

PUBLIC EXECUTION IN THE Umayyad PERIOD: EARLY ISLAMIC PUNITIVE PRACTICE AND ITS LATE ANTIQUITY CONTEXT*

Andrew Marsham

UNIVERSITY OF EDINBURGH

Executions can be understood as symbolic events and part of wider political culture. Recent commentators on early Islamic execution have observed that Umayyad punishment of apostates, rebels and brigands was 'pre-classical'. There is less agreement about the extent to which 'Islam' affected Umayyad practice. Epistles and poetry provide a more secure basis for understanding Umayyad public capital punishment than the problematic anecdotal evidence of other sources. Umayyad punitive practice was indeed not 'classical', and its justification does not seem to have explicitly invoked Prophetic precedent. However, it was sometimes justified with reference to the Qur'ān, and in particular with reference to ideas about violation of God's covenant (*nakth*) and public violence (*khurūj* and *fasād fī l-arḍ*). Furthermore, when the supposed forms of punishment are considered in their late antique context, features of Umayyad-era penal culture that appear to have been shaped by the wider, monotheist context can be identified.

Introduction

Classical Islamic legal thought distinguished between two main kinds of public violence by Muslims: 'brigandage' (*ḥirāba*) and 'rebellion' (*baghy*). The former, also often referred to as 'highway robbery' (*qaṭ' al-tarīq*), was understood to mean the use of public violence for material gain; the latter was rebellion on the basis of an interpretation (*ta'wīl*) of

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Islam. The death penalty, which was the punishment for apostasy from Islam (*irtidād*), was also usually associated with ‘brigandage’ and ‘highway robbery’. The two relevant passages from the Qurʾān were held to be 5.33–4 and 49.9–10, respectively:

The recompense of those who make war (*yuhāribūna*) against God and His Messenger and cause corruption on the earth (*yasʿawna fī l-arḍ fasādan*) is only that they be killed (*tuqattalū*), or crucified (*yuṣallabū*), or their hands and their feet be cut off on opposite sides (*min khilāf*), or that they be banished from the land (*yunfaw min al-arḍ*). That is their recompense in this world, while in the afterlife they will have a severe punishment (*ʿadhāb ʿazīm*). Except for those who repent before you defeat them. Know that God is forgiving, merciful (Qurʾān 5.33–4).

If two parties (*al-tāʾifatān*) among the believers fight each other (*iqṭatalū*), then make peace between them. But if one of them transgresses (*baghat*) against the other, then fight, all of you, against the one that transgresses until it complies with the command of God. But if it complies, then make peace between the two parties with justice and be fair, for God loves those who are fair and just. The believers are but a single brotherhood. So reconcile your two brothers, and fear God so that you will receive His mercy (Qurʾān 49.9–10).

The classical legal position not only depended upon the verses themselves, but also upon an extensive exegetical and jurisprudential tradition that had evolved over more than three centuries.¹

Two scholars have recently addressed the question of the relationship between the Quranic material as interpreted in classical Islam and earlier, Umayyad penal practice. Both Khalid Abou El Fadl and Gerald Hawting see Umayyad practice as pre-classical: that is, both historians assume that the complex, classical Islamic positions on ‘apostasy’, ‘rebellion’ and ‘brigandage’ had yet to achieve their ‘orthodox’ status (or even to develop at all). However, the two scholars put rather different emphases on the role of the Qurʾān in Umayyad legal thought and practice. On the one hand, Khalid Abou El Fadl observes, ‘it is rather clear that the Umayyads, in the first century of Islam, applied, or at least used, the dogmatic symbolism of the *ḥirāba* verse against their political

¹ On the classical Islamic law for brigandage, rebellion and apostasy, see: J. Schacht, ‘Ḳatl’ in *Encyclopedia of Islam* (2nd edition), iv, 771 (Leiden, 1990); J. L. Kraemer, ‘Apostates, Rebels and Brigands’, *Israel Oriental Studies*, 10 (1980), 34–73; K. Abou El Fadl, *Rebellion and Violence in Islamic Law* (Cambridge, 2001).

opponents'.² On the other hand, Gerald Hawting argues for much less importance for the Qur'ān in Umayyad times: 'forms of punishment for heretics were still quite arbitrary in the later Umayyad period, based on inherited practice and not showing much sign of the impact of Islamic or Quranic regulations'.³

The common basis for these divergent conclusions is the testimony of the later Islamic tradition. Abou El Fadl tends to note the parallels between the prescriptions of the Qur'ān and Umayyad practice: 'the language and the penalties of the *ḥirāba* verse were co-opted and imitated ... Eventually it became common practice for the Umayyads and early Abbasids to execute rebels and mutilate their bodies'.⁴

On the other hand, Hawting takes the view that in the early period, 'we might expect a reasonably arbitrary and random pattern [of execution and punishment] ... that would serve to underline the power of the rulers and the limited restraints on them'.⁵ For Hawting, the prevalence of 'crucifixion' (*ṣalb*, often the gibbeting of a beheaded corpse, but sometimes execution by exposure and wounding)⁶ in later accounts of early Islamic practice is not in itself significant: 'crucifixion was a traditional punishment in the Middle East, and it is likely that its use simply represented a continuation of tradition'.⁷

What the disagreement between the two scholars highlights is the great difficulty of recovering early Islamic history from the later tradition and the consequent importance of the models and theories brought to the

² Abou El Fadl, *Rebellion*, 57, 52–61.

³ G. Hawting, 'The Case of Ja' d b. Dirham and the Punishment of "Heretics" in the Early Caliphate' in C. Lange and M. Fierro, eds, *Public Violence in Islamic Societies* (Edinburgh, 2009), 37. For previous scholarship on the question of the punishment of unrest and rebellion in the Umayyad period and Islam, see especially: J. Schacht, 'Ḳatī', *EF*, iv, 771; Kraemer, 'Apostates, Rebels and Brigands'.

⁴ Abou El Fadl, *Rebellion*, 52–3.

⁵ Hawting, 'Ja' d b. Dirham', 35.

⁶ F. E. Vogel, 'Ṣalb', *EF*, viii, 935–6. Kraemer relates the Arabic term to the Assyrian *ṣilbu*, 'a crosswise arrangement of bandages or wood' and notes that the Targum translates the Hebrew *tālāh* by the Aramaic *s'ēlāb*: 'Apostates', 67, n. 129.

⁷ Hawting, 'Ja' d b. Dirham', 35. However, Hawting does also observe that it 'may ... be possible to argue ... that rulers took some care to justify ... executions in religious terms'—that is, he suggests that political opposition was often represented as 'heresy' (*ibid.*, 37). This often appears to be true, although some 'rebels' who may have understood their cause in religious terms appear to have been killed as 'mere robbers', see below, 113, 126 and n. 93.

analysis of the evidence: Abou El Fadl and Hawting do not much disagree about the forms of punitive practice used by the Umayyads, but their wider assumptions about early Islam and the Umayyad period determine what these forms are taken to mean. For Hawting these penalties are ‘quite arbitrary’ and ‘based on inherited practices’; for Abou El Fadl, ‘the co-option’ of the Quranic *hirāba* verse became important in the rhetoric of Umayyad punishment.

A list of some of the evidence for the use of capital punishment in the narrative sources down to the end of the Umayyad period is presented in the Appendix to this article.⁸ ‘Crucifixion’ features very prominently in the treatment of defeated rebels (for example, nos 5–8, 12, 18, 23, 27–28, 32–33, 35–42, 43–44, 47–48, 50), as does the presentation of severed heads to rulers and their public display (11, 18–19, 21, 41, 46, 50). There is widespread mention of the amputation of limbs (1, 3, 9, 14, 19, 29–31, 35, 38, 41–42, 44, 46, 49), as well as occasional reference to immolation (2, 4, 14, 39). Other less frequently mentioned penalties include blinding (37, 49), cutting-out of tongues (37, 42), flaying (14), exposure (17) and trampling by animals (4), as well as the burning of the corpses of the executed (14, 40, 41, 44). Various associated humiliations, including fettering and bridling (15, 30, 36), the breaking of teeth (15, 36), beating (17, 36), parading on beasts of burden (19, 41), and the shaving of hair and beards (17, 36) are all also mentioned in connection with executions in the sources.

For all that the later tradition may have been subjected to embellishment and tendentious reshaping, this list does tend to support the more impressionistic assessments of both Abou El Fadl and Hawting about the forms of early Islamic punitive practice (and so also their divergent conclusions). This article takes two new approaches to attempting to resolve the question of the theoretical basis and symbolic meaning of Umayyad practice. First, it examines Umayyad justifications for the death penalty in their sermons, letters and poetry: the Umayyads did not explicitly cite the *hirāba* verse but they did they justify the execution of rebels, deploying ‘inherited practice’ to symbolic effect. Second, it considers further the late antique context for Umayyad practice: there were important continuities from pre-Islamic practice, but these do seem to have been interpreted as having particular new symbolic meanings.

That is, this article seeks to approach the question of the punishment of rebels as not just a matter of legal theory, or the assessment of

⁸ Below, 126.

‘influences’, but as an aspect of the history of political culture and even ritual practice – the symbolic communication of claims to legitimate authority. The meaning of Umayyad executions resided not just in choices about punishments, but also in the claims made about them and, further, in the way that they were understood by those who witnessed them. This approach also acknowledges the interplay between Realpolitik and ambient ideas about justice and legitimate authority: punitive practice by rulers rarely, if ever, coincides with the theories of lawyers, theologians, or other sources of ‘legitimate’ authority beyond the royal court. At the same time, all governments are restrained to some extent by the expectations of those they seek to rule and the limits of their coercive and persuasive power.

This historically contingent and contextualised approach allows us to divest ourselves of preconceptions about what an ‘Islamic’ punitive rhetoric ‘ought’ to look like: the alternatives are not between Umayyad use of elements of what would become ‘classical’ jurisprudence (Abu El Fadl) and the absence of any distinctively ‘Islamic’ practice (Hawting). Rather, we must reconstruct the pre-classical, late antique context within which the Umayyad elite sought to consolidate and maintain power. It is argued here that in Umayyad-era Islam there was a close connection between ‘apostasy’, ‘brigandage’ and ‘rebellion’ as capital crimes, deserving of humiliating public execution. In this, the Umayyads perpetuated ancient and late antique ideas about religious and political authority. However, ‘pre-classical Islam’ (even, ‘Hijāzī monotheism’), as expressed in the Qurʾān and in a wider religious discourse, did shape the Umayyads’ response to rebellion. In particular, two principles underpinned the Umayyads’ justification of capital punishment: their claim to represent God’s covenant on earth as ‘God’s Caliphs’ (*khulafāʾ Allāh*), and their obligation as such to punish illegitimate public violence.

The Umayyads and the ḥirāba verse

Neither the *ḥirāba* nor the *baghy* verse are prominent features of Umayyad caliphal rhetoric. Indeed, the first reasonably secure evidence for the explicit invocation by caliphs of the *ḥirāba* verse comes from just *after* the Umayyad period. An Abbasid ‘state letter’ of 145/762 AH/CE, said to have been composed during the reign of al-Manṣūr, invokes the text. It is a letter to the Alid rebel Muḥammad b. Ibrāhīm:

In the name of God, the Merciful, the Compassionate: From the Servant of God, °Abd Allāh, the Commander of the Faithful, to Muḥammad b. °Abd Allāh: “The recompense for those who war against God and His Messenger

and on earth strive for iniquity is that they will be slaughtered or crucified or their hands and feet on alternate sides shall be severed or they shall be exiled from the land. That is their disgrace in this world, while in the Hereafter theirs will be a severe punishment, except for those who repent before you overpower them. Know that God is forgiving, merciful.” I am obligated to you by God’s compact and His covenant, His promise of protection and that of His Messenger, so that if you repent and turn back before I overpower you, I will grant immunity to you...⁹

If this text is accepted as authentic then it is the first evidence—some twelve years after the fall of the Umayyad dynasty—for the quotation of the *ḥirāba* verse *in extenso* in a caliphal text. It also implies that the caliph is limited in punishing rebels by the prescriptions of the Qurʾān.

