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BETWEEN *HADĪTH* AND *FIQH*:
THE "CANONICAL" IMĀMĪ COLLECTIONS OF *AKHBĀR**

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Abstract

In Imāmī legal theory, the *akhbār* of the Imams form one of the material sources of law, alongside the Qur'ān and Prophetic *hadīth*s. The *akhbār* are presented in compendia, assembled by Shi'ite collectors in the fourth and fifth century AH/tenth and eleventh century CE, four of which subsequently came to be regarded as "canonical" in Imāmī law. In this essay, I examine the processes at work in the collation of these "canonical" *akhbār* collections. These processes, I argue, were influenced by an emerging juristic tradition in Imāmī Shi'ism. As Imāmī thinkers became increasingly concerned with *fiqh* and the elucidation of the Shari'a, the collectors developed new techniques of selection, presentation and organisation. The *akhbār* collections became a material source upon which jurists could draw in their *fiqh* discussions, *rather than the law itself*. As an example of the processes at work in the collection and presentation of *akhbār*, I examine the issue of *tayammum*, ritual purification by sand rather than water.

T HE BOUNDARIES between *fiqh* and *hadīth* in early Imāmī juristic thought appear quite porous. The influence of the emerging *fiqh* tradition (both Sunni and Shī'ī) can be detected in features such as the arrangement and presentation of *hadīth* compilations. *Hadīth* compilers, in turn, provided *fiqh* writers with a body of juristic material, which an accomplished *faqīh* could employ with acumen in his elaboration of the law. The four collections examined in this paper were considered "canonical" in the sense that subsequent Imāmī theological and juristic thought gave reports from these collections a stronger "probative force" (*hujjiyya*) than those found in other collections.[1]

These four collections are, I propose, quite different in terms of compilation, presentation and organization from their Sunni counterparts. Furthermore, each Imāmī canonical collection has its own distinctive character. The different techniques of compilation, presentation and

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organization utilized by the authors indicate that they did not all share the same purpose in producing their respective works. In what follows, I outline how these techniques developed from the earliest collection (written in the early 4th century AH/ early 10th century CE) to the last of the canonical collections (written in mid-5th century AH/mid 11th century CE) through a detailed analysis of the manner in which a discrete legal issue (ritual purification by sand in place of water) is presented in the four texts. These developments, I argue, are due to the rise of jurisprudence as an Imāmī intellectual discipline distinct from the collection of *ḥadīth*. In the earliest works, there is evidence to suggest that the authors saw the law expressed solely through *aḥādīth* and hence there was no need for a separate genre of jurisprudence (*fiqh*). Later works indicate a growing awareness of the need for *ḥadīths* as evidence in juristic discussions. Of course some *ḥadīth* were more useful than others in these discussions, and the result is author-specific techniques of selection and presentation. The manner in which an author might select *aḥādīth* for inclusion in his collection, present them (in terms of organizing his material) and comment upon them (both explicitly through exegetical comment, and implicitly through chapter headings) was, I argue, influenced by (and in some cases determined by) the developing Imāmī *fiqh* tradition. Below I trace the nature of this influence through two sets of analyses. First, in the arrangement of *ḥadīth* material and the argumentation accompanying it, one can detect the developing importance of jurisprudence. Second, in the selection of certain *ḥadīth* variants over others, and in an increased sensitivity to *isnāds*, one can detect how authors of later works modified the presentation of their *ḥadīth* material in response to the demands of jurisprudence. In short, the collections of *ḥadīth* moved from being an expression of the law in themselves to being a genre intended to provide support for the expression of the law delineated in works of *fiqh*.

The collections yield to systematic analysis with some resistance since the authors/compilers, both explicitly and structurally, demonstrate disparate aims in their collections. A final preliminary matter: I am restricting myself to the so-called "canonical" four books of Imāmī *ḥadīth* and to the topic of *tayammum* (ritual purification with sand, rather than water). My reason for proceeding along these lines is not dogmatic but practical: the material had to be both available and circumscribed, and any conclusions drawn should be similarly tempered. This selection may appear arbitrary; the canonical position of the four books was neither immediately, nor universally recognised by

Imāmī jurists, and it is far from obvious that the authors of the books
themselves held canonicity (as it was later understood) as an ambition
for their works.

The four books analysed here require some introduction. They dis-
play the diverse means through which *aḥādīth* (normally termed *akhbār*
in the Shī'ī tradition) might be presented. The earliest works of
Muḥammad b. Ya'qūb al-Kulaynī (d. 328/939 or 329/940, *al-Kāfī fī
'ilm al-dīn*,[2] hereon *al-Kāfī*) and Muḥammad Ibn Bābūya (d. 381/991,
Man lā yahḍuruhu al-faqīh,[3] hereon *al-Faqīh*) are, at first blush, lists of
akhbār divided into legal subject headings (Kulaynī prefaces his legal
akhbār with extensive material relating to matters of strictly theological
importance).[4] The legal material, which forms the bulk of the books, is
arranged (with some variation) in accordance with the established
order of topics found in classical works of *fiqh* (purity, prayer, alms,
fasting, pilgrimage; followed by more communal aspects of the law,
such as war, trade, marriage, divorce, inheritance, compensation and
penal law and court procedure). Even regarding the arrangement, one
notices a contrast between Kulaynī's reluctance to provide explanatory
passages and Ibn Bābūya's eagerness to explore the limits of the law
through analytical comments (albeit brief) and supplementary regula-
tions. The later works, *Tahdhīb al-ahkām*[5] (hereon *al-Tahdhīb*) and *al-
Istibṣār fī-mā ukhtulifa minhu al-akhbār*[6] (hereon *al-Istibṣār*), form
major elements of the extensive *oeuvre* of Shaykh al-Ṭā'ifa, Muḥam-
mad b. Ḥasan al-Ṭūsī (d. 460/1067). Here, too, the organization of
material is influenced by *fiqh* categories, but the presentation differs.
The earlier *al-Tahdhīb* is formally a commentary upon the *fiqh* work,
al-Muqni'a[7] of al-Shaykh al-Mufīd (d.413/1022), and its structure (i.e.

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2   *Al-Kāfī fī 'ilm al-dīn*, 8 vols. (3rd edition, Tehran: Dār al-kutub al-islāmī,
1409/1988).
3   *Man lā yahḍuruhu al-faqīh*, 4 vols. (2nd edition, Qum: Mu'assasat al-nashr
al-islāmī, 1392/1972).
4   This material occupies the first two volumes of the printed edition.
5   *Tahdhīb al-ahkām*, 10 vols. (3rd edition, Tehran: Dār al-kutub al-islāmī,
1390/1970).
6   *al-Istibṣār fī-mā ukhtulifa minhu al-akhbār*, 4 vols. (4th edition, Tehran: Dār
al-kutub al-islāmī, 1363sh/1405/1984).
7   *al-Muqni'a* in *al-Jawāmi' al-fiqhiyya* (Qum: Maktaba Āyat Allāh al-'uẓmā
al-mar'ashī al-najafī, 1404/1984), 2nd section, 1-137. The passages relating to
tayammum are found on pp.7-8. The citations from *al-Muqni'a* found in *al-Tahdhīb*
are, in the main, identical with those found in the lithograph edition. There are
occasional discrepancies in sentence markers and conjunctions (e.g., *fa, wa, li-
anna*) and tense. Significant differences are rare, but the following serve as
examples. Concerning the man who performs the ablution with snow, *al-Tahdhīb*
refers to "his face and hands" whereas the lithograph refers to "his body"
(*badanuhu*). It seems clear that the distinction between *wuḍū'* and *ghusl* has caused

the order in which topics are presented) is determined by Mufīd's text. Passages made up of legal rules (without accompanying evidence or argumentation) are cited from *al-Muqniʿa*, followed by extensive lists of *akhbār* supporting Mufīd's legal pronouncements. These lists are in turn supplemented by interpretations of (apparently) conflicting *akhbār* together with occasional supplementation of rules, either through additional *akhbār* citation or plain statement. The final work, *al-Istibṣār*, represents yet another means of organising *akhbār*, as demonstrated by its full title (*Reflection on the differences within the* akhbār). In *al-Istibṣār*, Ṭūsī seeks to present, explain and, in the main, defuse possible conflicts between reports. Here the intention is clearly not (merely) to present the *akhbār*, but to demonstrate how the law might be determined from them. His concern with eliminating possible conflicts within the *akhbār* reflects the juristic doctrine that the *akhbār* are a source of law, and to be a useful source, they must speak with one voice.

To call the four books mere collections of *akhbār* is, then, arguable, despite their characterization as canonical collections in subsequent tradition.[8] Whilst *al-Kāfī* might warrant the description, *al-Faqīh* is a mixture of *akhbār* and *fiqh* comment, *al-Tahdhīb* is an *akhbār* based commentary (*sharḥ*) and *al-Istibṣār* is a work of hermeneutic criticism (in a genre-tradition that stretches back to at least Ibn Qutayba (d. 276/889)). The works, then, belong to different legal genres, and the use of these genres by individual authors inevitably controls and constrains the selection and presentation of material relating to any legal topic. This observation must be held in consideration despite the prevalent use of these works in later Imāmī jurisprudence as mines of *akhbār* to be excavated in the exploration of the law. In these later manifestations, reports are cited, tested and employed as evidence (or discarded as such) in an unashamedly extra-contextual manner.

Determining the regulations concerning ritual purity is a major preoccupation of *fiqh* writers. Attaining a state of ritual purity is a prerequisite for the valid performance of a number of cultic acts, in particular prayer and pilgrimage. An individual is rendered unfit for

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the discrepancy here (Ṭūsi, *al-Tahdhīb*, 1, 191 and Mufīd, *al-Muqniʿa*, 8, 1.8). The man who enters prayer after *tayammum* is rendered ritually impure by a *ḥadath* (an "event" that causes ritual impurity, such as urination or touching a woman) and then finds water is to turn from the *qibla* in *al-Muqniʿa* (8, 1.19), but is to abandon prayer completely in *al-Tahdhīb* (1, 204). Whether this entails a difference is debatable.

8   M. Momen, *An Introduction to Shi'i Islam* (New Haven and London: Yale University Press, 1985), 174; S.H.M. Jafri, *The Origins and Early Development of Shi'a Islam* (London: Longman, 1979), 309.

worship by a number of bodily functions and experiences (e.g. urina-
tion, defecation and sexual intercourse) that nullify a previous state of
purity. The state can be regained through ritual washing with water.
Depending on whether the breach is major or minor, the ritual washing
(or bathing) also varies from *ghusl* (usually defined as a full body
wash) and *wuḍūʾ* (a more limited washing of the feet, hands and head).
If there is no water available, then it is permitted to perform a substitute
ritual with another substance (normally soil or sand). The formal
justification for this substitute ritual (termed *tayammum*) is found in
Q4.43:[9]

> If any of you have returned from the privy, or had intercourse with
> women and can find no water, then take good topsoil (*saʿīd ṭayyib*) and
> rub your faces and hands.

