Abū ‘Ubaid al-Qāsim b. Sallām’s

*K. al-nāsikh wa-l-mansūkh*

(MS. Istanbul, Topkapı, Ahmet III A 143)

Edited with a Commentary by John Burton,
University of St Andrews

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ELIAS JOHN WILKINSON GIBB

...and to promote those researches into the History, Literature, Philosophy and Religion of the Turks, Persians and Arabs, to which, from his Youth upwards, until his premature and deeply lamented Death in his forty-fifth year, on December 5, 1901, his life was devoted.

"ذلك اثارنا ندل على طناء ملأ ظوا بعثنا إلى الآثار"
"These are our works, these works our souls display;
Behold our works when we have passed away."

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### Abbreviations

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Introductory essay: ‘The meaning of naskh’

The term *naskh* has in Muslim Arabic usage, three meanings of which, however, only two can be traced in the Qur’ān:

1. suppression:
   
   Q 2,106: mā nansakh min āyah aw nunsi ḥā . . .
   
   Q 22,52: fa yansakh allāh mā yulqī al-shaitān . . .
   
   I have shown elsewhere that a one-sided interpretation of this second verse lay behind the invention of the celebrated exegetical fable of ‘the satanic verses’.¹

2. transcription:
   
   Q 45,29: kunnā nastansikh mā kuntum ta’malūna . . .
   
   We shall see that this verse and this meaning played only a minor rôle in the attempts to define *naskh*.

   A third use of the term *naskh* is as a technical term used by the Islamic scholars to designate a variety of alleged ‘phenomena’ discussed in the tertiary science of *uṣūl al-fiqh*. The ‘phenomena’ had a common basis in the concept of ‘replacement’, introduced to resolve the problems of conflict of sources. Thus, the third meaning of *naskh* is

3. supersession. It is this third sense of the term that forms the subject matter of the science of *al-nāsīkh wa-l-mansūkh*, to which a large number of works has been devoted.

*The Islamic sources: Qur’ān and Sunna.*

The primary written source of the *Fiqh* was the Qur’ān, or rather, the exegesis of the Qur’ān, the *tafsīr*. The Qur’ān is the Book of God taught to the Prophet Muḥammad. It obviously had had to be acknowledged as the primary source before all, in a sub-science devoted to identifying the bases of the *Fiqh*.

In addition to the Qur’ān, the Muslims claimed to possess what they regarded as the personal detailed instruction of the Prophet as given to his contemporaries. These teachings had reached them either as verbatim reports of the Prophet’s utterances, and eyewitness accounts of his actions, as transmitted by individual members of Muḥammad’s entourage; or as reports emanating from leading members of the Prophet’s circle, regarded individually and collect-
The theories of naskh

The Sunna literature (whether oral or written) soon achieved immense proportions and in the patient analyses of these accumulated source materials, undertaken to help determine acceptable Islamic practice, the Muslims detected many apparent inconsistencies. Frequently in the subsequent literature (including the present work) these contradictions are simply noted. In other cases, however, contradiction was resolved by the application of a simple harmonising device for which the name naskh especially commended itself on the grounds of the occurrence of the term in Q 2,106 — although we have seen that Qur'ānic usage provides no warrant for the meaning thereby assigned to the term, sc, ‘replacement’ or ‘supersession’, the third of the above meanings we noted.

The term naskh does not denote a single theory concerned with immediate problems of Qur'ān exegesis alone. Rather, it refers to a number of hypotheses that had greatly facilitated the understanding by a generation of scholars, the usūlis, of decisions taken by earlier scholars, the fuqahā’, in the course of the first attempts to extract and codify the rules laid down in the twin sources of Qur'ān and Sunna.

In ancient discussions centred upon the application of those rules, every instance of conflict between: one Qur'ān verse and another, or between a Qur'ān verse and a hadith, or between one hadith and another, it was urged, had been noted, analysed and already solved by the fuqahā’, as they set out, chapter by chapter, the Islamic rulings enshrined in the Fiqh. Re-tracing the thinking of the fuqahā’, the usūlis thought that they could note that any instance of conflict of
Further scholarly discussions centered exclusively upon the implications for the Qur'an texts of the operation of the alleged phenomena of naskh. Here two additional theories evolved.

1. *nashkh al-ḥukm wa-l-tilāwah*: the naskh had affected both the ruling and the wording of the ‘earlier’ of a pair of revealed verses. But not one single instance of this mode of *nashkh* has been propounded in the literature. That is because in this formula, the term *nashkh* means only ‘suppression’ as opposed to ‘supersession’. Both wording and ruling of a Qurʾān verse have been suppressed, both have disappeared, having been withdrawn from the texts of the revelation later collected into the *muṣḥaf*. Verses had been revealed to the Prophet who subsequently forgot, or rather, was caused to forget them. It being impossible to point to the verses which had ‘replaced’ them, scholars have contented themselves with merely claiming that what the *muṣḥaf* now contains compensates for the loss of what it no longer contains.

*Ex hypothesi*, the formula *nashkh al-ḥukm wa-l-tilāwah* can refer only to the Qurʾān. It had certainly originated in the *tafsīr* of the Qurʾān, in verses which seem to hint at the possibility of Muhammad’s forgetting portions of the text. The legend of ‘the satanic verses’ has already been mentioned, stemming from: *fa yansakh allāh mā yulqi al-shaiṭān* [Q 22,52] in which the stem *nashkh* can mean nothing but ‘suppress’. But reference should also be made to the exegeses of Q 87, 6–7 *sa nuqir’uka fa ṭānsā illa mā shā allāh*: “We shall teach you the Qurʾān and you will forget none of it – save only what God wills.” Addressed to Muhammad whose forgetting appears to be envisaged, the verse recalls Q 2,106 which uses two stems: *mā nansakh min āya aw nunsīha*: *nasikh* and *nisīyān* employed in close association. Taken together, Q 2,106 and Q 87, 6–7 could be made to appear to refer to two phenomena which were envisaged as acting upon the revealed texts:

| Supersession: *nashkh al-ḥukm dāna al-tilāwah* [Q 2,106.] |
| Suppression: *nashkh al-ḥukm wa-l-tilāwah* [Q 2,106; Q 87.] |

2. The second theory to evolve solely in the Qurʾān sphere: *nashkh al-tilāwah dāna al-ḥukm* alleges the removal of a Qurʾān wording without any effect upon the validity of the ruling conveyed in a ‘once-revealed’ Qurʾān verse. The wording does not now appear in our texts collected in the *muṣḥaf*. This theory was contributed to the discussion on *nashkh* by one group of *usulīs*, following a dispute on a particular ruling of the *Fiqh*. Only two instances of this mode of *nashkh* have ever been alleged, and since its first appearance – which can be dated – it has never been universally acknowledged.4

Abū ‘Ubaid makes not a single reference to it in his work. The Qurʾān, like the Sunna, had originally relied for its dissemination upon oral transmission, and Muhammad, it has been hinted above, is pictured in some of the exegeses of Q 87 as failing to retain in his memory all the materials revealed to him by Gabriel. Portions of the Qurʾān are thus conceived to have been irrecoverably lost before the Prophet had communicated them to his followers. In the case of the revelations which Muhammad had successfully communicated, the quality of his memory is irrelevant. The Companions assumed the responsibility for their memorisation and preservation. Subsequently, certain of the texts, intended by their divine author not to appear in the version of the Qurʾān to be transmitted to posterity, were withdrawn from the memories of Muhammad and his associates.6

What may be termed ‘total omission from the *muṣḥaf*’ has been stoutly defended by some in the lengthy discussions on the implications of the exegeses of Q 87, regarded as a divine reference to God’s intended intervention in the processes of Muhammad’s memory. Similarly, Q 2,106 which associated *nashkh* with forgetting (or causing forgetting) has been alleged to convey a parallel reference to intended divine intervention in the processes of both Muhammad’s and the Companions’ memories. The exegeses of both verses are thus reflected in the classical theory of *nashkh* as: *nashkh al-ḥukm wa-l-tilāwah*. Both the ruling and the wording of certain once-revealed Qurʾān verses have been suppressed. They had been forgotten.

But alleged omission from the *muṣḥaf* may be only partial. In *nashkh al-tilāwah dāna al-ḥukm*, only the wording [1] not the ruling of a once-revealed Qurʾān verse has been suppressed. This partial ‘omission from the text’ has been suggested by some of the *usulīs* to explain cases in which the *fuqaha*’ appear to have identified an ‘original’ Qurʾān ruling as the source of the *Fiqh* ruling – but where no Qurʾān wording corresponding to that ruling is to be found in the texts collected into the *muṣḥaf*. The ‘wording’, it is assumed, had already ‘disappeared’ before the Qurʾān texts had been collected into the *muṣḥaf*.

In the tertiary science of *usul al-ḥaq*, the term Qurʾān thus represents two designata: the ‘totality’ of the divine revelations historically granted to Muhammad; and that percentage of those divine revelations now preserved in writing in the texts transmitted to posterity, the *muṣḥaf*. Of the two, only the latter, *muṣḥaf*, denotes a physical object. Qurʾān, on the contrary, can refer to an abstract
idea, whose contents can, however, be re-constituted when we compare the present contents of the mushaf with those of the Fiqh. That re-establishes the ‘totality of the revelations’ brought by Gabriel.

Of the three, only one mode of naskh has relevance for the Sunna: naskh al-hukm dinya al-tilawah, a mode that is shared with the Qur’an. Occurrences of this mode are appealed to only in cases of conflict of sources, where hadith clashes with hadith or Qur’an verse, and where Qur’an verse clashes with Qur’an verse, or with hadith. The concept of ‘omission’ would be meaningless in relation to the Sunna. The final collection of the Sunna did not get fully underway until the 3rd/9th century, following the work of the fuqaha’ and the usulis. Only then was it enclosed in a special literature, and so one will not expect to encounter references to the ‘omission’, total or partial, or to the suppression of the wording alone, or of both wording and ruling of a hadith. That would be a contradiction in terms, since the hadith or narrative, to be a topic of discussion, must first exist.

Abū ‘Ubaid makes it abundantly clear in his Introduction, as also, incidentally, in the text of his book, (and this is confirmed by the shape assumed by our theories of naskh) that, alongside the masses of accumulated contradictory hadith reports which they must patiently sift through, the Muslim scholars all worked from a single common Qur’an text. So there can therefore be no mistake on this question of ‘omission’ from the Qur’an. What is ‘missing’ from one scholar’s mushaf is ‘missing’ from everybody’s text. The question of the so-called ‘variant readings’ refers, as we shall see, precisely to the alleged presence in one man’s mushaf of something that is absent from everybody else’s mushaf. For that reason, it will not figure in the discussions on naskh. This phenomenon, which might be referred to as ‘particular omission’ rather than the universally admitted ‘omission’, is encountered in Abū ‘Ubaid’s study, but under the heading of exegesis rather than of naskh.

The wording of the three naskh formulae, as given above, is late, although the first, naskh al-hukm dinya al-tilawah, represents an attitude already present in Mālik’s Muwatta’. The wording of the three-fold formulation fails to hide the confusions arising from the usulis’ regular understanding of naskh as ‘replacement’ which had, somehow, to be reconciled with the Qur’an’s use of the term to mean ‘suppression’.

1. naskh al-hukm dinya al-tilawah: both ruling and wording of an ‘earlier’ document had allegedly been replaced because the ‘earlier’ ruling had actually been suppressed. That means there had been observed an apparent conflict between two of the sources: a Qur’an verse had allegedly repealed a Qur’an verse or a hadith; or a hadith had repealed another hadith or a Qur’an verse. Only this theory of the three applies equally to both sources. Qur’an abrogates Qur’an and Sunna. Sunna abrogates Sunna and Qur’an.

2. naskh al-hukm wa-l-tilawah: both ruling and wording of an ‘earlier’ document had allegedly been suppressed. They were never replaced. Neither ruling nor wording is, however, of the least relevance for the Fiqh, since neither now exists. This is a mode of naskh of interest solely to the exegeses.

3. naskh al-tilawah dinya al-hukm: A Qur’anic wording had allegedly been ‘suppressed’. It had never been replaced and it is absent from the mushaf. The ‘ruling’ derived from that ‘wording’ was, nevertheless, never replaced either. It was known to the fuqaha’ who had derived from its ‘wording’ its particular ruling.

We have seen that it was the usulis’ function to account for the conclusions reached by the fuqaha’. If the fuqaha’ – who, as we have seen, all had precisely the same Qur’an text in front of them – reached different answers, that might be explicable if imām A had seized upon verse A, while imām B had fastened upon verse B, which addressed the same legal question but provided a different answer from the other verse. Both competing conclusions might be equally ‘correct’ in terms of logic, but only one – that handed down from the imām of one’s own school – was ‘legally’ correct, having been derived from the later of the two verses to have been delivered to the Prophet. The later revelation had improved, modified or even replaced the earlier. The ‘error’ of the other imām had lain in his seeking to deduce rulings from earlier, repealed sources. In this way, naskh may be seen as an instrument of inter-school competition, and it is certainly so used. But the schools are not in conflict on every question. They share many views and on these, may still be seen to make a common, shared appeal to naskh. Noting that the relevant statements transmitted in the relevant source, Qur’an or Sunna, contradicted each other, the scholars solved this problem also, in the way just outlined, incidentally justifying their procedure by appealing to the Qur’an source: Q 2,106. But this appeal to the Qur’an for verification of the procedure occurs whether the conflicting documents chance to be both Qur’an verses, or hadiths. Where, however, one document is a verse and the other a hadith, it is in the highest degree significant that only a majority of the scholars appeal to
The claim that the theory of naskh and its application by the fuqaha could be justified by the Qur'an was itself only one aspect of the scholars' general habit of appealing for evidence to one of the two sources, the Qur'an or the Sunna, and in the case of naskh, one scholarly procedure has reached back to the Qur'an for an unassailable 'proof-text' in favour of its own legitimacy. It thus remains the responsibility of the reader interested in these discussions to ensure for himself that, in the case of naskh, this appeal to this Qur'ānic verse, (or any other verse) is in fact justified and the claim to find Qur'ānic support for the theory fully sustained. We earlier expressed doubts as to whether mā naskakh min ayah aw nuni ha na'tī bi khairin minhā aw mithlihā – which undoubtedly refers to naskh – refers to this theory of naskh, as we have thus far outlined it. If, as we have stated, the reference to 'replacement' is conveyed by the words na'tī bi khairin minhā aw mithlihā, it becomes clear that the verse's term naskh refers to something preceding that replacement, making replacement necessary.

For the moment, let us merely note that the term naskh to designate the theories we have outlined, was advisedly chosen. If the instances of naskh which the theorising was designed to solve were not confined to Qur'an–Qur'ān conflict, but extended to cover also Sunna–Sunna conflict, the reading of the sense 'replacement' into the Qur'an's term naskh need not of necessity have first struck the scholars only in relation to one type of source-conflict. It could as well have occurred in connection with the clash of two hadiths as in connection with the clash of two verses. At all events, the term naskh does not occur exclusively in the case of school–school conflict, but crops up also in cases of school–school accord on Fiqh conclusions themselves in conflict with one of the sources. In such instances, the theory of naskh transcends the inter-school conflict, which points to one of two conclusions: either that the appeal to naskh had not originated in inter-school squabbles; or, as we shall hope to establish, that in these instances where general accord prevails over the ordinary discord, and the schools are united on a particular Fiqh conclusion, but disunited on the details of its verification, they remain united in their appeal to naskh, differing merely as to precise identification of the nāsīkh while agreeing on the mansūkh.

In the most significant such instance, the mansūkh source was the Qur'an, and the scholarly procedure adopted unanimously by the schools all of whom appealed to naskh, suggests that included in the instances in which appeal is had to naskh was a situation in which a universally agreed element of the Fiqh collided head-on with the contents of the mushaf. The fuqaha' had had (at least) two sources to contend with: Qur'ān and Sunna. It would appear that the usūlis had, however, three sources to contend with: Qur'ān, Sunna and the Fiqh itself.

One question discussed, and already alluded to above, was whether the Qur'ān may be held to have ever naskhèd the Sunna, and whether the Sunna had ever been seen to have naskhèd the Qur'ān. Here, the answers given demarcate the attitudes adopted by the majority and the minority referred to on a previous page. That is a question which we propose, however, to leave for the moment, in order first to concentrate upon the occurrences in the Qur'ān of the root n s kh which was thought admirably adapted to serve as the general designation of the theories here outlined. We need merely repeat that in the three formulae set out above, the term naskh, representing the concept of 'suppression', has been temporarily (although unsatisfactorily) reconciled with the quite unrelated concept of 'supersession', by means of the judicious use of the negative particle dānā.

A related use of the term naskh is found in the Hebrew of the Bible with, on each occasion, the sense of 'eradication', and, according to Jeffery, comparison with the cognate languages indicates that the original sense of the root is clearly: 'to remove', 'tear away' (evelare) which original meaning is found in Q 2,100/106; Q 22,51–52, where the word is used, as Hirschfeld [Beiträge, 36] points out, precisely as in: Deut. XXVIII 63; Ezr. VI 11.11

More than once already we have drawn attention to the use of the root n s kh in Q 22,52, where God speaks of the 'suppression of that which the Devil insinuates' – a reference expanded by e.g. Tabārī into a narrative about God's removing from the Qur'ān what had never been intended to be part of the Qur'ān. Tabārī exploits the tale to 'verify' his contention that one [!] of the possible meanings of the term naskh is 'suppression'. The motivation behind the invention of the tale of 'the satanic verses' had been the need of one of two parties of exegetes engaged in a furious dispute about the meaning of the excessive clause of Q 87,6–7 (noted above) to furnish from the Qur'ān source itself irrefutable 'evidence' that not all that Muḥammad had given out as being Qur'ān revelation was now present in the mushaf. That was a clear instance of exegesis being used to entirely technical ends. Tabārī himself was among those exegetes who insisted that Q 87 'proved' that it was indeed possible that Muḥammad had forgotten parts of the 'original' Qur'ān revelations. He interprets Q 87,6–7: “You [Muḥammad] will not forget, unless We desire to...
cause you to forget parts of the Qur’ān by suppressing or withdrawing them.”

Curiously, Abu ‘Ubaid makes not a single reference to Q 22. He nonetheless establishes that, in addition to ‘replacement’, the word naskh does, in fact, include a reference to certain ‘omissions’ from the ‘original’ Qur’ān revelation. It is interesting, therefore, to note that here, he relies exclusively upon hadith-narratives which he deploys in confirmation of his exegesis of Q 87 as a reference to Muhammad’s forgetting – an idea which he thinks of as nothing particularly out of the way. For him, ‘forgetting’ is one of the modes of naskh, although he refers to it as raf’ – (withdrawal). This is the very word used by Ṭabarit which they have just rendered ‘withdrawing’.12 For ‘suppression’, the mode of naskh allegedly mentioned in Q 22, Ṭabarit selected, instead, the term ibtāl, ‘to nullify’.11

Abū ‘Ubaid establishes the equivalence naskh = nisyān merely on the grounds of the juxtaposition of both roots in Q 2,106, whose meaning is ‘indicated’ by both Q 87 and certain ḥadīths showing Muhammad ‘forgetting’ this or that element of the revelations. Forgetting is reported also from the Companions. Thus, in ʿAbū ʿUbaid’s day, naskh had already achieved twin definitions: ‘replacement’ [supersession] and ‘omission’ [suppression].

The exegesis of Q 2,106 had occasioned the keenest disagreements, now reflected in the multiplicity of reported ‘variant readings’ and the range of the varying interpretations advanced in the names of several Companions and Successors. ʿAbū ʿUbaid exhibits familiarity with a number of ‘readings’ and exegeses, as discussed by an earlier generation of scholars. He reports ibn ʿAbbās as having commented: mā nansakh min āyah: ‘Whatever verse We replace’ [yubaddil]; aw nansahā: ‘We leave it as it is, [nattruk hā] We do not replace it.’

The tafsīr amounts only to an allegation that ‘proof’ for the formula: naskh al-ḥukm dūna al-tīlāwah can be discovered in this very verse.

Q 13,39: yamḥū allāh mā yashā’ wa yuḥbit allegedly meant: ‘God will replace [yubaddil] whatever part of the Qur’ān He pleases; He will then suppress it [fa yansakhahu]. Similarly, God will endorse [yuḥbit] whatever part of the Qur’ān He pleases – He will not replace it. The entirety of the Qur’ān, its nāsīkh and its mansūkh, exists in the divine presence in its Heavenly original – wa ’indaḥu umm al-kitāb.”

A Mujāhid report ‘clarifies’ the ibn ʿAbbās statement: Q 2,106 is a reference to the divine endorsement of a Qur’ān wording, even if its ruling has been replaced: naskh al-ḥukm dūna al-tīlāwah. Both tafsīrs are secondary to the formulae which they purport, on the basis of a Qur’ān citation, to vindicate. There may possibly also lurk in the ibn ʿAbbās report an echo of Q 22: fa yansakhuḥu: fa yansakh allāh ma yulūgh al-shaijān. Q 13’s yamḥū undoubtedly means ‘to expunge’, although what God speaks of expunging has not been examined. Equally, there is in the ibn ʿAbbās use of the term yubaddil, an undisguised resonance from Q 16,101: wa idhā baddāln āyāh makānā āyāh . . .

The interpretation of Q 2,106 which Abū ‘Ubaid favours is that the verse refers to the ‘well-known phenomenon’ familiar to everyone: the nāsīkh and the mansūkh of the Qur’ān. He rejects the ibn ʿAbbās tafsīr to the extent of arguing that the expression: aw nansahā derives, not from n s y meaning: ‘to leave something where it is’. It comes from n s y meaning ‘to forget’. Hence, it is a Qur’ānī reference to the omission of Qur’ān material from the musāhaf. That was the ‘reading’ of the senior Companions Ubaib b. Ka’b, ʿAbbās, Mas’ūd and Sa’d b. ʿAbbās. Besides, the reports on the ibn ʿAbbās ‘reading’ and interpretation, as they are known to the author, are conflicting. He therefore proposes to ignore them. To these major Companions, he adds the Successors: Sa’d b. al-Musayyab, al-Daḥḥāk b. Muzāḥim. In addition, he refers to the Medinese and Kūfān scholars. Ubaib read: mā nansakh min āyah aw nunsika; ibn Mas’ūd read: mā nunsika min āyah aw nansakh hā. Both agreed in influencing the n s y root in a causal form, a reading likewise traced from al-Daḥḥāk: aw nunsī hā.

That the reading and interpretation of Q 2,106 had both been influenced by the exegesis of Q 87, is shown by Abū ʿUbaid’s account of a dispute on the reading of the Q 2 verse, the substance of which can be reconstructed, despite the absence of diacritics. “Sa’d b. al-Musayyab Waqqās recited: mā nansakh min āyah aw tansa hā, and it was pointed out to him that Sa’d b. al-Musayyab recited it: aw nansa hā [aw nunsī hā] perhaps: [aw tusna hā]. Sa’d replied, with some heat: ‘The Qur’ān was not revealed to the Musayyab family. Elsewhere in the Qur’ān, evidence can be found for the tansa reading: wa udhka rubbaka idhā nasīta [Q 18,24] while, in Q 87, we find: sa nuqr’i’uka fā lā tansa illā mā shā’ā allāh.’”

The latter verse left no doubt as to the possibility that the Prophet might forget some part of the Qur’ān text.14

The exegetical point of the quarrel is perfectly clear: is there or is there not Qur’ānī evidence to suggest that Muhammad had been capable of forgetting parts of the Qur’ān? Is the execeptive clause of Q 87 effective, or merely rhetorical? What we have here is the
conundrum: Can a man acknowledged to be a Prophet forget the divine communications? Can a book of divine authorship survive in an incomplete form? Q 87 speaks of God’s will, while Q 2,106 speaks of: causing to forget [aw nunsī hā]. God’s will is omnipotent. God can choose to cause His Prophet to forget whatever He likes.

The association of ‘causing to forget’ with the root naskh in a single verse enabled the scholars to incorporate what looks like the dangerous notion of their Prophet’s forgetting into extended naskh formulae, simultaneously ‘confirming’ the latter while substantially minimising the former. The concept of naskh is a good deal less uncomfortable than just forgetting.

The exegesis of Q 87 conformed with that of Q 13, Q 22. It was ‘confirmed’ by and, in turn, ‘confirmed’ the exegesis of Q 2, and for Abu ‘Ubaid, the meaning of Q 2,106 was of considerably greater moment than its precise ‘reading’. Its reference to the Prophet’s forgetting is, he suggests, quite unmistakable, whether one reads tunsā, as directly addressed to Muḥammad, or nunsī [even tunsā] as ascribed to God’s intervention, since, as Prophet, Muḥammad functioned solely as God determined. The omission of verses from the Qur’ān has therefore, he concludes, indeed occurred. His strong conviction is next reinforced by reference to hadiths.

The author’s close scrutiny of the alleged ‘variant’ readings and his analysis of the hadith-stories shows the extremely detailed nature of the discussions conducted in an earlier period. The exegeses he reviews indicate that Q 2,106 had long since been placed alongside other verses of the Qur’ān and been made to furnish the Qur’ānic justification for the equation of naskh with ‘replacement’. Especially if read in tandem with and in the light of Q 13,39 and Q 16,101, Q 2,106 can be said to indicate: naskh al-ḥukm dūna al-tīlawāh; the wording that conveyed the now abrogated ruling is left where it is [nunsā; yuḥbīr] in the mushaf while the new ruling is introduced in a new verse [nubaddīl].

In presenting the materials available to him in the Tradition, for the ‘readings’ and interpretation of Q 2,106, Abu ‘Ubaid permits us, in addition, to sense the influence of certain scholars who shrank from any attribution of forgetting to God. They had re-interpreted all Qur’ān verses in which occurred the root n s y to derive a less obnoxious meaning. atāka āyātunā fa nasīsāhā wa kadhālıkā al-yaumā tunsā: nasi‘ allāh fa nasīyāhum: both Q 20,126 and Q 9,67 together with Q 2,106 [aw nunsāhā] refer, not to ‘forgetting’ – God neither errs nor forgets – but to ‘ignoring’, ‘leaving alone’.

By degrees, the effect of the root n s y in Q 2,106 was minimised, as the semantic freight of the root n s kh was simultaneously extended. The two roots imperceptibly merged: naskh al-ḥukm dūna al-tīlawāh.

God suppresses the earlier ruling, but leaves the earlier wording where it is, in the mushaf. No early scholar suggested that the root āyāh might refer to anything other than to a verse of the Qur’ān.

Thus, gradually, Q 2,106 was rendered the seeming equivalent of Q 16,101: idhā baddalnā āyān makānā āyān – a much more ‘satisfactory’ proof (which the Qur’ān might more often have been called upon to furnish) that naskh means ‘replacement’. The appeal to Q 16,101 was, we have noted, indirect. There are, after all, theological difficulties attaching to the admission that the Divinity can change His mind. The appeal to Q 16 was nevertheless there, and it incidentally enabled the scholars to sidestep the fact that the Qur’ān’s use of the stem n s kh (like the Bible’s) implies suppression – i.e. outright and total removal. The wording of verses whose rulings have allegedly been abandoned, has not been removed from our texts of the revelation. Repugnance for the notion that the Divine Legislation might change His view on some matters dictated a scrupulous avoidance of the Q 16 term tabdīl, and a preference for a more neutral term, naskh. Tabdīl is a word best not spoken aloud, or too often.

Even fewer scholars have suggested that aw nunsīhā/mansāhā aw tansāhā/tunsāhā might be a mere gloss on mā nansāhā.

To this point, we have witnessed how further Qur’ānic usage might be summoned to support the assertions as to the ‘reading’ and the interpretation of specific expressions. The Muslims were, however, prepared to go even further, not hesitating to tamper with the Qur’ān text itself, in the interest of interpretation, especially if they could contrive to avoid interfering with the agreed consonantal matrix. We already saw something of the sort in the variant vowel ‘readings’ proposed, and in the variation of the diacritics. The transmitted collected texts had been handed on without either symbols representing the short vowels, or any system of distinguishing several consonant-phonemes which shared a similar written outline. Some scholars were prepared to experiment with symbols additional to, but outside the outline. The alternative technique for avoiding the repugnant ‘forgetting’ is reflected in the further variant proposed for the phrase: aw nansāhā / aw tansāhā / aw tunsāhā / aw nunsīhā. The reading: aw nansāhā enjoyed a certain vogue. The root n s y ‘refers to: τ’khîr, ‘to defer’, ‘postpone’, ‘put off’ which may have either temporal or physical, i.e. spatial connotations. Taken in this latter sense, ‘driving off’, ‘pushing off to arm’s length’, i.e. driving verses
away from the Qur'ān texts, or from the breasts of the Muslims, as the shepherd drives off the wolves from his flock, using his minṣa' or staff. the root ṹ n s ' amounts to exactly the same notion as 'suppression' but escapes the theological penalty attaching to 'forgetting'. Both tasfīrs can be claimed to be synonymous.\textsuperscript{18}

If, however, taken in the temporal sense of 'postponing', the verse can be explained as meaning that, at certain points in the Prophet's mission, God had 'put off', 'deferred' the revelation of certain regulations until a later moment. This interpretation can have, in turn, the effect of imposing upon the stem ṹ n ṣ kḥ its secondary meaning 'transcribing' i.e. from the Heavenly Tablet, therefore – 'revealing'. The meaning of the key verse, Q 2,106, radically alters in consequence: mā nansakh min ṣāyah aw nansahā'ah na'ti bi khairin minha aw mālihiā: "Whatsoever verse We reveal, or postpone revealing. We shall reveal in the meantime, one better than it, or at least as good." As usual, this interpretation could appeal for the support of further Qur'ānic usage: Q 9,37 states that nasi'u, or the postponing of one of the sacred months to a later season for human convenience is a particular example of contumely towards the divine laws.

It could be objected that the entire Qur'ān has self-evidently not been replaced [!] as this interpretation appears to imply: are verses which have been revealed and verses which have been 'held back' in the divine presence for a determined period of time, equally to be thought to have been replaced?\textsuperscript{19} Possibly on account of the lesser degree of utility which this interpretation offered, it failed to wrest the primacy from its rival interpretation. Abū 'Ubayd here attributes it to 'Āṭā', Mujāhid, 'Ubayd b. 'Umar and 'many of the Readers', among them Abū 'Amr and other Başrans. The interpretation was not, however, lost. It became, not the principal, but certainly a subordinate reserve explanation of the verse, of use in the solution of several problems of source-conflict, chief among them the 'history' of Q 4,15. Thus, other scholars of the calibre of Shāfī'ī, Zamakhshārī and Bāḏāwī accepted the 'postponement' interpretation of the stem naskh, in addition to the 'replacement' interpretation of which it now offered further confirmation. In their hands, the 'postponement' etymology led to subtle refinement in the application of the theory of naskh, and extended its definition.\textsuperscript{20}

We merely observe here, that Abū 'Ubayd comments that the interpretation, which would attribute naskh to the whole of the Qur'ān is not the interpretation which he favours.

Differing from both ibn 'Abbās and 'Āṭā', in that he personally finds no difficulty in attributing forgetting to the Prophet, Abū 'Ubayd finds in Q 2,106, in which both the roots ṹ n ṣ kḥ and ṹ n ṣ y occur side by side, divine evidence for the occurrence of two discrete, unrelated phenomena:

1. 'the well-known' phenomenon of repeal, abrogation [abdīl];
2. the omission – rather, the divinely controlled removal – of verses, both from the written records of the revelation and from the memories of the Prophet and those around him.

1. 'The well-known phenomenon'

From the ibn 'Abbās tasfīr of Q 3,7: huwa alladhī anzala 'alaikum al-kitāb minhu ayyāt muḥkammāt hunna umm al-kitāb wa ukhar mutashābihāt . . . scholars had derived a quasi-technical term for verses in which no form of naskh is involved. These are the muḥkammāt verses [cf. Q 22,52] which are to be accepted and acted on. They are accepted as divine regulations still in force: yu'man biḥā wa yu'mal biḥā. Contrast ed with them were the mutashābihāt: a further divine allusion to al-nāṣikha wa-l-mansūk. The mutashābihāt include verses which, although to be accepted as divine regulations, are not still in force: yu'man biḥā wa la yu'mal biḥā. They are no longer practised.

These paraphrases highlight from the outset the chief characteristics of Abū 'Ubayd's book on the nāṣikha and the mansūk of the Qur'ān [and the Sunna]. The work was not designed as a mere theoretical study of an abstract theory. It seems, rather, that its author planned it as a helpful handbook to guide the practising qādi by supplying the evidence that would enable him to distinguish between [still] valid and [no longer] valid statements in the revelation. A retired qādi, Abū 'Ubayd seeks to explain the provenance of current 'practice' and the practical aspect of the Fiqh is several times stressed in the course of the present work. We leave to the Commentary remarks as to the 'actuality' of what Abū 'Ubayd seems to regard as the 'practice'.

His discussions enlighten our understanding of the evolution of the academic theories of naskh by, for example, showing that the ibn 'Abbās tasfīr of Q 2,106 was already a secondary development based on unstated, but implicit reference to the exegetics of Q 16,101: idhā baddalānā āyah . . . the sole Qur'ānic source of the equivalence naskh: tabdīl. Q 13,39 was then pressed into service to confirm this identification and to support the allegation that, in certain instances of naskh – i.e. in all instances of 'replacement', the wording of both supposedly conflicting verses has remained part of the collected texts of the Qur'ān.
One appreciates that these identifications with Q 16 and Q 13 were made the more plausible, given the continuation of Q 2,106: nā‘ī bi khārin mināhū aw mithlihā. With perfect justice, this part of the verse—but only this part of the verse—can legitimately be appealed to in Qur‘anic support of any theory of replacement (although that raises in acute form the question of the meaning of the verse’s term: āyāh). The definition of Q 2,106’s protasis: mā nansakh as meaning “Whatever We replace” is undoubtedly erroneous, it being an avoidable tautology to promise to replace what one has replaced.

Here, it is worth mentioning that the same verse’s āyāh has not universally been taken to mean: a verse of the Qur‘ān.21 Insistence that what is what the word does mean carries the penalty of implying that certain Qur‘ān verses are ‘superior’ to other Qur‘ān verses. Moreover, naskh is not confined to the texts of the Qur‘ān, but is said also to affect the hadīths, there being the parallel phenomenon of the naskh of the Sunna. Where the Sunna is said to have replaced the Qur‘ān’s ruling, how far may one suppose that the hadīth involved is ‘superior’ to the divine āyāh? or even ‘similar’ to it?

Mujāhid’s gloss on the ibn ‘Abbās tafsīr was thus a theoretical advance of sorts, taking the ‘replacement’ notion away from Q 2,106’s use of elatives, although Q 16 which uses the term tabdīl, also still uses the term āyāh. Mujāhid’s wording simultaneously, in its use of Q 13 vocabulary, accommodated the exegesis more neatly to the usūl theory: nūthbit khaṭṭahā wa nubadīl huṣmahā is a precise reflection of: naskh al-ḥukm dūna al-ṭilāwah. The formula may now as easily be applied to the texts of the Hadīth as to the verses of the Qur‘ān. According to another theological doctrine, the Qur‘ān is mūt‘ajib. The inimitable wording of one divinely-composed āyāh may not be held to be, in the literary sense, ‘superior’ to the inimitable wording of a second divinely-composed āyāh. Nor could the humanly-composed wording of a hadīth ever be thought to be ‘similar’—let alone ‘superior’—to the divinely-worded text of a single Qur‘ān verse. But the ruling of any āyāh, even the ruling of any hadīth may be either similar to, or even superior to the ruling of another āyāh. It may be just as easy to perform, or easier, or, if more difficult to perform, presumably productive of a richer reward hereafter in consideration of the greater effort expended.22

Such thinking processes demonstrate how an Arabic root meaning ‘to suppress’ had gradually assumed in the scholars’ shorthand the preferred technical sense of ‘supersession’. That the same scholars had, nonetheless, not lost sight of the fact that the Qur‘ān does use the root naskh in the sense of ‘suppress’ is the only construction that one may put upon the wording of their three formulae in which clumsy concessions to the basic meaning of the term naskh have had to be made:

1. naskh al-ḥukm dūna al-ṭilāwah: the suppression of the ruling, but NOT of the wording;
2. naskh al-ḥukm wa-l-ṭilāwah: the suppression of BOTH wording and ruling.

While it may just be possible to attempt to make the case—and the attempt is frequently encountered in the literature—that in the two foregoing formulae, the term naskh might be translated ‘replacement’, the attempt is doomed to failure in respect of the third of the three formulae, where the term naskh can mean nothing but ‘suppression’:

3. naskh al-ṭilāwah dūna al-ḥukm, the only examples of which are both instances in which the Fiqh recognises a ruling (said to have been once-revealed), notwithstanding the suppression of the wording—the wording does not appear in the muḥāf.


The second mode of naskh discussed by the author is that which he terms ṭafṣīr, or withdrawal: a verse, once-revealed, is subsequently removed from the memories of the Muslims and from all written records of the revelation. But this is an exegesis which he bases on and sustains by reference to hadīths.

Some man learned a part of the Qur‘ān by heart. Seeking to recite it at prayer by night, he found that he could not recall a syllable. A similar adventure befell two others and all three reported this to the Prophet next morning. Muḥammad told them that that section ruf‘āt [alt. nusikhat] that very night. naskh = ṭafṣīr = withdrawal = suppression.

Here, the connection with Q 2,106 is quite broken, since nothing in the story corresponds with: “We shall bring another, superior to it, or at least similar to it.” The hadīth embodies a tafsīr not of mā nansakh, but of aw munṣihā—or of Q 87: fa lā tansā ilā mā shā a llāh: “and you will forget nothing of it—except only what God wishes you to
hazardously. It had not occurred by reason of Muhammad’s carelessness, nor yet through any human failing on his part nor on the part of the Companions. Omission from the Qur’ān was part of the divine redactional plan. It had been divinely pre-determined, and occurred under strict divine control. Given the Qur’ān’s supposed association of raf’ [withdrawal] with naskh [replacement] it was therefore naturally that the Muslims should associate the one ‘phenomenon’ with the other. But only one of the two was the technical naskh, the ‘well-known phenomenon’ of Qur’ānic nāsikh and mansūkh. The other represented the alleged removal during the Prophet’s lifetime of certain once-revealed Qur’ān passages. Once removed, forgotten, withdrawn or suppressed, such passages could not be collected together with the other revelations now present in our mushaf. They had been withdrawn by their divine author for His own unfathomable reasons. The rulings (if any) had also been suppressed, and had therefore never been of the least interest to the fuqaha’. Where the actual wording of these withdrawn passages is discussed – (for, in some instances, ‘examples’ of this class of naskh are presented in hadiths by individuals who claim to have preserved the wording in their proverbial memories) – the interest shown in it by the Muslims is more than merely antiquarian. The hadiths serve the very useful exegetical role of ‘confirming’ from an extra-Qur’ānic ‘source’ the tafsīrs of Q 87 and of Q 2, held to ‘indicate’ this very brand of naskh. The mere existence of these hadiths placed the exegeses for our author, and for Tabari and for the host of the exegetes, beyond any doubt. Here is an instance in which the tafsir inspires hadith, which are then used to secure its own ‘verification’.

The second class of ‘omissions’ from the Qur’ān is very different. In naskh al-tilawah dāna al-hukm, only the revealed wording has supposedly been suppressed. Its ruling has always allegedly been regarded as retaining its force. As in the above case, hadiths have kept alive the ‘memory’ of the wording, but the consensus of the Prophet’s surviving Companions as to what should and what should not be included in the mushaf, now that the revelation is ‘completed’ with the Prophet’s death and can at last be collected together from the written fragments scattered among the population of Medina, in addition to their memories, guarantees their having been aware of the divine author’s intent to exclude those ‘verses’ from the texts.

Abū ‘Ubaid’s theory of naskh

Of the three, Abū ‘Ubaid acknowledges only two modes of naskh:
replacement and forgetting [withdrawal of wording and ruling]. The third mode: the withdrawal of the wording alone, with the retention of the 'revealed' ruling in the Fiqh: naskh al-thawrah duha al-hukm, he does not recognise, nor even mention. We must enquire into this circumstance.

Following the exegetical section of his Introduction, in which he set down the basic 'facts' pertaining to naskh, the author never again shows any interest in the supposed withdrawal of once-revealed Qur’anic matter, i.e. in omission from the mughaf. Throughout the remainder of his study, he is concerned solely to identify individual regulations of the Fiqh which, although reported to have been in vigour in the Prophet’s day, have, since that time, fallen into disuse. In other words, his work concentrates upon conflicting reports as to the 'practice' in the time of the Prophet and since. The regulations which he examines had been either commands or prohibitions and had been enunciated in either the Qur’an or the Sunna. Quite simply, what this means is that scholars had had to take account of the problems created for them by the transmission of inconsistent accounts of the 'practice' of the Prophet, of his Companions or the Successors.

The instances of naskh which he examines, therefore, include examples drawn from both the Qur’an and the Sunna and had been chosen to illustrate both the naskh of the Qur’an by the Qur’an and the naskh of the Sunna by the Sunna. There are, in addition, a few instances in which a Qur’an ruling was thought to have superseded a Sunna ruling — but very much more significant is one instance of a Qur’an ruling which had allegedly been replaced by a Sunna ruling. This arises in the course of the author’s treatment of the Islamic penalties for sexual misconduct. It was on this precise question that the views of the usuli were so profoundly differentiated as to produce a sharply defined line dividing two diametrically opposed trends in usuli al-fiqh. On one side of the line stood our author; on the other side stood the imam Shafi’i, whose views we ought now to consider, in order to appreciate why it is that one of the three naskh formulae is absent from the vocabulary of Abu ‘Ubayd.

**Shafi’i and naskh**

Credit is generally given to Shafi’i for the first attempt to lay down precise formal rules governing the usuli al-fiqh, the science of the recognised sources drawn upon by the makers of the Fiqh and above all, to determine the mutual status of those sources. As the Fiqh had existed before Shafi’i, his work is retrospective and his rules descriptive, except insofar as he criticises scholars who had, in his view, gone wrong. In this case, Shafi’i’s work may be described as prescriptive, as it certainly is as far as concerns the theory of naskh.

Shafi’i was probably the greatest polemicist of his day and in numerous works he covered most aspects of the Fiqh, showing conspicuous originality in usuli, or source-theory. Many are the tributes that have been paid to his pioneering work on theoretical questions, not least, on naskh. In his Ikhtilaf al-Hadith, he sets out his methods for determining the choice to be made between conflicting hadiths, while in the Risalah, he patiently and lucidly confronted the problem of the occasional for him, merely apparent conflict between Qur’an statements and hadith-reports.

For Shafi’i, the revelations in the Qur’an and the correctly ascertained ‘practice’ of the Prophet could never conceivably conflict. Such instances as had troubled the Muslims he tirelessly repeats are merely apparent, having arisen from an inadequate appreciation of the true historical relationship between Qur’an and Sunna. In the Qur’an, God insisted in numerous verses that the believer must unhesitatingly accede to the Prophet’s every command and unquestioningly obey his every instruction.28 This thesis is easily established on the basis of massive citation of Qur’an verses. Shafi’i further draws attention to the equally numerous verses in which God equates obedience to His Envoy with obedience to Himself, or disobedience to Muhammad with disobedience to Himself. In the shahadah, or basic confession of faith in Islam, God has linked Muhammad’s name with His own. For Shafi’i all such verses are divinely stated evidence that Muhammad had been granted in matters pertaining to religion a status conferred on no other human being, however eminent. The Muslim’s loyalty to God’s Prophet must, therefore, be quite unconditional.

