NOTES

CHAPTER 1

1. Ibn Samara 1957:213. Faqih al-Nahi was reckoned in the seventh generation of Yemeni jurists. On the town, see art. “Ibb,” Encyclopedia of Islam (hereafter the first and second editions will be cited as EI 1 and EI 2; the Shorter Encyclopedia of Islam will be cited as SEI).


3. For the usage of —m–d root terms to characterize authoritative texts, Ibn Samara 1957:126, al-Nawawi 1882:2, 6, 7; al-Shawkani a.h. 1546, 2:594; 1. al-Akwa’ 1980:9–10. Some texts hold Al-mu’ athletic, “the relied upon,” as a title; in al-Nawawi’s work, the subtitle was Wa ‘lamat al-muftin.

4. The writing of Bakhtin (1981:342f.) on “authoritative discourse” is relevant here: “The authoritative word demands that we acknowledge it, that we make it our own; it binds us, quite independent of any power it might have to persuade us internally; we encounter it with its authority already fused to it. The authoritative word is located in a distanced zone, organically connected with a past that is felt to be hierarchically higher. It is, so to speak, the word of the fathers.”

5. There are early exceptions—e.g., for the Shafi’i school, Al-Mukhtar of al-Muzani (d. 877).


7. The Arabic term malaka (pl. malakat) is a borrowing via translation of the Greek exir, which was also translated into Latin as habitus (Rosenthal
1958; lxxxiv). For Pierre Bourdieu (1977; 1984), a comparable notion of “habitus” is the central concept in his poststructural sociology of practice. Similarities between the two analytic usages include an emphasis on the bodily basis and implicit qualities of the dispositions involved, reference to language models, and emphasis on the importance of repetition/practice for inculcation and reproduction. For Ibn Khaldun a distinctive habitus pertains to each art or “craft,” a concept that includes scholarship as one of many varieties. As a person is decisively “colored” by a habitus, the acquisition of one makes that of another difficult or impossible. For Bourdieu (1984:120–75) there is a separate habitus associated with each of the class-based “conditions of existence” of modern societies. Drawing on the cultural specificity of Ibn Khaldun and the poststructuralism of Bourdieu, I examine the internal differentiation and cross-genre and cross-institution homologies of a textual habitus, a set of generative dispositions structuring (and structured by) discursive practices.

10. All citations are from the three-volume Arabic text of Van Den Berg (al-Nawawi 1882–83–84); cf. art. “Al-Nawawi” in *SEI*.
11. Keyzer (Keijzer) trans. (Abu Shuja‘1859). I have used the Arabic text of the Van Den Berg translation of the commentary by al-Ghazzi (1894) with the *Malekdar al-'Abu Shuja‘* embedded. For the biography of Abu Shuja‘ see the article in *EI* 2.
14. See Calder 1990, for references and for discussion of how the Prophet’s illiteracy became a figure in discursive theory.
15. Hurgronje 1931:16n.
17. *EI* 2, art. “Kir‘a.”
18. Cited in Juybni 1969 and 1983 in his discussions of hadith, the recording of hadith. See also Powers 1986.
19. Goldziher, quoted in *SEI*, art. “Hadith,” p. 120.
22. See the article “Muslim b. al-Haddah” in *SEI*. The author of *Al-Minhaj* was a principal commentator on the *Sahih* (al-Nawawi 1929).
24. While it is generally recognized that early Semites invented the phonetic alphabet, it has been argued that the Greeks significantly “perfected” it by developing vowel letters (Ong 1982:85, 91; for a review of recent literature, see Cobb 1987:406). Alphabet issues have figured centrally in a much larger claim, however—namely, that “writing has transformed human consciousness” (Ong 1982:78). How writing has done so, it has been argued, has depended, in part, on the alphabetic technology available. The work of Eric Havelock (1963), comparing the oral versus literate intellectual styles of Homer and Plato, has constituted a crucial point of departure both for Ong and for Goody, the leading anthropological student of literacy and writing. Within literate civilizations, it is maintained, different alphabets have differing capacities to promote such things as “analytic thought.” “It does appear,” Ong (1982:90) writes, “that the Greeks did something of major psychological importance when they developed the first alphabet complete with vowels.” He follows Havelock in the view that “this crucial, more nearly total transformation of the word from sound to sight gave ancient Greek culture its intellectual ascendancy over other ancient cultures.” Goody, however, has reconsidered his earlier view of the Greek case as a model for cross-cultural comparison. He now finds it “necessary to challenge certain notions about the uniqueness of the West as far as the explanation for the emergence of the ‘modern’ world is concerned” (1986:xi). In particular, “the ‘alphabetic’ writing of the Greeks is no longer seen as so unique an achievement” (1987:xvii–xviii). The whole constructed legacy of Greek originality, including the alphabet thesis, has been critiqued by M. Bernal in his Black Athena (1987). For a view of Arabic writing that considers vowels “a peculiar European invention” rather than as “something ‘missing’ from Arabic,” see the discussion of grammatical “movement” in Mitchell 1988:148–49.
25. The history of the Arabic alphabet is relevant here. The Qur’an was placed in definite written form “before the development of an Arabic orthography that could indicate with some precision how a text actually reads”; as a consequence, this early manuscript’s “defective consonantal form allows for variant readings not only of internal vowels and inflectional endings, but even of many of the wholly unpointed consonants themselves” (Graham 1986:345; cf. Ibn Khaldun 1958, 2:382). For an example of the ensuing interpretive complexities, see Powers 1986.
28. According to al-Amri (1985:191), these categories are eulogy, censure, self-glorification, criticism, and politics.
29. Aside from major manuals, a variety of brief compositions were verified. Two examples are a twentieth-century collection of imamite opinions (al-Sha’rani 1937 [a.p. 1356]) and an official schedule of damage awards for physical injuries (Zabara 1956:66–67). The opening of the former declares that “among the most important of obligations [is] Memorization of the opinions of the Imam of the Arabs”; the latter begins, “Memorization of knowledge is a facilitation; for its student, so memorize the verse/text/Off injury penalties.” Commentaries could also be verified: al-Suyuti’s thousand verses are a commentary on an embedded verse text, while the legal manual by Ibn al-Wardi is a verse-commentary on a prose mate he “decided to verify.” On the margins of the Ibn al-Wardi text, an author of other verses explains his treatment of still another text, saying he “verified it, summarizing its expression, rendering simpler its comprehension and its memorization.”

Verse both serious and light and on a wide spectrum of subjects has been a constant of highland scholarly activity. A few artful lines by a man of repute could release a torrent of rhymed replies, offerings of augmenting verses, and interstitial flourishes. For a number of years, Ibn litterati engaged in a protracted poetry duel with their counterparts from the neighboring town Jibla. When Muhammad al-Shawkani (see chap. 2) passed the night in al-Makhadir just north of Ibb, he composed two verses in praise of the evening scene. In them he introduced a legal metaphor that played on the name of a nearby qat-producing area called al-Bukhari, which is also the name of a famous compiler of hadith. The poem caught the attention of other poets, including two ahdals from the al-Bair family of Ibb. One of these set about adding both further verses and interstitial rimes in a different meter, all based on the original metaphor (see Zabara 1931:391). Extracts from the Ibn Jibla poetic duel are in Zabara (1941:206f). In 1922 Imam Yahya took time from a busy schedule during the fasting month of Ramadan to compose a long poem on the virtues of qat (Rihan 1930:210–11). Gatherings to chew qat and to hear the lines of old poets sung by musicians have always been a frequent pastime in Ibb. In Arabian society generally, poetry is “a major art, perhaps the supreme art” (Serjeant 1951:1), and its “tribal” practitioners have begun to receive the attention they deserve (Caton 1990; Dresh 1989; Meeker 1979).

30. Khadduri, trans., in al-Sha’rani 1961:15. On the similar composition of al-Sha’rani’s longer work, Al-Umm, see al-Mahmussani 1961:28. For a general discussion of this phenomenon, see Pederson 1984, chap. 3. In a very different intellectual environment, Saussure’s Cours de Linguistique Generale was also created from student notes.


32. Rosenthal (1947:7) notes that “the historian and theologian entirely relies upon written material. Memorized knowledge has no longer any place in his work.” The conventional classifications of the Muslim intellectual disci-
CHAPTER 2

1. There are Shi'a in some of the western mountain districts in the north; see Gerholm 1977:33–35. There are also important Isma'il groups, and formerly there was a large Jewish population.


7. See al-Hibshi 1979. In the Preface to this work, Jersean writes; “There can indeed be few countries of the world where so many rulers have not only written, but made a significant contribution to learning” (ibid., p. vii). Cf. al-Amri 1983:6 and refs. In the absence of an individual with the appropriate scholarly credentials, a caretaker figure, known as a mukhtasib, was envisioned (al-Murtada 1973:313–28).

8. E.g., “Whatever our master the Imam al-Mahdi...and the scholars pronounce is to be acted upon for it is shar’.” Cited Jersean and Lewcock 1983:77.


10. The Prophet’s specific descent line was part of the larger Hashimite clan, which was one of ten such clans that composed the Quraysh.

11. Al-Nawawi 1884:202–3. Al-Nawawi makes occasional use of the terms sultan and imam. There are no requirements listed for a sultan, a position mentioned in passing in connection with public Friday prayer, alms (zakat), the enlisting of land, marriage responsibilities (as ultimate guardian), and responsibility for miscarriages in one type of circumstance. Aside from the list of requirements, an imam figures in matters connected with warfare (permission for raids, distribution of booty, dealing with rebels, jihad, prisoners, financing the military), distribution of charity (sadaq), criminal punishments (crimes against persons, capital punishment, and the hadd crime of adultery), and responsibility for a well.


14. “The commentary which students have relied upon until the present” (al-Shawkan al-H. 1348, 1:394).


19. Sometimes referred to as tubbiyyah. Northerners use the disparaging term taqhib to refer to the speech of Lower Yemen, while in Ibb there is sensitivity to “Sa‘ani dialect.” One distinguishing feature is that the letter qa‘ is pronounced with a q in Lower Yemen and g in Upper Yemen.

20. For movements during the Qasimi period, see Mesick 1978:48–50, 268–69. The phenomenon began centuries earlier; see Dresch 1989 and Stookey 1978:123.

21. Two families provide examples of contemporary town descent groups which began in Ibb with eighteenth-century judicial postings. Muhammad al-Shuwayr (d. 1758) was from Dhamar, the northern plateau town about the size of Ibb, located on the route to Sa‘a and famous as a center of Zaidi scholarship. He is credited with a commentary on the text of the Azhar, and he also served three different imams in five judicial appointments to Lower Yemen, to the time of his death in Ibb. His son followed him as judge of Ibb, and his grandson, in a branch of the al-Shuwayr family by then well rooted in Ibb, was born, lived, and died (1796) in the town. But during his student days this grandson was sent north to the family’s ancestral Dhamar to study Zaidi jurisprudence. Back in Ibb as a teacher, it is noted in his biography that he taught inheritance law and gave instruction in the key Zaidi text-and-commentary, the Sharh al-Azhari. The same fundamental work figured as well in the formation of scholars of the al-Mujabi family. The elder al-Mujabi (d. 1763) grew up in Ibb in the far northern town of Sa‘a, the original Zaidi toehold in Yemen, where he was exposed to a wide number of subjects before concentrating on rhetoric and the Sharh al-Azhari. He later managed to get appointments, first to the ruling imam’s elite circle of secretaries, and then to a judgeship in Lower Yemen. The last sixteen of a total of thirty years of judicial service were spent as the judge of Ibb. Although raised in Ibb, his son was also sent to Dhamar to finish his instruction with a prominent jurist (another al-Shuwayr) with whom he studied Sharh al-Azhari. Sources: al-Shuwayr (Zabara 1958:716, 727; 1931:314); al-Mujabi (Zabara 1958:171; 1931:394; al-Shawkan al-H. 1348, suppl.:153).

22. For a discussion of the man and his work, see al-Amri 1985.

23. Al-Shawkan al-H. 1348:2–3; cf. al-Amri’s (1985:146) translation of
the first part of this text and his comments on al-Shawkani as a historian (pp. 186–91). As al-`Amri notes, al-Shawkani (d. 1548, 1:3–4) also offers a critique of historiography, specifically the biographical history form.

