

QUR'ĀNIC ABROGATION ACROSS THE NINTH  
CENTURY: SHĀFI'Ī, ABŪ 'UBAYD, MUḤĀSIBĪ,  
AND IBN QUTAYBAH

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As far back as the sources will take us, Muslim jurists discerned abrogation (*naskh*) in the Qur'ān; that is, some verses were said to have been revealed, then their memory, their inclusion in the recited text, or at least their operation was suppressed. The term *naskh* and perhaps the concept are themselves Qur'ānic (Q.2.106). John Burton has published a fine study of the phenomenon in both Qur'ān and ḥadīth.<sup>1</sup> Unfortunately, he is little concerned to establish the chronology of the doctrine, rarely identifying his sources by date. He does not pay special attention to at least one of our earliest extended discussions of Qur'ānic abrogation, *al-Nāsikh wa-al-mansūkh fi al-qur'ān* by Abū 'Ubayd (d. 224/839?), although he has prepared an edition of it for the new Gibb Memorial Series.<sup>2</sup> It also happens that he has overlooked one of the few other extant sources for the ninth century, *Kitāb Fahm al-qur'ān* of al-Hārith ibn Asad al-Muḥāsibī.<sup>3</sup> I propose here to review the doctrine of abrogation as it is presented by four writers of the ninth century C.E.: al-Shāfi'ī, Abū 'Ubayd, Muḥāsibī, and Ibn Qutaybah. My object is to notice changes over time with hopes of shedding light by the way on the question of whether the *Risālah* is more plausibly attributed to Shāfi'ī himself or to some follower almost a century later.

<sup>1</sup> John Burton, *The Sources of Islamic Law: Islamic Theories of Abrogation* (Edinburgh: Univ. Press, 1990).

<sup>2</sup> Abū 'Ubayd al-Qāsim b. Sallām's "*K. al-nāsikh wa 'l-mansūkh*" (*MS. Istanbul, Topkap, Ahmet III A 143*), ed. with commentary by John Burton (Cambridge: Trustees of the "E. J. W. Gibb Memorial", 1987). References to Burton's edition will be preceded by B; those preceded by M are rather to Abū 'Ubayd, *al-Nāsikh wa-al-mansūkh*, ed. Muḥammad ibn Šāliḥ al-Mudayfir (Riyadh: Maktabat al-Rushd, 1411/1990, repr. Maktabat al-Rushd and Sharikat al-Riyād, 1418/1997).

<sup>3</sup> Muḥāsibī, *al-'Aql wa-fahm al-qur'ān*, ed. with introd'n by Ḥusayn al-Qūwatli (Beirut: Dār al-Fikr, 1391/1971; repr. Dār al-Fikr and Dār al-Kindī, 1402/1982). The text of *K. Fahm al-qur'ān* is found on pp. 263–502.

*Shāfiʿī*

There seems little need to rehearse the life of Muḥammad ibn Idrīs al-Shāfiʿī (d. Old Cairo, 204/820).<sup>4</sup> By all accounts, he was active for most of his life in the Hijaz, then taught for a short time in Baghdad before finally transferring to Old Cairo. His extant literary work is all from Egypt but the opinions he expressed in Baghdad have sometimes survived in quotation. Joseph Schacht portrayed his work as the culmination of a century of juridical development before him, virtually defining the way Islamic law would be practiced ever after.<sup>5</sup> Wael Hallaq has questioned whether his work was really so influential, pointing out that the *Risālah* is no summary of the classical theory of Islamic law (*uṣūl al-fiqh*) and that nothing seemed to be made of Shāfiʿī's foundation until well into the tenth century.<sup>6</sup> Norman Calder questioned whether Shāfiʿī himself wrote any of the extant works attributed to him. He redated both the constituent parts of *Kitāb al-Umm* and the *Risālah* to *circa* A.H. 300 (A.D. 912–13).<sup>7</sup> His chief argument is that the juridical theory of the *Risālah* is too advanced to have been proposed much earlier.

