

ISLAMIC  
METHODOLOGY  
IN HISTORY

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## PREFACE

THIS book largely represents a series of articles which appeared in this Institute's Journal—Islamic Studies—from March, 1962 to June, 1963. Chapter 4, Ijtihad in the Later Centuries constitutes a new addition. These articles were written under a conceived plan to show (a) the historical evolution of the application of the four basic principles of Islamic thinking—which supply the framework for all Islamic thought—viz., the Qur'an, the Sunnah, Ijtihad, Ijma and (b) their actual working on the Islamic development itself. Hence the title of the book: Islamic Methodology in History.

The fundamental importance of these four principles—which, it must be re-emphasized, are not just the principles of Islamic jurisprudence but of all Islamic thought—can hardly be over-estimated. Particularly important is the way these principles may be combined and applied; this difference can cause all the distance that exists between stagnation and movement, between progress and petrification. This difference stands revealed to us between the early and the later phases of the Islamic developments and this great historic discovery—towards which the Orientalist has contributed so much—can no longer be concealed behind the conventional medieval theory

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about these principles. It is obvious, therefore, that this work has not only a purely historical value but can be of great practical consequence and can indicate the way for further Islamic developments.

It must be fully recognized that much work still needs to be done to bring the treatment of this subject to comprehensiveness. Particularly, the principle of Ijma needs a full historical treatment, especially in relation to the concept of Sunnah. For example what was the actual state of the principle of Ijma when a whole wealth of opinions and doctrines was being given Sunnah-form? Was it an alternative to Sunnah? Why did some schools reject it? Although, however, much further research has to be and, we hope, will be done, the author expects that his basic convictions expressed in this book will be confirmed and that in its major contentions this book is correct.

The traditionalist-minded Muslims are not likely to accept the findings of this work easily. I can only plead with them that they should try to study this important problem with historical fair-mindedness and objectivity. I, for my part, am convinced, as a Muslim, that neither Islam nor the Muslim Community will suffer from facing the facts of history as they are; on the contrary, historical truth, like all truth, shall invigorate Islam for—as the Qur'an tells us—God is in intimate touch with history.

Karachi:

FAZLUR RAHMAN

6th December, 1964.

## FOREWORD

ALONGSIDE of economic blueprints and five-year plans the Muslims all over the world are now refreshingly devoting their attention to a reinterpretation of Islam in the context of modern times. Generally speaking, the desire for religious reconstruction and moral regeneration in the light of fundamental principles of Islam has, throughout their historical destiny, been deeply rooted among the Muslims—progressivists as well as traditionalists. Both the sections seem conscious of the fact that the only way for the Muslims of today, for an active and honorable participation in world affairs, is the reformulation of positive lines of conduct suitable to contemporary needs in the light of social and moral guidance offered by Islam. This, however, entails a great and heavy responsibility for all those engaged in the onerous task of reconstruction. Theirs is the endeavour to strike a happy balance between the divergent views of the traditionalists and the modernists, or in standard language, between conservatism and progressivism.

It was indeed unfortunate that Muslims during the preceding centuries closed the door of Ijtihad, result-

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ing in stagnation and lack of dynamism. Resurgence of the new spirit for a re-evaluation of their religious and moral attitudes towards the ever-emerging problems of life in a changing world has been spasmodic and relatively fruitless. Though thwarted, the spirit remained alive and was never wholly stifled.

We find its periodic effulgence in the emergence of various reformist movements that convulsed the world of Islam from time to time. The Indo-Pakistan subcontinent was no exception. The lamp " lit by Shah Waliy Allah al-Dihlawi continued to burn and shed its light. The Central Institute of Islamic Research may be regarded as a link in that long-drawn-out process. It was established by President Mohammad Ayub Khan (who is also its Patron-in-Chief) with the specific purpose of enabling the Muslims of Pakistan to lead their lives in accordance with the dictates of the Qur'an and the Sunnah, in the light of modern developments and commensurate with the challenge of the time. By its very nature, however, the work of the Institute cannot remain confined to the geographical limits of Pakistan but will serve the Ummah in general. The people entrusted with this heavy responsibility are, therefore, required to have a clear and well-defined conception of their objectives with a view to their institutional implementation in the wider fabric of state organization and national development. This

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is exactly what the members of the Institute are endeavoring to accomplish.

Conscious as we are of the fact that Islamic scholarship, during the past few centuries, has been more or less mechanical and semantic rather than interpretative or scientific, our efforts howsoever humble and small, are directed towards breaking the thaw in Islamic thinking—both religious and moral. With these objectives in view, the Institute has decided to launch a series of publications, covering a wide and diverse field of Islamic studies, prepared mostly by its own members. The Institute has a definite direction and a cohesive ideology, although honest and academic difference of opinion is naturally allowed. We hope that the Muslims, living under the stress and strain of modern times, will find enough food for thought in these publications resulting ultimately in rekindling in them the burning desire, nay the longing, for exercising Ijtihad, the only pre-requisite for recapturing the pristine glory of Islam and for ensuring an honorable place for the Muslim Ummah in the comity of progressive, dynamic and living nations of the world. We also hope that these works will equally provide sound and solid scholarship for the non-Muslim Islamists.



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### NOTE ON TRANSLITERATION

The system of transliteration of Arabic words adopted in this series is the same as has been employed by the editors of the Encyclopedia of Islam, new edition, with the following exceptions : q has been used for k and j for dj, as these are more convenient to follow for English-knowing readers than the international signs. The use of ch, dh, gh, kh, sh, th, and zh with a subscript dash, although it may appear pedantic, has been considered necessary for the sake of accuracy and clearer pronunciation of letters peculiar to Arabic and Persian. As against the Encyclopedia, ta marbutah has throughout been retained and shown by the ending h or t, as the case may be. This was also found necessary in order to avoid any confusion. In words of Persian origin the retention of the final h is essential as it stands for ha-yi mukhtafz, which should not be dispensed with.

References in the text to Qur'anic verses are from the English translation of the Qur'an by Mohammed Marmaduke Picktball, *The Meaning of the Glorious Koran*, New York, 1955 (a Mentor Book).

Karachi:  
9th December, 1964.

A. S. BAZMEE ANSARI,  
General Editor

## CONCEPTS SUNNAH, IJTIHAD AND IJMA' IN THE EARLY PERIOD

SUNNAH is a behavioral concept—whether \*\*\*\* applied to physical or mental acts—and, further, denotes not merely a single act as such but in so far as this act is actually repeated or potentially repeatable. In other words, a sunnah is a law of behavior whether instanced once or often. And since, strictly speaking, the behavior in question is that of conscious agents who can "own" their acts, a sunnah is not just a law of behavior (as laws of natural objects) but a normative moral law: the element of moral "ought" is an inseparable part of the meaning of the concept Sunnah. According to the view dominant among more recent Western scholars, Sunnah denotes the actual practice which, through being long established over successive generations, gains the status of normativeness and becomes "Sunnah". This theory seems

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to make actual practice—over a period—not only temporarily but also logically prior to the element of normativeness and to make the latter rest on the former. It is obvious that this view derives its plausibility from the fact that since Sunnah is a behavioral concept, what is actually practiced by a society over a long period, is considered not only its actual practice but also its normative practice. This is especially true of strongly cohesive societies like the tribal ones. But, surely, these practices could not have been established in the first place unless *abinitio* they were considered normative. Logically, therefore, the element of normativeness must be prior. And although it must be admitted that the fact of a custom's being long established adds a further element of normativeness to it—especially in conservative societies—this factor is quite different and must be radically disentangled from the initial normativeness.

That Sunnah essentially means "exemplary conduct" as such and that actually being followed is not a part of its meaning (although the fulfillment of the Sunnah necessarily consists in being followed) can be demonstrated by numerous examples such as the following. Ibn Durayd, in his *Jamharah* (and he is followed in this by other lexicographers), gives the original meaning of the verb *sannah* as "*sawwara* (*al-shay'a*)", i.e., to fashion a thing or produce it as a model. Next, it is applied to behavior which is considered a model. Here (and this is the sense relevant to us here) *sannah* would be best translated by "he set an example". It is in this sense that Abu Yusuf admonishes Harun al-Rashid (see his *Kitab al-Kharaj*, the chapter on *Sadaqai*) asking the

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Caliph "to introduce (as distinguished from 'to follow') some good sunnahs".<sup>1</sup> In the same passage, Abu Yusuf quotes the Hadith, which may be very early, "whoever introduces a good sunnah will be rewarded

. . and whoever introduces a bad sunnah . . . ", etc. If one asks how a sunnah could be bad if its essential meaning is not to be actually followed by others but to be morally normative, the answer (given by the author of *Lisan al- Arab*, s.v.) is that those who set bad examples wish, nevertheless, to be followed by others and in most cases (perhaps in all cases) they do not think they are setting bad examples.

## II

From the concept of normative or exemplary conduct there follows the concept of standard or correct conduct as a necessary complement. If I regard someone's behavior as being exemplary for me then, in so far as I follow this example successfully, my behavior will be thus far up to the standard or correct. There enters, therefore, an element of "straightness" or correctness into this enlarged complementary sense of the word "sunnah". It is in this sense that the expression "sananal-tariq" is used which means "the path straight ahead" or "the path without deviation".<sup>2</sup> The prevalent view that in its primary sense sunnah means "the trodden path" is not supported by any unique evidence,<sup>3</sup> although, of course, a straight path without deviation implies that the path is already chalked out which it cannot be unless it has been already trodden. Further, the sense in which sunnah is a straight path without any deviation to the right or to the left also gives the meaning of a "mean

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between extremes" of the "middle way". In his letter to \*Uthman al-Batti, Abu Hanifah, while explaining his position with regard to a sinful Muslim, against the Kharijite extremism, describes his own view as that of Ahl al-adl waUSunnah, i.e., "people of the mean and the middle path". "As regards the appellation' Murjite which you have mentioned (regarding my view), what is the crime of a people who speak with balance (ladl = justice) and are described by deviationists by this name ? On the contrary, these people are (not Murjites but) people of balance and the middle path."4 We shall show in the next chapter how the term "sunnah" actually evolved into this sense and, further, that it was on this principle of the "mean" that the Ahl al-Sunnah or the "orthodoxy" came into being.

### III

Among the modern Western scholars, Ignaz Goldziher, the first great perceptive student of the evolution, of the Muslim Tradition (although occasionally uncritical of his own assumptions), had maintained that immediately after the advent of the Prophet his practice and conduct had come to constitute the Sunnah for the young Muslim community and the ideality of the pre-Islamic Arab sunnah had come to cease. After Goldziher, however, this picture imperceptibly changed. While the Dutch scholar, Snouck Hurgronje, held that the Muslims themselves . added to the Sunnah of the Prophet until almost all products of Muslim thought and practice came to be justified as the Sunnah of the Prophet, certain other notable authorities like Lammens and

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Margoliouth came to regard the sunnah as being entirely the work of the Arabs, pre-Islamic and post Islamic—the continuity between the two periods having been stressed. The concept of the Sunnah of the Prophet was both explicitly and implicitly rejected. Joseph Schacht has taken over this view from Margoliouth and Lammens in his *Origins of Muhammedan Jurisprudence* wherein he seeks to maintain that the concept "Sunnah of the Prophet" is a relatively late concept and that for the early generations of the Muslims sunnah meant the practice of the Muslims themselves.

We have criticized, elsewhere, the grounds of this development in Western Islamic studies and have attempted to bring out the conceptual confusion with regard to sunnah.<sup>5</sup> The reason why these scholars have rejected the concept of the Prophetic Sunnah is that they have found (i) that a part of the content of Sunnah is a direct continuation of the pre-Islamic customs and mores of the Arabs ; (ii) that by far the greater part of the content of the Sunnah was the result of the freethinking activity of the early legists of Islam who, by their personal Ijtihad, had made deductions from the existing Sunnah or practice and—most important of all—had incorporated new elements from without, especially from the Jewish sources and Byzantine and Persian administrative practices ; and, finally (iii) that later when the Hadith develops into an overwhelming movement and becomes a mass-scale phenomenon in the later second and, especially, in the third centuries, this whole content of the early Sunnah comes to be verbally attributed to the Prophet himself under the aegis of the concept of the "Sunnah Of the Prophet".

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Now, we shall show (1) that while the above story about the development of the Sunnah is essentially correct, it is correct about the content of the Sunnah only and not about the concept of the "Sunnah of the Prophet", i.e., that the "Sunnah of the Prophet" was a valid and operative concept from the very beginning of Islam and remained so throughout; (2) that the Sunnah-content left by the Prophet was not very large in quantity and that it was not something meant to be absolutely specific ; (3) that the concept Sunnah after the time of the Prophet covered validly not only the Sunnah of the Prophet himself but also the interpretations of the Prophetic Sunnah ; (4) that the "Sunnah" in this last sense is co-extensive with the Ijma of the Community, which is essentially an ever-expanding process ; and, finally (5) that after the mass-scale Hadith movement the organic relationship between the Sunnah, Ijtihad and Ijma was destroyed. In the next chapter we shall show the real genius of the Hadith. and how the Sunnah may be validly inferred from the Hadith-material and how Ijtihad and Ijma may be made operative again.

### IV

It may be gathered from the foregoing that the theory that the concept of the Prophetic Sunnah and even the content of the Prophetic Sunnah did not exist (outside the Qur'anic pronouncements on legal and moral issues) draws its force from two considerations, viz. (1) that in actual fact most of the content of the Sunnah during the early generations of Islam is either a continuation of the pre-Islamic Arab practices or the result of assimilative-deductive thought-activity of the early Muslims themselves, and (2) that the

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Sunnah, in any case, implies a tradition, as distinguished from the activity of one person. This latter statement itself both enforces and is enforced by the first. In Sections I and II above we have advanced evidence to refute this assumption and have shown that Sunnah really means "the setting up of an example" with a view that it would or should be followed. Indeed, the Qur'an speaks, in more than one place, of the "Sunnah of God that is unalterable" in connexion with the moral forces governing the rise and fall of communities and nations.<sup>6</sup> Here it is only the ideality of the action-pattern of one Being, viz., God, that is involved. Now, the same Qur'an speaks of the "exemplary conduct" of the Prophet,—in spite of its occasional criticism of the Prophet's conduct at certain points (and this latter point constitutes a unique moral argument for the revealed character of the Qur'an); When the Word of God calls the Prophet's character "exemplary" and "great", is it conceivable that the Muslims, from the very beginning, should not have accepted it as a concept?

We have analyzed in our work *Islam* (see n. 5) the letter<sup>8</sup> of Hasan al-Basri written to 'Abd al-Malik b. Marwan (65-85 A. H.). There, Hasan speaks of the "Sunnah of the Prophet" with regard to the freedom of the human will, although he admits that there exists no formal and verbal tradition from the Prophet about this matter. This gives us a positive clue to the understanding of the concept of the "Prophetic Sunnah" and we shall revert to it later. Further, the pro-Hashimi poet of the first and early second century of the Hijrah, al-Kumayt, says in one of his famous poems

(Arabic sentence is here please see pdf for the Arabic sentence)



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"On the basis of what Book or which sunnah do you regard my love for them as a disgrace?"

"Them" here means the progeny of the Prophet and the Banu Hashim in general. The "Book" here is, of course, the Qur'an. What can the word "sunnah?" mean in this context except the "Sunnah of the Prophet"? This is certainly not the use of the word "sunnah" in the sense in which expressions like "the Sunnah of Madinah," etc. are used by early legists. Nor can "Sunnah" here mean the "middle path" for that nuance develops a little later—as in the case of Abu Hanifah's letter mentioned above—after the conflict of theological opinion. The Qasidah in which the word occurs is said by the author of al-Aghani to be among the earliest compositions of al-Kumayt and was, therefore, probably written circa 100 A.H. or even before.<sup>8</sup> Moreover, the use of the term here does not suggest that it is a new one but assumes that this sense is fully established. We cannot even read here any radical Shi'ah theological complication into the word "sunnah" for the poet is not an extreme dogmatic Shiah and explicitly says in one place that he neither rejects Abu Bakr and 'Umar nor calls them Kafir.<sup>10</sup>

In his Kitab al-Kharaj, Abu Yusuf relates that the second Caliph, 'Umar, once wrote that he appointed people in several places to "teach people the Qur'an and the Sunnah of our Prophet".<sup>11</sup> It may be said that this reference is rather late (second half of the second century A.H.) and that at that time the concept of the "Prophetic Sunnah" had been formed. What is important here, however, is the circumstantial truth of the statement itself. 'Umar had sent people, it is certain, to different countries, especially to Iraq. He had emphasized, it is also certain, the teaching of

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Arabic and Arabic literature. It goes without saying that the Qur'an was taught as the nucleus of the new Teaching. But the Qur'an is obviously not intelligible purely by itself—strictly situational as its revelations are. It would be utterly irrational to suppose that the Qur'an was taught without involving in fact the activity of the Prophet as the central background activity which included policy, commands, decisions, etc. Nothing can give coherence to the Qur'anic teaching except the actual life of the Prophet and the milieu in which he moved, and it would be a great childishness of the twentieth century to suppose that people immediately around the Prophet distinguished so radically between the Qur'an and its exemplification in the Prophet that they retained the one but ignored the other, i.e., saw the one as divorced from the other. Did they never ask themselves the question—even implicitly—"why did God choose this person as the vehicle of His Message?" Completely nonsensical is that view of modern scholarship which, gained no doubt from later Muslim theological discussions themselves, makes the Prophet almost like a record in relation to Divine Revelation. Quite a different picture emerges from the Qur'an itself which assigns a unique status to the Prophet whom it charges with a "heavy responsibility"<sup>12</sup> and whom it invariably represents as being excessively conscious of this responsibility.<sup>13</sup>

## V

There was, therefore, undoubtedly the Sunnah of the Prophet. But what was its content and its character? Was it something absolutely specific laying

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down once and for all the details of rules about all spheres of human life as Medieval Muslim Hadlth-Fiqh literature suggests ?

Now, the overall picture of the Prophet's biography — if we look behind the colouring supplied by the Medieval legal mass—has certainly no tendency to suggest the impression of the Prophet as a pan-legist neatly regulating the fine details of human life from administration to those of ritual purity. The evidence, in fact, strongly suggests that the Prophet was primarily a moral reformer of mankind and that, apart from occasional decisions, which had the character of ad hoc cases, he seldom resorted to general legislation as a means of furthering the Islamic cause. In the Qur'an itself general legislation forms a very tiny part of the Islamic teaching. But even the legal or quasi-legal part of the Qur'an itself clearly displays a situational character. Quite situational, for example, are the Qur'anic pronouncements on war and peace between the Muslims and their opponents—pronouncements which do express a certain general character about the ideal behavior of the community vis-a-vis an enemy in a grim struggle but which are so situational that they can be regarded only as quasi-legal and not strictly and specifically legal.

A prophet is a person who is centrally and vitally interested in swinging history and moulding it on the Divine pattern. As such, neither the Prophetic Revelation nor the Prophetic behavior can neglect the actual historical situation obtaining immediately and indulge in purely abstract generalities; God speaks and the Prophet acts in, although certainly not merely for, a given historical context. This is what marks a prophet out from a visionary or even a

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mystic. The Qur'an itself is replete with such evidence with regard both to the history of the past and the then contemporary scene. And yet the Message must—despite its being clothed in the flesh and blood of a particular situation—outflow through and beyond that given context of history. If we need a support besides an insight into the actual unfolding of the Qur'an and the Sunnah, we have on our side Shah Waliy Allah of Dihll and a historian like Ibn Khaldun.

To revert to the "Prophetic Sunnah". We have said that the early Islamic literature strongly suggests that the Prophet was not a pan-legist. For one thing, it can be concluded a priori that the Prophet, who was, until his death, engaged in a grim moral and political struggle against the Meccans and the Arabs and in organizing his community-state, could hardly have found time to lay down rules for the minutiae of life. Indeed, the Muslim community went about its normal business and did its day-to-day transactions, settling their normal business disputes by themselves in the light of commonsense and on the basis of their customs which, after certain modifications, were left intact by the Prophet. It was only in cases that became especially acute that the Prophet was called upon to decide and in certain cases the Qur'an had to intervene.<sup>14</sup> mostly such cases were of an ad hoc nature and were treated informally and in an ad hoc manner. Thus, these cases could be taken as normative prophetic examples and quasi-precedents but not strictly and literally. Indeed, there is striking evidence<sup>18</sup> that even in the case of times of formal prayers and their detailed manner the Prophet had not left an inflexible and rigid model. It was only on

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major policy decisions with regard to religion and state and on moral principles that the Prophet took formal action but even then the advice of his major Companions was sought and given publicly or privately, "In the behavior of the Prophet, religious authority and democracy were blended with a finesse that defies description."<sup>14</sup>

That the Prophetic Sunnah was a general umbrella-concept rather than filled with an absolutely specific content flows directly, at a theoretical level, from the fact that the Sunnah is a behavioral term: since no two cases, in practice, are ever exactly identical in their situational setting—moral, psychological and material—Sunnah must, of necessity, allow of interpretation and adaptation. But quite apart from this theoretical analysis, there is abundant historical evidence to show that this was actually the case. The letter of Hasan al-Basri mentioned previously is a glaring instance of this. In this letter, Hasan tells 'Abd al-Malik b. Marwan that although there is no Hadith from the Prophet in favor of the freedom of the will and human responsibility, nevertheless this is the Sunnah of the Prophet. What this obviously means is that the Prophet (and his Companions) have shown by their behavior that the doctrine of predetermination contradicts the Prophet's implicit teaching. This passage of Hasan is highly revelatory of the Prophetic Sunnah as being rather a pointer in a direction than an exactly laid-out series of rules, and demonstrates that it was precisely this notion of the "Ideal Sunnah" that was the basis of the early thought activity of the Muslims, and that *ijtihad* and *ijma* are its necessary complements and forward reaches in which this Sunnah is progressively fulfilled.

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### VI

The earliest extensive extant work on the Hadith and on the Sunnah is the Muwatta of Malik b. Anas (d. 179 A.H.). Malik's wont is that at the beginning of each legal topic he quotes a Hadith either from the Prophet, if available, or from the Companions, especially the first four Caliphs. This is usually followed by his remark: "And this is also the Sunnah with us," or "But the Sunnah with us is ..." or, more frequently, "our practice (amr or 'amal) is ..." or, still more frequently, "our agreed practice (al-amr al-mujtama 'alayk) is...". Again, with regard to the term "Sunnah", sometimes he simply says, "The Sunnah with us is .., ", and sometimes, "The established Sunnah has been (qad madat al-Sunnatuy) we shall now analyze the use of these closely allied and legally equivalent but somewhat differing phrases.

Malik quotes a Hadith from the Prophet that the Prophet granted a certain person the right of shufah, i.e., the right of prior claim to purchase his partner's share of the property, which this partner wanted to dispose of. Malik then observes, "And this is the Sunnah with us". Then he says that the famous lawyer of Madinah, Sa'id b. al-Musayyib (d. circa 90 A.H.) was once asked about shufah, "Is there any Sunnah concerning it ?", whereupon Ibn al-Musayyib said, "yes ; shufah is applicable only to houses and land."

Now, it is a matter of importance to notice the obvious difference between the two usages of the term "Sunnah" in "This is the Sunnah with us" and "Is there any Sunnah with regard to shufai?" Whereas in the one case it does mean "the practice" or "estab-

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lished practice in Madinah" it cannot mean this in the second case, for one does not ask, in the face of an agreed practice : "Is there any Sunnah with regard to this ?" In this case, then, Sunnah must mean an "authoritative" or "normative" precedent. But whose normative precedent? Obviously in this case the Sunnah is either the Sunnah of the Prophet or of any subsequent authority under the general aegis of the Prophetic Sunnah, for we have already adduced evidence that the pre-Islamic Arab practice as such cannot be regarded as normative. But whereas it is clear that the Sunnah is under the general aegis of the Prophetic model, it is also clear that Ibn al-Musayyib does not mention the Prophet here. And Malik quotes no Hadith, in this matter, from the Prophet on the authority of Ibn al-Musayyib. It is thus obvious that the Sunnah in question could have been set by any Companion or a subsequent authority although it is not divorced from the general concept of the Prophetic Sunnah. Further, what these two statements on Sunnah in this particular case of shufah conjointly imply is that Sunnah in sense (1)—an exemplary precedent, becomes, in Malik's time, Sunnah in sense (2)—an agreed practice.

## VII

The necessary instrument whereby the Prophetic model was progressively developed into a definite and specific code of human behavior by the early generations of Muslims was responsible personal free-thought activity. This rational thinking, called "Ra'y" or "personal considered opinion" produced an immense wealth of legal, religious and moral ideas during the

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first century and a half approximately. But with all its wealth, the product of this activity became rather chaotic, i.e., the "Sunnah" of different religions—

Hijaz, Iraq, Egypt, etc.—became divergent on almost every issue of detail. It was in the face of this interminable conflict of free opinion that Ibn al-Muqafa' (d. 140 A.H.) declared that there was no agreed-upon Sunnah of the Prophet and advised the Caliph to exercise his own Ijtihad'<sup>17</sup> But the intellectual and religious leaders of the Community thought otherwise. Already, the individual free thought (Ra'y had given way to more systematic reasoning on the already existing Sunnah and on the Qur'an. This systematic reasoning was called "Qiyas". On the other hand, the existing Sunnah—the result of earlier free opinion—was slowly reaching a point where it resulted in a fairly uniform acceptance by the Community—at least regional communities—like Hijaz, Iraq, etc. This is why both the terms "Sunnah" and "Ijma'" are applied by Malik to this body of opinion, existing in Madinah, almost equivalently. But although both these terms are applied to this material, there is an important difference in the point of view inherent in each term. The "Sunnah" goes backward and has its starting-point in the "Ideal Sunnah" of the Prophet which has been progressively interpreted by Ra'y and Qiyas ; the Ijma is this Sunnah-interpretation or simply "Sunnah" in our sense (2) above, as it slowly came to be commonly accepted by the consent of the Community.

Between, therefore, the Qur'an and the "Ideal Sunnah" on the one hand and the Ijma or Sunnah in sense (2) on the other, there lies the inevitable activity of Qiyas or Ijtihad. Malik, in his Muwatta, fills



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continuous paragraphs by his own Ijtihad despite his ceaseless invocation of the "general practice at Madinah". But there is perhaps nothing more revealing of the Ijtihad activity in the existing literature of even the second century—when a fairly general common opinion was crystallizing throughout the Muslim world through the stabilization of the Sunnah in sense (2) and through the growing number of new Hadith (the role of which shall be portrayed in the next chapter) than the *Kitab al-Siyar al-Kabir* of Muhammad al-Shaybani, the younger of the two illustrious pupils of Abu Hanifah. Al-Shaybani died in 189 A.H., and his great commentator al-Sarakhsi (d. 483 A.H.) tells us<sup>18</sup> that this work is the last one written by al-Shaybani. The bulk of the book consists of al-Shaybani's own Ijtihad, arising out of his criticism of early opinion. Quite apart from Qiyas, i.e., analogical reasoning, al-Shaybani has often recourse to Istihsan in opposition to earlier precedents and exercises absolute reasoning.

The number of Hadith from the Prophet quoted by al-Shaybani is, indeed, extremely small. He quotes Hadiths frequently from the Companions and still more frequently from the "Successors" (Tabi'un—the generation after the Companion's). But he criticizes and rejects sometimes a Companion's opinions as well. One illustration will suffice here. The question under discussion is: What can an individual Muslim soldier appropriate for himself from the territory of a defeated enemy in view of the fact that the property of the fallen enemy does not belong to any individual Muslim but to the conquering Muslims as a whole? "It has been related from (the Companion) Abu'l Darda'," says al-Shaybani, "that he said that there

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is no harm if Muslim soldiers take food (from the enemy's territory), bring it back to their family, eat it and also make presents of it (to others),

Provided they do not sell it. Now, ABu'l-Darda' seems to have included making food-presents among the necessities like eating (for the soldiers themselves are allowed to eat the food in order to keep themselves alive which is a necessity). But we do not accept this for whereas eating is a basic necessity . . . making food-presents is not."<sup>19</sup> In connection with this, al-Shaybani says, "We accept on this point the Hadith of the 'Successor' Makhal (d. circa 114 A.H.). A

(Muslim) man slaughtered a camel in the territory of the Byzantines and invited others to share it. Makhal said to someone from the Ghassanids: 'Won't you get up and bring us some meat from this slaughtered camel?' The man replied, 'this is plunder (i.e. has not been properly distributed according to the rules of ghanimah)'. Makhal said, 'There is no plunder in what is permissible (i.e. food is allowed to be eaten)'."

Al-Shaybani goes on, "It is also related from Makhal that he said that anybody who brings back home something from the enemy territory that has no value there but which may be of use to him, is allowed to do so. But this would hold well, according to us, only in regard to those things which have no special value in our territory either. Things (which may be valueless in the enemy territory but) which become valuable in our territory must be returned to the mal al-ghanimah, for, by mere transportation the essence of a thing is not transformed. Makhal regarded the fact of transportation as having become a constitutive quality of a thing—like a craft"<sup>20</sup> Al-Shaybani, after this criticism, proceeds to confirm

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Makhal's ijthihad that if a Muslim finds some petty object in the enemy territory, say a piece of wood, and by his own work transforms it into, say, a bowl, he is entitled to it. But he is not entitled to possess things which had been manufactured before he found them.

### VIII

Examples of this type could be given almost endlessly but I have chosen one lengthy illustration of Ijtihad to give a peep to the reader into the actual working of the mind of early mujtahid Muslims. It should be abundantly clear by now that the actual content of the Sunnah of the early generations of Muslims was largely the product of Ijtihad when this Ijtihad, through an incessant interaction of opinion, developed the character of general acceptance or consensus of the Community, i.e. Ijma. This is why the term "Sunnah" in our sense (2), i.e. the actual Practice, is used equivalently by Malik with the term "al-amr al-mujtama 'alayhi", i.e. Ijma'. Thus, we see that the Sunnah and the Ijma literally merge into one another and are, in actual fact, materially identical. Even later, in the post-Shafi period, when the two concepts are separated, something of the intimate relationship between the two remains. For, in the later period, when Sunnah came to designate only the Sunnah of the Prophet and this not only conceptually and, as it were, as an umbrella-idea—even then the agreed practice of the Companions still continued to be called Sunnah—Sunnat at-Sakabah. But where Sunnah ceases, Ijma takes over. Thus, the agreement Of the Companions is both Sunnat al-Sahabah and Ijma\* al-Sakabah. This in itself was not a harmful

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change, provided the important status of Ijma were not affected and its right to continue to assimilate and create new fresh ideas and elements were not jeopardized. But what happened, unfortunately, in the post-Shafi period was precisely this and in the next section we shall portray this development.

### IX

We have, so far, established: (1) that the Sunnah of the early Muslims was, conceptually and in a more or less general way, closely attached to the Sunnah of the Prophet and that the view that the early practice of the Muslims was something divorced from the concept of the Prophetic Sunnah cannot hold water ; (2) That the actual specific content of this early Muslim Sunnah was, nevertheless, very largely the product of the Muslims themselves; (3) that the creative agency of this content was the personal Ijtihad, crystallizing into Ijma, under the general direction of the Prophetic Sunnah which was not considered as being something very specific ; and (4) that the content of the Sunnah or Sunnah in sense (2) was identical with Ijma. This shows that the community as a whole had assumed the necessary prerogative of creating and recreating the content of the Prophetic Sunnah and that Ijma' was the guarantee for the rectitude, i.e. for the working infallibility (as opposed to absolute or theoretical infallibility, such as assumed by the Christian Church) of the new content.

With this background in view, we can understand the real force of the famous second-century aphorism: "The Sunnah decides upon the Qur'an; the Qur'an does not decide upon the Sunnah",

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Which, without this background, sounds not only, shocking but outright blasphemous. What the aphorism means is that the Community, under the direction, of the spirit (not the absolute letter) in which the Prophet acted in a given historical situation, shall authoritatively interpret and assign meaning to Revelation. Let us give a concrete example of this. The Qur'an provides that for a decision in most cases (other than adultery, etc.) the evidence of two males or one male and two females is required. In the established actual practice, however, civil cases were decided on the basis of one witness plus an oath. Some people objected to this practice and argued from the Qur'an. Malik (Muwatta' the chapter "al-Yamin ma al-Shahid") confirms this established practice which had most probably arisen out of the exigencies of the judicial procedure. Malik also quotes a Hadith in this connexion but ultimately relies on the established practice.

