Slavery, Indenture, and Freedom: Exegesis of the '*mukātaba* Verse' (Q. 24:33) in Early Islam

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Introduction

Indenture in English refers to a two-person contract; the 'denture' is the pair of jagged edges that could be matched up to identify two identical copies.[1] It was used historically for the institution of indentured servitude by which many colonists from Europe to North America entered into such a contract in exchange for passage.[2] In Islamic law, *mukātaba* ('indenture') refers to approximately the reverse: a method by which slaves can enter into a contract to buy their freedom. The *mukātab* ('indentured servant') usually has a legal status distinct from other slaves, though how this difference should be articulated was subject to much early debate.[3] What was agreed, however, is that the basic form of the contract requires a total price and payment over a set term (typically in instalments).[4] Though there is no doubt that slavery was a significant part of seventh-century Arabian society, the available sources do not seem to allow a definitive answer to whether the *mukātaba* contract[5] existed in the Ḥijāz before the revelation of the Qur'an.[6]

The standard Qur'anic basis for the institution is Q. 24:33, which contains a sentence usually translated along the following lines: *those who desire an indenture (al-kitāb) from amongst your slaves, write [a mutual contract] with them (fa-kātibūhum) if you see good (khayr) in them and give them from God's wealth (māl Allāh) that he has given you …*[7]

Patricia Crone, though acknowledging that Muslim tradition has unanimously read this verse as referring to *mukātaba*, treats this as an example of early disconnect between the Qur'anic text and its normative use as law.[8] Her argument is that the linguistic context of Q. 24:32 and the first part of Q. 24:33, which refer to marriage, as well as the overall

message of *Sūrat al-Nūr* about sexual propriety, make it obvious that the verse refers to supporting slaves who wish to marry. She argues,[9]

> The institution of *kitāba* has its roots in provincial law, and it does not owe a single feature to the Qur'an, not even the practice of charitably forgoing the last instalments: the charitable practice was read into the book rather than derived from it.

In this article, my main focus will be on how Muslim exegetical tradition records the early understanding of this part of the verse. I will not, therefore, study the coherence (or lack thereof) of this interpretation with the rest of the verse, passage and sura, or assess Crone's reading from this angle.[10] It is worth noting, however, that Crone's puzzlement, if not her solution, was anticipated by the theologian and exegete Abū Manṣūr al-Māturīdī (d. 333/940). He too thought that the collocation of the words *al-kitāb* and *fa-kātibūhum* in the verse have an obvious sense, as follows:[11]

> The manifest (*ẓāhir*) meaning of this is not indenture (*al-kitāba*), but rather the well-known Book (*kitāb*) of God, Most High, which is its meaning in an unrestricted sense. That is, they ask their masters for instruction in the Book (*kitāb*). However, the people have not understood that, but rather the indenture (*kitāba*) of male and female slaves, taking that as the verse's meaning.

For al-Māturīdī, who is also an early *uṣūlī* ('legal theorist'), the important thing to consider is not total passage context, but whether the word *kitāb* within its sentence has been conditioned by other immediate lexical elements, or left unrestricted, in which case it would mean the Qur'an.[12] Perhaps a lesson here is that any 'obvious' meaning is only so within a certain set of hermeneutic assumptions circumscribed by the history and experiences of the commentator.[13] While revealed scripture represents a community's record of transcendent divine communication, including God's law, it is up to diverse contingent human beings to remember, transmit, and interpret the injunctions that they receive in the light of their own experiences.

It is with this frame in mind that I will study a wide range of early exegetical reports on Q. 24:33, examining the juristic questions that were answered through seeking to clarify its ambiguous language. This remains open to multiple subtleties of interpretation even once its basic referent has been settled. The three main aspects I will analyse are as follows: whether the command form of *fa-kātibūhum* (lit. 'write with them') connotes obligation, recommendation, or permission; the precise meaning of the condition to see *khayr* ('good') in the slaves; and the implications of the instruction to give them *māl Allāh* ('God's wealth'). This study uses the patterns of interpretation for these three phrases to map the main exegetical trends towards Q. 24:33 as they emerge against the

theologico-political and socio-economic environment of early Islam. By telling the story of the reception of the *mukātaba* verse within the first two Islamic centuries, I propose it is possible to provide an insight into the way that the discourse of legal exegesis within the educational circles of early Muslims intersects with broader patterns of social development, especially concerning the institution of slavery.

Studying Early Muslim Exegesis

Much ink has been spilled in debate over the historiography of early Islam: the so-called 'authenticity question'. It has been a singular obsession for more than a century in academic Islamic studies, especially early legal history, arguably at the expense of other interesting questions.[14] It seems, however, that a long period of grave scepticism towards the reliability of any reports transmitted by *isnād* and preserved in writing within later literary sources is gradually ending. On the one hand, this is connected with greater appreciation of the sophistication of the methods used by early traditionists to authenticate reports.[15] On the other, it is due in no small part to the increasing acceptance of an academic method often called *isnād*-cum-*matn* analysis, which studies the various strands of a given tradition by checking the corroboration of chains of narration in the extant written sources.[16] Elsewhere I have argued that, though ultimately dependent for raw materials on what such collectors chose to preserve, the dedicated work of Harald Motzki and others has been fruitful in demonstrating to the oft-sceptical Western academy that the process known in classical Muslim scholarship as *iʿtibār* ('cross comparison of multiple chains of transmission') can be used to verify early reports.[17] I have further suggested that the so-called common link, the first point at which the chains of transmission for a given report passes through a single narrator, does not deserve to be treated as the limit of credible information about the past, though equally such single narrations cannot engender epistemological certitude.[18] On technical methodological grounds, then, as well as broader historical arguments to follow in the specific case of the exegesis of Q. 24:33, I hold Motzki's tendency to conclude that the first generation of the *tafsīr* tradition cannot be recovered is too cautious.[19]

I propose that the field's sceptical phase has left obvious scars on the *isnād*-cum-*matn* analysis technique that has emerged in its wake. The method as typically practised in academic studies can lead to a mere reinventing of the wheel: labour-intensive work in order to meet evidentiary standards that have arguably been placed artificially high. At its worst, it replaces sensitive and imaginative approaches to the sources with sterile focus on their 'dating' according to an arbitrary set of assumptions. Moreover, while early *tafsīr* has no shortage of *isnād*-rich sources, the analysis below shows that the conclusions drawn from those texts without discrete *isnād*s are consistent with the general regional and chronological patterns that emerge from those with them. Thus, even though on an individual basis the commentary associated with early Muslims may

certainly be questioned, it seems unjustified to disregard the overall patterns of exegetical activity that can be observed in the complex tapestry of early Islamic tradition. To do so, one would have to put together a more convincing alternative explanation for systematic misrepresentation, and such arguments have not tended to stand the test of time very well.[20] In any case, if the present study leads to future researchers going further into the sources and sifting them more effectively, that is all to the good.

I have made use of a broad range of early sources for this study. I have mined a number of tradition-minded Sunnī collectors, including ʿAbd al-Razzāq al-Ṣanʿānī (d. 211/827), Ibn Abī Shayba (d. 235/849), al-Ṭabarī (d. 310/923), al-Ṭaḥāwī (d. 321/933), and Ibn Abī Ḥātim (d. 327/938), as well as juristic works that omit chains of narration, such as the *al-Ishrāf* of Ibn al-Mundhir (d. 318/930), the *Aḥkām al-Qurʾān* of al-Jaṣṣāṣ (d. 370/980–981), and others from the proto-Zaydī and Ibāḍī traditions.[21] Some of the figures that I analyse in the second/eighth century also have extant written works, such as Muqātil b. Sulaymān (d. 150/767), Mālik b. Anas (d. 179/795–796),[22] and Abū Ghānim al-Khurāsānī (d. *c.* 200/815).

The part of Q. 24:33 that I focus on in this article displays a very wide range of early exegetical opinions; sometimes several associated with a single person. The approach taken is therefore to preserve the overarching patterns of diverse ascription while attempting to establish the most credible reading, where possible. In some cases this has involved carrying out analysis of various chains to establish the most likely view of a given figure.

In terms of article structure, I will first provide a synopsis of the historical background to exegetical activities in the first/seventh and second/eighth Islamic centuries with special reference to the place of slavery in society. I will then analyse the reports connected to major figures in terms of their interpretation of *fa-kātibūhum*, *khayr*, and *māl Allāh* in Q. 24:33, before teasing out the underlying patterns within three major exegetical contexts. The first is centred in Medina, which consists of the reported views of very early figures, most notably the caliphs ʿUmar b. al-Khaṭṭāb (r. 13–23/634–644), ʿUthmān b. ʿAffān (r. 23–35/644–655), and ʿAlī b. Abī Ṭālib (r. 35–40/655–660). The second is the circle of students of the Prophet's cousin, the Qurʾan expert Ibn ʿAbbās (d. 67–68/686–688), based primarily in Mecca, which consists mainly of figures active in the first/seventh and early second/eighth centuries. The third and final context is composed of non-Meccans from the end of the first/seventh century to the end of the second/eighth century, drawn from Medina and the garrison towns of Kufa and Basra in Iraq. This group includes some of the most famous and authoritative jurists of early Islam, figures such as Abū Ḥanīfa (d. 150/767) and Mālik b. Anas. I will conclude by attempting to retell the story of *mukātaba* within formative Muslim intellectual and social history.

Contextualising Legal Exegesis in Early Islam with Reference to Slavery

The social context in which the early Medinan community lived, though shaped in numerous ways by the teachings of the Prophet Muḥammad, still reflected basic realities inherited from its historical grounding, including the existence of slavery. Available sources point to new slaves in pre-Islamic Arabia as predominantly other Arabians.[23] They would enter into the possession of others in the following main ways: capture in wars and raids; birth into slavery; trading; parents selling their children; and in payment of a debt.[24] Of these, the Muslim tradition only recognised the first three as legally valid—a free person could neither sell himself or herself, nor another free person, into slavery.[25] The Caliph ᶜUmar is credited with banning the capturing and enslavement of Arabians,[26] meaning that from his caliphate onwards, any pressure for new slaves shifted to the outer borders of the expanding Muslim empire, a point to which I shall return.

In the pre-Islamic period, a freed slave would enter into a relationship of walāʾ ('patronage') with his or her former master, most likely an aspect of Arabian customary law that was continued by the Prophet.[27] This, in effect, provided the freed slave with extended-family ᶜaṣaba ('agnates') that he or she would not otherwise have. As articulated in classical Muslim legal discourse, the reciprocal benefits of walāʾ were that the ᶜaṣaba would give support in penal matters and receive a share of inheritance if no closer relatives were alive.[28] Nonetheless, walāʾ was still considered 'a portion of slavery' (shuᶜba min al-riqq)[29] and signified a lower social status than a person who had always been free.

Whether the specific institution of mukātaba existed before Islam is an open question. Classical Muslim scholars disagree over whether it predates the period of revelation or originates as part of the revealed law.[30] Schacht thinks that Q. 24:33 assumes knowledge of the specific contract in question.[31] Crone, though not convinced that the verse refers to mukātaba, uses several well-known pre-Islamic narratives of figures who would later become members of the Prophet's community to argue for the existence of a related archaic form of manumission in which the slave was adopted (Zayd b. Ḥāritha), or only freed after the master's death (Ṣuhayb b. Sinān).[32] However, neither of these is identical to the mukātaba within later Islamic law. The former remains possible, with the proviso that the adoptee retains a named lineage to their biological father (see Q. 33:5), while the latter is closer to the institution in Islamic law known as tadbīr ('post-mortem manumission'). Crone recognises this and suggests that pre-Islamic Arabia represents an earlier stage of development compared to other areas in the Near East, which had institutions very similar to the mukātaba that Muslims took up following the Arab conquests.[33]

My view is that if the available evidence for how Q. 24:33 was understood only points towards the indenture contract, then there is no need, as Crone and others have done,

to posit a disjuncture between the existence of the verse and its legal application to situations involving slaves during the first generations.[34] The most obvious interpretation of the available information is that the verse was recited; it was understood as referring to *mukātaba*; slaves hearing the verse would wish to avail themselves of its provision for manumission; and early exegetes would be forced to interpret its legal implications.[35] This is exactly what the sources record. In some reports, the first *mukātaba* contract is concluded between ʿUmar and his slave Abū Umayya.[36] In another one, a *sabab al-nuzūl* ('occasion of revelation') is given that Q. 24:33 relates to a request for *mukātaba* from Ṣabīḥ al-Qibṭī to his master Ḥuwayṭib b. ʿAbd al-ʿUzzā.[37] There is also a widely quoted incident in which ʿUmar reprimanded Anas b. Mālik (d. *c*. 91/709) for refusing *mukātaba* with his slave (see below). While the existence of the practice, and its relationship to the verse, seems secure, it is less certain to what extent it represents an innovation with respect to the previous legal status of slaves.

