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Matthew Ingalls

Šarḥ, Iḥtišār, and Late-Medieval Legal Change: A Working Paper

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- "Reading the Sufis as Scripture Through the *Sharḥ Mamzūj*: Reflections on a Late-Medieval Sufi Commentary," *Oriens* 41 (2013), 457-476.
- "Recasting Qushayrī's *Risāla* in Fifteenth-Century Egypt," *Journal of Sufi Studies* 2 (2013), 93-120.
- With Martin Nguyen, "Al-Qushayrī and His Legacy: An Introduction for the Special Volume on al-Qushayrī of the *JSS*," *Journal of Sufi Studies* 2 (2013), 1-6.
- "Between Center and Periphery: The Development of the Sufi Fatwa in Late-Medieval Egypt." In John J. Curry and Erik S. Ohlander (eds.), *Sufism and Society: Arrangements of the Mystical in the Muslim World, 1200-1800 C.E.*, Routledge 2011, 145-163.

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Abstract

The study that follows analyzes three examples from Islamic purity law (*tahāra*) as they evolve across four consecutive generations of substantive law (*furūʿ*) texts with the aim of understanding how the antipodal processes of *šarḥ* (expansion/commentary) and *iḥtišār* (abridgement) affect the substance of a legal tradition. Owing to their significance in the development and reception of the later Šāfiʿī *madḥab*, the *furūʿ* works of the Mamlūk scholar and judge Zakariyyā al-Anṣārī (d. 926/1520) form the crux of the analysis here. Before examining specific passages from these works and their precursors, the study begins with an overview of al-Anṣārī's position in the Šāfiʿī *madḥab*, the idiosyncrasies of his legal prose, his major works in Šāfiʿī *furūʿ*, and their genealogical relationship to earlier texts in the tradition. In light of the textual examples presented, it concludes with a summary of the variables that influence a commentator's control over the textual tradition at hand.

1. Introduction

The Mamlūk period marks the beginning of what many Muslim reformers and twentieth-century scholars have dismissed as “the era of commentaries and supercommentaries” (*‘aṣr aš-šurūḥ wa-l-ḥawāšī*), a designation that implies intellectual redundancy if not creative stagnancy. Although twenty-first-century scholarship has begun to question the assumptions behind this assessment, the process of identifying the creative merits of the “post-classical” intellectual period remains in its infancy and will continue to occupy the attention of scholars into the foreseeable future. If the label “the era of commentaries and supercommentaries” is any indication, it is the outward form of most scholarship during this period that many critics find off-putting, as commentaries themselves claim to do nothing more than interpret a base-text (*matn*) which otherwise sets the creative agenda. But to accept the rhetoric of commentary without question is to disregard [1] its function as an important locus for knowledge brokerage and specialization and [2] its propensity to subvert the received tradition, notwithstanding its rhetorical claims to the contrary.

The study that follows analyzes multiple generations of legal commentaries (*šurūḥ*, sing. *šarḥ*) and abridgements (*muḥtaṣarāt*, sing. *muḥtaṣar*) on their own merits; it assumes that such texts do more than simply transmit a relatively stagnant legal tradition from one generation to the next. In this study I consider three examples from purity law (*tahāra*) as they evolve across four consecutive generations of substantive law (*furū‘*) texts. My aim here is to understand how the antipodal processes of *šarḥ* (expansion/commentary) and *iḥtiṣār* (abridgement) affect the very substance of a legal tradition – that of the later Šāfi‘ī *madḥab* – and the rhetorical power (or, authority) that lies behind its interpretation. Owing to their significance in the development and reception of the later Šāfi‘ī *madḥab*, the *furū‘* works of the Mamlūk scholar and judge Zakariyyā al-Anṣārī form the crux of the analysis below. Before examining specific passages from these works and their precursors, I begin with an overview of al-Anṣārī’s position in the Šāfi‘ī *madḥab*, the idiosyncrasies of his legal prose, his major works in Šāfi‘ī *furū‘*, and their genealogical relationship to earlier texts in the tradition.

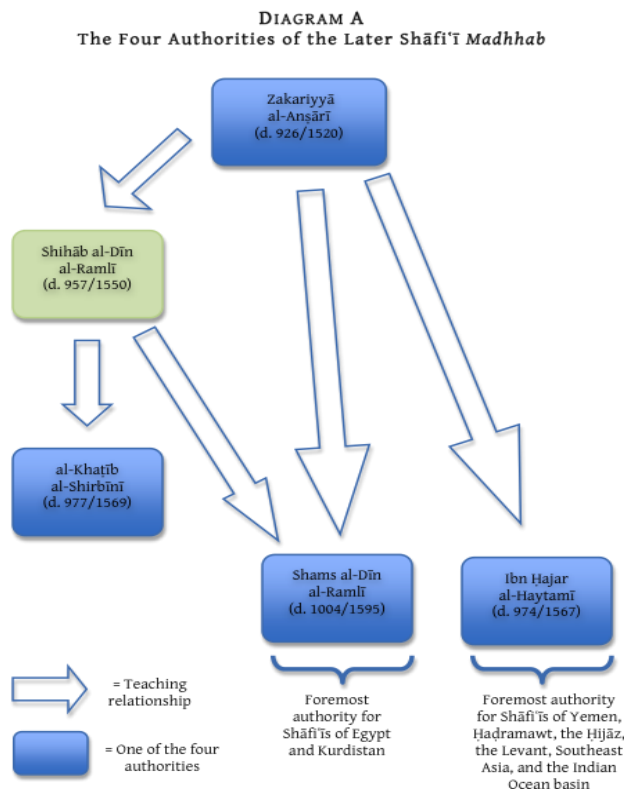
2. Al-Anṣārī’s Position in the Šāfi‘ī *Madḥab* and His Legal Idiom

The life of the Egyptian scholar Zakariyyā b. Muḥammad al-Anṣārī (d. 926/1520 at the age of 97 solar years) would span the last century of the Mamlūk Sultanate almost in its entirety, while al-Anṣārī’s twenty-year tenure as Chief Šāfi‘ī Justice (*qādī l-quḍāt*), lasting from 886/1481 to 906/1501, was unprecedented in its length in Mamlūk times.¹ Above all al-Anṣārī is remembered to this day for his legal acumen, as scholars of the later Šāfi‘ī *madḥab* consider him one of the four most influential Šāfi‘ī jurists of the generations following Yaḥyā b. Šaraf an-Nawawī (d. 676/1277) and ‘Abd al-Karīm b. Muḥammad ar-Rāfi‘ī (d. 623/1226).² The remaining three jurists – Ibn Ḥaḡar al-Haytamī (d. 974/1567), al-Ḥaṭīb aš-Širbīnī (d. 977/1569), and Šams ad-Dīn ar-Ramlī (d. 1004/1595) – were either direct students of al-

¹ Contemporary biographies for al-Anṣārī in European languages include Brockelmann, *GAL*, 2:99–100, S2:117–8; Drewes, *Directions for Travellers*, 26–38, and passim; Geoffroy, *Le voile des apparences*, 271–80; idem., *Le Soufisme*, passim; idem., “Zakariyyā’ al-Anṣārī,”; Ingalls, “Recasting Qushayrī’s *Risāla*,” 94–109; idem., *Subtle Innovation*, 32–121; McGregor, “al-Anṣārī, Zakariyyā,”; and Sezgin, *GAS*, 1:124, 500.

² See, *inter alia*, al-Mandaylī, *al-Ḥazā’in as-saniyya*, 171–8; cf. al-Kurdī al-Madanī, *al-Fawā’id al-madaniyya*, 61–3, 286–7.