In contrast, Umayyad rhetoric tended to legitimate capital punishment through allusion to broadly Quranic language and symbolism, but not to the ‘classical’ verses in particular. This might be seen merely as a function of the form of Umayyad rhetoric: written reference to whole Qurʾān verses had yet to be established as a dominant element in legitimating discourse.¹⁰ However, the later Umayyads at least do appear to have cited the Qurʾān where it suited them,¹¹ and so this absence of the ‘classical’ texts appears to reflect a situation where the *ḥirāba* and *baghy* verses had yet to assume their later pre-eminent significance.

The ḥirāba verse in Umayyad times

Despite the absence of quotation of the *ḥirāba* verse from Umayyad rhetoric, it is of course very possible that ideas about the verse were

⁹ al-Ṭabarī, *Taʾrīkh al-rusul wa-l-mulūk*, ed. M. J. de Goeje (Leiden, 1879–1901), iii, 208; tr. J. Dammen McAuliffe in al-Ṭabarī, *The History of al-Ṭabarī Volume xxviii: ʿAbbāsīd Authority Affirmed*, ed. E. Yar-Shater (New York, 1995), 166. Cf. al-Balādhurī, *Ansāb al-ashrāf*, ed. M. al-Fardūs al-ʿAzīm (Damascus, 1996–2004), ii, 420. The verse also occurs in one version of the last testament of al-Manṣūr to his son, in 158/775: al-Ṭabarī, *Taʾrīkh*, iii, 447. However, cf. the version of the testament in al-Balādhurī, *Ansāb al-ashrāf*, ed. ʿA. al-Dūrī (Beirut, 1978), iii, 270–1, where the Quranic passage does not occur.

¹⁰ W. al-Qāḍī, ‘The impact of the Qurʾān on the epistolography of ʿAbd al-Ḥamīd’, in G. Hawting and A. Shareef, eds, *Approaches to the Qurʾān* (London, 1993), 285–313; W. al-Qāḍī, ‘The Religious Foundation of Late Umayyad Ideology and Practice’, in *Saber religioso y poder político in el Islam: Actas del Simposio Internacional Granada, 15–18 Octubre, 1991* (Madrid, 1994), 231–74.

¹¹ See, for example, the letter of al-Walīd II discussed by P. Crone and M. Hinds, *God’s Caliph: Religious authority in the first centuries of Islam* (Cambridge, 1986), 116–26.

already in circulation (and also that ideas about it reached the ears of Umayyad caliphs and governors). Indeed, there is good evidence that a debate about the verse's significance and application was already well under way in some circles by the early 700s.

Tafsīr (Quranic exegesis) gives at least six explanations for the *ḥirāba* verse. (i) It is argued that the verse relates to 'people of the book' (*ahl al-kitāb*) who 'had made a peace agreement (*muwāda'a*) but they broke the covenant (*ahd*) and spread corruption in the land (*afsadū fī l-ard*)'.¹² (ii) There is the claim that it is the punishment to be inflicted on unrepent idolaters defeated in battle.¹³ (iii) It is said to deal with the Banū Hilāl, who broke their treaty with the Muslims and raided people seeking an alliance with Islam.¹⁴ (iv) It is claimed that it was revealed regarding the Banū Isrā'īl, or, (v) the Ḥarūriyya (Kharijites).¹⁵ Finally, (vi) there is the most detailed explanation, which was eventually used by classical exegetes and lawyers to connect the punishments of the verse to 'brigandage' and 'highway robbery', as opposed to 'rebellion'.¹⁶ An early version of this last explanation is provided by Muqātil b. Sulaymān (d. 767). This relates the story of a group of recent converts to Islam who stole camels from the Muslims after killing their shepherd. After they were captured by 'Alī b. Abī Ṭālib, they were brought to the Prophet:

...[The Prophet] ordered that their hands and feet be cut off and that their eyes be gouged out. God, may He be praised and magnified, sent down to them: "Truly the reward of those who make war on God and His Prophet", meaning unbelief after Islam, "and spread corruption on the Earth" (that is), killing and the taking of property, (is that) "they will be killed, or crucified, or their hands and feet will be cut off on opposite sides", meaning the right hand and the left foot. The Imam has the choice concerning that: killing, crucifying and cutting off the hand and the foot. "Or they will be exiled from the land": He says they will be sent away from the land—the land of the Muslims; they will be banished by being driven away (*al-ṭard*) "that" is their reward, "the reward for them is a reward in this life"—the cutting off of the hand or the foot, killing, and crucifying in this world—"and they will have a severe chastisement in the world to come", meaning much and

¹² For example, al-Ṭabarī, *Tafsīr al-Ṭabarī: jamī' al-bayān fī tafsīr al-Qur'ān*, ed. A. and M. Shākir (Cairo, 1955–), x, 243–4; Kraemer, 'Apostates', 60; Abou El Fadl, *Rebellion*, 49.

¹³ Kraemer, 'Apostates', 60, 62; Abou El Fadl, *Rebellion*, 49.

¹⁴ Abou El Fadl, *Rebellion*, 49.

¹⁵ *Ibid.*, 49

¹⁶ Kraemer, 'Apostates', 61f; Abou El Fadl, *Rebellion*, 49f.

abundant without interruption. Then He made an exception, and said, may He be praised and magnified: “Except for those who repent” from idolatry “before they fall into your power”; you established a limit with regard to them so that you may not act against them...¹⁷

Very similar material is also found in later *tafsīr*, although the tribe in question varies: °Ukl and °Urayna are the most common; Fazāra, Sulaym and Ḍabba are all also mentioned.¹⁸

To what extent any of this material might reflect genuine Prophetic practice is very difficult to say; six very divergent accounts of the original context of the verse suggest real confusion among eighth- and ninth-century exegetes. Schacht suggests that the original context of the verse itself was probably the break with the Jews of Medina;¹⁹ Kraemer does see the story of the recidivist Bedouin as reflecting the political problems faced by Muḥammad later in his career.²⁰ In turn, Abou El Fadl is more sceptical, and describes the same story as most probably ‘an Umayyad invention’.²¹ Certainly, as discussed below, there are features of the latter story that echo Umayyad problems with nomads, Kharijites and other rebels (and this is almost certainly the origin of the anachronistic explanation that the verse responds to the problem of the Ḥarūriyya/Kharijites). The recidivist nomads of the *tafsīr*, who had abandoned their *hijra* to Medina and their new religion and who committed violent robbery look rather like prototypes of the deserters and rebels who carried out brigandage against the Umayyad authorities in the seventh and eighth centuries.²²

Any original context for the verse itself is probably irrecoverable. What is more striking about most of the explanations in the *tafsīr*, is the emphasis placed on the dual factors of the breaking of a covenant and the use of illegitimate violence as the justification for the death penalty. In this, they echo a wider, early Islamic discourse about rebellion and its punishment, which was much more central to Umayyad rhetoric about legitimate punishment than the *ḥirāba* verse.

¹⁷ Muqātil b. Sulaymān, *Tafsīr Muqātil b. Sulaymān 80–150 H*, ed. A. M. Shaḥāta, 5 vols. (Cairo, 1979–89), i, 471–2.

¹⁸ Abou El Fadl, *Rebellion*, 49, n. 80.

¹⁹ J. Schacht, ‘Ḳatīl’, *EF*², iv, 771.

²⁰ Kraemer, ‘Apostates’, 62.

²¹ Abou El Fadl, *Rebellion*, 52–3, 59.

²² Cf. the remarks of Abou El Fadl, *ibid.*, 52–3, 59. See further, below, 121–2.

Perjury (nakth, naqd), *public violence* (fasād fī l-arḍ) and *the pledge of allegiance* (bayʿa)

For the Umayyads, capital punishment was a right of the caliphs as the representatives of God's covenant with Humanity. This was justified in Quranic language, but not through quotation of the two particular verses that became central to later 'classical' thought. Instead, the main Umayyad-era justification for the death penalty *per se*, whatever its exact form, was the twin accusation of violation of the pledge of allegiance to the caliph (and hence of God's primordial covenant which the caliph claimed to represent), and of public violence against persons and property.

Before reviewing this distinctive, pre-classical punitive rhetoric of the Umayyad elite, the equivocal evidence for the specific invocation of the *ḥirāba* verse by the Umayyad caliphs and their representatives should be examined. The evidence for Umayyad invocation of the *ḥirāba* verse is equivocal because it is most likely the product of later literary formulation. For example, some accounts attributed to Anas b. Mālik (d. c. 709–11) have the Basran lawyer explain traditions about the origin of the *ḥirāba* verse to the Umayyad governor of Iraq (and notorious crucifier), al-Ḥajjāj (r. 694–715), and then bitterly regret having provided an oppressive ruler with justification for his actions. In another account, °Umar II (r. 717–20) seeks to restrain a governor who quotes the more severe punishments of the *ḥirāba* verse in justifying his treatment of robbers.²³ Neither story looks like secure evidence for actual Umayyad theory and practice. Both are probably best understood as political and legal arguments and commentary couched in narrative form: the former report highlights the potential for the verse to justify tyranny; the latter conforms to the tendency of the later tradition to emphasise the piety of °Umar II.

A more reliable instance of Umayyad authorities invoking the verse may be the sermon said to have been delivered by Yūsuf b. °Umar (r. 738–44) at Kufa after he had executed the Hashimite rebel Zayd b. °Alī in 120/738–9:

...For you are people of rebellion and dissension (*ahl baghy wa-khilāf*).
There is not one of you who does not make war on God and His Messenger
(*ḥaraba Allāh wa-rasūlahu*) except Ḥākim b. Sharīk al-Muḥāribī; I have

²³ Abou El Fadl, *Rebellion*, 58–60.

asked the Commander of the Faithful to help me with respect to you, and if he permits it, I will kill your soldiers and imprison your families.²⁴

The sermon alludes to the *hirāba* verse in its concept of ‘making war on God and His Messenger’ to justify ‘killing soldiers and imprisoning families’. Coming only about two decades before the Abbasids invoked the same ideas (also against Alid rebels), it appears to reflect Umayyad recognition of the need to engage with evolving ideas about legitimate rebellion, linked to the *hirāba* verse. However, the report is transmitted on the authority of Abū Mikhnaf (d. 774) and is found only in 9th- and 10th-century collections; that is, it remains a report of a public speech found only in a much later Abbasid-era texts, and so is far from secure evidence.

Whether or not this sermon is accepted as authentically Umayyad, Quranic material other than the *hirāba* verse is much more prominent in Umayyad justifications of their use of the death penalty. Violation of God’s covenant (‘*ahd*, *mīthāq* et al.) through violation of the pledge of allegiance (*bay‘a*) to His Caliph in an act of violent rebellion (*khurūj*, *fasād fī l-ard* et al.) provided the justification for the death penalty in most of the public executions carried out by the Umayyads or their representatives. In some accounts of particular executions, the connection is made absolutely explicit: in 51/671, Ḥujr b. ‘Adī is said to have only been executed after Ziyād had collected seventy testimonies for Mu‘āwiya that Ḥujr had, indeed, violated his pledge of allegiance (no. 7 in the Appendix); in 94/712–3, al-Ḥajjāj invoked Sa‘īd b. Jubayr’s violations of his *bay‘as* to ‘Abd al-Malik before ordering his execution (no. 31). Peace agreements with non-Muslims were governed by the same covenant: in 90/708–9, the rebels in al-Ṭalaqān are said to have been executed after breaking a peace treaty (*sulḥ*) (no. 27). The main exceptions to this pattern are those executions that appear to have been justified on the basis of heresy or sorcery (for example, no. 42).²⁵

In almost every documented pledge of allegiance (*bay‘a*) from the Umayyad period, the Muslims swore the oath ‘upon the covenant of God’ (‘*alā ‘ahd Allāh* or *mīthāq Allāh*) to ‘hear and willingly obey’ (*al-*

²⁴ al-Ṭabarī, *Ta’rīkh*, ii, 1716; cf. Anonymous, *Kitāb al-‘Uyūn wa-l-ḥaqā’iq fī akhbār al-ḥaqā’iq*, ‘Fragmenta Historicorum Arabicorum, ii’, ed. M. J. de Goeje and P. de Jong (Leiden, 1869), 100; Abou El Fadl, *Rebellion*, 56.