The traditional story, first related at length by al-Bayhaqī (d. 458/1066), has it that Shāfiʿī wrote the *Risālah* in answer to a request from the Baṣran traditionist and jurispudent ʿAbd al-Raḥmān ibn Mahdī (d. 198/814).<sup>8</sup> According to a story attributed to Abū Thawr, ʿAbd al-Raḥmān ibn Mahdī wrote to Shāfiʿī when he was a youth and asked him to prepare for him “a treatise containing the meanings of the Qurʾān, the arts of ḥadīth, the probative value of consensus, and an explanation of the abrogating and abrogated in Qurʾān and Sunnah”.<sup>9</sup> (Whether from Bayhaqī or Abū Thawr, this story does not enumerate the classic four sources, corroborating Joseph Lowry's account.) According to Ibn Abī Ḥātim in the tenth century,

<sup>4</sup> See now *Encyclopaedia of Islam*, new edn., s.v. “Shāfiʿī”, by E. Chaumont.

<sup>5</sup> Joseph Schacht, *The Origins of Muhammadan Jurisprudence* (Oxford: Clarendon Press, 1950).

<sup>6</sup> Hallaq, “Was al-Shāfiʿī the Master Architect of Islamic Jurisprudence?” *International Journal of Middle East Studies* 25 (1993):587–605.

<sup>7</sup> Norman Calder, *Studies in Early Muslim Jurisprudence* (Oxford: Clarendon Press, 1993), chap. 9, esp. 242.

<sup>8</sup> Bayhaqī, *Manāqib al-Shāfiʿī*, ed. al-Sayyid Aḥmad Ṣaqr, 2 vols. (Cairo: Dār al-Turāth, 1390/1970), 1:225.

<sup>9</sup> Al-Khaṭīb al-Baghdādī, *Tārīkh baghdād*, 14 vols. (Cairo: Maktabat al-Khānjī, 1349/1931), 2:64f.

Aḥmad ibn Ḥanbal recommended the *Risālah* before all else of Shāfi'ī's writings.<sup>10</sup>

As for the polemical tendency of the *Risālah*, Burton finds Shāfi'ī to argue principally against persons who would discard rules based on ḥadīth in favor of rules based on the Qur'ān.<sup>11</sup> Calder has pointed out how the *Risālah* legitimates the work of specialist jurists, whose answers to juridical questions are reliable in spite of disagreement among themselves.<sup>12</sup> Joseph Lowry, in turn, has stressed how Shāfi'ī proposes a system of basing rules entirely on textual sources, Qur'ān and ḥadīth, hence minimizing resort to personal preference, common sense, and the like.<sup>13</sup> Following Schacht, I once took the *Risālah* to argue primarily against the partisans of Companion ḥadīth and local consensus in favor of prophetic ḥadīth; however, I now see otherwise, on which more at the conclusion. Let me observe here that I cannot believe the *Risālah* as we know it goes back to before Abū 'Ubayd and Muḥāsibī; however, I shall refer to it in the following discussion as the work of Shāfi'ī and treat it before the works of Abū 'Ubayd, Muḥāsibī, and Ibn Qutaybah.

#### *Abu 'Ubayd*

Abū 'Ubayd al-Qāsim ibn Sallām (d. Mecca, 224/839?) was born in Herat but studied in Iraq in his twenties and settled in Baghdad in his later fifties.<sup>14</sup> He is renowned chiefly as a philologist and seems to have been the first to use ḥadīth extensively as material for linguistic

<sup>10</sup> Ibn Abī Hātim, *Kūtab al-Jarḥ wa-al-ta'dīl*, 9 vols. (Hyderabad: Jam'iyat Dā'irat al-Ma'ārif al-'Uthmāniyah, 1360), 7:204; *Ādāb al-shāfi'ī wa-manāqibuh*, ed. 'Abd al-Ghanī 'Abd al-Khāliq (Cairo: Maṭba'at al-Sa'ādah, 1372/1953, repr. Aleppo: Maktabat al-Turāth al-Islāmī, n.d.), 61f.

<sup>11</sup> Burton, *Sources*, 11, 22–25; also, less sharply, Wael B. Hallaq, *A History of Islamic Legal Theories* (New York: Cambridge Univ. Press, 1997), chap. 1, esp. 24.

