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قسم مقارنة الأديان

Textual Criticism: A Comparative Study between the Methods of Joseph Schacht and Harald Motzki in the Study of *Ḥadīth*

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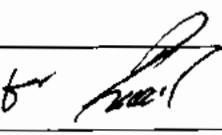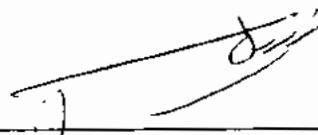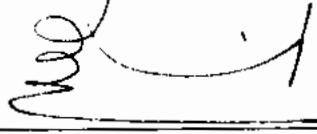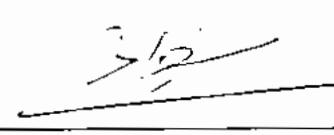
*In the name of Allah, Most Beneficent, Most Merciful*

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DEDICATION

The current work is dedicated to my Father Dr. Majid Akhtar and to Professor Emeritus Dr. Zafar Ishaq Ansari, (Allah's mercy be on their souls). It was my father's dream which he couldn't see materialize since he passed away six years ago. I have had the honor of remaining close by Dr. Ansari for the last five plus years and benefitting from his more than half a century long experience in the subject. He died on 24th April 2016 and I pray that his legacy lives.

May Allah grant them the highest station in Jannah!

Āmīn

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Preface

Western scholars look at the life and times of Prophet Muḥammad (peace be upon him) -- as represented in *Ḥadīth* or traditions-- differently from the Muslims and from each other, resulting in a wide spectrum of approaches on the subject. While some look at traditions as historical documents *per se*, many others start by proposing a certain context like that of *Fiqh* or Islamic jurisprudence and then try to fit them in that context. Consequently, historicity of *Ḥadīth* texts is seriously doubted predominantly by the latter group who view them differently from Muslims. Western scholarship also tries to re-evaluate itself from time to time, resulting in a development in approaches to *Ḥadīth*. Muslim scholars equipped with modern tools of research as well as being trained in traditional Islamic sciences have also studied the western approaches to *Ḥadīth*, usually critically. In principle, *Ḥadīth* or traditions represent Muslim historiography and when studied with an eye on history, the resultant discourse on *Ḥadīth* and *Fiqh* would be quite intricate and interesting for a researcher like the writer, who wanted to add a fresh perspective to his PhD thesis by selecting two of the most important western academicians on the subject of *Ḥadīth* and analyzing their approaches to the subject with a view on history.

The idea for the current study thus came to the writer's mind out of discussion on the above mentioned themes with one of his closest friends, Muhammad Modassir Ali who suggested that studying the approach of Harald Motzki on *Ḥadīth* would be the right choice there. Upon studying further, it was confirmed to the writer that his friend's suggestion would be quite intelligent a choice as a topic of study. However to add some temporal depth, the writer added Joseph Schacht's approach to *Ḥadīth* as a reference point for the

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study owing to his high stature in the modern western academia. Beyond this, the writer discussed the suggested topic with his colleague and friend Modassir Ali and another scholar, Dr. Nabil al-Fouli, in order to make it fit for study at the Department of Comparative Religion, IIUI. The writer also requested that it may be supervised by the most relevant scholar in the university, Dr. Zafar Ishaq Ansari, whose guidance would help towards making it a serious work. It was graciously accepted by him and the first instruction given was to learn German language. One year and a diploma in German from National University of Modern Languages, Islamabad later, the research was ready to commence. Here, all my teachers at NUML deserve my gratitude too.

I was then granted study leave from the IIUI and I started my work. Dr. Ansari suggested to me to consult Dr. Suhail Hasan on *Hadīth* related issues, and his help on most of the issues pertaining to *Hadīth* sciences deserves special note here. Since *Fiqh* is quite closely related to my subject of research and I was never an expert in it, I must also thank my best friend Dr. Tanveer Ahmad who has been the constant help for me with his valuable suggestions and providing me with relevant books which helped me understand the relation between *Hadīth* and *Fiqh* better. A lot of continual encouragement and help from Dr. Tahir Mansoori and Dr. Muhammad Munir also deserve to be thanked here. The current study also benefitted a lot from discussions on *Hadīth* with Dr. Fathur Rahman and my colleague Ruhul Amin among others.

The fact that western studies on *Hadīth* rely upon biblical criticism led me to discuss my work with Dr. Darakhshan Azam who also lent me more than a dozen books on hermeneutics, biblical criticism, and philosophy of history, which all helped me refine it. This added an aspect to my thesis-- the idea of history and its relation to *Hadīth*-- which

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Introduction

History is a network of events that have passed and if looked upon properly it can shed light upon all traditions human. Accurately observing that which happened at the intersection of a certain time and space requires one to be at the same time well-acquainted with these two dimensions that form its history and with portions adjacent to this intersection. In other words the events that comprise history in a certain time-space framework are intertwined with those that come before as well as those following them. At the sub-eventual level, one observes that every event is divisible into smaller intertwined events or details, one following another. One may also call these building blocks for events as micro-events since they are also events themselves. It is important to note here that the parts may not be visible individually and yet they give a certain set of features to what constitutes them. These events that constitute history are themselves there in history but hidden from our eyes as long as no initiative to understand them is undertaken.

All events happen at a certain place or a set of places which can be called their location or locations which define the geographical limits of a certain set of events. Where a certain battle started and to which locales it spread is most tightly intertwined with events of that battle. The importance of locations is so great that not only the events depend upon it but the way people recorded those events is also dependent upon where they went, taking with them their memories of them. After all it is they who met other people and conveyed their memories to others who conveyed them to subsequent generations till we may come to know of some of them. So, events may happen somewhere and may reach us from somewhere else.

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History has another very important dimension upon which the events are spread. It is the temporal one as mentioned above and it is what turns present into history as fast as the time passes and takes it farther from our grasp with every tick of the clock and if the people of the time when it happened- and those times that follow it till it reaches us- are not careful enough in preserving it, there is no reason to believe that it is any longer accessible to us, except if by chance. Here the people who supposedly preserved certain events till they reached us have a role to play and the temporal dimension of their own histories is also quite central to knowing the history that they had preserved.

