IS MĀLIKĪ QUNŪT A MEDINAN PRACTICE OR AN EGYPTIAN ONE?

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Abstract
The questions of how Muslim legal schools developed, and how some jurists became dominant legal authorities have been the subject of some scholarly debate. In a chapter entitled “Competing Theories of Authenticity in Early Mālikī Texts,” Jonathan Brockopp argued against Norman Calder, Patricia Crone and John Wansbrough. All three maintained that the development of Islamic law reflected a linear move from dependence on an individual Shaykh to dependence on God’s Prophet. Brockopp suggested a dialectic process, where this linearity competes with a different frame of authority where some jurists are raised by their followers to the status of a final authority, despite or at the expense of the Prophetic tradition. This study, which examines the early Mālikī texts on qunūt (the special non-Qur’ānic recitation in certain prayers), partially corroborates Brockopp’s criticism of these three theorists. However, it questions the wide applicability of his “Great Shaykh Theory.” It shows a more complex process, where at least three, not two, competing legal desires (to establish textual authenticity, to consider the reverent position of key jurists, and to reconcile the two in case of conflict) dictate, not necessarily the arrangement of materials, but certainly legal preferences of the authors of these texts.

Keywords: mālikī, qunūt, medinan, Egyptian.

INTRODUCTION
Qunūt is a special non-Qur’ānic supplication in certain Muslim prayers. It is also one of many aspects of Islamic prayers that are subject to ikhtilāf. But the array of opinions about qunūt is exceptionally diverse, ranging from the position of the scholars who consider it to be a pernicious innovation (bid‘a) to those who see it as a recommended sunna. This divergence of opinion extends to the definition of the term, in which prayer it should be offered, how often, under what circumstances and how should it be performed. Those Muslim scholars who thought qunūt was a sunna had to debate whether qunūt should be offered once a year, every day or only in the face of major catastrophe. This same group of scholars also disagreed as to whether qunūt should be offered in one of the five prayers, and if so, which one?¹

The detailed scholarly positions, which one finds today in fiqh manuals, must have clearly taken time to mature. Projecting one of these positions, in its final form, against the earlier extant sources within the same school, should therefore offer critical insights into how legal schools developed. In a chapter entitled “Competing Theories of Authenticity in Early Mālikī Texts,” Jonathan Brockopp argues against a linear conception of Islamic legal development as progressing from a ‘primitive’ phase to a mature

¹ Ibn Rushd (d. 595/1198) captures this ikhtilāf in a short paragraph: “The [scholars] disagreed about qunūt. Mālik embraced the view that it is recommended (mustahabb) in the Daybreak Prayer. Shāfi‘î believed it was sunna. Abū Hanîfa thought it is not permissible to make qunūt in the Daybreak Prayer. He thought it should only be offered in witr. Other people said qunūt should be offered in all prayers. Still other jurists opined that there is no qunūt except in Ramaḍān. A different group of scholars saw a place for qunūt only in the last half of Ramaḍān. Finally, another contingent proclaimed that there should be no qunūt except in the first half.” See, Muhammad Ibn Rushd, Bidāyat al-muḥtahid wa nihāyat al-muqtasid, (Cairo: Maktabat al-kulliyat al-azhariyya, 1974), 159.
legal theory.’ He criticizes in particular the notion that there was a move away ‘from dependence on an individual Shaykh to dependence on God’s Prophet.’ Brockopp shows the limitation of the arguments advanced by three theorists of early Muslim legal development—Norman Calder, Patricia Crone and John Wansbrough—to support that theory. He suggests instead a more dialectic process in which the drive to linearity competes with a different frame of authority. This latter frame of authority is where certain jurists are raised by their followers to the status of a final authority, challenging the desire to ground authenticities in scripture or Prophetic traditions. Brockopp calls his account of this mode of legal behavior the Great Shaykh Theory.

My analysis of the sections of qunūt in early Mālikī texts does partially corroborate Brockopp’s criticism of the linear progression toward a clear legal theory. It, however, doesn’t vindicate his Great Shaykh Theory. Instead, what my analysis shows is a more complex process in which three competing legal desires dictate the legal preference. The Mālikī qunūt texts reflect the conflict of three legal desires: 1) a desire to ground legal positions in textual sources (primarily Sunna); 2) a concurrent preference of the position of a key legal authority (in this case Mālik) valued because of a perceived proximity in time and place to the Prophet; and 3) the desire of subsequent followers of the school to reconcile these two desires when there is a conflict between the practice of this legal authority and the texts or between the texts themselves.

For instance, while the section on qunūt in the prophetic texts which Mālik transmits in the Muwaṭṭa’ doesn’t support the established Mālikī position on qunūt, and while Mālik’s own views in Saḥnūn’s Mudawwana don’t translate to a clear ritual, the established Mālik qunūt is both definite and elaborate. This practice also incorporates a specific recitation found in other ahādīth not reported in the Mudawwana or in the Muwaṭṭa’. To explain this oddity, I argue that this illustrate a compromise between three competing legal desires: the desire to follow textual evidence supporting the incorporation of the recitation; the desire to approximate of Mālik’s practice of qunūt; and the desire to reconcile the two. The latter is achieved by overlooking narrations with different stipulations on qunūt and ones prohibiting it, even those found in the highly authoritative Muwaṭṭa’.

It is not my intention to argue that this process was typical of the legal development of the Mālikī school alone or of other schools in all phases of their growth. I rather argue that it is characteristic of this phase of transition in early 9th century when the keen scholarly interest in hadīth had unsettled the earlier legal paradigm, where which jurists derived their opinions (beyond the Qur’ān) from a large pool of crude and undifferentiated traditions, but had yet to produce the saḥīḥ collections, which would gain in time a great authoritative status.

Using Brockopp’s discussion as a background, this study examines the established Mālikī position on qunūt in the obligatory (fard) prayer, against early Mālikī sources, especially those attributed to the imām of the school, Mālik b. Anas (d.179/795). For reasons of space, the study only tackles the issue of qunūt in the Daybreak Prayer. Mālikī views on qunūt in the witr prayer and during Ramaḍān will be mentioned only in passing. To reveal the extent to which the current views correspond to the opinions held by Mālik himself, I closely analyse qunūt in at least three versions of the Muwaṭṭa’, later Mālikī scholars’ commentaries on them, as well as the qunūt section in Saḥnūn’s Mudawwana.

A close attention is paid to the nature of the language used in the ahādīth in which Mālik features in the isnād and the dicta and responsa attributed to two of his prominent students: Ibn al-Qāsim (d.191/806) and Ibn Wahb (d.197/812). More emphasis will be placed on the views of the former, since his views shaped the Mālikī School.

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ESTABLISHED MĀLIKĪ QUNŪT

One the earliest Mālikī texts to detail the manner and the content of Mālikī qunūt, as it is practiced today, is the risāla of Ibn Abī Zayd al-Qayrawānī (d. 389/999). In outlining the ritual of the Daybreak Prayer, Ibn Abī Zayd describes qunūt in details, which warrants quoting him at length:

[In the second unit of the Daybreak prayer] proceed reciting as you have done in the first unit or read a slightly short section of the Qurʾān. Do all the same rituals as in the first unit of prayer but you should also do qunūt after rukūʿ. Or if you prefer, you can do qunūt before rukūʿ after you complete the recitation [of Qurʾān]. Qunūt is the recitation of ‘O Allah we seek your help and your forgiveness. We believe in You. We rely on You. We humble ourselves to You. We r," which is a supplication. Indeed, your torment of the disbelievers is all to You. To You we hasten, and expectedly anticipate your mercy. We fear your severe punishment. Indeed, your torment of the disbelievers is all to You. O Allah, it is You who we worship. We bow down/prostrate to You. To You we hasten, and expectedly anticipate your mercy. We fear your severe

