

Alms and the Man: Fiscal Sectarianism in the Legal Statements of the Shi‘i Imams

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Abstract

The sociological dimensions of the development of a sectarian orientation in early Imami Shi‘ism have remained sparsely explored since Marshall Hodgson posed the question ‘How did the early Shia become sectarian?’ in 1955. This article explores Imamic hadith statements on the canonical ritual payment of *zakāt/ṣadaqa* as a way of tracking the crystallisation of communitarian boundaries. It argues that the Shi‘i Imams, especially Imam Bāqir, fit into a common Muslim discourse regarding the payment of *zakāt*, for example in the case of an unjust Imam. However, the hadiths of the Imam Ṣādiq show a pivot towards the more clearly differentiated Shi‘i juristic positions of the Occultation period. Imamic statements on *zakāt*, therefore, must be seen as neither identical to Sunni positions, nor to classical Twelver Shi‘i formulations, but rather as dynamic responses to developing circumstances. In using Imamic hadiths to track early Shi‘i doctrine, this article also suggests directions for the development of a methodology for using hadiths to track historical developments, a venture which has barely begun. In dealing with the Shi‘i Hadith corpus, the author calls for an epistemological scepticism, coupled with a methodological positivism, assuming that while Imamic hadiths may merely act as mouthpieces for later doctrinal positions, it is also very possible that they do originate in the circles of the Imams to whom they are ascribed, and should be analysed as such in order to track chronological developments in the Hadith corpus.

Keywords: Minorities, sectarianism, Shia, Shi‘ism, Hadith, Islamic law, *zakāt*, *ṣadaqa*, alms, taxation, charity, group identity

1. Searching for the origins of Imami Shi‘i sectarianism

‘How did the early Shia become sectarian?’ It is a question famously posed in 1955 by Marshall Hodgson in an article of that name,¹ but one which Hodgson only partially answers. Hodgson approaches the question as an intellectual historian, and primarily from the perspective of the doctrine of the Imamate, using the terminology and source material provided by the heresiographers. Given that his question was about the process of sect-formation, however, and therefore an essentially *sociological* question, it is appropriate also to investigate the institutional framework for the establishment of the Imami Shia as a distinct group. Since Hodgson, the study of early Shi‘ism has continued to be overwhelmingly doctrinal in its focus.² In this article, I will make a step towards bridging the gap between early Shi‘i intellectual and sociological history³ by interrogating the social effects

1 HODGSON 1955.

2 Notable recent exceptions to this include HAIDER 2011 and HAIDER 2009; ASATRYAN 2014.

3 I use the term ‘sociological history’ in conscious distinction from ‘social history’. While ‘social history’ tends to designate the history of normal people in societies, rather than just the history of elites,

of the legal rulings of the Imams. These legal rulings certainly were part of an intellectual discourse between scholars; however, I will use them to cast light upon the origins of the development of the Imami Shia community structures—in particular the development of distinctive practices for the collection of the alms tax (*zakāt*).

Within the current issue's discussion of Islamic Law and minorities, it must be stressed that, in fact, the Islamic law pertaining to minorities finds its first origins at a time when the now-minorities were majorities, while the Muslim Arab elites were themselves still a minority amongst the conquered lands.⁴ Nonetheless, Sunni law, at least, may be seen as representing the perspectives of a more or less dominant, hegemonic position associated with the ruling political and intellectual elites of Islamic society. In contrast, the substance of Shi'i positive law based on the statements (hadiths or *ahbār*) ascribed to the Imams increasingly developed with a self-consciously minoritarian, sectarian perspective: a *self-defining* minority, that is.⁵ The distinct sectarian identity that is visible in the classical system of Imami Shi'i law,⁶ however, was a work in progress that emerged gradually over several generations. This process is poorly understood, largely because of the difficulty of finding good sources for early Imami Shi'i social and political history.⁷ Indeed, the study of group identity and group definition in early Muslim sects as a whole is hampered by the fact that the heresiographical nature of many of the earliest sources does not provide us with a firm basis for distinguishing between a real group whose members would have recognised each other in the world, and a theoretical construct produced by a scholarly desire to systematise the available information into elegant heresiographical categories.⁸

In what follows, I aim to show that one way of going beyond the heresiographical definition of a group is to 'follow the money'. The Shi'i conception of who should collect, distribute and receive the Islamic canonical alms taxes provides us with a conceptual framework that helps us understand the ideal structural characteristics of the community and the way it maintained boundaries with other communities. In particular, the distinctions about to whom one should pay *zakāt* must be understood as functioning clearly to mark affiliation and loyalty to a particular group and leader, in a way that the more fluid realm of doctrinal belief cannot. I will focus on two particular questions in the Shi'i law of *zakāt* that

'sociological history' is concerned with the theories and structures upon which society is based. In this article, I aim to elucidate not just the narratives of Shi'i history, but rather the structural dynamics of the Shi'i community, insofar as these structures can be reclaimed.

- 4 BULLIET 1979. Formal hadith collection efforts were well under way during the lives of these Imams, though the great *muṣannaḥ* and *ṣaḥīḥ* hadith collections of the 9th and 10th centuries, were compiled after this point had been reached. See BROWN 2009: 18–34.
- 5 For an overview of the sectarian perspective in early Shi'i sources, see KOHLBERG 1988 and KOHLBERG 1985; DAKAKE 2007.
- 6 By 'classical' in the context of Imami Shi'i law, I refer to the foundational texts of the Occultation era, before the Safavids, especially the 11th-14th centuries, when the foundational doctrines of the sect had stabilised, and the use of both hadith and rational *uṣūlī* methodologies had been widely accepted.
- 7 Many of the most important figures in the Imami community are ignored as insignificant by non-Shi'i historians and biographers. Even the Imami Imams are the subject of scanty discussion in the major historical chronicles and biographical dictionaries.
- 8 This includes the desire to sort messy realities to conform with the hadiths of about 72 or 73 sects. See VAN ESS 2003: 216; HAIDER 2007: 368.

are pertinent to the task of determining the nature and expression of the commitment made to one's community: first, whether one should allow *zakāt* to be collected by an unjust Imam; and, second, if one distributes it oneself, how communitarian boundaries shape the practice of this ritual giving.⁹

