

## On 'Concessions' and Conduct A Study in Early *Ḥadīth*

Traditions about early ritual practices and customs reported on the authority of the Prophet, of his Companions (*ṣaḥāba*) or their Successors (*tābi'ūn*) are often divergent and even contradictory. Early compilations of *ḥadīth* occasionally record these traditions in separate chapters with headings which point out their differences; they also enumerate the scholars who held these divergent views. So, for example, the chapter *Man kāna yutimmu l-takbīr* is followed by the chapter *Man kāna lā yutimmu l-takbīr*; the chapter *Man qāla laysa 'alā man nāma sājidān wa-qā'idān wuḍu'* is followed by *Man kāna yaqūlu idhā nāma fa-l-yatawadda'*. Traditions arranged under headings *Man kariha* ... followed by *Man rakhkhaṣa fī* ... are of a similar type. It is obvious that these diverse traditions reflect differences in the opinions of various circles of Muslim scholars and indicate that in the early period of Islam many ritual prescriptions were not yet firmly established.

The *rukhaṣ* or "concessions," i.e., the changes in ritual prescriptions designed to soften their harshness, were indeed an efficient tool in adapting the prescriptions to the real conditions of life and its changing circumstances. They established practices that were in keeping with the new ideas of Islam. Yet it is evident that the concession, *rukhaṣa*, had to acquire authoritative sanction and legitimacy; this could be achieved only through an utterance of the Prophet. As a matter of fact, the following *ḥadīth* is attributed to the Prophet: "Truly, God desires that His concessions be carried out [just] as He desires His injunctions to be observed" (*inna llāha*

*yuhibbu an tu'tā rukhaṣuhu kamā yuhibbu an tu'tā 'azā'imuhu*).<sup>1</sup> This tradition was interpreted in manifold ways. According to one interpretation it implies a whole view of life; al-Shaybānī (died 189/805) states that the believer who restricts himself to the most basic means of subsistence acts according to the prescriptions, whereas pleasant life and delights are for him a concession, a *rukḥṣa*.<sup>2</sup> The purchase of the arable *kharāj* land in Iraq by Muslims was approved by 'Umar b. 'Abd al-'Azīz on the ground of a *rukḥṣa* interpretation of a Qur'ānic verse; grants of land in the Sawād, given to Muslims, were also based on *rukḥṣa* precedents.<sup>3</sup>

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- 1 'Abd al-Razzāq, *al-Muṣannaḥ*, ed. Ḥabīb al-Raḥmān al-A'zamī (Beirut: 1392/1972), 11: 291, no. 20569 (=Jāmi' Ma'mar b. Rāshid: ... *an yu'mala bi-rukḥaṣihi*); Ibn Balbān, *al-Iḥsān fī taqrīb ṣaḥīḥi bni Hibbān*, MS. Br. Mus., Add. 27519, fol. 90a; al-Suyūṭī, *al-Durr al-manthūr fī l-tafsīr bi-l-ma'thūr* (Cairo: 1314), 1: 193; Abū Nu'aym, *Ḥilyat al-awliyā'* (Beirut: 1387/1967, reprint), 6: 191 inf., 276, 2: 101 inf. (... *an tuqbala rukhaṣuhu*); al-Māwardī, *al-Amthāl wa-l-ḥikam*, MS Leiden, Or. 655, fol. 87b (... *an yu'kḥadha bi-rukḥaṣihi kamā yuhibbu an yu'kḥadha bi-farā'idhi*), al-Mundhirī, *al-Targhīb wa-l-tarhīb*, ed. Muḥammad Muḥyī l-Dīn 'Abd al-Ḥamīd (Cairo: 1279/1960), 2: 261, no. 1541 (and see *ibid.* no. 1539: ... *an tu'tā rukhaṣuhu kamā yakrahu an tu'tā ma'ṣiyatuhu*; another version: ... *kamā yuhibbu an tutraka ma'ṣiyatuhu*); al-Munāwī, *Fayḍ al-qadīr, sharḥ al-jāmi' al-ṣaḥīḥ* (Beirut: 1391/1972), 2: 292, no. 1879, 293, no. 1881 (... *an tuqbala rukhaṣuhu kamā yuhibbu l-'abdu maghfirat rabbihi*; 2: 296, no. 1894: ... *Kamā yakrahu an tu'tā ma'ṣiyatuhu*); al-Daylamī, *Firdaws al-akḥbār*, Chester Beatty 4139, fol. 53a; al-Khaṭīb al-Baghdādī, *Mūdiḥ awhām al-jam' wa-l-tafrīq* (Hyderabad: 1379/1960), 2: 10 (... *an tu'tā mayāsiruhu kamā yuhibbu an tu'tā 'azā'imuhu*); cf. al-Kulaynī *al-Kāfī*, ed. Najm al-Dīn al-Āmulī (Tehran: 1388), 1: 208-209, no. 4.
  - 2 al-Shaybānī, *al-Iktisāb fī l-rizqi l-mustaṭāb*, Talkhīṣ Muḥammad b. Samā'a, ed. Maḥmud 'Arnūs (Cairo: 1357/1938), p. 81: ... *fa-ṣāra l-ḥāṣilu anna l-iqtisāra 'alā adnā mā yakfīhi 'azīmatun, wa-mā zāda 'alā dhālika min al-tana'umi wa-l-nayli min al-ladhdhāti rukḥṣatun, wa-qāla ṣallā llāhu 'alayhi wa-sallam: inna llāha yuhibbu an yu'tā bi-rukḥaṣihi* ...
  - 3 Abū 'Ubayd, *Kitāb al-amwāl*, ed. Muḥammad Ḥamīd al-Fiḳī (Cairo: 1353), pp. 84-85; cf. al-Bayhaqī, *al-Sunan al-kubrā* (Hyderabad: 1356), 9: 140-1: "... *bāb man kariha shirā'a arḍi l-kharāj* ..." And see the traditions against buying of *kharāj* land: Ibn Zanjawayh, *al-Amwāl*, MS. Burdur 183, fols.

The Prophet is said to have denied believers permission to enter baths, but later granted them a *rukḥṣa* to enter them, provided they wore loincloths, *ma'āzir*.<sup>4</sup> There were in fact two contradictory attitudes in the matter of baths: the one disapproving<sup>5</sup> and the other

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29a-32a (and see e.g. *ibid.*, fol. 30a, inf., "... *samī'a l-ḥasana yaqūlu: man khala'a ribqata mu'ahidin fa-jā'alahā fī 'unuqihi fa-qad istaqāla hijratahu wa-wallā l-islāma zahrahu wa-man aqarra bi-shay'in min al-jizyati fa-qad aqarra bi-bābin min abwābi l-kufri*").

- 4 al-Shawkānī, *Nayl al-awṭār, sharḥ muntaqā l-akḥbār min aḥādīthi sayyidi l-akhyār* (Cairo: 1372/1953), 1: 299; Ibn Abī Shayba, *al-Muṣannaḥ*, ed. 'Abd al-Khālīq Khān al-Afghānī (Hyderabad: 1386/1966), 1: 109-110; 'Abd al-Razzāq, 1: 290-296, nos. 1116-1136; al-Fākihī, *Ta'riḥ Makka*, MS. Leiden Or. 463, fol. 412a; al-Mundhirī, 1: 118-122, nos. 267-278; al-Sharīshī, *Sharḥ maqāmāt al-Ḥarīrī*, ed. Muḥammad 'Abd al-Mun'im Khafājī (Cairo: 1372/1952), 3: 74; al-Muttaqī l-Hindī, *Kanz al-'ummāl* (Hyderabad: 1381/1962), 9: 231-234, nos. 1978-2010; cf. al-Ḥākim, *Mārifat 'ulūm al-ḥadīth*, ed. Mu'azzam Ḥusayn (Cairo: 1937), p. 98.
- 5 See e.g. al-Munāwī, 2: 54, no. 131: "... *uffin li-l-ḥammām* ..." enjoins husbands to forbid their wives to enter baths, stresses the filthiness of their water and confines the entrance of men to those wearing the *ma'āzir*; cf. al-Ṭayālīsī, *Musnad* (Hyderabad: 1321), p. 212, no. 1518: 'Ā'isha reproaches the women from Ḥims for entering baths. And see Nūr al-Dīn al-Haythamī, *Majma' al-zawā'id wa-manba' al-fawā'id* (Beirut: 1967, reprint), 1: 277-278 (the prohibition for women to enter baths; and see *ibid.*, p. 114: the bath is the abode of the Devil); al-Ṭabarī, *Dhayl al-mudḥayyal* (Cairo: 1353/1934), 10: 246; al-Dhahabī, *Mīzān al-ītidāl*, ed. 'Alī Muḥammad al-Bajāwī (Cairo: 1382/1963), 3: 631, no. 7889; al-Daylamī, MS. Chester Beatty 3037, fol. 90b (the prohibition to enter baths by women is preceded by a prediction of the Prophet that the Muslims will conquer the lands of the '*ajam* and will find there "buildings called baths"; a concession at the end of the *ḥadīth* is granted to women who are ill, or after confinement). And see al-Kattānī, *Juz'*, MS. Chester Beatty 4483, fol. 9b ("... *bi'sa l-bayt al-ḥammām*"); the Prophet permitted, however, men to enter the bath wearing the *ma'āzir*, after being told of the importance of the bath for the cleanness of the body and the treatment of the sick). Cf. Aḥmad b. Ḥanbal, *al-'Ilal wa-mārifat al-rijāl*, ed. Talāt Koçyiğit and İsmail Cerrahoğlu (Ankara: 1963), 1: 266, no. 1716 (the prayer in a bath is disliked), 271, no. 1745 ("*al-arḍu kulluhā masjidun illā l-ḥammām wa-l-maqbara*"). And see the story of Ibn 'Umar who was shocked when he saw the naked men in the bath (Ibn Sa'd,

recommending them.<sup>6</sup> Accordingly scholars are divided in their opinion as to whether the water of the bath can be used for ritual washing, *ghusl*, or whether, on the contrary, *ghusl* has to be performed for cleaning oneself from the very water of the bath.<sup>7</sup>

The knowledge of *rukhaṣ* granted by the Prophet is essential for the proper understanding of the faith and its injunctions. The misinterpretation of the verse: "Those who treasure up gold and

*Ṭabaqāt* (Beirut: 1377/1957), 4: 153-154); and see the various Shī'ī traditions in Yūsuf al-Baḥrānī's *al-Ḥadā'iq al-nādira fī aḥkām al-ʿira al-ṭāhira*, ed. Muḥammad Taqīyy al-Ayrawānī (Nadjaḥ: 1378), 5: 528-540.

- 6 See al-Khaṭīb al-Baḡhdādī, 2: 311, 11.4-5; Ibn al-Sunnī, *ʿAmal al-yawm wa-l-layla* (Hyderabad: 1358), p. 85: "*nī'ma l-bayt al-ḥammām yadkhuluḥu l-rajulu l-muslim ...*"; al-Daylamī, MS. Chester Beatty 3037, fol. 174b; al-Waṣṣābī al-Ḥabashī, *al-Baraka fī faḍli l-sā'yī wa-l-ḥaraka* (Cairo: n.d.), p. 268; Nūr al-Dīn al-Haythamī, 1: 279 (a bath was built on the spot approved of by the Prophet). The tradition that the Prophet used to frequent the bath is vehemently refuted by al-Qaṣṭallānī, as recorded in al-Zurqānī's *Sharḥ al-mawāhib al-laduniyya* (Cairo: 1327), 4: 214. Al-Qaṣṭallānī, quoting the opinion of Ibn Kathīr, states that there were no baths in the Arabian peninsula in the time of the Prophet. Al-Khaṭīb al-Baḡhdādī, discussing the tradition of Umm al-Dardā' about her entering a bath in Medina (*Mūḍiḥ* 1: 359), states that there were no baths in Medina in the period of the Prophet; in that period baths existed only in Syria and Persia (*Mūḍiḥ* 1: 362-364). Cf. al-Suyūṭī, *al-Ḥāwī li-l-fatāwī*, ed. Muḥammad Muḥyī l-Dīn 'Abd al-Ḥamīd (Cairo: 1378/1959), 1: 526-528; Ibn 'Asākir, *Ta'rīkh (Tahdhīb)* (Damascus: 1329), 3: 380; Murtaḍā al-Zabīdī, *Ithāf al-sāda al-muttaqīn bi-sharḥ asrār iḥyā' 'ulūm al-dīn* (Cairo: 1311) (reprinted Beirut), 2: 400. On the building of baths in Baṣra in the early period of Islam and the profits gained from them see al-Balādhurī, *Ansāb al-ashraf*, 1, ed. Muḥammad Ḥamīdullah (Cairo: 1959): 502; al-Tha'ālibī, *Thimār al-qulūb*, ed. Abū l-Faḍl Ibrāhīm (Cairo: 1384/1965), p. 318, no. 476.