23. See al-`Amri 1985:106–10, for a discussion of this work and a useful genealogical table.


29. He is credited with treaties on such diverse subjects as jihād (in connection with the dual threats of the Idriṣi ruler of the ‘Asir and the Christian powers); on miracles attributed to saints, and a biographical work on the “kings” of the Uthman line (Zahara 1979:348). None of these works were available to me.

30. Al-Jirafi 1951:288n; al-Akwa’ 1980:295. Issued sometime before the death of al-Haddad in 1922, Imam Yahya’s iḥtīṣārat were initially a simple prose list kept at the court (al-`Alimi 1989:258–59). They were later revised, commented upon, and published in al-Shamahi 1937 (see chap. 11 below). An example of such opinions from previous Zaidi imams is the iḥtīṣārat of Mu`ayyad billah Muhammad b. al-Qasim, 1602–1644 (Serjeant and Lewcock 1983:79). In about 1950, Imam Ahmad invited scholarly comment on the poetry version (nāzima) of his own iḥtīṣārat. One who replied was Ahmad b. Muhammad al-Haddad, mufti of Ibb. The Imam subsequently wrote to al-Haddad, “Your letter of commentary on our honored iḥtīṣārat arrived clothed in eloquence and originality as it derived the Quranic aḥlīlī [see chap. 7 below] and the Prophetic hadiths, and we thank you for that” (photo in my files).

31. A short list of such works would include, in the field of hadiths, the two early Sahīhs of Muslim and Bukhari, commentaries by al-Shafi`i al-Nawawi and the Zaidi Ibn al-`Amir (Sahih al-Salat); al-Zamakhshari and al-Baydawī in iftā’; and Ibn Hisham and Ibn Malik in grammar.

32. According to al-Jirafi (1951:96) there was “chaos” after the fall of the Qasimi state. Al-`Amri (1985:3) is of the opinion that al-Mahdi al-`Abbas (d. 1775) “was the last important imam in the whole history of the imamate.”

33. Shaykh Ahmad ‘Ali Sa’d and son Sa’d were of northern tribal ancestry (oral sources: their descendants, Shaykh ‘Ali Mahsin Paasha of al-Mudhaykhira and son Shaykh Sadiq; cf. Zahara 1929:159; Playfair 1970 [1859]:126). Faqih Sa’d claimed to be the imam and the awaited mahdi and took the important state-formation step of coining money in his own name. A full spectrum of labels have been applied to this figure, viz.: faqih (jurist), awliya’ (saint), imam, mahdi, and, in the view from British Aden, “fanatic” (Zahara 1931:226–27; al-Jirafi 1951:197; al-Shamahi 1972:157–59; Playfair 1970 [1859]:147). In oral history, Faqih Sa’d is attributed with control over the jura, and he is said to have assured his forces that no harm could come to them when fighting for his cause. After treachery and defeats, his demic came in Ibb where he was beheaded by order of the imam.

This last of the great saintly figures of Lower Yemen (see notes 36, 37, and 39 below) appeared in the unlikely environment of Wahhabi influence combined with existing Zaidi opposition to such “ idolatry.” A nineteenth-century Yemeni historian saw Faqih Sa’d as an originally benign and ascetic “sufi” who, had he been offered the world, would not have taken it. “For forty years he remained in studious retirement, isolated from the people of wealth and power” (al-Hibsi 1980:92). For a contemporary Yemeni historian, the rise of Faqih Sa’d is closely connected to the chaotic situation of the region, which included foreign occupation of the Yemeni coast. Faqih Sa’d is seen as having overcome the quietistic bent of the sufi [asserted to be a typical Shafi’i reaction to trying times] to lead a popularly rooted rebellion seeking social reform (al-`Amri 1984:291–99).


35. A full assessment of the Ottoman period in Yemen must await a study of Ottoman sources. These include archives in Istanbul and such records as the Ottoman court registers available in Yemen. In 1880, Jon Mandaville and Muhammad al-Shu’aybi collected registers from al-Hudayda, Rajil, al-Zaydiyya, Kamaran Island, and Turbah and deposited them in the Central Library of the Ministry of Justice in San’a’. Studies of turn-of-the-century census data note, however, that the census was not “extended to the Yemen, the Hecaz, Tripoli of Libya, and Bengazi, where regular Tanzimat provincial administration was not yet established” (Shaw 1978:332).

Also remaining to be investigated are the early-twentieth-century Arab world interconnections. James Gelin, who is working on Salafiyya connections, kindly provided me a copy of an account by Muhhib al-Din al-Khatib of a trip to Yemen (al-Khatib 1972).

36. A qada’ administration, headed by a qa’immanaq was established in Ibb, replicating a structure found throughout the empire. This district officer, with his secretary and an assistant, oversaw the directors of the subdivisions of Ibb and al-Mahadhi and Ibb town offices that included treasury, education, a district court staff, a company of gendarmes, and a section concerned with “orphans and military and civilian pensioners.” (Source: Ibb qada’ financial
summary for 1916, original in my files; I thank Jon Mandaville for help with the Ottoman Turkish of this document. Also functioning at the time, but not mentioned in the summary, were the Municipality Office and the Pious Foundations Office. Until the last years, the staffing was Turkish and Ottoman Arabs at the top and town men occupying the middle and lower rungs. A small indicator of the special circumstances of Ottoman Yemen is the effort to institute standardized official attire. In the mid-1890s, Yemeni functionaries were required to wear Turkish attire, replacing the ‘inama turban with the turbus, but the requirement was soon dropped [al-Wasi’i 1928: 161, 176].

37. Many tombs of ash‘iya (sing. wafl) still stand in Lower Yemen, including twelve in Ibb town. These include al-Kazami, Shaykh Musa, Sayf al-Sunna, Shaqs al-Din (Fairuz), al-Nair (formerly at the main gate and now gone), al-Muqri, al-Khatib, Sadat al-Barashi, Beni Mufaddal (in a house), ‘Ali b. ‘Umar al-Azhar, al-Dagh Dah b. Ayyub (in Mansub house), al-Shallal (in al-Mahatta); al-Bayhani and al-Humazi are founders’ names only [source: Ahmad al-BAir, 1975]. Saint tombs were visited, mainly by women, on Thursday night (Friday eve) until such practices were banned by twentieth-century Zaidi governors.

Yemeni saints from Lower Yemen are the subject of a fifteenth-century biographical history by al-Sharji (n.d.). Where other works, such as that by Ibn Samura, specialized in shar’i jurists, al-Sharji’s intent was “to gather together a book in which I single out for mention the ash‘iya among the people of Yemen.” He writes that he had looked through the available sources, “but I did not see in any of them a presentation of a biography of a single individual among the various sufi and ascetic scholars of Yemen. They mention only the people of Syria and Iraq and North Africa, and such places, and this could lead someone who did not know about the circumstances of this blessed clime to suppose that there was no one worthy of mention, nobody who could be described as a wafl.” In his entries on particular men al-Sharji undertakes to cover “their characteristics, their sayings, their virtues, and their miracles.” The status of saintly miracles (karamat) is a central issue, one that men such as al-Shawwakani and ‘Abd al-Rahman al-Haddad addressed in their writings. After his opening remarks, al-Sharji’s first section is devoted to the “miracles of ash‘iya and their verification in the Quran and Sunna.” He concludes the section by saying that an accepting consensus on the status of miracles exists among the four Sunni schools and that only the Mu‘tazilites “and others like them among the heretics” deny the existence of miracles. This last point is especially significant, for the Zaidis are Mu‘tazilites in theology.

Among the Ibb men mentioned by al-Sharji (n.d.:6-6, 76) are two fourteenth-century descendants of Sayf al-Sunna, the early hadith scholar. They are described as jurists and ash‘iya. The first is a muqaddim to whom a posthumous miracle is attributed: “Every night a light was seen to rise up from his grave into the sky, causing the ignorant (jahl) to think there was a fire.” The second, a teacher noted for his unusual patience with students, is referred to as a jurist and a wafl, a man who “joined two paths, who received the honor of both houses.”

The most famous wasf in Ibb is al-Qusayr (d. 1299), whose white-domed tomb-and-mosque complex is located on the mountainside just south of town. A descent group still in possession of his giant-sized, crooked walking staff is one of the town’s leading families [cf. al-Sharji n.d.:107; al-Khazraji 1911:251; al-Burayhi 1983:82].

38. The Rib‘iyya Order, brought to the town by al-Qusayr (cf. n. 37), was defunct. Al-Qusayr (from al-Qusayr, Jerusalem) began receiving instruction in the order at age twelve. After his studies and initiation, he was directed to make the pilgrimage to Mecca and then continue southward to Yemen, where he was to spread the order and set up lodges. According to Shuman (1969:55, n. 55), sufí activity began to decline by the Tahirid period. On sufí activity in the Hadramawt, see Serject (1957:20).

Berkes (EI 2, art. “Islam,” p. 168; cf. 1964:259) states that there was a general revival of Sufi orders in the Ottoman Empire in the period 1876–1909. The Shadhiliyya Order, well known in Egypt and North and West Africa, was active in Ibb. The local shaykh came from Upper Egypt. The brothers had as their distinctive attire a white gown, white ankle-length pantaloons, special slippers, prayer beads, and a piece of wood used to clean the teeth before prayer, which at other times stuck out of the turban. They gathered in their lodge near the Great Mosque during the first morning hour after the sunrise prayer and again in the first hour of the evening after the sunset prayer. They recited two set texts of supplication (al-mashhadiyya and al-yaqutyya), then they began zu’tar (lit. repetition) of the name of God. This they commenced slowly and clearly in seated positions, but then they rose in a circle to repeat rapidly the letters “alif” and “ha,” the first and last letters of the word “Allah.” In 1975 Ahmad al-BAir explained this repetition by reference to some lines of poetry: “Alif is the beginning of the name, Ha is the end, the two Lams are without body/All the letters come out and with them the heart rises and soars.” There is now an important work by ‘Abd Allah al-Hibshi, al-Suffiyya wa al-yaqutyya fi al-yaman, 1976, which I have not been able to consult.

Zahara 1956:149–51. One poem says, the Prophet “did not order us/To play the drum, the pipe, the flute.” One senses a revulsion in these Shayfi jurists closely approximating sentiment among Zaidi scholars. Firmer still are lines that say, “To the call of Satan, you are responsive” and “Your religion is a wicked religion.” These jurists rejected what they saw as claims of superiority (“They are beautiful and the rest are flawed”) and of special insight (“They are the knowers of the sha‘ri’s truth”). Instead, the sufi are portrayed as sinners and liars, who in fact know nothing of the rules of ritual obligations, the hadiths, or the shari’a. Especially galling for the proper jurist was the presence of the sufí music and, worse, dance in “our mosques,” which
are appropriately “the places of manuscripts and books.” More practically ominous, since these jurists manned the judicial posts, is the line “He who dances is not to be considered just in his testimony” (cf. al-Nawawi 1884: 401–2). In Zaidi Ibb, most music would again be banned. The spiritual exercises of the sufi did not rule out participation in the conventional ritual of daily prayer. Also, men like Ahmad al-Basir, fitih teacher and notary, could join a brotherhood without a conflict of identity. Except for the testimony of al-Basir, we know little of the local sufi in this period from their own perspective. It is significant that al-Haddad’s and his teacher’s verses are quoted in a Zaidi-authored biographical work, which describes the poetry as “written on the subject of the sufi heretics.”


Ahmad Ibn ‘Alwan (d. 1266) was a contemporary of al-Qudi, but his background was quite different. Al-Sharjii (n.d.: 19–21) explains that he had intended to follow in his father’s footsteps as a royal scribe and to that end studied grammar, language, and related subjects in the field of letters. On the very day he was to assume his father’s post, as he was en route to the palace, the course of his life was abruptly changed: “A green bird landed on his shoulder and extended its beak up to his mouth. He opened his lips and the bird put something inside. He swallowed it. At that instant, he turned around in his path and went immediately into seclusion, staying in retreat for forty days.” His spiritual genealogy went back to Abu Bakr, the first caliph, whom he spoke of as his shaykh. Ibn ‘Alwan was known for his preaching, in the manner of Ibn al-Jawzi (cf. Giffen 1971, esp. 27–29), for his discourses and poetry on sufí themes and for speaking in tongues. In one cited discourse he makes a classic sufí distinction regarding the shari’a, stating that there is a conventional “outward” (zahir) meaning and a “truth” (haqiqa), or inner meaning. Hodgson (1974:403) has written generally that “as the several forms of Islamic piety became more clearly articulated, the more shari’a-minded came actively to distrust the Sufis and were inclined to persecute the less cautious of them for heresy; and the Sufis, though respectful of the shari’a and of the hadith-minded circles from which their movement had arisen, often privately looked down on the more shari’a-minded ‘ulama’ scholars as concerned more with the husus than with the kernel of truth.”