<sup>12</sup> Norman Calder, "Ikhtilāf and Ijmā' in Shāfi'ī's *Risāla*", *Studia Islamica*, no. 58 (1983), 55–81; similarly, Gérard Lecomte, "Un exemple d'évolution de la controverse en Islam: de l'*Ihtilāf al-ḥadīth* d'al-Shāfi'ī au *Muhtalif al-ḥadīth* d'Ibn Qutayba", *Studia Islamica*, no. 27 (1967), 9.

<sup>13</sup> Joseph Lowry, "The Legal-Theoretical Content of the *Risāla* of Muḥammad b. Idrīs al-Shāfi'ī", Ph.D. diss., Univ. of Pennsylvania, 1999. On the legal plane, Lowry's finding complements that of George Makdisi, "The Juridical Theology of Shāfi'ī: Origins and Significance of *uṣūl al-fiqh*", *Studia Islamica*, no. 59 (1984), 5–47, on the theological.

<sup>14</sup> For his life, see *Encyclopaedia of Islam*, new edn., s.v. "Abū 'Ubayd al-Kāsim b. Sallām", by H. Gottschalk.

science. However, he certainly had a reputation in his own time as a traditionist and jurisprudent, as well, and was appointed qādī for Tarsus 192–210/807–25. Most medieval biographers reckon him a Shāfi‘ī in law.<sup>15</sup> Dāwūd al-Zāhirī is quoted as saying he was among the borrowers (*muqtabisīn*) from the books of Shāfi‘ī and related the *K. al-Manāsik* of him.<sup>16</sup> However, Abū ‘Ubayd’s treatment of abrogation never mentions Shāfi‘ī and shows no acquaintance with the ideas of the *Risālah*.<sup>17</sup> Abū ‘Ubayd’s reputation as a jurisprudent apparently degenerated near the end of the ninth century.<sup>18</sup> By then, it seems likely, juridical reasoning itself had become sufficiently more sophisticated that early efforts such as *al-Nāsikh wa-al-mansūkh fī al-qur’ān* appeared completely inadequate.

*Nāsikh* seems to be the least polemical book under consideration here. I cannot say that it was written to refute any group’s error. It turns only briefly, near the beginning, to the theory of Islamic law. Otherwise, in distinction from the other books, it is interested in establishing rules without much concern for the theory behind them. The great bulk of it is devoted to piling up instances of abrogation, one after another, in the manner of Qatādah ibn Di‘āmah (d. 118/736–37), *al-Nāsikh wa-al-mansūkh*.<sup>19</sup>

<sup>15</sup> Al-‘Abbādī, *Kitāb Ṭabaqāt al-fuqahā’ al-shāfi‘īyah*, ed. Gösta Vitestam, Veröffentlichungen der “De Goeje Stiftung” 21 (Leiden: E. J. Brill, 1964), 37; Ibn ‘Abd al-Barr, *al-Intiqā’ fī faḍā’il al-thalāthah al-a‘immah al-fuqahā’ Mālik wa-al-Shāfi‘ī wa-Abī Ḥanīfah* (Cairo: Maktabat al-Qudsi, 1350), 107f.; al-Nawawī, *Tahdhīb* 2:257. To the contrary, Abū ‘Ubayd is reckoned a Ḥanafī by al-Khalīlī, *al-Irshād fī ma‘rifat ‘ulamā’ al-hadīth*, abr. al-Silafī, s.n. Abū ‘Ubayd; ed. ‘Āmir Ahmad Ḥaydar (Mecca: al-Shāmīyah, 1414/1993), 191, ed. Muḥammad Sa‘īd ibn ‘Umar Idrīs, 3 vols. (Riyadh: Maktabat al-Rushd, 1409/1989), 2:607. Abū ‘Ubayd highly praised Muḥammad al-Shaybānī, according to al-Khaṭīb al-Baghdādī, *Tārīkh* 2:175. Al-Dhahabī lists him among Shaybānī’s students, *Sīyar* 9 (ed. Kāmil al-Kharrāṭ, 1982):135. Additionally, his jurisprudence is said to have come from the books of the Hijazi jurisprudent and historian al-Wāqidi (d. Baghdad, 207/823): al-Khaṭīb al-Baghdādī, *Tārīkh* 3:11f.; Ibn Hajar, *Tahdhīb* 9:366.

