

## ‘ABD ALLĀH B. ‘ABBĀS AND SHI‘ITE LAW

‘Abd Allāh b. ‘Abbās b. ‘Abd al-Muṭṭalib (d. 68/686-7), paternal cousin of the Prophet Muḥammad and of ‘Alī b. Abī Ṭālib, is in modern Islamic studies generally acknowledged as one of the founders of religious scholarship in Sunnite Islam<sup>1</sup>. Ibn ‘Abbās is known to have been one of the collectors of the Qur’ān, and his variant readings were later recorded in the *Kutub al-Maṣāḥif* of the Qur’ān experts. His role as the father of Qur’anic exegesis is not disputed, although his exact contribution to it is at present difficult to assess<sup>2</sup>. In religious law he is recognized as the chief authority of the school of Mekka from among the Companions of the Prophet<sup>3</sup>.

His part in Shi‘ite Islam has received less attention. The attitude of Imāmī Shi‘ite tradition towards him is ambiguous. He is commonly recognized as a companion of Imam ‘Alī. Al-Kaššī in his book on Shi‘ite transmitters (*riḡāl*) quotes both favourable and unfavourable testimonies about him. In one of his reports Imam Muḥammad al-Bāqir narrates that a man complained to his father, Imam ‘Alī Zayn al-‘Ābidīn, about ‘Abd Allāh b. ‘Abbās who claimed that he had knowlegde of every verse of the Qur’ān, of the day when it was sent down, and of what occasioned it. Imam Zayn al-‘Ābidīn sent him to Ibn ‘Abbās to ask him about three Qur’anic verses, but Ibn ‘Abbās was unable to identify the persons described in them. The Imam then identified the person called “blind and incapable of accepting sincere advice” in two of the verses as ‘Abd Allāh’s father ‘Abbās, and the persons ordered in the third verse to be steadfast as the Imam’s fathers and family. He went on to describe Ibn ‘Abbās as a treacherer who coveted what was beyond him. From among his off-spring would come forth men who would depart from the religion of God and stain the earth with the blood of the Family of

<sup>1</sup> See L. VECCIA-VAGLIERI, *‘Abd Allāh b. al-‘Abbās, EP*.

<sup>2</sup> See C. GILLIOT, *Les débuts de l’exégèse coranique, REMMM* 58, 1990, pp. 82-100; C.H.M. VERSTEEGH, *Arabic Grammar and Qur’anic Exegesis in Early Islam*, Leiden 1993, esp. pp. 203-4.

<sup>3</sup> See H. MOTZKI, *Die Anfänge der islamischen Jurisprudenz: Ihre Entwicklung in Mekka bis zur Mitte des 2./8. Jahrhunderts*, Stuttgart 1991, esp. pp. 256-7.

Muḥammad (*Āl Muḥammad*)<sup>4</sup>. The report evidently reflects the Shi'ite experience of persecution and oppression under the 'Abbāsīd caliphate. In another report quoted by al-Kaššī, however, Imam Ġa'far al-Šādiq describes his father Muḥammad al-Bāqir as very fond of Ibn 'Abbās and as regularly paying him visits in his boyhood together with the other boys of the Banū 'Abd al-Muṭṭalib<sup>5</sup>. Yet whatever the attitude of later Imāmī Shi'ites to Ibn 'Abbās, they could not recognize him as sharing the privileged religious knowledge of the Āl Muḥammad, the imams.

There is good evidence, however, that the teaching of Ibn 'Abbās had a significant impact on early Imāmī Shi'ite religious and legal doctrine. Several Qur'anic readings of Ibn 'Abbās deviating from the 'Uṭmānic standard text were adopted and utilized in Imāmī Shi'ism. Imāmī Shi'ites thus read in Qur'an 22: 52: "We have not sent before you any messenger (*rasūl*) or prophet (*nabī*)" with the addition "or one spoken to (*walā muḥaddaṭ*)" found in the codex of Ibn 'Abbās<sup>6</sup>. The term *muḥaddaṭūn*, interpreted as "those to whom an angel speaks", was commonly applied by Imāmī Shi'ites to their imams and became a key term in their concept of the imamate. It allowed for a form of inspiration below that of *waḥy* which was in common Islamic dogma reserved to messengers and prophets. The *muḥaddaṭ* imams were believed to hear the angel speak to them, but, unlike prophets, not to see them<sup>7</sup>.

In Qur'an 5: 6, where the basic rules of ablution for the ritual prayer are defined, Ibn 'Abbās read: *fa-ḡsilū wuḡūhakum wa-aydiyakum wamsahū bi-ru'ūsikum wa-arḡulikum*, "wash your faces and your hands and wipe over your heads and feet", instead of the Sunnite standard reading *wa-arḡulakum* requiring the washing (*ḡasl*) of the feet. According to his client 'Ikrima he maintained that God had commanded two instances of washing and two instances of wiping and had argued that this is corroborated by the second part of the Qur'anic verse, where *tayammum*, wiping with sand instead of washing, is mentioned only with

<sup>4</sup> Al-Kaššī, *Iḥyān ma'rifat al-riḡāl*, ed. MAHDĪ AL-RAĠĀ'Ī, Qumm 1404/(1983) pp.273-5.

