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## CONTENTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Preface</td>
<td>v-vi</td>
</tr>
<tr>
<td>Foreword</td>
<td>vii-x</td>
</tr>
<tr>
<td>1. Concepts Sunnah, Ijtihād and Ijmā‘ in the Early Period</td>
<td>1-26</td>
</tr>
<tr>
<td>2. Sunnah and Ḥadīth</td>
<td>27-84</td>
</tr>
<tr>
<td>3. Post-Formative Developments in Islam</td>
<td>85-147</td>
</tr>
<tr>
<td>4. Ijtihād in the Later Centuries</td>
<td>149-174</td>
</tr>
<tr>
<td>5. Social Change and Early Sunnah</td>
<td>175-191</td>
</tr>
<tr>
<td>Bibliography</td>
<td>193-195</td>
</tr>
<tr>
<td>Index</td>
<td>197-208</td>
</tr>
</tbody>
</table>
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, Ijtihād 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 Qurʾān, the Sunnah, Ijtihād, Ijmāʿ 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.
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 *Ijmā'*, needs a full historical treatment, especially in relation to the concept of Sunnah. For example what was the actual state of the principle of *Ijmā'* 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 done, 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'ān tells us—God is in intimate touch with history.

*Karachi*:

FAZLUR RAHMAN

6th December, 1964.

vi
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 honourable 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 theendeavour 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-
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 sub-continent was no exception. The lamp lit by Shāh Waliy Allāh 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'ān 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 organisation and national development. This
FOREWORD

is exactly what the members of the Institute are endeavouring 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 *Ijtihād*, the only pre-requisite for recapturing the pristine glory of Islam and for ensuring an honourable 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.
ISLAMIC METHODOLOGY
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 Encyclopaedia 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 $\theta h$, $dh$, $gh$, $kh$, $sh$, $th$, 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 Encyclopaedia, tā marbūṭah 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 hā-yi mukhtafī, which should not be dispensed with.

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

Karachi: A. S. BAZMEE ANSARI, 9th December, 1964. General Editor
CONCEPTS SUNNAH, IJTIHĀD AND IJMĀ’ 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 behaviour whether instanced once or often. And since, strictly speaking, the behaviour in question is that of conscious agents who can “own” their acts, a sunnah is not just a law of behaviour (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
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 practised 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 ab initio 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 fulfilment 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 Sunnah as "ṣawwara (al-shay'a)", i.e., to fashion a thing or produce it as a model. Next, it is applied to behaviour which is considered a model. Here (and this is the sense relevant to us here) Sunnah would be best translated by "he set an example". It is in this sense that Abu Yusuf admonishes Hārūn al-Raʃīdidesee his Kitāb al-Kharāj, the chapter on Šadaqāt) asking the
SUNNAH, IJTIHĀD AND IJMA'

Caliph "to introduce (as distinguished from 'to follow') some good sunnahs".¹ In the same passage, Abū Yūsuf quotes the Ḥadīth, 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 Līsān al-ʿArab, 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 behaviour as being exemplary for me then, in so far as I follow this example successfully, my behaviour 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 "sanān al-ṭarīq" is used which means "the path straight ahead" or "the path without deviation".² The prevalent view that in its primary sense sunnah means "the trodden path" is not supported by any unique evidence,³ 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
between extremes” of the “middle way”. In his letter to ʿUthmān al-Batti, Abu ʿAbd Allāh al-Ḥanīfah, while explaining his position with regard to a sinful Muslim, against the Kharijite extremism, describes his own view as that of Ahl al-adl wa’l-Sunnah, 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 (‘adl = 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.”

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
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*. 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 *Ijtihād*, 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".

5
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
SUNNAH, IJTIHĀD AND IJMA’

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. 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 of Ḥasan al-฿asrī written to 'Abd al-Malik b. Marwān (65-85 A. H.). There, Ḥasan 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-Ḥāshimi poet of the first and early second century of the Hijrah, al-Kumayt, says in one of his famous poems:

"بَأِيَ كَتَابٍ أَوْ بَأِيَ سَنَةٍ
تَرَى حَجَمَهُ عَارًا عَلَى وَقُسُم؟"
"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 Banū Hāšim 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 Madīnah," 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 Abū Ḥanīfah's letter mentioned above—after the conflict of the theological opinion. The Qaṣīdah in which the word occurs is said by the author of al-Aghānī to be among the earliest compositions of al-Kumayt and was, therefore, probably written circa 100 A.H. or even before. 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 Shī'ah theological complication into the word "sunnah" for the poet is not an extreme dogmatic Shī'ah and explicitly says in one place that he neither rejects Abī Bakr and 'Umar nor calls them Kāfir.

In his Kitāb al-Kharāj, Abū 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". 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
Arabic and Arabic literature. It goes without saying that the Qur'ān was taught as the nucleus of the new Teaching. But the Qur'ān is obviously not intelligible purely by itself—strictly situational as its revelations are. It would be utterly irrational to suppose that the Qur'ān 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'ānic 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'ān 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'ān itself which assigns a unique status to the Prophet whom it charges with a "heavy responsibility"" and whom it invariably represents as being excessively conscious of this responsibility.¹³

V

There was, therefore, undoubtedly the Sunnah of the Prophet. But what was its content and its character? Was it something absolutely specific laying
down once and for all the details of rules about all spheres of human life as Medieval Muslim Hadith-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 behaviour of the community vis-à-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 behaviour 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
mystic. The Qur'ān 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'ān and the Sunnah, we have on our side Shāh Wāliy Allāh of Dihlī and a historian like Ibn Khaldūn.

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 à 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'ān had to intervene. 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 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
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 behaviour of the Prophet, religious authority and democracy were blended with a finesse that defies description."18

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 Ḥasan al-Baṣrī mentioned previously is a glaring instance of this. In this letter, Ḥasan tells 'Abd al-Malik b. Marwān that although there is no Ḥadīth from the Prophet in favour 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 behaviour that the doctrine of predetermination contradicts the Prophet's implicit teaching. This passage of Ḥasan 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 ijtihād and ijmā' are its necessary complements and forward reaches in which this Sunnah is progressively fulfilled.
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' 'alayh) 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-Sunnatu)". 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 shuf'ah, 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 shuf'ah, "Is there any Sunnah concerning it?", whereupon Ibn al-Musayvib said, "yes; shuf'ah 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 shuf'ah?" Whereas in the one case it does mean "the practice" or "estab-
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 Mālik quotes no Hadīth, 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 shuf'ah conjointly imply is that Sunnah in sense (1)—an exemplary precedent, becomes, in Mālik'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 behaviour by the early generations of Muslims was responsible personal free-thought activity. This rational thinking, called "Ra'\text{'}y" or "personal considered opinion" produced an immense wealth of legal, religious and moral ideas during the
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-Muqaffa' (d. 140 A.H.) declared that there was no agreed-upon Sunnah of the Prophet and advised the Caliph to exercise his own Ijtihād. 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 "Qiyās". 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 "Ijmā'" 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 Qiyās; the Ijmā' 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 Ijmā' or Sunnah in sense (2) on the other, there lies the inevitable activity of Qiyās or Ijtihād. Malik, in his Muwaṭṭa', fills
continuous paragraphs by his own Ijtihād despite his ceaseless invocation of the "general practice at Madinah". But there is perhaps nothing more revealing of the Ijtihād 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 Ḥadīth (the role of which shall be portrayed in the next chapter) than the Kitāb al-Siyar al-Kabīr of Muḥammad al-Shaybānī, the younger of the two illustrious pupils of Abū Ḥanīfah. Al-Shaybānī died in 189 A.H., and his great commentator al-Sarakhsi (d. 483 A.H.) tells us\(^{18}\) that this work is the last one written by al-Shaybānī. The bulk of the book consists of al-Shaybānī's own Ijtihād, arising out of his criticism of early opinion. Quite apart from Qiyās, i.e., analogical reasoning, al-Shaybānī has often recourse to Istihsān in opposition to earlier precedents and exercises absolute reasoning.