The role of Muhammad as Prophet, Shafi’i states, was two-fold: to mediate to Man in the Qur’an God’s revealed commands; and to explain to Man on God’s behalf (or, perhaps, under divine inspiration: ‘an allah) the precise meaning of God’s message and the precise manner in which He intended His commands to be carried out. Not merely had God sent down His Qur’an in Arabic, the mother-tongue of His Prophet; God had granted Muhammad — alone among humans — a comprehensive and perfect command and understanding of the language.29 That thus rules out any claim to the right to exercise private interpretation of the holy texts, however brilliant a man’s
linguistic attains. Among the many problems which confront the
ordinary believer in his endeavour to comprehend God’s Holy Book
one is presented by the Qur’an’s style. Part of the genius of the
Arabic language is that frequently it does not distinguish verbally
statements intended to have a universal import [‘ānnum] from
statements intended to have only specific application [khāṣṣ].
In many instances, a second Qur’an statement suffices to show that the
apparently general import of a verse was, in fact, all along intended
to carry a specific meaning. Šā斐’ti calls this type of clarification
takhsīṣ. It goes without saying, following the above preambles on the
function of the Prophet within the economy of the divine revelation,
that just as frequently, the badly-needed clarification is provided not
in and by the Qur’an, but by the reported behaviour of the Prophet in
relevant situations – in and by the Sunna, as recorded in the
appropriate hadith-reports. The verbal explanations and the
behavioural glosses supplied by the Prophet were quite indispensable to
an accurate understanding of much of the Qur’an text.

For instance, the Qur’an lays down only a general command to
pray, to fast, to make the pilgrimage and to pay zakāt. Nowhere does
the Qur’an provide any details as to the number or the manner of
performing the ritual prayers, their frequency, or the hours at which they
should be performed. The rites of the pilgrimage have neither
been enumerated nor described. The articles on which zakāt is
payable have not been specified, nor the rates listed. For the
communication of these practical details, God has relied upon the
personal example and verbal instruction to be provided by the
Prophet. God has thus made men totally dependent upon the
Prophet for the knowledge of the greater part of their religion.

The Muslims have been obliged to rely upon Muḥammad for
guidance on all matters to which the Qur’an referred only in general
terms. How much more dependent are they upon the Prophet’s
instruction in matters to which there is no reference in the Qur’an.
But here also they have followed his lead, faithfully submitting to
God’s command that they obey His Prophet in all things.

There is doubtless much force in these arguments of Šā斐’ti’s.
Insofar as they might be taken to refer to the contemporaries of the
Prophet, we can have little quarrel with him. Where, however, we
cannot follow him is in his categorical determination to identify with
what he calls Muḥammad’s ‘verbal and practical instructions’ the
contents of one single branch of Islamic literature – the Ḥadîth.
Šā斐’ti states that he is reluctant to believe that any Muslim believing
in the reality of an afterlife, would consciously tamper with, let alone
fabricate a report purporting to represent information on Muḥammad’s
words and actions. He thus requires our assent to the
proposition that the hadîth reports, so long as they are said to emanate
from the Prophet or his circle, and so long as they have been
transmitted by individuals recognised in Šā斐’ti’s circle as trust-
worthy, are authentically the sole absolutely reliable record of the
instructions of the historical Muḥammad. Information supplied as
from Muḥammad, the Prophet of God, can, Šā斐’ti insists, in no
sense be conceived to conflict with information communicated in the
Qur’an, the Book of God. Where Muḥammad’s teaching differs from
the Qur’an, it may not be described as opposing the Qur’an. On the
contrary, if more fully worded, it fills out, complements, even
supplements, the Qur’an revelation. The Qur’an source alone is
certainly not sufficient. The two sources, Qur’an and Sunna, jointly
present the revelation of God’s will. So long as it is reliably reported
to come from the Prophet, the Sunna can never be set aside in favour
of the statements of any source – not even those of the Qur’an. No
statement occurring in the Qur’an may be used as grounds for
suggestion that perhaps the Prophet did not say what he is reported as
saying, merely because it does not happen to agree with the Qur’an.
The Sunna must be accepted without question. It is the Qur’an which
so commands. Accepting the Sunna, therefore, by divine command,
the Muslim makes use of every sound hadîth to complete his
understanding of the content and the intent of the divine revelation.

The Sunna and Qur’an interpretation

Certain sunnas confirm and reinforce the Qur’an statements. Others
clarify the Qur’an’s meanings, especially where differing construc-
tions might be placed upon the Qur’an wording. In such cases, one
does not choose between men’s competing interpretations; it is the
Sunna which indicates the ‘correct’ interpretation, sc. the Prophet’s
interpretation. In not one single instance has the Qur’an superseded a
ruling of the Sunna. If the Prophet had established a sunna on some
matter on which God subsequently indicated naskh by revealing a
verse at variance with that sunna, the Prophet would immediately
introduce a second sunna in conformity with the latest Qur’an
statement, expressly to demonstrate the abandonment of his first
suna. In every such instance, Šā斐’ti insists, the later, the nāṣikh
suna, has invariably survived, having been handed down with
scrupulous care from generation to generation in its appropriate
hadith. The Qur'an has never once repealed the Sunna. Only a later sunna repeals the earlier sunna. Only a later Qur'an verse repeals an earlier Qur'an verse. For the purposes of naskh, the scholar must keep Qur'an and Sunna strictly apart. Only Qur'an abrogates Qur'an and Qur'an abrogates only Qur'an. Only Sunna abrogates Sunna and Sunna abrogates only Sunna. God Himself confirmed this when He said: mà nansakh min ayyah, for He stated that He would take charge of the naskh of Qur'an verses, and that He would take charge only of the naskh of Qur'an verses. God thus confined Himself to the naskh of His Qur'an verses, implying that He would inspire His Prophet to naskh his own sunna.

This is only a very clever device to head off any appeal from any sunna back to the Qur'an. Shaf`i was much more concerned to divert attention away from the possibility of the naskh of the Sunna by the Qur'an than of the naskh of the Qur'an by any of the Sunna, which was for him not a serious technical problem, in the circumstances of his time. Of much greater moment was the problem of the relation between reports from the prophet and reports from the Companions. By Sunna, Shaf`i means only the Sunna of the Prophet. Now, in Q 2:106, God had said: mà nansakh min ayyah aw mansibna `a`i bi khoirin minhâ aw mithlihâ. As nothing is similar to a Qur'an saving only a second Qur'an, so also, nothing is similar to a sunna, save only a second sunna. Sunna may naskh Sunna – but only Sunna may naskh Sunna, for nothing is similar to any sunna save only another sunna, God not having granted to any other human the status vis-à-vis His religion which He had granted to His Prophet. Thus, in the presence of a sunna, we ignore reports from any other quarter. The Sunna can never be thought to have been superseded by any Companion-report. That had never, could never happen.

An alleged instance of the naskh of the Qur'an by the Sunna

The fuqaha' were unanimous that the Islamic penalty for adultery was death by stoning. The task of the usulî was to trace the individual hakm of the Fiqh to its ultimate source.

In Abu ‘Ubaid’s day, the usulîs traced this penalty to the Sunna, as he is content to report approvingly [ff. 89a–90b].

Comparing the Fiqh penalty with the Qur'an, which lays down a flogging penalty for sexual misconduct [Q 24,2] Abu ‘Ubaid’s informants, reporting from ibn `Abbás and especially from ‘Ubâdah b. al-Samit. [both considered to be Companions] asserted that, as opposed to the Qur'an, the Sunna had made a distinction between formation and adultery, applying appropriate penalties in each case. The author accepts the reports with no discussion whatever, and without the least hint of any dissent or disagreement among earlier or contemporary usulîs on the question. He accepts without demur that this is one ascertained instance of the naskh of the Qur'an by the Sunna. In this, his attitude is the same as that of the older imam, Malik [d. 179/795] and Abu Hanîfah [d. 141/758].

The sharpest possible contrast is provided by the attitude of his contemporary Shafi`i [d. 204/819]. Shafi`i has devoted to this question a lengthy and painstaking analysis and an understanding of his position is of importance. Although he was a near-contemporary of Shafi`i, dying 224/838, Abu `Ubaid does not know Shafi`i’s ideas – indeed, not once throughout his lengthy study shall we find the name of Shafi`i so much as mentioned. Accepting, like the other imam, that the Islamic penalty for adultery is indeed death by stoning, Shafi`i seeks to demonstrate that here we have an exact illustration of the interdependent relationship between Sunna and Qur'an that he had laboured long and skilfully to develop in the Risâlah. From the outset, it should be noted that this discussion does not lie wholly within Shafi`i’s exposition on naskh. Rather, it is conducted in the light of his theory of takhshis, which, as we shall see, is a theory of exclusion.

The Qur’an’s flogging penalty does not carry the general application it might seem to. Indeed, the Qur’an itself, Q 4,25, informs us that flogging was not intended as a universal ruling. Slave-women it is said [Q 4] shall be subject to one-half of the penalty appointed for [free] females. Slave-women are thus already excluded from Q 24,2’s apparently general ruling which imposed 100 lashes for sexual misconduct. The 100 lashes must refer to free offenders only. The penalty for the slave will be, in that event, 50 lashes.

Similarly, the Prophet distinguished the penalty for fornication from that for adultery. ‘Ubâdah reports that the Prophet said, ‘for the unmarried, 100 lashes and twelve months’ banishment; for the married, 100 lashes and death by stoning’. Q 4,25 has spoken of the slave-woman’s penalty as one-half of that appointed for the free. As it would be absurd to speak of one-half of death by stoning, it is the Qur’an once more which indicates that the slave-women are excluded from the stoning penalty, wherefore their penalty must be 50 lashes and six months’ banishment. The penalty for free offenders is thus two-fold: according to the Qur’an, flogging;
according to the Sunna, flogging and banishment or flogging and stoning. Having access to the Sunna, we can confidently apportion the penalties to each of these three categories of offenders. In all three instances, the Sunna has ‘endorsed’ the Qur’an’s flogging element of the penalty, while, appropriately to each category, amplifying the rule established by Q 24.2. Shafi’i refers to this amplification of the Qur’an’s intent as bayan or tafsir. As stated, it lies outside his theory of naskh.

The Sunna reported from the later stages of the Prophet’s career clearly shows an alleviation of the Sunna penalty previously introduced by Muhammad. Certain late hadith-reports to the effect that, although he endorsed his earlier sunna on the penalty for fornication, the Prophet had modified his penalty for adultery by dispensing altogether with the flogging element of the two-fold penalty, show the operation of naskh.

What we actually witness here, is a conflict of sunnas. Shafi’i chooses, rather, to treat it as a matter of dating: the later reports abrogate the earlier. His conclusion is that stone alone abrogated the earlier stone-and-flogging. Throughout the long history of the penalty, the Sunna had provided, on God’s behalf, the perfect elucidation of His intent. Q 4,25 modified Q 24; that is an instance of takhsis. The stoning sunna modified the stoning-with-flogging sunna: that is an instance of naskh, the Sunna had naskhed the Sunna. Both Qur’an and Sunna had supplied the bayan of Q 24.2. Qur’an and Sunna therefore jointly served in this instance to make clear the divine intent.

From the foregoing, it is clear the Shafi’i has obeyed his own injunction that the study of the naskh of the Qur’an is to be kept severely separate from the study of the naskh of the Sunna. In his hands, the two never intersect.

Both before and since Shafi’i’s times, intelligent men have failed to grasp that one can properly speak of stoning as the ‘elucidation’ of flogging. They (and with them, Abu ‘Ubayd) could but conclude that, on this question, the ruling of the Fiqh unmistakably pointed to the naskh of a ruling of the Qur’an by a ruling of the Sunna. Yet other scholars, especially the later adherents of the school of Fiqh set up in memory of Shafi’i, long accustomed to their imam’s theories of naskh, and heirs to his detailed and closely-argued analysis of this problem of the penalty for adultery and its ultimate source, arrived at a (historically) interesting conclusion. Shafi’i’s exposition had been, for once, marred by some carelessness in the use of language quite uncharacteristic of his normal style, and pondering his argument that

‘Ubadah had conveyed ‘the first penalty to have been revealed’ following the revelation of Q 4,15.49 that reports on Muhammad’s later ‘practice’ showed that stoning was the naskh of stoning-plus-flogging; that flogging was mansik in the case of those whom the Prophet merely stoned (thus alleviating the earlier penalty):50 that only the Qur’an may naskh the Qur’an and the Sunna may never be held to have done so – his pupils perceived that this must be an instance of the naskh of the Qur’an by the Qur’an. A Qur’anic stoning penalty must have abrogated a Qur’anic flogging penalty.

They further perceived that, since its first institution, the stoning penalty had been applied consistently in cases of adultery by the Prophet, and after him, by the caliphs, and after them, by the Muslims. It had unanimously and consistently been upheld by the ‘fuqaha’ down to their own day. Without a doubt, stoning was the Islamic penalty for adultery.

But in this particular instance of the naskh of the Qur’an by the Qur’an, they further observed that the relevant wording is now absent from our texts of the Qur’an, the mushaf. From further hadiths that had come into circulation, they were familiar with the ‘wording’ of the stoning-verse. Naturally they concluded that this must now be accepted as an instance of a third mode of naskh: naskh at-tilawah dinah al-hukm.

In this, they went beyond the somewhat equivocal conclusions of Shafi’i himself on the question of stoning.

It was on quite a different topic – ra’ada’ al-kabir – (unmentioned by Abu ‘Ubayd) that Shafi’i himself, in deference to a hadith from the Prophet’s widow, â‘ishah, committed himself to basing his Fiqh conclusion (on which he separated himself from his teacher, Malik) upon an alleged Qur’an ‘verse’ which, however, he acknowledged, is no longer to be found in the mushaf.50

Combining this argument with their imam’s known views on the relation of Sunna to Qur’an in respect of naskh, later Shafi’ites habitually speak of the stoning penalty and of ra’ada’ al-kabir as the two ascertained and documented instances of naskh at-tilawah dinah al-hukm. This third mode of naskh is thence taken over into the naskh works as the third type of verse represented in the third of the now familiar formulae.

Here is the evidence of the split in the ranks of the uṣuli’s we spoke of earlier. We can distinguish and identify those who insist upon three modes of naskh and those who accept that there are only two. Amongst the latter, we can count our author, Abu ‘Ubayd.

The preceding discussion has made it clear that the third of the
classical modes of naskh: the suppression of the wording without, however, the suppression of the ruling, was introduced into the theory by scholars who agreed with their opponents on the Fiqh ruling whose source they were seeking to identify. Usul al-fiqh thus comprises two activities:

1. tracing the agreed Fiqh to its patutative source;
2. in the event of a clash of Fiqh ideas, tracing one’s own Fiqh conclusion to a source in either Qur’an or Sunna.

But, should the attempts to trace an agreed Fiqh conclusion lead to varying statements as to the source of that ruling, the disagreement carries over into modifications of the source-theories of the disputants as, in the present instance of the penalty for adultery, the result has been modification of the theory of naskh. That had arisen for the Shafi’is owing to their inability to accept that the Sunna might, on even one occasion, be admitted to have abrogated the Qur’an.

By pursuing such differences in theoretical approach back to their origins, we can successfully dismantle the elegant three-fold articulation of the mature naskh theory. The Muslim writers on naskh were well aware of all the factors that had contributed to these developments and, as we shall see in the Commentary, expressed them openly. It is from them that we learn that the third mode of naskh had been the work of scholars unable to concede that the Sunna had, even in one instance, ever abrogated the Qur’an. Those, on the contrary, and Abû ‘Ubaid is found to be among their number, who saw no difficulty in drawing from the evidence of the Fiqh the conclusion that the Sunna, in this matter of stoning, had clearly abrogated the ruling of Q 24.2, dispensed entirely with this third mode.

Not merely does the Sunna abrogate rulings of the Qur’an. Equally, on occasion, Abû ‘Ubaid argues, the Qur’an abrogates rulings of the Sunna. One instance he adduces concerns the discipline of the ritual prayer. A most interesting series of hadiths occurs at ff. 13a-b. ‘Abdullâh b. Mas’ûd alleges that before he emigrated to Ethiopia, he had been in the habit of saluting the Prophet who would return his greeting, even if engaged in the prayer. On his return to Mecca, ‘Abdullâh greeted the Prophet as usual, but Muhammads remained silent. Completing the prayer, the Prophet explained, “God introduces what new regulations He pleases, and He has now ruled that we must not speak during the ritual prayer.”

Their earlier Sunna had therefore been abandoned. The second report, also from ‘Abdullâh, merely rationalises the change: “During the prayer one is pre-occupied.”

It is the third report which is the most intriguing. The Muslims had been in the habit of chatting during the ritual prayer until God revealed: “wa qumni lilâh qantîn”.

The first report leads only to the conclusion that wahy supersedes wahi. The second implies that the Prophet, as his spirituality developed, changed some of his earlier, easy-going ways. The third report, however, brings together several of the features characteristic of the materials assembled by our author. Here, we see a type of report which shows exegesis operating on the basis of appeal to asbab – that is, the claim to be able to derive a clearer understanding of the meaning of a given verse, given information as to the circumstances in which its revelation had been provoked. We can apply no control, other than linguistic test to the content of such reports, or comparison with the total Qur’an context in which the given verse occurs. This report invites one to concede that the root q n t refers to ‘silence’. It simultaneously asserts that there is unequivocal evidence of the Qur’an’s abrogating the Sunna. We must be constantly alert to the question of whether the sunna would even exist, but for the Muslim’s problems with this verse.

‘Abdullâh is prominent in a further hadith-series on the institution of the Ramadân Fast. The celebrated Islamic observance was asserted by many to have replaced an earlier fast which Muhammads had allegedly adopted, in honour of the Day of ‘Ashûrà. There is not one single direct reference in the Qur’an to any such fast. On the other hand, it is known that many Muslims, reading the passage in which the Ramadân fast is imposed, “Enjoined upon you is the obligation to fast, as fasting was imposed upon those before you,” understood the reference to be to the timing of the fast, rather than merely to the fact of imposition. In their eagerness to run down every single allusion in the Sacred Book, – since exegesis abhors a vacuum – they sought to identify the fast that had been imposed on “those before”. Some decided that it had been the ‘Ashûrà fast, observed by the Jews before the coming of Islam. Thinking that the fast of those before had been imposed upon them by the Qur’an, and knowing that the Ramadân fast had also been imposed upon them by the Qur’an, and was still being observed universally throughout Islam, they naturally supposed that ‘Ashûrà was either still an obligation for the Muslim, or that its obligatory observance had been overtaken, dislodged and replaced by the Ramadân fast, and so suppressed. Hadiths in circulation support each of these two propositions. In one report, ‘Abdullâh remarks that ‘Ashûrà had merely been a day which Muhammads had marked with a voluntary fast.
before the imposition of Ramadān. When Ramadān was instituted, ‘Āshūrā’ was abandoned.\textsuperscript{41} The report is a counter-
\textit{hadith} designed to deny that this was an instance of \textit{naskh}. ‘Āshūrā’ had never been obligatory. A second counter-
\textit{hadith} from ‘A’ishah makes both time-scale and exegetical influence somewhat clearer: ‘Āshūrā’ was a pre-Islamic custom which Muhammad had observed in the Jāhilīyah. He continued to observe it and commend it to his followers until the imposition of Ramadān, since which time, ‘Āshūrā’ has continued to be optional for the Muslim. Since ‘Āshūrā’ is not now and never was obligatory, there is no need to assume \textit{naskh}. But, if ‘Āshūrā’ had never been mentioned, there would have been no need to assume \textit{naskh}. ‘A’ishah’s view of the history of ‘Āshūrā’ does not break the link between alleged pre-Islamic custom and the Qur’ān’s reference to fasting, “as fasting was imposed upon those before you”. By substituting pre-Islamic Arabs for Jews in its alternative exegesis of “those before you”, the report was calculated to break the alleged connection between Muhammad’s supposed ‘practice’ and Jewish practice, just as reports alleging that, while still at Mecca, Muhammad had prayed towards Jerusalem before the revelation of the Meccan \textit{qiblah}, taking care to place the Ka’bah between him and his line of sight towards the Temple, had been calculated to counter the claim that Muhammad had borrowed the first \textit{qiblah} from the Jews of Medina.\textsuperscript{50}

References to pre-Islamic custom are, as we shall see, a commonplace in the \textit{hadiths}, and if not as here, visibly triggered by the Qur’ān’s wording, are not to be taken as more than exegetical efforts to ‘get behind’ the Qur’ān wording. Alleged links with the Jāhilīyah were also intended to include by extension reference to custom in ‘the early days of Islam’.\textsuperscript{51} This betrays the rôle of such reports within a sub-science crucially dependent for information on dating which determines its ability to distinguish ‘the earlier’ from ‘the later’.

Reports about ibn ‘Umar’s determined refusal ever to acknowledge ‘Āshūrā’ as an Islamic practice show us an aspect of the later contention among the Muslims, while the foregoing discussion shows the general point at issue. The ibn ‘Umar evidence aimed to counter the evidence of those who now argued that although ‘abrogated’, ‘Āshūrā’ remains a commendable act of Muslim piety.

One may thus tease out from all this material, a minutely detailed exegetical squabble over the function of the word “as” in Q 2,183: “as fasting was imposed upon those before you”. Had the word been read as a mere conjunction (rather than as a relative) and seen to address the mere \textit{fact} of imposition, rather than the manner of fasting, the

exegetical, \textit{hadith} and \textit{naskh} literature on the subject would have been considerably thinner. The mere allegation that the Prophet had observed the fast of ‘Āshūrā’ sufficed to add this fast to the Sunna. When their exegesis of the verse was challenged, the proponents of this view could now urge the Sunna in its support. Of particular interest to us must be the procedure adopted throughout by the opponents of this “‘Ashūrā’ exegesis”. Some were prepared to concede, for the sake of argument, that Muhammad and his followers had, indeed, observed the ‘Ashūrā’ fast in ‘the early days of Islam’. They thus quietly deferred to the \textit{hadiths} to this effect. They nevertheless neutralised the \textit{hadiths} by assigning to them an early date. Some could even accept that the \textit{hadiths} referred to ‘the early Medina days’ and rationalised the Prophet’s conduct as having been motivated by expediency when he still entertained hopes of conciliating the Jews and of winning them for Islam. The manoeuvre failed, Ramadān was revealed and ‘Āshūrā’ “reverted” to its voluntary status. Other reports spoke of ‘Ashūrā’’s being abandoned. Shāfi‘ī, however, would wholly re-interpret these reports: ‘Ashūrā’ had at no time been obligatory for Muslims; the Prophet had never declared it so, and thus the Qur’ān’s imposition of the Ramadān fast cannot be held out as one instance of the \textit{naskh} of the Sunna by the Qur’ān. It is not even an instance of the \textit{naskh} of the Sunna by the Sunna.\textsuperscript{52}

The third view, that it represented an instance of the \textit{naskh} of the Qur’ān by the Qur’ān, had been the outcome of the comparison of Qur’ān verse with Qur’ān verse. The Qur’ān’s fasting pericope, Q 2,183–7, had been subjected to a hypermeticulous exegetical analysis. Q 2,183 was alleged to refer to the imposition of a fast – the fast of those “before the Muslims” – prior to the imposition of Ramadān in Q 2,185.

The \textit{hadiths} on this subject appear in Abū ‘Ubaid’s study of the ‘abandonment’ of the ‘Ashūrā’ fast, and, indeed, he states, on its revelation, Ramadān was considered to have replaced this ‘earlier fast’. The whole discussion affords a valuable illustration of the minute attention to Qur’ānic detail in the earlier exegetical debates. That had resulted in the ‘atomisation’ of the Qur’ān texts, as individual words, “[“as”] came to be separated from their contextual position. We have seen this in the case of “those before you” and it occurred also in the case of “‘ayyāman ma’dūdātin”.\textsuperscript{53} This fragmentation of the Qur’ān texts led to the creation of multiple intra-Qur’ānic sub-contexts each discussed in isolation from the passage in which it occurs in the texts. Naturally, that led to the multiplication of ‘early sunnas’. Several fasts could be discussed as
having been imposed upon Muslims before the imposition of Ramadan. The references in the Qur’an to these other fasts occur on the page before the first mention of Ramadan by name. The exegetical procedures, in turn, created opportunities for re-multiplying the number of cases to which the principle of naskh required to be applied.

From these, and numerous similar instances, to which attention will be drawn in the Commentary, we now perceive that the reports we have to deal with in the hadiths purporting to describe the Sunna, had been directly exegetical in origin. The reports [sunnas] sprang from the words and the lay-out of the Qur’an, although they had been inspired not by the actual words of the Qur’an, but rather, by the words of an intervening exegesis. That becomes apparent if we refuse superficially to accept the resultant hadiths as ‘historically true’ documents for the Prophetic age, preferring to subject them to the same meticulous analysis and dissection to which the Muslims had subjected the Qur’anic texts.

Enabled to re-trace the steps of the Muslim exegetes, we would do well to guard against the natural tendency of their successors to treat Qur’an and Sunna as distinct and unrelated streams of Islamic Tradition. That attitude had resulted in the formation of the concept of naskh. Finding countless instances in which his ‘two’ supposed sources were in conflict, the Muslim scholar’s first instinct was to seek a means of bringing his two conflicting statements into harmony. Subtle hermeneutics can often, by appeal to semantic or syntactic considerations, remove an apparent gulf between sources and show their incompatibility to be more superficial than substantial. On the question, for example, of fasting when on a journey in Ramadan, two opposing attitudes were equally ‘soundly’ reported as from the Prophet. Muhammad, we are told, fasted when travelling; Muhammad, we are told, broke his fast when travelling. He is reported to have declared: ‘Piety does not consist in fasting while travelling.’ But according to the Ramadan regulations, as detailed in the Qur’an, the traveller would appear to be granted the concession of postponing the fast until he had completed his journey. Some Muslims, however, shrank – so great was their veneration for the sacred month – from breaking the fast, even in conditions when they might, with clear conscience, do so. They were of the opinion that the Qur’an’s “but to fast is khair,” meant: “but to fast [when travelling] is nevertheless, the more meritorious course.” In support of their own scruples, they pointed at the Prophet’s supposed conduct. Abu ‘Ubaid takes the opposing view and, following exhaustive comparison of numerous versions of the relevant reports, finally concludes that it is reliably reported that the Prophet had done both: he had both fasted on some journeys, and broken the fast on others. Interpreting one set of hadiths in the light of the other [ta’wil] and deciding that either course is equally legitimate, he suggests that the Prophetic dictum: ‘Piety does not consist in fasting when travelling,’ is to be construed in the spirit of ‘Piety does not consist [solely] in fasting when travelling.’

Not fasting when travelling may thus equally be described as Muslim piety, if one does not perversely decline the gracious concession granted by God to the traveller, nor aim to show disdain for the Sunna of the Prophet. “God desires for the Muslims ease; He does not desire for them that they be over-burdened.” The scrupulous view, the result of a much stricter exegesis, had failed to convince him.44 Abu ‘Ubaid then rationalises his choice: fasting when travelling may render a man incapable of the proper performance of his other religious obligations, such as the ritual prayers.

On the parallel question of abbreviating the ritual prayer when travelling, he addresses himself to the contradictions in the reported ‘practice’ of both ‘A’ishah and ‘Uthmân. To the former is attributed the helpful information that the prayer had ‘originally’ been revealed [and hence, ‘practised’] as consisting of two rak‘ahs only, later increased to four rak‘ahs for all except the traveller. There circulated, however, a counter-hadith to the effect that, notwithstanding this utterance, ‘A’ishah herself invariably completed the four rak‘ahs when she was travelling. Similar parallel sets of reports on ‘Uthmân’s ‘practice’ were likewise available. The contradictions were, in Abu ‘Ubaid’s view, susceptible of ta’wil, and he proceeds to rationalise each set of hadiths.

In this instance, his enthusiasm for harmonising the conflicting reports leads to his failure, either to quote the relevant Qur’an verse, or to note that ‘A’ishah’s supposed statement on the first imposition of the ritual prayers is in stark contradiction to the Qur’an’s wording [Q 4,101]: “You will incur no guilt in that you shorten the prayer [when on a journey, you fear that you may be attacked when you pray].”

In this instance, Abu ‘Ubaid’s work enables us to participate in discussions conducted, not indeed, without any reference to the Qur’an, although certainly conducted without direct reference to the Qur’an text. The material of these discussions had been the exegetically originated hadiths.

Frequently we shall note that the exegetical discussions had developed their own inner momentum and proceeded along lines...
dictated by the nature of the materials on which they focused. That was especially clearly brought out by the above type of discussion which fastened upon a single phrase, "those before you", or even upon a single word, "as", torn from its original Qur'anic context.

In theory, although accounts from the Prophet's Companions are all equally reliable, some are more reliable than others, for example, the caliphs, spoken of by our author as not only 'rightly-guided' [ṣalihūn] but even as 'inspired' [muhdīn]. Numbers count too, and Abu 'Ubayd expressly states that he prefers to follow the greater number of reports.

Further, there are considerations other than verbal reliability, veracity and good memory to be taken into account. The relative dating of the hadith reports is crucial. The primitive (but adequate) rationalisation of the application of the naskh principle, as transmitted by Malik from Zuhri, is known to our author: 'They used to adhere only to the latest-known of the Prophet's words and acts.' The technical requirement that the dates of both conflicting reports be known gave rise to the science of biography [rijāl] whose twin, in the Qur'ān sphere is the asbāb al-nuzul hadith. The presumption was that the data made available in this type of hadith enabled scholars to distinguish the later āyah from the earlier āyah as the basis on which to speak of naskh.

Naskh is thus merely one among several harmonising techniques called into being by the all-too-frequent occurrence (or claim) of conflict between the sources.

Not the least merit of Abu 'Ubayd's book is that it enables us today to see more clearly, and in a work dating from the formative period of the Islamic sciences, coming from the pen of one of the founders of those sciences, the various techniques of which the scholar of that time might avail himself and, particularly, this being the oldest systematic treatment of the theories of naskh yet discovered, we learn how those theories had found increasing favour as harmonising devices, admirably adapted to resolve the problems raised by the frequent clash of hadith with hadith and of exegesis with exegesis.

Whether there is any actual Qur'ān–Qur'ān clash, and if so, whether God, in His Book, has made any reference to any such eventuality, remains to be decided by the reader on the basis of his perusal of the work itself. The work's special significance lies in its being the oldest known systematic analysis and illustration of the application of the theories of naskh to both the Qur'ān and the Sunna sources.

The discovery of the Topkapı MS. carries the theoretical literature on al-nāṣik wa-l-mansūkh at one stroke, back one whole century. Hitherto, the oldest known available work was one somewhat dubiously attributed to Abū 'Abdullāh Muḥammad b. Ḥazm [d. ca. 320/932].

Slightly earlier is the K. al-nāṣik wa-l-mansūkh of the Zaidi author, Abūlāb b. al-Ḥusayn [d. 300/912] MS. Berl. 10226, Istanbul, Bagdati Večhi 189. The work attributed to the same man's grandfather, al-Qāsim b. Ibrāhīm [d. 246/860] Berl. 4876, is not, in fact, a study of naskh and can here be disregarded as a case of careless cataloguing.

Perusal of the work by 'Abdullāh leads to the strong impression that its similarity to Abū 'Ubayd's work is unlikely to be accidental. The detailed lay-out of the individual sections is set out in an appendix for ease of comparison with the section headings of Abū 'Ubayd's book. From this it will be noted that the arrangement of the first eleven sections of both works is identical; sections 12 and 13 are interchanged, resulting in the separation of the discussion of the wayyah from that of the mirāth in Abu 'Ubayd's work; sections 18 and 19 are also displaced relative to the Abū 'Ubayd order, coming between Abū 'Ubayd's 15 and 16, although it is noteworthy that the two sections still come together. The order of the remaining sections coincides with that in Abū 'Ubayd's arrangement. Most striking, however, is the repetition of the discussion on the application of the hadād to the dhimmīs [Abū 'Ubayd's 15, 'Abdullāh's 16]. Common to both texts, this repetition is not easily explained. As to 'Abdullāh's discussions, many arguments, familiar from Abū 'Ubayd, re-appear. This is particularly noticeable in the lengthy discussions on the Fast. Here, Abū 'Ubayd's classification of the Muslims in terms of their responsibility vis-à-vis fasting in various circumstances [referred to by Abū 'Ubayd as four firāq] appears as 'Abdullāh's classification of four schools of opinion, also firāq. A like degree of similarity is to be found in the long passages on the Prophet's treatment of war captives, and to a lesser degree, although still remarkable, in most other sections. Once only does 'Abdullāh refer to a topic unmentioned by Abū 'Ubayd, in touching briefly on the topic of the fīkāf.

Both works may well have drawn upon a common original. Much more probable is the likelihood that 'Abdullāh drew upon the works of earlier writers on the subject and that the book by Abū 'Ubayd provided him with the bulk of the materials he needed set out in their most convenient form. There is serious ground therefore for questioning the originality of this Zaidi work, while its usefulness to scholars is much reduced by the almost total lack of isnāds.
The early date of the Topkapi MS. alone suffices to imbue the present work with a particular historical value for our study of the development of Islamic thinking on naskh. Indeed, we have already seen something of its utility in the light it shed on the internal development within the theory in so far as it has enabled the historian of naskh to appreciate the factors which fostered the differentiation of the naskh concept leading to the emergence of the youngest of the three modes listed in the naskh works. That had been added to the theory in direct consequence of the contribution made to naskh thinking by Shafi'i, who died only twenty years before Abu 'Ubayd himself, and who, although a younger contemporary of our author (whose work, indeed, appears to be still unknown to our author), had already debated many of the topics treated of by Abu 'Ubayd, enabling a convenient comparison to be made between their two very different approaches, especially at the theoretical level.

The attitudes and assumptions represented by Abu 'Ubayd exhibited an outlook not merely independent of what was to become the overpowering influence of Shafi'i on technical questions of the usul, but, it may be suggested, typical of an older less formalised, and much less sophisticated pre-Shafi'i style of scholarship on these technical questions. Abu 'Ubayd had accomplished his learned contribution to the discussion of naskh before Shafi'i's reputation was established and before the significance of his methods became apparent. In his comparative studies of the views of the Hijazis, the 'Iraqis and the Syrians, he has in mind the views of Malik, Sufyan and Awaiz. He thus fills in the gaps in our knowledge of the techniques employed in the usul and the arguments deployed especially in the area of naskh in the generation between Malik and the appearance of Shafi'i's influence on the discussion of these questions. The opportunity the present work provides for the study of those 'pre-Shafi'i' techniques will emphasise, in turn, the magnitude of Shafi'i's contribution which, more than that of any comparable figure of his time, would determine the direction and spirit of the next stage in the development of the religious sciences of Islam.

Shafi'i's Risalah, drafted to provide the answer of ahl-al-Sunna to the current anti-Hadith tendencies, succeeded all too brilliantly. We perceived that it was aimed primarily at two targets. Ahl al-ra'y advocated the right of the properly equipped scholar to private interpretation of the revealed texts. They did not mean by this to assert the right to draw their own conclusions by the exercise of mere unaided human speculation. For they are seen to rely upon hadith statements from the Prophet, the Companions and the Successors and a host of lower 'authorities'. This term ra'y may, perhaps, relate to their attitude to Qur'an interpretation, particularly to their views on the relative weight to be attached to linguistic criteria, in contrast to the emerging tendency to rely primarily upon the Sunna as the key to tafsir. They thought it legitimate to apply the canons of logic and of the 'Arabiyah equally to the texts of the Qur'an and the Sunna, comparing verse with verse and hadith with hadith, as they strove to fashion for their scholarly needs improved methods of analogical reasoning. Shafi'i deprecated their approach as the path to individualism, thus to inconsistency in the Fiqh, to disunity, fragmentation and a weakening of Islam's stance vis-à-vis internal and external critics. For critics were to be found not only among the unbelievers.

There was a second group of Muslims who might tentatively be called ahl al-qur'an. They opposed ahl al-hadith by declaring themselves content with the Qur'an, God's Word, as a sufficient source for the knowledge of the divine will – and for the construction of an Islamic Fiqh. They were inclined, in consequence, to minimise the need for the intervention between the Qur'an and the Muslim of the Hadith. Some were inclined to reject all hadiths; the more moderate were inclined to reject hadiths which did not have at least a basis in the Qur'an – i.e. they accepted only tafsir-hadiths. They persistently asked what control could be applied to other classes of hadith. They advanced two main arguments: ahl-al-hadith harboured in their ranks some simple-minded souls who offered uncritical and indiscriminating reception to countless reports purporting to come down from the Prophet but although equipped with israhs, inspiring little confidence in thoughtful men. In far too many instances, the reports were mutually incompatible; many reports were repugnant to Reason, but worse than that, many flatly contradicted statements in the revealed Book of God. Reports of that kind were a standing affront to the intelligent believer, and an insurmountable stumbling-block to the intelligent unbeliever. The activities of ahl-al-hadith could be said to be bringing the faith into disrepute, and exposing it to ridicule both within and without the community of the believers.

Secondly, they were uneasy about the efficacy of that control which ahl-al-hadith claimed to have over their material. As to the divine origin of the Qur'an and the integrity of its texts there could be no possibility of doubt or hesitation. The revelations had been divulged by the Prophet in public to an entire generation, to whose transmission the Muslims are forever indebted both for the preservation of the texts and for the guarantee of their authenticity. Compared with
that, the hadiths had, in many instances, been handed on by two or three, in some cases, by only one man whose veracity and accuracy (let alone trustworthiness) could never be demonstrated. Hadiths were too much taken on trust. Further, the men of the isnads were human and, unlike the Qur’an, carried no divine guarantee of errancy. The texts of the hadiths ought to be exposed to comparison with the texts of the Book. What agreed with the Qur’an could with confidence be accepted; what disagreed with it ought summarily to be dismissed.

Sha’rī was familiar with this argument, ironically, cast in the form of a hadith! — underlining, it might be thought, the force of the criticism. The Prophet himself had allegedly warned the Muslims to beware: ‘Compare any utterance purporting to come from me with the Book of God. Whatever agrees with it, I have actually said; whatever disagrees with it, I have not said.” Sha’rī refused to acknowledge this as an authentic Prophetic dictum — the isnad was unsatisfactory! He refers to a counter-statement: ‘Let me find none of you comfortably ensconced in his couch saying when a command or a prohibition issued by me reaches him: “I don’t know about this. We shall follow what we find in the Book of God.”’

Here, Sha’rī insists, we learn from the lips of the Prophet himself that God has left no loophole through which men can escape the obligation to accept and humbly accede to the Sunna of His Prophet. Tirelessly, Sha’rī reiterates this doctrine on the divine imposition of the obligation to adhere to the Sunna and, since the opposition to the Sunna place their entire emphasis upon the Qur’an, it is from the Qur’an that he precludes the evidence against them. We have already considered how many citations from the Qur’an it was possible for Sha’rī to marshal. For him, as we saw, Islam stood on the twin foundations of Qur’an and Sunna, always parallel, always in perfect accord, complementary and acting in unison to make known the plenitude of God’s Will.

In the interest of strict consistency and uniformity, Sha’rī equally tirelessly insists upon the uniqueness of the Sunna of the Prophet. If it cannot be set aside on account of a statement of the Qur’an, it certainly cannot be set aside in favour of the reported views or actions of the Companions, the Successors or even lower authorities. In the presence of the Sunna of the Prophet, no other statement is of any account. Where a statement of the Prophet is available, the Muslim has no option but to adhere to it. As the Muslims of Sha’rī’s generation have no access to the Prophet’s views and actions, save through the hadiths, it follows that the Muslims are bound by the divine command to accede to the contents of the reports reaching them from the Prophet. That is the very core of Sha’rī’s doctrine on the Sunna, provoked by the methods of those Muslims who, although aware of reports from the Prophet on many questions, were to be seen regularly setting their Prophetic hadiths aside, in favour of reports from Companions on the allegation that the Companions knew the Prophet’s mind best, or from Successors, or later figures. Reports from the Prophet were being ignored by those who preferred to take their knowledge from lower, even quite recent personalities. Worse still, statements from the Prophet were frequently abandoned arbitrarily, not even in favour of hadiths from other authorities, but simply because they proved inconvenient to some local view, based perhaps, on nothing higher than a man’s own, or his teacher’s opinion.

Sha’rī’s arguments had been provoked and determined by the prevailing contemporary situation in the Islamic sciences, and mainly by criticism of the hadith reports currently in circulation. He was primarily motivated by the necessity to place the reports from the Prophet in a special category out of reach of any allegation that the utterances and actions of the Companions could safely be taken as the most reliable indicator of the validity of this regulation or the invalidity of that. Sha’rī had discovered a method of navigation which promised safe passage through the shoals of confusion and currents of complexity which bedevilled every scholar launching on to the ocean of the Hadith. A formally acceptable report from the Prophet rendered the multiple contrary indications from the countless Successors and Companions irrelevant, because redundant. Knowledge of the Sunna is provided only in reports from the Prophet. Sunna is to be compared with Sunna and with nothing else. But his comparing the Sunna with the Qur’an in terms of the wording of Q 2,106, while it solved, for the moment, an immediate problem, would fall apart as soon as the immediate problem receded. His producing from Q 2,106’s: na’ti bi khairin minhā aw mithlihā, the argument that nothing is like the sunna of the Prophet, save only another sunna of the Prophet, and thus nothing could naskh a sunna save only a second, later sunna, had been aimed at his contemporaries who were arguing that the sunna of the Companions, or even of the Successors ‘indicated’ the naskh of the relevant sunna of the Prophet. Other usūlis could claim, with like justification, that whereas nothing may be thought to be ‘superior’ to the verses of the revelation, the verses are presumably ‘superior’ to the dicta of Muhammad.
Sha'fi'i's advocacy of the Sunna pushed him in the direction of regarding the Sunna of the Prophet as, in some sense, inspired. He certainly knew the expressions: *wahi muta'at* and *wahi ghair muta'at*, and the impact of his doctrine on the Sunna of the Prophet revolutionised the Muslim attitude to the sources. Thus, although Sha'fi'i himself forbore from ever alleging the *naskh* of the Qur'an by the Sunna, a matter that for him had been settled once and for all by Q 2.106's: *ma nansakh min 'ayah* and by Q 16.101's: *idhâ buddilahá 'ayah makanu 'ayah*, or by Q 10.15's: *ma yakun li an abaddilahu min tilqâ'í rifâs*, it does not come as a great shock to discover that later in the century the Prophetic dictum in circulation: ‘I have been granted the Book, and with it, its like,’ *'a'îdu al-kitsâ' wa mithlaha mu'âhu*, was being interpreted in the sense that Gabriel who brought the Prophet the Qur'an also brought him the Sunna, from which could be drawn the inference that, being “alike” the Qur'an could abrogate the Sunna, and the Sunna could abrogate the Qur'an.69

A *Fiqh* specialist, Sha'fi'i had no interest in the purely exegesis- originated mode of *naskh al-tilâwah wa-l-hukm*. Legal regulations that ‘might once have been’ did not interest him. He recognised, therefore, only two modes of *naskh*. Both Qur'an and Sunna, but each separately in its own sphere, indicated occurrence of *naskh al-hukm dina al-tilâwah*. In the field of Qur'an regulation alone, the hadith of ‘A'ishah on *râqa*’ led him to a single instance of the mode: *naskh al-tilâwah dina al-hukm*. A second instance was to be added, as we have seen, by the *usul* of the Sha'fi'i school who speak of the Qur'an's alleged stoning-verse.

By contrast, Abû ‘Ubaid, as we have also seen, had accepted the *Fiqh*’s stoning penalty as an instance in which the Sunna ruling had abrogated the Qur'an's flogging ruling. His interest in exegesis, displayed, not only in the *Introduction* to the present work, but also in his composition of a separate work devoted to Qur'an commentary, explains his acknowledgment of two modes of *naskh*: the raf‘ ‘phenomenon’, derived from the notion of Muhammad's forgetting parts of the Qur'an - itself the result of the ‘explication’ of Q 87.6–7. This is the classical theory's *naskh al-hukm wa-l-tilâwah*. It had been ignored by Sha'fi'i, and is referred to by the author only in the general introductory discussion for which he had assembled the necessary exegetical materials to ‘prove’ from the Qur'an and the *Hadith* the ‘reality’ of the various phenomena known collectively as *naskh*.

