Between Implementation and Legislation: The Shi'i Imam Muḥammad al-Jawād's *Khums* Demand Letter of 220 AH/835 CE

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Abstract

The Imami Shi'a are usually treated as a community defined by belief. By analysing a letter attributed to the ninth Imami Imam, Muḥammad al-Jawād dated to the year of his death in 220/835, I show that the Imami Shi'a were defined also by institutional structures that tied them to their Imam in his capacity as community leader. Details of transmission, form and content suggest that the letter may well be authentic, giving us a unique window onto the Imamic administration. The letter is a tax demand, encouraging payment of the *khums* levy upon the spoils of war and other items. My analysis suggests that the understanding of *khums* and *ghanīma* among Imamis at this time continued to be fluid, subject to the Imam's adjustment, and that implementation influenced the elaboration of the law. Subsequently, hadith scholars and jurists were thus forced to interpret how such *ad hoc*, pragmatic acts fit into Islamic law, which is conceived as eternal and divine.

Keywords

Tax – *ghanīma* – *khums* – Imam – hadith – letters – administration – Shi'a

The Imamate of the Imami Shi'a¹ is usually treated as a topic within the discipline of Islamic theology. While the Imamate as theology is, of course, a

1 Unless otherwise indicated, when I use the word Shi'i, I will be referring to the Imami Shi'a and their Twelver successors, rather than Zaydis, Ismailis or other Shi'a, while recognizing that boundaries were often porous.

legitimate object of study, a key aspect of an Imam's role was that of community leader, part of which centred on interpreting and implementing God's law. But how did this work in practice? The Imami Imams were not state actors with the state's apparatus of courts and coercive power at their disposal. To what extent, then, can we understand the Imams to have presided over a functional system of law, in addition to being the articulators of an Imami legal framework on an abstract level? The key to answering these questions is to see that they were embedded in a set of social institutions that defined their role as Imams. It is, then, with these social institutions that we must start if we want to understand the Imams' historical efficacy as implementers of law. In this essay, I will introduce a uniquely useful, yet hitherto neglected set of sources for understanding the practical authority of the Imams and their relations with their followers: the letters attributed to the Imams. These letters are preserved in later hadith compilations and biographical works.² They contain much that is obscure and *ad hoc*, including certain elements that contradict later orthodoxy. Their obscurities make them difficult to interpret, but also give us some confidence that they may, indeed, represent authentic, datable historical communications between the Imams and their followers.³

In this article I will introduce and discuss one important letter attributed to the ninth Imam of the Imami Shi'a, Muḥammad b. 'Alī, (d. 220/835) who was known as al-Jawād, "the Generous", or less frequently, "the Devout" (*al-taqī*), though he is most often referred to in Imami hadith as Abū Ja'far. This letter of Imam Jawād is a demand for the levy tolled on the spoils of war (*ghanīma*) following a battle between some of his followers and a group of Khurramiyya in the Jibāl. Although this letter has not gone totally unnoticed, it has received

2 Many of these letters have been collected in *Makātib al-a'imma*, 7 vols., edited by 'Alī Aḥmadi Miyānjī (Qumm: Dār al-Ḥadīth, 1387/1429), but the work does not provide contextual analysis. The only other sustained study of Imamic letters I am aware of is Edmund Hayes, "The Epistolary Imamate: Circular Letters in the Administration of the Shi'i Community," in *The Ties that Bind: Mechanisms of Social Dependency in the Early Islamic Empire*, edited by Petra Sijpesteijn and Edmund Hayes, forthcoming. This article includes analysis of a letter demanding the payment of *ṣadaqa* by the Imam al-Ḥasan al-'Askari that is comparable to the *khums* letter discussed here.

3 The principle of valuing difficult texts as likely to be early is well established in textual criticism as "*lectio difficilior potior*", that is, the most difficult reading is the strongest. If used cautiously this principle can be applied to establishing the probable historicity of a text embedded in a textual canon that may not value its specific content. In Islamic history, this approach has most famously been applied to the so-called "Constitution of Medina." Michael Lecker summarizes some of the key contributions to the discussion of this text in *The "Constitution of Medina": Muhammad's First Legal Document* (Princeton: Darwin, 2004), ix-4.

scant attention and its importance has not been explored.⁴ In this article I will argue that this letter has a high likelihood of preserving a historical correspondence between the Imam and his followers. My optimism about its authenticity is based on three considerations: first, its complex structure makes it unlikely that it was fabricated to fill a particular ideological need; second, its content is peculiar and represents a divergence from other Imami statements on *khums*,⁵ before and after; and third, the historical positioning of its purported transmitter is plausible. My optimism is not extended to the Imami hadith corpus generally. Imamic hadith may, in many cases, represent the positions of the Imams, but we cannot assume that they do so without investigation. Beyond

4 Jassim Hussain mentions the letter, coming to the conclusion that “the Imam’s followers in Khurasan allowed themselves to be recruited into the ‘Abbasid army and participated in subduing the rebellion of the Khurramiyya”. *The Occultation of the Twelfth Imam: a Historical Background* (London: Muhammadi Trust, 1982), 47. The idea that the Imam’s followers fought in the army, is not, however supported by the letter, but presumably derives from a presentist assumption that the ‘Abbasids had a monopoly on violence throughout their domains. Modarressi mentions the letter, saying “One of the last acts of the ninth imam, Muhammad ibn ‘Alī al-Jawād, in the year of his premature death in 835, was to order the regular collection of *khums*.” Hossein Modarressi, *Crisis and Consolidation in the Formative Period of Shi’ite Islam* (Princeton: Darwin Press, 1993), 12. However, Modarressi does not explain why he sees this as an order to begin regular collection. As we will see, the contents of the letter do not provide evidence for the initiation of regular *khums* collection. However, Modarressi’s comment was sufficient to lead Arjomand to assert, “The systematic collection of the levy as a mandatory tax seems to have started in 220/ 835 when Imām Muhammad al-Jawād ordered his financial representatives to collect the *khums* on certain kinds of income.” Said Arjomand, “Crisis of the Imamate and the Institution of Occultation in Twelver Shi’ism: A Sociohistorical Perspective,” *International Journal of Middle East Studies* 28: 4 (1996): 491–515, at 498. In this article I attempt to move beyond impressionistic assertions to place the study of Imamic institutions on more stable foundations. Qalamdārān discusses the letter over several pages, but his analysis is based on the assumption that Imamic statements should reflect the unchanging normative force of the Twelver law, and he therefore rejects this letter as deviating from the norm. Ḥaydar ‘Alī Qalamdārān, *Baḥṭh ‘amīq fī mas’alat al-khums fī al-kitāb wa-l-sunna wa-fatwā ‘ulamā’ al-shī‘a*, translated from the Persian by Sa’d Rustam (Riyāḍ: Sharikat al-‘Abikān li-l-ta’līm, 1435), 216–30.

5 In this article I do not provide an overview of early Shi’i attitudes to *khums*, although I hope that my contribution here will help to establish a clear historical foothold that might facilitate such a study in the future. Currently, as with almost all areas of pre-Occultation Shi’i legal thinking, our understanding of *khums* is inadequate. The major historical study of *khums* in Twelver Shi’ism is Norman Calder, “Khums in Imāmi Shi’i Jurisprudence, from the Tenth to the Sixteenth Century A.D.,” *Bulletin of the School of Oriental and African Studies* 45:1 (1982): 39–47. However, Calder’s article focuses exclusively on the post-Occultation era, leaving developments during the lives of the Imams untouched. Modarressi’s *Crisis and Consolidation* condenses great insights into a few pages, but often leaves assertions unexplained (see comments throughout this article). Qalamdārān’s *Baḥṭh ‘amīq* contains some interesting insights, though it is highly polemical.

the traditional Twelver hadith sciences, there have been very few systematic efforts to date and authenticate Imamic hadith in the academy.⁶ However, implicitly, this question is at the heart of some the great controversies raging between scholars of early Shi'ism, who are divided over exactly what the Imams stood for.⁷ In the absence of convincing evidence, it is generally safer to assume that hadiths attributed to the Imams should be understood as representing the ideas and institutions of the broader community rather than the Imams themselves. A corollary of this is that we usually cannot be sure of the dating of a report. Therefore, if this letter can be shown to be authentic, it is of great significance for the history of the Imamate, establishing a beachhead of historicity for understanding the kinds of interactions that occurred between the Imams and their followers.

In addition to its significance for the understanding of the Shi'i Imamate, the letter is of great interest for our understanding of how non-governmental institutions operating in the interstices of empire regulated themselves. The letter makes possible a number of different comparisons that would otherwise be difficult. It bears witness to non-governmental administrative practices that are, however, comparable to governmental bureaucracy visible from studies of contemporary administrative letters, both those preserved in literary sources and physical letters discovered on papyrus or parchment.⁸ I propose that we study this text not only as a "hadith" but also as a letter, composed according to the rules and conventions of epistolary form and the institutions of correspondence of this era. This will allow us to see how such letters served as tools

6 On the state of the field, see Kohlberg, "Introduction: Shi'i Ḥadīth" in *The Study of Shi'i Islam: History, Law and Theology*, ed. Farhad Daftary and Gurdofarid Miskinzoda (London: I. B. Tauris, 2014), 165–79. For an example of a sophisticated methodology for tracing the circulation of Imami hadith, see Hassan Ansari, *L'imamat et l'Occultation selon l'imamisme: Etude bibliographique et histoire des textes* (Leiden: Brill 2017). For a comprehensive effort to provide a critically analyzed overview of the full scope of the early Imami literary corpus, see Modarressi, *Tradition and Survival: A Bibliographical Survey of Early Shi'ite Literature*, (Oxford: Oneworld, 2003).

7 On the debate between rationalist and esoteric Shi'ism, see Amir-Moezzi's review of Modarressi's *Crisis and Consolidation* in *Bulletin Critique des Annales Islamologiques*, 14 (1998): 55.

