

**Tradition and innovation in the Mamluk period:
The anti-*bid'a* literature of Ibn al-Ḥājj (d. 737/1336)
and Ibn al-Naḥḥās (d. 814/1411)**

A dissertation presented by Nick Chatrath (Wadham College)

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Abstract

Tradition and innovation in the Mamluk period: The anti-*bid'a* literature of Ibn al-Ḥājj (d. 737/1336) and Ibn al-Naḥḥās (d. 814/1411).

This study seeks to contribute to a growing discussion about Islamic intellectual endeavours in the Middle Periods, providing new evidence from the genre of anti-innovation tracts (anti-*bid'a* tracts) that has hitherto received relatively little modern scholarly attention. Specifically, this thesis examines tradition and innovation in Islam during the Mamluk period (648/1250 – 922/1517) through the lens of two jurists and their anti-innovation tracts. Ibn al-Ḥājj (d. 737/1336) was a Mālikī from North Africa who wrote *Madkhal al-shar' al-sharīf*. Ibn al-Naḥḥās (d. 814/1411), by contrast, was a Shāfi'ī (and former Ḥanafī) from Damascus, who wrote a tract contained within his *Tanbīh al-ghāfilīn*, a work concerned with the duty of commanding right and forbidding wrong, and with naming and briefly discussing various sins and innovations.

Ibn al-Ḥājj's and Ibn al-Naḥḥās' anti-innovation tracts are studied here for the first time in their own right, together with English translations of representative passages of their work that allow the reader to gain a direct impression of them. In addition to this, this thesis makes three unique arguments. First, anti-innovation tracts should be read as prescriptive yet flexible examples of *furū'*. Second, the authors of the tracts investigated here, Ibn al-Ḥājj and Ibn al-Naḥḥās, were both 'outsiders' to Mamluk Egypt, who used this genre to define and regulate correct Muslim practices, in less formal ways that were both new and continuous with earlier thinking. Ibn al-Ḥājj's programme - urging fledgling scholars, in almost encyclopaedic fashion, to know about and teach against innovative practices - was more important for him than addressing the topics of intention and innovation that feature in the full title of his work. Ibn al-Naḥḥās is an interestingly obscure figure. In an abbreviated and direct style, he urged non-specialists in Mamluk lands to censure innovations, and even to prevent them. Third, Ibn al-Ḥājj and Ibn al-Naḥḥās conceived of loyalty to their legal school in ways that require us to expand the terms of modern scholarly debates about such loyalty.

This study contributes to the relatively recent, and fast-growing, literature on the Mamluk period in general, and its legal literature in particular. It supports a recent perspective on the Mamluk period, by illustrating the continuity and evolution of legal thinking during this period, which is both predicated upon, and differs substantially from, earlier periods of Islamic history. and deserves study in its own right.

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Translations, dates and other conventions

My policy is to translate Arabic terms into English where the latter renders the meaning sufficiently closely and unambiguously, such as innovation (*bid‘a*) or jurist (*faqīh*). Where there is no satisfying exact translation, such as for *risāla*, *ijtihād*, *muftī* and *jihād*, I retain the Arabic terms. I use the terms *madhhab* and legal school interchangeably.¹ Where a quotation includes a recognised form of transliteration that differs from my own (e.g. Taymiyya instead of Taymīya), I do not highlight the difference, such as with the term ‘sic’.

Unless otherwise stated, translations from the Qur’ān into English are from a modernised version of the 2004 edition of Yūsuf ‘Alī’s work. Translations from Arabic sources are my own. However, in the cases of Ibn Rushd, *Bidāya*, al-Shayzarī, *Nihāya* and Ibn al-Ukhūwa, *Ma‘ālim*, I have been greatly helped by translations by Imran Nyazee, R. P. Buckley and Reuben Levy respectively.

Dhikr refers to Ibn al-Naḥḥās’ anti-*bid‘a* tract, which comprises pages 427 to 537 in his *Tanbīh* (2005 Beirut edition). Page references are to the *Tanbīh*, whether the reference falls within *Dhikr* or another part of the *Tanbīh*.

By convention in this thesis, dates are given in both *hijrī* and Gregorian formats.

¹ For a more nuanced discussion of these terms, as well as the guild-school and *madhhab* jurisdiction, see al-Azem 2011, 2-4.

Abbreviations of titles of journals and other volumes

A.I.	<i>Annales Islamologiques</i>
A.J.A.S.	<i>The American Journal of Arabic Studies</i>
A.O.	<i>Archivum Ottomanicum</i>
B.É.O.	<i>Bulletin d'Études Orientales</i>
B.S.N.E.S.J.	<i>Bulletin of the Society for Near Eastern Studies in Japan</i>
B.S.O.A.S.	<i>Bulletin of the School of Oriental and African Studies</i>
D.W.I.	<i>Die Welt des Islams</i>
E.I.	<i>Encyclopaedia of Islam</i> (first edition)
E.I. ²	<i>Encyclopaedia of Islam</i> (second edition)
E.Q.	<i>Encyclopaedia of the Qur'ān</i>
G.A.L.	<i>Geschichte der arabischen Litteratur</i>
H.T.	<i>History and Theory</i>
I.C.	<i>Islamic Culture</i>
I.J.M.E.S.	<i>International Journal of Middle East Studies</i>
I.L.S.	<i>Islamic Law and Society</i>
I.Q.	<i>Islamic Quarterly</i>
I.S.	<i>Islamic Studies</i>
J.A.I.S.	<i>Journal of Arabic and Islamic Studies</i>
J.A.L.	<i>Journal of Arabic Literature</i>
J.A.O.S.	<i>Journal of the American Oriental Society</i>
J.E.S.H.O.	<i>Journal of the Economic and Social History of the Orient</i>
J.I.H.	<i>Journal of Interdisciplinary History</i>

J.I.S.	<i>Journal of Islamic Studies</i>
J.N.E.S.	<i>Journal of Near Eastern Studies</i>
J.R.A.S.G.B.I.	<i>Journal of the Royal Asiatic Society of Great Britain and Ireland</i>
J.S.A.I.	<i>Jerusalem Studies in Arabic and Islam</i>
J.S.S.	<i>Journal of Semitic Studies</i>
J.W.H.	<i>Journal of Women's History</i>
M.S.R.	<i>Mamluk Studies Review</i>
P.P.	<i>Past and Present</i>
P.R.T.É.C.	<i>Perspectives: Revue Trimestrielle d'Éducation Comparée</i>
P.T.	<i>Poetics Today</i>
Q.S.A.	<i>Quaderni di Studi Arabi</i>
S.I.	<i>Studia Islamica</i>
S.I.M.E.	<i>Studies in Islam and the Middle East</i>

Part I

Introduction

Chapter I.1.

Introduction

“God put the scholars under an obligation to teach.”

Ibn al-Hājj, al-Madkhal.¹

A guide for “people like me”. Ibn al-Naḥḥās, Tanbīh al-ghāfilīn.²

“God keeps repentance from every innovator until he ceases his innovation.”

Ibn al-Naḥḥās, Dhikr.³

This is a study of two contrasting texts by two contrasting authors who lived during the Mamluk period. It sheds light not only on these texts and authors and this period, but also on how we should understand legal writings, especially those about innovation, during this period and beyond.

¹ *Madkhal*, 1(1):11.

² *Tanbīh*, 17.

³ *Tanbīh*, 428.

In the last twenty years, a new perspective has emerged concerning the intellectual and cultural patterns of the Islamic Later Middle Period (from about 648/1250 until 908/1501), as well as the three centuries following it. Since the nineteenth century, this span of more than half a millennium has typically been perceived by Western (and some Arab) scholars as one of stagnation, if not decline. For example, in his 1930 work *Literary History of the Arabs* (a minor revision of his 1907 work of the same name, and which is still widely read in the core curricula of Islamic and Arabic studies today), Reynold Nicholson described the period from the Mongol invasion of Baghdad in 656/1258 to the early twentieth century as “a melancholy conclusion to a glorious history” and as “an age of imitation and compilation”.⁴ In the last two decades, however, scholars have strongly challenged this characterisation of stagnation or decline, drawing on a wide range of disciplines, including law, logic, literature and architecture.⁵

The above observations about perceived decline apply to intellectual and cultural patterns in the Mamluk Period,⁶ which Arab and Western scholars once frequently assessed as “a time of intellectual decadence and decline, awash in unoriginal scholarly tomes and baroque literary compositions”.⁷ In recent years, scholars such as Li Guo and

⁴ 1930, 442-3.

⁵ See Bauer 2005, 2:105-132 and 2007, 2:137-67, and references in Ingalls 2011, 3n3 and Conermann 2013. An influential tool promoting Mamluk studies since 1997 has been the Mamluk Studies Review, coming out of the University of Chicago, together with the concomitant web-based bibliographies (see <http://mamluk.lib.uchicago.edu>, accessed 18 October 2013).

⁶ Stephen Humphreys argues that the Mamluk Period “stretches from 1238 (the death of the Ayyubid sultan al-Kāmil Muḥammad) down to 1524 (the definitive consolidation of Ottoman rule in Syria and Egypt” (2005, 221). For the purposes of this study, I will follow the more conventional dating, which begins with the overthrow of the Ayyubid dynasty in 648/1250, and ends with the Ottoman conquest of Egypt in 922/1517.

⁷ Muhanna, 2013, 1. Although Nicholson acknowledged that the poets and scholars of the Mamluk period were accomplished artists and talented historians, the literature of this period was - for him - “unoriginal” (1930, 455; see also 448-52).

Thomas Bauer have strongly challenged this characterisation.⁸ Notwithstanding these advances, some modern scholars, such as Sa‘īd ‘Abd al-Fattāḥ ‘Āshūr still appeal to Mamluk decline narratives.⁹ Nevertheless, modern scholars have not devoted as much attention to the Mamluk Period as to earlier times, despite the fact that the Mamluk Period is better documented.¹⁰

My investigation contributes to this increasingly influential new perspective, by providing compelling evidence from the area of legal literature, which (relative to the disciplines just listed) remains unstudied for the Mamluk period.¹¹ The evidence points to such literature being creative - in terms of how Muslim scholars sought to define themselves and their communities, and to regulate behaviour - rather than unoriginal and derivative. The study of almost any author or text from this period, especially such a little-studied genre as anti-innovation tracts, promises to contribute to shedding much needed light on the cultural and intellectual history of the period. Rather than throwing out the baby with the bathwater however, this study seeks to highlight and understand both continuities and discontinuities with previous periods.

The Mamluk lands of Egypt and Syria also constitute an excellent milieu to explore new departures from earlier patterns of creativity, because of the scale and scope of socio-political, educational, demographic and religious upheavals and transitions that

⁸ See Guo 2003, 177-8, and earlier references to Bauer.

⁹ Humphreys notes that several Egyptian thinkers, including ‘Āshūr, make such appeals (2005, 222).

¹⁰ Levanoni 1995, 3-4.

¹¹ Stephan Conermann’s seventy page survey of recent scholarship on the Mamluk period, entitled ‘Es boomt! Die Mamlukenforschung (1992-2002)’, does not contain a section on legal literature (2013, 9-80).

occurred there. For example, the Mamluk sultan Baybars (r. 658/1260 — 676/1277) installed al-Mustanşir as caliph in Cairo and required him to bestow on him (Baybars) a diploma of investiture in 659/1261. In addition, the diploma of Qalāwūn (the seventh Mamluk sultan, r. 678/1279 — 689/1290) included the statement that everything previously entrusted to the caliph “shall henceforth be delegated to his exalted excellency, the sultan, al-Malik al-Manşūr”.¹² That is, from the outset of the Mamluk period, the caliph effectively became subordinate to the sultan, his role becoming largely ceremonial and negligible within Egyptian politics, even though the caliph was still sovereign in titular terms.¹³ This was a major, historic, shift in power relations within the Muslim community. Alongside this, the balance of power between *madhhabs* (legal schools) shifted, with Shāfi‘īs losing their monopoly on chief judgeships in the Mamluk sultanate over time (although they still retained several unique ceremonial and other privileges) and the best academic positions being reserved for Ḥanafīs, especially foreign ones.¹⁴

In the decades leading up to the beginning of the *burjī* (Circassian Mamluk) period in 784/1382, a series of major social, ethnic and economic transitions occurred in Mamluk lands: fundamental changes in the structure of the army, with promotions occurring at an unprecedented speed; the accumulation of greater power by *amīrs*; further waves of Turkic and Mongol migrations (including many orphans) which changed the ethnic and demographic composition of Mamluk society; high social mobility; the

¹² Al-Qalqashandī, *Ṣubḥ al-a‘shā*, Northrup’s translation (1998, 169).

¹³ Sourdel 1978, 944-5.

¹⁴ Fernandes 1987, 89-94.

reduction of the population by one third through a devastating series of plagues; a significantly worsening economic milieu; and, linked primarily to the previous two points, famine.¹⁵ Disturbances in the social order that ensued were exacerbated by political instability, when none of sultan al-Nāṣir Muḥammad's (r. 693/1293 — 741/1340) successors in the last forty-two years of the *baḥrī* period reigning for more than seven years. In this study, I provide new evidence from the lives and works of Ibn al-Ḥājj (d. 737/1336) and Ibn al-Naḥḥās (d. 814/1411) who, respectively, lived before and through these various transitions.

I.1.a. Justification of the selection of texts, and location of the thesis in secondary literature

At the heart of this thesis are a Mālikī and a Shāfi'ī (and former Ḥanafī) scholar, Ibn al-Ḥājj and Ibn al-Naḥḥās, respectively. Why study these particular authors of anti-innovation tracts? As I will show in Part III, neither Ibn al-Ḥājj nor Ibn al-Naḥḥās were scholars of the highest rank. Given that more famous jurists or *muftīs* such al-Nawawī (d. 676/1277), Ibn Taymīya (d. 728/1328), Ibn Qayyim al-Jawzīya (d. 751/1350), al-Shāṭibī (d. 790/1388) and al-Suyūṭī (d. 911/1505) - some of whom also wrote anti-innovation tracts - were active during the Later Middle Period, why not study these better known individuals?

¹⁵ Levanoni 1995, 60 and 2013.

To begin with, anti-innovation tracts are well suited to explore the issues I highlighted above. Whereas *mukhtaṣars* (summary legal expositions) and *mabsūṭs* (legal commentaries) focus on generalities (whether in elliptical or dense ways),¹⁶ anti-innovation tracts focus on particulars in quite practical ways, including popular practices. Such tracts therefore allow us to assess where and how jurists sought to apply law (which was founded on ‘tradition’) to practices (that were said to be ‘innovative’). Maribel Fierro notes that anti-innovation tracts are important for studying processes of continuity and change in Islamic ritual and for investigating boundaries between theory and practice.¹⁷ My work builds on these findings, extending and deepening them in relation to the Mamluk period. Anti-innovation tracts further provide access to questions of how scholarly elites interacted with each other and with non-specialists.

A central rationale behind my choice to study tradition and innovation in the Later Middle Period is that it provides an opportunity to study how Arabic-speaking Muslim scholars (*‘ulamā’*) attempted to influence the behaviour of fellow scholars, the masses, and others, while being ruled over by an ethnically Turkic and originally non-Muslim political elite.¹⁸ These Mamluk rulers had converted to Islam early in their lives and increasingly took an interest in jurists’ traditional sources of power, namely the administration of justice, *waqf* endowments, and educational institutions, also preventing

¹⁶ Imber (ed.) 2010, 113-4. In Chapter II.1, I expand this point by surveying several genres of positive law, including *mukhtaṣars* and *mabsūṭs*.

¹⁷ 1992, 204. On the usefulness of anti-innovation tracts as a source for biographical history, see Conermann 2007, 121-135.

¹⁸ See my discussion, later in this chapter, on terms such as ‘the masses’.

the caliph from exerting any significant influence.¹⁹ Against Jonathan Berkey and Carl Petry, Amalia Levanoni argues for defining the relationship between scholars and Mamluk leaders in terms of tension, rather than comfortable symbiosis.²⁰ Added to this, while Muslim jurists in Egypt did not - overtly, at least - accept the *Yasa* (Mongol laws or regulations) and regional customary law (*'āda*) as authoritative reference points in the same way as they did the *sharī'a*, they did have to engage with them.²¹ My study of the creativity exhibited by scholars in writing about tradition and innovation will shed light on these tensions and engagements. For example, although neither ethnically Turkish nor originally non-Muslim, Ibn al-Ḥājj and Ibn al-Naḥḥās were both outsiders to Mamluk lands - like their rulers - and sought to influence others as jurists.²²

In addition, modern scholarship on positive law in the Later Middle Period rarely discusses anti-innovation tracts in an in-depth and contextualised way. Among the few exceptions are Maribel Fierro's work on al-Qurṭubī and al-Ṭurṭūshī, and recent doctoral theses and an article by Ukeles and Ur Rehman.²³ Frederick Colby's work on Ibn al-Ḥājj, while exemplary, is only of article length and focusses on just one particular festival.²⁴ As my discussion in Chapter II.1 illustrates in relation to Calder, Hallaq and Johansen, even some of the best recent scholarship on positive law rarely considers anti-innovation tracts

¹⁹ Levanoni 2013, 147-9 and 156-7.

²⁰ Ibid., 156-7.

²¹ For example, justice in the Mamluk army was conducted according to the *Yasa*, on which see Morgan 2005, 291-308 and references.

²² Such is the importance of jurisprudential writing to this study that I address it in a separate chapter, II. 1.

²³ Fierro 1988 and 1992, Ukeles 2005 and Ur Rehman 2009 and 2010.

²⁴ Colby 2005.

and often falls short of treating the later Mamluk period.²⁵ A thoroughgoing study of anti-innovation tracts will fill a gap in modern scholarship, and will further contribute to opening up new perspectives on the intellectual history of the Mamluk period.

The list of anti-innovation tracts dating from the Mamluk period is relatively small which, given the major social, demographic and political changes of the period, is rather surprising.²⁶ Including Ibn al-Ḥājj's and Ibn al-Naḥḥās' tracts, and excluding Abū Shāma's, which probably dated from before this period, there are seven such tracts from the Mamluk period.

The first reason why Ibn al-Ḥājj and Ibn al-Naḥḥās merit a study is that their writings shed light on the evolution in scholarly thought and practice during an important chapter of the 270-year Mamluk period. The upheavals and transitions described earlier occurred between Ibn al-Ḥājj's death in 737/1336 and the beginning of the *burjī* (Circassian) period in 784/1382 (by which time Ibn al-Naḥḥās was at the height of his career). The society of Ibn al-Naḥḥās' day was fundamentally different - socially, ethnically and in political terms - from that of a century prior, when Ibn al-Ḥājj lived. Furthermore, studying the works of a Mālikī and a Ḥanafī-turned-Shāfi'ī enables an examination of interfaces between legal schools and of the living interpretations of tradition that existed within and between schools, across the time period that encompassed these traditions.

²⁵ In addition, see Johansen's discussion of various legal literary genres, which excludes anti-innovation tracts (1999, 75).

²⁶ See Table 1, which lists Mamluk and pre-Mamluk anti-innovation tracts.

Of course, I could have selected for study two other scholars who lived on either side of the transitions described above, and who wrote anti-innovation tracts. However, of the authors who lived after these transitions, Zarrūq and al-Suyūṭī have each received modern scholarly attention, in contrast to Ibn al-Naḥḥās, whom modern scholars barely mention.²⁷ Al-Shāṭibī's quite theoretical tract is fundamentally different from all other tracts. Of earlier authors, Ibn Taymīya and al-Turkumānī covered a very narrow range of topics. I decided that it was important to include a Mālikī text, given that nearly half of the extant premodern anti-innovation tracts are written by authors from that *madhhab* - this was a further reason in favour of Ibn al-Ḥājj.

The second justification for selecting Ibn al-Ḥājj and Ibn al-Naḥḥās for study is that exploring the strategies that Muslim Arabic-speaking 'outsider' jurists used to speak out and influence others in a culturally, confessionally and socially diverse society will help scholars today handle the notion of tradition in a more nuanced way. Neither Ibn al-Ḥājj nor Ibn al-Naḥḥās was at home in Egypt, but for different reasons. Ibn al-Ḥājj had arrived from North Africa, a Mālikī surrounded by Ḥanafīs and Shāfi'īs. Ibn al-Naḥḥās had emigrated from Syria in haste and had converted, somewhat surprisingly, to the Shāfi'ī legal school, which was gradually losing influence. In the context of positive law, this investigation will also advance our understanding of the insider-outsider dynamic that was so important within Mamluk lands.

Third, various other points of similarity between Ibn al-Ḥājj and Ibn al-Naḥḥās make comparing their writings a fruitful exercise. In their anti-innovation tracts, both

²⁷ On Zarrūq, see references above. On al-Suyūṭī, see Geoffroy 1997.

jurists wrote about a wider range of innovative practices than anyone prior to them except Ibn al-Jawzī (d. 597/1200),²⁸ even if other aspects of their two tracts differ. They approached the same topics (innovation and the duty to command right and forbid wrong), albeit in a different style and - as we will see - with different intent. By contrast with Ibn Taymīya, we have no record of others accusing Ibn al-Ḥājj or Ibn al-Naḥḥās of innovations in the legal domain.²⁹ Both jurists also issued *ijāzas* (legal permissions) in northern Egypt. A diachronic study (such as this one) focussing on how scholars attempted to apply law in Northern Egypt is especially important, not least because Cairo remained the seat of the Mamluk court (as well as the caliphate) and the centre of a vibrant academic and popular culture throughout the period of Ibn al-Ḥājj's and Ibn al-Naḥḥās' lives.

The fourth major justification for studying Ibn al-Ḥājj's and Ibn al-Naḥḥās' tracts is that, more so than the authors of other anti-innovation tracts, neither jurist has received significant modern scholarly attention, either generally or in relation to their tracts.³⁰ With the exception of Colby's and Barbara Langner's studies, most modern scholars who mention Ibn al-Ḥājj do so only in passing, typically quoting one of his strong-sounding

²⁸ This is a narrow point, deliberately phrased as such. While Ibn Taymīya wrote about an extremely wide range of practices in his writings as a whole, his anti-innovation tract mainly covered feast days and festivals (see discussion in Chapter II.2).

²⁹ On Taqī al-Dīn al-Subkī's (d. 756/1355) critique of what he saw as Ibn Taymīya's innovative legal opinions on divorce, see Rapoport 2010, 191.

³⁰ In addition to the references given above for Zarrūq and al-Suyūfī, and in my Bibliography, see: Memon 1976, 11-87 (on Ibn Taymīya); Fierro 1997 and Jahar 1999 (on al-Shāṭibī); and Labib 1964 and 1986 (on al-Turkumānī).

views, with little consideration of authorial intent or other literary or historical context.³¹ For example, although Jean-Claude Vadet is correct in saying that Ibn al-Ḥājj “considered ‘knowledge’ and ‘action’ to be inseparable”, in the chapters that follow I investigate the relationship between these two concepts in more depth, and consider such statements on much broader evidence.³² Several modern scholars have provided mistaken information about Ibn al-Ḥājj’s place of birth and date of death.³³ Other than editors of Arabic primary sources, the only scholars in this century and the last who mention Ibn al-Naḥḥās are David Cook and Michael Cook.³⁴ A contribution of this study will be to move from isolated quotations to a more nuanced understanding of why, to whom, and in which contexts, Ibn al-Ḥājj and Ibn al-Naḥḥās expressed the views they did.

As a by-product of this study, not only do other Mamluk-period jurists shed light on Ibn al-Ḥājj and Ibn al-Naḥḥās individually, but also, Ibn al-Ḥājj and Ibn al-Naḥḥās individually shed light on other Mamluk-period jurists. For example, Ibn al-Ḥājj’s and Ibn al-Naḥḥās’ tracts illuminate Ibn Taymīya’s writings. As Colby observed, “Although Ibn al-Ḥājj and Ibn Taymiyya share similar approaches, the tension between their positions also helps to explain how appeals to tradition become intertwined with power

³¹ Even Langner devoted relatively little space to Ibn al-Ḥājj’s intellectual and social contexts (Langner 1983, 23-6). A selection of other relatively brief references to Ibn al-Ḥājj includes Labib 1964, 196, Maribel Fierro 1992a, 237, Boaz Shoshan 1993, 40-6, Berkey 1995, 45 and 2001, 28, Lutfi 1998, 259, M. Cook 2000, 508, 515, 518-9, 528-9, Ukeles 2006 106-7. In terms of modern Arabic literature, ‘Abd al-Rāziq Aḥmad uses Ibn al-Ḥājj as a source but not Ibn al-Naḥḥās (Aḥmad 1979, 227). Brockelmann characterised Ibn al-Ḥājj as a theologian (1913, 68).

³² Vadet 1971, 379.

³³ On modern scholars who assume that Ibn al-Ḥājj was born, and received his early education, in Northern Egypt, and mistake Ibn al-Ḥājj’s death date for his birth date, see Chapter III.1.

³⁴ D. Cook 2005, 55-6 and 2007, 30 and 40-1; M. Cook 2000, 354, 453, 458 and 484.

relations”.³⁵ Ibn al-Ḥājj was a contemporary of Ibn Taymīya’s in northern Egypt, and was also well travelled, so studying the former will inform our understanding of the latter. In addition, as I argue in later chapters in respect to Ibn al-Naḥḥās, this study augments our understanding of the reception of Ibn Taymīya’s thought in the decades after the death of his student, Ibn Qayyim al-Jawzīya.

As a further contribution to a recent change in perspective on the Mamluk period, this study provides new data relating to tradition and innovation, drawn from a genre of tracts that has hitherto received relatively little modern scholarly attention. The concepts of tradition and innovation, which I define and discuss below, have played an important role throughout history, as well as in premodern Islamicate societies.³⁶ Therefore, this study also provides a source for comparison with the role of tradition and innovation in more general terms.

I.1.b. Research questions: Overview

By focussing on two anti-innovation tracts that were written by jurists who settled in Egypt in the Mamluk period, this study seeks to achieve a deeper understanding of the creative strategies of Muslim scholars who drew on the past - tradition - to influence the present. In order to achieve this goal, I pose a series of research questions that form the general area for this investigation. Thereafter, I articulate four hypotheses that will be tested in this study, and the major arguments that I will develop. Each hypothesis

³⁵ Colby 2005, 43-4.

³⁶ On tradition and innovation in Islamic mathematics, with reference to a treatise by Sharaf al-Dīn al-Ṭūsī (d. 1213), see Berggren 1990, 304-5. See also Schacht 1950, 58-81 and Hodgson 1974, 371-5.

corresponds to one research question. In the next section I briefly explain the evidence used in my research, before defining the terms ‘tradition’ and ‘innovation’ and outlining, in more detail, the approach and sources used in this study.

As we will see in Parts IV and V, even if the *Madkhal* and *Dhikr* are both prescriptive anti-innovation tracts, the two works are quite different in style. This raises several questions, which comprise my research questions:

- A. Where do Ibn al-Hājj’s *Madkhal* and Ibn al-Nahḥās’ *Dhikr* fit in the bigger picture of Islamic legal writing?
- B. In which ways (if at all) may we reconstruct social or legal practices in particular locales or time periods from information in these tracts?
- C. What can be learnt from these tracts about how scholars in the Mamluk period displayed self-regulation and self-definition in responding to diverse socio-political crises and transitions?
- D. At which audience(s) and setting(s) was each text aimed?

All four of these questions are important. They are also interrelated. The first question matters because one of the ways in which jurists demonstrated new ways of thinking was in the selection and tailoring of different genres of jurisprudential writing. A benefit of exploring this question is also that it will facilitate greater understanding of the application of law during the Mamluk period, which relates to the third question. The second question is much discussed in relation to legal literature.³⁷ The third question

³⁷ See discussion in Chapter II.1.

relates closely to what this study seeks to achieve, described above, and is thereby connected to the second and fourth questions. As for the fourth question, no modern scholar who discusses these tracts gives significant space to their audience. Colby cited Berkey, in support of viewing Ibn al-Ḥājj's audience as including all Muslims, and his aim as being an assertion of authority "vis-a-vis the military elite, the popular preachers, and/or their scholarly peers";³⁸ however, Colby's discussion is brief. It is important that a historically contextualised study such as this considers the question of audience in some depth.

All the questions above will accompany the following chapters as a guiding thread, and will be addressed as appropriate. The research question about audiences raises issues that need to be teased out in more detail. Therefore, the next section, I discuss four potential audiences for Ibn al-Ḥājj's and Ibn al-Naḥḥās' tracts, before articulating hypotheses (and relevant forms of evidence) in relation to each research question.

I.1.c. Potential audiences and settings, including review of relevant secondary literature

The four audiences below overlap in various respects. For example, some jurists also held temporal power. In addition, groups of scholars were sometimes present in settings where sermons were being preached to 'the masses'.³⁹ It is also worth noting here that, in addition to the secondary literature reviewed in this section, further secondary literature

³⁸ See discussion below, and Colby 2005, 48.

³⁹ Ibid.

relating to jurisprudence will be dealt with in Chapter II.1, because of the close connection of this further literature to the arguments developed there.

1.1.c.i. Incipient jurists

One cannot fail to be struck, even from a cursory reading of Ibn al-Ḥājj's and Ibn al-Naḥḥās' anti-innovation tracts, by the legal terminology they use. Even if many of the terms would have been recognised by almost everyone in the Mamluk period (for example, such terms as '*ḥalāl*', '*makrūh*' and the like), Ibn al-Ḥājj's and Ibn al-Naḥḥās' training as jurists urges us to consider jurists, including fledgling jurists, as one of the possible audiences for their tracts.

Jurists learned in a variety of settings, including the following: reading sessions, where scholars issued reading certificates, or rights of transmission (*samā'*);⁴⁰ *ḥadīth* recital sessions where *ijāzas* were given;⁴¹ teaching circles, in which scholars taught and circulated (and enforced the teaching and circulation of) 'rightly-guided' ideas;⁴² and *madrāsas*.⁴³

Modern scholars have long debated the extent of formality and institutionalisation that such settings involved. At one end of the spectrum is George Makdisi. In his 1981 work, *The Rise of colleges*, he argued that individual teachers, based in institutions, did

⁴⁰ Such sessions were not just for readings of *ḥadīth* works, but also for works in other fields of learning (Hirschler 2012, 6 and 164).

⁴¹ Berkey 1992, 31-3. See my discussions, in Chapter III.1, of Ibn al-Ḥājj issuing and receiving *ijāzas*, based on statements made by his biographers Ibn al-Mulaqqin and Ibn Ḥajar.

⁴² Hirschler 2012, 198.

⁴³ On differences between various echelons of education (*madrāsa*, followed by *maktab/kuttāb*), see also Haarmann 1980, 39.

play a significant role in the Islamic education of scholars (*'ulamā'*).⁴⁴ Jonathan Berkey and Michael Chamberlain took a different view. They argued that learning in Islamic Arabic-speaking lands in the Middle Period involved an informal element,⁴⁵ and that a student residing in a *madrasa* did not necessarily follow a particular course of instruction there, and did not necessarily study with that *madrasa*'s lecturer(s).⁴⁶ A contribution of this study is to provide further evidence of this informal element, primarily in relation to Ibn al-Ḥājj and his *Madkhal*.

Even if *madrasas* neither monopolised nor dominated religious education in the Middle Period, as A. L. Tibawi, Chamberlain and Berkey have, further, argued,⁴⁷ the curricula they offered are relevant reference points. Berkey argues that “by the middle of the thirteenth century, the madrasa had established itself as the primary forum for religious education throughout the Islamic Middle East, and in particular in the Egyptian and Syrian provinces of the Mamluk empire”.⁴⁸ It is therefore important to ask, what sort of courses or curricula did those training to be scholars study, in *madrasas* and elsewhere?

In practice, curricula that different jurists followed in their early years of study varied widely. Makdisi noted that, as well as courses mandated in theoretical books on

⁴⁴ Makdisi 1981, 153-9 and 281-2. See also Chamberlain's references to Makdisi's *The Rise of Colleges* (1994, 70).

⁴⁵ See Berkey's discussion of “the persistently informal nature” of Islamic education, the growth of endowed institutions in this period notwithstanding (1992, 16-18). The Middle Period stretches from 334/945 until 908/1501 (Hodgson 1974, 371).

⁴⁶ Chamberlain 1994, 80. For Devin Stewart's view, which is closer to Makdisi's than to Berkey's or Chamberlain's, see Stewart 2004, 44-5 and 66 and Stewart 2008, 215.

⁴⁷ Chamberlain 1994, 90 and Berkey 1992, 21-7 and 216-8. See also Ephrat 2000, 8.

⁴⁸ Berkey 1992, 9.

Muslim education (Qur’ān, *ḥadīth*, Qur’ānic sciences, *uṣūl al-fiqh*, *madhhab*, *jadāl* [dialectic] and others), biographical dictionaries record additional courses that were actually taught.⁴⁹ These additional courses varied widely and include such topics as mathematics, narratives relating to the words and deeds of Muḥammad (*akhbār*), and grammar.

Berkey and Chamberlain disagree about whether courses of study had curricula, even while they agreed that those receiving an advanced education typically studied law, and that less formal settings were frequent.⁵⁰ For example, while noting that beginners (*al-mutafaqqiha*) were obliged to study law in Damascene *madrasas*, Chamberlain argues that “[t]here is little evidence that the *madrasas* marginalized fields other than law or that *madrasas* had a ‘curriculum’ in law”.⁵¹ Berkey offers a different perspective. In the context of what he called higher religious education in Cairo from the middle of the thirteenth to the beginning of the sixteenth century, Berkey observes that:

*scholars have identified the madrasa as necessarily, if not exclusively, an institution for instruction in Islamic jurisprudence (fiqh) ... Other subjects elemental to a religious education, such as Quranic exegesis (tafsīr), ḥadīth, or the linguistic sciences might also form part of the madrasa’s curriculum, but only as ancillaries to the study of law.*⁵²

⁴⁹ Makdisi 1981, 82-4. On curricula suggested by theoretical books about Muslim education (as distinct from works describing what was taught in practice), see Makdisi 1981, 80-1.

⁵⁰ Berkey 1992, 7 and Chamberlain 1994, 82-7.

⁵¹ Chamberlain 1994, 82-3 and 87.

⁵² Berkey 1992, 6-7 and 12. Berkey also discussed the role of the *‘ulūm naqliyya*, the ‘traditional or transmitted sciences’ and the *‘ulūm ‘aqliyya*, the ‘rational sciences’ in the curriculum of the schools of higher religious education in Mamluk Cairo (ibid.) Hirschler also notes that *ḥadīth* was central to reading sessions (2012, 61).

That is, *fiqh* was central to jurists' courses of study, almost to the exclusion of other topics. These different perspectives between two eminent scholars shows that there is complexity in making sense of the sources.⁵³ Any apparent contradiction between Berkey and Chamberlain may also derive from the facts that, although they both investigated Mamluk lands in the sources just quoted, their geographical foci were different (Cairo and Damascus respectively) and they studied different (albeit overlapping) time periods (1250-1517 and 1190-1350 respectively). In this study, I explore texts within the chronological and geographical parameters of Berkey's research (as well as the chronological parameters of Chamberlain's research, in the case of Ibn al-Ḥājj), and which, as I will argue, were not used in an institutional *madrasa* setting, yet still covered legal topics. In addition, I will argue that, for Ibn al-Naḥḥās, who received no official appointment, did not aim for his tract to circulate in formal educational settings. This argument is based in part about what little we know about the reception of his text.

1.1.c.ii. Literate primary school teachers, popular preachers, and other non-'ulamā' who taught

In the Middle Period, it was not only jurists who were a potential audience for texts about the application of the law. Hirschler describes two processes that were operative during the Middle Period, which indicate that non-jurists who taught others consumed a

⁵³ As far as Islamic education is concerned, the curricula being studied by Mamluks were not significantly different from those studied by non-Mamluk scholars. Ulrich Haarmann alludes to jurisprudential texts that at least some Mamluks needed to study as part of their syllabus of learning (1988, 87-8). Berkey's view is that, even if only to a limited extent, Mamluks as a group and as individuals were exposed to an academic world that was similar to the kind of Islamic higher education to which others were exposed (Berkey 1992, 128-60).

wide range of literature. ‘Textualisation’ refers to the significant increase of the role of the written word, and Hirschler argues that this process was at work in Egypt and Syria.⁵⁴ The period, Hirschler argued, stood out through ‘popularisation’, which denotes the “increasing interest in the written word by broader social groups beyond scholars”, in Egypt and Syria from the seventh/thirteenth century onwards.⁵⁵ These social groups include traders and craftsmen, who “play[ed] a more active role [than has hitherto been acknowledged] in the reception and ultimately in the production of the written word”.⁵⁶ In a similar vein, Doris Behrens-Abouseif argues that a key reason why academic education was accessible to non-specialists in the Mamluk period was social fluidity involving various religious, political and other classes.⁵⁷

The high social mobility of the period also meant that individuals of all walks of life and all professions participated, potentially, in the process of transmission of knowledge. To put it another way, it was not only specialists who were interested in jurisprudential texts.⁵⁸ Berkey has argued that networks of schools allowed “many men who were not, strictly speaking, scholars, nonetheless to live on the periphery of the world of higher Islamic education”.⁵⁹ The complex and varying networks of social and

⁵⁴ 2012, 5. This does not mean, however, that the role of recitation declined (except in relative terms, *ibid.*).

⁵⁵ Hirschler 2012, 156. These social groups include traders and craftsmen, who “play[ed] a more active role in the reception and ultimately in the production of the written word”.

⁵⁶ *Ibid.* (see also pages 5 and 197-8).

⁵⁷ Behrens-Abouseif 2011, especially 384-6.

⁵⁸ Interested non-academics also accessed jurisprudential texts and higher education outside of institutional settings, and were not always approved of by teachers in such settings (Hodgson 1974, 2:445 and Homerin 2005, 12).

⁵⁹ Berkey 1992, 200.

professional relationships that linked various members of the educated classes - such as calligraphers, narrators or storytellers (*quṣṣāṣ*), the ‘reader of the chair’, who sat in mosques and read from books (*qāri’ al-kursī*), and jurists themselves - would inevitably have led to different sets of lay people hearing or otherwise coming into contact with jurisprudential texts.⁶⁰ Many of the above non-specialists were literate, and some of them also taught others.

Who fell into this category of those who were not legal specialists, but who taught others? First, the popular preacher (or admonisher, *wā’iẓ*) and the storyteller (*qāṣṣ*) passed on knowledge.⁶¹ The ‘*ulamā*’ may have been the “unappointed clergy”,⁶² and may not have recognised storytellers as scholars, but storytellers may have been traders or craftsmen (or members of other such professions) - that is, part of the broader social groups mentioned by Hirschler. Popular preachers certainly played a large role in the transmission of religious knowledge to the masses in the Later Middle Period.⁶³ For example, Berkey describes the close relationship in late eighth/fourteenth-century Cairo between *mī’ād* (in this context, an activity similar to preaching and storytelling), *tafsīr* and issuing *fatwās*, based on the career of Sirāj al-Dīn ‘Umar b. Raslān (d. 805/1403), a traditionist and Ḥanafī jurist.⁶⁴ In addition, Berkey notes that *quṣṣāṣ* were “minor scholars who supported themselves, in whole or in part, by delivering simple lessons to

⁶⁰ Ibid., 204-5 and 208. (Berkey 1992, 204).

⁶¹ Homerin 2005, 11-12.

⁶² Bulliet 1979, 40.

⁶³ Ibid., 88.

⁶⁴ Ibid., 39.

the masses of the Muslim population who were not full-time students, or by reading to them from introductory religious and legal texts”.⁶⁵ Popular preachers were operating in an environment where juridic argumentation was important, and many were trained in jurisprudence (albeit informally and partially). Tensions between authors of anti-innovation tracts on the one hand, and popular preachers and storytellers on the other, make it unlikely that preachers and storytellers were an audience for the former.⁶⁶ However, the fact that basic jurisprudential texts were read, or recited, to the masses is important, given my argument (later in this study) that this was the primary audience Ibn al-Nahhās intended to reach.

A second group, separate from jurists, who passed on knowledge, were those who taught in children’s schools. Such teachers were increasingly numerous during this period, as Konrad Hirschler notes,

*“The spectacular spread of endowed institutions of learning and teaching that started to gain pace in Egypt and Syria during the seventh/thirteenth century entailed a significant rise in the provision of free schooling for children. Consequently, wider groups in society started to acquire at least a basic level of reading skills that enabled them to play a more active role as individual readers, and not only as participants in communal reading practices.”*⁶⁷

This group could have been part of the intended audience for Ibn al-Ḥājj’s and Ibn al-Nahhās’ tracts, coming into contact with them in reading sessions (in which

⁶⁵ 1992, 204.

⁶⁶ Homerin 2005, 13.

⁶⁷ Hirschler 2012, 8.

jurisprudential works, among others, were frequently disseminated),⁶⁸ or at local endowed libraries.⁶⁹ However, although this remains a possibility, there is scanty evidence of this.⁷⁰

Of course, those who were not literate could also attend reading sessions, and many others in the Mamluk period were illiterate.⁷¹ This highlights the importance of considering a third potential audience, below.

1.1.c.iii. Other non-jurists, including ‘the masses’

So far in this introduction, I have referred to ‘the masses’, ‘the public’ and practices that are ‘popular’. What precisely do I mean by these terms? Several modern scholars have engaged with this question, which is fraught with difficulties because of the vagueness of these terms.⁷² Boaz Shoshan defined popular culture as “socially inferior to the bourgeoisie; hence, supposedly also illiterate, at least by and large”.⁷³ He distinguished popular culture from ‘high culture’ (while also noting that the two cultures exerted an “‘osmotic’ influence” on each other), defining high culture as “all the rest”, in the case of

⁶⁸ Ibid. 2012, 7-8, 47, 145 and 152 (and see discussion, *ibid.*, 152-6).

⁶⁹ Ibid., 8 (see also page 47). On the proliferation of various types of libraries, and on the local endowed library as part of the process of popularisation in the Middle Period, see *ibid.*, 145-50. Hirschler uses the term ‘local endowed library’ to refer to smaller libraries that proliferated in urban centres in Middle Period, and distinguished them from central libraries, which were larger and generally older (*ibid.*)

⁷⁰ See the discussions, in Part III, based on research into biographical dictionaries. In addition, library catalogues contain no data that help identify reading sessions or libraries where Ibn al-Ḥājj’s or Ibn al-Nahḥās’ tracts may have been heard or stored.

⁷¹ See Hirschler’s discussion about the reading practices of landlords, merchants, physicians and others “beyond the elite” (2012, 22-3).

⁷² See Berkey 2001, 9-11 and references.

⁷³ Shoshan 1993, 7.

Egypt this being rulers, scholars, wealthy merchants and bureaucrats.⁷⁴ The masses are those who mainly consumed popular culture, and individually lacked political or military influence, and who had not received scholarly education beyond (in some cases) their earliest years.

Using biographical dictionaries, Daphna Ephrat has compiled a table of the secular professions that *'ulamā'* based in Baghdad held during the fifth/eleventh centuries.⁷⁵ This table shows that nearly fifty per cent of scholars were merchants (*tujjār*) or came from merchant families. Almost all were involved in commerce as vendors, craftsmen, or other professions. Notwithstanding later trends towards the professionalisation of the *'ulamā'*,⁷⁶ this highlights the danger of separating 'scholars' from 'working people' in entirely different categories. There is considerable overlap between 'the masses' and the *'ulamā'*. To be more precise, in using the term 'masses', I am referring to those without a license to teach and those who had not pursued a course of juristic or other scholarly instruction (beyond elementary schooling when they were very young).

'The masses' could have heard jurisprudential works, or excerpts from them, in at least five different settings, the first two of which I briefly mentioned in the preceding section. The *wa'z* was the sermon or harangue, delivered by an independent religious scholar in a study circle, other academic context, or outside in public; the *qaṣaṣ* was the popular sermon given on the street, usually telling stories of the past; the *khutba* was the Friday sermon delivered by an appointee of the sovereign; the *tadhkīr* was also a popular

⁷⁴ Ibid., 67 and references.

⁷⁵ 2000, 97-9.

⁷⁶ Ibid., 8 and 104. See also Gilliot 2000, 803.

sermon, usually reminding listeners of the blessings God has bestowed, urging thanks to God, and warning against disobeying him;⁷⁷ and readings and public recitals of the Qur'ān and *ḥadīth* took place in public spaces, for example to celebrate the inauguration of the Baghdād Nizāmīya *madrasa* in the Seljuq period. Given that some *fiqh* works consisted almost entirely of *ḥadīths* (see discussion in Part III), it is not inconceivable that such works would have been read at such public recitals. Two major studies on popular culture and preaching in this period provide evidence that the *wa'z*, *qaṣaṣ* and *tadhkīr* were all being delivered in Mamluk Egypt and Syria.⁷⁸ Popular forms of speechmaking provided a way for someone without the formal authority of the *khaṭīb* to exert influence over wider audiences, and it played a large role in this process of popularisation described above. I will argue that it is precisely this kind of influence that Ibn al-Nahḥās hoped to attain.

Berkey categorises the thematic content of the *khuṭba*, *wa'z*, *qaṣaṣ* and *tadhkīr* in the Later Middle Period as covering the creation of the world, cosmogony, prophecy (in particular Muḥammad's role in this), stories about Muḥammad and his companions, common sense advice, poverty, a renunciation of worldly goods and powers, death, judgment and salvation. The last five themes (from poverty onwards) were “especially popular with storytellers and their audiences”.⁷⁹ As we will see later in this study, these

⁷⁷ Makdisi 1990, 148 and 173. Ibn al-Jawzī (d. 597/1200) was instrumental in clarifying confusions between the last three types of sermon listed (*ibid.*, 173). See also Johannes Pedersen's discussion of types of preaching (1948, 226-51). I am excluding from this brief survey the recitation of poetry (*shi'r*) because, although some legal texts included quotations from poems, such recitation is not directly relevant to the topic at hand.

⁷⁸ Berkey 1995, 37-43 and 59-65, and Shoshan 1993, 13.

⁷⁹ *Ibid.*, 45-6.

are themes that several anti-innovation tracts adopted. The above themes also illustrate again that it was not only scholars who were interested in law. *Fiqh* addressed questions such as: What should I do? How should I act? These were questions that interested many people without formal scholarly training who may have sought ethical rather than legal advice. I will argue that Ibn al-Nahhās, and Ibn al-Ḥājj to a significantly lesser extent, were popularisers, in the sense not of dumbing down the law, but of widening access to it among ‘the masses’.

1.1.c.iv. Those with some form of temporal power

Another possible audience is those with temporal power. There are many potential examples within this category, including those with significant political power, or lower ranking political appointees, who may or may not have received a scholarly education. The questions of where power really lay, and how scholars sought to exert various kinds of authority over others, are extremely important to this discussion, not least because of the socio-political, educational, demographic and religious upheavals which characterised the times in which Ibn al-Ḥājj and Ibn al-Nahhās lived.⁸⁰

These potential audiences are important because anti-innovation tracts generally address many issues that interested political ‘elites’, such as conduct at festivals and the like. In respect of the *bahri* period, few studies to date have explored the relation between tradition and power; this constitutes an additional reason for bearing this audience in mind. In Part V, I explore the possibility that Ibn al-Ḥājj and Ibn al-Nahhās intended to

⁸⁰ See discussion above.

address and provide guidance for the market place inspector (*muhtasib*), at least partially, in their passages on the markets and the streets. In this and other contexts, I argue that both Ibn al-Ḥājj and Ibn al-Naḥḥās were eager to exert their influence beyond their immediate audiences (students and the masses respectively). Such an aim is also not incompatible with both jurists also viewing God as their audience. As later chapters will make clear, Ibn al-Ḥājj and Ibn al-Naḥḥās viewed their task in pious terms, in the sense that by observing what was wrong and speaking and writing against it, they had discharged their duty.

I.1.d. Hypotheses and main arguments

The above two sections have shown that a range of questions are relevant to my study of Ibn al-Ḥājj's and Ibn al-Naḥḥās' works. In addition, *fiqh* was important to education in the Islamic Middle Period, and wide sectors of the population, reaching far beyond licensed scholars, were exposed to jurisprudential writings then, through either reading or oral transmission. In the light of this, I have articulated four hypotheses that will be tested in the remainder of this study.

Ibn al-Ḥājj's and Ibn al-Naḥḥās' legal works:

- A. Belong to a genre of prescriptive positive law that has so far received little attention.
- B. Allow us to reconstruct actual social or legal practices in particular locales or time periods.

C. Show that Arabic-speaking legal specialists in the Mamluk period, who were ‘outsiders’ to the context in which they operated, wrote about *bid’a* in ways that illustrate the continuity and evolution of legal thinking that existed during this period.

D. Were aimed at the following audiences:

1. Incipient jurists.
2. Literate non-‘*ulamā*’ who taught (including primary school teachers and popular preachers), who read the texts at reading sessions or in libraries.
3. Non-specialists, who were exposed to the works via sermons or public recitals.
4. Those with some form of temporal power, such as founders of *madrasas*, or market place inspectors.

A few words of clarification are in order. The above hypotheses are not intended to be mutually exclusive or collectively exhaustive. To illustrate this, consider the wording of my first hypothesis, about genre. In using the verb ‘belong’, here, I am mindful of John Frow’s view that texts ‘use’ genres (rather than ‘belong’ to them), in the sense that the work of genre is “to mediate between a social situation and the text which realises certain features of this situation, or which responds strategically to its demands”.⁸¹ By contrast, I am considering genre in both senses of belonging and using. As a result, I observe that the strategies that Ibn al-Ḥājj and Ibn al-Naḥḥās deployed to write about *bid’a* (this

⁸¹ Frow 2005, 2 and 14.

relates to my third hypothesis) show how they selected and used a genre (my first and third hypotheses), to address particular audiences (my fourth hypothesis).

A crucial distinction must also be observed in the second hypothesis, between whether social and legal practices prompted what jurists wrote (on the one hand) and whether we may argue that specific practices happened at a particular time and place from what appears in works of positive law (on the other). The former should not be disputed, because Calder, Hallaq and Johansen all agree that actual social and legal practices must have had an effect on scholars writing works of positive law. The latter, however, is harder to pin down, and will be a focus of investigation in this study. There are no guarantees that my approach will prove or disprove this hypothesis, but - in any case - the overall investigation will contribute to a better understanding of the texts, actors and mechanisms at work.

In relation to my third hypothesis, I have deliberately chosen a broad term, in ‘outsiders’. This is because - as we will see - Ibn al-Ḥājj and Ibn al-Naḥḥās were, in different ways, not on the inside of the Egyptian intellectual and political scene. For example, I will argue that Ibn al-Naḥḥās was not a high-ranking jurist, was not from Egypt, and did not locate himself in a major city and did not belong to the dominant *madhhab*.

Finally, several conclusions could flow from the hypotheses about audiences. For example, the introduction to a given tract may be aimed at a more scholarly audience than the main body of that tract. Also, different tracts may have been aimed at different audiences. In the conclusion to this thesis, I explore the question of what Ibn al-Ḥājj and

Ibn al-Naḥḥās were seeking to achieve, by drawing various threads together especially from my investigation of the fourth hypothesis.

In the remainder of this section, I set out the main arguments contained in this study. In summary, Ibn al-Ḥājj and Ibn al-Naḥḥās were outsiders to Egypt who used a genre of prescriptive positive law to define and regulate correct Muslim practices, addressing a range of audiences in ways that were both new and continuous with earlier thinking.

First, I argue that anti-innovation tracts are prescriptive examples of *furū'*. Although modern scholars seem to agree that anti-innovation tracts are non-theoretical legal texts, no study has so far combined a detailed study of a small number of tracts with an overview of the genre of a whole, in the context of a consideration of the various genres of positive law. This first argument is therefore unique in its strength.

I contend that my (second) hypothesis about reconstructing social and legal practices remains unproven, in the precise form articulated above. Practices that were being performed at some time probably did prompt authors to write what they wrote. Where I have found data from sources external to Ibn al-Ḥājj's and Ibn al-Naḥḥās' tracts, that shed light on my investigation of this hypothesis, I highlight this. However, only in some cases can we be sure that the practices occurred within a very recent timeframe (such as five to ten years) and in places located very close to where they wrote (that is, the author had personally witnessed them). In other words, I argue that in many cases authors were writing about events that were happening elsewhere, or that the events had happened decades before and had entered the literary 'canon' of anti-innovation literature

prior to the author's lifetime, or that we cannot be sufficiently certain. Therefore, although we can be fairly confident that the events happened (somewhere, at some time), we cannot use these sources exclusively to reconstruct social history very accurately, except in a very general sense.

In relation to my third hypothesis, I argue that, in different ways, Ibn al-Ḥājj's and Ibn al-Naḥḥās' writings indeed demonstrated the continuity and evolution in legal thinking that existed during this period, as compared with earlier examples of such tracts. In terms of continuity, there was a tradition of writing about *bid'a*, evidenced by al-Qurṭubī's and others' tracts. Ibn al-Ḥājj and Ibn al-Naḥḥās followed this in many respects, such as in discussing hated and forbidden innovative practices, and in mentioning every category of practice that had been previously discussed in anti-innovation tracts.

Ibn al-Ḥājj's and Ibn al-Naḥḥās' works are both steeped in the existing tradition of anti-innovation tracts, and depart from it in significant ways. For instance, if one were to compare the contents page of a pre-Mamluk anti-innovation tract with the contents pages of Ibn al-Ḥājj's and Ibn al-Naḥḥās' tracts, one would see that the topic of commerce is new. More deeply, Ibn al-Ḥājj and Ibn al-Naḥḥās had different concerns that they expressed in unprecedented ways: Ibn al-Ḥājj wrote an introduction that set out the role and ethos of the scholar, and focussed on knowledge throughout the tract; for his part, Ibn al-Naḥḥās prioritised action more than knowledge, and addressed non-specialists in an abbreviated, direct, way.

One of my most significant findings about how each scholar sought to regulate behaviour, is their different approach to their *madhhabs*. Apart from Fierro's argument

that early Shāfi‘ī anti-innovation tracts were dependent on the Mālikī tradition and that Ḥanafī ones were dependent on the Ḥanbalī tradition, and Ukeles’ comments about the distinction between Mālikī and Shāfi‘ī definitions of *bid‘a*,⁸² modern scholars have not engaged with the topic of legal schools in relation to anti-innovation tracts. I argue that Ibn al-Ḥājj stuck closely to his Mālikī heritage (both in his reasoning and use of sources), being ‘accommodationist’ on Michael Cooks accommodationist-confrontational spectrum, and that others recognised this heritage. By contrast, the Shāfi‘ī Ibn al-Naḥḥās was confessionally eclectic, demonstrating openness to other legal schools than his own - especially the Mālikī and Ḥanbalī ones. He selectively drew on evidence from them, and on one occasion used a three-schools concept of consensus. Although such observations do not constitute evidence for a significant change in *madhhab*-opinion, they are examples - different from what is seen previously in the genre - of how a Shāfi‘ī jurist went about prescribing right conduct from the point of view of his legal school. Linked to this, I also contend that Ibn al-Naḥḥās was deliberately and pragmatically arguing in different ways in different places.

The above point about confessional eclecticism leads to a potential problem, which I address in Part V. In Mamluk Egypt, Shāfi‘īs were accustomed to being in a dominant position vis-à-vis other legal schools. In reaction to political elites encroaching on jurists’ educational and administrative territory, most Shāfi‘īs were entrenching their positions,

⁸² See Chapters V.2 and II.2 respectively.

⁸³ Levanoni 2013, 157-61.

rather than being open to the views of other schools.⁸³ As a result, among other things, I will explore how and why, in this context, Ibn al-Naḥḥās was confessionally eclectic.

Fourth, at the heart of a contextualised argument about two jurists is a narrative about each one individually addressing certain audiences. In the introduction to his tract, Ibn al-Ḥājj did not refer to innovation (except when naming the full title of his work), and he directly engaged scholars by inviting them to act according to their knowledge. The body of Ibn al-Ḥājj's tract provides further evidence that Ibn al-Ḥājj aimed to provide knowledge to such a scholarly audience, probably students early in a course of study, but not as a formal, or core, part of any curriculum. Further, he described this action as a God-given *farḍ* (“*God put scholars under an obligation to teach*”),⁸⁴ and invited scholars to reflect on his own scholarship. Although many modern scholars include brief quotations from Ibn al-Ḥājj's anti-innovation tract, none engages in an in-depth study of his audiences, in the manner of this study.

My investigation of Ibn al-Ḥājj's background provides evidence to support these conclusions. Ibn al-Ḥājj was a juridically trained Mālikī who was born in Fās in the Maghrib, the culture and legal developments of which were different from those in the Nile to Oxus region. He settled in Cairo (at the latest by the time he was about forty) and wrote a lengthy tract in favour of following tradition and against innovative practices, as well as grammatical and mystical works.⁸⁵ In this tract, Ibn al-Ḥājj castigated ignorance of right observance of Islam in Egypt, and promoted knowledge of a purer form that

⁸⁴ *Madkhal*, 1(1):11.

⁸⁵ See the list of works provided in Chapter III.1.

existed in the West. My thesis about Ibn al-Ḥājj writing as an outsider (vis-à-vis Egypt and other scholars) is supported by my investigation not only of Ibn al-Ḥājj's socio-biographical context, but also of his text, including his stated intent therein.

In contrast to Ibn al-Ḥājj, I argue that Ibn al-Naḥḥās was keen to stir Muslims to action, rather than just promote knowledge. Ibn al-Naḥḥās positioned his anti-innovation tract within a larger work, the *Tanbīh*, that was a guide for “*people like me*”.⁸⁶ This work also addressed the duty to command right and forbid wrong, and various large and small sins, and was aimed at an audience that is wider than just scholars. This observation about audience applies both to the *Tanbīh* as a whole, and to Ibn al-Naḥḥās' anti-innovation tract within it, which I have called *Dhikr*, being its opening word. My investigation of Ibn al-Naḥḥās' background also provides reasons to support this contention of a wider, more ‘popular’ audience: he emigrated with others from Syria in the wake of Tīmūr's invasion in 803/1400, settled in the small town of Manzala in Northern Egypt and was personally involved in battles on the northern coastlands of Egypt. More so than Ibn al-Ḥājj, Ibn al-Naḥḥās was also outside the scholarly establishment.

Alongside these points of difference, my thesis is that the ways in which both scholars argued against the status quo make sense in the context of what we know about their lives, not just what we see in their texts. Neither Ibn al-Ḥājj nor Ibn al-Naḥḥās were familiar with Egypt from their earlier years, and both lacked political influence. However, I argue that it is likely that both scholars knew (or hoped) that, those with some form of

⁸⁶ *Tanbīh*, 17.

temporal authority, such as marketplace inspectors (*muḥtasibs*) and political rulers, may hear of their work, even if from a distance. At the end of this study, I will draw several of these threads together to make arguments about the significance of Ibn al-Ḥājj and Ibn al-Naḥḥās being outsiders, or relative newcomers, to the land in which they wrote, and about what they were trying to achieve in so doing.

This thesis studies Ibn al-Naḥḥās' anti-innovation tract in its own right for the first time, and Ibn al-Ḥājj's tract has never before received such detailed, contextualised, scholarly attention. The above findings about audiences and aims, as well as the English translations that are presented, are unique contributions to scholarship on legal writings in the Islamic Middle Period.

What sort of evidence could be used to explore these hypotheses? Negatively, the available sources do not permit much that is specific to be said about specific settings in which audiences may have read or heard Ibn al-Ḥājj's or Ibn al-Naḥḥās' works, as they lack clues such as dates and references to specific names and places. I have not analysed the reception history of either work beyond an investigation of the number and current whereabouts of the manuscripts that have survived of these works. Library catalogues could have been helpful in respect to the first two audiences. However, other than those that may be un-catalogued in manuscript collections around the world, or yet to be unearthed elsewhere, there are no Arabic library catalogues dating from the Mamluk period.⁸⁷ In Part III of this thesis, I briefly present elements of a reception history that I

⁸⁷ From personal correspondence with Konrad Hirschler.

found as a by-product of my investigation into Ibn al-Ḥājj's and Ibn al-Naḥḥās' scholarly networks and intellectual backgrounds.

Positively, I am using three types of evidence in order to explore these hypotheses: an account of the jurisprudential literary tradition of which they are a part (drawing on, among others, the scholarship of Norman Calder, Wael Hallaq and Baber Johansen, Maribel Fierro's research on al-Qurṭubī, and direct readings of pre-modern anti-innovation tracts - this is in Part II); the biographical and historical contextualisation of each author (Part III); and the stylistic analysis of their anti-innovation tracts (Parts IV-V). My account of literary setting, in Part II, includes a discussion of terminology and legal schools, as this will be relevant in Parts IV and V. Within the stylistic analysis, I present a close textual analysis and discussion of the introductions to the tracts (as well as, in Ibn al-Naḥḥās' case, the introduction to the wider work in which the tract is situated; Part IV), before moving on to a similar analysis and discussion of two comparable case studies drawn from the tracts themselves (Part V).

The subject matter of this investigation includes both the lives of these jurists and the anti-innovation tracts that they wrote. Because of the nature of this subject matter and taking as a point of departure the scholars' own, explicit, concern with innovation, my primary focus is innovation, with the scholars' use of tradition closely in view. Therefore, before turning to the detailed approach and evidence that I use to test the above hypotheses, and the major arguments I put forward, I establish what is meant by the two terms, 'tradition' and 'innovation'.

I.1.e. Key terms and concepts

I.1.e.i. Tradition

‘Tradition’ is a term that is central in this thesis and has been important throughout history ancient and modern.⁸⁸ According to Edward Shils’ characterisation, tradition includes both endogenous and exogenous forms of change.⁸⁹ Endogenous forms of tradition include processes of rationalisation (such as occurred in some quarters in relation to Islamic sources of law). Exogenous forms include changes in tradition through the pressure of alien traditions (such as Muslims joining in with the celebration of Christian festivals) and syncretism in the interaction between the centre and the periphery.⁹⁰

Several Arabic terms can be translated by the English term ‘tradition’, including *taqlīd*, which Marshall Hodgson glossed as ‘acceptance of authority’.⁹¹ However, the most common term, and the one most frequently referred to in anti-innovation tracts, is *sunna*.

Sunna refers variously to habits that Muslims cultivate, expressions or practices that Muḥammad (or his Companions and Successors) is (are) said to have spoken or

⁸⁸ In addition to the above references, which relate to tradition and innovation in history, see Grieve and Weiss 2005, 1-8. See also Hobsbawm and Ranger (eds.) 1983 (all seven chapters are relevant), R. Weiss 2005 and Engler 2012.

⁸⁹ Shils 1981, 213-61; see also Thompson 2003, 52. For a critique of Shils’ characterisation of tradition, on the basis of Weber’s analysis of tradition as a type of authority, see Grieve and Weiss 2005, 3.

⁹⁰ My usages of the terms ‘Islamic’ and ‘Muslim’ in contexts such as these are not intended to imply that any findings apply equally to Muslims elsewhere in the Islamic world at that time or other times.

⁹¹ Hodgson 1974, 448. See also Calder 1996, 155-6 and 161-2.

done, or a saying about such habits or practices.⁹² For al-Shāfi‘ī (d. 188/820), the *sunna* of Muḥammad came to hold the position of the second source of Islamic law, after the Qur’ān.⁹³ From this time onwards, the term *sunna* came to stand for the normative practice of Muḥammad, his Companions and/or his Successors; this is how anti-innovation tracts use the term *sunna* and how I use the word ‘tradition’ in this thesis.⁹⁴ This is not to suggest that there was a shared or fixed view of what that normative conduct was in the Mamluk period. Rather, it is to draw on a definition that was widely shared, at least among Sunni Muslims.

Although tradition does not equal stasis, it is understandings about tradition that change, rather than tradition itself. In the sense I have defined it, tradition (being equated with *sunna*) stands above any *madhhab*; however, narratives about tradition do not. According to Norman Calder, the use of tradition was a source of vitality in *fatwās* and other juridic writings in fifth/eleventh century Shāfi‘ism, and the author-jurist (broadly defined) was a dominant creative agent in this regard.⁹⁵ The investigation that follows focusses on the author-jurist, and therefore allows us to explore the nature of creative agency in at least two Sunni *madhhabs* (Mālikī and Shāfi‘ī).

In a sense, authors of anti-innovation tracts were historians, as they frequently cited narratives about tradition - that is, practices that happened in the past - as supporting

⁹² Schacht 1950, 58 and G. Juynboll 1997, 878.

⁹³ Schacht 1950, 58 For Schacht’s view that al-Shāfi‘ī’s use of traditions was innovative, see 1950, 20, 30 and 40.

⁹⁴ Colby 2005, 37 and 45-48.

⁹⁵ Calder 1996. Cf. Brown 1996, 2. On tradition as innovation justified by invoking continuity, see Hervieu-Léger in Despland 2005, 29.

evidence for what should be done in the present. Inherent to such citations are three types of past: the author's immediate past, when he claimed to have witnessed non-traditional practices; the periods in which the author whom he cited lived; and the time in which Muḥammad and his early followers lived.⁹⁶ The first and last types are especially relevant to this thesis and my approach to the history of both of these periods is a critical realist one. In relation to Muḥammad's day, this means that I assume that the authors were not recreating the past, but were not simply retelling it either.⁹⁷ This is relevant to my hypothesis about reconstructing social and legal practice. In relation to the times when authors of anti-innovation tracts lived, I do not entirely discount their claims to have witnessed innovations, but - before coming to any conclusions - do seek to corroborate claims, where possible, using other sources such as chronicles.

Premodern discussions about tradition frequently involved issues of influence and authority, in part because of the importance of the past to the present. Several modern scholars have advanced the argument that, among premodern Muslim jurists, appeals to tradition also inherently constituted appeals to their own authority as jurists and scholars.⁹⁸ For example, as part of a discussion on Carl Petry's foundational study, *The Civilian Elite of Cairo in the Later Middle Ages*, Emil Homerin observed: "In terms of religion, the jurists and legal scholars claimed to be guardians of the shari'ah and *sunnah*,

⁹⁶ On the difference between the term 'traditional', understood as a state of mind, or as an institution, see Hodgson 1974, 375.

⁹⁷ See Spiegel 1997, 21-2. For a discussion of critical realism in the fourth/tenth century Andalusian context, see Clarke 2011, 45 (and further references).

⁹⁸ On fourth/tenth century Būyid *amīrs* promoting the celebration of Shi'i feasts, see Sourdell 1978, 942. On Abū Shāma (d. 665/1268) and the 'good innovation' of *raghā'ib* prayers, see M. Katz 2007, 150-1. For this point in relation to Ibn al-Ḥājj and the *mi'rāj*, see Colby 2005, 33.

and so came to hold moral authority and influence”.⁹⁹ I argue that discussions of traditions in anti-innovation tracts also relate to the authority and influence of the tract’s author.¹⁰⁰

1.1.e.ii. Innovation

Bid‘a literally means innovation or novelty, a *mubtadi‘* being an innovator or creator. A fuller definition of *bid‘a* is ‘innovative deviation from tradition’.¹⁰¹ Al-Shāfi‘ī famously held that every *bid‘a* was bad but that not everything new was necessarily a *bid‘a*.¹⁰² He also established a key principle for establishing whether something new was innovative: Does the novelty contradict the Qur’ān, the example of Muḥammad or his Companions and Successors, or consensus (*ijmā‘*)?¹⁰³

Vardit Rispler states that the term *bid‘a* was flexible in its use and underwent development during the Islamic Middle Period.¹⁰⁴ For example, not all scholars after al-Shāfi‘ī agreed that *bid‘a* was unequivocally negative. As Fierro notes, the Shāfi‘ī Ibn ‘Abd al-Salām (d. 660/1262) and the Mālikī al-Qarāfi (d. 685/1285) were the first to

⁹⁹ Homerin 2005, 11.

¹⁰⁰ See also Stowasser 1984.

¹⁰¹ For a more negatively focussed definition, see Vikør 2005, 291-2. On the Qur’ānic background to *bid‘a*, *muhdath* and their cognates, see Hallaq 2002, 536.

¹⁰² Goldziher 1971a, 2:36-7. I am grateful to Harry Munt for alerting me to an early reference to *bid‘a* in a letter that the ‘Abbāsīd caliph Hārūn al-Rashīd (d. 193/809) is said to have written to provincial governors in the year 186/802. The letter mentioned that the caliph sought to suppress those who invited others to unlawful innovations (Bosworth 1989, 197).

¹⁰³ Fierro 1992a, 205; see also MacDonald 1903, 148 and 186 in relation to al-Bukhārī and also a tradition ascribed to Mālik b. Anas.

¹⁰⁴ 1991, 328. On the difficulty of arriving at agreed definitions of innovation, see Talbi 1960, 75. An example of a work mentioning *bid‘a*, but not focussing on it as a topic, is al-Ghazālī’s *Fayṣal al-tafriqa bayna al-islām wa-al-zandaqa* (see references in van Ess 2006, 38n24 and 195).

apply to the category of *bid'a* the five legal qualifications, namely prohibited (*muḥarrama*), hated (*makrūha*), permitted (*mubāḥa*), recommended (*mandūba*) or loved (*mustaḥabba*), and obligatory (*wājiba*).¹⁰⁵

Many different types of Islamic Arabic literature discussed innovation, including heresiographical treatises dealing mainly with doctrine (*kutub al-milal wa-al-niḥal*), theological treatises dealing with political law (*aḥkām sulṭānīya*), books containing professions of faith (*'aqā'id*), *ḥisba* treatises (guides for marketplace inspectors), *fatwā* collections, *adab* works and *ḥadīth* literature.¹⁰⁶ Anti-innovation tracts represent only part of scholars' engagements with innovations and, as Berkey has noted, these engagements "[were] part of a process through which [scholars] sought to exert control over a religious tradition that, lacking formal institutions and mechanisms of authority, was inherently vibrant and polymorphous."¹⁰⁷

Nevertheless, it was anti-innovation tracts that most directly addressed issues of tradition and innovation, mainly in the devotional sphere of the law (*fiqh al-'ibādāt*), but also in the sphere of social transactions (*fiqh al-mu'āmalāt*). Although some anti-innovation tracts contained discussions of positive innovations, they focus for the most part on forbidden and hated innovations. I understand discourses in anti-innovation tracts to be intimately connected with scholars' attempts to influence others and to express their

¹⁰⁵ Fierro 1992a, 206. See also Robson 1960b, 1199 and Jackson 1993, 71. Cf Ukeles 2006, 122n91, on Ibn 'Abd al-Salām's three types of innovation.

¹⁰⁶ On *ḥadīth* literature, see al-Bukhārī, *Ṣaḥīḥ*, 1:500-3 (praying during *laylat al-qadr*, the night of power in the month of Ramaḍān) and Burton 1994, 50, 120 and 125. On *ḥisba* treatises, see Izzi Dien 1997, 35. On the other genres, see Fierro 1992a, 206-7. For a discussion of innovation relating to the appropriation of public assets during the late-Mamluk period, see Walker 2009, 65.

¹⁰⁷ Berkey 2001, 94.

own authority, both because of the reasons mentioned in the previous section and because of the close relationship of innovation with tradition.¹⁰⁸

Modern scholarship discussing innovation focusses almost exclusively on devotional law.¹⁰⁹ For example, several scholars have pointed out that premodern accusations of innovation related to issues of authority and influence. In relation to beliefs, Fierro argues that it was not uncommon for members of one legal school to accuse members of another school of innovation, both within Sunnism and between Sunnis and non-Sunnis.¹¹⁰ Similarly, Berkey distinguishes between new and old innovations, an example of the former being an instance in which Turkish-speaking rulers authorised a different way for muezzins to chant the call to prayer and to recite *allāhu akbar* at the head of funeral processions.¹¹¹ In the chapters that follow, we will see that Ibn al-Ḥājj and Ibn al-Naḥḥās focussed on hated and prohibited innovations, both old and new.

This thesis, by contrast to much previous scholarship, investigates not just devotional law but also social law. Building on Vispler's and Fierro's work on the meaning and use of the term *bid'a*, this study also brings to bear additional evidence

¹⁰⁸ Also, see Brown, in the context of Ibn Taymīya's "reformism" (1996, 3). On the "double concept" of sunna and *bid'a* in juristic and doctrinal literature, see Landau-Tasseront 1989, 84.

¹⁰⁹ In addition to references given earlier regarding modern scholarship on Ibn al-Ḥājj and Ibn al-Naḥḥās, see Talbi 1960, Rispler 1992, Shoshan 1993, 68-9, Berkey 2001, 29-31 and Ukeles 2006, 2 and 6n15. Separately, Raquel Ukeles explored permitted devotional innovations - encompassing the categories of recommended (*mandūba*), loved (*mustahabba*) and obligatory (*wājiba*) - in the writings of Ibn Taymīya, Al-Shāṭibī, Al-Suyūfī, Ibn 'Abd al-Salām and Abū Shāma (ibid., 20).

¹¹⁰ Fierro 1992a, 206. Similar points are made by Jansen (in the context of Ibn Taymiyya's response to the announcement of Ghazan's conversion from Buddhism to Islam, 1978-8, 395), G. Juynboll (in relation to so-called 'sunna seekers', 1997, 879) and M. Cook (in relation to Ibn 'Abd al-Salām's [d. 660/1261] denouncement of Ḥanbalism, 2000, 355).

¹¹¹ Berkey 1995, 49-50.

about the differing ways in which jurists in the Mamluk period reflected on and used this term, frequently in the context of the term *sunna*.

I.1.f. Approach and sources

I.1.f.i. Intellectual history

As stated above, my approach in this study is an intellectual historical one. Bruce Kuclick has summed up the premise for intellectual history as follows:

“[Intellectual history involves] interpreting the intentions of gifted authors of difficult texts, and ... recapturing the dense intellectual network in which texts have been written - the web of assumptions, accepted arguments, standard distinctions, ceremonial issues.”¹¹²

In the case of Islamicate intellectual history, this means that I seek to take account of wide social, political and literary contexts of the historical period and texts in questions. In this case, this involves studying ideas of tradition and innovation in the terms of the broadest possible contexts that produced these ideas, including, here, relevant legal terms, other literature (such as *hisba* manuals and biographical dictionaries), cultural and societal processes (such as popularisation or textualisation) and political developments.

An intellectual historical approach is relevant in the context of this study, for two reasons. First, as Michael Hunter states, it is especially appropriate to cover the territory

¹¹² In Collini 1985, 53. David Hollinger defines intellectual history as “the history of what intellectuals have said about issues that historians regards as important” (ibid., 50). See also Quentin Skinner: the subject matter of the intellectual historian is “the study of past thoughts” (in ibid., 50).

of middle-brow ideas, “as one moves from thinkers in the vanguard of contemporary thought to others who purveyed less original notions”.¹¹³ Although Ibn al-Ḥājj and Ibn al-Naḥḥās demonstrated originality in their writings, they were not the highest profile, highest ranking or most original scholars to have written on the topic of innovation, which is one of the reasons for their relative neglect in the modern scholarship so far.¹ Second, an approach that takes into account the broadest possible context is most likely to provide compelling answers as to why authors wrote what they did in the genres that they selected.

1.1.f.ii. The Literary setting (Part II of the thesis)

If we are to study Ibn al-Ḥājj’s and Ibn al-Naḥḥās’ writings on tradition and innovation, it is vital to appreciate the Arabic jurisprudential literature within which these jurists’ tracts are situated.

In Chapter II.1, I briefly engage with the scholarship of Calder, Hallaq and Johansen, and survey the genres of *mukhtaṣars*, *mabsūṭs*, juristic commentaries on *ḥadīths*, *fatāwā* literature, and *risālas*. In Chapter II.2, I survey seven of the anti-innovation tracts dating from before and during the Mamluk period, namely those of al-Qurṭubī (d. 287/900), al-Ṭurṭushī (d. 520/1126), Ibn al-Jawzī (d. 597/1200), Abū Shāma (d. 665/1268), al-Turkumānī (writing c. 700/1300), Ibn Taymīya (d. 728/1328) and al-Shāṭibī (d. 790/1388). This is with a view to understand similarities and differences

¹¹³ Ibid., 54.

¹¹⁴ In Chapters III.1 and III.2, I define high-, middle- and low-ranking scholars, and argue that Ibn al-Ḥājj and Ibn al-Naḥḥās were middle-ranking.

between them, and to appreciate the direct literary traditions within which Ibn al-Ḥājj and Ibn al-Naḥḥās wrote. As a whole, this Part provides the granularity needed to understand the options that were available to mid-level jurists in the early- to mid-Mamluk period for engaging with issues of tradition and innovation.

1.1.f.iii. The Social and biographical contexts (Part III)

As stated above, the main factor driving the four-part structure of this study is my desire to explore the scholars and their tracts in an integrated and well-contextualised way. Central to this is the argument of the historian Marc Bloch, that a historical phenomenon can never be understood apart from its moment in time. He cited an old Arabic proverb to this end: “Men resemble their times more than they do their fathers.”¹¹⁵ The dissemination of knowledge in premodern Islamic contexts often happened in group settings, either formally in institutions or in teaching circles.¹¹⁶ Therefore, I devote significant space in Part III to socio-biographical contexts, including scholarly networks, to understand more about Ibn al-Ḥājj and Ibn al-Naḥḥās, and how this affected what they wrote. The fundamental questions that this Part addresses are: Who were the jurists Ibn al-Ḥājj and Ibn al-Naḥḥās, what was their background, and with whom did they associate?

Turning to Ibn al-Ḥājj and Ibn al-Naḥḥās, neither jurist is a control for the other. Equally for both, I contextualise their lives and writings and draw case studies from all

¹¹⁵ Bloch 1953, 35.

¹¹⁶ Homerin 2005, 12.

available edited writings, focussing on their anti-innovation tracts. My comments on the wider context in which Ibn al-Naḥḥās operated, including his intellectual context, are slightly longer than those on Ibn al-Ḥājj's, to rectify the particularly inadequate attention paid to the former in modern scholarship to date. The bulk of the primary sources used in Chapters III.1 and III.2 are biographical dictionaries, including the *al-Ḍaw' al-lāmi'* of al-Sakhāwī (d. 902/1497) and the *Shadharāt al-dhahab* of Ibn al-'Imād (d. 1089/1679). In such dictionaries, any individual entry tends to lead to a plethora of further references. To avoid the problem of an exponential increase in the number of references, I limit my focus to individuals within two degrees of contact with Ibn al-Ḥājj and Ibn al-Naḥḥās.

In these chapters, I also draw on Ibn Ḥajar al-'Asqalānī's (d. 852/1449) annalistic history, the *Inbā' al-ghumr bi-abnā' al-'umr*, Ḥājjī Khalīfa's (d. 1067/1657) bio-bibliographical dictionary, *Kashf al-Zunūn*,¹¹⁷ several other premodern sources,¹¹⁸ and the introductions to two editions of individual works by Ibn al-Naḥḥās.¹¹⁹ Appendix 1 contains further discussion of the contribution of these sources to our understanding of the lives and scholarly networks of Ibn al-Ḥājj and Ibn al-Naḥḥās.

¹¹⁷ Including Isma'īl Pasha's volumes.

¹¹⁸ These sources include: Abū Ṭayyib (d. 832/1428-9), *Dhayl al-taqyīd*; al-Qaysī (d. 842/1438-9), *Tawḍīḥ al-mushtabih*; al-Maqrīzī (d. 845/1442), *Kitāb al-Muqaffā*; Ibn Qāḍī Shuhba (d. 851/1448), *al-Ṭabaqāt al-Shāfi'īya*; Ibn Taghrī Birdī (d. 874/1470), *Al-Manhal al-Ṣāfi*; al-Ṣayrafī (d. 900-1/1495), *Nuzhat al-Nufūs*; al-Suyūṭī (d. 911/1505), *Nazm al-'iqyān*; al-Nu'aymī (d. 978/1570), *al-Dāris*; al-Tamīmī (d. 1010/1601), *al-Ṭabaqāt al-sanīya*; and al-Burīnī (d. 1024/1615), *Tarājim al-a'yān*.

¹¹⁹ 1999, 2002.

1.1.f.iv. Introductions to the primary sources: Translations and analyses of the opening pages of the Madkhal, the Tanbīh and the Dhikr, and the question of authorial intent (Part IV)

In Chapters IV.1 and IV.2, I discuss the scope, arrangement, approach and aims of the anti-innovation tracts of Ibn al-Ḥājj and Ibn al-Naḥḥās, with a focus on the introductions to those tracts, and the introduction to Ibn al-Naḥḥās' *Tanbīh*, the work that contains his anti-innovation tract. In order to gain a better understanding of these texts, we must seek to understand the authors' intent - even if in some cases it is not entirely clear - as well as the language they use and the topics they address. These chapters complete the intellectual contextualisation of each author, and should be considered alongside the earlier socio-biographical contextualisations.

1.1.f.v. Case studies comparing passages in Ibn al-Ḥājj's and Ibn al-Naḥḥās' anti-innovation tracts (the Madkhal and the Dhikr, Part V)

Why these two case studies?

In choosing the markets and the streets and topics related to ritual law (represented by the case studies of baker, butcher, money changer, intention and ablutions), my first criterion was to select only topics that both authors discussed in a published text. Furthermore, I selected topics that would collectively shed light on Ibn al-Ḥājj's and Ibn al-Naḥḥās'

engagement with tradition and innovation from as many different angles as possible. For example, my case studies cover both ritual and civil practices.

It is especially important to include a case study relating to the markets and the streets. Among authors of anti-innovation tracts, only Ibn al-Ḥājj and Ibn al-Naḥḥās discussed innovations in this area in detail, and it is the longest section in both of their tracts, which means that they both felt that this was an important matter.¹²⁰ The markets and the streets were also universally accessible locations to apply legal teachings and identify popular innovations. Practices in the markets and the streets were of central importance to the specialist scholars, other teachers, the masses, and those with forms of temporal power, and were a means to distinguish Muslims from non-Muslims in the public sphere.¹²¹

In relation to each case study, I have selected passages from Ibn al-Ḥājj's and Ibn al-Naḥḥās' writings that are in some way similar and that therefore allow for meaningful comparisons.

Bakers, butchers and money changers (Chapter V.1)

One could argue that studying all seven trades that both Ibn al-Ḥājj and Ibn al-Naḥḥās discussed - butchers, cooks, bakers, money changers, wheat brokers, water carriers and masseurs in the *ḥammām* (communal bath) - would be the best way of identifying similarities between their passages on the market and the streets. However, that could

¹²⁰ See Chart 3, in Appendix 2.

¹²¹ See Udovitch 1970, 3, 44 and 119-23 and Petry 1981, 129 and 136.

lead to sacrificing depth for breadth. I aimed to find a small number of trades that represent the breadth of Ibn al-Ḥājj's and Ibn al-Naḥḥās' writings on the markets and the streets, whilst providing good access to my research area of tradition and innovation. Perhaps the least appealing trade to consider (from the point of view of the aims of this chapter) is the masseur, as Ibn al-Naḥḥās' and Ibn al-Ḥājj's sections on the *ḥammām* are extremely short and add little that their discussions of other trades does not touch upon.