Then, as with Sha'fi'i, his legal training and professional interests explain the preponderant emphasis he places upon: *naskh al-hukm dina al-tilâwah* – or ‘repeal’ proper. This is the mode, he states more than once, that is known to all the Muslims. This *naskh* concerns changes in the ‘practice’ and everyone knows that, in this instance, both the superseded and the superseding verses, the *mansikah* and the *naskh* may still be recited in the prayers, and are still recorded in writing in the *mushaf*, as are the *mansikah* and the *naskh* still to be found in the records of the *Hadith* [Sunna].

Thus, during the lifetime of Sha'fi'i, the three-fold structure of the classical *naskh* theories had already come into being. Of the three, one had been the produce of pure exegesis, whilst Sha'fi'i himself had invented the second. The third, alone of the three, operates in both the Qur'an and Sunna spheres. It had behind it a long history and by far represented the major interest of the *usul*. It concerned everyday ‘practice’ and had evolved from the Muslims' rationalisations of the conflicts apparent both within and between their two sources: conflict between two exegeses of the one Qur'an verse, or the exegesis of two or more verses on a related topic; conflict between one *hadith* and another; conflict between a *hadith* and a Qur'an verse.

As both the Qur'an and the Hadith served the scholars as their primary literary sources, one may, with confidence follow Abû ’Ubayd in speaking, not so much of conflict of sources, but rather, of conflict of interpretation [*ta'wil*] and of the resultant conflict between regionally-organised schools of *usul*. That, of course, may be to speak of conflict of regionally-organised *Fiqh* with regionally-organised *Fiqh*. But also involved was conflict of unanimously accepted *Fiqh* with the contents of the *mushaf*, i.e. the contrast between the unanimity of all the *Fiqh*-schools on the stoning penalty and the ruling found in the unanimously agreed texts of Q 24.

Even to this instance of conflict, the majority of the schools would have applied the mode: *naskh al-hukm dina al-tilâwah*. That mode is thus the key to the analysis of the Islamic theories of *naskh*. It is the central, unchanging element in the theory, acknowledged and regularly deployed by all the regional schools of *usul*. It was undoubtedly the seed from which developed the tripartite formulation of the classical theory of *naskh*. Originating in the field of *usul*, it served, we have seen, the dual function of: explaining both the conflicts between the regional views of the *Fiqh* and its sources, and the conflict between the universally agreed *Fiqh* conclusions and the contents of the Qur'an. That explains why, along the three modes of *naskh*, it applies equally to both Qur'an source and Sunna source. It did not arise from the Qur'an, then later extend its utility to the Sunna. Qur'an vocabulary and usage do not, in fact, support the meaning attached to *naskh* in the *usul*.
It did not arise from the Sunna, then later extend its utility back into the Qur'ān. It arose in both Qur'ān and Sunna simultaneously. This is not intended as a paradox. This mode of naskh, whether applied to Qur'ān text, or to the hadiths of the Sunna, is, as Abū 'Ubaid recognise, but a single technique, for the good and simple reason that, in either of its applications, it is exercised upon one and the same object – the tafsīr of the Qur'ān. For, what Abū 'Ubaid helps one to realise is that much that is known as “sunna” is, in actual fact, mere exegesis (as we have seen above, in the case of fasting and the traveller's prayer). Indeed, so frequently do clashing exegeses form the actual topic of its individual studies, that Abū ‘Ubaid might, with perfect justice, have entitled his work: Ḫulāf al-‘ulamā’ fi al-ta’wil, the phrase is so seldom lacking from its pages.

Notes to the introductory essay

3. cf. e.g., Ţabārī, Tafsīr, (ed. Shākir) v.2, p.480. “God tells us [Q 87] that He will cause Muḥammad to forget what He pleases of the Qur'ān. What God has 'made away with' is what is referred to here in the Exceptional clause."
5. Tab., loc. cit., p.479.
6. ibid., pp.479-80.
7. cf. text, p.27b.
8. cf. text, p.42b.
13. Tafsīr, ad Q 87.6-7.
14. Tafsīr, ad Q 22.52.
15. cf. I. Goldziher, Richtungen, pp.24-5; Tab., v. 2, p.475. Given the references to Q 18.24, Q 87.6-7, it seems more probable that both Sa‘d and Sa‘id would have used the 2nd. pers., Mas., sing. Sa‘d reading in the Active, Sa‘id in the Passive. Abū ‘Ubaid [f. 6a] was uncertain as to
Appendix to the introductory essay

‘Abdullāh b. al-Ḥusain, K. al-nāsikh wa-l-mansūkh

Section headings:

1. Definitions of nāskh [Q 2.106; Q 13.39; Q 16.101]
2. The ritual prayer
3. The zakāt
4. The Fast
5. Marriage
6. Dissolution of marriage
   i. kihāf
   ii. ‘iddah

Appendix to introductory essay

7. Corporal penalties
   i. stoning of adulterers
   ii. judging dhimmīs
8. The talion
   the apostate’s punishment
9. Legal testimony
   i. transactions
   ii. sexual misconduct
   iii. testimony of dhimmīs
10. The pilgrimage: ifrād / qirān / fasākh / mut‘ah
11. The jihād
    i. obligatory / optional
    ii. treatment of captives
12. Inheritances
    i. Muhājir – A‘rābī
    ii. ḥalif – muḥālif
    iii. adoption
13. Domestic etiquette
14. The waṣīyah
15. Management of the property of orphans
16. Judging cases involving dhimmīs
17. Private audiences with the Prophet
18. The Night Prayer
19. Food and entertaining
20. Fermented beverages
21. Taqwā
22. Homicide and repentance
23. A man’s innermost thoughts
24. Conversion must be voluntary
25. Praying for the soul of the unbeliever
26. al-amr bi-l-ma‘rūf wa-l-nahy ‘an al-munkar
The author: Abū 'Ubad al-Qāsim b. Sallām

Regrettably, we cannot claim to know Abū ‘Ubad except superficially and externally. Of the personality of the man we know nothing, and the many questions which arise must remain for the present unanswered. Little is known of his movements during important periods of his life. We have no information on his education, and are thus unable to form any judgment on the formation and development of his views on any of the wide variety of topics which formed the training curriculum of the young scholar of his generation. As will be seen from the list of his writings, the range of his intellectual activities was broad, embracing (as was the case with so many of his contemporaries) the principal Islamic sciences of: Grammar, lexicography and syntax; Qur’ān text and tafsīr; Hadith, ismāḍ and Fiqh studies, poetry, gharīb and dialect studies. To certain of these fields he contributed pioneer studies of major significance, and in all of them he displayed a degree of erudition and reached a level of achievement which won the acclaim of contemporary scholars of the stature of Ahmad b. Hanbal, and the patronage of great men of State, including that of the caliph.

Professor Madelung has provided an admirable analysis of Abū ‘Ubad’s view on the meaning of the term faith [īmān] but, as to the stance he adopted on the most critical question tormenting the Muslims of his day, that of the createdness or uncreatedness of the Qur’ān and his demeanour throughout the period of terror inaugurated by Ma’mūn to whose inquisition the leading scholars and office-holders of the Empire were subjected, we remain totally ignorant.

The greater part of the work embodying his scholarly achievements is unknown to us, while those of his writings which have survived, cannot with certainty be related to each other in terms of content or chronological order.

The barest outlines of Abū ‘Ubad’s career have been painstakingly pieced together by Dr. Gottschalk, upon whose labours the following brief sketch is chiefly dependent.

Abū ‘Ubad al-Qāsim b. Sallām [b. Miskīn b. Zaid] was born at Herāt between 150 and 157 A.H. / 767–773 A.D. The colourful anecdote in which his father (allegedly a slave of Byzantine origin) addresses in execrable Arabic the schoolmaster to whose instruction the boy was first entrusted, is more legendary than reliable. It was probably designed to emphasise the brilliance of the achievements of the renowned philologist-to-be, drawn, like so many of the creators of Islamic culture, from the ranks of the mawāšī of the eastern provinces. At all events, the detail is unmentioned in the earliest biographical study which reaches us from one of Abū ‘Ubad’s immediate pupils, the rāwī of several of his works, including the present one, ‘Ali b. ‘Abdul ‘Azīz.3 The name of the author’s father (as given in the Fihrist) would also tend to indicate that the adherence of the family to Islam dated from at least the time of the author’s paternal great-grandfather. The arabisation of the family was probably as old. His family’s client relationship with the tribe of Azd would explain the close connection Abū ‘Ubad early formed with the scholars of Baṣrah and, in addition, probably also accounts for his later relationship both with Thābit b. Naṣr and with the princely house of Tahir.

That Abū ‘Ubad visited Kūfah in the course of his studies is likely, yet not known with certainty. The Kūfān authorities whom he cites are known to have been active at Bağhdād. That he visited Baṣrah does, however, seem likely since, quite apart from his family’s affiliation, he records his regret at never having met the great Baṣrah Hadith expert, Ḥammād b. Zaid, who was already dead when Abū ‘Ubad arrived. This would place his Baṣran visit after the year 179/794. Similarly, his arrival in Bağhdād would fall before the year 176/792 in which al-Paraj b. Fudālah, one of his immediate informants, reportedly died. Thus, precisely when Abū ‘Ubad came to Irāq, and how long he stayed, is unknown, but, as can be seen in the list of his informants, he was in touch with some of the greatest figures in the history of Islamic scholarship, among them the founders of several branches of learning, as well as with their immediate pupils. The range of the death-dates of these men is 176–206/792–821. It would appear that Abū ‘Ubad had come to Irāq in his twenties. As to when he left Bağhdād, and where he spent the years immediately prior to 192/807, we have no information. On the strength of the Fihrist report that he had served as tutor in the household of the Harthamids, and in view of his later dependence upon the generosity and protection of the Tahirids, Dr. Gottschalk assumes an early return to his native Khurāsān, although admitting that this is far from certain.

The greatness of his literary success, the extent of his acquaintance with the views of scores of his contemporaries, and the evident
insatiability of his intellectual curiosity, his alleged connection with the Court, and the possibility of his making the acquaintance of his patrons at the great houses they maintained in the capital, all make it equally likely that his residence in ‘Irāq was more prolonged. In any case, Dr. Gottschalk recognises the many difficulties presented by the incompleteness of our sources.

The period 192–210/807–825, it seems reasonably certain, he spent in Syria, Thābit b. Nasr b. Mālik, having been invested by Hārūn with the Governorship of the thughūr, made his seat at Tarṣūs and appointed Abū ‘Ubayd as his qādī. Thābit was a Khuzā‘i, and thus of a branch of the great tribe of Azd to whom Abū ‘Ubayd’s other patrons, the Tāhirids, like his own family, were clients. Thābit died in 208/823 and Abū ‘Ubayd is reported to have demitted office some two years later.

It was to his personal experience of the military, political and fiscal problems faced by the administrators of a frontier province that Dr. Gottschalk attributed the genesis of our author’s most famous work in Fiqh, his K. al-Amwāl, which shares with the present work (although doubtless to a greater degree) evidence of concern with the practical aspects of the Law and exhibits an intimate knowledge of the views and opinions of the jurists of a wide variety of centres throughout the Islamic world. Where Abū ‘Ubayd went on leaving Tarṣūs in 210/825 is unknown. The year 213/828 finds him, according to ibn Hājrāt, in Egypt, in the company of the great Baghdadī Ḥadīth expert, Yahyā b. Mu‘īn. Nor do we know whether he then turned from Egypt to ‘Irāq, or whether (the mīnḥah now raging) he had already sought the comparative peace and seclusion of Mecca to resume his literary activity. Certain it is that the most prominent of his rāwarī, ‘Ali b. ‘Abdul ‘Azīz, to whom we are indebted for the transmission of several of Abū ‘Ubayd’s works, including the present work, and of whose presence at Baghdad there is no mention in the sources, had settled there.

We can be equally certain, in view of the frequency of references to Syrian and Egyptian informants, several of whom long out-lived the author, that his nāsīkh wa-l-mansīkh was compiled in the latest stage of Abū ‘Ubayd’s life. He died at Mecca in 224/838.

On the basis of a remark of ibn Durustawī’s quoted in Ta’rīkh Baghdad, to the effect that Abū ‘Ubayd had adopted the Fiqh views of Mālik and Shāfī‘ī, Dr. Gottschalk describes the author’s legal attitudes as poised mid-way between those of the two Hijāzī masters. This, Gottschalk thinks, fits in with the ‘eclectic character’ of Abū ‘Ubayd’s scholarship. It is true, as Gottschalk points out, that he was to be claimed by later Shāfī‘īites as a member of their school. It is equally true that he was to be similarly claimed by the Hanbalītes. This perhaps tells us more about the thinking of later generations of scholars than about the character of Abū ‘Ubayd’s personal contribution to the legal sciences.

The impression left by the perusal of his work is rather that it had been compiled by a scholar who felt himself both at liberty and qualified on the basis of his lengthy training in the sciences of Arabic linguistic studies, Ḥadīth, qirā‘at, tafsīr wa’il and Fiqh, to review the current condition of Islamic scholarship nation-wide. In a detailed study of numerous chapters of the Fiqh, he has examined a series of legal and ritual questions, considered the various views that had been expressed by the leaders of Islamic opinion in the various regions. He submits them to a comparative analysis, taking account of the several traditions of Qur‘ān ‘reading’ and interpretation, Ḥadīth evidence, the linguistic, logical and systematic arguments that had been variously urged on the different topics by the ‘Irāqīs, Hijāzīs, Egyptians, Syrians, aṣḥāb al-ra‘y, aṣḥāb al-‘āthār and ‘others’, until, in each instance, he arrives at his own personal ikhtiyār, both stating which of the sundry views he considers preferable and explaining why. In other words, he acts as a mujtahid.

One perceives an understandable loyalty to the ‘Irāqī centre in which he had been nurtured. One also, on occasion, sees the completeness of his sense of intellectual freedom when the more convincing arguments propounded by the Hijāzīs lead him to abandon Sufyān’s view in favour of that of Medina.

The value of the present work lies, therefore, in the opportunity it affords the reader to witness the operation of the mind of an outstanding Muslim scholar as he achieves his independent results. In the lone confrontation of the accumulated and dauntingly complex masses of traditional documentation and argumentation, he provokes a high degree of admiration for the confident and skilful control he maintains [in Islamic terms] over the voluminous materials which his perception and insight enable him to unravel with minimum confusion to the reader. Patiently he sifts, expounds and weighs the opposing arguments in simple, yet elegant language.

Apart from Mālik and the Hijāzīs, Awzā‘ī and the Syrians, Sufyān and the ‘Irāqīs, perhaps also, to a less defined degree, aṣḥāb al-ra‘y and aṣḥāb al-‘āthār, none of the groupings known to us as the Islamic māḍhhab appears as yet to have emerged. There is, for example, throughout this work no reference by name to Abū Hanīfah and his celebrated associates— unlike the Amwāl, in which we find frequent
references to them, derived from the author's personal contact with Shāfi’ī. Nor, despite the author's sojourns in Baghdad, Egypt and the Hijāz, and the familiarity he displays with the views of the leading scholars of those parts, is there one single mention of Shāfi’ī. This may perhaps be accounted for on the supposition that the fame of Shāfi’ī, Abū ‘Ubaid’s near contemporary, was not yet established in the wider world of Islamic learning. Like the creation of the Shāfi’ī school, the creation of the Shāfi’ī reputation we must presume to have been the work of the following generation. It is also incidentally true that, despite the occurrence of some celebrated names in his ismāids, the author never once uses the term Shi‘ah either. Possibly the same holds true in this case also.

Notes

2. Der Islam, 23, 1936, pp. 264-83 (see also the relevant articles in EI¹ and EI²) and see: R. Sellheim, Die Klassisch Arabischen Sprichwörter Sammlungen. Mouton, s-Gravenhage, 1954.
6. As rawī of the present work, he is, however, referred to as ‘al-Baghdādī thumma al-Baghwā’ ff. 1b, 2a, 210a.
8. See, e.g., Amwāl, pp. 29, 52, 72, 90, 369, 419. p. 519 (reference to Abū Yusuf).

Description of the MS: Istanbul, Topkapı, Ahmet III, A 143

The existence of this work was unknown to Brockelmann.¹ Sezgin, although referring to the title, does not mention the survival of the work, nor its present whereabouts.² The work is first recorded, therefore, by Karatay³ who describes it as: “written on treated cream paper, 198mm. long by 135mm. wide. 209ff., script: naskhī. Text occupies 90mm., with 16 lines per folio. The copyist⁴ was Abū al-Ḥasan ‘Abdul Bākī b. Fāris b. Aḥmed al-Ḩomsī, in 392 A.H. (1001–2 A.D.). Headings are in red ink and the volume is bound in brown leather and paper. K. al Nāṣih wa’l Mansūh, Abū ‘Ubayd al-Qāsim b. Sallām al-Haravi, (d. 223/4 – 827/8) on nāṣih and mansūh.”

The MS is an unicum. Although a number of references to at least one other copy occur from f. 116b of the Topkapı MS., no other copy has as yet come to light.⁵

1. C. Brockelmann, Geschichte der Arabischen Litteratur, v.1, pp.106-7; S1, pp.106-7; p.166.
4. By ‘copyist’, Karatay refers to the technical term kitābatan, found on f. 210a, or to the term bikhaṭṭihi, found on f. 2a – in each case, in the isnād of the work.
5. The work was still available for Suyūṭī to draw upon freely in both his Ilqān and Durr. As he died in 1505, it presumably made its way to Istanbul following the Ottoman occupation of Egypt in 1517.
The transmission of the text

1. ʿAli b. ʿAbdul ʿAzīz b. al-Marzubān b. Sābir al-Baghawi, paternal uncle of Abū al-Qāsim ʿAbdullāh b. ʿAbdul ʿAzīz al-Baghawi, (author of a Musnad). ʿAli settled in Mecca and is a well-known associate of Abū ʿUbad, several of whose works he transmitted, including: Gharīb al-Ḥadīth; K. al-Hādī; K. al-Tāhir [Tahārah (?)]; K. al-Anthāl; K. al-Anwāl, in addition to K. al-nāṣikh wa-l-mansūkh. He was further responsible for the transmission of K. Fāḍila al-Qurān. According to Yāqūt, ʿAli was himself the author of a Musnad. Although regarded by Dārāqūṭī and ibn abi Ḥātim as reliable, and mentioned by ibn Ḥajar among the lesser informants of Nasāʿī, ʿAli was criticised for his materialistic and commercial attitude. It is said that he would read the works of Abū ʿUbad to pilgrims during the season, only if he received a fee. He was nevertheless regarded by no less a personage than al-Dānī as the greatest and most trustworthy of Abū ʿUbad's associates. ʿAli died in Mecca in 287/900, sixty-three years after the death of Abū ʿUbad. When ʿAli was born, when he came to Mecca, and when he first met Abū ʿUbad is unknown. Dhaḥabi states that he was over ninety years of age at his death.

a. al-Fāsī, K. al-ʿIqd, v.6, p.185.
2. Irshād, v.6, p.247.

Abū Bakr ʿAḥmad b. Muḥammad b. ʿAbd al-Maut, named by Fāsī as: ʿAḥmad b. Muḥammad b. ʿAbd al-Maut. Fāsī gives the death-date 351/962, on the authority of Dhaḥabi who adds that at his death, he was ninety years old. That would give a birth-date circa 260/873. ʿAbdul ʿAzīz in Mecca in 284/897.

Abū ʿAbdullāh Muḥammad b. ʿAbdul ʿAzīz b. Muḥammad b. ʿAbdul ʿUbad b. Musā al-Washshā. UNTRACED. In 392/1001, he related to

Abū al-Ḥasan ʿAbdullāh b. ʿAbdul ʿAzīz b. al-Fāṣī, ʿAbdul ʿAzīz al-Himṣi, noted teacher of qirāʿāt in Egypt, son of an even more renowned muqri. The father, born at Himṣ, settled in Egypt and counted among his students, in addition to his son, the celebrated Abū ʿAmr al-Dānī. ʿAbdul ʿAzīz died after 'a long life' in 450/1058.

1. op. cit., v.3, p.128.
5. ibid., v.4, p.44.
6. ibid., v.5, p.2.
Abū 'Ubaid’s literary output

1. Gharb al-Hadīth
2. Gharb al-Muṣammāf
3. K. al-Anṭāḥal
4. K. Fadalla al-Qur’ān wa-ṭūdābīhi
5. K. al-ṭūdābī
6. K. ḫalq al-insān wa-nuṭūbīhi
7. K. al-ṣāliḥ wa-l-dīdī fī al-lughāh
8. K. al-na’m wa-l-bāhwā’īm wa-l-wāshwāwāwā wā-l-hawwām wa-hasharāt al-ārād
9. K. al-insān wa-ma’ālimīhī wa-sunnatīhī wa-ištikmālīhī wa-darajātīhī
10. K. al-khūṭab wa-l-mawā’īẓ
11. K. fa’ala wa-affāla
12. K. al-Ammāl
13. K. ṭumā ma’sūm min kalām al-ʿArab wa-ma’iṣṭabaḥa
14. K. ma’alqat fīhī al-ṣamakh lughat al-ʿArab
15. K. Faḍā’al al-faras [al-Furs (?)]
16. K. ma’ānī al-shārī‘
17. K. maqātil al-fursān
18. K. Gharb al-Qur’ān
19. K. al-nāṣikh wa-l-mansūkā
20. K. adāb al-qādī
21. K. fī al-qirā‘āt
22. K. al-ṭāʿīn wa-l-nudhūr
23. K. al-haḍid
24. K. al-mudhakkar wa-l-mu’ānnath
25. K. al-naṣīr wa-l-munmadīd
26. al-Munṣūd
27. K. mu’ām al-Qur’ān
28. K. al-shu’ara‘ī
29. K. al-nasāb
30. K. ‘adād ay al-Qur’ān
31. K. al-ḥijr wa-l-taliṣs
32. K. al-tahārah
33. K. adāb al-ʿīlām

The author’s chapter headings

1. The merit of the knowledge of al-nāṣikh wa-l-mansūkā
2. The ritual prayer
3. The zakāt
4. The Fast
5. Marriage
6. Dissolution of marriage:
   i. ḥudūd
   ii. ʿiddah
7. Corporal penalties:
   i. the stoning of adulterers
   ii. the talion
   iii. the apostate
8. Legal testimony
   i. transactions
   ii. sexual misconduct
9. The testimony of ahl al-kitāb
10. The pilgrimage rites
11. The ḥijārah
12. Domestic etiquette
13. Inheritance:
   i. muḥājirūn – ʿĀrāb
   ii. ḫalīf – muḥālīf
   iii. adoption
   iv. the waṣiyāt
14. Management of the property of orphans
15. Jurisdiction of Muslim magistrates in cases involving dhimmīs
16. Entertaining
17. Fermented beverages:
   i. khānīr
   ii. sakār
18. The Night Prayer
Editor’s commentary on the text

Abū ‘Ubaid’s introductory section provides ample illustration of the complex and confused state of the Muslim discussions on naskh [alt. al-nāṣikh wa-l-mansūkh]. Fully to profit from his Introduction and to place it in perspective, it will be worthwhile first to consider the main definitions traditionally offered of the term naskh. These have broadly been three: 1. ibtāl, iżālah, that is, suppression. 2. naqūl ibdāl, that is, transfer, removal, that is, supersession. 3. naqūl iṣṭīnsākh iktībāb, that is, making a copy of some written matter, duplication.

The evidentiary citations adduced to support these varying definitions are taken alternately from the use of the term in the sacred texts and from profane speech. For example, Hamadhānī [Fitībār, p. 8] declares: naskh in Arabic conveys two meanings:

a. removal, in the sense of ceasing to exist: [inā‘idām]
b. removal, in the sense of change of position: [intiqāl]

The first meaning has also two aspects: ceasing to exist, in the sense of yielding place to another:

Old age replaced youth; sunlight replaced shadow.

nasakha al-shabah al-shabāb nasakhat al-shams al-zill

or, ceasing to exist and being replaced by nothing else: i.e. total suppression: The wind obliterated the traces.

nasakhat al-rīh al-āthār.

The second meaning of removal, in the sense of change of position [naqūl]: nasakha al-Kītāb – he transferred the matter of the book from one exemplar into a second, without causing the first exemplar to cease to exist. cf. Q 45,29: innā kunnā nastansikhs mā kununt tā’matūna.

Similarly Naḥḥās, [p. 8] traces a dual etymology:

1. nasakhat al-shams al-zill. This usage is exemplified in Q 22,52: fa’yansakh allāh mā yulqī al-shaijān.

2. nasakha al-kītāb: i.e. ‘transfer’ – al-nāṣikh wa-l-mansūkh derives from this usage. Some activity will be lawful for a period, then it is transferred into the unlawful category, or vice-versa. [cf. Tabarī, 2,
The greater part of the naskh of the Qur’an is of this kind. The (original) ruling ceases to exist, the faithful having been redirected to a second ruling on the same topic. In this case, the mansūkh verse continues to form part of the recited Qur’an, whereas in the Q 22.52 type of naskh, God removes the first verse entirely. It ceases to be recited, and it is not recorded in the mughaf.

Suyūtī lists, as the meanings of naskh, the following:
1. ibtāl / izalāh, obliteration, as in Q 22.52.
2. ibqāl, substitution, as in Q 16.101: wa idhā baddalānā āyāh makāna āyāh.
3. naqf / tahwil, transfer from place to place.

In nasakha al-kitāb, ‘he copied the book,’ he transferred what was in the original, duplicating the wording. This type of naskh cannot properly be said to occur in the Qur’an, and the scholars have taken Nahjās to task for saying that it does, since, in the Qur’an, the nāsikh does not reproduce the exact wording of the mansūkh verse. The nāsikh, indeed, brings a wording different from that of the mansūkh. Sa’īdī rose in Nahjās’ defence declaring that what he had said is borne out by Q 45.29 and by Q 43.4: ‘it is in umm al-kitāb, in Our divine Presence . . .’ It is known that what was sent down to Muhammad is like all that is in the Umm, or the Preserved Tablet. [Ijtīān, now 47.]

Makkī (1.3) argued that the meaning of nasakhta al-kitāb is: ‘I reproduced in another book an exact copy of the original,’ which has nothing to do with the naskh which means the suppression of a ruling whose wording has been retained, nor with the naskh meaning the suppression of both the wording and the ruling of a revelation. Nasakhta al-kitāb is like the usage of Q 45.29 and is unconnected with the idea of the naskh of one thing by another. Linking the [technical] naskh with Q 45.29 and its synonym in everyday parlance: nasakhta al-kitāb is an error. There is a second use of naskh derived from the Arabs’ usage: nasakhat al-shams al-zill – sunlight replaced shadow, dislodging it and taking its place. The majority of instances of naskh in the Qur’an are of this type which has two aspects: 1. The ruling of one verse is dislodged by that of another, or of a widespread [mutawāt] hadith. The wording of the superseded verse may be retained in the mughaf, although no longer representing the ruling which is the basis of the practice. 2. Both wording and ruling may be dislodged by a second ruling and wording. [cf. Tabarī, 2, p.472.]

(f.6a) Some have sought to base the occurrence of naskh in relation to the Qur’an on Q 22.52: fa yansakh allāh mā yulqi al-shaytān – but that verse merely shows the divine naskh of matter unsanctioned by Satan, not the divine naskh of matter that God Himself revealed and commanded.

(f.7a) The third use of naskh is from the Arabs’ usage: nasakhat al-riḥ al-āthar; the wind obliterated the traces. That means: obliterated without any replacement. Our knowledge of this type of naskh is wholly derived from hadith reports. The evidence that naskh actually affects the Qur’an lies in Q 16.101: wa idhā baddalānā āyāh makāna āyāh – i.e. the ruling of one verse is replaced by that of another. A second Qur’ānic indication of this type is Q 2.106 which clearly points to the naskh of the Qur’an by the Qur’an: Mā nansakh min āyāh aw nunsī ha na’ti bi khairin min ha aw mithlīhā.

The ‘classic type of naskh’ with regard to both Qur’ān and Sunna, is, for Hamdānī (p.8) the suppression [ibtāl] of the earlier ruling with retention of the earlier wording.

Suyūtī, like Hibatullāh before him [p.5] was content that, in relation to the Qur’ān, naskh fell into three types:
1. naskh al-tilāwah dānā al-ḥukm;
2. naskh al-tilāwah wā-l-ḥukm;
3. naskh al-ḥukm dānā al-tilāwah – and it was on this third type that the scholarly works on naskh had concentrated.

The contradictions between the above attempts by the scholars to justify from the Qur’ān source the fact of naskh in all its three-fold modality are undeniable. They are to be traced to the perceptible tension between the Qur’ān’s uses of the term naskh. Q 45.29, Q 22.52, and Q 2.106 use the word in a range of meanings varying from the ikhtiyāt of the first verse and the ibtāl of the second and third. This second meaning, ibtāl equates with our term suppression. Only Q 16.101 employs the term tabdīl [supersession] but it does not use the term naskh, although it does share with Q 2.106 use of the term āyāh. From the earlier definitions we can see that it was observable conflict of rulings that governed the search for a global definition of naskh. We note that, for one of the modes of naskh, Makkī states that our knowledge that it had even occurred is dependent upon hadith reports. The disavowal of the evidence from Q 22.52 is disingenuous, as are the ‘instances’ of Arab usage supplied from profane speech. For the latter, no less than the scholarly definitions are clearly no more than attempts to fit a theory to Qur’ānic usage.

Abū ‘Ubayd’s Introduction: f. 2b. the ‘Allī Ḥadīth. Suyūtī [loc. cit.]:
Countless scholars have devoted monographs to this subject, among them: Abu Ubaid al-Qasim b. Sallam; Abu Da’ud al-Sijistani; Abu Ja’far al-Nahhas; Makki; Ibn al-`Arabi; and others. The imams have stated that it is not permitted to anyone to engage in the exegesis of the Qur’an until he has familiarised himself with the nasikh and the mansikh. Ali asked: Do you know the nasikh from the mansikh? The man replying that he did not, Ali declared: You have endangered your own soul and the souls of others.

Nahhas [p.6] with an isnad which agrees with that of our author from Sulayman Thawri upwards, has: rajul ya’iz al-nasi; other isnads [p.5–6] have: rajul yakhwawif al-nas; yudhakkir al-nas; qays yaqqus; rajul mulhadthah.

Hibatullah even knows the man’s name [p.4]. He was Abū Yahyā ‘Abdul Rahmān b. Darb, an associate of Abū Musā. A circle had formed around him in the main mosque at Kufa, but in his replies, he confused commands with prohibitions, and what is permitted with what is forbidden. [cf. Tabari, p.471–2.] On that account, Ali expelled him from the mosque, warning him never to return in the role of qādi. The story thus featured either a qādi or a qāsy, or popular preacher. In Arabic, the difference amounts to only a single dot, and the uncertainty gave rise to a second family of hadiths on the gravity of delivering fatwas, or legal opinions. Hibatullah [loc. cit.]: Hudhafah said, ‘Let no man address [q s s] the people except only one of three men: an amir, one deputed by an amir, or a man who knows the nasikh and the mansikh. Anyone else is a self-appointed fool!’

Nahhas (p.6) knows the story: Only one of three men may deliver fatwas: he who knows which parts of the Qur’an have been abrogated — and that is ‘Umar [cf. Bu. 6, Q 2,106.] a qādi who has no option but to give a decision, and a self-appointed meddler.

Multiple attribution of stories to different Companions is a common feature of this type of literature and Hibatullah has heard that what ‘Ali said to this man, [‘Abdullah] b. ‘Umar and [‘Abdullah] b. ‘Abbas said to another man. Presumably underlying this was the semi-anonymous attribution to an ‘Abdullah – literally, any believer, a title which could as well refer to ‘Ali.

Abū Ubaid’s title: the merit of knowing the nasikh and the mansikh of the Qur’an and the interpretation of naskh in the Qur’an and the Tradition. Knowledge of naskh is a prerequisite for addressing the faithful on the range of their obligations. ‘Ali (and ibn ‘Abbas) are represented as insisting that such knowledge is indispensable for salvation. The ibn ‘Abbas hadith: Nahhas (p.6) has the story as here, from Salamah b. Nabit, from al-Dahlhāk b. Muzāhīm; while from Bakr b. Sahl, he also reproduces, as here, from Abū Sa’īd, only the first part of the ibn ‘Abbas tafsir of Q 2,269. The verse is interpreted by ibn ‘Abbas as referring to knowledge of the awjih of the Qur’an: nasihk; mansikh; mutkam; mutashābih; inversion; imposition; prohibition; parable. [cf. Itqān, nav. 43 (v.2, p.2ff.)] The awjih have been variously numbered and identified. This ibn ‘Abbas list contains rhetorical as well as interpretive awjih. Only the latter interest our author, and mention of two of them triggers his reference to Q 3,7. The mutkam verses consist of: the nasihk verses, declarations as to what is required of the Muslim and what is forbidden, what is still accepted and acted upon — i.e. all Qur’ān verses whose rulings are considered by the Muslims to be still valid and relevant for the cult.

We find here, at the very outset of the work, an emphasis upon the practical needs of the Fiqh. This it is that sets the tone of the work — as, indeed (in theory) of the entire science of al-nasihk wa-mansikh.

In addition to the rhetorical-literary features of the Qur’ān style, mutashābih includes the mansikh, or what is accepted as being the word of God, yet not acted upon — i.e. Qur’ān verses which are not regarded as forming the basis of contemporary Muslim action.

The definition of naskh: the ibn ‘Abbas tafsir [f. 3b]. Two Qur’ān contexts are considered in association: Q 2,106: mā nansakh min āyāh: whatever verse we replace, [yabaddil]; aw nansa ha: We leave it, We do not replace it. Q 13,39: yamhū allāh mā yashā wa yuthbit: God alters, [yabaddil] What He pleases of the Qur’ān then naskhs it. He endorses [yuthbit] what He pleases. He does not alter it.

From the practical point of view then, the Qur’ān consists of verses whose rulings [?] have been replaced, and of verses whose rulings have not been replaced. The juxtaposition of two Qur’ān verses illustrates a technique frequently resorted to by the exegetes — the use of one verse to explain — that is, to confirm the exegesis of — another verse. The usual interpretation of the Q 2,106 terms āyāh as ‘a verse of the Qur’ān’ and the apparently scribal references of Q 13’s terms yamhū [expunges] and yuthbit [records] facilitated the restriction of naskh in the present discussion, to its supposed operation upon the texts of the Qur’ān. Naskh would appear to consist in: the suppression of a Qur’ān ruling followed by either: suppression of the (original) wording as well, or by the endorsement of the (original) wording for inclusion in the muṣḥaf text. The text of the entire revelation made to
the Prophet, both the verses included in the mushaf, and verses ‘once-revealed’ but later suppressed, together form the text of umm al-kitab, or at least, part of it. The Heavenly prototype or original (umm) dwells in God’s Presence. In respect of their contents, both umm and mushaf, have been the result solely of the operation of the divine Will.

In addition to the reference to Q 13,39, there would appear to be in the Ibn ‘Abbás definition of naskh an implied if unspoken allusion to Q 22,52: fa yansakkahu allâh mâ yudâqi al-shaitân, where the term naskh can mean nothing but suppression. The reference to Q 13 was intended to convey that whereas naskh (allegedly spoken of as yamhû) certainly means suppression, the suppression occurs following tabdîl, replacement, while yathūbit refers to non-replacement. To that extent, there is a further implied but unspoken glance towards Q 16,101: wa idhâ baddalna âyah makâna âyah . . .

f. 4a. In a second hadith, Ibn Jurâj reports from Mujahîd the exegesis of Q 2,106: We endorse the [existing] wording of the verse [for inclusion in the mushaf] while altering the ruling of the verse by replacing it [yubaddîl], i.e. substituting a second ruling. At f. 7a, Abû ’Ubâd reads the Mujahîd tafsîr as a ‘clarification’ of the Ibn ‘Abbás tafsîr: naskh = ibdâl. That would seem to guarantee the wording of this Mujahîd tafsîr as it appears on f. 4a. For Naḥâs, confusingly, reproduces from Ibn Abî Najîh, Mujahîd’s exegesis of Q 2,106: We suppress [nuzîl] the [existing] wording of the verse, while endorsing the [existing] wording [which still appears in the mushaf] (p.9).

This use of the stem azâla conforms more closely with the Ibn ‘Abbás express appeal to Q 13,39 [yamhû: yathūbit] and with the implied allusion to Q 22,52 [fa yansakhuhu] and the second implied reference to Q 16,101 [‘idhâ baddalna]. Apparently, Ibn ‘Abbás was saying: Some verses God alters, [yubaddîl] – i.e. He alters their rulings; and some verses God does not alter – their rulings remain valid. In addition, God alters the Qur’ân by expunging parts of the Book. Here our problem is that it is difficult to know whether fa yansakhuhu [f. 3b.] is intended to gloss the [yubaddîl] in which case, naskh = tabdîl = supersession; or whether it intends to state that naskh [suppression] is a consequence of naskh [supersession] – i.e. the (original) ruling is first altered and then the (original) Qur’ân wording can be azâla, suppressed. [yamhû]. Suppressing the (existing) ruling of a Qur’ân verse, while retaining the (original) wording of the verse amounts, in the mechanics of naskh, to exactly the same end-result as replacing the existing wording of the verse. But, suppressing a verse is not the same as suppressing the ruling of the verse: ibdâl is not the same as yathûbit. In addition to our immediate concern with the theories of naskh, we have to take into account the parallel because consequence question of the history of the mushaf, of the Qur’ân texts. In those discussions, appeal to Q 22,52 yields results very different in their implications from the results of appeal to Q 16,101. The Mujahîd exegesis of Q 2,106, adduced by the author, (which shows indirect appeal to Q 13,39) in fact, far from confirming the view credited to Ibn ‘Abbás (f. 3b.) departs from it. For Ibn ‘Abbás, Qur’ân verses allegedly fell into two classes, according as their rulings had been altered or not. The wording of those verses whose rulings had been replaced might subsequently be removed from the written (and memorised) records of the revelation. For Mujahîd, on the contrary, Q 2,106 refers to verses whose wording has been retained in the records [mushaf] notwithstanding the replacement of the rulings of those verses by other rulings. The Ibn ‘Abbás juxtaposition: naskh: mahu nasiya: ihabât exposes the identification of naskh = tabdîl without, however, quite disguising awareness that naskh really means not supersession, but suppression. The emphasis upon the replacement aspect of this definition of naskh is unmistakable at f. 3b. and signals an implicit reference to Q 16,101, which was then taken by Abû ’Ubâd (f. 7a) to have provided the basis of the Ibn ‘Abbás tafsîr of Q 2,106. The replacement definition of naskh underlines concentration upon the rulings of the Qur’ân, with correspondingly less concern for the effects for the wording of the Qur’ân of the alleged operation of naskh upon the texts. The interest, in other words, is centred upon the application or non-application in the Fiqh of the rulings of Qur’ân verses. Abû ’Ubâd read the Mujahîd tafsîr, (as that was known to him) as clarifying the Ibn ‘Abbás tafsîr: Whatever verse we replace – i.e. We replace the ruling, but not the wording. That equates naskh with tabdîl as Ibn ‘Abbás is said to have done, reading Q 2,106 in the light of Q 16,101. But it restricts the tabdîl to the ruling alone, and applies Q 2,106’s aw nansa hâ to the wording alone, the latter term being explained as ‘non-suppression’ rather than ‘non-replacement’. For Mujahîd, the wording of the verse whose ruling had been altered, was endorsed, and hence included in the mushaf. That interpretation invites comparison of naskh (alleged to mean ‘to alter’) with naskh, meaning ‘to copy’, possibly with nuskhah, codex – an interpretation which does not shrink from conceding the observable fact of tension between the present texts of the Qur’ân and the present rulings of the Fiqh.
Command to be patient in the days when the Muslims were few and militarily weak, was eventually to be superseded by the command to make war. This is not naskh. This is really insā', as God said: aw nunsā hā. The command to fight is the munsā, that is, a ruling that God had deferred until the Muslims acquired military strength. Many scholars include the verse demanding patient forbearance among the verses which were abrogated by the 'sword verse' [Q 9.5]. That is not the case as these verses are not mansikkhah, but munsā'ah. Every revealed ruling is to be put into practice in accordance with the 'illah underlying its revelation, and for as long as the 'illah persists. When, however, the 'illah ceases to apply, the ruling ceases. But by naskh is meant the suppression of a ruling so that its implementation becomes forbidden forever.

From this, it would appear that the 'Aṭā' tafsīr of Q 2,106 should be read: 'Whatever verse of the Qur'ān We reveal, or do not reveal, but defer, We shall [in the meantime] bring one better than it, or similar to it.' It thus does not refer to the entire Qur'ān. This tafsīr not only makes sense, it is perhaps more comprehensive than that favoured by the author.

f. 5a. The hadīth: man sarrahū al-nasī' fi-l-ajal...
Bu., K. al-Buyūt', bāb: man aḥbāb al-baṣāf fi-l-rizq;
Ādāb, bāb: man busīta lahu fi-l-rizq;
The isnāds differ from Abū 'Uba'īd's.
For ibn 'Abbās, naskh appeared to mean replacement of Qur'ān verses.
For Mujāhid, it appeared to mean replacement of Qur'ān rulings, but not necessarily replacement of the wording.
For ibn 'Abbās, nisyyān meant non-replacement of rulings.
For 'Aṭā' and Mujāhid, nasā meant non-revelation.
Abū 'Uba'īd's ikhtiyār: f. 5b. The author rejects both 'Aṭā's 'reading' and his ta'wil. He prefers the 'reading' of the major Companions and Successors. Q 2,106 does not refer to the entire Qur'ān but to those parts of the Qur'ān which are mansākhah in the 'generally accepted' sense of the word. He read aw nunsā hā without final hamzah, as the Medinā and Kufan scholars had done, linking it with the root nasiya, meaning 'to forget'. This was how the verse was understood by Uba'ī b. Kā'b, 'Abdullāh b. Mas'ūd, Sa'd b. Abī Waqqās, and by ibn 'Abbās (!?) - although the reports from him vary. That was also the reading of Sa'd b. al-Musaiyab and of Al-Dāhīkā.
The 'readings' reported from the two major Companions, Uba'ī and...
that the ruling of the nasikh verse alone is operative [cf. Fīlibār, 8].

The wording of both nasikh and mansukh verses may be recited in the ritual prayer.

2. raf", f. 7b. This nasikh refers to the withdrawal of verses both from the written records and from the memories of the Muslims. Our knowledge of this type of nasikh derives from hadith reporting its occurrence [cf. Tab., 2,479]. The hadith which Abū ‘Umaid cites is one form of the familiar report on ‘the lost surah’. The isnād is Hijāzī and the adventure is said to have befallen three men. Use of the report equates nasikh with raf‘.

Also quoted, but only in the margin, is the celebrated report on ibn Mas‘ūd’s mushaf. A third, and final hadith which features the Prophet is incomplete, owing to the loss at this point [f. 8b] of at least one whole folio. From the opening words, this would seem to have been a version of the equally celebrated hadith of the Prophet’s being reminded by a man’s recital in the mosque by night of Qur’ān verses which Muhammad had quite forgotten. Abū ‘Umaid certainly knew the hadith in question, since he refers to it in his Gharīb al-hadīth, s.v. nisyān al-Qur’ān. In his own Fadā’il al-Qur’ān, Abū ‘Umaid could amass a number of hadiths under the rubric: What was withdrawn [raf‘a] from the Qur’ān following its revelation and is thus not recorded in the mushaf. The whole section has been taken over by Suyūtī [Itqān, 2, p.25 ff.] to illustrate: naskh al-hukm wa-l-tillāwah. In his Fadā’il, Abū ‘Umaid comments: The scholars have neither repudiated these fragments we have cited, nor denounced as unbelievers those who do not accept them. They regard them as ‘like’ what is in the mushaf, although they do not recite them in the ritual prayers.

