BETWEEN HADITH AND FIQH:
THE “CANONICAL” IMĀMĪ COLLECTIONS OF AKHBÂR*

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Abstract

In Imāmī legal theory, the akhbâr of the Imams form one of the material sources of law, alongside the Qur’ān and Prophetic hadiths. The akhbâr are presented in compendia, assembled by Shi’ite collectors in the fourth and fifth century AH/tenth and eleventh century CE, four of which subsequently came to be regarded as “canonical” in Imāmī law. In this essay, I examine the processes at work in the collation of these “canonical” akhbâr collections. These processes, I argue, were influenced by an emerging juristic tradition in Imāmī Shi’ism. As Imāmī thinkers became increasingly concerned with fiqh and the elucidation of the Shari‘a, the collectors developed new techniques of selection, presentation and organisation. The akhbâr collections became a material source upon which jurists could draw in their fiqh discussions, rather than the law itself. As an example of the processes at work in the collection and presentation of akhbâr, I examine the issue of tayammum, ritual purification by sand rather than water.

The boundaries between fiqh and hadith in early Imāmī juristic thought appear quite porous. The influence of the emerging fiqh tradition (both Sunni and Shi’i) can be detected in features such as the arrangement and presentation of hadith compilations. Hadith compilers, in turn, provided fiqh writers with a body of juristic material, which an accomplished faqih could employ with acumen in his elaboration of the law. The four collections examined in this paper were considered “canonical” in the sense that subsequent Imāmī theological and juristic thought gave reports from these collections a stronger “probative force” (hujjiyya) than those found in other collections.1

These four collections are, I propose, quite different in terms of compilation, presentation and organization from their Sunni counterparts. Furthermore, each Imāmī canonical collection has its own distinctive character. The different techniques of compilation, presentation and

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1 I analyse the attitudes to the collections in subsequent Imāmī tradition in Inevitable Doubt: Two theories of Shi‘i Jurisprudence (Leiden: E.J. Brill, 2000) 31-48, 66-78.

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organization utilized by the authors indicate that they did not all share the same purpose in producing their respective works. In what follows, I outline how these techniques developed from the earliest collection (written in the early 4th century AH/early 10th century CE) to the last of the canonical collections (written in mid-5th century AH/mid 11th century CE) through a detailed analysis of the manner in which a discrete legal issue (ritual purification by sand in place of water) is presented in the four texts. These developments, I argue, are due to the rise of jurisprudence as an Imami intellectual discipline distinct from the collection of hadith. In the earliest works, there is evidence to suggest that the authors saw the law expressed solely through ahadith and hence there was no need for a separate genre of jurisprudence (fiqh). Later works indicate a growing awareness of the need for hadiths as evidence in juristic discussions. Of course some hadiths were more useful than others in these discussions, and the result is author-specific techniques of selection and presentation. The manner in which an author might select ahadith for inclusion in his collection, present them (in terms of organizing his material) and comment upon them (both explicitly through exegetical comment, and implicitly through chapter headings) was, I argue, influenced by (and in some cases determined by) the developing Imami fiqh tradition. Below I trace the nature of this influence through two sets of analyses. First, in the arrangement of hadith material and the argumentation accompanying it, one can detect the developing importance of jurisprudence. Second, in the selection of certain hadith variants over others, and in an increased sensitivity to isnads, one can detect how authors of later works modified the presentation of their hadith material in response to the demands of jurisprudence. In short, the collections of hadith moved from being an expression of the law in themselves to being a genre intended to provide support for the expression of the law delineated in works of fiqh.

The collections yield to systematic analysis with some resistance since the authors/compilers, both explicitly and structurally, demonstrate disparate aims in their collections. A final preliminary matter: I am restricting myself to the so-called “canonical” four books of Imami hadith and to the topic of tayammum (ritual purification with sand, rather than water). My reason for proceeding along these lines is not dogmatic but practical: the material had to be both available and circumscribed, and any conclusions drawn should be similarly tempered. This selection may appear arbitrary; the canonical position of the four books was neither immediately, nor universally recognised by
Imāmi jurists, and it is far from obvious that the authors of the books themselves held canonicity (as it was later understood) as an ambition for their works.

The four books analysed here require some introduction. They display the diverse means through which ahadīth (normally termed akhbār in the Shi‘ī tradition) might be presented. The earliest works of Muhammad b. Ya‘qūb al-Kulaynī (d. 328/939 or 329/940, al-Kāfī fi ‘ilm al-dīn,2 hereon al-Kāfī) and Muhammad Ibīn Bābūyā (d. 381/991, Man lā yaḥduruhu al-faqīh,3 hereon al-Faqīh) are, at first blush, lists of akhbār divided into legal subject headings (Kulaynī prefaces his legal akhbār with extensive material relating to matters of strictly theological importance).4 The legal material, which forms the bulk of the books, is arranged (with some variation) in accordance with the established order of topics found in classical works of fiqh (purity, prayer, alms, fasting, pilgrimage; followed by more communal aspects of the law, such as war, trade, marriage, divorce, inheritance, compensation and penal law and court procedure). Even regarding the arrangement, one notices a contrast between Kulaynī’s reluctance to provide explanatory passages and Ibīn Bābūyā’s eagerness to explore the limits of the law through analytical comments (albeit brief) and supplementary regulations. The later works, Tahdhib al-akhkām4 (hereon al-Tahdhib) and al-Istibṣār fi-mā ukhtulīfa minhu al-akhbār5 (hereon al-Istibṣār), form major elements of the extensive oeuvre of Shaykh al-Tā‘īfa, Muhammad b. Ḥasan al-Ṭūsī (d. 460/1067). Here, too, the organization of material is influenced by fiqh categories, but the presentation differs. The earlier al-Tahdhib is formally a commentary upon the fiqh work, al-Muqni‘a6 of al-Shaykh al-Mufīd (d.413/1022), and its structure (i.e.

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4 This material occupies the first two volumes of the printed edition.
7 al-Muqni‘a in al-Jawāmi‘ al-qiṣṭiyā (Qum: Maktaba Āyat Allāh al-‘uzmā al-mar‘āshī al-najafī, 1404/1984), 2nd section, 1-137. The passages relating to tayammum are found on pp.7-8. The citations from al-Muqni‘a found in al-Tahdhib are, in the main, identical with those found in the lithograph edition. There are occasional discrepancies in sentence markers and conjunctions (e.g., fa, wa, li-anna) and tense. Significant differences are rare, but the following serve as examples. Concerning the man who performs the ablution with snow, al-Tahdhib refers to “his face and hands” whereas the lithograph refers to “his body” (badanhu). It seems clear that the distinction between wudū‘ and ghusl has caused 
the order in which topics are presented) is determined by Mufid’s text. Passages made up of legal rules (without accompanying evidence or argumentation) are cited from al-Muqni‘a, followed by extensive lists of akhbār supporting Mufid’s legal pronouncements. These lists are in turn supplemented by interpretations of (apparently) conflicting akhbār together with occasional supplementation of rules, either through additional akhbār citation or plain statement. The final work, al-Istibsār, represents yet another means of organising akhbār, as demonstrated by its full title (Reflection on the differences within the akhbār). In al-Istibsār, Tusi seeks to present, explain and, in the main, defuse possible conflicts between reports. Here the intention is clearly not (merely) to present the akhbār, but to demonstrate how the law might be determined from them. His concern with eliminating possible conflicts within the akhbār reflects the juristic doctrine that the akhbār are a source of law, and to be a useful source, they must speak with one voice.

To call the four books mere collections of akhbār is, then, arguable, despite their characterization as canonical collections in subsequent tradition.8 Whilst al-Kafrī might warrant the description, al-Faqih is a mixture of akhbār and fiqh comment, al-Tahdhib is an akhbār based commentary (sharh) and al-Istibsār is a work of hermeneutic criticism (in a genre-tradition that stretches back to at least Ibn Qutayba (d. 276/889)). The works, then, belong to different legal genres, and the use of these genres by individual authors inevitably controls and constrains the selection and presentation of material relating to any legal topic. This observation must be held in consideration despite the prevalent use of these works in later Imāmī jurisprudence as mines of akhbār to be excavated in the exploration of the law. In these later manifestations, reports are cited, tested and employed as evidence (or discarded as such) in an unashamedly extra-contextual manner.

Determining the regulations concerning ritual purity is a major preoccupation of fiqh writers. Attaining a state of ritual purity is a prerequisite for the valid performance of a number of cultic acts, in particular prayer and pilgrimage. An individual is rendered unfit for

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worship by a number of bodily functions and experiences (e.g. urination, defecation and sexual intercourse) that nullify a previous state of purity. The state can be regained through ritual washing with water. Depending on whether the breach is major or minor, the ritual washing (or bathing) also varies from ghusl (usually defined as a full body wash) and wudū’ (a more limited washing of the feet, hands and head). If there is no water available, then it is permitted to perform a substitute ritual with another substance (normally soil or sand). The formal justification for this substitute ritual (termed tayammum) is found in Q4.43:9

If any of you have returned from the privy, or had intercourse with women and can find no water, then take good topsoil (ṣa‘īd tayyib) and rub your faces and hands.

This action is considered by fiqh writers to be as effective as water in achieving a state of ritual purity, thereby making the succeeding prayer valid. No later compensatory prayer is required after a prayer following tayammum has been performed. However, purity achieved through tayammum is not as stable as that achieved through washing with water. This instability is expressed in the ruling of most Sunni writers that purity through tayammum does not last between prayers in the way purity through water does (i.e. the tayammum must be repeated for each prayer).10 In both the Imāmi and Sunni traditions the sighting of water breaches the state of purity through tayammum, whether or not the person performs the ritual ablutions with the sighted water. These regulations, variants of which can be found in most works of Islamic law, are (theoretically) derived from āhādīth of the Prophet (or in the case of Imāmi Shi‘ism, from the akhbār of the Imams also).11

It is the akhbār relating to the tayammum ritual and their collection, selection and arrangement that I use in this essay as an example of a developing relationship between fiqh and hadith. In the works under

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9 The other verse cited is similar in wording: Q5.6, “If you have come from the privy or had intercourse with women, and you find no water, take some good topsoil and rub your faces and hands with it” (my translation).