In contrast to this detailed recitation, the picture which emerges from my analysis is one where the views of Mālik are not only different from the orthodox Mālikī views but difficult to capture, as well. Unlike the clear-cut position expressed by Ibn al-Qāsim and Ibn Wahb in the Mudawwana, where qunūt is a sunna in the Daybreak prayer with a specific recitation at a particular time, Mālik’s view—if it can be extrapolated from the few reports in his Muwattaʿ and the Mudawwana—is more nuanced. Mālik’s qunūt is essentially a supplication permissible in any time and in any part of the prayer—except perhaps in rukūʿ. Although it seems that Mālik (d. 179/795) preferred the Daybreak prayer for qunūt (defined as such), he endorsed no specific recitation. This is markedly different from the views of Ibn Wahb (d. 197/812) and Ibn al-Qāsim (d. 191/806), which gained a normative status within the school. Given that the riwāya of Yahyā b. Yahyā (d. 234/848) only references one tradition, suggesting that qunūt is an innovation, the question of whether the current position of the school on qunūt truly reflects the views of Mālik (d. 179/795) is one worth asking. This question takes on more relevance because it is apparent that other Muwattaʿāt (including the highly esteemed riwāya of al-Qaʿnābī) appear to corroborate Yahyā’s. But before discussing these aspects of the Mālikī literature on qunūt, a general background on the question of qunūt in Islamic sources is in order.

GENERAL BACKGROUND

Hadith is the major source on qunūt as a specific ritual, and is therefore the source of its ikhtilāf. Although the narrations directly attributed to the Prophet are few in number, the list of those citing his
practice, as well the opinions of his Companions and scholars from the Successors’ generation, is quite long. ‘Abd al-Razzāq al-Ṣanʿānī (d. 211/827), whose hadith collection is one of the earliest books of this genre, cites at least 56 traditions, whereas the third Hijri century scholar, al-Ṭabarī (d. 310/923), deals with a more extensive list in his work, Tahdhīb al-āthār. In the more refined works of Hadīth, such as the Sahi Ḥayn of Bukhārī (d. 256/870) and Muslim (d. 261/875) and the Muwatta’ of Mālik (d. 179/795), the list is often reduced to a few ahūdīth. In Mālik’s Muwatta’ (the recension of Yahyā b. Yahyā al-Laythī), the section on qunūt features only one hadīth.

Abū al-ʿArabī in these collections include narrations, which establish qunūt to be a prophetic practice, one maintained by prominent leaders of his Companions (such as the first two Caliphs). They also comprise a comparable number of traditions in which the transmitters deny that the practice was known to the Prophet or his Companions. Others report that the Prophet or his Companions made qunūt but link such practice to specific events, such as when some of the Prophet’s Companions were held captives by the enemy. Furthermore, some ahūdīth suggest that the practice may have existed first but was then abandoned by the Prophet upon receiving Qurʾānic revelation instructing him to cease.

A close look at the 56 traditions cited by ‘Abd al-Razzāq al-Ṣanʿānī (d. 211/827) in his Musannaf should suffice highlights this fluctuation, the authorities transmitting these traditions, and the authorities who exert most influence. About one fifth (12) of the traditions could be classified in the negative category, in the sense that they deny that the Prophet or some of his companions made qunūt. As an authority, the Prophet Muhammad is cited in ten of the ahūdīth. Three of these are in the negative category. The first Caliph Abū Bakr (d.13/634) is only referred to twice, whereas ‘Uthmān (d. 35/655) and ‘Alī (d. 40/661) are mentioned three and four times, respectively. In ‘Alī’s case, all four traditions are in the affirmative category, supporting the view that qunūt was a prophetic practice. The second caliph ‘Umar (d. 23/643) and his son ‘Abdullāh constitute collectively the main authority in these traditions, with sixteen of the ahūdīth attributed to ‘Umar. While ‘Umar is cited both in the affirmative and the negative categories, his son features only in the negative ones. The famous Companion and Qurʾānic exegete, ‘Abdullāh Ibn ‘Abbās (d. 67/686), is mentioned in three traditions: one in the negative and two in the affirmative.8

These ahūdīth and others of similar nature constitute the basis for the different Sunni positions on the question of qunūt. The Mālikī scholar, Abū al-Walīd Al-Bājī (d. 473/1081), summarized these positions as follows:9

**Position 1:** Mālik and Shāfī’ī (d. 204/820): Qunūt is permissible in the Daybreak Prayer and considered one of the preferable actions. It should be noted that the Mālikī position is slightly different from that of Shāfī’ī. Mālikīs consider qunūt in the Daybreak Prayer as mustahabb (recommended as opposed to sunna). This qunūt is performed silently in the second unit of

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8 Ṭabarī (d. 542/1148) who finds an indirect reference to qunūt in its technical sense in the Sura of Maryam 19:2 & 19:3: He suggests that the silent prayer offered by Zakariyyā is an instance of qunūt. This supports, in his view, Mālik’s preference of silence in qunūt. Ibn al-ʿArabī’s own compatriot and partisan, al-Qurṭūbī (d. 671/1272), echoes his interpretation when addressing the same verse, seeing a connection between the silence in Zakariyya’s prayer, and that of qunūt. However, this interpretation is not acknowledged in most other tafsīr. One finds no echo of this opinion in other widely-used tafsīr, such as those of Ibn Kathīr (d. 774/1373), al-Jalālāyīn and al-Ṭabarī (d. 310/923). In these tafsīr, qunūt generally assumes a secondary place to whatever else is being discussed in a verse. The polymath, al-Ṭabarī (d. 310/923), is no exception. In discussing the verse Q. 2: 238, al-Ṭabarī spends most of the space commenting on the concept of the middle prayer, al-ṣalāt al-wustā. He awards a relatively small space to qunūt. As a specific ritual, qunūt features only as an indirect reference in the longer discussion on al-ṣalāt al-wustā. Even then, one still has to infer what the term means. The Qurʾān should not, therefore, be considered a source of ritual qunūt, neither regarding its nature nor on the ikhtilāf associated with it.

Daybreak Prayer, just before \textit{rukū‘}. The content of the \textit{qunūt} is different from the Shāfī’ī one as well.

**Position 2:** Abū Ḥanīfah and Suufyān al-Thawri: \textit{Qunūt} is not permissible in any prayer. Al-Bājī doesn’t mention the position of the Ḥanbalī School, which Ibn al-Qayyim (d. 751/1350) cites and defends in his extensive treatment of the topic in \textit{Zād al-Ma‘ād}.\textsuperscript{10} This position is a little more complex, as it neither denies its permissibility, nor supports its practice in a particular prayer. Instead, it takes a position in which \textit{qunūt} either means a general supplication (\textit{du‘ā‘}) or a special supplication for a specific occasion. The Ḥanbalī position is as follows:

**Position 3:** The evidence suggests that the Prophet did a special \textit{qunūt} with a special invocation only for a period of time and under unique circumstances. When these circumstances changed, he ceased the practice of \textit{qunūt}. Therefore, \textit{qunūt} is not a \textit{sunna} in normal times in any prayer. Specifying one prayer for a regular \textit{qunūt} is more likely an innovation. However, \textit{qunūt}, in its generic sense, as an unqualified invocation, is indeed supported by prophetic traditions. In fact, \textit{ahādīth}, such as that of the aforementioned Anas must be understood to mean \textit{qunūt} in its primary sense; unqualified invocation, whose permissibility is not a subject of dispute amongst the jurists. Surprisingly, this \textit{ḥadīth} appears in many other \textit{Ḥadīth} collections, but not in the \textit{Muwaṭṭa’} of Mālik.

