

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’anic 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.*

Article Progress

Received: 20 July 2020
Revised: 10 Sept 2020
Accepted: 29 Nov 2020

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INTRODUCTION

Qunūt is a special non-Qur’anic 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‘ī believed it was *sunna*. Abū Hanīfa 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-mujtahid wa nihāyat al-muqtaṣid*, (Cairo: Maktabat al-kulliyat al-azhariyya, 1974), 159.

‘legal theory.’² 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 authenticity 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 *Muwaṭṭaʿ* 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 *aḥādīth* not reported in the *Mudawwana* or in the *Muwaṭṭaʿ*. To explain this oddity, I argue that this illustrates 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 *Muwaṭṭaʿ*.

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 *ḥadīth* 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 *ṣaḥīḥ* 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 (*farḍ*) 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 *Muwaṭṭaʿ*, 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 *aḥādīth* 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.

² Jonathan E. Brockopp, “Authority in Early Mālikī Texts,” in *Studies in Islamic Law and Society*, ed. Bernard G. Weiss (Boston, Brill, 2002).

ESTABLISHED MĀLIKĪ QUNŪT

One of 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).³ 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 Qur'ān. Do all the same rituals as in the first unit of prayer but you should also do qunūt after rukū'. Or if you prefer, you can do qunūt before rukū' after you complete the recitation [of Qur'ān].⁴ 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 reject those who disbelieve in You. O Allah, it is You who we worship. And to You we pray. We bow down/prostrate to You. To You we hasten, and expectedly anticipate your mercy. We fear your severe punishment. Indeed, your torment of the disbelievers is all-encompassing.⁵

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 *Muwaṭṭa'* 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 *rukū'*.⁶

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 Yaḥyā b. Yaḥyā (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 *Muwaṭṭa'āt* (including the highly esteemed *riwāya* of al-Qa'nabī) appear to corroborate Yaḥyā'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

Ḥadīth is the major source on *qunūt* as a specific ritual, and is therefore the source of its *ikhtilāf*.⁷ Although the narrations directly attributed to the Prophet are few in number, the list of those citing his

³ Qāḍī 'Iyāḍ mentions 386/996 as the year in which he died.

⁴ It is worth noting that while Ibn Abī Zayd prefers offering *qunūt* after *rukū'*, the established Mālikī practice is to do *qunūt* before *rukū'*. Ibn Abī Zayd cites that only as an option. The variations in Mālikī texts (*Muwaṭṭa'*, *Mudawwana* and *Risālah*) hint at the evolution of these positions and the complex syntheses which contributed to their final form. In his *Mālik and Medina*, Umar F. Abd-Allah Wyman-Landgraf argues that the early scholarly circles in Qayrawān in the third century were interested in the practice of the people of Medina in general and did not simply restrict themselves to the views of Mālik. It is possible that the question of post-*rukū'* *qunūt* is derived from the opinion of other Medinan authorities. It is certainly the view that al-Shāfi'ī (d. 204/820) adopts. See, Umar F. Abd-Allah Wyman-Landgraf, *Mālik and Medina: Islamic Legal Reasoning in the Formative Period* (Boston: Brill, 2013).

⁵ Muḥammad Ibn Abī Zayd al-Qayrawānī, *Al-Risālah fī fiqh al-Imām Mālik* (Beirut: Dār al-Kutub al-'Ilmiyya, ?), 22&23.

⁶ *Rukū'* is the ritual of bending forward and holding one's knees in the Islamic prayer. It comes after standing for recitation and before prostration.

⁷ Qur'ān says little about *qunūt*, and Qur'ānic, even though the work *qunūt* appears 13 times in the text. None of these instances stipulates a specific ritual in isolation from or in connection to the five daily prayers. Moreover, Qur'ānic exegetes are unanimous in their view that the word is used in its primary denotative sense (silence, obedience and solemn attentiveness), and not as a technical term. The sole exception is the Andalusī scholar Ibn

practice, as well the opinions of his Companions and scholars from the Successors' generation, is quite long. 'Abd al-Razzāq al-Ṣan'ānī (d. 211/827), whose *ḥadīth* 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 Ḥadīth, such as the *Ṣaḥīḥayn* 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 *aḥādīth*. In Mālik's *Muwatta'* (the recension of Yaḥyā b. Yaḥyā al-Laythī), the section on *qunūt* features only one *ḥadīth*.