In 1821, the Zaidi imam of the day was apparently about to visit Ibn ‘Alwan’s famous tomb, but was counseled not to do so, perhaps by al-Shawkani who was with him at the time (cf. al-Amri 1984:231–32; al-Hibshi 1980:32–33). Hunter (1968 [1877]:175) says that one of fourteen annual saint’s visitation festivals in Aden was that of Ibn ‘Alwan. According to Ahmad al-Basir (Ibb, 1975), there used to be a zawaqa for Ibn ‘Alwan in Ibb, located in the present al-Mukhabata Mosque. There were also practices such as dedicating the firstborn animal, visitation of his tomb for cures, and pious beggars who circulated in his name.


42. Al-Wasi’i 1928:140. These same “people of Yemen” are characterized by their “affection” for the imam (1928:292). Due, in part, to the uniqueness of al-Wasi’i as a published source, this Zaidi-imamic historical view has been widely reproduced in Western scholarship. The different reception of Ottoman rule in Shafi‘i as opposed to Zaidi areas of the highlands has been obscured. Strokey (1978:164, 283), for example, says that “resistance to Ottoman rule had been a salient aspiration of the Hamid al-Din imams, shared by much of the population irrespective of sect,” and he refers to “a struggle by the Yemeni people under Imam Yahya’s leadership against the Ottoman occupation.” Serjeant (1969:295) identifies the source when he writes, “Both Zaidis and Shaﬁ‘is considered the Turks as foreigners, oppressors, and bad Muslims—so the Yemenite historian al-Wasi‘i sums up the Yemeni view. Elsewhere in his text al-Wasi‘i is quite laudatory of specific Turkish governors, praising them in terms that approach those of official Imamic rule. Serjeant (Serjeant and Lewcock 1983:57) also notes that, among Zaidis, “old men not infrequently speak well” of the Turks, and Gerholm (1977:35) mentions intermarriage in Manakha.

43. Al-Wasi’i 1928:141.

44. Schacht 1964:89–90. It was Schacht’s view that in the Ottoman Empire, the shari’a received “the highest degree of actual efficiency which it had ever possessed in a society of high material civilization since early Abbasid times.”

45. Al-Wasi’i 1928:233–34. Al-Wasi’i himself was the speaker at the Great Mosque of Sar‘a in 1910 [a.r. 1238] in an assembly ordered by the Ottoman governor following receipt of a telegram from Istanbul that the Ibadah had declared war on the empire and were attacking Tripoli. Al-Wasi’i urged the assembled people to “act in accord with the responsibilities of unity and agreement and leave behind differences and divisions.”

46. These are unlawful intercourse, false accusation of unlawful intercourse, drinking wine, theft, and highway robbery. The hadd punishments are obscene and replace them by ta‘zir. Ta‘zir is a form of discretionary punishment meted out by the judge. According to the nineteenth-century Ottoman Criminal Code, based on the French and modified by the Italian code, the hadd penalty of cutting off the hand of the thief was not recognized (al-Mahmussani 1961:42).
CHAPTER 3


4. Majalla, p. 3.


10. Kott 1966; El 2, art. "Ishah."


16. Onar 1955b:296. Outside of Turkey, the Majalla served for many years as the basic civil law of a number of successor Arab states (Liebsey 1975:89–93; al-Mahmassani 1961:46–48, where several commentaries on the Majalla are mentioned).


18. Al-Mahmassani (1961:45) notes that limitations on the freedom of contract were eliminated by Art. 64 of the Ottoman Code of Civil Procedure, as amended in 1914.


20. See Eickelman (1978) for citations; Goody (1968:14) writes that "under these conditions book-learning takes on an inflexibility that is the antithesis of the spirit of enquiry which literacy has elsewhere fostered."

21. Main 1861:10–11, emphasis in original.

22. Compare Weber 1978:821, "The sacred law could not be disregarded; nor could it, despite many adaptations, be really carried out in practice."


28. E.g., "heart" (Anderson 1959:15, 82); "core" (Berkes 1964:106, 467).


30. On this complex theme, see Goitein 1968; Rosenthal 1947:5; Peters
34. See John 1987:112–14. One late manifestation was seventeenth-century Roman Catholic confessional works. From the time of Pascal’s devastating attack in 1663 on Jesuit casuists, the method has “married the opportunity of moral sophistry” (1987:113), and dictionaries now define casuistic thought as “intellectually dishonest” and “disgracious.” Main recounts the fall of casuistry in the West in the following terms: “Casuistry went on with its dexterous refinements till it ended in so attenuating the moral features of actions, and so belying the moral instincts of our being, that at length the conscience of mankind rose suddenly in revolt against it, and consigned to one common ruin the system and its doctors” (1972 [1861]:267).
35. The specific critique of casuistry was integral to the wider rejection of earlier discursive modes associated with a fundamental shift in the episteme of Western culture (Foucault 1970:51–52).
36. Schacht 1964:121. Examples of casuistic approaches in Islamic law are given in Schacht 1964:205–6; cf. Weber 1978:821, and Liebesey 1975:31–33, where Roman and Muslim texts are compared. There is, however, a concept-oriented al-jaz literature, concerned with definitions and linguistic usages—e.g., al-Nawawi’s tafsir.
40. Schacht 1964:87. A similar attitude was behind the abolition of the legal authority of custom for the Muslim population of British India by means of the Shariat Act of 1937 (1964:96).
41. Van Den Berg 1984:18. Hurrejonje 1957 [1988]:267 maintained that the study of Islamic law was important for “practical purposes,” “the more intimate the relations of Europe with the Muslim East become, the more Muslim countries fall under European suzerainty, the more important it is for us Europeans to become acquainted with the intellectual life, the religious law, and the conceptual background of Islam.”
42. Compare the attitude of commentator al-Ghazali to the existence of versions of the Abu Shuja‘ main. As Keyser (Keizer) notes (1939:xxx), al-Ghazali incorporates frequent references to alternative wording found in different manuscripts. This inclusive method contrasts with the exclusive approach of the Western translators, who were concerned to create a monovocal definitive “text.”
43. Bouquet 1935:193. Keyser was also an early translator (in 1833) of al-Shirazi’s Kitab al-tasbih, later translated by Bouquet (1949). In his “Introduction,” Keyser (1939) provides a history of Dutch scholarship on such legal texts. While the French specialized in Maliki law, and the British in Hanafi, Dutch colonial interests dictated that they would be the main translators of the key Shafi‘i works. Like those after him, Keyser looked back critically upon the work of earlier translators, including a translator into Latin who was “not up to his task” (xxxvi). In his own work he says he follows the approach of Perron, the French translator of Khi‘al.
44. Van Den Berg 1984:xi.
45. J. C. Bouquet 1935:193. Keyser was also an early translator (in 1833) of al-Shirazi’s Kitab al-tasbih, later translated by Bouquet (1949). In his “Introduction,” Keyser (1939) provides a history of Dutch scholarship on such legal texts. While the French specialized in Maliki law, and the British in Hanafi, Dutch colonial interests dictated that they would be the main translators of the key Shafi‘i works. Like those after him, Keyser looked back critically upon the work of earlier translators, including a translator into Latin who was “not up to his task” (xxxvi). In his own work he says he follows the approach of Perron, the French translator of Khi‘al.
47. Compare the Egyptian Constitution of 1971 and the United Arab Emirates Provisional Constitution of 1971, in which shari‘a principles are a “major source” for legislation, Middle East Journal 26 (1972).
48. Al-Tasbi‘at. Throughout the period of important legislative efforts in the Y.A.R., Husain ‘Ali al-Hubashi served as the influential Legal Advisor and Director of the Legal Office (see Al-Hubashi 1988:143–45).
51. Al-Hubashi (1988:45–46). He also refers (1988:99) to the Civil Code as “mixed,” combining “shari‘a rules and secondarily Euro-Arab Civil Codes,” French law, mediated through Egypt, was the source for the new Public Prosecution legislation (Messick 1983b). Article 1 of the Y.A.R. Civil Code may be compared (in Liebesey 1975:95) with articles 1 and 2 of the Syrian (1949) and Libyan (1958) codes, which it resembles, and the Egyptian (1949) and Iraqi (1951) codes, from which it differs in that the latter place custom ahead of the shari‘a. Unlike the Syrian and Libyan codes, however, in the Y.A.R. code there is no reference to natural law, and both custom and equity are conceived in fub categories and as shari‘a constituted (al-lay‘ al-jaz‘ shar‘an and al-dalal al-musafif li-wal al-shari‘a).
to either school [the Zaidi or Shafi’i] and resorted to other schools when necessary.”
60. I prefer Pickthall (1976) to the translations in the Middle East Journal document, in which there are two errors in the verse numbers. It is 159, not 15, of Sura 3, and 38, not 78, of Sura 27.

CHAPTER 4

1. In addition to his autobiography (n.d., ca. 1979), which covers his early years, there is a brief biographical sketch of al-Qadi Muhammad on the back cover of his general history (1971). He taught at the al-Ma’in madrasa in the village of the same name near Ibb, and he served as judge in Dhib Suful and as a member of the hai’at al-shari’a in Ta’izz.
2. Al-Nawawi 1984: 248. The verb used is from the same root that gives tashir, the discretionary penalty capacity of the judge, although the judge has a different sort of responsibility for these acts. Cf. Eickelman (1978: 494) on the positive understandings of such punishments.
5. There are seven conditions for a woman to have this right of hadana: she must be discerning or rational, free (not slave), of the appropriate religion, chaste, just or trustworthy, have a fixed residence, and be separate (from her husband and not remarried).
6. The important structural parallel of Quranic school with craft apprenticeship is noted in Eickelman (1978: 494). Ibn Khaldun considers the study of tashir as “one of the crafts” (min jismat al-sana’). Ibn Khaldun considers the study of tashir as “one of the crafts” (min jismat al-sana’).
7. Al-Nawawi 1983: 18. The examination should be repeated two or more times, before Ibbah according to some jurists and after it according to others.
8. “Les étres vivants sont ‘mis en texte,’ mues en signifiants des règles (c’est une intertextuation), et, d’autre part, la raison ou le logos d’une société ‘se fait chair’ (c’est une incarnation).” (De Certeau 1979: 5)
9. The term qippa, according to al-Ghazii and Abu Shuja’ (1984: 648–50) refers in the language to the hair on the head of the newborn, and in the shari’a to the sacrifice. A child’s first haircutting is another important ritual mode of physically marking a social being. The general rules of sacrifice are elaborated in another manual section.
10. These are known as the humada, shikama, and kisaa al-wafa’a, respectively. For a twentieth-century Yemeni “folklore” account of childbirth customs, see al-Wafi (1928: 308).
13. On the hadana generally, see the article in EI 2; in Morocco, the ceremony often marked the complete memorization of the Quran; cf. Eickelman 1983. The hadana was a handwritten or printed (in Hyderabad) copy of the Quran bought for school memorization purposes (M. al-Akwā n.d.: 40).
14. Qadī means “judge” in Arabic, but in Yemen the word also refers generally to educated individuals of other than sayyid (descendant of the Prophet) background.
15. On this usage specific to instruction, see Serjeant and Lewcock 1983: 316; for another meaning, SEI, art. “al-Muhaqiqun.” On the related concept of kitab, concerning the separation and protection of people (muqayyarin) and places, see Serjeant and Lewcock 1983: 40–43. Dresh 1989. Travel for knowledge was an old practice; cf. chapter I and, generally, Eickelman and Pacatori 1990. For al-Juwani, gharba, foreignness, or absence from one’s native place, was considered one of the “requisites of knowledge” (Makdisi 1881, frontispiece).
16. Tibb, medicine, is an example of a branch of learning acquired outside the madrasa, generally without teachers, directly from books and personal experience. In an imamate order of 1719 (original in the possession of Ahmad al-Basir), an Ibb man named Ibrahim al-Basir is described as a tabib, a doctor, a “curer (muqawil) of the inside and the outside.” Although nothing further is
known about this man's training or skills, his medical tradition was an old and distinguished scholarly specialization.