Ibn al-Qayyim sums up this line of argument: “The moderate view of an unbiased scholar is that …the Prophet only did \textit{qunūt} at times of crises ['\textit{inda al-nawāzil}'] to supplicate on the behalf of some people and to invoke God’s wrath on others. He abandoned it when the ones on whose behalf he supplicated were freed from bondage and those he cursed came repentant…It is not specified in the Daybreak Prayer, but he did so in the Sunset Prayer (\textit{maghrib}) as well.”\textsuperscript{11}

**DISCUSSION**

The three positions seem quite justified, given the disparity between the \textit{ahādīth} of \textit{qunūt}. The Ḥanbalī position is the most explicitly lined with the \textit{ahādīth}. It, however, awards preponderance to the traditions describing \textit{qunūt} as a temporary measure for an extraordinary event. To some extent, the categorical denial of \textit{qunūt} in some reports and its strong affirmation in other seem to support this position. This is also the position, \textit{mutatis mutandis}, of the third century independent jurist and Qur‘ān exegete, al-Ṭabarî (d. 310/923).\textsuperscript{12} The Hanafi position is also straightforward. They see the \textit{ahādīth} in the negative category to signify an abrogation of the practice of \textit{qunūt}. In contrast, Shāfī’īs and Mālikīs hold that the practice persisted and that the argument of abrogation is untenable.

Although Shāfī’īs and Mālikīs hold almost the same view on the topic (except for the content of \textit{qunūt} and the exact timing of its recitation during the second unit of the Daybreak Prayer), the Shāfī’ī view seems in alignment with the arguments that Shāfī’ī (d. 204/820) himself outlines in \textit{Kitāb al-Umm}.\textsuperscript{13} One doesn’t find the same clarity when examining the two major works attributed to Mālik, the \textit{Muwaṭṭa’} and the \textit{Mudawwana}. But before proceeding to our discussion of the Mālikī view, a brief discussion of the origin of the Shāfī’ī view is in order.

In stipulating his position that the Prophet never abandoned \textit{qunūt} in \textit{fajr} (the Daybreak Prayer), al-Shāfī’ī mentions \textit{qunūt} in two separate occasions in \textit{Kitāb al-Umm}. He makes at first a scant mention

\textsuperscript{11} Ibid, 272.
of it in the section on prayer under the title of ‘Standing After rukū’.

One of the five traditions that Shafī’ī cites is a famous narration by Anas b. Mālik, which appears to explicitly contradict the position taken by Shafī’ī. This ḥadīth is often cited by the proponents of the abrogation theory. However, Shafī’ī is keen on demonstrating that such position is not tenable on the basis of this ḥadīth:

*I am not sure what Anas means by the statement “he abandoned (taraka) the qunūt.” What I think—and Allah knows—is that the Prophet gave up qunūt in four prayers, excluding the Daybreak Prayer. [This is analogous] to what ‘A‘īsha said: ‘the prayer was originally two, then the prayer for travellers (salāt al-safar) was left without change (uqūrdat), whereas the prayer for residents (salat al-hadār) was increased.’ Therefore, abandoning qunūt in other prayers, save the Daybreak Prayer, shouldn’t be viewed as an abrogating act—nāsīkh, since nāsīkh and mansūkḥ only apply when there is a contradiction. Hence it is permissible to both make and neglect qunūt in prayers other than the Daybreak Prayer. The Prophet himself never made qunūt except in the Daybreak Prayer before the massacre of Bi‘r Ma‘īna, and never did ever since, except in the Daybreak Prayer. This indicates that this is a permissible invocation like any other permissible supplication in prayer. It is neither abrogating, nāsīkh nor mansūkḥ.*

In general, despite the short list of ahādīth, which Shafī’ī cites (without isnād and without any reference to authenticity) to argue his position, later Shafī’ī scholars find in al-Umm a clear position by the proclaimed founder of the madhhab. One doesn’t find the same clarity when referring to the two major corpora of Mālik’s opinions: the Muwatta’ and Mudaqqudana, as we have mentioned earlier. In fact, examining these early sources indicates that the views on qunūt were formulated either after Mālik. At least, the arguments for the position was not elaborated until much later by the branch of Mālikism which eventually dominated (the Egypto-Tunisian branch). Returning to the Muwatta’, later Mālikī jurists, such as Abū al-Walīd al-Bājī and Abū Bakr b. al-‘Arabī, had to struggle to reconcile the established Mālikī position, by then, and the unique report to the contrary in the most widespread version of the Muwatta’, the riwāya of Yahyā b. Yahyā al-Laythī.

QUNŪT IN AL-MUWATTA’

a. Version of Yahyā b. Yahyā

In the riwāya of Yahyā (d. 234/848), there is only one ḥadīth in the qunūt section. It goes as follow: [Mālik]—Nāfi’: “Abdullāh b. ‘Umar did not make qunūt in any prayer (la yaqnutu fi shay‘ in min al-ṣalāḥ).” There is no commentary in this version on this ḥadīth, nor a suggestion as to what Mālik’s view

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14 Qunūt is a section in a volume that deals with the ikhtilāf in ḥadīth. Shafī’ī was arguably the first to tackle this issue in a systematic manner.

15 One of these is an indirect transmission from Ja‘far b. Muḥammad. This is more likely Ja‘far al-Ṣādiq (d.148/765). From the Shafī’ī’s end the transmission comes in the passive form, ḥufizatu ‘an Ja‘far. Although al-Ṣādiq is highly revered by both Sunnis and Shi’īs, his ḥadīth here, which reports that the Prophet did indeed make qunūt in all prayers before the incident of Bi‘r Ma‘īna, is mursal. There is no mention of the person transmitting the ḥadīth to Ja‘far. The latter for sure did not meet the Prophet, and it remains a question whether he met any of the Companions. Interestingly enough, Ja‘far is featured in the isnād of two ahādīth; one about qunūt during the incident of Bi‘r Ma‘īna, and one claiming that the Prophet did so before that incident. In both cases, Shafī’ī transmits from him through an unknown transmitter, using the passive in the case above and ‘an rajulin min ahil-‘ilm [from an unnamed scholar]. The use of passive (ruwaiya and ḥufiza) in this section is striking.

16 Ibid, 234.
on the matter is. There is no instance of the usual ‘qala Mālik’, Mālik said. The only textual clue warranting speculation is the title: al-qunūt fi al-ṣubḥi (qunūt in the Daybreak Prayer). This is indeed a very short title, but not atypical of the Muwatta’.

Many titles in this riwāya, such aszhār al-‘abd, zhār al-hur and mā jā’a fīv al-khiyār, are quite terse. Although later Mālikī scholars, such as Abū al-Walīd al-Bājī, argued that the title (tarjama) indicates the position of Mālik, a close examination of the ways in which these titles don’t support this view. In a great number of cases, these titles appear to simply designate the topic of discussion, not to provide a hint on where Mālik stands. These types of titles often start with phrases such as mā jā’a fī (what was reported regarding x matter). There are still cases when Mālik’s position directly follows from the wording of the title. These include, for example, the titles of the sections on: 1) the order to pray before the sermon in the two ‘ād—al-amru bi al-ṣalāti qabla al-khutbat fī al-‘īdayn; 2) the need for one to wait for the sermon to be delivered on ‘id before s/he could leave—ghuduwu imami yāwm al-‘īd wa intiţār al-khutba. Such cases tend, however, to be the exception rather than the rule.

Furthermore, the phrasing of these titles is sometime very misleading as the following two cases from the sections on fasting and divorce illustrate:

Case 1: ‘Fasting the day when there is a doubt’—ṣawm al-yawm alladhī yushakku fīhi. On the surface, this title may suggest that Mālik considers this fasting to be valid, for the absence of negation or reference to prohibition. But this is hardly the case. Mālik states that, while fasting itself is not prohibited, this day will not count even if it turned out to be a day of Ramaḍān. This clearly doesn’t follow from the title.

Case 2: ‘The divorce of the terminally ill husband’—talāq al-marīd. In the absence of negation, the statement can be taken in its positive sense. That is, the divorce issued by a terminally ill husband is not prohibited, this day will not count even if it turned out to be a day of Ramaḍān. This clearly doesn’t follow from the title.