Anṣārī (al-Haytamī and ar-Ramlī) or a student of his student (aṣ-Širbīnī via Šihāb ad-Dīn ar-Ramlī (d. 957/1550)). The most significant division of the later *madhhab* until the present day would pit those scholars who prioritize the legal opinions of al-Haytamī, namely Šāfi‘ī scholars of Yemen, Ḥaḍramawt, the Ḥijāz, the Levant, southeast Asia, and the Indian Ocean basin against those who prioritize the opinions of Šams ad-Dīn ar-Ramlī, namely Šāfi‘ī scholars of Kurdistan and Egypt.³ Within this framework, al-Haytamī’s opinions are seen to correspond overwhelmingly with al-Anṣārī’s stated opinions, while ar-Ramlī’s opinions correspond closer to those of his father Šihāb ad-Dīn to the extent that the latter differ from or supplement the positions of al-Anṣārī, the teacher of both Ramlīs.⁴ When neither al-Haytamī nor ar-Ramlī touches upon a particular legal question, however, al-Anṣārī’s position, should it exist, becomes the *madhhab*’s default position for use in fatwās.⁵



Such accounts for al-Anṣārī’s theoretical status within the later Šāfi‘ī *madhhab* as we find it in the writings of Šāfi‘ī scholars after the tenth/sixteenth century. These same writings rank al-Anṣārī’s smaller commentary on the *Bahġa* of Ibn al-Wardī (d. 749/1349) as his most authoritative legal text followed closely by his commentary on his own *Manhaġ aṭ-ṭullāb*; about both of these texts and the remainder of the author’s *furū‘* works more will be said below.⁶ But to gauge the historical prominence, or canonicity, of al-Anṣārī’s legal writings it is perhaps more helpful to consider the commentarial attention that they received by later scholars. If we applied such a metric we would find that two of the author’s texts stand far above

³ Al-Kurdī al-Madanī, *al-Fawā'id al-Madaniyya*, 59-64.

⁴ Al-Mandaylī, *al-Ḥazā'in as-saniyya*, 173.

⁵ *Ibid.*, 177.

⁶ For an example of this ranking, see *ibid.* and the sources cited there in footnote 5. Cf. Ġābir, *Šaykh al-Islām Zakariyyā al-Anṣārī*, 107-9, which reaches a similar conclusion by relying on the traditional scholarly rankings of al-Anṣārī’s legal works while also considering their temporal arrangement.

the others. The first is the *Tuḥfat aṭ-ṭullāb*, al-Anṣārī's commentary on his own *muḥtaṣar* entitled *Tahrīr tanqīḥ al-lubāb*, which accumulated at least 22 supercommentaries mainly in the eleventh/seventeenth century with some appearing in the two centuries that followed.⁷ The second is the *Faṭḥ al-wahhāb*, al-Anṣārī's commentary on his own *Manḥağ aṭ-ṭullāb* and the same text that the later Šāfi'ī scholars would rank as his second most authoritative legal work. The *Faṭḥ al-wahhāb* received at least 21 supercommentaries between the tenth/sixteenth and thirteenth/nineteenth centuries, with the majority appearing around the middle of this time span.⁸ None of the author's other *furū'* works garnered anything close to the commentarial attention that these two texts received,⁹ including al-Anṣārī's smaller commentary on the *Bahğa* which the later Šāfi'ī scholars would place as his most authoritative legal work.

Why then did these two particular texts elicit such a response from later commentators? The first obvious characteristic shared by the two texts that hints at an answer to this question is their relative terseness. The *Tuḥfat aṭ-ṭullāb* and the *Faṭḥ al-wahhāb* stand as al-Anṣārī's shortest complete commentaries in *furū'* which, on the one hand, makes them particularly useful in later teaching circles while creating, on the other hand, the need for subsequent commentaries to unpack their pithy prose. The *Faṭḥ al-wahhāb*, moreover, represents a commentary on the author's own *muḥtaṣar* of an-Nawawī's *Minḥağ aṭ-ṭālibīn* – a base-text that carries with it the highest degree of cachet in the later Šāfi'ī *maḏhab*.¹⁰

But beyond the mere terseness of these two texts, several other methodological idioms characterize al-Anṣārī's legal writings and might help to explain the pedagogical – and thus commentarial – attention that at least some of these writings would receive. The first is the author's unfailing concern with identifying where a given text adds to or differs from the foundational text that it derives from (that is, through either the process of abridgement or commentary). This theme, and examples of it, will be taken up in the analysis that follows, but it is worth noting for now that al-Anṣārī's tone is consistently irenic throughout this process, and whenever possible, he applies the most generous reading possible in order to reconcile a second-order text with its base-text.¹¹

Al-Anṣārī's legal writings also demonstrate consistent concern for providing scriptural or otherwise textual evidence for the legal positions within a *matn* text; they do so in a suc-

⁷ Al-Ḥabašī, *Ğāmi' aš-Šurūḥ*, 1:543-7. One of these supercommentaries would receive four commentaries of its own, while al-Anṣārī's original *muḥtaṣar* would be versified at least three times and thereby ramify into new commentarial genealogies.

⁸ *Ibid.*, 3:1942-7. For its part, the original *Manḥağ aṭ-ṭullāb* would receive at least twelve direct commentaries and would be abridged (*iḥtiṣār*) at least six times and versified at least once, making it the third most popular legal text by al-Anṣārī as gauged by the commentarial attention that it received.

⁹ See *ibid.*, 2:802-3 and 990; cf. Ğābir, *Šayḥ al-islām Zakariyyā al-Anṣārī*, 109-16. Cf., also, Ahmed El Shamsy "The *Hāshiya* in Islamic Law: A Sketch of the Šāfi'ī Literature," *Oriens* 41 (2013), 305-12.

¹⁰ On the theoretical position of the *Minḥağ* within al-Nawawī's larger oeuvre, see Ibn Ḥajar al-Haytamī, *Tuḥfat al-muḥtağ bi-šarḥ al-Minḥağ* [printed in the margins of 'Abd al-Ḥamīd aš-Širwānī and Aḥmad b. Qāsim al-'Abbādī's *Ḥawāshī 'alā Tuḥfat al-muḥtağ bi-šarḥ al-Minḥağ*] (Cairo: al-Maktaba al-Tijāriyya al-Kubrā, 1938), 1:39.

¹¹ For an example, see Zakariyyā al-Anṣārī, *Asnā l-maṭālib: šarḥ Rawḍ aṭ-ṭālib* (Beirut: Dār al-Fikr, 2008), 1:148, in which al-Anṣārī eschews the most obvious explanation for a discrepancy in a base-text, that the author Ibn al-Muqri' misread al-Nawawī's original text, by positing that the base-text author must have preferred a different position of al-Nawawī that he took from an outside source. Also see Ğābir, *Šayḥ al-islām Zakariyyā al-Anṣārī*, 80-3.

cinct language that tends towards a single piece of evidence per legal ruling.¹² To be sure, al-Anṣārī wrote in an age in which interpretation was expected to be grounded in an inherited textual tradition, and yet the low ratio of evidence to ruling suggests that al-Anṣārī’s name carried authority in its own right within the later *madḥab*. In other words, the objective of his rhetoric is less about convincing his reader of his position than clearing his reader’s conscience of deference to a post-formative authority like himself. Here, instead, deference returns to the textual evidence that has been provided, although it is al-Anṣārī who retains final authority by determining which piece of evidence merits such deference.

Similarly, the author references the works of an-Nawawī and ar-Rāfi‘ī whenever possible to justify his ruling on a legal question or to undermine an opposing position. Of course a tenth/sixteenth-century Ṣāfi‘ī legislator like al-Anṣārī could not stand outside the authority of these two masters. But because their collected works as a whole contain conflicting rulings on many questions of Islamic law and remain silent on even more questions that would occupy the minds of later generations, al-Anṣārī would retain considerable autonomy as he worked to identify the “relied upon” (*mu‘tamad*) position of the *madḥab* even within an-Nawawī and ar-Rāfi‘ī’s shadow of authority. As for his own authority, al-Anṣārī frequently refers his reader to his other texts either for a more detailed treatment of a subject if it is legal in nature or for a non-legal discussion if the subject touches upon a field outside the sphere of law.¹³ This self-referentiality would function to buttress al-Anṣārī’s authority while increasing the momentum of canonicity that was ascribed to his various works in the decades and centuries that followed him. It also hints at his pedagogical concerns, as it would be students of law who were most likely to follow up on such citations in the course of their studies.