<sup>16</sup> Dāwūd al-Zāhirī (presumably from one of his biographies of Shāfi‘ī and his *aṣḥāb*), *apud* Bayhaqī, *Manāqib* 2:328.

<sup>17</sup> Remarkd by Burton, “Introductory Essay”, *Abū ‘Ubayd*, 25, 36.

<sup>18</sup> See the disparaging report of Ibn Surayj and al-Ṭabarī, citing *K. al-Amwāl* in particular: “Have you not observed of his book on property, even though it is his best, how it builds without a foundation and argues by unsound (reports)?” Qāsim ibn Aṣbagh, *apud* al-Dhahabī, *Sīyar a‘lām al-nubalā’*, 25 vols. (Beirut: Mu’assasat al-Risālah), 13 (ed. ‘Alī Abū Zayd, 1983):301.

<sup>19</sup> Qatādah ibn Di‘āmah (attrib.), *al-Nāsikh wa-al-mansūkh fī kitāb Allāh ta‘ālā*, ed. Ḥatīm Šālīh al-Dāmin, *Silsilat kutub al-nāsikh wa-al-mansūkh* 1 (2nd printing, Beirut: Mu’assasat al-Risālah, 1406/1985).

*Muḥāsibī*

Al-Ḥārith ibn Asad al-Muḥāsibī (d. Baghdad? 243/857–58) is famous primarily as an ascetic, one of the masters of al-Junayd. His very *nisbah* celebrates his concern for minute self-observation. However, Muḥāsibī was also an active *mutakallim* and *uṣūlī*.<sup>20</sup> His book *Fahm al-qur'ān wa-ma'ānīh* combines asceticism, *kalām*, and *uṣūl al-fiqh*. Its first section in praise of the Qur'ān does not show any special tendency, but its second, on why one should pay attention to the Qur'ān, notably stresses love above other motives, as one might expect of a proto-Sufi but does not find in, say, the *Risālah* of Shāfi'ī. “We find our mother’s talk sweeter and more pleasant than anyone else’s because we know of her mercy, her counsel, and her solicitude for us”. All the more, then, we should love and heed the Qur'ān (303). The object of understanding the Qur'ān is to gain steadfastness of the soul, hence practically seeing God (313).

Its editor thinks that *Fahm al-qur'ān* was written in the second half of the second decade of the third century (831–36 C.E.), as it refers to the governor of Khurasān as “Ibn Ṭāhir” and ‘Abd Allāh ibn Ṭāhir assumed the governorship after the death of his brother Ṭalḥah in the year 214/829–30.<sup>21</sup> My guess is that any Ṭāhirid governor might have been referred to as “Ibn Ṭāhir”, though, so Muḥāsibī’s expression does not appear to me conclusive. At least, Muḥāsibī must have written *Fahm* after Abū ‘Ubayd had published *Nāsikh al-qur'ān*, probably after Abū ‘Ubayd’s death, for he quotes *Nāsikh* several times.<sup>22</sup>

Of theological parties, *Fahm al-qur'ān* argues against the Rawāfiḍ and Mu‘tazilah by name. The Rawāfiḍ are blamed particularly for holding that God may abrogate not only ordinances (*aḥkām*) but also reports (*akhbār*) of what has happened or will happen (333, 356). The Mu‘tazilah argue that God will certainly punish, not forgive, those who commit cardinal sins (370). Usually, though, Muḥāsibī simply argues against such unspecified errorists as “the people of straying”

<sup>20</sup> Muḥāsibī’s activity in *kalām* was first discussed by Josef van Ess, *Die Gedankenwelt des Ḥārith al-Muḥāsibī*, Bonner orientalistische Studien, n.s., 12 (Bonn: Orientalischen Seminars, 1961). See also Christopher Melchert, “The Adversaries of Aḥmad Ibn Hanbal”, *Arabica* 44 (1997):234–53, esp. 242–44.

