

This article is published in the *American Journal of Islamic Social Sciences* 34, no. 3 (2017). Since the journal uses transliteration conventions that I do not prefer, and since the published version introduced some minor errors into the text, I'm providing this version of the manuscript, which is more correct.

**A PRE-MODERN DEFENSE OF THE HADITHS ON SODOMY:  
AN ANNOTATED TRANSLATION & ANALYSIS OF AL-SUYŪTĪ'S ATTAINING THE  
HOPED FOR IN SERVICE OF THE MESSENGER (S)**

Jonathan Brown

Georgetown University

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## Introduction

The ‘the act of the people of Lot’ (*liwāt* or *lūṭiyya*) has long stood out among sins in Islamic thought.<sup>1</sup> This is in part due to the singular condemnation that the Quran reserves for the people of Lot and their iniquities, what the holy book calls “a gross indecency such as none in the world committed before you: Indeed you come with desire unto men instead of women” (Quran 8:80-81; see also Quran 27:55). It is also due to the persistence of this practice in Muslim societies despite this fierce condemnation. The knot of issues making up the question of ‘Islam and Homosexuality’ is complex indeed. This study focuses on the specific thread of sodomy (*liwāt*).<sup>2</sup>

While Muslim scholars compiled impressive lists of all the different sins and obscenities indulged by the people of Lot, their juridical discourse on *liwāt* remained distinctly focused.<sup>3</sup> For Muslim jurists, *liwāt* was an action, not an inclination or desire. It was ‘inserting the penis (*dhakar*, sometimes *hashfa*, or *glans*) into the anus of a man.’ The Shāfi‘ī, Ḥanbalī and Ḥanafī schools of law included anal sex with women other than wives and concubines in the definition of *liwāt* as well (anal sex with wives or

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<sup>1</sup> Books devoted to the topic include *Dhimm al-liwāt* by Abū Bakr al-Ājurri of Baghdad (d. 360/970), *al-Hukm al-maḍbūt fī taḥrīm ‘amal qawm lūṭ* by Shams al-Dīn Muḥammad b. ‘Umar al-Ghamrī of Cairo (d. 849/1445) (he also wrote a book on gender mixing, *al-‘Unwān fī taḥrīm mu‘āsharat al-shabbān wa’l-niswān*), and a *Risāla fī al-lūṭiyya wa taḥrīmihā* by Ibrāhīm b. Bakhshī Dādā Khalīfa (d. 973/1565); Shams al-Dīn al-Sakhāwī, *al-Ḍaw’ al-lāmi‘* (Beirut: Dār al-Jīl, 1992), 4:239; Ḥājjī Khalīfa Muṣṭafā Kātib Chelebī, *Kashf al-żunūn ‘an asāmī al-kutub wa’l-funūn*, ed. Muḥammad ‘Abd al-Qādir ‘Atā (Beirut: Dār al-Kutub al-‘Ilmiyya, 1429/2008), 2:204.

<sup>2</sup> For a study on the etymology and lexicography around the word *liwāt*, see Pierre Larcher, “*Liwāt*: ‘agir comme le peuple de Loth...’ Formation et interprétation lexicales en arabe classique,” *Journal of Arabic and Islamic Studies* 14 (2014): 213-227.

<sup>3</sup> See Shihāb al-Dīn Aḥmad ibn Ḥajar al-Haytamī, *al-Zawājir ‘an iqtirāf al-kabā’ir*, ed. ‘Imād Zakī al-Bārūdī (Cairo: al-Maktaba al-Tawfiqiyya, 2003), 2:296-97.

concubines was impermissible, but it was not treated as seriously as *liwāt*).<sup>4</sup> Discourse on *liwāt* thus differs significantly from most discussions surrounding LGBTQ issues, which focus much more on identity, relationships and inclinations than on physical acts.

Like *zinā* (fornication or adultery), *liwāt* was a penetrative act of the penis. As with *zinā*, any act that did not involve this penetration fell into a lower category of offense. Sex acts between women (ex., *siḥāq*) could thus not rise to the severity of *liwāt*. As in the case of heterosexual activity, other same-sex contact was condemned and could even be punished by a judge's discretion. But nothing matched *liwāt*, "the greatest

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<sup>4</sup> Khaled El-Rouayheb, *Before Homosexuality in the Arabic-Islamic World, 1500-1800* (Chicago: University of Chicago Press, 2005), 124; 136-139. The definition of *liwāt* in the late Shāfi‘ī school included the clause "... in the anus, whether of a man or a woman." A Hadith in the *Musnad* of Ibn Ḥanbal refers to anal sex with one's wife as 'the lesser *Liwāt* (*al-lūṭīyya al-ṣughrā*)," and this wording is attested even earlier in the *Kitāb al-Tahrīsh* of Ḏirār b. ‘Amr (d. 200/815). In the Ḥanafī, Shāfi‘ī and Mālikī schools, anal sex with a wife or slavegirl is only punished by discretionary punishment (*ta‘zīr*) (in the Shāfi‘ī school, one opinion is that this is only done if the man repeats the act after a warning). Al-Sha‘rānī (d. 973/1565) refers to some scholars as allowing anal sex with male slaves, but he provides no name or reference. The Ḥanafī scholar al-Kawākibī (d. 1096/1685) also reported that "there are those" who consider anal sex with male slaves to be permissible on the basis of the Quran's permission of sex with slaves (normally read as slave women), but again with no mention of who these scholars were. These may be references to the early Shāfi‘ī scholar Abū Sahl Aḥmad al-Abīwardī (d. 385/995), who held that a man who commits *liwāt* with his male slave should not be punished by the Hudud punishment but only by discretionary punishment, since the slave was his property, and this introduced an ambiguity (*shubha*), which drops the offense from the realm of the Hudud. Ibn Hajar al-Haytamī states that the ulama had come to consensus that *liwāt* with one's male slave was the same as with a free man; Muḥammad Nawawī b. ‘Umar al-Jāwī, *Qūṭ al-ḥabīb al-gharīb* (Cairo: Maṭba‘at Muṣṭafā al-Bābī al-Ḥalabī, 1938), 246; *Musnad* of Ibn Ḥanbal (Maymaniyya print), 2:182; Ḏirār b. ‘Amr *Kitāb al-Tahrīsh*, ed. Hüseyin Hansu and Mehmet Keskin (Istanbul: Sharikat Dār al-Irshād; Beirut: Dār Ibn Ḥazm, 2014), 132; Muḥammad Anwar Shāh Kashmīrī and Aḥmad ‘Alī al-Sahāranpūrī, *Jāmi‘ al-Tirmidhī al-muḥashshā* (Karachi: Qadīmī Kutubkhāne, n.d.), 338; Ṣalīḥ ‘Abd al-Salām al-Ābī, *al-Thamar al-dānī fi taqrib al-mā‘ānī Ḥāshiyat Risālat Ibn Abī Zayd al-Qayrawānī*, 2<sup>nd</sup> ed. (Cairo: Muṣṭafā al-Bābī al-Ḥalabī, 1944), 438; al-Suyūṭī, *al-Ashbāh wa l-naẓā’ir*, ed. Muḥammad al-Mu’tashim al-Baghdādī (Beirut: Dār al-Kitāb al-‘Arabī, 1414/1993), 746; Tāj al-Dīn al-Subkī, *Ṭabaqāt al-shāfi‘īyya al-kubrā*, ed. ‘Abd al-Fattāḥ Muḥammad al-Huluw and Maḥmūd Muḥammad al-Tanāḥlī, 2nd ed. (Cairo: Hujr, 1413/1992), 4:45-46; al-Haytamī, *al-Zawājir*, 2:299; Muḥammad b. Hasan al-Kawākibī, *al-Fawā’id al-samīyya sharḥ al-Fawā’id al-saniyya*, 2 vols. (Cairo: al-Maṭba‘a al-Amīriyya, 1322/), 2:355.

indecency (*al-fāhiṣa al-kubrā*)” either in moral condemnation or in the severity of punishment.<sup>5</sup>

The main opinions on the punishment for *liwāt* from the Sunni legal tradition are as follows, listed from the most to the least severe:<sup>6</sup>

- 1) Both the active and passive partners are killed (on the basis of the Hadith of Killing the Active/Passive Partner, see below). This was an early position of al-Shāfi‘ī (d. 204/820) and Ibn Ḥanbal (d. 241/855), and this is the main position of the **Mālikī school** (death by stoning).<sup>7</sup>
- 2) *Liwāt* is punished exactly like *zinā*, i.e., a party who has been married (*muḥṣan*) is stoned to death, while a never-married party is lashed 100 times and exiled for a year. This is the main opinion of the late **Ḥanbalī school**, and it is also an opinion in the Shāfi‘ī and Ḥanafī schools (held by al-Shaybānī [d. 189/804], Abū Yūsuf [d. 182/798], al-Ṭahāwī [d. 321/932] and others).<sup>8</sup>
- 3) *Liwāt* is punished similarly to *Zinā*, but not exactly. The active partner is executed by the sword while the passive partner is punished with 100 lashes and exiled for one year. This is the dominant opinion in the later **Shāfi‘ī school**.<sup>9</sup>
- 4) *Liwāt* is punished by discretionary punishment (*ta‘zīr*) of the judge. A repeat offender can be executed to protect public order by the judicial authority’s discretion (*siyāsa*).<sup>10</sup> This is the main historical opinion in the **Ḥanafī school**, rooted in Abū Ḥanīfa’s (d. 150/767) own opinion.<sup>11</sup>

<sup>5</sup> Ibn al-Ḥājj (d. 737/1336) of Cairo, who was famously conservative, divided sodomy (*lūṭiyya*) into three levels: 1) pleasure from looking at other men/boys, which was *haram*; 2) sexual contact short of anal sex, which was as bad as the latter if repeated; and 3) *al-fāhiṣa al-kubrā*, i.e., anal sex; Ibn al-Ḥājj al-Mālikī, *al-Madkhal*, 2 vols. (Beirut: Dār al-Fikr, [1990]), 2:8. This tripartite division might come from Abū Bakr Ibn Abī al-Dunyā (d. 281/894), who cites one Abū Sahl as describing how there will be three types of *lūṭi* folk: one that gazes, one that “clasps hands” and one that does “that act.” See Abū Bakr Ibn Abī al-Dunyā, *Dhāmm al-malāḥī*, ed. ‘Amr ‘Abd al-Mun‘im Salīm (Cairo: Dār Ibn Taymiyya, 1416/1996), 98. I thank Muntasir Zaman for this citation. See also Abū Bakr Muḥammad b. al-Ḥusayn al-Ājurrī (d. 360/970), *Dhāmm al-liwāt*, ed. Majdī al-Sayyid Ibrāhīm (Cairo: Maktabat al-Qur‘ān, n.d.), 72.

<sup>6</sup> For a useful study, see Sara Omar, “From Semantics to Normative Law: Perceptions of *Liwāt* (Sodomy) and *Sīḥāq* (Tribadism) in Islamic Jurisprudence (8-15<sup>th</sup> Century CE),” *Islamic Law and Society* 19 (2012): 222-256.

<sup>7</sup> Jalāl al-Dīn al-Suyūṭī, *Miṣbāḥ al-zujājā sharḥ Sunan Ibn Mājah* (Karachi: Qadīm Kutubkhāne, n.d.), 184; Abū Bakr Aḥmad al-Bayhaqī, *al-Sunan al-kubrā*, ed. Muḥammad ‘Abd al-Qādir ‘Atā, 11 vols. (Beirut: Dār al-Kutub al-‘Ilmiyya, 1999), 8:404-5; al-Ābī, *al-Thamar al-dānī*, 438.

<sup>8</sup> Maṇṣūr b. Yūnus al-Buhūtī, *al-Rawḍ al-murbi‘*, ed. Bashīr Muḥammad ‘Uyūn (Damascus: Maktabat Dār al-Bayān, 1999), 463-4; Abū Ja‘far al-Ṭahāwī, *Sharḥ mushkil al-āthār*, ed. Shu‘ayb al-Arnā’ūt, 16 vols. (Beirut: Mu’assasat al-Risāla, 1994), 9: 442-43.

<sup>9</sup> Al-Jāwī, *Qūṭ al-habīb*, 246.

<sup>10</sup> See this excellent study on how Shariah rules on same-sex activity are linked primarily to public order concerns, Mohammed Mezziane, “Sodomie et masculinité chez les juristes musulmans du IX<sup>e</sup>-XI<sup>e</sup> siècle,” *Arabica* 55 (2008): 276-306.

<sup>11</sup> Kashmīrī et al., *Jāmī‘ al-Tirmidhī al-muḥashshā*, 338.

The evidence for the Shariah's positions on *liwāt* and its punishment come from 1) the Quran's clear condemnation of 'going to men out of desire instead of women'; 2) numerous Hadiths condemning *liwāt* and setting out severe punishments for it (the subject of this study); 3) legal analogy on the basis of adultery/fornication (*zinā*); and 4) a variety of legal opinions from Islam's two founding generations of the Companions and the Successors (i.e., those who followed and learned from the Companions of the Prophet), presumably based on their understanding of the Quran, the Sunna and the proper deployment of legal reasoning. These Companion/Successor rulings range from treating *liwāt* like *zinā* to considering it distinct. The punishments they prescribed range from execution by stoning, burning or throwing the perpetrator from tall buildings, to corporal punishment such as lashing.<sup>12</sup>

According to the leading scholars within the Ḥanafī school, such as Ibn Humām (d. 861/1457), the tremendous disagreement among the Companions and Successors over the punishment for *liwāt* is evidence not only that the offense is not one the Hudud crimes (those offenses that infringe upon the 'rights of God' and the punishments for which are set in the Quran or Hadiths). According to this Ḥanafī perspective, it also shows that the Hadiths specifying the death penalty for *liwāt* must either be unreliable, or they must not be interpreted as a general rule. If the Prophet had truly identified *liwāt* as one of the Hudud crimes and set a punishment for it, there would not have been such variation in opinions amongst early scholars. So reasoned many Ḥanafīs.

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<sup>12</sup> Al-Bayhaqī, *Sunan*, 8:404-6; al-Haytamī, *Zawājir*, 2:296.

Doubt over the proper punishment for *liwāt* was enhanced by the flaws that Muslim Hadith critics identified in the main Hadiths on the topic (the subject of this study). Even some non-Ḥanafīs, such as the Shāfi‘ī Hadith scholar Ibn Ḥajar al-‘Asqalānī (d. 852/1449), admitted that the principal Hadiths used as evidence in establishing *liwāt* as a Hudud offense were not sufficiently reliable for that task. But only the Ḥanafī school refused analogy as a means to include crimes under the rubric of the Hudud offenses. Shāfi‘īs had no problem with do this, so Ibn Ḥajar and others still insisted that both *liwāt* and bestiality were Hudud crimes on the basis of their analogy with *zīnā*.<sup>13</sup>

It is against the backdrop of this debate over whether or not the crimes of *liwāt* and, to a lesser extent, bestiality are punishable by death as Hudud crimes that the criticism of the Hadiths surrounding *liwāt* took place. The debate was and remains, in essence, an intra-Sunni one over the nature of the crime of *liwāt* and its proper punishment. There has not been any debate, to my knowledge, over the prohibited nature of anal sex between men. The Shāfi‘ī scholars Fakhr al-Dīn al-Rāzī (d. 606/1210), al-Nawawī (d. 676/1277) and al-Haytamī (d. 974/1566) all list ‘*Liwāt* being *ḥarām*’ as one of those axiomatic tenets of the faith (*ma lūm min al-dīn bi'l-darūra*), as do the Ḥanafī scholar Badr al-Rashīd (d. 767/1366), the Ḥanbalī al-Buhūtī (d. 1051/1641) and the Zāhirī Ibn Ḥazm (d. 456/1064). Al-Bayhaqī (d. 458/1066), al-Qurṭubī (d. 671/1272), al-Ṣan‘ānī (d. 1768 CE) and others have stated that there is consensus on its prohibition.<sup>14</sup>

<sup>13</sup> Ibn Ḥajar, *Fatḥ al-Bārī*, ed. Ayman Fu’ād ‘Abd al-Bāqī and ‘Abd al-‘Azīz Bin Bāz, 14 vols. (Beirut: Dār al-Kutub al-‘Ilmiyya, 1997), 12:139, 251.

<sup>14</sup> Badr al-Dīn Muḥammad al-Zarkashī, *al-Bahr al-muhiṭ* (Beirut: Dār al-Kutub al-‘Ilmiyya, 2007), 4:566; al-Haytamī, *al-Fatāwā al-hadīthiyya* (Beirut: Dār Iḥyā’ al-Turāth al-‘Arabī, 1998), 267; Muḥyī al-Dīn al-Nawawī,

Attempts by Progressive<sup>15</sup> scholars to re-conceptualize how the Islamic tradition should view the knot of issues surrounding homosexuality (or, inverted, the problem of heteronormativity) have rested on four main pillars. First, attempts to reinterpret the Quran's story of the people of Lot as a condemnation of male rape as opposed to sodomy. Second, illustrating how Sunni Hadith scholars had themselves dismissed the Hadiths condemning *liwāt* as unreliable. Third, the claim that Muslim jurists built their whole structure of law regarding *liwāt* on a limited, patriarchal understanding of the Quranic story. And, finally, that Muslim scholars were prisoner to a patriarchal and heteronormative narrative. The argument that the Quranic story of Lot should be reread has already been addressed by Mobeen Vaid.<sup>16</sup> The present study examines the Hadiths on the topic of *liwāt*, primarily through a treatise devoted to defending them by the famous Cairean scholar Jalāl al-Dīn al-Suyūṭī (d. 911/1505).

On one hand, the Hadith/Sunna pillar of what can be termed ‘the Progressive argument’ on homosexuality in Islam is redundant. As Muslim scholars have long held, scriptural texts must be interpreted according to their evident meaning unless some compelling external or internal evidence suggests otherwise.<sup>17</sup> The plain language

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Rawdat al-Tālibīn (Beirut: al-Maktab al-Islāmī, 1991/1412), 10:65; Manṣūr al-Buhūtī, *Kashshāf al-qinā'* (Beirut: Dār al-Fikr, 1982/1402), 6:172; Ibn Ḥazm, *al-Muḥallā* (Beirut: Dār al-Fikr, n.d.), 12:388; al-Bayhaqī, *al-Sunan*, 8:402; Muḥammad b. Aḥmad al-Qurṭubī, *al-Jāmi' li-ahkām al-Qur'ān*, 10 vols. (Cairo: Dār al-Ḥadīth, 2002), 4:212; Muḥammad b. Ismā'īl al-Amīr al-Ṣan'ānī, *Subul al-salām*, 4 vols. (Beirut: Dār Ihyā' al-Turāth al-‘Arabī, 2005), 4:18-19.

<sup>15</sup> For a useful declaration of what ‘Progressive’ means in the Muslim context, see Omid Safi, ed., *Progressive Muslims* (Oxford: Oneworld, 2003), 1-29.

<sup>16</sup> <http://muslimmatters.org/2016/07/11/can-islam-accommodate-homosexual-acts-quranic-revisionism-and-the-case-of-scott-kugle/>

<sup>17</sup> Abū al-Ḥasan al-Asḥ'arī, *al-Ibāna 'an uṣūl al-diyāna*, ed. Fawqiyya Ḥusayn Maḥmūd (Cairo: Dār al-Anṣār, 1977), 138.

meaning of the Quran's condemnation of men who 'go unto men out of desire instead of women' does not readily afford interpretations other than the obvious one, and the Quran does not provide any signs that would compel a reader to consider an alternative interpretation. Provided that the Sunna/Hadith corpus or the first principles of reason do not provide such evidence, the evident reading of the Quran stands as is: a condemnation of men 'going unto men out of desire instead of women.' Furthermore, while one might challenge the authenticity of the Hadiths on *liwāt*, there is certainly no Hadith evidence that *liwāt* is anything other than sodomy.

From another perspective, the Hadith/Sunna pillar of the Progressive argument is crucial. Since the Islamic tradition has consistently rejected important elements of LGBTQ identities and lifestyles, many advocates of a Progressive revision have jettisoned that tradition in its entirety and tried to elaborate a new interpretation based solely on a radical rereading of the Quran. More influential ones, however, have attempted to engage the Islamic tradition and demonstrate how it can be recast to support the Progressive argument.<sup>18</sup> Scholars who have pursued this strategy of engagement have had to accept the traditional Muslim conception of the Sunna as the authoritative lens through which the Quran is read. Since Hadiths seem to make it clear that the unprecedented 'gross indecency' condemned by the Quran is what is conventionally termed sodomy (see below), it is very difficult to promote a rereading of the Quran that breaks with this understanding. For Progressive purposes, the Hadiths on *liwāt* thus either have to be shown to be unreliable according to Sunni Hadith

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<sup>18</sup> See Scott Siraj al-Haqq Kugle, *Homosexuality in Islam* (Oxford: Oneworld, 2010).

criticism, or their meaning must be recast. Otherwise, not only do these Hadiths clearly condemn *liwāt* and prescribe punishments for it, they also lock the traditional Muslim understanding of the whole ‘Sodom and Gomorrah’ narrative in place. As early Muslim scholars recognized, “The Sunna rules over the Book of God.”<sup>19</sup>

#### **Ratings of Ibn ‘Abbās’ Hadith of Killing the Active and Passive Partner:**

The most famous Hadith on *liwāt* was narrated from the Prophet by Ibn ‘Abbās. It reads, ‘Whoever you have found committing the act of the people of Lot, kill the active and passive partner. And whoever you have found to have had sex with an animal, kill him and kill the animal.’ (The underlined portion will be referred to as the Bestiality Clause).