Both from the wording of these hadiths, however, and also from the wording of the Bukhārī heading cited above, it is clear to the reader that the hadiths themselves were merely part of the ammunition used by those exeges who took Q 87,6–7 to be a clear divine hint that Muhammad could forget, and had, in fact, forgotten, parts of the Qur’ān. In: sanuqri’uka fa là tansā illā mà sh’ā aallāh, the illā excessive clause attracted the bulk of the exegetical study. ‘You, Muhammad will not forget – except what God wills.’ The scholars divided into those who regarded the excessive as ‘ineffective’ – as merely part of the Qur’ān’s rhetoric, and those who regarded it as effective – as necessarily to occur, but, as it had occurred under divine control, to be placed [under the aegis of Q 2,106 which consisted of two clauses: mā mansukh and aw munṣii hā] with the other

The term ‘nasikh’

f. 7a. The term has three uses in Qur’ān and Sunna.

1. The nasikh which refers to verses still present in the mushaf, but not acted upon in the Fiqh. This is the ‘well-known phenomenon’ referred to by ibn ‘Abbās and Mujāhid [sc. nasikh al-hukm dīna al-tillāwah]. The evidence in favour of this view, in Abū ‘Umaid’s eyes, had been ibn ‘Abbās’ implied reference to Q 16,101: idhā baddālnā āyāt makāna āyāt. Where this mode of nasikh occurs, both nasikh and mansukh verses are still present in the mushaf, save only
categories of naskh. One mode of naskh: naskh al-ḥukm wa-l-tilāwah jamī‘ an, consisted entirely of Qur’ān verses which Muhammad had been caused to forget. The others, more precisely, preferred to keep the two ‘phenomena’ of naskh and of Muhammad’s forgetting entirely separate, as has neatly been illustrated in a further ḥadīth: The Prophet performed the ṣalāt, but omitted an āyah in the course of his recital. After the prayer he asked, ‘Is Ubuyy in the mosque?’ Ubuyy spoke up, ‘Here I am.’ The Prophet asked him why he had not prompted him. Ubuyy replied that, as the Prophet had omitted the verse, he had presumed it had been abrogated. Muhammad replied, ‘It was not abrogated – I forgot it.’ [cf. Mud., 1, p.107; Rāzi, ad Q 87.]

Finding naskh referred to in one verse, and forgetting in another, some had concluded that they were discrete, their opponents insisting that both are referred to in Q 2,106, and therefore associated. There are in this view, two modes:

\[
\begin{align*}
naskh al-ḥukm dāna al-\text{tilāwah} & \quad [Q\ 2,106^a\ mā\ nansakh; \\
naskh al-tilāwah wa-l-ḥukm & \quad [Q\ 87,6–7\ illā\ mā\ ša’ā\ allāh].
\end{align*}
\]

The ‘more precise’ scholars of whom we speak would prefer to appeal to Q 22,52: fa yansakh allāh mā yuqlī al-shaitān thumma yuḥkim allāh āyatih. They criticised Abū ʿUbaid’s reference to the ṭafṣīr of Qur’ān matter which had been revealed to the Prophet, then later withdrawn, so that it is neither recited in the prayer, nor recorded in the mūshaf. The ḥadīths on which he relied had sound isnāds, but he had misinterpreted them. Arguing on the basis of other verses: ‘If We wished, We would remove what We have revealed to you’, [Q 17,86] his critics insisted that this made it inconceivable that Muhammad would be, or had been deprived of anything that had once been revealed to him. Alternatively, his error lay in reading naskh into these hadīths, when, in fact, they merely spoke of his forgetting. We have already seen, however, f. 6b. that it is quite immaterial whether Muhammad forgot, or whether God caused Muhammad to forget – for our author, Muhammad had not behaved other than as God had directed. When God caused him to forget, he forgot. [cf. Nahḥās, p.9; Tabari, 2, p.479.]

3. Following the break caused by the missing folio, Abū ʿUbaid appears to have already passed to the third meaning of naskh. That this was the ikṭīṭāb definition, derived from: nasakhtu al-ṭiḥāb, is guaranteed by his referring to Q 45,29 but also, again by Nahḥās’ assurance [p.9] that Abū ʿUbaid mentioned only these three meanings of the term naskh.

f. 9a. The author reminds us of ‘Aṭā’s tafsīr of mā nansakh, based on this same ikṭīṭāb meaning, i.e. ‘to copy’ [reveal]. The degree of scholarly confusion is shown by Nahḥās’ adding: Mujāhid and Qatādah interpreted: aw nansa hā to mean ‘forgetting’ – the interpretation of ibn ʿAbd Allāh. Two further interpretations are reported as from ibn ʿAbd Allāh: mā nansakh = mā narfa; aw nansa hā = We leave it – We do not naskh it.

It has also been reported that some interpreted aw nansa hā to mean: We assign to you the prerogative of abandoning the ruling imposed in a Qur’ān verse. The best interpretation of the Basran reading: aw nansa hā, is: We leave it where it is – We do not naskh it: naskh = copy, reveal; or naskh = replace or suppress [p.9].

Thus, both here, as above, nansa/nansa = We leave it, can coincide in meaning, although non-coincident in sound!

Abū ʿUbaid had isolated two meanings for naskh:

1. naskh al-ḥukm wa-l-tilāwah: i.e. the ‘omission’ from our Qur’ān texts [mūshaf] of ‘verses’ originally revealed. They had subsequently been forgotten by Muhammad (or by the Companions). There occurs no further reference throughout his work to this supposed mode of naskh. The author had noted that it is properly of interest solely to exegetes.

2. naskh al-ḥukm dāna al-tilāwah: the alteration of the ruling of a Qur’ān verse, despite the survival of the wording of the verse in the mūshaf. The formula applies also to the alteration of the ruling of a sunna, despite the survival of the wording of the sunna in the Ḥadīth. The naskh of Qur’ān rulings, or of Sunna rulings, is the subject of the remaining chapters of this book.

Similarly, Tabari [v.2, p.479] seemed not to grasp the significance of the proposed reading: mā nansakh: aw nansa‘. For him, nansa‘, meaning ta’khir, was tantamount to nansa, meaning not to naskh, that is, not to replace. Tabari isolated from the one clause: mā nansakh min āyah two phenomena: the alteration of the ruling and the preservation of the original wording; and the alteration of the ruling with the (subsequent) suppression of the wording.
Having divided the Qurʾān revelations roughly into the Meccan and Medinan periods, the Islamic scholars agreed that no instance of naskh al-ḥakm dīna al-tilāwah affected the Meccan revelations. Replacement of rulings is Medinan. Thus, the earliest instance of this type of naskh is dated to the period after the Ḥejirah. The first alteration of a Qurʾān ruling was that concerned with the direction of prayer, the qiblah. The ibn ‘Abbās ḥadīth implies that the choice of qiblah had at first been delegated to the Prophet who had chosen to pray facing the Temple at Jerusalem. Later, God imposed upon the Muslims the direction of the Meccan Haram, as a test of the obedience of Muḥammad’s followers. It is not here stated whether this is to be regarded as an instance of the naskh of the Qurʾān by the Qurʾān, or of an allegedly Qurʾān-based sunna by the Qurʾān. The Abū ‘Ubayd ḥadīth is based on the ‘Atā’ Khurāsānī riwāyah; the Nahḥās ḥadīth on the ‘Alī b. abī Talhah transmission. Abū ‘Ubayd has: to distinguish the people of certainty from the people of doubt and uncertainty: al-shakk wa-l-raibah. Nahḥās has: to distinguish the people of certainty from the people of shirk. He comments: shirk here means: shakk wa-l-raibah [p.14]. The Nahḥās ḥadīth is much longer and is almost a meld of the ibn ‘Abbās and Barrā’ ḥadīths which in Abū ‘Ubayd are separate. Barrā’ the Jerusalem qiblah lasted 16 or 17 months, ibn ‘Abbās: When he transferred to Medina, the majority of whose inhabitants were Jews, God ordered him to pray facing Jerusalem. To the delight of the Jews, he did so for something above ten months . . . The Prophet would have preferred the qiblah of Abraham, and kept praying to God and looking skyward. Following the change, the Jews said, ‘What has turned them from the qiblah they have been following?’ cf. with this Nahḥās version Abū ‘Ubayd’s laconic remark: the ‘thoughtless’ [ṣufahā’] Q 2.142, are the Jews. Ḥibatullāh [p.12–3]: Qatadah, Daḥḥāk and ‘others’ reported that he prayed towards Jerusalem for about seventeen months; Qatadah said 18 months; Ibrāhīm al-Ḥarrānī said 13 months. Nahḥās [p.14] Zuhri – ‘Abdul Raḥmān b. ‘Abdullāh b. Ka’b b. Mālik: The qiblah was changed to the Ka’bah in Jumāda 2 A.H.; ibn Iṣḥāq said, ‘in Ṭabar’; Wāqidi said, ‘in mid-Sha’ban.’ The Prophet arrived at Medina in Rabi’ 1, i.e. 16 months before Jumāda 2 – the period mentioned by ibn ‘Abbās. According to the ibn ‘Abbās report, it was God Who had imposed the Jerusalem qiblah, then abrogated it. Others held that God abrogated the act of the Prophet who imitated the sunna of the previous prophets until informed that that had been abrogated; yet others said that Q 2.115 was here abrogated by Q 2.144. This last view is mentioned also by Ḥibatullāh [p.12]. He also, however, mentions that some people argued that Q 2.115 was God’s response to the question ‘What has turned them from the qiblah they have [hitherto] been following?’ – after the change of qiblah; cf. f. 10a, the ḥadīth from Barrā’.

Resistance to any suggestion that any of Muḥammad’s Sunna was mere borrowing from the Jews of Medina is represented in the Muḥājir-ibn ‘Abbās ḥadīth [Nahḥās, p.14]: While still in Mecca, Muḥammad faced Jerusalem, placing the Ka’bā between himself and the Temple. He continued praying towards Jerusalem for 16 months after transferring to Medina . . .

This ‘facing towards Jerusalem’ is nowhere mentioned in the Qurʾān which [Q 2.142] merely rationalises a change of direction. We have no information on what was that direction here said to have been abandoned. All mention of Jerusalem and the Temple is mere exegetical guesswork.

ff. 11a–14a. Instances of ‘naskh’ in the Sunna relating to ritual prayer In this section, the introduction of regulation ibīda’ān is treated as change, and all change is naskh. The earlier situation had been one of non-regulation. This indicates a rather loose use of the term naskh which, in the hands of Shāfiʿī, was already a precise technical term. [Ris., p.122.]

Adhān: iqāmah; al-i’timām bi-l-imām; al-qada’ are the four aspects of ritual prayer treated in a single compendious report from a single Companion, Muʿādh b. Jabal. The ḥadīth is marfūʿ and betrays part of its purpose in attributing to the Prophet the commendation of ‘the sunna of Muʿādh’. f. 12a.

1. the adhān: ‘Abdullāh b. Zaid al-Anṣārī. cf Suyūṭī, Durr, 1, p.175, for Muʿādh’s ḥadīth. In this version, the first change is the qiblah; the
second, that of the adhan. Here, ‘Umar had received the same vision as ‘Abdullāh, but ‘Abdullāh reported his first.

b.M. abwāb al-adhan; Dār., Salāt, fi bad’ al-adhan. Suyūṭī’s third change is the qaḍa of the late-comer. Dār., [al-sunan fi man sukiqa bi bu’d salatihi] “I adhere to the view of the Kufans in this matter of the qaḍa. A man should treat that part of the prayer which he missed as something that has to be ‘made up’.”

DO. 1. p.402: the same is reported as from ‘Alī.

f. 12b. This is already reported as from the Prophet.

Chatting during the ritual prayers
2. Three reports indicate that the ‘earlier’ practice had been suppressed. Two come from ‘Abdullāh b. Mas‘ūd. The first implies change of a sunna by divine inspiration: naskh of the wahy by the wahy. This suggests, but does not state, that the Sunna is revealed: al-wahy ghair al-mathā. The second hadith merely states the common-sense rationalisation: at prayer, one is pre-occupied. The third, f.13b from Zaid b. Arqaḵm, places this change into the category of the naskh of the Sunna by the Qur’ān.

A.D., 1. p.211–2; b.M. 1. p.319; Mus., 2. p.70: ‘The ritual prayer is not an appropriate place for mere profane talk. Prayer consists of divine praise, extolling the greatness of the Creator and reciting the Holy Book.’

Nahḥās [p.17] . . . ‘Abdullāh b. al-Mubārak – Ismā‘īl b. abi Khālid – al-Ḥarīth b. Shībī – Abū ‘Amr al-Shaibānī – Zaid: (approximately what author reports.) Nahḥās: some say qunāt means ‘to stand’; others report from the Prophet that he said it means ‘obedience’. This is borne out by the above hadith whose insād is saḥīh. The meaning of the verse is thus, ‘Stand in obedience to God’s command that you leave off chatting during the ritual prayers.’

cf. Bu., Tafsīr, Q. 2,238; Tir., abwāb al-salāt– both from Abū ‘Amr al-Shaibānī. cf. Fībār, p. 73 where hadīths, assembled as from ‘Uthmān b. Muqṭūn, ‘Ammār b. Yāsīr, report only the ‘earlier situation’: the Prophet returned greeting even when at prayer. Amassed against these reports are others which, unlike them, are neither mursal nor munqat’, but saḥīh. These include the Abū ‘Amr report from Zaid and a report from ibn Mas‘ūd whose second half declares that the Prophet said, ‘God has introduced a new ruling concerning ritual prayer: that you should not engage in profane talk, but only in praising God and that you should stand before him qunāt.’

Abū ‘Ubayd does not attempt to solve the question of whether this represents the naskh of the Sunna by the Qur’ān. He is content merely to cite the conflicting reports, being interested more in the fact than in the precise mechanism of this instance of naskh.

f. 13b. The traveller’s salāt
The scholars are agreed that the Muslim traveller has been granted the concession of abbreviating the ritual prayers. This opinion is allegedly based on Q 4,101: ‘and when you travel in the land, you will incur no guilt in shortening the ritual prayer if you fear that those who reject the Prophet will assault you . . .’ whereas the verse uses the root qšr, abbreviate, the ‘A‘ishah ḥadīth states that the ritual prayer having been originally imposed as consisting of only two rak‘ahs, was later increased to four rak‘ahs for the sedentary, remaining at two rak‘ahs for travellers. Using the Qur’ān’s reference to ‘abbreviation’, ibn ‘Abbās achieved the conclusion that the traveller’s prayer, in that event, consisted, in time of fear, of only one rak‘ah [Umm, 1.159]. Abū ‘Ubayd’s discussion of this question, in its excessive brevity – he does not even refer to the Qur’ān text – contrasts strangely with the intensive and extensive discussion of this very topic in the tafsīr and Ḥadīth works. He appears to have allowed himself to get caught up in the resolution of the conflicting reports on the ‘practice’ of ‘A‘ishah and of ‘Uthmān.

ff. 13b–14a. ‘A‘ishah’s ta‘wil is mentioned also by Muslim: as from ibn ‘Uyainah – Zuhri – ‘Urwah – ‘A‘ishah, as given here; and, as given at the end of f. 14a., by Nahḥās [p.77] cf. Nahḥās [p.115]: ‘in my view, there is here neither nāsikh nor mansākh. Those who say that the Prophet’s sunna repealed the ‘fear’ element of Q 4,101 are mistaken . . . The verse does not prohibit the shortening of the prayer in the absence of fear, it permits the shortening of the prayer in the absence of fear, it permits the shortening of the prayer in the presence of fear. Nor does it refer to the number of rak‘ahs, but to the curtailing of the constituent features of the salāt: iqāmah; rukū‘; sujud, etc . . . The majority of the fuqāḥā say that the Qur’ān ruling concerns the traveller’s prayer – two rak‘ahs only, when there is fear. The traveller’s prayer when there is no fear – two rak‘ahs – is the ruling derived, not from the Qur’ān, but from the Sunna.’ [cf. Umm, 1. p.159.] Both sources therefore, the Qur’ān and the Sunna, are thought to have regulated the relevant matters independently one of
The scholars have disputed the naskh of certain verses:

1. Q 4:8: The discussion reflects differing exegeses of the term rızq. Those taking that to refer to 'funds' or 'property', connect this verse with their thinking on the wasīyah. A more primitive tafsīr, taking the term in its most basic sense, discusses the provision of food. The initial hadīths assume that the verse is not mansūkh. This view attributed to: Sa‘īd b. Jubair; ‘Abdah; ‘Ā’ishah, and ‘Abdullāh b. ‘Abdul Rahmān b. abi Bakr.

f. 16a. ‘Partial naskh’ of Q 4:8 is hinted at, possibly referring obliquely to the exclusion of heirs from benefit by wasīyah. Abū Mūsā said to have implemented the apparent ruling of the verse. Mujāhid, also connecting it with the inheritance regulations, considered the ruling valid and commendable.

f. 16b. Hasan, ‘Ikrimah and ibn al-Musaiyab all regarded Q 4:8 as superseded by Q 4’s inheritance regulations.

Abū ‘Ubayd is content to report the differences without seeking either to resolve them, or to express a preference. Naḥḥās mentions three positions on Q 4:8: it is mansūkh; it is muhkam and wājib; it is muhkam but only recommended. To the above names of those who thought it had not been abrogated, he adds those of: ‘Urwa; Mujāhid; ‘Atā; Hasan [!] Zuhr; Yahyā b. Yāmūr and ibn ‘Abbās. Naḥḥās himself prefers the view that the verse commends charitable giving to those attending the division of an estate.

Bu. [4, p.8] produces an ibn ‘Abbās tafsīr to the effect that the verse has not been abrogated.

2. Q 6:141: f. 17a. According to Hasan, the verse refers to šadaqah on cereals and fruit. According to ibn ‘Abbās, it refers to zakāt and is still in force.

f. 17b. Mujāhid harmonises the two views. Abū ‘Ubayd distinguishes: ibn ‘Abbās and Hasan took the verse to refer to zakāt; Mujāhid thought it referred to something other than zakāt – it imposes a further obligation on the Muslims. All three thought the verse still valid.

ff. 17b–18a: Sa‘īd b. Jubair, Abū Ja‘far and ibn ‘Abbās all considered the verse to have been abrogated. Abū Ja‘far puts this into the form of legal tags: zakāt replaced šadaqah; Islamic slaughter replaced all ritual slaughter; Ramadān replaced all fasts.

f. 18b. Abū ‘Ubayd expresses his preference for the view that the verse is muhkamah and is still in force. This is more in conformity with two marjī‘ hadīths which, for him, are the deciding factor. Further, he knows a fatwā from ibn ‘Umar in close agreement with the view transmitted as having been that of the Prophet.

f. 20a. A statement from Sha‘bī as to the meaning of Q 2:177 reinforces Abū ‘Ubayd’s certainty, while the deliberate and conscious
dating of Q 2.177 reported from ibn ‘Abbās who placed its revelation later than that of the inheritance regulations, is finally decisive. The beggar, the destitute and the protégé therefore have a God-given right in the Muslim’s property (f.20b).

Nahhās [p.140] mentions five views on Q 6.141: It was abrogated by the Qur’ān – by the zakāt; it was abrogated by the ‘uslār (introduced in the Sunna); it is not abrogated, but refers to the zakāt itself; it is still valid and refers to something other than the zakāt; it is still valid, but only as a recommendation. Nahhās thinks the verse, which is Meccan, cannot refer to zakāt itself, imposed only at Medina; further, if the reference were to zakāt, the zakāt would have to be paid at the moment of the harvest, which is not the case. zakāt would also be payable on fruit and on all agricultural produce, which is also not the case. zakāt is levied on only four crops: wheat, barley, dates and grapes – that is the Sunna. cf. Amwāl, p.470.


f. 18a. Mujāhid: zakāt abrogated every ṣadaqaḥ mentioned in the Qur’ān. cf. Amwāl, loc. cit. That was not the view of ibn ‘Umar and Abū Hurairah. The Companions are better informed on the tafsir of the Qur’ān and they are to be followed. The views of Tāwūs and Sha’bī (f. 20a) were that there are rights in the Muslim’s property over and above the zakāt; for example, filial piety, charity towards blood-kin, hospitality to guests. There are also duties towards dumb animals.

f. 20b. For the dating of Q. 2.177, cf. Amwāl, p. 358.


ff. 20b–46b. The Fast

The exegetes focused their attention in the first place on two questions: the precise function of the particle kamā; and the identification of ‘those before you’.

Q 2.183: “Fasting is imposed upon you, as fasting was imposed upon those before you . . .”

The widest divisions reign among the commentators. For Jaṣṣāṣ [v. 1, p.202] there is no indication in the kamā of the number of days, the manner or the time of the fast imposed upon ‘those before you’. The

expression is, thus, general and uninformative. If we did know the answer to these two questions, the verse might possibly refer to the manner and the modality of the previous fast, but that knowledge could not be used by us to imitate that fast. Qur’ūb [1, p.472] points out the two possible functions of kamā: it may be merely a conjunction, addressing the fact of the imposition of fasting; or, it may be a relative mā suggesting similarity in the modalities of fasting. Sha’bī and Qatādāh interpreted it as indicating the timing. Ramadān had been imposed upon both the Jews and the Christians, but both had altered its character. Muḥāhid, Ḥasan and ibn ‘Umar stated that Ramadān had been imposed in every pre-Islamic revealed religion – i.e. the fast of one complete month. There is also a marfū‘ transmitted by ibn ‘Umar. Suṣūṭī, [Durr, I, p.172] The Prophet said exactly this. Qaṣṭallānī [3, p.343] the isnād is, however, unsatisfactory.

The comparison is general, referring to the fact of imposition, the number of days, the modalities of the fast in all its aspects. For example, the People of the Book were prohibited from eating, drinking and sexual intercourse during the period of the fast, after they had had the first sleep of the night – some say after the ‘ishā’ prayer. [ibn Ḥayyān, Bahr, 2, p.48]

A comment from Suddi [Qast., loc. cit.] that the ruling of this verse was in conformity with what had been imposed upon the People of the Book indicates the source of much of the exegesis and its attendant ḥadīth evidence in this kamā. The Christians were forbidden to eat, drink and have sexual intercourse during the month’s fast. The same prohibition operated at first in the Muslim fast. Sa‘īd b. Jubair reported that, if one of them slept before breaking his fast, food and women were forbidden until he broke his fast on the following day. That prohibition remains in force in their fast, but has been relaxed in yours [Durr, p.176].

Finally, what establishes the methods by which these ‘facts’ were extracted from the sources is fully illustrated in the ibn ‘Abbās declaration: The fast was imposed upon the Christians, just as it has been imposed upon you. The verification of this statement may be found in the Book of God [Durr, loc. cit.].

Hibatullāh reads the verse as an encomium [p.16]: Some say the reference is to all pre-Islamic religions. God sent no prophet without imposing upon him and his community the fast of the month of Ramadān. All previous communities fell away from belief and only the followers of Muhammad remained firm. Others held that the reference is to the Christians who were forbidden to eat, drink and enjoy sexual intercourse upon breaking the fast if they first fell
asleep. This ruling originally applied to the Muslims, upon whom an additional condition was imposed: if they first fell asleep, or prayed the ‘ishā’ prayer.

f. 21a. The scholars’ knowledge of the details of the ‘previous’ fast and the identity of those upon whom it was imposed had been the result of thoughtful reflection upon the wording of the Qurān’s fasting pericope, and more especially of their extraction of the negatives from the imperatives of Q 2:187: “It is declared lawful that you approach your wives in the nights of the fast . . . God knows that you have heretofore been betraying yourselves, but He has relented and forgiven. Now approach them . . . and eat and drink . . .”

The ībīn ‘Abbās hadīth: the ‘original’ fast had been imposed upon Muhammad and his group. The strict nature of the ‘first’ fast is known by what may be termed asbāb al-nuzūḥ in reverse. Q 2:187 had been revealed ‘to correct’ the behaviour of the first Muslims, and from the contents of that verse, the ‘earlier situation’ can easily be reconstructed.

The very words, “It is declared lawful . . .” show that, until their revelation, it had been unlawful. [Bahār, 2, p. 48] The scholars are agreed that these words indicate naskh. For knowledge of the mansūkh regime, we are in need of some indication, and there is none, other than the comparison stated in: “as fasting was imposed upon those before you.” [Rāzī, 1, p. 69]

The uncertainty as to when the fast re-commences: after the ‘ishā’ [‘aṭamah] prayer, or after the first sleep, results from uncertainty as to the definition of ‘night’ in Q 2:187: “then maintain a complete fast until night.”

Uncertainty as to the meaning of ‘ishā’ is indicated by Zuhair’s report which uses, instead of ‘ishā’ the verb yata‘aškha, i.e. to have supper. [Nasr, 4, 147; Nahhās, p. 24.] Early exegeses are actualised in the reports about ‘Umar: ‘night’ is determined by when one goes to bed; and about Sīrah: night is determined by ‘ishā’, meaning suppertime. Sleep is the limit when both ‘Umar transgresses the ban on sexual intercourse and Sīrah does not transgress the ban on eating and drinking. Their stories represent the different guesses available to the primitive tafsīr of Q 2:187.

f. 21b. The ‘sleep limit’ is lacking in the second hadīth from ībīn ‘Abbās, while the reference to eating lacks specific identification of the persons involved.

The need to define also the moment of the re-commencement of each day’s fast [al-fajr] leads to the lengthy digression concerned with this clause of Q 2:187. The two reports, that from ‘Adī and that from Sahl, are lacking in the studies of Hibbatullāh and Nahhās. These hadīts present superb examples of early exegetes’ gossip, but especially of the extreme atomisation of the Qurān texts for the purposes of their discussion. A literalist interpretation: “until the white thread is distinguishable from the black”, is explained on the basis of quite spurious asbāb showing the predication of the Muslims before the revelation of the two final words of Q 2:187: min al-fajr, which had had to be sent down as an explanatory gloss. (Sahl.)

f. 21b. cf. Bu., 5, 34; 9, 249 which has the same isnād.

f. 22a. cf. Ţab., 3, 512 – also via Mujāhid – The Prophet said, ‘But didn’t I say to you: “min al-fajr”?’


f. 23a. The reference to the ban on sexual intercourse is intrusive in this Sīrah story which concentrates upon the ban on eating and drinking. The detail pref igures the ‘Umar story [f. 23b].

‘Self-betrayal’ appears to have two aspects: action, in ‘Umar’s case; inaction in Sīrah’s case.

According to Hibbatullāh, the ‘Umar story occurred before the Sīrah story and God referred to ‘Umar’s case first (in Q 2:187) since the transgression of the sexual ban was more grievous than the transgression of the ban on eating and drinking. cf. Ţab., 3, 498–99; Durr, 197: Sīrah fell asleep and did not waken until after the Prophet had performed the ‘ishā’. Sīrah then ate and drank, but God forgave them . . . cf. Ţab., p. 503, the report from ‘Ikrimah.

Nahhās [p. 24]: Q 2:187 abrogated Q 2:183: kamā kutiba. (Abū al-‘Aliyah; ‘Aṭā’.) Others say that Q 2:187 abrogated their actions. cf. Ţab., 494: what they had done was Sunna. (ībīn abi Laila.)

Nahhās, the Zuhair riwayah: If a man fell asleep before he had had supper [yata‘aškh] he might not then eat . . .

Abī ‘Ubayd accepts the hadīth as evidence of naskh, but does not commit himself as to what was abrogated – the Qurān verse, or the Sunna. The instances that he has illustrated had derived, not from the Qurān texts, but from the naive exegeses constructed directly from the wording of the verses.

f. 24a-b. The second instance of naskh in the Qurān’s fasting pericope concerned the question of the fidyah. This is the most complex, as it undoubtedly was the most debated aspect of the fasting regulations.
f. 24b. Ibn 'Abd ibn Laila bluntly asserts the *naskh* of the verse.

Ibn 'Abbas: the fast of Ramadan had ‘originally’ been optional. It was first declared obligatory by Q 2.185. Salamah b. al-Akwar, ‘Alqamah, Zuhri are proponents of the same view. (f. 25a-b).

f. 25a. Salamah: cf. Bu., 9.247, ‘the following verse’ is not precisely identified. Tab., 3.423, ‘the following verse’ identified (as here) as Q 2.185. Durr., 178. Bu., 5.90. Tab., 3.424, ‘the following verse’ was, in fact: wa an tas'umtu khairun lakum, (ibn 'Abd ibn Laila).

f. 25b. Zuhri: the *fidyah* had ‘originally’ been a universal concession available to all who could fast.

f. 26a. Zuhri: fasting had originally been optional. Anyone who could manage the fast, whether entirely well or ill, travelling or sedentary could opt out of the fast by providing the *fidyah* of feeding one of the poor. He had no further obligation as against the Ramadan fast.

cf. Tab., 3.422: the Zuhri hadith continues: when God made fasting binding, the physically fit were required to fast – [cf. f. 25b.: the concession of the *fidyah* was suppressed for all those physically capable of fasting.] – [Tab., contd.] the sick and the traveller were [now] required to fast a number of other days, while the *fidyah* remained available to the elderly who cannot manage the fast [cf. f. 26b]. The *naskh* was Q 2.185.

Ibn ‘Abbas deduces the suppression of the *fidyah* e silention: “in the ‘later’ fast, God made no mention of the *fidyah*. It must have been abrogated.” [Tab., 3.422.]

But, cf. Tab., 3.425: Ibn ‘Abbas: Q 2.185 permits only the aged who are physically capable of fasting to continue to proffer the *fidyah*. ibid., 429, 430: Ibn ‘Abbas: Q 2.184 was never abrogated. Since the day it was revealed, it has applied restrictively to the elderly who cannot fast. ibid., p. 432: Ibn ‘Abbas: the *fidyah* remains available solely to those who cannot manage the fast, save with the greatest distress. They shoulder their painful burden: they force themselves. They try to shoulder the burden of fasting, but simply cannot manage it.

f. 26b. ‘Ikrimah read: *yu'tawwqānahu* . . .

f. 27a. Sa'īd b. Jubair read *yu'tawwqānahu* . . .

Mujahid, f. 27b., ibn ‘Abbas read it thus.

Tab., 3.430: ‘Ikrimah said: those who can manage the fast shall fast; those about whose necks it hangs like a millstone cannot manage the fast. This contrasts *yu'tiqānahu* with *yu'tawwqānahu*.

The reading of: ibn ‘Abbas, ‘Aisah; ‘Ikrimah; Sa‘īd b. Jubair; ‘Ata‘; Mujahid; Tawus; ‘Amr b. Dinār was: *yu'tawwqānahu* – {Bahr., 35, Tab., 430; Bu. 9.246].

‘Ikrimah read *yu'tawwqānahu*, explaining: ‘Were it *yu'tiqānahu*, they would fast.’ [Durr., citing Tabari, but this is lacking in Tabari.]

Nahhas [p.22] argues the *naskh* of Q 2.184 on the strength of the wording of the verse, and the words of two of the Companions: ibn ‘Abbas and Salamah.

Bahr [p.35]: It has also been suggested that the words: *wa 'alā alladhih yuyiqāna* referred to those who, although sick, were yet still capable of fasting. They were presented with the choice between abandoning the fast and providing the *fidyah*, and completing the fast. That choice was then abrogated by Q 2.185.

Note: Q 2.184: *wa 'alā alladhih yu'tiqānahu* uses the particle ‘*alā*, the particle of imposition, as opposed to the particle implying concession, *li*.

Further, since God says: *wa 'alā alladhih yu'tiqānahu*, it is clear that both the variant readings proposed and the alternative proposal to re-introduce the ‘missing’ negative: *wa 'alā alladhih fi'l* yu'tiqānahu are parallel flights from the existing wording which was simply incomprehensible to the exeges. An alternative interpretation is suggested by Suddi: “and incumbent upon those who [in the past were] capable of fasting, [but who have now become by reason of their great age and fast-failing physical powers incapable of fasting] the *fidyah* . . .” [Tab., 3.427].

Some dismissed the variant reading as no reading. It was merely a *tafsīr*. [Bahr, loc. cit.]

f. 27b. What is recorded in the *musḥafs* of the people of the Hijaz, ‘Iraq, Syria and other lands is: *wa 'alā alladhih yu'tiqānahu*. In that event, the verse can be nothing other than *mansūkḥah*, as we have already reported from: ibn ‘Abbas, Salamah, ibn abi Laila, ‘Alqamah b. Qais and ibn Shihab. The reading of the entire body of Muslims is: *yu'tiqānahu*. That is what is found in their *musḥafs*, and that is the reading which none may question, given its transmission generation after generation. [Tab., 3.418.]

As for *yu'tawwqānahu*, that is a reading at variance with what we find in the *musḥafs* of the Muslims. It is simply not permitted to anyone among the Muslims to pit his *ra'y* against what all of the
Thus, whereas the Qur’an mentioned the obligation of those who fast ṣawm ṣawm, the bulk of the scholarly discussions have centred upon defining the obligation of those who cannot fast. This class was extended beyond the aged to accommodate other groups of persons who might be unable to manage the fast of Ramadān. The verse is abrogated – but only partially, for the mention of the fidyah represents a ruling which continued to be acknowledged in the Fiqh.

Bu., Tafsīr, Q 2,184: As for the elderly who cannot fast, Anas b. Malik reportedly fed one poor man bread and meat every day he broke the fast in his old age.

Ibn Kathīr, 1, p.215: When Anas became too weak to fast, he prepared a dish of ṣarīd, invited thirty of the poor and fed them.

Tab., 3, p.422: ‘Aṭā‘: ‘Q 2,185 made fasting obligatory for all except the sick and the traveller and aged gentlemen like myself who may provide the fidyah.’

In these ‘historical’ ḥadīths, exegesis is concretised.

f. 28b. In terms of Q 2,184, as repeated in Q 2,185, the sick and the traveller have the choice between fasting during Ramadān, or postponing the fast until they are better able to observe it: fa ʾiddah min ayyāmin ukhar . . . Those who say that the sick and the traveller who are unable to fast, without acute distress, are obliged to break the fast and ‘make it up’ when they are able, apply the expression: wa ʾalā alladhiḥ yuṭiqūnahu to those sick and travellers who are, nevertheless, well able to observe the fast, but who choose not to do so. If these people decide to break the fast, they are required to provide the fidyah. [Rāzī, p.79.]

Ṭabarī reports the view that the sick are obliged to break the fast, and that any traveller who observes the fast must repeat the fast on his arrival. The obligation is: ʾiddah min ayyāmin ukhar. The first of these two extreme views he attributes to: ibn ʿAbbās and Ḥuṣayn; the second to: ibn ʿUmar, Abū Hurairah and ʿUrwhah. Sālim reports that ibn ʿUmar never fasted on a journey; ʿUrwhah reports that ‘A’isha invariably fasted on a journey.

[Tab., pp.465–6.] Q 2,185 closes with the expressions: “God desires for you the easy path, He does not desire for you the difficult path,” and ibn ʿAbbās held that the easy path means: breaking the fast on a journey; the difficult path means observing the fast on a journey. Thus, what God desires, He commands. [Tab., p.475.]

The Companions, Successors and ʿuṣūrat agreed that the traveller may fast, if he chooses, and does not have to repeat the fast on his
arrival. That is because there is in wa man kana minkum maridan aw `abi safar an omission: [fa aftar] – fa `iddah nun aw'ammin takh. Thus, if the traveller breaks his fast, he must `make it up' later. That is a concession [rukhsah] to the traveller.

In addition to the personalities spoken of above by Tabari, ibn Hayyân adds as from `Abdul Rahman b. `Awf: He who fasts on a journey is as bad as he who neglects to fast when settled at home.

The extreme view that the traveller cannot observe a valid fast, his obligation being to break the fast, was favoured by the Zâhirî – i.e. by scholars who disdain appeal to the assumption of interpolation [haydîr]. But, it had been `soundly' established on the basis of widespread hadith reports from: Abû al-Dardà; Salamah b. al-Muhammad; Abu Sa`îd al-Khudri; Jabir b. `Abdullâh; Anas b. Mâlik and ibn `Abbâs that the Prophet fasted while travelling. It is also reported from him that he said that the traveller is free to choose whether to fast or not. [Bahîr, p.34.]

f. 29a. The hadith of Hamzah b. `Amr al-Aslâmî [see above line]. Among the opponents of fasting while travelling, ibn Hajar names Zuhri and İbrahim [F.B. 5, p.86]. The Hamzah hadith comes via two ḥarîqahs: as reported by `A`ishah. Bu., Şawm; Mus., Şawm; b.M. Şawm; 'Ir., Şawm; Dâr., Şawm.

Mâlik, Şawm; Ta'y., Şawm; Muw. Shaib., Şawm; Mus., loc. cit., all report without mentioning `A`ishah.

Abû `Ubayd knows both ḥarîqahs [f. 29a.] ibn Daqîq al-`Id noted that Hamzah did not specifically refer to Ramadân, ibn Hajar counters this with two comments: Mus., mentions that to break the fast was, in the Prophet's words a rukhsah. That word implies that the discussion concerned an obligatory fast. [cf. Mus., 3,145.] Secondly, in A.D.'s version, Hamzah specifically mentions Ramadân. [A.D. 1,377; F.B. 5, p.82.] Certain ibn `Umar hadiths have been set up to counter the Hamzah-Prophet hadith: 'I prefer to break the fast when travelling in Ramadân to observing it. Breaking the fast is a ṣadâqa that God has granted His creatures.'

'It is a rukhsah granted from Heaven – reject it at your peril.' [cf. above, p.74 the travel-prayer is a rukhsah.]

'If you gave alms to some man and he rejected your ṣadâqa would you not be angry?'

A man consulted ibn `Umar, saying, 'I am able to fast when travelling.' ibn `Umar now reports that he had heard the Prophet say, 'He who does not accept this divine rukhsah incurs guilt equivalent in

mass to the volume of Mt. 'Arâfah.' [Durr, p.193.] The word here translated 'guilt' is ilâm.

In the Mus., version of the Hamzah-Prophet exchange: Hamzah said, 'I find I have the strength to fast when travelling; would I thereby incur any guilt?' [junâh] The Prophet replied, 'It is a concession [rukhsah] from God. Whoever accepts it, well and good; whoever prefers to fast, incurs no guilt.' This, in turn, suggests the claim that the Prophet would have regarded the khair in: wa an tasamua khair, as Substantive, rather than Elative. The dispute really concerns the exegesis of this one phrase.

A man consulted al-Qâsim b. Muhammad. 'We travel in winter-time during Ramadân, and would find it easier to fast then than break the fast and have to `make it up' in warmer weather.' al-Qâsim as [as `Umar b. 'Abdul â Aziz is also said to have done] recited: "God desires for you the easy path; He does not desire for you the difficult path." [Tab., 468-9]

f. 29b–30a. The ibn `Abbâs hadith dating the Prophet's conduct to the Year of the Conquest. The hadith was used too by Mâlik [loc. cit.] and Suyûti [Tanwîr] quotes al-Qâbisi: This is a Companion-mursal, since ibn `Abbâs was not present on this expedition, but was at home with his parents in Mecca. In the Bu., version, we do not find the expression: The Companions would adhere to the latest-known act of the Prophet. It is present in the Mus., versions, where questions as to precisely whose these words were are raised. It was thought reasonable to suppose that they went no further back than Zuhri. The Companions would have taken the Prophet's latest ascertainment as their guide: it would have been regarded as the muhkam, the násikh of his earlier acts. But, since Abû Sa`îd is reported [Mus., 3,144] as averring that they had fasted on a later expedition with the Prophet, the scholars have not accepted Zuhri's view that fasting while travelling had definitely been abandoned. [F.B.5, p.84]

Similarly, Suyûti can report via al-Khaṭîb from Mu`âdh: 'The Prophet fasted following the revelation of the concession to break the fast when travelling.' [Durr, p.190.] On this question, abrogation was not ascertained. The matter, it was thought, must therefore be left to the discretion of the individual Muslim. It is optional.

f. 30b. The Prophet both fasted and broke the fast when travelling. The continuing pressure from: "and that you fast is khair" [more meritorious] is visible in the report of Abû `Irâd: the Prophet fasted as was to be expected.

f. 31a. The Abû Sa`îd report: 'Those who were not fasting did not
criticise those who were; nor did those who were fasting criticise those who were not;’ is occasionally reversed. ‘Those men who were fasting did not criticise those who were not, nor did those who were not criticise those who were.’ [f. 31b.]

The linkage between the questions of prayer and fasting when travelling is shown in ‘A’ishah’s statement: ‘The Prophet, when travelling, did both: he fasted, and broke the fast; he completed and he shortened the ritual prayers.’ [Durr, 195]

f. 32b. The matter is thus wholly discretionary, and the negative statements reported from the Prophet can be satisfactorily resolved by ta’wil [re-interpretation]. wa an tasāmin khair lakum: the scholars nevertheless, following agreement that the matter was optional, further divided on the question of which course was the more meritorious [khair]. The exegesis of this one word underlay the appearance of a number of ḥadīths, the most celebrated being the Prophet’s saying: laisā min al-bIRR al-ṣiyām [an taṣāmin] fi al-safar. Tab., p.468: Sa’id b. Jubair, Mujāhid and Ibnāhlim held that to fast when travelling was more meritorious.

f. 32b. To continue to fast when travelling might so weaken a man that he is rendered incapable of correctly performing his other religious obligations. Abū Sa’id reports that the Prophet told his army that to continue to fast would weaken their military capability. [Mus., 3.144.]

Jābār reports Muhammad’s impatience with those who persisted in fasting after he himself had broken his fast: ‘Those are disobeying their Prophet.’ In a second version, Muhammad was informed that the fast was proving a serious hardship to his troops who were waiting to see what he would do. He therefore decided to break his fast. [Muw. Shaib., p.126.] Mālik and Abū Ḥanifah thought that to fast was preferable. The Mālikis, distinguishing military expeditions from other journeys, preferred that, on the former, the fast be broken, on the basis of the Prophet’s words, ‘In the morning, you will be confronted by the enemy.’

Shāfi’i thought that to break the fast when travelling was the more meritorious, on account of the Prophet’s words: laisā min al-bIRR al-ṣawm fi al-safar. Further, the latest recorded act of the Prophet was to break the fast. The correct view is that to observe the fast is the more meritorious act, given the verse: wa an taṣāmin khair.

The Prophet broke his fast on one journey, but that was because he had been informed that the people were enduring hardship. The scholars are not divided in the view that he who experiences grave difficulty in observing the fast may break his fast. [ibn al-‘Arabī, Ahkām, 1.80–1.]

Anās b. Malik declared: ‘The more meritorious course is to observe the fast. The concession to break the fast was revealed in the days when we were still poor, and half-starved most of the time.’ [Bahīr, 34.]

That the more meritorious course was to break the fast was the view of Awzā’i, Ahmad, and Ishāq, as it had been the view also of Abū ‘Umar, ibn ‘Abbas, ibn al-Musayyab, Sha‘bī, ‘Umar b. ‘Abdul ‘Azīz, Mujāhid and Qatīdah, although ‘Umar and Mujāhid are reported as having said that the better course was whichever a man found the easier.

We have heard the extreme view expressed by some of the Companions: he whofasts on a journey shall repeat the fast on his arrival. His fast was regarded as quite invalid. ‘Abdul Raḥmān b. ‘Awf is alleged to have said: ‘He whofasts on a journey is as bad as he who fails to observe the fast at home.’ [Ibid.] We find this dictum attributed to the Prophet himself. [Tab., 3.463]

f. 33b. The appeal to Q 2.185: “God desires for you the easy path. He does not desire for you the difficult path,” underlies Abū ‘Ubayd’s rationalisation of the Prophet’s reported attitude, as it was said to have prompted the view of ‘Umar II. Those who insisted that the traveller could not validly observe a fast were those who rejected the suggestion that there is an ‘omission’ in Q 2.184 [ja’ atfār]. His obligation was clear: ‘iddah min ayyāmin ukhar. [Qurt., 286.]

f. 33b. The deciding factor for Abū ‘Ubayd lay in the words: alladhīn yuṭiqūnahu [Q 2.184] and that that expression determined the view of the fuqahā’ is clear from Tirmidhi’s reports. [p.231] This entire wide-ranging debate had sprung from the exegeses of the different sections of the Qur’ān’s far from clearly worded fasting pericope. The scholars differed because they had seized on different fragmentary expressions in Q 2.184–5. The choice determined also their selection of evidentiary ḥadiths, the ‘debris’ of earlier similar exegetical differences. Tafsîr thus begets ḥadiths. Ḥadiths, being Sunna, are next exploited to ‘confirm’ tafsîr.

ja ‘iddah min ayyāmin ukhar;
wa ‘alā alladhīn yuṭiqūnahu fiḍayat ta‘ām miskin.