- 7 See Ibn Abī Shayba, 1: 107-108; 'Abd al-Razzāq, 1: 295-298 (see e.g. the answer of Ibn 'Abbās, "*innamā ja'ala llāhu l-mā'a yuṭahhiru wa-lā yuṭahharu*," *ibid.*, no. 1142; and see the answer of al-Sha'bī when asked, on leaving the bath, whether one is obliged to perform the *ghusl* (to clean oneself) from the water of the bath: "So why did I enter the bath?", *ibid.*, no. 1146); and see the outspoken answer of Ibn 'Abbās when he entered a bath in the state of *iḥrām*: "*Mā ya'ba'u llāhu bi-awsākhinā shay'an*," al-Bayhaqī, *al-Sunan al-kubrā*, 5: 63 inf.

silver, and do not expend them in the way of God — give them good tidings of a painful chastisement ..." (Qur'ān 9:34) by Abū Dharr is explained by the fact that Abū Dharr met the Prophet and heard from him some injunctions of a severe character (*yasma'u min rasūli llāhi [š] l-amra fīhi l-shiddatu*); he then left for the desert. The Prophet, in the meantime, alleviated the injunction (*yurakhkhišu fīhi*) and people adopted the concession. But Abū Dharr, unaware of this, came back and adhered to the first (scil. severe) injunction.<sup>8</sup> In later periods of Islam the practice of *rukhaṣ* was presented as the attitude of the first generations of Islam. The righteous predecessors (*al-salaf*), argues Abū Ṭālib ʔl-Makkī, were in the habit of alleviating (*yurakhkhiṣūna*) the rules of ritual impurity, but were strict in the matter of earning one's living by proper means alone as well as in the moral aspects of behavior like slander, futile talk, excessive indulgence in rhetoric etc., whereas contemporary scholars, Abū Ṭālib continues, are heedless in problems of moral behavior, but are rigid (*shaddadū*) with regard to ritual impurity.<sup>9</sup> Sufyān al-Thawrī speaks about *rukhaṣa* in the following terms: "Knowledge in our opinion is merely [the knowledge of] a *rukhaṣa* [reported on the authority] of a reliable scholar; the rigid, rigoristic practice can be observed by everyone."<sup>10</sup> The pious 'Aṭā' al-Sulaymī asked for the traditions of *rukhaṣ*; they might relieve his grief, he said.<sup>11</sup> The *rukhaṣ*-traditions were of great importance for the strengthening of belief in God's mercy for the believers (*ḥusnu l-ẓanni bi-llāh*).<sup>12</sup> Sulaymān b. Ṭarkhān asked his son to tell him *rukhaṣ*-traditions in order to come to the Presence of God (literally: to meet God) with hope for God's mercy.<sup>13</sup>

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8 al-Suyūṭī, *al-Durr al-manthūr*, 3: 243.

9 Abū Ṭālib al-Makkī, *Qūt al-qulūb* (Cairo: 1351/1932), 2: 46.

10 Ibn 'Abd al-Barr, *Jāmi' bayān al-'ilm wa-faḍlihi* (al-Madīna al-munawwara: n.d., reprint), 2: 36: *innamā l-'ilmu 'indanā l-rukhaṣatu min thiḡatin*; *fa-ammā l-tashdīdu fa-yuḥsinuhu kullu aḥādīn*.

11 Abū Nu'aym, 6: 217.

12 See Ibn Abī l-Dunyā, *Majmū'at al-rasā'il* (Cairo: 1354/1935), pp. 39-72: *kitābu ḥusni l-ẓanni bi-llāh*.

13 Ibid., p. 45, no. 29; Abū Nu'aym, 3: 31.

In a wider sense *rukhaş* represent in the opinion of Muslim scholars the characteristic way of Islam as opposed to Judaism and Christianity. The phrase "... and he will relieve them of their burden and the fetters that they used to wear" (Qur'ān 7:157) is interpreted as referring to the Prophet, who removed the burden of excessively harsh practices of worship<sup>14</sup> and of ritual purity.<sup>15</sup> The rigid and excessive practices of worship refer to Jews and Christians alike. The Prophet forbade his believers to follow the harsh and strict way of people who brought upon themselves destruction. The remnants of these people can be found in the cells of monks and in monasteries; this, of course, refers to Christians.<sup>16</sup> These very comments are coupled with the *hadīth* about the *rukhaş* mentioned earlier: *inna llāha yuhibbu ...* It is thus not surprising to find this *rukhaş* tradition together with an additional phrase: ... *fa-qbalū rukhaşa llāhi wa-lā takūnū ka-banī isrā'ila hīna shaddadū 'alā anfusihim fa-shaddada llāhu 'alayhim*.<sup>17</sup>

The *rukhaşa* tradition is indeed recorded in chapters condemning hardship in the exertion of worship and ritual practices,<sup>18</sup> stressing the benevolence of God for His creatures even if they commit grave sins, reproving cruelty even towards a cat,<sup>19</sup>

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14 ... *al-tathqīlu lladhī kāna fī dīnihim ... al-tashdīdu fī l-'ibādati ... al-shadā'idu llatī kānat 'alayhim ... tashdīdun shuddida 'alā l-qawmi, fa-jā'a Muḥammadun (ṣ) bi-l-tajāwuzi 'anhum.*

15 al-Suyūṭī, *al-Durr al-manthūr*, 3: 135; al-Ṭabarī, *Tafsīr*, ed. Maḥmūd and Aḥmad Shākir (Cairo: 1958), 13: 167-168; al-Qurṭubī, *Tafsīr*, (Cairo: 1387/1967), 7: 300; Hāshim b. Sulaymān al-Baḥrānī al-Tawbalī al-Katakānī, *al-Burhān fī tafsīri l-qur'ān* (Qumm: 1393), 2: 40, no. 3.

16 al-Suyūṭī, *al-Durr al-manthūr*, 1: 193.

17 al-'Āmilī, *al-Kashkūl*, ed. Ṭāhir Aḥmad al-Zāwī (Cairo: 1380/1960), 1: 221.

18 See Ibn Balbān, fol. 90a-b, the headings: ... *dikhru l-ikhbāri 'ammā yustaḥabbu li-l-mar'i min qubūli mā rukkhīşa lahu bi-tarki l-taḥammuli 'alā l-naḥsi mā lā tuṭīqu min al-ṭā'ati ...*; *al-ikhbāru bi-anna 'alā l-mar'i qubūla rukhṣati llāhi lahu fī ṭā'atihi dūna l-taḥammuli 'alā l-naḥsi mā yashuququ 'alayhā ḥamluhu ...*; ... *mā yustaḥabbu li-l-mar'i l-taraffuqu bi-l-ṭā'ati wa-al-amru bi-l-qāṣdi fī l-ṭā'ati dūna an yuḥmala 'alā l-naḥsi mā lā tuṭīqu.*

19 See 'Abd al-Razzāq, 11, no. 20549. The authenticity of the story of the woman who was put in Hell because she caused the death of a cat, was

and recommending leniency, moderation and mildness towards the believers. *Rukhṣa* is *rukḥṣatu llāh*, God's concession for His community; it imposes on the believers kindness and moderation towards each other. *Rukḥṣa* is in this context associated with *riḥq*, *yusr*, *samāha* and *qaṣd*.<sup>20</sup>

In a different context a concession, *rukḥṣa*, is meant to ease the burden of the decreed prescription (*al-ḥukm*) for an excusable reason (*li-'udhrin ḥaṣala*); the acceptance of *rukḥṣa* is almost obligatory in such a case (*yakādu yulḥaqu bi-l-wujūb*); the believer must act according to the *rukḥṣa*, subduing his pride and haughtiness.<sup>21</sup> Breaking the fast of *ṣawm al-dahr* is such a *rukḥṣa*; continuing the fast is stubbornness.<sup>22</sup> Commenting on the *ḥadīth* "The best of my people are those who act according to the *rukḥaṣ*," al-Munāwī stresses that the *rukḥaṣ* apply to specific times only; otherwise one should follow the incumbent prescription.<sup>23</sup> The *ḥadīth* "He who does not accept the concession of God will bear a sin as heavy as the mountains of 'Arafāt" <sup>24</sup> was quoted in connection with a concession according to which it is recommended

questioned by 'Ā'isha. She asserted that the woman was an unbeliever, a *kāfira*. The believer is more respected by God (*akramu 'inda llāhi*) than that He would chastise him because of a cat, she argued. She rebuked Abū Hurayra, the transmitter of the *ḥadīth*, and bade him to transmit the tradition more accurately. See al-Zarkashī, *al-Ijāba li-irādi mā stadrakat-hu 'Ā'ishatu 'alā l-ṣaḥāba* (Cairo: n.d.), p. 61; Nūr al-Dīn al-Haythamī, 1: 116; and see Ibn 'Abd al-Ḥakam, *Futūḥ miṣr*, ed. C. Torrey (Leiden: 1920), p. 292; Hannād b. al-Sariyy, *Kitāb al-zuhd*, MS. Princeton, Garret 1419, fol. 101a, inf. -101b.

20 See 'Abd al-Razzāq, 11: 282-288, nos. 20546; 20559 (*Bāb al-rukḥaṣ wa-l-shadā'id*) and 11: 290-292, nos. 20566-20574 (*Bāb al-rukḥaṣ fī l-'amal wa-l-qaṣd*).

21 al-Munāwī, 2: 296-297; and see *ibid.*, pp. 292-293 (see the commentary: the '*azīma*, injunction, order, has an equal standing with the *rukḥṣa*. According to the circumstances the ordained *wuḍū'* is as obligatory as the *rukḥṣa* of *tayammum*). And see *ibid.*, p. 293: the concessions have to be carried out according to the circumstances for which they were given.

22 Abū Ṭālib al-Makkī, 1: 111.

23 al-Munāwī, 2: 51, no. 1300; al-Daylamī, MS. Chester Beatty 4139, fol. 94b.

24 Ibn 'Abd al-Ḥakam, p. 292; al-Munāwī, 6: 225, no. 9031; al-Daylamī, MS.

to break the fast when on a journey. The core of the discussion was whether the breaking of the fast during a journey is obligatory or merely permitted. Some scholars considered it as a *rukḥṣa*.<sup>25</sup> The phrase in Qur'ān 2:187 "... and seek what God had prescribed for you" (*fa-l-āna bāshirūhunna wa-btaghū mā kataba llāhu lakum*) indicates, according to one interpretation, God's concession concerning the nights of Ramaḍān.<sup>26</sup> The phrase in Qur'ān 2:158 ... *fa-lā junāḥa 'alayhi an yaṭṭawwafa bihimā* ... ("... it is no fault in him to circumambulate them ..."), referring to the circumambulation of al-Ṣafā and Marwa, gave rise to the discussion whether it indicated an order or a concession.<sup>27</sup> The bewailing of the dead by hired women, the *niyāḥa*, is forbidden; but the Prophet granted the afflicted relatives the *rukḥṣa* to mourn the dead and to weep over a dead person's grave.<sup>28</sup>

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Chester Beatty 3037, fol. 158b.

- 25 al-Suyūṭī, *al-Durr al-manthūr*, 1: 193; Ibn 'Abd al-Hakam, p. 265; Aḥmad b. Hanbal, *Musnad*, ed. Shākir (Cairo: 1368/1949), 8: 238, no. 5392; al-Dhahabī, 2: 483; Ibn Kathīr, *Tafsīr* (Beirut: 1385/1966), 1: 382; cf. al-Ṭabarī, *Tafsīr* 3: 461-469 (see p. 460: *al-iṭṭāru fī l-maraḍi 'azmatun min allāhi wājibatun wa-laysa bi-tarkhīṣ*; and see p. 464: *al-iṭṭāru fī l-safari rukḥṣatun min allāhi tā'ālā dhikruhu, rakhkḥaṣahā li-'ibādihi wa-l-farḍu l-ṣawmu* ...); Ibn Balbān, fol. 90b, sup.; al-Sha'rānī, *Lawāqih al-anwār* (Cairo: 1381/1961), pp. 716-717; al-Mundhirī, 2: 258-262; Ibn Qutayba, *Ta'wīl mukhtaliḥ al-ḥadīth* (Cairo: 1326), pp. 307-308; al-Zurqānī, *Sharḥ al-muwāṭṭa'* (Cairo: 1381/1961), 2: 415-420.
- 26 al-Ṭabarī, *Tafsīr*, 3: 500 ult., 508; Ibn Kathīr, *Tafsīr*, 1: 390, line 5 from bottom; al-Suyūṭī, *al-Durr al-manthūr*, 1: 199, line 1.
- 27 See al-Ṭabarī, *Tafsīr*, 3: 230-246; al-Qurṭubī, 2: 182 (and see *ibid.*, about the reading: *fa-lā junāḥa 'alayhi an lā yaṭṭawwafa*); al-Majlisī, *Biḥār al-anwār* (Tehran: 1388), 99: 235, 237-8, 239 line 2; al-Zarkashī, *al-Ijāba*, pp. 78-9; al-Fākihī, fols. 374b-380a; al-Bayhaqī, *al-Sunan al-kubrā*, 5: 96-8; Amīn Maḥmūd Khaṭṭāb, *Fath al-malik al-ma'būd, takmilat al-manhal al-adhb al-mawrūd, sharḥ sunan abī dāwūd* (Cairo: 1394/1974), 1: 243-50, 2: 15-16.
- 28 al-Ḥākim, *al-Mustadrak* (Hyderabad: 1342), 1: 203; al-Khaṭīb al-Baghdādī, *Mūḍih*, 2: 12 sup.; al-Zajjājī, *Amālī*, ed. 'Abd al-Salām Hārūn (Cairo: 1382), p. 181 (... *wa-kadhālika al-naq'u: raf'u l-ṣawti bi-l-bukā'i*; *wa-hādhā kāna manhiyyan 'anhu fī awwali l-islāmi--a'nī l-bukā'a 'alā l-mayyit, thumma rukḥḥiṣa fīhi* ...; al-Rāghib al-Iṣfahānī, *Muḥāḍarāt al-udabā'* (Beirut: 1961),



In some cases the choice between the prescription and the *rukḥṣa* has been left to the believer: such is the case of the ablution of the *junub*. Three traditions about how the Prophet practised *wuḍūʾ* ablution, when in the state of *janāba* contain contradictory details: two of them state that he, being a *junub*, performed the *wuḍūʾ* before he went to sleep, while the third one says that he went to sleep without performing *wuḍūʾ*. Ibn Qutayba, trying to bridge between the contradictory traditions, states that in a state of *janāba* washing before one goes to sleep is the preferred practice (*afḍal*); by not washing the Prophet pointed to the *rukḥṣa*.<sup>29</sup> The believer may choose one of the two practices.