By contrast, it would be inconceivable to study Ibn al-Ḥājj's and Ibn al-Naḥḥās' comments on the markets and the streets without some reference to bread making. In his passage on the markets and the streets, Ibn al-Ḥājj gave more space to this than to any other trade, and Ibn al-Naḥḥās gave more space only to the butcher. In addition, bread was also an important and much fought over economic commodity in the Mamluk period.¹²² My choice of the baker over the miller was a marginal one - both were closely related in the production chain of bread.¹²³ Taken together, Ibn al-Ḥājj's and Ibn al-Naḥḥās' passages on the baker provided slightly better points of comparison for the purposes of this chapter.

This leaves cooks, water carriers, butchers and money changers. The primary reason for selecting the butcher and the money changer for study is that these professions related in very different ways to Islamic ritual functions, a feature that reinforces my earlier criterion that my case studies should each shed light on a different aspect of my research

¹²² Significant sums changed hands over bread. A document that Donald Little has catalogued illustrates the amounts involved. The document is dated 10 Jumādā II 786 (30 July 1384) and records a *ṭaḥḥān* (miller) owing a *khabbāz* (baker) 200 Damascus dirhams (1984, 202).

¹²³ On the production chain of bread immediately after the Mamluk period, see Cohen 1989, 98-9.

questions. The butcher's trade frequently centred around ritual functions, in stark contrast to the trade of the money changer. Indeed, there were few Muslim money changers.¹ Performing such ritual functions was an important aspect of the application of tradition to contemporary practices.

A further reason is that, relative to Ibn al-Ḥājj, Ibn al-Naḥḥās devoted very different amounts of space to each of the butcher, money changer and baker. Relatively, Ibn al-Ḥājj gave more than ten times more space to the baker, the cook and the water carrier than did Ibn al-Naḥḥās, and to the butcher he gave approximately four times more space. Both authors gave approximately the same space to the money changer. Of course, contents matter at least as much as length - hence the above arguments.

In this chapter, I begin with translations and discussions of passages about the butcher, baker and money changer. Subsequently, the major part of the chapter examines issues of genre and structure, as well as Ibn al-Ḥājj's and Ibn al-Naḥḥās' sources, arguments, aims and audiences.

Intention and ablutions (Chapter V.2)

Most anti-innovation tracts discussed a wide range of Islamic ritual practices. From these, I selected topics that Ibn al-Ḥājj and Ibn al-Naḥḥās addressed in their anti-innovation

¹²⁴ On money changing in medieval markets before the Mamluk period, see Goitein 1967-93, 1:236 and 238, and Buckley 1999, 94.

tracts and that were important in jurisprudential discourse. Intention (*nīya*) and ablutions (*ghusl*, *wuḍū'*) meet these criteria.

For example, works of *fiqh* dealt with ablutions within the category of purification (*tahāra*), one of the five ritual acts (*'ibādāt*) that make up the foundations (*uṣūl*) of Islam.¹²⁵ Also, in the decades and centuries before Ibn al-Naḥḥās' life, there were many controversies over *wuḍū'* between Shāfi'īs and Ḥanafīs - this is important, given Ibn al-Naḥḥās' affiliation to both schools at different points in his life, and the relevance of legal schools to this study.¹²⁶ Based on this criterion alone, some other topics would have qualified for inclusion, notably prayer (in mosques, at festivals, and elsewhere) and conduct in the mosque. However, other modern scholars (notably Langner and Fierro) have analysed these topics at length. Therefore, it appeared preferable to devote an in-depth study to intention and ablutions.

Although jurists frequently claimed that 'intention is made manifest in action',¹ intention and ablutions are of a different order to each other, the former being inherently internal and generally applicable to all actions and beliefs, and the latter being external and specific to preparations for prayers. Moreover, only intention is both a duty of its own and underlies (potentially at least) every other duty or task of positive law. For

¹²⁵ Chaumont 2001, 218. See also Calder's discussion of the *Mudawwana* of 'Abd al-Salam b. Sa'īd al-Tanūkhī (d. 240/854-5), the *Muwaḥḥa* of Mālik b. Anas (d.179/795) and the *Mukhtaṣar* of Ismā'īl b. Yahyā al-Muzanī (d. 264/878), 1993, 4-17, 30-4 and 96-8.

¹²⁶ Chaumont 2001, 218.

¹²⁷ This *ḥadīth* occurs in most major *ḥadīth* collections and in many *fiqh* manuals, although not in Mālik's *Muwaḥḥa*'. See discussion and references in P. Powers 2006, 1.

example, whereas the right performance of ablutions is a duty in Islamic law, having good intention is not only an aspect of such performance, but is also a duty in itself.¹²⁸

My approach in this chapter is similar to the previous one, proceeding from translated passages to discussions of genre, approach, aims and audiences. The main premodern sources for this chapter, in addition to Ibn al-Ḥājj's and Ibn al-Naḥḥās' tracts, are the jurisprudential writings described above and other anti-innovation tracts.

This study is therefore structured according to intellectual contexts, social and biographical contexts, and texts. This enables me to explore the strategies that Ibn al-Ḥājj and Ibn al-Naḥḥās used to influence different audiences, and to achieve a more nuanced understanding of the place and usefulness of the much neglected genre of Islamic legal literature, anti-innovation tracts.

¹²⁸ Chapter IV.2 contains a discussion of the view, favoured by some Muslim jurists, that one could externally verify any person's intention (in relation to an act) by checking the act itself. On other aspects of intention in Middle-Period jurisprudential discourse, see Schacht 1964, 116-8, Khadduri 1984, 141, Wensinck 1936, 930-1, P. Powers 2006, 4-5 and Rapoport 2010, 208.

Part II

The Literary setting

Chapter II.1: Modern research about Islamic jurisprudence

II.1.a. Introduction

In this chapter, I seek to understand the literary tradition in which anti-innovation tracts are situated, beginning with relevant scholarly discussions about jurisprudence. Before approaching our sources, it may be helpful to summarise the relevant scholarship to date, notably the work of Norman Calder, Wael Hallaq and Baber Johansen, concerning two questions that are relevant to the literary setting for this study: In which ways (if at all) do works of *furū'* allow us to reconstruct the social and legal practices of the Middle Period? What were the modalities of change in Islamic law after the fourth/tenth century? I explore this latter question not because Ibn al-Ḥājj's and Ibn al-Naḥḥās' anti-innovation tracts contain novel applications of law, or unprecedented use of legal terminology, but because their tracts contain evidence about how aspects of the application of the legal system were described and prescribed during this time. I then proceed to survey five genres of Islamic jurisprudential writings of the Middle Period. In particular, I examine

selected examples of *mukhtaṣars*, *mabsūṭs*, juristic commentaries on *ḥadīths*, *fatwā* collections, and *risālas*. This survey is important given my hypotheses, because genre is an important aspect of literary setting and, as argued above, literary agency, which is an important aspect of understanding any text.

II.1.b. Approaching legal writing during the Middle

Periods of Islam

In its original meaning of “understanding, knowledge [or] intelligence”,¹ Islamic jurisprudence (*fiqh*) is not unique.² Philosophers (both legal and otherwise) have been exploring what is meant by ‘jurisprudence’ for generations, and have arrived at different conclusions.³ One respected legal reference work defines jurisprudence as follows:

*The theoretical analysis of legal issues at the highest level of abstraction. Jurisprudence may be distinguished from both legal theory and the philosophy of law by its concern with those questions ... that arise within or are implied by substantive legal disciplines.*⁴

Those aware of the variety of modern scholarly views about processes of change in Islamic law after the fourth/tenth century, discussed in this chapter, may question whether

¹ Goldziher 1965, 2:886.

² Ibid. According to later understandings, Islamic jurisprudence legitimates itself by faithfulness to the Qur’ān and the *ḥadīth* (Schacht 1965, 2:887). In this sense, it is distinct from other forms of jurisprudence.

³ Does it describe law as it is, evaluate law (including normative critique), legitimate law (such as in why we have an obligation to obey it), or criticise it (thereby being an impetus to reform)? See H.L.A. Hart’s discussion of these questions, as well as broader issues of definition and theory in jurisprudence (1983, 21-48 and 88-119 and 1994, 239-44).

⁴ Law and Martin (eds.) 2009, 308.

the phrase ‘the highest level of abstraction’, above, necessarily applies to Islamic jurisprudence.⁵ However, Islamic jurisprudence, being distinct from purely legal theory and philosophy of law, may be viewed as consistent with the above general definition of jurisprudence.⁶

Within Islamic thought, jurisprudence can have an extremely broad purview, as it concerns the obligation to act and “in its widest sense covers all aspects of religious, political and civil life.”⁷ Islamic Arabic legal texts existed for a variety of purposes: to learn, to teach, “to satisfy patrons, to entertain audiences, and settle disputes of legal, religious, social and political natures, categories which overlapped.”⁸ Of course, jurisprudence as written in texts (or transmitted orally), was not necessarily the same as the jurisprudence that was put into practice. Therefore, such texts as we have today also offer a window into history although, as we shall see below, scholars differ over what we may see through that window.

In understanding how and why jurists addressed their audiences, legal schools and institutions are highly relevant, and have been recently studied from many angles. To mention just a few relevant studies, in addition to that of Amalia Levanoni (cited in the Introduction), Kaya observed that intra-*madhhabic* reasoning was a key axis for

⁵ In this chapter, the word ‘law’ refers primarily to literature concerned with legal theory, not its practice.

⁶ However, as discussed in Section II.1.f, *furū* ‘often overlapped with legal theory, and the same is true of philosophy. For a discussion of the early development of legal theory and positive law (including legal opinions) in an Islamic context, see Schacht 1964, 59-73.

⁷ Schacht 1965, 2:886.

⁸ Clarke 2012, 103.

continuity and change in classical Islamic law,⁹ Hallaq contended that, between the fourth/tenth and ninth/fifteenth centuries, one of the major activities of jurists was to defend their legal school,¹⁰ and Berkey discussed how the ‘high’ and ‘popular’ cultures were connected in near Eastern medieval Islamic societies, in the context of training in the Islamic religious and legal sciences.¹¹ Beyond commenting on well-worn debates about whether the gates of legal reasoning were still open after the fourth/tenth century,¹² modern scholars have also highlighted several facets of growth and change in Islamic substantive law in the Middle Periods (from 334/945 until 908/1501). For example, Calder used the phrase “the generative progressive aspect of the law” in distinction to “conservative, preservative, non-innovatory” aspects in the Middle Periods.¹³ This narrow selection of studies illustrates a broader debate among modern scholars about the role and purpose of Islamic jurisprudence in the Middle Periods: Was the role of jurisprudence to promote change and development in society, or was it to restrict innovation and growth in society? Certainly, as I argue later, its use changes over time depending on the period. The new data presented in this study shed new light on these topics, permitting us to argue that authors of anti-innovation tracts intended their works to take a negative form for a positive purpose.

⁹ Kaya 2005, 38 and 40.

¹⁰ Hallaq 2001, x-xiii.

¹¹ Berkey 2001, 4.

¹² For a range of views, see Coulson 1964, 73, Hallaq 1984, 3 and 33-4 and Gerber 1998, 167.

¹³ Imber (ed.) 2010, 61.

II.1.c. The works of Hallaq, Calder and Johansen

The modern scholars Norman Calder (d. 1998), Wael Hallaq (“Calder’s most regular opponent”),¹⁴ and Baber Johansen discuss the five genres surveyed later in this chapter and have viewed Islamic law in the Middle Period as “a phenomenon of interest in its own right”.¹⁵ Their work is especially relevant here, given the jurisprudential nature of the texts being considered in this thesis, and the interest of all three scholars in legal works from the Mamluk period. A key reason for focussing on these scholars is that, building on and responding to earlier scholarship by Goldziher, Schacht, Wansborough and others, they each took a distinct approach to many major current issues in premodern Islamic legal studies and devoted a significant part of their research to the Middle Periods.¹⁶ Such issues included the significance and reliability of prophetic *sunna*, the ways in which al-Shāfi‘ī transformed Islamic jurisprudence, periodisations of early *fiqh*, categorisations of legal functionaries, and qualifications to exercise independent reasoning (*ijtihād*).¹⁷ Calder, Hallaq and Johansen also had distinct views on two questions that are central to this study. To what extent can we construct actual social and legal practices by studying developments in the texts of *furū*? In which ways did

¹⁴ Melchert 2012, 228.

¹⁵ Gleave, in Imber (ed.) 2010, 5. Gleave’s comment was made in respect of Hallaq and Calder.

¹⁶ For Calder on Schacht, see Calder 2006, 157. Calder again: *ḥadīth* and the Qur’ān with “the community (rather than, or possibly as well as, the Prophet) as the creative agent” (1993, vii).

¹⁷ On prophetic *sunna*, see Hallaq 2005, 103-4. On al-Shāfi‘ī, see Hallaq 2005, 113. On periodisations, see Hallaq 2005, 2-3, and Johansen’s comments on Calder in (Johansen 1999, 27 and 27n97). On scholars’ qualifications, see Gleave, in Imber (ed.) 2010, 9.

‘Islamic law’ change after the fourth/tenth century?¹⁸ As we will see, legal schools and terminology are central to this latter question.

Wael Hallaq’s main research areas are Islamic law and Islamic intellectual history. His scholarship on Islamic law covers both theory and application, as shown by his work *Law and legal theory* (1994), and his discussion of ways in which ‘*ālīms*, *muftīs* and *qāḍīs* applied the law in the earliest centuries of Islam.¹⁹ In line with what this thesis is arguing, Hallaq viewed modern scholarship on Islamic jurisprudence as a “terra incognita”, in relation to the time between the early and the modern periods.²⁰ His wide-ranging scholarly output includes the Mamluk period, on which he has written several works, including *Ibn Taymiyya against the Greek logicians*.²¹

Norman Calder wrote on both Sunni and Shi‘i law, from the earliest period (see, for example, *Studies in early Islamic jurisprudence*) to the nineteenth century (the four chapters collected in *Islamic jurisprudence in the classical era* cover the period 400/1010 – 1300/1883). He also wrote about Sunni hermeneutics and early Islamic history. Calder is known for elegantly combining meticulous literary and technical analysis with careful attention to the wider picture that emerges.²² Examples of Calder’s work on the Mamluk period include discussions about al-Nawawī and al-Subkī.²³

¹⁸ For a more detailed discussion about the way in which I utilise the term ‘Islamic law’, see below.

¹⁹ 2005, 57.

²⁰ 2005, 1-2.

²¹ Oxford University Press, 1993.

²² Sperl 2000, 6.

²³ See Imber (ed.) 2010.

Baber Johansen's research interests include law and religion in premodern and modern Islam. More specifically, he works on legal rulings and the legal profession in the Mamluk period.²⁴ In his *The Islamic law on land tax and rent*, his goal was to “compare the Hanafite doctrine of the pre-classical and classical periods with its post-classical homologues”,²⁵ with the Ottoman period covering what he has called the ‘post-classical’.²⁶ Against Bousquet, Johansen treated *fiqh* as law, not (only) deontology.²⁷ Notwithstanding Mayer's concerns about Johansen's lack of precision in using key terminology, such as ‘legal ordinances’,²⁸ Calder approved of the “remarkable control of presentation” in Johansen's *The Islamic law on land tax and rent*.²⁹ I have noticed this control in Johansen's discussion of the interface of law with other disciplines (such as theology), and concerning different spheres of law (such as the implications of his research for *‘ibādāt* and *mu‘āmalāt*).³⁰

²⁴ Johansen 2002.

²⁵ 1988, 4.

²⁶ For further biographical information, see references in Johansen 1997, 22-3n15.

²⁷ Imber 2001, 122.

²⁸ 1991, 665-6 (from a review of Johansen's *Islamic law on land tax and rent*). However, as Mayer acknowledges, Johansen presented this work as a draft, and Mayer also highlights several of Johansen's positive contributions in this work, including his detail and meticulousness (ibid, 666-7).

²⁹ Calder 1990, 364-5; see also ibid., 361-2 and Gleave, in Imber (ed.) 2010, 11.

³⁰ On theology and law, see Johansen 1999, 3-7 (the focus of this work is mainly the fourth/tenth century until the sixth/twelfth century). On spheres, see ibid., 60-2, and Johansen, ‘The Valorization of the human body in Muslim Sunni Law’, in Johansen, Stewart and Singer 1996, 94-8.

II.1.d. Reconstructing social and legal practices from developments in *furū‘*

Hallaq and Calder disagreed about aspects of reconstructing historical practices from works of *furū‘*. Hallaq asserts that *fatwās* (legal opinions) after the fourth/tenth century reflected social practices being performed and that *fatwās* were the principal mechanism of change in *furū‘*.³¹ By contrast, Calder contended that many premodern Islamic jurisprudential writings were primarily literary artefacts, and “works of *furū‘* do not in fact show significant signs of responding to the changing patterns of practice in Muslim societies”.³²

The above views are not in direct opposition. For example, it is crucial to recognise the difference between Hallaq’s term ‘reflected’ and Calder’s term ‘responding to’, in the paragraph above. In this study, I argue that authors of anti-innovation tracts were in some way affected by the practices around them (their tracts ‘reflect’ such practices) and that such tracts do not permit us to reconstruct such practices in identifiable ways, in particular locales and time (we cannot identify ‘responses’ to individual instances of practices that we know to have taken place in particular settings, except in a small number of cases). Another way of putting this is that such tracts would be of limited use for writing a social history of a particular locale (such as northern Egypt) in a narrowly

³¹ Hallaq 1994, 18-20, 30-1 and 41-2.

³² In Imber (ed.) 2010, 161 (see also *ibid.*, 2-9 and 48). In his conclusions, Calder indicated that this view was relevant across his whole period of interest in this work, which included the Mamluk period (in Imber [ed.] 2010, 23 and 71-3). See also Johansen 1988, 1-2. For a discussion of al-Shāfi‘ī and other late second/eighth and early third/ninth-century writers of jurisprudence responding to practices in society around them, see Calder 1988, 229-32.

defined time period (such as the early years of the ninth/fifteenth century). Of course, I recognise that social realities affected both the chosen form of writing (*mukhtaṣar*, *mabsūṭ*, juristic commentary and *fatwā* commentary) and their contents. For example, the ethnic and religious background of those who lived near a jurist, and the local foods that were available where he was writing, and common commercial and cultural practices that were being carried out there, would all surely have had an impact on the contents of these juridic writings in some way. This is something with which neither Calder nor Hallaq (nor, as we will see, Johansen) has disagreed. However, I argue that we may only specify what those realities were in general terms, from the anti-innovation works we have before us. In holding this view, I am closer to Calder than to Hallaq.

My approach is partly justified, given that Johansen contends that *fiqh* in the Middle Period was adaptable to the changing circumstances of every day life.³³ ‘Adaptability’, in Johansen’s usage, does not necessarily mean that we can read *fiqh* in order to identify ways in which social or legal practices were changing at the time; rather, it refers to the claim that *fiqh* was capable of being affected by such changes. Calder also wrote that “Johansen argues that the analytic processes of *fiqh* literature are subject to change and development over time, and, further, that such changes as take place reflect the socio-economic realities of Islamic society and in particular the social allegiance of the juristic classes”.³⁴ Linked to that, Colin Imber noted Johansen’s “admirable caution in defining the limits of the change that can be observed in the texts, [something that] is not the case

³³ Imber (ed.) 2001, 123.

³⁴ 1990, 361.

with more recent scholars, who argue against the evidence for constant evolution and change”.³⁵ I agree entirely with this, based on Johansen’s *The Islamic law on land tax and rent*, as well as other works,³⁶ aiming to use such a cautious approach, such as by occasionally seeking to corroborate practices mentioned in anti-innovation tracts with reference to other contemporary sources and to modern research about those sources.

My approach is further supported by Calder’s belief that much modern scholarship had overstressed the guidance of Muslim laymen as an explanation for what premodern scholarly writing was intended to accomplish, over against “the display of erudition, aesthetic pleasure, and reassurance and inspiration for the pious”.³⁷ My findings suggest that authors of anti-innovation tracts did, in some measure, seek to produce works that were elegant and aesthetically pleasing, but not to the extent that Calder found for more formal genres of *furū’*. Finally, my approach is further justified given that, as argued convincingly by Imber, the evidence was too nebulous to support the view that changes in legal ordinances may be traced back to actual social circumstances.³⁸

³⁵ 2001, 123.

³⁶ See references in the bibliography.

³⁷ Melchert 2012, 227. For further references to Calder and Hallaq’s differences about the influence of practice on the formulation of works of *fiqh*, see Hinnells and King (eds.) 2007, 97n27. In his review of Johansen’s *Contingency in Islamic law*, Calder identified a minor difference in emphasis from Johansen, as to whether jurists’ concerns were socio-economic (Johansen) or ‘formal’ (Calder; Calder 1990, 365).

³⁸ Imber 2001, 123-4. Imber made this argument in the context of Johansen’s discussion of the origin of the legal concept of *‘āqila* (the payer of blood money); see Imber’s comment, above, on Johansen’s “admirable caution” pertaining to this issue; cf. Johansen 1999, 358-60, 368-70 and 410.

II.1.e. Modalities of change in Islamic law after the fourth/tenth century: The Role of *mufṭīs*, *qāḍīs* and author-jurists

None of Calder, Hallaq and Johansen denies that, in some sense, Islamic law changed after the fourth/tenth century.³⁹ (With Calder, I am referring to ‘Islamic law’ in the sense of “the theoretical legal system described in works of *furū‘ al-fīqh*”).⁴⁰ This is notwithstanding Hallaq’s assertion that “modern Islamicist scholarship has, until recently, categorically denied that it experienced any noticeable, much less fundamental, development after the formative period”.⁴¹ These three scholars do, however, dispute who changed it, how they changed it, to what extent it changed, and what the implication was for loyalty to one’s *madhhab*.

In 2005, Hallaq wrote that, “[a]ll later developments [after the middle of the fourth/tenth century] ... were accidental attributes that - despite their importance for legal, social and other historians - did not affect the constitution of the phenomenon we call Islamic law.”⁴² While Calder agreed that seeing new legal ordinances in the central *furū‘* texts of a *madhhab* was unusual,⁴³ he drew attention to what he viewed as Hallaq’s imprecise usage of the term ‘Islamic law’. According to Calder, Hallaq had insufficiently

³⁹ For example, see Calder’s acknowledgement of Hallaq’s view that “creative thinking about and development of the law did not cease, and did not unambiguously decline, at any period of Islamic history” (1996, 157).

⁴⁰ See a discussion of this, together with seven alternatives, in Gleave, in Imber (ed.) 2010, 10.

⁴¹ 2001, 166.

⁴² 2005, 3.

⁴³ Gleave, in Imber (ed.) 2010, 9.

distinguished between theoretical and practical elements in his presentation, thereby diminishing the accuracy of his conclusions.⁴⁴ In line with his view about literary elegance, discussed above, Calder argued that the legal system as described in works of *furū*‘ did change, insofar as authors strove for ever more intricate and brilliant ways of describing aspects of the law.

Johansen’s approach and conclusions differ from both of these. He explored ways in which jurists of the Mamluk period systematised changes that had begun during the fifth/eleventh and sixth/twelfth centuries, analysing legal ordinances that jurists developed during these centuries.⁴⁵ He found that “[j]urists consider their legal tradition as a tradition-in-change that ought to be constantly re-interpreted and in which it is as important to preserve the early forms as to adapt the tradition itself to new conditions.”⁴⁶ Significantly for this study, he also wrote,

*“While the early tradition is upheld in the textbooks for teaching purposes and is used as a yardstick by which to measure the unity of the legal system, new solutions are widely accepted in other literary genres like the commentaries (shurūḥ), the responsa (fatāwā) and the treatises on particular questions (rasā’il).”*⁴⁷

That is, Johansen argues that, after the fourth/tenth century, changes in *fiqh* did occur beyond minor matters of detail, and in order to understand the changes, one must grapple with the “many layered structure of the genres of the legal literature”.⁴⁸ This is

⁴⁴ Calder 1996, 161. See also Gleave, in Imber (ed.) 2010, 10.

⁴⁵ 1993, 29-30.

⁴⁶ Johansen 1993, 47.

⁴⁷ 1993, 31.

⁴⁸ 1999, 464, cited in Gleave, in Imber (ed.) 2010, 8.

an area that has as yet received little attention. Where Johansen refers to literary genres of *shurūh*, *fatāwā* and *rasā'il* (the last defined widely), I bring specific evidence from the genre of anti-innovation tracts.

In this discussion about Islamic law, as defined above, it is crucial to know what we are referring to when using the terms 'change' or 'development'. It seems to me that Calder, Hallaq and Johansen sometimes use these terms in different ways. In his *Authority, continuity and change*, Hallaq explored change as "adaptations of legal opinions according to the requirements of time and place."⁴⁹ Self-evidently, new circumstances arose with the passing of time, and new questions were being asked of those who gave legal opinions. It is from this starting point that one can understand Hallaq's incredulity at (as he views it) modern scholarship's denial that Islamic law developed after its earliest period. Calder studied ways in which works of positive law demonstrated signs of responding to changing patterns of practice in Muslim societies and, finding little, concluded that they do not show such signs. As noted above, however, Calder did identify literary changes in Islamic law. Johansen's articulation is helpful in this context: "Change in Islamic law is not a radical eradication of old solutions and their replacement through new ones; it is a juxtaposition of different solutions to one and the same problem."⁵⁰ Against a definition of change as radical eradication, few modern scholars would affirm that of Islamic law; however, Hallaq and Calder occasionally explored different ways of studying the juxtaposition of different solutions, such as in their discussions of changes in *madhhab*-opinion, discussed immediately below.

⁴⁹ 2001, xii.

⁵⁰ Johansen 1993, 30.

All three scholars differed over the question of who had the authority to implement legal change in the senses discussed above. For Calder, it was the writer-jurist “who had the authority to shift the position of the madhhab within which muftis and judges were bound to operate”.⁵¹ Hallaq recognises the importance of the writer-jurist (or the ‘author-jurist’, as he calls it), but argues that the principal modality of legal change was the *fatwā*, issued by a *muftī*.⁵² For Johansen, both the writer-jurists and the *muftī* were central, via *shuruḥ* and *fatāwa*.⁵³ This discussion is relevant because all writers of anti-innovation tracts were jurists, and some were also *muftīs*, but no anti-innovation tract took the form of a collection of *fatwās*. I argue here that additional sources to those investigated so far, such as anti-innovation tracts, need to be taken into account if we wish to better understand the, if ever so subtle, changes in Islamic law of this period.

Concerning the extent to which the opinions of different *madhhabs* were changed, it was Hallaq and Calder who were most clearly in opposition.⁵⁴ This is relevant because, as author-jurists, Ibn al-Ḥājj and Ibn al-Naḥḥās were linked to different *madhhabs* (the Mālikī and the Shāfi‘ī respectively), and because each author’s relation and references to legal schools forms part of my argument in Parts III-V.

⁵¹ Melchert 2012, 228.

⁵² Hallaq 2001, 166-74 and 233-5. For Calder’s view, as against Hallaq’s, see Imber (ed.) 2010, 160.

⁵³ See above references.

⁵⁴ For Johansen’s view on change and legal schools, see 1999, 37-8 (human contingency as a key feature of the continued existence of legal schools, via *ikhtilāf*), *ibid.*, 62-7 (the range and differences of views between different schools, against Schacht) and 1993, 34 (judgements of Ḥanafī, Shāfi‘ī and Ḥanbalī *qāḍīs* during the Ottoman period).

Hallaq discusses legal *madhhabs*, in relation to independent reasoning and the issuing of *fatwās*. He articulates three meanings of the term *madhhab*: the earliest usage, signifying the opinion of a jurist; a later, more technical, usage, referring to the totality of doctrine belonging to a leading *mujtahid*; and a usage signifying the individual opinion that had become accepted as the most authoritative (on a given issue) within a school - Hallaq denotes this last usage with the term *madhhab*-opinion.⁵⁵ In this context, and in line with his view about the *mufī*'s role in legal change, Hallaq argues that *fatwās* were the key means by which *madhhab*-opinion was changed.⁵⁶ While this thesis is concerned with *fatwās* only tangentially, it argues that anti-innovation tracts may have played a similar role at an informal level, not only concerning changes to *madhhab*-opinion but also concerning the reinforcing of existing *madhhab*-opinion.

Calder's view was that the opinions expressed within *madhhabs* did not significantly change. He wrote that "[t]he 'primary constraint' of literary works within the genre of *furū' al-fiqh* is that of loyalty to tradition (*madhhab*) ... [t]he second constraint is that of justification by reference to revelation."⁵⁷ He also argued that "change in the sense of asserting that a rule previously established in the *madhhab* had been replaced by a new and different one is not easy to demonstrate"⁵⁸. These are views that contrast with those of Hallaq.

⁵⁵ Hallaq 2001, 155-6.

⁵⁶ Ibid.

⁵⁷ Calder 2006, XIV:57. See also, "[l]et him devote himself to his *madhhab*" (Calder's translation from al-Nawawī's *Majmū'*, which devotion Calder referred as the best kind of writing (2006, XV:141).

⁵⁸ Imber (ed.) 2010, 163.

Nevertheless, Calder kept the door open to flexibility among jurists, in applying the law: “under no circumstances could a jurist, when acting as a mufti or qadi, promulgate a view which was outside the *madhhab* ... In his private life, however ... a jurist of sufficient status could, for his own private purposes, establish preferences which were outside the *madhhab* and a product of his own analysis of the arguments.”⁵⁹ I will argue that Ibn al-Ḥājj and Ibn al-Naḥḥās were doing exactly this, taking advantage of, and expressing, a flexibility within jurisprudence that could operate in less formal contexts.

In my investigation of *madhhabs* in this study, I therefore follow and provide further support for the views of Hallaq and Calder, at different points. I observe that anti-innovation tracts contain little evidence to support or deny the notion that *madhhab*-opinions changed. These tracts are useful, however, in helping us understand more about what *madhhab* loyalty meant, accepting the constraint that this study does not seek to trace, in a systematic way, the reception of Ibn al-Ḥājj’s and Ibn al-Naḥḥās’ thought in the decades and centuries after they wrote. Based on my readings so far, I think that Calder’s emphasis on the role of works of *uṣūl* and *furūʿ* as defending the *madhhab* of the author is well founded, even if it remains to be seen what form such defence may have taken.

Overall in this study, I will rely mainly on Calder’s views, which I find most compelling (along with Johansen’s), especially in relation to the extent and modalities of changes in positive law in the Later Middle Period. I will also draw on the opinions of Johansen and

⁵⁹ Ibid.

Hallaq where relevant. Having surveyed the modern scholarly research that is especially relevant to this study, we now turn to the premodern texts themselves.

II.1.f. Sources and genres in positive law

In this section, I briefly survey elements of five sub-genres of Arabic jurisprudential literature in the Islamic Middle Period (*mukhtaṣars*, *mabsūṭs*, juristic commentaries on *ḥadīths*, *fatwā* collections and *risālas*), with a view to explore their individual functions and similarities and differences between them, and to situate anti-innovation tracts - which are ostensibly a type of legal literature - as a sub-genre of their own. I argue that one could consider such tracts as a subset of *risālas*, and that this does not affect my aim as just stated. Ibn al-Ḥājj and Ibn al-Naḥḥās were writing jurists, so the four genres of *mukhtaṣars*, *mabsūṭs*, juristic commentaries on *ḥadīths* and *risālas* are exactly the type of *furū'* that should appear in such a study. The reasons for adding the genre of *fatwā* collections to this list are that Ibn al-Ḥājj was a *mufī* and that *fatwās* relate closely to some aspects of anti-innovation tracts, as will become clear below. I have excluded *uṣūl* from further consideration for a similar reason: in their writings, Ibn al-Ḥājj and Ibn al-Naḥḥās were not concerned with legal theory.

To have chosen a representative sample of texts from the thousands available in each genre of *fiqh* would have meant studying hundreds of texts in total. My aim was not to subject the whole corpus of Mamluk-period jurisprudential literature to analytic study. Rather, I intended to select a core set of texts that represent, to some reasonable extent,

the breadth of Sunni thought at the time, across all four schools.⁶⁰ When doing so, I also ensured that, collectively, my sample included examples of all sizes of works, and, as a whole (not within each genre), covered all four major Sunni *madhhabs*.

In selecting texts for study, therefore, I exercised considerable care in selecting texts to review, using a four step process. First, I made a list of Arabic *fiqh* works written by authors who wrote during the Mamluk period. Next, I excluded works that were narrowly focussed on *ādāb* and ethics, so were very different to Ibn al-Ḥājj's and Ibn al-Naḥḥās' writings. Third, I narrowed the list based on works that have been published and are accessible in European research libraries. Finally, I selected between two and eight texts per genre, giving preference to works that were important in the context of this study.

By the mid-seventh/thirteenth century, jurisprudential writings were varied⁶¹ and complex⁶² in their interrelationships. Little can be said that applies to every text in all of the above genres, except that they were all concerned with the application of the law and that many of these writings contained jurisprudential terminology (*ḥalāl*, *ḥarām*, *makrūh*, *sharʿī*, and so on) and jurisprudential forms of argument (consensus [*ijmāʿ*], analogy [*qiyās*], *ijtihād*, legal devices [*hiyal*], and so on). Rather than listing all this terminology

⁶⁰ Hallaq 2001, 86-9. On the *madhhab*-law tradition, and the *madhhab*-as-guild, see al-Azem 2011, 1 and Melchert 1997, xvii.

⁶¹ Aghnides 1916, 193, Johansen 2002, 180 (cf. *Tabṣira*, 1:93-5 and Hopkins 1971, 763) and Gleave 2008, 176-7.

⁶² On the simultaneously legal and ethical nature of such writings, see Reinhart 2002, 58-62. On the relationship (and lack of boundaries) between *uṣūl al-fiqh* (legal theory) and *furūʿ al-fiqh* (substantive law), see Jokisch 1997, 120, Gleave 2005, 126, B. Weiss 2005, 1 and *Kitāb al-Murwāfaqāt fī uṣūl al-sharʿīʿa*, by the Andalusian Maliki al-Shāṭibī (d. 790/1388).

and arguments here, the case studies in later chapters will highlight the relevant areas of overlap with Ibn al-Ḥājj's and Ibn al-Naḥḥās' tracts.

Norman Calder viewed the *mukhtaṣar* and the *mabsūṭ* as two major literary types within the genre of *furū'*, the *mukhtaṣar* being a succinct summary exposition of the law,⁶³ and the *mabsūṭ* a commentary (often on a *mukhtaṣar*) which “by contrast tends to multiply detail and argument, with only loose structural control”.⁶⁴ Al-Nasafī's (d. 710/1310-11) *Kanz al-daqa'iq* (Intricate treasures), a prestigious and short Ḥanafī *mukhtaṣar*, displays four features that are common to *mukhtaṣars* and *mabsūṭs*. First, its history and process of composition reflects interrelationships between works of *fiqh*,⁶⁵ including al-Marghīnānī's *Kitāb Hidāyat al-muhtadī* (Guidance of the rightly guided), on which *Kanz* was originally intended to be a commentary. Second, in this work, al-Nasafī also attempted to exceed *Hidāya* in literary terms.⁶⁶ Third, its contents and the arrangement of parts broadly follow those found in many major *fiqh* works. The typical structure, reflected in *Kanz*, is to have chapters on the following topics, in the following order: ritual purification (*ṭahāra*); prayers (*ṣalāt*); almsgiving (*zakāt*); fasting (*ṣawm*); pilgrimage (*ḥajj*); holy war (*jihād*); oaths and vows (*aymān, nudhūr*); sacrifices (*daḥāyā*); slaughtered animals (*dhabā'ih*); hunting (*ṣayd*); nourishment (*aṭ'ima*); marriage and

⁶³ Calder in Imber (ed.) 2010, 22.

⁶⁴ Calder 1997, 324. Scholars often wrote legal works that were substantially the same as, or almost entirely based on, another of their own works. For example, al-Māwardī's (d. 450/1058) treatment of water rights in *Aḥkām* was a précis of his treatment in *Ḥāwī* and al-Nasafī's (d. 710/1310-1) *Kanz al-daqa'iq* was an abridgement of his *al-Wāfi*.

⁶⁵ Aghnides 1916, 180, Heffening 1993, 969 and Calder in Imber (ed.) 2010, 28-9.

⁶⁶ See, for example, *Kanz*, 11-12, and Calder's comments on this work (1997, 324 and, in Imber [ed.] 2010, 32-5).

divorce (*nikāḥ* and *ṭalāq*); doing business (*buyū‘*, *ṣarf*, *salām*, *khiyār*, *wakāla* and various other terms); inheritance (*farā‘id*); and matters pertaining to slaves (including *‘itq*, *kitāba* and *tadbīr*).⁶⁷ Note that there is no book of innovations (*k. al-bida‘*) in this list. Bernard Weiss has argued that these chapter headings illustrate that, in Muslim juristic doctrine, “far greater attention [was] given to matters of private law than to matters of public law” and that, to the extent that such works did discuss public law, the focus was chiefly on what affected the interests of private individuals.⁶⁸ We will see in the following chapters that most anti-innovation tracts - but not Ibn al-Ḥājj’s and Ibn al-Naḥḥās’ - shared all these features, and that such tracts varied widely on the extent to which they included all of the above topics. Fourth, al-Nasafī does not appear concerned to exhort readers to action through his writings, rather to summarise al-Marghīnānī’s *Hidāya* with the kind of literary virtuosity described above. The above points could be made of many other *mukhtaṣars* of this period, although each varies.⁶⁹

Next, consider a *mabsūṭ*, the Ḥanafī text *Tabyīn al-ḥaqā‘iq* (Explanation of truths, or realities), by Uthmān b. ‘Alī al-Zayla‘ī (d. 732/1342).⁷⁰ *Tabyīn* is a medium length commentary on *Kanz*, and has several features in common with that work, including the fact that it has a primary reference work on which it comments. Its order is also

⁶⁷ Scholars view the first five topics, sometimes together with *jihād*, as the major acts of worship (*‘ibādāt*) and the remaining topics are termed the impersonal acts (*mu‘āmalāt*) (Calder 1997, 323). Especially towards the end of the list, the order sometimes varies, and the above list is not exhaustive. Examples of other topics sometimes included in their own right are: seclusion in a mosque (*‘tikāf*); sacrifice for newborn infants (*‘aqīqa*); injurious assimilation (*ḡihār*); and imprecation (*li‘ān*).

⁶⁸ 2006, 172-3.

⁶⁹ See the *Mukhtaṣar* of the Mālikī Khalīl b. Ishaq al-Jundī al-Miṣrī (d. 767/1365), which included more comments than other *mukhtaṣars* about the benefits for the state of particular courses of action (Khalīl, *Mukhtaṣar*, 111-7. See also Aghnides 1916, 192, Fadel 1997, 51, and Kabra 1997, 110-1.)

⁷⁰ On al-Zayla‘ī, see *G.A.L.* II:196-7, SII:265. For Ibn Nujaym’s (d. 970/1563) view on his commentary, see Calder in Imber (ed.) 2010, 62.

substantially the same and it does not contain any explicit exhortations to action. However, al-Zayla‘ī’s *Tabyīn* cited much more supporting evidence, as befits a longer commentary.⁷¹

Norman Calder argued that *mukhtaṣars* and *mabsūts* are similarly important for the modern scholar concerned with the Mamluk period in that both genres interest us more because of the literary qualities of their juristic arguments than because of any social history we may discern from them.⁷² Based on my readings of such texts, I follow this view and argue, in Parts IV and V, that Ibn al-Ḥājj’s and Ibn al-Naḥḥās’ writing was occasionally quite elegant, although not to the same extent that some *mukhtaṣars* and *mabsūts* were, which may be a further indicator that the anti-innovation tracts may have been aimed at what I have defined above as ‘the masses’.

The above discussion also highlights differences between *mukhtaṣars* and *mabsūts* on the one hand and anti-innovation tracts on the other, such as the structure that *mukhtaṣars* and *mabsūts* shared but that anti-innovation tracts did not. By the Middle Period, although there were certain ways of approaching *fiqh* that all *madhhabs* shared, such as the questions of how to deal with precedent and how to sift through various interpretations to decide which one was the dominant rule, certain Ḥanafī and Mālikī examples of these genres differed on several dimensions, such as the amount of evidence

⁷¹ For lengthy appeals to the Qur’ān and prophetic and other *ḥadīth*, see al-Zayla‘ī, *Tabyīn*, 7:57ff. Compare al-Nasafī’s extremely brief approach in *Kanz*, 11. For additional evidence that these works had a close connection to one particular other work, see al-Nawawī’s (d. 676/1277), *K. Minhāj al-ṭālibīn* (a *mukhtaṣar*; *Minhāj*, 2-4, Hallaq 1994, 41 and Calder, in Imber (ed.) 2010, 74 and 105), *al-Majmū‘ sharḥ al-muḥadḥab* (a *mabsūt*; Calder 2003, 192-6 and Calder, in Imber (ed.) 2010, 113), and al-Ghazālī’s *al-Wajīz*, which several Mamluk-period *mukhtaṣars* and *mabsūts* took as their starting point (Aghnides 1916, 188).

⁷² Calder, in Imber (ed.) 2010, 114 (see also Fadel 1997, 51). On Calder and the ‘mannerist style’, a transition that occurred across all four Sunni *madhhabs*, see Calder in Imber (ed.) 2010, 112-3 (cf. Bauer 2005, 111-6).

they cited, their scope, and the extent to which they referred to contemporary political situations.

Al-Nawawī's *Sharḥ Ṣaḥīḥ* was a juristic commentary on *ḥadīth*, based on a *ḥadīth* collection that Muslim scholars considered one of the two most reliable, along with al-Bukhārī's *Ṣaḥīḥ*.⁷³ Both Ibn al-Ḥājj and Ibn al-Naḥḥās cited *ḥadīths* that al-Nawawī included in his collections. Norman Calder noted several features that united al-Nawawī's *Sharḥ Ṣaḥīḥ* and the two genres of *mukhtaṣars* and *mabsūts*, namely “an exploration of the space between revelation and law, an acknowledgement of *ikhtilāf*, an acknowledgement of loyalty to *madhhab* and the need to identify for those that belong to a particular *madhhab* a final answer to legal questions.”⁷⁴ This quotation is of central importance to this study and, in Parts III-VI, I discuss the ways in which Ibn al-Ḥājj and Ibn al-Naḥḥās explored this space and showed loyalty to their *madhhabs*.

The juristic commentary of the Shāfi'ī Ibn al-Mulaqqin (d. 804/1401, and a biographer of Ibn al-Ḥājj)⁷⁵ covered the major topics in *fiqh* works, addressing them as they occurred in *ḥadīths*, which were presented in numbered order one after the other.⁷⁶ Overall, juristic commentaries on *ḥadīths* could have a variety of starting points,

⁷³ For a discussion of juristic commentaries on *ḥadīth*, see Calder in Imber (ed.) 2010, 107.

⁷⁴ Calder in Imber (ed.) 2010, 112.

⁷⁵ See Chapter III.1.

⁷⁶ Ibn al-Mulaqqin, *Khulāṣat*, 1:59-66, 2:50-64, 2:286-7 and 2:290-6.

including a structure of legal topics or a sequence of *ḥadīths*. As we will see below, neither of these starting points was typically a feature of anti-innovation tracts.⁷⁷

There are many different dimensions to *fatāwā* literature and some variations in usage between legal schools.⁷⁸ Based on my study of various Shāfi‘ī, Mālikī and Ḥanbalī *fatwā* collections, the following features are relevant: while most *fatwās* had a fairly similar format, they differed widely in their textual strategies in providing responses to legal questions, real or otherwise; they contained little exhortation and evidence of pedagogical purpose; sources and flows of argument were rarely given, although there were exceptions (such as in some of Ibn Taymīya’s *fatwās*); and *fatwā* collections were generally more applied and less systematised than *mukhtaṣars*.⁷⁹

In addition, the content of the response in *fatwās* was also typically stated definitely, rather than ambiguously. *Fatwās* did not contain phrases such as “there are two opinions on this matter” or “two views”, since their required end was to explain how to act.⁸⁰ Hallaq notes that among the forms of words used in *fatwās* are the following: “this is the *madhhab*’ (wa-‘*alayhi al-madhhab*, literally ‘this is what the *madhhab* is founded on’), ‘this is the preferred view’ (*al-rājiḥ fi’l-madhhab*), [and] ‘this is the view that is

⁷⁷ See also Mughaltāy’s (d. 762/1360-1) *Sharḥ Sunan Ibn Māja* and the Ḥanafī al-‘Aynī’s (855/1451) *Umdat al-qārī: Sharḥ Ṣaḥīḥ al-Bukhārī*.

⁷⁸ For example, Ḥanafī usage of the term *fatāwā* was therefore not the same as the literary genre of *fatwā* (Bazzāz, *Fatāwā*, 1:14; Gleave in Imber [ed.] 2010, 12-3, and Calder, in *ibid.*, 73).

⁷⁹ In relation to Shāfi‘ī *fatwās*, see: al-Nawawī, *Manthūrāt*, 78 and 81; and Aghnides 1916, 190, Calder 2003, 197-201. For Mālikī *fatwās*, see: Johansen 1993, 75, Fadel 1997, 52-3. For Ḥanbalī *fatwās*, see: Ibn Taymīya, *Majmū‘at fatāwā*, 1:187-93 and *al-Fatāwā al-kubrā*, 2:453-4; and. Koh 1986, 26-42, Jokisch 1997, 120, Bori 2004, 326, Aigle 2007, 117 and Opwis 2008, 249. See also B. Weiss 1996, 64 and Fadel 1997, 52-3 and 75-7.

⁸⁰ *Ibid.*, 168.

followed' (*al-ladhī 'alayhi al-'amal*)".⁸¹ For Hallaq, the definitive nature of many *fatwās* was sometimes, but is not always, connected to a shared, definitely stated view within a *madhhab*. This observation is important because, as we will see Chapter IV.2, Ibn al-Naḥḥās did not subscribe to such an understanding of his own legal school, at least not in his anti-innovation tract. What may be true of *fatwās* does not always hold for less formal, prescriptive advice given in anti-innovation tracts.

The genre of jurisprudential *risālas* is very wide ranging, as illustrated in various Ḥanbalī, Mālikī and Shāfi'ī examples,⁸² and as discussed by Jaakko Hämeen-Anttila.⁸³ Prose *risālas* addressed single issues in a wide variety of contexts and permitted scholars more room for manoeuvre in terms of choice of topic, style, use of evidence and approach, than the other genres so far considered. This is a type of writing which scholars could easily use to engage, in their own way, with pressing social and other issues of their day.

This manoeuvrability proved useful to scholars wanting to address traumas and transitions that occurred during the Mamluk period in Egypt and Syria, such as the later crusades, invasions by Mongols and others, economic crises and a changing mix of ethnicities. Jurists did not address these shocks and transitions primarily through

⁸¹ Hallaq 1994, 58.

⁸² See three *risālas* written by Ibn Kaykaldī (d. 761/1359), a Shāfi'ī son of a Turkish soldier, and who studied *ḥadīth* in Damascus contained exegesis (*tafsīr*) of verses of the Qur'ān (*G.A.L.*, I:317 and II 64). For various Mālikī *risālas*, see Ibn Abī Zayd (d. 386/996), *Risāla* and al-Ma'sumi 1996 - an edition and translation of Ibn Ḥazm's (d. 456/1064) *Risāla*. See also Ibn Taymīya's *Istiwā'*, which cut across the boundaries of *fiqh*, grammar, *'aqīda* and other areas.

⁸³ 2006, 134.

mukhtaṣars or *mabsūṭs*, but occasionally through *fatwās* and, more frequently, through *risālas*. This discussion expands on the work of Johansen, who did not consider anti-innovation tracts in his treatment of legal *risālas* in the Early Middle Period.⁸⁴ However, to situate anti-innovation tracts within this genre would be to say little, because of the extreme breadth of the possible contents covered by *risālas*.

One feature that unites writings of positive law is that authors in the Mamluk period wrote in new and different ways, despite the constraints of various genres, or actually used these genres very skilfully for their aims. I will argue that this was also true of Ibn al-Ḥājj's and Ibn al-Naḥḥās' tracts. In addition, those tracts share some terminology, use of sources and textual strategies with other genres of positive law, but are different enough in these elements to warrant either situating them in a separate genre, or as a distinct sub-genre of *risālas*.

The above survey matters because, although writing jurists had many genres of writing available to them, the evidence that this thesis brings to bear has not been investigated in detail in the context of positive law. Ibn al-Ḥājj's and Ibn al-Naḥḥās' anti-innovation tracts will emerge as less formal examples of how scholars intended to influence others. It is also worth pointing out that few instances of texts being written in response to social practices can be identified from among the above.

⁸⁴ 1999, 75.

II.1.g. Conclusions

As a first step in understanding the literary setting of Ibn al-Ḥājj's and Ibn al-Naḥḥās' tracts, this chapter has reviewed the positions of three major scholars of premodern Islamic jurisprudence on questions that are relevant to this study, and surveyed the typical genres in which positive law was usually expressed. Whereas Johansen found that jurists viewed their legal tradition as a 'tradition-in-change', Hallaq allowed for fewer developments in 'the constitution of the phenomena that we call Islamic law' after the fourth/tenth century. In this context, Calder's view (and to some extent Johansen's) appears to be most compelling, namely that works of *furū'* demonstrated changes insofar as they aimed at different and more elegant ways of describing the law, that it was the writer-jurist who was most important in this process, and that we may not precisely reconstruct historical practices on the basis of individual works of *furū'*. In this way, I have contended for the importance of seeing anti-innovation tracts as a sub-genre of positive law. In the remainder of this study, I provide several examples of what *madhhab* loyalty meant to Ibn al-Ḥājj and Ibn al-Naḥḥās in practice and what their respective stance was on what Calder has called "the space between revelation and law", that is how and to which extent they used normative strategies in order to expand this space. Additionally, I test my four hypotheses using close textual analysis (including attention to authorial intent), an analysis of the socio-biographical contexts of Ibn al-Ḥājj and Ibn al-Naḥḥās, and the intellectual context of the genre of anti-innovation tracts. It is to the last of these that we now turn.

Chapter II.2: Anti-innovation tracts as an expression of positive law

II.2.a. Introduction

Having argued for the importance of seeing anti-innovation tracts as a sub-genre of positive law, can we categorise them with greater analytical rigour? The following table, which lists twelve premodern anti-innovation tracts written before and during the Mamluk period, helps us to discern more closely the characteristics of anti-innovation tracts. Of the tracts listed in this table, I singled out for closer scrutiny, in this chapter, those of al-Qurṭubī (d. 287/900), al-Ṭurṭushī (d. 520/1126), Ibn al-Jawzī (d. 597/1200), Abū Shāma (d. 665/1268), al-Turkumānī (writing c. 700/1300), Ibn Taymīya (d. 728/1328) and al-Shāṭibī (d. 790/1388). It appeared to be appropriate to exclude al-Maqdisī's (d. 643/1245) *Ittibā' al-sunan wa-ijtināb al-bida'* from this list, because its inclusion would have added little to my central arguments, and would have diminished

the space available for other comments.¹ Neither have I included the *Bayān ghurbat al-islām* of the Moroccan scholar ‘Alī b. Maymūn al-Idrīsī (d. 917/1511), as the work remains unpublished, and while it has survived in manuscript form in Cairo, Connecticut and New Jersey, and I have not been able to consult it.²

A large part of this chapter is devoted to al-Qurṭubī’s tract, because it is the earliest example of the literary tradition of which Ibn al-Ḥājj’s and Ibn al-Naḥḥās’ tracts were a part, and because Fierro’s research on this tract (as well as on some others) is important for this field of scholarship. The following is thus not an exhaustive presentation of the literary setting of anti-innovation tracts. Rather, it focusses on topics that shed light on my hypotheses and that will relate in some way to Parts III-V of this thesis, in which Ibn al-Ḥājj’s and Ibn al-Naḥḥās’ tracts are discussed..

¹ Another reason for excluding al-Maqdisī’s *Ittibā’* was the presence in this chapter of other Ḥanbalī works, as well as Syrian ones.

² Al-Idrīsī’s *Bayān* is a work written against “religious and social abuses which he had noticed in the East” (Brockelmann 1960, 388). See also *G.A.L.*, II;124 and Berkey 1995, 42.

Table 1: Principal pre-Mamluk and Mamluk anti-innovation tracts³

Name	Author details			Title of work	Date of writing
	D.	Location	Madhhab		
Ibn Waḍḍāḥ Abū ‘Abd Allāh Muḥammad al-Qurṭubī	287/ 900	Andalusia	Mālikī	<i>K. al-Bida‘</i>	Unknown
Abū Bakr Muḥammad b. al-Walīd Ibn Abī Randaqa al-Ṭurṭūshī	520/ 1126	Andalusia	Mālikī	<i>K. al-Hawādith wa-al-bida‘</i>	Unknown
Jamal al-Dīn Abū al-Faraj ‘Abd al-Raḥmān b. ‘Alī, known as Ibn al-Jawzī	597/ 1200	Baghdad (briefly Wāsiṭ)	Ḥanbalī	<i>Talbīs iblīs</i> <i>K. al-Quṣṣāṣ wa-al-mudhakkirīn</i> <i>K. al-Mawḍū‘āt</i>	c. 575/ 1179-80 c. 575/1179- 580/1185 Unknown
Abū ‘Abd Allāh Muḥammad b. ‘Abd al-Wāḥid al-Maqdisī	643/ 1245	Syria	Ḥanbalī	<i>Ittibā‘ al-sunan wa-ijtināb al-bida‘</i>	Unknown
Abū al-Qāsim ‘Abd al-Raḥmān b. Ismā‘īl Abū Shāma	665/ 1268	Syria	Shāfi‘ī	<i>al-Bā‘ith ‘alā inkār al-bida‘ wa-al-ḥawādith</i>	Unknown
Ṣafī al-Dīn Idrīs b. Baydakīn b. ‘Abd Allāh al-Turkumānī	early 8th/ 14th	Mecca and Egypt	Ḥanafī	<i>K. al-Luma‘ fi al-ḥawādith wa-al-bida‘</i>	c. 700/1300

³ Where, in the main body of this study, I refer to Arabic editions of works listed in this Table, these works are listed in the bibliography. Additional sources for the table include: Fierro 1992a, 207-9; Labib 1964, 191; Margoliouth 1935, 1:1; Swartz 1986, 40-5. In the Table, ‘Location’ refers to where the author spent most of his life. The date of writing for the *Kitāb Iqtīdā’* is based on Memon’s placement of the date of writing between “the strife of 1321” and Ibn Taymīya’s imprisonment in 1326 (Menon 1976, 78-82).

Author details				Title of work	Date of writing
Name	D.	Location	Madhhab		
Abū al-‘Abbās Aḥmad b. ‘Abd al-Ḥalīm Ibn Taymīya	728/ 1328	Syria	Ḥanbalī	<i>K. Iqtidā’ al-ṣirāt al-mustaqīm mukhālafat aṣḥāb al-jahīm</i>	c. 720/1321- 726/1326
Abū ‘Abd Allāh Muḥammad b. Muḥammad al-‘Abdarī al-Fāsī Ibn al-Ḥājj	737/ 1336	North Africa	Mālikī	<i>Madkhal al-shar‘ al-sharīf</i>	Unknown
Abū Ishāq Ibrāhīm b. Mūsā al-Lakhmī al-Shāṭibī	790/ 1388	Andalusia	Mālikī	<i>(K.) al-I’tisām</i>	Unknown
Aḥmad b. Ibrāhīm b. Muḥammad Ibn al-Naḥḥās	814/ 1411	Syria and Egypt	Ḥanafī then Shāfi‘ī	<i>Tanbīh al-ghāfilīn ‘an ‘amāl al-jāhilīn wa-taḥdhīr al-sālikīn min af‘āl al-hālikīn</i>	810-1/ 1408
Zarrūq , Abū al-‘Abbās Aḥmad b. Aḥmad al-Burnusī al-Fāsī	899/ 1493	North Africa	Mālikī	<i>‘Uddat al-murīd al-ṣādiq / al-Bida‘ wa-al-ḥawādith</i>	Unknown
Abū al-Faḍl ‘Abd al-Raḥmān b. Abū Bakr al-Suyūṭī	911/ 1505	Egypt	Shāfi‘ī	<i>al-Amr bi al-ittibā‘ wa-al-nahy ‘an al-ibtidā‘</i>	Unknown

II.2.b. Al-Qurṭubī (d. 287/900), *Kitāb al-Bida'*

The Andalusian Mālikī, Ibn Waḍḍāḥ al-Qurṭubī (d. 287/900) produced the earliest extant work exclusively dedicated to the topic of innovations, *Kitāb al-Bida'*. This work has been fundamentally influential for the understanding of the term '*bid'a*' in the Islamic context.⁴ *Kitāb al-Bida'* work dealt briefly with some definitional issues, such as the nature of innovation, and then discussed innovations relating to funerals, festivals and other days or months, women, food and clothing, mosques and recitation of the Qur'ān.⁵ Of the five types of innovation mentioned in the introduction to this thesis, al-Qurṭubī was interested in discussing blameworthy innovation.⁶

Al-Qurṭubī's main textual strategy was to cite and comment on a *ḥadīth*, usually listing transmitters by name.⁷ However, structurally, unlike juristic commentaries on *ḥadīths*, he did not take *ḥadīths* (in whatever order) as his starting point for the work as a whole. Instead, al-Qurṭubī addressed broad categories in turn (such as particular festivals) and listed *ḥadīths* within each category.

This textual strategy is evident in al-Qurṭubī's introduction. His first two *ḥadīths* contain the sentiment that ignorant people (*al-jāhilīn*) should not interpret knowledge (*'ilm*).⁸ Other *ḥadīths* in the introduction set innovators in opposition to those who keep

⁴ Fierro 1992a, 210-1 and Hallaq 2002, 2:536-7.

⁵ Fierro 1988, 117 and 121. I have listed the topics to which al-Qurṭubī gave most space. Fierro lists other topics that al-Qurṭubī also discussed (1992, 234-8).

⁶ See references in Fierro 1992a.

⁷ For example, al-Qurṭubī's section on the night of 14 Sha'bān consists of two *ḥadīths*, with *isnāds* and *matns* (Fierro 1988, 189).

⁸ *Ibid.*, 157.

the *sunna* (*ahl al-bida' ... ahl al-sunna*)⁹. Al-Qurṭubī wrote that “God’s curses have indeed fallen on the innovators,”¹⁰ and mentioned that “turning away from giving someone a wrong opinion is preferable to devoting oneself [on retreat] for one month”.¹¹ The *ḥadīths* that al-Qurṭubī selected in his introduction imply that he had an audience of scholars at least partly in mind.¹²

Al-Qurṭubī also reported the following *ḥadīth*, collected by Ibn Māja: “God does not accept from the innovator prayer, fasting, almsgiving, *jihād*, pilgrimage, minor pilgrimage, exchange and justice.”¹³ As we will see, al-Qurṭubī’s introduction began in a similar way to Ibn al-Ḥājj’s and Ibn al-Naḥḥās’ introductions, by quoting particular *ḥadīths*.

The next section of al-Qurṭubī’s work is entitled *bāb mā yakūn bid’a* (a chapter on what innovation is). It contains over 40 *ḥadīths* that are mostly very short. The first *ḥadīth* is one that al-Qurṭubī himself collected. It describes and censures a rumour that spread among people (*al-nās*), that whoever prays in the great mosque enters paradise. The following *ḥadīths* also relate (or imply) situations where something innovative was done. For example, “Follow; do not innovate. You have enough. Every innovation is an error (*kull bid’a ḍalāla*).”¹⁴ As I note in Part IV, both Ibn al-Ḥājj and Ibn al-Naḥḥās

⁹ Ibid., 159.

¹⁰ Ibid..

¹¹ Ibid., 158 (I,5).

¹² See Fierro’s comment that one of al-Qurṭubī’s reasons for rebuking innovations was that both the learned and unlearned performed them (1992, 237). Not every reason applied to every innovation.

¹³ Fierro 1988, 158. See discussion in Chapter V.2.

¹⁴ Fierro 1998, 162, II.7.

quoted this *ḥadīth*. Here, and elsewhere in the body of his work, al-Qurṭubī did not comment on the *ḥadīths*, and did not discuss categories of innovation.

Al-Qurṭubī devoted an entire chapter (immediately following the one just discussed) to the words of the *ḥadīth*, “Every new thing is an innovation” (*kull muḥdatha bid‘a*). This chapter comprises a collection of 28 *ḥadīths*, and begins with a restatement of the *ḥadīth* “Every innovation is an error” (*kull bid‘a ḍalāla*). The *isnād* for this *ḥadīth* leads back to al-‘Irbāḍ b. Sāriya (whom Ibn al-Naḥḥās also named in his corresponding *isnād*) suggesting that he was possibly using al-Qurṭubī as a lead,¹⁵ and al-Qurṭubī also provided several variants, including “Every new thing is an error” (*kull muḥdatha ḍalāla*), with the *isnād* leading back to ‘Abd al-Mālik.¹⁶

Overall, al-Qurṭubī’s *Kitāb al-Bida‘* is a work of positive law. I am not the first to posit that anti-innovation tracts had legal aspects to them. Maribel Fierro noted that early *kutub al-bida‘* (especially those of al-Qurṭubī and al-Ṭurṭūshī) dealt with the ritual sphere of the law.¹⁷ Two of the genres of writing that she identified as proximal to such works were *‘aqā’id* (professions of faith), books which concerned “the orthodox formulation of dogma from the point of view of the legal and theological school of the author” and *fatāwā* collections.¹⁸ Al-Qurṭubī’s tract is also a practical, not a theoretical, work, and so are the tracts of Ibn al-Ḥājj and Ibn al-Naḥḥās.

¹⁵ Fierro 1988, 171 (III,2) and Chapter IV.2. ‘Irbāḍ Sāriya (d. 75/693-4), one of the *ahl al-suffa*, a group of Muḥammad’s Companions, a group that came to “typify the ideal of poverty and piety” (Watt 1960, 1:266; on ‘Irbāḍ, see Ibn Hajar, *Tahdhīb*, 7:103-4).

¹⁶ Fierro 1988, 171 (III,2). See discussion in Chapter V.2.

¹⁷ Fierro 1992a, 206.

¹⁸ *Ibid.*, 206-7.

Al-Qurṭubī tried to regulate behaviour through the quoting of *ḥadīths* and by addressing scholars. Where al-Qurṭubī exhorted others to action, it was to urge others to take a virtuous path and not to innovate.¹⁹ His most likely audience was people who would understand a series of *ḥadīths*, together with their full *isnāds* and selected variants. *Kitāb al-bida‘* comes across as an encyclopaedic work listing *ḥadīths* about what *bid‘a* is, and how it relates to a narrow set of contexts, such as festivals and funerals. The work would perhaps have been appropriate as a reference aid for scholars. Equally, the stories preserved in some of the *ḥadīths* would have been entertaining and easy to understand for those who had not been exposed to any aspect of a scholarly curriculum.

II.2.c. Fifth/eleventh- to sixth/twelfth-century anti-innovation tracts

II.2.c.i. Al-Ṭurṭūshī (d. 520/1126), Kitāb al-Ḥawādith wa-al-bida‘

Abū Bakr al-Ṭurṭūshī (d. 520/1126) was a Mālikī jurist and traditionist, who was born in Tortosa (on the Spanish Mediterranean coast) and died in Alexandria.²⁰ A major concern for al-Ṭurṭūshī was the widespread nature of innovations in the Maghrib, where he lived for much of his life.²¹ A. Ben Abdeselem has suggested that al-Ṭurṭūshī wrote *Ḥawādith* in Egypt after 480/1088. If this is correct, it provides a Mālikī counterpart to Ibn al-Ḥājj,

¹⁹ Fierro. 1988, 275.

²⁰ Abdeselem 2000, 739-40.

²¹ See, for example, Fierro 1993, 254, in context of innovations in wrapping turbans.

both being jurists from the West writing an anti-innovation tract in Egypt, though al-Ṭurṭūshī was writing centuries before Ibn al-Ḥājj, and with a slightly different geographical focus.²²

In most respects, al-Ṭurṭūshī's anti-innovation tract was similar to al-Qurṭubī's, and in particular in its focus on blameworthy *bid'a*.²³ For example, al-Ṭurṭūshī also frequently took *ḥadīths* as a starting point for argumentation, although this was not structurally important for him (in distinction to juristic commentaries on *ḥadīths*). In addition, like al-Qurṭubī, al-Ṭurṭūshī disparaged Muslims for imitating Jewish and Christian practices and did not focus on innovations in doctrine.²⁴ Neither author discussed commerce in depth. One of the differences between these tracts was that al-Ṭurṭūshī discussed some innovations more extensively than al-Qurṭubī, such as those related to food, clothing and the Qur'ān.²⁵ Al-Ṭurṭūshī also discussed the damage that relations with rulers can do to the integrity and independence of the '*ulamā*', citing traditions about the relations between rulers and scholars to this effect.²⁶ That is, either as an audience for his tract, or as a key group that his audience should think about, al-Ṭurṭūshī had scholars and/or those with temporal authority in view.

²² Abdesselem 2000, 40.

²³ Fierro 1992b, 185.

²⁴ Fierro 1993, 11-13, 185 and 195-371 and Kister 1961, 140. An example of al-Ṭurṭūshī's selectivity in his choice of innovations is that he did not mention the *mawlid* of the Prophet, something he must have known about (Fierro 1992a, 237).

²⁵ Fierro 1992a, 204 and 211-4.

²⁶ Kister 1961, 139.

II.2.c.ii. Ibn al-Jawzī (d. 597/1200), *Talbīs iblīs*, *Kitāb al-Quṣṣāṣ wa-al-mudhakkirīn* and *Kitāb al-Mawḍū‘āt*

Jamal al-Dīn Abū al-Faraj ‘Abd al-Raḥmān b. ‘Alī (d. 597/1200), also known as Ibn al-Jawzī, was a well-known Ḥanbalī scholar from Baghdad, whom Henri Laoust called a “jurisconsult, traditionist, historian and preacher”.²⁷ His main work on *bid‘a* was *Talbīs iblīs*, written against innovations that *fuqahā’*, traditionists, those with temporal authority, Sufīs and those belonging to sects such as *khawārij*, *rawāfiḍ*, *mu‘tazila*, *falāsifa* and *bāṭiniyya* introduced.²⁸ Ibn al-Jawzī viewed an innovative belief as one that was not held by the Prophet and *salaf*, regardless of when the posited innovative belief first arose.²⁹ This is how, within his own system, he was able to be consistent in labelling beliefs that predated the time of the Prophet and the *salaf* (such as Judaism, Christianity, Brahmins and belief in transmigration) as innovative.

Another work of Ibn al-Jawzī’s, *Kitāb al-Quṣṣāṣ wa-al-mudhakkirīn*, was a textbook for students, written in response to the “persistent and nagging question” about “whether [preaching] was to be viewed as something good or bad”.³⁰ *Quṣṣāṣ* contains passages on innovations related to popular preachers and storytellers (as the title of the work suggests) and to canting the Qur’ān (*qirā’a bi-al-alḥān*).³¹ A third work, *Kitāb al-*

²⁷ Laoust 1971a, 751.

²⁸ Ibid., 752.

²⁹ Margoliouth 1935, 1:8-16 and 3:377-84 1936, 1:20-22.

³⁰ Schwartz 1986, 67-8.

³¹ Ibid., 116-124 and 170-210. Fierro 1992a. On Ibn al-Jawzī’s treatment of innovation and popular preachers, see Homerin 2005, 13, which also includes a brief discussion of Ibn al-Ḥājj, al-Idrīsī and Zayn al-Dīn al-‘Irāqī.

Mawḍū‘āt, contains passages on innovations in relation to food, clothing, funerals, celebration of Rajab, using fans in mosques, canting the Qur’ān, and women.³² Despite the variety of approaches and purposes in these works, some common features in Ibn al-Jawzī’s works on *bid‘a* include an almost exclusive focus on blameworthy innovations and the use of *ḥadīths* as a starting point for argumentation within several individual sections.³³

In his collection of tracts, Ibn al-Jawzī discussed innovations relating to the twenty-two following categories: birth, marriage and other family matters; visitation and shrines; festivals and special days and months; women; conduct on or near the street; morality, ethics and purpose; clothing; food; the home and hospitality; health; relations with those in temporal authority; being away (including travelling and *ribāṭs*); interactions with non-Muslims (including *jihād*); dealing with death (including funerals); recitation and writing of the Qur’an; the mosque; prayer and worship; the *ḥajj*; other ritual or meritorious matters; dogma and heresies; education and the pursuit of knowledge; poetry, storytelling and popular preachers.³⁴ These categories overlap with those contained in the above *mukhtaṣars* and *mabsūṭs*. Among authors of anti-innovation tracts, the breadth of this selection is matched (and slightly exceeded) only by Ibn al-Ḥājj. I will argue, in Parts IV

³² Fierro 1992a.

³³ Ibn al-Jawzī reported that ‘Umar b. al-Khaṭṭāb, the second caliph, gave an exception to the general condemnation of *bid‘a*, with the Ramadan night prayers (*ṣalāt al-tarāwīḥ*) named as an excellent innovation (*ni‘mat al-bid‘a*; see Fierro 1992a, 205).

³⁴ This list covers just over 95% of the 277 beliefs and practices referred to in anti-innovation tracts that I have consulted. In producing a categorisation of twenty-two types of innovation, I tried to retain, as far as possible, a sense of the sections that authors of such tracts themselves used, while also limiting the amount of categories to a manageable number.

and V, that Ibn al-Ḥājj's *Madkhal* was intended for students (in a similar way to *Kitāb al-Quṣṣās*).

Al-Qurṭubī, al-Ṭurṭūshī and Ibn al-Jawzī discussed blameworthy innovations in their tracts, taking a *ḥadīth* (or set of *ḥadīths*) as their starting points. All three works were united in aiming to influence others towards a particular ideal, broad though those ideals were. Notwithstanding these unifying characteristics, we have seen that al-Qurṭubī's and al-Ṭurṭūshī's tracts dealt only with ritual practices, whereas Ibn al-Jawzī's also touched upon doctrinal innovations and, to a smaller extent, daily life.

II.2.d. Seventh/thirteenth- to early ninth/fifteenth-century anti-innovation tracts, excluding Ibn al-Ḥājj's and Ibn al-Naḥḥās' tracts

II.2.d.i. Abū Shāma (d. 665/1268), al-Bā'ith 'alā inkār al-bida' wa-al-ḥawādith

The historian Abū al-Qāsim 'Abd al-Raḥmān b. Ismā'īl Abū Shāma (d. 665/1267), a Shāfi'ī, was born in Damascus in the year 599/1203 and was a student of Ibn 'Abd al-Salām.³⁵ Apart from one year in Egypt and a brief trip to Jerusalem, he spent his entire life in Damascus, where he became a professor in the al-Rukhīya and al-Ashrafiya

³⁵ Ahmad, 1960, 1:150. Ahmad gives the year of Abū Shāma's death as 19 Ramaḍān 665/13 June 1268. The conversion between dating systems is wrong, and I have relied on the *hijri*, rather than the Gregorian, dating.

madrasas five years before his death.³⁶ Among his varied works are *Kitāb al-Rawḍatayn fī akhbār al-dawlatayn* (a history of Syrian and Egyptian lands between the reigns of Nūr al-Dīn [d. 569/1174] and Ṣalāḥ al-Dīn [d. 589/1193]), *Ta’rīkh dimashq* (a history of Damascus), and a commentary on *Qaṣīda al-Shāṭibīya*.³⁷

In *Bā’ith*, Abū Shāma condemned the innovation of prayers of supplications (*ṣalāt al-raghā’ib*), which used to take place on the first Friday of the month of Rajab, and rebuked scholars who endorsed it, extensively quoting from the Qur’ān and *ḥadīths* that condemned innovations.³⁸ In this work, he also discussed practices performed by mystical and ascetic groups, “illicit relations with women, breaking rules of fasting and neglecting the prayers”.³⁹ In addition, Abū Shāma discussed the celebration of the *mawlid* (Muḥammad’s birthday festival) as a praiseworthy innovation.⁴⁰ From this information, it appears as if Abū Shāma may have viewed his audience as including both scholars and others, although further investigation of his tract is needed to explore this. Given this audience, Abū Shāma provides an interesting point of comparison to Ibn al-Ḥājj (whose tract, I will argue, was also aimed in part at scholars), since the former had an official position in at least two *madrasas* (and may therefore have had opportunities to

³⁶ Ibid.

³⁷ Ibid.

³⁸ Hirschler 2006, 51-2 and Ukeles 2006, 133. On *bid’a* in *ḥadīth* literature (including three main traditions that authors of anti-innovation tracts used, namely “whoever creates something new ... is rejected”, “every innovation is an error” and “what an excellent innovation this is!”), see Ukeles 2006, 56-81.

³⁹ Ibid., 51.

⁴⁰ Kaptein 1993, 72-3.

disseminate his anti-innovation tract among scholars), whereas the latter held no such positions.

Partly drawing on his analysis of Abū Shāma's close social interaction with communities in Damascus, Hirschler argues that Abū Shāma used his tract "to spell out his concept of the need for continuous *ijtihād*".⁴¹ That is, this text functioned as a platform to advance arguments not just against particular practices, but also in favour of a way of viewing Islamic sources of authority. Abū Shāma followed earlier authors of anti-innovation tracts in pursuing an underlying agenda via his comments on particular innovative practices.

II.2.d.ii. Al-Turkumānī (writing c. 700/1300), Kitāb al-Luma' fī al-ḥawādith wa-al-bida'

Ṣafī al-Dīn Idrīs b. Baydakīn b. 'Abd Allāh al-Turkumānī (writing c. 700/1300) was a Ḥanafī who wrote his *Kitāb al-Luma'* (Book of Beams, or Sparkles) while in Mecca.⁴² As an author of an anti-innovation tract, al-Turkumānī was unique in that he was of Turkman background (as his name suggests) and that - by his own admission - his Arabic was not excellent, features which limited how easily he would be accepted as a scholar among

⁴¹ Hirschler 2006, 51. Abū Shāma probably wrote this tract at the start of, or just before, the Mamluk period, since, as Hirschler notes, Ibn 'Abd al-Salām controversially tried to stop the prayer of supplication in 637/1239-40, and Abū Shāma wrote this tract after this conflict took place (2006, 51).

⁴² Labib 1986, 15-6. This dating is an update of Labib's own, earlier, argument (1964, 191) that al-Turkumānī was writing around the start of the ninth/fifteenth century. The earlier argument agreed with Brockelmann's dating (*G.A.L.*, II:169).

contemporaries who were native speakers of Arabic.⁴³ We should understand al-Turkumānī's contribution in context of the increasing influence in jurisprudence of scholars with Turkic backgrounds, and in context of the rise of Ḥanafī influence in law in the Mamluk period.⁴⁴ Albeit in a different way again to Ibn al-Ḥājj and Ibn al-Naḥḥās, al-Turkumānī was also an outsider in Mamluk lands. His background is more analogous to Ibn al-Naḥḥās' than Ibn al-Ḥājj's, given that Ibn al-Naḥḥās' audience was (as I shall argue) less specialist than Ibn al-Ḥājj's.

In many regards, al-Turkumānī's *Luma'* illustrates points already made above in respect of earlier anti-innovation tracts, such as its wide range of topics,⁴⁵ its focus on blameworthy *bid'a*,⁴⁶ and its approach of testing practices against the Qur'ān, *sunna* and consensus.⁴⁷ One difference, by comparison with authors of earlier tracts, is that al-Turkumānī provided more quotations from the Old Testament, New Testament and Qur'an to support his claims. This illustrates how authors of some anti-innovation tracts dealt with a range of tensions, within and between ethnicities and between religious scholars and those with temporal elites.

⁴³ Labib 1964, 191. Leonor Fernandes notes that local religious elites, such as al-Maqrizī, frequently resisted the appointment of foreigners to official positions and that, among the critiques that such elites made, was that many of them did not know Arabic well (1987, 95).

⁴⁴ See Part II of this thesis. For a discussion of how jurisprudential terms such as *ijmā'*, *qiyās*, *ijtihād* and *taqlīd* were developing in the centuries before al-Turkumānī's time, based on a fourth/tenth-century Ḥanafī manuscript, see Bernard 1985.

⁴⁵ Some of the innovations that al-Turkumānī discussed were reading the Qur'ān, women, mosques, festivals, chess, clothing and *jihād* (*Luma'*, 1:56, 97, 214 and 442). Subhi Labib described the main innovations dealt with in al-Turkumānī's book as those connected with *futuwwa* associations, *dhimmīs*, women, mosques and reading the Qur'ān (1964, 194-5). Labib also made special mention of innovations related to the execution of wills, a subject that al-Turkumānī also discussed (*ibid.*).

⁴⁶ Labib 1964, 191.

⁴⁷ *Luma'*, 1:8-10.

Al-Turkumānī's *Luma'* shows that, while one may use anti-innovation tracts to reconstruct a general picture of social realities around the times in which they were written, one may not be very specific about this reconstruction. At one point in his tract, al-Turkumānī described innovations among Qalandars (including wearing distinctive garments and shaving the head).⁴⁸ We know that the notion and term 'Qalandar' was new to this period, that there were many Qalandars in Syria and Egypt during al-Turkumānī's life, and that the type of activities he described are exactly the kind of characteristics we know to have taken place among Qalandars at the time.⁴⁹ This does show that al-Turkumānī had 'witnessed' certain practices he commented on (as Shoshan argues),⁵⁰ even if his 'witnessing' was from a distance.

However, in relation to most other innovations mentioned in this tract, it is difficult to know how skeptical to be of claims that the innovations were current in the locales where al-Turkumānī lived or travelled. He may have drawn on examples from elsewhere or from other time periods in order to make a larger point. Where should we draw the line? So far, I have not seen sufficient evidence (such as corroborating external sources) to warrant a conclusion that all, or most, prescriptions in anti-innovation tracts derived from practices that one may know to have been happening immediately around the authors.

⁴⁸ Ibid., 192-3. Karamustafa renders the Arabic word *qalandar* 'mendicant dervishes' (1994, 113-4).

⁴⁹ *Luma'*, 1:191, Yazici 1978, 473, Trimmingham 1971, 264-9 and Karamustafa 1994, 52-5. See also Vadet 1969, 52-4.

⁵⁰ 1993, 68.

II.2.d.iii. Ibn Taymīya (d. 728/1328), Kitāb Iqtidā' al-ṣirāṭ al-mustaqīm

Abū al-‘Abbās Ibn Taymīya’s (d. 728/1328) writings have been much studied, both generally and in relation to the topic of innovation, which he discussed in several of his *fatwās* and in other works.⁵¹ He further defined *bid‘a* as “that which is not prescribed in the religion of Allah”, or that which involves abandoning the *sunna*.⁵² Two of Ibn Taymīya’s students, Ibn ‘Abd al-Hādī and al-Bazzār, stated that one of his most important merits was in confronting innovation.⁵³ Ibn Taymīya opposed scholars who called some innovations good and some innovations bad, arguing that those that Islamic law approved of were *shar‘ī* founded, and those of which it did not were innovative (and therefore bad).⁵⁴

A contemporary of Ibn al-Ḥājj, Ibn Taymīya’s one work entirely devoted to *bid‘a* was *Kitāb Iqtidā' al-ṣirāṭ al-mustaqīm* (The Book of the necessity of the straight path). In this work, Ibn Taymīya expressed his disapproval of Jewish and Christian practices and what he saw as superstitious beliefs - such as believing that certain remedies relieve sickness or following certain cults of the saints - and also refuted Muslim participation in non-Muslim festivals (*a‘yād*).⁵⁵ In *Iqtidā'*, Ibn Taymīya identified whether a practice was

⁵¹ For an example of Ibn Taymīya discussing *bid‘a* in a *fatwā*, see Jackson 2002, 54. See below for further references to scholarship on Ibn Taymīya and to his other writings on *bid‘a*.

⁵² Al-Matroudi 2006, 93. The sources for this definition are Ibn ‘Abd al-Hādī’s *al-Uqūd*, al-Bazzār’s *al-A‘lām* and al-Karmī’s *al-Kawākib* (see bibliographic references in *ibid.*). See also Memon 1976, 253.

⁵³ *Ibid.*, 18, 93 and 201.

⁵⁴ Al-Matroudi 2006, 94.

⁵⁵ Memon 1975, 11, Shoshan 1993, 67 and M. Katz 2007, 157.

innovative by testing it against Qur'ānic teaching, the *sunna* of the Prophet (together with the conduct of the *salaf*) and consensus.⁵⁶

The above is a much narrower range of innovations than that discussed by al-Ṭurṭushī, Ibn al-Jawzī and al-Turkumānī in their tracts. However, Ibn Taymīya's other works demonstrate that, elsewhere, he was concerned with a wider range of practices.⁵⁷ This illustrates the fluidity that existed in the boundaries of anti-innovation tracts.

Two themes emerge from Ibn Taymīya's writings against innovations that are especially relevant for this study. First, alongside attacking particular practices, his writings also challenged innovations connected with authority structures, whether political (such as structures related to Genghis Khān and the Mongols),⁵⁸ or scholarly (such as structures related to Ḥanbalīs).⁵⁹ It also emerges, second, that Ibn Taymīya was firmer in his rejections of innovations than previous authors of anti-innovation tracts, in the severity of his injunctions,⁶⁰ in going further in denouncing Qalandars as unbelievers than al-Turkumānī did,⁶¹ and in explicitly urging action on the part of readers and/or

⁵⁶ Memon 1975, 97-100 and al-Matroudi 2006, 93. For example, see Ibn Taymīya's lengthy quotation and discussion of Q2:145-50, in context of facing the *qibla* (*Iqtidā'*, 20). See also Homerin 1985, 238-9. On Ibn Taymīya's view of innovation as deviation from the example of *al-salaf al-ṣāliḥ*, see Peters 2005, 43.

⁵⁷ On Ibn Taymīya's views on *jihād*, in context of legal and socio-political considerations, see Fons 2009, especially 53-63. This article includes an edition and translation into French of a *risāla* by Ibn Taymīya, written to al-Nāṣir al-Muḥammad about the Mongols.

⁵⁸ Aigle 2007, 116.

⁵⁹ Al-Matroudi 2006, 93-4. See also Paul Powers' argument that, in issuing a *fatwā* that discussed the topic of intention, Ibn Taymīya was "concerned less with the verbalization of *niyya* than with questions of religious authority and innovation" (2006, 38). On tensions between Shāfi'īs and Ḥanbalīs around the time of Ibn Taymīya, see Chamberlain 1994, 122. See also Michot 2006, 54.

⁶⁰ Memon 1976, 1.