2. Methodology

The evidence I analyse below is centred on the statements of the Shi'i Imams Abū Ġa'far Muḥammad al-Bāqir (d. 117/735, 114/732-733, or 118/736) and Abū 'Abd Allāh Ġa'far al-Šādiq (d. 148/765) regarding the Islamic canonical tax known as *sadaqa* or *zakāt*. Many of their statements regard the precise quantities and timing of the payment of *sadaqa/zakāt*, and many replicate what one can find in Sunni hadith collections. I focus on those statements that present distinctive information on the relationship between giver, collector and recipient of *zakāt*. The richest vein of material I have found is in the chapters of *zakāt* and the chapters on *ḥums* in the earliest large Twelver hadith compilations, of Kulaynī and Ibn Bābūyah, both of whom were active in the 4th/10th century, and thereby represent some of the earliest extant texts that contain substantial numbers of fiscal hadiths.¹⁰ I will suggest that there are some indications that reports in the Hadith corpus as it pertains to *zakāt* do appear to reflect intellectual developments dating from the time of the Imams. At the very

9 Ritual militates against a stable definition, and a practice like *zakāt* clearly has an instrumental or 'rational' function, as well as being a ritual expression of commitment, fulfilling a soteriological and purificatory function. As Edmund Leach suggests, even though 'no useful distinction may be made between ritual acts and customary acts but that in discussion of ritual we are concerned with aspects of behaviour that are expressive (aesthetic) rather than instrumental (technical). Ritual action, thus conceived serves to express the status of the actor vis-à-vis his environment, both physical and social'. See LEACH 2000: 173. This framework for the way in which sacred and the economic meet (in contrast to Durkheim's more complete separation of the sacred and the profane) provides a framework for our understanding of the ritual nature of the act of giving *zakāt*. Shi'i alms/tax-giving practices communicate a commitment to a particular Imam, and thereby membership in a particular community. In addition to having a mundane 'rational function'—the social redistribution of wealth—they also have a soteriological function of guaranteeing the legitimacy of prayer, and enabling the believer to attain paradise. While *zakāt* may be considered an instrumental financial institution that has the effect of redistributing wealth in the community of the faithful, it is also one element of a larger ritual, material and aesthetic complex that ties the believers to the Imam. The giving of money to the Imam is often portrayed as part of a pilgrimage sequence that sometimes includes the hajj as well as a pilgrimage to the house of the Imam. Reports describing visits to the Imam or his agents often involve payment of money, but they also describe the circulation of gifts in the opposite direction, from the Imams to their followers, including written blessings and ritual objects like funerary shrouds and funerary balm. I have called this system, the 'sacred economy' of the Imamate, as a way of uniting both the ritual-sacral aspect with the instrumental aspect of the redistribution of wealth. See HAYES 2015. This, however, deals with a later period, and it will require further research to understand when the different elements of this sacred economy might first have been established. For one of the numerous examples where bringing money to the Imam is seen as part of the hajj pilgrimage, see IBN BĀBŪYAH, *Kamāl al-dīn*, 516-17.

10 I surveyed most of the major early Imami hadith compilations and *tafsīrs* from the 8th to the 11th centuries, before confining my study to these two collections, which contained the most important hadiths for this topic. Among the non-Imami sources, I surveyed the following: al-NU'MĀN, *Da'ā'im al-Islām*; Imām al-HĀDĪ ILĀ 'L-ḤAQQ YAḤYĀ b. al-Ḥusayn, *Kitāb al-aḥkām fī 'l-ḥalāl wa 'l-ḥarām*.

least we can say that the Imams' statements do not easily conform to the mainstream opinion of later Imami jurists that *zakāt* should only be paid to the true Imam, and should not be paid to non-Shi'is.¹¹ As such, I will approach the Imami Imams' statements on *ṣadaqa/zakāt* on their own terms, rather than attempting to align them with later Imami doctrine.

Our understanding of the dynamics of the formation of the Shi'i Hadith corpus has advanced tremendously in the past few decades, but much detailed work remains necessary to understand the processes of formation, transformation, reproduction and preservation that lead to the form and content of the hadith collections as we have them today.¹² While legal hadiths do not tend to display the same tendency to fit suspiciously into narrative tropes as historical *aḥbār*,¹³ they were clearly formed and developed in response to ongoing debates over legal and political frameworks for correct ritual practice. My work is partly informed by the Schachtian understanding that hadith reports often reflect later disputes rather than the ideas of the people to whom they were ascribed. However, though I work with an epistemological scepticism, at our current stage of analysis of the Shi'i Hadith corpus¹⁴ I deem it necessary to introduce a certain methodological positivism. Thus, I work with the assumption that the hadiths ascribed to certain Shi'i Imams might indeed originate with those Imams, or men in their circle. While this may prove to be an operational fiction, it will provide a methodology to help us begin to understand the internal dynamics of the Shi'i Hadith corpus.¹⁵

3. Shi'i *zakāt* law

Hitherto, scholarship on Shi'i *zakāt* law (and indeed Shi'i *fiqh* in general) has been focused on juristic discourses of the Occultation era, especially from the 5th/11th century onwards.¹⁶ Thus, the nature of the individual contributions of the Imams, or, for that matter, of the late-Imamic and early-Occultation era jurists, is very poorly understood. While much work remains to be done to understand the legacy of these men, we can summarise by saying that Bāqir and Ṣādiq were widely seen as wise, pious, knowledgeable men from a prestigious 'Alid lineage who became the focus of intensive Shi'i piety and mobilisation, probably

11 KOHLBERG 1985: 101; ZYSOW, 'Zakāt', *EP*.

12 Key works of scholarship that contribute to our developing framework for understanding early Shi'i hadiths are the many works of Etan Kohlberg, many of which are collected in KOHLBERG 1991; MODARRESSI 2003; and the work of Robert Gleave, especially GLEAVE 2001; NEWMAN 2000; HAIDER 2011; the works of Hassan Ansari, including ANSARI 2013.

13 Noted especially in NOTH & CONRAD 1994.

14 Shi'i hadith is substantially different from Sunni hadith. In contrast to the Prophetic hadiths that are so central to Sunni law, Imami Shi'i hadiths are most often ascribed to the Imams of the second/eighth and third/ninth century, placing them right in the era of hadith compilation. This, and other distinctive factors, require that a comprehensive framework for understanding and working with Shi'i hadiths should be developed.

