad* of al-Bazzār (d. 292/905) [we find the same hadith with the words] ‘then let him *surely* not dip his hand into his purifying water (*ṭahūr*),” the extra emphasis, translated as ‘surely’, arising from the energetic mood of the verb (*yaqhmisanna* instead of *yaqhmisu*).<sup>41</sup>

*Ibn Nujaym*

- i. To show that it is *sunna* to wash hands before cleaning oneself after the using the latrine (*istinjā*), he quotes, “the hadith of Maymūna (d. 51/671-2) describing his ritual bath, and within [the description] she described his washing his hands cleaning himself after the toilet (*istinjā*).” He references this hadith to “the group” (*al-jamā’a*), meaning the authors of the six

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40 Bālīzāde, *al-Farā'id al-fawā'id fi ḥall al-masā'il wa-al-qawā'id*, Suleymaniye Library (Istanbul): Hasan Hüsnü Paşa, 515, 4a.

41 Al-Ḥalabī, *Ḥalabī kabīr* (Istanbul: Dar Sa'ādat, 1305/1907-08), 20.

canonical hadith collections of al-Bukhārī, Muslim (d. 261/875), al-Tirmidhī, Abū Dāwūd (d. 275/889), al-Nasā'ī (d. 303/915) and Ibn Mājah (d. 273/887).<sup>42</sup>

#### *Al-Shurunbulālī*

- i. He presents the hadith of Abū Hurayra, as presented by al-Ḥalabī in ii., above, referencing the *Ṣaḥīḥayn*, describing a different wording in Muslim's collection, and the version with an alternative grammatical feature, as in al-Ḥalabī iii., but without providing a reference for it.<sup>43</sup>

#### Notes:

- The version of the hadith presented by Bālī-Zāde is identical in wording to the version found in the *Hidāya*.<sup>44</sup> Interestingly, Ibn al-Humām notes that this wording is not found in any hadith source.<sup>45</sup> Rather, the version in the *Hidāya* is a combination of two different hadiths. The *Hidāya*'s version has the energetic mood of the verb *fa-lā yaqhmisanna* ('let him surely not dip'), which Ibn al-Humām points out is in the version found in the *Musnad* of al-Bazzār. But then the version of al-Bazzār uses the word *ṭahūr* ('purifying water') in place of the word *inā'* (water container) found in the version of the *Hidāya*, and mentions pouring water over the hands (*ḥattā yafrugha 'alayhā*) instead of washing the hands (*ḥattā yaqhsilahā*) as mentioned in the *Hidāya*. In these two points of divergence from al-Bazzār's version, the *Hidāya* is following the wording of Abū Hurayra's version found in the *Ṣaḥīḥayn*.

We can note then that our Rumelian author copied the version of the *Hidāya* exactly and ignored the criticism found in *Faṭḥ al-Qadīr*, a book he was quite aware of and references in his work. This is an approach we will see repeated. Also noteworthy is that no Egyptian author presented this compounded version, and all quoted the hadith according to the version of the *Ṣaḥīḥayn*, with some pointing out the energetic mood of the verb found in al-Bazzār.

## Second *Sunna*: Mentioning the name of God (*tasmiya*)

### I. Rumelians

*Kamāl Pāshā-Zāde, Bālī-Zāde, Mullā Khusraw*

No hadiths.

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42 Ibn Nujaym, *al-Baḥr al-rā'iq sharḥ Kanz al-daqa'iq*, 8 vols. (Cairo: Dār al-Kitāb al-Islāmī, n.d.), 1: 18.

43 Al-Shurunbulālī, *Imdād al-Fattāḥ sharḥ Nūr al-iḍāḥ wa-najāt al-arwāḥ*, ed. Bashshār Bakrī 'Urābī (Damascus: no publisher, n.d.), 66.

44 See al-Marghīnānī, *al-Hidāya*, ed. Ṭalāl ibn Yūsuf, 4 vols. (Beirut: Dār Iḥyā' al-Turāth al-'Arabī, 2000), 1: 15.

45 Ibn al-Humām, *Faṭḥ al-Qadīr lil-'ājiz al-faqīr*, 10 vols. (Beirut: Dār al-Fikr, n.d.), 1: 21.

### *Shaykhī-Zāde*

- i. This is *sunna* “due to his saying – upon him be blessings and peace – “There is no prayer for the one who has no ablutions, and there are no ablutions for the one who does not mention the name of God, Most High.” Unreferenced.
- ii. To show that this act is not obligatory, he quotes the hadith: “Whoever performs ablutions and mentions the name of God, Most High, will have purified all of his body; and whoever performs ablutions and does not mention the name of God, Most High, it will purify only what the water touches.” Unreferenced.<sup>46</sup>

## II. Egyptians

### *Ibrāhīm al-Ḥalabī*

- i. This is “due to his saying – upon him be blessings and peace – ‘There is no prayer for the one without ablutions, and there are no ablutions for the one who does not mention the name of God over it,’ as narrated by Abū Dāwūd. It has been weakened due to inqīṭā’ [a break in the transmission chain], but this does not hurt according to us [Ḥanafīs] after the uprightness (‘adāla) of narrators and their trustworthiness (thiqa) has been established, just as with the mursal report.”
- ii. “And it has been narrated by Ibn Mājah from the hadith of Kathīr ibn Zayd (d. 158/774-5), from Rubayḥ ibn ‘Abd al-Raḥmān ibn Abī Sa’d, from his father, that the Prophet – God bless him and give him peace – said, ‘There are no ablutions for the one who does not mention the name of God over them.’ This has been weakened due to Rubayḥ’s not being known. But this has been debated, for it has been narrated from [the renowned traditionist] Abū Zur’a (d. 264/878) that Rubayḥ is a *shaykh*, and Ibn ‘Ammār (d. 242/856-7) said, ‘[He is] trustworthy,’ and al-Bazzār said, ‘[His hadiths] are narrated by Fulayḥ ibn Sulaymān (d. 168/784-5), ‘Abd al-‘Azīz al-Darāwardī (d. 187/802-3), Kathīr ibn Zayd and others.” And al-Athram (d. c. 260/874) said, ‘I asked Aḥmad ibn Ḥanbal (d. 241/855) about taking the name of God, and he replied, “The best hadith regarding it is that of Kathīr ibn Zayd, and I do not know an established hadith concerning it. I hope that a person’s ablutions will be valid, as there is no decisive hadith concerning it.”’
- iii. “What is meant by the negation [of ablutions] is [but] the negation of perfect [ablutions], ... due to his saying – upon him be blessings and peace – ‘When one of you purifies himself and mentions the name of God over [his ablutions], he purifies his entire body; and if he does not mention the

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46 Shaykhī-Zāde, *Majma’ al-anhur fī sharḥ Multaqā al-abḥur*, 2 vols. (Beirut: Dār Iḥyā’ al-Turāth al-‘Arabī, n.d.), 1: 12-13.

name of God over his purification, he does not purify except what the water passes over.’ This report, even though it has been weakened by the fact that it is only narrated from al-A‘mash (d. 158/775) by Yaḥyā ibn Hishām, who is a rejected narrator (*matrūk*), however is strengthened by the consensus of scholars upon the non-obligation [of this act].”<sup>47</sup>

*Ibn Nujaym*

- i. He enters into a lengthy debate against Ibn al-Humām, who holds that taking the name of God should be necessary (*wājib*), contrary to Ḥanafī school doctrine, due to the nature of the hadith evidence. Here is a summary of his discussion:

“The necessity of taking the name of God has been adduced from the hadith of Abū Dāwūd, “There are no ablutions for the one who does not mention the name of God over it,” which, though it be a weak report, is considered *ḥasan* in view of its many chains of transmission. Al-Ṭaḥāwī (d. 321/933) responded to this in *Sharḥ [ma‘ānī] al-āthār* by [showing] its opposition to what is in the *Ṣaḥīḥayn* that he – upon him be peace – did not return the greeting of peace (*salām*) when a man greeted him until he went to a wall, performed dry ablutions (*tayammum*), and then returned the greeting,” and [its opposition] to what is narrated by Abū Dāwūd and others from the hadith of al-Muhājir ibn Qunfudh, that when he greeted the Prophet – upon him be peace – during [the latter’s] ablutions, he did not reply. Then when he finished, he said, ‘Nothing prevented me from replying to you except that I was not in a state of ritual purity.’ For these [hadiths] imply that that he – upon him be peace – did not mention his name, Most High, when not in a state of ritual purity.” After this follows a lengthy back and forth with the arguments of Ibn al-Humām.<sup>48</sup>

*Al-Shurunbulālī*

- i. He quotes the same hadiths as i. and iii. in al-Ḥalabī, above, but offers no references or hadith discussions.
- ii. He adds an unreferenced hadith to support this practice: “Every matter of importance that does not start with *bi-sm Allāh al-Raḥmān al-Raḥīm* is cut off.”<sup>49</sup>

*Al-Tumurtāshī*

- i. He mentions “the established (*thābit*) hadith” of the Prophet’s supplication before entering the latrine, to support that taking the name of God should

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47 Al-Ḥalabī, *Ḥalabī kabīr*, 21.

48 Ibn Nujaym, *al-Baḥr al-rā‘iq*, 1: 19-20.

49 Al-Shurunbulālī, *Imdād al-Fattāḥ*, 67.

occur before cleaning oneself in the toilet (*istinjā'*) as well as before ablutions. Unreferenced.<sup>50</sup>

Notes:

- The wording of the hadith mentioned by Shaykhī-Zāde is not found in main early classical commentaries (including the *Hidāya*, *Mabsūṭ*, *Badā'i' al-ṣanā'i'*, *Khulāṣat al-dalā'il*). The hadith in the *Hidāya* is simply “There are no ablutions for the one who does not take the name of God.” The wording chosen by Shaykhī-Zāde mirrors that found in al-Ḥalabī i., from Abū Dāwūd.
- All of al-Ḥalabī's engagements with hadiths and hadith criticism are found in Ibn al-Humām.<sup>51</sup> He quotes Ibn al-Humām in discussing some minor points relating to this topic; however, he ignores Ibn al-Humām's argument, based on the wording of these hadiths, for taking the name of God to be necessary (*wājib*) instead of *sunna*.
- The hadiths in Ibn Nujaym about returning greetings of peace are also found in Ibn al-Humām, though the latter makes no mention of al-Ṭaḥāwī as a source. Other leading Mamlūk sources - *Naṣb al-rāya*, *al-Bināya* – do not mention al-Ṭaḥāwī here either, so Ibn Nujaym's direct source for parts of this passage remains unknown. His own direct engagement with al-Ṭaḥāwī's *Sharḥ ma'ānī al-āthār* remains a possibility.
- Al-Ḥalabī iii. offers the same wording as Ibn al-Humām. Shaykhī-Zāde's wording is slightly different, starting with “Whoever performs ablutions” in place of “When one of you purifies himself”. Shaykhī-Zāde's version can be found in al-Sarakhsī's *al-Mabsūṭ*. Interestingly, al-Shurunbulālī uses the same wording found in Shaykhī-Zāde as does Ibn Nujaym.

### Third *Sunna*: Using the toothstick (*siwāk*)

#### I. Rumelians

*Kamāl Pāshā-Zāde, Bālī-Zāde, Mullā Khusraw*

No hadiths.

*Shaykhī-Zāde*

- i. “The basis for its *sunna*-status is what has been narrated that he – upon him be blessings and peace – would use it as part of his inveterate practice (*kāna yuwāẓibu 'alayhi*), and in its absence he would use his fingers; and what has been narrated that he – upon him be blessings and peace – said,

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50 Al-Tumurtāshī, *Minaḥ al-Ghaḥfār bi-sharḥ Tanwīr al-abṣār*, King Saud University (Riyadh), M.S. 6428, 6b.

