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 Qurʾān and Prophetic hadiths. The akhbār are presented in compendia, assembled by Shiʿite 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 Shiʿism. As Imāmī thinkers became increasingly concerned with fiqh and the elucidation of the Shariʿa, 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.

THE BOUNDARIES between fiqh and hadith in early Imāmī juristic thought appear quite porous. The influence of the emerging fiqh tradition (both Sunni and Shiʿi) can be detected in features such as the arrangement and presentation of hadith compilations. Hadith compilers, in turn, provided fiqh writers with a body of juristic material, which an accomplished faqih 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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Islamic Law and Society 8,3
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 Imami intellectual discipline distinct from the collection of hadith. In the earliest works, there is evidence to suggest that the authors saw the law expressed solely through ahādīth and hence there was no need for a separate genre of jurisprudence (fiqh). Later works indicate a growing awareness of the need for hadiths as evidence in juristic discussions. Of course some hadith 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 ahādīth 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 Imāmi fiqh tradition. Below I trace the nature of this influence through two sets of analyses. First, in the arrangement of hadith material and the argumentation accompanying it, one can detect the developing importance of jurisprudence. Second, in the selection of certain hadith variants over others, and in an increased sensitivity to isnāds, one can detect how authors of later works modified the presentation of their hadīth material in response to the demands of jurisprudence. In short, the collections of hadīth 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 Imāmi hadīth 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
Imāmi 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 display the diverse means through which ahādith (normally termed akhbār in the Shi‘i 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 là yahduruhu 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 regulations. The later works, Tahdhib al-ahkām5 (hereon al-Tahdhib) and al-Istibsār fi-mā ukhtulīfā minhu al-akhbār6 (hereon al-Istibsār), form major elements of the extensive oeuvre of Shaykh al-Ṭā‘īfa, Muḥammad 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-Tahdhib is formally a commentary upon the fiqh work, al-Muqni‘a7 of al-Shaykh al-Mufīd (d.413/1022), and its structure (i.e.

4 This material occupies the first two volumes of the printed edition.
7 al-Muqni‘a in al-Jawāmi‘ al-fiqhīyya (Qum: Maktaba Āyat Allāh al-‘uzmāl al-mar‘ashi al-najafi, 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-Tahdhib 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-Tahdhib refers to “his face and hands” whereas the lithograph refers to “his body” (badanahu). It seems clear that the distinction between wudū‘ and ghual has caused
the order in which topics are presented) is determined by Mufid’s text. Passages made up of legal rules (without accompanying evidence or argumentation) are cited from *al-Muqni'a*, followed by extensive lists of *akhbār* supporting Mufid’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-Istibsār*, represents yet another means of organising *akhbār*, as demonstrated by its full title (*Reflection on the differences within the akhbār*). In *al-Istibsār*, Tusi 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-Tahdhib* is an *akhbār* based commentary (*sharḥ*) and *al-Istibsār* 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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worship by a number of bodily functions and experiences (e.g. urination, 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 wudu’ (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 (sa’id tayyib) 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 ahādīth of the Prophet (or in the case of Imāmī Shi’ism, 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 hadīth. 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, Muhammad b. Muhammad b. Rushd, Bidāyat al-mujtahid, 4 vols. in 2 (Beirut: Dār al-ma‘rifa, 1418/1997), 1, 101-3, where the different Sunni opinions are conveniently listed. See also, Muhammad b. Muhammad al-Ghazālī, al-Wajiz fi’l fiqh al-imām al-Shāfi’i, 2 vols. (Beirut: Dār al-arqam, 1418/1997), 1, 131-5.

discussion, the sections on tayammum are found in chapters containing akhbar relating to ritual purity (kitab al-tahara). These are either the first chapters in the works, or (as in the case of al-Kafi) the first chapter dealing with matters of legal import (previous chapters being devoted to matters of primarily theological interest). The presentation of akhbar relating to tayammum is always located at some point after the section on ritual purification by water (wudu' 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-Kafi, the section on tayammum is found after akhbar concerned with contagious impurity (of urine or dogs, for example) and before akhbar relating to the impurifying effects of menstruation (hayd). In the later works (al-Faqih, al-Tahdhib and al-Istibsar), 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 hadith collections, indicating that the varieties of organizational schemes in fiqh works was, to an extent, transferred to akhbar collections.