In some cases the *rukḥṣa* completely reverses a former prohibition. The Prophet forbade the visiting of graves, but later changed his decision and granted a *rukḥṣa* to visit them: *nahā rasūlu llāhi [ṣ] ʿan ziyāratī l-qubūri thumma rakhkhaṣa fihā baʿdu*.<sup>30</sup>

Cupping during a fast was forbidden by the Prophet; both the cupper and the person whose blood was drawn were considered to have broken their fast. The Prophet, however, changed his decision and granted a *rukḥṣa*; cupping did not stop the fast.<sup>31</sup>

Lengthy chapters contain discussions of the problem as to whether kissing one's wife while fasting is permitted. Some scholars considered kissing or touching the body of the wife as breaking the fast, others considered it permissible. Both parties quote traditions in support of their arguments. The wives of the Prophet, who

4: 506; Ibn Abī Shayba, 3: 389-395; al-Ṭabarānī, *al-Muʿjam al-ṣaghīr*, ed. ʿAbd al-Raḥmān Muḥammad ʿUthmān (al-Madīna al-munawwara: 1388/1968), 2: 82 (noteworthy is the report of Ibn Abī Shayba 3: 391 about the *faqīh* Abū l-Bakhtārī: ... *kanā rajulan faqīhan wa-kāna yasmaʿu l-nawḥ*); Maḥmūd Muḥammad Khaṭṭāb al-Subkī, *al-Manḥal al-ʿadhb al-mawrūd*, 8: 281-4; al-Zarkashī, *al-Ijāba*, pp. 34, 50-1.

29 Ibn Qutayba, pp. 305-6.

30 al-Ḥāzīmī, *al-Iʿtibār fī bayāni l-nāsikh wa-l-mansūkh min al-akhbār* (Hyderabad: 1359), pp. 130-1, 228; al-Fākihī, fol. 478b, 479 penult.

31 Ibn Daqīq al-ʿĪd, *al-Ilmām bi-aḥādīthi l-aḥkām*, ed. Muḥammad Saʿīd al-Mawlawī (Damascus: 1383/1963), p. 244, no. 592; al-Zurqānī, *Sharḥ al-muwattaʾ*, 2: 428-30; al-Ḥāzīmī, pp. 137-42.

testified as to their experience, were not unanimous about the problem. 'Ā'isha's evidence was in favor of kissing. The statement that old and weak people may kiss their wives, while men may not, is an obvious attempt at harmonization.<sup>32</sup>

A similar problem was whether kissing one's wife imposes *wuḍū'*. Scholars were divided in their opinions. 'Ā'isha testified that the Prophet used to kiss his wives and set out to pray without performing ablution. Many scholars stated that kissing or touching one's wife does not require *wuḍū'*, but others argued that it does. Some scholars found a compromise: *wuḍū'* is required if the kiss is accompanied by a feeling of lust.<sup>33</sup>

The *rukhaṣ*, apparently, were exploited by scholars attached to rulers and governors. As usual precedents of wicked court-scholars in the period of *banū isrā'īl* were quoted: they frequented the courts of kings, granted them the required *rukhaṣ* and, of course, got rewards for their deeds. They were happy to receive the rewards and to have the kings accept their

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32 al-Ṭahāwī, *Sharḥ ma'ānī l-āthār*, ed. Muḥammad Zuhri l-Najjār (Cairo: 1388/1968), 2: 88-96; Ibn Abī Shayba, 3: 59-64; al-Bayhaqī, *Ma'rifat al-sunan wa-l-āthār*, ed. Aḥmad Ṣaqr (Cairo: 1969), 1: 21 sup.; Ibn Qutayba, pp. 308-9; al-Dhahabī 2: 398 sup.; Abū Nu'aym, 7: 138; al-Zarkashī, *al-Ijāba*, p. 54; al-Zurqānī, *Sharḥ al-muwaṭṭa'*, 2: 410-15; 'Abd al-Razzāq, 4: 182-94, nos. 8406-8456. See e.g. nos. 8412, 8418; kissing during the fast was considered as *rukhaṣa*; against the rigid prohibition to look at a woman (see e.g. nos. 8452-8453) there are traditions permitting much more than kissing (see e.g. no. 8444 and the extremely permissive tradition no. 8439); and see Abū Nu'aym, 9: 309 (*kullu shay'in laka min ahlika ḥalālun fī l-ṣiyāmi illā mā bayna l-rijlayn*); and see this tradition al-Daylamī, MS. Chester Beatty 3037, fol. 120b, 11; al-Muttaqī l-Hindī, 8: 384-5, nos. 2787-2793; Ibn Daqīq al-ʿId, pp. 243-4, nos. 590-1; al-Kattānī, MS. Chester Beatty 4483, fol. 3a; al-Shāfi'ī, *al-Umm* (Cairo: 1321 reprint), 2: 84 sup.; Maḥmūd Muḥammad al-Subkī, *al-Manhal al-'adhb al-mawrūd, sharḥ sunan abī dāwūd* (Cairo: 1390), 10: 109-13, 115-16; Ibn Abī Ḥātim, *ʿIlal al-ḥadīth* (Cairo: 1343 reprint), 1: 47, no. 108.

33 Ibn Abī Shayba, 1: 44 (*man qāla: laysa fī l-qubla wuḍū'*), 45 (*man qāla: fī ḥā l-wuḍū'*); 'Abd al-Razzāq, 1: 132-6, nos. 496-515; al-Ḥākim, *al-Mustadrak*, 1: 135; al-Shawkānī, *Nayl*, 1: 230-3; al-Zurqānī, *Sharḥ al-muwaṭṭa'*, 1: 129-30; Ibn Abī Ḥātim, 1: 48, nos. 109-110, 63 no. 166.

concessions. The verse in Qur'ān 3:189 "Reckon not that those who rejoice in what they have brought, and love to be praised for what they have not done -- do not reckon them secure from chastisement ..." refers, according to one tradition, to these scholars.<sup>34</sup> Orthodox, pious scholars fiercely criticized the Umayyad court-jurists and *muḥaddithūn*.<sup>35</sup> The *fuqahā'* seem to have been liberal in granting *rukhaṣ*, as can be gauged from a remark of the pious Sulaymān b. Ṭarkhān (who himself very much appreciated the granted *rukhaṣ*, see above note 13) that anyone who would adopt every *rukhaṣ* of the *fuqahā'* would turn out a libertine.<sup>36</sup> In order to assess the actions of rulers it became quite important to find out to what extent they made use of *rukhaṣ*. 'Umar is said to have asked Muhājīrs and Anṣārīs in his council what their opinion would be if he applied *rukhaṣ* in some problems. Those attending remained silent for a time and then Bishr b. Sa'īd said: "We would make you straight as we make straight an arrow." 'Umar then said with approval: "You are as you are" (i.e., you are the proper men).<sup>37</sup> When al-Manṣūr bade Mālik b. Anas to compile the *Muwatta'* he advised him to stick to the tenets agreed upon the Muslim community and to beware of the rigoristic opinions of Ibn 'Umar, the *rukhaṣ* of Ibn 'Abbās and *shawādh* (readings of the Qur'ān) of Ibn Mas'ūd.<sup>38</sup>

34 al-Suyūṭī, *al-Durr al-manthūr*, 2: 109 inf.

35 Ibn 'Asākir, 6: 218: ... *fa-ataw l-umarā'a fa-haddathūhum fa-rakkhāṣū lahum, wa-a'tawhum fa-qabilū minhum* ...; al-Qāḍī 'Iyād, *Tartīb al-madārik*, ed. Aḥmad Bakīr Maḥmūd (Beirut: 1387/1967), 1-2, 616 (Saḥnūn): ... *wa-balaghanī annahum yuḥaddithūnahum min al-rukhaṣ mā yuḥibbūna, mim mā laysa 'alayhi l-'amalu* ...; al-Dhahabī, 1: 14 inf.: ... *ilā kam tuḥaddithu l-nāsa bi-l-rukhaṣi?* ...; and see al-Suyūṭī, *al-Durr al-manthūr*, 3, 139.

36 Abū Nu'aym, 3:32; al-Rāghib al-Iṣfahānī, 1: 133: ... *man akhadha bi-rukhaṣati kullī faqīhin kharaja minhu fāsiq*. And See Aḥmad b. Ḥanbal, *ʿIlal*, 1: 238, no. 1499: Mālik, asked about the *rukhaṣ* of singing granted by some people of Medina, said: "In our place the libertines behave in this way."

37 Muṣ'ab b. 'Abdallāh, *Ḥadīth*, MS. Chester Beatty 3849/4 (*majmū'a*), fol. 44b, inf.-45a (the text: *antum idhan antum*); al-Muttaqī al-Hindī, 5: 405 inf., no. 2414 (the text: *antum idhan antum idhan*).

38 'Abd al-Malik b. Ḥabīb, *Ta'rīkh*, MS. Bodley. Marsh. 288, p. 167: ... *wa-qāla*

Many a *rukḥṣa* indeed served to regulate relations between people, establish certain privileges for the weak and disabled, to alleviate some rigorous practices and finally, in some cases, to turn Jāhili practices into Muslim ones by providing them with a new theoretical basis. Al-Ḥākim al-Naysābūrī<sup>39</sup> says that the Prophet's command to Zayd b. Thābit to learn the writing of the Jews (*kitābat al-yahūd*) in order to be able to answer their letters, serves as the only *rukḥṣa* permitting the study of the writings of the People of the Book. Weak and disabled people were given special instructions on how more easily to perform certain practices during the pilgrimage.<sup>40</sup> The Prophet enjoined that the ritual ablution (*wuḍū'*) should start with the right hand; but a *rukḥṣa* was granted to start from the left.<sup>41</sup> The cutting of trees and plants was forbidden in the *ḥaram* of Mecca, but the Prophet allowed as a *rukḥṣa* the *idhkhir* rush (*schoenanthum*) to be cut since it was used in graves and for purification.<sup>42</sup> A special *rukḥṣa* was given by the Prophet to take freely the meat of animals sacrificed by him; the *nuḥba* (plunder) of sugar and nuts at weddings was also permitted by the Prophet.<sup>43</sup> A *rukḥṣa* was issued by the Prophet allowing use of gold and silver for the embellishment of swords, for the repair and fastening of damaged cups and vessels, for a treatment in

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*abū ja'farin al-manṣūru li-māliki bni anasin ḥīna amarahu bi-waḍ'i muwaṭṭa'ihī: yā abū 'abdi llāhi ūaqi shadā'ida bni 'umara wa-rukḥaṣa bni 'abbāsin wa-shawādhda bni mas'ūdin wa-'alayka bi-l-amri l-mujtama'i 'alayhi.*

39 al-Ḥākim, *al-Mustadrak*, 1: 75.

40 al-Ṭaḥāwī, *Sharḥ ma'ānī*, 2: 215-218.

41 al-Bayhaqī, *al-Sunan al-kubrā*, 1: 86-87.

42 al-Balādhurī, *Futūḥ al-buldān*, ed. 'Abdallah and 'Umar al-Ṭabbā' (Beirut: 1377/1958), p. 58, 13.

43 Abū 'Ubayd, *Gharību l-ḥadīth* (Hyderabad: 1384/1965), 2: 54; al-Ṭaḥāwī, *Sharḥ ma'ānī*, 3: 49-50; al-Zurqānī, *Sharḥ al-mawāhib*; 4: 325 inf. -326; al-Fasawī, *al-Ma'rifa wa-l-tārīkh*, MS. Esad Ef. 2391, fol. 32a, sup. ('an ibni mas'ūdin annahu kariha nihāba l-sukkar).

dentistry and for the restitution of a cut nose.<sup>44</sup> The Prophet uttered a *rukḥṣa* about the *nabīdh* of jars;<sup>45</sup> the use of jars for *nabīdh* (steeping of dates) was forbidden before that. The muttering of healing incantations, the *ruqya*, a current practice in the Jāhiliyya period, was forbidden by the Prophet. Later he fixed the formulae of these healing incantations for various kinds of illnesses, bites from snakes and scorpions, and the evil eye, giving them an Islamic character.<sup>46</sup> This was, of course, a *rukḥṣa* of the Prophet.

It is also a *rukḥṣa* to denounce Islam in case of danger to one's life. Two Muslims were captured by a troop of Musaylima and were ordered to attest the prophethood of Musaylima. One of them refused and was killed; the other complied and saved his life. When he came to the Prophet, the Prophet said that he had chosen the way of the *rukḥṣa*.<sup>47</sup>

The discussion of a *rukḥṣa* could, in certain circumstances, turn into a bitter dispute. 'Uthmān disapproved of the *tamattu'* pilgrimage.<sup>48</sup> 'Alī, who was at the council of 'Uthmān, opposed this opinion fiercely, arguing that *tamattu'* was a *sunna* of the Prophet and a *rukḥṣa* granted by God to his servants. 'Uthmān

44 al-Ṭaḥāwī, *Mushkil al-āthār* (Hyderabad: 1333), 2: 166-179; Nūr al-Dīn al-Haythamī, 5: 147-151; al-Bayhaqī, *al-Sunan al-kubrā*, 1: 28-30.

45 al-Hākim, *Ma'rifat 'ulūm*, p. 196 sup.; al-Hāzimī, pp. 228-230.

46 Ibn Wahb, *Jāmi'*, ed. J. David-Weill (Cairo: 1939), pp. 103-106; al-Ṭaḥāwī, *Sharḥ ma'ānī*, 4: 326-329; Nūr al-Dīn al-Haythamī, 5: 109-114; al-Zurqānī, *Sharḥ al-muwatta'*, 6: 348-350; idem, *Sharḥ al-mawāhib*, 7: 68-82; al-Waṣṣābi, *al-Baraka*, pp. 268-270; Ibn Qayyim al-Jawziyya, *al-Ṭibb al-nabawī*, ed. 'Abd al-Ghanī 'Abd al-Khāliq, 'Ādil al-Azhārī, Maḥmūd Faraj al-'Uqda (Cairo: 1377/1957), pp. 127, 131 inf.-147; idem, *Zād al-ma'ād* (Beirut: n.d.), 3: 116-125; al-Damīrī, *Hayāt al-hayawān* (Cairo: 1383/1963), 2: 139-140; al-Tha'libī, *Thimār al-qulūb*, pp. 126, no. 672, 431, no. 690.