The exegetical activity around Q. 24:33 associated with Mecca in the first/seventh and early second/eighth centuries is dominated by the circle of Ibn ʿAbbās. The life events of this junior cousin of the Prophet and dominant name in the exegetical tradition mirror in many ways the political turmoil of the first/seventh century. Seemingly content to uphold the arbitration agreed between ʿAlī and Muʿāwiya (r. 40–60/660–680) at Ṣiffīn in 37/657, Ibn ʿAbbās is said to have left the company of ʿAlī in about 38/658 following the killing of many members of the Khawārij at Nahrawān outside of Kufa, a conflict he tried to head off. He settled in Mecca for over twenty years from approximately 40/660 and focused on teaching, a period during which the capital of the caliphate moved to Damascus during the undisputed reign of Muʿāwiya.[38]

The final years of Ibn ʿAbbās' life took place against the backdrop of heightened sectarian stirrings following the power vacuum created by Muʿāwiya's death in 60/680 and his son Yazīd (r. 60–64/680–683) soon afterwards.[39] The killing of the Prophet's grandson Ḥusayn at Karbala in 61/680 acted as a catalyst for developing proto-Shīʿa movements. These were focused for a time on a third son of ʿAlī, Muḥammad b. al-Ḥanafiyya. Born to Khawla bt Jaʿfar al-Ḥanafiyya, rather than Fāṭima bt Muḥammad, he could not claim direct descent from the Prophet, but was still feted as a charismatic ʿAlawī and member of the *ahl al-bayt* due to his father.[40] Ibn ʿAbbās is said to have been temporarily banished along with this figure when he did not accept the caliphate set up in Mecca by another early Muslim, ʿAbd Allāh b. al-Zubayr (r. 64–73/683–692). Upon returning in 64/683, they were imprisoned for continued opposition before being liberated by the Kufan Shīʿī sectarian leader al-Mukhtār (d. 67/687).[41]

Also in 64/683, a number of Khārijī leaders apparently left from Basra in Iraq to give their support to Ibn al-Zubayr in Mecca, among them Nāfiʿ b. al-Azraq (d. 65/685),

ᶜAbd Allāh b. al-Ṣaffār, and ᶜAbd Allāh b. Ibāḍ, though the latter two figures may be apocryphal insertions to show the political prominence of a moderate Khārijism from an early stage.[42] The relationship between Ibn al-Zubayr and the Khārijī leaders quickly soured, apparently over his refusal to repudiate ᶜUthmān,[43] and while Nāfiᶜ left Basra to set up a short-lived emirate in nearby Aḥwāz (in modern-day Khuzestan, Iran), the proto-Ibāḍī[44] faction who Ibn Ibāḍ likely represents in the narrative, stayed in the garrison town and hid their tendencies.[45] Another significant Khārijī leader of this period for the present study is Najda b. ᶜĀmir al-Ḥanafī (d. *c.* 72/691) who split from Nāfiᶜ b. al-Azraq and set up his own emirate in the eastern region of Arabia. While raiding a caravan sent from Basra to Ibn al-Zubayr along with another chief, he offered shares of the booty to 4,000 slaves that were owned by his collaborator. In the words of Wilkinson, 'the slaves deserted to Najda en masse, giving their oath of allegiance as equals'.[46] This story not only raises interesting theologico-political questions about the attraction of Khārijī-Ibāḍī articulations of Islam to slaves,[47] but also legal ones under the assumption that slaves are able to possess wealth in their own right.[48] When Najda's emirate expanded to cover a large area of the eastern and southern Arabian peninsula and threatened to cut off Mecca and Medina from supplies, it was none other than Ibn ᶜAbbās who apparently intervened with the Khārijī leader to defuse the situation.[49]

Ibn ᶜAbbās' major students seem even more connected to emerging proto-Ibāḍī movements.[50] ᶜIkrima (d. 105/723–724) the *mawlā* ('freed slave')[51] of Ibn ᶜAbbās is widely associated with various sub-sects of the Khawārij,[52] including the Ibāḍīs and sometimes specifically the Ṣufriyya, which he may have tried to support in its political aspirations in North Africa.[53] Meanwhile, a fellow student of Ibn ᶜAbbas, Jābir b. Zayd al-Azdī, who was originally from present-day Oman, is often credited as the main organiser of the Ibāḍīs in Basra.[54] Though there is no doubt that he is the key figure that later Ibāḍīs associate with the transmission of religious jurisprudence and traditions from the first generation of Muslims,[55] his theologico-political activity seems harder to gauge from his public teaching activities.[56] A fascinating piece of evidence is a cache of his private correspondence, some of which indicates he was actively involved in advising the just governance of small Khārijī/proto-Ibāḍī communities in Arabia, most likely in the region of Oman during the instability of the Zubayrite years.[57] Two more students of Ibn ᶜAbbās, Mujāhid b. Jabr, the freed slave of ᶜAbd Allāh b. al-Sāʾib and ᶜAṭāʾ b. Abī Rabāḥ, the *mawlā* ('client') of Banū Jamḥ, and their student, the younger Meccan scholar ᶜAmr b. Dīnār,[58] are also mentioned as involved in the political turmoil of the first century. ᶜAṭāʾ's hand was chopped off in the events of the fall of Ibn al-Zubayr's caliphate and the reassertion of Umayyad rule,[59] while Mujāhid and ᶜAmr appear on al-Ashᶜarī's list of Ibāḍīs.[60] The three are reported, along with Iraqīs Ṭalq b. Ḥabīb (d. *c.* 95/714) and Saᶜīd b. Jubayr, as being imprisoned in 94/713 by the Meccan governor Khālid al-Qasrī on the orders of al-Ḥajjāj b. Yūsuf (d. 95/714). While the

three Meccans were later released, the originally Kufan Ibn Jubayr was executed (as was possibly the case for Talq).[61] It seems difficult to pin down why the circle of Ibn ʿAbbās was targeted along with these alleged sympathisers of the Murjiʾa, but it may be that the apparent proto-Ibāḍism of some of them was also considered a threat to the dominant order.[62]

The development of intellectual and political activity during the first two centuries was mirrored by change in the social and economic realms. Marshall Hodgson points to an especially important transformative moment for early Muslim civilisation towards the end of its first century. After the death of Ibn al-Zubayr and the ascendancy of ʿAbd al-Mālik b. Marwān (r. 65–86//685–705) to undisputed Umayyad caliph, along with his recapture of the Ḥijāz and swathes of territory previously ceded to Khārijī groups,[63] there is a profound shift towards prosperity and overall stability.[64] This, however, is at the expense of the political importance of Arabia within the expanding empire, which sharply declines before the end of the first/seventh century.[65] The prohibition of capturing slaves within the Arabian peninsula and shift in the hub of economic activity to agricultural production in newly acquired regions in the Near East[66] led to the dwindling of commercial affairs in the Ḥijāz, which presumably included slavery.[67] Though it should be expected that slaves continued to be used as servants, singing girls, and concubines, the demand was unlikely to be as intense as in the conquered lands. These regions had a greater economic need for labour and the price of slaves was higher, in part due to the diminishing of the general population by plague in recent centuries.[68] The supply in the early period came from the outer extremities of the growing Muslim empire via war captives who later became *mawālī* (freed slaves).[69] For instance, as Muslims conquered North Africa, members of Berber tribes were enslaved who often became attracted to the prevalent forms of Khārijism and the growing strand of Ibāḍism.[70] Savage points out that, during the second/eighth century, many Berber slaves converted to Ibāḍism—possibly in part due to its egalitarian vision—and then these new Ibāḍīs, in turn, became slavers of populations in Sudan.[71]

Intellectual activity outside of Mecca and Medina was concentrated in the major Muslim settlements, which were mainly the garrison towns founded in the wake of the first conquests: Kufa and Basra in Iraq, and Fustat in Egypt—the only exception was the ancient city of Damascus, the Umayyad capital. A generation of scholarly figures especially well-represented in exegetical commentary, and thus also as commentators on Q. 24:33, are active around the turn of the second/eighth century as peers to the Meccans discussed already. These individuals, such as al-Ḥasan al-Baṣrī (d. 110/728–729) in Basra and Ibrāhīm al-Nakhaʿī (d. 96/715) in Kufa, were not only active in early teaching activities within a broad range of disciplines, but moral authorities within the political matrix of Marwanid society.[72]

The next major generation in the sources is predominately composed of early ʿAbbāsid-era scholars; usually specialised jurists from the middle to the end of the second/eighth century. Such figures prominently include those individuals later feted as the eponyms of schools of Islamic law,[73] for instance Abū Ḥanīfa and Sufyān al-Thawrī (d. 161/778) in Kufa, and Mālik b. Anas in Medina.[74] These scholars are associated with a more systematic approach to legal thinking, each reflecting and in places extending the summative understanding garnered from his regional network of teachers.[75] Although these figures differed in their legal methods, notably in the extent of their involvement in the collection and transmission of distinct ḥadīths, the idea of a more or less sharp break between the so-called ahl al-ḥadīth and ahl al-raʾy seems to be a development at the very end of the second/eighth century.[76]

Social conditions continued to develop rapidly in the ʿAbbāsid era. An important development was the transferral of the capital of the caliphate from Syria to Iraq: first Kufa, then Baghdad following its construction in 145/762.[77] Slaves and mawālī were not only an important part of the palace and court culture of the ʿAbbāsids,[78] but also in the emergence of plantation slavery within the Sawād. From the mid-second/eighth century onwards, a form of chattel slavery was utilised by wealthy interests in ʿAbbāsid society within plantations in Lower Iraq.[79] The work was gruelling: clearing a layer of nitrous topsoil from marshy land so that it could be cultivated for produce,[80] while the intensity of agricultural production far exceeded the capacity of the local population and generated the demand for the transportation of slaves from the outer regions of the empire.[81] The injustice of the Sawād plantations provoked recurring revolts, eventually leading to the Zanj rebellion by slaves from East Africa that seized control of substantial territory between 255/869 and 270/883.[82] Overall, appreciation of the diverse form and function of slavery and its relationship to the political, social and intellectual currents of formative Islam must be part of the background against which study of the exegesis of Q. 24:33 is framed.

Medinan Exegesis (First/Seventh Century)

Name	City	fa-kātibūhum	khayr	māl Allāh
ʿUmar (d. 23/644)	Medina	Obligation[83]	Profession (ḥirfa)[84]	Obligation from master's own wealth[85]
ʿUthmān (d. 35/655)	Medina	Obligation[86]	Profession[87]	Recommendation of remission from the contract.[88]
ʿAlī (d. 40/660)	Medina/ Kufa	Permission[89]	Wealth (māl)[90]	Recommendation to give one quarter.[91]

Name	City	*fa-kātibūhum*	*khayr*	*māl Allāh*
Ibn ʿUmar (d. 73/693)	Medina	?	Profession[92]	Recommendation of remission from the contract[93]
Anas b. Mālik (d. c. 91/709)	Medina	Permission, but ʿUmar obligated him.[94]	?	?
Ibn ʿAbbās (d. 67–68/ 686–688)	Medina/ Mecca	Obligation[95]	Wealth[96]/ingenuity (*ḥīla*)[97]	Obligation (?) of remission from the contract[98]

Fig. 1. Major Medinan Legal Exegesis of Q. 24:33 in the First/Seventh Century[99].

The starting point for discussing the earliest exegesis of Q. 24:33 is the aforementioned narration about Anas b. Mālik, the Prophet's former servant. In it, his slave Sirīn—notable for being the father of the early scholar Ibn Sirīn (d. 110/728)—requests him to write an expensive contract of *mukātaba*.[100] He refuses, so ʿUmar orders him to do it.[101] After Anas rejects this command, ʿUmar raises his whip (*dirra*) and flogs him, saying, 'Write [a contract] with them if you see good in them!', making him swear an oath that he would do so.[102] With the exception of the corrected Anas, most of the available sources obligate fulfilment of any request for *mukātaba* from those who meet its condition, an observation explicitly confirmed by al-Ṭabarī.[103] Such a position also coheres well with the general Qur'anic emphasis on manumission.[104]

However, in the *Majmūʿ al-fiqh*, ascribed to Zayd b. ʿAlī (d. 120/738), there is a report that the caliph ʿAlī, his great-grandfather, held the position that a master retained full control over which slaves to free, which implies he held *mukātaba* to be merely permissible.[105] Though the *Majmūʿ al-fiqh* was only compiled later by Abū al-Qāsim ʿAbd al-ʿAzīz b. Isḥāq b. Jaʿfar al-Baghdādī (d. 353/964), it seems reasonable to treat its preservation of the views of Zayd on *mukātaba* (which are in many places attributed to ʿAlī) as somewhat credible.[106] As well as this rule, the proto-Zaydī tradition is corroborated in other places by positions mentioned for ʿAlī in the Sunnī sources, such as the amount to be remitted from the contract.[107] Second, as will be seen below, Medinan and Iraqī exegesis of Q. 24:33 from the second half of the second/eighth century record a position of permissibility for the *mukātaba* contract that seems otherwise to emerge without major precedent.[108] In these circumstances, to posit a minority position transmitted by the nascent Zaydī tradition does not seem implausible. Though admittedly speculative, it is possible that the lack of prominence accorded to ʿAlī's view on this issue is that it comes through an explicitly Shīʿī line of transmission and conflicts with a rule

that was emphatically promoted by ʿUmar. A hint of this line of thinking can be seen in Qalʿajī's modern work *Mawsūʿat fiqh ʿAbd Allāh b. Masʿūd*, in which he reasons that Ibn Masʿūd (on whom the sources are silent) must have held *mukātaba* to be obligatory for the requested master, as he would not have opposed the opinion of ʿUmar and ʿUthmān without stating it openly.[109]

The discussion of the condition of *khayr* referred to in Q. 24:33 shows a little more variety within early Medinan exegesis. While ʿUmar, ʿUthmān, and Ibn ʿUmar all interpret it as the slave having a *ḥirfa* ('profession') with which to earn the payments for the *mukātaba* contract, ʿAlī and Ibn ʿAbbās stipulate that the slave possesses *māl* ('wealth'). In other narrations, the latter reads it as *ḥīla* ('ingenuity'), or ability to earn, so that the *mukātab*'s provision does not fall on the community.[110] Here one comes up against a basic question of legal status: how can slaves, themselves treated as possessions, own wealth? This objection is given by later jurists to deny the plausibility of the above interpretations of *khayr*.[111] It seems, however, that as these exegetical positions and other reports attest, in first-century Ḥijāzī society, slaves could be in possession of wealth and earning for themselves through a profession before their *mukātaba* contract was written.[112]

A related question of legal status is the vigorous early discussion over how much of the *mukātaba* contract must be paid off before the slave is freed.[113] A common opinion attributed to figures such as ʿUmar, ʿUthmān, ʿĀʾisha, and Ibn ʿUmar is that the *mukātab* remains a slave until the last *dirham* is paid,[114] and this is also attributed to the Prophet.[115] The opposite is ascribed (perhaps doubtfully) to Ibn ʿAbbās: the slave is freed upon making the contract and merely owes the amount as a debt.[116] Other intermediate views in the sources include an alternative one from ʿUmar that the slave is freed and the remainder converted to a debt upon paying half[117] and one from Ibn Masʿūd that this occurs after one third or one quarter.[118] A prominent opinion attributed to ʿAlī is that the *mukātab* attains freedom in proportion to what he has paid off.[119] This seems to match a number of Prophetic *ḥadīth*s that discuss the rights and responsibilities of the *mukātab* becoming more like a free person the more they have paid off in certain numerically specified juristic matters.[120]

Finally, the phrase *māl Allāh* is variously interpreted in early first-century Medina as either an obligation for the master to pay a share of the money up front; an obligation to remit some of the payments at the end; or a recommendation for either. The main hermeneutic distinction here is over an implicit reading of *God's wealth that he has given you* as a reference to either the master's existing wealth, or to the payments received from the *mukātab*. Despite these differences, it is striking that there is consensus within the first generation that the plural form of address used in the verse is only directed towards the slave owners and not also to other members of society (as would become common later).