<sup>5</sup> Al-Kaššī, p. 277. Muḥammad al-Bāqir, born in 57/676-7, was ten or eleven years old when Ibn 'Abbās died in 68/687-8.

<sup>6</sup> See A. JEFFERY, *Materials for the History of the Text of the Qur'an*, Leiden 1937, p. 202. The codex of Ubayy b. Ka'b contained the reading *wa-lā nabīyyin muḥaddaṭin*, thus qualifying prophets as "spoken to." Ubayy's reading was adopted by the Baṣran Abu l-Mutawakkil 'Alī b. Dāwūd al-Nāḡī. JEFFERY, *Materials* p. 148.

<sup>7</sup> For a full discussion see E. KOHLBERG, The Term *Muḥaddath* in Twelver Shi'ism, in *Studia Orientalia memoriae D.H. Baneth dedicata*, Jerusalem 1979, repr. in *Belief and Law in Imāmī Shi'ism*, Variorum, 1991. On the term *muḥaddaṭ* in Sunnite and Aḥmadī usage see Y. FRIEDMANN, *Prophecy Continuous: Aspects of Aḥmadī Religious Thought and its Medieval Background*, London etc. 1989, esp. pp. 86-92.

respect to the faces and hands<sup>8</sup>. When confronted with a *ḥadīṭ* according to which the Prophet had washed his feet in ablution, he observed, it seems incredulously: “The people will not accept anything but washing; yet in the Book of God we find wiping<sup>9</sup>.” Reports transmitted by the Baṣran Ḥālid al-Ḥaddā’ (d. 141-2/758-60) on the authority of ‘Ikrima that Ibn ‘Abbās read *arḡulakum* in accordance with the Sunnite standard reading are probably secondary and unreliable<sup>10</sup>. The reading *arḡulikūm* and the practice of wiping, rather than washing the feet in the ritual ablution were consistently upheld by the Shi‘ite imams<sup>11</sup>.

In Sunnism, attitudes were at first more divided. The Baṣran Maṭar al-Warrāq (d. ca. 140/757-8) still affirmed that many scholars of the law (*fuqahā’*) held wiping of the feet to be obligatory<sup>12</sup>. Prominent among those who insisted that washing of the feet was obligatory were the caliph ‘Umar and his son ‘Abd Allāh<sup>13</sup>. The Companion Anas b. Mālik residing in Baṣra maintained that the Qur’ān had come down with the commandment of wiping the feet, but that the sunna required washing<sup>14</sup>. Various *ḥadīṭs* described the Prophet as practicing and prescribing the washing of the feet. Eventually all Sunnite legal schools affirmed the obligation of washing the feet, and *’aḡsilū... arḡulakum*, “wash... your feet”, became the standard reading of the Qur’ān.

Imāmī Shi‘ite law followed the teaching of Ibn ‘Abbās in permitting temporary marriage (*mut‘a*). Ibn ‘Abbās read in Qur’ān 4: 24: “give them (i.e. the women) their rewards for what you have enjoyed of them”, *fa-mā ‘stamta‘tum bihī minhunna fa-ātūhunna uḡūrahunna*, with the addition: “for a specified time”, *ilā aḡalin musamman*, after *min-*

<sup>8</sup> ‘Abd al-Razzāq b. Hammām al-Ṣan‘ānī, *al-Muṣannaḡ*, ed. ḤABIB AL-RAḤMĀN AL-A‘ZAMĪ, *Maḡlis Ilmī*, n.d., I 19, nrs. 54 and 55. The statement of Ibn ‘Abbās was quoted from Ibn Māḡa’s *Sunan* by R. STROTHMANN, *Kultus der Zaiditen*, Strassburg 1912, p. 30, who understood it as supporting Muslim consensus against the plain meaning of the Qur’ān. This was certainly not the intention of Ibn ‘Abbās.

<sup>9</sup> ‘Abd al-Razzāq, *Muṣannaḡ*, I 22, nr. 65; Ibn Abī Ṣayba, *Muṣannaḡ Ibn Abī Ṣayba fi l-aḥādīṭ wa l-āṭār*, ed. SA‘ĪD AL-LAḤḤĀM, Beirut 1989, I 32, nr. 14.

<sup>10</sup> See Ibn Abī Shayba, *Muṣannaḡ*, I 21, nr. 8; al-Ṭabarī, *Ġāmi’ al-bayān fi tafsīr al-Qur’ān*, Cairo [1321/1903], VI 72. Both reports were transmitted by the Baṣran Ḥālid al-Ḥaddā’ b. Mihrān from ‘Ikrima. Ḥālid al-Ḥaddā’ (d. 141-2/158-60) was a government official and was considered unreliable by some *ḥadīṭ* experts (Ibn Ḥaḡar, *Tahḏīb al-tahḏīb*, Hyderabad 1325-27/1907-9, III p. 120-2).

<sup>11</sup> Al-Kulaynī, *al-Kāfi*, ed. ‘ALĪ AKBAR AL-ĠAFFĀRĪ, Tehran 1968-71, III 29-31. The Zaydīs, in contrast, agreed with the Sunnite position (STROTHMANN, *Kultus*, pp. 26, 29).

<sup>12</sup> ‘Abd al-Razzāq, *Muṣannaḡ*, I 19, nr. 54.

<sup>13</sup> Ibn Abī Ṣayba, *Muṣannaḡ*, I 31; al-Ṭabarī, *Ġāmi’*, VI 72.