<sup>21</sup> Husayn al-Qūwatī, *apud* Muḥāsibī, *K. al-'Aql wa-fahm al-qur'ān*, 242.

<sup>22</sup> Muḥāsibī, *Fahm*, 326, quoting Abū ‘Ubayd, *Nāsikh*, B3, M6; 327, quoting *Nāsikh*, B3, M4; 327f., quoting *Nāsikh*, B3f., M6; *Fahm*, 406, quoting *Nāsikh*, B6, M14f.

and “the people of innovations” (*ahl al-dalāl, ahl al-bidaʿ*). The orthodox are evidently *ahl al-sunnah*, some of whom have themselves wandered into error by predestinarian zeal (356).

### *Ibn Qutaybah*

ʿAbd Allāh ibn Muslim ibn Qutaybah (d. Baghdad, 276/889) was born in Kufa. Under the caliph al-Mutawakkil (r. 232–47/847–61), he apparently enjoyed the patronage of the vizier ʿUbayd Allāh ibn Yahyā ibn Khāqān (d. 263/877), and among other things served as qāḍī for Dinawar from around 236/850–51 to 256/870. Thereafter he supervised the *mazālim* jurisdiction in Baṣrah until moving to Baghdad in 257/871, where he remained until his death. Although important primarily as a littérateur, Ibn Qutaybah was thus deeply interested in the jurisprudence of his time.

The work useful to this survey of abrogation is *Taʿwīl mukhtalif al-ḥadīth* (henceforth *Mukhtalif*).<sup>23</sup> Its subject is not precisely jurisprudence: rather, it falls into the category of *uṣūl al-dīn*, theology.<sup>24</sup> Hence, it is not an ideal subject for comparison with the works of Muḥāsibī and Shāfiʿī, primarily interested in jurisprudence. Still, it must reflect the state of juridical science in its time, and we have too little evidence from the period to dispense with it. Gérard Lecomte considers *Mukhtalif* to be Ibn Qutaybah’s last work, probably started, at least, not long after 256/869–70, the probable date of his return to Baghdad.<sup>25</sup> The *Mukhtalif* expressly refutes rationalists who depend on analogy (that is, their own experience and the regularity of nature), variously identifying them as *falāsifah, dahriyah, ahl al-kalām*, and other names. It also refutes the Muʿtazilah, the Qadariyah and, like the *Risālah* of Shāfiʿī, those who accept the Qurʾān but doubt ḥadīth.<sup>26</sup>

<sup>23</sup> Ibn Qutaybah, *Taʿwīl mukhtalif al-ḥadīth*, ed. Muḥammad Zuhri al-Najjār (Cairo: Maktabat al-Kulliyāt al-Azhariyah, 1386/1966), henceforth N; *Le traité des divergences du ḥadīth d’Ibn Qutayba*, trans. Gérard Lecomte (Damascus: Institut Français de Damas, 1962), henceforth L.

<sup>24</sup> Similarly, Lecomte, “Exemple”, 10.

<sup>25</sup> Lecomte, *Traité*, viii, where the *Mukhtalif* is said to have been written between 256/869 and Ibn Qutaybah’s death in 276/889; idem, *Ibn Qutayba* (Damascus: Institut Français de Damas, 1965), 90, where Ibn Qutaybah is said to have written the *Mukhtalif* a little after 256/870.

<sup>26</sup> The Muʿtazilah are named N63, 129, L70, 145, the Qadariyah N5, 81f., 128, L3, 90–92, 145. The doctrine that the Qurʾān comes before ḥadīth is implicit in

(Ibn Qutaybah's *Mushkil ta'wīl al-qur'ān* is a youthful work, perhaps contemporary with Muḥāsibī's *Fahm al-qur'ān*. Unfortunately, it says nothing of abrogation.)

