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Critical approach in the transmission of al-Syaibānī's version of al-Muwatta Mālik in Iraq

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Abstract
This paper investigates al-Syaibānī's transmission activities on Mālik's al-Muwaṭṭa`. Investigating al-Syaibānī's transmission on Mālik's al-Muwaṭṭa` provides an alternative discourse on the motivation of al-Syaibānī's transmission on al-Muwaṭṭa` where he was part of the Iraqi jurisprudential community. Al-Muwaṭṭā` is a representation of the legal material that represents the legal community in Medina. This research was conducted by textually comparing al-Syaibānī's version of al-Muwaṭṭa` circulating in Iraq with two versions of Mālik's followers living in Medina and al-Andalūs, namely, Abū Muṣ'ab and Yaḥyā al-Laiṡī. The text is then analyzed for its response, commentary, and the composition of al-Syaibānī's al-Muwaṭṭa`. The result of this study found that al-Syaibānī's narration activity of al-Muwaṭṭa` illustrates critical transmission; al-Syaibānī compared al-Muwaṭṭa's authoritative tradition from Medina with the Iraqi tradition that al-Syaibānī followed. Al-Syaibānī, in this comparison, of course used argumentative material, from within the tradition he followed, whose authority was equal to or higher than al-Muwaṭṭa's authority. Al-Syaibānī took the text of al-Muwaṭṭa` as authoritative to argue legitimacy for the practice of al-Syaibānī's community in Iraq. The last point is that al-Syaibānī transmitted al-Muwaṭṭa`, instead of following the text, he opposed the ruling in the text. He took and brought in a text that had a higher authority than that of al-Muwaṭṭa' Mālik, even though the text did not originate from Kufa but from Basra.
Keyword: *critical transmission, fiqh transmission, al syaibani's recention of al muwatta.*

Abstrak
Penelitian ini mengkaji aktivitas transmisi al-Syaibānī terhadap al-Muwaṭṭa` karya Mālik. Menyelidiki transmisi al-Syaibānī terhadap al-Muwaṭṭa` karya Mālik memberikan perspektif alternatif mengenai motivasi transmisi al-Syaibānī terhadap al-Muwaṭṭa`, di mana ia merupakan bagian dari komunitas fiqih Irak. Al-Muwaṭṭā` merupakan representasi materi hukum yang mewakili komunitas hukum di Madinah. Penelitian ini dilakukan dengan membandingkan teks al-Muwaṭṭa` versi al-Syaibānī yang beredar di Irak dengan dua versi pengikut Mālik yang tinggal di Madinah dan al-Andalūs, yaitu Abū Muṣ'ab dan Yaḥyā al-Laiṡī. Teks tersebut kemudian dianalisis untuk respons, komentar, dan komposisi al-Muwaṭṭa` karya al-Syaibānī. Hasil penelitian ini menunjukkan bahwa aktivitas narasi al-Syaibānī terhadap al-Muwaṭṭa` menggambarkan transmisi kritis; al-Syaibānī membandingkan tradisi otoritatif al-Muwaṭṭa` dari Madinah dengan tradisi Irak

yang diikuti oleh al-Syaibānī. Al-Syaibānī, dalam perbandingan ini, tentu saja menggunakan bahan argumen dari tradisi yang ia ikuti, yang otoritasnya setara atau lebih tinggi daripada otoritas al-Muwaṭṭa`. Al-Syaibānī mengambil teks al-Muwaṭṭa` sebagai otoritatif untuk membenarkan praktik komunitas al-Syaibānī di Irak. Poin terakhir adalah bahwa al-Syaibānī menyebarkan al-Muwaṭṭa`, namun alih-alih mengikuti teksnya, ia menentang putusan dalam teks tersebut. Ia mengambil dan membawa teks yang memiliki otoritas lebih tinggi daripada al-Muwaṭṭa' Mālik, meskipun teks tersebut tidak berasal dari Kufa melainkan dari Basra.
Kata Kunci: *Periwayatan kritis, periwayatan fikih, al muwatta riwayat al syaibani*

INTRODUCTION

The narration of legal material, which includes the authority of Prophetic Hadiths, the opinions of Companions, Caliphs, and scholars, in legal works in the middle of the second century hijri is often seen only from the perspective of the hadith scholars, especially reflected in the views of al-Shāfi'ī, whereas there was a group of sunnah traditions in Medina that had the perspective of Medinan traditions in narrating the law.[1] There are also Iraqi groups that are geographically far from the origins of Islam. There are two major cities, Basrah and Kufa. They have their own point of view in narrating legal material. Not only did they have unique legal scholars from the time of the Companions to the scholars of the second century Hijri, but they also used to compare legal doctrines from other places and compare legal opinions from different teachers.[2] There was also activity in the transmission of Medinan legal materials by Iraqis, where most of their legal doctrines are different. This will be illustrated in the study of al-Syaibānī's version of al-Muwaṭṭa`, who lived and became an Iraqi scholar. These various contexts of narration make the activity of narration have varied meanings.

The second-century legal work that emerged and spread from Medina to a very wide area; across northern Africa, al-Andalus, and even Iraq, was the legal material attributed to Mālik Ibn Anas called al-Muwaṭṭa`. The narration of the material of al-Muwaṭṭa` attributed to Mālik Ibn Anas by one of its famous narrators, al-Syaibānī, is an important illustration of the early (first and second century) world of legal narration. The narration of al-Muwaṭṭa's material, which then spread and remained until today as one of the versions, shows that this version of the material by al-Syaibānī is an important version so that it is well preserved in the tradition. Tradition will be lost, especially in the predominantly oral tradition of the time, when it is forgotten and no longer read by its

[1] Yasin Dutton, ''Amal 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* 3, no. 1 (1996): 38.