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

12 Interestingly Ibn Babuya's arrangements in his al-Muqni' and al-Hidaya (both works of fiqh) do not follow that found in al-Faqih (Jawami', 2-46 and 46-64, respectively). In al-Tahdhib, Tusi naturally follows the arrangement established by Mufid in his al-Muqni'a, and this also influenced his arrangement in al-Istibsar. The wudu'-janaba-hayd-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 formulism, 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 "Usul 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 (abwab) within a chapter (kitab), or, after the order of the early fiqh chapters was determined, by the order of the later chapters. Editorial arrangement (tartib) 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), 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-Faqīḥ 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 Tūsī 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 wuḍūʿ 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.

The issue in each of these sections is whether tayammum is a sufficient or acceptable means of attaining a state of ritual purity. Kulayni 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. Kulayni, however, appears to have no interest in such matters.

An example of Kulayni’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 isnāds, 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 Ja’far was asked about tayammum. He recited this [Qur’anic] 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 Kāhili:15 I asked him [viz., one of the Imams] about tayammum. He patted the floor [or ‘carpet’ or ‘flat ground’: al-bisāt] 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 Ja’far 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, 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.

15 Probably Abū al-Khaṭṭāb Muḥammad b. Miqlās. It would appear that not only Nusayri writings refer to him as al-Kāhili (on whom see, EI1, s.v. “Abu ‘l-Khaṭṭāb Muḥammad b. Abī Zaynāb Miqlās”)
17 On whom, see EI2, s.v. “Ammār b. Yāsir”.

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5. Imam Ja’far said: Imam ‘Ali said, ‘One does not perform wūdū’ from a footprint (mawtā’).’ Nawfali\textsuperscript{18} added, ‘That is, a place where your foot has been placed.’

6. Imam Ja’far said: Imam ‘Ali used to prohibit doing tayammum with the dirt from the footprints of the road.\textsuperscript{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 wūdū’ purification, and sand replaces water, surely the rubbing should reach the elbows (marāfīq) as it does in wūdū’. The Imam’s citation of three Qur’anic 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 wūdū’ 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 wūdū’ (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 wūdū’ 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.

\textsuperscript{18} ‘Ali b. Muḥammad al-Nawfali relates from Imam al-Hādī (see Ṭūsī, Rījāl, 388).

\textsuperscript{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. 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...’ (sa‘altu al-imām ‘an al-rajul al-ladhi or sa‘ala fulān ‘an 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 Bābüya’s section on tayammum (entitled bāb al-tayammum) 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 Qur’anic 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 Bābüya’s summary of their content
   (ii) 3 reports from ‘Ubayd Allāh b. ‘Ali al-Ḥalabi followed by Ibn Bābüya’s summary

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 hadith 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 Shi‘ī 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).

Ibn Bābüya, al-Faqīḥ, 1, 102-10.

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-
Ḥalabi 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
wudū’, 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 main-
tained (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 author-
tial contribution. This was not absent in Kulaynī (he cites Nawfali’s
gloss of the term mawta’, 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-
Ḥalabi, named by Ibn Bābūya in his introduction (al-Faqīh, 1, 3). The Aṣls (pl.
üşūl) 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”,
When a man does tayammum for [i.e., in place of] wudu’, he puts his hands upon the ground once, then shakes them and rubs his brow and his cheeks (jabinayhi wa ḥājibayhi). 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.

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), its lexicon is clearly drawn from akhbar similar (or identical) to those cited by Kulaynī. The use of dariba (to pat), marratan wāḥidatan (once) and nafadahumā (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].

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 wudu’ and repeat his prayer.

24 Whilst “his brow” is a plausible translation for jabinayhi, 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-Muqni’ 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 Tūsī, al-Tahdhib, 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].

Once again the presentation here is jurisprudential, if rather disorganized. Yet these regulations mirror akhbar 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 akhbar. Ibn Bābūya knows the formal discussion whilst Kulaynī and Ṭūsī know the akhbar 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-Faqih. Whichever is accurate, Ibn Bābūya’s text, including both akhbār and legal summary, contrasts sharply with Kulaynī’s technique of selection and arrangement of akhbār.