The number of Ḥadīths from the Prophet quoted by al-Shaybānī is, indeed, extremely small. He quotes Ḥadīths frequently from the Companions and still more frequently from the "Successors" (Tābi‘ūn—the generation after the Companions). 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) Abū'ul Dardā'," says al-Shaybānī, "that he said that there
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, Abū' l-Dardā' 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.”

In connection with this, al-Shaybānī says, “We accept on this point the Ḥadīth of the 'Successor' Makhūl (d. circa 114 A.H.). A (Muslim) man slaughtered a camel in the territory of the Byzantines and invited others to share it. Makhūl said to someone from the Ghassānids: '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 ghanīmah)'. Makhūl said, 'There is no plunder in what is permissible (i.e. food is allowed to be eaten)'.

Al-Shaybānī goes on, ‘It is also related from Makhūl 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 good, 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 māl al-ghanīmah, for, by mere transportation the essence of a thing is not transformed. Makhūl regarded the fact of transportation as having become a constitutive quality of a thing—like a craft'.”

Al-Shaybānī, after this criticism, proceeds to confirm
Makahil's *ijtihad* 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. *Ijmā'*. 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. *Ijmā'*. Thus, we see that the *Sunnah* and the *Ijmā'* literally merge into one another and are, in actual fact, *materially* identical. Even later, in the post-Shafi'i 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 al-Ṣahābah*. But where *Sunnah* ceases, *Ijmā'* takes over. Thus, the agreement of the Companions is both *Sunnat al-Ṣahābah* and *Ijmā' al-Ṣahābah*. This in itself was not a harmful
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-Shaf'i 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 Ijtihād, 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'ān; the Qur'ān does not decide upon the Sunnah".


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. Mālik (Muwaṭṭa', the chapter "al-Yamīn ma' al-Shāhid") confirms this established practice which had most probably arisen out of the exigencies of the judicial procedure. Mālik also quotes a Ḥadīth in this connexion but ultimately relies on the established practice.

An important feature of this Sunnah-Ijmā' phenomenon must be noticed at this stage. It is that this informal Ijmā' did not rule out differences of opinion. Not only was this Ijmā' regional—the Sunnah-Ijmā' of Madīnah, 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 Ijmā' 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 Ijmā' or a common public opinion was utterly democratic in its temper. But at this juncture also a powerful movement had gained
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-Muqaffa' had advised the 'Abbāsid Caliph to impose his own decision in the absence of a universal agreement. This movement for uniformity, impatient with the slow-moving but democratic Ijmā'—process, recommended the substitution of the Ḥadīth for the twin principles of Ijtihād and Ijmā' 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 Ḥadīth itself began to be created.

X

The mass-scale Ḥadīth 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-Shāfī‘ī 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 Ijmā' 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 Ijmā' were quite unacceptable; that, apart from
certain basic facts, like the number of prayers, etc., in fact not *Ijmā'* 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. He non-committally states the opponents' view—and on occasions only reluctantly allows it, viz. that the early Caliphs, especially Abū 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. Actually, this argument of al-Shāfī'i'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 behaviour 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 Ḥadīth—beset with dangers of lack of verifiability—was not needed to support this *Sunnah*. This argument was disallowed resolutely by al-Shāfī'i. The argument about the public appeals of the Caliphs seems to be an artifice introduced by the *Ahl al-Ijmā'* as a defence against the *Ahl al-Ḥadīth*, and the proof of its artificial character is al-Shāfī'i's scepticism towards it. But the larger argument had a great potentiality and apparently much truth. What weakened it in the eyes of al-Shāfī'i, however, was the differences of opinion prevailing among the schools. "You do not possess
agreement (ijmā'ī) but disagreement (iftirāq)". He insistently pointed out.

It is clear that al-Shāfi'i's notion of Ijmā' was radically different from that of the early schools. His idea of Ijmā' 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 Ijmā' exhibited by the early schools was very different. For them, Ijmā' 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 Ijtihād, they contended, and progressively the area of agreement would widen; the remaining questions must be turned over to fresh Ijtihād or Qiyās so that a new Ijmā' could be arrived at. But it is precisely the living and organic relationship between Ijtihād and Ijmā' that was severed in the successful formulation of al-Shāfi'i. The place of the living Sunnah-Ijtihād-Ijmā' 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 Ḥadīth. The next place he assigns to the Sunnah of the Companions, especially of the first four Caliphs. In the third place he puts Ijmā' and, lastly, he accepts Ijtihād.

Thus, by reversing the natural order, Ijtihād-Ijmā' into Ijmā'-Ijtihād, their organic relationship was
severed. *Ijmā',* instead of being a process and something forward-looking,—coming at the end of free *Ijtihād*—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-Shāfi‘ī’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 Ṣūfism.

NOTES

1. Khalid b. ‘Atabah al-Hudhali says (*Tāj al-‘Arūs*, s.v.):
   ولَا تَهيِض عَنْ سَنَةٍ أَنْتَ سَرْتِهَا فَأُولٌ رَأًى سَنَةً مِّنْ يَسِيرَهَا
   “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. *Tāj al-‘Arūs* 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 *Kitāb al-ʿĀlim 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.

8. This letter was published by H. Ritter in Der Islam. Band, XXI, 67 ff.
10. Ḥāshimiyyat, poem no. 8, verse i ff.
12. Qur'an, LXXIII: 5.
14. E.g. Qur'an, IV: 64.
15. For times of prayers, see the Muwat'ta of Mālik. Ḥadīth no. 1: "...Umar ibn 'Abd al-'Aziz one day delayed a prayer. 'Urwah ibn al-Zubayr entered upon him and informed him that al-Mughirah ibn Shu'bah, while in Kufah, once delayed a prayer, but Abu Mas'ūd al-Anṣārī came to him and said: 'What is this, O Mughirah! 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'ūd al-Anṣārī in the habit of relating from his father.'"