Two final qualities that characterize al-Anṣārī’s scholarly writings may help in explaining the popularity of at least some of his legal works. The first is the author’s careful eye for precision and economy of speech – attributes that essentially define the style of his *Fatḥ al-wahhāb* and *Tuḥfat aṭ-ṭullāb*.¹⁴ Al-Anṣārī, moreover, is uncharacteristically quick to criticize his predecessors in their choice of language whenever he deems it inaccurate, vague, maundering, or otherwise uninspired, as precision of language would be one of the few safe arenas in which a later scholar like al-Anṣārī could claim superiority over his predecessors without having to ground his originality – at least rhetorically – in their authority. A second and final quality worth mentioning in this context appears in the author’s frequent inclusion of supplementary “useful points” (*fawā‘id*) and ancillary applications of the matters discussed in a base-text. Most often these come in the concluding sections of subchapters and function to scaffold the material at hand or summarize it to the benefit of students of law.¹⁵

¹² For an illustrative handful of examples, which are otherwise legion, see *ibid.*, 73-8.

¹³ For an example of the former, see Zakariyyā al-Anṣārī, *Fatḥ al-wahhāb bi-ṣarḥ Manḥağ aṭ-ṭullāb*, 1:114; for an example of the latter, see *idem*, *al-Ġurar al-bahiyya*, 1:136.

¹⁴ Ġābir holds that it is precision of speech (*at-tadqīq fī l-‘ibāra*) that has made the *Fatḥ al-wahhāb bi-ṣarḥ Manḥağ aṭ-ṭullāb* and the *Tuḥfat aṭ-ṭullāb* so popular amongst Ṣāfi‘ī scholars. Ġābir, *Ṣayḥ al-islām Zakariyyā al-Anṣārī*, 99.

¹⁵ For an example, see al-Anṣārī, *Asnā l-maṭālib*, 1:495, in which the author summarizes all of the legal dispensations associated with longer travels (*as-safar aṭ-ṭawīl*) within a useful rubrication schema that allows for the easy memorization of the material. Elsewhere the author defines a “useful point” as “every beneficial thing that accrues from an action.” *Idem*, *Tuḥfat aṭ-ṭullāb*, 3.

3. Al-Anṣārī's Works in *Furū'*

If we exclude his five works devoted to estate division (*farā'id*) and his commentary on the celebrated *Muḥtaṣar* of Ismā'īl b. Yaḥyā al-Muzanī (d. 264/877-8) which appears to be lost to us today,¹⁶ we can group al-Anṣārī's *furū'* texts into the four textual genealogies that follow:

1. Those that derive from an-Nawawī's *Minhāğ aṭ-ṭālibīn* (see Diagram B).

As has been mentioned in passing above, these are: al-Anṣārī's [1] *Manhağ aṭ-ṭullāb*, a *muḥtaṣar* of an-Nawawī's *Minhāğ*; and his [2] *Faṭḥ al-wahhāb*, a commentary on this same *muḥtaṣar*. In the introduction to his *Manhağ*, al-Anṣārī explains that he replaced the non-*mu'tamad* positions in an-Nawawī's original text with their *mu'tamad* equivalents while also removing the details of scholarly disagreement (*al-ḥilāf*).¹⁷ Then, in the introduction to his *Faṭḥ al-wahhāb*, the author adds that it was "someone dear to me, from the learned folk (*al-fuḍalā'*) who visit me frequently" who requested that he write this commentary on his abridgement of the *Minhāğ*.¹⁸ It is worth noting here that the author does not identify his intended audience as students per se, although the text would certainly appear designed to help students in digesting an-Nawawī's much longer work.¹⁹ It has been used in such a way by students of Islamic law until today.

DIAGRAM B
A Textual Genealogy for the
Manhaj al-ṭullāb & *Faṭḥ al-wahhāb*



* Muslim scholars are divided on whether al-Rāfi'ī's *Muḥarrar* should be viewed as a *muḥtaṣar* of al-Ghazālī's *Wajīz* or as an autonomous beginning to its own textual genealogy. For the former position, see Sulaymān b. Muḥammad al-Bujayrīmī, *al-Tajrīd li-naḥ al-'abid [Ḥāshiyat al-Bujayrīmī 'alā Sharḥ Manhaj al-ṭullāb]* (Cairo: Muṣṭafā al-Bābī al-Ḥalabī, 1950), 1:16. For the latter position, see Ibn Ḥajar al-Haytamī, *Tuḥfat al-muḥtāj bi-sharḥ al-Minhāj*, 1:35.

2. Those that derive from al-Walī Abū Zur'a al-'Irāqī's (d. 826/1423) *Tanqīḥ al-*

¹⁶ A later biographer of aṣ-Ṣā' rānī notes that the latter studied al-Anṣārī's commentary on al-Muzanī's *Muḥtaṣar* and suggests that the text was a partial commentary ("wa-qara'a 'alayhi [...] *ṣarḥ al-qit'atin-i llatī waḍa'ahā 'alā Muḥtaṣari l-Muzaniyyi'*"). Aṣ-Ṣā' rānī, *Manāqib al-quṭb*, 55. For al-Anṣārī's own references that confirm the text's one-time existence, see al-Anṣārī, *Faṭḥ al-'allām*, 33, 140, 195, 266.

¹⁷ Idem, *Faṭḥ al-wahhāb bi-ṣarḥ Manhağ aṭ-ṭullāb*, 1:3.

¹⁸ Ibid., 1:2.

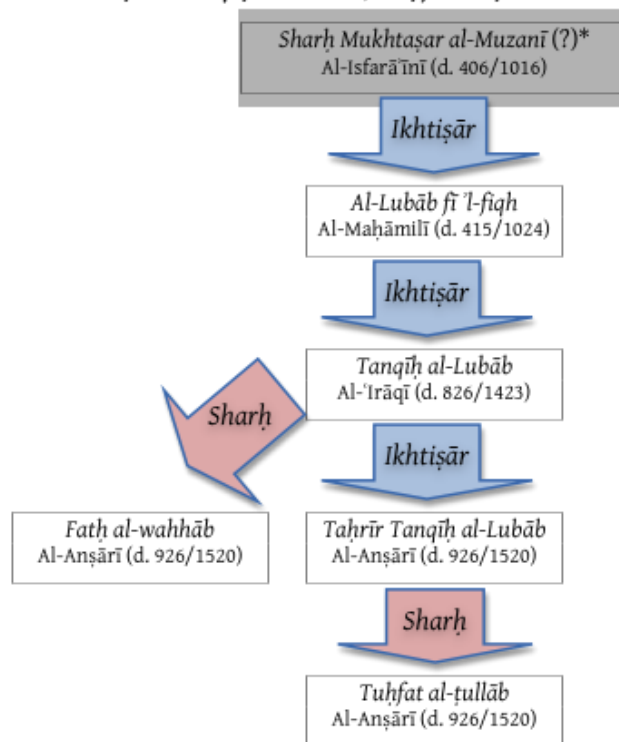
¹⁹ Ġābir shares this assessment. Ġābir, *Ṣayḥ al-islām Zakariyyā al-Anṣārī*, 71. The *Manhağ* identifies its audience with the generic "those who are desirous" (*ar-rāğībūn*). Al-Anṣārī, *Faṭḥ al-wahhāb bi-ṣarḥ Manhağ aṭ-ṭullāb*, 1:3.

Lubāb (see Diagram C).

These are: al-Anṣārī’s [1] *Tahrīr tanqīh al-lubāb*, a *muḥtaṣar* of al-‘Irāqī’s *Tanqīh*; his [2] *Tuḥfat aṭ-ṭullāb*, a commentary on this same *muḥtaṣar*; and his [3] *Fath al-wahhāb*, a direct commentary on al-‘Irāqī’s *Tanqīh*. I will refer to the latter text as al-Anṣārī’s direct commentary on the *Tanqīh* to avoid confusion with his other *Fath al-wahhāb* that has been discussed above.