Ṭūsī’s work, al-Tahdhīb, demonstrates a different organizational principle: a commentary on a work of fiqh. His arrangement is inevitably controlled, not by the author himself, but by the introduction of an external source (Mufid’s al-Muqni’ā). 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 transmission (isnād). The section on tayammum, significantly longer than either of those examined so far, can be divided thus:

1. Mufid’s writing on tayammum begins with the situations in which the ritual is a valid substitution for wudu’ 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 tayammum in place of ghusl or wudu’. The Qur’anic verse Q4.43 is cited. After quoting the relevant passage from Mufid, Ṭūsī reformulates the

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28 Ibn Bābūya, al-Faqih, 1, 109-10.
29 Ibn Bābūya states in his introduction to al-Faqih 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. Mufid next discusses the scope of the term sa'îd, 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. Tusi’s response is a mixture of further summary of Mufid’s view, akhbâr citation (eighteen in all) and exegetical comment.

3. The rule is that a person who has performed tayammum should perform wudu’ or ghusl when he next finds water, but he need not perform any compensatory prayers. Mufid’s expression of this rule is accompanied by twenty-three akhbâr and occasional comments from Tusi.

4. Mufid 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 wudu’ or ghusl. Tusi’s commentary is once again a reformulation of the rules followed by akhbâr (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 Mufid. This is followed by four reports with comments.

6. Mufid stipulates that if water is found before the first takbira (allâhu akbar) of prayer (takbîrat al-ihrâm), the prayer is abandoned and wudu’ 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 wudu’ or ghusl. Tusi cites nine akhbâr with exegetical comments in support of these regulations.

7. Mufid describes the ritual of tayammum in a similar fashion to that of Ibn Babuya, cited earlier. Tusi relates six akhbâr with exegetical comment.

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

9. Additional regulations for tayammum after janaba are described by Mufid. Tusi cites eight akhbâr 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. Tusi adduces legal reasoning and two akhbâr in support of these rules.

The discussion is clearly more comprehensive and sophisticated than that of either Kulayni or Ibn Babuya. The overall structure is Mufid’s, yet the decision as to where to break from Mufid’s text and introduce supporting evidence (akhbâr or legal reasoning) belongs to Tusi. A
comparison with earlier collections immediately reveals that Mufid’s fiqh discussion (and hence Ţusi’s account of tayammum generally) begins not with a description of the ritual, but with an enumeration of the conditions for its validity. In Mufid’s al-Muqni’a, 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 Mufid’s text (and consequently in Ţusi’s commentary) is that the audience is acquainted with the ritual and its characteristics. There is a clear expectation that the readership is knowledgeable 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 akhbâr collection. For Kulayni, the akhbâr are presented as (causally) creating the law. For Ibn Bâ büya, the law can be expressed through the akhbâr, or through the author’s summary of their contents. For Ţusi, they support an authoritative statement of the law (Mufid’s al-Muqni’a). The significance of such a development lies in the increasingly prominent role given to fiqh works over akhbâr collections.

Ţusi’s exegetical comments are directed at two bodies of literature: Mufid’s text and the akhbâr. With regard to the former, Ţusi reformulates Mufid’s prose to make it more amenable to akhbâr justification. With regard to the latter, Ţusi’s aim is to reconcile potential conflict among the akhbâr. An example of the former is his commentary on Mufid’s exploration of the limits of the term sa’îd (section 2 above):

[Mufid] 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

[Ţusi] 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 ‘Ali]. 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 Ja’far]. He was asked, ‘A man has adobes [or mud bricks]. Can he purify himself (tawâddû’a) with them?’ He said, ‘No, only with water or sa’îd.’