Apart from the above two dimensions, another dimension of history is related to the psyche of the people whose history may be the subject of study and it includes the motives of the people who played in the events as well as those after them who preserved them. Some of these reporters were from the same locale as where the events happened while other outsiders may also have observed and reported them. Travelers like al-Bairūnī lived in India for a long time and the outcome is his book on the peoples of that region.[1] Regarding both types of people-insiders and outsiders- who reported about events one may well ask: with which viewpoint did they observe events and with which did they convey them to others till they reach us, and the answer to it is a deciding factor in history since the same event may be reported weakly, dishonestly or un-objectively and it may be reported quite accurately and with all the honesty humanly possible. Those people may have been honest but may not have had any sense of history and so missed many an event or couldn't preserve it in a way that it may reveal the event in its proper light.

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[1] Abu Raiḥān Al-Bairunī, *Taḥqīq mā li al-Hind,* (Hyderabad: Maṭba' Majlis Dā'irah al-Ma'ārif, 1958).

Those wanting to benefit from these documents thus need a corresponding sense of history in order to come up with useful conclusions about the history of a certain place and time. For example, knowing the context of an event is vital to knowing its history as well as understanding the psyche of the people via whom it reached us. These people had various vantage points and it is quite elementary to know them well in order to know history, as these days a panoramic photo is made by conjoining different views of the same object. Since the historical data available may have come from sources of various qualities- some reliable while others not so- to create balance between critique and accommodation should be the researcher's guiding principle and it comes to him when he considers everything available from the available historical data and uses his positively critical historical sense to study it till the events appear to materialize before his eyes. If he is non-critical he may mix the genuine with the spurious and if he is non-accommodative he is bound to miss many small pieces of textual evidence since they may seem unimportant to him and so irrelevant. Being positively critical also implies here simply that he should have the intention of knowing about history and not one of criticism *per se*.

Keeping the above in view it may seem quite grand and complicated a task-and at times an impossible one- to know of history beyond a few hundred years at best. It is because the above-mentioned three dimensions of history are to be searched for in historical documents and other remains alone. The remains like the archeological ones may shed light on some aspects of life in old times but usually miss many others, thus leaving room for speculation. Documents may be spurious or fabricated which is a very common flaw in most of them since their source would not be what they portray it to be, however those written knowingly and with a sense of history by people whose honesty and mental

state can be known reveal a lot more of history than the remains mentioned above if they fulfill one condition: Historical continuity of the path of transmission till it gets published. It is because the veracity of the source of such documents can be ascertained by critically studying the path by which it reaches us. Unfortunately it is one of the difficult aspects of any research on historical documents to be sure of the path by which they reach us, since many a times these paths are not even remotely complete.

Texts contained in historical documents fancy many historians for the treasure trove of information about the past that they carry and constitute subject matter for an in-depth study of their history in which variants of the texts are to be collected, their paths of transmission analysed, and the extent of their relation to the original author's text pointed out. Biblical criticism is an example of such a textual criticism that flourished in the west and saw its peak in the last few centuries. What it signifies is well put by one of the scholars in the field when he says:

> The work of textual criticism is to examine into the existing text and see, with the help of all the best aids at our disposal, whether the form of the words as they have been handed down to us are the *ipsissima verba* of the sacred scribes; and, if there are legitimate reasons to believe that the text has in the course of centuries undergone changes, to restore, if possible, the original readings. Textual criticism thus seeks either to confirm the traditional texts as the original one, or to restore the original where this is necessary. Being such in character, textual criticism is really not a theological discipline at all, but philological, critical and historical.[2]

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[2] George H. Schodde, "Old Testament Textual Criticism", *The Old Testament Student* 7, no. 2 (1887): 44, http://www.jstor.org/stable/3156784, (accessed: 07/10/2011).

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This noble aim of separating the chaff from the grain is not limited to Biblical studies but as it seems the Muslims had also it in their minds when they started to apply it to their own religious and historical texts as early as the first Islamic century. Not just the Qur'ān but also the traditions coming from the Prophet (peace be upon him) were held in the highest esteem by his Companions[3] and many of those who followed him till they were published in the form of *Ḥadīth* and *Sīrah* collections during the first three hundred years or so.[4] The will to filter the genuine from the fake has been an ever-developing science with the Muslim historians and scientists of *Ḥadīth* since then and their approach has been multi-tiered and critical from the time of Prophet's Companions to date as the current work finds. Unflinching loyalty of the first Muslims to the Prophet (peace be upon him) doesn't just show in their obedience to him but also in their efforts to ensure that nothing wrong was ascribed to him nor about. As it appears they had the realization that after them, the Prophet's way or his *Sunnah* may be lost or corrupted if practical steps to preserve it in its pristine form are not taken. Their first inspiration may have been Qur'ānic narrative of previous nations and how many of them caused their Messengers' teachings to be corrupted.[5] The Prophet's Companions had not stood by him through thick and thin to later on let his legacy go to waste, so it seems quite natural that they must have taken up the task to preserve it for the coming generations. This notwithstanding, they are found on different

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[3] Zafar Ishaq Ansari, "The Early Development of Islamic Fiqh in Kufah with Special Reference to the Works of Abu Yusuf and Shaybani" (doctoral thesis, McGill University: 1966), 373; Fu'ād Jabali, "A Study of the Companions of the Prophet: Geographical Distribution and Political Alignments," (doctoral thesis, McGill, 1999), 68; Moreover, one should notice the difference between the Catholic concept of Apostles and the Prophet Muḥammad's Companions. Paul, a contemporary of Jesus Christ, was his enemy as long as he lived among the people, and it was only later that Paul became a believer in him and then even the co-founder of Christianity and the spiritual head of the Catholics.

[4] Mustafa al-Sibā'ī, *Al-Sunnahh wa Makānatuh* (Cairo: Maktaba Dār al 'Arūba, 1961), 434-509.

[5] Qur'ān (4:46; 5:13, 41).

occasions to have been quite at ease in asking the Prophet for clarifications and giving their own opinion whenever they felt the need. This shows that they were apt students of the Prophet as well as being openly critical in their relations amongst themselves as well.