An important feature of this Sunnah-Ijma phenomenon must be noticed at this stage. It is that this informal Ijma' did not rule out differences of opinion. Not only was this Ijma regional the Sunnah-Ijma of Madinah, e.g. differed from that of Iraq but even within each region differences existed although an *opinio generalis* was crystallizing. This itself reveals the nature of the process whereby Ijma was being arrived at, i.e. through differences in local usage and through different interpretations a general *opinio publica* was emerging, although at the same time the process of fresh thinking and interpretation was going on. This procedure of reaching Ijma or a common public opinion was utterly democratic in its temper. But at this juncture also a powerful movement had gained

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momentum to achieve standardization and uniformity throughout the Muslim world, The need for uniformity was pressing in the interests of administrative and legal procedures and tasks and that is why, as we have remarked earlier, Ibn al-Muqafa' had advised the 'Abbasid Caliph to impose his own decision in the absence of a universal agreement. This movement for uniformity, impatient with the slow-moving but democratic Ijma'-process, recommended the substitution of the Hadith for the twin principles of Ijtihad and Ijma and relegated these to the lowest position and, further, severed the organic relationship between the two, This seemed to put an end to the creative process but for the fact that Hadith itself began to be created.

### X

The mass-scale Hadith movement, which we shall deal with in the next chapter had already started towards the turn of the first century but gained a strong impetus during the second century in the name of a uniform authority -the Prophet- and in the sphere of jurisprudence was spearheaded by al-Shafi whose decisive and successful intervention in the freely-moving Islamic thought-stream resulted in the fundamental formulation of the principles of Islamic jurisprudence as the succeeding ages have known and accepted them. Especially, in our present context, his arguments concerning the nature of Ijma have been truly momentous. He ceaselessly argued that the claims of his opponents—the representatives of the older schools—to have arrived at a state of general Ijma\* were quite unacceptable; that, apart from

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certain basic facts, like the number of prayers, etc., in fact not Ijma' but difference prevailed on almost all issues, and that no formal council of Muslim representatives to reach agreements had been ever convened nor was such a step feasible<sup>21</sup> He noncommittally states the opponents' view—and on occasions only reluctantly allows it, viz. that the early Caliphs, especially Abu Bakr and 'Umar, used to make public appeals for people to come forward with information about the Prophetic Sunnah when specific issues arose about which the Caliphs themselves were not in possession of such information.<sup>22</sup> Actually, this argument of al-Shafi's opponents was part of a larger argument that the Prophet's Companions had seen him behave in all sorts of situations and had acted in his spirit; that the succeeding generation had, in their turn, witnessed the behavior of the Companions ; and that through this process—involving mutual advice and criticism—by the third generation, the Prophetic Sunnah can be assumed to have been established in practice in the Community and, therefore, the vehicle of mass-scale Hadith—beset with dangers of lack of verifiability was not needed to support this Sunnah.<sup>2'</sup> This argument was disallowed resolutely by al-Shafi. The argument about the public appeals of the Caliphs seems to be an artifice introduced by the Ahl al-Ijma as a defense against the Ahl al-Hadith, and the proof of its artificial character is al-Shafi's scepticism towards it. But the larger argument had a great potentiality and apparently much truth. What weakened it in the eyes of al-Shafi'i? However, were the differences of opinion prevailing among the schools, "You do not possess.

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agreement (ijma) but disagreement (iftiraq)"., he insistently pointed out.

It is clear that al-Shafi's notion of Ijma was radically different from that of the early schools. His idea of Ijma was that of a formal and a total one; He demanded an agreement which left no room for disagreement. He was undoubtedly responding to the exigencies of the time and was but a monumental representative of a trend that had long set in, working towards equilibrium and uniformity. But the notion of Ijma exhibited by the early schools was very different. For them, Ijma was not an imposed or manufactured static fact but an ongoing democratic process; it was not a formal state but an informal, natural growth which at each step tolerates and, indeed, demands fresh and new thought and therefore must live not only with but also upon a certain amount of disagreement. We must exercise Ijtihad, they contended, and progressively the area of agreement would widen ; the remaining questions must be turned over to fresh Ijtihad or Qiyas so that a new Ijma could be arrived at<sup>24</sup> But it is precisely the living and organic relationship between Ijtihad and Ijma that was severed in the successful formulation of al-Shafi. The place of the living Sunnah-Ijtihad-Ijma\* he gives to the Prophetic Sunnah which, for him, does not serve as a general directive but as something absolutely literal and specific and whose only vehicle is the transmission of the Hadith. The next place he assigns to the Sunnah of the Companions, especially of the first four Caliphs. In the third place he puts Ijma' and, lastly, he accepts Ijtihad.<sup>25</sup>

Thus, by reversing the natural order, Ijtihad-Ijma into Ijma-Ijtihad, their organic relationship was



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severed, Ijma', instead of being a process and something forward-looking,—coming at the end of free Ijtihad — came to be something static and backward looking. It is that which, instead of having to be accomplished, is already accomplished in the past. Al-Shafi's genius provided a mechanism that gave stability to our medieval socio-religious fabric but at the cost, in the long run, of creativity and originality. There is no doubt that even in later times Islam did assimilate new currents of spiritual and intellectual life—for, a living society can never stand quite still, but this Islam did not do so much as an active force, master of itself, but rather as a passive entity with whom these currents of life played. An important instance is point is Sufism.

### NOTES

1. Khalid b. 'Atabah al-Hudhalisays (Tajal-'Arus, a.v.):  
(Arabic sentence is here please see pdf for the Arabic sentence)

"Do not be hesitant about a sunnah which you have introduced, for the first person to be satisfied with a sunnah is the one who has introduced it (i.e. has performed it first of all)."

2. Vide all the major dictionaries. S.v.
3. Taj al-'Arus refers it only to Shimr, although even there it is not absolutely clear whether sunnah is to be taken in a purely physical sense in its primitive connotation. There seems to be a widespread prejudice that the Arabs, in building abstract concepts, always used words which primarily denoted physical phenomena.
4. Published in the collection *Kitab al-'Alim wa'l-Mut'allim*, Cairo 1949, page 38. The major part of this letter has been translated into English in *Islam* by John Williams, (Great Religious Series). Washington D. C., 1961
5. In the volume *Islam*, Chapter III. to be published by George Weidenfeld and Nicolson, London, in their series *History of Religion*.

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6. Qur'an, XXXIII: 62 - XXXV : 43.
7. Qur'an XXXIII: 21 ; LX : 4. 6.
8. This letter was published by H. Ritter in Der Islam, Band, XXI, 67 ff.
9. Al-Aghani. XV: 124; the HUSHIMIYDT of al-KUMAYT were critically edited by J. HOROVITZ in 1904.
10. Hashimiyat. poem no. 8, verse i ff.
11. AbTJ YHSUF. Kitab al-Kharaj. Cairo, 1302 A.H., p. 8, line 22.
12. Qur'an, LXXIII: 5.
13. Qur'an. XVIII: 6 ; XX : 1.
14. e.g. Qur'an, IV : 64.
15. For times of prayers, see the Muwatta' of MSLIK, Hadith no. 1: "... 'UMAR IBN -ABD AL-'AZIZ one day delayed a prayer. 'URWAH IBN AL-ZUBAYR entered upon him and informed him that al-MUGH[RAH IBN SH\_U'BAH, while in KUFah, once delayed a prayer, but ABU MAS'OD AL-ANSARI came to him and said: What is this, O MUGHIRAH I Did you not know that GABRIEL came down and prayed and the Prophet prayed (with him) ; then (again) Gabriel prayed (i.e. the next prayer) and the Prophet prayed (with him); then (again) Gabriel prayed (i.e. the third prayer) and the Prophet did likewise ; then (again) Gabriel prayed (i.e. the fourth prayer) and likewise did the Prophet; and then (again) Gabriel prayed (i.e. the fifth prayer) and so did the Prophet?' The Prophet then said, 'Have I been commanded this?' (On hearing this) "UMAR IBN 'ABD AL-'AZIZ exclaimed, 'Mind what you are relating, O 'URWAH.' Is it the case that Gabriel it was who appointed the times of prayer for the Prophet?' 'URWAH replied, 'So was BASHIR. son of Abu Mas'nd al-Ansari in the habit of relating from his father'."
- Henceforward, whenever prayers are emphasized in the Hadith. the word "Salah" is almost invariably accompanied by the phrase " 'ala miqatiha—[prayers] at their proper times". This seems to point to a campaign for the fixing of standard times for prayers.
16. Quoted from the manuscript of my above-mentioned work. Islam.

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17. Ibn al-Muqaffa', "RisSlah fi '1- Sahabah" in RasZ'il a]. Bulagha'. Cairo 1930.
18. Haydarabad edition. 1335 A.H.. 1: 2.
19. Ibid.. 11:260.
20. Ibid., II: 259.
31. KitSb al-Umm, VII : 240 ff., 248. 256, 258.
22. Ibid.. VII: 242, 246.
23. Ibid., VII: 242. Etc.
24. See especially ibid.. VII: 255. 8 lines from the bottom if.
25. Especially ibid, 246, line 15.

# 2

## SUNNAH AND HADITH

### I

#### SOMETHING MORE ABOUT THE SUNNAH

In the preceding chapter we had tried to underline the fact that the Sunnah of the Holy Prophet was an ideal which the early generations of Muslims sought to approximate by interpreting his example in terms of the new materials at their disposal and the new needs and that this continuous and progressive interpretation was also called "Sunnah", even if it varied according to different regions. This point is so fundamentally important for grasping the true nature of the early development of Islam and appears —after the full development of the Science of Hadith— so new and, indeed, revolutionary, that it is worth our while devoting a little more attention to it in the light of further historical evidence before passing on to our treatment of Hadith.

Abu Yusuf, in his *al-Radd 'ala Siyar al Awza'i*, states the view of Abu Hanifah that if a person in a non-Muslim territory becomes a Muslim, leaves his home and joins the Muslims, then in case this

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territory falls to Muslim arms; the property of this person will not be simply returned to him but will be included in the *mal al-ghanimah*. The Syrian *al-Awza'i* rejects *Abu Hanifah's* view, arguing that the Prophet, at the fall of Mecca, had returned the properties of men who had left Mecca, and had joined the Muslims in *al-Madinah*. According to *Abu Yusuf*, *al-Awza'i* said, "The person most worthy of being followed and whose *Sunnah* is most deserving of being adhered to is the Prophet." *Abu Yusuf*, defending *Abu Hanifah*, says that the practice of Muslims has been on *Abu Hanifah's* side and that the Prophet's treatment of the Meccans was an exception: "So has been the *Sunnah* and the practice of Islam [although] the Prophet did not do so [at Mecca]." *Abu Yusuf* then points out that the "Prophet's *Sunnah*" with the tribe of *Hawazin*, had been still different. After their defeat, the *Banu Hawazin* came and implored the Prophet for mercy and release of their captives and return of their property. The Prophet gave up his own share of the booty and was followed by others except some clans who refused to give up their share. The Prophet then compensated these clans and all the property and slaves of the *Banu Hawazin* were returned.<sup>1</sup>

The first point to be noticed in the above account is *al-Awzai's* statement: "The person ... whose *Sunnah* is most deserving of being followed is the Prophet." It obviously implies (i) that *Sunnah* or authoritative precedent can be set by any competent person, and (ii) that the *Sunnah* of the Prophet overarches all such precedents and has priority over them. But the second, equally important, point is the use of the term "*Sunnah*" by *Abu Yusuf* in the above

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account. Abu Yusuf first distinguishes between the Sunnah with regard to the point under discussion, i.e., the practice accepted by the Muslims on the one hand, and the Prophet's special action in the case of the fall of Mecca on the other. This action of the Prophet is regarded as an exception by Abu Yusuf and, therefore, does not constitute Sunnah for him; for al-Awza'i, on the other hand, it does not constitute Sunnah. Thus, we see how through different interpretations, contrary conclusions are arrived at by these two legists. But also of great interest for us is the use of the term "Sunnah" by Abu Yusuf in his second statement where he speaks of the "Sunnah of the Prophet" with regard to the Banu Hawazin. This case too Abu Yusuf regards as some kind of exception to the Sunnah ; but the exception to the Sunnah is also termed "Sunnah". The most obvious inference from this must be that when the situation so demands, the exception to the rule must be applied as a rule. What a contrast this freedom of interpretation of the Prophetic Sunnah—in order to formulate the concrete Sunnah in sense (ii), i.e. the actual practice of that Community—presents to the rigid and inflexible doctrine of Sunnah inculcated by later legists. Here a freely flowing situational treatment of the Prophetic activity, there a once-and-for-all positing of immobile rules; here a ceaseless search for what the Prophet intended to achieve, there a rigid system, definite and defined, cast like a hard shell.

Abu Hanifah considers undesirable the selling and buying of slaves captured in the enemy territory before they are brought to the land of the Muslims. On these al-Awza'i comments, "The Muslims have always been buying and selling war-captives in the Dar al-Harb.

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No two (Muslims) have ever disagreed upon this point until the murder of (the Caliph) al-Walid." Abu Yusuf comments, "Judgment regarding what is lawful and what is unlawful cannot be based upon such statements as 'People have always been practicing such and such. For, much of what people have always been practicing is unlawful and should not be practiced ..... the basis (of judgment) should be the Sunnah of the Prophet, or of the early generations (salaf), i.e. the Companions of the Prophet and men who have an understanding of the law.'"<sup>2</sup> Again, criticizing the Sunnah-concept of the Hijazi lawyers, Abu Yusuf writes, "The lawyers of Hijaz give a decision and when they are asked for the authority they reply, 'This is the established Sunnah'. In all probability, this Sunnah is (the result of) some decision given by a market tax-collector (amil al-suq) or a tax-collector in an outlying district."<sup>3</sup> Certain points clearly emerge from these discussions and arguments and counterarguments. First, the Sunnah-concept as used by early lawyers, including al-Awza'i, although it ideally goes back undoubtedly to the Prophetic Model, is nevertheless, in its actual *materieux*, inclusive of the practice of the Community. Indeed, al-Awza'i constantly speaks of the 'practice of the Muslims', 'of the political (and military) leaders of the Muslims (.a'immat aUMuslimin) and 'of the consonance of the learned' as synonymous terms just as Malik talks of the practice of al-Madinah. It is absolutely clear that we are here face to face with the living practice of the early generations of the Muslims. It is also quite obvious that this Sunnah which we called "Sunnah" in sense (ii) in the previous chapter and which may be called the "living Sunnah" is identical with the Ijma of

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the Community and includes the *ijtihad* of the 'ulama' and of the political authorities in their day-to-day administration.

The second important point that emerges from this picture is that although the "living Sunnah" is still an on-going process—thanks to *Ijtihad* and *Ijma'*—there is at the same time noticeable, by the middle of the second century, a development in the theoretical framework of the *Fiqh*, a development which is clearly visible in the statements of Abu Yusuf and which began to become conscious first in Iraq. This development reflects a critical attitude towards the living Sunnah and contends that not any and every decision by a judge or a political leader may be regarded as part of the Sunnah and that only those well versed in law and possessed of a high degree of intelligence may be allowed to extend the living Sunnah. The idea of the living Sunnah is certainly not denied but a firm and sure methodology is sought to base this living Sunnah upon it,

## II

### EARLY DEVELOPMENT OF THE HADITH

That Hadith from the Prophet must have existed from the very beginning of Islam is a fact which may not reasonably be doubted. Indeed, during the life-time of the Prophet, it was perfectly natural for Muslims to talk about what the Prophet did or said, especially in a public capacity. The Arabs, who memorized and handed down poetry of their poets, sayings of their soothsayers and statements of their judges and tribal leaders, cannot be expected to fail to notice and narrate the deeds and sayings of one whom they acknowledged as the Prophet of God.



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Rejection of this natural phenomenon is tantamount to a grave irrationality, a sin against history. Their new Sunnah—the Sunnah of the Prophet—was much too important (an importance so emphatically enshrined in the Qur'an itself) to be either ignored or neglected, as we sought to establish in the previous chapter.

This fact juts out like a restive rock in the religious history of Islam, reducing any religious or historical attempt to deny it to a ridiculous frivolity: the Sunnah of the Community is based upon, and has its source in, the Sunnah of the Prophet.

But the Hadith, in the Prophet's own time, was largely an informal affair, for the only need for which it would be used was the guidance in the actual practice of the Muslims and this need was fulfilled by the Prophet himself. After his death, the Hadith seems to have attained a semi-formal status for it was natural for the emerging generation to enquire about the Prophet. There is no evidence, however, that the Hadith was compiled in any form even at this stage. The reason, again, seems to be this, viz., that whatever Hadith existed—as the carrier of the Prophetic Sunnah—existed for practical purposes, i.e., as something which could generate and be elaborated into the practice of the Community. For this reason, it was interpreted by the rules and the judges freely according to the situation at hand and something was produced in course of time which we have described as the "living Sunnah". But when, by the third and fourth quarters of the first century, the living Sunnah had expanded vastly in different regions of the Muslim Empire through this process of interpretation in the interests of actual practice, and difference in law and legal practice widened, the Hadith began to

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develop into a formal discipline.

It appears that the activity of the Hadith transmitters was largely independent of, and, in cases, developed even in opposition to, the practice of the lawyers and judges. Whereas the lawyers based their legal work on the living Sunnah and interpreted their materials freely through their personal judgment in order to elaborate law, the Hadith transmitters saw their task as consisting of reporting, with the purpose of promoting legibility and permanence. Although the exact relationship between the lawyers and the transmitters of the Hadith in the earliest period is obscure for lack of sufficient materials this much seems certain that these two represented in general the two terms of a tension between legal growth and legal permanence: the one interested in creating legal materials, the other seeking a neat methodology or a framework that would endow the legal materials with stability and consistency. It is also quite certain that in the early stages the majority of the Hadith did not go back to the Prophet, due to the natural paucity of the Prophetic Hadith, but to later generations. Certainly, in the extant works of the second century, most of the legal and even moral traditions are not from the Prophet but are traced back to the Companions, the "Successors" and to the third generation. But as time went on, the Hadith movement, as though through an inner necessity imposed by its very purpose, tended to project the Hadith backwards to its most natural anchoring point, the person of the Prophet. The early legal schools, whose basis was the living and expanding Sunnah rather than a body of fixed opinion attributed to the Prophet, naturally resisted this development. We

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have briefly outlined the role of al-Shafi in this process in the previous chapter. Al-Shafi constantly accuses the lawyers of "not transmitting the Hadith" and of not making use in law, "of the little (Hadith) you transmit".<sup>4</sup> such criticisms are made by al-Shafi especially against the Hijazis but are equally turned against the Iranians.

By the middle of the second century, the Hadith movement had become fairly advanced and although most Hadith was still attributed to persons other than the Prophet—the Companions and especially the generations after the Companions—nevertheless a part of legal opinion and dogmatic views of the early Muslims had begun to be projected back to the Prophet. We shall produce detailed evidence for this statement presently. But still, the Hadith was interpreted and treated with great freedom. In the last chapter we adduced evidence from Malik who often upholds the practice of al-Madinah against the Hadith and often bases his interpretations on his own opinion (ra'y). In the first section of this chapter we have seen how situationally Abu Yusuf interprets the Hadith produced by al-Awzai'i as an argument. Abu Yusuf's works are full of instances of this kind. We have also seen above how Abu Yusuf regards the expert lawyers as elaborators of the Prophetic Sunnah and creators of the living Sunnah. He rejects "lonely" Hadith by which he does not mean, as was done later, a Hadith which has only one chain of narrators but a Hadith which stands alone as a kind of exception to the general Sunnah. For instance, Abu Hanifah holds that a person who provides two horses for the Jihad is entitled to draw booty share for only one. Al-Awza'i, on the other hand, allows both horses to claim shares

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and bases himself both on Hadith and practice, saying, "This is a Hadith well known to scholars and on which the political leaders have acted."<sup>5</sup> Presumably, this was the administrative practice in Syria. Abu Yusuf comments, "No tradition has come down to us from the Prophet or anyone of his Companions about allowing shares to both horses except one. But one Hadith we regard as being solitary and do not consider valid. As for al-Awzai's statement that, this has been the practice of the political leaders and the view of scholars, this is just like the people of Hijaz who keep asserting 'This is the established Sunnah'. This cannot be accepted as authoritative from ignorant people. Which political leader has practiced it, and which scholar has accepted it ? "<sup>6</sup>

In the same work, Abu Yusuf issues a general warning against uncritical acceptance of Hadith: "Hadith multiplies so much so that some Hadiths which are traced back through chains of transmission (yukharraju) are not well known to legal experts, nor do they conform to the Qur'an and the Sunnah. Beware of solitary Hadiths and keep close to the 'collective spirit (al-jama'ah)' of Hadith."<sup>7</sup> He adds: "Therefore, make the Qur'an and the well-known Sunnah your guide and follow it."<sup>8</sup> Thus, Abu Yusuf establishes as the criterion of the "collective nature or spirit" of Hadith the well-known Sunnah. (The term "collectivity" or "collective nature" is highly significant and we shall show in Section IV of this chapter that it is intimately connected with the term "Sunnah" and is then used to designate the majority or the "collectivity" of Muslims—the Ahl al-Sunnah wa'l-Jama'ah.) Abu Yusuf also quotes several Hadiths from the Prophet himself and from his Companions warning

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against Hadith and even in rejection of it.<sup>9</sup> This anti-Hadith Hadith must be, strictly historically speaking, a result of the phenomenon of Hadith itself which is the logical condition for its emergence. But it is, indeed, highly probable that the anti-Hadith Hadith is prior to pro-Hadith Hadith. This lies in the very nature of the Hadith process. Besides, whereas we find the former in Abu Yusuf, the latter does not seem to occur until later, and even al-Shafi'i, the great protagonist of Hadith, produces two or three Hadiths only (which we shall discuss later) and bases his arguments for the acceptance of Hadith, for the most part, on other materials—Qur'anic and historical. But although Abu Yusuf quotes several Hadiths from the Prophet about the forgery of Hadith, he still does not know the famous Hadith which later found a prominent place in the Sihah works and which says, "He who deliberately reports lies about me shall prepare his seat in the Fire." This Hadith was sought to be countered by another one which makes the Prophet Say, "Whatever there be of good saying, you can take me to have said it."

Nevertheless, despite Abu Yusuf's cautions against the "multiplication of Hadith," a good deal of Hadith had been, by his time, obviously projected back. For example, in his Kitab al-Athar a tradition is attributed once to 'A'ishah, wife of the Prophet, and again to the Companion, Ibn Mas'ud saying,

(Arabic sentence is here please see pdf for the Arabic sentence)

"Evil [or trouble (al-bala)] is a concomitant of dialectical theology (al-kalam)."<sup>10</sup> Another Hadith attributes a deterministic doctrine of dogmatic theology to the Prophet himself. The Companion,

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Suraqah b. Malik, asks the Prophet:

(Arabic sentence is here please see pdf for the Arabic sentence)

"Tell us about this Faith of ours as though we were created for it [right] on the hour: are we Working for something which has been already determined by Divine Decree and the Pen has become dry over it, or shall we work for something [of] which [the issue] shall be decided in the future?" The Prophet answered, "Rather for something which has been decided by the Divine Decree and over which the Pen has run dry." "What is, then, our action about? O Prophet of God!" asked Suraqah, and the Prophet replied, "Work on for every person that has been made easy what he has been created for." The Prophet then recited the words of the Qur'an, "As for him who gives generously, fears (God) and approves of good things, we make good easy for him."<sup>11</sup> We shall explain in Section IV, while discussing the emergence of the Muslim orthodoxy, the nature and the role of the freewill-determinism controversy of which such Hadith as the one quoted here is a result. The verse of the Qur'an quoted in this Hadith is in un-concealed contradiction with the determinism preached in the Hadith.

There is also a definite, though rudimentary, form of eschatological Hadith implying the Second Advent of Jesus, although it is attributed not to the Prophet but to 'Abd al-A'la described either as a qadi as a story-

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teller (qass)—the latter being most probably correct. An instance of the political Hadith is the following: A man came to 'Ali and said:

(Arabic sentence is here please see pdf for the Arabic sentence)

"I have never seen anyone better than you." 'Ali asked, "Did you see the Prophet?" The man replied "No". "Did you see Abu Bakr and 'Umar?" enquired 'Ali and received a negative reply. "If you had told me that you had seen the Prophet," exclaimed 'Ali, "I would have executed you; and if you had said that you had known Abu Bakr and 'Umar, I would have administered dire punishment to you."<sup>12</sup> A moral legal Hadith runs as follows:

The Prophet said to Abu Dharr :

(Arabic sentence is here please see pdf for the Arabic sentence)

"O Abu Dharr ! Public office (al-imrah or al-imarrah) is a trust which on the Day of Judgment shall turn into disgrace and repentance except for those who acquire such office properly and then fulfil the obligation (that it lays upon them)." Abu Yusuf's fellow-legalist, Muhammad al-Shaybani, says after narrating the same Hadith that the Prophet added, "And how can he possibly do that? O Abu Dharr !" <sup>13</sup>

### III

#### THE HADITH MOVEMENT

The Hadith materials continued to increase during the second century and the period represented above

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constitutes a transition period in the development of both the literature and the status of the Prophetic Hadith. Al-Awza'i regards the Hadith of the Prophet as being endowed with fundamental obligatoriness but the Sunnah or living practice is of the same status with him. His appeals to the practice of the Community or its leaders are, to judge from the extant materials the most regular feature of his legal argumentation. Malik adduces Hadith (not necessarily Prophetic Hadith) to vindicate the Medinese Sunnah but regards the Sunnah in terms of actual importance, as being superior to the Hadith. As for Abu Yusuf and al-Shaybani, very few of whose legal Hadiths go back to the Prophet at all, they interpret the Hadith with a freedom whose instances we have seen above. The Iraqi school recognizes the supreme importance of the Prophetic Hadith but the Hadith, according to it, must be situationally interpreted in order that law may be deduced from it. There is only one point in his *al-Radd 'ala Siyar al-Awzai* on which Abu Yusuf has recanted from Abu Hanifah's position to that of al-Awza'i on the basis of Hadith although he could have easily interpreted that Hadith if he had wished to. The point under discussion is the share of booty to be allotted to a Muslim for his horse for taking part in Jihad apart from his own share. It seems that a horse's share was double the share of a human being and the practice probably originated with the Prophet who wanted to encourage the breeding of horses for war in view of the paucity of riding animals suitable for war in early Islam. Indeed, there is evidence that the Prophet was anxious over this matter in the early stages of the Muslims' struggle against the pagan Arabs. Abu Hanifah thought it improper that



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an animal should be treated preferentially in relation to a man, 14 and he had also a precedent of 'Umar who approved of a booty distribution in Syria where one share was given to each man and also one share for every horse.<sup>15</sup> We do not know what the practice at that time was and it is very likely that the practice differed in different regions. It is obvious that the chief determinant in this issue should be the relative scarcity or otherwise of the horses, the type of horse, the cost involved in maintaining a war-horse, etc. But al-Awza'i states categorically that not only had the Prophet given to a horse twice the share of a soldier but that the "Muslims follow this until today". Abu Yusuf, who otherwise liberally interprets the Prophetic and other precedents throughout, gives up his master's view on the ground that al-Awza'i's position is supported by a tradition from the Prophet and from other Companions.<sup>18</sup>

This case is obviously a clear indication of the increasing power of the Hadith over against the living Sunnah whose very life-blood was free and progressive interpretation. It was against this background that al-Shafi'i, the "Champion of Hadith," carried out his successful campaign to substitute the Hadith for the living Sunnah as briefly described in the previous chapter. We shall illustrate al Shafi's attitude to the Hadith and free interpretation by two examples which shall indicate the nature of the change and the power of the new trend that had set in the legal thought of Islam. There was a difference of opinion among the jurists about the extent of the sternness of policy towards a non-Muslim people in state of war. Abu Hanifah advocated a consistently stern policy on general grounds of strategy: such questions are con-

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sidered as to whether enemy livestock and trees should be destroyed ; whether anything should be exported to the enemy territory, especially goods of a strategic character ; whether the enemy, in case they shield themselves, say, with Muslim children, should be shot at ; whether war captives should be allowed to be redeemed by the enemy or not ; whether Muslim soldiers who find themselves without weapons during a battle may take such weapons from the public reserves (without permission, apparently).<sup>17</sup> On all these matters Abu Hanifah recommends alternatives conducive to a successful issue in favors of Muslims and making for Muslim strength. The net result is an uncompromisingly stern policy. The only guiding principles of Abu Hanifah seem to be those based on pure war strategy. On the first of the above-mentioned questions, where Abu Hanifah seeks to support himself by a Qur'anic verse, al-Awza'i who opposes Abu Hanifah on all these points, adduces no Prophetic Hadith but relies on injunctions reported to have been given by Abu Bakr to the troops, viz., that they should not destroy trees or animals. Abu Yusuf, who takes the side of his master on all these issues and taunts al-Awza'i more than once with ignoring the interests of the Muslims,<sup>18</sup> controverts the story of Abu Bakr's instructions and seeks to support his view from the incident of the Muslim treatment of Banu Qurayzah.

Al-Shafi'i is questioned on the same point<sup>19</sup> by a Medinese who says that according to his school enemy property should be spared from destruction and refers to the above-mentioned injunctions of Abu Bakr. Al-Shafi'i declares himself unequivocally in favor of destroying the enemy property, to the exclusion of the animals. He bases himself on the historical Hadith

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that the Prophet carried out wholesale destruction when the Muslims attacked Banu Nadir, Khyber and al-Ta'if and asserts that this is the Sunnah of the Prophet.<sup>20</sup> Now, the fact is that with regard to the Jews of Banu Nadir and Khyber, the Prophet had taken specially stern measures and historical facts render the conclusion inescapable that the past behavior of the Jews was responsible for this. Indeed, it is highly probable that the Prophet wanted to drive the Jews out of Arabia. (This was later categorically stated in Hadith form which is, however, historically unacceptable for banishing of Jews is attributed by Hadith to 'Umar also.) As for al-Ta'if, it was the last post of resistance of the pagan Arabs and was stubbornly holding out even after the fall of Mecca. This is the reason why the Prophet took specially strong measures against it and is even said to have bombarded it with a catapult. It is highly illuminating to see that while Abu Hanifah and al-Shafi'i hold the same position, they do so for very different reasons. Whereas Abu Hanifah's real grounds are commonsense war strategy for which he seeks support in the Qur'an, al-Shafi'i bases himself on literal Hadith reports without taking the situational context into account. For al-Awza'i, like the Medinese, the practice of the Muslims is authoritatively indicative of the Prophetic Sunnah and they adduce no arguments from the Prophet's campaigns against the Banu Nadir, Banu Qurayzah, Khaybar or al-Ta'if. On the question of killing the animals, however, al-Shafi'i takes up a position similar to that of al-Awza'i but again for very different reasons. Whereas the latter appeals to Abu Bakr's instructions, al-Shafi'i has come to base himself on a Hadith generally forbidding the killing

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of animals except for food—a Hadith which, it is note worthy, was not known to al-Awza'i or to Abu Yusuf.

A second instance of this new trend represented by al-Shafi may be seen in the case of the institution of the waliy or guardian in marriage. The institution of the waliy must have been older than Islam and there are also reports from the Prophet and others about its importance. According to one report, a guardian is necessary only for a first marriage and a remarrying woman can dispense with it, while according to another no marriage is valid without a waliy. 'Umar is said to have forbidden women from marrying without the permission of their guardian, or an elder statesman of their family or the state. A Medinese tells al-Shafi'i that he and his colleagues uphold the waliy institution for noble-born women but do not regard it necessary in the case of low-born ones. The idea behind this attitude seems to be that the waliy endows the marriage with a formal dignity which is not thought necessary in the case of a low-born woman. Al-Shafi'i says to him, "What would you think if someone were to tell you that he will not permit the marriage of a low-born woman without a guardian for she is more liable to enter into a spurious marriage and to fall into evil than a noble-born one who has a sense of honors of her noble origin . . . Would such a person not be nearer the truth than you? Your opinion is too erroneous to need any more refutation than just to be stated."<sup>21</sup> Al-Shafi'i maintains that the Hadith must be accepted, no distinctions made and no questions raised about it. It will be seen that al-Shafi's interpretation of the waliy institution is not so much in terms of dignity and honors but in those of protecting the woman from evil and a public guarantee of

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genuine marriage. But although al-Shaf'i has correctly analyzed the value ('illat al-hukm), he, in fact, warns against this kind of rational activity and recommends a literal acceptance of Hadith.