Qasim Shujāʿ al-Din was one of the tabibs of twentieth-century Ibb. Born in a rural village, he had come to enroll as a poor student in the Ibb mosque school in 1917, the last year of the Ottoman rule. Although he attained full competence and esteem in the core fields—jurisprudence, hadith studies, and the language sciences—and was locally recognized as an 'āḏm and teacher, Qasim's particular intellectual inclination was toward medicine and the curing arts. This combination of a jurist's training with medical interests is not unusual (e.g., al-Khazraji 1914:93); even Imam Yahya wrote cures (Rihani 1930:133). Shared assumptions, terminologies, techniques, and the analogical method connect the two fields.

Qasim's principal textual sources were the well-known authoritative compilations of simples by Ibn al-Baytar (d. 1248), a botanist and pharmacologist from Malaga, and Daʿud al-Ankā (d. 1399), a doctor born in Antioch. A third major source was the compilation by the Yemeni Rasilid Sultan al-Muzaffar (1753). Through Ibn al-Baytar, Qasim was familiar with al-Razi and Ibn Sina, among the Muslim doctors, and Dioscorides and Galen among the Greeks. When I knew him, Qasim was also an avid collector who climbed the mountainside or wandered along the margins of terraces, head down in search of plants. His interests were the prescription of simples, dream interpretation, dietary regulation, and both recitational and written cures, for possession, impotence, and other problems. He had no expertise in such licit techniques as bloodletting and cautery, the second formerly practiced in Ibb by Jewish moris; practices he considered illicit, such as some forms of magic; and still others he did not credit, such as hypnotism, occasionally attempted by one of the town judges. He dated his interests in curing to an event that occurred before he began to study medicine. One of his students fell into a seizure, with hands flailing and head bobbing. Qasim recited to him the “Chair” verse (2:255) and then the Cave and Hātāb chapters (16, 111) from the Qurān, both of which mention “fire.” A jinn cried out “You've turned me” and was expelled to end the seizure. Up to that point Qasim only knew what everyone knew about the jinn, that they existed (cf. al-Qurān 55:15). As a student of the shari'a, he was also conversant with the legal incapacity implications of being possessed (majmūʿ). Qasim was not among those, including a nazila from Ibb, who tranced or otherwise summoned the jinn (e.g., al-Shawkānī a.h. 1348, 2, appendix, p. 208). His standard curative technique involved a specialized type of recitation, mobilizing potent words. Qasim's written cures included amulets and writing on plates, using either Quranic text or formulae composed of the names of God, or combinations of words, letters, and numbers. He mastered the sciences connected with the names of God, the letters of the alphabet, and numerical squares. Amulets are worn directly on the patient's body or written on objects that come into direct contact with the body, such as a woman's comb. The writing placed on plates is dissolved by a liquid, and the word is incorporated.


19. Ibn Khaldun's view of the Qurān as the "basis of instruction, the foundation for all the habits (mutaqāt) acquired later on" (1958, 3:300–301), quoted at the beginning of this chapter, is complicated by a second passage, which states, "no [scholarly] habitus can originate from the [study of the] Qurān, because no human being can produce anything like it" (ibid., p. 303).

20. These two views are consistent with my argument in chapter 1. The Qurān is, paradoxically, both the end and the beginning of the kitāb. The general scholarly problematic is one of crafting texts in the world of the Text.

21. Such an individual could become a specialist in Quranic recitation or seek employment as an imām of a mosque (cf. I. al-Akwa' 1980:187, quoting a document stipulating that an imām must be a hafiz).

22. Because of the presence of blind students, the Hāzr in Ibb is sometimes called dar al-makfiṣa. Biographical histories contain many entries on blind scholars, who are usually identified as "al-darī." This distinction was taught in Yemen (Zabara 1956:45; al-Shawkānī a.h. 1348, 2:219).

23. For usūf, see the article in SEF, and in connection with instruction, Makdisi 1981. For further details on usūf in Ibb and Yemen, see Meskis 1978, chap. 7, 8; Sejerant and Lewcock 1983:151–54, 315–16, 427–31. There were also less permanent forms of support. A common formula of support was il'am al-ta'im, to provide board, literally "food," but also sometimes clothing, supplies, and expenses (see I. al-Akwa' 1980:188, 194, 202). In about a.d. 1300, according
to al-Khazrajî (1911:265), a noted teacher from nearby Ta‘izz moved with his students to Ibb. His lesson circle had expanded to over a hundred students, and the mosque where he had been teaching was too small. The people of Ibb (ahl ibb) undertook to provide for the expenses (kifeyn) of the teacher and his large following.

34. In 1973, according to Ibb Endowments Office records, there were twenty-two active, endowment-supported mosques and nineteen that were former or inactive mosques (including those in ruins, displaced by construction, or used only as Qur’anic schools). Three were women’s mosques, with women imams and caretakers; two other mosques originally had separate men’s and women’s sections. Three were recent, located in new quarters. At least seven contain tombs of “saints” or founders, the most famous being that of Sayyf al-Sunna in the Sunni Mosque. There were also several privately administered mosques.


36. The ‘aqil for a somewhat later period said there were as many as two hundred mukajirin during his tenure. Eligibility for endowment support and for residence in the Hazr was obtained through a document of attestation, signed by the mufti and other notables.


38. Compare al-Akwa‘ (1980:201) on reading to a founder’s soul as part of an Ottoman (founder d. a.h. 967) period endowment in Zabid for the study of both Shafi‘i and Hanafi jurisprudence.

39. That of Isma‘il Baslama, written in a plague year, he actually lived another thirty years, so these particular endowments were not enacted. The charitable acts of his father Muhammad b. ‘Abd Allah Baslama (d. 1889) included repairing waterworks and minarets in Ibb, Jibla, and surrounding villages; providing daily allotments of bread to the poor at his house; providing clothing for widows and orphans; creating cemeteries; and establishing endowments for the Great Mosque and for darasa in Ibb (Baslama family sources; al-Akwa‘ 1987; cf. I. al-Akwa‘ 1980: 255). His brother Ahmad ‘Abd Allah also founded a darasa waqf for Ibb (muwaqadat al-darasa, Maktab al-Awqaf, Ibb).

40. Also on the “private” side of the waqf institution is another very important category, the “descendant’s endowment” (waqf ‘aṭā al-‘abrīyya‘).

41. This type of document is known as a ta‘awal, a “stepping down” from the position of sazir, administrator. In an Ibb document dated a.h. 1363, the position is transferred to a man, “and his descendants (isda‘alab) after him.” The recitation duty, which is always detailed, here includes reciting one-half of a section (ja‘z) of the Quran every day, to the soul of a woman and her brother.

42. I have the documentation for recitational waqf that were the subject of extended legal battles in several Ibb families.

43. In local instruments, the following lines are found: “As for him who transfers or alters [the waqf], I am his adversary, in the hands of God!” or “As for him who transfers or alters [the waqf], upon him is... the curse of God and the curse of all the people”; or, “As for him who transfers or alters or corrupts it [the waqf],... he is exposed to the wrath of God and has become like those afflicted with helplessness by the spirits (shayatin) of the earth.”

Al-Akwa‘ (1980:256–60) quotes the text of a Tahdiri prince, who also undertook charitable works in Ibb. The following litany of rhymed prose threats is aimed at those who would subvert his endowment: “He who desires to alter this, or some of it, or corrupt it, or invalidate it, whether guardian or peasant, or interpreting scholar, or judge or heir, whether by open expression, or concealed sign, or violent seizure, or out of greed or fear—he will bring ruin upon himself, and invalidate his integrity. Agonizing will his boldness be for him: he will deviate from his religion, scorn that which is sacred to him, and disdain his pledges. He will justify the curse upon him, the curse of the prophets, the curse of the cures among his good fellow men,... and he will draw near to Satan, the evil one, with the lowest of the lowly. God will not accept from him either transactions, legal acts, religious duties, or supererogatory works.”

Once created, endowments often suffered from the depredations of administrators, officials, and rulers. Al-Akwa‘ (1980:12) summarizes the fate of many early schools and their associated endowments as follows: “Most [of the schools] fell into ruin through neglect by the endowment administrators and others; some rulers took over the endowments, appropriating them for their own use. Also, the majority of the pious endowments created by the kings and princes for their schools were illegal [in the first place].”

CHAPTER 5

1. Author unknown, Arabic script in my files. I want to thank Ahmad b. ‘Abd al-Karim al-Akwa‘, an Ibb teacher and a frequent actor, for his assistance with this and other skits.

2. Al-Wasi‘i 1928:118, 175. After a.h. 1295 [1878], the Ottoman governor of Yemen, Isma‘il Haqqi Pasha, established both schools and new military units; after a.h. 1315 [1897], Governor Husayn Hilmi Pasha founded the Office of Ma‘arif and Schools (ma‘atikah), a teachers school (dar al-mu‘allimah), a vocational school, and a secondary school. An Ottoman Annual for the Province of Yemen for a.h. 1305 [1888] mentions the existence of rudiyya and secondary schools (Salname, p. 201 [SOAS Library call no. E. Per 2006701]).

Memduh Commission of 1904 found that by 1900 the Ottoman Public Education Law was in application in Yemen and that the system worked well (Mandaville 1984: 24–25).


5. According to the famous Educational Dispatch of 1854, British colonial officials considered it a "sacred duty to confer upon the natives of India those vast moral and material blessings which flow from the general diffusion of useful knowledge." Quoted in Furnivall 1948: 375; cf. 371–407.

6. Al-Wasi’i 1928: 118; cf. Bury 1915: 171, 180—Ottoman military education was German influenced. The first new units of Yemeni troops (known as the Hamidiyya) were almost immediately disbanded. According to al-Wasi’i (1928: 119), "there was no benefit to their having existed." While the Ottomans instituted military colleges in the three largest towns, the training of Yemeni troops remained limited. Imam Yahya later endeavored to build upon the important idea of a standing professional army. Among the publications of the imam’s press were two military instruction manuals (Rossi 1938: 574–77). Cf. Mitchell (1988: 36–39) for a discussion of an early-nineteenth-century Ottoman military pamphlet.

On official occasions, the local Ottoman detachment in Ibb, totaling (according to the district accounting summary of 1916) sixty-seven men in ten ranks and composed of Turks, Arabs, Circassians, Kurds, Albanians, and Laz, paraded with flags and sang martial songs to the accompaniment of a military band. The two most important military events of the period for the town were the 1904 Zaidi siege and World War I. The first was lifted with the arrival of a strong Albanian force, which impressed townspeople both with armaments (new Mausers, machine guns, and a six-inch German field gun) and techniques (signal corps, encampment in tents, and the carrying of dried field rations). When Sa‘id Pasha (see fig. 4) attacked the British in Lahi, his force included both regular companies and irregular levies recruited in the Ibb-Ta‘izz districts.

7. Based on a new education tax adopted in 1884 (Lewis 1968: 182), Art. 195 of the Public Instruction budget legislation provided for the use of waqaf funds, however, but these were newly managed (Young 1905: 2: 364). On the school taxes levied in Yemen, see Mandaville (1984: 24).

8. The document, for qa’id Ibb, has a section for qa’id al-ma’arif, listing monthly salaries of 800 ghurush for a first-grade mu’allim rashidiyya, 400 for a second-grade teacher, and 100 for the caretaker.


12. Berkes (1964: 102–8; 173–76). Although not instituted throughout the empire until later, the maktab rashidiyya schools were contemplated as early as 1838 (Lewis 1968: 84, 182).


14. Telegrams of the era were received on forms printed in Ottoman Turkish and French. I have photographed examples that were sent from Lahi to Ibb in 1915 (for published examples, see Salim 1982). Bury (1915: 164–65) says French was used on the San‘a‘-Hudayda line, but only Arabic characters (i.e., Ottoman Turkish) on the internal, San‘a‘-Ta‘izz (via Ibb) line.


