

*Aḥkā*m concerning the *ahl al-bayt*

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Abstract

Although Islamic law generally identifies all free Muslim males as equal members of society, irrespective of race or ancestry, a peculiar exception is made for those who claim patrilineal descent from the Arab chieftain Hāshim b. ‘Abd Manāf, the great-grandfather of the Prophet Muḥammad. Drawing on hagiography and *ḥadīth*, Sunni and Shi‘i authors ascribe special nobility, privileges and customs to members of the clan of Hāshim. Jurists also incorporated their adoration of and respect for the Prophet’s family into their views of Islamic law. In particular, since the Prophet Muḥammad was revered as an individual who was pure (*tāhir*, *zaki*), some jurists held that Hāshimids possessed the same purity. The Prophet’s identities as an Arab and as a Qurashī also conferred certain legal privileges on members of these groups. After noting parallels to other high-status groups in early Muslim society, I examine more than a dozen laws that classical Sunni and Twelver Shi‘i jurists characterized as specific to the Prophet’s progeny and Household (*ahl al-bayt*).

Keywords

Hāshimids – ‘Alids – *ahl al-bayt* – Sunnism – Shi‘ism – laws specific to Muḥammad – Quraysh – Arab customs

Introduction

Members of the Prophet Muḥammad’s Household (*ahl al-bayt*) occupy an honored position in Muslim history and popular piety. In its widest sense, the term *ahl al-bayt* refers to the clan of Hāshim (or, according to some, that of Muṭṭalib); more narrowly, it refers to Muḥammad’s direct descendants.¹ In

¹ See *EP*, s.v. Sharīf (C. Arendonk and W. Graham). On the clan of al-Muṭṭalib, see further below, n. 66. In the notes, references to Sunni sources precede those to Shi‘i works.

either of its usages, one can identify *ahkām* (sing. *ḥukm*), legal rulings and customs, that are specific to the Prophet's Household and do not apply to the Muslim community at large. A better understanding of these laws and customs may prevent the misinterpretation of texts that deal with such matters.² In addition, jurists discuss laws specific to two other entities in the community, Arabs and the person of Muḥammad. Unsurprisingly, the children of Fāṭima, who are Arabs as well as descendants of Muḥammad, are honored with certain privileges in Islamic law. It appears that many laws associated with the Household and Fāṭima's descendants developed from rulings that initially concerned Arabs or the Prophet. If this is true, we must first review laws that pertain exclusively to Arabs and the Prophet Muḥammad before turning to laws regarding the Prophet's kin. A common thread that emerges from laws pertaining to these hereditary groups is that jurists once regarded specific lineages as noble and conferred certain privileges upon them.

To support their legal opinions, jurists frequently referred to the lives of the Prophet and his Companions as historical precedents. In this study, I identify which historical reports jurists understood to be true in determining their legal opinions without examining or necessarily assuming the historicity of the accounts.

Sunni scholarship largely accepted the veracity of the reports preserved in the canonical collections of al-Bukhārī and Muslim. The depiction in these collections of disputes between the *ahl al-bayt* and the first two caliphs may thus be taken as the orthodox view in Sunni Islam. When such *ḥadīth* correspond with accounts offered by transmitters with rival sectarian affiliations, they may reflect a broader consensus among Sunnis, Shi'is, and other early Muslims with regard to the historical events in question. The claim that Abū Bakr succeeded the Prophet as caliph and felt justified in disinheriting Fāṭima of property that had once belonged to her father is an instance of such congruence.³ In addition, the consequences of disputes between Companions were readily apparent and endured long after their deaths. For instance, the Prophet's progeny gained exclusive rights to his property only when caliphs recognized them as

² For example, Moshe Gil writes that at the time of the Prophet “*ṣadaqa* also had an aura of sanctity, or even taboo, as illustrated in the tradition about Ḥasan ... who, upon putting a date ... into his mouth was promptly admonished by the Prophet”; see Moshe Gil, “The Earliest *Waqf* Foundations,” *Journal of Near Eastern Studies* 57:2 (1998): 125-40, at 128. This report seeks to establish the sanctity of the Prophet's relatives rather than that of the land by illustrating the lengths to which the Prophet went to ensure that Hāshimids, even young children, did not personally benefit from the community's *ṣadaqa*.

³ Elsewhere I have discussed the significance of such congruencies in understanding early Islamic history. See Nebil Husayn, “Scepticism and Uncontested History: A Review Article,” *Journal of Shi'a Islamic Studies* 7:4 (2014): 385-409.

his rightful heirs or, at least, the rightful beneficiaries of such property. Abbasid historians documented the periods in which the Prophet's progeny had possession of lands that once belonged to him and those in which caliphs barred them from such possession.⁴ Since both Sunni and Shi'i jurists developed their legal opinions on the basis of these accounts, I provide some context by discussing the conflict between Fāṭima, 'Alī, and the first two caliphs. Although narratives about these disputes appear plausible for the reasons mentioned above, their historicity is not essential to this study.

Legal Rulings Specific to Arabs

According to Hossein Modarressi, early jurists identified at least six laws that they considered applicable only to Arabs.⁵

1. Ancestry and kinship with the Prophet played a role in determining the size of a person's state stipend and the order in which stipends were distributed to recipients. The Prophet's family received their portions first, followed by branches of Quraysh, 'Adnān, and Qaḥṭān, in that order.⁶
2. Some jurists who considered the enslavement of Arabs to be unlawful appealed to the precedent of the Prophet and 'Umar b. al-Khaṭṭāb, both of whom reportedly disliked the proliferation of slavery in the Arabian peninsula, prohibited the enslavement of other Arabs, freed Arab slaves en masse, and ordered others to do so.⁷
3. According to Abū Ḥanīfa and Abū Yūsuf, non-Muslim Arabs are exempt from the payment of *jizya*. Later jurists differed on the reasons for this position. Some considered the obligation to be an indignity that is

4 For example, see Intisar Rabb, "The Curious Case of Bughaybigħa, 661-883: Land and Leadership in Early Islamic Societies," in *Justice and Leadership in Early Islamic Courts*, ed. Intisar A. Rabb and Abigail Krasner Balbale (Cambridge, MA: ILSP/Harvard University Press, 2017), 23-46.

5 Hossein Modarressi, *Kharāj in Islamic Law* (New York: Mostazafan Foundation, 1983), 209.

6 See Aḥmad b. Yaḥyā al-Balādhurī, *Futūḥ al-buldān*, 3 vols. (Cairo: Maktabat al-Nahḍa al-Miṣriyya, 1956), 3:549-52.

7 Abū 'Ubayd al-Qāsim b. Sallām, *Kitāb al-Amwāl*, ed. M. Khalīl Harrās (Beirut: Dār al-Fikr, 1988), 176-78; Aḥmad b. al-Ḥusayn al-Bayhaqī, *al-Sunan al-kubrā*, 10 vols. (Beirut: Dār al-Fikr, 1999), 9:74; Ibn Taymiyya, *Majmū' fatāwā shaykh al-Islām Aḥmad b. Taymiyya*, ed. 'Abd al-Raḥmān b. Muḥammad b. Qāsim, 35 vols. (Medina: Majma' al-Malik Fahd, 1995), 31:380-82; Muḥammad b. Farāmūz Mullā Khusrow, *Durar al-ḥukkām fī sharḥ Ghurar al-aḥkām wa-bi-hāmishihi ḥāshiyat al-Shaykh Ḥasan b. 'Ammār al-Shurunbulālī*, 2 vols. (Istanbul: Maṭba'at Aḥmad Kāmil, 1912), 2:442; Muḥammad b. 'Alī al-Shawkānī, *Nayl al-awṭār min aḥādīth sayyid al-akhyār*, 9 vols. (Beirut: Dār al-Jīl, 1973), 8:149, 153. See also Modarressi, *Kharāj in Islamic Law*, 209.

inappropriate for those who share kinship with the Prophet even in the broadest sense (as members of the same ethnic group).⁸ Others argued that *jizya* may be waived if it dishonors or weakens Muslims or their allies.⁹

4. Some jurists who considered suitability (*kafā'a*) between spouses to be a prerequisite to a valid marriage held that a non-Arab is ineligible to marry an Arab.¹⁰ In particular, they prohibited the marriage of free Arab women to non-Arab clients.¹¹
5. Mālik defended corporal punishment as appropriate for a person who accuses an Arab of having non-Arab origins or denies his tribal ancestry.¹²
6. Some jurists upheld sartorial distinctions between Arabs and non-Arabs. Jurists debated whether an Arab was permitted to make himself resemble a non-Arab, specifically, a member of the *ahl al-dhimma*. By contrast, it was unlawful for certain non-Arabs to wear clothes commonly worn by the Arabs.¹³

8 Ibn Qudāma, *al-Mughnī*, 12 vols. (Beirut: Dār al-Kitāb al-'Arabī, 1972), 10:571.

9 See Muḥammad b. Idrīs al-Shāfi'ī, *Kitāb al-Umm ma' Mukhtaṣar al-Muzanī*, 8 vols. (Beirut: Dār al-Fikr, 1983), 4:186 (in the passage on *jizya*, *inṣāf* should be corrected to *intiḳāṣ*). Still others were absolutists, stating that Arab pagans had the choice of war or conversion after the annulment of the Prophet's peace treaties with them. See al-Māwardī, *al-Aḥkām al-sultāniyya wa'l-wilāyāt al-dīniyya* (Cairo: Dār al-Kutub al-'Ilmiyya, 1978), 163; al-Sarakhsī, *Kitāb al-Mabsūṭ*, 30 vols. (Beirut: Dār al-Ma'rifa, 1986), 10:111; al-Shāfi'ī, *al-Umm*, 7:389.

10 Ibn Qudāma, *al-Mughnī*, 7:374-76; al-Sarakhsī, *al-Mabsūṭ*, 5:22-24. On *kafā'a*, see further below.

11 Ibn Qudāma, *al-Mughnī*, 7:371-72. Salmān and 'Umar appear in a number of proof-texts as authorities. See Abū Bakr 'Abd al-Razzāq al-Ṣan'ānī, *al-Muṣannaḡ*, ed. Ḥabīb al-Raḥmān al-A'zamī, 11 vols. (Beirut: al-Majlis al-'Ilmī, 1970), 6:152; al-Bayhaqī, *al-Sunan al-kubrā*, 7:134; 'Alī b. 'Umar al-Dāraquṭnī, *Sunan al-Dāraquṭnī*, 4 vols. (Beirut: Dār al-Kutub al-'Ilmiyya, 1996), 3:206; Nūr al-Dīn al-Haythamī, *Majma' al-zawā'id wa-manba' al-fawā'id*, 10 vols. (Beirut: Dār al-Kutub al-'Ilmiyya, 1988), 4:275; 'Amr b. Baḥr al-Jāḥiz, *al-Uthmāniyya*, ed. 'Abd al-Salām Hārūn (Cairo: Dār al-Kitāb al-'Arabī, 1955), 211, 220; Sulaymān b. Aḥmad al-Ṭabarānī, *al-Mu'jam al-awsaṭ*, 9 vols. (Cairo: Dār al-Ḥaramayn, 1995), 7:211. An early Shi'i text attributes this legal opinion to Mu'āwiya and 'Umar. See *Kitāb Sulaym b. Qays al-Hilālī* (Qum: Intishārāt-i Dalīl-i Mā, 2002), 282. See also Patricia Crone, "Mawālī and the Prophet's Family: An Early Shi'ite View," in *Patronate and Patronage in Early and Classical Islam*, ed. M. Bernard and J. Nawas (Leiden: Brill, 2005), 167-94, at 167-77, 180-84.

12 Saḥnūn, *al-Mudawwana al-kubrā*, 6 vols. (Cairo: Maṭba'at Dār al-Sa'āda, 1905), 6:225-27. In a number of texts, the wording suggests that anyone who denies the paternity of any Muslim deserves corporal punishment. On the case of a person whose parents are slaves, see *ibid.*, 6:226.

13 Modarressi, *Kharāj in Islamic Law*, 209. According to Cahen, such laws were instituted in the first Islamic century to prevent espionage (in garrison towns) or administrative errors in later years. See *EP*, s.v. Dhimma (C. Cahen). One jurist notes that none of the restrictions on *ahl al-dhimma*, including dress, are applicable in their native lands. They apply only to

These rulings provide evidence of some of the privileges that Arabs possessed in the Umayyad period. Land owning, free, Arab, Muslim males clearly possessed social capital that others did not.

In the formative period, one can identify two competing views on status in Muslim society. One group appealed to sacred texts and early authorities to promote egalitarianism, while the other circulated *ḥadīth* and upheld legal opinions that privileged some people over others and were consistent with prevailing beliefs about ethnicity, class, religious identity, and gender. The latter group invoked hierarchal models of social stratification common throughout the ancient world.¹⁴ A number of jurists and caliphs apparently favored these hierarchal models both in theory and in practice.¹⁵ For example, many

non-Muslims who migrate to the Arabian Peninsula and other centers of Muslim power and society. See 'Abd al-Raḥmān b. Qudāma, *al-Sharḥ al-kabīr 'alā matn al-Muqni'*, 12 vols. (Beirut: Dār al-Kitāb al-'Arabī, n.d.), 10:621.

14 On state policies that favored some religions and disadvantaged others, see Mary Beard, John North, and Simon Price, *Religions of Rome*, 2 vols. (Cambridge: Cambridge University Press, 2004), 1:228-44, 371-75; Averil Cameron, *The Mediterranean World in Late Antiquity, AD 395-700* (London: Routledge, 2012), 72-74, 182. On marriage practices that disadvantaged women, see Marilyn Yalom, *A History of the Wife* (New York: HarperCollins, 2001), 1-39. On disparities in class and the institution of slavery, see Cameron, *Mediterranean World*, 88-97, 102; Isaac Mendelsohn, *Slavery in the Ancient Near East* (New York: Oxford University Press, 1978). On ethnocentrism in the Ancient Near East and negative assumptions about blackness, see David Goldenberg, *The Curse of Ham: Race and Slavery in Early Judaism, Christianity, and Islam* (Princeton, NJ: Princeton University Press, 2003), 47-50, 82-92, 96-112; Bernard Lewis, *Race and Slavery in the Middle East: An Historical Enquiry* (New York: Oxford University Press, 1992), 28-42, 50-61, 85-98.

15 Some legal reports stipulate lower levels of financial compensation for injuries or waive the death penalty in wrongful death suits on the basis of gender, religion, or social status. See Ibn 'Abd al-Barr, *al-Istidhkar*, 8 vols. (Beirut: Dār al-Kutub al-'Ilmiyya, 2000), 8:174, 177; Ibn Abī Shayba, *Muṣannaḥ Ibn Abī Shayba fī 'l-aḥādīth wa'l-āthār*, ed. Sa'īd al-Laḥḥām, 8 vols. (Beirut: Dār al-Fikr, 1989), 6:361-62, 366-67, 369; al-Shawkānī, *Nayl al-awṭār*, 7:152-53, 158, 160, 221-22, 225. See also *EP*, s.v. Diya (E. Tyan). 'Umar reportedly considered a person's lineage, ethnicity, and social status important elements in determining suitability for marriage and the order in which stipends were distributed from the state treasury. On marriage, see 'Abd al-Razzāq al-Ṣan'ānī, *al-Muṣannaḥ*, 7:152, 154; al-Bayhaqī, *al-Sunan al-kubrā*, 7:133; al-Dāraquṭnī, *Sunan*, 3:206; 'Abd al-Raḥmān b. Abī Ḥātim al-Rāzī, *al-Jarḥ wa'l-ta'dīl*, 9 vols. (Beirut: Dār Iḥyā al-Turāth al-'Arabī, 1980), 2:124; Ibn Abī Shayba, *Muṣannaḥ*, 3:466, 7:557; Ibn Qudāma, *al-Mughnī*, 7:375; al-Nawawī, *al-Majmū' sharḥ al-Muhadhdhab*, 20 vols. (Cairo: Idārat al-Ṭibā'a al-Muniriyya, 1925), 16:179. On the distribution of stipends, see al-Balādhurī, *Futūḥ al-buldān*, 3:549-52; al-Bayhaqī, *al-Sunan al-kubrā*, 6:364-65; Muḥammad b. Sa'd, *al-Ṭabaqāt al-kubrā*, 8 vols. (Beirut: Dār Ṣādir, 1957-68), 3:295-98; al-Nawawī, *al-Majmū'*, 19:380; Muḥammad b. Jarīr al-Ṭabarī, *Tārīkh al-Ṭabarī = Ta'rikh al-umam wa'l-mulūk*, 8 vols. (Beirut: Mu'assasat al-'Alamī, 1983), 3:278. See also Crone, "Mawālī and the Prophet's Family," 170. On restrictions and challenges faced by women in early Islamic history, see Leila Ahmed, *Women and Gender in Islam: Historical*

jurists upheld the Ancient Near Eastern practice of giving wronged slaves only half the financial compensation due to free victims in lawsuits.¹⁶

By contrast, some Companions, the Khawārij, and a few early jurists preferred egalitarian principles in debates about law and governance. For example, the Khawārij considered lineage irrelevant to debates about the necessary qualities of a ruler:¹⁷ a Muslim distinguished him- or herself through piety alone. Some proto-Sunni jurists rejected differentiation between males and females, Muslims and non-Muslims, and free individuals and slaves in determining the appropriate level of punishment and compensation in wrongful death or injury lawsuits.¹⁸ As evidence, they cited the legal rulings of ‘Abd Allāh b. Mas‘ūd and ‘Alī b. Abī Ṭālib, who made no such differentiation in judging these

Roots of a Modern Debate (New Haven, CT: Yale University Press, 1992), 67-93. On slaves and clients, see Lewis, *Race and Slavery*, 3-15, 28-42, 50-61, 85-98. On slaves and women in Muslim legal frameworks pertaining to sexual ethics, see Kecia Ali, *Marriage and Slavery in Early Islam* (Cambridge: Harvard University Press, 2010).

16 In ancient Hittite law, slaves received half of what was due to a free person. See Harry Hoffner, “Hittite Laws,” in Martha Roth, *Law Collections from Mesopotamia and Asia Minor* (Atlanta: Scholars Press, 1997), 217-18. For references to Islamic law, see above, n. 15.