51 Ibn al-Humām, *Faṭḥ al-Qadīr*, 1: 23-24.

“Were it not that it prove too burdensome for my community, I would have ordered them to use the toothstick at all ablutions.” All unreferenced.<sup>52</sup>

## II. Egyptians

*Ibrāhīm al-Ḥalabī, Al-Tumurtāshī*

No hadiths.

*Ibn Nujaym*

- i. He sides with Ibn al-Humām in relegating this act from a *sunna* to a mere recommendation (*mustahabb*) in view of the fact that hadiths do not attest to the Prophet’s using the toothstick in his ablutions as part of his inveterate practice.<sup>53</sup>

*Al-Shurunbulālī*

- i. He quotes an unreferenced hadith: “Were it not for the hardship it would cause my community, I would have commanded them to use the toothstick at (*inda*) each prayer,” and the alternative wording “with (*ma’a*) each prayer.” And also “due to that which has come (*warada*), that a prayer with it is better than 70 without it,” unreferenced. And on the virtue of the *siwāk* he offers the hadith: “The *siwāk* purifies the mouth and pleases the Lord,” unreferenced.
- ii. In the absence of a *siwāk* a person may use their fingers, attested to by the Prophetic hadith: “Fingers can take the place of the *siwāk*,” unreferenced.<sup>54</sup>

Notes:

- Shaykhī-Zāde’s reference to practice and the use of the fingers in the absence of the toothstick is directly based on the wording of the *Hidāya*. It is noteworthy that he continues the *Hidāya*’s claim of inveterate practice despite Ibn al-Humām’s argument that the hadith evidence does not show that the toothstick was generally used during the Prophet’s ritual ablutions.<sup>55</sup> (We will see below that Shaykhī-Zāde was fully aware of Ibn al-Humām’s arguments.)
- The hadiths in Shaykhī-Zāde i. and al-Shurunbulālī i. are very similar: “Were it not to prove too burdensome for my community ...,” but Shaykhī-Zāde mentions ordering the toothstick at all ablutions while al-Shurunbulālī mentions all prayers. Ibn al-Humām points out that al-Shurunbulālī’s version is found in the *Ṣaḥīḥayn*, while Shaykhī-Zāde’s is in al-Nasā’ī.<sup>56</sup> We will generally find that Egyptians will prefer

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52 Shaykhī-Zāde, *Majma’ al-anhur*, 1: 13.

53 Ibn Nujaym, *al-Baḥr al-rā’iq*, 1: 21.

54 Al-Shurunbulālī, *Imdād al-Fattāḥ*, 67-68.

55 Ibn al-Humām, *Fatḥ al-Qadīr*, 1: 24.

56 Ibn al-Humām, *Fatḥ al-Qadīr*, 1: 24-25.

wordings found in known hadith compilations, and where multiple versions exist, they will prefer the versions of the most regarded collections; here giving preference to the *Ṣaḥīḥayn* over al-Nasā'ī. We will not see a similar interest amongst Rumelians. Of note is that the version of al-Nasā'ī directly supports the Ḥanafī doctrine of the toothstick being a *sunna* in ablutions, hence explaining Shaykhī-Zāde's use of the report, and further highlighting al-Shurunbulālī's preference for quoting a more reputable hadith collection over quoting a hadith most relevant to the topic at hand. The version mentioned by Shaykhī-Zāde was quoted by al-Sarakhsī in his *Mabsūṭ*.

- The other hadiths mentioned in al-Shurunbulālī have no direct bearing on the use of the toothstick in ritual ablutions, and are hadiths often found in pietistic works.

#### Fourth *Sunna*: Rinsing the mouth and nose

##### I. Rumelians

*Shaykhī-Zāde, Kamāl Pāshā-Zāde, Bālī-Zāde, Mullā Khusraw*

No hadiths.

##### II. Egyptians

*Ibrāhīm al-Ḥalabī*

- This is *sunna* “because he – upon him be peace – performed both as his inveterate practice (*muwāzāba*), as is narrated in the *Ṣaḥīḥayn* and other [hadith collections].

And a person takes separate water for the nose, as shown in the following reports:

- “due to what has been narrated by the six [canonical hadith collections: al-Bukhārī, Muslim, Abū Dāwūd, al-Tirmidhī, al-Nasā'ī, Ibn Mājah] from the hadith of 'Abd Allāh ibn Zayd, describing his ablutions – upon him be peace – and in the report is the mention of him drawing water in the nose and blowing it out with three different handfuls [of water].”
- “This has come explicitly in the hadith [narrated by] al-Ṭabarānī (d. 360/971): al-Ḥusayn ibn Ishāq al-Tustarī (d. 290/902-3) > Shaybān ibn Farūkh (d. 236/850-1) > Abū Salama al-Kindī > Layth ibn Abī Sulaym (d. 138/755-6 or 143/760-1) > Ṭalḥa ibn Muṣarrif (d. 112/731) > Ṭalḥa's father > Ṭalḥa's grandfather, Ka'b ibn 'Amr al-Yamāmī, that the Prophet – God bless him and give him peace – performed ablutions, and rinsed his mouth and nose three times each, taking new water each time.



And Abū Dāwūd has narrated this hadith, and in his version, ‘I entered upon the Prophet – God bless him and give him peace – while he was performing ablutions, with water dripping from his face and his beard on his chest, and I saw him separate between rinsing his mouth and nose.’ Abū Dawūd made no comment after the hadith [implying his approval], and likewise al-Mundhirī (d. 656/1258) [relates the hadith and is silent after it, signifying approval.]

And [there is] the narration from Ibn al-Ma‘īn (d. 233/848), namely, that he was asked whether Ka‘b met the Prophet, and he replied, ‘The hadith experts say that he saw him – upon him be blessings and peace – although the household of Ṭalḥa say that he does not have an undisputed companionship [of the Prophet].’ So if the experts in the field (*ahl al-sha’n*) acknowledge that he has companionship, then the argument is complete [as the chain to the Prophet is fully connected].”

- iv. He offers an alternative explanation to a hadith from Ibn ‘Abbās that implies that one handful of water was used for both mouth and nose. In offering his explanation, he quotes the authority of “Shaykh Kamāl al-Dīn Ibn al-Humām”.<sup>57</sup>

#### *Ibn Nujaym*

- i. He points out that thoroughness (*mubālagha*) in cleaning the mouth and nose (meaning rinsing the mouth all the way to the throat and the nose all the way to the bone) is also a *sunna* “due to the hadith of the authors of the four *Sunan*: “Be thorough when cleaning the mouth and nose unless you are fasting.”
- ii. He mentions the hadith of al-Ṭabarānī (mentioned by al-Ḥalabī in iii., above, but without stating the chain of transmission) to support that taking different handfuls for each of the mouth and nose is *sunna*.<sup>58</sup>

#### *Al-Shurunbulālī*

- i. Mentions the same hadith as al-Ḥalabī iii., but without referencing or indicating any of the hadith discussions al-Ḥalabī presents.
- ii. He offers some new hadiths to encourage thoroughness (*mubālagha*) in rinsing the mouth and nose: “his saying – God bless Him and give him peace – ‘Pour water thoroughly (*asbiḥ*) in ablutions, and interlace your fingers, and be thorough in rinsing the nose unless you are fasting,” as narrated by the authors of the four *Sunan*. And Ibn al-Qaṭṭān (d. 628/1230-1) narrates with a *ṣaḥīḥ* chain, “Be thorough in rinsing the mouth and nose.”<sup>59</sup>

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57 Al-Ḥalabī, *Ḥalabī kabīr*, 22-23.

58 Ibn Nujaym, *al-Baḥr al-rā‘iq*, 1: 22.

59 Al-Shurunbulālī, *Imdād al-Fattāḥ*, 69-70.

*Al-Tumurtāshī*

- i. He presents hadiths to support thoroughness in rinsing the mouth and nose, as in Ibn Nujaym i., referencing the authors of the four *Sunan*.
- ii. He mentions the hadith from al-Ḥalabī iii., referencing al-Ṭabarānī and Abū Dāwūd, along with Abū Dāwūd's silence on the matter showing approval, but not al-Ḥalabī's other hadith discussions.<sup>60</sup>

Notes:

- All of al-Ḥalabī's discussions are almost verbatim from Ibn al-Humām.<sup>61</sup>
- The hadiths on thoroughness in cleaning the mouth and nose that are found in Ibn Nujaym i. and al-Shurunbulālī ii., along with all references provided, are not in Ibn al-Humām, but may be found in al-Zayla'ī's *Naṣb al-rāya*.<sup>62</sup> However, Ibn Nujaym is mistaken in attributing to the four *Sunan* the version of the hadith of thoroughness that mentions both mouth and nose; al-Zayla'ī attributes to them the mention of the nose only. Al-Shurunbulālī is more accurate in referencing that version to Ibn al-Qaṭṭān.

**Fifth Sunna: Passing wet fingers through the beard (*takhlīl al-liḥya*)**

I. Rumelians

*Kamāl Pāshā-Zāde, Bālī-Zāde, Mullā Khusraw*

No hadiths.

*Shaykhī-Zāde*

- i. This is a *sunna* “because Gabriel – upon him be blessings and peace – commanded the Prophet – upon him be blessings and peace – to do that, but it is not obligatory, despite the fact that commands imply obligations, as contrary evidence exists (*li-wujūd ṣārif*), namely, his not teaching it – upon him be blessings and peace – to the desert Arab (*a'rābī*)<sup>63</sup>.” All unreferenced.
- ii. After informing that this act is a *sunna* only according to Abū Yūsuf (d. 182/798), and that according to Abū Ḥanīfa and Muḥammad al-Shaybānī (d. 189/805) it is merely praiseworthy (*faḍīla*), and not really a *sunna*, he justifies the latter position by stating the principle that a *sunna* act is one

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60 Al-Tumurtāshī, *Minaḥ al-Ghaffār*, 6b.

61 Ibn al-Humām, *Fatḥ al-Qadīr*, 1: 26-27.

62 Al-Zayla'ī, *Naṣb al-rāya li-aḥādīth al-Hidāya*, ed. Muḥammad 'Awwāma, 4 vols. (Beirut: Mu'assasat al-Rayyān & Jeddah: Dār al-Qibla, 1997), 1: 16.

63 The hadith of the desert Arab is often adduced by these commentaries as a way to avoid obligations that might be understood from hadiths, on the argument that, were a particular act to have been obligatory, then it would have been taught to the desert Arab to whom the Prophet gave a simple demonstration of ritual ablutions.

which “complements an obligatory act in the site of its performance” (*ik-māl al-farḍ fī maḥallihi*), and that the inside of the beard is not the site of the obligatory washing the face, so passing wet fingers through it cannot be a *sunna*, as per this principle. He wards off a possible objection to this argument.<sup>64</sup>

## II. Egyptians

*Al-Tumurtāshī*

No hadiths.

*Ibrāhīm al-Ḥalabī*

- i. This is *sunna* “due to what has been narrated by al-Tirmidhī and Ibn Mājah from ‘Uthmān (d. 35/656) – God be pleased with him – that he – God bless him and give him peace – would pass his fingers through his beard, and, in the wording of al-Tirmidhī, ‘He performed ablutions and passed his fingers through his beard,’ and [al-Tirmidhī graded the hadith as] *ḥasan ṣaḥīḥ*. And it was declared *ṣaḥīḥ* by Ibn Ḥibbān (d. 354/965) and al-Ḥākim (d. 405/1014).”
- ii. “In the *Sunan* of Abū Dāwūd, from Anas [ibn Mālik], that he – upon him be blessings and peace – when he performed ablutions, he would take a handful of water under his throat and then pass it through his beard, and say, “Thus did my Lord command me.””
- iii. “And this being a *sunna* is the position of Abū Yūsuf. As for according to [Abū Ḥanīfa and Muḥammad al-Shaybānī] it is merely preferred (*mustaḥabb*), and it has also been narrated from them that they held it merely permissible (*jā’iz*). The evidentiary texts (*adilla*) give preponderance to Abū Yūsuf’s position, and [al-Sarakhsī] gives preponderance to it in the *Mabsūṭ*, and it is the *ṣaḥīḥ* [position].<sup>65</sup>

*Ibn Nujaym*

- i. He quotes the hadith of Abū Dāwūd mentioned by al-Ḥalabī in ii., above, concluding that, although we do not have hadiths to show that this constituted the Prophet’s inveterate practice, the explicit command, “Thus did my Lord command me,” instructs that this be taken as inveterate practice. He argues against the position of Abū Ḥanīfa, that this is a mere recommendation, and against the argument presented to support that position, namely, that (a) a *sunna* act is one that complements a *farḍ* act in its site (*ik-māl al-farḍ fī maḥallihi*), and (b) that the inside of a long beard is not the site for the obligatory washing, so passing fingers through it cannot be a *sunna*,

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64 Shaykhī-Zāde, *Majma’ al-anhur*, 1: 14.