<sup>14</sup> Al-Ṭabarī, *Ġāmi’*, VI 73.

*hunna*<sup>15</sup>. This addition to the ʿUṣmānic text was also found in the codices of Ubayy b. Kaʿb and ʿAbd Allāh b. Masʿūd<sup>16</sup>. It had presumably been part of the Qurʾān and was omitted in the official recension because of the subsequent prohibition of the practice. Ibn ʿAbbās maintained that *mutʿa* had been practiced in the time of the Prophet and during the caliphate of Abū Bakr and the early part of the caliphate of ʿUmar; then ʿUmar had prohibited it. According to ʿAṭāʾ b. Abī Rabāḥ, Ibn ʿAbbās said: “May God have mercy on ʿUmar. *Mutʿa* was but an indulgence on the part of God and a mercy for the Community of Muḥammad. If he had not forbidden it, no one but a wretch (*ṣaqī*) would feel a need for fornication<sup>17</sup>.” ʿAbd Allāh b. ʿUmar strongly opposed Ibn ʿAbbās in this matter. When informed that Ibn ʿAbbās declared *mutʿa* licit, he first expressed disbelief. Then he commented that Ibn ʿAbbās would not have dared to say this in the time of ʿUmar. In his, Ibn ʿUmar’s, view *mutʿa* was nothing but fornication (*siḥāḥ*)<sup>18</sup>. ʿAlī, according to a report ascribed to his son Muḥammad b. al-Ḥanafiyya, had backed the prohibition of temporary marriage and reminded his cousin Ibn ʿAbbās that the Prophet had proscribed it on the Day of Ḥaybar<sup>19</sup>. According to another report ʿAlī remarked during his caliphate in Kūfa: “If it were not for the opinion (*raʾy*) of ʿUmar that preceded, I would order (permission of) *mutʿa*. No one but a wretch would then commit fornication<sup>20</sup>.” Imāmī law thus upheld the teaching of Ibn ʿAbbās rather than the practice of ʿAlī.

Other agreements between Imāmī law and the teaching of Ibn ʿAbbās follow a similar pattern. Imāmī law, as is known, forbids the practice of repudiation of the wife called *ṭalāq al-bidʿa*, whose validity was accepted in Sunnite law although it is morally condemned. A triple repudiation pronounced on a single occasion is thus considered in Imāmī law as a single revocable repudiation<sup>21</sup>. The repudiation becomes irrevocable only after three declarations pronounced in separate menstrual periods of the wife. Ibn ʿAbbās reported that this was the law in the time of the Prophet and during the caliphate of Abū Bakr and some years of the caliphate of ʿUmar. The Prophet had occasionally asked a husband to

<sup>15</sup> JEFFERY, *Materials* p. 198.

<sup>16</sup> JEFFERY, *o.c.* pp. 36, 126.

<sup>17</sup> ʿAbd al-Razzāq, *Muṣannaf*, VII 496-7, nr. 14021.

<sup>18</sup> ʿAbd al-Razzāq, *Muṣannaf*, VII 502, nr. 14035.

<sup>19</sup> ʿAbd al-Razzāq, *Muṣannaf*, VII 501, nr. 14032; Ibn Abī Ṣayba, *Muṣannaf*, III 389, nr. 1.

<sup>20</sup> ʿAbd al-Razzāq, *Muṣannaf*, VII 500, nr. 14029.

<sup>21</sup> Al-Kulaynī, *Kāfi*, VI 70-1.

take back his wife even though he had pronounced triple repudiation<sup>22</sup>. Then 'Umar recognized the triple repudiation at a single time as valid and irrevocable. According to Ibn 'Abbās, 'Umar did not approve of the practice, but observed that the people were hastening in a matter in which they ought to act with deliberation (*inna l-nāsa 'sta'ḡalū amran kānat lahum fihi anāṭun*). He addressed them: "You have done a lot of loose talking in repudiation. Whoever says something shall be bound by what he has said (*qad aḡṭartum fī hādā l-ṭalāq, fa-man qāla šay'an fa-huwa 'alā mā takallama bih*)<sup>23</sup>. 'Umar thus hoped to induce husbands to act more responsibly in repudiating their wives by sanctioning *ṭalāq al-bid'a*. In fact, however, the morally condemned form of repudiation became the standard Sunnite practice.

Clearly upholding the ruling of his father, 'Abd Allāh b. 'Umar is quoted as stating: "Whoever pronounces triple repudiation has divorced his wife (irrevocably) and has disobeyed his Lord<sup>24</sup>." Although reporting that 'Umar had changed the law in respect to triple repudiation, Ibn 'Abbās did not, according to the Sunnite reports, expressly deny the validity of the caliph's reform. According to one report, he merely used to hint when asked about triple repudiation: "If you fear God, He has created an escape for you<sup>25</sup>." In another report he is quoted as telling someone who had pronounced triple divorce: "You have disobeyed your Lord and have divorced you wife (irrevocably)<sup>26</sup>." The Shi'ite imams, in rejecting the validity of the triple repudiation, adopted the legal practice which, according to Ibn 'Abbās, had prevailed under the Prophet.