In the *matn* of his *Tahrīr tanqīh al-lubāb* the author once again notes that he replaced the non-*mu‘tamad* positions in the original text with their *mu‘tamad* equivalents while also removing the details of scholarly disagreement. Here, however, he expressly designates his intended audience as one of students.²⁰

DIAGRAM C
A Textual Genealogy for the
Tahrīr Tanqīh al-Lubāb, *Tuḥfat al-ṭullāb* & *Fath al-wahhāb*



*The relationship between this text and the *Lubāb* is speculative, and the latter likely took its material from several sources, none of which it mentions explicitly in its introduction. In this light, the *Lubāb* is a *mukhtaṣar* in that it anticipates a future *sharḥ*, but it does not do *ikhtiṣār* to a single *matn*-text as do the *Tanqīh al-Lubāb*, and *Tahrīr Tanqīh al-Lubāb* in this particular genealogy.

As for the third text, al-Anṣārī’s direct commentary on the *Tanqīh*, some of the secondary literature to date has referenced its one-time existence but are otherwise at a loss as to its

contents.²¹ In his *Tuḥfat aṭ-ṭullāb*, al-Anṣārī himself refers his reader to this “*ṣarḥ al-aṣl*” to find further details on various discussions at hand,²² which also confirms that he wrote his

²⁰ Idem, *Tuḥfat aṭ-ṭullāb*, 3.

²¹ For example, see Ġābir’s terse references to “*Ṣarḥ al-aṣl*.” Ġābir, *Ṣayḥ al-islām Zakariyyā al-Anṣārī*, 61, 72; also, al-Mandaylī, *al-Ḥazā’in as-saniyya*, 60. Cf. al-Ḥabaṣī, who does not seem to know of the text’s existence. Idem, *Ġāmi‘ aṣ-Ṣurūḥ*, 3:1522.

²² See, for example, al-Anṣārī, *Tuḥfat aṭ-ṭullāb*, 11 (refs. at top and bottom of page, with the latter corresponding to fols. 30r-v of the manuscript here under discussion).

Tuḥfat aṭ-ṭullāb after his direct commentary on the *Tanqīḥ*. I was fortunate enough to stumble across a complete manuscript of this direct commentary in the Beinecke Library’s Landberg Collection, and since this may be the only copy of the text in existence for all we know, a few words about the manuscript are worth mentioning here.

Landberg MSS 465 comprises 370 bound folios, copied in a clear *nashī* hand, with folios 1-10 written by a different copyist and followed by a lacuna on the subsequent folio. Al-‘Irāqī’s base-text is copied in red ink with al-Anṣārī’s *mamzūġ* commentary in black ink. Alternate opinions that al-Anṣārī presents in his *ṣarḥ* are designated with a short over-lining in red above the first word (e.g. “*wa-qīl*” or “*qāl*”); the same is done when al-Anṣārī adds a new clause or consideration to the discussion at hand. As for dating the manuscript, which otherwise bears no date or copyist’s name in its colophon, Leon Nemoy traces it back to around the year 1800,²³ although the original purchaser of the manuscript, Count Carlo Landberg (d. 1924), dates it closer to 1700.²⁴ The manuscript and its relationship to al-Anṣārī’s *Tahrīr tanqīḥ al-lubāb* and *Tuḥfat aṭ-ṭullāb* will play a central role in the analysis that follows.

As for why he wrote this direct commentary on the *Tanqīḥ*, the author explains in his introductory remarks that his *ṣarḥ* aims to “unpack [the base-text’s] terms, clarify its intended meaning, verify its legal topics (*masā’il*), and pinpoint its evidences. [It does as much and is] accompanied with important principles and manifold useful points, while being neither redundantly long nor abstrusely short, with the objective thereby to help students and in the hopes [in writing it] of abundant recompense and reward [in the hereafter].”²⁵ Here we see again that, as with the other two texts by the author within this particular genealogy, it is students of Islamic law who comprise al-Anṣārī’s intended audience.

3. *The Asnā l-maṭālib, a ṣarḥ on Ibn al-Muqrī’s (d. 837/1434) Rawḍ aṭ-ṭālib* (see Diagram D).

Al-Anṣārī, then in his mid-60s, completed his *Asnā l-maṭālib* around the year 892/1487.²⁶ Along with *al-Ġurar al-bahiyya* (mentioned below), the text stands as one of his two longest works in *furū’*. Although the author wrote no other commentaries or abridgements related to Ibn al-Muqrī’s *Rawḍ aṭ-ṭālib* except this text, the textual genealogy that the *Asnā l-maṭālib* ties into arguably represents the most direct line back to aš-Šāfi‘ī’s foundational *Umm* of the four genealogies under analysis here.

As for Ibn al-Muqrī’s base-text, the *Rawḍ aṭ-ṭālib* is a *muḥtaṣar* of an-Nawawī’s *Rawḍat aṭ-ṭālibīn*, which, for its part, later Šāfi‘ī’s would consider the foremost abridgement within an-Nawawī’s oeuvre.²⁷ The normative status of the latter text would, in turn, transfer onto Ibn al-Muqrī’s *muḥtaṣar* of it, thus making the *Rawḍ aṭ-ṭālib* essential and popular read-

²³ Leon Nemoy, “Arabic Manuscripts,” 108: “990 (L-465): *Faḥ al-wahhāb bi-ṣarḥ Tanqīḥ al-Lubāb*. 370 ff. 21 x 15½ cm. ca. 1800. Commentary on the *Tanqīḥ al-Lubāb* (manual of Shāfi‘ī law, by Aḥmad al-‘Irāqī, being an abridgement of *al-Lubāb fī al-fīkh* of Aḥmad ibn al-Maḥāmīlī).”

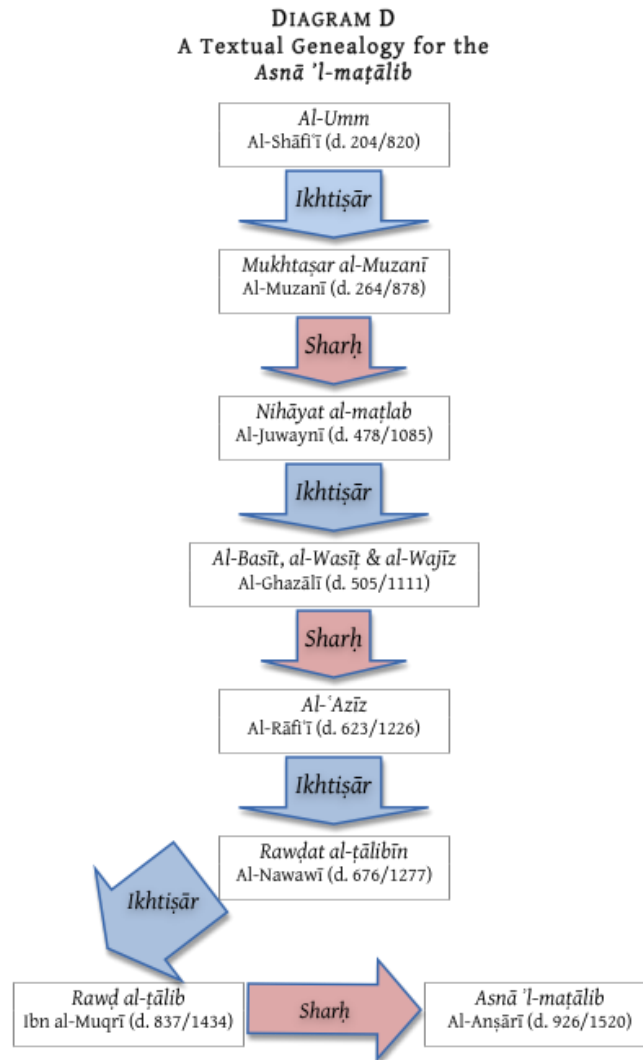
²⁴ Landberg, writing in or around the year 1900, refers to the manuscript as “ca. 200 J. alte MS.” Landberg, *Kurzes Verzeichniss*, MSS 0 (vol. 4); see vol. 1 for the author’s reference to the year 1900.

²⁵ Zakariyyā al-Anṣārī, *Faḥ al-wahhāb bi-ṣarḥ Tanqīḥ al-Lubāb*, fol. 2r.

²⁶ As-Sakhāwī, *aḍ-Ḍaw’ al-lāmi’*, 2:295.