65 Al-Ḥalabī, *Ḥalabī kabīr*, 23.

by stating, “And their saying that the inside of the beard is not a site for the obligatory [washing] is denied after the establishment of a *ṣaḥīḥ* hadith to its contrary.”<sup>66</sup>

*Al-Shurunbulālī*

- i. He mentions the same hadith of Anas as al-Ḥalabī ii., referencing Abū Dāwūd.
- ii. He mentions that al-Sarakhsī gave preference to Abū Yūsuf’s position, that this practice is *sunna*, over Abū Ḥanīfa’s, that it is a mere recommendation or merely permissible, “due to the narration of Anas.”<sup>67</sup>

Notes:

- Shaykhī-Zāde’s wording in presenting Gabriel’s command is identical to that in the *Hidāya*.<sup>68</sup>
- All hadith discussions in al-Ḥalabī are found in Ibn al-Humām.<sup>69</sup>
- Both al-Ḥalabī and al-Shurunbulālī mention that al-Sarakhsī preferred the position of Abū Yūsuf over Abū Ḥanīfa’s. This is not at all clear from al-Sarakhsī’s presentation.<sup>70</sup> It is possible that they are both relying on an intermediary reference for stating al-Sarakhsī’s position.
- The various arguments for and against Abū Ḥanīfa’s position in these commentaries have been recorded here, as they show how these commentators contrasted rational principles with hadith evidence, an area we will explore further in the second set of case studies. What we find in the current example is representative of the difference between our Rumelian and Egyptian authors, in that the former give more weight to rational considerations while the latter give more weight to hadith evidence. The rational consideration in the current example is that *sunna* acts are those that complement obligatory acts in their site – meaning that they further and support the original obligation. But the inside of a long beard that hangs below the face – the kind of beard through which wet fingers are to be passed – is not part of the obligation of washing the face, so this act is not offering any support to that obligation. We can see that Shaykhī-Zāde is satisfied with this argument and wards off objections against it. On the other hand, the Egyptian authors do not countenance giving weight to this principle over the clear hadith instruction, summed up most clearly in the words of Ibn Nujaym, above, that this

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66 Ibn Nujaym, *al-Baḥr al-rā’iq*, 1: 23.

67 Al-Shurunbulālī, *Imdād al-Fattāḥ*, 70.

68 Al-Marghīnānī, *al-Hidāya*, 1: 16.

69 Ibn al-Humām, *Fatḥ al-Qadīr*, 1: 29-30.

70 Al-Sarakhsī, *al-Mabsūṭ*, 1: 80-81.

rational argument must be denied “after the establishment of a *ṣaḥīḥ* hadith to the contrary,” a line of argument largely alien to our Rumelian commentaries.

### Sixth *Sunna*: Interlacing the fingers

#### I. Rumelians

*Shaykī-Zāde, Kamāl Pāshā-Zāde, Bālī-Zāde, Mullā Khusraw*

No hadiths.

#### II. Egyptians

*Al-Tumurtāshī*

No hadiths.

*Ibrāhīm al-Ḥalabī*

- i. This is *sunna* “because of what is in the four *Sunan* collections, from the hadith of Laqīṭ ibn Ṣabura, who said that the Messenger of God said – God bless him and give him peace – ‘When you perform ablutions then complete them thoroughly (*asbiḥ al-wuḍūʾ*) and interlace your fingers.’ Al-Tirmidhī said, [It is] a *ḥasan ṣaḥīḥ* hadith.”
- ii. “[Al-Tirmidhī] and Ibn Mājah narrate from Ibn ‘Abbās, who said, that he – God bless him and give him peace – said, “When you perform ablutions, the interlace your fingers and [pass fingers between the] toes.” [Al-Tirmidhī] said of it *ḥasan gharīb*.”
- iii. “And from him – upon him be blessings and peace – that he said, ‘Interlace your fingers, lest God interlace them with Fire on the Day of Judgement,’ narrated by al-Daraqūṭnī (d. 385/995-6), but it is weak (*dāʾif*).”
- iv. “In al-Ṭabarānī, ‘Whoever does not interlace his fingers with water, God will interlace them with Fire on the Day of Judgement.’”
- v. He explains that these threats of punishment are if water itself does not reach between the fingers. As long as that is ensured, then “Shaykh Kamāl al-Dīn ibn al-Humām said, ‘Interlacing after that this merely recommended (*mustaḥabb*), as this [act] does not constitute inveterate Prophetic practice (*muwāzaba*), even though it completes the obligatory act in its site.’ However, it has preceded that completing the obligatory duty in its site is *sunna*.” In this last sentence, he is explicitly refuting Ibn al-Humām’s ignoring this principle simply due to the lack of hadith evidence to corroborate it.<sup>71</sup>

*Ibn Nujaym*

- i. He presents the hadiths mentioned by Ḥalabī in i. and iii., above, with a

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<sup>71</sup> Al-Ḥalabī, *Ḥalabī kabīr*, 25.

discussion on why the threat in hadith iii., above, does not make the act into a necessity (*wājib*).

- ii. When discussing the manner of passing fingers through the toes, he adduces “the hadith of Ibn Mājah from al-Mustawrid ibn Shaddād (d. 45/665-6), who said, ‘I saw the Messenger of God – God bless him and give him peace – perform ablutions; he passed his little finger through the toes of his feet.’”<sup>72</sup>

#### *Al-Shurunbulālī*

- i. He presents the hadith, “When you perform ablutions, then interlace your fingers and [pass fingers through] the toes,” unreferenced.
- ii. The hadith in al-Ḥalabī iv., without providing a reference for it, pointing out that the command cannot be understood to imply the necessity (*wujūb*) of this act due to the hadith of the desert Arab, i.e., had it been obligatory, the desert Arab would have been taught it.<sup>73</sup>

#### Notes:

- All hadith discussions from al-Ḥalabī are found in Ibn al-Humām.<sup>74</sup>
- The hadiths in Ibn Nujaym ii. and al-Shurunbulālī i., both about passing fingers through the toes, are not found in Ibn al-Humām. They can both be found in al-Zayla‘ī’s *Naṣb al-rāya*.<sup>75</sup>
- The arguments of the Egyptian commentators in trying to establish the *sunna* nature of this act, by arguing against necessity (*wujūb*) as the strong wording of the hadiths imply, and by arguing against mere recommendation (*istiḥbāb*) as Ibn al-Humām has argued, gives another window onto the efforts and interests of this school. They aim to follow hadith evidence while situating themselves within the wider Ḥanafī tradition. So, for example, we see al-Ḥalabī, above, argue against Ibn al-Humām’s relegating the act to mere recommendation – a move Ibn al-Humām makes in attempting to interpret the strong warning of these hadiths as referring to not washing between the fingers at all – by adducing the rational principle encountered above, that a *sunna* is an act that complements an obligation in its site. Above we saw the Egyptians not giving weight to this principle when it contradicted a clear hadith. Here the principle is weighty enough to ward off Ibn al-Humām’s interpreting away the implication of a hadith.

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72 Ibn Nujaym, *al-Baḥr al-rā‘iq*, 1: 23.

73 Al-Shurunbulālī, *Imdād al-Fattāḥ*, 70-71.

74 Ibn al-Humām, *Fatḥ al-Qadīr*, 1: 30-31.

75 Al-Zayla‘ī, *Naṣb al-rāya*, 1: 27.

## Seventh *Sunna*: Completing all washings three times

### I. Rumelians

*Kamāl Pāshā-Zāde, Mullā Khusraw*

No hadiths.

*Shaykhī-Zāde*

- i. This is *sunna* “because the Prophet – upon him be blessings and peace – performed ablutions [washing the limbs] once each ... and said, ‘These are ablutions without which God will not accept the prayer ...; and he performed ablutions [washing the limbs] twice each, and said, ‘These are ablutions of those for whom God will multiply their rewards,’ ...; and he performed ablutions [washing the limbs] three times each, and said, ‘These are my ablutions, and the ablutions of the prophets before me; whoever increases or decreases has transgressed and wronged.’ He references the hadith to the *Hidāya*, and then offers various interpretations of the apparent contradiction in the hadith, as it suggests a reward for washing twice, and then suggesting sin for washing less than three times.<sup>76</sup>

*Bālī-Zāde*

- i. He offers a shortened version of the hadith in Shaykhī-Zāde, mentioning only the washing three times, and the warning against increasing or decreasing.<sup>77</sup>

### II. Egyptians

*Ibrāhīm al-Ḥalabī*

- i. This is a *sunna* “as demonstrated in *ṣaḥīḥ* hadiths, with occasional omission of this [practice], as narrated that he – upon him be blessings and peace – performed ablutions [washing limbs] once each and said, ‘These are ablutions without which God will not except the prayer,’ and that he performed ablutions [washing limbs] twice each and said, ‘These are ablutions of those for whom God multiplies the reward twice.’”
- ii. “From ‘Amr ibn Shu‘ayb (d. 118/736-7), from his father, from his grandfather [he mentions a hadith in which the Prophet washed his face, arms and feet three times in response to the question of a questioner] and said, ‘Thus are ablutions; whoever does more than this or less has done bad and wronged (*asā’a wa-ḡalama*),’ and in the wording of Ibn Mājah, ‘transgressed and wronged (*ta’addā wa-ḡalama*),’ and in al-Nasā’ī, ‘he has done bad, transgressed and wronged.’ This is a *ṣaḥīḥ* hadith, its narrators are trustworthy

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<sup>76</sup> Shaykhī-Zāde, *Majma’ al-anhur*, 1: 14.

<sup>77</sup> Bālī-Zāde, *al-Farā’id*, 4b.

(*thiqāt*) until ‘Amr ibn Shu‘ayb. And the verifying scholars (*al-muḥaqqiqūn*) uphold the *ṣaḥīḥ* status of hadiths from ‘Amr ibn Shu‘ayb, from his father, from his grandfather, and that what is meant is ‘Amr’s grandfather, namely, ‘Abd Allāh ibn ‘Amr ibn al-‘Āṣ (d. 65/684-5).<sup>78</sup>

*Ibn Nujaym*

- i. He mentions the hadith as presented in Shaykhī-Zāde i., but points out that the threat – “Whoever does more than that or less has transgressed and wronged” – is found in al-Nasā’ī and Ibn Mājah, and that the hadith up to that threat is found in al-Dāraquṭnī.<sup>79</sup>

*Al-Shurunbulālī*

- i. Mentions the hadith in al-Ḥalabī ii. with its variations, ascribing one to Ibn Mājah, the other to al-Nasā’ī, but not providing a reference for the main version (which is also without reference in al-Ḥalabī).<sup>80</sup>

*Al-Tumurtāshī*

- i. Mentions a short version of the hadith, very similar to Bālī-Zāde, ascribing the hadith to leading teachers (*mashāyikh*).<sup>81</sup>

Notes:

- All hadith references from the Egyptian authors are found in Ibn al-Humām.<sup>82</sup>
- Ibn al-Humām points out that the full hadith in the *Hidāya*, reproduced faithfully in Shaykhī-Zāde i., is not from any known hadith collection. Rather, it is a combination of different hadiths. Al-Ḥalabī is careful to mention both versions separately; al-Shurunbulālī mentions the full version of the hadith that emphasises washing three times; and Bālī-Zāde and al-Tumurtāshī mention this version in an abbreviated form. Shaykhī-Zāde has preferred to stick with the version found in early classical Ḥanafī commentary works despite the criticism levelled against it.