17 Abū Manṣūr ‘Abd al-Qāhir al-Baghdādī, *al-Farq bayna ‘l-firaq* (Beirut: Dār al-Ma‘rifa, 1994), 21; Ibn Ḥazm, *Kitāb al-Fiṣal fi ‘l-milal wa‘l-ahwā’ wa‘l-niḥal*, 5 vols. (Beirut: Dār al-Ṣādir, 1974), 2:113; al-Nāshī’ al-Akbar (attrib.), *Masā’il al-imāma wa-muqtaṭiḥāt min al-kitāb al-awsaṭ fi ‘l-maqālāt*, in *Frihe mu‘tazilitische Häresiographie*, ed. Josef van Ess (Beirut: F. Steiner, 1971), 68. See also Patricia Crone, *God’s Rule: Government and Islam* (New York: Columbia University Press, 2004), 57. In agreement with early Khārijī doctrine, Ibādīs explicitly reject descent from Quraysh and lineage in general as a criterion for the imāmate, a position reflected in the history of Ibādī imāms and doctrinal discussions on the qualifications of a legitimate imām. See Abū ‘Ammār ‘Abd al-Kāfi, *Ārā’ al-Khawārij al-kalāmiyya: al-Mūjaz*, ed. ‘Ammār Ṭālibī, 2 vols. (Algiers: al-Sharika al-Waṭaniyya, 1978), 2:223-61; Muḥammad b. Sa‘īd al-Kadamī, *al-Mu‘tabar*, 4 vols. ([Muscat]: Wizārat al-Turāth al-Qawmī wa‘l-Thaqāfa, 1984), 2:158-65; Aḥmad b. ‘Abd Allāh al-Kindī, *al-Muṣannaḥ*, 38 vols. ([Muscat]: Wizārat al-Turāth al-Qawmī wa‘l-Thaqāfa, 1982), 10:56-57, 68; Muḥammad b. Sa‘īd al-Qalhātī, *al-Kashf wa‘l-bayān*, 2 vols. (Muscat: Wizārat al-Turāth al-Qawmī wa‘l-Thaqāfa, 1980), 2:339, 355, 368; *al-Sīyar wa‘l-jawābāt li-‘ulamā’ wa-a‘immat ‘Umān*, ed. Sayyida Ismā‘il Kāshif, 2 vols. ([Muscat]: Wizārat al-Turāth al-Qawmī wa‘l-Thaqāfa, 1989), 2:175-78, 187, 313-15. See also Adam Gaiser, *Muslims, Scholars, Soldiers: The Origin and Elaboration of the Ibādī Imāmate Traditions* (Oxford: Oxford University Press, 2010), 38, 42, 46-47.

18 Ibn Abī Layla, Ḍāhirīs such as Dāwūd b. ‘Alī b. Khalaf, and a few other authorities supported the equal treatment of all people in these types of cases; Abū Ḥanīfa agreed with them with regard to suits involving wrongful death, but not injury. See Ibn ‘Abd al-Barr, *al-Istidhkārah*, 8:175; al-Shawkānī, *Nayl al-awṭār*, 7:153, 158, 160, 222-24, 227. Opposing a near consensus, Abū Bakr al-Aṣamm and Ibn ‘Ulayya famously argued that men and women are entitled to equal compensation; see Ibn Qudāma, *al-Mughnī*, 9:532; al-Nawawī, *al-Majmū’*, 19:54.

types of cases.¹⁹ ‘Alī appears as a paragon of egalitarianism in a number of cases.²⁰ In contrast to at least two of his predecessors, ‘Alī reportedly appointed former slaves and clients as governors and distributed state stipends equally among his subjects, dispensing with the hierarchal model based on tribal affiliation.²¹ ‘Alī also opposed the enslavement and sale of non-Arabs after the conquest of Persia.²²

Early Muslims transmitted *ḥadīth* that portray the Arabs as people chosen by God and commanded the faithful to love and venerate them.²³ These reports offer different explanations for this honor. Some texts cite God’s appointment

19 In a number of reports, Ibn Mas‘ūd and ‘Alī held that the compensation for wrongful injury or death is the same regardless of the victim’s gender, religion, or social status. See Ibn Abī Shayba, *Muṣannaf*, 6:360-61, 365, 367.

20 Intisar Rabb, “Doubt’s Benefit: Legal Maxims in Islamic Law” (PhD diss., Princeton University, 2009), 136-53. As often happens with the Prophet Muḥammad and other famous authorities, Muslims cite ‘Alī in support of an opinion as well as its opposite. For reports in which ‘Alī supports social hierarchies by denying that a Muslim or a free man may be executed for the killing of a non-Muslim or a slave, respectively, see Ibn Abī Shayba, *Muṣannaf*, 6:363-64, 369; al-Shawkānī, *Nayl al-awṭār*, 7:150. For a report in which ‘Alī disregards the social status of those involved, see Ibn Abī Shayba, *Muṣannaf*, 6:369.

21 Regarding ‘Alī’s egalitarian fiscal policies, see Aḥmad b. Yaḥyā al-Balādhurī, *Ansāb al-ashraf*, ed. Muḥammad Bāqir al-Maḥmūdī, 13 vols. (Beirut: Mu’assasat al-‘Alamī, 1974), 2:141; al-Bayhaqī, *al-Sunan al-kubrā*, 6:348-49; Ibn Abī ‘l-Ḥadīd, *Sharḥ Nahj al-balāgha*, 20 vols. (Qum: Mu’assasat Maṭbū‘āti-i Ismā‘īliyyān, 1983), 2:197, 200-201, 203, 8:111; Abū Ja‘far al-Iskāfī, *al-Mi‘yār wa’l-muwāzana fi faḍā’il al-Imām Amīr al-Mu‘minīn ‘Alī b. Abī Ṭālib, wa-bayān afḍaliyyatihī ‘alā jamī‘ al-‘ālamīn ba‘da ‘l-anbiyā’* (Beirut: Maḥmūdī li’l-Ṭibā’a wa’l-Nashr, 1981), 113-14; al-Shawkānī, *Nayl al-awṭār*, 8:235; Ibn Shahrāshūb, *Manāqib Āl Abī Ṭālib*, 3 vols. (Qum: al-Maṭba‘a al-‘Ilmiyya, 1959), 1:378; Muḥammad b. Ya‘qūb al-Kulaynī, *al-Kāfi*, 8 vols. (Tehran: Dār al-Kutub al-Islāmiyya, 1968), 4:31, 8:69; al-Qāḍī al-Nu‘mān, *Da‘ā’im al-Islām*, 2 vols. (Cairo: Dār al-Ma‘ārif, 1963), 1:384; Ibrāhīm b. Muḥammad al-Thaqafī, *al-Ghārāt*, 2 vols. (Tehran: Anjuman-i Āthār-i Millī, 1975), 1:70, 75. ‘Alī reportedly appointed ‘Abd al-Raḥmān b. Abzī, a client of Nāfi‘ b. ‘Abd al-Ḥārith al-Khuzā‘ī, as the governor of Khurāsān and Ziyād b. Abih as governor of Fars. Ziyād’s father was unknown; his mother Sumayya had been a slave of al-Ḥārith b. Kalada al-Thaqafī. On the appointment of these governors, see al-Dhahabī, *Ta’rikh al-Islām wa-wafayāt al-mashāhīr wa’l-a’lām*, 52 vols. (Beirut: Dār al-Kitāb al-‘Arabī, 1998), 4:208; Ibn Ḥajar al-‘Asqalānī, *Taqrīb al-Tahdhīb*, 2 vols. (Beirut: Dār al-Kutub al-‘Ilmiyya, 1995), 1:559-60.

22 Ibn Rustam al-Ṭabarī, *Dalā’il al-imāma* (Qum: Mu’assasat al-Bi’tḥa, 1993), 194-96; Ibn Shahrāshūb, *Manāqib*, 3:207-8. See also Ja‘far Murtaḍā, al-‘Āmilī, *al-Ṣaḥīḥ min sīrat al-imām ‘Alī: al-Murtaḍā min sīrat al-Murtaḍā*, 20 vols. (Beirut: al-Markaz al-Islāmī li’l-Dirāsāt, 2009), 13:311-21.

23 Aḥmad b. al-Ḥusayn al-Bayhaqī, *Shu‘ab al-īmān*, 7 vols. (Beirut: Dār al-Kutub al-‘Ilmiyya, 1990), 2:229-34; Muḥammad b. ‘Abd Allāh al-Ḥākīm al-Naysābūrī, *al-Mustadrak ‘alā ‘l-ṣaḥīḥayn wa-bi-dhāylihī al-Talkhīṣ*, 4 vols. (Beirut: Dār al-Ma‘rifa, 1986), 4:86-87; al-Haythamī, *Majma‘ al-zawā‘id*, 10:52-53; Muḥammad b. ‘Īsā al-Tirmidhī, *Sunan al-Tirmidhī = al-Jāmi‘ al-ṣaḥīḥ*, 5 vols. (Beirut: Dār al-Fikr, 1983), 5:380-82.

of Ishmael as the father of all Arabs (although most genealogists did not consider Qaḥṭānī Arabs to be his descendants), His selection of Arabic as the most appropriate language for the Qur'ān, and His recognition of the Arabs as the noblest people fit to give birth to His final prophet, Muḥammad.²⁴ Some *ḥadīths* laud other ethnic groups, but reports praising the Arabs differ from these in their sheer number and in the legal privileges that they grant to Arabs.²⁵ Further, texts that praise other ethnic groups are tempered by counterreports that condemn these same groups.²⁶ By contrast, on those occasions when Arabs are censured in *ḥadīth*, it is mostly for their tribalism and unbelief before the appearance of Islam.²⁷

Legal Rulings Specific to Quraysh

Muḥammad was an Arab because he belonged to the large, Meccan tribe of Quraysh. The Qur'ān devotes one chapter (Q106) to describing the favors that God bestowed upon its members, and *ḥadīth* singling out the tribe for praise and privilege outnumber those that extol the Arabs.²⁸ The reports encourage Muslims to honor and exalt members of Quraysh. In one famous report, Muḥammad prophesizes that twelve rulers (or imāms) would succeed him in

- 24 Al-Bayhaqī, *Shu'ab al-īmān*, 2:229-34; al-Ḥākim al-Naysābūrī, *al-Mustadrak*, 4:86-87.
- 25 Many jurists considered Arabs to be superior to non-Arabs. See Ibn Ḥajar al-'Asqalānī, *Fath al-bārī bi-sharḥ Ṣaḥīḥ al-Bukhārī*, 13 vols. (Beirut: Dār al-Ma'rifa, [1980]), 9:107-8; Ibn Taymiyya, *Majmū' fatāwā*, 19:29; 'Abd Ra'ūf al-Munāwī, *Fayḍ al-qadīr sharḥ al-Jāmi' al-ṣaḡhīr min aḥādīth al-baḥīr al-nadhīr*, 6 vols. (Beirut: Dār al-Kutub al-'Ilmiyya, 1994), 2:265, 4:675, 676 (quoting Ibn Taymiyya at length); al-Nawawī, *Ṣaḥīḥ Muslim bi-sharḥ al-Nawawī*, 18 vols. (Beirut: Dār al-Kitāb al-'Arabī, 1987), 16:80.
- 26 For literature variously praising and condemning other ethnicities, see al-Ḥākim al-Naysābūrī, *al-Mustadrak*, 4:87-88; al-Haythamī, *Majma' al-zawā'id*, 4:235; Ibn al-Jawzī, *al-Mawḍū'āt*, 3 vols. (Medina: al-Maktaba al-Salafiyya, 1966), 2:232-34; al-Munāwī, *Fayḍ al-qadīr*, 4:95; al-Tirmidhī, *Sunan*, 5:382-83.
- 27 In addition to criticizing Arab pagans, the Qur'ān criticizes Arab converts to Islam in a number of passages. See Q9:97, Q9:101, Q48:26. For *ḥadīth*, see Aḥmad b. Ḥanbal, *al-Musnad wa-bi-hāmishihi muntakhab Kanz al-'ummāl fī sunan al-aqwal wa'l-a'māl*, 6 vols. (Beirut: Dār Ṣādir, 1969), 5:136; Badr al-Dīn al-'Aynī, *Umdat al-qārī: Sharḥ Ṣaḥīḥ al-Bukhārī*, 25 vols. (Cairo: Idārat al-Ṭibā'a al-Muniriyya, 1929), 16:87-88; Muḥammad b. Ismā'īl al-Bukhārī, *Ṣaḥīḥ al-Bukhārī*, 8 vols. (Beirut: Dār al-Fikr, 1981), 4:160; al-Nasā'ī, *al-Sunan al-kubrā*, ed. 'Abd al-Ghaffār S. Bindārī and S. Kasrawī Ḥasan, 6 vols. (Beirut: Dār al-Kutub al-'Ilmiyya, 1991), 5:272, 6:412; al-Kulaynī, *al-Kāfī*, 2:308.
- 28 For *ḥadīth* on the merits of Quraysh, see Aḥmad b. al-Ḥusayn al-Bayhaqī, *Manāqib al-Shāfi'i* (Cairo: Maktabat Dār al-Turāth, 1970), 17-37; al-Haythamī, *Majma' al-zawā'id*, 10:23-28, 53; Ibn Abī Shayba, *Muṣannaf*, 7:544-47; al-Shāfi'i, *al-Umm*, 1:188.

authority, all from Quraysh.²⁹ On the basis of these reports, most classical Sunni jurists specifically identified descent from Quraysh as a prerequisite for any candidate for the caliphate.³⁰

Some jurists distinguished Qurashī women from others in discussions of menopause, which is pertinent to rulings regarding ritual ablutions, pregnancy, marriage, and divorce. While jurists generally assumed that women aged fifty years or more had reached menopause, for Qurashī women the minimum age was sixty.³¹ This presumption may reflect a desire among jurists to exalt middle-aged Qurashī women who were still considered desirable candidates for marriage due to their noble status. Since they were afforded the opportunity to do so, some of these women continued to marry and give birth late in life.³²

Muḥammad was a descendant of Hāshim b. ‘Abd al-Manāf, the eponymous father of the Hāshimid clan. The Hāshimids were one of many branches of Quraysh, but since they claimed Muḥammad among their number, it should come as no surprise that they were singled out for praise in *ḥadīth* literature

29 This report appears in many *ḥadīth* collections. See Abū Dāwūd al-Sijistānī, *Sunan Abī Dāwūd*, ed. Sa‘īd M. al-Laḥḥām, 2 vols. (Beirut: Dār al-Fikr, 1990), 2:309; Aḥmad b. Ḥanbal, *al-Musnad*, 5:87-101; al-Bukhārī, *Ṣaḥīḥ*, 8:127; Muslim, *al-Jāmi‘ al-ṣaḥīḥ*, 8 vols. (Beirut: Dār al-Fikr, 1974), 6:3-4; Sulaymān b. Aḥmad al-Ṭabarānī, *al-Mu‘jam al-kabīr*, ed. Ḥamdī ‘Abd al-Majīd Salafī, 20 vols. (Beirut: Dār Iḥyā’ al-Turāth al-‘Arabī, 2002), 2:195-99, 253-55; al-Tirmidhī, *Sunan*, 3:340; Ibn Shahrāshūb, *Manāqib*, 1:248-51; Ibn Bābawayh al-Qummī, *Kitāb al-Khiṣāl* (Qum: Manshūrāt Jamā‘at al-Mudarrisīn fi ‘l-Ḥawza al-‘Ilmiyya, 1983), 469-75.

30 Abū Manṣūr ‘Abd al-Qāhir al-Baghdādī, *Kitāb Uṣūl al-dīn* (Istanbul: Madrasat al-Ilāhiyyāt bi-Dār al-Funūn al-Tūrkiyya, 1928), 275; Abū Bakr al-Bāqillānī, *al-Tamhīd* (Beirut: Mu‘assasat al-Kutub al-Thaqāfiyya, 1993), 471; Abū Bakr b. al-‘Arabī, *Aḥkām al-Qur‘ān*, ed. ‘Abd al-Qādir ‘Aṭṭā, 4 vols. (Beirut: Dār al-Kutub al-‘Ilmiyya, 1988), 4:153; Ibn Ḥazm, *al-Fiṣal*, 4:89; Imām al-Ḥaramayn al-Juwaynī, *Ghiyāth al-umam fi iltiyāth al-ḥulām* (Jeddah: Dār al-Minhāj, 2011), 256-58; al-Mas‘ūdī, *Murūj al-dhahab wa-ma‘ādin al-jawhar*, 4 vols. (Qum: Manshūrāt Dār al-Hijra, 1984), 3:224; al-Māwardī, *al-Aḥkām al-sultāniyya*, 6; al-Nawawī, *Sharḥ Ṣaḥīḥ Muslim*, 12:200.

31 Ibn Qudāma, *al-Sharḥ al-kabīr*, 1:319; Muḥammad b. al-Ḥasan al-Ṭūsī, *al-Mabsūṭ fi fiqh al-Imāmiyya*, 8 vols. (Tehran: al-Maktaba al-Murtaḍawiyya li-Iḥyā’ al-Āthār al-Ja‘fariyya, 1967), 1:42. Al-Mufid notes that Nabatean women reportedly do not reach menopause before the age of sixty. See al-Shaykh al-Mufid, *al-Muqni‘a* (Qum: Mu‘assasat al-Nashr al-Islāmī, 1989), 533.

32 For example, after the death of her first husband, al-Ḥasan II b. al-Ḥasan, in 97/715, Fāṭima bt. al-Ḥusayn (d. 110/728) married ‘Abd Allāh b. ‘Amr b. ‘Uthmān and gave birth to a son, Muḥammad al-Dībāj. She would have been in her late fifties at the time of her second marriage. On Fāṭima and al-Ḥasan II, see al-Dhahabī, *al-Kāshif fi ma‘rifat man la-hu riwāya fi al-Kutub al-Sitta*, 2 vols. (Jeddah: Dār al-Qiblah li’l-Thaqāfah al-Islāmiyya; Mu‘assasat ‘Ulūm al-Qur‘ān, 1992), 1:322, 2:515; Khayr al-Ziriklī, *al-A‘lām*, 8 vols. (Beirut: Dār al-‘Ilm li’l-Malāyīn, 1980), 2:187, 5:130.

and granted special privileges in legal texts, like the other two groups to which Muḥammad belonged (Arabs and Quraysh). Broad acceptance of pro-Hāshimid *ḥadīths* as authentic led both Sunnis and Shi'is to endorse specific laws and social customs as applying only to Hāshimids. One objective of pro-Hāshimid hagiography was to convince readers that members of the Prophet's family were a revered social class and subgroup of the community. Since reverence for Hāshimids successfully permeated both Sunni and Shi'i conceptions of law, this goal was evidently achieved.

