

Theme Issue: Methods of Dating Early Legal Traditions

Introduction

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The Problem

What can we know about the beginnings of Islam in general and Islamic law in particular? This question has occupied Western research for more than 150 years and, although many answers have been proposed, to date, no enduring consensus has been reached. The differences of opinion are in large part the result of the precarious nature of the source material. There are no trustworthy direct sources on Islamic law and jurisprudence from the first century and a half. Most of the sources that contain information on this period originated in subsequent centuries. The sources suggest or even expressly assert that their knowledge about early times is based on earlier oral and/or written sources.

Opinions differ about whether or not, and the extent to which, these sources are credible and their claims verifiable. Two extreme positions have emerged. On the one side are skeptics who reject the existence—indeed, the very possibility—of scientifically grounded knowledge about the first century and a half of Islam. They treat statements in the sources on the early period as back-projections of later circumstances and ideas. Prominent exponents of source skepticism are I. Goldziher, J. Schacht, J. Wansbrough, M. Cook, P. Crone, N. Calder and G.R. Hawting.¹ On the other side are scholars who place considerable trust

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¹ The views of the skeptics differ, of course, in detail.

in source statements on the early period and, on this basis, attempt to describe or reconstruct the historical beginnings of Islam and Islamic law. This group includes born Muslims, like M.Z. Şiddīqī, M. Sibā'ī, F. Sezgin, A. Hasan and M.M. Azami, and non-Muslims, like N. Abbott. In addition, some scholars, for diverse reasons, reject radical scepticism and try to tread a path between the two extremes. This group includes, among others, J. Robson, N.J. Coulson, D.S. Powers, J. van Ess, M. Muranyi, H. Motzki and G. Schoeler.² Publications by scholars of any of the three camps frequently receive critical commentary from proponents of the other camps. This is a good thing, as there can be no scientific progress without criticism.

Attempts to Solve the Problem

Are there ways to solve the problem of the competing paradigms? Some proponents of the middle ground look for new methods that make it possible to check the claims made by the sources of having transmitted earlier reports or retrieved information from earlier sources.

The sources for early Islam contain several types of information. The *mutūn* (sg. *matn*) or texts of the traditions that purport to describe historical events are often furnished with *asānīd* (sg. *isnād*), i.e., a list of the names of the putative transmitters of the texts. The names alone would offer little help were it not for the biographical lexica available from the 3rd century onwards, which contain information on these persons, e.g., familial and geographical origin, contact with other scholars, change of residence, assessments of their abilities as transmitters, and dates of death. The skeptics reject all three source types—*mutūn*,

² See, for example, H. Motzki, *The Origins of Islamic Jurisprudence. Meccan Fiqh before the Classical Schools*, transl. by M. Katz, Leiden 2002, chap. 1 (English edition of *Die Anfänge der islamischen Jurisprudenz. Ihre Entwicklung in Mekka bis zur Mitte des 2./8. Jahrhunderts*, Stuttgart 1991); H. Berg, "Ḥadīth Criticism," in idem, *The Development of Exegesis in Early Islam. The Authenticity of Muslim Literature from the Formative Period*, Richmond, Surrey 2000, 6-64; H. Motzki, "The Question of the Authenticity of Muslim Traditions Reconsidered: A Review Article"; C. Melchert, "The Early History of Islamic Law," in H. Berg (ed.), *Method and Theory in the Study of Islamic Origins*, Leiden 2003, 211-257 and 293-324; K.S. Vikør, "The Truth about Cats and Dogs: The Historicity of Early Islamic Law," *Historisk Tidsskrift*, 82/1 [2003], 1-17; H. Motzki, "Introduction," in idem (ed.), *Ḥadīth. Origins and Developments*, Aldershot, Hants 2004, xiii-xxxiv.

asānīd and biographical information—*a priori* as fictions that are of little or no value for a historical reconstruction of the first century and a half of Islam. On the other hand, some middle ground scholars, like H. Motzki and G. Schoeler, advocate testing the historical value of these three types of information by means of concrete examinations. They have developed and tested methods that make it possible in specific cases to determine more closely the historical value of the three source types. They proceed on the assumption that only on the basis of numerous tests of the three source types will it be possible to determine the historical reliability of these sources.