[2] This narration is abstracted from his research into the Ma'mar material in Basrah Harald Motzki, Nicolet Boekhoff-van der Voort, and Sean W. Anthony, *Analysing Muslim Traditions: Studies in Legal, Exegetical and Maghazi Hadith*, Islamic History and Civilization, v. 78 (Leiden ; Boston: Brill, 2010), 74.

followers.[3] The preservation of al-Syaibānī's version of al-Muwaṭṭa` to the present day shows that the work continued to be read by and narrated from age to age until it reached a stable phase and was preserved from the possibility of loss.

The text of al-Muwaṭṭa` is, inevitably, a highly authoritative text as it represents the tradition of the city of Medina, which is known as the city of the Prophet. Mālik himself preserved this claim in many textual traditions in al-Muwaṭṭa`.[4] The Prophet's city claim was not only recognized by the people of Medina, it was also recognized by people from different cities. It is evident that al-Syaibānī, as a follower of the tradition that developed from Iraq, particularly Kufa, narrated the material of al-Muwaṭṭa'Mālik.

In relation to al-Syaibānī's narration of al-Muwaṭṭa`, al-Syaibānī must have been aware of the strong power inherent in al-Muwaṭṭa's material. Al-Syaibānī's transmission of Mālik's al-Muwaṭṭa' must be seen in this light, because what al-Syaibānī did with Mālik's material shows his awareness of the power inherent in the text he was transmitting.

METHODS

This study is a library research. This research was conducted by textually comparing Yaḥyā al-Laiṡī's al-Muwaṭṭa` as a representation of the text circulating in al-Andalus, Abū Muṣ'ab's al-Muwaṭṭa` as a representation of the text circulating in Medina, and al-Syaibānī's al-Muwaṭṭa` as a text circulating in Iraq. Textual comparison of al-Syaibānī's version with the other two versions is used to see the similarities and differences between the versions circulating in three different places.

Textual differences in Arabic are essential for analysis. The analysis undertaken after obtaining the textual differences is to see what points of response al-Syaibānī made in narrating the material of al-Muwaṭṭa` from Mālik; either in the form of comments or additional text inserts in al-Syaibānī's version of al-Muwaṭṭa`.

DISCUSSION

Muḥammad ibn Idrīs al-Shafi'ī (d. 204 A.H.), as a strong and popular representative of the hadith scholars, assumed that the process of narrating the Prophet's hadith is inherent in the process of obedience to the Prophet.[5] The hadith in the process of transmission must also be transmitted in

[3] A text in a culture dominated by oral culture "print mode" is when the text is read. texts that are repeatedly re-read from time to time make the text survive. Gregor Schoeler, 'Writing And Publishing On the Use and Function of Writing in Early Islam', in *The Oral and the Written in Early Islam*, ed. James E. montgemory, trans. Uwe Vaghelphol (London ; New York: Routledge, Taylor & Francis Group, 2006), 65.

[4] Mālik Ibn Anas, *Al-Muwaṭṭa' Bi Riwāyati Abū Mus'ab al-Zuhri*, ed. Baṣar Awwad Marūf and Maḥmud Muḥammad Khalīl, vol. 2 (Bairūt: Muassasah al-Risālah, 1991), 53.

[5] Muḥammad bin Idrīs al-Syāfiī, *Al-Risalah* (Mesir: Mustafā al-Bāni al-Ḥalābi wa Aulāduhā, n.d.), 73–79.

its entirety without any changes in text and meaning.[6] As a result of such assumptions about hadith transmission, all the tools of hadith scholarship were argued in such a way as to achieve the ideal transmission process. Hadiths were narrated for the purpose of being followed in sound and meaning.

Joseph Schacht, who studied al-Shāfiʿī intensely, followed this assumption in looking at the process of hadith transmission as well as the transmission of authoritative material other than the prophet's hadith. Schacht mentioned and then emphasized that al-Syāfiʿī was the first scholar to define the sunnah as identical with the prophetic model. Schahct opposed this to another group, the predecessors, who did not refer the sunnah specifically to the prophetic model, but they did refer it to ideals in the living tradition of a community. Authority in tradition, according to al-Syāfiʿī's opponents, involved the authority of the prophet, the companions and the tabiʿīn. [7] Schacht's focus on al-Syāfiʿī's framework, which considers hadith narration to be exclusively authoritative to the Prophet, resulted in the view that the process of transmission assumes that the text must be practiced or its content followed so that it can be used as a reinforcement for legal arguments of fiqh. Based on Schacht's focus on al-Shāfiʿī's theory of transmission of the Prophet's Hadith, Schacht generalizes to the transmission on the authority of the Companions and the Taabiʿīn, i.e. their texts were narrated for the purpose of strengthening the argument of the jurisprudence adopted by the narrator. It is on this point of citing texts for argumentation that Schacht builds his theory: the more a text is attributed to an older authority, the younger it is. The prophet's hadith is younger than the companions' texts, the tabi'in texts are older than the companions' texts. This theory was then generalized to all transmission in the second century Hijri. [8] His theory was used to strengthen the theory of hadith "forgery" that had been initiated by his predecessor, Ignaz Goldziher. [9] Schacht's theories have been very influential in the study of Islamic

[6] Ibid., 369–401.

[7] Joseph Schacht, *The Origins of Muhammadan Jurisprudence*, 4th ed. (London: Oxford At The Clarendon Press, 1952), 1–5, https://www.jstor.org/stable/1569046?origin=crossref.

[8] Ibid.

[9] One of the arguments for the 'forgery' of the Prophetic Hadith is the reluctance of the Prophet's companions and followers to narrate the Hadith. The Prophet's Hadith became the second source of Islam after it entered Islamic orthodoxy in the second and third centuries AH. Ignaz Goldziher, 'Disputes Over The Status of Ḥadīth in Islām', in *The Formation of The Classical Islamic World*, ed. Harald Motzki, Ḥadīth Origins and Developments, volume 28 (New York: Routledge, Taylor & Francis Group, 2016), 1–12.

traditions in the West.[10] Harald Motzki[11] provided another alternative assumption in the process of narration by examining Ma'amar's narration material in Muṣannaf 'Abdurrazzāq The activity of transmission by Ma'mar that Motzki pointed out did not indicate the activity of transmission as Schacht's theory suggests. Ma'mar, in transmitting, did so not only to build his fiqh arguments, but he also transmitted to show the different opinions of his teachers and sources of information, where he did not even show which opinion he was following.[12] The point that can be taken from Motzki is that he showed that assumptions in the activity of transmission are not always related to an argument that is being constructed.