²⁵ This is the kind of justification Hawting appears to have in mind when he remarks that it, ‘may ... be possible to argue ... that rulers took some care to justify ... executions in religious terms’: Hawting, ‘Ja‘d b. Dirham’, 37, and above, n. 7.

sam^c wa-l-ṭā^ca) the caliph.²⁶ This formula is reminiscent of other Near Eastern loyalty oaths, and, importantly, also reminiscent of the Quranic description of the *mīthāq Allāh*, God's primordial covenant with Man, which guaranteed all agreements between believers. All human compacts were understood as guaranteed by God's covenant, as set out in verse 91 of *sūrat al-Nahl* (Qur'ān 16.91):

Fulfil the covenant of God when you have entered into it; and break not your oaths after you have confirmed them; indeed you have made God your surety; for God knows all that you do.²⁷

This text is quoted in full with reference to a prior treaty (*ṣulḥ* and *‘ahd*) in an original papyrus letter of 141/758 from the governor of Egypt to the Christian king of Nubia.²⁸ The same idea of 'God's covenant' is prevalent throughout the Qur'ān and is invoked in accounts of early treaties made by the Muslims. Because the Umayyad caliphs claimed to be God's representatives on earth, they could argue that all benefits, material and spiritual flowed from this compact; a point made at length in the elaborate metaphors of their panegyricists.²⁹

One of the most important Quranic expressions of these ideas is verse seven of *sūrat al-Mā'ida* (Qur'ān 5.7), which describes God's primordial covenant with all Humanity. It is the only place where the terms from the pledge of allegiance, *sam^c* and *ṭā^ca*, appear together:

Remember the favour (*ni‘ma*) of God towards you and His covenant and His covenant (*mīthāq*) which He covenanted (*wāthaqa*) with you when you said, "We hear and obey (*sami‘nā wa-aṭā‘nā*)." And fear God, for God knows the secrets of your breasts (Qur'ān 5.7).

While the *bay‘a* could be understood as being God's covenant enacted on earth, it also came to be guaranteed by more worldly oaths. These eventually became known as the 'oaths of the *bay‘a*' (*aymān al-bay‘a*). In their classical form, a perjurer lost his wives and his property and had

²⁶ A. Marsham, *Rituals of Islamic Monarchy: Accession and Succession in the First Muslim Empire* (Edinburgh, 2009), esp. 168–78.

²⁷ *wa-awfū bi-‘ahdi ‘llāhi idhā ‘āhadtum wa-lā tanquḍū ‘l-aymāna ba‘da tawkīdihā wa-qad ja‘altum Allāha ‘alaykum kafīlan inna ‘llāha ya‘lamu mā taf‘alūna.*

²⁸ M. Hinds and H. Sakkout, 'A letter from the governor of Egypt concerning Egyptian-Nubian relations in 141/758', in W. al-Qāḍī, ed., *Studia Arabica et Islamica: Festschrift for Iḥsān ‘Abbās* (Beirut, 1981), 209–29.

²⁹ Marsham, *Rituals*, 102–10.

to expiate his treachery by making thirty *hajj* pilgrimages. In practice, there is little evidence that such oaths were actually expiated, although there are traces in the later compilations of legal traditions that debate the legitimacy of vows to walk barefoot to the Ka^ʿba. It seems that the oaths became largely symbolic and were simply indicative that the perjurer had ceased to be a Muslim—indeed, that he had become an outlaw in the literal sense of being beyond all the usual rights accorded to a Muslim.³⁰

These oaths first appear in their classical form in ninth-century copies of documents relating to oaths of allegiance from the early Abbasid period (750s and 760s), but there is good evidence that they—or very similar oaths—were already in use in the Umayyad period. Khālid al-Qasrī was said to have written a letter to be read out to Kufan deserters in 74/693–4, explaining that desertion is disobedience of God and His caliphs, with consequences very similar to those in the classical oaths:

God has imposed the duty of *jihād* on His servants and required obedience to those who govern them (*wulāt al-amr*) ...He who defies the governors and rightful authorities brings down God's wrath on himself, merits corporal punishment (*al-^ʿuqūba fī basharihi*), and makes himself liable to confiscation of his property as spoil, cancellation of his stipend, and exile to the most remote and evil of lands.³¹

In the following year al-Ḥajjāj is said to have preached a similar *khuṭba*—and it is al-Ḥajjāj who is remembered as the instigator of the ‘oaths of the *bayʿa*’ in much later tradition. Muṣʿab b. al-Zubayr’s treatment of those loyal to ʿAbd al-Malik in 71/690–1 also seems to reflect similar ideas (no. 17).³²

However, mere desertion or disobedience rarely seems to have been perceived to merit capital, as opposed to corporal punishment. It was a necessary but not a sufficient condition; as noted above, *public* rebellion was also usually required. Ideas about this in mid-to-late seventh-century Syria may be reflected in the words of the Christian chronicler, John Bar Penkayē (fl. c. 690), who wrote that, ‘[the Muslims] kept to the tradition of Muḥammad ...they inflicted the death penalty on anyone who was

³⁰ Marsham, *Rituals*, 96–110, 145, 239–41, 296–7, 302.

³¹ al-Ṭabarī, *Taʾrīkh*, ii, 858; tr. E. K. Rowson, in al-Ṭabarī, *The History of al-Ṭabarī, Volume xxii: The Marwanid Restoration*, ed. E. Yar-Shater (New York, 1989), 6. Cf. the *khuṭba* of al-Ḥajjāj the following year: al-Ṭabarī, *Taʾrīkh*, ii, 865–6; tr. M. K. Rowson, *ibid.*, 15–6.

³² Marsham, *Rituals*, 107.

seen to act brazenly against his laws'.³³ The emphasis on *brazen*, or public, violation perhaps echoes the Roman notion of *vis publica* ('public violence'), which was one of the main crimes to be punishable by death in Roman law. The reference to Muḥammad's 'tradition' and 'laws' also appears to reflect an early connection in Islamic thought—as in ancient Middle Eastern thought—between rebellion, apostasy and the death penalty.³⁴

Umayyad rhetoric and capital punishment

The best evidence for Umayyad justification of capital punishment dates from the 740s, which was last decade of Umayyad rule. The surviving 'state letters' of the scribe ʿAbd al-Ḥamīd (d. 750) provide comparatively full evidence for late Umayyad ideas about rebellion and its punishment. Poetry composed in the 710s and 730s indicates that similar ideas were already important in Umayyad justification of the death penalty.

In the opening lines of a letter written on behalf of Marwān II in the 740s, ʿAbd al-Ḥamīd describes the Kharijite rebels against whom Marwān was sending his son, 'causing harm in the land corruptly' (*ʿāthū fī l-arḍ fasādan*) and 'exchanging the favours of God for unbelief' (*baddalū niʿam Allāh kufran*); that is, the rebels are accused both of destroying property and lives and with breaking with God's covenant and hence becoming unbelievers:

To begin: the Commander of the Faithful—when he resolved upon sending you against the enemy of God, the thick, coarse Bedouin (*tawjihakā ilā ʿaduwwi ʿllāh al-jalīf al-jāfī al-aʿrābī*) wandering aimlessly in the perplexity of ignorance, the obscurity of impious discord and the ravines of destruction, and against his ruffians who cause harm in the land corruptly, violate the sanctity (of Islam) lightly, exchange the favours of God for unbelief and make lawful the blood of the people of peace in ignorance (*wa-raʿāʿihi alladhīna ʿāthū fī l-arḍ fasādan wa-intahakū ḥurmat [l-islām] istikhfāfan wa-baddalū niʿam Allāh kufran wa-istihallū dimāʾ ahl silmihi jahlan*)—wished to commission you and enjoin you, concerning the subtleties of your affairs and the generalities of your concerns...³⁵

³³ R. Hoyland, *Seeing Islam as Others Saw It: A Survey and Evaluation of Christian, Jewish and Zoroastrian Writings on Early Islam* (Princeton, 1997), 196–7.

³⁴ On Roman and Ancient Near Eastern law, see further below, 116–20.

³⁵ I. ʿAbbās ʿAbd al-Ḥamīd b. Yaḥyā al-Kātib *wa-mā tabqā min rasāʾilihi wa-rasāʾil Sālim Abī al-ʿAlāʾ* (Amman, 1988), 215–6, citing: Ibn Abī Ṭāhir Ṭayfūr, *Ikhtiyār al-manẓūm wa-l-manthūr* (Cairo, n.d.), xiii, 201; al-Qalqashandī, *Ṣubḥ al-ʿshā fī ṣināʿat al-inshāʾ*, ed. M. A. Ibrāhīm (Cairo, 1913–20), x, 195 et al.

Closely related ideas are found in a letter written by °Abd al-Ḥamīd from Marwān II to Sa°īd b. °Abd al-Malik on the occasion of Yazīd b. al-Walīd's call for throwing off allegiance to al-Walīd II in 126/744:

It has reached me that a group of fools from your household (*ahl baytika*) have followed a course that their deliberation brought about, according to what they agreed upon concerning violation of their pledge of allegiance (*naqḍ bay°atihim*). They have opened a door that God will not close for them until much of their blood is spilled, while I am occupied with the important matter of the Muslims' frontier being breached. Would that you bring me and them together, in order that I might repair the corruption of their affair (*fasād amrihim*) by my hand and my tongue; I fear God concerning neglecting that on account of my knowledge of what the consequences of division are regarding corruption of religion and the world (*fasād al-dīn wa-l-dunyā*).³⁶

Among the Marwanids, al-°Abbās b. al-Walīd was persuaded; he is said to have remarked, 'In the breaking of the covenant of God is corruption of religion and the world' (*inna fī naqḍ °ahd Allāh fasād al-dīn wa-l-dunyā*).³⁷

Both the scribe and the prince were paraphrasing verse twenty-seven of *sūrat al-Baqara* (Qur°ān 2.27), which explicitly connects the idea of 'corruption in the earth', found in the *ḥirāba* verse, with violation of God's covenant, found in verse 91 of *sūrat al-Nahl* and verse seven of *sūrat al-Mā°ida*:

...He does not cause to err by it [any] except transgressors (*fāsiqīn*), (27) who break the covenant of God after its confirmation (*yanquḍūna °ahd Allāh min ba°d mīthāqihī*) and cut asunder what God has ordered to be joined and cause corruption in the land (*yufsidūna fī l-arḍ*); these it is that are the losers.

Hishām is also said to have written of another rebel in 737 that he was a 'transgressor (*fāsiq*) who had killed, burned and plundered' and should not be allowed to live (no. 40). Alongside verse seven of *sūrat al-Mā°ida*, verse 27 of *sūrat al-Baqara* is arguably at least as important to Umayyad legal theory and practice as the *ḥirāba* verse of later classical thought.

Some of the best evidence for the importance of treachery in justifying execution is found in the poetry. A verse by the Umayyad panegyricist,

³⁶ °Abbās, °Abd al-Ḥamīd, 300, no. 62, citing: al-Ṭabarī, *Ta°rikh*, ii, 1786.

³⁷ al-Ṭabarī, *ibid.*, ii, 1784.