One of the methods suggested by Motzki and Schoeler is *isnād-cum-matn* analysis. By applying this method to a *single* tradition encountered in different sources, they attempt to identify the disseminator or originator of the report in question, i.e., to date it.³

The dating of traditions is in principle facilitated by the *asānīd* placed at the beginning of the *mutūn*. Of course, it is possible that these *asānīd* were forged by the authors of *ḥadīth* compilations or their informants and therefore do not present a true picture of the entire transmission process. By means of a systematic analysis of the *asānīd*, G.H.A. Juynboll has attempted to distinguish between authentic and forged *asānīd* and to determine the oldest genuine common transmitter, the “real common link”, of the *asānīd*. In his view it was the real common link who originated the *matn* while forging the earlier links in the *isnād*. He sees the date of death of the real common link as a date *post quem* for the relevant tradition.⁴

Juynboll’s assumptions, methods and results have been criticized.⁵ One of the main criticisms concerns his one-sided focus on the *asānīd*

³ On the different possibilities relating to dating, see H. Motzki, “Dating Muslim Traditions: A Survey,” *Arabica* 52/2 [2005], 204-53.

⁴ See, for example, Juynboll’s “Nāfi‘ the *mawlā* of Ibn ‘Umar, and his position in Muslim *Ḥadīth* Literature,” *Der Islam* 70 [1993], 207-44 and his *Encyclopedia of Canonical Ḥadīth*, Leiden 2007, *passim*.

⁵ For substantial criticism of Juynboll’s assumptions and methods, see H. Motzki, “Whither *Ḥadīth* Studies?,” in H. Motzki et al., *Analysing Muslim Traditions. Studies in Legal, Exegetical and Maghāzī Ḥadīth*, Leiden 2010, 47-124 (English edition of “*Quo vadis Ḥadīth*-Forschung? Eine kritische Untersuchung von G.H.A. Juynboll: Nāfi‘ the *mawlā* of Ibn ‘Umar, and his position in Muslim *Ḥadīth* Literature,” *Der Islam* 73 [1996], 40-80 and 193-231).

and neglect of the accompanying *mutūn*. For this reason, Motzki and Schoeler have suggested that it is necessary to supplement the examination of the *asānīd* with an analysis of the *mutūn* to provide a broader basis for dating. Experience shows that the *mutūn* of a report found in several sources exhibit both similarities and differences. An *isnād-cum-matn* analysis investigates *asānīd* and *mutūn*, starting from the sources in which the transmissions are found and proceeding backwards, focusing on the question of whether the *matn* variants correlate with the *asānīd*. If so, it can be assumed that the *mutūn* were in fact transmitted by the persons named in the *asānīd* down to the common link and that the *asānīd* were not forged by either the authors of the sources in which the reports in question are found or by their informants.

An *isnād-cum-matn* analysis focuses on transmissions that are interconnected, i.e., transmissions of which the *asānīd* compiled in a bundle share common transmitters at different levels of the *asānīd*. These common transmitters are called “partial common links” (PCLs), a term coined by Juynboll, and “common links” (CLs). If two or more *mutūn* share a common transmitter, it is possible to determine whether a particular segment of the transmission was real or forged and how the *mutūn* took shape over the course of the transmission process. In many cases, however, there are no PCLs but rather a single line of transmission that runs from a collector to the CL or even to an earlier *isnād* link. According to Juynboll, *asānīd* of this type, which he calls “single strands”, should not be used for the historical reconstruction of the transmission process because the reliability of a single-strand *isnād* cannot be controlled. This is true for a pure *isnād* analysis. In a *isnād-cum-matn* analysis, however, the *matn* of a single-strand transmission can sometimes be used to control the *isnād* and thus contribute to the dating exercise.⁶