47 al-Suyūṭī, *al-Durr al-manthūr*, 4: 133.

48 On the *tamattu'* pilgrimage see e.g. Ibn Ḥazm, *Ḥajjat al-wadā'*, ed. Mamdūḥ Ḥaqqī (Beirut: 1966), pp. 49, 89, 90, 102; Nūr al-Dīn al-Haythamī, 3: 236; al-Bayhaqī, *al-Sunan al-kubrā*, 5: 15-26.

excused himself saying that he had merely expressed his personal opinion which anybody could accept or reject. A man from Syria who attended the council and disliked 'Alī's argument said that he would be ready to kill 'Alī, if ordered to do so by the Caliph, 'Uthmān. He was silenced by Ḥabīb b. Maslama<sup>49</sup> who explained to him that the Companions of the Prophet knew better the matter in which they differed.<sup>50</sup> This remark of Ḥabīb b. Maslama is a projection of later discussions and represents the attitude of orthodox circles which recommend refraining from passing judgement on the contradictory arguments of the *ṣaḥāba*. However the passage also reflects the contrasting ways in which the pilgrimage was performed. It is noteworthy that Ibn Qayyim al-Jawziyya wrote lengthy passages in which he examined in a thorough manner the contradictory opinions of the scholars about the *tamattu'* pilgrimage.<sup>51</sup>

Close to the concept of *rukḥṣa* was the idea of *naskh*, abrogation, total change, referring to *ḥadīth*. Such a case of *naskh* is the practice of *wuḍū'* after the consumption of food prepared on fire. The Prophet is said to have uttered a *ḥadīth: tawaḍḍa'ū mim mā massat al-nār*. A great number of traditions assert that the Prophet later used to eat cooked food and immediately afterwards prayed without performing the *wuḍū'*. The traditions concerning this subject are found in some of the compendia arranged in two separate chapters, recording the opinions and deeds of the righteous predecessors who respectively practised *wuḍū'* or objected to it.<sup>52</sup>

49 See on him al-Fāsi, *al-'Iqd al-thamīn fī ta'rīkhi l-baladi l-amīn*, ed. Fu'ād Sayyid (Cairo: 1384/1965), 4: 49-52; Naṣr b. Muzāḥim, *Waq'at Ṣiffīn*, ed. 'Abd al-Salām Hārūn (Cairo: 1382), index; Ibn Ḥajar, *al-Iṣāba*, ed. 'Alī Muḥammad al-Bajāwī (Cairo: 1392/1972), 2: 24-26, no. 1602.

50 Ibn 'Abd al-Barr, *Jāmi'* bayān, 2: 30; cf. al-Zurqānī, *Sharḥ al-muwatta'*, 3: 52 (and see pp. 48-51); al-Muttaqī l-Hindī, 5: 83, no. 678, 88, no. 704.

51 *Zād al-ma'ād*, 1: 188-191, 203-18.

52 'Abd al-Razzāq 1: 163-171 (*man qāla lā yutawaḍḍa'ū mim mā massat al-nār*), pp. 172-174 (*mā jā'a fīmā massat al-nār min al-shidda*); Ibn Abī Shayba, 1: 46-52 (*man kāna lā yatawaḍḍa'ū mim mā massat al-nār ; man kāna yarā l-wuḍū'a mim mā ghayyarat al-nār*); al-Bayhaqī, *al-Sunan al-kubrā*, 1: 153-158; al-Ḥāzīmī, pp. 46-52; Nūr al-Dīn al-Haythamī, 1: 248-249 (*al-wuḍū'*

The arguments brought forth by the partisans of both groups and the traditions reported by them may elucidate some aspects of the problem under discussion. According to a tradition, reported by al-Ḥasan b. 'Alī, the Prophet was invited by Fāṭima and was served the shoulder of a ewe. He ate and immediately afterwards started to pray. Fāṭima asked him why he had not performed the *wuḍū'* and the Prophet answered, obviously surprised, "[To wash] after what, o my daughter?" She said, "[To wash] after a meal touched by fire." Then he said, "The purest food is that touched by fire."<sup>53</sup> A similar tradition is recorded on the authority of 'Ā'isha. When she asked the Prophet why he did not perform the *wuḍū'* after eating meat and bread he answered, "Shall I perform the *wuḍū'* after the two best things: bread and meat?"<sup>54</sup> There is a tradition on the authority of Umm Ḥabība, the wife of the Prophet, who had ordered the performance of *wuḍū'* after having eaten gruel of parched barley (*sawīq*) on the grounds of the *ḥadīth*: *Tawaḍḍa'ū mim mā massat al-nār*,<sup>55</sup> but traditions recorded on the authority of Ṣafiyya, Umm Salama and the Companions of the Prophet affirm that the Prophet prayed after eating cooked food without performing the *wuḍū'*.<sup>56</sup> The scholars who deny the obligation of *wuḍū'* after the consumption of meals state that the principle established by the Prophet was that *wuḍū'* is obligatory

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*mim mā massat al-nār*), pp. 251-254 (*tarku l-wuḍū' mim mā massat al-nār*); al-Ṭahāwī, *Sharḥ ma'ānī*, 1: 62-70; Aḥmad b. Ḥanbal, *al-'Ilal*, 1: 305, nos. 1984-1985, 317, no. 2062, 366, no. 2424; al-Shawkānī, *Nayl*, 1: 245-247, al-Fasawī, fol. 229a; Abū Yūsuf, *Kiṭāb al-āthār*, ed. Abū l-Wafā (Cairo: 1355), pp. 9-11, nos. 41-50; al-Ḥākim, *Ma'rifaṭ ulūm*, pp. 30, 217; al-Bayhaqī, *Ma'rifaṭ al-sunan*, 1: 401; Ibn Sa'd, 7: 158; al-Bukhārī, *al-Ta'rikh al-kabīr* (reprint), I, 2 no. 1543, III, 2 nos. 2361, 2805; Abū Nu'aym, 5: 363; Ibn 'Asākir, 6: 125, 174, 321; al-Khaṭīb al-Baghdādī, *Ta'rikh Baghdād* (Cairo: 1351/1931), 13: 100; Ibn Ḥajar, *al-Isāba*, 3: 263, no. 3701, 8: 248, no. 12125; Ibn Ḥibbān, *Kiṭāb al-majrūḥīn*, ed. 'Azīz al-Qādirī (Hyderabad: 1390/1970), 2: 173.

53 Nūr al-Dīn al-Haythamī, 1: 252 inf.-253.

54 al-Dhahabī, 3: 243, no. 6270.

55 Ibn Abī l-Jawšā', *Ḥadīth*, al-Zāhiriyya, Majmū'a 60, fol. 64b.

56 al-Ṭahāwī, *Sharḥ ma'ānī*, 1: 65.

after what comes out (of the body) not after food taken in.<sup>57</sup> Ibn 'Abbās, who authoritatively stated that there is no injunction of *wuḍū'* after food prepared on fire, argued that fire is a blessing; fire does not make anything either forbidden or permitted.<sup>58</sup> On the authority of Mu'ādh b. Jabal, a Companion of the Prophet and a very indulgent person in matters of ablutions, who stated that no ablution is needed in case of vomiting, bleeding of the nose or when touching the genitalia, the following philological explanation is given: people had indeed heard from the Prophet the utterance: *tawaḍḍa'ū mim mā massat al-nār*, but they did not understand the Prophet's meaning. In the time of the Prophet people called the washing of hands and mouth *wuḍū'*; the Prophet's words simply imply the washing of hands and mouth for cleanliness (*li-l-tanzīf*); this washing is by no means obligatory (*wājib*) in the sense of ritual ablution.<sup>59</sup> There are in fact traditions stating that the Prophet ate meat, then rinsed his mouth, washed his hands and started to pray.<sup>60</sup> Another tradition links the abolition of the Prophet's injunction of this *wuḍū'* with the person of Anas b. Mālik, the servant of the Prophet, and puts the blame for the persistence of *wuḍū'* after the consumption of cooked food on authorities outside Medina. Anas b. Mālik returned from al-Iraq and sat down to have his meal with two men of Medina. After the meal he came forth to perform the *wuḍū'*. His companions blamed him, asking: "Are you

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57 Nūr al-Dīn al-Haythamī, 1: 252; al-Bayhaqī, *al-Sunan al-kubrā*, 1: 157 inf.; 'Abd al-Razzāq, 1: 170-171, nos. 658, 663; al-Ṭahāwī, *Sharḥ ma'ānī*, 1: 69.

58 'Abd al-Razzāq, 1: 168-169, nos. 653, 655-656; al-Bayhaqī, *al-Sunan al-kubrā*, 1: 158, lines 4-5; al-Ṭahāwī, *Sharḥ ma'ānī*, 1: 70 sup.

59 al-Bayhaqī, *al-Sunan al-kubrā*, 1: 141; Nūr al-Dīn al-Haythamī, 1: 252 ult.-253, line 1; al-Sharīf al-Murtaḍā, *Amālī*, ed. Muḥammad Abū l-Faḍl Ibrāhīm (Cairo: 1373/1954), 1: 395-396.

60 al-Ṭahāwī, *Sharḥ ma'ānī*, 1: 66, 68; al-Bayhaqī, *al-Sunan al-kubrā*, 1: 157; Nūr al-Dīn al-Haythamī, 1: 252, lines 12-15, 254, line 8 and line 18; Muḥammad b. Sinān al-Qazzāz, *Ḥadīth*, al-Zāhiriyya, Majmū'a 18, fol. 2a; Muḥammad b. Aḥmad al-Qaṭṭān, *al-Fawā'id*, al-Zāhiriyya, Majmū'a 18, fol. 24a inf.



following the Iraqi way?"<sup>61</sup> This story implies that in the practice of Medina no *wuḍū'* was observed after eating cooked meals. The emphasis that Anas's practice was Iraqi is noteworthy. It can hardly be conceived that the Iraqis stuck to the earlier practice of the Prophet which was later abrogated by him. It is more plausible to assume that Anas adopted an Iraqi usage observed there since the Sasanian period. The severe reproach which Anas faced seems to indicate that it was a foreign custom, considered as a reprehensible innovation by the Muslim community.<sup>62</sup>

The lenient character of the abrogation of *wuḍū'* after eating food prepared on fire is exposed in a tradition reporting that the Prophet ate roast meat, performed the *wuḍū'* and prayed; later he turned to eat the meat that was left over, consumed it and set to pray the afternoon prayer without performing *wuḍū'* at all.<sup>63</sup> It is evident that his later action (*ākhiru amrayhi*) is the one to be adopted by the community, as it constitutes an abrogation, *naskh*, of the former tradition, although some scholars consider it as *rukḥṣa*.

The problem of *wuḍū' mimma massat al-nār* was left in fact to the inventiveness of the *fuqahā'* of later centuries; it becomes still more complicated by an additional *ḥadīth* according to which the Prophet enjoined *wuḍū'* after the consumption of the meat of camels, but did not regard *wuḍū'* as necessary after eating the meat of small cattle (*ghanam*).<sup>64</sup> The two chapters in the *Muṣannaf* of Ibn Abī Shayba about *wuḍū'* after consuming meat of

61 al-Ṭahāwī, *Sharḥ ma'ānī*, 1: 69; al-Bayhaqī, *al-Sunan al-kubrā*, 1: 158 (Anas regrets his mistake and wishes he had not done it: *laytanī lam afal*); 'Abd al-Razzāq, 1: 170, no. 659; al-Zurqānī, *Sharḥ al-muwatta'*, 1: 88 inf.-89.

62 See 'Abd al-Razzāq, 1: 170, no. 659: ... *mā ḥādhihi l-'irāqiyyatu llatī aḥdathahā ...?*

63 al-Shawkānī, *Nayl*, 1: 247; al-Ḥākim, *Ma'rifat 'ulūm*, p. 85; al-Bayhaqī, *al-Sunan al-kubrā*, 1: 156; al-Ṭahāwī, *Sharḥ ma'ānī*, 1: 67; al-Bayhaqī, *Ma'rifat al-sunan*, 1: 395, 401, lines 1-2; Ibn 'Asākir, 6: 321.

64 Ibn Abī Shayba, 1: 46-7; al-Ṭahāwī, *Sharḥ ma'ānī*, 1: 70-1; al-Shawkānī, *Nayl*, 1: 237-9; al-Bayhaqī, *al-Sunan al-kubrā*, 1: 158-9; idem, *Ma'rifat al-sunan*, 1: 402-6; Ibn Qayyim al-Jawziyya, *I'lām al-muwaqqi'īn 'an rabbi l-'ālamīn*, ed. Ṭāhā 'Abd al-Ra'ūf Sa'd (Cairo: 1973), 2: 15-16, 106; Nūr al-Dīn al-Haythamī, 1: 250.

camels, contradictory as they are, bear additional evidence to the diversity of practice and usage, and to the divergencies in opinions held by the scholars of *ḥadīth*. No less divergent are the views of the scholars about the *wuḍū'* before the consumption of food,<sup>65</sup> the confinement of *wuḍū'*, as an obligatory act, before prayer only, the question whether ablution before every prayer was obligatory for the Prophet only,<sup>66</sup> and whether the *wuḍū'* may be replaced as a concession by cleaning the mouth with a toothpick.<sup>67</sup>

The great number of diverse traditions, merely hinted at above, clearly indicate that the formation of a normative code of ritual and usage began relatively late.