Henceforward, whenever prayers are emphasized in the Ḥadīth, the word 'Ṣalāh' is almost invariably accompanied by the phrase "'alā miqātihi-[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.
19. Ibid., II : 260.
20. Ibid., II : 259.
22. Ibid., VII : 242, 246.
23. Ibid., VII : 242, etc.
24. See especially ibid., VII : 255, 8 lines from the bottom ff.
25. Especially ibid., 246, line 15.
SUNNAH AND ḤADĪTH

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 Ḥadīth— 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 Ḥadīth.

Abū Yusuf, in his al-Radd 'alā Siyar al Awza‘ī, states the view of Abū Ḥanīfah that if a person in a non-Muslim territory becomes a Muslim, leaves his home and joins the Muslims, then in case this
 territory falls to Muslim arms, the property of this person will not be simply returned to him but will be included in the *māl al-ghanīmah*. The Syrian al-Awza‘ī rejects Abū Ḥanīfah’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 Abū Yūsuf, al-Awza‘ī said, “The person most worthy of being followed and whose *Sunnah* is most deserving of being adhered to is the Prophet.” Abū Yūsuf, defending Abū Ḥanīfah, says that the practice of Muslims has been on Abū Ḥanīfah’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].” Abū Yūsuf then points out that the “Prophet’s *Sunnah*” with the tribe of Hawāzin, had been still different. After their defeat, the Banū Hawāzin 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 Banū Hawāzin were returned.\(^1\)

The first point to be noticed in the above account is al-Awza‘ī’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 Abū Yūsuf in the above
account. Abū Yūsuf 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 Abū Yūsuf and, therefore, does not constitute Sunnah for him; for al-Awzā‘ī, 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 Abū Yūsuf in his second statement where he speaks of the “Sunnah of the Prophet” with regard to the Banū Hawāzin. This case too Abū Yūsuf 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.

Abū Ḥanīfah considers undesirable the selling and buying of slaves captured in the enemy territory before they are brought to the land of the Muslims. On this al-Awzā‘ī comments, “The Muslims have always been buying and selling war-captives in the Dār al-Ḥarb. 
No two (Muslims) have ever disagreed upon this point until the murder of (the Caliph) al-Walid,” Abū Yūsuf comments, “Judgment regarding what is lawful and what is unlawful cannot be based upon such statements as ‘People have always been practising such and such.’ For, much of what people have always been practising is unlawful and should not be practised. . . . 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.”

Again, criticizing the Sunnah-concept of the Hijāzī lawyers, Abū Yusuf writes, “The lawyers of Hijāz 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 (‘āmil al-sūq) or a tax-collector in an outlying district.” Certain points clearly emerge from these discussions and arguments and counter-arguments. First, the Sunnah-concept as used by early lawyers, including al-Awzā’ī, 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-Awzā’ī constantly speaks of the ‘practice of the Muslims,’ ‘of the political (and military) leaders of the Muslims (a’immat al-Muslimin)’ and ‘of the consonance of the learned’ as synonymous terms just as Mālik 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 Ijmā’ of
the Community and includes the *ijtihād* of the 'ulamā' 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 *Ijtihād* and *Ijmā'—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 Abū Yūsuf 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 ḤADĪTH

That Ḥadīth from the Prophet must have existed from the very beginning of Islam is a fact which may not reasonably be doubted. Indeed, during the lifetime 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.
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‘án 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
SUNNAH AND ḤADĪTH
devolve into a formal discipline.

It appears that the activity of the Ḥadīth 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 Ḥadīth transmitters saw their task as consisting of reporting, with the purpose of promoting legal fixity and permanence. Although the exact relationship between the lawyers and the transmitters of the Ḥadīth 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 Ḥadīth did not go back to the Prophet, due to the natural paucity of the Prophetic Ḥadīth, 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 Ḥadīth movement, as though through an inner necessity imposed by its very purpose, tended to project the Ḥadīth 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
have briefly outlined the rôle of al-Shāfī’ī in this process in the previous chapter. Al-Shāfī’ī constantly accuses the lawyers of “not transmitting the Hadīth” and of not making use in law, “of the little (Hadīth) you transmit”. Such criticisms are made by al-Shāfī’ī especially against the Ḥijāzīs but are equally turned against the Iraqians.

By the middle of the second century, the Hadīth movement had become fairly advanced and although most Hadīth 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 Hadīth was interpreted and treated with great freedom. In the last chapter we adduced evidence from Mālik who often upholds the practice of al-Madinah against the Hadīth 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 Hadīth produced by al-Awzā’ī 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” Hadīth by which he does not mean, as was done later, a Hadīth which has only one chain of narrators but a Hadīth which stands alone as a kind of exception to the general Sunnah. For instance, Abu Ḥanīfah holds that a person who provides two horses for the Jihād is entitled to draw booty share for only one. Al-Awzā’ī, on the other hand, allows both horses to claim shares
and bases himself both on Ḥadīṯ and practice, saying, “This is a Ḥadīṯ well known to scholars and on which the political leaders have acted.” Presumably, this was the administrative practice in Syria. Abū Yūṣuf 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 Ḥadīṯ we regard as being solitary and do not consider valid. As for al-Awzā’ī’s statement that this has been the practice of the political leaders and the view of scholars, this is just like the people of Ḥijāz who keep asserting ‘This is the established Sunnah’. This cannot be accepted as authoritative from ignorant people. Which political leader has practised it, and which scholar has accepted it? . . .”

In the same work, Abū Yūṣuf issues a general warning against uncritical acceptance of Ḥadīṯ: “Ḥadīṯ multiplies so much so that some Ḥadīths which are traced back through chains of transmission (ṣuyḥalṣarrāji) are not well known to legal experts, nor do they conform to the Qur’ān and the Sunnah. Beware of solitary Ḥadīths and keep close to the ‘collective spirit (al-jama‘ah)’ of Ḥadīṯ.” He adds: “Therefore, make the Qur’ān and the well-known Sunnah your guide and follow it.” Thus, Abū Yūṣuf establishes as the criterion of the “collective nature or spirit” of Ḥadīṯ 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-Jamā‘ah.) Abū Yūṣuf also quotes several Ḥadīths from the Prophet himself and from his Companions warning
against Ḥadīth and even in rejection of it. This anti-
Ḥadīth Ḥadīth must be, strictly historically speaking, 
a result of the phenomenon of Ḥadīth itself which is 
the logical condition for its emergence. But it is, 
indeed, highly probable that the anti-Ḥadīth Ḥadīth 
is prior to pro-Ḥadīth Ḥadīth. This lies in the very 
nature of the Ḥadīth process. Besides, whereas we 
find the former in Abū Yūsuf, the latter does not 
seem to occur until later, and even al-Shāfi‘ī, the 
great protagonist of Ḥadīth, produces two or three 
Ḥadīths only (which we shall discuss later) and bases 
his arguments for the acceptance of Ḥadīth, for the 
most part, on other materials—Qur’ānic and historical. 
But although Abū Yūsuf quotes several Ḥadīths from 
the Prophet about the forgery of Ḥadīth, he still does 
not know the famous Ḥadīth which later found a 
prominent place in the Sīhāḥ works and which says, 
“He who deliberately reports lies about me shall 
prepare his seat in the Fire.” This Ḥadīth 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 Abū Yūsuf’s cautions against 
the “multiplication of Ḥadīth,” a good deal of Ḥadīth 
had been, by his time, obviously projected back. For 
example, in his Kitāb al-Āthār a tradition is attributed 
once to ‘Ā’ishah, wife of the Prophet, and again to the 
Companion, Ibn Mas‘ūd saying, 