8 See, for example, Petra Sijpesteijn, *Shaping a Muslim State: the World of a Mid-Eighth-Century Egyptian Official* (Oxford: Oxford University Press, 2013); Arietta Papaconstantinou, "The Rhetoric of Power and the Voice of Reason: Tensions Between Central and Local in the Correspondence of Qurra ibn Sharik," in Procházka, S., Reinfandt, L. and Tost, S. (eds.), *Official epistolography and the language(s) of power. Proceedings of the 1st International Conference of the Research Network Imperium and Officium: Comparative Studies in Ancient Bureaucracy and Officialdom, University of Vienna, 10–12 November 2010. Papyrologica Vindobonensia* (8). (Vienna: Österreichische Akademie der Wissenschaften): 267–81.

of authority both within the Imamate, and outside it. The Imam's correspondence with his followers is comparable to the daily business of Jewish leaders⁹ and Christian bishops,¹⁰ who relied on messengers and written and verbal commands and petitions to regulate their communities. These comparisons allow us to see both what is shared and what is distinctive in the way different communities regulated themselves in the Umayyad and 'Abbasid empires. Scholarship on administrative procedure in this period is usually restricted to governmental procedure (whether based on the study of physical documents or literary texts), but I would argue that the letters of the Imam open a window onto another domain of document-making in Islamic society: these letters issue from an Imamic chancery that parallels many governmental forms and institutions.¹¹

Given that the Imam is writing not just as a community leader, but also as a supreme legal specialist,¹² Jawād's letter illuminates the dynamics of interaction between the formation and implementation of Islamic law. Although this particular letter was written to respond to an *ad hoc* situation, the statements of all of the Imams were liable to be taken as the basis for future legal rulings.¹³ In this case, the potential legislative force of the Imam's *ad hoc* pronouncements proved uncomfortable for later Imamis who did not recognize certain legal ramifications embodied in this letter. Thus, this letter provides a window onto the very formation of Islamic positive law through practice. The implications of these processes are significant, not just for Shi'i law, but for Islamic positive law more generally, which did not appear *ex nihilo*, but developed through social processes channelled by concrete social institutions. These processes are often invisible, and this letter gives us an important opportunity to study them.

9 See, especially, Marina Rustow, *Heresy and the Politics of Community: The Jews of the Fatimid Caliphate* (Ithaca: Cornell University Press, 2014).

10 Philip Wood, "Excommunication in the Jacobite Levant, 660–860," paper given at the workshop "Acts of Excommunication in the Late Antique and Early Islamic Middle East", Leiden University, 12–13 March 2020.

11 For an attempt to move towards an institutional history of Imami Shi'ism, see Edmund Hayes, "The Imams as Economic Actors: Early Imami Shi'ism as a 'Sacred Economy,' in *The Early Islamic Economy, 750–1050*, ed. Fanny Bessard and Hugh Kennedy (Oxford University Press, forthcoming).

12 There is, of course, much room to debate whether the Imam's legal judgment was the final word or not, and for whom, but at the very least, we can see from the reception of Jawād's letter in the lifetime of his son and successor (see below) that the Imam's legal rulings were considered authoritative, *even if* they diverged from expected legal norms.

13 See below.

Transmission history the in context of letters and works on *khums*

Before I proceed with a commentary on this letter, an analysis of its transmission history will help us contextualize what we are reading. I maintain that the clear and plausible context for the preservation of this letter, along with other indications that I will deal with below, should give us confidence that this letter may well preserve something close to the authentic instructions of the Imam to his followers.

This letter first appears in the *Tahdhīb al-aḥkām*¹⁴ by Shaykh al-Ṭā'ifa, Muḥammad b. al-Ḥasan al-Ṭūsī (d. 460/1067). The Qummī *isnād* is unremarkable, but attention should be drawn to the first transmitter of this letter: the well-known agent, 'Alī b. Mahziyār al-Ahwāzī (death date unknown). Both his bibliographical record, and his historical positioning as an agent active in western Persia place him as a plausible figure for the transmission of this letter. As expressed in its preamble, the letter was written by the Imam to 'Alī b. Mahziyār, and then read by his companion on the road to Mecca, perhaps in the context of Ḥajj, which would have been an important moment for coordinating with other members of the Imami community, as well as an important ritual observance. In carrying the Imam's letter, 'Alī b. Mahziyār was fulfilling one of the central aspects of the office of agent, which is primarily concerned with collecting money on behalf of the Imam; transmitting petitions and questions to the Imam; and carrying the Imams' letters to deliver or to read aloud to targeted individuals and groups in the community.¹⁵ 'Alī b. Mahziyār is an interesting figure. Either he himself or his father was a Christian convert to Shi'i Islam,¹⁶ a fact which evokes a hitherto unrecovered history of the Imami Imams as transitional figures for the conversion of the non-Muslim inhabitants of the empire.¹⁷ He was from Dawraq near Ahwāz,¹⁸ and transmitted hadith reports from Imam Riḍā, but thereafter became the agent responsible for Imamic communications with "several regions" under Imams Jawād and

14 Muḥammad b. al-Ḥasan al-Ṭūsī, Shaykh al-Ṭā'ifa, *Tahdhīb al-aḥkām* ed. Ḥasan al-Mūsawī al-Kharsān, 10 vols. (Tehran: Dār al-kutub al-islāmiyya, 1390 AH) 4: 141–42.

15 See Hayes, "Economic Actors".

16 Najāshī, *Rijāl*, 253–4; Kashshī, *Rijāl*, 2: 825–27.

17 See Carlson's recent comments on the difficulty of quantifying rates of conversion. Thomas Carlson, "When did the Middle East become Muslim? Trends in the Study of Islam's 'Age of Conversions'", *History Compass* 16: 10 (2018), 10 pages. On the role of Zaydi Imams in converting non-Muslim areas of the empire, see Wilferd Madelung, "Abū Ishāq al-Ṣābī on the Alids of Ṭabaristān and Gilān," *Journal of Near Eastern Studies* 26 (1967): 17–57.

18 See *Elr*, s.v. *Dawraq* (C.E. Bosworth).

Hādī.¹⁹ Both his regional origin and his activities as an agent would have led him to establish connections with the inhabitants of the Jibāl to whom this letter was addressed.

‘Alī b. Mahziyār’s identity as an agent places his involvement in the transmission of this letter into perspective. He was not acting as a scholar, as a mere conduit for textual knowledge, but rather he was deeply involved in the institutions of Imamate, and his transmission of this text was part of his duty within those institutions. This involvement in the Imamic institutions is visible in the textual output of ‘Alī b. Mahziyār. In general, it is difficult to discern particular interests in acts of hadith transmission, given the usually miscellaneous nature of hadith content. However, if we broaden our field of view to look at who else is preserving material similar to our letter, we can see something interesting. To contextualise ‘Alī b. Mahziyār’s transmission of a letter related to *khums*, let us look into the Shi‘i bio-bibliographical literature for precisely these two elements: Imamic letters, and fiscal-financial topics. Turning first to indications of interest in financial-fiscal information in the *rijāl* literature, the following is a list of authors mentioned by Najāshī as having compiled a *Kitāb al-khums*:²⁰

Authors credited with a Kitāb al-khums in Najāshī’s Rijāl

PRE-OCCULTATION

- Al-Ḥasan b. Sa‘īd b. Ḥammād b. Mihrān, a descendent of a *mawlā* of ‘Alī b. al-Ḥusayn (Zayn al-‘Ābidīn): transmitter from Imams Riḍā and Jawād²¹
- ‘Alī b. Mahziyār al-Ahwāzī: transmitter from Riḍā, then *wakīl* agent for Imams Jawād and Hādī²²
- Muḥammad b. Ūruma, Abū Ja‘far al-Qummī: transmitter from Hādī (but accused of *ghuluww* by the Qummīs and perhaps excommunicated)²³

19 Najāshī, *Rijāl*, 253. ‘Alī b. Mahziyār also is reported to have met al-Riḍā. See Muḥammad b. al-Ḥasan al-Ṭūsī, Shaykh al-Ṭā‘ifa, *Rijāl al-Ṭūsī*, ed. Jawād al-Qayyūmī al-Iṣbahānī (Qumm: Mu‘assasat al-nashr al-islāmī, 1428 AH [1997 CE]), 360.

20 Abū al-‘Abbās Aḥmad b. ‘Alī b. Aḥmad b. al-‘Abbās al-Najāshī, *Rijāl* (or *Asmā’ muṣannifi’ al-sh‘a*), ed. Mūsā al-Shubayrī al-Zanjānī (Qumm: Mu‘assasat al-nashr al-islāmī: 1407 H [1986 CE]). This, of course, is not an exhaustive list of all material on *khums* that was circulating in the Imami community, but rather an indication of some specific individuals who are recorded as having a particular interest in collecting material on *khums*.

21 Ibid., 58.

22 Ibid., 253.

23 Ibid., 329–30.

OCCULTATION-ERA

- Muḥammad b. al-Ḥasan b. Farrūkh al-Ṣaffār, Qummī, Ash'arī *mawlā* (d. 290/903) (author of *Baṣā'ir al-darajāt*)²⁴
- Ḥamīd b. Ziyād b. Ḥammād b. Ḥammād b. Ziyād al-Dihqān, Abū Qāsim, (d. 310/923)²⁵
- Aḥmad b. Muḥammad b. al-Ḥusayn b. al-Ḥasan al-Qummī, (d. 350/960)²⁶
- Muḥammad b. Aḥmad b. Junayd Abū 'Alī al-Kātib al-Iskāfi²⁷
- Ibn Bābawayh, Muḥammad b. 'Alī (the younger) (d. 381/991)²⁸

In addition to this survey of *khums* authors, I looked at references to transmitters of letters and correspondence: rescripts (*tawqī'āt*) and epistolary responsa (*masā'il*).²⁹ The following is a list of authors credited by Najāshī as having compiled collections of Imamic rescripts:³⁰

Transmitters of rescripts (tawqī'āt) mentioned by Najāshī:

PRE-OCCULTATION

- Muḥammad b. 'Īsā b. 'Ubayd b. Yaqtīn, transmitter from Jawād³¹
- 'Alī b. Mahziyār: transmitter for and agent of Jawād³²

SPANNING PRE-OCCULTATION TO OCCULTATION ERA

- 'Abd Allāh b. Ja'far al-Ḥimyarī: transmitter from Hādī and 'Askarī³³
- Muḥammad b. 'Abd Allāh b. Ja'far al-Ḥimyarī: transmitter from Hādī and 'Askarī, and the hidden Imam³⁴

OCCULTATION ERA

- Ibn Bābawayh, Muḥammad b. 'Alī (the younger)³⁵

²⁴ Ibid., *Rijāl*, 354.

²⁵ Ibid., *Rijāl*, 132.

²⁶ Ibid., *Rijāl*, 89–90.

²⁷ Ibid., *Rijāl*, 385–87.

²⁸ Ibid., *Rijāl*, 389.

²⁹ The word *masā'il* is prominent in connection with letters to and from Imams, but it does not necessarily indicate an epistolary context, as it might also refer to oral teaching sessions. See Najāshī, *Rijāl*, throughout.

³⁰ *Tawqī'āt* (rescripts), strictly should refer to letters written in response to a question or petition, usually on the same page as the original petition. However, in the usage of Imami bibliographers, it is often used as an umbrella term referring to Imamic letters in general.