The Hadith of Killing the Active/Passive Partner was declared *ṣahīḥ* by Ibn al-Jārūd (d. 307/919-20), al-Ṭabarī (d. 310/923), al-Ḥākim al-Naysābūrī (d. 405/1014), Ibn al-Ṭallā‘ (d. 497/1104), Ḍiyā’ al-Dīn al-Maqdisī (d. 643/1245), Zayn al-Dīn al-‘Irāqī (d. 806/1404) and al-Suyūṭī, all listed in the text of al-Suyūṭī’s treatise below. In addition, it was also judged to be *ṣahīḥ* or reliable by al-Ājurri (d. 360/970) (it is one of the Hadiths he presents as suitable for use ‘as proof’), Ibn ‘Abd al-Hādī of Damascus (d. 744/1343), al-Zarkashī al-Ḥanbalī (d. 772/1370) (the various narrations on the topic all compensate for each other’s weaknesses), Ibn Qayyim al-Jawziyya (d. 751/1350) (it meets the

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<sup>19</sup> ‘Abdallāh b. ‘Abd al-Rahmān al-Dārimī, *Sunan al-Dārimī*: introductory chapters, *bāb al-sunna qādiya ‘alā kitāb Allāh*.

standards of al-Bukhārī, and Ibn Ḥanbal used it as proof), Ibn Ḥajar al-Haytamī (it has a *sahīh sanad*), Ibn al-Amīr al-Ṣan‘ānī (d. 1768 CE), and Muḥammad Nāṣir al-Dīn al-Albānī (d. 1999 CE).<sup>20</sup> Even the early Ḥanafī Hadith scholar Abū Ja‘far al-Ṭahāwī (d. 321/932), who held that *liwāt* should be punished like a Hudud crime, uses the Hadith of Killing the Active/Passive Partner as the last nail in the coffin of those disagreeing with him.<sup>21</sup>

### Other Reliable Hadiths Condemning *Liwāt*:

The most reliable condemnation of *liwāt* actually comes from another Hadith narrated from the Prophet by Ibn ‘Abbās:

God has cursed those who slaughter to other than God, and God has cursed those who alter the signposts (or boundary markers) in the land,<sup>22</sup> and God has cursed those who lead the blind off the path, and God has cursed those who curse their parents, and God has cursed those who take as patrons those who are not their patrons (*tawallā ghayr mawālihi*), and God has cursed those who commit the act of the people of Lot, and God has cursed those who commit the act of the people of Lot, and God has cursed those who commit the act of the people of Lot.’ (Some versions contain a clause cursing those who commit bestiality as well).<sup>23</sup>

<sup>20</sup> Al-Ājurri, *Dhamm al-liwāt*, 29; Ibn ‘Abd al-Hādī Muḥammad b. Aḥmad, *al-Muḥarrar fī al-hadīth*, ed. ‘Ādil al-Hudbā and Muḥammad ‘Allūsh (Riyadh: Dār al-‘Atā’, 2001), 407; Ibn Qayyim al-Jawziyya, *Al-Jawāb al-kāfi li-man sa’ala ‘an al-dawā’ al-shāfi*, ed. Muhibb al-Dīn al-Khaṭīb (Cairo: al-Maktaba al-Salafiyya, n.d.), 206; Muḥammad b. ‘Abdallāh al-Zarkashī al-Ḥanbalī, *Sharḥ al-Zarkashī ‘alā Mukhtaṣar al-Khiraqī*, ed. ‘Abdallāh ‘Abd al-Rahmān al-Jibrīn (Riyadh: Maktabat al-‘Ubaykān, 1993), 6:287; Ibn Ḥajar al-Haytamī, *al-Zawājir*, 2:293; al-Ṣan‘ānī, *Subul al-salām*, 4:18; Muḥammad Nāṣir al-Dīn al-Albānī, *Sahīh Sunan Ibn Mājah* (Riyadh: Maktabat al-Mā‘arif, 1997), 2:324; idem, *Sahīh Sunan Abī Dāwūd* (Riyadh: Maktabat al-Mā‘arif, 1998), 3:73.

<sup>21</sup> Al-Ṭahāwī, *Sharḥ mushkil al-āthār*, 9:449–50. His criticism of other Hadiths does not involve ‘Amr b. Abī ‘Amr.

<sup>22</sup> The Torah forbids shifting existing boundary markers, especially those of neighbors. See Deuteronomy 19:14, 27:17; and Proverbs 22:28. In early Roman law, destroying or moving boundary stones was punishable by being sacrificed to Jupiter Capitolinus; O.F. Robinson, “Criminal Law: The Roman Republic,” *OUP Encyclopedia of Legal History* (Oxford: Oxford University Press, 2005), 2:268.

<sup>23</sup> The narrations through ‘Abd al-Rahmān b. Abī al-Zinād – ‘Amr b. Abī ‘Amr are highly inconsistent in their wording, as are the narrations through Sulaymān b. Bilāl – ‘Amr b. Abī ‘Amr, though they all contain mention of bestiality. By contrast, the narrations through Zuhayr b. Muḥammad – ‘Amr b. Abī ‘Amr and through Muḥammad b. Ishāq – ‘Amr b. Abī ‘Amr are extremely consistent in their wording (those through Zuhayr never include bestiality, those through Ibn Ishāq always do).

Another version of this Hadith contains almost the same content but is phrased as

‘Cursed are those who commit the act of the people of Lot...’.<sup>24</sup> Versions of this Hadith are found in the *Muṣannaf* of ‘Abd al-Razzāq al-Ṣan‘ānī (d. 211/827),<sup>25</sup> the *Musnad* of ‘Abd b. Ḥumayd (d. 249/863),<sup>26</sup> the *Musnad* of Ibn Ḥanbal,<sup>27</sup> the *Musnad* of al-Ḥārith b. Abī

<sup>24</sup> In the *Musnad* of Ibn Ḥanbal there is a similar Hadith narrated from ‘Alī in which he reads from his *ṣahīfa* that the Prophet said, ‘God has cursed those who slaughter to other than God, God has cursed those who steal signposts in the land, and God has cursed those who curse their fathers, and God has cursed those who give refuge to a murderer (*la’ana Allāh man dhabaḥa li-ghayr Allāh la’ana Allāh man saraqa manār al-ard wa la’ana Allāh man la’ana wālidahu wa la’ana Allāh man awā muḥdithan*'); *Musnad* of Ibn Ḥanbal, 1:108, 118, 152.

<sup>25</sup> ‘Abd al-Razzāq al-Ṣan‘ānī, *al-Muṣannaf*, ed. Ḥabīb al-Rahmān al-‘zamī, 11 vols. (Beirut: al-Maktab al-Islāmī, 1403/1983), 7:365. The *isnād* is: Ibn Jurayj – ‘Atā’ al-Khurāsānī – (break) – the Prophet: *mal’ūn mal’ūn mal’ūn man ‘amila ‘amila qawm lūt mal’ūn man sabba shay’an min wālidayhi mal’ūn man ghayyara shay’an min tukhūm al-ard mal’ūn man jama’a bayn imra’a wa ibnatihā mal’ūn man tawallā qawman bi-ghayr idhnihim mal’ūn man waqā’ā ‘alā bahīma mal’ūn man dhabaḥa li-ghayr Allāh ‘azza wa jall. And also via the *isnād*: Ibn Jurayj – (likely break) – ‘Ikrima – Ibn ‘Abbās but without the mention of bestiality. It is debated whether Ibn Jurayj met and heard Hadiths from ‘Ikrima; see Ibn Ḥajar, *Tahdīb al-tahdīb*, ed. Muṣṭafā ‘Abd al-Qādīr ‘Atā, 12 vols. (Beirut: Dār al-Kutub al-‘Ilmiyya, 1994), 6:353.*

<sup>26</sup> ‘Abd b. Ḥumayd, *Musnad ‘Abd b. Ḥumayd*, ed. Șubhī Badrī al-Ṣāmarrā’ī and Maḥmūd Muḥammad Ṣā’idī (Cairo: Maktabat al-Sunna, 1408/1988), 203. The key part of the *isnād* is: ... Sulaymān b. Bilāl – ‘Amr b. Abī ‘Amr – ‘Ikrima..., with the wording: *la’ana Allāh man ghayyara tukhūm al-ard wa la’ana Allāh man wālā ghayr mawālīhi wa la’ana Allāh man kammaha a’mā ‘an al-sabil la’ana Allāh man la’ana wālidayhi wa la’ana Allāh man dhabaḥa li-ghayr Allāh wa la’ana Allāh man waqā’ā ‘alā al-bahīma wa la’ana Allāh man ‘amila ‘amila qawm lūt thumma la’ana Allāh man ‘amila ‘amila qawm lūt thumma la’ana Allāh man ‘amila ‘amila qawm lūt.*

<sup>27</sup> *Musnad* of Ibn Ḥanbal in five locations. 1) *Musnad* 1:217. The *isnād* is Muḥammad b. Salama (Maslama in some recensions of the *Musnad*, an error) – Muḥammad b. Ishāq – (an) ‘Amr b. Abī ‘Amr – ‘Ikrima – the Prophet, with the wording: *mal’ūn man sabba abāhu mal’ūn man sabba ummaha mal’ūn man dhabaḥa li-ghayr Allāh mal’ūn man ghayyara tukhūm al-ard mal’ūn man kammaha a’mā ‘an ṭarīq mal’ūn man waqā’ā ‘alā bahīma mal’ūn man ‘amila bi-‘amal* (some recensions have ‘amal) *qawm lūt*. 2) *Musnad* 1:317. The *isnād* is Ya‘qūb – Ibrāhīm b. Sa‘d – Muḥammad b. Ishāq – (haddathānā) ‘Amr b. Abī ‘Amr – ‘Ikrima – Ibn ‘Abbās – the Prophet, with almost the identical wording: *mal’ūn man sabba abāhu mal’ūn man sabba ummaha mal’ūn man dhabaḥa li-ghayr Allāh mal’ūn man ghayyara tukhūm al-ard mal’ūn man kammaha a’mā ‘an al-ṭarīq mal’ūn man waqā’ā ‘alā bahīma mal’ūn man ‘amila ‘amila qawm lūt qālahā rasūl Allāh (s) mirāran thalāthan fi al-lūtiyya.* 3) *Musnad* 1:309. The *isnād* is ‘Abd al-Rahmān – Zuhayr – ‘Amr b. Abī ‘Amr – ‘Ikrima – Ibn ‘Abbās – the Prophet: *la’ana Allāh man dhabaḥa li-ghayr Allāh wa la’ana Allāh man ghayyara tukhūm al-ard wa la’ana Allāh man kammaha al-a’mā ‘an al-sabil wa la’ana Allāh man sabba wālidayhi wa la’ana Allāh man tawallā ghayr mawālīhi wa la’ana Allāh man ‘amila ‘amila qawm lūt la’ana Allāh man ‘amila ‘amila qawm lūt la’ana Allāh man ‘amila ‘amila qawm lūt*. 4) *Musnad* 1:317. The *isnād* is Hajjāj – ‘Abd al-Rahmān b. Abī al-Zinād – ‘Amr b. Abī ‘Amr – ‘Ikrima – Ibn ‘Abbās – the Prophet: *la’ana Allāh man man ghayyara tukhūm al-ard la’ana Allāh man dhabaḥa li-ghayr Allāh la’ana Allāh man la’ana wālidayhi la’ana Allāh man tawallā ghayr mawālīhi la’ana Allāh man kammaha al-a’mā ‘an al-sabil la’ana Allāh man waqā’ā ‘alā bahīma wa la’ana Allāh man ‘amila ‘amila qawm lūt la’ana Allāh man ‘amila ‘amila qawm lūt la’ana Allāh man thalāthan*. 5) *Musnad* 1:317. The *isnād* is Abū Sa‘īd – Sulaymān b. Bilāl – ‘Amr b. Abī ‘Amr – ‘Ikrima, etc., with the wording: *la’ana Allāh man ghayyara tukhūm al-ard la’ana Allāh man tawallā ghayr mawālīhi la’ana Allāh man kammaha a’mā ‘an al-ṭarīq la’ana Allāh man dhabaḥa li-ghayr Allāh la’ana Allāh man waqā’ā ‘alā bahīma la’ana Allāh man ‘aqqa wālidayhi la’ana Allāh man ‘amila ‘amila qawm lūt qālahā thalāthan*.

Usāma (d. 282/895-6),<sup>28</sup> the *Dhamm al-malāhī* of Ibn Abī al-Dunyā (d. 281/894),<sup>29</sup> the *Sunan al-kubrā* of al-Nasā'ī (d. 303/915),<sup>30</sup> the *Musnad Abū Ya'lā al-Mawṣilī* (d. 307/919-20),<sup>31</sup> the *Ṣahīh* of Ibn Ḥibbān (d. 354/965),<sup>32</sup> the *Masāwi' al-akhlāq* of al-Kharā'ītī (d. 327/939),<sup>33</sup> the *Mu'jam al-awsaṭ* and the *Mu'jam al-kabīr* of al-Ṭabarānī (d. 360/971),<sup>34</sup> the

<sup>28</sup> Nūr al-Dīn 'Alī al-Haythamī, *Majma' al-zawā'id wa manba' al-fawā'id*, ed. Ḥusām al-Dīn al-Qudsī, 10 vols. (Beirut: Dār al-Kitāb al-'Arabī, n.d.), 1:565. The *isnād* is: al-Khalīl b. Zakariyyā – al-Muthannā b. al-Ṣabāḥ – 'Amr b. Shu'ayb – his father – his grandfather – the Prophet: *mal'ūn mal'ūn mal'ūn man 'amila 'amal qawm lūt*.

<sup>29</sup> Abū Bakr Ibn Abī al-Dunyā, *Dhamm al-malāhī*, ed. Muḥammad 'Abd al-Qādir 'Atā (Cairo: Dār al-Itiṣām, 1407/1987), 65. The key part of the *isnād* is ... Khalaf b. Hishām – 'Abd al-Rahmān b. Abī al-Zinād – 'Amr b. Abī 'Amr... etc., with the wording: *la'ana Allāh man 'amila 'amal qawm lūt thalāthan la'ana Allāh man 'amila 'amal qawm lūt la'ana Allāh man 'amila 'amal qawm lūt*.

<sup>30</sup> Aḥmad b. Shu'ayb al-Nasā'ī (d. 303/916), *Sunan al-Nasā'ī al-kubrā*, ed. Shu'ayb al-Arnā'ūt et al. (Beirut: Mu'assasat al-Risāla, 1421/2001), 6:485-86. Here al-Nasā'ī describes 'Amr as 'not strong (*laysa bi-qawī*)'. The key part of the *isnād* is: ... 'Abd al-'Azīz b. Muḥammad – 'Amr b. Abī 'Amr – 'Ikrima – Ibn 'Abbās – the Prophet, with the wording: *la'ana Allāh man 'amila 'amal qawm lūt la'ana Allāh man 'amila 'amal qawm lūt la'ana Allāh man 'amila 'amal qawm lūt*. Al-Nasā'ī must have omitted the earlier part of the list of things God has cursed, as the whole *matn* by this *isnād* is in al-Bayhaqī, *Sunan*, 8:403. Al-Ājurī includes the narration by this *isnād* with only the wording: *la'ana Allāh man waq'a 'alā bahīma wa la'ana Allāh man 'amila 'amal qawm lūt*; as well as once with the full list; al-Ājurī, *Dhamm al-liwāt*, 46-7.

<sup>31</sup> Abū Ya'lā al-Mawṣilī, *al-Musnad*, ed. Ḥusayn Salīm Asad, 13 vols. (Damascus: Dār al-Ma'mūn, 1404/1984), 4:414. The key part of the *isnād* is: ... Zuhayr – 'Abd al-Malik b. 'Amr – Zuhayr b. Muḥammad – 'Amr b. Abī 'Amr – 'Ikrima..., with the wording: *la'ana Allāh man dhabaḥa li-ghayr Allāh wa la'ana Allāh man ghayyara tukhūm al-ard wa la'ana Allāh man kammaha al-a'mā'an al-sabil wa la'ana Allāh man sabba wālidayhi wa la'ana Allāh man tawallā ghayr mawālīhi wa la'ana Allāh man 'amila 'amal qawm lūt qālahā thalāthan ya'nī qawm lūt*.

<sup>32</sup> Ibn Ḥibbān al-Bustī, *Ṣahīh Ibn Ḥibbān*, ed. Shu'ayb al-Arnā'ūt, 18 vols. (Beirut: Mu'assasat al-Risāla, 1993), 10:265. The key part of the *isnād* is: Zuhayr b. Muḥammad – 'Amr b. Abī 'Amr – 'Ikrima..., with the wording: *la'ana Allāh man dhabaḥa li-ghayr Allāh wa la'ana Allāh man ghayyara tukhūm al-ard wa la'ana Allāh man kammaha al-a'mā'an al-sabil wa la'ana Allāh man sabba wālidayhi wa la'ana Allāh man tawallā ghayr mawālīhi wa la'ana Allāh man 'amila 'amal qawm lūt qālahā thalāthan fi 'amal qawm lūt*.

<sup>33</sup> Muḥammad b. Ja'far al-Kharā'ītī, *Masāwi' al-akhlāq wa madhmūmūhā*, ed. Muṣṭafā al-Shalabī (Jeddah: Maktabat al-Sawādī, 1992), 203. The *isnād* is: Aḥmad b. Manṣūr al-Ramādī – 'Abdallāh b. Rajā' – Sa'īd b. Salama – 'Amr b. Abī 'Amr – 'Ikrima – the Prophet, with the wording: *la'ana Allāh man waq'a 'alā bahīma wa la'ana Allāh man 'amila 'amal qawm lūt qālahā thalātha*.

<sup>34</sup> Abū al-Qāsim Sulaymān al-Ṭabarānī, *al-Mu'jam al-awsaṭ*, ed. Ṭāriq b. 'Awāḍ Allāh al-Husaynī, 10 vols. (Cairo: Dar al-Ḥaramayn, 1415/1995), 8:234. The *isnād* is: Mu'ādh – Abū Mu'sab al-Zuhrī – Muḥarrar b. Hārūn al-Qurashī – al-A'raj – Abū Hurayra – the Prophet (al-Ṭabarānī notes that only Muḥarrar narrates this from al-A'raj), with the wording: *la'ana Allāh sab'a min khalqihī min fawq sab' samawātihī wa raddada al-la'na 'alā wāhid minhūm thalāthan wa la'ana kull wāhid minhūm la'nātakfīhi fa-qāla mal'ūn man 'amila 'amal qawm lūt mal'ūn man 'amila 'amal qawm lūt mal'ūn man 'amila 'amal qawm lūt mal'ūn man dhabaḥa li-ghayr Allāh mal'ūn man atā shay'an min al-bahā'īm mal'ūn man 'aqqa wālidayhi mal'ūn man jama'a bayn al-mar'a wa bayn ibnatihā mal'ūn man ghayyara ḥudūd al-ard mal'ūn man iddā'a ilā ghayr mawālīhi; idem, *al-Mu'jam al-kabīr*, ed. Ḥamdī 'Abd al-Majīd al-Salafī, 25 vols. (Mosul: Maktabat al-Zahrā', 1983/1404), 11:218. The *isnād* is Abū Yazīd al-Qarātīsī & Yāḥyā b. Ayyūb al-'Allāf – Sa'īd b. Abī Maryam – 'Abd al-Rahmān b. Abī al-Zinād & 'Abd al-'Azīz b. Muḥammad – 'Amr b. Abī 'Amr – 'Ikrima – Ibn 'Abbās – Prophet, with the wording: *la'ana Allāh man wālā ghayr mawālīhi la'ana Allāh man ghayyara tukhūm al-ard la'ana Allāh man kammaha a'mā'an al-tarīq wa la'ana Allāh man la'ana wālidayhi wa la'ana Allāh man dhabaḥa li-ghayr Allāh wa la'ana Allāh man waq'a 'alā bahīma wa la'ana Allāh man 'amila 'amal qawm lūt wa la'ana Allāh man 'amila 'amal qawm lūt wa**

*Mustadrak* of al-Ḥākim,<sup>35</sup> the *Sunan al-kubrā* of his student al-Bayhaqī,<sup>36</sup> the *Hilyat al-awliyā'* of their contemporary Abū Nu‘aym al-Isbahānī (d. 430/1038),<sup>37</sup> the *Tārīkh Baghdād* of his student al-Khaṭīb al-Baghdādī (d. 463/1071)<sup>38</sup> and the *Mukhtāra* of Ḍiyā' al-Dīn al-Maqdisī.