**Eighth Sunna: Performing ablutions in the specified order (*al-tartīb al-manṣūṣ*)**

This is framed as a debate with al-Shāfi‘ī, who holds that this act is an obligation, not simply a *sunna*. In the course of the debate, some hadiths are quoted to support the Ḥanafī position.

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78 Al-Ḥalabī, *Ḥalabī kabīr*, 26.

79 Ibn Nujaym, *al-Baḥr al-rā‘iq*, 1: 24.

80 Al-Shurunbulālī, *Imdād al-Fattāḥ*, 71.

81 Al-Tumurtāshī, *Minaḥ al-Ghaffār*, 7a.

82 Ibn al-Humām, *Fatḥ al-Qadīr*, 1: 31.



## I. Rumelians

*Kamāl Pāshā-Zāde, Mullā Khusraw*

No hadiths.

*Shaykhī-Zāde*

- i. This is not obligatory “due to what has been narrated, that he – upon him be blessings and peace – forgot to wipe his head, and then remembered after completing [ablutions], so he wiped it with the moisture in his palms.” Unreferenced.<sup>83</sup>

*Bālī-Zāde*

- i. Same hadith as Shaykhī-Zāde but with different wording, presented more as a story than a carefully quoted hadith: “The Messenger of God – upon him be blessings and peace – forgot to wipe his head. So after he completed his ablutions the Companions said, “You forgot to wipe your head, Oh Messenger of God”; so the Messenger of God – God bless him and give him peace – heard and wiped his head. Oh God, send blessings and peace on him so long as the *sunna* remains and the Sharia is upheld.”<sup>84</sup>

## II. Egyptians

*Ibn Nujaym, al-Tumurtāshī, al-Shurunbulālī*

No hadiths.

*Ibrāhīm al-Ḥalabī*

- i. “Abū Dāwūd narrates in his *Sunan* that the Prophet – God bless him and give him peace – performed dry ablutions (*tayammum*) and started with this forearms before his face,” and the disagreement [between Hanafis not obligating the correct order and other scholars who do] is the same [whether discussing ritual ablutions or dry ablutions.]”
- ii. “And it is narrated that he – upon him be peace – forgot to wipe his head in his ablutions, and then remembered after he finished, so he wiped it with the wetness of his palms.” This is the only report devoid of any reference in al-Ḥalabī’s chapter on *sunnas* in ablutions.
- iii. “Al-Dāraqūṭnī records from Busr<sup>85</sup> ibn Sa’id (d. 100/718-9) ...,” a hadith which quotes ‘Uthmān as observing the Prophet perform ablutions contrary to the ordinary order.<sup>86</sup>

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83 Shaykhī-Zāde, *Majma’ al-anhur*, 1: 15.

84 Bālī-Zāde, *al-Farā’id*, 4b.

85 The name is given as Bishr in *Ḥalabī kabīr*. This appears an editorial error, as it is given as Busr in al-Zayla’ī, *Naṣb al-rāya*, 1: 35, and thus it appears in al-Dāraqūṭnī, *Sunan al-Dāraqūṭnī*, ed. Shu’ayb al-ʿArna’ūṭ et al., 5 vols. (Beirut: Mu’assasat al-Risāla, 2004), 1: 147.

86 Al-Ḥalabī, *Ḥalabī kabīr*, 27.

## Notes:

- None of the hadiths mentioned here are from Ibn al-Humām. Al-‘Aynī in *al-Bināya* presents al-Ḥalabī i., worded very similarly, and ascribes this wording to al-Sughnāqī’s (d. 711/1311 or 714/1314) commentary on the *Hidāya*. Al-‘Aynī rejects the wording of al-Sughnāqī and offers a more accurate wording.<sup>87</sup> Al-Ḥalabī ii. is also found in al-Sughnāqī.<sup>88</sup> Al-Ḥalabī iii. is in *Naṣb al-rāya*.<sup>89</sup> This section offers an interesting insight into al-Ḥalabī’s hadith sources. He steps outside of the reports of Ibn al-Humām, but appears to have avoided an excellent hadith source such as *Naṣb al-rāya* and to have avoided ascertaining the wording of his report from Abū Dāwūd, seemingly taking al-Sughnāqī’s depiction on good faith. It is unclear whether al-Ḥalabī took hadith iii. directly from *Naṣb al-rāya* or another source.
- The source for Bālī-Zāde’s story-like telling of the hadith is unclear.

## Ninth Sunna: Wiping the entire head once

This is typically presented as a debate with al-Shāfi‘ī, who holds it to be a *sunna* to perform this three times.

### I. Rumelians

*Kamāl Pāshā-Zāde, Bālī-Zāde, Mullā Khusraw*

No hadiths.

*Shaykhī-Zāde*

- i. “In our favour [that this act is *sunna* to be performed once, not three times] is that ‘Alī – God be pleased with him – performed ablutions, washing his limbs three times and wiping his head [only] once, and said, ‘These are the ablutions of the Messenger of God, upon him be blessings and peace.’”<sup>90</sup>

### II. Egyptians

*Ibrāhīm al-Ḥalabī*

- i. This is a *sunna* “due to his inveterate practice, based on the hadiths that describe his ablutions in the *Ṣaḥīḥayn* and other [collections].”

This wiping is only done once,

- ii. “due to what has been narrated by the authors of the four *Sunan* [al-Tirmidhī, al-Nasā‘ī, Abū Dāwūd, Ibn Mājah], from ‘Alī – God be pleased with

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87 Al-‘Aynī, *al-Bināya*, 13 vols. (Beirut: Dār al-Kutub al-‘Ilmiyya, 2000), 1: 246.

88 Al-Sughnāqī, *al-Nihāya fī sharḥ al-Hidāya*, ed. ‘Abd al-‘Azīz ibn ‘Abd Allāh al-Wuhaybī (MA Diss.: Umm al-Qurā University, 2015), 1: 160.

89 Al-Zayla‘ī, *Naṣb al-rāya*, 1: 35.

90 Shaykhī-Zāde, *Majma’ al-anhur*, 1: 15.

him – in his describing his ablutions – God bless him and give him peace – that he wiped his head once. ... Although Abū Dāwūd and al-Ṭabarānī have versions of this where the wiping is done three times.”

- iii. “And the *ṣaḥīḥ* hadiths of ‘Uthmān indicate this [mentions the hadith]... . Al-Bayhaqī (d. 458/1066) states that ‘Uthmān’s hadith has come from un-reputable sources (*awjuh gharība*), which convey that the wiping was done multiple times, but these oppose what is preserved by hadith masters (*al-ḥuffāz*), so they are not evidence according to the people of knowledge.”
- iv. “And Abū Dāwūd narrates from Ibn ‘Abbās [and mentions the hadith]”
- v. “And al-Ṭabarānī narrates in the *Awsaṭ*, from Rāshid Abū Muḥammad al-Ḥimmānī [and mentions the hadith].”<sup>91</sup>

#### *Ibn Nujaym*

- i. Mentions the hadith of ‘Alī (d. 40/661) found in al-Ḥalabī, ii., above, referencing only al-Tirmidhī’s *Jāmi’*.

#### *Al-Shurunbulālī*

- i. This is *sunna* “due to the description offered by al-Rabī’ bint Mas‘ūd, that she saw the Prophet – God bless him and give him peace – perform ablutions; she said, “He wiped his head, the front and back of it, and his temples, and his ears, once.” Unreferenced.<sup>92</sup>

#### *Al-Tumurtāshī*

- i. Mentions the hadith of ‘Alī from al-Ḥalabī ii., referencing al-Tirmidhī’s *Jāmi’*.<sup>93</sup>

#### Notes

- Shaykhī-Zāde’s hadith is presented the same as in the *Hidāya*, but the name of the narrator is changed: the *Hidāya* names Anas,<sup>94</sup> Shaykhī-Zāde names ‘Alī. This appears an improvement in hadith terms, as al-Zayla’ī points out that this version from Anas is not attested to in the sources, unlike the narration from ‘Alī.<sup>95</sup> From early classical sources, the *Badā’i’ al-ṣanā’i’* also ascribes this report to ‘Alī instead of Anas.<sup>96</sup>
- All of al-Ḥalabī’s hadith discussions are found in Ibn al-Humām.<sup>97</sup> Interestingly, Ibn Nujaym references only one source for ‘Alī’s hadith,

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91 Al-Ḥalabī, *Ḥalabī kabīr*, 23.

92 Al-Shurunbulālī, *Imdād al-Fattāḥ*, 71.

93 Al-Tumurtāshī, *Minaḥ al-Ghaffār*, 7a.

94 Al-Marghīnānī, *al-Hidāya*, 1: 16.

95 Al-Zayla’ī, *Naṣb al-rāya*, 1: 30-31.

96 Al-Kāsānī, *Badā’i’ al-ṣanā’i’ fi tartīb al-sharā’i’*, 7 vols. (Beirut: Dār al-Kutub al-‘Ilmiyya, 1986), 1: 23.

97 Ibn al-Humām, *Fatḥ al-Qadīr*, 1: 33-34.

while al-Ḥalabī references the four *Sunan*, as do Ibn al-Humām and al-Zayla‘ī. This would suggest that Ibn Nujaym’s source was other than these books.

- Al-Shurunbulālī i. is not found in Ibn al-Humām, but can be found in *Naṣb al-rāya*, though the narrator’s name given there is al-Rubayyi‘ bint al-Mu‘awwidh (d. c. 65/685).<sup>98</sup>

### Tenth *Sunna*: Wiping the ears with the same water with which the head is wiped

This is framed as a debate with al-Shāfi‘ī, who holds that new water should be taken for wiping the ears.

#### I. Rumelians

*Kamāl Pāshā-Zāde, Bālī-Zāde, Mullā Khusraw*

No hadiths.

*Shaykhī-Zāde*

- i. Al-Shāfi‘ī holds that new water should be taken, “due to what has been narrated, that he – upon him be blessing and peace – took new water for his ears. In our favour is that he – upon him be blessing and peace – took a handful of water and wiped with it his head and ears.”<sup>99</sup>

#### II. Egyptians

*Ibrāhīm al-Ḥalabī*

This wiping is to be done with the same water that was taken to wipe the head, not with new water.

- i. “The hadith of Ibn ‘Abbās in Abū Dāwūd, where he said, ‘and then he wiped his head and ears with a single wiping.’”
- ii. “Likewise, the hadith of Anas in al-Ṭabarānī, where he said, ‘Then he wiped his head a single time, except that he also passed his hands over his ears and wiped them.’”
- iii. “Ibn Khuzayma (d. 311/924), Ibn Ḥibbān and al-Ḥākim record from Ibn ‘Abbās that he said, ‘Shall I not inform you of the ablutions of the Messenger of God – God bless him and give him peace,’ so he described them, and as part of his [description, he said,] ‘Then he took a handful of water and wiped his head and ears with it,’ and al-Nasā‘ī placed this report in the chapter, ‘Wiping the ears along with the head.’”
- iv. “Abū Dāwūd, al-Tirmidhī and Ibn Mājah narrate from Abū Umāma al-Bāhilī (d. 86/705) that he – upon him be blessings and peace – said, when

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<sup>98</sup> Al-Zayla‘ī, *Naṣb al-rāya*, 1: 21.