The Hadith movement, which represents the new change in the religious structure of Islam as a discipline and whose milestone is al-Shafi's activity in law and legal Hadith, demanded by its very nature that Hadith should expand and that ever new Hadith should continue to come into existence in new situations to face novel problems social, moral, religious, etc. It is, of course, beyond the scope of this chapter to treat, in an exhaustive manner, all the fields wherein and points of view wherefrom ever new Hadith came into being but the following shall serve as illustrations of both the nature and the scope of Hadith formation. It is well known and admitted by the classical traditions themselves that moral maxims and edifying statements and aphorisms may be attributed to the Prophet irrespective of whether this attribution is strictly historical or not. It was legal and dogmatic Hadith, i.e. that concerning belief and practice which must, "strictly speaking," belong to the Prophet. First, it may, of course, be doubted once the principle of non-historicity is introduced at some level, whether this principle can stand confined to that level. If one thinks that a certain maxim contains a moral truth and may, therefore, be attributed to the Prophet, why should not a legal dictum which, according to someone, embodies a moral value—for law is nothing but a particular embodiment of moral principles—likewise be attributed to the Prophet? The majority of the contents of the Hadith corpus is, in fact, nothing but

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the Sunnah-Ijtihad of the first generations of Muslims, an ijtihad which had its source in individual opinion but which in course of time and after tremendous struggles and conflicts against heresies and extreme sectarian opinion received the sanction of Ijma, i.e. the adherence of the majority of the Community. In other words, the earlier living Sunnah was reflected in the mirror of the Hadith with the necessary addition of chains of narrators. There is, however, one major difference: whereas Sunnah was largely and primarily a practical phenomenon, geared as it was to behavioral norms, Hadith became the vehicle not only of legal norms but of religious beliefs and principles as well. We present here some examples.

We have noticed above the warnings against Hadith by Abu Yusuf. Some of these warnings are attributed to the Prophet himself and we have already remarked that it is highly probable that anti-Hadith traditions originated before the pro-Hadith traditions. The earliest extant account supporting Hadith by a Hadith is that of al-Shafi'i. He quotes the following tradition:

(Arabic sentence is here please see pdf for the Arabic sentence)

"The Prophet said, 'May God make that man prosperous who hears my words, preserves them carefully in memory and then transmits them. For, there is many a bearer of wisdom who cannot understand it himself (but can only transmit it). And many a transmitter of wisdom transmits it to someone who can understand it better. There are three things with regard to which the heart of a Muslim is never stingy:

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working sincerely for God, active good-will for the Muslims and adhering to their majority for their mission (da'wah) will render them secure'.<sup>22</sup> Another tradition quoted by him repeatedly is that the Prophet said:

(Arabic sentence is here please see pdf for the Arabic sentence)

"Let me not find anyone of you reclining on his seat and, when a command comes from me commanding something, or forbidding something, saying, 'I do not know (this); I follow that which I find in the Book of God'.<sup>23</sup> Lastly, there is the tradition according to which the Prophet said:

(Arabic sentence is here please see pdf for the Arabic sentence)

"There is no harm in relating traditions from the Banu Isra'il; and relate traditions (also) from me but do not attribute traditions to me falsely."<sup>24</sup>

The first of the above-mentioned three Hadlth is also adduced by al-Shafi'i as an argument for Ijma which we shall discuss below. Here we begin by enunciating a general principle, viz. that a Hadith. which involves a prediction, directly or indirectly, cannot, on strict historical grounds, be accepted as genuinely emanating from the Prophet and must be referred to the relevant period of later history. We do not reject all predictions but only those which are fairly specific. This principle has been accepted by most classical traditions themselves but has never been applied by them with the full rigour of strict historicity.

While they reject absolutely specific predictions, viz.

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those which claim to indicate a specific day or date or place, they swallow without qualms predictions about the rise of Muslim theological and political groups and parties. We Muslims must decide whether, in face of strict historical evidence, we can accept and go on accepting predictive Hadith and, if so, how far. There is a type of prediction contained, e.g. in the Qur'anic verse about the relative war-fortunes of the Persians and the Romans:

(Arabic sentence is here please see pdf for the Arabic sentence)

This kind of prediction is absolutely rational for while even ordinary human wisdom, with an insight into history, can successfully predict on such points as wars, economic slumps, etc., how much more infallibly can the Divine Wisdom. But I shall show that the predictions which the Hadith involves directly or indirectly are not of this type. Indeed, I shall also show in the next section that the basic function of Hadith was not so much history-writing but history-making and that contemporary phenomena were projected back in the form of Hadith in order to succeed in moulding the Community on a certain spiritual, political and social pattern. We must emphasize again that it is not against the predictive quality of the Prophet, arising out of an insight into the workings of historic forces that we argue. On the contrary, we believe that the very greatness of the Prophet lies in the fact that, having a unique insight into the forces of history, he pressed them into the service of a divinely inspired moral pattern. But there is a world of difference between this historic judgment and sooth-saying about, e.g. the false Prophet



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Musaylimah and the rise of the Mu'tazilah, Khawarij, Shi'ah, etc.

By predictive Hadith we do not mean only such Hadith as has the predictive form but also that which involves a prediction. For example, the Hadith—

(Arabic sentence is here please see pdf for the Arabic sentence)

"The Qadaris (i.e. those who uphold the freedom of the human will) are the Magians of this Community," although not directly predictive, involves a prediction. For, it presupposes a technical consciousness of the philosophical problem of freedom such as could develop only with the rise of dogmatic schisms. Now, in the light of our principle, all the three Hadiths cited above from al-Shafi'i supporting the phenomenon of , Hadith itself are, historically speaking, extremely dubious. Take the first one. Besides, the obvious fact that for the Prophet to say what the first part of this Hadith attributes to him is to insult his own Companions by calling them unintelligent, the Hadith could only arise at a time when the legal acumen of the Muslims flared up and brilliant schools of legal opinion developed all over the then Muslim world from Iraq to Egypt. Further, it conjures up a picture of the Prophet and his Companions which is entirely artificial: the Prophet is portrayed as making speeches and issuing statements, not for the immediate needs of the contemporary Community but for the Community to preserve them word for word, for transmission to later generations who should understand them better! Nor will the second Hadith bear examination: it presupposes an acceptance of the Qur'an and a wholesale rejection of the Sunnah, a complete divorce of the latter from the former which, as we pointed out also

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in the last chapter, cannot be rationally and legitimately attributed to the Companions. How could the Companions, who accepted even the Word of God on the authority of the Prophet, reject that very authority of the Prophet as a whole (as distinguished from murmurs in certain quarters about a particular decision of the Prophet) ? For the Hadith in question envisages a total rejection of the Sunnah in favor of the Qur'an. It obviously arose in a later situation when the Hadith movement had set in and claimed to be the unique vehicle (at the expense of the living Sunnah) of expressing the Prophetic Sunnah ; and its credentials to do so were questioned both by the Ahl al-Kalam and the earlier schools of law. Thus, this Hadith turns out to be blatantly predictive. As for al-Shafi's third Hadith which says, "There is no harm in relating traditions from the Bana Isra'il ; and relate traditions (also) from me but do not attribute to me traditions falsely," its case is no better. With certain alterations, this Hadith has also survived in al-Bukhari's Sahih. But it is a historical fact that Judeo-Christian religious lore had begun to find its way into Islam at a very early date chiefly through the activity of popular preachers (qussas) who wanted to make their sermons as effective as possible. This movement was criticized by certain early traditions and sayings. There is, for example, a tradition that 'Umar once advocated the acceptance of certain Jewish traditions but was sternly forbidden by the Prophet to do so.<sup>25</sup> There is also a saying admonishing the Muslims to seek knowledge "not from popular preachers but from the fuqaha.<sup>26</sup> These endeavors to stem the tide of what came to be called "Isralliyat" were then sought to be countered by such Hadiths

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as the present one. So much for the Hadith basis of Hadith. Let us now turn to Ijma.

Al-Shafi'i has two Hadiths to quote to establish the validity of Ijma. His predecessors, of course, had the idea of Ijma but it seems to have been a natural growth. Even Abu Yusuf and al-Shaybani who talk of sticking to the traditions and opinions of al-jamaah and al-ammah, do not bring in any Hadith, i.e. a verbal report from the Prophet to support Ijma'. One Hadith of al-Shafi'i in this connection is identical with the first Hadith quoted above of which the first part we have already discussed concerning Hadith. The second part says:

(Arabic sentence is here please see pdf for the Arabic sentence)

"There are three things with regard to which the heart of a Muslim is never stingy: sincere, action for God's sake, active good-will for the Muslims and sticking to the majority of the Muslims—for their mission will safeguard them." Al-Shafi'i's second Hadith runs :

(Arabic sentence is here please see pdf for the Arabic sentence)

"Umar gave a sermon in al-Jabiyah (a place in Syria) in which he said: ' The Prophet (once) stood among us as I now stand among you and declared, Honour my Companions first, then those who follow them and then those who follow these latter. Then (i.e. after these three generations) falsehood will become rampant so that a person will swear without being

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asked to swear and shall offer to give evidence without being asked to do so. Listen! Whosoever wants to be pleased with a spacious residence in Paradise, should (under these circumstances) stick to the majority of the Community. Satan is the companion of the isolated person; if one person (is joined by another and) Become two, Satan recedes from them proportionately.' .. ."27.

The fact that earlier jurists, although insisting on Ijma', do not support it by any Hadith is itself a fundamentally significant comment on the evolution of the Hadith movement. Indeed, how much the situation had changed in this regard by the time of al-Shafi'i can be tellingly illustrated by one example. Abu Yusuf, while warning against the flood of Hadith, says that the Prophet once said:

(Arabic sentence is here please see pdf for the Arabic sentence)

"Hadith in my name will spread; so what comes to you in my name and agrees with the Qur'an, take it as coming from me while what comes to you in my name but is in conflict with the Qur'an cannot be from me."28 As we pointed out earlier in this section, this type of atiti-Hadlth Hadith cannot be regarded as genuine. It represents, rather, a genuine effort not only on the part of the Mu'tazillah but on that of orthodox jurists to curb the Hadith movement. But the Hadith movement had become so strong only a few decades later that this particular Hadith, regarded by Abu Yusuf as apparently genuine, was rejected by al-Shafi'i as absolutely unreliable.29

But what about the two Hadiths quoted by al-Shafi'i to give a theoretical basis for Ijma'? The first

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of these two Hadiths we have already found reason to declare unhistorical. Further, we shall show that it is part of a massive campaign carried out from the second century onwards to preserve the unitary fabric of the Community and to crystallize a middle-of-the-road orthodox majority, i.e. a majority which by being both a majority and middle-of-the-road would be deserving of the designation "orthodoxy". As for the second Hadith quoted by al-Shafi, it is so manifestly predictive that this hardly needs to be pointed out. This Hadith gives the first formal hint that the first three generations—the Companions, their Successors and the Successors of the Successors—are to be regarded as the Fathers of the Islamic doctrine and practice and their teachings as the permanent basis for the religious structure of the Community. It is a point of great importance and interest to note that it is after approximately these three generations that the "living Sunnah" of these very generations starts getting canonized in the form of the Hadith,

Al-Shafi, immediately before quoting the Hadith on Ijma', while defending Ijma', also states :  
(Arabic sentence is here please see pdf for the Arabic sentence)

"We know (i.e. it is our conviction) that the majority ('ammah) of them (i.e. Muslims) will not, God willing, agree on an error." After al-Shafi, when Hadith multiplies still further, this statement becomes a Hadith and is attributed to the Prophet in the Sahih of al-Tirmidii by the change of the word "khata' " into "dalalah"

(Arabic sentence is here please see pdf for the Arabic sentence)

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and in the later centuries becomes very famous. Other formulations of this idea also come into existence such as the Hadith, "God's hand is on the majority (al-jama'ah)"<sup>30</sup>. But, as we said just now, the Ijma'-Hadith is a part of a campaign to crystallize a middle-of-the-road orthodoxy, to the consideration of which we must now turn.

### IV

#### THE HADITH AND THE ORTHODOX

(al-Sunnah wa'l-Jama'ah)

A very important feature of the religious history of Islam, neglect or underestimation of which must result in a total misunderstanding of that history, is the fact that from the very moment that political, theological and legal differences threatened the integrity of the Community, the idea to preserve its unity asserted itself. The doctrine that this unity will be some kind of a synthesis or the *via media* (al-Sunnah) is a necessary corollary of the same idea. Hence, the terms "al-Sunnah wa'l-Jama'ah", as a single phrase, are not merely juxtaposed but are held to be correlates. Indeed, the most basic function of the Muslim 'orthodoxy' has been, since the very inception of the idea, not to dictate or define religious truth but to consolidate and formulate it ; neither to be an intermediary between God and man nor to be a warring group among groups but to stabilize and keep balance. The agents in this great drama of producing the structure of the orthodoxy are precisely the Ahl al-Hadith.

The political wars, and, in their wake, theological

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and dogmatic controversies, gave rise to a specially prominent type of predictive Hadith known as the 'Hadith about civil wars' (Hadith al-Fitan). Its clear purpose was to steer a middle course especially between the Khariji and Shi'i political and theological extremes. To justify Hadith about civil wars, certain over-arching Hadiths were circulated such as the following from the Companion Hudhayfah who said:

(Arabic sentence is here please see pdf for the Arabic sentence)

"The Prophet once stood among us (to address us) in such a manner that he left nothing (important) that was to happen until the Hour of Judgment but that his address comprehended it. Those who remember it, remember it and there are those who have forgotten it. . . There are certain things in this address which I have forgotten but when I am confronted with them I remember them just as a person (vaguely) remembers the face of an absent person but when he sees him again he recognizes him." This Hadith is quoted by both al-Bukhari and Muslim.<sup>31</sup> According to Abu Dawud, Hudhayfah said that the Prophet had identified every leader of a political dissension who had three hundred or more followers, by his name, his father's name and tribe:

(Arabic sentence is here please see pdf for the Arabic sentence)

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A typical Fitnah Hadith is the following one from Muslim and al-Bukhari allegedly reported, again, by Hudhaayfah :

(Arabic sentence is here please see pdf for the Arabic sentence)

"People used to ask the Prophet about good while I used to ask him about evil out of fear lest it should overtake me. So I said, 'O Prophet of God I we have been previously in ignorance and evil and then God brought us this good (through you); will there be evil again after the present good?' 'Yes', said the Prophet. 'And will good return once again after that evil?' I asked. The Prophet said, 'Yes, but there/will be a mixture of corruption in it.' 'What will be its corruption?' I asked. The Prophet replied, 'Some people shall follow other than my Sunnah and shall lead people not whither I lead. Some of their deeds will be good, others bad.' I asked, 'Will there be, after



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this (mixed) good, again evil?' He said, yes, propagandists standing at the gates of Hell; whoever listens to them, they will throw him into it.' 'Describe them for us, O Prophet of God!' I requested. The Prophet said, 'they are from our own race, speaking the very same tongue.' 'What is your command for me in case I find myself in such a situation?' I asked. The Prophet said, 'Stick to the majority party of the Muslims and to their political leader.' 'But if they have neither majority party nor a political leader' I enquired. The Prophet replied, 'Then forsake all the factions, even if you have to cling to the root of a tree until death overtakes you in this condition. According to another version in the Sahih } of Muslim the Prophet said, "After me shall come political leaders who will not be guided by my guidance and will not follow my Sunnah, and among them shall arise people whose hearts shall be the hearts of devils in the physical frames of humans." Hudhayfah says he asked, 'What shall I do, O Prophet of God! if I find myself in such a situation?' Thereupon the Prophet answered, 'Listen and obey the political leader. And should he even strike your back and wrest your property, you should but listen and obey'."

Neither of these two Hadiths is, of course, acceptable as a genuine Prophetic saying any more than the preceding Hadith (which is designed to be a sheet-Anchor for all predictive Hadith). What they jointly teach is to keep with the majority of the Muslims and obey the political leadership at any cost—except possibly infidelity. Thus, we see that the Ijma-Hadth is grounded in a dire political necessity. And the dictum that one should obey even an unjust ruler is a counsel of wisdom dictated also by political needs

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arising out of incessant civil wars; it hearkens especially to those incurable professional rebels, the Kharijites. And a peculiarly anti-Khariji Hadith is the following which, over against Khariji rebellionism, teaches absolute passivity and isolationism, viz. that the Prophet said:

(Arabic sentence is here please see pdf for the Arabic sentence)

"There shall be civil wars wherein a sit-at-home will be better than a standing person; and a standing person shall be better than one who walks ; and one who walks will be better than one who runs . . . "35 This Hadith does nothing but to seek to counteract Khariji-activism and zest for political life. In fact, sometimes the isolationist Hadith has gone so far as to annul the Ijma' doctrine and to teach crass individualism. Thus the Prophet is reported to have advised 'Abd Allah b. 'Amr b. al-'As :

(Arabic sentence is here please see pdf for the Arabic sentence)

"Stick to your home and control your tongue ; take what you recognize as good and leave what you cannot recognize as good ; and mind your own business and have nothing to do with the affairs of the public."36 It is noteworthy that the word which we have rendered as "public" is al-'ammah which in early literature is an equivalent of al-jama'ah as we shall presently explain.

Not, however, all Sunni Hadith is anti-Kharijite.

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There is, for example, a Hadith quoted by Ibn Hanbal, Abu Dawud, al-Tirmidhi and Ibn Majah in which a political doctrine has been incorporated which is originally unmistakably Khariji. According to this Hadith, the Prophet said:

(Arabic sentence is here please see pdf for the Arabic sentence)

"My (last) advice to you is to fear God and to render absolute obedience (to the political leader) even if he be a black slave. Those of you who survive me shall see great differences (among Muslims) ; so stick to my Sunnah and that of the rightly-guided and Divinely-led Caliphs."<sup>37</sup> In this Hadith, the element of absolute obedience is anti-Kharijite but the extension of rulership to a "black slave" is so unmistakably Khariji that it hits the eye. For the Sunnis had upheld that "rulers are from the Quraysh," while the Shi'ah had demanded that rulership must belong to a descendant of the House of 'Ali. The Kharijites alone had extended the privilege of possible political leadership of the Community to every Muslim—"even though he be a black slave," the only condition being a man's fitness for the office. This phenomenon, viz. that the Ahl al-Sunnah wa'l-Jamaah have included in their doctrine certain elements from the right and certain others from the left wing, is not confined to this Hadith alone which has been given here only for illustration. This policy of synthesis and mediation is, indeed, of the essence of the Ahl al-Sunnah.

But the idea of the "middle-path-majority", although certainly in its earliest phase born of political

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necessity, was bound to be applied in a theological-legal sense also as the political factions tended to create for themselves a theological-moral-legal basis. We have pointed, in the last article, to Abu Hanifah's description of himself as one of "Ahl al-'adl wa'l-Sunnah" (i.e. people of balance and the middle path) in the context of a theological controversy. [In this connection one should also recall such terms as "al-jama'ah min al-Hadith" (i.e. the Hadith recognized by the majority or the collective nature of Hadith) and "al-Sunnah al-ma'rufah" used frequently by Abu Yusuf to distinguish these from the "peripheral" and "obscure" Opinion.] This controversy, indeed, was the most acute, not only because it was the first general moral-theological controversy in Islam but also because due to its very nature, it threatened the fabric of the Muslim Community most seriously. This controversy was precisely this: What is the definition of a mu'min or a Muslim and can a man continue to be regarded as a Muslim even if he commits a grave moral error? The Kharijites not only declared such a person as a kafir but they attributed kufr also to those who did not declare such a person as a kafir, and further declared the necessity of Jihad against them. Against this alarming challenge the need was felt of a catholic definition of Islam which should be acceptable to the majority". Would not such a definition necessarily be middle-of-the-road — and therefore, correct? The first reaction to the Khariji uncompromising fanaticism was Murji'ism, i.e. the doctrine—most probably favored by the Umayyad state—that a person who professes to be a Muslim should not be declared non-Muslim because of his deeds, and that the state of his inner spirit must be

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left to God for final judgment. Of course, if the Community was to survive at all some such definition was necessary and a modified Murji'ism—through making some sort of a distinction between Islam and Iman—came, in course of time, to constitute an essential factor of orthodoxy, i.e. The beliefs of the majority of the Community. The following famous Hadith is a typical Murji'ite Hadith and is to be found in both al-Bukhari and Muslim. The Companion, Abu Dharr, relates that the Prophet said:

(Arabic sentence is here please see pdf for the Arabic sentence)

“There is none who confesses that 'there is no god but God' but that he shall enter Paradise." Abu Dharr asked, "Even though he should commit adultery and theft?" "Even though he should commit adultery and theft", replied the Prophet. Abu Dharr repeated the question three times and got the same answer from the Prophet who added with his third affirmation, "Though Abu Dharr's nose should be in the dust"— i.e. despite the wishes of Abu Dharr. We are told that whenever Abu Dharr related this Hadith, he repeated the phrase (proudly), "Though Abu Dharr's nose should be in the dust."<sup>38</sup> The same Hadith is related by Abu Yusuf in his Kitab al-Athar, the difference being that here it is not from Abu Dharr but from another Companion, Abu'l-Darda'; and Abu Yusuf adds that Abu'l-Darda' used to relate this Hadith every Friday by the pulpit of the Prophet.<sup>39</sup>

In order partially to redress the moral shock which a sensitive person may experience at being told that

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people may continue to be good Muslims "even though they should commit adultery and theft," a more compromising and reined view was put forward in a Hadith recorded by Abu Dawud and al-Tirmidhi, viz. that the Prophet said:

(Arabic sentence is here please see pdf for the Arabic sentence)

"When a person commits adultery, Faith goes out of him and remains above his head like a canopy; but when he passes out of this (state of sinful) act, Faith returns to him."<sup>40</sup> As a result of this painstaking and heart-searching Hadith activity amidst an atmosphere of interminable conflict, the Muslim orthodoxy—the Ahl al-Sunnah (i.e. the majority of the Community) finally formulated—at the hands of al-Ash'ari and alMaturidi and their successors—a catholic definition of Islam which silenced Kharijism and Mu'tazilism and saved the Community from suicide.

The same overall picture emerges when we turn to the problem of the freedom of the human will versus Divine determinism—the second big rock (which directly grew out of the first, viz. the relationship of Faith to behavior and the definition of a Muslim) that shook the Community during the second and third centuries. But whereas the first challenge came from the Khawarji, the second came from the Mu'tazilah who are, in a sense, the theological inheritors of the Khawarij. The two questions are also allied. For, if a man is free to will and (presumably)

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to act according to his will, then his actions are a direct index of the state of his inner Faith, and he is responsible for both his willing and acting. But if so, then the original controversy as to who is a Muslim and who is not will be opened again. In other words, Mu'tazilism is bound to resurrect Kharijism. Besides, the Mu'tazilah rationalism appeared to the religious minded to be a form of gross humanism, an imposition upon God of what a certain number of men regard as truth and justice. Because probably of both these dangers, a vast amount of Hadith came to be circulated emphasizing Divine determinism at different levels— of intention, motivation and act. We have noted above in Section II of this chapter a relatively early form of this deterministic Hadith. But in course of time the Hadith on this point multiplied. The Prophet is, for instance, reported to have said:

(Arabic sentence is here please see pdf for the Arabic sentence)

"Believers in freedom of the human will are the Magians of this Community. Do not visit them when they fall sick; do not attend their funerals when they die."<sup>41</sup> This Hadith, besides advocating an extreme stand of a total boycott of the Mu'tazilah, involves a series of technical steps in a sophisticated philosophic reasoning such as cannot be attributed to early seventh century Arabia. The suppressed argument is on the following lines. God is Omnipotent. But if there is an omnipotent being, no other being can even be potent, let alone omnipotent. But man, in order to have freedom of will and action, must be potent. Therefore, the admission of human freedom is the admission of two ultimate potencies—God and man,

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since, if we regard human potency as not being ultimate but only derivative from God, then freedom of the will becomes illusory. In history, Zoroastrianism has admitted two ultimate potencies—Yazdin and Ahriman. Belief in freedom of the human will is, therefore, a form of Zoroastrianism. According to another Hadith, the Prophet said:

(Arabic sentence is here please see pdf for the Arabic sentence)

"Do not have social intercourse with the believers in the freedom of the will, nor take your cases to them for decision."<sup>42</sup> A Hadith contained in Muslim and al-Bukhari reports from the Prophet:

(Arabic sentence is here please see pdf for the Arabic sentence)

"It is pre-written for the son of Adam as to the exact amount of adultery he should commit. Now, the adultery of the eye is a (lustful) look, the adultery of the tongue is talk; the soul wishes and desires while the sexual organ (only) confirms or belies."<sup>43</sup> A

Number of Hadiths state categorically and graphically how God, when He created all the souls in Eternity, destined some to Paradise, others to Hell, and some adding, "I do not care!"<sup>44</sup> The Prophet, in a Hadith to be found in al-Bukhari and Muslim, says:

(Arabic sentence is here please see pdf for the Arabic sentence)



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"(When the embryo is four months old), God sends an angel with four Decrees which he writes down, viz. its actions, life-span, sustenance and whether it is blissful or damned

I swear by Him other than Whom there is no God, one of you continues to perform Paradise-winning acts until, when between him and Paradise, there is but a yard, Fate overtakes him and he performs actions deserving of Fire and thus enters Fire... "45

But again, not all Hadith are deterministic in the sense of utter predestination and there are Sunni Hadiths—although fewer in number—which handle the matter quite differently. There is, e.g. the famous Hadith, recorded both by al-Bukhari and Muslim, according to which the Prophet said:

(Arabic sentence is here please see pdf for the Arabic sentence)

"Every child is born in a natural state (i.e. a good state), but then its parents make either a Jew or a Christian or a Magian of it . . . " 46 And in a Hadith contained in al-Tirmidhi, Ibn Majah and Ahmad ibn Hanbal the Prophet was asked by a Companion, (Arabic sentence is here please see pdf for the Arabic sentence)

"Do you think that amulets and medicines we use and precautionary measures (against illness, etc.) we take gainsay the Divine determinism?" The Prophet replied "(No), they are themselves a part of Divine determinism."47 to this category of Hadith also belongs the report that when 'Umar once ordered that the Muslim army be removed from a place struck

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with plague, someone objected to his order saying,  
(Arabic sentence is here please see pdf for the Arabic sentence)

"Do you flee from the Decree of God?" Whereupon  
'Umar is said to have replied,  
(Arabic sentence is here please see pdf for the Arabic sentence)

"I flee from the Decree of God to the Decree of God."  
Despite this second type of Hadith, however, which was to keep balance with the deterministic Hadith, the latter exercised a preponderating effect on the Sunni orthodoxy as distinguished from the Shi'ah (who, in this respect, continued the Mu'tazilah tradition). Later a number of influential voices arose within Sunni Islam against the preponderance of determinism, and especially of the Sufic interpretation of it, among the most eminent of these are Ibn Taymiyyah and Shaykh. Ahmad Sirhindi.

The same endeavour of the Ahl al-Sunnah to steer a "middle path" and keep excessive trends in check is visible in the phenomenon of the pro- and anti-Sufi Hadith. This is not the place to go into details of the origins of Sufism, but without denying that (as in every society) there must have been among the Companions those in whose temperament puritanical and devotional trends were stronger than purely activist traits, it must be admitted that Sufism, as it developed from the second and, especially, third centuries, has little justification in the pristine practice, of the Community. Its original impetuses came from politico-civil wars on the one hand and from the development of the law on the other. Its earliest manifestations are excessive individualist isolationism and ultra-puritanical asceticism. We have noted above the extreme isolationist Hadith in connection

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with internecine wars. But this type of Hadith expresses not only a political attitude but also a definite spiritual character. Further, according to a Hadith in al-Bukhari, Kitab al- Jihad, the Prophet is represented as recommending that one should go "into a mountain cavity (shi'b), and leave people alone".<sup>48</sup>  
(Arabic sentence is here please see pdf for the Arabic sentence)

That this Hadith should occur in the Sahih of al-Bukhari in the very chapter devoted to Jihad is a remarkable evidence both of the growing power of the Sufi movement and the catholic spirit of the Ahl al-Sunnah. But there are also equally powerful and extremely interesting counter-Hadiths. The Hadiths strongly recommending the earning of livelihood (against the extreme interpretation of the Sufi concept of Tawakkul) and condemning uncompromising indulgence in devotional piety are too well known to be documented in detail.<sup>49</sup> A pointed Hadith in this connection declares Jihad to be the Islamic equivalent of monasticism:

(Arabic sentence is here please see pdf for the Arabic sentence)

But the most remarkable Hadith of this type is the one according to which the Prophet said:

(Arabic sentence is here please see pdf for the Arabic sentence)

"Dear to me among (the things of) this world are women and scent; but my (true) enjoyment is in Prayers."<sup>51</sup> Each of these three individual elements of this Hadith undoubtedly represents the Sunnah of the Prophet. But the way the enjoyment of this world has been combined with prayers in one breath and the mechanical juxtaposition of values of utterly different genre cannot but be an artificial construction quite unattributable to the Prophet indeed, it is certain

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that the Hadith must have been directed against a target, and this target cannot be anything else but a sufistic form of uninterested spirituality.

In the developments outlined in the previous and the present sections we have deliberately chosen examples from what may be said to constitute the; "Fundamental Hadith, i.e. Hadith which elucidates fundamental developments in the religious history of Islam in its classical, formative period and throws the formation of the orthodoxy (Sunnism) into bold relief. We have left out on purpose the development of the specifically legal Hadith—although, of course, a concept like that of *Ijma'* is directly relevant as part of the framework of Muslim law also—because the specifically legal Hadith does not so elucidate the crystallization of the orthodoxy as does the Fundamental Hadith. But otherwise the legal Hadith shares the character of the "Fundamental Hadith" and exhibits the same development in that legal Hadith, reflects the "living Sunnah" of the early generations of the Muslims and not merely the Prophetic Sunnah in a specific and literal sense. Whether the literal Prophetic Sunnah, in its entirety, can be disentangled from the "living Sunnah" reflected in the Hadith is extremely doubtful, if not impossible, although certain fundamental traits can be definitely delineated if a serious and systematic academic effort is made. And, surely, considerations of pure scholarship apart, Muslims are Islamically duty-bound to make such an effort and to trace the different stages through which legal Hadith passed subsequently, point by point.