16. Compare Meccan circles of Shafi‘i students in the latter part of the nineteenth century: "We are first of all struck by the great difference of ages: in the same circles sit grey-beards and boyish boys, stripplings and grown men" (Hurgronje 1931: 1888–89: 186).


22. Class work represents 25 percent and written exams 75 percent of the final grade in each subject. The subjects and their relative weights for a fourth-grade elementary school student in 1973 were al-tarbiyya al-islamiyya (150), al-tugha al-arabiyya (100), al-rayyidan (100), al-muwa‘if al-jumhuriyya (60), al-ablu wa al-‘izah (40), al-tarbiyya al-haditha (20), al-tarbiyya al-rida‘fiyya, al-nurah, and al-nusirat (these categories left blank). The report card also has sections for class rank and for attendance.


27. The Ottomans also had a normal-school for teacher training that operated in Istanbul; for his part, the imam opened a dar al-sulam wa al-mu‘allimin. Al-Wasi‘i (1928: 293) says that "an individual who obtained a degree was sent to one of the villages as a teacher."


30. These numbers are from al-Akwā'ī (1928:293) gives a figure of three hundred students for the early years.
31. Al-Waṣāʾī 1928:293.
32. The school's endowment, including properties that produced an annual yield of about a half million old riyals, was constituted out of the redirected revenues of endowments pertaining to (1) saints' tombs (waṣaf al-turab), which were located mainly in Lower Yemen; (2) endowments for mosques that were either deserted or ruined; (3) other endowments of uncertain designation; and (4) properties confiscated from the Ḥāna'īlī community. A new Endowments Office was opened the same year as the school (I. al-Akwā'ī 1980:300–301; cf. Mas'ūd 1976).
34. Al-Waṣāʾī 1928:293. In reference to the orphans' school, he comments that the program for their instruction exhibits the "utmost order (ghayat al-nizām)." On his travels, al-Waṣāʾī (1928:35) studied in Mecca and traveled often to Egypt and Syria; Rossi (1938:580) says al-Waṣāʾī went subsequently to India, Dutch India, and Ethiopia, and was at the time of Rossi's visit about to go to Italy to visit a son who was a student there. A listing of the "most important" books is given in I. al-Akwā'ī 1980:288–90. The subjects of study, given as the categories of the book listing and in a sample class report card (p. 290), include tawhid, fiqh, usul al-fiqh, fara'id, balagha, ta'fīr and ākham, mustalah al-athar, falak, nahi, sarf, mantuq, hadith, sira, adab 'ilm al-qira'āt, ta'līkh (one book), and mā'ānī and Nāyān.
35. I. al-Akwā'ī (1980:287n) gives an example text. This is virtually identical in structure to military kāfala (I. I. have for a company (balak, a Turkish term) raised in Ibb in the 1950s.
36. In addition to al-Akwā'ī, see al-Waṣāʾī 1928:293–94.
37. Scott (1942:166–67) on a march-past on the 'id, the Great Feast; Fayez 1953:48.
39. Al-Waṣāʾī 1928:261. Serjeant (Serjeant and Lewcock 1983:99) quotes this verbatim and without citation. This practice is frequent in the excellent historical summaries in Sa'dia and is justified for the sake of brevity and to avoid further burdening an already heavily referenced text. But with a writer such as al-Waṣāʾī, this can entail the uncritical reproduction of an imamatic line.
40. Cf. the biography on the back cover of Qadi Muhammad's Al-Qāmid al-Shofra Bảo 1971. According to Qadi Isma'il al-Akwā'ī (taped interview, Feb. 27, 1976), their father was appointed to the Ma'āin post in A.H. 1341 [1922]. Among the former Ibb students I knew were 'Abd al-Karīm al-Akwā'ī and Muhammad Yahya al-Ḥaddad, who said he studied at Ma'āin with Muhammad al-Akwā'ī in the years A.H. 1351–1364 (1932–1944).
54. See Messick 1978.

CHAPTER 6
3. Niebuhr 1792, 2: 261. He comments, "The Arabians value chiefly a species of elegance, which consists in their manner of joining the letters, the want of which makes themselves dislike the style in which Arabic books are printed in Europe" (1792, 2: 261).
4. Lewis 1968: 50–51; Berkes 1964: 36ff; there was also a ban on the importation of printed books (Gibb and Bowen 1957, 2: 151).
5. Cited in Lewis (1968: 41). In a 1925 speech at the opening of the law school in Ankara, Mustafa Kemal (Ataturk) reflected on the old resistance to printing: "That same mirth and power, which in defiance of a whole world made Istanbul [from 1453] for ever the property of the Turkish community, was too weak to overcome the ill-aumed resistance of the men of law and to receive in Turkey the printing press, which had been invented at about the same time. Three centuries of observance and hesitation were needed ... before the old laws and their exponents would permit the entry of printing into our country" (Lewis 1968, 274).
10. Stookey 1978: 188.
11. Rosi continues, "Also the children of the elementary school have few printed books available to them; they mostly learn on [wooden] boards which they use like slate or they take notes in notebooks under dictation from the instructor."
12. Among those interviewed were an al-Musannif from Jibla and Muhammad Yahya al-Haddad, from Ibb; al-Haddad was a former diwan secretary for Imam Ahmad and later a republican cabinet minister and published historian (al-Haddad 1976; 1986). He is a third-generation descendent of ‘Ali Naji al-Haddad. Muhammad was always very generous in responding to my questions during my years in Ibb.
13. There were a few commentaries on advanced works published in Yemen. On the curriculum list given by I. al-Akwa’ (1980: 288–89) for the madrasa ‘îlimiya, four works were available in editions printed by the government press in San‘a‘: two were commentaries on a Zaidi usul al-fiqh treatise known as Al-kahfi, by M. b. Yahya Bahran; one was a commentary on the usul work Al-shayar; and one was a work on tafsir by M. b. al-Husayn b. al-Qaim; cf. Rosi (1938: 571–72, 578); Renaud (1980–82: 317). Two other books published outside of Yemen at early dates are also on the list: Sabah al-salam by al-Amir on hadith (also studied in Ibb), published in Delhi in 1884, and al-Shawkani’s Naji al-a’war, published in Cairo in 1928.
14. Ong (1982) gives a concise analysis of the shift from manuscript to print culture in the West.
15. Al-Haddad went to Dhamar after an initial meeting with al-Wazir in Ibb. In a biographical entry on al-Wazir (Zabara 1979: 369–69) it is reported that this imam of the abortive 1948 coup was appointed judge in Dhamar in 1915, later given further responsibilities, and finally transferred elsewhere in 1920. In 1920–21, he took charge of the annual zakat collection in Ibb. Al-Haddad left al-Wazir’s service after the death of his uncle ‘Abd al-Rahman al-Haddad in a.h. 1340 [1922]. Al-Wazir’s desire to have the history text in question copied had to do with its prominent treatise of an imam in the al-Wazir line.
16. Rosi 1938: 579. The rate of pay was a thaler (a royal) per sixteen-page unit (barras, pl. kararis).
17. The old jurisprudence manuals (e.g., al-Nawawi 1883: 159) mention copyists (‘urrah) in sections on the hire (‘ijara) contract. Just as the tailor and the kohl specialist are not responsible for providing thread and kohl when their services are hired, so the copyist is not responsible for providing ink.
21. Serjeant and Lewcock 1983: 101; Serjeant 1979: 90. In the Ottoman period, according to Bary (1915: 166), Egyptian newspapers were available.
23. On the press in Aden, see Luqman (1972: 264–68); some fourteen papers had fleeting existences from 1940 to 1952. In 1877 (Hunter 1868 [1877]: 85), there were two printing machines in Aden, one of which was run by the prisoners in the jail, but there were no newspapers.
27. Rossit (1938: 380) continues, “The first reading book in use in schools in San‘a’ in 1937 was the syllabary called Qā‘ī’āt Qaḥkhisā‘a (printed in Cairo by ‘Isa al-Baḥi al-Halabi) with annexed brief sections of the Quran.”


29. Husayn b. Yahya al-Wasi‘i is named in the imamic decree of 1925. There is a brief biographical notice in I. al-Akwa‘ (1980: 300–301); he is also mentioned in the biography of his brother in al-Jirafā a.m. 1365: 94. According to al-Akwa‘, he also taught at the madrasa al-Timiyah.

30. This appointee is not named in the decree of 1925, but according to al-Akwa‘ (1980: 301) this was al-Qaṣīḥ Muhammad b. Ahmad al-Hajari, author of Masuqīd san‘ā‘i (a.m. 1361 [1942]) and a short tract on Yemeni history [al-Jirafā 1951, “kal”].


32. A centimeter is defined on p. 342 of the Fihrist as “a tenth of a tenth of a meter, which is equivalent to a dhirā‘a and a half of the known dhirā‘a.”


34. The imam refers in this context to an early ruling by Imam al-Mutawakkil ‘alā Allah Ismā‘il (ruled 1644–1676), which also holds for no leading to the descendants in question without a security deposit.


38. Notices section in Oriente Moderno signed V.V. (1938: 91), citing the official newspaper al-Imam of Shawwāl, a.m. 1356 [1938]. Al-Jirafā later wrote that the committee was formed in a.m. 1361 [1942] (introduction to Zabra 1979: 18), and an editor’s footnote corrects this to a.m. 1356.

39. List given in al-Jirafā 1951, “ba,” and notes 1–4 same page. Al-Mura‘ is called “Father of the Revolution” and credited, in the same years as his official work, with the founding of the first organized opposition group (al-Shamāhī 1972: 176–84; cf. Stooker 1978: 214–16; Douglas 1987: 33). In addition to a book written as part of his History Committee activity, he wrote for the newspaper al-Iman. He was executed in Haja for his role in the unsuccessful 1948 coup (Zabra 1979: 55–57). Al-Warith edited and wrote for the journal al-Hikma al-jannamiyya, which was suppressed by the imam (Zabra 1979: 108–10; al-Jirafā a.m. 1365: 93). I. al-Akwa‘ (1980: 278–79) writes that “his discussions in his house and his regular articles in al-Hikma al-jannamiyya annoyed Imam Yahya Hamid al-Din,” and, insulted and depressed by the resulting restrictions imposed upon him, he fell ill and died in 1940 at age twenty-seven. His book on Imam Yahya was “lost” after his death. For his part, the committee head Zabra was “perhaps the first to raise his voice” (Peterson 1982: 77) in demands for reform.

40. Breakdown given in al-Jirafā 1951, “b,” with footnotes on how this worked out in terms of committee members’ writings.


43. On Sulayman Pasha, see Lewis (1968: 347); cf. S. Hurgronje (1931: 165n) on the book “History of the Muslim Conquests,” a new “universal history from the Muslim point of view from the time of Muhammad till the year 1885,” written by the Sha‘fi‘i mufti of Mecca and published there by the government press during Hurgronje’s stay.


45. The bibliography appears at the beginning, before the title page, while later bibliographies are placed at the end. There is an embedded listing of references at the beginnings of Zabra (1929 and 1931:note).


47. In some cases this included being in colloquial. Al-Jirafā’s bibliography on page “waw” mentions a history by al-Harazi, and he says that “most of it is in colloquial expression.”


49. In a.m. 1343 [1924] in San‘a’, Zabra published Iḥāfa‘ al-mustashshin bi-dihār al-a‘mmat al-niladhidin (title in text of Zabra 1979: 21 differs from bibliography title given p. 13). In a.m. 1345 [1927], al-Wasi‘i published in Cairo a work Al-Badi al-mazil li huzn fadl al-yaman wa mahāsah San‘a‘, dhat al-amin. Al-Wasi‘i’s Tā‘bir al-yaman, which I have repeatedly referred to, followed the next year, and two years later Zabra published both al-Shawkānī’s famous biographical history Al-Badi al-tali‘ and his own Nā‘īf al-asā‘ir in Cairo. Several important early Yemeni histories had already appeared in European editions or translations (al-Hamdanī 1884–91; al-Janadī 1892; al-Sharī‘i 1903; al-Khazzrazy 1906–8).

50. The book was completed with the assistance of Zabra’s son Ahmad, mufti of the Y.A.R., and was edited by the Center for Yemeni Studies and Research, with the participation of al-Jirafā.