Aḥādīth 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 *aḥādīth* suggest that the practice may have existed first but was then abandoned by the Prophet upon receiving Qur'ānic revelation instructing him to cease.

A close look at the 56 traditions cited by 'Abd al-Razzāq al-Ṣan'ānī (d. 211/827) in his *Muṣannaḥ* 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 *aḥādīth*. 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 *aḥādīth* 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 Qur'ānic exegete, 'Abdullāh Ibn 'Abbās (d. 67/686), is mentioned in three traditions: one in the negative and two in the affirmative.⁸

These *aḥādīth* 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 Shāfi'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 Shāfi'ī. Mālikīs consider *qunūt* in the Daybreak Prayer as *mustaḥabb* (recommended as opposed to *sunna*). This *qunūt* is performed silently in the second unit of

al-'Arabī (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-'Arabī's own compatriot and partisan, al-Qurṭubī (d. 671/1272), echoes his interpretation when addressing the same verse, seeing a connection between the silence in Zakariyyā's prayer, and that of *qunūt*. However, this interpretation is not acknowledged in most other *tafāsīr*. One finds no echo of this opinion in other widely-used *tafāsīr*, such as those of Ibn Kathīr (d. 774/1373), *al-Jalālayn* and al-Ṭabarī (d. 310/923). In these *tafāsīr*, *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-wuṣṭā*. 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-wuṣṭā*. Even then, one still has to infer what the term means. The Qur'an should not, therefore, be considered a source of ritual *qunūt*, neither regarding its nature nor on the *ikhtilāf* associated with it.

⁸ 'Abd al-Razzāq Ibn Hammam al-Ṣan'ānī, *al-Muṣannaḥ*, (Beirut: Al-Majlis al-'ilmī, 1983).

⁹ Abū al-Walīd Al-Bājī, *Al-Muntaqā: sharḥ Muwaṭṭa' al-imām Mālik*, (Beirut: Dār al-Kitāb al-'Arabī, 1914), 282.

Daybreak Prayer, just before *rukū'*. The content of the *qunūt* is different from the Shāfi'ī one as well.

Position 2: Abū Ḥanīfā and Sufyān al-Thawri: *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 *Zād al-Ma'ād*.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 *qunūt* either means a general supplication (*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 *qunūt* with a special invocation only for a period of time and under unique circumstances. When these circumstances changed, he ceased the practice of *qunūt*. Therefore, *qunūt* is not a *sunna* in normal times in any prayer. Specifying one prayer for a regular *qunūt* is more likely an innovation. However, *qunūt*, in its generic sense, as an unqualified invocation, is indeed supported by prophetic traditions. In fact, *aḥādīth*, such as that of the aforementioned Anas must be understood to mean *qunūt* in its primary sense; unqualified invocation, whose permissibility is not a subject of dispute amongst the jurists. Surprisingly, this *ḥadīth* appears in many other Ḥadīth collections, but not in the *Muwatta'* of Mālik.

Ibn al-Qayyim sums up this line of argument: “The moderate view of an unbiased scholar is that ...the Prophet only did *qunūt* at times of crises [*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 (*maghrib*) as well.”¹¹

DISCUSSION

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

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

In stipulating his position that the Prophet never abandoned *qunūt* in *fajr* (the Daybreak Prayer), al-Shāfi'ī mentions *qunūt* in two separate occasions in *Kitāb al-Umm*. He makes at first a scant mention

¹⁰ Shams al-Dīn Ibn al-Qayyim, *Zād al-Ma'ād fī hadyī khayril- 'ibād*, (Beirut: Mu'assasat al-Risāla, 1979).

¹¹ Ibid, 272.