Going beyond these considerations, one may ask: How did it actually happen? Writings claimed by Muslims to be from the first and second centuries after the Prophet's migration or *Hijra* bear some clear indicators of their approach towards preserving his (peace be upon him) biography and teachings or his way. Practically, preservation of the *Sunnah* was a manifold process. Firstly, it is seen that the Companions intelligently documented traditions of the Prophet in their own little booklets and among the important Companions who are well known for such an activity are 'Abd Allah b. 'Amr b. al-'Āṣ, 'Alī b. abī Ṭālib, 'Abd Allah b. 'Abbās, Sa'd b. 'Ubāda, Samurah b. Jundub, and Jābir b. 'Abd Allah, as noted by Kamali.[6] Such an endeavor of the Companions that seems to have continued into the generation following them and the *Sunnah* can be expected to have survived till at least the time of their Successors, which entered into the second century A.H. Hammām b. Munabbih is such a Successor who documented 138 traditions from among those that he had heard from the Companion Abū Hurairā and duly transmitted them in a small leaflet or *Ṣaḥīfah* before 58 A.H.[7] Some early collections of biographical traditions from the first century A.H. available today are by Mūsā b. 'Uqbā [8] and Ibn Isḥāq.[9] Today these writings are put under the genres of *Sīrah* and *Ḥadīth* which are texts

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[6] Mohammad Hashim Kamali, *A Textbook of Ḥadīth Studies*, (Leichestershire: The Islamic Foundation, 2009), 22-23.

[7] Hammām b. Munabbih, *Ṣaḥīfah Hammām b. Munabbih*, ed. Muhammad Hamīdullah, (Haiderabad Dakkan: Maktabah Nash'at Thānia, 1956).

[8] Mūsā b. 'Uqbā, *Al-Maghāzī*, ed. Muḥammad Bāqshīsh (Agadir: The Ibn Zuhr University, 1994)

[9] Muḥammad b. Isḥāq, *Kitāb al-Siyar wa al-Maghāzī*, ed. Suhail Zakkar (Beirut: Dār al-Fikr, 1978).

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composed for the sake of history, in that they documented information along with its source. To collect and dissipate information about the ideal persona of Muhammad (peace be upon him) so that their own as well as the coming generations would keep on drawing light from him was the *raison d'être* behind this activity of preserving *Sīrah* and *Ḥadīth*. In other words historical continuity of the Prophet's persona is expected to follow from this.

Another genre of texts from that era that also contains the Prophet's life and teachings is *Fiqh* or Islamic jurisprudence since it has the other above-mentioned genres among its sources and they reflect in it, implicitly or explicitly. It is however different from them in that its main goal was not to present a biography of the Prophet (peace be upon him) but to draw from his ideal persona and reach practical conclusions about what he demanded of us, when, where and how. Islamic jurisprudence and legal reasoning in the first century A.H. were probably not detached from the Qur'ān nor *Sunnah*,[10] and its indicators are to be found in traditions illustrating the legal sense possessed by the Companions and the Successors. When faced with some judgment which was not clear to one, one would ask for confirmation from a relevant Companion or a Successor and to try not to indulge in blind following of his teacher. The latter would usually answer whether it was his own opinion or did he know of a Prophetic dictum on the issue.[11] Shāfi'ī's *Umm* may be considered as a juristic megapedia from the second century A.H. which documents the first-second centuries A.H. legal debates among the Companions and the Successors and ought to provide a panoramic view of the legal environment in the first Islamic century

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[10] Muḥammad Baltāji, *Manāhij al-Tashrī' al Islāmi fi Qarn al-Thāni al-Hijrī* (Riyadh: The Imām Muḥammad b. Sa'ūd Islamic University, 1977) v. 1-2.
[11] See 160.

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and a half.[12] Before him, one should mention two of his teacher Mālik's books, his *Muaṭṭa'*,[13] which contains traditions as well as his legal opinions and his *Mudawwana*, [14] which contains his legal thought; and studied together the two treatises are seen to be quite rich in their Prophetic content which is in the form of traditions in *Muaṭṭa'* explicitly and in the form of legal thought in *Mudawwana* implicitly. Similarly, a version of the *Muaṭṭa'* reported by Shaibānī[15] contains his own legal views in addition to traditions that he reports from Mālik including his points of difference of opinion from the latter. As some contemporary studies show, Islamic legal literature from the first and second centuries A.H. show that the jurists from that era did draw from *Hadīth* or traditions.[16] It follows that the first century A.H. Islamic legal writings may also be considered as repositories for the Prophet's ideal implicitly or explicitly, unless conclusively shown otherwise. It is thus the duty of an apt student of history of Islamic law and traditions to uncover of their historicity what may not have been uncovered yet, and one way of achieving it is to study books on *Hadīth* and *Fiqh* in tandem.

A common feature of the two above-mentioned ways in which the Prophet's ideal persona was preserved in the form of texts in this period is its historical continuity with its source through its *isnāds* or the chains of narration, quite explicitly so in the case of *Hadīth*, and maybe less explicitly in *Sīrah* or the Prophet's biography, and implicitly in *Fiqh*. As a

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[12] Muḥammad b. Idrīs al-Shāfiʿī, *al-Umm* (Beirut: Dār al-Maʿrifah, nd.).

[13] *Al-Muwatta of Imam Malik ibn Anas,* tr. Aisha Abdurrahman Bewley, (London: Kegan Paul International, 1989).

[14] Mālik b. Anas, *Al-Mudawwanah al-Kubrā* (Beirut: Dār al Kutub al ʿArabiyyah, 1994).

[15] Mālik b. Anas, *Muʾaṭṭā Mālik bi Riwāya Muḥammad b. Ḥasan al Shaibānī*, ed. ʿAbd al Wahhāb ʿAbd al-Laṭīf, (Egypt: Dār al-Taḥrīr li al-Ṭabʿ wa al-Nashr, 1967).