⁶ Examples of *isnād-cum-matn* analyses: G. Schoeler, *The Biography of Muhammad: Nature and Authenticity*, London/New York, 2010 (English edition of *Charakter und Authentie der muslimischen Überlieferung über das Leben Mohammeds*, Berlin 1996); H. Motzki, “Whither *Ḥadīth* Studies?”; idem, “The Prophet and the Cat: on dating Mālik’s *Muwattaʿa*’ and legal traditions,” *Jerusalem Studies in Arabic and Islam* 22 [1998], 18-83; idem, “The Murder of Ibn Abī l-Ḥuqayq: On the Origin and Reliability of some *maghāzī*-Reports,” in H. Motzki (ed.), *The Biography of Muḥammad: the Issue of the Sources*, Leiden 2000, 170-239; idem, “The Prophet and the Debtors. A *Ḥadīth* Analysis under Scrutiny,” in idem, *Analysing*,

A second method used by Motzki to date legal traditions is tradition-historical source analysis. Based on an early tradition collection, ‘Abd al-Razzāq’s *Muṣannaf*, he showed that it is possible to reconstruct even earlier collections that were used by ‘Abd al-Razzāq (d. 211/827) but lost in their original form.⁷ Again, it is the *asānīd* assigned to the individual *mutūn* that facilitate such a reconstruction. Since, as a rule, the skeptics categorically reject the *asānīd* as forgeries,⁸ the question arises as to whether or not the “bibliography” of an author/collector like ‘Abd al-Razzāq has been fabricated. The researcher who is suspicious about such a blanket judgment must therefore search for evidence about the credibility—or lack thereof—of the source information provided by an author/collector or transmitter.

The question of whether ‘Abd al-Razzāq did in fact receive the reports preserved in his *Muṣannaf* from the persons he names as sources/informants is answered by Motzki in the affirmative, based on text-external and text-internal evidence: (1) The conspicuous profile of ‘Abd al-Razzāq’s sources, i.e., the fact that he ascribes very different numbers of his reports to his immediate informants. (2) The differing source profiles of the material that ‘Abd al-Razzāq ascribes to his main informants, Ma‘mar b. Rāshid (d. 153/770), Ibn Jurayj (d. 150/767), Sufyān al-Thawrī (d. 161/778) and Sufyān b. ‘Uyayna (d. 198/814), from whom comprehensive bodies of reports are found in the *Muṣannaf*. (3) Peculiarities of the *asānīd* and *mutūn* of the reports ascribed to the main informants and their putative sources. (4) Biographical transmissions that confirm the source analysis conclusion that these four informants were ‘Abd al-Razzāq’s teachers who collected and disseminated transmissions of the type attributed to them by ‘Abd al-Razzāq.

The transmissions received by ‘Abd al-Razzāq from these four teachers can be dated to the second half of the 2nd century H. Indeed, those

125-208 (English edition of “Der Prophet und die Schuldner. Eine *Ḥadīṭ*-Untersuchung auf dem Prüfstand,” *Der Islam* 77 [2000], 1-83). A new method of dating that also makes use of the three source types (*asānīd*, *mutūn* and biographical information on the transmitters) has been presented by B. Sadeghi in “The Traveling Tradition Test: A Method for Dating Traditions,” *Der Islam* 85 [2010], 203-42.

⁷ See Motzki, *Die Anfänge der islamischen Jurisprudenz*, 50-218 / *The Origins of Islamic Jurisprudence*, 51-244.

⁸ See Motzki, “Dating,” 206; idem, *Analysing*, 288-90.

of Ma‘mar and Ibn Jurayj can be dated to the second quarter of that century. The extensive text corpora of ‘Abd al-Razzāq’s four teachers can be analyzed in much the same way as the *Muṣannaf* itself. This has been demonstrated by Motzki with respect to the corpus of reports ascribed to the Meccan scholar Ibn Jurayj, who transmits from over 100 informants—Meccans, Medinans, Iraqis and Syrians—but mostly from two Meccan legal scholars, ‘Aṭā’ b. Abī Rabāḥ (d. 114/732) and ‘Amr b. Dīnār (d. 126/743-4). Here too the question arises: Did Ibn Jurayj really receive the legal opinions and transmissions he ascribes to his main informants from the persons in question, or did he put his own opinions as well as reports that he himself fabricated into the mouths of earlier authorities in order to lend greater authority to his texts?