This Hadith has been judged *ṣahīḥ* by Ibn Ḥibbān, al-Ḥākim, and Ḍiyā' al-Dīn al-Maqdisī (by its inclusion in his *Mukhtāra*), Nūr al-Dīn al-Haythamī (d. 807/1405) ('its transmitters are used in the *Ṣahīḥ*') as well as by al-Albānī and Aḥmad al-Ghumārī (d. 1960 CE).<sup>39</sup>

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la‘ana Allāh man ‘amila ‘amal qawm lūṭ. See also for almost identical chains, al-Kharā’itī, *Masāwi’ al-akhlāq*, 201.

<sup>35</sup> Al-Ḥākim al-Naysābūrī, *al-Mustadrak* (Hyderabad: Dā’irat al-Ma‘ārif al-‘Uthmāniyya, n.d.), 4:356. The key part of the *isnād* is: Zuhayr – ‘Amr b. Abī ‘Amr – Ikrīma..., with the wording: la‘ana Allāh man dhabaḥa li-ghayr Allāh, wa la‘ana Allāh man ghayyara tukhūm al-ard wa la‘ana Allāh man kammaha al-a‘mā‘ an al-sabīl wa la‘ana Allāh man sabba wālidayhi wa la‘ana Allāh man tawallā ghayr mawālīhi wa la‘ana Allāh man ‘amila ‘amal qawm lūṭ. Another narration comes via Abū Hurayra. The key part of the *isnād* is: Muḥarrar b. Hārūn al-Taymī (al-Qurashī) – al-A‘raj – Abu Hurayra – the Prophet: la‘ana Allāh sab‘a min khalqihī... mal‘un mal‘un mal‘un man ‘amila ‘amal qawm lūṭ. Al-Dhahabī notes that critics considered Muḥarrar b. Hārūn weak.

<sup>36</sup> Al-Bayhaqī, *Sunan*, 8:403. The key part of the *isnād* is: Ibrāhīm b. Hamza al-Zubayrī – ‘Abd al-‘Azīz b. Muḥammad – ‘Amr b. Abī ‘Amr – Ikrīma..., with the wording: la‘ana Allāh man tawallā ghayr mawālīhi wa la‘ana Allāh man man ghayyara tukhūm al-ard wa la‘ana Allāh man kammaha al-a‘mā‘ an al-sabīl wa la‘ana Allāh man la‘ana wālidahu wa la‘ana Allāh dhabaḥa li-ghayr Allāh wa la‘ana Allāh man waqā‘a ‘alā bahīma wa la‘ana Allāh man ‘amila ‘amal qawm lūṭ la‘ana Allāh man ‘amila ‘amal qawm lūṭ la‘ana Allāh man ‘amila ‘amal qawm lūṭ.

<sup>37</sup> Abū Nu‘aym al-Isbahānī, *Hilyat al-awliyā'* wa ṭabaqāt al-asfiyā', 10 vols. (Cairo: Maktabat al-Khānjī and Beirut: Dār al-Fikr, 1416/1997), 9:232. The full *isnād* is: Muḥammad b. al-Ḥasan – ‘Abdallāh b. Aḥmad – his father (a.k.a. Ibn Ḥanbal) – Muḥammad b. Muslim (sic, probably copiest error from the recensions of Ibn Ḥanbal’s *Musnad* that have Maslāma instead of Salāma) – Muḥammad Iṣhāq (sic) – ‘Amr b. Abī ‘Amr – Ikrīma – the Prophet, with the wording: mal‘un man sabba abāhu mal‘un man sabba ummahu mal‘un man dhabaḥa li-ghayr Allāh mal‘un man ghayyara tukhūm al-ard mal‘un man kammaha a‘mā‘ min ṭarīq mal‘un man waqā‘a ‘alā bahīma mal‘un man ‘amila bi-‘amal qawm lūṭ.

<sup>38</sup> Al-Khaṭīb al-Baghdādī, *Tārīkh Baghdād*, ed. Muṣṭafā ‘Abd al-Qādir ‘Aṭā, 14 vols. (Beirut: Dār al-Kutub al-‘Ilmiyya, 1417/1997), 5:90. The key part of the *isnād* is: al-A‘mash – Abū Ṣalīḥ – Abū Hurayra – the Prophet, with the wording: mal‘un mal‘un man sabba abāhu mal‘un man sabba ummahu mal‘un mal‘un man ‘amila ‘amal qawm lūṭ mal‘un mal‘un man aghrā bayn bahīmatayn mal‘un mal‘un man ghayyara tukhūm al-ard mal‘un mal‘un man kammaha a‘mā‘ an al-tarīq. Al-Khaṭīb calls this *munkar* and notes that “it is not reliably established by this *isnād* (lā yathbutu bi-hādhā al-isnād),” and he places the blame on a later narrator, Aḥmad b. al-‘Abbās al-Khallāl.

<sup>39</sup> Al-Haythamī, *Majma‘ al-zawā‘id*, 1:103; al-Albānī, *Ṣahīḥ al-Jāmi‘ al-ṣaghīr*, ed. Zuhayr al-Shāwīsh, 2 vols. (Beirut: al-Maktab al-Islāmī, 1988), 2:1225; Aḥmad b. al-Ṣiddīq al-Ghumārī, *al-Mudāwī li-‘ilal al-Jāmi‘ al-ṣaghīr wa sharḥay al-Munāwī*, 6 vols. (Cairo: Dār al-Kutub, 1996), 6:13. The narration championed by al-Ghumārī, that via Ibn Iṣhāq, is found in the *Musnad* of Ibn Ḥanbal: 1:217, 317; and Abū Nu‘aym, *Hilya*,

## Summary of the Muslim Critiques of Ibn ‘Abbās’ Hadith of Killing the Active/Passive Partner:

Pre-modern criticism<sup>40</sup> of the Hadith of Killing the Active/Passive Partner centers on the person of ‘Amr b. Abī ‘Amr (d. 144/761-2), a client of al-Muṭṭalib b. ‘Abdallāh, a member of the Quraysh tribe from the generation of the Successors. ‘Amr was a junior Successor, who narrated Hadiths mainly from the long-lived Companion Anas b. Mālik and other Successors like Sa‘īd b. Abī Sa‘īd al-Maqburī (his occasional narrations from the Companion Jābir b. ‘Abdallāh come through an intermediary, al-Muṭṭalib, as he sometimes specifies). His narrations from ‘Ikrima are rare. He was criticized by some but was generally held in high regard by critics. Al-Bukhārī (d. 256/870) used him for ten narrations in the *Ṣaḥīḥ*, and Muslim (d. 260/875) used him for five in his collection. But neither used his narrations from ‘Ikrima ← Ibn ‘Abbās ← The Prophet (s), nor did al-Nasā’ī in his *Mujtabā*. Among the Six Books, ‘Amr’s narrations from ‘Ikrima appear in the three *Sunans* of al-Tirmidhī (d. 279/892), Abū Dāwūd (d. 275/889) and Ibn Mājah (d. 273/886). Abū Dāwūd uses the chain for a Hadith on the obligation to perform the greater ablution (*ghusl*) on Fridays, for a Hadith on reading the Quran during prayer, and for an unusual Hadith about the procedure for asking permission to enter homes (which Abū Dāwūd notes is contradicted by a better report from Ibn ‘Abbās).<sup>41</sup> Ibn

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9:232. Note: Kugle discusses this Hadith and presents a chart of some of its narrations. While he lists Ibn Isḥāq as a transmitter, he is absent in the actual diagram; Kugle, 119.

<sup>40</sup> For a useful summary of the criticism of this Hadith, see Jamāl al-Dīn ‘Abdallāh b. Yūsuf al-Zaylā’ī, *Naṣb al-Rāya li-ahādīth al-Hidāya*, ed. Muḥammad ‘Awwāma, 5 vols. (Beirut: Mu’assasat al-Rayyān, 1997), 3:339-343.

<sup>41</sup> *Sunan Abī Dāwūd: kitāb al-adab, bāb mā jā’ a fī al-isti’dhān fī al-‘awrāt al-thalāth*.

Mājah uses the chain for a Hadith on a debt issue.<sup>42</sup> Along with al-Tirmidhī, their only other use of the ‘Amr ← ‘Ikrima chain is for the Hadith of Killing the Active/Passive Partner Hadith. ‘Amr b. Abī ‘Amr was thus a Hadith transmitter in fairly good standing amongst early Sunni Hadith critics. Ibn Ḥanbal and Abū Ḥātim al-Rāzī (d. 277/890) said, ‘There is nothing wrong with him (*laysa bihi ba’s*),’ and Abū Zur‘a al-Rāzī (d. 264/878) said he was reliable (*thiqā*).

But ‘Amr was criticized, in particular for his narrations from ‘Ikrima. Ibn Ḥanbal’s close colleague Ibn Ma‘īn (d. 233/848) said that his Hadiths were ‘not strong’, and al-Nasā’ī agreed. Al-‘Ijlī (d. 261/875) said he was reliable but that scholars considered his narration of the Bestiality Clause of the Hadith of Killing the Active/Passive Partner to be unsubstantiated. Ibn Ma‘īn also noted that this Hadith was considered unacceptable from him, including the main *liwāt* clause of the report. Al-Bukhārī doubted whether he heard the Bestiality clause from ‘Ikrima. In fact, he was not convinced that ‘Amr had heard any Hadiths directly from ‘Ikrima. Al-Jūzajānī (d. 259/873) declared him to be highly inconsistent in his narrations (*muḍṭarib al-hadīth*). Later scholars like al-Dhahabī (d. 748/1348) considered him *ṣadūq* (honest) and Ibn Ḥajar al-‘Asqalānī noted that his Hadiths were included in the *Ṣaḥīḥayn*.<sup>43</sup> Ibn Dīḥya (d. 633/1235) used him as the textbook example of a narrator of *ḥasan ḥadīths*.<sup>44</sup>

<sup>42</sup> *Sunan al-Nasā’ī: kitāb al-ṣadaqāt, bāb al-kafāla*.

<sup>43</sup> Al-Tirmidhī, *Kitāb al-‘Ilal al-kabīr*, ed. Ṣubḥī al-Sāmarrā’ī et al. (Beirut: ‘Ālam al-Kutub, 1989), 236; *Jāmi‘ al-Tirmidhī: kitāb al-ḥudūd, bāb mā jā’ a fi-man waqā‘a ‘alā al-bahīma*; *Sunan al-Nasā’ī: kitāb manāsik al-hajj, bāb idhā ashāra al-mahram ilā al-sayd...*; *Sunan Abī Dāwūd: kitāb al-adab, bāb al-isti’dhān fi al-‘awrāt al-thalāth*; Shams al-Dīn al-Dhahabī, *Mīzān al-i‘tidāl fi naqd al-rījāl*, ed. ‘Alī Muḥammad al-Bijāwī, 4 vols. (Beirut: Dār al-Ma‘rifa, [n.d.], reprint of 1963-4 Cairo Ḳānūn al-Bābī al-Ḥalabī edition), 3:281-2; Ibn Ḥajar, *Tahdhīb al-tahdhīb*, 8:68-9.

<sup>44</sup> ‘Umar b. Ḥasan Ibn Dīḥya, *Adā’ mā wajab min bayān waq‘ al-waqqādā‘īn fi rajab* (Beirut: al-Maktab al-Islāmī, 1998), 136.

It is important to note that the vast majority of criticism surrounding ‘Amr b. Abī ‘Amr and his narration of the Hadith of Killing the Active/Passive Partner does not concern the main clause on *liwāt* but rather only the Bestiality clause. The main objection stems from the fact that reliable narrators reported that Ibn ‘Abbās advocated a contradictory ruling on the question of bestiality, namely that it was not a Hudud crime. This is the main criticism raised by al-Bukhārī, al-Tirmidhī, Abū Dāwūd and the Ḥanafī al-Ṭahāwī, which they note when they bring up the opinion attributed to Ibn ‘Abbās, via the narration of ‘Āsim b. Bahdala ← Abū Razīn ← Ibn ‘Abbās, that the person who commits bestiality is not subject to the Hudud punishment.<sup>45</sup> Beyond general questions of ‘Amr’s reliability or his having heard directly from ‘Ikrima, the only other criticism of the *liwāt* portion of the Hadith is al-Tirmidhī’s remark on conflicting evidence over the proper punishment for *liwāt*; the Hadith in which the Prophet names those who commit the act of the people of Lot as a group cursed by God (see above) does not ordain killing them as a punishment.

Aside from these criticisms, the main focus of al-Suyūtī’s treatise is the criticism of the leading Hadith critic of the Mamluk period, Ibn Ḥajar al-‘Asqalānī. He was, like al-Suyūtī, an adherent to the Shāfi‘ī school of law and thus, in theory, a supporter of categorizing *liwāt* as a Hudud crime. Al-Suyūtī focuses on Ibn Ḥajar’s criticism that the

<sup>45</sup> *Sunan Abī Dāwūd: kitāb al-hudūd, bāb fī-man ‘amila ‘amal qawm lūt, bāb fī-man atā al-bahīma*; Abū Sulaymān Ḥamd al-Khaṭṭābī, *Ma‘ālim al-sunan*, 3<sup>rd</sup> ed., 4 vols. (Beirut: al-Maktaba al-‘Ilmiyya, 1981), 3:333; Ibn Ḥajar, *Tahdhīb al-tahdhīb*, 8:68; al-Tirmidhī, *Kitāb al-‘Ilal al-kabīr*, 236; al-Ṭahāwī, *Sharḥ mushkil al-āthār*, 9: 440-43. Al-Bayhaqī advanced a more doctrinaire Shāfi‘ī position when he argued that this claim was not convincing, since ‘Āsim – Razīn was not any more reliable a chain than that of ‘Amr b. Abī ‘Amr; al-Bayhaqī, *al-Sunan al-kubrā*, 8:407.

Hadith of Killing the Active/Passive Partner is “disagreed upon in terms of its attestation,” and al-Suyūṭī’s defense of the Hadith is premised entirely on the shape and form of this critical comment.

But Ibn Ḥajar’s criticisms were more extensive. Certainly, at one point in his voluminous writings he seems to downplay the Hadith’s flaws, noting that its transmitters are “deemed reliable (*mawthūq*)” but that there is disagreement on it.<sup>46</sup> But he states in his *Fath al-Bārī* that the Hadith, as well as the Hadith from ‘Alī that specifies stoning (see below), are both weak (*da’if*). It is impossible to see how al-Suyūṭī’s attempt to clarify Ibn Ḥajar’s first comment, detailed in the treatise presented here, could apply to such an unambiguous criticism.

This does *not* mean that Ibn Ḥajar was conceding to the Ḥanafīs on *liwāṭ* not being a Hudud crime. He makes this comment in the course of his argument that the main evidence for sodomy being a Hudud crime is not any Hadith but rather that the act is analogous to adultery/fornication (*zinā*).<sup>47</sup> At another point in the *Fath* he states that both the *liwāṭ* and Bestiality clauses are “not sound (*lam yaṣīḥḥā*)” but that both acts fall under *zinā*.<sup>48</sup>

More recent criticism of the Hadith of Killing the Active/Passive Partner have moved beyond the person of ‘Amr b. Abī ‘Amr to that of ‘Ikrima himself. This is a major component of the most comprehensive critique of the Hadiths on *liwāṭ*, namely that

<sup>46</sup> Ibn Ḥajar, *Bulūgh al-marām*, Tāriq ‘Awāḍ Allāh Muḥammad (Beirut: Dār Ibn Ḥazm, 2008), 420.

<sup>47</sup> Ibn Ḥajar, *Fath al-Bārī*, 12:139.

<sup>48</sup> Ibn Ḥajar, *Fath al-Bārī*, 12: 251.

offered by Scott Siraj al-Haqq Kugle in his book *Homosexuality in Islam*.<sup>49</sup> ‘Ikrima (d. 105/723-4), the freeman (*mawlā*) of Ibn ‘Abbās, was probably a Berber from North Africa. He was given as a slave to Ibn ‘Abbās in Basra, but his owner quickly freed him. ‘Ikrima traveled widely in the entourage of leading early Muslims, including to Marv and Yemen, and was sought out as an authority in matters of religion.

Criticism of ‘Ikrima is not novel. Since the first centuries of Islam, his reliability as a scholar and Hadith transmitter was questioned for three main reasons: 1) his alleged espousal of Khārijite beliefs, 2) his accepting gifts from rulers, and 3) that he transmitted false material (*kadhib*). Yet he had many, many advocates. Al-Ṭabarī, Ibn Manda (d. 395/1004-5), Ibn Ḥibbān and Ibn ‘Abd al-Barr (d. 473/1070) all wrote defenses of him, amongst others. The best summary of this discussion as well as the best defense of ‘Ikrima can be found in Ibn Ḥajar’s *Hady al-sārī*.<sup>50</sup> A recent revival of the anti-‘Ikrima line has come from the Ḥanafī scholar, resident in the UK, Atabek Shukurov,<sup>51</sup> and a comprehensive rebuttal was provided by another UK Ḥanafī scholar, Mufti Zameel.<sup>52</sup>

The Progressive argument has generally reproduced the intra-Sunni polemics over the Hadiths prescribing harsh punishments for *liwāt*. Kugle summarizes them well when he observes that the Hadiths “that directly affect legal rulings on homosexuality” are “not forged reports that should be dismissed, but rather reports with solitary chains of

<sup>49</sup> Kugle, *Homosexuality in Islam*, 105-10.

<sup>50</sup> Ibn Ḥajar, *Hudā al-sārī li-muqaddimat Fath al-Bārī*, ed. Ayman Fu’ād ‘Abd al-Bāqī and ‘Abd al-‘Azīz Bin Bāz (Beirut: Dār al-Kutub al-‘Ilmiyya, 1997), 596-601.

<sup>51</sup> See <https://shaykhatabekshukurov.com/2016/06/13/ikrima-as-imam-of-modern-hanafis/> and <https://shaykhatabekshukurov.com/2016/07/09/ikrima-as-imam-of-modern-hanafis-part-2/>

<sup>52</sup> See <http://ahlussunnah.boards.net/thread/499/response-atabek-ikrimah-mawl-ibn>

transmission, the application of which should be assessed....”<sup>53</sup> They are not forgeries, but they are not reliable enough to convince many Sunni scholars that *liwāt* should be treated as a Hudud crime. This is the same argument made in the tenth-century by the Hanafī scholar al-Jaṣṣāṣ (d. 370/981).<sup>54</sup>

### **Progressive Contributions to Criticism of the Hadiths on *Liwāt*:**

Kugle introduces several novel criticisms as well. The first builds on existing accusations that ‘Ikrima was a Khārijite, contending that his Khārijism led him to treat sexual offenses with particular severity. The only evidence that Kugle adduces for this, however, is the Hadith of Killing the Active/Passive Partner along with the overall uncompromising nature of Khārijite beliefs. He explains that Khārijites believed that Muslims who committed grave sins like *zinā* ceased to be believers.<sup>55</sup> Yet Kugle does not investigate ‘Ikrima’s own stance on this question. In a famous Hadith of incredible relevance to Kugle’s argument, ‘Ikrima narrates from Ibn ‘Abbās, from the Prophet, that a person who commits *zinā*, theft, drinks alcohol or commits murder is not a believer when committing those acts.<sup>56</sup> But this can hardly be dismissed as an invention of Khārijism. The majority of narrations of this Hadith come not through ‘Ikrima but from the Prophet by Abū Hurayra, who was not accused of Kharijism (they are included in all

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<sup>53</sup> Kugle, 88.

<sup>54</sup> Abū Bakr al-Jaṣṣāṣ, *Aḥkām al-Qur’ān* (Beirut: Dār al-Kitāb al-‘Arabī, n.d.; facsimile reprint of Istanbul: Maṭba‘at al-Awqāf al-Islāmiyya, 1335/1917), 3:263.

<sup>55</sup> Kugle, 108-110.

<sup>56</sup> See *Sahīḥ al-Bukhārī: kitāb al-muḥāribīn min ahl al-kufr..., bāb ithm al-zinā*.

the Six Books).<sup>57</sup> More importantly, ‘Ikrima’s version features striking tones of leniency. Unlike those who transmitted the Hadith from Abū Hurayra, ‘Ikrima asks Ibn ‘Abbās to explain how committing such sins can strip a Muslim’s faith from him and, crucially, how repenting restores it.<sup>58</sup> For from being a ruthless puritan on sexual sins, ‘Ikrima is our source for the teaching that any apostasy involved in committing these sins can be remedied by repentance.

The most significant objection to Kugle’s enhanced criticisms of ‘Ikrima is that it runs contrary to his overall strategy of constructing an acceptance of homosexuality within the Sunni legal tradition. Rejecting all evidence narrated by ‘Ikrima would contradict the agreed upon tenets of Sunni Hadith criticism (since al-Bukhārī considered him reliable and used him in his *Ṣaḥīḥ*) and Sunni law (he is relied upon as a transmitter of evidence in all the Sunni schools). An argument based on excluding ‘Ikrima would thus hardly be Sunni.