10 See, for example, Muhammad b. Muḥammad b. Rushd, Bidāyat al-mujtahid, 4 vols. in 2 (Beirut: Dār al-ma‘rifā, 1418/1997), 1, 101-3, where the different Sunni opinions are conveniently listed. See also, Muhammad b. Muḥammad al-Ghazālī, al-Wajiz fī l fiqh al-imām al-Shafi‘i, 2 vols. (Beirut: Dār al-argam, 1418/1997), 1, 131-5.

discussion, the sections on tayammum are found in chapters containing akhbār relating to ritual purity (kitāb al-ṭahāra). These are either the first chapters in the works, or (as in the case of al-Kāfī) the first chapter dealing with matters of legal import (previous chapters being devoted to matters of primarily theological interest). The presentation of akhbār relating to tayammum is always located at some point after the section on ritual purification by water (wudū’ and ghusl); some authors place it immediately after the section on ghusl, others insert an intervening section on other matters relating to ritual purification between ghusl and tayammum. Purification by water is clearly seen as the norm; tayammum is a deviation from this norm. In al-Kāfī, the section on tayammum is found after akhbār concerned with contagious impurity (of urine or dogs, for example) and before akhbār relating to the impurifying effects of menstruation (hayd). In the later works (al-Faqīh, al-Tahdhib and al-Istibsār), the tayammum section is immediately preceded by the discussion of menstruation. Such variety of arrangement is common in works of fiqh and one sees this reflected in hadith collections, indicating that the varieties of organizational schemes in fiqh works was, to an extent, transferred to akhbār collections.

I have already indicated that the nature of the material in the sections is not homogeneous. Whereas al-Kāfī contains only section headings and akhbār, al-Faqīh contains, in addition, citations from the Qur’an and, most interestingly, authorial comment and summary. In al-Tahdhib, this is supplemented further by citations from Mufid’s al-Muqni’ā which control the arrangement. Finally, in al-Istibsār, one finds the most extensive hermeneutic discussions in which contradictory akhbār are reconciled. The trend of increased authorial contribution

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12 Interestingly Ibn Bābūya’s arrangements in his al-Muqni’ and al-Hidāya (both works of fiqh) do not follow that found in al-Faqīh (Jawāmi’, 2-46 and 46-64, respectively). In al-Tahdhib, Tūsī naturally follows the arrangement established by Mufid in his al-Muqni’ā, and this also influenced his arrangement in al-Istibsār. The wudū’-janāba-hayd-tayammum arrangement became standard. Generic constraints appear to have been strong in the classical period (roughly between the 12th century and the 19th century CE), which has given rise to accusations of formulism, repetition and unoriginality, both in Muslim and non-Muslim commentary (for the most thoroughgoing criticism of these characterizations, see the articles of W. Hallaq, in particular his “Usūl al-fiqh: Beyond tradition”, Journal of Islamic Studies 3.2 (1992): 172-202, reprinted in W. Hallaq, Law and Legal Theory in Classical and Medieval Islam [Aldershot: Variorum, 1995]: essay XII). However, authors often expressed their individuality by ‘refining’ the arrangement of sections (abwāb) within a chapter (kitāb), or, after the order of the early fiqh chapters was determined, by the order of the later chapters. Editorial arrangement (tartīb) was, of course, one of the criteria on which later tradition (as displayed in biographical compendia) judged and compared works of fiqh.
indicates a developing dissatisfaction with Kulaynī’s simple listing of akhbūr. This is not to say that Kulaynī’s technique became redundant (it experienced a revival in later Imāmī history), or that it was devoid of authorial contribution. Instead, Kulaynī’s contribution is masked by the technique of merely listing reports, whereas the later authors did not suffer the same timidity in their investigations into the meaning of the Imams’ words and deeds.

The akhbūr-material cited in these four works also displays signs of a developing tradition. Whereas al-Kāfī and al-Faqīh have, in roughly equal measure, common and exclusive material, the later collections contain nearly all the material in the earlier two works (at times in variant form). The Ţūsī collections, unsurprisingly, share a majority of material, and this includes a significant amount of new material, uncited in the earlier collections.

These general observations form the background to the following analysis. The developing tradition can be exemplified by means of a number of literary and formal features. I have selected four, analysed in two sections: arrangement/argumentation and transmission/variation. The examination of other features may either confirm or mitigate the force of my conclusions.

**Arrangement and argumentation**

The akhbūr presented by Kulaynī in a series of sections (abwāb) concerning the tayammum ritual are, as noted above, arranged under subject headings. The general division is between akhbūr describing the performance of tayammum (including those decreed when the ritual is necessary) and ‘hard cases’. Through the hard cases, the limits of the law regarding tayammum are defined. These include scenarios such as:

1. If one finds water after performing tayammum but within the time period for prayer to be valid.
2. If one has sufficient water for wudu’ or ghusl but fears that if one uses it for these purposes, one will be afflicted by thirst.
3. If one finds no water, but snow and ice are plentiful.
4. If one finds no water or sand, but clay is plentiful.
5. If one is diseased or injured such that purification with water poses a risk to health.

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The issue in each of these sections is whether *tayammum* is a sufficient or acceptable means of attaining a state of ritual purity. Kulayni offers no summary of the law concerning *tayammum*, either in his own words or those of the Imams. The law is explained through citing examples that delimit the contexts in which *tayammum* is a valid substitute for water (the norm). The reader, then, is drawn into legal understanding by the arrangement of the *akhbār* rather than through any didactic means. As we shall see, the latter was characteristic of discussions in works of *fiqh*, and crossed over into collections of *akhbār*. Kulayni, however, appears to have no interest in such matters.

An example of Kulayni’s presentation technique can be found in his first section, detailing the performance of the *tayammum* ritual. It comprises six reports, ordered in such a way as to preempt and answer possible questions. Omitting the isnāds, the reports cited are:

1. From Zurara: 14 I asked Imam al-Bāqir about *tayammum*. He patted the ground with his hand, raised it, shook it and then rubbed his eyebrows and palms once.

2. Imam Ja’far was asked about *tayammum*. He recited this [Qur'anic] verse: ‘the thief, male and female, cut off their hands’ [Q5.38] and then he said, ‘So wash your hands up to the elbow’ [Q5.6], and then he said, ‘So then, rub your palms up to the point where the cut is made.’ [Finally] he said, ‘Your Lord does not forget.’ [Q19.64]

3. From Kāhili: 15 I asked him [viz., one of the Imams] about *tayammum*. He patted the floor [or ‘carpet’ or ‘flat ground’; *al-bisāt*] with his hand, then rubbed his face with it. He rubbed his palms, one against the surface of the other.

4. From Abū Ayyūb: 16 I asked Imam Ja’far about *tayammum*. He said, ‘‘Ammār b. Yāsir was in a state of major ritual impurity (*janāba*). He rolled in the dirt, just as an animal rolls. The Prophet of God said to him, ‘‘Ammār, 17 you roll like an animal rolls!’’ [viz., Abū Ayyūb] said to him [the Imam], ‘How then does one do *tayammum*?’ He placed his hand upon the floor, rubbed it up and rubbed his face. Then he rubbed up to a little above the palm.

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15 Probably Abū al-Khaṭṭāb Muḥammad b. Miqlas. It would appear that not only Nusayri writings refer to him as al-Kāhili (on whom see, EI², s.v. “Abu ‘l-Khaṭṭāb Muḥammad b. Abī Zaynab Miqlas”.


17 On whom, see EI², s.v. “Ammār b. Yāsir”.}
5. Imam Ja'far said: Imam 'Ali said, 'One does not perform wudu' from a footprint (mawta').' Nawfali \(^{18}\) added, 'That is, a place where your foot has been placed.'

6. Imam Ja'far said: Imam 'Ali used to prohibit doing tayammum with the dirt from the footprints of the road.\(^{19}\)

It is clear that Kulayni's arrangement of the \(\text{akhbār}\) is structured according to implicit questions. The first report describes the tayammum ritual in its basic elements: the rubbing of the eyebrows and the palms once. The second report counters the implicit question regarding the extent of the rubbing: since tayammum replaces the wudu' purification, and sand replaces water, surely the rubbing should reach the elbows (marāṯiqa) as it does in wudu'. The Imam's citation of three Qur'anic passages establishes the lexical limits of the terms yad (hand) and kaff (palm). The verses are unhelpful unless there is a certain amount of exegetical work on the part of the reader. Amputation in the case of theft occurs at the wrist, and if God means more than wrist by the term yad (as in Q5.6, 'your hands up to your elbows'), he specifies this. Since he makes no such specification in the case of the tayammum verse, the term yad means the limb up to the wrist and no further. The third and fourth reports confirm this limitation of the area rubbed in tayammum. In the third, the palms are rubbed 'one against the surface of the other', thereby excluding the forearm. The fourth report, similarly, contains the phrase 'a little above the palm', that is, up to the wrist. The final two reports demonstrate that although tayammum and wudu' are not analogous with regard to the area to be rubbed/washed, they are analogous in other respects. In particular, just as one is prohibited from using the water gathered in footprints for wudu' (report 5), one is forbidden from using dust from a footprint for tayammum (report 6). By reading Kulayni's selection and arrangement in this manner, the reader gains not only a description of the ritual, but also the implicit legal reasoning behind particular aspects of the performance. That is, tayammum is analogous to purification with water in some respects, and therefore may be used as a substitute for wudu' or ghusl (the example being the use of sand/water from footprints). However, the analogy is not perfect as the body area to be rubbed is not identical with that washed. The subsequent sections detail the limits of the analogy (and by implication the law) through examining hard cases.