¹² Ibn Jarīr al-Ṭabarī, *Tahdhīb al-āthār wa tafṣīl al-thābit 'an rasūlillah min al-akhbār* (Mecca: Maṭābi' al-Ṣafā, 1981).

¹³ Muḥammad b. Idrīs al-Shāfi'ī, *Ikhtilāf al-Ḥadīth*, vol. 10 of *Kitāb al-Umm* (Cairo: Dār al-wafā' liṭṭibā'a wal-nashr wal-tawzī', ?).

of it in the section on prayer under the title of ‘Standing After *rukū*’.¹⁴ He then addresses it in a separate section under the title of *qunūt* in all prayers. In this section, Shāfi‘ī cites five traditions supporting his position (only two of these have *isnāds*).¹⁵ It is important to note that none of these *aḥādīth* is transmitted from Mālik. This is noteworthy for two reasons; 1) Shāfi‘ī often quotes Mālik, even when he differed with him and 2) Mālik presumably holds almost an identical view regarding *qunūt*.

One of the five traditions that Shāfi‘ī cites is a famous narration by Anas b. Mālik, which appears to explicitly contradict the position taken by Shāfi‘ī. This *ḥadīth* is often cited by the proponents of the abrogation theory. However, Shāfi‘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 statment “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’isha said: ‘the prayer was originally two, then the prayer for travellers (ṣalāt al-ṣafar) was left without change (uqirrat), whereas the prayer for residents (salat al-ḥaḍar) was increased.’ Therefore, abandoning qunūt in other prayers, save the Daybreak Prayer, shouldn’t be viewed as an abrogating act—nāsikh, since nāsikh and mansūkh 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’ūna, 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, nāsikh nor abrogated, mansūkh.¹⁶

In general, despite the short list of *aḥādīth*, which Shāfi‘ī cites (without *isnād* and without any reference to authenticity) to argue his position, later Shāfi‘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 *Mudawwana*, 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 Mālikīsm 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 Yaḥyā b. Yaḥyā al-Laythī.

QUNŪT IN AL-MUWAṬṬA’

a. Version of Yaḥyā b. Yaḥyā

In the *riwāya* of Yaḥyā (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 fī shay’in min al-ṣalāh*).” There is no commentary in this version on this *ḥadīth*, nor a suggestion as to what Mālik’s view

¹⁴ *Qunūt* is a section in a volume that deals with the *ikhtilāf* in Ḥadīth. Shāfi‘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 Shāfi‘ī’s end the transmission comes in the passive form, *ḥuḍifa ‘an* Ja‘far. Although al-Ṣādiq is highly revered by both Sunnis and Shi‘is, his *ḥadīth* here, which reports that the Prophet did indeed make *qunūt* in all prayers before the incident of *Bi’r Ma’ūna*, 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 *aḥādīth*; one about *qunūt* during the incident of *Bi’r Ma’ūna*, and one claiming that the Prophet did so before that incident. In both cases, Shāfi‘ī transmits from him through an unknown transmitter, using the passive in the case above and ‘*an rajulin* min ahlil-‘ilm [from an unnamed scholar]. The use of passive (*ruwiya* and *ḥuḍifa*) 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-qunūtu fī al-ṣubḥi* (*qunūt* in the Daybreak Prayer). This is indeed a very short title, but not atypical of the *Muwaṭṭa’*.

Many titles in this *riwāya*, such as *ṣiḥār al-‘abd*, *ṣiḥār al-hur* and *mā jā’a fī 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 doesn’t support this views.¹⁷ 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 ‘*īds—al-amru bi al-ṣalāti qabla al-khutbatī fī al-‘idayn*; 2)¹⁸ the need for one to wait for the sermon to be delivered on ‘*īd* before s/he could leave—*ghuduwu al-imami yāwm al-‘īd wa intiḏār al-khuṭba*.¹⁹ 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 [as to whether it is from Ramaḏān or the previous month]’—*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 Ramaḏān. This clearly doesn’t follow from the title.²⁰