A second element of Kugle’s criticism of Hadiths on *liwāṭ* does not affect the Hadiths examined in this study, but it merits examination. He claims that one of the features of the text (*matn*) of a Hadith that revealed it as a forgery according to Muslim scholars was the Prophet supposedly using the proper names of groups, sects or schools of thought that would not emerge until decades after his death. This would apply to Hadiths that use the noun/adjective ‘sodomite (*lūṭī*)’ or ‘sodomy (*lūṭiyya, liwāṭ*)’. Kugle

<sup>57</sup> *Ṣaḥīḥ al-Bukhārī*: *kitāb al-maẓālim*, *bāb al-nuhbā bi-ghayr idhn ṣāḥibihī*; *Ṣaḥīḥ Muslim*: *kitāb al-īmān*, *bāb bayān nuqṣān al-īmān...*; *Sunan Abī Dāwūd*: *kitāb al-sunna*, *bāb al-dalīl ‘alā ziyādat al-īmān...*; *Jāmi‘ al-Tirmidhī*: *kitāb al-īmān*, *bāb mā jā‘a lā yaznī al-zānī...*; *Sunan al-Nasā‘ī*: *kitāb qat‘ al-sāriq*, *bāb ta‘zīm al-sāriqa*; *Sunan Ibn Mājah*: *kitāb al-fitan*, *bāb al-nahy ‘an al-nuhba*.

<sup>58</sup> *Ṣaḥīḥ al-Bukhārī*: *kitāb al-muḥāribīn min ahl al-kufr...*, *bāb ithm al-zinā*.

admits that this does not apply to the wording ‘the act of the people of Lot,’ which is used in the main Hadiths examined in this study.<sup>59</sup> Moreover, Kugle provides no reference for this alleged rule of *matn* criticism.

In fact, though Sunni Hadith critics did at times cite anachronism in the wording of Hadiths as a factor in declaring them forged, many Hadiths that Sunnis have long considered reliable contain what some might consider anachronistic references such as the Prophet gesturing to Iraq (where the Khārijites first emerged) and fortelling that a group interpreted as being the Khārijites will ‘come out (*yakhruju*)’ from there.<sup>60</sup> This is in great part due to the fact that Muslims have believed that, as a prophet, the Prophet Muhammad (s) was granted access to the unseen by God.<sup>61</sup>

Aside from this, anachronism does not always entail forgery. Often, as in the case of the Hadiths on *liwāt*, narrations with non-anachronistic wordings (such as ‘the act of the people of Lot’) are transmitted alongside counterparts with anachronistic wording (such as ‘*lūtiyya*’). It may simply be that, as the proper nouns for sects or certain acts

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<sup>59</sup> Kugle, 81, 116.

<sup>60</sup> *Ṣaḥīḥ al-Bukhārī*: *kitāb istitābat al-murtaddīn*..., *bāb man taraka qitāl al-khawārij*....

<sup>61</sup> The Quran states that God only makes knowledge of the unseen (*al-ghayb*) available to those whom He chooses (Quran 72:26), and in another verse the Prophet is made to say ‘I do not know what will be done with me or with you all’ (46:9), and in another, ‘I do not tell you all that mine are the treasures of the world, nor do I know the unseen’ (6:50). Aisha is reported to have said that anyone who claimed that the Prophet knew what would happen tomorrow was lying against God; *Ṣaḥīḥ al-Bukhārī*: *kitāb al-tawḥīd*, *bāb qawl Allāh ta’ālā ‘ālim al-ghayb...*). But numerous Hadiths describe the Prophet knowing future events, such as one in which God teaches him “all that is in the heavens and the earth”; *Jāmi’ al-Tirmidhī*: *kitāb al-tafsīr*, *bāb min sūrat sād*. Muslim scholars have thus concluded that the Prophet either had qualified knowledge of the unseen or that God granted him this knowledge at a particular time in his life, often thought to be during his Ascension to Heaven from Jerusalem. See, for example, Ibn ‘Asākir, *Tārīkh madīnat Dimashq*, ed. ‘Umar al-‘Amrāwī, 80 vols. (Beirut: Dār al-Fikr, 1995-1997), 11:5. Debate over the Prophet’s knowledge of the unseen has proven tempestuous between the Deobandi and Barelwi schools of thought in South Asia. See Usha Sanyal, “Are Wahhabis Kafirs? Ahmad Riza Khan Barelwi and His *Sword of the Haramayn*,” in *Islamic Legal Interpretation*, ed. Muhammad Khalid Masud, Brinkley Messick and David S. Powers (Cambridge, MA: Harvard University Press, 1996), 210-212.

became common, less fastidious narrators substituted them for their non-anachronistic counterparts. This would have been permitted by Hadith scholars, who generally allowed narrating a Hadith by its general meaning (*al-riwāya bi'l-ma'nā*) and not necessarily word-for-word provided the transmitter understood its meaning and kept it intact.<sup>62</sup>

The example mentioned by Kugle to prove his point on anachronism, namely Hadiths in which the Prophet condemns the Qadariyya (those who believe in human free will), perfectly demonstrates this.<sup>63</sup> For every Hadith in the main Sunni collections (and the *Musnad* of Ibn Ḥanbal) in which the Prophet condemns the Qadariyya by their proper name, there is a corresponding narration where he refers to them as ‘the people of *qadar*’ or ‘those who disbelieve in *qadar*.’ In fact, these latter narrations are the most reliable ones according to Muslim scholars.<sup>64</sup>

One of Kugle’s main lines of argument against the Hadith evidence on *liwāṭ* is that “there is nothing intrinsic” in them “to encourage us to see the deed of Lot’s Tribe as

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<sup>62</sup> Al-Khaṭīb al-Baghdādī, *al-Jāmi'* li-ikhtilāf al-rāwī wa ādāb al-sāmi', ed. Muḥammad Ra'fat Sa'īd, 2 vols. (Mansoura: Egypt: Dār al-Wafā', 1422/2002), 2:81. The practice of transmitting the general meaning a Hadith (*al-riwāya bi'l-ma'nā*) was widely accepted amongst Hadith transmitters of the second/eighth and third/ninth centuries. It was eventually accepted unanimously, as noted by leading scholars like al-Khaṭīb al-Baghdādī (d. 463/1071) and Ibn al-Ṣalāḥ (d. 643/1245). Some early Muslim scholars insisted on repeating Hadiths exactly as they had heard them. Ibn Sīrīn (d. 110/728) even reportedly repeated grammatical errors in Hadiths they had heard; al-Khaṭīb, *al-Jāmi'*, 2:71, 78-79; cf. *Jāmi'* al-Tirmidhī: *kitāb al-'ilal*. Interestingly, al-Qādī 'Iyād b. Mūsā (d. 544/1149) stated that laxity in Hadith transmission had led master scholars (*muhaqqiqūn*) in the fifth/eleventh century to “close the door of *riwāya bi'l-ma'nā*”; al-Qādī 'Iyād, *Mashāriq al-anwār 'alā ṣīḥāh al-āthār*, ed. Ba'l'amshī Aḥmad Yagan, 2 vols. ([Rabat]: Wizārat al-Awqāf wa al-Shū'ūn al-Islāmiyya, 1402/1982), 1:23.

<sup>63</sup> Kugle, 287.

<sup>64</sup> For the versions of these Hadiths with the non-anachronistic wordings, see *Sunan Ibn Mājah*: introduction, *bāb fi al-qadar*; *Musnad Ibn Hanbal*, 2:125.

involving sex.”<sup>65</sup> In the case of the Hadith that lists those whom God has cursed, he suggests that the common thread in the list is that all the deeds either infringe on the rights of God or injure others. He argues that, in the context of this Hadith, same-sex rape makes more sense as the meaning of ‘the act of the people of Lot’ than mere anal sex between men.<sup>66</sup> He then argues that the introduction of the bestiality clause into these Hadiths was intended to “deflect” the interpretation of ‘the act of the people of Lot’ towards anal intercourse.<sup>67</sup>

There are three flaws in this argument. First, in no way do any of the Hadiths that Kugle discusses provide any evidence that the Quranic story of Lot should be read *in any way other* than the plain language meaning of general male-male sexual contact. The Progressive reading of the Lot story in the Quran is itself extremely tenuous, so Kugle’s decision to read the Hadiths’ mention of ‘the act of the people of Lot’ in that light simply imports a baseless interpretive choice from one text into another. The argument thus circles back to its anchorless point of departure: that Muslim scholars misconstrued and “misapplied” Hadiths mentioning the ‘act of the people of Lot’ because they misread the Quran’s Lot pericope.<sup>68</sup> But the only way to establish the Progressive reading of the Lot pericope in the first place is to provide some internal evidence from the Quran (lacking, as shown by Vaid) or external evidence from the Sunna. But, as laid out by Kugle, mentions of the ‘act of the people of Lot’ in the

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<sup>65</sup> Kugle, 119, 123.

<sup>66</sup> Kugle, 120.

<sup>67</sup> Kugle, 122.

<sup>68</sup> Kugle, 121.

external Hadith evidence can only be read to support the Progressive argument if one already assumes the Quran has been misread.

Second, the claim that male-male anal sex is out of place in a list of deeds cursed by God due to the insult they cause to the divine or injuries they cause to others ignores the historical place that sodomy has occupied in human norm making. As Kugle suggests, the list of cursed acts has a common theme of disrupting or inverting the proper order of human relations with each other and with God. For Kugle, male-male anal sex could not constitute such a transgression, while male rape could. But this betrays a parochial rootedness in the modern liberal conviction that it is only the transgression of personal autonomy that renders a sex act morally wrong.

In fact, Kugle's mistake is not following through on his insight. Sodomy is condemned in ancient law codes precisely *because* it was understood as violating the gender and property order established when humans settled into agricultural communities. Far from being an addition intended to shift the narrative on the act of the people of Lot, the bestiality clause might actually predate it. From the world historical perspective, it is even more suited for this list. The bestiality taboo is one of mankind's oldest, originating with the beginning of settled agriculture.<sup>69</sup> It is not surprising to find sodomy and bestiality paired together, as one does in the Old Testament (Leviticus 18:22-23). The two rules draw primal boundaries for newly settled human communities with nascent societal gender divisions; a taboo on same-sex acts emphasizes the

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<sup>69</sup> Peter Stearns, *Sexuality in World History* (London: Routledge, 2009), 17.

primary distinction amongst humans, while the taboo on bestiality reinforces the distinction between humans and the animals that surround them.

Finally, Kugle's assertion that it is only the "patriarchal" interpretation of the Lot story in the Quran that leads us to read references to 'the act of the people of Lot' in the Hadiths as primarily sexual<sup>70</sup> ignores a manifest reality: if this reading of the Quranic story was wrong, it was wrong as far back as anyone can reliably date intellectual artifacts of the Islamic tradition (other than the Quran itself). Kugle admits that, by the time Hadith collection and compilation had begun and Hadiths were being "used in making legal decisions," the 'act of the people of Lot' was clearly understood as male-male sexual penetration.<sup>71</sup> But the most recent, historical critical (i.e., non-Muslim) scholarship on the Hadith tradition and early Islamic law has shown that the era referred to here by Kugle was none other than the late 600's, when Companions of the Prophet were still alive. Not only does this leave very little time for Muslims to have totally misunderstood the Quranic story of Lot, it also begs the question of precisely what more authentic understanding of the Quran we could hope than that of junior Companions and Successors.

According to the methods developed by the German Orientalist Joseph Schacht (d. 1969), which Kugle tentatively embraces, the most historically reliable reports are those attributed to the generation of Muslims living in the mid eighth century (*atbā' al-tābi'īn*), like Ibn Jurayj (d. 150/767) and Mālik b. Anas (179/795). According to Schacht,

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<sup>70</sup> Kugle, 118.

<sup>71</sup> Kugle, 118.

their legal opinions were later pushed back to Companions, attributions to whom are thus less historically reliable. Finally, these opinions were pushed back into the mouth of the Prophet himself by the early and mid ninth century.<sup>72</sup>

Although the main Hadiths dealing with the subject refer to it as ‘the act of the people of Lot’ or ‘sodomy (*lūtiyya*)’ without providing any description of what that meant, some do offer details. One quotes the Prophet as saying “Whoever has sex with (*waqa'a*) a man, kill him.” Another has, “Concerning the person who commits the act of the people of Lot, and concerning the man who is had sex with (*yu'tā fī nafsihi*), [the Prophet] said, ‘He is killed.’”<sup>73</sup> Another Hadith reads, “A woman does not engage directly with (*tubāshiru*) another woman except that they are committing fornication (*zāniyatān*), nor does a man engage directly with another man except that they are committing fornication.”<sup>74</sup> A Companion ruling, which, all things being equal, Schacht would consider more historically reliable than a Hadith, describes the caliph Abū Bakr and other Companions conferring to decide how to punish a man “who is screwed like a woman (*yunkahū kama tunkahū al-mar'a*).”<sup>75</sup>

These Hadiths appear in later sources in the tenth and eleventh centuries, so they could well have been forged after the early period of Hadith collection. Turning away from Schacht’s outdated methodology to the most recent Western scholarship on dating reports, we find that reports circulating as early as the late 600’s and early 700’s

<sup>72</sup> See Jonathan AC Brown, *Hadith* (Oxford: Oneworld, 2009), 210-13.

<sup>73</sup> Al-Bayhaqī, *al-Sunan*, 8:403.

<sup>74</sup> Al-Ṭabarānī, *al-Mu'jam al-awsat*, 4:266-67.

<sup>75</sup> Al-Bayhaqī, *Sunan*, 8:405.

also clearly understood ‘the act of the people of Lot’ as male-male anal sex. Reports appearing in the earliest surviving sources, such as the *Muṣannaf* of ‘Abd al-Razzāq al-Ṣan‘ānī (d. 211/827), do not offer any graphic detail about the act, but they all address it as a direct analog to *zinā*. ‘Abd al-Razzāq quotes his teacher Ibn Jurayj as describing how the punishment for the act is exactly that as specified for *zinā* in the Quran and well-known Hadiths (i.e., a married partner is stoned, a never married partner is lashed one hundred times and exiled for a year).<sup>76</sup> In the *Muṣannaf* of Ibn Abī Shayba (d. 235/849), Ibn Jurayj reports from his teacher, ‘Aṭā’ b. Abī Rabāḥ of Mecca (d. 114/732), “Concerning a man who comes sexually (*ya’tī*) to a man, his proper treatment (*sunnatuhu*) is that of a woman.”<sup>77</sup> These reports offer no hint that ‘the act of the people of Lot’ was understood as anything other than the male-male counterpart of heterosexual fornication. As the German scholar Harald Motzki has demonstrated using his combined *isnād/matn* analysis, there is little reason to presume that reports narrated by ‘Abd al-Razzāq ← Ibn Jurayj ← ‘Aṭā’ were forged by anyone in that chain. As a result, states Motzki, this material can be seen as authentic representations of Muslim legal scholarship in Mecca in the late seventh and early eighth centuries.<sup>78</sup> For our purposes, what this means is that even during the lifetime of the longest living Companions, ‘the act of the people of Lot’ was understood as sodomy.

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<sup>76</sup> ‘Abd al-Razzāq, *Muṣannaf*, 7:363.

<sup>77</sup> Abū Bakr Ibn Abī Shayba, *al-Muṣannaf*, ed. Kamāl Yūsuf al-Ḥūt, 7 vols. (Riyadh: Maktabat al-Rushd, 1409/1988), 5:497.

<sup>78</sup> Harald Motzki, “The *Muṣannaf* of ‘Abd al-Razzāq al-Ṣan‘ānī as a Source of Authentic *Aḥādīth* of the First Century A.H.,” *Journal of Near Eastern Studies*, 50 (1991): 11-12.

### Jalāl al-Dīn al-Suyūtī – Author of the *Bulūgh al-ma'mūl*

Jalāl al-Dīn 'Abd al-Rahmān b. Abī Bakr al-Suyūtī was born in 849/1445 in Cairo.<sup>79</sup> His father, the first in the family to pursue the life of scholar, was from Asyut in Upper Egypt and served as a judge there. But he eventually voyaged down the Nile to settle in Cairo. Al-Suyūtī's mother was a Circassian slave girl. Though his father died when he was only five, al-Suyūtī received an excellent education under the supervision of prominent scholars close to the family and, at the age of seventeen, he was given permission to issue fatwas from the Shāfi'i school by the noted scholar 'Alam al-Dīn Ṣāliḥ al-Bulqīnī (d. 868/1464), chief judge of Egypt. He studied with other leading scholars in Cairo as well, including the Shāfi'i jurist Sharaf al-Dīn Yaḥyā al-Munāwī (d. 871/1467) (whose great-grandson 'Abd al-Ra'ūf would write a commentary on al-Suyūtī's *Jāmi' al-ṣaghīr*) and the famous Jalāl al-Dīn al-Mahallī (d. 864/1459) (whose *Tafsīr* al-Suyūtī would complete, producing the well-known *Tafsīr al-Jalālayn*). Although al-Suyūtī was a Shāfi'i in law, he also studied Ḥanafī law. As part of the regular curriculum, he studied Ash'arī/Māturīdī theology and logic with Shams al-Dīn Muḥammad al-Marzubānī (d. 867/1463) and others.

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<sup>79</sup> For comprehensive studies on al-Suyūtī, see Elizabeth Sartain, *Jalāl al-Dīn al-Suyūtī*, 2 vols. (Cambridge: University of Cambridge Press, 1975); Marlis J. Saleh, "Al-Suyūtī and His Works: Their Place in Islamic Scholarship from Mamluk Times to the Present," *Mamluk Studies Review* 5 (2001): 73-89. Invaluable Arabic works on al-Suyūtī include Ṭāhir Sulaymān Ḥammūda, *Jalāl al-Dīn al-Suyūtī: 'aṣruhu wa ḥayātuhu wa-āthāruhu wa-juhūduhu fī al-dars al-lughawī* (Beirut: n.p., 1989), Sa'dī Abū Jīb, *Ḥayāt Jalāl al-Dīn al-Suyūtī ma'a al-'ilm min al-mahd ilā al-laḥd* (Damascus: Dār al-Manāhil, 1993). For his work in the science of Hadith, see Badī' al-Sayyid al-Lahhām, *al-Imām al-ḥāfiẓ Jalāl al-Dīn al-Suyūtī wa juhūduhu fī al-hadīth wa 'ulūmihi* (Damascus: Dār Qutayba, 1994).

At the age of eighteen al-Suyūṭī inherited his father's position teaching law at the Shaykhūniyya Mosque, and later he took up the position of teaching Hadith there as well. He was also later appointed as the administrator for the Baybarsiyya and the Barqūq Nāṣirī Sufi lodges, and he was initiated as least symbolically into the Shādhilī, Qādirī and Suhrawardī Sufi orders. He also spent a great deal of time teaching Hadith in the Great Mosque of Ibn Ṭulūn.

Al-Suyūṭī travelled to Mecca in 1464 CE and again in 1468-9 for the Hajj. Other than some internal travel in Egypt, there is no evidence that he voyaged elsewhere. There is also no evidence that he married, but he wrote a panegyric poem for one Ghuṣūn, who seems to have been a concubine who died while with child. The fact that, upon his death, his books were left as a trust under the supervision of his mother suggests that he had no children who survived him.<sup>80</sup>

In terms of his scholarly and ideological inclinations, al-Suyūṭī had contempt for the science of speculative theology (*kalām*) and advocated fideistic submission (*tafwīd*) to scriptural references to God's nature and the unseen. Famously, he opposed indulging the use of logic in the Islamic sciences. Al-Suyūṭī's early career was marked by involvement in numerous scholarly disputes, such as the permissibility of reading the books of Ibn ‘Arabī and other controversial mystics (they were pious saints but their books should not be allowed to laymen, argued al-Suyūṭī), the permissibility of

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<sup>80</sup> Sartain, *Jalāl al-Dīn al-Suyūṭī*, 1:23.

studying logic, the possibility of unrestricted *ijtihād* (see below), as well as social conflicts among the Cairo elite.