²⁷ For an example of this assessment, see Ibn Ḥaġar al-Haytamī, *Tuḥfat al-muḥtāġ*, 1:39.

ing for students of the Šāfi'ī *maḏhab* during and after the ninth/fifteenth century.²⁸ It is with the interests of such students in mind that al-Anṣārī undertook to write his commentary on the *Rawḍ at-ṭālib* and thereby restore what he considered to be essential details and alternate positions that had been lost in Ibn al-Muqṛī's abridgement.²⁹ This approach, it should be noted for now, comes as the exact opposite approach that al-Anṣārī himself adopted when penning his *Manhağ at-ṭullāb* and *Tahrīr tanqīḥ al-lubāb* abridgements, whereby details in the respective base-texts that the author considered nonessential would be dropped in favor of concise prose to suit the needs of students.



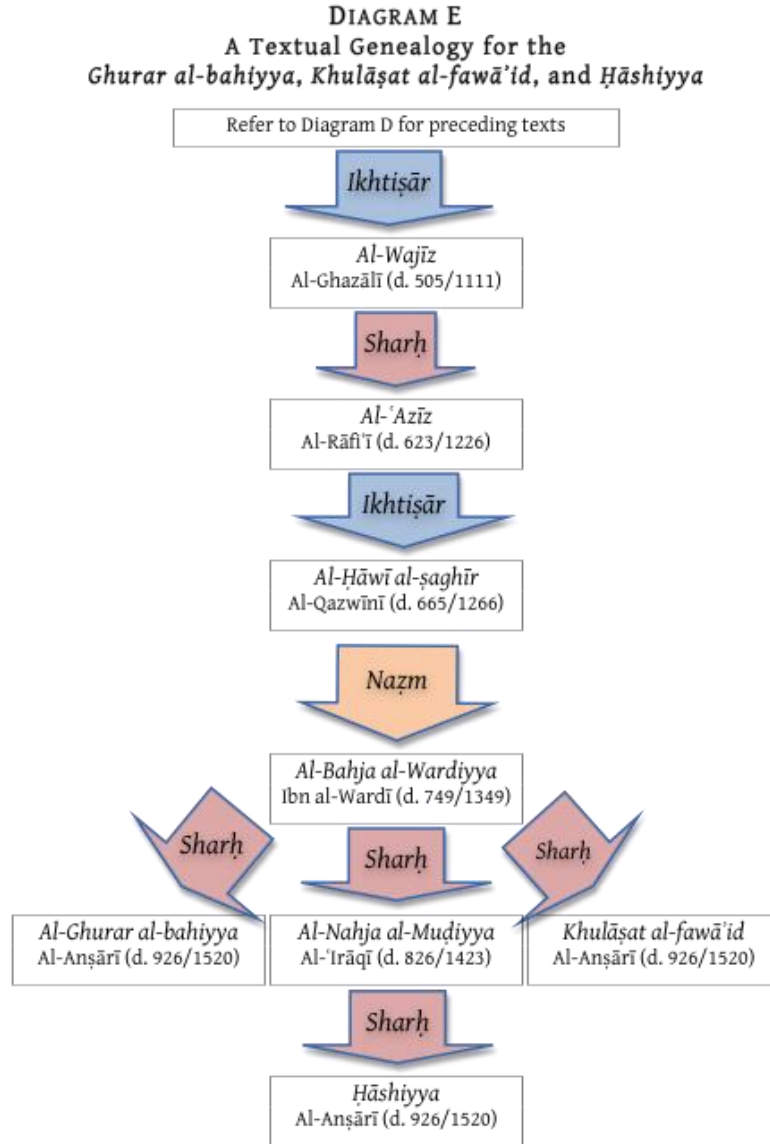
4. Those that derive from Ibn al-Wardī's (d. 749/1349) didactic poem *al-Bahğ* (see Diagram E).

These are: al-Anṣārī's [1] *al-Ġurar al-bahiyya*, the author's extended commentary on the

²⁸ Ġābir, *Šayḥ al-islām Zakariyyā al-Anṣārī*, 69. For the commentarial attention that al-Anṣārī's *Asnā l-maṭālib* would receive, see *ibid.*, 110; al-Ḥabašī, *Ġāmi' aš-šurūḥ*, 2:990.

²⁹ Al-Anṣārī, *Asnā l-maṭālib*, 1:25. In promising to supplement Ibn al-Muqṛī's base-text with "useful points that are essential to add (*lā budd minhā*) and finer details that Islamic law (*al-fiqh*) cannot do without," the author's introductory remarks suggest that the commentator finds the *Rawḍ at-ṭālib* to be deficient as a source in itself.

Bahġa, which he completed in 867/1463;³⁰ the [2] *Ḥulāṣat al-fawā'id al-Muḥammadiyya*, his shorter commentary on the same base-text; and his [3] *Ḥāṣhiyya* on Abū Zur'a al-'Irāqī's commentary on the *Bahġa*.³¹



The *Bahġa al-Wardiyya* itself is Ibn al-Wardī's versification of 'Abd al-Karīm al-Qazwīnī's (d. 665/1266) influential text in Šāfi'ī *furū'* *al-Ḥāwī aṣ-ṣaġīr*. For the purposes of the present study, in which I limit my analysis to those dynamics that occur within a textual genealogy via the alternating processes of *ṣarḥ* and *iḥtiṣār*, the additional process of versification (*naẓm*) adds too complex a variable to the discussion to fit within the scope of this article. For this reason, al-Anṣārī's three commentaries on Ibn al-Wardī's *Bahġa* await a future study.

³⁰ Idem, *al-Ġurar al-bahīyya*, 5:334.

³¹ For a few comments on the confusion surrounding the first two texts, see al-Mandaylī, *al-Ḥazā'in as-saniyya*, 76 (footnote 4); cf. al-Ḥabaṣī, *Ġāmi' aṣ-Šurūḥ wa-l-hawāshī*, 2:802-3, which confirms the titles as they have been listed here and mentions two commentaries on the *Ġurar*—for the latter of these, read 'Abd ar-Raḥmān aṣ-Šīrbīnī (d. 1326/1908) for al-Ḥaṭīb aṣ-Šīrbīnī; cf. El Shamsy "The *Ḥāṣhiyya*," 312.

4. The Dynamics of Commentary and Abridgement Within a Common Genealogy

With the goal of illuminating the processes at play in the operations of *šarḥ* and *Iḥtišār*, I now turn my attention to three examples from purity law (*ṭahāra*) as they evolve across four generations of texts within a single genealogy – specifically, the genealogy sketched in Diagram C. Writing in Baghdad at some point around the turn of the fifth/eleventh century, Abū l-Ḥasan Aḥmad b. Muḥammad al-Maḥāmīlī (d. 415/1024) intended his *al-Lubāb fī l-fiqh aš-Šāfi‘ī* to serve as a simplified condensation of Šāfi‘ī *furū‘*. The text reads like an annotated outline and attempts to render complicated legal discussions into numbered categories and subheadings to facilitate their retention. Al-‘Irāqī wrote his *Tanqīḥ al-Lubāb* as a *muḥtaṣar* of al-Maḥāmīlī’s *Lubāb*, and thus the latter text serves as the first generation in the textual genealogy discussed here, while the *Tanqīḥ al-lubāb* and al-Anṣārī’s direct commentary upon it (*Faṭḥ al-waḥḥāb*) serve as generations two and three respectively.

Example 1: On Ritual Ablution and Compromised Boot-Wiping

In his chapter “Those Things that Negate One’s Ritual Ablution” (*bāb mā yanquḍ l-wuḍū‘*), al-Maḥāmīlī writes, “The seventh thing [that negates one’s ritual ablution] is the nullification of a provision for wiping over one’s boots (*al-ḥuffayn*); here there is another opinion of aš-Šāfi‘ī (*qawl*) that one might limit themselves to washing their feet.”³² In this statement the author addresses the case of those who have opted to pass their wet hands over the tops of their boots while making their ritual ablution in lieu of fully washing their bare feet. Because wiping over the boots is generally considered a legal dispensation (*ruḥṣa*), it carries with it additional stipulations that would not affect those who wash their feet with each ritual ablution.