15 This methodology is partly informed by Robert Gleave's analysis of Imamic hadiths, for example in GLEAVE 2010.

16 CALDER 1981; ZYSOW, 'Zakāt', *EP*; GLEAVE, 'Khums', *EP*; MODARRESSI 1983.

during their lifetimes but certainly in the generations to follow.¹⁷ *Ṣadaqa/zakāt* refers to a kind of taxation or alms¹⁸ that was required of every Muslim of means as part of her membership in the Muslim community, along with the *ṣalāt* prayer and other duties. The origins of *ṣadaqa/zakāt*, like many institutions rooted in the earliest phases of the Islamic community, are murky,¹⁹ and by the time of Bāqir and Ṣādiq, a juristic enterprise was under way to impose order on the *ad hoc* revenue-generation mechanisms that had emerged during the first century and a half of the Islamic community. A distinction is often made in later juristic literature between *ṣadaqa* as referring to voluntary charitable gifts to the needy, and *zakāt* as referring to the obligatory payments incumbent on every Muslim of means,²⁰ but this distinction is usually not visible in the hadiths themselves, where *ṣadaqa* is the dominant term for both forms. There is also a distinction between *zakāt*, which is due every year, based on capital wealth and/or income, and the obligatory *zakāt al-fiṭr*, which is distributed at the end of Ramadan. In addition, the early juristic sources exhibit confusion over the categorisation of the agricultural tithes (*uṣr*), which was sometimes considered as *zakāt*, and sometimes categorised under *ḥarāğ*.²¹ When dealing with the short telegraphic Imamic statements, which are shorn of context and recompiled in hadith works, we often cannot tell exactly which kind of subcategory of *zakāt/ṣadaqa* we are dealing with. In these statements, as in other examples of early juristic writing and hadith, *ṣadaqa* and *zakāt* are usually used synonymously, or at least with a great deal of semantic overlap. *Ṣadaqa* is the term most often used in hadith reports, while *zakāt* tends to be used as the rubric under which these hadith reports were compiled, reflecting the ongoing process of systematisation of terminology. The rubrication of these chapters provides ambivalent testimony, as it often seems to conflate, under the rubric of *zakāt* or *ḥums*, hadiths from very different contexts in order actively to construct a particular view of Imamic practice. Thus, though I draw largely upon the chapters on *zakāt* or *ḥums*, I do not treat them as essentially belonging to those chapters.

Ṣadaqa and *zakāt* should be seen within a broader ecosystem of other Islamic canonical revenue categories such as *uṣr*, *ḥarāğ*, *ḥums*, *ğizya*, and *waqf*, which are also characterised by a greater or lesser terminological ambiguity, and often overlap with each other.²² In the Shi'i context, it is helpful to compare the developing discourse on *zakāt* with the *ḥums*, both of which came to be understood as scriptural categories of Islamic canonical tax or alms, the payment of which indicates one's commitment to a particular leader or govern-

17 See, for example, HODGSON 1955; HODGSON, 'Dja'far al-Ṣādiq', *EP*; KOHLBERG, 'Muḥammad b. 'Alī Zayn al-'Ābidīn, Abū Dja'far, called al-Bāqir', *EP*.

18 There is no clear distinction made in the early sources between autonomously-distributed, voluntary 'alms' and mandatory, governmentally-collected 'tax', other than what can be inferred through context; both 'tax' and 'alms' will be used in the course of this article, depending on whether the context suggests that it was collected by the Imam/caliph or his appointees, or distributed autonomously by the individual. However, context is often not a clear guide.

19 The best guide to the perplexing variety in the earliest usage of *ṣadaqa/zakāt* is BASHEAR 1993.

20 ZYSOW, 'Zakāt', *EP*.

21 SATO, 'Ushr', *EP*.

22 See, for example, HENNIGAN 2014 on the terminological confusion between *waqf*, *ṣadaqa*, and other categories.

mental structure. The major difference between these in the Shi'i context came to be the fact that while the Imam was not allowed to use the *ṣadaqa/zakāt* for himself, due to the fact that he belonged to the *ahl al-bayt*,²³ the *ḥums*, on the other hand, came to be viewed as the Imam's personal prerogative.²⁴

4. *Zakāt* and Imamate: The fiscal claims of the Imami Shi'i Imams

As is well known, sect-formation in Islam was set in motion by the very first conflicts that followed the death of Muḥammad and developed in the generations to come. The Umayyad rulers began to develop an imperial style, a body of bureaucratic and legal practices and rulings, and an ideology of religiously legitimated rule. Meanwhile, a varied set of movements developed oppositional ideologies, tracing their opposition back to the example of 'Alī's conflict with the Umayyads, and holding out hope that one of his descendants or family members would recreate a rule of justice they felt to be lacking. However, the early Shia were not a homogenous movement, but rather a collection of diverse responses to the legacy of 'Alī and the prophet's family.²⁵ It is hard to know when and to what extent the Shi'i group identities came to be expressed in recognisably communitarian elements such as geographical separation, divergent beliefs, and separate ritual practices. Dakake has argued that, from the lifetime of 'Alī, his followers' support has had a theological content, most especially the idea of *walāya* as a binding charismatic contract, which formed the foundation for later developments in Shi'i thought.²⁶ It is likely that very soon, pre-existing tribal and local identities came to be woven into new 'Shi'i' expressions of communal identity and ritual practice. Najam Haider notes that, in relation to second/eighth century Kufa, Shi'i life was deeply textured by its embodiment in particular locales, and particular ritual practices, such as ways of praying, which marked the Shi'i practitioners apart from their neighbours.²⁷ Shi'i community identities, therefore, were not imposed purely from above by Imams and elites. Much of what came to be constituent of 'Shi'i identity' would have emerged from the grass roots, and some of this would have been pseudonymously placed into the mouths of the Imams to add to its authority.

The crystallisation of systematic theories of the Imamate, produced by intellectual elites among both Shia and non-Shia, was significant, however. The Imami Shi'i theory of Imamate first appears to have crystallised in the second/eighth century, in the circle of Ġā'far al-

23 Who was and was not able to receive *zakāt* depends on the definition of the phrase *ahl al-bayt*, who, it was agreed, were not allowed to receive the *zakāt/ṣadaqa*. The interpretation of *ahl al-bayt* developed gradually, and its meaning has come to range from just the prophet's wives, to encompass the entire tribe of Hāšim (for example for Abū Ḥanīfa and al-Šāfi'i). See GOLDZIEHER, VAN ARENDONK & TRITTON, 'Ahl al-bayt', *EP*.