Case 2: ‘The divorce of the terminally ill husband’—*ṭalāq al-marīḏ*. In the absence of negation, the statement can be taken in its positive sense. That is, the divorce issued by a terminally ill man is effective. But here again Mālik’s view is the complete opposite. Such a divorce is not valid, and the divorcee inherits from the husband should he die, as a widow would in normal circumstances.²¹

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 Yaḥyā b. Yaḥyā, who transmits this version, and some of his students, such as ‘Abd al-Malik b. Ḥabīb, 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 *Mudawwana*. Saḥnūn transmitted his version from the Egyptian Ibn al-Qāsim.²² 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 ‘*ḥadīth* in the *Muwaṭṭa’* illustrates one of the cases where the ‘*amal* superseded the *naql*, even one being of highly respected *isnād* 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 *Muwaṭṭa’* and the dominant practice to be astonishing. He saw it as evidence of the

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 Muwaṭṭa’ al-imām Mālik*, (Beirut: Dār al-Kitāb al-‘Arabī, 1914), 281.

¹⁸ Mālik Ibn Anas, *Muwaṭṭa’ al-imām Mālik* (riwāya of Yaḥyā b. Yaḥyā), (Beirut: Dār al-Nafā’is, 1984), 122.

¹⁹ *Ibid*, 124.

²⁰ *Ibid*, 210.

²¹ *Ibid*, 390.

²² See Muḥammad Ibn Rushd, *Bidāyat al-mujtahid wa nihāyat al-muqtaṣid*, (Cairo: Maktabat al-kulliyāt al-azhariyya, 1974), 160.

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 (*taqlīdahum*); 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 *ḥadīth* in the *Muwaṭṭa’* 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 *Muwaṭṭa’āt*.

b. The less common *Muwaṭṭa’āt*

Other recensions of the *Muwaṭṭa’*, such as that of Muḥammad b. al-Ḥasan al-Shaybānī (d. 189/804) and al-Qa‘nabī (221/835), are not markedly different from Yaḥyā’s version on the issue of *qunūt*. Al-Shaybānī, who is a Ḥanafī scholar, cites the same tradition of Nāfi’ and the same phrasing of the title found in Yaḥyā, only to add: “this is the view we prefer and it is also that of Abū Ḥanīfa.”²⁴ Al-Qa‘nabī’s *riwāya* contains three *aḥādīth*. Two of these clearly oppose *qunūt*. The remaining *ḥadīth* is in favor of *qunūt* in the Daybreak Prayer. This *ḥadīth* 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. Maslamah b. Qa‘nab 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, Qāḍī ‘Iyād (d. 544/1149) extols the erudition and piety of al-Qa‘nabī. He particularly speaks of his reliability as a transmitter of Mālik’s *Muwaṭṭa’*, 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, ‘Iyād cites an account by one student of Mālik, who heard Mālik describes al-Qa‘nabī as *khayr ahl al-arḍ* (the best man on earth). He also reports that Mālik would usually invite al-Qa‘nabī to sit by his side.

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

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

²³ ‘Alī Ibn Ḥazm, *al-Muḥallā*, vol. 4 (Beirut: Dār Iḥyā’ 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 *Muwaṭṭa’āt*, nor are they mentioned in the *Mudawwana*. Their opinions are, however, mentioned by ‘Abd al-Razzāq al-Ṣan‘ānī, as we have seen.

²⁴ Muḥammad b. al-Ḥasan al-Shaybānī, *Muwaṭṭa’ al-imām Mālik* (Beirut: Dār al-Bihār, 1991), 105.

²⁵ In ‘Iyād’s *Taqrīb* puts his death date at 220 Hijrī.

²⁶ ‘Iyād al-Yaḥsubī, *Tarīb al-madārik wa taqrīb al-masālik* vol. 1 (Dār al-kutub al-‘ilmiyya, 1998), 232.