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31 Mufid, al-Muqni’a, 7, 1.37 - 8, 1.2.
The "canonical" imami collections of akhbâr

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

In this passage, Mufid’s rule that tayammum is permitted only with what ‘the ground has given up’ (mimmā anbatat al-ard) is interpreted by Ṭūsī to mean ‘whatever generally falls under the generic terms earth or dirt’ (mimmā yaqā’a ‘alayhi ism al-turāb aw al-ard bi’l-īlāq). This serves to aid the understanding of Imam ‘All’s statement that ashes (from wood) are not suitable tayammum material. It also serves as an explanation for Imam Ja’far’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 Ja’far’s statement, ‘only water or ṣa‘īd’, is glossed as ‘that which is equivalent to earth or ṣa‘īd’. Ṭūsī is primarily concerned here to delimit the application of the term ṣa‘īd to that which can be described as dirt (turāb) and earth (ard). He intends to provide the means whereby a dubious substance might be categorized by associating the uncommon term (ṣa‘īd) with common terms (turāb and ard). In such a discussion the reports become means of exemplifying a general rule, explicated by Ṭūsī from Mufid’s imprecise wording. Ṭūsī considers the phrase ‘what the ground has given up’ as insufficiently nuanced to be supported by the akhbâr, hence the need for a reformulation.

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

3. It is related from Imam Ja’far that when Zurârâ asked him, ‘Can one purify oneself with flour (daqlq)?’, 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 ‘Abd al-Rahmân b. al-Ḥajjâj.33 ‘I asked Imam Ja’far 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.’

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-Tahdhib, 1, 187-88.
33 Who relates from Imams al-Ṣâdiq and al-Kâzîm (Ṭūsī, Rijâl, 236 and Najâshî, Rijâl, 237-8).
34 Ṭūsī, al-Tahdhib, 1, 188.
materials termed dirt or earth can be used for tayammum. Ţūsî’s reconciliation involves distinguishing between two types of purification, both called tawaddu’ (derived from the same root as wudū’, and therefore possibly implying cleansing for religious purposes). In order to preserve the earlier rule, Ţūsî 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 tawaddu’, but undeterred, Ţūsî 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.

Ţūsî’s chapter on tayammum is replete with similar examples of reasoning aimed at preserving his interpretation of Mufid’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 Imāmi 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-Tahdhib are not rejected as weak (according to isnād criteria). Instead Ţūsî views them as in need of further interpretation. Mufid’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 Ţūsî, however, the akhbār support the ready-formulated law, being indicators (dalāʾīl, adilla) of a predetermined juris.

Ţūsî’s al-Istīṣâr shares much material with his al-Tahdhib, both in terms of akhbār, but also authorial comment. As mentioned earlier, the aim of al-Istīṣâr 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-Tahdhib). It is perhaps surprising, given the nature of the work, that al-Tahdhib dives straight into ‘hard cases’ where the akhbār are less than indicative. Ţūsî’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:

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 (janâba) 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 janâba 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 akhbâr are cited to establish the norm in the case under discussion. This is, at times, accompanied by a note of clarification from Tûsî. Next, potentially contradictory reports are cited. Finally, Tûsî explains how the perceived contradiction is eliminated. Such a structure is occasionally evident in Tûsî’s al-Tahdhib, but here Tûsî’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 akhbâr. Such a technique implies that citing uncontroversial akhbâr is not necessary, and hence the section on tayammum in al-Istibsâr is slightly shorter than in al-Tahdhib.

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

1. Muhammad b. Muslim asked Imam Ja’far 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. Mu’tâwiya b. Sharth was present when a man asked Imam Ja’far, ‘We encountered wind and snow. We wanted to perform wudū’, but found only frozen water. How should I have performed wudū? 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-Ṣâdiq (see Tûsî, Rijâl, 294).
37 On whom see Ibn Shahrâshûb, Ma’amîm al-‘ulamâ’ (Najâf: al-Maṭbû’a al-bâydarîyya, 1960), 166.
[Contradictory reports]
3. Muhammad b. Muslim asked Imam Ja’far about a traveller who contracted janâba. He could find only snow or ice. The Imam said, ‘He does tayammum out of necessity (darura). I do not think he should return to this country [for it] destroys his faith.’
4. Zurara 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. Rifa’a38 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.