[16] Baltaji, *Manāhij*.

genre *Ḥadīth* or traditions have the clear pattern: chain of narration followed by narrated text. While early writings on *Sīrah* or the Prophet's biography had a similar pattern, later biographies had longer narratives containing collections of incidents attached to a chain of transmission as in the case of Wāqidī who probably did it in his *Maghāzī* to appeal to the common readers.[17]

Of historical continuity between the Prophet (peace be upon him) and the first-second century A.H. jurists, one should start by considering that a jurist's work or his *Fiqh* is usually in continuation of those before him which is also observed when one goes through histories of *Fiqh* available today, classical as well as recent.[18] It is such that a general historical continuity between a given jurist's *Fiqh* from the first-second century can be mapped till it may be seen as coming from a Companion or the Prophet (peace be upon him) through his teachers. Here the issue is neither the visibly Qur'ānic nor the visibly *Sunnahic* content in *Fiqh* genre of Islamic literature, but the content which is implicit. Whether then this latter part of their *Fiqh* contains something indicative of their link to the Prophet (peace be upon him) or a Companion, or not, is the goal here. In comparison, the *isnāds* of a *Ḥadīth* themselves are also a collector's statement that he came to know of certain information (the text or *matn* of a *Ḥadīth*) and are just a mapping of links reaching the Prophet or his Companions. Thus comparing them to the *isnāds* of traditions which contain some of the same persons in them confirms this mapping of *Fiqh*. Their students in turn would take their place and this would show that those students did not start from

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[17] Sayyid Sulaimān Nadwī, "European Biographies of Muhammad and Muhammad Bin Omar al- Waqidī", *The Islamic Review* 14, no. 3, 4 (1926), 136
[18] Baltājī, *Manāhij.*

scratch but built upon what they had received from their teachers. This may be achieved by looking for juristic sense among the Companions and the Successors first of all and then trying to trace it to some of their students. The Companion Ibn 'Umar 's link to Mālik through the former's student Nāfi' is one such link which appears in many traditions found in different *Hadīth* collections and shows the path by which Ibn 'Umar's traditions and his juristic ideas reached Mālik, and the part of Mālik's *Fiqh* which is visibly similar to Ibn 'Umar 's may have reached him through Nāfi' as well.

It is clear that the Companions were quite critical in accepting anything as reflective of the Prophetic ideal until they would have a way to confirm it. Those among their students who were involved in preserving the Prophet's persona followed in their teachers' footsteps, and in turn the apt among their students followed. Their critical approach in their juristic discourse- which had the goal to keep the Prophet's ideal persona alive and to keep all else as secondary- may be observed by analyzing Mālik's juristic principle about the way and opinion of the learned people of Madīnah.[19] Its historical continuity from the Prophet's ideal was recognized by him and he considered it as a source of law. His students who didn't enjoy his vantage point did not however affirm it as a juristic principle although they followed him in other principles externally verifiable by them, like Qur'ān and *Sunnah*'s authority. Mālik had observed that the way of the learned people of Madīnah was closely connected to the Companion's way which was in direct following of the Prophet's and concluded that the formers' way was thus a valid source of Islamic jurisprudence. They were the closest to the Prophet's ideal as Mālik himself iterated in his correspondence with

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[19] "Mālik's letter to al- Layth b. Sa'd" in al-Qāḍī ''Ayaḍ, *Tartīb al-Madārik* (Rabaṭ: Maṭba'ah al- Shimāl al-Ifrīqī, 1965), 1: 41-43.

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his student Layth.[20] Considering that Mālik was born in 93 A.H. and had remained with many Successors like Nāfiʿ and Zuhrī who were known for their juristic sense, the above-mentioned juristic principle seems to have been valid in context of the first century A.H. Madīnah and the start of the second while it is interesting to note that it was challenged as a source of law by Layth[21] and Shāfiʿī[22] among his own students, partly because the people of Madīnah they observed in their times were not from the generation of the Companions nor the Successors anymore and it was not verifiable by them externally and so as a principle its link to the Prophet's ideal persona didn't convince them in their contexts as it did their teacher. It is also interesting that whatever of the way of the Medinian people was also found in Qur'ān and *Hadīth* remained a part of their legal thought and practice, thus showing that legal discussions were carried out academically and kept their focus on continuity of the Prophet's ideal. This also shows how for the jurists around the year 100 A.H., the required standards for a juristic source were different from those a decade or two after, and external verification of those sources which had not been documented yet was becoming increasingly necessary.

Another point whose relevance here would be debatable but still deserves mention is that the Prophet Muḥammad (peace be upon him) remained in the neighborhood of Christians from Arabia and Africa and Medinian Jews, as well as with Meccan idolaters and Persian Zoroastrians, so traditions about him also carry their share of historical information for a student of African and Middle Eastern history from the 6th centuries C.E.

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[20] Ibid.

[21] "Layth's letter" in Ibn al Qayyim Al-Jauziyyah, *Iʿlām al-Muqiʿīn ʿan Rabb al-ʿĀlamīn* (Beirut: Dār al-Jīl, nd), 3:83-88.

[22] Shāfiʿī, *Risāla*, 534.

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onwards. Traditions having reached us through a chain of transmitters, a researcher who has access to these texts and is able to deal with them in an appropriate manner can have a more or less continuous history of the above mentioned peoples with him as well.

Preserving the Prophetic ideal persona was not just an emotional effort but as it turns out, it had followed a certain path from its outset and whenever the challenge was raised one notch, there were those among the Muslim scholars who raised theirs by two. It also means that there were problems and challenges faced by those who were trying to preserve history as a token of love for their Prophet (peace be upon him) and in spite of the fact that tradition texts themselves were already taken with caution for the sake of quality assurance it is observed that there became a rise in demand for continuity of the chain of narration especially after the *fitna*.[23] It was a time when many of the Companions were still alive and well and the chains were quite short, evidence that speaks for itself in favor of the first generation of Muslims. Those chains whose continuity was unknown were not accorded a high position among traditions nor were they rejected outright since there may have been reasons for the discontinuity apart from dishonesty.[24]

For example, quality of persons after a missing part in the chain was examined to ascertain whether they were honest and able enough to be trusted in what they conveyed from someone not mentioned by them as their source. For many scholars if anything negative came to be known about them the tradition text that they carried became unacceptable too, else not.[25] The unique two tiered approach of *Hadīth* scientists to history

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[23] See 123-125.
[24] See 136.
[25] Nūr al-Dīn 'Itr, *Manhaj al-Naqd fī 'ulūm al-Ḥadīth*, 366-393

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in which transmission history of traditions was carried along with them has made the Prophet Muhammad (peace be upon him)'s *Sunnah* within reach of the modern man as shall become clearer further on.