²⁷ See the citations from Ibn al-Madīnī, Ibn Ma‘īn, Abū Zur‘a and others in Dhahabī’s entry on al-Qa‘nabī. Shams al-Dīn al-Dhahabī, *Tahdhīb tahdhīb al-kamāl fī asmā’ al-rijāl* vol.5 (Cairo: al-Farūq al-ḥadītha lil-tibā‘a wal-nashr, 2004), 312-314. Dhahabī also cites Abū Zur‘a saying “I have not transmitted from someone more revered in my eyes than him.” See, Shams al-Dīn al-Dhahabī, *al-Kāshif fī ma‘rifati man lahu riwāyatun fil-kutubi al-sittati*, (Cairo: Dār al-Kutub al-Ḥadītha, ?), 132. For more on the reliability of al-Qa‘nabī see also, ‘Abdurahmān al-Rāzī, *Kitāb al-jarḥ wa al-ta’dīl* vol. 5 (Beirut: Dār al-Kutub al-‘ilmiyya, 1952), 181. Moreover, in his *Taqrīb al-tahdhīb*, Ibn Ḥajar al-‘Asqalānī says: “Ibn Ma‘īn and Ibn al-Madīnī used to give preference to no one over him in regards to his transmission of the *Muwaṭṭa’*.” See, Ibn Ḥajar al-‘Asqalānī, *Taqrīb al-tahdhīb* vol. 1 (Beirut: Dār al-kutub al-‘ilmiyya, 1993), 535.

²⁸ The same is true of Nāfi’’s tradition as we indicated earlier.

Hishām’s own father, ‘Urwa.²⁹ The first of these traditions corroborates the *ḥadīth* of Nāfi‘, 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 *rukū‘*.”³⁰

It should be noted, before examining the *isnād* and the structure of this *ḥadīth*, that this is the only tradition, beside Nāfi‘’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 (*muḥdath*).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 *Ṣaḥīh*, 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 Nāfi‘’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 *rukū‘*. However, Mālik asserts in

²⁹ It is important to note that this is also the case of Nāfi‘’s *ḥadīth*, where the final authority is Ibn ‘Umar.

³⁰ ‘Abdullah b. M. al-Qa‘nabī, *al-Muwaṭṭa‘ lil-imām Mālik: riwāyat ‘Abdullāh b. Maslama al-Qa‘nabī*, (Beirut: Dār al-gharb 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 Nāfi‘’s *ḥadīth* and the longer version of Hishām b. ‘Urwa’s *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-Ḥadathānī (d. 240/855) with a very miniscule difference.

³² ‘Umar b. ‘Abd al-Barr, *al-Istidhkār* 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 *makrūh* (disliked). They see no *qunūt* in *witr* except in the second half of Ramaḍān.

the same instance that it is a flexible issue, *kullu dhālika wāsi'un*. This aspect is one of a few minor issues on which Mālikī and Shāfi'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 māḍiyya*).³⁵ 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-Ash'arī (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 *aḥādīth* speaks of the Daybreak Prayer, with no indication as to whether this is for a normal or a special occasion. One of the *aḥādīth*, 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 *du'ā'*, which Mālikīs read in *qunūt* today, and which other report describes as two Qur'anic chapters from the *muṣḥaf* of Ibn Mas'ūd.³⁶

Furthermore, none of the *aḥādīth* 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'āt* 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 yajhar* (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 *rukū'*: 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 Shāfi'ī position.

³⁵ Mālik b. Anas, *Al-Mudawwana al-kubrā li imāmī dār al-ḥijra: al-imām Mālik b. Anas al-Aṣḥabī* (Beirut; Dār Iḥya al-Turāth al-'Arabī, 2010), 103.

³⁶ A section of this Ḥadīth is found in other narrations without the second part about this specific *du'ā'*. It is often cited by the opponent of *qunūt* as evidence of its abrogation. See for example, the Ḥadīth of Sa'd Ibn al-Musayyib, which cites Q. 4:128 (You have no hand in the manner, should He forgives them or punishes them for they have indeed transgressed), mentioning that the prophet never did it a again. See, al-Ṭabarī, *Tahdhīb al-āthār wa tafṣīl al-thābit 'an rasūlillah min al-akhbār* (Mecca: Maṭābi' 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 the *Ṣaḥīḥ al-Bukhārī*, (Cairo: Jam'iyyat al-maknaz al-Islāmī, 2000). Finally, Ibn Rushd described these texts as being *sūratayn* in the *muṣḥaf* of Ubay Ibn Ka'b. See Muḥammad Ibn Rushd, *Bidāyat al-mujtahid wa nihāyat al-muqtaṣid*, (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.