53. Al-Yaman: al-insan wa al-adara, 1976. Al-Shamahi has been criticized by Western writers for putting himself too much in the forefront of events.
57. Za‘id bin ‘Ali and his Magīm, see references provided in Renaud (1980: 310–12), and comments and further references in Kazi 1962: 36–40. Za‘id’s authorship is disputed: Schacht (1950: 337), for example, refers to the book as “wrongly ascribed.” The publication by Eugenio Griffini in 1919 of a critical edition of the Magīm (Corpus Jursis al-Za‘id Ibn ‘Ali. Milan: H. Hoepli) was connected with Italian colonial interests of the era in the Red Sea region.
58. Taqfid (poetry) or taqāfat (elegy), could accompany the text in publication much like excerpts from favorable reviews. The five scholars approached, whose names are listed in the biography, are said to have praised and lauded the work, to have verified the soundness of the method, and to have given Imam Za‘id the recognition he deserved. Source: biography in K. al-Ashar al-Murtada 1973, appendix.
59. Al-Jirafi, “Foreword” to Zabara 1979: 17, and n. 3.
60. I. al-Akwā’ (1980: 303); in Zabara 1979: 399, it is indicated that the minister of Ma‘arif, Sayf al-Islam ‘Abd Allah, was involved as well. The date of publication, according to the bibliography in Serjeant and Lewcock (1983) was a.h. 1366–68 [1946–48].
61. Za‘id’s many trips, see a section on “riblatih,” pp. 11–12 in introduction to Zabara 1979, and also details in the biography on p. 583.
62. Al-Waṣḥī 1929: 318. Al-Waṣḥī, who was wearing glasses on his visit, was amazed by the fact that children he encountered cried out in unison, “He has two jewels in his eyes,” using the classically correct dual form “naturally.”
64. Muhammad al-Akwā’ (1971: 190–202) discusses earlier generations of scholarly travelers to Yemen. He also describes several trips in search of early inscriptions. In one case he was after one which “the hand of research had not reached” (1971: 252, 367n).

The pre-Islamic history of the highlands involves a series of complex “inscription stories,” politics based on trade, agriculture, and hydraulic expertise.

These early states are known for, in addition to standing architecture, their epigraphic remains, written in an angular, upright South Arabian script that later Arab scholarship would refer to as musnad (Ibn Khaldun 1958, 2: 381; cf. Pederson 1984: 3–5).
66. Called ta‘līf, see nashr or ta‘līf al-ta‘līf al-yaman, it was constituted in 1962 with M. al-Akwā‘ and Ahmad Sharaf al-Din among its members.
67. Established by Command Council Order No. 7 of 1975 and by Order No. 7 of 1976, revised by Order No. 23 of 1977 (these last two published in al-Takhrib, vol. 4, pp. 928–29 and 92). A list of fourteen organizational members (including the Egyptian historian of Yemen, Dr. Sayyid Mustafa Salim) is given, p. 928. An original title to the Ministry of Education was changed in 1977 to the ri‘āsid al-dawla, the head of state’s office. The description of the CYS is as follows: (Art. 1) “The Center for Yemeni Studies is concerned with human and natural studies in the country’s past and the present and the future, and with everything connected with the Yemeni intellectual legacy [tawāth].”
68. Among the future historians who worked as secretaries (tasīb) in Imam Ahmad’s diwan were al-Shamahi, al-Haddad, Sharaf al-Din, and al-Waysi.

CHAPTER 7
3. I am indebted to Muhammad al-Wahhabi, the multi of Ibb, for allowing me to spend many afternoons in his diwan. In 1980 he responded to my written request for information about his life with a virtual biographical-history entry: “My life—my birth was in the town of Ibb in the month of Safar in the year 1331 [1912]. When I reached seven years of age I entered the Qur’anic school and learned the Qur’an and recitation (taṣawwuf) with teachers, among them al-Faqih Muhammad ‘Abd Allah al-Amar and al-Faqih Muhammad bin Muhammad al-Shuwab. After the completion of [these] studies I transferred to the madrasa of the Great Mosque of Ibb and learned the basic principles of jurisprudence, grammar, inheritance, and calculation. Then I transferred to the second class and studied jurisprudence, grammar, rhetoric (al-ma‘nī and al-lajn), hadith, and usual al-hadith with Shaykhs at the Great Mosque school, such as al-Shaykh al-‘Alami Qasim bin Najj al-‘Arasi, al-Faqih al-‘Alami Ghalib bin ‘Abbas al-Musarnif, al-Qadi al-‘Alami Ahmad bin ‘Ali bin Saliha al-A’asi, his brother al-Qadi al-‘Alami ‘Abd Allah bin ‘Ali bin Saliha al-A’asi, al-Qadi al-‘Alami Ahmad bin ‘Ali al-Basir, al-Qadi al-‘Alami Yahya bin ‘Ali bin Najj al-Haddad, al-Qadi al-‘Alami, the current Head of the Second
Court of Ibb Province, Ahmad bin Muhammad bin `Ali al-Haddad, and others. Then I was appointed repetitor (ma`u`a) in the madrasa of the mosque of Ibb, then teacher (ustadā) in the madrasa of the mosque of Ibb, then teacher of the madrasa of al-Jarāfī outside the town, and I remained a teacher there until my return to the madrasa of the mosque of Ibb as a teacher replacing its greatest teacher al-Faqqī Qasim bin Naji al-Darasi [d. 1943]. I stayed in instruction until I was appointed official mufti of Ibb Province; then I was appointed a member of the First Court of Ibb Province, then came my return to the fatwa function for the province. And I have continued to be mufti until this hour.” For further detail on twentieth-century Ibb scholars, see al-Akwā’ 1987:154–55.

4. As a public institution, the muftiship resembles the Roman jus publice respondendi (Weber 1978:797–799; Tyan 1960:221), while in its unofficial aspect, the muftiship is similar to the responsa-delivering Jewish rav, a function distinguished from the position of judge and held by such men as Maimonides (Goelein 1971:212, 325).


6. Sayyid Ahmad b. Muhammad Zabara (b. a.h. 1325), son of the famous historian, was appointed to the muftiship in San’a by `Abd al-Rahman al-Iryani during his tenure in the late 1960s as president (biographies in al-Jirafī a.h. 1365:53; Zabara 1979 [written by al-Jirafī]:148–51). He married a daughter of Imam Ahmad’s and taught the imam’s son Muhammad, the future Imam al-Badr. The mufti of the Province of Yemen under the Ottomans was Muhammad Jughmān, and before him, Hasan b. Hasan al-Akwā’ (biography in Zabara 1979:214–16).


9. On fatwā, al-Nawawi (1884:365, 368). On relative ignorance (ja’āl): “Abu Hanifa expressly permitted the investiture of a Cardi, even if he were not discharged in the subtleties of the law” (Gotttheil 1908:393; cf. Tyan 1960:227). But ‘alāda and jiḥād are both ideally required of a judge by al-Nawawi (1884:364) and al-Ghazzī (1894:672), with some explicit limitations.


12. A longer poem critical of judging during the era of Imam Yahya is reproduced as Appendix D in al-Abdin (1975:291). See also the ski from Ibb translated at the end of chapter 10 herein.


14. Cf. a hadith to the same effect in Wensinck 1971:118.


20. An agricultural plot with the name al-Jail was a waqf providing annual income for the holder of the Ibb muftiship.


22. In ibid., this is one of the grounds for dismissal.


24. This was Muhammad al-Jughmān. See al-WasīFI 1928:173–74, 201–4; Zabara 1979:577.


30. Twenty-third-century muftis surveyed in the former Aden Protectorate reported that when acting unofficially, and when asked for a general opinion
(i.e., not simply for the opinion of their school), they exercised a type of ijihad they called *bi-fatawa*, which was the lowest of four types (Anderson 1970:38, 370).

31. Al-Shawkanī a.h. 1348, 2:223; Brockelmann 1943:819. For other remarks on his mufti activity, see a.h. 1348:219.

32. See EI 2, art. “Islam.”

CHAPTER 8

1. Wensinck 1971, s.v. “knowledge”; cf. Qur’anic verses 2:159; 2:174, which use the same k-t-m verb (hide, secrete, conceal).

2. Cf. the usage of the terms *dala'il* and *adilla* by the Ibn mutfi and al-Qarafi, cited in the previous chapter.

3. This notion of “intermediary” is also defended by reference to the relations that obtained among individuals of the early generations, who were neither “followers nor interpreters.”


8. The term *danja,* already mentioned as meaning a “degree” of status difference based on knowledge, refers elsewhere in the Quran (2:228) to a “degree” of difference based on being male instead of female.


10. Beyond the language issues, a long list of social-category and hierarchy-sensitive preferences guide the determination of who should lead the collective prayer. Among these, al-Nawawi (1882:134–37) states, negatively, that “neither a man nor a hermaphrodite may lawfully pray under the direction of a woman or a hermaphrodite”; otherwise preference exists for such things as irreproachable character, scholarly attainment, age, and nobility of descent. “Where two persons are equal in all these respects preference will depend on cleanliness of clothing or body, sonority of voice, nobility of profession, etc.”

11. Al-Nawawi goes on to mention preference for the owner of land over an imam who owns nothing, the master over the slave, the lender over the borrower, and the legitimate governor over either the scholar or the landowner.

12. Al-Nawawi 1882:133. Van Den Berg and Howard translate gari as “letter” and as “one who can read and write”; I have rendered it as “one who can recite.” According to al-Nawawi, the untrained are apt to violate recitational purity by omitting a consonant, by not properly pronouncing the doubling of a letter, by pronouncing two distinct letters as one in stammering, or by substituting another letter for the appropriate one.


See Zysow (1984) for a discussion of these different points of view. See also the important discussion in Weiss 1983.


15. Al-Juwaynī n.d.:34.


19. Contractual and related idioms (exchange, bargaining, negotiation) have figured prominently in anthropological accounts of North Africa (e.g., Geertz 1979; Rosen 1979, 1984).

20. For an insightful discussion of this “transparency” in a Yemeni context where inequalities were “on display,” see Gerholm 1977:188.

21. Al-Nawawi 1884:601f. “Serious” is a rough translation of *mura‘* which refers to the ideal male qualities.


23. Al-Nawawi 1883:332; cf. Ziaudeh 1957. Occupation is one of five criteria to be taken into consideration to determine if a suitor is an appropriate match.

The other four are physical defects, free status (instead of being a slave), character, and status according to descent (nasab). This last criterion, descent, is dealt with in numerous places in the shar‘a’s manuals. It is one of many elements of the hierarchical context in which Islam emerged not fully revised by communitarian principles. While jurists tended to view the “tribal” as a purely opposite foil for Muslim civilization, many “tribal” structures are integrated into shar‘a’s discourse.

In the marriage-rule context, at the highest level of generality, descent difference means that “a non-Arab is not the equivalent of an Arab woman,” but it can also mean that an individual not of Quraish, the Prophet Muhammad’s tribe, is not appropriate for a woman of that group, or, more narrowly still, that one not of the Prophet’s immediate descent lines is not suited for a woman of those lines. A variety of status honor is derived from descent, and this is an issue in determining appropriate marriages, both in general and with respect to the exemplary, and specific case of individuals known as “descendants of the Prophet” (*sada*, sing. *syyriz*). In Yemen and elsewhere in the Muslim world blood descendants of the Prophet have often occupied the highest rung of society, exhibiting the purest realization of honor through lineage. In practice, in places such as Ibb, strict endogamy was frequently violated among the *sada* themselves, while endogamy has generally obtained on the level of the elite as a whole considered in relation to the lower social ranks (cf. Bujra 1971).


29. For an important study of the relation of justice to social hierarchy, see Mundy 1983. See also M. al-Akwa' (n.d.:159-60) for a discussion of the attitude of the “three classes” (tabaqat).
30. Cf. al-Burayhi 1983:96: “There was love for him in people’s hearts, and fear (al-haJa).”
31. Cited in Serjeant 1977:238. In some circles, scholars were objects of disparagement. Amin Rihani’s soldier escorts filled his ears with negative comments about jurists.