The Muslim who breaks the fast of Ramaḍān for good reason must fast an equivalent number of days when he can. But those who break the fast since it is simply beyond their physical powers cannot be expected ever to ‘make up’ the fast.
f. 34b. Zuhri had said that the *fidyah*—abrogated for all able-bodied Muslims—had remained available to the aged whose incapacity has become permanent.

Ja man ta†awwa† kha†ran: cf. supra, ff. 26a–b.

Zuhri: to fast and provide the *fidyah* is *khair*.

Tawus: to feed two poor men is *khair*.

Zuhri: to fast is better than to provide the *fidyah*.

Ou†.: both *khairs* are Elatives. [p.290.]

Durr: ibn ‘Abbās: *fidyah* *ta‘ām miskin [wāhid].

Ja man ta†awwa†† kha†ran—feeding two poor men.

‘Ikramah: to feed two poor men. Anas fed four poor men every day.

Mujahid: to feed the poor man a whole *sār* instead of just half a *sār*. [p. 179.]

Mujahid: to add to the number of the poor [Baḥr, p.36]. This is then reported from ibn ‘Abbās, Tāwūs, ‘Aṭā’ and Suddī [cf. Naḥḥās, p.23].

f. 35b. Qais b. al-Sā‘ib: a man may break the fast of Ramaḍān on undertaking to feed one poor man daily. But, feed, on my behalf, two poor men daily [DO. no. 18] with the same upper *isnād* as here.

Qais: Two *mudds* daily suffice— but give in my name three *mudds*. [Jaṣṣāṣ, p.210.]


Ḥijāz: 1 *mudd* = ¼ *sār* = 1, ⅓ pints. 1 *sār* = 5, ⅓ pts.

Irāq: 2 mudds = ½ *sār* = 4 pts. 1 *sār* = 8 pts. [Lane, s.v.]

Apart from confusion over the measures, disputes appear to have resulted from differing approaches to: *ta†awwa††*.

The Q 2.184 *fidyah* provision had been abrogated, but only for the able-bodied, sedentary Muslim. Zuhri alleged that it had remained in force for the aged. [Naw., p.134]: the *fidyah* verse had been only partially abrogated.

Naḥḥās: Just as Q 4.15, although abrogated, laid down the ruling that is to be applied still in the *Fiqḥ* in the matter of the number of witnesses required in cases of adultery, so also the *fidyah* provision remains operative in the case of the elderly. The wording of both verses remains in the *mushaf*. [p.23.]

f. 38a. Rabi‘ah and Mālik thought the aged who could not fast incurred no penalty, although Mālik hoped that they would provide the *fidyah*. Anas, ibn ‘Abbās, Qais b. al-Sā‘ib and Abū Hurairah thought the aged should provide the *fidyah*. That is also the view of Shāfī‘ī for the aged are neither sick nor journeying. [cf. Naḥḥās, loc. cit.]

cf. Muw., Māl., p.224: I do not think the *fidyah* is incumbent upon the aged, although I prefer that they offer it, if they can. [Mālik’s comment upon the Anas ḥadīth.]

If Ramaḍān comes around and a man, who had not fasted the previous Ramaḍān for good cause, has not yet ‘made up’ his previous year’s fast, although well able in the meantime to do so, he should observe the new Ramaḍān and provide the *fidyah* in respect of the unfulfilled previous fast. [Baḥr, 36.]

cf. Q 2.184: *wa ‘alā alladhīn yu†iqūnahu*, which does read like a dual imposition.

f. 38b. Their differences reflect their different *ta‘wils*. Those who say the aged have no obligation, consider that God imposed the fast on those capable of fasting. They had, before *naskh*, the choice: to fast, or pay the *fidyah*. After *naskh*, the *fidyah* was withdrawn and they were required to fast. Q 2.185 is silent on those who are incapable of fasting—they therefore have no obligation.

These scholars drew the analogy between fasting, *zakāt* and *Ḥajj*, none of which is obligatory for those lacking the means. The others argued that fasting does not resemble either *zakāt* or *Ḥajj*. The analogy therefore collapses. God has revealed a substitute for fasting which He imposed upon those not able to fast—the *fidyah*. This is analogous to *tawāmmum*, the substitute for *wudu‘* where water is unavailable; or the gestures which are the substitute for *ruki‘* and *ṣuṣūl* in the event of physical disability. No substitute was ever appointed for either *zakāt* or *Ḥajj* which ought, therefore, to form the basis of no analogy. This explains why Sufyān and the ‘Irāqīs consider that the elderly who do not observe the fast must provide the *fidyah*.

f. 39b. Jaṣṣāṣ [p.208] Abū Ḥanīfa, Abū Yūsuf, Muḥammad and Zufar all said that the elderly who are unable to fast should break their fast and provide ½ *sār*’. If a man breaks his fast owing to illness, and does not recover before death, he has no fast obligation. His obligation was a number of alternative days. Since he was never capable of fasting the number of other days, he has no further obligation. The elderly are not expected ever to be able to fast the other days. That cannot, therefore, be their obligation. Wherefore, their obligation must be the *fidyah*.

The referent of the ‘*hu*’ of *yu†iqūnahu* was disputed. Naw., [p.134] Ḥasan and others thought the ‘*hu*’ referred to the *fidyah*, not to the fast.
Durr, [p.178] Sha'bi: ‘The rich used to feed the poor, leaving the fasting to the less well-off,’ i.e., the rich could afford the *fidyah*.

Umm, 3.88: applies the ‘lū‘ to both fast and *fidyah*: The elderly who cannot fast, but can afford the *fidyah*, should provide it. This is based both on reports from Companions, and on the analogy with inability to perform the *Hajj*. In the latter case, proxy performance is valid.

[Proxy fasting is impermissible, there having been instituted a substitute for fasting – the *fidyah*.]

f. 39b. Pregnant women and nursing mothers.

Scholars, both ancient and modern have disagreed. Three differing analogies have been proposed: their obligation is the same as that of the elderly; it is the same as that of the sick; it is the same as that of the traveller.

1. They should break the fast, pay the *fidyah* and observe the fast when they recover.


2. They should break the fast, pay the *fidyah*, but there is no obligation on them to ‘make up’ the fast.

f. 41a. Attributed to ibn ‘Abbās and to ‘those who accept his reading [yāttawwāqātumah] and his fatwā.’

Tab., [p.428]: ibn ‘Abbās said to an *umm walad* of his, who was either pregnant or nursing an infant: ‘You are in the category of those who simply cannot manage the fast. Feed the poor and break your fast. There is no need for you to ‘make up’ the fast later.’ [qādā‘]

Durr, [p.179 from DQ (p.207)]: this is reported from a second ‘Abdullāh – [ibn ‘Umar] ibid. and from Saīd b. Jubair.


3. They should break their fast and ‘make it up’ later.

f. 41b. Attributed to Ibrāhīm: Ḥasan; ‘Āśa; Daḥḥāk.

Nahḥās adds: and the Medinees.

f. 42a-b. The differences arose from their differing *ta‘wil*.

Qiyās 1 was based on precautionary application of two verses: *fidyah* *ta‘ām miskin* and fa ‘iddah min ayyāmin ukhar.

Qiyās 2 was based on the consideration that these women are neither sick nor travelling, to which categories the obligation ‘to make up’ the fast pertains, ibn ‘Abbas ta‘wil [and those of ‘Ikrimah, Sa‘īd b. Judair and Mujāhid] reflected his reading. [f. 42b.]

Qiyās 3 was based on the proposition that both pregnancy and breast-feeding are quasi-indispositions. This was the basis of the view of Sufyān and the ‘Irāqīs, and of Mālik and the Hijāzīs, Awwālī and the Syrians.

Bahr [p.36]: Shāfī took the view that they were both covered by the provision of Q 2.184 and, in addition, by the analogy with the elderly. They thus both pay the *fidyah* and ‘make up’ the fast. Abū Ḥanīfah pointed out that the aged do not have ‘to make up’ the fast, whereas these women must. If, in addition, we insisted that they also provide the *fidyah*, we should have imposed upon them two substitutes for one infringement. ibn ‘Umar and Ḥasan said the same.

Umm, 3.88. Shāfī concentrates on ability to fast: If capable of fasting, the two women must fast, if they have no fears for the safety of the infant. If they do fear for him, they should break the fast, pay the *fidyah* and ‘make up’ the fast when that fear recedes. If they cannot manage the fast, they are analogous to the sick – they break their fast and later, on recovering, ‘make up’ the fast. We insist on the *fidyah* on the basis of ḥadīths. Besides, they break their fast not on their own account, but on that of another. Tab., [p.432] ibn ‘Abbās: Q 2.184 refers to the aged who cannot fast, to pregnant women, nursing mothers and to the chronically sick. [cf. Durr, p.177.]

Durr, p.179: Hasan said that the nursing mother should break her fast, if she has any fear, and pay the *fidyah*. The pregnant woman who fears that fasting will affect her own health should break the fast and ‘make it up’. She is analogous to the sick.

Mud., [p.210]: The nursing mother, fearing for the infant, should break the fast, pay the *fidyah* and fast later. The pregnant do not pay the *fidyah*, they merely fast later. The pregnant are sick, the nursing mother is not sick. Mālik knew and admired the ibn ‘Umar *fatwā* to the effect that the pregnant should provide the *fidyah*, but Mālik did not make that *fatwā* the basis of his view, for he took pregnancy to be a form of illness, and for the sick, the Qur‘ān has made a clear ruling. Thus, whereas ibn ‘Umar had relied upon one clause in Q 2.184: *wa ala alladhin yuṭiqūnahu fidyah*, Mālik had relied on the other clause: fa ‘iddah min ayyāmin ukhar.

Qurṭ., p.289: among those who were of the view that the pregnant woman and the nursing mother might break the fast without incurring
the *fidyah*, since they are in the same class as the sick who break the fast and fast later, were: Hasan; ‘Aṭā‘; Dāhak; Ibrāhīm; Zuhri; Rabī‘ah; Azza‘; *ašhab al-rā‘y*; Abū ‘Ubaid and Abū Thawr. Malik applied this ruling to the pregnant, but required of the nursing mother both the *fidyah* and the ‘making up’ of the fast. Shafi‘i and Ahmad applied both *fidyah* and *qada‘* to both women.

f. 43a. That pregnancy and nursing are analogous to illness and that the women involved are, in terms of the ruling, analogous to the sick and the traveller was the view held by: Sufyān and the ‘Irāqis, Malik and the Hijāriz, Azza‘i and the Syrians, in addition to the Successors listed.

f. 44a. The matter is clinched for Abū ‘Ubaid by one solitary *marfū‘ hadith* conveying the Prophet’s instruction: This Anas b. Malik al-Ka‘bī is not the celebrated *ṣaḥābī*, but an obscure person from whom only this one *hadith* from the Prophet is known. Abū ‘Ubaid nevertheless defers to it. [Tir. p.236] In the view of the scholars, this *hadith* provides the ruling for these women.

Tab., relays the *hadith* via Sufyān from Ayyūb. [p.435]

Nas. (as here) via Ismā‘īl b. ‘Uliaiyah, with, however, in this version, no mention of these women. He also knows the Tab. version, and both he records. The *hadith* from this man, and a *hadith* from an Abū Umaiyah al-Damārī are given. Both come down through Sufyān b. ‘Uyainah, via Ayyūb. They branch off into one line through ibn ‘Uliaiyah and another through an ‘Abdullāh. A further line, through Sufyān Thawrī [as here, via Ayyūb] provides a *hadith* similar to Abū ‘Ubaid’s.

Nas. knows the Abū Umaiyah version through numerous *ismāds*. In none of them are women mentioned. [Nas., 4, 181] That is also the case with Dār. [1, p.342.]

Malik alone appears to have identified one class of Muslims upon whom lay a dual imposition arising from Q 2.184: *wa ‘alā alladhih yutīqinahu*. [BahR, p.36; Muw., p.225.]

ff. 44b–46b. **The fast of ‘Ashūrah**
Not only has Ramadan itself undergone modification. By its revelation a ‘previous’ fast had been superseded. This Ash‘āth b. Qais-‘Ibn Mas‘ūd exchange reads like a calque upon the preceding Anas-Prophet exchange [f. 43b.] or vice-versa: [cf. Mus., 3, p.149].

f. 45a. The Prophet used to observe the fast of ‘Ashūrah’ before the revelation of Ramadan.

‘A‘ishah: the people of the Jāhiliyyah – [i.e. before Islam] observed the fast of ‘Ashūrah’, and the Prophet observed it.

‘A‘ishah: in the Jāhiliyyah, Quraish observed ‘Ashūrah’ and the Prophet used to observe it in the Jāhiliyyah. When we came to Medina, he continued to observe it and commanded his followers to observe it. Then, when ‘Ramadān’ was imposed, that became the sole obligation and ‘Ashūrah’ became optional [cf. Mus., 3, p.147; Muw., p.279].

f. 45b. ibn ‘Umar: The Prophet said, ‘Quraish observed the ‘Ashūrah’ fast in the Jāhiliyyah; whoever wishes may observe it, or not, as He pleases.’ ibn ‘Umar chose never to observe it, unless it chanced to coincide with an Islamic fast-day. [Dār., 1, p.355.]


f. 46b. Qais b. Sa‘d. Both Qais and Jābir maintain that once ‘Ramadān’ was revealed, they were not forbidden to continue observing ‘Ashūrah’. The ‘A‘ishah-ibn ‘Umar *hadiths* are designed to counter the Ibn ‘Abbās tradition that the Prophet had borrowed the ‘Ashūrah’ observance from the Jews, after the Hejirah. [Mus., 3,149.] Both traditions represent alternative guesses as to the identity of ‘those before you’. cf. F.B. 5,149–50: perhaps Quraish had borrowed ‘Ashūrah’ from those before them.

Abū ‘Ubaid’s interest in the fact of this instance of naskh outweighs his interest in the historical details. The main debate as to the ‘facts’ had apparently not yet begun. cf. Muw., 220; Bu., 3,44; Shafi‘i, *Ikhtilaf*, pp.102–3.

ff. 46b–74b. **Marriage**

Abū ‘Ubaid’s materials have been provided in *hadiths* on the Sunna and on the ta‘wil of the Qur‘ān.

Temporary marriage: *nikāḥ al-mut‘ah.*
al-Rabi‘ b. Sabrah al-Juha‘i. The date. It is not clear which ‘umrah is here intended: that of the year 6–7, i.e. Hudaibiyah is probably ruled out, since the Muslims did not reach Mecca. The fulfilled ‘umrah of the following year is indicated [cf. Hasan’s statement, f. 47b.]

The Sunna materials are very confused as to the date of the authorisation of temporary marriage and of its prohibition. They are equally confused as to who authorised it and who had forbidden it.
Rabi' reports from his father the Prophet's claim that he had authorised mut'ah, and that it was God Who had prohibited it 'until Judgement Day'. That is an instance of the naskh of the Sunna. There occur in this hadith certain quasi-Qur'anic 'reverberations'; cf. Q 2.229; Q 4.20. Both verses refer to the dower passed to the wife in formal Islamic marriage.

The Prophet is said to have countenanced mut'ah 'in the early days of Islam', it having been a pre-Islamic custom; he is said to have permitted it on one of his expeditions, when his Companions were still young; he is reported to have permitted it at the time of the Khai bar raid, or at the time of his 'umrah, or at the time of the Conquest of Mecca, or on the Awtās raid, or the journey to Tabūk, or at the time of the battle of Hunain. This last is a graphic confusion with Khai bar [cf. Nas., 6.126].

f. 47b. Hasan shares with Rabi' the 'umrah dating.

Sabrah's hadith mentions the 'fee': two cloaks. Hasan's mentions the 'stipulated period': three nights.

Bu., nikāh al-mut'ah: Jabir and Salamah b. al-Akwa mention an expedition: the three nights period.


"Ali said: 'The Prophet prohibited both mut'ah and the flesh of domestic donkeys at the time of the Khalīf raid.'

f. 49a. As to the date of the prohibition of mut'ah, total confusion reigns. As to the fact of the prohibition, total unanimity reigns. Mut'ah is forbidden to the Muslims. Ibn 'Abbās would appear to commend the 'practice', while ibn al-Zubair was stern in its denunciation. cf. Mus., 4.133: Zuhri reports from Urwah b. al-Zubair that 'Abdul-lah b. al-Zubair delivered a public address at Mecca: 'There are men whose wits God has confounded, and whose vision He has confused who commend mut'ah.' He was hinting at one man in particular, whom he now summoned. This fellow defied him, claiming that it had been 'practised in the days of the 'leader of the Saints'. 'Abdul-lah told this man that he had sinned against his own soul. He should try practising what he preached, in which case, 'Abdul-lah would have him stoned.

f. 49b. As to what was, in fact, forbidden, and by whom, total confusion re-emerges. The Jāber ḥadith illustrates the entanglement of one Fiqh topic with another, quite unrelated to it. They had practised tamattu in the company of the Prophet. The report illustrates the attribution to the Ṣiraḥ of an action, merely on account of the fact that the Qur'ān legislates for that 'action'. Q 2.196. fa man tamattu . . . 'Umar reminds the Muslims that the revelation of the Qur'ān is now complete. God says [Q 2.196]: Complete the Ḥajj and the 'umrah . . . fa man tamattu bi-l-'umrah ilā al-Ḥajj . . . 'Umar appears to be discussing the mut'ah of the Ḥajj. The rest of this hadith, however, affects to discuss the mut'ah with women. 'Umar regards that as an abomination and he threatens to apply the penalty for illicit sexual conduct [zina] to anyone who practises mut'ah. cf. Mus., 4.131: A man informed Jāber of the alteration between 'Abdullāh b. 'Abbās and 'Abdullāh b. al-Zubair concerning the two mut'ahs. We certainly practised both in the company of the Prophet,' asserts Jāber, 'until 'Umar forbade both.'

b M [1, p.605]: ibn 'Umar reports that when 'Umar ascended to the caliphate, he delivered a public address: 'The Prophet permitted us to engage in mut'ah for three nights. Later, he forbade mut'ah. I shall not hear of any mulaṣṣan person who tamattu, but I will stone him.'

Mus., [4, p.38] relates the Jāber ḥadith from Shu'bah – Qatādah – Abū Naḍrah, as at f. 49a – but his chapter-heading is: the mut'ah of the Ḥajj and the 'umrah!

f. 49b. Shu'bah himself avers that he has transmitted his hadith from three men, only one of whom, Qatādah, adverted to the stoning penalty. We should, therefore, perhaps, excise from the Jāber-'Umar ḥadith all references to women. The expression 'the marriage of these women' and 'who marries a woman for a stipulated [temporary] period' might well have crept into the narrative as a gloss, dislodging an original simple reference to mut'ah – i.e. mut'ah of the Ḥajj.

Nahhas [p.34]: but, as for the report in which 'Umar is supposed to have said, 'If I hear of some man doing it, I will punish him,' it refers to the other mut'ah. One of the two mut'ahs has been prohibited, i.e. the mut'ah with women. That is tantamount to adultery [zina]. The second mut'ah, sc. the mut'ah of the Ḥajj, or faskh, cannot be read into 'Umar's dictum, since God has expressly permitted it, Q 2.196.

f. 50a. ibn 'Umar is in no doubt as to what 'Umar's view of the mut'ah with women would have been.

f. 47a-b. Sabra b. Ma'bad provides one more instance of quasi-Qur'ānic reverberation: In the time of the Prophet, istamatu' with a
woman . . . cf. Q 4.24-5 the verse which regulates Islamic marriage. 

Nahlās [p.105]: Here, the scholars are divided, although those whose word is law have unanimously insisted that mut'ah is prohibited by both the Book of God and the Sunna. It is likewise prohibited on the basis of the teachings of the caliphs, and by 'Ali's setting ibn 'Abbās to rights on this very question. 'Ali said to him, 'You are a man astray. The Prophet of God forbade mut'ah.'

Some scholars said that Q 4.24 refers exclusively to Islamic marriage. God had never sanctioned mut'ah in the Qur'ān. [These were Hasan and Mujahid.]

Others held that mut'ah had once been lawful but was later suppressed by the Word of God in the Qur'ān. [Reported of: Sa`īd b. al-Masaiyab; 'A‘ishah; al-Qāsim b. Muḥammad; Sālim b. 'Abdullāh. This is also attributed to ibn 'Abbās.]

f. 50b. al-Qāsim reports that whenever mut'ah was mentioned, 'A‘ishah would explicitly refer to Q 23.6; Q 70.30. Only Islamic marriage and the right to enjoy one's slave-women occur in the Qur'ān.


His conversation with al-Qāsim – f. 51a.


Mut'ah consists of the man's saying to the woman: 'I wish to marry you for a day or so on condition that you will have to observe no 'iddah [Q 65.1] there will be no mutual rights of inheritance [Q 4.12] no divorce procedure [Q 65.1] and no witnesses.' Nahlās says: i.e. outright adultery [p.106.] ibid. Abū 'Ubaid's view was that mut'ah had been prohibited by both the Qur'ān and the Sunna. [f. 51b.]

No Companion is known to have taken a permissive view of mut'ah, apart from ibn 'Abbās, and he recanted.

f. 52a. The ḥadīth Abū 'Ubaid reports as from ibn 'Abbās may be given a construction other than that he appears to place upon it. He reads it as ibn 'Abbās' resigned acceptance of 'Umar's prohibition of mut'ah. It can also read, however, as ibn 'Abbās' reproof of 'Umar's unthinking impetuousness in banning something which God had

granted out of His solicitude for the Muslims. But for 'Umar's prohibition of mut'ah, none would have to resort to adultery, except those whom, in any case, God had pre-destined to Hellfire. For, ironically, the same hadīth is to be found used against the Sunnī rejection of mut'ah by those who claimed that mut'ah remained a valid Islamic practice. [Rāzi, 10, pp.51-2]

One can see how it is possible to render Q 4.24 into a seeming permission to practice mut'ah, given readiness to subject the verse to the interpolations suggested here by 'Aţā'. The crudity of the Qur'ān's vocabulary aids and abets this kind of ta'wil: 'istamta'tum; njur. But njur is a Qur'ānic cliché for sadaqah or donatio propter nuptias – cf. Q 4.24; 25; Q 5.5 and Q 33.50 which is addressed to the Prophet himself.

In the Salamah b. al-Akwa' report above, it was alleged that the Prophet explained that on the expiry of the three nights' mut'ah, it was open to the partners to negotiate an extension, if they so desired, prolonging the 'stipulated period'.

Nahlās [p.107]: some impudent but unlearned fellows have attempted to foist this kind of ta'wil upon God's words: 'after both sides have agreed the dowry, there is no harm in re-negotiating an increase, on the basis of mutual assent.' [Q 4.24 – cf. Q 4.4 which mentions the possibility of the wife's offering to commute part of the sadaqah the husband had undertaken to provide.]

f. 53a. Tir., [5.48]: ibn 'Abbās said, 'Mut'ah occurred in 'the early days of Islam'. A man would arrive in a strange town where he knew nobody. He would marry a wife for a stipulated period to look after him and his merchandise during his stay. This lasted until the revelation of Q 23.6; Q 70.30.'

ibn abi 'Amrah monastirades with ibn 'Abbās. Mut'ah, in 'the early days of Islam' was permitted only in extrems, like the permission to eat carrion and other prohibited food-stuffs, for the saving of human life.

f. 53b. the satirical song:

1. (Fihār, p.180):

   I said to the elder who had been long imprisoned:
   "My friend, would you like to take advantage of ibn 'Abbās' legal opinion?
   Would you like a tender-limbed companionable young woman
   To entertain you until the men return?"

2. Qurṭubī, 5, p.153:
2a. I say to my travelling companions when we have been long on the road:

“My friend, would you like to take advantage of ibn ‘Abbâs’ legal opinion?
Would you like a soft, plump, tender and supple-limbed young companion
To entertain you until the men come back?”

2b. The traditionist said after a long study session:

“My friend, would you like to take advantage of ibn ‘Abbâs’ legal opinion?”

Ibn ‘Abbâs has now appropriated the ibn abi ‘Amrah rationalisation.

Ibid. [p.178]: ‘Ali reputedly said: ‘Mut’ah was once permitted – but only to those who could not raise the dowry.’ [What is still permitted to those who cannot raise the dowry for marriage with a free woman, is marriage with a slavegirl.]

f. 54a. The entire body of Sunni scholars is unanimously of the view that mut’ah is in no circumstances permitted. It has been prohibited once and for all.

The scholars needed never to have conceded that mut’ah had ever been permitted to a Muslim, but for their respect for the hadîths, which in turn, owed their existence solely to exegetical pedantry in the handling of the term ujjur of Q 4:24.

f. 54b. A kind of marriage, once prohibited, that became lawful is marriage with the women of the People of the Book. The entire discussion is exegetical, and centred upon the meaning of the term mushrik in Q 2.221: “Do not marry [?] mushrik females until they become believers.”

Those who take the word to mean simply non-Muslim, could argue that Q 5.5 ‘now’ excepted kitâbiyyât. For some of the scholars, ‘exception’ is tantamount to naskh, being ‘change’.

f. 55a. The author exhibits his ever lively interest in qirâ’ât, although, here, he is not sure whether this is a variant reading, or just a transmitter’s error.

Among those he can list as regarding this as an instance of the naskh of the Qur’ân by the Qur’ân, were: ibn ‘Abbâs; Awzâ‘î; Sufyân; Mâlik, and several Companions and Successors. Ibn ‘Umar, on the contrary, taking the extreme view, did not think that the ‘ban’ on marriage between Muslims and non-Muslim females had ever been relaxed. This represents a very selective tafsîr, since food, [which he accepts] and marriage [which he rejects] are mentioned in a single verse, Q 5.5. This insistence upon the Q 2.221 ruling marks a narrowing attitude on the part of some Muslims towards the Scriptures.

f. 56b. ‘One verse permits it; a second verse prohibits it.’ To determine an instance of naskh, the scholar must be able to determine which of the two verses is the later, ibn ‘Umar did not have this information, and exercised ihtiyât.

56b. What was the conduct of the Companions and caliphs? ‘Uthmân, who was already married to Muslim ladies, took the Christian Nâ’ilah as his wife. Some residual anti-kitâb animus is evident in the acid comment of Sha’bî’s on al-Zubair’s marriages. If he is not the man intended by Sha’bî in his comment that ‘one of the six’ [members of the shûrà] had married a Jewess, Abû ‘Ubad states that it might have been Talhah, of whom that is known. Hudhaifa had also married a Jewess. Neither Hasan nor Ibrâhim, nor Sha’bî saw anything amiss in marrying kitâbî women.

f. 58a. A Muslim might even marry his full quota of four wives from the kitâbis, in Hasan’s view.

That we are dealing simply with exegesis, is made clear by Sa’îd b. Jubair’s reading of Q 2.221: it refers only to non-kitâbî women – idolatresses and majûsî women.

f. 58b. Abû ‘Ubad reports that the Muslims in his day accept that the ‘concession’ abrogated the prohibition. This shows that naskh is the harmonising device best calculated to resolve conflicts between hadîths which, although clashing, are, on both sides of the argument, conceded to be ‘sound’ – sahîh. cf. Hibatullâh, p.24; Na’hâs, p. 57.

f. 59b. We glimpse here something of Abû ‘Ubad’s expert knowledge of isnâds. The hadîth, related as marfû‘, is, in fact, mursal. In addition to his keen interest in hadîths as a whole, one notes his preference for the hadîths from the Prophet, where these are available.

îhsân: this problem, crucial for the imposition of the stoning penalty in cases of zinâ, was never resolved, since the Muslims did not achieve an agreed definition of the qualification. cf. J. Burton, ‘The meaning of îhsân’, JSS,19.1974.

Umm. 6, p.143: When a man marries a free woman, Muslim or Jewish or Christian, or cannot raise the dowry for a free woman and marries a believing slavegirl, and has intercourse with her, being of adult years, he becomes thereby muhîsân. When a free Muslim or dhimmî
woman marries a Muslim, free or slave and consummates their union, she being of adult years, she becomes thereby muḥṣanah. Should either thereafter commit adultery, the penalty is death by stoning.


Mahṣūṣ [9, p.39] Our learned – except for Abū Yūsuf – insist upon Islam as a condition of ihšān. (Like Shāfi’i, Abū Yūsuf relied on the above ibn ‘Umar report.) Our evidence is: the Prophet’s words: ‘He who is mushrik cannot confer ihšān.’ Baihaqi reports the ḥadīth concerning Ka’b b. Mālik, while, in the Kharaṣ, Abū Yūsuf relates that ibn ‘Umar thought that the mushrik female could not confer ihšān. Mughirah reported from Ibrāhīm and Sha’bī that a free Muslim married to a kitābī woman would merely be flogged and not stoned for zinā. The kitābī wife does not confer ihšān. Abū Ḥanīfah is reported to have relayed the Ibrāhīm opinion that a Muslim male cannot confer ihšān on a kitābī female or on a slavegirl.

f. 60a. Abū ‘Ubayd is scandalised at the suggestion that the ihšān employed in the Prophet–Ka’b exchange is the jurists’ technical term – as if the Prophet could contemplate zinā on the part of any of his associates! The author’s own ta’wil of the Prophet’s intent is scarcely convincing. Besides, how could ibn ‘Umar deliver himself of the fatwā that the mushrik cannot confer ihšān – it was ibn ‘Umar who reported the Prophet’s stoning of the two Jews?

f. 60b. ibn ‘Umar had already included kitābīs among the mushrikīs.

f. 60a.] Interestingly, no reference is made throughout this entire section to the Prophet’s own marital record.

That the Qur’ān [Q 5,5] characterises the kitābī women whom the Muslims may marry as muḥṣanūt; that ‘Umar, ibn ‘Umar and the Prophet were reluctant to approve of marriage with kitābī women, on the ostensible grounds that they do not confer ihšān; that ibn ‘Umar, nevertheless did report the Prophet’s stoning of a Jewish couple – which must mean that they were muḥṣan in the technical sense – which sense is not, however, that intended by the Prophet when he counselled Ka’b, nor by ibn ‘Umar in his fatwā – can only mean that the term muḥṣan has more than one meaning. f. 54b; f. 59a; f. 59b; and f. 60a. convey reference to the second meaning: chaste.

f. 61a. Further, the only kitābī women the Muslims may marry are dhimmi women. Marriage with kitābī women of dār-al-ḥarb is forbidden. Women of the mājūs and idolatresses are most certainly forbidden, the ban, in their case, never having been relaxed in either Qur’ān or Sunna.

f. 62a. The negative conditions allegedly placed upon the acceptance of jīzāh from the mājūs of Hājar, tend to underline the positive approach adopted in Q 5,5 to the People of the Book, whose food and women are declared lawful to the Muslims. The reader should note, incidentally, the verse’s use of the word ujūr, in connection with dowries.

This entire discussion was exegetical, but was rendered necessary by the existence of the ḥadīths here reviewed. They, in turn, had been the product of an earlier stage in the exegesis.

One might, in addition to the oblique reference conveyed by the ibn ‘Umar ḥadīth at f. 56a. have expected an explicit mention of Q 9,31, where the kitābīs are actually referred to as mushrikīs. Nahhās [p.59] repairs this omission. Further, in his comments on ibn ‘Umar’s views, he settles the question of which of the two verses in the later, and hence the nāsikh.

f. 61b. Abū ‘Ubayd reports that he knows of no scholar who questioned the general disapproval of the Muslim’s marrying a harbiyyah. Nahhās conceded that that is what had been reported from ibn ‘Abbās and Ibrāhīm, but, claimed that Shāfi’i and Mālik are among scholars who argued that Q 5,5 contains nothing to support this restriction. If they had disapproved of it, that was only from fear that the children might be brought up in the other faith.

We have seen that muḥṣan was said to have more than one meaning. Similarly, in addition to ‘marriage’, nikāh has another, more basic meaning.

Q 2,221: lā tankihā al-mushrikāt ḥattā yu’minna wa la’ammah mu’minah khair min mushrikah

f. 62b. ibn Mas’ūd deplored sexual intercourse with a slavegirl who was either mushrikah or less than chaste. This presents the alternative tafsīr of the verse. The statement from Ibrāhīm is mere paraphrase of the verse. The same is true of the other statements cited, ff. 62b–63b. Abū ‘Ubayd is alive to the origin of the two doctrines, one on marriage, the other on concubinage, in the tafsīrs of the verse, and of a third doctrine, that which distinguishes marriage from concubinage, forbidding the first, but allowing the second. f.64a.

The influence of the growing doctrine of the ‘pure Prophet’ will not, however, permit him to extend the distinction back into the Sirah.
Hadiths on the Awtas campaign must be subjected to a fairly transparent ta'wil or re-interpretation.

f. 66b. A further point of contention concerned Muslim prostitutes, centred upon the wording of Q 24.3. Some said the ruling was abrogated, others that it was still in force. Those who argued the naskh of this verse, held Q 24.32 to be the nasikh. Again, the crux appears to be nikah.

Mujahid: Some men wished to consort with women who still plied a trade they had pursued in the Jahliliyyah. When told that that was forbidden, they sought to marry them – but even marriage was not permitted. Both ibn al-Musaiyab and Mujahid thought that such marriages had been forbidden at first, then permitted on the revelation of Q 24.32.

f. 66b. The evidentiary hadiths adduced in support of this ta'wil of the verses, open up the discussion by confusing prostitution with fornication. Although imposing upon the fornicators the appropriate penalty, Abu Bakr did nothing to impede their eventual marriage. This tafsir-hadith is based on the wording of Q 24.3 and keeps fornication apart from prostitution [cf. f. 90a].

f. 67b. Whereas the Abu Bakr hadith read Q 24,3 as a ‘permissive’ verse, Umar almost reads it as mandatory. The ibn Mas'ud hadith turns this tafsir into a legal dictum. Jabir b. 'Abdullah and ibn 'Abbâs were proponents of this view. Imran b. Husain, Jabir b. Zaid, Hasan and other 'Irâqis were opposed to this line of thinking. [Bu., v.7, p.11.]

Abu Hurairah, ibn al-Musaiyab, 'Urwah and Zuhri took the first view, reported also as from 'Ali.

f. 68a. The ibn 'Abbâs metaphor, attributed to Dahhak in Hibatullah [p.67].

Conviction for fornication does not bar the partners from eventual marriage, even to third parties.

Shafi'i, [Umm, 5, p.10]: A man marries a woman, unaware of her previous fornication, but learns of it before consummating his union with her: she is not barred from being his wife, whether her sin preceded or followed the marriage. He may not seek the return of the dowry, nor dissolve the marriage on the grounds that the contract was irregular. He may either persist with the marriage, or dissolve it by divorce.

f. 68a-b. This is so, in 'Atâ’s view, even if the man witnesses the wife’s misconduct.

The discussion has now advanced from the question of the initiation of marriage by fornicators, to the maintenance of marriage despite the fornication of one of the partners.

f. 68b. In such instances, the authorities may not seek to dissolve the marriage. [Mujahid; Dahhâk; Sha'bi.]

The verse, in this view, having been abrogated, does not form the basis of a fiqh ruling.

A second view, that the verse is still in force, leads to the argument that the authorities may dissolve the union.

f. 69a-b. The detail of whether the union had or had not been consummated, is relevant only for the question of the dowry, and for the establishment of ihsân, [cf. supra, p.99].

f. 69b. The doctrine attributed to Hasan is mere exegete’s re-wording of Q 24.3. His view is explained by the author as having been the result of analogical deduction. What is interesting is that these results are now carried back to affect the wording of the verse for ta'wil purposes. The basis of the analogy had been Q 24,6-7, referring to the procedure known as iFitân, resorted to when a husband suspects his wife of misconduct, but is unable to produce the four witnesses demanded by the Qur'an [Q 4,15; Q 24,4].

Although Abu 'Ubaid’s view is almost the same as Shafi'i’s – that the husband’s knowledge of the wife’s misconduct is insufficient to dissolve the marriage automatically without resort to the established procedures – he nevertheless feels that the husband ought to initiate, or failing that, be ordered to initiate divorce. He suspects that the man would be transgressing the implicit requirement of widely chastity he finds in Q 5,5. He is thus driven to presume that those scholars who took the apparently lenient line, acted on their knowledge that the wife had shown both repentance and amendment. Others argued on the basis of their interpretation of a report on the Prophet’s attitude to the same question.

Their interpretation is flatly counter to Q 24,6ff [f. 71b], to Q 5,5, and to the Sunna of the Prophet. For Muhammad is ascertained to have insisted on separating the two partners in the Fitân procedure, never again to be brought together. The author's hadith-expertise is illustrated by his: 1. exposing this main to that of a second Prophetic report in which he was questioned about a slavegirl; 2. exposing the interpretations [ta'wil] of this main to the Qur’ân verses, and to further Sunna materials;
3. exposing the interpretations to his linguistic skills and to the lexicon of the Arab poets.

The lascivious slavegirl: [Bu., Muḥārābīn, Muw., Ḥudūd; Mus., Ḥudūd (am Mālik); all state that the Prophet was asked what to do in the event that a slavegirl misbehaved - if she is non-muḥṣanah - all reporting from Abū Hurairah.] They also all cite from Abū Hurairah the same report without the restriction: if she is non-muḥṣanah. b.M. has: 'if she misbehaves before becoming muḥṣanah' [Ḥudūd].

Mālik insists that, if the slavegirl has a husband, only the imām - not the owner - may apply the penalty, for the Prophet spoke of slavegirls who were non-muḥṣanah.

Shāfiʿī knew both versions of the slavegirl ḥadīth. He used both in his definition of ḥiṣān. The term has a wide variety of connotations, among them: Islam; liberty; marriage; consummation of marriage; being kept closely confined. His concern, at this point, is to argue that no manlake is ever stoned for zina, whatever the foundation of her ḥiṣān. His discussion was provoked by Q 4,25's reference to the penalty for the erring slavegirl who is muḥṣanah. Since the Qurʾān states merely that her penalty shall be half that appointed for the muḥṣanah, the scholars found themselves in considerable difficulty as to how to interpret these two uses of the term, deciding finally that its meaning clearly alters according to the status of the individual [Ris., pp. 135-6].

The difficulty with the main ḥadīth which, in this section, causes Abū 'Ubaid such problems, is that the wife who 'could never refuse any man's overtures' was undoubtedly muḥṣanah in the technical sense. Yet the Prophet told the husband to retain her as his wife. There is no mention in the ḥadīth of ḥiṣān; would the Prophet, who took such a stern line with slavegirls, be sanguine on the misconduct of a free woman?

f. 72a. The ḥadīth cannot be 'soundly' reported. Both rāwis, Hārūn b. Riyāb and 'Abdul Karīm, transmit it as a mursal. Nas., [Nikāḥ]: this ḥadīth is known in both marfī and mursal forms. 'Abdul Karīm carries it back to ibn 'Abbās. Hārūn does not. Thus, the ḥadīth is not established. Besides, 'Abdul Karīm is not 'strong'. Hārūn reports it only from 'Abdullāh b. 'Ubaid b. Ummār. [cf. Umm., 5, p. 10.]

f. 72a. If there be a 'sound' basis to the ḥadīth, then resort must be had to tawil. The man had said, 'My wife cannot resist the overtures of any grasping hand' - i.e. grasping the husband's property. Abū 'Ubaid conceded, however, that the other interpretation can be justified on the basis of everyday vernacular usage.

f. 72b. But 'Ali warned us to be careful always to interpret the Prophet's utterances in the most wholesome possible sense. Abū 'Ubaid's opponents could refer to Q 5,6 or Q 4,43. He can reply with reference to Q 6,7. Further, he can appeal to a line from Jarīr's qaṣīdah beginning:

"Then greet the remains of the dwellings whose outline traces are fading,
The place where foals were tethered and the welcoming hearth ablaze
for him who sought a fire"

declaring that this poet is acceptable evidence for Arabic usage, and that he has used the expression to refer to those who had designs on the tribe's property and wealth.

f. 73b. ibn 'Abbās interpreted the term nīkāḥ [Q 24,3] in the now familiar basic sense. The Muslim ceases to be a Muslim at the moment that he is engaged in what is unlawful. cf. Bu., Ḥudūd; ibn 'Abbās reported that the Prophet said: 'A man cannot simultaneously be a fornicator and a Muslim; no man can simultaneously be a thief and a Muslim.'

cf. Muḥārābīn, ithm al-zunāt: nor drink and be a Muslim, nor kill and remain a Muslim.

ff. 74a-b. The second meaning of nīkāḥ. The word is capable of bearing both meanings in Arabic.

ff. 74b-89a. Ṭalāq

The author knows of only two instances of naskh:

1. fidiyat al-Khul 2. 'iddat al-wafāṭ. In view of the inclusion here, of the second topic, it seems more appropriate to translate the ṭalāq of the title as the dissolution of marriage.

ff. 74b-87a. Q 2,229. The occurrence of references to both spouses and to the Muslims appears to have led to division as to the locus of competence in khul.

Some would consider khul a strictly private inter-spouse arrangement; some considered competence to reside solely in the husband's hand, while others thought competence lay with the authorities, acting on behalf of the community.

f. 75a. ibn 'Abbās again equates exception with naskh. He sees a
breach in the solemn prohibition of a man's seeking restitution of all, or part of the dowry. The first series of hadiths makes the point that the fidyah is a quasi-penalty imposed for the matrimonial offence of the wife.

Attempts have been made to define and delimit the precise nature of the offence, and to suggest general formulae. Statements specifying character and behaviour faults on the wife's part are attributed to Ibn 'Abbás; Ibrāhīm; 'Āṭā', who adds the qualification that the wife's consent is needed for the institution of proceedings leading to khul', i.e. to her surrender of property in exchange for the dissolution of the marriage.

f. 76a. 'Āṭā', 'Amr b. Shu'āib and Zuhrī attempt more precise definitions of the nature of the wife's misconduct. Jābir b. Zaid held that only the wife may initiate khul'.

f. 76b. Hasan, who regarded khul' as a form of divorce, and thus assigned the initiative to the husband, does not depart from the wording of Q 4,34.

f. 77a. Both 'Urwah and Tāwūs repudiated the attempts to devise formulae such as those illustrated at f. 75a-b. The Qur'ān provides no warrant for these, or for any other forms of words. Abū Qilābāh interprets Q 4,19 in the sense that a husband may pressure an erring wife into the surrender of the donatio propter nuptias - although that is otherwise strictly prohibited elsewhere in the Qur'ān.

f. 77b. Abū 'Ubayd defines khul': it is the purchase by the wife of her liberty from the marriage. By offering the husband a fee, or by agreeing to waive the donatio, she induces him to divorce her.