In short, the argument about the tarjama is not very convincing—although in the case of qunūt specifying the Daybreak Prayer in the title and having no reference to it in the body is mystifying. Given this strange case, it was no surprise that Yahyā b. Yahyā, who transmits this version, and some of his students, such as ‘Abd al-Malik b. Habīb, opposed qunūt. Their practice of shunning qunūt continued even until after the arrival of the Almoravids. This is significant, because Almoravids strongly supported the North African flavor of Mālikīsm, where qunūt was since Saḥnūn brought back his version of the Mudeawwana. Saḥnūn transmitted his version from the Egyptian Ibn al-Qāsim. The latter have had an enormous influence on the development of the Mālikī School. He also strongly preferred the Medinan practice (‘amal) over traditions, even when they were authentic.

Overlooking Nāfi’’s hadith in the Muwatta’ illustrates one of the cases where the ‘amal superseded the naql, even one being of highly respected isnad in the Mālikī literature. Indeed, the prominent 11th century Zāhirī scholar and a critic of the Mālikī school, Ibn Ḥazm, found the discrepancy between Nāfi’’s report in the Muwatta’ and the dominant practice to be astonishing. He saw it as evidence of the

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17 For example, in his commentary on the section of qunūt, Al-Bājī stated: “Mālik (may Allah bless him) confirmed qunūt in the Daybreak Prayer [in the heading], but did not cite in this section anything on about qunūt in the Daybreak Prayer, [although] he believed in qunūt in the Daybreak Prayer. [Instead] he mentioned the practice of ‘Abdullah b. ‘Umar.” This statement does little beyond asserting, without any textual reference, that this was the opinion of Mālik. It describes what Mālik did in the text, but doesn’t explain why. See, Abū al-Walīd Al-Bājī, Al-Muntaqā: sharḥ Muwatta’ al-imām Mālik (Beirut: Dār al-Kitāb al-‘Arabī, 1914), 281.
19 Ibid, 124.
21 Ibid, 390.
selective use of tradition by Mālikī scholars, who emphasize the preponderance of traditions transmitted by Ibn ‘Umar when they agree with their positions, but neglect them when they don’t: “It is amazing how Mālikī scholars stress the preponderance of Ibn ‘Umar’s view if it fits their established position (taqīlātul-hum); yet, they find it easy to disagree here [in the context of Qunūt] with Ibn ‘Umar, his son Sālim and Zuhri, the two prominent scholars of Medina!” 23

However, Ibn al-Qāsim’s preference to the ‘amal doesn’t entirely explain why the solitary hadith in the Muwatta’ is overruled, since the Mudawwana itself doesn’t solve this problem. Yet, the Mudawwana still gives critical insights to why that is the case. But something must be said first about other less common Muwatta’āt.

b. The less common Muwatta’āt

Other recensions of the Muwatta’, such as that of Muḥammad b. al-Ḥasan al-Shaybānī (d. 189/804) and al-Qa’nabī (221/835), are not markedly different from Yahyā’s version on the issue of qunūt. Al-Shaybānī, who is a Ḥanafi scholar, cites the same tradition of Nāfi’ and the same phrasing of the title found in Yahyā, only to add: “this is the view we prefer and it is also that of Abū Ḥanifa.” 24 Al-Qa’nabī’s riwāya contains three aḥādīth. Two of these clearly oppose qunūt. The remaining hadith is in favor of qunūt in the Daybreak Prayer. This hadith seems however curious. As a result, these three aḥādīth do deserve some attention. But before examining these aḥādīth, it behooves us to highlight the importance of this uncommon riwāya.

The name of this transmitter is ‘Abdullāh b. Maslama b. Qa’na‘bī al-Tamīmī, al-Harithī al-Qa’nabī. He lived in the second half of the second century and the early part of the third (d. 221/835). 25 In his famous biographical dictionary of Mālikī scholars, Qaḍī ‘Iyāḍ (d. 544/1149) extols the erudition and piety of al-Qa’nabī. He particularly speaks of his reliability as a transmitter of Mālik’s Muwatta’, highlighting not only the length of time he spent with Mālik (20 years), but how he was revered by the latter as well. For example, ‘Iyāḍ cites an account by one student of Mālik, who heard Mālik describes al-Qa’na‘bī as khayr al-arḍ (the best man on earth). He also reports that Mālik would usually invite al-Qa’na‘bī to sit by his side.

Qaḍī ‘Iyāḍ further notes how other Ḥadith scholars, such as Yahyā b. Ma‘īn (d. 233/848), Aḥmad b. Ḥanbal (d. 241/855), Abū Ḥātim (d. 277/890) and ‘Ali b. al-Madīnī (d. 234/849) respected him. 26 Even although ‘Iyāḍ does not go this far, these very Ḥadith critics preferred his riwāya over that of Ibn al-Qāsim, Yahyā b. Yahyā and Muḥammad b. al-Ḥasan al-Shaybānī. 27 More impressively, al-Qa’nabī was the teacher of Īmām Muslim.

In his version of the Muwatta’, al-Qa’nabī transmits, in addition to Nāfi’ ‘s hadith, two narrations by Hīshām b. ‘Urwa b. al-Zubayr. These are not prophetic traditions. 28 The final authority in each is

23 ‘Alī Ibn Ḥazm, al-Muḥallāl, vol. 4 (Beirut: Dār Ihyā’ al-turāth al-‘Arabī, 2001), 93. The note about Sālim and Zuhri is a reference to the negative position these two scholars took from qunūt. They both saw it as a bid‘a. Of course, neither of these scholars is cited in the section on qunūt in any of the Muwatta’āt, nor are they mentioned in the Mudawwana. Their opinions are, however, mentioned by ‘Abd al-Razzāq al-Ṣan‘ānī , as we have seen.
25 In ‘Iyāḍ’s Taqrīb puts his death date at 220 Hijrī.
28 The same is true of Nāfi’ ‘s tradition as we indicated earlier.
Hishām’s own father, ‘Urwa. The first of these traditions corroborates the ḥadīth of Nāfī’, but the second has extra clause not contained in the first. Although the first sections of both traditions are identical, even in their isnād (Mālik-Hishām b.‘Urwa that his father used to), the second makes an exception for qunūt in the Daybreak Prayer. It goes as follow: “Al-Qa’nabī—Mālik—Hishām b. ‘Urwa—his father: The latter did not make qunūt in any prayer, not even in witr. But he used to perform qunūt in the Daybreak Prayer before ruku’.30

It should be noted, before examining the isnād and the structure of this ḥadīth, that this is the only tradition, beside Nāfī’’s ḥadīth, in which Mālik is cited as a transmitter in the corpora of Mālikī fiqh in relevance to the question of qunūt in the Daybreak Prayer. It is plausible that some of the lost Muwaṭṭa’āt (and there seems to have been many of these) must have contained some of the aḥādīth that ground Mālik’s views or at least elaborate on why Mālik took the position he presumably held regarding qunūt in the Daybreak Prayer. But it is hard to think that such aḥādīth or even dicta existed since none of the major Mālikī scholars, such as Ibn ‘Abd al-Barr (d. 463/1070), cite them. They were evidently eager to defend this position. Other support for Mālik’s opinion is found in what Ibn ‘Abd al-Barr mentions in his massive commentary on the Muwaṭṭa’. He first cites the tradition of ‘Urwa, which he says existed in most Muwaṭṭa’āt.31 He then references another ḥadīth in which Mālik transmits al-Zuhri’s view that qunūt on Friday is an innovation (muḥadāth).32 This ḥadīth doesn’t entirely contradict the Mālikī view that qunūt is sunna. It doesn’t support it, either. Ibn ‘Abd al-Barr has a plentitude of traditions to quote, including some of the Ṣaḥīḥ, but these aḥādīth don’t feature Mālik in the isnād.