Al-Suyūṭī was heavily criticized for allegedly claiming that he had attained the rank of unrestricted *mujtahid* (*mujtahid muṭlaq*), which was widely understood as meaning a scholar capable of deriving law and theology directly from Islam's sources without adherence to any existing tradition or school. As he explained to his student al-Shā'rānī (d. 973/1565) as well as in his writings, this description was actually that of an independent *mujtahid* (*mujtahid mustaqill*). He agreed with most scholars that this latter rank had not been possible since around 1000 CE. Al-Suyūṭī acknowledged that he had claimed to have attained to the rare level of *mujtahid muṭlaq*, but he insisted that this rank, the highest possible in his latter day, consisted of deriving rulings independently but within an affiliation to a certain school of law (*mujtahid muntasib*). In this, he argued, he was like leading Shāfi'i jurists of the past, such as al-Muzanī (d. 264/878), al-Juwaynī (d. 478/1085) and Taqī al-Dīn al-Subkī (d. 756/1356). Al-Shā'rānī reports that his teacher never gave a fatwa outside the Shāfi'i school of law.<sup>81</sup>

Al-Suyūṭī redefines the adjective 'prolific.' Scholars have come up with various final tallies of his books and treatises, but the median count of his works is over 600. <sup>392</sup> have been published.<sup>82</sup> The fields of Quranic sciences, Arabic grammar and rhetoric, as well as history were certainly some of his more pronounced passions. But the

<sup>81</sup> Sartain, *Jalāl al-Dīn al-Suyūṭī*, 1:19-113; Najm al-Dīn al-Ghazzī, *al-Kawākib al-sā'ira bi-a'yān al-mi'a al-āshira*, ed Jibrā'il Jabbūr, 3 vols. (Beirut: Dar Al-afaq Al-jadidah, 1979), 1:226-31; 'Abd al-Wahhāb al-Shā'rānī, *al-Tabaqāt al-ṣughrā*, ed. Aḥmad 'Abd al-Rahmān al-Sāyiḥ and Tawfiq Wahba (Cairo: Maktabat al-Thaqāfa al-Dīniyya, 2005), 7, 13.

<sup>82</sup> Saleh, 83, 89.

collection and discussion of Hadiths dominated his oeuvre perhaps more than any other subject. His student al-Dāwūdī says he was the most knowledgeable of his time in Hadith and its sciences, and al-Suyūtī himself claimed to have memorized two hundred thousand Hadiths, adding that there might not be more than that in the world.

Al-Suyūtī attempted to compile all the extant Hadiths in one massive compendium, the *Jāmi‘ al-kabīr*, but he died before he could complete the work. What survived is published in thirty large volumes, covering around nine tenths of an alphabetized ordering of Prophetic sayings (al-Suyūtī never began the section on Prophetic actions).<sup>83</sup> Seemingly while working on this massive project, al-Suyūtī extracted all the Hadiths that quoted the Prophet’s speech, as opposed to his actions, and compiled them in a smaller work entitled the *Jāmi‘ al-ṣaghīr* (10,031 Hadiths in the published version). He himself wrote an addendum with Hadiths he had missed (*al-Ziyāda*) but he did not incorporate them into the original.<sup>84</sup>

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<sup>83</sup> Here al-Suyūtī may have been following in the footsteps of his exemplar, Ibn Ḥajar, who, according to al-Suyūtī, wrote a book called *al-Jāmi‘ la-kabīr min sunan al-bashīr al-nadīr*. Many scholars have pointed out al-Suyūtī’s failure to exhaust all the extant Hadiths in his *Jāmi‘ al-kabīr*. The Egyptian al-Munāwī (d. 1031/1622) estimated that al-Suyūtī had captured no more than two thirds of the extant Prophetic sayings in his *Jāmi‘ al-kabīr*, and he compiled his *Jāmi‘ al-azhar min ḥadīth al-Nabī al-anwār* to include additional material that al-Suyūtī had missed in the part of his work that he had completed. Al-Munāwī then also picked up where had al-Suyūtī left off (around the Hadith ‘*man taraka...*’). The Moroccan Hadith scholar Abū al-‘Alā’ al-Fāsī (d. 1769 CE) wrote in over 5,000 Hadiths in the margins of his copy of the *Jāmi‘ al-kabīr*. Meanwhile, the Indian scholar ‘Alī b. ‘Abd al-Malik al-Muttaqī al-Hindī (d. 975/1567) built on al-Suyūtī’s *Jāmi‘ al-ṣaghīr*. He added more Hadiths, including those describing the Prophet’s actions, and then arranged all the material according to topic in his huge *Kanz al-‘ummāl fī sunan al-aqwāl wa’l-afāl*; Muhammad b. Ja‘far al-Kattānī, *Salwat al-anfās wa muhādathat al-akyās mimman uqbira min al-‘ulamā’ wa’l-ṣulahā’ bi-fās*, ed. ‘Abdallāh al-Kāmil al-Kattānī et al., 4 vols. (Casablanca: Dār al-Thaqāfa, 2004), 1:150; al-Suyūtī, *Naṣm al-‘iqyān fī a‘yān al-a‘yān*, ed. Philipp Hitti (Beirut: al-Maktaba al-‘Ilmiyya, 1927), 49; ‘Abd al-Ra‘ūf al-Munāwī, *al-Jāmi‘ al-azhar min ḥadīth al-nabī al-anwār* (Cairo: al-Markaz al-‘Arabī li’l-Baḥth wa’l-Nashr, 1980), 1:1-10.

<sup>84</sup> This task was performed in the twentieth century by Yūsuf al-Nabḥānī (d. 1932 CE), who titled the resulting work *al-Fatḥ al-kabīr fī damm al-Ziyāda ilā al-Jāmi‘ al-ṣaghīr*.

In the late 1480s, by then in his forties, al-Suyūṭī began to withdraw from public life. When he fell into dispute with the Sufis of the Baybarsiyya lodge (he claimed they were not real Sufis because they were not adopting the manners and ethics of saints), he was dismissed. There are reports that the Mamluk sultan then sought to have him killed. Al-Suyūṭī went into hiding for several months until the sultan died, whereupon he retired permanently to his house on the Rawḍa Island in the Nile (today part of Cairo) to write in seclusion, perhaps leaving home only to access books. He stayed there until his death in 911/1505 at the age of sixty-one.

In addition to the controversy over his claims of *ijtihād*, al-Suyūṭī was heavily criticized (and is still scoffed at) for claiming to be the ‘renewer (*mujaddid*)’ of the tenth Hijri century. Yet al-Suyūṭī’s ‘claim’ was not as arrogant as is often portrayed. He writes in his autobiography that, “This poor soul in need of God’s bounty hopes that God would bestow upon him the blessing of being the *mujaddid* at the start of the century.”<sup>85</sup> This could be seen as a sign of egotism, but few scholars of al-Suyūṭī’s time could hope for this mantle with more reasonable expectation of receiving it. Admirers of al-Suyūṭī wrote that his writings had became widespread as far as India during his own lifetime. His learning and, even more, his astoundingly prolific output were quickly seen by many as miraculous signs from God of al-Suyūṭī’s worthiness. But al-Suyūṭī was an abrasive personality who was confident in his abilities and quick to point out the shortcomings in others. As Saleh writes, “His arrogance and combative personality

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<sup>85</sup> Al-Suyūṭī, *al-Taḥadduth bi-ni‘mat Allāh*, ed. Elizabeth Sartain (Cairo: al-Maṭba‘a al-‘Arabiyya al-Ḥadītha, 1972), 227.

made it virtually impossible for other scholars to appreciate his undeniable accomplishments.”<sup>86</sup>

We know little of where the treatise presented here, the *Bulūgh al-ma’mūl*, stood in al-Suyūṭī’s career. The text does not include any hints as to when or exactly why it was composed, other than as part of the longrunning ‘Hanafīs v. Other Schools’ debate over the criminal rating of *liwāt*. At one point in his life al-Suyūṭī became very exercised over the continued operation of a certain house of ill repute in Cairo, where “all sorts of corruption occurred, like fornication, sodomy (*liwāt*) drinking, and playing music....”<sup>87</sup> But there is nothing remarkable here. Few Muslim scholars would have reacted differently.

#### **The Structure of *Attaining the Hoped for in Service of the Messenger*:**

The outline of al-Suyūṭī’s treatise is as follows:

1. Presentation of the Hadith of Killing the Active/Passive Partner and related Hadiths via Ibn ‘Abbās, Abū Hurayra and Jābir, along with critical approval of their reliability
2. Discussion of the criticisms of ‘Amr b. Abī ‘Amr’s narration and responses mitigating them, adding that other narrations compensate for his flaws. Thus ‘Amr’s Hadith should be considered *sahīh*.

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<sup>86</sup> Marlis J. Saleh, “Al-Suyūṭī and His Works,” 78.

<sup>87</sup> Al-Suyūṭī, *al-Tahadduth bi-ni’mat Allāh*, 175.

3. Presentation of other Hadiths attesting to the content of 'Amr b. Abī 'Amr's narration of the Hadith of Killing the Active/Passive Partner
4. Presentation of supporting Companion reports
5. Contextualization of criticisms of 'Amr b. Abī 'Amr; argument that he is reliable
6. Response to to Ibn Ḥajar's comment that the Hadith is 'disagreed on in terms of its attestation'
7. Conclusion: people should be wary of speaking about Hadiths without knowledge of the Hadith sciences

**The Text of the *Bulūgh al-ma'mūl* Relied on for this Translation:**

There are two published editions of the *al-Ḥāwī li'l-fatāwī*, a collection of al-Suyūṭī's fatwas that he compiled himself. The Dār al-Kutub al-'Ilmiyya edition (henceforth, DKI), edited by a team of scholars, relied on a selection of manuscripts and includes a limited critical apparatus. The Dār al-Kitāb al-'Arabī edition (henceforth, DKA), which lacks any mention of the sources relied on, seems to have relied on only one manuscript. Unfortunately, that manuscript also seems to be an outlier. As such, this translation is based on the DKI edition of the *Ḥāwī*.<sup>88</sup>

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<sup>88</sup> Al-Suyūṭī, *al-Ḥāwī li'l-fatāwī* (Beirut: Dār al-Kutub al-'Ilmiyya, 1402/1982, reprint of original published in 1352/1933), 2:110-115; idem, *al-Ḥāwī li'l-fatāwī*, 2 vols. (Beirut: Dār al-Kitāb al-'Arabī, n.d.), 2:279-285.

## ATTAINING THE HOPED FOR IN SERVICE OF THE MESSENGER (MAY GOD'S PEACE AND BLESSINGS BE UPON HIM)

{In the name of God, the Most Gracious, the Most Merciful. And praise be to God, and peace be upon His elect servants}<sup>1</sup>

Question: The Hadith ‘Whomever you all have found committing the action of the people of Lot, kill the active and the passive partners’<sup>2</sup> appears among the Hadiths of Ibn ‘Abbās, Abū Hurayra and Jābir.

As for the Hadith of Ibn ‘Abbās, it was included by Abū Dāwūd<sup>3</sup>, al-Tirmidhī<sup>4</sup>, al-Nasā’ī [in his *Sunan al-kubrā*]<sup>5</sup>, Ibn Mājah<sup>6</sup>, Ibn Abī al-Dunyā in the *Dhamm al-malāhī* (*The*

<sup>1</sup> { } not in the ms. relied upon by the Dār al-Kitāb al-‘Arabī (DKA) edition. The Dār al-Kutub al-‘Ilmiyya (DKI) edition mentions that it is missing from some mss.

<sup>2</sup> Arabic: *man wajad tumūhu ya’malu ‘amal qawm lūt fa’qtulū al-fā’il wa’l-mafūl bihi*.

<sup>3</sup> Abū Dāwūd Sulaymān b. al-Ash’ath al-Sijistānī (d. 275/889), *Sunan Abī Dāwūd: kitāb al-hudūd, bāb fī-man ‘amila ‘amal qawm lūt*. The key portion of the *isnād* is: ... ‘Abd al-‘Azīz b. Muḥammad - ‘Amr b. Abī ‘Amr - ‘Ikrima - Ibn ‘Abbās - the Prophet: *man wajad tumūhu ya’malu ‘amal qawm lūt fa’qtulū al-fā’il wa’l-mafūl bihi*. See also al-Kharā’iṭī, *Masāwī’ al-akhlāq*, 202. Abū Dāwūd also notes the parallel *isnāds* of ... Sulaymān b. Bilāl - ‘Amr b. Abī ‘Amr..., and ... ‘Abbād b. Manṣūr - ‘Ikrima..., and ... Dāwūd b. Husayn - ‘Ikrima....

<sup>4</sup> Muḥammad b. Ḫāṣid al-Tirmidhī (d. 279/892), *Jāmi’ al-Tirmidhī: kitāb al-hudūd, bāb fī-man ‘amila ‘amal qawm lūt*. The key portion of the *isnād* is: ... ‘Abd al-‘Azīz b. Muḥammad - ‘Amr b. Abī ‘Amr - ‘Ikrima - Ibn ‘Abbās - the Prophet: *man wajad tumūhu ya’malu ‘amal qawm lūt fa’qtulū al-fā’il wa’l-mafūl bihi*.

<sup>5</sup> This particular *matn* is not in either of al-Nasā’ī’s *Sunnas*. What the *Sunan al-kubrā* actually contains is the Hadith ‘*la’ana Allāh man ‘amila ‘amal qawm lūt, la’ana Allāh man ‘amila ‘amal qawm lūt, la’ana Allāh man ‘amila ‘amal qawm lūt*’ via the same *isnād* as the Hadith of Killing the Active/Passive Partner, i.e., ... ‘Abd al-‘Azīz b. Muḥammad - ‘Amr b. Abī ‘Amr - ‘Ikrima - Ibn ‘Abbās - the Prophet); Aḥmad b. Shu’ayb al-Nasā’ī (d. 303/916), *Sunan al-Nasā’ī al-kubrā*, ed. Shu’ayb al-Arnā’ūṭ et al. (Beirut: Mu’assasat al-Risāla, 1421/2001), 6:485-86. Here al-Nasā’ī describes ‘Amr as ‘not strong (*laysa bi-qawi*)’. The *Sunan al-kubrā* is a much larger collection than al-Nasā’ī’s more famous *Mujtabā*, often referred to simply as *Sunan al-Nasā’ī*. Unlike the *Mujtabā*, it includes many unreliable Hadiths and relies on transmitters whom al-Nasā’ī

*Condemnation of Distractions),*<sup>7</sup> Abū Ya‘lā [al-Mawṣilī]<sup>8</sup> and al-‘Adanī<sup>9</sup> in their two *Musnads*, by ‘Abd b. Ḥumayd<sup>10</sup> and Ibn al-Jārūd in the *Muntaqā*,<sup>11</sup> by al-Dāraquṭnī in his *Sunan*,<sup>12</sup> by al-Ṭabarānī<sup>13</sup> and al-Ḥākim in the *Mustadrak* – and he rated it *ṣahīḥ*<sup>14</sup> – as well as by al-Bayhaqī in his *Sunan*<sup>15</sup> and al-Ḍiyā’ al-Maqdisī in his *Mukhtāra*.<sup>16</sup>

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himself considered deeply flawed. For the most recent study on al-Nasā’ī and his collection of Hadith, see Christopher Melchert, “The Life and Works of al-Nasā’ī,” *Journal of Semitic Studies* 54, no. 1 (2014): 377-406.

<sup>6</sup> Muḥammad b. Yazīd Ibn Mājah (d. 273/886), *Sunan Ibn Mājah: kitāb al-ḥudūd, bāb fī-man ‘amila ‘amal qawm lūṭ*. The key portion of the *isnād* is: ... ‘Abd al-‘Azīz b. Muḥammad – ‘Amr b. Abī ‘Amr – ‘Ikrima – Ibn ‘Abbās – the Prophet: *man wajad tumūhu ya‘malu ‘amal qawm lūṭ fa’qtulū al-fā’il wa'l-mafūl bihi*.

<sup>7</sup> Abū Bakr Ibn Abī al-Dunyā (d. 281/894), *Dhamm al-malāḥī*, ed. Muḥammad ‘Abd al-Qādir ‘Aṭā (Cairo: Dār al-Itiṣām, 1407/1987), 65. The key portion of the *isnād* is: ‘Abd al-‘Azīz b. Muḥammad – ‘Amr b. Abī ‘Amr – ‘Ikrima – Ibn ‘Abbās – the Prophet, but the *matn* varies from the others: *fī-man ‘amila ‘amal qawm lūṭ yuqtalū al-fā’il wa'l-mafūl bihi*.

<sup>8</sup> Abū Ya‘lā al-Mawṣilī (d. 307/919-20), *Musnad*, ed. Ḥusayn Salīm Asad, 13 vols. (Damascus: Dār al-Ma’mūn, 1404/1984), 4:346-8. The key portion of the *isnād* is: ... ‘Abd al-‘Azīz b. Muḥammad – ‘Amr b. Abī ‘Amr – ‘Ikrima – Ibn ‘Abbās – the Prophet: *man wajad tumūhu ya‘malu ‘amal qawm lūṭ fa’qtulū al-fā’il wa'l-mafūl bihi*. The Hadith also appears with the clause on bestiality as well (see *ibid.*, 5:128) via the *isnād*: ... ‘Abd al-Malik b. ‘Amr – Zuhayr b. Muḥammad – ‘Amr b. Abī ‘Amr – ‘Ikrima – Ibn ‘Abbās – the Prophet.

<sup>9</sup> Abū ‘Abdallāh Muḥammad b. Yahyā al-‘Adanī (d. 243/858) was a Hadith scholar who lived for a long time in Mecca. He was a teacher of al-Tirmidhī, Muslim, Ibn Mājah, and was also used as a source used by al-Nasā’ī. His *Sunan* appears not to have survived. I have found no record of the *isnād*.

<sup>10</sup> ‘Abd b. Ḥumayd (d. 249/863), *Musnad ‘Abd b. Humayd*, ed. Ṣubḥī Badrī al-Sāmarrā’ī and Maḥmūd Muḥammad Ṣā’idī (Cairo: Maktabat al-Sunna, 1408/1988), 200. The key portion of the *isnād* is: ‘Abdallāh b. Ja‘far – ‘Amr b. Abī ‘Amr – ‘Ikrima – Ibn ‘Abbās – the Prophet: *man wajad tumūhu ya‘malu ‘amal qawm lūṭ fa’qtulū al-fā’il wa'l-mafūl bihi*, with the addition of the bestiality clause. See also al-Ṭabarī, *Tahdhīb al-āthār – Musnad Ibn ‘Abbās*, ed. Maḥmud Muḥammad Shākir, 2 vols. (Cairo: Matba‘at al-Madāri, n.d.), 2:554.

<sup>11</sup> ‘Abdallāh b. ‘Alī Ibn al-Jārūd al-Naysābūrī (d. 307/919-20), *al-Muntaqā*, ed. ‘Abdallāh ‘Umar al-Bārūdī (Beirut: Mu’assasat al-Kitāb al-Thaqāfiyya, 1408/1988), 208. The key portion of the *isnād* is: ... Sulaymān b. Bilāl – ‘Amr b. Abī ‘Amr – ‘Ikrima – Ibn ‘Abbās – the Prophet: *man wajad tumūhu ya‘malu ‘amal qawm lūṭ fa’qtulū al-fā’il wa'l-mafūl bihi*.

<sup>12</sup> ‘Alī b. ‘Umar al-Dāraquṭnī (d. 385/995), *Sunan*, ed. ‘Abdallāh Hāshim Yamānī, 4 vols. (Beirut: Dār al-Ma’rifa, 1966), 3:124. The key portion of the *isnād* is: ... ‘Abd al-‘Azīz b. Muḥammad – ‘Amr b. Abī ‘Amr – ‘Ikrima – Ibn ‘Abbās – the Prophet: *man wajad tumūhu ya‘malu ‘amal qawm lūṭ fa’qtulū al-fā’il wa'l-mafūl bihi*.

<sup>13</sup> Abū al-Qāsim Sulaymān al-Ṭabarānī (d. 360/971), *al-Mu‘jam al-kabīr*, ed. Ḥamdī ‘Abd al-Majīd al-Salafī, 25 vols. (Mosul: Maktabat al-Zahrā’, 1983/1404), 11:212. The key portion of the *isnād* is: ... Sulaymān b. Bilāl – Ḥusayn b. ‘Abdallāh – ‘Ikrima – Ibn ‘Abbās – the Prophet: *man wajad tumūhu ya‘malu ‘amal qawm lūṭ fa’qtulū al-fā’il wa'l-mafūl bihi*. Note: that *isnād* does not include ‘Amr b. Abī ‘Amr. The Hadith also appears at *ibid.*, 11:226 with the clause on bestiality inverted via the *isnād* of... Dāwūd b. al-Ḥusayn – ‘Ikrima – Ibn ‘Abbās – the Prophet. This is also found in the *Muṣannaf* of ‘Abd al-Razzāq al-Ṣan‘ānī, 3:364. In my opinion, the narrations of this Hadith via Dāwūd b. al-Ḥusayn are inconsistent (*muḍṭarib*) due to major and erratic variations in the *matns*. See also note 39 below.

<sup>14</sup> Ḥākim al-Naysābūrī (d. 415/1014), *al-Mustadrak* (Hyderabad: Dā’irat al-Ma‘ārif al-‘Uthmāniyya, n.d.), 4:355-56. The key portion of the *isnād* is: ... Ibn Wahb – Sulaymān b. Bilāl – ‘Amr b. Abī ‘Amr – ‘Ikrima – Ibn ‘Abbās – the Prophet: *man wajad tumūhu ya‘malu ‘amal qawm lūṭ fa’qtulū al-fā’il wa'l-mafūl bihi*. It also appears via the *isnād*: ... ‘Abdallāh b. Ja‘far al-Makhramī – ‘Amr b. Abī ‘Amr... etc., with the addition of the bestiality clause, as well as via the *isnād*: ... Dāwūd b. al-Ḥusayn – ‘Ikrima, etc., with the wording ‘*man waqa‘a ‘alā rajul fa’qtulūhu*,’ along with the clause ‘*man waqa‘a ‘alā dhāt mahram fa’qtulūhu*,’ whose *ṣahīḥ* rating by al-Ḥākim al-Dhahabī says ‘No’ to (this last *matn* also appears in al-Kharā’itī via the *isnād*: ‘Alī b.