Another significant point of difference between early Sunnite and Shi'ite law concerned the status of the *umm al-walad*, the slave woman who had given birth to a child of her master. Imāmī Shi'ite law considered her as retaining her slave status and being subject to sale by her master. This agreed with the pre-Islamic practice in Arabia which was not modified by the Qur'ān and prevailed under the Prophet, Abū Bakr, and during the early years of 'Umar's caliphate<sup>27</sup>. Then 'Umar, according to various reports, proscribed the sale of such slave mothers, arguing that it was unacceptable for the mother of a free child to be

<sup>22</sup> 'Abd al-Razzāq, *Muṣannaf*, VI 390-1, nrs. 11334-5.

<sup>23</sup> 'Abd al-Razzāq, *Muṣannaf*, VI 391-3, esp. nrs. 11336 and 11338; Ibn Ḥanbal, *Musnad*, [Cairo] 1313/1895, I 314.

<sup>24</sup> 'Abd al-Razzāq, *Muṣannaf*, VI 395, nr. 11344.

<sup>25</sup> 'Abd al-Razzāq, *Muṣannaf*, VI 396, nr. 11346.

<sup>26</sup> 'Abd al-Razzāq, *Muṣannaf*, VI 397, nr. 11352.

<sup>27</sup> 'Abd al-Razzāq, *Muṣannaf*, VII 287-8, nrs. 13210-11.

sold<sup>28</sup>. 'Umar's ruling was upheld by his successor 'Utmān. 'Alī, however, reversed it during his reign and ruled that the *umm al-walad* does not automatically gain liberty when she gives birth to her master's child<sup>29</sup>. He is reported to have stated: "'Umar consulted me about the sale of the *umm walad*, and I and he were of the opinion (*ra'y*) that she becomes free when she gives birth. 'Umar judged accordingly during his lifetime and so did 'Utmān after him. When I took over the rule, I came to the view that I should treat her as a slave." 'Ubayda al-Salmānī, who reported this, told 'Alī: "Your and 'Umar's opinion in union is preferable to me to your single opinion in schism (*furqa*)." 'Alī, according to 'Ubayda, merely laughed<sup>30</sup>.

'Abd Allāh b. 'Abbās, according to 'Aṭā' b. Abī Rabāh, held that the *umm walad* does not become free until her master expressly manumits her. He said: "By God, she is in the same (legal) position as your camel and your sheep<sup>31</sup>." Less reliable appears another report according to which he placed the *umm walad* in the portion of her child's inheritance from the father (and thus presumably considered her free after his death)<sup>32</sup>. Patently forged is a *ḥadīth* that Ibn 'Abbās is alleged to have narrated: "The Messenger of God said: 'The slave girl of any man who gives birth to a child from him shall be free after his death ('*an duburin minhu*)<sup>33</sup>.'" 'Abd Allāh b. 'Umar, in contrast, strongly supported the

<sup>28</sup> 'Abd al-Razzāq, *Muṣannaf*, VII 287, nr. 13210. See in general the article on *Umm al-walad* in *El* by J. SCHACHT. In this article Schacht described the ordinance of 'Umar forbidding the sale of the *umm al-walad* as "certain from numerous accounts." Dealing with the subject in his much later *Origins of Muhammadan Jurisprudence* (Oxford 1950), Schacht does not refer to the article and comments: "Because the ancient resistance to an improvement in the status of the *umm al-walad* happened to be expressed in a tradition from 'Alī, in pointed opposition to traditions from 'Umar and Ibn 'Umar, the Shi'ites, when they came to elaborate their own legal doctrine, insisted on considering the *umm al-walad* as a slave who could be sold or otherwise alienated by her master" (p. 265). This formulation reflects Schacht's new theory that discussion of legal questions began only in the later Umayyad age and that opinions reported from Companions of the Prophet were ascribed to them without historical foundation at a secondary stage.

<sup>29</sup> 'Abd al-Razzāq, *Muṣannaf*, VII 290-1, nr. 13221.

<sup>30</sup> Ibn Abī Šayba, *Muṣannaf*, V 184, nr. 2; 'Abd al-Razzāq, *Muṣannaf*, VII 291-2, nr. 13224. In his testament 'Alī stipulated that those of his slave women who had a child by him should be treated as a portion of the inheritance of the child (and thus become free). His childless slave girls should be freed on his death ('Abd al-Razzāq, *Muṣannaf*, VII 290, nrs. 13216, 13218). Ibrāhīm al-Naḥā'ī reported that 'Alī told an *umm walad*, who came to him: "Surely, 'Umar has set you (plur.) free" (Ibn Abī Šayba, *Muṣannaf*, V 185, nr. 6; 'Abd al-Razzāq, *Muṣannaf*, VII 293, nr. 13231).

<sup>31</sup> 'Abd al-Razzāq, *Muṣannaf*, VII 290, nrs. 13216-18.

<sup>32</sup> Ibn Abī Šayba, VIII 186, nr. 11.

<sup>33</sup> Ibn Abī Šayba, *Muṣannaf*, V 184, nr. 1; 'Abd al-Razzāq, *Muṣannaf*, VII 290, nr. 13219. The forger of the *ḥadīth* was probably Ḥusayn b. 'Abd Allāh (b. 'Ubayd Allāh

position of his father. When told that 'Abd Allāh b. al-Zubayr allowed the sale of slave mothers, he told his interrogators pointedly: "But Abū Ḥaḥṣ 'Umar b. al-Ḥaṭṭāb, the Commander of the Faithful — do you know him? — did not permit their sale but freed them." 'Umar, he affirmed, had ruled that they may not be sold, or given away, or be inherited. "Their master may enjoy her as long as he lives; but when he dies, she becomes free<sup>34</sup>."