⁶¹ Karamustafa 1994, 54. On Ibn Taymīya's views on Sufism, see Makdisi 1974, 61-72, Ernst 1997, 78-9 and Knysch 1999, 87-112.

hearers. In relation to the last point, Ibn Taymīya urged Muslims not just to abandon such practices as of blowing trumpets and drums and wearing silk at festivals but also to tell others to abandon them.⁶² In Parts IV and V, we will see that Ibn al-Naḥḥās shared this tendency more than Ibn al-Ḥājj did. For Ibn Taymīya, calling others to desist from bad actions and to perform good ones was intrinsically bound up with the need to act well oneself, as he illustrated his own life.⁶³ In at least one of these cases, Ibn Taymīya’s comments relate to an innovation that we can be fairly certain he saw. Outside a blacksmith’s shop, Ibn Taymīya famously kicked over a backgammon board, a game he condemned as innovative.⁶⁴ In general, Ibn Taymīya viewed these calls to action in the context of the duty of commanding right and forbidding wrong.⁶⁵

As described above, Ibn Taymīya’s students noted that *bid‘a* was an important topic for him. Chapters IV.2 and V.2 show that Ibn al-Naḥḥās reproduced passages from both Ibn Taymīya and Ibn Qayyim al-Jawzīya in his anti-innovation tract. Therefore, it is worth providing an example of Ibn Taymīya’s influence on another of his students, Ibn Qayyim al-Jawzīya. In his *fatwās*, Ibn Taymīya favoured a non-binding form of *ijmā‘* that related to the consensus of the Companions of Muḥammad. Ibn Qayyim al-Jawzīya also

⁶² Memon 1976, 253.

⁶³ Ibid., 103. Between 693/1294 and 699/1300, Ibn Taymīya’s activities included intervening publicly against a Christian clerk “accused of having insulted the prophet”, exhorting others to *jihād* at the Umayyad mosque in Damascus and leading an anti-debauchery campaign in the brothels and taverns of Damascus (Michot 2006, 151-2).

⁶⁴ Shoshan 1993, 68.

⁶⁵ Tabbaa 1986, 232.

favoured this form of consensus.⁶⁶ However, where Ibn Taymīya distinguished three degrees of prohibited action in relation to visiting tombs, Ibn Qayyim described Ibn Taymīya’s account and identified four degrees of prohibited action.⁶⁷ That is, Ibn Qayyim followed the broad outlines of Ibn Taymīya’s approach in this aspect of innovation, but without mirroring his writings completely.

Overall, in his various works, Ibn Taymīya discussed a wide range of innovations, both practices and beliefs. While his writings were in some ways similar to those of al-Qurṭubī, al-Ṭurṭūshī, and Ibn al-Jawzī, Ibn Taymīya’s writings on *bid‘a* also broke new ground. For example, he named several individuals in temporal authority and directly urged readers and hearers to act to prevent innovations, as part of their religious duty. The former constitute examples of concrete historical context.

II.2.d.iv. Al-Shāṭibī (d. 790/1388), Kitāb al-I’tiṣām

Abū Ishāq Ibrāhīm b. Mūsā al-Lakhmī al-Shāṭibī was born and died in Granada in 790/1388. He was a jurist who wrote in many fields and had a special interest in legal theory, and was recognised by some scholars as a renewer (*mujaddid*) of the Mālikī *madhhab*.⁶⁸

⁶⁶ Jokisch 1997, 126 and 134n51.

⁶⁷ Taylor 1999, 180. As Jokisch points out, “Muslim jurists never came to a unanimous decision concerning [the] scope, validity and nature [of *ijmā*]” (1997, 126).

⁶⁸ For references to the many modern scholarly studies about al-Shāṭibī’s contribution to *uṣūl al-fiqh*, see Fierro 1997, 364-5.

Al-Shāṭibī was accused of innovation and heresy because of his opposition to practices such as mentioning the sultan's name in the *khuṭba*.⁶⁹ In response to such accusations, he wrote an anti-innovation work entitled *Kitāb al-I'tiṣām* (Book of Preservation, or Safeguarding). This work was mainly conceptual, addressing topics such as categories of *bid'a*,⁷⁰ the distinction between *muḥdatha* and *bid'a*,⁷¹ and differences between the linguistic and jurisprudential meanings of *bid'a*.⁷² Alongside this, *I'tiṣām* also contains exhortative and practical elements,⁷³ although close theoretical argument is more dominant.

The importance of *I'tiṣām* as an anti-innovation tract lies chiefly in its uniqueness as a theoretical work. There is little of its conceptual focus to be found in Ibn al-Ḥājj's and Ibn al-Naḥḥās' tracts.

II.2.e. Conclusions

Four features of the tracts considered above make it reasonable to group them together. To begin with, they all discussed *bid'a muḥarrama* and *makrūha* (forbidden and hated innovations - hereafter together called blameworthy innovations). There is, further, a common core of topics that they all discuss, together with claims that they were current.

⁶⁹ Ibid., 364.

⁷⁰ *I'tiṣām*, 29-42, Jahar 1999, 99-101 and Ukeles 2006, 130n109.

⁷¹ Jahar 1999, 43-5.

⁷² Ibid., 99.

⁷³ For example, in his introduction, al-Shāṭibī urged readers to “act on the clear evidence” that he was providing (*I'tiṣām*, 27).

Third, there are interrelationships and dependencies within the group.⁷⁴ Finally, the above texts are all normative to some degree, seeking to influence Muslims in the direction of a perceived ideal by appealing to the conduct of Muḥammad, the *salaf* and other early authoritative figures.⁷⁵

We may consider anti-innovation tracts to be examples of *furū' al-fiqh* literature, as they sought to apply legal theory to particular practices (or beliefs), even if legal theory itself rarely made an appearance in these texts. In anti-innovation tracts, scholars could also treat a topic discretely, aside from the formalism of the more pedagogic genres of *mukhtaṣars* and *mabsūṭs*.⁷⁶ Within *furū'*, the anti-innovation tracts considered above lack the defining structure of *su'āl-jawāb* common to *fatwās*. As discussed in the previous chapter, one may wish to categorise anti-innovation tracts within a sub-genre of prose *risālas*, as they both addressed a single issue. The sub-genre of *risālas* and the contents they cover are so broad, however, that it would not be saying much to classify anti-innovation tracts within it.

This brief survey contains little evidence to suggest that we may reconstruct particular historical practices from innovations mentioned in the above tracts. Almost all such innovations probably happened at some time and place, and some can be tied more closely to the time and location of the author (such as backgammon being played near Ibn Taymīya's neighbourhood). However, it is difficult to know how numerous the latter

⁷⁴ In addition to the references given above, see Ukeles 2006, 90n2.

⁷⁵ I am deliberately using the word 'normative' slightly differently to Ukeles. See Chapter IV.2 for my discussion of her classification of anti-innovation tracts into normative and descriptive, in relation to their views on permitted innovations in devotional law.

⁷⁶ This is not to say that these pedagogic genres do not occasionally reflect scholars inserting their own views in a less than rigorous way.

group of innovations was, relative to the former, and it is therefore difficult to know which innovations in a given tract one should rely on for historical reconstruction of a particular time and place. I shall develop this point in the case study section of this thesis (Part V).

Many of the patterns of the anti-innovation tract genre established before the Mamluk period continued during it. There was, however, considerable variety in audience. Insofar as my reading of these tracts and related scholarship can so far elucidate, al-Ṭurṭūshī, Ibn Taymīya and al-Turkumānī had those in temporal authority in view, and possibly scholars (in the case of the first two), and al-Qurṭubī and al-Shāṭibī wrote for scholars (although al-Qurṭubī's tract was much less dense and theoretical than al-Shāṭibī's).

In Part II, I have investigated Islamic positive law, focussing on modern scholarly debates about historical reconstruction and modalities of change, on five key genres, and on - as I term it - the sub-genre of anti-innovation tracts. The remainder of this study explores Ibn al-Ḥājj and Ibn al-Naḥḥās and their texts directly. We begin, in Part III, with a socio-biographical analysis of each jurist.

Part III

The Social and biographical contexts

Chapter III.1.

Ibn al-Ḥājj: “Known as a *shaykh* in Egypt”

III.1.a. Introduction

My discussion, in this chapter, of the Mālikī jurist Ibn al-Ḥājj’s (d. 737/1336) life and scholarly networks is controversial in places. As we will see, some modern scholars have stated that Ibn al-Ḥājj was born in Egypt and educated only there. By contrast with this, I argue that he was born in the western part of the Islamic world and received his early education there, perhaps in Fās. He then became a well-regarded, middle-ranking scholar in Egypt, where he spent the majority of his adult life, and his thought remained important after his death. My designation of Ibn al-Ḥājj as a *muftī* is unprecedented in modern times.

My approach is to describe Ibn al-Ḥājj’s life (including in the West), family and scholarly networks, works and impact. The description of his networks is, at times, quite detailed, such as in my exploration of biographical notices connected to four men with

whom Ibn al-Ḥājj was associated as teacher or student. Because of this detail, I have provided a chart of the major elements in his networks. One of the contributions of this study also will be to understand Ibn al-Ḥājj's intended audiences, and I touch on this issue in this chapter.

III.1.b. Life in the Maghrib and in Cairo

III.1.b.i. Overview

Biographical sources record that Muḥammad b. Muḥammad b. Muḥammad Abū ‘Abd Allāh al-Fāsī al-‘Abdarī al-Maghribī was a Mālikī *faqīh*, known as Ibn al-Ḥājj.¹ He died in Cairo in Jumādā I 737 A.H. (December 1336 A.D.), aged just over eighty years old, having become crippled.² Ibn al-Ḥājj arrived in Egypt some years before 700/1300, that is, at the latest by his forty-fifth birthday.³ He spent most of his life within Egypt, travelling on a small number of occasions, including going on *ḥajj* at least once.⁴ Ibn al-Ḥājj was therefore well acquainted with local customs in and around Egypt.

As was their frequent practice, Ibn al-Ḥājj's biographers mentioned his scholarship alongside other aspects of what he did, and alongside comments about his character: Ibn al-Mulaqqin (d. 804/1401) noted that Ibn al-Ḥājj became known as a jurist, imam and exemplar, who issued *ijāzas*, and practised renunciation (*zuhd*), charity (*khayr*), piety

¹ Ibn Farḥūn, *Dībāj*, 2:321, Ibn al-Mulaqqin, *Ṭabaqāt*, 311 and Ibn Ḥajar, *Durar*, 5:507.

² Al-Safadī, *Wāfi*, 1:187. Both Jean-Claude Vadet (1971, 779) and Robert Irwin (1998, 328) mistake Ibn al-Ḥājj's date of death for his date of birth.

³ One of Ibn al-Ḥājj's teachers, Ibn Abī Jamra, died in 700/1300 and was based in Cairo. See the discussion, below, of their scholarly relationship.

⁴ *Dībāj*, 2:321-2 and Kaḥḥāla 1983, 11:284.

(*ṣalāḥ*) and devotion;⁵ Ibn Farḥūn (d. 799/1397) added that Ibn al-Ḥājj was “knowledgeable about deeds”;⁶ and Ibn Ḥajar (d. 852/1449) further mentioned that Ibn al-Ḥājj was venerated and became known as a *shaykh* in Egypt.⁷ Ibn al-Azraq (d. after 896/1490) referred to Ibn al-Ḥājj as an authority in the context of prayer and supplication (including *du‘ā’*).⁸ Finally, non-biographical sources reveal that Ibn al-Ḥājj was not just a jurist, but also a *muftī*, as he issued *fatwās* and wrote a work containing *nawāzil* (legal cases).⁹ He was a specialist capable of writing in a range of genres.

Ibn al-Ḥājj was living during a time of institutional and other changes in legal schools. The gradual increase in the influence of the Mālikī and Ḥanafī schools was mirrored by a gradual decrease of influence of the Shāfi‘ī school, which had been dominant in Egypt from the sixth/twelfth century until the start of the Mamluk period.¹⁰ In 663/1265, the Mamluk sultan Baybars al-Bunduqdārī (r. 658/1260 — 676/1277) instituted the much-discussed reform of appointing four chief judges, one for each of the four Sunni *madhhabs*. Despite this, in the following decades, Shāfi‘īs still received some preferential treatment, such as in having the position of *imām* reserved for them in

⁵ *Ṭabaqāt*, 311. ‘Afīf al-Dīn al-Maṭarī (d. 765/1363-4) is reported to have said of Ibn al-Ḥājj, “*shaykh* Abū ‘Abd Allāh issued an *ijāza* to whomever reached the age of maturity” (*Dībāj*, 2:322).

⁶ *Dībāj*, 2:321-2.

⁷ *Durar*, 5:507. The word I have rendered ‘venerated’ is *jalāla*, literally veneration or greatness.

⁸ Ibn al-Azraq, *Badā‘i’*, 1:320-321. For biographical information about Ibn al-Azraq, see al-Maqqarī, *Nafh*, 2:699-703, 3:298 and 6:447.

⁹ On *nawāzil* as legal cases, see Serrano 2000, 187. The phrase *aftā Ibn al-Ḥājj fī nawāzilihi* appears in al-Mawwāq (d. 897/1491-2), *Tāj*, 3:459 and al-Ḥaṭṭāb (d. 954/1547), *Mawāhib*, 6:63, in context of marriage. The phrase *aftā Ibn al-Ḥājj* also appears in al-Mawwāq, *Tāj*, 5:65 and 6:30 and ‘Illaysh, *Sharḥ*, 8:140, in context of death. Later in this chapter, I argue that references to these legal cases are to a work written Ibn al-Ḥājj, called *Nawāzil*, a work that is now lost.

¹⁰ This dominance was expressed, in part, via the Shāfi‘īs being the only *madhhab* to have a chief judge (*qāḍī al-quḍāt*; see Levanoni 2012). On Shāfi‘ī influence in Egypt in the Ayyūbid and early Mamluk period, see Fernandes 1987, 88. See also Kaya 2005, 38.

important, newly established, religious foundations.¹¹ This meant that the Mālikīs were not the dominant school in Egypt leading up to and including the time when Ibn al-Ḥājj arrived there, although in many ways it was a time of jurisprudential transition.

III.1.b.ii. Life in the Maghrib

Colby stated that Ibn al-Ḥājj was born in Egypt, and Berkey wrote that, although “a scion of a Maghribi family, [Ibn al-Ḥājj] passed his entire life in the lands at the eastern end of the Mediterranean”.¹² Neither author provides sources for this and, because of two factors, I argue that Ibn al-Ḥājj was born in Fās and spent his early life there. First, biographers noted that Ibn al-Ḥājj studied in his own country before going to Egypt. For example, referring to Fās, Ibn Ḥajar wrote that Ibn al-Ḥājj heard recitations in his land (*bi-bilādihī*) and then went to Egypt.¹³ Ibn Farḥūn noted that Ibn al-Ḥājj “heard recitations in the West from some of his *shaykhs*, and arrived in Cairo and heard recitations of *ḥadīths* there”.¹⁴ Premodern biographers and others also included the words

¹¹ Fernandes 1987, 89.

¹² Colby 2005, 34 and Berkey 1995, 45.

¹³ *Durar*, 5:507.

¹⁴ *Dībāj*, 2:321-2.

al-Fāsī,¹⁵ al-Tilimsānī¹⁶ and al-Qayrawānī¹⁷ within their description of Ibn al-Ḥājj's name. The mere presence of references to these North African cities could, of course, indicate nothing more than that ancestors were associated with these places. But, in conjunction with specific biographical references to Ibn al-Ḥājj's activities in the West, these occurrences are significant.

The second factor is that the North African traveller and author of a *rihla* treatise, Abū Muḥammad al-‘Abdarī, may have been Ibn al-Ḥājj's father. Carl Brockelmann argued that this was the case.¹⁸ If this is correct, then - based on what little we know about Abū Muḥammad - it is very likely that Ibn al-Ḥājj was born in North Africa, since Abū Muḥammad lived “not far from Mogador, in the Ḥāḥa tribe, where his family was”.¹⁹ Together with these two factors, we should bear in mind that Tilimsān and Qayrawān (in that order) were part of a route from Fās to Egypt. My conclusion is that Ibn al-Ḥājj was born in Fās and that he may have spent time in Tilimsān and Qayrawān, while on his way to Egypt.²⁰

¹⁵ Fās (Fez) is a city in present day northern Morocco. Ibn Ḥajar, Ibn Farḥūn and Ibn al-Mulaqqin gave al-Fāsī as part of Ibn al-Ḥājj's name (*Durar*, 5:507, *Dībāj*, 2:321 and *Ṭabaqāt*, 311). According to ‘Umar Riḍā’ Kaḥḥāla, Ibn al-Ḥājj was born in Fās (1983, 11:284). The 1929-32 edition of Ibn Ḥajar's *Durar* has al-Farīsī, which is surely a misprint and/or transcription error and means to say al-Fāsī.

¹⁶ Tilimsān is modern Tlemcen, a town in north-west Algeria. Ibn Farḥūn and later works used the words al-Tilimsānī (*Dībāj*, 2:321, Yaltkaya and Kislisi [eds.] 1947, 4:57 and Ḥājjī Khalīfa, *Kashf*, 2:1401 and 1643).

¹⁷ Qayrawān is modern Kairouan, a town in central Tunisia. In *Geschichte der arabischen Litteratur*, Brockelmann included the *nisbas* al-Tilimsānī and al-Qayrawānī as part of Ibn al-Ḥājj's name (*G.A.L.*, II:101 and SII:95). Brockelmann may have seen manuscripts relating to Ibn al-Ḥājj that I have not yet seen, and that included these *nisbas*. I have found no other reference, modern or premodern, to the association of Ibn al-Ḥājj with Qayrawān.

¹⁸ Brockelmann 1913, 68.

¹⁹ Ben Cheneb 1913, 67. Mogador is present day Essaouira, in western Morocco.

²⁰ The journeys from Fās to Tilimsān and from Tilimsān to Qayrawān were around 450 kilometres and then 1300 kilometres respectively.

We should therefore explore Ibn al-Ḥājj in his North African milieu, and the above comments about his early life and education are a vital start to this endeavour. In going much further, however, we are hampered by a lack of specific information about exactly where and when Ibn al-Ḥājj lived, learned, worked and travelled. In the following paragraphs, I set out further facts about Ibn al-Ḥājj's life in North Africa, and then briefly describe events and other historical context that is relevant to Ibn al-Ḥājj's early life.

According to Ibn Ḥajar and Ibn al-Mulaqqin, Ibn al-Ḥājj died when a few years past his eightieth birthday.²¹ This implies a *terminus ad quem* for his birth date of 657/1258-9 and means that his early career took shape under a Marīnid regime that, by contrast with the earlier Almoravids and Almohads, was not eager to reform society.²² Ibn al-Ḥājj also lived near major outlets for commerce as, in 674/1276, Marīnid sovereign Abū Yūsuf laid the foundations for a new urban centre, *al-madīnat al-bayḍā'* (the white city), which included such outlets.²³ Shatzmiller also notes that the Marīnid rulers encountered jurists in Fās,²⁴ and we know that Tilimsān and Qayrawān

²¹ *Durar*, 4:237 (entry no. 1974) and *Ṭabaqāt*, 311 (entry no. 164). Further references to Ibn Ḥajar and Ibn al-Mulaqqin as sources for Ibn al-Ḥājj's biography are from the pages just cited.

²² Fās came under the authority of the Marīnids in 646/1248 (Shatzmiller 1991, 571). Shatzmiller further comments that, in the mid seventh/thirteenth century, this region had “[o]nly recently converted to Islam [and that] the Marīnids showed no particular reformatory zeal at the time of their occupation of Morocco, unlike their Almoravid and Almohad predecessors” (ibid.).

²³ Le Tourneau 1965, 819. On Fez as a city, including in its Marīnid context, see Abu-Lughod 1987, 159 and Le Tourneau 1969, 17-20 and 33.

²⁴ 1991, 571.

were significant in educational and commercial terms.²⁵ To the extent Ibn al-Ḥājj spent time there, he would have had further opportunities to study (under jurists in cities that had major centres of learning) and to be exposed to significant commercial activity. Ibn al-Ḥājj would also have lived in a relatively stable and prosperous area.²⁶

Ibn Ḥajar's and Ibn Farḥūn's references to Ibn al-Ḥājj hearing recitations (from his *shaykhs*) are significant for this study, given my earlier discussion of the extent of formality and institutionalisation of education in the Later Middle Period. These biographers situated Ibn al-Ḥājj's scholarship in the context of his teachers, something which - as the next chapter demonstrates - was not the case for Ibn al-Naḥḥās. Ibn al-Ḥājj experienced student-teacher relationships in a context of *ḥadīth* recital, with no record of studying in an institution. This finding will also help make sense of the emphasis, in his tracts, on knowledge and the role of the scholar.

Before drawing this section to a close, it is worth noting the significance for the date of Ibn al-Ḥājj's arrival in Egypt, of the fact that Ibn al-Ḥājj went on *ḥajj*. We know that Abū Muḥammad went on *ḥajj* in 688 A.H.²⁷ If Abū Muḥammad was Ibn al-Ḥājj's

²⁵ In Tilimsān, Ibn al-Ḥājj may have studied in the Great Mosque (on which, see Bel 2000, 499). Around one century before Ibn al-Ḥājj's death (that is, approximately twenty years before the best estimate for his date of birth), Tilimsān became the capital of one of the Almohad successor states, ruled by a Zanāta Berber (Ziyyānid) dynasty (ibid.). On the Zanāta regaining the political initiative from the Almohads in the Western Maghrib in the mid-seventh/thirteenth century, see Hamès 2001, 443. Qayrawān was a relatively stable and prosperous place commercially, primarily for the Bedouin (see Talbi 1978, 828 and 830-1).

²⁶ On legal developments in the Maghrib during Ibn al-Ḥājj's time, including elements of local custom (*'āda*) increasingly being allowed into *fiqh*, see Hodgson 1974, 478 and D. Powers 2002, 107-8. Ibn al-Ḥājj lived in relatively peaceful settings for most, if not all, of his life. On external threats to the Mamluk sultanate during Ibn al-Ḥājj's life, see Ayalon 1960, 947, Talbi 1978, 828 and Holt 1991, 321-2.

²⁷ Ben Cheneb 1913, 67.

father, then Ibn al-Ḥājj may have accompanied Abū Muḥammad for at least part of the journey, travelling east to Egypt in 688 A.H. This date is consistent with my argument, above, that Ibn al-Ḥājj arrived in Egypt before 700/1300.

III.1.c. Scholarly and juristic activity within Ibn al-Ḥājj's Mālikī school

III.1.c.i Teachers: Al-As'ardī (teaching c. 707/1307-8) and Ibn Abī Jamra (d. 700/1300)

Two of Ibn al-Ḥājj's teachers were al-Taqī 'Ubayd al-As'ardī and Abū Muḥammad 'Abd Allāh b. Abī Jamra (d. 700/1300).²⁸ Al-As'ardī was a prominent teacher who gave Muḥammad al-Saqatī (d. 707/1307-8) the office of *shaykh*, and issued *ijāzas*.²⁹ Ibn al-Ḥājj heard the *Muwattā'* from al-As'ardī and then related it on his authority.³⁰

Ibn Abī Jamra was a well-regarded Mālikī scholar, whose other students included Muḥammad al-Fāsī, “known for his goodness, piety and uprightness and who died in

²⁸ *Ṭabaqāt*, 311, *Dībāj* 2:321 and *Durar*, 5:507. Ibn Iyās gave Ibn Abī Jamra's death date as 695/1296 (*Badā'i*, 1:390), but, along with Colby, Shoshan and others, I have used the dating provided by Ibn Ḥajar, who lived earlier than Ibn Iyās (*Durar*, 5:388).

²⁹ *Durar*, 5:32 and 5:266-7.

³⁰ *Ṭabaqāt*, 311 and *Durar*, 5:507.

Alexandria in 726 A.H.”³¹ Ibn al-Azraq reported Ibn al-Ḥājj as the source for an anecdote, on the authority of Abū al-Ḥasan b. al-Zayyāt, who was one of Ibn al-Ḥājj’s *shaykh*’s *shaykhs*.³² That is, this non-biographical source suggests that Ibn al-Ḥājj may have met one of his teacher’s teachers.

Ibn Abī Jamra may have helped arouse Ibn al-Ḥājj’s interest in *bid’a*, but it was not as important a theme for teacher as it would become for pupil. The historian Ibn Iyās recorded that people gathered on the first day of the year at Ibn Abī Jamra’s tomb to hear readings of material he had collected, including *ḥadīths* of the Prophet that were judged to be sound.³³ Ibn Abī Jamra’s literary output included *Bahjat al-nufūs*, a commentary on Bukhārī’s *ḥadīth* collection. Although *bid’a* is not the major theme in this work, it was among Ibn Abī Jamra’s interests therein, as the phrase “preserve us from drowning in the seas of *bid’a* and sins” (in the introduction) attests.³⁴

³¹ *Durar*, 5:388. Ibn al-Mulaqqin referred to a teacher of Ibn al-Ḥājj whose name bears similarity to Ibn Abī Jamra, noting that Ibn al-Ḥājj was one of the colleagues (*min aṣḥāb*) of the Shaykh ‘Abd Allāh b. Abī Ḥamza (*Ṭabaqāt*, 311; Ibn al-Mulaqqin did not refer in this entry to Ibn Abī Jamra). Is this teacher the same person as Ibn Abī Jamra? It is possible that textual corruption occurred at some stage of transmission, including in modern times (such as when an edition was prepared). For example, if *ḥa* had somehow been written for *jīm* and *zā*’ for *rā*’ at some stage during the manuscript copying and/or edition preparation process, this would have resulted in the Ibn Abī Ḥamza we see in the 1998 Beirut edition of *Ṭabaqāt*, instead of Ibn Abī Jamra. There are of course other possibilities, including that Ibn Abī Ḥamza and Ibn Abī Jamra are two different people or that the textual corruption process worked the other way around, that is, both names relate to an Ibn Abī Ḥamza. Given that Ibn Farḥūn and Ibn Ḥajar agree on the rendering of Ibn Abī Jamra and that Ibn Abī Ḥamza appears nowhere else in any of the above named writers in respect of Ibn al-Ḥājj, I take the view that textual corruption in Ibn al-Mulaqqin is likely and that these different names refer to the same person. Cf. Ḥājjī Khalīfa, *Kashf*, 2:1643.

³² Ibn al-Azraq, *Badā’i*, 1:397. The modern editor ‘Alī al-Nashshār notes that Ibn al-Zayyāt studied in al-Andalus, travelled to and died in Ifriqiya and was one of Ibn Abī Jamra’s *shaykhs*.

³³ Ibn Iyās, *Badā’i*, 1(1):390. See also Shoshan 1993, 22.

³⁴ *Bahja*, 1:9.

I agree with Colby that Ibn al-Ḥājj also became a colleague of Ibn Abī Jamra.³⁵ Ibn Farḥūn referred to Ibn al-Ḥājj as a colleague (*min aṣḥāb*) of Shaykh Abū Muḥammad b. Abī Jamra.³⁶ Given what other sources reveal about Ibn al-Ḥājj's widespread teaching activities, Ibn al-Ḥājj appears to have risen, within the lifetime of his teacher Ibn Abī Jamra, to being part of his scholarly circle, and more than just a student. That is, it was important to Ibn Farḥūn to record that Ibn al-Ḥājj rose to become a specialist among a community of specialists.

III.1.c.ii. Students: Ibn Sukkar (d. 801/1398-9) and Khalīl al-Jundī's (d. 767/1365) father

One of Ibn al-Ḥājj's students was Shams al-Din Muhammad b. 'Ali b. Ḍirghām b. Sukkar (719/1319 — 801/1398-9), a well-travelled Ḥanafī *mu'addib* who became known as a *shaykh*.³⁷ Ibn Sukkar was born in Cairo and, in the period of his life before 749 A.H., received the majority of his teaching in Egypt.³⁸ He was seventeen years old when Ibn al-Ḥājj died in 737 A.H., and he heard recitations in Alexandria, the *ḥaramayn* and Yemen, and received *ijāzas* in Damascus, including from al-Mizzī, al-Birzālī and al-Dhahabī.³⁹ He then settled in Mecca, where he remained for the rest of his life, apart from extended trips to Yemen and Medina, among other places. The above biography is consistent with

³⁵ 2005, 34. Colby cites Ibn al-Mulaqqin as his source.

³⁶ *Dībāj*, 2:321. Ibn Ḥajar recorded that Ibn al-Ḥājj attached himself (*lāzama*) to Ibn Abī Jamra (*Durar*, 5:507).

³⁷ Al-Sakhāwī, *Daw'*, 9:19-20, entry no. 55. Ibn Ḥajar gave his death date as 806 A.H. (*Durar*, 2:33-4).

³⁸ *Daw'*, 9:19.

³⁹ *Ibid.*, 9:19-20. Ibn Ḥajar did not mention Ibn al-Ḥājj among those who issued *ijāzas*.

Ibn al-Ḥājj being centred in Cairo during his Egyptian years, and it shows that Ibn al-Ḥājj taught at least one person from a different *madhhab* than his own.

The other student that we know Ibn al-Ḥājj to have taught is the father of Khalīl b. Ishāq b. Mūsā al-Jundī (d. 767/1365).⁴⁰ Al-Jundī wrote the *Mukhtaṣar*, a major Mālikī *fiqh* work, known as the *Mukhtaṣar* Khalīl. Al-Jundī's father, and probably al-Jundī also, lived in Cairo.⁴¹ Among other things, this provides further evidence that Ibn al-Ḥājj's Egyptian scholarly activities were centred on Cairo, rather than elsewhere in Egypt.

In context of Khalīl al-Jundī and his father, Ibn Ḥajar related an episode that illuminates Ibn al-Ḥājj's view of his own *madhhab*. Ibn al-Ḥājj influenced al-Jundī's father to change from the Ḥanafī to the Mālikī *madhhab* and al-Jundī's father subsequently brought up his son as a Mālikī.⁴² This is the only example I have found of such influence involving Ibn al-Ḥājj. It may indicate that Ibn al-Ḥājj was interested in promoting his own *madhhab*, or that he was a charismatic figure (a good example that others wanted to follow - in his case, at least two others), or both.

Overall, this section has shown that the centre of Ibn al-Ḥājj's scholarly activities was Cairo, and that he studied major texts with some high profile teachers, whom he

⁴⁰ *Durar*, 2:207.

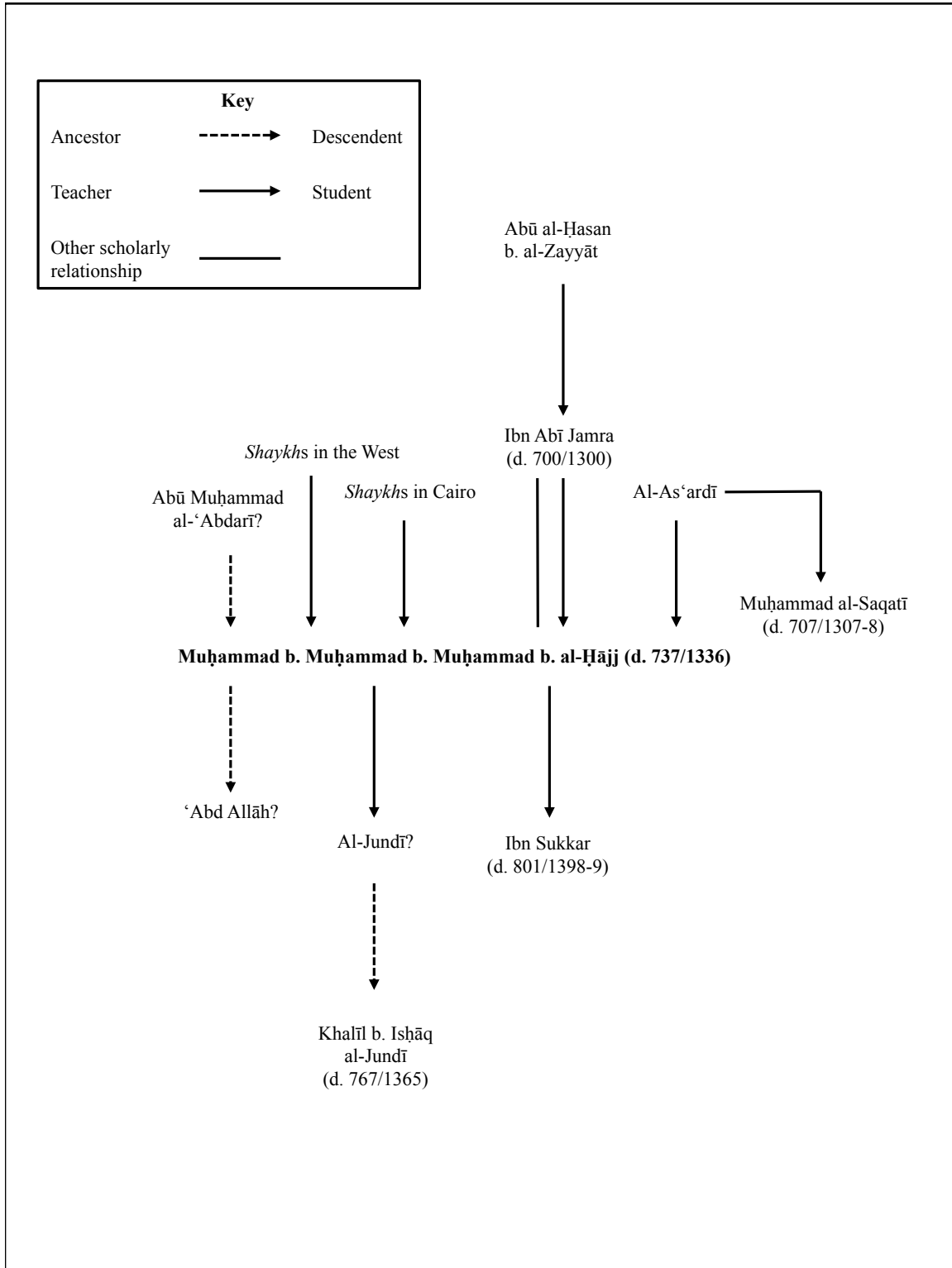
⁴¹ Berkey 1991, 118 and Singer 1994, 178. Ibn Ḥajar wrote that al-Jundī studied at the Shaykhūniya (*Durar*, 2:207, entry no. 1653), which probably refers to the Cairo Shaykhūniya *madrassa* complex that, in Carl Petry's words, al-Maqrīzī considered to be "one of the most important centers of learning in Egypt" (Petry 1981, 337; for dating of the Jerusalem Shaykhūniya, see D. Powers 1984, 179). One of al-Jundī's teachers, Shams al-Dīn Muḥammad b. Aḥmad Ibn 'Abd al-Hādī (d. 744/1344), came from a line of Ḥanbalī Maqdisī families associated with Damascus (Leder 2001, 354; Leder's article is about Yūsuf b. 'Abd al-Hādī, a different scholar from the same family as Shams al-Dīn al-Hādī). This information illustrates points of connection between different legal schools, but does not affect my argument about the likely Cairo base of al-Jundī's father.

⁴² *Durar*, 2:207, entry no. 1653. Muḥammad 'Illaysh wrote that al-Jundī, not just his father, followed Ibn al-Ḥājj as a Mālikī (*Sharḥ*, 1:13).

emulated. Ibn al-Ḥājj also played a key role in Khalīl al-Jundī and his father becoming Mālikīs. The sources underlying the preceding analysis do not contain references to any associations that Ibn al-Ḥājj had with *madrasas*, either in his formative years, or in Cairo or its environs. From this, I tentatively conclude that the teaching that Ibn al-Ḥājj was engaged in took place in other settings, such as teaching circles not associated with a *madrasa*.

The chart on the next page presents, in visual format, a summary of Ibn al-Ḥājj's family and scholarly networks, as discussed so far.

Chart 1: The Family and scholarly networks of Ibn al-Ḥājj



III.1.d. Works: Jurisprudential, grammatical, mystical⁴³

III.1.d.i. Nawāzil

Non-biographical sources also contain several references to Ibn al-Ḥājj's "*manāsik*" (rites of sacrifice, or pilgrimage rites) and to Ibn al-Ḥājj's "*nawāzil*" (legal cases). I address each term separately in what follows, and argue that the latter refers to a work by Ibn al-Ḥājj that is now lost. The first set of references is to Ibn al-Ḥājj's "*manāsik*",⁴⁴ which is a term that sometimes occurs as a section within works on *fiqh*. The term could refer to (part of) a *fiqh* work that Ibn al-Ḥājj wrote, or to a set of talks that Ibn al-Ḥājj gave that were well known, or (given the reliance of some anti-*bid'a* tracts on jurisprudential terminology) to the *Madkhal* itself. Other than the *manāsik* references themselves, we have no evidence that would help us to decide between these options, so the referent remains unclear.

Juridical and other non-biographical sources also contain several references to Ibn al-Ḥājj's "*nawāzil*". Two factors distinguish the significance of these references from references to *manāsik*. First, the volume of references - for some of which, see above - to Ibn al-Ḥājj's *nawāzil* is such that it implies that this was a work he wrote. For example, in a discussion of views on connivance for ensnaring others in a sale (*najash*), the Andalusian *qāḍī* and traveller Ibn al-Azraq cited Ibn al-Ḥājj's views in his "*nawāzil*".⁴⁵ It is possible that this is a circumscription of Ibn al-Ḥājj's surviving work, as it was not

⁴³ See Chapter IV.1 for a discussion of Ibn al-Ḥājj's *Madkhal al-shar' al-sharīf*.

⁴⁴ Al-Ḥaṭṭāb, *Mawāhib*, 2:117, 3:146 and 3:146, and 'Illaysh, *Sharḥ*, 2:305. This latter work is a nineteenth century commentary on Khalīl b. Jundī's *Manḥ al-jalīl*.

⁴⁵ *Badā'i*, 2:417.

uncommon for premodern Arabic writings to be known by various titles. However, against this, in two Mālikī works, al-Mawwāq's (d. 897/1491-2) *al-Tāj wa-al-iklīl* (The Crown and the diadem), and Ibn Muḥammad's (d. 1072/1661-2) *Sharḥ Mayyārat al-Fāsī*, there are, in total, more than forty references to the “*nawāzil*” of Ibn al-Ḥājj.⁴⁶ Among these, there is no evidence of quotations that are in common with his *Madkhal*. An alternative possibility is that such references were misattributed to Ibn al-Ḥājj, as others wrote works called *al-Nawāzil*.⁴⁷ Such misattribution is unlikely here, as the above data come from a broad range of sources.⁴⁸ Second, as noted above, Ibn al-Ḥājj's scholarly interests and writings included jurisprudence. A set of legal cases is exactly the type of thing that one would expect this writing jurist and *mufī* to have produced. Therefore, I take it that Ibn al-Ḥājj did produce a work called *al-Nawāzil*, which has not survived.

III.1.d.ii. Other works

In addition to the works discussed above, Ibn al-Ḥājj wrote *Shumūs al-anwār wa-kunūz al-asrār* (Suns of lights and treasures of secrets) and *Al-Azhār al-ṭayyibāt al-nashr fī mā yata'allaq bi-ba'd al-'ulūm min al-mabādi' al-'ashr* (The Flowers that are good to spread according to some of the sciences of the ten principles). *Shumūs* is a work on grammar, which has also been called “a mystical book on the secrets of the letters of the

⁴⁶ For example, al-Mawwāq, *Tāj*, 2:10 and Ibn Muḥammad, *Sharḥ*, 1:208.

⁴⁷ For example, al-Burzūlī (d. 841/1438?) wrote *al-Nawāzil*, also known as *Jāmi' masā'il al-aḥkām* and as *al-Fatāwā* (*G.A.L.*, SIII:1019; *G.A.L.*, SII:347). See also Kaya's discussion of Abū al-Layth al-Samarqandī's (d.373/983 or 393/1003) *K. al-Nawāzil* (2005, 28).

⁴⁸ An additional, later, piece of evidence is that, in his commentary on Khalīl b. Jundī's *Manḥ al-jalīl*, 'Illaysh wrote that Ibn al-Ḥājj was the author of both the *Madkhal* and *Nawāzil*, and he also cited Ibn al-Ḥājj as an authority in several lines of transmissions of legal views ('Illaysh, *Sharḥ*, 2:148, 3:501 and 6:367).

alphabet”.⁴⁹ *Al-Azhār* has not been edited and I have not seen the manuscript.⁵⁰ As a whole, this section has shown that Ibn al-Ḥājj’s writings were wide ranging, with the majority related in some way to jurisprudence.

III.1.e. Impact among Mālikī specialists and others

In the introduction to this chapter, I stated that Ibn al-Ḥājj was a middle-ranking scholar, a phrase that deserves specification. I define ‘low-ranking’ scholars as those with no extant works and/or very little record in other sources. Chroniclers, biographers, copyists and others did not record anything about their lives (other than their name and possibly death dates) and/or writings, if they produced any. Another way of putting this is that, if such scholars did write and teach, few scholars later thought it appropriate to mention it or to preserve the works. Ibn al-Ḥājj’s recorded works and biographical information preclude him from being included in the category of low-ranking scholars.

On the other end of the spectrum, I define ‘high-ranking’ scholars to be the most prolific, oft-cited and famous (both in their day and afterwards), usually those who interacted at some point in their lives with those in positions of significant temporal authority. Biographical dictionaries generally contain long entries about high-ranking scholars, and such scholars had many followers, both during their lives and afterwards. Ibn al-Ḥājj also does not deserve to be considered among the high-ranking scholars, based on these criteria. For example, we have no records of Ibn al-Ḥājj having met any of

⁴⁹ Brockelmann 1913, 68. See also Yaltkaya and Kilisli (eds.) 1947, 4:57 and *G.A.L.*, SII:95 and II:101.

⁵⁰ According to Brockelmann, a manuscript of *al-Azhār* is in Fās (*G.A.L.*, SII:95). Another, dating from 1317/1899, is in the Arabic collection of Princeton University (www.worldcat.org, accessed 21 May 2012).

the high-ranking scholars who were in Egypt, while he was there. Such scholars included Ibn Taymīya (d. 728/1328), Ibn al-Dawādārī (d. after 736/1335), al-Nuwayrī (d. 733/1333) and al-‘Umarī (d. 749/1349).⁵¹ Al-Maqrīzī did not include an obituary of Ibn al-Ḥājj in his urban history of Cairo, *Khiṭaṭ*, although he did include an obituary of Muḥammad b. Ibrāhīm al-Wānī (d. 735/1334), another scholar based in Cairo, who died within two years of Ibn al-Ḥājj.⁵² Nothing in the sources we have indicates that Ibn al-Ḥājj achieved the highest levels of fame as a scholar in his own day, or that he met those in temporal power, or that he operated in scholarly circles among high-ranking scholars.

By ‘middle-ranking’, I do not mean ‘unimportant’ (either in their time or for us to study today), but rather that they were less famous, less prolific and less well connected to high-ranking scholars and to those with forms of temporal authority. Individually, it is advantageous to focus on such middle-ranking scholars, since they surely outnumbered the high-ranking ones and were more likely to operate at the interface between scholars and the masses. Middle-ranking scholars typically taught in smaller settings that would have been more likely to include non-specialists. Therefore, their works are excellent sources to use to explore relationships between scholars and popular practices. Part of the contribution of this study is therefore its focus on middle-ranking scholars - Ibn al-Naḥḥās also being one, as I shall argue in the next chapter - a grouping that, in many contexts, has traditionally received less modern scholarly attention than high-ranking scholars.

⁵¹ For example, Ibn Taymīya was in Cairo between 709/1310 and 712/1313, occasionally met Muḥammad b. Qalāwūn (al-Malik al-Nāṣir) there, and issued several *fatwās* in this period (Laoust 1971c, 952). For more information on the other scholars, see Little 1970.

⁵² Perho 2011, 24.

In terms of reception history, the later writings that discussed Ibn al-Ḥājj were predominantly western and/or Mālikī texts. As noted above, al-Mawwāq (d. 897/1491-2) and al-Ḥaṭṭāb (d. 953-4/1547) mentioned Ibn al-Ḥājj's rulings as a *muftī*. Al-Ḥaṭṭāb was from the West, and the titles of both works from which these references are taken included the phrase '*Mukhtaṣar Khalīl*', the well-known Mālikī legal work referred to above, written by the son of Ibn al-Ḥājj's student. In addition, in his *Badā'i' al-sulḥ*, the Andalusian jurist Ibn al-Azraq (d. 896-7/1491) discussed Ibn al-Ḥājj's use of the term *nīya*.⁵³ The fact that, in the decades and centuries following Ibn al-Ḥājj's life, scholars did not discuss him or his writings any more than this, justifies my designation of him as middle-ranking.

III.1.f. Conclusions

This chapter has shown that Ibn al-Ḥājj was middle-ranking jurist from North Africa, who became a relatively influential scholar in Cairo. He taught Khalīl al-Jundī's father and became a colleague of his Mālikī teacher, Ibn Abī Jamra. Ibn al-Ḥājj's scholarly activities in Egypt were centred around Cairo, though not associated with any *madrasas*.

In addition to writing an anti-innovation tract, Ibn al-Ḥājj's juristic credentials lie in the fact that he issued *fatwās* and wrote at least one other work comprised of legal cases. Ibn al-Ḥājj's Western Mālikī formation remained important to him in later life, as he influenced the father of Khalīl b. Jundī (and possibly Khalīl himself) to follow the Mālikī *madhhab*, although we have no evidence that Ibn al-Ḥājj was proselytising for his legal

⁵³ *Badā'i'*, 1:239.

school among non-Mālikī scholars and others with whom we know he associated. Ibn al-Ḥājj's thought also formed part of the transmission of ideas about innovation, predominantly within Mālikism and also potentially within Sufism.

Alongside this, we have seen that Ibn al-Ḥājj's teacher was a Sufi, that the *Madkhal* contained some anti-Sufi polemics, and that a jurist writing nearly two centuries after Ibn al-Ḥājj viewed Ibn al-Ḥājj's Sufism as ideal. Such references support two points that are uncontroversial in context of other modern scholarship about the Mamluk period: many jurists identified with Sufism in some way, and most anti-innovation tracts contained polemics against practices associated with certain expressions of Sufism. Sufism was pervasive among both scholars and non-scholars in the Mamluk period, so it is probable that Sufi gatherings were among the contexts in which Ibn al-Ḥājj sought to make his teachings widely accessible.

Chapter III.2.

Ibn al-Naḥḥās: “The People of Manzala honoured him”

III.2.a. Introduction

Beyond a small number of introductions to editions, modern scholars have not commented on Ibn al-Naḥḥās (d. 814/1411) in any depth. In this chapter, I set his life and scholarly networks in context, arguing that he was a writing-jurist involved in scholarly networks in and around Damascus and Aleppo. Following Tīmūr’s invasion of Syria in 803/1400, Ibn al-Naḥḥās migrated to northern Egypt and settled in Manzala and Damietta, where he wrote the majority of his works. He was also a well-regarded, middle-ranking Shāfi‘ī, who was formerly a Ḥanafī. Ibn al-Naḥḥās died while fighting “a *jihād*”, following a surprise attack by Crusaders on a village near where he lived. In terms of the reception of his works, a colophon on a late ninth/fifteenth century manuscript from Egypt sheds some light on who used Ibn al-Naḥḥās’ works in Egypt.

The structure of this chapter is similar to the previous one, moving from an overview of Ibn al-Naḥḥās' life, family and scholarly networks to a brief discussion of his works and impact. This chapter also contains a section devoted to the issue of Ibn al-Naḥḥās' change of legal school.

III.2.b. From Damascus to northern Egypt: A Scholar on the move

According to al-Sakhāwī, Aḥmad b. Ibrāhīm b. Muḥammad Muḥyī al-Dīn - who was known as Ibn al-Naḥḥās - was from Damascus, then Damietta, and was originally a Ḥanafī and then became a Shāfi'ī (*al-dimashqī thumma al-dumyāṭī al-ḥanafī thumma al-shāfi'ī*).¹ Among premodern sources, only al-Sakhāwī referred to the change of *madhhab*, and, in their entries on Ibn al-Naḥḥās or his works, Ibn al-'Imād, Ḥājji Khalīfa and Isma'īl Pasha mentioned only the Shāfi'ī *madhhab*. Al-Sakhāwī wrote that Ibn al-Naḥḥās hated the title Muḥyī al-Dīn, viewing such titles as bestowing false grandeur inappropriate to anyone but Muḥammad's companions.²

The name 'Naḥḥās' does not tell us much, either about his profession or about his father. Such names did not necessarily correspond to the profession of a given individual,

¹ *Ḍaw'*, 1:203; the name is similar in Ibn Ḥajar, *Inbā'*, 7:24-25 and 31. As for sources from after the Mamluk period, the seventeenth-century biographer Ibn al-'Imād added *al-shaykh al-imām al-'allāma al-qidwa* (*Shadharāt*, 7:105). The twentieth century biographers Isma'īl Pasha (*Hadīya*, 1:119-20 and *Yaltkaya* and Kislisi [eds.] 1947, 4:424) and Kaḥḥāla (*Mu'jam*, 1:142-3) followed al-Sakhāwī and Ibn Ḥajar in their naming of Ibn al-Naḥḥās. Finally, the editors of the 1967-76 edition of Ibn Ḥajar's *Inbā'* wrote that the following name was written in the margin of a manuscript copy of Ibn al-Naḥḥās' volume on *jihād*, held at Hyderabad and used as a source for the 1967-76 edition: Aḥmad b. Ibrāhīm b. Aḥmad al-Shaykh al-Imām al-'Allāma al-Qidwa Muḥyī al-Dīn b. al-Naḥḥās al-Dimashqī al-Shāfi'ī al-Shahīd (*Inbā'*, 7:31).

² *Ḍaw'*, 1:203-4. Cf. Ibn al-Naḥḥās, *Mashāri'*, 509-10.

and the meaning of the name Ibn al-Naḥḥās - ‘son of the coppersmith’ - could refer to a distant ancestor.³ The only variant on this name in sources from the Mamluk period comes from Muḥammad b. ‘Uthmān, who copied a manuscript of Ibn al-Naḥḥās’ *Mashāri‘ al-ashwāq* in 898 A.H.⁴ As part of a biographical paragraph on Ibn al-Naḥḥās written at an angle next to the colophon, Muḥammad b. ‘Uthmān gave Ibn al-Naḥḥās’ name, with the addition of the words *b. al-Shaykh Shams al-Dīn* after the name *Muḥammad*.⁵ The handwriting of the biographical paragraph appears the same as the handwriting style with which Muḥammad b. ‘Uthmān signs his own name next to the colophon and angled paragraph. I discuss the significance for Ibn al-Naḥḥās’ reception of what Muḥammad b. ‘Uthmān wrote, later in this chapter.

Al-Sakhāwī noted (with approval) several scholarly achievements of Ibn al-Naḥḥās, including mastery of religious duties, bookkeeping (*al-ḥisāb*), engineering (*al-ḥisāb bi-al-handasa*), jurisprudence (*fiqh*), grammar, and other sciences. On its own, *ḥisāb* may here refer to *‘ilm al-ḥisāb* (arithmetic or mathematics), or *muḥāsaba* (accounting).⁶ Given Ibn al-Naḥḥās’ knowledge of commercial transactions (see Chapter IV.1), I take it that this term refers to some form of bookkeeping. This may imply that Ibn al-Naḥḥās worked for the state at some point in his life, but we have no further evidence in this regard. Al-Sakhāwī wrote that he was a jurist who did not show off his knowledge and wrote that,

³ Perho 2011, 23n18 and Bulliet 1972, 87.

⁴ Catalogue no. 3486, held at the Dār al-Kutub al-Qawmīya library in Cairo.

⁵ Aḥmad b. al-Naḥḥās, who is the focus of this biographical study, should not be confused with Jamāl al-Dīn, Yūsuf b. Muḥammad al-Naḥḥās. Both men died in 814 A.H. and experienced Tīmūr’s invasion of Mamluk territory (On Jamāl al-Dīn, see Ibn Ḥajar *Inbā’*, 2:504).

⁶ Lane 1955, 2:564-7. See also Sabra 1971. For *ḥisāb* as mathematics in the Ottoman period, see Nelly Hanna in Philipp and Haarmann (eds.) 1998, 201.

although short of stature, Ibn al-Naḥḥās was well-proportioned, had a beautiful appearance (including a lovely beard).⁷ Ibn al-‘Imād also described Ibn al-Naḥḥās as an example (*qidwa*).⁸ By contrast with Ibn al-Ḥājj, biographers of Ibn al-Naḥḥās did not situate his scholarship in a history of attending *ḥadīth* recitals or studying with *shaykhs*.

Apart from the last eleven years of his life, the place with which Ibn al-Naḥḥās came to have been associated was Damascus, where he lived at least during the sultanates of al-Mansūr ‘Alā’ al-Dīn ‘Alī, Barqūq and Faraj.⁹ Ibn al-Naḥḥās’ formative years (which included his adherence to the Ḥanafī *madhhab*) as well as possibly his change of allegiance to the Shāfi‘ī *madhhab*, occurred there. That is, investigation of Ibn al-Naḥḥās and his networks should rightly include Damascus, or perhaps more broadly Syria.

Details about Ibn al-Naḥḥās’ family life, from biographical notices about him and from bio-bibliographical entries about his writings, are fragmentary. In his entry on Ibn al-Naḥḥās’ *Bayān al-maghnam* in his seventeenth-century bio-bibliographical work, Ḥājjī Khalīfa added *abī al-‘abbās*, the only reference anywhere in premodern sources to any of Ibn al-Naḥḥās’ children.¹⁰ The modern editors Khālidī, ‘Alī and Iṣṭanbūlī list Abū Zakarīyā.¹¹ In order to make further progress in exploring Ibn al-Naḥḥās’ family

⁷ *Ḍaw’*, 1:203.

⁸ Ibn al-‘Imād, *Shadharāt*, 7:105. According to the modern biographer, Khālidī, Ibn al-Naḥḥās became one of the great ‘*ulamā*’ in Damascus (*Tadhīb*, 13).

⁹ See the above references, from al-Sakhāwī and Ibn Ḥajar, to *al-dimashqī* in Ibn al-Naḥḥās’ name, which implies that he was either born in Damascus, associated with the city from a fairly early stage in his career or at the very least his family was from there. Because we do not know when Ibn al-Naḥḥās was born, we do not know how many other sultans he lived under. For Ibn al-Naḥḥās to have lived under only the three sultanates listed, Ibn al-Naḥḥās would have been at most thirty-five when he died. If he was seventy years old when he died, then he would also have lived under ten more sultans, at a time in Mamluk history when no one sultan ruled for a long period.

¹⁰ *Kashf*, 1: 262; cf. Shawkānī 2006.

¹¹ *Tadhīb*, 17. ‘Alī and Iṣṭanbūlī cite Zirīklī as their source, adding that they have not found anyone else who mentioned this (*Mashārī’*, 13).

background, I conducted a study of over fifty references in biographical dictionaries to individuals with the *nasab* Ibn al-Naḥḥās, and with first names, datings and locations that suggest a plausible ancestral relation to Ibn al-Naḥḥās. Appendix 1 contains the method and detailed results of this study, from which I conclude that one of Ibn al-Naḥḥās' grandfathers was Muḥammad b. Abī Bakr b. Ibrāhīm b. al-Naḥḥās (d. 720 A.H.). Muḥammad's family had connections in Aleppo and Damascus. His brother was a teacher at the Qalījīya *madrassa* in Damascus and these two brothers, together with a third brother, were all associated by name with Aleppo, at a time when Damascus was declining in influence within Syria, by comparison with Aleppo.¹² Less certain, but still likely as a valid conclusion from this study of the *nasab* Ibn al-Naḥḥās, is that Ibn al-Naḥḥās' other grandfather was Muḥammad b. Naṣr Allāh b. Ismā'īl b. Naṣr Allāh b. al-Khaḍīr b. Khalīfa b. 'Alī b. Ṭalā'i' al-Anṣārī al-Khazrajī. This Muḥammad had a son called Muḥammad (719 - 794 A.H.) and, together with his family, was based in Damascus. This shows that Ibn al-Naḥḥās' family had been linked for at least a century before Ibn al-Naḥḥās' death with Damascus and Aleppo, including with some scholarly associations.

Ibn al-Naḥḥās was in Damascus shortly before (or possibly at the time when) Tīmūr ravaged it - Tīmūr's campaigns reached Aleppo and Damascus in 803/1400. Historical sources do not tell us whether Ibn al-Naḥḥās witnessed any fighting at this time, or

¹² By the ninth/fifteenth century, "Aleppo began to emerge as a more significant centre of alternative power in Syria [and] ... [t]he comparative decline of Damascus was matched by its decreasing importance as a centre of religious and intellectual life by the late fourteenth and fifteenth centuries" (Burns 2005, 217).

negotiations or other aspects of the entry of Tīmūr and others into Damascus, and to what extent he was aware of the aftermath of the invasion.¹³

Along with many others, Ibn al-Naḥḥās migrated in 803/1400 to Egypt, probably meeting a wide range of people during this time.¹⁴ Unlike the best connected of the ‘*ulamā*’ migrating from Syria, Ibn al-Naḥḥās does not seem to have made for Cairo or its environs, rather settling in Manzala and, later, Damietta.¹⁵ We do not know whether he ever travelled beyond these Mamluk-controlled areas, which were experiencing a range of socio-economic and political difficulties.¹⁶ By comparison with Ibn al-Ḥājj, when Ibn al-Naḥḥās arrived in Egypt, he seems to have settled in a less populated area, where there were fewer (if any) *madrasa* contexts for specialist tuition.

When in Egypt, Ibn al-Naḥḥās lived in a region where and at a time when there were many military threats, including from Tīmūr, his successors, sea-faring pirates and Crusaders from the West.¹⁷ One impact in northern Egypt of Tīmūr’s entry into Syria was increasing tension between Arabs and non-Arabs.¹⁸ Ibn al-Naḥḥās may have met Christians in Damietta, since we know them to have owned property there in later years,

¹³ On the significance of the destruction of Damascus, economically and in other ways, see Elisséeff 1965, 285-6 and Fischel 1959, 61.

¹⁴ Carl Petry observed that this migration from Syria to Egypt involved many people from diverse walks of life (1981, 51-2).

¹⁵ Al-Sakhāwī, *Ḍaw’*, 1:203. Al-Manzala was near Lake Manzala in northern Egypt (Petry 1981, 87-8).

¹⁶ On economic crisis, see Sabra 2000, 123. On factionalism among *amīrs*, see Levanoni 1994, 374; see also Stowasser 1994, 16 and Elisséeff 1965, 284-6.

¹⁷ Popper 1954, 2:41.

¹⁸ Locals who defined themselves as Arab demanded that non-Arabs (*‘ajam*) leave Cairo within three days (Levanoni 2013, 173).

and probably during Ibn al-Naḥḥās' own day.¹⁹ Between 807/1405 and 811/1409, Sultan Faraj's rule took place in an uncertain context, marked as the period was by negotiations between the sons of Tīmūr (especially those of Khalīl and Shāh Rukh) and by uncertainty over the identity of the ultimate victor of the power struggle.²⁰

Ibn al-Naḥḥās was interested in and personally involved in *jihād*, which he viewed as some form of militaristic fighting, as opposed to spiritual battle.²¹ Al-Sakhāwī and Ibn al-ʿImad wrote that Ibn al-Naḥḥās was personally involved in fighting in *ribāṭs*.²² In 814/1411, a group of Crusaders from Genoa (*al-Junwīya*, according to Ibn Ḥajar) mounted a surprise attack on the village of Ṭīna, in the region of Damietta. In response to this, Ibn al-Naḥḥās joined a defensive *jihād* (as the head of a troop, according to Khālīdī) and was killed while advancing not retreating (*muqbilin ghayr mudbirin*).²³ Al-Sakhāwī and others stated that Ibn al-Naḥḥās was “*mulāziman li-al-jihād*”, a phrase that may be translated “incessantly practising *jihād*”.²⁴ Does this last phrase not rebut my earlier statement that Ibn al-Naḥḥās viewed *jihād* militaristically? Should we not rather understand *jihād*, in this context, to refer to the ‘greater’ *jihād*? Surely it makes more sense

¹⁹ Christians owned property in Damietta on 21 July 1508, and by implication earlier (Richards 2011 87-8.).

²⁰ The victor turned out to be Shāh Rukh, in 811/1409 and he ruled until his death in 850/1447 (Manz in Thackston et al. 2000, 513).

²¹ *Mashāriʿ*, 441-64 and 693-4.

²² *Ḍawʿ*, 1:204 and *Shadharāt*, 7:105.

²³ *Ḍawʿ*, 1:204 and *Shadharāt*, 7:105. I am grateful to Adam Talib for pointing out to me that this phrase is similar to a well-known, slightly different, phrase that appears in the *Muʿallaqa* of the pre-Islamic Arab poet Imruʿ al-Qays (d. c. 550 A.D.). In the *Muʿallaqa*, the phrase *muqbilin mudbirin* is said of a horse that runs so fast that onlookers cannot tell whether it is going forwards or backwards (Arazi and Masalha 1999, 90). Al-Sakhāwī and Ibn al-ʿImad drew attention to Ibn al-Naḥḥās' bravery by their inclusion of the word *ghayr*. See Ibn Ḥajar, *Inbāʿ*, 7:24-5 for a brief description of the battle in which Ibn al-Naḥḥās lost his life.

²⁴ *Ḍawʿ*, 1:204. ʿAlī and Iṣṭanbūlī wrote that Ibn Ḥajar used this phrase also.

that Ibn al-Naḥḥās would incessantly practice daily duties such as prayers, than incessantly fight unbelievers while writing books and teaching? It is important to separate two things. First, aware of the belligerent activities in which Ibn al-Naḥḥās was involved, at least in his final days, al-Sakhāwī may have deliberately chosen the word *jihād* because of its double meaning of spiritual and militaristic fighting.²⁵ That is, al-Sakhāwī may have been referring - cleverly, some might add - to Ibn al-Naḥḥās' devotional practice using a word that he knew also applied to another of his activities, namely, fighting. Second, Ibn al-Naḥḥās himself used the word *jihād* to refer to militaristic fighting.²⁶

Overall, the sources provide a picture of an educated, well regarded and well received 'ālim to whom *jihād* and defending the frontiers of Muslim lands were important. Action, not just knowing about action or writing about it, was significant for Ibn al-Naḥḥās. Major social and political changes in his lifetime provide the backdrop for this emphasis.

²⁵ D. Cook 2005, 35-9.

²⁶ *Mashāri'*, 693-4. Cf. *Mashāri'*, 647-60, where Ibn al-Naḥḥās cited a frequently mentioned *ḥadīth* about someone falling off a horse being a martyr. Ibn al-Naḥḥās presented this *ḥadīth* in context of battle, which differs from how al-Suyūṭī presented it (see discussion in D. Cook 2007, 34-5).

III.2.c. Scholarly networks and juristic activity

In his biographical entry on Ibn al-Naḥḥās, al-Sakhāwī provided two pieces of information that are helpful in reconstructing his scholarly networks, one about a student of Ibn al-Naḥḥās' and one about a versifier of the *Mashāri' al-ashwāq*, Ibn al-Naḥḥās' work on *jihād*.²⁷ We will see, below, that the student refers to someone from Aleppo known as Ibn Amīr Ḥājj (791/1388-9 — 868/1464) and the versifier refers to al-Walī Aḥmad (762/1360 — 826/1423), who, although born in Cairo, made at least two extended trips to Damascus that involved contact with over a dozen scholars there.

III.2.c.i. Ibn al-Naḥḥās' student Ibn Amīr Ḥājj (d. 868/1464)

The following, from al-Sakhāwī's entry on Ibn al-Naḥḥās, is the only information in any primary source relating to a student of Ibn al-Naḥḥās:

akhadha 'anhu mimman laqītuhu al-Shams Muḥammad b. al-faqīh Ḥasan al-Badrānī wa-huwa al-mufīd li-tarjamatihi.

*among those I met, one who studied under him [Ibn al-Naḥḥās] was al-Shams Muḥammad, son of the jurist Ḥasan, al-Badrānī, who was a source for his [Ibn al-Naḥḥās'] biography.*²⁸

I have identified this student as Muḥammad b. Muḥammad al-Shams, known as Ibn Amīr Ḥājj and as Ibn Muwaqqit (791/1388-9 — 868/1464), a Ḥanafī born and raised in Aleppo, who travelled to northern Egypt.²⁹ Ibn Amīr Ḥājj was twenty-three years old when Ibn al-

²⁷ Ibn Ḥajar's mention of Ibn al-Naḥḥās provides no further information useful for reconstruction of scholarly networks (*Inbā'*, 7:24-25 and 31).

²⁸ *Daw'*, 1:204.

²⁹ The full name of this individual was Muḥammad b. Muḥammad b. al-Ḥasan b. 'Alī b. Sulaymān b. 'Umar b. Muḥammad al-Shams.

Nahḥās died and was a well-travelled scholar who recited Ibn Taymīya’s ‘*mi’a*’ to al-Sakhāwī in Aleppo. Appendix 1 contains the supporting arguments for this identification, based mainly on readings of a large number of entries in al-Sakhāwī’s biographical dictionary.

Two aspects of Ibn Amīr Ḥājj’s life and networks deserve closer study, as they illustrate connections between Ibn al-Nahḥās’ student and versifier and provide important information about legal schools represented among Ibn al-Nahḥās’ networks. First, al-Sakhāwī listed two Shāfi’īs whom I take to have been Ibn Amīr Ḥājj’s students: ‘Alī al-Ḥaṣrī (b. 809/10 A.H.), who studied *fiqh* and other subjects under al-Shams Muḥammad b. al-faqīh Ḥasan al-Badrānī in Damietta at some point after 828 A.H.;³⁰ and Muḥammad al-Shams al-Danjāwī (born c. 802 A.H. in Damietta), who also studied *fiqh* under al-Shams b. al-faqīh Ḥasan al-Badrānī. Al-Danjāwī was also taught by al-Walī al-‘Irāqī in Cairo and knew about an incursion (*ghazw*) that took place in Damietta.³¹ From this, it is likely that some of Muḥammad al-Badrānī’s usefulness as a source for Ibn al-Nahḥās’ biography stemmed from his contact with Muḥammad al-Shams al-Danjāwī.³² Al-Danjāwī may also

³⁰ *Ḍaw’*, 5:262 (entry no. 880). The full name is ‘Alī b. ‘Alī b. Muḥammad b. Aḥmad b. al-Ḥājj Naṣr al-‘Alā’ or al-Nūr b. al-Nūr b. al-faqīh Nāṣir al-Dīn, known as al-Ḥaṣrī and as Ibn Nāṣir (ibid.).

³¹ *Ḍaw’*, 8:247-8 (entry no. 671). The full name is Muḥammad b. ‘Umar b. ‘Abd Allāh b. Muḥammad b. Ghāzī al-Shams al-Danjāwī (ibid.). From this name, it is likely that one of al-Danjāwī’s ancestors was a warrior (*ghāzī*). Although speculative, it is possible that al-Danjāwī knew about the incursion in which Ibn al-Nahḥās died and that the comment noted above refers to that incursion. Al-Sakhāwī’s omission of any mention of Ibn al-Nahḥās’ student, Ḥasan al-Badrānī, spending time in Damietta does not constitute evidence against the possibility of this al-Badrānī having taught these two students, because al-Sakhāwī also omitted mention of Ḥasan al-Badrānī’s time in Cairo, a much more prominent place than Damietta. Yet, as we have seen above, it is likely that Ḥasan al-Badrānī did spend time in Cairo.

³² It is also possible that Muḥammad al-Shams al-Danjāwī knew about the incursion because Muḥammad al-Badrānī told him about it. If this is the case, either al-Sakhāwī did not know that, or al-Sakhāwī (from whom all the information connected with this point is taken) had other reasons for not mentioning it.

have been directly part of Ibn al-Naḥḥās' scholarly circle. That is, Ibn al-Naḥḥās' student taught those who rose to become scholars themselves.

Second, the son of Ibn Amīr Ḥājj was born in Cairo and the son became known as a Shāfi'ī. (As noted above, Ibn Amīr Ḥājj was a Ḥanafī.) This shows that Ibn al-Naḥḥās was close to at least one person in whose family there was the same *madhhab* change (from Ḥanafī to Shāfi'ī) that Ibn al-Naḥḥās himself made.³³ Ibn al-Naḥḥās and Ibn Amīr Ḥājj could have interacted in Damascus and Aleppo between 791 A.H. and 803 A.H. (that is, between the year of Ibn Amīr Ḥājj's birth and the year when Ibn al-Naḥḥās fled from Damascus), or in Egypt between 803 A.H. and 814 A.H. (the latter being the year of Ibn al-Naḥḥās' death). If Ibn al-Naḥḥās met Ibn Amīr Ḥājj's son in northern Egypt, it would have been in or around Damietta or Manzala, since there is no record of Ibn al-Naḥḥās having visited Cairo. At some point after 810 A.H., Ibn Amīr Ḥājj travelled back to Syria, where he met al-Sakhāwī and gave him information about Ibn al-Naḥḥās which al-Sakhāwī used for his biographical entry.³⁴

III.2.c.ii. A Versifier of the Mashāri': Aḥmad b. 'Abd al-Raḥīm, al-Walī al-'Irāqī (d. 826/1423)

The second piece of information that al-Sakhāwī provided and that assists reconstruction of Ibn al-Naḥḥās' scholarly networks is as follows:

³³ See below for a discussion of the possible reasons for Ibn al-Naḥḥās' own change of legal school.

³⁴ See references in the above footnotes.

wa-qaraḍahu [*or* qarraḍahu] al-walī al-‘irāqī.

*al-Walī al-‘Irāqī versified it.*³⁵

The enclitic pronoun *hu* refers to the *Mashāri‘*, Ibn al-Naḥḥās’ work on *jihād*. But who is al-Walī al-‘Irāqī? I argue, in Appendix 1, that Aḥmad b. ‘Abd al-Raḥīm b. al-Ḥusayn b. ‘Abd al-Raḥman b. Ibrāhīm b. Abī Bakr b. Ibrāhīm (d. 826/1423) is the al-Walī al-‘Irāqī in question.³⁶ This argument is quite detailed and is based on readings of Ibn Ḥajar’s *Durar*, al-Sakhāwī’s *Daw’* and the chronicles of Ibn Qāḍī Shuhba, Ibn Taghrī Birdī and al-Suyūṭī. Apart from in Appendix 1, all references I make to al-Walī al-‘Irāqī are to Aḥmad b. ‘Abd al-Raḥīm, who was born in Cairo and spent much of his life there, as well as a significant part of his formation in Damascus. In what follows, I explore the scholarly networks around al-Walī al-‘Irāqī, using two different starting points, explorations that will provide insights into Ibn al-Naḥḥās’ own scholarly networks.

The first starting point is the fact that Ibn Amīr Ḥājj, Ibn al-Naḥḥās’ student, took his son to hear al-Walī al-‘Irāqī.³⁷ This must have been between 810 A.H. (the birth date of the son in Cairo) and 826 A.H. (the death date of al-Walī al-‘Irāqī).³⁸ Aḥmad’s travels included Syria and Egypt and, at some point after the birth of Ibn Amīr Ḥājj’s son, we know that he (Ibn Amīr Ḥājj) went to Aleppo. Although we cannot be sure whether this meeting (or series of meetings) took place in Egypt or Syria, it does raise the possibility of some kind of scholarly network involving Ibn al-Naḥḥās, his student and al-Walī al-‘Irāqī. This

³⁵ *Daw’*, 1:203-4.

³⁶ *G.A.L.*, II:79 and SII:71.

³⁷ Al-Sakhāwī, *Daw’*, 9:73.

³⁸ *Ibid.*

possibility does not require us to know how al-Walī al-‘Irāqī came to be aware of Ibn al-Naḥḥās’ writings.³⁹

The second starting point is to consider who al-Walī al-‘Irāqī may have met in Damascus, either during his first visit, when between three and six years old, from 765 A.H. until 768 A.H., or during his second visit, from 780 A.H. (we do not know for how long). The nature of biographical notices about al-Walī al-‘Irāqī are such that they lead quickly to multiple further avenues of enquiry. For example, in relation to al-Walī al-‘Irāqī’s first visit to Damascus, al-Sakhāwī named ten of his teachers, and mentioned (without giving names) six Arab granddaughters of al-Fakhr b. al-Bukhārī, who all reportedly taught al-Walī al-‘Irāqī.⁴⁰ In relation to the second visit, al-Sakhāwī referred to at least eight more teachers.⁴¹ Given this amount of names, a prosopographical enquiry aimed at exploring all these scholarly networks would be a large undertaking. Although it promises to be fruitful in general terms, many of these networks involve individuals two stages of contact away from Ibn al-Naḥḥās, and so are of limited value to the particular aims of this study. Therefore, below, I comment on the immediate significance for Ibn al-Naḥḥās’ possible scholarly networks of connections between al-Walī al-‘Irāqī and his

³⁹ Did Ibn Amīr Ḥājj make al-Walī al-‘Irāqī aware of the *Mashāri‘* or vice versa? Was Ibn al-Naḥḥās himself the link, directly and independently of his student Ibn Amīr Ḥājj? Whatever the answers to these questions are, they do not affect the main point at hand in this paragraph, which rests on the value of a common link between two individuals named in Ibn al-Naḥḥās’ biographical entry, the link occurring in an entirely separate biographical entry within al-Sakhāwī’s dictionary.

⁴⁰ The male teachers are: the *ḥuffāz* al-Shams al-Ḥusaynī; al-Taqī b. Rāfi‘; al-Muḥaddith Abū al-Thana‘ al-Manbijī (this refers to al-Manbij in northern Syria [*Buldān*, 5:205-7]); Abū Ḥafṣ al-Shaḥṭībī [*sic*]; Ya‘qūb al-Ḥarīrī; al-‘Imād Muḥammad b. Mūsā b. Sīrajī; Ibn Umayla; Ibn al-Najm; Ibn al-Hubal; and Ibn Sūqī (*Ḍaw’*, 1:337).

⁴¹ These teachers are: the *ḥāfiẓ* Abū Bakr b. al-Muḥibb; Abū al-Hawl al-Jazarī (possibly the father of Ibn al-Jazarī [d. 833/1429], *faqīh* and *qāḍī* of Damascus from 793/1391 onwards - however, I have found no record of al-Hawl - see ben Cheneb 1971, 753); Nāṣir al-Dīn b. Ḥamza; al-Shams b. al-Ṣafī al-Ghuzūlī; many of the *aṣḥāb* (associates, followers, friends) of al-Taqī Sulaymān; Abū al-Ma‘ālī al-Muṭ‘im; Abū Naṣr b. al-Shīrāzī; and al-Qism b. ‘Asākir (*Ḍaw’*, 1:337).

teachers in Damascus after 780 A.H.⁴² To support such an aim, I have read instances where individuals named in relation to the second visit appear in the biographical entries of others.

The details of these readings include the facts that most of the named individuals were active teachers and reciters in and around Damascus in the late eighth *hijrī* century.⁴³ Al-Qism b. ‘Asākir also appears in several biographical entries where others of the eight are mentioned.⁴⁴ Separate to this, two names not in the above list of eight appear frequently in biographical entries where (some of) the eight occur: Abū Hurayra b. al-Dhahabī and Kamāl b. al-Naḥḥās.⁴⁵ Those biographical entries for the eight that I have found do not give *madhhab* affiliations. However, most if not all of the students of al-Walī al-‘Irāqī’s teachers were Shāfi‘īs.⁴⁶

These readings show several things about the scholarly networks around al-Walī al-‘Irāqī and Ibn al-Naḥḥās in late eighth *hijrī* century Damascus. I have identified at least

⁴² Use of the word ‘immediate’ denotes that I have followed up references in al-Sakhāwī to each of Aḥmad’s teachers in Damascus after 780 A.H. but that I leave to others to follow up (a) references to scholars named in the biographical entries for each of those teachers and (b) references in other contemporary sources, be they biographies, chronicles or other sources.

⁴³ For Abū Bakr b. al-Muḥibb see al-Sakhāwī, *Daw’*, 1:137 and 260-1, 2:235 and 11:21; for Abū al-Hawl al-Jazarī see, for example, *ibid.*, 9:71-2; for Nāṣir al-Dīn b. Ḥamza see *ibid.*, 7:24-5; for al-Taqī Sulaymān see *ibid.*, 2:323 and 7:182; for Abū Naṣr b. al-Shīrāzī see *ibid.*, 12:24; and for al-Qasim b. ‘Asākir see *ibid.*, 12:57.

⁴⁴ See *Daw’*, 2:283, 5:2-3 and 12:24.

⁴⁵ Both Abū Hurayra b. al-Dhahabī and Kamāl b. al-Naḥḥās appear with Abū al-Hawl al-Jazarī as those who gave *ijāzas* to the Shāfi‘ī Ibn Fāqūsī (782/1380 — 863/1459); see *Daw’*, 9:71-2 (entry no. 190). Abū Hurayra b. al-Dhahabī also appears with Nāṣir al-Dīn b. Ḥamza as two of those giving *ijāzas* (probably in Damascus) to the Shāfi‘ī Ibn ‘Imad (780/1378 — 867/1462); see *ibid.*, 7:24-5 (entry no. 50). Kamāl b. al-Naḥḥās appears with the *aṣḥāb* of al-Taqī Sulaymān as two of those giving recitations in Damascus to Muḥammad al-Najm al-Mirjānī (760/1359 — 820/1417); see *ibid.*, 7:182 (entry no. 434). Apart from the fact of his name, I have found no evidence to suggest that Kamāl b. al-Naḥḥās was related to - or was even the same person as - Ibn al-Naḥḥās (d. 814/1411).

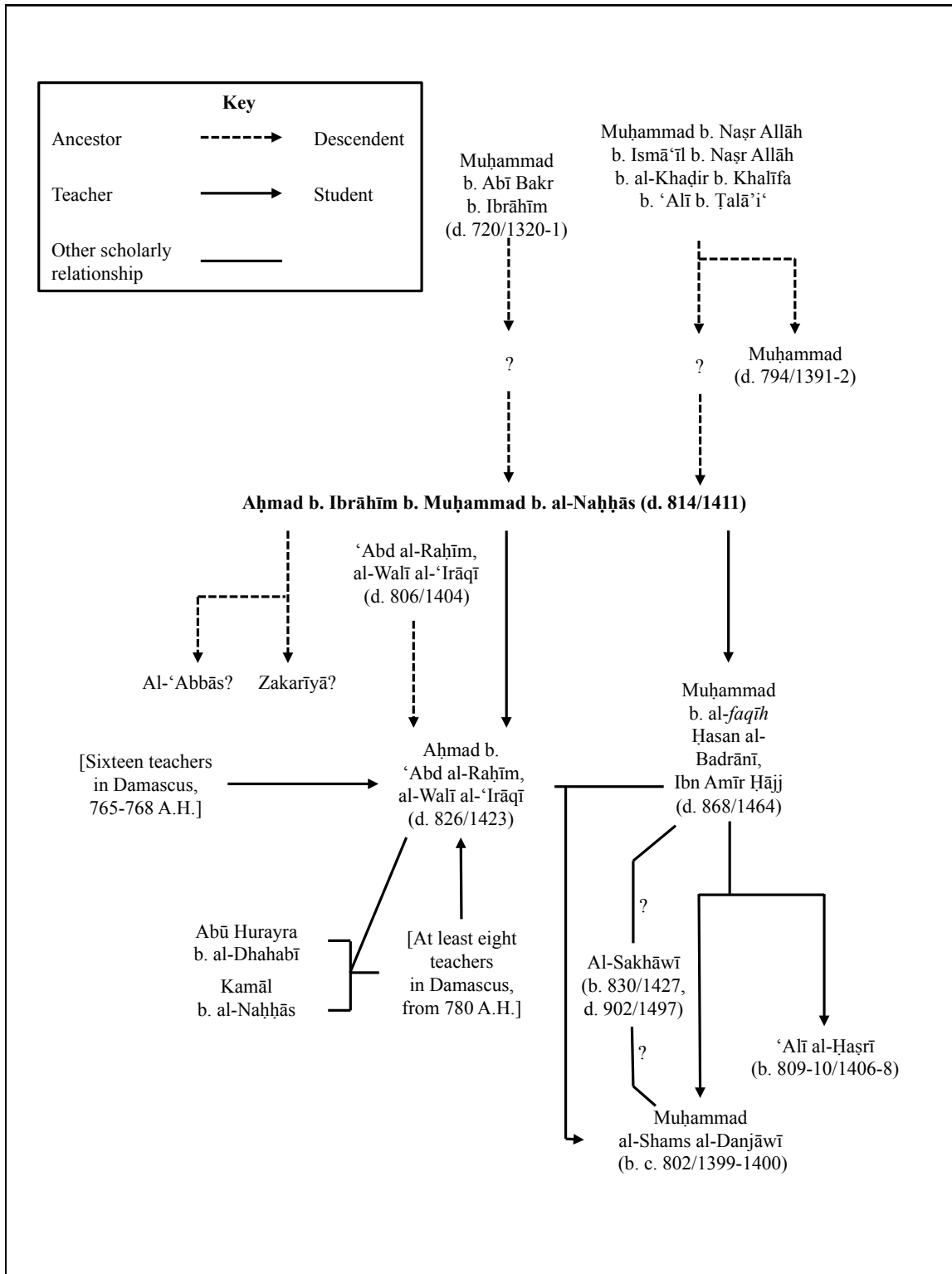
⁴⁶ Another way to deepen this prosopographical analysis would be to catalogue the *madhhab* affiliations of all those whose biographical references are footnoted in this paragraph (that is, of all those who studied under the eight men [or groups] under whom al-Walī al-‘Irāqī studied).

two scholarly networks that were close to Ibn al-Naḥḥās. The first, in Damascus in the 780s A.H., was predominantly comprised of Shāfi‘īs and involved al-Walī al-‘Irāqī (the versifier of the *Mashāri‘*) and a large number of teachers. The second network involved may have al-Walī al-‘Irāqī, Ibn al-Naḥḥās, Ibn Amīr Ḥājj and others, and was active at least for some of the date range 810-26 A.H. However, further investigation is needed to verify this.

These findings are significant because, even if Ibn al-Naḥḥās was a somewhat minor scholar without official recognition (operating locally between Damascus and Aleppo, and, later, in small towns in northern Egypt), it is likely that he was not isolated from all discussion with specialists. Nevertheless, his points of connection with scholarly networks were much more limited than those of Ibn al-Ḥājj. The *madhhabs* of most - but not all - of these scholars were Shāfi‘ī, and several names frequently appear together.

The chart on the next page presents, in visual format, a summary of Ibn al-Naḥḥās’ family and scholarly networks, as discussed in this chapter and Appendix 1.

Chart 2: The Family and scholarly networks of Ibn al-Naḥḥās



III.2.d. Change of legal school from the Ḥanafī to the Shāfi‘ī *madhhab*

Ibn al-Naḥḥās changed from the Ḥanafī to the Shāfi‘ī *madhhab*.⁴⁷ We do not know why or when he did this. Even if we assume that he changed *madhhab* for opportunistic reasons of social or scholarly advancement, it is unclear exactly when this might have taken place. In this section, I argue that it is more likely that such an opportunistic change would have taken place during his Syrian years, that is, before 803/1400.

During the eighth/fourteenth century and until the end of the Mamluk period, the Shāfi‘ī and Ḥanafī *madhhabs* were the most prominent, with gradual changes in favour of the latter. Shāfi‘ī chief judges continued to retain many ceremonial, financial and other privileges.⁴⁸ For example, Shāfi‘īs largely controlled juridical appointments, despite the best efforts of others, such as al-Tarṣūṣī (d. 758/1357), to challenge this control.⁴⁹ However, this was accompanied by noticeable shifts in the policy of the Mamluk ruling elite, whereby “the Ḥanafīs and most commonly non-Egyptians (Persians and Turks) were given preferential treatment.”⁵⁰ Ḥanafī educational foundations proliferated at this time, their positions in *waqfs* strengthened, and, based on physical evidence, it was the most

⁴⁷ Al-Sakhāwī, *Daw’*, 1:203-4.