<sup>99</sup> Shaykhī-Zāde, *Majma‘ al-anhur*, 1: 16.

wiping his head, 'The ears are part of the head.' Ibn Mājah narrates the like from 'Abd Allāh ibn Zayd, and al-Dāraquṭnī from Ibn 'Abbās.<sup>100</sup>

#### *Ibn Nujaym*

- i. Mentions the same hadiths as iii. and iv. from al-Ḥalabī, above, giving the same references for the former hadith and no references for the latter.<sup>101</sup>

#### *Al-Shurunbulālī*

- i. The hadith in al-Ḥalabī iii., referencing it as the hadith of al-Ḥākīm from Ibn 'Abbās.<sup>102</sup>

#### *Al-Tumurtāshī*

- i. He mentions that "the *mashāyikh* adduced the statement, "The ears are from the head... and in *Fatḥ al-qadīr*, he adduces his practice – upon him be blessings and peace – ... as narrated by Ibn Khuzayma."<sup>103</sup>

#### Notes

- The hadith engagements of al-Ḥalabī, reproduced in the other Egyptian commentaries, are all found in Ibn al-Humām.<sup>104</sup>
- Shaykhī-Zāde's wording is very similar to al-Ḥalabī iii. I have not found it in the early classical commentaries consulted in this study, though it can be found in an early classical *fiqh* dictionary: the *Ṭilbat al-ṭalaba* of 'Umar al-Nasafī (d. 537/1142), suggesting that he could still have been relying on early classical sources for his wording.<sup>105</sup>

#### *Conclusions from the First Case Study*

This first set of case studies reveals clear patterns that separate the Rumelian commentators from the Egyptians. The Rumelians, as revealed in the preceding examples, held the Ḥanafī jurists to be ultimate authorities in hadith transmission. They generally used wordings found in previous Ḥanafī commentaries, and they never made references to hadith collections or hadith terminology to strengthen the hadiths they quoted, being sufficiently satisfied by the strength given to these hadiths simply by their corresponding to the legal cases of the school. We saw one instance of a hadith debate, where a hadith supporting al-Shāfi'ī was countered by a hadith supporting Ḥanafī doctrine,

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100 Al-Ḥalabī, *Ḥalabī kabīr*, 24-25.

101 Ibn Nujaym, *al-Baḥr al-rā'iq*, 1: 28.

102 Al-Shurunbulālī, *Imdād al-Fattāḥ*, 72.

103 Al-Tumurtāshī, *Minaḥ al-Ghaffār*, folio 7a.

104 Ibn al-Humām, *Fatḥ al-Qadīr*, 1: 27-28.

105 'Umar al-Nasafī, *Ṭilbat al-ṭalaba* (Cairo: al-Maṭba'a al-'Āmira, 1311/1893-94), 4.

without any attempt to show how the Ḥanafī hadith was stronger;<sup>106</sup> its correspondence to Ḥanafī doctrine was sufficient. Throughout, we observe the continuation of the epistemology of early classical Ḥanafī scholarship in the commentaries of these Rumelian authors.

There were some cases where Shaykhī-Zāde presented hadiths that were not in the early classical commentaries consulted in this study. As the commentaries consulted were few in number, and as Shaykhī-Zāde in other instances clearly preferred the hadith wordings of early classical Ḥanafī commentaries to those of well-known hadith compilations, it would seem most safe to assume that these hadiths are also found in earlier juristic works which we would identify by broadening the sources consulted. A larger sampling of chapters would be helpful in studying such seeming anomalies.

It is also worth noting that Mullā Khusraw and Kamāl Pāshā-Zāde, in a commentaries of good standing in the Ottoman tradition, did not mention a single hadith to defend Ḥanafī doctrine in a chapter of *fiqh* that arguably can only be understood through presenting hadith evidence. The paucity of hadith evidence in these works stands out even in comparison with early classical commentaries. Was there, on the whole, a movement to diminish hadith quotations in Rumelian scholarship? Our small case study is not sufficient to answer such a question, though three out of four of our commentary works appear to have less hadiths than their early classical counterparts. We can note that Mullā Khusraw and Kamāl Pāshā-Zāde do offer hadiths in other chapters that should be subject to further study.

Turning now to the Egyptian commentators, we can see that they had a very different relationship with hadiths and hadith sources, and each had his own approach. Ibrāhīm al-Ḥalabī was the most thorough in his hadith discussions, failing to reference only one hadith in what was an extensive chapter filled with hadith discussions. He regularly entertained debates about narrators, quoting leading traditionist hadith critics as authorities in determining the reliability of narrators and the strength of hadith chains, in one instance referring to them as *ahl al-sha'n*, the people of expertise, in another as 'verifying scholars', and in another as *ḥuffāz*. The only instance where a specifically Ḥanafī approach to hadith criticism was mentioned was for a hadith that was weakened by hadith critics due to *inqiṭā'*, a break in the chain, to which al-Ḥalabī remarked that breaks in transmission chains "do not harm us, as with the *mursal*".<sup>107</sup> In principle, this can be a fair representation of the Ḥanafī doctrine on connected chains; though the *uṣūl* works typically allow this only in

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106 See "Tenth *Sunna*", Shaykhī-Zāde i., above.

107 See "Second *Sunna*", al-Ḥalabī i., above.

the first three generations, after which they disagree on the status of broken chains; so al-Ḥalabī's summoning this point of doctrine appears incomplete without his demonstrating where the break in the chain is. We will return to a reflection on conformity to *uṣūl* theory momentarily.

Ibn Nujaym and al-Shurunbulālī also display a clear interest in hadith sources and criticism, though not to the same thorough extent as al-Ḥalabī. We more frequently encounter unreferenced hadiths in these two commentaries, but equally frequently we find hadiths that are given careful references to well-known collections. It is noteworthy that even where hadiths given references, they choose wordings for their hadiths that will typically correspond to versions in well-known sources. We do not sense from these two authors that the ultimate arbiters of sound hadith transmission are the Ḥanafī jurists, but rather that it is the experts of hadith transmission, the traditionists, from whom sound hadith transmission is found. We rarely find engagements in subtle hadith criticism, unlike al-Ḥalabī, in these two works. We can also see that while al-Ḥalabī's hadith engagements were almost exclusively through the prism of Ibn al-Humām's work, these two authors relied on further sources.

Al-Tumurtāshī offers the least engagement with hadith transmission, though the marks of the Egyptian school are still clear in his few engagements. He always provides a reference for his hadiths, usually to well-known hadith collections, though twice it is to the group known as the *mashāyikh*. This, no doubt, is a reference to previous Ḥanafī commentaries. It would appear that if quoting hadiths from *fiqh* works he would present it on the authority of the *mashāyikh*, thereby distancing himself somewhat from the accuracy of the transmission, otherwise he will directly name the hadith collection.

We have seen, then, the very clear distinction between the two groups of authors, justifying organising them into two distinct 'schools' regarding their approach to hadiths in *fiqh*. Two important questions arise from this.

First of all, how faithful is each school to the relevant discussions in *uṣūl al-fiqh*? We have seen that both schools modified the hadith theory found in early classical *uṣūl* works in a way to negate criticism of known narrators from the Companions and to accommodate for narrator criticism from leading hadith critics. Were one of the two groups closer to the discussions in their *uṣūl* works? From the current case study, this is hard to answer, because both groups present gaps that would need to be addressed.

The Rumelians appear not to give much importance to hadith criticism as developed by leading traditionists. Thus it is not clear why their *uṣūl* authors would have modified their *uṣūl* discussions, as there seems no corresponding developments in their commentary works. This is why I proposed above that

the change in diminishing Companion critique was more to maintain a clearer Sunni orthodox position than for a development in legal theory. As for the accommodation of narrator criticism, as I proposed above, this could also have been to join a Sunni orthodoxy which gave centrality to the hadith collections of leading traditionists, not due to an actual change in legal theory.

The Egyptians appear closer to these developments in Ḥanafī *uṣūl* works, as they clearly attempt a fresh engagement with traditionist hadith sciences. However, there are a number of unexplained features in their engagement. The Ḥanafī *uṣūl* changes presented above allowed for the narrator criticism of leading traditionists to be accepted, but not much more. The attachment to ‘*ṣaḥīḥ*’ hadiths in the Egyptian school appears insufficiently explained by their *uṣūl* works. *Ṣaḥīḥ* is a traditionist term for a hadith whose (1) chain is fully connected, (2) narrators are trustworthy, (3) narrators are reliable, and whose transmission is free from (4) subtle flaws (*‘ilal*) and (5) incongruence (*shudhūdh*).<sup>108</sup> Ḥanafī *uṣūl* does not accept the first premise uncritically. The new changes in *uṣūl* allowed for the second and third feature to be accepted. The fourth and fifth feature reflects a traditionist’s taste in the soundness of the transmission, by comparing a narration to other narrations from the same chain. The Ḥanafī *uṣūl* presents no clear analysis of this taste of traditionists. What we appear to be seeing in our Egyptian writers, then, is the wholesale acceptance of traditionists as authorities in hadith transmission, to an extent not sufficiently theorised in the *uṣūl*. We can summarise the practical *uṣūl* of the Egyptian commentators as being the quest for the strongest hadiths of traditionists that correspond to Ḥanafī doctrine to uphold that doctrine. What if those hadiths appear to contradict Ḥanafī doctrine? Here we have seen glimpses of Ibn al-Humām’s attempting to alter Ḥanafī doctrine due to the hadith evidence, once in the question of taking the name of God and once on the question of interlacing the fingers, raising the former to a necessity (*wājib*) and lowering the later to a mere recommendation (*muṣtaḥabb*), and we saw the movement to reject his insights by al-Ḥalabī and Ibn Nujaym. We will further reflect on the change of doctrine for hadith evidence in the next case study.

The second question that arises from this study is whether the different approach of Rumelian authors is because they did not have sufficient access to hadith works and had insufficient expertise in this area. This would seem the most plausible answer to the stark difference between the two schools in their hadith engagement. However, this answer is impossible to entertain. This is be-

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108 See, for example, Ibn Hajar al-‘Asqalānī, *Nuzhat al-naẓar fī tawḍīḥ Nukhbat al-fikar fī muṣtalaḥ ahl al-athar*, ed. ‘Abd Allāh ibn Ḍayf Allāh al-R?ḥ?lī (Riyadh: n.p., 2001), 67.



cause works of the Egyptian school were widely circulated amongst Rumelian writers. Bālī-Zāde makes reference to Ibn al-Humām and Ibn Nujaym in his commentary. And most significantly, Shaykhī-Zāde refers to Ibn al-Humām's work approximately thirty times in the chapters of purity and prayer, but only once does he draw on Ibn al-Humām's hadith-based arguments.<sup>109</sup> In all of his other quotations, he ignores Ibn al-Humām's hadith criticism and engages with him only in legal commentary. So what we can see, categorically, is that the Rumelian school *consciously* chose to ignore the developments in hadith engagement of the Egyptian school while being fully aware of these developments and benefitting from the legal – not hadith-based – work of their Egyptian counterparts. This conscious choice reflects a clear understanding of what makes a hadith strong in Ḥanafī legal theory, and a commitment to seeing Ḥanafī jurists, not traditionists, as the arbiters of sound hadith transmission.

### *Case Study Two: Changes to School Doctrine Due to Hadith Evidence*

This short case study presents three discussions connected to ritual prayer in which Ibn al-Humām supported a position contrary to commonly transmitted school doctrine based on hadith evidence. For each, we will see how our eight Ottoman commentaries relate to these changes. We will note that Rumelian Ḥanafīs ignored Ibn al-Humām's suggested changes in each example, while Egyptians accepted the new arguments to varying degrees. We will also attempt to assess the arguments offered by commentators in addressing these legal cases. As we observe the arguments presented to justify this evidence-based legal change, we will attempt to identify key principles of each school.