Meccan Exegesis (First/Seventh to Early Second/Eighth Centuries)

Name	City	*fa-kātibūhum*	*khayr*	*māl Allāh*
Ibn ʿAbbās (d. 67–68/ 686–688)[121]	Medina/ Mecca	Obligation	Wealth/ingenuity	Obligation (?) of remission from the contract
Mujāhid (d. 103/721–722)	Mecca	?	Wealth[122]	Obligation (?) from master's own wealth[123] to give one quarter[124]
ʿIkrima (d. 105/723–724)	Mecca (and other)	?	Profession[125]/ power (*quwwa*)[126]/ Potential to benefit from the contract[127]	Obligation from master's own wealth[128]
ʿAṭāʾ b. Abī Rabāḥ (d. 115/733)	Mecca	Obligation[129]	Wealth[130]	Obligation (?)[131] of remission from the contract[132]
ʿAmr b. Dīnār (d. 126/743–744)	Mecca	Obligation[133]	Wealth and upstanding nature (*ṣalāḥ*)[134]	?

Fig. 2. Major Meccan Exegesis of Q. 24:33 in the First/Seventh and Early Second/Eighth Centuries.

The dominant known position of the early Meccan scholars is to follow Ibn ʿAbbās in treating Q. 24:33 as an obligation. They also generally support the interpretation of *khayr* as wealth belonging to the *mukātab* prior to the contract. ʿAṭāʾ provides a scriptural parallel for this view, drawing from Q. 2:180, *It is prescribed for you if any one of you is close to death to make a bequest for parents and close relatives in the usual way, if you leave wealth* (*taraka khayran*)—*a duty upon believers.*[135] ʿIkrima is an exception, following ʿUmar, ʿUthmān, and Ibn ʿUmar with an interpretation of 'profession' in one view, and 'power', or the 'potential to benefit from the *mukātaba*' in other reports. There are some references in the traditions of Mujāhid, ʿAṭāʾ, and ʿAmr to the addition of internal qualities of character to go along with wealth in the master's judgement of *khayr*. However, in the former two cases, my analysis of the various chains points to these as additions at a later stage and it seems more likely their position was 'wealth' alone (see relevant notes). The younger ʿAmr b. Dīnār is the earliest Meccan figure to credibly combine wealth with an internal characteristic: upstanding nature (*ṣalāḥ*). When interpreting *māl Allāh*, the closest of Ibn ʿAbbās' students to his own position appears to be ʿAṭāʾ who follows him in (probably) obligating the master to remit a part of the contract at the end. Mujāhid and ʿIkrima

seem to follow ʿUmar's position of an obligatory upfront contribution from the master's own wealth.

Another angle from which to look at early Meccan scholarship when explaining its embrace and transmission of the early Medinan 'emancipatory' position is the indication of connections with proto-Ibāḍism for a number of key figures in the circle of Ibn ʿAbbās. The egalitarian tendencies of Khārijī theology, expressed foremost in a lack of conditions for assuming the political position of the Imāmate, though they should not be overstated, cohere well with the exegetical views examined above.[136] Other related positions held by figures mentioned in this section include the view attributed to ʿAṭāʾ and ʿAmr that there is no walāʾ for the mukātab, which can be construed as meaning that slaves are able to purchase themselves.[137] One view from ʿAṭāʾ is that a mukātab remains a slave for the entire period of the contract only as long as this is stipulated, which anticipates a later Ibāḍī position.[138] An intriguing connection between the Ḥijāzī understanding of Q. 24:33 and Ibāḍī scholarship of the second/eighth century will be explored in the next section. It is also interesting to remember that ʿIkrima and Mujāhid were themselves freed slaves, while ʿAṭāʾ was a client.

Non-Meccan Exegesis (Late First/Seventh to Late Second/Eighth Centuries)

Name	City	fa-kātibūhum	Khayr	māl Allāh
Saʿīd b. Jubayr (d. 95/714)	Kufa (and other)	?	Wealth[139]/ Desire to benefit from it[140]	Paid with zakāt[141]
Ibrāhīm al-Nakhaʿī (d. 96/715)	Kufa	?	Truthfulness (ṣidq) and faithfulness (wafāʾ)[142]	Recommendation from master's wealth and that of others,[143] paid also with zakāt[144]
Ḥasan al-Baṣrī (d. 110/7289)	Basra	Permission[145]	Religion (dīn) and trustworthiness (amāna)[146]	Recommendation from master's wealth and that of others,[147] paid also with zakāt[148]
Qatāda b. Diʿāma (d. 117/735)	Basra	?	faithfulness, truthfulness, and trustworthiness[149]	?
Zayd b. ʿAlī (d. 120/738)	Kufa	Permission[150]	?	Recommendation to give one quarter,[151] paid also with zakāt[152]
Zayd b. Aslam (d. 136/753–754)	Medina	?	?	Obligation (?) from zakāt given by the people to the rulers to distribute[153]

Name	City	*fa-kātibūhum*	*Khayr*	*māl Allāh*
Abū Ḥanīfa (d. 150/767)	Kufa	Permission[154]	?	Recommendation[155] from master's wealth and that of others, paid also with *zakāt*[156]
Muqātil b. Sulaymān (d. 150/767)	Merv/ Basra/ Baghdad	Obligation (?)[157]	Wealth[158]/ wealth and faithfulness towards [repaying] wealth (*wafāʾ li'-māl*)[159]	Recommendation to help slaves (with *zakat*?)/ of remission of a quarter.[160]
Sufyān al-Thawrī (d. 161/778)	Kufa	Permission[161]	Truthfulness, faithfulness and trustworthiness[162]/ Ability to earn from a profession, in order to pay (*quwwa ʿalā al-iḥtirāf wa'l-kasb li-adāʾ mā kūtiba ʿalayhi*)[163]	Recommendation[164] of remission of up to a quarter[165] from master's wealth and that of others[166]
Mālik (179/795–796)	Medina	Permission[167]	Ability to pay (*quwwa ʿala adāʾ*)[168]	Recommendation[169] of remission from the contract with master's wealth[170] and that of others paid with *zakāt* (?)[171]
Abū Ghānim al-Khurāsānī (d. *c.* 200/815)	Basra	Obligation (?)[172]	Wealth[173]	Obligation (?) of remission from the contract,[174] paid also with *zakāt*[175]

Fig. 3. Major Non-Meccan Exegesis of Q. 24:33 in the Late First/Seventh and Second/Eighth Centuries.

In this final context of exegesis, consisting of late first/seventh to late second/eighth century figures outside of Mecca, there is at first little explicit commentary on *fa-kātibūhum* in the sources. The main early opposition to the obligation upheld in Medina and Mecca is the view of permission transmitted by Zayd b. ʿAlī on the authority of ʿAlī, which is also said to be the opinion of al-Ḥasan al-Baṣrī. There is an assumption in later texts that there was a majority consensus of scholarship on the recommended, yet non-obligatory, nature of *mukātaba*, due to the principle (*aṣl*) that the owner of wealth could dispose of it as he or she saw fit.[176] Nonetheless, the 'obvious' position of many of the ʿAbbāsid-era jurists recorded in the earlier sources actually seems to be one of simple permission. The picture is not

so clear for the beginning of the second/eighth century; it is possible that this is the period for proto-Sunnīs in which the old consensus was dropped and the new one forged.

Here the view of Mālik in his *al-Muwaṭṭa'* is interesting in potentially shedding light on the hermeneutic move that underpinned, or at least justified, the shift. He mentions that, according to the authorities (of Medina), there is no obligation upon the master to grant a *mukātaba* if asked, though he has not heard any scholar of note declaring it an undesirable practice.[177] It appears that Mālik is here drawing from the tradition apparently stemming from ʿAlī's view and associated in Iraq with both al-Ḥasan al-Baṣrī and the proto-Zaydīs. He backs this up by quoting two verses of the Qur'an: Q. 5:2, *When you leave the consecrated state, go hunt* (*wa-idhā ḥalaltum fa'ṣṭādū*), a reference to the lapsing of the ritual restriction on hunting upon completion of pilgrimage, and Q. 62:10, *So, when the prayer is complete, spread out in the land seeking the bounty of God* (*fa-idhā quḍiyat al-ṣalātu fa'ntashirū fī'l-arḍi wa'btaghū min faḍli'llāh*), a verse about trading after the Friday prayer. In both cases, his point is to show that an apparent imperative verbal form is used within the scripture to indicate permission. This principle and these two examples of permission (*ibāḥa*) became a standard feature of the *uṣūl* tradition documented in the fourth/tenth century.[178] However, they seem both to be cases in which an imperative gives permission after an initial prohibition (of hunting and trading respectively), and arguably do not fit the context of Q. 24:33 very well.

In the interpretation of *khayr*, Iraqī jurists focus on the internal qualities expected of the *mukātab*, such as truthfulness, faithfulness, and trustworthiness, while Mālik mentions the practical ability to fulfil the contract, which, like one view attributed to al-Thawrī, has some connection to the opinion of earlier Medinan figures, for instance ʿUthmān and Ibn ʿUmar. The exegetical view of *khayr* as wealth is rejected, except by figures with a connection to the Meccan tradition, such as Ibn Jubayr, Muqātil, and al-Khurāsānī. Interestingly, the Basran Qatāda, a student of figures from the circle of Ibn ʿAbbās, such as ʿIkrima, Jābir, and ʿAmr, interprets *khayr* as internal qualities and does not transmit their best-attested views for this issue.[179] Overall, this move within Iraqi scholarship seems connected with the conception of a slave as lacking the legal ability to possess wealth of their own.

The phrase *māl Allāh* is typically understood as a recommended contribution, either given at the outset, or remitted at the end, by the master or others. Here a subtle connection to *zakāt* can be found in figures such as Ibn Jubayr and al-Nakhaʿī (from whom it is presumably picked up by Abū Ḥanīfa) who interpret *fī'l-riqāb* (*for slaves*) in Q. 9:60 as allowing *zakāt* to be used to assist the *mukātab*. Ibn Jubayr justifies not using *zakāt* to directly free slaves through fear of the 'drag of patronage' (*jarr al-walā'*),[180] which seems to be the counterpart to the saying that *walā'* was 'a portion

of slavery'.[181] A slightly later narration from Zayd b. Aslam specifically mentions with respect to Q. 24:33 that *zakāt* is to be given to the ruler to be distributed to the *mukātab*, linking this to Q. 9:60.

It is possible that by the end of the first/seventh century, the responsibilities of such patronage may have become more onerous than the rights conferred.[182] The interpretation of Q. 9:60 as helping the *mukātab* rather than buying slaves and setting them free would have provided a way to support the good of manumission without the perceived burden of *walāʾ* upon the non-master manumitter. This context may also play a part in the shift from interpreting Q. 24:33 as an instruction solely for masters, to one in which the community and even the governing authority play a part.

The overall tendency outside of Mecca from the end of the first century, therefore, is that manumission of slaves through the *mukātaba* contract becomes an optional practice directed at those slaves considered to have a character suitably good, or sufficient earning power, to be admitted to the ranks of the *mawālī*. This is supported with community wealth through the institute of *zakāt*, possibly under the direction of the state. In this exegetical context, the conception of the legal and economic relationship that holds between master, slave, indentured servant, and freed slave becomes less personal and more mediated by structures of community wealth and political power. The emerging consensus view of proto-Sunnī jurists, rather than conceiving of the slave as possessing wealth with which to oblige his or her master to write an indenture contract, is that he or she is an entity entirely subject to the economic interests of the master and state.