The Shi'ite imams opposed the ruling of 'Umar. When asked about the *umm walad*, Muḥammad al-Bāqir said: "She is a slave girl (*ama*) who may be sold, inherited, and given away. Her status (*ḥadd*) is that of a slave girl." 'Alī, according to al-Bāqir, had stated that a slave woman with or without a child would be freed only if manumitted by her master. If the master died without freeing her, the Book of God (stipulating inheritance) had precedence with respect to her. If she had a child and the master left money, she should be put in the share of inheritance of her child. The expectation was evidently that the child would free the mother without decrease of the portion of inheritance of the other heirs. 'Alī, also according to al-Bāqir, had been called to judge in the case of a slave mother whose daughter was still minor but was able to speak. When the daughter declared her mother free, while the kin (*mawālī*) of her father claimed possession of her, 'Alī had ruled in favour of the daughter who had manumitted the slave mother<sup>35</sup>.

Sharply disputed between Sunnites and Shi'ites was the practice of wiping over the shoes (*al-mash' 'ala l-ḥuffayn*) instead of washing or wiping the feet in the ritual ablution<sup>36</sup>. The legitimacy of the practice was vigorously upheld by Sunnites and categorically repudiated by Shi'ites and Ḥariḡites. Imam al-Bāqir or al-Ṣādiq is quoted as stating that it was one of three practices concerning which he would never employ dissimulation (*taqiyya*)<sup>37</sup>. Sunnite creeds, on the other hand, declared acceptance of the practice as in accordance with the *sunna* a matter of faith<sup>38</sup>. The practice was first justified by reports of Compan-

b. 'Abbās) who related it on the authority of 'Ikrima from Ibn 'Abbās. According to Ibn Ḥanbal, Ḥusayn b. 'Abd Allāh (d. 140-41/ 757-9) transmitted "objectionable things" (*ašyā' munkara*), and Ibn Ma'in considered him weak (*da'if*) in *ḥadīṭ* (Ibn Ḥaḡar, *Tadhīb*, II 341-2).

<sup>34</sup> 'Abd al-Razzāq, *Muṣannaf*, VII 292-3, nrs. 13225-9; Ibn Abī Ṣayba, *Muṣannaf*, V, nr. 3.

<sup>35</sup> Al-Kulaynī, *Kāfi*, VI 191-2, nrs. 1 and 3.

<sup>36</sup> See in general STROTHMANN, *Kultus*, pp. 34-46.

<sup>37</sup> Al-Kulaynī, *Kāfi*, III 32.

<sup>38</sup> A.J. WENSINCK, *The Muslim Creed*, Cambridge 1932, pp. 158-60.

ions that they had seen the Prophet exercising it on various occasions. Opponents based their rejection on the argument that Qur'an 5: 4, laying down the rules of ablution, does not mention it. They maintained that any early permission of the practice was abrogated by the Qur'anic revelation. Countering this argument, supporters highlighted a report of Ğarīr b. 'Abd Allāh, who was known to have converted to Islam only after the revelation of the Qur'anic verse, that he had seen the Prophet practicing *mash'ala l-huffayn*<sup>39</sup>. The practice, however, remained disputed. 'Abd Allāh b. 'Umar reported that he saw Sa'd b. Abī Waqqāš in the time of his governorship of Kūfa under 'Umar wiping over his shoes and reproached and questioned him about it. Sa'd insisted that it was licit and later asked the caliph in the presence of 'Abd Allāh to give his ruling in the matter. 'Umar confirmed the legitimacy of the practice<sup>40</sup>. His son thenceforth strongly backed it.

When Ibn 'Abbās was informed of Ibn 'Umar's report concerning Sa'd b. Abī Waqqāš, he exclaimed: "If you (plur.) were saying this concerning remote travel and extreme cold!", clearly indicating his general disapproval<sup>41</sup>. According to his client 'Ikrima, Ibn 'Abbās stated: "The Book has precedence over (the wiping of) the shoes (*sabaqa l-kitābu l-huffayn*)", thus unambiguously repudiating the practice. The report of 'Ikrima with his Ḥariġite credentials is significant for the rejection of *mash'ala l-huffayn* by the Ḥariġites. Upon being informed of 'Ikrima's report, 'Aṭā' b. Abī Rabāh claimed that 'Ikrima was lying and that he, 'Aṭā', had seen Ibn 'Abbās wiping over his shoes<sup>42</sup>. Ibn 'Abbās' disapproval of the practice is confirmed, however, by a report of Sa'īd b. Ğubayr according to which he remarked that in his view there was no difference whether he wiped over his shoes or the back of his camel (*mā ubālī masaḥtu 'ala l-huffayn aw masaḥtu 'alā zahr buḥṭi hādā*)<sup>43</sup>.