Jarīr (d. 111/729), is linked by tradition to al-Ḥajjāj's execution of Sa'īd b. Jubayr:

How many a breaker of the two pledges of allegiance have you left, with his beard dyed with the blood of [his] jugular veins.³⁸

An unnamed Anṣārī poet is said to have denigrated the head of Zayd b. °Alī when it was displayed in Medina in 122/739–40:

Indeed, O violator of the covenant (*nāqiḍ al-mīthāq*), rejoice in what has brought you disaster.
You betrayed the contract (*naqaḍta al-°ahd*) and the covenant of olden times which preceded you.
Iblīs has violated an oath (*akhlafa*) regarding what he promised you.³⁹

The caliphs' claims to represent God's covenant on earth made rebellion against them also a rebellion against God. Violent rebels were, therefore, 'making war on God' (*yuhāribūna Allāh*) and 'violating God's covenant' (*yanquḍūna °ahd Allāh*) with the consequence of 'corruption in the land' (*al-fasād fī l-ard*).⁴⁰

The punishments in Umayyad rhetoric

In contrast to their clear justification for executions, Umayyad texts give little insight into the precise punishments themselves. In general, they simply emphasise the Umayyads' God-given right to mete out exemplary and humiliating punishment. Thus, in a letter full of blood-curdling threats against insurgents, also from the last decades of Umayyad rule, the head of their *dīwān al-rasā'il*, °Abd al-Ḥamīd writes:

God will assist us with His angels and help us with His military support, with what His custom (*sunna*) brings and His tradition (*°āda*) has established; and we will impose the penalties (*naqamāt*) from God, the exemplary punishments (*nakāl*) and deadly might (*saṭawāt muhlika*); you have seen that in the revelations (*al-manāzil*), and you have known it on the battlefields upon which wrong meets right. So hear the good news from us

³⁸ *yā rubba nākithi bay°atayni taraktahu wa-khiḍābu liḥyatihī damu al-awḍājī*. Ibid., ii, 1265; tr. M. Hinds, in al-Ṭabarī, *The History of al-Ṭabarī, Volume xxiii: The Zenith of the Marwānid House*, ed. E. Yar-Shater (New York, 1990), 212; Jarīr b. °Aṭīya, *Sharḥ dīwān Jarīr*, ed. M. I. A. al-Sāwī (Cairo, 1934; reprint. Beirut, n.d.), 110.

³⁹ al-Ṭabarī, *Ta°rīkh*, ii, 1714.

⁴⁰ Cf. ibid., ii, 1758, where a letter of al-Walīd II cites Qur°ān 2.251.

about what sorrow comes to you; may you be led by a halter, as camels bridled with a bit are led.⁴¹

The rhetoric is replete with Quranic allusions.⁴² However, references to the punishments are general ones to *naqamāt* and *nakāl*: ‘penalties’ and ‘exemplary punishments’.⁴³ These are terms for the punishment of rebels against the caliph that also appear elsewhere in late Umayyad rhetoric.⁴⁴ The only specific penalty is described in a simile that reflects the pre-Islamic (and ancient and late antique Middle Eastern) custom, continued in Islamic times, of humiliating captives by leading them like animals.

Umayyad capital punishment in its late antique context

For detail on the forms of capital punishment used by the Umayyads, we must turn from surviving Umayyad rhetoric to the problematic evidence of the later historical sources, some of which is collected in the Appendix below. These sources present problems of interpretation. Nonetheless, it is possible to draw some tentative conclusions. One way to approach the anecdotal evidence is to look for continuities with ancient and late antique punitive practice. In what follows it is argued that the evidence does tend to suggest that the Umayyads and their representatives in the provinces selected from a repertoire of penalties that were long established in the Middle East as the punishments for brigandage, apostasy and rebellion. However, there is some evidence for particular punishments being more widely used than others; this appears to be a function of the particular form of West Arabian monotheism which was an important ideological context for the Umayyad caliphate.

Nearly all the variations on capital punishment found in the late antique and early Islamic Middle East have precedents in ancient Near Eastern practice. The prescription of capital punishment for the crimes of brigandage, adultery, heresy, treason and sorcery was of very great

⁴¹ °Abbās, °*Abd al-Ḥamīd*, 214–5, no. 19, citing: al-Qalqashandī, *Ṣubḥ*, viii, 268–9.

⁴² Qur’anic allusions include: 4.138; 5.115; 9.25. See also below, n. 43.

⁴³ *Nakāl* occurs in three places in the Qur’ān: 2.66; 5.42; 79.25. *Naqma* is not Quranic.

⁴⁴ For example, al-Ṭabarī, *Ta’rīkh*, ii, 1759 (*yunkilu* and *naqma* in a letter of al-Walīd II (r. 743–4)).

antiquity by the time of the coming of Islam.⁴⁵ The conceptual interconnections between apostasy, treason and (to some extent) adultery had also been established in the ancient Middle East.⁴⁶ In the ancient Middle East, as in Islam, public exposure of a corpse after execution was more common than execution by hanging; the usual associated humiliations such as stripping, parading led by a halter, and flogging were often used.⁴⁷ The amputation of hands and the gouging of eyes both occur as punishments in some ancient laws.⁴⁸ Immolation may be justified by some Egyptian laws and is prescribed as a penalty in one Assyrian law pertaining to the royal harem.⁴⁹

Both the Hebrew Bible and much later Judaic tradition reflect this wider ancient Middle Eastern context: beheading and the public display of corpses occur in the Hebrew Bible, as does the amputation of the limbs of executed murderers.⁵⁰ The burning of executed corpses is found in the book of Joshua, where it appears to be associated with the removal of contamination of the sacred *herem* at Jericho;⁵¹ it is also found in the story of Esther and the Targum.⁵² An apostate town is also to be destroyed by fire in the book of Deuteronomy.⁵³

⁴⁵ R. Westbrook, 'The Character of Ancient Near Eastern Law', in R. Westbrook, ed., *A History of Ancient Near Eastern Law*, 2 vols. (Leiden, 2003), i, 76, 77–80, 81.

⁴⁶ Westbrook, 'Character', 76, 77.

⁴⁷ *Ibid.*, 74–5, 76–81.

⁴⁸ J. B. Pritchard, *Ancient Near Eastern texts relating to the Old Testament*, 3rd revised edition (Princeton, 1969), 203 (gouging of eyes), 531 (amputation of a thief's hand); for the latter, cf. I. Marquez Rowe, 'Alalakh', in Westbrook, *History*, i, 715.

⁴⁹ R. Jasnow, 'Egypt: Middle Kingdom and Second Intermediate Period', in R. Westbrook, ed., *A History of Ancient Near Eastern Law*, 2 vols. (Leiden, 2003), i, 256; R. Jasnow, 'Egypt: New Kingdom', in Westbrook, *History*, i, 343; K. R. Veenhof, 'Old Assyrian Period', in Westbrook, *History*, i, 456.

⁵⁰ Gen. 40.18–22 for decapitation and impaling or crucifixion by Pharaoh; Deut. 1.22–3 for the prohibition of leaving someone executed for a capital crime hanging during the night; 1 Sam. 31.9–12 for the Philistines beheading of Saul and the display of his body on the city walls; 2 Sam. 4.12 for King David's beheading of murderers, the amputation of their limbs and the hanging of their corpses by a pool. See further, T. Frymer-Kenski, 'Israel', in Westbrook, *History*, ii, 1027–42.

⁵¹ Josh. 7.24–5; cf. Frymer-Kenski, 'Israel', 1014.

⁵² B. Grossfeld, ed. and tr., *The First Targum to Esther According to MS Paris Hebrew 110 of the Bibliotheque Nationale* (New York, 1983), 194 and 200. This material is also repeated by the tenth-century Muslim polymath, al-Bīrūnī: al-Bīrūnī,

The empires of late antiquity owed much to this ancient heritage: in both Rome and Iran, apostasy, brigandage, rebellion and sorcery were punishable by public execution. Justinian's *Digest* (publ. 533 CE) prescribes the death penalty for brigands, traitors, murderers, adulterers and poisoners among others.⁵⁴ Of brigands it comments:

The practice approved by most authorities has been to hang notorious brigands (*latrones*) on a gallows in the place where they used to haunt, so that by the spectacle others may be deterred from the same crimes, and so that it may, when the penalty has been carried out, bring comfort to the relatives and kin of those killed in that place where the brigands committed their murders; but some have condemned these to the beasts.⁵⁵

Immolation was also common in Roman law.⁵⁶ Precedents for the 'Islamic' practice of amputating limbs are not prominent in Roman legal theory. However, the use of amputation is found in late Roman *practice* as recorded in historical sources. A notable example is the execution of Elpidius in 605, recorded in the near-contemporaneous *Chronicon Paschale*. Elpidius and others were accused of having plotted to overthrow the emperor Phocas:

...there were beheaded Theodore, the praetorian prefect...[seven others] ...Andrew *illustris* who was called Scombrus, and Elpidius *illustris*. Elpidius had his tongue cut out and his four extremities removed; he was paraded on a stretcher and carried down to the sea; when his eyes had been gouged out, he was thrown into a skiff and burnt. The other people aforementioned were beheaded, on the grounds that they were discovered plotting against the emperor Phocas.⁵⁷

Kitāb al-Āthār al-bāqīya ʿan al-qurūn al-khālīya, ed. E. Sachau (Leipzig, 1978), 280.

⁵³ Deut. 13.13–19; cf. Frymer-Kenski, 'Israel', 1041.

⁵⁴ *The Digest of Justinian*, ed. T. Mommsen, P. Krueger and A. Watson, 4 vols (Philadelphia, 1985), Bk 48.4, 5, 6, 8 and 19. On public execution in the Roman Empire, see: B. Shaw, 'Bandits in the Roman Empire', *Past and Present* 105 (1984), 20ff.

⁵⁵ *Digest*, Bk 48.19.28.

⁵⁶ *Ibid.*, 48.19.28 and J. Harris, *Law and Empire in Late Antiquity* (Cambridge, 1999), 188, 140–1.

⁵⁷ *Chronicon Paschale 284–628 AD*, tr. and ann. M. and M. Whitby (Liverpool, 1989), 145–6 (s.a. 605).

Similarly gruesome late Roman punitive practices are attested in the Armenian tradition, where we read of rebels being beheaded and their bodies burned.⁵⁸

The relative paucity of sources for Sasanian Iran presents some difficulties. Later legal sources, such as the *Book of a Thousand Judgements*, are important.⁵⁹ Other late sources, such as the *Letter of Tansar*, which are often held to reflect Sasanian practice, have perhaps undergone some literary reshaping under the influence of later Islamic practice. Nonetheless, they do also appear to preserve some features of late Sasanian penal culture.⁶⁰ Syriac and Armenian historiography and hagiography also give some important insights into Sasanian punishment of rebels and apostates.⁶¹

In Iran, as elsewhere, the capital crimes of ‘sorcery’, ‘heresy’ and ‘highway brigandage’ were closely connected.⁶² The *Letter of Tansar* lists the ‘cow’, the ‘donkey’ and the ‘tree’ alongside trampling by elephants as relevant punishments. The ‘cow’ was a hollow ‘cow’ containing molten lead into which a prisoner was thrown; the ‘donkey’ was a tripod from which prisoners were hung; both are associated with ‘sorcery’, ‘heresy’ and ‘highway robbery’ by the *Letter of Tansar*, as was trampling by elephants.⁶³ The ‘tree’ (a reference to crucifixion) was a punishment for ‘highway robbers’ and ‘sorcerers’.⁶⁴

The most common means of executing rebels was probably beheading.⁶⁵ In the *Letter of Tansar*, amputation of a hand was the punishment for a thief, and ‘four times as much is exacted in recompense from a brigand’, which suggests the amputation of four limbs.⁶⁶ The

⁵⁸ *The Armenian History attributed to Sebeos*, tr. and ann. R. W. Thomson, J. Howard-Johnston and T. Greenwood, 2 vols (Liverpool, 1999), i, 106–7.

⁵⁹ *The Book of a Thousand Judgements*, ed. and tr. A. Perikhanian, ‘Persian Heritage Series, 39’ (Zurich, 1997).

⁶⁰ *The Letter of Tansar*, tr. and intr. M. Boyce (Rome, 1968), 1–25.

⁶¹ C. Jullien, ‘Peines et Supplices dans les Actes des Martyrs Persans et droit sassanide: Nouvelles prospections’, *Studia Iranica* 33 (2004), 243–69.

⁶² *Letter of Tansar*, 47.

⁶³ Boyce, *Ibid.*, 47–8. For trampling of rebels in the narrative sources: Elishē, *History of Vardan and the Armenian War*, tr. R. W. Thomson (Cambridge, MA, and London, 1982), 99; Lazar P’arpets’i, ‘The Armenian War’, tr. R. W. Thomson, as an appendix to Elishē, *History of Vardan*, 287; Thomson, et al., *Sebeos*, i, 23.

⁶⁴ *Letter of Tansar*, 48; Jullien, ‘Peines et supplices’, 260.

⁶⁵ For example, Elishē, *History of Vardan*, 92, 111, 175, 225.