Take, e.g. the question of Riba in Hadith. (We are not discussing the question of interest in Islam as such but illustrating the problem of legal Hadith.) There

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are two things which the Qur'an makes clear about the Riba institution : (i) that it was a system whereby the substantive sum or commodity was multiplied "several-fold" (Qur'an, 3:130), and, therefore, (ii) that it was opposed to fair commerce, even though those who indulged in Riba tried to maintain that it was a form of commercial transaction (Qur'an, 2:275 ff.). The only description or definition of Riba that the historical Hadith gives is what corroborates the Qur'anic statements, viz. that the debtor, after the expiry, of the fixed term of the debt, was asked either to pay up or to increase the capital.<sup>52</sup> there is no other shred of historical evidence. But the purely legal Hadith subsequently multiplies and most certainly reflects the living Sunnah of the early period for its formulation is based on legal practice and opinion. That there has been a development on the matter is clearly demonstrable. For one thing, there is a "blanket" Hadith attributed to 'Umar saying that the Prophet did not explain what comes under Riba and, therefore, in the spirit of caution one ought to enlarge the coverage of Riba prohibition as much as possible.<sup>53</sup> But despite the continuous attempt at systematization of legal thought on the matter, not only is this development fairly visible in the Hadith, .but there still remained blatant contradictions, e.g. on the question as to whether selling of animals on the basis of interest in kind is allowed or not—each view is supported by Hadiths.<sup>54</sup> The oft-quoted Hadith that commodities covered by Riba must be exchanged "in equal amount and con-presently" is obviously contradicted by an equally famous Hadith that Riba is only on deferred payment and has no relevance to conpresent exchange.<sup>55</sup> This state of affairs apparently

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reflects two schools of legal opinion on the matter. The tendency has undoubtedly been towards greater strictness and rigidity, and later, indeed, not only interest but even the acceptance of a present by the creditor from the debtor is forbidden by Hadith,<sup>69</sup> We move far, indeed, from the Qur'anic background and a general principle is put forward in the form of a Hadith which states, "Every advantage that may accrue from the credit is interest".<sup>87</sup> Even the exchange of manufactured gold and silver for an increased quantity of the same raw materials—an increase justified and, indeed, necessitated by workmanship and labor comes to be forbidden.<sup>58</sup>

### V

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We have, in the foregoing, analyzed "adjectively" and, in the eyes of those with strong traditionalist attitudes and sensibilities, ruthlessly (and perhaps also unfairly) some of the main lines of Hadith. But we must be clear as to what exactly all this amount to. It is absolutely imperative to be exactly clear about the real issues at stake particularly because there are strong trends in our society which in the name of what they call "progressivism" wish to brush aside the Hadith and the Prophetic Sunnah. In their anxiety to "clear the way", they resort to methods much more questionable than Nero's method of rebuilding Rome. Not only are the trends in question lacking in the foresight, they exhibit a singular lack of clarity of issues and a dismal ignorance of the evolution of Hadith itself. Without any grounding either in scholarship or in insight, they sometimes tell us that the Hadith is

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unhistorical and therefore unreliable as a guide to the Prophetic Sunnah. At other times we are naively told that Hadith may be history but it has no Shari'ah normativeness, i.e. even if Hadith is genuine, it contains no Sunnah for us. "Progress" we all want, not despite Islam, nor besides Islam but because of Islam for we all believe that Islam, as it was launched as a movement on earth in the seventh century Arabia, represented pure progress—moral and material. But we can neither share nor forgive "confusionism" and obscurantism. What shall we progress from and what shall we progress with, and, indeed, whereto shall we progress? An answer to these questions demands a sober and constructive recourse to our history. What is the real relationship between Sunnah and Hadith ? Go to the contemporary crusading and verbose disquisitions on Hadith for an answer to this crucial question and search in vain for an answer. It may be remarked here that there was no group in classical Islam—be it the Khawarij or the Mu'tazilah—who ever denied the validity of the Sunnah<sup>69</sup> and that what they objected to was the formulation of the Sunnah in Hadith terms.

We may further point to the pathetic irony that very often the anti-Hadith argument (which is also assumed to be anti-Sunnah) is based on subjectively and naively selected Hadith to the effect that the Prophet or 'Umar or someone else from the earliest authorities had forbidden or discouraged the transmission of Hadith from the Prophet. Besides the intrinsic irrationality of this point of view, this anti-Hadith Hadith turns out, on closer historical examination, to be itself a direct product of the Hadith movement. And if all Hadith is given up, what

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remains but a yawning chasm of fourteen centuries between us and the Prophet ? And in the vacuity of this chasm not only must the Qur'an slip from our fingers under our subjective whims—for the only thing that anchors it is the Prophetic activity itself—but even the very existence and integrity of the Qur'an and, indeed, the existence of the Prophet himself become an unwarranted myth.

We shall now endeavour to show that technical Hadith, as distinguished from the historical and biographical Hadith, although it is by and large not historical, must nevertheless be considered as normative in a basic sense and we shall try to indicate by illustration what this basic sense is. These are the points we wish to make in this connection:

- (1) That the technical Hadith is by and large not historical in its actual formulations is shown by the various examples dealt with in the preceding pages. It may be said that we have, after all, given a few examples from a vast literature and that our conclusion is too sweeping. Now the first thing to be remembered in this connection is that the examples we have adduced are what we have called "Fundamental Hadith", i-e. Hadith concerned with the Islamic Methodology itself. If the Hadith about the fundamental principles of Ijma' and Hadith themselves proves unhistorical, the prima facie case for the Historicity of most other Hadith is demolished, It must be noticed that we are saying "most other Hadith" and not "all other Hadith."

But this difference between "most" and "all"—with the notable exception of Hadith



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about the Fara'id—is all but theoretical and is, at present at least, neither locatable nor definable : the credentials of each Hadith must be separately examined on historical grounds. The second objection against us must be that we have not taken the Isnad—the guaranteeing chain of transmission—into account. Now, we do not underrate the importance of Isnad. Quite apart from the fact that Isnad gave rise to a vast and genuine biographical information literature—a unique Islamic achievement—it has certainly contributed to minimizing Hadith forgery. Indeed, a vast number of forged Hadiths have been eliminated by the untiring activity of our traditions on the basis of Isnad. But although Isnad is important in a negative manner, it cannot constitute a positive final argument. For although a person 'A' who is generally considered reliable may be shown to have actually met another generally reliable person 'B\*' (which point is itself hard to establish), this constitutes no proof that a particular Hadith in question was transmitted by 'B' to 'A'. But the most fatal objection to considering Isnad the positive final argument is that Isnad itself is a relatively late development originating around the turn of the first century.<sup>60</sup> The professedly predictive Hadiths about political troubles in al-Bukhari and Muslim have excellent Isnads and yet we cannot accept them if we are historically honest.

(2) But the most fundamental objection to our

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thesis of non-historicity of Hadith will not be scientific but religious, viz., that Hadith will thus turn out to be a gigantic conspiracy. The question, however, is whether the Ahl al-Hadith themselves regarded their activity as strictly historical. We recall here the Hadith already quoted above, viz. that the Prophet said:

(Arabic sentence is here please see pdf for the Arabic sentence)

"Whatever of good saying there be, I can be taken to have said it." It is idle to say that this refers only to moral Hadith, for political and legal Hadith has obvious moral implications. Even the famous Hadith according to which the Prophet said:

(Arabic sentence is here please see pdf for the Arabic sentence)

"Whoever tells a deliberate lie about me, should prepare a seat in Hell," was later modified to read, "Whoever tells a deliberate lie . . . in order to lead people astray. .." On this basis then a general principle was formulated that "Hadith arousing pious feelings is not to be rejected." This principle is attributed by al-Nawawi [see his commentary on the Sahih of Muslim, Karachi (n.d.),

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vol. I, p. 8] to the Karramiyah and he complains that many ignorant people and preachers have followed it. Even the famous Hadith according to which Hadith which is in consonance with the Qur'an is to be accepted, does anything but argue for his toxicity. It must, therefore, be concluded that Hadith represents the interpreted spirit of the Prophetic teaching—it represents the "living Sunnah".

- (3) But if the Hadith is not strictly historical, it is quite obvious that it is not divorced from the Prophet's Sunnah, either. Indeed, there is an intimate and ineliminable connection between the Hadith and the Prophet's Sunnah. We recall what we established in the first chapter, viz. that the earliest generations of Muslims—judges, lawyers, theoreticians and politicians—had elaborated and interpreted the Prophetic Model (Sunnah) in the interests of the needs of the Muslims and the resultant product in each generation was the Sunnah in sense (ii), i.e. the living Sunnah. Now, the Hadith is nothing but a reflection in a verbal mode of this living Sunnah. The Prophet's Sunnah is, therefore, in the Hadith just as it existed in the living Sunnah. But the living Sunnah contained not only the general Prophetic Model but also regionally standardized interpretations of that Model—thanks to the ceaseless activity of personal Ijtihad and Ijma'. That is why innumerable differences existed in the living Sunnah. But this is exactly true of

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Hadith also. This is because Hadith reflects the living Sunnah. Indeed, a striking feature of Hadith is its diversity and the fact that almost on all points it reflects different points of view. This point, while it shows the lack of strict historicity of Hadith, just like the earlier living Sunnah, has been the most potent factor of catholicity in the hands of the Ahl al-Sunnah, i.e. the Majority of the Muslims. For the Ahl al-Sunnah, through Hadith, tied—largely successfully—to steer a middle course and produce a middle-of-the-road synthesis. The main relevant difference between the living Sunnah of the early generations and Hadith formulation is that whereas the former was a living and on-going process, the latter is formal and has sought to confer absolute permanence on the living Sunnah synthesis of roughly the first three centuries. This, no doubt, was the need of the hour, for an on-going process without some formalization threatens, at some point of time or another, to break the continuity of the process itself by destroying its identity. But what resulted from Hadith eventually was not some formalization but a total oxidation. The present need undoubtedly is to re-loosen this formalism and to resume the threads from the point where the living Sunnah had voluntarily emptied itself into the Hadith dam. But it is at precisely this juncture that a voice whispers (besides much other wild-advice), "Hadith and/or Sunnah are incurable reactionarism; leave them

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roundly if you want to progress". Is this the voice of hope at despair? The application of the principle in the following illustration will tell.

- (4) We have said repeatedly—perhaps to the annoyance of some readers—that Hadith, although it has as its ultimate basis the Prophetic Model, represents the workings of the early generations on that model. Hadith, in fact, is the sum total of aphorisms formulated and put out by Muslims themselves, ostensibly about the Prophet although not without an ultimate historical touch with the Prophet. Its very aphoristic character shows that it is not historical. It is rather a gigantic and monumental commentary on the Prophet by the early Community. Therefore, though based on the Prophet, it also constitutes an epitome of wisdom of classical Muslims.

Now, if we listen to the voice referred to above, we get alarming results. We have shown above that the Hadith about Ijma', for example, is historically unacceptable. If we follow the voice, we should reject the doctrine of Ijma'. But, can we? At this stage, however, the voice might say that Ijma' can be grounded in the Qur'an for the Book of God says:

(Arabic sentence is here please see pdf for the Arabic sentence)

"Cling together to the rope of God and do not disperse" (Qur'an, 3:103). But although this is a Command for unity, it is not exactly Ijma', for Ijma' is "unanimously arriving at a decision". If this verse had meant Ijma', al-Shafi and others would long ago

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have advanced it as an argument on the point. But let us suppose the Qur'anic verse does mean Ijma'. Even then the nature of Ijma' remains unspecified. Is it something statistical or qualitative? i.e., is Ijma' total or does it leave room for difference of opinion? Now, we find a good deal of Hadith which encourages the expression of a dissenting voice, and such Hadith appears in various direct and indirect forms. This shows that one Ijma' may be changed by a subsequent Ijma' and further that Ijma' is a matter of practice and not that of pure theory involving truth values. An Ijma' can be right or wrong, or partly right and partly wrong, rather than true or false. The Community, indeed, cannot take itself for granted claiming theoretical infallibility. It must always aspire both to understand and to do the right.

The character of Hadith is, therefore, essentially synthetic. Further, when we test the Ijma'-Hadith on what is historically known about the Prophet, we find that the former develops out of the Prophetic Sunnah, for the Prophet not only made every effort to keep the Community together, he both encouraged and elicited a unity of thought and purpose. The Qur'anic term "shura" refers to this activity. And this catholic and synthetic character of Hadith is not confined to this one point—it runs through almost the entire gamut of moral, social, legal and political doctrines. We have brought out this synthetic character of Hadith while discussing the formulation and expression of the Orthodoxy in the last section.

It must, of course, be emphatically pointed out that a revaluation of different elements in Hadith and their thorough reinterpretation under the changed moral and social conditions of today must be carried

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out. This can be done only by a historical study of the Hadith—by reducing it to the "living Sunnah" and by clearly distinguishing from the situational background the real value embodied in it. We shall find thereby that some of the major emphases of our traditional Orthodoxy will have to be modified and re-stated. Take, e.g. the case of determinism and free-will. At the time of the early Umayyad who advocated pure determinism, free-will had to be emphasized and this is precisely what Hasan al-Basri and the early Mu'tazilah did. But when the Mu'tazilah humanism seemed to run riot and threatened the very bases of religion, Ahmad b. Hanbal and his colleagues accentuated the Will and Power of God over against the Mu'tazilah rationalism. But this doctrine of Divine Power and determinism subsequent became, and remains to this day, the hallmark of Orthodoxy. This has surely outrun its original function and has been in fact very injurious to the moral and social life of the Community especially through its wilder interpretations by later philosophers and Sufis. The preponderant deterministic traditions in the works of Hadith must, therefore, be interpreted in their correct historical perspective and their true functional significance in historical context clearly brought out. The same principle of interpretation must be applied to other spiritual and social problems such as the age-old tension between the Shariah and claims of Sufi adepts.

On the very same principle of situational interpretation, by resurrecting the real moral value from the situational background, must be handled the problem of legal Hadith. We must view the legal Hadith as a problem to be re-treated and not as a ready-made law

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to be directly applied. This is certainly a delicate question and must be handled wisely and cautiously, but handled it must be. Recall, e.g., the question of Interest. The Qur'an, as stated above, brings out the real reason behind the prohibition of Riba saying that it cannot come under the definition of a commercial transaction because it is a process whereby the capital is unjustly increased manifold. The historical Hadith confirms this by informing us that this was, in fact, the practice of the pre-Islamic Arabs. But we have seen the moral strictness by which legal opinion brought various activities under the definition of Riba by formulating a general principle that every loan which brings any advantage to the creditor is Riba. In the same breath we are told that Riba applies exclusively to the articles of food, gold and silver and beyond these it has no application.<sup>61</sup> This obviously implies that, say, a certain quantity of cotton may be loaned on the stipulation that six months hence it must be returned with any amount of increase the creditor wishes to impose at the time of stipulation. This, of course, contradicts the general principle quoted just now. This whole development shows that it is a progressive moral interpretation of the Qur'anic prohibition sought to be rigidly formalized. We have certainly no reason to accept this specific moral-legal interpretation in all situations and under all conditions. Further, that the bank interest of today is legitimately covered by the definition of commerce is difficult to deny. It is for the economists and the monetary technicians to say whether interest-less banking can function in today's world or not. If it works, it is all to the good. But if it does not, then to insist that today's commercial banking—with an



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Overall controlled economy—comes under the Qur'anic prohibition and is banned by the Prophetic Sunnah is not so much historical or religious honesty but an acute crisis of human confidence and uncompromising cynicism. The Qur'an and the Sunnah were given for intelligent moral understanding and implementation, not for rigid formalism.

On some such line of re-treatment, we can reduce the Hadith to Sunnah—what it was in the beginning— and by situational interpretation can resurrect the norms which we can then apply to our situation today. It will have been noticed that although we do not accept Hadith in general as strictly historical, we have not used the terms "forgery" or "concoction" with reference to it but have employed the term "formulation". This is because although Hadith, verbally speaking, does not go back to the Prophet, its spirit certainly does, and Hadith is largely the situational interpretation and, formulation of this Prophetic Model or-spirit. This term "forgery" and its equivalents would, therefore, be false when used about the nature of Hadith and the term "formulation" would be literally true. We cannot call Hadith a forgery because it reflects the living Sunnah and the living Sunnah was not a forgery but a progressive interpretation and formulation of the Prophetic Sunnah. What we want now to do is to recast the Hadith into living Sunnah terms by historical interpretation so that we may be able to derive norms from it for ourselves through an adequate ethical theory and its legal re-embodiment.

One anxiety will trouble many conscientious Muslims. It is that it is found impossible to locate and define the historically and specifically Prophetic

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content of the Sunnah, then the connection between the Prophet and the Community would become elusive and the concept "Prophetic Sunnah" would be irrevocably liquidated. But this worry is not real. To begin with, there are a number of things which are undeniable historical contents of the Prophetic Sunnah. Prayer, zakat, fasting, pilgrimage, etc. with their detailed manner of application, are so Prophetic that only a dishonest or an insane person would deny this. Indeed, the historical Hadith, i.e., the biography of the Prophet, is, in its main points, absolutely clear and would serve as the chief anchoring point of the technical Hadith itself when the latter is interpreted. Indeed, the overall character not only of the Prophet but of the early Community is indubitably fixed and, in its essential features, is not at all open to question— even though there may be questions about the historical details. It is against this background of what is surely known of the Prophet and the early Community (besides the Qur'an) that we can interpret Hadith. The purely prophetic elements in technical Hadith may be hard to trace, it may even be impossible to recover the entirety of them without a shadow of doubt, but a certain amount will undoubtedly be retrieved. But our argument does involve a reversal of the traditional picture on one salient point in that we are putting more reliance on pure history than Hadith and are seeking to judge the latter partly in the light of the former (partly because there is also the Qur'an) whereas the traditional picture is the other way round. But the traditional picture is already biased in favors of technical Hadith ; there is no intrinsic evidence for this claim and much intrinsic evidence that we have adduced is against it.

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The alleged criticism of Muhammad ibn Ishaq, an early biographer of the Prophet, by Malik is probably itself a later traditionist view for we find Abu Yusuf Quoting from Ibn Ishaq.<sup>62</sup>

### NOTES

1. Abn Ynsuf's al-Radd 'ala Siyar al-Awza"i Hyderabad (n.d). pp. 131-51 and pp. 32-3.
2. Ibid., p. 76.
3. Ibid., p. 11.
4. Al-Shafi'i. Kitab al-Umm, VIX, 239. Last line; 240. line 5.
5. Abn Yusuf. op. cit., p. 40 ff.
6. Ibid., p. 41.
7. Ibid., p. 31.
8. Ibid., p. 32.
9. Ibid. pp. 24-32.
10. Abu Yusuf Athar (Cairo 1355 A. H.) Nos. 887, 889. It is Possible that "al-Kaladm" originally meant just "talk" but by Abu YOsuf's time it had acquired a technical meaning.
11. Ibid., No. 581.
12. Ibid., No. 924.
13. Ibid., No. 947 and the footnote.
14. Abu Yusuf. al-Radd, etc., p. 21.
15. Ibid., footnote to p. 17.
16. Ibid., p. 21.
17. Ibid. pp. 85, 61-2, 65. 75.13-7.
18. Ibid., 15, 85, etc.
19. Kitab al-Umm, VII, 212-3.
20. Ibid., p. 212.
21. Ibid., pp. 906-7.
22. Al-Shafi'i. al-RiSalah, ed. Ahmad Muhammad Shakier. Cairo, 1309 A.H.. pp. 401-2.
23. Ibid., pp. 403-4.
24. Ibid , pp. 397-8.
25. Apud Miskkat al-Masabik. Dihli, 1932, pp. 30. 32.
26. Abu Yusuf. Athar. No. 959.
27. Al-Shafi, al-Risalah, pp. 473-4,
28. Abu Yusuf, al-Radd, etc, p. 25.

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29. Al-Risalah, p. 224.
30. Al-Tirmidhi, Kitab al-Fitan, No. 7.
31. Apud Miskkat al-Masabih, p. 461.
32. Apud ibid., p. 463.
33. Apud ibid., p. 461.
34. Apud ibid., p. 462.
35. Apud ibid., p. 462.
36. Apud ibid., p. 464.
37. Apud ibid., p. 30.
38. Apud ibid., p. 14.
39. AbO Yusuf. Athar, No. 891.
40. Apud Miskkat, p. 18 ; see also p. 17, the Hadith from al-Bukhari and Muslim, "The adulterer does not commit adultery in a state of Faith ..."
41. Apud ibid., p. 22.
42. Apud ibid., p. 22.
43. Apud ibid., p. 20.
44. Apud ibid., pp. 23, 20. etc.
45. Apud ibid., p. 20.
46. Apud ibid., p. 21.
47. Apud ibid., p. 22.
48. Al-Bukjjan. Kitab al-Jihad. No. 2.
49. e.g. Apud Miskkat. p. 27: pp. 241-3 ; and several Hadiths in Kitab al-Ilm. pp. 32-38.
50. Ahmad b. Hanbal, Musnad, 3. 82,266.
51. Al-Nas3'i, 'Iskrat al-Nisa', No. 1,
52. Al-Sljafi'i, al-Risalah, p. 234: al-Bayhaqi. al-Sunan al-Kubra, Hyderabad. 1352 A.H., V ; 275.
53. Apud Miskkat. p. 246.
54. Apud Miskkat. p. 245 (both Hadiths are given there); al-Bayhaqi, op. cit., pp. 287-8.
55. For the first view, see al-Bayhaqi. op. cit., ibid., pp., 280-81.
56. Apud Miskkat, p. 246.
57. e.g., al-Bayhaqi. op. cit., p. 350. line 10 ff.
58. Ibid., p. 279,15ff.
59. For the Mu'tazilah see Al-Şh,afi'i, Kitab al-Umm. VII; p. 252, line 15. For the Kharji acceptance of Sunnah, see e.g. al-Jahir, al-Bayan, Cairo 1948, VII; 122, line 13, a Speech by the Khariji (IbSdi) leader, Abu Hamzah. The

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- Khaius. Indeed, even accepted Hadith (see Ibn Qutaybah. Ta'wil mukhtalif al-Hadith. Cairo, 1326 A. H.. p. 3.
60. See L. Caetani. *Arxnali DeIV Islam*, Introduction, section on isnSd. The beginnings of Isnad are generally attributed by Muslim authorities themselves to the Civil War (al-Fitnah). I.e. the murder of the Umayyad Caliph al-Walid. See also J. Schacht, *Origins, etc.*, p. 36.
61. Al-Bayhaqi, *op. cit.*, p. 286,
62. Abn Ynsuf, *al-Radd.....* pp. 7,12, etc.

# 3

## POST-FORMATIVE DEVELOPMENTS IN ISLAM

In Chapter 2 entitled "Sunnah and Hadith"<sup>1</sup> we treated of the emergence of the Ahl al-Sunnah wal-Jama'ah. We underlined there the most fundamental characteristic of the Ahl al-Sunnah in its genesis as consisting in an effort to synthesize extremes, to stabilize and stick to the middle path. It was undoubtedly this activity that saved the Community from evaporation and, both for its consolidation and progress, it was absolutely essential that this basic impulse of *Tasannun* should remain alive. When, however, Sunni Islam (i.e. the religious-political attitudes of the middle-of-the-road majority) had received an explicitly formulated content and an "orthodoxy", in a narrower sense of the term, had come into existence through the progressive formulation and elaboration of the Hadith and the legal system (both of which went hand in hand)—as shown in the last chapter—a remarkable social equilibrium and cohesion was achieved. There may have been religious societies before—and there was certainly Judaism—which

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achieved a tremendous degree of cohesion. But Judaism was not and is not a universal brotherhood: it is not based on any idealism, for idealism, when not Universalized, becomes sheer moral mockery. Buddhism and Christianity were the two great universalistic movements, but to develop a social fabric on a positively religiously (i.e. idealistically) constituted basis seems to have been none of their concerns. Islam is the first actual movement known to history, that has taken society seriously and history meaningfully because it perceived that the betterment of this world was not a hopeless task nor just a *pis aller* but a task in which God and man are involved together. In the post-Islamic era, it is only Communism that has expressly and systematically set out to mould history. But Communism, being an extreme form of modern Western humanism, and believing in the utterest relativism of values, substituted for the spiritual tyranny of the self-styled vicars of God, the naked tyranny of man over man. The example of Communism (the creed whose deflation is Occurring' before our own eyes) brings home to us the Islamic lesson that; whereas the betterment of this world and man stands at the very centre of the Divine interest, the positive relationship between man and man—i.e. Society—requires the trans-human reference to God.

To Revert to Islamic history. After the perfection of an elaborate theological, legal, political and social system, the equilibrium and consolidation that ensued created tremendous effulgence in the intellectual spiritual, scientific and generally in all the cultural idles. It is certainly not within; the scope of the present study to portray the results of this cultural exuberance and creativity which it is the rightful and

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ardent desire of the reawakened Muslim to recapture. What we wish to essay in the following is to prove that although the social equilibrium achieved did bestow an extraordinary fecundity and creativity on the Muslim civilization, nevertheless, this phenomenal growth was relatively short-lived because the content of this structure was invested with a halo of sacredness and exchangeability since it came to be looked upon as uniquely deducible from the Qur'an and the Prophetic Sunnah. The growth and flowering of Islamic culture was, therefore, stifled at its very roots and almost at the very moment when it began to blossom. This is because the actual content of the interpretation of the Qur'an and the Prophetic Sunnah, the content which we described in the previous chapters as the "living sunnah", ceased to be living sunnah, i.e., an on-going process and came to be regarded as the unique incarnation of the Will of God.

In the previous chapter we described the genesis of some of the important political, theological and moral doctrines and showed how these doctrines, which had originated in the "living sunnah" as a product of Islamic history acting on the Qur'an and the Prophetic Sunnah, were transformed, through the medium of the Hadith, into immutable articles of Faith. Now we shall study in somewhat closer detail the workings of the same doctrine-content after it had been so transformed and what produce this had on the future of the Community. For the sake of convenience, we shall divide our enquiry into certain major fields. It should again be borne in mind that no attempt has been made for an exhaustive historical survey of these fields but shall confine ourselves



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to certain pertinent observations as to how the Muslim activity in these fields affected and was affected by the doctrine-content formulated through the medium of the Hadith.

### THE POLITICAL ORDER

In Chapter 2 we briefly hinted at the causes that shaped the political attitudes of the vast body of the Muslims as distinguished from the Kharijites and the Shiah. Indeed, it is the emergence of these sects and their political activity, especially that of the Kharijites, that supplied Sunnism with its political content. At the outset, the Sunnis certainly mediated between the two extremes at least at the doctrinal level. Instead of the Shi'i legitimist claims, they successfully insisted on the Ijma' of the Community and its representative chief executive, the Caliph, who was, in theory, deposable. But against the Khariji rebellions and, especially, in face of the actual civil wars, the Sunnis, i.e. the majority of the Community, accentuated the idea of *laissez faire* and an abstention from politics. Doctrines of submissiveness to the de facto authority were given tremendous weight and in the last chapter we quoted Hadith that advocates absolute pacifism and even total isolationism has been quoted. There is little doubt that the original impulse behind all such doctrines and their protective Hadith is the common-sense principle that any law is better than lawlessness, but once the doctrine was given out and accepted as guaranteed by the Prophetic authority, it became part of the permanent furniture of Sunni

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Belief—the Sunnis had, for ever, become the king's party, almost any king.

Even so, the doctrine of purely political pacifism, if it had not come to be supported by certain other powerful moral and spiritual factors, might not have resulted in a simple acceptance of political opportunism. Unfortunately, however, certain other developments took place which, in course of time, came to have the effect of advocating not only political but even moral passivity. Here attention is drawn specifically to the doctrine that a person who professes "there is no god but God" enters paradise "even though he commits adultery or theft". This formula, couched in the form of a very famous Hadith<sup>2</sup> was, in the beginning, undoubtedly designed to provide a kind of a legal definition of a Muslim and to save the Community from dogmatic civil wars. But once it was accepted not only as a legal definition but also as a constituent of the substance of the creed, its actual effect was bound to be in favor of moral apathy, despite a good deal of Hadith to the contrary which could, however, never revoke the Hadith in question. The truth is that a considerable part of external solidarity of the Community was achieved at the expense of the inner density of the faith. No community can, of course, remain without the watchful guardians of its conscience, and Sunni Islam has never been without men of acute faith and conscience, who have risked and even given their lives in protest against compromises, but the fact remains—and remains fundamentally important in the history of Islam—that a combination of a deliberately cultivated political docility and a general moral passivity not only made political opportunism possible but seemed to bestow

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upon it a doctrinal rectitude.

The Kharijites got themselves crushed out and obliterated for all practical purposes in a long and protracted series of open and bloody conflicts with the state and the Community in general. The Shi'ah, which after its initial phase of a purely political legitimism, functioned for a time as a movement of socio-cultural protest and reform within Islam, went underground during the second and the third centuries and under suppressive pressure from without, adopted subversive tactics. When they re-emerged on the scene, especially in the form of the politically successful Isma'ili movement, they had become transformed beyond recognition by a theological structure at the centre of which stands the doctrine of Imamalogy—a clear and unmistakable influence of Gnostic-Christian ideas (that had been pushed down into a subterranean life by the force of the developing Islamic ideology)—and distinguished by the isolationist doctrine of the *Taqiyah*. Instead of resuming life as a healthy criticism and a constructive opposition within the broad framework of the twin principles of Ijtihad-Ijma', Shi'ism was now pressed into quite different channels: substituting for Ijma' the theoretical guidance of the infallible Imam. On the moral plane, as we shall show, Shi'ism did seek to keep certain healthier principles alive so far as the freedom and responsibility of the human will is concerned, but at the political and theological planes (which had also obvious and direct moral implications of fundamental importance), Shi'ism seemed to reach a point of no-return. Indeed, one most striking fact—a fact which no Muslim caring for a genuine reconstruction of Muslim society with a progressive

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content can ever afford to ignore—about the religious history of Islam is that Islam has always been subjected to extremisms, not only political but theological and moral as well. The Ahl al-Sunnah wa'l-Jama'ah whose very genesis had been on an assumed plea of moderation, mediation and synthesis—which is an on-going process — and who, indeed, actually functioned as such a force in the early stages, themselves became, after the content of their system had fully developed, authoritarian, rigid and intolerant. Instead of continuing to be a synthesizing and absorbing force they became transformed into a party-among-parties with all its rejecting and exclusivist attitudes.

It took time, however, for the absolutely pacifistic attitudes of Sunnism to harden. At the time of the downfall of the Umayyad and the establishment of the 'Abbasids, the state of affairs was naturally still very liquid. Ibn al-Muqafa' (second quarter of the second century) complains that Muslims largely suffer from political extremism, one party contending that the political authority must be upset if it disobeys God or, rather, if it seeks to implement what constitutes disobedience to God, while the other party contends that the political authority must be placed by definition, as it were, beyond criticism, Ibn al-Muqafa' roundly dismisses the second group. With the first group he agrees that (Arabic sentence is here please see pdf for the Arabic sentence)

"there is no obedience (to the ruler) in disobedience of God," but he pointedly asks, if anybody is to be obeyed in righteousness, including the political authority, and if everybody is to be disobeyed, including the political authority, in what is deemed to be not righteousness, then what is the difference between the. Political authority and non-authority? How can,

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therefore, any political authority, worthy of the name, survive ? Ibn al-Muqafa', therefore, suggests that while the dictum itself is correct, it is used as a camouflage for sedition and rebellion and, further, that whatever any particular group thinks to be the correct interpretation of the obedience or disobedience to God, it seeks to impose it on others by attempting to seize the political machinery.<sup>8</sup>

It is to be remarked that Ibn al-Muqafa', while stating the view of both political extremes, does not refer to any Hadith or even alleged Hadith, either on the side of rebellions or absolute pacifism. And, indeed, no such Hadith is contained either in the *Muwatta* of Malik or the *Athar* of Abu Yusuf two eminent men of the second century. Ibn al-Muqafa' certainly assumes that the state stands under the moral norms of Islam, but he insists that, in judging whether a particular state is so conforming or not, all contending groups must exercise that robust, healthy and constructive common sense which Islam did so much to inculcate and that, above all, the integrity of the Community and the stability of the state must never be lost sight of. We do not deny that pacifist Hadith was there: indeed, our analysis of the political Hadith in the last chapter has clearly shown that this Hadith was proved by Kharijism. What we are saying is that neither Ibn al-Muqafa' nor Malik nor yet Abu Yusuf makes any reference to such Hadith.

But the collectors of Hadith during the third Century zealously collected pacifist Hadith and, at the political level, pacifism henceforward is permanently erected into the dogmatic structure of Islam. A Muslim, from now on, does not possess the right of political resistance—that is to say, not only actually, but

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even formally and theoretically. Many students of Muslim political history and theory—both Westerners and Muslim Modernists—have postulated an increasing influence on Islam of old Iranian ideas of kingship, where kings were regarded as sacred and inviolate. This story does not seem true. It is true that the political authority was vested with a quasi-inviolable character and later also expressions like "the shadow of God" are used, even by the orthodox—e.g., by Ibn Taymiyah.<sup>4</sup> But when the orthodoxy contends that "even an unjust ruler ought to be obeyed" and that (Arabic sentence is here please see pdf for the Arabic sentence)"the Sultan is the shadow of God," we get the apparently strange result that "even an unjust ruler is the shadow of God". Since by no stretch of imagination can this extreme construction be literally attributed to orthodoxy—least of all to a man like Ibn Taymiyah, the only meaning we can attach to the phrase "shadow of God" is that of a rallying point and a guarantee for security. And when we look at the earlier insistence of the orthodoxy, couched in Hadith form, (Arabic sentence is here please see pdf for the Arabic sentence) to keep to the majority of the Muslims and their political authority," the meaning becomes absolutely clear. No metaphysical implications, therefore, of the Old Iranian or other equivalent doctrine of ruler ship may be read into this dictum.