³⁹ Mālik b. Anas, *Al-Mudawwana al-kubrā li imāmī dār al-ḥijra: al-imām Mālik b. Anas al-Aṣḥabī* (Beirut; Dār Iḥya al-Turāth al-'Arabī, 2010), 102.

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 saḥwa 'alayhi*). 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 'Urwa b. al-Zubair that he said, indeed, I ask God all my needs in prayer, even [such mundane thing as] salt for my food."⁴⁰

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 *du'ā'*, and by necessity to *qunūt* as a special ritual. Although Mālik's dicta above seem to go against the solitary *ḥadīth* of Nāfi' in the most common *riwāya* of the *Muwaṭṭa'*, 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 *Muwaṭṭa'* do not appear to feature the two traditions of 'Urwa, which al-Qa'nabī transmits. Nor does Ibn al-Qāsim's recension include Nāfi''s tradition in the *riwāya* of Yaḥyā. Further still, it does not mention the *aḥādīth* of Wakī', the strongest evidence supporting the practice of *qunūt* in the Daybreak Prayer in the *Mudawwana*.⁴¹

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 worshiper 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 *rukū'* 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 'Iyād, 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,⁴² 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.⁴³ Both the students (Asad and Saḥnūn) and

⁴⁰ 'Iyād al-Yaḥṣubī, *Tartīb al-madārik wa taqrīb al-masālik* vol. 1 (Dār al-kutub al-'ilmiyya, 1998), 102.

⁴¹ Ibn al-Qāsim, *Muwaṭṭa' Mālik: riwāyat Ibn al-Qāsim wa talkhīṣ al-Qābisī* (Abū Dhabi: al-Mujamma' al-thaqāfī, 2004).

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 *Ifriqiyya*, 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 'Iyād, *Taqrīb*, vol.1, 278.

⁴³ Herald Motzki's findings in his analysis of the *Muṣannaḥ* of 'Abd al-Razzāq al-Ṣan'ānī should serve as cautionary tale against hasty conclusions of this sort. See, Harald Motzki et al, *Analysing Muslim Traditions. Studies in Legal, Exegetical, and Maghāzī Ḥadīth* (Leyde: Brill, 2010).

the teacher (Ibn al-Qāsim) 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 Qāḍī 'Iyād supports this view;

[Asad b. al-Furāt] said, I used to ask Ibn al-Qāsim 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-Qāsim after he had become a well-versed Mālikī jurist. He examined with Ibn al-Qāsim 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-Qāsim,] sought guidance from God—istakhāra Allāha—and he examined them with Saḥnūn . He [Ibn al-Qāsim] 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-Qāsim was not always sure what Mālik's views on certain issues were. This is clearly the case of the *Mudawwana* of Asad (or *al-Asadiyya* as it is known). If the account above is correct, the main difference is that Saḥnūn's version reassigns what was once seen as the views of Mālik to Ibn al-Qāsim. 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-Qāsim and Saḥnūn⁴⁵ need to cite several *aḥādīth*, none of which appears in the two most common *riwāya* of the *Muwaṭṭa'*, nor in the most esteemed, and possibly, the most extensive *riwāya* of al-Qa'nabī? Stranger still, these traditions do not at all feature in Ibn al-Qāsim's own recension, whose *Muwaṭṭa'* is seen by many Ḥadīth critics as second only to that of al-Qa'nabī?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 *Muwaṭṭa'*, 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 *Muwaṭṭa'* (in some form or another) when he wrote the *Mudawwana*, he had numerous other texts as well. Yet, none of the *aḥādīth* 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 *aḥādīth*. This indicates that neither Ibn al-Qāsim nor Saḥnūn were simply trying to overlook ḥadīth and place Mālik

⁴⁴ 'Iyād al-Yaḥṣubī, *Taqrīb al-madārik wataqrīb al-masālik* vol. 1 (Dār al-kutub al-'ilmiyya, 1998), 273.