⁶⁶ *Letter of Tansar*, 42–3.

cutting off of hands before beheading is mentioned by Armenian sources;⁶⁷ beating to death and dragging over sharp rocks are other methods of execution.⁶⁸ Humiliating parades prior to execution are also mentioned: a late third-century Sasanian inscription refers to a defeated Sasanian rebel being brought ‘bound ...on a maimed donkey’;⁶⁹ the parading of a prisoner, ‘bound hand and foot, set like a woman on a mare’ on their journey to the prison where all those condemned to death were kept is described in a fifth-century Armenian source;⁷⁰ a seventh-century account of events in the sixth century describes prisoners of war with ‘their hands tied on their shoulders’.⁷¹

A variety of tortures directed at apostates from Zoroastrianism are attested in Syriac hagiography, including beating, flogging, breaking of limbs, laceration with iron teeth and the removal of the tongue. These tortures usually ended with the beheading of the prisoner, although the slitting of the throat like a sacrifice is also attested. Apostates from Zoroastrianism were sometimes subjected to the ‘nine deaths’ by progressive amputation at the fingers, toes, hands, feet, elbows, knees, thighs, ears, nose and then neck (or some variation on this), sometimes over several days.⁷²

When looking for continuities from late antiquity into early Islam there are many reasons not to trust the anecdotal evidence of the Islamic sources: on the one hand, punishments may have been described in terms that echo later, Abbasid-era expectations about ‘proper’ Islamic punishments; on the other hand, particular ‘tyrants’ may have been associated with what were considered particularly ‘un-Islamic’ penalties. Nonetheless, with these reservations in mind, the penalties of ‘crucifixion’ (5–8, 12, 18, 23, 27–28, 32–33, 35–42, 43–44, 47–48, 50) and ‘amputation’ (1, 3, 9, 14, 19, 29–31, 35, 38, 41–42, 44, 46, 49), both of which are mentioned in the *hirāba* verse, are very prominent in the sources. Some Umayyad crucifixions beside water (nos 28 and 37) also appear to echo Biblical precedent, but this may have more to do with

⁶⁷ Elishē, *History of Vardan*, 224; Łazar P‘arpets‘i, ‘The Armenian War’, tr. R. W. Thomson, in Elishē, *History of Vardan*, 303.

⁶⁸ Elishē, *History of Vardan*, 210, 231–2.

⁶⁹ H. Humbach and P. O. Skjærvø, *The Sasanian Inscription of Paikuli*, Part 3.1 Restored text and translation (Munich, 1983), 29, §58.

⁷⁰ Elishē, *History of Vardan*, 188.

⁷¹ Thomson, et al., *Sebeos*, i, 23.

⁷² Jullien, ‘Peines et supplices’, 260–3.

these locations being public places than with any conscious evocation of David's example.⁷³

Given the contrast between the plethora of penalties listed in the sources for the pre-Islamic period and the somewhat narrower range of punishments recorded for Islamic times, one cannot help but suspect that certain penalties were seen as 'customary' and 'proper' by the early Muslims. This may simply have been Arabian custom rather than any conscious effort to conform to Quranic prescriptions. Certainly, the later tradition refers to pre-Islamic kings 'crucifying' and 'amputating limbs', and both the Qur'ān and Umayyad practice probably do reflect a distinctive pre-existing Arabian penal culture.⁷⁴

However, there are also a number of indications that there was more symbolic meaning to the penalties used by the early Muslims. This symbolic meaning may have been quite un-classical. Certainly, the penalties inflicted are not always those that would later be recognised as strictly Quranic or even 'Islamic'. Blinding and the cutting out of tongues (both penalties with many Roman and Sasanian precedents) occur (nos 37, 42, 49); references to the Prophet mutilating the victims of the prescriptions of the *hirāba* verse and then prohibiting the penalty for the future almost certainly reflect ongoing debate about this pre-Islamic penalty.⁷⁵

The penalty of the amputation of limbs, which is Quranic, may have had particular associations with the killing of Kharijites. In Kharijite

⁷³ See above, n. 53.

⁷⁴ The Lakhmid king of al-Ḥīra al-Nu'mān b. Mundhīr (r. c. 580–602) is said to have used crucifixion as a penalty for 'highway robbery': J. °Alī, *al-Mufaṣṣal fī l-ta'rikh al-°arab qabl al-Islām* (Beirut, 1968–71), v, 608. Cf. al-Ya°qūbī, *Ta'rikh*, ed. M. Houtsma, 2 vols. (Leiden, 1883), i, 240. Khubayb b. °Adī al-Anṣārī was remembered as the first Muslim to suffer crucifixion (at the hands of the Meccans in 3/625): Ibn Ishāq, *The Life of Muhammad*, tr. A. Guillaume, 429–33; al-Ṭabarī, *Ta'rikh*, i, 1436–7 and 1439–40. See further M. Ullman, *Das Motiv der Kreuzigung in der arabischen Poesie des Mittelalters* (Harrasowitz, 1995), 115–9. The only references to crucifixion (*ṣalb*) in the Qur'ān apart from the *hirāba* verse and the denial of Christ's crucifixion in *sūrat al-Nisā'*, are, like the references to prison, connected to Pharoah (Qur'ān 4.157; 7.124; 12.41; 20.71; 26.49). In three of them amputation of hands and feet 'on opposite sides' (*min khilāf*) is also mentioned; this is a departure from the Biblical narrative and therefore may well be reflection of early seventh-century Arabian practice. (Cf. the replacement of donkeys with camels in the same story: Qur'ān 12.65 and 12.72).

⁷⁵ al-Ṭabarī, *Tafsīr*, x, 244, and above, 106–8.

rasā'il and *khutab* execution, blinding and the amputation of limbs are closely associated with the caliphs' repressive measures against pious critics: Sālim b. Dhakwān's account of °Uthmān's orders concerning his Egyptian critics is one instance of this (no. 3); another is Abū Hamza's depiction of Marwān II as someone who blinds and amputates limbs (no. 49). The story of al-Mukhdaj—'the one with the mutilated arm'—a sort of 'legendary arch-Kharijite', whose story gained eschatological associations, suggests that the penalty of amputation was closely associated with pious rebellion against the state.⁷⁶ Furthermore, the penalties that are said to have been inflicted on Kharijites by the Umayyads (for example, nos 5, 7, 8, 9, 21, 50), do appear to indicate that amputation of limbs was perhaps particularly associated with the punishment (or oppression) of Kharijism. As noted above, the exegesis of the *hirāba* verse also appears to reflect this association.⁷⁷ The public display (*tanaṣṣub*) of the executed is also said to have been understood by the Umayyads themselves as something appropriate only for 'rebels' (as opposed to defeated members of their own family).⁷⁸

Two of the most interesting instances of the non-classical punishments are immolation and the burning of the corpses of the executed (nos 2, 4, 14, 39, 40, 41, 44). Neither penalty is mentioned in the Qur'ān. Even if it is conceded that some accounts of burning may simply be tropes to emphasise the 'un-Islamic' tyranny of the ruler carrying out the burning, the debate surrounding the issue does suggest that some of the burnings really took place. In the *ḥadīth* the Prophet declares that this punishment was reserved for God alone; at the same time, the burning of apostates is also attributed to at least one of Abū Bakr's commanders and to °Alī b. Abī Ṭālib.⁷⁹ Hawting also observes the possible paradox that all of the references to burning are located in post-Sasanian Iraq, where fire was considered sacred and corpses a pollutant; burning would probably not have been considered a suitable means of execution by Zoroastrians.⁸⁰

The answer to this apparent paradox appears to lie both in the pattern of the application of this punishment in the sources and also in the late antique Judaeo-Christian context of the rise of Islam (a context just as

⁷⁶ J. Wellhausen, *The Religio-Political Factions in Early Islam*, ed. and tr. R. C. Ostle, tr. M. Walzer (Amsterdam, 1975), 22 and n.6.

⁷⁷ See above, 108.

⁷⁸ al-Ṭabarī, *Ta'rikh*, ii, 1807; cf. Khalifa b. Khayyāt al-°Uṣfurī, *Ta'rikh*, ed. S. Zakkār (Damascus, 1967–8), ii, 550.

⁷⁹ See nos 2 and 4, below.

⁸⁰ Hawting, 'Ja°d b. Dirham', 36.

relevant in Iraq as in Syria or Egypt). First, it is notable that burning had a good Judaeo-Christian heritage: it was used against the worst offenders in Judaic law and maintained a similar position in the Christian Roman Empire.⁸¹ Given the importance of the corpse of the deceased to the Judaeo-Christians in the late antique Mediterranean,⁸² the near-complete destruction of the body by fire was a terrible penalty, with possible implications at the Resurrection. As the *ḥadīth* reserving the punishment for God indicates, it also recalled the image of Hell itself as a place of fiery torment.⁸³

The other late antique context is the veneration of martyrs' relics.⁸⁴ Fire destroys the corpse of the executed person and so makes veneration of their corpse as a relic difficult or even impossible. In this connection, it is very notable that many of the better-attested instances of immolation and the burning of corpses were carried out by Umayyads against Alid and Hashimite rebels in the late 730s and early 740s (39, 41, 44). In two cases, the ashes were said to have been scattered in the Euphrates (41, 44), leaving no tomb. Here the context appears to be growing Alid and Hashimite feeling in Iraq, perhaps including veneration for 'proto-Shi'ite' martyrs. The connection between burning and ideas about the bodily resurrection in late antiquity and early Islam deserves further investigation.

Conclusions

Examination of the Umayyads' own claims about capital punishment allows us to move beyond the contrasting interpretations of the anecdotal evidence presented by Abou El Fadl and Hawting. The choice is not between, on the one hand, a somewhat teleological interpretation of the Umayyads as co-opting early 'classical' ideas about the *ḥirāba* verse and, on the other, a view of the Umayyads as acting in an 'arbitrary' fashion, unfettered by 'Quranic' or 'Islamic' prescriptions. Rather, we should consider the Umayyads as part of what has recently been described as 'Islamic late antiquity'.⁸⁵ Read with accounts of Roman

⁸¹ See above, 117–8.

⁸² On burial practices in the Middle East in late antiquity, see L. Halevi, *Muhammad's Grave: Death Rites and the Making of Islamic Society* (New York, 2007), 76–7, 80–1.

⁸³ See Appendix, no. 4, and note.

⁸⁴ Halevi, *Muhammad's Tomb*, 81.

⁸⁵ T. Sizgorich, 'Narrative and Community in Islamic Late Antiquity', *Past and Present* 185 (2004), 9–42.

and Iranian practice in mind, the conduct of the early caliphs and their representatives does look very much like a continuation of Roman and Iranian theory and practice: rebellion, apostasy and public violence (*vis publica* in Roman terms) in these empires brought about similar penalties to *naqd*, *hirāba* and *fasād fī l-ard* in Islam. Indeed, penalties imposed by the Umayyads on Alid rebels in the 730s and 740s were very similar to those imposed on traitors by the Romans in the seventh and eighth centuries.⁸⁶

Like sixth- and seventh-century Roman emperors before them, the Umayyad caliphs claimed to be ‘God’s deputies’ (Latin, *vicarii Dei*, Arabic, *khulafāʾ Allāh*). Sasanian kings were also ‘manifestations’ or ‘descendents’ of the Gods.⁸⁷ If taken seriously, such a claim might place God’s appointed ruler above the law, as Justinian (r. 527–65) states in a *Novel* from 536:

The imperial station, however, shall not be subject to the rules which we have just formulated, for to the emperor God has subjected the laws themselves by sending him to men as the incarnate law.⁸⁸

Crone and Hinds’ 1986 book, *God’s Caliph*, has left little doubt that the Umayyads understood their law-making powers in quite similar terms.⁸⁹ ‘Umar’s reservation of his right to innovate in amputation and crucifixion might be a manifestation of similar Umayyad claims (no. 32). As Foucault noted, pre-modern kings regarded ‘punishment as a political tactic’;⁹⁰ Umayyad executions were in the tradition of Near Eastern royal power, on which the claim to be the *khalīfat Allāh* was the Islamic calque.