A group of the leading scholars of Hadith (*a'immat al-huffāz*) have declared the Hadith *sahīh*, [among them] al-Ḥākim, as we have already mentioned, Ibn al-Jārūd, since he included it in his *Muntaqā*, and he restricted himself in that book to what is *sahīh*, and al-Ḍiyā', since he included it in his *Mukhtāra*, and he restricted himself in that book to what is *sahīh* but did not appear in the *Ṣahīhayn*.<sup>17</sup> And it has been said that what is *sahīh* in that book is stronger than what is [declared] *sahīh* in the *Mustadrak*. Ibn al-Ṭallā' also declared it *sahīh* in his *Aḥkām*<sup>18</sup>, as quoted from him by the Hadith master Ibn Ḥajar<sup>19</sup> in his work documenting the Hadiths used by al-RAWĀFI'ī<sup>20</sup> [in his *Muḥarrar* in Shāfi'ī law]. And when the Hadith master Abū al-Fadl al-‘Irāqī<sup>21</sup> reported in his commentary

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Dāwūd al-Qanṭarī – ‘Abdallāh b. Ṣāliḥ - Yahyā b. Ayyūb - ‘Abdallāh b. ‘Abd al-‘Azīz – Ibn Jurayj – ‘Ikrima, etc.; al-Kharā’ītī, *Masāwi’ al-akhlāq*, 202). Later scholars were very critical of al-Ḥākim’s *taṣhīh*, with al-Dhahabī stating that, at most, about one third of the material in the *Mustadrak* was actually *sahīh*, one quarter *ḥasan*, and the remainder weak or extremely weak, with around one hundred Hadiths totally false. As Ibn al-Amīr al-Ṣan‘ānī states, the notion that the most part of the *Mustadrak* is *sahīh* is wrong. “Rather, the *sahīh* is the lesser part (*bal al-sahīh fīhi maghlūb*).” Al-Zayla’ī identified the flaws in al-Ḥākim’s methodology, namely that the fact that a narrator was used by al-Bukhārī and/or Muslim does not ensure that any Hadith they narrate is reliable; al-Dhahabī, *Siyar a’lām al-nubalā’*, ed. Shu‘ayb al-Arnā’ūt et al. (Beirut: Mu’assasat al-Risāla, 1998), 17:175; al-Zayla’ī, *Naṣb al-rāya*, 1:342; Muḥammad b. Ismā’īl al-Amīr al-Ṣan‘ānī, *al-Irshād ilā taysīr al-ijtihād*, ed. Muḥammad Ṣubḥī Ḥallāq (Beirut: Mu’assasat al-Rayyān, 1992), 52.

<sup>15</sup> Abū Bakr Aḥmad al-Bayhaqī, *al-Sunan al-kubrā*, ed. Muḥammad ‘Abd al-Qādir ‘Aṭā, 11 vols. (Beirut: Dār al-Kutub al-‘Ilmiyya, 1420/1999), 8:403-4. The main part of the *isnād* is: ... ‘Abd al-‘Azīz b. Muḥammad - ‘Amr b. Abī ‘Amr - ‘Ikrima - Ibn ‘Abbās - the Prophet, with the wording: *man wajad tumūhu ya’malu ‘amal qawm lūt fa’qṭulū al-fā’il wa’l-mafūl bihi*. Al-Bayhaqī also gives the *isnād*: ... Dāwūd b. al-Ḥuṣayn - ‘Ikrima, etc., with the wording *man waqā’ a’alā rajul fa’qṭulū*.

<sup>16</sup> Ḍiyā’ al-Dīn Muḥammad b. ‘Abd al-Wājid al-Maqdīsī, *al-Āḥādīth al-mukhtāra*, ed. ‘Abd al-Malik Duhaysh, 13 vols (Mecca: Dār Khadīr, 1421/2001), 12:204-5.

<sup>17</sup> This is not stated explicitly by al-Maqdīsī in his short introduction, but it can be safely inferred. See al-Maqdīsī, *al-Āḥādīth al-mukhtāra*, 1:69-70.

<sup>18</sup> Ibn al-Ṭallā' (d. 497/1104) states that the Hadith of Ibn ‘Abbās “has been established (*thabata*)”; Muḥammad b. Faraj al-Qurtubī ibn al-Ṭallā', *Aqdīyat Rasūl Allāh* (often known as *al-Aḥkām*), ed. Fāris Fathī Ibrāhīm (Cairo: Dār Ibn al-Haytham, 1426/2006), 24.

<sup>19</sup> This ‘the *hāfiẓ*’ is Shihāb al-Dīn Aḥmad Ibn Ḥajar al-‘Asqalānī (d. 852/1449) of Cairo.

<sup>20</sup> ‘Abd al-Karīm b. Muḥammad al-RAWĀFI'ī (d. 623/1226) of Qazvin is a leading figure in the Shāfi'ī school. His *Muḥarrar* is a major source for law in the school.

<sup>21</sup> Zayn al-Dīn ‘Abd al-Rahīm b. al-Ḥuṣayn al-‘Irāqī (d. 806/1404), the great Hadith scholar of Cairo and an important teacher of Ibn Ḥajar. His commentary on *Jāmi’ al-Tirmidhī* has survived at least in part and has been edited but not published by students at the Islamic University of Medina. See <http://www.ahlalhdeeth.com/vb/showthread.php?t=34839>.

on al-Tirmidhī that al-Ḥākim ranked it as *ṣaḥīḥ*, he affirmed that ruling, and he provided as well numerous transmissions bolstering its *isnād*.

As for the Hadith of Abū Hurayra,<sup>22</sup> it was included by Ibn Mājah,<sup>23</sup> al-Bazzār,<sup>24</sup> Ibn Jarīr [al-Ṭabarī] and al-Ḥākim,<sup>25</sup> who rated it as *ṣaḥīḥ* as well, and also by Ibn al-Ṭallā<sup>c</sup> (NB: it is also included in al-Tirmidhī's *Jāmi'*).<sup>26</sup> But the Hadith master Ibn Ḥajar added a corrective comment to Ibn al-Ṭallā<sup>c</sup>'s rating of *ṣaḥīḥ* for the Hadith. He said, "The Hadith of Abū Hurayra is not reliable (*lam yaṣīḥha*)."<sup>27</sup> I say, however, that Ibn Jarīr [al-Ṭabarī] rated as *ṣaḥīḥ* both the Hadith of Abū Hurayra and that of Ibn 'Abbās in his *Tahdhīb al-āthār*,<sup>27</sup> and perhaps this is what led al-Ḥākim to rate the Hadith of Abū Hurayra as *ṣaḥīḥ*. But Ibn 'Abbās' Hadith has been established [as sufficiently reliable] (*thabata*), and al-Dhahabī noted, regarding al-Ḥākim's *ṣaḥīḥ* rating for Abū Hurayra's Hadith, that "In its chain is 'Āsim b. 'Umar al-'Umarī, and he is weak (*da'īf*)."<sup>28</sup> And the

<sup>22</sup> There are several variations, but the main text is: "The Prophet (s) said, concerning the one who commits the act of the people of Lot, 'Stone both the top and the bottom partner' (*fi alladhī ya'malu 'amal qawm lūt qāla urjumū al-a'lā wa'l-asfal urjumū humā jamī'an*)."

<sup>23</sup> *Sunan Ibn Mājah: kitāb al-ḥudūd, man 'amila 'amal qawm lūt*. The key part of the *isnād* is: ... 'Āsim b. 'Umar al-'Umarī – Suhayl – his father – Abū Hurayra – the Prophet: *fi alladhī ya'malu 'amal qawm lūt qāla urjumū al-a'lā wa'l-asfal urjumū humā jamī'an*.

<sup>24</sup> Ahmad b. 'Amr al-Bazzār (d. 292/904-5), *al-Bahr al-zakhkhār* a.k.a. *Musnad al-Bazzār*, ed. 'Ādil Sa'd (Medina: Maktabat al-'Ulūm wa'l-Ḥikam, 2009), 16:43. The *isnād* is: 'Alī b. Sahl al-Madā'inī – 'Abdallāh b. Nāfi' al-Ṣāyigh – 'Āsim b. 'Umar – Suhayl – his father – Abū Hurayra – the Prophet: *man 'amila 'amal qawm lūt fa'qtulū al-fā'il wa'l-mafūl bihi*.

<sup>25</sup> Al-Ḥākim, *al-Mustadrak*, 4:355. The key part of the *isnād* is: ... 'Abd al-Rahmān b. 'Abdallāh b. 'Umar al-'Umarī – Sahl [sic] – his father – Abū Hurayra – the Prophet: *man 'amila 'amal qawm lūt fa'qtulū al-fā'il wa'l-mafūl bihi*. This narration is inconsistent (*muḍtarib*), in my opinion, since it clashes in both *isnād* and *matn* wording with the other narrations through Suhayl – his father – Abū Hurayra. Cf. al-Ājurī, *Dhamm al-liwāt*, 59. For further confusion regarding the wording, see also al-Kharā'iṭī, *Masāwi' al-akhlāq*, 202.

<sup>26</sup> Al-Tirmidhī, *ibid*. The *isnād* is the same of Ibn Mājah's above but with the wording '*uqtulū al-fā'il wa'l-mafūl bihi*'. Al-Tirmidhī notes that only 'Āsim b. 'Umar narrates it from Suhayl and that 'Āsim is considered weak due to his retention (*hifz*).

<sup>27</sup> Al-Ṭabarī states that the narration from 'Ikrima – Ibn 'Abbās "has a *ṣaḥīḥ sanad* in our opinion," but that others find flaws (*'ilal*) in it, namely the controversy surrounding 'Ikrima; al-Ṭabarī, *Tahdhīb al-āthār* – *Musnad Ibn 'Abbās*, 1:550-51.

Hadith master al-‘Irāqī apologized on behalf of [al-Ḥākim] by saying that he included it only as an attestation (*shāhid*)<sup>28</sup> for the Hadith of Ibn ‘Abbās.

As for the Hadith of Jābir, al-Tirmidhī<sup>29</sup> alluded to it when he said, after [presenting] the Hadith of Ibn ‘Abbās, “And on this subject there are also [Hadiths] from Jābir and Abū Hurayra.” And al-‘Irāqī said in his commentary [on al-Tirmidhī’s *Jāmi’*]:

Ibn Ḥazm transmitted it from a path via Muḥammad b. al-Qāsim, from Yaḥyā b. Ayyūb, from ‘Abbād b. Kathīr, from {‘Abdallāh b. Muḥammad b. ‘Aqīl, from Jābir, that the Messenger of God, may God’s peace and blessings be upon him, said, ‘Whoever has committed the action of the people of Lot, kill him’}.<sup>30</sup> And Ibn Wahb transmitted it from Yaḥyā b. Ayyūb, from a man, from Ibn ‘Aqīl.

And al-Ḥārith b. Abī Usāma also included the Hadith of Jābir in his *Musnad*,<sup>31</sup> as did Ibn Jarīr [al-Ṭabarī] in his *Tahdhīb al-āthār*, from the path of ‘Abbād b. Kathīr, from ‘Abdallāh b. Muḥammad b. ‘Aqīl, from Jābir, that: I heard the Messenger of God (s) say, while on the pulpit, ‘Whoever has committed the act of the people of Lot, kill him.’ And I saw another path for that Hadith from the Hadiths of ‘Alī, which escaped both the masters al-‘Irāqī and Ibn Ḥajar. Ibn Jarīr [al-Ṭabarī] said, in his *Tahdhīb al-āthār*: Muḥammad b.

<sup>28</sup> *Shāhid*: a *shāhid* (literally ‘witness’) report provides attestation for the meaning of a Hadith. Unlike parallel transmissions (*mutābā’ā*), which corroborate a particular narration from a source, attestations/attesting reports are often separate Hadiths but share a similar meaning. Thus, Muslim scholars often said that ‘*Mutābā’ā* strengthens a narration, while a *shāhid* strengthens a Hadith.’ See Jonathan Brown, *Hadith: Muhammad’s Legacy in the Medieval and Modern World* (Oxford: Oneworld, 2009), 92-93.

<sup>29</sup> Al-Tirmidhī, *ibid.*

<sup>30</sup> Ibn Ḥazm, *al-Muḥallā*, 11 vols. (Beirut: Dār al-Āfāq al-Jadīda, n.d.), 11:383. A Hadith with the *isnād* in braces { } appears in the *Musnad* of Ibn Ḥanbal and in the *Sunan* of Ibn Mājah, but its wording is “*inna akhwaf mā akhāfu ‘alā ummati ‘amal qawm lūt*”; *Musnad Ibn Ḥanbal*, 3:382; *Sunan Ibn Mājah*, *ibid.*; al-Ḥākim, *al-Mustadrak*, *ibid.*, Abū Ya’lā al-Mawṣilī, *Musnad*, 4:97; al-Ājurī, *Dhamm al-liwāt*, 45.

<sup>31</sup> Al-Ḥārith b. Abī Usāma (d. 282/895-6) wrote a *Musnad* that has not survived. It has been reconstructed by relying on the work of a scholar who had access to the book, Nūr al-Dīn al-Haythamī’s (d. 807/1405) *Bughyat al-bāḥith ‘an zawā’id Musnad al-Ḥārith*. See al-Haythamī, *Bughyat al-bāḥith ‘an zawā’id Musnad al-Ḥārith*, ed. Ḥusayn Aḥmad al-Bākirī, 2 vols. (Medina: al-Ǧāmi’ā al-Islāmiyya, 1992), 1:565-66 (via the same *isnād* as above Hadith of Jābir, with the same wording: *man ‘amila ‘amal qawm lūt fa’qtulūhu*). This Hadith is also found via the same *isnād* cited by Ibn Ḥazm in al-Kharā’itī, *Masāwi’ al-akhlāq*, 301.

Ma‘mar al-Baḥrānī narrated to me, saying: Yaḥyā b. ‘Abdallāh b. Bakr narrated to us, saying: Ḥusayn b. Zayd narrated to us, from Ja‘far b. Muḥammad, from his father, from his grandfather, from ‘Alī, who said: The Messenger of God (s) said, ‘The person who has committed the act of the people of Lot is stoned, whether he is *muḥṣan*<sup>32</sup> or not (*yurjamu man ‘amila ‘amal qawm Lūt uḥṣina aw lam yuḥṣan*).’

Note: al-Ḥākim only needed to resort to an attesting text for his *ṣaḥīḥ* rating of this Hadith because of its transmitter from ‘Ikrima, from Ibn ‘Abbās, [namely] ‘Amr b. Abī ‘Amr, the freeman (*mawlā*) of al-Muṭṭalib. The majority (*jumhūr*) has deemed him reliable (*thiqā*), including Mālik, al-Bukhārī and Muslim, who included his Hadiths in the main Hadiths of the *Ṣaḥīḥayn* (i.e., as opposed to corroborating narrations). Abū Dāwūd and al-Nasā’ī considered him weak (*da‘afahu*), and because of that al-Nasā’ī rejected this Hadith of his. And Yaḥyā<sup>33</sup> said: He was weakened. Al-Dhahabī said in his *Mīzān*, after reporting all this, that “he was not at all weakened, nor was he weak. Yes, he is not as reliable (*thiqā*) as al-Zuhrī and the like.” He continued, “And Aḥmad b. Abī Maryam transmitted from Ibn Ma‘īn that he said: ‘Amr b. Abī ‘Amr is reliable (*thiqā*), but he is criticized for the Hadith of ‘Ikrima, from Ibn ‘Abbās that the Prophet (s) said ‘Kill the active and passive partner.’” Al-Dhahabī commented on that, saying, “His Hadith is *ṣāliḥ ḥasan*<sup>34</sup>, falling short of the highest levels of *ṣaḥīḥ*.”<sup>35</sup>

<sup>32</sup> *Muḥṣan* is a legal term that denotes a Muslim who has at some point consummated a marriage.

<sup>33</sup> Identifying the speaker as Yaḥyā here might be an error on al-Suyūtī’s part. Al-Dhahabī introduces this comment as coming from ‘Ibn al-Qaṭṭān,’ which al-Suyūtī understands as the famous Basran Hadith transmitter and critic Yaḥyā b. Sa‘īd al-Qaṭṭān (d. 198/813). It is most likely ‘Alī b. Muḥammad Ibn al-Qaṭṭān al-Fāsī of Marrakesh (d. 628/1230); Shams al-Dīn al-Dhahabī, *Mīzān al-i‘tidāl fī naqd al-rijāl*, ed. ‘Alī Muḥammad al-Bijāwī, 4 vols. (Beirut: Dār al-Ma‘rifa, [n.d.], reprint of 1963-4 Cairo ‘Isā al-Bābī al-Ḥalabī edition), 3:282. This exact wording appears in Ibn al-Qaṭṭān al-Fāsī, *Bayān al-wahm wa'l-ihām al-wāqi'ayn fī kitāb al-Aḥkām*, ed. al-Husayn Āyat Sa‘īd, 5 vols. (Riyadh: Dār al-Tayba, 1418/1997), 4:184.

<sup>34</sup> *Ṣāliḥ* (suitable) is generally used to mean that the Hadith is fit either for consideration or for direct use

What is established in the sciences of Hadith is that [a transmitter] of that description, if a parallel<sup>36</sup> or attesting [transmission] if found for him, his Hadith is rated as sound. For this reason al-Ḥākim needed to provide the Hadith of Abū Hurayra so that it could serve as an attestation for the Hadith of Ibn ‘Abbās. Though Abū Hurayra’s Hadith did not meet the condition of *ṣahīh*, he only cited it as an attestation, not as primary Hadith (*asl*) to complete the rating of Ibn ‘Abbās’s Hadith as *ṣahīh*. The Hadith master Abū al-Faḍl al-‘Irāqī produced numerous paths for Ibn ‘Abbās’ Hadith to bolster al-Ḥākim’s *ṣahīh* rating of it. He said:

It has also appeared via the transmission of Dāwūd b. al-Ḥuṣayn,<sup>37</sup> ‘Abbād b. Manṣūr and Ḥusayn b. ‘Abdallāh, [all] from ‘Ikrima.<sup>38</sup> So these three corroborate ‘Amr b. Abī ‘Amr. Dāwūd’s narration was included by Aḥmad [Ibn Ḥanbal] in his *Musnad*<sup>39</sup> with the aforementioned wording, and it was

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as evidence in matters of law. See ‘Abd al-Fattāḥ Abū Ghudda’s comments on Abū Dāwūd’s letter to Mecca in Abū Ghudda, ed., *Thalāth rasā’il fī ‘ilm muṣṭalaḥ al-hadīth* (Beirut: Dār al-Bashā’ir al-Islāmiyya, 1997), 38. Though the term *ḥasan* was used to describe Hadiths occasionally by earlier critics like ‘Alī b. al-Madīnī (d. 234/849), it did not become a defined technical term until the work of al-Tirmidhī. He defines *ḥasan* as a Hadith that “does not have in its *isnād* someone who is accused of lying or forgery, is not anomalous (*shādhdh*), and is narrated via more than one chain of transmission.” In other words, its *isnād* was not seriously flawed, and it enjoyed corroboration through other narrations, which mitigated the chances of a serious error creeping into the text of the report. Later, the Shāfi‘ī jurist and Hadith scholar al-Khattābī (d. 388/998) described *ḥasan* Hadiths as those “with an established basis and whose transmitters were well-known”; *Jāmi‘ al-Tirmidhī: kitāb al-‘ilal*; Abū Sulaymān Ḥamad al-Khaṭṭābī, *Ma‘ālim al-sunan*, 3rd ed., 4 vols. (Beirut: al-Maktaba al-‘Ilmiyya, 1981), 1:6.

<sup>35</sup> Al-Dhahabī, *Mīzān*, 3:282.

<sup>36</sup> *Mutāba‘a*: a *mutāba‘a* narration is one that corroborates a transmitter’s narration from a source. As such, it has been translated as parallelism by Eerik Dickinson in his translation of Ibn al-Ṣalāḥ’s *Muqaddima*. See Ibn al-Ṣalāḥ, *An Introduction to the Science of the Hadīth*, trans. Eerik Dickinson (Reading, UK: Garnet, 2005), 61; Jonathan Brown, *Hadith: Muhammad’s Legacy in the Medieval and Modern World* (Oxford: Oneworld, 2009), 92-93.

<sup>37</sup> Interestingly, al-Dhahabi says Dāwūd b. al-Ḥuṣayn’s narrations from ‘Ikrima are not accepted; al-Dhahabī, *Mīzān*, 2:5.

<sup>38</sup> See above notes on the *Sunan Abī Dāwūd*, ibid., as well as ‘Abd b. Ḥumayd, ibid., al-Ṭabarānī, *al-Mu‘jam al-kabīr*, ibid; al-Bayhaqī, *Sunan*, ibid., and al-Ḥākim, *Mustadrak*, ibid.