‘إن البلاء مؤكل بالكلام'

“Evil [or trouble (al-bala‘)] is a concomitant of 
dialectical theology (al-kalām).” Another Ḥadīth 
attributes a deterministic doctrine of dogmatic 
theology to the Prophet himself. The Companion,
Surāqah b. Mālik, asks the Prophet:

فَجَعَلْنَا لَنَا خَلَقًا لِهِ السَّاعَةِ لَنَشِئُ قَدْ جَرَت

به المقادير وَجَفَتْ بِهِ الْإِقْلَامُ أَمْ لَنَشِئُ نَسْتَقْبِلَ قَالَ:ُ بْلُ لَنَشِئُ قَد

جرت به المقادير وَجَفَتْ بِهِ الْإِقْلَامُ، قَالَ فَنَفَمْ الْعَمَلِ يَا رَسُولُ اللَّهِ

صلعم قَالَ أَعْمَلُوا فَكَلِمُ مِسْرًا لَمْ حَلَقَ قَالَ:ُ قَمْ تَرَا هَذِهِ الآيَةِ نَافَعًا مِن

اعطى وَ اتَّقِ وَ صِدِّقَ بالحسنى... (إلى آخر الآية).

“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 Surāqah, 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 Qurʾān, “As for him who gives generously, fears (God) and approves of good things, We make good easy for him.”

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 Hadīth as the one quoted here is a result. The verse of the Qurʾān quoted in this Hadīth is in un-concealed contradiction with the determinism preached in the Hadīth.

There is also a definite, though rudimentary, form of eschatological Hadīth implying the Second Advent of Jesus, although it is attributed not to the Prophet but to ‘Abd al-A‘lā described either as a qāḍī or as a story-
teller (*qāss*)—the latter being most probably correct. An instance of the political Hadīth is the following:

A man came to 'Ali and said:

ما رأيت احداً خيراً منك - قال له هل رأيت النبي صلعم - قال لا - قال فيه رأيت أبابكر وعمر رضى - قال لا - قال لو اخترتني انك رأيت النبي صلى الله عليه وسلم ضرب عنفك و لو اخترتني انك رأيت أبابكر وعمر رضي الله عنهما لا وعنتك عقوبة

"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." A moral legal Hadīth runs as follows:

The Prophet said to Abu Dharr:

يا ابا ذر الأولة امانة وهي يوم القيامة خري و ندامة الا من اخذها بحقها و ادى الذي عليه فيها.

"O Abu Dharr! public office (*al-imrah* or *al-imārah*) 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 fulfill the obligation (that it lays upon them)." Abu Yūsuf's fellow-legist, Muḥammad al-Shaybānī, says after narrating the same Hadīth that the Prophet added, "And how can he possibly do that? O Abu Dharr!"

III

THE ḤADĪTH MOVEMENT

The Hadīth materials continued to increase during the second century and the period represented above
constitutes a transition period in the development of both the literature and the status of the Prophetic Ḥadīth. Al-Awzā'ī regards the Ḥadīth 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. Mālik adduces Ḥadīth (not necessarily Prophetic Ḥadīth) to vindicate the Medinese Sunnah but regards the Sunnah in terms of actual importance, as being superior to the Ḥadīth. As for Abū Yūsuf and al-Shaybānī, very few of whose legal Ḥadīths go back to the Prophet at all, they interpret the Ḥadīth with a freedom whose instances we have seen above. The Iraqi school recognizes the supreme importance of the Prophetic Ḥadīth but the Ḥadīth, 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 ‘alā Siyar al-Awzā'ī on which Abū Yūsuf has recanted from Abū Ḥanīfah's position to that of al-Awzā'ī on the basis of Ḥadīth although he could have easily interpreted that Ḥadīth 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 Jihād 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. Abū Ḥanīfah thought it improper that
an animal should be treated preferentially in relation to a man,\textsuperscript{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.\textsuperscript{15} 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-Awzā'ī 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". Abū Yūsuf, who otherwise liberally interprets the Prophetic and other precedents throughout, gives up his master's view on the ground that al-Awzā'ī's position is supported by a tradition from the Prophet and from other Companions.\textsuperscript{16}

This case is obviously a clear indication of the increasing power of the Ḥadīth over against the living Sunnah whose very life-blood was free and progressive interpretation. It was against this background that al-Shāfi‘ī, the "Champion of Ḥadīth," carried out his successful campaign to substitute the Ḥadīth for the living Sunnah as briefly described in the previous chapter. We shall illustrate al-Shāfi‘ī's attitude to the Ḥadīth 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 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. Abū Ḥanīfah advocated a consistently stern policy on general grounds of strategy: such questions are con-
SUNNAH AND ḤADĪTH

cidered 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). 17 On all these matters, Abū Ḥanīfah recommends alternatives conducive to a successful issue in favour of Muslims and making for Muslim strength. The net result is an uncompromisingly stern policy. The only guiding principles of Abū Ḥanīfah seem to be those based on pure war strategy. On the first of the above-mentioned questions, where Abū Ḥanīfah seeks to support himself by a Qur'ānic verse, al-Awzā'ī who opposes Abū Ḥanīfah on all these points, adduces no Prophetic Ḥadīth but relies on injunctions reported to have been given by Abū Bakr to the troops, viz., that they should not destroy trees or animals. Abū Yūsuf, who takes the side of his master on all these issues and taunts al-Awzā'ī more than once with ignoring the interests of the Muslims, 18 controverts the story of Abū Bakr's instructions and seeks to support his view from the incident of the Muslim treatment of Banū Qurayzah.