After Muḥammad's death, the Hāshimids split into two major branches, the Abbasids and the 'Alids. Both branches and their respective partisans circulated pro-Hāshimid *ḥadīth*. The Abbasids were descendants of the Prophet's uncle, 'Abbās b. 'Abd al-Muṭṭalib, while the 'Alids traced their descent from 'Alī b. Abī Ṭālib, who had many children, some from his first wife Fāṭima, the daughter of Muḥammad, and others from later marriages. Within this group, the noblest of lineages in most Muslim societies are the Ḥasanids and Ḥusaynids, 'Alids who claim direct descent from the Prophet Muḥammad through al-Ḥasan and al-Ḥusayn, the two sons of Fāṭima and 'Alī. In a few cases, jurists agreed that laws that applied specifically to the person of Muḥammad also applied to his descendants and members of the Hāshimid clan. In other cases, jurists differed about whether or not a certain law could be extended to Muḥammad's descendants. The following section examines laws specific to Muḥammad. I then turn to those exclusive to Hāshimids.

Laws Specific to the Prophet Muḥammad

In their legal works, Muslim jurists customarily devote a section of the chapter on marriage to *aḥkām* that applied exclusively to the Prophet Muḥammad. Some of these laws and customs are relevant to this study of the Prophet's Household. The summary below is drawn largely from a section of the *Mukhtaṣar* of Khalīl b. Ishāq (d. 767/1365), a treatise that provides readers with a simple synopsis of Islamic law.³³ In the *Mukhtaṣar* (and other legal treatises), the section on laws that apply exclusively to the Prophet appears in the chapter on marriage. The placement is odd, but not entirely unfounded: a considerable number of legal dispensations unique to the Prophet deal with his marital practices. This section of *Mukhtaṣar Khalīl* on laws and customs unique to the Prophet does not appear to discuss the subject in any perceivable order, so I reorganize it thematically below.

33 Khalīl b. Ishāq, *Mukhtaṣar Khalīl* (Beirut: Dār al-Kutub al-'Ilmiyya, 1995), 98.

First, certain laws pertain to his personal piety and conduct. The Prophet was required to offer a number of additional prayers throughout the day and in the evening. He was to maintain strict consistency in all actions. It was unlawful for him to act deceitfully or to hide his true beliefs. He was permitted to fast through the night and it was his custom to fast for a number of days consecutively without consuming food or drink. It was inappropriate for him to recline while eating. He did not consume raw garlic or other foods that cause offensive breath.

Second, some of his responsibilities pertain to communal and financial matters. The Prophet was obliged to correct any injustice he encountered in his lifetime. He was obliged to repay the loans of a debtor if he or she died before paying them. He was prohibited from enriching himself or his family with community alms or voluntary donations. It was also unlawful for him to bestow a favor in expectation of a future return or in order to create a debt relationship with another person. In matters of war, he was obliged to fight armies that were two or more times as large as his own. It was unlawful for him to remove his cuirass until he had engaged the enemy in battle. It was lawful for him to wage war in Mecca and enter it without *iḥrām* (the rite of consecration). It was his right to appropriate a share of the spoils of war, known as the *ṣafī*, before soldiers received their shares.³⁴ He also possessed a personal share in the *khums* (one-fifth of the booty). It was lawful for him to designate public lands for private use³⁵ and to act as a judge or witness in cases involving himself or his children. According to Sunni jurists, his wealth and property could not be inherited.³⁶

Lastly, some laws pertain to the Prophet's marital practices. It was permissible for him to marry more than four wives and to favor some in the allocation of his time.³⁷ He could marry while observing *iḥrām* and without the prerequisites of a valid contract, such as a dower, witnesses or the permission of a

34 Modarressi, *Kharāj in Islamic Law*, 8-10.

35 Generally, lands rich with natural resources such as wild vegetation and water were to remain free for public use. However, it was lawful for the Prophet to designate such lands as private property. See al-Ḥillī, *Tadhkirat al-fuqahā'*, 2:411; 'Abd al-Raḥmān b. Qudāma, *al-Sharḥ al-kabīr*, 6:182-83. See also *al-Mawsū'a al-fiqhiyya*, 45 vols. (Kuwait: Wizārat al-Awqāf wa'l-Shu'ūn al-Islāmiyya, 1986), 18:85-88.

36 See al-Ḥaṭṭāb, *Mawāhib al-Jalīl li-sharḥ Mukhtaṣar Khalīl*, 8 vols. (Beirut: Dār al-Kutub al-'Ilmiyya, 1995), 5:5; Khalīl b. Ishāq, *Mukhtaṣar Khalīl*, 98; al-Anṣārī, *Asnā' l-maṭālib*, 3:104; al-Ḥillī, *Tadhkirat al-fuqahā'*, 2:565-68; Muḥammad Bāqir al-Majlisī, *Biḥār al-anwār al-jāmi'a li-durar akhbār al-a'imma al-aṭḥār*, 110 vols. (Beirut: Mu'assasat al-Wafā', 1983), 16:382-401.

37 Jurists stipulated that a polygamous husband generally is required to spend an equal amount of time with each wife, but this requirement did not apply to the Prophet. See

guardian. He could not marry a slave or someone who had not converted to Islam.³⁸ He could not divorce his wives, and his widows were prohibited from ever marrying again.³⁹

Jurists disagreed as to whether some of these laws pertained uniquely to the Prophet. For example, some argued that it is lawful for all Muslims to enter Mecca without the *ihrām* for purposes other than pilgrimage.⁴⁰ Some Shi'i jurists held that a valid marriage contract does not require witnesses or the permission of a guardian,⁴¹ interpreting the dispensation given to Muḥammad as a legal norm that applies to all Muslims. Shi'is also disputed the claim that Muḥammad and other prophets before him disinherited their families. They believed that many of the financial obligations and privileges that existed in the Prophet's lifetime applied to his kin after his death. For example, the Prophet prohibited himself and his family from enriching themselves with community alms (*zakāt/ṣadaqa*).⁴² Many jurists maintained that the rule remained in effect after his death. This prohibition and other laws applicable specifically to the Prophet's Household are discussed in the sections that follow.

al-'Allāma Ḥasan b. Yūsuf al-Ḥillī, *Tadhkirat al-fuqahā'*, 2 vols. (Tehran: al-Maktaba al-Murtaḍawiyya li-Iḥyā' al-Āthār al-Ja'fariyya, 1969), 2:568.

38 According to Zakariyyā al-Anṣārī (d. 926/1520), the Prophet did not marry non-Muslims or slaves for two reasons. First, the Qur'ān and the community honor the Prophet's wives as "Mothers of the Faithful," and it would thus be illogical for them to not also be Muslims. Second, the option of marrying a woman enslaved to another person was considered a last resort for an unmarried man who could not afford the dower of a free woman. Jurists discouraged such marriages since the slave owner could claim as property any offspring from the union. Since a dower was not required of the Prophet, God protected him from such circumstances. See Zakariyyā al-Anṣārī, *Asnā 'l-maṭālib sharḥ Rawḍ al-ṭālib*, 4 vols. (Cairo: al-Maṭba'a al-Maymaniyya, 1895), 3:100. Al-Anṣārī excludes those wives of the Prophet who previously had been enslaved to others since they possessed no ties to their previous owners when they entered the Prophet's home as his concubine or wife. It was also the Prophet's practice to free women from slavery before concluding a marriage contract with them, as in the case of his wife Ṣafiyya. See al-Bukhārī, *Ṣaḥīḥ*, 6:121; Ibn Qudāma, *al-Mughnī*, 7:361; Muslim, *Ṣaḥīḥ*, 4:146; al-Nawawī, *al-Majmū'*, 15:330.

39 Q33:53 along with its exegesis is usually cited as a proof-text.

40 Al-Sayyid al-Sābiq, *Fiqh al-sunna*, 3 vols. (Beirut: Dār al-Kitāb al-'Arabī, 1971), 1:691-92.

41 Al-Ḥillī, *Tadhkirat al-fuqahā'*, 2:568; Muḥammad b. al-Ḥasan al-Ṭūsī, *al-Khilāf*, 6 vols. (Qum: Mu'assasat al-Nashr al-Islāmī, 1996), 4:257-63.

42 Abū Dāwūd al-Sijistānī, *Sunan*, 2:28; Aḥmad b. Ḥanbal, *al-Musnad*, 1:200-201, 4:166; al-Bukhārī, *Ṣaḥīḥ*, 2:135, 4:36; Ibn Abī Shayba, *Muṣannaf*, 3:103-5; Muslim, *Ṣaḥīḥ*, 3:117-19; al-Nasā'ī, *Sunan al-Nasā'ī*, 8 vols. (Beirut: Dār al-Fikr, 1930), 5:106; al-Tirmidhī, *Sunan*, 3:122.

Laws Specific to the Prophet's Family

Like the Arabs, Quraysh, and Muḥammad himself, the Hāshimids and Muḥammad's progeny are exalted in *faḍā'il* literature and in exegesis of the Qur'ān.⁴³ Exegetes cite a number of Qur'ānic verses that refer directly or indirectly to the Prophet's kin as evidence of the latter's merit and virtue.⁴⁴ The obligation to respect and love members of the Prophet's family is a theme that appears in both Sunni and Shi'i exegesis and *ḥadīth*.⁴⁵ Some jurists consider daily veneration of the Prophet's kin a legal obligation. Ḥanbalī, Shi'i, and some Shāfi'i jurists regard the recitation of salutations and blessings on the Prophet and his family as an obligatory part of daily worship.⁴⁶ In addition, the Prophet's relatives played a large role in the early religious and political history of Islam.

43 According to Sunni *ḥadīth* and exegetical works, several verses of the Qur'ān refer to the Prophet's Household. See al-Ḥākim al-Ḥaskānī, *Shawāhid al-tanzīl li-qawā'id al-tafḍīl fī'l-āyāt al-nāzila fī Ahl al-Bayt*, ed. M. Bāqir Maḥmūdī, 2 vols. (Tehran: Mu'assasat al-Ṭaba' wa'l-Nashr, 1990); Ibn Mardawayh, *Manāqib 'Alī b. Abī Ṭālib wa-mā nazala min al-Qur'ān fī 'Alī* (Qum: Dār al-Ḥadīth, 2001). See also Murṭaḍā al-Firūzābādī, *Faḍā'il al-khamsa min al-ṣiḥāh al-sitta wa-ghayrihā min al-kutub al-mu'tabara 'inda ahl al-sunna wa'l-jamā'a*, 3 vols. (Beirut: Mu'assasat al-A'lamī li'l-Maṭbu'āt, 1973), 1:254-96, 333-37, 388-91, 2:66-69. For representative works in the *faḍā'il* genre, see Ṣadr al-Dīn Ibrāhīm b. Sa'd al-Dīn al-Ḥammūī, *Farā'id al-Simṭayn: Fī faḍā'il al-Murtaḍā wa'l-Batūl wa'l-Sibṭayn wa'l-a'imma min dhurriyyatihim*, ed. M. Bāqir Maḥmūdī, 2 vols. (Beirut: Mu'assasat al-Maḥmūdī, 1978); Muḥammad b. Yūsuf al-Kanjī, *Kifāyat al-ṭālib fī manāqib 'Alī b. Abī Ṭālib wa-yalīhi al-Bayān fī akhbār Ṣāhib al-Zamān* (Tehran: Dār Ihyā' Turāth Ahl al-Bayt, 1984); Muwaffaq b. Aḥmad Makki al-Khuwārizmī, *al-Manāqib* (Qum: Mu'assasat al-Nashr al-Islāmī al-tābi'a li-Jamā'at al-Mudarrisīn, 1993); Sulaymān al-Qundūzī, *Yanābī' al-mawadda*, 3 vols. (Qum: Dār al-Uswa, [1995]).

44 For relevant Sunni and Shi'i reports, see al-Majlisī, *Biḥār al-anwār*, 23:167ff. See also Wilferd Madelung, *The Succession to Muḥammad: A Study of the Early Caliphate* (New York: Cambridge University Press, 1996), 13-16.

45 Relevant texts include *ḥadīths* from the Prophet and exegetical reports regarding Q42:23; see 'Alī b. Muḥammad b. al-Ṣabbāgh, *al-Fuṣūl al-muḥimma fī ma'rīfat al-a'imma*, 2 vols. (Qum: Dār al-Ḥadīth, 2001); Fakhr al-Dīn al-Rāzī, *al-Tafsīr al-kabīr = Maḥfātīh al-ghayb*, 32 vols. (Beirut: Dār Ihyā' al-Turāth al-'Arabī, 2001), 27: 594-96; al-Majlisī, *Biḥār al-anwār*, 23:228-54.

46 Both Sunni and Shi'i Muslims are directed to send salutations upon the Prophet and his family by reciting the following phrase in daily worship: *Allāhumma ṣalli 'alā Muḥammad wa-āl Muḥammad ...* See al-Bayhaqī, *Shu'ab al-īmān*, 2:224; Ibn Ḥajar al-'Asqalānī, *Fath al-bārī*, 11:139-42; Ibn Qudāma, *al-Mughnī*, 1:581; al-Shāfi'i, *al-Umm*, 1:140-41; al-Shawkānī, *Nayl al-awṭār*, 2:319-25; al-Muḥaqqiq Ja'far b. al-Ḥasan al-Ḥillī, *al-Mu'tabar fī sharḥ al-Mukhtaṣar*, 2 vols. (Qum: Mu'assasat Sayyid al-Shuhadā', 1985), 2:225-27.

Many caliphs, insurrectionists, prominent jurists, and narrators of *ḥadīth* traced their descent from the clan of Hāshim, 'Alī, or the Prophet.⁴⁷

The Right of Inheritance and Usufruct

Inquiries into the rights of Muḥammad's family reportedly began immediately after his death with a conflict that put 'Alī and Fāṭima at odds with the first caliph. According to Sunni sources, including the *Ṣaḥīḥ* collections of al-Bukhārī and Muslim, 'Alī and Fāṭima refused to pledge allegiance to Abū Bakr for six months.⁴⁸ 'Alī withheld his endorsement on the grounds that he had been unfairly excluded from the process of selecting Muḥammad's successor, whereas Fāṭima did so because the first caliph denied her claims to *khums*, the usufruct of the Prophet's *ṣadaqāt* (charitable endowments), and his inheritance.⁴⁹

Fāṭima and other Hāshimids claimed that both the Qur'ān and the Prophet guaranteed their right to a share in the spoils of war and the Prophet's personal property as his heirs. In their disputes with Abū Bakr, 'Alī and Fāṭima reportedly appealed to Q19:6, "Let him inherit from me and inherit from the

47 On 'Alid history and hagiography, see Abū Naṣr al-Bukhārī, *Sirr al-silsila al-'Alawiyya*, ed. Muḥammad Ṣādiq Baḥr al-'Ulūm (Najaf: al-Maṭba'a al-Ḥaydariyya wa-Maktabatuhā, 1962); Abū 'l-Faraj al-Iṣbahānī, *Maqātil al-Ṭālibiyyin*, ed. Kāzīm Muẓaffar (Najaf: al-Maktaba al-Ḥaydariyya, 1965); Ḥumayd b. Aḥmad al-Maḥallī, *al-Ḥadā'iq al-wardiyya fī manāqib a'immat al-Zaydiyya*, 2 vols. (Sanaa: Maṭbū'āt Maktabat Markaz Badr al-'Ilmī wa'l-Thaqāfi, 2002); al-Shaykh al-Mufīd, *al-Irshād* (Beirut: Dār al-Mufīd, 1993); 'Alī b. Muḥammad al-'Alawī al-'Umarī, *al-Majdī fī ansāb al-Ṭālibiyyin*, ed. A. Mahdāvī Dāmghānī (Qum: Maktabat Āyat Allāh al-'Uzmā al-Mar'ashī al-Najafī, 1989). See also *EP*, s.v. 'Alids (B. Lewis) and the noted dynasties; Muḥsin al-Amīn, *A'yān al-Shī'a* (Beirut: Dār al-Ta'āruf, 1983); Mahdī al-Rajā'ī, *al-Muḥaddithūn min Āl Abī Ṭālib* (Qum: Ma'had al-Dirāsāt li-Taḥqīq Ansāb al-Ashrāf, 2007).

48 Al-Bayhaqī, *al-Sunan al-kubrā*, 6:300; al-Bukhārī, *Ṣaḥīḥ*, 5:82; Ibn Ḥibbān, *Ṣaḥīḥ Ibn Ḥibbān bi-tartīb Ibn Balbān*, 16 vols. (Beirut: Mu'assasat al-Risāla, 1993), 11:152-54; Muslim, *Ṣaḥīḥ*, 5:153-54; Sulaymān b. Aḥmad al-Ṭabarānī, *Musnad al-Shāmiyyin*, 4 vols. (Beirut: Mu'assasat al-Risāla, 1996), 4:198-99.

49 On 'Alī's refusal to pledge allegiance to the first caliph and on pro-'Alid contentions regarding early Islamic history, see S. Husain M. Jafri, *The Origins and Early Development of Shi'a Islam* (Karachi: Oxford University Press, 2000); Madelung, *Succession*. On the dispute between Fāṭima and Abū Bakr, see Ibn Ḥajar al-'Asqalānī, *Fath al-bārī*, 6:139-41; al-Nawawī, *Sharḥ Ṣaḥīḥ Muslim*, 12:69-82. See also *EP*, s.v. Fadak (L. Veccia Vaglieri); Abdulaziz Sachedina, "Al-Khums: The Fifth in the Imāmī Shī'ī Legal System," *Journal of Near Eastern Studies* 39:4 (1980): 275-89, at 283 n. 71. On Fadak and the polemics associated with it, see Ibn Abī 'l-Ḥadīd, *Sharḥ*, 6:46-50, 16:208-84.

family of Jacob ... ,” and to Q27:16, “Solomon inherited from David ...,” as evidence that a prophet’s offspring may legitimately inherit from him.⁵⁰

In response, Abū Bakr cited statements made by the Prophet which, he argued, gave him the right to confiscate Muḥammad’s estate and disinherit his family.⁵¹ According to Abū Bakr, the Prophet had affirmed that members of his Household should accept alms if they were ever in need after his death. However, this claim was inconsistent with reports about the Prophet strictly forbidding his family from utilizing community alms for personal use, a prohibition that was tied to their “status of purity.”⁵² Alms came from either monetary donations or properties that individual donors had designated as charitable public endowments. The state utilized the harvest and profits from these lands, known as *ḥabs* or *ṣadaqāt*, for the general good of the community, such as funding the security apparatus and making payments to needy recipients of *zakāt*.⁵³ The Prophet reportedly had forbidden his family members from such *ṣadaqāt*. In a famous report, the Prophet’s grandson, al-Ḥasan b. ‘Alī, comes across public *ṣadaqa* land, and the Prophet prohibits him from consuming any of its fruits.⁵⁴ By denying the inheritance claims of Fāṭima and the other Hāshimids, Abū Bakr transferred the Prophet’s properties into this category of state endowments forbidden to Hāshimids. If Fāṭima and her family were ever in need, according to the caliph, they would have access to public funds generated by these estates like any other member of the community, but they would not be granted exclusive rights to the lands. Any previous prohibitions on the use of alms came to an end with the Prophet’s death.