³¹ Najāshī, *Rijāl*, 334.

³² See above.

³³ Ibid. 220.

³⁴ Ibid., *Rijāl*, 355.

³⁵ Ibid., *Rijāl*, 391.

When we compare these two lists, which represent separate spheres of transmission, we find only a single name present in both: ‘Alī b. Mahziyār.

If we reverse this experiment, we would expect that ‘Alī b. Mahziyār should be represented in the *isnāds* of hadiths relating to *khums* and letters and this is indeed the case,³⁶ and it is notable that questions about *khums* are relatively commonly transmitted to the Imam via letter which helps us understand how a geographically widespread revenue-collection network was maintained and justified. This *khums* letter, then, appears to be one of a dossier of *khums* hadiths in which ‘Alī b. Mahziyār plays a notable role, which reflects his historical occupation as a fiscal agent for the Imam, rather than merely as a *muḥaddith* interested generally in the preservation of Imamic knowledge.

The fact that ‘Alī b. Mahziyār was both an agent and a *muḥaddith* is crucial. It reminds us that the collection of the Imami hadith corpus was implicated in practical administrative activities such as revenue collection and the drafting and dissemination of official letters. Legal hadith produced during the lives of Imams were not produced with post-Occultation legislation in mind, though that is how they are usually treated, but with the day-to-day implementation of legal precepts in life under an active Imamate. All of the contextual information we can find about the letter analysed here suggests that it did, indeed, emerge in the context of practical communications between the Imam and his followers, mediated by an agent, and responding to conditions on the ground. Whether the Imam himself put pen to paper is another question, but there is no good reason to doubt that, at the very least, the letter emerged from an Imamic chancery or secretariat and expresses the aims of the Imamate as an institution.

Historical context

Let us now examine the historical context suggested by the letter itself. While explicit details are scanty, the letter is a richly suggestive document that

36 ‘Alī b. Mahziyār is recorded as transmitting a letter on *khums* in the following cases: Ibn Bābawayh, *Man lā yaḥḍuruḥu al-faqīh*, 2: 44; Kulaynī, *Kāfī*, 1: 547. In order to study the question of Imami *khums* I have collected as many hadith on this topic as I have been able to find, focusing initially on the early “Four Books” of Twelver hadith: Abū Ja‘far Muḥammad b. Ya‘qūb al-Kulaynī, *al-Kāfī*, ed. ‘Alī Akbar Ghaffārī, 8 vols. (Tehran: Dār al-kutub al-islāmiyya, 1388–1391 H [1968–1971]); Abū Ja‘far Muḥammad b. ‘Alī b. al-Ḥusayn Ibn Bābawayh al-Qummī, *Man lā yaḥḍuruḥu al-faqīh*, ed. ‘Alī Akbar Ghaffārī, 4 vols. (Qumm: Jam‘at al-mudarrisīn fī al-ḥawza al-‘ilmiyya fī qumm al-muqaddasa, 1392 H [1972–3]); Muḥammad b. al-Ḥasan al-Ṭūsī, Shaykh al-Ṭā‘ifa, *Tahdhīb al-aḥkām* and his *Istibṣār*, ed. Ḥasan al-Mūsawī

provides valuable social context for the Imam's interaction with his community. The precise details of the historical context of this text are not clear, but we are fortunate to have a date for the letter, probably added parenthetically into the text of the letter at some point during its transmission. The date given is 220/835, the last year of the Imam's life. The historical event that the letter responds to is a battle in which followers of the Imam based in the Jibāl gained booty from a group of defeated Khurramiyya. The Khurramiyya were largely rural Iranians who objected to Arab-Muslim rule. They had Iranian dualist religious beliefs and cultural practices, which meant they would have been considered equally heretical by both 'Abbasids and Imamis. It is not clear which engagement with the Khurramiyya the letter refers to. There were several battles with Khurrami rebels in and around western Iran at this time. The most famous rebel was Bābak (d. 223/838), who was based in Adharbayjān, rather than the Jibāl, though it is possible that the term "Jibāl" refers loosely to a broad mountainous zone that extends into Adharbayjān. In 220/835, there were, indeed, battles against Bābak, after the caliph Mu'taṣim (r. 218–27/833–42) sent the general al-Afshīn (d. 226/841) to address the Khurrami threat. However, the sources do not report that large amounts of booty were taken in this year. Bābak was finally defeated in 222/837.

An earlier battle may fit more closely with geographical hints and the mention of large amounts of booty. If we assume that the letter's date was added by later transmitters, it is possible that the booty mentioned was taken at an engagement against another Khurrami, 'Alī b. Mazdak, who was defeated at a large battle in 218/833 near his stronghold in the village of Shahristāna, in the region of Farīvār, one of the five districts of Hamadān in the Jibāl. In this action, the caliph Mu'taṣim sent 40,000 men with his general Ishāq, and 10,000 Khurramis surrendered. Those who escaped marched on Isfahan, commanded by 'Alī b. Mazdak, and started pillaging. The governor of Isfahan, 'Alī b. 'Īsā, was not in the city, but the city's Qāḍī and notables marched out and defeated the Khurramiyya, killing many and enslaving their women and children.³⁷ Both the first defeat by the 'Abbasid army and the latter defeat by the people of Isfahan appear to have resulted in booty being taken from the Khurramiyya. Either encounter may form the occasion for the Imam's letter. The region of

al-Kharsān, 4 vols. (Najaf: Dār al-kutub al-islāmiyya, 1375/ 1956). I supplemented these with the mega-collection of Muḥammad b. al-Ḥasan al-Ḥurr al-ʿĀmili, *Tafṣīl wasā'il al-shī'a ilā taḥṣīl masā'il al-sharī'a*, anonymous editors, 30 vols. (Qumm: Mu'assasat āl al-bayt 'alayhim al-salām li-ihyā' al-turāth, 1416) 9: 501–3.

37 Gholam Hossein Sadighi, *Les mouvements Religieux Iraniens* (Paris: Presses modernes, 1938), 250–3.

Hamadān is fairly regularly encountered in Imami sources as a place where members of the Imami community lived in this period. The fact that the letter's recipient, 'Alī b. Mahziyār, was from Ahwāz in western Iran is suggestive of the way that regional communications were often handled by agents who hailed from the same region. It is, of course, possible that the engagement referred to in the letter was one that is not mentioned in the historical record. In any of these cases, it is clear that the military engagement was not led by the Imam himself, and could well have reflected Imamīs fighting within the armies of the caliphate. The idea of Shi'a fighting for the caliph seems unusual from the perspective of later doctrine, but it would probably have been unremarkable for those engaged in it, a case perhaps comparable to that of bureaucrats serving in caliphal administrations.³⁸ However, we may nonetheless speculate that fighting for the caliph may have represented an infraction that required such expiation as referred to in the letter,³⁹ or, more likely, that profits made in such an action were assessed as not fully *ḥalāl*, and therefore required purification through an expiatory payment.

The Arabic letter text

The letter is first recorded in Ṭūsī's *Tahdhīb*,⁴⁰ in a chapter dealing with dispensations on payments of *khums* to the Imam, and repeated in Ṭūsī's *Istibṣār*,⁴¹ which purports to be an epitome of the *Tahdhīb*. I use Ṭūsī's version in the published edition of the *Tahdhīb*⁴² as the basis of the text below. Al-Ḥurr al-ʿĀmilī (d.1104/1693) also reports it in his *Wasā'il al-shī'a*,⁴³ and I have noted the minor differences with Ṭūsī's version in the footnotes.

(1) ما رواه محمد بن الحسن الصفار عن أحمد بن محمد وعبد الله بن محمد عن علي بن مهزيار قال:

كتب إليه أبو جعفر عليه السلام قرأت أنا كتابه إليه في طريق مكة قال

38 Wilferd Madelung, "A Treatise of the Sharīf al-Murtaḍā on the Legality of Working for the Government (*Mas'ala fi 'l-'amal ma'a 'l-sultān*)", *Bulletin of the School of Oriental and African Studies*, 43: 1 (1980): 18–31.

39 Thanks to the anonymous reviewer for suggesting this line of reasoning.

40 Ṭūsī, *Tahdhīb*, 4: 141–42.

41 *Istibṣār*, 2: 60–62.

42 The punctuation is my own.

43 Al-Ḥurr al-ʿĀmilī, *Wasā'il*, 9: 501–3.

(2) إن الذي أوجبت في سنتي هذه (وهذه سنة عشرين ومائتين) فقط لمعنى من المعاني، أكره تفسير المعنى كله خوفاً من الانتشار، وسأفسر لك بقيته⁴⁴ إن شاء الله. إن موالي أسأل الله صلاحهم أو بعضهم قصرُوا فيما يجب عليهم فعلت ذلك وأحييت أن أظهرهم وأزكيهم بما فعلت في عامي هذا من الخمس.⁴⁵ قال الله تعالى:

خذ من أموالهم صدقة تطهرهم وتزكيهم بها وصل عليهم إن صلاتك سكن لهم والله سميع عليم،
 ألم تعلموا أن الله يقبل التوبة عن عباده ويأخذ الصدقات وأن الله هو التواب الرحيم.
 وقل اعملوا فسيرى الله عملكم ورسوله والمؤمنون وستردون إلى عالم الغيب والشهادة فينبئكم بما كنتم تعملون.

(3) ولم أوجب ذلك عليهم في كل عام ولا أوجب عليهم إلا الزكاة التي فرضها الله عليهم.

(4) وإنما أوجب عليهم الخمس في سنتي هذه في الذهب والفضة التي قد حال عليها الحول،⁴⁶ ولم أوجب عليهم ذلك في متاع ولا آنية ولا دواب ولا خدم ولا ربح ربحه في تجارة ولا ضيعة إلا ضيعة سأفسر لك أمرها تخفيفاً مني عن موالي ومنّا مني عليهم لما يغتال السلطان من أموالهم ولما ينوبهم في ذاتهم.

44 The version of al-Hurr al-ʿĀmilī reads: “*wa-sa-ufassir la-ka baʿaḍahu*”.

45 The version of al-Hurr al-ʿĀmilī reads: “*min amr al-khums*”.

46 The version of al-Hurr al-ʿĀmilī reads: “*allatī qad ḥāla ʿalayhi al-ḥawl*”.

(5) فأما الغنائم والفوائد فهي واجبة عليهم في كل عام. قال الله تعالى:
واعلموا أنما غنمتم من شيء فإن لله خمسة وللرسول ولذي القربى واليتامى
والمساكين وابن السبيل إن كنتم آمنتم بالله وما أنزلنا على عبدنا يوم الفرقان يوم
التقى الجمعان والله على كل شيء قدير.