But the text of the *Lubāb* does not address these conditions and provisions expressly. Moreover, it provides two conflicting opinions on a legal question without deciding between them. The first opinion implies that if a provision for wiping over the boots is nullified then the one who wiped is required to repeat every step of the ritual ablution if they wish to perform an act that demands such an ablution. The second opinion, however, requires that they merely wash their feet completely and thus perform only the last step of the ritual ablution that wiping over the boots has otherwise supplanted.

For a Muslim who wishes to pray in a correct state of ritual purity the difference between the two opinions is stark, as al-Maḥāmīlī was certainly aware. We can only conclude then that he intended his indecisive text to serve as a *prompt* to foment commentarial exposition if not debate. Here I follow in the footsteps of Asad Ahmed, who recently published an analysis of two eighteenth-century commentaries and one nineteenth-century supercommentary on Muḥibb Allāh al-Bihārī’s (d. 1118/1707) *Sullam al-‘ulūm* in logic. Among Ahmed’s conclusions in this article is that the author of the base-text and its commentators intended specific lemmata in their works to function as arenas for the philosophical debate of students and later commentators.³³ The more allusive their language – or, in the case of the *Lubāb*, the more indecisive – the more likely that their text would attract commentarial attention from later generations and the more likely that it would be integrated into pre-

³² Al-Maḥāmīlī, *al-Lubāb*, 64. On the issue of wiping over the boots, see Ch. Pellat, “al-Maṣḥ ‘Alā ‘l-Kḥuffayn”; *al-Mawsū‘a al-fiqhiyya*, 37:261-71.

³³ Ahmed, “Post-Classical Philosophical Commentaries/Glosses,” 320, 23, 43, and *passim*.

modern teaching circles which thrive off of debate and, in the case of law, the opportunity for *tashīh*, or “rule-review” as Talal Al-Azem has cleverly translated it.³⁴

In fact, I would argue that works of Islamic substantive law function even *more* readily as arenas for commentarial debate, as the pedagogical imperative behind the teaching of law in the pre-modern Muslim world and the plurality of opinion that was assumed to undergird the discipline were more pronounced than in most other areas of scholarship. And although it is the commentator who ultimately decides which lemmata warrant commentary, as Ahmed and many others before him have noted,³⁵ consider the case of the jurist of some renown who presents his reader with multiple positions on a legal question without weighing their relative merits, or who leaves his text ambiguous in places, or who adopts contrarian positions that may be enticing to a student readership: each author has effectively challenged a future commentator to respond and thereby retains considerable control in setting the agenda of the future discourse. What’s more, the twenty-first century cliché that no publicity is bad publicity might still apply to such pre-modern texts, as the more commentarial attention a text foment – even if from the pens of adversaries – the more its canonicity within the later tradition is likely to grow.

The text of the *Lubāb* thus presents future commentators with a prompt-lemma, and both al-‘Irāqī in his abridgement of the text and al-Anṣārī in his commentary upon this abridgement respond accordingly, if not in a diametrical manner. The corresponding section of the amalgamated *muḥtaṣar/ṣarḥ* text reads as follows (with the *Tanqīh*’s base-text in bold):

The seventh [thing that negates one’s ritual ablution] is the nullification of a provision for wiping over one’s boots. That is, through the exposure of the foot or part of it, or exposure of the cloth that is over it, or part of it, or the elapsing of the duration, i.e., the duration [allowed] for wiping,³⁶ or uncertainty as to its elapsing. All of these require the performing of [a complete] ritual ablution, as one’s entire purity is nullified with the nullification of part of it, as in [the case of] ritual prayer. [The author’s] words from “that is” until the end [of his words here] is one of his own additions [to the original text of the *Lubāb*], and as you recognize, it is insufficient [in detail]. In another opinion of aš-Šāfi‘ī (*qawl*) it is sufficient to wash the feet, as their purity alone is nullified through exposure or the elapsing [of time]; and my position (*qultu*) is that this is the most obvious reading of aš-Šāfi‘ī (*al-aḥzar*);³⁷ and God knows best. Thus, such things are not cause for compromising the ritual purity of anything other than the feet. There are two positions attributed to aš-Šāfi‘ī on this matter (*wa-huwa ‘alā l-qawlayn*) owing to the compromised purity of the feet. In his *Maḡmū‘*, an-Nawawī has chosen the position that this necessitates nothing and that one may pray with their [existing state of] purity

³⁴ Al-Azem, *Precedent*, 8-9, 119-22, and passim. Also see, Wiederhold, “Legal Doctrines,” 244-7; Hallaq, *Authority*, 133-65.

³⁵ For more on this theme see, *inter alia*, Barthes, *An Essay*, 15; Cutler, “Interpreting *Tirukkural*,” 552-3; Ker-mode, *The Genesis of Secrecy*, 20; Kraus, “Introduction,” 13-6, and passim.

³⁶ The dispensation of wiping over one’s boots remains valid in itself for up to one day for the non-traveler and up to three days for the traveler.

³⁷ On the terms, “*qawl*” and “*al-aḥzar*,” see, *inter alia*, al-Ḥaṭīb aš-Širbīnī, *Muḡnī l-muḥtaṣar*, 1:35-6.

as they see fit.³⁸

If we take the base-text of the *Tanqīh* by itself, we find that al-‘Irāqī remains faithful to the original wording of the *Lubāb*, although he adds some detail to the initial discussion which al-Anṣārī in his commentary criticizes as insufficient. More significant to the application of the law, however, is al-‘Irāqī’s act of *taṣḥīḥ*, which comes in response to the *Lubāb*’s prompt-lemma and weighs decisively in favor one of the two opinions attributed to aṣ-Šāfi‘ī, namely that one need only rewash their feet in the situation described. The *Lubāb*’s original prompt-lemma effectively disappears in its second-generation iteration, and a practicable ruling replaces it.

But the story does not end there. Al-Anṣārī’s commentary on the *Tanqīh* initially explains the rationale behind al-‘Irāqī’s *taṣḥīḥ* but concludes the discussion by adding to it a third position – that one need not do anything to their feet while still retaining their state of ritual purity – which the author expressly links to an-Nawawī’s *Mağmū‘* and the authority implied therein. A new prompt-lemma has now emerged, as al-Anṣārī does not weigh between al-‘Irāqī’s position and the third opinion that the commentator has tacked onto the text.³⁹ It is also worth mentioning here that the *Tahrīr tanqīh al-lubāb*, al-Anṣārī’s *muḥtaṣar* of al-‘Irāqī’s *Tanqīh* which marks a parallel branch of the textual genealogy under analysis, limits its treatment of the things that negate one’s ritual ablution to the first six items mentioned in the *Lubāb*’s original text. Thus, the author excludes the entire debate that has been detailed above, thereby limiting the ability of a future commentator to reintegrate it, albeit not in an absolute sense as we shall see.⁴⁰

Example 2: On the Age of Menopause

As a woman’s menstrual cycle factors into many aspects of family law and Islamic ritual as they appear in works of *furū‘*, Muslim jurists throughout the centuries have proposed various estimates for an average woman’s “age of despair” (*sinn al-ya’s*) – a pre-modern dysphemism for the age of menopause after which a woman must give up hope of becoming pregnant. For these jurists, an estimate for the age of menopause would help older Muslim women in distinguishing between what is likely to be menstrual bleeding and what is likely to be indeterminate vaginal bleeding (*istiḥāda*), as the latter generally holds very little legal influence on a woman’s participation in Islamic rituals, for example.

It is with such background information in mind that we consider the various estimates of an average age of menopause that appear within the textual genealogy under discussion. In the chapter “Menstruation” (*bāb al-ḥayḍ*) of his *Lubāb*, al-Maḥāmilī writes, “The earliest that women menstruate is [after] the completion of nine years [of age]; the time that menstruation ceases is sixty years [of age].”⁴¹

Although he will replace al-Maḥāmilī’s oblique reference to menopause with the less-than-sympathetic idiom “age of despair,” al-‘Irāqī, for his part, shows fidelity to his predeces-

³⁸ Al-Anṣārī, *Fath al-wahhāb bi-ṣarḥ Tanqīh al-Lubāb*, fol. 20r.