⁴⁸ Fernandes 1987, 89. See Chapter II.1 for discussion of the earlier Mamluk period, including Baybars’ reforms in 663/1265.

⁴⁹ Winter 2001, 196. See also Morimoto 2002, 111.

⁵⁰ Fernandes 1987, 89 and Levanoni 2013, 171.

popular - and in some cases the most lucrative - *madhhab* in Cairo.⁵¹ This shift in policy accelerated at the start of the Circassian period, and its effects were felt elsewhere in Mamluk lands and in other *madhhabs*.⁵² The Shāfi‘ī and Ḥanafī *madhhabs* were also closely linked to each other in the Circassian Mamluk period in *madrasas*. For example, the Zāhirīya *madrasa* had a variety of Shāfi‘ī and Ḥanafī posts,⁵³ and - at least around the start of the ninth/fifteenth century - offered comprehensive instruction in Shāfi‘ī and Ḥanafī jurisprudence.⁵⁴ Overall, during Ibn al-Naḥḥās’ life, the Shāfi‘ī and Ḥanafī *madhhabs* were both strong, with the former gradually losing influence in places.

As for other *madhhabs*, the considerable Ḥanbalī minority in the Ṣāliḥīya region of Damascus was quite influential in the mid- to late-Mamluk period,⁵⁵ and the Mālikīs were the weakest in number in Damascus and had a “reputation for religious extremism” there.⁵⁶ In Egypt, neither the Ḥanbalīs nor the Mālikīs challenged the Ḥanafīs or the Shāfi‘īs in prominence.

⁵¹ Fernandes 1987, 89. On the policy of the Mamluks favouring the Ḥanafīs in educational foundations, see Schimmel 1965. For the physical evidence, see Harithy 2007, 52. On the lucrative potential of being a Ḥanafī, see Ulrich Haarmann’s discussion of the dominant role and higher salary of the Ḥanafī professor of *fiqh* at the Barqaqīya *madrasa* in Cairo between 777-82 A.H. (1980, 36-7; see also Haarmann 1993).

⁵² On the impact of this shift of policy in Mecca, Jerusalem, Gaza and the Fayyūm, see Fernandes 1987, 96. See also Fernandes’ discussion of al-Maqrīzī’s (d. 1442) move from the Ḥanafī to the Shāfi‘ī *madhhab*, and al-Maqrīzī’s frequent references to the growing position enjoyed by the Ḥanafīs in this context (ibid., 93). Later in the Circassian period, Ibn Taghrī Birdī (874/1470) noted that Ḥanafīs were favoured in legal appointments by the court (ibid., 94).

⁵³ Al-Sakhāwī, *Daw’*, 4:171-4 (entry number 452, concerning ‘Abd al-Raḥīm al-‘Irāqī al-Miṣrī al-Shāfi‘ī, d. 806/1404).

⁵⁴ Petry 1981, 331. Petry’s source was al-Maqrīzī’s *Khiṭaṭ*. See also Winter 2001, 470 and 474.

⁵⁵ Asma Sayeed highlights the spread of the Hanbalī religious ethos in Damascus, especially in the al-Ṣāliḥīya region and in relation to ‘Ā’isha bint Muḥammad (723/1323 — 816/1413), a prominent female transmitter of *ḥadīth* (2002, 72-3). For the situation during the *bahrī* period, see Winter 2001.

⁵⁶ Winter 2001, 196.

As a Syrian, if Ibn al-Naḥḥās had coveted a chief judgeship, or other senior official role, in Cairo in the early ninth/fifteenth century, he would have been better placed as a Ḥanafī. His change of *madhhab* was therefore somewhat surprising. Carl Petry noted that, from at least the mid-eighth/fourteenth century onwards, “large learned classes” from both Aleppo and Damascus formed a distinct group, subsequently recognised in Cairo as various grades of judges (*qādīs*) and their subordinates.⁵⁷ As we have seen, Ibn al-Naḥḥās was connected with both Aleppo and Damascus. Petry also noted that, “[whereas] Shāfi‘ī chief justiceships of Cairo were dominated by individuals born in the city ... Ḥanafī judgeships were equally distributed between Syrians and Egyptians”.⁵⁸ Also, almost all judges, *mufītīs*, officially recognised teachers in colleges, and others who made up the judiciary, had good connections with powerful *amīrs*.⁵⁹ That is, a Shāfi‘ī of Syrian background with few (if any) connections to the ruling elite would have stood almost zero chance of gaining an official judicial position in early ninth/fifteenth-century Egypt.

The career of the Ḥanafī judge Ibn al-Shiḥna (749/1348-9 —815/1412) is in stark contrast with that of Ibn al-Naḥḥās. He held appointments in Aleppo, Damascus and, subsequently, old Cairo, and was well connected with influential *amīrs* and the sultan.⁶⁰ Of course, the situation may have been different elsewhere in northern Egypt, but we have no evidence that Ibn al-Naḥḥās had such a senior appointment (or the desire for one). If we assume that Ibn al-Naḥḥās wanted to change *madhhab* in northern Egypt during the eleven

⁵⁷ 1981, 54.

⁵⁸ 1981, 54.

⁵⁹ Morimoto 2002, 131.

⁶⁰ Petry 1981, 54-5.

years he was there, he would not have done so in order to secure scholarly or social advancement.

It is most likely that Ibn al-Naḥḥās changed *madhhab* from the Ḥanafī to the Shāfi‘ī school in Damascus, given the extent of continued influence that the Shāfi‘īs had there. By contrast with the above general survey, which showed a gradual decline in Shāfi‘ī influence in the Mamluk period, the influence of the Shāfi‘ī *madhhab* increased in Damascus as the Mamluk period wore on in respect of the increasing strength of their monopoly of “most influential and lucrative positions in Damascus”.⁶¹ Of course, tensions in late eighth/fourteenth-century Damascus did not always relate to differences between Sunni *madhhabs*.⁶² In any case, this influence of Shāfi‘īs did not go unchallenged by Mamluk sultans and *amīrs*, many of whom were Ḥanafīs.⁶³ The tensions caused by such increasing Shāfi‘ī influence, in context of increasing Ḥanafī influence elsewhere, are part of the context for Ibn al-Naḥḥās’ decision to change legal school. However, for such an energetic, conscientious scholar, it is more likely that intensive discussions with Shāfi‘īs themselves played a bigger role.

Any switch of allegiance between the Ḥanafī and Shāfi‘ī *madhhabs* entailed switching between two schools that were each very prominent, institutionally and in other ways.

⁶¹ Winter 2001, 196.

⁶² On tensions between Muslims and Jews in Damascus in 794 A.H., see Brinner’s translation of Ibn Ṣaṣrā’s chronicle (1963, 167-8). On ‘*ulamā*’ interacting with the local ruling elite, with the result that, in 763/1363, the governor of Damascus decreed Shi‘ism to be schismatic, see Laoust 1965, 259 (based on the *Ṣubḥ al-ashā*’ of al-Qalqashandī [d. 821/1418]).

⁶³ Ulrich Haarmann notes that Mamlūk sultans and *amīrs* also tried “to build up a counterpoise to the influential and self-assured local Shāfi‘ī ‘*ulamā*’” (1993, 171). See also Winter 2001, 197.

Whether in relation to the legal school he left, or the one he joined, Ibn al-Naḥḥās did not switch because of a lack of opportunities for advancement linked to his former *madhhab*, and it is marginally more likely that the change occurred before he migrated to northern Egypt.

The above discussion is significant at several levels. In general, the tracts under scrutiny in this thesis were juridic in nature, and Ibn al-Naḥḥās frequently cited authors of different *madhhabs*, as I argue in Parts IV and V. Also, Ibn al-Naḥḥās discussed a wide range of public and private practices in his anti-innovation tract. Commenting on and regulating these practices was important to those with temporal authority. It matters that a desire to obtain positions of temporal power did not drive Ibn al-Naḥḥās' change of *madhhab*, since this tells us that he sought to influence the behaviour of others in other ways and for other reasons.

III.2.e. Works: Devotional, exhortative, jurisprudential

Including *Tanbīh al-ghāfilīn* (discussed in Parts IV-V), we know Ibn al-Naḥḥās to have written eight works, of which four are extant.

III.2.e.i. Bayān al-maghnām

The *Bayān al-maghnām fī al-wird al-a'zam* (Explanation of the reward in the great watering place) is an unedited collection of prayers that includes material about *hadīths*, the Qur'ān, and the virtue of teachers.⁶⁴ There are manuscripts in the Dār al-Kutub al-

⁶⁴ *Tanbīh*, 8 and *Mashāri'*, 18. Al-Sakhāwī mentioned the work (*Daw'*, 1:204). Ḥājī Khalīfā wrote that the subject matter was recitation, reading the Qur'an and glorifying God (1941, 1:262).

Qawmīya in Cairo, the Fātiḥ collection of the Süleymaniye in Istanbul, the Dār al-Kutub al-Waṭanīya in Tunis and either the Maktabat Jāmi‘at al-Iskandarīya or Maktabat Baladīyat al-Iskandarīya in Alexandria.⁶⁵ The Cairo manuscript is forty-nine folios long.

III.2.e.ii. Mashārī‘ al-ashwāq

The second and third extant works of Ibn al-Naḥḥās referred to above are *Mashārī‘ al-ashwāq ilā maṣāri‘ al-‘ushshāq wa-muthīr al-gharām ilā dār al-salām* (The Paths of the yearnings to the places where the lovers struggle and stimulating desire for the house of peace) and a summary of this work that Ibn al-Naḥḥās himself wrote, *Mukhtaṣar mashārī‘ al-ashwāq*. This latter work is preserved in various manuscripts and editions.⁶⁶

Mashārī‘ al-ashwāq is preserved in at least twenty-three manuscripts, in Algiers, Cairo, Istanbul, Leiden, Rampur, St. Petersburg and Tunis.⁶⁷ It has been edited in the modern era at least seven times. Several abridgements, summaries and translations (including into Uzbek and Turkish) exist. Al-Sakhāwī wrote that al-Shams Muḥammad b. al-Faqīh Ḥassan al-Badrānī (one of Ibn al-Naḥḥās’ students) translated some of Ibn al-Naḥḥās’ works and transmitted his work on *jihād*. The number of manuscripts and extent of its summarisation by others indicate that it was probably not quickly disregarded. According to the modern editors ‘Alī and Iṣṭanbūlī, Ibn al-Naḥḥās wrote the *Mashārī‘* in a

⁶⁵ *G.A.L.*, II:76 and SII:83.

⁶⁶ *G.A.L.*, II:91-2 and SII:83.

⁶⁷ *G.A.L.*, II:93 and SII:83. Among the twenty-three, there are seven manuscripts pertaining to the full work (i.e. excluding manuscripts pertaining to abridgements) in the Süleymaniye collection in Istanbul, according to the online catalogue of the Süleymaniye. In addition, ‘Alī and Iṣṭanbūlī relied on four manuscripts held in the Markaz al-Baḥṭh al-‘Ilmīya in Mecca, one held in the Maktaba Jāmi‘a in Riyadh and one held in the Maktaba al-Waṭanīya in Tunis. Finally, Moritz Steinschneider referred to a translation into Turkish by the poet ‘Abd al-Bāqī al-Rūmī (d. 1008/1600; Steinschneider 1877, 7) a manuscript which is held in the British Museum and marked Cairo, 1249/1833 (Rieu 1888, Or. 1036).

ten month period ending in Jumāda II, 812 A.H. (October, 1409 A.D.), while in Damietta.⁶⁸ That is, Ibn al-Naḥḥās wrote this work at the same time as the *Tanbīh*, starting the *Mashāri‘* two months before starting the *Tanbīh*, and finishing the *Mashāri‘* six months after finishing the *Tanbīh*.⁶⁹

The *Mashāri‘* is about the virtue of *jihād* and contains sections on battles involving Muslims from the time of Muḥammad until 691 A.H., discussion of practical issues such as the distribution of booty and also presentations of reasons why *jihād* is more virtuous than other actions, such as the *ḥajj*. Central to Ibn al-Naḥḥās’ project in writing the *Mashāri‘* was the fact that he lamented the decline in practice of *jihād*: “When I saw *jihād* in our time and studied its heritage, which was not known, [I saw that] its light was extinguished among mankind.”⁷⁰ The *Mashāri‘* also contains hints that Ibn al-Naḥḥās may have had in mind an external military threat on the Mamluk polity, although there is little definitive information as to the precise enemy Ibn al-Naḥḥās had in mind.⁷¹

The work contains a large amount of Qur’ānic, traditional, exhortative, dialectical, poetic and historical material. The following quotations from Ibn al-Naḥḥās’ introduction illustrate its exhortative nature:

*Know, my brother, that the actualisation of religion is in behaviour, and that the cause of certainty is the path of virtue.*⁷²

⁶⁸ *Mashāri‘*, 16.

⁶⁹ See discussion in Chapter IV.2.

⁷⁰ *Mashāri‘*, 61.

⁷¹ *Ibid.*, 68.

⁷² *Ibid.*, 65.

*“When I saw jihād in this time and had studied its heritage, then [I saw] what you have not been shown - its light had been extinguished among men, its night suppressed after it was moonlit, its fire suppressed after it had been brilliant; [...] and the people neglected jihād”.*⁷³

*I wanted to beat endlessly those who desire laziness and to stir up stopped resolve and loosen intransigent secrets and make evident dying lights, with the publication of the collection about the virtues of types of jihād and incitement to it.*⁷⁴

The above quotations illustrate a style and emphasis that occurs frequently in Ibn al-Naḥḥās’ anti-innovation tract, as we will see in Parts IV and V. Knowledge alone was not enough for Ibn al-Naḥḥās. In order to be on the virtuous path, one must enact one’s observance of Islam. Although this theme was present in Ibn al-Ḥājj’s writings, it was not a major one.

Ibn al-Naḥḥās relied on a broad range of sources in his *Mashāri‘*, not just Shāfi‘ī ones. His most frequent references (not always direct, sometimes being via other works) were to Abū Hurayra (Muḥammad’s Companion), ‘Abd Allāh b. al-Mubārak al-Marwazī (author of a work on *jihād*, d. 181/797-8) the traditionists Muslim b. Ḥajjāj (d. 261/875), Abū Dāwūd al-Sijistānī (d. 275/889), Sulaymān al-Ṭabarānī (d. 360/971) and Abū ‘Abd Allāh al-Naysabūrī (405/1014), Aḥmad Ibn Ḥanbal, and the Shāfi‘īs al-Bayhaqī (d. 458/1066), and Abū al-Qāsim ‘Alī b. ‘Asākir (the last of these being a historian, biographer and author of a work on the virtues of *jihād*, d. 571/1176). Less frequently (but still more than thirty times each), Ibn al-Naḥḥās also mentioned Mālik b. Anas, Muḥammad b. Idrīs al-Shāfi‘ī and al-Nawawī. Much more rarely, he cited al-Ghazālī (d. 505/1111) six times, Ibn

⁷³ Ibid., 71.

⁷⁴ Ibid., 72.

Taymīya and Ibn Qayyim al-Jawzīya (twice each), and did not cite Ibn al-Ḥājj. As we will see in later chapters, this profile differs from that seen in Ibn al-Naḥḥās' anti-innovation tract, especially in the extent to which Ibn al-Naḥḥās relied (in that tract) on the views of those in other *madhhabs*. Occasionally in his *Mashāri'*, Ibn al-Naḥḥās gave his own opinion, using the term *qultu*.

Ibn al-Naḥḥās' argumentation in *Mashāri'* also included some jurisprudential language. For example, in his introduction, Ibn al-Naḥḥās made the case that the consensus among scholars (*bi-ittifāq al-'ulamā'*) was that *jihād* is a collective duty (*farḍ kifāya*), a view that is uncontroversial.⁷⁵ Ibn al-Naḥḥās' writing style and use of quotations were consistent with both written and spoken media of dissemination.

III.2.e.iii. Lost works

Ibn al-Naḥḥās also wrote an incomplete commentary, *al-Mukhtaṣar*, on al-Nawawī's *al-Rawḍa*,⁷⁶ a commentary on al-Harīrī's *Maqāmāt*,⁷⁷ and two super-commentaries, including one on an unnamed work of al-Jurjānī (d. 816/1413).⁷⁸ There are no references to these works in the sources mentioned in this chapter, or in the major Eastern or Western library catalogues.⁷⁹

⁷⁵ *Mashāri'*, 98 and T. Juynboll 1965, 790.

⁷⁶ *Mashāri'*, 18, *Tanbīh*, 8 and *Ḍaw'*, 1:203.

⁷⁷ This work was entitled *Sharḥ maqāmāt al-Ḥarīrī: Mubār al-gharām ilā al-salām* (*Tanbīh*, 8 and *Mashāri'*, 18, citing *Hadīyat al-'arīfīn* as the reference work).

⁷⁸ *Hāshīya 'alā sharḥ tajrīd al-kalām* and *Hāshīya al-Sharīf al-Jurjānī* (*Mashāri'*, 18 and *Tanbīh*, 8).

⁷⁹ For references to such catalogues, see Humphreys 1991, 23-4.

III.2.f. Impact in northern Egypt and elsewhere

In this section, I argue that many people held a high opinion of Ibn al-Naḥḥās, that he was a middle-ranking scholar, and that we have one example of his thought being received in northern Egypt in the century after his death.

According to al-Sakhāwī, the people of Manzala honoured Ibn al-Naḥḥās, many read his works and benefited from them and many attended his funeral.⁸⁰ This does not of itself mean that all (or even most) others shared a high opinion of Ibn al-Naḥḥās.⁸¹ As it is not uncommon for al-Sakhāwī to praise the personality and impact of figures at this and other points in history, we should not read too much into this.⁸² Also, as Ibn al-Naḥḥās lived in a small town or village in northern Egypt, it is possible that his celebrity was merely local. However, as I noted above, al-Sakhāwī listed one of Ibn al-Naḥḥās' students, Muḥammad al-Badrānī, as his source, and a student of al-Badrānī - who was also taught by al-Walī al-'Irāqī - may also have played a role in disseminating Ibn al-Naḥḥās' ideas. Beyond these individuals, however, we do not know of others who held Ibn al-Naḥḥās in high esteem, and who were jurists or other specialist scholars. This matters because, as I argue in Parts IV and V, Ibn al-Naḥḥās did not intend primarily to address such specialists in his tract.

⁸⁰ *Daw'*, 1:203-4.

⁸¹ Lutz Wiederhold provides three examples of other members of the learned elite in Damascus in the late eighth/fourteenth century, of whom biographers wrote similar things, and in relation to whom other sources tell us of those who did not regard them highly (1999, 216-22).

⁸² Ghersetti 2009, 111.

Returning to my definitions of low-, middle- and high-ranking scholars, what makes Ibn al-Naḥḥās middle-ranking? As in the case of Ibn al-Ḥājj, it is clear that Ibn al-Naḥḥās was not low-ranking, as there is significant record of him in extant writings, and some record of him in biographical sources. Despite appearing in biographical sources and despite his reception by some influential people, Ibn al-Naḥḥās cannot be included among high-ranking scholars.⁸³ Specifically, although the modern editor Khālīdī claims that Ibn al-Naḥḥās got to know Ibn Taymīya, Ibn al-Ḥajjāj, al-Mazzī, al-Dhahabī and Ibn Kathīr while in Damascus, I have found no evidence in premodern sources for this.⁸⁴

We also have no record that Ibn al-Naḥḥās rose to any high official position, as a scholar or otherwise, in Syria or Egypt. Ibn al-Naḥḥās does not seem to have been among the famous scholars invited to Cairo to read and speak in public.⁸⁵ Many of those who held high office in Damascus transferred their staffs to Cairo following Tīmūr’s invasion and

⁸³ In the Damascus of Ibn al-Naḥḥās’ day, such individuals could have included the following: Tīmūr and his retinue, whom the Mālikī Ibn Khaldūn met (Talbi 1971, 828); Ibn Khaldūn himself; or the historians Ibn Ḥijjī (d. 816/1413) and Ibn Ṣaṣrā (writing c. 802/1399) (Brinner 1963, xv-xvii). As for Egypt, the scholar, judge and chronicler Ibn Ḥajar al-‘Asqalānī (d. 852/1449) gave lectures at the Shaykhūniya in Cairo and was associated with the Khānqāh al-Baybarsīya around the time Ibn al-Naḥḥās composed the *Tanbīh* and the *Mashāri‘* (Rosenthal 1971, 777). Other contemporaries of Ibn al-Naḥḥās in northern Egypt were Ibn al-Qaṭṭān, ‘Abd al-Raḥīm al-‘Irāqī (d. 806/1404) and Ibn Jamā‘a (d. 819/1416, *ibid.*) Ibn Jamā‘a and ‘Abd al-Raḥīm al-‘Irāqī’s son, Aḥmad al-‘Irāqī (d. 826/1423) were among the local intellectuals who were close to the sultan (al-Sakhāwī, *Daw‘*, 9:108-10 and 138-9). As discussed in Chapter II.2, Aḥmad al-‘Irāqī versified Ibn al-Naḥḥās’ *Mashāri‘*. For biographical information about both al-‘Irāqīs, see Appendix 1.

⁸⁴ The death dates involved render these claims a little unlikely, although certainly possible. Ibn Taymīya died in 1328 A.D. and, if Khālīdī is right and assuming anyway that Ibn al-Naḥḥās was at least five years old when “getting to know” Ibn Taymīya (of course, he could have been still younger), then Ibn al-Naḥḥās must have been at least eighty-nine or ninety years old when, according to ‘Alī and Iṣṭānbulī, he fought in a counter attacking *jihād* on the Genoan Crusaders in 1411. The 1411 and 1328 dates are widely attested. It is also important to remember that, sometimes in biographies from the Middle Period, teacher-student lines are presented where people were probably not contemporaries.

⁸⁵ Petry 1981, 57.

attempted to find similarly influential posts,⁸⁶ but - as I noted earlier - Ibn al-Naḥḥās had no such post in either place.

The signature of Muḥammad b. ‘Uthmān in 898 A.H. on a late ninth/fifteenth-century manuscript of the *Mashāri‘* also yields important insights about how Ibn al-Naḥḥās’ work might have been received in Egypt.⁸⁷ Other than the two references in al-Sakhāwī’s biographical entry on Ibn al-Naḥḥās, Muḥammad b. ‘Uthmān is the only other name directly connected with Ibn al-Naḥḥās that I have found in either manuscripts or premodern edited biographical dictionaries and chronicles and that I have been able to locate elsewhere.⁸⁸ Muḥammad b. ‘Uthmān (d. 898/1492-3) signed his own name by the colophon of the manuscript of the *Mashāri‘* referred to above, following the words *bi-khatti*. This probably means that Muḥammad b. ‘Uthmān himself wrote out the manuscript. Who was Muḥammad b. ‘Uthmān and what is the significance of this appearance of a manuscript?

Muḥammad b. ‘Uthmān was involved in teaching at least two individuals connected with Damietta and Manzala, the two places in Egypt with which we know Ibn al-Naḥḥās was associated. First, Abū al-‘Abbās al-Ḥarīthī (d. 945/1538-9) spent much of his life in Damietta (including repairing several mosques there), where he also died.⁸⁹ In his

⁸⁶ Petry 1981, 53.

⁸⁷ Kitāb *Mashāri‘ al-ashwāq*, catalogue no. 3486, held at the Dār al-Kutub al-Qawmīya library in Cairo.

⁸⁸ The name Fāṭima bint Taha appears on the front page of a manuscript of the *Tanbīh al-ghāfilīn* (catalogue no. 36997 and 1415, held at the Dār al-Kutub al-Qawmīya library in Cairo). She is presumably a purchaser of the manuscript, and the number 900 next to her name is presumably the *hijrī* year of purchase. I have found no reference to her in al-Suyūfī’s *Nazm* and al-Ghazzī’s *Kawākib* (biographical dictionaries of the ninth and tenth *hijrī* centuries respectively) or elsewhere.

⁸⁹ The source for the information in this paragraph is al-Ghazzī, *Kawākib*, 2:93-4.

biographical entry on al-Ḥarīthī, al-Ghazzī mentions that al-Ḥarīthī “learned the way” from Muḥammad b. ‘Uthmān (*akhadha ‘anhu al-ṭarīq*). That is, the latter may have been al-Ḥarīthī’s *pīr* or Sufī *shaykh*. We also learn that al-Ḥarīthī married the daughter of Muḥammad b. ‘Uthmān. As part of al-Ḥarīthī’s educational formation, he studied *‘ilm* (legal or religious knowledge) and learned to recite the Qur’ān according to the seven readings; it is also said of him that many miracles happened to him (*waqa ‘a lahu karāmāt kathīra*), that he was a renunciant and that he taught *dhikr* (invocation of God)⁹⁰ to around 10,000 Sufī novices (*murīd*).

Second, al-Ghazzī listed Muḥammad b. ‘Uthmān as one of the *shaykhs* of the Shāfi‘ī Sulaymān al-Khaḍīrī (d. 961 A.H., aged 108). Another of the *shaykhs* of al-Khaḍīrī is listed as *sayyid* Muḥammad b. Dāwūd al-Manzalāwī and he studied *‘ilm* under the *ḥāfiẓ* Jalāl al-Dīn al-Suyūṭī. Al-Manzalāwī may refer to Manzala, where Ibn al-Naḥḥās spent time. Underscoring the Sufī credentials of al-Khaḍīrī are the comments that he was a renunciant, was involved in *dhikr* and also studied *ṭarīq*.⁹¹ In this entry, Muḥammad b. ‘Uthmān is also called *sayyid*. In mid- to late-Mamluk Egypt scholarly associations of this kind were not uncommon.

At the very least, the *Mashāri‘* was considered important enough for a *shaykh* in northern Egypt at the close of the ninth *hijrī* century to play an active role in its continued transmission. This may point to a wider reception among *ṭarīqs* in and around Damietta and Manzala and beyond. Sulaymān al-Khaḍīrī was aged forty-five (in lunar years) in the year 898 A.H., the year when Muḥammad b. ‘Uthmān signed his own name on a

⁹⁰ In this context this may be translated as Sufī liturgical exercises.

⁹¹ *Kawākib*, 2:149.

manuscript of Ibn al-Naḥḥās' *Mashāri'*. It was not uncommon for even very well established teachers around that time to make copies of manuscripts themselves.⁹² Given this, and Muḥammad b. 'Uthmān's age when he copied the *Mashāri'*, we know that he need not have been a junior scribe at that time or newly established as a *shaykh*, but rather was probably making active decisions about what to copy, decisions informed by years of learning and teaching.

III.2.g. Conclusions

This chapter has shed some light on Ibn al-Naḥḥās' early life and career in Damascus and Aleppo. For example, Ibn al-Naḥḥās' possible family background in Aleppo and strong connections to Damascus, together with Ibn Amīr Ḥājj's origins in Aleppo, provide examples of connections between those two cities. Eleven years before his death - by which time he had probably already changed legal school - Ibn al-Naḥḥās fled from Tīmūr to northern Egypt, where he established further scholarly connections, separate from the Cairene intellectual milieu, and continued to learn, teach and write. Ibn al-Naḥḥās' longest work was on the subject of *jihād*, a collective duty that he practised individually at various points during his life and on his last day.

Al-Sakhāwī's comment about the people of Manzala honouring Ibn al-Naḥḥās indicate that Ibn al-Naḥḥās may have succeeded in making his thought accessible to the masses. This observation about Ibn al-Naḥḥās potential audience is an important element

⁹² For example, Ibn Ḥajar and Ibn Fahd, al-Sakhāwī's teacher, both copied out the *Akhbār al-madīna* (or *Ta'rīkh al-madīna al-munawwara*). See al-Sakhāwī, *I'lān*, 273.

of this study, and the textual analysis in Parts IV and V provides firmer evidence in relation to this.

In adding to the corpus of distilled individual biographical study available for the Islamic Middle Period, the preceding two chapters have highlighted several similarities between Ibn al-Naḥḥās and Ibn al-Ḥājj: both were widely educated, well-travelled jurists; and both were also praised by biographers and received well, in their lifetimes as well as in the following decades, although neither was in the top tier of famous and recognised scholars. Another benefit of these chapters is that they have begun to illuminate distinct aspects of Ibn al-Ḥājj's and Ibn al-Naḥḥās' reasons for writing. For example, both were outsiders to Mamluk Egypt in different ways. Ibn al-Ḥājj came from North Africa and his Mālikī scholarship and teaching were important to him. On the other hand, Ibn al-Naḥḥās' change of legal school, his move from Syria to Egypt and his connection with the people of Manzala were significant parts of his background.

The end of Part III marks a point of transition in this study, from context to text. Having explored, in Parts II and III, the intellectual and socio-biographical context of Ibn al-Ḥājj and Ibn al-Naḥḥās and their works, we turn, in Parts IV and V, to examine their anti-innovation tracts themselves.

Part IV

**Introduction to the primary sources:
Translations and analyses of the opening pages
of the *Madkhal*, the *Tanbīh* and the *Dhikr*,
and the question of authorial intent**

Chapter IV.1.

Ibn al-Ḥājj's anti-innovation tract:

Madkhal al-shar' al-sharīf

IV.1.a. Introduction

Before reading passages from the main body of Ibn al-Ḥājj's and Ibn al-Naḥḥās' tracts, it is vital first to consider how to read them. What - as far as we can glean from their own statements and omissions - did they intend? What style of language did they use? What topics and audiences did they address? As an entry point to these questions, Part IV focusses on the introductions to Ibn al-Ḥājj's and Ibn al-Naḥḥās' anti-innovation tracts, as well as (in Ibn al-Naḥḥās' case) the introduction to the *Tanbīh*, the work that contains his tract.

This chapter proceeds to examine Ibn al-Ḥājj's *Madkhal al-shar' al-sharīf*, initially in three sections: a summary of the reception, scope and arrangement of the *Madkhal*;¹

¹ Chapter II.1 contains a brief discussion of manuscripts and editions of the *Madkhal*.

the translated introduction; and an exploration of the textual strategies, sources, structure and major emphases in the introduction. In the final three sections of this chapter, I put forward arguments about Ibn al-Ḥājj's aims and audiences, and the genre in which his tract is to be situated. These sections are based not only on the translated introduction, but also on a small amount of selected material from the rest of the tract, in addition to what is presented in Part V. This material provides the reader with a way of assessing the extent to which Ibn al-Ḥājj's writing was consistent with his authorial intent, to the extent we can derive it from his introduction. I conduct this assessment more thoroughly in Part V.

IV.1.b. Title, manuscripts and reception

The longer title for the *Madkhal* is variously *Madkhal al-shar' al-sharīf 'alā al-madhāhib al-arba'a* (Introduction to the noble law according to the four schools of law) and *al-Madkhal ilā tanmiyat al-a'māl bi-tahsīn al-nīyāt wa-al-tanbīh 'alā ba'd al-bida' wa-al-'awā'id al-latī untuḥilat wa-bayān shanā'atihā wa-qubḥihā* (The Introduction to the promotion of deeds for the improvement of intentions and alerting to some innovations and customs which are adopted, and explanation of their repulsiveness and ugliness).

Ibn al-Ḥājj finished writing the *Madkhal* in 732/1331-2, five years before his death, and at least one person subsequently abridged it.² Manuscripts of the work exist in Alexandria, Berlin, Cairo, Istanbul and Rampur, indicating a moderately wide reception.³

² *Kashf*, 2:1643.

³ *G.A.L.*, II:101 and SII:95.

I have identified a small number of points of connection between Ibn al-Ḥājj's tract and Sufism. In his *Qawā'id*, the Mālikī jurist and Shādhilī Sufi Zarrūq (d. 899/1493) stated that "the Sufism of the jurist is outlined in the *Madkhal* of Ibn al-Ḥājj, which is a representative book of Mālikī jurisprudence".⁴ In addition, we will see below that several of the headings in the *Madkhal*'s table of contents relate to Sufism. During my investigation of Ibn al-Ḥājj's life and scholarly networks, I did not find any references to which order of Sufis Ibn al-Ḥājj belonged. The *Madkhal* may have become known among Mālikīs of the Maghrib, of whom Zarrūq and Ibn al-Ḥājj were two. However, if it was Ibn al-Ḥājj's intention that his *Madkhal* become widely used among scholars (whatever their connections with forms of Sufism), the number of surviving manuscripts and other references to his work do not suggest that it caught on in the *madrāsas*. In this context, we should also note Homerin's observation, as quoted by Berkey in his treatment of Ibn al-Ḥājj and other authors from throughout the Mamluk period, that the transmission of religious texts "took place alongside, and sometimes as part of Sufi activities ... and those who devoted themselves to education did not necessarily see their efforts as something fundamentally distinct from public worship".⁵

IV.1.c. Scope and arrangement

The *Madkhal* is, in its entirety, an anti-innovation work, and runs to just over 1,100 pages in its 2005 Beirut edition. As with many previous tracts, the *Madkhal* focusses on

⁴ Ur Rehman 2009, 138.

⁵ Homerin 2005, 13. On the flexibility and plurality of Sufism in the Mamluk period, see Homerin 2005, 20.

blameworthy innovation,⁶ and on practices rather than doctrine.⁷ The following table may prove useful to enable the reader to gain a holistic overview of Ibn al-Ḥājj's anti-innovation tract.

Table 2: Contents of Ibn al-Ḥājj's *Madkhal*

Section titles	Pages (2005 Beirut edition)
Author's introduction	1(1):10
Intention, ablutions and other ritual practices associated with the mosque	1(1):13
Various actions, including entering and leaving the house, and conduct when visiting the sick	1(1):43
The <i>'ālim</i> - his intention, conduct and manners	1(1):62
Clothing	1(1):114
What the <i>'ālim</i> should be wary of about worship (<i>qiyām</i>)	1(1):136
Eating habits	1(1):182
Celebrating feasts and festivals and visiting tombs	1(1):212
[End of book 1(1)]	1(1):268
Celebrating feasts and festivals and visiting tombs (continued)	1(2):5
The <i>'ālim</i> - his conduct when giving lessons and leaving to go to the market - and the seeker of knowledge	1(2):63
Family life, sexual relations and related issues	1(2):145
Muezzins and the mosque (including buildings and conduct during the sermon)	1(2):168
Prayers during Ramaḍān and 'Īd and conduct at these and other times	1(2):252

⁶ Raquel Ukeles is right in her assessment of the inaccuracy of Rispler's claims that Ibn al-Ḥājj classified *bid'a* into the five values (Ukeles 2006, 106n57).

⁷ *Madkhal*, 1(1):12.

Section titles	Pages (2005 Beirut edition)
Innovations relating to young people	1(2):279
[End of book 1(2)]	1(2):300
The <i>mujāhid</i> (including spoils of battle, killing and martyrdom)	2(1):5
Conduct of the poor (or wayfarers, <i>al-faqīr</i> ; the innovations include right intention, avoiding greed, and cultivating humility and renunciation [<i>zuhd</i>])	2(1):28
On Sufi ceremonies (<i>samā'</i>), singing and dancing	2(1):91
Various innovations involving the Sufi novice (<i>al-murīd</i>)	2(1):137
On those who resemble <i>shaykhs</i> and the People of Will (<i>ahl al-irāda</i>)	2(1):177
Other innovations relating to wayfarers or Sufi novices	2(1):197
Death, burial and childbirth	2(1):238
[End of book 2(1)]	2(1):260
Trades, professions and conduct in the market place - see Table 3, below	2(2):5
The <i>ḥajj</i>	2(2):190
<i>Raghā'ib</i> prayers	2(2):229
Various other matters, including Muḥammad's night vision and educating children in <i>sharī'a</i>	2(2):257
Author's closing words	2(2):282
[End of book 2(2)]	2(2):284

Uniquely among authors of anti-innovation tracts, Ibn al-Ḥājj discussed blameworthy innovations relating not just to all twenty-two of the categories of practice that Ibn al-Jawzī covered, but also discussed at length innovations relating to the markets

and the streets, the longest section of Ibn al-Ḥājj’s tract.⁸ However, in other areas, Ibn al-Ḥājj addressed issues that were common to almost all such tracts. For example, innovations relating to women form a major part of Ibn al-Ḥājj’s tract, including practices concerning divorce, sexual intercourse, menstruation, the rituals of childbirth, Christian women, women’s clothing, overeating, and Egyptian women being out too often in the streets.⁹

A further aspect of the scope and contents of the *Madkhal* deserves closer attention here. Ibn al-Ḥājj included passages about the market and the streets, and these were previously not discussed in anti-innovation tracts.

The table below sets out the twenty-four trades, professions or products that Ibn al-Ḥājj discussed in his passages on the markets and the streets.¹⁰

Table 3: Contents of Ibn al-Ḥājj’s section on commerce

Terms that Ibn al-Ḥājj used	Translations	Pages in <i>Madkhal 2(2)</i>
<i>al-filāḥa</i>	the profession of tillage or agriculture	5
<i>al-qazzāza</i>	silk trading	12
<i>al-qiṣāra</i>	the craft of the fuller or bleacher	18

⁸ See discussions below and in Chapter II.2.

⁹ *Madkhal* 1(2):52, 145-68 and 2(1):238-59. See also Lutfi 1991, 106 and 108-9, and Walther 1993, 163 and 174.

¹⁰ In some cases Ibn al-Ḥājj gave the term for the professional or the product rather than the profession. The table reproduces the terms as he gave them in the major section within the *Madkhal* where he addressed this topic. For Ibn al-Ḥājj’s discussion of masseurs in the *ḥammām*, contained in its own section elsewhere, see *Madkhal*, 1(2):145-55.

Terms that Ibn al-Ḥājj used	Translations	Pages in <i>Madkhal 2(2)</i>
<i>al-khiyāṭa</i>	tailoring	20
<i>tājir al-bazz</i>	the cloth trader	27
<i>al-tājir alladhī yattajiru min iqlīm ilā iqlīm</i>	the merchant involved in long-distance trade	35
<i>al-‘aṭṭār</i>	the perfumer or druggist	65
<i>al-warrāq; al-nāsikh</i>	the paper manufacturer and copyist	73
<i>al-ṣāni‘ alladhī yujallidu al-maṣāḥif</i>	the bookbinder	81
<i>al-abzārī</i>	the spice seller	86
<i>al-zayyāt</i>	the one who deals in oil and butter	87
<i>al-khuḍarī</i>	the greengrocer	91
<i>al-qulqās</i>	the one selling Colocasia antiquorum (also known as taro, a type of plant)	92
<i>al-muzayyin</i>	the barber (cupper)	98
<i>ṭibb al-abdān</i> (and related)	medicine	106
<i>al-maṭābikh; al-ṭabbākh</i>	the kitchen and the cook [who sells in the market]	136
<i>al-ṭāḥūn</i>	the mill	141
<i>al-farrān; al-khabbāz</i>	the baker	152
<i>al-saqqā’</i>	the water carrier	161
<i>al-qaṣṣāb</i>	the butcher/slaughterer	168
<i>al-sharā’ihī; al-ṭabbākh</i>	the one who slices (or cuts) meat; the cook	172
<i>al-labbān</i>	the milkman	181
<i>al-ṣā’igh</i>	the goldsmith or jeweller	185

Terms that Ibn al-Ḥājj used	Translations	Pages in Madkhal 2(2)
<i>al-ṣayrafi</i>	the money changer	188

This is a long list of trades and professions, and Ibn al-Ḥājj devoted considerable space to discussing them. Al-Ṭurṭūshī briefly commented on selling and displaying goods, in *Kitāb al-Ḥawādith*,¹¹ and Ibn al-Jawzī briefly discussed vulgar practices that took place near the streets, in *Talbis Iblīs*.¹² However, as noted above, Ibn al-Ḥājj was the first author of anti-innovation tracts to discuss innovations in the markets and the streets in detail.

IV.1.d. “God put the scholars under an obligation to teach”:

A Translation of the Madkhal’s introduction

[1(1):10] God’s peace and blessings on our lord Muḥammad, his family and his companions.

The servant (‘abd) who is in strong need of the mercy of his Lord, Abū ‘Abd Allāh Muḥammad b. Muḥammad b. Muḥammad al-‘Abdarī al-Qubaylī, from Fās, may God forgive him and show favour to him, says:

Praise be to God who alone endures, who remains after the days pass away, the One who creates after annihilation, the One who causes them to perish after their deeds are fixed in the scrolls that are written, the One who knows what their secrets include (lit., who knows around what their secret gathers) in the present and the past. I testify that there is no god but God, He is one and has no partner,¹³ a creed that a servant requires when his foot slips. And I testify that Muḥammad

¹¹ See references in Fierro 1992b.

¹² See Margoliouth 1938, 12:362.

¹³ *Ashhadu an lā ilāha illā allāhu waḥdahu lā sharīka lahu* (Madkhal, 1[1]:10). See Q6:163 (“*lā sharīka lahu*”). Also compare “*allā na ‘buda illā allāha wa-lā nushrika bihi shayan*” (“That we worship none but God; that we associate no partners with him”, Q3:64) and “*mā kāna la-nā an nushrika bi-llāhi min shayin*” (Q12:38).

is His servant and His messenger whom He sent for the most noble of nations (al-umam).

Next, I frequently heard my master, teacher, pillar, scholar, the representative, authenticating scholar, and example (sayyidī, al-shaykh, al-'umda, al-'ālim, al-'āmil, al-muḥaqqiq, al-quḍwa) Abū Muḥammad 'Abd Allāh b. Abī Jamra,¹⁴ who said, "If only there were some jurists (fuqahā'), who had no other occupation except teaching people the intentions in their deeds, sitting down to instruct them in the deeds of [good] intention, nothing else - or words [such as these]; this is the meaning. What then happened to most of the people was because of the neglect of their intention." He saw me reporting some of what happened at his place, that was of benefit to some of the brothers, so he asked me to gather for him materials (lit. things) so that he could know his [own] conduct concerning his intention, his worship, his knowledge and his motives. I refrained from [doing] that, afraid of what is in the ḥadīth according to him upon whom may be the peace and blessings of God, about the people who chew their tongues at the day of judgment, they are the scholars who do not do [those things that] they know about. The one upon whom be peace and blessing said, "On the day of judgment the first to be burned in the flames is the scholar, and his intestines will trail behind him. Then he will walk in circles like the donkey circles with the grinder (kamā yadūru al-ḥimār bi-rahāhi). The people of the fire gather to him and ask him, 'Didn't you command us to do good and forbid us from doing evil?' He replied, 'I used to order you to do good, but I didn't do it, and I used to forbid you from doing evil, yet I did it'"¹⁵ (or words such as these). And in the ḥadīth is the following also, "The people with the strongest regrets on the day of judgment are two men. [Firstly] a man who had knowledge and could see another person entering into paradise because he acted in accordance with it [his knowledge]; this [first] man enters hellfire because he squandered [the opportunity of] acting in accordance with it. Secondly, a man who gathered money inappropriately, and left it for his inheritor, and the inheritor used it to perform good deeds. So [this second man] sees the other man enter paradise with it, while he [the second man] enters hell"¹⁶ (or words such as these). Peace and blessings be upon him.

¹⁴ Ibn Abī Jamra (d. 700/1300) was a Mālikī who taught Ibn al-Ḥājj, and was based in Cairo. See Chapter III.1 for a discussion of the scholarly relationship between Ibn al-Ḥājj and Ibn Abī Jamra.

¹⁵ The same ḥadīth is found in al-Bukhārī, *Ṣaḥīḥ*, 2:319, with the difference that al-Bukhārī refers to a man (*rajul*), not a scholar. I have found no version of the ḥadīth that includes reference to a scholar.

¹⁶ Wensinck indicated that a similar ḥadīth is found in Ibn Ḥanbal's *Musnad* (Wensinck 1936, 1:466).

Abū ‘Umar b. ‘Abd al-Barr¹⁷ and Ibn Māja¹⁸ and Ibn Wahb¹⁹ related [words] from a ḥadīth of Abū Hurayra²⁰ that [1(1):11] the Messenger of God said, “One of the people who will be the most tormented at the day of judgment is a scholar whom God did not allow to use his knowledge”,²¹ and there are many ḥadīths with this meaning.

I refrained from saying anything that [my] deeds did not encompass, so I come within what has already been mentioned [i.e., at that point in my life, this torment would have applied to me]. But other ḥadīths - that I cannot deny - opposed me. Because abandoning a deed is a disobedience and abandoning conveying knowledge is another disobedience, especially when it was requested from me. Doing one disobedience is lighter for a person than doing two disobediences from absolute necessity. The ḥadīths that follow about this are many. Among them are the words of him on whom be prayers and peace in his last sermon (Ḥijjat al-Wadā‘)²², “Let the witness tell the absent, that perchance some of those who he is telling become more conscious to it than those who heard it”.²³ Or words like that. Our scholars - God’s mercy on them - said the meaning of this: They are doing it better than the one who told them. Also consider the words of him on whom be prayers and peace, “If trials appeared and my companions were reviled, anyone who had knowledge and kept it secret is like a denier (jāḥid) of what was revealed to Muḥammad.” This is a serious matter. God put the scholars under an obligation to teach, and at the same time has put the ignorant under an obligation to ask, so I am concerned about the latter more than about the former. I preferred that because it has another great use, and that is

¹⁷ Ibn ‘Abd al-Barr al-Numayrī (d. 463/1070), a Mālikī jurist from Cordoba, who was considered the best traditionist of his time and held the posts of *qāḍī* of Lisbon and Santarem under al-Muẓaffar b. al-Aḥṣas (Pellat 1971, 3:674). His writings include a commentary on Mālik’s *Muwatta’*, and *Kitāb al-Intiqā’ fī faḍā’il al-thalāth al-‘imma al-fuqahā’*, a work about Malik, Abū Ḥanīfa and al-Shāfi‘ī (ibid.).

¹⁸ Ibn Māja (d. 273/887), author of one of the six canonical collections of tradition.

¹⁹ Ibn Wahb (d., Cairo, 197/813), a Mālikī traditionist. According to David-Weill, “[t]he *kāḍī* ‘Iyād (*Tarīb al-madārik*, Cairo MS, fol. 88a) states that he wrote thirty works based on Malik, and mentions the titles of some of them” (1971, 963).

²⁰ Abū Huyayra (d. c. 58 or 59/678), companion of Muḥammad, noted as a prolific narrator of *ḥadīths* (Robson 1960a, 1:129).

²¹ Ibn Abī Ḥātim, *‘Ilal*, 2:240. See also Zaghāl, 3:419, for reference to Ibn ‘Abd al-Barr’s *Jāmi‘ bayān al-‘ilm wa-faḍlihi*. Ibn Abī Ḥātim’s (d. 325-6/938) *‘Ilal* contains discussion, in question and answer format, of three thousand *ḥadīths* with defective *isnāds*. Ibn Abī Ḥātim’s career was shaped by antagonism between the adherents of *ḥadīth* and their rivals in his hometown of Rayy (Dickinson 2001, 11).

²² *Ḥijjat al-Wadā‘* refers to the last pilgrimage of Muḥammad. In this context, the reference is to Muḥammad’s last sermon during that pilgrimage.

²³ This *ḥadīth* is in the six major collections (for example, al-Bukhārī, *Ṣaḥīḥ*, 1:26-27; see Pouzet 1982, 72n2 for further references).

that it is a reminder to me - at every time and opportunity - to contemplate it and look at it, and to remember some of the past wisdom ('ilm) about this in the teaching circle of my master (sayyidī), shaykh Abū Muḥammad 'Abd Allāh b. Abī Jamra (God's mercy on him). I saw that the answer was prescribed for me in certain aspects:

1. *For my own part, to remind me.*
2. *For the sake of the one asking for it, that I do not enter through that into [the category of] the person who was asked about knowledge and kept it secret.*
3. *Perhaps some of those who contemplate this and act upon it, or upon part of it, will pray for its author who is broken-hearted due to his dearth of action. May God help him do more! Shaykh Ibrahīm al-Nakha'ī²⁴ (God's mercy on him) says, I do not dislike relating [commands] (al-qaṣaṣ), except due to three things,*

Firstly: "Do you enjoin right conduct on the people, and forget (To practise it) yourselves" (Q2:44)

Secondly: "O you who believe! Why say you that which you do not? Grievously odious is it in the sight of Allah that you say that which you do not." (Q61:2-3)

Thirdly: "I wish not, in opposition to you, to do that which I forbid you to do." (Q11:88)

But Mālik narrated, on the authority of Rabī'a b. 'Abd al-Raḥman,²⁵ that he heard Sa'īd b. Jubayr²⁶ say, "If a person does not command right and forbid wrong, as long as there is nothing [wrong] with him, no-one would [ever] command right and no-one would forbid wrong." Mālik said, "That is true. And who is this person who has nothing [wrong] with him? And on the basis of this deed and this legal opinion, is the above comment, that the sin of one disobedience is lighter than the sin of two disobediences [from absolute necessity]"

I have started [it] with an āya of the book of God the Sublime and Blessed. I gathered [1(1):12] āyas and ḥadīths that were urgently needed, about various

²⁴ Abū 'Imrān Ibrāhīm b. Yazīd b. Qays al-Nakha'ī (d. 76/714-5), Kufan jurist and teacher of Abū Ḥanīfa (Sezgin 1967, 1:403-4).

²⁵ Probably Ibn Abī 'Abd al-Raḥman (d. 136/753), assuming an error in either the manuscript or the editorial process. a Follower and transmitter from Anas b. Mālik other Followers (Sezgin 1967, 1:406).

²⁶ Sa'īd b. Jubayr (d. 95/714), a Kūfan Follower, jurist and traditionist. According to Harald Motzki, "Sa'īd's teachings in the fields of *fiqh* and *tafsīr* were much sought after during the 2nd/8th century and played an important role in the development of *fiqh* before the advent of the classical schools" (2004, 12:698) Michael Cook translated this saying, which he notes is from Ibn Rushd's *al-Bayān wa-al-taḥṣīl*, as follows, "Were only those who are themselves blameless to forbid wrong, then nobody would ever do so." (M. Cook 2000, 361.)

topics, and some of the ḥadīths which I brought with the texts and attribution to their transmitter; and others in the [general] meaning - despite the lack of attribution - because of the need to transmit them. All of this [was necessary] because of the lack of extant books in the present time (li-‘adam al-kutub al-ḥādīra fī al-waqt). Concerning some topics, various stories were needed to explain and make clear what badly needs to be explained. Sometimes I reminded people of certain customs and came across some people who were saying the opposite, and I saw it necessary to study that with them, so that the accurate meaning would become clear and apparent, in accordance with what God the Sublime has facilitated.

I began with what was highest priority, most certain and most important, then the next in priority, and then the next in priority after that (al-amthal fa-al-amthal ba‘d dhālik). I arranged this in sections such that the intended meaning of each section individually was clear in itself (li-yakūn kull faṣl mustaqillan binafsihi fī al-ma‘nā al-murād bihi). In this way it would be easier to understand and more convenient for the one wanting to follow the prescribed answer that he finds in what is written there - in accordance with how much time God has given to the reader; and perhaps the one on whom God the Sublime bestows light will have a ladder with which to ascend to another place [lit., another than it] and perhaps he will closely examine what I have mentioned, and perhaps he will attain perfection. And he will forgive whoever confesses his shortcomings and neglect. If error, delusion, shortcomings, negligence, ignorance and faltering are clear; then there is a lot of room for this to happen (al-maḥall qābil li-dhālika kathīran), and this is due to me and to the devils. God and His messenger speak truly. God is merciful to someone to whom appears a deficiency or a flaw, and who covers or excuses [it], and who seeks forgiveness. The good is clear so [may we have] God’s favour; mercy and grace, now and continually (lit., in beginning and repeating, bi-bad’an wa-‘audan). There is no problem in the error and delusion that one finds being put right. I hereby permit him [the one wanted to follow the prescribed answer] to correct this because it belongs to the category of mutual assistance in piety and godliness (al-birr wa-al-taqwā), and indeed piety is better.

Especially because of this, writing the following was necessary: The book of the introduction to the promotion of deeds for the improvement of intentions and alerting people to some innovations and customs which are adopted, and the explanation of their repulsiveness and ugliness (al-madkhal ilā tanmiyat al-a‘māl bi-taḥsīn al-nīyāt wa-al-tanbīh ‘alā ba‘ḍ al-bida‘ wa-al-‘awā’id allatī untuḥilat wa-bayān shanā‘atihā wa-qubḥihā).

So we ask God the Sublime, the noble, Lord of the great throne, to make it [this effort] purely for God, and that he might show us His blessing on the day of judgment in his presence and when men are freed from their tombs, and that he

who has studied it, or been urged on to it, or copied it, or attained [what is in] it, or examined it, or looked at it, and learned from it and been protected [? from error by it] might find it useful. We ask Him for forgiveness, mercy, release from obligations, and overlooking our defects, being protected from our fears (ta'mīn al-raw'āt la-nā) and those of our parents and our ancestors, those of our teachers and their teachers and of whoever taught us and whomever we taught, and of whoever helped us and whomever we helped, and of all Muslims. Amen Lord of the worlds. May God protect our sayyid Muḥammad and his family and his followers and may much peace and blessing be upon him.

IV.1.e. Approaches and textual strategies

IV.1.e.i. Organisation and style

Ibn al-Ḥājj's introduction has a clear flow, beginning with a *taḥmīd*, and then proceeding to discuss the need to act in accordance with knowledge and the obligation upon scholars to teach. Within this last point, Ibn al-Ḥājj briefly explained that his method involved selecting topics in descending order of priority, and arranging the sections such that each section individually could stand alone.

Stylistically, Ibn al-Ḥājj switched between the third person and the first person, when referring to his own activity ("the servant" versus "I started with ... I began with"). This may show that he assembled his introductions from different writing or teaching previously delivered elsewhere, or simply that he chose to be more direct when describing his own method. Ibn al-Ḥājj typically used quite dry language, although - as we shall see - this was not always the case within his tract as a whole, where his language was sometimes titillating or emotionally loaded.²⁷

²⁷ On titillating language, see the examples in Chapter V.2. On emotional language, see *Madkhal*, 2(2): 281 (and discussion below), and Colby 2005, 36 and 40.

The above introduction is quite long, relative to the small number of individual points that Ibn al-Ḥājj made in it. This is a feature of his slightly more wordy writing style, compared with other authors of anti-innovation tracts. This is not just verbosity; his style is elegant in places, such as where he juxtaposed different obligations on the scholar, (the ‘*ulamā*’, whose duty is to teach, and the ignorant [the *juhḥāl*], whose duty is to ask about knowledge [‘*ilm*’]), and where he referred to the one on whom God may bestow light.²⁸ However, such phrases alone do not raise this work to the level of “literarily brilliant”, which Calder applied to some other works of *furū*.²⁹

The only place in Ibn al-Ḥājj’s introduction where he mentioned the term innovations (*bidaʿ*) was in the full title of the *Madkhal*, and Ibn al-Ḥājj did not mention categories of innovation. Elsewhere, Ibn al-Ḥājj was fond of categories, such as in his threefold list of people who would benefit from his work. Therefore, discussing and describing the concept of innovation was not a priority for Ibn al-Ḥājj. The *Madkhal*’s title makes clear that Ibn al-Ḥājj viewed innovations as negative.

IV.1.e.ii. Authorities

In keeping with earlier anti-innovation tracts, Ibn al-Ḥājj cited the Qurʾān (three times) and various *ḥadīths* in his introduction.³⁰ He referred to several well-known collectors and transmitters of *ḥadīth*, such as Ibn Māja and Abū Hurayra, and al-Shāfiʿī’s (d. 204/820) “well known statement”: “Every new thing (*muhḍatha*) is an innovation

²⁸ See Chapter V.2 for another example, from Ibn al-Ḥājj’s passage on ablutions: “*So the condition is fulfilled, the blessing is completed, and the invocation is accepted.*”

²⁹ See discussion in Chapter II.1.

³⁰ For prophetic *ḥadīths*, see *Madkhal*, 1(1):10-12 and 2(2):173 and 189. See also *Madkhal*, 1(1):13.

(*bid'a*), every innovation is an error (*ḍalāla*) and every error leads to hell".³¹ A small proportion of the *ḥadīths* Ibn al-Ḥājj cited are neither in the major collections, nor searchable in the concordances today. Transmitting information appears to have been very important to Ibn al-Ḥājj, as he castigated storytellers for the "error" of transmitting "weak sayings and stories" (*al-aqwāl wa-al-hikāyāt al-ḍa'īfa*).³² Ibn al-Ḥājj did not cite poetry in his introduction, and did so rarely elsewhere.³³

Ibn al-Ḥājj twice named his teacher, Ibn Abī Jamra, thereby providing an entry point to his context. It was important not just for Ibn al-Ḥājj's biographers, but also for Ibn al-Ḥājj himself, that his readers and hearers would know something of his scholarly credentials. One of the most important themes for Ibn al-Ḥājj was intention.³⁴ Nothing in my readings of Ibn Abī Jamra's *Bahjat al-nufūs*, or in my research into his scholarly associations and learning, indicates that intention was an important theme to Ibn Abī Jamra, beyond its general importance to jurists in the Middle Period.³⁵

Both in his opening statement, and in another creed which occurs again a few chapters after the introduction,³⁶ Ibn al-Ḥājj asserted that he was a Muslim. Ibn al-Ḥājj did this in an environment where Turks with non-Muslim heritage were ruling Mamluk

³¹ *Madkhal*, 1(1):69. Ibn al-Ḥājj cited this from Abū Dāwūd (d. 275/889) - see *Sunan*, 726-7.

³² See Berkey 2001, 28.

³³ In his discussion of innovations relating to visiting the tomb of the Prophet Muḥammad, Ibn al-Ḥājj quoted some lines from a poet called Abū Muḥammad b. al-Sayyid al-Baṭalyawsī. Abū Muḥammad had participated in the practice, common during the Mamluk period, of sending notes of poetry to Muḥammad's tomb (*Madkhal*. 1[1]:222). See discussion in Schöller 2004, 54-67, esp. 62-3.

³⁴ See the case studies presented in Part V. Also note that 'improvement of intentions' comes before 'alerting to some innovations ...' in the full title of the *Madkhal*.

³⁵ See discussion in Chapter III.1. On the importance of intention to jurists, note, for example, that the first *ḥadīth* in al-Nawawī's collection of forty *ḥadīths* is about intention (*Sharḥ*, 12-17).

³⁶ *Madkhal*, 1(1):39.

lands, where there were significant numbers of non-Muslims in Egypt, such as Copts, where Ibn Taymīya was writing against the festivals of *nawrūz* and *mihrajān* and other innovations from outside Islam, and where there were periodic external Christian threats to the Mamluk polity.³⁷ In his closing words, Ibn al-Ḥājj also asserted his Sunni credentials in this introduction. He comes across as a jurist eager to present himself as part of the mainstream of Muslim faith and scholarship.

IV.1.e.iii. Loyalty to madhhab

Ibn al-Ḥājj was also keen to present himself as a Mālikī. Of the five scholars that he cited (other than collectors of *ḥadīth* and excluding early followers of Muḥammad), three were Mālikīs: his teacher Ibn Abī Jamra; the traditionist and jurist Ibn ‘Abd al-Barr al-Numayrī (d. 463/1070); and the traditionist Ibn Wahb (d. Cairo, 197/813). However, Ibn al-Ḥājj’s introduction was quite unlike that of the Mālikī al-Qurṭubī, in that innovation was an important theme for the latter. According to Calder, a primary constraint of *madhhabs* in the Mamluk period was loyalty to one’s *madhhab*;³⁸ in the language of my hypotheses this is an aspect of self-definition. It is therefore worth bringing to bear additional data on this point presently, from the rest of the *Madkhal*, excluding the parts that will be covered in depth in Part V of this thesis.

³⁷ Memon 1976, 174, 203, 213 and 227; Popper 1954, 2:41.

³⁸ See references in Chapter II.1.

Ibn al-Ḥājj's Mālikī *madhhab* is the most frequently mentioned school in his tract.³⁹ In his *Madkhal*, Ibn al-Ḥājj referred often to “our scholars” (*'ulamā'unā*), by which he probably meant Mālikīs.⁴⁰ Also, along with his Mālikī teacher, Ibn Abī Jamra, two of the strongest scholarly influences on Ibn al-Ḥājj were two Mālikīs who were previous authors of anti-innovation tracts: al-Ṭurṭūshī (d. 520/1126), from whom Ibn al-Ḥājj reproduced some passages, although without citing him directly,⁴¹ and al-Qurṭubī (d. 287/900), from whom he quoted during a discussion on innovations when visiting the Prophet's grave.⁴² In the latter example, Ibn al-Ḥājj referred to his Mālikī *madhhab* and in other places referred to ‘our scholars’.⁴³ Ibn al-Ḥājj also referred to Ibn Ḥabīb (the Mālikī jurist and strong advocate for his school, d. 238/853) in the context of *ribāṭs* and horses.⁴⁴

Ibn al-Ḥājj's adherence to his school did not result in him ignoring the positions of other Sunni schools.⁴⁵ For example, Ibn al-Ḥājj made a point of not adjudicating between the differing views of two *madhhabs*, in the context of the permissibility of purchasing sausages, in the market, that may have been previously tampered with.⁴⁶ After describing the situation at length, Ibn al-Ḥājj gave the Shāfi'ī opinion (one must break each sausage

³⁹ Cf. *Tanbīh*, 470, and discussion in Chapter III.2 and V.1.

⁴⁰ Ibn al-Ḥājj may also have been referring to other Muslim scholars generally. I conclude that he was probably referring to Mālikīs based on my earlier prosopographical analysis and on references in the *Madkhal*, including 1(2):181-3.

⁴¹ See Berkey 1995, 43-4.

⁴² *Madkhal*, 1(1):64.

⁴³ *Ibid.* 1(1):69.

⁴⁴ *Ibid.*, 2(1):22. On Ibn Ḥabīb's adherence to Mālikism, see Miranda 1971, 775 and Fierro, in: Bearman et al. (eds.) 2005, 57-65.

⁴⁵ See Hodgson 1974, 371, 493 and 495. I detect no signs of Ibn al-Ḥājj alluding to the radical Shi'ism that challenged the Sunni synthesis of the Earlier Middle Period.

⁴⁶ *Madkhal*, 1(2):67.

open before purchase) and the Mālikī opinion (it suffices to break one open and form a view on the remainder based on the one), without stating which he favoured.⁴⁷ Ibn al-Ḥājj may be operating on the assumption that readers or hearers would know that he favoured the Mālikī view, and could be ridiculing the Shāfi'īs for their paranoia. Or, perhaps he simply had a very practical attitude and valued time spent on other scholarship more highly than doubting the trustworthiness of fellow human beings, in this case sausage sellers. Both of these options are likely, in my view.

Both in the introduction to his tract and elsewhere, Ibn al-Ḥājj did not ignore non-Mālikī *madhhabs*. However, he was keen to assert his Mālikī allegiance in the context of his status as a Sunni Muslim. In addition, for Ibn al-Ḥājj, loyalty to his *madhhab* involved referring predominantly to scholars of his own school. Presumably much of this was to do with his education. If he was trained by Mālikīs - as seems to be the case from my investigation in Chapter III.1 - they would have used Mālikī texts for that training, and Ibn al-Ḥājj would simply have known them better. Interestingly, the same argument cannot be made of Ibn al-Naḥḥās, as I contend in the coming chapters.

IV.1.f. Aims

Ibn al-Ḥājj's overriding concern in his introduction was to establish, for scholars, the need to teach and act in accordance with knowledge. As if to underscore this, within his taxonomy of individuals, Ibn al-Ḥājj reserved his loftiest claims for scholars: "*the one on whom God the Sublime bestows light will have a ladder with which to ascend to another*

⁴⁷ Ibid.

place".⁴⁸ Jonathan Berkey and Huda Lutfi also noted the centrality of knowledge to Ibn al-Ḥājj's programme.⁴⁹

However, Ibn al-Ḥājj's focus on knowledge was not completely dissociated from action. He lamented the fact that *fuqahā'* were failing to ensure that people knew what to do, urged people to use knowledge to speak up in favour of good deeds and against disobedience, and occasionally mentioned the duty to command right and forbid wrong in these contexts.⁵⁰ Notwithstanding this, it was in influencing others to pay greater attention to knowledge that Ibn al-Ḥājj's emphasis lay, more so than innovation, which he did not mention in his introduction, other than in his statement of his work's title.

We may further extend this point, that Ibn al-Ḥājj's focus on knowledge was related to a sense of distaste at a breakdown in right observance. This is clear from his use, in the title, of the terms *shanā'atihā wa-qubḥihā* (their repulsiveness and ugliness), in the context of innovations and customs that others follow. Ibn al-Ḥājj sought to communicate to Muslims that Egypt (especially Cairo) was morally more repugnant and ignorant than other places in the Islamic world at the time.⁵¹ As Barbara Langner has pointed out, Ibn al-Ḥājj argued that 'the West' (and "even Baghdad, where the Mongols are") was better than the Cairo of his day.⁵² I noted in Chapter III.1 that, after arriving in Egypt, Ibn

⁴⁸ *Madkhal*, 1(1):12.

⁴⁹ Berkey 1992, 184 and 2001, 71; Lutfi 1991, 100.

⁵⁰ *Madkhal*, 1(1):10-12 and 67 and 2(2):142. See especially, "I refrained from speaking of that which did not entail action ... abandoning deeds and abandoning the search for knowledge are disobediences" (ibid., 1[1]:11).

⁵¹ I have not found in the *Madkhal* any of the terms (such as *ilhād*) that would lead one to infer that non-Muslims were in view (see Madelung 1993, 546).

⁵² Langner 1983, 23.

al-Ḥājj travelled outside Egypt (although we do not know where or for how long). Therefore, his comment about Baghdad was not necessarily a dramatic device; he could personally have witnessed the extent of adherence to standards of morality there. Overall, Ibn al-Ḥājj aimed to underscore the importance of knowledge, and the extent to which the observance of Islam in Cairo and its environs had sunk below standards set elsewhere in the Islamic world. As we proceed to consider the question of audience, we should also bear in mind that the presence - in Ibn al-Ḥājj's thinking - of religious and intellectual aims does not preclude the possibility of political ones also.

IV.1.g. Audiences

For Ibn al-Ḥājj, knowledge was not an abstract concept. It was something that *'ulamā'* (the knowledgeable, or scholars) should use.

Ibn al-Ḥājj also invited scholars to meditate on and closely examine his work where necessary, and accepted the possibility that they might point out “*error, delusion, shortcomings, negligence, ignorance and faltering*”.⁵³ In the light of this humility, the content of Ibn al-Ḥājj's invocation is perhaps surprising. As a result of people studying and otherwise coming into contact with the *Madkhal*, Ibn al-Ḥājj asked that “*we might see His blessing on the day of judgment in his presence.*”⁵⁴ Formulaic though this sounds, we must not miss the size of Ibn al-Ḥājj's request, as he sought to position his tract as an

⁵³ *Madkhal*, 1(1):12.

⁵⁴ *Ibid.*

infallible guide for getting into paradise. This shows that Ibn al-Ḥājj hoped that, among scholars, his work would have a significant role to play.

The authorities that Ibn al-Ḥājj cited, and the stories that he chose, support the conclusion that Ibn al-Ḥājj's introduction is primarily aimed at scholars. For example, the first *ḥadīth* that Ibn al-Ḥājj cited after discussing his teacher was from Abū Hurayra. One story about Abū Hurayra has him saying that, "while others were occupied with their business, he stayed with Muḥammad and so heard more than they".⁵⁵ This is significant because the only Companion, and a prolific *ḥadīth* narrator, that Ibn al-Ḥājj mentioned is said to have listened to Muḥammad much more than others who were going about their business. That is, he is said to have learned more. A second supporting example relates to al-Bukhārī's *ḥadīth* about the punishment for the man who used to order others to do good, but did not do good himself. In this *ḥadīth*, Ibn al-Ḥājj substituted the word 'scholar' for 'man', a substitution I could not find in the collections and concordances available to me. Ibn al-Ḥājj's decision to use the word 'scholar' was consistent with the emphasis, throughout the introduction, on the scholar.

I argue, further, that Ibn al-Ḥājj had audiences of fledgling scholars in mind, for two reasons. First, his statements about what scholars should do have an introductory feel to them, as if he had students in view. For example, in his introduction, Ibn al-Ḥājj described the role, ethos and obligations of scholars. For example, he related *ḥadīths* about a scholar who had ended up in hell, and who used to command others to do right,

⁵⁵ Robson 1960a, 1:129.

and forbid wrong, yet did not himself act in accordance with his commands.⁵⁶ Ibn al-Ḥājj also emphasised that scholars should spread knowledge, as in the phrase, “*God put the scholars under an obligation to teach*”,⁵⁷ and in his double references to the duty of commanding right and forbidding wrong (occasionally hereafter, ‘forbidding wrong’). For Ibn al-Ḥājj, teaching was part of a scholar’s piety; having been given light by God, he must pass it on. This last quotation is also consistent with Ibn al-Ḥājj wanting to levy some kind of critique at contemporary scholars. It is entirely plausible that, as well as aiming his tract at fledgling jurists, Ibn al-Ḥājj intended it to highlight shortcomings of more established scholars.

Second, the way in which Ibn al-Ḥājj chose to arrange his material - discussed above - also gives us vital clues as to how he intended his work to be used. A cursory reading of individual sections in his tract might lead one to conclude that Ibn al-Ḥājj’s organisation of material was haphazard, since he repeated several comments in several different places (especially comments about prayer and intention). However, crucially, Ibn al-Ḥājj stated in his introduction that he arranged his material so that each section would be independent.⁵⁸ This comment is worthy of further discussion.

The fact that Ibn al-Ḥājj wanted sections of the *Madkhal* to be independent opens the way for at least two possibilities. He may have intended the tract to be a manual of some kind, from which teachers, students or others would select sections to use, rather than a work that people would typically read from cover to cover. In Chapter V.1, I will

⁵⁶ *Madkhal*, 1(1):10.

⁵⁷ *Ibid.*, 1(1):11.

⁵⁸ *Ibid.*, 1(1):12.

consider whether these 'others' may have included marketplace inspectors (*muḥtasibs*), whom Ibn al-Ḥājj may have wanted to refer to the section on the markets and the streets. The second possibility is that the *Madkhal* may also have its roots in individual teaching sessions that Ibn al-Ḥājj delivered, and subsequently collected into something like the form we now have, with the aim of enabling other teachers to use the same chapters as teaching units. In these senses, the repetition and arrangement noted above show that Ibn al-Ḥājj intended his tract to be accessible to others. Although Ibn al-Ḥājj's arrangement of material does not tell us much in itself, both of the above possibilities are consistent with a student audience. Taking this point together with the reasoning in the above paragraphs and in Chapters II.1 and III.1, I have extended Berkey's view that Ibn al-Ḥājj was attempting to influence other scholars (rather than rulers),⁵⁹ arguing, in addition, that the *Madkhal* could have fulfilled an educational function for scholars early in their training, outside of a *madrasa* setting but still part of a curriculum of study, possibly in a Sufi context.

Whether or not Ibn al-Ḥājj intended his work to have impact primarily in Egypt, it is likely that any teaching sessions that Ibn al-Ḥājj delivered, and that underlay the *Madkhal*, would have taken place in Egypt. The reason for this is that - on the basis of my earlier socio-biographical analysis - we know Ibn al-Ḥājj to have completed the work when he was in Egypt for at least three decades.

⁵⁹ Berkey 1995, 65.

In a similar way to previous sections, I now bring to bear two pieces of additional data from the body of Ibn al-Ḥājj's tract, that relate (in this case) to the question of audience. We can note, first, that Ibn al-Ḥājj made it clear that he was reluctant to write the *Madkhal*. In the closing pages, he described the process by which his tract came to be finished. Excerpts from this passage follow.

[...] I suffered from sleeplessness and anxiety in communicating that knowledge, [and] I was not well because of [attempting to do] that. I resolved to be rid of those pamphlets so I grabbed them and gave them to one of the brothers, saying to him "weigh them down with stones and throw them in the sea". Then he kept them for more than a year.

Then the faqīh and khaṭīb Abū 'Abd Allāh Muḥammad b. 'Abd al-Mu'ṭī, known as Ibn Sab', khaṭīb of the Ḥusaynīya al-Zāhir mosque,⁶⁰ asked for the pamphlets, so I told him what happened to them. He was distressed by this and said to me, "Ask about them. Perhaps he has not yet done what you commanded." I said to him, "Surely, he had time [to do it]." Then Ibn Sab' said, "If only you had waited." So I asked the person whom I had told to cast [the pamphlets] into the sea, and he said to me, "Here they are, waiting for this moment". I asked him about the duty which he had abandoned [of throwing them into the sea]. He said that he had put them aside in his house, [intending] to throw them into the sea when he was free [from work]. [He added,] "I resolved to do it several times but then forgot. Here they are in my possession until now. I did not throw them [into the sea]." I asked him for them, took them and gave them to the above mentioned faqīh and khaṭīb. He read them and brought them to me saying, "It is forbidden for you to destroy this" and he spurred me on to complete it. He asked me several times that I put his name in it [...] since he was a reason for its completion.⁶¹

According to Ibn al-Ḥājj, the process started with writing some pamphlets about innovations that he saw around him, especially in relation to intention, ritual activities and the marketplace. He then despaired of writing the *Madkhal*, so much so that, before

⁶⁰ This is possibly to be identified with the Ḥusaynī mosque in Cairo (see Petry 1981, 269). However, pending further evidence, this is the only indication that we have for a connection between Ibn al-Ḥājj and this mosque.

⁶¹ *Madkhal*, 2(2):281.

finishing it, he asked a friend to throw his work into the sea. An individual named Ibn Sab' - a jurist and preacher in the mosque (*khaṭīb*) - then intervened to save the work from being destroyed.⁶²

At one level, this story is a trope, performing a dual function in which the author demurs that his work should ever become public and the reader is left in no doubt as to the importance of the work (God, fate and/or wise scholars would have it no other way than that the work be completed). At another level, it is important to note the professions of Ibn Sab', who made the critical intervention. On centre stage, in a moving story at the climax of the *Madkhal*, Ibn al-Ḥājj wrote that the scholar who saved his tract was interested in the application of law in a range of settings. In this way, Ibn al-Ḥājj was not just expressing appreciation to a friend or colleague, but also communicating something about what was most important in the tract itself in a way that perfectly expressed the intention he set out in his introduction.

Ibn al-Ḥājj's discussion of feasts and festivals highlights the interconnectedness of political, religious and intellectual dimensions, and thereby illustrate that Ibn al-Ḥājj probably had a secondary audience of those in temporal power in mind. This is another place where I extend Berkey's view that Ibn al-Ḥājj's audience was comprised of scholars. Ibn al-Ḥājj condemned practices that took place at a variety of feasts and festivals, including new year (*nawrūz*), *'īd al-ghīṭās* (a feast that the Copts associated

⁶² In *Kitāb al-Sulūk*, al-Maqrīzī referred to an Ibn Sab' who, facing a charge of heresy in Cairo in 791 A.H. (54 years after Ibn al-Ḥājj's death), was initially sentenced to death (by the Mālikī *qāḍī*), but was then, instead, sent to prison, following the decision of the Shāfi'ī *qāḍī* (*Sulūk*, 3:636; see also Rapoport 2003, 224).

with the events of Christ's baptism and unity with the Holy Spirit), Muḥammad's birthday (the *mawlid*) and the *mi'rāj*. Based on what we know from chronicles and juridic and other works, such festivals formed an important part of life throughout the premodern Islamic world.⁶³ Ibn al-Ḥājj grouped Muslim practices at festivals into three categories: those that were lawful (*shar'ī*); practices that some thought were legal because of where they were performed, but that did not have any actual legal basis (including practices at the *mawlid* and the *mi'rāj*, where Ibn al-Ḥājj viewed the festival itself as good, but many practices that occurred there as reprehensible); and practices that Muslims observed in imitation of Christians.⁶⁴

Festivals were frequently the object of political attention, whether in favour of or against festivals. Karl Stowasser notes, in respect of the festival of new year, that "the court would even put a state representative, the *amīr al-nawrūz*, in charge of the festivities, which sometimes were attended by the sultan himself".⁶⁵ However, on several occasions before and during the Mamluk period, festivals such as new year, the Coptic festival of the Martyr (*'īd al-shahīd*) and *'īd al-ghitās* were banned by the authorities.⁶⁶ Ibn al-Ḥājj lived at a time when some religious scholars (*'ulamā'*) criticised the ruling elite, usually in quite undisguised ways.⁶⁷ Even if he was not driven by a desire for political advancement in Egypt, Ibn al-Ḥājj would have been aware that his

⁶³ Hodgson 1974, 150-1, Shoshan 1993, 6, Kaptein 1993, 7-41 and M. Katz 2007, 6-49.

⁶⁴ Colby 2005, 37.

⁶⁵ 1984, 20.

⁶⁶ Lutfi 1998, 259-67, Levanoni 1994, 386-7 and Stowasser 1984, 20.

⁶⁷ Al-Sakhāwī, *Daw'*, 6:172. For an example of how such criticism became more overt later in the eighth/fourteenth century, see also Wiederhold 1999 (especially page 226).

condemnation of practices at many of these festivals would have met with approval among the ruling authorities, and that his threefold categorisation had political elements to it.

In religious terms, several other jurists who advocated pious behaviour at festivals connected innovations at these occasions with the duty to command right and forbid wrong, as did Ibn al-Ḥājj.⁶⁸ In addition, Huda Lutfi noted that Ibn al-Ḥājj's outrage at Muslim participation in *'īd al-ghīṭās* had a spatial religious element: "whereas the expression of Coptic rituals may only be permitted in the private space, the expression of Muslim rituals may be displayed freely in the public space".⁶⁹

In terms of intellectual context, almost no festival escaped the charge of innovation at some level. The exceptions seem to be the feast of the martyr (a traditional Coptic feast celebrated over three days from 18 or 19 May) and the public celebration of Christmas (the Copts, 7 January), which I have not found mentioned in any work of the anti-*bid'a* genre.⁷⁰ In this context, Ibn al-Ḥājj's comments did not always agree with the comments of anti-innovation tract authors about the same religious festivals. Although Ibn al-Ḥājj's concern about Muslim celebration of and participation in "activities of a festive,

⁶⁸ M. Cook 2000, 498-9.

⁶⁹ 1998, 262-3.

⁷⁰ Stowasser 1984, 20. Among the festivals of Muslim origin mentioned in anti-innovation tracts during or before the eighth/fourteenth century are the following: the *mawlid*, following the footsteps of Muḥammad by going to pray at places he visited (*ittibā' āthār al-nabī* - see Fierro 1992a, 218), the night ascension of Muḥammad (the *mi'rāj*, associated with *laylat al-isrā'*), festivals connected with Ramadan (*ṣalāt al-tarāwīḥ*, *laylat al-qadr* and *'īd al-fīṭr*), observance of the night of the full moon (in mid-Sha'bān), *'īd al-aḍḥā*, the night of the seal, the first of Rajab, the prayers of desirable gifts (*ṣalāt al-raghā'ib*), the ninth day of the month of *Dhū al-ḥijja* (*'arafa*), the night of the tenth of Muḥarram (*'āshūrā'*), and the *maḥmal*. In addition, the following festivals, not of Muslim origin, are mentioned in anti-innovation tracts pre-dating the time of Ibn al-Naḥḥās: New Year festivals (*nawrūz*, *yannayr*), *khamīs al-'adass*, the Saturday of light, *mihrajān* (a Persian festival), the twenty-fourth of June (*aṅsara*), the birthday of *nā'īsī* and the festival of olives.

carnavalesque nature” was shared by other authors of anti-innovation tracts before and after him, including al-Ṭurṭūshī and al-Idrīsī (d. 917/1511),⁷¹ Ibn al-Ḥājj did not go as far as Ibn Taymīya in insisting on the extreme aridity of behaviour referred to in Part II.

The above comments about the interconnectedness of political, religious and intellectual dimensions do not apply only to Ibn al-Ḥājj’s anti-innovation tract. Discussion of innovations at festivals is one of the few central features of all anti-innovation tracts, and many such tracts had a range of audiences in view for their tracts.⁷²

The above comments about Ibn al-Ḥājj’s aims and audiences also begin to illustrate the extent to which Ibn al-Ḥājj intended to impart knowledge to emerging scholars, as a Mālikī *shaykh* in Egypt. The case studies in Part V will provide an opportunity to test this in more detail, in relation to Ibn al-Ḥājj’s detailed views on particular practices.

IV.1.h. Genre

It would not be unexpected to find that the *Madkhal* is somehow jurisprudential in nature, as the biographer Ibn Farḥūn reported that Ibn al-Ḥājj was a jurist.⁷³ The introduction to the *Madkhal* is replete with jurisprudential references, such as (in addition to the examples given in Part V) jurists (*fuqahā’*) and the duty to command right and forbid wrong. Given the ‘practical’ orientation of the work, and given that this tract lacks the

⁷¹ Berkey 1995, 56.

⁷² See discussion in Chapter II.2.

⁷³ Ibn Farḥūn, *Dībāj* 2:321. Finding legal terminology in passages about the markets and the streets will also not surprise scholars of *ḥisba*, since *muḥtasibs* were often also *faqīhs* (Cahen and Talbi 1971, 489).

theoretical apparatus typically found in works of *uṣūl*, these observations provide a reason to categorise the *Madkhal* as a work of *furū'*.

An objection to the above could proceed as follows. Just because Ibn al-Ḥājj's *Madkhal* shared some features with works of *fiqh*, why does that mean that his tract is a jurisprudential kind of writing? Surely the extent to which Ibn al-Ḥājj cited prophetic traditions makes him a transmitter of *ḥadīth*, as Berkey has noted?⁷⁴ This objection is valuable because it illustrates the range of types of writings preserved in such tracts. Highlighting jurisprudential features of Ibn al-Ḥājj's anti-innovation tract does not necessarily imply that his was solely a piece of jurisprudential writing. However, as I argued in Part II, reference to tradition was common in juridic writings as well as in anti-innovation tracts, and was closely linked to the desire of many scholars to impose their own authority on a situation.⁷⁵ In addition, Ibn al-Ḥājj was not the first to produce forms of writings that mixed legal and other forms. Despite lamenting the scholarly practice of mixing the religious science of *uṣūl al-fiqh* with others such as *kalām*, grammar or other special interests, al-Ghazālī practised such mixing himself and was aware of others doing it.⁷⁶

⁷⁴ Berkey 2001, 28.

⁷⁵ So Colby, drawing on the work of Berkey, "Ibn al-Ḥājj and other scholars used the discourse of tradition to bolster their own authority vis-a-vis the military elite, the popular preachers, and/or their scholarly peers" (2005, 47-8).

⁷⁶ Makdisi 1984, 17.