This action is considered by *fiqh* writers to be as effective as water
in achieving a state of ritual purity, thereby making the succeeding
prayer valid. No later compensatory prayer is required after a prayer
following *tayammum* has been performed. However, purity achieved
through *tayammum* is not as stable as that achieved through washing
with water. This instability is expressed in the ruling of most Sunni
writers that purity through *tayammum* does not last between prayers in
the way purity through water does (i.e. the *tayammum* must be repeated
for each prayer).[10] In both the Imāmī and Sunni traditions the sighting
of water breaches the state of purity through *tayammum*, whether or not
the person performs the ritual ablutions with the sighted water. These
regulations, variants of which can be found in most works of Islamic
law, are (theoretically) derived from *aḥādīth* of the Prophet (or in the
case of Imāmī Shiʿism, from the *akhbār* of the Imams also).[11]

It is the *akhbār* relating to the *tayammum* ritual and their collection,
selection and arrangement that I use in this essay as an example of a
developing relationship between *fiqh* and *ḥadīth*. In the works under

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[9]   The other verse cited is similar in wording: Q5.6, "If you have come from
the privy or had intercourse with women, and you find no water, take some good
topsoil and rub your faces and hands with it" (my translation).

[10]   See, for example, Muḥammad b. Muḥammad b. Rushd, *Bidāyat al-
mujtahid*, 4 vols. in 2 (Beirut: Dār al-maʿrifa, 1418/1997), 1, 101-3, where the
different Sunni opinions are conveniently listed. See also, Muḥammad b.
Muḥammad al-Ghazālī, *al-Wajīz fī'l fiqh al-imām al-Shāfiʿī*, 2 vols. (Beirut: Dār
al-arqam, 1418/1997), 1, 131-5.

[11]   See G.H. Bousquet, "La pureté rituelle en Islam," *Revue de l'histoire des
religions* 138 (1950): 53-71. A. Kevin Reinhart, "Impurity/No Danger," *History of
Religions* 30.1 (1990): 1-24 and Z. Maghen, "Close Encounters: Some Preliminary
Observations on the transmission of Impurity in Early Sunni Jurisprudence,"
Islamic Law and Society 6.3 (1999): 348-402.

discussion, the sections on *tayammum* are found in chapters containing *akhbār* relating to ritual purity (*kitāb al-ṭahāra*). These are either the first chapters in the works, or (as in the case of *al-Kāfī*) the first chapter dealing with matters of legal import (previous chapters being devoted to matters of primarily theological interest). The presentation of *akhbār* relating to *tayammum* is always located at some point after the section on ritual purification by water (*wuḍū'* and *ghusl*); some authors place it immediately after the section on *ghusl*, others insert an intervening section on other matters relating to ritual purification between *ghusl* and *tayammum*. Purification by water is clearly seen as the norm; *tayammum* is a deviation from this norm. In *al-Kāfī*, the section on *tayammum* is found after *akhbār* concerned with contagious impurity (of urine or dogs, for example) and before *akhbār* relating to the impurifying effects of menstruation (*ḥayḍ*). In the later works (*al-Faqīh*, *al-Tahdhīb* and *al-Istibṣār*), the *tayammum* section is immediately preceded by the discussion of menstruation. Such variety of arrangement is common in works of *fiqh* and one sees this mirrored in *ḥadīth* collections,[12] indicating that the varieties of organizational schemes in *fiqh* works was, to an extent, transferred to *akhbār* collections.

I have already indicated that the nature of the material in the sections is not homogeneous. Whereas *al-Kāfī* contains only section headings and *akhbār*, *al-Faqīh* contains, in addition, citations from the Qur'an and, most interestingly, authorial comment and summary. In *al-Tahdhīb*, this is supplemented further by citations from Mufīd's *al-Muqni'a* which control the arrangement. Finally, in *al-Istibṣār*, one finds the most extensive hermeneutic discussions in which contradictory *akhbār* are reconciled. The trend of increased authorial contribution

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[12] Interestingly Ibn Bābūya's arrangements in his *al-Muqni'* and *al-Hidāya* (both works of *fiqh*) do not follow that found in *al-Faqīh* (*Jawāmi'*, 2-46 and 46-64, respectively). In *al-Tahdhīb*, Ṭūsī naturally follows the arrangement established by Mufīd in his *al-Muqni'a*, and this also influenced his arrangement in *al-Istibṣār*. The *wuḍū'-janāba-ḥayḍ-tayammum* arrangement became standard. Generic constraints appear to have been strong in the classical period (roughly between the 12th century and the 19th century CE), which has given rise to accusations of formulaism, repetition and unoriginality, both in Muslim and non-Muslim commentary (for the most thoroughgoing criticism of these characterizations, see the articles of W. Hallaq, in particular his "*Uṣūl al-fiqh*: Beyond tradition", *Journal of Islamic Studies* 3.2 (1992): 172-202, reprinted in W. Hallaq, *Law and Legal Theory in Classical and Medieval Islam* [Aldershot: Variorum, 1995]: essay XII). However, authors often expressed their individuality by 'refining' the arrangement of sections (*abwāb*) within a chapter (*kitāb*), or, after the order of the early *fiqh* chapters was determined, by the order of the later chapters. Editorial arrangement (*tartīb*) was, of course, one of the criteria on which later tradition (as displayed in biographical compendia) judged and compared works of *fiqh*.

indicates a developing dissatisfaction with Kulaynī's simple listing of *akhbār*. This is not to say that Kulaynī's technique became redundant (it experienced a revival in later Imāmī history),[13] or that it was devoid of authorial contribution. Instead, Kulaynī's contribution is masked by the technique of merely listing reports, whereas the later authors did not suffer the same timidity in their investigations into the meaning of the Imams' words and deeds.

The *akhbār*-material cited in these four works also displays signs of a developing tradition. Whereas *al-Kāfī* and *al-Faqīh* have, in roughly equal measure, common and exclusive material, the later collections contain nearly all the material in the earlier two works (at times in variant form). The Ṭūsī collections, unsurprisingly, share a majority of material, and this includes a significant amount of new material, uncited in the earlier collections.

These general observations form the background to the following analysis. The developing tradition can be exemplified by means of a number of literary and formal features. I have selected four, analysed in two sections: arrangement/argumentation and transmission/variation. The examination of other features may either confirm or mitigate the force of my conclusions.

Arrangement and argumentation

The *akhbār* presented by Kulaynī in a series of sections (*abwāb*) concerning the *tayammum* ritual are, as noted above, arranged under subject headings. The general division is between *akhbār* describing the performance of *tayammum* (including those decreeing when the ritual is necessary) and 'hard cases'. Through the hard cases, the limits of the law regarding *tayammum* are defined. These include scenarios such as:

1. If one finds water after performing *tayammum* but within the time period for prayer to be valid.
2. If one has sufficient water for *wuḍū'* or *ghusl* but fears that if one uses it for these purposes, one will be afflicted by thirst.
3. If one finds no water, but snow and ice are plentiful.
4. If one finds no water or sand, but clay is plentiful.
5. If one is diseased or injured such that purification with water poses a risk to health.

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13 See for example the Safavid *akhbārī* collection of *ḥadīth*, *Wasā'il al-shīʿa*, 20 vols. (Tehran: al-Maktaba al-islāmiyya, 1963) of al-Ḥurr al-ʿĀmilī (d. 1004/1692).

The issue in each of these sections is whether *tayammum* is a sufficient or acceptable means of attaining a state of ritual purity. Kulaynī offers no summary of the law concerning *tayammum*, either in his own words or those of the Imams. The law is explained through citing examples that delimit the contexts in which *tayammum* is a valid substitute for water (the norm). The reader, then, is drawn into legal understanding by the arrangement of the *akhbār* rather than through any didactic means. As we shall see, the latter was characteristic of discussions in works of *fiqh*, and crossed over into collections of *akhbār*. Kulaynī, however, appears to have no interest in such matters.

An example of Kulaynī's presentation technique can be found in his first section, detailing the performance of the *tayammum* ritual. It comprises six reports, ordered in such a way as to preempt and answer possible questions. Omitting the *isnād*s, the reports cited are:

1.   From Zurāra:[14] I asked Imam al-Bāqir about *tayammum*. He patted the ground with his hand, raised it, shook it and then rubbed his eyebrows and palms once.

2.   Imam Jaʿfar was asked about *tayammum*. He recited this [Qurʾanic] verse: 'the thief, male and female, cut off their hands' [Q5.38] and then he said, 'So wash your hands up to the elbow' [Q5.6], and then he said, 'So then, rub your palms up to the point where the cut is made.' [Finally] he said, 'Your Lord does not forget.' [Q19.64]

3.   From Kāhilī:[15] I asked him [viz., one of the Imams] about *tayammum*. He patted the floor [or 'carpet' or 'flat ground': *al-bisāṭ*] with his hand, then rubbed his face with it. He rubbed his palms, one against the surface of the other.

4.   From Abū Ayyūb:[16] I asked Imam Jaʿfar about *tayammum*. He said, "Ammār b. Yāsir was in a state of major ritual impurity (*janāba*). He rolled in the dirt, just as an animal rolls. The Prophet of God said to him, "'Ammār,[17] you roll like an animal rolls!'" I [viz., Abū Ayyūb] said to him [the Imam], 'How then does one do *tayammum*?' He placed his hand upon the floor, raised it and rubbed his face. Then he rubbed up to a little above the palm.

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14   Zurāra b. Aʿyān, a companion of the Imams Bāqir and al-Ṣādiq. See ʿAlī b. Aḥmad al-Najāshī, *Rijāl al-Najāshī* (5th edition, Qum: Muʾassasat al-nashr al-islāmī, 1416), 345-81.

15   Probably Abū al-Khaṭṭāb Muḥammad b. Miqlaṣ. It would appear that not only Nuṣayrī writings refer to him as al-Kāhilī (on whom see, *EI*[1], s.v. "Abu 'l-Khaṭṭāb Muḥammad b. Abī Zaynab Miḳlaṣ".

16   Ibrāhīm b. ʿUthmān (or b. ʿĪsā) Abū Ayyūb al-Khazzāz, who relates from Imams al-Ṣādiq and Mūsā, according to Najāshī, *Rijāl*, 20, Ṭūsī, *Rijāl al-ṭūsī* (5th edition, Qum: Muʾassasat al-nashr al-islāmī, 1415), 167 and al-Ṭūsī, *Ikhtiyār maʿrifat al-rijāl*, 2 vols. (Qum: Muʾassasa Āl al-bayt, 1404), 2, 661.

17   On whom, see *EI*[2], s.v. "'Ammār b. Yāsir".

5.   Imam Jaʿfar said: Imam ʿAlī said, 'One does not perform wuḍūʾ from a footprint (mawṭaʾ).' Nawfalī[18] added, 'That is, a place where your foot has been placed.'