والغنائم والفوائد يرحمك الله فهي الغنيمة يغنمها المرء، والفائدة يفيدها، والجائزة
من الانسان التي لها خطر، والميراث الذي لا يحتسب من غير أب ولا ابن
ومثل عدو يصطلم فيؤخذ ماله، ومثل المال يؤخذ ولا يعرف له صاحب، ومن
ضرب⁴⁷ ما صار إلى موالى من أموال الخزمية الفسقة.

(6) فقد علمت أن أموالاً عظيماً صارت إلى قوم من موالى فن كان عنده شيء من
ذلك فليوصل إلى وكلي ومن كان نائياً بعيد الشقة فليتعهد لإيصاله ولو بعد
حين، فإن نية المؤمن خير من عمله.⁴⁸

(7) فأما الذي أوجب من الضياع والغلات في كل عام فهو نصف السدس ممن
كانت ضيعته تقوم بمؤنته، ومن كانت ضيعته لا تقوم بمؤنته فليس عليه
نصف سدس ولا غير ذلك.⁴⁹

Translation

- (1) [This is] what Muḥammad b. al-Ḥasan al-Šaffār transmitted, from Aḥmad
b. Muḥammad and ‘Abd Allāh b. Muḥammad, from ‘Alī b. Mahziyār:

47 The phrase, “*wa min ɗarb*” is left out from *Istibṣār* and *Wasā’il*.

48 A reference to a prophetic hadith. Kulaynī, *Kāfī*, 2: 84.

49 Ṭūsī, *Istibṣār*, 2: 60–62.

Abū Ja‘far [i.e. Imam Jawād] (peace be upon him) wrote to him [‘Alī b. Mahziyār] and I⁵⁰ read [the Imam’s] letter to him on the road to Mecca.⁵¹

[The Imam] said:⁵²

- (2) “What I have imposed [upon you] this year (and this year was 220 [835 CE])⁵³ is due to only one reason out of several. However, I am loath to explain the reason in its entirety for fear that it will be spread around.⁵⁴ But I will explain the rest of it⁵⁵ to you, God willing. My followers (I ask God to make them righteous)⁵⁶ or some of them, have fallen short in what is required of them, and I came to know about that, and I wanted to purify them and cleanse them⁵⁷ by means of the *khums*-related actions I have taken this year.⁵⁸

50 “I” here presumably refers to one of the transmitters from ‘Alī b. Mahziyār: Aḥmad b. Muḥammad or ‘Abd Allāh b. Muḥammad.

51 The journey was perhaps occasioned by the Ḥajj pilgrimage, which was a key node for Shi‘i mobilization. See Edmund Hayes, “Entwined Itineraries: Shi‘i Interpretations of the Ḥajj and the *Ziyāra* to the Imams,” forthcoming.

52 The text of this letter omits conventional formulae for letter openings.

53 In my translation, I use square brackets for explanatory words that are not present in the Arabic text, and parentheses to indicate words that are present in the Arabic text, but are parenthetical, like blessings and insertions. Here, the specification of the year must be a parenthetical statement added by one of the transmitters, and thus, although it is part of the Arabic text as transmitted, it should be considered external to the original letter.

54 See Modarressi’s speculation that the Imam’s reticence was due to the desire to keep quiet the need for money for certain poor members of the Prophet’s family. *Crisis*, 12. However, there is no contextual evidence that might confirm or deny Modarressi’s speculation.

55 The version of al-Ḥurr al-‘Āmilī reads “some of it” (*ba‘ḍ-ahu*).

56 See Grob’s comment that “slide-in blessings” such as this announce and draw attention to the opening of a significant new topic section in letters from this period on papyri. Eva Grob, *Documentary Arabic Private and Business Letters on Papyrus: Form and Function, Content and Context*, (De Gruyter: Berlin, 2010), 33–38.

57 The relationship suggested here between *khums*-payment and purification anticipates the Qur’anic verse quoted in the following passage. There does not seem to be any difference between *ṭahāra* and *tazkiya* here. Both refer to the ritual function of the canonical Islamic taxes. In earlier Imamic hadith, however, the word *ṭahāra* is associated with *khums*, while *tazkiya* is associated with its cognate, *zakāt*, which, in turn, is usually synonymous with *ṣadaqa*. Edmund Hayes, “Alms and the Man: Finance and Resistance in the Legal Statements of the Shi‘i Imams,” *Journal of Arabic and Islamic Studies* 17 (2017): 280–98.

58 Al-Ḥurr al-‘Āmilī adds the word “*amr*”, which, if accepted, would lead to the phrase being translated as “regarding the matter of the *khums*.” In either case, the Imam indicates that his imposition of the *khums* “this year” is intended as an expiation for a particular group of his followers who have fallen short of their obligations in some specific way.

God (T) said:⁵⁹

Take of their wealth a ṣadaqa,⁶⁰ to purify them and to cleanse them thereby, and pray for them; your prayers are a comfort for them; God is all-hearing, all-knowing.

Do they not know that God is He who accepts repentance from His servants, and who takes the ṣadaqas, and that God is the acceptor of repentance⁶¹ and is all-compassionate?

Say: "Work; and God and His Messenger and the believers will surely see your work, and you will be returned to Him who knows the unseen and the visible, and He will tell you what you were doing." [Q 9:103–5]

- (3) But I did not impose that⁶² upon them every year; I do not impose anything upon them except for the *zakāt*, which God has made an obligation (*faraḍa*) upon them.⁶³
- (4) This year I am only imposing upon them the *khums* on gold and silver that has passed a full tax year (*ḥawl*).⁶⁴ I have not imposed that upon their household goods (*matāʾ*), nor their kitchen and tableware (*āniya*), nor their riding beasts, nor their slaves (*khadam*), nor the profit he made (*ribḥ rabaḥahu*) through trade, nor agricultural estates, except the estate whose conditions I will describe for you. [And I did this] so as to mitigate the burden (*takhfif*) on my followers, as a benevolence from me to them, in recompense for what the government (*sulṭān*)⁶⁵ misappropriates

59 I follow *The Koran Interpreted*, tr. Arthur Arberry (London: Oxford University Press, 1964) for English translations of Qurʾānic passages, with alterations, which I deem suitable to the context of this letter.

60 Arberry translates *ṣadaqa* as "freewill offering." I prefer to leave it untranslated, as Jawād provides his own interpretation of Qurʾānic terms in his letter.

61 Arberry has "He turns".

62 Given its position following the Qurʾānic proof text, "that" must refer to a *ṣadaqa* taken on the properties (*amwāl*) of the believers as a purification in response to an act of repentance. Jawād uses this proof text to justify the *khums*. See commentary, below.

63 I.e. God imposed the *zakāt* explicitly through Qurʾānic statements. The Imam seems thereby to be treating his own legal injunctions as a separate layer of legislation alongside God's Qurʾānic stipulations, but without equal force. Twelver Shiʿi scholars tend to view the statements of Imams as representing God's law, but the Imam here clearly distinguishes between his own actions, reported in the first person ("I have imposed", "what I have done") and what God has imposed in the Qurʾān.

64 The reference to "the tax year (*ḥawl*)" is regarded as strange by later jurists (see below), for it is usually applied to the obligatory *zakāt*, but not to the *khums*.

65 Kennedy notes that, "By the eleventh century the Arabic world *sulṭān* is used as the title of individual rulers... In the ninth and tenth centuries, however, it was used to denote "the administration" or, in a very real sense, "the state" in Arabic historical sources. It consisted of the personnel of government, and the administrative institutions and procedures that

(*yaghtāl*) from their properties,⁶⁶ and for what afflicts them with regard to their property (*dhāt*).

- (5) But as for the gains (*ghanā'im*) and the profits (*fawā'id*), they are obligatory upon them every year. God said:

Know that, whatever you gain,⁶⁷ the fifth of it is God's, and the Messenger's, and the near kinsman's, and the orphan's, and for the needy, and the traveller, if you believe in God and what We sent down upon Our servant on the day of salvation, the day the two hosts encountered; and God is powerful over everything. [Q 8: 41]

And the gains and the profits (may God forgive you) are the gains that a man gains and the benefit he benefits from; and a gift of great value (*khaṭar*) from someone; and an inheritance that is not reckoned (on),⁶⁸ from someone who is neither a father nor a son,⁶⁹ or like an enemy who is destroyed and his wealth (*māl*) is taken; or like wealth that is taken whose owner is not known; or the coin (*darb*) that accrued to my followers from the wealth of the corrupt (*fasaqa*)⁷⁰ Khurramiyya.

- (6) For I have learned that great wealth accrued to a group (*qawm*)⁷¹ of my followers, so whoever has had some of that, then let it be sent to my agent (*wakīl*). And whoever has good intention, [but] is in a distant region (*ba'īd al-shiqqa*), then let him rely⁷² [upon someone] to deliver it, even

survived... rulers and dynasties." Hugh Kennedy, "Landed Property and Government Finance in the Early 'Abbasid Caliphate," in *The Making of Europe: Essays in Honour of Robert Bartlett*, ed. Sally Crumplin and John Hudson (Leiden: Brill, 2016): 264–276, at 264.

66 The question of whether a Shi'i should pay twice for something that the government misappropriates is a common issue in Shi'i law, discussed with regards to *kharāj* and *zakāt-ṣadaqa* in different places. See Hayes, "Alms and the Man."

67 Arberry has "whatever booty you take". I have translated the phrase more literally as "whatever you gain." See the Imam's interpretation of "gains" (*ghanā'im*) below.

68 I have placed "on" in parentheses to signal alternate possible interpretations of *ihtasaba*, which can signify "to consider", "to account for", "to reckon on", "to count on"; or "to prepare oneself for a reward." See Lane, *Lexicon*, 1: 565.

69 It is strange that an inheritance taken from someone who is neither father nor son should be classified among the "gains". Later jurists puzzled over this classification. See below, on the later reception of this letter.

70 The word *fāsiq* and its cognates generally refer to Muslims who have stepped beyond the bounds of normative Muslim practice and belief. These words have a long and complex history. See Josef van Ess, *Theologie und Gesellschaft im 2. und 3. Jahrhundert Hidschra: eine Geschichte des religiösen Denkens im frühen Islam*, 6 vols. (Berlin; New York: de Gruyter, 1991–1997), 1: 264.

71 The word *qawm* may also refer to a tribe, a family or a theological sect.

72 A marginal note found on a manuscript mentioned by the editor at qadatona.org suggests *ya'mid* instead of *ya'tamid*, which, if incorporated, would lead to the following translation:

after some time has elapsed, for the intentions of a believer are better than his deeds.