³⁹ On the authoritative status of the *Mağmū‘* in the later Šāfi‘ī *madhab*, see Ibn Ḥaḡar al-Haytamī, *Tuḥfat al-muḥtāğ*, 1:39.

⁴⁰ Cf. al-Anṣārī, *Tuḥfat at-tullāb*, 8-10.

⁴¹ Al-Maḥāmilī, *al-Lubāb*, 87.

sor's original text before adding his own voice. The amalgamated text of the *Tanqīh* (in bold) with al-Anṣārī's commentary reads:

The age of despair from menstruation: according to what the majority of jurists (including an-Nawawī) have deemed to be the correct position based on the information available and on what is [generally] known, the [age of] despair for all women is considered **at age sixty**; it is also said fifty, and also said seventy. **My position (*qultu*) is that the more correct position (*al-aṣaḥḥ*) is sixty-two years,⁴² and God knows best.** According to what [aṣ-Ṣāfi'ī] has determined in his *Umm* and which ar-Rāfi'ī deems to be the correct position, the thing to be considered is the [age of] despair of a woman's closest [female] relatives through her parents, in the order of their closeness to her (*al-aqrab fa-l-aqrab*), owing to their closeness in habitus (*ṭab*). If these relatives should differ in [the age that] is customary for them, then on this issue, consideration should be given to the lowest [age that is] customary among them; it is also said the highest [age that is] customary, which is the more likely opinion (*al-aṣbah*) – thus ends [the text of aṣ-Ṣāfi'ī].⁴³

In summary then, the text of the *Lubāb* relays a definitive opinion on the age of menopause which the *Tanqīh* retains but amends with its own opinion that it deems legally superior. But by citing an-Nawawī, al-Anṣārī's commentary on this second-generation abridgement provides a persuasive argument from authority for the original position of the first-generation text, while simultaneously adding two weaker opinions to the discussion in passing. The latter text then appends an additional opinion that traces back to aṣ-Ṣāfi'ī's *Umm* and is sanctioned by ar-Rāfi'ī – the other gatekeeper for legitimacy in the later *madhhab*. In the end, what al-'Irāqī's text updates and narrows to a single position, al-Anṣārī's text opens to the two conflicting positions of an-Nawawī and ar-Rāfi'ī, thus leaving later generations with a prompt-lemma.

However, al-Anṣārī appears to have had a change of heart on the issue if we trace his treatment of it through the other branch of the textual genealogy under analysis. On the issue of menopause, al-Anṣārī's *muḥtaṣar* of the *Tanqīh* (in bold) with the author's amalgamated *Tuḥfat at-tullāb* commentary simply reads: “**The age of despair** from menstruation is **sixty-two years.**”⁴⁴ Here then, for reasons unexplained, al-Anṣārī has reproduced the position of al-'Irāqī without reference to any other position including that of the original *Lubāb*. Within this limited textual genealogy, al-Anṣārī's third-generation *muḥtaṣar* and fourth-generation *ṣarḥ* have thrown their weight behind a particular opinion from which the author had previously distanced himself. From the vantage of a would-be commentator on the amalgamated text, the opinion that menopause hits the average woman at 62 years of age has earned the approv-

⁴² If we assume that al-'Irāqī is self-conscious in his use of Ṣāfi'ī terms of art here, then his use of “*al-aṣaḥḥ*” implies that [1] he is deciding between two or more opinions (here: *wuḡūh*) of the early Ṣāfi'ī jurists (*al-aṣḥāb*) who came after aṣ-Ṣāfi'ī, and that [2] at least one of these unstated dissenting opinions that he has considered is comparatively strong in its own right. See, *inter alia*, al-Ḥaṭīb aṣ-Ṣirbīnī, *Muḡnī 'l-muḥtaḡ*, 1:36-9. On the “*aṣḥāb al-wuḡūh*,” see Hallaq, *Authority*, 48-50.

⁴³ Al-Anṣārī, *Faḥ al-waḥḥāb bi-ṣarḥ Tanqīh al-Lubāb*, fol. 20r. On the term “*al-aṣbah*,” see Hallaq, *Authority*, 155.

⁴⁴ Al-Anṣārī, *Tuḥfat at-tullāb*, 20.

al of two legal authorities (al-‘Irāqī and al-Anṣārī) and three generations of texts (the *Tanqīh al-Lubāb*, the *Tahrīr Tanqīh al-Lubāb*, and the *Tuḥfat aṭ-ṭullāb*). And while such approval would certainly figure into the reception of the opinion and its normative value in the eyes of later generations, al-Anṣārī’s direct commentary on the *Tanqīh* shows us that we can hardly view the matter as closed.

Example 3: On Removing Filth With Difficulty

A third and final example worthy of consideration here appears in the context of filth and its removal from one’s person and clothing as a condition for certain Islamic rituals like prayer (*ṣalāh*). When introducing the subject al-Maḥāmīlī, as is his wont, leaves his reader with a prompt-lemma when he writes, “Removing filths is according to ten types [of filth]: First, filth that occurs on the body or clothing. Its ruling is that one wash [it off]. If its trace does not disappear, then there are two positions of the early Ṣāfi‘ī scholars on this (*fa-‘alā waḡḡayn*).”⁴⁵ The author provides no further details on what these two positions are nor on how to weigh between them, and the reader of his text must wait patiently for the assistance of a future commentator or teacher.

It should come as little surprise then that al-‘Irāqī and al-Anṣārī’s treatment of the lemma, as it appears in former’s *muḥtaṣar* of the *Lubāb* and the latter’s interwoven commentary upon it, offers such assistance to their readership, and in fact their texts work in tandem to knead the original lemma into a number of corollary directions like glutinous dough. The amalgamated *matn-ṣarḥ* text reads:

Filth, based on where it occurs and [how] it is removed (while the wording of the *Lubāb* is “removing filth” [sic]) **is ten types. First is that which occurs on the body or clothing** or similar things.⁴⁶ If it be de jure [in nature] in that no trace of taste, color, or odor of it can be perceived—like dried urine that [leaves] no trace—it suffices to run water over it once. If it is substantive in that a trace of it can be perceived, **then it is washed until its trace fades. If its trace does not vanish [even] with difficulty**, in that it does not fade with extreme rubbing or cutting, **then there are two statements of aṣ-Ṣāfi‘ī (*fa-qawlān*)**: the first is that it is purified because of the extreme difficulty [involved]; the second is that it is not [purified] because the thing that points to the very substance of the filth [still] remains. Rubbing and cutting here are praiseworthy (*sunna*); and it is also said that they are a legal condition [for removal of the filth]. Yes, if it is possible to remove the filth through such [actions] then they are legally required, just as [using] potash and similar things would be required. His [qualification of] difficulty, which is an addition to [the text of] the *Lubāb*, excludes whatever [filth] could be easily removed because no extreme difficulty [is implied therein]. **My position (*qultu*) is that the most obvious reading of aṣ-Ṣāfi‘ī (*al-aḡhar*) is legal amnesty (*al-‘afw*) for [complete] removal of both odor and color** because of what has already been mentioned (*li-mā marr*). The effect of his words is like

⁴⁵ Al-Maḥāmīlī, *al-Lubāb fī ‘l-fiqh aṣ-Ṣāfi‘ī*, 79-80.