6.   Imam Jaʿfar said: Imam ʿAlī used to prohibit doing tayammum with the dirt from the footprints of the road.[19]

It is clear that Kulaynī's arrangement of the akhbār is structured according to implicit questions. The first report describes the tayammum ritual in its basic elements: the rubbing of the eyebrows and the palms once. The second report counters the implicit question regarding the extent of the rubbing: since tayammum replaces the wuḍūʾ purification, and sand replaces water, surely the rubbing should reach the elbows (marāfiq) as it does in wuḍūʾ. The Imam's citation of three Qurʾanic passages establishes the lexical limits of the terms yad (hand) and kaff (palm). The verses are unhelpful unless there is a certain amount of exegetical work on the part of the reader. Amputation in the case of theft occurs at the wrist, and if God means more than wrist by the term yad (as in Q5.6, 'your hands up to your elbows'), he specifies this. Since he makes no such specification in the case of the tayammum verse, the term yad means the limb up to the wrist and no further. The third and fourth reports confirm this limitation of the area rubbed in tayammum. In the third, the palms are rubbed 'one against the surface of the other', thereby excluding the forearm. The fourth report, similarly, contains the phrase 'a little above the palm', that is, up to the wrist. The final two reports demonstrate that although tayammum and wuḍūʾ are not analogous with regard to the area to be rubbed/washed, they are analogous in other respects. In particular, just as one is prohibited from using the water gathered in footprints for wuḍūʾ (report 5), one is forbidden from using dust from a footprint for tayammum (report 6). By reading Kulaynī's selection and arrangement in this manner, the reader gains not only a description of the ritual, but also the implicit legal reasoning behind particular aspects of the performance. That is, tayammum is analogous to purification with water in some respects, and therefore may be used as a substitute for wuḍūʾ or ghusl (the example being the use of sand/water from footprints). However, the analogy is not perfect as the body area to be rubbed is not identical with that washed. The subsequent sections detail the limits of the analogy (and by implication the law) through examining hard cases.

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[18] ʿAlī b. Muḥammad al-Nawfalī relates from Imam al-Hādī (see Ṭūsī, Rijāl, 388).

[19] Kulaynī, al-Kāfī, 1, 61-63.

Clearly the context in which this arrangement developed was one of discursive (possibly academic) investigation of the law in which regulations are proposed and clarified through further questioning and investigation. Kulaynī's presentation is the result of a legal dialectic in which a norm is analysed and refined in the light of (self or peer) scrutiny. The arrangement is not the result of a systematic legal investigation, but displays an ad hoc character common to discussions in a formative legal tradition.[20] Indeed Kulaynī's section on *tayammum* (as a whole) can be viewed in this manner: the statement of the norm (found in *bāb ṣifāt al-tayammum*) is followed by a series of hard cases posed by (imaginary or real) inquisitors. In the reports themselves, this hypothesizing is often indicated by the phrase, 'I asked the Imam about a man who...' (*saʾaltu al-imām ʿan al-rajul al-ladhī* or *saʾala fulān ʿan rajul*). In the first section, intended to provide an introduction to the ritual, the question is normally phrased, 'I/he asked the Imam about *tayammum*. He said...'. This characteristic might account not only for Kulaynī's arrangement of the reports but also their wording.

Ibn Bābūya's section on *tayammum* (entitled *bāb al-tayammum*)[21] can be usefully contrasted with that of Kulaynī. Not only is it significantly shorter, it also lacks any internal subdivisions. Its internal structure, however, is quite similar to *al-Kāfī*, with an introductory section, stating the norm, followed by subsequent qualifications. The section as a whole is presented as a commentary on the *locus classicus* (Q5.6). The *akhbār* are viewed not as descriptions of the *tayammum* ritual, but (collectively) as an exegesis of the Qurʾanic command to perform *tayammum*. The section's structure then can be described thus:

1. Citation of Q5.6
2. Introductory section containing:
   (i) 2 reports from Zurāra followed by Ibn Bābūya's summary of their content
   (ii) 3 reports from ʿUbayd Allāh b. ʿAlī al-Ḥalabī[22] followed by Ibn Bābūya's summary

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[20]   The arrangement is clearly not as unsystematic as that found in earlier texts. Calder's analysis of the early Mālikī work, *al-Mudawwana*, for example, reveals *ḥadīth* that are "hardly logically integrated into the text" (N. Calder, *Studies in Early Muslim Jurisprudence* [Oxford: Clarendon, 1993], 15) and material subject "to complex editorial and redactional judgments" (*ibid.*) leading to an open and developing text" (*ibid.*, 16). The early Shīʿī works display a more coherent approach to collecting and commenting upon the *akhbār*. They are not, however, as comprehensive as that found in the classical tradition (see above n. 12).
[21]   Ibn Bābūya, *al-Faqīh*, 1, 102-10.
[22]   ʿUbayd Allāh b. ʿAlī al-Ḥalabī, who relates from Imam al-Ṣādiq (Ṭūsī, *Rijāl*, 234; Najāshī, *Rijāl*, 612).

3. Hard cases:
   (i)   6 reports from various sources followed by Ibn Bābūya's summary
   (ii) 5 further reports from various sources
   (iii) a series of (unsupported) further regulations from Ibn Bābūya

It seems clear that the reports from Zurāra and 'Ubayd Allāh al-Ḥalabī are grouped in *musnad* fashion (indeed, those from 'Ubayd Allāh are grouped so as to give the impression of a single report).[23] The first Zurāra report serves an exegetical function, explaining the Qur'anic verse phrase by phrase (the Imam cites a phrase followed by an exegetical gloss). The second is the story of 'Ammār b. Yāsir rolling in the sand (with some variation) found also in Kulaynī's piece. The reports from 'Ubayd Allāh (2.ii), however, cover various issues related to *tayammum*, but in no discernable logical sequence. For example, the third report relates to the problem of having sufficient water to perform *wuḍū'*, but insufficient water for *ghusl*, when the latter is necessary. It would most sensibly appear in section 3(ii) of the above schema in which there are three consecutive reports relating to the issue of insufficient water (as opposed to a total absence of water). It is clear that Kulaynī's introductory/hard cases division is more thoroughly maintained (even if, at times, this means repetition of *akhbār* rather than the haphazard presentation of Ibn Bābūya). Ibn Bābūya's introduction/hard case division is breached either as a result of his desire to maintain a secondary *musnad* principle or cite the report only when it reached him without subsequent reorganization. In either case, the organization is in no way as rigorous as that employed in *al-Kāfī*.

Perhaps the most significant difference between the approaches of Kulaynī and Ibn Bābūya is the introduction of exegetical/summary comments in the latter, which might be characterized as explicit authorial contribution. This was not absent in Kulaynī (he cites Nawfalī's gloss of the term *mawṭa'*, for example) but it always played a minor role and was attributed to a previous authority. In *al-Faqīh*, Ibn Bābūya rejects this timidity and provides summary comments and additional regulations on a *de rigeur* basis. For example, his comments after the introductory two reports (2[i] above) appear as a summary of the foregoing *akhbār*:

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[23]   The implication being that these come from the *Aṣl* of 'Ubayd Allāh al-Ḥalabī, named by Ibn Bābūya in his introduction (*al-Faqīh*, 1, 3). The *Aṣls* (pl. *uṣūl*) are pre-Kulaynī collections of *akhbār*, compiled by companions of different Imams. These works, few of which have survived, theoretically provided the material for the early collections. See E. Kohlberg, "*Al-Uṣūl al-Arba'umi'a*", *Jerusalem Studies in Arabic and Islam* 10 (1987): 128-66.

> When a man does *tayammum* for [i.e., in place of] *wuḍū'*, he puts his hands upon the ground once, then shakes them and rubs his brow and his cheeks (?*jabīnayhi wa ḥājibayhi*).[24] He rubs the surface of his palms. When it is *tayammum* for *janāba*, he puts both his hands upon the ground once, then shakes them and rubs his eyebrows and cheeks. Then he pats the ground again and rubs the surfaces of his hands to just above the palm. He starts rubbing his right hand before the left.[25]

If Ibn Bābūya knows of the demonstrative reports cited in Kulaynī (and translated above) he prefers to present his own summary of the *tayammum* regulations. Although the summary is juristic in style (it could come from a work of *fiqh*),[26] its lexicon is clearly drawn from *akhbār* similar (or identical) to those cited by Kulaynī. The use of *ḍariba* (to pat), *marratan wāḥidatan* (once) and *nafaḍahumā* (to shake them [dual]) all bear witness to this influence. Ibn Bābūya's summary is a pastiche of the revelatory sources listed in *al-Kāfī*. Instead of citing all these reports (if indeed he knows of them), Ibn Bābūya cites only one and then composes a summary of the others' content. In this he performs the juristic task of constructing regulations from the legal sources. In his final section (3[iii] above), Ibn Bābūya dispenses even with the scant revelatory evidence for his regulations:

> If the man is in such a situation that he can only use clay, then he does *tayammum* with that. God, the blessed and most high, is most forgiving, even if he [viz., the man] has no dry clothes or a saddle such that he might shake [dust] from them and do *tayammum* with that [dust].

> Whoever is in the centre of a crowd on a Friday, or any other day, and is not able to leave the mosque because of the crowd of people, may perform *tayammum* and pray with them [viz., the people], and he does not repeat [the prayer] when he leaves [the mosque].[27]

> The man who does *tayammum* but has forgotten that he actually has water with him, and then prays, remembering this [viz., the water] before the time for prayer has passed, must do *wuḍū'* and repeat his prayer.

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[24] Whilst "his brow" is a plausible translation for *jabīnayhi*, one wonders why it is dual here. It may mean "his eyebrows", meaning not the hair but the areas above the two eyebrows.

[25] Ibn Bābūya, *al-Faqīh*, 1, 104.

[26] Indeed the phrasing found in *al-Faqīh* bears much similarity to that found in his works of *fiqh*: *al-Muqniʿ* and *al-Hidāya*.

[27] Interestingly the editor has adjusted the text, which originally read 'he should repeat the prayer when he leaves' (Ibn Bābūya, *al-Faqīh*, 1, 110, n.4). The editor felt justified in doing this because of a report to this effect cited in Ṭūsī, *al-Tahdhīb*, 1, 60 and Kulaynī, *al-Kāfī*, 2, 65.

> Whoever ejaculates in any mosque should leave and perform *ghusl*
> [immediately], except if the ejaculation occurred in the *masjid al-ḥarām*
> or the *masjid al-rasūl*. If he ejaculates in either of these mosques, he
> does *tayammum* immediately and then leaves. He may only walk in
> these mosques if he has performed *tayammum* [and is therefore
> purified].[28]

Once again the presentation here is jurisprudential, if rather dis-
organized. Yet these regulations mirror *akhbār* cited by either Kulaynī
or Ṭūsī (and in some cases both). The reports found elsewhere share
similar phraseology with Ibn Bābūya's regulations. This has at least
two possible explanations. First, juristic discussions, either during the
Imam's lifetime or soon after it, were reflected in the form of *akhbār*.
Ibn Bābūya knows the formal discussion whilst Kulaynī and Ṭūsī
know the *akhbār* themselves. Second, the *akhbār*, known or unknown
to Ibn Bābūya, gave rise to legal debate reflected in the phraseology
and presentation of the regulative passages in *al-Faqīh*.[29] Whichever is
accurate, Ibn Bābūya's text, including both *akhbār* and legal summary,
contrasts sharply with Kulaynī's technique of selection and arrange-
ment of *akhbār*.