Al-Shāfī'ī is questioned on the same point 19 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 Abū Bakr. Al-Shāfī'ī declares himself unequivocally in favour of destroying the enemy property, to the exclusion of the animals. He bases himself on the historical Ḥadīth
that the Prophet carried out wholesale destruction when the Muslims attacked Banū Naḍīr, Khaybar and al-Ṭāʾif and asserts that this is the Sunnah of the Prophet. Now, the fact is that with regard to the Jews of Banū Naḍīr and Khaybar, the Prophet had taken specially stern measures and historical facts render the conclusion inescapable that the past behaviour 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 Ḥadīth form which is, however, historically unacceptable for banishing of Jews is attributed by Ḥadīth to ‘Umar also.) As for al-Ṭāʾif, 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 Ḥanīfah and al-Shāfiʿi hold the same position, they do so for very different reasons. Whereas Abu Ḥanīfah’s real grounds are commonsense war strategy for which he seeks support in the Qurʾān, al-Shāfiʿi bases himself on literal Ḥadīth reports without taking the situational context into account. For al-Awzāʿī, like the Medineese, the practice of the Muslims is authoritatively indicative of the Prophetic Sunnah and they adduce no arguments from the Prophet’s campaigns against the Banū Naḍīr, Banū Qurayẓah, Khaybar or al-Ṭāʾif. On the question of killing the animals, however, al-Shāfiʿi takes up a position similar to that of al-Awzāʿī but again for very different reasons. Whereas the latter appeals to Abū Bakr’s instructions, al-Shāfiʿi has come to base himself on a Ḥadīth generally forbidding the killing
of animals except for food—a Hadith which, it is noteworthy, was not known to al-Awzā’i or to Abū Yusuf.

A second instance of this new trend represented by al-Shāfi‘ī may be seen in the case of the institution of the walīy or guardian in marriage. The institution of the walīy 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 walīy. ‘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-Shāfi‘ī that he and his colleagues uphold the walīy 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 walīy endows the marriage with a formal dignity which is not thought necessary in the case of a low-born woman. Al-Shāfi‘ī 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 honour 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." Al-Shāfi‘ī maintains that the Hadith must be accepted, no distinctions made and no questions raised about it. It will be seen that al-Shāfi‘ī's interpretation of the walīy institution is not so much in terms of dignity and honour but in those of protecting the woman from evil and a public guarantee of
ISLAMIC METHODOLOGY

genuine marriage. But although al-Shāfi‘ī has correctly analyzed the value (‘illat al-ḥukm), he, in fact, warns against this kind of rational activity and recommends a literal acceptance of Hadīth.

The Hadīth movement, which represents the new change in the religious structure of Islam as a discipline and whose milestone is al-Shāfi‘ī’s activity in law and legal Hadīth, demanded by its very nature that Hadīth should expand and that ever new Hadīth 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 Hadīth came into being but the following shall serve as illustrations of both the nature and the scope of Hadīth formation. It is well known and admitted by the classical traditionists 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 Hadīth, 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 Hadīth corpus is, in fact, nothing but
SUNNAH AND ḤADĪTH

the Sunnah-Ijtihād of the first generations of Muslims, an ijtihād 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 Ijmā', i.e. the adherence of the majority of the Community. In other words, the earlier living Sunnah was reflected in the mirror of the Ḥadīth 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, Ḥadīth 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 Ḥadīth by Abū Yūsuf. Some of these warnings are attributed to the Prophet himself and we have already remarked that it is highly probable that anti-Ḥadīth traditions originated before the pro-Ḥadīth traditions. The earliest extant account supporting Ḥadīth by a Ḥadīth is that of al-Shafi‘i. He quotes the following tradition:

"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:

45
working sincerely for God, active good-will for the Muslims and adhering to their majority for their mission (da'wah) will render them secure."^22 Another tradition quoted by him repeatedly is that the Prophet said:

"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.'"^23 Lastly, there is the tradition according to which the Prophet said:

"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."^24

The first of the above-mentioned three Ḥadīths is also adduced by al-Shāfi‘i as an argument for Ijmā‘ which we shall discuss below. Here we begin by enunciating a general principle, viz. that a Ḥadīth 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 traditionists themselves but has never been applied by them with the full rigour of strict historicity. While they reject absolutely specific predictions, viz.
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 Ḥadīth and, if so, how far. There is a type of prediction contained, e.g. in the Qur'ānic verse about the relative war-fortunes of the Persians and the Romans:

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 Ḥadīth involves directly or indirectly are not of this type. Indeed, I shall also show in the next section that the basic function of Ḥadīth was not so much history-writing but history-making and that contemporary phenomena were projected back in the form of Ḥadīth 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
Musaylimah and the rise of the Mu'tazilah, Khawārij, Shi'ah, etc.

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

التدريج مجوه هذه الابة

"The Qadarīs (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 Ḥadīths cited above from al-Shāfī'i supporting the phenomenon of Ḥadīth 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 Ḥadīth attributes to him is to insult his own Companions by calling them unintelligent, the Ḥadīth 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 Ḥadīth bear examination: it presupposes an acceptance of the Qur'ān and a wholesale rejection of the Sunnah, a complete divorce of the latter from the former which, as we pointed out also
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 Ḥadīth in question envisages a total rejection of the Sunnah in favour of the Qur'ān. It obviously arose in a later situation when the Ḥadīth 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-Kalām and the earlier schools of law. Thus, this Ḥadīth turns out to be blatantly predictive. As for al-Shāfi‘ī’s third Ḥadīth which says, “There is no harm in relating traditions from the Banū Isra‘īl; and relate traditions (also) from me but do not attribute to me traditions falsely,” its case is no better. With certain alterations, this Ḥadīth has also survived in al-Bukhārī’s Sahīḥ. 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 (quṣṣāṣ) 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. There is also a saying admonishing the Muslims to seek knowledge “not from popular preachers but from the fuqahā.” These endeavours to stem the tide of what came to be called “‘Isrā‘īly-yāt” were then sought to be countered by such Ḥadīths
as the present one. So much for the Hadith basis of Hadith. Let us now turn to Ijmā'.

Al-Shāfi'i has two Hadiths to quote to establish the validity of Ijmā'. His predecessors, of course, had the idea of Ijmā' but it seems to have been a natural growth. Even Abū Yusuf and al-Shaybānī who talk of sticking to the traditions and opinions of al-jamā'ah and al-'āmmah, do not bring in any Hadith, i.e. a verbal report from the Prophet to support Ijmā'. One Hadith of al-Shāfi'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:

"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-Shāfi'i's second Hadith runs:

"Umar gave a sermon in al-Jābiyah (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
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.' ...''

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:

"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." As we pointed out earlier in this section, this type of anti-Hadith 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.

But what about the two Hadiths quoted by al-Shafi'i to give a theoretical basis for Ijma'? The first
of these two Hadīths 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 Hadīth quoted by al-Šāfi‘ī, it is so manifestly predictive that this hardly needs to be pointed out. This Hadīth 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 Hadīth.

Al-Šāfi‘ī, immediately before quoting the Hadīth on Ijmā’, while defending Ijmā’, also states:

And 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-Šāfi‘ī, when Hadīth multiplies still further, this statement becomes a Hadīth and is attributed to the Prophet in the Sahīh of al-Tirmidhī by the change of the word “khata’” into “dalālah,”

ان انت لا تجتمع على ضلالة الانت لا يجمع انت على ضلالة لن يجمع انت الا على هدى

52
SUNNAH AND ḤADĪTH

and in the later centuries becomes very famous. Other formulations of this idea also come into existence such as the Ḥadīth, "God's hand is on the majority (al-jamā'ah)" etc. But, as we said just now, the Ijmā'-Ḥadīth 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 ḤADĪTH 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-Jamā'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 Aḥl al-Ḥadīth.