A survey of some traditions about the *ṭawāf*, the circumambulation of the Ka'ba, and certain practices of the *hajj* may shed some light on the peculiar observances and customs followed in the early period and may explain how they were later regulated, transformed or established.

The *ṭawāf* was equated by the Prophet with prayer (*ṣalāt*). In an utterance attributed to him the Prophet said, "The *ṭawāf* is indeed like a prayer; when you circumambulate diminish your talk."<sup>68</sup> In another version of this *ḥadīth* the Prophet, making

65 See al-Zurqānī, *Sharḥ al-mawāhib*, 4: 352 (... *barakat al-ṭa'ām al-wuḍū' qablahu* ; and see the interpretation).

66 See al-Zurqānī, *Sharḥ al-mawāhib*, 7: 247, lines 24-30 (... *fa'altuhu yā 'umaru--ya'nī li-bayāni l-jawāzi li-l-nāsi wa-khawfa an yūtaqada wujūbu mā kāna yaf'alu min al-wuḍū'i li-kulli ṣalātin ; wa-qīla innahu nāsikhun li-wujūbi dhālika, wa-ta'aqqaba bi-qawli anasin: kāna khāṣṣan bihi dūna ummatihi wa-annahu kāna yafaluhu li-l-faḍīla ...*).

67 Ibid., 7: 248, line 1 seq. Concerning the concept of Ṣufī *rukḥaṣ* cf. M. Milson, *A Sufi Rule for Novices, Kitāb adab al-murīdīn* (Harvard: 1975), pp. 72-82; and see his discussion on the subject in the Introduction, pp. 19-20.

68 'Abd al-Razzāq, 5: 496; al-Qaṣṭallānī, *Irshād al-sārī*, (Cairo: 1323), 3: 173-4; al-Nasā'ī, *Sunan*, ed. Ḥasan al-Mas'ūdī (Beirut: n.d.), 5: 222; al-Bayhaqī, *al-Sunan al-kubrā*, 5: 85; Yūsuf b. Mūsā al-Ḥanafī, *al-Mu'taṣar min al-mukhtaṣar* (Hyderabad: 1362), 1: 174; al-Munāwī, 4: 292-3, nos. 5345-5347; al-Muttaqī I-Hindī, 5: 24, nos. 220-222; cf. al-Azraqī, *Akhbār Makka*, ed. F. Wüstenfeld, p. 258; Muḥibb al-Dīn al-Tabarī, *al-Qirā li-qāṣidi ummi l-qurā*, ed. Muṣṭafā I-Saqā (Cairo: 1390/1970), pp. 306, 331; al-Taḥāwī, *Sharḥ*

*ṭawāf* equal to prayer, bade the faithful confine their conversation to good talk. During the *ṭawāf* the Prophet invoked God saying, "Our Lord, give to us in this world and in the world to come and guard us against the chastisement of Fire" (Qur'ān 2:201). This verse was recited as an invocation by some of the Companions.<sup>69</sup> Some of the invocations were extended and included praises of God, assertion of His oneness and omnipotence as they were uttered by the angels, by Adam, Abraham and the Prophet while they went past various parts of the Ka'ba during the *ṭawāf*.<sup>70</sup> The pious Ibn 'Umar and Ibn 'Abbās are said to have performed the *ṭawāf* refraining from talk altogether.<sup>71</sup> Ṭāwūs and Mujāhid circumambulated in solemnity and awe "as if there were birds on their heads."<sup>72</sup> This was, of course, in the spirit of the *imitatio prophetarum*; Wahb b. Munabbih reported on the authority of Ka'b that three hundred Messengers (the last among whom was Muḥammad) and twelve thousand chosen people (*muṣṭafan*) prayed in the *ḥijr* facing the *maqām*, none of them speaking during the *ṭawāf*, except to mention the name of God.<sup>73</sup> When 'Urwa b. al-Zubayr approached Ibn 'Umar during the *ṭawāf*, asking him to give him his daughter in marriage, Ibn 'Umar did not reply. After some time 'Urwa came to Medina and met 'Abdallāh b. 'Umar. The latter explained that he had not been able to answer him because

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*ma'ānī*, 2: 178 inf.

69 al-Azraqī, p. 258; al-Fākihī, fols. 292a, 296a; 'Abd al-Razzāq, 5: 50, 52; al-Muttaqī l-Hindī, 5: 90, nos. 717-719, 722; al-Wāqidī, *Maghāzī*, ed. M. Jones (London: 1966), p. 1098; al-Bayhaqī, *al-Sunan al-kubrā*, 5: 84; Ibn Zuhayra, *al-Jāmi' al-laṭīf* (Cairo: 1357/1938), p. 124; Ibn Kathīr, *Tafsīr*, 1: 432-3.

70 See e.g. al-Fākihī, fo. 296a, sup. (The Prophet urges the people to praise God and to extol Him during the *ṭawāf*; and see ibid., similar reports about some Companions); al-Azraqī, pp. 259 inf.-260; 'Abd al-Razzāq, 5: 51, nos. 8964-8965; al-Qaṣṭallānī 3: 170; al-Ḥarbī, *al-Manāsik wa-amākin ṭuruqi l-ḥajj*, ed. Ḥamad al-Jāsir (al-Riyāḍ: 1389/1969), pp. 431-3; Muḥibb al-Dīn al-Ṭabarī, pp. 305-6; al-Shawkānī, *Nayl*, 5: 53-4.

71 al-Fākihī, fol. 292a; 'Abd al-Razzāq, 5: 50, no. 8962.

72 al-Fākihī, fol. 292a-b; cf. Muḥibb al-Dīn al-Ṭabarī, p. 271.

73 al-Fākihī, fol. 292a, inf.

he "conceived that he faced God" during the *ṭawāf* (*wa-naḥnu natakhāyalu llāha 'azza wa-jalla bayna d'yuninā*). Now he replied and gave him his daughter in marriage.<sup>74</sup> Merriment and joviality were, of course, forbidden and considered as demeaning. Wahb b. al-Ward,<sup>75</sup> while staying in the *ḥijr* of the mosque of Mecca, heard the Ka'ba complain to God and Jibrīl against people who speak frivolous words around it.<sup>76</sup> The Prophet foretold that Abū Hurayra would remain alive until he saw heedless people playing; they would come to circumambulate the Ka'ba, their *ṭawāf* would, however, not be accepted.<sup>77</sup>

The concession in the matter of speech granted during the *ṭawāf* was "good talk."<sup>78</sup> Pious scholars used to give guidance, exhort, edify and recount *ḥadīths* of the Prophet.<sup>79</sup> Common people made supplications during the *ṭawāf*, asking God to forgive them their sins and to grant them Paradise, children, and wealth. It was, however, forbidden to stand up during the *ṭawāf*, and to raise one's hands while supplicating. "Jews in the synagogues practise it in this way," said 'Abdallāh b. 'Amr (b. al-'Āṣ) and advised the man who did it to utter his invocation in his council, not to do it during the *ṭawāf*.<sup>80</sup> The fact that large crowds were gathered during the *ṭawāf* was, however, exploited by the political leaders. Ibn al-Zubayr stood up in front of the door of the Ka'ba and recounted before the people the evil deeds of the Umayyads, stressing

74 al-Zubayr b. Bakkār, *Jamharat nasab quraysh*, MS. Bodley, Marsh 384, fol. 160b; al-Fākihī, fol. 292b; Muḥibb al-Dīn al-Ṭabarī, p. 270.

75 See on him Abū Nu'aym, 8: 140-61; al-Fāsī, *al-'Iqd*, 7: 417, no. 2678.

76 al-Azraqī, p. 259; Abū Nu'aym, 8: 155 (the *tafakkuh* is explained as talking about women and describing their bodies during the *ṭawāf*); Muḥibb al-Dīn al-Ṭabarī, p. 271.

77 al-Fākihī, fol. 292b.

78 See Muḥibb al-Dīn al-Ṭabarī, p. 271, line 1: ... *wa-anna ḥukmahu ḥukmu l-ṣalāti, illā fīmā waradat fīhi l-rukḥṣatu min al-kalām*.

79 See e.g. al-Fākihī, fols. 311a-312a; 'Abd al-Razzāq, 3: 377, no. 6021.

80 al-Fākihī, fol. 296b; and see al-Azraqī, p. 257; Amīn Maḥmūd Khaṭṭāb, *Faṭḥ al-malik al-ma'būd*, 1: 200-2; Ibn Abī Shayba, 4:96; al-Bayhaqī, *al-Sunan al-kubrā*, 5: 72-3.

especially the fact that they withheld their payment of *ḥaj*.<sup>81</sup> 'Alī b. al-Ḥusayn cursed al-Mukhtār, after his death, at the door of the Ka'ba.<sup>82</sup>

Some traditions narrate details of the behavior of certain persons in the *ṭawāf* who did not conform to this requirement of awe and solemnity in the holy place. Sa'īd b. Jubayr used to talk during the *ṭawāf* and even to laugh.<sup>83</sup> 'Abd al-Raḥmān b. 'Awf was seen to perform the *ṭawāf* wearing boots and singing *ḥidā'* tunes. When rebuked by 'Umar he replied that he had done the same at the time of the Prophet and so 'Umar let him go.<sup>84</sup> Al-Fākihī records certain frivolous conversations which took place during the *ṭawāf*, which may indeed be considered coarse and were certainly out of place in the sanctuary.<sup>85</sup> But groups of people engaged in idle talk during the *ṭawāf* were reprimanded. 'Abd al-Karīm b. Abī Mukhāriq<sup>86</sup> strongly reproved such talk; al-Muṭṭalib b. Abī Wadā'a<sup>87</sup> was surprised when he came to Mecca after a period of stay in the desert and saw people talk during the *ṭawāf*. "Did you turn the *ṭawāf* into a meeting place," he asked.<sup>88</sup> The "arabization" of the *ṭawāf* is evident from an utterance attributed to the Prophet making it unlawful to talk in Persian during circumambulation. 'Umar gently requested two men who held a conversation in Persian during the *ṭawāf* to turn to Arabic.<sup>89</sup> Reciting verses of the

81 al-Fākihī, fol. 296b.

82 al-Fākihī, fol. 296b.

83 al-Azraqī, p. 259; Muḥibb al-Dīn al-Ṭabarī p. 273; al-Fākihī, fol. 293b, sup.

84 Nūr al-Dīn al-Haythamī, 3: 244.

85 See al-Fākihī, fol. 293a (the remark of Ḥusayn b. 'Alī about the buttocks of Mu'āwiya during the *ṭawāf* ; and see fol. 294a: al-Sā'ib b. Ṣayfī and his talk with Mu'āwiya about Hind).

86 See on him Ibn Ḥajar, *Tahdhīb*, 6: 376-378, no. 716; al-Fāsī, *al-'Iqd*, 5: 480, no. 1856.

87 See on him al-Fāsī, *al-'Iqd*, 7: 218, no. 2469.

88 al-Azraqī, p. 260; Muḥibb al-Dīn al-Ṭabarī, p. 278.

89 al-Fākihī fol. 291b (*dhikru karāhiyati l-kalāmi bi-l-fārisiyyati fī l-ṭawāf*); see the tradition about 'Umar: 'Abd al-Razzāq, 5: 496, no. 9793; cf. al-Ṭurṭūshī, *al-Ḥawādith wā-l-bida'*, ed. Muḥammad Ṭalbī (Tunis: 1959), p. 104.

Qur'ān during the *ṭawāf* in a loud voice was disliked and considered a bad innovation (*muḥdath*); the Prophet is said to have asked 'Uthmān to turn to *dhikru llāh* from his *qirā'a*. Nevertheless certain groups of scholars permitted the recitation of verses from the Qur'ān.<sup>90</sup>

The problem of the reciting of poetry during the *ṭawāf* is complicated. The Prophet is said to have told Abū Bakr who recited *rajaz* verses during the circumambulation to utter *allāhu akbar* instead. This injunction of the Prophet seems to have been disregarded. Ibn 'Abbās, Abū Sa'īd al-Khudrī and Jābir b. 'Abdallāh used to talk during the *ṭawāf* and recite verses.<sup>91</sup> A report on the authority of 'Abdallah b. 'Umar says that the Companions used to recite poetry to each other (*yatanāshadūn*) during the circumambulation.<sup>92</sup> The argument in favor of the lawfulness of the recitation of poetry during *ṭawāf* was based on the precedent of 'Abdallah b. Rawāḥa who had recited his verses during the Prophet's *ṭawāf* in the year A.H. 7 (*umrat al-qaḍā'*): *Khallū banī l-kuffār 'an sabīlih ...*<sup>93</sup> Also during the *ṭawāf* 'Ā'isha discussed with some women of Quraysh the position of Ḥassān b. Thābit and spoke in his favor, mentioning his verses in defense of the Prophet;<sup>94</sup> Ḥassān, some traditions say, was aided by the angel Jibrīl in composing seventy verses in praise of the Prophet.<sup>95</sup> Al-Nābigah al-Ja'dī recited his verses in the mosque of Mecca, praising Ibn al-Zubayr and asking for his help at a time of drought.<sup>96</sup> Ibn al-Zubayr asked, during the *ṭawāf*, a son of Khālīd

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90 Ibn Abī Shayba, 4: 10; Al-Azraqī, p. 258; al-Fākihī, fols. 295b-296a; and see the survey of the different opinions: Ibn Ḥayyā, pp. 129-30; al-Majlisī, 99: 209, no. 19.

91 al-Fākihī, fol. 307b.

92 al-Fākihī, fol. 307b.

93 al-Wāqidī, p. 736; Nūr al-Dīn al-Haythamī, 8: 130; al-Fākihī, fol. 307a; al-Muttaqī l-Hindī, 5: 95, no. 745.

94 al-Azraqī, p. 257; Ibn 'Abd al-Barr, *al-Istī'āb*, ed. 'Alī al-Bajāwī (Cairo: 1380/1960), 1: 347; al-Fākihī, fol. 307b.