24 On the early development of the Imami *ḥums*, see MODARRESSI 1993: 12-18. For later developments, see CALDER 1982. Neither of these, however, presents the final word on the early development of *ḥums*.

25 For the diversity and fragmentation of the early Shia, see VAN ESS 1991, I: 272-274.

26 DAKAKE 2007.

27 HAIDER 2009.

Ṣādiq,²⁸ in opposition to the developing Umayyad ideology and theology of rule,²⁹ and in gradually clearer distinction from other Shi'i schools of thought. Hodgson has argued that the creation of a stable Imami Imamate, predicated on father-to-son transmission and explicit designation, allowed for generation-to-generation consolidation.³⁰ The establishment of the Imams' revenue-collection protocols must be seen as a part of the broader institutional and conceptual foundation of the Imami Imamate.

While the Imami Imams have typically been seen as 'quietist', compared to the more 'activist' Zaydi Shia, the Imami legal hadiths on *hums* and *zakāt* problematise this assumption. As we shall see below, Imami legal hadiths suggest that the Imams ordered the Shia to pay *zakāt* to them or their functionaries, in preference to the functionaries of the Caliph. What was the creation of the Imami Shi'i financial system meant to achieve? The creation of a state within a state? Preparation for future rebellion? Certainly, some sources indicate that 'Abbasids perceived Imami revenue collection as a threat, prompting the persecution of the Imam's followers.³¹ Part of the problem here is that we have few sources for understanding the actual practice of *zakāt* collection, whether by the caliphal government or among oppositional groups, though Petra Sijpesteijn has made an important contribution through her work on the Egyptian papyri and their evidence for governmental collection of *sadaqa*.³²

5. The fiscal claims of the Imami Shi'i Imams

At some point, probably during the mid to late second/eighth century, the Imams began to assert their right to collect Islamic canonical revenues.³³ A motley system of gifts and contributions to the Imams probably already existed. These were supplemented and explained by an increasingly systematic set of canonical dues, which were established by associating them with existing Quranic categories of canonical alms taxes, the payment of which marked one's commitment to an Imam.³⁴ These categories also paralleled Umayyad governmental efforts to legitimise their revenue collection, resulting in an implicit conflict. While we cannot be sure of the exact timeline of historical development of the Imami revenue collection system, one historical circumstance stands out as a *terminus ante quem* for the existence of substantial Imami Shi'i institutions of revenue collection. Upon the death of Ṣādiq's son, the seventh Imam, Abū 'l-Ḥasan Mūsā al-Kāzīm, in 183/799, a group of

28 See MADELUNG, 'Hishām b. al-Ḥakam', *EP*.

29 CRONE & HINDS 1986, especially pp. 24-57.

30 HODGSON 1955.

31 See, for example Rašīd's distrust of Mūsā al-Kāzīm, due to the rumour that he 'was receiving donations from all corners of the earth'. KOHLBERG, 'Mūsā al-Kāzīm', *EP*.

32 See SIJPESTEIJN 2013.

33 I deliberately use this vague wording because it is not clear in what form the Imams first justified their collection of monies from their followers.

34 For a discussion of the different kinds of semi-canonical payments made to the Imams, see HAYES 2015: 86-105.

Kāzīm's agents rejected his successor, claiming that Kāzīm had gone into Occultation, and they then refused to hand over to his successor the apparently large amounts of money they had collected in Kāzīm's name.³⁵ This provides clear proof that at least by the time of Kāzīm there was a substantial amount of money being collected in the name of the Imam. The collection of these large sums from the community would have required some form of doctrinal-theoretical justification—either developed pre-emptively, or, more likely developed *ex post facto*. The Imamic statements on the Islamic canonical taxes (especially *zakāt* and *ḥums*) were a part of this conceptual backdrop for the development of community funding mechanisms. This is not to say that all of these categories of revenue would have been treated the same once collected. On the contrary, the rules regarding the use of *zakāt* and *ḥums* are distinguished, for example, by the fact that no part of the *zakāt* could be used by the Imam for his own purposes, unlike the *ḥums*, due to the fact that the *zakāt* donations were conceived as carrying away the impurity from the donors, something which the *ahl al-bayt* could not accept due to their pure lineage.³⁶

While many of the statements of Bāqir and Šādiq are difficult to contextualise historically, we may assume that Kāzīm's revenue-collection system did not emerge without any precedent. We can find suggestive material in statements like the following, in which Šādiq is depicted as justifying his collection of *zakāt*, or some similar tax, perhaps in the face of a sceptical community:

Ibn Bukayr reported: I heard Abū 'Abd Allāh [Šādiq] (AS) say, '[If] I take a *dirham* from one of you, and even though I am one of the wealthiest people in Medina, in doing so I wish nothing else than that you should be purified (*tuḥirū*)'.³⁷

While this does not explicitly mention *ṣadaqa* or *zakāt*, the apologetic tone suggests that the Imam may be defending an *innovation* he has made in collecting money from his followers, who do not all consider it to be fully warranted. The context suggests the ritual function of purifying the donors that is associated with the payment of *ṣadaqa* and *zakāt*, based on the Quranic usage.³⁸ If Šādiq were indeed claiming the *zakāt*, then this would seem to imply a direct challenge to the caliphal prerogative of collection of the canonical Islamic revenues.³⁹ While this statement is not clearly datable, the apologetic tone suggests that it derives from a period in which payment of canonical dues to the Imam was not a self-evident duty, but something that had to be established through statements ascribed to the Imam.

³⁵ BUYUKKARA 2000.

³⁶ ZYSOW, 'Zakāt', *EP*.

³⁷ KULAYNĪ, *al-Kāfī*, II: 44. Note that all translations in this article are my own, unless otherwise stated.

³⁸ Quran 9:103. In the Imami context, the *ḥums* is also said to have a purificatory role, though it is not said to contain the dregs of impurity that prevents *zakāt* from being used by the *ahl al-bayt*. KULAYNĪ, *al-Kāfī*, I: 546.

³⁹ Modarressi also refers to reports in which the 'Abbasid caliph Maṣū'ir is said to have complained that Šādiq was receiving *zakāt*, and even *ḥarāḡ* land taxes from his followers. MODARRESSI 1993: 13.