As such, their powers were quite unrestricted and, indeed, sometimes quite arbitrary. Nonetheless, like their Roman and Iranian precursors, the

⁸⁶ See above, 118. Further examples include the usurper Phocas, who had his throat cut before Heraclius in 610: ‘Byzantine-Arab Chronicle of 741’, §6 in Hoyland, *Seeing Islam*, 613. The rebel Artabasdus was blinded, tortured and exiled by Constantine V in 741, ‘Hispanic Chronicle of 754’, in Hoyland, *Seeing Islam*, 629.

⁸⁷ J. Wiesehöfer, *Ancient Persia from 550 BC to 650 AD*, tr. A. Azodi (London, 1996), 165–6.

⁸⁸ F. Dvornik, *Early Christian and Byzantine Political Philosophy: Origins and Background* (Washington, 1966), 722, citing Justinian, *Novel*, 105.2.4.

⁸⁹ Crone and Hinds, *God’s Caliph*. See further, P. Crone, *Medieval Islamic Political Thought* (Edinburgh, 2004), 33–47.

⁹⁰ M. Foucault, *Discipline and Punish*, tr. A. Sheridan Smith (London, 1991), 23.

Umayyads did seek to justify their use of the death penalty: monarchs were answerable to both their subjects and to God, and usually sought to justify the execution of their enemies accordingly. The Umayyads' theoretical justification, based upon violation of the covenant and public violence, was expressed in distinctively 'Islamic' and 'Quranic' terms. However, these terms were not especially 'classical'. The absence of the Prophet from Umayyad pronouncements on execution is notable. This may be reflected in the absence of quotation of the *ḥirāba* verse, which mentions 'God's Messenger'. Rather, Umayyad rhetoric echoes the Qur'ān in its references to *fasād fī l-arḍ* and *naqḍ al-mīthāq*. The *ḥirāba* verse is merely one of a number of Quranic texts that are important to understanding this Umayyad rhetoric (notably Qur'ān 2.27; 5.7; 16.91).

Both Umayyad prose and poetry show that the caliphs sought to represent rebellion against them as rebellion against God, with violation of the *bay'ā* amounting to violation of 'God's covenant'. Nonetheless, there is some evidence that the language of the *ḥirāba* verse counted for something in caliphal circles before the 760s, when very clear evidence for its invocation by caliphs finally appears: *fasād fī l-arḍ* and associated terms in the prose of the 730s and 740s echo the verse. John Bar Penkayē does also suggest that specific *Prophetic* precedent was already important in some circles in Syria in the 680s. We can perhaps glimpse here an aspect of *sunna* in its pre-classical sense, as agreed-upon, uniting custom; indeed, *sunna* and *ʿāda* appear to be invoked in just this sense by ʿAbd al-Ḥamīd in the letter to rebels quoted above.⁹¹

When it comes to punitive practice, continuities with the punitive practices of the ancient and late antique Middle East are very clear. Beheading and 'crucifixion' (usually, it seems, in the sense of the display of a corpse in a public place) were common penalties for public violence across the Middle East, and were of very great antiquity. Exile was also a well-established substitute for execution. Amputation of limbs is not prominent in Roman legal theory. However, it is found in examples of actual historical practice, such as the execution of Elpidius in the *Chronicon Paschale*; it was very frequently used in Sasanian Iran according to all the sources. Furthermore, it seems that the wider Judaeo-Christian milieu of the Roman Near East may have been a particularly important context. Beheading, the public display of corpses, the amputation of the limbs of murderers and immolation and the burning of the dead are all found in the Hebrew Bible and Judaic tradition.

⁹¹ See above, 115.

Most of these punishments were probably already well established in Arabia before Islam. Nonetheless, the new Islamic dispensation demanded that they be justified with reference to the *sunna* (in its pre-classical sense) and the Qurʾān. Rather than the *ḥirāba* verse in particular, it was the principle of God's covenant which underpinned Umayyad rhetoric about the punishment of rebellion: 'throwing off' (*khalʿ*) one's pledge of allegiance in order to defy the state with violent rebellion (*fasād fi l-arḍ*) was held to place one outside the law.⁹² Such 'outlaws' were liable to the grievous earthly penalties that were typical of the pre-modern world. As in other polities, the designation of 'outlaw', or 'brigand' could also be deployed against political enemies in an attempt to undermine any legitimacy they might have; the introduction of Marwān II's letter to his son uses just this rhetoric against ideological rivals.⁹³ Where negotiation failed, or the offense was too insolent or threatening to be dealt with in other ways, the language of 'brigandage' and 'violation of God's covenant', together with humiliating and violent public punishments, made a statement about the relationship between the punished victim and God's justice as represented by Umayyad authority.

Appendix: The execution of rebels c. 632–748 in the later Islamic tradition

The following list is very far from exhaustive, but it is hoped that it gives an indication of the representation of capital punitive practice from the death of the Prophet to the end of the Umayyad period.

1. In 632, unwilling to believe that Muḥammad was dead, ʿUmar b. al-Khaṭṭāb is said to have prophesied that the Prophet would return to cut off the hands and feet cut of those who claimed that he had died.⁹⁴

2. Abū Bakr is said to have killed al-Fujāʿa of Banū Sulaym by immolation in the 'prayer ground' (*muṣallā*), or the *Baqīʿ* cemetery (*al-baqīʿ*) at Medīna. Al-Fujāʿa had converted to Islam and asked to be armed before attacking, robbing and killing Muslims and others.⁹⁵

⁹² On *khalʿ* and its pre-Islamic precedents, see Marsham, *Rituals*, 96–9.

⁹³ Similar rhetoric is found in an account of an Umayyad general's response to an earlier Kharijite rebellion: al-Ṭabarī, *Taʾrīkh*, ii, 923. Cf. *ibid.*, ii, 647. For a *bayʿa* taken to 'the son of those outlawed by God's Messenger' (*ṭarīdī rasūl Allāh*) in Zubayrid rhetoric, see al-Yaʿqūbī, *Taʾrīkh*, ii, 324.

⁹⁴ Ibn Ishāq, *Life of Muhammad*, 682–3; al-Ṭabarī, *Taʾrīkh*, i, 1815–6.

⁹⁵ al-Ṭabarī, *Taʾrīkh*, i, 1903–4; Kraemer, 'Apostates', 45, n. 39.

3. In the *Epistle* of the Kharijite Sālim b. Dhakwān, which probably dates from the mid-eighth century, °Uthmān b. °Affān is said to have applied the prescriptions of the *ḥirāba* verse to Muslim rebels from Egypt who rebuked him in the 650s:

When the Muslims left him (°Uthmān) to go back, having reproached him for his sins against God and told him to desist, he wrote to the governor of Egypt about their leaders, (claiming) that they had made war on God and His Messenger. Some he ordered to be killed, others to have their hands and feet cut off alternately. He also wrote to Mu°āwiya, ‘Send me the Syrians ... for the people of Medina have turned infidel and renounced their obedience.’⁹⁶

Similar material is also found in al-Ṭabarī.⁹⁷

4. °Alī is said to have burned apostates alive; in some accounts they were first killed by trampling, or beheading.⁹⁸

5. Mu°āwiya’s governor in Iraq, Ziyād b. Abīhi punished two rebels from Basra, Sahn b. Ghālib al-Hujaymī and al-Khaṭīm (Yazīd, or Ziyād, b. Mālik al-Bāhili). They had rebelled with a group of followers and were killed and crucified (Sahn) and killed (al-Khaṭīm), in *c.* 45/665–6 and *c.* 49/*c.* 669–70, respectively. They were said to have been given an *amān* by Ziyād’s predecessor, °Abd Allāh b. °Āmir (who killed some of their companions in one account). Other details also vary: in one account, al-Khaṭīm was exiled to Baḥrayn before returning to Basra and eventually being executed having had a violation of the terms of his return (that he stay in his tribal *miṣr*) betrayed to Ziyād. Both are described as Kharijites in some accounts. According to a number of accounts, Ziyād went on to fight and kill, imprison and execute many more Kharijites during his tenure as governor of first Basra and then Iraq.⁹⁹

6. In 50/670, Qarīb b. Murra and Zuḥḥāf b. Zaḥr al-Ṭāʿī revolted (*kharaja*) with seventy or eighty followers; when they had been defeated,

⁹⁶ P. Crone and F. Zimmerman, *The Epistle of Sālim ibn Dhakwān* (Oxford, 2000), 88–9, §52.

⁹⁷ al-Ṭabarī, *Taʾrīkh*, i, 2964–5, 2983–4.

⁹⁸ Kraemer, ‘Apostates’, 44–5 and nn. 39 and 40; Hawting, ‘Ja°d b. Dirham’, 36 and n. 31. Among the early traditions is one given by al-Bukhārī in his *Saḥīḥ*, where Ibn °Abbās’ opposition to burning as opposed to merely killing are noted. For doubt about the historicity of °Alī’s burning of ‘heretics’, see: W. F. Tucker, *Mahdis and Millenarians: Shī°ite Extremists in Early Muslim Iraq* (Cambridge, 2008), 13.

⁹⁹ Khalifa, *Taʾrīkh*, i, 235, 241, 246; al-Balādhurī, *Ansāb al-ashraf*, ed. I. °Abbās (Wiesbaden and Beirut, 1979), iva, 172–3; al-Ṭabarī, *Taʾrīkh*, ii, 15f., 83f; Wellhausen, *Factions*, 39–40.

they and some of their followers, including one of their slave-girls and their wives, were crucified on the orders of Ziyād b. Abīhi.¹⁰⁰

7. In 51/671 an outspoken opponent of Umayyad rule in Kufa, Ḥujr b. °Adī, was pursued by Ziyād b. Abīhi, who threatened retribution against the head of Ḥujr's clan if he did not surrender his kinsman. Ḥujr was imprisoned and then sent with about twelve others to Mu°āwiya; seventy Kufan witnesses had been found to say that Ḥujr b. °Adī had violated his pledge of allegiance; six of the prisoners, including Ḥujr, were executed by beheading.¹⁰¹

8. After initially releasing Kharijites from prison, Ziyād's successor in Iraq, °Ubayd Allāh b. Ziyād, cracked down on them. One band was forced to fight one another, with those who killed one of their former companions being released. This prompted another revolt, which was put down on °Īd al-Fitr 58/678. The body of its leader, Ṭawwāf b. °Allāq was crucified on the orders of Ziyād; his corpse was taken down and buried by his relatives.¹⁰²

9. In 58/677–8, °Ubayd Allāh b. Ziyād, is said to have killed °Urwa b. Udayya, the outspoken brother of the Kharijite leader Abū Bilāl, by crucifixion.¹⁰³ In another account, he cut off the hands and feet of °Urwa b. Udayya and his daughter, and beheaded them both; Abū Bilāl himself was imprisoned and then released. °Ubayd Allāh later executed many Kharijite captives and killed others, including Abū Bilāl, in fighting.¹⁰⁴ He also 'imprisoned on suspicion'; this was said to have been a departure from the conduct of Ziyād.¹⁰⁵

10. A female critic of °Ubayd Allāh b. Ziyād (r. c. 674–86), named Bathjā° (or Baljā), allowed herself to be arrested and was executed in the marketplace at Basra.¹⁰⁶

11. In 61/680 al-Ḥusayn was killed by °Ubayd Allāh b. Ziyād; his severed head was displayed in public.¹⁰⁷

¹⁰⁰ al-Balādhurī, *Ansāb* (Wiesbaden/Beirut), iva, 175–7. Cf. al-Ṭabarī, *Ta°rīkh*, ii, 90–1 (where they are simply 'killed'); Wellhausen, *Factions*, 40.

¹⁰¹ al-Balādhurī, *ibid.*, iva, 242ff.; Wellhausen, *ibid.*, 96–101; Abou El Fadl, *Rebellion*, 53.

¹⁰² al-Balādhurī, *ibid.*, iva, 178–80; Wellhausen, *ibid.*, 40–1.

¹⁰³ al-Balādhurī, *ibid.*, iva, 386–7.

¹⁰⁴ al-Ṭabarī, *Ta°rīkh*, ii, 185ff., 390–1; Abou El Fadl, *Rebellion*, 53, n. 92.

¹⁰⁵ Wellhausen, *Factions*, 41.