95 al-Fākihī, fol. 307b.

96 Maria Nallino, *Le Poesie di an-Nābigah al-Ġa'dī* (Rome: 1953), p. 137 (IX) (and see the references of the editor); al-Fākihī, fol. 307b inf. 308a.

b. Ja'far al-Kilābī to recite some verses of his father against Zuhayr (b. Jadhīma al-'Absī). "But I am in a state of *iḥrām*," argued the son of Khālid. "And so am I," said Ibn al-Zubayr and urged him to recite the verses. He responded and quoted the verse: "And if you catch me, kill me ..." (*Fa-immā ta'khudhūnī fa-qtulūnī: wa-in aslam fa-laysa ilā l-khulūdi*). Ibn al-Zubayr sadly remarked that this verse suited his position in relation to the Banū Umayya.<sup>97</sup> Sa'īd b. Jubayr recalled having heard during the *ṭawāf* the verses of a drunkard who prided himself on the fact that he would not refrain from drinking wine even in old age.<sup>98</sup> An old woman recalled verses composed about her beauty in her youth.<sup>99</sup> There are moving verses composed by devoted sons, who carried on their backs their old mothers during the *ṭawāf* and supplications by women asking God to forgive them their sins. Poets had the opportunity to watch women doing their *ṭawāf* and composed verses extolling their beauty.<sup>100</sup> The wearing of a veil by women performing the *ṭawāf* was the subject of a heated discussion among scholars who used as arguments the contradictory utterances attributed to the Prophet and quoted as precedents the *ṭawāf* of his wives.<sup>101</sup> Another important problem was whether men and women could lawfully perform the *ṭawāf* together. According to one tradition women used to perform the *ṭawāf* together with men in the early period. The separation of women from men was first ordered by Khālid b. 'Abdallāh al-Qasrī.<sup>102</sup> Al-Fākihī remarks that this injunction was

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97 al-Fākihī, fol. 307b; and see a different version of this verse *Aghānī* (Būlāq), 10: 12.

98 al-Fākihī, fol. 308a; and see the verses: Yāqūt, *Mu'jam al-buldān*, s.v. Amaj; and see Ibn Abī l-Dunyā, *Dhamm al-muskir*, al-Zāhiriyya, Majmū'a 60, fol. 8a (Sa'īd b. Jubayr changes the text of the verse from *wa-kāna karīman fa-lam yanzi'* into *wa-kāna shaqiyyan fa-lam yanzi'*).

99 al-Fākihī, fol. 308a.

100 al-Fākihī, fols. 307b-310a.

101 al-Shāfi'i, 2: 127; al-Azraqī, p. 260; al-Fākihī, fols. 296a-297a; Nūr al-Dīn al-Haythamī, 3: 219-20; Ibn Zuhayra, pp. 133 ult.-134.

102 al-Azraqī, pp. 265-6; al-Fākihī, fols. 299a ult.-299b; Muḥibb al-Dīn al-Ṭabarī, pp. 319-20; al-Qaṣṭallānī, 3: 172-3; Ibn Ḥajar, *Fath al-bārī*, 3: 384-5; Ibn Zuhayra, p. 127; al-Fāsī, *al-'Iqd*, 4: 273.

received with approval and people conformed to it until al-Fākihī's own time. Two other decrees of al-Qasrī continued to be observed by the people of Mecca: *takbīr* during the ceremony of *ṭawāf* in the month of Ramaḍān and a special arrangement of rows of men around the Ka'ba.<sup>103</sup> The separation between men and women in the mosque of Mecca was carried out by the governor 'Alī b. al-Ḥasan al-Hāshimī as late as the middle of the third century by drawing ropes between the columns of the mosque; the women sat behind the ropes.<sup>104</sup> At the beginning of the third century (about 209) the governor of Mecca under al-Ma'mūn, 'Ubaydallāh b. al-Ḥasan al-Ṭālibī,<sup>105</sup> ordered a special time to be set apart for the women's *ṭawāf* after the afternoon prayer; men were not allowed to perform the *ṭawāf* at that time. This regulation was implemented again by the governor of Mecca, Ibrāhīm b. Muḥammad about A.H. 260.<sup>106</sup> These changes in the ceremony of the *ṭawāf* seem to point to a considerable fluctuation of ideas and attitudes among the rulers and the orthodox in connection with the sanctuary and the form of the *ṭawāf*.

The new arrangements, which were apparently meant to grant the *ḥaram* more religious dignity and sanctity and to turn the *ṭawāf* into a solemn ceremony with fixed rules, may be compared with some peculiar customs practised in the early *ṭawāf*, as recorded by al-Fākihī. The passage given by al-Fākihī begins with

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103 al-Fākihī, fol. 432a (and see *ibid.*, fol. 439b, lines 5-7 and fol. 354b: *dhikru idārati l-ṣaffi fī shahri ramaḍāna wa-awwalu man fa'alahu wa-awwalu man aḥdatha l-takbīra bayna l-tarāwīhi ḥawla l-bayti fī shahri ramaḍāna wa-tafsīru dhālika*); al-Zarkashī, *l'lāmu l-sājid bi-aḥkāmi l-masājid*, ed. Abū l-Wafā Muṣṭafā l-Marāghī (Cairo: 1385), p. 98; al-Fāsī, *al-'Iqd*, 4: 272, 276 sup.; al-Shiblī, *Maḥāsin al-wasā'il fī ma'rifati l-awā'il*, MS. Br. Mus., Or. 1530, fols. 38b-39a, 41b-42a.

104 al-Fākihī, fol. 443a; al-Fāsī, *al-'Iqd*, 6: 151, no. 2050 (quoted from al-Fākihī); *idem*, *Shifā' al-gharām* (Cairo), 2: 188 (quoted from al-Fākihī); Ibn Zuhayra, p. 300 *inf.* (quoted from al-Fākihī).

105 See on him Wakī', *Akḥbār al-quḍāt*, ed. 'Abd al-'Azīz Muṣṭafā al-Marāghī (Cairo: 1366/1947), 1: 257-258; Ibn Zuhayra, p. 297.

106 al-Fākihī, fol. 443a; al-Fāsī, *al-'Iqd*, 3: 247-8, no. 720 (quoted from al-Fākihī).



a rather cautious phrase: *wa-qad za'ama ba'du ahli makkata*, which clearly expresses a reservation on the part of the compiler. In the old times (*kānū fīmā maḍā*) when a girl reached the age of womanhood her people used to dress her up in the nicest clothes they could afford, and if they were in possession of jewels they adorned her with them; then they introduced her into the mosque of Mecca, her face uncovered; she circumambulated the Ka'ba while people looked at her and asked about her. They were then told "This is Miss so and so, the daughter of so and so," if she was a free-born person. If she was a *muwallada* they said: "She is a *muwallada* of this or that clan." Al-Fākihī remarks in a parenthetical phrase that people in those times had religious conviction and trustworthiness (*ahlu dīnin wa-amānatin*) unlike people of his day, whose manner of belief is obnoxious (*laysū 'alā mā hum 'alayhi min al-madhāhibi l-makrūha*). After the girl had finished her *ṭawāf* she would go out in the same way, while people were watching her. The purpose of this practice was to arouse in the people the desire to marry the girl (if she was free-born) or to buy her (if she was a *muwallada*). Then the girl returned to her home and was locked up in her apartment until she was brought out and led to her husband. They acted in the same way with slave-maidens: they led them in the *ṭawāf* around the Ka'ba clad in precious dresses, but with their faces uncovered. People used to come, look at them and buy them. Al-Awzā'ī asked 'Aṭā' (apparently Ibn Abī Rabāḥ) whether it was lawful to look at maidens who were led in *ṭawāf* around the Ka'ba for sale; 'Aṭā' objected to this practice except for people who wanted to buy slave-girls.<sup>107</sup> This report is corroborated by a story recorded by Ibn Abī Shayba, according to which 'Ā'isha dressed up a maiden, performed the *ṭawāf* with her and remarked: "We may perhaps succeed in catching (literally: hunting) a youth of Quraysh" (scil. for

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107 al-Fākihī, fol. 309b.

the girl).<sup>108</sup> 'Umar is said to have encouraged the selling of slave-maidens in this manner.<sup>109</sup> All these reports – al-Fākihī's reference to "people with religious conviction and trustworthiness," al-Awzā'i's inquiry, 'Atā's answer, 'Ā'isha's story – seem to reflect *ṭawāf* customs prevailing in the early period of Islam, in all likelihood during the first century of the Hijra. The reports indicate a certain informality and ease of manners. All this was bound to change if the *ḥaram* was to acquire an atmosphere of sanctity and veneration.

The early informality and intimacy can be gauged from a number of traditions concerned with the daily behaviour of the faithful in the mosque of Mecca. Ibn al-Zubayr passed by a group of people who were eating their meal in the mosque and invoked upon them his benediction. Abū Nawfal b. Abī 'Aqrab<sup>110</sup> saw Ibn 'Abbās there eating roasted meat with thin bread; the fat dripped from his hands. A broth of crumbled bread used to be brought to Ibn al-Zubayr in the mosque. One day a boy crawled towards it and ate from it; 'Abdallāh b. al-Zubayr ordered the boy to be flogged. The people in the mosque, in their rage, cursed Ibn al-Zubayr.<sup>111</sup>

A similar problem was whether it is lawful to sleep in the mosque of Mecca. Scholars arguing for it quoted the precedent of the Prophet whose *isrā'* took place (according to the report of Anas b. Mālik) from the mosque of Mecca where he had slept.<sup>112</sup> Another

108 *al-Muṣannaf*, 4: 410; *Lisān al-'Arab*, s.v. sh-w-f; Ibn al-Athīr, *al-Nihāya*, s.v. sh-w-f.

109 Ibn Abī Shayba, 4: 411 ('Umar remarks, however, that girls should not be compelled to marry ugly [or mean; in text *dhamīm* ; but probably *damīm*] men; "the girls like in this matter what you like," he said); cf. Ibn Ra's Ghanama, *Manāqil al-durar fī manābit al-zahar*, MS. Chester Beatty 4254, fol. 19b: *qāla 'umarū: lā yuzawwijanna l-rajulu bnatahu l-qabīḥa fa-innahunna yarghabna fīmā targhabūn*.

110 See on him Ibn Ḥajar, *Tahdhīb*, 12: 260.

111 al-Fākihī, fol. 355b: *dhikru l-akli fī l- masjidī l-ḥarāmi wa-l-ghadā' fīhi* ; and see al-Ṭurṭūshī, pp. 106-8; al-Zarkashī, *I'lām al-sājid*, pp. 329-30.

112 al-Fākihī, fol. 355b.

argument in favor of sleeping in mosques was mentioned by Sulaymān b. Yasār,<sup>113</sup> when questioned by al-Hārith b. 'Abd al-Raḥmān b. Abī Dhubāb:<sup>114</sup> "How do you ask about it, said Sulaymān, knowing that the *aṣḥāb al-suffa* slept in the mosque of the Prophet and prayed in it."<sup>115</sup> Ibn 'Umar used to sleep in the mosque (of Medina) in the Prophet's lifetime.<sup>116</sup> When Thābit (al-Bunānī) consulted 'Abdallāh b. 'Ubayd b. 'Umayr<sup>117</sup> whether to turn to the *amīr* in the matter of the people sleeping in the mosque of Mecca, 'Abdallāh bade him not to do that, quoting the opinion of Ibn 'Umar who considered these people as *'akifūn*, people praying in seclusion. The pious Sa'īd b. Jubayr used to sleep in the mosque of Mecca. 'Aṭā' b. Abī Rabāḥ spent forty years in the mosque of Mecca, sleeping there, performing the *ṭawāf*, and praying.<sup>118</sup> In a conversation with his student Ibn Jurayj he expressed a very favourable opinion about sleeping in mosques. When 'Aṭā' and Sa'īd b. Jubayr were asked about people sleeping in the mosque of Mecca who have night-pollutions they nevertheless gave a positive answer and advised them to continue to sleep in the mosque. In the morning, says a tradition, Sa'īd b. Jubayr used to perform the *ṭawāf*, wake up the sleepers in the mosque, and bid them recite the *talbiya*.

These reports quoted from a chapter of al-Fākihī entitled *Dhikru l-nawmi fī l-masjidi l-ḥarāmī wa-man rakhkhaṣa fīhi wa-man karihahu*<sup>119</sup> give some insight into the practices in the

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113 See on him Ibn Ḥajar, *Tahdhīb*, 4: 228, no. 381.

114 See on him *ibid.*, 2: 147, no. 249; al-Dhahabī, 1: 437, no. 1629.

115 al-Ṭurṭūshī, p. 105.

116 al-Zarkashī, *I'lām al-sājid*, p. 307; al-Ṭurṭūshī, p. 105; al-Marāghī, *Tahqīq al-nuṣra bi-talkhīṣ ma'ālim dāri l-hijra*, MS. Br. Mus., Or. 3615, fol. 50a.

117 See on him al-Bukhārī, *al-Ta'rikh al-kabīr*, 31, no. 430; Ibn Ḥajar, *Tahdhīb*, 5: 308, no. 524.

118 Cf. al-Ṭurṭūshī, p. 105.

119 *Ta'rikh Makka*, fol. 355b-356a; al-Zarkashī, *I'lām al-sājid*, pp. 306-8, 317-18; Muḥibb al-Dīn al-Ṭabarī, pp. 659-60, nos. 30-31; al-Majlisī, 99: 240, no. 1; about the odious impurity which causes bad smells see al-Fākihī, fol. 357b, ult.-358a (*dhikru irsāli l-rīḥi fī l-masjidi l-ḥarāmī*); al-Zarkashī, *I'lām al-sājid*, pp. 313-14; cf. about a superstitious belief

mosque of Mecca in the early period of Islam and help us to understand the ideas about ritual and the sanctity of the *ḥaram* current at the time.