- (7) As for what is obligatory upon the agricultural estates (*diyāʿ*) and harvest revenues (*ghallāt*) each year, well, it is half a sixth [i.e. a twelfth] from someone whose estate is sufficient for his upkeep, and if his estate does not supply enough for his upkeep, then he need not pay half a sixth or anything else."

Interpretation

Structure

The absence of an opening formula or final blessings suggests that what is quoted here is not the entire letter. It may, however represent the majority of the letter, with opening and closing omitted in the interests of concision. This letter may have been responding to an earlier letter, for the Imam refers to the shortcomings of his followers, perhaps suggesting that earlier demands had not yet been fulfilled. Extant letters from this period on papyrus often begin by alluding to earlier correspondence. In other ways, the stylistic features of the letter fit generally with letters from the period.⁷³

The categories referred to in this letter are not entirely familiar from the perspective of classical Imami *fiqh*. But before we discuss the later reception of this letter, let us attempt to understand it on its own terms. In the letter we can distinguish the following interrelated categories:

- (1) A *khums* levy understood as an expiatory and purificatory *ṣadaqa*.
- (2) *Khums* imposed "this year" on gold and silver that has passed a tax year.
- (3) *Khums* that is exempted "this year" but that could be imposed upon other assets (household goods, kitchenware and tableware, riding beasts, slaves) and revenues (the profits of trade and agriculture)
- (4) The obligatory *zakāt* imposed by God.
- (5) "Gains and benefits" (*al-ghanā'im wa-l-fawā'id*), which include the spoils of war, valuable gifts, certain categories of inheritance, and property gained whose owner is not known.

"let him make an intention to deliver it". This translation would fit the Imam's discussion of intentionality further on in the letter. See: <http://qadatona.org/%D8%B9%D8%B1%D8%A8%D9%8A/%D8%A7%D9%84%D8%AD%D8%AF%D9%8A%D8%AB/12583> retrieved 19.3.2020.

73 See, for example, what Grob terms "slide-in blessings", conventional blessings, such as "*aṭāllāh baqā'ahu*", used to indicate respect for the addressee, and also as structural markers in the letter. Grob, *Documentary Arabic*, 33–8.

(6) A levy of a twelfth imposed on agricultural estates.

To anyone familiar with classical *fiqh*, these categories will seem peculiar. While the *zakāt* is clearly separated from the other categories,⁷⁴ the exact relationship between the expiatory *khums* and the “gains and benefits” is not clear.

The letter is structured using various text markers, with new sections introduced by *inna*, *innamā*, *fa-ammā*, and *fa-qad*. These markers are important for understanding the relations between the categories. A further structural cue is provided by the two Qurʾānic proof texts that justify certain parts of the Imam’s rulings. Three umbrella categories emerge from a reading of these proof texts: the expiatory *khums* justified with reference to Q 9:103–5; the obligatory *zakāt*, for which no text is provided here, but it is implied that God has made it explicit elsewhere; and the “gains and benefits” justified with reference to Q 8: 41.

Ghanīma is usually closely related to *khums*, and we would therefore expect the expiatory *khums* (category 1) to be an umbrella category including all the other levies except the obligatory *zakāt*, which is distinct. However, while categories 2 and 3 from the list above seem to belong to the expiatory *khums*, the syntax and structure of the letter sets category 5 clearly apart, through the structural marker “and as for” (*fa-ammā*), placing it in an ambivalent relation to the other categories. Another element that sets category 5 apart is the statement that the “gains and benefits” are said to be obligatory every year, in contrast to category 3, for which an exemption has been granted. Category 6, agricultural estates, has already been mentioned with categories 2 and 3. However, unlike categories 2 and 3, category 6 is not a levy of a “fifth” (*khums*), but rather a twelfth (*niṣf al-suds*). Thus, though we may be excused for attempting to impose the classical Twelver *khums* as an umbrella category that contains categories 1, 2, 3, 5 and 6, this letter provides fragile support to attest to such a master category. To resolve these difficulties, we must discuss the categories in detail.

Imam Jawād begins with a discussion of the expiatory *khums*. He states that he imposes the *khums* “this year” in particular, and that he intends thereby to purify his followers. To support this, Jawād quotes a Qurʾānic proof text, Q 9: 103–105, to show why his followers should pay the money demanded. This passage refers to the *ṣadaqa* in both singular and plural, as well as using the verb “purify” (*tuzakkī*), which is typically related through its root to the category of

74 The Imam leaves the nature of the *zakāt* without qualification or discussion in this letter: apparently this category is self-evident. We may assume, therefore, that the general outlines of *zakāt* were self-evident to the letter’s intended recipients. The law of *zakāt* seems to have been relatively stable in its main features across communities in this period, and statements relating to *zakāt* attributed to earlier Imams do not diverge dramatically from Sunni and Zaydi conceptions. See Hayes, “Alms and the Man”.

zakāt.⁷⁵ However, it is clear from what follows that this passage from the Qur'ān is invoked to support the Imam's demand for payment of *khums*, and not *zakāt*, for he follows the proof text with the statement, "But I did not impose that upon them every year; I do not impose anything upon them except for the *zakāt*, which God has made an obligation (*faraḍa*) upon them." The positioning of this Qur'ānic proof text in the letter makes it clear that it is being used to support *khums*. Because this proof text is being cited to justify the *khums*, we can infer that Imam Jawād considers the *khums* to be a kind of *ṣadaqa*: a pious offering that results in purification. The proof text also links *ṣadaqa* to contrition (*tawba*). This reference to the payment of a *ṣadaqa* as an act of contrition echoes the Imam's introductory comment about the shortcomings of his followers and his use of *khums* to purify them, suggesting that the payment of the *khums* serves as a kind of expiation for wrongs committed by them. One would be excused for assuming that this expiation was related to the failure of the Imam's followers to send the booty to him after their encounter with the Khurramiyya. However, this is not necessarily the case, for the direct link with expiation is only made in the case of the *khums* levied on gold and silver that has passed a tax year, and not on the spoils of war, which apparently fall into a different category.⁷⁶

The Imam does not offer any explicit interpretation of the nature of the expiation he is offering by collecting *khums* on gold and silver. The opening statement that some of the Imam's followers had fallen short in their obligations and that he "wanted to purify them" using the *khums* suggests that the Imam was mandating the payment of *khums* as a one-time expiation for a one-time infraction. However, this seems to contradict the letter's suggestion that regular *khums* payments were expected unless a dispensation had been offered. It is not clear how to resolve this tension between the *ad hoc* and the expected. One interpretation might be that the previous infraction was precisely that the Imam's followers had not paid an earlier instalment of

⁷⁵ *El*², s.v. *Zakāt* (Aron Zysow).

⁷⁶ The case might be made that the gold and silver that have passed a tax year (*ḥawl*) are identical with the coin (*darb*) taken from the Khurramiyya. Although this argument might seem plausible, it is incorrect, for the levy on the immediate windfall profit from military booty is distinct from monetary capital that has remained in one's possession for a full year. In addition, if they both belonged to the same category, then why would Imam Jawād deal with gold and silver in the section of his letter dedicated to the expiatory *khums*, and the coin from the Khurramiyya in a separate section dealing with *ghanā'im* and *fawā'id*? And why does he say that he is imposing the *khums* on gold and silver only "this year", while maintaining that the *ghanā'im* (including that on the spoils taken from the Khurramiyya) is to be imposed every year?

the *khums*, perhaps justified by complaints about the burden of governmental taxation, alluded to as “what the government misappropriates from their properties”.⁷⁷ By offering a dispensation, therefore, the Imam may have been indicating that the regular payment of the *khums* was still required, but that in practice he was willing to offer a discount in recognition of the difficult circumstances created by the illegitimate ruler’s misappropriations.⁷⁸ According to this interpretation, the *khums* would be understood as levy, at least some of which should be paid every year. In the case referred to in the letter, the expiatory function of the *khums* was invoked to meet specific circumstances, while also being understood as part of the regular, ongoing function of *khums* in general. Indeed, if we look at statements attributed to earlier Imams, the *khums* was already understood to have a purificatory function.⁷⁹ Other interpretations are, of course also possible, and ultimately we must accept that we do not know what infractions motivated this letter and its imposition of the expiatory *khums*.

The status of Islamic canonical taxes levied by an illegitimate government is a frequent question in hadith and in later juristic discussions. Pious Muslims were understandably interested in whether wealth illegitimately seized as *zakāt* and *kharāj* by an oppressive government could be counted towards one’s legitimate *zakāt* and *khums*.⁸⁰ The reference to governmental misappropriations as the reason for the dispensation, then, is part of a larger discourse. In the absence of any further evidence, we may assume that the misappropriations refer either to regular governmental collections of *zakāt* (*‘ushr*) or to *kharāj* on agricultural lands.

77 Another possible explanation is that *khums* was a recognized category levied upon recognized items, but not at regular intervals. It is also possible that the mention of the dispensation is a rhetorical move, implying that the Imam’s followers are lucky that he is giving them a discount on what they owe.

78 The struggle to maintain revenues without permanently alienating or bankrupting the taxpayer is visible in documents issuing from governmental administrations in Egypt. On governmental attempts to ensure that peasants pay their taxes, but without encouraging them to leave their villages and forfeit their payments altogether, see Eline Scheerlinck’s forthcoming dissertation on Coptic protection letters at the University of Leiden. See also Qurra b. Sharīk’s efforts to collect money from distant villagers through the agency of the apparently uncooperative *pagarch* Baslieios. Papaconstantinou, “Rhetoric of Power”, 267–81.

79 For example, in one hadith attributed to al-Ṣādiq, he says “*Khums* purifies their births for them.” Kulaynī, *Kāfī*, 1:546. I assume that these hadiths are indeed historically prior to Jawād’s *khums* letter, an issue that merits further scrutiny.

80 See Sijpesteijn, *Shaping a Muslim State*, 196–197; Hayes, “Alms and the Man”, 288–293; *Elʿ*, s.v. *Zakāt* (Aron Zysow).

While the Imam Jawād clearly states that the expiatory *khums* is separate from the obligatory *zakāt*, at least some of the items he mentions as subject to the *khums* (gold and silver that has passed a tax year, and agricultural profits) are precisely those that are subject to *zakāt*. This is a problem that was identified by later jurists, and I will return to it below.

