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## EARLY DEVELOPMENT OF THE TRADITION OF THE SELF-CONFESSED ADULTERER IN ISLAM. AN *ISNĀD* AND *MATN* ANALYSIS<sup>1</sup>

### EL INICIO DEL DESARROLLO DE LA TRADICIÓN DEL ADÚLTERO CONFESO EN EL ISLAM. UN ANÁLISIS DE *ISNĀD* Y *MATN*

PAVEL PAVLOVITCH

Sofia University “St. Kliment Ohridski”

This article applies *isnād* and *matn* criticism to traditions relating to the punishment of the self-confessed adulterer in Islam. Above all, it attempts to trace the relevant traditions to their earliest source, who, in the author’s view, is Ibn Shihāb al-Zuhrī. The article goes on to discuss the possible contents of this original source, which was apparently void of references to the personal name of the adulterer and provisions for his sanity and *iḥṣān*. The role of ‘Abd al-Razzāq al-Ṣan‘ānī in the elaboration of the *matn* comes under scrutiny. Later regional and personal variants of the original *ḥadīth* are analyzed in some detail. In its concluding section the article studies the provision for a fourfold confession by the adulterer. The author cites sources attesting to a controversy between ‘Abd al-Razzāq and Abū Dāwūd al-Ṭayālīsī concerning the number of confessions needed for the infliction of *rajm*.

*Key words:* *Ḥadīth* authenticity; *Isnād* criticism; *Matn* criticism; Common link; *Zinā*; *Rajm*; Adultery; Fornication; Stoning; Self confession; *Fiqh*.

Este artículo aplica la crítica del *isnād* y el *matn* a las tradiciones relacionadas con el castigo del adúltero confeso en el Islam. Ante todo, intenta seguir la pista de las tradiciones relevantes hasta su fuente más temprana que es, en opinión del autor, Ibn Shihāb al-Zuhrī. A continuación, el artículo trata de averiguar los posibles contenidos de esta primera versión, que aparentemente carecía de referencias al nombre personal del adúltero o de alguna comprobación en cuanto a su estado mental e *iḥṣān*. Se examina el papel de ‘Abd al-Razzāq al-Ṣan‘ānī en la elaboración del *matn* y se analizan en detalle algunas versiones posteriores, tanto regionales como personales, del *ḥadīth* original. En su parte final, el artículo estudia el requisito de la necesidad de una confesión cuádruple por parte del adúltero. El autor aporta fuentes que dan fe de una controversia entre ‘Abd al-Razzāq y Abū Dāwūd al-Ṭayālīsī sobre el número de confesiones necesarias para la imposición de *rajm*.

*Palabras clave:* autenticidad del *ḥadīth*; *isnād*; *matn*; vínculo común; *zinā*; *rajm*; adulterio; fornicación; lapidación; confesión; *fiqh*.

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## I

Adultery and fornication (*zinā*) were both an object of continuous debate during the early stages of development of Muslim jurisprudence. The importance of this subject can be gleaned from the considerable number of traditions treating diverse aspects of the *zinā* transgression in the early *ḥadīth* corpora and *tafsīr* and *fiqh* literature. An often recurring feature of the *aḥādīth* in question is their bearing upon a number of comprehensive jurisprudential and theological issues, the most prominent of which is perhaps the *naskh* relationship between the *sunna* and the Qur'ān. Deriving its importance from the lack of scriptural prescription for the stoning (*rajm*) of adulterers, the latter aspect occupied an eminent position in modern Western scholarship. Students of early Muslim jurisprudence and exegesis centered their discussion on the abrogation phenomenon yet rarely digressed to other *zinā*-related topics.

Wansbrough based his discussion of *rajm* on Abu 'Ubayd's early treatise on *naskh*, which emphasized the revealed character of the penalty.<sup>2</sup> In line with his theory about the late canonization of the Qur'ān, Wansbrough pointed to the «transposition of stoning penalty into stoning verse» as an example of «the elevation of the Quranic text to canonical status».<sup>3</sup> He dated the appearance of the *āyat al-rajm* notion by the beginning of the 3<sup>rd</sup>/9<sup>th</sup> century<sup>4</sup> but, owing to the character of his work, did not turn his attention to the relative chronology within the multifarious *rajm* material.

Somewhat earlier, in his 1974 article about the term *iḥṣān* Burton tried to date different stoning traditions in accordance with the evolution of the Islamic concept of punishment for adultery and fornication. In his view, the reports about 'Alī's stoning of an unchaste woman and the *'asīf* (hired hand) tradition derive from the 'Ubāda b. al-Ṣāmit *ḥadīth*<sup>5</sup> which credits the Prophet with the initial distinction between *bikr* and *thayyib* in cases of fornication/adultery. As Burton did not explicate any methodological reason for his dating, this conclusion appears to rest on the internal relationship between the texts, where the hired hand *ḥadīth* is described as «an at-

<sup>2</sup> Wansbrough, J., *Quranic Studies*, Oxford, 1977, 193-94.

<sup>3</sup> *Ibid.*, 194.

<sup>4</sup> *Ibid.*

<sup>5</sup> Burton, J., "The Meaning of *Iḥṣān*", *JSS*, 19 (1974), 53.

tempt to modify the ‘Ubāda document in favour of the Fiqh penalty by eliminating the flogging element mentioned in ‘Ubāda». <sup>6</sup> Burton must have also had weighty reasons for his pronouncement that «none of the material we have here illustrated need be taken as authentic», <sup>7</sup> which applies on the already quoted traditions as well as on the material that tends to treat *rajm* as part of the Qur’ān. He abstained, however, from giving any hint about the methodological basis of this conclusion.

In his later works Burton preferred to concentrate on *rajm* as part of the abrogation issue, which naturally predetermined the scope of traditions he chose to deal with. His in-depth analysis of the third mode of *naskh* <sup>8</sup> will not be treated here, as it bears no tangible relation to the topic of the present study. For the same reason I will not discuss the article of Christopher Melchert about Qur’ānic abrogation across the 9<sup>th</sup> century. Suffice to say that the stoning penalty is a significant part of the author’s attempt to work out a relative dating of the works of al-Shāfi‘ī, Abū ‘Ubayd, al-Muḥāsibī and Ibn Qutayba. <sup>9</sup> The thematic confines of Melchert’s revealing study, once again, narrowed his choice of his illustrative traditions to those bearing on the revealed character of the *rajm* penalty.

The self-confession tradition, which may with some reservations be called the Mā‘iz *ḥadīth*, did not occupy any considerable place in the Western scholarship on *rajm*. Burton occasionally referred to it as part of the chronology propounded by al-Shāfi‘ī, wherein the sequence is: Q. IV 15-16, ‘Ubāda, Q. XXIV 2, Mā‘iz and ‘*asīf*. <sup>10</sup> Nevertheless, it must have been marginal for him, as he opted not to include it in his article about the penalty for adultery in Islam, published in 1993. <sup>11</sup>

More recently, Delfina Serrano referred to the Mā‘iz *ḥadīth* as a basis for juristic pronouncement in the case of persons who volun-

<sup>6</sup> Burton, “The Meaning of *Iḥṣān*”.

<sup>7</sup> *Ibid.*

<sup>8</sup> Burton, J., *The Collection of the Qur’ān*, Cambridge, 1977, 68-86; *idem*, *The Sources of Islamic Law*, Edinburgh, 1990, 123-64.

<sup>9</sup> Melchert, Ch., “Qur’ānic Abrogation across the Ninth Century: Shāfi‘ī, Abū ‘Ubayd, Muḥāsibī, and Ibn Qutaybah”, in B.G. Weiss (ed.), *Studies in Islamic Law and Society (Series)*. *Studies in Islamic Legal Theory*, Leyden, 2002, 85-86, 89, 90.

<sup>10</sup> Burton, “The Meaning of *Iḥṣān*”, 59.

<sup>11</sup> Burton, J., “The Penalty for Adultery in Islam”, in G.R. Hawting and A.A. Shareef (eds.), *Approaches to the Qur’ān*, U.K., 1993, 269-84.

tarily confess to *zinā*.<sup>12</sup> The article shows how elaborate requirements for the imposition of *rajm* have continued to pose problems for diligent Islamic jurists at later times, when the neatly formulated doctrine became hard to implement in real cases, not least due to lack of sufficient competence at certain levels of judiciary. This being said, the main interest of the author is directed to the practice of Ibn Rushd al-Jadd and falls outside an attempt to establish the historical and regional origins of the Māʿiz tradition.

The importance of the self-confessed adulterer issue is far from confined to its relative absence in contemporary Western scholarship on *rajm*. As in many other cases, it is based on a number of diverse tradition clusters that occasionally bear upon extrinsic theological and jurisprudential problems. Taken as a part of the larger *rajm* topic, the self-confession problem can be indicative of the earliest instances of discussion about the penalty for adultery in Islam. It is also capable of revealing disputes between Muslim authorities in the 2<sup>nd</sup>/8<sup>th</sup> and especially in the 3<sup>rd</sup>/9<sup>th</sup> century. Last but not least, it can indicate the degree of reliability of Western methodologies that have been recently developed to deal with early source material.

In terms of methodology the present study will take advantage of the common link (henceforth CL) theory and *isnād-cum-matn* analysis. Since these are recently propounded methodological tools, I shall discuss in short their advantages and shortcomings.

The CL phenomenon was noted already by J. Schacht. He pointed to the existence of relatively late traditionists (N.N.s) at whose level the transmission line (*isnād*) branches into several strands. Schacht treated these figures, whom he occasionally called CLs, as the original promoters of the traditions and considered them responsible for the introduction of the *isnād* going back to the Companions or the Prophet. Schacht thought of this higher part<sup>13</sup> of the transmission line as fictitious.<sup>14</sup>

<sup>12</sup> Serrano, D., “La lapidación como castigo de las relaciones sexuales no legales (*zinā*) en el seno de la escuela mālikī: doctrina, práctica legal y actitudes individuales frente al delito (s. XI y XII)”, *Al-Qanṭara*, 26 (2005), 465.

<sup>13</sup> This term may be somewhat misleading. Other scholars speak of the «lower part of the *isnād*» to describe the line between the CL and the stated source of the tradition. (See Görke, A., “Eschatology, History and the Common Link: A Study in Methodology”, in H. Berg (ed.), *Method and Theory in the Study of Islamic Origins*, Leyden, 2003, 184).

<sup>14</sup> Schacht, J., *The Origins of Muhammadan Jurisprudence*, Oxford, 1950, 171 ff.

G.H.A. Juynboll elaborated on Schacht's CL theory, emphasizing on the idea that any given tradition may claim historicity only at the point of multiplication and stipulating additional requirements for the validation of its part above the level of the CL. Most notably, he requires that the CL report should be quoted by a number of the next generation authors, who could be trusted (i.e. deemed partial CLs, [PCLs]) only if their own tradition spread in several new branches.<sup>15</sup> According to Juynboll, the earliest CLs are persons from the generation of the late Successors or even belong to the generation after that of the Successors.<sup>16</sup> The preceding decades are covered by suspicious single lines of transmission, which means that the first historically ascertainable accounts were brought into circulation by the representatives of the third or at best the late second generation after the Prophet.<sup>17</sup> Thus any information that purports to relate back to the time of the Prophet and the 1<sup>st</sup>/7<sup>th</sup> century in general could not be verified as historically plausible.

Diligent efforts were not in dearth, to be sure, to solve the 1<sup>st</sup> century conundrum, but their authors could not avoid epistemologically problematic assumptions. Following earlier publications by J.H. Kramers and Joseph van Ess, Motzki proposed that not only *asānīd* but also *mutūn* should be considered in the process of a *ḥadīth*-critical analysis.<sup>18</sup> In his view, there exists a correlation between *isnād* variants and *matn* variants of a tradition and, furthermore, «such a correlation is unlikely to be the result of systematic forgery because the

<sup>15</sup> In Juynboll's words «A s[ingle] s[trand] cannot claim any measure of historicity [...] But when the transmission from a cl branches out to a number of [...] pcls, each of whose transmissions branches out in turn to a number of other pcls [...], then these «knots» give a certain guarantee for the historical tenability of that transmission path [...]» (Juynboll, G.H.A., "(Re)appraisal of Some Technical Terms in Ḥadīth Science", *ILS*, 8 (2001), 306; cf. *idem*, "Nāfi' the Mawlā of Ibn 'Umar and His Position in Muslim Ḥadīth Literature", *Der Islam*, 70 (1993), 210-11; *idem*, "Early Islamic Society as Reflected in its Use of Isnāds", *Le Muséon*, 107 (1994), 153. More on Juynboll's methodology and the related terms, coined by him, in: Juynboll, G.H.A., *Muslim Tradition. Studies in chronology, provenance and authorship of early ḥadīth*, Cambridge, 1983, 206-17; *idem*, "Early Islamic Society", 152-59; *idem*, "(Re)appraisal", 303 ff.; *idem*, *Encyclopedia of Canonical Ḥadīth* (henceforth abbreviated *ECH*), Leyden, 2007, XVIII-XXVIII.