<sup>39</sup> Dāwūd’s narration is inconsistent (*muḍṭarib*), in my opinion, due to erratic differences in the *matns*; see the following note as well. Ibn Ḥanbal, *Musnad Ibn Ḥanbal* (Maymaniyya printing), 1:300. They key part of the *isnād* is: ... Ibn Abī Ḥabība ibrāhīm b. Ismā‘īl – Dāwūd b. al-Ḥuṣayn – ‘Ikrima – Ibn ‘Abbās – Prophet: *uqtulū al-fā‘il wa'l-mafūl bihi fī qawm lūt wa'l-bahīma wa'l-wāqi‘ ‘alā al-bahīma wa man waqā‘a ‘alā maḥram fa'qtulūhu*.

included by Ibn Jarīr [al-Ṭabarī]<sup>40</sup> and al-Bayhaqī in his *Sunan*<sup>41</sup>, with the wording ‘Whoever has sex with (waqa‘a) a man, kill him.’ And the narration of ‘Abbād was included by al-Bayhaqī with the wording: Concerning the person who commits the act of the people of Lot, and concerning the man who is had sex with (yu’tā fī nafsihi), [the Prophet] said, ‘He is killed.’<sup>42</sup> And Ibn Jarīr [al-Ṭabarī] included it in his *Tahdhīb al-āthār*<sup>43</sup> with the wording: The Prophet (s) said, ‘Kill the active and the passive partner in the act of Lot (al-lūtiyya).’ And the narration of Ḥusayn was included by al-Ṭabarānī in the *Mu‘jam al-kabīr*<sup>44</sup> with the previous wording.

And al-‘Irāqī also produced two other paths for Abū Hurayra’s Hadith, one of them in the *Mustadrak* [of al-Ḥākim]<sup>45</sup> and the *Mu‘jam al-awsāṭ*<sup>46</sup> of al-Ṭabarānī, and the second in his *Mu‘jam al-awsāṭ*. But these two have wordings that differ with the previous wording. Then he produced the Hadith of Jābir, as discussed earlier, and then he said, “And on this topic, [there are Hadiths] from Abū Mūsā al-Ash‘arī in al-Bayhaqī’s [books]<sup>47</sup> and

<sup>40</sup> Al-Ṭabarī, *Tahdhīb al-āthār – Musnad Ibn ‘Abbās*, ed Maḥmud Muḥammad Shākir, 2 vols. (Cairo: Maṭba‘at al-Madanī, n.d.), 1:554-55. The key part of the *isnād* is: ... Ibrāhīm b. Ismā‘īl – Dāwūd b. al-Ḥusayn... with the wording: *man waqa‘a ‘alā rajul fa’qtulūhu ya‘nī ‘amal qawm lūt*, and also: ... Ibrāhīm b. Mujamma‘ - Dāwūd b. Ḥusayn – ‘Ikrima..., with the wording: *uqtulū al-fā‘il wa’l-mafūl bihi fī al-lūtiyya wa man waqa‘a ‘alā dhāt maḥrām fa’qtulūhu*. This is also found in the *Musnad* of Ibn Ḥanbal, 1:300 (with the inclusion of the bestiality clause as well).

<sup>41</sup> Al-Bayhaqī, *al-Sunan*, 8:403.

<sup>42</sup> In his discussion of this narration, al-Dhahabī notes that ‘Abbād is weak; al-Dhahabī, *al-Muhadhdhab fī ikhtiyār al-Sunan al-kabīr li'l-Bayhaqī*, ed. Yāsir Ibrāhīm et al., 9 vols. (Cairo: Dār al-Waṭan, 1422/2001), 7:3367. ‘Abbād’s narration also appears in the *Mustadrak* of al-Bayhaqī’s teacher, but only the clause on bestiality; al-Ḥākim, *al-Mustadrak*, *ibid*.

<sup>43</sup> Al-Ṭabarī, *Tahdhīb al-āthār*, 1:550-51. The *isnād* is: Muḥammad b. Sinān al-Fazzāz – ‘Awn b. ‘Umāra – ‘Abbād b. Manṣūr – ‘Ikrima..., with the wording: *uqtulū mawāqi‘ al-bahīma wa’l-bahīma wa’l-fā‘il wa’l-mafūl fī al-lūtiyya wa’qtulū kull muwāqi‘ dhāt maḥrām*.

<sup>44</sup> Al-Ṭabarānī, *al-Mu‘jam al-kabīr*, 11:226.

<sup>45</sup> Al-Ḥākim, *al-Mustadrak*, 4:356. The *isnād* comes via Abū Hurayra – the Prophet: , with the wording: *la‘ana Allāh sab‘a min khalqihī... mal‘un mal‘ūn mal‘un man ‘amila ‘amal qawm lūt....*

<sup>46</sup> Al-Ṭabarānī, *al-Mu‘jam al-awsāṭ*, ed. Ṭāriq b. ‘Awāḍ Allāh al-Ḥusaynī, 10 vols. (Cairo: Dar al-Ḥaramayn, 1415/1995), 8:234. The *isnād* comes via Abū Hurayra – the Prophet, with the wording: *la‘ana Allāh sab‘a min khalqihī... mal‘un mal‘ūn mal‘un man ‘amila ‘amal qawm lūt....*, with al-Ṭabarānī’s remark that no one narrated this Hadith from al-‘Araj – Abū Hurayra except Muḥarrar b. Hārūn.

<sup>47</sup> This is probably Abū Mūsā al-Ash‘arī’s Hadith from the Prophet, with the wording: *idhā atā al-rajul al-rajul fa-humā zāniyān....*, which al-Bayhaqī calls “munkar by that *isnād*”; al-Bayhaqī, *Sunan al-kubrā*, 8:406. See also al-Ājurrī, *Dhamm al-liwāṭ*, 51.

from Ayyūb in al-Ṭabarānī's *Mu'jam al-kabīr*.<sup>48</sup> This is the sum of the attesting texts that al-‘Irāqī presented to authenticate the Hadith of Ibn ‘Abbās.

I have said: I have found another attestation in addition to those. Abū Nu‘aym said in his *Hilya*:

Abū Muḥammad Ṭalḥa and Abū Iṣhāq Sa‘d narrated to us, saying: Muḥammad b. Iṣhāq al-Nāqid reported to us, both (sic) saying: Muḥammad b. ‘Uthmān b. Abī Shayba narrated to us, saying: my father narrated to us, saying: Wakī narrated to us, saying: Muḥammad b. Qays narrated to us, from Abū Ḥaṣīn (‘Uthmān b. ‘Āṣim al-Asadī), from Abū ‘Abd al-Raḥmān, that ‘Uthmān looked out over the people (*ashrafa ‘alā*) on the day he was attacked in his house (*yawm al-dār*) and said, ‘Have you all not come to know that killing is not due except for four cases: a man who has apostatized after having entered Islam, who has committed adultery after having married, who took a life without right, or who has committed the act of the people of Lot.’<sup>49</sup>

And [Abū Bakr] Ibn Abī Shayba said in his *Muṣannaf*,<sup>50</sup> “Wakī narrated to us, saying: Muḥammad b. Qays narrated to us, from Abū Ḥaṣīn, from Abū ‘Abd al-Raḥmān that ‘Uthmān looked out over the people on the day he was attacked in his house and said, ‘Have you all not come to know that the blood of a Muslim person does not become licit except for four things: a man who has committed the act of the people of Lot (sic).’”

This *isnād* is *ṣaḥīḥ*, and ‘Uthmān’s, may God be pleased with him, statement to the people ‘Have you all not come to know’ is evidence for that [fact] being well known

<sup>48</sup> This might be a reference to a Hadith in al-Ṭabarānī’s *al-Mu'jam al-awsat* (from Abū Mūsā al-Ash‘arī – the Prophet, with the wording: *lā tubāshiru al-mar'a al-mar'a illā wa humā zāniyatān wa lā yubāshiru al-rajul al-rajul illā wa humā zāniyān*); al-Ṭabarānī, *al-Mu'jam al-awsat*, 4:266-67. Or it may be a reference to a Hadith in the *Mu'jam al-kabīr* concerning a man who had committed an indecency with a noble Quraysh youth; al-Ṭabarānī, *al-Mu'jam al-kabīr*, 4:132.

<sup>49</sup> Abū Nu‘aym al-İsbahānī, *Hilyat al-awliyā' wa ṭabaqāt al-asfiyā'*, 10 vols. (Cairo: Maktabat al-Khānjī and Beirut: Dār al-Fikr, 1416/1997), 8:379. Abū Nu‘aym notes, “a rare [narration] (*gharīb*), which Wakī alone transmitted from Muḥammad b. Qays, namely al-Asadī al-Kūfī. His Hadiths are collected. And Abū ‘Abd al-Raḥmān is al-Sulamī.”

<sup>50</sup> Abū Bakr ‘Abdallāh Ibn Abī Shayba’s (d. 235/849) (not his nephew, Muḥammad b. ‘Uthmān, mentioned just above) work contains the same text cited by Abū Nu‘aym; Abū Bakr Ibn Abī Shayba, *al-Muṣannaf*, ed. Kamāl Yūsuf al-Ḥūt, 7 vols. (Riyadh: Maktabat al-Rushd, 1409/1988), 5:453.

amongst them, just as the first three reasons mentioned with it. And *Ibn Abī Shayba* said, “*Ghassān b. Muḍar* narrated to us, from *Sa‘īd b. Yazīd*, from *Abū Nādra*, who said: *Ibn ‘Abbās* was asked what the punishment (*hadd*) of the sodomite (*lūṭī*), and he said, ‘The highest building in the town is sought out, and he is thrown from it backwards, and then this is followed by stoning.’” And *‘Abd al-Razzāq* said in his *Muṣannaf*<sup>51</sup>: from *Ibn Jurayj* (*taḥwīl*)<sup>52</sup>; and *Ibn Abī Shayba*<sup>53</sup> said: *Muhammad b. Bakr* narrated to us, from *Ibn Jurayj*, who said: ‘*Abdallāh b. ‘Uthmān b. Khuthaym* reported to me that he heard *Mujāhid* and *Sa‘īd b. Jubayr* narrate from *Ibn ‘Abbās* that he said, concerning the virgin who is found committing sodomy (*lūṭīyya*), that he is stoned. And *Ibn Abī Shayba* said:

*Wakī* narrated to us, from *Ibn Abī Laylā*, from *al-Qāsim Abū al-Walīd*, from *Yazīd b. Qays*, that ‘*Alī* stoned a sodomite. And he also said: *Wakī* narrated to us, from *Sufyān*, from *Jābir*, from *Mujāhid*, concerning the sodomite, he said: He is stoned whether he was married (*uḥṣana*) or not. And he said: *Yazīd* narrated to us, saying: *Hammād b. Salama* reported to us, from *Hammād b. Abī Sulaymān*, from *Ibrāhīm* [al-Nakha‘ī], concerning the sodomite, he said: If anyone were to be stoned twice it would be this person. And [*Ibn Abī Shayba*] said: ‘*Abd al-A‘lā* narrated to us, from *Sa‘īd*, from *Qatāda*, from *‘Ubayd Allāh b. ‘Abdallāh b. Ma‘mar* concerning the sodomite, he said: Stoning is the requirement for him, the death of the people of *Lot*. And he said: ‘*Abd al-A‘lā* narrated to us, from *Sa‘īd*, from *Qatāda*, from *Jābir b. Zayd*, who said: The prohibition/inviolability (*hurma*) of the buttocks (*al-dubur*) is greater than the prohibition/inviolability of the vagina (*farj*). And *Qatāda* said: We understand it as [requiring] stoning.

[*Al-Suyūtī* concludes], all of these reports (*āthār*) are attestations for bolstering the Hadith of *Ibn ‘Abbās*.

<sup>51</sup> *‘Abd al-Razzāq al-Šan‘ānī* (d. 211/826), *al-Muṣannaf*, ed. Ḥabīb al-Raḥmān al-A‘zamī, 11 vols. (Beirut: al-Maktab al-Islāmī, 1403/1983), 7:363.

<sup>52</sup> Pausing the narration here, *al-Suyūtī* adds another source for the narration from *Ibn Jurayj*.

<sup>53</sup> For the next series of opinions recorded by *Ibn Abī Shayba*, see his *Muṣannaf*, 5:497.

And how could Yaḥyā<sup>54</sup>, Abū Dāwūd and al-Nasā’ī be relied upon regarding the weakness of the Hadith’s narrator (i.e., ‘Amr b. Abī ‘Amr), if he alone narrated it, when the leading imams had declared him reliable, among them Mālik, al-Bukhārī and Muslim, who are all considered superior to every Hadith master in their own age and the ages after? And they included Hadiths through him in the primary (*uṣūl*) Hadiths [in their books]. Al-Dhahabī said in his *Mūqīza*:

Those who were used for Hadiths by the two Shaykhs (i.e., al-Bukhārī and Muslim) or by one of them fall into two groups: 1) those that the two of them used as proof in their primary Hadiths; 2) Those they used for parallel narrations or for attestation texts to be taken into consideration. As for a transmitter used as proof by both [imams] or only by one of them, but who was neither deemed reliable [by other critics] nor found fault with,<sup>55</sup> he is reliable and his Hadiths strong. As for a transmitter who was used by both as proof or only by one and who had been criticized, sometimes that criticism {is characterized by bad-faith or bias (*ta’annut*), while the majority agrees on him being reliable. In this case, that transmitter’s Hadiths are strong as well. And sometimes the criticism}<sup>56</sup> of that transmitter’s laxity or inaccurate retention (*hifzihī*) merits consideration. This transmitter’s Hadiths do not fall below the level of *ḥasan*, which can be called among the lower levels of *ṣaḥīḥ*. And there is not in the two books, by God’s praise, a man who was used as proof by al-Bukhārī or Muslim in their primary Hadiths whose transmissions were weak. Rather, they are either *ḥasan* or *ṣaḥīḥ*. And those whom al-Bukhārī or Muslim used for their attesting or parallel [corroborating] narrations, among them there are some with some problem their retention (*hifz*) and some hesitation in declaring them reliable. So everyone whose Hadiths were used in the *Ṣaḥīḥayn* has passed the test (*qafaza al-qanṭara*, literally ‘jumped over the viaduct’), so there is no turning away from him except with clear proof (*burhān*). Yes, [the category of] *ṣaḥīḥ* consists of levels, and reliable transmitters fall into classes.

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<sup>54</sup> The ms. used in the DKA edition has ‘*mawlā Yaḥyā*.’ The editors of the DKI edition noted that they only saw this in one ms.

<sup>55</sup> The one ms. of al-Suyūṭī’s text relied on for the DKA edition has ‘*wa lā ‘-m-r*.’ The editors of the DKI edition say this appears in some copies. Abū Ghudda’s edition of the *Mūqīza*, by contrast, has ‘*wa lā ghumiza*,’ which makes much more sense in this context. See Shams al-Dīn al-Dhahabī, *al-Mūqīza fi ‘ilm muṣṭalaḥ al-ḥadīth*, ed. ‘Abd al-Fattāḥ Abū Ghudda, 4th ed. (Cairo: Dār al-Salām, 1421/2000), 79.

<sup>56</sup> What appears between the braces { } is not found in al-Suyūṭī’s quotation from al-Dhahabī, but it appears in Abū Ghudda’s edition of the *Mūqīza*. See *ibid.*, 80. This was probably a haplographic error due to the repeated word *tāratan*; al-Suyūṭī skipped to the second instance of *tāratan*, omitting the text in between.

Thus ends al-Dhahabī’s discussion in the *Mūqiza*. And he also mentioned in his *Mīzān* that ‘Amr b. Abī ‘Amr’s Hadiths “were included in the *Ṣaḥīḥayn* among the primary Hadiths.”<sup>57</sup> So how can his Hadiths be ruled weak, as you see in al-Dhahabī’s discussion here, when he was not even alone in narrating the Hadith? Indeed, there are corroborating narrations from ‘Ikrima, and his Hadith also has attesting texts from the transmission of a number of the Companions. So it was for this reason that those Hadith masters who declared it *ṣaḥīḥ* did so, and they did not pay heed to the weak rating of those who declared weak its narrator. Al-Ḥākim needed to produce an attesting text for the Hadith because, [taken] at their lowest level, ‘Amr’s Hadiths are *ḥasan*, so they require attestation to raise them up to the level of *ṣaḥīḥ*, and God knows best.

Another Note: the Hadith master Ibn Ḥajar mentioned in his indexing (*takhrīj*) of the Hadiths of al-Rāfi‘ī[’s *Muharrar*]<sup>58</sup> that the above-mentioned Hadith of Ibn ‘Abbās is “disagreed on in terms of its attestation (*mukhtalaffī thubūtihi*),” and in this he draws attention to an important point of knowledge in the field of the technical terms of Hadith study (*iṣṭilāh al-ḥadīth*). I wanted to clarify this point, since those with no awareness of the science of Hadith will not understand Ibn Ḥajar’s intention in that, and one might misunderstand it as impugning the Hadith, as those with no knowledge of the science concluded from al-Tirmidhī’s statement regarding the Hadith ‘I am the abode of wisdom and ‘Alī is its gate,’ in some of the recensions (*nusakh*) [of his *Jāmi‘*]

<sup>57</sup> Al-Dhahabī, *Mīzān al-i‘tidāl*, 3:281.

<sup>58</sup> Ibn Ḥajar al-‘Asqalānī, *Talkhiṣ al-ḥabīr takhrīj ahādīth al-Rāfi‘ī al-kabir*, ed. Ḥasan ‘Abbās Quṭb, 4 vols. (Cairo: Mu’assasat Qurṭuba, 1416/1995), 4:103. Cf. Ibn Ḥajar, *al-Dirāya fi takhrīj ahādīth al-Hidāya*, ed. ‘Abdallāh Hāshim al-Yamānī, 2 vols. (Beirut: Dār al-Ma‘rifa, n.d.), 2:103.

that “This Hadith is *munkar*.<sup>59</sup> Such people thought, based on that, that al-Tirmidhī meant that the Hadith is false (*bātil*) or forged, [this being due to] their lack of knowledge regarding the technical terms of Hadith and their ignorance that *munkar* is one of the types of weak Hadiths that appear. It is not from among the categories of false or forged Hadiths.<sup>60</sup> Rather, scholars adopted that phrase as a technical term, making it a label for a defined type of weak Hadith, just as grammarians made ‘*mawsūl* (relative pronoun)’ a technical label for one type of definite nouns (*al-ma’rifa*). And it occurred in the case of al-Khaṭīb al-Baghdādī<sup>61</sup> in his *History [of Baghdad]* that he transmitted a false Hadith and said after it, “This Hadith is *munkar*.” So al-Dhahabī took

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<sup>59</sup> Early critics like al-Bukhārī, al-Tirmidhī, Abū Zurār al-Rāzī, Ibn Ma’īn, Ibn ‘Adī, al-Dāraqutnī and al-Khaṭīb al-Baghdādī had all considered this Hadith to be weak or baseless. Later critics, however, like al-‘Alā’ī, Ibn Ḥajar and al-Suyūṭī, considered its various transmissions together to raise it to the level of *ḥasan*. See Ismā’īl b. Aḥmad al-‘Ajlūnī, *Kashf al-khafā*, ed. Ahmad al-Qalāsh, 2 vols. (Cairo, Dār al-Turāth, n.d.), 1:236–237; and Aḥmad al-Ghumārī’s entire book on this Hadith, *Fath al-malik al-‘alī bi-ṣīḥhat ḥadīth bāb madīnat al-ilm ‘Alī*, ed. ʻImād Surūr (N.p.: n.p., 1426/2005).