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\(^{18}\) 'Ali b. Muḥammad al-Nawfali relates from Imam al-Hāḍi (see Ṭūsī, Rijāl, \(388\)).

\(^{19}\) Kulayni, \(\text{al-Kāfī,}\ 1, 61-63\).
Clearly the context in which this arrangement developed was one of discursive (possibly academic) investigation of the law in which regulations are proposed and clarified through further questioning and investigation. Kulaynī’s presentation is the result of a legal dialectic in which a norm is analysed and refined in the light of (self or peer) scrutiny. The arrangement is not the result of a systematic legal investigation, but displays an ad hoc character common to discussions in a formative legal tradition. Indeed Kulaynī’s section on tayammum (as a whole) can be viewed in this manner: the statement of the norm (found in bāb sītāt al-tayammum) is followed by a series of hard cases posed by (imaginary or real) inquisitors. In the reports themselves, this hypothesizing is often indicated by the phrase, ‘I asked the Imam about a man who...’ (sa’altu al-imām ‘an al-rajul al-ladhi or sa’ala fulān ‘an rajul). In the first section, intended to provide an introduction to the ritual, the question is normally phrased, ‘I/he asked the Imam about tayammum. He said...’. This characteristic might account not only for Kulaynī’s arrangement of the reports but also their wording.

Ibn Bābūya’s section on tayammum (entitled bāb al-tayammum) can be usefully contrasted with that of Kulaynī. Not only is it significantly shorter, it also lacks any internal subdivisions. Its internal structure, however, is quite similar to al-Kāfī, with an introductory section, stating the norm, followed by subsequent qualifications. The section as a whole is presented as a commentary on the locus classicus (Q5.6). The akhbār are viewed not as descriptions of the tayammum ritual, but (collectively) as an exegesis of the Qur’anic command to perform tayammum. The section’s structure then can be described thus:

1. Citation of Q5.6
2. Introductory section containing:
   (i) 2 reports from Zurāra followed by Ibn Bābūya’s summary of their content
   (ii) 3 reports from ‘Ubayd Allāh b. ‘Ali al-Ḥalabi followed by Ibn Bābūya’s summary

The arrangement is clearly not as unsystematic as that found in earlier texts. Calder’s analysis of the early Mālikī work, al-Mudawwana, for example, reveals hadith that are “hardly logically integrated into the text” (N. Calder, Studies in Early Muslim Jurisprudence [Oxford: Clarendon, 1993], 15) and material subject “to complex editorial and redactional judgments” (ibid.) leading to an open and developing text (ibid., 16). The early Shī‘ī works display a more coherent approach to collecting and commenting upon the akhbār. They are not, however, as comprehensive as that found in the classical tradition (see above n. 12).

Ibn Bābūya, al-Faqīh, 1, 102-10.

3. Hard cases:
   (i) 6 reports from various sources followed by Ibn Bābūya’s summary
   (ii) 5 further reports from various sources
   (iii) a series of (unsupported) further regulations from Ibn Bābūya

   It seems clear that the reports from Zurāra and 'Ubayd Allāh al-Ḥalabi are grouped in musnad fashion (indeed, those from 'Ubayd Allāh are grouped so as to give the impression of a single report). The first Zurāra report serves an exegetical function, explaining the Qur'anic verse phrase by phrase (the Imam cites a phrase followed by an exegetical gloss). The second is the story of 'Ammār b. Yāsir rolling in the sand (with some variation) found also in Kulaynī’s piece. The reports from 'Ubayd Allāh (2.i), however, cover various issues related to tayammum, but in no discernable logical sequence. For example, the third report relates to the problem of having sufficient water to perform wudū', but insufficient water for ghusl, when the latter is necessary. It would most sensibly appear in section 3(ii) of the above schema in which there are three consecutive reports relating to the issue of insufficient water (as opposed to a total absence of water). It is clear that Kulaynī’s introductory/hard cases division is more thoroughly maintained (even if, at times, this means repetition of akhbār rather than the haphazard presentation of Ibn Bābūya). Ibn Bābūya’s introduction/hard case division is breached either as a result of his desire to maintain a secondary musnad principle or cite the report only when it reached him without subsequent reorganization. In either case, the organization is in no way as rigorous as that employed in al-Kāfī.

   Perhaps the most significant difference between the approaches of Kulaynī and Ibn Bābūya is the introduction of exegetical/summary comments in the latter, which might be characterized as explicit authorial contribution. This was not absent in Kulaynī (he cites Nawfālī’s gloss of the term mawṣa’, for example) but it always played a minor role and was attributed to a previous authority. In al-Faqīh, Ibn Bābūya rejects this timidity and provides summary comments and additional regulations on a de rigeur basis. For example, his comments after the introductory two reports (2[i] above) appear as a summary of the foregoing akhbār:

   23 The implication being that these come from the Asīl of 'Ubayd Allāh al-Ḥalabi, named by Ibn Bābūya in his introduction (al-Faqīh, 1, 3). The Asīls (pl. uṣūl) are pre-Kulaynī collections of akhbār, compiled by companions of different Imams. These works, few of which have survived, theoretically provided the material for the early collections. See E. Kohlberg, “Al-Uṣūl al-Arba‘umi‘a”, Jerusalem Studies in Arabic and Islam 10 (1987): 128-66.
When a man does *tayammum* for [i.e., in place of] *wudū*, he puts his hands upon the ground once, then shakes them and rubs his brow and his cheeks (*'jabinayhi wa ḥājibayhi*).\(^{24}\) He rubs the surface of his palms. When it is *tayammum* for *janāba*, he puts both his hands upon the ground once, then shakes them and rubs his eyebrows and cheeks. Then he pats the ground again and rubs the surfaces of his hands to just above the palm. He starts rubbing his right hand before the left.\(^{25}\)

If Ibn Bābūya knows of the demonstrative reports cited in Kulaynī (and translated above) he prefers to present his own summary of the *tayammum* regulations. Although the summary is juristic in style (it could come from a work of *fiqh*),\(^{26}\) its lexicon is clearly drawn from *akhbār* similar (or identical) to those cited by Kulaynī. The use of *dariba* (to pat), *marratan wāḥidatan* (once) and *nafadhumā* (to shake them [dual]) all bear witness to this influence. Ibn Bābūya’s summary is a pastiche of the revelatory sources listed in *al-Kāfī*. Instead of citing all these reports (if indeed he knows of them), Ibn Bābūya cites only one and then composes a summary of the others’ content. In this he performs the juristic task of constructing regulations from the legal sources. In his final section (3[iii] above), Ibn Bābūya dispenses even with the scant revelatory evidence for his regulations:

If the man is in such a situation that he can only use clay, then he does *tayammum* with that. God, the blessed and most high, is most forgiving, even if he [viz., the man] has no dry clothes or a saddle such that he might shake [dust] from them and do *tayammum* with that [dust].

Whoever is in the centre of a crowd on a Friday, or any other day, and is not able to leave the mosque because of the crowd of people, may perform *tayammum* and pray with them [viz., the people], and he does not repeat [the prayer] when he leaves [the mosque].\(^{27}\)

The man who does *tayammum* but has forgotten that he actually has water with him, and then prays, remembering this [viz., the water] before the time for prayer has passed, must do *wudū* and repeat his prayer.

\(^{24}\) Whilst “his brow” is a plausible translation for *jabinayhi*, one wonders why it is dual here. It may mean “his eyebrows”, meaning not the hair but the areas above the two eyebrows.

\(^{25}\) Ibn Bābūya, *al-Faqih*, 1, 104.

\(^{26}\) Indeed the phrasing found in *al-Faqih* bears much similarity to that found in his works of *fiqh*: *al-Muqni* and *al-Hidāya*.

\(^{27}\) Interestingly the editor has adjusted the text, which originally read ‘he should repeat the prayer when he leaves’ (Ibn Bābūya, *al-Faqih*, 1, 110, n.4). The editor felt justified in doing this because of a report to this effect cited in Ṭūsī, *al-Tahdhib*, 1, 60 and Kulaynī, *al-Kāfī*, 2, 65.
Whoever ejaculates in any mosque should leave and perform ghul [immediately], except if the ejaculation occurred in the masjid al-haram or the masjid al-rasul. If he ejaculates in either of these mosques, he does tayammum immediately and then leaves. He may only walk in these mosques if he has performed tayammum [and is therefore purified].

Once again the presentation here is jurisprudential, if rather disorganized. Yet these regulations mirror akhbär cited by either Kulayni or Tusi (and in some cases both). The reports found elsewhere share similar phraseology with Ibn Babuya’s regulations. This has at least two possible explanations. First, juristic discussions, either during the Imam’s lifetime or soon after it, were reflected in the form of akhbär. Ibn Babuya knows the formal discussion whilst Kulayni and Tusi know the akhbär themselves. Second, the akhbär, known or unknown to Ibn Babuya, gave rise to legal debate reflected in the phraseology and presentation of the regulative passages in al-Faqih. Whichever is accurate, Ibn Babuya’s text, including both akhbär and legal summary, contrasts sharply with Kulayni’s technique of selection and arrangement of akhbär.