[Tūsī] These three akhbār (reports 3-5) do not contradict the first (two) reports (1-2) and the means of reconciling them (al-wajh fi al-jam’ baynahuma) 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. ‘Ali b. Ja’far39 asked (his brother) Imam Mūsā b. Ja’far about a man who had contracted janâba and had no water with him. He found both snow and sa’îd. ‘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

Tūsī’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 wudu’ with snow or ice. In reports 3-5, Tūsī 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 (darura), 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 sa’îd. Report 6 establishes this line of reasoning. When given the choice between snow and sa’îd, the Imam advises

38 This could refer to either Rifa’a b. Mūsā or Rifa’a b. Muḥammad al-Hadrami.
39 The brother of Imam Mūsā (see Tūsī, Rijāl, 339).
40 Tūsī, al-Istibsâr, 1, 158-59.
snow. It is a better (afdal) 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 Shi‘ī means of solving contra-
dictions within the akhbār. These are termed al-tarājih (means of
expressing a preference) in works of usūl al-fiqh. The most common
are dissimulation (taqiyya), dissemination (shuhra) and provenance
(isnād). Ṭūsī does not use these in his discussion of tayammum in al-
Tahdhib, preferring to reconcile the akhbār rather than pronounce one
historically inaccurate or legally ineffective. In al-Istibsār, however, he
utilizes these means, albeit in a limited fashion, in his sections on
tayammum.

Taqiyya refers to the Imāmi 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). This technique, common in classical Imāmi 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-Istibsār involves the correct perfor-
mance of tayammum. As stated earlier, the agreed position (Kulaynī,
Ibn Bābūya and Ṭūsī) is that tayammum replaces wudū'/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-Tahdhib, Ṭūsī
relates a problematic report from Samā‘a 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 wudū’, 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 demon-
strating what one does in wudū’ for the purposes of comparison with
tayammum. In al-Istibsār 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

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 Imāmi views on taqiyya”, Journal
43 Samā‘a relates from “one of them”, meaning, in this case, either al-Ṣādiq or
al-Kāsim (Tahdhib, 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 wudu’.  

Agreement with the doctrine of the Sunnis was one criterion by which a taqiyya report could be recognized. Tusi 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-Tahdhib that the Imam was demonstrating that the rubbing of palms in tayammum was analogous to the washing of the forearm in wudu’. This is the only use of this hermeneutic technique in the section on tayammum in al-Istibsar.

Similarly, Tusi 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 (isnad) such that collusion between transmitters is impossible. It is technically termed khabar al-mutawdtir (a well-attested report). An isolated report (khabar al-wahid) is one that fails this test and produces only probable knowledge of the law. Ibn Idris (d. 598/1202) was one scholar who criticized Tusi for his extensive use of khabar al-wahid. A classical jurist examined the different isnads 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 Tusi’s al-Istibsar, all traced back to ‘Abd Allah b. ‘Ašim:

From ‘Abd Allah b. ‘Ašim: 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 wudu’. If he has performed a rak’a, then he remains in his prayer.’

This rule is problematic for Tusi 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 Tusi, al-Istibsar, 1, 171.
46 Interestingly no such scholar is mentioned as having related from Imam al-Sadiq in Tusi’s Rijal. He is mentioned briefly in Muḥammad b. ‘Ali al-Ardabili, Jami’ al-ruwat, 2 vols. (Beirut: Dâr al-adwâ’, 1403/1983), 1, 494.
47 Tusi, al-Istibsar, 1, 166-67.
abandon worship on account of finding water. Tūsī solves this contradiction as follows:

[1] The original relater (al-asf) in these three reports is a single person. He is ʻAbd Allāh b. ʻĀsim. Hence it is possible to propose, with regard to this report, that it is merely recommended [to abandon prayer after the first rak'a] and not obligatory or a duty (al-istihbāb dūna al-fARD wa'l-ījāb) [as it is before the first rak'a].

[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 wudu'].

This report is, then, interpreted as uncontroversial by means of two arguments: first, there is the argument that since it is reported only via ʻAbd Allāh b. ʻĀsim (though by different isndās after ʻAbd Allāh), its probative force as an indicator of the law is reduced. This is because it is classified as khabar al-wāhid (though the term is not used in al-Istibsār 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 rak'a. 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-Tahdīb. 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-Tahdīb and al-Istibsār, Tūsī 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-Istibsār, but absent in previous collections (including Tūsī’s own al-Tahdīb), 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 wudu’ and ghusl. Following three reports establishing this rule, Tūsī cites the contradictory evidence:

48 Ibid., 167.
4. Muḥammad b. Aḥmad b. Yaḥyā relates from Muḥammad b. al-Ḥusayn from Jaʿfar b. Bashir from one who relates from Imam Jaʿfar: I asked [Imam Jaʿfar] about the man who is in a state of ḥanūba 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. Bashir from ʿAbd Allāh b. Sinān or someone else, from Imam Jaʿfar [the same report].