According to both Sunni and Shi‘i *ḥadīth*, Abū Bakr clearly refused to recognize the Prophet’s family as either heirs or beneficiaries of these estates. The

50 Ibn Sa‘d, *al-Ṭabaqāt al-kubrā*, 2:315; Raḍī al-Dīn ‘Alī b. Mūsā b. Ṭāwūs, *al-Ṭarā’if fi ma‘rifat madhāhib al-ṭawā’if* (Qum: Maṭba‘at al-Khayyām, 1979), 265; Aḥmad b. Abī Ṭāhir b. Ṭayfūr, *Kitāb Balāghāt al-nisā’* (Najaf: al-Maktaba al-Murtaḍawīyya, 1942), 17.

51 For example, see al-Balādhurī, *Futūḥ al-buldān*, 1:36. One important *ḥadīth* begins, “*lā nūrathu mā taraknā ṣadaqa*.” See al-Bukhārī, *Ṣaḥīḥ*, 5:25; Muslim, *Ṣaḥīḥ*, 5:153. See also Nebil Husayn, “The Memory of ‘Alī b. Abī Ṭālib in Early Sunni Thought” (PhD diss., Princeton University, 2016), 104-6; David S. Powers, *Studies in Qur’an and Ḥadīth: The Formation of the Islamic Law of Inheritance* (Berkeley: University of California Press, 1986), 123-28.

52 For a succinct summary of the conflict, see Madelung, *Succession*, 50-51. On a famous sermon attributed to Fāṭima regarding her disagreement with Abū Bakr, not mentioned by Madelung, see al-Amīn, *A’yān al-Shī‘a*, 1:314-19; Ibn Ṭāwūs, *al-Ṭarā’if*, 263-66; Ibn Ṭayfūr, *Balāghāt al-nisā’*, 12-20.

53 Gil, “Earliest *Waqf* Foundations,” 126-28. The yield from these endowments is a form of *ṣadaqa* that is distributed to the eight categories of people identified as recipients of *zakāt* in Q9:60.

54 Al-Bukhārī, *Ṣaḥīḥ*, 4:36; Muslim, *Ṣaḥīḥ*, 3:117. See also Gil, “Earliest *Waqf* Foundations,” 128.

crucial *ḥadīth* that Abū Bakr cited in his judgment regarding the Prophet's estates reads, "*lā nūrath mā taraknā ṣadaqa.*" The contentious statement may be read in two ways:

- (A) No one may inherit from us that which we leave behind as a *ṣadaqa* (*ṣadaqat^{an}*).
- (B) No one may inherit from us. That which we leave behind is a *ṣadaqa* (*ṣadaqat^{un}*).

In (A), *ṣadaqa* is in the accusative, and the Prophet states that his relatives may not inherit those specific lands that he has designated as endowments. Shi'is preferred this reading for a number of reasons.⁵⁵ First, it obviously does not disinherit the Prophet's family. Second, it does not contradict the aforementioned verses of the Qur'ān according to which relatives inherited from previous prophets such as David and Jacob. Third, this reading allows the Prophet's words to serve as a proof-text for a truism among jurists: Once a person designates a property as a public endowment, the property cannot (or should not) be inherited. In (B), *ṣadaqa* is in the nominative, and the Prophet explains that prophets, unlike the rest of the community, do not leave any property for their family to inherit. Any estate that belonged to the Prophet becomes a public endowment, severed of any connection to him (and hence his family) upon his death.⁵⁶ Sunnis opted for this reading, which vindicates the ruling of Abū Bakr.

After the deaths of Abū Bakr and Fāṭima, 'Alī and al-'Abbās b. 'Abd al-Muṭṭalib (the Prophet's uncle) continued to argue for their rights to the Prophet's estate with the second caliph, 'Umar b. al-Khaṭṭāb.⁵⁷ In contrast to Abū Bakr, 'Umar reportedly granted al-'Abbās and 'Alī the usufruct of some of these lands.⁵⁸ His judgment, endorsed by caliphs and jurists after him, most likely reflected a recognition of the previous restriction imposed by the Prophet on his family as well as other laws specific to the Household.

55 For example, see al-Shaykh al-Mufīd, *Risālat ḥawl al-ḥadīth nahnu ma'āshir al-anbiyā' lā nūrath* (Beirut: Dār al-Mufīd, 1993), 6-7, 19-24; Muḥammad Bāqir al-Ṣadr, *Fadak fī 'l-ta'rikh* ([Qum]: Markaz al-Ghadīr, 1994), 159-62. Ibn Ḥajar al-'Asqalānī appears to accept that Fāṭima may have understood the *ḥadīth* in this way; see Ibn Ḥajar al-'Asqalānī, *Fath al-bārī*, 6:140. Sunnis roundly reject this interpretation of the *ḥadīth*; see al-'Aynī, *Umdat al-qārī*, 15:20; Jalāl al-Dīn 'Abd al-Raḥmān al-Suyūṭī, *Tanwīr al-hawālik: Sharḥ 'alā Muwaṭṭa' Mālik* (Beirut: Dār al-Kutub al-'Ilmiyya, 1997), 715-16; Muḥibb al-Dīn al-Ṭabarī, *al-Riyāḍ al-naḍira fī manāqib al-'ashara*, 4 vols. (Beirut: Dār al-Kutub al-'Ilmiyya, 1984), 1:191.

56 See the previous note and Ibn Ḥajar al-'Asqalānī, *Fath al-bārī*, 12:3.

57 'Abd al-Razzāq al-Ṣan'ānī, *al-Muṣannaḥ*, 5:470-1; Muslim, *Ṣaḥīḥ*, 5:152-53.

58 Abū Dāwūd al-Sijistānī, *Sunan*, 2:23-24; Aḥmad b. Ḥanbal, *al-Musnad*, 1:6; al-Bukhārī, *Ṣaḥīḥ*, 4:42; Muslim, *Ṣaḥīḥ*, 5:155-56.

Prohibition on Utilizing *Zakāt*

“It is not for any prophet to embezzle. Whoso embezzleth will bring what he embezzled with him on the Day of Resurrection ...” (Q3:161)

Members of the early community reportedly understood Q3:161 to mean that the Prophet would never deceive his community in financial matters or embezzle its wealth.⁵⁹ The verse suggests that God would hold Muḥammad accountable on the Day of Judgment for any misappropriation of his community’s resources. This concern for financial propriety may have led Muḥammad to prohibit all members of his Household and the clan of Hāshim from enriching themselves with community alms (*zakāt*).⁶⁰ Perhaps he wished to earmark alms for the needs of the community alone and to safeguard himself and his family from any allegations of fraud. Centuries after Muḥammad’s death, many jurists continued to regard it as unlawful for Hāshimids to take any funds designated as *zakāt* for their personal use.⁶¹ The perpetual prohibition is tied to the apparent function of *zakāt* and to assumptions about the purity of Muḥammad’s Household in the sight of God.⁶² According to Q9:103 (discussed below), the payment of *zakāt* provides a means for community members to purify themselves from sin. It did not befit the Prophet or his family to consume wealth that the rest of the community had given in charity to purify themselves. Q33:33 describes the Prophet’s Household as pure (*ṭāhir, muṭahhar*), and Q9:103 describes the Prophet as someone who purifies others (*tuṭahhiruhum wa-tuzakkīhim*). Such pure folk would be dishonored by wealth understood to represent the “dregs of mankind” (*awsākh al-nās*).⁶³

59 Muḥammad b. Jarīr al-Ṭabarī, *Tafsīr al-Ṭabarī = Jāmi‘ al-bayān ‘an ta’wīl al-Qur‘ān*, 30 vols. (Beirut: Dār al-Fikr, 1995), 4:206-14.

60 See above, n. 42. See also Wilferd Madelung, “The ‘Hāshimīyyāt’ of al-Kumayt and Hāshimī Shi‘ism,” *Studia Islamica*, no. 70 (1989): 5-26, at 10-11.

61 Al-Muḥaqqiq Aḥmad b. Muḥammad al-Ardabīlī, *Majma‘ al-fā’ida wa’l-burhān fī sharḥ Irshād al-adhhān*, 14 vols. (Qum: Mu’assasat al-Nashr al-Islāmī, 1992), 4:179-90; al-Nawawī, *al-Majmū‘*, 6:226-27. See also Madelung, “Hāshimī Shi‘ism,” 25-26.

62 Ibn Ḥajar al-Haytamī, *al-Ṣawā’iq al-muḥriqa fī ‘l-radd ‘alā ahl al-bid‘a wa’l-zandaqa*, ed. ‘Abd al-Wahhāb ‘Abd al-Laṭīf (Cairo: Maṭba‘at al-Qāhira, 1965), 145; al-Qundūzī, *Yanābī‘ al-mawadda*, 1:127, 145. For Shi‘i texts, see Ibn Rustam al-Ṭabarī, *al-Mustarshid fī imāmat Amīr al-Mu‘minīn ‘Alī b. Abī Ṭālib* (Qum: Mu’assasat al-Thaqāfa al-Islāmiyya li-Kūshānbūr, 1994), 692; al-Ḥasan b. ‘Alī b. Shu‘ba al-Ḥarrānī, *Tuhaf al-‘uqūl ‘an āl al-Rasūl* (Qum: Mu’assasat al-Nashr al-Islāmī, 1995), 435; Ibn Bābawayh al-Qummī, *al-Amālī* (Qum: Mu’assasat al-Bi‘tha, 1995), 624.

63 Al-‘Aynī, *Umdat al-qārī*, 9:87, 92; Ibn Qudāma, *al-Mughnī*, 2:519; Abū Bakr al-Kāsānī, *Badā’i‘ al-ṣanā’i‘ fī tartīb al-sharā’i‘*, 7 vols. (Quetta: al-Maktaba al-Ḥabībiyya, 1989), 2:44; al-Munāwī, *Fayḍ al-qadīr*, 2:699; al-Nawawī, *al-Majmū‘*, 6:226-28; al-Nawawī, *Sharḥ Ṣaḥīḥ Muslim*, 7:179; al-Qurṭubī, *al-Jāmi‘ li-aḥkām al-Qur‘ān = Tafsīr al-Qurṭubī*, 20 vols. (Beirut:

Jurists agreed that it was unlawful for the Prophet and his family to utilize funds generated by any public endowments or given in annual, obligatory alms. However, there was some debate regarding the lawfulness of a voluntary donation (*ṣadaqa mandūba*) to Hāshimids. According to Shi‘i, Ḥanafī, and some Shāfi‘ī and Ḥanbalī jurists, it is permissible for Hāshimids to accept endowments made in their name as voluntary, charitable gifts.⁶⁴ By contrast, the primary Mālikī opinion is that it is unlawful for the Prophet and his progeny to accept any donations for personal use.⁶⁵ It makes no difference whether the source of the funds is an obligatory or a voluntary act of charity; both are prohibited. Finally, many jurists argued, on the basis of a statement attributed to the Prophet, that the prohibition on the use of *zakāt* may have applied to members of the clan of Muṭṭalib,⁶⁶ though other jurists disagreed.⁶⁷ It should be noted that Muḥammad b. Idrīs al-Shāfi‘ī (d. 204/820) was a Muṭṭalibid whose lineage played an important role in literature about his merits.⁶⁸ In these texts, Shāfi‘ī jurists advocated his recognition as a member of the *ahl al-bayt*.⁶⁹ Al-Bayhaqī (d. 458/1066), Fakhr al-Dīn al-Rāzī (d. 606/1209), and others appealed to the famous *ḥadīth*, “The imāms shall be from Quraysh,” to argue for the legitimacy of al-Shāfi‘ī’s imāmate.⁷⁰ Al-Shāfi‘ī’s followers, to some extent, venerated him as the rightful leader of the entire Muslim community. In response, jurists belonging to rival law schools penned works defending the superiority of their own imāms.⁷¹

Dār Ihyā’ al-Turāth al-‘Arabī, 1985), 8:178; al-Sarakhsī, *al-Mabsūt*, 30:274-5; al-Shawkānī, *Nayl al-awṭār*, 4:231, 240-43. See also Madelung, “Hāshimī Shi‘ism,” 11, 13-14, 24-25.

64 Ibn ‘Abd al-Barr, *al-Tamhīd*, 28 vols. (Rabat: Wizārat al-Awqāf wa’l-Shu‘ūn al-Islāmiyya, 1967), 3:88-93; al-Shāfi‘ī, *al-Umm*, 2:88; al-Ardabilī, *Majma‘ al-fā‘ida*, 4:190-91; al-Ḥillī, *al-Mu‘tabar fi sharḥ al-Mukhtaṣar*, 2:584; al-Ṭūsī, *al-Mabsūt*, 3:302.

65 Al-Ḥaṭṭāb, *Mawāhib al-Jalīl*, 5:9.

66 Ibid., 3:223; Ibn Ḥazm, *al-Muḥallā bi’l-āthār*, 11 vols. (Cairo: Idārat al-Ṭibā’a al-Muniriyya, 1928), 6:146-48; al-Nawawī, *al-Majmū‘*, 6:226-27; al-Shāfi‘ī, *al-Umm*, 2:88.

67 Al-Ḥaṭṭāb, *Mawāhib al-Jalīl*, 3:224; Ibn Qudāma, *al-Mughnī*, 2:519-20; al-Nawawī, *al-Majmū‘*, 6:228; al-Ḥillī, *al-Mu‘tabar*, 2:631.

68 Al-Bayhaqī, *Manāqib al-Shāfi‘ī*, 1:17-47; Fakhr al-Dīn al-Rāzī, *Manāqib al-imām al-Shāfi‘ī* (Cairo: Maktabat al-Kulliyāt al-Azhariyya, 1986), 23-33, 378-86; Tāj al-Dīn ‘Abd al-Wahhāb al-Subkī, *Ṭabaqāt al-Shāfi‘iyya al-kubrā*, 10 vols. (Cairo: ‘Isā al-Bābī al-Ḥalabī, 1964), 1:190-204.

69 Al-Bayhaqī, *Manāqib al-Shāfi‘ī*, 38-45; al-Rāzī, *Manāqib*, 28-33, 386; al-Subkī, *Ṭabaqāt al-Shāfi‘iyya*, 1:192-95, 199-200.

70 Al-Bayhaqī, *Manāqib al-Shāfi‘ī*, 18-19, 29-30; al-Rāzī, *Manāqib*, 378-83; al-Subkī, *Ṭabaqāt al-Shāfi‘iyya*, 1:195-99.

71 For example, see Ibn Abī ‘l-Awwām, *Faḍā’il Abī Ḥanīfa wa-akhbāruhu wa-manāqibuh* (Mecca: al-Maktaba al-Imdādiyya, 2010); ‘Isā b. Mas‘ūd al-Zawāwī, *Manāqib sayyidinā al-Imām Mālik*, in *al-Mudawwana al-kubrā*, 4 vols. (Beirut: Dār al-Kutub al-‘Ilmiyya, 1994).

Purification of the Community

In addition to its aim of serving the needs of indigent members of the community, the act of giving alms was understood to have a spiritual function. Q9:103 directs the Prophet to “accept the charity [offered to you] from their possessions to purify them and sanctify them. And pray for them, behold! Thy prayer will be a [source of] comfort to them. ...” The Qur’ān thus juxtaposes the collection and distribution of alms for the needy with the Prophet’s prayers on behalf of the donors.⁷² The act of charity, together with the Prophet’s prayers, was part of a process of purification. Exegetes explained that God blesses the income and the souls of the charitable.⁷³

Members of the early community reportedly regarded the prayers of the Prophet as having greater potency and value than the prayers of other people because of his lofty spiritual rank.⁷⁴ Imāmīs reasoned that after Muḥammad this function could be fulfilled only by someone who resembled him in purity and infallibility – namely, the ‘Alid imams.⁷⁵ According to Shi’i sources, Ja’far al-Ṣādiq (d. 148/765) reportedly affirmed his role in the purification of the

72 According to some reports, the Prophet would pray for a donor’s family with a formula similar to that which Muslims use in prayers for the Prophet’s family (i.e., *Allāhumma ṣalli ‘alā āl fulān*). See Abū Dāwūd al-Sijistānī, *Sunan*, 1:358; Aḥmad b. Ḥanbal, *al-Musnad*, 4:354-55; al-Bukhārī, *Ṣaḥīḥ*, 2:136, 5:65, 7:152; Muslim, *Ṣaḥīḥ*, 3:121; al-Nasā’ī, *Sunan*, 5:31.

73 Al-Nawawī, *al-Majmū’*, 6:170; al-Ṭabarī, *Tafsīr*, 11:23-25.

74 Aḥmad b. Ḥanbal, *al-Musnad*, 4:138; Aḥmad b. al-Ḥusayn al-Bayhaqī, *Dalā’il al-nubuwwa wa-ma’rifat aḥwāl ṣāhib al-sharī’a*, 7 vols. (Beirut: Dār al-Kutub al-‘Ilmiyya, 1985), 6:166-99; al-Bukhārī, *Ṣaḥīḥ*, 2:16-17, 4:209. See also ‘Abd Allāh b. al-Ṣiddīq al-Ghumārī, *Ithāf al-adhkiyā’ bi-jawāz al-tawassul bi’l-anbiyā’ wa’l-awliyā’* (Cairo: Maktabat al-Qāhira, 2016), 6-15, 19-22; Ja’far al-Subḥānī, *al-Tawassul aw al-istighātha bi’l-arwāḥ al-muqaddisa* (Beirut: al-Dār al-Islāmiyya, 1992), 13-23. Although most exegetes understood Q24:63 to refer to a summons from the Prophet, some interpreted the verse (“Do not consider the *du’ā’* of the Messenger among you equal to the *du’ā’* of one of you for another ...”) to mean that the prayers of Muḥammad were readily accepted by God; see Ibn al-‘Arabī, *Aḥkām al-Qur’ān*, 3:431; ‘Abd al-Raḥmān b. Abī Ḥātim al-Rāzī, *Tafsīr al-Qur’ān al-‘aẓīm*, 13 vols. (Beirut: Dār al-Fikr, 2003), 8:2655; al-Jaṣṣāṣ, *Aḥkām al-Qur’ān* (Beirut: Dār al-Kutub al-‘Ilmiyya, 1994), 3:435; al-Rāzī, *al-Tafsīr al-kabīr*, 24:425; al-Ṭabarī, *Tafsīr*, 18:234-35; al-Faḍl b. al-Ḥasan al-Ṭabrisī, *Majma’ al-bayān fī tafsīr al-Qur’ān*, 10 vols. (Beirut: Mu’assasat al-‘Alamī li’l-Maṭbū’āt, 1995), 7:276; Muḥammad b. al-Ḥasan al-Ṭūsī, *al-Tibyān fī tafsīr al-Qur’ān*, 10 vols. (Qum: Maktab al-‘Ilām al-Islāmī, 1989), 7:466.