However, a closer reflection will reveal that a total conformism and pacifism, no matter through what noble purpose motivated, is completely self-defeating, for it inculcates political passivity and indifference and, subsequently, a fatal sense of suspicion against the government. And this is exactly what happened in Islam. If the maintenance of the solidarity of the Community was an overall objective

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—as, indeed, it was and should have been—then, to ensure political stability, adequate political institutions should have been erected. The Shura, e.g., could have been developed into an effective and permanent organization. But nothing like this was achieved. The 'Ulama' continued, on the one hand, to strenuously advocate absolute obedience (and this was their concession to realism) and, on the other, to draw perfectionist pictures of an ideal caliph (which was of course a statement of idealism). There seemed no bridge between the two and whenever there is an unabridged (also seemingly unbridgeable) gap between the ideal and the real, cynicism, that most destructive poison for any society, is an inevitable result. Political opportunism, which, to some extent, exists in all societies, becomes, under such cynical attitudes, the hallmark of political life.

The ground was thus prepared and justification supplied for visitation of the Muslim world from the fourth century onward by sultan after sultan and amir after amir. The decrepitude of the Baghdad Caliphate was hastened. These *de facto* rulers, mostly men of tremendous initiative, ability and cynical wisdom, turned, with the help of the doctrine of predeterminism (whose effects also we shall portray presently), the very principle which had fired the Khariji fanaticism, upside down: "Rule belongs to God alone (in-i'l-hukmu ilia li'llah, Qumran, VI: 57)" came to be construed as meaning that whatever political authority had come to be constituted, was so constituted through the Divine will. Amirs would rise with their mercenary hordes and make a clean sweep of vast territories, but the Muslims could do nothing - nothing, that is to say, religiously except to obey.

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Under political opportunism, unstable rule is the order, stability a pure accident. This led to unsettled conditions. Destruction of property, especially urban property, is great during continuous political shifts and military movements. The Muslim urban life, during the later Middle Ages of Islam, was devastated. Since every new adventurer had to pay his soldiery and put some money in the treasury, people were heavily taxed, especially, in the first centuries of this type of political unsettlement, the urban population—the professional classes and more particularly the commercial classes. Ibn Khaldun tells us how big cities could be devastated by the whirlwinds of change in despotic rule.' Later on, when cities could no longer support the heavy taxation, the burden had to be borne by the peasantry which was, in course of time, reduced to the direst poverty. It is this heavy taxation against which Shah Wali Allah of Delhi also recorded his vigorous protest in the eighteenth century and called it anti-Islamic, since this taxation was not used for the welfare and the development of the people but to satisfy the primitive and satisfy impulses of the aristocracy.

When professional classes weaken and commerce declines in the cities, the ground beneath any cultural development worthy of the name is removed. The existence of a robust middle class is absolutely essential for any cultural development—spiritual, intellectual or artistic. We do not, of course, say that the political instability described above and unwittingly, though indirectly supported by the religious attitudes inculcated by the orthodoxy, was the only reason for the deterioration of the Islamic civilization. But we do say that it was both an extremely important factor



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and a major symptom of deterioration. The middle class that was produced by the equilibrium achieved after the first two centuries or so resulted in a brilliant civilization at all levels. It was intellectually and scientifically the torch-bearer of humanity; in arts its effulgence produced unrivalled masterpieces, especially in architecture and poetry: and in religious leadership, of course, it was unique. But this extraordinary creativity could not be sustained for a long enough time with a strong enough impetus to take deeper roots in society.

In political theory, then, the orthodoxy of the two political extremes, adopted the extreme of absolute obedience and conformism. (This does not and need not Deny the fact that some exceptional religious leaders sometimes courageously withstood what they considered to be unrighteous commands of rulers.) This it did originally to preserve the integrity and safety of the Community. But the doctrine has been retained as a feature of orthodoxy even until today, long after the original needs have passed and even forgotten by the orthodoxy itself. That is to say, a genuine historical need was erected into a kind of dogma, with serious results for the politico-social Ethic of the Muslim society in the later middle Ages, where it encouraged political opportunism on the one hand and generally inculcated political apathy among the people on the other. What is imperatively required is a healthy interest in the state and a constructive criticism of the government affairs, keeping in view the overriding need of the integrity of the Community and the stability of the state.

## POST-FORMATIVE DEVELOPMENTS IN ISLAM

### II

#### THE MORAL PRINCIPLES

The same story is repeated at the moral plane on the fundamental question of human freedom and accountability. The Qur'an and the Prophet's behavior had provided an adequate framework to ensure (i) the maximum of creative human energy and (ii) the keeping of this human creativity on the right moral track. The Qur'an vividly and forcefully emphasized all those tensions that are necessary for this purpose.

It severely warned against those nihilist trends which lead man to regard himself as law unto himself and are summed up in the pregnant term "*takabbur*" and called upon him to submit himself to the moral law. On the other hand, it raised genuine optimism to the maximum, condemned hopelessness as one of the gravest errors, charged man with limitless potentialities and made him squarely responsible for discharging this "trust". The Qur'an is not interested in a discussion of the problem of the "freedom of the human will" or "determinism" but, on the basis of a true appreciation of the human nature, in releasing to the maximum the creative moral energy of man. The Prophet, in his deeds and sayings, was an actual paradigm of this attitude and the response he evoked from his Companions was nothing essentially otherwise.

About a century, however, after the Prophet's death, this practical moral bent gave way to fierce speculation on the problem. Every religion has, at some stage, to formulate theologically its implicit world-view, but unfortunately in the intellectual developments in Islam during the second and the third centuries a situation was created where each of the

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two major contending groups—the Mu'tazilah and their opponents—found themselves developing in the abstract only one term of the concrete moral tension strongly advocated by the Qur'an. In order to raise the moral creativity of men, the Qur'an had emphasized the potentialities and the accountability of man—and the strict justice of God. The Mu'tazilah asserted this point and this point only, so that they became irretrievable prisoners of their own position. But in order to assert the absolute supremacy of the moral law, the Qur'an had equally emphatically stressed the Power, will and Majesty of God. The religious opponents of the Mu'tazilah, in whose eyes the latter were denuding God of all godhead and substituting a naked humanism for the essentials of religion, in their turn, accentuated the Will and Power of God only, so much so that they became mortgaged to this doctrine totally and irrevocably and, in course of time, erected determinism into an unalterable part of the orthodox creed. The "orthodoxy" was thus once again maneuvered into an extreme position. In place of the living, concrete and synthetic moral tension of the Quran and the Prophetic Sunnah we have again a conflict of pure and naked extremes. What the "orthodoxy" did was essentially to take the latter of these two extremes and instal it into its dogmatic structure. Or, rather, the "orthodoxy" came into existence on the very plea and with the very programmed of installing the omnipotence of God and impotence of man into a dogma.

In Chapter 2 attention has been drawn to the pre-deterministic Hadith of the Ahl al-Sunnah and also to the opposite hadith and the terrific preponderance of the former over the latter has been pointed out. It has also been briefly hinted at the situation that forced

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such a formulation of Hadith. This is not the place to trace the origin and development of this problem in Islam but, as said in the last chapter, its beginnings are connected with the problem of how faith is related to acts and with the definition of a Muslim. The Umayyad state had favored determinism, for they feared that a stress on human freedom and initiative might unseat them. The doctrine that faith must be regarded as essentially independent of acts and that Acts must be judged leniently also well suited an attitude of mind that favored determinism. The doctrine of the essential independence of faith vis-à-vis acts was regarded by the majority of the Community as a necessary defense against Kharijism and was adopted in a modified form. In itself, this doctrine was harmless, indeed, necessary provided it was fully understood that it was designed to provide only an external, legal definition of a Muslim and did not describe the content of Islam as such. This unfortunately was not kept in view and the doctrine of the independence of faith of works was allowed to become not merely a formal but a real definition of a Muslim. This was undoubtedly the result of exasperation against Kharijism and other internal disputes, but it was an extreme and, in the long run, a morally suicidal measure: it was almost an exact Muslim replica of the Christian doctrine of "Justification by Faith".

This attitude of mind was bound to result in an undue easing of the religious conscience which obviously lowers the moral tension and proportionately the moral standards. Undoubtedly, there is much other Hadith that seeks to establish a positive relationship between faith and acts, between the inner state of the moral agent and its outward expression, and in

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the previous chapter we have also cited such Hadith. But the kind of function that the first type of Hadith was called upon to perform was definitive and, as has been just observed, its defining character was not only formal and external and, therefore, purely legal but came to be regarded as essential, i.e., it denied the essence of Islam. Its very status, therefore, conferred upon it incorrigibility, i.e. an inherent capacity for not being effectively counteracted, no matter how much emphasis is laid on the opposite, complimentary point of view, which was undoubtedly done.

But this was not all. For the orthodoxy, as we have just seen, was also compelled by the actual situation created by the Khawarij and the Mu'tazilah, especially the latter, to assert uncompromisingly the Will and Power of God in a way where they felt duty bound to rob man of all potency. As recent historical research has revealed, the Mu'tazilah were a group of Muslim intellectuals who, in an arena of great ideological conflict in the Middle East in the early centuries of Islam, had successfully defended Islam against Gnosticism, Christianity, Zoroastrianism and Buddhism. They were no mere intellectual idlers. One of the weapons with which they had defended Islam was the doctrine of human free-will and responsibility. This doctrine they had undoubtedly derived from the Qur'an and had then sought to formulate it in terms of the current stock of philosophical ideas of Greek origin. Their intellectual tools were, however, not sufficient (any more than were those of people they were opposing outside Islam). In their actual formulations, therefore, they came to express human freedom in a way which smacked of being clearly humanistic and seemed to rob God of His godhead.

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But the solution proposed and finally adopted by the orthodoxy suffered from the same disadvantage. It represented the other extreme, and when combined with the orthodox position on the question of the relationship of faith and behavior outlined above, it constituted a terribly powerful bulwark against the spiritual-moral attitude behind human initiative and creativity. Whereas in the hands of Ibn Hanbal the emphasis on the Power and Majesty of God was a simple assertion of the religious impulse, the later theologians like al-Ash'ari, al-Maturidi and especially their successors transformed it into a full-fledged theological doctrine. But their intellectual tools were no better than those of the Mu'tazilah and thus the doctrine developed one-sidedly in favor of determinism. A little later, during the fourth and the fifth centuries, the Muslim philosophers, being pure rationalists, developed determinism still further and, by an identification of causal, rational and theistic forms of determinism, produced a truly imposing deterministic structure of the universe—and of man.

The theologians, who were otherwise opposed to the teachings of the philosophers, were nevertheless not slow in availing themselves of the vast arsenal of the philosophical stock of ideas in favor of determinism, the only element rejected by them in this connection being rationalism. During the sixth century, the famous and influential theologian, Fakhr al-Din al-Razi (d. 606) was a theistic predestination of a truly frightening order. For the sake of illustration, one of his highly skilful arguments advanced against human potency may be noted here. He argues<sup>6</sup>:  
(Arabic sentence is here please see pdf for the Arabic sentence)

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that in order to be able to act, the would-be agent must know exactly what he is doing ; otherwise he cannot be said to 'act'. But in order to know exactly what I am doing, e.g., when I am said to move my finger, I must know the consequences of this act. But when I move my finger, an infinite series of motions is initiated (both in my body and outside it) which I can never possibly know. I cannot, therefore, be said even to be able to move my finger. The motion of my finger is, therefore, an event which is created by God, or, rather, God had created it in eternity in His infinite Wisdom and Knowledge.

Most Sufi theosophers carried the doctrine to much greater lengths and, in fact, transformed it completely under their utterly monistic world-view: instead of saying, "Every act or occurrence is created by God," they ended up by saying, "Every act or occurrence is God" through the intermediate statement, "Every act or occurrence is a manifestation of God". Not only was there no agent besides God, there was just nothing besides Him. The effects of this development on the moral texture of the Community shall deal with a little more fully in the next section. The fact is that the chief property of the spiritual and intellectual life of the Muslims approximately from the seventh century onward is fatalism and the moral-psychological attitude that goes with it. We do not deny the obvious fact that the Muslim normally went on working for his living—e.g., a peasant tilled his land and did not sit down in the conviction that if God had pre-written that his crop should grow then he had to do nothing.

But what we do say is, and this is, surely, the problem here at the practical level, that the Muslim's initiative, intellectually and physically, became severely pros-

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cribed until it was almost numbed.

Thus, we see once again that a particular extreme solution, designed for a particular extreme ailment at a particular juncture of Islamic religious history, became a permanent feature of the orthodox content of Islam, and, further, that this extreme solution became extremer and extremer as century after century passed. Ibn Taymiyah (d. 728), in his critique of Muslim extremists on this very point wrote:

(Arabic sentence is here please see pdf for the Arabic sentence)

"It ought to be known that on this point many groups of theologians and Sufis have erred and have adopted a position which is, actually, worse than that of the Mu'tazilah and other upholders of the freedom of the will (which the theologians and Sufis had sought to remedy). For, the upholders of the freedom of the will (at



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least) emphasize the Command (of God, i.e. the moral imperative) . . . and command good and forbid evil. But they were misled on the question of Divine Omnipotence and thought that the affirmation of a Universal Divine Will and Power would rob God of Justice and Wisdom—but they were mistaken. These were then confronted by a number of 'Ulama (i.e. of the Orthodoxy), pious men and theologians and Sufis who affirmed the absolute Power of God . . . which was so far so good. But they let go the side of command and prohibition (i.e. the moral side) . . . and became like those Associationists (Mushrikun) who (as the Qur'an informs us) told the Prophet 'If God had so willed, we would not Have committed shirk..... Therefore, although The Mu'tazilah did resemble the Zoroastrians in so far as they affirmed an agent other than God for what they believed to be evil this other group resembled the Associationists (Mushrikun), who are much worse than the Zoroastrians."7

The two great reformers of the Indo-Pakistan subcontinent, Shaykh Ahmad Sirhindi of seventeenth century and Shah Waliy Allah of the eighteenth century, also made this a fundamental point in their attempts at a reconstruction of the spiritual and moral foundations of the Community. Since, however, their endeavors on the problem are related to Sufistic background, something will be said of them in the following section. But despite the influential voice of these reformers who were opposed in their own times— Ibn Taymiyah (who died in prison) and Sirhindi (who almost died in prison) having been especially bitterly opposed—it is abundantly evident from the

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foregoing brief sketch that the doctrine of predestination has been the rule in our life, the opposite has been the exception and the weight of this doctrine has been so great in all its manifestations that it has undoubtedly numbed the initiative of the Community as a whole. Apart from the Kharijites and the Mu'tazilah, both of which groups became extinct in Islamic history, the Shi'ah were the only major group that insisted on freedom of the human will in its creed. But this item of creed has been rendered practically ineffectual and defunct in Shi'ism itself because Shi'ism completely disregarded the majority of the Community and chose to develop on its own lines and also because freedom of the will is rather pointless in an authoritarian system of Imamalogy and alongside of the doctrine of Taqiyah.

### III

#### SPIRITUAL LIFE: SUFISM

We are not here concerned with the history of Sufism, much less with the entire content of Sufi Thought and practice but only with certain of its major features as they stand related to our present argument. This argument as it has built up so far says (1) that in order to face certain particular historical exigencies of an extreme nature, our orthodoxy was led, during its early, formative phase, to adopt certain more or less extreme remedial measures ; but (2) that since the door of re-thinking (Ijtihad) was closed ; after this period, these early measures became part of the permanent content of our orthodox structure. It has been endeavored to demonstrate that in the politico-social sphere and, more particularly at the moral plane,

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the combined effects of some of the doctrines regarded as fundamental by our orthodoxy did have, and could not fail to have, disastrous consequences for the moral constitution of the Community; its political attitude was a strong contributory cause of inducing political cynicism which is so patently evident in our political life; its moral emphases could lead only to pessimism. Where cynicism and pessimism are allowed to grow, life itself revolts and seeks other avenues of self-expression and self-fulfillment—healthy or not-so-healthy. We shall now briefly try to establish two points: (a) that Sufism, in the beginning, was a moral spiritual protest against certain developments of politico-doctrinal nature within the Community; but (b) That after things ossified in the manner described above, Sufism took over as a movement of popular religion and from the sixth-seventh centuries (twelfth thirteenth centuries of the Christian era) established itself with its peculiar ethos not only as a religion within religion but as a religion above religion.

It must be repeated that we are not here concerned with analyzing the content of Sufism historically and tracing its elements to foreign sources. It need not be denied and, indeed, it is convinced that the Sufi Movement came under certain fundamental influences from without, especially in its later stages of development. Nor is this in itself bad: every movement assimilates elements that come its way in the course of its expansion. But we are here concerned strictly with a functional enquiry: the overall build-up, operation and legacy of Sufism within Islam.

That among the Companions of the Prophet there must have been those whose natural bent of mind was more towards contemplation and introversion should,

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we submit, be accepted even though later Sufi assertions about Abu Dharr al-Ghifari, Abu Hurayrah and others may not be acceptable as historical truth.

But the emphasis of such Companions on inner life and devotion could not have constituted a "way of life" independent of the society building ethos of the Community at large—on the contrary, it must have helped deepen the moral consciousness involved in that ethos, as, indeed, was the case pre-eminently with the Prophet himself whose religious experience itself issued out in the form of the Islamic movement. It would be a simple oddity to attribute to any one of the Companions anything like, say, the ecstasies of an Abu Yazid al-Bistami or the theosophic lyrics of an Ibn 'Arabi. But a little later a vigorous movement of asceticism gets underway and is in full swing during the second century. The great name of Hasan al-Basri is also associated with it. It is essentially a moral movement, emphasizing and re-emphasizing the exteriorization, deepening and purification of the moral motive and warning man of the awful responsibility that life lays on his shoulders. On the face of it, there is nothing wrong with this for the Qur'an and the Prophet fully supports it. But unfortunately as this movement proceeded, it exhibited all the symptoms of an extreme reaction. It developed a one-sided *Zuhd*, an excessive preoccupation with world-negation, an uninterested spirituality and then gradually a formal system of moral gymnastics. This certainly could not be supported by; indeed it ran directly counter to, the Qur'an and the Sunnah. For the Qur'an and the Sunnah had called upon Muslims to forgo comfort and, if necessary, property "in the Path of Allah" i.e., to build something higher and positive—a socio-moral

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order. But the new *Zuhd* taught the Muslim not to possess anything; you obviously cannot forgo or spend anything which you do not possess. As for the "Path of Allah", its Sufi interpretation soon unfolded itself as we shall presently see. What had happened?

It seems that this phenomenon can be adequately understood only as a severe and extreme reaction to certain developments within Islam. The first of these developments is the breakdown of effective political leadership and authority after 'Ali, when, under chaotic conditions, the early Umayyads, the Khawarij, the Shi'ah, the partisans of 'Abd Allah ibn al-Zubayr and others put forward their warring claims. The most important positive idea that took birth at this juncture was that of the "integral Community" or Jama'ah which we discussed in the previous chapter. But another strong sentiment that asserted itself and inadvertently sought to negate the very idea of Jama'ah is emphatically individualistic and isolationist in character. We also alluded to this in Chapter 2 and pointed to the considerable isolationist Hadith that came into circulation in this connection—Hadith that asks every individual to "mind his own business" and not to "take part in the affairs of the public," i.e. politics and government. In this connection a Hadith which we quoted from al-Bukhari's Sahih recommending retirement to a mountain-pass and "leaving people alone" is specially recalled. Indeed, the entire body of that Hadith which lies commonly diffused in our Hadith Collections and which, in slightly varying forms of language, defines a Muslim as—

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"one from whose tongue and hands other Muslims are safe" is rooted in this very background of unbridled and irresponsible politics and civil wars. Sensitive Spirits could not have remained unaffected by these conditions; but the way they reacted was the advocacy of a withdrawal of the soul inward from the external world, after an initial period of Puritanism and asceticism. That there were already in the Middle East equivalent attitudes spread by other religions—notably Christianity and Buddhism—and that influences from these must have come into Islam at some stage, must be accepted. The problem, however, is; what prepared certain circles among the Muslims to accept such an attitude to life despite the Qur'an and the Sunnah ? Nor is this question really answered by stating what is essentially true, viz. that many of the new converts in the Fertile Crescent became Muslims more or less externally only and that inwardly they were either unable or unwilling to shed their previous spiritual make-up. For the question remains: why were these converts or their progenies even later not consolidated into a genuinely Islamic attitude to life?—on the contrary, the world-denying spirit becomes stronger with the passage of time.

Out of the failure of political life to meet adequately the proper inner aspirations of the people, Messianism developed rapidly in Islam. In one form, these Messianic hopes simply took over the doctrine of the "Second Advent" of Jesus, from Christianity. The orthodoxy in course of time adopted it. In another form, which seems to have taken birth in Shi'i Circles

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but came into Sunnism through the activity of early Sufis, these millennial aspirations are expressed in the doctrine of the Mahdi—the figure who will finally effect the victory of justice and Islam over tyranny and injustice. That this doctrine came into Islam through the Sufis is made certain by the fact that the beginnings of Sufism are clearly connected with the early popular preachers—known by various names—who used Messianism in their sermons to satisfy the politically disillusioned and morally starved masses. In the beginning, the two doctrines—that of the re-appearance of Jesus and that of the Mahdi—are quite distinct, since their historical sources are quite different, but later the two figures are brought together, although not entirely successfully.

What is important for us at present is the effect of this Messianism on the general morale of the Community. Of course Messianism is itself the result of a low pitch of morale as was the case with the Jews during their exile. But once accepted strictly, it accentuates hopelessness. Combined with other moral and material factors described before, it is exactly this hopelessness that was perpetuated by Messianism in Islam. What it really amounts to is that history is declared to be irredeemable and a kind of hope or rather consolation is developed about something (the Mahdi or the Messiah) which although it pretends to be historical, has, nevertheless nothing to do with history but in reality with what might be called "trans-history". That is to say, what really matters is the consolation itself and not any historical fact. It is both interesting and highly instructive to note in this connection that in order to make room for a Messianic figure the earlier materials of Hadith itself were forced

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in a new direction. In Chapter 2 we have discussed a Hadith about Ijma' quoted by al-Shafi'i according to which the Prophet said:

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"Honour my Companions, then those who follow them and then those who follow these latter. Then falsehood will spread... "As we commented upon this Hadith, this is a clear attempt at declaring religiously authoritative the results of the activity of the first three generations of the Muslims—the "Companions," the "Successors" and the "Successors of the Successors". Now, this Hadith does not contain the slightest hint about Messianism. Later, however, other versions of the same Hadith become current, e.g.

(Arabic sentence is here please see pdf for the Arabic sentence)

The best generation is mine (khayr al-quruni qarni), then those who follow them . . . , etc." These are then given a decidedly Messianic twist. This is because it must be accepted that history is going, and is bound to go, from bad to worse and is, indeed, doomed, if a Messiah is to come.

But Sufism could not remain content even with a "trans-historic" event when this became part of common doctrine. It enacted yet a different piece, this time not a trans-historic one but a purely spiritual, meta-historic one. It constructed an invisible hierarchy of "averting" saints with the "Pole" (Qutb) at its pinnacle. But for this ever-present hierarchy, it taught, the whole universe would collapse. Again, we do not know exactly whether Shi'ism influenced



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Sufism or vice versa, but we do know that about the same time the Shi'i concept of the "absent (gha'ib) Imam" was being transformed theologically into that of a "hidden power" as opposed to the actual, visible political power which was in the hands of the Sunnis. This transformation was effected by extremer Shi'i sects. But in whichever direction the influence lay, it is quite obvious that Sufism, through this doctrine, was effecting the withdrawal of the soul from the external world to an invisible realm, this withdrawal being not merely at the individual but at the collective level. This doctrine too, although it was never officially accepted by the orthodoxy, gained wide recognition not only from the masses but even at the hands of the 'Ulama as the 'Ulama' slowly became helpless against, and began to succumb to Sufism.

This problem of the mutual relationship between the 'Ulama' and their activity on the one hand and the forces represented by the sufis on the other was the second fundamental factor, besides the political developments, in providing the real impetus to Sufism. Islam, as a texture of moral-social life, demanded its formulation in legal terms. The Prophet and the early leaders of Islam had laid the foundations of a legal pattern but the working out of this pattern into a system was achieved only later. Achieved it had to be, for the vastly increased needs of administration after expansion imperatively demanded this; and, in fact, the legal system of Islam was the first Islamic discipline to mature. But many people, to whom the inwardness and personalization of religion appeared as the very soul of religion, looked askance at this impersonal legal structure as an adequate expression of Islam. The lawyers, of course, had made every

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effort to keep the moral impulse alive in the law, so much so that a modern Western scholar has described this law as a "discussion on the duties of Muslims".<sup>8</sup> Nevertheless, law can regulate only the "externals". Who shall be the guardian of the inner tribunal of conscience in man if the 'Ulama's task was mainly to give legal decisions? The Sufis claimed to be precisely such people.

The 'Ulama' were naturally suspicious of this claim, for the guardianship of the conscience or the "heart", they rightly insisted, was not a matter open to inspection, and they warned against such an exclusive doctorship of the soul. But it is equally true that the 'Ulama' failed to diagnose the real source of strength behind the Sufi protests and claims; they ought to have attempted to integrate into the orthodox structure itself what Sufism fundamentally stood for the life of the heart in so far as it makes human personality truly moral. The 'Ulama' did not do so, but it was probably under their and similar criticisms of the utter privacy and lawlessness of the early sufi procedure that the Sufis began to systematize their experiences in terms of what are called "Stations (Maqamat)" ; a moral-spiritual itinerary of the soul beginning usually with "repentance (Tawbah)" which in sufi terminology means renunciation of the world. But the sufi method did not remain purely moral for long but gradually became submerged under the ideal of ecstasy and the results were not just moral purification but rather tall Sufi claims which became very frequent and improper and were called "Shatahat". These, indeed, ran exactly counter to the very ideal of moral purification and, in fact, one of the great representatives of the Sufi movement, Mansor al-

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Hallaj (i.e. a wool-carder), had to pay with his life at the beginning of the fourth century.

The 'Ulama' certainly could not be expected to share this particular goal of the sufis—an ecstatic obliteration of the self. But things did not stop there. Soon after the Fiqh systems, the Muslims developed the science of Kalam or theology as a necessary weapon to defend Islam on the arena of warring ideologies. Exactly as a parallel to this, the Sufis now claimed not only an inner path of "purification" or even ecstasy but a unique way of inner knowledge, a gnose-ma'rifah, which they radically opposed to the reason of the rationalists and the 'Un of the 'Ulama', this latter being bound up in form with the former. The 'Ulama' again failed to recognize the genuine element in the Sufi claim. They rightly pointed out that the sufi Ma'rifah was condemned to privacy and that each man's Ma'rifah would be his own. But what was needed was an adequate framework which would rehabilitate the Sufi "intuition" into reason by bringing out the true nature of the latter as both perceptive and formulative. In this way, the Sufi "intuition" should have been made chargeable with publicity, so to say, and accountable to true reason, as must be the case in the nature of things.

As it was, however, the 'Ulama' failed to do so, while the attempts of some of the sober and orthodox sufis to devise a set of antithetical and complementary categories<sup>9</sup> to do justice both to the fact of inner experience and its outward testing and formulation did not actually prove adequate and did not bear much fruit until a person of the originality and perception of Shaykh, Ahmad Sirhindi (d. 1035/1625) appeared. By that time a terrible fundamental damage had

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already been done. But before things came to this pass, Islam had witnessed a profound attempt at reformation and integration of the spiritual and the formal elements in Muslim life, an attempt which truly activated, for a time, the forces of inner regeneration in the Muslim Community. This was the work of al-Ghazali (d. 606/1111). He told the 'Ulama in clear terms that, unless reinvested with fresh meaning, their theology and law—although to be respected—must remain an empty shell: on the other hand, he forcefully tried to bring home to the Sufi that his experiences could not be allowed to wander and that the content of these experiences must submit to a test other than the experience itself, viz. the values of Islam.

But barely a century after al-Ghazali, about the time when sufism becomes a mass phenomenon, Ibn 'Arabi (d. 638/1240) and after him his followers, develop a doctrine that is out and out pantheistic and issue it in the name of mystic intuition. As we have also pointed out in another place,<sup>10</sup> this theosophic sufism was nothing more or less than pure philosophy masquerading under the name of sufism—a movement which had begun with the ideal of moral education. The fact is that philosophy, after it had been attacked by al-Ghazali, went underground and reappeared in the name of theosophic intuitionism. The pantheistic content of this theosophy apart, the greatest disservice that it did to the intellectual life of the Community was the sharp cleavage it made between what it called "Reason" and "Kashf" and claimed the latter for itself in order to seek security under its supposedly unassailable citadel whereas "Reason" was declared to be absolutely fallible. Now,

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whenever the organic relationship between perceptive and formulative reason is thus cut in a society, it can never hope to keep alive any intellectual tradition of a high calibre.

As for the doctrine of pantheism, there can be no doubt about its nihilistic effects upon the moral tension of the ego. So long as pantheism remains a purely intellectual affair, it does; not matter very much religiously; and at the intellectual level it may be opposed by other theories. But once it grips the moral fibre of a society as it did affect the Sufis generally in the later Muslim Middle Ages and, through them, the masses it cannot fail to sap it. When one sings with 'Iraqi:

"When He divulged His secret Himself,

Why should He blame poor 'Iraqi?'"<sup>11</sup>

or says with the formulator of the famous aphorism : 'He Himself is the jug, Himself the jug-maker, and Himself the jug-clay' (Arabic sentence is here please see pdf for the Arabic sentence), one has given up the very idea of the moral struggle and cannot but proclaim, and proclaim seriously with all its consequences, "All is He (hamah ust)".

It is against this moral degeneration originating from pantheism that certain valiant spirits fought with a considerable and increasing success among the educated classes of Muslims from Ibn Taymiyah in the fourteenth century to Muhammad Iqbal in the twentieth. Ibn Taymiyah's virulent campaign against pantheistic sufism is well known, although it is a serious error,<sup>12</sup> commonly committed, to regard him as an enemy of all expressions of sufism. But the most brilliant analysis of the various types of pantheism and its most acute criticism from an ethical standpoint

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was the achievement of Shaykh Ahmad Sirhindi (Mujaddid-i Alf-i Thani). His work demonstrates, through a genuine dialectic of religious experience, the true organic nature of the inner experience and the reality of the external world, necessitating a subsumption of the former to the latter, of the intuitive perception to the moral order. Sirhindi thereby proved the supreme status of Shari'ah the moral command of God. A century and a half later, Shah Waliy Allah of Delhi gave a new solution by accepting the premises of Ibn 'Arabi but by reinstating at the same time the full reality of the moral order within this framework.<sup>13</sup>

Despite the efforts of these few outstanding personalities, however, Sufism, as a vehement expression of popular religion, has reigned supreme in Islam. The truth is that since the twelfth century since the establishment of the popular Sufi orders or Tariqahs—mass religion, surcharged with primitive emotionalism, expressing itself through systematic techniques of suggestion and auto-suggestion and both supporting and supported by veritable congeries of superstitions, swamped Islam from the one end of the world to the other. Where is the effort to build a moral-social order on earth—the unmistakable stand of pristine Islam? Instead, we have the Shaykh and his authority, an endless mythology of saints, miracles, and tombs, hypnotization and self-hypnotization and, indeed, crass charlatanism and sheer exploitation of the poor and the ignorant.

Sufism, at bottom, undoubtedly speaks to certain fundamental religious needs of man. What is required is to discern these necessary elements, to disentangle them from the emotional and sociological debris and to

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reintegrate them into a uniform, "integral" Islam. Since Ijtihad and Ijma'—the effective framework of Islamic thinking—came to an early stop, the inner integrity of Islam was destroyed, each element forcing its own way out in a direction it pleased or happened to take and thus parallel, indeed mutually opposed "Islams" developed throughout the later centuries. We have briefly seen above the main course that Sufistic Islam took and why. We shall next discuss the philosophical movement and the system of education and then attempt to draw certain overall conclusions.