This report (with two ḫadīths) 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 wudūʾ or ghusl. If the man who performs tayammum due to cold must repeat his prayer, then the equal effectiveness of the tayammum and wudūʾ/ghusl rituals (with respect to ṭahāra) is compromised. Ṣūsī’s solution relies on ḥadīth criticism:

The first [thing to be said] is that the report is mursal and munqatī because Jaʿfar b. Bashir 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 (shakki) 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 ḥanūba. 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-Tahdhib and al-Iṣṭibsār, Ṣūsī has devised (or introduced) a new line of reasoning (ḥadīth criticism). The second argument, which relies on an intentional/unintentional state of ḥanūba, 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-Tahdhib and al-Iṣṭibsār. The first argument uses the terms mursal and munqatī, technical terms in the analysis of ḥadīths referring to chains of transmission that are imperfect or incomplete. The terms mursal and munqatī, 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 Imami jurists to refer to reports in which the link before the Imam was missing. An additional example of ḥadīth criticism is found in Ṣūsī, al-Iṣṭibsār, 1, 164. The issue concerns whether a single tayammum can be effective for more than one prayer. Ṣūsī argues that it can, but he knows of a report that implies that one needs to repeat one’s tayammum for every prayer. Ṣūsī argues that the contradictory report is problematic since the transmitter relates directly from Imam al-Ridā, but is also responsible for transmitting the opposite view from another Imam. For Ṣūsī it is implausible that
introduction of argumentation in *akhbār* works relies upon cognate developments in other legal studies (in this case *ʿilm al-hadīth*).

Ṭūsī’s presentation in *al-Tahdhib* demonstrated a greater awareness of the *fiqh* tradition (both Sunni and Shiʿī) than either of his predecessor compilers (Kulaynī and Ibn Bābūya). This trend continues in *al-Istibsār*. 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-Tahdhib*, 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 Shiʿī legal history, he is, of course, credited with the systemization and presentation of a coherent *Imāmī fiqh*.51 Reports from Imam Bāqir, Imam al-Rida and the Prophet 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-Mabsūr*) is complemented by his work of legal differences (*Kitāb al-khilafla*). As mentioned above n.12, Ibn Bābūya also wrote *al-Muqniʿ* (not to be confused with Mufīd’s *al-Muqniʿa*) and *al-Hiddaya* (both found in the collection *al-Jawāmiʿ al-fiqhyya*). Modarressi mentions Ibn Bābūya’s *Kitāb fī al-fiqh* which remains in manuscript (see H. Modarressi, *Introduction to Shiʿī 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 akhbar 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 akhbar 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 Imāmi dedication to isnād criticism at this stage, 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 consciously truncates his isnāds in order to render hadīth 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—furūqahu] 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 aṭfawā and which I have decided to be sound (ufti bihi wa aḥkamī bi-ṣīḥhatihi).

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 Imāmi akhbār.

Ṭūsī, in his earlier al-Tahdhib, cites isnāds and variants of akhbār with different isnāds. These structural features display a sensitivity to ‘ilm al-hadīth, but there is no explicit reference in his section on tayammum to the science. In al-Istibsār these structural features are accompanied by occasional and explicit utilization of the hermeneutic techniques 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, 259-85; Momen, Shi‘ī 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-Sādiq’s perceived importance that the Imāmi school was called the Ja‘fari 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 intellec-
tual disciplines (fiqh, uṣūl, ʿilm al-hadith) 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 isnāds
and matn. The isnāds are always extended by the link: Ṭūsī–Mufīd–
Abū al-Qāsim54–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 appropri-
ately 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]

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

54 Jaʿfar b. Muhammad (d. 368/978 or 369/979), the teacher of Mufīd. See
Ardabīlī, Jāmīʾ, 1, 157-58.
55 Kulaynī, al-Kāfī, 3, 64.
A similar (the same?) report is found in al-Faqih, but here it is 'Ubayd Allah b. 'Ali al-Ḥalabī who poses the question to Imam Ja'far, and the Imam replies that the man should not enter (yadkhulu) the well (rakiyya). The report is identical in all other respects. When the report is cited in the later al-Tahdhib, 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 Baqir about a man who had an open wound (qarḥ) and an injury (jirāha) and was in a state of janāba. [The Imam] said, ‘There is no problem if he does not perform ḡhusl and does tayammum instead’ (lā ba's bi-an lā yaghtasila wa yatayammima).