Examples of this are to be found in early juristic literature, for instance, *al-Jāmiʿ al-ṣaghīr* attributed to Muḥammad b. al-Ḥasan al-Shaybāni (d. 189/805), a key early figure in the genesis of the Ḥanafī school. He quotes the following rule from Abū Ḥanīfa via his other main teacher, Abū Yūsuf (d. 182/798): if a slave stands in surety of his master upon his order (*kafala ʿan mawlāhu bi-amrihi*), then the master will free him, so that he can pay it; or if the master stands in surety of his slave, he only pays it after the slave is granted freedom.[183] The principle that both cases turn upon is that the slave cannot take on a financial responsibility while in the state of slavery, so the legal effects are deferred until the time he is free.[184] This is much later expressed in the classical text *al-Hidāya* of al-Marghīnānī (d. 593/1197) by the formulation, 'All that [the slave] possesses is owned by the master'.[185] A similar principle is conveyed from Mālik b. Anas via Ibn al-Qāsim in *al-Mudawwana al-kubrā* of Saḥnūn (d. 240/854): the slave may take on financial responsibilities in a delegated, or deferred fashion, but not in his or her own right.[186]

A related, yet distinct, juristic development within the Kufan milieu is the proto-Zaydī articulation of a complex of rules preserved in the *Majmūʿ al-fiqh* ascribed to

Zayd b. ʿAlī. While a number of positions have been discussed already with respect to the explicit link made to ʿAlī, it is worth bringing the entire picture together. In terms of the three exegetical questions that have been the focus of this study of Q. 24:33, only two are answerable on the basis of the text: the non-obligatory nature of the *mukātaba* contract, and that it is recommended for the master to remit a quarter of the total price. This contract can be supplemented with *zakāt*, as he mentions elsewhere that *zakāt* cannot be used to directly free slaves.[187] Furthermore, in agreement with the pattern observed for other figures, discussion of *zakāt* in this context is not attributed all the way back to ʿAlī, but only recorded as a comment of Zayd, pointing towards its secondary development (though this is very difficult to date precisely). The same is true of the legal ability of the slave to trade, which is treated as only possible for each type of merchandise when separately permitted by the master.[188]

A more significant difference with the proto-Sunnī viewpoint, and one seemingly more closely tied to an earlier tradition, relates to a cluster of certain rights and responsibilities that within discourse around the Sharīʿa involve a numerical value of some kind. A general principle within much of Muslim legal thinking holds that a slave has half the liability of a free person, based primarily on Q. 4:25, which mandates 50, rather than the usual 100, lashes for a slave guilty of fornication. Taking a cue from the position of ʿAlī that a *mukātab* is freed in proportion to how much of the contract is paid off and possibly the *ḥadīth*s that mention specific rules, the *Majmūʿ* attempts to articulate a consistent legal system with salient examples. Thus for a *mukātab* who is slain 'the *dīya* of a free person is given according to how much he has been freed and the *dīya* of a slave according to how much of his *mukātaba* contract has not been fulfilled'.[189] The *Majmūʿ* follows the usual pattern in setting the *dīya* of a free person as 100 camels (split into four groups of different ages)[190] and the *dīya* of a slave as (implicitly within the text) his, or her, price.[191] This means that killing a half-free *mukātab* would incur a *dīya* at the midpoint of these two values. Likewise, as mentioned in the *Majmūʿ*, the half-freed slave who fornicates is lashed 75 times, as this is midway between 50 and 100.[192] A simple example in inheritance illustrates the same point: 'a man who dies and leaves two sons, one of them free and the other half-free … the wealth [split] between them is in thirds: the one who has been fully freed receives two thirds, the one who has been half-freed receives one third.'[193]

Despite this sliding scale of slave liabilities, the proto-Zaydī position captured in the *Majmūʿ* is otherwise close to that of proto-Sunnīs of the second/eighth century. Najam Haider has compared the transmission of a number of legal rules by early Zaydī and proto-Sunnī figures in detail and has similarly found significant correspondences in this era. In one case study: 'shared links and common transmitters between the Sunnīs and Zaydīs span seventeen individuals spread over 50 percent

(10/20) of all Zaydī and 27 percent (61/229) of all Sunnī traditions.'[194] In other words, second/eighth century 'proto' or 'Batrī' Zaydī scholarship significantly overlaps with Kufan proto-Sunnism—the main differences are found in theologico-political commitments.[195]

In the milieu of the mid-to-late second/eighth century, the formerly dominant view of the *mukātab* is only still represented by a few exceptional figures who draw on the earlier Meccan tradition. One is the early exegete Muqātil b. Sulaymān (d. 150/767), originally from Balkh, but active in Merv and Iraq. He is credited with some of the first literary productions of *tafsīr*, including the text known as *Tafsīr Muqātil*, perhaps the earliest extant full *tafsīr*, and *Tafsīr al-khams miʾāt āya*, an early thematically organised commentary on legal verses.[196] His understanding of Q. 24:33 seems to derive from prior Ḥijāzī exegesis and may reflect his transmission of Qur'anic commentary from written materials of the students of Ibn ʿAbbās,[197] as well as his judgement as an exegete in his own right. He seems to implicitly accept the obligation of writing a *mukātaba* contract for a suitable slave and primarily reads that suitability in terms of wealth, though a possible interpolation in *Tafsīr al-khams miʾāt āya* reads 'faithfulness towards [repaying] wealth'. He references the position of (recommending) remittance of one quarter of the amount, while also seeming to hint towards a position of allowing, but not obligating, *zakāt* to be given towards the contract.

A second exception to the general pattern is Abū Ghānim al-Khurāsānī, the Ibāḍī author of the early juristic text *al-Mudawwana al-kubrā*. He also seems to implicitly hold the position of obligation for *fa-kātibūhum*, quoting Q. 24:33 without clarifying that its imperative verbal form is to be left. This position can be profitably compared to those within Ibāḍī *tafsīr* texts from about a century later. The obligation of *mukātaba* is implied in the *Sharḥ tafsīr al-khams miʾāt āya* by the Ibāḍī Abū al-Ḥawārī Muḥammad b. al-Ḥawārī (d. *c.* 300/912). This text, which comments on Muqātil's *Tafsīr al-khams miʾāt āya*, follows the earlier text in its absence of any clarifying comments about recommendation.[198] In contrast, *Tafsīr al-kitāb al-ʿazīz* by the Ibāḍī Hūd b. Muḥakkam, a *tafsīr* similarly dated to the end of the third/ninth century, adds as an additional statement: 'and it is not an obligation; he writes or does not write the indenture contract as he pleases (*wa-laysa bi-farīḍatin in shāʾa kātabahu wa-in shāʾa lam yukātibhu*)'.[199] This is a verbatim reproduction of a sentence in the *tafsīr* of the Basran Yaḥyā b. Sallām (d. 200/815), which it follows very closely indeed.[200] Thus, the two later Ibāḍī commentaries show fidelity to the earlier *tafsīr* tradition: Muqātil seems influenced by the same Meccan precedent as the Basran Ibāḍī authorities, while Yaḥyā responds to it.

Al-Khurāsānī reads *khayr* as wealth, which in the data collected for this study has almost always been connected to a ruling of obligation. His exegesis of *māl Allāh* is a

likely obligation of remission from the *mukātaba* contract. In sum, his position on the verse is close to that recorded for ʿAṭāʾ and in turn Ibn ʿAbbās. The connection is almost certainly to be through the latter's student Jābir b. Zayd, though I have been unable to find direct evidence for this in commentary on Q. 24:33. Al-Khurāsānī writes that he asked Abū al-Muʾarrij (d. 195/811) about Q. 24:33 who quotes the opinion of *khayr* as referring to wealth from Abū Ubayda Muslim b. Abī Karīma (d. 145/762) and Ibn ʿAbd al-ʿAzīz (d. second/eighth century).[201] Abū Ubayda is a leading light in Basran Ibāḍī circles during the middle of the second/eighth century, though he is unlikely to have transmitted directly from Jābir, as popularly imagined, but rather his students.[202]

The preservation of the early Ḥijāzī interpretation of Q. 24:33 by al-Khurāsānī is striking and is accompanied by other 'archaic' views related to the *mukātab*. For instance, he holds that the *mukātab* is freed upon making the contract with the indenture treated as a debt to be paid, an opinion attributed in other sources to Ibn ʿAbbās and opposed to the dominant position of the Sunnī schools.[203] The fact that he argues for this despite not adducing any specific early figure who supported it (while knowing several who opposed it) exemplifies a formative Ibāḍī approach to the Sunna as a collective community practice. Thus, he quotes Abū al-Muʾarrij who insists 'we have taken it from our jurists and it is in our lineage from them (*akhadhnā dhālika ʿan fuqahāʾinā wa-nasabnāhu ilayhim*)'.[204] This stance is expressed by Wilkinson as follows:[205]

> In other words, the collective *āthār* formed their line of transmission (essentially through teachers in the early days), not reports passed on by individuals of more or less reliability who made up the *isnad* chain. And since it was a consensual view there was no need, normally, to say how that view was reached. The names of individuals were largely irrelevant, since they were absorbed into the Islamic family to which they belonged (*nasaba*) …

By means of a continued dialogue with his teacher Abū al-Muʾarrij, al-Khurāsānī defends the legitimacy of the radical thesis that the *mukātab* is a free debtor. The former explains *fī'l-riqāb* in Q. 9:60 as the *mukātab*, a position that he knows his proto-Sunnī opponents already accept. The final step in the argument is that as there is further agreement *zakāt* is only given to the free, not the enslaved, the *mukātab* must be free. Elsewhere, when dealing with the general rights of masters over their slaves, al-Khurāsānī clarifies—in agreement with the proto-Sunnī position—that a slave's wealth belongs to the master and that full *walāʾ* is transferred in the process.[206] However, it seems other Ibāḍī figures, such as the jurist al-Basyānī (d. mid-fifth/eleventh century), followed the earlier Meccans who argued against preserving the institution of *walāʾ*.[207]

Abū al-Ḥawārī in the *Sharḥ tafsīr al-khams miʾāt āya* also adds some interesting additional information reflecting distinctively Ibāḍī developments that are not found in Muqātil's base text. He ascribes to the Prophet the rule that an indentured servant who fails to make the agreed payments is not returned to slavery.[208] As well as differing from al-Khurāsānī in citing a Prophetic *ḥadīth* text to support this assertion, he does not interpret the report unrestrictedly. Instead, he states that the *mukātab* is free as long as his contract is kept general ('*wa-huwa ḥurrun yaʿummu kitābatuhu*').[209]

Conclusion

In analysing the early interpretation of a verse of the Qur'an my focus has remained on the patterns the sources have revealed about the way that diverse readers have understood it, the extent to which these meanings were preserved or challenged by succeeding generations and their relationship to the socio-economic realities of time and place. I will now attempt to reconstruct the story of Q. 24:33 within the first two centuries of Islam, ever-conscious that this retelling necessarily reflects my own assumptions and interpretive decisions.

In the atmosphere of emancipation engendered by the moral imperative of the Qur'an and the socially transformative experiences of the early community, Q. 24:33 seems to have been mainly understood in first-century Medina to connote an obligation for a master to agree to write an indenture contract with a slave who possessed either wealth or a viable profession and to personally remit some of the total. While the details varied between the earliest figures and a couple of possible exceptions have been highlighted (in the case of Anas and ʿAlī), the overall pattern is fairly consistent.

It does not seem that there was any explicit legal articulation of the slave's economic capacity at this early juncture. Nonetheless, the pattern of interpretation of the word *khayr* suggests that the slave was initially considered a valid economic actor, albeit one constrained by bound servitude to another with a price that would secure his or her freedom. Within such an environment, treating the *mukātaba* contract as obligatory would seem natural precisely because it was merely *de jure* regulation of the *de facto* indentured nature of slavery in that milieu.

Early figures interested in the legal articulation of the law differed in defining exactly how this gradual transition from slavery to freedom could be managed: was the slave freed immediately upon making the contract with the remaining price converted to a debt? Did this happen at the halfway point, or only when the entire amount was paid? A number of *ḥadīth*s suggest that there was an acceptance that gradual adjustment to the rights and responsibilities of freedom should accompany this transition. Furthermore, the idea of an obligation to write a contract of indenture seems underpinned by the pre-Islamic Arabian vision of a system of *walāʾ* that provided an informal reciprocal support for slave and master in the transition from slavery to freedom. By freeing a

wealthy or skilful slave in this way, the master would gain both a good price and a future ally.

First century Mecca was an ideal environment for this early interpretation to flourish. Quickly becoming something of a backwater in comparison to the newly conquered lands outside of the peninsula, Mecca was geographically isolated and maintained relative consistency with the socio-economic experience of the early Medinan community. In Ibn ʿAbbās it had an authoritative teacher recognised for his knowledge of the Qur'an. The figures within his loosely Meccan circle made few adjustments to the exegesis of Q. 24:33 that they received. It was likely still possible to treat slavery in an informal manner and to emphasise the obligatory nature of *mukātaba* for those materially able to fulfil it.

This emancipatory vision seems to have flowed into the proto-Ibāḍī leanings of members of the circle of Ibn ʿAbbās in Mecca and been transferred to Basra through figures such as Jābir b. Zayd. The instability from the challenge of Ibn al-Zubayr's caliphate provided more space for new emirates to experiment with different conceptions of legal status for slave and freed slave alike in Arabia than were possible in Umayyad Syria. Najda b. ʿĀmir al-Ḥanafī's Khārijī emirate is only the most striking example; the correspondence of Jābir points to other transient communities that may have not reached the pages of historical chronicles. The view of ʿAṭāʾ b. Abī Rabāḥ and ʿAmr b. Dīnār that the *mukātab* had effectively purchased his or her own *walāʾ* struck at the traditional Arabian notion of patronage based on the relative strength of clans. This also parallels the Khārijī-Ibāḍī political theology of *shirāʾ* (selling oneself for the sake of God) and rejection of tribal qualification for the Imamate.[210]

The dominant juristic approach to the status of slavery within Islamic civilisation, however, was to take a different direction from that of the first-century Ḥijāz. As economic, social, and legal complexity increased during the Marwānid and early ʿAbbāsid eras, increasing importance was attached to the alternative view that the *mukātaba* contract, though an option to bring religiously virtuous slaves into the ranks of the *mawālī*, could not fetter a master's free disposal of property. Likewise, the notion that slaves could be in the possession of their own wealth became alien within an economy possessing a booming long-distance slave trade and a lucrative plantation system. The emerging Sunnī position in Iraq, then, adapts the minority non-obligatory view and stakes out an exegetical stance on Q. 24:33 that emphasises it is merely permissible to accept the *mukātaba* of slaves with qualities of honesty and piety. Moreover, it is made very clear that the *mukātab* retains the full legal status of a slave until the entire amount is paid off.