Ibn 'Abbās' unequivocal rejection of *mash'ala l-huffayn* became universal Shi'ite doctrine. The Sunnite Ibn Abī Šayba quoted Imam Muḥammad al-Bāqir, on the authority of his son Ğa'far al-Šādiq, ascribing to 'Alī the very words: "The Book has precedence over the shoes",

<sup>39</sup> 'Abd al-Razzāq, *Muṣannaf*, I 194-5, nrs. 706-9; Ibn Abī Šayba, *Muṣannaf*, I 203, nrs. 5-6.

<sup>40</sup> 'Abd al-Razzāq, *Muṣannaf*, I 195-7, nrs. 760-63, 765; Ibn Abī Šayba, *Muṣannaf*, I 205, nr. 20, p. 207, nrs. 34-5.

<sup>41</sup> 'Abd al-Razzāq, *Muṣannaf*, I 197-8, nr. 768; Ibn Abī Šayba, *Muṣannaf*, I 213, nr. 5.

<sup>42</sup> Ibn Abī Šayba, *Muṣannaf*, I 213, nr. 8; see also *ibid.*, I 208, nr. 44, and 'Abd al-Razzāq, *Muṣannaf*, I 198-9, nr. 772.

<sup>43</sup> Ibn Abī Šayba, *Muṣannaf*, I 213, nr. 6.

which 'Ikrima had related from Ibn 'Abbās<sup>44</sup>. Other Sunnite reports, however, describe 'Alī as approving and performing the practice and as affirming that he had seen the Prophet do so<sup>45</sup>.

Time limits prohibit the discussion of further examples here. Only one issue may still be raised because of its political significance: The question of whether the alms tax (*zakāt*, *ṣadaqa*) should be paid to the government or directly to the poor and others entitled to it according to the Qur'ān. The question had posed itself acutely at the time of the foundation of the caliphate by Abū Bakr and the War of Apostasy. Abū Bakr had declared any Muslim refusing payment of the alms tax to him an apostate whose blood could be shed. Some of the major Companions of the Prophet had had misgivings about this policy, and 'Umar is reported to have confessed that he would give anything to have asked the Prophet concerning someone who withholds his alms (from the authorities) and says: "I place them in their proper place", whether he should be fought<sup>46</sup>. 'Umar, according to another report, had confronted Abū Bakr with the question of how he could fight these people when the Prophet had stated: "I have been ordered to fight the people until they say: 'There is no god but God'; when they say this, they protect their blood and property from me except for legal claims (*illā bi-ḥaqqihā*), and their account is with God." Abū Bakr answered that he would fight anyone who made a distinction between prayer and paying the alms tax. The alms tax was a legal claim on property. He would fight them even for a cobble-cord which they used to pay to the Prophet and now withheld from him, Abū Bakr. 'Umar commented that he then realized that God had dilated Abū Bakr's chest for fighting and that this was rightful<sup>47</sup>.

It was thus established that the alms tax must be paid to the caliph in succession to the Prophet. The Baṣran Muḥammad b. Sīrīn (d. 110/728) stated: "The alms were paid in the age of the Prophet to the Messenger of God and to whomever he put in charge of them, and likewise in the age of Abū Bakr, 'Umar, and 'Uṭmān. Then the Companions of Muḥammad differed concerning them. Some held that they should be paid to the authorities, and others held that one should distribute them himself (to those entitled)<sup>48</sup>." The chief protagonists of the two opposite

<sup>44</sup> Ibn Abī Šayba, *Muṣannaf*, I 213, nr. 3.

<sup>45</sup> 'Abd al-Razzāq, *Muṣannaf*, I 194, nr. 755; Ibn Abī Šayba, *Muṣannaf*, I 208, nrs. 42-3.

<sup>46</sup> 'Abd al-Razzāq, *Muṣannaf*, IV 43, nr. 6915.

<sup>47</sup> 'Abd al-Razzāq, *Muṣannaf*, IV 43-4, nr. 6916.

<sup>48</sup> 'Abd al-Razzāq, *Muṣannaf*, IV 47, nr. 6926; Ibn Abī Šayba, *Muṣannaf*, III 47, nr. 7. From Ibn Sīrīn's further comment quoted in the version of Ibn Abī Šayba it is apparent that he was generally in favour of paying to the government.

views were 'Abd Allāh b. 'Umar and 'Abd Allāh b. 'Abbās. Questioned by Ibn 'Umar as to whether the alms may be given directly to the legitimate recipients or must be paid to the governors, 'Aṭā' reported that he had heard Ibn 'Abbās stating: "There is nothing wrong if you place them in their proper places, as long as you do not give something to anyone whom you sustain as a dependent (*ta'ūluhū*). Ibn 'Umar, in contrast, used to say: "Pay the *zakāt* to the governors." When someone countered: "But surely they do not place it in its proper places", Ibn 'Umar replied: "Even if (they do not do so.)"<sup>49</sup>. On a further question by Ibn 'Umar, 'Aṭā' affirmed that the alms must be paid to the authorities as long as these spend them in their proper places. Ibn 'Abbās had merely meant that they could be paid directly to the recipients if the rulers failed to do so. The alms of the feast day (*zakāt al-ḥiṭr*) and the alms tax on livestock and crops could legitimately be paid to the rulers, who would then be responsible for what they did with them, while the taxpayer would receive his religious reward<sup>50</sup>.