Al-Qa’nabī’s two extra traditions by ‘Urwa present a problem. They are transmitted by the same individual. But they attribute two contradictory practices to the authority from whom he transmits. If one of them is authentic in its entirety, then the other has by necessity to be erroneous. Or it may be the case that only one part of one is unauthentic. Alternatively, it is maybe the case that the shorter ḥadīth is simply missing the stipulation about the Daybreak Prayer included in the second. Evidently, the opposite theory (namely that the qualification in the longer ḥadīth was a later accretion) could be postulated. At any rate, the linguistic structure of the longer ḥadīth suggests that it is less likely to be authentic. In this ḥadīth, one encounters: 1) a categorical negation of the qunūt in any [obligatory] prayer, followed by; 2) a further negation in regard to witr; and curiously enough 3) an exception for qunūt in the Daybreak Prayer. The progression from a complete negation in regard to obligatory prayers, and to a secondary negation pertaining to supererogatory prayers, to affirmative exception for a specific obligatory prayer, is very improbable.33

Qunūt in the Mudawwana

The first thing that strikes the reader of the Mudawwana is the absence of Nāfī’’s ḥadīth mentioned in the Muwaṭṭa’. The second curious aspect is the lack of any discussion of whether qunūt is permissible. The debate that Shāfi’ī responds to in Kitāb al-umm doesn’t seem to be of major concern to Mālik. The permissibility of qunūt is taken for granted by the main authority in this section, Ibn al-Qāsim. Despite this acceptance of qunūt, only one of the eight traditions in the section is transmitted by Mālik. But even this ḥadīth could hardly be cited as evidence of the specification of qunūt in one prayer. What it proves (and what it appears to be cited for) is the preference of qunūt before ruku’. However, Mālik asserts in

29 It is important to note that this is also the case of Nāfī’’s ḥadīth, where the final authority is Ibn ‘Umar.
30 ‘Abdullāh b. M. al-Qa’nabī, al-Muwaṭṭa’ lil-imām Mālik: riwāyat ‘Abdullāh b. Maslama al-Qa’nabī, (Beirut: Dār al-ghārī al-islāmī, 1999), 205. I should note that this is not the original manuscript that I examined, and subsequently misallocated. This current version of al-Qa’nabī, which I cite here has only two ḥadīth; the Nāfī’’s ḥadīth and the longer version of Hishām b. ‘Urwa’ ḥadīth.
31 ‘Urwa’s longer version comes in the recensions of Abū Muṣ’ab al-Zuhri (d. 242/857) and Suwayd Ibn Sa’īd al-Ḥadāthānī (d. 240/855) with a very miniscule difference.
32 ‘Umar b. ‘Abd al-Barr, al-Istīḍāhkār vol. 6 (Cairo: Dār al-wa’y, 1993), 199.
33 The dominant Mālikī view sees qunūt in fajr as a sunna, in any other obligatory prayer to be makrūḥ (disliked). They see no qunūt in witr except in the second half of Ramaḍān.
the same instance that it is a flexible issue, *kullu dhālikā wāsī‘un*. This aspect is one of a few minor issues on which Mālikī and Shāfī’ī scholars differed.34

As would be expected, all the other seven traditions appear to support the Mālikī position that *qunūt* is an approved *sunna* in the Daybreak Prayer (*al-qunūt fi al fajr sunna mādiyya*). But a close inspection of these traditions and the adjacent texts reveals some interesting facts. Firstly, only three of these traditions are attributed to the Prophet, and only one of them mentions the Daybreak Prayer. Secondly, the rest of the traditions are attributed to the Companions and the Successors: ‘Alī (2), and ‘Umar (1). The last *ḥadīth* is attributed to several individuals: Ibn Mas‘ūd (d. 33/653), the Basran successor al-Ḥasan (d.110/728), Abū Mūsā al-Ashʿarī (d. 42/662), Abū Bakra (d. 51/671), Ibn ‘Abbās (d. 67/686), and ‘Abd al-Rahmān b. Abī Laylā (d. 82/701). Thirdly, only one of the prophetic *ahādīth* speaks of the Daybreak Prayer, with no indication as to whether this is for a normal or a special occasion. One of the *ahādīth*, however, relates a very interesting story, in which the Angel Gabriel presumably ordered the Prophet to stop the old supplication and furnished him with a new one. The latter is the famous *duʿāʾ*, which Mālikīs read in *qunūt* today, and which other report describes as two Qur’anic chapters from the *mushaf* of Ibn Mas‘ūd.36

Furthermore, none of the *ahādīth* mentioned here suggested that the recitation of *qunūt* should be silent. One can assume that the actual words of the supplication were orally transmitted to the narrators of these accounts immediately after the prayer or on a different occasion.37 This remains nonetheless speculative. There rests the possibility that ‘Alī might have recited these words loudly before his congregation. This, however, warrants the question about the Mālikī source on silence in *qunūt*?38 On this question, the *Muwatta*’at and *Mudawwana* are silent. The reference to silence in the latter is limited to one question posed by Saḥnūn to Ibn al-Qāsim, who replied with the categorical statement: *la yajhār* (he shouldn’t be audible/loud). When Saḥnūn inquired whether this is Mālik’s position, Ibn al-Qāsim’s only response was: ‘it is my opinion.’39

Ibn al-Qāsim’s clarification that silence in *qunūt* is his personal view is especially important. It illustrates a tendency in this section on *qunūt*. Most of the views here are either those of Ibn al-Qāsim or those of Ibn Wahb. As it should become apparent, the later Mālikī position on *qunūt* is more closely aligned with the views of these two Egyptian scholars than those of Mālik. To put this discussion in context, let us examine the introductory part of the section where Mālik’s views are expounded:

Mālik said regarding the man who makes *qunūt* in the Daybreak Prayer before *rukūț*: this man doesn’t need to make takbīr. Mālik [also] said concerning *qunūt* in Daybreak Prayer: It is flexible (i.e. not

34 As we have seen earlier, Ibn Abī Zayd al-Qayrawānī’s view on the time of *qunūt* is more aligned with the Shāfī’ī position.
36 A section of this Ḥadīth is found in other narrations without the second part about this specific *duʿāʾ*. It is often cited by the opponent of *qunūt* as evidence of its abrogation. See for example, the Ḥadīth of Sa‘īd Ibn al-Musayyib, which cites Q. 4:128 (You have no hand in the manner, should He forgive them or punishes them for they have indeed transgressed), mentioning that the prophet never did it a again. See, al-Ṭabarī, *Tahdhib al-āthār wa tafsīl al-thābit*: an rasūllillāh min al-akhbār (Mecca: Maṭāḥib’ al-Ṣafā’, 1981). Interestingly enough, the first person in the *isnād* of this *ḥadīth* in Ṭabarī’s version is also the same as the one in *Mudawwana*: the famous Mālik Egyptian scholar Ibn Wahb. This same *ḥadīth* is also cited by al-Bukhārī in *Ṣaḥīh al-Bukhārī*, (Cairo: Jam‘iyyat al-maknaz al-Islāmī, 2000). Finally, Ibn Rushd described these texts as being *sūratayn* in the *mushaf* of Ubay Ibn Ka‘b. See Muḥammad Ibn Rushd, *Bidayat al-mujtahid wa nihayat al-muqtasid*, (Cairo: Maktabat al-kulliyāt al-azhariyya, 1974), 160.
37 For examples, people may have heard ‘Alī recites: O Allah we seek your help, your forgiveness; we praise you and disbelieve in you not... etc.
38 We have already noted that Abū Bakr Ibn al-‘Arabī referred to the supplication of the Prophet Zakariyya as a supporting evidence of the Mālikī position, without citing any prophetic tradition to buttress that argument.
restricted), whether he does so before or after rukū'. Mālik added: What I myself do as a personal [practice] is qunūt before rukū'. [Moreover,] Mālik said regarding a person who forgot to do qunūt in the Daybreak Prayer: He doesn’t have to make up for it (la sahwa ʿalayhi). Mālik [further] stated: “There is no specific supplication in qunūt or a time for standing, and there is no harm in asking God for any matter that one needs in the obligatory prayer, be it pertinent to this world or otherworldly, and whether while standing, sitting or prostrating. But he used to dislike it (kāna yakrahuhu) in rukū’.” Finally, Mālik reported from ʿUrwa b. al-Zubair that he said, indeed, I ask God all my needs in prayer, even [such mundane thing as] salt for my food.”