CHAPTER 9

3. E.g., al-Was‘i 1928:295, but also in colloquial usage.
6. Cf. al-Was‘i 1928:136-27, on a Turkish wall which is described in the same formulas.
7. On wasik as shaykhly honor, see Dresh 1989; 1990.
8. Imam Yahya stopped making himself available in his later years (Obermeyer 1981:189).
10. Normally, shakwas concern individual–individual matters, although they can represent claims against officials (e.g., al-Was‘i 1928:178, 211). A right of complaint against judges and other officials had long been fundamental in the Ottoman Empire (cf. EI 2, art. “Mahkama:2. The Ottoman Empire, i. The earlier centuries,” pp. 3-5). In Ottoman Ib‘b, the shakwa was known as an ‘ard hal; in Egypt, there were ardhaljis, writers of complaints (Ziedeh 1968:22). The Constitution of the Yemen Arab Republic affirms this right (Art. 44): “Yemenis shall have the right to complain to any state organization concerning violations of the laws by public officials or their negligence of the duties of their office.”

13. In 1980 I collected shakwas and inventoried their volume, origin, and type at the two main shakwa-receiving offices in Ib‘b, those of the governor and of the subdistrict officer.
14. I have a collection of about 100 shakwas delivered to Ib‘b by mail from outlying districts in about 1950. (Cf. Ibn kaldun 1958, 1:389f. on mail and the political danger of obstructing them.) One shakwa, dated 1950, is of relevance. It concerns the desired return of five familiar books (identified simply as Diwan Hafiz, Kitab al-Imsha, Muluk al-Muslimin, Rihla Nasib Bk, and Kitab al-Shari‘a) which the petitioner originally gave as a deposit for a now repaid loan of six riyals.
15. A former secretary to Imam Ahmad was my principal source, although this activity has also been described by travelers.
19. Unlawful intercourse, false accusation of unlawful intercourse, drinking wine, theft, and highway robbery.
20. Al-Nawawi 1884:376, 379; cf. 418 (accepting secondary testimony), 430 (on a minor a judge might know to have been found); al-GhaZZi 1894:684; al-Murtada 1973:284.
21. See the important comparative discussion of “local knowledge” in Ghali 1983. For Morocco, Rosen has examined the general and specifically judicial patterns of “acquisition of knowledge about other people” (1984:18; 1989).
22. Al-Nawawi 1884:4 (but see p. 329).
26. Al-Nawawi 1884:430–51. This specialization was also required to determine the identity of a foundling’s father. On the science of frasa, see Mourad 1939; Fahd 1966, chap. 3.
27. Also envisioned in the new legislation—al-sulta al-qada'īyya, Art. 21.
32. Al-Nawawi 1884:446 gives an example concerning establishing the religion of one’s parents, which may well be “known.”
33. A “standard definition” from al-Qarafi (1967:349) is “the report of something sensible by a group of people whom experience precedes from acting in concert” (quoted in Zysow 1984:14).
34. In the Majalla (Arts. 1732–35, p. 250) ta'awwur is used to refer to evidence.
35. A sharī‘a could be a partner in commerce, or a tenant farmer, or a co-resident, etc.
37. See the cautions in Schacht 1964:62; and counter views in Udovitch 1970.
40. See Dresh 1989. The Ibb material will be covered in a later work.
42. See the discussion on state qanun or law as a type of custom, in EJ 2, art. “Mahkama.”
43. These types may be diagrammed as follows:

<table>
<thead>
<tr>
<th>Official</th>
<th>Unofficial</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sharia</td>
<td>Court</td>
</tr>
<tr>
<td>Custom</td>
<td>Judicial Arbitration</td>
</tr>
<tr>
<td></td>
<td>Governor</td>
</tr>
</tbody>
</table>

45. In Sharh al-Azhur, Ibn Miftah a.h. 1357:317, adab al-qadid section. The “so long as judgment is not clear” formula occurs as well in the early letters, which also advocate compromise (Serjeant 1984).
48. Ta‘fidz entails various possible categories of powers.
49. Al-Nawawi 1884:366. Al-Nawawi cites both a position that holds it totally impermissible and a wider view that allows it only when there is no state judge in the district.
50. In an Ibb tahkim judgment dated A.H. 1332 [1913], for example, the resolution occurred under shari‘a court auspices and included a formal presentation of evidence by witnesses. The mutual agreement of the two parties then is noted at the end of the document. Cf. Majalla, pp. 266–67 on tahkim rules.
51. Case document dated A.H. 1379 [1959], using the related formula of ikhtiyar (“choice”)—of the shari‘a judge of nearby Dhi Safal in this instance—as the arbiter.
52. Published in 'Araf 1982:261 (oon min wasada ilahihi bi-l-taradi min ghayribin); p. 265 (tahkim shari‘at allah).
54. Cf. biography in al-Shawkani a.h. 1438, 2:333.

CHAPTER 10

1. Personnel referred to as mu‘arrin al-ta‘miyya, lit. “ilm officials.” Salaries are monthly (in ghuruk).
2. See Majalla, Book xiv, on “actions”; xv on “evidence and decisive oaths”; and xvi on “court organization, judgments, and arbitration” (cf. Liebsky 1973:69; Onar 1933:306–7). These sections were replaced in 1980 by the Code of Civil Procedure, based on French law. Nizamiyya courts were not instituted in Yemen or the Hijaz [EJ 2, art. “Mahkama”].
3. A document dated 1936 [A.H. 1355] summarizes the procedural and organizational rules to be followed in Imam Yahya’s court system. This handwritten copy of the original text is reproduced in al-‘Alimi (1989:265–71), who remarks that it blends rules derived from abolished Ottoman law with others from adab al-qadid in the shari‘a.
6. This began in 1975. For background on the shift from zakat taxes and grain accounting in the old Treasury Office to commercial taxes and cash accounting under the Central Bank, and details on such old offices as the Awwaf, Baladiyya, Amlak, Sadaqa, Anbar, and Wajibat, see Messi 1978.
7. The 1916 Ibb district accounting document also has a section for the Ottoman gendarmerie stationed in Ibb, with sixty-seven men in ten ranks.


9. Local men mentioned on the personnel list are from the al-Haddad, al-Ansi, al-Mufi, and al-Akwf families—all leading non-sayyid (or “qadi”) descent groups in the town. There are two members of local sayyid families. Another important “qadi” family, al-Mujahid, and sayyids from two local descent groups are represented on the district list of “political stipends” (cf. al-Wasi’i 1928:112).


11. Al-Wasi’i 1928:207–9; Points One and Two.

12. While Point Six clearly covers the Ibb case, there is some ambiguity in the treaty about whether Lower Yemen might be considered among the regions where the imam could make his Zaidi appointments. In connection with negotiating Point Thirteen, al-Wasi’i (1928:209) mentions “Ta‘izz,” which at the time included Ibb, and Point Ten of the treaty says that “the government will appoint judges for the Shafi‘i and Hanafi except in the mountains (al-jibhal),” which could mean only in the coastal plain, the Tihama. That “Ibb town” and Ta‘izz were actually considered part of the purely Ottoman sphere is indicated by the biographer of al-Amri, who was one of the mediators (see al-Jiraf i.a.h. 1365:139).

13. I have no information about whether these were ever implemented.

14. The dictum of al-Shafi‘i (140:419) is “Muslims have agreed that the Khalifa is unitary, the judge is unitary, the amir is unitary, and the imam.” Multiple judges, with separate jurisdictions defined by place, time, or type, are known. Even judges with the same jurisdiction are possible, so long as they do not judge a single case together (al-Nawawi 1884:367). A deputy judge (mu‘aqal al-khalif) is also envisioned, with conditions (al-Nawawi 1884:365–66).


I have translated masbasib on the Ibb personnel list as “usher,” but there is also a position envisioned in the Da‘an Treaty (Point Eight) for masbahrin of the “circuit courts,” which are supposed to circulate in the rural villages to settle shari‘a’s claims. I have no information concerning the implementation of this treaty provision.

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18. Al-Yamani’s title Shaykh al-Islam was a laqab (al-Akwf 1980:297; cf. Zabara 1979:438); al-Amri is referred to as both Shaykh al-Islam and Qadi al-Qudat by his biographer (al-Jiraf i.a.h. 1365:6).

19. A judgment may be reversed (nagil) only if it contains important mistakes: “If he judges by jihadh and it then becomes clear [that this is] significantly, not subtly, contrary to a text of the Qur’an or the Sunna or a consensus or analogy, then he or another [judge] should reverse it” (al-Nawawi 1884:376; cf. Schacht 1964:196). Cf. al-Nawawi 1884:406, concerning nagil when testimony turns out to have been given by infidels, slaves, or minors (or if both are fasiq, in one opinion).

20. Al-Wasi‘i 1928:237–38. Point Two says, somewhat ambiguously, that the court will handle “shakwas” directed to it by the imam. As al-Jirafi says (a.h. 1365:142), however, the work of this court was to “reconsider rulings of judges, and [either] confirm (dhama‘) or reverse (nagil) them.” Both terms later became part of the official name of the court, which was initially known simply as dhowan al-ist’atraf. Point Four of Da‘an states that judgments requiring the death penalty must be sent to Istanbul for confirmation.


22. Among the presiding judges, in San'a', were Sayyid Muhammad Hasan al-Wada'i, Sayyid Yahya Muhammad al-Abbas, and Qadi 'Ali al-Anisi, and in Taizz, Sayyid Ahmad Zabara and Qadi 'Abd al-Rahman al-Iryani. The court in Ta'izz was known for a period as al-hai'a at-timiyia, and is said to have reached higher than the Appeal Court in San'a'. (Sources: same as preceding note.)

After the Revolution, the Appeal Court was consolidated in San'a', until 1979, when additional, province-level appeal courts were instituted as part of the general policy of decentralization. Procedures for appeal were legislated in 1976 in Gyan al-marja'atu (Law of Procedure), No. 121 of 1976, published in Al-Jom'a al-Rasmiyya, vol. 11, no. 8 (Aug. 31, 1976), arts. 188–225, pp. 32–34.

23. This from old men in Ibb and from a limited number of judgements from the period held in private hands. The Ottoman court records themselves have yet to be examined.


25. Premodern histories from Lower Yemen abound with mentions of men holding Ibb judgeships (e.g., Ibn Samur 1587: 235f., including a list; al-Khazrajji 1911 and 1914; al-Burayhi 1983: 83–116). Upper Yemen sources for the later Zaidi period down through the nineteenth century provide more scattered notices about individuals posted to southern highland towns and districts. European travelers, who began to arrive in Ibb by the early seventeenth century, were often received by the town judge. In 1609, John Jourdain was so hosted, as was Niebuhr in the 1760s. Niebuhr remarked of judges that "in Turkey, they are reputed very corrupt and selfish; but in Yemen, we found them persons of great worth and integrity, earnest to do right and candid justice."


28. He was Hakim in al-Nadira and, later, Hakim al-Maqam in Ibb. He was also married to a woman from an Ibb family and was one of the local leaders of the jam'a at-tishah and during the Dasturiyya coup of 1948.

29. Both 'Abd Allah b. Muhammad and Hasan b. Ahmad served as Hakim al-Maqam in Ibb in the decade before the Revolution, and the latter made the transition to become hakim of the province after it, while his son and other Iyani continued to hold local judicial positions in the 1980s. According to his son, Hasan al-Iryani was born ca. 1906 [A.H. 1324] and died ca. 1968 [A.H. 1388]. He worked initially as a court secretary, then his first judgeship was in Ma'rib in ca. 1931 [A.H. 1330], for five years; this was followed by Mlham (Mahwit) thirty years; Khabab (Sada) two years; Sha'ir (B'dan) two years; Yarm, five years; then Ibb pre-Revolution, eight years, and post-Revolution, five years. I have a short hikam of his from Yarm dated 1949 [A.H. 1369].