Decrying the scholarly state of affairs - as Ibn al-Ḥājj did in his introduction - was also a feature of *mukhtaṣars* and *mabsūṭs*,⁷⁷ juristic commentaries on *ḥadīths*,⁷⁸ other anti-innovation tracts,⁷⁹ and other pre-modern Arabic Islamic literature.⁸⁰ However, Ibn al-Ḥājj's tract avoided the legal-structural approach shared by *mukhtaṣars* and *mabsūṭs*, did not take *ḥadīths* as its starting point (as juristic commentaries on *ḥadīths* did) and did not use the *su'āl-jawāb* format (as *fatwās* did).⁸¹ It should therefore be categorised as a different genre within *furū'*. The *Madkhal* demonstrates several features of *risālas* that I highlighted in Chapter III.1, namely being a work of prose that addressed a single issue in relation to a variety of contexts, permitting multilateral (not just two-way) discussion. However, the attribution of *risāla* is a very general one, and is merely a matter of defining a tract's format, but not its genre.

Finally, in its introduction, Ibn al-Ḥājj's *Madkhal* comes across as a prescriptive work. Evidence for this is provided by phrases such as “*God put the scholars under an obligation to teach*” and “*I reminded people of certain customs*”.

⁷⁷ See al-Nawawī's introduction to his *Minhāj*: “Devotion to knowledge is amongst the most noble acts of obedience ... Our companions have multiplied compositions in the form of *mukhtaṣars* and *mabsūṭs*” (translation in Calder in Imber [ed.] 2010, 99).

⁷⁸ See al-Nawawī's introduction to his commentary on Muslim's *Ṣaḥīḥ* (translation in Calder in Imber [ed.] 2010, 107).

⁷⁹ See discussion, above.

⁸⁰ For example, on al-Sakhāwī's critique of the state of contemporary studies in Prophetic *ḥadīth*, see Petry 1995, 881. On al-Shāfi'ī's twofold typology of knowledge, being knowledge of which it is not permissible for sane adults to be ignorant, and specialist or subsidiary knowledge, see Calder 1983, 56. On juristic knowledge as an end in itself, see Calder 1996, 138.

⁸¹ Below, I provide a rare example of Ibn al-Ḥājj using a similar statement-response structure.

IV.1.i. Conclusions

The introduction to Ibn al-Ḥājj's anti-innovation tract is both a justification of his reasons for writing, and a piece of teaching to young scholars (as opposed to the *juhhāl*, who are only supposed to ask questions) as to how they themselves should become transmitters of this knowledge, for example by using the exhortative main body of his work. Ibn al-Ḥājj presented himself as a jurist reluctantly challenging scholars (and, by implication, the masses), in order to promote a Western, Mālikī view of the observance of Islam.

Ibn al-Ḥājj's main aim, in his introduction, appears to have been to engage scholars directly by inviting them to act according to their knowledge, describing this action as a God-given *farḍ* and by inviting them to reflect on his own scholarship. After all, it is scholars who (need to learn to) interpret his texts and correct them where needed. As I noted in Chapter II.1, *fiqh* (together with *ḥadīth*) was a centre of gravity in the curriculum around which other subjects revolved. It therefore makes sense that Ibn al-Ḥājj may have viewed his audience as a student one. In addition, returning to Calder's quotation about the space between revelation and law (see Chapter II.1), Ibn al-Ḥājj seems to have been contracting that space by specifying which aspects of law were God-given.

My findings in this chapter build on my intellectual contextual study of anti-innovation tracts, and on my socio-biographical study of Ibn al-Ḥājj. No other writer of anti-innovation tracts applied legal thought with the same emphases as Ibn al-Ḥājj. In addition, his formative years in North Africa, his lack of recorded connection to any *madrasas*, his probable connections with the worlds of commerce and Sufism, and the

weighting of scholarly Mālikī influences on him, are all relevant to what we see expressed in his anti-innovation tract.

An initial reading of the rest of the *Madkhal* shows that identifying an audience may not be as straightforward. Ibn al-Ḥājj may be giving advice to *man yasa'lūn*, mentioned in the introduction, who could be scholars or other individuals who were interested in attaining knowledge. In addition, his comments on feasts and festivals imply that he may have had wider audiences in view, such as those with temporal power. Whatever his intended audience(s), Ibn al-Ḥājj was clear that his topic “*is a serious matter*”.⁸²

This chapter has also provided evidence that the *Madkhal* was a prescriptive work of *furū'* that had resemblances to preceding anti-innovation tracts, while being more comprehensive than them. Ibn al-Ḥājj's detailed approach and focus on knowledge (more than on action) creates points of similarity between his tract and some longer works of *fiqh*, such as *mabsūṭs*, even though the *Madkhal* lacks key structural and stylistic elements of such a genre. The introduction translated in this chapter shows flashes of literary elegance but not to the extent that shows similarities with what Calder observed about *mukhtaṣars* and *mabsūṭs*. By his unprecedented inclusion of detailed passages in relation to the markets and the streets, Ibn al-Ḥājj showed that the anti-innovation tract genre was flexible to some degree, a 'tradition-in-change', to use Johansen's phrase.

⁸² *Madkhal*, 1(1):11.

Chapter IV.2.

Ibn al-Naḥḥās' *Tanbīh al-ghāfilīn*, and the anti-innovation tract it contains: *Dhikr*

IV.2.a. Introduction

In this chapter, I describe Ibn al-Naḥḥās' anti-innovation tract, which I have called his *Dhikr*, and his *Tanbīh al-ghāfilīn*, of which it forms part. The key question underlying this chapter is: By studying the introductions to Ibn al-Naḥḥās' *Tanbīh* and *Dhikr*, what can we learn about his authorial intent, methods, aims and audiences? My approach in this chapter is similar to the last, namely to proceed by way of reception, scope and arrangement, via translations and an explanation of textual strategies (beginning with the *Tanbīh*, before then turning to the *Dhikr*), and ending with an exploration of the author's aims and audiences.

IV.2.b. *Tanbīh al-ghāfilīn*

IV.2.b.i. *Title, origin and manuscripts*

The full title of the work that contains Ibn al-Naḥḥās' anti-innovation tract is *Tanbīh al-ghāfilīn 'an a'māl al-jāhilīn wa-taḥdhīr al-sālikīn min af'āl al-hālikīn* (Alerting the negligent to ignorant deeds and warning wayfarers about irredeemable actions). This work is preserved in four full manuscripts, in Fez and Cairo.¹ There are also several manuscripts of abridgements and one printed edition, which seems to have relied on at least two manuscripts.² Ibn al-Naḥḥās wrote the *Tanbīh* in the space of two months and finished writing it at the end of Dhū al-Ḥijja, 811 A.H. (April, 1409 A.D.), six months before he is said to have finished his *Mashāri'*.³ It is unclear how the *Tanbīh* came to be in the form it is in today.

IV.2.b.ii. *Scope and arrangement*

The *Tanbīh* consists of three main sections: commanding right and forbidding wrong, various sins forbidden by the Prophet and innovation. These three sections span pages 19-366, 367-426 and 427-538 respectively in the 2005 Beirut edition of *Tanbīh*. The three sections are sub-divided into seven chapters, as indicated in the following translation of the introduction to this work.

¹ *G.A.L.*, S2:83.

² I have noticed four errors in the 2005 Beirut edited text of *Tanbīh*, that may stem from textual corruption in the manuscripts or from the preparation of the edition: page 432, line 13 - *yaqiya* > *yafiya*; page 442, line 18 - *ṭarīqa* > *ṭarqīya* and *yawm* > *bawm* or *būm*; and page 469, last line - *ḥarām* > *ḥārim*.

³ Ḥājji Khalīfa 1941, 1:487.

Ibn al-Naḥḥās occasionally repeated topics in different sections, such as the topic of observing the fast in Ramadan, which is dealt with in both the section on forbidding sins and in the section on innovation.⁴ Individual issues typically receive between five and ten lines in the edited text. To illustrate this, the chapter entitled “large and small sins” is 190 pages long, and contains 263 separate sections, each relating to a different sin.

IV.2.b.iii. A guide “for those like me”: A Translation of the introduction to the Tanbīh

[15] In the name of God the merciful and compassionate, while we call for his help.

We praise you, O God, for your beautiful protection, we thank you for your abundant blessing, and we confess to you [our] ugly sins. We are overcome by the disgraceful sins that we commit, we submit to your great power in lowliness and humility (bi-al-dhulli wa-al-ṣaghāri). In weakness and need, we crave the treasure of your gift. We strive towards your riches with hands outstretched. We ask your guidance for levelling out uneven ground. We raise towards You [our] palms in submission and supplication, wanting to succeed in obedience and in reforming the current situation. Indeed, the one who is well guided is the one whom You guide to the even path, and the misguided person is the one whom You have led astray, and who has no direction (dalīl). Everything is made easy by You and is preceded by predestination. You do with hearts in your hand whatever you like, you control destiny (lit., to you is destiny).

Lord and master, may your perfect prayers, your complete blessings, your perfect peace, universal in meaning, be upon on the general peacefulness, the perfect blessing, the kindest who commanded and forbade, the most fearful who forbids and renounces, the most noble of those with the highest intellect and understanding, master of all creation, Muḥammad the seal of the prophets. And on his family, companions, followers and their followers, be beneficence until the judgment.

⁴ *Tanbīh*, 159 (forbidden sins) and 503 (innovation).

As for Muslim's *Ṣaḥīḥ*, on the authority of Tamīm al-Dārī⁵ - may God be pleased with him - [is written] "the prophet (ṣ) said, 'Religion consists in three types of sincere advice (al-naṣḥa).' We replied, 'For whom, Messenger of God?' 'For God and his book, for his messengers, and for Muslim imāms and their people'."⁶

[16] And in the *Musnad*, the imam Aḥmad wrote, on the authority of Abū Umāma⁷ - may God be pleased with him - on the authority of the prophet (ṣ), who said, "God the Great and Mighty said, 'How lovely is the devotion to me of my servant who gives counsel (al-naṣḥ).'"⁸

Al-Ṭabarānī⁹ narrated - on the authority of Ḥudhayfa¹⁰ (God be pleased with him), who said, "The messenger of God said, 'Whoever does not take interest in the affairs of the Muslims is not among them' [and whoever does not give sincere counsel in the morning and the evening for God and to messengers and to his book and to his imām and to Muslim people, is not among them]."¹¹

And on the authority of Jarīr b. 'Abd Allāh al-Bajlī¹² - God be pleased with him - he said, "I pledged allegiance to the messenger of God (ṣ) and then I turned away, then he called to me and said to me, 'I will not receive from you [your

⁵ Tamīm al-Dārī, a Christian who converted to Islam and was a Companion of the Prophet Muḥammad (Lecker 2000, 176). During the Mamluk period, the Tamīmī *waqf* (which Tamīm's family had received in the city of Hebron) was the subject of antagonism between Ḥanafīs (given influence by rulers of Turkic descent) and those with military power on the one hand, and Egyptian Shāfi'īs on the other hand. For example, al-Maqrīzī published *al-Daw' al-sārī* in 841/1437, a pamphlet defending the rights of the Dārīs (Cook 1998, 26-7).

⁶ This *ḥadīth* (in some cases a very close variant), can be found in Nawawī's 40 (number 7 - *Sharḥ*, 27), as well as in five of the six major *ḥadīth* collections (excepting Ibn Māja) and in Ibn Ḥanbal's *Musnad* (Wensinck 1943, 2:165).

⁷ Abū Umāma probably refers to Suday b. 'Ajlan b. Wahb, a Companion of the Prophet Muḥammad (Ibn Ḥajar, *Tahdhīb*, 4:384-5; cf. three other Abū Umāmas, in *ibid.*, 12:14).

⁸ Ibn Ḥanbal, *Musnad*, 5:320 (number 22,187).

⁹ Sulaymān al-Ṭabarānī (d. 360/971), a traditionist who lived for sixty years in Iṣfahān and died there (Fierro 2000, 10:10).

¹⁰ Probably Ḥudhayfa b. al-Yamān (d. 36/657; Ibn Ḥajar, *Tahdhīb*, 2:203), rather than Muḥammad b. Abī Ḥudhayfa (also d. 36/657; Pellat 1993, 394-5). Both were companions of the Prophet Muḥammad.

¹¹ The editors of the *Tanbīh* note that this *ḥadīth* may also be found in al-Ṭabarānī's *al-Mu'jam al-awsaṭ*. Two similar versions can be found in al-Kulaynī's *Uṣūl* (2:164). Al-Kulaynī (d. 328/939-40 or 329/940-1) was an Imāmī traditionist who transmitted from several scholars from Rayy (Madelung 1986, 362-3).

¹² According to Ibn Sa'd, Jarīr ibn 'Abd Allāh Bajlī accepted Islam in the year the prophet Muḥammad died, was associated with the tribe of the Bajīla, destroyed an idol, and died in the second fitna (*Ṭabaqāt*, 8:145). The Bajīla was one of the largest tribal groups to settle in Kufa (Morony 1984, 240).

allegiance] until you pledge allegiance sincerely to all Muslims', so I pledged allegiance to that." Al-Ṭabarānī narrated this in al-Saghīr [al-Mu'jam al-Ṣaghīr], with a sound isnād. This was also in the Ṣaḥīḥ, with different wording.¹³

When I contemplated the pillar of commanding right and forbidding wrong, its aspect had become weak, and ways of avoiding it had become numerous, and the ways of following it (maṭālibuhu) were hard for most people, so students of it became rare, and after following it, routes became uneven. So he who treads them became desolate. Signposts to its ways and regulations were wiped out, and of its truths only its name remained. The intellectual goals of mankind became diverse (tanawwa'at maqāṣid al-khalā'iq fī al-adhhān), no-one spoke out (lit., no-one entered into pronouncement) and Satan caused to arise in the hearts of the ignorant that [17] no-one will be asked about anything other than his deeds on the day of religion. The censure of the censor (inkār al-munkir)¹⁴ became an unspoken error among the people, and slippery ground on which the feet of men cannot be planted. Of those who deny, it is said, "How many are his virtues!" and of those who flatter, it is said "How great is his intelligence in social intercourse!" So trouble and terrible sins became widespread, since there did not remain anyone for whom the stern rebuke of a rebuker would affect before God (idh lam yabqa man ta'khudhuhu fī Allāh lawmat lā'im). Islam became a stranger as it began. The guiding scholar was expelled, and the misguiding ignoramus was loved and beloved.

It appeared to me that some pages needed to be added on this matter, to guide those like me away from disobedient people and [to guide] whosoever was careless and forgetful like me, to explain the full obligation to everyone (bayānan li-jumal dhālika min shumūl al-ījāb), and to warn about committing bad habits that one returns to. And I entitled it: Tanbīh al-ghāfilīn 'an a'māl al-jāhilīn, wa taḥdhīr al-sālikīn min af'āl al-hālikīn (Alerting the negligent to ignorant deeds and warning wayfarers about irredeemable actions).

It is categorised into seven chapters:

¹³ Al-Bukhārī, *Ṣaḥīḥ*, 2:172.

¹⁴ I have not attempted to render each instance of the verb *ankara* (and predicates) dynamically, by interpreting the meaning as may have seemed appropriate in the context. Rather, I have taken a more literal approach to translating this word group, because of the frequency with which Ibn al-Naḥḥās used it and because of the importance of the concept to this thesis. The range of meanings of the verb *ankara* includes to refuse, to deny, to censure and to criticise (Wehr 1980, 998; I also consulted dictionaries by Hava and Lane). In using words such as *inkār*, it is unclear whether Ibn al-Naḥḥās intended his audiences 'merely' to speak against innovations, or (also) to deny others the opportunity to practice them. In my translations in Parts IV and V of this thesis, I have consistently used the English word censure (and predicates), because - it seems to me - this word is part way between these two options.

1. On “The merit of commanding right and forbidding wrong, and explaining that it is a collective duty (farḍ kifāya), and conditions of being the denier and the one denied (al-munkir wa-al-munkar)”. It contains sections and questions.
2. On “The nature and degrees of censure (al-inkār)”. It contains sections and questions.
3. On “Intimidation from abandoning the [duty of] commanding right and forbidding wrong that God - the Sublime - has imposed as a duty”. And mention of what makes others commit errors in that, and makes it worse, and mention of the situations from which derive duties. There remains what is desirable, and it contains sections and questions.
4. On “The sin of the one who commands right but does not do it, or forbids wrong yet does it.”
5. On “Mention of various large and small sins”, may God protect us from them.
6. On “matters that the Prophet (ṣ) forbade”.
7. On “Mention of various wrong actions (munkarāt) and innovations (al-bida‘ al-muḥdathāt).”

To God the Sublime I extend the palm of humility and supplication, that he would not give it as evidence for me on the day of judgment and appearance of terrors. Indeed the knowledge and religion that I have to offer is paltry, and my faith is the weakest [18] faith because of the lack of certainty and the absence of rank. But my recognition of infirmity and falling short is my means on the day the witnesses rise, [as are] my scooping from the sea of his abundant generosity, my stockpiling when provisions are lost, my dependence in every situation on Him who does not disappoint he who leans on Him, and my reliance at the end upon Him who is sufficient for he who depends on Him. He is my guardian (ḥasbī); how great an authority He is!

IV.2.b.iv. Organisation, approach and textual strategies

The above introduction begins with two paragraphs of praise, to God and Muḥammad.

These paragraphs are longer than those seen in several other works of jurisprudence.

Ibn al-Naḥḥās also lamented his own and others’ inadequacies (“*We are overcome by the disgraceful sins that we commit ... So trouble and terrible sins became widespread*”)¹

and the state of Islam (“*of [the] truths [of commanding right and forbidding wrong] only*

¹⁵ *Tanbīh*, 15.

its name remained ... Islam became a stranger as it began”).¹⁶ Together with the nature of Ibn al-Naḥḥās' closing invocation, this creates a sense of intensity. Whether, or to what extent, Ibn al-Naḥḥās intended to create this impression is unclear.

In between the opening and closing paragraphs, and apart from the table of contents, Ibn al-Naḥḥās emphasised three important tasks or duties: giving good advice; pledging allegiance to all Muslims; and fulfilling the duty of commanding right and forbidding wrong. A noticeable predestinarian emphasis accompanied the first task: “*Everything is made easy by You and is preceded by predestination. You do with hearts in your hand whatever you like, you control destiny (lit., to you is destiny).*”¹⁷ There is nothing in Ibn al-Naḥḥās' biography that would imply a particular interest in predestination, such as an interest in scholastic theology, but this emphasis is also noticeable elsewhere in Ibn al-Naḥḥās' writings.¹⁸

Ibn al-Naḥḥās did not include any Qur'ānic citations in this introduction, and cited four *ḥadīths*. The authorities that Ibn al-Naḥḥās gave were generally well known at the time, including Muslim, Aḥmad b. Ḥanbal and al-Ṭabarānī. Ibn Ḥajar viewed the last of these unfavourably as a traditionist.¹⁹

¹⁶ Ibid.

¹⁷ Ibid.

¹⁸ For example, see Ibn al-Naḥḥās' emphasis on God's will, as opposed to human responsibility, in his treatment of martyrdom in his work on *jihād* (*Mashāri‘* 722-3; cf *Madkhal* 2[1]:26). A fruitful avenue to explore this question would be investigate differences between Māturīdīs and Ash'arīs on the topic of predestination during this period, in which most Ḥanafīs were Māturīdīs and most Shāfi'īs were Ash'arīs (see references in Zysow 2002, 236nn3-5).

¹⁹ On al-Ṭabarānī in the Mamluk period, see Fierro's reference to Ibn Ḥajar (2000:11).

Ibn al-Naḥḥās listed seven sections in the *Tanbīh*, showing that, at some point, Ibn al-Naḥḥās intended this work to function as a unit, with its own introduction (though he may have initially intended some sections to have stood independently). I will argue, later in this chapter, that Ibn al-Naḥḥās’ anti-innovation tract also functioned as a standalone unit.

IV.2.b.v. Authorial intent: aims and audience

Ibn al-Naḥḥās stated that he wrote the *Tanbīh* “to guide those like me away from disobedient people and [to guide] whosoever was careless and forgetful like me, to explain the full obligation to everyone”.²⁰ Who are ‘those like me’? At first glance, one might conclude that Ibn al-Naḥḥās was referring to scholars, since Ibn al-Naḥḥās was an *‘ālim* and *faqīh*. After all, Ibn al-Naḥḥās noted that “*The guiding scholar was expelled, and the misguiding ignoramus was loved and beloved.*”.²¹

However, at several points in his introduction, such as in the quotation above, Ibn al-Naḥḥās referred to a much wider group of people, noting that following the pillar of commanding right and forbidding wrong “*became hard for most people*”; he also stated his purpose in writing as being “*to explain the full obligation to everyone*” and observed that “*the censure of the censor became an unspoken error among people*”.²² By using words such as “most people” and “everyone”, Ibn al-Naḥḥās seems to have viewed

²⁰ Ibid., 17.

²¹ Ibid.

²² Ibid., 16-7.

this work as aimed at a wider group than just scholars, even if Ibn al-Naḥḥās saw himself as a scholar who could guide others.

I noted above that the duty to command right and forbid wrong is central to the *Tanbīh*'s introduction. In the Mamluk period, there was frequently a political aspect to discussing this duty.²³ However, although he lived at a time when an increasing number of religious scholars criticised the ruling elite overtly (especially from the time of Barquq [r. 1382-99] onwards),²⁴ Ibn al-Naḥḥās did not make a political critique explicit at any point. The fact that Ibn al-Naḥḥās was not among those Shāfi'ī scholars who strongly opposed Ḥanafīs at this time also illustrates an aspect of the variety among Shāfi'ī jurists.²⁵

Ibn al-Naḥḥās also aimed to awaken Muslims to right action, as the title of his work, *Tanbīh al-ghāfilīn* 'an a'māl al-jāhilīn (Alerting the negligent to ignorant deeds) indicates.²⁶ Although Ibn al-Naḥḥās also argued that people should acquire knowledge, his focus was on spreading that knowledge.²⁷ This activist tone was consonant with Ibn Taymīya's writings, and the fact that he urged people to spread knowledge is similar to Ibn al-Ḥājj's tract, although Ibn al-Ḥājj wrote more dryly. In the introduction to *Tanbīh*, Ibn al-Naḥḥās referred to Satan being in the hearts of the ignorant (or foolish, *al-jāhilīn*),

²³ See my discussion, in Chapter V.1, of Michael Cook's accommodationist-confrontational spectrum, which he presented in his book *Commanding right and forbidding wrong in Islamic thought* (Cambridge, 2000).

²⁴ Levanoni 2013, 156.

²⁵ Ibid.

²⁶ Chapters IV.1 and IV.2 contain discussion of this point.

²⁷ The full title of *Tanbīh* also implicitly refers to the word 'knowledgeable', via its opposite ("alerting to ignorant ...").

in a passage where he also mentioned the masses (*al-nās, al-‘amma*).²⁸ By writing so directly and in jurisprudential terms, I would argue that Ibn al-Naḥḥās was participating in a process of the popularisation of the judicial system.²⁹

It is important to note the connection between the ideas in the above two paragraphs. The Ḥanafī Kātib Çelebi (d. 1067/1657) was later to remark that, where a *bid‘a* “has become firmly rooted, it is fatuous to try to eradicate it in the name of forbidding wrong; the plain fact is that, for better or worse, people will not give up what they are accustomed to”.³⁰ Perhaps, in Ibn al-Naḥḥās’ day, such an attempt was not yet fatuous. However, as we will see later in this chapter, Ibn al-Naḥḥās did not mention these aims in the introduction to his anti-innovation tract.

IV.2.c Ibn al-Naḥḥās’ anti-innovation tract: *Dhikr*

IV.2.c.i. Scope, arrangement and overall approach

Ibn al-Naḥḥās entitled his anti-innovation tract *Fī Dhikr jumal min al-munkarāt wa-al-bida‘ al-muḥdathāt* (An Account of all reprehensible innovations).³¹ This is a short, wide-ranging tract, focussed on innovative practices, rather than doctrinal innovation. That is, within a work aimed at alerting the ignorant to the duty of commanding right and

²⁸ *Tanbīh*, 16-7.

²⁹ See discussion in Chapter III.1 and Levanoni 2013, 160.

³⁰ From the *Mizān al-ḥaqq*, cited in M. Cook 2000, 330.

³¹ Haytham Ṭu‘aymī notes that some manuscripts, instead, read *al-bida‘ wa-al-muḥdathāt* (*Tanbīh*, 427n1).

forbidding wrong, there is a separately defined part on innovation. References in this study to *Dhikr* are to Ibn al-Naḥḥās' anti-innovation tract.³²

No other tract exactly mirrors Ibn al-Naḥḥās' tract in its arrangement of material. Table 3, below, lists the nine sections that are contained in Ibn al-Naḥḥās' tract, in the order in which they appear.³³

Table 4: Contents of Ibn al-Naḥḥās' *Dhikr*

Section titles	Pages (2005 Beirut edition)
Introduction	427
Reprehensible things witnessed in mosques	431
Reprehensible things witnessed in markets and streets	449
Some reprehensible things of pilgrims on <i>ḥajj</i>	465
Marriage and related issues	472
Visiting the sick	478
Reprehensible things in funeral processions and tombs	481
Innovations on festivals and feast days	493
[Sundry section including <i>laqabs</i> , the <i>adhān</i> , hunters, the <i>ḥammām</i> and other topics]	509
End of book	531

³² In the footnotes, references will still refer to *Tanbīh*, since that is the edited work within which *Dhikr* is today situated.

³³ Except for the introduction and the final, 'sundry', section, all sections shown in this table are demarcated in the Dār al-Kutub al-Qawmīya manuscript (see citation above).

Dhikr is approximately fifteen times shorter than Ibn al-Ḥājj's *Madkhal*, yet Ibn al-Naḥḥās discussed nineteen of the twenty-two categories of innovation that Ibn al-Ḥājj covered.³⁴ The three exceptions are relations with those in temporal authority, being away, and dogma and heresies. Ibn al-Naḥḥās' discussion of relevant *ḥadīths* is significantly shorter than Ibn al-Ḥājj's, which accounts for the bulk of the difference in length between the two tracts.

Ibn al-Naḥḥās also indicated that he could say much more about his topic than his space allowed.³⁵ Given that he wrote at least one other work that was considerably more lengthy than *Dhikr*, we know that 'lack of space' cannot refer to an inability, or lack of desire, to write long works in general. It is unlikely that he simply ran out of time to produce a much longer work, as the tract - as we have it - does not appear unfinished. Although he may have written *Dhikr* at a time in his life when he was more busy, it appears that Ibn al-Naḥḥās intended his tract to be widely accessible to those who may not have had much time or inclination to read or hear anything lengthy.

Ibn al-Naḥḥās' chief concern was innovative popular practices. Several topics make repeated appearances in different sections, such as prayer, clothing and the role of women. Thematically, Ibn al-Naḥḥās devoted most attention to issues connected with extravagance, wastefulness and religious purity.³⁶ A rare example of the use of the term *nīya* (intention) in Ibn al-Naḥḥās' tract occurs in his discussion of the innovativeness of

³⁴ See Chapter IV.1.

³⁵ *Ibid.*, 459.

³⁶ For example, *Tanbīh*, 497-8.

evil thoughts polluting one's intention in prayer.³⁷ Among authors of anti-innovation tracts, Ibn al-Naḥḥās was the second to discuss innovations in the markets and the streets, Ibn al-Ḥājj being the first.³⁸ Of the twenty-four trades, professions or products that Ibn al-Ḥājj discussed in his section on the markets and the streets (see above), Ibn al-Naḥḥās discussed seven: butchers, cooks, bakers, money changers, wheat brokers, water carriers and masseurs in the *ḥammām*.³⁹

IV.2.c.ii. "Everything that is prohibited, its censure is necessary": A Translation of the introduction to the *Dhikr*

[427] *On various reprehensible actions (munkarāt) and recent innovations (al-bida' al-muḥdathāt)*

It was established in the two Ṣaḥīḥs, [transmitted] by a ḥadīth of 'Ā'isha - God be pleased with her - that the Messenger of God (ṣ) said, "Whoever introduces (man aḥdatha) into this affair of ours what is not of God, is rejected (wa-huwa raddun)." And in the narration of Muslim, "Whoever does a deed that we have not commanded him to do, is rejected."⁴⁰

Al-Tirmidhī narrated (and rated it as sound), as did Ibn Māja and Ibn Ḥibbān (in his Ṣaḥīḥ), on the authority of al-'Irbāḍ b. Sāriya,⁴¹ who said, "The Messenger of

³⁷ Ibid., 520-1.

³⁸ Passages relevant to the markets and the streets are not limited in Ibn al-Naḥḥās' tracts to the chapter on the markets and the streets. For example, see passages about selling water in the mosque (*Tanbīh*, 437-8) and slaughter with knives (ibid., 513-4). However, the vast majority of such references are found in the relevant chapters.

³⁹ *Tanbīh*, 449-61. In this section, Ibn al-Naḥḥās also discussed a few innovations not directly linked to trade or professions, such as the practice of women touching and cooking chickens without washing them, or the practice of resting wooden benches in street openings (ibid., 451 and 460).

⁴⁰ It is possible that, here, *raddun* could have the sense of rejecting. However, according to al-'Aynī's commentary, it carries the sense of "thrown back at him (*mardūd 'alayhi*) and [therefore] not accepted of him", which implies that 'rejected' is a more accurate translation (Al-'Aynī, *Umdat*, 9:356).

⁴¹ 'Irbāḍ b. Sāriya (d. 75/693-4), one of the *ahl al-ṣuffa* (see description in Chapter II.2).

God (ṣ) said, ‘About new things (al-muḥdathāt), every innovation (kull muḥdatha) is an error.’”⁴²

Imām Aḥmad and al-Bazzār⁴³ narrated, on the authority of Ghudayf, that the prophet (ṣ) said, “People (qawm) never brought forward innovations (mā aḥdatha qawm bid‘atan) without removing similar things from the sunna”. [428] Al-Ṭabarānī narrated it, except that he said, “A people (umma) never advanced innovations in religion after their prophet without destroying the like of them from the sunna.”

[And] Ibn Māja and Ibn Abī ‘Āṣim⁴⁴ narrated, on the authority of Anas b. Mālik - God be pleased with him - who said, “the Messenger of God (ṣ) said, ‘God refused to accept the work of an innovator until he ceased his innovation.’” Al-Ṭabarānī also narrated it, except that he said, “God keeps repentance from every innovator until he ceases his innovation.”

Ibn Māja narrated, on the authority of Ḥudhayfa - God be pleased with him - who said, “the Messenger of God (ṣ) said, ‘God does not accept from the innovator fasting, pilgrimage, minor pilgrimage, jihād, exchange and justice. He departs from Islam as hair departs from dough.’”⁴⁵ And there are many similar ḥadīths.

The imām and authenticating scholar (al-muḥaqqiq) Abū Muḥammad ‘Izz al-Dīn b. ‘Abd al-Salām⁴⁶ (the mercy of God the Sublime on him) said, “Innovation has three kinds. The first is permitted (mubāhan), such as allowing oneself plenty of food, drink, clothing, or women, and there is nothing wrong with that.

The second is good (ḥasanan), namely innovation that is in agreement with the maxims of the law (muwāfiq li-qawā‘id al-sharī‘a), not disagreeing with anything in it. [429] For example, the building of an outpost and khāns and schools and other types of innovation which were not known in the first period [of Islam]. And it agrees with what the law has brought by way of taking up what is known and helpful for piety and godliness. Similarly, busying oneself with Arabic

⁴² Al-Nawawī, *Sharḥ*, 47. For a discussion of the ḥadīth that contains this phrase, see Ukeles 2006, 60-8. According to Ukeles, “[v]ariants of this ḥadīth can be found in seven out of the nine major Hadith collections (excepting Bukhārī and Mālik) ... three main variations on this ḥadīth [are] conveyed by Muslim, ... by Abū Dawūd [sic.] and by Ibn Mājah.” (ibid., 59 and 61).

⁴³ Abū Bakr Aḥmad b. ‘Amr b. ‘Abd al-Khāliq Al-Bazzār al-Baṣrī (d. 291-2/904-5), a muḥaddith and the author of *Musnad* (G. A. L., S I:258).

⁴⁴ Ibn Abī ‘Āṣim al-Nabīl, Aḥmad (d. 287/900), a Zāhirī whose *Kitāb al-sunna* does not survive, according to Sezgin (1967, I:522). Neither Zirikli nor Brockelmann mention the work.

⁴⁵ *Sunan*, 1:77-8. Ibn al-Naḥḥās omitted from the ḥadīth (as contained in *Sunan*) the terms prayer and almsgiving (*ṣalāt*, *ṣadaqat* - ibid., 1:78).

⁴⁶ ‘Izz al-Dīn b. ‘Abd al-Salām (d. 660/1262), author of *al-Qawā‘id al-kubrā*.

is innovating, but reflection on the Qur'ān and understanding its meanings only comes through knowing it [Arabic]. Innovating in relation to it [learning Arabic in order to reflect on the Qur'ān] agrees with the law and with the reflection on the verses of the Qur'ān and the understanding of its meaning that he commands of us. Similarly, recording and classifying ḥadīths into good (ḥasan), right (ṣaḥīḥ), forged (mawḍūʿ) and weak (ḍaʿīf) is good innovation, because there are in it the words of the Messenger of God, lest one put into it what is not in it, and lest one take out of it what was in it. Similarly, the maxims of law (qawā'id al-fiqh) were established, as well as its sources (uṣūlihi). All of this is good innovation, which is in agreement with the sources of law (muwāfiq li-uṣūl al-sharʿ), not in disagreement with them.

The third is that which disagrees with the law, or is bound to disagree with it. In this category are prayers of longing (ṣalāt al-raghā'ib)⁴⁷ - falsely attributed to the Messenger of God - and attributing a lie to him."

Someone else spoke of five types of innovation:

Necessary innovation (bid'a wājiba): such as books of knowledge and providing the Qur'ān with vowel and diacritic points.

Desired (mustaḥabba): such as building bridges, dams, schools and the like.

Permitted (mubāḥa): such as sieves, potash and the like.

Hated (makrūha): such as unreliable food and the like.

Prohibited (maḥrama): and this is more than can be enumerated.

You ought to know: In this chapter, on the whole, of these five types, I discuss prohibited innovations, as well as a few of the hated [innovations], and I do not object to other types, paying attention to the forbidden (al-maḥzūr) and its explanation, whenever one spends time on the most important things that one should do.

However, one should not strive to accomplish [listing, or objecting to] forbidden (al-maḥzūr) innovations, because of the impossibility of counting them, and because they differ from country to country, and whatever the devils throw before people of every district and [how they] tempt people of every region (ahl kull nāḥiya ... ahl kull qutr).

But I mention most innovations that occur in our country, that one might be guided by what I do mention and do not mention. [430] May they be examples for him [who seeks guidance]. Whoever fears God, he makes for him an opening by which he may seek illumination in the darkness of testing (fitan). He ought to seek guidance by it correctly in relation to whatever happens in any age.

⁴⁷ According to al-Ṭurṭūshī, *ṣalāt al-raghā'ib* was introduced in Jerusalem in 480/1087.

You ought to know: Everything that is hated, its censure is desired, but not necessary, and being silent about it is hated. Everything that is prohibited, its censure is necessary, and being silent about it is prohibited.

And God the Sublime is the guide, and he is the one we ask for help.

IV.2.c.iii. Textual strategies and use of sources

In the introduction to the *Dhikr*

Ibn al-Naḥḥās began by quoting and referring to the following scholars, some of whom he also quoted in another work of his, the *Mashāri*:⁴⁸ al-Bukhārī (d. 256/870), Muslim b. al-Ḥajjāj (d. 261/875), al-Tirmidhī (d. 279/882), Ibn Māja (d. 273/887), and Ibn Ḥibbān (d. 354/965). Ibn al-Naḥḥās then referred to Aḥmad (b. Ḥanbal, d. 241/855), al-Bazzār (d. 291-2/904-5),⁴⁹ al-Ṭabarānī (d. 360/971) and ‘Izz al-Dīn b. ‘Abd al-Salām (d. 660/1261).

The five *ḥadīths* at the start of Ibn al-Naḥḥās’ tract are about innovations, and are frequently encountered in other legal writings.⁵⁰ and Ibn al-Naḥḥās gave abbreviated *isnāds* for some of them. The predestinarian emphasis noted earlier is again present in this introduction, as Ibn al-Naḥḥās noted Al-Ṭabarānī’s variant phrase, “*God keeps repentance from every innovator until he ceases his innovation.*”⁵¹

⁴⁸ See Chapter II.2.

⁴⁹ Al-Bazzār was one of Ibn Taymīya’s students - see references in Chapter III.2.

⁵⁰ For example, see references in the above translations and the discussion of al-Qurṭubī in Chapter II.2.

⁵¹ *Tanbīh*, 428.

Ibn al-Naḥḥās proceeded to discuss typologies of innovation, firstly using Ibn ‘Abd al-Salām’s threefold categorisation, permitted (*mubāḥ*), good (*ḥasan*), and that which contradicts the *sharī‘a*. Ibn al-Naḥḥās then described a fivefold categorisation belonging to “[s]omeone else”, giving examples of each of the five types: necessary (*wājiba*), desired (*mustaḥabba*), permitted (*mubāḥa*), hated (*makrūha*), forbidden (*maḥrama*).⁵² Ibn al-Naḥḥās also stated that his scope included only the last two types, especially the latter. This was also the only place where Ibn al-Naḥḥās referred to positive forms of *bid‘a* (*wājiba*, *ḥasana*, *mustaḥabba* and/or *mandūba*). Ibn al-Naḥḥās was occasionally quite precise with his terminology. In his introduction he demonstrated some precision and control over the words he used, such as when shifting from *qawm* to *umma*,⁵³ or in relation to using the root *ḥ-d-th* six times in a short space, sometimes as the word *ḥadīth*, and in other instances with the sense of innovation or ‘new things’.

The final section of Ibn al-Naḥḥās’ introduction to the *Dhikr* is quite directly addressed to his audience, with the phrase “*You ought to know*” used twice. Here, Ibn al-Naḥḥās explained that his work could not be exhaustive across every region (because of the profusion of innovations in his day), and stated that he does mention most of the innovations that occur in Mamluk lands (“*our country*”).⁵⁴

In terms of approach, this introduction is similar to that of Ibn al-Ḥājj’s *Madkhal* in that it includes a *taḥmīd*, a full title, and some description of the method to be followed.

⁵² Ibid., 428-9.

⁵³ Ibid., 427-8.

⁵⁴ Ibid., 429.

However, the differences outweigh the similarities. First, the topics in Ibn al-Naḥḥās’ introduction differ from those in Ibn al-Ḥājj’s, with Ibn al-Naḥḥās focussing on innovation and Ibn al-Ḥājj focussing on knowledge and the role of the scholar. Perhaps surprisingly (Ibn al-Naḥḥās being a Shāfi‘ī and Ibn al-Ḥājj a Mālikī), Ibn al-Naḥḥās’ tract is more similar than Ibn al-Ḥājj’s to the Mālikī al-Qurṭubī’s tract. In addition, in terms of tone, Ibn al-Naḥḥās seemed to lament, to a greater degree, the state of the society around him.

Comparing the introductions to their tracts, Ibn al-Naḥḥās placed more emphasis on innovation than Ibn al-Ḥājj. The *ḥadīth* containing the words, “every new thing is an innovation” is the only *ḥadīth* directly relating to innovation that Ibn al-Ḥājj cited.⁵⁵ Where Ibn al-Naḥḥās cited this *ḥadīth*,⁵⁶ the *isnād* he gave leads back to al-‘Irbād b. Sāriya, as it does in al-Qurṭubī’s tract.⁵⁷ Ibn al-Naḥḥās also cited other *ḥadīths* about innovation common to al-Qurṭubī, including the *ḥadīth* that set *sunna* and *bid‘a* in opposition, and the already mentioned *ḥadīth* reported by Ibn Māja about what God does not accept from an innovator.⁵⁸ The significance of Ibn al-Naḥḥās’ greater number of references to innovation may be that he was more interested in the topic than Ibn al-Ḥājj (despite the title of the latter’s tract), or that Ibn al-Naḥḥās wanted to communicate his interest in a more obvious way. The latter possibility is consistent with the respective audiences I am positing for each tract. After all, it is not uncommon to find, in more

⁵⁵ *Madkhal*, 1(1):69.

⁵⁶ *Tanbīh*, 427-8.

⁵⁷ Fierro 1988, 171 (III,2).

⁵⁸ Compare the translations above with the section about al-Qurṭubī in chapter II.2.

specialist works, topics nested within other topics, at multiple levels. For example, Ibn al-Ḥājj appears to have nested his discussion of individual practices (which takes up most space in his tract) within his concern for knowledge and scholarship (which is prominent in his introduction and reappears regularly, though briefly, thereafter), and within an overall interest in censuring innovations (which appears in his title and rarely otherwise).

Another difference between the introductions to Ibn al-Ḥājj's and Ibn al-Naḥḥās' tracts pertains to legal schools. Ibn al-Ḥājj referred to several Mālikīs, including his teacher, more so than any other *madhhab*. Although Ibn al-Naḥḥās cited several recognised authorities, he did not draw on adherents of any one *madhhab* more than others. Ibn al-Naḥḥās' eclecticism in relation to legal schools, apparent elsewhere in his work, was neither a prominent feature in his introduction nor contradicted by it.

Finally, Ibn al-Ḥājj mentioned the duty of commanding right and forbidding wrong twice in his introduction. In the introduction to the *Tanbīh*, Ibn al-Naḥḥās positioned this duty as relevant to his *Tanbīh* as a whole (especially the first part), but did not mention the duty in the introduction to his anti-innovation tract.⁵⁹ As the research of David Cook has shown, the duty of 'forbidding wrong' was widely discussed and much cited in jurisprudential works of this period. Ibn al-Ḥājj and Ibn al-Naḥḥās perceived the relevance of right and wrong slightly differently, in relation to their tracts. For Ibn al-Ḥājj, it was relevant that the scholar knows that the duty falls primarily on him, whereas for Ibn al-Naḥḥās, the duty deserved a section of its own. These may be minor

⁵⁹ In the body of his anti-innovation tract, Ibn al-Naḥḥās occasionally used terms such as *nahy* 'an, *munkar* and *inkār*, that recall the duty of commanding right and forbidding wrong, in relation to the baker and to selling products in their coverings (*Tanbīh*, 452-3).

differences, but they illustrate a degree of freedom that scholars coming to Egypt in the Mamluk period felt they had when it came to defining and regulating the limits of acceptable behaviour.

Textual strategies and the use of sources in the *Dhikr* as a whole

In this section, I introduce data from the main body of the *Dhikr*, referring mainly (in these cases) to passages that Part V does not include.

In the main body of his *Dhikr*, Ibn al-Naḥḥās cited from sixteen different Qur’ānic verses.⁶⁰ He also quoted from over forty authors, including compilers of canonical *ḥadīths*,⁶¹ al-Shāfi‘ī (d. 204/820),⁶² the *Musnad* of Aḥmad b. Ḥanbal, the *Iḥyā’* of al-Ghazālī (d. 505/1111),⁶³ four of al-Nawawī’s (d. 676/1277) works,⁶⁴ Ibn Taymīya (d. 728/1328) and Ibn Qayyim al-Jawzīya (d. 751/1350),⁶⁵ and the following (other) writers of anti-innovation tracts: al-Qurṭūbī (d. 287/900),⁶⁶ al-Ṭurṭūshī (d. 520/1126),⁶⁷

⁶⁰ These verses are 2:190, 3:31, 5:87, 5:90, 6:141, 7:31, 7:186, 13:33, 32:1, 39:23, 39:67, 50:18, 58:22, 76:1 and 99:7-8, which appear in only twenty-seven pages of edited text (*Tanbīh*, 500-26).

⁶¹ Among the many references that Ibn al-Naḥḥās made to such compilers are al-Bukhārī (*Tanbīh*, 517), Muslim b. al-Ḥajjāj (ibid., 436) and al-Tirmidhī and Abū Dāwud (ibid., 512).

⁶² See, for example, *Tanbīh*, 427. Ibn al-Naḥḥās also quoted from al-Shāfi‘ī’s *Kitāb al-Umm*, without naming the work.

⁶³ *Tanbīh*, 435, 460, 463-4, 472-3 and 477. Ibn al-Naḥḥās did not copy passages from al-Ghazālī wholesale. Michael Cook argues that the *Tanbīh* owes its general structural conception to Ghazālī (2000, 354n118 and 442-5). However, Ibn al-Naḥḥās relied on al-Ghazālī less in the anti-innovation tract part of that work, and Cook also notes that much of the material within the work is Ibn al-Naḥḥās’ own (ibid.).

⁶⁴ Ibn al-Naḥḥās named these four works as “*al-Rawḍa*” (*Rawḍat al-ṭālibīn*), “*Sharḥ al-maḥdhab* [sic]” (this vocalisation is a mistake for “*al-muḥadhdhab*”), “*al-Adhkār*” (*al-Adhkār al-muntakhaba min kalām sayyid al-abrār*) and “*al-Tibyān*” (*al-Tibyān fī ādāb ḥamalāt al-Qur’ān* - see *Tanbīh*, 443).

⁶⁵ *Tanbīh*, 520-1.

⁶⁶ Ibid., 435, 464, 509 and 530.

⁶⁷ Ibid., 439 and 496.

Abū Shāma (d. 665/1268),⁶⁸ and Ibn al-Ḥājj (d. 737/1336).⁶⁹ One does not get the impression that Ibn al-Naḥḥās used material from earlier sources without acknowledgement. Ibn al-Naḥḥās did not just quote other views, but sometimes evaluated them. An example of this is that, after quoting al-Ghazālī's view on a detested act, he cited Ibn al-Ḥājj's comment on the (lack of) sources for it and then offered his own opinion.⁷⁰ In terms of time periods, there are two striking gaps in this list, two centuries between the death dates of al-Qurṭūbī and al-Ghazālī and one and a half centuries between the death dates of al-Ṭurṭūshī and Abū Shāma. In two respects, the range of these citations differs from the range seen in Ibn al-Naḥḥās' work on *jihād*, the *Mashāri'*, in which Ibn al-Naḥḥās relied more on the views of Shāfi'īs and in which the two striking gaps just noted are not present.⁷¹ Apparently Ibn al-Naḥḥās viewed his duty, at least in part, as shaping and engaging with what had been written before. He seemed interested in writers of all *madhhabs* - in particular, from what we have seen so far, the Mālikī and Shāfi'ī *madhhabs*, especially those who lived in the century and a half immediately before him, those scholars who lived in the formative period of Islam and authors of anti-innovation tracts.

In *Dhikr*, Ibn al-Naḥḥās quoted from Ibn al-Ḥājj at length on four occasions, regarding mosque building, the call to prayer (*adhān*), erecting buildings near burial

⁶⁸ Ibid., 523.

⁶⁹ Ibid., 432, 433, 435, 464, 482, 486, 495, 498-500 and 510.

⁷⁰ Ibid., 435. For another example, see the extended quotation about a festival in Rabī'a I, followed by Ibn al-Naḥḥās' own opinion (*Tanbīh*, 499).

⁷¹ See discussion in Chapter III.2.

places, and beautifying the dead.⁷² None of these quotations exceeds ten lines in the edition. Ibn al-Naḥḥās named Ibn al-Ḥājj in all these cases as one of his sources, and also named the *Madkhal* in his passage about burial places.

Another illustration of Ibn al-Naḥḥās’ use of sources concerns festivals. Ibn al-Naḥḥās gave most space in his tract to the *mawlid* and the *mi‘rāj* festivals,⁷³ and, although he cited Ibn al-Ḥājj extensively in relation to other festivals, he did not do so for these two.⁷⁴ We may understand this by noting that, although already significant during Ibn al-Ḥājj’s time, celebration of and participation in the *mawlid* grew in popularity during the eighth/fourteenth century.⁷⁵ However, one should exercise caution in making similar claims in relation to the *mi‘rāj*, given the lack of available evidence.⁷⁶

In his section on marriage, which includes eighteen separate issues, Ibn al-Naḥḥās named various innovations relating to the use of silk towels, silver bottles and the like at weddings.⁷⁷ Here, he classified issues using the term *minhā*,⁷⁸ and, within most issues, stated that the observed activity was innovative and should be disavowed, and exhorted his audience to take action. The words *bid‘a* and/or *muḥdatha* frequently appear in this

⁷² *Tanbīh*, 432, 435, 482 and 486.

⁷³ *Ibid.*, 497-500.

⁷⁴ See *Ibid.*, 495 in relation to the *Rabī‘a I* festival.

⁷⁵ Fuchs and de Jong 1991, 895-6. The examples Shoshan gives tend to this conclusion also (1993, 16-7).

⁷⁶ Colby 2005, 42.

⁷⁷ Material in this paragraph from Ibn al-Naḥḥās’ writings is in *Tanbīh*, 472-80.

⁷⁸ *Minhā* literally means “among them”. In context, it carries the sense of “among the innovations to be censured”.

section, qualified with such words as *shanī'a* (repulsive), *muḥarrama* or *makrūha*. This discussion highlights Ibn al-Naḥḥās' preference to name and discuss individual transgressions, which stands in contrast to Ibn al-Ḥājj's preference to categorise. In his tract, Ibn al-Naḥḥās also addressed topics briefly, relative to Ibn al-Ḥājj. For example, Ibn al-Naḥḥās' section on the markets and the streets is over ten times shorter and much less detailed than Ibn al-Ḥājj's.⁷⁹

Separately, Ibn al-Naḥḥās occasionally discussed issues that were not clearly related to the main practice at hand. For example, when discussing impurities arising through butchers using knives and cooking pots, he included a section on prayer and fasting in which he condemned the practice of not washing food from one's mouth before prayer or fasting.⁸⁰ He concluded the discussion by referring back to the impurities and exhorting readers to act to prevent butchers mixing flayed meat with prepared meat.⁸¹ His train of thought appeared to focus at this point on impurities related to food, even though the section was about butchers.⁸² This supports my above observation about Ibn al-Naḥḥās' tendency to include innovations that do not appear relevant to the category in which they are placed, rather than to include only innovations that are relevant to the given category.

⁷⁹ For example, compare each author's treatment of the miller and brokering wheat, in *Madkhal*, 2(2): 141-51 and *Tanbīh*, 455.

⁸⁰ *Ibid.*, 449.

⁸¹ *Ibid.*

⁸² *Hisba* manuals tended to be more focussed on one topic at a time (Buckley 1999, 47-8 and 52-3, and Ibn Bassām, *Nihāya*, 21-3 and 34-6)

Finally, as other authors of anti-innovation tracts did, Ibn al-Naḥḥās frequently denounced instances whereby Muslims imitated the practices of Jews and Christians.⁸ This is an example of Ibn al-Naḥḥās seeking to articulate (or set) boundaries between his own community and those of others, in a similar way to Ibn al-Ḥājj.⁸⁴

IV.2.c.iv. References to legal schools

In this section, I explore how Ibn al-Naḥḥās viewed his and others' *madhhabs*. This provides a bridge to the following discussion of Ibn al-Naḥḥās' intention in writing and potential audiences, via my argument that Ibn al-Naḥḥās took an eclectic, if not syncretistic, view of the authority of legal schools. In his tract, Ibn al-Naḥḥās made seven references to the Mālikī *madhhab* and eleven references to the Shāfi'ī *madhhab*, numbers which dwarf the amount of his references to the Ḥanafī and Ḥanbalī *madhhabs*. (In one of his few references to the Ḥanafī *madhhab*, Ibn al-Naḥḥās cited approvingly Zāhir al-Dīn's report - in his *Fatāwā* - that a Ḥanafī had spoken against asking questions in the mosque.⁸⁵)

In addition to the fact - noted in Chapter III.2 - that Ibn al-Naḥḥās operated among networks of scholars predominantly comprised of Shāfi'īs, we may see from his *Dhikr* several ways in which Ibn al-Naḥḥās identified himself with the Shāfi'ī *madhhab*. When discussing the innovation of uneducated people (*juhḥāl*) reading some of the *sajdas* of the Qur'ān at various times, he cited al-Nawawī and then immediately referred to 'our

⁸³ *Tanbīh*, 529.

⁸⁴ See discussion in Chapter IV.1 about Ibn al-Ḥājj's use of creeds.

⁸⁵ *Tanbīh*, 438. Of Ibn al-Naḥḥās' two other references in *Dhikr* to Ḥanafīs, I discuss one in Chapter IV. 2. The other relates to confusion over the purpose of a slaughter on *'Īd al-Aḍḥā* (*Tanbīh*, 493).

scholars' (*'ulamā' unā*), which, in this context, refers to Shāfi'ī scholars.⁸⁶ In another passage, Ibn al-Naḥḥās discussed the practice of a woman having sexual intercourse with her husband before her monthly cycle is complete. Here, Ibn al-Naḥḥās cited only the Shāfi'ī view that this practice was innovative.⁸⁷ Finally, when discussing the views of different *madhhabs* as to the purity or otherwise of bread cooked over dung, Ibn al-Naḥḥās observed that the “incurable malady” of not adhering to the Shāfi'ī view was common practice in Egypt.⁸⁸

However, four factors lead me to conclude that Ibn al-Naḥḥās was open to the views of other *madhhabs* about the issues he discussed, especially the Mālikī *madhhab*. First, negatively, in his introduction to *Dhikr*, other than his reference to Ibn 'Abd al-Salām's fivefold categorisation of *bid'a*, Ibn al-Naḥḥās did not refer to any Shāfi'īs.⁸⁹ Linked to this, Ibn al-Naḥḥās then proceeded, in his tract, hardly to discuss the non-negative forms of innovation (permitted, recommended and obligatory) at all. This is a trait more associated with Mālikīs and Ḥanbalīs.⁹⁰

The second factor is that, in a long section immediately following his introduction to *Dhikr*, Ibn al-Naḥḥās referred to and quoted Mālikī scholars approvingly. In his section on innovations in and around mosques, Ibn al-Naḥḥās cited Mālikī scholars, including Ibn al-Ḥājj, at length and made no reference to other *madhhabs*. For example, Ibn al-

⁸⁶ *Tanbīh*, 443. But see the discussion, below, about 'our scholars' including the Ḥanbalīs also in one case.

⁸⁷ *Tanbīh*, 503.

⁸⁸ *Tanbīh*, 451-2.

⁸⁹ See the above discussion about sources, in the section on approaches and textual strategies.

⁹⁰ Ukeles 2006, xi.

Nahḥās' discussion of *buyūt* (private spaces erected in the grounds of mosques) includes large sections that are almost identical to what Ibn al-Ḥājj wrote on the topic, discussed in Chapter III.2. Ibn al-Nahḥās began by stating that this innovation is not permitted, in part because of what users of *buyūt* did when there, such as spitting, eating odorous foods including garlic and onion, and deliberately breaking wind loudly.⁹¹ Next, he related a story wherein Ibn Bint al-A'azz removed *buyūt* from a mosque in Miṣr.⁹² Ibn al-Nahḥās then wrote that, according to the Mālikī *madhhab*, prayers in *buyūt* are not sound, for the same reason that prayers in the *bayt al-qanādīl* are not sound, namely that only certain people are allowed to be present in these areas of the mosque.⁹³ Ibn al-Nahḥās gave his source as Ibn al-Ḥājj and then quoted directly from the *Madkhal* in support of his (Ibn al-Nahḥās') point.⁹⁴ In the pages that follow, Ibn al-Nahḥās cited the views of Mālik b. Anas, Ibn al-Qāsim,⁹⁵ and Ibn al-Ḥājj in rejecting the innovations of having similar *buyūt* in *waqfs*, of carrying people into mosques on cushions, and of hanging posters of the moon on mosque walls.⁹⁶ Although, logically speaking, Ibn al-Nahḥās' view derived from the facts that the above practices were not permitted within a mosque, and that the *buyūt* were within mosques, in terms of jurisprudential authority in these contexts, Ibn al-

⁹¹ *Tanbīh*, 431.

⁹² *Ibid.*, 431-2. Ibn Bint al-A'azz was *muḥtasib* and, later, a Shāfi'ī chief judge under sultan Baybars in the seventh/thirteenth century - see Jackson 1996, 142-3 and Berkey 2004, 253. The *Madkhal* contains this story, identical almost to the word (1[2]:181).

⁹³ *Ibid.*, 432.

⁹⁴ *Ibid.*

⁹⁵ 'Abd al-Raḥmān b. al-Qāsim (d. 191/806), a disciple of Mālik.

⁹⁶ *Tanbīh*, 432-3. Only a few pages later, another example of the same point occurs, where Ibn al-Nahḥās then referred to the Mālikī jurist Abū Marwān b. Ḥabīb al-Sulamī (d. 238/853, discussed in Chapter III.1).

Naḥḥās was repeatedly turning to the Mālikī *madhhab*. This emphasis on the Mālikī *madhhab* may have to do with the sources Ibn al-Naḥḥās used. However, this possibility does not negate my main point, further justified below, that Ibn al-Naḥḥās was open to the views of several *madhhabs*, not just the Mālikī one.

The third factor that leads me to conclude that Ibn al-Naḥḥās took what I am calling an eclectic view of the authority of legal schools is that, in five different contexts, Ibn al-Naḥḥās juxtaposed the Mālikī and Shāfi'ī positions. The first of these five examples relates to the practice of building mosques using dirty bricks. Ibn al-Naḥḥās wrote that the “*madhhab* [pronounced it] allowable, although hated” (*wa-al-madhhab tajwīzuhu ma'a al-karāha*)⁹⁷, and cited the *qāḍī* Abū al-Ṭayyib, who I think refers to the Ash'arī theologian and Mālikī jurist al-Bāqillānī (d. 403/1013).⁹⁸ Ibn al-Naḥḥās then quoted al-Shāfi'ī with approval immediately after this.⁹⁹ A second example concerns practices related to performing the *ḥajj*, including pressing on too quickly at 'Arafa or al-Muzdalifa during the *ḥajj* journey,¹⁰⁰ and staying at Minā until the fourth day after arrival, in order to hunt.¹⁰¹ Ibn al-Naḥḥās noted commonalities between the views of al-Shāfi'ī, Mālik and others of their *madhhabs*, about these practices.¹⁰² A third example relates to tombs, where Ibn al-Naḥḥās cited a work written by the Mālikī Ibn Bashīr (Bushayr?) as a

⁹⁷ Ibid., 434.

⁹⁸ McCarthy 1960, 958.

⁹⁹ *Tanbīh*, 434. Cf “our school” a few lines further down the same page, which probably here refers to the Shāfi'ī *madhhab*.

¹⁰⁰ Ibid., 469.

¹⁰¹ Ibid., 470.

¹⁰² Ibid., 469-70.

source for viewing the practice of erecting buildings on tombs as a hated innovation, before citing al-Nawawī as a source for why writing on tombs was also a hated innovation.¹⁰³ Fourth, Ibn al-Naḥḥās noted the agreement between al-Shāfi‘ī and the Mālikī *madhhab* that eating clay is *ḥarām*.¹⁰⁴ Fifth, in condemning the practice of accepting honorific titles, Ibn al-Naḥḥās cited Ibn al-Ḥājj’s reliance on the Shāfi‘ī al-Nawawī.¹⁰⁵ Together, these five examples constitute the third factor that leads me to think Ibn al-Naḥḥās was open to the views of other *madhhabs*, and in these cases wanted to illuminate common ground between the Shāfi‘ī and Mālikī schools.

Fourth, Ibn al-Naḥḥās looked beyond the Shāfi‘ī and Mālikī *madhhabs* in relation to the doubly macabre situation where an individual who was digging a new grave found a corpse already there.¹⁰⁶ Ibn al-Naḥḥās commented that al-Shāfi‘ī viewed it as permissible to put the corpse at the side of the grave and bury both together, and that the Rifā‘īya (a *ṭarīqa* that spread into Egypt in the mid seventh/thirteenth century) agreed.¹⁰⁷ This is a curious statement. A Sufī order is not a legal school, and Ibn al-Naḥḥās seems to have referred to their practice as an important authority about right and wrong. In conjunction with my brief discussion, in Chapter IV.1, about Ibn al-Ḥājj’s *Madkhal* and

¹⁰³ Ibid., 483. Ibn al-Naḥḥās did not name the work, and I have been unable to identify this Mālikī, with any degree of certainty.

¹⁰⁴ Ibid., 506.

¹⁰⁵ Ibid., 510.

¹⁰⁶ Ibid., 484.

¹⁰⁷ Ibid., 484 and Trimmingham 1971, 37-40. This study does not address the relationships between Sufi groups and legal practices at the time. This would be a fruitful area of research in relation to anti-innovation tracts. See *Tanbīh*, 490, for another similar example, in relation to transferring corpses between towns.

Sufism, a picture is emerging of close connections between Sufi activities and discussions of innovation in the Mamluk period.

In relation to visiting tombs, Ibn al-Naḥḥās may even have wanted to undermine the Shāfi'ī position, albeit subtly. Condemning innovations relating to women visiting tombs, he went on to note that, “for Shāfi'īs, there are three views as to its permissibility”, but Ibn al-Naḥḥās took the view that such visiting was impermissible, and did not list the three Shāfi'ī views.¹⁰⁸ If some Shāfi'īs judged that practices relating to women visiting tombs were permissible, we may take Ibn al-Naḥḥās' comments - together with his openness to the opinions of other *madhhabs* - to constitute a challenge to those who held to certain Shāfi'ī positions.

As I noted above, this openness is not something that is immediately apparent upon reading the introduction, either to the *Tanbīh* or to the *Dhikr*. At no point did Ibn al-Naḥḥās state that his intent was to comment on or subvert an understanding of *madhhab*. I am not arguing that Ibn al-Naḥḥās was unprecedented in his reliance on viewpoints of other *madhhabs*. For example, the Ḥanafī al-Zaylā'ī occasionally relied on the Shāfi'ī view in his *Tabyīn*.¹⁰⁹ However, Ibn al-Naḥḥās' openness to the views of other *madhhabs* is striking, different from other anti-innovation tracts and - as we will see in Part V - selective. Whatever loyalty to the Shāfi'ī *madhhab* (to recall Calder's phrase) meant for Ibn al-Naḥḥās, it was a broadly defined type of loyalty. In Chapter V.2, I discuss this

¹⁰⁸ *Tanbīh*, 491.

¹⁰⁹ See discussion and references in Chapter II.1.

further, in the light of Fierro's argument that early Shāfi'ī examples of anti-innovation tracts were indebted to the Mālikī tradition.

The fact of Ibn al-Naḥḥās' own change of *maddhab* adds another dimension to this, especially in the context of the significant transitions in Mamluk lands that occurred during the middle decades of the eighth/fourteenth century.¹¹⁰ These social, demographic and political transitions cannot have failed to influence Ibn al-Naḥḥās, who arrived in northern Egypt at the start of the ninth/fifteenth century. Therefore, instead of his confessional eclecticism being an obscurity, I argue that this feature of how this Muslim scholar sought to regulate behaviour and define himself in relation to others, makes sense when understood fully in its historical context. In a turbulent climate, Ibn al-Naḥḥās creatively drew on his experience of *madhhabs* to prescribe action in relation to tradition and innovation.

Whatever Ibn al-Naḥḥās' change from the Ḥanafī to the Shāfi'ī school meant to him, it did not mean - as such 'conversions' sometimes do - wholesale rejection of the former and wholesale embrace of the latter. Whether through personal allegiance, or connections through scholarly and other networks, this jurist who settled in northern Egypt in the late eight/fourteenth to the early ninth/fifteenth century was one who was open to and had contact with all four Sunni *madhhabs*. These conclusions are in line with and extend the scholarship that exists on Ibn al-Naḥḥās. Michael Cook implies that Ibn al-Naḥḥās had looser links to Shāfi'ism than other jurists, noting that, unlike Zayn al-Dīn al-Ṣāliḥī (d. 856/1452), "[Ibn al-Naḥḥās'] sources are by no means exclusively

¹¹⁰ See discussion in Parts I and II, above.

Shāfi‘ite”.¹¹¹ The above discussion also leaves the way open for my argument, in Chapter IV.2, that Ibn al-Naḥḥās approved of the views of Ḥanbalīs on certain issues.

This section has identified several aspects of how Ibn al-Naḥḥās sought to define himself and regulate others’ behaviour. Two questions remain, which the next sections explore: why, and in relation to whom?

IV.2.c.v. Aims

In what follows, I describe Ibn al-Naḥḥās’ aims, as they are apparent from the introductions to his *Tanbīh* and *Dhikr*, and assess the extent to which these are reflected in the *Dhikr*. In *Tanbīh*, Ibn al-Naḥḥās indicated that his comments on innovation were in a category of their own. In the introduction to, and main body of, his *Dhikr*, this aim was met. Ibn al-Naḥḥās added, in the *Dhikr*’s introduction, that his work would address hated and forbidden innovations, something which he indeed addressed in the body of his work.

Ibn al-Naḥḥās also claimed to describe innovations that were happening around him, namely innovations that “*occur in our country* [wuqū‘an fī bilādinā], *that one might be guided by what I do mention and do not mention*”.¹¹² Ibn al-Naḥḥās referred to having

¹¹¹ 2000, 354.

¹¹² *Tanbīh*, 429-30. See also the following phrases, from the above translation of the *Tanbīh*’s introduction: “*ways of avoiding it had become numerous ... no-one spoke out ... trouble and terrible sins became widespread*” (ibid.).

travelled around the towns of Damietta and Barallus (a small region in the Nile delta, near Alexandria) and in “many regions in Egypt (*miṣr*)”.¹¹³

Overall, Ibn al-Naḥḥās intended to write a standalone tract about hated and forbidden innovations that people would recognise. These aims are recognisable from the introduction to his *Tanbīh*, even if he did not mention the terms ‘hated and forbidden’ there.

IV.2.c.vi. Audience and genre

Ibn al-Naḥḥās primarily had capable Arabic speakers in view, as that was the language of composition of the tract. We should draw upon the geographical clue, noted earlier, that Ibn al-Naḥḥās provided when contrasting what one cannot count (innovations from country to country) with what he mentions most (innovations in our country).¹¹⁴ That is, Ibn al-Naḥḥās intended his tract to be relevant primarily within Mamluk lands. As a jurist operating among scholarly networks, Ibn al-Naḥḥās could have written his work primarily aimed at scholars like Ibn al-Ḥājj. But it seems that he chose not to, and that his audience was wider.

Ibn al-Naḥḥās’ introduction (as well as his tract as a whole) was much more direct and less detailed than Ibn al-Ḥājj’s, features that would appeal to less formally educated groups. Against this view, Ibn al-Naḥḥās’ citation of the *ḥadīth*, “*How lovely is the*

¹¹³ *Tanbīh*, 474 and Yāqūt, *Buldān*, 1:593. Another similar example occurs in Ibn al-Naḥḥās’ discussion of innovations in and around *ḥammāms*: “this is a matter for men, more for women, and especially in Egyptian lands” (*Tanbīh*, 464). *Miṣr* was among the few geographical references in Ibn al-Naḥḥās’ passages on the markets and the streets (see also *Tanbīh*, 452, 455 and 458-9). Other such specific references included the mosques of ‘Amr b. al-‘Āṣ, al-Azhar, al-Ḥākīm, and al-Aqsā, or Mecca, Medina and Jerusalem (*Tanbīh*, 431, 466-7 and 490).

¹¹⁴ *Tanbīh*, 429.

devotion to me of my servant who gives counsel (al-naṣḥ)”,¹¹⁵ and reflected in detail on the different types of innovation. Surely scholars, more than others, give counsel, and would be interested in categorisations of innovation? However, by referring to districts, regions and countries, and mentioning “everyone” and “most people”, Ibn al-Naḥḥās appears not to have wanted to exclude non-specialists. This argument is further supported by Ibn al-Naḥḥās’ inclusion of several easy to follow examples of each type of innovation. In addition, an example pertaining to the lack of detailed legal analysis is that, in the introduction to his tract, Ibn al-Naḥḥās stated that *bid’a ḥasana* is what is in agreement with legal maxims (*qawā’id al-sharī’a*) and that *bid’a mubāḥa* is that which is permitted, being neither forbidden nor recommended.¹¹⁶ However, other than a reference to the maxims (*qawā’id*) of *fiqh*,¹¹⁷ Ibn al-Naḥḥās did not define *sharī’a*. Set against this, Ibn al-Naḥḥās’ discussion of the cooking of bread over dung and weighing bread is rare in its attention to detail.

At this point in the discussion of audience, it is important to discuss Ibn al-Naḥḥās’ statement that he wrote the *Tanbīh* to guide “*people like me*”.¹¹⁸ This phrase could mean many things. Was Ibn al-Naḥḥās setting himself up as an example for others to follow? Was it a guide for Shāfi‘ī jurists only, or Syrians only? I think it most likely that Ibn al-Naḥḥās was communicating that he was no different from anyone else. Later in his anti-

¹¹⁵ *Tanbīh*, 16.

¹¹⁶ *Tanbīh*, 428-9. Examples of *bid’a ḥasana* included building a new quarter in a town and building a school, and examples of *bid’a mubāḥa* included allowing oneself plenty of food or clothing (ibid.). As noted above, this brief passage was the only place in Ibn al-Ḥājj’s or Ibn al-Naḥḥās’ tract where either author mentioned permitted innovation.

¹¹⁷ Ibid., 429.

¹¹⁸ *Tanbīh*, 17.

innovation tract, Ibn al-Naḥḥās also cited *ḥadīths* that criticised those who overly praised sultans or those who accepted long honorific titles.¹¹⁹ This was part of the way in which Ibn al-Naḥḥās sought to legitimise himself in the eyes of others. Even if he had the education of an *‘ālim* and *faqīh*, Ibn al-Naḥḥās was - after all - just someone else who “asks God for help”.

What do the above introductions imply about the genre of Ibn al-Naḥḥās’ tract? For similar reasons to those given in the previous chapter, Ibn al-Naḥḥās’ tract is a work of *furū‘*, separate from *mukhtaṣars*, *mabsūṭs*, juristic commentaries on *ḥadīths*, and *fatāwā* literature. In a similar way to previous prose tracts, the jurist Ibn al-Naḥḥās aimed to address the single issue of innovation, in a variety of contexts, prescriptively, and by using a broader approach than the bilateral question-answer format of *fatwās*. The introduction to Ibn al-Naḥḥās’ tract has several elements that also mark it out as being prescriptive, including phrases such as “*You ought to know*”, and the fact that its subject matter is actions and innovations that are termed reprehensible.

IV.2.d. Conclusions

My argument in this chapter is multifaceted and supports my broader argument about flexibility in forms of legal thought in the Later Middle Period. This conclusion is based on three levels of evidence. Starting with Ibn al-Naḥḥās’ *Dhikr*, in this chapter I have

¹¹⁹ *Tanbīh*, 509-10. Prophetic practice was important to Ibn al-Naḥḥās throughout the *Tanbīh*. One of the chapters in the part of the *Tanbīh* that is separate to the *Dhikr* is entitled “What the prophet forbade”.

shown that this work is a prescriptive work of positive law that focusses on blameworthy innovations. There is little evidence here that this anti-innovation tract may be used to reconstruct particular legal and social practices in Manzala or its environs in the early ninth/fifteenth century, even if we may say that - in general - the practices being discussed had probably indeed occurred at some time, and in some locations, and in some likelihood in locations that Ibn al-Naḥḥās had visited in person.

Ibn al-Naḥḥās' authorial intent seems consistent across the two introductions (to his *Tanbīh* and his *Dhikr*). These introductions contain no reflection on the nature of scholarship or knowledge, and we may recognise from both a desire to appeal directly to a broad audience.

Widely read, Ibn al-Naḥḥās was a confessional eclectic (within Sunni Islam) who, in addition to his own Shāfi'ī *madhhab*, approved on many occasions of the Mālikī school.¹²⁰ This feature of his writing is not apparent in his introductions to the *Tanbīh* or the *Dhikr*. It is difficult to know what to make of this. Perhaps Ibn al-Naḥḥās deliberately hid this eclecticism, afraid of the repercussions it might cause. Or perhaps he relied on the views of other *madhhabs* on a case by case basis, purely pragmatically. In Calderian terms, this could be said to be an expansion of the space between revelation and law, since Ibn al-Naḥḥās widened (perhaps along with others) the ways in which one could understand the interplay between the interpretations of different schools. Certainly, in this text and context, Ibn al-Naḥḥās was not reflective about his own method and his own definition of (loyalty to) his *madhhab*.

¹²⁰ This point draws on passages from the body of the *Dhikr*. In Chapter V.2, I will develop it further in relation to the Ḥanbalī *madhhab*, by discussing examples relating to intention and ablutions.

By contrast with Ibn al-Ḥājj, it is striking that we know nothing specific about who Ibn al-Naḥḥās studied with, or who his teachers were. Perhaps the reason we do not know about Ibn al-Naḥḥās' scholarly heritage has to do with his displacement from Syria to Egypt. Nevertheless, this jurist cited few sources of authority relative to the amount of innovations he mentions, preferring simply to state that a practice is wrong, or hated, or forbidden.

Moving to a comparison of the *Madkhal* and the *Dhikr*, a major contribution of Chapters IV.1 and IV.2 has been their illumination of similarities and differences between Ibn al-Ḥājj's and Ibn al-Naḥḥās' tracts. Among the similarities are the facts that, although neither author set completely new trends within the sub-genre, Ibn al-Ḥājj covered the broadest range of topics of any author of an anti-innovation tract, and Ibn al-Naḥḥās discussed the vast majority of these topics. There is also little of al-Shāṭibī's theoretical treatment of *bid'a* in Ibn al-Naḥḥās' tract. Neither Ibn al-Naḥḥās nor Ibn al-Ḥājj argued explicitly for the infallibility of Muḥammad's Companions and Successors (after the fashion of, for example, the seventh/thirteenth-century scholar al-Idrīsī);¹²¹ however, when they did refer to these individuals, both jurists referred exclusively to praiseworthy things that they did. In Chapter II.1, I quoted Johansen's observation that new solutions existed in forms of legal writing in a variety of literary genres. Alone among authors of anti-innovation tracts, Ibn al-Ḥājj and Ibn al-Naḥḥās discussed innovations in the markets and the streets. This was a form of self-regulation that was not otherwise seen in this

¹²¹ Haarmann 1980, 61.

genre. Finally, neither Ibn al-Ḥājj nor Ibn al-Naḥḥās held official appointments as judges or in a *madrasa*, and there is an informality to the way in which both authors chose to influence others.

These two tracts also display significant differences. The importance that Ibn al-Ḥājj attached to intention and knowledge is not reflected in Ibn al-Naḥḥās' work. In terms of contents, Ibn al-Ḥājj gave much more space than Ibn al-Naḥḥās to most topics, and Ibn al-Naḥḥās' confessional eclecticism contrasts with Ibn al-Ḥājj's univocal Mālikī focus. The *Dhikr* also does not contain obvious attacks against and advice for scholars, unlike Ibn al-Ḥājj's tract. Ibn al-Naḥḥās' tract was aimed at a less scholarly audience than Ibn al-Ḥājj's (evidenced by his style and references to 'most people' and 'people like me'). Overall, the *Dhikr* has a distinct profile from the *Madkhal* and is not directly derivative from it. The two tracts show how, in different ways, Ibn al-Ḥājj and Ibn al-Naḥḥās were seeking to define themselves and regulate others' behaviour.

The third level at which this conclusion functions is in relation to anti-innovation tracts as a whole, taking the findings of this Chapter together with those of Chapters II.2 and IV.1. Anti-innovation tracts had much in common with other legal literature, being prescriptive jurisprudential works addressed to Muslims, in a distinct sub-genre of positive law. Defining features of such tracts included viewing innovations as blameworthy (for the most part), discussing innovations relating to funerals (and other aspects of dealing with

¹²² The exception to this point is al-Shāṭibī's *I'tiṣām*. Also, strictly speaking this point applies to Ibn al-Jawzī's collection of tracts, not to each individual one.

death), festivals, special days and months, and women,¹²² and claiming support for such views from the practice of Muḥammad and the *salaf*.

This chapter has also shown that we may identify several distinct types of tract, such as comprehensive ones (as in the *Madkhal*), exhortative ones (as in the relatively brief *Dhikr* or the relatively long *Iqtidā'*), and theoretical ones (as in the *I'tiṣām*). Beyond this, however, relatively little of significance may be said, at the general level, about differences between anti-innovation tracts during the period covered in these chapters. For example, I have noted some widening of categories included in anti-innovation tracts (commerce made a first appearance in the eighth/fourteenth century), but such isolated examples do not point to a larger trend.¹²³

Parts II to IV of this study have set Ibn al-Ḥājj and Ibn al-Naḥḥās in their social and intellectual historical contexts, and explored their authorial intent. The aim of this investigation as a whole is to test my hypotheses about self-regulation and definition, genre, reconstructing social practices, and audience. It is with this in mind that we turn, in Part V, to some more lengthy selections of passages on similar topics, written by Ibn al-Ḥājj and Ibn al-Naḥḥās in their tracts.

¹²³ In this context, Boaz Shoshan plots development from Ibn Taymīya (d. 728/1328) to Ibn Ḥajar al-ʿAsqalānī and al-Suyūfī (d. 911/1505) in terms of views on *ziyāra* and the cult of the dead (Shoshan 1993, 68-9).

Part V

**Case studies comparing passages
in Ibn al-Ḥājj's and Ibn al-Naḥḥās'
anti-innovation tracts
(the *Madkhal* and the *Dhikr*)**

Chapter V.1.

Bakers, butchers and money changers

V.1.a. Introduction

In this chapter, I discuss and compare Ibn al-Ḥājj's and Ibn al-Naḥḥās' comments on innovations connected with the baker, butcher and money changer.¹ Such comparisons will enable us to explore in more detail the actual contents of their works, including their concerns and the textual strategies they used, and to test this against their stated intent. Ibn al-Ḥājj was a Mālikī of Maghribī origin, and probably wrote in the early eighth/fourteenth century, either in the Maghrib or in Egypt where he settled; Ibn al-Naḥḥās was a Damascene Ḥanafī turned Shāfi'ī who wrote in the early ninth/fifteenth century in Northern Egypt. Focussing in on two authors with seemingly few similarities, by selecting a narrow topic, also opens up the possibility of comparison across time and legal affiliation, which in turn allows exploration of whether and how thinking about

¹ The Introduction contains a discussion of why these professions were selected for investigation in this Chapter.

innovation was developing in the works of two of the few (altogether only seven) authors of anti-innovation tracts in the Mamluk period.

The body of the chapter is arranged in three main parts. The first part presents selected translations. The two case study chapters (V.1 and V.2) contain translations for Ibn al-Ḥājj that are, in total, 2.5 times longer than those for Ibn al-Naḥḥās. In the Introduction to this study, I explained why such a difference is appropriate, given the length and nature of their respective tracts. The longest continuous translation that I provide from the main body of Ibn al-Ḥājj's *Madkhal* relates to the baker, and is presented in this chapter. The longest continuous translation from the main body of Ibn al-Naḥḥās' *Dhikr* relates to performing ablutions, and is presented in Chapter V.2. In Chapters V.1 and V.2, where I present longer translations, passages to be discussed in more detail are shown in bold.

The second part addresses the contents of these passages, including which authorities they appeal to, how they use the concepts of knowledge and action (important in different ways to both authors), the authors' allegiance to *madhhabs*, and the tracts' similarities to and differences from *ḥisba* manuals. The final part of this chapter explores the aims and audience of Ibn al-Ḥājj's and Ibn al-Naḥḥās' tracts, based on these passages, and the question of reconstructing social and legal practices from them.

Before turning to the translations themselves, a few words about my decision to refer to *ḥisba* manuals in this chapter are in order. Biographical dictionaries, material culture and chronicles provide good information about trade and merchants. However, for the most

part, the concerns of these sources relate only indirectly to the issues considered here. Biographical dictionaries such as al-Sakhāwī's *al-Daw' al-lāmi'* and Ibn Taghrī Birdī's *al-Manhal al-Ṣāfi* focus on 'ulamā' or court notables, who had some connection with traders (for example, an 'ālim who had a parent who had succeeded in a trade) rather than on merchants themselves.² As Carl Petry stated, "Merchants who built their careers primarily around commerce were not included in the dictionaries ... [which] cannot be viewed as accurate for the entire mercantile class of Egypt during this period".³ The seven trades that Ibn al-Ḥājj and Ibn al-Naḥḥās both discussed do not feature among the 260 that Petry listed.⁴ Marcus Milwright's *An Introduction to Islamic archaeology* is a good example of the contribution of material culture to our understanding of markets, including discussions of products such as glazed wares that were traded in markets in Mamluk Damascus, Cairo and Alexandria.⁵ The main contribution of chronicles and archival data is in relation to international trade or large-scale restoration projects,⁶ commodity price levels,⁷ and disputes that resulted in popular unrest.⁸ Otherwise,

² Petry 1993a, 6.

³ Petry 1981, 242 and 244.

⁴ Ibid., 370-1. Among other things, Petry's analysis aimed to specify the nature of the link between scholars and traders, as reflected in two biographical dictionaries, *al-Daw' al-lāmi'* by al-Sakhāwī (d. 902/1497) and *al-Manhal al-ṣāfi* by Ibn Taghrī Birdī (d. 874/1470).

⁵ Milwright 2010, 162-8.

⁶ In relation to the last four decades of the Mamluk period, see Petry 1994, 114-5 and 129n53.

⁷ Petry 1994, 103. More generally, see Petry's list of chronicles containing economic data relating to the Mamluk period (ibid., 120-1).

⁸ See, for example, Carl Petry's comments about riots in 876/1471 over the steep cost of bread, with the sultan having to intervene to set prices (1994, 104). See also Adel Allouche's references to al-Maqrīzī's (d. 845/1442) critique of Circassian Mamluk monetary policy (1994, ix).

chronicles alluded to practices in markets quite infrequently and without many specifics, apart from the occasional discussion about who held the title of market inspector.⁹

By contrast with biographical dictionaries, which I have used predominantly for reference purposes, the *hisba* manual is an important source. I draw on such manuals because “[t]he supervision of markets (*hisba*) stood at the intersection of religious law, municipal administration, and marketplace ethics”,¹⁰ and because those supervising the markets (the *muhtasibs*) held considerable power in marketplaces and were interested in jurisprudence.¹¹ Above all, they are primarily descriptive (as opposed to prescriptive) in nature. The following manuals provide a clear picture of what was available at the time and of what influenced the conduct of the marketplace inspector: al-Shayzarī’s (d. 588-9/1193?) *Nihāyat al-rutba*; Ibn Bassām’s (7th-8th/13th-14th century?) *Nihāyat al-rutba*; and Ibn al-Ukhūwa’s (d. 729/1329) *Ma‘ālim al-qurba*.¹² These three manuals are structured similarly to each other, and are directly relevant to the subject matter of this chapter. I also refer to the shorter *hisba* manuals of al-Jarsīfī (d. after 676/1277) and Ibn ‘Abdūn (d. 6th/12th century?), where appropriate.

⁹ Chronicles alluded to rural markets “only vaguely” (Petry 1994, 118). Commenting on the years 917/1511 and 920/1514, Ibn Iyās twice mentioned a trade fair at Jazīra Island in Cairo (ibid., 118 and 130n57). In relation to the market inspector, see ibid., 104, 135 and 177n8. Zaynī Barakāt, market inspector of Cairo from 910/1504, is the main exception to this brevity of comment in the chronicles (ibid., 23, 144-6).

¹⁰ Sanders 1998, 160.

¹¹ On *muhtasibs* and *fiqh*, see Little 1998, 436-7.