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

قَامَ فِي نَيَا رَسُولِ اللَّهِ صلى الله عليه وسلم مَثَالًا مَا تَرَكَ شَيْئًا يَكُون
في مَقَامِهِ ذَالِكَ إِلَى قِيَامِ السَّاعَةِ الاِحْدِثُ بِهِ حَفْظًا مِّن حَفْظِهِ وَاِنَّهُ
من نَسْيّةٍ تَدُ عُلْهُ اِسْحَابٍ هُوَالٌ، وَاِنَّهُ لَيْكُنَّ مِنْهُ الْشَّيْئَ ۚ قَالَهُ
فَأَخْرَجَهُ كَمَا يَذْكُرُ الرَّجُلُ وَجِهَ الرَّجُلِ اَُذِّ غَابَ عَنْهُ ثُمَّ اِذَا
رَأَهُ عَرَفَهُ (مُنْتَفِقٌ عَلَيْهِ)

"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 Ḥadīth is quoted by both al-Bukhārī and Muslim.31 According to Abu Dāwūd, Ḥudhayfah 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:

وَأَلَّهَ مَا أَدْرِي أَنْسَى اسْحَابِي اَمْ تَنَسَوُوا وَأَلَّهَ مَا تَرَكَ رَسُولٌ اللَّهُ
صُلِّي لَهُ عَلَيْهِ وَسَلِّمْ مِنْ قَائِدٍ فَتَنَأَّهُ إِلَى أنْ تَنْقَضَيْ الدُّنْيَا يَبِلْغَ مِنْ مَعَهُ
ثلَاةً فَصَادِعًا أَلَّا قَدْ سَأَهَا لَنَا بَاَسْمُهُ وَأَسْمَ اِبْنِهِ وَأَسْمَ قَبْلَتِهِ ۚ ۚ رَوَاهُ اِبْوِ دَاوُدَ (32

54
A typical Fitnah Hadith is the following one from Muslim and al-Bukhārī allegedly reported, again, by Ḥudhayfah:

"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! 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
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 no 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'-Hadith 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.
arising out of incessant civil wars; it hearkens especially to those incurable professional rebels, the Khārijites. And a peculiarly anti-Khārijī Ḥadīth is the following which, over against Khārijī rebellionism, teaches absolute passivity and isolationism, viz. that the Prophet said:

"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...

This Ḥadīth does nothing but to seek to counteract Khārijī activism and zest for political life. In fact, sometimes the isolationist Ḥadīth has gone so far as to annul the Ijmā' doctrine and to teach crass individualism. Thus the Prophet is reported to have advised 'Abd Allāh b. 'Amr b. al-'Āṣ:

"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."

It is noteworthy that the word which we have rendered as "public" is al-'āmmah which in early literature is an equivalent of al-jamā'ah as we shall presently explain.

Not, however, all Sunni Ḥadīth is anti-Khārijite.
There is, for example, a Ḥadīth quoted by Ibn Ḥanbal, Abū Dāwūd, al-Tirmidhī and Ibn Mājah in which a political doctrine has been incorporated which is originally unmistakably Khārijī. According to this Ḥadīth, the Prophet said:

"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."

In this Ḥadīth, the element of absolute obedience is anti-Khārijīte but the extension of rulership to a “black slave” is so unmistakably Khārijī that it hits the eye. For the Sunnīs had upheld that “rulers are from the Quraysh,” while the Shī‘ah had demanded that rulership must belong to a descendant of the House of ‘Alī. The Khārijītes 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-Jamā’ah have included in their doctrine certain elements from the right and certain others from the left wing, is not confined to this Ḥadīth 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 neces-
SUNNAH AND ḤADĪTH

sity, 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 Ḥanīfah'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-jamāʿah min al-Ḥadīth" (i.e. the Ḥadīth recognized by the majority or the collective nature of Ḥadīth) and "al-Sunnah al-ma'rūfah" used frequently by Abū Yūsuf 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 muʿmin or a Muslim and can a man continue to be regarded as a Muslim even if he commits a grave moral error? The Khārijītes not only declared such a person as a kāfīr but they attributed kufr also to those who did not declare such a person as a kāfīr, and further declared the necessity of Jihād 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 Khārijī uncompromising fanaticism was Murjiʿism, i.e. the doctrine—most probably favoured 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

59
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 Îmân—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 Hadîth is a typical Murji’ite Hadîth and is to be found in both al-Bukhârî and Muslim. The Companion, Abû Dharr, relates that the Prophet said:

ما من عبد قال لا اهله الا الله ثم مات على ذلك الا دخل الجنة

قال: و ان زنى و ان سرق ? قال : و ان زنى و ان سرق قلت : و ان

قال: و ان زنى و ان سرق ؟ على رغم انف ابي ذر. (متفق عليه)

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

In order partially to redress the moral shock which a sensitive person may experience at being told that
people may continue to be good Muslims "even though they should commit adultery and theft," a more compromising and refined view was put forward in a Hadith recorded by Abu Dawud and al-Tirmidhi, viz. that the Prophet said:

"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." 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 al-Maturidi and their successors—a catholic definition of Islam which silenced Kharijism and Mutazilism 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 behaviour and the definition of a Muslim) that shook the Community during the second and third centuries. But whereas the first challenge came from the Khawarij, the second came from the Mutazilah 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)
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:

"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."41 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,
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—Yazdān and Ahriman. Belief in freedom of the human will is, therefore, a form of Zoroastrianism. According to another Ḥadīth, the Prophet said:

لا تباشروا أهل التدرو لا تتفقواهم — (رواه أبو داود)

"Do not have social intercourse with the believers in the freedom of the will, nor take your cases to them for decision." 43 A Ḥadīth contained in Muslim and al-Bukhārī reports from the Prophet:

إن الله كتب على ابن آدم حظه من الزنا ادرك ذلك لا محالة
فзна العين النظر وذنا السان النطق والنفس تطبى وتتشبي والفرج
يدقي ذلك ويکذبه — (متفق عليه)

"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." 44 A number of Ḥadīths 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!" 45 The Prophet, in a Ḥadīth to be found in al-Bukhārī and Muslim, says:

ان خلق احدكم يجمع في بطنه عين يوماً نطفة ثم يكون
عليقة مثل ذلك ثم يكون مضغة مثل ذلك ثم يبعث الله اليه سلماً
باربع كتابات فكتب عمله واجله ورزته وشقي او سعيد ثم ينفع فيه
روح فوالذي لا الله غيره ان احدكم ليعمل بعمل اهل الجنة حتى
ما يكون بينه وبينها الا ذراع فسبق عليه الكتاب فيعمل بعمل اهل
الجنة فيدخلها — (متفق عليه)
"(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:

كل مولود يولد على الفطرة فابواه يهودانه او ينصرانه او يحسانه (إلى آخر الحديث)

"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,

"Do you think that amulets and medicines we use and precautionary measures (against illness, etc.) we take gainsay the Divine determinism?" 47 The Prophet replied "(No), they are themselves a part of Divine determinism." 48 To this category of Hadith also belongs the report that when 'Umar once ordered that the Muslim army be removed from a place struck
with plague, someone objected to his order saying,
أَتَأْرَى مِن قُدْرَةِ اللَّهُ؟

"Do you flee from the Decree of God?" Whereupon ‘Umar is said to have replied.
نَعِمَ، مِن قُدْرَةِ اللَّهِ إِلَى قُدْرَةِ اللَّهِ

"I flee from the Decree of God to the Decree of God." Despite this second type of Ḥadīth, however, which was to keep balance with the deterministic Ḥadīth, the latter exercised a preponderating effect on the Sunnī orthodoxy as distinguished from the Shi‘ah (who, in this respect, continued the Mu‘tazilah tradition). Later a number of influential voices arose within Sunnī Islam against the preponderance of determinism, and especially of the Śūfī 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-Śūfī Ḥadīth. This is not the place to go into details of the origins of Śūfism, 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 Śūfism, 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 Ḥadīth in connection
with internecine wars. But this type of Hadīth expresses not only a political attitude but also a definite spiritual character. Further, according to a Hadīth in al-Bukhārī, Kitāb al-Jihād, the Prophet is represented as recommending that one should go “into a mountain cavity (shīb), and leave people alone”.\footnote{48} That this Hadīth should occur in the Šāhiḥ of al-Bukhārī in the very chapter devoted to Jihād is a remarkable evidence both of the growing power of the Sūfī movement and the catholic spirit of the Ahl al-Sunnah. But there are also equally powerful and extremely interesting counter-Hadīths. The Hadīths strongly recommending the earning of livelihood (against the extreme interpretation of the Sūfī concept of Tawakkul) and condemning uncompromising indulgence in devotional piety are too well known to be documented in detail.\footnote{49} A pointed Hadīth in this connection declares Jihād to be the Islamic equivalent of monasticism:\footnote{50}

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

“Dear to me among (the things of) this world are women and scent; but my (true) enjoyment is in prayers.”\footnote{51} Each of these three individual elements of this Hadīth 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
that the Hadīth must have been directed against a target, and this target cannot be anything else but a Śāfīistic form of unintegrated 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 Hadīth, i.e. Hadīth 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 Hadīth—although, of course, a concept like that of Ijmā‘ is directly relevant as part of the framework of Muslim law also—because the specifically legal Hadīth does not so elucidate the crystallization of the orthodoxy as does the Fundamental Hadīth. But otherwise the legal Hadīth shares the character of the "Fundamental Hadīth" and exhibits the same development in that legal Hadīth, 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 Hadīth 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 Hadīth passed subsequently, point by point.

Take, e.g. the question of Ribā in Hadīth. (We are not discussing the question of interest in Islam as such but illustrating the problem of legal Hadīth.) There
are two things which the Qur'an makes clear about the Ribā institution: (i) that it was a system whereby the substantive sum or commodity was multiplied "several-fold" (Qur'an, III: 130), and, therefore, (ii) that it was opposed to fair commerce, even though those who indulged in Ribā tried to maintain that it was a form of commercial transaction (Qur'an, II: 275 ff.). The only description or definition of Ribā that the historical Ḥadīth gives is what corroborates the Qur'ānic 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. There is no other shred of historical evidence. But the purely legal Ḥadīth 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" Ḥadīth attributed to 'Umar saying that the Prophet did not explain what comes under Ribā and, therefore, in the spirit of caution one ought to enlarge the coverage of Ribā prohibition as much as possible. But despite the continuous attempt at systematization of legal thought on the matter, not only is this development fairly visible in the Ḥadīth, but there still remained blatant contradictions, e.g. on the question as to whether selling or animals on the basis of interest in kind is allowed or not—each view is supported by Ḥadīths. The oft-quoted Ḥadīth that commodities covered by Ribā must be exchanged "in equal amount and con-presently" is obviously contradicted by an equally famous Ḥadīth that Ribā is only on deferred payment and has no relevance to con-present exchange. This state of affairs apparently
SUNNAH AND ḤADĪTH

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 Ḥadīth.⁵⁶ We move far, indeed, from the Qur'ānic background and a general principle is put forward in the form of a Ḥadīth which states, "Every advantage that may accrue from the credit is interest".⁵⁷ 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 labour comes to be forbidden.⁵⁸

V

SUNNAH AND ḤADĪTH

We have, in the foregoing, analyzed "abjectively" and, in the eyes of those with strong traditionalist attitudes and sensibilities, ruthlessly (and perhaps also unfairly) some of the main lines of Ḥadīth. 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 Ḥadīth 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 Ḥadīth itself. Without any grounding either in scholarship or in insight, they sometimes tell us that the Ḥadīth is
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, where to 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 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
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 Ḥadīth, as distinguished from the historical and biographical Ḥadīth, 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 Ḥadīth 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 Ḥadīth", i.e. Ḥadīth concerned with the Islamic Methodology itself. If the Ḥadīth about the fundamental principles of Ijmā' and Ḥadīth themselves proves unhistorical, the prima facie case for the historicity of most other Ḥadīth is demolished. It must be noticed that we are saying "most other Ḥadīth" and not "all other Ḥadīth." But this difference between "most" and "all"—with the notable exception of Ḥadīth
about the *Farā'id*—is all but theoretical and is, at present at least, neither locatable nor definable: the credentials of each Ḥadīth must be separately examined on historical grounds. The second objection against us must be that we have not taken the Isnād—the guaranteeing chain of transmission—into account. Now, we do not underrate the importance of Isnād. Quite apart from the fact that Isnād gave rise to a vast and genuine biographical information literature—a unique Islamic achievement—it has certainly contributed to minimizing Ḥadīth forgery. Indeed, a vast number of forged Ḥadīths have been eliminated by the untiring activity of our traditionists on the basis of Isnād. But although Isnād 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 Ḥadīth in question was transmitted by 'B' to 'A'. But the most fatal objection to considering Isnād the positive final argument is that Isnād itself is a relatively late development originating around the turn of the first century. The professedly predictive Ḥadīths about political troubles in al-Bukhārī and Muslim have excellent Isnāds and yet we cannot accept them if we are historically honest.

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

> ما قول من قول حسن فانا قلته، ما جاءكم عنى من خبر قلته او لم اقله فانا اقوله وما أتاك من شرفاني لا قول الشره، إذا سمعتم الحديث عنى ترفص قلوبكم وتزين له اشعاركم وابشاركم وترهون أنه منكم صربت فانا اولاكم به وإذا سمعتم الحديث عنى تنكره قلوبكم وتنغر منه اشعاركم وابشاركم وترهون أنه بعيد منكم فانا ابعدكم منه.