Ṭūsī's work, *al-Tahdhīb*, demonstrates a different organizational
principle: a commentary on a work of *fiqh*. His arrangement is inevit-
ably controlled, not by the author himself, but by the introduction of an
external source (Mufīd's *al-Muqniʿa*). Whereas Kulaynī and Ibn
Bābūya, in general, avoid repetition of *akhbār* through selection (or
non-availability) and summary, respectively, Ṭūsī embraces the variety
of *akhbār* available on a particular aspect of *tayammum*, thereby
exposing potential contradictions in both content (*matn*) and trans-
mission (*isnād*). The section on *tayammum*,[30] significantly longer than
either of those examined so far, can be divided thus:

> 1. Mufīd's writing on *tayammum* begins with the situations in which
> the ritual is a valid substitution for *wuḍūʾ* or *ghusl*. These are a lack of
> water, danger (from animals) in attaining water, illness or risk of
> illness through washing (e.g., in circumstances of extreme cold). Any
> one of these can trigger the dispensation (*rukhṣa*) to perform *tayam-
> mum* in place of *ghusl* or *wuḍūʾ*. The Qurʾanic verse Q4.43 is cited.
> After quoting the relevant passage from Mufīd, Ṭūsī reformulates the

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28 Ibn Bābūya, *al-Faqīh*, 1, 109-10.
29 Ibn Bābūya states in his introduction to *al-Faqīh* that he has decided to
record only the *akhbār* he knows to be sound and upon the basis of which he has
had the confidence to issue *fatwās* (juristic opinions) and *aḥkām* (juristic rulings).
Ibid., 1, 3.
30 Ṭūsī, *al-Tahdhīb*, 1, 183-214.

rules therein in his own words, and goes on to cite ten reports in support of these regulations.

2. Mufīd next discusses the scope of the term *ṣaʿīd*, the material from which *tayammum* is to be performed. Though top soil/sand is the norm, under force of circumstances, the worshipper may also use dust from his clothes, the mane of his horse or his saddle-bag, or even stones and snow. Ṭūsī's response is a mixture of further summary of Mufīd's view, *akhbār* citation (eighteen in all) and exegetical comment.

3. The rule is that a person who has performed *tayammum* should perform *wuḍūʾ* or *ghusl* when he next finds water, but he need not perform any compensatory prayers. Mufīd's expression of this rule is accompanied by twenty-three *akhbār* and occasional comments from Ṭūsī.

4. Mufīd expresses the rule that a person who has performed *tayammum* may perform more than one prayer, providing that his state of ritual purity (from the *tayammum*) has not been compromised. One means of compromising the state is by having access to water between prayers, but failing to perform *wuḍūʾ* or *ghusl*. Ṭūsī's commentary is once again a reformulation of the rules followed by *akhbār* (eight in total) with exegetical comments.

5. The regulations concerning the time at which the worshipper should cease searching for water and begin prayer, together with the extent of his search, are cited by Mufīd. This is followed by four reports with comments.

6. Mufīd stipulates that if water is found before the first *takbīra* (*allāhu akbar*) of prayer (*takbīrat al-iḥrām*), the prayer is abandoned and *wuḍūʾ* or *ghusl* is performed. The prayer is then recommenced. If the worshipper breaches his state of purity (gained through *tayammum*) during prayer, and water has been found since prayer began, the prayer is halted and restarted after *wuḍūʾ* or *ghusl*. Ṭūsī cites nine *akhbār* with exegetical comments in support of these regulations.

7. Mufīd describes the ritual of *tayammum* in a similar fashion to that of Ibn Bābūya, cited earlier. Ṭūsī relates six *akhbār* with exegetical comment.

8. Additional regulations concerning *tayammum* in the case of urination and defecation are supported by four more *akhbār*.

9. Additional regulations for *tayammum* after *janāba* are described by Mufīd. Ṭūsī cites eight *akhbār* with exegetical comment.

10. The analogy between water purification and *tayammum* after menstruation, parturition, sleep or loss of consciousness, jaundice or black bile and contact with the dead is affirmed. Ṭūsī adduces legal reasoning and two *akhbār* in support of these rules.

The discussion is clearly more comprehensive and sophisticated than that of either Kulaynī or Ibn Bābūya. The overall structure is Mufīd's, yet the decision as to where to break from Mufīd's text and introduce supporting evidence (*akhbār* or legal reasoning) belongs to Ṭūsī. A

comparison with earlier collections immediately reveals that Mufīd's
fiqh discussion (and hence Ṭūsī's account of *tayammum* generally)
begins not with a description of the ritual, but with an enumeration of
the conditions for its validity. In Mufīd's *al-Muqniʿa*, the performance
of *tayammum* is described only at the end of the section, whilst in the
earlier collections it served to introduce the topic before hard cases were
examined. The presumption in Mufīd's text (and consequently in Ṭūsī's
commentary) is that the audience is acquainted with the ritual and its
characteristics. There is a clear expectation that the readership is know-
ledgeable about the basic elements of the *tayammum* ritual (hence there
is no need to elucidate them at the outset). This indicates not only a
more sophisticated audience, but a development in the purpose of an
akhbār collection. For Kulaynī, the *akhbār* are presented as (causally)
creating the law. For Ibn Bābūya, the law can be expressed through the
akhbār, or through the author's summary of their contents. For Ṭūsī,
they support an authoritative statement of the law (Mufīd's *al-Muq-
niʿa*). The significance of such a development lies in the increasingly
prominent role given to *fiqh* works over *akhbār* collections.

Ṭūsī's exegetical comments are directed at two bodies of literature:
Mufīd's text and the *akhbār*. With regard to the former, Ṭūsī reformu-
lates Mufīd's prose to make it more amenable to *akhbār* justification.
With regard to the latter, Ṭūsī's aim is to reconcile potential conflict
among the *akhbār*. An example of the former is his commentary on
Mufīd's exploration of the limits of the term *ṣaʿīd* (section 2 above):

> [Mufīd] *Tayammum* is not permitted with anything other than earth that
> the ground has given up, even if the material in question resembles dirt
> in terms of its softness or powdery nature, like potash, ginger, lote-tree
> root or such like. Neither is *tayammum* permitted with ashes. One may
> perform *tayammum* with white chalky earth or with lime.[31]
> [Ṭūsī] This is proven by what we have already cited: that *tayammum*
> must be made with earth or dirt and whatever falls under the generic
> terms *earth* or *dirt*. These things [e.g., potash, ginger] do not fall under
> the terms *earth* or *dirt* and hence it is not permitted to perform
> *tayammum* with them. This is further proven by:
> 1. [Reported from Imam ʿAlī]. He was asked about *tayammum* with
> gypsum. He said, 'Yes'. And then *tayammum* with lime. He said,
> 'Yes'. And then *tayammum* with ashes. He said, 'No. It does not come
> from the ground but from trees.'
> 2. [Reported from Imam Jaʿfar]. He was asked, 'A man has adobes
> [or mud bricks]. Can he purify himself (*tawaḍḍaʾa*) with them?' He
> said, 'No, only with water or *ṣaʿīd*.'

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31   Mufīd, *al-Muqniʿa*, 7, 1.37 - 8, 1.2.

[Ṭūsī] Hence he [viz., the Imam] thereby permitted anything equivalent to water or *ṣaʿīd* to be used for purification purposes.[32]

In this passage, Mufīd's rule that *tayammum* is permitted only with what 'the ground has given up' (*mimmā anbatat al-arḍ*) is interpreted by Ṭūsī to mean 'whatever generally falls under the generic terms *earth* or *dirt*' (*mimmā yaqaʿa ʿalayhi ism al-turāb aw al-arḍ bi'l-iṭlāq*). This serves to aid the understanding of Imam ʿAlī's statement that ashes (from wood) are not suitable *tayammum* material. It also serves as an explanation for Imam Jaʿfar's prohibition on using adobes, since they are called neither *earth* nor *dirt* (but they do come from the ground). Ṭūsī's exegetical comment on Imam Jaʿfar's statement, 'only water or *ṣaʿīd* ', is glossed as 'that which is equivalent to earth or *ṣaʿīd* '. Ṭūsī is primarily concerned here to delimit the application of the term *ṣaʿīd* to that which can be described as dirt (*turāb*) and earth (*arḍ*). He intends to provide the means whereby a dubious substance might be categorized by associating the uncommon term (*ṣaʿīd*) with common terms (*turāb* and *arḍ*). In such a discussion the reports become means of exemplifying a general rule, explicated by Ṭūsī from Mufīd's imprecise wording. Ṭūsī considers the phrase 'what the ground has given up' as insufficiently nuanced to be supported by the *akhbār*, hence the need for a reformulation.

An example of Ṭūsī's exegetical commentary serving to reconcile potential conflicts between *akhbār* immediately follows the passage cited above:

> 3. It is related from Imam Jaʿfar that when Zurāra asked him, 'Can one purify oneself with flour (*daqīq*)?', he replied, 'There is no problem with purifying oneself with and covering oneself in it.'
> [Ṭūsī's comment] As for [this report], its meaning here is that it is permitted to rub oneself with it, and to perform a purification [or washing] with it, but it is not a preparation for *ṣalāt*. The following [report] reveals this [interpretation to be correct]:
> 4. From ʿAbd al-Raḥmān b. al-Ḥajjāj.[33] 'I asked Imam Jaʿfar about a man who is coated in lime. He makes flour with oil, caking himself in it. He rubs himself with it, on top of the lime, in order to mask the smell. [The Imam] said, 'There is no problem.'[34]

The third report gives the impression that flour can be used as a purifying agent, which violates the rule established by Ṭūsī that only

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[32] Ṭūsī, *al-Tahdhīb*, 1, 187-88.
[33] Who relates from Imams al-Ṣādiq and al-Kāẓim (Ṭūsī, *Rijāl*, 236 and Najāshī, *Rijāl*, 237-8).
[34] Ṭūsī, *al-Tahdhīb*, 1, 188.

materials termed *dirt* or *earth* can be used for *tayammum*. Ṭūsī's reconciliation involves distinguishing between two types of purification, both called *tawaḍḍuʾ* (derived from the same root as *wuḍūʾ*, and therefore possibly implying cleansing for religious purposes). In order to preserve the earlier rule, Ṭūsī determines that the Imam in the third report is referring to a non-ritual purification (analogous to hygienic cleansing) and fortunately has a report at hand to prove this. Unfortunately the fourth report does not use the word *tawaḍḍuʾ*, but undeterred, Ṭūsī cites an example of the Imam raising no objection to a man using flour and oil to mask the smell of lime. The reasoning is, perhaps, unconvincing but it preserves the legal definition of *ṣaʿīd* established earlier in the face of potentially conflicting revelatory evidence.