6. Payment of canonical taxes to an unjust Imam

One of the matters of controversy among early jurists was the extent to which imperfect governmental authorities could be entrusted with the weighty duty of collecting and distributing a believer's *ṣadaqa/zakāt*. Towards the end of the Umayyad period, the piety-minded juristic movement (which formed the immediate intellectual context for the legal statements of Bāqir and Ṣādiq) was often hostile, or at least ambivalent, towards Umayyad power, hence Hodgson's reference to the intellectual pioneers of the time as part of a 'pious opposition'.⁴⁰ Though the extent of the participation of the scholars in a 'pious opposition' has been recently challenged by Steven Judd,⁴¹ we can still use the phrase to apply to the common cause made against the Umayyads by many pious scholars (albeit not all) amongst the Shia and proto-Sunnis. This ambivalence towards Umayyad power prompted the question of whether it was legitimate to pay *zakāt* taxes to an unjust ruler, a question perhaps exacerbated by innovations in the conception and practice of these taxes.⁴² The divergent responses to this question crystallised into the positions espoused by classical jurists, some of whom counselled a maximalist acceptance of governmental tax and the legitimacy of those who collected it, others a minimalist approach. Zaydis, for example, tended to stress the Imam as the only legitimate collector and distributor of the alms taxes, while at the other end of the spectrum, Ḥanbalīs tended to recommend that believers should distribute the alms tax personally, whenever possible.⁴³ If the ruler were corrupt, then this would complicate matters, and though the Sunnis were generally more tolerant about a corrupt Imam than the purist Shia, some Sunnis still did not allow payment of the canonical taxes to a corrupt or unjust collector.⁴⁴ The classical Shi'ī position, for example as given by Ṭūsī in his *Ḥilāf*, is that an unjust or sinning Imam is a contradiction in terms because the Imam is incapable of error (*ma'ṣūm*), and that payment of *zakāt* could only be legitimate if it reached its legitimate recipients.⁴⁵ However, this position represents a classical, crystallised and systematised Shi'ī law, rather than the position of the Imami Shi'ī Imams, whose statements on this topic give a more ambivalent, shifting picture than Ṭūsī would have us believe.⁴⁶ In fact, the Imamic hadiths show evidence of having been formed in dialogue

40 For the piety-minded opposition to Umayyad rule, see HODGSON 1974, I: 241-279. See also the historical framework provided by SCHACHT 1964.

41 Steven Judd has provided a salutary critique of the oversimplified image that, 'the 'Abbaasids were religious; the Umayyads were not', and that Hodgson's idea of the 'piety-minded opposition' to the Umayyads implied that the scholarship of the hadith scholars and legal scholars under the Marwanids was 'inherently subversive, if not openly revolutionary'. JUDD 2014: 5.

42 For possible evidence of such governmental innovation, see SIJPESTEIJN 2013: 195.

43 The different positions on this question are summarised by ZYSOW, 'Zakāt', *EP*.

44 See Māwardī, quoted by CALDER 1981: 474, and below.

45 According to Ṭūsī, both al-Ṣāfi'ī, and Ibn Ḥanbal and most of the hadith folk believed that the sinning (*fisq*) of a Caliph did not invalidate their Imamate, while many of the jurists, including some of the companions of al-Ṣāfi'ī believed that sinning would invalidate an Imamate, presumably thereby making the payment of *zakāt* to him impossible. AL-ṬŪSĪ, *Ḥilāf*, II: 32-33.

46 And more complicated than what is suggested by Kohlberg's comment, based on his reading of Kulaynī's Kāfi and Ṭūsī's *Niyāha*, that 'Both *zakāt al-māl* [...] and *zakāt al-fiṭra* [...] may only be distributed

with the broader spectrum of juristic opinions amongst the pious opposition. As we shall see, the hadiths of Imams Bāqir and Ṣādiq are also contradictory in significant ways.

The statements of the Shi'i Imams are, in fact, comparable in several ways to the discourse in early Sunni texts. Key questions include whom should one pay *zakāt* to; whether *zakāt* counts if it is extracted by a ruler coercively; whether and under what circumstances the individual should distribute taxes autonomously; and which kinds of people constitute legitimate or preferable recipients for *zakāt*. While the Shia may have objected to Umayyad power, in some statements, the Shi'i Imams clearly state that the canonical taxes taken by the rulers are legitimately counted towards a Muslim's ritual duty. Several Imamic hadiths make the point that *zakāt* and other taxes taken through coercion by the authorities are to be counted as fulfilling one's obligation to pay the canonical taxes. These tend to deal with the 'visible' property that can be ill concealed from tax collectors: livestock, the produce of agriculture and mines.⁴⁷ In one such report, Ṣādiq is depicted as saying that, given the option, it is preferable not to pay *zakāt* to the Umayyad-era caliphal authorities:

Abū 'Abd Allāh [Ṣādiq] (AS) said regarding *zakāt*: 'Whatever Banū Umayya takes from you, that is counted [towards your *zakāt*], but do not give them anything if you are able, for [one's] property will not last in this case if you pay *zakāt* twice (? – *fa-inna 'l-māl lā yabqā 'alā hādā in tuzakkīhi marratayn*)'.⁴⁸

Ultimately, despite the preferred principle of avoidance of the caliphal taxman, believers are given a pragmatic dispensation from having to pay *zakāt* twice in the case of coercive collection of taxes, apparently in order to avoid the unnecessary diminution of capital. It is interesting to note the specifically Umayyad context, which locates this statement in a particular political landscape of the pious opposition to the Umayyads. This Umayyad context and the tolerant attitude to governmental collection suggest that this may well be an early opinion, contrasting to later, more intransigent Imami juristic opinions.

The position ascribed to Ṣādiq may be compared with that of his fellow Medinan, Mālik b. Anas (d. 179/795) as reported by the Māliki Ṣaḥnūn (d. 240/855), who recalls a question to Mālik about the case of Ḥārīḡites who conquer a land and usurp the *ṣadaqāt* and the *ḥarāḡ*.⁴⁹ Mālik is quoted as responding, 'I do not see that it should be taken from them a second time'.⁵⁰ Mālik's case deals with the rule of the Ḥārīḡites instead of the Umayyads,⁵¹ but the legal question is the same: do canonical taxes collected by an illegitimate authority under coercion still count for the fulfilment of the believer's ritual duties? While Mālik and

among Imāmīs'. See KOHLBERG 1985: 101.