#### **Example One:**

#### **Placing the hands and knees on the ground in prostration**

The main transmitted school doctrine in early classical works regarding what must touch the ground in prostration is that the forehead must touch the ground, as that is what is properly understood from the word 'prostration' (*sujūd*). Abū Ḥanīfa, contrary to his two students, allows the nose to be placed instead of the forehead, because the bones are directly connected. Finally, they debate whether the feet should be placed as an obligation. The main classical doctrine then states that placing the other parts of the body on the ground – meaning the hands and knees – are a *sunna*, meaning that there is reward for doing so, but no consequences if not performed.<sup>110</sup>

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109 Shaykhī-Zāde, *Majma' al-anhur*, 1: 122. This survey is based on an electronic search in *Majma' al-anhur* conducted with the programme al-Maktaba al-Shāmīla.

110 See, for example, al-Marghīnānī, *al-Hidāya*, 1: 51.

This doctrine is upheld by all of our Rumelian authors, who generally offer this ruling as a fact, with no particular argument presented.<sup>111</sup> Shaykhī-Zāde offers a justification as follows:

And placing the hands and knees on the earth [is *sunna*] during the prostration, due to his saying – upon him be blessings and peace – ‘I was ordered to prostrate on seven limbs’ and he counted from among them the hands and knees. And this is a *sunna* according to us, as the prostration can be realised without placing them [on the ground].<sup>112</sup>

In this argument, a hadith is adduced to support the recommendation of this act. He negates that this could be obligatory with the simple argument that prostration does not require these, returning his argument back to a seemingly linguistic interpretation of what is meant by the word ‘prostration.’

Al-Ḥalabī, from the Egyptian school, presents the same original school doctrine, and contrasts it with the position of al-Shāfi‘ī and Zufar (d. 158/774-5), who both hold that placing the hands and knees on the ground in prostration is obligatory (*farḍ*) based on the hadith presented by Shaykhī-Zāde, above, that al-Ḥalabī references to the *Ṣaḥīḥayn*, namely, “I was ordered to prostrate on seven limbs, on the forehead, the hands, knees and the toes of the feet.” Al-Ḥalabī argues against the position of al-Shāfi‘ī and Zufar by stating that this hadith is a solitary report (*khābar al-wāḥid*) and that such reports may not modify Qur’anic passages as this is considered, in Ḥanafī *uṣūl* theory, to be tantamount to abrogating the Qur’anic passage.<sup>113</sup> As the Qur’an only obligates ‘prostration’, which means placing the forehead on the ground, this hadith cannot add a further obligation to what is understood from the Qur’anic passage. He then describes the position of Ibn al-Humām:

Shaykh Kamāl al-Dīn ibn al-Humām has chosen that placing [these limbs] is necessary (*wājib*) ... because the mentioned hadith, even though it is unable to establish an obligation (*farḍ*) because ... it would be considered adding [and therefore qualifying the injunction of] the Book, but there is no reason why it cannot establish a necessity (*wujūb*) ... and likewise his performing this as part of his inveterate practice (*muwāḏabatuhu ‘alā al-waḍ’*) without ever leaving it also implies necessity (*wujūb*).<sup>114</sup>

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111 Mullā Khusraw, *Durar al-ḥukkām*, 175; Kamal Pāshā-Zāde, *al-Īdāḥ fī sharḥ al-İslāḥ*, King Saud University (Riyadh), M.S. 4.217, 21a; Bālī-Zāde, *al-Farā’id*, 26b.

112 Shaykhī-Zāde, *Majma’ al-anhur*, 1: 90.

113 Disallowing a solitary report (*khābar al-wāḥid*) to modify a Qur’anic passage reflects a confident approach to the meanings of the Qur’an as explained in Ḥanafī language theory. See Hanif, *A Theory*, 38-48.

114 Al-Ḥalabī, *Ḥalabī kabīr*, 284.

Ibn al-Humām's argument here is based on a technicality in Ḥanafī legal theory. Although solitary reports may not modify Qur'anic injunctions, they may establish lower-level obligation, translated here as 'necessity' (*wujūb*). Ibn al-Humām's argument for necessity is based on the wording of this *ṣaḥīḥ* hadith and its being upheld by regular Prophetic practice.

However, after presenting Ibn al-Humām's argument, al-Ḥalabī suggests his dissatisfaction through the following comment:

A speaker might deny (*wa-li-qā'il an yamna'*) that his saying – upon him be blessings and peace – 'I was ordered' implies necessity without his explicitly ordering us to do so or repeat prayers upon omitting it ... and likewise, his continuing as inveterate practice such natural actions (*af'al tabī'iyya*) that are not sought out for their own sake (*ghayr al-qaṣḍiyya*) does not imply necessity. And there is no doubt that placing the hands and knees in prostration is something brought about for natural reasons, as, were a person to omit them, [prostration] would not occur without struggle. So it is a *sunna* out of following him – upon him be peace – in what he was ordered and because it displays humility and facilitates prostration.<sup>115</sup>

This can be described as a rational argument against Ibn al-Humām's position, from the point of view that Ibn al-Humām does not distinguish between whether this act is merely natural (*tabī'ī*) or sought out for its own sake (*qaṣḍī*), implying that Ibn al-Humām's argument from inveterate practice is not binding, and that the hadith adduced is not explicit enough to establish the necessity of the act in question.

We can see that what we have described as the Egyptian school is by no means a monolith or a simple extension of Ibn al-Humām's work, as this rebuttal of Ibn al-Humām's argument shows. However, a key defining feature of this school is their engagement with Ibn al-Humām's work, whether they decide to agree with him or disagree as al-Ḥalabī appears to do here. His starting his response to Ibn al-Humām with, "A speaker might deny" appears to couch this response in what would appear a humble personal reflection against a doctrine gaining ground in his school.

Others of the Egyptian school did decide to alter school doctrine to suit this change from Ibn al-Humām, including Ibn Nujaym and al-Shurunbulālī. Ibn Nujaym states, after declaring that the hadith in question, though unable to establish obligation (*farḍ*), is able to establish necessity (*wujūb*), and this is what the inveterate practice indicates, "And the Verifier (*al-Muḥaqqiq*) [Ibn al-Humām] preferred this in *Faṭḥ al-Qadīr*, and it is – God willing – the most bal-

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115 Al-Ḥalabī, *Ḥalabī kabīr*, 284.

anced opinion for its agreement with the sources (*li-muwāfaqatihi al-uṣūl*).<sup>116</sup> Al-Shurunbulālī offers this position similar support, though he also adds his own original insight to the topic by adding as obligation (*farḍ*) that one hand and knee be placed, drawing from a school narration from Abū al-Layth al-Samarqandī (d. 373/983), and following Ibn al-Humām in holding that it is necessary to place both hands and feet.<sup>117</sup>

Interestingly, al-Tumurtāshī, the student of Ibn Nujaym, does not engage with this discussion at all. His epitome, the *Tanwīr al-absār*, presents the standard doctrine that these acts are *sunna*, and in his commentary he offers no justification for this, or suggestion of a debate in the school.<sup>118</sup>

In conclusion, the Rumelians and al-Tumurtāshī do not engage with Ibn al-Humām's attempt to alter school doctrine based on hadith evidence. Ibn Nujaym and al-Shurunbulālī follow him, while al-Ḥalabī offers a carefully couched objection to Ibn al-Humām's argument.

### Example Two:

#### The status of standing and sitting after bowing and between prostrations

The case of the short standing (*qawma*) that occurs to separate the bowing from the prostration and of the short sitting (*jalsa*) that occurs to separate the two prostrations from each other is similar to the previous case, in that dominant transmitted school doctrine was that these acts are *sunna* while Ibn al-Humām argued that the textual evidence points to these being necessary (*wājib*). The discussion takes place as part of a related debate on whether it is necessary to pause briefly (*iṭmi'nān*) in these two positions as is necessary in the obligatory positions of the prayer. The dominant transmitted position is that pausing briefly is not necessary in these two positions as these very acts are not necessary.

The dominant transmitted doctrine is supported by our Rumelian authors.<sup>119</sup> Mullā Khusraw writes,

Pausing briefly in the bowing (*rukū'*) ... is necessary (*wājib*) because it [i.e. the pausing] was legislated to complement an integral that is sought for its own sake (*li-annahu shurī'a li-takmīl rukn maqṣūd*) as opposed to the [short] standing when raising the head from bowing and [the sitting] between the

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116 Ibn Nujaym, *al-Baḥr al-rā'iq*, 1: 336.

117 Al-Shurunbulālī, *Imdād al-Fattāḥ*, 337-338.

118 Al-Tumurtāshī, *Minaḥ al-Chaffār*, 48b.

119 Mullā Khusraw, *Durar al-ḥukkām*, 1: 71; Kamāl Pāshā-Zāde, *al-Īdāḥ*, 20b; Bālī-Zāde, *al-Farā'id*, 24a; Shāykhī-Zāde, *Majmā' al-anhur*, 1: 88.

two prostrations for pausing therein is *sunna*, because [these two liftings of the head] were legislated to separate the two bowings [of the head]. The upshot is that whatever complements an obligation is necessary, and whatever complements something necessary is a *sunna*.<sup>120</sup>

Here we find a purely rational argument which (1) presents an understanding of the relation between these two acts – raising the head after bowing and raising the head between prostrations – and the acts surrounding them in the ritual prayer, namely, that these occur only to separate between similar actions and are not sought out for their own sake and (2) based on that relation applies a logical rule to identify the importance of pausing in this act, the logical rule stating that an act that complements another cannot be as important as the original act.

The opposing view of Ibn al-Humām is presented and supported by each of our Egyptian writers. Here is al-Ḥalabī's presentation:

Shaykh Kamāl al-Dīn ibn al-Humām said, "The standing [after bowing] and the sitting [between prostrations] should be seen as necessary (*wājib*) due to their constituting inveterate practice and due to what has been narrated by the authors of the four *Sunan* [al-Tirmidhī, al-Nasā'ī, Abū Dāwūd, Ibn Mājah], al-Daraqūṭnī and al-Bayhaqī, from the hadith of Ibn Mas'ūd, from the Prophet – God bless him and give him peace – 'The prayer of a man who does not straighten his back [after] the bowing and prostration does not count'; al-Tirmidhī said, '[It is] a *ḥasan ṣaḥīḥ* hadith.' The position may conceivably be thus according to [Abū Ḥanīfa and Muḥammad] as well, as indicated by the obligation of a forgetfulness prostration for [omitting it] according to what is mentioned in the *Fatāwā* of Qāḍikhān (d. 592/1196) ... . And you know that the implication of the evidence in each of pausing (*tuma'nīna*), the standing and the sitting is that these are necessary as said by Shaykh Kamāl al-Dīn ibn al-Humām, and it is not fitting to turn away from an understanding [of primary sources] if it agrees with [a scholar] transmission (*lā yanbaghī an yu'dal 'an al-dirāya idhā wāfaqat-hā riwāya*), [in this case] what has been presented from the *Fatāwā* of Qāḍikhān.<sup>121</sup>

In this passage, al-Ḥalabī presents a central principle which appears to govern how he works with the new primary-text-based method of Ibn al-Humām, on the one hand, and with the weight of a *madhhab* tradition, on the other

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120 Mullā Khusraw, *Durar al-ḥukkām*, 1: 71. It can be argued that his closing sentence, "Whatever complements something necessary is a *sunna*", would imply that the raising of the head itself is necessary (*wājib*) since the complementary pausing therein is a *sunna*. However, he is explicit elsewhere that the raising of the head after bowing (*qawma*) and between prostrations (*jalsa*) is itself *sunna*: *ibid.*, 1: 75.