The rest of the text on qunūt comprises dicta from one of the two Egyptians Mālikī jurists, Ibn al-Qāsim and Ibn Wahb. These are mostly aḥādīth transmitted by the latter, but there are also dicta and responsa by the former. There is no further reference to Mālik. It is in this latter section that one finds reference to a specific duʿāʾ, and by necessity to qunūt as a special ritual. Although Mālik’s dicta above seem to go against the solitary ḥadīth of Nāfiʿ in the most common riwāya of the Muwattaʾ, the picture that emerges from his statements is still different from the stipulations of later Mālikī jurists. They are significantly distinct from the views expressed by Ibn al-Qāsim and the traditions cited by Ibn Wahb. More importantly, the qunūt section in the Mudawwana doesn’t cite Mālik as a transmitter in any of these traditions. Furthermore, the chains of narrations in Ibn al-Qāsim’s recension of the Muwattaʾ do not appear to feature the two traditions of ʿUrwa, which al-Qaʾnabī transmits. Nor does Ibn al-Qāsim’s recension include Nāfiʿ’s tradition in the riwāya of Yahyā. Further still, it does not mention the aḥādīth of Wākiʿ, the strongest evidence supporting the practice of qunūt in the Daybreak Prayer in the Mudawwana.

Additionally, the statement of Mālik about “no specific supplication in qunūt nor a time for standing” can be interpreted in two different ways. It could mean that there is no specific time during the prayer at which the worshipper has to stand to perform qunūt. It could also mean that there is no specified period of time that one has to spend standing for qunūt. The latter is the most plausible explanation, given the specification of rukūʾ and the three references to the Daybreak Prayer in this small section. But whichever interpretation one accepts, it would still appear different from Ibn al-Qāsim and Ibn Wahb’s position on qunūt.

This is hardly surprising. The Mudawwana is not the corpus where the views of Mālik were always positively distinguishable from those of other authorities. In fact, most of the complaints about the early version of the Mudawwana transmitted by Asad b. al-Furāt (d. 213/828) had to do with the doubt as to which views were those of Mālik and which were those of Ibn al-Qāsim. Such a problem was presumably what promoted Saḥnūn to travel to Egypt to clarify the matter.

According to ʿIyāḍ, the main criticism of Asad’s Mudawwana was the prevalence of Ibn al-Qāsim’s responsa, which appeared to his contemporaries to lack certitude, being phrased in expressions such kadhā arā and akhālu (‘that’s what I see’ and ‘I imagine so,’ respectively). The story of the Mudawwana, both in its early version with the military commander and scholar, Asad, or later with Saḥnūn, raises some doubt about many of the views even those explicitly attributed to Mālik. This doesn’t necessarily mean the presence of deliberate cases of fraudulent transmission. A claim of that magnitude needs a level of evidence that is simply lacking. Both the students (Asad and Saḥnūn) and

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42 In addition to the long time he spent studying in Iraq as a student of Muḥammad b. al-Ḥasan al-Shaybānī and beside his fame as the first person to bring the Mudawwana to Ḥarām, Asad was a Qāḍī and a successful military leader. He led one of the earliest and successful Muslim attacks on Sicily. He also led an early and effective raid on Sardinia. Asad was one of handful of people to serve as a Qāḍī and military leader at the same time. He held these two posts until he died while besieging Syracuse in 215/832. See, Qāḍī ʿIyāḍ, Taqrīb, vol.1, 278.
43 Herald Motzki’s findings in his analysis of the Musannaf of ʿAbd al-Razzāq al-Ṣanʿānī should serve as cautionary tale against hasty conclusions of this sort. See, Harald Motzki et all, Analysing Muslim Traditions. Studies in Legal, Exegetical, and Maghāzī Ḥadīth (Leyde: Brill, 2010).
the teacher (Ibn al-Qāṣim) were eager to capture the views of Mālik. The absence of written records of Mālik’s views on certain cases, the lapse of time and the memory gaps that accrue over time, are all favors which increase the chance of discrepancy. The following excerpt from Qādī ‘Iyāḍ supports this view:

[Asad b. al-Furāt] said, I used to ask Ibn al-Qāṣim about an issue and when he replied, I would ask him [again]: Is this Mālik’s saying? He would reply by saying: I think [that is what he said]. I think so, it was, may be...Saḥnūn travelled to Ibn al-Qāṣim after he had become a well-versed Mālikī jurist. He examined with Ibn al-Qāṣim these books, probing them like a true jurist. The latter helped Saḥnūn refine them.....Saḥnūn said: I would like to hear from you [your views on] the books of Asad. [Ibn al-Qāṣim,] sought guidance from God—istakhāra Allāh—and he examined them with Saḥnūn. He [Ibn al-Qāṣim] deleted the aspects that he doubted regarding the sayings of Mālik and replaced them with his own views. He also wrote to Asad: You need to check your notes against those of Saḥnūn since I have amended some aspects of what you have transmitted from me.44

Much could be inferred from these few lines, but it suffices to highlight that Ibn al-Qāṣim was not always sure what Mālik’s views on certain issues were. This is clearly the case of the Mudawwana of Asad (or al-Asadīyya as it is known). If the account above is correct, the main difference is that Saḥnūn’s version reassigned what was once seen as the views of Mālik to Ibn al-Qāṣim. Two questions then come to mind. One is general, and one is specific. The general question, which shall remain unanswered until further research is undertaken, and which is in any case a question of a degree, is: Were all the doubtful dicta and responsa of Mālik eliminated, or were some overlooked? The second and the more pertinent to the case of qunūt is: Why would Ibn al-Qāṣim and Saḥnūn45 need to cite several ahādīth, none of which appears in the two most common riwāya of the Muwaṯta’, nor in the most esteemed, and possibly, the most extensive riwāya of al-Qa’nabi’? Stranger still, these traditions do not at all feature in Ibn al-Qāsim’s own recension, whose Muwaṯta’ is seen by many Ḥadīth critics as second only to that of al-Qa’nabi’?46

The question can be answered in at least three ways. One of these, which is by far the most facile, is to conclude that the Mudawwana or most of its materials must have predated the Muwaṯta’, as Norman Calder did. But as Jonathan E. Brockopp shows in his discussion of early Mālikī texts, this hypothesis is not convincing.47 Saḥnūn had at his disposal many corpora of ḥadīth, which he chose not to incorporate in the Mudawwana. For example, he writes “Not only did Saḥnūn have Mālik’s Muwaṯta’ (in some form or another) when he wrote the Mudawwana, he had numerous other texts as well. Yet, none of the ahādīth from these texts or from his own copy of al-Mājashūn [sic] appears in the Saḥnūn’s chapter on ḥaJJ.”48

The second way to answer the question is to apply Brockopp’s own approach, the Great Shaykh theory. That is, we should assume that both Ibn al-Qāsim and Saḥnūn chose to ‘elevate’ Mālik, and by extension Ibn al-Qāsim, to the status of a final authority. But this line of argument could only provide a partial response for the following two reasons. Firstly, unlike in the section on ḥaJJ, on the basis of which Brockopp partially draws his conclusion, the section on qunūt does feature several ahādīth. This indicates that neither Ibn al-Qāsim nor Saḥnūn were simply trying to overlook ḥadīth and place Mālik