The study of al-Syaibānī's version of al-Muwatta' circulating in Iraq provides a more varied picture of the transmission assumptions that took place there. Legal material was transmitted by people who came from far distances and had different legal traditions.

Transmitting by comparing with the tradition followed by al-Syaibānī

Al-Syaibānī narrated Mālik's al-Muwaṭṭa' through the lens of the tradition he followed. He did not narrate the material of Mālik's Medinan tradition without a "boundary" or "wall" in his possession. Before studying with Mālik, al-Syaibānī was not a blank canvas with no pre-understanding of the scholarly tradition he had studied and followed. He studied and lived in a tradition in the city of Kufa with a jurist teacher named `Abū Ḥanīfah (d. 150 A.H.),[13] a famous teacher of fiqh in that city.[14] The knowledge of `Abū Ḥanīfah himself was acquired from the traditions already living in Kufa. He himself was a devoted student of Ḥammād `Ibn `Abī Sulaimān (d. 120 A.H.),[15] while

[10] Norman Calder, for example, has a theory that second-century Hijri legal works were forged because they were still being transmitted from one generation to the next by Norman Calder because he blatantly took the basis of his theory from Joseph Schacht, without even the slightest criticism of the theory! Norman Calder, *Studies in Early Muslim Jurisprudence* (Oxford: Clarendon Press, 1993), 63–65; Crone and Cook argued for the fabric of the Islamic tradition from the data on the borrowing of Islamic law from Jewish and Roman traditions. Patricia Crone and Michael A Cook, *Hagarism: The Making of the Islamic World* (London ·New York · Melbourne: Cambridge Universiry Press, 1977), 151, 38, 37; See the discussion of the various theories as described by Mun'im Sirry Mun'im Sirry, *Kemunculan Islam Dalam Keserjanaan Revisionis*, I (Yogyakarta: SUKA-Press, 2017), 25–67; Mun'im Sirry, *Rekonstruksi Islam Historis Pergumulan Keserjanaan Mutakhir* (Yogyakarta: UIN Sunan Kalijaga Press, 2021), 177–97.

[11] Motzki is considered a scholar who has challenged the "'forgery of tradition'" theory. Imam Sahal Ramdhani, 'The Archaeology of Motzki's Studies on Hadith: Study of The Origin of Isnad Cum Matn Method', *Journal of Islamic Studies and Humanities* 6, no. 1 (n.d.): 74.

[12] Motzki, Boekhoff-van der Voort, and Anthony, *Analysing Muslim Traditions*, 8.

[13] he was known as a ahli ra`yi and was recorded by Ibn Sa'd (230 A.H.) as being Muḥammad Ibn Sa'ad, *Al-Ṭabāqāt al-Kubrā*, ed. Muḥammad 'Abd al-Qādir 'Aṭa, 1st ed., vol. 6 (Beirut, Lebanon: Dār al-Kutub al-'Ilmiyyah, 1990), 348.

[14] Muḥammad `Ibn Sa'ad, *Al-Ṭabāqāt al-Kubrā*, ed. Muḥammad 'Abd al-Qādir 'Aṭa, 1st ed., vol. 7 (Beirut, Lebanon: Dār al-Kutub al-'Ilmiyyah, 1990), 242.

[15] Ibn Sa'ad, *Al-Ṭabāqāt al-Kubrā*, 1990, 6:325–26.

Ḥammād's own knowledge was largely attributed to Ibrāhīm al-Nakhā`ī (d. 95/6 A.H.).[16] The latter was one of the most famous jurists in Kufa at the end of the first century. Thus, the doctrine that Al-Syaibānī followed was one that had developed in the city of Kufa since three generations earlier, so to speak, and was tested in the history of the group that Al-Syaibānī followed. Equipped with the doctrines of the Kufa tradition that al-Syaibānī followed, when he transmitted material from another tradition, al-Muwaṭṭa' Mālik, of course he compared it with the tradition he had followed. The phrase often used to comment on the comparison is "*wa huwa qaulu `Abī Ḥanīfah wa al-'āmmatu min fuqahā'ina*".[17]

A text from Mālik is commented on through the lens of the legal tradition followed by al-Syaibānī, see the following example: [18]

> Mālik>'Abdullāh ibn Dinār> Ibn 'Umar> 'Umar: He mentioned to the Prophet (may Allah's peace and blessings be upon him) that he would become impure during the night, and he said: "Perform ablution, wash your male and sleep." "*tawaḍḍa` wa aghsil żakaraka wa nam*" then Muhammad al-Syaibānī stated: If he does not perform wudhu and does not wash his male genitals until he falls asleep, it is also permissible to do so "*wa in lam yatawaḍḍa` wa lam yaghsil żakarahū ḥattā yanamu fa lā ba`sa bi żālika ayḍan*"

The text from Mālik above ends on the authority of the Prophet, a high authority in Islamic law, even so al-Syaibānī still assessed and commented on the practice mentioned in the text as not a text that has implications for the law, wudu after intercourse, although he also did not blame the practice in the text. The transmission in Mālik's Muwaṭṭa' text is a tradition followed by Mālik's followers (reflected in Abū Mus'ab and al-Laiṡī's versions) where Mālik mentions, after him, two transmissions with sanads typical of Medina: Mālik-Hisyām-'Urwah-'Ā'ishah and Mālik-Nāfi'-Ibn 'Umar. The authority for the practice of " wudu after intercourse" ends with the authority of 'Ā`isyah and `Ibn `Umar to say it was a practice in the doctrine of Medina.[19] Mālik's preservation of the texts on the authority of 'Ā`isyah and `Ibn `Umar, with their Madīnah-specific transmission

[16] Abū Ḥanīfah and Ḥammād `Ibn `Abī Sulaimān were known as the ra`y group, and most of the legal doctrines they followed were sourced or attributed to `Ibrāhīm al-Nakhā`ī. compare the three narrations in: Ibid., 6:281, 325, 348; ibid., 6:279–91.