¹² On Ibn Bassām’s and Ibn al-Ukhūwa’s datings, see, respectively, *Nihāya*, introduction and Ibn Ḥajar, *Durar*, 4:168. Cf. Cahen and Talbi 1971, 485-489, Buckley 1999, 13 and Gari 2008, 2.

V.1.b. Translations and initial discussion of selected passages¹³

V.1.b.i. *Ibn al-Ḥājj's Madkhal*

The Baker (*al-khabbāz, al-farrān*)

Ibn al-Ḥājj's passages on innovations in the markets and the streets occur roughly three-quarters of the way through his tract, following a section on death, burial and childbirth, and immediately before sections on the *ḥajj* and *Raghā'ib* prayers. His comments about bakers appear near the end of his section on the markets and the streets. Ibn al-Ḥājj grouped topics together within major sections in his tract, such as twenty-four trades, professions or products all being in the section on the markets and the streets, or innovations relating to wayfarers or Sufī novices all being in a standalone section.¹⁴ Occasionally, he co-located passages within a section that were similar. For example, Ibn al-Ḥājj discussed the baker immediately after his passage about the miller (who provided the flour for the baker). Beyond the foregoing observations, there is no significance to where Ibn al-Ḥājj placed sections in his work, or where individual passages appear within a section.

Ibn al-Ḥājj's discussion of innovations concerning the baker (*al-khabbāz, al-farrān*) is one of the longest sections devoted to a single topic in his tract. Ibn al-Ḥājj generally

¹³ Occasionally in these translations, I have introduced paragraph breaks, to help readers grasp clearly the flow of thought at that point.

¹⁴ *Madkhal*, 2(1)197-237.

distinguished *al-khabbāz* and *al-farrān* in functional terms, the former making and selling the bread and the latter dealing with the oven (*al-furn*).¹⁵ Such a distinction is reflected in other sources, but not universally.¹⁶ Citing the thirteenth/eighteenth-century dictionary *Tāj al-‘Arūs* as his reference, William Lane noted that *al-farrān* was used in vulgar dialect.¹⁷

The translation below is from the introduction to Ibn al-Ḥājj’s section on *al-khabbāz*. This section immediately follows his section on *al-farrān*, in which he discussed the intention of the oven-man, the need to keep the oven clean, things to bear in mind when putting bread in the oven, and other related topics. In a similar way to the section on *al-khabbāz*, the section on *al-farrān* consists of a sequence of separate discussions on issues that are related by their overall theme.

[2(2):157] The baker (al-khabbāz) who makes bread for the market must have intention in the same way as already mentioned concerning the owner of the mill (al-ṭāḥūn) and [the owner of] the oven (al-furn), so that [through this] he might be in worship and performing good deeds and close to the Lord (li-yakūn fī ‘ibādatin wa-khayrin wa-taqarrubin ilā rabbihi). And he should bring the flour to the stove (al-farrān) or to his home, to preserve it so that nothing of it is spilt. Should some go on the floor; let him move it quickly by his hand, if he can, or - if not - command somebody else to do so. If he is not there [when it happens], let somebody else take his place, but [only] on condition that he is someone who is dependable in [matters of] religion and faith, because many of those making the bread (ṣunnā‘ al-furn) and their like are not trustworthy enough in preserving

¹⁵ *Madkhal*, 2(2):157-9. Elsewhere, when discussing the ‘*ālim*’s conduct in the market and the streets, Ibn al-Ḥājj referred to *al-tannūr* (baking oven - *ibid.*, 1[2]:66).

¹⁶ See: al-Sarakhsī, *Mabsūt*, 16:23-4 and 57-8; al-Māwardī, *Hāwī*, 7:427-8 (*al-khabbāz*, but not *al-farrān*, is mentioned in this work); Goitein 1967-93, 1:423; and Pellat 1986, 41-2. I also found no major differences between usages of the terms *farrān* and *khabbāz* in Donald Little’s catalogue of documents from *al-Ḥaram al-Sharīf* and in Amnon Cohen’s survey of bakers in Ottoman Jerusalem. For reference to a *khabbāza*, who was a “poor woman”, see Goitein 1967-93, 1:431 (cf. Pellat 1986, 41).

¹⁷ Lane 1955, 2:697 and Stocks 1989, 24.

it [the flour], and because being careful not to lose flour is more important than for wheat, as above.

And if he [the baker] buys bad flour he should tell the customer [that buys from the baker]. And he shouldn't do like certain fools among them do, namely to make bread from bad wheat, then swear to the customer that it is from good wheat - this is called cheating. As it was said, "Whoever cheated us is not from among us."¹⁸ The same judgment (ḥukm) [is on] whoever mixes good wheat with bad. However, the person who is appointed should exert himself in this [cause] and persevere in it in order that one may eat legally permitted food, and such a person considers what came before obviously prohibited (ḥarām al-bayyin). In God we take refuge from this.

And he should encourage those making the bread (al-ṣunnā') and urge them to turn away from (yazjurahum 'an) their bad habits of wasting flour where they knead it, and in other places where they put the dough on for shaping¹⁹ and baking. Similarly, he should watch for insects and such like crawling on the yeast, when waiting [for the dough] to rise; rather, he should either cover it with something that is pure and clean, or leave somebody to watch over it all, if he was unable to cover it that time. And he should prevent those making the bread from doing what some of them do when the weather is hot, namely that they sometimes knead while sweat is dripping [2(2):158] off them, and that flies fall in the yeast and nobody drives them away, such that most of the yeast is mixed with flies. This is not permitted, because it is not clean. So each person should have something with which to wipe off his sweat [before] it falls in the dough, and someone should be assigned to drive the flies and such like away at that time (ḥīna'īdin). And if no-one takes precautions about this, one will find in the bread unclean things like cockroaches, other crawling insects, straw, alfa (al-ḥalfā') and hair, and all this is forbidden.

And he should not leave them to rise with water from salty wells, because by doing that salt is absorbed to the extent that the bread is bitter and salty. The bitterness is from the [general bitterness of the] water of the well and the saltiness is from the excess salt added to the water of these wells.

And then he should not mix the flour with other things that improve it in the eyes of the buyer, like turmeric and such like, in various ways:

¹⁸ Of the six major collections, this *ḥadīth* (with minor variations in wording) occurs in Abū Dāwūd, Muslim, Ibn Māja, and al-Tirmidhī (for example, see Ibn Māja, *Sunan*, 3:564-5; see also references in Wensinck 1962, 4:515).

¹⁹ *Qarraṣa al-'ajin* refers to shaping dough into flat loaves or other shapes (Wehr 1980, 756).

1. *That which improves it in the eyes of the buyer, if the flour was all bad or mixed with something bad, or [the baker] improves it in his [the buyer's] eyes [as?] if its flour was all good. That is a type of cheating.*
2. *That which is damaged. There is no benefit in eating it, according to the law.*
3. *That which, if it stood overnight or was cold, its taste would change. Some people would avoid it because of its appearance.*

And there is no problem in putting good things in, that do not harm the one eating it, like some who put saffron in white unleavened bread (al-kumāj) and the like.

Then he should keep the water that he uses when kneading the flour free from flies, other insects and unclean things, like we mentioned about dough. Rather, this is even more emphatic [here], because such things can be hidden in water, which is not the case with dough, because such things may mostly be seen in it [dough]. And he should also keep the water that he kneads with, the dough, the bread, its containers, what he puts under it, and what he covers it with, away from the hands of those who make these and of the stove man (al-ṣunnā‘ wa-al-farrān). Indeed, such people do not generally take precautions in most things. For example, one of them will touch something impure with his hand, then he will touch those things [dough, bread] before washing it [his hand], or washing it with water added to something pure, and this does not purify it. Another example is touching unclean things such as mucus, saliva [2(2):159], sweat, and scratching the body, passing his hand over his groin [or armpits; murūr yadahu fī al-maghābin],²⁰ and touching unclean or impure places like the edge of the toilet and such like, and then touching with those [hands] something like what we mentioned above without washing them [his hands].

He is obliged to forbid (yata’akkadu fī ḥaqqihi an yanhā) those who prepare the dough from what certain worshippers do, namely, when [the weather] is cold, they take water that is prepared for dough and perform ablutions with it. This is not allowed, because traces of dough, flour or other things that are on their hands usually becomes mixed in with the water.

And he should be [watchful of] what he puts under the flat loaf (al-arghifa) while it is still pure dough, not unclean, and [that] no-one can step on it, even if his feet are clean, because it is forbidden because of the traces of flour or dough that stick to it (la-hā ḥurmatan bi-sabab mā ya’laqu bi-hā min athar al-daḥīq aw al-‘ajīn). Rather, it should be protected from all of this and from bird droppings, excrement from mice or other vermin, and unclean things, that may touch it. When he needs it, he should lay it out, on the condition that the place where he

²⁰ “[Maghābin] signifies the [arfāgh] ... and the [ābāt] ... or the places of flexure, or creasing, of the skin”, Lane 1955, 6:2227.

lays it is pure. Then he should put the dough for the flat loaf on it, then cover it with something similar to what he put under it, meaning in [relation to] purity and lack of uncleanness.

Furthermore, he should be vigilant about the water in which those who prepare the bread clean their hands from the traces of dough, and similarly those who wash the trays in which they knead. They should not throw any of this [water] where [people] tread with their feet, or in [an] impure or unclean place. Rather, they should feed the chickens with it, and if that is not possible, then [they should feed] other animals [with it], and if that is not possible, then [he should] throw [it] into the sea or the river, and if that is not possible, it should be put into a hole (ḥufira lahu) in a pure place that is not unclean, away from where people walk.

He should not do what some of them do, [which is to] order the stove man (al-farrān) to take the bread out, when it is not fully cooked so that it is too heavy [and goes for a higher price]. That is a deception and it is wrong (ḍarar) to eat it, as before.

In this passage, Ibn al-Ḥājj discusses a wide range of innovations, including the practice of deceiving purchasers by mixing bad flour with turmeric or other products to give the impression that the flour was better than it was, failing to keep the water needed for the dough free from flies, other insects and unclean things, or bakers kneading dough while sweat is dripping from them.

The first emphasised section highlights the importance of intention to Ibn al-Ḥājj, a theme of his in his introduction also. (This point also applies for Ibn al-Ḥājj's passages on butchers and money changers.) In addition, this section highlights the close relation of the miller, the baker and the owner of the oven in his thinking.²¹

²¹ In this chapter, Ibn al-Ḥājj used all three of the terms *al-ṣunnā'*, *al-farrān*, and *al-khabbāz*. These individuals probably had different roles, such as the *al-ṣunnā'* being those making the bread (or perhaps those who make the dough), *al-farrān* being the stoveman, and *al-khabbāz* being the baker who owns the shop or booth. As was frequently the case with such terms, they could have been used differently in different contexts (such as a *tannūr* versus an oven where flat bread is put in horizontally), with some interchangeability.

In the second section highlighted in bold, we can observe Ibn al-Ḥājj's tendency towards precision and lists. He addresses two separate practices in sequence: using water from salty wells; and mixing flour with turmeric and other such products, to improve its appearance. When discussing the first practice, Ibn al-Ḥājj was not satisfied simply to state that using salty water was an innovation and should be censured, as we might expect Ibn al-Naḥḥās to have done. Rather, he went on to explain two reasons why salty water is problematic (saltiness and bitterness) and to specify the source of the problem in each case. Second, Ibn al-Ḥājj could have simply stated that mixing flour was hated or forbidden, yet he instead listed three contexts in which this would apply. The application of Ibn al-Ḥājj's precise, juridically trained, mind is evident in his writing.

The Butcher (*al-qaṣṣāb*, *al-jazzār*, *al-sharā'ihī*)

Ibn al-Ḥājj's comments concerning the butchers are in two parts: *al-qaṣṣāb* (whom he stated was also known as *al-jazzār*) and *al-sharā'ihī*.²² They occur after Ibn al-Ḥājj's passages about the water carrier (*al-saqqā'*, which occurs after Ibn al-Ḥājj's passages about the baker), and before his discussion of practices relating to the milkman (*al-labbān*). The excerpt below is taken from Ibn al-Ḥājj's section on *al-qaṣṣāb*.

²² In his lexicon, Edward Lane referred once to *sharā'ihī* in context of *sharḥ al-laḥm* ("a kind of *tashrīḥ*, i.e. the cutting [of] a piece of flesh-meat thin, so that it is translucent by reason of its thinness, and then throwing it upon the live coals", 1955, 4:1530; cf. al-Zamakhsharī, *Asās*, 1:485). I found no occurrence of the terms *sharā'ihī* or *sharā'ihī* in dictionaries compiled during the Mamluk period (see for example al-Fayyūmī [d. 760/1358], *Miṣbāḥ*, 308-9; cf. the North African Ibn Manẓūr [d. 711/1311-2], *Lisān*, 2:292) or in works of *fiqh* such as al-Sarakhsī's (d. 483/1090?) *Mabsūt* or in al-Māwardī's (d. 450/1058) *al-Ḥāwī al-kabīr*. I am grateful to Salam Rassi for pointing out that, in Syriac, the root ḥ-r-š could mean 'to butcher, slice, slay'. This indicates that the meanings identified above may have had broader currency in premodern lands of the Nile to Oxus region, or that practices involving these actions from outside Arabic speaking lands may have become known as innovative in those lands.

The precise scope of meaning that Ibn al-Ḥājj intended to apply to the Arabic terms *al-qaṣṣāb* and *al-jazzār* is unclear. In some quarters and periods, the two terms were known to be technically distinguished from each other.²³

Ibn al-Ḥājj began his comments about butchers by discussing the importance of *al-qaṣṣāb* having right intention and then listed four duties (*farā'id*) and four habits or prophetic practices (*sunan*) that the butcher must uphold, occasionally highlighting where the Mālikī view differed from that of other *madhhabs*. He then proceeded to make the following comments about *al-qaṣṣāb* and *al-jazzār*:

[2(2):189] *Sound is the slaughter of him in whom are united three characteristics: that he is intelligent, knowledgeable about sacrifice, and that he is intending to slaughter. Slaughter is not sound if [the slaughterer is] among five [groups]: the young man who has not reached the age of discernment;²⁴ the one who is crazy; the one who is drunk and not aware of what he does; the Magian; or the apostate (murtadd). There is disagreement about four [groups] in relation to slaughter: youths who have not attained puberty; women; people of the book whom the Muslim entrusts to slaughter for him; and the one who is wasteful with his prayers. Are their slaughters authorised or not? Slaughters [performed by] the people of the book are sound on three conditions.*

The text above provides further examples of the type of lists that Ibn al-Ḥājj frequently mentioned. After this passage, Ibn al-Ḥājj provided further lists, including three

²³ In his dictionary, al-Fayyūmī referred to *al-qaṣṣāb* as a professional (*Miṣbāh*, 504; cf. Ibn Manẓūr [d. 711/1311-2], *Lisān*, 3:95) and to *al-jazzār* as a professional who slaughtered animals and camels (*Miṣbāh*, 98 and Lane 1955, 2:419; cf. Ibn Manẓūr, *Lisān*, 1:452). Some sources predating the Mamluk period referred to *al-qaṣṣāb* and *al-jazzār* variously as slaughterers, meat sellers, meat slicers and others. In the same chapter, both al-Shayzarī (d. 588-9/1193?) and Ibn Bassām (7th-8th/13th-14th century?) clearly distinguished between *al-jazzār* (the slaughterer) and *al-qaṣṣāb* (the butcher, who would deal with the meat after slaughtering; see al-Shayzarī, *Nihāya*, 27-9 and Ibn Bassām, *Nihāya*, 34-6). In his work on the Cairo Geniza, Shlomo Goitein translated *al-jazzār* as the butcher, *al-laḥḥām* as the meat seller, *al-dhabbāh* as the (ritual) slaughterer and *al-qaṣṣāb* as the meat carver (1967-93, 1:115n101 and 424 and 2:225). For further examples in relation to *al-jazzār*, see Beg 2004, 267. By contrast, in his Arabic-French dictionary, de Biberstein Kazimirski presented *al-qaṣṣāb* and *al-jazzār* as synonyms (1960, 2:747).

²⁴ Literally, the young man who does not discern between religious obligations (*saghīr lā yumayyiz al-'abādāt*)

conditions for slaughter being authorised and five marks of life. Ibn al-Ḥājj's section on the *sharā'ihī* then proceeds with further lists of stipulations and discussions about how and where to cook food, and avoiding deception.²⁵

In the above passage, Ibn al-Ḥājj mentioned consensus (*ijmā'*), one of the sources of Islamic law. Although he did not specify precisely how he was using this source, our assumption should be that he was referring to a view shared by all four Sunni legal schools. Ibn al-Naḥḥās occasionally used this term in a different sense.²⁶

The money changer (*al-ṣayrafī*)

The following translation comprises the entirety of Ibn al-Ḥājj's discussion of practices relating to the moneychanger (*al-ṣayrafī*), entitled 'On the *ṣayrafī* and others', and constitutes the final sub-section in Ibn al-Ḥājj's section on the markets and the streets. Significantly, given the final sentence below, Ibn al-Ḥājj's comments on the money changer immediately follows his discussion of the goldsmith, or jeweller (*al-ṣā'igh*). The next section in Ibn al-Ḥājj's *Madkhal* concerns the *ḥajj*.

[2(2):188] The ṣayrafī intends to facilitate [matters] (al-taysīr) for his Muslim brothers because when people have gold, it is in most cases difficult for them to use it to conclude transactions for most necessities - especially small things (muḥaqqarāt) - except by changing it. So, by changing it, he [the Muslim brother] is enabled to perform transactions according to his needs. God helps his servant

²⁵ *Madkhal*, 2(2):172-4.

²⁶ See discussion in Chapter V.2.

who helps his brother²⁷ and he [the ṣayrafī] receives this great help because he helps his brother. This relates to collective obligation, which is better than recommended action (wa-farḍ al-kifāya a'lā min fi'l al-mandūb). And then he adds to it the scholar's and student's intention that he needs, while he goes out with the intention of faith and reward, but what is obligated in it is the same as what was imposed in the section before, namely that he should know the ordinances of exchange (ʿāliman bi-al-aḥkām al-ṣarf), and where usury arises in relation to it. He should be aware of this and not excuse himself in anything of this, because the chapter about exchange is a short chapter; unlike others, because certain elements have been expanded elsewhere and have not been expanded in this [chapter]. So he should be extremely careful not to fall into any form of usury. And this has been mentioned above in relation to the threat of war.

Because of the great likelihood of usury involved, our scholars hate that profession out of fear that they will undertake usury because most people have not been educated in knowledge,²⁸ and then the moneychanger, if he does know its cause, falls into usury and makes others fall into it. And because of fear in falling into any aspect of usury, Aṣḥab used to hate seeking the shade by the walls of a moneychanger. Also, Ibn al-Qāsim - God's mercy be upon him - left aside a big heritage from his father, even though it was an extremely valuable estate. He was asked about the reason for that, and said, "My father was a moneychanger, and I am afraid that something of exchange was left, in which he did not follow the rules." Or words like this.

From the book, Marāqī al-zulfā²⁹ by the jurist and imām Abū Bakr b. al-ʿArabī³⁰: Ḥasan al-Baṣrī said, "the ḥalāl dirham is stronger than coming across the advance of an army, and those who are most corroded by usury are the money changers (ahl al-ṣarf)". He said, "If you need to drink water and you are offered water in the home of the money changer, do not drink it." When he passed by some money changers (ṣayārifa), ʿAbd Allāh b. Abī Awfā used to say to them, "Announce good news!". They said, "May God bring you good news of paradise". He said to them, "Announce the fire!" They asked about him and they were told, "This is ʿAbd Allāh b. Abī Awfā, companion of the Messenger of God. I say, "He only said that because there is usury on [charged by] [2(2):189] most of

²⁷ These words are taken from a much longer *ḥadīth*, narrated by Abū Hurayra (see Ibn Ḥanbal, *Musnad*, 2:332, number 7,418). Ibn al-Ḥājj had a habit - that was not uncommon among scholars - of quoting parts of *ḥadīths* in his writings, without indicating explicitly the nature of the source.

²⁸ Ibid.

²⁹ This work no longer appears to be extant.

³⁰ Abū Bakr b. al-ʿArabī (d. 543/1148) was a traditionist and *qāḍī* from Seville who studied under al-Ghazālī (d. 505/1111). His authority as a traditionist was not universally accepted in the Mamluk period, with Ibn Ḥajar al-ʿAsqalānī (d. 852/1449) calling him *ḍaʿīf* (weak - Robson 1971, 707).

the ṣayraf, they can't trade without it."³¹ And that was mentioned in a ḥadīth like, this according to the prophet (ṣ). Al-Ḥasan said, "Here, some people took usury. If those who left us had known, war on them!" And it was reported according to Makḥūl, God's mercy be upon him, that he said, "the Messenger of God (ṣ) forbade trade in wheat and exchange." And Ibn 'Abbās - God's mercy be upon the two of them - said, "Trade in slavery is a trade of which God has not approved (tijāra mamḥūqa). And Ibn Sīrīn hated brokerage, and Qatāda hated the wages of brokers."³² And it was narrated according to some of the followers, that he advised a man, saying to him, "Brother, do not put your son in two trades or in two crafts. The two trades are the trade of food and the trade of the coffins. The two crafts are butchery and the goldsmith (al-ṣiyāgha). As for the butcher, he is hard of heart, and as for the goldsmith, he furnishes the world with gold and silver.

Uniquely among *fiqh* and other works that I have read, Ibn al-Ḥājj wrote appreciatively about the money changer's role, before continuing along a similar vein to most writers of his period and before him, expressing disdain for money changers and pointing to their propensity to charge interest. Ibn al-Ḥājj then proceeded to retell a story from the book, *Marāqī al-zulfā*. The logic of the this story is that, in telling the money changers to announce the fire, 'Abd Allāh b. Abī Awfā was communicating his disapproval of their practice of usury. Ibn al-Ḥājj continued by relating anecdotes and traditions about various characters (including Ibn Sīrīn and 'Qatāda') not liking money changing or brokering. He ended this major section by registering his disapproval of two transactions (selling food and selling shrouds) and of two professions (the butcher and the goldsmith).

From the above translation, three things are significant in the context of this study. First, Ibn al-Ḥājj did not follow the *muḥtasib* and others in their overwhelmingly negative

³¹ *Madkhal*, 2(2):188-9.

³² Ibn Sīrīn and Qatāda b. Di'āma were Baṣran contemporaries of Ḥasan al-Baṣrī (see Muslim, *Ṣaḥīḥ*, 8[15]:17).

view of the money changer, although such a negative view was part of Ibn al-Ḥājj's outlook. Second, Ibn al-Ḥājj referred to the intention of the scholar and the student.³³ Third, in one of the few occasions where Ibn al-Ḥājj cited a source by name in his passages on the markets and the streets, he included a narrative passage that was quite serious, rather than lighthearted or simple to follow. These final two points are significant in terms of my hypotheses about audience.

V.1.b.ii. *Ibn al-Naḥḥās'* Dhikr

The Baker (*al-khabbāz, al-farrān*)

Ibn al-Naḥḥās' discussion of bakers occurs in the middle of his section entitled "Reprehensible things witnessed in markets and streets". As set out in Table 4, this section is the second of seven sections within his tract, in between the sections entitled "Reprehensible things witnessed in mosques" and "Some reprehensible things of pilgrims on *ḥajj*".³⁴

These observations highlight two similarities between how Ibn al-Ḥājj and Ibn al-Naḥḥās structured their works. Both jurists placed their section about *ḥajj* immediately after their section about the markets and the streets, and both grouped passages within major sections on the same topic (such as cooks, bakers and water carriers within the section on the markets and the streets).

³³ Chapter V.2 includes a survey of intention as discussed in premodern law books, including boundaries between *madhhabs* in these discussions.

³⁴ See Chapter IV.2.

The translation below constitutes the beginning of Ibn al-Naḥḥās' discussion of bakers. Ibn al-Naḥḥās used the terms *al-farrān* and *al-khabbāz* in largely interchangeable ways and it is not clear whether he was referring to one profession or two.

[451] Among the [innovations to be discussed] is bread cooked over dung. This dung is either from an animal that is edible [i.e. what would have become edible meat], or not. If it was from [what would have been] edible meat, then it is impure according to the Shāfi'īs and for whoever follows him. It is pure according to others. There is much to this matter. In this case one should not censure as long as it is agreed upon (lā yajibu al-inkār mā ujmi'a alayhi).³⁵ If it is dung from non-edible meat, or mixed dung - as is the majority, because they mix the dung of female mules, donkeys, horses and other [animals] - then this is all impure.

But on whether its smoke (dukhānuhu) which reaches the bread is pure or impure, there is dispute. The Shāfi'ī madhhab, and those who follow him [are of the view] that [what is touched by] the smoke of something legally impure is impure. The other madhhabs say [that the thing touched is] pure. Similarly the ashes (al-ramād) which inevitably reach the dough are impure according to the Shāfi'īs and pure according to some of the scholars. The duty of censuring (al-inkār) overrides all these uncertainties (shubah) and disputes. According to the Shāfi'īs, one should take care of oneself, and do the duty of one's school.

If the baker touches the moist dough at times and the mixed dung at times to fling it in the oven, [452] which is what happens in the most part today in the land of Egypt, then that is an incurable malady. This bread is impure, by agreement (bi-al-ittifāq) if traces of impurity (najāsa) [appear] in the dough because of the moistness of one of them [the dung and the dough]. From eating results the spoiling of the fast and prayers and other things, in the same manner as the discussion above on flayed meat.

Whoever is able must censure this as much as he is able, and if he cannot, then he must not eat it and his family must not taste it or buy it. And God knows.

And among them is what some bakers and many people do, they weigh bread and find it runs short of the weight, so they take it from the balance of the scale and put on a small piece [extra], so that it makes the perfect weight, more or less, and then offer it for sale. That is not lawful for him because the

³⁵ Alternatively, one could read this phrase pronominally, as in “one should not forbid it so long as it is agreed on”.

*amount of the weight of the piece of bread and the amount of the weight of the chunk were not known (lā yu‘lamu).*³⁶

Immediately following this passage, Ibn al-Naḥḥās concluded his section on bread by describing innovative practices for buying and selling bread, that also applies to other commodities. This provided a bridge for Ibn al-Naḥḥās to proceed to his next sub-section within his section on the markets and the streets, which concerns ways of buying and selling.

The above translated passage includes two features that occur frequently in Ibn al-Naḥḥās’ writing, and three that are rare. The third paragraph of the translation above illustrates something that is found frequently throughout Ibn al-Naḥḥās’ tract. Here, Ibn al-Naḥḥās identified a practice briefly (a baker touching moist dough and mixed dung) and then condemned it (“*that is an incurable malady*”). The other feature that is common in Ibn al-Naḥḥās’ work, and evident from the translation above, is an emphatic command to his readers to censure an innovation. In this case, the phrase “*as much as he is able*” adds extra strength to his command. This strength of emphasis is also present in Ibn al-Naḥḥās’ introduction to his *Dhikr*: “*You ought to know: everything that is hated, its censure is desired*”.

In terms of the rare features, Ibn al-Naḥḥās mentioned his own *madhhab*. He does not identify it as his own, although his biographers do.³⁷ Second, the argument is also

³⁶ *Tanbīh*, 451-2. The last term could be read as *lā ya‘lumu*, but a passive reading seems to make more sense of the context. Ibn al-Naḥḥās went on to urge those who saw this to resist it and to inform those doing it of the immorality of what they did (*yunkira ‘alayhi ... yu‘arrifuhu* - *ibid.*).

³⁷ See discussion in Chapter III.2.

quite precise here, especially at the end, where Ibn al-Naḥḥās seems to be castigating bakers for passing impurity between dung and dough, thereby making the bread (that anyone could eat) impure. Third, Ibn al-Naḥḥās referred to agreement, or consensus, in a way that was less conventional. By contrast, Ibn al-Ḥājj’s usages are conventional. Even though Ibn al-Naḥḥās did not use the noun *ijmāʿ*, it is worth here gathering and exploring the significance of selected instances of Ibn al-Ḥājj and Ibn al-Naḥḥās using the term ‘consensus’, or ‘agreed upon’, in nominal or verbal form, in their tracts.

The first emphasised section in my excerpt from Ibn al-Naḥḥās’ passage about the baker, above, contains a passage about the permissibility of eating bread cooked over dung (*al-khubz bi-al-zibl*).³⁸ In the case where the dung was from an animal which may licitly be eaten, all schools except the Shāfiʿīs were of the opinion that the bread is pure (*tāhir*). Ibn al-Naḥḥās then commented, “in this matter there is room [for manoeuvre] since one ought not forbid what has been agreed on” (*lā yajibu al-inkār mā ujmiʿa ʿalayhi*).³⁹ That is, the Shāfiʿī Ibn al-Naḥḥās wrote that, where the three (other Sunni) *madhhabs* have agreed, Shāfiʿīs may legally follow that view, rather than their own.

On its own, this phrase may not be very significant, especially because the term *ijmāʿ* is not used here, and the verbal form may not have been used in a technical way in this case. I have not found reference elsewhere in Ibn al-Naḥḥās’ writings to the agreement of scholars from three *madhhabs* being called *ijmāʿ*, or to the validity of following such consensus, where it differed from the view of one’s own *madhhab*. Ibn al-

³⁸ *Tanbīh*, 451.

³⁹ *Ibid.*

Ḥājj's did not use the concept of consensus in this way, as shown in Ibn al-Ḥājj's discussion on intention, ablution and urination (translated above).⁴⁰

Before and during the Mamluk period, there was no shared understanding among jurists on the meaning of consensus.⁴¹ For example, although most jurists held the view that consensus related to 'the entire community', this phrase contained several ambiguities.⁴² In addition, *ijmā'* was never the primary source of law,⁴³ and jurists used the term *ijmā'* in many different ways. In a study of Ibn Taymīya's usage of consensus, Nakata Koh argued that this source of the law had a variety of meanings in Syria and Egypt (at least until the end of the eighth/fourteenth century), including consensus of the Companions of the Prophet, of scholars ('*ulamā'*) and other forms.⁴⁴ As noted in Chapter III.1, Ibn Taymīya drew on consensus of the Companions of the Prophet in his *fatwās*, and did not consider such consensus to have binding force.⁴⁵ A final type of consensus is

⁴⁰ For another example of Ibn al-Ḥājj using the term *ijmā'* in the sense of a four-schools view of consensus, this time in relation to the innovation of constructing *buyūt* (private spaces) on mosque roofs or terraces, that only key-holders could access, see *Madkhal*, 1(2):181.

⁴¹ On development of the concept of *ijmā'* in the first five *hijrī* centuries, see Bernand 1971, 1023-6. For the further references to *ijmā'* by jurists writing in the mid-Mamluk period or earlier, see Jokisch 1997, 134n49. On *qiyās* and *ijmā'*, see Jokisch 1997, 129.

⁴² B. Weiss 2006, 123. For example, to which Muslim jurists does 'the entire community' refer?

⁴³ Alongside his concern to assert revelation as the primary source of law, al-Shāfi'ī presented a hierarchy of three sources that involved *ijmā'*, as follows, "*kitāb* and sunna-on-which-there-is-*ijmā'*, [then] sunna on which there is no *ijmā'*, [then] *ijmā'* and *qiyās*" (Calder 1983, 78). On the four *hujja* sources of Qur'ān, *sunna*, *qiyās* and *ijmā'*, see Bernard Weiss 2005, 2-3.

⁴⁴ Koh 1986, 26-42. The Andalusī Zāhirī Ibn Hazm (d. 456/1064) also argued that *ijmā'* only included the consensus of Muḥammad's Companions (Goldziher 1971b, 32; cf. Rapoport 2010, 204-7). For Calder's discussion of al-Shāfi'ī's distaste for taking *ijmā'* to refer to the consensus of scholars (*ijmā' al-'ulamā'*), as opposed to the consensus of the people (*ijmā' al-'amma*), including reference to Schacht's work on this point, see Calder 1983, 73-4 and 76.

⁴⁵ Jokisch 1997, 125-6. Al-Ghazālī rejected this form of consensus, and al-Māwardī accepted it (Jokisch 1997, 126 and Yate 1996, 101). For further references to pre-Mamluk juristic uses of the concept of *ijmā'*, see B. Weiss 2006, 197n7. In relation to the Maghrib and Andalusia in the late sixth/twelfth century, Hallaq noted an instance of what he termed 'socio-legal consensus', which involved pervasive agreement among jurists and non-professionals to institute a procedural change in how to attest to the legal reliability of a *qāḍī's* document (2001, 209-11).

‘tacit consensus’ (*ijmā‘ sukūṭī*), which Bernard Weiss defined as “consensus determined by an absence of known objection to the expressed opinion of a single mujtahid”.⁴⁶

It is unclear why Ibn al-Naḥḥās did not uphold the view of his own school in this case. As I noted in Part II, part of the legal institutional context in the Mamluk period was that the Shāfi‘ī *madhhab* gradually lost influence, a factor that could conceivably have played a role in Ibn al-Naḥḥās deferring to the consensus of scholars in the other schools as authoritative. The development of the term consensus was also a point of contention between Hallaq and Calder. In the context of Hallaq’s impatience with “the vocabulary developed by the tradition(s)”, Calder wrote that “[c]hange and development in terminology was precisely one of the most characteristic means whereby the tradition did ... change, develop and adapt to new situations”.⁴⁷

Ibn al-Naḥḥās may not have been not using the concept of consensus in a highly technical way, given the unprecedented nature of this usage. Premodern jurists viewed consensus as having a relatively limited impact on the formulation of law.⁴⁸ However, Ibn al-Naḥḥās rarely used terminology in a loose way.⁴⁹ This one data point may be an example of the flexibility and continuing evolution of legal thought during the Later Middle Period, to the extent such thought was being made accessible to audiences that were less schooled in the sources of the law than specialists.

⁴⁶ B. Weiss 2006, 123-4.

⁴⁷ Calder 2006, 159n42; cf Hallaq 2005, 111.

⁴⁸ B. Weiss 2006, 125. On intra-*madhhabic* reasoning in fourth/tenth century Ḥanafism, see Kaya 2005, 39.

⁴⁹ For two examples of Ibn al-Naḥḥās using terms precisely, see my discussion about the root *ḥ-d-th* and the words *qawm* and *umma*, in Chapter IV.2.

At the end of the above excerpt, Ibn al-Naḥḥās described another practice that he cited as prevalent among bakers operating in the marketplace. Upon weighing some bread and finding it slightly lighter than the counter-balancing weight, the baker added a chunk of bread to make it approximately equal to counterbalancing weights, of a kind that we know to have been used at the time.⁵⁰ Two aspects of this are significant here. First, Ibn al-Naḥḥās described and expressed his displeasure about a practice (in this case one that was potentially complex) using a number of words. This illustrates the direct, applied nature of his tract. Second, crucially, in this situation, there was uncertainty about the weights of the bread and the chunk. It is not clear from the above - and it is not critical to Ibn al-Naḥḥās' point or my discussion, below, about knowledge and uncertainty - whether the baker then charged the customer for the full weight while keeping the small chunk back (thereby overcharging), or charged the customer for the full weight and gave the small chunk to the customer (thereby not overcharging but selling more by weight than the customer originally wanted), or charged the customer only for the weight of the original piece of bread (thereby charging based on an estimate). Whether bakers cheated their customers is also not the point; surely this happened at least occasionally. What is important here is that the reason Ibn al-Naḥḥās gave for the unlawfulness of the practice was lack of knowledge about the weights of the bread and chunk. Uncertainty was the

⁵⁰ Egyptian *ḥisba* manuals of the fourteenth century described weighing scales consisting of two pans on which the trader would put, respectively, weights (*sanj*, *raʿls*, *waqīyas*) and the item(s) to be weighed (Ibn al-Ukhūwa [d. 729/1329], *Maʿālim*, 28 and 85; and Ibn Bassām, *Nihāya*, 21-24).

central issue, one which works of *fiqh* and *ḥadīth* had frequently addressed, and I discuss this further below.⁵¹

The Butcher (*al-qaṣṣāb*, *al-jazzār*, *al-sharā'ihī*)

Ibn al-Naḥḥās commented only briefly on innovations relating to butchers, separately in relation to *al-jazzār* (page 450 in the Beirut 2005 edition of the *Tanbīh*), *al-sharā'ihī* (pages 454-5) and *al-qaṣṣāb* (page 461). These comments occur near the start of his section on innovations in the markets and the streets, after brief comments on interest and deception.

My discussion, above, about Ibn al-Ḥājj's unclear distinction between the Arabic terms *al-qaṣṣāb* and *al-jazzār* also apply to Ibn al-Naḥḥās. In addition to this, Ibn al-Naḥḥās did not clearly distinguish the role of *al-sharā'ihī* from those of *al-qaṣṣāb* and *al-jazzār*, in their respective sections. Given this lack of clarity and given Ibn al-Ḥājj's statement that *al-qaṣṣāb* was also known as *al-jazzār*, both authors may have been reflecting or participating in a process of colloquialisation of terms related to butchery.⁵²

⁵¹ On uncertainty in *ḥadīth*, see references to al-Bukhārī and Muslim b. al-Ḥajjāj and others in Ur Rehman 2009, 86, in relation to the tradition, “if there is some *ḥalāl* meat mixed with *ḥarām* meat, then the Muslim should refrain from eating any of it because there is doubt.” On uncertainty in *fiqh*, see the discussion in Vadillo and Khalid 1992, especially page 78, drawing primarily on Malik's *Muwatṭā'*.

⁵² Muḥammad Beg noted that, while, in the early centuries of Islam, *al-qaṣṣāb* and *al-jazzār* referred to the butcher and slaughterer respectively, by “modern times” the terms had become synonymous (2004, 267). Amnon Cohen noted that *al-jazzār* was an Egyptian term and that in Ottoman Jerusalem it became a colloquial term for a butcher (1989, 17). In the time and place about which Cohen wrote, there was a supply chain of meat that was at least as complex as that assumed in Ibn al-Ḥājj's and Ibn al-Naḥḥās' writings (Faroqhi 2009, 36). This supply chain involved some who dealt with meat but did not have their own shops (slaughterers according to Faroqhi), salesmen and others with their own shops (the fully fledged butchers on whom the salesmen depended for supplies - *ibid.*).

The following paragraph is from Ibn al-Naḥḥās' discussion of innovations pertaining to *al-jazzār*, the same term Ibn al-Ḥājj had in view in the above translation. After naming various scholars who had given a range of rulings on impure sacrifice, and discussing the practice of buying impure (*ghayr taḥīr*) meat, Ibn al-Naḥḥās continued by commenting on the following innovation:

[450] At the butcher's (al-jazzār) [work place], it [impure meat] and flayed meat (al-salīkh) are found together. He [the butcher] lifts his hand and knife, both of which have become impure from [touching] it, and puts them into the flayed meat, so making it impure. Many people do not wash flayed meat before cooking it, especially when grilling or mincing it [...] Whoever can must censure (inkār) all this and prevent (manʿ) anyone preparing [meat] in that way. And if one is not able, then he should prevent the butcher from combining flayed with prepared [meat]. If he is not able [to do this], then he must not, in his own private affairs, cook flayed meat that has been mixed [with non-flayed] until he has washed it.

The omitted section within this excerpt continues in a similar vein to the phrases preceding it, in relation to praying or fasting after eating food, but without washing one's mouth first. Immediately after this passage, Ibn al-Naḥḥās discussed the innovation of hanging sheep in the oven, such that blood drips on surfaces of the oven.

Ibn al-Naḥḥās' later sections on *al-sharā'ihī* and *al-qaṣṣāb* were similar to the above passage in style and approach. As Ibn al-Ḥājj did, Ibn al-Naḥḥās castigated *al-sharā'ihī* over the practice of leaving pots uncovered, but for a different reason to Ibn al-Ḥājj, namely that dogs would come and lick up the food, which would cause impurity.⁵³ Concerning *al-qaṣṣāb*, Ibn al-Naḥḥās highlighted the practice of contaminating roads or paths with animal blood.⁵⁴

⁵³ *Tanbīh*, 454.

⁵⁴ *Tanbīh*, 461.

The above translated text highlights, again, two features of Ibn al-Naḥḥās' writing. First, he addressed innovative practices briefly, and, second, his propensity to censure innovative practices spilled over into urging people to prevent others from carrying it out. These features will be discussed further below in Section V.1.c.

The money changer (*al-ṣayrafī*)

Ibn al-Naḥḥās' discussion about the money changer (*al-ṣayrafī*) occurs immediately after his passage about the baker, in the middle of his section about the markets and the streets. Ibn al-Naḥḥās mentioned the *ṣayrafī* only once, in relation to the innovation described below. This passage occurs towards the end of a list of innovations - also relevant to the *ṣayrafī* - including selling poor quality coins.

[456] And among [the innovations that they do] is when one dīnār, say, is changed for twenty silver dirhams, and if the ṣayrafī takes the dīnār from him and says, "come to dawn or afternoon prayers to receive the silver", or gives him some of it and makes him wait for the rest, even if it was [only for] a quarter dirham. All that is forbidden (muḥarram) interest, because buying in two instalments is ḥarām.

Immediately after this passage, Ibn al-Naḥḥās began a different section, on extravagance, in which he discussed innovations such as using golden vessels or wearing silk clothing. The above excerpt provides yet another example of Ibn al-Naḥḥās' brevity, directness and

practical application in writing. Ibn al-Naḥḥās provided a reason for his view but chose not to locate that reason in earlier writings.⁵⁵

V.1.c. Textual strategies

V.1.c.i. Sources and authorities

Neither Ibn al-Ḥājj nor Ibn al-Naḥḥās cited the Qur’ān in their main sections on the butcher, baker and money changer.⁵⁶ In their wider sections on the markets and the streets, Ibn al-Ḥājj cited the Qur’ān rarely,⁵⁷ and Ibn al-Naḥḥās’ only Qur’ānic citation occurred when he cited Q99:7-8, at the end of his tract, while discussing when and how to slaughter.⁵⁸

As noted above, Ibn al-Ḥājj drew on relatively few *ḥadīths* in the main body of his tract, compared with his introduction. In his passages on the markets and the streets, Ibn al-Naḥḥās mentioned more individuals by name than Ibn al-Ḥājj. Such references included the following: Aḥmad b. Ḥanbal; al-Qurṭubī’s *tafsīr*; rulings and opinions by al-

⁵⁵ See Schacht 1936, 1149, for a discussion, based on the earliest Islamic legal writings that, in transactions involving products capable of *ribā*, transfer of ownership and payment must take place together.

⁵⁶ Both Ibn al-Ḥājj and Ibn al-Naḥḥās, along with other authors of anti-innovation tracts, frequently included citations from the Qur’ān that had only general relevance to the innovation being discussed. (For examples from Ibn Taymīya’s anti-innovation tract, see Memon 1976, 152 [“believers should humble their hearts”].) Ibn al-Ḥājj and Ibn al-Naḥḥās could have made such citations in relation to butchers, bakers and money changers, but chose not to.

⁵⁷ An exception, from his main section on the markets and the streets, is where Ibn al-Ḥājj cited dozens of verses in a short passage discussing medicine (*Madkhal*, 2[2]:110-3).

⁵⁸ *Tanbīh*, 514. This paragraph was separate from his main section on the butcher.

Ghazālī and al-Rifā‘ī, al-Mutawallī and al-Shāmī; al-Nawawī’s (d. 676/1277) and Ibn ‘Abd al-Salām’s (d. 660/1261) *fatāwā* works; and *ḥadīth* collectors such as al-Bukhārī.⁵⁹ These *ḥadīths* and other sources were of great authority among Muslims. Ibn al-Ḥājj and Ibn al-Naḥḥās could have cited other sources. A cursory examination of a *ḥadīth* concordance will show that there are many other *ḥadīths* that Ibn al-Ḥājj and Ibn al-Naḥḥās must have been aware of and could have used in their passages on the markets and the streets.⁶⁰

In this regard, it is worth pointing out that Ibn al-Ḥājj and Ibn al-Naḥḥās did not explicitly refer to the *Kitāb al-Ishāra ilā maḥāsini al-tijāra* (‘A Guide to the merits of commerce’), by the sixth/twelfth-century merchant Abū al-Faḍl al-Dimashqī.⁶¹ This work contained principles for Muslim traders and urged them to be aware of the various deceptions (*ghushūsh*) that occurred in weights, measures and such like. Unlike Ibn al-Ḥājj and Ibn al-Naḥḥās, Abū al-Faḍl al-Dimashqī did not go into any detail about such deceptions.⁶² Another reason to take the view that al-Dimashqī’s work was not fundamental for Ibn al-Ḥājj and Ibn al-Naḥḥās is that al-Dimashqī’s threefold categorisation of traders - *khazzān*, *rakkād*, *mujahhiz* - is not apparent in either the

⁵⁹ *Tanbīh*, 451, 456, 460-4, 475 and 527. It is unclear to whom some of these named scholars refer. Al-Rifā‘ī may refer to an adherent of the Rifā‘ī Sufī order (sometimes known as the Aḥmadīya order) that had some prominence in Syria and Egypt throughout the Mamluk period (Ibn Baṭṭūṭa, *Rihla*, 98 and Trimmingham 1971, 20-1), or to Aḥmad al-Rifā‘ī (d. 578/1182; *G.A.L.*, SI:780-1). Al-Mutawallī could refer to the Shāfi‘ī jurist Abū Sa‘d al-Mutawallī (426 or 427/1035 or 1036 478/1086; Gimaret 1993, 781). Al-Shāmī could refer to several different scholars, including Muhannā b. Yahyā al-Shāmī, one of the early followers of Aḥmad b. Ḥanbal, whom - as stated above - Ibn al-Naḥḥās cited elsewhere (Laoust 1960, 274).

⁶⁰ See for example Wensinck 1927, 30-33, who provides references to the prohibition of several aspects of bartering.

⁶¹ This work merits mention because of the common link with Damascus, in Ibn al-Naḥḥās’ case.

⁶² Al-Dimashqī, *Ishāra*, 64. Cf *Madkhal* 2(2):159 and 171.

Madkhal or the *Tanbīh*.⁶³ Given that Ibn al-Ḥājj and Ibn al-Naḥḥās were educated scholars interested in commerce, it is likely that both had heard of the *Kitāb al-Ishāra*. However, there is no apparent connection between this work and the anti-innovation tracts of Ibn al-Ḥājj and Ibn al-Naḥḥās.

Another strategy common to Ibn al-Ḥājj's and Ibn al-Naḥḥās' passages on butchers, bakers and money changers, is that both jurists included detailed examples of practices that they termed innovative, but rarely related these examples to theoretical legal principles. Both sets of passages lacked detailed legal analysis. Neither Ibn al-Ḥājj nor Ibn al-Naḥḥās discussed the sources of the law, nor did they justify legal rules, and nor did they use *ijtihād* in the fields of *furū'* or *uṣūl* in the way that *fatāwā* works did.⁶⁴ Rather, in the above passages, Ibn al-Ḥājj and Ibn al-Naḥḥās stated that particular practices were wrong, or not lawful, or not sound, generally without further explanation of the reasons for classifying them as such. I will return to these points during my discussion of genre in Chapter V.2.

One of the most striking conclusions from Ibn al-Ḥājj's and Ibn al-Naḥḥās' use of sources of authority is that, in their different ways, they exercised considerable freedom to use a range of sources selectively to make their voices heard. For example, they addressed the same topic while making different points using different sources. Both Ibn al-Ḥājj (in context of the mill, *al-tāḥūn*) and Ibn al-Naḥḥās (in context of water-carriers, *al-*

⁶³ In al-Dimashqī's work, the *khazzān* was a trader (or warehouseman) who stored merchandise for sale when prices were high through scarcity (*Ishāra*, 70-3; see also Khalileh 2006, 498). The *rakkād* was a trader who transported merchandise beyond the local region (*Ishāra*, 73-4). The *mujahhiz*, literally 'preparer', was an exporter (*Ishāra*, 75-7).

⁶⁴ See Jokisch 1997, 120. As noted above, Ibn al-Naḥḥās cited several *fatāwā* works in his tract.

saqqāwa) denounced impurity that arose through treading in urine.⁶⁵ Neither Ibn al-Ḥājj nor Ibn al-Naḥḥās claimed that Muḥammad had trodden in urine or had avoided treading in urine in situations such as these, so why should these examples be counted as *bid'a*? These were obviously unhealthy practices, but why innovative? It is possible that Ibn al-Ḥājj and Ibn al-Naḥḥās were simply reproducing material from an earlier anti-innovation tract, but I have not been able to identify such a source.

In relation to issues they deemed important, Ibn al-Ḥājj's and Ibn al-Naḥḥās' desire to express their viewpoint outweighed their desire to situate the authority for their view in particular sources, except in general terms. That is, Ibn al-Naḥḥās' focus was not so much on uncovering previously unknown practices, but in writing in his own way about practices that others had commented on before (whether within or outside the genre of anti-innovation tracts). As seen in Chapter II.1, this is similar to what we find in other jurisprudential writings. Indeed, we may go further in relation to Ibn al-Naḥḥās, who cited other authors less in his passages on the market and the streets than elsewhere in his anti-innovation tract. This indicates a particular desire on his part to put his own stamp on this part of his writings. The points in the above paragraphs illustrate the contrasting ways in which Ibn al-Ḥājj and Ibn al-Naḥḥās selected sources of authority, to handle issues of tradition and innovation.

A final aspect of both writers bringing their own distinctive emphases to bear is that, where they did draw on earlier sources, Ibn al-Ḥājj and Ibn al-Naḥḥās did not follow

⁶⁵ Ibn al-Ḥājj railed against the disgrace of apprentice millers walking barefoot on horse urine and entering the privy barefoot, before treading on wheat (*qamḥ*) with those same impure feet, before having washed them (*Madkhal*, 2[2]:142-3). Here, Ibn al-Ḥājj also cited the *ḥadīth*, mentioned above, about the *ḥalāl* and the *ḥarām* being clear (*ibid.*, 143). Ibn al-Naḥḥās condemned the practice of water-carriers failing to notice that their camel had urinated in (or otherwise soiled) the water being collected and/or the vessel being used (*Tanbīh*, 459).

the views in those sources slavishly. For example, although earlier *hisba* manuals contained discussions of swindling and deception, Ibn al-Ḥājj introduced his own views about these topics. Where al-Shayzarī mentioned that mixing old wheat with new is deception (*tadlīs*),⁶⁶ Ibn al-Ḥājj also mentioned this but added that it was the fact of not explaining this to the purchaser that was the source of the deception.⁶⁷

Overall, Ibn al-Ḥājj and Ibn al-Naḥḥās pursued a similar strategy: to influence others by appealing to sources that they considered authoritative in regard to the conduct of Muḥammad and the *salaf*, and combine this with firm statements of their own view. This is the case, notwithstanding Ibn al-Ḥājj's and Ibn al-Naḥḥās' different style (prolix versus direct) and primary audiences (students versus the masses).

V.1.c.ii. Use of terminology and the concept of knowledge

Many of the terms that Ibn al-Ḥājj and Ibn al-Naḥḥās used in their passages on butchers, bakers and money changers were central to jurisprudence. Examples of such terms that occur in the above translations include *ḥalāl* (lawful), *ḥarām* (forbidden), *ghayr ṣaḥīḥ* (not sound), *ghishsh* (deception), and *farḍ* (duty). The use of such terms does not necessarily mean that their works were aimed (only) at jurists. Technical jurisprudential terms such as those listed above must have sounded loaded with authority - even to lay persons - and must have been powerful in the public context of the markets and the

⁶⁶ Al-Shayzarī, *Nihāya*, 21. *Hisba* manuals did not speak with one voice on swindling and deception. On cooks and millers see Ibn Bassām, *Nihāya*, 44-6 and 59-60. On wheat see Buckley 1999, 46 and Ibn al-Ukhūwa *Ma'ālim*, 29 (nos. 117-8). On views in the Qur'ān and *ḥadīth* literature on issues of fraud and deception, see Rippin 2006, 311 and Heffening 2000, 466-8.

⁶⁷ *Madkhal*, 2(2):147.

streets, especially when delivered in the direct and applied way in which Ibn al-Ḥājj and Ibn al-Naḥḥās wrote.⁶⁸

A fundamental difference between Ibn al-Ḥājj's and Ibn al-Naḥḥās' use of terminology relates to the concept of knowledge. Ibn al-Ḥājj emphasised knowledge and intention for their own sake whereas Ibn al-Naḥḥās emphasised knowledge as a basis for action. These differences were subtle, as we shall see by studying what each author meant by 'knowing'. The significance of this difference is that it reveals aspects of Ibn al-Ḥājj's and Ibn al-Naḥḥās' underlying aims, on which I shall say more below. In both cases, their emphases challenge their own claims, explicit and implicit in their introductions, that they were relying chiefly on the Qur'ān and the *sunna* of Muḥammad and his companions and successors.⁶⁹

A Clear difference: Knowledge vs. action

For Ibn al-Ḥājj, it was essential that the butcher and the baker have good intention when exercising their professions.⁷⁰ In the context of ritual impurity, Ibn al-Ḥājj emphasised the importance of right intention and did not exhort others to prevent it, or to ensure that one's action avoided it.⁷¹ Ibn al-Ḥājj also emphasised that the butcher should be knowledgeable about sacrifice and listed in detail things that the baker should know or

⁶⁸ See also my comments, in Chapter II.1 of this thesis, about the popularisation of jurisprudence in the Mamluk period, and about various forms of speechmaking that jurists practised.

⁶⁹ *Madkhal*, 1(1):12 and *Tanbīh*, 429.

⁷⁰ See *Madkhal*, 2(2):157 and references given above.

⁷¹ *Madkhal*, 2(2):152-3.

beware of.⁷² The money changer also had to have knowledge: Ibn al-Ḥājj was of the view that usury regrettably occurred because the *ṣayrafi* lacked knowledge and because others had not been educated in religious knowledge.⁷³ In these cases Ibn al-Ḥājj advocated knowledge so as to avoid ignorance - about the correct and legally recommended practice - and not to be deceived about what should be done.

For his part, Ibn al-Naḥḥās emphasised action. It was not enough that butchers should know how to prepare meat and maintain purity; “*Whoever can must censure (inkār) all this and prevent (man‘) people from preparing [meat] in that way.*”⁷⁴ Ibn al-Naḥḥās also shared Ibn al-Ḥājj’s focus on interest, yet did not especially emphasise that the *ṣayrafi* should know what is right.⁷⁵

However, the dichotomy between Ibn al-Ḥājj’s focus on knowledge and Ibn al-Naḥḥās’ on action was not total. In a small number of cases, Ibn al-Ḥājj recommended action that should be taken against an innovator. For example, in his chapter on the *sharā’ihī*, Ibn al-Ḥājj recommended that whoever found cooks leaving pots uncovered and did not tell the owner of the food about it, should be fined.⁷⁶ Examples such as this illustrate the close relationship of knowledge and action, which was a feature of

⁷² Ibid., 2(2):168-70.

⁷³ *Madkhal*, 2(2):188. Notice that, here, Ibn al-Ḥājj highlighted a lack of knowledge among Muslims and non-Muslims, given that many money changers were non-Muslims and, presumably, many of the customers (as well as his audience) were Muslims.

⁷⁴ See above translations.

⁷⁵ *Tanbīh*, 456.

⁷⁶ *Madkhal*, 2(2):173. In this passage Ibn al-Ḥājj gave several grounds for his condemnation: deception (if the cook does not explain what he has done), ill-health (people could become ill or poisoned) and not being considerate (the smell bothers others). This illustrates that many concerns within anti-innovation tracts are inter-related.

premodern Islamic writings and of earlier Greek and Judaeo-Christian writings, and is more prominent in Ibn al-Ḥājj's anti-innovation tract compared to Ibn al-Naḥḥās'.⁷⁷

Another way of summarising the difference between Ibn al-Ḥājj's and Ibn al-Naḥḥās' approaches to knowledge and action is as follows. For Ibn al-Ḥājj, the link between knowledge and action was less direct than for Ibn al-Naḥḥās. In the introduction to his tract, Ibn al-Ḥājj cited two *ḥadīths* about people chewing their tongues in regret and walking in circles on the day of judgment "*like the donkey circles with the grinder*", to emphasise the danger of being found not to have put knowledge into action.⁷⁸ However, Ibn al-Ḥājj cited these *ḥadīths* to explain his own reluctance to carry out his teacher's request to research certain topics, not wanting to gather knowledge lest he be judged not to have enacted it himself. As discussed in Chapter IV.1, Ibn al-Ḥājj's emphasis in his introduction was on the knowledge of the scholar, and his comment about putting knowledge into action was primarily autobiographical. On the other hand, to the extent that Ibn al-Naḥḥās mentioned knowledge, he emphasised it as a basis for widespread action.

One might argue that exhorting others to action is surely implicit in Ibn al-Ḥājj's writings. Given the vast amount of information Ibn al-Ḥājj provided about innovations, surely (the argument goes) he expected people to avoid such innovations. He probably did. But it is significant that, apparently, he did not feel able to come out and say so very often. This becomes particularly clear when one compares Ibn al-Ḥājj's approach to that of Ibn al-Naḥḥās. The reasons why this was the case possibly had something to do with

⁷⁷ Rosenthal 1970, 246-8.

⁷⁸ *Madkhal*, 1(1):10. See translations and analysis in Chapter IV.1.

the fact that he was born outside Mamluk lands and that he was a Mālikī jurist.⁷⁹ Although Ibn al-Naḥḥās was also an outsider to Egypt (being from Syria), it is likely that Ibn al-Ḥājj was even less at home in eighth/fourteenth-century northern Egypt, dominated by Shāfi‘īs who held many legal appointments. This may have dampened Ibn al-Ḥājj’s enthusiasm for spelling out the full implications of his views. I further consider the permutations of such factors in my section on aims and audiences, below.

A Small but important difference: What did it mean to know?

This dichotomy between knowledge and uncertainty were important concepts in most anti-innovation tracts.⁸⁰ In this section, I explore subtle differences between Ibn al-Ḥājj’s and Ibn al-Naḥḥās’ use of the concept of ‘knowing’ (including its relation to action), in the context of the markets and the streets. By examining this, we will be able to identify each author’s contribution more accurately.

In the translations above, Ibn al-Naḥḥās called an innovative practice performed by bakers unlawful because the (values of the) weight of bread and the chunk were not known (*lā yu‘lamu*). What Ibn al-Naḥḥās highlighted was that neither vendor nor purchaser knew what the correct values were. The uncertainty here related to values that no-one could have known, namely the individual weights of the bread and the chunk.

Another instance of this kind of discussion is where Ibn al-Ḥājj discussed a commonly available group of products that consisted of a mix of cooked meat and wheat,

⁷⁹ On *fatwās* as a means of empowering others to act but not exhorting them to act, see Jackson 1993, 75.

⁸⁰ In relation to Ibn al-Ḥājj and Ibn al-Naḥḥās, see *Madkhal*, 2(2):143 and *Tanbīh*, 453.

pounded together and sold as a unit. If made and mixed under certain regulated conditions, the mixture could be termed *harīsa*.⁸¹ According to Ibn al-Ḥājj, a common trick among market vendors was to reduce the proportions of meat in the mix, yet still sell the product as *harīsa*.⁸² He noted that where the vendor could have altered the proportions, the product is not *harīsa*.⁸³ The *muḥtasib*'s seal was one way how market-goers could be cognisant of the fact that a given product had not been adulterated (*salima min al-maks*).⁸⁴ It is vital to note that Ibn al-Ḥājj (rightly) assumed that it was possible to know whether the product had been adulterated. For Ibn al-Ḥājj, buying the meat was only permissible if the vendor could not have adulterated the product, since only this would remove from the purchaser the possibility of ignorance (*jahāla*) about relative weights.⁸⁵ Here we have a type of uncertainty that is different to the type Ibn al-Naḥḥās discussed. In Ibn al-Ḥājj's discussion, only the purchaser was uncertain, whereas the vendor knew whether he had reduced the proportion of meat in the mix.

The problems underlying Ibn al-Naḥḥās' example about bread and Ibn al-Ḥājj's about *harīsa* were quite similar. There remain, however, degrees of difference in their approach. Like Ibn al-Naḥḥās, Ibn al-Ḥājj discussed a situation where the purchaser could

⁸¹ Buckley 1999, 60-1.

⁸² *Madkhal*, 1(2):64. This practice does not appear in works on *ḥisba* that I have consulted. When it comes to weights and measures, the preoccupation of these works is rather in ensuring that fair weights are used and forestalling ways in which the seller may rig the scales (see al-Shayzarī, *Nihāya*, 18-19). Neither does the reason of not knowing the exact weight appear. Ibn al-Ḥājj's passage falls within a section that also discussed innovations likely to deceive a market-goer (*Madkhal*, 1[2]: 63-86).

⁸³ *Madkhal*, 1(2):64.

⁸⁴ *Ibid.*

⁸⁵ For similar examples of such reasoning in other parts the *Madkhal*, see Ibn al-Ḥājj's discussion of buying *kashkāk* or something pleasant (*muḥabbaba* - a trinket?, *Madkhal* 1[2]:64), and of the impermissibility of buying sausages (*naqāniq*) that have been weighed when raw (*ibid.*, 1[2]:67-8; see discussion in Chapter IV.1).

not be sure that the vendor was not swindling him. Unlike for Ibn al-Naḥḥās, in Ibn al-Ḥājj's situation one party could have resolved the uncertainty. In situations where something was not known, Ibn al-Ḥājj focussed on those situations where it was possible for one party or the other to know; Ibn al-Naḥḥās did not limit himself to this, also considering situations where no-one can know.

Ibn al-Naḥḥās' greater focus on encouraging action, not just knowing, explains this difference, in part. For Ibn al-Naḥḥās, the main problem was that no-one (regardless of whether he or she was a specialist) could possibly act rightly in such a situation, so something had to change. We may possibly conclude that Ibn al-Ḥājj emphasised that it was important to know what was innovative and was less interested in situations where one could not know, and that Ibn al-Naḥḥās was comfortable dealing with such situations, since his emphasis was on censuring and preventing what was innovative.

The above argument is significant because, regarding a topic that is so central to Ibn al-Ḥājj's programme (knowledge) Ibn al-Naḥḥās noticeably emphasised his own concern (action) and argued that knowledge is important primarily as a basis for action. Although these degrees of difference may seem small (relating to slight variations in emphasis on the topic of knowledge), here we find two authors whose discernibly different voices relate to the primary audiences that they addressed. Alongside this, knowledge, in more general terms, for both authors, meant to be able to discern between what was right and what was wrong - and acting accordingly depended on that.

V.1.c.iii. References to legal schools

In this section, I explore the significance of Ibn al-Ḥājj's and Ibn al-Naḥḥās' references to *madhhabs* (legal schools) in their passages on butchers, bakers and money changers. The arguments below build on those advanced in Part IV. This discussion is important in the context of this chapter because some Mamluk and pre-Mamluk *ḥisba* manuals censured trading practices in ways that are traceable to *madhhab* affiliation. For example, al-Sunāmī's (d. early eighth/fourteenth century) view that institutions with enforcement powers in the market (such as the police [*shurṭa*]) should be separately constituted from other governmental institutions was recognisably Ḥanafī.⁸⁶ Ibn Taymīya's (d. 728/1328) view, contained in his *Ḥisba*, opposed this. He argued that governmental institutions were interconnected in such a way that the duty of each individual institution could not be strictly defined, and this argument aligned with Ḥanbalī views on this issue.⁸⁷ There is another reason why we may expect *madhhab* affiliation to be relevant to the views of scholars about the markets and the streets. In Shāfi'ī-dominated Mamluk courts, there were frequent struggles and tensions between scholars of different schools, over a range of legal issues, including those relating to the markets and the streets.⁸⁸

⁸⁶ M. Cook 2000, 308-16 and 334.

⁸⁷ Izzi Dien 1997, 33.

⁸⁸ See discussion in Part II.

Ibn al-Ḥājj: An ‘Accommodationist’ Mālikī

Where Ibn al-Ḥājj did mention his *madhhab*, the Mālikī *madhhab* was clearly his point of reference. For example, in a discussion of various views about slaughtering, Ibn al-Ḥājj stated that Mālikīs differed from others about whether one could eat a sacrificed animal, in the case where the slaughterer did not cut its gullet (*marī'*).⁸⁹ (He did not record what the Mālikī view actually was on this point.) Ibn al-Ḥājj also retold a story about a miller who delayed fulfilment of a contract, and observed that, faced with a similar situation, Mālik did not allow such a delay.⁹⁰

In addition, we should understand Ibn al-Ḥājj as an accommodationist, in the context of Michael Cook's accommodationist-confrontational spectrum. According to this spectrum, accommodationists tended to co-operate with the state in the appointment of the *muḥtasib* and in dealing with infringements of the duty of forbidding wrong, though that did not necessarily entail leaving enforcement to the state. Those scholars whom Cook described as more confrontational would rebuke rulers and rebel against them, generally viewing such actions as virtuous.⁹¹ Cook used this spectrum to characterise the approaches of various *madhhabs* to the duty of forbidding wrong, a duty which - as shown above - Ibn al-Ḥājj wrote about in his tract.

⁸⁹ *Madkhal*, 2(2):168.

⁹⁰ *Madkhal*, 2(2):147. From a Mālikī perspective it was well known that it was not permitted to sell things with a delayed period and that goods should be delivered immediately following the conclusion of the contract (Ibn Rushd, *Bidāyat*, 2:198-9; Nyazee 1996, 2:188-9). For a discussion of the role of intention in the formation of a valid legal contract between a baker and a buyer of bread, see Rapoport 2010 and the discussion in Chapter V.2.

⁹¹ M. Cook 2000, 476.

Although Cook did not design his model primarily with anti-innovation tracts in mind, we should understand Ibn al-Ḥājj's tract as relatively accommodationist according to it, even though he nowhere stated his explicit co-operation with the state regarding the markets and the streets. Except for early Mālikī writings, Mālikī works on the duty of commanding right and forbidding wrong were widely spread on Cook's spectrum, so that it is not possible to speak of a coherent, well developed Mālikī heritage in relation to forbidding wrong that might have influenced Ibn al-Ḥājj.⁹² Cook went on to argue that "[r]ecourse to arms on the part of subjects gets no support at the level of doctrine ... but in later centuries it becomes a conspicuous feature of practice among Mālikīs". Ibn al-Ḥājj's approach to forbidding wrong almost never involved advocating physical action to address innovations; rather, it emphasised knowledge.⁹³ Therefore, to the extent we situate his writings in Mālikī thought about forbidding wrong, it is the earlier, more accommodationist, Mālikī texts that are more relevant.⁹⁴ Ibn al-Ḥājj's slightly more appreciative approach in one case, noted above, is another point in favour of viewing Ibn al-Ḥājj as being at the more accommodationist end of the Mālikī spectrum.

This conclusion advances my argument in two ways. First, it situates Ibn al-Ḥājj more accurately within his Mālikī heritage, marking him out as less activist and more accommodationist than some. Although Ibn al-Ḥājj may not have been as open as other jurists to the views of different schools, we have seen that his own school provided him

⁹² Ibid., 357-92, especially 368 and 391-2.

⁹³ The one exception to this is Ibn al-Ḥājj's comment that, while the tripartite division "may hold in general, there are many instances in which someone who is neither in authority nor a scholar may be obligated to take physical action." (Michael Cook's translation, in 2000, 378).

⁹⁴ Ibid., 391-2.

with scope to emphasise selected traditional arguments. Second, Ibn al-Ḥājj was a Mālikī jurist arguing in line with his own school. When Norman Calder wrote about loyalty to one's *madhhab* as a primary constraint of *furū' al-fiqh*, he was not referring to anti-innovation tracts. However, the above observations have provided evidence as to what such loyalty looked like for a Mālikī who had settled in northern Egypt early in the Mamluk period. As the next section will demonstrate, loyalty for the Ḥanafī-turned-Shāfi'ī Ibn al-Naḥḥās looked different still.

Ibn al-Naḥḥās: A Confessionally eclectic Shāfi'ī

One of the few explicit *madhhab*-related comments in Ibn al-Naḥḥās' passages on the markets and the streets occurs in the passage about Shāfi'ī and other views on cooking bread over dung, provided in translation above. Ibn al-Naḥḥās also commented that where one agrees to buy a product at a certain price and then reduces the amount actually paid when taking possession, the product is “not sound according to one of the *madhhabs*”.⁹⁵ In addition, Ibn al-Naḥḥās' writings on innovation mark him out as a Shāfi'ī. His writing on forbidding wrong resembles such writings by the non-accommodationist scholars al-Juwaynī (d. 478/1085) and al-Nawawī, who were both Shāfi'īs.⁹⁶

Two features of Ibn al-Naḥḥās' passages on butchers, bakers and money changers imply that Ibn al-Naḥḥās drew on a wider range of views than just the Shāfi'ī school.

⁹⁵ *Tanbīh*, 452-3. This example immediately follows Ibn al-Naḥḥās' discussions of innovations relating to bakers.

⁹⁶ M. Cook 2000, 356 (and cf. *ibid.*, 346-7 and 352n102).

First, Ibn al-Naḥḥās discussion of reflects al-Sarakhsī’s (Ḥanafī) *furū’* work more than it does al-Mawārdī’s (Shāfi‘ī) *furū’* work, which shows the influence that Ibn al-Naḥḥās underwent.⁹⁷ Despite the fact that Ibn al-Naḥḥās cited al-Mawārdī several times, a well-known *furū’* work from his former Ḥanafī *madhhab* influenced the Mamluk scholar more than one from his newly adopted *madhhab*, at least in respect of discussions about ritual impurity and butchers.⁹⁸ By contrast with other Shāfi‘ī writers, Ibn al-Naḥḥās never explicitly recommended action against the state (or state instruments).⁹⁹

Overall, Ibn al-Ḥājj’s passages on bakers, butchers and money changers mark him out as a non-confrontational Mālikī (with respect to state authorities). For his part, Ibn al-Naḥḥās identified as a Shāfi‘ī while drawing, in an eclectic way, on emphases from other *madhhabs*.

⁹⁷ Al-Sarakhsī frequently mentioned issues of ritual impurity in his discussion of the butcher, such as when commenting on the butcher’s knife or the method of slaughter (*Mabsūt* 11:140, 15:142). Another example is from his chapter on ablutions and washing. As part of his discussion on purification, he noted that “this is like when the *mujāhid* or the butcher wipes his sword or knife in soil, he purifies it” (*Mabsūt* 1:81). Al-Sarakhsī mentioned *al-qaṣṣāb* five times in this work, including in a list of several professions given as examples, such as in a discussion of renting a building (various professionals need to be aware of what equipment they might need in the building), or of loaning clothing to a professional (who should consider what they might need the clothing for). By way of comparison, al-Māwardī mentioned *al-qaṣṣāb* twice, in a section discussing who is accountable if someone trips over badly positioned stones (al-Māwardī, *Ḥāwī*, 12:371).

⁹⁸ Al-Māwardī, *Aḥkām*, 273. Ibn al-Naḥḥās also did not follow al-Māwardī’s approach of categorising duties within *ḥisba* according to the duty of commanding right and forbidding wrong.

⁹⁹ M. Cook 2000, 346-56.

V.1.d. Proximity of Ibn al-Ḥājj and Ibn al-Naḥḥās and their texts to the *muḥtasib* and *ḥisba* manuals

One of the most striking aspects of the above translations is the extent to which the topics and social concerns overlap with those in *ḥisba* manuals. This section describes and discusses these overlaps and goes on to argue that this was not as a result of copying or professional allegiance. In the section on aims and audiences, below, I shall also argue that - in their different ways - Ibn al-Ḥājj and Ibn al-Naḥḥās both viewed their tracts as vehicles to engage with a wide range of social, ethical, religious and other dimensions of Islamic tradition and custom.

The principles and qualifications to which Ibn al-Ḥājj gave considerable space (for example in relation to the slaughterer) are recognisable from *ḥisba* manuals.¹⁰⁰ Although Ibn al-Ḥājj appreciated the money changers' task (a point that does not appear in *ḥisba* manuals), he mirrored these works by condemning money changers' practices and even the role itself.¹⁰¹

Ibn al-Naḥḥās' comments about a range of practices involving the butcher, baker and money changer were also similar to those in *ḥisba* manuals. These practices, described in the above translations, included butchers transgressing the stipulations of ritual purity, bakers using weights, scales and measures in unfair ways, and various ruses

¹⁰⁰ Ibn al-Ukhūwa (*Ma'ālim*, 32, nos. 127-8) and Buckley 1999, 52.

¹⁰¹ A saying circulating during the Mamluk period referred to the tongue of the *ṣayrafi* being like a sword that cuts everything it touches (Ibn Manzūr, *Lisān*, 2:432).

involving money changers.¹⁰² This point applies more generally to Ibn al-Ḥājj's and Ibn al-Naḥḥās' passages on the markets and the streets, as both these passages and *ḥisba* manuals were arranged by profession.¹⁰³

However, Ibn al-Ḥājj's and Ibn al-Naḥḥās' anti-innovation tracts were quite independent from *ḥisba* manuals, despite being similar to them in the above-mentioned ways. For example, their treatments of various topics were also less technical than those of *muḥtasibs* (marketplace inspectors), such as in their comments on weighing goods. Both Ibn al-Ḥājj and Ibn al-Naḥḥās used the terms *wazna* and *mīzān*,¹⁰⁴ but did not use more specific terms (such as *raṭl*) that we know to have been used in the Mamluk period.¹⁰⁵ The density and range of legal terminology, noted above, in Ibn al-Ḥājj's and Ibn al-Naḥḥās' tracts were not features of *ḥisba* manuals, by contrast with works of positive law.¹⁰⁶ Whereas these manuals touched on issues of social order but not law, Ibn al-Ḥājj's and Ibn al-Naḥḥās' tracts showed an interest in both. In addition, occasionally, Ibn al-Ḥājj

¹⁰² See al-Shayzarī, *Nihāya*, 18-20. Al-Shayzarī commented on a fourth/tenth-century practice, where money changers would smear *dinārs* with kohl so that the coins weighed more (Buckley 1999, 95n5).

¹⁰³ See also al-Shayzarī, *Nihāya*, 6; al-Jarsīfī, *Risāla*, 119; and Yate 1996, 6. On intention, including the impact of intention and action on other people, see: *Madkhal* 2(2):152, 157 and 168; al-Shayzarī, *Nihāya*, 7; and al-Jarsīfī (d. 676/1277), *Risāla*, 123. (Al-Jarsīfī's *Risāla* is a short *ḥisba* manual about which scholars know little. Al-Jarsīfī lived in North Africa [Latham 1960, 125]. Following Latham's criticisms of Wickens' translation of al-Jarsīfī's *Risāla*, I have not relied on Wickens' translation.) On similar use of the terms *baṣar* and *nazar* in context of staring at members of the opposite gender, see: al-Jarsīfī, *Risāla*, 122; *Madkhal*, 1(2):78 and *Tanbīh*, 473.

¹⁰⁴ *Madkhal*, 2(2):147 and 170; *Tanbīh*, 452.

¹⁰⁵ In addition to references given above to *ḥisba* manuals, see Hinz 1955, 27-31. In his *ḥisba* manual, al-Jarsīfī dealt with measurements and weights very briefly, without using any technical terms (*Risāla*, 120). This is the only counter-example to the main point that I have found.

¹⁰⁶ Examples of references to earlier juridic treatments of the baker (*khabbāz*) include al-Sarakhsī's *Mabsūṭ* ("a scribe or baker" giving witness to a marriage, 5:30 and 12:153; eating bread in context of selling, 12:53; and agency [*al-wakāla*] in buying and selling, 19:40) and Ibn Rushd's *Bidāya* (2:262-6; see also Nyazee 1996, 2:244-8).

and Ibn al-Naḥḥās followed previously established ways of writing about the markets and the streets but, unlike the authors of *ḥisba* manuals, they did not reproduce passages that were also found in (other) *ḥisba* manuals.¹⁰⁷ Their anti-innovation tracts also did not refer in any detail to judges or governors.¹⁰⁸

In addition to the above observations based on comparisons of texts, neither Ibn al-Ḥājj and Ibn al-Naḥḥās were *muḥtasibs*.¹⁰⁹ So why did they write? It is possible that the profession of the *muḥtasib* was corrupt or ignorant in their eyes. At the very least, Ibn al-Ḥājj and Ibn al-Naḥḥās felt the need to engage, to speak out using a prescriptive genre of writing, and to offer some kind of corrective, seeing this as part of their worship to God.¹¹⁰

Overall, although neither scholar copied from *ḥisba* manuals, any *muḥtasib* (or appointer of a *muḥtasib*) reading Ibn al-Ḥājj's and Ibn al-Naḥḥās' writings would have recognised the direct relevance of these passages to their own roles. This is relevant to Ibn al-Ḥājj's and Ibn al-Naḥḥās' intents in writing, because it suggests that, as part of addressing their audiences, they sought to exert influence over parts of society where an official appointee had formal jurisdiction.

¹⁰⁷ George Wickens noted one passage where al-Jarsīfī's *Risāla* and Ibn al-Ukhūwa's *Ma'ālim* run in parallel "almost word for word" (1956, 187; cf. al-Jarsīfī, *Risāla*, 127-8 and Ibn al-Ukhūwa, *Ma'ālim*, 194).

¹⁰⁸ Al-Shayzarī, *Nihāya*, 8-10. Cf. Ibn 'Abdūn's *Risāla*, a short Andalusian work on *ḥisba* from around the same time as al-Shayzarī's (d. 588-9/1193?). Ibn 'Abdūn also discussed *al-qādī* and *al-ḥākim* (*Risāla*, 16).

¹⁰⁹ See Part III. Also, nothing in Ibn al-Ḥājj's or Ibn al-Naḥḥās' writings gives the impression that they themselves possessed the symbols or jurisdiction that the ruling authorities gave to *muḥtasibs*. On such jurisdiction and symbols, including the whip and the *turtūr* (adorned felt and cloth that *muḥtasibs* could force convicts to wear, humiliation), see Ibn al-Ukhūwa, *Ma'ālim*, 4, Shoshan 1993, 9 and 61, Yate 1996, 355-7 and Buckley 1999, 26 and 34.

¹¹⁰ For further discussion of this question, see the Conclusions to this thesis.

V.1.e. Authorial intent

In this section, I compare Ibn al-Ḥājj's and Ibn al-Naḥḥās' authorial intent - as stated in their introductions - with what they wrote in the main body of their work. I begin by considering what type of markets Ibn al-Ḥājj and Ibn al-Naḥḥās had in view, before seeking to establish that Ibn al-Ḥājj's and Ibn al-Naḥḥās' primary audiences were specialists and the masses respectively. Finally, I explore the wider aims that Ibn al-Ḥājj and Ibn al-Naḥḥās had, noting that, only by taking into account social, ethical and political factors, in addition to religious factors, may we properly begin to explain why Ibn al-Ḥājj and Ibn al-Naḥḥās wrote in the ways they did.

V.1.e.i. Types of markets that Ibn al-Ḥājj and Ibn al-Naḥḥās had in view

Ibn al-Ḥājj's and Ibn al-Naḥḥās' passages on bakers, butchers and money changers contain little to specify exactly who, in the markets and the streets, would have comprised their audiences. I think it unlikely that either tract was aimed only at the poor. Bread and wheat were the staple diet of the poor, and Ibn al-Ḥājj and Ibn al-Naḥḥās both gave considerable space to these commodities.¹¹¹ However, Ibn al-Ḥājj and Ibn al-Naḥḥās also gave considerable space to meat, something that was not generally part of the diet of the poor.¹¹² Of the groups who frequented the markets and the streets, and could have formed audiences for Ibn al-Ḥājj's and Ibn al-Naḥḥās' tracts, two merit attention briefly.

¹¹¹ Sabra 2000, 114-5.

¹¹² Ibid.

First, Ibn al-Ḥājj commented at least twice on apprentices.¹¹³ In this context, the ‘*ulamā*’ formed an important “common basis of organization and action” in Mamluk Muslim cities.¹¹⁴ Second, those connected with the markets and streets in eighth/fourteenth- to tenth/sixteenth-century northern Egypt had exposure to many non-Muslims and a wide range of travellers from other lands. Northern Egypt was crossed by thriving trade routes (including the *hajj* route for many) and this was a time of increased influence of European merchants in Levantine trade - this would all have tended to ensure a rich flow of products and services to the area.¹¹⁵ Mamluk Cairo was also a magnet for talent, with “scholars, artists, and craftsmen uprooted by the Mongol upheaval in the east or drawn to it from all parts of the Muslim world by its wealth and prestige”.¹¹⁶ A result of this was a steady flow of people from all walks of life coming through, with benefits to the intellectual climate of the area, as well as trade. It is quite possible that certain commercial innovations that Ibn al-Ḥājj and Ibn al-Naḥḥās discussed originated from outside Mamluk lands, or that there was a greater willingness to censure ‘innovations’ that had been practised for centuries by foreigners. This would be a case of Muslim outsiders censuring the practices of non-Muslims in Egypt.

¹¹³ *Madkhal*, 2(2):142 and 148-9. On associations of apprentices in Mamluk Syria and Egypt, see Faroqhi 2009, xxi and 26. See also Lapidus 1970, 199.

¹¹⁴ Lapidus 1970, 205.

¹¹⁵ Shatzmiller 2000, 470. On the key role played by Kārimī merchants in the Mamluk economy, see Fischel 1958, 161.

¹¹⁶ Stowasser 1984, 13.

A more fruitful avenue in terms of specifying Ibn al-Ḥājj's and Ibn al-Naḥḥās' audiences will be to articulate the type of markets that they must have had in mind. In the remainder of this section, I argue that this must have been urban and semi-urban markets.

Among the markets that existed, Ibn al-Ḥājj's and Ibn al-Naḥḥās' passages on butchers, bakers and money changers are consistent with an urban and semi-urban type, with many different types of traders side by side. Four factors point in the direction of this conclusion. First, not only did Ibn al-Ḥājj and Ibn al-Naḥḥās comment on buildings and stalls narrowing the way, but they also urged butchers not to allow blood to drip onto the streets and thereby to be considerate to passers-by and other traders - generally assuming that there was plenty of pedestrian as well as other traffic around.¹¹⁷ The few instances where Ibn al-Ḥājj or Ibn al-Naḥḥās had other locations in mind do not contrast the point just made.¹¹⁸

Second, Ibn al-Ḥājj and Ibn al-Naḥḥās did not discuss large scale agriculture in their tracts.¹¹⁹ We know that trading took place in a wide variety of contexts, including the type of market where different professions were carried out side by side.¹²⁰ Although it is impossible to generalise on the organisation of differently sized cities and towns (let

¹¹⁷ See for example *Madkhal*, 2(2):173 and *Tanbīh*, 460.

¹¹⁸ For example, Ibn al-Naḥḥās briefly discussed innovations involving water sellers, and pointed to the (innovative) practice of collecting water without realising that a camel had urinated or defecated there (*Tanbīh*, 459). The place where the water seller collected water was not the market or the streets. However, Ibn al-Naḥḥās showed that one of his main concerns was the subsequent transaction involving the water, as he discussed whether the money paid for the water should be returned once the innovation became clear (ibid.).

¹¹⁹ Laiou 2007, 203.