Of special interest are some customs of *ṭawāf* and *ḥajj* which include hardships, rigid self-exertion and self-castigation. Tradition tells about people who vowed to perform the *ṭawāf* while crawling,<sup>120</sup> or fastened to each other by a rope,<sup>121</sup> or being led with a rope threaded through a nose-ring.<sup>122</sup> Tradition reports that the Prophet and his Companions unequivocally condemned these practices, prohibited them and prevented the people from performing the *ṭawāf* in this way. It is obvious that these usages reflected the Jāhiliyya ideas of self-imposed harshness, of vows of hardship and severe practices. These went contrary to the spirit of Islam which, while transforming it into an Islamic ritual, aimed to give the *ṭawāf* its own religious values. Ibn Hajar is right in tracing back the prohibited forms of *ṭawāf* to their Jāhili source.<sup>123</sup>

Similar to these vows of self-exertion during the *ṭawāf* are the vows of hardship during the *ḥajj*. The traditions tell about men who vowed to perform the *ḥajj* on foot. Some women vowed to perform the *ḥajj* walking, or with faces uncovered, or wearing coarse garments, or keeping silent.<sup>124</sup> The Prophet passed censure on

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current among common people in Egypt: 'Alī Maḥfūz, *al-Ibdā' fī maḍārr al-ibtidā'* (Cairo: 1388/1968), p. 454.

120 al-Fākihī, fol. 297a; al-Azraqī, p. 261; 'Abd al-Razzāq, 8: 457, no. 15895.

121 al-Fākihī, fol. 297b; al-Azraqī, p. 261; 'Abd al-Razzāq, 8: 448, no. 15862; al-Bayhaqī, *al-Sunan al-kubrā*, 5:88; al-Qaṣṭallānī, 3: 173-4; al-Ḥākim, *al-Mustadrak*, 1: 460; Ibn Hajar, *Faṭḥ al-bārī*, 3: 386-7; Muḥibb al-Dīn al-Ṭabarī, p. 319, no. 73.

122 al-Fākihī, fol. 297b; 'Abd al-Razzāq, 8: 448, nos. 15860-15861, 11: 292, no. 20572; *Lisān al-'Arab*, s.v. z-m-m-, kh-z-m.

123 *Faṭḥ al-bārī*, 3: 386.

124 al-Ṭaḥāwī, *Sharḥ ma'ānī*, 3: 128-132; Yūsuf b. Mūsā al-Ḥanafī, 1: 260-2; al-Suyūṭī, *al-Durr al-manthūr*, 1: 351-2; idem, *Ta'riḥ al-khulafā'*, ed. Muḥammad Muḥyī l-Dīn 'Abd al-Ḥamīd (Cairo: 1371/1952), p. 99; al-Shāṭibī, *al-I'tisām* (Cairo: n.d.), 2: 52; Baḥshal, *Ta'riḥ Wasiṭ*, ed.

these practices, emphasizing that God does not heed (literally: does not need) vows by which people cause harm and suffering to themselves.

These practices recall certain customs observed by the Ḥums which therefore had to be abolished in Islam. It may however be remarked that some early Muslim ascetics or pious men used to perform the *hajj* on foot, or vowed not to walk under a shade during their *hajj*.<sup>125</sup> It is true that the outer form of these practices recalls the old Jāhiliyya ones; there is however a clear line which has to be drawn between them: the devotional practices of the pious Muslims are different in their content and intention; they are undertaken out of a deep faith and performed for God's sake. These practices of the pious gained the approval of the orthodox circles and were considered virtuous. This attitude is clearly reflected in a *ḥadīth* attributed to the Prophet: "The advantage of the people performing the *hajj* walking over those who ride is like the advantage of the full moon over the stars."<sup>126</sup>

Fasting on the Day of 'Arafa gave rise to another important controversy. The contradictory traditions and reports are arranged in Fākihī's compilation in two chapters: the one encouraging the

Gurguis 'Awwād (Baghdād, 1387/1967), p. 231; Ibn Sa'd, 8: 470; al-Bayhaqī, *al-Sunan al-kubrā*, 10: 76; al-Fasawī, fol. 157b; Ibn 'Abd al-Ḥakam, p. 294; al-Muttaqī l-Hindī, 5: 341, no. 2265, 449, no. 2507; Aḥmad b. Ḥanbal, *Musnad*, 11: 7, no. 6714; al-Ṭayālīsī, p. 112, no. 836; al-Ṭahāwī, *Mushkil al-āthār*, 3: 37-41; 'Abd al-Razzāq, 8: 438, no. 15825, 448, no. 15863; al-Fākihī, fols. 315a-b; Ibn Daqīq al-ʿĪd, pp. 310-11, nos. 791-793. (And see al-Fākihī, fol. 511b: the story of the woman who vowed to perform the pilgrimage in silence if God would help to reconcile her fighting factions of her tribe. Abū Bakr, ordering her to discontinue her silence, remarked: *takallamī, fa-inna l-islāma hadama mā kāna qabla dhālika*); al-Ṭūsī, *Amālī* (Najaf: 1384/1964), 1: 369.

125 Ibn Abī l-Dunyā, *al-Tawba*, MS. Chester Beatty 3863, fol. 17b; Baḥshal, p. 167; al-Khuwārizmī, *Mukhtaṣar ithārati l-targhīb wa-l-tashwīq ilā l-masājidi l-thalāthati wa-ilā l-bayti l-ʿatīq*, MS. Br. Mus., Or. 4584, fol. 8a-b.

126 al-Fākihī, fols. 321b-322a (*dhikru l-mashyi fī l-hajji wa-faḍlihi*); al-Khuwārizmī, fol. 8b: *wa-lī-l-māshī faḍlun ʿalā l-rākibi ka-faḍli laylati l-qadri ʿalā sāʾiri l-layālī*.

faithful to fast on this day, the other reporting about Companions who refrained from fasting.<sup>127</sup> According to a tradition of the Prophet the sins of a man who fasts on the Day of 'Arafa will be remitted for a year;<sup>128</sup> another version says two years,<sup>129</sup> a third version a thousand days.<sup>130</sup> The list of persons who did fast includes also 'Ā'isha, who emphasized the merits of fasting on that day. The opponents who forbade fasting on that day based their argument on accounts and evidence that the Prophet had broken the fast on the Day of 'Arafa.<sup>131</sup> 'Umar,<sup>132</sup> his son 'Abdallāh and Ibn 'Abbās prohibited fasting.<sup>133</sup> In another version Ibn 'Umar stressed that he performed the pilgrimage with the Prophet and the three first caliphs; none of them fasted on the Day of 'Arafa. He himself did not fast, but did not explicitly enjoin either eating or fasting.<sup>134</sup> The

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- 127 al-Fākihī, fols. 528a-529a (*dhikru ṣawmi yawmi 'arafa wa-faḍli ṣiyāmihi*; *dhikru man lam yaṣum yawma 'arafa makhāfata l-qu'fi 'ani l-du'ā*); Ibn Abī Shayba, 4: 1-3, 21, 3: 104; al-Ṭahāwī, *Mushkil*, 4: 111.
- 128 al-Fākihī, fol. 528a, ult.; al-Mundhirī, 2: 236, no. 1463; Ibn Abī Shayba, 3: 97; al-Ṭahāwī, *Sharḥ ma'ānī*, 2: 72; al-Bayhaqī, *al-Sunan al-kubrā*, 4: 283.
- 129 al-Fākihī, fols. 528a, inf., 528b; al-Ṭabarānī, 1: 255, 2: 71; Baḥshal, p. 276; al-Mundhirī, 2: 236; 7 nos. 1461-1462, 1464-1465, 1467-1468; Muḥibb al-Dīn al-Ṭabarī, p. 403; Ibn Abī Shayba, 3: 96-97; al-Ṭahāwī, *Sharḥ ma'ānī*, 2: 72; idem, *Mushkil*, 4: 112; al-Shawkānī, *Nayl*, 4: 267, no. 2; al-Bayhaqī, *al-Sunan al-kubrā*, 4: 283.
- 130 al-Mundhirī, 2: 237, no. 1466; al-Fākihī, fol. 528b; al-Suyūṭī, *al-Durr al-manthūr*, 1: 231 (another version 1,000 years).
- 131 Muṣ'ab b. 'Abdallāh, *Ḥadīth*, MS. Chester Beatty 3849/4, fol. 40a; Abū 'Umar, Ghulām Tha'lab, *Juz'*, MS. Chester Beatty 3495, fol. 97a; al-Fākihī, fol. 528b; al-Shawkānī, *Nayl*, 4: 267, no. 4; al-Bayhaqī, *al-Sunan al-kubrā*, 4: 283-4; al-Suyūṭī, *al-Durr al-manthūr*, 1: 231.
- 132 al-Bukhārī, *al-Ta'rīkh al-kabīr*, 3<sup>2</sup>, no. 1600.
- 133 al-Fākihī, fol. 529a; Aḥmad b. Ḥanbal, *al-'Ilal*, 1: 286, nos. 1849, 1852; al-Khaṭīb al-Baghdādī, *Mūdiḥ*, 2: 338-9; al-Fasawī, fol. 61a; cf. Abū Nu'aym, 7: 164; Muḥibb al-Dīn al-Ṭabarī, p. 404.
- 134 Abū 'Ubayd, *Gharīb al-ḥadīth* 3: 4; al-Khaṭīb al-Baghdādī, *Mūdiḥ*, 1: 434; al-Ṭahāwī, *Sharḥ ma'ānī*, 2: 72; Muḥibb al-Dīn al-Ṭabarī, p. 404 (and see *ibid.*, p. 405 inf.); al-Shawkānī, *Nayl*, 4: 268; al-Suyūṭī, *al-Durr al-manthūr*, 1: 231; Ibn Kathīr, *al-Bidāya wa-l-nihāya* (Beirut, al-Riyāḍ: 1966), 5: 174.

conciliatory interpretation assumed that the prohibition of fasting referred to the people attending 'Arafa; but people not present on that Day of 'Arafa may fast, and are even encouraged to fast.<sup>135</sup> The reason given for not fasting on that day in 'Arafa was the care for the pilgrims, who might be weakened by the fast and prevented from properly performing the *du'ā* and *dhikr*, which are the most important aims of the pilgrims staying at 'Arafa.<sup>136</sup>

The transfer of some rites performed at 'Arafa to the cities conquered by the Muslims is of special interest. This practice was introduced in Baṣra by 'Abdallāh b. 'Abbas<sup>137</sup> and by 'Abd al-'Azīz b. Marwān in Fustāt.<sup>138</sup> On the Day of 'Arafa people used to gather in the mosques to invoke and to supplicate. When Ibn 'Abbās summoned the people to gather in the mosque he argued that he wished that the supplications of the people may be associated with those attendant at 'Arafa and that God may respond to these supplications; thus they would share God's grace with the attendants

135 al-Ṭahāwī, *Sharḥ ma'ānī*, 2: 72; idem, *Mushkil* 4: 112; Abū Nu'aym, 3: 347; al-Fasawī, fol. 32b; al-Shawkānī, *Nayl*, 4: 267, no. 3; al-Bayhaqī, *al-Sunan al-kubrā* 4: 289; Yūsuf b. Mūsā al-Ḥanafī, 1: 152; al-Suyūṭī, *al-Durr al-manthūr*, 1: 231.

136 al-Fākihī, fol. 529a; cf. Muḥibb al-Dīn al-Ṭabarī, p. 405, lines 3-7 (fasting on the Day of 'Arafa is not favored for people performing the pilgrimage; it is however encouraged for people not performing the *hajj*. See the compromise-recommendations of al-Mundhirī, 2: 238: "... there is nothing wrong in fasting, if it does not weaken him in his *du'ā* ..." for the pilgrims it is preferable to break the fast ...". See the story of Ibn Wahb, who broke the fast at 'Arafa because he was occupied by the thought of breaking the fast: al-Qādī 'Iyāq, *Tartīb al-madārik*, 1, 430; and see on this subject: al-Shawkānī, *Nayl* 4: 269).

137 See al-Qudā'ī, *Ta'rīkh*, MS. Bodley, Pococke 270, fol. 67b (quoted from al-Jāhiz's *Naẓm al-qur'ān*); al-Qalqashandī, *Ma'āthir al-ināfa fī ma'ālim al-khilāfa*, ed. 'Abd al-Sattār Aḥmad Farrāj (Kuwait: 1964), 1: 129; Muḥibb al-Dīn al-Ṭabarī, pp. 387 inf.-388 sup.; al-Fasawī, fol. 16a: ... *ḥaddathanā abū 'awāna, qāla: ra'aytu l-ḥasana kharaja yawma 'arafa min al-maqṣūrati ba'da l-'aṣri fa-qa'ada fa-'arrafa*; al-Bayhaqī, *al-Sunan al-kubrā* 5: 117 inf.; see S.D. Goitein, *Studies in Islamic History and Institutions* (Leiden: 1966), p. 137.