### IV

#### THE PHILOSOPHICAL MOVEMENT

The philosophical movement in Islam, whose fruits constitute one of the richest treasures of the Islamic intellectual culture and whose influence on the Western thought was so deep, palpable and enduring, was a continuity of the Mu'tazilites' experiences of rationalistic thinking during the second, third and the fourth centuries. The first great Muslim philosopher, al-Kindi (d. circa 260/873) had undoubtedly a Mu'tazilah background. The Mu'tazilah rationalism, however, can hardly be described as purely philosophical for in its main scope it was confined to theological problems. They were, e.g. keenly interested in the problem of free-will but the centre of gravity of their thought was not this problem philosophically or absolutely speaking but largely in so far as it affected the concept of God, i.e., whether free-will was or was not compatible with the idea of a Just God.

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With the philosophers a wholly new era of Muslim civilization opens and one of the most brilliant chapters of all human thought as well. Free, absolutely free, activity of human reason extends its' field at once to all corners of existence and life. It studies unfettered analyses and judges the data of all the physical, biological and human sciences. The Muslim philosophers include in their philosophical works, treatises on movement and space, the soul, the plants and the animals, astronomy, mathematics, music, and metaphysics. Very often a philosopher is also a great doctor and a scientist like al-Razi, Ibn Sina and Ibn Rushd. The physical sciences treated of by the philosophers—unless they happen to be experimental scientists also—are not, strictly speaking, "scientific" but rather philosophical. None the less, their works even in these fields are masterpieces of fine, speculative and strictly logical reasoning and they accepted whatever conclusions seemed to follow from this rational activity. Our concern just now, however, is only with that part of their teaching which impinges directly on religion and therefore interacted at points violently with the orthodox creed with tragic results immediately for philosophy but in the long run for orthodoxy itself. Let us turn at once to the religious aspects of the philosopher's thought.

The most fundamental fact about the religious thought of the philosophers—especially Ibn Sina whose doctrines have been historically the most important (because they were for the first time elaborated into a full-fledged system)—is that on all the points where the frontiers of religion and rational thought met, the two neither reached utterly different results nor yet were they identical but seemed to run parallel to one another.



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This happened not just on one point but all along the line where the traditional theology and philosophy faced one another. From this fact of systematic parallelism, the philosophers made the saltus mortalis and concluded (1) that philosophy and religion were ultimately tackling exactly the same questions, dealing with exactly the same facts and in exactly the same way, (2) that the Prophet was, therefore, primarily a philosopher, but (3) that since the Prophet's addressees were not the intellectual elite but the masses, who could not understand the philosophic truth, the Prophetic Revelation naturally catered for their needs and "talked down" to their level in terms intelligible to them.

Religion had taught that the world was created by God by His sheer command "Be!" Man's reason has, for ages, been vexed by trying to understand how the world could be created out of nothing and how it could have been created in time. Although Aristotle is the first philosopher to have actually declared the cosmos as such to be eternal, i.e, uncreated, philosophers have usually assented to this view. Purely rationally speaking, however, an eternity of the world in the past is also quite inconceivable and full of absurdities and in Medieval times a process started in philosophy, which culminated in Kant but to which al-Ghazali, Ibn Rushd and Thomas Aquinas had made no small contributions in their own way, declaring the problem to be rationally insoluble—a great philosophic tragedy, indeed. Ibn Sina had elaborated his own solution to this problem. By a very intricate process of thought which we have expounded elsewhere,<sup>14</sup> Ibn Sina effected a fundamental change both in the Aristotelian concept of the movement of the

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universe and the Neoplatonic concept of emanation and, having arrived at his theory of existence, he declared (1) that both the universe as a whole and everything therein derived its existence directly from God and (2) that the world as a whole was, nevertheless, eternal and was not "created" by God at any moment of time although it depends on God. He contended that the genuinely religious stake (which was absolutely rational) in this whole problem was not that the world should be "created out of nothing at a time"(hadith) but that the world should be contingent, dependent upon God (mumkin).<sup>16</sup> Ibn Sina thereby explicitly accused the orthodox theologians of lack of discernment of the genuinely religious demands and of confusing the issues rationally. Whatever the philosophical mechanics of this theory of Ibn Sina, its net result is that God is the "ground" of the Universe and explains the latter; without Him the world would be "groundless," unintelligible, irrational.

This problem and its solution provided Ibn Sina with the guiding and crucial experience for his philosophic thought on all the problems of traditional religion and proved decisive for his philosophic attitude to this whole sensitive region which he took very seriously. He came to realize that religion was not at all wrong, as against atheism and "naturalism," in asserting the idea of a God of Supreme Being; further, it was also essentially right in asserting that this world depended on this God. And yet—Ibn Sina was equally led to believe—religion was most certainly incorrect if it literally asserted, as it seems to do, the *creatio exnihilo* of the world. The perilous belief, therefore, became firmly implanted in his mind that religious and philosophical truths are identically the

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same ; only religion, since it is not limited to the few but is for all, necessarily accommodates itself to the level of mass intelligence and is, therefore, a kind of philosophy for the masses and does not tell the naked truth but talks in parables. A century later, his great successor, Ibn Rushd, in his *Fasl al-Maqal*, put forward a semi-similar, semi-different view and came very near to asserting a theory of "two truths"—a religious one and a rational one. This theory of the "double truth" later became famous in the thirteenth-century Europe where it still falsely continues to be attributed to Siger of Brabantia, a famous thirteenth-century follower of Ibn Rushd's philosophy at the Pais University, whose doctrines were severely "condemned" by Thomas Aquinas. Actually, no one known to history has ever asserted this theory of "double truth".

Once this principle of parallelism between religion and philosophy was apparently accepted, it did not fail to be confirmed on many other points. Religion had taught that there would be a Day of Reckoning when bodies shall be resurrected. The philosophers, especially al-Farabi and Ibn Sina, rejected the idea of a physical resurrection on several grounds. Ibn Sina, who accepted physical resurrection in his ordinary philosophical works "on the basis of the Shari'ah" wrote a special, esoteric treatise *al-Risalah al-Adhawiyyah* (so called because he wrote it in one morning), where he declared the whole idea of a physical resurrection "to be impossible". But the philosophers firmly believed in the survival of the soul and therefore in a spiritual hereafter with its psychic pleasures and pains. Al-Farabi believed in the survival only of "good souls"; bad souls, according to him, simply get annihilated; he, therefore, only speaks of spiritual bliss and

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not of punishment in the Hereafter.<sup>18</sup> Here again Ibn Sina was struck by the philosophy-religion parallelism : his philosophy had confirmed that there was an after-life ; religion taught resurrection of the flesh in the Hereafter; religion had to do this because it is aimed at the masses of "dullards" ; otherwise religion is no more than philosophy.

It must, of course, be borne in mind that the parallelism that seems to emerge on all these fateful points between philosophy and religion is the result of the conscious approach of the philosophers towards religion. Otherwise, other philosophic views would have been possible- It would have been, for example, possible to hold that neither soul nor body can survive or be resurrected. On the other hand, if the philosophers had been a little more bold and Islam-minded it might not have been altogether impossible to hold philosophically that the body -is resurrectible in some sense and that without it the soul means nothing. Indeed, Ibn Sina sometimes almost comes close to asserting a quasi-physical resurrection for "undeveloped souls".

But it is not this particular theory or that of the philosophers that constituted the serious problem for Islam, even though al-Ghazali apparently thought that the philosophical doctrine of the eternity of the world was the most serious problem for Islam raised by the rationalists, since he devotes a lion's share of his *Tahafut al-Fulasifah* to this question. What was really most serious, and something to ■ which al-Ghazali devotes precious little space in his refutation of the philosophers, is what the phenomenon of religion-philosophy parallelism led the philosophers to believe with regard to the mutual relationship of

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religion and philosophy. In particular, the most capital mistake made by al-Farabi and Ibn Sina was to assimilate religious or moral truth to intellectual or "natural" truth. In their theory of knowledge, when they, treat of religious cognition their statements, which are at points very profound and original, simply make no distinction whatsoever between higher religio-moral cognition and other forms of intellectual cognition. For them, a moral pinciple is, in its cognitive aspects, exactly like a mathematical proposition. They do not realize that religio-moral experience, although it certainly has a cognitive element, radically differs from other forms of cognition in the sense that it is full of authority, meaning and imperiousness for the subject whereas ordinary form of cognition is simply informative. A man who has a genuinely religious experience is automatically transformed by that experience. Because of. this failure to recognize this diference and taking their stand firmly, on the phenomenon of parallelism, the philosophers assimilated the Prophet to the philosopher, the prophetic experience to intellectual cognition (plus, of course, the capacity to inluence people, which a philosopher does not possess). This line of thought further confirmed them in their thoroughly Hellenized idea of God—as a principle which "explains" this world, rather than a Creator who directs this world ; as an intellectual formula rather than as a moral and dynamic imperative.

This was really, and at bottom, the centre of conflict between the Hellenizing philosophers and the representatives of the Islamic tradition. This conflict was felt and sensed by al-Ghazali and more especially by Ibn Taymiyah in-his Kitab al-Nubuwwat where

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the philosophers' 'inactive' principle is opposed to the acting. Commanding God of the Qur'an.<sup>17</sup> But the conflict, although it was thus felt, was never fully and consciously formulated. If it had been formulated clearly with its implications, the wholesale attack on philosophy as such by the orthodoxy would perhaps not have occurred. It would have then been seen that, after all, al-Farabi and Ibn Sina's type of thought is not the only philosophy that is possible ; that certain failures may have characterized this particular philosophy, but philosophy as such need not be strangled and, indeed, that orthodoxy itself rested on certain assumptions which it would do well to intellectually formulate.

The truth, however, is that even the philosophers were not really aware of the centre of conflict between their thought and revealed religion. We have outlined just above their failure to develop a theory of knowledge that would do justice to religious facts and moral cognition. Indeed, when one scans the entire work of the Muslim philosophers, one is struck by the peculiar inattention shown to ethics. Certain treatises of certain minor philosophers on morals do not add up to much. It is widely believed by modern Western scholars that this is because the philosophers were afraid of producing a rival system of "do's" and "don'ts" to the Shari'ah and so they left morals and the practical life to the Shari'ah. There may be some truth in this, although it needs to be added that the philosophers were most probably too enamoured of their metaphysical heights to condescend to climb down to ethics. Yet, if only they had made the very assumptions of the Shariah-law itself an object of serious study and thought, they might have

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come out with quite a different philosophy and the orthodoxy might have in turn been the richer for it instead of starving itself intellectually and ultimately spiritually by a one-sided unthinking attack on philosophy.

Intellectual liberalism is of the essence of a great and advancing culture. But for allowing latitude to the mind of man and trusting basically in its goodness, soundness and sanity, modern culture should commit suicide not merely in its liberal aspects but also in its conservative side. For conservatism can remain meaningful and enlightened only when there is liberalism ; should conservatism become unenlightened (i.e., fail to see why it should be conservative, on what points and to what extent it should exert the pressure), the entire culture must decay. This is what unfortunately happened in Islam. If an al-Farabi or an Ibn Sina had outraged, on certain points, the dogmatic theology and perhaps exceeded in interpreting the Qur'an, the orthodoxy, in al-Ghazali and others afterwards, equally outraged humanity as such including its own very being, by condemning all philosophy as such and its necessary instrument, the human reason.

One striking fact about the phenomenon of the rise of philosophy in Islam is that it was sporadic and individual and never took the form of a movement or a tradition expressing itself through established schools of thought. It was much too short-lived and took no enduring roots as a high-level, original thought-activity. There must have been several Socio-economic and political reasons for the early death of philosophy as, for example, the political instability we have already described earlier. But one most fundamental and palpable reason is the fact

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that the orthodoxy, after the attack upon philosophy by al-Ghazali. Proscribed it completely and did not allow it to grow any further, or rather destroyed the very conditions for its growth. The orthodox treatment of philosophy is strongly reminiscent of their treatment of the doctrines of the Mu'tazilah. Just as the 'Ulama' had founded the science of Kalam to counter Mu'tazilah rationalism, so now they expanded the contents of Kalam-theology to reckon with the theses of the philosophers. We shall presently have a closer look at the contents of this extended Kalam. At about the same time the orthodox also developed fully their system of education and elaborated curricula after a process of ad hoc and sporadic teaching, whose beginnings reach back into the earliest times of Islam. Once they assumed firm control of education and schools and established Kalam into a kind of pseudo-substitute for the genuine intellectualism, which only philosophic thought could degenerate, philosophy was effectively outlawed from the Muslim world.

Thus, the only places where thinkers could be engineered, viz., the madrasahs were, from the very time of their systematic foundation in the world of Islam, swept bare of pure thought. Nevertheless, although there was no room for any high level teaching of philosophy in the madrasahs, certain lesser and introductory compendia and commentaries were often taught to sharpen the minds of the pupils. Even outside the madrasahs a certain amount of interest in philosophical commentaries did remain. Although all this never added up to very much in terms of original thought, it did keep the tension alive, and the orthodox, especially their right wing, kept up unabated



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pressure against this "anti-Shari'ah" branch of learning. An ingenious and satirical poem written by \*Abd al-'Aziz al-Pahraraw], an able scholar with a fluent pen but hitherto unknown to the world of scholarship (he belonged to the small village of Pahrar near Multan and died as late as 1239/1823-24), illustrates this orthodox attitude to philosophy very effectively. The poem reads:

(Arabic sentence is here please see pdf for the Arabic sentence)

The author then goes on to admonish the "philosophy stricken" scholars to treat their "rational ailment" with " 'ilm al-Shar'—i.e. the Sahih and Hasan Hadiths from the Prophet". For their interest and because they make a satirical play on the titles of some well known philosophy texts and compendia, we give here a translation of the above verses:

"O the 'Ulama of India! may you live long !

And, through God's grace, your affliction removed.

You hope, by rational knowledge, to attain to bliss;

I am, indeed, fearful lest your hopes come to naught.

For there is no "Guidance"<sup>18</sup> in Athir's works,

Nor any hope of your "Recovery"<sup>18</sup> in the "Allusions" of Ibn Sina,

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The "Commentary of Sadr"<sup>9</sup> is no opener of the breasts—

Indeed, it augments the restlessness of your minds.

The "Brilliant Sun".<sup>10</sup> even when it shines is without light;

It has rendered your intelligence obscure and dark.

As for your "Sullam",<sup>21</sup> it is only good for descending ;

It offers little basis for ascension to heights.

You adopted infidel sciences as God's Command as though

The Greek philosophers were your prophets."

## V

### CHARACTER OF EDUCATION

The orthodox attitude to philosophy and to the "rational sciences" in general leads us directly to a brief examination of the origin, development and nature of the Muslim educational system and its contents. Our intention is neither to survey the growth of educational institutions in Islam nor to portray exhaustively the syllabi that were taught therein but to characterize, in broad terms, the Muslims' concept of knowledge, as it developed, in order to bring out its historical interaction with Islam.

The Qur'an has frequently used the term 'ilm' and its derivatives in the general and comprehensive sense of "knowledge" whether it is through learning or thinking or experience, etc. It follows from this that this would be the sense in which this word was used during the Prophet's time. In the generations after

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the Companions, however, Islam began to grow as a tradition. There is evidence that 'ilm began to be used for knowledge which one acquires by learning, more particularly of the past generations (the Prophet, the Companions, etc.) while the exercise of understanding and thought on these traditional materials was termed ' fiqh ' (literally : understanding). The fact is not of small interest that the 'ilm-fiqh pair corresponds in this early usage almost exactly to the Hadith-Sunnah pair; Hadith being the traditional materials while Sunnah being the deductions, on the basis of thought, from these materials."2 This fact constitutes one of the strongest arguments—if we still need any—to prove that Sunnah for the early generations of Muslims, was not just the Sunnah of the Prophet but included all the legal points, decisions, etc. deduced from it by rational thought.

The essential point we wish to make here is that the term 'ilm ' had early on received a traditionalist rather than a rational bias in Islamic history. Connected with this meaning of the term 'ilm', i.e., of tradition and especially of what the Prophet was reported to have said or done, is the famous phrase "talab al-'ilm" or "seeking of knowledge". Although later on in Islam, and especially in modern times, the phrase has acquired a general application once again, it cannot be historically doubted that it arose among the traditionalist circles with a definite meaning:

talab al-'ilm meant a long and arduous process of travelling from place to place and country to country, sitting at the feet of a traditionalist master and acquiring from him his store of tradition. Later on and in other circles the application of the term "knowledge" widens, e.g. in the well-known adage:

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"Knowledge is of two kinds: that of religious matters and that of human bodies (i.e., medicine)."23 As for the term "fiqh" we have seen that early on it was used to signify thought, understanding, etc., i.e., a process. Later, however, when the legal system grew, this term came to be applied to law, not so much as a process of understanding legal issues but as a body of legal knowledge, the concrete result of legal thought. Still later, after the fourth century or thereabouts, the term "fiqh" ceased altogether to have any reference to understanding or thought which, indeed, came to be forbidden, and was exclusively reserved for the body of legal knowledge produced by the earlier generations. There is also some evidence that when Kalam-theology was formulated, sometimes the word 'ilm' was applied to it exclusively in contradistinction to 'fiqh'. Thus, the meanings given to these terms in the early stages came to be almost reversed but not permanently.

Orthodox Muslims did not develop systematic higher education in the early centuries. Their schools were only of a primary level where children were taught the Qur'an, reading and writing and also often the rudiments of arithmetic. The higher education centred around personalities rather than colleges. Pupils would move from one renowned Shaykh to another and obtain certificates. The subjects studied were exclusively traditional. For lack of organization, there was no method of systematic feeding of this higher education from the primary stages: the two were entirely separate. The first important place of learning created by the central government under al-Ma'mun's orders—the famous "Bayt al-Hikmah" or the "House of Wisdom" at Baghdad was captured by the Mu'tazilah rationalists and, in fact, the arm of the

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state was virulently turned against the orthodoxy. Similarly, the Shi'ah made organised efforts to propagate their views and created schools, the most famous of which, al-Azhar, established by the Fatimids, came under the orthodox control only after the Ayyobids overthrew the Fatimids.

From these experiences and challenges from different groups, the orthodox 'Ulama' learnt the lesson and set about to organize and control education. The first really great orthodox college was created by the Saljuq wazir Nizam al-Mulk in the eleventh century (A.C.) at which the illustrious al-Ghazali served also as professor. This was the crucial, formative stage of the Muslim higher education. But at the same time occurred the philosophic movement discussed in the last section. The philosophers, who were also almost invariably scientists and scientific thinkers, were attacked by the orthodoxy. This rendered the orthodoxy's attitude especially towards positive knowledge on the whole extremely unhealthy. The result was that the 'Ulama' were able to save intact their heritage which, in its basic structure of ideas, is undoubtedly faithful to Islam, but at a great cost: it robbed the orthodox content of education and thought of the very breath of life. No structure of ideas can ever hope to make good or even command respect for a long time—let alone be fruitful—unless it is in constant interaction with living, growing stream of positive and scientific thought. It is a sheer delusion to imagine that by stifling free, positive thought one can save religion for by doing so, religion itself gets starved and impoverished. The result was that after a few centuries, the real "Dark Ages" of Islam, the orthodoxy was left with little more than an empty

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shell, a threadbare formal structure with hardly any content.

Al-Ghazali, in his *Munqidh*, had protested that since the philosophers were also scientists and since some of their philosophical theses conflicted with religion, many ignorant people took pride in wantonly rejecting even their scientific propositions which were obviously true. In this statement, al-Ghazali had shown remarkable power of discernment and had rebuked the cheap defenders of religion against reason. But al-Ghazali also used the same argument the other way around and said that since many people were impressed by the scientific thought of the philosophers, they also began to look upon their philosophical theses as indubitable truth and gave unqualified credence to them. This statement too was absolutely correct. But from this, al-Ghazali drew the fatal conclusion that, therefore, people should be discouraged from studying even the scientific works of the philosophers. This was the first blow the orthodoxy explicitly and formally dealt to positive knowledge and ultimately also to itself and it was subsequently echoed by innumerable representatives of the orthodoxy down the ages.

The brilliant 8th/14th century jurist, al-Shatibi, lays it down as a fundamental principle in his *Kitab al-Muwafaqat* that purely intellectual disciplines such as philosophic thought must not be cultivated since they are not related to action and are, therefore, dangerous. He outright rejects the plea that even pure thought is necessary for ultimately it does affect the formulation of the objectives of human action.<sup>24</sup> He categorically denies that reason has any primary role in law-making or even in the formulation of the

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moral imperatives,<sup>86</sup> even though he himself has exercised a great deal of rational power in fixing the "goals of the Shari'ah (aghrad al-Shari'ah)". Ibn Taymiyah's vituperations against philosophy and rationalism in general are well known. Shaykh Ahmad Sirhindi, the important seventeenth-century reformer and original thinker, to whose work we have briefly alluded before in these pages,<sup>28</sup> himself unreservedly condemns both philosophy and the sciences. Philosophers he ridicules; about arithmetic he says that one should not waste time on it but only learn enough to calculate shares of inheritance and to determine the direction of the Ka'bah. Geometry he declares to be most useless: what good is it, he asks, to know that the sum of the angles of a triangle is equal to two right angles? "We could multiply the catalogue of the orthodox condemnations of positive thought and science but the illustrations given here should suffice.

The names cited here are august; indeed, these personalities have made positive contributions to the spiritual history of Islam whose importance may be said to range between 'immense' and 'capital'. Yet, towards positive knowledge their attitude can be characterized only as fatal. In their criticisms of actual philosophers and of actual products of reason one must agree. We ourselves have underlined the excesses to which certain philosophical doctrines had gone. But when the orthodoxy condemned—generation after generation—human reason as such, this extreme and wholesale attack was not only not healthy but downright suicidal. Free-thought, by its very nature, is bound to exceed on certain points; it is a consequence of its very life. Its remedy is not to stifle it but to keep on criticizing it. Intellectualism

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is something so frail that in shackles it surely dies. In other words "free-thought" and "thought" have exactly the same meaning; you cannot remove freedom and then hope that thought would survive. In sum, even in this field what happened in Islam was what we have repeatedly noticed in Section II of this chapter as happening to Islam in general: Islam was subjected to extremes and the orthodoxy, as though by some inexorable law felt impelled to crush positive thought out of existence. A very hard and fast distinction was thus made between the Shari'ah and the non-Shari'ah sciences or the "religious" and the secular fields of learning, which caused an incalculable deterioration in the quality and standards of Islamic education and thought itself.

It is essential to observe the principle of integration of knowledge in order to keep thought and education healthy (to some extent this is also the danger in the present age of specialization which is being kept in check so far only by the presence of a small number of outstanding people who are both specialists and thinkers). Having effectively banished the rational and scientific disciplines, the 'Ulama' incorporated certain elements of philosophy, especially logic, in their theology as a preparatory science or as an "instrumental" science. In face of the philosophical theses impinging on religion, the scope of Kalam was further enlarged to include formal treatments of those theses—such as Prophethood, Resurrection of the bodies, Creation, etc. Henceforward the doctrine of atomism in physics becomes a part and parcel of Muslim kalam-theology since, it was thought that, atomism does not require causation and hence allowed for the direct Finger of God to interfere in every



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event. All this is clearly set out in the theological work of al-Shahrastani, the first formal theologian that appeared after al-Ghazali's attack on the philosophers.

As we pointed out in Section III of this chapter, philosophy, when attacked by the orthodox 'Ulama', went underground and, so far as much of its content was concerned, it found a spacious home within theosophic sufism. In Sufism it even cut itself loose from the checks that reason had imposed upon it. Now, sufism was, as a whole, strongly opposed to education and threw its massive weight on the wholesale abandonment of intellectual culture in the interests of its spiritual "path". Such an attitude, when restricted to an infinitesimal minority, may not be harmful but since sufism became a mass movement since the twelfth century, its effects have been simply devastating on the intellectual life of Islam. Since the twelfth century, the best and most creative minds of Islam have been drifting away from the orthodox system of education to sufism. One has only to pick up any collection of sufi biographies to see how many people "left formal, external education" and joined the sufi ranks. The 'Ulama' were left with little more than dry bones, the real currents of life having escaped their system and taken their own way—far more dangerous than that of the Mu'tazilites or the philosophers.

But within the religious system, which thus came to constitute both the entire scope and the sole preserve of the madrasahs, there remained curious fundamental inconsistencies both among the Sunnis and the Shi'ah—inconsistencies which could have been removed only by further growth through a critical and constructive

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Free-thought. On one important point such contradiction in the Sunni system was pinpointed by Ibn Taymiyah himself. While protesting against the doctrine of determinism in Sunni theology (Kalam), he pointed out that one and the same person, when he is a theologian, believes in a rigorous determinism and impotency of the human will, but when he behaves a Faqih—either in the capacity of a Qadi or a Mufti, he has to assume freedom and efficacy of the human will.<sup>28</sup>

This is a fundamental anomaly and yet theology is supposed to be an intellectual defence of the creed and the postulates of Fiqh as the "crown of the Shari'ah Sciences". Such a position is surely a result of the fact that intellectualism was never owned and integrated into the religious system. Indeed, it was spurned under the claim of the "self-sufficiency of the Shari'ah-sciences, especially of their crown."<sup>9</sup> But the Shi'ah system is even more anomalous. It is to be admitted in all fairness that the Shi'ah law puts greater emphasis on the "intention" of the agent on several points than many other schools of Sunni law and this seems to be a consequence of their theology which espouses freedom of the human will. But, to begin with, what value do human mind, conscience and free-will have alongside of an infallible Imam? An infallible Imam, strictly speaking, does not need humans but automatons as his instruments. Secondly, it is strange that the Shi'ah emphasis on human freedom did not lead to any new legal postulates and principles and, in the field of legal thought, the Shi'ah are not at all any different from the Sunnis. It is, indeed, a curious phenomenon of Muslim religious history that even the Mu'tazilah who claimed to derive moral imperatives (husn wa qubh—right and

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wrong) directly from reason did not differ in legal matters at all from the rest of the Community, although law is no more than application of morals to a society. We are not, of course, supporting the Mu'tazilah stand on morals but simply noting and trying to analyse and understand contradictions. For us, a rational understanding of the Qur'an and the Sunnah is the only reliable method for arriving at moral imperatives and legal enactments.

But quite apart from the content of these sciences and what was taught, the question as to how it was taught is equally important. Here we find that the emphasis was placed on books rather than on subjects or disciplines. A pupil learnt not Fiqh but Hidayah or some other work; he studied or rather went through al-Baydawi and not the science of Qur'anic exegesis as such, and so on. This method, which was quite congenial to the general intellectual temper, further strengthened the process of learning things by rote rather than grasping them by understanding, criticizing them and analysing them. There were occasional criticisms<sup>30</sup> of this educational system, especially of its content by eminent men but to no avail. This does not mean that Islam did not produce men of original thought and of high intellectual calibre verging on genius even in the later centuries. But their number has been very few, indeed; and they rose through their own native ability rather than having been engineered in the madrasahs. Nor do we wish to say that a good educational system always produces geniuses: intellectual prodigies are, indeed, relatively a rare commodity. But the function of a good educational system is to keep the normal intellectual level high enough both in the interests

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of the normal products to realize the best in them and to give a "take-off" advantage to the exceptionally gifted ones. The trouble with the Muslim system was that its normal standards were kept at a very low point so that it neither produced good normalities nor afforded a "take-off" advantage to the exceptional cases as they deserved. Indeed, many a modern scholar have been led by this phenomenon to ask the question whether intellectual barrenness is not a concomitant of Islam, and a few more dogmatic ones have even answered it in the affirmative.

## CONCLUSION

In the foregoing chapters we have sketched out the fundamental developments in the rise and evolution of Islamic methodology, i.e., the framework of principles within which Islamic thinking takes place. These principles are (besides, of course, the Qur'an) Sunnah, Ijtihad and Ijma'. We found that, in early history, the latter two concepts were intimately bound up not only with one another but also with the concept of Sunnah which, starting from the Sunnah of the Prophet, became an on-going creative process of interpretation and elaboration which was given the sanction of Ijma'. This process of creativity stopped, however, grinding slowly to a standstill when this living Sunnah began to be cast in Hadith form and attributed to the Prophet. In this process, the internal differences of opinion on legal, moral and political issues played a decisive role. The process, which began perhaps around the turn of the first and the second centuries, gathered a terrific momentum during the second century and reached its fruition in the third century. So strong was the power of this

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movement that the older schools of legal opinion based on free-thought had to accept al-Shafi'i's contention that even an isolated Hadith, attested only by one chain of narrators, must be given overriding authority over rational personal opinion and even practice or Ijma. Al-Shafi'i is asked as to why he sets the criterion for establishing the authenticity of Hadith lower than for establishing evidence in a court since in the latter case at least two witnesses are usually required while, for Hadith, al-Shafi was prepared to accept the evidence only of one person. Al-Shafi's reply is that whereas in a court case witnesses may be interested in the issue one way or the other and, in any case, their evidence produces consequences that may affect some people adversely and others favourably, this presumption does not exist with regard to the Prophetic Hadith in which people would be only objectively interested and whereby the entire Community uniformly affected.<sup>81</sup> Since this reply is patently unsatisfactory in view of the obvious fact that people are motivated to give currency to their views by involving the Prophetic authority, wherever possible, it only reveals the force of the Hadith-movement itself.

After all, the possible views on political, moral and legal matters had been projected back to the Prophet, a battle of ideas began within Islam which was finally resolved by the efforts of the Ahl al-Hadith who, throughout the third century, collected Hadith that largely expressed the views of the majority and as such may be regarded as expressing, as a whole, the spirit of the Prophetic teaching. It is these views of the "middle-of-the-road" majority (Ahl al-Sunnah wa'l-Jama'ah), with a certain marginal latitude towards the

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right and the left, that, thanks to the activity of the Ahl al-Hadith, crystallized the "orthodox" point of view and led, during the fourth century—at the hands of al-Ash'ari and al-Maturid—to the formulation of the orthodox creed and theology. This entire development, remarkable for the cohesion of its internal structure, resulted in creating a sense of equilibrium and balance that is probably unique in the history of mankind in its gigantic dimensions. It was this fact that was responsible for the sudden lowering of the brilliant Muslim civilization.

But the basis on which this equilibrium had been built did not allow further growth and development. In every society, of course, there must be an element of conservatism for mere social change and growth cannot even take place without the controlling hand which supplies the element of continuity amidst change. But just as no society can live on mere change, similarly no society can survive for long by mere conservatism. And yet the very basal structure of the Islamic methodology, as it developed, made for nothing but conservatism. The content of the Muslim system, backed as it was by the Hadith, came to have the character of an eternal truth, unchangeable and irrevocable. Yet, as we have shown, this content arose actually in history and has its full significance only within that historical, situational context. Divorced from that situation and eternalized, it blocked and could not fail to block progress in all the spheres of life reviewed by us briefly in the last part: political and moral principles, spiritual life, intellectual activity and education. When the orthodoxy thus incarcerated itself, unhealthy and un-Islamic forces took over and swept across the entire body of the Muslim world.

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Since the eighteenth century, Muslim society has been gripped by an acute sense of deterioration and failure, often varying on a crisis. During the eighteenth century, various movements started in different parts of the Muslim world to regenerate Muslim society. This continued during the nineteenth century. The essential diagnosis arrived at by the leaders of these reform movements asserts that Muslims have reached this stage through ceasing to be "pure" Muslims since the purity of pristine Islam has been compromised within-Islamic accretions both in doctrine and practice. In so far as these efforts have gone to liberate Islam from the numbing Medieval influences, their influence has been certainly salutary in activating

Creative forces and in this connection the term "Ijtihad" has once again assumed great importance, at least in theory. To begin with, these very movements (and especially that of Muhammad ibn 'Abd al-Wahhab in the Arabian Peninsula), which are now regarded generally as good orthodoxy, were attacked bitterly by the conservative medieval forces and the echoes of this struggle are still far from being dead. Indeed, a very large part of Islam still suffers from those very superstitious and un-Islamic accretions against which these movements rose in revolt.

But even where these movements have been successful, they have hardly solved the problem of deterioration facing the Muslim society, although their influence may be largely taken to have prepared the ground for such a solution. The reason for their failure is that they take "pristine Islam" i.e., the Qur'an and the Prophetic Sunnah, in too simple, narrow and static terms. In sum, they believe that if the Muslims were to "follow," i.e., repeat and

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reproduce exactly what their seventh-century fore fathers did, they would recover their rightful position "with God", i.e., both in this world and the next. But the big question is • how can a piece of history be literally repeated? The only sense, therefore, that this dictum can yield is that Muslims must perform and enact in the twentieth century that whose moral and spiritual dimensions match those of the Muslims' performance in the seventh and eighth centuries. But this means not just a simple "return" to the Qur'an and the Sunnah as they were acted in the past but a true understanding of them that would give us guidance today. A simple return to the past is, of course, a return to the graves. And when we go back to the early Muslim generations, this process of a living understanding of the Qur'an and the Sunnah is exactly what we find there.