47 KULAYNĪ, *al-Kāfī*, III: 543-544; IBN BĀBŪYAH, *Faḡīh*, II: 42; 3:543. These deal with overlapping taxation categories, including *zakāt*, *ḥarāḡ* and *'uṣr*, the distinction between which was a topic of disagreement between early jurists. See SATO, 'Ushr', *EP*.

48 KULAYNĪ, *al-Kāfī*, III: 543.

49 Ṣaḥnūn continues to invoke other authorities to back up Mālik, also adding the consideration of tolls and taxes on 'bridges and roads', SAḤNŪN, *al-Mudawwana al-Kubrā*, I: 285.

50 Ibid.

51 The passage from Ṭūsī's *ḥilāf* cited above similarly deals with a usurping (*mutaḡallib*) ruler. ṬŪSĪ, *Ḥilāf*, II: 32-33.

Şādiq may not see eye-to-eye on the identity of the Imam, they do, in this case, appear to have the same position on this question.

Thus, we may say that, in conformity with an early Sunni Medinan juristic opinion on the subject, some Imamic statements indicate that payment of *zakāt* to illegitimate ruling Imams is to be tolerated, if not celebrated. This is in contrast with the classical position expressed by Tūsī in which the canonical taxes paid to an illegitimate Imam are, by definition, illegitimate themselves.⁵² However, within the corpus of Imamic statements on *zakāt*, we do also have statements that are intolerant to the payment of *zakāt* to an unjust Imam. The most extreme statement regarding the payment of *zakāt* not only denies that any *zakāt* paid to an unjust Imam could be legitimate, but furthermore, it demands that all back taxes should be repaid:

From Zurāra and Bukayr and al-Faḍīl and Muḥammad b. Muslim and Burayd al-ʿIḡlī from Abū Ğaʿfar [al-Bāqir] and Abū ʿAbd Allāh [al-Şādiq] they spoke regarding a man who belongs to one of those heresies (*ahwāʾ*); the Ḥarūriyya [i.e. Ḥārīḡites], the Murġiʾa or the ʿUṭmāniyya or the Qadariyya, then repents and knows this affair [the Imamate], and amends his opinion: should he repeat every prayer he prayed or fast or *zakāt* or *ḥaġġ*? Is it not incumbent upon him to repeat some of that? [The Imam] said, ‘He need not repeat any of that except the *zakāt*, which he must pay, because he gave the *zakāt* to someone other than its proper recipients, for its proper recipients are only the *ahl al-walāya* [i.e. the Shia]’.⁵³

This decision is based on a piece of juristic reasoning based on the fact that prayer, hajj and fasting do not have a recipient, and therefore pertain only to the performer, but *zakāt* has recipients in the world, and therefore is invalidated if it is paid to the wrong person, and assuming here that the Imam and his functionaries are the only ones with the requisite justice to make sure the *zakāt* reaches its correct recipients. When invalidated, the purificatory function of payment remains unfulfilled. While this is intellectually consistent, its consequences for social group dynamics are liable to be extreme, as it sets an exceptionally a high bar for conversion of one’s allegiance to the Imam,⁵⁴ and suggests the ritual impurity of those whose allegiance is to another Imam. Even so, in itself, repaying *zakāt* that has been misappropriated is not unknown in Sunni jurisprudence. As Calder notes, in the case of a corrupt tax-collector (*ʿāmil*):

Māwardi acknowledged that if the ultimate distribution was unjust (not in accord with the law) the individual should not in fact pay his *zakāt* to the *ʿāmil* but should hide it, or, if it was taken willy nilly, should repeat the *zakāt* in order to gain reward.⁵⁵

The big difference between Māwardī’s position and the Imams’ is that the Imams explicitly invoke sectarian theological criteria rather than injustice or corruption. This position may

52 Ibid.

53 KULAYNĪ, *al-Kāfi*, III: 545.

54 Dakake suggests that this would have been an unrealistic expectation. DAKAKE 2007: 248.

55 CALDER 1981: 474.

allow for attenuation according to circumstance,⁵⁶ but nevertheless we may note that Bāqir and particularly Sādiq appear to move the Shi'i discourse on canonical taxes towards what will become a formal division between confessional groups, establishing matters of belief as determinants of ritual practice, and therefore also powerful determinants of social boundaries. The ritual implications extend beyond *zakāt* itself, for it was understood that unless *zakāt* was paid in its proper place, prayer would be invalidated.⁵⁷ From the perspective of dating it is interesting to note that the rather specific 'heretical' groups mentioned here are early sects, though they continue to survive in the heresiographical imagination,⁵⁸ and therefore might easily be a later construction of groups known to have been active in the Umayyad period.

We are faced with a problem when we compare this latter report of Bāqir and Sādiq, which is intolerant to mispaid *zakāt*, with the previous Imamic report, which is more tolerant of, albeit not encouraging towards, payment to the Umayyads. What is the explanation for this clear divergence? It is possible that it was generated later, as we might be led to suspect from the fact that the more intolerant attitude conforms more closely to the more hermetic sectarian divisions of the classical Shi'i jurists? One possibility, then, is that the apparently more tolerant opinion is earlier, before the crystallisation of sectarian positions. Another explanation may relate to the precise context implied. In the latter report from Bāqir and Sādiq the context is subtly different, as it does not refer to faithful Shia who pay *zakāt* due to coercion (a context also applicable to the opinion ascribed to Mālik) but rather it refers to committed members of 'heretical' non-Shi'i groups who later convert to follow the right Imam. Thus, the reason for the discrepancy may be due to an implicit distinction between payment to an unjust Imam by faithful Imamis for reasons of coercion, and payment to an unjust Imam by those who are fully committed to that unjust Imam. In the latter case, one's *zakāt* has not been legitimately paid, because one was living beyond the community of salvation, and therefore must be paid again.⁵⁹

56 This hadith is followed by one in which Sādiq states that if a man does his best to identify the appropriate recipient, but he cannot, then he need not pay his *zakāt* a second time, KULAYNI, *Kāfī*, III: 545.

57 Ibid.: 499; 506. The danger of non-payment of *zakāt* was no insignificant matter. Because of failure to properly perform *zakāt*, we are told, the majority of Muslims were destined for damnation. Ibid.: 497.