Ṭūsī's chapter on *tayammum* is replete with similar examples of reasoning aimed at preserving his interpretation of Mufīd's formulation of the law. They demonstrate virtuoso hermeneutic skills and a dedication to the task of reconciling the *fiqh* with the *akhbār*. The work is a product of a more developed Imāmī environment, unlike that of Kulaynī and Ibn Bābūya, where contradictions either went unnoticed or were excluded from the presentation. Apparently problematic reports in the section on *tayammum* in *al-Tahdhīb* are not rejected as weak (according to *isnād* criteria). Instead Ṭūsī views them as in need of further interpretation. Mufīd's *fiqh* is explained or reworded but never questioned. For Kulaynī, the law emerged from the *akhbār*, and for Ibn Bābūya, the *akhbār* could be summarized in dense juristic prose. For Ṭūsī, however, the *akhbār* support the ready-formulated law, being indicators (*dalāʾil, adilla*) of a predetermined *juris*.

Ṭūsī's *al-Istibṣār* shares much material with his *al-Tahdhīb*, both in terms of *akhbār*, but also authorial comment. As mentioned earlier, the aim of *al-Istibṣār* is specifically to analyse apparently contradictory *akhbār*, side by side, and attempt to resolve the contradictions. There is little attempt to describe the law relating to *tayammum*. The basic elements of the ritual are assumed (as in *al-Tahdhīb*). It is perhaps surprising, given the nature of the work, that *al-Tahdhīb* dives straight into 'hard cases' where the *akhbār* are less than indicative. Ṭūsī's section on *tayammum* (entitled *abwāb al-tayammum* in the printed edition)[35] is divided into eleven subsections, each listing *akhbār* (with exegesis) relating to different areas of *tayammum* law:

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[35] Ibid., 1, 155-73.

1. That it is not permitted to use flour for *tayammum*.
2. The procedure for *tayammum* with moist ground or clay.
3. Concerning the man who arrives in a land covered with snow.
4. When one has performed *tayammum*, and then finds water, it is not obligatory for one to repeat one's prayer at a later time.
5. When one has contracted a major ritual impurity (*janāba*) and then performs *tayammum* and prayer, is it obligatory to then repeat the prayer or not?
6. May one who has performed *tayammum* perform more than one prayer, provided he has not breached his state of purity?
7. Anyone who has performed *tayammum* must not [pray] until the end of the prescribed time for ritual prayers.
8. Concerning someone who begins prayer, having performed *tayammum*, and then finds water.
9. Concerning someone whose garments are inflicted with *janāba* and who has no water to wash [the garment] and has no substitute garment.
10. On how to perform *tayammum*.
11. Concerning the number of times one should perform *tayammum*.

Generally speaking, each of these eleven sections follows the same format. First, the *akhbār* are cited to establish the norm in the case under discussion. This is, at times, accompanied by a note of clarification from Ṭūsī. Next, potentially contradictory reports are cited. Finally, Ṭūsī explains how the perceived contradiction is eliminated. Such a structure is occasionally evident in Ṭūsī's *al-Tahdhīb*, but here Ṭūsī's aim is not to provide justification for pre-existent rules, but to discuss only those areas of the law that are unclear from the *akhbār*. Such a technique implies that citing uncontroversial *akhbār* is not necessary, and hence the section on *tayammum* in *al-Istibṣār* is slightly shorter than in *al-Tahdhīb*.

An example of this pervasive format is the subsection (*bāb*) devoted to the question of snow, a summary of which runs as follows:

> 1. Muḥammad b. Muslim[36] asked Imam Jaʿfar about a traveller who is in a state of major ritual impurity and finds, while travelling, only snow. [The Imam said], 'He performs *ghusl* with snow or stream water.'
> 2. Muʿāwiya b. Sharīḥ[37] was present when a man asked Imam Jaʿfar, 'We encountered wind and snow. We wanted to perform *wuḍūʾ*, but found only frozen water. How should I have performed *wuḍūʾ*? Can I rub ice on my skin?' The Imam said, 'Yes'.

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[36] This could refer to any number of transmitters from Imam al-Ṣādiq (see Ṭūsī, *Rijāl*, 294).

[37] On whom see Ibn Shahrāshūb, *Maʿālim al-ʿulamāʾ* (Najaf: al-Maṭbaʿa al-ḥaydariyya, 1960), 166.

[Contradictory reports]

3. Muḥammad b. Muslim asked Imam Ja'far about a traveller who contracted *janāba*. He could find only snow or ice. The Imam said, 'He does *tayammum* out of necessity (*ḍarūra*). I do not think he should return to this country [for it] destroys his faith.'

4. Zurāra heard Imam Bāqir say, 'If one finds only snow, then look in one's saddle-bag and perform *tayammum* with its dust or whatever [like dust] is in there.'

5. Rafā'a[38] heard Imam Ja'far say: 'If one is in snow, look into one's saddle-bag and do *tayammum* with dust or whatever is in there.

[Ṭūsī] These three *akhbār* (reports 3-5) do not contradict the first (two) reports (1-2) and the means of reconciling them (*al-wajh fī al-jam' baynahumā*) is as follows:

If possible, a man must rub himself with snow or ice because it is, in fact, water [in a different form], as long as he does not fear for himself [from cold or attack] through using snow. This is not the same as *tayammum* with dirt or dust (*al-turāb wa'l-ghabār*). If this is not possible because he fears for himself through using [snow or ice], then he is permitted to turn to *tayammum*, just as he is permitted to turn from water to dirt if he fears [using water will cause some harm]. The following [report] proves this:

6. 'Alī b. Ja'far[39] asked (his brother) Imam Mūsā b. Ja'far about a man who had contracted *janāba* and had no water with him. He found both snow and *ṣa'īd*. 'Which,' [he asked,] 'is better: that he do *tayammum* or that he should rub his face with snow?' [The Imam] said, 'The snow, but [rubbing] both his head and his body is best. If, however, he is unable to do *ghusl* with [the snow], then he should do *tayammum*.'[40]

Ṭūsī's reconciliation (*jam'*) is based on an assumption when reading the *akhbār*. In reports 1 and 2 he assumes that the Imam is referring to cases in which the subjects were not putting themselves at risk (either with regard to their health or other dangers) by using snow or ice. Hence the Imam decrees one should perform *ghusl* or *wuḍū'* with snow or ice. In reports 3-5, Ṭūsī assumes the Imams are referring to cases in which there is a risk (to health or life) through using snow or ice. Due to force of circumstances (*ḍarūra*), *tayammum* should be performed. The difference lies in the fact that 'washing' with snow or ice is still ritual purification with water, whereas performing *tayammum* is ritual purification with *ṣa'īd*. Report 6 establishes this line of reasoning. When given the choice between snow and *ṣa'īd*, the Imam advises

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[38] This could refer to either Rifā'a b. Mūsā or Rifā'a b. Muḥammad al-Haḍramī.
[39] The brother of Imam Mūsā (see Ṭūsī, *Rijāl*, 339).
[40] Ṭūsī, *al-Istibṣār*, 1, 158-59.

snow. It is a better (*afḍal*) means of achieving a state of ritual purity. In the next section I shall deal with the transmission of these reports; however, it should be noted here that when cited, the final, decisive *akhbār* are usually accompanied by full *isnāds*, leading back from Ṭūsī to the Imam. The problematic *akhbār* have *isnāds* that do not always begin with Ṭūsī.

There are a number of standard Shīʿī means of solving contradictions within the *akhbār*. These are termed *al-tarājīḥ* (means of expressing a preference) in works of *uṣūl al-fiqh*. The most common are dissimulation (*taqiyya*), dissemination (*shuhra*) and provenance (*isnād*).[41] Ṭūsī does not use these in his discussion of *tayammum* in *al-Tahdhīb*, preferring to reconcile the *akhbār* rather than pronounce one historically inaccurate or legally ineffective. In *al-Istibṣār*, however, he utilizes these means, albeit in a limited fashion, in his sections on *tayammum*.

Taqiyya refers to the Imāmī dogmatic belief that at times the Imams concealed the true law from their audience due to fear that to reveal it would lead to persecution by the enemies of the Imāmiyya (normally the Sunnis).[42] This technique, common in classical Imāmī *fiqh*, is not a regular weapon in Ṭūsī's armory. The one occasion on which it is used in the treatment of *tayammum* in *al-Istibṣār* involves the correct performance of *tayammum*. As stated earlier, the agreed position (Kulaynī, Ibn Bābūya and Ṭūsī) is that *tayammum* replaces *wuḍūʾ/ghusl*, and is analogous to them in some features, but it is not analogous to them with respect to the area of the body to be washed. In *al-Tahdhīb*, Ṭūsī relates a problematic report from Samāʿa[43] in which the Imam is described as rubbing his forearms when demonstrating *tayammum*. Ṭūsī there argued that the Imam must have actually been demonstrating that just as one washes one's forearms in *wuḍūʾ*, so one rubs one's palms in *tayammum*, and this comparison went unnoticed by the transmitter. The transmitter did not detect that the Imam was demonstrating what one does in *wuḍūʾ* for the purposes of comparison with *tayammum*. In *al-Istibṣār* there is a supplementary explanation:

> The reasoning regarding this report is that [first] we interpret it as a *taqiyya* report, because it agrees with the doctrine of the Sunnis. Also

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[41] I examine these methods of *ḥadīth* criticism in my *Inevitable Doubt,* 114-21 and 136-44.

[42] See ibid., 32-35 and E. Kohlberg, "Some Imāmī views on *taqiyya*", *Journal of the American Oriental Society* 95 (1975) 395-402.

[43] Samāʿa relates from "one of them", meaning, in this case, either al-Ṣādiq or al-Kāẓim (*Tahdhīb*, 1, 208).

[and secondly], it has been said, when interpreting it, that the Imam intended to convey the ruling, and not the performance. He rubbed the surface of his palm, then [he said] it is like when one washes one's forearms in *wuḍū'*.[44]

Agreement with the doctrine of the Sunnis was one criterion by which a *taqiyya* report could be recognized. Ṭūsī proposes it here as an additional explanation of the report's implication that one should rub one's forearms in *tayammum*. This is cited first, along with the explanation found in *al-Tahdhīb* that the Imam was demonstrating that the rubbing of palms in *tayammum* was analogous to the washing of the forearm in *wuḍū'*. This is the only use of this hermeneutic technique in the section on *tayammum* in *al-Istibṣār*.