Since the nineteenth century, the Muslim world has felt the impact of the West- first political and then cultural. The political hegemony of the West has largely receded and, in parts, is still receding although the securing of political ends through economic ascendancy is now the rule of the day. But the real problem of the Muslim society is to assimilate, adapt, modify and reject the forces generated within its own fabric by the introduction of new institutions —of education, of industry, of communication, etc.— according as these forces are purely good, necessary evils, or positively harmful. The new forces have an ethic of their own and a simple return to the past is certainly no way to solve this problem unless we want to delude ourselves. But recourse to the Qur'an and Sunnah in order to get therefrom an understanding of, and guidance for, solving our new problems will



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undoubtedly meet the situation. This is because the Qur'an and the Prophet's activity guided and were actually involved in society-building. Besides, therefore, certain general principles that lie enunciated in the Qur'an and certain Prophetic precepts, their actual handling of social situations is fraught with meaning for us. But the meaning is not that we should repeat that very situation now, which is an absurd task, but rather to draw lessons from this concrete historic paradigm.

### NOTES

1. See Chapter 2, pp. 27-84.
2. Ibid.
3. Ibn al-Muqaffa\*. R. fi'l-Sahabah in Rasa'il al-Bulagha'. Cairo. 1951. pp. 120-21.
4. For example, in his al-Siyasah al-Skar'ivvah. Cairo, 1951, p. 173, where the statement 'the political authority (sultan) is the shadow of God on earth' is even given as a hadith which becomes current in later centuries. Ibn Taymiyah follows this up with the quotation. "Sixty years of an unjust ruler are better than one night without any political authority".
5. Muqaddimah: see Section II (ed. M. Quatrenere, vol. I, p.270) where Ibn Khaldun describes how city-life decays under uncouth and specially bedouin rulers.
6. Al-Razi, Kitab al-Arba'in fi Usul al-Din. Hyderabad, 1353 A. H., p. 23 ff. A little earlier on the same page an interesting argument of the Mu'tazilite Abu 'l-Husayn al-Basri for the opposite thesis of freedom, based on direct selfconsciousness is given.
7. R. fi 'l-amr wa'l-irdah in Majmu'at al-Rasa'il al-Kubra, Cairo, 1323 A.H., I: 334. 1. 13, p. 335, 1. 6.
8. Gibb, H. A. R., Mohammedanism, Mentor Publications, p. 80 (bottom) and p. 81, 1. 5. The judgment in quotation marks there comes from Snouck Hurgronje.
9. These categories are "Unity-and-Plurality", (Wahdah wa-Katharah)", "Sobriety-and-Intoxication (Sahw wa-Sukr)",

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- "Presence-and-Absence (Hudur wa-Ghaybah)", etc. See a discussion of these in the Introduction to my forthcoming book. The Selected Letters of Shaykit Ahmad Sirhindi,
10. The forthcoming volume entitled Islam (in the Weidenfeld and Nicolson Series, History of Religion), Chapter VII.
  11. A famous ghazaloi 'Iraqi ends with this verse:  
  
12. See his'-JRiuS'i/ al-Kubr5, vol. II. p 97.
  13. See, e.g. his Hujjat Allah al-Baligkak, vol. I, the chapter entitled "Inshjqaq al-Takllf min al-Taqlr". i.e. "How Obligaion flows from Determinism". This, however, must be brought into relation with his other writings based on monistic principles.
  14. See my chapter on "Ibn Sina" in the History of Muslim Philosophy, edited by M- M. Sharif, published by Otto Hatrassowitz, Weisbaden, West Germany, 1964; and also my contribution Philosophy and Orthodoxy to the Harry Wolfson Festschrift published by the Jewish Academy of Ameica. New York?1962 (?).
  15. Kitab al-Najat, Cairo. 1938, pp. 213-14.
  16. See his al-Madlnah al-FSdiiak. ed. A. Nadir. Beirut, 1959, p.118.As I have shown in my Prophecy in Islam, London, 1958, this belief which is certainly not Islamic, comes from the Hellenic sources, although al-Faribl tries to quote the Qur'Bn in his support.
  17. Ibn Taymiyah, Kitsb al-NubuwwSt. Cairo, 1346 A. H.. p. 168.11. 4-23.
  18. "Guidance to Wisdom" (Hidayat al-Hikmak) is a well-known work of Adjlr al-DIn Mufaddal b/'Umaral-Abbarl (d. 663/1264). The two names in inverted commas al-Shifa' and at-Ishar3t—are the famous woiks of Ibn Sins.
  19. The linguistic point here is that the Arabic "Shark al-Sadr" Can also mean "an opening of the breast," i.e..Illumination of the mind besides meaning the "Commentary of Sadra" (Mulll Sadri on Ibn Sina).
  20. "The Brilliant Sun" (al-Shams aUBStighak) by Mulla Mahmnd of JawnpOr (see Encyclopaedia of Islam, newed.

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- s.v. al-FARUKI by A. S. Bazmee Ansari).
21. Sullam—a staircase of a flight of steps—is the name of a Famous text by Muhibb Allah of Bihar (see Encyclopaedia of Islam, new ed.. s. v. al-BIHAW by A. S. Bazmee Ansari).
  22. That hadith meant the traditional materials whereas Sunnah signified the deduction of practical norms from these materials by the exercise of understanding, can be illustrated by the following examples: " 'Abd al-Rahman ibn al-Mahdl (d- 198 A.H.) is reported to have said that Sufyan al-Xbawri was an authority (imam) on hadith but not on Sunnah and that the opposite was true of al-Awza"!; Malik combined in himself both types of expert and masterly qualities". See al-Zurqam, apud I. Goldziher, Muhamma danische Studien.\* 1961. vol. II. p. 12. Similarly. Abu DawHd (apud Goldziher, ibid., p. 11. Footnote 6), after narrating a hadith about a person who kills an animal during the state of ihram. Quotes Ahmad b.Hanbal as saying:"There are five sunnahs (i.e., points of law) that follow from this hadith.'
  23. This must have occurred after the introduction of medical Knowledge, for the term 'abdSn' used here means human or living bodies as opposed to the term 'ajsam'. It also underlines the utilitarian intent of the statement in singling out medicine from among all the sciences.
  24. K. al-MuwafaqZt, Cairo. 1302 A. H., vol. I, p. 16, The Fifth Proposition, especially p.19.
  25. Ibid., p. 11, The Third Proposition.
  26. Islamic Studies, Journal of the Central Institute of Islamic Research. Karachi, i/4, p. 21.1. 38 ff.
  27. MaktUbit, vol. I, No.266. We are told there: "Among their (the philosophers') firm and sure sciences is mathematics which is utterly meaningless and absolutely useless".
  26. Ibn Taymiyah. MajmUat al-Rasa'il al-Kubr3, vol. L Cairo, 1)23 A H : the short treatise entitled fi'l-'amr wa'l-iradah, pp. 361-2.
  29. See al-Iji's Mawaqif with al-Jurjani's commentary, vol. L Introduction, where the point of the self-sufficiency of 'Ilm'al-Kalam U fervently argued; the point at issue is whether a

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general question like the existence of God should be entrusted to a prior science like Metaphysics. The latter view is rejected as this would imply that even the "crown of the Shari'ah sciences" is not self-sufficient.

30. See the chapter on Education in my forthcoming book Islam, being published by Weidenfeld and Nicolson, London.
31. Al-Shafi'i, al-Risalah, ed. Ahmad Muhammad Shakir. Cairo, 1309 A. H.. p. 372 ff.. Specially pp.391-3; See also p.373. Where al-Shafi'i states categorically: "In hadith I accept the report of a single person and (even) of a single woman Whereas I accept neither of these as evidence in a court. Again, in hadith I accept, 'so-and-so told me', provided he is not a forger, but as court evidence, I shall accept nothing but \*I heard', \*I saw\* or 'He made me a witness of." On the same page, however, al-Shafi states that sometimes he would refuse to accept Hadiths from people whose evidence would be accepted in court, because hadith transmission can produce great changes in hadith-content and it is important to use the right words to convey the meaning. See also al-Shafi'i's rather curious argument in Ikhtilaf al-Hadith (published on the margin of K. al-Umm, VII : 12 if.). that if people accepted single person's reports about the Prophet during his lifetime, such acceptance became all the more necessary after the Prophet's death. Al-Shafi's point apparently is that a person could, without disadvantage, reject a report about the Prophet during the Prophet's lifetime since he could go back to the original source but that after the Prophet's death the original source has been removed. But it is obvious that this argument can be turned the other way round with a far greater force since after his death the Prophet can no longer deny false reports about him.

# 4

## IJTIHAD IN THE LATER CENTURIES

The World of Islam and Islamic scholarship are by now familiar with the proposition that "the gate of Ijtihad (fresh thinking) in Islam was closed".

Nobody quite knows when the "gate of Ijtihad" was closed or who exactly closed it. There is no statement to be found anywhere by anyone about the desirability or the necessity of such a closure, or of the fact of actually closing the gate, although one finds judgments by later writers, that the "gate of Ijtihad has been closed"1. Such judgments are passed on earlier states of affairs and do not, so far as we can see, refer to any given statement about the closing of the gate of Ijtihad, It may, therefore, be safely concluded that whereas the gate of Ijtihad was never formally closed by anyone—that is to say, by any great authority in Islam—nevertheless a state of affairs had gradually but surely come to prevail in the Muslim World where

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thinking on the whole, and as a general rule, ceased. In Chapters 1 and 2 we have described the rise and early growth of the methodology of Islamic thought and particularly the development that the concept "Sunnah of the Prophet" underwent through the Hadith movement; in Chapter 3 we outlined the facts of these developments on the spiritual and intellectual life of the Community and we particularly endeavoured to underline the facts as to how the development of Hadith helped the formulation of certain important politico-moral tenets of the orthodoxy which, in turn, affected directly the spiritual- and intellectual life of the Community. All these results had, in the final analysis, come to be sanctioned by Ijma\* or consensus of the Community. We shall now consider briefly this methodology of Islamic thinking particularly the doctrine of Ijtihad, as it was finally formulated in and for the later Middle Ages of Islam under the impact of developments described in the foregoing pages and shall endeavour to outline its salient characteristics. We shall find, among other things, that, so far as jurisprudence is concerned, the gate of Ijtihad was never formally closed but that a gradual contraction of thinking occurred over a period of several centuries through various causes and that hence the treatment of Ijtihad in the juristic literature became rather formal even at the hands of liberal medieval thinkers.

(1) Indeed, the very first characteristic that a student of medieval Islamic juristic literature is impressed with is its formalism. To a larger extent, this formalism, as our argument in the preceding chapters has shown, is a result of the way this framework or methodology developed. We have shown that both the Sunnah and the Ijma' were cut off from the process of

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Ijtihad which, therefore, became a formal affair. But even more than this fact, the actual content that had developed within this methodological scheme but had been eternalized as the dogma of Islam under the prophetic authority, could not fail to affect, in turn, the nature of the methodology itself which had first given birth to this content. This content of Islam we briefly outlined in Chapter 3. Indeed, certain consequences of the dogmas and attitudes propounded and accepted by the orthodoxy reacted on the bases of law. Since, for example, the orthodoxy first rejected the position of the Mu'tazilah on the role of reason, this anti-rational theological position affected their attitude to legal thought- also and their standard works formally deny any role to reason in law-making. Even one of the most rational and liberal-minded representatives of the orthodoxy, the Shafi'i al-Amidi. (d.631A.H.) states in his famous work on jurisprudence:

"You should know that there is no judge (or arbiter) except God and there is no judgment but His.

A necessary entailment of this (proposition) is that reason cannot declare things to be good or bad and that it cannot necessitate gratitude towards the bestower of bounties. There is, indeed, no rule (or judgment) before the revelation of the Shari'ah."\*

This is the most fundamental point on which dogmatic theology and its formulations have entered into jurisprudence. There are also other doctrines like the inefficacy of the human will which have done so. We shall return to these points in a different context later; here we wish to point out that the formalism of juristic thinking is, in no small measure,

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due also to the formalism of the Kalam. Actually, the attempt to integrate jurisprudence into the larger field of Islamic thought is in itself not to be derided but, on the contrary, to be commended and encouraged. Only in this manner can a synthetic whole be built of the total human mental endeavour. Indeed, if the Muslims had not brought their general world-view to bear on jurisprudence, this would have led to a basic incoherence. But the trouble is that the theological dogmas, as they were formulated and subsequently held with tenacity, were in themselves one-sided reactions rather than genuine syntheses as we have previously shown. Their integration with, or rather imposition upon, the legal theory was unfortunate. Since they were found in formal theology so they were installed formally in juristic thinking. One major result of this formalism is, therefore, the existence of blatant contradictions in the juristic doctrine.

(2) In the previous chapter we have referred to an inconsistency pointed out by Ibn Taymiyah between the natural assumptions of law which presumes man to be free and responsible and those of Sunni Kalam which considers man to be a divine automaton.<sup>9</sup> there are also other inconsistencies. For example, the majority of the theologians even to this day hold that, in matters of belief, particularly in the case of the existence of God and Muhammad's Prophethood (and allied matters), authority alone is insufficient and that these beliefs must be grounded by all Muslims in reason. But in the field of law they teach Taqlid (i.e. unquestioning acceptance of authority) at least to the majority of Muslims and in practice to all Muslims. These contradictions become accentuated when Kalam-theology enters into jurisprudence. Let



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us give an illustration. We have noted above a passage from al-Amidi to the effect that reason has no role in law since it cannot declare things to be good or bad. This is, of course, the unanimous verdict of Sunni jurists ever since the development of Kalam-theology. There is no trace of it in the earliest Schools of the Hijaz or 'Iraq whose reliance on reason we have dealt with in the first chapter. In Chapter 3 we had quoted al-Shatibi (d. 790 A.H.) writing in the same vein as al-Amidi.<sup>4</sup> Here is a much more explicit and categorical statement of al-Shatibi:

"This principle (that man's knowledge is imperfect whereas Divine knowledge is perfect) includes the essences of things both as a whole and in detail and the attributes, states, actions and laws of things equally as a whole and in detail. For even one single thing out of the totality of things is known in its completeness only to God so that nothing whatever of it escapes His knowledge— its essence, its attributes, its laws. Man's knowledge of the same thing, on the other hand, is defective and imperfect—whether man tries to comprehend its essence, attributes, states or laws. This is something man indubitably experiences within himself."<sup>6</sup>

The conclusion which al-Shatibi obviously wishes to draw from the imperfection of human knowledge is that human knowledge based on reason and experience cannot be trusted at all and, therefore, cannot lead to action. For unless this conclusion is drawn, his argument loses its force, since otherwise one might say— as, indeed, one normally does—that imperfection of knowledge does not necessarily entail its utter inadequacy. This entire argument, therefore, rests

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on the obviously wrong assumption that if human knowledge is always imperfect, it must, for that reason, be absolutely inadequate and hence quite unreliable. Although al-Shatibi has given a general argument about "knowledge of things", his real purpose, however, is to prove the utter inadequacy of human reason to apprehend moral truths and hence its uselessness, indeed, dangerousness as an instrument for the formulation of law. Immediately after this general argument stated just now, al-Shatibi, therefore, puts forward another argument. According to this, there are certain truths of which man possesses necessary knowledge, others from whose knowledge he is equally necessarily debarred and thirdly there is the 'contingent (mumkin)' knowledge which he may or may not possess. This last division covers the entire field of human reasoning whether deductive or inductive. Now al-Shatibi holds that nothing or almost nothing in this field can be really and truly known to man— because of the ever-present possibility or actuality of difference of opinion among men—unless a sure and unfailing authority informs us. The laws of the Shari'ah, he maintains, fall into this category and hence must be based only on revealed authority.<sup>8</sup>

The warp and woof of the above arguments rests on a patent denial of faith in the intellectual and moral powers of man. Man is incapable of knowing anything true or doing anything good without being commanded on authority. This depreciation of human faculties, which is in such a palpable conflict with the recurrent invitation of the Qur'an to man to "think", "understand", "reflect" and "ponder", is unfortunately the standard dogma of Sunni theology. Its net result must be stark cynicism. But when this

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theological dogma becomes the prolegomenon of legal philosophy, its consequences for the Sunni view of human action and its value per se must be far-reaching, indeed. Let us hear al-Amidi again on the good and evil quality of acts. "Our companions (i.e. the Sunnis) and most of those who possess understanding (uqala) believe that acts in themselves cannot be described either as good or as bad because reason cannot declare acts to be either good or bad. They think that descriptions 'good' and 'bad' are applicable in three senses which are only relative and not real. The first is the application of the term 'good' to that which suits one's objective and the 'bad' is that which is opposed to it. Now this is not a real attribution because good and bad change with the

Change of objectives..... the second is that the term 'Good' is applied to that whose doer the law-giver (Shari') has declared to be praiseworthy... while 'bad' is that the doer of which has been condemned by the Law-giver .... But this also varies according as the command of the law-giver varies regarding actions."7

Al-Amidi's third category is essentially identical with the second.

This is the uttermost moral relativism imaginable. It has been resorted to by the upholders of the Sunnah in order to counteract the Mu'taziite thesis of the power of human reason to know good and evil. So strong was the orthodox reaction against the Mu'tazilah that they were prepared to employ any arguments, sceptical, cynical, relativistic—indeed anything they could lay their hands on in the rich armoury of Greek philosophical ideas—no matter how obviously incompatible this might be with the fundamental teachings of the Qur'an and the actual

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Sunnah of the Prophet. Where does the Qur'an say and, indeed, how can it even tolerate that man can neither know anything nor act? How can any religion befriend scepticism? And, strangest of all, can any genuine moral system accept this kind of relativism?

There is, however, an important difference between the positions of al-Amidi and al-Shatibi which we shall clarify later more fully in a different context but which may be pointed out here. Whereas al-Shatibi generally employs only sceptical arguments to show the powerlessness of the human reason "to declare things good and bad", al-Amidi uses arguments of moral relativism—of which, of course, scepticism will be a consequence, i.e. the doctrine, that there is nothing good or bad in itself. If there is nothing good or evil in itself, then neither human reason nor yet divine Revelation can declare anything to be either good or evil in it. This is an extreme position but it has also been adopted by the Sunni Kalam-theology. The question is asked: if things are neither good nor bad in themselves, then why should anyone follow the Revelation if he is not to follow his reason? The answer to this question given by the Sunni Kalam is that although things are neither good nor bad in themselves they become so by Divine declaration. The difficulty, however, remains unsolved for many reasons not the least being that if things become good or bad by a Divine declaration—although they are not so in themselves—why can they not become good or bad by a declaration of the human reason? Al-Shatibi. However, unlike al-Amidi, does not say that things are neither good nor bad in themselves; he merely asserts that the goodness and

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evil of things cannot be known to the human reason and must, therefore, be established only on Revealed authority.

(3) This is, however, one side of the picture. We have to see the other side in order to convince ourselves that the picture drawn above of the complete inanity of human reason is not true. The two pictures may be mutually contradictory; in fact, they are patently so and this is a result, as we stated earlier, of the starkly formal character of this juristic literature. However, in face of the evidence it is impossible to conclude that the "gate of Ijtihad was closed". On the subject of Ijtihad, al-Amidi is so emphatic that he insists that the Prophet was also duty-bound to exercise it just as anybody else although he was in a more favourable position with regard to the rectitude of his Ijtihad because he was the recipient of Revelation. Al-Amidi, however, makes it abundantly clear that the Prophet's Ijtihad was, nevertheless, fallible, although on this point once again he exhibits a contradictory position by making statements to the contrary as we shall see soon. We shall quote here one passage from him on this point although he has elaborated a very lengthy argument involving thesis and counter-thesis:

"The Book (of God) says, 'Think, O people of understanding!'" Now God has given a general command to people of understanding to think; the Prophet, being the greatest of these, is included in this generality..... Again, God says (addressing the Prophet), 'Consult them in the affairs', but consultation can take place only in those things wherein a rule is arrived at through Ijtihad and not through Revelation. Again, God reprimands the Prophet

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concerning the war captives of Badr .". . . This shows that the Prophet's decision had come about on the basis of Ijtihad and not through Revelation. Similarly, God says, 'May God forgives you! Why did you permit these people (to stay at home During Jihad?) thus reproaching him and pointing Out his mistake....."8

Ijtihad, then, is a necessity not only for an ordinary Muslim but even for the Prophet himself. So far as the ordinary Muslim is concerned it will be of varying qualities due to the capacities of people but the important point to note is that everybody must "exert himself". There will be a very large number of people who are not able enough to do original thinking ; but these also are capable and must exercise this capacity—of reaching a broad judgment as to which of the two or more conflicting opinions is or is likely to be true. As for the Prophet, he is the Mujtahid par excellence since he is possessed of the greatest wisdom besides being the recipient of Revelation. But even so, far from being infallible, he was liable to commit errors of judgment. The effects of this view on al-Amidi's conception of the Prophetic Sunnah are obvious enough. No matter how great and perfect a human the Prophet in his non-Qur'anic pronouncements and acts be—which he undoubtedly is—he cannot be beyond error. And this, as we shall see presently, is what al-Amidi also maintains. But so strong is the hold of the disputative spirit which has generated the formalism that we have spoken of before, that al-Amidi contradicts his stated views on the Prophetic Ijtihad. While replying to the objection to his view that it will bring all results of Ijtihad into doubt with particularly serious consequences for the

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absolute authority of the Prophet's decisions, al-Amidi tells us: "We do not admit that all Ijtihad is exposed to error, our argument being that the Companions are agreed on (certain results of Ijtihad). Now, the Ijtihad of the Prophet cannot fall short of the Ijtihad of those who are competent to arrive at an agreement (Ijma'). Thus the Prophet was protected from error in his Ijtihad."<sup>9</sup>

What is the cause of this contradiction and the attribution of absolute infallibility to the Prophet? It is obviously the later orthodox doctrine of Ijma', which declares the agreement of the Community to be protected from error. For if the Community is eternally immune from error, i.e. if the particular decisions of the Community are eternally valid without reference to the spatio-temporal context within which they take place, why should the Prophet's particular decisions be denied this privilege? This is obvious from the preceding quotation from al-Amidi; it is brought out still more emphatically in his statement: "The Ijtihad of the Prophet cannot be inferior to that of the Community whose protection from error has been established by the Prophet's statements—if it is not weightier than the Community's Ijtihad."<sup>10</sup> We are not saying that there was no concept of the Prophet's immunity from error independent of the concept of the infallibility of the Community; in fact, historically speaking, the former is prior to the latter. But even granting the extreme position, never literally held by anyone among the orthodox with its consequence that the Sunnah of the Prophet is the result of a "silent revelation (wahy khafiy)," this immunity is rather a "macro-infallibility" rather than a "micro-infallibility", i.e. it asserts that the Prophet's be-

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haviour is on the whole absolutely inerrant but not in detail. We shall discuss the orthodox views on this point shortly. But what largely rendered it infallible in details and in all the individual cases was not so much the doctrine of the Prophetic infallibility but the doctrine of the "micro-infallibility" of the Ijma' or agreement of the Community. It is also this doctrine which explains the contradiction in al-Amidi on the point.

Ijtihad, then, is the necessary duty of a Muslim—according to his capacity. It follows that a person will form views according as truth appears to him and on the basis of what he deems right. Al-Shatibi's position on the subject is not essentially different and he categorically states that a "Mujtahid is to follow what his Ijtihad leads him to" provided this Ijtihad is not in conflict with the "objectives of the Law-Giver and is in harmony with the purposes of the Shari'ah"<sup>11</sup> Somewhat inconsistently, al-Shatibi goes on to say that in case of a conflict between his Ijtihad and the Shari'ah-proof, the Mujtahid must give up his Ijtihad. The question, however, arises as to how a Mujtahid will ever be in a position to be in conflict with Shari'ah such that he will be able to recognize this conflict? For Ijtihad is continuous process and in all such cases where a Mujtahid will be in a position to recognize the conflict, he will amend his present Ijtihad and arrive at a new one. A still more fundamental question is: how can the "objectives of the law-giver" themselves be located and formulated without the operation of Ijtihad? In spite of al-Shatibi's cautious approach, however, he is of the view that even a man-in-the-street who is no Mujtahid should be able to make up his own mind as to whom



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to follow in case of difference of opinion. There is little doubt,, however, that al-Shatibi inclines more towards Taqlid (following of authority) than, does al-Amidi because the former advocates, for the man-in-the-street, Taqlid of persons and not of opinions for he thinks that it is easier for a simple person to identify people as "more learned" or "less learned]" than to assess opinions as better or worse,<sup>12</sup> The dangers in such an approach, which, however, is descriptively true, are obvious enough. It tends to degrade the intelligence of the simple man still futher and blunt his power of discernment. Far truer is al-Amidi's statement that the Qur'anic summons to think and reflect are universal and include all humans.

(4) Consistently with his relativistic approach described earlier, al-Amidi, like several other Sunni jurists—e.g. al-Qadi Aba Bakr al-Baqillani- enunciates the startling principle that, in the field open to Ijtihad, in view of the actual and possible diferences of opinion, one must conclude that truth is not one but many and that every Mujtahid is right in his findings. Here we must try to be very clear as to what exactly is being said and what its consequences are. The present doctrine, to begin with, is not identical with the doctrine accepted by the generality of the Sunnis and the Shi'ah but rejected by some of the Mu'tazilah and the Khawarij that a Mujtahid who hits the truth is rewarded by God twice but that a person whose Ijtihad is erroneous also deserves a reward from Him. The doctrine stated and supported by al-Amidi does not and cannot talk of a failure of Ijtihad because the truth is that which the Mujtahid has concluded:

"As for Ijtihad, we maintain that every Mujtahid is right; thus the Prophet is even more entitled to being

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regarded as correct in his Ijtihad, (The doctrine of) error in Ijtihad is based on the assumption that the rule (or law=hukm) according to God is in reality only one (among several alternatives) with regard to a single situation. But this is not the case, for the rule with God concerning every situation is that whither the thinking of a Mujtahid leads him."18

Secondly, it is to be noted that this position is not the same as that which says that the truth is in reality only one in each case but that the differing Mujtahids may either not perceive it or that each may perceive in his own way and the complete truth may elude all. This last position has been adopted by the majority of the Sunnis. Thus al-Shatibi', while admitting that people will never actually agree in their Ijtihad-results, still maintains that the truth must be only one in each case. This position is, of course, prima facie the most acceptable one even on rational grounds. For, on the one hand, a thinker will naturally regard that as true which he has thought out—until he thinks better—and, on the other, he must concede that the truth is one which he is seeking to aim at progressively. Indeed, this last assumption is the very ground for his endeavour to think better and improve his Ijtihad. That no two Mujtahids will actually and absolutely agree on their findings is stated by al-Shatibi so emphatically that he thinks that even the Khawarij cannot be absolutely identified as being in error, despite the Hadith to the contrary. In this Connection al-Shatibi also points out that no two views (i.e. sights) will ever be the same.<sup>14</sup> The truth, however, must be one for, "objects of knowledge do not differ with different ways of looking at them since they are realities-in-themselves. It is, therefore, im-

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possible that the opinions of all Mujtahids concerning them be correct ... the correct one will be only one. This (correct one) will be known only through proofs but proofs contradict one another".<sup>15</sup>

Al-Shatibi, of course, wants to draw the conclusion from these statements that human reason is utterly fallible and therefore cannot be relied upon. If so, then he has no grounds on which to assert Ijtihad but he does both in the same breath. Actually, the general Sunni position on the role of reason, which is also, the position of al-Shatibi, is, in its consequences, essentially the same as the Shi'i position, because from the premise of the inanity of human reason both conclude that there must be a source of sure knowledge. Now, as al-Shatibi points out,<sup>16</sup> the Shi'i position

(Which asserts the continuance of such a source of sure knowledge in the form of the infallible Imam, and is, therefore, more consistent than that of the Sunnis who only treat the Qur'an and the Sunnah as the sure knowledge but then reject and accept human reason at the same time) is necessary for everyone to adopt who will not rely on the capability of human reason despite its frailties and failures. The only cure for this contradiction and for a smooth, uninhibited development of Islamic law and thought in general is to evince a healthy faith in the fact that human faculties of reason and moral perception are adequate enough if exercised well although never beyond error.

But the position of al-Amidi which is the opposite extreme to the Shi'i position is a natural consequence of the rational moral relativism espoused also by the Sunni theology. If things are not good or bad in themselves, as the Sunni position asserts, and hence reason cannot declare them so, then what else can be

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Ijtihad than "I think so-and-so" and "he thinks such-and-such"? And since there is no truth there to be known, my Ijtihad must be as true and as false (actually, these categories do not strictly apply) as yours and, what is more, my Ijtihad now must be as true and as false as was previously even though the two may be diametrically opposed to one another and so on. This is an incurable relativism and cannot, by definition, talk of improvement of insight or progressive unfolding of the truth.

(5) In practice, however, one salutary effect of the Sunni position is that it allows for and tolerates differences of opinion and even regards this phenomenon as of positive value. For this, it is not, of course, necessary to hold a relativistic doctrine about truth and contend that whatever a Mujtahid thinks, that is the truth for him, as some eminent Sunnis like al-Baqillani and al-Amidi have held. If, however, this view is regarded only as descriptive of facts rather than as an ideal, it is necessarily true. For it is a factual necessity that every genuine Mujtahid, having arrived at a decision at a particular time, should regard his decision as true and these that more or less differ from his as being more or less false. It is, however, equally necessary from the ideal side that every genuine Mujtahid, no matter how "much finality he may come to attribute to any particular decision of his; should always be prepared to withdraw his claim to "know" in the light of fresh evidence and reasoning. It is this which constitutes the transcendental quality and unity of truth.

On the other extreme to this - relativity are the Shi'ah who believe that truth is one but can be known only- through the sinless and infallible Imam. This

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later conclusion is drawn from the premise which the Shi'ah hold in common with the Sunnis that human reason is so fallible that it is unreliable. In the last Section, we have referred to al-Shatibi's statement made with perfect logic that the Sunnis and the Shi'ah are in basic agreement about the inanity of human reason. If the Sunnis had been more consistent they should also have relied on an infallible Imam; on the other hand, they necessarily chose to rely on human reason (Qiyas and Ijtihad) and are thus involved in a fundamental contradiction. The net result of their actual position is that human reason, although fallible, is not unreliable—which is the only safe and acceptable way for humanity—but this is not what they actually say. The Shi'ah position is certainly consistent at least in its form but expresses no more than a pious wish. It is essentially an extreme form of wishful thinking projected into history. But even supposing that an infallible human—the Imam— does exist; only a Mujtahid can get into touch with him. And who locates a genuine Mujtahid? And even if it were possible to locate a genuine Mujtahid, with unfailing certainty, is the contact of the Mujtahid with the Invisible Imam infallible? Is infallibility, indeed, a communicable quality? These are all questions that are, to our mind, unanswerable although it must be admitted that the wish and search for certainty are extremely powerful motives in man. But certainty has not merely to be wished and then postulated, it has to be actively and positively searched for. It is one of the strange phenomena of the distribution and development of religious ideas in Islam that while Shi'ism had adopted so many tenets from the Mu'tazilite theology, it chose to reject the arch-

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doctrine of the Mu'tazilah that human reason could discover good and evil with some certainty. The reason is perhaps that the idea of the personal authority of the Imam had previously imposed itself as a consequence of the political developments and then the person of the Imam had also theologically to be invested with infallibility.