Furthermore, it seems that perhaps in the emerging cosmopolitan society there was increasing reliance on the state to lubricate the wheels of social advancement. A move

away from the personal relationship between master and slave in the way that the *mukātaba* contract was conceived is evidenced by the new connection made between Q. 24:33 and Q. 9:60. The phrase *māl Allāh* in Q. 24:33 is increasingly read as referring to the community's *zakāt*, which is collected and distributed by the state to support *mukātab* contracts, while *fī'l-riqāb* in Q. 9:60 is widely interpreted as referring exclusively to the *mukātab*. In this new settlement, slave owners were left ultimately free to retain their slaves as free labour, but could be encouraged towards manumission by community-backed state support of indenture contracts. It is possible that this interpretation of *zakāt* was able to counteract any growing reluctance to take on *walāʾ* relationships both by masters considering a *mukātaba* and non-masters interested in supporting manumission. This indicates a shift away from the personal relationship of the master-slave dyad to a socially mediated one, and greater responsiveness to the needs of the political and economic spheres. The mainstream intellectual tendency was thus to support the least emancipatory of the transmitted legal frameworks, arguably leading to a widening 'ethical gap' between the morally transformative ethos of the Qur'an and its interpretation in support of entrenched wealth and power.

These broad structural considerations must be placed in the scale alongside the great diversity on display in individual interpretations of Q. 24:33, which reflect developing hermeneutic sophistication, particularly in reading verses of the Qur'an in the light of other verses and traditions. The connection made with Q. 9:60 should be understood in this intertextual light, as should, for instance, Mālik's use of Q. 5:2 and Q. 62:10 for *fa-kātibūhum*. However, in this particular case, these exegetical moves seem connected to a more basic shift in legal presumption, that a slave (including the *mukātab*) was not able to possess a status of valid economic capacity, except in a delegated or deferred manner.

By the end of the second/eighth century the proto-Sunnī majority are accompanied by two alternative theologico-political groupings: proto-Zaydīs and Ibāḍīs. The proto-Zaydīs claim the precedence of the significant early caliph ʿAlī. Notwithstanding reliance on the late recension of the *Majmūʿ al-fiqh*, the existence of this tradition in the second/eighth century gains support from corroboration of its reports on the views of ʿAlī and Zayd, as well as its accuracy in distinguishing between primary and secondary doctrines. It also seems to have made an interesting attempt to work out the legal implications of the idea of a *mukātab* gradually gaining the full rights and liabilities of a free person.

It is only when piecing together the puzzle in this way that it is possible to understand the significance of the position of second/eighth century Ibāḍīs such as al-Khurāsānī. Despite the formative period of the sect's scholarly development taking place in Basra, its interpretive roots on the status of the *mukātaba* are in the earlier proto-Ibāḍī Meccan

context. Ironically, it seems that the Ibāḍīs, a *fiqh* tradition that does not pride itself on the strength of its chains of transmission,[211] preserved the main early interpretation of the community more effectively than those associated with the *ḥadīth* movement. Thus it maintained the old position that *mukātaba* is obligatory whilst marrying it to the legal reality that slaves did not possess wealth. The solution within the tradition that al-Khurāsānī documents is to utilise the opinion that the *mukātab* is freed at the point of writing the contract with the total amount owed merely as a debt. The Ibāḍī position is thus the most emancipatory of those studied, due to its preservation of the pietist outlook of the early community, possibly connected with the aspiration to set up separate emirates.

The argument presented above can be condensed down to its essentials in the following way. Exegetical responses to Q. 24:33 within the first/seventh century Arabian peninsula are largely contingent on the underlying principle that those in servitude sat on a continuum depending on how much of their price had been paid off. This presumption, allied with an emancipatory scriptural and social atmosphere, made it seem obvious to most early figures that *mukātaba* was meant to be obligatory for every slave able to take advantage of it. A new conception, mainly associated with social and economic changes, came to increasingly dominate from the end of the century: slavery forms a binary with freedom. Any person is thus either completely free, or completely enslaved. The underlying development in the first two centuries can be expressed as the shift from a continuous to a discrete conception of slavery.[212] Within the new paradigm, the *mukātab* could not retain the previous medial economic capacity and had to be reconceived as either a debtor, or as a chattel slave with capacity deferred until a hypothetical future freedom.

NOTES

1 'Indenture', *Shorter Oxford English Dictionary*, 6th edn.

2 Weir, 'Indentured Servitude', p. 373.

3 See page 78.

4 Brunschvig "ʿAbd'. See al-Azharī, *Muʿjam tahdhīb al-lugha*, vol. 4, p. 3,097. An early written example of the contract's main features can be found in al-Shaybānī, *al-Aṣl*, vol. 6, p. 198.

5 In this article, I use the word *mukātaba* to refer to the institution of contractual manumission I have translated as 'indenture'. I sometimes use the phrase '*mukātaba* contract' to refer specifically to the tangible contract between master and slave. It should be noted that the term *kitāba* can be used for either concept.

6 See the discussion on pages 72–73.

7 There appears to be no record in the *qirāʾāt* tradition of significant variant readings for this part of the verse (Makram and ʿUmar, *Muʿjam al-qirāʾāt al-Qurʾāniyya*, vol. 4, p. 250). A variant is found in the famous Sanaʾa palimpsest: *and give them from what God has provided you* (*wa-aʿṭūhum bi-mā razzaqakum Allāhu*) (Hilali, *The Sanaa Palimpsest*, pp. 55, 118–119); Sadeghi and Goudarzi, 'Ṣanʿāʾ 1 and the Origins of the Qurʾān', p. 93.

8 Crone, 'Two Legal Problems', pp. 12–14.

9 Crone, 'Two Legal Problems', p. 6.

10 Classical Muslim exegesis overwhelmingly treats the quoted sentence as a separate site of interpretation that is unconnected to both the beginning of Q. 24:33: *Let those who cannot get married stay chaste until God enriches them with His bounty* and to its end, *Do not [thereby] force your young bondswomen into prostitution when they desire chastity, so as to seek the goods of worldly life. Whoever compels them, truly God remains after their compulsion Forgiving and Merciful.* I have previously briefly commented on Crone's analysis of this verse and attempted my own reading. See Harvey, *The Qur'an and the Just Society*, pp. 138–140.

11 al-Māturīdī, *Taʾwīlāt al-Qurʾān*, vol. 10, p. 157.

12 Cf. al-Ṭaḥāwī, *Aḥkām al-Qurʾān*, vol. 2, p. 456.

13 Gadamer, *Truth and Method*, p. 288.

14 Reinhart, 'Juynbolliana', p. 434.

15 Jonathan Brown has been at the forefront of recent English-language academic discussion of these techniques and has made excellent contributions in numerous articles. A very useful technical overview can be found in Brown, 'Criticism of the Proto-Hadith Canon', pp. 7–37, while a more accessible summary is present in his textbook: Brown, *Hadith*, pp. 77–99.

16 See the many articles of Harald Motzki, and in particular Motzki, 'Whither *Ḥadīth*-Studies?'.

17 See Harvey, *The Qur'an and the Just Society*, pp. 55–57.

18 Harvey, *The Qur'an and the Just Society*, pp. 56–58.

19 As Reinhart has observed, though Motzki is not as inherently sceptical about the reliability of early sources as, for instance, G.H.A. Juynboll, he is more cautious in taking reports at face value if he cannot apply his method of *isnād*-cum-*matn* analysis to them (Reinhart, 'Juynbolliana', p. 429). At the same time, Motzki concedes that 'the possibility that a report also reflects what really happened depends first on the date of the report and then on its content and its agreement with other evidence available' (Motzki, 'The Origins of Muslim Exegesis', p. 288). Compare with Herbert Berg, who used an analysis of *isnād*s in *Tafsīr al-Ṭabarī* to conclude that 'we do not know and we may never know' the truth about the exegetical activity ascribed to Ibn ʿAbbās (Berg, *The Development of Exegesis in Early Islam*, p. 230). Both Berg's methodology and results have been widely challenged. A good response is in Nadwi, review of *The Development of Exegesis in Early Islam*. Motzki also has written a lengthy review critical of Berg's approach; Berg responded by restating his position; and Motzki produced a final write-up of the debate. See Motzki, 'Authenticity of Muslim Traditions'; Berg, 'Competing Paradigms'; and Motzki, 'The Origins of Muslim Exegesis' respectively. In a recent book, Motzki's last before his death in February 2019, he summarised previous Western scholarship and his own contribution to the historicity of material attributed to Ibn ʿAbbās in particular. See Motzki, *Reconstruction of a Source*, pp. 1–8.

20 See Reinhart's comments on the theories of Joseph Schacht, once held by many academic scholars in high regard (Reinhart, 'Juynbolliana', p. 416).

21 In some cases, I supplement the information found directly in early works with information gleaned from *al-Durr al-manthūr* of al-Suyūṭī (d. 911/1505), as well as the recently published *Mawsūʿat al-tafsīr al-maʾthūr*, edited by Musāʿid b. Sulaymān al-Ṭayyār.

22 For general comments on the complexity of historical study of Mālik's *al-Muwattaʾ*, see Brockopp, *Muhammad's Heirs*, pp. 105–110.

23 Watt, *Muhammad at Medina*, pp. 293–294; Crone, *Roman, Provincial and Islamic Law*, p. 58.

24 ʿAlī, *al-Mufaṣṣal*, vol. 5, pp. 573–574.

25 See Brunschvig, 'ʿAbd'.

26 ʿAlī, *al-Mufaṣṣal*, vol. 5, p. 573. See also Khadduri, *War and Peace in the Law of Islam*, pp. 131–132.

27 See al-Ṭaḥāwī, *Aḥkām al-Qurʾān*, vol. 2, pp. 465–467. Crone, however, attempts to argue that while the social background to the institution of *walāʾ* was present in pre-Islamic Arabia, the legal formulation was borrowed from the Roman Near East (Crone, *Roman, Provincial and Islamic Law*, pp. 40–42). This view is not widely accepted and has been challenged; for instance in Mitter, 'Unconditional Manumission of Slaves in Early Islam'.

28 Brunschvig, 'ʿAbd'.

29 Crone, *Roman, Provincial and Islamic Law*, pp. 83, 151 n. 70.

30 al-Kāndahlawī, *Awjaz al-masālik*, vol. 12, p. 37. See also Juynboll, *Encyclopedia of Canonical Ḥadīth*, p. 682.

31 Schacht, *The Origins of Muhammadan Jurisprudence*, p. 279.

32 Crone, *Roman, Provincial and Islamic Law*, pp. 67–68.

33 Crone, *Roman, Provincial and Islamic Law*, pp. 65–66.

34 Schacht, though accepting the reference of Q. 24:33 to indenture, assumes that ʿAṭāʾ b. Abī Rabāḥ is the first person to consider the legal ramifications of Q. 24:33 (Schacht, *The Origins of Muhammadan Jurisprudence*, p. 279–280). Crone develops Schacht's idea of Qur'anic law as a later supplement to early practice within her own arguments in 'Two Legal Problems' (pp. 10–11), although she admits she is at a loss to adequately explain how the Qur'an could have been so textually authoritative without being interpretively so. She, therefore, inclines to resolve the issue by undermining early textual stability, citing Wansbrough's theory, even though the problem would not have arisen if she had not dismissed early exegesis at the outset (Crone, 'Two Legal Problems', pp. 20–21). More recently, Nicolai Sinai has made reference to Crone's argument, but is more supportive of Qur'anic textual stability, while doubting its legal authoritativeness (Sinai, 'When Did the Consonantal Skeleton … Part I', pp. 289–291).

35 This point is made generally about the emergence of exegesis in Versteegh, *Arabic Grammar and Qurʾānic Exegesis in Early Islam*, pp. 65–66.

36 Ibn Abī Shayba, *al-Muṣannaf*, vol. 7, p. 304.

37 Muqātil, *Tafsīr*, vol. 3, p. 197.

38 Vaglieri, 'ʿAbd Allāh b. al-ʿAbbās'.

39 For a very lucid overview of this period, see Hodgson, *The Venture of Islam*, vol. 1, pp. 221–222.

40 Watt, *The Formative Period of Islamic Thought*, pp. 55–56.

41 Vaglieri, 'ʿAbd Allāh b. al-ʿAbbās'. There is some evidence that Ibn ʿAbbās took some exegetical-cum-juristic positions that anticipate distinctly Shīʿī tendencies, such as wiping on the feet during the ritual ablution mentioned in Q. 5:6 and a variant reading supporting an interpretation of Q. 4:24 as *muʿta* (temporary marriage) (Madelung, 'ʿAbd Allāh b. ʿAbbās and Shiʿite Law', pp. 14–16).

42 See Wilkinson, *Ibāḍism*, pp. 151, 159.

43 al-Ṭabarī, *Tārīkh*, vol. 5, pp. 564–565.

44 As with other early Islamic theologico-political movements, use of the prefix 'proto' in the term proto-Ibāḍī allows the identification of certain soft-Khārijī tendencies without thereby being committed to obvious anachronisms. Like Khārijīs, the theological inclination

of Ibāḍīs is to consider only themselves rightly-guided, treating Muslims outside of the group as hypocrites whom one could live and transact alongside, rather than apostates that must be fought (Crone and Zimmerman, *The Epistle of Sālim ibn Dhakwān*, p. 196; Wilkinson, *Ibāḍism*, pp. 132–133).

45 See Wilkinson, *Ibāḍism*, p. 153.

46 Wilkinson, *Ibāḍism*, p. 148. A report narrated by ᶜAṭāʾ b. Abī Rabāḥ has Najda writing to Ibn ᶜAbbās with a number of questions relating to the Prophetic practice of warfare, including whether the slave is entitled a share of spoils. Ibn ᶜAbbās answers in the negative, but says that 'he should be given something' (al-Shaybānī, *al-Aṣl*, vol. 5, p. 425).