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

The above report from Imam Baqir is found in yet another form in al-Tahdhib:

Al-Ḥasan b. Maḥbūb–Abī Ayyūb–Muḥammad b. Muslim said: I asked Imam Baqir 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 ḡhusl and does tayammum’.

This is clearly the same report (the last three names in the isnād are identical in al-Kāfī and al-Tahdhib, and the questioner is the same Muḥammad b. Muslim in all three works), but Tūsī 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-Faqih, 1, 105.
57 In other variants, with yet other isnāds, the well is termed “bi’r”. See Kulaynī, al-Kāfī, 3, 65; Tūsī, al-Tahdhib, 1, 185 and 1, 150; Tūsī, al-Istibṣār, 1, 127.
58 Tūsī, al-Tahdhib, 1, 184.
59 Ibn Bābūya, al-Faqih, 1, 107.
60 Tūsī, al-Tahdhib, 1, 185.
available to Ṭūsī and that available to us in the printed edition. If both
al-Kāfī and al-Faqih 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 “qurūh”. He
also seems to have undertaken some editorial work (omitting jirāhāt/jirāhāt
and changing al-rajul yajnub to al-junub). The ruling in these
reports is also found in the al-Tahdhib, combined with other reports
that have no precedent in al-Kāfī or al-Faqīh:

[al-Tahdhib]

Ṭūsī—Shaykh Mufīd—Ahmad b. Muḥammad—his father—Sa’d b. ‘Abd
Allāh—Ahmad b. Muḥammad—Ahmad b. Muḥammad b. Abī Naṣr—
Dāwūd b. Sirḥān [asked] Imam Ja’far about a man who contracts
janāba and has scars (qurūh) or wounds (jirāhāt) or fears for his own
[health] due to the cold. [The Imam] said, “He does not do ghusl and
does tayammum.”

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 Ja’far must give a ruling.
Editorial processes (performed by Ṭūsī, or someone earlier) are clearly
at work here.

One feature of the isnāds and variants under discussion here is the
phenomenon of ‘raising’ an isnād from a companion to the Imam. 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:

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

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-Tahdhib, 1, 196).
63 On the phenomenon of raf’, see G.H.A. Juynboll, Muslim Tradition: Studies
in Chronology, provenance and authorship of early hadith (Cambridge: Cambridge
clay, then there is no problem if one performs *tayammum* with that (bihi).  

A similar report is found in *al-Tahdhib* and *al-Istibsār*:

Sa’d b. ‘Abd Allāh—Aḥmad—his father—‘Abd Allāh b. Mughīrā—Rifā‘a—Imam Ja‘far who said, ‘If (iḥā) 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*)’.  

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 Tūsī (and quoted earlier). The interpolation is introduced by the ‘He [then] said...’ formula. The *iṣnād* (Rifā‘a—Imam Ja‘far) 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 (*marfū‘*) 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—‘Ali 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*.’

[*al-Tahdhib*]

Tūsī—Mufīd—Abū al-Qāsim—Kulaynī—‘Ali b. Ibrāhīm who raised [this report to the Imam], [the same report].

Whether it was ‘Ali b. Ibrāhīm or his father who raised the report is not discussed, though the *iṣnāds* appear to designate a different agent. That there is something problematic about this raised report is, however, evidenced by Tūsī’s citation of a similar report with a raised *iṣnād*, but with the Imam named:

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64 Kulaynī, *al-Kāfī*, 1, 66.
65 Tūsī, *al-Tahdhib*, 1, 190; Tūsī, *al-Istibsār*, 1, 156.
THE "CANONICAL" IMĀMĪ COLLECTIONS OF AKHBĀR

Ṭūsī–Muḥīd–Abū al-Qāsim–Kulaynī—a number of our scholars—
Abī Ḥamīd b. Muḥammad–‘Alī b. Ḥamīd who raises to Imam Ja‘far: 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.’