Similarly, Ṭūsī appeals to the principles underpinning dissemination (*shuhra*). Here a report is deemed historically probable if it is reported through a number of different chains of transmission (*isnād*) such that collusion between transmitters is impossible. It is technically termed *khabar al-mutawātir* (a well-attested report). An isolated report (*khabar al-wāḥid*) is one that fails this test and produces only probable knowledge of the law. Ibn Idrīs (d. 598/1202) was one scholar who criticized Ṭūsī for his extensive use of *khabar al-wāḥid*.[45] A classical jurist examined the different *isnād*s in order to assign a degree of historical probability (and hence legal indication) to a report.

The following report is transmitted by three different chains of transmission in Ṭūsī's *al-Istibṣār*, all traced back to 'Abd Allāh b. 'Āṣim:[46]

> From 'Abd Allāh b. 'Āṣim: I asked Imam Ja'far about a man who finds no water and performs *tayammum*. When he stands to pray, the slave comes with some water. [The Imam] said, 'If he has not performed a *rak'a*, then he is to abandon [the prayer] and perform *wuḍū'*. If he has performed a *rak'a*, then he remains in his prayer.'[47]

This rule is problematic for Ṭūsī because it contradicts another report from Imam Ja'far in which the rule is given that if one has begun prayer (even if a *rak'a* has not yet been performed), one should not

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[44]   Ṭūsī, *al-Istibṣār*, 1, 171.
[45]   See N. Calder, "Doubt and Prerogative: The Emergence of an Imāmī Shī'ī theory of *ijtihād*" *Studia Islamica* 20 (1989), 64-65 and Momen, *Shi'i Islam*, 89. On *tawātur* generally, see B. Weiss, "Knowledge of the Past: The Theory of *tawātur* according to Ghazālī", *Studia Islamica* 61 (1985), 81-105.
[46]   Interestingly no such scholar is mentioned as having related from Imam al-Ṣādiq in Ṭūsī's *Rijāl*. He is mentioned briefly in Muḥammad b. 'Alī al-Ardabīlī, *Jāmi' al-ruwāt*, 2 vols. (Beirut: Dār al-adwā', 1403/1983), 1, 494.
[47]   Ṭūsī, *al-Istibṣār*, 1, 166-67.

abandon worship on account of finding water. Ṭūsī solves this contradiction as follows:

> [1] The original relater (*al-aṣl*) in these three reports is a single person. He is ʿAbd Allāh b. ʿĀsim. Hence it is possible to propose, with regard to this report, that it is merely recommended [to abandon prayer after the first *rakʿa*] and not obligatory or a duty (*al-istiḥbāb dūna al-farḍ waʾl-ījāb*) [as it is before the first *rakʿa*].
> [2] It is also possible that the point behind the report is that it is obligatory to abandon prayer if one enters prayer at the start of the prescribed time. Since we have already shown that one should not do *tayammum* except at the last point of the prescribed time for prayer, it is obligatory for him to abandon the prayer [and do *wuḍūʾ*].[48]

This report is, then, interpreted as uncontroversial by means of two arguments: first, there is the argument that since it is reported only via ʿAbd Allāh b. ʿĀṣim (though by different *isnāds* after ʿAbd Allāh), its probative force as an indicator of the law is reduced. This is because it is classified as *khabar al-wāḥid* (though the term is not used in *al-Istibṣār* at this point). With a reduced probative force, the report can only indicate that it is recommended (but not obligatory) to abandon prayer after the first *rakʿa*. The reduction in the legal force of the report is engineered through an appeal to the principle of *tawātur*. The second argument (that the Imam is referring to a person who has done *tayammum* and prayed at the start of the prescribed time) is found also in *al-Tahdhīb*. It conforms to the common technique found there of assuming information not found in the report to nullify its danger as evidence contradictory to the known law. Between *al-Tahdhīb* and *al-Istibṣār*, Ṭūsī has devised a further means of resolving a contradiction, utilizing argumentation common to the *fiqh* tradition.

The final type of argumentation used in the passage relating to *tayammum* in *al-Istibṣār*, but absent in previous collections (including Ṭūsī's own *al-Tahdhīb*), is that of *isnād* criticism (provenance). The chain of transmitters (*isnād*) must be 'sound' in order for a report to qualify as a legal indicator, however weak. The *isnād* must, at least, be plausible (historically). An example of this type of argumentation is found in section 4 above. The general rule is established that a man who has performed *tayammum* has no obligation to repeat his prayer at a later time when he finds water. This implies that *tayammum* brings about ritual purity and makes a prayer valid with the same efficiency as *wuḍūʾ* and *ghusl*. Following three reports establishing this rule, Ṭūsī cites the contradictory evidence:

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48   Ibid., 167.

4. Muḥammad b. Aḥmad b. Yaḥyā relates from Muḥammad b. al-Ḥusayn from Jaʿfar b. Bashīr from one who relates from Imam Jaʿfar: I asked [Imam Jaʿfar] about the man who is in a state of *janāba* on a cold night. He fears that he may harm himself if he performs *ghusl*. [The Imam] said, 'He should do *tayammum*, and when the cold has subsided, he should do *ghusl* and repeat the prayer.'
5. Saʿd b. Muḥammad b. al-Ḥusayn b. Abī al-Khaṭṭāb also relates from Jaʿfar b. Bashīr from ʿAbd Allāh b. Sinān or someone else, from Imam Jaʿfar [the same report].

This report (with two *isnāds*) contradicts the general rule since the person who has performed *tayammum* should be ritually prepared for worship in exactly the same manner as someone who has performed *wuḍū'* or *ghusl*. If the man who performs *tayammum* due to cold must repeat his prayer, then the equal effectiveness of the *tayammum* and *wuḍū'/ghusl* rituals (with respect to *ṭahāra*) is compromised. Ṭūsī's solution relies on *isnād* criticism:

> The first [thing to be said] is that the report is *mursal* and *munqaṭiʿ* because Jaʿfar b. Bashīr says 'from one who relates' in the first report and 'from Ibn Sinān or someone else' in the second report. This indicates that he is unsure (*shākk*) who the transmitter is. [Reports] transmitted in this manner do not create an obligation to act.
>
> Even if the report is sound in what it relates, it can be interpreted as referring to one who, through his own choice, is in a state of *janāba*. One who does this must perform *ghusl* in all circumstances, and if this is not possible, he does *tayammum* and prays, but repeats his prayer when he is able [to use water].

Once again, between *al-Tahdhīb* and *al-Istibṣār*, Ṭūsī has devised (or introduced) a new line of reasoning (*isnād* criticism). The second argument, which relies on an intentional/unintentional state of *janāba*, assumes information not present in the report in order to reconcile it with the law. This technique, as we have seen, is common to *al-Tahdhīb* and *al-Istibṣār*. The first argument uses the terms *mursal* and *munqaṭiʿ*, technical terms in the analysis of *isnāds* referring to chains of transmission that are imperfect or incomplete.[49] Once again the

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49 The terms *mursal* and *munqaṭiʿ*, of course, refer to reports that have a missing link. *Mursal* came to mean specifically a report in which the link before the Prophet is missing. This usage was also employed by Imāmī jurists to refer to reports in which the link before the Imam was missing. An additional example of *isnād* criticism is found in Ṭūsī, *al-Istibṣār*, 1, 164. The issue concerns whether a single *tayammum* can be effective for more than one prayer. Ṭūsī argues that it can, but he knows of a report that implies that one needs to repeat one's *tayammum* for every prayer. Ṭūsī argues that the contradictory report is problematic since the transmitter relates directly from Imam al-Riḍā, but is also responsible for transmitting the opposite view from another Imam. For Ṭūsī it is implausible that

introduction of argumentation in *akhbār* works relies upon cognate developments in other legal studies (in this case *ʿilm al-ḥadīth*).

Ṭūsī's presentation in *al-Tahdhīb* demonstrated a greater awareness of the *fiqh* tradition (both Sunni and Shīʿī) than either of his predecessor compilers (Kulaynī and Ibn Bābūya). This trend continues in *al-Istibṣār*. Here the collection is not so much a list of *akhbār*, but a handbook that the legal scholar might use to reconcile the differences between *akhbār*. In this reconciliation, one sees an even greater commitment to the coherence of the Imams' message (as found in the *akhbār*) than that found in the earlier works. Ṭūsī goes to great lengths to preserve this coherence. Unlike in *al-Tahdhīb*, he begins to contemplate the juristic means whereby *akhbār* are deemed to be legally irrelevant (or of reduced relevance). His faith in the processes of *shuhra* and *isnād-* and *taqiyya*-criticism is not unshakeable, since he also includes many examples of reconciliation (*jamʿ*). However, his introduction of these techniques into a work of *akhbār* is yet further evidence of the developing roles of the *fiqh* and *akhbār* genres, and the manner in which the legal reasoning from one was transferred to the other. The interrelationship of *akhbār* and *fiqh* increasingly evident after Kulaynī might further be explained by the fact that Ibn Bābūya and Ṭūsī were both *muḥaddiths* who were also *faqīhs*.[50]

Transmission and variants

The transmission of *ḥadīth* material in the four collections deserves a full and comprehensive analysis. Pending such an investigation, some preliminary observations can be made on the basis of the *akhbār* relating to *tayammum*. First, all the authors show, in different ways, an awareness of the issues that gave rise to the *isnād* institution. The majority of reports in all the collections are attributed to Imam Jaʿfar al-Ṣādiq (Abū ʿAbd Allāh). In subsequent Shīʿī legal history, he is, of course, credited with the systemization and presentation of a coherent Imāmī *fiqh*.[51] Reports from Imam Bāqir, Imam al-Riḍā and the Prophet

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a single transmitter would relate contradictory reports from the Imams: 'The transmitter must have made an error' (*sahw min al-rāwī*).

50   Ṭūsī's major work of *fiqh* (*al-Mabsūṭ*) is complemented by his work of legal differences (*Kitāb al-khilāf*). As mentioned above n.12, Ibn Bābūya also wrote *al-Muqniʿ* (not to be confused with Mufīd's *al-Muqniʿa*) and *al-Hidāya* (both found in the collection *al-Jawāmiʿ al-fiqhiyya*). Modarressi mentions Ibn Bābūya's *Kitāb fī al-fiqh* which remains in manuscript (see H. Modarressi, *Introduction to Shīʿī Law* [London: Ithaca, 1984], 62).

51   For the references in Western literature see S.A. Arjomand, *The Shadow of*

(always via an Imam) are also present, but in much smaller numbers.
Fiqh rulings from companions of the Imams are rare and are normally
raised (sometimes in later works) to Imamic rulings. The acceptance of
religio-legal authority doctrines such as Prophethood, *imāma* and *'isma*
(sinlessness of the Prophet and the Imams) appears total in these
works.

Kulaynī's *akhbār* are all accompanied by *isnāds* that later tradition
viewed as complete, in the sense that he related a report directly from
the first-named person in the *isnād*. The inclusion of *akhbār* with full
isnāds may be explained by the earlier emergence of the *isnād* plus
matn format, and may not be a reflection of a serious Imāmī dedication
to *isnād* criticism at this stage,[52] that is, it may be explained by generic
influence (from Sunni collections) rather than scholarly engagement.