<sup>16</sup> See Juynboll, G.H.A., "Some Notes on Islam's First *Fuqahā'* Distilled from Early *ḥadīth* Literature", *Arabica*, 39 (1992), 292 ff.; *idem*, "Early Islamic Society", 154; *idem*, "Nāfi'", 209-10.

<sup>17</sup> Juynboll, "Some Notes", 292; cf. *idem*, "The Role of Mu'ammarūn in the Early Development of Isnād", *WZKM*, 81 (1991), 155.

<sup>18</sup> Motzki, H., "Dating Muslim Traditions: a Survey", *Arabica*, 2 (2005), 250.

phenomenon of correlation is so wide-spread that almost every *muḥaddith* must have participated in forgery». <sup>19</sup>

Skeptics responded to this argument by pointing out that early Muslim collectors need not have necessarily colluded in a large-scale *ḥadīth* forgery. According to Berg, when the traditions of Islam began to be recorded around the beginning of the second half of the 2<sup>nd</sup> century (around 800 C.E.), «it was done in a manner that those early Muslims believed (or needed to believe) that events had been». <sup>20</sup> If one should go with Wansbrough in construing Muslim traditions as a literary reconstruction of past events that are believed to have actually taken place, there would be no «truths» that had to be suppressed in favor of «falsehoods». <sup>21</sup> Within the process of literary re-creation of the past *asānīd* would have served only as a fictitious authority-providing device, hence any correlation between *isnād* and *matn* would be an unwarranted assumption.

His skepticism notwithstanding, Berg still admits that studies by «sanguine scholars», such as Versteegh, Motzki, Schoeler and Muranyi, pushed the boundary of historically recognizable events and works back to the 2<sup>nd</sup>/8<sup>th</sup> century. <sup>22</sup> When we come to the 1<sup>st</sup> Islamic century, however, the gap to the events of early Islam is by no means closed, <sup>23</sup> and this is by far the strongest objection to the proponents of the *isnād-cum-matn* analysis. Followers of the latter approach are apparently aware of the problematic nature of inroads into the 1<sup>st</sup>/7<sup>th</sup> century, but no consistent methodological way out of this predicament may be found at present. Motzki speaks of the «legitimate premise that in most cases the collector will have given the real informant» and assumes that cases of forgery «must be considered the exceptions, not the rule». <sup>24</sup> Nevertheless, he admits that one of the main problems facing his method is «...die Frage, wie zweifelsfrei festzustellen ist, ob der Informant des common link fingiert ist oder nicht». <sup>25</sup> Drawing on the *isnād-cum-matn* analysis,

<sup>19</sup> *Ibid.*

<sup>20</sup> Berg, H., “Competing Paradigms in the Study of Islamic Origins”, in H. Berg (ed.), *Method and Theory in the Study of Islamic Origins*, Leyden, 2003, 283.

<sup>21</sup> Wansbrough, *Quranic Studies*.

<sup>22</sup> Berg, “Competing Paradigms”, 284 ff.

<sup>23</sup> *Ibid.*, 285.

<sup>24</sup> Motzki, “Dating Muslim Traditions”, 241.

<sup>25</sup> Motzki, H., “Methoden zur Datierung von islamischen Überlieferungen”, [http://webdoc.uibn.kun.nl/mono/m/motzki\\_h/methzudav.pdf](http://webdoc.uibn.kun.nl/mono/m/motzki_h/methzudav.pdf), 18 (accessed on 26-04-2008).

Motzki claims that it is possible «to venture back into the 1<sup>st</sup>/7<sup>th</sup> century» and even «occasionally [...] to verify [...] reports about the Prophet which quite probably are authentic, that is, they were really reported by one of the Prophet's contemporaries, and their genuineness, that is, that they have a historical kernel, cannot be simply dismissed». <sup>26</sup> At the same time he leaves the door opened for exercise of intuition while stating that «Dating traditions is not possible without having recourse to assumptions». <sup>27</sup>

In his revealing *Charakter und Authentie der muslimischen Überlieferung über das Leben Mohammeds*, Schoeler in turn tried to step over *die magische Schwelle* of the 1<sup>st</sup>/7<sup>th</sup> century by combining painstaking tradition analysis with balanced exercise of intuition. Schoeler's achievement is partly explicable by the scope of his analysis which concentrates upon 'Urwa b. al-Zubayr (23-93-4/643-4-711-13), one of the most renowned authorities of the *tābi'ūn* generation. Schoeler managed to attain convincing conclusions that two of the widest-spread traditions about the life of the Prophet, to wit, the first revelation story and *ḥadīth al-ifk*, go back to a common archetype transmitted by 'Urwa, which means that their proto-wording may be dated by the final decades of the 1<sup>st</sup> Islamic century. <sup>28</sup> His success to cast a glance over the magic threshold of the 1<sup>st</sup> century emboldened Schoeler to conjecture that when the distance is shortened to the one or two generations that separate 'Urwa's time from the events pertaining to the Medinan period of the Prophet's life, we may assume that the traditions in question are generally authentic. <sup>29</sup> This conclusion notwithstanding, in a more recent work of his, Schoeler seems rather undecided. He admits that his method allows defining whether a certain tradition is «old»; i.e., «whether it was already circulated in the 1<sup>st</sup> century A.H. or not» but, «if this kind of tradition does indeed go back to the Prophet or a companion is a different question». <sup>30</sup>

<sup>26</sup> Motzki, H., *The Origins of Islamic Jurisprudence*, M.H. Katz (Transl.), Leyden, 2002, XIV.

<sup>27</sup> Motzki, "Dating Muslim Traditions", 253.

<sup>28</sup> Schoeler, G., *Charakter und Authentie der muslimischen Überlieferung über das Leben Mohammeds*, Berlin-New York, 1996.

<sup>29</sup> *Ibid.*, 167.

<sup>30</sup> Görke, A. and Schoeler, G., "Reconstructing the Earliest Sīra Texts: the Hijra in the Corpus of 'Urwa b. al-Zubayr", *Der Islam*, 82 (2005), 212.

The overall failure of the *isnād-cum-matn* criticism to yield conclusive results about the 1<sup>st</sup>/7<sup>th</sup> century traditions is to a great extent explicable by the generalization patterns imposed on the relevant accounts. Motzki's criticism of his opponents for their resorting to generalizations,<sup>31</sup> which furthermore presume the early sources to be principally unauthentic, may be justified. At the same time Motzki's own and his followers' intuitive presumption of authenticity can be impugned for unwarranted credulity, especially when it comes to the 1<sup>st</sup>/7<sup>th</sup> century. While reasonably calling for an appropriate assessment of the *matn* clusters in their relation with the *isnād* bundles, this method could not effect serious changes to the CL theory even though its proponents ventured to alleviate accusations of forgery leveled at the single-strand *isnāds*.

One of the arguments that (partly) support the reliability of the single strand between the CL and the purported original source of information is to consider the CL the first «systematic collector and disseminator»<sup>32</sup> of a given tradition. Even if this assumption be true, while revealing the formal disseminator of the account, the single line of transmission is scarcely informative about the acceptability of his informants, if any. Moreover, it fails to reveal whether the tradition in question existed before the time of the CL and, if yes, in what shape and in which regional and sectarian setting.<sup>33</sup> An excessive trust in the single-line *isnāds*, even when the *matn* would suggest a common provenance, can be misleading. It may render the *isnād-cum-matn* analysis susceptible to critique of neglecting the possible, and quite conceivable, spread of *isnāds*, as voiced already by M. Cook in his objections to Joseph van Ess' method.<sup>34</sup>

<sup>31</sup> On Schacht, see Motzki, "Dating Muslim Traditions", 211, ff.; *idem*, "The Question of the Authenticity of Muslim Traditions Reconsidered: A Review Article", in H. Berg (ed.), *Method and Theory in the Study of Islamic Origins*, Leyden, 2003, 220; on Juynboll, "Dating Muslim Traditions", 226 ff.; on Berg and the skeptics, "The Question of the Authenticity", 244-45, 250-51.

<sup>32</sup> Motzki, H., "*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, 1 (1996), 40-80 and 73, 2 (1996), 193-231, 45.

<sup>33</sup> I prefer Görke's suggestion that the CL is «[...] the person who is responsible for the tradition *in the form we have it*» (Görke, "Eschatology", 190 ff.).

<sup>34</sup> Cook, M., *Early Muslim Dogma*, Cambridge, 1981, 107-16.



The precariousness of the single strands is well illustrated in Berg's analysis meant to show the shortcomings of the sanguine approach. On several occasions Berg apparently overstates the value of the single strands, and his respective conclusions cannot be accepted at least by part of the sanguine scholars. *Isnād*-wise there is nothing to suggest, for instance, in Berg's Diagram 1<sup>35</sup> that the tradition goes back to Ibn 'Abbās, as the only proof would be the single line al-Ṭabarī → Ibn al-Muthannā → Ibn Abī 'Adī → Shu'ba → Sulaymān. It does not reach Ibn 'Abbās himself and should be construed as a mere dive under the potential CL, al-A'mash. The same goes for Berg's conclusion that al-Ḍaḥḥāk is the CL in Diagram 3.<sup>36</sup> The diagram consists of single strands, none of which might be taken as persuasive evidence about the development of the tradition. Ibn Abī Najīḥ, likewise, is hardly acceptable as the CL in Diagram 4.<sup>37</sup> Both *isnāds* converging on him are single-strand dives, as are the other two lines going all the way back to Mujāhid. The only person who might pretend for a CL status in this case is actually Warqā', but to prove this one will need even more *asānīd* and *mutūn* to compare. The strongest indication that we are not faced with the phenomenon of spread of *isnāds* would be the transmission line multiplication, seconded by uncontested *matn* similarity. Only at that point a tenable conclusion about the tradition's history could become possible.

Another line of defense of the single strand goes through the assumption that the systematic collector favored a particular variant tradition to the exclusion of all others, because he deemed it the most trustworthy (*vertrauenswürdigsten*), or/and because there was no need felt by the early CLs to provide the names of more informants.<sup>38</sup> This again represents a generalization, which might be true in some circumstances but, at any rate, would require substantial proofs. The best way to avoid generalizations is to look at each tradition in its own right without presuming either its soundness or spuriousness. Even in this case, however, one will find it difficult to derive any consistent methodology capable of descending into the dark area of the 1<sup>st</sup>/7<sup>th</sup> century.

<sup>35</sup> Berg, "Competing Paradigms", 267, 270.

<sup>36</sup> *Ibid.*, 268, 272.

<sup>37</sup> *Ibid.*, 269, 272.

<sup>38</sup> Motzki, "*Quo Vadis*", 45.

Assuming that there exists a positive relation between *isnād* and *matn*, at least when we come to the 2<sup>nd</sup>/8<sup>th</sup> century, in the present paper I shall try to test the CL theory and *isnād-cum-matn* analysis on traditions about the case of the self-confessed adulterer in Islam. They are particularly suitable for this kind of study because of their numerous *isnād* ramifications at different levels, which may allow us to trace their root back to the early period of development of Islamic jurisprudence and to make conjectures about their nascent shape. As in other related instances, the self-confessed adulterer tradition cluster purports to be based on historical events and involves «real-world» persons and places. Hence, one feels challenged to establish whether its *urtext* had any relevance to the Medinan chapter of the prophetic *sīra*, or it is another back projection of later concepts onto the first quarter of the 7<sup>th</sup> century.

Owing to the limited volume of the present publication, will focus on the anonymous-adulterer traditions. The early provenance of these traditions, which I shall try to establish throughout the study, has been another weighty reason for my choice.

## II. The anonymous adulterer version

I start with an analysis of the tradition cluster referring to an anonymous self-confessed adulterer, not least because it will prove to be the oldest ascertainable version.