Quite naturally this doesn't imply that all was perfect with all the people involved in work on the above mentioned genres of Muslim tradition, as people naturally show traits of honesty and loyalty to their cause as well as those of intelligence and memory retention to different degrees. On the one hand equally fine people within the same paradigm may have different ways of thinking and approaches to one and the same thing producing results over a spectrum, and on the other, incapacity and disloyalty of different kinds and severities in the people involved in preserving Prophetic traditions also had their impact upon it, the latter being negative while the former positive. Traditions conveyed in a weak manner abound and so do the fabricated ones, a fact which has attracted attention of Muslim scholars since the first century A.H. as seen above. They passed the traditions coming to them mainly through thorough investigations into their continuity from their Prophet, and owing to their strict standards the result of their venture is that out of hundreds of thousands of traditions about the Prophet Muhammad (peace be upon him) only thousands today are accepted as truly attributable to him through verifiable continuous chains.

People in the west also have had a lot to write about this legacy of the Prophet Muhammad (peace be upon him), mostly in the last couple of centuries and quite critically so. The above-mentioned view of how *Ḥadīth, Fiqh, and Sīrah* developed in concordance is predominantly not shared by them.[26] The first two centuries A.H. have been at the center

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[26] *The New Cambridge History of Islam,* Ed. Chase C. Robinson (New York: Cambridge University Press, 2010), s.v. "Modern Approaches to Early Islamic History."

of their attention since it was that period in Islamic history when these three disciplines started, their fundamentals formed and they saw their early development. Some of these western scholars rejected the Muslim version of their own religion's early history and thought it to be quite incorrect,[27] while others rejecting parts of it and reviewing the rest. One of the most well known of these scholars was Ignaz Goldziher who studied a number of traditions and concluded that most of them were fabrication's and so quite spurious.[28] A man who took this skepticism further was Joseph Schacht who had a special interest in Islamic law and of all the traditions available to him he picked up legal ones from the writings of second century Muslim jurists like Mālik, Abū Yusuf, Shaibānī and especially Shāfi'ī, and analysed them quite critically. The number of references to tradition texts from these jurists that Schacht referred to in his major work *Origins of Muhammadan Jurisprudence* is quite large and bedazzles a reader at first.[29] It shows that Schacht really had put great effort into preparing this book, for which he deserves credit. Whether he was successful in presenting a true picture of the origins of Islamic Jurisprudence or not has however been subjected to numerous tests by his contemporaries and successors till today. Schacht rejected all legal traditions as spurious and based his theory upon some considerations. Firstly, he noted that early secod century A.H. writings on *Fiqh* like those of Mālik, Abū Ḥanīfah, Abū Yusuf and Shaibānī were lacking in their use of *Ḥadīth* in support of their legal theories and judgments while also thinking that Shāfi'ī had been the first jurist who had openly advocated for *Ḥadīth* and had criticized his predecessors for not always having done so. Schacht pointed out that one jurist's critique of the others as

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[27] See 38.

[28] See 31.

[29] Joseph Schacht, *The Origins of Muhammadan Jurisprudence* (Oxford: Oxford University Press, 1979).

mentioned in Shāfiʻī's *Umm* pointed against the honesty of Muslim jurists from the first-second centuries A.H. He also claimed that the Umayyad Muslim rulers from the first-second centuries A.H. had been adversely influencing the Muslim jurists of these times by the vice of which the latter used to invent laws and label them as Islamic or Prophetic and this he thought was how *Ḥadīth* came into existence. He did not consider the chains of narration or the *isnāds* of a tradition to be of any use historically since the 'common link'-the person in the *isnāds* of a tradition after whom they become branched- or someone using his name was the real originator of a tradition text and not what these *isnāds* showed as their real source. In conclusion he remarked that all the legal traditions were of later origin than that claimed by the Muslim traditionists and dated them well into the second century A.H.[30]

Some of Schacht's assumptions about these jurists and his allegations of their role in fabricating *Ḥadīth* have met serious criticism even in western scholarship, like his *e-silentio* argument,[31] and his idea that the *isnāds* were arbitrary and quite useless for dating traditions, while others like his idea of the common link in the *isnāds* or chains of narration got developed further by G.H.A Juynboll, and is still employed in their *isnād* studies by some contemporary western scholars like Harald Motzki.[32] The latter is probably the most well-known western scholar on *Ḥadīth* and *Fiqh* today and heralds the new generation of western studies on the subject, using richer sources as well as making it a point to critically review the texts depicting classical Muslim versions of their early history and parting ways

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[30] See 124.
[31] See 50.
[32] See 178.

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with the rejectionist approach of his predecessors, he continues to reach conclusions different from both at the same time. For dating purposes he stresses the need to consider the texts of *Ḥadīth* as well as their carrier, the *isnāds* and concludes differently from Schacht on the issue. According to him, the 'common link' in *isnāds* was not the inventor but probably the first person who formally spread a tradition, contrary to what Schacht had claimed.[33] All taken into consideration, while Schacht had estimated the date of traditions to be well in the second century A.H., Motzki thinks about the traditions that he has studied to be going back well into the first century A.H., although not necessarily to those people whom they are ascribed in the *isnāds*.