Tusi’s work, al-Tahdhib, demonstrates a different organizational principle: a commentary on a work of fiqh. His arrangement is inevitably controlled, not by the author himself, but by the introduction of an external source (Mufid’s al-Muqni’a). Whereas Kulayni and Ibn Babuya, in general, avoid repetition of akhbär through selection (or non-availability) and summary, respectively, Tusi embraces the variety of akhbär available on a particular aspect of tayammum, thereby exposing potential contradictions in both content (matn) and transmission (isnād). The section on tayammum, significantly longer than either of those examined so far, can be divided thus:

1. Mufid’s writing on tayammum begins with the situations in which the ritual is a valid substitution for wudū’ or ghusl. These are a lack of water, danger (from animals) in attaining water, illness or risk of illness through washing (e.g., in circumstances of extreme cold). Any one of these can trigger the dispensation (rukhşā) to perform tayammum in place of ghusl or wudū’. The Qur’anic verse Q4.43 is cited.

28 Ibn Babuya, al-Faqih, 1, 109-10.
29 Ibn Babuya states in his introduction to al-Faqih that he has decided to record only the akhbär he knows to be sound and upon the basis of which he has had the confidence to issue fatwās (juristic opinions) and ahkām (juristic rulings). Ibid., 1, 3.
30 Tusi, al-Tahdhib, 1, 183-214.
rules therein in his own words, and goes on to cite ten reports in support of these regulations.
2. Mufid next discusses the scope of the term sa'īd, the material from which tayammum is to be performed. Though top soil/sand is the norm, under force of circumstances, the worshipper may also use dust from his clothes, the mane of his horse or his saddle-bag, or even stones and snow. Tūsi’s response is a mixture of further summary of Mufid’s view, akhbār citation (eighteen in all) and exegetical comment.
3. The rule is that a person who has performed tayammum should perform wuduʾ or ghusl when he next finds water, but he need not perform any compensatory prayers. Mufid’s expression of this rule is accompanied by twenty-three akhbār and occasional comments from Tūsi.
4. Mufid expresses the rule that a person who has performed tayammum may perform more than one prayer, providing that his state of ritual purity (from the tayammum) has not been compromised. One means of compromising the state is by having access to water between prayers, but failing to perform wuduʾ or ghusl. Tūsi’s commentary is once again a reformulation of the rules followed by akhbār (eight in total) with exegetical comments.
5. The regulations concerning the time at which the worshipper should cease searching for water and begin prayer, together with the extent of his search, are cited by Mufid. This is followed by four reports with comments.
6. Mufid stipulates that if water is found before the first takbira (allāhu akbar) of prayer (takbirat al-ihram), the prayer is abandoned and wuduʾ or ghusl is performed. The prayer is then recommenced. If the worshipper breaches his state of purity (gained through tayammum) during prayer, and water has been found since prayer began, the prayer is halted and restarted after wuduʾ or ghusl. Tūsi cites nine akhbār with exegetical comments in support of these regulations.
7. Mufid describes the ritual of tayammum in a similar fashion to that of Ibn Bābiya, cited earlier. Tūsi relates six akhbār with exegetical comment.
8. Additional regulations concerning tayammum in the case of urination and defecation are supported by four more akhbār.
9. Additional regulations for tayammum after janāba are described by Mufid. Tūsi cites eight akhbār with exegetical comment.
10. The analogy between water purification and tayammum after menstruation, parturition, sleep or loss of consciousness, jaundice or black bile and contact with the dead is affirmed. Tūsi adduces legal reasoning and two akhbār in support of these rules.

The discussion is clearly more comprehensive and sophisticated than that of either Kula'yin or Ibn Bābiya. The overall structure is Mufid’s, yet the decision as to where to break from Mufid’s text and introduce supporting evidence (akhbār or legal reasoning) belongs to Tūsi. A
comparison with earlier collections immediately reveals that Mufid’s *fiqh* discussion (and hence Ţusi’s account of *tayammum* generally) begins not with a description of the ritual, but with an enumeration of the conditions for its validity. In Mufid’s *al-Muqni‘a*, the performance of *tayammum* is described only at the end of the section, whilst in the earlier collections it served to introduce the topic before hard cases were examined. The presumption in Mufid’s text (and consequently in Ţusi’s commentary) is that the audience is acquainted with the ritual and its characteristics. There is a clear expectation that the readership is knowledgeable about the basic elements of the *tayammum* ritual (hence there is no need to elucidate them at the outset). This indicates not only a more sophisticated audience, but a development in the purpose of an *akhbar* collection. For Kulaynī, the *akhbar* are presented as (causally) creating the law. For Ibn Bābūya, the law can be expressed through the *akhbār*, or through the author’s summary of their contents. For Ţusi, they support an authoritative statement of the law (Mufid’s *al-Muqni‘a*). The significance of such a development lies in the increasingly prominent role given to *fiqh* works over *akhbār* collections.

Ţusi’s exegetical comments are directed at two bodies of literature: Mufid’s text and the *akhbār*. With regard to the former, Ţusi reformulates Mufid’s prose to make it more amenable to *akhbār* justification. With regard to the latter, Ţusi’s aim is to reconcile potential conflict among the *akhbār*. An example of the former is his commentary on Mufid’s exploration of the limits of the term *Ṣa‘īd* (section 2 above):

[Mufid] *Tayammum* is not permitted with anything other than earth that the ground has given up, even if the material in question resembles dirt in terms of its softness or powdery nature, like potash, ginger, lote-tree root or such like. Neither is *tayammum* permitted with ashes. One may perform *tayammum* with white chalky earth or with lime.31

[Ţusi] This is proven by what we have already cited: that *tayammum* must be made with earth or dirt and whatever falls under the generic terms *earth* or *dirt*. These things [e.g., potash, ginger] do not fall under the terms *earth* or *dirt* and hence it is not permitted to perform *tayammum* with them. This is further proven by:

1. [Reported from Imam ‘Ali]. He was asked about *tayammum* with gypsum. He said, ‘Yes’. And then *tayammum* with lime. He said, ‘Yes’. And then *tayammum* with ashes. He said, ‘No. It does not come from the ground but from trees.’

2. [Reported from Imam Ja‘far]. He was asked, ‘A man has adobes [or mud bricks]. Can he purify himself (*tawadda‘a*) with them?’ He said, ‘No, only with water or *Ṣa‘īd*.’

[Ṭūsī] Hence he [viz., the Imam] thereby permitted anything equivalent to water or ṣa‘īd to be used for purification purposes.\(^{32}\)

In this passage, Mufid’s rule that tayammum is permitted only with what ‘the ground has given up’ (mimmā anbata al-ard) is interpreted by Ṭūsī to mean ‘whatever generally falls under the generic terms earth or dirt’ (mimmā yaqa'a 'alayhi ism al-turāb aw al-ard bi'l-ītlaq). This serves to aid the understanding of Imam ‘Ali’s statement that ashes (from wood) are not suitable tayammum material. It also serves as an explanation for Imam Ja‘far’s prohibition on using adobes, since they are called neither earth nor dirt (but they do come from the ground). Ṭūsī’s exegetical comment on Imam Ja‘far’s statement, ‘only water or ṣa‘īd’, is glossed as ‘that which is equivalent to earth or ṣa‘īd’. Ṭūsī is primarily concerned here to delimit the application of the term ṣa‘īd to that which can be described as dirt (turāb) and earth (ard). He intends to provide the means whereby a dubious substance might be categorized by associating the uncommon term (ṣa‘īd) with common terms (turāb and ard). In such a discussion the reports become means of exemplifying a general rule, explicated by Ṭūsī from Mufid’s imprecise wording. Ṭūsī considers the phrase ‘what the ground has given up’ as insufficiently nuanced to be supported by the akhbār, hence the need for a reformulation.

An example of Ṭūsī’s exegetical commentary serving to reconcile potential conflicts between akhbār immediately follows the passage cited above:

3. It is related from Imam Ja‘far that when Zurāra asked him, ‘Can one purify oneself with flour (daqīq)?’, he replied, ‘There is no problem with purifying oneself with and covering oneself in it.’

[Ṭūsī’s comment] As for [this report], its meaning here is that it is permitted to rub oneself with it, and to perform a purification [or washing] with it, but it is not a preparation for ṣalāt. The following [report] reveals this [interpretation to be correct]:

4. From ‘Abd al-Rahmān b. al-Hājāj.\(^{33}\) ‘I asked Imam Ja‘far about a man who is coated in lime. He makes flour with oil, caking himself in it. He rubs himself with it, on top of the lime, in order to mask the smell. [The Imam] said, ‘There is no problem.’\(^{34}\)

The third report gives the impression that flour can be used as a purifying agent, which violates the rule established by Ṭūsī that only

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\(^{32}\) Ṭūsī, al-Tahdhib, 1, 187-88.

\(^{33}\) Who relates from Imams al-Ṣadiq and al-Kāẓim (Ṭūsī, Rijāl, 236 and Najashi, Rijāl, 237-8).

\(^{34}\) Ṭūsī, al-Tahdhib, 1, 188.
materials termed *dirt* or *earth* can be used for *tayammum*. Ṭūsī’s reconciliation involves distinguishing between two types of purification, both called *tawaddu*’ (derived from the same root as *wudū*’, and therefore possibly implying cleansing for religious purposes). In order to preserve the earlier rule, Ṭūsī determines that the Imam in the third report is referring to a non-ritual purification (analogous to hygienic cleansing) and fortunately has a report at hand to prove this. Unfortunately the fourth report does not use the word *tawaddu*’, but undeterred, Ṭūsī cites an example of the Imam raising no objection to a man using flour and oil to mask the smell of lime. The reasoning is, perhaps, unconvincing but it preserves the legal definition of *ṣa‘id* established earlier in the face of potentially conflicting revelatory evidence.