[17] These and similar phrases are used frequently throughout this work. see: Mālik Ibn Anas, *Al-Muwaṭṭa' Bi Riwāyati Muḥammad Ibn Ḥasan al-Syaibānī*, ed. Abdul Wahab Abdul Laṭīf, 2nd ed., vol. 1 (al-Maktabah al-Ilmiyah, n.d.), 45,49,52,53, 94, 119,134, 135,156, 137, 138, and many more.

[18] Ibid., 1:45–46.

[19] Mālik Ibn Anas, *Al-Muwaṭṭa' Bi Riwāyati Abū Mus'ab al-Zuhrī*, ed. Baṣar Awwad Marūf and Maḥmud Muḥammad Khalīl, vol. 1 (Bairūt: Muassasah al-Risālah, 1991), 53–54; Mālik `ibn `Anas, *Al-Muwaṭṭa` Bi Riwāyati Yaḥyā `ibn Yaḥyā al-Layṡi*, ed. Musṭafā al-`A'żamī, vol. 1 (Bairūt: Dār `Ihyā` al-Turāṡ al-'Arabī, 1985), 47–48.

to Mālik, in his legal formulations indicates that these legal opinions were indeed followed and practiced in the Madīnah tradition. Here is one text of both; 'Ā'ishah's version:

iżā aṣāba aḥadukum al-mar`ata, ṡumma arāda an yanāma qabla an yaghtasila, fa lā yanam ḥattā yatawaḍa`a wuḍū`ahū li al-ṣalāh

If one of you has sexual intercourse with his wife, and then wants to sleep before he bathes himself, he should not sleep until he performs his ablution for prayer.

Al-Syaibānī compared the material of Mālik to material with texts that had authority up to the Prophet, where the sanad authority was both through Ā`isyah, the Prophet's wife, belonging to the tradition followed by al-Syaibānī. He then had a claim to the hadith text in his tradition closer to the tradition of the people "*hāża al-ḥadīth arfaqu bi al-Nās".* [20]

Muḥammad>Abū Ḥanīfah>Abī Isḥāq al-Sabī'ī>al-Aswad>'Ā`isyah said: The Prophet (may Allah's peace and blessings be upon him) used to have sexual intercourse with his wife, then go to bed without touching water. Then, when he woke up at the end of the night, he would repeat and then wash himself. Then al-Syaibānī commented: This Hadīs is more familiar to the people. This is the opinion of Abu Hanifa.

The chain of transmission after Abū Ḥanīfah in the text above is Abū Isḥāq al-Sabī'ī (d. 128/129 AH). His name is mentioned by Ibn Sa'd (d. 230 AH) as a Hamadan tribesman who eventually settled in Kufa. he was born during the time of 'Uthman. He is also described as living in Kufa in a circle of life with al-Sya'bī, a famous jurist of Kufa.[21] Abū Isḥāq al-Sabī'ī had an important connection in this Kufa sanad chain because his wife al-'Āliyah bint Ayfa', according to Ibn Sa'd's account, visited and studied with 'Ā'ishah during her Hajj.[22] There was a close chain of knowledge already established among the people of Kufa with 'Ā`isyah. The next in the chain of transmission is a jurist typical of Kufa in the first century Hijri, al-Aswad (d. 75 A.H.). al-Aswad and his family are also referred to, in Ibn Sa'd's traditional narrative, as having a close brotherhood " وكان بينهم وبين عائشة إخاء ووود". [23] Although such connections are difficult to trace, the existence of such texts in circulation suggests the proximity or even the existence of a relationship of knowledge circulating from Ã`isyah to the scholars of Kufa.

[20] *Al-Muwaṭṭa' Bi Riwāyati Muḥammad Ibn Ḥasan al-Syaibānī*, 1:45–46.

[21] Ibn Sa'ad, *Al-Ṭabāqāt al-Kubrā*, 1990, 6:311–12.

[22] Muḥammad Ibn Sa'ad, *Al-Ṭabāqāt al-Kubrā*, ed. Muḥammad 'Abd al-Qādir 'Aṭa, 1st ed., vol. 8 (Beirut, Lebanon: Dār al-Kutub al-'Ilmiyyah, 1990), 354.

[23] Ibn Sa'ad, *Al-Ṭabāqāt al-Kubrā*, 1990, 6:279.

The Kufan chain of transmission to the authority of Ā'ishah and then the Prophet Muḥammad has a strong claim in the Kufan perspective. This claim also relates to the legal tradition in Kufa of "*hāẕa al-ḥadīth arfaqu bi al-Nās*". The Prophet's Hadith from Kufa was claimed to be authentic because it was in line with the tradition in Kufa. This kind of comparison of legal narratives has been going on since earlier times when the process of *riḥlah 'ilmiyyah* and *riḥlah* with other purposes has been going on for a long time even before Islam.[24] The jurist of Kufa, Hammād Ibn Sulaimān (d. 120 A.H.) is described as having returned to Kufa from Basrah and was asked "Kaifa ra`aita ahla al-Basrah?" what do you think of the people of Basrah? He replied "*laisa huwa fi amriin 'alā miṡlinā*" ... they are not equal to us.[25]