Other judges appointed to Ibb in the imamic period were virtually all Zaidis from the northern highlands, including both sayyids and qadis. Under Imam Yahya, al-Iryani was followed as Ibb district judge by Sayyid Hasan al-Warith, from the plateau town of Dhamar. Al-Warith had been among the judges of the dwan of Imam Yahya and was in the Ibb post when he died in 1934 [A.H. 1353], after having previously served in several other towns. He was followed by Sayyid Isma'il al-Marwani, said to be related by marriage to Imam Ahmad. Judges of the Ibb maqam in this period were al-Qadi Muhammad al-Hamd (father of another national leader), al-Qadi Muhammad al-Ghishim, and al-Qadi Sahib al-Fadali. Sayyid Isma'il b. 'Abd al-Rahman al-Manur, from al-Ahnum, was initially judge of the district and then, under Imam Ahmad, of the province; Sayyid 'Abd Allah b. Ishaq, from San'a' and Hamdan, was judge of the district; and al-Qadi 'Abd Allah b. Sahib al-Fadali, from Anis, was judge of the subdistrict. In addition to the two Iyani, al-Qadi Ahmad b. Muhammad al-Wada'i also held the judgeship of the maqam. Both al-Ghishim and 'Abd Allah b. Ishaq were graduates of and former teachers at Imam Yahya's madrasa al-ilmuyya in San'a'.

An outside judge who figured in a few of the most intransigent local legal battles of these years, involving several powerful town families, was al-Qadi 'Abd Allah b. 'Ali al-Yamani, the son of the former 'Shaykh al-Islam' (Zabara 1979: 430). Described by Zabara (1979: 378) as "one of the greatest scholars of the era," the younger al-Yamani intervened in Ibb cases in the 1940s and 1950s, from his post of "judge of the seat" in Ta'izz, first with Ahmad as governor, then as imam.

30. See Amin Rihani 1930: 49 (photo facing p. 52); al-'Azm 1937: 289–92.

In a document from the early years of Zaidi rule Basalamah signs himself, traditionally, as Ibb "district officer," in both Ottoman and Zaidi texts - qa'mamqam 'iznil Ibb. Of Hadrami merchant background, Basalamah was a state official (formerly head of the municipality), an active merchant, and a powerful landholding, but town-based, Shaykh.

In rural areas under at least nominal state control there tended to be both state officials (district officer and judge) and shaykhy authority. In the immediate Ibb area, Isma'il Basalamah managed to combine both types of authority; and in the Shaffi districts newly acquired by the imam this was sufficient to guarantee his continuance in office.

Although they often accepted appointments as state officers in other districts, shaykhs from Lower Yemen did not relinquish authority over their home districts.


34. El 2, "Makkama: 2. The Ottoman Empire, i. The Earlier Centuries," p. 3; cf. further references in Gibb and Bowen 1957:122.
35. Gibb and Bowen 1930:121.
36. E.g., in 'Aif 1982.

CHAPTER 11

1. Cf. Schacht 1964:193, “There are no legal acts which must be embodied in a document.”
3. Compare the perspective in which a document “gives formal expression to a legal act or agreement, for the purpose of creating, securing, modifying, or terminating a right” (Black’s Law Dictionary, 4th ed., p. 941).
14. Wadli, pl. wulati. An important manual chapter is devoted to “agency” (usulata).
22. Al-Nawawi (1884:382–92) devotes an entire chapter to this important and problematic category of ruling.
26. The original list was dated 1934 [1353]. The rule in question, number fourteen, stated, “Reliance upon handwriting is accepted, if the handwriting is known and its writer known for probity” (al-'Alimi 1989:258). See chapter 2, n. 30.

27. A common expression. See, for example, the section “Writing” in M. al-A‘awi 1971:251. Compare also the section in Ibn Khaldun (1958, 2:356), which is cited and discussed in Mitchell 1988:130ff.
31. The generic word for all types of legal instruments is mu‘amala, pl. mu‘amalat. A notary is a kadih al-mu‘amalat. Other frequently used general terms for documents are wasiqa (pl. wasiqa‘); hujja (pl. hujja‘); wasaqq, (pl. wasaqq). Some types have specific names, and some of these are peculiar to Yemen, or Ibb; for example, a safe contract document is known as a baqa‘a (pl. baqa‘ar); an individual’s inheritance document in Ibb is called a farq or faq. Records and some types of receipts are referred to as sanad (pl. sanadat); or as registers (djanaf, pl. djanafat).
32. Ma‘amala refers colloquially both to the undertaking itself and to the written document in which this is set down. The word has a range similar to the English “transaction,” including both “behavior” and, in a technical sense, “pecuniary transaction” (Schacht 1964:145). In the manuals of jurisprudence, the subject matter is broken down into two major sections, the opening 'hadat (ritual obligations) section followed by the longer mu‘amalat (transactions) section. In the Sharh al-A‘zam, for example, the first volume contains the ‘hadat and volumes 2 through 4 the mu‘amalat.
34. One instance of theft of bana‘ar occurred in a case (no. 26 of 1980) heard in Ibb by the new office of the niyaba (cf. Messiak 1983b).
35. See Frantz-Murphy (1985) for a summary of the state of research on early document use in the Middle East.
36. Local photocopy studios are expert at reproducing documents. Lengthy scrolls are copied by skilfully joining copy sheets together and placing studio seals on the back for security.
37. Serjeant (Serjeant and Lewcock 1983:487b) refers to a practice of ta‘il al-habisa, cancellation of an old sale document by the judge.
38. For a discussion of the legal stratagem, the kita‘ (pl. kiyat), see Schacht 1964: index, s.v. Al-Nawawi uses the term, e.g., 1884:432.
41. Known more specifically as kadih al-mu‘amalat, or in some contexts, such as marriage, as the faqih. Another type of faqih mentioned earlier is the government administrative assistant or functionary.
44. See elements of his biography discussed above.
45. Cf. Wakin 1972:41, n. 2. Writers may also be entrusted with a client's documents and keep money on deposit until a transaction is consummated (cf. Schacht 1948:521).
48. *Milk*, the shari‘a category of individually held and alienable land figures in manual sections on the sale contract. Yemen is distinctive (Lebanon being a comparable Middle Eastern case) in the overwhelming historical predominance of the milk property form, estimated at between 70 and 80 percent of all cultivated highland land (Dequin 1976, cited in Gerholm 1977:59). The two other significant categories of land rights, endowments (wawf) and state lands (mirā‘), also have, in Yemen, a close relation to milk. Endowment land legally presupposes the prior existence of milk rights, out of which an endowment is constituted. While mirā‘ refers to a type of usufruct holding with ultimate title vested in the state (as in the central Ottoman Empire), in Yemen the small amount of such land is mostly the confiscated former milk holdings of the ruling Zaidi imams of this century.
49. Manuals contain chapters on sale, the most important of the “transactions” (mu‘amala‘at). The sale contract has been described as a model for the other types of bilateral contracts (Schacht 1964:151–52).
51. For the full text, see Messick 1989:36–37.
52. From a comparative perspective, Goody (1986) states that “when writing appears, the concern with truth in time becomes closely linked to the use of written evidence” (p. 154) and, specifically, that “written evidence in court is characteristically given greater truth value than oral testimony” (p. 152). This view is accurate here only to the extent that (1) documentary evidence was always very important in practice, and (2) that it has very recently become important in theory. In this instance the stronger association of writing and truth that has emerged is connected, not with the advent of literacy, but with integration in the Western-frame discursive culture of the world system.
53. Law 72 of 1983 on the regulation of notaries (umman‘a). Qualifications for the position include being able to read and write; a general understanding of the shari‘a; “being proposed by the citizens of his jurisdiction”; and an examination for those without a degree in shari‘a law. The profession is to be supervised by the judiciary (Hubaishi 1988:174).

CHAPTER 12

1. Al’Azn 1937:164. Salim (1982:25) writes that “the lines of a document turn around themselves such that the last appear inverted in relation to the initial ones.” See also the discussion in Khayrallah 1974.
2. For other examples of such spiraling correspondence, see Salim 1982.
3. In contrast, Ong (1982:100) gives a quasi-evolutionary theory of changes in the movement of writing. Semitic right-to-left writing is the most “primitive,” followed by the back and forth of boustrophedon, then the vertical mode of stelechon, and finally the “definitive left-to-right movement on a horizontal line.”
4. In Ibā‘ sale instruments over the last two hundred years, the manual-derived legal terms for the alienation of land and the clause organization of the text are largely invariant. There seems to be no representation in the legal formulas of changing relations of production. For a preliminary discussion of this problem, see Messick 1989.
5. Weber’s interests in double-entry bookkeeping and the bureaucratic file are famous (see Weber 1978). Wittfogel (1957:50) writes, “The masters of hydraulic society were great builders because they were great organizers; and they were great organizers because they were great record keepers.”
6. In earlier work Goody (1977) developed the comparative significance of the list, and his recent work provides an important comparative view of textual aspects of bureaucracies (1980).
7. Sercu and Ghenen 1957:23–33.
8. For other aspects of administrative change, see chapter 10 and Messick 1978.
9. This was actually a copy of a copy made by the same copyist three years earlier, commissioned in 1928 [A.H. 1346] by the ibh governor Isma‘īl Basalamah, from an original (known as al-‘ahbasiyya) that dates from 1764 [A.H. 1178] and which was kept in Sar‘ā. It contains a record of individual properties pertaining to the major endowments benefiting the Great Mosque of Ibh and other regional mosques. The copyist was named al-Majihlub, a former Endowments Office functionary whose son worked at the same office and helped me during my research. The junior al-Majihlub also made decorated administrative (idari) calendars, including one prepared for me with lunar-Muslim, solar-Christian, fiscal, and star systems of reckoning. Wittfogel (1957:29) noted that “time keeping and calendar making are essential for the success of all hydraulic economies.”
Daniel Varisco has important work in preparation on *Medieval Agriculture and Islamic Science: The Almanac of a Yemeni Sultan*. See also David King (1979) on mathematical astronomy.

10. See chapter 1, p. 29.

11. See examples in Salim 1982. The ones I photographed were sent to the Ottoman governor in Ibb from Sa‘id Pasha at the Lahij front in World War I.

12. Photographs of documents dating from the early 1900s in my files.

13. Salim (1982:22) notes that these signatures got more complex over time, something that also occurred with seals. Niebuhr (1792, 2:261) remarked that Yemenis “sign their letters with a sort of cypher, to prevent the possibility of counterfeiting their signature; at least, the great and learned do so.” Ibb governors of recent decades signed in an ink color no one else was allowed to use, such as the aquamarine of al-Qadi Ahmad al-Sayaghi in the 1950s. In general, contemporary Yemeni signatures have adapted to the discipline of horizontal lines, such as the signature space on a bank check.

14. Holobawn and Ranger 1983. Going further back into the history of Muslim seals and related coinage, it becomes clear that the use of writing and names on seals was not “original.” Adoption of these calligraphic forms followed an earlier figurative period (Grabar 1973:97–100, 135–36).

15. In a personal communication, Paul Dresh writes that the scholars of Huth in Upper Yemen refer to the spiral shape in such letters by the term *muhawsha* (from *haša*), and indicate that the intention was decorative (*ilšāgil*). Among the imamic seal-bearing documents I photographed in Ibb are two letters (my numbers 578 and N173) from Imam Yahya to the local governor, Isma‘il Basalamah, and a document (N148) confirming the choice of a shaykh in nearby Ba‘dan, all dated early in 1916, and also an attestation of 1928 for the just discussed foundation register (my number 9). Imam Yahya’s seal also appears on an estate-division document I have from 1934. Two, slightly different seals used by Imam Ahmad appear above Appeal Court rulings on the backs of Yarim and Ibb shari‘a court judgment documents dated 1950 and 1958. For other published examples of Imam Yahya’s seal, see ‘Afīd 1982:256, 260, 270. A very different triangular seal was placed on envelopes containing such messages as an appointment for an audience (see Scott 1942:173).

16. E.g., an Ibb judgment scroll: “No objection to what the learned scholar Yahya bin Muhammad al-Iryani, may God protect him, wrote, on this date”; or after an appeal, “[May it be] affirmed what was decided by the Appeal Court on this date.”

17. Coon 1935:225. In another traveler’s summons to a private audience, the handwriting was “smeared with red ochre, a sign made by the Imam with his own fingers, as important as his seal” (Scott 1942:173).

18. It was often the case, however, that the imam would date the text at the end of the spiral before the applications of the seal and the *hamra* (see Salim 1982).


21. For a description of such a section in Ottoman San‘a’, see Harris 1893 and Serjeant and Lewcock 1983.


25. One of many Yemeni examples is the early-nineteenth-century visit by the imam, accompanied by al-Shawkani and others, to Lower Yemen (al-‘Armaki 1985:129).