Ṭūsī’s chapter on *tayammum* is replete with similar examples of reasoning aimed at preserving his interpretation of Mufid’s formulation of the law. They demonstrate virtuoso hermeneutic skills and a dedication to the task of reconciling the *fiqh* with the *akhbār*. The work is a product of a more developed Imāmī environment, unlike that of Kulaynī and Ibn Bābūya, where contradictions either went unnoticed or were excluded from the presentation. Apparently problematic reports in the section on *tayammum* in al-*Tahdhib* are not rejected as weak (according to *isnād* criteria). Instead Ṭūsī views them as in need of further interpretation. Mufid’s *fiqh* is explained or reworded but never questioned. For Kulaynī, the law emerged from the *akhbār*, and for Ibn Bābūya, the *akhbār* could be summarized in dense juristic prose. For Ṭūsī, however, the *akhbār* support the ready-formulated law, being indicators (*dalā‘īl, adillā‘*) of a predetermined juris.

Ṭūsī’s *al-*Istibṣār shares much material with his *al-*Tahdhib, both in terms of *akhbār*, but also authorial comment. As mentioned earlier, the aim of *al-*Istibṣār is specifically to analyse apparently contradictory *akhbār*, side by side, and attempt to resolve the contradictions. There is little attempt to describe the law relating to *tayammum*. The basic elements of the ritual are assumed (as in *al-*Tahdhib). It is perhaps surprising, given the nature of the work, that *al-*Tahdhib dives straight into ‘hard cases’ where the *akhbār* are less than indicative. Ṭūsī’s section on *tayammum* (entitled *abwāb* al-*tayammum* in the printed edition)35 is divided into eleven subsections, each listing *akhbār* (with exegesis) relating to different areas of *tayammum* law:

35 Ibid., 1, 155-73.
1. That it is not permitted to use flour for *tayammum*.
2. The procedure for *tayammum* with moist ground or clay.
3. Concerning the man who arrives in a land covered with snow.
4. When one has performed *tayammum*, and then finds water, it is not obligatory for one to repeat one’s prayer at a later time.
5. When one has contracted a major ritual impurity (*janâba*) and then performs *tayammum* and prayer, is it obligatory to then repeat the prayer or not?
6. May one who has performed *tayammum* perform more than one prayer, provided he has not breached his state of purity?
7. Anyone who has performed *tayammum* must not [pray] until the end of the prescribed time for ritual prayers.
8. Concerning someone who begins prayer, having performed *tayammum*, and then finds water.
9. Concerning someone whose garments are inflicted with *janâba* and who has no water to wash [the garment] and has no substitute garment.
10. On how to perform *tayammum*.
11. Concerning the number of times one should perform *tayammum*.

Generally speaking, each of these eleven sections follows the same format. First, the *akhbâr* are cited to establish the norm in the case under discussion. This is, at times, accompanied by a note of clarification from Tusi. Next, potentially contradictory reports are cited. Finally, Tusi explains how the perceived contradiction is eliminated. Such a structure is occasionally evident in Tusi’s *al-Tahdhib*, but here Tusi’s aim is not to provide justification for pre-existent rules, but to discuss only those areas of the law that are unclear from the *akhbâr*. Such a technique implies that citing uncontroversial *akhbâr* is not necessary, and hence the section on *tayammum* in *al-Istibsâr* is slightly shorter than in *al-Tahdhib*.

An example of this pervasive format is the subsection (*bâb*) devoted to the question of snow, a summary of which runs as follows:

1. Muḥammad b. Muslim36 asked Imam Ja’far about a traveller who is in a state of major ritual impurity and finds, while travelling, only snow. [The Imam said], ‘He performs *ghusl* with snow or stream water.’
2. Mu’awiyâ b. Sharij37 was present when a man asked Imam Ja’far, ‘We encountered wind and snow. We wanted to perform *wudu’*, but found only frozen water. How should I have performed *wudu’*? Can I rub ice on my skin?’ The Imam said, ‘Yes’.

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36 This could refer to any number of transmitters from Imam al-Ṣâdiq (see Tusi, *Rijâl*, 294).
[Contradictory reports]
3. Muhammad b. Muslim asked Imam Ja’far about a traveller who contracted janâba. He could find only snow or ice. The Imam said, ‘He does tayammum out of necessity (darûra). I do not think he should return to this country [for it] destroys his faith.’
4. Zurârâ heard Imam Bâqir say, ‘If one finds only snow, then look in one’s saddle-bag and perform tayammum with its dust or whatever [like dust] is in there.’
5. Rafâ‘a38 heard Imam Ja’far say: ‘If one is in snow, look into one’s saddle-bag and do tayammum with dust or whatever is in there.

[Tusi] These three akhbâr (reports 3-5) do not contradict the first (two) reports (1-2) and the means of reconciling them (al-wajh fi al-jam’ baynahumâ) is as follows:
If possible, a man must rub himself with snow or ice because it is, in fact, water [in a different form], as long as he does not fear for himself [from cold or attack] through using snow. This is not the same as tayammum with dirt or dust (al-turâb wa’l-ghabâr). If this is not possible because he fears for himself through using [snow or ice], then he is permitted to turn to tayammum, just as he is permitted to turn from water to dirt if he fears [using water will cause some harm]. The following [report] proves this:
6. ‘All b. Ja’far39 asked (his brother) Imam Mûsâ b. Ja’far about a man who had contracted janâba and had no water with him. He found both snow and sa’id. ‘Which,’ [he asked,] ‘is better: that he do tayammum or that he should rub his face with snow?’ [The Imam] said, ‘The snow, but [rubbing] both his head and his body is best. If, however, he is unable to do ghusl with [the snow], then he should do tayammum.’

Tusi’s reconciliation (jam‘) is based on an assumption when reading the akhbâr. In reports 1 and 2 he assumes that the Imam is referring to cases in which the subjects were not putting themselves at risk (either with regard to their health or other dangers) by using snow or ice. Hence the Imam decrees one should perform ghusl or wudu’ with snow or ice. In reports 3-5, Tusi assumes the Imams are referring to cases in which there is a risk (to health or life) through using snow or ice. Due to force of circumstances (darûra), tayammum should be performed. The difference lies in the fact that ‘washing’ with snow or ice is still ritual purification with water, whereas performing tayammum is ritual purification with sa’id. Report 6 establishes this line of reasoning. When given the choice between snow and sa’id, the Imam advises

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38 This could refer to either Rifâ‘a b. Mûsâ or Rifâ‘a b. Muḥammad al-Hadrâmi.
39 The brother of Imam Mûsâ (see Tusi, Rijâl, 339).
40 Tusi, al-Isnâbîr, 1, 158-59.
snow. It is a better (afdal) means of achieving a state of ritual purity. In the next section I shall deal with the transmission of these reports; however, it should be noted here that when cited, the final, decisive *akhbār* are usually accompanied by full *isnāds*, leading back from Tūsī to the Imam. The problematic *akhbār* have *isnāds* that do not always begin with Tūsī.

There are a number of standard Shi‘ī means of solving contradictions within the *akhbār*. These are termed al-tarājīh (means of expressing a preference) in works of *usūl al-fiqh*. The most common are dissimulation (taqiyya), dissemination (*shuhra*) and provenance (*isnād*). Tūsī does not use these in his discussion of *tayammum* in *al-Tahdhib*, preferring to reconcile the *akhbār* rather than pronounce one historically inaccurate or legally ineffective. In *al-Istibsār*, however, he utilizes these means, albeit in a limited fashion, in his sections on *tayammum*.

Taqiyya refers to the Imāmī dogmatic belief that at times the Imams concealed the true law from their audience due to fear that to reveal it would lead to persecution by the enemies of the Imāmiyya (normally the Sunnis). This technique, common in classical Imāmi *fiqh*, is not a regular weapon in Tūsī’s armory. The one occasion on which it is used in the treatment of *tayammum* in *al-Istibsār* involves the correct performance of *tayammum*. As stated earlier, the agreed position (Kulaynī, Ibn Bābūya and Tūsī) is that *tayammum* replaces *wudu’/ghusl*, and is analogous to them in some features, but it is not analogous to them with respect to the area of the body to be washed. In *al-Tahdhib*, Tūsī relates a problematic report from Samā‘a in which the Imam is described as rubbing his forearms when demonstrating *tayammum*. Tūsī there argued that the Imam must have actually been demonstrating that just as one washes one’s forearms in *wudu’*, so one rubs one’s palms in *tayammum*, and this comparison went unnoticed by the transmitter. The transmitter did not detect that the Imam was demonstrating what one does in *wudu’* for the purposes of comparison with *tayammum*. In *al-Istibsār* there is a supplementary explanation:

The reasoning regarding this report is that [first] we interpret it as a *taqiyya* report, because it agrees with the doctrine of the Sunnis. Also

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41 I examine these methods of *hadith* criticism in my *Inevitable Doubt*, 114-21 and 136-44.
43 Samā‘a relates from “one of them”, meaning, in this case, either al-Sādiq or al-Kāsim (*Tahdhib*, 1, 208).
[and secondly], it has been said, when interpreting it, that the Imam intended to convey the ruling, and not the performance. He rubbed the surface of his palm, then [he said] it is like when one washes one’s forearms in *wudū*.

Agreement with the doctrine of the Sunnis was one criterion by which a *taqiyya* report could be recognized. Tūsī proposes it here as an additional explanation of the report’s implication that one should rub one’s forearms in *tayammum*. This is cited first, along with the explanation found in *al-Tahdhib* that the Imam was demonstrating that the rubbing of palms in *tayammum* was analogous to the washing of the forearm in *wudū*. This is the only use of this hermeneutic technique in the section on *tayammum* in *al-Istibšār*.