121 Al-Ḥalabī, *Ḥalabī kabīr*, 294-295.

hand. This principal finds its way to the *fatwā* manual of the late Ottoman jurist Muḥammad Amīn ibn ‘Ābidīn (d. 1252/1836), who quotes this very passage of al-Ḥalabī’s to highlight the principle: *lā yanbaghī an yu’dal ‘an al-dirāya idhā wāfaqat-hā riwāya*, meaning that jurists must follow their inferences from primary, revelatory source texts as long as a school transmission – even if not the strongest school transmission, as in this case – corresponds to that understanding.<sup>122</sup> Where no such school transmission is found, then such understandings may not be followed. This explains why he chose not to follow Ibn al-Humām in the previous case study, as no clear transmission from Abū Ḥanīfa’s circle supported the necessity of placing hands and knees on the floor. However, in this case a reputable source – the celebrated *Fatāwā* of Qāḍikhān – ascribed to Abū Ḥanīfa what would suggest that raising the head in these two positions is a necessity, namely, that if these are omitted, it is necessary to perform a forgetfulness prostration, which is understood to only apply to necessary acts. The presence of this transmission (*riwāya*) of school doctrine, even if it is contrary to the most commonly transmitted doctrine of Abū Ḥanīfa’s doctrine, offers a sufficient support from within this *madhhab* tradition for a scholar to follow their own inferences from primary source texts.

Ibn Nujaym and al-Shurunbulālī also support this position, which they attribute to “the Verifier (*al-Muḥaqqiq*) Ibn al-Humām”, though with a shorter defence of Ibn al-Humām’s position, both citing (1) inveterate practice and (2) the hadith of ‘the man who offered his prayers poorly’ (*ḥadīth al-musi’ ṣalāta-hu*), where the Prophet ordered a man to repeat his prayer for not pausing in its various positions.<sup>123</sup>

Again, it is worth noting that al-Tumurtāshī, the student of Ibn Nujaym, maintained the dominant school position of denoting these two acts as *sunna* in his epitome, *Tanwīr al-absār*, citing the authority of al-Zayla’ī, the commentator of *Kanz al-daqa’iq*, and offering no engagement with this debate.<sup>124</sup> In so doing, he accords again with the position upheld in all of our Rumelian commentaries.

### Example Three: Standing in place of the first sitting

Our final case study addresses a subtle point: when praying, if one forgets to sit for the first sitting of a three- or four-cycle prayer, and then remembers while getting up, should the person return back to the sitting or continue with the

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122 Ibn ‘Ābidīn, *Sharḥ ‘Uqūd rasm al-muftī*, in Ṣalāḥ Abū al-Ḥājji, *Is‘ād al-muftī ‘alā Sharḥ ‘Uqūd rasm al-muftī* (Beirut: Dār al-Bashā’ir al-Islāmiyya, 2015), 439-440.

123 Ibn Nujaym, *al-Baḥr al-rā’iq*, 1: 317; al-Shurunbulālī, *Imdād al-Fattāḥ*, 258.

124 Al-Tumurtāshī, *Minaḥ al-Ghaffār*, 48b.

prayer and then prostrate for forgetfulness at the end? Unlike the previous two case studies, this topic was subject to disagreement in early Ḥanafī sources. One position was that a person should return back to the sitting as long as they haven't stood completely straight (henceforth the 'complete-standing position'). The other position was that they only return to sitting as long as they are closer to the sitting position; if they are closer to standing, they must continue standing and may not return to sitting; instead they will prostrate for forgetfulness for omitting the sitting (henceforth, the 'closer-to-standing position').

The closer-to-standing position won acceptance in the early classical school, and is represented in all its main epitomes (*mukhtaṣars*). Our Rumelian authors provide justifications for preferring this position. Mullā Khusraw writes,

And [if] he remembers it, i.e., the first sitting, while being closer to sitting ..., by his not raising his knees from the ground, he returns [to sitting] and need not [prostrate for] forgetfulness because *whatever is close to a thing takes its ruling* (*li-anna mā yaqrubu min al-shay' ya'khudhu ḥukmahu*).<sup>125</sup>

The argument presented for this position is purely a rational consideration, presented in italics above. If an act of unknown status lies between two acts of known status, it assumes the status of the act to which it is closest. This argument is also presented by Shaykhī-Zāde, who adds, to explain why the person should not return to sitting once closer to standing, "He does not return [to sitting] because he is, by implication, standing, so it is as if he, in reality, is standing (*li-annahu qā'im ma'nān fa-kāna ka-al-qā'im ḥaḥiqatan*)."<sup>126</sup> He further emphasises the importance of not returning to sitting in such a circumstance by noting that the prayer would be invalidated "according to the correct (*ṣaḥīḥ*) position because of his rejecting an obligation (*farḍ*) [i.e., that of standing] after commencing it, for something [i.e., sitting] which is not an obligation [as it is deemed *wājib*]."<sup>127</sup> Bālī-Zāde's discussion mirrors Shaykhī-Zāde's,<sup>128</sup> while Kamāl Pāshā-Zāde presents the doctrine with little discussion.<sup>129</sup>

Both Shaykhī-Zāde and Mullā Khusraw, from among the Rumelian authors, present the alternative complete-standing position and state that it is the most correct (*aṣaḥḥ*) position according to al-Zayla'ī, the renowned commentator of *Kanz al-daḡā'iḡ*. It is hard to tell how much weight they give to this judge-

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125 Mullā Khusraw, *Durar al-ḥukkām*, 1: 152.

126 Shaykhī-Zāde, *Majma' al-anhur*, 1: 150.

127 Shaykhī-Zāde, *Majma' al-anhur*, 1: 150.

128 Bālī-Zāde, *al-Farā'id*, 35a.

129 Kamāl Pāshā-Zāde, *al-Ṭḡāḥ*, 28b.

ment of al-Zayla'ī; it is noteworthy that they offer no argument to support this position.

The Egyptian writers offer a short rational argument for the closer-to-standing position, but, unlike the Rumelians, they unanimously support the completely-standing position. Ibn Nujaym writes, after offering the standard arguments that support the closer-to-standing position,

This breakdown is narrated from Abū Yūsuf. It was chosen by the teachers (*mashāyikh*) of Bukhara and was preferred by the authors of the authoritative epitomes (*irtadāhu aṣḥāb al-mutūn*) ... . However, [al-Sarakhsī] mentions in the *Mabsūṭ* that the evident transmission (*zāhir al-riwāya*) [of school doctrine] is that when a person has not completely stood up (*idhā lam yas-tatimm qā'imān*), he returns [to sitting], and if he has completely stood, he does not return, because it has come in the hadith from the Prophet – God bless him and give him peace – that he stood from the second [cycle] to the third before sitting, so they alerted him and he returned [to sitting]. And it has been narrated [in another report] that he did not return, as that was after he had completely stood, and this is because when he completely stood, he became occupied with the obligation of standing, so it cannot be left. Here ends [al-Sarakhsī's quotation] (*intahā*). This position was deemed correct by al-Zayla'ī, and [Ibn al-Humām] in *Fatḥ al-Qadīr* [states] that it is the evident school position [*zāhir al-madhhab*] and that harmonising between the two transmissions of [Prophetic] practice [i.e., the two hadiths mentioned by al-Sarakhsī, where the Prophet returned to sitting when alerted in one case and not in the other] by interpreting them as referring to the two situations of being closer to standing and not [being closer to standing] is not more fitting than [harmonising] by interpreting them with completely standing and not [completely standing].<sup>130</sup>

The arguments presented by Ibn Nujaym to support this position are purely transmission based. Firstly, the strong transmission from Abū Ḥanīfa's circle supports the complete-standing position, and secondly, the hadith reports appear to support it. The hadiths appear in a quotation from al-Sarakhsī, the leading authority figure of Central-Asian early classical Ḥanafism, who, unsurprisingly, does not provide a reference to support the hadiths he refers to.<sup>131</sup> It is fascinating to note that the main teaching texts of the early classical school support the closer-to-standing position despite the fact that the stronger transmission from Abū Ḥanīfa's circle supports the complete-standing position. This can only be because the rational consideration, presented above by

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130 Ibn Nujaym, *al-Baḥr*, 2: 109.

131 The original passage is in al-Sarakhsī, *al-Mabsūṭ*, 1: 223-224.



Mullā Khusraw, was seen by them as being more satisfying and more consistent in reasoning than this strongly transmitted doctrine.

Al-Ḥalabī presents a similar line of argumentation to Ibn Nujaym's and adds a referenced hadith to support the argument:

And this is supported by what is narrated by Abū Dāwūd, that he said – upon him be blessings and peace – ‘When the imam stands [after] two cycles [without sitting], if he remembers before he is completely standing (*qabla an yastawiya qā’iman*), then let him sit; and if he has completely stood, then let him not sit and prostrate two prostrations for forgetfulness. And the like of this is found in Ibn Mājah.

Al-Shurunbulālī also presents this referenced hadith in his defence for this position. And both al-Shurunbulālī and al-Tumurtāshī present the complete-standing position in their epitomes as the dominant position.<sup>132</sup> Interestingly, these referenced hadiths that are mentioned by al-Ḥalabī, and al-Shurunbulālī after him, are not found in Ibn al-Humām's discussions on this topic. And I have not found them in al-Zaylaṭī's *Naṣb al-rāya* or al-ʿAynī's *al-Bināya*. This raises a question about our authors' sources for this hadith: is it direct engagement with hadith collections? What we can see is that at least some members of the Egyptian school were actively developing its hadith evidence after Ibn al-Humām.

This particular case study is important because it shows the importance not just of hadith transmission but of school-doctrine transmission to Egyptian Ḥanafis. Where these two forms of transmission were to concur, it would appear hard to imagine the members of this school not following these points of convergence, given their interest in these two forms of transmission. The Rumelians, on the other hand, appear more content to give preference to early classical doctrine and support rational arguments over matters of transmission, whether the transmission is of hadiths or school doctrine. These three case studies lend support to the notion of a distinct school of Egyptian Ḥanafism with its own principles that set it apart from its contemporary Rumelian counterpart as well as the preceding early classical school.

## Conclusion: The Egyptian and Rumelian Schools

The preceding investigation has shown the usefulness of considering Egyptian and Rumelian Ḥanafism as representing two distinct schools of Ḥanafī thought separated from each other by how they view the relationship be-

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<sup>132</sup> Al-Shurunbulālī, *Imdād al-Fattāh*, 485-486; Al-Tumurtāshī, *Minah al-Ghaffār*, 87a.

tween *fiqh* and hadith. The Rumelians continued the epistemology of early classical Ḥanafism in upholding Ḥanafī jurists as the main authorities in determining the strength of hadiths. Thus, they (1) typically presented hadiths with wordings found in Ḥanafī juristic works, (2) did not generally reference these hadiths to well-known hadith collections, (3) did not give importance to traditionist terms for grading the strength of hadiths (e.g. *ṣaḥīḥ*, *ḥasan*, *ḍaʿīf*). The Egyptians stood apart by opposing the Rumelians in all three features, by (1) regularly using hadiths with wordings as found in well-known hadith collections, (2) frequently naming these collections, and (2) frequently applying traditionist terms for grading the strengths of these reports. Furthermore, Egyptians applied this interest in textual transmission to the transmission of Ḥanafī doctrine itself. Where hadith evidence corresponded to a strong school transmission, they would typically unite in following this transmission. The Rumelians presented themselves throughout as giving more weight to the preferences of the main teaching texts of the early classical school, even where these did not support strongest transmission from Abū Ḥanīfā's circle, and, in so doing, they gave more weight to rational arguments for legal consistency over textual arguments from hadith and school transmission. We may conclude this paper with reflecting further on key questions for each school and areas for further research.

### *The Egyptian School and Whether It Can Be Called the School of Ibn al-Humām*

The Egyptian school, as shown by our case studies, was not monolithic. Members of this school did not always champion the same positions and did not always support school doctrine with the same hadiths. But they all shared (1) an interest in giving hadith evidence that is supported by traditionist criticism and hadith collections and (2) an interest, in varying degrees, to engage the challenge of Ibn al-Humām to classical Ḥanafī doctrine. And there is no doubt that the latter point stems from the former: if the science of traditionists is going to be upheld as a reliable means to defend Ḥanafī doctrine, then no doubt challenges will arise when this science contradicts Ḥanafī doctrine. The Egyptian school project can be seen as an attempt to rise up to this challenge, which authors undertook to varying degrees.