Both sides in this dispute as to whose prerogative it is to initiate khul': the husband's or the community's - can find support in the hadiths that have reached them.

f. 78a. The author accepts both views and can distinguish differing circumstances in which each can be justified. Primary prerogative lies with the parties to the marriage. They may complete all the formalities on the basis of free mutual consent and have their separation formally witnessed, without reference to the authorities. Only if they fail to reach mutual agreement, the wife refusing to surrender her rights, or the husband reluctant to release the wife, and they then apply to the authorities, does the prerogative pass out of their hands to become the sole prerogative of the courts.

f. 75a. This formula repeated by Hibatullāh [p. 25] but already dismissed by Bu. [7,46] as the mouthings of fools. Bu., [nikāh, khul'] repeats the Tāwūs tafsīr [f. 77a].

f. 79a. Ḥabībat ibn Sahl's story is celebrated.

cf. Mālik. 2,22; b.m. 1,633; Nas. 6,169; Dār., 2, 85. A.D. 1,348.

f. 80a. 'An ṣulūn qad samārāhu 'an 'Ikrimah: Bu. [7,47]: 'An Ayyūb 'an 'Ikrimah - cf. Abū 'Ubayd's next isnād.

f. 80b. 'An 'Ikrimah 'an Khālid - with no mention of ibn 'Abbās - cf. Bu., [7,47].

f. 80a. The wife is unnamed. Her identity is uncertain.

f. 81a. Jamilah ibn Ubaib. cf. Bu., 'Ikrimah calls her the sister of 'Abdullāh b. Ubaib; elsewhere, he names her Jamilah: b.m.1,633; Nas. 6,169 for Habībah ibn Sahl; b.m. do. Nas. 6,186 for Jamilah, daughter of 'Abdullāh b. Ubaib. The story of Jamilah is said to be Başran; the story of Habībah is said to be Medine. Other versions mention Miriam al-Mughalāiyah [Nas., 6,187].

f. 80a. [Başran isnād]: the Prophet separated them.

f. 80b. The Prophet ordered Thābit to divorce her.

f. 81a. [Başran isnād]: the Prophet ordered etc. . . The wife is named for the first time [Jamilah].

ff. 79a-81a: Medinan or Başran, all the hadiths show the wife applying to the Prophet for a decision.

f. 81a. A brief domestic comedy provides a moment of humour. The story is tafsīr of Q 4,35 which, however, it breaks into two separate clauses. The story establishes the principle that the spouses may withdraw their invitation to the authorities to act. The verse says: "If they desire to 'make up', God will assist them." This was preceded by: "If you fear they will split up, send a representative from his people and another from her people to arbitrate between them." The connection between Q 4,35 and Q 2,229 was facilitated by the juxtaposition in Q 2 of "unless the two fear . . ." with "and if you fear . . ."

Men are forbidden to seek the return of the donatio, or any part of it, "unless the two fear that they cannot abide by the limits set by God. But, if you fear that they cannot, there is no guilt in their agreeing that she provide the fidyah . . ." Hence the vacillation in the tafsīrs and hadiths as to the locus of the prerogative to initiate separation.

f. 81b: f. 76a.b. The references to mushūz derive from Q 4.
The confusion as to where the prerogative lay: with the wife, the husband or the authorities arose from Q 2’s discussions on divorce and its financial implications.

f. 82a. The hadiths meld the Q 2 and Q 4 contexts.

Ali is said to regard the two arbiters as plenipotentiary. The allegation that that was his reading of the relevant Qur’an statements is clearly stated.

f. 82b. The same view attributed to Shuraih.

f. 83a. It is attributed to Sa’îd b. Jubair; Sha’bî and Ibrahim who is said to grant the arbiters the power to declare the separation either revocable or absolute.

f. 83b. But the two arbiters must agree – Ali; Sha’bî. If they do not agree, others must be appointed, Sha’bî.

f. 84a. The two arbiters may reconcile the spouses; they may not separate them – Zuhri. The question of separation is for the imam, not the arbiters.

f. 84b. Khul’ is the exclusive prerogative of the sultan: Hasan; ibn Sirin; Da’hâk.

Abû Ubaid points out that the Prophet did not leave the discretion to Thabit. Muhammad separated the couple. That had also been ‘Ali’s view, ibn ‘Abbas’ and Mu’awiyah’s.

f. 85b. The caliph may endorse khul’ after agreement has been reached by the spouses. ‘Umar; ‘Uthman; Shuraih had all recognised this, thus acknowledging the right of the spouses to act independently.

f. 86b. Shuraih teaches his associates that khul’ is a form of divorce.

f. 87a. Abû Ubaid is of the opinion that the spouses may separate by mutual consent, but that their act requires the ratification of the authorities for its validity.

Umm. 5.178: The hadith: ibn Sirin – ‘Abidah – ‘Ali [f. 81b.] Shâfi‘i denies the arbiters the power to separate the couple. They are agents of the husband and may not offer him any part of the donatio, except as agents of the wife. God stated that He would help if they desired to be reconciled – He said nothing in Q 4.35 about their separating. The imam ought to invite the spouses to agree to appoint arbiters between them, deputised to act on their behalf.

Although Abû Ubaid does not mention the ‘iddah of khul’, he does mention the story of al-Rubay who was awmih.

ff. 87a–89a. The ‘iddah of the widow.

Ptibâr [p.8]: the abrogation of Q 2.240 by Q. 2.234 is a ‘classic instance’ of the naksh of the Qur’an by the Qur’an. Both nasikh and mansikh verses remain in the mushaf, save only that the ruling of the mansikh verse no longer applies.

f. 87a. The ibn ‘Abbas tafsîr-hadith reads Q 2.234 in implied association with Q 65,4 and, compared with Q 2.240 suggests that:
the widow’s ‘iddah had ‘originally’ been for twelve months [Q 2.240]; that it was later reduced to four months and ten nights [Q 2.234] for all widows who were not pregnant. Pregnant widows were dealt with at Q 65.4. The second ibn ‘Abbâs hadith: financial provision for the widow and her accommodation for twelve months [Q 2.240] were superseded by the inheritance revelations of Q 4,12.

The present is one of only two instances in which the násikh verse precedes the mansúkh verse in the literary arrangement of the mushaf. [Hibbatullah, p. 26.]

Bu. [Tafsîr, Q 2.234] ibn al-Zubair asked ‘Uthmân why he had recorded Q 2.234 and left it in the mushaf, when he knew it had been replaced by Q 2.234. ‘Uthmân replied that it was not his place to alter the arrangement of the revelations. For the theories of abrogation, the literary lay-out of the Qur‘ân is irrelevant, only the chronological order of the revelation of the verses is brought into account. Hence the significance of yet another branch of the Hadîth literature, the asbâb al-†azîl.

The exegeses of Q 2.240 [and Q 2.180] had clashed with the results of the exegeses of Q 4 on inheritances. Shâ†î, arguing that the Qur‘ân revelations are ‘ambiguous’ sought the help of the Sunna: Q 2.180 and Q 2.240 could mean that the wasiyyah to parent, nearest kin, and widows was still required. They would benefit twice: by wasiyyah and by inheritance; or, it could be that the inheritance verses abrogated the wasiyyah provisions of both Q 2 verses. Of two hadîths known to him, one, transmitted by Syrians, contains in the isnâd persons unknown to the specialists. He accepts the second, the Hijâzî tradition, circulated by the maghâzî scholars in a report on which the scholars are all agreed. This version he prefers – although it is munqafi: ‘in the Year of the Conquest of Mecca, the Prophet said, “there is to be no wasiyyah in favour of any heir.”’ [Ris., pp. 138-43.] This hadîth, and its unanimous acceptance among the scholars indicates that Q 4 abrogated the two Q 2 verses.

b M [wasâyâ]: Abu Umâmah said, ‘I heard the Prophet say, at the Farewell Pilgrimage, “God has granted to all who are entitled their due rights – there is to be no wasiyyah in favour of any heir.”’ Anas b. Mâlik reports the same. Nas., [wasâyâ]: ‘Amr b. Khârîjah reports: ‘The Prophet said, “God has assigned to every man his due share of the inheritance. A wasiyyah in favour of any heir is not valid.”’ cf. Dâr., wasâyâ; Sirah, 2, p.505. [F. 87b. for this wording.]

This wording is more pointed in its prohibition of the wasiyyah, and in stating that God [i.e. the Qur‘ân, Q 4] had been the násikh, not the Sunna, i.e. the words of the Prophet: lâ wasiyyah li wârith – as others have supposed.

Muw., 2,133: ‘The established sunna, in our view, on which there is no disagreement, is that a wasiyyah in favour of any heir is not permissible – unless authorised by the man’s other heirs.’ Here, there is no trace of the above hadith, which, as we saw, was in Shâ†î’s day, still defective.

To sustain the claim that Q 2.240 had been abrogated, the first point to establish is that the ‘iddah had, in fact, ‘originally’ been for twelve months. The most satisfactory technique is to cast that ruling back into the Jâhiliyyah.

f. 88a. Zainab reports from two widows of the Prophet.

cf. Bu., Talâq, [7.59]: Humaid – Zainab – Umm Habibah: When the report of her father’s [Abû Sufyân] death reached her, she called for some unguents and smeared herself, saying, ‘I don’t really need perfume, but I heard the Prophet say, “It is not lawful for a woman who believes in God and the Last Day [Q 2.232; Q 65.2] to mourn the dead for more than three nights – save only her husband whom she should mourn for four months and ten nights.”’ [Using Mâlik’s isnâds.] cf. Muw., Talâq, [2.39] Humaid – Zainab... Mâlik gives three hadîths, the first, like the foregoing, the second, also like the foregoing, but featuring Zainab ibnat Jaish, on the occasion of the death of her brother; the third, Zainab from Umm Salamah, as given here by Abû ‘Ubaid. Mâlik also reports from ‘Amîshah and Hâfîzah, as before.

The function of the hadîths was to instil the notion that mourning is actually an obligation, incidentally inculcating the parallel notion that the longer ‘iddah of the Jâhiliyyah and [by extension] of ‘early Islam’ had been ‘reduced’ by the revelation of Q 2.234. Mu’âjîd is supposed to have reversed this order: [Bu., Tafsîr, Q 2.240]: Q 2.234 imposed the ‘iddah which the widow must observe in the matrimonial home, four months and ten nights; God then imposed in Q 2.240 on the heirs the additional seven months and twenty nights, granting her accommodation if she chose to avail herself of it – i.e. for a whole year. She might remove from the matrimonial home on the expiry of the ‘iddah of four months and ten nights.

Nahhâs [p.75]: Qatâdah said, ‘the provision of the widow’s accommodation for twelve months during which she might not be evicted from the matrimonial home, was abrogated by the revelation of Q 4, the period mentioned, twelve months, was abrogated by Q 2.234.’ He gives also the ibn ‘Abbâs hadith, as at 1.87a–b, but with extended
wording: ‘God revealed her inheritance in Q 4, so her waṣiyah and the expenditure [upon her accommodation and subsistence] ceased.’

Those who excluded the pregnant widows from the Q 2.234 ‘iddah, on the grounds that their obligation was revealed in Q 65, argued on the basis of the hadith in which ‘Abdullah b. Mas‘ūd exclaimed: ‘I am prepared to engage in mutual oath-taking with any man to the effect that the “shorter surah on women” [Q 65] was revealed later than the “longer” – i.e. the Q 2 passages.’ This was the view of the majority of Companions, Successors and ijtihād: ‘Umar; ibn ‘Umar; ibn Mas‘ūd; Abū Hurairah; ibn al-Musayyab; Zuhri; Mālik; Awa‘zī; Thawrī; aṣhāb al-ra‘y; aṣhāb al-hadith; Shāfi‘ī and Abū Thawr.

Those who wished to harmonise the two verses, Q 2.234 and Q 65.4, argued that the widow should observe the longer of the two periods: the four months and ten nights, or the period of the pregnancy. If the woman gave birth before the expiry of the Q 2.234 period, she should continue until the end of that period. This view was represented by ‘Ali and ibn ‘Abbās. The opposing view was held by ‘Umar who argued that if the widow gave birth before even the husband had been interred, she had no further ‘iddah obligation. The quarrel was settled by the appearance of a further hadith. Umm Salamah reports the Prophet as saying to Suba‘i‘ah that she was free to re-marry immediately. She had informed him that she had given birth only nights after the death of her husband. [Muw., 2.36.]

All are agreed that a pregnancy greater than four months and ten nights determines the longer ‘iddah to be observed. Nāḥās [p.77] mentioned Mālik’s hadiths from Humaid. Among their many provisions was the widow’s obligation to mourn. One may therefore ignore Ḥasan’s denial that mourning is obligatory. The Prophet did, however, exempt from this obligation the pregnant widow, since he restricted his remarks to widows whose ‘iddah is for four months and ten nights! [p.79]: if the widow is pregnant, the Hijāzis do not permit her accommodation nor her subsistence to be deducted from the deceased husband’s estate; the ‘Īraqis (including Abū ‘Ubaid) allow her her maintenance from the [undivided] capital.

These discussions, with their tafsīr-hadiths, expose the extent to which the exegesists had confused a number of unrelated questions: Q 2.240’s regulation of the waṣiyah to provide the widow’s keep, its insistence upon her right to the accommodation for the full twelve months, if she wished to avoid herself of it, whatever the man’s other heirs said. The period is long enough to provide for all normal pregnancies. The distinction between pregnant and non-pregnant widows is thus a complete red herring. In this regard, cf. Mishnah, Ket., 12: ‘If a widow said, ‘I do not wish to leave my husband’s house,’ the heirs cannot say to her, ‘Go to thy father’s house, and we will maintain you,’ but they must maintain her in her husband’s house and give her a dwelling befitting her position.’ This is precisely what Q 2.240 regulates. It has nothing to say about the ‘iddah. That is the topic of Q 2.234. The widow may not contemplate re-marriage for at least four months and ten nights from the date of the husband’s decease. The exegetes have further denied the widow her waṣiyah, on the grounds of Q 4.12’s having allotted her a specific share in the inheritance. Yet, Q 4.12 twice mentions that estates are to be divided only after the deduction of any waṣiyah the decedent may have made. Shāfi‘ī himself had conceded this much.

Q 65 has nothing to do with widows. It regulates the ‘iddah to be observed by the divorced wife. ibn al-‘Arabī tries to argue that the fact that the verse concerns divorced women does nothing to limit its general application to all ‘iddahs. It applies to all pregnant women observing an ‘iddah. [Ahkām, 1, p.208.] Q 2.234 and Q 2.240 share no topic in common; they cannot be in conflict, therefore there can be no naskh.

ff. 89a–97b. Corporate and capital penalties

Ibn ‘Abbās’ linking of Q 4.15 with Q 65.1 on the basis of the presence in each of the term fāhishah, illustrates the common technique of verse comparison. This present link had interesting consequences for the moulding, first, of Q 65.1, and thence, of Q 2.240. Consideration of the exegesis of the verses, and that of Q 24.2 – (together with a reference to ‘current practice’) – seemed to point to the relative dating of the three contexts.

Q 4.14: aw yaf‘al allāh lahu ‘a sabīl – the sabīl which God subsequently brought for these women was flogging [Q 24,2] and stoning [Sunna] – the ‘Aṭā‘ Khurāsānī transmission.

f. 89b. The ‘Ali b. abī ‘Ā义bā transmission: Q 24,2 abrogated the rulings of both Q 4.15 & 16. The Sunna, however, established the death penalty for the muṣān who committed an act of illicit sex. That was the penalty God brought for these men and women – lahu‘a.

f. 90a. The ‘Ubādah hadith: God has now brought His sabīl lahu‘a:
for virgins, flogging and banishment; for the non-virgins, flogging and stoning. Thus, this first version deals exclusively with women [cf. Q 4.15].

“Take it from me”: cf. Q 59.7: “Whatsoever the Prophet gives you, accept it; whatsoever he denies you, be denied.” This is one of the most over-worked Qur’anic proofs of the divine requirement that men accept and act upon the Sunna of the Prophet. In fact, the verse discusses, as is clear from the context, the division of the spoils of battle. The above penalties were established by the Sunna.

f. 90b. ʿUbādah, version 2.: the penalties were revealed.

Abū ʿUbaid offers no comment or explanation of the mechanics of this alleged instance of naskh.

Habitullah [p.33]: house-arrest [Q 4.15] was abrogated by the Sunna, not by the Qur’ān. The verse referred solely to the muhsan, males and females, i.e. adulterers. Q 4.16 referred only to the non-muhsan, male and female, i.e. fornicators, whose ruling was abrogated by Q 24.2, the flogging verse. The penalty for the muhsan is stoning. Nahhas [p.98] Q 4.15 [house-arrest] applied at first to all, i.e. fornicators and adulterers. That was first abrogated by Q 4.16. The offenders were now subjected to physical and verbal abuse. This was next abrogated by the distinction between fornication and adultery. For the former, the penalty was flogging and banishment; for the latter, it was flogging and stoning. This was the view of Ikrimah, and has been related by Hasan from ʿUbādah [f. 90b].

A second view, Qatadah’s, was that Q 4.15 referred to the muhsan alone; Q 4.16 referred to the non-muhsan. Tabari inclined to this opinion.

Thirdly, Q 4.15 referred to all female offenders, Q 4.16 to all male offenders. This, the view of Mujahid, has been reported also as from ibn ʿAbbās. Nahhas regards this as the soundest of all the exegetes. [p.99] cf. ʿUbādah 1, f. 90a. The Prophet’s saying: ‘God has now brought His sabīl lahunna,’ shows that Q 4.15 had not been abrogated before this was uttered.

[p.100] Nahhas derived the view which he prefers from the ʿAli b. abi Talhah transmission [f. 89b.] although his wording is slightly varied.

Whereas some scholars, including ʿAli: Hasan b. Ṣāliḥ b. Ḥaibt al-Ḥasan b. al-Ḥasan and Ishāq maintained both elements of the penalty for the muhsan, as established in the ʿUbādah hadith, arguing that the flogging had been imposed in the Qur’ān, and the stoning by the Sunna, others, including ʿUmar; Zuhri; Nakhaʾi; Malik; Thawri; Awzāʾi and Shafiʿi; Ahmad; Abū Thawr and asḥab al-raʾy, dispensed with the flogging element and imposed stoning alone. That was because in hadiths illustrating the Prophet’s stoning of adulterers, flogging is ‘no longer’ mentioned.

Ris., p.20: Shafiʿi confuses the issue by speaking of both takhis and naskh: God abrogated the Q 4 verses by the Qur’ān. The Sunna shows that flogging is the penalty for the non-muhsan only; flogging is muhsan in respect of the muhsan. The ʿUbādah hadith was the first revelation to follow that of Q 4.15–16, which it abrogated.


f. 90b. The penalties applicable to the dhimmīs.

Ibrahim and Shaʿbi: the Muslim judge is free to hear cases brought by the People of the Book, but he must judge on the basis of the Book of God. Q 5.42 is muhkamah.

f. 91a. Q 5.49 abrogated Q 5.42: ibn ʿAbbās; Muḥājir; ʿIkrimah.

Ibrahim and Shaʿbi had not explained which Book of God they had in mind. The expression is a re-working of the Q 5.49 verse: “on the basis of what God has revealed.”

f. 91b. The Ibrahim Taimi remark throws some interesting light both on this, and on a possible origin of the stoning penalty. Note: f. 92b.

Abu ʿUbaid: This is what has come down concerning the abrogation of the penalties for zinā! Is that what the discussions on Q 5 were about? If so, Taimi’s remark takes on considerable importance.


The mention of Q 5, nevertheless, recalls Taimi’s remark. Bu., follows up the question as to whether the Prophet had ever stoned with the ibn ʿUmar report to the effect that the Prophet had stoned two Jews. Stoning is the penalty in the Torah. Which Book of God did Ibrahim and Shaʿbi mean?

ff. 92b–94b. Retaliation
Sha'bi's *hadith* is the *sabab* of the revelation of Q 2,178. The verse 'introduced' order into the question of *wargeld*, cf. Hibatullah [p.15].

f. 93a. Ibn 'Abbas sees *naskh* here. Q 5,45 abrogated Q 2,178. This is a second *asbāb hadith*. For ibn 'Abbas, what has been introduced is the ruling that free persons, male and female, execute mutual retaliation in cases of deliberate assault, whether the result is death or merely wounding. Previously, men had not been killed for the murder of women, nor vice-versa. They had formed separate retaliation categories.

f. 93b. Abū 'Ubayd's intervention: ibn 'Abbas did not regard Q 5,45 as the *nāsikh* of Q 2,178. He took both verses to be still valid. Q 5,45 presented the *tafsir* of Q 2,178. In cases of homicide, men and women form a single category, free persons. Similarly, the slave class is a category.

f. 94a. There is no retaliation across the categories, whether in cases of homicide, or lesser assaults. This was the view of Mālik and the Hijāzīs. Some of the 'Irāqīs, on the other hand, thought Q 2,178 had been abrogated by Q 5,45. On account of the latter's expression: “a life for a life” they permitted cross-category retaliation - but only in cases of homicide. Abū 'Ubayd prefers the Medinese view:
1. on account of the Ibn 'Abbas *tafsir*;
2. because the Medinese view is more consistent. The 'Irāqīs' position is selective, since Q 5,45 is not, in fact, restricted to homicide. The verse mentions wounding also. Hibatullah [p.15]: it if be objected that Q 5,45 was imposed upon the Jews, not upon the Muslims, one replies that the verse ends with the insistence that men should judge on the basis of what God has revealed.

The Hijāzīs and others point to Q 17,33: “Let there be no excess in killing.” To kill a Muslim in retaliation for an unbeliever, or a free man for a slave, would indeed, be excessive.

Nahhās [p.17] Dahāk reports from ibn 'Abbas that Q 5,45 abrogated Q 2,178.

[p.18] Sha'bi, as at f. 92b., although abbreviated.

[pp.18–19] Nahhās explains the Kūfī view that permits retaliation upon the free for the homicide of the slave: it had been based on a Prophetic proclamation which 'Ali had preserved in his sword-case. This stated, among other things, “the blood of all the believers is equal”.

Śāfi'ī, *K. Ikhṭila'f Abī Ḥanīfah wa ibn abī Lailā* [p. 137] A1]: there is no retaliation between men and women for non-fatal assault, nor between free and slave for non-fatal assault. Ibn abī Lailā replied: retaliation is wholly unrestricted, whatever the gravity of the assault.

Śāfi'ī himself permits retaliation between men and women for all, including fatal assaults. The same applies to the slave class, but within their own category. Śāfi'ī shows that here, he is arguing from the major to the minor.


Noting the discrepancy between this *hadith* and Q 5,33, the scholars have concluded that the ruling shown in the *hadith* has been superseded. Although it occurred at Medina, it occurred before the revelation of the Islamic penalties.

f.95b. It occurred in ‘early Islam’.

Mus., Sulaimān Taimī – Anas: The Prophet put their eyes out because they had put out the eyes of the herders, i.e. this was retaliation, not a penalty.

Bu., [Muḥārabin] via Abū Qilābah, these people stole; they killed; they made war on God and His Prophet ... [cf. Q 5,33] they stole; they killed; they apostatised; they made war on God and His Prophet.

s m l s m l [Bu.: k h l] cf. Gharib al-Ḥadīth, 1, p.173. The penalty of the murtadd [apostate] is death. Putting out the eyes is mutilation, which is forbidden.

f. 96b. The Ibn 'Abbas *hadith*: the penalties mentioned in Q 5,33 are listed as alternatives. The *tafsir-hadith* mirrors the verse perfectly; so too, at f. 97a.

Nahhās [p.125]: scholars have said that Q 5,33 abrogated the Prophet's practice when he mutilated the group from 'Urainah, putting out their eyes, and leaving them to die of exposure. Ibn Sirin said that when the Prophet acted in that way, he was admonished and that 'practice' was abrogated [p.126]. Suddi said, 'The Prophet was on the point of doing this, when he was forbidden to do it, and the penalties were revealed.'

Some accept that the penalties of Q 5,33 are alternatives. The *imām* is free to apply whichever he chooses.

Others say that the penalties are a tariff reflecting the gravity of the crime.
[p. 127] The first view is reported from Mālik and ibn ‘Abbās; Sa‘īd b. al-Musaiyab; ‘Umar b. ‘Abdul ‘Azīz; Mūjāhid and Ĕahlāk.

The second view is attributed to Ḥasan; ‘Āṭā; Sa‘īd b. Jubair; Abū Miḥṣiz; and ibn ‘Abbās!

f. 97a. But this second view is attributed to ibn ‘Abbās in the hadith of Hājjāj b. Arţāt via ‘Aţiyah from ibn ‘Abbās. Hājjāj and ‘Aţiyah are not highly regarded by the hadith specialists. The second view was that adopted by Awzā‘ī and Shāfi‘ī; ashab al-ra‘y; Sufyān and Abū Hanīfah; Abū Yūsuf, although they did not agree on the order of the penalties.

f. 97a. The ibn ‘Abbās tariff
A man who rebels, acts the highwayman and steals, his hand and opposite foot are cut off; if, in addition, he kills, he is crucified; if he kills but does not steal, he is killed; if he neither stole nor killed, he is banished.

cf. Naḥḥās [p. 129]
A man who rebels and kills, is killed; if he steals but does not kill, his hand and foot are cut off; if he steals and kills, he is killed then crucified.

ff. 97b–105b. The section on witnesses

ff. 97b–99b. I. Witnessing sales.

Q 2:282 is absolute in its requirement that all transactions be witnessed, however trifling the amount. Debts should, in addition, be recorded written. ‘Āṭā‘. Ibrāhīm and ibn ‘Umar insisted on witnesses to all sales, although ibn ‘Umar did not insist on their being recorded.

Naḥḥās [p. 84] adds the names of: Abū Mūsā; ibn Sirīn; Abū Qilābah; Ĕahlāk; Jābir b. Zaid; Mūjāhid. These men took the Qur‘ān wording literally.

f. 98a. He reproduces the ‘Āṭā‘ and Ibrāhīm statements, and now adds the name of Tabārī [Naḥḥās, loc. cit.].

Q 2:283 regulates the same matters for travellers. As they cannot always expect to find a clerk capable of recording their transactions, they may exchange pledges instead. The recipient of such a pledge will be expected to turn it over to its owner on the completion of the transaction. Ḥakam; Shurayh; Ḥasan; Ibrāhīm, and Sa‘īd b. Jubair. [The ‘Āṭā‘ Khūṭsānī transmission.]

f. 100b. The ‘Ali b. abī Ta‘līhah transmission, on the contrary, ibn ‘Abbās had held that repentance purges both the moral guilt and the disqualification to give evidence.
That view was shared by: ‘Umar; Zuhri; al-Qāsim and Sālim.

The clash of the two most common *tariqahs* from ibn ‘Abbās appears to represent a clash between Hijāzī and ‘Iraqī views.

f. 101a. cf. Bu., [Shahādāt, báb shahādat al-qādīh]; [3,170] ‘Umar flogged Abū Bakrah, Shīb b. Ma’bad and Nāfī for their libelling Mughirah. He then asked them to repent, stating that, if they did, he would re-instate their evidence. This is said to have been the view also of: ‘Abdullāh b. ‘Utba; ‘Umar b. Ābdūl ‘Azīz; Sa’īd b. Jubair; ‘Āwad; Muyāhid; Sha’bī; ‘Ikrama; Zuhri; Muhārib b. Dīthar; Shur-‘a; Mu’āwiyah b. Qurrah; Abū al-Zinād and Qatādah.

cf. Shāfi‘ī [Umm., 6, p.214] The criterion for the rejection of the *qādīh*’s testimony is not whether or not he was flogged, but the fact of the libel, in the absence of any sign that he has repented.

Malik, using the ‘shorthand’ of the other scholars, sees this exception: “except those who repent” as re-habilitating the ‘adālah of the *qādīh*. [Muw., 2, p.108]

A marjd hadith declares that the Islamic penalties ‘wipe the slate clean’: Mus., [al-hudud kaffārah].

cf. B.M. bāb: dhikr al-tawbah. But, cf. Tir., bāb: man là tajžz shahādatuhu: ‘A‘ishah – Prophet: ‘The shahāda of neither of the treacherous, nor those who have been flogged for an offence, is acceptable.’ Tir., does ‘not know the meaning of this report’. On the basis of the isnād, the hadith is ‘unsound’.

f. 103b. The ‘Iraqis would on no account ever re-istrate the *qādīh* as witness. This regional difference reflects the exegetical dispute as to the function of the exeptive. The tension between the Qur‘ān’s *ahladan* and ‘illā was too great to be ignored.

Not for the first time, Abū ‘Ubaid prefers the Hijāzī view. It was that of the majority, including some of the most senior Muslims; it was systematically more satisfying, since he who merely utters evil is scarce to be thought more reprehensible than he who actually commits evil. If they repented, the convicted were re-instated as acceptable witnesses. He who merely bore witness against them [even if falsely] or if unable to produce three or more witnesses, is surely less criminal, especially after he belies his earlier statement. The repentant are as if they had never sinned, and if God is prepared to accept their repentance, mere fellow-creatures ought to be even readier to accept it. Besides, there are further Qur‘ān contexts whose use of the exeptive is analogous to that of Q 24.4: e.g. Q 5.33; Q 4.43. If repentance can divert the penalty from the apostate, it can surely do the same for the *qādīh*.

ff. 105b–116a. The testimony of dhimmīs against Muslims

The acceptability of the testimony of dhimmīs to the wasiyh of the dying Muslim when, on a journey, Muslim witnesses are not available, seems to be referred to in Q 5.106.

The majority of the ancients took this verse in this sense. Others, conceding that this is the sense, insisted that the verse had been abrogated. A third group denied that there is in the verse any reference to non-Muslims.

f. 106a–b; 107b–108a. Two very lengthy hadiths, the first, [‘Ikrama] affects to set the scene for the revelation of the verse. The hadith uses the asbāb al-nuzūl method to present the egesis of the verse. The atomism of the tafsīr separates the circumstances in which each of the two verses had been revealed. ākharānī min ghairikum has been interpreted as a reference to non-Muslims. The ibn Mas‘ūd tale purports to represent an event which occurred after the revelation of the verses. This is straightforward egesis. ākharānī min ghairikum is here shown to refer to Jews and Christians.

Both ‘sirah-type’ narrative egeses are mere re-working of the vocabulary and materials presented by the Qur‘ān.

Hibatullāh [p.42–3] has the detail that the two Christians killed the mawlā of the ‘Āṣ family. He names the two: Tamīm al-Dārī and ‘Adī b. Zaid. His confused tale has the phrase aw ākharānī min ghairikum revealed in consequence of events which occurred ‘in early Islam’. The testimony of non-Muslims was later rejected by Q 65.2. In a second version, ‘Adī is now the mawlā of the ‘Āṣ family who, together with Tamīm, murdered a second mawlā of the ‘Āṣ family.

f. 107a. The verse speaks of ‘concealing testimony’.

The hadith speaks of concealing merchandise.

Q 5.107, the two secondary witnesses are drawn from the aggrieved kin-group of the deceased [as at f. 107a]. Their rôle is to rebut the testimony of the witnesses to the wasiyh, in the event of suspected fraud.

f. 107b. The Qur‘ān’s aw ākharānī min ghairikum has here become wa ākharānī min ghairikum [?] there being now two ranks of witnesses: the Muslims to whom the dying man had entrusted his wasiyh, and the witnesses to the Muslims’ receipt of the man’s property. The hadith does not specify that the Muslim witnesses were
in any degree related to the dying man, other than by their common religion.

Q 5.107 calls them: awlayānī. In the second hadith, the rebuttal witnesses are the second rank of those who attended the dying man—the Jews [and Christians]. The dead man’s kin are called upon merely to confirm the testimony here given by non-Muslim witnesses.

The ‘Ikrinah hadith refers to events in the Prophet’s lifetime and is therefore mursal. The ‘Abdullāh hadith refers to the reign of ‘Uthmān, some dozen years after the death of the Prophet.

1. 109b. Nahḥās [p.133] that the testimony of the People of the Book against Muslims, in the case of the wasiyah of the traveller, is acceptable was the view of: two of the Companions, ibn ‘Abbās and Abū Musā. Nahḥās can produce an ibn ‘Abbās tafsīr-hadith, while Abū ‘Ubayd has none. If the testimony of the non-Muslim witnesses be suspect, two of the Muslim’s kin can rebut it awlayānī.

1. 109b. Nahḥās [p.134]: Shuraib; Saʿīd b. al-Musaiyab; Saʿīd b. Jubair; ‘Abidah; ibn Sirīn; Shaʿbī; Yahyā b. Yaʿmur and Suddi; and of the fiqaha, Thawrī and Abū ‘Ubayd were among those who took this view.

Abū ‘Ubayd adds the names of Mujāhid and Ibrāhīm. These scholars interpreted min ghairikum as: non-Muslims.

1. 111b. These views are reinforced by the numerous hadiths which stress how few occurrences of naskh affected Q 5.


1. 112b. Those who insist that Q 5.106 is abrogated stress Q 65.2 and Q 2.282, arguing that the Qur’ān suggests that only the testimony of Muslims is acceptable. Hābatullāh [p.44] calls Q 65.2 ‘the verse stressing Islam’. Nahḥās [p.134]: the verse is abrogated (comparison of Q 5.106 and Q 24.4). Zaid b. Aslam; Mālik; Shāfiʿī; Abū Ḥanīfah of this opinion.

1. 112b. Abū ‘Ubayd does not know to whom among the ancients they could have traced this view, although it has been adopted by Mālik and the Ḥijāzīs and many of the Ṭirāqīs, but not by Sufyān.

1. 113a. Second report from Abū Mūṣā, contrary to the above [f.109a]. Here, he comments that the witnesses must all be Muslims.

Hasan: minkum = of your tribe; min ghairikum = of another tribe, but all must be Muslims.

f. 113b. Abū ‘Ubayd accepts the view of the majority, among whom are some of the most senior Companions. Besides, there are inconsistencies in the opposing view. As for this second report from Abū Mūṣā, Shāfiʿī had related the contrary.

Hasan’s report is unacceptable, since the Qur’ān opens this passage as a direct address to the believers. God then says: min ghairikum, which can refer only to non-believers. The last report from Zuhri is also to be rejected, for it confuses disagreement among the man’s heirs, some of whom may raise claims against others. But God is speaking of shahādah, i.e. testimony, not iddī’ā’ [claim and counter-claim]. (Has the author here, perhaps overlooked the verse’s phrases: wa law kān dhā qurbā; istahaaqqa ‘ala‘him al-awlayānī?) Further, since when has the testimony of the Muslim witness been acceptable at only one hour of the day? (after the ‘asr prayer). Note Abū ‘Ubayd’s tacit acceptance of this detail of Ibrāhīm’s tafsīr [f.110b.] and since when has it been Islamic practice to have witnesses swear or take the oath?

In addition to the view expressed by the Companions, and the Successors, Abū ‘Ubayd is swayed by Sufyān’s view [f.115a]. Then, too, he has noted the number of occasions on which the Qur’ān is prepared to make concessions to the traveller: shortening of the ritual prayer [Q 4.101]; tayammum [Q 4.43]; combining two ritual prayers [Sunna, not Qur’ān]; breaking the fast in Ramadan [Q 2.184].

The eating of carrion is permitted in extremis. Is the plight of the Muslim, overtaken by death when far from home and kin, not the kind of parallel situation of extreme need in which God would permit him to call upon the testimony of men of other faiths? The Muslims have acknowledged the testimony of females unaccompanied by that of males in matters pertaining exclusively to females (although ordinarily that is not acceptable). That is nowhere referred to in either the Qur’ān or the Sunna. It is a practice that has grown up in response to need. Now, Q 5.106 admits of the exigency that the dhimmī may bear witness to the wasiyah of the Muslim, in the absence of Muslim witnesses. The ruling to that effect may, thus, be said to be somewhat more firmly established than the rule about accepting exclusively female testimony.

Perhaps their taʿwil that the prayer mentioned in this verse as the time when the testimony of non-Muslims is to be examined, refers to the ‘asr prayer, is sound, for, from personal observation, the author reports that the hours of sunrise and sunset are times when they particularly pray.

Shāfiʿī [Umm, 6. p.127] knows the taʿwil: min ghair qabilaṭikum?
they are to be examined after the prayer— but the mushriks have no formal prayer, and they would have no qualms about concealing testimony. He has also heard that Q 65.2 abrogated Q 5.106-7. Shafi'i is familiar with the views of the muta'āfīn of Medina who restrict testimony to Muslims of impeccable 'adlāhah.

ff. 116a–136a. The pilgrimage rites

The author knows of no naskh affecting the Qur'an. But there were apparently two practices current in the time of the Prophet—faskh al-ihram and mut'at al-nisā'! on which some of the imāms have formed a different view. He can explain this only by presuming that the imāms knew of a second, nāsikh regulation, or realised that the two practices had been restricted solely to the time of the Prophet.

ff. 116a–136b. Interruption of the ihram:

f. 116b. cf. b.M. bāb: faskh al-Hajj: Barrā': They had assumed the ihram for the Hajj. On reaching Mecca, the Prophet ordered them to alter their ithlāl [niyāh].


Bu., has: lam yahill ḥattā nahār al-hadaya but he also has: lam yahill ḥattā yahillih al-hadaya muḥallahu [bāb: mattā yahillih al-mu'tamīr]. cf. Q 2.196. cf. Dar., fī al-tamattu'.

f. 119b. Ḥafṣah: cf. Mus., bāb inna al-qārin lā yataḥhallal. The Prophet replied [as here, except for the last phrase]. Instead of: ḥattā aḥilla min al-Hajj Mus., has:

ḥattā anḥūra hadyī.

f. 119b. The author's expression: iylla man sāq al-hadya. Mus., wujūh al-ihram, has: The Prophet said, ‘Whoever has a hady should form

the intent to perform the Ḥajj with his ‘umrah. He should not then abandon ihram, until he does so for both rites.' 'A'ishah also reports the Prophet's saying, ‘He who assumed ihram for the ‘umrah and has no hady may abandon ihram. He who assumed ihram for the ‘umrah and has a hady, may not abandon ihram until he has sacrificed his hady. He who proclaimed the intent to perform the Ḥajj must complete his hajj.'

cf. f. 119a: 'Umar's appeal to Q 2.196: Complete the Ḥajj . . . The criterion which permits faskh, abandonment of ihram, appears to be absence of hady.

f. 119a. Abū Mūsā had no hady, and the Prophet ordered him to abandon his ihram. 'A'ishah and Jābir: He ordered those who had no hady to abandon their ihram. Mus., wujūh al-ihram: 'A'ishah, the Prophet said, ‘But that I have driven a hady, I would have proclaimed my intent to perform the ‘umrah.' Jābir, the Prophet said, ‘But for my hady, I would abandon ihram, as you are now doing. If I had my time over again, I would not bring a hady.' [The same, from 'A'ishah.]

The criterion for proclaiming one's intent to perform the Ḥajj, would appear to be the presence of the hady.

cf. Bu., bāb al-mu'tamir: 'A'ishah: The Prophet, and some of the Companions (who had some wealth) had the hady. They were thus debarred from performance of the ‘umrah. Jābir: The Prophet had a hady, and so could not faskh.

f. 120a. ibn al-'Arabi [Sharh Tir., 4,39]: ibn 'Umar reports: The Prophet appointed 'Attāb b. Usaid amir of the Ḥajj and he proclaimed his intent to perform the Ḥajj alone [afraḍa]. In the year 9 A.H., he appointed Abū Bakr who afraḍa. The Prophet himself, in the year 10 A.H., afraḍa; when the Prophet died, Abū Bakr, succeeding, sent 'Umar who afraḍa; 'Umar, throughout his own caliphate, afraḍa; when 'Umar died and 'Uthmān succeeded, he afraḍa. When 'Uthmān was shut up in Medina, he sent 'Abdullāh b. 'Abbās who afraḍa.

f. 120a. 'Ali did not abandon his ihram.

cf. Mus., bāb al-īfrād wa-l qārin; Mw., bāb ʿifrād al-Hajj.

ff. 120b–121a. Bilāl b. al-Ḥārith al-Muzāni. Abū Dharr: faskh was restricted to the time of the Prophet.

f. 121a. faskh means: altering one’s proclaimed intent to perform the
Hajj ihtilaf into one to perform an 'umrah. But mut'ah also = faskh = altering one's ihlal.

cf. Nas., bâb al-tamattu'; Muw., bâb al-tamattu'.
Dâr., al-tamattu'.
Abû Dharr: cf. DQ mawâqît, 26; 'the mut'ah of the Hajj was not permitted the intent to perform the Hajj, then faskh that, and turn it into an 'umrah' [and cf. DQ,25].
cf. Mus., jawâz al-tamattu': that was a concession to us [alone] – sc. mut'ah during the Hajj. The two mut'âhs were permitted to us alone – sc. mut'ah with women and mut'ah of the Hajj. cf. Nas., loc. cit. Muttah was a concession to us alone.


Mus. has: tashaghghafa / tashaghghabata / tafashghaha.

f. 123a. The view adopted by some scholars who countenance faskh, in our day, would be unexceptionable, but for Bilâl's and Abû Dharr's hadiths; and but for the view of the caliphs who are the best informed on the Sunna of the Prophet and its ta wil.

f. 121b. The Hijâzis, 'Irâqis, Syrians: Sufyân, Mâlik, ahl al-ra'y and others do not think the pilgrim who proclaims the intent to perform Hajj alone, and the man who proclaims the intent to perform Hajj and 'umrah jointly in a single journey may abandon ihram before Yasâm al-Nahr.

ff. 120a-b. Abû 'Ubayd distinguishes faskh from mut'ah.

f. 123b. cf. Muw., bâb al-tamattu'.


f. 123b. 'Umar forbade it; Tir., bâb al-tamattu': Ibn 'Umar said, 'Suppose my father did forbid it, but the Prophet did it. Whose word should we follow, 'Umar's or Muhammed's?'

Nas., loc. cit., b.M. faskh al-Hajj; note the usual alternation: mut'alhumattu'.

Bilâl and Abû Dharr represent the opposition to faskh.

f. 124b ff. Surâqah b. Mâlik represents the pro-mut'ah faction.

f. 125a. The Prophet's dictum: 'The 'umrah has been incorporated into the Hajj until the Last Day.'

Mus., jawâz al-'umrah: ibn 'Abbâs: 'The Prophet said, "This is an 'umrah istamta'â bîhâ – he who has no hady may abandon ihram and all its tabus." He added, "The 'umrah has been incorporated into the Hajj until the Last Day."'

The confusion of the vocabulary of Q 2.196 and Q 4.24 is the key to this entire section.

cf. b.M. [Surâqah]: bâb al-tamattu' bi-l-'umrah ilâ al-Hajj. Abû 'Ubayd: The Prophet's dictum is susceptible of two possible interpretations:

1. by 'the incorporation of the 'umrah into the Hajj' is meant faskh. That is, that a man proclaims his intent to perform the Hajj but, on completing the jawaf of the Ka'bah, [which counts as an 'umrah] he abandons the ihram which he had assumed for the Hajj.

2. It may be a reference to mut'ah. That is defined as: performing the 'umrah in the pilgrimage months, and, having completed it, and shaved the head, deciding to participate in the same year's Hajj, by renewing a proclamation for the Hajj. In the pre-Islamic era, the Arabs were unfamiliar with the performance of the 'umrah in the Hijj season. They did not acknowledge it – indeed even deplored it. This is related as from Tâwüs, while others relate it as from ibn 'Abbâs. [cf. Mus., jawâz al-'umrah fi askhur al-Hajj. Bu., bâb: al-tamattu' wa-l-qirân wa-l-ifrâd, etc. Nas., loc. cit.] The Surâqah hadith refers to this. When the Prophet ordered them to abandon ihram, that is why they protested. He then insisted, stating that the 'umrah had been incorporated into the Hajj for all time. Then the Qur'ân revealed the rukhsah, permitting this practice, Q 2.196. The Prophet demonstrated also the sunna of qirân – i.e. the proclamation of one's intent to perform Hajj and 'umrah jointly in the course of a single visit to Mecca.

f. 126a. Mus., bâb: al-i fors war-l-qirân, Anas b. Mâlik: I heard the Prophet proclaim his intent to combine Hajj and 'umrah. cf. Dâr., qirân; b.M. al-ihram; man qaran al-Hajj wa-l-'umrah; Nas., al-qirân for hadiths from: ibn 'Abbâs; 'Ali; 'Imrân. Nas., from the Prophet, 'If I had my time over again, I would do as you are now doing; but I have brought a hady and have qaran.'

Thus the Prophet [who made only one pilgrimage] is credited with: faskh; afradu; tamattu'; qirân.

f. 126a. 'Imrân: the Prophet jama' Hajj and 'umrah. He never
The addition would seem to carry us back to the ‘umrah in the year of Hudaibiyyah. Refused entry to Mecca, the Prophet and his company were obliged to abandon ihram without ever reaching the Ka’bah and to sacrifice their hady which could not reach the Ka’bah. [cf. Muw.: mā jā’a fi man ṣudr bi ‘adāw (1.260)]. Shāfi’ī insists that Q 2.196 was revealed at Hudaibiyyah. Umm, 2, p.135: ḫina ṣudr al-nabi . . .

cf. DQ mawāqif: Abū Dharr said, ‘Mut’ah was lawful only to us and to the muḥṣar – [the obstructed] cf. Q 2.196. ‘It was permitted exclusively to the Companions of the Prophet. It is not permitted to others – except the muḥṣar.’