Similarly, Tūsī appeals to the principles underpinning dissemination (*shuhra*). Here a report is deemed historically probable if it is reported through a number of different chains of transmission (*iṣnād*) such that collusion between transmitters is impossible. It is technically termed *khabar al-mutawātir* (a well-attested report). An isolated report (*khabar al-wāḥid*) is one that fails this test and produces only probable knowledge of the law. Ibn Idris (d. 598/1202) was one scholar who criticized Tūsī for his extensive use of *khabar al-wāḥid*. A classical jurist examined the different *iṣnāds* in order to assign a degree of historical probability (and hence legal indication) to a report.

The following report is transmitted by three different chains of transmission in Tūsī’s *al-Istibšār*, all traced back to ‘Abd Allāh b. ‘Āṣim:

From ‘Abd Allāh b. ‘Āṣim: I asked Imam Ja‘far about a man who finds no water and performs *tayammum*. When he stands to pray, the slave comes with some water. [The Imam] said, ‘If he has not performed a rak‘a, then he is to abandon [the prayer] and perform *wudū*. If he has performed a rak‘a, then he remains in his prayer.’

This rule is problematic for Tūsī because it contradicts another report from Imam Ja‘far in which the rule is given that if one has begun prayer (even if a rak‘a has not yet been performed), one should not

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44 Tūsī, *al-Istibšār*, 1, 171.
abandon worship on account of finding water. Tusi solves this contradiction as follows:

[1] The original relater (al-âsl) in these three reports is a single person. He is ‘Abd Allâh b. ‘Âsim. Hence it is possible to propose, with regard to this report, that it is merely recommended [to abandon prayer after the first rak’â] and not obligatory or a duty (al-istihbâb dâna al-fard wa’l-îjâb) [as it is before the first rak’â].

[2] It is also possible that the point behind the report is that it is obligatory to abandon prayer if one enters prayer at the start of the prescribed time. Since we have already shown that one should not do tayammum except at the last point of the prescribed time for prayer, it is obligatory for him to abandon the prayer [and do wudu’].

This report is, then, interpreted as uncontroversial by means of two arguments: first, there is the argument that since it is reported only via ‘Abd Allâh b. ‘Âsim (though by different isnâds after ‘Abd Allâh), its probative force as an indicator of the law is reduced. This is because it is classified as khabar al-wâhid (though the term is not used in al-Istibsâr at this point). With a reduced probative force, the report can only indicate that it is recommended (but not obligatory) to abandon prayer after the first rak’â. The reduction in the legal force of the report is engineered through an appeal to the principle of tawâtur. The second argument (that the Imam is referring to a person who has done tayammum and prayed at the start of the prescribed time) is found also in al-Tahdhib. It conforms to the common technique found there of assuming information not found in the report to nullify its danger as evidence contradictory to the known law. Between al-Tahdhib and al-Istibsâr, Tusi has devised a further means of resolving a contradiction, utilizing argumentation common to the fiqh tradition.

The final type of argumentation used in the passage relating to tayammum in al-Istibsâr, but absent in previous collections (including Tusi’s own al-Tahdhib), is that of isnâd criticism (provenance). The chain of transmitters (isnâd) must be ‘sound’ in order for a report to qualify as a legal indicator, however weak. The isnâd must, at least, be plausible (historically). An example of this type of argumentation is found in section 4 above. The general rule is established that a man who has performed tayammum has no obligation to repeat his prayer at a later time when he finds water. This implies that tayammum brings about ritual purity and makes a prayer valid with the same efficiency as wudu’ and ghusl. Following three reports establishing this rule, Tusi cites the contradictory evidence:

48 Ibid., 167.
4. Muḥammad b. Aḥmad b. Yahyā relates from Muḥammad b. al-Husayn from Jaʿfar b. Bashir from one who relates from Imam Jaʿfar:
I asked [Imam Jaʿfar] about the man who is in a state of janāba on a cold night. He fears that he may harm himself if he performs ghusl. [The Imam] said, ‘He should do tayammum, and when the cold has subsided, he should do ghusl and repeat the prayer.’
5. Saʿd b. Muḥammad b. al-Ḥusayn b. Abī al-Khaṭāb also relates from Jaʿfar b. Bashir from ‘Abd Allāh b. Sinān or someone else, from Imam Jaʿfar [the same report].

This report (with two isnāds) contradicts the general rule since the person who has performed tayammum should be ritually prepared for worship in exactly the same manner as someone who has performed wuduʿ or ghusl. If the man who performs tayammum due to cold must repeat his prayer, then the equal effectiveness of the tayammum and wuduʿ/ghusl rituals (with respect to ṭahāra) is compromised. Ṭūsī’s solution relies on isnād criticism:

The first [thing to be said] is that the report is mursal and munqatiʿ because Jaʿfar b. Bashir says ‘from one who relates’ in the first report and ‘from Ibn Sinān or someone else’ in the second report. This indicates that he is unsure (shākk) who the transmitter is. [Reports] transmitted in this manner do not create an obligation to act.

Even if the report is sound in what it relates, it can be interpreted as referring to one who, through his own choice, is in a state of janāba. One who does this must perform ghusl in all circumstances, and if this is not possible, he does tayammum and prays, but repeats his prayer when he is able [to use water].

Once again, between al-Tahdhib and al-Istibsār, Ṭūsī has devised (or introduced) a new line of reasoning (isnād criticism). The second argument, which relies on an intentional/unintentional state of janāba, assumes information not present in the report in order to reconcile it with the law. This technique, as we have seen, is common to al-Tahdhib and al-Istibsār. The first argument uses the terms mursal and munqatiʿ, technical terms in the analysis of isnāds referring to chains of transmission that are imperfect or incomplete.49 Once again the

49 The terms mursal and munqatiʿ, of course, refer to reports that have a missing link. Mursal came to mean specifically a report in which the link before the Prophet is missing. This usage was also employed by Imāmī jurists to refer to reports in which the link before the Imam was missing. An additional example of isnād criticism is found in Ṭūsī, al-Istibsār, 1, 164. The issue concerns whether a single tayammum can be effective for more than one prayer. Ṭūsī argues that it can, but he knows of a report that implies that one needs to repeat one’s tayammum for every prayer. Ṭūsī argues that the contradictory report is problematic since the transmitter relates directly from Imam al-Riḍā, but is also responsible for transmitting the opposite view from another Imam. For Ṭūsī it is implausible that
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introduction of argumentation in akhbâr works relies upon cognate developments in other legal studies (in this case ʿilm al-ḥadîth).

Ṭūsī’s presentation in al-Tahdhib demonstrated a greater awareness of the fiqh tradition (both Sunni and Shiʿi) than either of his predecessor compilers (Kulaynî and Ibn Bâbûya). This trend continues in al-Istib-sâr. Here the collection is not so much a list of akhbâr, but a handbook that the legal scholar might use to reconcile the differences between akhbâr. In this reconciliation, one sees an even greater commitment to the coherence of the Imams’ message (as found in the akhbâr) than that found in the earlier works. Ṭūsī goes to great lengths to preserve this coherence. Unlike in al-Tahdhib, he begins to contemplate the juristic means whereby akhbâr are deemed to be legally irrelevant (or of reduced relevance). His faith in the processes of shuḥra and isnâd- and taqiyya-criticism is not unshakeable, since he also includes many examples of reconciliation (jamʿ). However, his introduction of these techniques into a work of akhbâr is yet further evidence of the developing roles of the fiqh and akhbâr genres, and the manner in which the legal reasoning from one was transferred to the other. The interrelationship of akhbâr and fiqh increasingly evident after Kulaynî might further be explained by the fact that Ibn Bâbûya and Ṭūsî were both muḥaddiths who were also faqīhs.50

Transmission and variants

The transmission of ḥadîth material in the four collections deserves a full and comprehensive analysis. Pending such an investigation, some preliminary observations can be made on the basis of the akhbâr relating to izayammum. First, all the authors show, in different ways, an awareness of the issues that gave rise to the isnâd institution. The majority of reports in all the collections are attributed to Imam Jaʿfar al-Ṣâdiq (Abû ʿAbd Allâh). In subsequent Shiʿi legal history, he is, of course, credited with the systemization and presentation of a coherent Imami fiqh.51 Reports from Imam Bâqîr, Imam al-Riḍâ and the Prophet

a single transmitter would relate contradictory reports from the Imams: ‘The transmitter must have made an error’ (ṣaww min al-râwî).

50 Ṭūsî’s major work of fiqh (al-Mabsût) is complemented by his work of legal differences (Kitâb al-khilāf). As mentioned above n.12, Ibn Bâbûya also wrote al-Muqniʿ (not to be confused with Mufid’s al-Muqniʿa) and al-Hidâya (both found in the collection al-Jawâmiʿ al-fiqhîyya). Modarresi mentions Ibn Bâbûya’s Kitâb fi al-fiqh which remains in manuscript (see H. Modarresi, Introduction to Shiʿî Law [London: Ithaca, 1984], 62).

51 For the references in Western literature see S.A. Arjomand, The Shadow of
Imami University with rejecting Faqih, mum Origins Stewart’s techniques process 'ilm redundant. or works.

Imamī’s akhbār are all accompanied by isnāds that later tradition viewed as complete, in the sense that he related a report directly from the first-named person in the isnād. The inclusion of akhbār with full isnāds may be explained by the earlier emergence of the isnād plus matn format, and may not be a reflection of a serious Imāmi dedication to isnād criticism at this stage, that is, it may be explained by generic influence (from Sunni collections) rather than scholarly engagement.

Such an explanation is irrelevant regarding Ibn Bābūya. He consciously truncates his isnāds in order to render ḥadīth criticism redundant. He states at the outset of al-Faqih:

I wrote this book with truncated isnāds so that the book’s routes [of transmission—ṭuruquhu] might not multiply and that it might be of more use, I did not intend to follow the practice of other writers who relate all that is reported [to them]. Rather I intended [to relate] akhbār upon which I have given a fatwā and which I have decided to be sound (afī bihi wa ahkumatu bi-ṣīḥatihi).