### II.1. *Did al-Zuhrī circulate the earliest version of the self-confessed adulterer tradition?*

Ibn Shihāb al-Zuhrī (d. 124/742) is by far the most prominent author appearing not only in the *isnād* of the self-confessed adulterer tradition but also in the *zinā* bundle as a whole. Zuhrī's pivotal role in the proliferation of traditions earned him the fame of one of the greatest early *ḥadīth* authorities but at the same time did not spare him a good deal of criticism at the hands of some older and more recent Western researchers. Already Goldziher was skeptical about Ibn Shihāb's impartiality, pointing to his entanglement with

the Umayyad court.<sup>39</sup> Schacht also contributed to the skeptical stance towards Zuhri-related traditions. Schacht's attitude was conditioned by his principle that in terms of *asānīd* the traditions attributed to the Successors represent the initial stage of back projection of doctrine to early authorities, while Companions' and Prophet's *aḥādīth* are even later. Hence, Schacht concluded that the cases where Mālik asks al-Zuhri for his personal opinion were to be regarded as genuine, whereas al-Zuhri's appearance as CL in a number of traditions from the Prophet, from Companions, from Successors was a later invention.<sup>40</sup> Even though a number of recent studies have contributed to the rehabilitation of Ibn Shihāb,<sup>41</sup> in my analysis of the self-confessed adulterer tradition I prefer to stick for the time being to Juynboll's more conservative statement that «[...] sifting *matns* which are genuinely Zuhri's from those which are only seemingly his constitutes a problematic chapter in *isnād* analysis which has not yet been written».<sup>42</sup>

Let us turn now to a relatively long variant of the tradition, attested by multiple *asānīd*:

1. A man from [the clan of] Aslam came to the Prophet, eulogy, and confessed that he had committed adultery but [the Prophet] shunned him.
2. Then he confessed [again], whereupon [the Prophet] shunned him, until he testified against himself four times.
3. Then the Prophet, eulogy, asked: «Are you insane?» [The man] said: «No.» [The Prophet] asked: «Are you *muḥṣan*?» [The man] said: «Yes.»
4. Then the Prophet, eulogy, ordered him stoned at the place of prayer [*al-muṣallā*].

<sup>39</sup> Goldziher, I., *Muslim Studies (Muhammedanische Studien)*, C.R. Barber and S.M. Stern (Transl.), London, 1971, 2, 46-48.

<sup>40</sup> Schacht, *Origins*, 246.

<sup>41</sup> Motzki, H., "Der Fiqh des-Zuhri: Die Quellenproblematik", *Der Islam*, 68 (1991), 1-44; *idem*, "The Jurisprudence of Ibn Shihāb al-Zuhri. A Source-Critical Study", [http://webdoc.uhn.kun.nl/mono/m/motzki\\_h/jurifib.pdf](http://webdoc.uhn.kun.nl/mono/m/motzki_h/jurifib.pdf), 2-4 (accessed on 28-04-2008); Schoeler, G. *Charakter und Authentie*; Lecker, M., "Biographical Notes on Ibn Shihāb al-Zuhri", *JSS*, 41 (1996), 21-63; Görke, A., "The Historical Tradition about al-Ḥudaybiyya. A Study of 'Urwa b. az-Zubayr's Account", in H. Motzki (ed.), *The Biography of Muḥammad. The Issue of the Sources*, Leyden, 2000, 240-75.

<sup>42</sup> Juynboll, "Nāfi", 226.



5. When the stones struck him, he ran away but was overtaken and stoned to death.
6. The Prophet, eulogy, had good words for him but shrank from praying for him.<sup>43</sup>

The *matn* proves remarkably consistent across the numerous pre-canonical and canonical collections that make reference to it. Its uniformity suggests a later emergence probably at the hands of the CL.<sup>44</sup> One may draw further support for this possibility from the clear terminological apparatus of the tradition. According to the narrator, the adulterer was well aware of all legal requirements for the imposition of the *rajm* penalty, including fourfold confession and mental sanity. The same goes for the rather ambiguous term *muḥṣan*,<sup>45</sup> with which both interlocutors appear to be familiar. In its concluding two points, the tradition is influenced by an outside source, which could be located elsewhere in the large tradition cluster about the self-confessed adulterer. This in turn suggests that we are probably facing an enlarged variant of an earlier *matn*.

If we proceed now from the *matn* of the *ḥadīth* to its *isnād*, the suspicions of a later origin will become yet stronger. ‘Abd al-Razzāq will appear as the CL of the tradition, which reaches down to al-Zuhrī through a single line involving his [viz. Zuhrī’s] pupil and the most prominent of ‘Abd al-Razzāq’s masters, Ma‘mar b. Rāshid. As there are no known parallel transmissions at the tier of Ma‘mar b. Rāshid, one can hardly credit him with the transmission of this tradition, let alone consider its possible existence in the time of Ibn Shihāb.

<sup>43</sup> ‘Abd al-Razzāq al-Ṣan‘ānī, Abū Bakr b. Hammām, *Muṣannaḥ*, Ḥ. al-R. al-A‘zamī (ed.), Beirut, 1403, VII, 320, n.° 13337; al-Bukhārī, Abū ‘Abd Allāh Muḥammad b. Ismā‘īl, *Ṣaḥīḥ*, M.D. al-Bughā (ed.), Beirut, 1407/1987, VI, 2500, n.° 6434; al-Tirmidhī, Muḥammad b. ‘Īsā, *Sunan*, A.M. Shākir (ed.), Beirut, 1398/1978, IV, 36-37, n.° 1429; Abū Dāwūd, Sulaymān b. al-Ash‘ath al-Sijistānī al-Azdī, *Sunan*, ‘I.‘U. al-Da‘‘ās (ed.), Beirut, 1418/1997, IV, 377-378, n.° 4430; Ibn Ḥanbal, Abū ‘Abd Allāh Aḥmad, *Musnad*, A.M. Shākir (ed.), Cairo, 1416/1995, XI, 456, n.° 14399; Abū ‘Awāna, Ya‘qūb b. Ishāq al-Isfarā‘īnī, *Musnad*, A. b. ‘Ārif al-Dimashqī (ed.), Beirut, 1998, IV, 125-126, n.° 6265; Ibn Ḥibbān, Abū Ḥātim Muḥammad b. Aḥmad al-Taymī al-Bustī, *Ṣaḥīḥ*, Sh. al-Arna‘ūt (ed.), Beirut, 1993, VII, 362, n.° 3094; al-Dāraquṭnī, *Sunan*, Sh. al-Arna‘ūt *et al.* (eds.), Beirut, 1424/2004, 4, 144, n.° 3240; al-Bayhaqī, Abū Bakr Aḥmad b. al-Ḥusayn b. ‘Alī b. Mūsā, *Sunan*, M. ‘Abd al-Qādir ‘Atā (ed.), Mecca, 1994, VIII, 218.

<sup>44</sup> About this criterion see Görke, “Eschatology”, 191.

<sup>45</sup> For a detailed discussion of *iḥṣān* and its conceptual ambiguity see Burton, “The Meaning of *Iḥṣān*”.

Fortunately, in this case we have at our disposal a clue provided by no other than ‘Abd al-Razzāq himself. It allows us to shed additional light on this tradition’s provenance and its possible relation with al-Zuhrī. ‘Abd al-Razzāq does not limit himself to the transmission line passing through his famous teacher Ma‘mar b. Rāshid but provides us with yet another *isnād* involving this time no less prominent a teacher of his, to wit, ‘Abd al-Mālik b. Jurayj (Diagram 1, the dashed line). A closer look at this tradition will reveal the kind of relationship between it and the above mentioned one, passing via Ma‘mar b. Rāshid:

1. «A man from [the clan of] Aslam came to the Messenger of God, eulogy, who was in the mosque, and told him that he had committed adultery. He testified against himself four times, whereupon the Messenger of God ordered him stoned. He was *muḥṣan*.
2. He is said (*za‘amū anna-hu*) to have been Mā‘iz b. Mālik». <sup>46</sup>

Muslim (d. 261/875) seems to have been aware of this tradition but, unfortunately, decided to subsume it under a collective *isnād* together with a number of other *aḥādīth*, to which it bears only a distant relation. <sup>47</sup> Al-Nasā’ī (d. 303/915) reproduces ‘Abd al-Razzāq’s variant verbatim, <sup>48</sup> whereas Abū ‘Awāna (d. 316/928) opts for slight modifications. He prefers to mention the adulterer by name already at the beginning of the tradition: «anna rajulan min aslama, yuqālu la-hu mā‘iz...» / «A man from [the clan of] Aslam, by the name of Mā‘iz...». <sup>49</sup> This addition echoes the final statement of the *ḥadīth* (*za‘amū anna-hu mā‘izu b. mālik*) and is most probably a result of a later editorial intervention. Al-Bayhaqī (d. 458/1066) in his turn prefers to stay away from mentioning the exact location of the event, which is otherwise the Prophet’s mosque. <sup>50</sup>

<sup>46</sup> ‘Abd al-Razzāq, *Muṣannaḥ*, VII, 319, n.° 13336.

<sup>47</sup> Muslim, Abū al-Ḥusayn b. Ḥajjāj al-Naysābūrī, *Ṣaḥīḥ*, M.F. ‘Abd al-Bāqī (ed.), Beirut, n.d., III, 1318, n.° 1691.

<sup>48</sup> Al-Nasā’ī, Abū ‘Abd al-Rahmān Aḥmad b. Shu‘ayb, *al-Sunan al-Kubrā*, ‘A. al-Gh. S. al-Bundarī (ed.), Beirut, 1991, IV, 280, n.° 7175.

<sup>49</sup> Abū ‘Awāna, *Musnad*, IV, 126, n.° 6266.

<sup>50</sup> Al-Bayhaqī, *Sunan*, VIII, 225.

Most notably, the collection of al-Dārimī (d. 255/869) skips both the mosque and the «Qāla ‘abd al-razzāq...» fragment. By so doing this variant apparently cut the longest way in purging the text of unseasonable additions.<sup>51</sup> One should be cautious, however, in accepting al-Dārimī’s variant as representing the possible *urtext* of the tradition. This would be a problematic conclusion primarily because both al-Dārimī, and Abū ‘Awāna’s informant, Abū Dāwūd al-Ḥarrānī, name the Baṣran traditionist Abū ‘Āṣim al-Ḍaḥḥāk b. Maḥlad (122-*ca.* 212/739-40-*ca.* 827-8) as their direct source; yet, quite surprisingly, the two *matns* differ considerably from one another. Insofar as al-Dārimī’s variant stands aloof from the other representatives of this *matn* cluster, there is a possibility that it resulted from later editorial efforts.

Of greater importance than the internal textual fluctuations are content variations in comparison with the *ḥadīth* via ‘Abd al-Razzāq via Ma‘mar. One may immediately notice that the notional core of the ‘Abd al-Razzāq-via-Ibn Jurayj variant is restricted to the simple sequence of the fourfold confession and the ensuing *rajm* punishment inflicted on the *muḥṣan* offender. It does not refer repetitively to the confession and shunning motif as in the tradition of ‘Abd al-Razzāq via Ma‘mar; it omits the runaway story and the issue of the Prophet’s prayer and in its opening section avoids the terminologically elaborate phrase «fa-‘atarafa bi-l-zinā» in favor of the simpler «fa-ḥaddatha-hu anna-hu qad zanā».

What is more, the tradition via Ibn Jurayj does not refer to the third element present in Ma‘mar’s variant —the sanity of the confessing offender. Admittedly, it mentions the *iḥṣān* provision, however, in a manner that leaves the impression of it as a later accretion in the *matn*. «Wa-kāna qad uḥṣin» comes abruptly at the main section’s end and is at variance with an early Mālik-related tradition, on which more below.

As evident from the statement of Abū ‘Awāna, the concluding sentence «Qāla ‘abd al-razzāq: “Za‘amū anna-hu mā‘izu b. mālik”» goes to the credit of ‘Abd al-Razzāq. The verb *za‘amū* reflects ‘Abd al-Razzāq’s disapproval of a later stage in the development of the tradition, wherein it became bound with the fictitious proper name of

<sup>51</sup> Al-Dārimī, Abū Muḥammad ‘Abd Allāh b. ‘Abd al-Raḥmān, *Sunan*, Ḥ.S.A. al-Dārānī (ed.), Riyadh, 1421/2000, III, 1491, n.º 2361.

Mā'iz b. Mālik. We can safely assign to the same stage the naming of the place where the conversation between the Prophet and the fornicator is said to have taken place in Ibn Jurayj's variant, echoed by a similar type of addition, involving the place of execution in Ma'mar's tradition. Both additions as well as the introduction of the adulterer's name and clan serve one purpose. They are intended to lend «historical» flavor to a *ḥadīth* which in its nascent stages of development reflected only an ideal juristic casus. No wonder that al-Bayhaqī decided to exclude the reference to the mosque in his variant of the Ibn Jurayj tradition, while the Dārimī tradition disposed of the mosque and the concluding passage about Mā'iz altogether.