Ibn 'Umar is quoted stressing the obligation to pay the alms tax to unjust rulers with extreme formulations. Payment must be made to them even if they were to use the money in order to eat the flesh of dogs at their tables, to buy with it lynxes and falcons (for hunting), or precious clothes and perfume<sup>51</sup>. Presumably in the early days of the counter-caliphate of Ibn al-Zubayr, Ibn 'Umar learned that 'Abd Allāh b. Muṭī' said: "I shall not pay the alms from my property to Ibn al-Zubayr so that he feeds them to his horses and gives them to his slaves to eat." Ibn 'Umar sent to him and reproached him that he was wrong and did not fulfil his legal obligation. Even if he were to give alms in the same amount (to the poor), it would not be accepted from him. He was commanded (by the law) to pay the alms tax to the ruler, whether the latter was pious or a sinner<sup>52</sup>. It should be noted that Ibn 'Umar himself refused to pledge allegiance to 'Abd Allāh b. al-Zubayr since it was his principle not to support either side in inter-Muslim War<sup>53</sup>.

It was only natural that Shi'ites, who considered the caliphs and their officials as unjust oppressors, adopted the position of Ibn 'Abbās that the

<sup>49</sup> 'Abd al-Razzāq, *Muṣannaf*, IV 44, nr. 6917.

<sup>50</sup> 'Abd al-Razzāq, *Muṣannaf*, IV 45, nr. 6920.

<sup>51</sup> 'Abd al-Razzāq, *Muṣannaf*, IV 46-7, nrs. 6924, 6927; Ibn Abī Šayba, *Muṣannaf*, III 47, nrs. 3-4.

<sup>52</sup> 'Abd al-Razzāq, *Muṣannaf*, IV 45, nr. 7619.

<sup>53</sup> Al-Balādu'ī, *Ansāb al-ashrāf*, V, ed. S.D. GOITEIN. Jerusalem 1936, 188. 'Abd Allāh b. Muṭī' al-'Adawī, of Ibn 'Umar's clan 'Adī of Quraysh, at first withheld his pledge of allegiance from Ibn al-Zubayr (see *ibid.*). Later, however, he became a prominent supporter of the counter-caliph, who appointed him governor of Kūfa.

*zakāt* be paid directly to its Qur'anic recipients. The Kūfan legal authority Sufyān al-Ṭawrī mentioned Imam Muḥammad al-Bāqir together with Ibn 'Abbās among those who taught that the alms tax should not be paid to those who acted unjustly with it (*lā tu'addū l-zakāta ilā man yağūru fihā*)<sup>54</sup>. Sufyān went on to name the Shi'ite imam among those who held that whatever was seized by the authorities by force could be taken into account in the payment of alms. A report quoted by Ibn Abī Šayba according to which al-Bāqir, when asked by the Sunnite 'Abd Allāh b. Ḥabīb<sup>55</sup> about the propriety of paying *zakāt* to the rulers (*wulāt*), told him to pay them, must, if authentic, be viewed as an example of *taqiyya*<sup>56</sup>. In the relevant reports gathered by the Shi'ite al-Kulaynī, the view that the alms tax should be paid not to the oppressive authorities but to the legitimate recipients is taken for granted. Imams al-Bāqir and al-Šādiq are quoted as allowing the faithful to take into account what is extorted by the rulers as *zakāt* or *ḥarāğ* in their voluntary payments. Imam Ğa'far said: "Whatever the Banū Umayya seize from you, take it into account, but do not pay anything to them as far as you can. For the property does not remain as it is if you pay the legal alms on it twice<sup>57</sup>."

Imāmī Shiite theological, ritual, and legal doctrine thus agreed in a number of distinctive and controversial points with what according to the Sunnite sources was the teaching of 'Abd Allāh b. 'Abbās. The early Shi'ite texts endorsing such views and rules do not refer to him. Only in later apologetic Shi'ite works is there occasional mention that this or that point of Imāmī doctrine was in accordance with his views. Imāmī law certainly did not systematically follow the opinions of Ibn 'Abbās. Among the numerous opinions of his quoted by 'Abd al-Razzāq b. Hammām in his *Muṣannaf*, many do not agree with early Shi'ite doctrine or have no equivalent in it. It was evidently specific cases, where Ibn 'Abbās relied upon a variant reading of the Qur'ān or where he claimed to uphold the practice of the Prophet against changes introduced after his death, especially by the caliph 'Umar, that were taken up by the founders

<sup>54</sup> 'Abd al-Razzāq, *Muṣannaf*, IV 48, nr. 6932. Others named by al-Ṭawrī were Sa'īd b. al-Musayyab, al-Ḥasan al-Baṣrī, and the Kūfans Ibrāhīm al-Naḥaṭī and Ḥammād b. Abī Sulaymān. The view of Sa'īd b. al-Musayyab, generally a loyalist supporter of government, seems to have differed from that of the others named. He held that it was licit to pay the alms tax directly to its Qur'anic recipients only if it did not weaken government and prevent its necessary expenditure on military stipends (*a'ṭiya*) and defence of the Muslim border towns (*tuğūr*). 'Abd al-Razzāq, *Muṣannaf*, IV 45-6, nr. 6921.

<sup>55</sup> The Kūfan 'Abd Allāh b. Ḥabīb b. Abī Ṭābit al-Asadī (Ibn Ḥağar, *Tahdīb*, V 183) is probably meant.