45 Both rely here on the transmission of Ibn Wahb, which strangely enough doesn’t include Mālik in the chain of transmission.
46 This ordering here is based on the views of ḥadīth scholars, such as Ibn al-Madānī, Ibn Ma‘īn, al-Nasā’ī, Abū Dawūd and others. See, ‘Iyāḍ al-Yaḥṣūbī, Tartīb al-Madārik wataqrīb al-masālik (Beirut: Dār al-kutub al-‘ilmīyya, 1998); or Shams al-Dīn al-Dhahabi, Siyār a lām al-nubalā’ vol:9:35.
48 Ibid, 16.
Knowing that both Saḥnūn and Ibn al-Quṣīm were more likely privy to the various *ahādīth* on *qunūt* in the different recensions of the *Muwāṭṭa*’, a more complex process must have dictated the choice of the content of the *qunūt* section in *Mudawwana*. The arrangement of the *qunūt* section in *Mudawwana* and its divergence from the section in *Muwāṭṭa*’ are the product of an attempt by these two Mālik scholars to 1) capture the *Sunna* and 2) embrace Mālik’s understanding of it. After all, the *Sunna* is seen in Mālikī *fiqh*, to coincide with the Medinan practice. It would seem that Ibn al-Quṣīm was keen, in his second encounter with the *Mudawwana*, to ascertain the authenticity of all the *dicta* and *responsa*. This led him to approximate the Medinan practice by relying on his recollection of Mālik’s practice and some of his *dicta* as well. It is safe to assume that offering *qunūt* in the Daybreak Prayer was also Ibn al-Quṣīm’s practice and that of his contemporary and compatriot, Ibn Wahhāb. This is not an attempt to overlook Ḥadīth or take a shortcut in a Great Shaykh Theory-style by simply quoting Mālik’s dicta on one hand, and affirming the position of Ibn al-Quṣīm as a law-giving authority, on the other hand. This may have happened as an unintended consequence of the process of composing Saḥnūn’s *Mudawwana*. A more plausible scenario is that Ibn al-Quṣīm, reflecting on his education at the hands of Mālik, captured a part of what Mālik practiced, but did not recall in exact details his intellectual position. This is a matter of nuance. Mālik may have indeed practiced *qunūt* in the Daybreak Prayer, perhaps either exclusively or more so than in other prayers. But Mālik did neither a special supplication nor stated that it should be done. The earlier quote from the *Mudawwana* supports this hypothesis: “layṣa fi al-*qunūt* du’ā’un ma[rūfun wa lā wuqūfun muwaqqat (there is no known supplication or a specified time for standing).”

In summation, Mālik’s *qunūt* was a personal practice resulting from a close reading of *ahādīth* al-*qunūt*, where their contradiction was understood to reflect a plurality of views on *qunūt* as a permissible addendum to prayer, not as an obligation, nor as a recommendation (whether in the sense of *istiḥbāḥ* or in the sense of *sunna*). This precludes prohibition as well. Another saying of Mālik, regarding the timing of *qunūt*, supports this reading: “Mālik said, regarding *qunūt* in the Daybreak Prayer: It is flexible, and what I adopt in my personal practice [*alladhī ākhudhu bihi fi khāṣṣatī naṣīr*] is offering it before *rukū‘*.” The choice of Daybreak Prayer, as the most consistent or exclusive time for *qunūt* on the part of Mālik—assuming that was indeed his practice—may in part be influenced by the Qur’ānic verse 2:238, where *qunūt* is mentioned in connection with *al-ṣalāt al-waṣṭa* (Middle Prayer), which Mālik believed was the Daybreak Prayer.

Aware that the *ahādīth* in the *Muwāṭṭa*’ neither lend support to the form of *qunūt* which was practiced by Ibn al-Quṣīm, nor to the one practiced by Mālik, as they remembered it, Ibn al-Quṣīm and Saḥnūn

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49 In addition to the quotes above from Brockopp, there are a number of reasons that lead us to believe that they were familiar with the various recensions of the *Muwāṭṭa*. First, Ibn al-Quṣīm himself transmits one recension and lived and interacted with Ibn Wahhāb who is also a transmitter of another *riwāyah*. Second, Saḥnūn came from Iffāqyya, an area adjacent to al-Andalus where by this time the *riwāyah* of Yahyā b. Yahyā would have been in circulation among students and scholars of Mālikī jurisprudence. Finally, Saḥnūn’s early source of al-*Mudawwana* was Asad b. al-Furāt, who not only studied with Mālik, but also spent sometimes with on Muḥammad b. al-Hasan al-Shaybānī, another transmitter of the *Muwāṭṭa*.  

50 It was not, however, the practice of their other compatriot and independent scholar al-Layth b. Sa’d, who was always critical of the concept of *umal aḥl al-Madīna*.  

51 Saḥnūn, the *Mudawwana*, p. 102.  

52 Ibid, 102.  

53 Mālik is consistent here with the views of ‘Umar, Ibn ‘Umar and Mujāhid, all of whom see *fajr* as the Middle Prayer.
may have opted not to include them in this section of the *Mudawwana*. They were aware, however, that these *ahādīth*, especially the Nāfi’-Ibn ‘Umar’s *ḥadīth*, are significant. As a consequence, they may have attempted to counterweight them by adding a number of *ahādīth*, citing important authorities (‘Umar, ‘Ali, Ibn Mas’ūd, Ibn ‘Abbās, Abū Bakra and al-Barā‘ b. ‘Āzib) to support their preference. This reconstruction had two (probably unintended) consequences. First, it contributed to a general process throughout this corpus to elevate Ibn al-Qāsim to a status of a law-giving authority. Last, it canonized the form of *qunūt* practiced by Ibn al-Qāsim and quite possibly a few of his Egyptian colleagues including Ibn Wahb, by unintentionally projecting, and weaving some of its details into the practice of Mālik. Later Mālikī scholars, with the exception of Yahyā’s students, would have found no reason to question the accuracy of this position, and put very little energy to explain the paradoxical position of the Nāfi’-Ibn ‘Umar report in *Muwaṭṭa*’.

Najam Iftikhar Haidar’s “*Geography of Isnād: Possibilities for Reconstruction of Local Ritual Practice in the 2nd/8th Century*,” is partially relevant to this study and therefore merits some commentary. *Qunūt* is one of two cases he examines. Out of 324 traditions from Sunnī collections, he found 22, which feature Medinan authorities in the *isnād*. About 43% of these are in support of *qunūt*, with the remaining 57% opposing it. Haidar concludes that, while a majority opposes *qunūt*, Mālik’s opinion in favor of the ritual is justified as a regional (Medinan practice), given the minority of traditions (43%) approving of it. Haidar, however, notes the disparity between the case of *qunūt* and that of *basmala*, where a great majority of Meccan and Medinan traditions (83% and 73, respectively) approve of its audible recitation. This challenges his geographical argument, since Mālikīs adopt the minority’s view: opposing *basmala* in recitation. In Haidar’s geographical argument, this position is Basran, not a Medinan one. Despite

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54 According to Muhammad b. Ahmad b. ‘Arafaḥ al-Dasūqī, another prominent Mālikī scholar, Ziyāyād al-Iskandarānī, held an even more maximalist interpretation of the role of *qunūt* in prayer. He believed that those who overlooked *qunūt* in their prayer risk invalidating it. In other words, he considered *qunūt* a *rukn* (a pillar) of the prayer. Muḥammad b. Ahmad b. ‘Arafaḥ al-Dasūqī, *Ḥashiyyat al-Dasūqī* ’ala al-shaḥrī al-kabīr (Beirut: Dār Iḥyā’ al-‘Arabiyya, ?).