One may derive further details about the possible early form of the tradition from the short *matn* that Mālik b. Anas puts directly on the authority of Ibn Shihāb (Diagram 1, the dotted line).<sup>52</sup> The *matn* does not make references to names and places and is characteristic of both Mālik and Zuhri's neat legal parlance. It is interesting to observe that Mālik opted to substitute non-professional «fa-ḥaddatha-hu» with the technical term «a'tarafa 'alā nafsi-hi», but this undoubtedly later development cannot conceal the antiquity of the tradition, which does not involve a provision for sanity. Furthermore, it is no less than striking to note that as strict a jurist as Mālik does not mention the other important condition for *rajm* —the *iḥṣān* of the adulterer. This is another indication that the *iḥṣān* provision was probably absent at the time of Ibn Shihāb. Mālik's single-line tradition has to be treated with some caution; yet it should derive additional credibility from the presence of the Medinan authority in other *asānīd* pertaining to the self-confessed adulterer group.

The 'Abd al-Razzāq-cum-Ibn Jurayj variant and the Mālik tradition are more obscure and make no reference to the well-polished concepts of the 'Abd al-Razzāq-cum-Ma'mar tradition. Therefore, if we were to remain content with *matn* analysis, this would be a strong indication in favor of the precedence of the former variant. Nonetheless, one should not rush at such a pronouncement prior to undertaking a proper *isnād* analysis of the *ḥadīth*.

In the case of the *ḥadīth* on the authority of Ibn Jurayj, three main transmitters of the following generation may be singled out:

<sup>52</sup> Mālik b. Anas, *al-Muwatta'* (Yaḥyā b. Yaḥyā al-Laythī), Cairo, 1408/1988, II, 178.



Ḥajjāj b. Muḥammad al-Miṣṣīṣī (d. 206/821), Abū ‘Aṣim al-Ḍaḥḥāk b. Makhlad al-Baṣrī (122-*ca.* 212/739-40-*ca.* 827-8) and ‘Abd al-Razzāq himself.

I should immediately note that ‘Abd al-Razzāq transmits both the more refined text and its vague counterpart. Motzki has argued elsewhere that a crafty forger would try to conceal somehow the actual aim of his work.<sup>53</sup> The fact that ‘Abd al-Razzāq chose to avoid harmonization of his traditions and preserved the less adequate variant should serve as an indication that he has not forged his chain of transmission through Ibn Jurayj. The remaining two transmitters who rely on the authority of Ibn Jurayj are mentioned among his students in the relevant biographical lexica. The biographical anecdote has it that Abū ‘Aṣim earned the *kunyā* al-Nabīl (the noble one) because of his unshakable devotion to Ibn Jurayj. An elephant is said to have been brought to Baṣra, and, while all went to see the rarity, only Abū ‘Aṣim remained with his master. On the latter’s query why he chose to remain with him, Abū ‘Aṣim replied that nothing could substitute Ibn Jurayj for him (*lā ajidu ‘an-ka ‘iwaḍan*) whereupon Ibn Jurayj called him *al-nabīl*.<sup>54</sup> Ḥajjāj b. Muḥammad al-Miṣṣīṣī is likewise attested as one of the experts in Ibn Jurayj traditions. Ibn Abī Ḥātim quotes a statement by Ibn Ma‘īn, according to which Ḥajjāj was a greater authority in Ibn Jurayj compared with Abū ‘Aṣim<sup>55</sup> while Ishāq al-Sulamī goes as far as to pronounce him more reliable (*awthaq*) than ‘Abd al-Razzāq.<sup>56</sup>

It is evident from the biographical lexica that the Ibn Jurayj tradition is quoted by a number of established authorities, including his pupil ‘Abd al-Razzāq. The latter did not try to obscure the fact that there existed a variant which was inferior to the more elaborate *ḥadīth* going through Ma‘mar b. Rāshid. Ibn Jurayj is furthermore attested in a good number of other *asānīd* pertaining to the self-confessed adulterer cluster. Hence, despite the single lines of transmission above the tier of Ibn Jurayj, there are good reasons to think that ‘Abd al-Razzāq did not forge the short version, which most

<sup>53</sup> Motzki, *Origins*, 61.

<sup>54</sup> Ibn Ḥajar, Abū l-Faḍl Aḥmad b. ‘Alī al-‘Asqalānī al-Shāfi‘ī, *Tahdhīb al-Tahdhīb*, I. al-Zaybaq (ed.), Beirut 1416/1996, II, 225.

<sup>55</sup> Ibn Abī Ḥātim al-Rāzī, Abū Muḥammad, *al-Jarḥ wa-l-Ta’dīl*, Beirut, 1952, III, 166.

<sup>56</sup> Ibn Ḥajar, *Tahdhīb*, I, 361.

probably reflects a *ḥadīth* he had received from his stated informant.

The long variant of ‘Abd al-Razzāq-cum-Ma‘mar is admittedly more problematic than the short tradition via Ibn Jurayj. No *isnād* branches sprout from Ma‘mar, limiting the potential proof of his role as a transmitter of the tradition to ‘Abd al-Razzāq’s *riwāya*. Being the sole authority to draw his *isnād* through Ma‘mar, ‘Abd al-Razzāq could have either received an original short *matn* from his teacher or contrived the long variant on the basis of Ibn Jurayj’s short tradition, subsequently ascribing it to ‘Abd al-Razzāq. To make reason of such an ascription, however, one has to explain ‘Abd al-Razzāq’s decision to preserve the short variant (which should have served as a basis for his forgery), instead of harmonizing the two *matns* or simply discarding the Ibn Jurayj variant. At this point a third possibility comes to the fore. ‘Abd al-Razzāq could have received a single short *matn* from both his stated informants. Later on, he could have modified it in accordance with some more advanced juristic concepts. As his aim would not be an outright forgery but rather an improvement of an already existing tradition, ‘Abd al-Razzāq opted to preserve the old *matn* in the variant of Ibn Jurayj and keep with the *isnād* on the authority of Ma‘mar in the case of the modified *ḥadīth*.

If one admits Ma‘mar’s role in the transmission of the *ḥadīth*, another theoretical possibility would be that he contrived the long tradition on the basis of the Ibn Jurayj or Mālik’s variant and eventually supplied it with an independent *isnād*. However in this case two questions will arise. Firstly, the forger would be expected to dive under the direct informant named in the *ḥadīth(s)* he tries to imitate. This would usually be accomplished by the introduction of a fictitious informant to rival the corresponding authority of the other tradition (Ibn Shihāb al-Zuhrī in our case).<sup>57</sup> Secondly, one should ask whether ‘Abd al-Razzāq knew about his teacher’s putative fraud. Taking into account that ‘Abd al-Razzāq decided to quote the short Ibn Jurayj *ḥadīth*, it will be challenging to maintain his in-

<sup>57</sup> This procedure was described by M. Cook (*Early Muslim Dogma*, 109 ff.). G.H.A. Juynboll coined the term «dive» (see “Early Islamic Society”, 153 (Diagram 1) and his explanatory notes on 158; cf. *ECH*, XXII-XXIV). In his more recent works Juynboll drew comparison between the dives and the terms *mutābi‘āt* and *shawāhid*, used by the Muslim *ḥadīth* collectors (“(Re)appraisal”, 315-322; *ECH*, XXV-XXVI).

nocence, which will lead us again to the perplexing question of why he preferred to keep both variants, while at the same time colluding with Ma‘mar in the proliferation of the invented tradition. The best way to avoid further perplexity is, in my view, to accept that the only person responsible for the alteration of the tradition in accordance with the concept of his time was ‘Abd al-Razzāq. He apparently received similar recensions from both his teachers, who in turn have probably heard the short *ḥadīth* from Ibn Shihāb al-Zuhrī.

It is worth noting at this point that we possess another *isnād* variant of the Ibn Jurayj short tradition, seemingly passing through the early traditionist ‘Abd Allāh b. al-Mubārak (118-181/736-797). It is a cumbersome task to detect the disseminator of this undoubtedly spurious «spider» *isnād*, based on single lines of transmission (see Diagram 2).<sup>58</sup>

Given that the majority of the authors above the level of Ibn al-Mubārak are nicknamed «al-Marwazī», we possess a sufficient clue for a general localization of this transmission line’s origin. Furthermore, we can surmise that the *isnād* was circulated by ‘Abdān (‘Abd Allāh b. ‘Uthmān) al-Marwazī (d. 221/836), who knew of the Ibn Jurayj tradition and feigned an alternative *isnād* line, taking advantage of ‘Abd Allāh b. al-Mubārak and Yūnus b. Yazīd to dive under the actual CL. Notwithstanding the fictitious character of the *isnād*, we should note that all of Ibn al-Mubārak,<sup>59</sup> al-Bukhārī,<sup>60</sup> al-Bayhaqī<sup>61</sup> and Ibn Ḥibbān<sup>62</sup> quote the tradition without making reference to the name of the adulterer and the place of his execution. The lack of these details is another good indication of the initial content of the *ḥadīth*.

To sum up, at the present stage of our investigation the proto-wording of the tradition, which Ma‘mar and Ibn Jurayj most probably received from al-Zuhrī, may be reduced to two main points: 1) A man came to the Prophet and made a fourfold confession that

<sup>58</sup> «Spider» is yet another term coined by G.H.A. Juynboll. The «spider» is a group of single strands converging on one key figure which in this case would be not a real CL but a seaming one (SCL) (Juynboll, “Nāfi’”, 214 ff.; *idem*, *ECH*, XXII ff.).

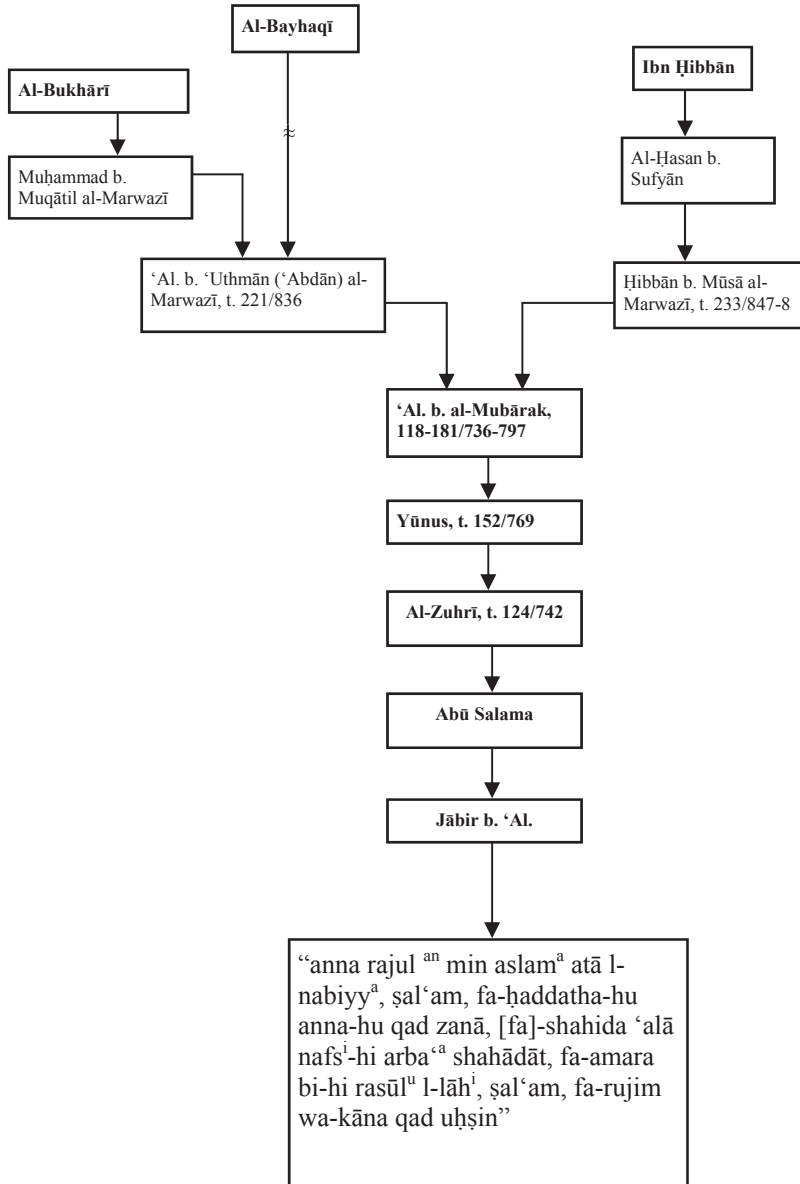
<sup>59</sup> ‘Abd Allāh b. al-Mubārak, *Musnad*, Ṣ. al-B. al-Samārrā’ī (ed.), Riyadh, 1407/1987, 90-91, n.° 152.

<sup>60</sup> Al-Bukhārī, *Ṣaḥīḥ*, VI, 2498, n.° 6429.

<sup>61</sup> Al-Bayhaqī, *Sunan*, VIII, 225.

<sup>62</sup> Ibn Ḥibbān, *Ṣaḥīḥ*, X, 2888, n.° 4440.