47 See van Ess, *Theology and Society*, Volume 2, p. 734.

48 However, a rather less egalitarian image of Najda is presented in Rahman, *Revival and Reform in Islam*, pp. 36–37.

49 Wilkinson, *Ibāḍism*, p. 148.

50 al-Ashᶜarī, *Maqālāt*, vol. 1, p. 175. Al-Ashᶜarī mentions Jābir b. Zayd, ᶜIkrima, Mujāhid, and ᶜAmr b. Dīnār as followers of Hārith al-Ibāḍī. This is presumably merely to indicate their alleged theologico-political association in recognisable terms, as al-Ḥārith b. Mazyad al-Ibāḍī is a mid-second/eighth century figure. See Madelung, 'Early Ibāḍī Theology', p. 243.

51 It can be very difficult to disambiguate between the meaning of 'freed slave' and 'client' for the term *mawlā* in the early sources (Pipes, 'Mawlas: Freed Slaves and Converts in Early Islam', pp. 199–200). However, in the first century, it seems reasonable to assume in the absence of other information that the *mawlā* of a named figure is their freed slave, while the *mawlā* of a clan is its client. For the continued importance of tribal affiliation, see Pipes, 'Mawlas: Freed Slaves and Converts in Early Islam', p. 216.

52 al-Ashᶜarī, *Maqālāt*, vol. 1, p. 186. Van Ess suggests that the differentiation of the Khawārij may post-date him (van Ess, *Theology and Society*, Volume 2, p. 734).

53 van Ess, *Theology and Society*, Volume 2, p. 735. Wilkinson has argued that the distinction between Ibāḍīs and Ṣufrīs in the early period reflects mainly tribal rather than doctrinal differences. See Wilkinson, *Ibāḍism*, pp. 158–160.

54 Khulayfāt, *Nashᶜat al-ḥarakat al-Ibāḍiyya*, pp. 90–93; Lewicki, 'al-Ibāḍiyya'; al-Ashᶜarī, *Maqālāt*, vol. 1, p. 175. See also Gaiser, *Muslims, Scholars, Soldiers*, pp. 64–65.

55 The most important early Ibāḍī *ḥadīth* collection, the *Musnad* of Rābiᶜ records 742 *ḥadīth*s via Jābir through the later Basran figure Abū Ubayda, of which 150 are on the authority of Ibn ᶜAbbās. Jābir also transmits an additional 184 *mursal* reports; that is, *ḥadīth*s that skip the first generation. See Wilkinson, *Ibāḍism*, p. 184.

56 Wilkinson, *Ibāḍism*, pp. 183–192.

57 Wilkinson, *Ibāḍism*, pp. 197–198. Jābir unsurprisingly makes reference to the juristic views of Ibn ᶜAbbās and ᶜIkrima in his letters, writes with respect and admiration to Sālim b. Dhakwān, apparent author of a well-known proto-Ibāḍī treatise, and alludes to destroying sensitive correspondence. Wilkinson, *Ibāḍism*, pp. 196–197.

58 See Motzki, *The Origins of Islamic Jurisprudence*, p. 173. Motzki's analysis of ᶜAmr's references within the *Muṣannaf* of ᶜAbd al-Razzāq shows he most frequently reports from Abū Shaᶜthāʾ (Jābir b. Zayd), then ᶜIkrima (Motzki, *The Origins of Islamic Jurisprudence*, p. 199).

59 Motzki, *The Origins of Islamic Jurisprudence*, p. 247.

60 al-Ashᶜarī, *Maqālāt*, vol. 1, p. 175.

61 van Ess, *Theology and Society, Volume 1*, pp. 181–182; van Ess, *Theology and Society*, *Volume 2*, pp. 718–719; Madelung, *Der Imam al-Qāsim*, pp. 232–233.

62 Motzki, *The Origins of Islamic Jurisprudence*, p. 247; van Ess, *Theology and Society*, *Volume 2*, p. 719. The early political Murjiʾa, which refused to pass judgement on pivotal contested figures, such as the caliphs ʿUthmān and ʿAlī, has a connection to the tradition of Abū Ḥanīfa, which also affirmed community membership based on faith, even to the exclusion of deeds. See al-Balkhī, *al-Fiqh al-absaṭ*, p. 40. The early Murjiʾa, like Ibāḍīs, were often in opposition to the Umayyad caliphate, while not always in open revolt (Madelung, 'The Early Murjiʾa', pp. 32–33). See also Wilkinson, *Ibāḍism*, pp. 129–130. It is not difficult to imagine government officials failing to distinguish between the theological nuances of the two groups.

63 Hodgson, *The Venture of Islam*, vol. 1, pp. 222–223.

64 Hodgson, *The Venture of Islam*, vol. 1, pp. 234–235.

65 van Ess, *Theology and Society*, *Volume 2*, p. 717.

66 Wilkinson, *Ibāḍism*, pp. 123.

67 Watt, 'Makka'.

68 Kennedy, *The Great Arab Conquests*, pp. 366–367.

69 Kennedy, *The Great Arab Conquests*, p. 105.

70 Watt, *The Formative Period of Islamic Thought*, pp. 33–34; Kennedy, *The Great Arab Conquests*, p. 206; Savage, 'Early Medieval Ifrīqiya', pp. 148–155.

71 Savage, 'Berbers and Blacks', pp. 351, 353.

72 For a short discussion on al-Ḥasan, see Hodgson, *The Venture of Islam*, vol. 1, pp. 248–249. For comments on al-Nakhaʿī, see Harvey, 'The Legal Epistemology of Qurʾanic Variants', pp. 93–94 n. 31.

73 See Hallaq, *Authority, Continuity, and Change in Islamic Law*, pp. 23–36.

74 Others, such as al-Awzāʿī (d. 157/774) in Damascus, al-Layth b. Saʿd (d. 175/791) in Fustat, and Ḥammād b. Zayd (d. 179/795) in Basra have not been included in the analysis due to the lack of references to their views on Q. 24:33. For a brief note on the short life of the school followings of the former two figures, see Melchert, *The Formation of the Sunni Schools of Law*, pp. 57, 43 n. 45.

75 Hallaq, *The Origins and Evolution of Islamic Law*, pp. 105–108.

76 Melchert, *The Formation of the Sunni Schools of Law*, pp. 3–7. See also Hallaq, *The Origins and Evolution of Islamic Law*, pp. 122–124. El Shamsy develops the alternative picture that stable and continuous Medinan normative practice was put under siege by the instability of Iraqī legal dialectic (*raʾy*), with Mālik a key figure in its codification (El Shamsy, *The Canonization of Islamic Law*, pp. 21–34). As Vishanoff points out, however, such hermeneutic narratives are an imaginaire that cannot fully capture the complexity of legal change (Vishanoff, review of *The Canonization of Islamic Law*). Within the narrow scope of the present study, the evidence points to Mālik not holding especially strongly to an ingrained traditional Medinan practice on *mukātaba*, but rather embracing a common proto-Sunnī position.

77 Kennedy, *The Prophet and the Age of the Caliphates*, pp. 133–134.

78 Kennedy, *The Prophet and the Age of the Caliphates*, pp. 137–138.

79 Brunschvig, 'ʿAbd'.

80 Popovic, 'al-Zandj'.

81 Savage, 'Berbers and Blacks', pp. 354–355.

82 Brunschvig, 'ʿAbd'.

83 al-Ṭabarī, *Jāmiʿ al-bayān*, vol. 17, p. 276; al-Sanʿānī, *al-Muṣannaf*, vol. 8, pp. 371–372; al-Jaṣṣāṣ, *Aḥkām al-Qurʾān*, vol. 5, p. 180; Ibn al-Mundhir, *al-Ishrāf*, vol. 7, p. 6.

84 Ibn al-Mundhir, *al-Ishrāf*, vol. 7, p. 7.

85 al-Ṭabarī, *Jāmiʿ al-bayān*, vol. 17, p. 284; Ibn Abī Shayba, *al-Muṣannaf*, vol 7, p. 304.

86 Qalʿajī, *Mawsūʿa fiqh ʿAbd Allāh b. Masʿūd*, p. 283.

87 Mālik, *al-Muwaṭṭaʾ*, p. 381.

88 al-Jaṣṣāṣ, *Aḥkām al-Qurʾān*, vol. 5, p. 181.

89 Zayd b. ʿAlī, *Corpus Iuris*, pp. 257–258.

90 al-Suyūṭī, *al-Durr al-manthūr*, vol. 11, pp. 46, 49.

91 al-Ṭabarī, *Jāmiʿ al-bayān*, vol. 17, pp. 283–284, 287; al-Jaṣṣāṣ, *Aḥkām al-Qurʾān*, vol. 5, p. 182; al-Ṣanʿānī, *al-Muṣannaf*, vol. 8, pp. 375–376; Ibn Abī Shayba, *al-Muṣannaf*, vol. 7, p. 305. Mention of recommendation is found in Ibn Abī Ḥātim, *Tafsīr al-Qurʾān al-ʿaẓīm*, vol. 8, p. 2,586; al-Suyūṭī, *al-Durr al-manthūr*, vol. 11, p. 48; and Zayd b. ʿAlī, *Corpus Iuris* p. 258. A rare report has the amount at one third: al-Farrāʾ, *Maʿānī al-Qurʾān*, vol. 2, p. 251. One quarter is also given as an initial payment, rather than final remission: al-Ṭabarī, *Jāmiʿ al-bayān*, vol. 17, p. 283, and Ibn Abī Shayba, *al-Muṣannaf*, vol. 7, pp. 303–304. In an unusual report, the amount of one quarter is even ascribed to the Prophet: al-Ṣanʿānī, *al-Muṣannaf*, vol. 8, p. 375; Ibn Abī Ḥātim, *Tafsīr al-Qurʾān al-ʿaẓīm*, vol. 8, p. 2,587; al-Suyūṭī, *al-Durr al-manthūr*, vol. 11, p. 49. This is dubious given the otherwise entirely post-Prophetic commentary on the verse, a point picked up in the tradition (al-Ṣanʿānī, *al-Muṣannaf*, vol. 8, p. 375). Ibn Kathīr declares 'This is an isolated report and its ascription [to the Prophet] is unknown (*hadhā ḥadīthun gharībun wa-rafʿahu munkarun*) (Ibn Kathīr, *Tafsīr al-Qurʾān al-ʿaẓīm*, vol. 6, p. 54).

92 al-Ṭabarī, *Jāmiʿ al-bayān*, vol. 17, p. 278; Ibn al-Mundhir, *al-Ishrāf*, vol. 7, p. 7. Ibn ʿUmar is reported as rejecting a payment, saying, 'Will you feed me from the people's impurities (*awsākh al-nās*)?' (al-Ṣanʿānī, *al-Muṣannaf*, vol. 8, p. 374; al-Suyūṭī, *al-Durr al-manthūr*, vol. 11, p. 47). This likely refers to instalments made with *ṣadaqāt* in the sense of obligatory alms (later usually termed *zakāt*), as the same phrase is mentioned in *hadīth*s of the Prophet Muḥammad in which he said, 'Alms are not appropriate for the family of Muḥammad; they are nothing but the people's impurities' (Muslim, *Ṣaḥīḥ*, vol. 1, p. 426).

93 al-Ṭabarī, *Jāmiʿ al-bayān*, vol. 17, p. 286. It is said he remitted 5,000 dirhams from a contract of 35,000, i.e. one seventh. Elsewhere the figure of one quarter of the total is quoted (Ibn Abī Ḥātim, *Tafsīr al-Qurʾān al-ʿaẓīm*, vol. 8, p. 2,588; Ibn Abī Shayba, *al-Muṣannaf*, vol. 7, p. 304).

94 al-Ṭabarī, *Jāmiʿ al-bayān*, vol. 17, p. 276; al-Ṣanʿānī, *al-Muṣannaf*, vol. 8, pp. 371–372.

95 al-Ṭabarī, *Jāmiʿ al-bayān*, vol. 17, pp. 276–277.

96 al-Ṭabarī, *Jāmiʿ al-bayān*, vol. 17, pp. 276–277, 281; al-Jaṣṣāṣ, *Aḥkām al-Qurʾān*, vol. 5, p. 180; al-Ṣanʿānī, *al-Muṣannaf*, vol. 8, p. 370.

97 al-Ṭabarī, *Jāmiʿ al-bayān*, vol. 17, p. 278; Ibn Abī Ḥātim, *Tafsīr al-Qurʾān al-ʿaẓīm*, vol. 8, pp. 2,583–2,584. A caveat is mentioned that this is so the *mukātab*'s provision does not fall on the community of Muslims. There are also narrations attributing to Ibn ʿAbbās the exegesis of trustworthiness (*amāna*), faithfulness (*wafāʾ*) and the like in fulfilling the contract (al-Suyūṭī, *al-Durr al-manthūr*, vol. 11, p. 46). I doubt these ascriptions, as apart from conflicting with the information in al-Ṭabarī, it seems much closer to later Iraqi views than those within the Medinan milieu, or the opinions of his students, which almost always include an element of material means.

98 al-Ṭabarī, *Jāmiʿ al-bayān*, vol. 17, pp. 280–281, 285; Ibn Abī Ḥātim, *Tafsīr al-Qurʾān al-ʿaẓīm*, vol. 8, p. 2,586. There is a report of a remission of one third (al-Ṭayyār, *Mawsūʿat al-tafsīr al-maʾthūr*, vol. 15, p. 605).

99 The sheer number of reports has prompted the use of tables to organise the data associated with each figure, including notes on alternative opinions and comments on the process of selecting the dominant position. The same sources will only be cited again in the main text when there is a need. A solitary question mark denotes a failure to find the position in the sources consulted. A question mark after a given position indicates that it is not stated explicitly but seems implicit from the sources and other contextual factors.

100 For this condition, see al-Ṣanʿānī, *al-Muṣannaf*, vol. 8, p. 372.

101 al-Ṭabarī, *Jāmiʿ al-bayān*, vol. 17, p. 276.

102 al-Jaṣṣāṣ, *Aḥkām al-Qurʾān*, vol. 5, p. 180. ʿAbd al-Razzāq records an extended narrative account, though he does not mention the oath (al-Ṣanʿānī, *al-Muṣannaf*, vol. 8, pp. 371–372).