*Principal Aspects of Qur'ānic Abrogation*

The approach by which I have chosen to compare these various works on abrogation is to identify important aspects of the problem, then identify how each writer addresses each one. The aspects of Qur'ānic abrogation that I have isolated are the distinction between general and particular (*'āmm, khāṣṣ*) as opposed to abrogation; the objects of abrogation, whether divine ordinances or more; Qur'ān and Sunnah as varieties of revelation; abrogation as between Qur'ān and Sunnah; exception as opposed to abrogation; abrogation of reports as opposed to ordinances; the enumeration of varieties of abrogation; and the relation between the given enumeration and given instances of abrogation. (A Table Summarizing This Section of the paper may be found in Appendix A.)

*General and particular.* The distinction between general and particular (*'āmm, khāṣṣ*) is a famous means of resolving apparent contradictions. Shāfi'ī knows the terms and continually opposes them; for example, where the Qur'ān says to whip adulterers, a general command, but the Sunnah shows by way of explanation that only fornicators were intended, an example of particularity.<sup>27</sup> By contrast, Abū 'Ubayd knows the terms but does not oppose them systematically. Concerning the marriage of the unchaste, for example, he reports that Sa'īd thought the prohibition of Q.24.3 was general and its relaxation (*rukḥṣah*) an instance of abrogation, whereas Mujāhid thought that the prohibition applied to some particular persons (*'alā ulā'ika khāṣṣatan dūna al-nās*). The latter interpretation does away with appeal to abrogation, but Abū 'Ubayd prefers it because it is supported by further *ḥadīth* reports (*akhbār*), not from any apparent distaste for abrogation (B33f., M101).

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the repeated heading, "A ḥadīth report contradicted by the Qur'ān". Ibn Qutaybah usually tries to show that the ḥadīth report in question qualifies the Qur'ān, occasionally that it overrules it, whereas his adversaries apparently would have simply dismissed the ḥadīth report in question.

<sup>27</sup> Shāfi'ī, *al-Risālah*, ed. Aḥmad Muḥammad Shākīr (Cairo: Maṭba'at Muṣṭafā al-Ḥalabī wa-Awladih, 1358/1940; repr. Beirut: n.p., n.d.), ¶¶ 225–227.

Muḥāsibī likewise knows the concept and explains against the Mu'tazilah that God's threat to torment sinners is a species of particularity, not generality (*khuṣūṣ*, *'umūm*; 374f.). He opposes them only a little more systematically than Abū 'Ubayd, though, and does not use them as an alternative to abrogation. On the contrary, indeed, he expressly considers generality and particularity as varieties of abrogation (398). Ibn Qutaybah does not oppose general and particular.<sup>28</sup> Calder urges his omission as evidence that the *Risālah* as we know it must post-date Ibn Qutaybah; however, Abū 'Ubayd's and Muḥāsibī's familiarity with the concept of general and particular show that it was available to Ibn Qutaybah and that he must have declined to call on it for reasons other than its being invented only later.

*The objects of abrogation.* For Shāfi'ī, abrogation is a matter of abandoning one obligation (*farḍ*) in favor of another, as he states in so many words (§ 361). Abū 'Ubayd offers the greatest possible contrast. He considers it a matter of abrogation for the Qur'ān to clarify that one might have food, drink, and sex throughout the night during Ramaḍān, not merely between nightfall and sleep (B12f., M38–42). He reports as an instance of abrogation how the Companions had at one time talked behind the Prophet as he prayed, before Q.2.238 came down and the Prophet forbade them to talk (B8, M24). In short, Qur'ānic verses and the Prophet's command are considered abrogating even when correcting an erroneous impression among the Companions, not replacing a previous divine command.

Muḥāsibī at least restricts abrogation to commands, if not necessarily divine commands. One variety of abrogation, according to him, is that the Prophet should command or forbid something independently of any Qur'ānic verse, then a verse come down commanding the opposite; for example, prayer toward Jerusalem (413f.). This seems to represent the Qur'ān's abrogating the Sunnah, although Muḥāsibī does not say so expressly. Muḥāsibī also mentions the prohibition of talking during prayer and express permission to have food, drink, and sex throughout the night during Ramaḍān (414f.). It will be remembered that Abū 'Ubayd also mentioned these as instances of abrogation. Muḥāsibī provides a better justification by relating the Companions' former practice to the Prophet's indication of what was correct and what was not. It is the Prophet's indica-

<sup>28</sup> Calder, *Studies*, 224.



tion, hence a binding ordinance, not just the Companion's understanding, that is subject to abrogation. There is lacking, still, any strict identification of the Prophet's command with God's.