Diagram 2



he had committed adultery; 2) The Prophet stoned the adulterer. Any proper names of persons, clans and places or references to the term *junūn* and its derivatives (and hypothetically to *iḥṣān*) must be discarded as irrelevant to the early stage of development of the tradition, reflected in the shorter variant. As for the fourfold confession, I shall return to this issue in due time.

## II.2. *The Egyptian version of the tradition*

As we have seen, Ibn Shihāb al-Zuhrī most probably related a tradition terse in style and content, which emphasized on the necessity of the lapidation of the self-confessed adulterer. Subsequently ‘Abd al-Razzāq modified it in order to include the provision for sanity and probably *iḥṣān*. The improved version quickly found its way to other regions of the Caliphate. One of the well developed and widely disseminated offshoots of the ‘Abd al-Razzāq long variant can be traced back to the Egyptian traditionist al-Layth b. Sa’d (94-175/713-791). The very existence of such a version (see Diagram 3) suggests that it must have been circulated prior to ‘Abd al-Razzāq, who is one generation younger than his famous Egyptian counterpart. As a result, our assumption that the former should be credited with the proliferation of an enhanced long variant of the short Ibn Jurayj *ḥadīth* could be seriously imperiled in terms of relative chronology. If this be true, the relevant conclusions will have to be revised.

Any revision of this magnitude has to be preceded by a careful analysis of the existing *mutūn* and their *isnād* carriers. By contrast to the *isnād* and *matn* consistency of the *ḥadīth* through ‘Abd al-Razzāq, we are presented here with two tangibly different *mutūn*, reaching al-Layth via no less than six various *asānīd*. At the present stage it is troublesome to favor one of the two variants, but as a temporary remedy we can opt for the more widespread *matn*:

1. A man from the Muslims came to the Messenger of God, eulogy, in the mosque and told him: «O, Messenger of God, I have committed adultery.»



2. [The Prophet] shunned him, whereupon [the adulterer] bent towards his face and said: «O, Messenger of God, I have committed adultery.»
3. [The Prophet] shunned him until [the adulterer] repeated [his confession] four times.
4. After [the adulterer] had testified against himself four times, the Messenger of God, eulogy, summoned him and said: «Are you insane?» [The adulterer] said: «No.» [The Prophet] said: «Are you *muḥṣan*?» [The adulterer] said: «Yes.»
5. The Messenger of God, eulogy, said: «Go and stone him!»
6. Ibn Shihāb said: «People told me that Jābir b. ‘Abd Allāh was heard saying: “I was among [the people] who stoned him. We stoned him at the place of prayer [*al-muṣallā*]. When the stones struck him, he ran away, but we overtook him in al-Ḥarra and stoned him [to death]”». <sup>63</sup>

The only noticeable difference among this *matn*'s transmitters is confined to al-Bukhārī, who omits «min al-muslimīna» as qualification of the adulterer. He also refrains from including Pt. 2 probably on account of its redundancy with the first sentence.<sup>64</sup> The final statement of Ibn Shihāb is an unambiguous borrowing from another tradition, just as in the case of the long *ḥadīth* passing through ‘Abd al-Razzāq. Al-Nasā’ī provides a clear indication of this by excluding the Zuhri ending in his variant of the tradition.<sup>65</sup>

The second variant via al-Layth cannot be viewed as a significant departure from the already cited one (Diagram 3, the dashed line). Instead of «rajulun min al-muslimīna», it refers to «rajulun min al-nās», adds the «yurīdu nafsa-hu» explanation at the end of Pt. 1, and in Pt. 2 places «fa-tanaḥḥā li-shiqqi wajhi-hi l-ladhī a’raḍa qabla-hu» in lieu of the more succinct «fa-tanaḥḥā tilqā’a wajhi-hi». <sup>66</sup> None of these modifications is significant, but when one combines them with the fewer occurrences of the «rajulun min al-

<sup>63</sup> Ibn Ḥanbal, *Musnad*, IX, 328, n.° 9806; Muslim, *Ṣaḥīḥ*, III, 1318, n.° 1691; al-Nasā’ī, *Sunan*, IV, 280, n.° 7177; Abū ‘Awāna, *Musnad*, IV, 124, n.° 6261; al-Bayhaqī, *Sunan*, VIII, 213.

<sup>64</sup> Al-Bukhārī, *Ṣaḥīḥ*, VI, 2499, n.° 6430.

<sup>65</sup> Ibn Ḥazm likewise excludes it from his variant of Muslim’s tradition, which otherwise makes reference to it (Ibn Ḥazm, Abū Muḥammad ‘Alī b. Aḥmad b. Sa’īd, *al-Muḥallā*, A.M. Shākir (ed.), Cairo 1347-52/1928-33, XI, 237).

<sup>66</sup> Al-Bukhārī, *Ṣaḥīḥ*, VI, 2502, n.° 6439; al-Bayhaqī, *Sunan*, VIII, 225.

nās» variant and the lack of corroborative ramifications of its *isnād* line, the impression of a secondary origin becomes tangible. It will grow even stronger, after one takes into account the somewhat defective *matn* of Abū ‘Awāna through Yūsuf b. Muslim and Ḥajjāj b. Muḥammad al-Miṣṣīṣī (Diagram 3, the dotted line).<sup>67</sup> While referring to «rajulun min al-muslimīna» *ḥadīth* it nevertheless goes via the «rajulun min al-nās» *isnād*, thus giving an indication of the provenance of the latter variant.

Already the locution «rajulun min al-muslimīna» at the opening of the base variant of al-Layth’s *ḥadīth* suggests that it could be a derivative of the «rajulun min aslama», present in the later variants of the ‘Abd al-Razzāq tradition. Both *muslimūn* and *aslam* derive from one stem, but while «rajulun min aslama» is meant to identify the kin of the adulterer, «rajulun min al-muslimīna» remains a generic qualification. Probably on this account a number of authors passing via al-Layth preferred to speak about «rajulun min al-nās», whereas most of the later traditions stick with the Aslami origin of the adulterer.

Further comparison shows that the version that we have tentatively put on the authority of al-Layth b. Sa’d enlarges on several points of the ‘Abd al-Razzāq tradition. All collectors via al-Layth unanimously locate the event in the mosque, whereas the short variant of ‘Abd al-Razzāq via Ibn Jurayj, although occasionally including the «wa-huwa fī l-masjid» addition, is far from that uniformity. This contrast indicates that the variants via al-Layth have already settled on a textual feature which has most probably been absent in their ‘Abd al-Razzāq predecessors. The Egyptian version also adds «tanahḥā tilqā’a wajhi-hi» in the description of the adulterer’s conversation with the Prophet. It includes, moreover, a second instance of the adulterer’s words of confession, which is yet another enlargement upon the ‘Abd al-Razzāq version. Al-Layth’s *matn* also has it that the final stage of the execution, wherein the fornicator was overtaken and stoned to death, took place in the stony wasteland (*al-ḥarra*) in the north-eastern part of Madīna. In view of the above additions, it will be difficult to accord al-Layth’s version any priority over the *ḥadīth* of ‘Abd al-Razzāq. Given that ‘Abd al-Razzāq is the younger of the two transmitters, we may sur-

<sup>67</sup> Abū ‘Awāna, *Musnad*, IV, 125, n.° 6263.



mise that al-Layth was introduced in an attempt to circulate an alternative *ḥadīth*, excluding the Yemeni authority from the chain of transmission. *Isnād* analysis will serve us as a test of this hypothesis.

Alongside the single strands, which can be safely disregarded, there are three main *isnād* branches supporting al-Layth's version. Two of them, carrying the «rajulun min al-muslimīna» variant, reach the already mentioned Ḥajjāj b. Muḥammad al-Miṣṣī and his Egyptian colleague Yaḥyā b. Bukayr (d. 230/844). The third one, whose *matn* opens with «rajulun min al-nās», passes through another Egyptian, Sa'īd b. 'Ufayr b. Kathīr (d. 226/841). Both Egyptian traditionists are younger than Ḥajjāj b. Muḥammad. Even though this cannot be an ultimate proof of his priority with regard to this variant, another, far weightier indication can be gleaned from the already noticed role of Ḥajjāj in the proliferation of the short Ibn Jurayj variant. Much like 'Abd al-Razzāq, Ḥajjāj refers to two parallel variants, one of them long and the other short. Similarly to the Yemeni traditionist, he relates the short variant via Ibn Jurayj. Unlike 'Abd al-Razzāq, however, Ḥajjāj prefers to relate the long variant on the authority of al-Layth b. Sa'd, which provides a strong indication that he copied the wide-spread 'Abd al-Razzāq tradition. In order to avoid 'Abd al-Razzāq, Ḥajjāj took advantage of al-Layth b. Sa'd on the dubious authority of 'Uqayl b. Khālid,<sup>68</sup> whom he used as a diving tool to circumvent 'Abd al-Razzāq's master Ma'mar b. Rāshid.

The long tradition of Ḥajjāj b. Muḥammad al-Miṣṣī was duly copied by Yaḥyā b. Bukayr, whose variant served as a basis for the second Egyptian variant, circulated by Sa'īd b. 'Ufayr b. Kathīr. In order to distinguish his tradition from the variants he imitated, Sa'īd opted to supply it with an alternative link between al-Layth and al-Zuhrī. The *isnād* involves 'Abd al-Raḥmān b. Khālid b. Musāfir al-Fahmī, of whom we know only that he possessed a *ṣaḥīfa* with several hundred al-Zuhrī traditions, which somehow reached al-Layth b. Sa'd.<sup>69</sup> There can be little doubt that 'Abd al-Raḥmān was insert-

<sup>68</sup> Juynboll has already pointed at 'Uqayl's position as an «authority» in diving strands via al-Layth b. Sa'd (See "(Re)appraisal", 346).

<sup>69</sup> Al-Mizzī, Jamāl al-Dīn Abū al-Ḥajjāj, *Tahdhīb al-Kamāl fī Asmā' al-Rijāl*, B. 'A. Ma'rūf (ed.), Beirut 1403/1983, XVII, 76-77; Ibn Ḥajar, *Tahdhīb*, II, 499-500.

ed in this *isnād* with the purpose of avoiding another probably fictitious transmitter, ‘Uqayl b. Khālid.<sup>70</sup>

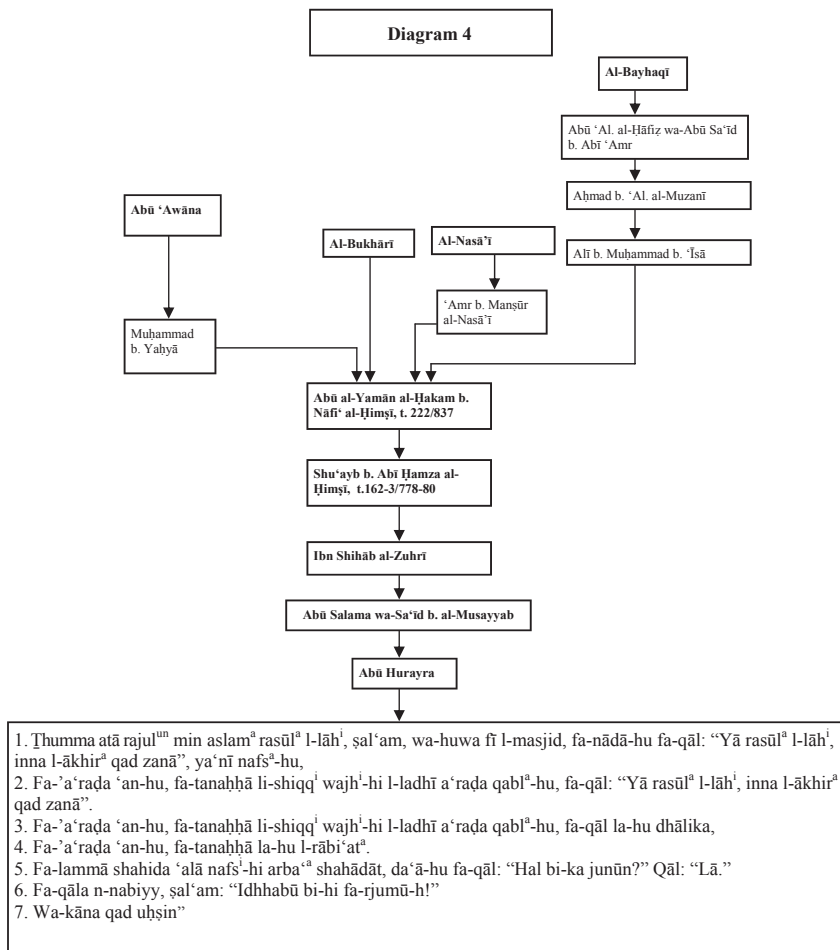
Ḥajjāj b. Muḥammad’s effort in imitating the long variant of ‘Abd al-Razzāq inspired another imitator, Abū al-Yamān al-Ḥakam b. Nāfi‘ al-Ḥimṣī (d. 222/837). He launched a fully independent *isnād*, reaching al-Zuhrī via his alleged scribe Shu‘ayb b. Abī Ḥamza al-Ḥimṣī (d. 162-163/778-780),<sup>71</sup> whose role in the transmission of Zuhrī material has provoked controversial opinions amongst modern researchers.<sup>72</sup> While shaping his *matn*, Abū al-Yamān changed the introductory «rajulun min al-muslimīna/min al-nās» back to the original «rajulun min aslama» and expanded the *i‘rāq* motif to a fully fledged fourfold repetition (Diagram 4). He seems to have been hesitant about the *iḥṣān* condition. First he dropped the *iḥṣān* question from the conversation between the Prophet and the adulterer, but, upon realizing that thus he had omitted one of the main conditions for *rajm*, he added an ultimate comment that the man had been *muḥṣan*. The only outstanding contribution of Abū al-Yamān’s to the development of the *rajm* tradition was his rewording of the confession of the adulterer. He is now made to utter in a self-derogatory manner: «Inna l-ākhirā qad zanā», i.e. «The lewd [person] has committed adultery.»