Such an explanation is irrelevant regarding Ibn Bābūya. He con-
sciously truncates his *isnāds* in order to render *ḥadīth* criticism
redundant. He states at the outset of *al-Faqīh*:

> I wrote this book with truncated *isnāds* so that the book's routes [of
> transmission—*ṭuruquhu*] might not multiply and that it might be of
> more use. I did not intend to follow the practice of other writers who
> relate all that is reported [to them]. Rather I intended [to relate] *akhbār*
> upon which I have given a *fatwā* and which I have decided to be sound
> (*uftī bihi wa aḥkumu bi-ṣiḥḥatihi*).[53]

The desire to reduce the number of transmission lines and the
practice of omitting *isnāds* demonstrate that Ibn Bābūya is aware of the
process of historical validation by *isnād*, but does not consider it useful
or important in his elaboration of the law of the Imams. Ironically, *al-
Faqīh*, then, is a work that shows cognizance of the discipline by
rejecting its necessity with respect to Imāmī *akhbār*.

Ṭūsī, in his earlier *al-Tahdhīb*, cites *isnāds* and variants of *akhbār*
with different *isnāds*. These structural features display a sensitivity to
'ilm al-ḥadīth, but there is no explicit reference in his section on *tayam-
mum* to the science. In *al-Istibṣār* these structural features are accom-
panied by occasional and explicit utilization of the hermeneutic tech-
niques of provenance, dissimulation and dissemination. Such elements

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God and the Hidden Imam (Chicago: Chicago University Press, 1984), 51-52; Jafri,
Origins and Development, 259-83; Momen, *Shi'i Islam*, 38-39. See also Devin
Stewart's wisely guarded words in his *Islamic Legal Orthodoxy* (Utah: Utah
University Press, 1998), 6. It was due to al-Ṣādiq's perceived importance that the
Imāmī school was called the Ja'farī *madhhab*.

52   On the development of this format see Calder, *Studies*, 223-43.

53   Ibn Bābūya, *al-Faqīh*, 1, 2-3.

as these exemplify, I contend, an increased awareness of other intellectual disciplines (*fiqh, uṣūl, ʿilm al-ḥadīth*) developing parallel to and in concert with the collection of revelatory evidence in the form of *akhbār*.

Exactly half of Kulaynī's material in the section on *tayammum* is also found in Ṭūsī's collections in identical form, both in terms of *isnād* and *matn*. The *isnād*s are always extended by the link: Ṭūsī–Mufīd–Abū al-Qāsim[54]–Kulaynī. This indicates that Ṭūsī had access to Kulaynī's material in an identical form (*matn* and *isnād*) through his teacher al-Shaykh al-Mufīd. Whether this was in written or oral form is unclear.

There is also a significant amount of *matn* material (five *akhbār*) common to Kulaynī and Ṭūsī, but transmitted through different *isnāds*. This, combined with *matns* cited by Ṭūsī with two *isnāds* (one via Kulaynī and one from another source) is evidence either that Ṭūsī considered Kulaynī's *isnāds* inappropriate (through weakness) or did not have access to *al-Kāfī* in the form we have it today.

These figures refer to the strictest criteria of identity: that of identical *matn*. The extent to which a variant report might be considered a different version of the same report, and which variations debar such a conclusion is, of course, a normative procedural undertaking. Varieties in conjunctive words or phrases (*wa, fa, in, idhā*) are excluded from the above considerations, though with their inclusion the latter figure of five *akhbār* would rise considerably.

More significant variants indicate different chains of transmission of common material. However, the selection of particular variants in preference to others (found in the later collections of Ṭūsī) might reflect these reports having terminology and rulings that accord more appropriately with *fiqh* discussions. What is noteworthy is that *al-Kāfī* and *al-Faqīh* share much material common in meaning, though with variation in exact wording in the *matn*. The following will serve as an example:

[*al-Kāfī*]

Aḥmad b. Muḥammad–ʿAlī b. al-Ḥakam–al-Ḥusayn b. Abī al-ʿAlāʾ, who said: "I asked Imam Jaʿfar about a man who passed a well (*rakiyya*), but had no bucket. He [viz., the Imam] said, 'He should not go down (*yanzilu*) into the well. The Lord of the water is also Lord of the earth. He should do *tayammum*.'"[55]

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[54] Jaʿfar b. Muḥammad (d. 368/978 or 369/979), the teacher of Mufīd. See Ardabīlī, *Jāmiʿ*, 1, 157-58.

[55] Kulaynī, *al-Kāfī*, 3, 64.

A similar (the same?) report is found in *al-Faqīh*,[56] but here it is
ʿUbayd Allāh b. ʿAlī al-Ḥalabī who poses the question to Imam Jaʿfar,
and the Imam replies that the man should not enter (*yadkhulu*) the well
(*rakiyya*).[57] The report is identical in all other respects. When the report
is cited in the later *al-Tahdhīb*,[58] it is Kulaynī's version (with *isnād*)
which is used.

This phenomenon is also found in the following report:

[*al-Kāfī*]

> Muḥammad b. Yaḥyā–Aḥmad b. Muḥammad–Ibn Maḥbūb–Abū
> Ayyūb al-Khazzāz–Muḥammad b. Muslim, who asked Imam Bāqir
> about a man who had an open wound (*qarḥ*) and an injury (*jirāḥa*)
> and was in a state of *janāba*. [The Imam] said, 'There is no problem if
> he does not perform *ghusl* and does *tayammum* instead' (*lā baʾs bi-an
> lā yaghtasila wa yatayammima*).

The same report is found in *al-Faqīh* but with the following varia-
tions: "open wounds" (*qurūḥ*) for "open wound", "injuries" (*jirāḥāt*)
for "injury", *fa-yajnuba* for *yajnubu, fa-qāla* for *qāla* and the final
phase reads *lā baʾs bi-an yatayammama wa lā yaghtasila*.[59] A similar
level of variation, at times attributable to copyist or editorial errors,
exists in much material common to both *al-Kāfī* and *al-Faqīh*. In all, six
of the fourteen reports in *al-Faqīh* are also found in *al-Kāfī*, often with
different interlocutors and minor textual variations.

The above report from Imam Bāqir is found in yet another form in
al-Tahdhīb:

> Al-Ḥasan b. Maḥbūb–Abū Ayyūb–Muḥammad b. Muslim said: I
> asked Imam Bāqir about a man in a state of major ritual impurity (*al-
> junub*) who had scars on him. He said, "There is no problem if he does
> not do *ghusl* and does *tayammum*."[60]

This is clearly the same report (the last three names in the *isnād* are
identical in *al-Kāfī* and *al-Tahdhīb*, and the questioner is the same
Muḥammad b. Muslim in all three works), but Ṭūsī receives it in an
abbreviated form with no mention of wounds (merely scars) and *al-
rajul yajnubu* becomes *al-junub*. This might be seen as additional
evidence of a difference between the version of Kulaynī's *al-Kāfī*

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56 Ibn Bābūya, *al-Faqīh*, 1, 105.
57 In other variants, with yet other *isnāds*, the well is termed *"biʾr"*. See
Kulaynī, *al-Kāfī*, 3, 65; Ṭūsī, *al-Tahdhīb*, 1, 185 and 1, 150; Ṭūsī, *al-Istibṣār*, 1,
127.
58 Ṭūsī, *al-Tahdhīb*, 1, 184.
59 Ibn Bābūya, *al-Faqīh*, 1, 107.
60 Ṭūsī, *al-Tahdhīb*, 1, 185.

available to Ṭūsī and that available to us in the printed edition. If both *al-Kāfī* and *al-Faqīh akhbār* were available to Ṭūsī, one detects a measure of combination in Ṭūsī's formulation. From Kulaynī, he appears to have taken the *isnād* and the wording of the final phrase. From Ibn Bābūya, he appears to have taken the plural "*qurūḥ*". He also seems to have undertaken some editiorial work (omitting *jirāḥa/al-jirāḥāt* and changing *al-rajul yajnub* to *al-junub*). The ruling in these reports is also found in the *al-Tahdhīb*, combined with other reports that have no precedent in *al-Kāfī* or *al-Faqīh*:

> [*al-Tahdhīb*]
>
> Ṭūsī–Shaykh Mufīd–Aḥmad b. Muḥammad–his father–Saʿd b. ʿAbd Allāh–Aḥmad b. Muḥammad–Aḥmad b. Muḥammad b. Abī Naṣr–Dāwūd b. Sirḥān [asked] Imam Jaʿfar about a man who contracts *janāba* and has scars (*qurūḥ*) or wounds (*jirahāt*) or fears for his own [health] due to the cold. [The Imam] said, "He does not do *ghusl* and does *tayammum*."[61]

Here the reasons that excuse one from performing *ghusl*, even when water is present, are expanded from injury (wounds and scars) to fear for one's health due to the cold. This additional rationale is found in a separate report in Kulaynī's work (cited above), but here is presented as a hypothetical question on which Imam Jaʿfar must give a ruling. Editorial processes (performed by Ṭūsī, or someone earlier) are clearly at work here.[62]

One feature of the *isnāds* and variants under discussion here is the phenomenon of 'raising' an *isnād* from a companion to the Imam.[63] In general the 'raising' is merely reported and not justified by the authors. The implication appears to be that the author (or his informant), after investigation, determines that a report with a companion *isnād* is in fact a reflection of the Imam's words. In *al-Kāfī* the following report is related:

> ʿAlī b. Ibrāhīm–his father–ʿAbd Allāh b. al-Mughīra who said, "If (*in*) the earth is damp and there is neither water nor dust upon it, then look for the driest area you can find, and perform *tayammum* with the dust or dusty matter there. If one is in a situation such that one can only find

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61   Ibid., 1, 185.

62   This report shows extensive variation in its different versions. Ṭūsī uses Kulaynī's *isnād*, but also cites a version transmitted via Ibn Sinān, presumably the version known to Ibn Bābūya and cited in *al-Faqīh* (see Ṭūsī, *al-Tahdhīb*, 1, 196).

63   On the phenomenon of *rafʿ*, see G.H.A. Juynboll, *Muslim Tradition: Studies in Chronology, provenance and authorship of early ḥadīth* (Cambridge: Cambridge University Press, 1983), 31ff.

clay, then there is no problem if one performs *tayammum* with that
(*bihi*).'[64]

A similar report is found in *al-Tahdhīb* and *al-Istibṣār*:

> Saʿd b. ʿAbd Allāh–Aḥmad–his father–ʿAbd Allāh b. Mughīra–Rifāʿa–
> Imam Jaʿfar who said, 'If (*idhā*) the earth is damp and there is neither
> water nor dust upon it, then look for the driest area you can find, and
> perform *tayammum* with it (*minhu*). This is a dispensation from God.'
> He [then] said, 'If one is in snow and one looks in one's saddle-bag,
> then do *tayammum* with the dust or dusty matter there. If one is in a
> situation such that one can only find clay, then there is no problem if
> one does *tayammum* with that (*minhu*).'[65]

This second report is clearly the first report with the interpolation of
two phrases ('This is a dispensation' and 'If one is in snow...'), both
traceable to another report, cited by Ṭūsī (and quoted earlier). The
interpolation is introduced by the 'He [then] said...' formula. The *isnād*
(Rifāʿa–Imam Jaʿfar) from the earlier report has also been inserted to
raise this report from one attributable to a companion to one derived
from the Imam himself. The result is a more authoritative proof of a
legal injunction concerning *tayammum* with clay or moist earth.