Moreover, Muḥāsibī describes one case very much as Abū 'Ubayd had, without even a prophetic command:

They used to call one another to the ritual prayer. Then that was abrogated by 'Abd Allāh ibn Zayd al-Anṣārī's vision (*ru'yah*) of the call to prayer. His vision was confirmed (*ukkidā*) by *when you approach the ritual prayer* (Q.5.58; *Fahm*, 415).

The idea that Companion practice had its own authority, independently of prophetic or even divine commands, was still strong.

Muḥāsibī's chief concern is with determining the law, which is why he may infer a particular sort of abrogation from a particular sort of disagreement among the jurists; for example, the disputed case, where some say a verse has abrogated another but some say no; or at least where certainty is unavailable (*'alā al-tajawwuz wa-al-ihṭiyāṭ lā 'alā al-qaṭ'*; 415f.). For example, he cites Q.2.241, calling for payment to divorced wives, and Q.2.237, calling for half of what had been imposed. Some said the second had abrogated the first, others said the first still stood as a recommendation if not a strict obligation (418). Inasmuch as abrogation is about the replacement not precisely of one verse by another but of one ordinance by another, and as ordinances are practically determined by debate between jurists, this and other examples of juridical disagreement do call for separate categories. Ibn Qutaybah also speaks of disagreement among jurists, but the idea is much more definite with Muḥāsibī.

A weakness in Muḥāsibī's discussion is that he also recognizes a variety of abrogation that has no necessary connection to legal obligation, mainly the suppression of wording, memory, and ordinance; for example, enough verses dropped from Q.33, presently 73 verses long, to make it equal to Q.2, presently 286 long (404–7). Whether these abrogated verses included lapsed commands cannot be known. Inasmuch as wording has lapsed, it seems hard to avoid admitting some suppression (*tabdīl*) of God's speech. Muḥāsibī can argue that abrogation of an ordinance involves no suppression of speech because on the one hand, the ordinance is not the speech, because on the other the ordinance is fully effective during the period between its revelation and abrogation (366). Of course, Shāfi'ī's definition of

abrogation as suppression of one ordinance in favor of another likewise fails to account for verses that have been altogether forgotten; however, Shāfi'ī himself never brings up the suppression of wording, so his discussion seems at least self-consistent.

Ibn Qutaybah does not trouble to define abrogation. His working definition is implicitly the same as Shāfi'ī's, mainly that abrogation is the suppression of one ordinance in favor of another. Unlike Shāfi'ī, he refers to the abrogation of a verse, not its ordinance (N193, L214). However, this seems to be no more than a careless abbreviation of "the ordinance of a verse", for he expressly denies a report that actual Qur'ānic wording has ever been suppressed (N314, L347f.).<sup>29</sup>

*Qur'ān and Sunnah as varieties of revelation.* Shāfi'ī expressly asserts the equal authority of Qur'ān and prophetic Sunnah but (unlike Muḥāsibī) takes no trouble to defend the authority of the Qur'ān, rather defends at length the authority of the Sunnah. Addressing those who would accept rules based on the Qur'ān but not on the Sunnah, Shāfi'ī adduces both God's command in the Qur'ān to obey the Prophet (¶¶ 96–103, 258–81) and the Prophet's inspiration by God (¶¶ 282–87).<sup>30</sup> He avoids any suggestion that the Prophet could lay down the law apart from God's will; for example, he states expressly that God imposed (*farada*) on his Messenger that he pray toward Jerusalem, whereas Muḥāsibī is vague, appealing to consensus as establishing that God had imposed the prayer toward Jerusalem by means of the Prophet's command (*Risālah*, ¶ 601; *Fahm*, 414). Shāfi'ī twice brings up the penalty for adultery as an example of the Sunnah's interpreting the Qur'ān. The verse that calls for a hundred lashes (Q.24.2), he says unconvincingly, might be interpreted by itself as applying to all who engage in extramarital sex or some: the Sunnah shows that only the never-married were meant (¶¶ 227, 377). "Sunnah" is clearly and concisely equated with the precept and example of the Prophet (¶¶ 92–95 *et passim*).