58 Harūriyya is one of the names applied to the early Hārīgites, whose successive uprisings posed a prominent threat to governmental authority in Iraq up until the end of the Umayyad period. See DELLA VIDA, 'Khārijītes', *EP*. The word *murǧi'a* did continue to be used by Shia both as a specific theological label and as a more general derogatory name for Sunnis into the 'Abbasid period. See MADELUNG, 'Murǧi'a', *EP*. The 'Uthmāniyya did not continue to exist beyond the 4th/10th century, CRONE, 'Uthmāniyya', *EP*. The Qadariyya, were an equally early movement, the precursors of the Mu'tazila in upholding human free-will, VAN ESS, 'Qadariyya', *EP*.

59 This explanation is plausible, but it does not match the explicit reason given by the Imam: the *zakāt* has not reached its proper recipient, a reason which would presumably hold the same regardless of conviction or coercion.

7. Generational tension between Imamic opinions

One possible explanation for the internal contradictions between the Imamic statements is that there was a generational change in policy between the Imams as they responded to the great upheavals of their day: the uprisings and instability of the late Umayyad times followed by the regime change and suppression of the Shia under the 'Abbasids. The existence of a generational change in Imamic opinion is, in fact, explicitly borne out within some of their hadiths. Šādiq appears in one statement as explicitly raising questions about his father's legal opinions, in the process of developing his own position on the subject:

Sulaymān b. Ḥalīd said:

I heard Abū 'Abd Allāh [al-Šādiq] say, 'My father [Bāqir]'s companions came to him and asked him about [the taxes which] the Sultan takes, so he felt compassion for them (*fa-raqqā lahum*), though of course he knew that *zakāt* is not licit except for its proper recipients, and he ordered them to count it [as part of what they need to pay for *zakāt*] and by God! I continued to cogitate about them, and I said to him, "Oh father! If they listen to you, then not one of them will pay *zakāt*!" And he said, "Oh my son! [That is] a duty/tax (*haqq*) that God prefers to make manifest (*haqqun aḥabba 'llāhu an yuḏhirahu*)".⁶⁰

This is a difficult passage, but it is clear that Bāqir is allowing his followers to count what the Sultan appropriates towards their canonical *zakāt*, even though the illegitimacy of the Caliph means that the *zakāt* might not go to its proper recipient. In this hadith there appears to be a tension between Šādiq's idealism and Bāqir's pragmatic dispensation to allow payment to the illegitimate Caliph to fulfil ritual requirements, regardless of its ultimate destination. In this sense Bāqir appears to fit into the framework of pragmatic tolerance that existed among Sunni jurists, while Šādiq seems to take a step closer towards the classical Imami opinion, which regards only payments to the true Imam, that is, the Shi'i Imam, as legitimate. Can we read this as a generational shift? If so, it is not the only such hadith that suggests a generational shift.⁶¹ While this does not clear up the problem of contradiction entirely (after all, the most intransigent statement requiring the payment of back taxes is ascribed to both Bāqir and Šādiq) it seems plausible that the contradictory nature of the Imamic law of *zakāt* may, in part, have been due to generational development in the policy between Bāqir and Šādiq, as they responded to changing circumstances. Tolerance towards caliphal collection seems to have been the Imamic norm, stemming from a pragmatism common also to some Sunnis, however, as later statements ascribed to Šādiq's son, Mūsā al-Kāẓim, also grant dispensations for his followers to pay *zakāt* to the caliphal agents under circumstances of coercion.⁶² It seems likely then, that, in contrast to the general Imami Shi'i doctrinal assertion of the universality, ahistoricity, and harmoniousness of the

⁶⁰ KULAYNI, *al-Kāfi*, III: 543.

⁶¹ See, for example, Šādiq's gloss on the Quranic *ḡanīma* verse (8:41), in which he appears to contrast his opinion with his father's. KULAYNI, *al-Kāfi*, I: 544. It would be interesting to take a larger sample of hadiths on related topics to see if there are apparent generational differences between Bāqir and Šādiq that might indicate similar patterns.

⁶² KULAYNĪ, *al-Kāfi*, III: 543-554; IBN BĀBŪYAH, *Faqīh*, II: 42.

law of the Imams, instead, they responded to political circumstances to make judgements about the payment of taxes. This generated internal contradictions that were later glossed over by the Occultation era classical Twelver jurists.

8. Giving to the initiated

If an individual distributes the *zakāt* autonomously instead of giving it to the Imam for distribution this raises a further set of issues, in particular in determining an appropriate recipient. Though the classes of people eligible to receive *zakāt* were understood to have been explicitly designated in Quran 9:60, the religious affiliation of the recipients also came to be a consideration affecting the proper distribution of the *zakāt*. The Imamic hadiths imply the existence of inner and outer circles of religious legitimacy that were understood as separate categories. The hallowed inner circle consisted of the *ahl al-walāya*, Shi'i Muslims who recognised the rightful Imam. The next circle consisted of unknown Muslims, followed by non-Muslims, and in the outer darkness, to be avoided at all costs, were the vocal anti-Shi'i Muslims (the *nāṣibīs*), to whom *zakāt* was categorically denied.⁶³

In the following report on the distribution of *zakāt* we are given a further sense of Ġa'far al-Šādiq's shifting policy in defining who is a legitimate recipient of *zakāt*. In this report, the operative element is not the recipient's professed religious identity, but what the recipient 'knows', which may, perhaps, allude to sectarian affiliation, to one's spiritual ranking, or to some other criterion. Ġa'far al-Šādiq is questioned by Zurāra about whether the Quranically-stipulated recipients should receive the *zakāt*, 'even if they do not know?' Šādiq responds as follows:

The Imam gives to all of those because they concede obedience to him. And Zurāra said: 'And if they do not know!?' And [Šādiq] replied: 'Oh Zurāra, if those who know were given [the *ṣadaqa*], to the exclusion of those who do not know, then not enough proper recipients would be found for the alms. And we only give to the one who does not know in order to encourage him in faith, and make him firm in it. But as of today, you and your companions must not give to anyone but someone who knows. Whoever you find among those Muslims who is knowing, then give to him rather than the [ordinary] people (*nās*)'.⁶⁴

This report is mysteriously elliptical. We cannot be exactly sure *what it is* that these people do not know. It might be the identity of the true Imam, thereby equating this report with the above-mentioned report, which refers to the people of *walāya*. In this case, 'those who do not know' might perhaps refer to Zaydi-style Shia who do not acknowledge the distinctive claim of the Fatimid lineage. Or it might refer to some kind of esoteric or initiatory knowledge that neophytes are excluded from, as in the Fatimid Ismaili,⁶⁵ Nuṣayri,⁶⁶ or

⁶³ See, for example, the test-case of the unknown beggar, KULAYNĪ, *al-Kāfi*, IV: 13. See also KOHLBERG 1985. Dakake has a similar model for envisaging the Shi'i community as an inner circle within the wider Muslim community. DAKAKE 2007: 241.