55 The paradox here is not unlike the case of *qabḍ*. In the *Muwaṭṭa*, Mālik cites a *ḥadīth* that supports it. He however seems to disapprove of it in a response to Ibn al-Qāsim in the *Mudawwana*. Although the issue continues to be debated amongst adherents, towering Mālikī authorities take the *ḥadīth* in the *Muwaṭṭa*’ to reflect the position of Mālik. In contrast, the *responsa* in the *Mudawwana* seem to reflect Mālik’s position vis-à-vis a specific case of *qabḍ*. An example would be where *qabḍ* is done for reasons other than concordance to Sunna, such as when using the posture to support oneself for a long optional prayer. See the debate in verse between the two Mauritian scholars, Ibn Ḥamidun and Ibn Ahmad Yūrā. The former’s poem cites an extensive list of authorities, which side with *qabḍ*. Al-Mukhtar Ibn Ḥamidun, “Jawāb al-‘allāma al-Mukhtar Wuld Ḥamidun ‘alā nazm Garrāy.” Filmed [Jan. 2013] Youtube vide, 17:15, Posted [Jan. 2013]. [https://www.youtube.com/watch?v=qMGxotpmK4]. See also Garrāy Wuld Ahmad Yūrā, “Naẓm Garrāy Wuld Ahmad Yūrā fī al-sadl.” Filmed [December, 2015]. Youtube, 8:24, Posted [December, 2015].” [https://www.youtube.com/watch?v=mmyvyvPU7jg]. In a detailed treatment of this issue *(sadl vs. qabḍ)*, Yasin Dutton defended the prevalent Mālikī view, which overlooks the *ḥadīth* in the *Muwaṭṭa*’ in favor of *qabḍ* and accepts the opposition to *qabḍ* in the *Mudawwana*. While Dutton succeeded in illustrating that Sunna did not always mean *ḥadīth* in the early period of Islamic legal development, he was not able to explain why Mālik cited a *ḥadīth* in the *Muwaṭṭa*’ only to contradict it in the *Mudawwana*. His assertion that Mālik typically indicates in the *Muwaṭṭa*’ the instances in which he disagrees with what he transmits did not help his case. Dutton was not able to show that Mālik proclaimed within the *Muwaṭṭa*’ itself that *ʿamal* went against the tradition of *qabḍ*. Dutton’s argument therefore did little beyond taking a side in an intra-school debate. And it did so unconvincingly. He failed, on the one hand, to note that even in the *Mudawwana* Ṣaḥnūn transmitted from Ibn Wahb a report from Ṣufyan al-Thawri (on the authority of more than one Companion) that the Prophet used to place his right hands on the left in the prayer. On the other hand, Yasin did not discuss the possible ambiguity in the reference given the general context (leaning in Prayer) in which Mālik’s responsa are cited by Ibn al-Qāsim. This surface ambiguity is something that was not lost on the Mauritian scholar, Ibn Ḥamidun. In general, the question of *sadl* seems quite ill-suited to prove Dutton’s main point that Sunna was primarily a praxis, not Ḥadīth. See, Yasin Dutton, “ʿAmal V. Ḥadīth in Islamic Law: The case of Sadl al-Yadayn (Holding One’s Hands by One’s Sides) When doing the Prayer” *Islamic Law and Society*, Vol. 3, No. 1. (1996), pp. 13-40.
these inconvenient findings, Haidar only admits the possibility of “a unique legal diversity” in Kūfa and asserts that “as a whole, our assumptions about law schools fare well.”

While Wael Hallaq considers the entire geographical argument to be an encumbering fallacy, there is a problem with the way in which the concept of Medinan practice is approached in Haidar’s article. For Mālikīs, the Medinan practice is essentially what Mālik deems so, whether or not there are other Medinan authorities that approve or disapprove of the practice. The role of the central authority (in this case Mālik) in evaluating evidence must not be overlooked. In the case of the basmala, the Muwatṭa’ features a hadīth (Mālik-Ḥumayd al-Ṭawīl-Anas Ibn Mālik), which categorically disapproves of basmala. Mālik must have been aware of other divergent reports. But he must have considered such reports to be inferior to the solitary hadīth he cites in Muwatṭa’.

Both Ḥumayd al-Ṭawīl and Anas Ibn Mālik rank as Basran transmitters in Haidar’s schema. But neither Mālik nor any of his contemporaries would have seen evidence from a purely geographical lens. The value of Humayd’s transmission from Anas (the Prophet’s dedicated servant and one of his last living Companions) lies in what it says about Medina (i.e. Abū Bakr, ‘Umar and ‘Uthmān never read the basmala in obligatory prayers), not about Basra. It would suffice for Mālik to trust the transmission of Ḥumayd al-Ṭawīl about the practice of three of the first four caliphs to discard all evidence to the contrary. This is why Mālik stresses that this is the sunna (hiya al-sunna wa’alayhā adraktu al-nās). As we have shown above, Mālik’s choices in respect to qunūt, in both the Muwatīṭa’ and the Mudawwana, are different.

CONCLUSION

Although the position of the Mālikī School on qunūt is well established, there are almost no aḥādīth in the main Mālikī Ḥadīth copra to support it. In fact, the existing aḥādīth in most versions of the Muwatīṭa’ seem to go against this established practice. This is true of the widespread recensions of Yahyā b. Yaḥyā, Muḥammad b. al-Ḥasan al-Shaybānī, and the most authoritative rīwāya of al-Qa’nābī. The same also applies to the transmissions of Ibn al-Qāsim and Ibn Wahb. The exception to this trend is a version of one hadīth in al-Qa’nābī, where ‘Urwa b. al-Zubayr was said to have regularly made qunūt in the Daybreak Payer. As we discussed above, not only does this hadīth contradict another narration with the same isnād in the same entry, it also negates the tradition of Nāfi’, which contains a more respected isnād. Additionally, its linguistic structure seems quite odd, featuring two repetitive categorical negations and a final exception, which renders the first negation frivolous. By contradicting the first negation, this section of ‘Urwa’s hadīth postulates the current Mālikī position in exact details. It therefore seems curious, if not suspect.

The second main corpus of Mālikī texts, Mudawwana does proclaim qunūt to be a practice of Mālik, although not in an explicit fashion. Here again one finds neither concordance between the prevalent Mālikī practice and the views attributed to Mālik, nor a transmission from Mālik attesting that this widely practiced qunūt is something he saw as Sunna, or even a practice (‘amal). Instead, the traditions in this section do not feature Mālik in the isnād. This raises the question of why Mālik didn’t transmit a hadīth about a practice he presumably held, at a time when a plethora of traditions about qunūt was already in circulation. If he did transmit one, why wouldn’t these two Mālikī scholars (Ṣaḥnūn and Ibn al-Qāsim) cite it in their section on qunūt?

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57 Wael Hallaq contends that “there is no doubt then that the notion of regional schools is a fallacy..[and that] positing the existence of geographical schools creates an artificial diversion, even a fundamental disruption, in legal history.” See, Wael Hallaq, “From Regional to Personal Schools of Law? A reevaluation,” Islamic Law and Society 8, n.1 (2001):1-26.
The absence of the ahādīth of the Muwaṭṭa’ from the Mudawwana is not unique to this section. It is this fact that led Norman Calder to argue that the latter preceded the former. But this is an argument that Brockopp has proven to be precarious, given what we know about Ibn al-Qāsim and Saḥnūn’s knowledge of the Muwaṭṭa’ āt. The answer must therefore reside elsewhere.

I argued above that a combination of three factors led to the special arrangement of the section of qunūt in the Mudawwana. The first of these factors is the privileging of practice over naql. The second is a misidentification of instances of Mālik’s personal practice as his complete legal position, as a result of, or in addition to some memory gaps on the part of Ibn al-Qāsim. The last factor is the preference of key Mālikī scholars in Egypt, such as Ibn al-Qāsim, Ibn Wahb and possibly Ashhab. The outcome of this was to canonize what is essentially an Egyptian Mālikī practice (mainly that of Ibn al-Qāsim) as a Medinan one. It is very improbable that qunūt is the only area in which the process above led to similar outcomes.

REFERENCE


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