103 al-Ṭabarī, *Jāmiʿ al-bayān*, vol. 17, p. 278.

104 See Harvey, *The Qur'an and the Just Society*, p. 138.

105 Zayd b. ʿAlī, *Corpus Iuris*, pp. 257–258.

106 Views in the academic literature on the authenticity of the work as a whole vary considerably, with both early and late datings. There is a good summary in Motzki, 'The Origins of Muslim Exegesis', pp. 281–285.

107 See note 91. It also supports the view attributed to him about the gradual transition from slavery to freedom as the contract is fulfilled. See page 78.

108 See page 83.

109 Qalʿajī, *Mawsūʿa fiqh ʿAbd Allāh b. Masʿūd*, p. 283.

110 al-Ṭabarī, *Jāmiʿ al-bayān*, vol. 17, p. 278; Ibn Abī Ḥātim, *Tafsīr al-Qurʾān al-ʿaẓīm*, vol. 8, pp. 2,583–2,584.

111 See, for instance, al-Jaṣṣāṣ, *Aḥkām al-Qurʾān*, vol. 5, p. 181.

112 An example is that ʿAṭāʾ discusses the ruling of a master who writes a *mukātaba* contract for a slave who hides his wealth, arguing that it belongs to the slave (and not the master). See al-Ṣanʿānī, *al-Muṣannaf*, vol. 8, pp. 383–384. Cf. Crone, *Roman, Provincial and Islamic Law*, p. 74.

113 See al-Ṣanʿānī, *al-Muṣannaf*, vol. 8, pp. 405–413.

114 al-Ṣanʿānī, *al-Muṣannaf*, vol. 8, pp. 406, 408; al-Jaṣṣāṣ, *Aḥkām al-Qurʾān*, vol. 5, pp. 185–186; al-Ṭayyār, *Mawsūʿat al-tafsīr al-maʾthūr*, vol. 15, p. 609.

115 Abū Dāwūd, *Sunan*, vol. 2, p. 660; al-Tirmidhī, *Sunan*, vol. 1, p. 342.

116 al-Jaṣṣāṣ, *Aḥkām al-Qurʾān*, vol. 5, p. 185; al-Ṭaḥāwī declares that there is no *isnād* for the position (al-Ṭaḥāwī, *Aḥkām al-Qurʾān*, vol. 2, p. 459). This contradicts other views attributed to Ibn ʿAbbās, such as that the *mukātab* only becomes free (with a debt to pay), when the amount remaining reaches five *awāq* ('ounces') (al-Ṣanʿānī, *al-Muṣannaf*, vol. 8, pp. 405–406). This is equivalent to 200 *dirham*s (Lane, *Arabic-English Lexicon*, vol. 1, p. 1,102). However, it is treated as normative in later Ibāḍī law, see pages 87–88.

117 al-Ṣanʿānī, *al-Muṣannaf*, vol. 8, pp. 410–411.

118 al-Jaṣṣāṣ, *Aḥkām al-Qurʾān*, vol. 5, p. 186.

119 al-Ṣanʿānī, *al-Muṣannaf*, vol. 8, p. 412; Abū Yūsuf, *Kitāb al-āthār*, p. 190. It conflicts with other opinions attributed to ʿAlī that make the *mukātab* free at the beginning of the contract, or once the halfway point has been reached. See Qalʿajī, *Mawsūʿa fiqh ʿAlī b. Abī Ṭālib*, pp. 281–282.

120 Three rulings are mentioned as implemented in proportion to the degree that a *mukātab* has gained freedom. The amount of *dīya* to be paid for (i) a slain *mukātab*: al-Nasāʾī, *Sunan*, vol. 2, pp. 782–783; al-Tirmidhī, *Sunan*, vol. 1, p. 342; Abū Dāwūd, *Sunan*, vol. 2, p. 770;

(ii) the number of lashes the *mukātab* receives for a *ḥadd* punishment: al-Nasāʾī, *Sunan*, vol. 2, p. 783; al-Tirmidhī, *Sunan*, vol. 1, p. 342; Abū Dāwūd, *Sunan*, vol. 2, p. 770; and (iii) the share of inheritance the *mukātab* is due: al-Nasāʾī, *Sunan*, vol. 2, p. 783; al-Tirmidhī, *Sunan*, vol. 1, p. 342; Abū Dāwūd, *Sunan*, vol. 2, p. 770. This idea is developed explicitly as a juristic system in the *Majmūʿ al-fiqh* of Zayd b. ʿAlī. See page 85.

121 The exegesis of Ibn ʿAbbās is replicated in this table for the purpose of comparison with his students.

122 al-Ṭabarī, *Jāmiʿ al-bayān*, vol. 17, p. 281–282; al-Ṭaḥāwī, *Aḥkām al-Qurʾān*, vol. 2, p. 457; al-Jaṣṣāṣ, *Aḥkām al-Qurʾān*, vol. 5, p. 180; al-Ṣanʿānī, *al-Muṣannaf*, vol. 8, p. 370; Ibn Abī Shayba, *al-Muṣannaf*, vol. 7, p. 574. In some other narrations both wealth and trustworthiness (*amāna*) are mentioned (al-Ṭabarī, *Jāmiʿ al-bayān*, vol. 17, p. 279; Ibn Abī Ḥātim, *Tafsīr al-Qurʾān al-ʿaẓīm*, vol. 8, p. 2,584; Ibn Abī Shayba, *al-Muṣannaf*, vol. 7, p. 573). An analysis of the *isnād*s shows that the addition of trustworthiness is likely to be a discrepancy (*shudhūdh*) from Ibn ʿUlayya (d. 193/809), as his informant ʿAbd Allāh b. Abī Najīḥ (d. 131–132/748–750) transmits wealth alone to his other students, as does Mujāhid in the other main strands. This is despite the high regard in which Ibn ʿUlayya is held by the *ahl al-ḥadīth*. See al-Dhahabī, *Mīzān al-iʿtidāl* vol. 1, pp. 216–217. Some of the reports even highlight the point that only wealth, not character, matters (Ibn Abī Shayba, *al-Muṣannaf*, vol. 7, p. 574; al-Ṭabarī, *Jāmiʿ al-bayān*, vol. 17, p. 281). An isolated strand gives wealth, faithfulness, and truthfulness (Ibn Abī Ḥātim, *Tafsīr al-Qurʾān al-ʿaẓīm*, vol. 8, p. 2,584). Another report gives riches (*ghinan*) and ability to fulfil [the contract] (*adāʾ*) (Ibn al-Mundhir, *al-Ishrāf*, vol. 7, p. 7).

123 al-Ṭabarī, *Jāmiʿ al-bayān*, vol. 17, p. 285; Ibn Abī Shayba, *al-Muṣannaf*, vol. 5, pp. 304–305. One report suggests remission at the end: see Ibn Abī Shayba, *al-Muṣannaf*, vol. 7, p. 305.

124 al-Jaṣṣāṣ, *Aḥkām al-Qurʾān*, vol. 5, pp. 182–183; Ibn Abī Shayba, *al-Muṣannaf*, vol. 5, p. 304.

125 al-Jaṣṣāṣ, *Aḥkām al-Qurʾān*, vol. 5, p. 180.

126 Ibn al-Mundhir, *al-Ishrāf*, vol. 7, p. 7; Ibn Abī Ḥātim, *Tafsīr al-Qurʾān al-ʿaẓīm*, vol. 8, p. 2,585.

127 Ibn Abī Ḥātim, *Tafsīr al-Qurʾān al-ʿaẓīm*, vol. 8, p. 2,585.

128 al-Ṭabarī, *Jāmiʿ al-bayān*, vol. 17, p. 285.

129 al-Ṭabarī, *Jāmiʿ al-bayān*, vol. 17, p. 276; Ibn al-Mundhir, *al-Ishrāf*, vol. 7, p. 5; al-Ṣanʿānī, *al-Muṣannaf*, vol. 8, p. 371; al-Jaṣṣāṣ, *Aḥkām al-Qurʾān*, vol. 5, p. 180. Al-Jaṣṣāṣ and Ibn Abī Ḥātim al-Rāzī also record a position of non-obligation from ʿAṭāʾ, though the other narrations and overall pattern of Ibn ʿAbbās' circle make this seem anomalous (al-Jaṣṣāṣ, *Aḥkām al-Qurʾān*, vol. 5, p. 180; Ibn Abī Ḥātim, *Tafsīr al-Qurʾān al-ʿaẓīm*, vol. 8, p. 2,583).

130 al-Ṭabarī, *Jāmiʿ al-bayān*, vol. 17, pp. 281–282; al-Ṭaḥāwī, *Aḥkām al-Qurʾān*, vol. 2, p. 457; al-Jaṣṣāṣ, *Aḥkām al-Qurʾān*, vol. 5, p. 180; al-Ṣanʿānī, *al-Muṣannaf*, vol. 8, p. 370; Ibn Abī Shayba, *al-Muṣannaf*, vol. 7, p. 574. ʿAṭāʾ argues for *khayr* to be understood as wealth based on Q. 2:180 (see main text above). See al-Ṭabarī, *Jāmiʿ al-bayān*, vol. 17, p. 282; al-Jaṣṣāṣ, *Aḥkām al-Qurʾān*, vol. 5, p. 180. In a couple of chains, wealth and ability to fulfil [the contract] are given (al-Ṭabarī, *Jāmiʿ al-bayān*, vol. 17, p. 280; Ibn Abī Shayba, *al-Muṣannaf*, vol. 7, p. 573). Analysis suggests that either ʿAbd al-Malik b. Abī Sulaymān (d. 145/762), or his student (ʿAbd Allāh) Ibn Idrīs (d. 192/808) have introduced ability to fulfil [the contract] into the report, as Abū Bakr (Ibn Abī Shayba) who narrates from Ibn Idrīs has received the exegesis of wealth alone from an alternative chain, while many other alternative *isnād*s only report wealth from ʿAṭāʾ. While Ibn Idrīs receives unanimous praise from the biographical literature (al-Dhahabī, *Siyar aʿlām al-nubalāʾ*, vol. 9, p. 44), ʿAbd al-Malik has been accused of anomalously narrating a *munkar* ('unknown') *ḥadīth* about *shufʿa* ('pre-emptive sale')

from ʿAṭāʾ, which makes him the likely culprit (al-Dhahabī, *Mīzān al-iʿtidāl*, vol. 2, p. 656). (This is a good practical example of how the corroborative detective work of an *isnād*-cum-*matn* analysis can be enhanced by cross-checking with the additional information furnished within biographical dictionaries: a standard procedure of classical *ḥadīth* methodology). The same rogue chain that reports wealth, faithfulness, and truthfulness for Mujāhid, does so for ʿAṭāʾ (Ibn Abī Ḥātim, *Tafsīr al-Qurʾān al-ʿaẓīm*, vol. 8, p. 2,584). A final isolated *isnād* suggests the ability to fulfil [the contract] and trustworthiness (Ibn Abī Ḥātim, *Tafsīr al-Qurʾān al-ʿaẓīm*, vol. 8, p. 2,585).

131 One report suggests the amount is at the master's discretion, though the implicit sense of others is an obligation (Ibn Abī Shayba, *al-Muṣannaf*, vol. 7, pp. 304–305).

132 al-Ṭabarī, *Jāmiʿ al-bayān*, vol. 17, p. 285; Ibn Abī Ḥātim, *Tafsīr al-Qurʾān al-ʿaẓīm*, vol. 8, p. 2,588; Ibn Abī Shayba, *al-Muṣannaf*, vol. 7, pp. 304–305. One report mentions a quarter (al-Ṭayyār, *Mawsūʿat al-tafsīr al-maʾthūr*, vol. 15, p. 606).

133 al-Jaṣṣāṣ, *Aḥkām al-Qurʾān*, vol. 5, p. 180; Ibn al-Mundhir, *al-Ishrāf*, vol. 7, p. 5.

134 al-Ṭabarī, *Jāmiʿ al-bayān*, vol. 17, p. 280; al-Ṣanʿānī, *al-Muṣannaf*, vol. 8, p. 370.

135 al-Ṭabarī, *Jāmiʿ al-bayān*, vol. 17, p. 282; al-Jaṣṣāṣ, *Aḥkām al-Qurʾān*, vol. 5, p. 180.

136 See Wilkinson, *Ibāḍism*, pp. 149–150.

137 Crone, *Roman, Provincial and Islamic Law*, p. 86.

138 al-Ṣanʿānī, *al-Muṣannaf*, vol. 8, p. 406. See page 88.

139 Ibn Abī Ḥātim, *Tafsīr al-Qurʾān al-ʿaẓīm*, vol. 8, p. 2,584.

140 al-Ṭaḥāwī, *Aḥkām al-Qurʾān*, vol. 2, p. 457.

141 As with other figures, he ascribed the position of giving *zakāt* to the *mukātab*, but under his exegesis of Q. 9:60. See main text.

142 al-Ṭabarī, *Jāmiʿ al-bayān*, vol. 17, p. 280; al-Jaṣṣāṣ, *Aḥkām al-Qurʾān*, vol. 5, p. 180; al-Ṣanʿānī, *al-Muṣannaf*, vol. 8, p. 371; Ibn Abī Shayba, *al-Muṣannaf*, vol. 7, p. 574. A few of the reports are unsure whether it is one or the other. Alternative chains give just truthfulness (Ibn Abī Ḥātim, *Tafsīr al-Qurʾān al-ʿaẓīm*, vol. 8, p. 2,584); the ability to fulfil [the contract] (al-Shaybānī, *Kitāb al-āthār*, vol. 2, p. 579); or both (al-Ṭaḥāwī, *Aḥkām al-Qurʾān*, vol. 2, p. 456).