Schacht should be commended for his painstaking efforts in understanding *Fiqh* and *Ḥadīth* through in-depth critique of writings by the first and second centuries A.H. Muslim experts in these fields, trying to date these texts and find their origins. Motzki in turn deserves praise for his share in trying to change the western approach to *Ḥadīth* studies as well as for developing a trend in modern western *Ḥadīth* studies which he calls the '*isnād* cum *matn* analysis.'[34]

The importance of textual evidence in history of *Ḥadīth* -ideally comprising of the text and its carrier- notwithstanding, the current work aims at understanding the ways in which the two above-mentioned scholars Joseph Schacht and Harald Motzki approach the texts of *Ḥadīth* and to see where they stand in the modern discourse on the subject. One may not fully agree with the view points of these scholars on *Ḥadīth* but they are very much part of the current discourse on the subject and between them they stand for two of the

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[33] See 185; Motzki, *Origins*, 25.
[34] See 178.

major intertwined western trends on the subject of Islamic origins and for a student of history of religions this is quite interesting. Owing to its importance, the current study also draws from the traditional Muslim discourse on *Ḥadīth* and adds a few missing links here and there in an effort to complete the picture.

Whether history has the capability to present to us what happened in the past reliably, with which pre-conditions, and whether *Ḥadīth* as text fulfils them, are a few of the questions that come to a keen mind here. That *Ḥadīth* generally presents historical reality of the first century A.H. is implicitly accepted by its scientists among the Muslims as they generally find it a reliable enough presentation of the times of the Prophet Muhammad (peace be upon him) and his Companions and the grandest of Muslim jurists all over the world invoke upon it for guidance. After Qur'ān, it remains the second source of Islamic law or *Fiqh* for well above a thousand years. Methodologically, in order for a set of texts to have so high a status they have to be able to satisfy certain standards as the Muslim scientists of *Ḥadīth* have long pointed out. The current work also tries to evaluate this epistemological dimension of *Ḥadīth* sciences and whether they stand the tests of time or not.

So, in addition to highlighting some of the above-mentioned aspects of selected current western studies on the text of the Islamic traditions and their carriers, the current work also touches some of its philosophical dimensions but in a discreet manner. It is thus a multifarious work and the following synopsis is expected to summarize its key features and to elucidate of it what is yet unclear.

Previous Studies

Numerous people have written on western approaches to *Hadīth* to date including some theses which focus on Joseph Schacht. Regarding Harald Motzki, many people are writing about him and his views of *Hadīth*, and he has today a large following in the west.

Among the earliest writings on Schacht's approach to *Hadīth* are Muhammad Mustafa al- Azami's *Studies in Early Hadīth Literature*,[35] and *On Schacht's Origins of Muhammadan Jurisprudence*,[36] the former being his PhD thesis. In it, the author takes up the important issues in *Hadīth*, critically analyses the prevalent modern western approaches to it and discusses Schacht's wherever needed. As mentioned earlier, Schacht's two conclusions: his rejection of *isnāds* as having any historical worth and of all the texts of legal *Hadīth* as having been forged by the early Muslim jurists (first and early second centuries A.H.), are two of the important issues discussed by Azami in this book. His second book, *On the Origins,* is completely focused on Joseph Schacht's main work on *Hadīth* and *Fiqh* and is a point by point refutation of his claims mentioned earlier, with more stress on *Hadīth* than on *Fiqh.* Between the two books, Joseph Schacht stands critically examined on all the avenues that he himself had chosen to delve into.

While Azami critically examined most of Schacht's critique on *Hadīth* and *Fiqh* with primary focus on the former, a work which preceded both of Azami's above works is an unpublished PhD dissertation by Zafar Ishaq Ansari titled "The Early Development of

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[35] M. M. Azmi, *Studies in Early Hadīth Literature,* (Beirut: Al-Maktab al-Islami, 1968).
[36] Idem. *On Schacht's Origins of Muhammadan Jurisprudence* (Riyadh: King Saud University, 1985).

Islamic Fiqh in Kūfah with Special Reference to the Works of Abū Yusuf and Shaybāni."[37]

In this work, Ansari discussed the juristic theory and practice of two of the important jurists from the second Islamic century, Abū Yusuf and Shaibāni, and since Schacht had tried to prove that the early Muslim jurists, among whom were Abū Yusuf and Shaibāni, had been responsible for fabricating *Hadīth* texts in support of their own juristic views and had added to them fabricated *isnāds* or chains of narration, Ansari discussed Schacht's approach on these issues too. While this monumental work uncovered many visible flaws in Schacht's line of thought on the subjects of *Fiqh* and *Hadīth*, it also pointed out the importance of context in history without which history tends to become ahistorical. Joseph Schacht's central argument, the *e-silentio* came to be rejected on sound academic bases and continues to be so even in the western world. Having done that, Ansari's work became an inspiration for other scholars in the east and the west, including Azami.[38]

In the west, Schacht's works became a reference point for many a scholar writing on Islamic origins, and a spectrum of writings appear after him which studied his theories in all sorts of ways. Many of them just discussed some of his conclusions in their own works since it had become impossible for them to pass by his views on Islamic origins.[39] Some others elaborated upon his major claims and even developed their whole theories based upon Schacht's assumptions. G.H.A. Juynboll is one such scholar who has written a

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[37] Zafar Ishaq Ansari, "The Early Development of Islamic Fiqh in Kūfah with Special Reference to the Works of Abu Yūsuf and Shaybāni,"(PhD thesis, McGill, 1966).

[38] Azami, *On Schacht's Origins,* 116; 51.

[39] John Burton, *An Introduction to the Hadith*; George Makdisi, *Religion, Law and Learning in Classical Islam*; Uri Rubin, *The Eye of the Beholder*; etc.; NJ Coulson, *A History of Islamic Law*; James Robson, "Muslim Tradition-The Question of Authenticity" in *The Hadith*, ed. Mustafa Shah (London: Routledge, 2011) 1:361-363

lot on *Hadīth* and after studying Schacht's claim on the common link in a chain of narration that he had invented the *Hadīth* narration attached to it, Juynboll developed a whole discourse on the study of *isnāds* or chains of narration in his books, *Muslim Tradition,*[40] and "Studies on the Origins and Uses of Islamic Hadīth".[41] Although like Schacht he too thinks that the *isnāds* were invented by the common link in the *isnāds,* he seems to disagree with him on his claim that they are of no use for ascertaining the date of traditions and in fact uses them throughout his works.