A raised report (*marfūʿ*) is not always cited with any sense of
controversy. In the above report the appearance of 'raising' might be
coincidental, but on other occasions the authors do not express any
embarrassment concerning the raised report:

> [*al-Kāfī*]
>
> Kulaynī–ʿAlī b. Ibrāhīm–his father, who raised [this report to the status
> of a report from an Imam], 'If one contracts a state of *janāba*
> [intentionally?], then one must do *ghusl*, as is normal. If one ejaculates,
> one may do *tayammum*.'[66]
>
> [*al-Tahdhīb*]
>
> Ṭūsī–Mufīd–Abū al-Qāsim–Kulaynī–ʿAlī b. Ibrāhīm who raised [this
> report to the Imam], [the same report].[67]

Whether it was ʿAlī b. Ibrāhīm or his father who raised the report is
not discussed, though the *isnāds* appear to designate a different agent.
That there is something problematic about this raised report is,
however, evidenced by Ṭūsī's citation of a similar report with a raised
isnād, but with the Imam named:

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64   Kulaynī, *al-Kāfī*, 1, 66.
65   Ṭūsī, *al-Tahdhīb*, 1, 190; Ṭūsī, *al-Istibṣār*, 1, 156.
66   Kulaynī, *al-Kāfī*, 1, 67.
67   Ṭūsī, *al-Tahdhīb*, 1, 197-98.

> Ṭūsī–Mufīd–Abū al-Qāsim–Kulaynī—a number of our scholars—
> Aḥmad b. Muḥammad–ʿAlī b. Aḥmad who raises to Imam Jaʿfar: I
> [exactly who is unclear-RG] asked him about someone who has small-
> pox and has experienced a *janāba*. He said, 'If one has contracted a
> *janāba*, then one does *ghusl*. If one ejaculates, one may do *tayam-*
> *mum*.'[68]

The report here is explicitly raised, without embarrassment, from a
companion to an indeterminate Imam, and finally (in a modified form)
to Imam Jaʿfar. The strengthening of the *isnād* by citing 'a number of
scholars' is probably a concession to the principle of *tawātur* men-
tioned earlier and is further evidence of the initially problematic nature
of this report.[69]

Consider a final example of variation/improvement:

> [*al-Kāfī*]
>
> Kulaynī–ʿAlī b. Ibrāhīm–his father and ʿAlī b. Muḥammad together–
> Sahl–Aḥmad b. Muḥammad b. Abī Naṣr–Ibn Bukayr (or Bakīr)–
> Zurāra said, 'I asked Imam Bāqir about *tayammum*. He patted the
> ground with his hand, then raised it, shook it and rubbed both his brow
> (*jabīnayhi*)[70] and his palms once.'[71]

In *al-Tahdhīb*, a report with an identical *isnād* (with the addition of
Ṭūsī–Shaykh–Abu al-Qāsim–Kulaynī) is found with the following two
variations: the hand used by the Imam is specified as the right hand,
and *jabīnayhi* is changed to the singular (*jabīnihi*).[72] In *al-Istibṣār* one
finds the following report:

> Ṭūsī–Mufīd–Abū al-Qāsim–Kulaynī–ʿAlī b. Ibrāhīm–his father and
> ʿAlī b. Muḥammad together–Sahl b. Ziyād–Aḥmad b. Muḥammad b.
> Abī Naṣr–Ibn Bukayr–Zurāra said, 'I asked Imam Bāqir about
> *tayammum*. He patted the ground with both his hands, then raised them,
> shook them and rubbed both his forehead (*jabīnihi*) and his palms
> once.'[73]

Since the Imam here is demonstrating *tayammum*, his actions must
be viewed as exemplary and in line with legal doctrine. 'His hand'
would be too ambiguous; 'his right hand' is more specific; 'both his

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68 Ibid., 1, 198; Ṭūsī, *al-Istibṣār*, 1, 162.
69 Ṭūsī makes no mention of an ʿAlī b. Aḥmad who relates from Imam Jaʿfar
in his *Rijāl*, hence an ʿAlī b. Aḥmad could not have related from Imam Jaʿfar,
hence the need to raise the report.
70 See above, n. 24.
71 Kulaynī, *al-Kāfī*, 3, 61.
72 Ṭūsī, *al-Tahdhīb*, 1, 211.
73 Ṭūsī, *al-Istibṣār*, 1, 171.

hands' is the phrase that most accurately reflects the performance of *tayammum* described in works of *fiqh* (such as Mufīd's *al-Muqniʿa*).[74]

The shift from *jabīnayhi* to *jabīnihi* might perform a similar function: bringing the report into line with *fiqh* descriptions of *tayammum*. Indeed, there is yet another variant, found only in Ṭūsī's two works, in which Imam Bāqir performs the ritual. He pats the ground with his two hands (*yadayhi*) and rubs his *jubha*. The *isnād* accompanying this report shares the Aḥmad b. Muḥammad b. Abī Naṣr–Ibn Bukayr–Zurāra links, though the rest of the *isnād* differs.

Whether these variations and lexical adjustments derive from increasingly elaborate descriptions of the ritual in works of *fiqh*, or the flow of influence runs in the opposite direction, it seems clear that Ṭūsī has a number of different versions of similar *akhbār* to present. He carefully selects which *akhbār* to use, such that a seamless causal line can be drawn between revelation and the law.

Examples of such refinement in *isnād* and *matn* (a process not yet complete in the Imāmī *ḥadīth* collections) could be multiplied and subjected to further scrutiny and comparison with other early texts. At this stage, the evidence suggests some tentative conclusions:

1. Though *isnād* criticism clearly influenced the selection and presentation procedures used by Kulaynī and Ibn Bābūya, it is Ṭūsī (in both of his works, but more explicitly in *al-Istibṣār*) who appears to be aware of the central importance that the *isnāds* are to play in Shīʿa (and more generally, Muslim) discussions.

2. This sensibility to the function of both *isnāds* and *matn* variants in other areas of learning at times leads to the abbreviation and lexical adjustment of *matns* and the completion of previously truncated *isnāds* (especially with reports from Ibn Bābūya). Some of the variations can be ascribed to later copyist or editorial errors, others to variations in lines of transmission. However, taking these factors into account, Ṭūsī's material appears more nuanced and useful to other legal disciplines than his predecessors' collections.

3. Ṭūsī clearly displays a marked preference for the more ordered and carefully transmitted work of Kulaynī, and regularly cites him in *isnāds*. Whereas Kulaynī and Ibn Bābūya draw on a common body of

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[74] In his *fiqh*-style summary of the *tayammum* ritual, Ibn Bābūya specifies that the floor is patted with both hands, though he provides no reports which depict such an action (see *al-Faqīh*, 1, 104 and Mufīd, *al-Muqniʿa*, 8, ll.20-34; also see Ibn Bābūya's description in *al-Muqniʿ*, 3, ll.31ff and *al-Hidāya*, 49, ll.17ff).

transmitted material, it does not appear to be the case that Ibn Bābūya had access to Kulaynī's *al-Kāfī*. The *akhbār* available to Ibn Bābūya were also available to Ṭūsī, and the latter certainly knew of Ibn Bābūya's reports,[75] though he rarely cites him in *isnāds*. On the other hand, Ṭūsī had access to a copy of Kulaynī's *al-Kāfī*, but presented material from the work in the usual form of *isnād* plus matn, indicating oral transmission.

Conclusions

The preceding analysis, and the tentative conclusions drawn from it, are not directly concerned with the authenticity of the Imāmī *akhbār*, but with their selection and presentation in the collections later regarded as canonical. For reasons, mostly of convenience, my analysis has centred on the reports relating to *tayammum*. The analysis of additional material would, I believe, produce comparable results for other areas of the law. Though I have suggested cases of adjustment and improvement, these might be accounted for by judicious selection on the part of the compilers. The classical account postulates the existence of pre-Kulaynī collections of *akhbār* (termed the "*uṣūl*"), the number of which was eventually settled at 400.[76] Few of these collections have survived, and their provenance is debatable. No assertion concerning the authenticity of the reports can be made until after consultation with these and other documents, a task greater than that envisaged here. What seems clear is that the selection and arrangement of reports was an intellectual discipline that moved from relative isolation to a position of interaction and mutual influence with other emerging genres of religious writing. Most obviously, works of *fiqh* (the earliest surviving Imāmī examples of which come from Ibn Bābūya himself) began to exert control over, modify (and at times were modified by) *akhbār* collections. Furthermore, one sees the gradual domination of the legal sciences. Kulaynī was a *muḥaddith*; Ibn Bābūya was both a *muḥaddith* and a *faqīh;* Ṭūsī was a *faqīh* whose collections of *ḥadīth* are not lists of *akhbār* but lists of rules with supporting *akhbār*. The establishment of the four works as "canonical" was, then, aimed at reducing the importance of

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[75] Ṭūsī refers to him as having a *riwāya* (*al-Tahdhīb*, 10, 74). In the *kitab al-sanad* of *al-Istibṣār*, where Ṭūsī lists the various *isnāds* used in the collection, he refers to Ibn Bābūya (though not *al-Faqīh* by name) as a source of reports. Ṭūsī writes that he has received these reports through his teacher, Mufīd (*al-Istibṣār*, 4, 326).

[76] See E. Kohlberg, "*al-Uṣūl*", 129-30.

collecting of *akhbār* and placing *fiqh* as the central intellectual discipline. The evidence indicates a development from the law being solely expressed through *akhbār* (and hence obviating the need for an independent *fiqh* genre) to the *akhbār* being utilized as evidence for the expression of the law found in previous works of *fiqh*. This development ran parallel to the realization that the *ghayba* was a semi-permanent feature of Imāmī existence, and so a class of intellectuals had to take the place of the Imam as the arbiters of God's law. In short, the Imāmī jurists began to use *akhbār* in the manner Sunni jurists used *aḥādīth*; and their jurisprudence surely had an influence upon the collection and employment of Imāmī reports. The development of the Imāmī *fiqh* tradition, supported by the *akhbār*, rather than identical with them, enabled Shīʿī intellectuals to challenge the emerging (Sunni) legal orthodoxy on equal terms.[77]

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[77] For a general account of the Imāmī encounter with, and reaction to, Sunni legal orthodoxy, see Stewart, *Islamic Legal Orthodoxy, passim* and particularly chs. 3 and 4.