138 al-Kindī, *Wulāt Miṣr*, ed. Ḥusayn Naṣṣār (Beirut: 1379/1959), p. 72.

at 'Arafa.<sup>139</sup> Muṣ'ab b. al-Zubayr introduced this innovation in Kūfa.<sup>140</sup> Some pious Muslims participated in these gatherings, others considered them as *bid'a*.<sup>141</sup> The *ta'rīf* in Jerusalem is linked in some sources with 'Abd al-Malik, who is accused of having built the Dome of the Rock in Jerusalem in order to divert the pilgrimage from Mecca to Jerusalem, since 'Abdallāh b. al-Zubayr, the rival caliph in Mecca, forced the pilgrims to give the oath of allegiance. When the Dome of the Rock was built people used to gather there on the Day of 'Arafa and performed there the *wuqūf*.<sup>142</sup> So the *bid'a* of *wuqūf* in Jerusalem arose. Al-Ṭurtūshī describes a gathering of the people of Jerusalem and of its villages in the mosque, raising their voices in supplications. They believed that four "standings" (*waqafāt*) in Jerusalem were equal to a pilgrimage to Mecca.<sup>143</sup> Ibn Taymiyya, of course, strongly censured this innovation.<sup>144</sup>

It is evident that the idea behind the *ta'rīf* is that it is possible to transfer sanctity from 'Arafa to another sanctuary where the rites of 'Arafa are being performed on the same day, or that one may share in the blessing of 'Arafa through the performance of certain devotions at the same time as they are done at 'Arafa (as is the case with the supplications in the *ta'rīf* mentioned in note 139 above), or the notion that two sanctities may be combined as indicated in the tradition about Zamzam visiting Sulwān on the night of 'Arafa.<sup>145</sup>

The idea of transfer of sanctity is clearly reflected in a

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139 al-Mawṣilī, *Ghāyat al-wasā'il ilā ma'rīfatī l-awā'il*, MS. Cambridge Qq 33 (10), fol. 153a.

140 al-Suyūṭī, *al-Durr al-manthūr*, 1: 231 inf.

141 Ibn Kathīr, *al-Bidāya*, 9: 307; al-Ṭurtūshī, pp. 115-16; al-Suyūṭī, *al-Durr al-manthūr*, 1: 231 inf.

142 al-Quḍā'ī, fol. 67b; al-Qalqashandī, 1: 129.

143 al-Ṭurtūshī, pp. 116-17.

144 *Majmū'at al-rasā'il al-kubrā* (Cairo: 1323), 2: 57; Jamāl a-Dīn al-Qāsimī, *Iṣlāḥ al-masājīd min al-bid'a wa-l-awā'id* (Cairo: 1341), p. 215 (from Ibn Taymiyya).

145 al-Muqaddasī, *Aḥsan al-taqāsīm*, ed. M.J. de Goeje (Leiden: 1906), p. 171, line 11.



peculiar Shī'ī tradition in which a Shī'ī adherent asks the *imām* Ja'far al-Šādiq whether he may perform the *ta'rīf* on the grave of Ḥusayn if the opportunity to perform the *hajj* (scil. to Mecca) escapes him. The *imām* enumerates in his answer the rewards for visiting the grave of al-Ḥusayn on common days and those for visits on feasts, emphasizing that these rewards are multiplied for a visit on the Day of 'Arafa. This visit is equal in rewards with a thousand pious pilgrimages to Mecca and a thousand 'umra accepted by God and a thousand military campaigns fought on the side of a prophet or a just *imām*. The adherent then asked, how he could get a reward similar to that of the *mawqif* (of 'Arafa). The *imām* looked at him as if roused to anger and said: "The believer who comes to the grave of al-Ḥusayn on the Day of 'Arafa, washes in the Euphrates and directs himself to the grave, he will be rewarded for every step as if he had performed a *hajj* with all due rites." The transmitter recalls that the *imām* did say: "and [took part in] a military campaign."<sup>146</sup>

Some changes of ritual were attributed to the Umayyads and sharply criticized by orthodox scholars. A number of innovations of this kind are said to have been introduced by Mu'āwiya. It was he who refrained from the *takbīr* on the Day of 'Arafa, because 'Alī used to practise it.<sup>147</sup> He forbade the loud recitation of the *talbiya* at 'Arafāt, and people obeyed his order; then Ibn 'Abbās ostentatiously came forth and uttered the *talbiya* loudly.<sup>148</sup> It was Mu'āwiya who transformed a place where the Prophet had urinated into a place of prayer,<sup>149</sup> and invented (*aḥdatha*) the *adhān* in the *ṣalāt al-īdayn*.<sup>150</sup> He changed the order of the ceremony of the 'id

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146 Ibn Bābawayh, *Amālī l-ṣadūq* (Najaf: 1389/1970), pp. 126-7.

147 al-Fākihī, fol. 529a.

148 Muḥibb al-Dīn al-Ṭabarī, p. 403; al-Hākim, *al-Mustadrak*, 1: 464 inf.-465; al-Muttaqī al-Hindī, 5: 79, nos. 646, 648.

149 Muḥibb al-Dīn al-Ṭabarī, p. 417; Amīn Maḥmūd Khaṭṭāb, *Fath al-malik al-ma'būd*, 2: 59 inf.-60, lines 1-7; al-Fākihī, fol. 531a, sup.

150 al-Suyūṭī, *Ta'rīkh al-khulafā'*, p. 200.

*al-adhā* and ordered the *khutba* to be delivered before the prayer.<sup>151</sup> He was also the one who banned the *tamattu'* pilgrimages.<sup>152</sup> Changes of this kind were recorded as wicked innovations of the impious Umayyad rulers.

The inconsistencies of the usages, customs and ritual practices of the early period of Islam are reflected in almost every subject dealt with in the early sources of *ḥadīth*. Opinions divergent and contradictory are expressed about the *sutra* which has to be put in front of the praying Muslim and whether a dog or a donkey or a woman passing by invalidates the prayer.<sup>153</sup> Scholars differ in their opinions as to whether the form of sitting during the prayer called *iq'ā'* is permitted,<sup>154</sup> whether the prayer by a believer clad in one garment (*ṭhawb*) is valid,<sup>155</sup> and whether counting of the *tasbīḥ* by pebbles is allowed.<sup>156</sup>

Some of the subjects dealt with in the early *ḥadīths* lost their actuality and relevance. It is however a special feature of Muslim *ḥadīth* literature and *ḥadīth* criticism that some of these themes reappear and are discussed even in our days. Thus, for instance, the contemporary scholar Nāṣir al-Dīn al-Albānī examines

151 al-Shiblī, *Maḥāsin al-wasā'il*, fol. 120a; al-Suyūṭī, *Ta'rīkh al-khulafā'*, p. 200.

152 al-Muttaqī al-Hindī, 5: 88, no. 708; al-Shiblī, *Maḥāsin al-wasā'il*, fol. 119b (and see above notes 48, 50); and cf. the wicked innovations of al-Ḥajjāj; Abū Ṭālib al-Makkī, 2: 53-4.

153 al-Ḥākim, *al-Mustadrak*, 1: 251-2; Nūr al-Dīn al-Haythamī, 2: 59-62; al-Fākihī, fol. 481a inf.; al-Fasawī, fol. 217b; Ibn Abī Shayba, 1: 276-83; 'Abd al-Razzāq, 2: 9-38, nos. 2272-2396; al-Ṭahāwī, *Sharḥ ma'ānī*, 1: 458-64; al-Muttaqī al-Hindī, 8: 132-8, nos. 946-989; al-Zarkashī, *al-Ijāba*, pp. 66, 84.

154 Ibn Abī Shayba, 1: 285; 'Abd al-Razzāq, 2: 190-7, nos. 3024-3053; and see Ibn al-Athīr, *al-Nihāya*, s.v. q-'-a, '-q-b.

155 al-Ṭahāwī, *Sharḥ ma'ānī*, 1: 377-83; al-Shawkānī, *Nayl*, 2: 83-4; Ibn Abī Shayba, 1: 310-15.

156 Ibn Abī Shayba, 2: 389-91; Ibn Abī l-Ḥadīd, *Sharḥ nahj al-balāgha*, ed. Muḥammad Abū l-Faḍl Ibrāhīm (Cairo: 1964), 18: 164; and cf. Aḥmad b. Ḥanbal, *al-'Ilal*, 1: 325, no. 2122; Sa'īd b. Jubayr throws out the pebbles with which a woman counted her circlings during the *ṭawāf*.

the tradition prohibiting fasting on the Day of 'Arafa for people attending 'Arafa.<sup>157</sup> He carefully analyzes the *isnāds*, finding out their faults; he harshly reprimands al-Ḥākim for his heedlessness in considering the *ḥadīth* sound and states that the *ḥadīth* is in fact weak. He argues that the *ḥadīth* about the forgiveness of sins for a period of two years for him who fasts on the Day of 'Arafa is a sound tradition; but the attached phrase about the rewards for fasting on every day of Muḥarram is a forged one.<sup>158</sup> An exhaustive scrutiny of *ḥadīths* about the counting of *tasbīḥ* by pebbles is included by al-Albānī in the examination of the *ḥadīth* about the rosary (*al-subḥa*).<sup>159</sup>

Of interest are certain traditions in which some social and cultural, as well as religious, trends are exposed. Of this kind are the traditions in which the Prophet predicted that his community would erect sumptuous mosques in the manner of Jewish synagogues and Christian churches, adorn them richly and embellish them with inscriptions. This will be the sign of decline of the Muslim community and portend the End of the Days. Traditions of the very early period of Islam reflect the opposition against arched *miḥrābs*. "Beware these altars" (*ittaḥū ḥādhihi l-madhābiḥ*), followed by an explanatory comment, "he meant the *maḥārīb*" (*ya'nī l-maḥārīb*), says a tradition attributed to the Prophet.<sup>160</sup> "My people will fare well as long as they will not build in their mosques altars

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157 Nāṣir al-Dīn al-Albānī, *Silsilat al-aḥādīth al-ḍa'īfa wa-l-mawḍū'a* (Damascus: 1384), no. 404.

158 Ibid., no. 412.

159 Ibid., no. 83.

160 al-Daylamī, MS. Chester Beatty 4139, fol. 27a (al-Daylamī adds: *wa-kāna ibrahīmu l-taymī lā yuṣallī fī ṭāqi l-miḥrāb*); al-Suyūṭī, *al-Khaṣā'is al-kubrā*, 3: 189; al-Munāwī, 1: 144-5, no. 153 reviews the different meanings of the word *miḥrāb*. And see the peculiar story of the Christian youth in the *miḥrāb*: al-Khaṭīb al-Baghdādī, *Ta'rīkh Baghdād*, 9: 45; al-Ṭurṭūshī, p. 94; al-Baḥrānī, 7: 281-5; Maḥmūd Maḥdī al-Mūsawī al-Khawansārī, *Tuḥfat al-sājid fī aḥkām al-masājid* (Baghdad: 1376), pp. 111-16. And see R.B. Serjeant, "Miḥrāb," *BSOAS* (1959): pp. 439-53.

like the altars of the Christians," the Prophet foretold.<sup>161</sup> Pious men usually refrained from praying in these *miḥrābs*.<sup>162</sup> Of the same kind were traditions against the adornment of mosques,<sup>163</sup> prayers in the *maqṣūra* of the mosque,<sup>164</sup> and against writing Qur'ān verses on the walls of the mosque, or in the *qibla* of the mosque.<sup>165</sup>

These traditions should, of course, be studied against the background of the reports about the sumptuous buildings which were erected by the impious rulers and their governors and the richly decorated *jāmi'* mosques in which delegates of the rulers led the prayer. Many a time a pious Muslim had to ask himself whether he should pray behind them, as can be deduced from the numerous traditions dealing with this subject.

The few traditions reviewed in this paper clearly demonstrate the fluidity of certain religious and socio-political ideas reflected in the early compilations of *ḥadīth*, as already proved by I. Goldziher. The diversity and divergence of traditions expose the different opinions of various groups of Muslim scholars. The divergent traditions are faithfully recorded in the compilations

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161 al-Suyūṭī, *al-Khaṣā'iṣ al-kubrā*, 3: 188-9; Ibn Abī Shayba, 2: 59; and see the careful evaluation of this *ḥadīth* by Albānī, *Silsila*, no. 448.

162 'Abd al-Razzāq, 2: 412, no. 3898-3902; the tradition about the altars of the Christians, no. 3903; Ibn Abī Shayba, 2: 59-60 (*al-ṣalāt fī l-ṭāq, man rakhkhaṣa l-ṣalāt fī l-ṭāq*); Aḥmad b. Ḥanbal, *al-'Ilal*, 1: 64, no. 373.

163 al-Suyūṭī, *al-Khaṣā'iṣ al-kubrā*, 3: 56-7; Ibn Abī Shayba, 1: 309; al-Suyūṭī, *al-Durr al-manthūr*, 3: 217 inf.; al-Shaybānī, pp. 77-8; Abū 'Ubayd, *Gharīb al-ḥadīth*, 4: 225; al-Shawkānī, *Nayl*, 2: 167-70; idem, *al-Fawā'id al-majmū'a*, ed. 'Abd al-Wahhāb 'Abd al-Laṭīf (Cairo: 1960), pp. 25-7; Abū Ṭālib al-Makkī, 2: 51 inf.; Ibn Abī Jamra, *Bahjat al-nufūs* (Beirut: 1972 reprint), 1: 183; al-Samarqandī, *Bustān al-'arifīn* (on margin of *Tanbīh al-ghāfilīn*) (Cairo: 1347), pp. 127-8; Yūsuf b. 'Abd al-Hādī, *Thimār al-maqāsid fī dhikri l-masājid*, ed. As'ad Ṭalas (Beirut: 1943), pp. 166, 170; al-Baḥrānī, 7: 277; al-Zarkashī, *I'lām al-sājīd* pp. 335-8; Muḥammad Maḥdī al-Mūsawī, pp. 87-92.

164 See 'Abd al-Razzāq, 2: 414-16, nos. 3907-3913; al-Bayhaqī, *al-Sunan al-kubrā*, 3: 238; Abū Ṭālib al-Makkī, 2: 51 inf.; Ibn Sa'd, 7: 96.

165 Ibn Abī Shayba, 2: 46; al-Ṭurtūshī, p. 97; al-Zarkashī, *I'lām al-sājīd*, p. 337; cf. Yūsuf b. 'Abd al-Hādī, p. 170.

of the second century of the Hijra with no obligatory conclusions imposed and no prescriptions issued.

This activity reflects a sincere effort to establish the true path of the Prophet, the Sunna, which the believer should follow.