It is impossible to tell which of the hitherto analyzed Egyptian versions is responsible for the introduction of the lower part of the *isnād*, reaching from Ibn Shihāb al-Zuhrī to the Prophet. Upon

<sup>70</sup> The link between al-Layth and al-Zuhrī does not seem to have been as authoritative as the respective *asānīd* of Mālik b. Anas, Ma‘mar b. Rāshid and Sufyān b. ‘Uyayna (al-Khaṭīb al-Baghādī, Abū Bakr Aḥmad b. ‘Alī, *Tārīkh Madīnat al-Salām*, B.‘A. Ma‘rūf (ed.), Beirut, 1422/2001, XIV, 528; al-Mizzī, *Tahdhīb al-Kamāl*, XXIV, 265; Ibn Ḥajar, *Tahdhīb*, III, 482). Ibn Ḥajar provides an indicative statement on the authority of Abū Dāwūd, according to whom «al-Layth related from al-Zuhrī. He [also] related from five [transmitters] from al-Zuhrī: he related from Khālid b. Yazīd, from Sa‘īd b. Abī Hilāl, from Yazīd b. al-Hād, from Ibrāhīm b. Sa‘d [and from Šālih] b. Kaysān from al-Zuhrī» (Ibn Ḥajar, *Tahdhīb*, III, 483). Needless to say that none of ‘Abd al-Raḥmān b. Khālid b. Musāfir al-Fahmī and ‘Uqayl b. Khālid b. ‘Aqīl al-Aylī is listed among these transmitters.

<sup>71</sup> Al-Bukhārī, *Ṣaḥīḥ*, V, 2020, n.° 4970; al-Nasā’ī, *Sunan*, IV, 281, n.° 7178; Abū ‘Awāna, *Musnad*, IV, 124, n.° 6262; al-Bayhaqī, *Sunan*, VIII, 219.

<sup>72</sup> According to Juynboll, Shu‘ayb never represents a real CL and is usually introduced in dives over Mālik b. Anas (*ECH*, 691). Lecker is inclined to lend credit to his records from al-Zuhrī (Lecker, “Biographical Notes”, 27).



comparing it with its 'Abd al-Razzāq counterpart, one will immediately note that Jābir b. 'Abd Allāh is substituted by Abū Hurayra, and Sa'īd b. al-Musayyab is added beside Abū Salama b. 'Abd al-Raḥmān as a second link to al-Zuhrī. This addition most probably betrays an incomplete attempt to generate a transmission line, alternative to that of 'Abd al-Razzāq, which should serve as yet another indication of the secondary character of the Egyptian version.

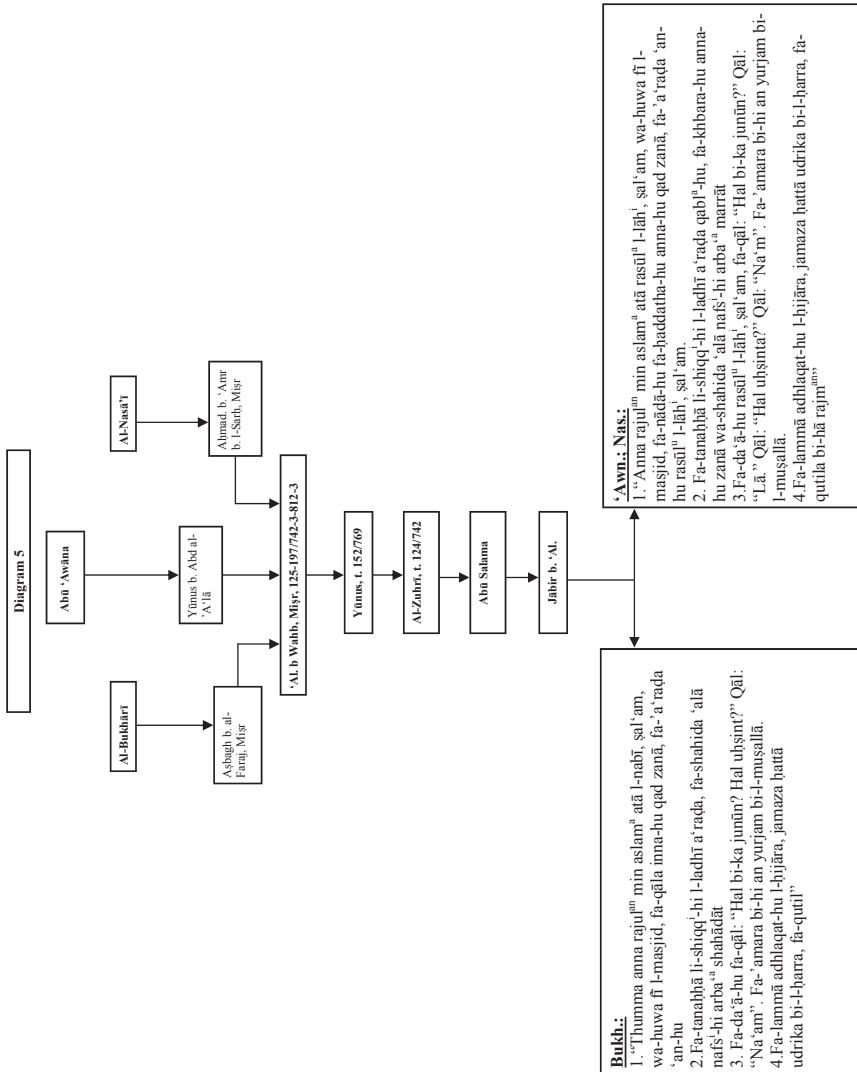
Finally, another Egyptian variant, passing through ‘Abd Allāh b. Wahb (125-197/742-3-812-3), is attested in the sources (Diagram 5).<sup>73</sup> Close in content to the variants via al-Layth, this unmistakable spider does not provide any *isnād* hint about its possible originator who decided to put it on the authority of Ibn Wahb.

Concluding our analysis of the Egyptian version of the self-confessed adulterer tradition, we must note that contrary to the ‘Abd al-Razzāq *ḥadīth*, which allowed us to trace the issue as far back as Ibn Shihāb al-Zuhrī, in the Egyptian case there is no ascertainable relation to this early author. *Isnād* and *matn* analysis proves here that textual similarities must always be treated with caution. They may betray both common source and imitation, the latter being the case in the traditions via al-Layth b. Sa‘d and their siblings. All of them were circulated by later authorities, who thrived on the long version of ‘Abd al-Razzāq.

### III. ‘Abd al-Razzāq versus al-Ṭayālīsī on the fourfold confession issue

Thus far I have been able to establish that Ibn Shihāb al-Zuhrī transmitted to Ibn Jurayj and Ma‘mar b. Rāshid a short tradition about an anonymous adulterer, who came to reveal his misdeed before the Prophet and was stoned upon a (fourfold) confession. Comparing both traditions, I ventured the conjecture that the short *matn* did not include a condition for sanity, which has most probably been added by ‘Abd al-Razzāq on a later stage of development together with the requirement of the adulterer’s *iḥṣān*. As a result we face an almost pure concept of adultery, the confession thereof and the ensuing *rajm* penalty. The only remaining question, which can be raised in this context, bears on the fourfold testimony. Was it a provision that accompanied the issue from the very beginning, or did it enter the scene at a later period? Were the traditionists unanimous about the exact number of confessions before the imposition of stoning could become possible? A comparison between two revealing *isnād* and *matn* clusters may help us answer this question.

<sup>73</sup> Al-Bukhārī, *Ṣaḥīḥ*, V, 2020, n.° 4969; al-Nasā’ī, *Sunan*, IV, 280, n.° 7174; Abū ‘Awāna, *Musnad*, IV, 125, n.° 6264.



### III.1. *Abū Dāwūd al-Ṭayālisī and the issue of rajm*

The surviving short *Musnad* of the Baṣran traditionist Abū Dāwūd al-Ṭayālisī (d. 203-4/819-20) contains six traditions devoted to *rajm* all of which, unlike the hitherto scrutinized group, involve the name of the self-confessed adulterer, one Mā'iz b. Mālik. Moreover, in the strict sense of 'Abd al-Razzāq's traditions and their Syrian and Egyptian offshoots, al-Ṭayālisī does not address the self confession issue *per se* in any of his *aḥādīth*. If somewhat broader terms are to be applied, three of the six traditions will leap to our eyes,<sup>74</sup> for they reveal the main preoccupation of the Baṣran traditionist. Two of them draw directly upon the issue of the number of voluntary confessions before the imposition of *rajm*,<sup>75</sup> while another one refers to the same provision in a wider context.<sup>76</sup>

We should note immediately that the traditions used by al-Ṭayālisī as an argument about the number of testimonies not only represent half of his *rajm*-related material but, most notably, reflect two contradictory views. In n.° 754 the author states that the Prophet «radda mā'izan marratayni», whereas in Nos. 235 and 2627 that number is increased to the customary «arba'a marrāt». A closer *isnād-cum-matn* analysis will reveal the real cause of this confusion.

Diagram 6 combines the *isnād* lines which support traditions about the twofold confession. Even a short glance at the diagram will show that Shu'ba b. al-Ḥajjāj is a seeming CL, mentioned exclusively in single lines of transmission. Due to the lack of *isnād* ramifications above the tier of Shu'ba, it is difficult to make conjectures about the real disseminator of the tradition, based on the *isnād* alone. Fortunately, in this case the *matn* is particularly revealing. The earliest variant, attested in the collection of al-Ṭayālisī, runs as follows: Jābir b. Samura: «I saw the Prophet, eulogy, turn back Mā'iz twice, whereupon he ordered him stoned».<sup>77</sup>

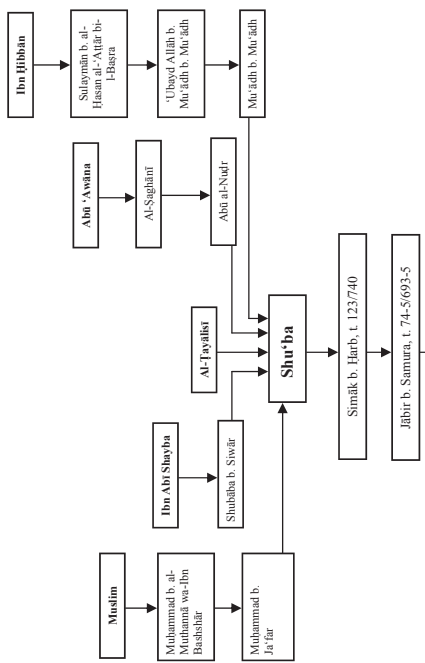
<sup>74</sup> Al-Ṭayālisī, Abū Dāwūd Sulaymān b. Dāwūd, *Musnad*, Beirut, n.d. (the pagination and *ḥadīth* numbering suggests that this edition is identical with the Hyderabad 1321/1903 edition), 103, 235, 342; n.° 754, 1690, 2627.

<sup>75</sup> See above n.° 754, 1690.

<sup>76</sup> See above n.° 2627.

<sup>77</sup> Al-Ṭayālisī, *Musnad*, 103, n.° 754.