Ironically, ‘Imrān and ‘Ali have joined ibn ‘Abbās as chief witnesses appealed to by the proponents of mut’ah, in the sense of temporary marriage’. [cf. Rāzī, 10, p.52.]

Despite the reports of ibn ‘Umar and ‘A’īshah, the author settles the question of the Prophet’s ihlāl mathematically.

f. 129a. The majority report that he qaran, and they include: ‘Umar, who assured Ṣuba’ay that he had been guided to the Sunna of the Prophet. Suyūṭī [Tanwīr, 1,245] and Nawawī [5,251] show how the conflicting reports are to be harmonised.

f. 129b. A fuller hadīth wording is not grounds for suspicion: some transmitters retain more than others. In any event, mut’ah of the Hajj is mentioned in the Qur’ān; qirān is found only in the Sunna. Both represent alleviation. rukhshah, concessions to the Muslims.

f. 130b. ibn ‘Umar’s ta’wil of Q 2.196 shows that mut’ah and qirān are, however, permitted only to non-Meccans.

But, cf. Muw., tamattu’: non-Meccans are penalised for mut’ah.

f. 131b. ‘Umar is reported to have forbidden this mut’ah. That cannot be the case, since it is mentioned in both Qur’ān and Sunna. The reports must, therefore, be re-interpreted.

‘Umar either had in mind Q 2.197: ‘The Hajj is in well-known months’ – i.e. the Hajj alone; or he was solicitous for the economic welfare of the city, and preferred to see the stream of visitors distributed throughout all the months of the year.

f. 132a. cf. Muw., jāmī’ mā jā’a fi-l ‘umrah: ‘Umar said: ‘Keep your ḥajj separate from your ‘umrah – that is atamūn for both the Hajj and the ‘umrah. It is atamūn for your ‘umrah that you perform it out with the Hajj months.’ [cf. Q 2.196: atimūn . . .] cf. Mus., fi-l-mut’tah bi-l-Hajj wa-l ‘umrah [as here, f. 132b]. He makes it clear that this is tafsīr of the two verses.
K. al-nāṣikh wa-l-mansūkh

f. 131a. Abū 'Ubaid espouses ibn 'Umar's taṣfīr of Q 2:196: Some scholars had declared that Meccans might with impunity perform either mut'ah or qirān. But ibn 'Umar took the opposite view: God granted this concession only to non-Meccans, "that is for those whose families do not dwell in the precincts of the Sacred Mosque." cf. Muw., tamattu': the hādy, or its alternative, the fast, are imposed ["ala"] non-Meccans. The Qur'ān and the ibn 'Umar taṣfīr both say lī — the particle of concession!

f. 133b. cf. Muw., tamattu': ibn 'Umar said, 'By God! I prefer the performance of the 'umrah before the Ḥajj and to offer a hādy to performing the 'umrah after the Ḥajj in dhū-l-Hijjah.' cf. Bu., bāb Q 2:196: ibn 'Abbās said, 'God declared that permitted to all men — except the Meccans.'

The Ḥajj months: Shawwāl; dhū-l-Qī'ādah; dhū-l-Hijjah. Anyone who tamattu’ during these months incurs the duty either to offer a hādy, or to observe the fast.

cf. Bu., bāb: the Ḥajj is well-known months: ibn 'Umar said: the months of the Ḥajj are: Shawwāl; dhū-l-Qī'ādah and ten nights [only] of dhū-l-Hijjah. ibn 'Abbās said: The Sunna is that one may not assume ihram for the Ḥajj except in the Ḥajj months.

f. 134a. The hadiths represent the interpolation into Q 2:197 of the word [only]: [only] the Ḥajj may be performed during the well-known months. cf. f. 131b. 'Umar's view.

f. 134b. The 'Ali statement is opposed to the 'Umar view. cf. Nahḥās [p.34]: Commenting upon Q 2:196, 'Umar said: 'The "completion" of the Ḥajj and 'umrah is that you do not fashk.' ‘Ali said: 'It is that you assume ihram from your home' [min duwairat ahlīka]. Abū 'Ubaid thinks 'Ali too great a scholar to suppose that the ihram is to be assumed from one's homeland. That would be contrary to the Sunna of the Prophet on the mawqūf. Perhaps 'Ali was referring to the intent with which one left home. One should intend solely the performance of the 'umrah and devote one's journey to that sole aim. Nahḥās reports from Sufyān: One should have no ulterior intent, such as, for example, to combine the journey with commercial activities. Abū 'Ubaid would add that one ought not to intend either to take advantage of the same journey for the performance of the Ḥajj.

Shafi‘ī. Umm. 2,113: takes the view that the hādy required of the qirān and the mutamattī is on account of their having performed one of the two rites from Mecca, without returning to the mawqūf.

Editor's commentary on the text

f. 135b. Q 5,2. Nahḥās [p.117-8] produces approximately the same ibn 'Abbās hadith. By the same isnād, he quotes also: The mshūriks used to venerate the Ḥajj, and to lead their hādy, and regard the Sacred House with the greatest degree of respect. The Muslims hoped to alter [yughaiyiru] that state of affairs, but God revealed Q 5,2.

cf. Hibatullah [p.40-1] On the occasion of the fulfilled 'umrah, the Muslims heard the talbiyah of the unbelievers, including that of Bakr b. Wā'il among whose number was a man who had apostatised and stolen some of the Prophet's livestock! [!] The prophet was on the point of attacking [yughir] but was prevented by God's revealing: "wa la āmin al-bait . . . do not be led into error on hearing gloating of people who prevented you from reaching the Sacred Mosque. Do not let yourself be goaded into transgression . . ." This verse was, in turn, abrogated by 'the sword verse' — [Q 9,5].

f. 136a. Q 9,28: Nahḥās [p.167]: the verse was revealed to abrogate the agreement the Prophet had made with the mshūriks to the effect that he would not bar anyone from entering the Sacred Mosque. The verse means that they should now be barred from entry to the entire Haram. Mālik and 'Umar b. 'Abdul Azīz extended this ban to all non-Muslims and to every mosque. Shafi‘ī forbids the entry of mshūriks to the Sacred Mosque, but does not include other mosques in the ban. Abū Hanīfah, Abū Yusuf and Zufar do not forbid Jews and Christians entry to mosques, even to the Sacred Mosque. They argue that the term mshūrik means 'polytheist', 'idolator'. But God Himself calls the People of the Book mshūriks in Q 9,31.

ff. 136a—157a. The Holy War

f. 136b. The Zuhri hadith. cf. Nahḥās [p.190]: ibn 'Abbās declared: Q 22,39 was the first verse revealed to permit fighting the enemies of Islam.


ff. 137b—138a. The two jurīqahs do not agree:


'Aṭā‘ Khurāsānī: Q 24,62 abrogated Q 9,45.
f. 138a. Abū ‘Ubaid accepts that Q 8.66 abrogated Q 8.65.

Hibatullāh [p.49]: there can be no alleviation, except from something more onerous.

Takhfīf is one of the synonyms of nāsikh – Shāfi’ī Ris., p.106.

But, Nahḥās [p.158] distinguishes nāsikh from takhffīf: the meaning of nāsikh is the withdrawal of the entire earlier ruling. The entire earlier ruling has not here been withdrawn. God did not say, ‘A Muslim may not fight ten unbelievers.’ Similarly one would not say that the concession to break the fast during Ramāḍān is nāsikh. It is an alleviation, a concession. To observe the fast [is not forbidden. Indeed, it is] more meritorious.

Bu., Tafsīr. Q 8.65-6: Sufyān – ibn ‘Abbās: ‘When Q 8.65 was revealed, they were required not to flee from ten.’ Sufyān repeated more than once: that twenty should not flee from two hundred. Q 8.66 was revealed and one hundred were required not to flee from two hundred. Sufyān added once: God revealed Q 8.65, “Oh Prophet! incite the Muslims to war.” From ‘Ikrimah, Bu. adds: ‘When the number was decreased, the reward was decreased.’

Shāfi’ī, Ris., [p.127] Sufyān – ‘Amr b. Dinār – ibn ‘Abbās: Q 8.65 was revealed and they were required that twenty should not flee from two hundred [as above]. The matter is as ibn ‘Abbās has said. God made His ruling clear in the verse which requires no tafsīr [*].

f. 139a. cf. ibn Hazm, Iḥkām [4, p.462]: ‘Some allege that Q 8.66 abrogated Q 8.65. That is wrong. This view is not based on ijmā‘. There is no indication of nāsikh. The verses concern the obligation to confront the mushriks. When the two forces meet, it is not permitted to any Muslim to turn his back on the entire mushrik population of the world. Is there any mention in the verse of fleeing? The verse merely announces [in advance] future victory conditional upon patience and it promises divine assistance to the steadfast.’

f. 139b. Q 8.61. Hibatullāh [p.49]: revealed to regulate relations with the Jews, but abrogated by Q 9.29 which laid down acceptance of the jiyyah.

Nahḥās [p.157]: Qatādah said the nāsikh was ‘the word verse’ [Q 9.5], ibn ‘Abbās said the nāsikh was Q 47.35 – which Nahḥās thinks is ‘not impossible’.

f. 140a. Those who argue that ‘the sacred months’ refers to the months of the Ḥajj, and therefore, to something different from the four months’ moratorium mentioned in Q 9.2, require two groups of Arabs to whom to attach these two periods of four months and fifty nights. The latter is made to refer to those Arabs who have no treaty relation with Muhammad. This is all tafsīr. Q 9.7 makes clear that neither period refers to the Meccans, ‘as long as they abide by their undertakings’.

Q 9.4 makes clear that neither period applies to other Arabs with whom Muḥammad does have treaties and who have scrupulously observed the treaty terms. The implication appears to be that Q 9.1 refers to Arabs, in treaty relation with Muḥammad, who have breached the terms of their agreements.

f. 140b. Mujāhid notes that ‘the sacred months’ refers to the same four months already mentioned, i.e. the period during which war with the Arabs will be forbidden. They are called ‘the sacred months’ and are consecutive.

f. 141a. Abū Hurairah’s tafsīr of “yaum al-Ḥajj al-akbar” as yaum al-nahr. [cf. Ṭab., 14, pp.113-30.]

We have also here the harmonisation of two distinct traditions as to who had been the bearer of Bara‘ah: Abū Bakr or ‘Ali. The date of the proclamation of Muḥammad’s denunciation of treaties with certain Arabs [10th dhū-l-Hijjah] underlies the fifty nights’ calculation of one of the two alleged periods, reference to which is now repeated [f. 141b].

cf. Bu., Tafsīr, Q 9.1-5.

If the end of the period is the last day of Muḥarram, the four months can also be calculated to give the date of the revelation of the verse in Shawwāl [cf. Nahḥās, p.163].

f. 142a. Q 4.90. Hibatullāh [p.38] abrogated by Q 9.5. Nahḥās [p.110]: the interpreters are agreed that this was abrogated by the command to engage in Holy War.

[p.111]: same ḫnād as here, but without reference to Q 60.8. ibn ‘Abbās says that Q 4.90 was abrogated by the sword verse. So also from Qatādah.

[p.112]: following Bara‘ah, all Arabs had one choice: Islam or war.

Abū ‘Ubaid: Q 9 was the great watershed. It abrogated the armistice, cancelled all treaties and summoned the Muslims to the Holy War. Q 9.41 was thought to have imposed the obligation to fight upon the individual Muslim. This appears to be the view attributed to the
Companions: Muqādā: Abu Ayūb; Abu Talḥah.

\[\text{f. 143b.} \] It was Mujāhid's tafsir, Abu Sālih's and Ibrāhīm's.

Numerous verses inciting to warfare reinforced this view. There are equally large numbers of Prophetic statements.

\[\text{f. 144a.} \] Q 2:216: abrogated the command that they endure and show patience, issued to the Muslims at Mecca, before the Hejirah. The verse, in turn, was thought to have been abrogated by Q 9:122 which also abrogated Q 9:41. Others thought that jihād was an inescapable obligation. ‘Aṭā’ thought it an obligation - but not on the Muslims of his own day. The verses had been addressed to the Prophet and his contemporaries.

Nabāḥs [p.31]: those fuqāhā ‘whose word is law’ say that the jihād is, indeed, an obligation, but one which some fulfill on behalf of others.

\[\text{f. 144b.} \] The hadīth: cf. Bu., Jihād, wujūb al-nafīr. reporting from Mujāhid-Tawwūs-ibn ṬAbbās. cf. also bāb lā hijrā ba’d al-fāth: The Prophet said to a man: ‘There is no hejirah after the Conquest of Mecca, but I will accept your fealty on the basis of your acceptance of Islam.’ Bu. reports also from: ‘Amr, and Ibn Juraij that ‘Aṭā’ said to him and ‘Ubaid b. ‘Umar, ‘The hejirah ceased with God’s granting victory at Mecca to His Prophet.’ Nas., Bai‘ārah, bāb dhikr al-ikhālīfāt fī inqīdāf al-jihād: The Prophet said, ‘I will accept your fealty on the basis of your acceptance of the jihād.’ To another, he said, ‘There has been no hejirah since the Conquest of Mecca, only the jihād and [pure] intent – if you are summoned to war, come out and fight.’ Nas., also has the above Tawwūs-ibn ṬAbbās version. In addition, ‘Umar said, ‘There has been no hejirah since the death of the Prophet.’ cf. Dār, Siyār, bāb: lā hijrā ba’d al-fāth [from ibn ṬAbbās].

cf. Amwāl [p.217]: the hejirah has been abrogated. After the Conquest, the Prophet said, ‘There is no hejirah after the Conquest.’ [p.218.] ‘Amr b. Dinār reports from Tawwūs that he related from the Prophet, ‘Stay on your tribal lands. The hejirah has come to an end. There is only jihād and [pure] intent. If you are summoned to war, come out and fight.’

Here, Abu ‘Ubaid reports further versions, e.g. that of Fudayk, and a long version of Tawwūs and ‘Ubaid’s visit to ‘A‘ishah.

Nas., loc. cit. A man said to the Prophet, ‘They allege that the hejirah has come to an end,’ The Prophet replied, ‘It will not come to an end, as long as there are unbelievers to fight.’ Abu ‘Ubaid explains this as figurative. Every man who believes and strives will be regarded as on the same level as those who made the hejirah. The Prophet said, ‘There are two hejrah: when the Arab is summoned, he must come and do as he is ordered; the hejirah of the townsman is a greater trial and will be better rewarded.’

Dār. has the tarjama: the hejirah will never come to an end. Here, Mu‘āwiyah claims to have heard the Prophet say, ‘The hejirah will not come to an end until repentance comes to an end, and repentance will not come to an end until the sun rises from where it normally sets.’

Suyūṭi [Sharḥ Nas., loc. cit]. They explain this as the hejirah from dār al-harb to dār al-Islām, which will always remain open until the Last Day. They interpret the Prophet’s hadīth to mean: There has been no further hejirah from Mecca since the city became part of dār al-Islām. But, by engaging in the jihād, and showing will in every act, men can acquire similar merit.

This is similar to what Abu ‘Ubaid quotes from Fudayk to whom the Prophet said, ‘Keep up prayer, pay the zakāt and eschew [uḥūr] evil – then dwell where you please in your tribal land.’

Bu., Jihād, bāb: the duty of the jihād will persist as a duty under the pious and the impious ruler on account of the Prophet’s words: Good is intertwined in the manes of horses until the Last Day.

cf. Dīwān Imrū’ al-Qais, ed. Muḥammad Abu al-Fadl Ibrāhīm, Cairo, 1958, p. 48, l.1: [although the attribution is questioned]:

As long as sun rises and sets, good
Is to be sought [it is] intertwined in the manes of horses.

[See. pp. 225; 437.]

cf. A.D., Jihād, ‘Imrān reported the Prophet as saying: A party of my people will never cease the armed struggle on behalf of the Truth, and they will vanquish those who are hostile, until the last of them engage the lying Messiah.

This hadīth comes down through four transmitters:

1. Ibn ‘Umar
2. Abu Hurairah
3. Anas
4. ‘Urwa b. abī al-Ja‘d

Muw., Jihād, khail; Tay., faḍl al-khail; Bu., Jihād s.v.; b.M. irtiḥāt al-khail.


Bu., loc. cit.

Tir., Jihād; Dār., faḍl al-khail.
Urwa’s hadith usually glosses ‘khair’ as: reward and booty. Ahmad [Tir., loc. cit.]: The Jihad will persist with every ruler until the Last Day.

A.D. báb: the mantles and tails of steeds are not to be shorn; a marfū’ hadith, longer than Abū ‘Ubayd’s.

f. 145a-b. ‘Abdullāh b. ‘Amr b. al-‘Āṣ: Jihad is the sixth ‘pillar of Islam’. ‘Abdullāh b. ‘Umar: There are only five!


Bu., Tafsīr, Q 2,193 – here, the hadith varies between marfū’ and non-marfū’, as Abū ‘Ubayd states.

Najhās [p.31]: That the jihad is obligatory had been the view of ‘Abdullāh b. ‘Amr and of Ḥudhayfah.

f. 146b. The expression fard kifāyah is used by neither Abū ‘Ubayd nor Najhās.

f. 147a. Najhās [p.31] disagrees. Q 9,122 does not naskh the command to fight. It states that the Muslims should not all go out together. [p.169]: There must be Muslims left behind to protect dār al-islām from the attacks of unbelievers. [p.31-32]: Those who argue that the jihad is nāfilah as opposed to obligatory, argue on the basis of the hadith in which ibn ‘Umar said that the Prophet had said, ‘Islam is built on five foundations’ [f. 145b]. That proves nothing. ibn ‘Umar stated that he had ‘worked that out’ [istanbattahu] he did not attribute it to the Prophet. But, even if he had attributed it to the Prophet, it still would not prove anything. The Prophet might have omitted mention of the jihad since it was already mentioned in the Qur’ān, or since some people fulfill that obligation on behalf of others. The obligatoriness of the jihad is certainly mentioned in both Qur’ān and Sunna. Malik quotes from ibn ‘Umar that the Prophet said, ‘Good is intertwined with the mantles of horses until the Last Day.’ The scholars have explained that that refers to warfare.

f. 147b. Bu., Jihad bāb wujāb al-nafir: ibn ‘Abbās on Q 4,71. He said it means ‘separate night patrols’ [sarāyā].

The Sing. of thubūt is thubāb [cf. Hibatullāh (p.38)].


f. 149a. The status of Q 9,36 and Q 2,217. God had imposed the duty of warfare, but He had prohibited fighting in certain holy periods. The scholars have disputed whether this prohibition has, or has not been abrogated.

Hibatullāh [p.20]. In the Jāhiliyyah, fighting was tabu during the holy months. Warfare between Medinan Islam and the Meccans dated from the raid by ‘Abdullāh b. Jaḥsh, in the course of which, fighting broke out and some of the unbelievers were killed – it is said, at the very end of Jumādā II, others say after the beginning of Rajab. The Arabs were scandalised at this breach of the ancient tabu, and Q 2,217 was revealed: “fighting in a sacred month is a grave offence, but preventing men from God’s way and disbelief in God is even graver.”

Hibatullāh says the verse was abrogated by Q 9,5.

Najhās [p.32]: The scholars – except ‘Atā’ – are agreed that Q 2,217 has been abrogated and that fighting the unbelievers in the holy months is permitted. ‘Atā’ argued on the basis of the Jābir hadith to the effect that the Prophet would suspend warlike operations during the holy months – unless the Muslims were attacked. Jābir’s hadith might even refer to the period before the revelation of Q 2,217.

f. 150a. Najhās: ibn ‘Abbās; Sa‘īd b. al-Musayyab; Sulaimān b. Yāsir: Qatādah and Awzā‘ī all held that Q 2,217 had been abrogated by Q 9,5 – the sword verse.

From his personal service on the frontier, Abū ‘Ubayd can report the current opinion among the Muslims there. Fighting is permitted in every single month, sacred or not. He knows of no disagreement among the scholars of Syria or Iraq on the question, and thinks that may also be the position of the scholars of the Hijāz. Their sanction lies in Q 9,5 – where, incidentally, the term ḥāthūr would appear to have been interpreted to mean ‘in whatever circumstances’, thus including time as well as place.

ff. 150b–156a. Treatment of prisoners of war

According to ibn ‘Abbās, Q 8,67 was revealed at about the time of Badr, when the Muslims were militarily weak. When they had become strong, God revealed Q 47,4, which appears to suggest the choice between magnanimity or, at worst, releasing prisoners against ransom. ibn ‘Abbās’ ‘reading’ of the verse suggested: execution; ransom or enslavement. Abū ‘Ubayd is uncertain about the last option. Najhās [p.158] has the same ibn ‘Abbās hadith, with the same īsmād, although he does not report it from Abū ‘Ubayd, and it
would seem to secure the mention of enslavement. In his *Amwal*, the author is still having problems with the wording of the hadith, although he is now more positive: ‘but they cannot be enslaved’. Here, he reproduces the Sūdāt *taflīr* [p.128].

f. 151b. ibn Jurair disagrees with ibn ‘Abbās, in placing the revelation of Q 47.4 before Badr, since, at Badr, the Prophet had killed ‘Uqbah b. abi Mu‘ājī, after his capture.


p.121 for the Ḥasan, ‘Aṭāʾa opinions. The scholars have disagreed over the interpretation of the verses.

f. 152b. The reference to the Ḥasan and ‘Aṭāʾa views has become misplaced – see f. 152a.

The Abū ‘Ubaid opinion: all the verses are *muḥkamah*, none is *nashīkh*. This is grounded in his knowledge of the *sirah-maghāzi* reports on the various phases of the Prophet’s life, which show that, in various campaigns, he killed, or ransomed or granted free release to prisoners taken in war.

Tir., *abwāb al-siyar*: (the *insād* goes back to ‘Ali): The Prophet said that Gabriel had come to him and said, ‘Let your Companions choose in relation to prisoners taken at Badr between death or ransom, on the condition that some of them will die in future campaigns.’ They chose death for themselves and for the prisoners on that occasion, they chose ransom.

f. 153a. Abū ‘Ubaid: All options remained open to the Prophet throughout his entire career, and he applied each of them. There is no *naskh* here. At Badr, he killed ‘Uqbah b. abi Mu‘ājī and al-Nadr b. al-Hārith after the battle. The other prisoners were either ransomed or released. At the battle of the Trench, he executed the fighting men of Quraizah and enslaved the women and children. He offered free pardon to al-Zubair b. Bāta on the intercession of Thābit b. Qais. Thereafter, he captured Muṣṭaliq, none of whom he killed, but shortly after, released them all. He was magnanimous at Khaibar, killing only those who breached the terms of the surrender. At the Conquest of Mecca, he had Hilāl b. Khaṭṭāl and Miqyās b. Dubābah and a few others put to death, releasing everyone else. He was generous to Hawāzin, following Ḥunain. The Prophet thus applied all three rulings: execution, ransom or free pardon. For example, he freely released Abū ‘Uzza al-Jumahī at Badr, but then killed him at Uhud for appearing among the combatants. He ransomed the Fazārī woman captured by Salamah b. al-Akwa, exchanging her for two Muslims who were in the hands of the Meccans.

[cf. b.M. Jihād, bāb fidāʾ al-asārā; Tir., bāb qatl al-asārā wa-l-fidāʾ: Dār., bāb: fidāʾ al-asārā.] *Amwal*, p.106: The Tradition shows that the Prophet applied three sunnas to prisoners: free release; release against ransom; death. All three are mentioned in the Qurʾān: the first two in Q 47.4; the last in Q 9.5. cf. p.133: The three rulings had been applied to Arabs. Male Arabs are not reduced to slavery.

‘Umar released prisoners taken during the Jāhiliyyah, returning them and any sons born of slave women, as free persons to their tribes, in exchange for ransom to be paid to those in whose hands they were found, who had now become Muslim.

[p.135]: The taking of Arab prisoners is now a thing of the past. The Muslims conquered the lands of the non-Arabs and applied four rulings, adding the enslavement of prisoners taken.

Nahḥās [p.220]: Some say that Q 47.4 is abrogated. It had applied to the idolators, but their treatment is now laid down in Q 9.5, ‘the word verse’. Others say it refers to all non-Muslims, but is now abrogated. Still others say it is, in fact, the *nāṣīkh* which forbids them to be killed. Prisoners may be only either set free forthwith, or ransomed. Some say the *imām* is free to choose whether to ransom or to kill, while yet others say the verse is *muḥkamah*, the choice being the *imām*’s.

f. 151b. ibn Jurair said the verse was abrogated by Q 9.5. That is also the view of Suddū and of many of the Kūfīs. Others, who hold that it permit ransom only in the case of female prisoners. Women may not be killed by the Muslims. Males, however, may not be either released or ransomed. These people set no store by the traditions as to the attitudes of the caliphs which they interpret in a variety of ways to explain why they never killed prisoners.

Nahḥās [p.221] commenting upon the ibn ‘Abbās *hadith* [f. 151a] to the effect that the Prophet had been given the choice between killing or enslaving, ransoming or granting free release to prisoners, states thus, the two verses [Q 47.4; Q 9.5] are both *muḥkamah*, since *naskh* can be decided only on the very firmest evidence. Where, however, two verses can both be put into effect, it is meaningless to argue for the *naskh* of one of them. The enemy can always be killed before being taken captive. After capture, he may be killed, ransomed, or freed. All depends upon which course is most conducive to the Muslim good. This is the view related as from the people of Medina. Shāfiʿi and Abū ‘Ubaid. [cf. *Fitbār* p.9, al-jarn‘ yamma’ al-naskh.]
The views ascribed to Hasan and Ṭāta’ engender the thought that the discussion centred upon Q 47:4 which can easily be juxtaposed with Q 8:67 with which it shares use of the root athkhan – to effect great slaughter. The root occurs in Q 47 just after mention of ‘striking necks’ giving rise to the idea that the choice offered to the Muslims by Q 47:4 was three-fold, ‘striking necks’, free release or ransom. It is noteworthy that Ṭāta’ and Hasan were thought to have concentrated solely on that one verse. Q 9:5 need never have been mentioned in a discussion on prisoners of war. Q 47:4 makes no mention of the enslavement of prisoners.

ff. 156a–157a. The spoils of war
f. 156b. Q 8:1. They will ask you about the anfāl.

Hibatullāh [p.48] the ‘about’ [‘an] is otiosus. The meaning is: they will ask you for the anfāl – they had asked the Prophet to gift to them the anfāl. At the time of Badr, seeing their weak state and lack of provisions, to urge them on and encourage them, the Prophet had said, ‘He who kills his enemy may have his personal accoutrements; he who takes a prisoner, will have the ransom money.’ Following the battle, he saw that the booty would not suffice his men and the verse was revealed: ‘They will ask you for the anfāl. Say, ‘The anfāl belong to God and to the Prophet.’ ” Q 8:1 was abrogated by Q 8:41.

Amwāl, p.305: the author reports the first tafsir-ḥadith, adding, after the first verse, i.e. the ghanimah. According to the traditional interpretation, anfāl are ghanimah, which refers to everything that falls into Muslim hands from the enemy. At first the anfāl were the exclusive property of the Prophet. At Badr, Muhammad distributed them as he saw fit, under divine guidance. He did not divide them into five portions. Later, Q 8:41 was revealed, the verse of the ‘fifths’ and Q 8:1 was abrogated. The anfāl originate from the ghanimah, of which one-fifth is exclusive to the groups nominated in Q 8:41, as has been illustrated by the Sunna. In Arabic, anfāl means: a free gift, with no element of obligation attaching to it, on the part of the donor. God has granted this community the free gift of the ghanimah, alone of all religious-based communities!

Nahḥās [p.151] reports that it is the view of the majority that Q 8:41 abrogated Q 8:1. Since Q 8:1 was among the first of the Medina revelations, dating from the time before the Prophet was commanded to divide the booty into five parts, the distribution of the booty being, at that time, the sole prerogative of Muḥammad, it is clear that the revelation of the command to divide the booty must have abrogated

the earlier situation. They say that anfāl here means booty. God has granted booty as a free gift to the community of Muḥammad.

Others say that Q 8:1 is not abrogated. It is for the imām to decide what, and to whom, to grant, in the light of his judgment of the advantage to Islam as a whole. These scholars distinguish anfāl from ghanimah. The word anfāl implies ‘addition’ and thus refers to any bonus, over and above a man’s share of the booty. Others thought the word referred to slaves or cattle staying from the enemy side into Muslim hands [Amwāl, p. 304]. The imām might give it to whom he pleased, if he saw in that any advantage to Islam [Ṭāta’; Hasan]. Others have argued that anfāl is what is seized by patrols, while yet others explained anfāl as referring to the ‘fifth’ itself.

Nahḥās quotes the Ibn ‘Abbās hadith [f. 156b]. It was also the view of Mujāhid. He quotes the view of Ibn Jurāj (of which he had been informed as from Sulaim, mawlā of Abū ‘Ali, reporting from Mujāhid). ‘Ikrīmah had taken the same view, as had also Dahhāk, Ṣaḥābī, Suddi and the majority of the fuqahā’, although most of them said that the imām was not at liberty to grant to anyone a gift taken from the ghanimah, except from the fifth reverting to the imām himself. The four-fifths allotted by God to the participants in the fighting are quite out with the imām’s control.

Amwāl [p.308]: four sunnas govern the anfāl:

1. no fifth is deducted from the personal accoutrements [aslāb] taken during the battle;
2. patrols may receive one-quarter or one-third of the residue of the four-fifths, after deduction of the fifth;
3. the imām is at liberty to gift freely from his fifth if he sees some advantage in that to the Muslim cause;
4. the imām is also at liberty to pay, from the as yet undivided booty, fees to guides and herdsmen whose roles benefit the army as a whole.

The disputed question was, since anfāl means ‘gift’ whether this refers to God’s gift to the Muslims, in that He granted to them a law on the division of the booty; or whether it implies the making of a free gift of any of the materials captured in war, and whether that lies in the discretion of the Muslim leader. The scholars can generally be seen to wish to limit the imām’s discretion. Nevertheless, Abū ‘Ubayd’s four sunnas show that they knew that there was a difference between anfāl and ghanimah— (except for the purposes of a discussion on naskh).
ff. 157a–161a. Seeking permission to enter

Q. 24,58: Mujāhid: the ruling refers to male slaves; Abū ʿAbdul-Rahmān al-Sulami: it refers solely to females who must seek permission at the hours specified. Males must seek permission at all hours.

f. 158a. Abū ʿUbad knows of no one who argues the naskh of this ruling. On the contrary, they insist on its observance. Nahḥās [p.197]. Saʿīd b. al-Musaiyab: the verse is abrogated. Ibn Jubair: it is no longer acted upon. Abū ʿAbdul-Rahmān’s view is wrong. The verse says ‘alladhīna’: that, being Masc., can refer only to males. Ibn ʿUmar stated the verse refers exclusively to male slaves.

f. 159a–b. Ibn Abbās. Cf. Nahḥās [p.198]. Abū ʿUbad: the people do not act upon this verse. But Ibn Abbās has not told us that a Qur’ān abrogated it, or that a sunna brought a relaxation. ʿAṭā relates his words, ‘The people do not act upon this verse,’ as a criticism of their neglect of the ruling [f.158a]. That ʿAṭā recension serves to elucidate the ʿIkrimah version [f.159b]. In that case, the verse is muḥkamah. Neither Qur’ān nor tradition from the Prophet, the Companions nor the Successors, suggests any relaxation of the ruling. There is the Ḥasan view to the effect that there is no harm in a living-in maid’s entering without first seeking permission.

Reference to naskh was intended to rationalise the observed non-application of the ruling. Shaʿbī, insisting that the verse had not been abrogated, deplored the fact that its ruling was being ignored [f.158b]. The ʿIrāqīs would appear to take the ruling more seriously than others.

f. 159b. The ʿIkrimah version: altered circumstances bring altered rulings. Nahḥās takes this report to indicate that the ruling had lapsed, not, indeed, on account of naskh, but on account of what Suyūṭī would call insā. The ‘illah which had originally called for the ruling had lapsed.

The verse is muḥkamah: Shaʿbī; al-Qāsim; Jābir b. Zaid.

Q. 24,58 mentioned three times of the day when this ruling should be observed. Cf. Muw., bab al-isti’dhān: A man asked the Prophet, ‘Should I knock before going in to see my mother?’ The Prophet said he should. The man explained, ‘But I am her personal attendant, and I live in the same house.’ The Prophet told him that that made no difference. He should always knock, unless he wished to find her at some time in a state of undress.

Abū Mūsā reports that the Prophet said, ‘One should knock three times, and enter when permitted. If there is no reply, one should go away.’ He had knocked at ʿUmar’s door once, seeking permission to enter, three times. He then left. ʿUmar sent after him to ask why he had not come in. Abū Mūsā repeated the words he had heard the Prophet use. ʿUmar asked for corroboration of the hadith, using a threatening tone. Abū Mūsā went off to seek someone who would confirm his report. At the mosque, in what was called the Anṣār circle, he explained what had happened and those present told Abū Saʿīd to return with Abū Mūsā to ʿUmar. Being their youngest member, Abū Saʿīd confirmed what Abū Mūsā had said. ʿUmar explained to Abū Mūsā that he had not doubted him, but that he feared that people might father views and words upon the Prophet.

Cf. Bu., K. al-isti’dhān; Mus.; Adab; Dār., Tir., isti’dhān.

Abū Mūsā’s “knock three times” looks like a confusion of Q. 24,58’s: ‘three times’ – i.e. at three hours of the day: before the dawn prayer; when men lie down after the noon prayer to take their siesta; and after the ‘isha’ prayer.

The foregoing hadith material illustrates the extreme attention to Qur’ānic detail which was the cause of what has earlier been referred to as the ‘atomism’ of much of the tafsīr.

f. 106b. Hibatullāh [p.70]. The ruling affecting the immature was abrogated by the later expression referring to the mature, i.e. Q. 24,59.

Q. 24,58: minkum: that is interpreted: from your class, i.e. free persons.

f. 161a. This ibn Sirīn hadith is a precise illustration of the construction of a hadith-report from the wording presented in the relevant Qur’ān verse.

ff. 161a–170b. Inheritance

Muhājīr–non-Muhājīr inheritance. The hejrah to Medina obliterates
blood-relationship with those who have not made the hejrah, while establishing a special relation between mubahij and Anšār.

Some thought use of the term awliya' in Q 8.72 reflected the legal meaning: i.e. prospective heirs. The mubahij ceased to regard the non-mubahij as relative, and consequently, mutual inheritance ceased, even if the non-mubahij were also a Muslim. Q 8.75 was said to have abrogated this ruling, re-establishing the normal rules of inheritance.

Abū 'Ubayd accepts the two ibn 'Abbās tafsir statements without further discussion, regarding this as an ascertained instance of the naskh of the Qur'ān by the Qur'ān. cf. Amwāl, p.215: The Sunna of the Prophet, like the Qur'ān, has its nāsik and its mansūkh. The only thing that can naskh a sunna is a second sunna, or the Holy Qur'ān.

At first, the Prophet denied any share in the ghanāmah or the fai' to those who would not undertake the hejrah. That was his principle in the early days of Islam: that the hejrah severed the links between mubahijāt and non-mubahijāt. That applied to wilāyah, inheritance and inter-marriage as well as to the distribution of the fai'. The Qur'ān then revealed that ruling and the sunna acted on that basis. The Prophet said, 'They get nothing of the ghanāmah or the fai'. The Qur'ān said what we now read: Q 8.72. (Here, the ibn 'Abbās hadith, cf. f. 161b.)

[...] Umar used to say, on that account, 'The Muslim will not inherit from the unbeliever, nor vice-versa.' Thus they understood Q 8.72. The believer who would not make the hejrah and the unbeliever were treated alike, excepting only the words, 'but, if they seek your help in respect of preserving their belief, then you must help.'

Naḥḥās [p.159] mentions the blood-brother bond established between the mubahijāt and the Anšār; on its basis, the two sides practised mutual inheritance until the revelation of Q 8.75, whereupon they reverted to inheriting by kinship.

f. 162a. Two further modes of inheritance which had been practised, came to be suppressed:

Inheritance by hif: Q 4.33: the Mūjāhid hadith speaks of a form of justice which is at variance with the practice of the Muslims. Naskh is assumed, and the mansūkh 'practice' is best projected back into the Jāhiliyyah. This illustrates neatly how exegetical myths come into being.

Q 4.33 repeats and re- emphasises in summary form the regulations laid down in Q 4.11–12 in which were stipulated the inheritance shares of: parents, spouses and nearest kin. ʿAbdullāh b. al-Zubair argued that the nāsik was Q 8.75!

f. 163a. This was the tafsir of ʿAbdullāh b. ʿAbbās.

cf. Amwāl [p.216] for the ibn al-Zubair hadith; Shuraiḥ interpreted the verse as referring to kin-relations excluding persons related by wala'. cf. Bu., Tafsir, Q 4.33: mawālī means: awliyā', heirs. ʿaqadat aminākum: mawālī al-yamin, i.e. ḥalif. mawālī also refers to cousins, benefactors, manumitters, manumitted, mamluks. From ibn ʿAbbās, he cites: mawālī means heirs. He next refers Q 4.33 to Medina, i.e. to the mubahij-anšār bond, which was abrogated by Q 4.33. Mutual inheritance ceased, but they could always make wasiyat provision in each other's favour. vide Bu., Kaffālah, Q 4.33: Farāʾīd, do. bāb: dhawi al-raḥim.

Mention of the Jāhiliyyah always includes, by extension, 'the early days of Islam'. cf. Hībatullāh [p.37].

Naḥḥās [p.107] adds the names of ibn al-Musayyab and Shaʿbī to those who speak of the naskh of the hilf. Ḥasan also speaks of naskh, but at least the nāsik is Q 4.11–12.

Qatādah mentioned Q 8.75: Daḥḥāk agreed with Ḥasan, while ibn ʿAbbās [cf. f.163b] saw in Q 8.75, the nāsik.

Mujāhid and ibn Jubair interpreted Q 4.33: give them their due share of the diyyah, of counsel, aid and comfort – narrowing down the application of the verse, then arguing that it is muḥkamah. Naḥḥās prefers this view. One appeals to naskh only where that is inevitable – where the rulings conflict. Where, however, a feasible interpretation has been achieved (more especially of a verse which still appears in the mushaf) appeal to naskh is uncalled for.

The Prophet declared: 'There is to be no hilf in Islam. Any hilf that was entered into in the Jāhiliyyah is only strengthened by the coming of Islam.' The hadith shows that the institution of hilf mentioned above has not been abrogated. The verse is thus muḥkamah. In the Jāhiliyyah people used to inherit from each other by adoption; in Islam, they did so by brotherhood bond. Both customs were abrogated by Q 4.

The scholars have pursued this circuitous route only because, whereas Q 4.33 reads: ʿaqadat aminākum, – with short 'a' in 'aqadat, the hadiths and the tafsirs consistently lengthen the 'a': ʿaqadat. That pre-supposes an institution referred to in their discus-
sions as mu'āqadah, mu'āhadah, for which hifl is a near enough synonym. That the scholars, following their lengthy detour, have come back to the view that the abrogation was effected by the Q 4 inheritance verses, means that no harm has been done in the meantime. That does, however, bring out the degree to which all their discussion was purely academic and that, in turn, underlines their ceaseless fascination with every single word in the Qur'an and with every single possibility in the exegesis.

f. 163b. Unabashed, the scholars can now refer Q 4,33 to legal adoption and its consequences for inheritance.

Naḥḥās [p.108] reports Zuhri's ḥadīth from ibn al-Musaiyab: Q 4,33 refers to both the Jahili hifl and adoption. Again, in 'aqadat, the 'a' is long and here is the alternative tafsīr, that the term refers to adoption. At least, Q 33,4-5 refers to adoption and its consequences for proper names.

f. 165a. cf. Bu., Tafsīr, Q 33,4-5, reproducing this ibn 'Umar ḥadīth: cf. Naḥḥās [p.207] this is an instance of the naskh of the Sunna by the Qur'an. The ibn 'Umar ḥadīth [f. 165a].

f. 165b. The ibn 'Abbās ḥadīth: Q 8,73-5 is easily brought into association with the similar wording of Q 33,6.

ff. 165b-170b. The wasīyah

Q 2,180: according to ibn 'Abbās, has been abrogated.

'IKrimah: it was abrogated by the inheritance regulations.

ibn 'Abbās: Q 2,180 was abrogated by the Q 4,7 assignment of an obligatory interest in the estate.

Mujāhid expands upon this: the property used to pass to the descendants, the ascendants and nearest kin benefitting by wasīyah. God specified a definite entitlement for each of: the offspring; the parents; the spouse [Q 4].

f. 166b. This Mujāhid exposition is attributed by Dār., bāb: al-wasīyah lil wārith, to ibn 'Abbās himself. So also Bu., K. al-wasīyah: bāb la wasīyah li wārith, where the isnād is the same as in Dār. [2,302].

Hibatullāh [p.16]: Q 2,180 was abrogated by both Qur'an and Sunna: the Qur'an nāsikh was Q 4; the sunna nāsikh was the Prophet's pronouncement: lā wasīyah li wārith.

Naḥḥās [p.20]: those who admit the naskh of the Qur'an by the Sunna, say that Q 2,180 was abrogated by the Prophet's words: lā wasīyah li wārith. Those fuqahā' who do not admit the possibility that the Qur'an might be abrogated by the Sunna, say that the nāsikh of Q 2,180 was Q 4. (Here, there is a conflation of the ibn 'Abbās and Mujāhid ḥadīths.)

f. 167a. Naḥḥās produces the Ḥasan opinion without isnād. The Ḥasan opinion now attributed to ibn 'Abbās, as from 'Ali b. abi Talīnah – but without isnād.

Sha'bi and Ibrāhim held that Q 2,180 was discretionary, not mandatory. Others held that it was a mandate, providing they are not among the heirs – interpreting Q 2,180 in the light of: lā wasīyah li wārith. This view attributed to Ḥadīth, Tāwūs. Naḥḥās himself thinks that Q 2,180, which remains in the musḥaf, has not been abrogated, since it and Q 4 can be jointly implemented. Hibatullāh listed as maintaining this same view: Ḥasan; Tāwūs; al-'Ala' b. Zaid and Muslim b. Yasār.

Naḥḥās [p.20] Tāwūs said, 'Any man who, having near kin, makes a wasīyah in favour of unrelated persons, makes a void arrangement. The wasīyah will be diverted instead, to his nearest kin.' Ḥadīth maintained that it was sinful to fail to make a wasīyah. (Hibatullāh attributes this dictum to the Prophet.) Ḥasan held that, in the event that a man made a wasīyah in favour of unrelated persons, the strangers would be given one-ninth [a third of a third] while the remaining two-thirds would revert to his nearest kin [f. 167a] providing they are not among his heirs.

Abū 'Ubayd: To this view the Sunna coming down from the Prophet tends, and thus, the views of the fuqahā' and their unanimous acceptance, both in the ancient and in the modern period, of the notion that the wasīyah in favour of any heir has been suppressed. They agree that wasīyah may be drawn up in favour of those near of kin who are not among the heirs. They are not so agreed on the question of the wasīyah in favour of quite unrelated persons.

f. 167b. al-'Ala' [Abū 'Ubayd calls him ibn Ziyād] and Muslim b. Yasār excluded unrelated persons, on the letter of the Qur'an.

f. 168a. 'Ubaydullāh distinguished between specific nomination, which he honoured, and general assignment, which he would base on the Qur'an's reference to the nearest kin.

f. 168a. cf. Shāfi'i, Ris., p.143: The verse might be interpreted as Tāwūs read it, in the sense that wasīyah to quite unrelated persons is not permitted. But Shāfi'i knows the story of the man who made
wasiyah provision for the manumission of his six slaves. The Prophet allowed the manumission of only two of the six [one-third]. The owner was an Arab. No Arab holds in bondage any related person. Therefore, a wasiyah in favour of unrelated persons must be unexceptionable.