The report here is explicitly raised, without embarrassment, from a
companion to an indeterminate Imam, and finally (in a modified form)
to Imam Ja‘far. The strengthening of the isnād by citing ‘a number of
scholars’ is probably a concession to the principle of tawātūr men-
tioned earlier and is further evidence of the initially problematic nature
of this report.

Consider a final example of variation/improvement:

[al-Kāfī]

Kulaynī–‘Alī b. Ibrāhīm–his father and ‘Alī b. Muḥammad together–
Sahl–Abī Ḥamīd b. Muḥammad b. Abī Naṣr–Ibn Bukayr (or Bakīr)–
Zurārā said, ‘I asked Imam Bāqir about tayammum. He patted the
ground with his hand, then raised it, shook it and rubbed both his brow
(jabiynayhi) and his palms once.’

In al-Tahdhib, a report with an identical isnād (with the addition of
Ṭūsī–Shaykh–Abū al-Qāsim–Kulaynī) is found with the following two
variations: the hand used by the Imam is specified as the right hand,
and jabiynayhi is changed to the singular (jabiynihi). In al-Istibsār one
finds the following report:

Ṭūsī–Muḥīd–Abū al-Qāsim–Kulaynī–‘Alī b. Ibrāhīm–his father and
Abī Naṣr–Ibn Bukayr–Zurārā 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 (jabiynihi) and his palms
once.’

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

68 Ibid., 1, 198; Tūsī, al-Istibsār, 1, 162.
69 Tūsī makes no mention of an ‘Alī b. Abī Ḥamīd who relates from Imam Ja‘far
in his Riḍāl, hence an ‘Alī b. Abī Ḥamīd could not have related from Imam Ja‘far,
hence the need to raise the report.
70 See above, n. 24.
71 Kulaynī, al-Kāfī, 3, 61.
72 Tūsī, al-Tahdhib, 1, 211.
73 Tūsī, al-Istibsār, 1, 171.
hands’ is the phrase that most accurately reflects the performance of *tayammum* described in works of *fiqh* (such as Mufid’s *al-Muqni’*).\(^{74}\)

The shift from *jabinayhi* to *jabinahi* 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 Bāqīr performs the ritual. He pats the ground with his two hands (*yadayhi*) and rubs his *jubha*. The isnād accompanying this report shares the Ahmad b. Muhammad 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 *hadīth* 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-Istībšār*) who appears to be aware of the central importance that the isnāds are to play in Shi‘a (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-Faqih*, 1, 104 and Mufid, *al-Muqni’*, 8, ll.20-34; also see Ibn Bābūya’s description in *al-Muqni’*, 3, ll.31ff and *al-Hidāya*, 49, ll.17ff).
transmitted material, it does not appear to be the case that Ibn Babuya had access to Kulayni’s al-Kafi. The akhbār available to Ibn Babuya were also available to Tusi, and the latter certainly knew of Ibn Babuya’s reports,75 though he rarely cites him in isnāds. On the other hand, Tusi had access to a copy of Kulayni’s al-Kafi, 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 Imami 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-Kulayni collections of akhbār (termed the “usūl”), 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 Imami examples of which come from Ibn Babuya 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. Kulayni was a muhaddith; Ibn Babuya was both a muhaddith and a faqih; Tusi was a faqih whose collections of hadith 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

75 Tusi refers to him as having a riwāya (al-Tahdhib, 10, 74). In the kitab al-sanad of al-Istibṣār, where Tusi lists the various isnāds used in the collection, he refers to Ibn Babuya (though not al-Faqih by name) as a source of reports. Tusi writes that he has received these reports through his teacher, Mufid (al-Istibṣār, 4, 326).
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 Īmāmī 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 Īmāmī jurists began to use *akhbār* in the manner Sunni jurists used *ahādīth*; and their jurisprudence surely had an influence upon the collection and employment of Īmāmī reports. The development of the Īmāmī *fiqh* tradition, supported by the *akhbār*, rather than identical with them, enabled Shi’ī intellectuals to challenge the emerging (Sunni) legal orthodoxy on equal terms.77

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