Transmitting by Taking the text as Argumentation material

Al-Syaibānī transmitted Mālik's al-Muwaṭṭa' by acquiring Mālik's material as "his own". The terms used by Al-Syaibānī to acquire the text are "*bihī na`khuẕ, bi Hāẕa Kulluhū na`khuẕ, bi ẕālika na`khuẕ,*" and various terms that have meanings and terms close to them. These terms are found in al-Muwaṭṭa` at least 165 times out of a total of 540 transmissions out of 1080 transmissions of al-Muwaṭṭa` narrated by al-Syaibānī.[26] Al-Syaibānī borrowed the text of Mālik's al-Muwaṭṭa' to legitimize his opinion. He transmitted material from al-Muwaṭṭa` to support the "'advantage"' of his opinion. What al-Syaibānī did in order to borrow Mālik's text for his own "advantage" was to put the text in accordance with the theme he wanted to discuss, which implies that he transmitted the text in a way that was not the same as the internal context of al-Muwaṭṭa` by Mālik's followers. He took and collected the text of Mālik's al-Muwaṭṭa' with a text that was not the same as the collection in the tradition of Mālik's followers. For example, the following example:

Mālik>Nāfi' Maula Ibn 'Umar> Ibrāhīm Ibn 'Abdullāh Ibn Ḥunayn> 'Abdullāh Ibn Ḥunayn> 'Alī Ibn Abū Ṭālib RA: "that the Prophet (peace and blessings of Allah be upon him) forbade the wearing of Linen and silk cloth, the wearing of yellowish clothing, the wearing of gold rings, and the reading of the Qur'an in the *ruku'* (kneeling)." Muhammad stated: "*bi hāẕā na'khuẕ,*" that it is

[24] The flow of information from one city to another; Basrah to Kufa and even to cities in the Hijaz had been going on since the beginning of Islam or even before. The Qur'an records the Arab custom of making expeditions for various purposes. Faruk Tuncer, 'The Terms Trade (Tijarah) and Road (Rihlah) in Qur'anic Context: With Special References to the Trade of Prophet Muhammad in Sirah', *Religions* 14, no. 8 (18 August 2023): 4–17, https://doi.org/10.3390/rel14081055; Dzikri Nirwana, 'TRADISI RIHLAH 'ILMIYYAH DI KALANGAN ULAMA HADIS', *Jurnal Studia Insania* 3, no. 2 (31 October 2015): 111–24, https://doi.org/10.18592/jsi.v3i2.1119.

[25] Ibn Sa'ad, *Al-Ṭabāqāt al-Kubrā*, 1990, 6:325.

[26] This is a rough calculation that does not reflect the truth as there are many more than this. *Al-Muwaṭṭa' Bi Riwāyati Muḥammad Ibn Ḥasan al-Syaibānī*, 1:40,44-46, 49-50,74, 82–83, 87,101, 143 and many more spread throughout the book.

makruh to recite in *ruku'* and *sujud*, which is the view of Abu Hanifa, may Allah bless him and grant him peace.[27]

This text was transmitted by al-Syaibānī under different circumstances than the original text (the version of his followers). This text was taken by al-Syaibānī as a text to prohibit reciting the Qur'an in *ruku'* where al-Syaibānī collected this text with the text about "something forbidden or disliked when *ruku'*" where there are points about "forbidden to walk crawling" and "disliked conditions for reading the Qur'an", whereas in the text of al-Muwaṭṭa` the version of Malik's followers collected this text into a collection about "recitation of the Qur'an in salat". Mālik's followers collected the above text along with six[28] or seven[29] other transmissions, while al-Syaibānī detached the text from the context of Mālik's followers by quoting only this one text and collecting it with other texts in accordance with al-Syaibānī's intended theme of "things that are forbidden or disliked in *ruku'*". The content of the text in this case, although displaced from the internal context of the "original" text, was still interpreted in the same way between the followers of Mālik and al-Shāibānī; i.e. both judged, based on the transmitted text, that reciting the Qur'an in *ruku'* is not permissible.

There is another case of al-Syaibānī transmitting a collection of texts transmitted from Mālik. The text from Mālik was then used as an argument by al-Syaibānī to strengthen the legal ruling and doctrine that al-Syaibānī followed from his teacher. Al-Syaibānī's reading of the text belonging to Mālik's tradition was then used by al-Syaibānī to point out to Mālik that Mālik was not in conformity with the text circulating in his own tradition. See the collection of texts below:[30]

Text taken from Mālik's al-Muwaṭṭa`	Acquisition and explanation of text
٣٦ - أَخْبَرَنَا مَالِكٌ، حَدَّثَنَا نَافِعٌ، عَنِ ابْنِ عُمَرَ: «أَنَّهُ كَانَ إِذَا رَعَفَ رَجَعَ، فتَوَضَّأَ وَلَمْ يَتَكَلَّمْ، ثُمَّ رَجَعَ فَبَنَى عَلَى مَا صَلَّى»	فَأَمَّا أَبُو حَنِيفَةَ فَإِنَّهُ يَقُولُ بِمَا رَوَى مَالِكٌ عَنِ ابْنِ عُمَرَ، وَعَنْ سَعِيدِ بْنِ الْمُسَيِّبِ إِنَّهُ
٣٧ - أَخْبَرَنَا مَالِكٌ، حَدَّثَنَا يَزِيدُ بْنُ عَبْدِ اللَّهِ بْنِ قُسَيْطٍ، «أَنَّهُ رَأَى سَعِيدَ بْنَ الْمُسَيِّبِ رَعَفَ وَهُوَ يُصَلِّي، فَأَتَى حُجْرَةَ	يَنْصَرِفُ فَيَتَوَضَّأُ، ثُمَّ يَبْنِي عَلَى مَا صَلَّى إِنْ لَمْ يَتَكَلَّمَ، وَهُوَ قَوْلُنَا

[27] Ibid., 1:102.
[28] *Al-Muwaṭṭa` Bi Riwāyati Yaḥyā `ibn Yaḥyā al-Laysi*, 1:80–82.
[29] *Al-Muwaṭṭa' Bi Riwāyati Abū Mus'ab al-Zuhri*, 1991, 1:86–88.
[30] *Al-Muwaṭṭa' Bi Riwāyati Muḥammad Ibn Ḥasan al-Syaibāni*, 1:40.