The desire to reduce the number of transmission lines and the practice of omitting isnāds demonstrate that Ibn Bābūya is aware of the process of historical validation by isnād, but does not consider it useful or important in his elaboration of the law of the Imams. Ironically, al-Faqih, then, is a work that shows cognizance of the discipline by rejecting its necessity with respect to Imāmi akhbār.

Ṭūsī, in his earlier al-Tahdhib, cites isnāds and variants of akhbār with different isnāds. These structural features display a sensitivity to ‘ilm al-hadīth, but there is no explicit reference in his section on tayammum to the science. In al-Istibsār these structural features are accompanied by occasional and explicit utilization of the hermeneutic techniques of provenance, dissimulation and dissemination. Such elements

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God and the Hidden Imam (Chicago: Chicago University Press, 1984), 51-52; Jafri, Origins and Development, 259-83; Momen, Shi‘i Islam, 38-39. See also Devin Stewart’s wisely guarded words in his Islamic Legal Orthodoxy (Utah: Utah University Press, 1998), 6. It was due to al-Ṣādiq’s perceived importance that the Imāmi school was called the Ja‘fari madhhab.

52 On the development of this format see Calder, Studies, 223-43.

53 Ibn Bābūya, al-Faqih, 1, 2-3.
as these exemplify, I contend, an increased awareness of other intellectual disciplines (fiqh, usul, 'ilm al-ḥadīth) developing parallel to and in concert with the collection of revelatory evidence in the form of akhbār.

Exactly half of Kulaynī’s material in the section on tayammum is also found in Ṭūsī’s collections in identical form, both in terms of isnād and matn. The isnāds are always extended by the link: Ṭūsī–Mufīd–Abū al-Qāsim54–Kulaynī. This indicates that Ṭūsī had access to Kulaynī’s material in an identical form (matn and isnād) through his teacher al-Shaykh al-Mufīd. Whether this was in written or oral form is unclear.

There is also a significant amount of matn material (five akhbār) common to Kulaynī and Ṭūsī, but transmitted through different isnāds. This, combined with matn cited by Ṭūsī with two isnāds (one via Kulaynī and one from another source) is evidence either that Ṭūsī considered Kulaynī’s isnād inappropriate (through weakness) or did not have access to al-Ḵāfī in the form we have it today.

These figures refer to the strictest criteria of identity: that of identical matn. The extent to which a variant report might be considered a different version of the same report, and which variations debar such a conclusion is, of course, a normative procedural undertaking. Varieties in conjunctive words or phrases (wa, fa, in, idhā) are excluded from the above considerations, though with their inclusion the latter figure of five akhbār would rise considerably.

More significant variants indicate different chains of transmission of common material. However, the selection of particular variants in preference to others (found in the later collections of Ṭūsī) might reflect these reports having terminology and rulings that accord more appropriately with fiqh discussions. What is noteworthy is that al-Ḵāfī and al-Faqīh share much material common in meaning, though with variation in exact wording in the matn. The following will serve as an example:

[al-Ḵāfī]

Aḥmad b. Muḥammad–‘Alī b. al-Ḥakam–al-Ḥusayn b. Abī al-‘Alā’, who said: “I asked Imam Ja‘far about a man who passed a well (rakīya), but had no bucket. He [viz., the Imam] said, ‘He should not go down (yanzīlū) into the well. The Lord of the water is also Lord of the earth. He should do tayammum.’”55

54 Ja‘far b. Muḥammad (d. 368/978 or 369/979), the teacher of Mufīd. See Ardabīlī, Jām‘ī’, 1, 157-58.
55 Kulaynī, al-Ḵāfī, 3, 64.
A similar (the same?) report is found in al-Faqih, but here it is ‘Ubayd Allāh b. ‘Alī al-Ḥalabī who poses the question to Imam Ja’far, and the Imam replies that the man should not enter (yadkhulu) the well (rakiyya). The report is identical in all other respects. When the report is cited in the later al-Tahdhib, it is Kulaynī’s version (with isnād) which is used.

This phenomenon is also found in the following report:

[al-Kāfī]

Muḥammad b. Yahyā–Aḥmad b. Muḥammad–Ibn Maḥbūb–Abū Ayyūb al-Khazzāz–Muḥammad b. Muslim, who asked Imam Bāqir about a man who had an open wound (qarḥ) and an injury (jirāḥa) and was in a state of jānāba. [The Imam] said, ‘There is no problem if he does not perform ghusl and does tayammum instead’ (lā ba’s bi-an là yaghtasila wa yatayammima).

The same report is found in al-Faqih but with the following variations: “open wounds” (qurūḥ) for “open wound”, “injuries” (jirāḥāt) for “injury”, fa-yajnuba for yajnubu, fa-qāla for qāla and the final phase reads lā ba’s bi-an yatayammama wa lā yaghtasila. A similar level of variation, at times attributable to copyist or editorial errors, exists in much material common to both al-Kāfī and al-Faqih. In all, six of the fourteen reports in al-Faqih are also found in al-Kāfī, often with different interlocutors and minor textual variations.

The above report from Imam Bāqir is found in yet another form in al-Tahdhib:

Al-Ḥasan b. Maḥbūb–Abū Ayyūb–Muḥammad b. Muslim said: I asked Imam Bāqir about a man in a state of major ritual impurity (al-junub) who had scars on him. He said, “There is no problem if he does not do ghusl and does tayammum.”

This is clearly the same report (the last three names in the isnād are identical in al-Kāfī and al-Tahdhib, and the questioner is the same Muḥammad b. Muslim in all three works), but Tūsī receives it in an abbreviated form with no mention of wounds (merely scars) and al-rajul yajnubu becomes al-junub. This might be seen as additional evidence of a difference between the version of Kulaynī’s al-Kāfī

56 Ibn Bābūya, al-Faqih, 1, 105.
57 In other variants, with yet other isnāds, the well is termed “bī‘r”. See Kulaynī, al-Kafī, 3, 65; Tūsī, al-Tahdhib, 1, 185 and 1, 150; Tūsī, al-Istibṣār, 1, 127.
58 Tūsī, al-Tahdhib, 1, 184.
59 Ibn Bābūya, al-Faqih, 1, 107.
60 Tūsī, al-Tahdhib, 1, 185.
available to Ṭūsī and that available to us in the printed edition. If both al-Kāfi and al-Faqih akhbār were available to Ṭūsī, one detects a measure of combination in Ṭūsī’s formulation. From Kulaynī, he appears to have taken the isnād and the wording of the final phrase. From Ibn Bābūyā, he appears to have taken the plural “qurūḥ.” He also seems to have undertaken some editorial work (omitting jirāḥalal-jirāḥār and changing al-rajul yajnub to al-junub). The ruling in these reports is also found in the al-Tahdhib, combined with other reports that have no precedent in al-Kāfi or al-Faqih:

[al-Tahdhib]

Ṭūsī—Shaykh Mufīd–Aḥmad b. Muḥammad–his father–Sa’d b. ʿAbd Allāh–Aḥmad b. Muḥammad–Aḥmad b. Muḥammad b. Abī Naṣr–Dāwūd b. Sīrāḥ [asked] Imam Jaʿfar about a man who contracts jānāba and has scars (qurūḥ) or wounds (jirāḥār) or fears for his own [health] due to the cold. [The Imam] said, “He does not do ghusl and does tayammum.”

Here the reasons that excuse one from performing ghusl, even when water is present, are expanded from injury (wounds and scars) to fear for one’s health due to the cold. This additional rationale is found in a separate report in Kulaynī’s work (cited above), but here is presented as a hypothetical question on which Imam Jaʿfar must give a ruling. Editorial processes (performed by Ṭūsī, or someone earlier) are clearly at work here.

One feature of the isnāds and variants under discussion here is the phenomenon of ‘raising’ an isnād from a companion to the Imam. In general the ‘raising’ is merely reported and not justified by the authors. The implication appears to be that the author (or his informant), after investigation, determines that a report with a companion isnād is in fact a reflection of the Imam’s words. In al-Kāfi the following report is related:

ʿAli b. Ibrāhīm–his father–ʿAbd Allāh b. al-Mughīra who said, “If (in) the earth is damp and there is neither water nor dust upon it, then look for the driest area you can find, and perform tayammum with the dust or dusty matter there. If one is in a situation such that one can only find

61 Ibid., 1, 185.

62 This report shows extensive variation in its different versions. Ṭūsī uses Kulaynī’s isnād, but also cites a version transmitted via Ibn Sīnān, presumably the version known to Ibn Bābūyā and cited in al-Faqih (see Ṭūsī, al-Tahdhib, 1, 196).

clay, then there is no problem if one performs *tayammum* with that (bihi)."\(^{64}\)

A similar report is found in *al-Tahdhib* and *al-Istibsār*:

Sa‘d b. ‘Abd Allāh–Aḥmad–his father–‘Abd Allāh b. Mughīrā–Rifā‘a–Imam Ja‘far who said, ‘*If (īdāḥ) the earth is damp and there is neither water nor dust upon it, then look for the driest area you can find, and perform *tayammum* with it (minhu). This is a dispensation from God.*’ He [then] said, ‘*If one is in snow and one looks in one’s saddle-bag, then do *tayammum* with the dust or dusty matter there. If one is in a situation such that one can only find clay, then there is no problem if one does *tayammum* with that (minhu).*’\(^{65}\)

This second report is clearly the first report with the interpolation of two phrases (‘*This is a dispensation*’ and ‘*If one is in snow...*’), both traceable to another report, cited by Ṭūsī (and quoted earlier). The interpolation is introduced by the ‘He [then] said...’ formula. The *isnād* (Rifā‘a–Imam Ja‘far) from the earlier report has also been inserted to raise this report from one attributable to a companion to one derived from the Imam himself. The result is a more authoritative proof of a legal injunction concerning *tayammum* with clay or moist earth.