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-Madīnī, Ibn Ma'īn, al-Nasā'ī, Abū Dawūd and others. See, 'Iyād al-Yaḥṣubī, *Taqrīb al-Madārik wataqrīb al-masālik* (Beirut: Dār al-kutub al-'ilmiyya, 1998); or Shams al-Dīn al-Dhahabī, *Siyyar a'lam al-nubalā'* vol.9:35.

⁴⁷ Jonathan E. Brockopp, “Authority in Early Mālikī Texts,” in *Studies in Islamic Law and Society*, ed. Bernard G. Weiss (Boston, Brill, 2002).

⁴⁸ *Ibid*, 16.

in the position of the final authority. The text provides more puzzles than can be readily solved by the Great Shaykh Theory. In fact, the discrepancy between the use of Ḥadīth in this section and that of *ḥajj*, which I have noted in other sections as well, must make one cautious in drawing, or in the least trying to apply, such a theory. Secondly, while Mālik's *dicta* were included at the beginning of the *qunūt* section, implying his authoritative posture, he is not featured in any of the *asānīd* in this section. If the goal was indeed to place Mālik as a final authority, then one would expect Mālik to be the transmitter of all the traditions in this section. Evidently, this is not the case.

Knowing that both Saḥnūn and Ibn al-Qāsim were more likely privy to the various *aḥādīth* on *qunūt* in the different recensions of the *Muwaṭṭa'*, a more complex process must have dictated the choice of the content of the *qunūt* section in *Mudawwana*.⁴⁹ The arrangement of the *qunūt* section in *Mudawwana* and its divergence from the section in *Muwaṭṭa'* are the product of an attempt by these two Mālik scholars to 1) capture the *Sunna* and 2) to 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-Qāsim 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-Qāsim's practice and that of his contemporary and compatriot, Ibn Wahb.⁵⁰ 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-Qāsim 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-Qāsim, 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: "*laysa fī al-qunūt du'ā'un ma'rūfun wa lā wuqūfun muwaqqat* (there is no known supplication or a specified time for standing)."⁵¹

In summation, Mālik's *qunūt* was a personal practice resulting from a close reading of *aḥādīth 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 *istiḥbāb* 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 bihī fī khāṣṣati nafsi*] is offering it before *rukū'*."⁵² 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-wuṣṭa* (Middle Prayer), which Mālik believed was the Daybreak Prayer.⁵³

Aware that the *aḥādīth* in the *Muwaṭṭa'* neither lend support to the form of *qunūt* which was practiced by Ibn al-Qāsim, nor to the one practiced by Mālik, as they remembered it, Ibn al-Qāsim and Saḥnūn

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 *Muwaṭṭa'*. First, Ibn al-Qāsim himself transmits one recension and lived and interacted with Ibn Wahb who is also a transmitter of another *riwāya*. Second, Saḥnūn came from Ifrīqiyya, an area adjacent to al-Andalus where by this time the *riwāya* of Yaḥyā b. Yaḥyā 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-Ḥasan Al-Shaybānī, another transmitter of the *Muwaṭṭa'*.

⁵⁰ It was not, however, the practice of their other countryman and independent scholar al-Layth b. Sa'd, who was always critical of the concept of *'amal ahl 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 *aḥādīth*, especially the Nāfi‘-Ibn ‘Umar’s *ḥadīth*, are significant. As a consequence, they may have attempted to counterweight them by adding a number of *aḥādīth*, citing important authorities (‘Umar, ‘Alī, 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 colleagues⁵⁴ including Ibn Wahb, by unintentionally projecting, and weaving some of its details into the practice of Mālik. Later Mālikī scholars, with the exception of Yaḥyā’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’*.⁵⁵