The Imam indicates that the spoils from the Khurramiyya action fall under a different category from the levy on gold and silver, household items, and agricultural estates. While this categorization may have made sense to his audience, it appears strange from the perspective of classical Twelver *fiqh*. The spoils are termed as part of a category known as the “gains and benefits” (*al-ghanā'im wa-l-fawā'id*), which, in contrast to this expiatory *khums*, are dealt with in a paragraph that is introduced with a clear marker of contrast: “and as for...” (*fa-ammā*). In particular, the latter categories (2–3) appear to be a non-obligatory *khums*, while the Imam designates the “gains and benefits” as “obligatory... every year,” and in order to demonstrate its obligatory character he cites a Qur'ānic proof text. This separation of a non-obligatory, or rather *ad hoc*, *khums* from a permanently obligatory *ghanā'im/fawā'id* does not appear to correspond to any other taxonomy of Islamic revenue categories of which I am aware. *Ghanīma* is usually considered one of between four and seven major categories of income upon which the *khums* is levied, along with mining, discovered treasure, pearl diving, salt production, and so on.⁸¹ In early Imamic hadith, terms are often left unexplained, but *ghanīma*, *ghanā'im* and cognates like *maghnam* are usually understood as referring to the spoils of war. Jawād's list of items that are considered to be *ghanā'im* and *fawā'id* is unique, to my knowledge.

As for the term “benefit” (*fā'ida*, pl. *fawā'id*), a few hadiths attributed to earlier⁸² Imams suggest that the meaning of *fā'ida* had already been raised as a question that required elucidation. Thus, for example, in one hadith, Imam Ṣādiq is asked about the meaning of *ghanīma* in Q 8:41, and he glosses *ghanīma* as referring to one's benefit or profit (*ifāda*) earned from day to day.⁸³ The rest of the hadith is not without its difficulties, but Ṣādiq's statement suggests that *fā'ida* or *ifāda* was recognized as a distinct legal category, but one which was

81 See Kulaynī, *Kāfī*, 1: 539, and al-Ḥurr al-Āmilī, *Wasā'il*, 9: 489–90. See also Norman Calder, “*Khums* in Imāmī Shī'ī Jurisprudence, from the Tenth to the Sixteenth Century A.D.,” *Bulletin of the School of Oriental and African Studies* 45:1 (1982): 39–47.

82 It is, of course, possible that Jawād's letter precede these hadiths chronologically, and that the ‘earlier’ statements are in fact later, retrospective glosses on a problematic term placed into the mouths of earlier Imams.

83 “[*Ghanīma*] is, by God, benefit from day to day (*al-ifāda yawman bi-yawmin*), except that my father gave his Shī'a a dispensation (*fi ḥillin*) to pay *zakāt* in order that they be purified.”

then still unclear and needed elucidation. The relationship between *ifāda* and *zakāt* or *khums* is left unexplained. Another hadith reported from an anonymous Imam by a transmitter who was a companion of al-Riḍā, al-Jawād, and al-Hādī⁸⁴ equates *fā'ida* again with daily income, including the profits from trade and agriculture.⁸⁵ But if, as these two hadiths suggest, *fā'ida* was daily income, then Jawād's intervention was doubly strange, for he lists the profits of trade and agriculture as part of the expiatory *khums*, clearly separated from the *fawā'id*. If we assume that Jawād's letter does, indeed, postdate these hadiths, the apparent contrast between the letter and earlier tradition can be interpreted in a number of ways. It is possible that Jawād was unaware of these other Imamic statements, that he disagreed with them, or that he simply did not take them to be binding on his practice. None of these conclusions need disturb us, in spite of the orthodox Twelver expectation that the law of the Imams should be uniform, with any contradictions being merely apparent.

The category of the inheritance "not reckoned (on), from someone who is neither a father nor a son" is also obscure. The inclusion of this category as part of *khums* or *ghanīma* does not coincide with classical categories of inheritance law, whether Sunni or Shi'i. Jawād's imposition of a levy on inheritance, is, it is true, restricted to a particular case. Later interpreters found the phrasing of the inheritance clause in this letter difficult.⁸⁶ The phrase "not reckoned (on)" (*lā yuḥtasab*) admits at least two interpretations. (1) It could mean that the inheritance is unexpected and has not been reckoned on or counted on previously. It is a windfall profit, like other categories mentioned amongst the "gains and benefits". (2) Alternatively, it might mean that the inheritance is an uncanonical pay-out that is not to be considered as part of the inheritance proper. In this case, the phrase might be translated as follows: "The inheritance that is not to be accounted/considered." This interpretation implies that the kind of inheritance under consideration is not one that is recognized by some Shi'i jurists, an interpretation taken up by later Shi'i jurists, as we will see.

These interpretations of the inheritance clause lead us to an interesting set of debates surrounding the category of "neither father nor son", evoking an area of inheritance law in which the Imamis took a distinctive position which contrasted with that of both Sunnis and Zaydis. The problematic Qur'ānic category of *kalāla* has been debated energetically by scholars in recent years. In

Kulaynī, *Kāfi*, 1:544. The relationship between *zakāt* and *ifāda* implied in this hadith is not explained by the Imam.

84 Aḥmad b. Muḥammad b. 'Īsā al-Ash'arī. See Tūsī, *Rijāl*, 350.

85 Kulaynī, *Kāfi*, 1: 545.

86 See below.

classical jurisprudence, *kalāla* came to be understood as the “collateral” heirs other than sons and fathers.⁸⁷ In Imami jurisprudence, a similar understanding of *kalāla* exists. However, as Madelung notes:

Sunni law, evidently following the actual practice, interpreted these Koranic rules [for the *farā'id* shares] as merely modifying the basic right of the *‘asaba* [male relatives related to the deceased entirely through male links] who would inherit whatever was left after the distribution of the shares fixed by the Koran and, if there were no heirs entitled to a Koranic share, would take the total inheritance. The female relatives and *dhawu ‘l-arḥam* [*Sic.* Male relatives related through female links] generally remained excluded except if there were no *‘asaba*, however remotely related... In Imami law, the closest relatives, irrespective of sex or whether related through male or female links, inherit after satisfaction of the claims of any Koranic heirs.⁸⁸

In the case raised by Jawād’s letter, an inheritance that was from “neither a father nor a son” would be subject to divergent procedures in Imami law and Sunni law. If, for example, a Shi’i male were to receive a share of inheritance that had been divided up by a Sunni executor, it would raise the possibility that he was excluding a female relative who was more closely related and more entitled to it than him, due to Sunni rules that favored the *‘asaba* (*ta’ṣīb*). It is possible, then, that Jawād’s letter may refer to existing discussions within the Imami community about how disjunctions between Imami and Sunni practices were to be managed on a practical level. The challenge of managing the differences between Shi’i concepts and Sunni concepts would have been constant in the lives of pious Shi’a, especially in practical areas like inheritance law, and Shi’i ideals must often have been challenged by prevailing practice in locations where the law of the land was administered by Sunnis.⁸⁹ *Khums* was one way of managing the gap between ideals and reality. Statements ascribed to earlier Imams indicate that *khums* should be paid on property that includes a mixture of *ḥalāl* and *ḥarām*,⁹⁰ in order to purify it. It may be that inheritance (*mīrāth*)

87 See David Powers, *Muhammad Is Not the Father of Any of Your Men: the Making of the Last Prophet* (Philadelphia: University of Pennsylvania Press, 2009), 214–18.

88 Wilfred Madelung, “Shi’i Attitudes toward Women as Reflected in *Fiqh*,” in *Society and the Sexes in Medieval Islam*, ed. A. L. al-Sayyid-Marsot (Malibu, California: Undena Publications, 1979), 74.

89 For example, see Kulaynī, *Kāfī*, 7: 61.

90 Ṭūsī, *Tahdhīb*, 4: 138.

allocated according to Sunni categories was not considered (*lā yuḥtasab*) as legitimate, and it was for this reason that *khums* was levied on it to rehabilitate it from its partly *ḥarām* state. If this is what Jawād's letter is referring to, then the expanded meaning of the phrase would be: "*Khums* must be paid on an inheritance that is not considered legitimate due to the fact that it was inherited from someone other than one's father or son, and divided up according to Sunni rather than Imami rules for apportioning shares." As we shall see below, some later Imami jurists clearly imply that this is the correct interpretation.

The final category in the letter, agricultural estates, is also introduced by "and as for..." (*fa-ammā*), and has already been mentioned among the items exempted from *khums* this year. This earlier mention suggests that the agricultural estates are part of the expiatory *khums* but do not belong to the part that is levied in full (on gold and silver). A full dispensation on agricultural estates has not been granted, even though it was first mentioned alongside categories such as household goods and slaves for which a full dispensation was granted. As we will see, some later Imami scholars were perplexed that Jawād suggests a rate of a twelfth instead of a fifth (the literal meaning of *khums*), or the tenth (*'ushr*) typically considered to be part of *zakāt*. This issue is not, however, problematic for Jawād, who wastes no time in justifying it Qur'ānically or rhetorically. However, it is worth noting again that this rate of a twelfth is unique, hence the consternation it raised later. The low rate of a twelfth that he imposes is perhaps part of the dispensation the Imam is offering, having been discounted from the higher rate of a fifth. If we follow this logic, then the one-twelfth levy on agricultural estates could be considered as a part of this expiatory fifth (*khums*), which includes the levy on gold and silver and household items. If this is the case, then we should note an interesting linguistic development whereby the *khums* has ceased to be merely a "fifth", a mathematical fraction, as its literal meaning suggests, and has instead become a proper noun, the name of a tax levied at various rates.

Implications

How should we understand the idiosyncratic relations between legal categories introduced by Imam Jawād in this letter? How do they add to our understanding of the historical development of the Imamate? This is where we must return to the concept of implementation, as opposed to legislation. While Occultation-era jurists tend to view Imamic hadith as a source of legislation, in its historical context this was a letter aimed at implementing certain administrative goals for revenue management.

In his brief mention of this letter, Modarressi asserts, "The systematic collection of the levy as a mandatory tax seems to have started in 220/835 when

Imam Muḥammad al-Jawād ordered his financial representatives to collect the *khums* on certain kinds of income.”⁹¹ However, as we have seen, this letter does not provide any evidence for the introduction of a new systematic scheme for *khums* collection. What is introduced in this letter is neither new nor systematic. The letter clearly implies that the categories in operation in the year of writing had existed previously. The fact that these categories already existed does not mean that they were part of a regularized system. But if they had not been regularized in the past, they certainly were not regularized by means of this letter, for the Imam clearly states that he is imposing certain levies and excusing others for this year and not enforcing something regular and codified. The Imam offers a dispensation on various items, and one cannot have a dispensation without a prior expectation of regular payments. However, the mere existence of expectations does not imply a regularized system. While the tone of the letter implies that the institution of *khums* was, at this point, sufficiently established to make dispensations possible, it nonetheless shows that *khums* was subject to (and perhaps dependent on) *ad hoc* adjustment for its implementation. Instead of the systematization of regular collection, then, we should see this letter as an attempt to intervene in an *ad hoc* manner by drawing upon a complex web of expectations about how the Imam and his followers should interact.