143 al-Ṭabarī, *Jāmiʿ al-bayān*, vol. 17, p. 288; al-Ṣanʿānī, *al-Muṣannaf*, vol. 8, pp. 376–377; al-Jaṣṣāṣ, *Aḥkām al-Qurʾān*, vol. 5, p. 181; Ibn Abī Ḥātim, *Tafsīr al-Qurʾān al-ʿaẓīm*, vol. 8, p. 2,586. The printed text of Ibn Abī Ḥātim reads 'ḥathth al-nās ʿalayhi mawlatan ghayruhu', but should read 'ḥathth al-nās ʿalayhi mawlahu wa-ghayruhu' as in the narration of al-Ṭabarī.

144 al-Jaṣṣāṣ, *Aḥkām al-Qurʾān*, vol. 4, p. 326.

145 Ibn al-Mundhir, *al-Ishrāf*, vol. 7, p. 6; Ibn Kathīr, *Tafsīr al-Qurʾān al-ʿaẓīm*, vol. 6, p. 52.

146 al-Ṭaḥāwī, *Aḥkām al-Qurʾān*, vol. 2, p. 457; al-Ṣanʿānī, *al-Muṣannaf*, vol. 8, p. 371; Ibn Abī Shayba, *al-Muṣannaf*, vol. 7, p. 574. A number of individual variants are reported: wealth in Ibn Abī Ḥātim, *Tafsīr al-Qurʾān al-ʿaẓīm*, vol. 8, p. 2,584; religion (*dīn*) in al-Ṭaḥāwī, *Aḥkām al-Qurʾān*, vol. 2, p. 456; religion, truthfulness, and faithfulness in al-Ṭaḥāwī, *Aḥkām al-Qurʾān*, vol. 2, p. 457; upstanding nature in religion (*ṣalāḥ fī al-dīn*) in al-Jaṣṣāṣ, *Aḥkām al-Qurʾān*, vol. 5, p. 180; truthfulness, faithfulness, ability to fulfil [the contract], and trustworthiness in al-Ṭabarī, *Jāmiʿ al-bayān*, vol. 17, p. 279; and, unusually in the context of this verse, Qurʾan and Islam in Ibn Abī Shayba, *al-Muṣannaf*, vol. 7, p. 574–575.

147 al-Ṭabarī, *Jāmiʿ al-bayān*, vol. 17, p. 288; al-Jaṣṣāṣ, *Aḥkām al-Qurʾān*, vol. 5, p. 181.

148 al-Ṭabarī, *Jāmiʿ al-bayān*, vol. 11, p. 524.

149 al-Salimi, *Early Islamic Law in Basra in the 2nd/8th Century*, p. 309.

150 Zayd b. ʿAlī, *Corpus Iuris*, pp. 257–258.

151 Zayd b. ʿAlī, *Corpus Iuris*, 258.

152 Zayd b. ʿAlī, *Corpus Iuris*, p. 97.

153 al-Ṭabarī, *Jamiʿ al-bayān*, vol. 17, p. 288; Ibn Abī Ḥātim, *Tafsīr al-Qurʾān al-ʿaẓīm*, vol. 8, p. 2,586. In both, he explicitly references Q. 9:60, *And slaves …* (*wa-fī'l-riqāb*).

154 Ibn Kathīr, *Tafsīr al-Qurʾān al-ʿaẓīm*, vol. 6, p. 53.

155 al-Ṭaḥāwī, *Aḥkām al-Qurʾān*, vol. 2, p. 465.

156 This comes under commentary on Q. 9:60 (al-Jaṣṣāṣ, *Aḥkām al-Qurʾān*, vol. 4, p. 326).

157 There is an absence of any clarification of non-obligation in Muqātil, *Tafsīr*, vol. 3, p. 197, and Muqātil, *Tafsīr al-khams miʾāt āya*, p. 234. However, at the end of the section, Muqātil writes, 'This is an instruction from God and not an obligation, though it is rewardable' (Muqātil, *Tafsīr al-khams miʾāt āya*, p. 235). The way that this frames the section could be read as implying it is intended to cover the initial status of writing the *mukātaba* contract, though the most obvious sense is that it only applies to the financial assistance.

158 Muqātil, *Tafsīr*, vol. 3, p. 197.

159 Muqātil, *Tafsīr al-khams miʾāt āya*, p. 234.

160 Muqātil, *Tafsīr al-khams miʾāt āya*, p. 235. He attributes the position 'to help slaves (*an yuʿīnū fī al-riqāb*)' to Ibn ʿAbbās, which is suggestive of Q. 9:60. The only thing linking this phrase to the idea of paying *zakāt* towards the *mukātaba* contract is its placement in this section. However, al-Ṭabarī attributes—without an *isnād*—the position to Ibn ʿAbbās that he saw no problem in using *zakāt* to free slaves, which he opposes to the view that this is to be done via *mukātaba*; the same is recorded by al-Jaṣṣāṣ. See al-Ṭabarī, *Jāmiʿ al-bayān*, vol. 11, p. 524; al-Jaṣṣāṣ, *Aḥkām al-Qurʾān*, vol. 4, p. 326. Muqātil's alternative position of remission of a quarter is unsurprisingly taken from the well-known narration of ʿAlī.

161 al-Ṭabarī, *Jāmiʿ al-bayān*, vol. 17, p. 277; Ibn al-Mundhir, *al-Ishrāf*, vol. 7, p. 6; Ibn Kathīr, *Tafsīr al-Qurʾān al-ʿaẓīm*, vol. 6, p. 53.

162 al-Ṭabarī, *Jāmiʿ al-bayān*, vol. 17, p. 280.

163 al-Ṭayyār, *Mawsūʿat al-tafsīr al-maʾthūr*, vol. 15, p. 601.

164 al-Ṭaḥāwī, *Aḥkām al-Qurʾān*, vol. 2, p. 465.

165 al-Ṭabarī, *Jāmiʿ al-bayān*, vol. 17, p. 287.

166 al-Ṭaḥāwī, *Aḥkām al-Qurʾān*, vol. 2, p. 475.

167 al-Ṭabarī, *Jāmiʿ al-bayān*, vol. 17, p. 277; Mālik, *al-Muwaṭṭaʾ*, pp. 304–305.

168 al-Ṭabarī, *Jāmiʿ al-bayān*, vol. 17, pp. 278–279.

169 al-Ṭaḥāwī, *Aḥkām al-Qurʾān*, vol. 2, p. 465.

170 Mālik, *al-Muwaṭṭaʾ*, p. 305; al-Ṭabarī, *Jāmiʿ al-bayān*, vol. 17, p. 286.

171 There are narrations to Mālik both confirming and denying that he permitted *zakāt* for the *mukātab*: Ibn al-ʿArabī, *Aḥkām al-Qurʾān*, vol. 2, p. 967.

172 al-Khurāsānī, *al-Mudawwana al-kubrā*, vol. 3, p. 60.

173 al-Khurāsānī, *al-Mudawwana al-kubrā*, vol. 3, p. 60.

174 al-Khurāsānī, *al-Mudawwana al-kubrā*, vol. 3, p. 60. The report of ʿUmar giving to his *mukātab* from his own wealth at the outset is quoted as just (*ʿadl*), though rejected as the relied-upon rule (al-Khurāsānī, *al-Mudawwana al-kubrā*, vol. 3, pp. 60–61).

175 al-Khurāsānī, *al-Mudawwana al-kubrā*, vol. 3, p. 61.

176 al-Jaṣṣāṣ, *Aḥkām al-Qurʾān*, vol. 5, p. 180; Ibn Rushd, *Bidāyat al-mujtahid*, vol. 4, p. 157; Ibn Kathīr, *Tafsīr al-Qurʾān al-ʿaẓīm*, vol. 6, pp. 52–53.

177 Mālik, *al-Muwaṭṭaʾ*, pp. 304–305. There is no section on this question in Saḥnūn, *al-Mudawwana al-kubrā*, vol. 7, p. 82.

178 Both the principle and the exegetical exempla can be found in the work of the Ḥanafī al-Jaṣṣāṣ, *al-Fuṣūl fiʾl-uṣūl*, vol. 2, pp. 81, 87. The principle alone is in the text of the Mālikī Ibn al-Qaṣṣār (d. 397/1006): see Ibn al-Qaṣṣār, *al-Muqaddima fī al-uṣūl*, p. 60.

179 This particular point does not demonstrate his transmission of their proto-Ibāḍism. Cf. al-Salimi, *Early Islamic Law in Basra in the 2nd/8th Century*, pp. 9–18.

180 al-Jaṣṣāṣ, *Aḥkām al-Qurʾān*, vol. 4, p. 326.

181 Crone, *Roman, Provincial and Islamic Law*, p. 151 n. 70.

182 Cf. Crone, *Roman, Provincial and Islamic Law*, pp. 90–91.

183 al-Shaybānī, *al-Jāmiʿ al-ṣaghīr*, pp. 376–377.

184 See Crone, *Roman, Provincial and Islamic Law*, p. 75.

185 al-Marghīnānī, *al-Hidāya*, vol. 5, p. 342. There are indications that later legal theoreticians distinguished between a level of basic ownership, which slaves could have, and a higher level of financial responsibility which they could not. See Brunschvig, 'ʿAbd'.

186 Saḥnūn, *al-Mudawwana al-kubrā*, vol. 13, pp. 129–130.

187 Zayd b. ʿAlī, *Corpus Iuris*, p. 97.

188 Zayd b. ʿAlī, *Corpus Iuris*, p. 172.

189 Zayd b. ʿAlī, *Corpus Iuris*, p. 230.

190 Zayd b. ʿAlī, *Corpus Iuris*, pp. 225–227.

191 Zayd b. ʿAlī, *Corpus Iuris*, pp. 227–228.

192 Zayd b. ʿAlī, *Corpus Iuris*, p. 220.

193 Zayd b. ʿAlī, *Corpus Iuris*, p. 258.

194 Haider, *The Origins of the Shīʿa*, p. 180.

195 See Haider, *The Origins of the Shīʿa*, pp. 192–214. For a summary of the theological connections between Zaydī tendencies and proto-Sunnism within this period, see Haider, *Shīʿī Islam*, pp. 108–110.

196 See Plessner and Rippin, 'Muqātil b. Sulaymān'. The editor of *Tafsīr al-khams miʾāt āya* argues that it is a compendium of legal rules extracted from Muqātil's main *tafsīr* and organised according to the chapters of jurisprudence by an unknown circle that followed Muqātil's opinions (Muqātil, *Tafsīr al-khams miʾāt āya*, pp. 6–7). Given its commentary by Abū al-Ḥawārī, an Ibāḍī connection may be speculated.

197 See Abbott, *Studies in Arabic Literary Papyri II*, pp. 98–101; Versteegh, 'Grammar and Exegesis', p. 237.

198 Abū al-Ḥawārī, *al-Dirāya wa-kanz al-ghināya*, p. 216; Saḥnūn, *al-Mudawwanat al-kubrā*, p. 234.

199 al-Huwwārī, *Kitāb Allāh al-ʿazīz*, vol. 3, p. 178.

200 Yaḥyā b. Sallām, *Tafsīr*, vol. 1, p. 446. The editor of the *Tafsīr al-kitāb al-ʿazīz* makes clear the dependence of the text upon the earlier work of Yaḥyā b. Sallām, mentioning that if he was able to change the title from what was written on the manuscript, he would have named it as its *mukhtaṣar* ('epitome') (al-Huwwārī, *Kitāb Allāh al-ʿazīz*, vol. 1, p. 24. See also al-Huwwārī, *Kitāb Allāh al-ʿazīz*, vol. 1, pp. 22–25).

201 al-Khurāsānī, *al-Mudawwana al-kubrā*, vol. 3, p. 60. For details on these figures and their prominence in the work, see al-Khurāsānī, *al-Mudawwana al-kubrā*, vol. 1, pp. 18–21, 24–27. Interestingly, the editor quotes the gloss of the text's modern compiler (*murattib*) al-Quṭb Aṭfayyish (d. 1914)—see al-Khurāsānī, *al-Mudawwana al-kubrā*, vol. 1, p. 108—as stating that this view is not established from Abū Ubayda and that rather his position was *khayr* 'in religion' (a Basran position, as seen for al-Ḥasan al-Baṣrī above). Aṭfayyish goes on to justify this with the argument that there is no point in making this stipulation, as 'what wealth would a slave possess?' This argument is reminiscent of the classical Sunnī schools and demonstrates the extent to which the Ibāḍī tradition eventually joined them in disavowing the earlier conception of the legal status of the slave.

202 Wilkinson, *Ibāḍism*, p. 167.

203 al-Khurāsānī, *al-Mudawwana al-kubrā*, vol. 3, p. 61.

204 al-Khurāsānī, *al-Mudawwana al-kubrā*, vol. 3, p. 62.

205 Wilkinson, *Ibāḍism*, p. 128.

206 al-Khurāsānī, *al-Mudawwana al-kubrā*, vol. 3, p. 302.

207 Crone, *Roman, Provincial and Islamic Law*, p. 153 n. 116.

208 Abū al-Ḥawārī, *al-Dirāya wa-kanz al-ghināya*, p. 216.

209 Abū al-Ḥawārī, *al-Dirāya wa-kanz al-ghināya*, p. 216. A marginal note in the published edition, which is the facsimile of a manuscript, elaborates that this means the master may add the explicit condition that freedom is only effective after the full amount is paid. The same view is recorded on the authority of ᶜAṭāʾ (al-Ṣanᶜānī, *al-Muṣannaf*, vol. 8, p. 406). This opt-in to the Sunnī position arguably demonstrates pressure from the dominant approach and is reflected too in Shīᶜī jurisprudence (Crone, *Roman, Provincial and Islamic Law*, p. 76).

210 Wilkinson, *Ibāḍism*, p. 136.

211 van Ess, *Theology and Society, Volume 2*, p. 230; Wilkinson, *Ibāḍism*, pp. 126–128.

212 Consider in this light the difficulty of legal reasoning about the rural population of the conquered Sawād (Pipes, 'Mawlas: Freed Slaves and Converts in Early Islam', pp. 218–219).

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