Close scrutiny of the transmissions ascribed by Ibn Jurayj to these two scholars suggests that the ascriptions are not bogus and that he did in fact transmit what he learned from his two teachers. Motzki reaches this conclusion, first, on the basis of formal criteria of authenticity: external criteria (magnitude and genre) and internal ones (Ibn Jurayj’s own legal opinions; his commentaries on and uncertainties about the transmitted texts; variants and weaknesses mentioned by Ibn Jurayj). He then uses biographical information, according to which Ibn Jurayj studied for a long time with these two Meccan scholars, to support his conclusion. Based on his findings, Motzki is persuaded that Ibn Jurayj’s transmissions from the two scholars provide an accurate picture of the state of Meccan jurisprudence in the first quarter of the 2nd century H.

The Studies of this Theme Issue

In one way or another each of the three studies in this theme issue deals with the problem of competing paradigms and with methods for negotiating a middle course between them. In “Upholding God’s rule: Early Muslim juristic opposition to the state employment of non-Muslims,” Luke Yarbrough uses the *isnād-cum-matn* method. He examines three reports that cite the second caliph ‘Umar as a model and authority for the opinion that Muslim state officials should not employ non-Muslims

in official matters. Yarbrough's study is based on a wide range of sources, an important prerequisite for successful implementation of the method.

The *asānīd* of the three traditions exhibit predominantly single strands. Genuine PCLs between the sources/compilations and the CL are lacking. This type of transmission bundle was called a "spider" by Juynboll, who regarded it as the product of *isnād*-fabrication by the author of the source/compilation or one of his teachers.⁹ Yarbrough shows that a detailed comparative analysis of the *matn* variants can be of help in determining the initial disseminator of the respective traditions, notwithstanding the single strands.

After a *post quem* date has been established, the question arises as to whether this initial disseminator of the tradition invented the report with its *isnād* or merely transmitted an already existing report on the theme, either verbatim or in words to that effect. This question frequently cannot be answered with certainty. On the basis of historical sources, however, the author succeeds in bolstering his conclusions regarding the place and time of the probable genesis of the reports and in identifying the men who, in all likelihood, were the initial disseminators of the reports.

In the second contribution, "Some Sunni *Hadīth* on the Qur'ānic Term *Kalāla*: An Attempt at Historical Reconstruction," Pavel Pavlovitch applies the *isnād-cum-matn* method to seven transmission complexes relating to the word *kalāla*. After first summarizing earlier attempts by D. Powers and A. Cilardo to date these reports based on their *asānīd* and *mutūn*, the author attempts to reach new and more accurate results by deploying the *isnād-cum-matn* method.

For the *isnād* analysis, he takes Juynboll's principles as his starting point. It will be recalled that Juynboll focused exclusively on *asānīd* for his dating of transmissions and, therefore, had to raise the requirements for a historically plausible transmission. Juynboll demanded, for example, a minimum of three transmission lines converging on a transmitter in order to accept him as a historically plausible PCL of the CL, and he generally rejected single strands as unhistorical. When using the *isnād-cum-matn* analysis, however, it is not necessary to reject single

⁹ For criticism of this assumption, see Motzki, "Whither *Hadīth* Studies?," 54-61, 98 ff.

strands from the outset because the *mutūn* can be used as additional evidence. It is thus reasonable that Pavlovitch modifies Juynboll's criteria. In the absence of a sufficient number of historically plausible PCLs, he also includes in his analysis transmissions that are available only with a single-strand *isnād*. If there are many single strands for a report, in which case the *isnād* bundle looks like a spider, and if the author of a collection refers directly to a key transmitter (CL or PCL), then Pavlovitch treats such a transmission as genuine. In some cases, however, Pavlovitch is too skeptical, excluding *mutūn* from the analysis only because they have been transmitted with single-strand *asānīd*, in spite of the fact that the transmitters in question have been shown to be reliable in other contexts. In addition, he makes the dubious assumption that the content of a key transmitter's *matn* reflects the transmitter's own opinion. That may or may not be the case. This assumption leads to problems when very different or even contradictory *mutūn* are transmitted from the same key transmitter. According to Pavlovitch, this happens when the transmitter changes his opinion. He does not consider the possibility that the different *mutūn* were not produced by the transmitter himself, but were transmitted from different informants/teachers.