⁴⁶ I have left untranslated a portion of the text here in which al-Anṣārī provides the correct short vowels on a word (*tashkīl*) for his reader, though of course the author’s commentary has informed my translation of the word.

the two positions of the early Šāfi‘ī scholars (*ka-l-wağhayn*): that [1] the spot is pardonably impure—and this is a position of the early scholars;⁴⁷ and [2] the correct position (*aṣ-ṣaḥīḥ*) in [an-Nawawī’s] *Rawḍa* which was transmitted by ar-Rāfi‘ī from the majority of scholars that [the spot] is pure in actuality.⁴⁸ **And** the most obvious reading of aš-Šāfi‘ī is that **combining of the two [traces] is [legally] harmful**—that is, odor and color because of their testifying decidedly to the presence of [the filth’s] very substance. The latter does no [legal] harm owing to the extreme difficulty in removing both of them, nor is there legal harm if they are each in a separate spot (*ka-mā law kānā fī maḥallayn*). **And** it is [legally] harmful **for taste in itself to remain present, and God knows best**, owing to the ease of removing it in most cases, and because its remaining presence testifies to the presence of [the filth’s] very substance. The obvious [reading] of his words, like those of the *Lubāb* (*ka-aṣliḥ*), is that the disagreement centers around [the presence of] taste, while there is no disagreement in [an-Nawawī’s] *Mağmū‘* and other texts that it is [legally] harmful.⁴⁹

In summarizing the operations of the two texts above at the individual level, we first notice that al-‘Irāqī’s *Tanqīḥ al-lubāb* adds “with difficulty” as a qualification to the *Lubāb*’s original discussion. It also converts the two *wağh*-positions in the latter text to two *qawl*-positions and thereby raises their rhetorical weight by linking them back to the authority of aš-Šāfi‘ī himself. What’s more, the *Tanqīḥ* is first to broach the question of whether tenacious traces of filth are merely a forgivable offense or whether they are pure in actuality, although it never expressly mentions the latter position. Rather, as the text does not provide the reader with details of the “two statements of aš-Šāfi‘ī” (*qawlān*) that it ultimately decides between, it has effectively generated its own prompt-lemma for a future commentator (here, al-Anṣārī) who might disagree with its author’s legal reasoning.

Al-Anṣārī’s commentary upon the *Tanqīḥ* hence picks up on this prompt-lemma by identifying to the reader where al-‘Irāqī has performed *taṣḥīḥ* in his *muḥtaṣar* and then reverses this act by integrating the counter position into the interstices of the base-text and declaring it to be the correct position. The author of the commentary does so, moreover, using the strongest designation possible (viz. “*aṣ-ṣaḥīḥ*”) while relaying it through an-Nawawī, ar-Rāfi‘ī, and the majority of Šāfi‘ī scholars. Such names imply an argument from authority that would supersede the authority of aš-Šāfi‘ī himself to al-Anṣārī’s late-medieval readership, although to be safe, the author nonetheless returns the *qawl*-positions in al-‘Irāqī’s text back to their original *wağh*-position form and thereby removes aš-Šāfi‘ī from the discussion altogether.

Finally, in the alternate textual lineage that runs through al-Anṣārī’s *muḥtaṣar* of the *Tanqīḥ* and onto his *Tuḥfat aṭ-tullāb* commentary, al-Anṣārī’s opinion that tenacious traces of

⁴⁷ “And this is a position of the early scholars” (*wa-huwa wağhun*): al-Anṣārī is correcting al-‘Irāqī here to suggest that this position does not trace back to aš-Šāfi‘ī but rather to the *aṣḥāb* who came after him.

⁴⁸ The author’s use of “*aṣ-ṣaḥīḥ*” implies that, in this particular example, the contrasting *wağh*-position is weak in its own right; the term is rhetorically stronger than “*al-aṣaḥḥ*” as it was used in Example 2. V.s. footnote 43 and the sources cited there.

⁴⁹ Al-Anṣārī, *Faḥḥ al-waḥḥāb bi-ṣarḥ Tanqīḥ al-Lubāb*, fols. 48r-v.

filth are pure in actuality assumes an even more unequivocal form. The amalgamated *matn-šarḥ* text reads:

Its removal, that is, filth, **even from [one’s] boot**, is legally required by **washing** (except in some [cases] that follow, such as [the case of] the male infant’s urine) **whereby its qualities** of taste, color, and odor **disappear, except what** disappears **with difficulty of color or odor**. Removing [one of these] is then not legally required. Rather, the spot is purified, *pace* [the case in which color and odor] combine because of their testifying decidedly to the presence of the filth’s very substance. Similar [to the latter case] is that in which [the filth’s] taste remains owing to the ease of removing it in most cases.⁵⁰

Al-Anṣārī has thus integrated the qualification “with difficulty” into his own *muḥtaṣar*, while his *šarḥ* ignores completely the *Tanqīḥ*’s original position that tenacious traces of filth represent a forgivable offense in favor of the author’s own verdict that they are pure in actuality. A single, uncontested position – that belonging to al-Anṣārī – has now displaced what was originally two contradictory positions in the al-‘Irāqī/al-Anṣārī *šarḥ mamzūğ*. Here, by abridging (*iḥtišār*) al-‘Irāqī’s text first instead of commenting upon the latter text directly, al-Anṣārī has assumed stronger control over the textual discourse. Moreover, within the context of teaching, his position is carried primarily by the *matn* of his *muḥtaṣar* and thus would become the position that student readers would memorize and take as a starting point for debate. In the end then, al-Anṣārī has washed all traces (tenacious or otherwise) of al-‘Irāqī’s position away, leaving his reader with a terse text that posits his own position as the only one worthy of consideration and not merely the better of two alternatives.

⁵⁰ Idem, *Tuḥfat aṭ-ṭullāb*, 16.

5. Conclusion

In various places in the analysis above we find that the operation of *iḥtiṣār* in one generation of a textual genealogy provides a commentator in a subsequent generation with more control over the substance and structure of the legal discourse that he inherits. Here two variables influence the degree of control that such a commentator assumes. First is the relationship between *muḥtaṣar* author and commentator. Or, to put it differently in light of the examples just seen, we might ask: are the *muḥtaṣar* author and commentator one and the same individual? As demonstrated especially Example 3 above, a legal commentator enjoys far broader control over the inherited discourse when he first abridges a base-text himself rather than comment upon it directly. As the operation of *iḥtiṣār* strips a base-text of all substance and structure that the *muḥtaṣar* author considers superfluous, when this same author, through his commentary, then expands upon those lemmata of his *muḥtaṣar* which he deems worthy of excursive treatment, he has effectively redefined the conversation and its fundamental agenda. The effect is compounded in the case of the *ṣarḥ mamzūġ*, as this format enables a commentator to rend his base-text into pieces as small as individual letters (*ḥurūf*, including *ḥurūf al-ʿatf* and *ḥurūf al-ġarr*) and then expand his amalgamated *matn-ṣarḥ* text in infinite possible directions, adding detail and structure of his own all along the way. It is perhaps for just such a reason that al-Anṣārī wrote all six of his legal commentaries listed in the introductory discussion as *mamzūġ* commentaries.⁵¹

The second variable that influences a later commentator's control over the received discourse is the severity in scale to which a preceding *muḥtaṣar* has abridged its base-text: the more extreme the operation of *iḥtiṣār*, the more control a later commentator enjoys. However, this equation is not absolute. We must remember that a commentator's professed aim is to explain to a reader the meaning of what cannot be understood intuitively in a base-text. In this way, the more enigmatic a base-text appears, the more the commentator's pen is forced to render it understandable. A *muḥtaṣar* author thus retains *some* control over the commentarial reception of his text, as his extreme acts of *iḥtiṣār* function almost like prompt-lemmata in setting the agenda of the commentarial discourse. With this important qualification in mind then, we might summarize the second variable of commentarial control by saying: the scale of *iḥtiṣār* is proportional to [1] the scale of subsequent commentarial control over the received textual tradition and [2] the perceived need for commentary to elucidate that tradition.

But perhaps of more importance than these two variables, the examples above show us that the permanent ossification of any particular detail of the law as it appears in pre-modern works of *furūʿ* would appear unlikely as the legal "canon" here displays a unique tolerance for reopening itself and exposing itself to revision. In that regard, it is certainly a different animal from canonical texts in Sufism, for example, as I have described it elsewhere.⁵² Rather, the movement from *muḥtaṣar* to *ṣarḥ* to *muḥtaṣar* to *ṣarḥ* (or some permutation thereof) will always produce lemmata that leave space for change and development in the legal tradition. The very form of the texts and the structural differences that define the processes of *ṣarḥ* and *iḥtiṣār* make this change both possible and inevitable.

⁵¹ Here I exclude al-Anṣārī's *ḥāšīyya* on al-ʿIrāqī's commentary on the *Bahja* (v.s. Diagram E) since I have been unable to confirm in the manuscript history of the text whether it was written as *mamzūġ* or not.

⁵² Matthew B. Ingalls, "Reading the Sufis," 457-76.

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