أُمِّ سَـلَمَةَ زَوْجِ النَّبِيِّ صَـلَّى اللَّهُ عَلَيْهِ وَسَـلَّمَ، فَأُتِيَ بِوَضُـوءٍ فَتَوَضَّأَ، ثُمَّ رَجَعَ فَبَنَى عَلَى مَا قَدْ صَلَّى»	
٣٨ - أَخْبَرَنَا مَالِكٌ، أَخْبَرَنَا يَحْيَى بْنُ سَـعِيدٍ، عَنْ سَـعِيدِ بْنِ الْمُسَـيِّبِ، " أَنَّهُ سُـئِلَ عَنِ الَّذِي يَرْعُفُ فَيَكْثُرُ عَلَيْهِ الدَّمُ كَيْفَ يُصَلِّي؟ قَالَ: يُومِئُ إِيمَاءً بِرَأْسِهِ فِي الصَّلاةِ	وَأَمَّا إِذَا كَثُرَ الرُّعَافُ عَلَى الرَّجُلِ فَكَانَ إِنْ أَوْمَأَ بِرَأْسِـهِ إِيمَاءً، لَمْ يَرْعُفْ وَإِنْ سَـجَدَ رَعَفَ، أَوْمَأَ بِرَأْسِـهِ إِيمَاءً، وَأَجْزَاهُ، وَإِنْ كَانَ يَرْعُفُ كُلَّ حَالٍ سَجَدَ
٣٩ - أَخْبَرَنَا مَالِكٌ، أَخْبَرَنَا عَبْدُ الرَّحْمَنِ بْنُ الْمُجَبَّرِ بْنِ عَبْدِ الرَّحْمَنِ بْنِ عُمَرَ بْنِ الْخَطَّابِ أَنَّهُ رَأَى سَـالِمَ بْنَ عَبْدِ اللَّهِ بْنِ عُمَرَ يُدْخِلُ إِصْـبَعَهُ فِي أَنْفِهِ، أَوْ إِصْـبَعَيْهِ ثُمَّ يُخْرِجُهَا وَفِيهَا شَيْءٌ مِنْ دَمٍ فَيَفْتِلُهُ، ثُمَّ يُصَلِّي وَلا يَتَوَضَّأُ»	وَأَمَّا إِذَا أَدْخَلَ الرَّجُلُ إِصْـبَعَهُ فِي أَنْفِهِ، فَأَخْرَجَ عَلَيْهَا شَـيْئًا مِنْ دَمٍ، فَهَذَا لا وُضُـوءَ فِيهِ لأَنَّهُ غَيْرُ سَائِلٍ، وَلا قَاطِرٍ، وَإِنَّمَا الْوُضُوءُ فِي الدَّمِ، مِمَّا سَـالَ أَوْ قَطُرَ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ

The texts from Mālik, numbers 36-39, illustrate the authority of the texts from Medina, especially from the *sanad*. Text number 36 relied on the authority of Nāfi'-Ibn 'Umar. This chain of transmission became one of Mālik's main lines in the material of al-Muwaṭṭa`, in fact the chain that was considered superior in the transmission of al-Muwaṭṭa`.[31] Text number 37 used the chain of transmission Yazīd ibn 'Abdullāh ibn Qusaiṭ-Ibn al-Musayyab. Yazīd ibn 'Abdullāh ibn Qusaiṭ (d. 122 A.H.) was a figure who died in Medina who was trusted and considered to have narrated many traditions,[32] while the authority of Ibn al-Musayyab (d. 94 A.H.) was a tabi'īn figure who was very strong in the tradition of Medina. He was considered to be a jurist and had already delivered a fatwa while the prophet's companions were still alive. " كان سعيد بن المسيب يفتي وأصحاب رسول الله -صلى الله

[31] The name Nāfi' was the source of Mālik's authority in al-Muwaṭṭa`, where a search using the Maktabah shamela program in Abū Muṣ'ab's version of al-Muwaṭṭa` revealed 295 times, while the name Ibn 'Umar was the authority of Mālik in al-Muwaṭṭa`, where a search using the Maktabah shamela program in Abū Muṣ'ab's version of al-Muwaṭṭa` revealed 409 times.

[32] Muḥammad Ibn Sa'ad, *Al-Ṭabāqāt al-Kubrā*, ed. Muḥammad 'Abd al-Qādir 'Aṭa, 1st ed., vol. 5 (Beirut, Lebanon: Dār al-Kutub al-'Ilmiyyah, 1990), 396.

أحياء -عليه وسلم-".[33] Ibn al-Musayyab's authority is used extensively in Mālik's al-Muwaṭṭa'.[34] Text 38 relies on the transmission of Yaḥyā ibn Sa'īd. The narrative of his life is not well known, in Ibn Sa'd's account,[35] but his narrative role in al-Muwaṭṭa' as a source from Mālik is considerably large.[36] Text number 39 uses the line 'Abdurraḥmān Ibn al-Mujbar (great-grandson of 'Umar)-Sālim Ibn 'Abdullāh Ibn 'Umar (grandson of 'Umar). The name 'Abdurraḥmān Ibn al-Mujbar in Ibn Sa'd's report[37] did not have much information and it was cited by Mālik only three times.[38] The authority transmitted by al-Syaibānī from Mālik ibn Anas in al-Muwaṭṭa` in this paragraph definitely reflects the authority of the people from Medina.