> 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 Hadīth*, for political and legal *Hadīth* has obvious moral implications. Even the famous *Hadīth* according to which the Prophet said:

> من كتب على متعمدا فليبوا مقعده من النار

> "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 "*Hadīth* arousing pious feelings is not to be rejected." This principle is attributed by al-Nawawi [see his commentary on the *Ṣaḥīḥ* of Muslim, Karachi (n.d.)]
[Image 0x0 to 369x576] ISLAMIC METHODOLOGY

[Image 0x0 to 369x576] vol. I, p. 8] to the Karrāmiyah and he complains that many ignorant people and preachers have followed it. Even the famous Ḥadīth according to which Ḥadīth which is in consonance with the Qur'ān is to be accepted, does anything but argue for historicity. It must, therefore, be concluded that Ḥadīth represents the interpreted spirit of the Prophetic teaching—it represents the "living Sunnah".

(3) But if the Ḥadīth 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 Ḥadīth 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 Ḥadīth is nothing but a reflection in a verbal mode of this living Sunnah. The Prophet's Sunnah is, therefore, in the Ḥadīth 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 Ijtihād and Ijmā'. That is why innumerable differences existed in the living Sunnah. But this is exactly true of

74
**SUNNAH AND HADITH**

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, tried—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 fixation. 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
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 Ijmā', for example, is historically unacceptable. If we follow the voice, we should reject the doctrine of Ijmā'. But, can we? At this stage, however, the voice might say that Ijmā' can be grounded in the Qur'ān for the Book of God says:

"Cling together to the rope of God and do not disperse" (Qur'ān, III : 103). But although this is a command for unity, it is not exactly Ijmā', for Ijmā' is "unanimously arriving at a decision". If this verse had meant Ijmā', al-Shāfi‘ī and others would long ago
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 Ḥadīth which encourages the expression of a dissenting voice, and such Ḥadīth 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 Ḥadīth is, therefore, essentially synthetic. Further, when we test the *Ijma*-Ḥadīth 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 "*shūrā*" refers to this activity. And this catholic and synthetic character of Ḥadīth 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 Ḥadīth 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 Ḥadīth and their thorough reinterpretation under the changed moral and social conditions of today must be carried
out. This can be done only by a historical study of the Hadīth—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 Umayyads who advocated pure determinism, free-will had to be emphasized and this is precisely what Ḥasan al-Ṭabari and the early Mu'tazilah did. But when the Mu’tazilah humanism seemed to run riot and threatened the very bases of religion, Aḥmad b. Ḥanbal and his colleagues accentuated the Will and Power of God over against the Mu’tazilah rationalism. But this doctrine of Divine Power and determinism subsequently 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 Šūfis. The preponderant deterministic traditions in the works of Hadīth 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 Shari‘ah and claims of Šūfī 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 Hadīth. We must view the legal Hadīth as a problem to be re-treated and not as a ready-made law
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'ān, as stated above, brings out the real reason behind the prohibition of Ribā 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 Ḥadīth 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 Ribā by formulating a general principle that every loan which brings any advantage to the creditor is Ribā. In the same breath we are told that Ribā applies exclusively to the articles of food, gold and silver and beyond these it has no application. 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'ānic 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 interestless 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
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...
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, zakāt, 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 Ḥadīth, 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 Ḥadīth 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'ān) that we can interpret Ḥadīth. The purely Prophetic elements in technical Ḥadīth 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 Ḥadīth and are seeking to judge the latter partly in the light of the former (partly because there is also the Qur'ān) whereas the traditional picture is the other way round. But the traditional picture is already biased in favour of technical Ḥadīth; there is no intrinsic evidence for this claim and much intrinsic evidence that we have adduced is against it.
ISLAMIC METHODOLOGY

The alleged criticism of Muhammad ibn Ishâq, an early biographer of the Prophet, by Mâlik is probably itself a later traditionist view for we find Abu Yûsuf quoting from Ibn Ishâq.62

NOTES

2. Ibid., p. 76.
3. Ibid., p. 11.
4. Al-Shâfi‘î, Kitâb al-Umm. VII. 239. last line ; 240. line 5.
6. Ibid., p. 41.
7. Ibid., p. 31.
8. Ibid., p. 32.
9. Ibid., pp. 24-32.
10. Abu Yûsuf Âthâr (Cairo 1355 A. H.) Nos. 887, 889. It is possible that “al-Kalâm” originally meant just “talk” but by Abu Yûsuf’s time it had acquired a technical meaning.
11. Ibid., No. 581.
12. Ibid., No. 924.
13. Ibid., No. 947 and the footnote.
15. Ibid., footnote to p. 17.
16. Ibid., p. 21.
18. Ibid., 15, 85, etc.
20. Ibid., p. 212.
23. Ibid., pp. 403-4.
24. Ibid., pp. 397-8.
28. Abu Yûsuf, al-Radd, etc., p. 25.
SUNNAH AND HADITH

30. Al-Tirmidhī, Kitāb al-Fītan, No. 7.
32. Apud ibid., p. 463.
33. Apud ibid., p. 461.
34. Apud ibid., p. 462.
35. Apud ibid., p. 462.
40. Apud Mishkāt, p. 18; see also p. 17, the Hadīth from al-Bukhrāī 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.
49. e.g. Apud Mishkāt, p. 27; pp. 241-3; and several Hadīths in Kitāb al-Ilm, pp. 32-38.
50. Aḥmad b. Ḥanbal, Musnad, 3, 82, 266.
54. Apud Mishkāt, p. 245 (both Ḥadīths are given there); al-Bayhaqī, op. cit., pp. 287-8.
55. For the first view, see al-Bayhaqī, op. cit., ibid., pp. 280-81.
56. Apud Mishkāt, p. 246.
57. e.g., al-Bayhaqī, op. cit., p. 350, line 10 ff.
58. Ibid., p. 279, 15ff.
59. For the Mu‘tazilah see Al-Shāfī‘ī, Kitāb al-Umm, VII; p. 252, line 15. For the Khārījī acceptance of Sunnah, see e.g. al-Jāḥīz, al-Bayān, Cairo 1948, VII; 122, line 13, a speech by the Khārījī (Ibāḍī) leader, Abū Ḥamzah. The
ISLAMIC METHODOLOGY

Khārjis, indeed, even accepted Ḥadīth (see Ibn Qutaybah, Ta‘wil mukhtalif al-Ḥadīth, Cairo, 1326 A. H., p. 3.

60. See L. Caetani, Annali Dell' Islam, Introduction, section on Isnād. The beginnings of Isnād are generally attributed by Muslim authorities themselves to the Civil War (al-Fītnah), i.e. the murder of the Umayyad Caliph al-Walid. See also J. Schacht, Origins, etc., p. 36.


62. Abu Yusuf, al-Radd . . ., pp. 7, 12, etc.