¹²⁰ The following analysis focusses on trading contexts outside the home, which reflects the emphasis in both Ibn al-Ḥājj's and Ibn al-Naḥḥās' passages on the markets and the streets.

alone markets), many of which had quite haphazard designs,¹²¹ we may note some relevant facts here. Larger cities such as Old Cairo or Damascus contained hundreds of markets, some of which were small collections of trading stalls and many of which were isolated in “village-like communities within the larger cities”.¹²² Within each of these types of market were some that were trade-specific or commodity-based, and others where multiple trades co-existed.¹²³ However, as al-Maqrīzī’s *Khiṭaṭ* made clear, in Mamluk Old Cairo, many such specialised markets were in close proximity to each other, forming clusters.¹²⁴ For those walking around that part of Old Cairo, the distinction between many specialised markets and one large sprawling market (or set of markets) would not have been very big. Scholars are less certain about the nature of different types of markets that existed in smaller towns and villages both in the West (the region from which Ibn al-Ḥājj came) and in Egypt and Syria. We know that medium-sized towns typically housed dozens of markets (many of them heterogenous),¹²⁵ although smaller

¹²¹ For discussion of the design of cities in Arabic speaking lands in the first three centuries of Islamic history, see Milwright 2010, 76-83. See also George Marçais’ often cited description of the design of a city, which was based mainly on North African examples (Abu-Lughod 1987, 157).

¹²² On Damascus, see Lapidus 1970, 199. On Old Cairo, see Guthrie 1998, 100.

¹²³ Lapidus 1970, 197. For example, in some situations, all the butchers were together in one market, separate from the area where the money changers were.

¹²⁴ Raymond 1997, 791-2. There were 87 markets (*sūqs*) and 58 caravanserais (*funduqs*, *ḥaysāriyyas*, *khāns*, *wakālas*) in the Mamluk period in the whole of Cairo, and the early fifteenth century saw a revitalisation of such markets (Raymond 1997, 791-2 and Lutfi 1991, 118).

¹²⁵ For a city layout from the eighth/fourteenth-century town of Taza (in present day Morocco) containing thirty-three markets, see Mabrouk 2000, 235.

towns (including newer ones) often had just one, which housed a variety of trades.¹²⁶ This is in addition to weekly rural markets and fairs that we know to have existed.¹²⁷

Third, al-Fayyūmī (d. 760/1358) implied that the word *sūq* carried the sense of a market with brisk trade (*nāfiq*).¹²⁸ Along with the terms *ṭarīq* and *shāri‘*, Ibn al-Ḥājj and Ibn al-Naḥḥās used the term *sūq* to refer to the markets and the streets.¹²⁹ Neither author named particular markets or streets, nor did they explicitly distinguish between different kinds of markets, nor refer to rivalries that existed between them.¹³⁰

Fourth, both Ibn al-Ḥājj and Ibn al-Naḥḥās commented on all three of the elements of an Islamic city highlighted by William Marçais, where - by definition - urban markets would be found. Although a blueprint of ‘the Islamic city’ simply does not exist, either in general or in relation to the placement of mosques, markets and other features therein, Marçais defined an Islamic city as including a mosque, a nearby market and a *ḥammām*.¹³¹ The above evidence permits us to specify the types of markets that Ibn al-Ḥājj and Ibn al-Naḥḥās probably had in mind, namely urban and semi-urban markets that involved many different types of traders side by side.

¹²⁶ Petersen 2007, 497-509, esp. 498-501.

¹²⁷ Chalmeta 1980, 104-5. By way of comparison, on rural fairs in the thirteenth and fourteenth century in Byzantine areas, see Laiou 2007, 180. On village and city markets in relation to sixteenth-century Ottoman Anatolian markets, see Faroqhi 1984, 57.

¹²⁸ *Miṣbāḥ*, 296.

¹²⁹ *Madkhal*, 1(2):64 and 2(2):175, and *Tanbīh*, 449. On *khān* and *funduq*, terms that Ibn al-Ḥājj and Ibn al-Naḥḥās did not use, see Guthrie 1998, 98-100, which focusses on *maqāmāt* works produced in Syria and Iraq during the seventh/thirteenth century.

¹³⁰ Faroqhi 1984, 57. According to William Lane, al-Fayyūmī completed his dictionary in 734 A.H., three years before Ibn al-Ḥājj’s death (Lane 1955, 1:xvi).

¹³¹ Marçais’ main source was Ibn Khaldūn. Abu-Lughod 1987, 156 and 170-2. On the development and heterogeneity of Islamic cities, see Kennedy 1985 and Abu-Lughod 1987. For distinctions between residential neighbourhoods and commercial zones of Islamic cities, see Abu-Lughod 1987, 169-70.

V.1.e.ii. Primary audiences

In his passages on the markets and the streets, Ibn al-Ḥājj provided explanations and details that a specialist might appreciate. For example, he did not merely write that, if a baker is not present, someone dependable should take his place, but went on to give two reasons related to trustworthiness and the relative importance of preserving flour, over preserving wheat.¹³² In addition, as noted above, Ibn al-Ḥājj listed conditions such as the qualifications for sound slaughter, which are similar to those found in Mālikī and other works of *fiqh*.¹³³ Ibn al-Ḥājj's propensity for lists and details (even if not to the extent of theoretical legal analysis) makes his work come across as appropriate for jurists, especially those needing to learn the basics, such as in the following selection of phrases from the earlier translations from the passages about the markets and the streets: "*He should be aware of ... ; he should be extremely careful not to ... ; sound is the slaughter of him in whom are united three characteristics ...; this relates to collective obligation ...*"¹³⁴ These are not phrases that one finds in Ibn al-Naḥḥās' tract. There is also little evidence in the foregoing to specify, any more precisely, the nature of the educational context in which Ibn al-Ḥājj's audience may have been situated.

We should not dismiss the possibility that Ibn al-Ḥājj also intended to address the masses. As Bernard Weiss noted, the authority of a *mujtahid* as a spokesman for God's law gave him authority in relation to non-*mujtahids* (whom Weiss referred to, in this

¹³² *Madkhal*, 2(2):157.

¹³³ On the importance of qualifications and conditions, see the books of *buyū'* (trade or sales) and *ṣarf* (brokerage or exchange of money) in Ibn Rushd's *Bidāya*, and Yate 1996, 160-185.

¹³⁴ See above translations.

context, as the *'āmmī*).¹³⁵ Ibn al-Ḥājj's writings could also have appealed to the masses (who would have appreciated the non-specialist language used). This is plausible given the findings of chapter III.1, that Ibn al-Ḥājj was widely travelled and well regarded.

In addition, both authors argued in relatively straightforward ways, frequently resorting to simple statements that certain innovations were wrong. Although they occasionally adduced some supporting reasons, these mainly relied on a common sense argument. By contrast with other authors of anti-innovation tracts (such as Ibn Taymīya or al-Suyūṭī), both Ibn al-Ḥājj and Ibn al-Naḥḥās rarely argued by analogy (*qiyās*),¹³⁶ and did not supply a detailed set of *ḥadīths* for their arguments.¹³⁷ However, compared with Ibn al-Ḥājj's and Ibn al-Naḥḥās' primary audiences, there is little else in Ibn al-Ḥājj's texts to support this wider possibility further. On the other hand, Ibn al-Naḥḥās was more direct and less formal in his writing style, compared with Ibn al-Ḥājj. For example, as noted above, Ibn al-Naḥḥās stated buying in two instalments is *ḥarām*. Ibn al-Naḥḥās could have drawn from a rich, detailed and complex heritage of legal argumentation in relation to this point, drawing on sources including the Qur'ān and *ḥadīths*, or could have listed multiple instances in which purchasing in instalments is relevant, or multiple reasons why the practice is *ḥarām*, but he did not. Whatever Ibn al-Naḥḥās' reason was for making his

¹³⁵ B. Weiss 2005, 4.

¹³⁶ The above example relating to treading in urine may constitute an example of Ibn al-Ḥājj arguing by analogy, but he himself did not make clear what he was doing. Nor did Ibn al-Ḥājj and Ibn al-Naḥḥās present *'aql* as a source of law.

¹³⁷ See Chapter II.2. On Ibn Taymīya discussing the nature of *bid'a* with reference to analogy, in his *Iqtiḍā'*, see Memon 1976, 231. On al-Suyūṭī and *ḥadīths*, see *Abwāb*.

point directly, his tract comes across as more authoritarian and matter of fact than reasoned.

Ibn al-Naḥḥās' was also the less formal of the two jurists considered in this study. For example, when giving the formula to be used during a transaction, Ibn al-Ḥājj wrote the following words:

*fa-in qāla qā'il: anā ashtarī al-kashkāk wa-al-muḥabbaba 'alā al-waṣf al-mutaqaddim*¹³⁸

If the speaker were to say: I purchase the *kashkāk* and the trinket according to the previous description ...

By way of comparison, the speech that Ibn al-Naḥḥās reported in the context of purchasing bread is below:

*fa-yaqūlu lahu, bi'tuka. wa-yaqūlu, ishtaraytu.*¹³⁹

So he says to him, I buy from you. And he says, I sell.

This is quite colloquial speech. The above findings about audiences are congruent with my earlier conclusion, based on the introduction to Ibn al-Ḥājj's and Ibn al-Naḥḥās' tracts.¹⁴⁰

¹³⁸ *Madkhal*, 1(2):64.

¹³⁹ *Tanbīh*, 452.

¹⁴⁰ See discussion in Part IV.

V.1.e.iii. Wider aims, including ethical, social and political dimensions

In this section, I argue that we may detect, in Ibn al-Ḥājj's and Ibn al-Naḥḥās' writings about the markets and the streets, elements of a critique against those with temporal authority in Egypt. What we have seen is consistent with a certain type of outsider who, being new to the region, felt the need to criticise rather than fit in. As we have seen above, there was a precedent in legal and paralegal literature to make such critiques. In my earlier discussion of the *muḥtasib*, I argued that Ibn al-Ḥājj's and Ibn al-Naḥḥās' passages on the markets and the streets resembled, yet were also distinct from, *ḥisba* manuals. We may also detect implicit criticism of marketplace inspectors in Ibn al-Ḥājj's and Ibn al-Naḥḥās' comments on the markets and the streets.

Ibn al-Ḥājj and Ibn al-Naḥḥās arrogated some of the *muḥtasib*'s powers to themselves, namely the power to stipulate licit and blameworthy practices, and - in some cases - to prevent (and give people permission to prevent) the latter. Many other institutions exercised judicial prerogatives, including judges, the police, provincial governors and military courts such as *quḍāt al-ʿaskar*.¹⁴¹ Such organisations were complex in their functions and expressions, both internally and in relation to the role each type of court played within society.¹⁴² It was not unheard of in eighth/fourteenth- and ninth/fifteenth-century Cairo for educated and uneducated people alike to challenge the

¹⁴¹ On provincial governors and military courts, see Tyan 1955, 242-3 and 270.

¹⁴² For a synthesis of the organisation and functioning of the main medieval Islamic courts, see Tyan 1938, 313-422.

considerable role and/or authority of the *muhtasib*.¹⁴³ In their different ways, both Ibn al-Ḥājj and Ibn al-Naḥḥās sought to exert their authority in this context.

During Ibn al-Ḥājj's life, the post of *muhtasib* was dominated by members of the 'ulamā' (including several jurists and judges), to a greater extent than in later periods.¹⁴⁴ Ibn al-Ḥājj's focus on knowledge makes sense in a context where many *muhtasibs* had received a formal education in 'ilm and other disciplines. Berkey is right to suggest that Ibn al-Ḥājj was attempting to influence other scholars more than rulers (because Ibn al-Ḥājj did not directly address his writings at rulers), yet, via commenting on issues under the remit of the *muhtasib* - whom the ruler appointed - he may also have aimed to influence rulers indirectly and to establish his credentials or authority as a Western jurist in Egypt. Certainly, we should not dismiss this possibility.

During Ibn al-Naḥḥās' later life, the tenure of *muhtasibs* was extremely short. In Egypt, the year 808/1405-6 saw eleven appointments to *muhtasib* positions, and the period between 801/1399 and 818/1416 saw an average tenure of two and a half months for the role of *muhtasib*.¹⁴⁵ This was not a time when *muhtasibs* had significant authority derived from long service in their position. Indeed, it was an opportune moment for a scholar wanting to issue forceful denouncements of innovations within the *muhtasib*'s jurisdiction, of the kind that Ibn al-Naḥḥās issued. To this we should add the earlier observation that Ibn al-Naḥḥās cited other authors less in his passages on the market and the streets than at other places in his anti-innovation tract. It seems as if he was

¹⁴³ Shoshan 1993, 21 and 63.

¹⁴⁴ Berkey 2004, 253, 255-60 and 275. See also Perho 2011, 31.

¹⁴⁵ Allouche 1994, 4. On tenures between 798/1396 and 816/1413, see Berkey 2004, 254-5.

personally putting a challenge either to the authority of the *muḥtasib* or to those who might be considering whether to rebel against him in some way.

One way for an *‘ālim* to take authority in the legal area against a *muḥtasib* was to write a *fatwā*. Ibn al-Ḥājj and Ibn al-Naḥḥās proceeded in a different direction, by putting examples together relevant to a wide range of audiences, including those whom a *muḥtasib* would be concerned with. Overall, Michael Cook’s comment that Ibn al-Naḥḥās’ audience seems not to be restricted to the learned also applies to his markets and streets passages, and to Ibn al-Ḥājj’s writings on the same topics.¹⁴⁶ I would phrase it differently from Cook, that Ibn al-Naḥḥās’ audience seems not to be restricted to the masses.

It is worth stepping back from the detail of a comparison between *muḥtasibs* and authors of anti-innovation tracts. In the remainder of this section, I suggest that we should understand Ibn al-Ḥājj’s and Ibn al-Naḥḥās’ writings on the markets and the streets in a broader context than purely a religious one, and that we should understand them to be emphasising Islamic tradition and custom also in its ethical, social and political dimensions. This builds on my earlier comments that *muḥtasibs* combined these dimensions in their work. Several modern studies show inter-relationships between religious and other areas to have been important in areas that Ibn al-Ḥājj and Ibn al-Naḥḥās discussed.¹⁴⁷ Moreover, in terms of jurisprudential literature, ethical

¹⁴⁶ Ibid., 354.

¹⁴⁷ On the relevance of economic, moral and social issues to the performance of commercial activities as discussed in the Qur’ān, see Rippin 2006, 311. More generally, on the importance of a scholar’s political and doctrinal views in the struggle for professional superiority, in the context of a ‘Zāhiri revolt’ in Damascus in the late eighth/fourteenth century, see Wiederhold 1999, 224-5.

considerations were often closely in view.¹⁴⁸ My argument in this section builds on this scholarship and relies on selected examples of connections between Ibn al-Ḥājj's and Ibn al-Naḥḥās' writings and the writings of others.

Starting with the political context, it was not uncommon for scholars in the Mamluk period to produce and employ works for political ends.¹⁴⁹ Amalia Levanoni argues that religious scholars directed criticism against the everyday practices of the Turkish and Circassian Mamluk ruling elite (many of whom maintained close connections with their homelands) and sought to preserve Islamic cultural ideals over what the scholars saw as unfit alternatives brought in from outside lands.¹⁵⁰ Ibn al-Ḥājj and Ibn al-Naḥḥās did not name rulers against whom they were writing, but their writings about butchers, bakers and money changers are consistent with wanting to impose their juridical and cultural views not just on the masses, but also on the ruling elite.¹⁵¹ As Arabic-speaking Muslims from outside of Egypt who were deploring the state of observance of Islam in Egypt, Ibn al-Ḥājj and Ibn al-Naḥḥās could quite conceivably have had Turkic and Circassians in view, at least in part.

As well as levelling a critique against ruling elites, it is possible that Ibn al-Ḥājj and Ibn al-Naḥḥās were also aiming to gain legitimacy in the eyes of those who were experts in law, and/or to establish a link to the 'hand' that enforced the law. Daniella Talmon-

¹⁴⁸ Gleave 2011, 455.

¹⁴⁹ Chamberlain 1994, 177-8, Shoshan 1993, 69, Berkey 1998, 163-173 and Black 2001, 143-4. For examples from the mid- and late-eighth/fourteenth century, see Van Steenberghe 2006, 170-2. On Ibn Taymīya and Ibn Qayyim, see Haarmann 1980, 63 and 65.

¹⁵⁰ Levanoni 2005, 221-2. Levanoni's sources include chronicles and polemical texts, among others.

¹⁵¹ See Levanoni's discussion of jurists' writings in late eighth/fourteenth-century Damascus as vehicles for registering discontent with political rulers.

Heller’s notion of a “symbiosis between scholars and society” is useful in this regard. In the context of scholars changing *madhhabs*, Talmon-Heller proposes that there was a symbiotic process in medieval Syria by which scholars could both identify with commoners (for example in belonging to a *madhhab*) and influence rulers (for example by studying and applying the legal system).¹⁵² According to this analysis, Ibn al-Naḥḥās would have been positioned well to influence not just the masses but also jurists and rulers, given his change of *madhhab* and his direct and applied style. That is, Ibn al-Naḥḥās’ strategies for rebuking innovations on the markets and the streets were well chosen to appeal to a wide range of audiences.

Separately, Michael Chamberlain highlights the social dimensions of many inter-*madhhab* discussions, including how these related to the battle to determine the *ḥalāl* from the *ḥarām*.¹⁵³ This illustrates the importance of viewing Ibn al-Ḥājj’s Mālikī allegiance and Ibn al-Naḥḥās’ confessional eclecticism not just in a religious, but also in a social, light.

The *Kitāb al-Mu’īd* by the Shāfi‘ī al-Subkī (d. 803/1400-1) illustrates the social point about the social context and relevance just made, as well as the ethical dimension of discussions about innovations in the markets and the streets. Al-Subkī studied in both Cairo and Damascus, becoming chief judge in Damascus at the age of 28.¹⁵⁴ He was a contemporary of Ibn al-Naḥḥās, and was also interested in concepts connected to the duty

¹⁵² Talmon-Heller 2005, 116.

¹⁵³ Chamberlain 1994, 129.

¹⁵⁴ Myhrman 1908, 13-21. On al-Subkī’s polemics on behalf of Ash‘arism and against Shāfi‘īs, see Schacht 1934, 745.

of forbidding wrong.¹⁵⁵ The *Kitāb al-Mu'īd* is a religious, ethical and social treatise that aims to give guidance on success and good fortune. It condemns innovations “that do not conform with the simplicity and purity of Mohammedan traditions”.¹⁵⁶ This work contains arguments that in some instances more resembled Mālikī arguments than those of other Shāfi'īs.¹⁵⁷ One of its sections, entitled *Shukr bi al-af'āl*, comments on 114 trades or roles, including the butcher (*al-jazzār*).¹⁵⁸ In communicating detailed stipulations about how to perform tasks associated with slaughtering, this section lacks any sense of the exhortation to action which is so pervasive in Ibn al-Naḥḥās' passages on the butcher and in his broader tract. In this sense it is much closer in content and emphasis to Ibn al-Ḥājj's work. Also, al-Subkī's treatment of the butcher is closer to some Mālikī writings on forbidding wrong than most Shāfi'ī ones. This is apparent in his emphasis of knowledge and forbidding wrong together, and in his shying away from confronting the state's appointed authorities. This is not to claim that the writings of the Shāfi'ī al-Subkī were more Mālikī than Shāfi'ī in outlook. But al-Subkī was involved in disputes among Shāfi'īs and expressed a wide range of views in those disputes, so the above examples are not entirely surprising.¹⁵⁹ Given the difficulties of distinguishing *madhhab* boundaries in relation to forbidding wrong, we must therefore beware of making simplistic associations

¹⁵⁵ Myhrman 1908, 23-4. This fact is not surprising given that he compiled a biographical dictionary of Shāfi'ī scholars (*Ṭabaqāt al-Shāfi'īya*), many of whom were interested in the duty (Schacht 1934, 745.)

¹⁵⁶ Myhrman 1908, 36-8 and 51. See also *Kitāb al-Mu'īd*, 33, 51 and 53.

¹⁵⁷ To the extent that Mālikī writings on forbidding wrong influenced a Shāfi'ī in this case, it is also true that things occasionally worked in the opposite direction, as in the case of the North African Mālikī 'Uqbānī (d. 871/1467). See M. Cook 2000, 369-70.

¹⁵⁸ Myhrman 1908, 203. There is no chapter on the baker (*khabbāz*, *farrān*) in the *Kitāb al-Mu'īd*.

¹⁵⁹ Schacht 1934, 745.

between Ibn al-Ḥājj's *Madkhal* and earlier Mālikī writings on the duty and between Ibn al-Naḥḥās' *Tanbīh* and earlier Shāfi'ī writings on it. This is why it is essential to study anti-innovation tracts by taking into account various kinds of intellectual contexts. We must also bear in mind the social and ethical dimensions of anti-innovation tracts when studying them.

An example of where Ibn al-Ḥājj touched upon ethics is from his writing about practices that took place during times of famine and economic difficulty.¹⁶⁰ Ibn al-Ḥājj cited a *ḥadīth* in which Muḥammad's companions sold wheat during a time of high prices (*ghalā'*), and chose not to hoard and profit from it by being able, subsequently, to insist on a higher sale price.¹⁶¹ During times of economic difficulties, local disquiet about grain supplies, and forced grain sales, were common.¹⁶² Ibn al-Ḥājj was arguing not just that (one should know that) the innovation of hoarding was wrong, but that part of the reason why it was wrong is that one should not take advantage of others through deliberate malpractice - hence the emphasis on knowledge.

On the other hand, we must not over-emphasise the social and ethical dimensions of interpreting innovations. In relation to bread, neither Ibn al-Ḥājj nor Ibn al-Naḥḥās had the type of wider social concerns in view that al-Jarsīfī (d. after 676/1277) noted in his *Risāla*. An example of this is al-Jarsīfī's recommendation that deficient bread (*al-khubz*

¹⁶⁰ *Madkhal*, 2(2):148.

¹⁶¹ *Ibid.*

¹⁶² Shoshan 1993, 58-64, Sabra 2000, 141-4 and Holt 1991, 323. For an earlier Shāfi'ī view that the *muḥtasib* or traders should not generally fix prices even in times of high prices (although there were exceptions), see al-Māwardī's *Aḥkām* (Yate 1996, 359). See also the discussion about high prices during famine, in relation to eleventh- to fourteenth-century Byzantine cities (Laiou 2007, 227-8). To set this situation in the context of similar problems a century later, see Clot 1996, 137 and Petry 1993a, 57.

al-maghshūsh) should be broken up and distributed freely.¹⁶³ Separately, I have already noted Ibn al-Ḥājj's and Ibn al-Naḥḥās' independence from al-Ghazālī and al-Dimashqī (notwithstanding their reliance on al-Ghazālī in some ways). In his article on Muslim Merchants in *Medieval Islamic civilization: An Encyclopedia*, Hassan Khalileh pointed out that works such as al-Ghazālī's *Iḥyā'* and al-Dimashqī's *Ishāra* pertained to "the ethical theory of trade".¹⁶⁴ Such ethical dimensions are largely lacking from Ibn al-Ḥājj's and Ibn al-Naḥḥās' tracts.

The two above discussions, in this section on wider aims, are inter-related in the sense that reading Ibn al-Ḥājj's and Ibn al-Naḥḥās' tracts in the context of *ḥisba* manuals and the *muḥtasib*'s role enhances our understanding of the ethical, political and juridic dimensions of these tracts. The *muḥtasib* was appointed by, and took orders from, rulers, yet was also guided by jurisprudence (*fiqh*).¹⁶⁵ However, *muḥtasibs* did not see their role purely in religio-legal terms, but also increasingly as guardians of morals. Berkey writes of "the replacement of ethics by politics as the source of the *muḥtasib*'s authority", which was linked to the decline - during the Mamluk period - of the ability of the *muḥtasib* to "proclaim and enforce the principles of his office in the face of selfish opposition from amirs".¹⁶⁶ This decline in the *muḥtasib*'s authority opened the way for jurists such as Ibn al-Naḥḥās to issue clear calls to action in the markets and the streets.

¹⁶³ See al-Jarsīfī, *Risāla*, 125, and references, below, to Wickens and Latham.

¹⁶⁴ Khalileh 2006, 498.

¹⁶⁵ Stilt 2011, 1. See also my comments, above, about the juridic nature of *muḥtasibs*. Cf. al-Māwardī's view of *ḥisba* as a judicial activity (Yate 1996, 338 and al-Māwardī, *Aḥkām*, 271).

¹⁶⁶ Berkey 2004, 274-5.

Such overlaps between the scope of action of jurists and *muhtasibs* should not overly surprise us. At one level, it is valuable to point out that the political and other contexts of the early- and mid-Mamluk period were permissive to jurists such as Ibn al-Ḥājj and Ibn al-Naḥḥās to write in the ways that they did. But it is also worth remembering that discussions of boundaries and territoriality may say more about the concerns of modern than premodern authors. The notion of a default position whereby one group of scholars does not cross boundaries between their territory and the territory of other groups of scholars, is a largely modern and theoretical one, and is not evident from my analysis of jurists in the Mamluk period. This relates to my discussion of *madhhab*-loyalty. Ibn al-Naḥḥās may have had some loyalty to his adopted Shāfi‘ī school in his heart, but his aim (and possibly his genre, as he viewed it) overrode this consideration. In order to address the masses, he could not restrict his message to just one *madhhab*. I suggest that this is a source for his *madhhab*-ambiguity, or even for his desire to stand above *madhhabs*.

In the above discussion, we have seen something of the insider-outsider dynamic that is present in every religious community. We have also observed something of the complexity of various social, ethical, religious and political aspects of Ibn al-Ḥājj’s and Ibn al-Naḥḥās’ tracts.

V.1.f. Anti-innovation tracts and the reconstruction of social and legal practices

Ibn al-Ḥājj and Ibn al-Naḥḥās claimed that the innovations that they discussed were occurring at the time.¹⁶⁷ There are good reasons to believe such claims, in general terms. For example, in the above translations, Ibn al-Ḥājj mentioned non-Muslims in relation to the soundness of a slaughter performed by a person of the book.¹⁶⁸ It is likely that Ibn al-Ḥājj was familiar with markets where many non-Muslims were present and with controversy over people of the book slaughtering meat.¹⁶⁹ In a separate example, Ibn al-Ḥājj condemned various practices involving interest that money changers would use to try to make money.¹⁷⁰ In relation to these condemnations, we know that money changers charged concealed interest within and outside Jewish communities in the decades and centuries before Ibn al-Ḥājj's death.¹⁷¹ Finally, many *muḥtasibs* would have joined Ibn al-Ḥājj and Ibn al-Naḥḥās in noting that butchers, bakers and money changers were quite lowly professions.¹⁷²

¹⁶⁷ See, for example, *Madkhal*, 2(2):159 and *Tanbīh*, 429-30.

¹⁶⁸ *Madkhal*, 2(2):169. Ibn al-Ḥājj also commented on the importance of not transacting with Christians at festivals (*Madkhal*, 1[2]:70 and 2[2]:171).

¹⁶⁹ On Franks, Italians and other non-Muslims in markets in Mamluk lands during Ibn al-Ḥājj's life, see Laiou 2007, 201-2 and 205.

¹⁷⁰ See *Madkhal*, 2(2):188 and the translations in Chapter IV.1.

¹⁷¹ Goitein 1967-93, 1:247 and 257. On debates about lending at interest during a period of general impoverishment in mid-fourteenth century A.D. Thessalonika, see Laiou 2007, 228-9.

¹⁷² For primary sources, see al-Jarsīfī, *Risāla*, 125, al-Sarakhsī, *Mabsūt*, 12:152 and al-Māwardī, *al-Ḥāwī al-kabīr*, 18:29. For secondary sources, see Cohen 1989, 102-3, Garcin 1998, 307-8, Sanders 1998, 160, Beg 2004, 267 and Juynboll 2007, 110n1.

Three further examples follow, and help justify why we might believe such claims in relation to Ibn al-Naḥḥās, in general terms. First, in the introduction to his *Dhikr*, Ibn al-Naḥḥās referred to *ṣalāt al-raghā'ib*, which we know to have been happening at the time.¹⁷³ Second, we know from al-Maqrīzī's *Kitāb al-Sulūk* that something like the practice Ibn al-Naḥḥās mentioned about making up the weight of bread occurred in the ninth/fifteenth century.¹⁷⁴ Third, later in his anti-innovation tract, Ibn al-Naḥḥās discussed the sorts of pricing and exchange rate innovations that one might expect to have arisen in a time of high prices.¹⁷⁵ Ibn al-Naḥḥās discussed a practice whereby a miller would delay telling a baker the conversion rate for flour until after taxes were levied.¹⁷⁶ This discussion occurred in an extended section where Ibn al-Naḥḥās referred to prices (*athmān*) and exchange rate innovations involving the *ṣayrafi*.¹⁷⁷ By Ibn al-Naḥḥās' time, emphasising the need to act rightly in the context of changing prices and exchange rates was not unprecedented, with Ibn al-Ḥājj and Ibn Khaldūn making similar points.¹⁷⁸ When interpreting Ibn al-Naḥḥās' comments, we should also bear in mind the severe famine that

¹⁷³ Several other scholars, including Abū Shāma, Ibn Taymīya and al-Turkumānī, referred to this prayer in their anti-innovation tracts (see Fierro 1992a, 226). On denunciations of the *ṣalāt al-raghā'ib* in other sources during the fourth to tenth *hijrī* centuries, see Fierro 1992a, 226 and Talmon-Heller and Ukeles 2012, 150-65.

¹⁷⁴ Shoshan 1993, 64 and 127.

¹⁷⁵ Ibn al-Naḥḥās did not mention the word *ghalā'*, as Ibn al-Ḥājj did.

¹⁷⁶ *Tanbīh*, 455.

¹⁷⁷ *Ibid.*, 455-6.

¹⁷⁸ In the *Muqaddima* Ibn Khaldūn focussed on how to respond in times of *ghalā'*, such as by not hoarding (Allouche 1994, 10-11). Cf. the *al-Taysī wa-al-i'tibār* (a work on economic and monetary topics by the Syrian al-Asadī, that was completed in 855/1451) which focussed (unlike Ibn al-Ḥājj, Ibn al-Naḥḥās and Ibn Khaldūn) on the causes of *ghalā'* and of price increases (*ibid.*, 10 and 13).

struck northern Egypt and elsewhere in 805-7/1402-4,¹⁷⁹ a crisis that affected the value of money in and around northern Egypt, especially in 806/1403 — 808/1406, when forced grain sales were common.¹⁸⁰ This last date was just three years before Ibn al-Naḥḥās finished his anti-innovation tract. In these years, Egypt experienced a rare form of *ghalā'* (high prices) which involved a combination of extremely steep price increases and inflation caused by currency depreciation and which had “tragic effects on the lives of the poor”.¹⁸¹ This, together with already declining long-term trade volumes in the central Islamic lands during the Later Middle Period, provided a plausible backdrop for Ibn al-Naḥḥās’ comments on innovations relating to exchange rates, tax and pricing.¹⁸²

However, my hypothesis about reconstructing social and legal practices remains unproven. Many of Ibn al-Ḥājj’s and Ibn al-Naḥḥās’ pronouncements are generalities that are difficult to corroborate and that are not definitive in relation to specific time periods or locales. For example, practices involving interest and relations with non-Muslims were not unique to the Mamluk period, similar ones being described in *ḥisba* manuals of at

¹⁷⁹ The food shortage of 805-7/1402-4 started just six years after the previous shortage but (unlike that shortage) led to famine. Adam Sabra noted that the continuing effect of the Black Death, a possible lack of state-sponsored relief effort and a monetary system lacking stability and on the verge of collapse exacerbated the effect of the 1402-4 famine (2000, 150-5).

¹⁸⁰ Allouche 1994, 13-4. On forced grain sales in the decades after Ibn al-Naḥḥās’ death as well as around the time of Ibn al-Ḥājj’s death, see Shoshan 1993, 61-4. Adam Sabra provided data that shows that the wheat price (in *dirham min al-fulūs* per *irdabb*) rose faster than the value of money between 805/1402 and 808/1405 (2000, 150-5). (Sabra expressed the change in value of money as the change in the conversion rate of *dirham min al-fulūs* to *dinār*. That is, wheat rose in price faster than the *dirham min al-fulūs* rose in value during the specified period.) Such rises in the value of money were a contributory factor in the economic crisis that started in 806/1403.

¹⁸¹ Sabra 2000, 137-8. The currency system based on the silver dirhem was breaking down and was replaced with the *dirham min al-fulūs* in 1408, after which greater economic stability began to ensue. Partly as a result, the poor tried various ways to get the attention of the authorities, including petition and disturbance, including looting, resorting to eating foods such as animal carcasses, dogs, human corpses and even selling children (Sabra 2000, 166-7).

¹⁸² For a discussion of Egyptian taxation between the eleventh and sixteenth centuries, see Shatzmiller 2000, 473 and Hodgson 1974, 372.

least a century earlier. As I noted concerning Ibn al-Ḥājj in Chapter IV.1, even if people in Ibn al-Nahhās' day would have recognised the innovations that he mentioned in these two cases, where do we draw the line?

Nothing I have seen in Ibn al-Ḥājj's tract and nothing known about Ibn al-Ḥājj's circle of influence, interests and background stands in favour of him having written some kind of folly, a work following a pre-defined literary topos but with little connection to the issues of his day. However, it is important to recall the crucial distinction I made in the context of one of Calder's and Hallaq's debates, that just because one practice mentioned in a work may be corroborated, that alone does not permit us to reconstruct actual social and legal practice from more broadly from that work. My conclusion, at this point, is that we should not rely on anti-innovation tracts to construct detailed social history of the period, since, in most cases, we do not know for which times and places their authors were claiming individual practices occurred. That is, we should accept such claims on a case-by-case basis. The findings of other modern scholars support this in respect to Ibn al-Ḥājj, and occasionally take a more optimistic line on the possibility of historical reconstruction from such tracts.¹⁸³ This discussion matters because it advances our understanding of how data in anti-innovation tracts may be used to reconstruct social history, and how we should read such tracts.

It is also unlikely that the above sections on the markets and streets were a response to innovations that started for the first time in the years before Ibn al-Ḥājj wrote. Calder,

¹⁸³ Such scholars include Barbara Langner (1983, 20-3), Huda Lutfi (see Lutfi 1991, 102 and Keddie 1979, 226), Frederick Colby and Maribel Fierro. Cf. Taylor's view that Ibn Taymīya's and Ibn Qayyim's descriptions of innovations in ritual law provide useful information about what was actually happening around them (1999, 185).

Hallaq and Johansen agreed that *furū‘* was affected by changes in practice.¹⁸⁴ Although I agree with this, I would argue - with Calder - that one cannot infer from the presence of such long discussions about innovations in the markets and the streets that such innovations happened more in Ibn al-Ḥājj's day than previously. As Calder found for other genres of legal literature, I conclude here that such practices probably affected what Ibn al-Ḥājj and Ibn al-Naḥḥās wrote, but we cannot use his tract as a relevant source in general for reconstructing particular social and legal practices of his day. What does this mean for modern scholarly historical research? Jonathan Berkey balanced the above views by taking Ibn al-Ḥājj's observations to be valuable data on eighth/fourteenth-century Cairene social life, while at the same time avoiding uncritical acceptance of Ibn al-Ḥājj's comments as entirely reliable portraits of such life.¹⁸⁵ I take a similar view, although would not limit the potential relevance of the observations to Cairo. Rather, in many cases, Ibn al-Ḥājj's observations could reflect practices from somewhere he had travelled (or heard about), decades before he wrote his *Madkhal*.

V.1.g. Conclusions

This detailed investigation of passages from the body of Ibn al-Ḥājj's and Ibn al-Naḥḥās' tracts, in an area untreated in pre-Mamluk anti-innovation tracts, has revealed little overlap in the precise topics discussed. On purely internal considerations, these passages are independent of each other. Two authors have emerged who are unique even within the

¹⁸⁴ See discussion in Chapter II.1.

¹⁸⁵ 2001, 37.

sub-genre of anti-innovation tracts. Ibn al-Ḥājj's Western Mālikism exerted a strong influence on him as he addressed scholars and students about practices in Egypt, as demonstrated by his phrase, "*scholar's and student's intention*", in his passage about the money changer. On display were also Ibn al-Naḥḥās' activist emphasis and the eclectic way in which his views resembled or relied on the views of a range of *madhhabs*. Especially in Ibn al-Naḥḥās' case, the interaction between *madhhabs* is more osmotic than one might expect. In one case relating to eating bread cooked over dung from animals whose meat was edible, the Shāfi'ī Ibn al-Naḥḥās wrote that, as long as the other schools are in agreement, it is not obligatory to censure the practice, even though his own school deemed it impure.

Both authors' differing emphases on knowledge, noted earlier as a general feature of their writings, emerge here also in relation to the markets and the streets: for Ibn al-Ḥājj, knowledge was primary for its own sake, whereas Ibn al-Naḥḥās emphasised forbidding and censuring (or even preventing) what was wrong. The above findings were largely prefigured in the introductions to their tracts, and nothing in Ibn al-Naḥḥās' introduction to his *Tanbīh* contradicts it.

Far from being passive reproducers of earlier established views, Ibn al-Ḥājj and Ibn al-Naḥḥās also made a series of active and creative choices about sources, terms and topics, only some of which were similar to what is found in *ḥisba* manuals. This highlights the diversity of mechanisms of self-regulation among jurists in the Mamluk period. One of the most valuable findings of this chapter is that Ibn al-Ḥājj's and Ibn al-Naḥḥās' writings were relevant to a range of constituencies, the former primarily

addressing specialists and the latter the masses. Both authors also had in view those with temporal authority (such as *muhtasibs*), in predominantly urban and semi-urban contexts. As outsiders to Egypt, they sought to influence others in social, ethical and political ways, not just religious ones. The above translations and analysis has not helped specify whether non-jurists who taught others were also an intended audience for either author.

As I noted above, no previous anti-innovation tracts contained detailed comments about innovations in the markets and the streets. The next case study focusses on a very different topic: one that relates to private devotional life, not commerce in the public square, and one that most previous anti-innovation tracts had already discussed.

Chapter V.2.

Intention and ablutions

V.2.a. Introduction

In this chapter, I compare and discuss passages about intention and ablutions from Ibn al-Ḥājj's and Ibn al-Naḥḥās' anti-innovation tracts. This chapter proceeds structurally in a similar way to the previous chapter, beginning with translations from Ibn al-Ḥājj's and Ibn al-Naḥḥās' tracts, and then discussing their use of sources, style, terminology, references to legal schools, genre, aims and audiences.

V.2.b. Translations

V.2.b.i. *Ibn al-Ḥājj, intention and conditions for performing ablutions*

Intention is a central theme in the first eighty pages of Ibn al-Ḥājj's *Madkhal*. The first major section in the *Madkhal* after the introduction is entitled "Encouragement that all deeds be done with an active intention (*bi-nīya ḥāḍira*)" and provides a framework for Ibn al-Ḥājj's understanding of intention.¹ In this section, Ibn al-Ḥājj cited, in full, the *ḥadīth* that begins with the words, "*innamā al-a'māl bi-al-nīyāt wa-innamā li-kull imri'in mā nawā*".² A literal translation of these words is, "actions are by intentions, and each man will have what he intended". This *ḥadīth* was central in other jurists' discussions of intention, especially in relation to ritual law.³

Ibn al-Ḥājj's major argument in this section is that while right actions attract reward, and while right actions with unmixed intentions attract more reward, the way to attract rewards "of which only God knows" is not only to perform right actions with

¹ *Madkhal*, 1(1):13-23.

² *Ibid.*, 1(1):13. This is al-Nawawī's and al-Bukhārī's wording (*Sharḥ*, 12 and *Ṣaḥīḥ*, 1:4). This wording varies slightly from that of Muslim (*Ṣaḥīḥ*, 13:47; the differences are: Muslim has *nīya* for *nīyāt*; and *kull* is missing). Jalāl al-Dīn al-Suyūṭī (d. 911/1505) also wrote a commentary on this *ḥadīth*, in which he included the word *nīyāt* but excluded the word *kull* (*Muntahā*, 35). This *ḥadīth* also became part of al-Nawawī's compilation of forty *ḥadīths* (Pouzet 1982, 74-89, no. 1.)

³ P. Powers 2006, 30 and Rapoport 2010, 208.

unmixed intentions but also to check one's intentions (“*naẓara fī nīyatīhi*”) as one proceeds.⁴

After a brief discussion of deeds in relation to duty or mandation (*al-wujūb ... al-nadb*),⁵ Ibn al-Ḥājj then turned, at length, to seven topics: waking up from sleep; clothing; urinating; performing ablutions; performing *rak‘as* after ablutions; going to the mosque; and the ‘*ālim*’s conduct.⁶ A unifying feature of all seven sections is that Ibn al-Ḥājj affirmed the relevance of *nīya* to the topic at hand at the start of each section.

A translation from the start of the section on urinating (*Fī al-istibrā’ wa-kayfiyat al-nīya fīhi*)⁷ follows:

[1(1):30] If someone wears a garment, in the way that was already mentioned, and needs at that time to wash or to urinate (yazīl ḥaḡna) or to remove harm from himself, and if he relieves himself [at that time], then he has what his intention (nīyatuhu) encompasses, even if he was neglectful or lazy, then it is the same as above. As we have already seen, deeds are divided into two: obligatory (wājib) and recommended (mandūb). There is no doubt that this is obligatory. Whoever performs what is obligatory has considerable reward (al-thawāb al-jazīl), and may God be praised. Its obligation is explained by (bayān wujūbihi mā waḡa‘a min) the consensus (ijmā‘) that istibrā’ - by which I mean urination - is obligatory. Removing urine is obligatory also because the ṣāḡib al-shar‘ said, “no one shall pray while he is struggling with urine and excrement (al-akhbathayn)”. This is forbidden and [the Prophet Muḡammad] said, “what I have commanded you to do, you should do, as far as you can, and what I have forbidden you from, you should not do.”

⁴ Ibid., 1(1):14. On the etymology and background to the term *nīya*, which does not occur in the Qur’ān, and its difference from other, similar, terms that have different meanings from the religio-judicial meanings of *nīya*, see Abu Zayd 2002, 2:549-50. On *qaṣd*, a term that appears in Ibn al-Ḥājj’s and Ibn al-Naḡḡās’ tracts, see P. Powers 2006, 3-4.

⁵ *Madkhal*, 1(1):24-6.

⁶ Ibid., 1(1):27-106.

⁷ Although this is not always how the word *al-istibrā’* is understood, the translation below makes clear that Ibn al-Ḥājj took it to relate to urinating in this context.

Ibn al-Ḥājj did not specify what he meant by consensus in the above passage. There is no reason to suppose that he meant anything other than the usual meaning of some sort of consensus between the four Sunni schools, or the consensus of scholars in one legal school. I discuss this further below, in conjunction with Ibn al-Naḥḥās' distinct use of this term.

This passage contains many other interesting features, some of which I will explore later in this chapter: legal discourses within Ibn al-Ḥājj's discussions; and the fact that his focus was not primarily on intention, but rather on knowing that one should urinate before prayer (if one has the urge), and on knowing why.

In the translation above, Ibn al-Ḥājj uses the rhetoric of tradition to express disapproval.⁸ As we will see below, this is something that Ibn al-Naḥḥās also did. In the remainder of this section, Ibn al-Ḥājj gave a detailed list of 59 habits (*khaṣla*) that one should acquire, in relation to urinating. These habits included warnings not to look at the *qibla* (number six), not to look to the right or the left when sitting (number 16), not to touch one's penis with one's right hand (number 17) and not to urinate or defecate in Christian churches, lest they do the same in mosques (number 48).⁹ Ibn al-Ḥājj discussed these habits under the heading, 'The Intention of following tradition' (*Nīya imtithāl al-sunna*), a phrase that recurs several times in his treatment of the seven topics from which these selected translations are drawn.¹⁰

⁸ Colby also makes this point, in the context of Ibn al-Ḥājj's passages on the festival commemorating the night of Muḥammad's ascension (2005, 39).

⁹ Ibid., 1(1):30-5.

¹⁰ Ibid., 1(1):30.

Ibn al-Ḥājj's section on ablutions is in two parts, following the above section.¹¹ The first part explains the internal and external benefits of *wuḍū'* and how to perform it. For example, Ibn al-Ḥājj discussed freeing the heart from the worries and burdens of life and noted that, in washing (*ghasala*) one's mouth, one should keep in mind that outward purity is only a sign of internal purity (“*ṭahārat al-zāhir innamā hiya ishāra ilā ṭaḥīr al-bāṭin*”).¹²

The second part contains 45 customs (*ādāb*) that one should bear in mind in relation to *wuḍū'*, in addition to “the required conditions of purity and duties and habits and virtues (“*shurūṭ wujūb al-ṭahāra wa-al-farā'id wa-al-sunan wa-al-faḍā'il*”) which ‘*ulamā'* have laid down”.¹³ The 45 customs consist of seven things one should turn from (the verb used is *tāba*), five conditions (*shurūṭ*), eight duties (*farā'id*, of which one is *nīya*), twelve habits (*sunan*) and thirteen things that are loved (*istiḥbābāt*).

The following excerpt includes this second part. I have also included nearly half of the first part of Ibn al-Ḥājj's section on ablutions, by way of context.

[1(1):39] ... Then, after that, the law (al-shar‘) commanded him to wash his legs (al-rijlayn) because when the eyes look and the tongue speaks and the hands touch and the ears hear, then the leg moves quickly, so the leg is the last of all in disobedience. And [that is why] it is the last of all in washing, it should be washed at that time. When his inner purity arrives, then he should start with repentance from its transgression (lit., from its opposing). Regret is [a kind of] repentance, and repentance wipes out what has happened before it. As the ḥadīth goes, “If someone washes his legs, his sins leave his legs from underneath the nails of his feet”.¹⁴ When he washed his legs according to this sequence, the means of revelation (ṣ) [Muḥammad] wanted to make his [legal] state perfect, so

¹¹ Ibid., 1(1):38-41, with the division on page 40.

¹² Ibid., 1(1):38.

¹³ Ibid., 1(1):40.

¹⁴ According to al-Nawawī, this *ḥadīth* was collected by Muslim (al-Nawawī, *Riyāḍ*, 2:42).

he said, “whoever has performed ablutions well, and then glanced (rafa‘a tarfahu) to the heavens, and said, ‘I testify that there is no god but God alone, he has no partner, and I testify that Muhammad is his servant and his messenger’ then the doors of heaven will be opened before him and he will enter [paradise] from wherever he wants”,¹⁵ meaning the purification of the heart from being concerned with hindrances, evil thoughts, obsessions and tendencies (al-‘awāriḍ wa-al-khawāṭir wa-al-wiswās wa-al-naza‘āt). If the believer understands this he should submit himself to purifying the heart, as he should renew faith and renew his repentance and his loyalty (al-ikhlās). In relation to this meaning, Abū Muḥammad (God’s mercy on him) said, “The believer’s faith should be new at every moment. [1(1):40] He should be aware that he does not become khalāqan.”¹⁶ Al-khalāq means that he himself does not observe renewing the testimony (an lā yata‘ahhada nafsuhu bi-tajdīd al-shahāda).

A certain virtuous person (ba‘ḍ al-fuḍalā’) used to wake during the night and wipe his face with his hands and utter the testimony. He was asked about this and said, ‘As for my testimony, I was checking whether my faith was still there, because my works do not resemble the works of believers. As for wiping my hands across my face, I was checking whether it [my face] had turned into a nape or had been transformed into something vile. And when I found it unblemished, I thanked God that he covered me by His favour and did not punish me and disgrace me with my action.’ This is what he said, and this man was mature in religion, and preceded [us in faith] and was ahead [in faith]. So what about us? Surely today we should be more careful in checking on each other! So in the last things and the first things we should be testing our faith today in every moment and every place. When the means of revelation (s) commanded him [the above virtuous person] with inner purity and outer purity, as we have dealt with, he stipulated for him at his pronouncement of the two testimonies the aforementioned du‘ā’ at that time. He said, “God make me among those who repent and among those who are purified” He also said, “Praise be to God for the performing of ablutions and the following of the sunna.” This saying shows us that Muḥammad asked God to accept what he mentioned by his saying “The prayer (du‘ā’) is the essence (mukhkh) of worship”. So the condition is fulfilled, the blessing is completed, and the invocation is accepted. They also make him choose which door of paradise he will enter, because this servant had repented of everything that he had committed, and he was purified internally and externally. “For Allah loves those who turn to Him constantly and He loves those who keep themselves pure and clean.” (Q2:222). Because of this meaning, the ḥadīth came concerning he who performed the perfection of ablution that has been discussed, that his

¹⁵ This ḥadīth, “from ‘Umar”, was collected by Muslim, al-Tirmidhī, Ibn Māja, Abū Dāwūd, and was circulating in Ibn al-Ḥājj’s day in Mālikī settings (see references in al-Qarāfī, *al-Dhakhīra*, 1:281).

¹⁶ By not emboldening this phrase in the printed edition, the editor of the *Madkhal* indicated that he did not think it was a ḥadīth, and I could not locate it as such.

prayer is a supererogatory reward for him, and supererogatory rewards are in addition. If you cannot find anything of his sins, then his prayer would be because of the prior repentance and for external and internal purification. Thus his prayer would remain supererogatory - that is, an addition - and its position would be to raise his degrees and nothing else, because there is nothing to make him an infidel as we have already shown.

One should turn away from [things] about which the tongue speaks, the nose smells, the eyes see, the ears hear, the hands touch, the feet walk on and the heart knows. If he were free from all this, then repentance would be for blemishes that had happened, and if he were free from blemishes, then repentance would be for not repenting in the lordly truth (bi-ḥaqq al-rabūbīya), as is obligatory. And such repentance is not something that the servant can do correctly. So these seven - added to the conditions and obligations of purity and the duties and the habits and virtues that the scholars have discussed (shurūt ... wujūb ... farā'id ... sunan ... faḍā'il).

There are five conditions (shurūt): submission to God (islām), being of age, being sound of mind, blood of menstruation and childbirth having disappeared, and entering times of prayer.

The eight duties (farā'id) are: four that most scholars agree upon, being what God mentioned in his book. And two that most agree upon, which are intention and pure water. And two that are not agreed upon, which are immediacy and sequence.

There are twelve habits (sunan), about four of which there is agreement (muttafaq 'alayhā) with most people: rinsing, snuffing up water and releasing it, wiping the head, and wiping the ears with fresh water. The eight about which there is disagreement as to whether they are habits or duties (faḍā'il) are: washing (ghusl) the hands before putting them in the vessel, if he is sure that [1(1):41] the two [hands] are clean, those washings that are additional to the first, after having washed totally [once], starting with the right before the left, and starting with the front part (bi-muqaddam) of the head, and re-wiping [with] his hands [to the front], and washing what is between the cheek and the ear, and then wiping the ears thoroughly, and arranging the duties with the habitual (al-mafrūq ma' al-masnūn) in their proper order.¹⁷

Thirteen things are desired: Cleaning [your] teeth, and a rough finger can perform this function [lit., replaces this], putting the container [for ablutions] on the right, and saying the basmala (wa-al-tasmīya), not doing ablutions in an empty place, not [performing ablutions] in an unclean place, intertwining the fingers, running the fingers between the toes, running the fingers through the

¹⁷ This list only appears to contain seven items, not eight (as Ibn al-Hājj stated). Perhaps, Ibn al-Hājj considered the action of the right hand to be separate from the action of the left hand, for the purpose of counting items in his list. Or perhaps, in Ibn al-Hājj's view, the intention behind the seven actions constituted an eighth item in itself.

beard, mentioning the name of God, sitting a little bit higher than the ground so that the water that falls on the ground does not fall on him, remaining silent except in mentioning the name of God, turning towards the qibla, and using as little water as possible to wash his organs well.

Overall these are the 45 good habits (ādāb) and God is the one who grants that which is right.

Ibn al-Ḥājj's focus on purification and sources of impurity in relation to *wuḍū'* accords with the generally accepted scope of this term.¹⁸ It is also clear from the above passage that, for Ibn al-Ḥājj, intention was a necessary component of acts of worship (*'ibādāt*). Such a link between action and intention was not unprecedented in earlier jurisprudential writings, including works on innovation.¹⁹

Two other features of this passage are Ibn al-Ḥājj's statement of the creed and his propensity for providing lists of conditions. Both features are also apparent in the introduction to the *Madkhal*.

Ibn al-Ḥājj's short section on performing *rak'as* after ablutions immediately follows his section on ablutions. In this section, Ibn al-Ḥājj began by noting that, after performing the rites of ablution according to the above stipulations, one may pray two *rak'as*. Ibn al-Ḥājj then listed four intentions that he viewed as relevant to this: Supererogatory intention (*nīyat al-nafl*); intention of following the *sunna* in *rukū'* (*nīyat imtithāl al-sunna*); intention of following the *sunna* in *du'ā'*; and intention of following the *sunna* in praying

¹⁸ See Chaumont's discussion of *wuḍū'*, or the minor ablution (2001, 218).

¹⁹ Al-Shāṭibī, *I'tiṣām*, 27. Two other Mālikīs who made a similar link are Ibn Rushd (d. 595/1198) and al-Qarāfī (d. 684/1285 - see P. Powers 2006, 32-3). See also Schacht 1964, 116.

at home.²⁰ He also cited examples of the Prophet's words or deeds, including a *ḥadīth*, reported by Aḥmad b. Ḥanbal, al-Nasā'ī and Ibn Māja, recommending ideal practices for *wuḍū'* and *rak'a*.²¹

In linking *nīya* and *sunna*, Ibn al-Ḥājj showed, again, that the concept of intention was, in some sense, of fundamental importance for him. While this was a widely held view in general among jurists, the particular ways in which Ibn al-Ḥājj linked intention, ablutions and tradition did not always become universally acknowledged. For example, in *Khulāṣat al-badr*, a work on *ḥadīths* written by one of Ibn al-Ḥājj's biographers, the Shāfi'ī Ibn al-Mulaqqin (d. 804/1401), none of the *ḥadīths* that Ibn al-Ḥājj cited appear in the section on ablutions.²²

Ibn al-Ḥājj mentioned innovation neither in the above translated passages, nor in the wider passages from which the translations are drawn. Also, even though intention was an important theme for him, at times the length of his lists of conditions or stipulations is such that this theme is barely noticeable. The impression one gets is that the need to detail obligations comprehensively was all-consuming for Ibn al-Ḥājj. These observations are important in the context of Ibn al-Ḥājj's emphasis on knowledge, and I will return to them below.

²⁰ *Madkhal*, 1(1):42.

²¹ *Ibid.*

²² *Khulāṣa*, 1:59-65. *Khulāṣat al-badr* consisted of *ḥadīths* grouped by topic, with brief comments on each *ḥadīth*.

V.2.b.ii. *Ibn al-Naḥḥās and obsession with performing rituals*

As already noted, Ibn al-Naḥḥās’ anti-innovation tract is much shorter than that of Ibn al-Ḥājj, and so the fact that his comments on intention and ablutions were accordingly shorter is not surprising. Ibn al-Naḥḥās discussed *nīya* and *wuḍū’* near the end of his tract, in a section where he also briefly discussed other aspects of prayer and purity.²³ The passage that follows constitutes the first half of this section.

[516] Among [the innovations that people perform] is what many worshippers and jurists innovate by way of being obsessed with purification (al-waswās fī al-ṭahāra). The prophet called it a transgression (i‘tidā’). He said, “Among this people, there will be those who transgress in purity and supplication.” Abū Dāwūd and Ibn Ḥibbān reported it in their Ṣaḥīḥs.²⁴

Among them: whoever waits for the basin in the ḥammām until it overflows, then washes (yaghtasilu) from it alone, so that no-one else can use it until he has finished. This innovation transgresses the sunna.²⁵

[517] Shaykh Shams al-Dīn b. al-Qayyim²⁶ said, “Our shaykh said, ‘The one who does this and similar things, they deserve severe admonishing because they make rulings in religion which is not what was permitted by God. God is thereby worshipped through innovations.’”

And in the Ṣaḥīḥ, it was confirmed that the prophet and ‘Ā’isha washed from a plate between them which had residue of dough in it.²⁷

²³ *Tanbīh*, 516-21.

²⁴ Abū Dāwūd, *Sunan*, 30-31 (number 96). As in this source, this *ḥadīth* usually includes the word *al-ṭuhūr* in place of *al-ṭahāra*.

²⁵ *Ibid.*, 516.

²⁶ Ibn Qayyim al-Jawzīya (d. 751/1350), hereafter referred to as Ibn Qayyim.

²⁷ Note the apparent contradiction with what Ibn al-Naḥḥās wrote about bakers touching dough (see Chapter V.1).

And in the two Saḥīḥs, God be pleased with the authors of both works, according to Ibn ‘Umar²⁸, he said, “Men and women from the time of the Messenger of God (ṣ) were performing wuḍū’ from one vessel.”

[The above occurred] even though their vessels were not the size of the basin of the ḥammām, or even close to that size.

But it is correct that the vessels that the prophet and his family were washing from, were the size of the farq, which is close to five Damascus pounds [in weight].²⁹

And their vessel had no elements to extend it, like the pipe of the bath and so on.

And in the two Saḥīḥs, God be pleased with the authors of both works, according to ‘Ā’isha, she said, “When the Messenger of God performed ablutions, he called for something the size of the milking vessel (ḥallāb) and he held it in both hands, and began with the right side of his head, then the left, then he took his two hands and poured (qāla) with both of them on his head.”

Al Khīṭābī wrote, “ḥallāb: this is a vessel large enough for milking a camel.

And in the two of them again,³⁰ when ‘Ā’isha (God be pleased with her), asked about how the Messenger of God (ṣ) used to wash [518] after anything that made him ritually impure (al-janāba), she called for a vessel the size of a ṣā³¹ and washed.

Among them are: whoever performs wuḍū’ and ghusl several times. This also is hated innovation, according to what is right, and some say it is forbidden. A number of scholars hold to this and they adduce as proof that the Prophet performed wuḍū’ three times and said, “Whoever exceeds this has sinned and transgressed and caused injustice.” That is clear guidance.

²⁸ ‘Abd Allāh b. ‘Umar b. al-Khattāb was “one of the most prominent personalities of the first generation of Muslims, and of the authorities most frequently quoted for Traditions” (Vaglieri 1960, 53).

²⁹ This was a relatively uncommon weight, and does not appear in Hinz’s *Islamische Masse und Gewichte* (1955).

³⁰ This refers to the two *Saḥīḥs*, just mentioned.

³¹ Ṣā’ is “a cubic measurement of varying magnitude” (Wehr 1980, 530).

Abū al-Faraj b. al-Jawzī³² related, on the authority of Abū al-Wafā' b. 'Aqīl,³³ that a man said to him, "When I plunge myself in water (anhamisu fi al-mā') several times, I doubt (ashukku) whether my ablution (ghusl) is sound. What do you think about this?" The shaykh said to him, "Go, prayer is not required from you." He said, "Why not?" [The shaykh] replied, "Because the prophet said, "Three people are exempted (rafa'a al-qalam): the lunatic until he is restored, the one sleeping until he wakes up and the boy until he becomes mature. Whoever washes many times and doubts whether or not the water has had its effect is crazy."³⁴

The entire passage, above, is about purification and ablutions, and is by no means comprehensive. Rather, four wide-ranging topics are included: obsession with purification; being inconsiderate in using the basin; the size of vessels used; and performing ablutions too many times. The second half of the section in which Ibn al-Naḥḥās discussed prayer and purity (not translated) mirrors this pattern, and the pattern is quite distinct from Ibn al-Ḥājj's almost encyclopaedic approach. The abbreviated way in which Ibn al-Naḥḥās addressed the issues above is consistent with what we have already seen regarding his discussion of practices associated with butchers, bakers and money changers. That is, Ibn al-Naḥḥās demonstrated some consistency of style across his treatment of different topics.

The story related by Ibn al-Jawzī in the above translation about the man doubting whether his ablution was sound, is humorous - or, at least, easy to follow. The story appears almost word for word in Ibn Qayyim's *Ighāthat al-lahfān*, including these names

³² Abū al-Faraj b al-Jawzī (d. 597/1200), the Ḥanbalī jurist and author of three works that discussed innovations. See discussion in Chapter III.1.

³³ Abū al-Wafā' b. 'Aqīl (d. 513/1119), a Ḥanbalī jurist (Makdisi 1971, 699).

³⁴ *Tanbīh*, 516-8.

cited.³⁵ This stands in contrast to the quite serious story that Ibn al-Ḥājj related about the money changer.³⁶ It was common for works of *fiqh* to discuss the number of times that one should perform ablutions, and the relationship of intention and doubt to ablutions. For example, for Shāfi‘īs, Mālikīs and Ḥanbalīs, correct performance of *ghusl* could only take place after declaration of intention, whereas for Ḥanafīs this was not obligatory before *ghusl*.³⁷ However, the entirety of Ibn al-Naḥḥās’ treatment of this topic was through this story, without any formal explanatory sentences. These observations, together with those in the previous paragraph, support my designation of Ibn al-Naḥḥās’ audience as the masses.

Ibn al-Naḥḥās’ use of the word ‘*waswās*’ in the above passage is similar to the way in which the word was used in texts circulating in Sufi circles shortly before Ibn al-Naḥḥās’ time.³⁸ Although they most probably developed the use of the term *waswās* independently, it is worth bringing together here various relevant strands of evidence. I noted in Chapter II.1 that Ibn al-Naḥḥās’ *Mashāri‘* found its way into such circles in

³⁵ *Ighātha*, 1:134.

³⁶ See Chapter V.1.

³⁷ Bousquet 1965, 1104.

³⁸ Two of the many examples are found in Khānaqāh-i Aḥmadī 87, a manuscript that contains twelve separate writings and is held in the Tehran University Library. Fritz Meier notes that the manuscript was probably not copied later than the eighth/fourteenth century (1999, 135). The word ‘*waswās*’ occurs in this manuscript within *Adab al-mulūk*, an anonymous fourth/tenth- or fifth/eleventh-century “short comprehensive presentation of Sufism” (Meier 1999, 163). The following passage also appears in *Adab al-mulūk*: “Whoever cannot distinguish between inspiration (*ilhām*), a stray fancy (*hājis*), internal speech (*lamma*) and devilish temptation (or whisperings, *waswasa*) ... such a person is not a Sufi.” (1999, 163 and 166). This statement occurs in Abū Maṣṣūr Ma‘mar b. Aḥmad al-Ḥafḥānī’s (d. 418/1027) *al-Manāḥij bi-shahād al-sunna wa-nahj al-mutaṣawwifa*, another writing in the same manuscript (1999, 156). My translation of *waswās* as ‘obsession’, in Ibn al-Naḥḥās’ translation above, is justified given its context. Nevertheless, there is a connection between the two meanings of the devil’s whisperings and obsession, in that some forms of obsession arise from anxiety and misgiving, with the connotation that the devil may cause such anxiety and misgiving. I think it likely that Ibn al-Naḥḥās would have been aware of such connection and connotation.

northern Egypt in the decades after his death, so Ibn al-Naḥḥās’ writings influenced some Sufi communities. In Parts II and III of this thesis, I also observed points of connection between authors of anti-innovation tracts on the one hand - including Ibn al-Jawzī, Ibn Taymīya, Ibn al-Ḥājj, Ibn al-Naḥḥās and Zarrūq - and Sufism on the other hand. The evidence just presented may be added to these, earlier, comments, and could profitably form the basis for further research.³⁹

Immediately after the above passage, Ibn al-Naḥḥās discussed practices including performing ablutions in one’s own river, in a *ḥammām*, or using someone else’s *kūz* or *rakwa* (both of these are types of vessel). At this point, Ibn al-Naḥḥās quoted from several scholars, including Ibn Qayyim, and then went on to discuss the following innovation:

[520] And among them are: Obsession (al-waswās) with intention in prayer. This is innovation and not one of the salaf resorted to it. Abū Futūḥ al-‘Ijlī⁴⁰ said, “Performing prayer behind one who is obsessed is hated because he entertains doubts about (yashukku fī) his own deeds. A certain ‘ālim said, “Whoever sees it must dismiss the deluded imām because obsession is forbidden innovation.

While articulation of intention is not necessary, it was not the practice (lā yasunnu) of any of the imāms of the four [schools] and others. By contrast, many scholars think it is an innovation because the prophet, Companions and Followers did not resort to it. Scholars⁴¹ were asked about that in the time of the ‘allāma Shams al-Dīn Ibn Qayyim. They answered with what is above [...]

In his book, Ighāthat al-lahfān, [Ibn al-Qayyim] al-Jawzī said, “Certain phrases are used at the start of purification and prayer. Satan has made this a battleground for the obsessives (ahl al-waswās). He imprisons and tortures them with these phrases and he puts them in [a place of] demanding that they are

³⁹ See suggestions in Chapter VI.1.

⁴⁰ I have not been able to identify Abū Futūḥ al-‘Ijlī.

⁴¹ In the edition, the Arabic wording is *al-‘amā*, but *al-‘ulamā*’ is a preferable reading.

considered sound. As you see, one of them repeats [the phrases] and tries his best to say them, and they have nothing to do with prayer at all. Intention is only aiming (qaṣd) to do something. Anyone determined (‘āzim ‘alā) to do [something] intends [to do it] and no-one can think that this can be separated from intention because this is what it truly is (fa-innahu haqīqatuhā). He cannot lack it in the state where he finds it. So whoever goes and performs ablutions, he has intended to perform ablutions. Whoever rises to pray has intended prayer and the intelligent one (‘āqil) will hardly ever do anything of worship (‘ibādāt) and related things, other than with intention.”

[521] I say, there is no doubt about these words.

At the point where he mentioned articulation of *nīya*, it is unclear exactly what Ibn al-Naḥḥās meant. He appears to have changed topic, and this is probably an example of his practice, noted in the previous chapter, of dealing with several (loosely) related topics under one overall heading.

The above passage provides further evidence of Ibn al-Naḥḥās’ confessional eclecticism. On the one hand, his views about entertaining doubts in intention, purification and prayer aligned with at least one important work of Ibn al-Naḥḥās’ adopted Shāfi‘ī school, such as al-Shīrāzī’s *Muhadhdhab*.⁴² On the other hand, Ibn al-Naḥḥās quoted the Ḥanbalī Ibn Qayyim at length. After this passage, Ibn al-Naḥḥās quoted the views of another Ḥanbalī scholar, Ibn Taymīya, about various innovations connected with prayers, and named Ibn Taymīya in his text. Ibn al-Naḥḥās did not provide the source for this passage (or these passages) from Ibn Taymīya. I have not been able to locate the source, but can rule out the *Iqtidā’*, which discusses a range of innovations connected with prayers. I investigate Ibn al-Naḥḥās’ confessional eclecticism in more detail, below.

⁴² Chaumont 2001, 219.

V.2.c. Approach

V.2.c.i. Style and use of sources

More so than his introduction, the rest of Ibn al-Ḥājj's anti-innovation tract is clearly structured, such as in the list of 45 good habits (*ādāb*) in his discussion about intention and ablutions. Stylistically the main body of the *Madkhal* is more straightforward than the introduction, as demonstrated by sequences of lists one after the other. Where Ibn al-Ḥājj's introduction contained reflective theoretical elements (such as, about the role of the scholar), the main body did not, and was more accessible than the introduction to non-specialists. This does not necessarily mean that Ibn al-Ḥājj had a different audience in mind for the introduction, compared with the rest of his tract, but it opens the way for this possibility.

In his passages on intention and ablutions, Ibn al-Naḥḥās referred to major collections of *ḥadīths* as well as (directly) to the conduct of early Muslims, including Muḥammad and 'Ā'isha. This is in line with the approach he took in the introduction to his tract. However, Ibn al-Naḥḥās quoted Ḥanbalī sources at length, something not seen in the introduction. Ibn al-Naḥḥās' style is similarly direct here, as elsewhere.

Many of these points can be clarified by comparing Ibn al-Ḥājj and Ibn al-Naḥḥās. Ibn al-Naḥḥās' discussion of innovations in purification and ablution in *ḥammāms* consists merely of a quotation from the Prophet and Abū Dāwūd and a statement that the action is different from the *sunna*; by contrast, Ibn al-Ḥājj's style is prolix. Related to this, Ibn al-Naḥḥās discussed the relationship of tradition and innovation in a much more

straightforward, less nuanced way than Ibn al-Ḥājj. For example, Ibn al-Naḥḥās stated “that is clear guidance” in a discussion of intention, ablution and *sunna*.⁴³ Ibn al-Naḥḥās’ passages on these topics in combination were to the point. For his part, Ibn al-Ḥājj used the word *sunna* as an additional source of evidence to an earlier argument, a *mandūb-wājib* classification or consensus.⁴⁴

V.2.c.ii. References to legal schools

The boundaries between *madhhabs* are not easy to distinguish, within discussions of intention and ablutions in the Mamluk period, in part because all four schools agreed on the general context.⁴⁵ As Paul Powers argues, differences between schools are “in general ... more pronounced in civil law than in either ritual or penal law.”⁴⁶ Nevertheless, in this section, I explore the different ways in which Ibn al-Ḥājj and Ibn al-Naḥḥās referred to those from their own and others’ *madhhabs*.

Ibn al-Ḥājj: A Mālikī of his own making

Ibn al-Ḥājj’s views on intention and ablutions were, in general, aligned with those of his Mālikī school. For example, the absence in Ibn al-Ḥājj’s writings of any link between

⁴³ Compare *Madkhal* 1(1):40-1 and *Tanbīh* 516.

⁴⁴ See *Madkhal*, 2(2):42-3, in addition to the above translations; the passage just cited discusses the correct way to perform *rak‘as* when about to leave the home or mosque, or when on *ḥajj*.

⁴⁵ For example, see *Bidāya*, 1:27-8, Nyazee 1996, 1:8, and Schimmel 1965, 358.

⁴⁶ P. Powers 2006, 205.

nīya and outward political action is consistent with other Mālikī writings.⁴⁷ Ibn al-Ḥājj’s detailed discussion of *nīya* in the context of purification (*al-tahāra*) is also recognisable from a Mālikī perspective. According to the Mālikī school (but not the other three schools), it was possible for wrong intention (*irāda*) to invalidate prayer, even if the intention only applied to one aspect of performing prayers.⁴⁸

However, we should not push this point too far. In some cases, Ibn al-Ḥājj did not mention themes that dominated Mālikī discussions of intentions and ablutions. For example, although Ibn al-Ḥājj discussed *shurūṭ*, he did not refer to disagreements among scholars over the circumstances in which intention is a condition of *wuḍū’*, which is what one finds elsewhere in Mālikī works.⁴⁹

In these passages of Ibn al-Ḥājj, we may also discern a little influence from the Andalūsī Mālikī Ibn Abī Jamra (d. 700/1300), who was one of Ibn al-Ḥājj’s teachers.⁵⁰ Ibn Abī Jamra wrote a whole chapter on the “*innamā al-a‘māl*” *ḥadīth* that was so prominent in Ibn al-Ḥājj’s discussion of intention.⁵¹ Another example of possible influence from Ibn al-Ḥājj’s teacher concerns a *ḥadīth* whose text is given in full below, as narrated by Muslim b. al-Ḥajjāj (d. 261/875), on the authority of Abū Hurayra:

⁴⁷ See Powers’ discussions of the lack of necessary connection between *nīya* in *fiqh al-‘ibādāt* and outward actions, and of al-Qarāfi’s (d. 684/1285) view that “*nīya* and practices dependent on it are not the business of government” (2006, 58-9).

⁴⁸ Compare Ibn al-Ḥājj’s uses - in the translations above - of the terms *yurīdu* and *arāda* in contexts of *wuḍū’* and *nīya*, with Ibn Rushd’s, in the same contexts, as well as in context of ablutions using sand (*tayammum*). *Bidāya*, 1:96-7; cf. Nyazee 1996, 1:76-7.

⁴⁹ See *Madkhal*, 1(1):38-41, the above selected translations, and Ibn Rushd, *Bidāya*, 1:22-3.

⁵⁰ See the biographical discussion in Chapter II.1.

⁵¹ *Bahja*, 1:699-702.

Inna Allāh lā yanẓuru ilā ẓuwarikum wa-amwālikum. Wa-lākin yanẓuru ilā qulūbikum wa-a‘mālikum.⁵²

God does not look upon your appearances and your possessions, but looks upon your hearts and your deeds.

This *ḥadīth* appears in a part of Muslim’s *Ṣaḥīḥ* that discusses aspects of ritual law (such as prayers) and some aspects of social law (such as transactions). In quoting the *ḥadīth*, Ibn Abī Jamra and Ibn al-Ḥājj both excluded the same four words: “*wa-amwālikum*” and “*wa-a‘mālikum*”.⁵³ I have argued above and in the previous chapter that Ibn al-Ḥājj emphasised knowledge to a much greater degree than taking action. The absence of the word for deeds implies that this emphasis is attributable in some degree to Ibn Abī Jamra.⁵⁴

However, we must not attribute too influential a role to Ibn Abī Jamra in either content or approach. Elsewhere, Ibn Abī Jamra recorded competing views more often than Ibn al-Ḥājj did, for example in the discussion of the extravagance of silk, and by including more exegesis of *ḥadīths* in his discussions.⁵⁵ Also, many of the *ḥadīths* that Ibn al-Ḥājj cited are not in the *Bahja*.⁵⁶

⁵² Muslim, *Ṣaḥīḥ*, 8:99.

⁵³ *Madkhal*, 1(1):38; *Bahja*, 1:701 and 2:985, 1195 and 1506.

⁵⁴ In the context of other topics, Ibn al-Ḥājj also followed Ibn Abī Jamra’s strategy of arguing directly from *ḥadīth* (such as in a discussion about the permissibility of trading while on a journey). Both authors understood *ḥadīths* to have a broad scope of application, such as in a discussion about whether a *ḥadīth* about buying and selling dates applied only to dates or more generally; Ibn Abī Jamra’s conclusion was the latter (*Bahja*, 1:717 and 2:1157-8).

⁵⁵ Ibn Abī Jamra, *Bahja*, 1:717-8 and 2:1277-80.

⁵⁶ In relation to intention and ablutions, several examples of such *ḥadīths* may be found in *Madkhal*, 1(1):30 and 42.

At one level, it is unsurprising that Ibn Abī Jamra influenced Ibn al-Ḥājj's choice of certain *ḥadīths*, since he taught him and since the *Bahja* is a commentary on al-Bukhārī's *Ṣaḥīḥ*, a *ḥadīth* compilation. However, the *Bahja* is a long, detailed work that discusses various issues connected with trading, prayer, ablutions and intention. There are many ways in which such a work could have been influential in the mind of one of its students, and it is instructive to note that Ibn Abī Jamra influenced Ibn al-Ḥājj's approach to the relationship between internal considerations (such as knowledge and intention) and external ones (deeds) in particular. This level of influence is compatible with my picture of Ibn al-Ḥājj as a scholar who was connected to other scholars, and who sought to make his own voice heard in scholarly circles via his anti-innovation tract, as he apparently felt the need to rephrase (and add to) the work of his teacher.

Ibn al-Naḥḥās: Strongly influenced by the Ḥanbalī and Shāfi'ī schools

The Shāfi'ī and Ḥanbalī schools were not the only ones that Ibn al-Naḥḥās mentioned in the context of ritual law.⁵⁷ However, these (especially the Ḥanbalī school, via Ibn Taymīya and Ibn Qayyim) were the two that most influenced Ibn al-Naḥḥās' writings on intention and ablutions.

As noted in the translations above, Ibn al-Naḥḥās quoted two passages from Ibn Qayyim's *Ighāthat al-lahfān*, also mentioning him on other occasions. The first passage is a story (for which Ibn al-Naḥḥās did not give his source but which was, as we have

⁵⁷ For example, Ibn al-Naḥḥās stated that the Ḥanbalī, Ḥanafī and Mālikī views accorded with the Shāfi'ī view on the (innovative) practice of wearing sandals made of alfa leaves, palm leaves and leather in the mosque (*Tanbīh*, 446). The reasoning behind the practice was that it helped avoid ritual impurity from coming into contact with soil and urine (*ibid.*).

seen, already included in Ibn Qayyim) about the lunatic doubting whether his excessive ablutions were effective. The second passage, about the repetition of phrases in prayer, comes in the middle of a section entitled *Fī Nīya fī al-ṭahāra wa-al-ṣalāt* (On Intention in purification and prayer), immediately follows a discussion about obsession (*waswās*) and ablutions (*wuḍūʿ*).

Ibn Qayyim's influence on Ibn al-Naḥḥās was not limited to these passages. Both scholars viewed intention and ablutions in a wider context of obsession, prayer and purification. Both scholars also covered the following topics, in the same order (with two exceptions): obsession in prayer and purification; excessive washing; waiting until the basin overflows before washing; the lunatic story related by Abū al-Faraj b. al-Jawzī on the authority of Abū al-Wafā' b. 'Aqīl; deliberately stammering or stuttering for effect during prayer or saying the *takbīr*; and obsession with intention in prayer.⁵⁸ The order just given is Ibn Qayyim's. Ibn al-Naḥḥās' order varied, first, in that he discussed the topic of waiting until the basin overflows before the topic of excessive washing and, second, in that he discussed deliberate stuttering immediately after this passage, quoting Ibn Taymīya. In his passages on intention and ablutions, then, Ibn al-Naḥḥās discussed similar topics (albeit more briefly), using similar justifications, and in a similar order to Ibn Qayyim's passages on intention and ablutions. This means that Ibn al-Naḥḥās was being intentional in the way that he drew on recent sources, as he occasionally quoted Ibn Taymīya directly and occasionally relied on Ibn Qayyim's passages. Ibn al-Naḥḥās did not draw on the thought of non-Shāfi'ī *madhhabs* in an unreflective way, as if his

⁵⁸ Cf. *Tanbīh*, 516-21 and *Ighātha*, 1:126-39.

eclecticism was an end in itself. Rather, in writing creatively, he deliberately employed a wide range of evidence in favour of his emphasis on urging the masses to action.

Ibn al-Naḥḥās twice quoted Ibn Taymīya immediately after discussing Ibn Qayyim’s passage just referred to. It is unclear why Ibn al-Naḥḥās did not quote from Ibn Taymīya’s *Iqtidā’* at this point, since that work discussed innovations and distinguished between performing prayer and intending to perform prayer.⁵⁹ Nevertheless, the fact that Ibn al-Naḥḥās cited Ibn Taymīya in this way after Ibn Qayyim may indicate a preference for the master (Ibn Taymīya) over the student (Ibn Qayyim). Another example of closeness between Ibn Taymīya’s and Ibn al-Naḥḥās’ views on prayer relates to one of Ibn Taymīya’s *fatwās*. Ibn Taymīya discussed a question about prayer behind an *imām* who has transgressed, which was similar to Ibn al-Naḥḥās’ discussion about prayer behind an *imām* who was obsessive about intention.⁶⁰

Shāfi‘ī ideas about intention and ablutions, not just Ḥanbalī ones, are also discernible in Ibn al-Naḥḥās’ thinking. In the above translated passages, the role of the intellect was an important theme for Ibn al-Naḥḥās, including *‘aql*, loss of *‘aql*, and *al-majnūn*. *‘Aql* was particularly important for Shāfi‘īs in the area of ritual purity, and the topics of intention and ablution were central in discussions of ritual purity. For Shāfi‘īs, there were five causes of ritual impurity, as opposed to two for Ḥanafīs (Ibn al-Naḥḥās’ former school).

One of the Shāfi‘ī causes that Ḥanafīs did not list was loss of reason (*‘aql*).⁶¹

⁵⁹ Memon 1975, 294.

⁶⁰ B. Weiss 1996, 64-6.

⁶¹ Chaumont 2001, 218. On tensions between the Ḥanafī, Shāfi‘ī and Ḥanbalī *madhhabs*, see Winter 2001 and Chamberlain 1994.

Together, this may explain why Ibn al-Naḥḥās dealt with the lunatic question near where he dealt with intention, even though he did not explicitly state this link. Arent Wensinck summarised the Persian Shāfi‘ī jurist Abū Ishāq al-Shīrāzī’s (d. 476/1083) view on the terms *‘aql* and *nīya*: “the seat [of *nīya*] is the heart, the central organ of intellect and attention. Lunatics, therefore, cannot pronounce a valid *niyya*.”⁶² This may also give an insight into Ibn al-Naḥḥās’ thought process as he wrote: he dealt with topics together that were legally closely related in some way, in ways that were sometimes consistent with the views of his adopted school, while also drawing on the thought of other schools. The above observations constitute further valuable data about what loyalty to his Shāfi‘ī *madhhab* meant for Ibn al-Naḥḥās, and are in line with my findings from other parts of Ibn al-Naḥḥās’ *Tanbīh*.

Given that Ḥanbalī thought is evident in Ibn al-Naḥḥās’ passages on intention and ablutions, one might expect such thought to have been evident elsewhere in his writings. However, as we saw in Chapter V.1 in relation to butchers, bakers and money changers, this was not the case. Why not? In addressing this question, it is important to note that Ibn Qayyim wrote a work that discussed both commercial transactions and intention. In this work, *al-Maqāṣid wa-al-nīyāt*, Ibn Qayyim mentioned intention in two different sections in relation to both contract law and ritual law.⁶³ As modern scholars frequently note, Ibn Qayyim’s writings were influential in late eighth/fourteenth-century

⁶² Wensinck 1936, 930. See also P. Powers 2006, 34-5.

⁶³ P. Powers 2006, 117.

Damascus.⁶⁴ We may therefore expect Ibn al-Naḥḥās to have also been aware of Ibn Qayyim’s views on contract law, in addition to the fact that Ibn al-Naḥḥās quoted Ibn Qayyim.

As part of my answer to the above question, it is worth recalling that Ibn al-Naḥḥās’ focus on blameworthy innovations was different from previous Shāfi‘ī authors of such tracts. Ibn ‘Abd al-Salām and Abū Shāma discussed permitted innovations, whereas Ibn al-Naḥḥās merely defined such innovations very briefly before stating that he would not discuss them in his tract.⁶⁵

The explanation that may underlie these facts is that Ibn al-Naḥḥās deliberately selected those writings that would best help him make his point, whichever *madhhab* they were from, apart - it seems - from the Ḥanafī school. Ibn al-Naḥḥās drew on such writings even if they contained views that differed from mainstream views in his own school. This means that, in a purposeful way, Ibn al-Naḥḥās pragmatically drew on a wide range of legal views. He was a Shāfi‘ī, operating in a milieu where that school was still influential. Yet the kind of Shāfi‘ism Ibn al-Naḥḥās consistently advocated was a confessionally eclectic kind in which he drew selectively on the opinions of Mālikīs and Ḥanbalīs.

We may be more precise about the ways in which Ibn Taymīya’s and Ibn Qayyim’s thought reached Ibn al-Naḥḥās. Ibn Rajab (d. 795/1393) lived in Damascus, as did Ibn al-

⁶⁴ Laoust 1971b, 822.

⁶⁵ On Ibn ‘Abd al-Salām and Abū Shāma, see Ukeles 2006, 121-45, especially 132-4 and 145. See also *Tanbīh*, 427-8.