75 Shi’i texts emphasize that the community needs an ‘Alid imām who purifies believers by accepting their alms and fulfilling the commands of Q9:103; see al-‘Ayyāshī, *Kitāb al-Tafsīr*, ed. Hāshim al-Rasūlī al-Maḥallātī, 2 vols. (Qum: Chāpkhāna ‘Ilmiyya, 1961), 2:106; Hāshim al-Baḥrānī, *al-Burhān fī tafsīr al-Qur’ān*, 5 vols. (Qum: Mu’assasat al-Bi’tha, 1996), 2:836-37; al-Kulaynī, *al-Kāfi*, 1:537; Ibn Bābawayh al-Qummī, *Ilal al-sharā’i’*, 2 vols. (Najaf: al-Maktaba al-Ḥaydariyya, 1966), 2:378; Muḥammad b. al-Ḥasan al-Ṭūsī, *Tahdhīb al-aḥkām: Fī sharḥ al-Muqni’a*, 10 vols. (Tehran: Dār al-Kutub al-Islamiyya, 1970), 4:141.

believers through almsgiving, saying, “Indeed, when one of you offers a dirham, I accept it, although I am one the wealthiest residents of Medina. I desire nothing from it except your purification.”⁷⁶ He is also quoted as declaring, “He who claims that the imām is in need of anything that humanity possesses is a nonbeliever (*kāfir*). It is humanity that is truly in need of the imām to accept what is offered, as God Almighty states, ‘Accept the charity [offered to you] from their possessions to purify them and sanctify them.’”⁷⁷

By drawing on select verses of the Qur’ān, Imāmīs linked purity with authority and argued that only members of the Prophet’s pure progeny could serve as imāms.⁷⁸ The authors of Sunni and Shi’i exegeses and *faḍā’il* works held that Q33:33 addressed ‘Alī, Fāṭima, and their progeny with the statement, “God desires to keep all abominations from you, O *ahl al-bayt*! And purify you with a thorough purification.”⁷⁹ The exegetes explained that the word “abominations” (*al-rijs*) here refers to evil, sin, doubt, and unbelief.⁸⁰ It would be absurd to argue that the term refers to physical impurities that anyone in the community is capable of removing with a simple bath or laundering of clothes.⁸¹ Such proof-texts gave credence to the popular belief that the Prophet’s kin possessed a unique spiritual purity and grace. As a consequence, Imāmīs maintained that only ‘Alī and the Prophet’s progeny possess the ability to purify others by blessing their alms. Sunnis obviously did not follow Shi’is in this

76 Ibn Bābawayh, *Ilal al-sharā’i*, 2:378.

77 Al-Baḥrānī, *al-Burhān*, 2:836; al-Kulaynī, *al-Kāfī*, 1:537.

78 References to divine favor and a covenant guaranteeing the imāmate to pious descendants of Abraham were understood to mirror a covenant that existed with the Prophet’s progeny. See Q2:124, Q3:33, Q14:36-37, Q21:73, Q38:46.

79 Aḥmad b. Ḥanbal, *al-Musnad*, 1:331, 3:285, 4:107, 6:292, 298; al-Ḥākim al-Naysābūrī, *al-Mustadrak*, 2:416, 3:146-48; al-Ḥākim al-Ḥaskānī, *Shawāhid al-tanzīl*, 2:18-139; al-Haythamī, *Majma’ al-zawā’id*, 9:167-69; Ibn Abī Shayba, *Muṣannaf*, 7:501; Muslim, *Ṣaḥīḥ*, 7:130; al-Nasā’ī, *al-Sunan al-kubrā*, 5:108; al-Ṭabarānī, *al-Mu’jam al-kabīr*, 3:52-57, 22:66-67; al-Ṭabarī, *Tafsīr*, 22:9-13; al-Tirmidhī, *Sunan*, 5:30-31; Muḥammad b. Yūsuf al-Zarandī, *Naẓm durar al-simṭayn fī faḍā’il al-Muṣṭafā wa’l-Murtaḍā wa’l-Batūl wa’l-Sibtayn* (Najaf: Maṭba’at al-Qaḍā’, 1958), 238-39. See also al-Firūzābādī, *Faḍā’il al-khamsa*, 1:221-43. For Shi’i sources, see Ibn Ṭāwūs, *al-Ṭarā’if*, 122-30; al-Kulaynī, *al-Kāfī*, 1:287; al-Qāḍī al-Nu’mān, *Sharḥ al-akhbār fī faḍā’il al-a’imma al-aṭḥār*, 3 vols. (Qum: Mu’assasat al-Nashr al-Islāmī, 1988), 1:203-4, 2:337-39, 515; Ibn Bābawayh, *al-Amālī*, 559.

80 Al-‘Aynī, *Umdat al-qārī*, 2:303-4; Ibn al-‘Arabī, *Aḥkām al-Qur’ān*, 3:571; Ibn Ḥajar al-‘Asqalānī, *Hady ’l-sārī: Muqaddimat Faṭḥ al-bārī bi-sharḥ Ṣaḥīḥ al-Bukhārī* (Beirut: Dār Iḥyā’ al-Turāth al-‘Arabī, 1988), 118; al-Nawawī, *al-Majmū’*, 20:117-18; al-Ṭabarī, *Tafsīr*, 22:9; Ibn Rustam al-Ṭabarī, *al-Mustarshid*, 400; al-Shaykh al-Mufīd, *al-Fuṣūl al-mukhtāra min al-‘Uyūn wa’l-maḥāsīn* (Beirut: Dār al-Mufīd, 1993), 54; *Kitāb Sulaym*, 428-29.

81 Hassan Ansari and Sabine Schmidtko, “Abū Ṭālib Yaḥyā b. al-Ḥusayn al-Hārūnī (d. 424/1033) on the consensus of the family of the Prophet,” *Shii Studies Review* 3 (2019), 249-69, at 258.

claim, which makes such purity a prerequisite for all caliphs after Muḥammad.⁸² A number of jurists noted that after the Prophet's death, some Muslims refused to send their alms to Abū Bakr on these grounds.⁸³ Some Sunni jurists, such as Abū Sulaymān al-Khaṭṭābī (d. 388/998) and Ibn Ḥajar al-'Asqalānī (d. 852/1449), distinguished those who dissented on the interpretation of Q9:103 from others who were accused of apostasy. They argued that whereas true apostates followed pseudo-prophets, returned to idolatry, or altogether rejected the concept of prayer or alms, those who refused to send their alms to Abū Bakr on the basis of their understanding of Q9:103 were rebels (*ahl baghy*) but nonetheless remained Muslims. According to al-Khaṭṭābī, these rebel Muslims remained steadfast in their faith. Because Companions fought these rebels in the same period in which they fought apostates, he explains, stories concerning the former were subsumed under the history of the latter in spite of the difference between the two groups.⁸⁴ Drawing on al-Khaṭṭābī, Ibn Ḥajar writes:

Those described as apostates are of two types. One type consists of individuals who have returned to worshiping idols. The other type obstructs the payment of alms on the basis of their interpretation of the verse, "Accept the charity [offered to you] from their possessions to purify them and sanctify them. And pray for them, behold! Thy prayer will be a comfort to them. ..." They claim that only the Prophet should have the alms dispatched to him, since no one else could purify or pray for them. Why would the prayer of anyone else be a comfort for them?⁸⁵

Ibn Ḥajar explains that although scholars popularly described both groups as guilty of unbelief (*kufr*), only the first group has truly (*ḥaqīqat^{an}*) lost faith; the apostasy and unbelief of the latter is only figurative (*majāz*).⁸⁶

Some jurists cited Q9:103 to argue that an imām or tax collector should follow the Prophet's precedent by praying for those who give their wealth, but

82 Some jurists argued that it may have been incumbent on the Prophet to pray for those who gave alms since prayers from him were a source of comfort, but that this was not the case for others; see al-Ḥaṭṭāb, *Mawāhib al-Jalīl*, 3:106; al-Nawawī, *Sharḥ Ṣaḥīḥ Muslim*, 1:202-4, 7:184-85; al-Shawkānī, *Nayl al-awṭār*, 4:218.

83 Al-'Aynī, *Umdat al-qārī*, 8:247; Ibn 'Abd al-Barr, *al-Istidhkār*, 3:214-15; Ibn Abī 'l-Ḥadīd, *Sharḥ*, 13:187, 17:208; Ibn Ḥajar al-'Asqalānī, *Faṭḥ al-bārī*, 12:245; Ibn Qudāma, *al-Mughnī*, 2:260, 438; Ḥamd b. Muḥammad al-Khaṭṭābī, *Ma'ālim al-sunan*, 4 vols. (Aleppo: al-Maṭba'a al-'Ilmiyya, 1932), 2:3-10; al-Nawawī, *al-Majmū'*, 19:197-98; Ibn Ṭāwūs, *al-Ṭarā'if*, 435-36; al-Ṭūsī, *al-Khilāf*, 5:338.

84 Al-Khaṭṭābī, *Ma'ālim al-sunan*, 2:4-6.

85 Ibn Ḥajar al-'Asqalānī, *Faṭḥ al-bārī*, 12:245.

86 Ibid. Al-'Aynī argues along the same lines; see al-'Aynī, *Umdat al-qārī*, 8:247.

they did not discuss the qualities that the supplicant ought to have.⁸⁷ Shi'i polemicists obviously held that Abū Bakr did not possess the purity required to serve as an imām and to purify the community. Their position was understood and referenced by Sunnis such as al-Khaṭṭābī and Ibn Ḥajar.⁸⁸ For Imāmīs, only the 'Alid imāms appointed by God were qualified to succeed the Prophet in fulfilling the precepts of Q9:103.

One-Fifth of the Spoils of War: *Khums*

Jurists held that the Prophet had three shares in the spoils of war: the *khums*, the *ṣafti*, and the regular share of a participant in war.⁸⁹ The word *khums*, "one-fifth," is mentioned in Q8:41, which commands soldiers to set aside one-fifth of the spoils of war for the persons and purposes enumerated in the verse. One of those designated groups is near kin (*dhū 'l-qurbā*), commonly understood as a reference to Muḥammad's near kin, who received a share of the *khums* in his lifetime.⁹⁰

After Muḥammad's death, Abū Bakr reportedly denied Hāshimids any such entitlement, and, for Ḥanafīs, his denial established a precedent. The dominant opinion among Ḥanafī jurists was that the practice of allotting a share to the Prophet's kin ended with the death of Muḥammad.⁹¹ Some Sunnis understood Abū Bakr's instruction to Fāṭima to rely on state funds for her needs as confirmation of her right to the *khums*.⁹² They reasoned that since the Prophet received some of his estates in the form of his share of the *khums*, any Hāshimid who received funds from those estates, now public property, was benefiting (albeit indirectly) from the *khums*. But this charitable reading of the sources

87 Al-Bayhaqī, *al-Sunan al-kubrā*, 4:157; Ibn al-'Arabī, *Aḥkām al-Qur'ān*, 2:577; Ibn Qudāma, *al-Mughnī*, 2:510; al-Jaṣṣāṣ, *Aḥkām al-Qur'ān*, 3:200; al-Khaṭṭābī, *Ma'ālim al-sunan*, 2:8; al-Māwardī, *al-Aḥkām al-sultāniyya*, 120; al-Nawawī, *al-Majmū'*, 6:169, 171; al-Ḥillī, *Tadhkirat al-fuqahā'*, 5:323-24; al-Ṭūsī, *al-Mabsūṭ*, 1:245.

88 For their references to the arguments of the *rāfiḍa* regarding alms, see Ibn Ḥajar al-'Asqalānī, *Fath al-bārī*, 12:245; al-Khaṭṭābī, *Ma'ālim al-sunan*, 2:5-6.

89 Gil, "Earliest Waqf Foundations," 131; Sachedina, "Al-Khums," 277. On the *khums*, see EI², s.v. Khums (A. Zysow and R. Gleave); *al-Mawsū'a al-fiqhiyya*, 20:10-21; Sachedina, "Al-Khums."

90 Madelung, "Hāshimī Shi'ism," 10, 24.

91 Abū Yūsuf, *Kitāb al-Kharāj* (Cairo: al-Maṭba'a al-Salafiyya, 1999), 29-31; 'Umar b. Shabba, *Ta'rikh al-Madīna al-munawwara*, ed. Fahīm Muḥammad Shaltūt, 4 vols. (Qum: Dār al-Fikr, 1989), 1:214; al-Sarakhsī, *al-Mabsūṭ*, 10:13-14; al-Ṭahāwī, *Sharḥ ma'ānī 'l-āthār* (Beirut: Dār al-Kutub al-'Ilmiyya, 1996), 3:294-95. See also 'Abd al-Ḥusayn Sharaf al-Dīn, *al-Naṣṣ wa'l-ijtihād* (Qum: Sayyid al-Shuhadā', 1984), 51.

92 *Al-Mawsū'a al-fiqhiyya*, 20:8.

ignores those texts that explicitly state that the share of Muḥammad's kinsfolk in spoils of war ceased after his death.⁹³ These reports indicate that Hāshimids who needed financial assistance were expected to use public funds like the rest of the community.

Shāfi'ī, Ḥanbalī, and some early Ḥanafī jurists upheld the right of the Prophet's relatives to receive a share in the *khums*. Mālikī jurists considered the distribution of *khums* to be fully at the discretion of the imām (or ruler). The imām was free to distribute or withhold a portion of the spoils to the Prophet's family.⁹⁴ Twelver Shi'is consistently maintained that Hāshimids were entitled to a share of the *khums*, although they differed over the method of its distribution and increased the share due to them to include profits from business and other sources of wealth.⁹⁵

Rights to the *Ṣadaqāt* of the Prophet and 'Alī

When a person establishes an endowment, he may designate members of his own family as beneficiaries.⁹⁶ As evidence of the permissibility of the practice, Sunni jurists cited reports according to which the Prophet included his kin as beneficiaries of his estates.⁹⁷ Shi'i reports state that the Prophet, in fact, made his daughter the sole beneficiary of his estates. In her will, in turn, Fāṭima named her own children and, in some reports, the clans of Hāshim and Muṭṭalib, as the sole beneficiaries of those estates.⁹⁸ Under the Umayyads and the Abbasids, Muḥammad's descendants continued to claim legal rights over his private estates (in Sunni terms, they claimed the usufruct of the

93 For texts that say explicitly that Abū Bakr did not give Fāṭima and other Hāshimids their share (*sahm dhī 'l-qurbā*) in the *khums*, see Abū Dāwūd al-Sijistānī, *Sunan*, 2:23, 26; Aḥmad b. Ḥanbal, *al-Musnad*, 1:9-10, 4:83; al-Bukhārī, *Ṣaḥīḥ*, 5:82; Ibn Ḥazm, *al-Muḥallā*, 7:328; Ibn Qudāma, *al-Mughnī*, 7:302; Ibn Shabba, *Ta'riḥ al-Madīna*, 2:645; Muslim, *Ṣaḥīḥ*, 5:153-54; al-Shawkānī, *Nayl al-awṭār*, 8:232. See also Madelung, "Hāshimī Shi'ism," 16-17.

94 *Al-Mawsū'a al-fiqhiyya*, 20:13-19; Sachedina, "Al-Khums," 278-79.

95 Muḥsin al-Ḥakīm, *Mustamsik al-'Urwa al-wuthqā*, 14 vols. (Najaf: Maṭba'at al-Ādāb, 1970), 9:443-520, 573-76; al-Mufīd, *al-Muqni'a*, 276-7. See also Sachedina, "Al-Khums," 284-88.

96 Ibn Ḥazm, *al-Muḥallā*, 9:182-83; al-Shawkānī, *Nayl al-awṭār*, 6:131-32. If a person endows a mosque or a cemetery for the benefit of the Muslim community, then he or she is included in the group of beneficiaries and may share equally in the endowment. In addition, one is permitted to specify any group of people, including one's own family, as beneficiaries; see Ibn Qudāma, *al-Mughnī*, 6:193-94.

97 Ibn Abī Shayba, *Muṣannaḥ*, 8:374; Ibn Qudāma, *al-Mughnī*, 6:193-94; al-Nawawī, *al-Majmū'*, 15:331; al-Ḥillī, *Tadhkirat al-fuqahā'*, 2:428.

98 Al-Kulaynī, *al-Kāfi*, 7:47-48.

endowments that he had established). In some cases, the Umayyad and Abbasid rulers granted his progeny access to the usufruct of those properties.

Sunni and Shi'i sources list the names and locations of the Prophet's estates, referring to them as *ṣadaqāt*.⁹⁹ The term encompassed three types of property. First, it included lands that had belonged to Banū Naḍīr and been given to Muḥammad as a gift (*hiba*) by a Jewish man who became a Muslim. Second, it included *fay'*, lands that Muḥammad had acquired through a peace treaty or after their owners had abandoned them. For example, the Prophet received half of the land of Fadak and one-third of Wādī al-Qurā through a settlement reached with the owners of those tracts. He also seized additional property belonging to Banū Naḍīr after they were expelled from Medina. Finally, the Prophet's holdings included parts of Khaybar that came from his share of the *khums*.¹⁰⁰ The Prophet also had the prerogative to choose items from the booty before its further distribution, a share known as the *ṣafi*.¹⁰¹ Reports about the Prophet having access to such property suggest, as M. Gil notes, that "traditions describing the Prophet as being completely deprived of any property or wealth, in fact, probably originated at a later period."¹⁰²

As noted, the caliph 'Umar allowed 'Alī and al-'Abbās to begin managing some of the lands that had belonged to the Prophet.¹⁰³ Similarly, the Marwānīd caliph 'Umar b. 'Abd al-'Azīz identified the Hāshimīds and, specifically, the descendants of Fāṭima, as the rightful beneficiaries of Fadak.¹⁰⁴ Although both 'Umars granted the Hāshimīds usufructuary rights to the estates of the Prophet, they did not challenge Abū Bakr's decision to convert the Prophet's estates into public endowments. However, the Abbasid caliphs al-Saffāḥ, al-Mahdī, and al-Ma'mūn broke with their predecessors by recognizing the descendants of Fāṭima as the rightful heirs to Fadak and awarding them exclusive rights to the property.¹⁰⁵

99 See *ibid.*, especially 7:48 n. 1; al-Māwardī, *al-Aḥkām al-sultāniyya*, 168, 171. See also Gil, "Earliest *Waqf* Foundations," 136-37.