Ibn al-Humām was the least shackled in seeking to follow hadith evidence, as both sets of case studies have shown. In the presentation of hadith criticism, he was most followed by al-Ḥalabī, though in his modifications to Ḥanafī doctrine, he was most followed by Ibn Nujaym and al-Shurunbulālī. Unfortunately, our case studies were too few for us to be able to make such a judgement categorically.

Al-Ḥalabī presents a very clear and principled picture of an Egyptian-school member attempting to weigh between school doctrine and hadith evidence. He appears to rely heavily on his principle: *la yanbaghī an yu'dal 'an al-dirāya idhā wāfaqat-hā riwāya*. Throughout the case studies, he applied *dirāya*, understandings from primary revelatory sources, to uphold the main school doctrine, or *riwāya*. Where several reputable *riwāyas* existed from Abū Ḥanīfa's circle, he allowed his *dirāya* to guide him to selecting a suitable *riwāya*, as in the case of the necessity of raising the head after bowing and between prostrations and the complete-standing position, as both were supported by reputable transmissions from Abū Ḥanīfa's circle.

Ibn Nujaym's method seems less clear from our small selection of case studies. He supported Ibn al-Humām in all three examples of legal change, although there was no school transmission to support the necessity of placing hands and knees in prostration, although he did not accept Ibn al-Humām's argument for the necessity of taking the name of God in ritual ablutions. Unfortunately, it is not clear from these case studies what Ibn Nujaym's methods were for reconciling school transmission with hadith evidence.

Al-Shurunbulālī, like Ibn Nujaym, followed Ibn al-Humām in all three examples of legal change, and rejected Ibn al-Humām's attempt to make taking the name of God necessary in ablutions. On the question of placing hands and knees in prostration, he applied his own original insight in making one hand and knee obligatory (*farḍ*), attempting thereby to combine Abū Layth al-Samarqandī's position with Ibn al-Humām's. Unfortunately, like with Ibn Nujaym, these case studies are not sufficient in elucidating his method.

Al-Tumurtashī comes across as the most conservative of the four authors. He only followed Ibn al-Humām in the third of the three examples of legal change. It would appear from this small selection, that he applies an extreme version of al-Ḥalabī's principle: he will only follow *dirāya* where it accords with the strongest school *riwāya*, as was the case in the third example of legal change, and not with the first two, where the strongest transmission of legal doctrine did not accord with the Ibn al-Humām's hadith-based arguments. If this is true, then we can say that al-Tumurtāshī is the closest of the four Egyptians to the Rumelians, applying hadiths to support school doctrine and not to change this doctrine, except where a strong transmission of school doctrine is other than the doctrine that became popular in early classical teaching texts.

To return now to the original question: can this be said to be the school of Ibn al-Humām? It seems the easiest answer is to say both 'yes' and 'no'. 'Yes' because the unifying feature is an attachment to a project of reconciling Ḥanafī legal doctrine with hadith sciences as developed by traditionists. The schol-

ar whose work presents the most honest and free attempt at this is Ibn al-Humām. This is why these Egyptian works all engage his hadith work and legal arguments, though not with the same conclusions. Ibn al-Humām seems to be the open challenge to which this school is responding, attempting thereby to find a principled way to be true to both hadith evidence and school tradition. No figure in Ḥanafī history, after the rise of the *madhhab* tradition has offered such an honest attempt to reconcile Ḥanafī thought with hadith literature as attempted by Ibn al-Humām. It is noteworthy that the scholars of this Egyptian tradition award Ibn al-Humām with the epithet ‘*al-Muḥaqqiq*’, the Verifier, in recognition of his attempt to verify Ḥanafī doctrine based on the primary revelatory sources.<sup>133</sup> So ‘yes’, whether Egyptians agreed or disagreed with the specifics of his legal choices, their being part of a shared conversation that responded to his work means that we can call them a part of his school.

But we can also answer with a ‘no’, that it is too reductionist to simply call this the school of Ibn al-Humām, as that would ignore the wider developments in Egyptian/Syrian Ḥanafī thought contemporary and prior to Ibn al-Ḥumām, and give undue agency to this singular figure. We can note that Ibn al-Humām’s contemporary Badr al-Dīn al-Aynī offers a possibly even more detailed exposition of hadith evidence in his encyclopaedic commentary on the *Hidāya*. We can also note that it seems unlikely that either of these two works would have had the form that they have were it not for the encyclopaedic engagement with the hadiths of *fiqh* offered, one century earlier, by Jamāl al-Dīn al-Zayla‘ī in *Naṣb al-rāya*. And we can see the seeds of this shift, one generation earlier still, in the commentary on *Kanz al-daqa‘iq* of Fakhr al-Dīn al-Zayla‘ī, where we see his interest in referencing known collections in his otherwise traditional Ḥanafī exposition. And if we wish we can take this trend earlier.

Two seventh century Ḥanafīs can be mentioned to illustrate the varied hadith interests in Egypt and Syria in the seventh Islamic century. The first is Aḥmad ibn Muḥammad al-Zāhirī (d. 696/1297) of Aleppo, a Ḥanafī who was recognised as a leading hadith transmitter, whose students included the hadith masters al-Mizzī (d. 742/1341), al-Dhahabī (d. 748/1348); and al-Barzālī (d. 739/1339).<sup>134</sup> The second is Muḥammad ibn Ya‘qūb ibn Ibrāhīm al-Asadī (d. 695/1296) of Aleppo, a leading hadith master who was Ḥanafī in *fiqh*, Ḥanbalī in creed and taught the likes of Ibn Taymiyya (d. 728/1328), al-Mizzī and

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133 Ibn ‘Ābidīn points out that the term ‘*al-Muḥaqqiq*’, when not further qualified, is a reference to Ibn al-Humām: Ibn ‘Ābidīn, *Radd al-muḥtār ‘alā al-Durr al-mukhtār*, 6 vols. (Beirut: Dār al-Fikr, 1992), 1: 26.

134 Al-Ṭabbākh, *l’lām al-nubalā’ bi-tārīkh Ḥalab al-shahbā’*, 4 vols. (Aleppo: Dār al-Qalam al-‘Arabī, 1989), 4: 488-489.

al-Dhahabī.<sup>135</sup> These two names were not renowned *fiqh* authors, but their biographies underscore the environment of inter-*madhhab* devotion to hadith study and transmission in Egypt and Syria that laid the foundation for the *takhrīj* of al-Zayla‘ī and the project of Ibn al-Humām.

Yet, we can still assert that none of the aforementioned figures offered a sustained attempt to work through the legal consequences of this commitment to traditionist hadith sciences other than Ibn al-Humām. So perhaps the most fair answer is that the Ottoman Ḥanafī school of Egypt is most fittingly seen as the school of Ibn al-Humām, with the understanding that Ibn al-Humām’s ‘challenge’ to the Ḥanafī community arose out of the cross-generational interest in the traditionist hadith sciences amongst scholars in Egypt and Syria. And we can assert that the key feature of this school is the striving of its authors to negotiate the challenge of Ibn al-Humām’s work, fully supporting him where hadith evidence and strong school transmission converge, and disagreeing among themselves where these are not perfectly realised. No doubt, further study is required to elucidate fully the features of this school and the methods of its various contributors.

### *The Rumelian School and Whether It is Predominantly a Rational School*

The Rumelian authors analysed in the current study have shown themselves to be fitting heirs of the early classical school, fully committed to its legal preferences, its hadith transmissions and its forms of legal argument. In so doing, we must conclude that they gave highest importance to what can be called rational argumentation as the basis for approaching the law. This is because justificatory arguments in legal texts typically consist of only two elements: textual arguments (meaning the texts of the Qur’an and hadith) and rational arguments. Rumelian authors’ not updating their textual arguments, despite the flurry of textual-based activity from their Egyptian counterparts, means they placed much more stock in the rational arguments which were seen as upholding the preferred legal positions of the early classical school. These rational arguments can be summarised as arguments for consistency and harmony across the legal rulings of the school. And this form of consistency-seeking in legal reflection is ultimately what is meant by the term *qiyās* when employed in works of Ḥanafī legal theory.<sup>136</sup>

We can see in our short summary from early classical *uṣūl* works in Section One, above, that it is impossible to separate between Ḥanafī hadith theory

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135 Al-Dhahabī, *Tārīkh al-Islām*, ed. ‘Umar ‘Abd al-Salām al-Tadmurī, 52 volumes (Beirut: Dār al-Kitāb al-‘Arabī, 1993), 52: 276-277.

136 See Hanif, *A Theory*, 59-70, 81-92.

and Ḥanafī *qiyās* theory. The *qiyās* – a taste for the harmony and sensibleness of the law – is ever present and exerting influence when evaluating hadiths not narrated by the leading teachers of law from the early Muslim community (*salaf*). In upholding the notion that Ḥanafī jurists are the highest authority in determining sound hadith transmission, the Rumelian school is therefore upholding the centrality of *qiyās* – the quest for legal harmony – to this legal project. This understanding raises an important question for both Ottoman Ḥanafī schools to answer.

Regarding the Rumelian school, if the findings of this study are true, that they sought, on the whole, not to develop the hadith foundations of their legal literature, then the next question that arises is whether they sought to develop the *qiyās* arguments of this literature. If we assume that all vibrant intellectual traditions must involve more than merely summarising earlier works, then we can ask what was the focus of this particular legal culture? What was the area in which it was sharpening its arguments? We must assume for now that the focus of these authors was on rational argumentation, not textual argumentation. Further studies must undertake the far harder work of carefully analysing the developments and taste for rational argumentation in legal works across this school, and the methods of its individual authors. Such work, which requires a great taste for rational legal insights, will shed an important light on the nature of the Rumelian school.

Turning to the Egyptian school, this understanding that *qiyās* theory and hadith theory cannot be separated directs us to ask how rational argumentation fares in that school. In which cases are rational arguments given greater weight than arguments from transmission – whether of hadiths or of school doctrine – and in which cases are they not given greater weight? If Egyptian authors disagree on this point, then what is the range of this disagreement and the relevant contribution of its authors? Without this focus on rational argumentation, the true nature of these legal traditions remains unclear.

It is worth admiring, at the conclusion of this essay, that despite what seems a very clear difference in how these two schools approached the corpus of Ḥanafī teachings, they worked most respectfully together in their scholarly enterprises. The work of Ibn al-Humām was frequently quoted by Rumelian authors, where Ibn al-Humām was presented as a respectable and learned legal commentator, and Ibrāhīm al-Ḥalabī, the closest author from this study in reproducing Ibn al-Humām’s hadith argumentation, spent his career as a learned and highly respected teacher in Istanbul. On the converse, the *Durar al-ḥukkām* of Mullā Khusraw – the Rumelian author whose *uṣūl* work was the closest in our study to the understandings of early classical authors and who avoided all hadiths in his discussion of *sunnas* of ritual ablutions – enjoyed

great popularity as a teaching text in the Egyptian/Syrian tradition. Important commentaries on this work were produced by al-Shurunbulālī and his student Ismā'īl al-Nābulusī (d. 1062/1652),<sup>137</sup> and it was seen as an important source for al-Ḥaṣkafī's *al-Durr al-mukhtār*,<sup>138</sup> all important Egyptian/Syrian authors. Despite the differences identified in the current study, they clearly saw their work brought together under the larger umbrella of Ḥanafī law, illustrating not only their open-heartedness, but also the intellectual breadth of the Ḥanafī legal tradition.

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137 Al-Muḥibbī, *Khulāṣat al-athar*, 1: 408.

138 Ibn 'Ābidīn, *Radd al-muḥtār*, 1: 20.

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