Shafi’i prefers that a man make a wasiyah in favour of his kin, providing they are not among his heirs.

All the scholars Abu ‘Ubaid mentioned had interpreted the verse. f. 169a. The scholars of the Hijaz, Tihamah, Iraq, Syria, Egypt, among them Malik, Sufyan, Awzai, Laith, all the people of the ithah, and ashab al-ra’y agreed and acted upon the view that a man may make a wasiyah in favour of all and sundry, excepting only a person who is an heir. This view was based on the Prophetic dictum: la wasiyah li warih, of which Abu ‘Ubaid knows the version: the wasiyah in favour of an heir is unlawful.


The precision of the Prophet’s exclusion of heirs from benefiting by wasiyah shows that all other persons whoever may so benefit. Unlike Shafi’i, Abu ‘Ubaid gives no isnad for his reference to the Arab who owned the six slaves. These materials and several supplementary reports as to the ‘practice’ of the Companions on this question, will all be found to be confirmed by the interpretation of Q 33.6. The scholars had taken that to be a reference to the wasiyah in favour of the hifl-partner and adopted sons – both of which groups are not related by blood to the decedent.

f. 170a. Dar., f al-rajal yasi li ghair qirabatihi: Salm b. ‘Abdullah, asked about this, replied that the dying man’s wishes must be respected. Informed of Hasan’s view, he promptly repudiated it in somewhat strong terms.

Dar., bab: idhaw awsa fi shai “fi sabil allah”; Told that a man had assigned a camel “fi sabil allah”, at a time when there was no raiding, ibn ‘Umar replied that the ‘umrah and Hajj are “sabil allah”. He attributed this view to his father, the caliph.

ff. 170b–172b. The property of orphans


Worried about the terms of Q 4.10, the Muslims asked Muhammad.

The verse begins: “they will ask you about the orphans . . .” This is the most elementary form that a tafsir-hadith can adopt. cf. Bu., wasiyah, Q 2.220 – from Tawus.

f. 171a. A second ibn ‘Abbasi hadith [via ‘Ata’] is more economically worded.

Nas., wasiyah: bab ma lil-wasi min mal al-yatim idha qama ‘alaihi . . . [from ibn Jubair]: ibn ‘Abbasi said, ‘When Q 6,152 was revealed: “Do not approach the orphan’s property other than by what is better,” the people kept their distance from the orphan’s property and food. Finding that very onerous, they complained to the Prophet and God revealed Q 2.220.’

On Q 4.10 he said, ‘The guardian used to keep on one side the food, drink and crockery of the orphan, and that proving onerous, God revealed Q 2.220: “if you associate with them, they are your brothers . . .”

The tafsirs show their usual propensity for extrapolating negatives from imperatives, the better to establish the ‘pre-revelation’ situation.

Hibatullah [p.32] Q 4.10 was revealed and the Ansar kept orphans on one side, not associating with them in respect of any property of theirs. That was not conducive to the betterment of the orphans’ property, so God revealed Q 2.220 which refers to exercising their animals, and drinking their milk, since, to go on neglecting them would be harmful to the beasts. God permits good management, but forbids exploitation. [Q 4.6] “Ma’raf”, in this latter verse, means taking loans from the property of the orphans under one’s guardianship. When the guardian’s circumstances improve, he will repay any such loans. If he dies in poverty, he owes nothing [f. 172a].

According to Nahhas [p.94] the final section of the Hibatullah tafsir would have been the view of: ‘Umar; ‘Abidah; Abu al-‘Aliyah and Sa’id b. Jubair and Mujahid. This was said to have been the view adopted by the Kufan fuqaha. Abu Qilabah said that the guardian might allow himself a loan – but from the profits, never from the capital.

Those who speak of the guardian’s repaying loans he had taken from the orphan’s property, probably had in mind the vocabulary of Q 4.6: “and when you hand over to them their property.” Nahhas [loc. cit.] i.e. repay. Others, taking the verse literally, argued that the guardian might take his food from the orphan’s property. Hasan said “ma’raf” means ‘his food’. That was the view of Qatada and
Ikrimah. The reports from Ibn Abbás are very confused. There are some [p.96] reports said to be from the Prophet, but, in fact, they are hadiths of the shaikhs – not the sort of thing that is attested.

Abū Yusuf, Abū Hanifah and Muḥammad were of the opinion that the guardian might take nothing from the property of his ward, unless he were to travel on his behalf and reimbursed himself only for his expenses. [cf. Mw., Sh. p.331–]

f. 172a. Our author is among those who permit the guardian to aggregate to his own household expenses what he considers sufficient from the orphan’s property to provide for his keep. Q 2.220 is thus a nāṣîkh, revealed to relieve the anxieties the people had felt at first, given the language of Q 4.10.

Clearly, what has here been altered, is not the ruling of one Qur’ān verse by another, but only the understanding of the meaning and practical application of one verse, following discussions on the implications of another verse. This whole section reflects only a gradual relaxation of an earlier, and severer interpretation, resulting from the development in the techniques employed by the Muslims in the course of a meticulous examination of the wording and meaning of the verses apparently related in subject matter.

ff. 173a–174b. Jurisdiction over the dhimmīs

This section has surely been misplaced [cf. ff. 91a–92a].

Q 5.42, which gave the Muslim qāḍī discretion either to hear or to ignore cases brought by dhimmīs, was said by Mujāhid and Ikrimah, to have been abrogated by Q 5.49. The latter verse made it obligatory to hear them and to base one’s judgment on what God had revealed. That says the author, is the ‘Iraqī view. It is legitimate to consult the legal needs of dhimmīs, when they appeal to Islamic courts for justice, both on account of Q 5.49 and because the Prophet had stoned two Jews.

f. 173b. The Hijāzīs, on the contrary, do not accept the legitimacy of applying the Islamic [!] penal system to dhimmīs, who, under their agreements with the Muslim state, have been left in undisturbed unbelief – surely more grave than the non-application of penalties which they do not acknowledge. The Hijāzīs re-interpret the reports about the Prophet’s having stoned Jews. They were not then dhimmīs, the jīzāyah not, as yet, having been introduced. They would have

been merely treaty-related persons, living under the Pax Islamica. But the imām of the Muslims does have the responsibility to prevent corruption and mutual bad treatment within the dhimmī communities. The author’s own view is that Q 5.49 is, indeed the nāṣîkh of Q 5.42 and therefore places upon the Muslim judge the duty to hear dhimmīs, providing they voluntarily come seeking his decision. The hadith evidence available does not settle the argument as to whether those Jews were punished by the Prophet before or after the introduction of the jīzāyah. But, were that the case, then it is even more clear that the Muslim judge ought to hear such cases, now that jīzāyah is accepted from the dhimmīs. Before its introduction, they would have been analogous to present-day non-Muslim foreign states entering into a truce with the Islamic state. The Muslim writ does not run for the citizens of such states. Abū ‘Ubaid can thus insist that the dhimmīs is as much under the rule of Islamic law as is the Muslim. That consequence flows from their agreeing to pay the jīzāyah and to the Muslims’ agreeing to accept it. The Muslim imām may not refer them to their confessional courts. To do so, would be merely to make oneself an accessory to the corruption that prevails among their judges and to the injustice that they mete out to their co-religionists. God Himself has drawn attention to the deficiencies of their system of justice, in both Q 5.42 and Q 5.50.

Doubts about the status and the meaning of Q 5.49 focus upon what is meant by “Judge them on the basis of what God has revealed.” For Ṣafī‘ī, there was no such doubt. For him, the verse states: “Judge between them on the basis of what God has revealed to you, Muhammad.” [Umm, 6, p.124] Q 5.42 gave Muḥammad the choice to hear or not to hear. It further imposed upon him the duty, should he decide to hear them, to judge between them “bi-l-qīṣṭ”. Qīṣūt means the decision of God – sc. what God had revealed to Muḥammad, the pure, the truthful, in the latest of all God’s communications. God thus told him to judge by what had been revealed to him. ‘I have heard a scholar whom I approve say that Q 5.49 states: “Judge between them on the basis of what God has revealed [if you decide to judge].” His choice has not been removed. He did decide, in the case of two Jews, to judge; they had committed adultery, and he stoned them. That is the Prophetic exemplification of Q 5.42 and of Q 5.49. That shows most clearly that any Muslim judge must judge them on the basis of Islamic laws. What the Prophet decided in the case of the two Jews is his sunna which is applied to Muslim offenders. No other system of laws may be applied by a Muslim judge. Claims of nāṣîkh must be based upon a hadith from the
Prophet, or upon an uncontested Companion-report, or the unanimity of the scholars... The Jews whom the Prophet stoned were not dhimmis. They were treaty-related persons. We have not heard that one of the caliphs heard cases involving dhimmis. If they had, news of some cases would surely have reached us. The Prophet did not judge dhimmis; the imām must, therefore, retain the choice.'

ff. 175a–180a. Section on food

The wording of Q. 2.188 gave rise to extremely simplistic tafsīr-cum-ashāh reports: “Do not consume your property among you unprofitably.” The word ‘consume’ was taken to refer to food, and the verse was said to ban dinner-parties.

f. 175a. As from ibn ‘Abbās. Mujāhid, ‘reading back’ from Q. 24.61, purports to establish the ‘pre-revelation’ situation.

f. 176a. The Zuhri comment is more sensible. It exploits the word ‘keys’, Q. 24.61. Sirah-type exegetical narratives assign varying ashāh to the revelation of the verse. Following vv. 58-9, the passage on the need to seek permission before entering, Q. 24.61 does not mention permission. The discussion thus centred upon whether one might consume food in other people’s houses without their permission.

f. 177a. A repeated, but abbreviated version of the ibn ‘Abbās tafsīr [f. 175a]. Nahḥās [p.199] refers to this interpretation [istīnad p.200].

Either the blind, the halt and the lame refrained from accepting invitations to dine; or the Muslims refrained from extending invitations to them. This was abrogated by Q. 24.61.

f. 177b. The Mujāhid statement is incorporated by Nahḥās in his version of the ibn ‘Abbās hadith [p.200].

People used to interpret this as permitting the property of relatives specifically, with or without their permission. When the permission was revealed, the liberty was then extended to the property of strangers. Abū ‘Ubaid rejects this tafsīr which conflicts with the hadiths which he has accepted. Further, the verse opens with the primary reference to the blind, the halt and the lame, only later extending the ruling to relatives. Thus, what reserve or inhibition is now removed from relations, applies even more forcibly to the primary subject of the verse – the invalid and the incapable. Abū ‘Ubaid calls upon the analogy furnished by the parallel case of the guardian’s management of the orphan’s property. Serious scruples, arising from Q. 4.10, had affected the Muslims. Their fear had been relieved by the revelation of Q. 2.220, and finally removed by the revelation of Q. 4.6. Similarly, the Muslims had refrained from partaking of other people’s food, even with their permission, without giving something in exchange. God had had to inform them that that was not forbidden. He went further, assigning to the classes mentioned in Q. 24.61, the aged, the destitute and the relatives, positive rights in the property of the rich. That is to be seen in the imposition ofṣadaqqah [Q. 9.60] with which Q. 17.26 should be compared.

The alternative interpretation to the effect that the verse relieved the scruples people felt about entertaining the blind, the halt and the lame, on account of their disabilities, would have called for a reading such as: “You need feel no anxiety in respect of the blind, the halt and the lame...” But the verse actually opens with the words, “The blind, the halt and the lame need feel no anxiety...” Further, Abū ‘Ubaid prefers the interpretation set out above, since that was the one preferred by the majority of the scholars.

ff. 175b–176a. Nahḥās refers to the Zuhri hadiths and to the views of ‘Ubaidullāh and of ibn al-Musayyib, but cites only the later [p.201], attributing a similar exegesis to ibn ‘Abbās and to ‘A’ishah. This is the tafsīr Nahḥās prefers, since it comes down from the Companions and Successors.

The extent of the Muslim discussions on the meanings and implications of the Qur’ān verses, and the confusion rife in the interpretation are clear in this section. The author shows a disposition to accept tafsīr-hadiths at face value, while exposing conflicting exegeses to a close analysis of the syntactical structure of the verses, and resorting, in addition, to systematic argument. He accepts here, as in the section on orphans, ibn ‘Abbās account of the scruples ‘originally’ felt by the Muslims. Abū ‘Ubaid himself shows a high degree of literalism in his approach to the Qur’ān wording. Satisfied as to the justness of the ibn ‘Abbās ta’wil, he goes beyond his source in the juxtaposition of relevant Qur’ān verses which, in his view, have granted the needy and the relative positive rights in the Muslim’s property. He draws our attention to certain rationalistic interpretations of Q. 24.61, returning finally to express preference for the ibn ‘Abbās interpretation on the grounds that the majority have favoured it, and that it more nearly corresponds with the diction of the Qur’ān which ought to be interpreted in the light of that interpretation which offers the greatest clarity and is based upon the most correct semantic and syntactical principles.
ff. 180a–185a. Fermented beverages

Two beverages, once lawful, have been declared unlawful.

1. Khamr: ibn ‘Abbās presents Q 2,219; Q 4,43; Q 5,90 as the successive stages in the progressive regulation of the use of wine.

2. Bu., Taṣfīr: Q 5,90, produces ibn ‘Abbās’ statement on dividing arrows and the altars of the heathens. In the ibn ‘Abbās taṣfīr, the asbāb are constructed from a literal interpretation of the verses, while the verses themselves are exploited to ‘explain’ the Qur’ānic lexicon.

3. 181. Once more, a Qur’ānic prohibitive is used as the starting point for the extrapolation of the ‘pre-revelation’ situation. Q 4,43:
   a. “Do not approach the mosque when drunk”;
   b. “until you know what you are saying.”

   a. They would not drink at or near the times of prayers. They would wait until they had prayed the last prayer of the day, the ‘ishā’ — then they would drink.

   b. They would grow quarrelsome in their cups, and say things displeasing to God.

   Hibatullāh [p.20] has an even more simple-minded account of their drinking habits. He lists five stages in the progressive prohibition of drinking: Q 16,67; Q 2,219; Q 4,43; Q 5,90; Q 7,33.

   Q 16,67: “Of the fruits of the date-palm and the grapevine you take sakar [a beverage which intoxicates] and a lawful sustenance.” Using taqḍīr [interpolation] Hibatullāh says: This means . . . “[but you ignore] a lawful sustenance.”

   On the revelation of this criticism, some people abandoned alcohol, while others persisted in its use. When the Prophet moved to Medina, an altercation between his uncle Ḥamzah, who was drunk, and an Anṣārī [!] led to Muḥammad’s displaying his disapproval of alcohol.

   Q 2,219. The benefits mentioned in the verse were the profits they made from importing wine from Syria cheaply and selling it at high prices in the Hijāz. But, when God said, “in māṣīr and wine there is much wrong”, more abandoned its use, although others persisted.

   Muḥammad b. ‘Abdūllāh b. ‘Awf sent out invitations to dinner. He provided his guests with wine until they were drunk. When the time for the maghrib prayer came, they appointed one of their number, the best versed in the Qur’ān, to be their imām. He was, however, so drunk, that in the recitation of Q 109, he interchanged the ‘I worship’ and the ‘I do not worship’ verses. The Prophet was very upset by this event and God revealed Q 4,43: they then avoided drinking around prayer times.

   Sa’d b. abī Waqqās gave a dinner-party attended by Anṣār and Muḥājirūn, during the course of which tempers ran high on account of their mutual taunting. Sa’d was injured by one of the guests and complained to the Prophet. God revealed Q 5,90. This verse definitely declared wine to be quite unlawful and the prohibition was reinforced by the revelation of Q 7,33.

   f. 181b. Naḥḥās [p.41] reverses the order of the verses referred to in the ‘Umār ḥadīth. In his version of the Sa’d story, Sa’d is one of the guests, not the host [p.42].

   Naḥḥās [p.109]: ibn ‘Abbās argued that Q 4,43 had been repealed by Q 5,6, which introduced the wuḍū’. This is clarified by Dāḥīk’s comment: wa antum sukārā — befuddled with sleep. “When you rise . . .” i.e. get up out of bed. Wudū’ wakes a man.


   f. 182a. Nas., K al-Ashribah, bāb tahrim al-khamr: A.D. do., both reproduce the ‘Umār prayer, with the order of the verses referred to [f. 181b] reversed, as in the Abū Razīn report, f. 182a. Q 2, Q 4, Q 5.


   ‘Abdūl Ḥamīd thereupon wrote to Muḥammad b. al-Muntashir, his agent at Wāṣīt. The ships arrived, and water and salt were poured into each amphora, to turn the wine into vinegar.
One might have expected this section to appear in that on the ritual prayers.

f. 185a. Ibn ‘Abbās asserts that Q 73,1 is Meccan.

Q 73,20 can safely be referred to Medina, given the reference to warfare. Q 73,1 can then be placed ‘earlier’ than v. 20, to allow for the necessary time-lapse, needful for naskh.

f. 185b. The second ibn ‘Abbās ḥadīth describes Q 73,20 as an instance of takhfīf – alleviation – a synonym, as we have seen, for naskh. This derives from the verse’s expression: fa tāba ‘alaikum – yet another of the terms listed in the works on naskh as indicative of the occurrence of naskh.

God’s ‘relenting towards’ the Muslims points, it was thought, to the substitution of a ‘lighter’ for a ‘heavier’ ruling. The “classic instance” of such divine relenting occurs in Q 2,187: fa tāba ‘alaikum wa ‘aftād ‘unkum, examined earlier. A second occurrence of the “classic expression” will occur in the following section. Other terms met with in the course of our study were: tawsī‘ah; ta‘isīr, while Q 73,20 also carries a similar expression: mā tayassara . . .

f. 186a. The third ibn ‘Abbās hadīth places the revelation of Q 73,20 one year after that of Q 73,1.

Mus.: ẓalāt, bāb jāmi‘ ẓalāt al-lail: Sa’īd b. Hishām asked ‘Ā’ishah about the Prophet’s conduct. ‘Do you not recite the Qur’ān,’ she asks, ‘the Qur’ān is the Prophet’s conduct. God imposed night prayer at the beginning of this surah and the Prophet and the Companions practised that for a whole year. God retained the final verse in His divine Presence for twelve months, revealing at the end of this surah, alleviation. At that, the vigils became voluntary after having been originally obligatory.’

This is a fair illustration of the way in which the texts of the Qur’ān are made to offer materials for the biography of the Prophet and his Companions. Read in this light, the phenomenon in Q 73 is less naskh than inwā‘, or deferment of the revelation of a specific ruling until the appropriate time. In the meantime, the Muslims will act on the basis of the interim ruling.

Nahḥās [p.250] has an ibn ‘Abbās ḥadīth which makes Q 73,1 ‘early Meccan’. He also produces the Sa’īd b. Hishām hadīth to establish that Q 73,1 was not addressed exclusively to the Prophet. The
exegetes had noted that v. 1 is cast in the Sing., but v. 20 in the Plural.

[p.251] the third ibn Abbās hadīth [f. 186a].

the first ibn 'Abbās hadīth [f. 185a-b].

[p.251-2] Nahhās reproduces Shafi'i's comparison between Q 73 and Q 17,79, directed at determining whether the summons in Q 73,20 that the Muslims 'recite what will not be burdensome' by night introduced a sixth ritual prayer. Q 17,79 is cast in the Sing., and is thus addressed to the Prophet alone. Besides, the verse describes the Prophet's tahajjud as nāfilah - even for Muhammad, it did not impose an obligation. He learned from Malik the hadīth in which a beduin asks Muhammad to instruct him in the essentials of the faith. The Prophet told this man that what was required of every Muslim was five ritual prayers each day. For Shafi'i, the Sunna clarifies this call to recite the Qur'an by night. It must be a voluntary pious exercise [taqawwul]. Q 73 thus abrogated the requirement to engage in nightly vigils. The number of obligatory prayers in Islam does not exceed five. [Ris., pp.113-7.]

Abū 'Ubaid contents himself with merely reporting the third ibn 'Abbās taafsir-hadīths. For him, the matter was not a live issue.

ff. 186a–187b. The fee payable before a private audience

f. 186b. The bald assertion from ibn 'Abbās that Q 58,13 had abrogated Q 58,12 is scarcely a hazardous contention, in view of the wording of the verses.

The second ibn 'Abbās taafsir, presented by the second tariqah, is merely common-sense comment and elaboration. The roots khaffafa and wassaa' are here both in use.

f. 187a. Hibatullah [p.89] notes that these verses record the virtues [mādāqib] of 'Ali. In the second 'Ali hadīth [f. 187b.] having exchanged his dinar for dirhams, 'Ali could have asked at least ten questions. The Nahhās version of the 'Ali hadīth fails to make it clear that the abrogated verse had actually been put into practice, an indispensable condition, in the view of many of the scholars, for the substantiation of any occurrence of nāskh. An alternative version [p.231] makes precisely that desired point.

f. 186b. The second ibn 'Abbās taafsir may show consideration of Q 5,101.

It is probably not fortuitous that this section follows immediately upon the preceding section, which we thought might be somewhat misplaced in the arrangement of the work. The two topics have nothing more in common than that they are regularly adduced in the nāskh works as among the 'clearest' indisputable evidence for the fact of the occurrence of nāskh in the Qur'an, and instances of the divine rationalisation of the phenomenon. Q 58,13 carries the expression: fa tāba 'alaikum; Q 8,6,6; Q 73,1,20; Q 58,12–13 all feature prominently in lists of 'undoubted' instances of nāskh.

It is possible that the juxtaposition of the two Q 73 and Q 58 sections suggests that the present work was perhaps influenced by the lay-out of an earlier literary model.

ff. 188a–b. Pious caution [taqwā]

['Abdullāh b. 'Abbās and ['Abdullāh b. Mas'ūd are both cited, not as averring the nāskh of Q 3,102, but as expounding their interpretation. The isnād of the ibn Mas'ūd hadīth has met with some criticism, while Abū 'Ubaid himself has forgotten the isnād of another hadīth, reporting that Q 64,16 had abrogated Q 3,102. This merely shows the juxtaposition of two Qur'ān contexts which were thought to employ the term taqwā in somewhat differing emphases.

f. 188b. ibn Mas'ūd's comment is delivered in saj. 'The true quality of taqwā is that God be obeyed, not disobeyed; borne in mind, not forgotten; shown gratitude, not ingratitude.'

cf. Nahhās [p.90]. According to Qatādah, Q 64,16 presents the alleviation of the Q 3 requirement. Nahhās has difficulty with the propensity of some scholars to find here an instance of nāskh; the meaning of nāskh is 'suppression' [izādah] and the revelation of an opposing ruling [supersession]. It is quite absurd to suppose that the fear of the Lord has been suppressed. This is supported by the first ibn 'Abbās hadīth [f. 188a]: true fear of the Lord is to engage in the jihād with all one's might; to avoid in one's conduct all possible occasions of censure; to judge according to the revealed laws, even if to one's own, or one's family's disadvantage. That is the effect of the ibn Mas'ūd comment. As for Qatādah's claim that Q 3,102 is mansākhah, and that the nāskh was Q 64,16, that merely implies that
Q 64.16 was revealed with a wording similar to that of Q 3.102. This is not the technical sense of the term naskh, but rather draws upon the linguistic sense ‘duplication’ [nuskhah] of the root [cf. Q 45.29 nustansihk].

Habutullah [p.30]: When Q 3.102 was revealed, they did not understand it and had to ask the Prophet. He replied: ‘The true quality of taqwa is that God be obeyed, not disobeyed’. (cf. supra, under ibn Mas‘ud). Q 22.78, revealed shortly afterwards, was even more severe, but Q 64.16 eventually abrogated what had been revealed before it.

ff. 189a–190b. Death-bed repentance

f. 189a. Abū ‘Ubaid’s uncertainty over the first isnād was occasioned by his written sources. The ibn ‘Abbās tafsir restricts the denial of the efficacy of death-bed repentance to unbelievers. Comparison of Q 4.18 with Q 4.48 shows a more lenient view adopted by God towards the Muslim. The discussion concerns ‘justification by faith’ with allusion [f. 189b] to the principle of irjā’. No true believer need despair of the divine mercy.

For ‘Abdullāh b. ‘Umar, forgiveness is available as long as the soul has not departed the body of the dying believer. The Prophet is alleged to have said as much [f. 190a]. The Companion, ‘Uthmān Fuqaimi: God accepts repentance one year; one month; the space between two milkings, before the death of the believer.

f. 190a. The ibn ‘Umar hadith: cf. b.M., bāh dhikr al-tawbah. We also find the marjā‘: the repentant believer is as if he had never sinned. [cf. supra, f. 104a.]

f. 190b. ‘Uthmān Fuqaimi; cf. Hibatullāh [p.34]: The Prophet, asked to define repentance, replied, ‘He who repents before his death by a year, that will be accepted.’ He added, ‘But that is a long time! He who repents before his death by half a year, that will be accepted. But that is a long time! He who repents a month before his death – but that is a long time! He who repents a week before his death – but that is a long time! He who repents one day before his death – but that is a long time! He who repents an hour before his death – but that is a long time! He who repents before his death-rattle, God will accept that.’ He then commented, ‘As long as it precedes death repentance will be early.’ Hibatullāh thinks that Q 4.18 was abrogated in respect of unbelievers, but is still applicable to the Muslim.

ff. 190b–197a. Homicide

f. 191a. ibn ‘Abbās extrapolates the positives from the negatives of Q 25.68. Q 39.53 bids men believe that God forgives all sins – they should not despair of the divine mercy.

f. 191b. Are Q 25.68 and Q 4.93 reconcilable? There is no difficulty in supposing that Q 25.68 was addressed to unbelievers. The verse lists the chief forbidden acts. Q 25.70 promises forgiveness, given repentance. The Sa’īd b. Jubair hadith is broken into two parts.

f. 192a. The question now concerns the reconciliability of Q 4.93 and Q 25.70. There can be no acceptable repentance for the deliberate killing of a Muslim by another Muslim [Q 4.93].

Q 25.70 was not addressed to Muslims. The offer of forgiveness here, was uttered in the Jāhiliyyah, and is no longer valid in Islam. The question of al-nāsikh wa-l-mansūkh was clearly of some urgency.

f. 192b. Q 4.93 abrogated Q 25.70.

f. 193a. Q 4.93 was revealed seven months after Q 25.70.

f. 193b. Q 4.93 was revealed six months, or four months later.

Nothing ever subsequently abrogated Q 4.93.

f. 194b–195a. The severe view endorsed in two hadiths from the Prophet himself.

f. 195b. Hasan derives the severe view from Q 5.32. The fact that the verse is concerned with the Israelites does nothing to lessen its intended deterrent effect upon the Muslims.

f. 196a. There is an alternative tafsīr from ibn ‘Abbās based upon linguistic criteria: Admittedly, Q 4.93 says: Hell is the fate deserved by him who deliberately murders a Muslim. It does not say that Hell is definitely his destination. If God wishes, He may pardon him; if He wishes, He may punish. But [f. 196b] Abū ‘Ubaid is dissatisfied with the isnād. He therefore replies with his own linguistic comment: God did not say that the murderer of a Muslim would languish in Hell if God were angry enough. The verse is not conditional, but straightforwardly indicative. God had, therefore, expressed the severe view. That the term jazā‘ refers, not to a murderer’s ‘rich deserts’, but to his actual retribution, can be seen by comparison with the other occurrences of the same word in the Qur‘ān: Q 18.88; Q 56.24; Q 76.12.

cf. Nas., K. al-Qasāmah, bāb ta’wil Q 4.93, for the hadith: Sa‘īd b.
Jubair – ibn ʼAbbās [f. 191b.] Q 4:93 is muhkmah – it has never been abrogated. Hhabitullāh [p.39] on the contrary, reports the ḫimā’ of the Companions and Successors – with the exception only of [‘Abdullāh] b. ʻAbbās and [‘Abdullāh] b. ʻUmar – to the effect that the verse has been abrogated. ‘Ali had disputed ibn ʻAbbās’ view to his face, alleging that Q 4:93 had, indeed, been abrogated by Q 4:48 and by Q 4:116. Other exegetes referred also to Q 25:70.


f. 193a. The Zaid ḥadith; cf. Naḥḥās [p.112]

f. 192a. The Šaʿīd ḥadith; cf. Naḥḥās [p.113] and ibidem: ibn ʻUmar reports the Prophet’s saying: ‘The passing away of the Earth is of less moment to God than the murder of a Muslim.’

f. 195a. [p.113] Abū Bakrah reports hearing the Prophet say, ‘If Muslims exchange blows and one kills another, the killer and his victim are both consigned to Hell.’ Further severe Prophetic dicta outlawing civil war are related by ibn Masʿūd. The more lenient view is traced by Naḥḥās from ibn ʻUmar, Zaid and ibn ʻAbbās! The support of this view was found in Q 20:82; Q 9:104.

f. 193a-b. Naḥḥās knows this dating proposed by Zaid. He also knows reports from Zaid which reverse the dates of the two verses (Q 25 and Q 4). [p.114]. The notion of leaving judgment to God alone Naḥḥās reports from Abū Hanīfah and his associates, and from Shāfi‘i. The view that Q 4:93 is a conditional he traces to Abū Mujašíh, and his rejection is the same as that of Abū ʻUbaid [f. 196b].

ff. 197a–200b. God’s judging men’s innermost thoughts

Mujāhid: Q 2:284 refers to inner doubts.

‘Ikrimah and ibn ʻAbbās thought the reference was to withholding testimony; cf. Naḥḥās [p.87].

f. 197b. ibn ʻAbbās also reports that the Companions thought this verse referred to one’s innermost, but unspoken thoughts. Both [‘Abdullāh] b. ʻAbbās and [ʻAbdullāh] b. Masʿūd thought the verse had been abrogated by Q 2:285–6. The Companions interpretation of Q 2:284 is also (indirectly) attributed to the third ʻAbdullāh [b. ʻUmar].

f. 198b. The author displays his isnād expertise.

That the foregoing was a common interpretation is shown by the list of prominent scholars to whom it has been attributed: Mujāhid; Ḥasan; Ibrāhim.

f. 199b. The alternative tariqah from ibn ʻAbbās now reports his denial that Q 2:284 had ever been replaced. It refers to the Last Judgment, when God will inform men of their innermost thoughts, pardoning only the believers. Of the others, God will punish whom He pleases and forgive whom He pleases.

f. 200a. ʻĀ’ishah relates a marfīʿ ḥadith: the verse seems to be a reference to the problem of evil which afflicts even Muslims. Afflictions purify believers. The author’s difficulties with the isnād point again to written sources. The second version of the ʻĀ’ishah tafsīr does not mention the Prophet.

f. 198a. Mus., imān, bāb bayān Q 2:284: a lengthy ḥadith on the anxiety of the Companions, relayed by Abū Hurairah. It is followed by a similar report from ibn ʻAbbās. Also from Abū Hurairah, the report that the Prophet said, ‘God overlooks the thoughts which members of my community entertain privately, as long as they do not speak them aloud, or translate them into action.’


f. 200a. An approximation to the ʻĀ’ishah tafsīr, but again, with no mention of the Prophet.

Naḥḥās does not accept this instance of naskh. Q 2:284 is a statement.

ff. 200b–201b. There is to be no compulsion in matters of religion [Q 2:256]


Naḥḥās [p.81] adds: because the Prophet made war upon the Arabs until they accepted Islam.

f. 201a. Sha‘bī: Naḥḥās: some scholars say it is not abrogated. The verse was revealed concerning the People of the Book who are not to be compelled to accept Islam, so long as they pay the jīzah. Those with whom compulsion may be used are the heathen idolaters, concerning whom God revealed Q 9:73.
Zaid b. Aslam relates from his father, "I heard 'Umar say: (to an aged Christian crone): 'Turn Muslim and you will be safe.' She replied, 'I am an old Christian woman whose death is near at hand.' " 'Umar then recited Q 2.256.

Nahlās cites from ibn abī 'Adi, as from ibn 'Abbās, the story of the women's vowing to devote any surviving child to Judaism. Nahlās [p.82] thinks this is the most correct view of the verse: the like of this could not be achieved only on the basis of ra'y [supposition].

Amwāl [p.35]: 'Umar interpreted the verse as a reference to some Christians and Byzantines. Here follows the tale of Wusūq the Greek, with the addition: 'When 'Umar's death approached, he manumitted me and said, "You may now go where you please."'

'Abdul Rahmān b. Mahdī – Sufyān – Abū Hilāl al-Ṭā'ī: 'I saw the man 'Umar manumitted. He was a Christian.'

Abū 'Ubaid: 'Umar's is the most satisfactory ta'wil.

Habitulāh [p.27] has an approximation to the Sha'bī report, but without isnād. Q 9.5 abrogated Q 2.256.

ff. 201b–203b. Praying for divine pardon of unbelievers

Honouring one's father and mother does not extend to begging God's pardon on their behalf, if they be unbelievers.

Q 17.24 says: "Say, God have mercy on them; they brought me up when I was small." Q 9.13: "The Prophet and those who believe in him may not pray for God's forgiveness of unbelievers once it has become clear that they shall be among the denizens of Hell, even if they be related."

Abraham had asked God's pardon for his father, but only as a result of a promise that he had made to him. When it became clear that his father was an enemy of God, Abraham denounced him.

Mujāhid avers that Abraham forbore from begging God's pardon for his father when he died.

Q 60.1–3 calls upon the Muslims to break all ties with their unbelieving families. Abraham's attitude towards his people provides a model for the attitude the Muslims should adopt, except in one particular: Abraham's promising his father that he would pray to God on his behalf (although Abraham could not guarantee that his intercession with God would be efficacious).

Q 9.80. This Mujāhid hadith has emerged from circles which have failed to react to the Qur'ān's rhetoric. Q 63.6 describes not the heathen, but the munāfaq [the lukewarm].

The ibn 'Umar tafsīr is as poor as Mujāhid's.

Q 9.80 hardly offers the Prophet a free choice. It too occurs in a passage describing the munāfaq. Reference to the death of 'Abdullāh b. Ubaib (prince of the munāfaqūn) at least is relevant to the spirit of Q 9. Q 9.84 is uncompromising: "Never pray over one of them who dies, and do not attend at his grave." The atomism of the tafsīr is demonstrated by the claim that Q 9.84 was revealed Separately. The words of 'Abdullāh's son: 'Give me your shirt for his shroud and I shall pray over him; - in the MS., the ālib is unmistakable: usūlī – [f. 203a] I shall pray. 'Abdullāh's son proposes to perform the obsequies over his father's bier. cf. Bu., Tafsīr, Q 9.80: 'Abdullāh's son asked the Prophet for his shirt so that he might wrap his father in it. He gave him the shirt. The son next asked the Prophet to pray over the father's bier: an yuṣallīya 'alaihi. Bu.'s isnād comes through 'Ubaidullāh – Nāfi' – ibn 'Umar. The same isnād and the same version occurs in Mus., šīf al-munāfaqūn; Nas., jana'īz, 'and pray over him', i.e., here it is Imperative. The Nas. isnād is the closest to Abū 'Ubaid's, coming down through Yahyā.

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people engaging in exegesis until they know certain basic things, among them the hadiths. There is no dispute among the experts that Q 9,103 concerns an entirely different group from that mentioned in Q 9,84. Q 9,104 states that the people mentioned in Q 9,103 had repented and been forgiven.

ff. 203b–209a. al-amr bi-l-ma'rūf wa-l-nahy 'an al-munkar

According to Abū 'Uba'id, the sole verse in the entire Qur'an to contain both nāsīkh and mansūkh in the same sentence is Q 5,105.

We are informed in some of the hadiths that the ta'wil of the verse had been deferred [irjā' – not insān!] from the early period until sundry later times.

f. 204b. This interpretation is embodied in a lengthy malhamah reported from the Prophet, who foretells in very oracular language the difficult times that lie ahead for the true Muslim.

cf. b.M. bāb Q 5,105, for this hadith from Hishām b. 'Ammār.

Tir., abwāb al-fitan, from Anas, the Prophet said: ‘There will come a time when he who patiently preserves his faith will be like one grasping red-hot coals.’

It is now suggested in a lengthy three-part hadith from Abū al-Dardā' and Ka'b that Q 5,105 was being interpreted in a quietistic sense. Ka'b rejects that interpretation on the argument that the Muslim must be active in defence of God's Law until the ta'wil of the verse is manifested. This awakened Abū al-Dardā?’s interest. He offers a second malhamah referring, as Abū Mus'ārī' explains, to events in the reign of al-Walīd b. 'Abdul Malik. The author seizes the opportunity to mention his own visit to Damascus.

f. 205b. According to ibn Mas'ūd, the Qur'an contains verses referring to events which preceded their revelation; some verses refer to events in the lifetime of the Prophet; some refer to events which fell out shortly after the Prophet's death; some refer to events still future, some to the concomitants of the Last Day, and others to the Last Judgment. The situation referred to in Q 5,105 has not yet materialised, but, so long as the Muslims remain united and do not split up into sects, [shi'ā'] and do not fight among themselves, they should command good and forbid evil. If they divide and fight, they should run to make provision for the Hereafter, for Q 5,105 will then have come.

f. 206a. An alternative ta'wil does not regard the verse as eschatological. Abū Bakr is said to have disagreed with the general ta'wil. He had heard the Prophet state that, if the Muslims saw evil in their midst and did nothing to alter the matter, God would visit the entire community with His wrath. In saying this, Abū Bakr did not seek to oppose the hadith to the verse. Rather, his aim was to remind the people that they had a duty to command the good and to forbid evil, and to show them that this verse referred to that duty, which might not be abandoned. Had the verse really the quietist meaning they were applying to it, the Prophet would certainly have said something at variance with the verse.

cf. b.M. bāb al-amr bi-l-ma'rūf, for this Abū Bakr hadith.

A.D., bāb al-amr wa-l-nahy, both from Ismā'il from Qais.

f. 207a. Abū 'Ubaid refers to a hadith from each of Mujāhid and Sa'īd b. Jubair, but does not adduce the latter.

They had suggested, or so Abū 'Ubaid had understood, that God has permitted Christians and Jews to continue to uphold their theological errors, and has not permitted the Muslims to use force to seek to correct them, in exchange for their paying the jizyah to the Muslims. The verse certainly does not permit failure to alter evil or disobedient acts, or the expression of theological doubts on the part of Muslims.

Similarly, Abū Bakr would not have countenanced failure to intervene to alter such acts or correct such doubts.

A Prophet statement, relayed by Hudhaiyah, now confirms what Abū Bakr had said.


Ṭay. īmān, reported from Hudhaiyah, [cf. Nahhās, p.31].

f. 208a. Abū 'Ubaid demonstrates his interest in īsnāds.

f. 208b. Dahāk saw Q 3,104 as imposing the duty of the amr and the nahy. It is therefore obligatory, whereas, for Mujāhid, Q 3,110 made clear that fulfilling the amr and the nahy occurred in a conditional context: i.e. as long as the Muslims remembered to command the good and restrain others from evil, maintaining their belief in God they would continue to be the best of all nations in human history.
Other works on al-nāsikh wa-l-mansūkh

1. The Fihris list:

| p. 57 | al-Ḥasan b. Wāqid |
| pp. 62–3 | Ḥajjāj al-Aʿwar |
|          | Abū ʿUbayd al-Qāsim b. Sallām |
|          | ibn abi Daʿūd al-Sijistānī |
|          | Muqātil b. Sulaimān |
|          | Jaʿfar b. Mubashshir |
|          | Abū Ismāʿīl al-Zubaidī |
|          | Abū Muslim al-Kajjī |
|          | Ismāʿīl b. abi Ziyād |
|          | Abū al-Qāsim al-Ḥallāj al-Zāhid |
|          | ibn al-Kalbī |
|          | Hishām b. ʿAlī b. Hishām |
|          | Aḥmad b. Hanbal |
|          | al-Zubair b. Aḥmad |
|          | ʿAbdul Raḥmān b. Zaid |
|          | Abū Isḥāq Ibrāhim al-Muʿaddib |
|          | Ibrāhim al-Harbī |
|          | Abū Saʿīd al-Nahwī |
|          | al-Ḥārith b. ʿAbdul Raḥmān |

2. The Ḥajjī Khalīfah list [v.6, p.289]:

| Makki b. abi Tālib al-Qaṣi Al-Muqri’ |
| Abū Jaʿfar al-Naḥḥās |
| Abū Bakr Muḥammad b. ʿAbdullāh al-Maghribī |
| Abū Daʿūd al-Sijistānī [? ] |
| Abū ʿUbayd al-Qāsim b. Sallām |
| Abū Saʿīd ʿAbdul Qādir b. Tāhir al-Tamīmī |
| Jalāl al-Dīn al-Suyūṭī |
| Abū al-Qāsim Hibatullāh b. Sallāmah |
| Abū al-Ḥusain Muḥammad b. Muḥammad al-Nisāpūrī |
| ibn al-Munādī, Aḥmad b. Jaʿfar b. Muḥammad |

13515: Authors of works on nāsikh al-Ḥadīth wa mansūkhuhu:

| Abū Muḥammad Qāsim b. Iṣbīgh al-Qurtubī |
Abū Bakr Muḥammad b. ʿUthmān al-Jaʿd al-Shaibānī
Abū al-Qāsim Hibatullāh b. Sallāmah
Abū Hāfṣ ʿUmar b. Shahīn al-Baghdādī – [with an
ikhtisār by Ibrāhīm b. ʿAlī, ibn ʿAbdul Ḥaqq]
ʿAbdul Karīm b. Hawāzin al-Qushairī
Muḥammad b. Baḥr al-ʿIsfahānī

3. The Muṣṭafā Zaid list [v.1, pp.295 ff.]:
[* denotes a work known to M. Zaid]
Saʿīd b. abi ʿUrūbah – [ʿan Qatādah]
Abū al-Nadr Muḥammad b. al-Sāʿib al-Kalbī
Muqṭāīl b. Sulaimān b. Bishr al-Azdī
al-Ḥusain b. Wāqid al-Marwāzī
ʿAbdul Raḥmān b. Zaid
ʿAbdul Wahhāb b. ʿAṭāʾ al-Baṣrī
Ḥajiṭ b. Muḥammad al-ʿAwar
Abū ʿUbaid al-Qāsim b. Sallām
Jaʿfar b. Mubashshir b. Aḥmad al-Muʿtazīlī
Surajī b. Yūnus al-Marwāzī
Aḥmad b. Ḥanbal
Abū Daʿūd al-Sijistānī
Muḥammad b. Saʿīd al-ʿAwwī
Abū Ishaq Ibrāhīm al-Ḥarbī
Abū Muḥsin al-Kajjī
al-Ḥusain b. Mānṣūr al-Hallāj
Abū Bakr b. abi Daʿūd al-Sijistānī
al-Zubair b. Aḥmad b. Sulaimān al-Zubairī
*Abū ʿAbdullāḥ Muḥammad b. Ḥazm
Muḥammad b. ʿUthmān al-Shaibānī
Muḥammad b. al-Qāsim b. Bashshār, ibn al-ʿAbbārī
Aḥmad b. Jaʿfar, Abū al-Ḥusain b. al-Munāḍī
*Aḥmad b. Muḥammad b. Ismāʿīl, Abū Jaʿfar al-
Naḥḥās
Muḥammad b. ʿAbdullāḥ al-Bardaʿī
Mundhir b. Saʿīd al-Balūṭī
Abū Saʿīd al-Nahwī
*Ḥibatullāh b. Sallāmah
*Abū Mānṣūr ʿAbdul Qāhir b. Ṭāhir al-Baghdādī

4. For a more recent listing of works on al-nāṣikh wa-l-mansūkh, see
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'Abd b. al-'Awwām

- Ashʿath - Sha'bī
- Hajjāj b. Arṭāt - ʿAṭāʾ - ʿAbdul Raḥmān b. abī Bakr
- Juwābir - al-Ḍahhāk
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