<sup>60</sup> The term *munkar* was etymologically the converse of ‘accepted (*ma’rūf*)’ or ‘known,’ meaning ‘unknown’ or ‘unfamiliar’ (see *Jāmī* al-Tirmidhī: *kitāb al-ṣiyām*, *bāb mā jā a ft-man nazala bi-qawm fa-lā yaṣūmu illā bi-idhnihim*; and Zayn al-Dīn ‘Abd al-Rahmān Ibn Rajab, *Sharḥ ‘Ilal al-Tirmidhī*, ed. Nūr al-Dīn ‘Itr ([n.p.]: [n.p.], 1398/1978), 1:409). One of the earliest definitions of *munkar* comes from Abū Bakr Aḥmad al-Bardījī (d. 301/914), who defined it as a Hadith known through only one narration; Ibn al-Ṣalāḥ, *Muqaddimat Ibn al-Ṣalāḥ wa Mahāsin al-iṣṭilāḥ*, ed. ʻĀ’isha ‘Abd al-Rahmān (Cairo: Dār al-Ma’ārif, 1989), 244. After Ibn al-Ṣalāḥ (d. 643/1245), the term generally denoted a Hadith narrated through only one chain of transmission but one of whose narrators was not reliable enough (i.e., termed *ṣadūq* or less) to establish it as reliable. See al-Dhahabī, *Mīzān al-i’tidāl*, 3:140–1. Transmitters who were prolific and respected for their accuracy could transmit uncorroborated material, but with limits. Their reputation was originally earned, in great part, by being corroborated by other leading transmitters. Thus al-Bardījī says that al-Ḥasan b. ‘Alī b. Shabīb can narrate solitary (*munfarid*) Hadiths because he is so prolific. Centuries later, Ibn al-Qaṭṭān al-Fāsī says a reliable (*thiqā*) narrator can transmit such material as long as he does not do so too much; al-Dhahabī, *Mīzān*, 1:365, 504. Ibn ‘Adī reveals the flexibility of the term *munkar* in the early period when he describes the material narrated by Ja’far b. ‘Umar al-Īblī as “all *munkar* in either their *isnād* or their *matn*”; al-Dhahabī, *Mīzān*, 1:561. Particularly in the first four centuries of Islam, the term *munkar* was often used to indicate that a particular transmission of a Hadith was unacceptable, with no necessary bearing on the overall authenticity of the tradition in question. For example, Abū Ḥātim al-Rāzī (d. 277/890) calls one narration of the famous Hadith ‘Deeds are [judged] only by intentions (*innamā al-a’māl bi-l-niyyāt*)’ *munkar* even though that Prophetic tradition is considered *sahīh*; Ibn Abī Ḥātim al-Rāzī, *‘Ilal al-ḥadīth*, 2 vols. (Beirut: Dār al-Ma’ārif, 1405/1985), 1:131. In other circumstances, the term *munkar* seems to indicate ‘forged’ or ‘baseless.’ Some reports that al-Bukhārī describes as ‘*munkar*’, Ibn Ḥibbān and al-Ḥākim call ‘*mawdū’āt*'; al-Dhahabī, *Mīzān*, 2:160. As shown in note 63 below, the term *munkar* could also be used in a context in which it was clearly the *meaning* of the Hadith that was objected to.

<sup>61</sup> One of the most influential Hadith scholars of the late-early period, Abū Bakr Aḥmad b. ‘Alī al-Khaṭīb (d. 463/1071) of Baghdad.

issue with him in the *Mīzān*, saying, “What a shock from al-Khaṭīb,” how he used the phrase *munkar* on this false report.<sup>62</sup> Rather, *munkar* is used for [Hadiths like] the Hadith of the Two Great Buckets (*qullatayn*).<sup>63</sup> And in his *Mīzān* he described as *munkar* a

<sup>62</sup> The Hadith in question is “Alī is the best of mankind, and whoever denies this has disbelieved (‘Alī khayr al-bashar fa-man abā fa-qad kafara),” which al-Dhahabī considers an extremist Shiite (*rāfiḍī*) report. See al-Khaṭīb al-Baghdādī, *Tārīkh Baghdād*, ed. Muṣṭafā ‘Abd al-Qādir ‘Aṭā, 14 vols. (Beirut: Dār al-Kutub al-‘Ilmiyya, 1417/1997), 7:433 (in the text of the *Tārīkh Baghdād* the Hadith is: ‘Alī khayr al-bashar fa-man imtarā fa-qad kafara). Al-Dhahabī goes on to say that Hadith scholars use the term *munkar* for Hadiths that suffer from relatively minor flaws in their transmission, such as the Hadith ‘If water reaches two large pitcher’s full (*qullatayn*) it does not bear ritual filth (*idhā kāna al-mā’ qullatayn...*)’ which appears in the *Sunans* of Abū Dāwūd, al-Nasā’ī and al-Tirmidhī; it lacked *ṣaḥīḥ isnād*s but was widely considered reliable. He says the term should not be used for “the likes of this plainly false Hadith,” meaning the pro-‘Alī Hadith of al-Khaṭīb; al-Dhahabī, *Mīzān al-‘i’tidāl*, 1:521. As with earlier scholars, al-Dhahabī often uses the term *munkar* to denote that a particular transmission of a Hadith might be uncorroborated or anomalous. For example, he notes the *munkar* aspect of one scholar’s transmissions but affirms that the texts (*mutūn*) of those Hadiths are fine; al-Dhahabī, *Mīzān*, 2:358. But examining the Hadiths from the Six Books and the *Musnad* of Ibn Ḥanbal that al-Dhahabī criticizes as *munkar* (or *gharīb*, i.e., rare) in his *Mīzān*, we find that sometimes the term *munkar* is used to object to unacceptable meaning in the *matn* of the Hadith as well. This is affirmed by ‘Abd al-Fattāḥ Abū Ghudda, who says that *munkar* is often used to mean ‘forged,’ referring to the unknown or unacceptable *matn* of a Hadith as well as its *isnād*. See Abū Ghudda’s edition of Mullā ‘Alī al-Qārī, *al-Maṣnū’ fi ma’rifat al-hadīth al-mawdū’* (Beirut: Dār al-Bashā’ir al-Islāmiyya, 1984), 20. The following is a list of Hadiths al-Dhahabī rated as *munkar* from the Six Books and Ibn Ḥanbal’s *Musnad*:

1. *Mīzān*, 3:93: *munkar* as an objection to meaning. From *Ṣaḥīḥ Muslim*. Here al-Dhahabī says that the Hadith of the Prophet marrying Umm Ḥabība after the conversion of her father Abū Sufyān is “unacceptable” in its meaning (*asl munkar*), since it was reliably established that the Prophet had married her years earlier (see *Ṣaḥīḥ Muslim*: *kitāb faḍā’il al-ṣaḥāba*, *bāb min faḍā’il Abī Sufyān b. Ḥarb).*
2. *Mīzān*, 2:18: *munkar* as an objection to meaning. From the *Sunan* of Abū Dāwūd: al-Dhahabī calls a Hadith *munkar*, probably because it contradicts the other narrations in which the Prophet instructs Muslims not to eat from game that a hunting dog had eaten from (see *Sunan* of Abū Dāwūd: *kitāb al-ṣayd*, *bāb fi al-ṣayd*). Other scholars, such as al-Khaṭṭābī (d. 386/996), made efforts to reconcile this Hadith with the conflicting material; al-Khaṭṭābī, *Ma’ālim al-sunan*, 4:298–94.
3. *Mīzān*, 2:213: *munkar* as an objection to meaning. From the *Jāmī* of al-Tirmidhī: al-Dhahabī says that he feels in his heart that a Hadith in which the Prophet tells his Companion to pray 4 *rak’as* on Friday, reading certain chapters of the Quran, in order to remember the Quran, is “very *munkar*,” even though he admits that its *isnād* seems fine (see *Jāmī* al-Tirmidhī: *kitāb al-dā’wāt*, *bāb fi du’ā’ al-ḥifż*).
4. *Mīzān*, 1:641–2: *munkar* as an objection to meaning. From *Ṣaḥīḥ al-Bukhārī*: al-Dhahabī says the Hadith describing how the Prophet experienced the Night Journey as a child, rather than after his prophethood had begun, was so *gharīb* that if it were not in *Ṣaḥīḥ al-Bukhārī* he would call it *munkar*. Al-Dhahabī also calls this narration “one of the *gharīb* Hadiths of the *Ṣaḥīḥ*; idem, *Mīzān*, 2:270.
5. *Mīzān*, 1:278 and 4:498: *munkar* possibly an objection to meaning. From *Musnad* of Ibn Ḥanbal: al-Dhahabī calls one Hadith on the virtues of Marv *munkar* (see *Musnad*, 5:357), and another one on the virtues of Homs (see *Musnad*, 1:19).
6. *Mīzān*, 2:312: *gharīb* as an objection to meaning. From *Ṣaḥīḥ Muslim*: al-Dhahabī calls the Hadith of the Prophet’s telling the Companions to fast ‘Āshūrā’ like the Jews of Khaybar one of the *gharīb* Hadiths of Muslim’s book (see *Ṣaḥīḥ Muslim*: *kitāb al-ṣiyām*, *bāb ṣawm yawm ‘āshūrā’).*

<sup>63</sup> This Hadith appears in the *Sunans* of Abū Dāwūd, al-Tirmidhī and Ibn Mājah. As described by al-Khaṭṭābī, its *isnād*s have been criticized for a variety of minor flaws. But “It is testimony enough for its

number of Hadiths from the *Musnad* of Ahmād [Ibn Ḥanbāl], the *Sunan* of Abū Dāwūd and other relied upon books, indeed, even from the *Ṣaḥīḥayn* as well.<sup>64</sup> But this only means what is understood by the Hadith masters, namely that the property of *munkar* (*nakāra*) stems from being an isolated transmission (*fardiyā*). And being an isolated transmission does not entail that the *matn* of the Hadith is weak, let alone that it is false. And one school of thought, such as [that of] Ibn al-Ṣalāḥ, view the terms *munkar* and anomalous (*shādhdh*)<sup>65</sup> to be synonyms [in describing reports]. And how many Hadiths are there in the *Ṣaḥīḥayn* that have been described as anomalous (*shādhdh*), such as Muslim's Hadith denying reading the *basmala* [aloud] in prayer. For indeed Imam al-Shāfiʻī, may God be pleased with him, ruled that it was anomalous (*shādhdh*).<sup>66</sup> And it is not for you to say that they (i.e., al-Bukhārī and Muslim) required as a condition for the *ṣaḥīḥ* rating that the Hadith not be anomalous, for how would that be correct if it is included in the *ṣaḥīḥ* while it is ruled to be anomalous? Because this is also due to your lack of knowledge regarding weakness [in Hadiths]. For, indeed, Ibn al-Ṣalāḥ, when he mentioned the definition (*dābiṭ*) of the *ṣaḥīḥ* category and set as a condition that it not be *shādhdh*, said at the end of his discussion, “This is the

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soundness that the stars of the world from amongst the scholars of Hadith have declared it *ṣaḥīḥ* and acted on it. And they are the example to be followed, and upon them should we rely on this matter”, al-Khaṭṭābī, *Ma‘ālim al-sunan*, 1:36. The great Syrian Shāfiʻī scholar and Hadith master Ṣalāḥ al-Dīn al-‘Alā’ī (d. 761/1359) wrote a small book arguing that the Hadith was *ṣaḥīḥ*; al-‘Alā’ī, *Juz’ fī taṣḥīḥ hadīth al-qullatayn wa'l-kalām 'alā asānidihī*, ed. Abū Iṣhāq al-Huwaynī (Cairo: Maktaba al-Tarbiya al-Islāmiyya, 1992).

<sup>64</sup> See note 63 above.

<sup>65</sup> The definition used by al-Shāfiʻī, and implied strongly by al-Tirmidhī, ultimately became the established definition for *shādhdh* by the fourteenth century: a transmission that disagrees with something more reliable than it (*yukhālīfu mā huwa awthaq minhu*). See al-Dhahabī, *Mūqīṣa*, 42. Al-Khalīlī (d. 446/1054) and his teacher al-Ḥākim, however, defined *shādhdh* as, contrary to al-Shāfiʻī, merely what “has only one *isnād* (*laysa lahu illā isnād wāhid*)”; al-Ḥākim, *Ma‘rifat ‘ulūm al-hadīth*, ed. Mu‘azzim al-Husayn (Hyderabad: Dā’irat al-Ma‘ārif al-‘Uthmāniyya, 1966), 148; al-Khalīl b. ‘Abdallāh al-Khalīlī, *al-Irshād fī ma‘rifat ‘ulamā’ al-hadīth*, ed. ‘Āmir Ahmād Ḥaydar (Mecca: Dār al-Fikr, 1993), 13. For more on this debate, see Ibn Rajab, *Sharḥ ‘Ilal al-Tirmidhī*, 1:450–62; Jonathan AC Brown, *The Canonization of al-Bukhārī and Muslim* (Leiden: Brill, 2007), 249.

<sup>66</sup> See Brown, *Canonization of al-Bukhārī and Muslim*, 257–58.

[condition] for the Hadith that is judged to be *ṣahīh* without any disagreement amongst the people of Hadith.”<sup>67</sup> So he alluded to this being the definition for the level of *ṣahīh* by agreement (*al-ṣahīh al-muttafaq ‘alayhi*). And there remains another type of *ṣahīh* that does fit into that definition, namely the disagreed-upon *ṣahīh* (*al-ṣahīh al-mukhtalaffihi*). For this reason al-Zarkashī<sup>68</sup> said in his Commentary on the *Mukhtaṣar* of Ibn al-Ṣalāḥ,

“[The category of] disagreed-upon *ṣahīh* falls outside this definition.”

Then Ibn al-Ṣalāḥ mentioned other important points of knowledge after this, among them that the [category of] *ṣahīh* subdivides into agreed upon and disagreed upon, and it also subdivides into well-known (*mashhūr*) and rare (*gharīb*), and he clarified all that.<sup>69</sup> Al-Zarkashī said in his commentary and the Hadith master Ibn Ḥajar said in his *Remarks [on Ibn al-Ṣalāḥ]*<sup>70</sup> at that point that al-Ḥākim mentioned in his *Introduction* (*Madkhal*)<sup>71</sup> that *ṣahīh* Hadiths are divided into ten categories, five agreed upon and five disagreed upon. The first type of the first [category] is what both al-Bukhārī and Muslim chose, and that is the first level of the *ṣahīh*, which is narrated by a well-known Companion, who has two transmitters [narrating] from him. And the Hadiths transmitted by this criterion do not number ten thousand. The second: the *ṣahīh* Hadith narrated by an upstanding, accurate (*dābit*) transmitter, from the upstanding, accurate (*dābit*) transmitter, back to the Companion, but who only has one transmitter [who narrates]

<sup>67</sup> Ibn al-Ṣalāḥ, *Muqaddima*, 152.

<sup>68</sup> Badr al-Dīn Muḥammad b. Bahādur al-Zarkashī (d. 794/1392) of Cairo, a famous Hadith scholar and Shāfi‘ī jurist. See al-Zarkashī, *al-Nukat ‘alā Muqaddimat Ibn al-Ṣalāḥ*, ed. Zayn al-‘Ābidīn Muḥammad Bilā Furayj, 4 vols. (Riyadh: Aḍwā’ al-Salaf, 1419/1998), 1:101, 125.

<sup>69</sup> Ibn al-Ṣalāḥ, *Muqaddima*, 152.

<sup>70</sup> Ibn Ḥajar, *al-Nukat ‘alā kitāb Ibn al-Ṣalāḥ*, ed. Maṣ’ūd ‘Abd al-Ḥamīd al-‘Adanī and Muḥammad Fāris (Beirut: Dār al-Kutub al-‘Ilmiyya, 1414/1994), 109-10.

<sup>71</sup> Al-Ḥākim, *Kitāb al-Madkhal ilā ma‘rifat kitāb al-Iklīl*, ed. Aḥmad Fāris Sallūm (Dār Ibn Ḥazm, 1423/2003), 73-107. Al-Suyūṭī abridges this section, but he does not introduce any material.

from him. Third: reports from a group among the Successors that only have one transmitter [narrating] from each of them. Fourth: those solitary narrations of limited attestation that are transmitted by reliable, upstanding narrators, narrated by one of the reliable transmitters alone without other paths recorded in the books [of Hadith].<sup>72</sup> Fifth: Hadiths from a group of the imams, from their fathers, from their grandfathers, but the transmission of these Hadiths did not become widespread from their fathers, from their grandfathers except through them.<sup>73</sup> As for the five categories whose soundness is disagreed on, the first is the ‘cast’ (*mursal*)<sup>74</sup> Hadith, which is considered *ṣahīḥ* by the scholars of Kufa. Second: the transmission of ‘obfuscators’ (*mudallisīn*)<sup>75</sup> when they do not specify hearing transmissions directly, in other words, they do not specify their direct audition (*samā'*). This type is *ṣahīḥ* according to a number of scholars. Third: a report narrated by one of the reliable transmitters from one of the imams of the Muslims, who then provides an *isnād* [back to the Prophet] for that report, and then a group of reliable transmitters narrate it from him but via ‘casting’ (*irsāl*). Fourth: the transmission by a Hadith scholar (*muḥaddith*) with sound audition and sound writing, whose upstanding character seems evident except that he does not understand what he narrates and does not retain it exactly (*lā yahfażu hu*). Indeed this

<sup>72</sup> In other words, the *isnād* is a single chain for the first two links.

<sup>73</sup> The example that al-Ḥākim gives for this type is the *ṣahīfa* of Amr b. Shu'ayb, from his father, from his grandfather, from the Prophet, which contains crucial rulings on compensation for injuries and manslaughter/homicide; al-Ḥākim, *Madkhal*, 101. For the Hadith, see *Sunan Abī Dāwūd: kitāb al-diyāt, bāb al-diyā kam hiya; Sunan Ibn Mājah: kitāb al-farā'id, bāb mīrāth al-qātil*.

<sup>74</sup> Through the eleventh century, *mursal* was used to mean a Hadith in which a transmitter cited the Prophet without actually having met him. By the thirteenth century it has come to mean a Hadith in which a Successor quoted the Prophet, omitting the Companion from the chain of transmission. Until the mid ninth century, many jurists, in particular those of the Ḥanafī school, did not consider *mursal* Hadiths to be flawed in anyway, and they served as a major source of evidence. Although he used *mursal* Hadiths selectively, al-Šāfi'i's incorporation of Hadith transmitter criticism into his evaluation of evidence meant that *mursal* Hadiths would be seen as suspect due to the break in their chain.

<sup>75</sup> Transmitters who engage in *tadlīs* (obfuscation in transmission) phrase a transmission or many transmissions in such a way that it seems they heard it directly from a source when they actually heard it via some intermediary.

category is *sahīh* according to most scholars of Hadith, though there are those among them who do not see that as proof (*hujja*). Fifth: transmissions from heretics (*mubtadi'a*) and the people of various agendas, for their transmissions are accepted according to the people of knowledge if they are truthful (*sādiqīn*). Al-Ḥākim said: “I mentioned these categories so that no one would mistake that only what al-Bukhārī and Muslim included [in their books] is *sahīh*.”

Once you have understood this, [you will see that, concerning] the statement of the Hadith master Ibn Ḥajar that “the Hadith of Ibn ‘Abbās is disagreed on in terms of its attestation,” he wanted to show that it fell into the category of disagreed upon *sahīh* not the agreed upon *sahīh*. He intended by that to complete the point of knowledge, since his method in that book is that, if a Hadith fell into the first category, he noted its as being well attested, and if it was from the second category, he drew attention to that. And there are in that noble book precious gems from the craft of Hadith that only one with in-depth knowledge of that science, like its author, would recognize.

So let the person be wary of daring to speak about the Hadiths of the Messenger of God (s) without knowledge, and let him apply himself assiduously to attain that science until he becomes competent, his feet become firm and he delves deeply into it, so that he not fall under the Hadith ‘Whoever speaks without knowledge, he is cursed by the angels of the heavens and the earth.’<sup>76</sup> And let him not be deluded by his not having

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<sup>76</sup> Al-Suyūtī errs in citing this Hadith as ‘*man takallama bi-ghayr ‘ilm la-anathu malā’ikat al-samāwāt wa'l-ard*.’ The existing Hadith is actually ‘*man aftā bi-ghayr ‘ilm...,*’ as cited by al-Suyūtī in his own work, *al-Ḥabā'ik fi akhbār al-malā'ik*, ed. Muḥammad Sa'īd Zaghlūl (Beirut: Dār al-Kutub al-'Ilmiyya, 1408/1988), 187. See al-Khaṭīb, *al-Faqīh wa'l-mutafaqqih*, ed. 'Ādil Yūsuf al-'Azāzī, 2 vols. (Dammam: Dār Ibn al-Jawzī, 1417/1996),

found anyone repudiating him in this earthly life, for after death the message will come to him either in the grave or on the Bridge, where the Prophet (s) will take up dispute with him, saying:

How do you speculate about my Hadiths and speak about that which you have no knowledge. For either you reject something that I said or you attribute to me what I have not said. Have you not read what was revealed to me ‘And pursue not that of which you have no knowledge; hearing, sight and the heart, all of these shall be questioned’ (Quran 17:36).

O what an embarrassment for him on that day, O what a scandal for him, this, if he dies a Muslim, and otherwise he will be punished. And refuge be sought with God from a vile finale (*sū’ al-khātimā*) [to the affairs of this world]. As the preachers say in the pulpits in some of their sermons, “And sins, how many sins a servant [of God] is punished for because of a vile end.” And as the Shaykh Muhyī al-Dīn al-Qurashī al-Hanafī quoted in his *Tadhkira*, from Imam Abū Ḥanīfa, may God be pleased with him, that he said, “What strips people most of faith upon death, or the greatest causes of this, is injustice (*zulm*),” and what injustice is greater than the insolence of delving into the Hadiths of the Messenger of God (s) without knowledge. We ask God for safety and well-being.

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2:327; Ibn ‘Asākir, *Tārīkh madīnat Dimashq*, ed. ‘Umar al-‘Amrawī, 80 vols. (Beirut: Dār al-Fikr, 1997), 52:20; “Musnad ‘Alī Ridā,” in *Musnad al-imām Zayd* (Beirut: Dār Maktabat al-Ḥayāt, 1966), 444.