<sup>56</sup> Ibn Abī Šayba, *Muṣannaf*, III 47, nr. 9.

<sup>57</sup> Al-Kulaynī, *Kāfi*, III 543.

of systematic Shi'ite law. His personal practice and legal reasoning (*iğti-hād*) were of little interest to them.

Early Shi'ite religious thought was, it must be kept in mind, based on the emphatic claim that Islam, including its ritual and law, had been fully revealed in the lifetime of the Prophet in accordance with the Qur'anic pronouncement (5: 3): "Today I have perfected for you your religion and have completed my bounty upon you." Any change or addition to Islam after Muḥammad's death by the Companions including the caliphs, not to mention the opinions and legal reasoning of later scholars, were thus illicit innovations. The imams of the Family of the Prophet themselves had no competence and authority to change or add to the law. Their religious teaching authority rather rested on their perfect knowledge of the original text of the Qur'ān and of the *sunna* of the Prophet which was based on it and agreed with it<sup>58</sup>. This explains also why Imāmī Shi'ite law paid little attention to the actual practice of 'Alī during his caliphate as reported in the Sunnite sources and at times, as noted, preferred the teaching of Ibn 'Abbās to it. Imam al-Bāqir explained the discrepancy between 'Alī's practice and Shi'ite doctrine by stating that 'Alī was loath to be accused of contravening the precedents set by Abū Bakr and 'Umar<sup>59</sup>. 'Alī thus could be seen as acting with a kind of *taqiyya* forced upon him by the popularity of the first two caliphs among his supporters. The authentic teaching of Islam presumably rested rather on the knowledge handed down by him to the imams among his off-spring.

The teaching activity of Ibn 'Abbās, its attraction to Kūfan Shi'ites in the time of the second Inter-Muslim War (*fitna*), and its unorthodox character are independently confirmed. According to a report of 'Aṭā', the counter-caliph 'Abd Allāh b. al-Zubayr accused 'Abd Allāh b. 'Abbās, together with his brother 'Ubayd Allāh, of striving to raise the banner of Abū Turāb ('Alī) after God had lowered it and that they were gathering the misguided (*ḍullāl*) of the people of Iraq around themselves. Ibn al-Zubayr threatened to chastize him if he would not cut his ties to these people. 'Abd Allāh b. 'Abbās defended himself, suggesting

<sup>58</sup> That this was the general view upheld by the early Imāmiyya has been forcefully argued by T. BAYHUM DAOU in her Ph. D. thesis: *The Imāmī Shī'ī Conception of the Knowledge of the Imām and the Sources of Religious Doctrine in the Formative Period from Hishām b. al-Ḥakam to Kulīnī*, SOAS, London 1996. A similar view was endorsed by the Zaydī Imam al-Qāsim b. Ibrāhīm as one of the five basic principles of Islam (see MADELUNG, *Der Imam al-Qāsim ibn Ibrāhīm*, Berlin 1965, p. 104).

<sup>59</sup> See Ibn Šabba, *Ta'riḥ al-Madīna al-munawwara*, ed. FAHIM MUḤAMMAD ŠALTŪT, Qumm 1410/[1989-90], p. 217.

that they were visited only by men seeking religious knowledge or hospitality (*ṭālib fiqh aw ṭālib fadl*). The Shi‘ite Companion Abū Ṭufayl ‘Amir b. Wāṭila then reproached Ibn al-Zubayr in a poem for trying to prevent Ibn ‘Abbās and the clan (*raḥṭ*) of the Prophet from teaching the religion brought by their kinsman<sup>60</sup>. Ibn al-Zubayr, it should be noted, was stridently anti-Hāšimid. Among the most serious charges against him was, according to al-Zuhrī, that he omitted mention of the Messenger of God in his sermons and, when questioned about this, said: “Surely, he has a family of small, evil men (*inna lahū uḥayla sū’in*) who, whenever he is named, claim to be tall and stretch their necks at his mention<sup>61</sup>.” The Kūfan ‘Abd Allāh b. Abi l-Huḍayl al-‘Anazī, himself an ‘Uṭmānid<sup>62</sup>, reported that, when he visited Mekka, the Kūfans gave him written questions to submit to Ibn ‘Abbās<sup>63</sup>. Some of the ritual practice and legal doctrine that later became distinctive of Shi‘ite versus Sunnite religious law thus came to Kūfa already in the early Umayyad age. Its subsequent endorsement and adoption by Imams Muḥammad al-Bāqir and Ğa‘far al-Šādiq into Imāmī Shi‘ite school law was evidently facilitated by the fact that it was already well established among the Kūfan Shi‘ites. The teaching of ‘Abd Allāh b. ‘Abbās critical of the early caliphate thus came to shape Shi‘ite religious thought and law just as the loyalist teaching of ‘Abd Allāh b. ‘Umar came to shape Sunnite religious thought and law.

<sup>60</sup> Abu l-Farağ al-Isfahānī, *al-Ağānī*, [Būlāq 1285/1868], XIII 168.

<sup>61</sup> Al-Balāḍurī, *Ansāb*, V 372.

<sup>62</sup> Ibn Ḥağar, *Tahḍīb*, III 62.

<sup>63</sup> ‘Abd al-Razzāq, *Muṣannaḥ*, IV 459-60, nr. 8453.