Diagram 6



**Tawal:** "Thumma shahidtu rasūl<sup>1</sup> l-lāh<sup>1</sup>, šal'am, radda mā'iz<sup>m</sup> marratayni thumma amara bi-rajm<sup>1</sup>-hi"  
**Shayba:** "Ra aytu rasūl<sup>1</sup> l-lāh<sup>1</sup>, šal'am, hīn<sup>1</sup> utiya bi-mā'iz<sup>1</sup> b. mālik, utiya bi-rajm<sup>1</sup> ash'ar<sup>1</sup> dhī' adalāt<sup>1</sup> fi izār<sup>1</sup>-hi fā-radda-hu marratayni thumma amara bi-rajm<sup>1</sup>-h"  
**'Awn:** "1. Ra aytu l-nabiy<sup>1</sup>, šal'am, utiya bi-mā'iz<sup>1</sup> b. mālik utiya bi-rajm<sup>1</sup> dhī' adalāt<sup>1</sup> ash'ar<sup>1</sup> dhī' izār<sup>1</sup>  
 fā-radda-hu marratayni thumma amara bi-rajm<sup>1</sup>-hi; 2. Fa-rujim thumma qāla ba'd<sup>1</sup> dhālik: "Kull<sup>1</sup>-mā nafarā ghāzina fi sabīl<sup>1</sup> l-lāh,  
 yukhallātū ahād<sup>1</sup>-kum yanibbu ka-nabīb<sup>1</sup> l-lays yammāhu ihdā-hunna l-kathabat<sup>1</sup> min al-laban. Inna l-lāh<sup>1</sup>, 'izza wa-jalla, fā yu-  
 makkimū-nī min ahād<sup>1</sup>-kum illā nakaltu-hu". Wa-rubb<sup>1</sup>-mā qāl: "Ja'altu-hu nikā<sup>1</sup>  
**Mslm:** "1. Thumma utiya rasūl<sup>1</sup> l-lāh<sup>1</sup>, šal'am, bi-rajm<sup>1</sup> qasir<sup>1</sup> ash'ar<sup>1</sup> dhī' adalāt<sup>1</sup> alay<sup>1</sup>-hi izār<sup>1</sup>  
 wa-qad zanā fā-radda-hu marratayni thumma amara bi-hi fā-rujim; 2. Fa-qāla rasūl<sup>1</sup> l-lāh<sup>1</sup>, šal'am: "Kull<sup>1</sup>-mā nafarā ghāzina fi  
 sabīl<sup>1</sup> l-lāh, takhallāfa ahād<sup>1</sup>-kum yanibbu nabīb<sup>1</sup> l-lays yammāhu ihdā-hunna l-kathabat<sup>1</sup>. Inna l-lāh<sup>1</sup> fā yummakkimū-nī min ahād<sup>1</sup>-  
 min-hum illā ja'altu-hu nikā<sup>1</sup> aw nakaltu-hu". 3. Qāla [simak b. harb]: "Fā-haddathu-hu sa'īd<sup>1</sup> bn<sup>1</sup> jubayr fā-qāl: "Inna-hu  
 radda-hu arba<sup>1</sup> marrāt<sup>1</sup>  
**Hbn:** "1. Anna-hu shahida rasūl<sup>1</sup> l-lāh<sup>1</sup>, šal'am, utiya bi-rajm<sup>1</sup> ash'ar<sup>1</sup> qasir<sup>1</sup> dhī' adalāt<sup>1</sup> aqarra bi-l-zinā, fā-radda-hu mar-  
 ratayni thumma amara bi-hi fā-rujim; 2. Fa-qāl: "Kull<sup>1</sup>-mā nafarā ghāzina fi sabīl<sup>1</sup> l-lāh, yatakhallāfu ahād<sup>1</sup>-kum la-hu nabīb<sup>1</sup> ka-  
 nabīb<sup>1</sup> l-lays yammāhu ihdā-hunna l-kathabat<sup>1</sup>. Amma inni illā bi-dhād<sup>1</sup> min-hum illā ja'altu-hu nikā<sup>1</sup>. Wa-rubb<sup>1</sup>-mā qāla si-  
 mak: "Illā nakaltu-hu". 3. Qāla Simak: "Fā-dhakartu-hu l-sa'īd<sup>1</sup> bn<sup>1</sup> jubayr, fā-qāl: "Radda-hu l-nabiy<sup>1</sup>, šal'am, arba<sup>1</sup> marrāt<sup>1</sup>"

This short tradition was soon adopted by Ibn Abī Shayba (d. 235/849), who adorned it with an element describing Mā'iz b. Mālik as a muscled man with disheveled hair, wearing only *izār*.<sup>78</sup> The description of Mā'iz as an unkempt and probably mentally unbalanced person found its way into the later collections along with more accretions, borrowed from kindred traditions. Most notably, but hardly explicably, the authors of the second half of the 3<sup>rd</sup> Islamic century supplied the *ḥadīth* with a rather lengthy conclusion, wherein the Prophet admonishes his followers that he will treat anyone who (sexually) abuses the wives of the absent warriors in the same manner he treated Mā'iz b. Mālik.<sup>79</sup> Muslim (d. 261/875) and Ibn Ḥibbān (d. 354/965) went a step further by attributing to Sa'īd b. Jubayr a refutation of the twofold testimony, cast as a response of his to a question by Simāk b. Ḥarb. This addition certainly reflects the stage when al-Ṭayālīsī's opinion was already suppressed in favor of the fourfold confession, while Sa'īd b. Jubayr came from the *isnād* of the refuting *ḥadīth*, on which more below.

Since al-Ṭayālīsī appears as the original proponent of the twofold testimony, the remaining two traditions, which put in his mouth an entirely contradictory opinion, probably reflect a later ascription, influenced by the prevailing fourfold confession requirement. This conclusion may be supported by n.° 1690. It is a very strange single tradition, a counterpart of which I could not find in any other early *ḥadīth* collection, and whose *isnād* points to 'Abd al-Razzāq's version as its most probable source. Abridged to the simple statement «Thumma anna rasūla l-lāhi, ṣal'am, radda mā'izān arba'an», it seems to have been imputed to al-Ṭayālīsī to overshadow his original position.<sup>80</sup> N.° 2627 presents us with a more elaborate *matn*, whose aim has seemingly nothing to do with the number of confessions but eventually touches upon this issue too. One might suspect

<sup>78</sup> Ibn Abī Shayba, *Muṣannaḥ*, V, 538, n.° 28771.

<sup>79</sup> Muslim, *Ṣaḥīḥ*, III, 1319, n.° 1692; Abū 'Awāna, *Musnad*, IV, 12, n.° 6269; Ibn Ḥibbān, *Ṣaḥīḥ*, X, 281, n.° 4436.

<sup>80</sup> In a recent edition based on the Iraqī manuscript of al-Ṭayālīsī's work (ed. M.b. 'Abd al-Muḥsin al-Turkī, Dār Hijr, 1419/1999) we find a second occurrence of the same *matn* under n.° 845 (p. 153), supported by the *isnād*: Muḥammad b. Abān → 'Alqama b. Marthad → Sulaymān b. Burayda. This might be a repetition of the *matn*, resulting from a copyist error. Still, I think that such insistence on ascribing to Abū Dāwūd a fourfold confession *ḥadīth* is indicative of the effort invested to refute his original position calling for only two confessions before the imposition of *rajm*.



that this addition originated within the circles opposed to the two-fold confession.

We may conclude that al-Ṭayālisī was the first to require a sequence of two testimonies from the self-confessed adulterer in order for him to become liable to *rajm*. For this purpose he used a short tradition mentioning the adulterer by name and stating that the Prophet turned him back twice before ordering him stoned. Now, it is intriguing to establish whether any provision for the number of testimonies had existed before the *ḥadīth* of al-Ṭayālisī gained currency. This rather obscure issue may be elucidated, when we investigate the development of the four-testimonies requirement.

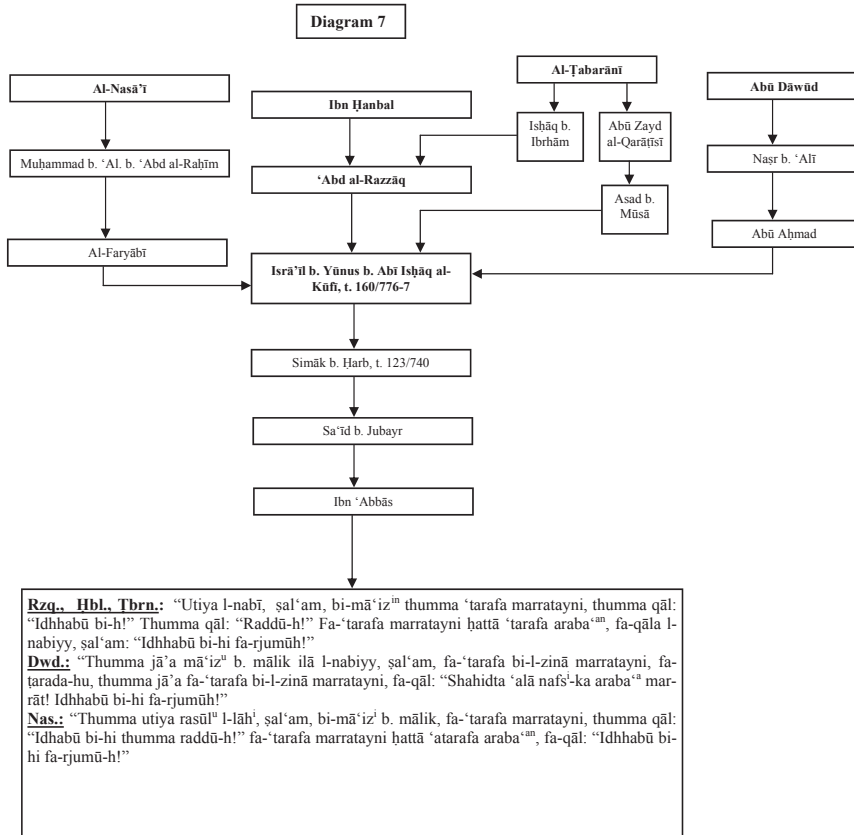
### III.2. ‘Abd al-Razzāq and the emergence of the *arba’ shahādāt* version

A notable feature in the self-confessed adulterer traditions provided by ‘Abd al-Razzāq is that, except for some resemblance in the long composite *matn*,<sup>81</sup> they overlap with the corresponding al-Ṭayālisī material only on two occasions. Both of them are concerned with the question how many times the Prophet sent back the adulterer before inflicting *rajm* on him. ‘Abd al-Razzāq’s insistence on four confessions is by far less impressive than the *asānīd* he takes advantage of to promulgate his thesis. Two main lines of transmission are involved for that purpose, each of them carrying a different *matn*.

Both lines pass through Simāk b. Ḥarb, who has already appeared in al-Ṭayālisī’s *isnād* to support his two-confessions version. Yet, unlike his Baṣran colleague, ‘Abd al-Razzāq tried to avoid obscure Jābir b. Samura in one of his *isnāds* and inserted in his stead two far more reliable authorities, Sa‘īd b. Jubayr and Ibn ‘Abbās (Diagram 7). The *matn* runs as follows:

1. Mā‘iz was brought before the Prophet, eulogy, and made two confessions, whereupon [the Prophet] said: «Take him out!»

<sup>81</sup> Cf. ‘Abd al-Razzāq, *Muṣannaf*, VII, 323, n.° 13340 vs. al-Ṭayālisī, *Musnad*, 324, n.° 2473.



2. Then [the Prophet] said: «Bring him back». [Mā’iz] made two confessions, so that his confessions became four, whereupon the Prophet, eulogy, said: «Go and stone him!». <sup>82</sup>

The *isnād* line is quite similar to what we have seen in the *ḥadīth* of al-Ṭayālīsī. It features a Kūfan SCL (Isrā’īl b. Yūnus b. Abī Ishāq), inserted to conceal the real disseminator of the tradition,

<sup>82</sup> ‘Abd al-Razzāq, *Muṣannaḥ*, VII, 324, n.° 13344; Ibn Ḥanbal, *Musnad*, III, 270, n.° 2876; al-Ṭabarānī, Abū al-Qāsim Sulaymān b. Aḥmad b. Ayyūb, *al-Mu’jam al-Kabīr*, Ḥ.b.‘Abd al-Majīd al-Salāfī (ed.), Cairo, Date of the Introduction 1404/1983, XII, 6, n.° 12304.

‘Abd al-Razzāq al-Ṣan‘ānī. The alternative lines of transmission, provided by al-Nasā’ī<sup>83</sup> and Abū Dāwūd,<sup>84</sup> attempt to circumvent the actual CL but due to the early death date of Isrā’īl (160/776-7) are at odds not only with the chronology of the self-confessed adulterer tradition but, in more general terms, also with ‘Abd al-Razzāq’s well-attested role in shaping and circulating its early versions.