This letter indicates that Islamic legal categories were in flux and open to interpretation. The obligatory *zakāt* was recognized as clearly mandated by God. Thus, the Imam’s ability to innovate in the law is constrained by previous interpretations of the meaning of Qur’ānic writ and precedents and expectations about how this writ should be enforced. However, there is more room for interpretation in areas in which the Qur’ānic mandate is not so clear, and this is the case with the *khums* and *ghanīma*, which do not appear as stable, although they are justified with Qur’ānic proof texts. The understanding of *khums* in category (2) here has taken on the language of the tax year (*ḥawl*), which was an important aspect of the calculation of the classical *zakāt*. While *ghanīma* as spoils of war is a recognizable category, the other examples listed in this category are less clearly familiar from other texts in the Imami tradition. They appear to be linked by a common theme of unexpected or ownerless profit. Jawād’s formulation, which links *ghanā’im* and *fawā’id*, is idiosyncratic, but he was conforming to a long-term trend in Imamic statements that interpret the Qur’ānic *ghanīma* verse as applying to more than just the spoils of war, thereby expanding the revenue that could be claimed as the prerogative

⁹¹ Modarressi, *Crisis and Consolidation*, 12.

of the Imam. Curiously, however, he does not do so by asserting that *ghanīma* as “gain” should be interpreted as the gains made in daily commerce and trade, that is, income. This would seem to be the simplest exegetical move, and one that ultimately became standard, but this interpretation of the Qur’ānic *ghanīma* appears not yet to have become dominant. Although categories like *khums*, *ghanīma* and *fawā’id* must have been familiar to the Imam’s followers and are clearly associated with each other, apparently they had not yet been systematically formulated into the classical Twelver category of *khums*, which perhaps required the collapse of the Imamate to fully crystallize. In contrast with the unequivocal nature of the *zakāt*, which is frequently mentioned in the Qur’ān as one of the central duties of being a Muslim, *khums* and *ghanīma* were sufficiently malleable categories to allow successive Imams to reinterpret and reapply them, albeit within the limitations of established exegetical and institutional norms.

The Imam’s implementation of revenue-collection procedures are comparable to those used in governmental and non-governmental administrations. The fact that the Imam, at this moment, was interested in taxing only capital held in gold and silver, the booty taken from the Khurramiyya, and the profits of agricultural estates suggests that he was not merely clarifying the law and the Qur’ān, but acting like a pragmatic administrator in taxing the taxable: the practicality of levying revenue on money and agricultural produce rather than livestock and other kinds of property has been often noted with regard to governmental taxation, and it is likely that the Imam was motivated by similarly pragmatic considerations in deciding which categories to levy at that moment in time.

Reception of this letter during the lifetimes of the manifest Imams

The idiosyncratic nature of this letter was already noted during the Imamate of Jawād’s heir and successor. Kulaynī reports the following hadith, which refers directly to this letter:

سهل، عن إبراهيم بن محمد الهمداني قال: كتبت إلى أبي الحسن عليه السلام:
أقراني علي بن مهزيار كتاب أبيك عليه السلام فيما أوجبه على أصحاب
الضياع نصف السدس بعد المؤونة وأنه ليس على من لم تقم ضيعته بمؤوته

نصف السدس ولا غير ذلك فاختلف من قبلنا في ذلك، فقالوا: يجب على الضياع الخمس بعد المؤونة، مؤونة الضيعة وخراجها لا مؤونة الرجل وعياله فكتب عليه السلام بعد مؤونته ومؤونة عياله وخراج السلطان.

Sahl⁹² [transmitted] from Ibrāhīm b. Muḥammad al-Hamadānī, who said:

I wrote to Abū al-Ḥasan [i.e. ‘Alī al-Hādī] (peace be upon him):

‘Alī b. Mahziyār read your father’s letter out to me (peace be upon him) regarding what he imposed on the owners of agricultural estates – [namely] half a sixth [i.e. a twelfth] after the cost of upkeep – and that a twelfth is not obligatory upon someone whose estate does not suffice for his upkeep, nor is anything else. But those who came before us differed from that, for they said:

“A fifth (*khums*) is obligatory upon agricultural estates, after the cost of upkeep: the upkeep of the estate and the *kharāj* levied on it, not the upkeep of a man and his dependents.”

[Imam Hādī] (peace be upon him) wrote to him: “After his upkeep and the upkeep of his dependents, and the *kharāj* of the government.”⁹³

This correspondence demonstrates that Jawād’s letter was considered problematic soon after his death. I see no reason to reject the idea that this report dates to the time of Hādī, but even if we assume it to be a later product, it was written down by Kulaynī before his death in 328/940, before the classical crystallization of Twelver jurisprudence. If we accept it as an authentic correspondence between the Imamic chancery and one of his followers, then it depicts an interesting relationship in which a group of Shi‘a are perplexed by a difference between one written text from an earlier Imam, and another set of rulings preserved from earlier generations. This correspondence shows that the Imam’s action was limited within a landscape of precedents and that Imams could be held to these precedents by vigilant scholars. This constraint placed upon the Imam by earlier Imamic precedent undermines the idea that the Imam was a charismatic figure, free to innovate legal and theological concepts. Once a new precedent had been set, it had to be reconciled with the

92 “Sahl” here probably refers to Sahl b. Ziyād al-Ādamī (d. 255/ 868), given the other *isnāds* cited in this section.

93 I.e. the *kharāj* tax levied by the government. Kulaynī, *Kāfi*, 1: 547. Another version adds to the Imam’s letter the words: “*alayhi al-khums*”, Ṭūsī, *Tahdhīb*, 4: 123.

tradition. Jawād's letter could not simply be ignored: it had been recorded and it represented legitimate Imamic writ, even if Jawād was merely implementing what he regarded as an *ad hoc* pragmatic solution to his immediate circumstances. In retrospect, his letter had the potential to be considered part of divine legislation. In his response, however, Imam Hādī shows no interest in discussing the normative force of Imamic precedents. He merely clarifies the term upkeep (*ma'ūna*), apparently asserting a normative ruling without attempting to justify it in the context of earlier precedent.⁹⁴ It is notable that Imam Hādī's response does not appear to address what seems to be a key problem: the fact that his father suggested that a twelfth should be levied on estates, rather than the canonical rates of a fifth or a tenth. It is possible, of course, that Hādī's response has been edited to omit details deemed unnecessary or inconvenient. Even so, it suggests that Hādī did not find it problematic to overrule recorded Imamic precedents to establish his ruling on what is to be considered as "upkeep".

This correspondence indicates that the legal precedents of earlier Imams limited the innovative legal capacity of living Imams, and that a ruling that contradicted an earlier precedent might need to be reconciled to the framework of earlier norms. It is notable that both Jawād and Hādī were capable of establishing new rulings on the finer points of *khums* law. However, their interventions were of a different nature. Jawād's letter was aimed at implementing his interpretation of the law. By contrast, Hādī's statement articulates a legal definition. In response to an abstract question about a generally applicable ruling, Hādī provided a generally-applicable rule. However, in spite of the *ad hoc*, practical nature of Jawād's letter, it was still an Imamic statement, which therefore created legal facts that had to be explained by later generations.

Later Twelver discussions of this letter

A brief discussion of the problems posed by this letter to later Imami scholars will help us place it in the perspective of *longue durée* historical changes in Imami legal and institutional structures. Ṭūsī includes this letter in his *Istibṣār* and in his *Tahdhīb*, but does not mention any of its aspects as problematic. Indeed, he discusses very little of the content that the letter is designed to convey. Instead,

94 The Imam explains that upkeep refers not only to the cost of the upkeep of the estate, including the governmental taxes to be paid upon it, but also to the upkeep of its owner and its dependents: the Imam did not want to impoverish his followers, after all. This position, however contrasts with the position of earlier Imams as reported by Hādī's petitioners.

he cites it approvingly to support a tangentially-related argument about dispensations he wanted to make.⁹⁵ By contrast, Ḥasan b. Zayn al-Dīn al-ʿĀmilī (known as Sāhib al-Maʿālim) (d. 1011/1602–03) found this letter to be potentially problematic in several ways: “On the face of it, this hadith presents a number of problems that have perplexed those who have used it...” The problems he enumerates are much the same as we have noted when attempting to contextualize Jawād’s letter in the framework of its immediate historical context:

- (1) The Imams are supposed to present a uniform and unchanging interpretation of divine law. So how could Imam Jawād impose one thing for one year, and not for others, according to his choice?
- (2) Jawād says that he imposes nothing except the *zakāt* that God has imposed, but then contradicts this when he says that the *ghanāʾim* and the *fawāʾid* are obligatory every year.
- (3) Jawād mentions the imposition of *khums* on gold and silver that has passed a full tax year (*ḥawl*), but the concept of the *ḥawl* applies to *zakāt*, not *khums*.
- (4) The reduction to the rate of a twelfth on agricultural estates is contradicted by other hadith which indicate that a fifth (*khums*) is to be paid on these estates, unless the revenue does not suffice for general upkeep.⁹⁶

The twelfth to be levied on agricultural estates was also considered problematic by al-Ḥurr al-ʿĀmilī (d. 1104/1693) in his *Wasāʾil*. In his view, this anomalous twelfth was a temporary dispensation diverging from the basic category of a fifth.⁹⁷ Jawād’s letter, then, was something of a thorn in the side of Imami scholars who hoped to achieve a systematic harmonization of Imami jurisprudence, within which Imamic statements were supposed to represent God’s eternal law, rather than the *ad hoc* deliberations of a pragmatic community-leader.

The difficulties of interpreting the inheritance clause in Jawād’s letter also posed difficulties for later interpreters. In addition to the problems mentioned above, al-Muḥaqqiq al-Ardabīlī (d. 993/1585) cites the fact that the letter imposed *khums* on part of the inheritance as one of “the many rulings (*aḥkām*)” in this letter that “conflict with the *madhhab*” of Twelver Shiʿism.⁹⁸

95 Unlike other jurists, Ṭūsī uses Jawād’s letter to prove that the Imams had provided dispensations on *khums* regarding slave women (*manākiḥ*), but they stringently upheld the necessity of paying *khums* on gold and silver. Ṭūsī, *Tahdhib*, 4: 140.

96 Ḥasan b. Zayn al-Dīn al-ʿĀmilī, Sāhib al-Maʿālim, *Muntaqā al-jumʿān* (Qumm: Muʿassasat al-nashr al-islāmī 1406 AH) 2: 439.