Schacht also received serious critique on his ideas about the origins of Islam from western scholars like Nabia Abbott. She showed his claims on the origins of *Hadīth* to be quite weak in her book, *Studies in Arabic Literary Papyri,* [42] and is known as one of the biggest opponents of his ideas in the west. Wael Hallaq is another western scholar who opposed the common western critical trend against *Fiqh* and *Hadīth* in his book *The Origins and Evolution of Islamic Law,*[43] and tried to give a more balanced view of how these two genres originated. His article titled "The Authenticity of Prophetic Hadīth- A Pseudo Problem,"[44] summarizes the current discourse on the subject as well as being critical of Schacht's views.

Dissertations about Joseph Schacht's approach to *Hadīth* and *Fiqh* abound, like one by Fahad al-Homoudi's "On the Common Link Theory", [45] Akh. Minhaji's "Joseph

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[40] G.H.A. Juynboll, *Muslim Tradition* (Cambridge: Cambridge University Press, 1985).

[41] Idem. *Studies on the Origins and Uses of Islamic Hadīth* (Hampshire: Variorum, 1996).

[42] Nabia Abbott, *Studies in Arabic Literary Papyri II- Qur'ānic Commentary and Tradition* (Chicago: Chicage University Press, 1967).

[43] Wael Hallaq, *The Origins and Evolution of Islamic Law* (Cambridge: Cambridge University Press, 2005).

[44] Idem. "The Authenticity of Prophetic Hadīth" in *The Hadith,* ed. Mustafa Shah, 1: 365-375

[45] PhD Thesis, McGill University, 2006

Schacht's Contribution to the Study of Islamic Law",[46] Faisar Ananda Arfa's "The Existence of Islamic Law in the First Century of the Hijra",[47] et cetera are some of the important examples of scholarly research on the subject where Schacht's general claims about the late origins of *Hadīth* at the hands of second century A.H. Muslim jurists came to be analysed and while al-Homoudi and Arfa seem to be critical of Schacht, Minhaji thinks of him as a beacon of light for those trying to know about early years of Islam. Joseph Lowry is another western scholar whose PhD thesis which was published as *Early Islamic Legal Theory-The Risāla of Muḥammad ibn Idrīs al-Shāfi'ī*,[48] also criticizes Schacht's ideas on the subject.

Another western scholar who made it a point to study the interplay between *Fiqh* and *Hadīth* texts in his book titled, *The Origins of Islamic Jurisprudence*[49] and outright rejected Schacht's claims against their general authenticity is Harald Motzki, the other focus of the current work. His categorical rejection of the *e-silentio* as a valid argument and of Schacht's claim that the common link was the author of the text, are two of the major foci of his critique of Schacht which continues in his later writings like *Analysing Muslim Traditions*,[50] and *Biography of Muḥammad*,[51] although with a decreased intensity. In place of Schacht's generalizing approach to legal traditions, Motzki has developed a

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[46] MA Thesis, McGill University, 1992

[47] MA Thesis, McGill University, 1995

[48] Jospeh Lowry, *Early Islamic Legal Theory-The Risāla of Muḥammad ibn Idrīs al-Shāfi'ī* (Brill: Leiden, 2007)

[49] Motzki, *The Origins of Islamic Jurisprudence- Meccan Fiqh before the Classical Schools* (Leiden: Brill, 2002).

[50] Harald Motzki, Nicolet Boekhoff-van der Voort and Sean W. Anthony, *Analysing Muslim Traditions: Studies in Legal, Exegetical and Maghāzī Hadīth* (Leiden: Brill, 2010).

[51] *The Biography of Muhammad-The Issue of the Sources*, ed. Motzki, (Leiden: Brill. 2000).

two-tiered method for studying *Ḥadīth* texts with the goal of dating them in which text or *matn* variants of the same *Ḥadīth* are put together and compared. In the second tier, following Juynboll's basic approach to studying *isnāds,* he plots and compares *isnāds* of the variants. The results of *matn* and *isnāds* analysis are joined to suggest a probable original text with its approximate date. Motzki's approach is known as *isnād*-cum-*matn* analysis and current scholars like Andreas Görke and Gregor Schoeler have also adopted it. Stephen Shoemaker, another contemporary recently criticized Motzki and the two afore-mentioned scholars for their studies on *Ḥadīth* and *Sīrah*[52] especially with regards traditions going back to the first century A.H. and the three replied to his objections in a recent article titled, "First Century Sources for the Life of Muḥammad- A Debate."[53] In it Motzki elucidates his approach to traditions and says that Shoemaker had misunderstood Motzki's and others' claims about some traditions that they are from the first century A.H. It is quite helpful a piece of writing for anyone wishing to understand the current western discourse on traditions.

Other people besides Shoemaker have approvingly reviewed Motzki's approach to traditions, like Jonathan Brown in his book *Hadith* who considers him to be "the first Western scholar to treat hadiths with the same 'respect' as Muslim hadith masters did."[54] This statement may not be fully agreeable, but it is reflective of the general approval that Motzki gets from his contemporaries. Saʿīd Mitwally, for example, in his article titled

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[52] Stephen J. Shoemaker, "In Search of 'Urwa's *Sira*: Some Methodological Issues in the Quest for 'Authenticity' in the Life of Muḥammad," *Der Islam* 85 (2011).

[53] "First Century Sources for the Life of Muḥammad- A Debate" *Der Islam* 89 (2012).

[54] Jonathan Brown, *Hadith* (Oxford: One World, 2010), 226.

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"Detecting textual Additions of Reliable Transmitters,"[55] applies Motzki's approach to the subject on traditions about the *tayammum* or ablution with clean soil with positive results. Harald Motzki was recently honored in a volume dedicated to his living legacy in the field of *Ḥadīth* and *Fiqh*.[56]

All the above notwithstanding, the ways in which Schacht and Motzki approach *Ḥadīth* texts are not just related to each other in a simple relationship of the latter studying the former's critically, but Motzki shows some traits of his predecessors, and this needs to be looked into. An evolution in modern western *Ḥadīth* studies is also observable upon reading from Motzki and this also needs to be studied by comparing its starting and terminal points, namely Schacht and Motzki. This is what the current study is expected to achieve, since it takes from the east and the west, classical and new, and also tries to answer some questions about the epistemological worth of *Ḥadīth* texts in light of these sources.