<sup>29</sup> Later writers would likewise discuss abrogation in terms of the suppression of verses, even though, strictly speaking, only ordinances were meant, for which see Bernard Weiss, *The Search for God's Law* (Salt Lake City: Univ. of Utah Press, 1992), chap. 11, esp. 503.

<sup>30</sup> Similarly, among other places, Shāfi'ī, *Ibtāl al-istiḥsān*, *K. al-Umm*, 7 vols. in 4 (Bulaq: al-Maṭba'ah al-Kubrā al-Amīriyah, 1321–25), 7:271, l. 9 from bottom: "The Messenger of God . . . never imposed (*farada*) anything save by inspiration (*wahy*). There is the inspiration that is recited and there is what came as inspiration to the Messenger of God . . . that he laid down as *sunnah* (*yastannu bih*)".

Abū 'Ubayd never expressly takes up the authority of the Sunnah. To justify the stoning penalty, he does resort to the Prophet's inspiration, quoting a Companion's story that before the Prophet laid down the stoning penalty, his eyes glazed over and his skin grew pallid, as might have happened at receiving the Qur'ān from God (B45, M133f.). Abū 'Ubayd presumably accepted the implication that prophetic sayings not preceded by glazed eyes and pallid skin had lesser authority. (In another work, Abū 'Ubayd mentions *āyat al-rajm*, a verse of the Qur'ān calling for stoning adulterers, that was subsequently withdrawn—*ruff'a*, *usqīta*, and *nusikha* all appear elsewhere in the discussion but none is applied directly to *āyat al-rajm*. He does not justify the stoning penalty on its basis. Rather, he states that withdrawn verses such as this are for interpretation of the written Qur'ān—*ta'wīl mā bayna al-lawḥayn, mufasssiran lil-qur'ān*.)<sup>31</sup> He uses the term "Sunnah", but evidently means by it very ancient practice; that is, neither continuous local custom nor the precept and example of the Prophet alone. Hence, for example, he states that people permit the testimony of women in cases of birth, menstruation, pregnancy, and so forth from necessity, even though it is not in the Book or the Sunnah (B57, M164f.).

Muḥāsibī prefers to justify the stoning penalty by appeal to the Qur'ān alone. He relates that the stoning penalty was based on another passage of the Qur'ān, *āyat al-rajm*, whose wording had been abrogated but not its ordinance (398). Muḥāsibī later brings up consensus as telling us the one verse abrogated the other, even though the abrogating verse is no longer part of the recited text (455). Like Abū 'Ubayd for normal prophetic sayings, Muḥāsibī implicitly considers the precept and example of the Prophet (he does not refer to them as the Sunnah *tout court*) to have a lesser rank than the Qur'ān.<sup>32</sup>

<sup>31</sup> Abū 'Ubayd, *K. Faḍā'il al-qur'ān*, ed. Marwān al-'Aṭīyah, Muḥsin Kharābah, and Wafā' Taqī al-Dīn (Damascus: Dār Ibn Kathīr, 1415/1995), 320–27 = *Faḍā'il al-qur'ān wa-ma'ālimuhu wa-ādābuh*, ed. Aḥmad ibn 'Abd al-Wāḥid al-Khayyātī, 2 vols. (al-Muḥammadīyah: Wizārat al-Awqāf wa-al-Shu'ūn al-Islāmīyah, 1415/1995), 2:146–55.

<sup>32</sup> For example, see Muḥāsibī, *Fahm*, 289f., where prophecy is commended but *ḥikmah*, its superior, identified with the Qur'ān (*contra* Shāfi'ī, by the way); 305f., where the prophets are held up above other men and God contrasted as yet more knowledgeable, hence more to be heeded, than they; 413–15, where God abrogates a rule laid down by the Prophet independently of any *naṣṣ*, suggesting that he normally spoke without inspiration.