100 Muḥammad Ṣāliḥ al-Māzandarānī, *Sharḥ Uṣūl al-Kāfi*, 12 vols. (Beirut: Dār Iḥyā' al-Turāth al-'Arabī, 2000), 11:400. Al-Nawawī quotes al-Qāḍī 'Iyāḍ as also dividing the *ṣadaqāt* into these three categories; see al-Nawawī, *Sharḥ Ṣaḥīḥ Muslim*, 12:82.

101 Gil, "Earliest *Waqf* Foundations," 131; Modarressi, *Kharāj in Islamic Law*, 9. Examples include his sword, *Dhū 'l-fiḡār*; a plate of armor; his wife Ṣafiyya; and slaves. See Gil, "Earliest *Waqf* Foundations," 132-33, especially n. 9.

102 Gil, "Earliest *Waqf* Foundations," 133.

103 Al-Bayhaqī, *al-Sunan al-kubrā*, 6:301; al-Bukhārī, *Ṣaḥīḥ*, 4:42; Ibn Ḥajar al-'Asqalānī, *Fath al-bārī*, 6:141, 145; Muslim, *Ṣaḥīḥ*, 5:156; al-Nawawī, *Sharḥ Ṣaḥīḥ Muslim*, 12:73.

104 Al-Balādhurī, *Futūḥ al-buldān*, 1:36; Ibn Abī 'l-Ḥadīd, *Sharḥ*, 16:216.

105 For the reign of al-Ma'mūn, see al-Balādhurī, *Futūḥ al-buldān*, 1:37-38. For the other Abbasids, see Ibn Abī 'l-Ḥadīd, *Sharḥ*, 16:216-17.

Both Sunni and Shi'i sources portray 'Alids as challenging one another in Umayyad courts for the rights to manage the *ṣadaqāt*.¹⁰⁶ Some sources mention specific 'Alids who managed the *ṣadaqāt* of the Prophet or those of 'Alī.¹⁰⁷ 'Alī possessed his own lands that he later designated as endowments, and some of his progeny who were not from the line of Fāṭima eventually managed these properties.¹⁰⁸ However, the descendants of Fāṭima in most instances prevailed over other 'Alids in the struggle for control.¹⁰⁹ This multigenerational rivalry for control of lands that once belonged to the Prophet and 'Alī occasionally erupted into heated public arguments between 'Alids.¹¹⁰

Prioritizing Descent from the Twelver Imāms

As with the recipients of *zakāt*, the beneficiaries of *khums* and of any endowment dedicated to the Prophet's descendants had to possess certain qualities. Faith and piety were generally the first traits mentioned by jurists. Sunni donors occasionally refused to give any funds to 'Alids who were Shi'i.¹¹¹ Twelver

106 In some sources, the disputants were Zayd b. 'Alī b. al-Ḥusayn and an unnamed Ḥasanid. See al-Ṣbahānī, *Maqātil al-Ṭālibīyyīn*, 90; al-Ṭabarī, *Ta'riḫ*, 5:482. Other sources name 'Umar b. 'Alī and Zayn al-'Ābidīn. See al-Bukhārī, *Sirr al-silsila al-'Alawīyya*, 97; Ibn Shahrāshūb, *Manāqib*, 3:308. Some claim that Fāṭima made a will stating that the *ṣadaqāt* of the Prophet belonged exclusively to her children, not to the other descendants of 'Alī; see al-Kulaynī, *al-Kāfi*, 7:49-50.

107 For example, Zayd b. Ḥasan, 'Abd Allāh b. Zayn al-'Ābidīn, and 'Umar b. Zayn al-'Ābidīn; see al-Mufīd, *al-Irshād*, 2:21, 169, 170. For 'Abd Allāh b. al-Ḥasan b. al-Ḥasan, see also Rabb, "The Curious Case of Bughaybiga," 23-46.

108 For example, a descendant of al-'Abbās b. 'Alī b. Abī Ṭālib successfully acquired rights to the *ṣadaqāt* of 'Alī. See Ibn Shabba, *Ta'riḫ al-Madīna*, 1:223-24. One genealogist notes that following the death of all of his brothers, 'Umar b. 'Alī inherited half of 'Alī's estate, although he later lost those rights to descendants of Fāṭima; see al-Bukhārī, *Sirr al-silsila al-'Alawīyya*, 96-97. On the *ṣadaqāt* of 'Alī, see further Gil, "Earliest *Waqf* Foundations," 128, 133, 139.

109 For example, 'Umar b. 'Alī b. Abī Ṭālib was excluded from managing land referred to as the *ṣadaqāt* of 'Alī; al-Bukhārī, *Sirr al-silsila al-'Alawīyya*, 97; Jamāl al-Dīn Aḥmad b. 'Alī b. 'Inaba, *Umdat al-ṭālib fī ansāb Āl Abī Ṭālib* (Najaf: al-Maṭba'a al-Ḥaydariyya, 1961), 362. Muḥammad b. al-Ḥanafīyya lost a bid to Zayn al-'Ābidīn for the rights to the *ṣadaqāt* of 'Alī; see Ibn Bābawayh, *Ilal al-sharā'i*, 1:230.

110 For example, see al-Balādhurī, *Ansāb al-ashraf*, 2:199, 3:230.

111 In one report, a Sunni man refuses to give an 'Alid funds earmarked for descendants of the Prophet because the latter was a Shi'i; see Nūr al-Dīn 'Alī al-Samhūdī, *Jawāhir al-'aqdayn fī faḍl al-sharafayn: Sharaf al-'ilm al-jalī wa'l-nasab al-Nabawī*, 2 vols. (Baghdad: Wizārat al-Awqāf, 1984), 2:269-71. In 1204/1790, the year in which he died, Muḥammad b. 'Abd Allāh b. Ismā'īl, the Sultan of Morocco, distributed gold bullion to descendants of the Prophet living in Mecca and Medina. He specified that Shi'is bearing animosity for Abū

Shi'is also gave precedence to recipients of the same sect.¹¹² Jurists disqualified anyone who consumed alcohol, committed major sins in public, or abandoned the daily prayer from receiving such funds.¹¹³ When the founders of endowments named the Prophet's progeny as the beneficiaries, those with the closest links to the Twelver imāms took precedence over others, in theory.¹¹⁴ For example, the needs of a descendant of the tenth imām, 'Alī b. Muḥammad al-Hādī (d. 254/868), might take precedence over the needs of a Ḥasanid.

As with the *dīwān* of 'Umar b. al-Khaṭṭāb, the prioritization of 'Alid lineages may have affected the order of distribution or the allocation of funds. Those with the fewest degrees of separation from the Prophet received precedence. Thus, an 'Alid separated from the Prophet by twenty generations was deemed more deserving of funds than were his grandchildren, who were separated by twenty-two generations. Most jurists specified that the requisite Hāshimid descent must be patrilineal, but some conceded that kinship with the Prophet can include female links.¹¹⁵ If an endowment deed stipulated that beneficiaries should share kinship ties with the Prophet but not necessarily direct descent from him, then the children of Fāṭima received general precedence, followed by non-Fatimid 'Alids, descendants of Abū Ṭālib, and, finally, the clan of Hāshim.¹¹⁶

Hāshimid Banners and Turbans

Numerous reports, most products of Abbasid propaganda, emphasize the metaphysical and eschatological significance of wearing black, utilizing black banners, and following Hāshimids, especially the Prophet, who donned black turbans.¹¹⁷ In military conflicts, large armies, small kinship groups, and small

Bakr and 'Umar should not receive a single dirham. See Ibn Zaydān, *Ithāf al-lām al-nās bi-jamāl akhbār ḥādirat Miknās*, 6 vols. (Cairo: Maktabat al-Thaqāfa al-Dīniyya, 2008), 3:268.

112 Al-Ḥakīm, *Mustamsik al-'Urwa al-wuthqā*, 9:274-75, 570.

113 Muḥammad Kāzīm al-Yazdī, *al-'Urwa al-wuthqā*, 6 vols. (Qum: Mu'assasat al-Nashr al-Islāmī, 1996), 4:305-6.

114 Only one jurist expressly voiced this opinion; see *ibid.*, 4:307.

115 *Al-Mawsū'a al-fiqhiyya*, 20:8; al-Yazdī, *al-'Urwa al-wuthqā*, 4:306. On descent from the Prophet through mothers, see Muḥammad al-Marākishī, *Ismā' al-ṣamm fi ithbāt al-sharaf min qibal al-umm* (Maryam Laḥlū, 1426/2005). See also Hossein Modarressi, *Tārīkhīyāt: Majmū'a-i maqālāt va taḥqīqāt-i ta'rīkhī* (New Jersey: n.p., 2009), 75-149.

116 Al-Ḥakīm, *Mustamsik al-'Urwa al-wuthqā*, 9:576.

117 M.J. Kister, "The Crowns of This Community: Some Notes on the Turban in the Muslim Tradition," *Jerusalem Studies in Arabic and Islam* 24 (2000): 217-45, at 220-21, 233, 237-38.

battalions each carried distinguishing banners for purposes of identification.¹¹⁸ Arabs sometimes unwound their turbans and tied them to spears to create banners.¹¹⁹ This practice suggests that the color of Hāshimid banners may correspond to the color of their turbans. For example, the first banner that the Prophet raised reportedly was used in a raid led by ‘Abd Allāh b. Jahsh. According to an early source, the banner was green.¹²⁰ The banner may once have been part of the Prophet’s garb since he reportedly used a cloak to make another banner raised in subsequent military conflicts.¹²¹

The Abbasids used black both as a symbol of their regime and as a source of legitimacy. Their black garments symbolized their grief for Hāshimids killed in the Umayyad period. Black banners raised in war fulfilled eschatological *ḥadīths* praising an army with black banners that would rule at the End of Days.¹²² In their rebellions, ‘Alids and their Zaydī partisans distinguished themselves by wearing white, in disdain of the Abbasid state.¹²³ It may have been anti-Abbasid sentiment that led Shi‘ī jurists to discourage the wearing of black, except for the turban.¹²⁴

Two famous caliphal decrees, one by al-Ma’mūn (d. 218/833) and the other by the Mamluk al-Ashraf al-Sha’bān b. Ḥasan (d. 778/1377), establish a connection between Hāshimids and the color green.¹²⁵ The former attempted to change Abbasid banners and garments from black to green in conjunction with his designation of the Ḥusaynid ‘Alī b. Mūsā al-Riḍā (d. 203/818) as his successor. Al-Ma’mūn may have selected the color in recognition of a custom among ‘Alids to wear green.¹²⁶

118 Martin Hinds, “The Banners and Battle Cries of the Arabs at Ṣiffīn,” *Al-Abḥāth* 24 (1971): 3-42, at 8-9, 12.

119 Khalil Athamina, “The Black Banners and the Socio-Political Significance of Flags and Slogans in Medieval Islam,” *Arabica* 36 (1989): 307-26, at 324.

120 Hinds, “Banners and Battle Cries,” 18.

121 Abū Dāwūd al-Sijistānī, *Sunan*, 1:583; Aḥmad b. Ḥanbal, *al-Musnad*, 4:297; Ibn Sa’d, *al-Ṭabaqāt al-kubrā*, 2:106; al-Shawkānī, *Nayl al-awṭār*, 8:59, 61; al-Tirmidhī, *Sunan*, 3:114. See also Hinds, “Banners and Battle Cries,” 18.

122 Athamina, “Black Banners,” 307-8; Kister, “Crowns of This Community,” 232-33.

123 Athamina, “Black Banners,” 322-23. Zaydīs may have worn white to demonstrate their readiness for martyrdom. In some *ḥadīths*, the Prophet instructs the community to wear white and to dress the dead in white burial shrouds; see Ibn Shāhīn, *Nāsikh al-ḥadīth wa-mansūkhuh*, ed. Karīma bt. ‘Alī (Beirut: Dār al-Kutub al-‘Ilmiyya, 1999), 559-60.

124 Al-Ḥillī, *Tadhkirat al-fuqahā*, 1:99. See also Athamina, “Black Banners,” 314; Kister, “Crowns of This Community,” 232.

125 Al-Ṭabarī, *Ta’rīkh*, 7:155. See also *EP*, s.v. Sharīf; ‘Abd al-Ḥusayn al-Amīnī, *al-Ghadīr: Fī ‘l-kitāb wa’l-sunna wa’l-adab*, 11 vols. (Beirut: Dār al-Kitāb al-‘Arabī, 1977), 6:354-55.

126 For example, Yaḥyā b. ‘Abd Allāh b. al-Ḥasan al-Daylamī (d. 189/805) is described as wearing green; see al-Ṭabarī, *Ta’rīkh*, 6:486.

Early Muslims likely associated the color green with the Prophet on account of the Qur'an, which describes the people of Heaven as wearing green clothing.¹²⁷ According to some *ḥadīth*, the Prophet, his daughter Fāṭima and 'Alī will wear green clothing on the Day of Judgment.¹²⁸ God will also dress believers in green in Heaven.¹²⁹ Since well-known *ḥadīths* identified Fāṭima and her two sons as the leaders of the inhabitants of Heaven, there may have been a tendency to associate the color green with the *ahl al-bayt*. Some scholars claimed that the Prophet's favorite garments were green.¹³⁰ Although 'Alids are not mentioned as customarily wearing green garments, there are repeated references to their use of black turbans.¹³¹ In some cases, however, these 'Alids may actually have worn dark green, since Arab poetry and culture occasionally refer to dark green as "black" and vice versa.¹³² It was because of the resemblance between black and dark green that Arabs referred to the green pastures of Iraq as *sawād*. In any case, a Mamluk decree prohibited non-Hāshimids from wearing distinctively Hāshimid clothing, such as green badges on their turbans.¹³³ In the Ottoman period, subjects who did not possess a state-issued certificate endorsing their descent from the Prophet could not wear green turbans. By contrast, those who did possess such certificates were ordered to wear green headgear to distinguish themselves from others.¹³⁴

127 Q18:31, Q55:76, Q76:21. See also Athamina, "Black Banners," 325, 326.

128 Aḥmad b. Ḥanbal, *al-Musnad*, 3:456; 3:456; al-Ḥākim al-Naysābūrī, *al-Mustadrak*, 2:363, 3:161; Muḥibb al-Dīn al-Ṭabarī, *al-Riyāḍ al-naḍira*, 3:171-72; al-Ṭabarānī, *al-Mu'jam al-awsaṭ*, 3:35.

129 Al-Ghazālī, *Iḥyā'*, 5:145; al-Kulaynī, *al-Kāfī*, 2:205; al-Shaykh al-Mufīd, *al-Amālī* (Beirut: Dār al-Mufīd, 1993), 9; Ibn Bābawayh al-Qummī, *al-Muqni'* (Qum: Mu'assasat al-Imām al-Hādī, 1994), 298.

130 Al-Ghazālī, *Iḥyā' 'ulūm al-dīn*, 18 vols. (Beirut: Dār al-Kitāb al-'Arabī, 1936), 7:131; Ibn Shāhīn, *Nāsikh al-ḥadīth wa-mansūkhuh*, 560-61; Muḥibb al-Dīn al-Ṭabarī, *Khulāṣat siyar sayyid al-bashar* (Mecca: Maktabat Nizār Muṣṭafā al-Bāz, 1997), 99. Other sources state that the Prophet wore green without describing it as his favorite color; see Abū Dāwūd al-Sijistānī, *Sunan*, 2:262; Ibn Ḥajar al-'Asqalānī, *Fath al-bārī*, 10:237; al-Nasā'ī, *Sunan*, 8:204.

131 Ibn Abī Shayba, *Muṣannaḥ*, 6:44-46; al-Nasā'ī, *al-Sunan al-kubrā*, 5:112; al-Shawkānī, *Nayl al-awṭār*, 2:105-6; al-Ṭabarānī, *al-Mu'jam al-kabīr*, 3:115. Ibn Rustam al-Ṭabarī, *Dalā'il al-imāma*, 418; al-Kulaynī, *al-Kāfī*, 6:63, 452; al-Majlisī, *Biḥār al-anwār*, 32:189; Ibn Bābawayh, *Ilal al-sharā'i'*, 2:347.

132 See al-Rāghib al-Iṣbahānī, *al-Mufradāt fī gharīb al-Qur'an* (Tehran: Daftar Nashr al-Kitāb, 1970), 150.

133 Athamina, "Black Banners," 325 n. 108.

134 Murat Saricik, *Niqābat al-Ashrāf fī 'l-dawla al-'Uthmāniyya*, tr. Suhayl Şābān (Cairo: Dār al-Qāhira, 2007), 23, 152-53, 191-98, 299.

The Syndicate

By the fifth/eleventh century, Hāshimids customarily would be identified with the surname *al-sayyid* (the chief) or *al-sharīf* (the noble).¹³⁵ The Abbasid state established a “syndicate for nobility” (*niqābat al-ashrāf*) to serve both Ṭālibids and Abbasids. Syndics (*nuqabāʾ*, sing. *naqīb*) maintained a registry for Hāshimids, documented their births and deaths, distributed their state stipends and managed their endowments. After the Abbasids, many other dynasties in the Muslim world established a syndicate to serve the needs of the Prophet’s progeny (Ḥasanids and Ḥusaynids) in particular.¹³⁶ Over the centuries, the Prophet’s progeny came to enjoy more prestige than other Hāshimids. Under the Ottomans, for example, only Ḥasanids and Ḥusaynids served as syndics and obtained *sayyid/sharīf* status.¹³⁷ Syndics investigated the lineages of those subjects who claimed to be *sayyids* and awarded Ḥasanids and Ḥusaynids with certificates endorsing their ancestry claims, providing them permission to don green headgear and exempting them from taxes.