Naḥḥās, and the two men shared some scholarly contacts. Ibn Rajab studied under al-‘Irāqī (d. 806/1404), whose son versified Ibn al-Naḥḥās’ *Mashāri‘* (see Chapter II.2) and studied under the theologian and jurist Ibn Qayyim. Ibn Rajab also wrote *Fatḥ al-Bārī*, a commentary on al-Nawawī’s forty *ḥadīths*. Ibn al-Naḥḥās quoted abundantly from both of these works.⁶⁶ In addition, Ibn Qayyim was born in Damascus, served as the Ḥanbalī chief judge there and died there. Finally, controversies in eighth/fourteenth-century Damascus involving Ibn Qayyim and the Shāfi‘ī chief judge Taqī al-Dīn al-Subkī (d. 777/1378), occurred only decades before Ibn al-Naḥḥās’ time there.⁶⁷ These controversies centred around “the purpose and permissibility of the *ziyāra* ... and a related question of the acceptability of prayer offered in cemeteries and at certain venerated tombs specifically”.⁶⁸ Ibn al-Naḥḥās discussed all these topics, and the disputes must have been known to him, given his education and Shāfi‘ī scholarly connections in and around Damascus. These points of connection illustrate personal interactions between Ḥanbalīs and Shāfi‘īs in Ibn al-Naḥḥās’ intellectual circles. As part of this, Ibn al-Naḥḥās actively and selectively interacted with Ḥanbalī and other scholars that I have already identified.

Among Ḥanbalī scholarly networks in Damascus, George Makdisi noted that Ibn Taymīya, Ibn Qayyim and Ibn Rajab were in the same chain of Sufī initiation.⁶⁹ That is,

⁶⁶ On Ibn Qayyim’s influence on Ibn Rajab, see also Laoust 1971b, 822. See also Little 1975, 104 and Makdisi 1986, 175.

⁶⁷ Christopher Taylor gives the death date as 1355 (1999, 169).

⁶⁸ Taylor 1999, 169 and Laoust 1971b, 821-2.

⁶⁹ All three received the *khirqā*, the Sufī cloak. Makdisi 1973, 123. See *ibid.*, 124-5 for further evidence of Ibn Taymīya’s Sufī affiliation.

not only was Ibn Rajab in Damascus at the same time as Ibn al-Naḥḥās, but there are two plausible links between Ibn Rajab and Ibn Qayyim.

In this section, I have argued that Ibn al-Ḥājj's Mālikī focus and Ibn al-Naḥḥās' confessional eclecticism are apparent in their passages on intention and ablutions. These arguments provide more evidence for my earlier contentions about their strategies and the nature of their loyalty to their *madhhabs*. They were less loyal to their *madhhab* than to their aim to convince their audiences. If they had to do so in these audiences' 'languages' (the expected and accepted norms of the audiences' *madhhabs*), they did so very skilfully, by making use of the tools of at least three of the dominant *madhhabs* (less so the Ḥanafī *madhhab*, which may be an indirect expression of opposition to the top-down imposition of Ḥanafī scholars in the Mamluk milieu).

V.2.d. Genre and extent of dependence of Ibn al-Naḥḥās' tract on Ibn al-Ḥājj's

V.2.d.i. Genre

In this section, I explore the genre and setting of Ibn al-Ḥājj's and Ibn al-Naḥḥās' tracts. I begin by arguing that Ibn al-Ḥājj's and Ibn al-Naḥḥās' passages on intention and ablutions support my contention that the *Madkhal* and the *Dhikr* are examples of works of *furū'* that were more widely accessible than many of the denser examples of such writings. Towards the end of this section, I discuss the independence of Ibn al-Ḥājj's and

Ibn al-Naḥḥās’ tracts, in the light of Maribel Fierro’s argument that early Shāfi‘ī anti-innovation tracts were dependent on Mālikī tracts, and that the Ḥanafī al-Turkumānī’s tract was dependent on Ḥanbalī ones.⁷⁰ I also explore whether these tracts may have been appropriate for a *madrasa* setting, and (if so) what form that setting may have taken. My argument, in four parts, is that these passages are: within the scope of *furū‘*; less precise than *mukhtaṣars*, *mabsūṭs* and many *fatwās*; prescriptive; and different from other, more scholarly and formal, works of *furū‘* in not alluding to or discussing certain clusters of legal debates.

Ibn al-Ḥājj’s and Ibn al-Naḥḥās’ understandings of the relation of intention to ritual actions were within the scope of those of other Muslim jurists. This is clear from the way in which Ibn al-Ḥājj and Ibn al-Naḥḥās approached one particular difficulty inherent to the consideration of intention within the ritual sphere of law. In *Intent in Islamic law*, Paul Powers described this difficulty as follows: If one has performed prayer (*ṣalāt*), “[h]ow could one do otherwise [but intend to have done it]?”⁷¹ Powers gave a complex answer to this question, eventually drawing on the work of social anthropologists Humphrey and Laidlaw and concluding that “[*n*]iyya in *fiqh al-‘ibādāt* is perhaps best understood as a specifically ritualistic form of intention - the intention to participate in a ritual and to assent to the ontological stipulation of the ritual action.”⁷² Although Ibn al-Ḥājj and Ibn al-Naḥḥās did not explicitly recognise any of this nuance within ritual intent,

⁷⁰ Fierro 1992a, 211. Fierro based her remarks primarily on the works of al-Qurṭūbī and al-Ṭurṭūshī, but also drew on others including Abū Shāma, al-Suyūṭī and the Mālikī from present day Nigeria ‘Uthmān b. Fūdī (Dan Fodio, d. 1232/1817).

⁷¹ P. Powers 2006, 60-1. In Islamic law and practice, *wuḍū‘* is part of the preparation for *ṣalāt*.

⁷² *Ibid.*, 60, 62 and 95 and 203.

in practice, they understood intent in this way. Ibn al-Ḥājj's view that deeds are judged by their intention (applied to *wuḍū'*, *ghusl* and other aspects of prayers) and Ibn al-Naḥḥās' view that to have prayed is to have intended prayer, are within the broad scope of Powers' summary of how Muslim jurists understood intention.

As the above translations illustrate, Ibn al-Ḥājj's and Ibn al-Naḥḥās' passages on intention and ablutions also contain significant amounts of jurisprudential terminology. Of course, we must beware of uncritically loading terms used in jurisprudential works with an irreducible legal meaning wherever we find them. As scholars and jurists, Ibn al-Ḥājj and Ibn al-Naḥḥās were able to mention legal terms yet avoid systematic and theoretical discussions. Notwithstanding this, part of the effect of their frequent usage of such terms must have been to create an impression (in the minds of laypersons at least, where relevant) of legally well-informed thought.

In addition, in two respects, Ibn al-Ḥājj and Ibn al-Naḥḥās used the term *nīya* in a similar way to works of *fiqh*. First, the topic of intention was central to premodern Islamic jurisprudential discussions of ritual law, including *wuḍū'* and *ghusl*, as well as to Ibn al-Ḥājj's and Ibn al-Naḥḥās' discussions of these issues.⁷³ Immediately after the introduction to his *Madkhal* and immediately before his discussions of *wuḍū'*, *ghusl* and related topics, Ibn al-Ḥājj discussed intention in depth. Although Ibn al-Naḥḥās did not mention intention elsewhere, he did so in relation to *wuḍū'*. Second, the way in which Ibn al-Ḥājj and Ibn al-Naḥḥās viewed intention as related to action was within the scope of legal discussions of these topics. For example, according to some Muslim jurists, *nīya*

⁷³ Maghen 2011, 5. Premodern Islamic legal discussions of intention in the sphere of ritual law also focussed mainly on “intent to perform special acts of religious ritual in obedience to and worship of God” (P. Powers 2006, 4).

in the sphere of ritual law is a legal act of its own, a discrete declaration (whether audible or not) of one's performance of an act.⁷⁴ Intention must also accompany the act until the end.⁷⁵ In his argument that the best reward arises from performing right actions with unmixed intentions, and in repeatedly mentioning *nīya* at the start of his discussions of many different ritual practices, Ibn al-Ḥājj showed himself to be within the scope of these views. Muslim jurists also made clear that one cannot separate *nīya* from the right performance of *'ibāda*.⁷⁶ Ibn al-Naḥḥās concurred, citing Ibn Qayyim's statement that whoever has prayed has intended to pray.⁷⁷

Ibn al-Ḥājj and Ibn al-Naḥḥās also approached intention and ablutions in different ways from other jurisprudential works. Ibn al-Ḥājj's and Ibn al-Naḥḥās' passages do not contain discussions of legal theoretical issues, nor of the relationship of legal theory to particular practices, unlike *uṣūl* works or more formal and scholarly works of *furū'*. In addition, Ibn al-Ḥājj's and Ibn al-Naḥḥās' passages do not consist of the question-answer (*su'āl-jawāb*) format, or the 'I know of no-one who disagreed with such-and-such' formula, that typified many *fatwās*; nor were they centred around the listing and interpretation of *ḥadīths*, after the fashion of juristic commentaries on *ḥadīths*.⁷⁸

⁷⁴ See my discussion, below, where I note the *madhhab*-specific nature of understandings of the term *nīya*. P. Powers 2006, 19 and Wensinck 1936, 930. "*Niyya* is, in effect, what one does with one's mind while performing ritual actions" (P. Powers 2006, 43).

⁷⁵ See the discussion and examples given in Wensinck 1936, 930.

⁷⁶ *Nīya* is also "itself something one does as part of the compound actions of purification, prayer, pilgrimage, and the rest of the *'ibādāt*" (P. Powers 2006, 41). On the complex discussions in the early centuries of Islam about how to test whether *nīya* is really present in a given case, see Schacht 1964, 116.

⁷⁷ On philosophical issues connected with intent and intentionality, see P. Powers 2006, 14-19. Ibn al-Naḥḥās' 'act equals intention' approach is most similar to Powers' "'meaning-to-act' while acting" approach and is in contrast to "plan to act" (ibid., 17).

⁷⁸ B. Weiss 1996, 69. Cf. "*wa-lam yaqul aḥad min al-salaf*", Ibn Taymīya, *Fatāwā*, 2:453.

Ibn al-Ḥājj's and Ibn al-Naḥḥās' passages are less precise than similar ones in jurisprudential literature. In the sphere of ritual law, the term *nīya* appears in works of jurisprudence with great technical specificity.⁷⁹ By contrast with this, Ibn al-Naḥḥās merely mentioned *nīya*, but did not discuss it or specify it. The same point can be applied to Ibn al-Ḥājj. Although Ibn al-Ḥājj's lists are precise in one sense (being very detailed), they are not precise in the sense of disaggregating acts from essentials in the way that Joseph Schacht described legal works as having done. For example, Ibn al-Ḥājj mentioned the term *shurūṭ* in context of *wuḍū'*. Summarising legal discussions of this term, Schacht wrote the following:

[c]onditions (sharṭ, pl. shurūṭ), in the wider meaning of the term, are the general prerequisites for the validity of a legal act, and in particular an act of worship (for ritual prayer, for instance, they are ritual purity, covering one's nakedness, facing the direction of the Kaaba, and niyya), as opposed to its essential elements (rukṅ, pl. arkān).⁸⁰

Ibn al-Ḥājj did not address such nuances. This matters because it highlights a conundrum in Ibn al-Ḥājj's *Madkhal* in that, in some ways, it seems appropriate for a scholarly audience, yet, in others, it appears widely accessible. In this thesis, I argue that viewing the *Madkhal* as a manual for jurists early in their training best explains these apparently divergent factors.

⁷⁹ P. Powers 2006, 3. On the comparison with civil law, see *ibid.*, 120.

⁸⁰ Schacht 1964, 118.

Third, the main body of Ibn al-Ḥājj's and Ibn al-Naḥḥās' tracts are prescriptive, in a similar way to their introductions. Several times in the above translations, Ibn al-Ḥājj mentioned what was obligatory, what one should turn away from, or conditions that one should follow. For his part, Ibn al-Naḥḥās used phrases such as "*this is forbidden*" and "*this is clear guidance*", and referred to what one must do.

Fourth, in the above passages, Ibn al-Ḥājj and Ibn al-Naḥḥās did not mention at least two clusters of legal debates that were relevant to more formal works of *furū'*, including those circulating in the Mamluk period. The first controversy, which was between Ḥanafīs and adherents of the other three Sunni schools, was whether intention is vital to the valid performance of purification. For Ḥanafīs, "only those [acts of purification] made with a solid substance (such as in *tayammum*) necessitate [such intention]."⁸¹ For others, "express intention is vital, if the ablutions in question are not to be rendered invalid, following the Prophet's famous saying [narrated by al-Bukhāri], 'actions are only valid according to the intention'".⁸² This is a reference to the "*innamā al-a'māl*" *ḥadīth*, given above.⁸³ Although both mentioned purification, and Ibn al-Ḥājj cited this *ḥadīth*, neither Ibn al-Ḥājj nor Ibn al-Naḥḥās mentioned this debate. The second debate to which Ibn al-Ḥājj and Ibn al-Naḥḥās did not refer relates to what makes *wuḍū'* or *ṣalāt* valid, from the point of view of intention. In this case again, the Ḥanafīs held a

⁸¹ Chaumont 2001, 218.

⁸² Ibid.

⁸³ Cf. Bousquet 1965, 1104. The above *ḥadīths* were much discussed in major legal compendia of the fourth/tenth to sixth/twelfth centuries, which were often quoted in the Mamluk period (ibid., Chamont 2001, 218).

different view to the other Sunni schools.⁸⁴ This lack of referencing is easy to explain in the case of Ibn al-Naḥḥās, whose tract was intended for a wide readership, most of whom would not care about (or could not follow the intricacies of) such debates. If Ibn al-Ḥājj's tract was aimed at scholars or teachers, it is harder to explain why he would not mention such debates, as they were pertinent to the topics he was discussing. A plausible solution is that his tract was an entry-level work for students in the first year of scholarly training, such that Ibn al-Ḥājj excluded reference to these debates in order to make his work as accessible as possible.

V.2.d.ii. Independence of Ibn al-Ḥājj's and Ibn al-Naḥḥās' tracts

Fierro argues that the Shāfi'ī tradition of *kutub al-bidā'* was indebted to the Mālikī tradition and that the Ḥanafī one was dependent on the Ḥanbalī.⁸⁵ Ibn al-Naḥḥās' anti-innovation tract provides some support for this, via evidence of connection to Ibn al-Ḥājj and the Mālikī tradition of *kutub al-bidā'*, as discussed in Chapter IV.2. However, notwithstanding the few places where Ibn al-Naḥḥās cited from Ibn al-Ḥājj's tract, there are structural, methodological and content differences between the two works. For example, Ibn al-Naḥḥās did not copy from Ibn al-Ḥājj in relation to butchers, bakers, money changers, intention or ablutions. Even where Ibn al-Naḥḥās did reproduce a passage very similar to one that was in Ibn al-Ḥājj's *Madkhal*, such as in relation to *buyūt* (mentioned in both Chapters IV.1 and IV.2), closer study reveals subtle differences in

⁸⁴ See Bakhtiar 1996, 24. For summaries of other juristic debates related to intention and ablutions that Ibn al-Ḥājj and Ibn al-Naḥḥās did not mention, see P. Powers 2006, 26-33 and 39-43.

⁸⁵ 1992, 211.

language. Where Ibn al-Ḥājj wrote *fī suṭuḥ al-masjid*, Ibn al-Naḥḥās wrote *fī astiḥa al-jawāmi‘*, both meaning ‘in the roofs of mosques’, indicating Ibn al-Naḥḥās’ independence from Ibn al-Ḥājj.⁸⁶ It is unlikely that both Ibn al-Ḥājj and Ibn al-Naḥḥās drew their ideas from a third anti-*bid‘a* source, since they are the only ones who discussed the markets and the streets in any detail. What is clear is that, as elsewhere, Ibn al-Naḥḥās was not copying Ibn al-Ḥājj’s text. My consideration of Ibn al-Ḥājj’s and Ibn al-Naḥḥās’ treatment of the duty of forbidding wrong in Chapter V.1 similarly does not provide evidence for Fierro’s claim about *madhhab*-dependencies among anti-innovation tracts. Finally, Ibn al-Naḥḥās’ reliance on Ḥanbalī sources, as discussed above, must be borne in mind.

I conclude from this that Fierro’s observation seems to hold true within the scope of the research project that she defined, which was primarily focussed on the works of the Andalusian Mālikīs Ibn Waḍḍāḥ al-Qurṭubī (d. 287/900) and al-Ṭurṭūshī (d. 520/1126)⁸⁷ - but not entirely in relation to Ibn al-Naḥḥās’ anti-innovation tract. The above discussion does not constitute a critique of Fierro’s work, as she did not intend her observations to apply to such later works as those under consideration here. It is also worth recalling both that the Ḥanafī *madhhab* was, in general, relatively open to the views of other *madhhabs*, and that Ibn al-Naḥḥās had a Ḥanafī heritage. It is possible that Ibn al-Naḥḥās’ confessional eclecticism - a Shāfi‘ī tract drawing on Shāfi‘ī, Mālikī and Ḥanbalī themes - was a vestige of his Ḥanafism. However, we should not apply too much weighting to this

⁸⁶ *Madkhal*, 1(2):181 and *Tanbīh*, 431.

⁸⁷ Maribel Fierro also drew on the tracts of the Syrian Shāfi‘ī Abū Shāma (d. c. 665/1268), the Egyptian Ḥanafī al-Suyūfī (d. 911/1505) and the Mālikī from present day Nigeria ‘Uthmān b. Fūdī (dan Fodio, d. 1232/1817).

possibility since, in his *Dhikr*, Ibn al-Naḥḥās referred to the Ḥanafī school less than any other Sunnī *madhhab*.

V.2.e. Authorial intent

In what follows, I return to the issue of knowledge and action, this time under a different heading. This illustrates the interconnectedness of the various aspects of textual analysis being performed.

V.2.e.i. Ibn al-Ḥājj: Incipient scholars ought to know what to censure

The full title to Ibn al-Ḥājj's tract makes clear how he recoiled from practices in the society in which he lived, and how he intended to write against them. The above translations indicate that he carried this part of his intent out. As noted above, the concept of intention was important for Ibn al-Ḥājj in the opening pages of his *Madkhal*. However, one feature of the longer sections that follow, from which the translations above are drawn, is particularly puzzling. Although these sections contain the word *nīya* in their opening lines, they are not really about *nīya*. Rather, they are about waking up from sleep, clothing, urinating, performing ablutions, performing *rak'as*, going to the mosque and the *'ālim*'s conduct (the seven sections listed earlier). In one of these sections, on *rukū'*, Ibn al-Ḥājj did discuss intention, in particular concerning the four types translated above. However, this is a very short passage within an eighty-page section in which

Ibn al-Ḥājj claimed to discuss intention specifically with respect to a range of practices, including urination and *wuḍū'*.

What is to be made of this lack of consistency? Why did Ibn al-Ḥājj list these activities under the heading “intention” but fail to discuss it in any detail? It is impossible to understand these sections without reference to Ibn al-Ḥājj’s recurrent focus on lists and categories, whether 59 things to bear in mind when urinating, 45 *ādāb* that one should know in relation to *wuḍū'*, or four ways to gain reward from *rukū'*. Such lists and categories account for the vast majority of space in these passages and have the effect of informing readers what they should know about these topics. This approach is not novel in premodern Islamic jurisprudential writing.⁸⁸ For Ibn al-Ḥājj, this focus on specific knowledge of information was more important than engaging with discussions about intention as applied to specific cases. Another way of viewing this is that, in expanding on the *'innamā al-a'māl'* *ḥadīth* that he quoted at the beginning of his introductory section about intention, Ibn al-Ḥājj was providing case studies of the relationship between knowledge and intention. In this way, he was arguing that proper intention comes through intimate and substantive knowledge.

The above points about Ibn al-Ḥājj’s focus on knowledge and lists provide further support for the hypothesis that Ibn al-Ḥājj’s audience was comprised of *'ulamā'*, and possibly those who taught others, as he made sure to communicate the definitions and parameters of his chosen topic. I noted in Chapter II.1 that *fiqh* (together with *ḥadīth*) was

⁸⁸ See the discussion in Chapter III.1.

a centre of gravity in the curriculum around which other subjects revolved. However, Ibn al-Ḥājj's tract should not be identified with works of *furū'* that were core to the curriculum of study for a scholar. In part, this is because the low number of extant copies and references to Ibn al-Ḥājj's *Madkhal* in other sources implies that Ibn al-Ḥājj's text was less likely to have been used in formal and/or highly rigorous scholarly settings, where lists of texts may have been kept. In addition, nothing from my study of Ibn al-Ḥājj's background and scholarly networks indicates a connection with a *madrasa*, and relatively few copies of his works survive in comparison to works that were widely read in *madrasas*, such as al-Nawawī for whom well over 200 manuscripts survive.⁸⁹ From all this, I conclude that Ibn al-Ḥājj's tract is likely to have been a less formal, or less required, part of a course of study, especially early in a course of instruction. This observation is also consistent with what we saw in relation to Ibn al-Ḥājj's introduction. Alongside this, Ibn al-Ḥājj's passages on intention and ablution are not highly refined or dense, and seem more appropriate to junior scholars or students, rather than advanced ones.

V.2.e.ii. Ibn al-Naḥḥās: Censuring the masses

In his passages on intention and ablutions, Ibn al-Naḥḥās dealt with innovations that were in the category of “hated”, which is consistent with his stated intent in his introduction.

Ibn al-Naḥḥās' direct style and lack of comprehensiveness is more consistent with a wider audience. It is not surprising that we find relatively few examples in these passages

⁸⁹ Brockelmann, *G.A.L.*, I:496-501.

of Ibn al-Naḥḥās urging readers to prevent others from innovations relating to intention. After all, how can someone prevent someone else from intending something? However, a central aspect of Ibn al-Naḥḥās’ authorial voice in relation to ritual law is his focus on action, as shown in two different ways. First, he recommended taking action to dismiss *imāms* who were obsessed with intention in prayer. Although Ibn al-Naḥḥās did not elaborate on this, he presumably had in mind *imāms* who talked or preached about intention in prayer, since this is something that one could observe and therefore take action against. Ibn al-Naḥḥās also cited an argument, from Ibn Qayyim’s *Ighātha*, that one cannot separate intention from action, in the sense that, “Whoever rises to pray, has intended prayer.”

It is not that Ibn al-Ḥājj’s and Ibn al-Naḥḥās’ views in relation to knowledge and action are completely opposed, for elsewhere Ibn al-Ḥājj wrote, “if that is only outward purity, it is a sign of internal purity”, and also “*So what about us? Surely today we should be more careful in checking on each other!*”⁹⁰ Therefore, Ibn al-Ḥājj did consider action important in some respects, but - as I have noted earlier - his emphasis was on knowing about what to do, rather than doing it. The contrast between this emphasis and that of Ibn al-Naḥḥās remains apparent, even if the two scholars are not strictly in direct opposition.

We may more deeply understand Ibn al-Naḥḥās’ intent to urge others to censure (rather than just to know about it or study it) by returning to Ibn Qayyim. In terms of its proportion among Ibn al-Naḥḥās’ writings on intention and ablutions, the above-noted

⁹⁰ *Madkhal*, 1(1):38 and 40.

Ḥanbalī passages represent a significant amount of text. The way in which Ibn al-Naḥḥās abbreviated material from the *Ighātha* tells us something about his likely aims and audiences. Relative to Ibn Qayyim, Ibn al-Naḥḥās included fewer examples in his discussions of intention and ablutions and also avoided exploring topics that were interlinked or finely nuanced. For example, Ibn Qayyim linked his discussions of obsession and ablutions to each other, noting that taking precaution (*ikhṭiyāt*) is not something that is censured (*mustankar*) in the law, even if one calls it obsession.⁹¹ In entirely ignoring such considerations in his writings, and in his relative lack of precision (compared with other jurisprudential works), Ibn al-Naḥḥās gives the impression of someone with other concerns in mind. Rather than exploring legal issues (whether in theory or in application) in fine detail, in a fashion that some professional jurists would have appreciated, Ibn al-Naḥḥās aimed to popularise his work, not by simplifying, but by using phrases that would appeal to the widest possible set of audiences and by avoiding debates that only the highly formally educated would recognise.

To a greater extent than other *madhhabs*, it was Ḥanbalī thought that provided a vehicle for Ibn al-Naḥḥās, by which he could emphasise the importance of right action in the context of intention and ritual law (*fiqh al-‘ibādāt*). By contrast with the Mālikī al-Qarāfi’s views, Ibn Qayyim and Ibn Taymīya put intention into the sphere of the outward, the *zāhir*, and viewed intention (as well as ritual practices dependent on it) as the business of government.⁹²

⁹¹ *Ighātha*, 1:130.

⁹² Ibn al-Naḥḥās did not use the terms *zāhir* and *bāṭin*. Cf. *Madkhal*, 1(1):38.

In Chapter II.1, I quoted Norman Calder’s view that “[t]he ‘primary constraint’ of literary works within the genre of *furū’ al-fiqh* is that of loyalty to tradition (*madhhab*). The *Tanbīh* contains no hint that Ibn al-Naḥḥās wanted to undermine, or be disloyal to, his adopted Shāfi‘ī *madhhab*. But, as I argued in Chapter V.1, Ibn al-Naḥḥās viewed his loyalty broadly and did frequently quote authorities from outside his own school. Indeed, the very *madhhab*-flexibility that we uncovered may be a strong indication for an intended dissemination outside the *madrasas*, aiming at wider audiences regardless of their *madhhab*.

V.2.e.iii. Anti-innovation tracts and being on the margins of temporal power

Inherent to the task of writing an anti-innovation tract is having reference to the past. Why, then, did Ibn al-Ḥājj and Ibn al-Naḥḥās not choose to write a work of history? Why write a prescriptive tract? Part of the answer stems from both authors being at the margins of scholarship and society. Although Ibn al-Ḥājj and Ibn al-Naḥḥās had some influence with scholars, a central part of their agenda was to critique the status quo. Even Ibn Taymīya - who was well connected in scholarly terms and central to many contemporary controversies - in some sense stood at a distance from scholars, rulers and others. Authors of anti-innovation tracts were not entirely marginal figures, but they wrote such tracts in some measure to bring something different to the mainstream of observance of Islam, whether in ritual or social law.

It is also significant that both the *Madkhal* and the *Dhikr* were written by people who settled somewhere new, and were not part of the Turkic ruling class. Appointed scholars, marketplace inspectors and well connected *imāms* did not need to write anti-innovation tracts, because they already had the opportunity to do something about innovation in practice. Although Ibn al-Ḥājj and Ibn al-Naḥḥās may simply have wanted to reach wider audiences than their immediate followers, we should not entirely discount this possibility that has to do with temporal power.

Based on the above discussion and earlier contextual work, we may also understand more about why Ibn al-Ḥājj was not prepared to exhort others to action in the same way that Ibn al-Naḥḥās was. Coming from North Africa, he was even less of an insider than Ibn al-Naḥḥās. As a Mālikī, Ibn al-Ḥājj represented a less jurisprudentially authoritative school in Egypt. Ibn al-Naḥḥās was at least an insider to Mamluk lands, being a Syrian and connected to the Shāfi‘ī school, which was powerful within the court system there. Forced out of Damascus by the arrival of Tīmūr, Ibn al-Naḥḥās must have lost almost everything, and subsequently had less to lose through his writings. Involved in raiding, he would have come face to face with the possibility of death much more frequently than Ibn al-Ḥājj. These factors must have played a part in the abbreviated, black-and-white way in which Ibn al-Naḥḥās wrote, urging others to action, almost regardless of the consequences.

Yet, viewed differently, Ibn al-Ḥājj and Ibn al-Naḥḥās were also at the centre of Mamluk society: both were well educated, Ibn al-Ḥājj lived in Cairo, the centre of the Mamluk polity, and Ibn al-Naḥḥās was a member of the highly influential Shāfi‘ī school.

For whatever reason, the rulers allowed these texts to be disseminated - perhaps they did not care enough about them - and Ibn al-Ḥājj and Ibn al-Naḥḥās saw that certain jurisprudential works could be flexible tools with which to promote their agendas, not only to students and the masses, but also - conceivably - to those with political temporal power.

V.2.f. Conclusions

The four translated passages about ritual law provide support for my contention that the *Madkhal* and the *Dhikr* are prescriptive examples of works of *furū'*. In these passages, Ibn al-Ḥājj and Ibn al-Naḥḥās demonstrated the same emphases (on knowledge and action respectively, even in relation to an 'inward' area such as intention) and the same approach to legal schools (singularly Mālikī and confessionally eclectic respectively) as they did in relation to social law, albeit that - in this case - Ibn al-Naḥḥās' eclecticism encompassed the Ḥanbalī, not the Mālikī, school.

In addition, both jurists functioned in interdependent networks, navigating legal schools in ways that allowed them to forge their own paths. Ibn al-Ḥājj's and Ibn al-Naḥḥās' anti-innovation tracts emerge as malleable tools, ideal for middle-ranking scholars to make their own voices heard, at a distance from political elites, but within earshot of them. Ibn al-Ḥājj's emphasis on knowledge and lists can be seen clearly alongside, or even taking precedence to, particular points that he made. His thought was related to, but not entirely dependent on, one of his teachers, Ibn Abī Jamra, and this is entirely unsurprising given the introduction to his tract. Ibn al-Ḥājj viewed his audience

as those early in a course of study, and it is likely that, alongside this, he knew that his work may attract the attention of political aides or appointees.

Ibn al-Naḥḥās drew selectively and pragmatically on the thought of Ibn Taymīya and Ibn Qayyim, possibly via Ibn Rajab and Tāqī al-Dīn al-Subkī. At least intellectually, and possibly socially, there were linkages between Ḥanbalīs and Shāfi‘īs in Ibn al-Naḥḥās’ scholarly circle. Together with Ibn al-Naḥḥās’ reliance on Mālikī thought, discussed in Chapter V.1, these findings tell us something about what it meant to be a Shāfi‘ī attempting to reform early ninth/fifteenth-century Egyptian society. At least as far as Ibn al-Naḥḥās was concerned, such attempts involved interdependence of thinking and reasoning between legal schools. In line with my earlier findings, the evidence of this chapter points to Ibn al-Naḥḥās’ audience being the masses, and not those in *madrasas*. As elsewhere, Ibn al-Naḥḥās presented choices in a much more concise way: act; don’t doubt; don’t get obsessed with details. Ibn al-Naḥḥās’ brief, simpler, action-focussed style may well have been a rebuke to Ibn al-Ḥājj (whether consciously or unconsciously), or to legal scholars who took a more detailed and *madhhab*-loyal view of similar considerations.

We must not assume that every nuance of Ibn al-Ḥājj’s and Ibn al-Naḥḥās’ writings was related to purely intellectual convictions. Perhaps they were hoping to obtain a recognised, or official, position. However, we can only draw conclusions from the positive evidence that exists, and Ibn al-Ḥājj’s Mālikī allegiance and Ibn al-Naḥḥās’ confessional eclecticism are features that consistently emerge from their writings.

Part VI

Conclusions

Chapter VI.1.

Conclusions

This study has shed light on two contrasting authors of two contrasting anti-innovation tracts from the Mamluk period: Ibn al-Ḥājj (d. 737/1336) and his *Madkhal*, and Ibn al-Naḥḥās (d. 814/1411) and his *Dhikr*, contained within his *Tanbīh*. We know little about this genre of legal literature, especially from this period, and studying more than one author from more than one legal school was the method adopted to avoid lopsidedness in the conclusions arising from selecting a potentially unrepresentative author in a little explored field of scholarship.¹

Ibn al-Ḥājj was a Mālikī from the Maghrib, who was known as a *shaykh* in Cairo (where he arrived no later than 700/1300), and who urged fledgling scholars to know which practices to reject by setting out lists of innovative practices in almost encyclopaedic detail. Ibn al-Naḥḥās was a pragmatic, direct, confessionally eclectic Ḥanafī-turned-Shāfi‘ī, who was forced out of Damascus following Tīmūr’s invasion in

¹ I am grateful to Dr. Konrad Hirschler and Dr. Robert Hoyland for suggesting to me to include a more detailed study of Ibn al-Ḥājj in this thesis. The original thesis was going to treat Ibn al-Naḥḥās’ *Dhikr* only.

803/1400, and settled in provincial Manzala in Upper Egypt, where people honoured him. He did not attain significant scholarly influence, and his intention was to urge the masses to act. Ibn al-Ḥājj's scholarly heritage is captured in his writings and in the works of his biographers; we know that Ibn Abī Jamra taught him and that he attended *ḥadīth* recitals. By contrast, Ibn al-Naḥḥās' scholarly heritage is missing in the sources, to the point where one wonders if he was self-taught.

Although separated by *madhhab* (legal school), upbringing and nearly a century, much unites Ibn al-Ḥājj and Ibn al-Naḥḥās. Middle-ranking, Arabic-speaking Muslim jurists, they both arrived in Egypt after their formation, and neither received an official appointment. Their locus of authority was Islamic law (the *sharī'a*), rather than the non-*sharī* alternatives available during this period. Their other works show them capable of writing in other registers (such as works on theology or grammar), and this study has shown that both jurists exercised agency in the way they wrote, and to whom they wrote.

In seeking to regulate Muslim behaviour and define what was acceptable, Ibn al-Ḥājj and Ibn al-Naḥḥās illustrate the continuity and evolution of legal thinking that existed during this period. For example, Ibn al-Ḥājj was a Mālikī who drew mainly upon scholarship from his own school, even though his scholarly networks included several scholars from other *madhhabs*. Later Mālikīs read his works, and it was Mālikīs from the Maghrib who disseminated them. By contrast, all four Sunni legal schools are represented in the story of Ibn al-Naḥḥās' life and writings. Formerly a Ḥanafī, he ended up as a Shāfi'ī who drew heavily on the views of the Mālikī and Ḥanbalī schools for his views on tradition and innovation. For instance, Ibn al-Naḥḥās' treatment of intention and ablutions

was densely packed with quotations from Ibn Taymīya and Ibn Qayyim, both Ḥanbalīs. Differences between these quotations and Ibn al-Ḥājj's treatments of the same topics highlight the diversity in self-regulation that existed in northern Egypt in the early eighth/fourteenth century. I have also argued that these quotations made their way to Ibn al-Naḥḥās via Ibn Rajab, among others. It is unclear whether Ibn al-Naḥḥās was aware of the full implications of his mode of argument. As a Shāfi'ī, he could have been arguing in a Shāfi'ī way (while being relatively open to the views of other schools) or in a non-Shāfi'ī way (subversively trying to influence Shāfi'īs in favour of the views of other schools). The greater *madhhab*-ambiguity in his anti-innovation tract, his lack of appointment at a *madrasa*, and his much more direct style in comparison to Ibn al-Ḥājj all point in the direction that he wrote this tract for much wider audiences than just scholars at the *madrasas*. Differences between Ibn al-Ḥājj and Ibn al-Naḥḥās in terms of *madhhab*-loyalty thereby contribute to our understanding of how each jurist defined himself as a Muslim, respectively within and beyond the confines of a single *madhhab*.

More broadly, anti-innovation tracts may be considered a niche for outsiders, albeit in different ways for Ibn al-Ḥājj and Ibn al-Naḥḥās. Egyptian *mukhtaṣars* and *mabsūṭs* were often patronised and produced by scholars with some form of official appointment or other recognition. Most authors of anti-innovation tracts were jurists, and in writing against innovations they chose a form of writing that was not part of the established genres with which to apply law. As outsiders to Egypt, of course, Ibn al-Ḥājj and Ibn al-Naḥḥās shared outsider-ness in Egypt with many others, including non-Muslims who were by that time a minority, Ḥanafīs from Rūm and Iran, and Turkic ruling elites.

Among these groups were potential Muslim audiences (or those interested in Muslim affairs) who were not schooled in Islamic law, and who were not part of the scholarly establishment. The tracts I have seen are consistent with outsiders addressing such audiences.

An important contribution of this study has been to show the importance of combining far-reaching contextual research with close textual analysis, as it has revealed two jurists who were profoundly affected by their life experiences and backgrounds. For example, Ibn al-Ḥājj's emphasis on knowledge, which exerted a controlling influence for him in his *Madkhal*, is found in the writings of his teacher, Ibn Abī Jamra. In contrast to Ibn al-Naḥḥās, Ibn al-Ḥājj was also not involved in raiding or in any battle-related activity, a fact that may underlie his abbreviated treatment of innovative practices concerning martyrdom. For Ibn al-Naḥḥās' part, his change of *madhhab* and the socio-political transitions that he lived through help explain his confessional eclecticism. This investigation has explored how, in their different ways, both jurists were outsiders on the margins on northern Egyptian discourse, while also, as jurists, they addressed topics that were central to northern Egyptian every day life.

This leads to the question: What were Ibn al-Ḥājj and Ibn al-Naḥḥās trying to achieve? In exploring why they wrote, my hypothesis about self-regulation and self-definition is relevant. Those who were not appointed in *madrasas*, or as *qāḍīs*, still had a variety of mechanisms available to them, even if they were not always the conventional tools used by such appointees. It is significant that both Ibn al-Ḥājj and Ibn al-Naḥḥās

chose to write, and to write in a prescriptive genre that few others were using. Being new to most people, the genre must have felt exciting in some way. Taken together with the processes of textualisation and popularisation operative in the Middle Period,² and with what we know of Ibn al-Ḥājj's and Ibn al-Naḥḥās' backgrounds as jurists, as well as of their networks and other writings, these choices are significant. I suggest that both jurists deliberately selected means by which they would influence the widest possible group towards their aims, different though those aims were, yet united by a desire to attract new audiences. This possibility is further supported by the fact that, among authors of such tracts in the Mamluk period or before, only Ibn al-Ḥājj and Ibn al-Naḥḥās discussed the markets and the streets in detail.

In terms of audiences, Ibn al-Ḥājj wrote for jurists, probably those early in their studies, and may also have written for non-jurists who taught. The results of this study also widen our view of education in the Later Middle Period. Ibn al-Ḥājj's anti-innovation tract is most likely to have been used in relatively informal educational settings. Few of his manuscripts survive, there are no references to his works (or its genre) in lists of works that scholars studied in *madrasas*, and we have no indication from his scholarly networks that he was associated with a *madrasa*. Together with his already noted lack of official appointment, this indicates that his work was probably not widely taken up in *madrasas*. For his part, Ibn al-Naḥḥās wrote for the masses. By contrast with Ibn al-Ḥājj, Ibn al-Naḥḥās was more ambiguous about *madhhabs*, or even above them. This may be termed a *madhhab*-ambiguous, *madhhab*-inclusive, or even a *supra-*

² See discussion in the Introduction to this thesis.

madhhab, approach. Perhaps Ibn al-Naḥḥās was addressing audiences that by this time were so mixed that the best way to reach them was to be inclusive in relation to legal schools. In the above ways, my investigations of audience and use of genre are linked.

To some extent, my hypothesis about audience is proven in respect of all four possibilities (scholars, those who taught, the masses, and those with temporal power) for - in addition to the observations in the above paragraphs - both scholars wrote with *muḥtasibs* and others wielding temporal authority in mind, even if at a distance. In investigating the questions of audience and authorial intent in this way, I have shown that it is important that anti-innovation tracts are included in the investigation of positive law in the Later Middle Period, as this investigation has shown such tracts to lead us into the world outside the *madrasa*, shedding light on the informal contexts in which positive law was explained and propagated in the Mamluk period.

At a second level, I have argued that we may further understand Ibn al-Ḥājj's and Ibn al-Naḥḥās' aim to address multiple audiences by considering broader ethical and socio-political dimensions. For example, this thesis contributes to Berkey's discussion of the ethical and political dimensions of the decline of the *muḥtasib*'s authority in the Mamluk period, arguing that Ibn al-Ḥājj and Ibn al-Naḥḥās arrogated some of the *muḥtasib*'s powers to themselves, such as stipulating the rejection of blameworthy practices and, in Ibn al-Naḥḥās' case, the invitation to his audience to prevent third parties from performing them. I also observed that Arabic-speaking scholars in the Mamluk period frequently employed their works for political ends, and that Ibn al-Ḥājj's

and Ibn al-Naḥḥās' works may be understood in this context, even if they did not strive for political appointments.

Finally, in terms of why Ibn al-Ḥājj and Ibn al-Naḥḥās wrote, we must not neglect pious activism as one explanatory factor among many. Ibn al-Ḥājj wrote “*God put scholars under an obligation to teach*”,³ whereas Ibn al-Naḥḥās stated that his *Tanbīh* was “*to guide those like me*”, in the context of the decline of Islam during his lifetime, and affirmed that “*God the Sublime is the guide*”.⁴ As discussed in Chapter II.1 and Part IV, Calder described the two genres of *mukhtaṣars* and *mabsūṭs* “an exploration of the space between revelation and law”,⁵ and Ibn al-Ḥājj and Ibn al-Naḥḥās may have been, respectively, seeking to contract and expand such a space. It appears that Ibn al-Ḥājj and Ibn al-Naḥḥās wrote, at least in part, as a pious act of their own, whether or not accompanied by activism.

My hypothesis about genre has not been explored in depth by other modern scholars. I have shown Ibn al-Ḥājj's and Ibn al-Naḥḥās' anti-innovation tracts to be flexible and prescriptive works of *furū'*, distinct from *mukhtaṣars*, *mabsūṭs* and other formally conceived juridic writings. The adaptability of such works is nowhere shown more clearly than in both jurists' decisions to discuss both ritual and civil law, and in Ibn al-Naḥḥās' decision not to write about *jihād* in his anti-innovation tract, possibly because he was simultaneously authoring a separate, long work on that very topic.

³ *Madkhal*, 1(1):11.

⁴ *Tanbīh*, 17 and 430.

⁵ In Imber (ed.) 2010, 112.

We can now say something about diversity and development in the genre of anti-innovation tracts during the Islamic Later Middle Period, as regards the form that this literature took. Ibn al-Ḥājj's and Ibn al-Naḥḥās' tracts are examples of practically applied works, which differ from such works as the largely theoretical *al-I'tiṣām* of al-Shāṭibī. Ibn al-Ḥājj's *Madkhal* marked a widening of categories within the genre, from (for example) al-Qurṭubī's narrowly conceived work to the inclusion of laws of social transactions relating to the markets and the streets, and discussions of martyrdom. Added to this, the independence of Ibn al-Ḥājj's and Ibn al-Naḥḥās' tracts justifies Johansen's attribution of legal tradition as a "tradition-in-change". The exhortative nature of Ibn al-Naḥḥās' *Dhikr* mirrored Ibn Taymīya's *Iqtidā'*. Ibn al-Ḥājj's tract, along with that of Ibn al-Jawzī, was comprehensive and detailed. Both are examples of the continuity and evolution in the legal sub-genre of anti-innovation tracts in the Later Middle Period.

My hypothesis about reconstructing historical practices from anti-innovation tracts has not been proven. I began this research believing, uncontroversially, that author-jurists must have been affected by those practices that were being performed around them. But, in going much further, we are hampered by the lack of specifics relating to the innovations addressed in these tracts, by the occasional appearance of literary convention in them, and by a lack of corroborating evidence, except occasionally or in very general terms. Only in some cases can we be sure that the practices occurred within a very recent timeframe (such as five to ten years) and in places located very close to where they wrote (that is, the author had personally seen them). Certainly, if I were to write a history of northern Egypt for the Mamluk period, I would not rely on Ibn al-Ḥājj's or Ibn al-

Nahḥās' tracts to reconstruct the social and legal practices of the time. In holding this view, I am closer to Calder than to Hallaq.

In this thesis, I have also attempted to engage with scholarly discussions about Islamic law in the Middle Period through the lens of Ibn al-Ḥājj's and Ibn al-Nahḥās' *anti-innovation* tracts. My focus has been on author-jurists, so my conclusions about the creative strategies that they adopted in their anti-innovation tracts complements Hallaq's research into the creative strategies that *mufīīs* used in their *fatwās*. Little of the dazzling literary brilliance that Calder identified for some *mukhtaṣars* and *mabsūṭs* is evident in Ibn al-Ḥājj's and Ibn al-Nahḥās' tracts. Rather, Ibn al-Ḥājj's and Ibn al-Nahḥās' brilliance was strategic, being related to the means by which they chose to apply legal thinking to everyday practices. These means - the use of an anti-innovation style or genre of writing, the lack of dense theoretical discussions, and justifications and the choice of a very broad set of topics - allowed these two relative newcomers to Egypt to appeal, as jurists, to a wide range of potential audiences.

One of my most striking findings is the difference between how Ibn al-Ḥājj and Ibn al-Nahḥās conceived of loyalty to their legal school. My contribution extends the terms of Calder's and Hallaq's debate, showing two diverse aspects of how such loyalty may be viewed. The example of Ibn al-Nahḥās should prompt modern scholars to consider confessional eclecticism in their understandings of legal schools in the Islamic Later Middle Period. In respect of Ibn al-Ḥājj, my research has shed light on Mālikī intra-

madhhabic reasoning (to draw upon a term used by Kaya), and, in respect of Ibn al-Naḥḥās, it has shed light on Shāfi‘ī intra- and inter-*madhhabic* reasoning.

One of the most important next steps for researching tradition and innovation in the Middle Period is to scrutinise Sufi references within anti-innovation tracts, because of the regularity with which such references occur, frequently obliquely, for which there was some evidence in Ibn al-Ḥājj’s and Ibn al-Naḥḥās’ tracts. This work should continue in the vein of Ur Rehman’s work on Zarrūq, which took account of his Shādhilī *ṭarīqa*. For example, Zayn al-Dīn al-Ṣālihī’s (d. 856/1452) *al-Kanz al-akbar* is worthy of study, being a Sufi work on commanding right and forbidding wrong written by a Damascene Ḥanbalī within decades of Ibn al-Naḥḥās’ death.⁶

Another question that is outside the scope of the present study, but that could usefully be pursued by others, is a more detailed comparison between Ibn Taymīya’s writings on innovation and those of Ibn al-Naḥḥās. For example, why did Ibn al-Naḥḥās quote him in his passages on intention but not in his passages on the markets and the streets, when Ibn Taymīya wrote on both topics?

Future work could also explore more texts from the later Mamluk period and beyond, in a contextualised way, in the light of my findings. I am especially thinking of al-Suyūṭī’s *al-Amr bi-al-ittibā’*, in which the most promising avenues of enquiry are the passages on intention, ablutions and prayer.⁷ Among other reasons, this would be profitable in testing my conclusions in relation to other times within the Islamic Later

⁶ M. Cook 2000, 162.

⁷ *Amr*, 291-6.

Middle Period. In conjunction with my suggested comparison with Ibn Taymīya, this would also illuminate whether other scholars took a confessionally eclectic approach, in similar ways to Ibn al-Naḥḥās. In addition, scholars could explore the ways in which anti-innovation tracts played a role in changes in *madhhab* opinion, by tracing the reception history of such tracts and the subsequent development of thought about innovations censured therein.

The prosopographical context for Ibn al-Ḥājj's and Ibn al-Naḥḥās' texts could also be widened. For example, intensive analysis of biographical dictionaries may, in the future, give scholars reasonable certainty about where and why scholars changed *madhhab*. In particular, the work of Bernands and Nawas on the geographic distribution of Muslim jurists during the first four *hijrī* centuries may be extended to later time periods.⁸ Projects such as that of Jo van Steenbergen on the political history of fifteenth-century Egypt and Syria, which is supported by the European Research Council, promise to make this kind of intensive analysis at one level deeper than biographical dictionaries even more achievable. Such prosopographical work should focus on understanding Ibn al-Ḥājj's formation in the West, the relevance of his teacher Ibn Abī Jamra, Ibn al-Naḥḥās' shared connections with Aḥmad, al-Walī al-'Irāqī, during both his trips to Damascus, and Ibn al-Naḥḥās' scholarly life during the period when he was in Egypt, as it was during these years when that wrote the *Tanbīh* and the *Mashāri'*. However, such work has to be left to the future, when the above research tools will have been developed and made available to the scholarly community.

⁸ Bernands and Nawas 2003.

The field of Mamluk studies has attracted more scholars in the last twenty years than at any time previously. It is my hope that my work here, in conjunction with future research, will contribute to a greater understanding of the creativity and continuity of this period, not only on its own terms, but also concerning wider periods of Islamic history of which it forms a part.

Part VII

Appendices

Appendix 1. Ibn al-Naḥḥās, his grandfathers, his student and a versifier of *Mashāri‘ al-Ashwāq*

This appendix performs two functions, which support assertions made in Chapter III.2. First, it contains a description of Ibn al-Naḥḥās’ possible family and scholarly connections in Aleppo. On the basis of this, I argue that Ibn al-Naḥḥās indeed had connections there. Second, I argue that the individual who versified *Mashāri‘ al-Ashwāq*, Ibn al-Naḥḥās’ work on *jihād*, was Aḥmad b. ‘Abd al-Raḥīm (d. 826/1423).

Ibn al-Naḥḥās’ grandfathers

As noted in Chapter II.1, al-Sakhāwī gave Ibn al-Naḥḥās’ full name as: Aḥmad b. Ibrāhīm b. Muḥammad Muḥyī al-Dīn *al-dimashqī thumma al-dumyāṭī al-ḥanafī thumma al-shāfi‘ī* (literally, the one from Damascus then from Damietta, the Ḥanafī then the Shāfi‘ī).¹ This information helps identify two parts of Ibn al-Naḥḥās’ family, via two men that al-Sakhāwī and others referred to, who were Ibn al-Naḥḥās’ grandfathers. In order to make this identification, I studied references in biographical dictionaries to individuals with the

¹ *Daw’*, 1:203. Here and elsewhere in this section, to avoid confusion, the phrase ‘Ibn al-Naḥḥās’ where used without qualifier is reserved only for the individual being described here, namely the individual who died in 814/1411 and who wrote the anti-*bid‘a* tract *Tanbīh al-ghāfilīn*.

name Ibn al-Naḥḥās, and who lived in the 150 years before the Ibn al-Naḥḥās in question.²

To begin with, Muḥammad b. Abī Bakr b. Ibrāhīm al-Ḥalabī Ibn al-Naḥḥās (d. 720/1319-20) was a grandfather of Ibn al-Naḥḥās.³ There are three reasons why I identify him as such, in addition to the obvious reason that the first name and *nasab* provide a link with Ibn al-Naḥḥās. First, the family of Muḥammad b. Abī Bakr were linked to Damascus, where Ibn al-Naḥḥās lived. Ibn al-‘Imād listed Ayyūb b. Abī Bakr b. Ibrāhīm al-Ḥalabī al-Ḥanafī Ibn al-Naḥḥās (d. 699/1299-1300, aged eighty-two) as having been a teacher at the Qalījīya *madrasa*, which was in Damascus.⁴ Along with Ishāq b. Abī Bakr b. Ibrāhīm Ibn al-Naḥḥās (b. 630/1232-3), Ayyūb was a brother of Muḥammad.⁵ Second, al-Nu‘aymī referred to a Muḥyī al-Dīn Muḥammad b. Ya‘qūb b. al-Naḥḥās al-Asadī al-Ḥalabī al-Ḥanafī.⁶ Muḥyī al-Dīn was not an uncommon honorific, and from the fourth/tenth century onwards such terms proliferated among religious

² The premodern biographical dictionaries that I have checked and that make no reference to Ibn al-Naḥḥās include: Abū Ṭayyib (d. 832/1428-9), *Dhayl*; al-Maqrīzī (d. 845/1442), *Muqaffā*; Ibn Qāḍī Shuhba (d. 851/1448), *Ṭabaqāt*; Ibn Ḥajar (d. 852/1449), *Durar*; Ibn Quṭlūbugha (d. 879/1474), *Tāj*; Ibn Taghrī Birdī (d. 874/1470), *Manhal*; al-Suyūfī (d. 911/1505), *Naẓm*; al-Tamīmī (d. 1010/1601), *Ṭabaqāt*; Ibn Hidāyat Allāh (d. 1014/1605), *Ṭabaqāt*; al-Būrīnī (d. 1024/1615), *Tarājim*. Premodern chronicles and other relevant sources that also contain no reference to Ibn al-Naḥḥās include: al-Qalqashandī (d. 820/1418), *Ṣubḥ al-a‘shā*; al-Maqrīzī (d. 845/1442), *K. al-Muqaffā al-kabīr*; *Shudhūr* and *K. al-Sulūk*; Ibn Ḥajar al-‘Asqalānī (d. 852/1449) *Dhayl al-durar*; Ibn Taghrī Birdī (d. 874/1470), *al-Manhal* and *al-Nujūm*; and Ibn Iyās (d. 930/1524), *Badā‘i‘ al-zuhūr*. Finally, Ibn al-Naḥḥās was not among the scholars mentioned in al-Ṣayrafī’s chronicle, *Nuzhat al-nufūs wa-al-abdān fī tawārīkh al-zamān*, which covers the years from 784/1382 to 842/1438.

³ Al-Maqrīzī, *Muqaffā*, 8:472-3. See also al-Qaysī, *Tawdīh*, 9:281, Ibn Ḥajar, *Durar*, 1:263 and 1:423, Ibn Taghrī Birdī, *Manhal*, 3:525.

⁴ *Shadharāt*, 5:445 and Chamberlain 1994, 63.

⁵ Abū Ṭayyib listed the men together as *banū* Ibn al-Naḥḥās (*Dhayl*, 2:319-20). In sources listed in *Shadharāt*, 5:445, they all carry the *nisbas* al-Ḥalabī and al-Asadī.

⁶ *Dāris*, 1:402.

scholars.⁷ However, honorifics were sometimes common in family lines, so if the words al-Asadī al-Ḥalabī al-Ḥanafī allow us to identify al-Nu‘aymī’s Muḥammad as Muḥammad b. Abī Bakr b. Ibrāhīm, then it is interesting that both Ibn al-Naḥḥās and Muḥammad had the honorific Muḥyī al-Dīn. Third, the fact that these three brothers are associated with Aleppo does not necessarily dissociate them geographically from Ibn al-Naḥḥās. In fact, considered in combination with the fact of Ibn al-Naḥḥās’ student’s association with Aleppo (see below and Chapter II.2), this strengthens the case I am making.

The second grandfather was Muḥammad b. Naṣr Allāh b. Ismā‘īl b. Naṣr Allāh b. al-Khaḍir b. Khalīfa b. ‘Alī b. Ṭalā’i‘ al-Anṣārī al-Khazrajī. We only know about Muḥammad b. Naṣr through biographical entries of descendants. Muḥammad’s son was also called Muḥammad (719/1319-20 — 794/1391-2) and was known as Ibn al-Naḥḥās. Also, one of Muḥammad b. Naṣr’s grandsons (b. 706/1306-7) lived in Damascus at a time that makes the possible relation with Ibn al-Naḥḥās (d. 814/1411) plausible.⁸ Based only on first name, *nasab*, timings and location, this relation is less likely than the one above. But, in this case, we have a direct link with Damascus.

⁷ Bosworth 1996, xxiii.

⁸ Ibn Ḥajar, *Durar*, 1:78-79, 5:342, 5:512. The dates are not impossible. If we assume that Muḥammad b. Naṣr Allāh was fifty years old when his son Muḥammad was born, it is plausible that Muḥammad b. Naṣr Allāh might have a grandson born to an older son of his in 706/1306-7, when Muḥammad b. Naṣr Allāh would have been aged thirty seven.

Ibn al-Naḥḥās' student

In Chapter II.2, I noted that al-Sakhāwī listed Muḥammad b. al-Faqīh Ḥasan al-Badrānī as a student of Ibn al-Naḥḥās.⁹ Among primary and secondary sources I have consulted, it is only in al-Sakhāwī that Muḥammad al-Badrānī or *al-faqīh* Ḥasan al-Badrānī appears without ambiguity.¹⁰ In this section, I argue, primarily on the basis on information contained in al-Sakhāwī's biographical dictionary, that this student was Muḥammad b. Muḥammad b. al-Ḥasan b. 'Alī b. Sulaymān b. 'Umar b. Muḥammad al-Shams, known as Ibn Amīr Ḥājj and as Ibn Muwaqqit (791/1388-9 — 868/1464).

In ascending order of likelihood, there are three main possibilities as to who this student could be. First, Muḥammad al-Badrānī could be al-Jamāl al-Badrānī, a Qur'ān teacher and reciter for whom al-Sakhāwī did not provide a separate biographical entry but who appears in many other entries in al-Sakhāwī. For example, we read that al-Jamāl al-Badrānī read works by Bukhārī to Ibrāhīm al-Karakī (b. 775-6/1373-5), originally from Karak, then moved to Cairo) in 826/1422-3.¹¹ This reading took place *bi-khānqāh sa'īd al-su'adā'* ("in the *khānqāh* of Sa'īd al-Su'adā'" or "in the most pleasant/best *khānqāh*"). We also read in the same entry that al-Karakī commented on the *lubāb* (a work of *fiqh*) for al-Walī al-'Irāqī, and in another entry that 'Abd al-'Azīz al-Tūnisī (from Sinbāt and Cairo, born 799/1396-7) heard recitations from al-Jamāl al-Badrānī and al-Walī

⁹ *Ḍaw'*, 1:204.

¹⁰ The only reference in Brockelmann to al-Badrānī relates to an abridgement of *al-Ghayth al-musajjam* (by al-Ṣafadī, d. 764/1363) by Muḥammad b. 'Abbās al-Badrānī (d. 808/1405), in the section on works of poetry in Baghdad, Iraq and the *jazīra* (1943, 287). Given the location and the points that follow in this section, this individual is unlikely to be Ibn al-Naḥḥās' student. Al-Badrānī does not feature in al-Ghazzī's *Kawākib* and I have not found him in other biographical dictionaries or chronicles. In a section on Damietta in his work *al-Buldānīyāt*, al-Sakhāwī mentions Muḥammad al-Badrānī as a source (*al-Buldānīyāt*, 186).

¹¹ *Ḍaw'*, 1:177 (the whole entry spans pages 175-8).

al-‘Irāqī.¹² These links to al-Walī al-‘Irāqī - who versified the *Mashāri‘* - as well as the fact that he operated in northern Egypt at around the start of the ninth *hijrī* century are in favour of al-Jamāl al-Badrānī being the al-Badrānī in question. We shall also see below that part of the reception of at least one of Ibn al-Naḥḥās’ works seems to have been in a Sufī context, a link suggested by the mention of *khānqāh*. However, al-Sakhāwī only ever referred in the instances cited to Jamāl al-Badrānī, with *al-Shams Muḥammad b. al-faqīh Ḥasan* not featuring. It is therefore unlikely that Jamāl al-Badrānī is the student in question, unless he is the same person as one of the two Muḥammads about to be discussed. This latter possibility is something for which there is no evidence.

Second, the student could be Muḥammad b. Muḥammad b. al-Ḥasan b. ‘Alī b. ‘Abd al-‘Azīz b. ‘Abd al-Raḥman al-Shams Abū al-Khayr b. al-Jamāl Abī al-Ṭāhir al-Badrānī (810/1407-8 — 856/1452-3).¹³ He was a Shāfi‘ī *ḥāfiẓ*, born and raised in Cairo and became known as Ibn al-Badrānī.¹⁴ The fact that his father took him to hear al-Walī al-‘Irāqī provides a link with the person who versified the *Mashāri‘*.¹⁵ Also, the *laqab* al-Shams is present. His birth date and location, being four years before the death of Ibn al-Naḥḥās and in Cairo, does not necessarily cause a problem for identifying this individual

¹² *Daw’*, 1:177 and 4:237. For other entries in al-Sakhāwī’s *Daw’* mentioning Jamāl al-Badrānī, see 1:84, 3:122, 3:226, 10:16, 11:102.

¹³ *Daw’*, 9:73, entry number 194 (entry numbers provided where given by al-Sakhāwī).

¹⁴ *Ibid.*.

¹⁵ *Ibid.* We also read here that he accompanied someone called al-Khayr b. al-Naḥḥās, but Ibn al-Naḥḥās (d. 814/1411) is nowhere (else?) referred to as al-Khayr.

as Ibn al-Naḥḥās' student.¹⁶ However, he was known as Ibn al-Badrānī (not al-Badrānī) and there is no mention of the term *al-faqīh*.

Finally, the strongest possibility, and the one I think applies, is the father of the individual just discussed, Muḥammad b. Muḥammad b. al-Ḥasan b. 'Alī b. Sulaymān b. 'Umar b. Muḥammad al-Shams, known as Ibn Amīr Ḥājj and as Ibn Muwaqqit (791/1388-9 — 868/1464).¹⁷ Al-Sakhāwī used the phrase *al-māḍī abūhu*, one he uses many times elsewhere, to denote that this individual is the father of the Ibn al-Badrānī considered above.¹⁸ Ibn Amīr Ḥājj was a Ḥanafī born and raised in Aleppo. Al-Sakhāwī met him in Aleppo and recited Ibn Taymīya's *mi'a* to him (*fa-qara'tu 'alayhi al-mi'a li-Ibn Taymīya*).¹⁹ Al-Sakhāwī also noted that after going on *ḥajj* he went to Jerusalem where "learned men heard him [recite texts]" (*sama 'a minhu al-fuḍalā'*). As above, there is no mention of *al-faqīh*, and al-Sakhāwī never explicitly called this individual al-Badrānī. However, the *laqab* al-Shams is present and Ibn Amīr Ḥājj took his son to hear al-Walī al-'Irāqī, again providing a link with the person who versified the *Mashāri'*. The main reason for my opinion that Ibn Amīr Ḥājj is the student in question is that al-

¹⁶ The phrase *akhadha 'anhu* could apply to someone aged less than four. Referring to two female traditionists based in Damascus and whose lives spanned the period 646/1248 — 816/1413, Asma Sayeed notes that they received "their most widely appreciated *ḥadīth* acquisitions ... between the ages of one and twelve" (2002, 88). Also, even if the persona named as Ibn al-Naḥḥās' student did not know him very well personally, that would not necessarily have precluded him from fulfilling the function al-Sakhāwī notes, that of being a good source for Ibn al-Naḥḥās' biography.

¹⁷ *Daw'*, 9:72-3, entry number 193. Unless stated otherwise, biographical information on Ibn Amīr Ḥājj in this paragraph is from this entry in al-Sakhāwī.

¹⁸ Given this father-son relationship, it is strange that Sakhāwī's record of some earlier generations of these two individuals differs. Perhaps, for reasons unknown to us, al-Sakhāwī saw fit to miss out different generations in the two different genealogies.

¹⁹ I have not yet located reference to a work by Ibn Taymīya with the word *mi'a* as part of the title. For example, *Asmā' mu'allafāt Ibn Taymīya*, a treatise by Ibn Qayyim al-Jawzīya (the Ḥanbalī theologian and jurist, d. 751/1350) which lists Ibn Taymīya's main works, contains no such reference.

Sakhāwī wrote that his son was known as Ibn al-Badrānī. There are no indications elsewhere in al-Sakhāwī of confusion over or inconsistency about either the al-Badrānī family line or the identity of Ibn al-Badrānī and al-Badrānī, namely this son and father respectively. Al-Sakhāwī never mentioned Ibn Amīr Ḥājj’s time in Cairo, yet it is probable he did travel there (at least once) since his son was born there. Travelling to and from Mecca via Egypt, even from Syria, was far from unheard of at the time.²⁰

The versifier of Mashāri’ al-Ashwāq

In Chapter II.2, I noted that al-Sakhāwī wrote that al-Walī al-‘Irāqī versified Ibn al-Naḥḥās’ work on *jihād*. In this section, I argue that al-Walī al-‘Irāqī refers to Aḥmad b. ‘Abd al-Raḥīm (762/1360 — 826/1423). The further information we have about Aḥmad is that he was also called *al-walī* and “known after his father as Ibn al-‘Irāqī” (*yu’rafu ka-abīhi bi-Ibn al-‘Irāqī*).²¹ The *nasab* Ibn al-‘Irāqī potentially presents a problem for my suggestion that al-Walī al-‘Irāqī refers to the individual just named, since the aim is to identify al-Walī al-‘Irāqī, not al-Walī Ibn al-‘Irāqī.²² However, as I argue below, the presence of the word ‘Ibn’ here does not necessarily imply that he is not the al-Walī al-‘Irāqī in question.

Aḥmad b. ‘Abd al-Raḥīm b. al-Ḥusayn b. ‘Abd al-Raḥman b. Ibrāhīm b. Abī Bakr b. Ibrāhīm studied in Damascus and Cairo, where he succeeded Jalāl al-Dīn al-Bulqīnī as

²⁰ Dunn 1986, 54.

²¹ *Ḍaw’*, 1:336. For the whole biographical entry see 1:336-344. Brockelmann listed Aḥmad b. ‘Abd al-Raḥīm as al-Wazīr al-‘Irāqī (1938, S2:71 and 1949, 2:79).

²² Ibn Ḥajar also refers to an Ismā‘īl b. al-‘Irāqī giving recitations to various people who were born after 635/1237-8 (*Durar*, 1:40 and 5:148) This is the only other reference to Ibn al-‘Irāqī I have found in premodern sources. In this work Ibn Ḥajar does not use the phrase al-Walī al-‘Irāqī.

chief judge in 824/1421.²³ As discussed in Chapter II.2, al-Bulqīnī was one of Ibn al-Naḥḥās' *shaykhs*.

The father of Aḥmad b. 'Abd al-Raḥīm is well known. Al-Sakhāwī gave his name as 'Abd al-Raḥīm al-Zayn Abū al-Faḍl al-Kurdī (725/1325-6 — 806/1404), also known as al-'Irāqī.²⁴ He travelled extensively, including to Damascus, Aleppo, Mecca, Medina, Ba'labakk, Ḥamā, Alexandria and Cairo. He was a polymath whose writings included *al-Tabṣira wa-al-tadhkira* (a versification of the '*Ulūm al-ḥadīth*' of Ibn al-Ṣalāh al-Shahrazūrī, d. 643/1245) and *Alfīya fī gharīb al-Qur'ān*, a commentary on a work by al-Nawawī (d. 676/1277).²⁵

Al-Sakhāwī nowhere explicitly identified al-Walī al-'Irāqī with either Aḥmad or his father 'Abd al-Raḥīm. An immediate problem with identifying 'Abd al-Raḥīm al-'Irāqī with the versifier of the *Mashāri'* is that 'Abd al-Raḥīm died six lunar years before the modern editors 'Alī and Iṣṭanbūlī say that Ibn al-Naḥḥās finished writing the *Mashāri'*.²⁶ It is possible that these dates of writing the *Mashāri'* are wrong, that there was an earlier version (or versions) which formed the basis of the versification or that someone later

²³ *Daw'*, 1:339. As stated in Chapter II.1, al-Bulqīnī was one of Ibn al-Naḥḥās' teachers.

²⁴ *Ibid.*, 4:171-178, entry no. 452.

²⁵ For references in Brockelmann to these and other works by al-'Irāqī see the main entry at *G.A.L.*, II: 77 and further entries at *G.A.L.*, S1:531, 538-9, 606, 611, 738, 741-2, 749 and 753. Alternative names for the *Tabṣira* are *al-Tabṣira al-mubtadi' wa-tadhkirat al-muntahī*, *al-Alfīyat al-'Irāqī* and *al-Alfīya fī uṣūl al-ḥadīth*. Al-Nawawī, Ibn Ḥajar, Ibn Jamā'a and many others produced abridgements of this work (see *G.A.L.*, S1:612 and *G.A.L.*, I:440-442).

²⁶ *Mashāri'*, 16. I presume that 'Alī and Iṣṭanbūlī found this information on a manuscript of the *Mashāri'* that I have not yet had the opportunity to inspect. They do not provide a source for their view of when the *Mashāri'* was written and the date does not appear in the part of the edited text authored by Ibn al-Naḥḥās.

used ‘Abd al-Raḥīm’s name.²⁷ However, the timings constitute a strong reason against identifying al-Walī al-‘Irāqī with ‘Abd al-Raḥīm.

Even more persuasive is the fact that, on many occasions, al-Sakhāwī referred to an individual by the name al-Walī al-‘Irāqī, and this individual must have post-dated ‘Abd al-Raḥīm. Al-Sakhāwī notes over a hundred examples of scholarly connections involving al-Walī al-‘Irāqī, of which several dozen take place after 806 /1403-4 (the year of death of ‘Abd al-Raḥīm). For example, Khalīl b. Muḥammad b. Ibrāhīm al-Muqrī (born 805/1402-3) studied under al-Walī al-‘Irāqī and al-‘Izz b. Jamā‘a in 819/1416. If, as the datings suggest, this al-‘Izz b. Jamā‘a refers to the Cairene teacher of medicine and philosophy (d. 819/1416), then this indicates that al-Walī al-‘Irāqī taught in that vicinity.²⁸ Although, elsewhere in al-Sakhāwī’s dictionary, al-Walī al-‘Irāqī does refer to ‘Abd al-Raḥīm, in many cases the given dates of teaching (which post-date ‘Abd al-Raḥīm) show that it does not. Crucially, the al-Walī al-‘Irāqī to whom Ibn Amīr Ḥājj took his son cannot be ‘Abd al-Raḥīm, since the latter died four years before the birth of the son just mentioned.

So, in many cases al-Walī al-‘Irāqī refers to someone who post-dated ‘Abd al-Raḥīm. What are the positive reasons for thinking that al-Walī al-‘Irāqī in Ibn al-Naḥḥās’

²⁷ It is unlikely that the death date of ‘Abd al-Raḥīm al-‘Irāqī is wrong given how many works he authored and the extent to which scholars have inspected manuscripts of his. Given his prolific nature, the possibility of someone trading on his name is not implausible and does not rule out this happening in conjunction with drafts that ‘Abd al-Raḥīm left behind.

²⁸ The datings clearly distinguish this ‘Izz b. Jamā‘a from the well-known Shāfi‘ī chief judge of Egypt ‘Izz al-Dīn ‘Abd al-‘Azīz b. Jamā‘a (694 /1294 — 767/1336; see Brockelmann 1949, 2:72, 86 and 1938, S2:78). On Muḥammad b. Abū Bakr b. ‘Abd al-‘Azīz ‘Izz al-Dīn b. Jamā‘a (759/1357 — 819/1416), teacher of medicine and philosophy in Cairo (see Brockelmann 1949, 2:116 and 1938, S2:110). However, al-Sakhāwī recorded al-‘Izz b. Jamā‘a as having taught *uṣūl* [*al-fiqh*] and al-‘Irāqī’s *Alfiya*, so unless he had a wider repertoire than al-Sakhāwī recorded, we may be dealing with someone else other than the al-‘Izz b. Jamā‘a who died in 819/1416 (*Ḍaw’*, 3:202 [entry no. 762], 4:124 [entry no. 332] and 6:111 [entry no. 350]).

biographical entry refers to Aḥmad b. ‘Abd al-Raḥīm? Firstly, a plausible interpretation of the phrase *yu‘rafu ka-abīhi bi-Ibn al-‘Irāqī* is that al-Sakhāwī was trying to explain why Aḥmad was called al-‘Irāqī when he himself was not from *al-‘irāq*. (He was born in Cairo and spent much of his life there, as well as a significant part of his formation in Damascus.) Secondly, we may not say that premodern biographical and chronicle sources consistently use al-‘Irāqī and Ibn al-‘Irāqī to refer to a particular father and son. Ibn Qāḍī Shuhba refers to ‘Abd al-Raḥīm (the father) as Ibn al-‘Irāqī and Ibn Taghrī Birdī and al-Suyūṭī refer to Aḥmad (the son) as al-‘Irāqī.²⁹ That is, we may not say that premodern biographical and chronicle sources consistently use al-‘Irāqī and Ibn al-‘Irāqī to refer to a particular father and son.³⁰

Overall, the designation in al-Sakhāwī of Aḥmad b. ‘Abd al-Raḥīm (d. 826/1423) as Ibn al-‘Irāqī is not decisive against him being al-Walī al-‘Irāqī, the individual who versified the *Mashāri‘*. There are also positive reasons for identifying the two, such as in other biographical dictionaries and chronicles. Therefore, I take Aḥmad b. ‘Abd al-Raḥīm to be the al-Walī al-‘Irāqī in question.

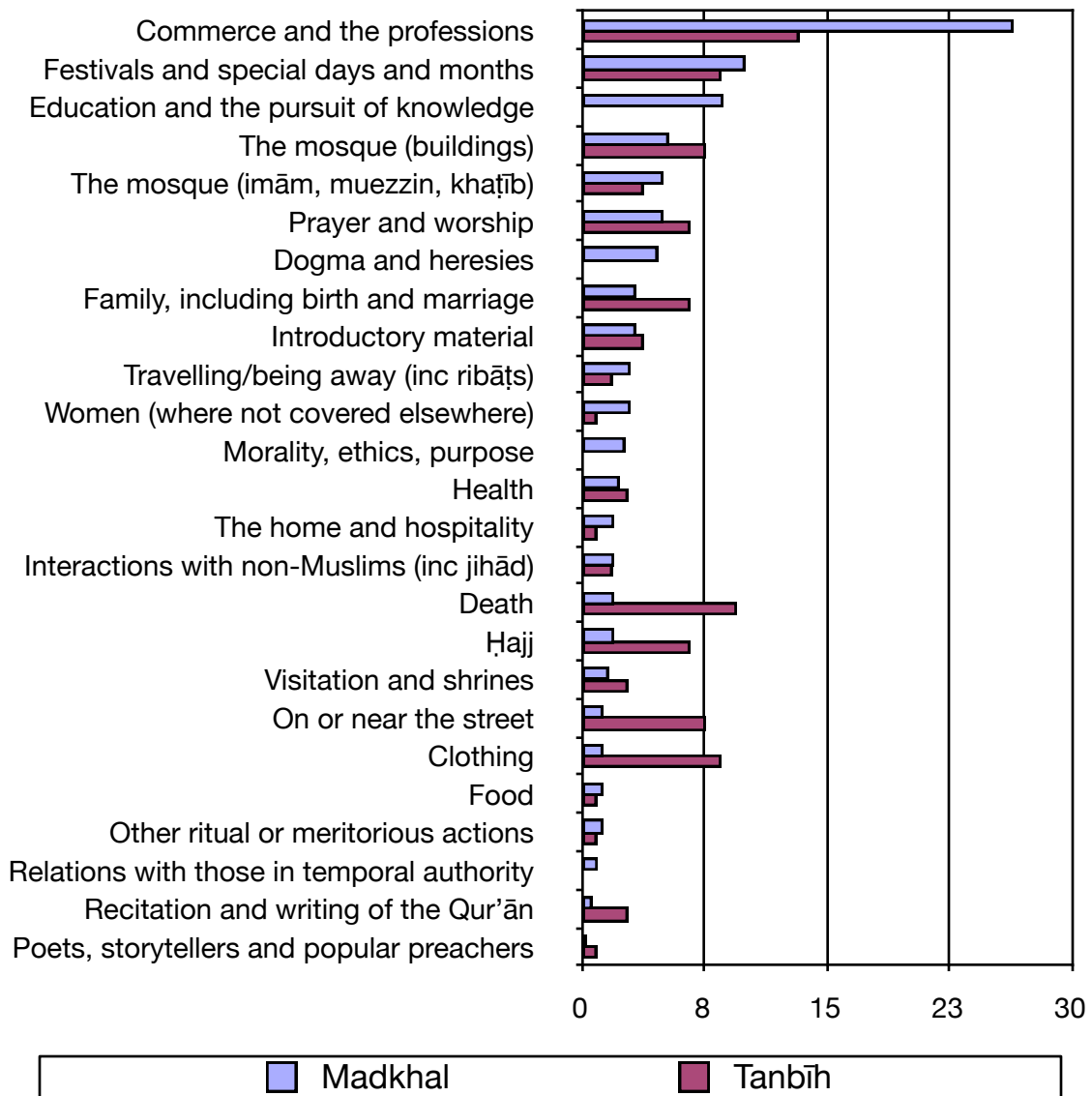
²⁹ For Ibn Qāḍī Shuhba see *Ṭabaqāt*, 4:54-6 and 3:112-3. It is possible that the latter refers to Aḥmad, the son. For Ibn Taghrī Birdī see *Manhal*, 6:327 (which discusses Aḥmad al-‘Irāqī) and 6:402 (which discusses Walī al-Dīn in context of al-Malik al-Zāhir Ṭaṭar, c. 814/1411-2, after the year of death of ‘Abd al-Raḥīm, the father). Ibn Taghrī Birdī also refers to ‘Abd al-Raḥīm as al-‘Irāqī (*Manhal*, 5:342). For al-Suyūṭī see *Nazm*, 101.

³⁰ Al-Maqrīzī, *Muqaffā*, al-Burīnī, *Tarājim* and al-Tamīmī, *Ṭabaqāt* contain no reference to either the Aḥmad b. ‘Abd al-Raḥīm or the ‘Abd al-Raḥīm being discussed. On chronicle sources mentioned in this paragraph, as well as others that describe late eighth/fourteenth-century Damascus, see Massoud 2007, 119-126.

Appendix 2. Chart of relative space devoted to topics in Ibn al-Ḥājj's and Ibn al-Naḥḥās' anti-innovation tracts

The chart on the following page shows the percentage of space given to each major topic in Ibn al-Ḥājj's *Madkhal* (2005 Beirut edition) and in Ibn al-Naḥḥās' *Dhikr* (which is in the 2005 Beirut edition of *Tanbīh al-ghāfilīn*, by the same author). In the chart, items are arranged in descending order of space, according to the *Madkhal*.

Chart 3: Relative space devoted to topics in Ibn al-Ḥājj's and Ibn al-Naḥḥās' anti-innovation tracts



Part VIII

Bibliography

VIII. Bibliography

By convention, in the section on premodern works, authors known as ‘Ibn [name]’ appear alphabetically under Ibn. In the section on modern works, authors known as ‘ben [name]’, ‘de [name]’, ‘le [name]’ and ‘van [name]’ appear alphabetically under the name itself.

VIII.1. Premodern works

Short titles

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Abū Ṭayyib, *Dhayl*.

Abū Ṭayyib, Muḥammad b. Aḥmad al-Fāsī al-Makkī (d. 832/1428-9). 1410/1990. *Dhayl al-taqyīd*, ed. Kamāl Yūsuf al-Ḥūt. 2 vols. Beirut: Dār al-Kutub al-‘Ilmīya.

Al-‘Aynī, *Umdat*

Al-‘Aynī, Badr al-Dīn Maḥmūd b. Aḥmad (d. 855/1453). 1972. *Umdat al-Qārī: Sharḥ Ṣaḥīḥ al-Bukhārī*, ed. Muṣṭafā al-Bābī al-Ḥalabī. Cairo: s.p.

Al-Bukhārī, *Ṣaḥīḥ*.

Muḥammad b. Ismā‘īl al-Bukhārī (d. 256/870). *K. al-Jāmi‘ al-Ṣaḥīḥ*, ed. Ludolf Krehl. 1862-1908. 4 vols. Leiden: E. J. Brill.

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Al-Būrīnī, <i>Tarājim</i> .	Ḥasan b. Muḥammad al-Būrīnī (d. 1024/1615). 1959. <i>Tarājim al-a‘yān min abnā’ al-zamān</i> , ed. Ṣalāḥ al-Dīn al-Munajjid. 2 vols. Damascus: al-Majma‘ al-‘ilmī al-‘Arabī.
Al-Dimashqī, <i>Ishāra</i> .	Abū al-Faḍl Ja‘far b. ‘Alī al-Dimashqī (d. 6th/12th century). 1397/1977. <i>K. al-Ishāra ilā maḥāsīn al-tijāra</i> , ed. Shurbajī al-Bishrī. Cairo: Maktabat al-Kullīyāt al-Azharīya.
Al-Fayyūmī, <i>Miṣbāḥ</i> .	Aḥmad b. Muḥammad al-Fayyūmī (d. 760/1358) 1977. <i>Al-Miṣbāḥ al-munīr fī gharīb al-sharḥ al-kabīr li-al-Rāfi‘ī</i> , ed. ‘Abd al-‘Azīm al-Shinnāwī. Miṣr: Dār al-Ma‘ārif.
Al-Ghazālī, <i>Iḥyā’</i> .	Abū Ḥāmid al-Ghazālī (d. 505/1111). 1980. <i>K. Iḥyā’ ‘ulūm al-dīn</i> , s.n. 5 vols. Beirut: Dār al-Ma‘arifa.
Ḥājjī Khalīfa, <i>Kashf</i> .	Ḥājjī Khalīfa (d. 1067/1657). 1941 and 1943. <i>Kashf al-zunūn ‘an asāmī al-kutub wa-al-funūn</i> , ed. Şerefeddin Yaltekaya and Kilisli M. Rifat. 2 vols. Istanbul: Maarif Matbaası.
Al-Ḥaṭṭāb, <i>Mawāhib</i> .	Abī ‘Abd Allāh Muḥammad b. Muḥammad b. ‘Abd al-Raḥmān al-Ḥaṭṭāb al-Maghribī (d. 953-4/1547). 1422/2002. <i>Mawāhib al-jalīl li-sharḥ Mukhtaṣar Khalīl</i> , ed. Zakarīyā ‘Umayrāt. 6 vols. Beirut: Dār al-Fikr.
Al-Jarsīfī, <i>Risāla</i> .	Umar b. ‘Uthmān al-Jarsīfī (d. after 676/1277). 1955. <i>Risāla</i> , ed. Lévi-Provençal. In Lévi-Provençal 1955, 117-28.

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Ibn ‘Abdūn, <i>Risāla</i> .	Muḥammad b. Aḥmad b. ‘Abdūn (d. 6th/12th century?). 1955. <i>Risāla</i> , ed. Lévi-Provençal. In Lévi-Provençal 1955, 3-65.
Ibn Abī Ḥātim, <i>Ilal</i> .	Abd al-Raḥmān b. Muḥammad b. Abī Ḥātim (d. 325-6/938). 1343-4/1923-4. <i>Ilal al-Ḥadīth</i> , ed.? 2 vols. Cairo: al-Maṭba‘a al-Salafīya.
Ibn Abī Jamra, <i>Bahja</i> .	Abd Allāh b. Abī Jamra (d. 700/1300). 1997. <i>Bahjat al-nufūs wa-taḥallīhā bi-ma‘rifat mā lahā wa-‘alayhā</i> , ed. Bakrī Shaykh Amīn. 2 vols. Beirut: Dār al-‘Ilm al-Malāyīn.
Ibn Abī Zayd, <i>Risāla</i> .	Abd Allāh b. Abī Zayd al-Qayrawānī (d. 386/996). s.d. <i>Risālat al-imām al-‘ālim al-‘āmil al-‘allāma al-ḥabr al-baḥr al-fahhāma</i> (edition bilingue Arabe et Français), ed. Kawsar el-Béheiry. Cairo: Dār al-Kitāb al-Miṣrī.
Ibn al-Azraq, <i>Badā‘i</i> .	Muḥammad b. ‘Alī b. al-Azraq (d. 896-7/1491). s.d. <i>Badā‘i al-sulk fī tabā‘i al-mulk</i> , ed. ‘Alī al-Nashshār. 2 vols. Baghdad: Wizārat al-I‘lām.

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- Shams al-Dīn Abū ʿAbd Allāh Muḥammad b. Baṭṭūṭa al-Lawānī (d. 770/1368-9 or 779/1377). 1400/1980. *Riḥla*, ed. Karam al-Bustānī. Beirut: Dār Bayrūt.
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Fatāwā.
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