⁶⁴ IBN BĀBŪYAH, *Faqīh*, II: 4-7.

⁶⁵ See DAFTARY 1998: 92-93.

Druze models.⁶⁷ We see, however, that there are not enough of these initiates to act as recipients for the *ṣadaqa* of all the Shia. Ṣādiq indicates that Zurāra and his companions⁶⁸ are in a select circle advised to act in a particularly meticulous manner by distributing *ṣadaqa only* within the circle of initiates. This would also appear to adjust our understanding of what Dakake sees as an essentially non-hierarchical community in which charity is regulated according to membership in the Shi'i community in its largest possible sense.⁶⁹ This kind of inward-looking fiscal practice, if carried through, would lead to a community with an internalising, insular sacred economy centred upon the figure of the Imam, and perhaps was the basis for the core of the intensely sectarian community that emerged over the course of the 'Abbasid era.

9. Conclusion

In conclusion, the creation of a sectarian community is not just a matter of belief, but also the introduction of structures and protocols that crystallise and formalise boundaries. While we cannot pinpoint exactly the moment of genesis of the Imam-centred *zakāt* collection procedures in the Imami community, these statements of Bāqir and Ṣādiq clearly express a set of protocols that tend to separate their followers from the wider community, establishing a hierarchy of excellence and access to the Imam. Given the scanty sources, Imams' hadiths are among our best evidence for the origins of the insular Imami fiscal system: a system which became so very important at the time of the death of Kāzīm, and even more so upon the death of al-'Askarī, when it was the fiscal agents who announced the new era of the Occultation, and took quasi-Imamic authority upon themselves. There are three aspects which give us hope that what we are looking at reflects some historical reality: firstly, the Imamic hadiths diverge from classical Imami positions expressed in works of hadith and *fiqh* from the fourth/tenth century, and especially the fifth/eleventh century, being less intransigent, and closer to Sunni discourses, suggesting that they may well represent an earlier state of thinking and acting, in which Shi'i discourse was less clearly demarcated from proto-Sunni and other schools of thought. Secondly, there are indications within the hadith reports themselves that the Imams recognised change between their opinions, suggesting that they were reacting to historical circumstances and the developing legal discourse. While we cannot clearly correlate these changes with particular historical events, it is significant that they appear to be engaged with the evolution of doctrine. They do not claim to express timeless truths, but suggest shifting realities that must be explained and justified. Thirdly, some of these hadith reports allude to the specific historical context of the Umayyad period, suggesting perhaps that the Imamic position on *zakāt* began to be

66 See, for example, FRIEDMAN 2010: 115-118.

67 See HODGSON, 'Durūz', *EP*.

68 Zurāra b. A'yan died in 150/767, placing him firmly during the lifetimes of Bāqir and Ṣādiq. For the biography of Zurāra, based on Nağāšī and Kaššī, see SACHEDINA 1988: 42.

69 This stems from Dakake's reading of the phrase *ahl al-walāya*, with relation to the giving of charity. See DAKAKE 2007: 247-249.

articulated against the backdrop of political instability and opportunity towards the time of the fall of the Umayyad dynasty. If the development of the Imamic legal discourse on *ṣadaqa* is compared to that on *ḥums* and other revenue categories, and institutional mechanisms in the Imami community, we will be able to understand these processes more broadly, including the question of authenticity, and the generational developments.

The statements of the Imams during the second/eighth century begin to reflect, though not uniformly, a movement towards the creation of a distinct sectarian community; a community whose members are recommended to avoid paying the canonical Islamic taxes to the caliphal government, though not to the extent of active civil disobedience. Even when distributing the alms autonomously, the individual is not freed from considerations of communitarian affiliation. The autonomous payment of *zakāt* has two aspects that indicate the developing communitarian logic of an insular Imami sacred economy:⁷⁰ firstly, giving within the circle of Imamis is preferable to giving to non-Shia, non-Muslims, and especially to anti-Shi'i Muslims. Secondly, even in payments to other Shia, there appears to be a categorical distinction between the initiated, 'those who know', and the uninitiated, 'those who do not know'. The context implied in the report suggests that a different set of rules apply to the inner clique of the Imams' supporters: Zurāra and his companions. This, then, perhaps suggests the context in which the creation of an insular sectarian fiscal regime was erected, not by Imamic decree to the entirety of the Shia⁷¹ but by the gradual development of special protocols for those closest to the Imam. This group of like-minded men was motivated by the broader scripturalist turn that also characterised the development of early Sunnism,⁷² but they set themselves apart by their pious attachment to the Imam, leading them to bind themselves by rules of greater strictness than their co-religionists in the broader society. This begs the question: did there continue to be an inner clique of initiates set apart from the wider group of followers of the Imams,⁷³ or did the ritual practices of those paradigmatic Shi'i notables ultimately trickle down and extend to a greater Shi'i community, including particularly strictly regulated habits with regard to the payment of canonical Islamic taxes?

⁷⁰ See above, footnote 11.

⁷¹ This, in any case, was very likely not a categorisation that had much meaning at this time of fluidity and rapidly changing group identities. On the lack of homogeneity of early Shi'ism, see VAN ESS 1991, I: 272-274.

⁷² By 'scripturalist turn' I refer to the general tendency in the second/eighth and third/ninth centuries to preserve, produce and transmit explicit, and increasingly written, texts in order to support existing practices and ideas, a tendency that gave rise to the great hadith collections, Quranic exegesis, and hadith-based *fiqh* works.

⁷³ This possibility is interesting to consider with regard to Amir-Moezzi's largely theological-doctrinal conception of early Shi'ism as focused upon an esoteric core. See AMIR-MOEZZI 1994.

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