Tax Exemptions

Although it is unclear when exactly the practice began, archival records indicate that the Seljuks, Ilkhānids and Ottomans granted the Prophet’s progeny tax exemption status.¹³⁸ Members of the armed forces, appointed officials, mosque caretakers and scholars of religion were also exempted from paying a poll tax and other taxes on land and livestock.¹³⁹ Because individuals in these professions worked in service of the state, they were not liable for the same taxes as other civilians. Under the Ottomans, descendants of the Prophet were classified as members of the armed forces and state apparatus for a number of reasons. First, whenever a sultan entered the battlefield, he would have a battalion of 300 ‘Alids who would accompany the chief ‘Alid syndic and stand near the army’s standard bearer.¹⁴⁰ Second, Ottoman sultans believed that

135 See *EP*², s.v. Sharīf (C. Arendonk and W. Graham).

136 On the history of the ‘Alid syndicate, see Qāsim al-Sāmarrāʾī, *Niqābat al-ashrāfī ‘l-mashriq al-Islāmī* (Beirut: Dār al-Kutub al-‘Ilmiyya, 2013). See also Kazuo Morimoto, “A Preliminary Study on the Diffusion of the *Niqāba al-Ṭālibīyīn*: Towards an Understanding of the Early Dispersal of Sayyids,” in *The Influence of Human Mobility in Muslim Societies*, ed. K. Hidemitsu (New York: Routledge, 2009), 2-42.

137 Saricik, *Niqābat al-Ashrāfī ‘l-dawla al-‘Uthmāniyya*, 24, 191-93, 224-26.

138 *Ibid.*, 21-23, 26-27, 84, 91, 100-103, 336.

139 *Ibid.*, 103, 186-89.

140 *Ibid.*, 255.

Islamic law guarantees 'Alids a share of the spoils of war. The commandment regarding their share of the *khums* financially and spiritually tied 'Alids to the military. Third, sultans highly regarded the supplications of the Prophet's progeny and believed that God answered them.¹⁴¹ Ottoman sultans believed that their longevity, political success and military dominance were tied to the support of the Prophet's progeny.¹⁴² Because God had blessed this sacred and pious group, their presence served as a source of grace for the sultan.

Sultans apparently believed that Islamic law prohibits 'Alids from accepting the charity of others. To ameliorate their condition under such a prohibition, sultans exempted 'Alids from paying those taxes that would potentially put them in financial need. Before the reign of Murād I (r. 761-791/1360-1389), this likely meant that they were exempt from all taxes, but the sultan appears to have amended this policy.¹⁴³ While 'Alids continued to enjoy most exemptions under Murād I, the wealthiest of them paid taxes on livestock and property after reaching specific thresholds. In some cases, tax collectors accepted bribes and granted *sayyid* status to non-Hāshimids to help them evade payment of taxes.¹⁴⁴

Hostels for the Prophet's progeny

Under the Ilkhānids, descendants of the Prophet benefitted from hostels in major cities that served them exclusively.¹⁴⁵ The first of these hostels was built during the reign of the first Ilkhānid ruler to convert to Islam, Maḥmūd Ghāzān (r. 694-713/1295-1304).¹⁴⁶ Ilkhānid rulers built hospitals, schools, libraries and mosques to serve the needs of their subjects and enhance their own reputation. To attract the good will and support of 'Alids and demonstrate their love for the Prophet and his progeny, Ilkhānids established "hostels for *sayyids*" (*dīyār*, sing. *dār al-siyāda*) in Iraq and Iran. Syndics managed these hostels, offering visiting 'Alids food, shelter and other provisions. When Ibn Baṭūṭa (d. c. 779/1377) visited Iraq, he noted the presence of such hostels and that the

141 Ibid., 101, 224, 282.

142 Ibid., 103, 279-80, 282-83.

143 Ibid., 179-82.

144 Ibid., 246.

145 Ibid., 83-84.

146 Al-Sāmarrāī, *Niqābat al-ashraf fi 'l-mashriq*, 246, 270-72. See also Judith Pfeiffer, "Confessional Ambiguity vs. Confessional Polarization: Politics and the Negotiation of Religious Boundaries in the Ilkhanate," in *Politics, Patronage and the Transmission of Knowledge in 13th-15th Century Tabriz*, ed. Judith Pfeiffer (Leiden; Boston: Brill, 2014), 129-68, at 143-51.

‘Alid syndic was the most powerful person in the city of Najaf.¹⁴⁷ Those who were not descendants of the Prophet could not enter the hostels.

Unrestricted Access to the Prophet’s Mosque

The Prophet’s mosque in Medina, like the Grand Mosque in Mecca, is considered a sacred precinct (*ḥaram*). Muslims regard the space as holy and must be ritually pure when entering it. Performing ablutions (*wuḍū’*) or the ritual bath (*ghusl*) is an important component of Muslim piety. Worshippers are encouraged to perform ablutions before visiting any mosque, but in some cases, a ritual bath is required to acquire ritual purity (*ṭahāra*).¹⁴⁸ Before engaging in worship or entering a sacred precinct, a Muslim must perform this bath.

The Prophet, however, could enter his mosque in a state of *junub*, or ritual impurity, thanks to his inherent purity, and some *ḥadīths* attribute the same distinction to ‘Alī.¹⁴⁹ The Prophet also reportedly exempted Fāṭima, Ḥasan, and Ḥusayn from the requirement of ritual purity for entering his mosque,¹⁵⁰ but this dispensation apparently did not extend to their descendants. The sanctity and purity ascribed to these five individuals and the location of their residence adjoining the Prophet’s mosque in Medina may help explain this special permission.

Proclaiming the Divine Promulgation of New Laws

In the year 9/630, the Prophet sent Abū Bakr to Mecca to announce the revelation of laws regarding relations between the Muslim community and their

147 Ibn Baṭūṭa, *Riḥla Ibn Baṭūṭa*, (Beirut: Dār al-Turāth, 1968), 174, 285.

148 A ritual bath (*ghusl*) is required after sexual intercourse, menstruation or childbirth. One should perform ablutions (*wuḍū’*) after sleep, urination, defecation, or regurgitation. See *IE3*, s.v. Ablution (Z. Maghen).

149 Al-Anṣārī, *Asnā’ l-maṭālib*, 3:102; al-Tirmidhī, *Sunan*, 5:303; Ibn Shahrāshūb, *Manāqib*, 2:40. The Prophet reportedly forbade his Companions to stay in the mosque but granted ‘Alī special permission to do so. For reports in which Muḥammad commands his Companions to close their private entrances to the mosque, but makes an exception for ‘Alī, see Aḥmad b. Ḥanbal, *al-Musnad*, 4:369; Ibn Abī Shayba, *Muṣannaḥ*, 7:500; al-Nasā’ī, *al-Sunan al-kubrā*, 5:118-19; al-Ṭabarānī, *al-Mu’jam al-kabīr*, 12:78; al-Tirmidhī, *Sunan*, 5:305. See also al-Amīnī, *al-Ghadīr*, 3:202, 205-8. Partisans of Abū Bakr transmitted parallel *ḥadīth* granting him this special permission; see al-Bukhārī, *Ṣaḥīḥ*, 4:254; Muslim, *Ṣaḥīḥ*, 7:108; al-Nasā’ī, *al-Sunan al-kubrā*, 5:35; al-Tirmidhī, *Sunan*, 5:270.

150 Al-Bayhaqī, *al-Sunan al-kubrā*, 7:65-66; ‘Alī b. al-Ḥasan b. ‘Asākir, *Ta’rikh madīnat Dimashq* (Beirut: Dār al-Fikr, 1995), 14:166. See also al-Fīrūzābādī, *Faḍā’il al-khamsa*, 2:156-57.

adversaries, as well as the prohibition of some pagan pilgrimage practices. While Abū Bakr was en route to Mecca, however, the Prophet dispatched 'Alī from Medina to stop him. When 'Alī reached Abū Bakr's caravan, he informed him that Gabriel had appeared to the Prophet with additional instructions: God forbade anyone other than the Prophet or a member of his Household from conveying new revelation.¹⁵¹ In place of Abū Bakr, the Prophet selected 'Alī to announce the contents of *Sūrat al-Tawba* (Q9) to the Meccans.

When recounting the revelation of *al-Tawba*, Sunni scholars acknowledge this incident, but some attempt to diminish its implications.¹⁵² Shi'i scholars cite this incident as evidence that only members of the *ahl al-bayt* lawfully may act as representatives of God or the Prophet. Divine selection and its restriction to the *ahl al-bayt* are important Twelver and Ismā'īlī doctrines regarding the imāmate. For Imāmīs, the factors that prevented Abū Bakr from proclaiming *al-Tawba* on the Prophet's behalf also barred him from legitimately succeeding the Prophet as an imām. The polemical value of this event is evident in the frequency with which leading Imāmī theologians discuss it.¹⁵³

Leadership in Political and Ritual Affairs

In Sunni jurisprudence the "imāmate" refers either to the position of leading prayers at the mosque or to the caliphate. Although one should not dismiss the religious authority wielded by some caliphs, their office did not possess the sanctity associated with the 'Alid imāms in Twelver and Ismā'īlī Shi'ism. God

151 Aḥmad b. Ḥanbal, *al-Musnad*, 3:212; 'Abd al-Malik b. Hishām, *Sīrat al-Nabī*, 4 vols. (Cairo: Maktabat Muḥammad 'Alī Ṣabīḥ, 1963), 4:972-73; al-Nasā'ī, *Khaṣā'is Amīr al-Mu'minin 'Alī b. Abī Ṭālib*, ed. Muḥammad Hādī al-Amīnī (Tehran: Maktabat al-Nīnawā al-Ḥadītha, 1969), 91-93; al-Ṭabarānī, *al-Mu'jam al-kabīr*, 11:316; al-Ṭabarī, *Tafsīr*, 10:83-85.

152 Al-Bukhārī, *Ṣaḥīḥ*, 5:202-203; Muḥammad b. Ya'qūb al-Fīrūzābādī, *al-Radd 'alā 'l-rāfiḍa = al-Qaḍḍāb al-mushtahar 'alā riqāb Ibn al-Muṭahhar*, ed. 'Abd al-'Azīz b. Ṣāliḥ al-Maḥmūd al-Shāfi'ī (Cairo: Maktabat al-Imām al-Bukhārī li'l-Nashr wa'l-Tawzī', 2007), 37-38; Ibn al-'Arabī, *Aḥkām al-Qur'ān*, 2:454; Ibn Ḥajar al-'Asqalānī, *Fath al-bārī*, 8:239, 241; Ibn Taymiyya, *Minhāj al-sunna al-nabawiyya*, ed. Muḥammad Sālim, 8 vols. ([Riyadh]: Jāmi'at al-Imām Muḥammad b. Sa'ūd al-Islāmiyya, 1986), 7:335-36; al-Qurṭubī, *Tafsīr*, 8:68; al-Rāzī, *al-Tafsīr al-kabīr*, 15:523-24; Manṣūr b. Muḥammad al-Sam'ānī, *Tafsīr al-Qur'ān*, 6 vols. (Riyadh: Dār al-Waṭan, 1997), 2:286.

153 Al-'Allāma Ḥasan b. Yūsuf al-Ḥillī, *Minhāj al-karāma* (Mashhad: Tāsū'ā', 2000), 88, 94, 100, 181; Ibn Ṭāwūs, *al-Tarā'if*, 38-39; al-Majlisī, *Biḥār al-anwār*, 30:411-27, 35:284-315; al-Qāḍī al-Nu'mān, *Sharḥ al-akhbār*, 1:94-95; al-Sharīf al-Murtaḍā, *al-Shāfi'ī fī 'l-imāma*, 4 vols. (Tehran: Mu'assasat al-Ṣādiq, 1986), 4:153-57. Al-Amīnī identifies more than seventy sources for this incident from the Sunni intellectual tradition; see al-Amīnī, *al-Ghadīr*, 6:338-50. For a pro-'Alid Mu'tazilī analysis, see Ibn Abī 'l-Ḥadīd, *Sharḥ*, 17:195-201.

alone selected these 'Alid imāms and confirmed their authority by granting them infallibility and the ability to perform miracles. In contrast to the Shi'i imāmate, the caliphate became a mundane office subject to human intervention; a new caliph was legitimized by a process that included consultation (*shūrā*) among respected Muslims, *ahl al-ḥall wa'l-'aqd*, who were charged with selecting the next caliph. The chosen candidate became a caliph only after receiving an oath of fealty (*bay'a*) from his subjects.

Among Sunni jurists, descent from the tribe of Quraysh is a prerequisite for all candidates for the caliphate. By the fourth/tenth century, Shi'is had come to consider descent from the Prophet a prerequisite for the imāmate. Whereas Zaydīs regard all descendants of Fāṭima as potential candidates, Twelvers and Ismā'īlīs restrict the imāmate to two Ḥusaynid lines.¹⁵⁴ According to the Imāmīs, God grants the imāmate to one infallible 'Alid in each generation. Since God selects the imām from the progeny of a previous imām, the imāmate follows a hereditary line of succession.

Sunni and Shi'i jurists agree that lineage may play a role in the selection of an appropriate leader for congregational worship. If two candidates are equal in their recitation skills, piety, knowledge, and age, but only one of them is a Hāshimid, precedence is given to the Hāshimid candidate out of respect for his kinship with the Prophet.¹⁵⁵ To justify this prioritization of noble lineage, al-Muzanī (d. 264/878) appealed to the *ḥadīth* "The imām shall be from Quraysh."¹⁵⁶ Legal preference for noble Arab descent is also indicated in reports that suggest it does not befit a non-Arab to lead Arabs in prayer.¹⁵⁷ Reports in which Salmān al-Fārisī and Mu'āwiya disapprove of non-Arabs leading Arabs in prayer appear to support social hierarchies that privilege Arabs over others. According to Ibn Taymiyya, al-Shāfi'ī and a few Ḥanbalī jurists agreed with such sentiments and considered a person's lineage relevant to determining whether that person is qualified to lead congregational worship.¹⁵⁸ Shāfi'ī jurists cited 'Umar's approval of an incident in which a non-Arab (*a'jamī*) was barred from leading congregational worship in Mecca. However, it seems that this Shāfi'ī opinion and the report on which it is based relates to a particular

154 For a comprehensive study of Islamic political theory, see Crone, *God's Rule*.

155 'Abd Karīm b. Muḥammad al-Rāfi'ī, *Fath al-'Azīz sharḥ al-Wajīz*, 12 vols. (Cairo: Idārat al-Ṭibā'a al-Muniriyya, 1925), 4:329-30; al-Nawawī, *al-Majmū'*, 4:280-82; al-'Allāma Ḥasan b. Yūsuf al-Hillī, *Mukhtalaf al-Shī'a*, 9 vols. (Qum: Mu'assasat al-Nashr al-Islāmī, 1991-99), 3:68.

156 Ismā'il b. Yaḥyā al-Muzanī, *Mukhtaṣar al-Muzanī* (Beirut: Dār al-Ma'rifa, 1986), 24.

157 'Abd al-Razzāq al-Ṣan'ānī, *al-Muṣannaḥ*, 4:200; Ibn Taymiyya, *Majmū' fatāwā*, 19:26-27; al-Shāfi'ī, *al-Umm*, 1:193; *Kitāb Sulaym*, 282.

158 Ibn Taymiyya, *Majmū' fatāwā*, 19:26-27.

instance in which a foreigner with a strong accent could not properly pronounce Arabic words.¹⁵⁹

Suitability for Marriage

Jurists disagreed over whether lineage should be a factor in evaluating the “suitability” (*kafā'a*) of a potential spouse. Ḥanafī and Shāfi'ī jurists held that lineage is indeed a consideration in judging a person's suitability, whereas Mālikī, Shi'ī, and Zāhirī jurists did not. Shāfi'ī jurists specifically stipulated that Hāshimid and Muṭṭalibid women may marry only men of those clans.¹⁶⁰ For 'Alid families across the Muslim world, lineage plays an important role, especially in the selection of suitable spouses for women. Members of the famous Shāfi'ī and Ḥusaynid Bā 'Alawī clan historically have prohibited the marriage of their daughters to individuals who are not descendants of the Prophet.¹⁶¹

The Prohibition of Polygamy

According to some Akhbārī Twelver jurists, it is unlawful for a man to marry more than one wife of Fatimid lineage.¹⁶² Most Twelver jurists, however, consider such marriages lawful.¹⁶³ The Akhbārī prohibition is primarily based on a

159 See al-Munāwī, *Fayḍ al-qadīr*, 1:533.

160 For a summary of these rulings, see Ibn 'Ābidīn, *Radd al-muḥtār 'alā 'l-Durr al-mukhtār*, 6 vols. (Beirut: Dār al-Fikr, 1995), 3:94-95; al-Ḥillī, *Tadhkirat al-fuqahā'*, 2:604. See also al-Sābiq, *Fiqh al-sunna*, 2:143-48. Al-Sābiq notes that Ibn Ḥajar, Ibn Abī Ḥātim al-Rāzī, al-Dāraquṭnī, and Ibn 'Abd al-Barr have all criticized *ḥadīths* related to the precedence of Arabs or the importance of race as fabricated or suspect.

161 This Bā 'Alawī practice sparked an intercontinental debate in the early twentieth century. For a Bā 'Alawī treatise defending the practice and the response of Rashid Riḍā, see Rashid Riḍā, *Fatāwā 'l-Imām Muḥammad Rashīd Riḍā*, 6 vols. (Beirut: Dār al-Kitāb al-Jadīd, 1970), 1:385-94.

162 Yūsuf al-Baḥrānī, *al-Ḥadā'iq al-nāḍira fī aḥkām al-'itra al-ṭāhira*, 25 vols. (Qum: Mu'assasat al-Nashr al-Islāmī, 1984), 23:108, 543-47. See also Robert Gleave, “Marrying Fatimid Women: Legal Theory and Substantive Law in Shī'ī Jurisprudence,” *Islamic Law and Society* 6:1 (1999): 38-68.

163 According to Gleave, a recent *uṣūlī* jurist, Abū 'l-Qāsim al-Khū'ī (d. 1992), considered such marriages prohibited; see Gleave, “Marrying Fatimid Women,” 67. Al-Khū'ī seems to have acknowledged the possibility that such marriages are discouraged (*makrūḥ*), but in the texts available to me, he rules them to be permissible. For relevant Shi'ī *ḥadīths* and al-Khū'ī's legal opinions, see Abū 'l-Qāsim al-Khū'ī and Jawād b. 'Alī Tabrīzī, *Ṣirāṭ al-najāt fī aḥkām al-istiftā'āt*, 6 vols. (Qum: Daftar-i Nashr-i Barguzīda, 1995), 2:356; al-Yazdī, *al-'Urwa al-wuthqā*, 5:553.

statement in which Ja‘far al-Ṣādiq prohibits marriage to more than one Fatimid wife.¹⁶⁴ Al-Ṣādiq explains that Fāṭima, the Prophet’s daughter, will learn of such marriages on the Day of Judgment and be displeased by them. Al-Ṣādiq’s words reflect his own conduct as a husband: He reportedly refrained from taking a second wife altogether while married to his first wife, who was a Fatimid.¹⁶⁵ The Akhbārī prohibition nonetheless allows a man to wed simultaneously one Fatimid wife and one or more non-Fatimid co-wives.