The matan or content of the text was then adopted and used by al-Syaibānī to legitimize the practices in the tradition that al-Syaibānī follows. All the texts in the table above illustrate this point. It begins with the term "*wa amma*" and ends with the terms "*wa huwa qauluna*" and "*wa huwa qaulu Abū Hanīfah*." These texts of Mālik's became al-Syaibānī's and he even accused Mālik's opinion of being inconsistent with the texts of his own Medinan tradition. "وَبِهَذَا كُلِّهِ نَأْخُذُ، فَأَمَّا الرُّعَافُ فَإِنَّ مَالِكَ بْنَ أَنَسٍ كَانَ لا يَأْخُذُ بِذَلِكَ، وَيَرَى إِذَا رَعَفَ الرَّجُلُ فِي صَلاتِهِ، أَنْ يَغْسِلَ الدَّمَ وَيَسْتَقْبِلَ الصَّلاةَ".[39] Mālik held that a person who suffered a nosebleed during prayer should wash with water,[40] while al-Syaibānī held that his group, in accordance with the opinion of Ibn Musayyab's authority, should simply shake their heads or perform ablution without speaking. Apart from al-Muwaṭṭa` here, Al-Syaibānī himself in al-Āṡār mentions the legal doctrine followed from his school of thought without mentioning any important authority after Ibrāhīm al-Nakhā`ī. [41] The ascribing of authority from Mālik's al-Muwaṭṭa' to Ibn al-Musayyab, Ibn 'Umar and his son (Sālim) would clearly fill the vacuum

[33] Muḥammad Ibn Sa'ad, *Al-Ṭabāqāt al-Kubrā*, ed. Muḥammad 'Abd al-Qādir 'Aṭa, 1st ed., vol. 2 (Beirut, Lebanon: Dār al-Kutub al-'Ilmiyyah, 1990), 289–93.

[34] Ibn al-Musayyab's name is used as an authority by Mālik in al-Muwaṭṭa` where in the investigation using the Maktabah shamela program in the Abū Muṣ'ab version of al-Muwaṭṭa`, there are 158 times.

[35] Ibn Sa'ad, *Al-Ṭabāqāt al-Kubrā*, 1990, 5:184–85.

[36] The name Yaḥyā Ibn Sa'īd was the source used by Mālik in al-Muwaṭṭa`, in a search using the Maktabah shamela program in Abū Muṣ'ab's version of al-Muwaṭṭa`, there are 235 times.

[37] Ibn Sa'ad, *Al-Ṭabāqāt al-Kubrā*, 1990, 5:437.

[38] The name 'Abdurraḥmān Ibn al-Mujbar was used as a source by Mālik in al-Muwaṭṭa`, in a search using the Maktabah shamela program in Abū Muṣ'ab's version of al-Muwaṭṭa`, three times.

[39] *Al-Muwaṭṭa' Bi Riwāyati Muḥammad Ibn Ḥasan al-Syaibānī*, 1:40.

[40] pendapat Malik ini terkonfirmasi dalam al-Mudawwanah dan mendapat perhatian oleh Ibn al-qasim (191 H.) Mālik Ibn Anas, *Al-Mudawwanah*, vol. 1 (Dār al-Kutub 'Ilmiyyah, 1341), 141.

[41] Muḥammad `Ibn al-Ḥasan al-Syaibānī, *Kitāb Al-`Āṡār*, ed. `Abu al-Wafā` al-`Afghānī, vol. 1 (Beirut: Dār al-Kutub al-'Imiyyah, 1993), 370.

of an older authority and at the same time strengthen the legitimacy of the opinion followed in his school.

Transmitting Mālik's text to challenge it with other more authoritative texts

Al-Syaibānī cited al-Muwaṭṭa's material to argue against and challenge his authority. There is a collection of texts in al-Muwaṭṭa` in the versions of his followers namely Abū Mus'ab's version and Yaḥyā al-Laiṡī's version in the issue of "a person comes to the Mosque the imam is already in *ruku'*" there are the following 2 texts:[42]

١. حَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، عَنْ ابْنِ شِـهَابٍ، عَنْ أَبِي أُمَامَةَ بْنِ سَـهْلِ بْنِ حُنَيْفٍ أَنَّهُ قَالَ: دَخَلَ زَيْدُ بْنُ ثَابِتٍ الْمَسْجِدَ، " فَوَجَدَ النَّاسَ رُكُوعًا فَرَكَعَ، ثُمَّ دَبَّ حَتَّى وَصَلَ الصَّفَّ

٢. وَحَدَّثَنِي عَنْ مَالِكٍ أَنَّهُ بَلَغَهُ، أَنَّ عَبْدَ اللَّهِ بْنَ مَسْعُودٍ كَانَ «يَدِبُّ رَاكِعًا»

Text number 1 Mālik had the source al-Zuhrī. He was a prominent figure in Madīnah.[43] His stature as the source of Mālik's authority in Mādinah need not be questioned. The last authority for the Mālik text was the companion Zayd ibn Ṡābit. He was an important figure in Mādinah in legal issues during the caliphates of 'Umar and 'Uṡman. His prominence in Medina in the early days of Islam is recorded in the narrative of Ibn Sa'd's collection.[44] The Mālik's text has the opinion of "*rukū'* then walking until *ṣāf*". Concerning Text number 2, al-Syaibānī, silently, did not take and quote a transmission that was also from Mālik on the same issue and was still a part of the sequence in al-Muwaṭṭa` by Mālik's followers. The text utilized a typical Companion authority as the authority associated with al-Syaibānī's city of Kufa but the matan text is in accordance with Mālik's traditional view in Medina: the authority is ibn Mas'ūd. Moreover, he was a Companion figure who became an icon of knowledge in the city of Kufa.[45] al-Syaibānī commented on the opinion followed by Mālik and did not object to it, but he preferred the opinion of his teacher Abū Hanīfah, which he said was better for him and the community he followed. " قَالَ مُحَمَّدٌ: هَذَا يُجْزِئُ، وَأَحَبُّ إِلَيْنَا أَنْ لا يَرْكَعَ حَتَّى يَصِلَ إِلَى الصَّفِّ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ، رَحِمَهُ اللَّهُ".

[42] *Al-Muwaṭṭa' Bi Riwāyati Abū Mus'ab al-Zuhri*, 1991, 1:215; *Al-Muwaṭṭa` Bi Riwāyati Yaḥyā `ibn Yaḥyā al-Layṡī*, 1:165.