A raised report (*marfu‘*) is not always cited with any sense of controversy. In the above report the appearance of ‘raising’ might be coincidental, but on other occasions the authors do not express any embarrassment concerning the raised report:

[al-Ḳūfī]

Kulaynī–‘Ali b. Ibrāhīm–his father, who raised [this report to the status of a report from an Imam], ‘*If one contracts a state of jannāba [intentionally?], then one must do *ghusl*, as is normal. If one ejaculates, one may do *tayammum*.’\(^{66}\)

[al-Tahdhib]

Ṭūsī–Mufīd–Abū al-Qāsim–Kulaynī–‘Ali b. Ibrāhīm who raised [this report to the Imam], [the same report].\(^{67}\)

Whether it was ‘Ali b. Ibrāhīm or his father who raised the report is not discussed, though the *isnāds* appear to designate a different agent. That there is something problematic about this raised report is, however, evidenced by Ṭūsī’s citation of a similar report with a raised *isnād*, but with the Imam named:

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\(^{64}\) Kulaynī, *al-Ḳūfī*, 1, 66.

\(^{65}\) Ṭūsī, *al-Tahdhib*, 1, 190; Ṭūsī, *al-Istibsār*, 1, 156.

\(^{66}\) Kulaynī, *al-Ḳūfī*, 1, 67.

\(^{67}\) Ṭūsī, *al-Tahdhib*, 1, 197-98.
The report here is explicitly raised, without embarrassment, from a companion to an indeterminate Imam, and finally (in a modified form) to Imam Ja‘far. The strengthening of the isnād by citing ‘a number of scholars’ is probably a concession to the principle of tawātur mentioned earlier and is further evidence of the initially problematic nature of this report.69

Consider a final example of variation/improvement:

[al-Kāfī]
Kulaynī—‘Ali b. Ibrāhīm—his father and ‘Ali b. Muḥammad together—Sahl b. ‘Aḥmad b. Muḥammad b. Abī Naṣr—Ibn Bukayr (or Bakir)—Zurārā said, ‘I asked Imam Bāqir about tayammum. He patted the ground with his hand, then raised it, shook it and rubbed both his brow (jabīnayhi)70 and his palms once.’71

In al-Tahdhib, a report with an identical isnād (with the addition of Ṭūsī—Shaykh—Abū al-Qāsim—Kulaynī) is found with the following two variations: the hand used by the Imam is specified as the right hand, and jabinayhi is changed to the singular (jabīnīhi).72 In al-Istibsār one finds the following report:

Ṭūsī—Muḥīd—Abū al-Qāsim—Kulaynī—‘Ali b. Ibrāhīm—his father and ‘Ali b. Muḥammad together—Sahl b. Ziyād—‘Aḥmad b. Muḥammad b. Abī Naṣr—Ibn Bukayr—Zurārā said, ‘I asked Imam Bāqir about tayammum. He patted the ground with both his hands, then raised them, shook them and rubbed both his forehead (jabīnīhi) and his palms once.’73

Since the Imam here is demonstrating tayammum, his actions must be viewed as exemplary and in line with legal doctrine. ‘His hand’ would be too ambiguous; ‘his right hand’ is more specific; ‘both his

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68 Ibid., 1, 198; Ṭūsī, al-Istibsār, 1, 162.
69 Ṭūsī makes no mention of an ‘Ali b. Aḥmad who relates from Imam Ja‘far in his Rījāl, hence an ‘Ali b. Aḥmad could not have related from Imam Ja‘far, hence the need to raise the report.
70 See above, n. 24.
71 Kulaynī, al-Kāfī, 3, 61.
72 Ṭūsī, al-Tahdhib, 1, 211.
73 Ṭūsī, al-Istibsār, 1, 171.
hands’ is the phrase that most accurately reflects the performance of tayammum described in works of fiqh (such as Mufid’s al-Muqni’a). The shift from jabinayhi to jabinihī might perform a similar function: bringing the report into line with fiqh descriptions of tayammum. Indeed, there is yet another variant, found only in Tūsī’s two works, in which Imam Bāqir performs the ritual. He pats the ground with his two hands (yadayhi) and rubs his jubha. The isnād accompanying this report shares the Aḥmad b. Muḥammad b. Abī Naṣr–Ibn Bukayr–Zurāra links, though the rest of the isnād differs.

Whether these variations and lexical adjustments derive from increasingly elaborate descriptions of the ritual in works of fiqh, or the flow of influence runs in the opposite direction, it seems clear that Tūsī has a number of different versions of similar akhbār to present. He carefully selects which akhbār to use, such that a seamless causal line can be drawn between revelation and the law.

Examples of such refinement in isnād and matn (a process not yet complete in the Imāmi hadith collections) could be multiplied and subjected to further scrutiny and comparison with other early texts. At this stage, the evidence suggests some tentative conclusions:

1. Though isnād criticism clearly influenced the selection and presentation procedures used by Kulaynī and Ibn Bābūya, it is Tūsī (in both of his works, but more explicitly in al-Istibsār) who appears to be aware of the central importance that the isnāds are to play in Shi‘a (and more generally, Muslim) discussions.
2. This sensibility to the function of both isnāds and matn variants in other areas of learning at times leads to the abbreviation and lexical adjustment of matns and the completion of previously truncated isnāds (especially with reports from Ibn Bābūya). Some of the variations can be ascribed to later copyist or editorial errors, others to variations in lines of transmission. However, taking these factors into account, Tūsī’s material appears more nuanced and useful to other legal disciplines than his predecessors’ collections.
3. Tūsī clearly displays a marked preference for the more ordered and carefully transmitted work of Kulaynī, and regularly cites him in isnāds. Whereas Kulaynī and Ibn Bābūya draw on a common body of

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74 In his fiqh-style summary of the tayammum ritual, Ibn Bābūya specifies that the floor is patted with both hands, though he provides no reports which depict such an action (see al-Fāqih, 1, 104 and Mufid, al-Muqni’a, 8, II.20-34; also see Ibn Bābūya’s description in al-Muqni’, 3, II.31ff and al-Hidāya, 49, II.17ff).
transmitted material, it does not appear to be the case that Ibn Bābūya had access to Kulaynī’s al-Kāfī. The akhbâr available to Ibn Bābūya were also available to Tūsī, and the latter certainly knew of Ibn Bābūya’s reports,75 though he rarely cites him in isnāds. On the other hand, Tūsī had access to a copy of Kulaynī’s al-Kāfī, but presented material from the work in the usual form of isnād plus matn, indicating oral transmission.

Conclusions

The preceding analysis, and the tentative conclusions drawn from it, are not directly concerned with the authenticity of the Imāmī akhbâr, but with their selection and presentation in the collections later regarded as canonical. For reasons, mostly of convenience, my analysis has centred on the reports relating to tayammum. The analysis of additional material would, I believe, produce comparable results for other areas of the law. Though I have suggested cases of adjustment and improvement, these might be accounted for by judicious selection on the part of the compilers. The classical account postulates the existence of pre-Kulaynī collections of akhbâr (termed the “usūl”), the number of which was eventually settled at 400.76 Few of these collections have survived, and their provenance is debatable. No assertion concerning the authenticity of the reports can be made until after consultation with these and other documents, a task greater than that envisaged here. What seems clear is that the selection and arrangement of reports was an intellectual discipline that moved from relative isolation to a position of interaction and mutual influence with other emerging genres of religious writing. Most obviously, works of fiqh (the earliest surviving Imāmī examples of which come from Ibn Bābūya himself) began to exert control over, modify (and at times were modified by) akhbâr collections. Furthermore, one sees the gradual domination of the legal sciences. Kulaynī was a muhaddith; Ibn Bābūya was both a muhaddith and a faqīh; Tūsī was a faqīh whose collections of ḥadīth are not lists of akhbâr but lists of rules with supporting akhbâr. The establishment of the four works as “canonical” was, then, aimed at reducing the importance of

75 Tūsī refers to him as having a riwāya (al-Tahdhib, 10, 74). In the kitab al-sanaat of al-Istibsâr, where Tūsī lists the various isnāds used in the collection, he refers to Ibn Bābūya (though not al-Faqqih by name) as a source of reports. Tūsī writes that he has received these reports through his teacher, Mufid (al-Istibsâr, 4, 326).

collecting of *akhbār* and placing *fiqh* as the central intellectual discipline. The evidence indicates a development from the law being solely expressed through *akhbār* (and hence obviating the need for an independent *fiqh* genre) to the *akhbār* being utilized as evidence for the expression of the law found in previous works of *fiqh*. This development ran parallel to the realization that the *ghayba* was a semi-permanent feature of Imāmi existence, and so a class of intellectuals had to take the place of the Imam as the arbiters of God’s law. In short, the Imāmi jurists began to use *akhbār* in the manner Sunni jurists used *ahādith*; and their jurisprudence surely had an influence upon the collection and employment of Imāmi reports. The development of the Imāmi *fiqh* tradition, supported by the *akhbār*, rather than identical with them, enabled Shi‘i intellectuals to challenge the emerging (Sunni) legal orthodoxy on equal terms.\(^\text{77}\)

\(^{77}\) For a general account of the Imāmi encounter with, and reaction to, Sunni legal orthodoxy, see Stewart, *Islamic Legal Orthodoxy*, passim and particularly chs. 3 and 4.