Some early Muslims reportedly believed that Fāṭima disapproved of any polygamy involving a Fatimid wife. On the Day of Judgment, she would be angry with men who took a second wife while married to a Fatimid. According to a report found in Sunni *ḥadīth* collections, a Ḥasanid’s marriage proposal was rejected on these grounds.¹⁶⁶

That report concerns a marriage proposal made by Ḥasan b. Ḥasan b. ‘Alī (d. c. 97/715) to the daughter of al-Miswar b. Makhrama (d. 64/683). Since the Ḥasanid was already married to Fāṭima bt. al-Ḥusayn b. ‘Alī, al-Miswar feared provoking the displeasure of the Prophet or Fāṭima in the Hereafter and declined the proposal. Al-Miswar explained that although no ancestry, kinship, or marriage would be more beloved to him than one that tied him to the Prophet, Ḥasan’s entrance into a simultaneous second marriage would anger his first, Fatimid wife and her ancestress, Fāṭima herself. The report clearly suggests that the Prophet’s daughter would not have approved of a polygamous marriage either for herself or her children. It is perhaps no coincidence that the marriage of Fāṭima’s mother, Khadija bt. Khuwaylid, to the Prophet was monogamous. Khadija, Fāṭima, and their descendants may have made monogamy a condition of their acceptance of a marriage proposal. Both Muḥammad and ‘Alī reportedly remained monogamous in their marriages to Khadija and Fāṭima, respectively. Al-Ṣādiq explains that Fāṭima’s purity (*ṭahāra*) and elevated rank in the sight of God is the reason for which “God prohibited ‘Alī from marrying other women as long as Fāṭima was alive.”¹⁶⁷ A Prophetic *ḥadīth* describes four women as having attained spiritual perfection in the sight of God: Mary, the mother of Jesus; the wife of Pharaoh (who raised Moses); Khadija; and Fāṭima.¹⁶⁸ The *ḥadīth* suggests that Khadija and her daughter are unique

164 Ibn Bābawayh, *ʿIlal al-sharāʿi*, 2:590; al-Ṭūsī, *Tahdhīb al-aḥkām*, 7:463.

165 Al-Qāḍī al-Nuʿmān, *Sharḥ al-akhbār*, 3:309. See also Farhad Daftary, *The Ismāʿīlīs: Their History and Doctrines* (Cambridge: Cambridge University Press, 2007), 91.

166 Aḥmad b. Ḥanbal, *al-Musnad*, 4:323; al-Ḥākim al-Naysābūrī, *al-Mustadrak*, 3:158.

167 Ibn Shahrāshūb, *Manāqib*, 3:110; al-Ṭūsī, *Tahdhīb al-aḥkām*, 7:475.

168 Ibn al-Ṣabbāgh, *al-Fuṣūl al-muhimma*, 1:659; Muḥammad b. Ṭalḥa al-Naṣībī, *Maṭālib al-saʿūl fī manāqib Āl al-Rasūl* (Beirut: Muʿassasat Umm al-Qurā, 2000), 50; al-Ṭabarī, *Tafsīr*, 3:358; al-Thaʿlabī, *al-Kashf waʾl-bayān = Tafsīr al-Thaʿlabī*, 10 vols. (Beirut: Dār Iḥyāʾ

among Muslim women in achieving perfection. Their lofty spiritual status may have made their participation in a polygamous marriage unacceptable.

In at least two instances, 'Alī was rebuked for considering sexual relations with another woman while married to Fāṭima.¹⁶⁹ In one case, the Prophet chastised him for considering a co-wife; in another, Khālid b. al-Walīd and Burayda al-Aslamī were upset to see him take a female prisoner of war for himself (apparently as a concubine). Both reports suggest that 'Alī was expected to remain monogamous, though the narrators of these reports do not say so explicitly. In the first report, the Prophet criticizes 'Alī for considering a daughter of Abū Jahl as a co-wife. The report emphasizes that it would be inappropriate for the daughter of Abū Jahl, an antagonist of the Prophet, and for the Prophet's daughter, to be co-wives. In the second report, the context suggests that Khālid and Burayda were perturbed by 'Alī's authority over them as a commander and by the method he used to allocate the spoils of war – especially the share that he took for himself. Both reports refer to individuals who assume that the Prophet and Fāṭima would have been displeased to find that 'Alī had not been strictly monogamous.

The transmission of these accounts suggests that some Muslims understood it to be inappropriate for 'Alī to take a second wife while married to Fāṭima. The Prophet, 'Alī, and Ja'far al-Ṣādiq all remained monogamous until their first wives passed away. The failure of the Ḥasanid marriage proposal and the monogamous marriages of Khadīja, her daughter, and al-Ṣādiq's Fatimid wife all suggest that Fatimid women (or their fathers) did not consent to polygamous marriages and that men in the community respected their wishes.¹⁷⁰

al-Turāth al-'Arabī, 2002), 9:353. For reports that describe these four as the best women to enter heaven, see Aḥmad b. Ḥanbal, *al-Musnad*, 1:293, 316; al-Ḥākim al-Naysābūrī, *al-Mustadrak*, 2:497; al-Nasā'ī, *al-Sunan al-kubrā*, 5:93, 95; al-Ṭabarānī, *al-Mu'jam al-kabīr*, 11:266, 22:407.

169 In one case, 'Alī is rebuked for considering the daughter of Abū Jahl as a second wife. See 'Abd al-Razzāq al-Ṣan'ānī, *al-Muṣannaḥ*, 7:300-2; Abū Dāwūd al-Sijistānī, *Sunan*, 1:460; Aḥmad b. Ḥanbal, *al-Musnad*, 4:5, 326, 328; al-Bukhārī, *Ṣaḥīḥ*, 4:212, 6:158; Ibn Abī Shayba, *Muṣannaḥ*, 7:527; Ibn Māja, *Sunan*, ed. Muḥammad Fu'ād 'Abd al-Bāqī, 2 vols. (Beirut: Dār al-Fikr, 1954), 1:643-44; Muslim, *Ṣaḥīḥ*, 7:141-42; al-Tirmidhī, *Sunan*, 5:359-60. In another case, two Companions fault 'Alī for taking a female prisoner of war for himself. See Aḥmad b. Ḥanbal, *al-Musnad*, 5:350; al-Bukhārī, *Ṣaḥīḥ*, 5:110; al-Nasā'ī, *Khaṣā'is Amīr al-Mu'minīn*, 102. See also Husayn, "Memory of 'Alī," 196, 204.

170 Some jurists opined that the marriage of Fāṭima and 'Alī established that a husband is forbidden from taking a second wife while married to the daughter of a prophet. Others considered it lawful for 'Alī to have co-wives, but only with Fāṭima's consent; see al-Munāwī, *Fayḍ al-qadīr*, 4:554-55.

Punishment of False Claimants to Descent from the Prophet

Some jurists advocated corporal punishments for anyone who falsely claims descent from the Prophet.¹⁷¹ In at least one case, the condemned person was imprisoned and paraded through the streets of Baghdad.¹⁷² These jurists argued that false claimants disgrace the Prophet and therefore require a harsh punishment.¹⁷³ Rulers and 'Alid syndics also wished to ensure that non-Hāshimids would not attempt to benefit financially from the endowments and tax exemptions enjoyed by the Prophet's progeny. Under the Ottomans, false claimants were ordered to remove green headgear and pay annual taxes when the state rejected their ancestry claims. If they refused to comply with the order, they were subject to further punishment (*ta'dīb*) carried out by the 'Alid syndic. This punishment is unspecified in the sources but likely included flogging.¹⁷⁴

Permission to Trace Lineage through a Female

Jurists debated the extent to which Muḥammad's progeny could claim descent from him through females. Some anti-'Alids ridiculed descendants of the Prophet for tracing their descent through a female (his daughter Fāṭima).¹⁷⁵

171 Al-Sāmarrā'i, *Niqābat al-ashrāf fi 'l-mashriq*, 276-77; Saricik, *Niqābat al-Ashrāf fi 'l-dawla al-Uthmāniyya*, 249-51.

172 See 'Arīb b. Sa'd al-Qurtubī, *Ṣilat Tārīkh al-Ṭabarī* (Beirut: Mu'assasat al-A'lāmī, 1983), 35.

173 The original text seems to impose a punishment on anyone who curses a descendant of the Prophet (*man sabba man intasaba*); see al-Qāḍī 'Iyāḍ, *al-Shifā bi-ta'rīf huqūq al-Muṣ-ṭafā*, 2 vols. (Beirut: Dār al-Fikr, 1988), 2:311; Taqī al-Dīn 'Alī b. 'Abd al-Kāfī al-Subkī, *Fatāwā 'l-Subkī*, 2 vols. (Beirut: Dār al-Ma'ārif, c. 1975), 2:582. See also David S. Powers, *Law, Society and Culture in the Maghrib, 1300-1500* (Cambridge: Cambridge University Press, 2002), 167-205. Since *man intasaba* follows *man sabba*, it is likely that *homoioteleuton* caused the haplographic deletion of *man sabba* in some manuscripts. The resulting sentence – “He who traces his lineage to the Prophet's house should face corporal punishment, public humiliation, and a long prison sentence” – is nonsensical. Thus, a gloss was added to make it intelligible: “He who traces his lineage *dishonestly* (*ya'nī bi'l-bāṭil*) ...” See Kamāl Yūsuf Ḥūt, *Jāmi' al-durar al-bahīyya li-ansāb al-Qurashīyyīn fi 'l-bilād al-Shāmiyya* (Beirut: Dār al-Mashārī, 2003), 21; 'Alī b. Sulṭān Muḥammad al-Qārī al-Harawī, *al-Asrār al-marfū'a fi 'l-akhbār al-mawḍū'a = al-Mawḍū'āt al-kubrā* (Beirut: Dār al-Kutub al-'Ilmiyya, 1985), 276; idem, *Sharḥ al-Shifā* (Cairo: Maṭba'at Būlāq, 1841), 319-20; al-Sakhāwī, *al-Ajwiba al-murḍiyya fi-mā su'ila al-Sakhāwī 'anhu min al-aḥādīth al-Nabawīyya*, 3 vols. (Riyadh: Dār al-Rāya, 1997), 2:796.

174 Saricik, *Niqābat al-Ashrāf fi 'l-dawla al-Uthmāniyya*, 249-51.

175 For example, the Abbasid caliph al-Manṣūr (d. 158/775) reportedly ridiculed al-Nafs al-Zakiyya's claim to authority and nobility on the basis of his descent from Fāṭima in an infamous letter; see al-Ṭabarī, *Tārīkh*, 6:197.

While the rest of the community venerated Fāṭima's progeny as descendants of the Prophet, these anti-'Alids refrained from acknowledging the Fatimids' Prophetic descent or denied it altogether by referring to such individuals only as sons of 'Alī or Ṭālibids.¹⁷⁶ However, Muḥammad himself reportedly instructed the community to consider the children of Fāṭima as his own.¹⁷⁷ In agnatic descent systems, Fāṭima effectively functions as a male.¹⁷⁸ The question is: Does a female descendant of Fāṭima share this quality and can she pass her noble patrilineage to her children?

Jurists generally held that one is a *sayyid/sharīf* (a descendant of the Prophet) only if one's father is a descendant of the Prophet. However, a few Mālikī jurists argued that *sayyid/sharīf* status may also be inherited through a mother.¹⁷⁹ According to this opinion, female descendants of the Prophet, like their ancestress Fāṭima, transmit their ancestry to their children. But this is not the predominant view among Sunnis or Shi'is. Al-Suyūṭī (d. 911/1505) addressed this question in his treatise on the descendants of Zaynab bt. 'Alī b. Abī Ṭālib and reached a nuanced conclusion. He upheld the dominant view that only

176 'Abd al-'Azīz b. al-Akhḍar (d. 611/1215) narrates a report in which Mu'āwiya makes such a claim in fragments of his *Ma'ālim al-'itra*; see al-Majlisī, *Bihār al-anwār*, 33:257-58; al-Samhūdī, *Jawāhir al-'aqdayn*, 2:165. For reports about al-Ḥajjāj b. Yūsuf, see al-Balādhurī, *Ansāb al-ashraf*, 13:265-66; al-Bayhaqī, *al-Sunan al-kubrā*, 6:166; al-Ḥākim al-Naysābūrī, *al-Mustadrak*, 3:164; Ibn Abī Ḥatīm al-Rāzī, *Tafsīr*, 4:1335; al-Majlisī, *Bihār al-anwār*, 10:148-49; al-Rāzī, *al-Tafsīr al-kabīr*, 2:412. On Hārūn al-Rashīd and his court, see Ibn Qutayba, *al-Shi'r wa'l-shu'arā' = Ṭabaqāt al-shu'arā'*, 2 vols. (Cairo: Dār al-Ḥadīth, 2006), 2:847; Ibn Bābawayh al-Qummī, *Uyūn akhbār al-Riḍā*, 2 vols. (Beirut: Mu'assasat al-'Alamī, 1984), 1:80; al-Samhūdī, *Jawāhir al-'aqdayn*, 2:165-66. On Muṣ'ab al-Zubayrī, see Ibn Ḥajar al-'Asqalānī, *Hady 'l-sārī*, 454; Ibn Shāhīn, *Tārīkh asmā' al-thiqāt* (Kuwait: al-Dār al-Salafiyya, 1984), 265.

177 Al-Ḥākim al-Naysābūrī, *al-Mustadrak*, 3:164; al-Haythamī, *Majma' al-zawā'id*, 4:224; Ibn Ḥajar al-Haytamī, *al-Ṣawā'iq al-muḥriqa*, 187-88; Abū Bakr al-Khaṭīb al-Baghdādī, *Tārīkh Baghdād aw Madīnat al-Salām*, 14 vols. (Beirut: Dār al-Kutub al-'Ilmiyya, 1997), 11:283-84; al-Ṭabarānī, *al-Mu'jam al-kabīr*, 3:44. See also al-Firūzābādī, *Faḍā'il al-khamsa*, 3:149-50.

178 Although their paternal ancestor was Abū Ṭālib, the father of 'Alī, the Prophet granted the sons of Fāṭima special permission to trace their lineages to himself. In a patriarchal society, they were to be considered his direct descendants, as if they were his progeny through a son. See Ibn Ḥajar al-Haytamī, *al-Ṣawā'iq al-muḥriqa*, 159, 236-37; al-Munāwī, *Fayḍ al-qadīr*, 5:22-23; Muḥammad b. Aḥmad al-Khaṭīb Sharbīnī, *Mughnī al-muḥtāj ilā ma'rifaṭ ma'ānī al-fāz al-minhāj*, 4 vols. ([Cairo]: Muṣṭafā al-Bābī al-Ḥalabī, 1958), 2:387-88; al-Shawkānī, *Nayl al-awṭār*, 6:139-40; al-Ḥillī, *Tadhkirat al-fuqahā'*, 2:568; al-Majlisī, *Bihār al-anwār*, 16:401.

179 For relevant titles and excerpts of treatises on the subject, see Modarressi, *Tārīkhīyāt*, 82-84, 88-91, 97-149. See also Powers, *Law, Society and Culture in the Maghrib*, 184-85. For an Akhbārī jurist who ruled that a man may trace his lineage to Hāshim through a mother, see al-Bahrānī, *al-Ḥadā'iq al-nāḍira*, 12:389-419. For a Twelver jurist who rejected this opinion, see al-Ḥakīm, *Mustamsik al-'Urwa al-wuthqā'*, 9:573-75.

males can transmit their Prophetic lineage to their offspring. Therefore, only the children of Hāshimid fathers may identify as Hāshimids, a right he called *sharaf al-nisba*. However, he contended that Muḥammad's descendants (*dhurriyya*) include the children of Fatimid women, although such children do not possess the honor of *sharaf al-nisba*.¹⁸⁰

Conclusion

Egalitarianism and a belief in the equal dignity of human beings are commonly accepted principles in the contemporary world. While some early Muslims apparently held these values, jurists came to hold views that contradicted them. In early Muslim societies, Qurashī ancestry and Arab identity often entailed privileges and rights not afforded to other community members. As a high-status group with the closest ties to the Prophet, Hāshimids enjoyed special prestige. The Prophet's progeny benefited not only from privileges associated with the tribe of Quraysh and with the Arabs but also from a number of other preferential practices exclusive to Hāshimids and the *ahl al-bayt*. This survey reveals the ways in which jurists incorporated their belief in the exceptionalism of high-status groups into their conceptions of law.

In debates about Islamic law, both Sunni and Shi'i jurists relied on exegesis of the Qur'ān and on *ḥadīths* that promote the veneration of the Prophet's family. For example, discussions about the legality of making monogamy a condition to marriage draw on reports about the noble status of Fāṭima. Shi'is upheld Fāṭima's right to inherit the Prophet's estate and incorporated this opinion into their argument in favor of a daughter's right to inherit her father's estate to the exclusion of distant male relatives.

In at least four cases, jurists considered members of the Prophet's family identical to him in purity: they may enter the sacred mosque of Medina in a state of *junub* or ritual impurity, only an 'Alid imām may succeed the Prophet in purifying the community through the collection of alms, Hāshimids may not spend community alms on their personal needs, and only members of the *ahl al-bayt* may convey newly revealed scripture and law on his behalf. In each case, the Prophet's kin take his place in his absence or join him in a privilege not available to other Muslims. Anti-Shi'i polemicists denied or disputed the significance of some of these privileges. However, the efforts of 'Alids, Abbasids and their partisans to establish their noble status as kinsmen of the Prophet

180 See Jalāl al-Dīn 'Abd al-Raḥmān al-Suyūṭī, *al-Ḥāwī li'l-fatāwī*, 2 vols. (Cairo: Idārat al-Ṭibā'a al-Muniriyya, 1933), 2:31-34.

from the second/eighth century onwards resulted in Sunni acceptance and advocacy of pro-Hāshimid legal opinions as well. Ultimately, both Sunnis and Shi'is came to identify several laws specific to the *ahl al-bayt* and the Hāshimid clan.

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