¹⁰⁶ *Ibid.*, 41.

¹⁰⁷ Abou El Fadl, *Rebellion*, 53.

12. In 64/683–4, during tribal conflict between Azd and Muḍar at Basra, Ashyam b. Shaqīq ascended the *minbar* and said, ‘Any Muḍarī whom you find, crucify him!’¹⁰⁸

13. Al-Mukhtār’s commander, Yazīd b. Anas, had 300 prisoners beheaded at a battle with Umayyad forces at Banāt Talā, near Mosul in 66/685–6.¹⁰⁹

14. Al-Mukhtār killed those accused of killing al-Ḥusayn in 61/680; the tradition describes various methods of execution, including having their limbs amputated, being tied up and shot with arrows, and run-through with spears; some of the dead were burned;¹¹⁰ one of the executed is said to have been burned or flayed alive.¹¹¹

15. In 69/688–9, °Abd al-Malik b. Marwān defeated his paternal uncle, °Amr b. Sa°īd b. al-°Āṣ, who had rebelled against him. Breaking the safe-conduct (*amān*) he had given him, °Abd al-Malik had °Amr bound in a neck collar and broke his front tooth before having him beheaded; in some accounts he slit °Amr’s throat himself.¹¹²

16. After the killing of °Amr b. Sa°īd b. al-°Āṣ, in 69/688–9, °Abd al-Malik was persuaded by °Abd al-°Azīz b. Marwān not to kill °Amr’s sons, Yahyā and °Anbasa, on the basis that they were Umayyads; they were imprisoned (*hubisa*) instead.¹¹³

17. In 71/690–1, Muṣ°ab b. al-Zubayr rounded up known supporters of °Abd al-Malik and abused them in public, had them beaten and their beards shaved, exposed them to the sun for three days, forced them to divorce their wives and swear not to remarry.¹¹⁴ Others were killed and had their property destroyed or seized.¹¹⁵

18. The corpse of °Abd al-Malik’s rival for the caliphate, °Abd Allāh b. al-Zubayr, was crucified by the Umayyad commander, al-Ḥajjāj, at Mecca in

¹⁰⁸ al-Ṭabarī, *Ta°rīkh*, ii, 464. A different version gives, ‘kill him’: al-Balādhurī, *Ansāb* (Wiesbaden/Beirut), iva, 406.

¹⁰⁹ al-Ṭabarī, *ibid.*, ii, 648.

¹¹⁰ *Ibid.*, ii, 667–79.

¹¹¹ *Ibid.*, ii, 678; cf. al-Balādhurī, *Ansāb al-ashrāf*, ed. S. D. F. Goitein (Jerusalem, 1936), v, 239.

¹¹² al-Ṭabarī, *Ta°rīkh*, ii, 786–92.

¹¹³ *Ibid.*, ii, 792–3.

¹¹⁴ al-Ṭabarī, *Ta°rīkh*, ii, 801–3.

¹¹⁵ *Ibid.*, ii, 803.

72/692.¹¹⁶ This event generated an extensive *akhbār* literature. In one account a dead dog was attached to his body, and his son, °Urwa, was also crucified.¹¹⁷ Al-Ḥajjāj despatched Ibn al-Zubayr's head to °Abd al-Malik.¹¹⁸ In another account his head was sent to one of his supporters as evidence of his death.¹¹⁹

19. In 72/691–2, °Abd Allāh b. Khāzim refused allegiance to °Abd al-Malik; °Abd al-Malik's governor of Khurasan fought him and killed him. His body was carried on a mule, balanced by tying a stone to the corpse's loins. He was beheaded and the head despatched to °Abd al-Malik.¹²⁰ In some accounts, °Abd Allāh b. Khāzim had cut off the hands and feet of the messenger sent by °Abd al-Malik to request his pledge of allegiance before beheading him.¹²¹

20. After his arrival in Kufa in 75/694–5, al-Ḥajjāj beheaded those who had deserted the *jihād*.¹²²

21. In 77/696–7, the heads of defeated Kharijites in Ṭabaristān were sent to al-Ḥajjāj; he sent their leader's head to the caliph, °Abd al-Malik.¹²³

22. Advised that one of his commanders was plotting to break his pledge of allegiance and rebel, Umayya b. °Abd Allāh, the governor of Khurasan, had the commander arrested and imprisoned, along with other plotters; Umayya then had one of his own tribe kill him with his own sword; his assassin was later himself assassinated; the killer was captured, imprisoned and killed.¹²⁴

23. In c. 84/703–4 two defeated rebels who had been led by Ibn al-Ash°ath, °Aṭiyya b. °Amr al-Anbarī and Kharasha b. °Amr al-Tamīmī, were crucified on the doors of their houses by al-Ḥajjāj.¹²⁵

¹¹⁶ al-Dīnawarī, *Kitāb Akhbār al-ṭiwāl*, ed. V. Guirgass (Leiden, 1888), 321; al-Ya°qūbī, *Ta°rīkh*, ii, 319–20.

¹¹⁷ al-Balādhurī, *Ansāb* (Damascus), vi, 237–39. Abou El Fadl, *Rebellion*, 54, n. 92, gives an account in which he was crucified with a cat in a mosque.

¹¹⁸ 'The Byzantine-Arab Chronicle of 741', §34, in Hoyland, *Seeing Islam*, 622.

¹¹⁹ al-Ṭabarī, *Ta°rīkh*, ii, 834–5.

¹²⁰ *Ibid.*, ii, 832–5. Cf. al-Balādhurī, *Futūḥ al-Buldān*, ed. M. J. de Geoeje (Leiden, 1866), 415–6.

¹²¹ al-Ṭabarī, *Ta°rīkh*, ii, 835.

¹²² *Ibid.*, ii, 869–70.

¹²³ *Ibid.*, ii, 1020–1.

¹²⁴ al-Ṭabarī, *Ta°rīkh*, ii, 1029–31, 1048f.

¹²⁵ al-Balādhurī, *Ansāb* (Damascus), vi, 475.

24. In 80/699, or 85/704, or before 90/708, al-Ḥajjāj or °Abd al-Malik executed Ma°bad al-Juhānī, probably because of his involvement in the rebellion of Ibn al-Ash°ath.¹²⁶

25. After al-Ḥajjāj regained control of Iraq in 83/702–3 he demanded that everyone give the pledge of allegiance on the basis that they had previously been in a state of unbelief; if they refused they were beheaded.¹²⁷

26. In 83/702–3, al-Ḥajjāj beat and then beheaded Muḥammad b. Sa°d b. Abī Waqqāṣ, having accused him of, among other things, having refused the pledge of allegiance to Yazīd b. Mu°āwiya and having compared himself to °Husayn and Ibn °Umar°. Three other members of Ibn al-Ash°ath's rebellion, were beheaded on the same occasion.¹²⁸ One, Fayrūz b. Ḥusayn was tortured before he was killed.¹²⁹ Al-Ḥajjāj was said to have killed 11,000 of the rebels led by Ibn al-Ash°ath in fighting and by execution at the battle of al-Zāwiya; a total for the number of captives that al-Ḥajjāj killed in his career was said to have been 120,000 or 130,000.¹³⁰

27. In 90/708–9, Qutayba b. Muslim, al-Ḥajjāj's appointee as governor of Khurasan, is said to have crucified people while prosecuting his war against the Hephthalite leader, Nīzak Tarkhān, in Transoxiana. In one account, 'he crucified [the people of al-Ṭālaqān] in two straight rows four parasangs (about twelve miles) long' on account of their king making common cause with Nīzak in breaking a peace treaty.¹³¹ Another account has a certain Bādhām 'fortifying himself, rebelling and apostatising' (*taḥaṣṣana wa-°aṣā wā-irtadda*) in al-Ṭālaqān; Qutayba 'killed his son and crucified him, and group that was with him' and then fought Bādhām and killed him.¹³² In another account, placed in the year 91/709–10, he 'crucified brigands (*luṣūṣ*)' there, while the chief in al-Ṭālaqān remained neutral.¹³³

28. In 91/709–10, Qutayba b. Muslim is said to have killed and crucified two of the *marzbān* of Marw Rūdh's sons after the *marzbān* himself

¹²⁶ Kraemer, 'Apostates', 53 and n. 73.

¹²⁷ al-Ṭabarī, *Ta°rikh*, ii, 1096–8.

¹²⁸ *Ibid.*, ii, 1120–1.

¹²⁹ *Ibid.*, ii, 1122.

¹³⁰ *Ibid.*, ii, 1123.

¹³¹ *Ibid.*, ii, 1206; tr. M. Hinds, in al-Ṭabarī, *History*, xxiii, 155.

¹³² al-Ya°qūbī, *Ta°rikh*, ii, 342.

¹³³ al-Ya°qūbī, *Ta°rikh*, ii, 1218; H. A. R. Gibb commented in his *Arab Conquests in Central Asia* (London, 1923), on 'hopelessly confused' traditions about al-Ṭālaqān at this time (p. 37).

had fled.¹³⁴ Later in the same year, Qutayba beheaded and crucified Nīzak himself, with two of his fraternal nephews ‘beside a spring named Wakhsh Khāshān at Iskīmishṭ’; the number of those beheaded on the same occasion is said to have been either 700 or 12,000.¹³⁵ There are various stories about Nīzak’s imprisonment prior to his execution.¹³⁶

29. When one of his companions deserted him for Sulaymān in 91/709–10, Qutayba b. Muslim arrested a group of the traitor’s family (*qawman min ahl baytihi*), killed them and cut off the hands and feet of others (*fa-qatalahum wa-qaṭa‘a aydiy ākharīn wa-arjulahum*).¹³⁷

30. In 94/712–13, the new governor of Medina, °Uthmān b. Hayyān al-Murrī, ‘imprisoned and punished’ (*ḥabasahum wa-‘āqabahum*) two Iraqis before sending them, and the other Iraqis in Medina, to al-Ḥajjāj ‘in neck collars’ (*fī jawāmi‘*). °Uthmān ‘pursued the heretics’ (*atba‘a ahl al-ahwā’*) and seized two Kharijites, Hayṣam and Manḥūr; the former either suffered ‘amputation’ (*qaṭa‘ahu*), or, on the orders of al-Walīd, had his hand and foot cut off before being killed.¹³⁸

31. In 94/712–13, al-Ḥajjāj executed Sa‘īd b. Jubayr, one of two former rebels who had been sent to him by the governor of Mecca. (The other was imprisoned until al-Ḥajjāj died; a third had died *en route* to Iraq.) Sa‘īd was beheaded after an exchange about the pledge of allegiance; both his legs were then cut off – perhaps as a result of a misunderstanding of al-Ḥajjāj’s words.¹³⁹

32. A cluster of traditions credits the caliph °Umar b. °Abd al-°Azīz (r. 717–20) with seeking to restrict the use of amputation and execution by his governors, while reserving authority on the matter to himself. One version of the relevant decree is:

...and do not bring about an innovation in amputation and ‘crucifixion’ without consulting me (*wa-lā tuḥdithū ḥadathan fī qaṭ‘ wa-ṣalb ḥattā tu‘āmirūnī*) ...¹⁴⁰

¹³⁴ al-Ṭabarī, *Ta’rīkh*, ii, 1218.

¹³⁵ Ibid., ii, 1222–4. Cf. al-Balādhurī, *Futūḥ*, 420.

¹³⁶ al-Ṭabarī, *Ta’rīkh*, ii, 1224–5.

¹³⁷ al-Ya‘qūbī, *Ta’rīkh*, ii, 354; cf. al-Ṭabarī, *ibid.*, ii, 1218, 1289–90 and al-Ṭabarī, *The History of al-Ṭabarī Volume xxiv: The Empire in Transition*, tr. D. S. Powers (New York, 1989), 13, n. 57.

¹³⁸ al-Ṭabarī, *Ta’rīkh*, ii, 1258; Anonymous, *Kitāb al-°Uyūn*, 16.

¹³⁹ al-Ṭabarī, *ibid.*, ii, 1264f.

¹⁴⁰ al-Ya‘qūbī, *Ta’rīkh*, ii, 366. Cf. Abou El Fadl, *Rebellion*, 59–60.