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

⁵⁴ According to Muḥammad b. Aḥmād b. ‘Arafah al-Dasūqī, another prominent Mālikī scholar, Ziyād 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 *rukṅ* (a pillar) of the prayer. Muḥammad b. Aḥmad b. ‘Arafah al-Dasūqī, *Ḥashiyyat al-Dasūqī ‘ala al-sharḥ al-kabīr* (Beirut: Dār Ihyā’ al-kutub 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 Mauritanian scholars, Ibn Ḥamidun and Ibn Aḥmad Yūra. The former’s poem cites an extensive list of authorities, which side with *qabḍ*. Al-Mukhtār Ibn Ḥamidun, “Jawāb al-‘allāma al-Mukhtār Wuld Ḥamidun ‘alā nazm Garrāy.” Filmed [Jan. 2013] Youtube vide, 17:15, Posted [Jan. 2013]. <https://www.youtube.com/watch?v=qMGxotpmKg4>. See also Garrāy Wuld Aḥmad Yūra, “Nazm Garrāy Wuld Aḥmad Yūra fī al-saḍl.” Filmed [December, 2015]. Youtube, 8:24, Posted [December, 2015].” <https://www.youtube.com/watch?v=mmyyvyPU7jg>. In a detailed treatment of this issue (*saḍl* 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 ‘amal 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 quite unconvincingly. He failed, on the one hand, to note that even in the *Mudawwana* Saḥnūn transmitted from Ibn Wahb a report from Sufyan 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 Mauritanian scholar, Ibn Ḥamidun. In general, the question of *saḍl* seems quite ill-suited to prove Dutton’s main point that *Sunna* was primarily a praxis, not *Ḥadīth*. See, Yasin Dutton, “Amal V. *Ḥadīth* in Islamic Law: The case of *Saḍl* 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.”⁵⁶

While Wael Hallaq considers the entire geographical argument to be an encumbering fallacy,⁵⁷ there is a problem with the way in which the concept of Medinan practice is approached in Haidar’s article. For Mālikī, 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 *Muwaṭṭa*’ features a *ḥadīth* (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 *ḥadīth* he cites in *Muwaṭṭa*’.

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 Ḥumayd’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 *Muwaṭṭa*’ 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 *Muwaṭṭa*’ seem to go against this established practice. This is true of the widespread recensions of Yaḥyā b. Yaḥyā, Muḥammad b. al-Ḥasan al-Shaybānī, and the most authoritative *riwāya* of al-Qa‘nabī. The same also applies to the transmissions of Ibn al-Qāsim and Ibn Wahb. The exception to this trend is a version of one *ḥadīth* in al-Qa‘nabī, where ‘Urwa b. al-Zubayr was said to have regularly made *qunūt* in the Daybreak Payer. As we discussed above, not only does this *ḥadīth* 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 *ḥadīth* 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 *ḥadīth* 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 (Saḥnūn and Ibn al-Qāsim) cite it in their section on *qunūt*?

⁵⁶ Anjam Iftikhar Haidar’s “Geography of *Isnād*: Possibilities for Reconstruction of Local Ritual Practice in the 2nd/8th Century,” *Der Islam* Vol. 90, No. 2. (2013), pp. 306-346.

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 *aḥādīth* 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.⁵⁸ But this is an argument that Brockopp has proven to be precarious,⁵⁹ 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.

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⁵⁸ See Norman Calder, *Studies in Early Muslim Jurisprudence* (Oxford: Clarendon Press, 1993), 38, 146.

⁵⁹ See also Yasin Dutton’s fourfold refutation of Calder’s assertion that the *Muwaṭṭa’* was ‘a Cordoban production of the latter part of the third century.’ Yasin Dutton, “Amal V. Hadīth 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. Cf. Umar F. Abd-Allah Wyman-Landgraf, *Mālik and Medina* where he stresses, contrary to Calder’s argument, that “the *Mudawwana* presupposes the *Muwaṭṭa’* as its frame of reference.” Umar F. Abd-Allah Wyman-Landgraf, *Mālik and Medina: Islamic Legal Reasoning in the Formative Period* (Boston: Brill, 2013), 78.

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