97 Al-Ḥurr al-ʿĀmilī, *Wasāʾil*, 9: 501.

98 Aḥmad b. Muḥammad al-Muḥaqqiq al-Ardabīlī, *Majmaʿ al-fāʾida wa-l-burhān fī sharḥ irshād al-adhhān*, ed. Muṭjabā al-ʿIrāqī, ʿAlī Panāh al-Ishtihārī and Ḥusayn al-Yazdī al-ʿIṣfahānī (Qumm: Muʿassasat al-nashr al-islāmī, 1405 AH), 4: 315.

Although doubt was cast on the legal force of this letter, it has come to be seen in modern Uṣūlī jurisprudence as affirming the general principle that there is usually no *khums* on inheritance. Muḥammad Bāqir al-Ṣadr (d. 1980) resorts to a customary understanding (*al-ʿurf al-ʿāmm*) to interpret the letter, noting that it indicates that there is no *khums* on inheritance between fathers and sons.⁹⁹ In the very restricted cases in which *khums* on inheritance is indicated by the letter, the principle of precaution (*iḥṭiyāt*) has been invoked to imply that it might be better to uphold the ruling on the payment of *khums* on inheritance.¹⁰⁰ However, the exact ruling of the letter remains open to question. Ayatollah ʿAlī Sīstānī, again invoking the principle of precaution, articulates the ruling for *khums* on inheritance as follows:

If a Shiʿa Muslim inherits from a source which is not accepted in our *fiqh*, like inheriting from a distant relative despite his heirs being present (*taʿṣīb*), it will be considered a gain, and *khums* will have to be paid from it. Similarly, if a person inherits from an unexpected source, neither from his father nor from his son, then as an obligatory precaution, he will pay *khums* from that inheritance if it exceeds his annual expenses.¹⁰¹

The perplexity with which post-Mongol Imami jurists approach this letter indicates a change in the way the *khums* hadiths were viewed over time. Although the letter was a problem for later jurists, it was not for Ṭūsī. This is perhaps because it was Ṭūsī himself who was responsible for laying the foundations of the mature Twelver system for harmonizing the complex and contradictory evidence of Imamic hadith with the dictates of reason and accepted Imamic dogma. In doing so, he helped to lay the foundations for more stable positions within the Twelver *madhhab*.¹⁰² Thus it is not surprising that Ṭūsī should be comfortable with taking an unusual hadith like Jawād's letter and turning it to his ends without complaint, while those who worked from the crystallized positions of a post-Ṭūsī, and post-Ḥillī law system had difficulty in reconciling this hadith with the idea that *khums* should be a single, clear and unvarying category. Furthermore, for jurists of the Safavid era and later, *khums* was no

99 Muḥammad Bāqir al-Ṣadr, *al-Maʿālim al-jadīda li-l-uṣūl*, 2nd ed. (Tehran, Najaf: Maktabat al-injāh 1975), 9.

100 See, for example, Muḥammad Ishāq al-Fayāḍ, *Taʿāliq mabsūṭa ʿalā al-ʿurwa al-wuthqā*, 10 vols. (Qumm: Intishārāt ʿAzīzī, 1433 AH), 7: 116–20.

101 From the English translation of *Tawḍīḥ al-masāʾil*. ʿAlī Sīstānī, *Islamic Laws*, <https://www.al-islam.org/islamic-laws-ayatullah-ali-al-husayni-al-sistani/khums> Retrieved 23.3.2020.

102 See Hossein Modarressi, *An Introduction to Shiʿi Law: A Bibliographical Study* (London: Ithaca Press, 1984), 44.

longer just a legal abstraction, but an important pillar of the economic viability of Twelver institutions.¹⁰³

Conclusions

Jawād's *khums* letter provides us with a glimpse into the workings of the Imamate as an institution and the role of the Imam as interpreter and arbitrator of the law. The details of the letter's preservation and transmission and the difficulty that it posed to later readers all suggest that it was not fabricated *ex post facto*. The letter shows that during the mid-eighth century CE, the category of *khums* and the related category of *ghanīma* were subject to *ad hoc* Imamic adjustment. Soon after, the letter was flagged as problematic in an epistolary exchange between Imam Hādī and one of his followers, giving us a sense of how the precedents of individual Imams were discussed before the Occultation removed the option of consulting an imam altogether. Modern scholarship often implies that as long as the Imams were alive, the community could simply ask them for a legal opinion. However, this letter and its reception indicate that Imamic statements, which were foundational for law, at least *in potentio*, were subject to complex assessments in order to determine how different statements related to each other. The Imams themselves had no interest in formulating abstract theories to define the normative force of their rulings. Thus, during the late Imamate, Shi'i scholars had to assess earlier Imamic statements alongside those of the present Imam, and, if in doubt, petition the living Imam for a new opinion.

In the formative period of Islamic law (Shi'i and Sunni alike) fiscal categories were fluid. The boundaries were blurry between categories like *khums* and *ghanīma*, *jizya* and *kharāj*, *waqf* and *ṣadaqa*, and *zakāt* and *ṣadaqa*. The development of different local usages over time complicated matters so that it is impossible to put forward a single stable definition for many of these terms. From at least the mid-second century AH onwards, however, the emerging class of jurists, the Shi'i Imams among them,¹⁰⁴ made efforts to clarify legal terms and to shape Islamic law into a coherent and effective system. This effort at systematization complicates our understanding of terms, for the systematizing

¹⁰³ Calder, "Khums", 39–47; Andrew J. Newman "The Nature of the Akhbārī/Uṣūlī Dispute in Late Ṣafawid Iran, Part 2: The Conflict Reassessed," *Bulletin of the School of Oriental and African Studies* 55: 2 (1992): 258–9; Rula Abisaab, *Converting Persia: Religion and Power in the Safavid Empire* (London: I. B. Tauris, 2004), 36.

¹⁰⁴ While earlier Imami Imams like Muḥammad al-Bāqir and Ja'far al-Ṣādiq had many students who came to be considered part of the Sunni tradition, by Jawād's time the relevance of

jurists often attempted to assert a universal, final meaning for these terms, which could obscure or distort the original context. Scholars should seek to understand terms like *khums* within the semantic and institutional dynamics of specific historical cases. Attempts to find universally applicable definitions for many such terms is likely to fail.

While laws promulgated by early caliphs may have had been *ad hoc* interventions that introduced new categories that were later canonized, Jawād's *khums* letter shows that the Imami Shi'i Imams continued to redefine terms well into the 'Abbasid period, at a time when Sunni schools had begun the project of systematizing legal systems that incorporated precedent and abstract legal taxonomies into a coherent whole. While it is true that the Occultation was a great impetus for the systematization of Twelver law, the reception of Jawād's *khums* letter indicates that, well before the Occultation, the Imams' ability to act as charismatic innovators of the law was restricted by precedent, preserved in the form of Imamic hadith, which were diffused among members of the community. The restriction of Imamic agency by hadith does not amount to systematization, but it does show that the Occultation era was not the moment of genesis of an Imami law based on hadith. On the contrary, the Imams themselves were subject to the precedent of earlier Imamic hadiths.

I am optimistic about the prospects for refining our understanding of the evolution of the Imami hadith corpus through the close study of key textual artefacts like Jawād's letter. However, we need to be precise in documenting our understanding of the institutional framework in which hadith circulated. In this case, the epistolary context of Jawād's intervention is crucial, for it highlights the complex relationship between legislation and implementation. Many Imamic statements are responses to abstract questions posed in the form: "what do you say about a man who does x?" Here, instead, we see the Imam responding to specific (albeit tantalizingly unspecified) historical circumstances. A key aspect of the practical functioning of the Imamate is the capacity of agents to arbitrate the Imam's writ in a distant community. The Imam was not present in the Jibāl to ensure that the *khums* was collected. Instead, his letter was carried by agents and disseminated from person to person.¹⁰⁵

the Imam's legal rulings had become limited to a defined, bounded and separated Imami Shi'i community, and communication was organized in a web of influence centred on the figure of the Imam. See Hayes, "Economic Actors." See also Najam Haider, *The Origins of the Shi'a: Identity, Ritual, and Sacred Space in Eighth-Century Kūfa* (New York: Cambridge University Press, 2011); Michael Dan, "Contested Boundaries: The Reception of Shi'ite Narrators in the Sunni Hadith Tradition" (PhD Dissertation, Princeton University, 2015).

¹⁰⁵ The mechanics of the dissemination of Imamic letters is more clearly visible in other Imamic letters. See the *ṣadaqa* tax demand of 'Askari, discussed in Hayes, "The Epistolary

There is a prevalent model of engagement with hadiths that relies upon the idea of a “common pool” of reports that can be drawn upon at will to cement certain positions. But hadith should not be treated as isolated narratives free-floating in the sea of knowledge. Hadiths were produced in specific circumstances (epistolary exchanges, study-circles, lectures, petitions, private audiences) and thereafter circulated in mnemonic clusters: notebooks, selections, treatises and larger compilations. We should not treat all hadiths alike. Theological, *fiqhī*, and narrative hadith all deserve to be treated in different ways. Ultimately, we should neither assume that the hadith corpus of the Imams is wholly fabricated, nor wholly reliable. We need to work to build tools that enable us to more precisely identify the building blocks from which today’s Imami hadith corpus was formed. Likewise, we should not treat the Imami Shi’i community in isolation. This community shared sociological and intellectual commonalities not only with other Muslim sub-communities, but also with non-Muslims who shared the same spaces, institutional conventions and practices, and modes of living. Jawād’s *khums* letter may be unusual within the Twelver hadith corpus, but it is comparable to letters sent by caliphs¹⁰⁶ and their administrators, and preserved in historical works and the documentary record.

Acknowledgements

This article is part of a broader investigation into the letters attributed to the Imams. This broader project was conducted as part of the Leiden research project led by Petra Sijpesteijn: “Embedding Conquest: Naturalising Muslim Rule (600–1000)” funded by the European Research Council (ERC) under the European Union’s Horizon 2020 research and innovation programme, grant agreement 683194. In addition, I benefited from the feedback of participants at two workshops organized by Robert Gleave, leader of the Exeter research project: “Law, Authority and Learning in Imami Shi’ite Islam” (LAWALISI), funded by the ERC under the European Union’s Horizon 2020 research and innovation programme, grant agreement No 695245. I also benefited from Christian Mueller’s comments on an early draft.

Imamate: Circular Letters in the Administration of the Imami Shi’i Community,” in *The Ties that Bind*, forthcoming.

106 See, for example, Sean Anthony, “A ‘Rediscovered’ Letter of the Umayyad Caliph ‘Umar ibn ‘Abd al-‘Azīz (r. 717–720 CE): Caliphal Authorship and Legal Authority in *al-Risālah fi l-Fay*”, forthcoming.