The majority of the Sunnis and the Mu'tazilah, however, while believing in the oneness of truth, allow difference of opinion. They say that although Truth is one; it can be reached through reasoning "by an accident". They believe that while the effort of reasoning is absolutely essential, there is no guarantee that every reasoning will hit at the truth and, therefore, profoundly add that even after all human effort, it remains a matter of chance and accident." It is like a treasure-trove which one may search for and employ clues but its final discovery always hinges on "good luck". A similar conclusion is reached by al-Shatibi through a slightly different route. While discussing the question as to whether one can declare certain sects to be outside the pale of Islam and attribute Kufr to them, al-Shatibi categorically states that it is not possible to locate absolutely the capital errors of these sects so that they may be stigmatized as Kufr. This inability to condemn any sect which claims to be Muslim as being outside Islam, according to al-Shatibi, is because God does not want to expose anyone from among the Muslim Community but wants to put upon the entire Community' His mantle of protection. Al-Shatibi is quite clear that erroneous beliefs and practices can and must be exposed but it is impossible to locate absolutely the holders of these practices. He says that one cannot

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even condemn the Khawarij as complete kafirs even though there is a good deal of predictive Hadith about them. It follows that when we try to locate the "Right Path" through Ijtihad (which we must do) we cannot demand complete unity: "if we are to locate (the 'correct path'), through Ijtihad, Ijtihad does not require any unanimity with regard to its object. Do you not see that scholars have decisively held the view that no two views (of a thing) can be identical in the nature of things? If the heretical sects had been determined by a clear test there would have been no difficulty (in locating them). But even there, it is difficult to decide in the case of (even) the Khawarij with all their erroneousness and even though the Holy Prophet had foretold and specified their signs..... (If this be the case with regard to those- people about whom there is a textual indication), what about those about whom there is no indication whatsoever?"<sup>18</sup>

(6) Al-Amidi's position on the Holy Prophet's Sunnah is intimately connected with his statements on the problem of Ijtihad, We have seen in the foregoing that despite his occasional statements to the contrary al-Amidi is a strong champion of the view that it was possible for the Prophet to make errors of judgment, although he states that this question is a controversial one among the Community and that it is not possible to reach any absolute decision.<sup>19</sup> While discussing the specific question of the fallibility or otherwise of the Sunnah, al-Amidi states that while the entire Community is agreed that a Prophet cannot deliberately err in those questions which are evidenced by definite miracles, there is no agreement with regard to points where a Prophet may involuntarily and nondeliberately make a mistake. Al-Amidi himself agrees

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with Abu Bakr al-Baqillani in holding that it is possible for a Prophet to commit an error unknowingly.<sup>20</sup> It is clear from these statements that while the Prophet's judgments, decisions, sayings and actions are, taken as a whole, free from fundamental mistakes and errors, it is possible that, in details, the Prophet's conduct is not beyond fallibility. This view, wherein both the Sunnis and the Mu'tazilah largely agree, viz., that the Prophet's Sunnah is, as a whole, infallible and correct but may not be so in details, is, nevertheless, grounded differently by the Mu'tazilah and the Sunnis. The Mu'tazilah base their doctrine on rational argument and say that the Prophet must be regarded as immune from fundamental errors and as infallible on the whole because it would be irrational to believe that a person capable of committing large-scale errors should be the recipient of the Divine Revelation, viz., the Qur'an; on the other hand, to believe that the Prophet is beyond all errors would put him beyond the pale of humanity which is also absolutely irrational. The Sunnis, on the other hand, refuse to have recourse to such rational argumentation and base themselves squarely on authority. But in their authority they find the exact counterparts of the Mu'tazilah rationality for the Holy Qur'an also calls the Prophet's conduct "great"<sup>21</sup> and describes it as a "model" for mankind<sup>22</sup> but the same Qur'an also describes the Prophet as human and asks the Prophet to pray, "O God ! Increase me in knowledge".<sup>23</sup>

(7) The question has been discussed by all writers on Ijtihad as to the qualifications which a person must possess before he becomes a Mujtahid. The earlier authorities among these medieval writers talk of an absolute Ijtihad (Ijtihad Mutlaq) and a partial Ijtihad



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exercised only in certain matters. Later, this division becomes threefold and Ijtihad is divided into Ijtihad Mutlaq, i.e. an absolute Ijtihad, Ijtihad Muqayyad, i.e. a limited Ijtihad and Ijtihad i'l-Madhab, i.e. Ijtihad within a given school of Islamic law. This division is undoubtedly formalistic and rather artificial. Only two among the writers on this subject, namely al-Ghazali and Fakhr- al-DIn al-Razi, say that what is first of all and most essentially required, even before Islamic scholarship, is the intellectual capacity to make deductions; the rest merely talk of scholarly equipment by way of knowledge of the materials of the Qur'an and the Sunnah, of the historical knowledge about the transmitters of the Traditions, about the Nasikh and Mansukh, etc. Al-Ghazali says, "Arguments (valid in law) are of three kinds: rational which prove the case by themselves ; arguments from the Shari'ah which are valid in law because the Shariah has laid them down and thirdly, conventional arguments by which we mean linguistic usages".<sup>24</sup> On this al-Shawkani comments that Ijtihad is based exclusively on the arguments of the Shari'ah and not on rational arguments and since reason is not the source of legislation it is not necessary to be learned in rational sciences in order to be a Mujtahid.<sup>25</sup> But while the late medieval jurists do not generally include a training in rational disciplines among the pre-requisites of Ijtihad and al-Gh.azaLi and al-Razi are the lonely exceptions, the list of other subjects becomes large, heavy and rather formal and artificial as we proceed.

Al-Amidi states that a Mujtahid should know the fundamentals of faith as set out in the creed, viz., that God exists with His attributes, that God is the Giver

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of Commands, that the Prophet was true in his mission and that this mission has reached us, although it is not necessary for the Mujtahid to go into the philosophic details of all these problems like an expert theologian. Further, the Mujtahid should know how to deduce laws from the bases of the Shari'ah and should be able to state and set out these deductions clearly. For this, it is necessary that he should know the materials of the Sunnah, the criticism of Hadith on the basis of its transmitters, the occasions of revelations, the Nasikh and the Mansukh and that he should know fairly well the Arabic language although, again, it is not necessary that a person should be an expert in the philological sciences. These are the conditions for the Mujtahid Mutlaq. As for the partial Mujtahid, concerned only with certain problems, it is not necessary for him to possess all this knowledge but only to know sufficiently about the problems that are under consideration before him.

The question as to whether partial Ijtihad is possible at all without the capacity to perform absolute Ijtihad is a matter of controversy among the jurists of Islam and although the majority seems to have decided in favour of such a division, there are undoubtedly voices against it. The arguments for and against the possibility of partial Ijtihad are set out by al-Iji (d. 756 A.H.) in his commentary on the famous juristic work of Ibn al-Hajib (d. 646 A.H.). To us, this kind of a basic division into partial and total Ijtihad seems rather artificial as we have pointed out before. It is, of course, true that one person may be an expert, say, in the law of contract and is not a towering mind in the whole range of law, but this is, surely, a nonessential consideration for, given the proper applica-

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tion, he can equally become expert in other branches of law. What is more fundamentally important is his intellectual calibre (to which al-Ghazali also adds a moral calibre if the findings of a jurist are to have a weight in the eyes of the public) about which our juristic literature says relatively little.

The list of the traditional disciplines given, viz., Hadith, Tafslr, the historical criticism of the transmitters, the questions on which Ijma' has occurred

(For those jurists who believe in Ijma') is no doubt seemingly imposing and, at first glance, seems difficult to fulfil. But when one closely examines this list and its contents, it does not seem to us an over-requirement. Of course, for the earliest Mujtahids in Islam these disciplines do not exist; there were very few materials that they had to study because these materials did not exist in their days and, in fact, it is they and their successors who have created these materials.

As history progresses and as the Muslims recede from the original sources, their task in one sense becomes weightier, because in addition to possessing the essential intellectual equipment, the historical materials that they have to study increase every day ; but this is natural. When, therefore, Iqbal, says, "the theoretical possibility of this degree of Ijtihad (i.e., Ijtihad Mutlaq) is admitted by the Sunnis, but in practice it has always been denied ever since the establishment of the schools, inasmuch as the idea of complete Ijtihad is hedged round by conditions which are well-nigh impossible of realisation in a single individual",<sup>26</sup> he cannot be referring to any stated conditions by jurists but simply to their unwillingness to perform Ijtihad or to allow it to be performed. Theoretically speaking, the conditions of Ijtihad are

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not, after all, too difficult of attainment. The essential point, however, is that, in actual practice, as Iqbal tells us, this Ijtihad has been denied. The reasons subsequently enumerated by Iqbal for the actual stoppage of Ijtihad are undoubtedly correct. The denial of Ijtihad in practice has been the result not of externally over-strenuous qualifications but because of a deep desire to give permanence to the legal structure, once it was formulated and elaborated, in order to bring about and ensure unity and cohesiveness of the Muslim Ummah. We have pointed out recurrently in the earlier part of this work that the Hadith movement launched by al-Shafi in the domain of law was itself a bid for uniformity amidst what threatened to be legal and dogmatic chaos. Subsequently, as Iqbal tells us, after the destruction of the Baghdad Caliphate and the break-up of the political unity of the Muslim World, the religious leadership concentrated all the more on ensuring the unity of the Ummah through law and other institutions. Such unity has, no doubt, reigned in the Muslim World but at the cost of inner growth as the Muslim World suddenly discovered under the impact of the foreign powers during the eighteenth and nineteenth centuries. But at the theoretical level the door of Ijtihad has always remained open and no jurist has ever closed it. To the causes enumerated by Iqbal must also be added the gradual deterioration of intellectual standards and the impoverishment of the intelligentsia of Islam over the years through a gradual narrowing down of the educational system which we have also described in the preceding chapter.

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### NOTES

1. Although the "gate of Ijtihad" was never formally closed, as we have shown at the end of this chapter. 'Taqlid' or acceptance of mere authority became so rampant that Ijtihad became practically non-existent. 'Taqlid' was Originally recommended for the common man although forlong it was conceded that even the common man has the power of discernment enough to decide between conflicting views. Later, however, 'Taqlid' enveloped almost all Members of the Muslim society.Voices against this have been arising, particularly since the appearance of Ibn Taymiyah. And 'Taqlid' and closing of the door of Ijtihad have been innuted to the immediately earlier generations ever since. Proportionately the emphasis on the necessity of Ijtihad has increased particularly since the Islamic reform movements of the eighteenth century. The Muslim Modernist has espoused Ijtihad all the more and with all the greater sense of urgency since the impact on Islamic society of the new forces in all its forms.
2. Al-Smidi, K. al-Ihkam ft UsTil al-Ahlam, Cairo, 1332/1914, I: 113.
3. See above, p. 138.
4. See above, p. 135.
5. Al-Shatibi, K. al-Ttisam, Cairo. 1332/1914, III: 216.
6. Ibid., Ill: 218 ; the whole discussion starts on page 217.
7. Al-Amidi. op. cit.. I : 113-14.
8. Ibid., IV: 222-3.
9. Ibid., p. 235.
10. Ibid., p. 233.
11. Al-§Jatibf, op. cit.. Ill : 251.
12. Ibid., p. 255.
13. Al-Amidi, op. cit.. IV : 234.
14. Al-Shatibi. op. cit.. Ill : 178,
15. Ibid., pp. 217-18.
16. Ibid., p. 218.
17. Al-Amidi. op. cit., IV: 246.
18. Al-Sbattbl. op. cit., Ill: 178.
19. Al-Amidi. op. cit., 1: 243-4.

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20. *Ibid.*, 1: 243 ; on page 244 even commission of grave errors —by mistake, of course—on the Prophet's part is also thought possible.
21. Qur'an. LXVIII: 4.
22. Qur'an. XXXIII: 21.
23. Qur'an. XX ; 110.
24. *Al-Mustasfa*. Cairo. 1937. II: 102, line 11.
25. *hshad al-Fukul*, Cairo, 1347 A.H.. p. 222.
26. *Iqbsl*, Muhammad, *Reconstruction of Religious Thought in Islam*, Lahore, 1960, p. 149.

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### THE PROBLEM BEFORE US

WHEN new forces of massive magnitude—socio-economic, cultural-moral or political—occur in or to a society, the fate of that society naturally depends on how far it is able to meet the new challenges creatively. If it can avoid the two extremes of panicking and recoiling upon itself and seeking delusive shelters in the past on the one hand, and sacrificing or compromising its very ideals on the other, and can react to the new forces with self-confidence by necessary assimilation, absorption, rejection and other forms of positive creativity, it will develop a new dimension for its inner aspirations, a new meaning and scope for its ideals. Should it, however, choose, by volition or force of circumstance, the second of the two extremes we have just mentioned and succumb to the new forces, it will obviously undergo a metamorphosis ; its being will no longer remain the same and, indeed, it may even perish in the process of transformation and be

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swallowed up by another socio-cultural organism. But more surely fatal than this mistake is the one we have mentioned as the first extreme. Should a society begin to live in the past—however sweet its memories—and fail to face the realities of the present squarely—however unpleasant they be, it must become a fossil; and it is an unalterable law of God that fossils do not survive for long : "We did them no injustice ; it is they who did injustice to themselves" (XI: 101 ; XVI : 33, etc.).

Roughly speaking, for about a century Muslim society has been experiencing the onset, within its fabric, of tremendous forces let loose by what is generally called "Modernity" whose source has lain in the contemporary West. Certain conscious efforts have been made by Muslim thinkers both in the Indo-Pakistan subcontinent and in the Middle East, particularly around the end of the last century, to meet the new challenges by creative absorption, adjustment, etc. With the rise, however, of independent Muslim states during the past two decades or so and their emancipation from the foreign political domination, these influences of Modernity have naturally been accelerated in pace and momentum. We say "naturally" because with the all-too-justifiable desire for developing the potential resources on the part of these countries natural and human—instruments of mass economic production and movement, mass education, media of mass-communication, etc., are absolutely inescapable. Muslim society has plunged itself into the Industrial Age—if it did not do so, its fate would be sealed. But these vast and massive impacts require a creative response of equal dimensions if our society is to progress islamically. This



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calls for a relentless process of hard, clear, systematic and synthetic thinking, which is not yet visible in the Muslim World. By and large, and in effect, we are still suffering from intellectual indolence and consequently, for all practical purposes, are experiencing the two extreme attitudes born of this indolence, to which we have just now pointed, viz.

(a) a *laissez-faire* attitude towards the new forces which makes us simply drift, and (b) an attitude of escape to the past which may seem emotionally more satisfying immediately but which is, in fact, the more obviously fatal of the two attitudes.

Fortunately, there are strong guiding lines for us in the early history of the Community when the Qur'anic teaching and the Prophetic Sunnah (the ideal

Legacy of the Prophetic activity) were creatively elaborated and interpreted to meet the new factors and impacts upon Muslim society into the "living Sunnah" of the Community. In Chapters 1 and 2

We have studied at some length the phenomenon of this developing, moving "living Sunnah". This was not just an academic exercise motivated through sheer historical curiosity: if it is historically true, then it is fraught with meaning for us now, and, indeed, for ever. In the sequel, we shall illustrate the development of this early "living Sunnah" with concrete examples, endeavouring in each case to show the situational background—the forces that called forth a certain measure—and by pointing out the extent of the newness of the cases we hope to bring out their true magnitude. These illustrations have three objectives in view: (i) they strikingly drive home the reality of the "living Sunnah"; (ii) they are intended as pointers for future developments; (iii)

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they constitute a humble suggestion to the 'Ulama' that if the study of early Hadith-materials is carried through with constructive purposiveness under the canons of historical criticism and in relation to the historico-sociological background, they take on quite a new meaning. A Hadith, say, in al-Muwatta' that 'Umar did so-and-so, when read as mere Hadith, i.e., as an isolated report, remains a blank and yields little; but when one fully comprehends the sociological forces that brought the action about, it becomes meaningful for us now and assumes an entirely new Dimension.

In what sense does it become meaningful for us now? As a pointer to our future development, as we said in (ii) above. It is of capital importance to realize, however, that a pointer is, by its very nature, generally indicative rather than specifically legislative. The "living Sunnah" of our early forefathers, therefore, while it has lessons for us as a genuine and successful interpretation of the Qur'an and the Prophetic activity for the early days of the Community, is, in its flesh and blood, absolutely irrepeatable, for history really never repeats itself so far as societies and their structures are concerned. There is only one sense in which our early history is repeatable—and, indeed, in that sense it must be repeated if we are to live as progressive Muslims at all, viz., just as those generations met their own situation adequately by freely interpreting the Qur'an and Sunnah of the Prophet—by emphasizing the ideal and the principles and re-embodiment them in a fresh texture of their own contemporary history—we must perform the same feat for ourselves, with our own effort, for our own contemporary history.

In one way, the following examples have been

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chosen somewhat at random in the sense that many more examples of the kind exist in books out of which only these happen to be given here. But these are as good as any others in illustrating the points outlined above and in establishing our thesis. In another sense, however, these examples are not altogether the results of random choice but have been largely determined by one major consideration which will become apparent to any careful reader. This is the fact that most of the examples have been chosen from 'Umar's legislation and decisions. The reason for this is not far to seek. It was in the time of 'Umar that, due to sudden and vast conquests, big sociological and political problems arose in Madinah itself and in the conquered lands. Sociologically speaking, perhaps the biggest problem was the presence of an immense increase in the numbers of slaves and slave-girls or, rather, bondsmen and bondswomen. The same element in the population, when gradually freed, became so powerful that it contributed directly to the subsequent overthrow of the Umayyad rule. While going through the Muwatta' of Malik one is impressed with the social legislation of 'Umar, especially with regard to the slave problem, and more especially with regard to the problem of the slave-girls. Secondly, therefore, many of these examples happen to be drawn from the Muwatta'.

## II

### SOME ILLUSTRATIONS

#### A—Law of War

(1) The practice of the Prophet had been that if a

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certain tribe did not surrender peacefully but was reduced after armed conflict, its lands were confiscated and distributed among the Muslim soldiers as part of the booty. This was probably an old law of war. But the Muslims accepted it as the Sunnah of the Prophet, as part of the mechanism of devastating the enemy and rewarding the Muslim fighter and, indeed, this law remained operative in the early small-scale conquests of the Muslims outside Arabia. When, however, Iraq (Sawad) and Egypt were conquered and added to the Muslim territory in 'Umar's time, he refused to distribute these massive territories among the Arab soldiers and dispossess the original inhabitants. There was solid opposition against 'Umar's stand even though he was not alone in holding this opinion but several other men of eminence agreed with him. The opposition hardened so much that a kind of crisis developed, but 'Umar remained firm and tried to argue his case on the ground that if Arab soldiers became land-settlers they would cease to be fighters, although his real considerations, as it subsequently turned out, were based on a keen sense of socio economic justice. One day 'Umar came upon the following verse of the Qur'an which, in a very general way, did support his view and in broad terms embodied his unshakeable faith in justice : ". . . And those who shall come after them shall say: O our Lord! Forgive us and those of our brethren who have preceded us In Faith..... Verily, Thou art kind, benevolent" (LIX: 10). This verse most decisively shows that he was motivated by fundamental considerations of socio-economic justice: he refused to concede the distribution of one whole country after another among the Muslim-Arab soldiery to the neglect of the world

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population and future generations.<sup>1</sup>

But this case reveals certain features of paramount importance in connection with the interpretation of the Qur'an and the Prophet's Sunnah. The Prophet had undoubtedly confiscated the territories that had fallen after a fight. This fact is historically so clear and firm that it is this kind of unambiguous pronouncement or behaviour that later legists term *muhkam* or *mansus*. The truth, however, is that this hard and fast distinction between *muhkam* and *mutashabih*, between *nass* and non-*nass* does not exist for the very early generations of Muslims. It is this type of case that has led Joseph Schacht to assert repeatedly in his *Origins of Muhammedan Jurisprudence* that in the early development of *Fiqh* the Qur'an is "introduced invariably at a secondary stage" (e.g. p. 224). This is an extraordinary statement to make. But it certainly points to something and this something is that the early generations were not bound by what later came to be called '*nass*' or the letter of the text. This case of 'Umar is a striking case of this kind. What 'Umar and those who agreed with him—and ultimately everyone had to agree—felt most strongly was that the Prophet was acting within a restricted milieu of tribes, that, therefore, you cannot carry on the same practice where vast territories and whole peoples are involved; otherwise you violate the very principles of justice for which the Prophet had been fighting all his life. One thing is certain: that although 'Umar obviously departed formally from the Sunnah of the Prophet on a major point, he did so in the interest of implementing the essence of the Prophet's Sunnah. Indeed, there are few men in history who have carried on the mission of the Prophet so creatively, so

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effectively and so well. But these are the choices and the decisions which every living society has to face almost incessantly but particularly at times when massive new factors enter into it.

### B—Criminal Law

(2) It is well known that 'Umar suspended the Hadd punishment for theft during a period of acute scarcity of food.

### C—Social Legislation

(3) 'Umar ordered, "Whatever slave-girl gives birth to a child from her master, can neither be sold by him nor given away as a gift nor left as a part of his inheritance. She belongs to her master during his lifetime (i.e. unless she is freed by him), but on his death will become automatically free."<sup>2</sup> We know that a "mother-of-the-child (umm. al-walad)", as a slave-girl who bore a child was called since early Islamic days, could be sold, given away as a gift and was, of course, on the death of her master, inherited during the lifetime of the Prophet—although this was an old custom of the Arabs, which the Prophet did not forbid because apparently it did not constitute a big social problem. In one respect, however, the slavegirl got a special concession in very early Islam— besides the overall improvement that occurred through Qur'anic legislation and moral exhortation with regard to slaves in general. This is that when she bore a child, she was called "umm al-walad" and, as such, given special treatment.

Not until 'Umar's time, however, was a legislative measure taken to ensure that the "mother-of-the-child" could neither be sold nor given away as gift nor yet

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could she be retained as a slave after the master was dead. At the latter's death, indeed, both she and her offspring must enjoy equal freedom. What had happened since the Prophet's days that a custom even backed by his own "silent" approval (*Sunnah sukuttiyah*) had to be legislated against? Obviously, something vitally Islamic was at stake and on closer examination we find that a big problem of social justice had been raised by certain new factors in the society. The great influx of slaves and slave-girls raised many problems. Especially acute was the problem of those slave-girls—whose number was very large—that bore children. If these were bought and sold and given away as gifts, what would be its effect on society? More especially, what would be its effect on children, on their morale and morals? These were the considerations that led 'Umar to put a ban on their sale and indeed, on their slavery after the master's death. So far as the master's life is concerned, since the woman has borne him children, he is assumed to show her great consideration by an almost physical necessity, as it were. 'Umar, therefore, curtailed the "rights" of slave-owning men and even went against a Sunnah in order to keep the bases of the Sunnah alive, strong and progressively prosperous.

For the traditional students of the Hadith-i.e. 'Ulama', the above-quoted measure of 'Umar is merely a Hadith, i.e. a report about a "saying of 'Umar". Since the genuinely historical reports are not studied with an eye on the historico-sociological background which would make them "live" before our own eyes, they are read as dead matter, shorn of any meaning for us now. May we request our 'Ulama to study these materials with the necessary and

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relevant background ? We feel certain that once this is done, the whole question of how the Qur'an and the Sunnah are to be interpreted will take on, a new meaning for the traditional students of the madrasah.

(3A) Malik holds<sup>3</sup> that if a man-slave contracts with his master to purchase his freedom on payment of instalments to his master but dies before completing the instalments, then, if such a "contractual slave (mukatab)" has left a "mother-of-the-child" and also children who are too weak to complete the instalments left over by their father and thus earn their own freedom as well as that of the "mother-of-the-child", then the "mother-of-the-child" must be sold in order to purchase the freedom for the children.

The really interesting feature of this comment of Malik is that it is not brought into relation with 'Umar's order banning the sale of the "mothers-of-children". Of course, the case Malik is discussing may be different from those covered by 'Umar's order; but Malik does not even mention 'Umar's order, discuss its relevance or otherwise to the case in point and mark out the latter's differential, etc. This is, indeed, a most fundamental and striking feature of our Fiqh, that its various parts and legal points and enunciations do not actually tie up with one another to make it a real well-knit system. That is why it has been aptly described as a "discussion on a Muslim's duties" rather than a legal system in the strict sense. Indeed, even a casual student cannot fail to notice this "atomicity" of Fiqh—the, in effect, intellectually unrelated development of almost all of its enunciations. Therefore, rather than being a system, it is a huge mass of atoms, each atom being a kind of a system in itself. Broadly speaking, therefore, Fiqh



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constitutes materials for a legal system but is not a legal system itself. We do not, however, deny that Fiqh isl is endowed with a sufficiently definite character which marks it out from other legal systems—this character being the result of its Islamicity—; what we deny is that it is a logically connected, intellectually worked out, and, therefore, a closely enough knit legal system.

(4) Connected with (3) above is 'Umar's decision that if a slave is grossly maltreated by his or her master, the state must intervene. Malik reports that 'Umar ordered the freeing of a slave-girl who had been tortured by her master.<sup>4</sup>

(5) 'Umar issued an order with the following statement: "How about men who cohabit with their slave-girls but then neglect them (and subsequently refuse to own children born of these slave-girls on the pretext that they were never sure where these girls had been visiting). For me it is sufficient ground that the master of a slave-girl should admit having cohabited with her that I should declare the child to be his. So either control your slave-girls or let them go."<sup>5</sup> Just consider the dimensions of the social evil arising from the non-recognition of children by anyone as their father—either the ostensible father or the real one. The problem, however, arose in the first place by the immense number of slave-girls who probably could not even be controlled by their masters. We now understand more fully the significance of (3)

Above, viz.'Umar's measure to declare slave-girls with children free and rehabilitate them in society.

### D—Law of Evidence

(6) A man came to 'Umar from Iraq and said: "I

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have come to you for something which has neither head nor tail (i.e. is as difficult to treat as a vicious circle)." "What is it?" inquired 'Umar. The man said: "In our country (Iraq) false evidence has become rampant." "Is this really so?" asked 'Umar and "yes" was the man's reply. Thereupon 'Umar said: "By God, none shall be imprisoned under Islam except on the evidence of unimpeachable witnesses."<sup>6</sup> The law of evidence in Islam, of course, lays down certain criteria of reliability of witnesses although these are rather formal. But what is of importance here is that an important part of the procedural law is being given a fresh meaning because of the new situational context that had arisen. It may be objected that this report of Malik may not be able to stand the test of strict historical criticism for, to begin with, we do not know who this "man" was that came from Iraq and complained to 'Umar. But our point about the fresh interpretation of laws and investing these with new emphasis and even new meaning in the light of the changing sociological situation remains perfectly valid whether or not the story itself is true and, if true, whether it is true about 'Umar or about somebody else.

(7) A slave who, under a contract, was allowed by his master to purchase his freedom by instalments was called a "mukatab (a slave contracted-for-freedom)". A man was thought to be under no legal compulsion to allow his slave to purchase freedom but this was undoubtedly encouraged by state policies. Actually, the words of the Qur'an, "And contract them (the Slaves) for freedom, if you think they are any good" (XXIV: 33) hardly admit of any doubt as to the uncompromising intention of the Qur'an to free slaves

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and abolish slavery. But with the influx of a large number of slaves—under the war ethics of those days — the- intention of the Qur'an could not be immediately carried out and subsequently this became one of those major points on which the Qur'anic ideals were thwarted by the Community at large. The words of the Qur'an, "If you think they are any good" are not a restriction on freeing of slaves. All that they mean is that if a slave cannot earn to purchase his freedom then he cannot be expected to stand on his own feet, when set free and even when set free; he will be a slave.

Once, however, a slave had contracted for freedom, the question arose whether a slave, on showing good cause, could pay all his instalments at once—if he could earn so much and hence offered to do so—and free himself without going through the entire period of the instalments. Malik says: "Furafisah [Porphyrius (?) —apparently a Graeco-Syrian name] Ibn 'Umayr, the Hanaite (this has no reference to the famous school of Islamic law but to a tribe) had a mukatab who proposed to the former that he accept from the latter all the sums of the mukatabah-contract at once (because the slave had grounds for getting freedom early). Furafisah refused the offer. The mukatab came to the Umawi Marwan, then governor of Madinah, and petitioned to him. Marwan called Furafisah and asked him to accept the offer but the latter refused again. Marwan then ordered that the contract money should be taken from the slave and put in the public treasury, while to the slave he said: 'Go! You are a free man.' When Furafisah saw this, he took the money."<sup>7</sup> Commenting upon this Malik says: "Therefore, our established practice (al-amr; we have

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pointed out before, however, that Malik uses the terms 'al-amr', 'al-'amal', 'al-sunnah', and 'al-amr al-mujtama' 'alayhi' as equivalent terms for the practice or Sunnah at Madinah) is that when his special circumstances enable a mukatab to pay up all his dues, even before they are due, it is permitted to him to do so and his master may not refuse

We have cited this case in order to make two points. First, along with the previously cited examples, it brings out clearly the measure's that were taken by the state-authorities to enfranchise the slaves. Secondly, this illustration forces vividly upon our attention the fact, oft-repeated previously, that Sunnah, i.e., the living practice of the Community, is not just the work of the Prophet as the post-Shafi Fiqh-doctrine claims, but is the result of the progressive thought—and decision-making activity of the Muslims. Here Marwan Ibn al-Hakam's decision is part of the practice or Sunnah according to Malik. Exactly the same is true of the concept of Sunnah in al-Awza'i, the younger contemporary of Malik in Syria. The 'Iraqi school started with the same living tradition but gradually exhibited greater freedom in legal ratiocination and depended less on actual decisions taken in the past. About the middle of the second century, however, this free thought began more and more to take the form of traditions (Hadith). But the 'Iraqi Hadth is, at bottom, no less regional than the Medinese Sunnah or the "practice" of al-Awza'i.

### III

#### GENERAL CONCLUSION

The illustrations given above—and a host of other

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examples many of which we have not given and some of which we have provided in the previous chapters — demonstrate beyond any shadow of doubt that our earliest generations looked upon the teaching of the Qur'an and the Sunnah of the Holy Prophet not as something static but essentially as something that moves through different social forms and moves creatively. Islam is the name of certain norms and ideals which are to be progressively realized through different social phenomena and set-ups. Indeed, Islam, understood properly, ever seeks new and fresh forms for self-realization and finds these forms. Social institutions are one of the most important sectors of the Islamic activity and expression. Social institutions, therefore, must become proper vehicles for the carriage and dispensation of Islamic values—of social justice and creativity, etc. This is the clear lesson that we learn from the early development of the Sunnah.

We do not wish to be misunderstood. We especially and carefully reject that vagrant attitude of empty liberalism or negative spiritualism that seeks to drive a wedge between the form and the essence and says that what matters is the essence and that the form is at best its cumbersome companion. We say that the form and the essence are coevals, inter-dependent and each necessary and desirable. But we know that even forms have a way of changing and yet remaining the same. What is injurious to a living faith and a living society is not forms but formalism. 'Umar changed the form of the Prophet's Sunnah of War in certain fundamental aspects and yet that very Prophet's Sunnah was all the more prosperous because of this change. The Muslims, indeed, changed the

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Qur'anic law of evidence and, instead of insisting on two witnesses, began deciding cases on the basis of one witness and an oath. They knew that what the Qur'an was after was to establish justice and not two witnesses. If now we can have a recorded self-confession (provided its authenticity is otherwise established beyond doubt) may we not even dispense with conventional modes of evidence in a given case?

But these examples are vital and potent enough to raise other and much bigger issues to which we must give constructive and decisive replies. In the world, as it stands constituted today, is it or is it not among our paramount duties to create the best moral and material conditions for the coming generations? If it is, can we honestly allow the reckless multiplication of population whom we can neither properly nourish nor educate? Does it make good Islamic sense? And if it is the absolutely inalienable 'right' of a Muslim to procreate in season and out of season, can we accept the alternate but desperate course of strict regimentation of labour? The first course is easier, but if not adopted today, tomorrow the choice will no longer be ours and the other alternative will simply impose itself upon us. Again, if we adopt the first course, how much rising of the standard of living do we want before relaxing controls, is another question. But all these are problems that must be answered now; and they must be answered from the depths of the Islamic conscience, not from mimicry of the past. If the right and successful answer emerges now from the Islamic conscience, therein shall live the Sunnah of the Prophet.

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### NOTES

1. Abu Yusuf, K. al-Kharaj. Cairo. 1302 A.H., p. 20.
2. Malik, al-Muwatta', Cairo. 1370/1951, II: 776.
3. Ibid., p. 798.
4. Ibid., p. 776.
5. Ibid., pp. 742-3; passage translated here is at the top of Page743.
6. Ibid., p. 720.
7. Ibid., p. 800.

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