In addition to the *isnād*, one has to reckon with the *matn* of the tradition. It tries to tell us that Mā‘iz b. Mālik has indeed made two confessions about his adultery, whereupon the Prophet released him only to order him back and make him testify two more times. When the number of confessions reached four — ‘Abd al-Razzāq overtly emphasizes that point— the *rajm* penalty became incumbent on Mā‘iz, and the Prophet ordered him stoned. Thus, by the introduction of a clumsy sequence of two confessions, followed by sending back of the fornicator and eventually seconded by two more confessions, ‘Abd al-Razzāq sought to rebut the claim that only two confessions were needed for *rajm*.

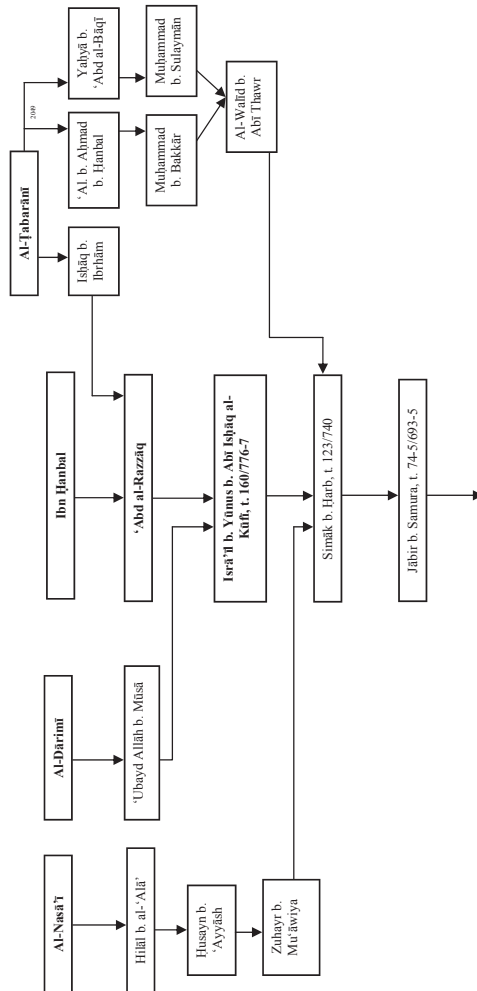
Our sources contain yet another tradition that bears witness to the controversy about the number of confessions. In this case ‘Abd al-Razzāq tries to refute the requirement of two confessions by ascribing his tradition to the same authorities as in the *isnād* of al-Ṭayālīsī, that is Simāk b. Ḥarb → Jābir b. Samura (Diagram 8). The *matn* of this tradition is longer and somewhat less explicit than the previous one. It quotes Jābir b. al-Samura as saying that he witnessed the conversation between the Prophet, reclining on a pillow on his left side, and Mā‘iz b. Mālik, portrayed as a man of short stature wearing only an *izār*. Jābir explains that he was at some distance from the interlocutors, so that he could not hear their words. What he saw was the Prophet turning Mā‘iz away then calling him back and ordering his execution. Finally, Jābir recounts the story about the people who abuse wives of the absent warriors, culminating in the Prophet’s admonition that he will not have mercy for such miscreants.<sup>85</sup>

<sup>83</sup> Al-Nasā’ī, *Sunan*, IV, 279, n.° 7173.

<sup>84</sup> Abū Dāwūd, *Sunan*, IV, 376, n.° 4426.

<sup>85</sup> ‘Abd al-Razzāq, *Muṣannaf*, VII, 324, n.° 13343; Ibn Ḥanbal, *Musnad*, XV, 327, n.° 20682; 332, n.° 20699; al-Ṭabarānī, *al-Mu‘jam al-Kabīr*, II, 222, n.° 1917.

Diagram 8



**Rzāq:** "1. Utiya l-nabī, šal'am, bi-mā'iz/ b. mālik, rajūl<sup>m</sup> qaṣīr<sup>m</sup> fī izāra<sup>m</sup> mā' alay-hi rida<sup>m</sup>"  
 2. "Qāla [jābir]: "Wa-rasīl<sup>m</sup> l-jāh<sup>m</sup> muttaka<sup>m</sup> 'alā wāsiḍat<sup>m</sup> 'alā yaṣār<sup>m</sup> h"  
 3. "Wa-kallama-hu mā adīr mā kallama-hu wa-anā ba' id<sup>m</sup> bayn<sup>m</sup> wa-bayn<sup>m</sup> hu l-qawm"  
 4. Fa-qāl: "Idhhabū bi-h<sup>m</sup>" Thumma qāl: "Raddū-h<sup>m</sup>" Wa-kallama-hu wa-anā bayn<sup>m</sup> wa-bayn<sup>m</sup> hu l-qawm<sup>m</sup>, thumma qāl: "Idhhabū bi-hi fa-rjūmū-h<sup>m</sup>"  
 5. "Thumma qāma l-nabiy<sup>m</sup> šal'am, khaṭīb<sup>m</sup> fa-qāl: "Kul<sup>m</sup> mā nafamā fī sabīl<sup>m</sup> l-lāh, khullifā ahād<sup>m</sup> hum la-hu nabī<sup>m</sup> ka-nabī<sup>m</sup> t-tays yammahu ihdā-huma min al-kathabat<sup>m</sup> min al-laban. Wa-l-lāh, wa-l-lāh! Mā aqrū 'alā ahād<sup>m</sup> min-hum illā nakaltu bi-h<sup>m</sup>"  
**Thrw., 2049:** The *matn* and the *isrād* were changed in order to circumvent the CL.  
**Nas.:** Only pts. 1-4 with alterations.

This long tradition apparently aims at two main points. To begin with, it puts an emphasis on the fourfold confession requirement much in the same manner as the shorter tradition via Simāk b. Ḥarb. At the same time it introduces a tacit doubt in the integrity of al-Ṭayālīsī's tradition, the basic figure of which is presented as a person who witnessed the event, to be sure, but was not able to hear the conversation between the Prophet and the self-confessed adulterer. Furthermore, in this account Jābir is said to have been separated from the Prophet and Mā'iz by a crowd of people (*wa-anā ba'īdun bayna-nī wa-bayna-hu l-qawm*). This would mean that although he was present on the scene, important details of the event would have easily evaded his attention. This in turn casts doubt on al-Ṭayālīsī's *ḥadīth*. It now appears based on the testimony of a person who may have failed to notice correctly the number of confessions and subsequently curtailed them to two not on account of mendaciousness, as none of the Companions could ever be a liar about the Prophet, but simply because the circumstances prevented him from proper sighting of the events.

Judged from its size and elaborate contents, the second tradition is later than the former. It was apparently coined by 'Abd al-Razzāq as an additional argument to counter al-Ṭayālīsī by impugning his own authorities and proving that he could have received an inadvertently crippled account. Whatever the actual relationship between 'Abd al-Razzāq's traditions, there may be little doubt that both of them were circulated with the clear aim to refute the view that the *rajm* penalty ensues from two confessions. As this means that 'Abd al-Razzāq's traditions are later than the ones they aimed to counter, that is the two confessions *ḥadīth* circulated by al-Ṭayālīsī, we face the question whether the latter's position bespeaks an earlier practice when only two confessions were needed for the infliction of *rajm*. We may also ask whether at the time of al-Zuhrī there were already specific provisions for the number of confessions, or al-Ṭayālīsī first raised that issue.

One line of argument can start from 'Abd al-Razzāq, who mentions the fourfold confession in both variants of the Zuhrī tradition. This could mean that he heard the provision for four testimonies from Ma'mar b. Rāshid and Ibn Jurayj, who knew it from Ibn Shihāb. Yet this could also be a result of 'Abd al-Razzāq's intervention in the *matn* following his dispute with al-Ṭayālīsī.

A possible confirmation that the fourfold confession requirement is old, that is coeval with Ma‘mar b. Rāshid and Ibn Jurayj, is the short *Musnad* of ‘Abd Allāh b. al-Mubārak (118-181/736-797). He makes reference to four confessions in both an anonymous-adulterer context<sup>86</sup> and name-specific traditions.<sup>87</sup> Yet we have to take this collection in general and the particular traditions about stoning *cum grano salis*, since al-Samārrā’ī’s edition of the *Musnad* is based on much later manuscripts. The actual transmission in the case of the above traditions reaches Ibn al-Mubārak through the family *isnād* of Ishāq b. Sa‘d (d. 374/984-5) and his grandfather al-Ḥasan b. Sufyān (d. 303/915-6), which can always be a subject of suspicions.

#### IV. Conclusion

A comprehensive conclusion about the history of the Islamic doctrine of adultery and fornication would require taking into account a circle of traditions by far wider than the limited scope of the present study. Bearing in mind these limitations, I can still draw some historical and methodological conclusions deriving from the self-confessed adulterer issue.

The review of the multifarious *isnād* and *matn* clusters devoted to the punishment of the self-confessed adulterer allows us to conclude that the earliest tradition in this group was probably circulated in the first quarter of the 2<sup>nd</sup> century (the 20-ies and the 30-ies of the 8<sup>th</sup> century C.E.) by Ibn Shihāb al-Zuhrī. At his time the tradition was void of any stipulations about the adulterer’s sanity as well as references to his name or the place of the execution. The only provision for the *imām* to inflict the *ḥadd* was the confession of a *muḥṣan* adulterer. I venture the conjecture that the original tradition promulgated by al-Zuhrī could have had the following wording: «Inna rajulan shahida ‘alā nafsi-hi [arba‘a marrātin] anna-hu qad zanā, fa-amara bi-hi rasūlu l-lāhi, ṣal‘am, an yurjam.»

‘Abd al-Razzāq al-Ṣan‘ānī, who received the tradition from both Ibn Jurayj and Ma‘mar b. Rāshid, should be held responsible for its development as to include certain additional conditions for the imposition of *rajm*. Most notably, ‘Abd al-Razzāq supplied the *matn*

<sup>86</sup> Ibn al-Mubārak, *Musnad*, 90-91, n.° 152.

<sup>87</sup> *Ibid.*, 91, n.° 153; 92-93, n.° 154.

with the provision that the self-confessed adulterer be mentally sane in addition to his being in a state of *iḥṣān*. I propose to call this tradition ‘Abd al-Razzāq’s long variant.

In line with the then traditionists’ habits, the long *ḥadīth* of ‘Abd al-Razzāq was copied in other centers of the Caliphate. This process is attested by the existence of Egyptian and Syrian offshoots of the tradition, which enlarge on some parts of it, to be sure, but in general remain within the scope defined by ‘Abd al-Razzāq’s long variant.

One of the most intriguing controversies that accompanied the development of the self-confessed adulterer tradition during the last decades of the 2<sup>nd</sup> Islamic century involved two of the well known authorities of that time. Abū Dāwūd al-Ṭayālīsī circulated a tradition stipulating that the adulterer confess twice before becoming liable to *rajm*. ‘Abd al-Razzāq mustered a rebuttal altering his opponent’s *ḥadīth* both in terms of *matn* and *isnād*. His approach was based on the introduction of a series of two twofold confessions, interrupted by a short period of time. Thus he could prove that his opponent, while insisting on only two testimonies, was both right and wrong. In a further attempt to obviate al-Ṭayālīsī’s opinion ‘Abd al-Razzāq spread yet another tradition, which tried to persuade his audience that neither al-Ṭayālīsī nor his informants were liars, because the eyewitness Jābir b. Samura had not actually been in a good position to see the exact turn of the events and thus should have missed the second series of confessions. Comparing ‘Abd al-Razzāq’s role in the transmission of the short Zuhrī *matn* with his stance in the course of the dispute with al-Ṭayālīsī, one may conclude that at times he related authentic traditions but at others was not shy of circulating false ones, occasionally supplying them with contrived *asānīd* in order to support his jurisprudential claims and biases.

With respect to methodology our study managed to present some approaches that allow us to go back to the first quarter of the 2<sup>nd</sup> century (the 20-ies and the 30-ies of the 8<sup>th</sup> century C.E.) and to attribute the initial stage of development of the self-confessed adulterer tradition to Ibn Shihāb al-Zuhrī. In addition to the analysis of the relevant *asānīd* and *mutūn* this conclusion of mine rests on a rather positive stance towards the material presumed to have been circulated by al-Zuhrī. At the same time, al-Zuhrī is the farthest

verifiable boundary to which my venture to reconstruct the self-confessed adulterer tradition can go. Surpassing that boundary, which means trying to dip into the 1<sup>st</sup>/7<sup>th</sup> century, will require abandoning sound historical intuition in favor of an unwarranted speculation. Because of this, we should remain highly skeptical about the historical value of the self-confessed adulterer traditions. History here is a mere tool of jurisprudence, which is more concerned with formal cases than hard historical facts.

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