Pavlovitch's methodological assumptions influence his results. He dates only two of the seven reports to the first quarter of the 2nd century. For the rest, he tends to place their origin a quarter century or more later, or extends the period of their possible emergence from 100 to 150, or dates them between 150 and 200 H. or "probably later." An *isnād-cum-matn* analysis of the seven reports on the meaning of the Qur'ānic term *kalāla* that does not exclude from the outset single strand transmissions, however, would assign their origin and initial dissemination to the first quarter of the 2nd century, with one exception (*al-kalālat mā khalā l-ab*), which is probably from the last quarter of the 2nd century. Similar results would follow from a tradition-historical source analysis focusing on the relevant traditions contained in 'Abd al-Razzāq's *Muṣannaf*.

The third study, "Motzki's Forger: The Corpus of the Follower 'Aṭā' in Two Early 3rd/9th-century *Ḥadīth* Compendia," by P.J. Gledhill, is a critical treatment of Motzki's method of tradition-historical source analysis. The author bases himself on Motzki's article, "The *Muṣannaf*

of ‘Abd al-Razzāq al-Ṣan‘ānī as a Source of Authentic *Aḥādīth* of the First Century A.H.”, published in 1991, in which Motzki describes in greater detail the method briefly summarized above.

Gledhill characterizes as dubious Motzki’s “main methodological premises.” He also criticizes his decision to base his examination of transmissions from ‘Aṭā’ b. Abī Rabāḥ solely on Ibn Jurayj’s corpus contained in ‘Abd al-Razzāq’s *Muṣannaf*. Gledhill analyzes several corpora of transmissions contained in Ibn Abī Shayba’s *Muṣannaf* that purport to go back to ‘Aṭā’, and compares them with Ibn Jurayj’s ‘Aṭā’ corpus found in ‘Abd al-Razzāq’s *Muṣannaf*. He limits himself to a comparison of four of the six “extrinsic formal criteria of authenticity” employed by Motzki to characterize the peculiarities of Ibn Jurayj’s transmissions from his most important informants: (1) variations in the occurrence of *responsa v. dicta*; (2) *ra’y* v. tradition; (3) traditions with *asānīd* v. traditions without; (4) the number of traditions ascribed to the Prophet, Companions, or Followers. According to Motzki, the varied distribution of the six “extrinsic formal criteria of authenticity” in Ibn Jurayj’s transmissions from his most important informants, and the six “intrinsic” criteria in his transmissions from ‘Aṭā’ b. Abī Rabāḥ, combine to suggest that that it is unlikely that Ibn Jurayj forged these transmissions or falsely attributed them to his informants.

Gledhill, however, uses the extrinsic criteria for another purpose, namely, for comparing Ibn Jurayj’s ‘Aṭā’ corpus in ‘Abd al-Razzāq’s *Muṣannaf* with the different Aṭā’ corpora in Ibn Abī Shayba’s *Muṣannaf*. He determines that in some cases the distribution of text genres in Ibn Abī Shayba’s corpora that report on ‘Aṭā’ diverges sharply from the distribution in ‘Abd al-Razzāq’s corpus of Ibn Jurayj. In other cases, however, the distribution is similar. Based on these considerations he makes two arguments: (1) Motzki’s conclusion that Ibn Jurayj’s transmissions from ‘Aṭā’ are credible and afford insight into his instruction and juristic erudition is untenable due to the variation in the distribution of text genres in Ibn Abī Shayba’s corpora; and (2) Motzki’s methodological starting point—to wit, the differences between the different corpora of a source like Ibn Jurayj and the differences inside a corpus like that of ‘Aṭā’ are indices of genuine tradition—is untenable as well. The characteristics of the corpora ascribed to ‘Aṭā’ in the two *Muṣannafs*

are often not identical and therefore are not credible. Motzki's response to Gledhill's article is found at the end of this theme issue.

The three studies in this theme issue demonstrate that the current generation of scholars is increasingly occupied with the question of appropriate methods for dating traditions. This is well and good, because what can and cannot be achieved with the available methods can be determined only through repeated implementation and exposure to critical testing.