[43] Ibn Sa'ad, *Al-Ṭabāqāt al-Kubrā*, 1990, 5:348.

[44] Ibn Sa'ad, *Al-Ṭabāqāt al-Kubrā*, 1990, 2:275.

[45] The name ibn Mas'ūd is remembered as the legal authority of Kufa because he was a Companion who was sent to Kufa by the caliph 'Umar Ibn Khattab. Many of his students became legal figures of Kufa in the first century Hijri. Ibn Sa'ad, *Al-Ṭabāqāt al-Kubrā*, 1990, 6:39.

Al-Syaibānī, in an attempt to strengthen his community, drew on texts from outside Medina and Kufa. He quoted and legitimized Basrah texts. Here is the text:

> Muḥammad (al-Syaibānī)> al-Mubārak Ibn al-Faḍālah> al-Ḥasan> Abu Bakra Ruku' below the ṣāf, then walked until he reached the ṣāf. When he finished his salat, he mentioned this to the Prophet (may Allah's peace and blessings be upon him), and the Prophet (may Allah's peace and blessings be upon him) said "May Allah make you more eager, and don't repeat". Muḥammad (al-Syaibānī) comented: this is our opinion. that practice is acceptable, but it is preferable for us not to do so. "*wa huwa yujzi`u, wa aḥabbu ilaina an la yaf'al*" [46]

The authorities cited by al-Syaibānī in the chain of transmission indicate that they were definitely Basrahites: al-Mubārak Ibn al-Faḍālah (d. 165 AH) was a Basrahite.[47] Ḥasan al-Baṣri (d. 110 AH) was a Basrah figure whose popularity as a figure in Basrah is undoubted,[48] while the last authority of the sanad, Abū Bakrah, was a companion of the Prophet who migrated to Basrah and died there.[49] It is interestingly that instead of taking authoritative corroborating texts from his own tradition, i.e. the Kufa authority, al-Syaibānī took texts from outside his tradition (Basrah texts) to strengthen the opinion he followed. It can be concluded here that al-Syaibānī opposed the tradition in Malik's Muwattā with a tradition from Basra. This could happen if the process of transmission had been fluid between the regions. Inter-regional transmission occurs over a long period of time so that legal traditions between regions are accustomed to the "presence" of other regional traditions. All of these things that al-Syaibānī has transmitted about al-Muwaṭṭa` directly from Mālik is that al-Syaibānī did not transmit Mālik's opinion because he aimed not to follow the ruling contained in Mālik's opinion. This is because al-Syaibānī was not indeed a follower of Mālik, but he transmitted Mālik's authoritative sources (Riwayat) where the Riwayat were recognized authoritative texts and certainly circulated in Medina. The transmission of al-Muwaṭṭa` by al-Syaibānī shows that he and his group recognized the authority inherent in the text. Some examples of the above transmission cases illustrate a critical attitude between al-Syaibānī as a representative of part of the Iraqi legal community vis-à-vis the Medinan text.

The transmission made by al-Syaibānī above, although crititical in nature, can still be interpreted as al-Syaibānī transmitting al-Muwaṭṭa` realizing and accepting al-Muwaṭṭa` as an

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[46] *Al-Muwaṭṭa' Bi Riwāyati Muḥammad Ibn Ḥasan al-Syaibānī*, 1:102.

[47] ia digambarkan dalam catatan Ibn Sa'ad sebagai orang biasa. ada yang menilainya terpercaya ada juga orang yang menilainya tidak. `Ibn Sa'ad, *Al-Ṭabāqāt al-Kubrā*, 7:204.

[48] Ibid., 7:114–32.

[49] Ibid., 7:10–11.

authoritative text. Al-Syaibānī as part of the Iraqi tradition despite competing and critical with the Medinan tradition he still considers it an authoritative text. He wasn't resistant to the texts as something that was cut off and had to be completely disconnected. This shows that these texts, although from other legal traditions, are still under the umbrella of a broader authority, Islam.

CONCLUSION

An investigation into the transmission activities of the Iraqi version of al-Muwaṭṭa` yields several conclusions. Al-Syaibānī transmitted al-Muwaṭṭa` with critical intentions. In the first instance he transmitted the hadith of the prophet in al-Muwaṭṭa` to refute the legal opinion contained in the text. He compared it with the hadith of the prophet that was circulating in his community in Iraq. he second case illustrates al-Syaibānī transmitting the Prophetic Hadith of al-Muwaṭṭa` in sequence to take the text as argumentation, more uniquely, in another case, al-Syaibānī not only took it as argumentation, but al-Syaibānī also accused Mālik not holding an opinion in accordance with the text that had been transmitted in his own al-Muwaṭṭa`. Al-Syaibānī in the latter case did not blame the text in al-Muwaṭṭa` that ended in the authority of the practice of the prophet's companions, but at the same time he and his community chose an alternative practice that was incompatible with the text of al-Muwaṭṭa`. al-Syaibānī in order to strengthen the alternative legal practice adopted the text of the prophet's hadith which had a line of authority from the Basrah sanad chain (non-Kufa authority).

The above examples of transmission cases can be simplified as critics. The activity of al-Syaibānī's transmission of Mālik's al-Muwaṭṭa' can be seen and inferred to have critical intentions in the legal tradition. This research proves that the activity of transmission did not always have a motive to follow the text, as Joseph Schacht's theory, but the activity of transmission could also have a critical meaning. Indeed in the above transmission there is part of the intention to take the text of al-Muwaṭṭa` as argumentation but the transmission activity was in a critical framework. These cases of argumentation were not always based on the authority of the Prophetic traditions; they were also based on the authority of the legal practices and opinions of the Companions as well as the authority of the legal practices and opinions of the tabi'īn or the jurists of Medina who lived at the end of the first century Hijri. All these transmission activities were undertaken by al-Syaibānī at the end of the second century.

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