33. After he was appointed governor of Iraq in 106/724–5, Khālīd al-Qasrī is said to have executed and then crucified °Ikrima and Ḥayyān, missionaries for the Hashimite movement in Khurasan.¹⁴¹

34. In 113/731–2 al-Junayd killed one of the Hashimite missionaries and declared their blood lawful.¹⁴²

35. At some time after 111/729–30, Asad b. °Abd Allāh ‘arrested a group’ of those who had pledged allegiance to the Banū Hāshim ‘and cut off their hands and feet and crucified them’.¹⁴³

36. In 117/735–6, Asad b. °Abd Allāh is said to have captured a group of Abbasid missionaries in Khurasan, killing (*qatala ba°dahum*) some, mutilating (*maththala*) some and imprisoning (*habasa*) some. One of the captives had his teeth broken with a donkey’s bridle, his nose broken and his beard shaved, before being flogged with 300 lashes. He was saved from crucifixion by the intervention of a leading member of his tribe.¹⁴⁴

37. In 118/736–7, Asad b. °Abd Allāh killed the rebel °Ammār b. Yazīd (Khidāsh), a Hashimite missionary, and also, allegedly, a Khurramī (a Mazdakite revivalist).¹⁴⁵ According to one account, Khidāsh was insolent to Asad and so he had his hand cut off, his tongue torn out and his eye gouged out; according to another, he had a doctor remove his eye and his tongue before handing him over to the governor of Amul to be killed and crucified. Asad was also brought a certain Ḥazawwar, who was ‘beheaded on the edge of the river’ (*fa-daraba °unqahu bi-shāti° l-nahr*).¹⁴⁶

38. In 118/736–7, al-Kirmānī was besieging a castle at al-Tubūshkān, in Upper Tūkhāristān; he made a *khuṭba* to those of his own troops who were from Balkh, from whom he feared treachery:

...By Him in Whose hand is my soul, no report will reach me of a man among you having written a letter to (the besieged) attached to an arrow, but that I will cut off his hand and his foot and crucify him ...

¹⁴¹ Khalīfa, *Ta°rikh*, ii, 490 (for his appointment); al-Dīnawarī, *Akhbār*, 336 (the crucifixions).

¹⁴² al-Ṭabarī, *Ta°rikh*, ii, 1560.

¹⁴³ al-Ya°qūbī, *Ta°rikh*, ii, 383.

¹⁴⁴ al-Ṭabarī, *Ta°rikh*, ii, 1586–8; see al-Ṭabarī, *The History of al-Ṭabarī, Volume xxv: The End of Expansion*, tr. and ann. K. Y. Blankinship (New York, 1989), 124, n. 463.

¹⁴⁵ al-Ṭabarī, *Ta°rikh*, ii, 1588–9; see al-Ṭabarī, *History*, xxv, 125, n. 466 concerning the Khurramiyya.

¹⁴⁶ al-Ṭabarī, *Ta°rikh*, ii, 1589.

After the castle surrendered, al-Kirmānī obeyed Asad's written orders, sending fifty of the leaders to him to be executed. Of the 1,200 who remained, al-Kirmānī, as ordered, crucified a third, cut off the hands and feet of a third and cut off the hands of a third.¹⁴⁷

39. In 119/737, al-Mughīra b. Sa'īd and Bayān b. Sam'ān al-Tamīmī led a small rebellion. The rebels were arrested and executed by Khālid al-Qasrī.¹⁴⁸ Extremist Alid beliefs and sorcery were imputed to al-Mughīra.¹⁴⁹ In some accounts he is said to have been 'killed and crucified' (*qatalahu wa-ṣalabahu*). However, other accounts describe him being tied to bundles of reeds, covered in tar and burned in the congregational mosque at Kufa, followed by Bayān.¹⁵⁰ In other accounts he was executed near Wāsiṭ.¹⁵¹

40. In 119/737, Wazīr al-Sakhtiyānī rebelled at al-Ḥīra leading a small group. He was captured and imprisoned by Khālid al-Qasrī, who found his erudition and piety comforting; Hishām wrote to Khālid demanding that he execute his prisoner: 'Do not allow a criminal (*fāsiq*) who has killed, burned and plundered property to live.' Khālid was ordered to kill him and burn him (*qatlihi wa-iḥrāqihī*). He and his companions were burned by Khālid.¹⁵²

41. In 121/738–9, the Alid rebel, Zayd b. 'Alī, was killed and beheaded at Kufa by the Umayyad governor Yūsuf b. 'Umar.¹⁵³ A very extensive martyr literature is associated with this event. Zayd's corpse is said to have been carried on a donkey, before being beheaded, burned and scattered in the Euphrates and in the fields. His head was displayed separately on a pole.¹⁵⁴ Later it was displayed in Medina, where it was denigrated in verse by one of the Anṣār.¹⁵⁵ In another account, Zayd's body was buried, before being exhumed and crucified.¹⁵⁶ In yet another version he was beheaded, and

¹⁴⁷ al-Ṭabarī, *Ta'rikh*, ii, 1590–1.

¹⁴⁸ Cf. Kraemer, 'Apostates', 46; Hawting, 'Ja'd b. Dirham', 36 and n. 29.

¹⁴⁹ al-Ṭabarī, *Ta'rikh*, ii, 1619f. Cf. al-Ṭabarī, *History*, xxv, 152f, nn. 544, 545.

¹⁵⁰ al-Ṭabarī, *Ta'rikh*, ii, 1620.

¹⁵¹ al-Ṭabarī, *History*, xxv, 152f, n. 544.

¹⁵² al-Ṭabarī, *Ta'rikh*, ii, 1628f.; cf. Hawting, 'Ja'd b. Dirham', 36 and n. 30.

¹⁵³ Abou El Fadl, *Rebellion*, 53, n. 92.

¹⁵⁴ al-Ya'qūbī, *Ta'rikh*, ii, 391.

¹⁵⁵ al-Ṭabarī, *Ta'rikh*, ii, 1714–5. Cf. al-Balādhurī, *Ansāb* (Damascus), ii, 522 (where the poetry is associated with the display of the head in Damascus). On the poetry recited about the crucifixion of Zayd, see Ullman, *Kreuzigung*, 25–6, 84–6.

¹⁵⁶ al-Ṭabarī, *ibid.*, ii, 1715.

his corpse crucified at al-Kunāsa just outside Kufa.¹⁵⁷ Other accounts refer to his hands and feet being cut off, as well as the display of his head.¹⁵⁸

42. A dispute between Ghaylān (an advocate of the Qadarī doctrine) and Maymūn (an Umayyad official) was held before Hishām (r. 724–43). Hishām ordered Ghaylān’s hands and feet to be cut off.¹⁵⁹ In some accounts, Ghaylān’s tongue was also cut out and he was then crucified.¹⁶⁰

43. On °Īd al-Adhā 124/742 or 125/743, Ja°d b. Dirham was killed by Khālīd al-Qasrī in the same manner as a slaughtered sacrifice; other accounts have him crucified and then killed.¹⁶¹

44. In 125/743, in Khurasan, Yahyā b. Zayd is said to have suffered a similar fate to that of his father. He was killed, beheaded and crucified (at Kufa, it seems). Then his corpse was taken down and burned; the ash was scattered into the Euphrates from a boat.¹⁶² One of his supporters is singled out as having had his hand and foot cut off.¹⁶³

45. In 125/743, two supporters of pledging allegiance to Hishām’s son, Maslama, instead of his nominated successor, al-Walīd II, were paraded in public at Medina and then tortured and killed on the basis that they had embezzled money.¹⁶⁴

46. After al-Walīd II was killed in 126/744, his left hand and his head were cut off and sent to Yazīd III; the head was displayed on a spear at the congregational mosque in Damascus and paraded around the town; Yazīd III was criticized on the basis that, ‘Only the head of the rebel is displayed’ (*innamā yunṣabu ra’s al-khārījī*).¹⁶⁵

47. After the fall of Yazīd III in 126/744, Abū Muḥammad b. °Abd Allāh b. Yazīd b. Mu°āwiya took power in Damascus, took the *bay°a* to Marwān II, and crucified °Abd al-°Azīz b. al-Ḥajjāj upside down (*mankūsan*)

¹⁵⁷ al-Dīnawarī, *Akhbār*, 345.

¹⁵⁸ al-Balādhurī, *Ansāb* (Damascus), ii, 545–7.

¹⁵⁹ al-Ṭabarī, *Ta°rīkh*, ii, 1733; see further W. M. Watt, *The Formative Period of Islam* (Edinburgh, 1973), 86.

¹⁶⁰ Kraemer, ‘Apostates’, 53–4; see also Hawting, ‘Ja°d b. Dirham’, 36 and n. 28.

¹⁶¹ Kraemer, *ibid.*, 54; Hawting, ‘Ja°d b. Dirham’.

¹⁶² al-Ṭabarī, *Ta°rīkh*, ii, 1770, 1773–74; cf. al-Balādhurī, *Ansāb* (Damascus), ii, 545–7.

¹⁶³ al-Ṭabarī, *ibid.*, ii, 1773.

¹⁶⁴ *Ibid.*, ii, 1768. Cf. al-Ya°qūbī, *Ta°rīkh*, ii, 397; al-Ṭabarī, *ibid.*, ii, 1742.

¹⁶⁵ Khalifa, *Ta°rīkh*, ii, 548–51; al-Ṭabarī, *Ta°rīkh*, ii, 1807.

on the city gate that led south to al-Jābīya; his head was sent to Marwān.¹⁶⁶ In another account, Marwān II crucified Ibrāhīm b. al-Walīd alongside °Abd al-°Azīz,¹⁶⁷ and in another °Abd al-°Azīz and Yazīd b. Khālīd al-Qasrī were crucified together.¹⁶⁸ In yet another, he was given an *amān* on condition that he divest himself of all claim to the caliphate.¹⁶⁹ The body of Yazīd III was subsequently exhumed and crucified.¹⁷⁰

48. 129/746–7, al-Kirmānī went over to Abū Muslim but was caught by the Umayyad governor, Naṣr b. Sayyār; he was killed and crucified alongside a fish in a jibe at his tribal affiliation.¹⁷¹

49. In his sermon preached in 129 or 130 (746–8), Abū Ḥamza criticizes Marwān II for amputating the limbs of his enemies and blinding them.¹⁷²

50. In 130/748 Kharijite rebels were defeated and killed at Mecca; Abū Ḥamza and other leaders were crucified by the Umayyad commander, Ibn °Aṭīyya. Heads were despatched to Marwān b. Muḥammad. Ibn °Aṭīyya was himself killed later that year when he was mistaken for a fleeing Kharijite.¹⁷³

¹⁶⁶ Khalīfa, *ibid.*, ii, 565–6.

¹⁶⁷ al-Balādhurī, *Ansāb* (Damascus), ii, 115, vii, 165.

¹⁶⁸ *Ibid.*, vii, 550.

¹⁶⁹ *Ibid.*, vii, 569.

¹⁷⁰ Khalīfa, *Taʾrīkh*, ii, 566. Cf. Ibn Qutayba, *Kitāb °Uyūn al-akhbār*, ed. A. Z. al-°Adawī (Cairo, 1925–30), ii, 249; al-Balādhurī, *Ansāb* (Damascus), vii, 552.

¹⁷¹ al-Balādhurī, *Ansāb* (Damascus), iii, 144–5; al-Ya°qūbī, *Taʾrīkh*, ii, 407–8 (no fish); al-Ṭabarī, *Taʾrīkh*, ii, 1975. The fish was to cast aspersions on the Azd of °Umān (al-Ṭabarī, *History of al-Ṭabarī, Volume xxvii: The °Abbāsīd Revolution*, tr. and ann. J. A. Williams, (Albany, 1985) 85, n. 230; al-Balādhurī, *Ansāb* (Damascus), iii, 145, n.2); Abou El Fadl, *Rebellion*, 54, n. 92.

¹⁷² Crone and Hinds, *God's Caliph*, 132; Abou El Fadl, *Rebellion*, 54, n. 94.

¹⁷³ al-Iṣfahānī, *Kitāb al-Aghānī*, Būlāq, xx, 110–4; Wellhausen, *Factions*, 88.