Research Questions

The current study aims at understanding textual criticism found in the works of two major modern *religionwissenschaftlichern*, Joseph Schacht and Harald Motzki, with reference to the genre of *Ḥadīth* and tries to find answers to the following questions:

❖ How does the current western academia approach the texts of *Ḥadīth* or Islamic traditions and their *isnāds* or carriers-as represented in the works of Joseph Schacht and Harald Motzki- especially with reference to the worth of both as genuine historical documents representing the true origins of Islam?

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[55] Sa'īd Mitwally, "Detecting textual Additions of Reliable Transmitters", *Islamic Studies* 49:3 (2010).
[56] *Festschrift: The Transmission and Dynamics of the Textual Sources of Islam. Essays in Honour of Harald Motzki*, ed. N. Boekhoff-van der Voort, K. Versteegh and J. Wagemakers (Leiden/Boston: Brill, 2011).

- ❖ How does the Muslim approach to the texts of *Ḥadīth* and their *isnāds* relate to the modern western one?

- ❖ What is the epistemological worth of *Ḥadīth* and is it objectively representative of the true origins of Islam?

Methodological Considerations:

Needless to say, the current study is descriptive and and avoids passing judgments at the outset. So, whatever conclusion it reaches comes after thorough investigation into the claims of the two above-mentioned western scholars of *Ḥadīth* and after their approaches are compared. As the two scholars' approaches to *Ḥadīth* texts vary the current work follows suit and generally looks at the issues raised by them for the quality of textual and historical criticisms therein. Regarding Schacht and Motzki, the former based his textual study of *Ḥadīth* upon certain assumptions about it and *Fiqh*, built around a historical framework, and Motzki rejected some of those assumptions. The current study also looks for markers of its implementation in Motzki's recent works. The work at hand however doesn't limit itself to the two scholars nor their sources, but tries to develop a discourse around them, using western as well as classical and modern Muslim writings on the subject. Historcial criticism is unavoidable in the current study and so it also ventures into the domain of historical criticism in pursuit of the methods of the two writers under study, Schacht and Motzki. In fact, it takes up a significant portion of this work which shows its important as well.

In order to achieve its goals, the current research expanded its source base into an array of writings in languages western and eastern. It also assumed that historical writings can provide us with reliable information about events in the past and tried to develop the

idea of forwardly continuous history. It is suggested that a few basic features would make a history reliable, namely one that is continuous in a forward direction. To put it in another way: It is more probable for a historical document that it moved forward in history rather than backwards, especially one conveyed by honest people with a sense of history. So, if a document's forwardly historical continuity from the source is reliably proven then it is probably genuine, unless shown otherwise. For that, it is quite important to start our discussion by having an in-depth understanding of Joseph Schacht's study of *Ḥadīth* and *Fiqh* since he is the modern day western scholar upon whom many still stand.

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Chapter 1: Joseph Schacht's Method in Textual Criticism of *Hadīth*

Joseph Schacht: Intellectual Personality

1.   Life

Joseph Schacht was born on March 15, 1902 at Ratbour[57] to Eduard Schacht, a teacher of the deaf and dumb, and a Roman Catholic[58]. He studied at Gymnasium[59] till 1920, where he learnt Greek, French, and English languages. He also learnt Hebrew from a Rabbi who used to visit the school to teach it[60]. His university education started from 1920 when he joined the Breslau University, Germany. Among his professors there was Gotthelf Bergsträsser, the well known orientalist who got him interested in the study of Islamic law. Joseph Schacht got his first academic position at University of Freiburg at Breisgau, Germany in 1925,[61] and still young, he became Professor of Oriental Languages in 1929.[62] He also edited Bergsträsser lectures. [63]

During these years he travelled a lot in the Middle East and North Africa where in 1930 he joined as a visiting Professor at the then Egyptian University at Cairo[64] . During these visits, he also collected a lot of data on Islam and the Arabs which was later used by

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[57] Jeanette Wakin, *Remembering Joseph Schacht (1902-1969)*, Islamic Legal Studies Program (Harvard: Harvard Law School, 2003): 1; Bernard Lewis, "Joseph Schacht", *Bulletin of the School of Oriental and African Studies* 33, part 2 (1970): 378; George Hourani, "Joseph Schacht, 1902-69", *Journal of the American Oriental Society* 90 (1970): 163. Unlike others, Hourani said that Schacht was born on June, 15, 1902; Note: The town was in Germany then and now it is a part of Poland.

[58] Jeanette Wakin, *Remembering*, 1.

[59] Gymnasium: The German equivalent of the Secondary School.

[60] Jeanette Wakin, *Remembering*, 1; Bernard Lewis, "Joseph Schacht", 378

[61] Ibid. Bernard Lewis, 378.

[62] Ibid. 378; Jeanette Wakin, 2.

[63] Joseph Schacht, *Grundzüge des islamischen Rechts* (Berlin and Leipzig: de Gruyter, 1935). Schacht edited lectures of Gotthelf Bergsträsser in this book.

[64] Wakin, 4; Lewis, 378

him in his writings.[65] He also visited his mentor Snouck Hurgronje (d. 1936),[66] who probably became among his inspirations for research on Islamic law. In 1932, Schacht was offered the chair of Islamic Studies at Königsburg, Germany which he accepted with the condition that he would be granted leave to visit the Middle East whenever he asked.[67] He used this clause when he became fed up with Nazis' attitude towards scholarship and went to Cairo but in 1934 he left his position there and left Germany for good.[68] Not only that, he also stopped writing as well as speaking in German, as a protest to Nazism. He went to Cairo, and stayed there till 1939. Wakin tells us that Schacht used to teach there in Arabic, probably the only orientalist to be able to do so.[69] When he was in the UK for his summer vacations that year, World War II broke out and he was refused re-entry into Egypt where he had left his entire collection of books. He then married a British woman, Dorothy, and the couple lived in England. Schacht lived first in London, and then in Oxford, from where he got his D. Litt. (1952).[70] It was while during his D. Litt. that Schacht wrote his most important work, *The Origins of Muhammadan Jurisprudence.* [71] In 1953, he co-founded a research journal, *Stvdia Islamica,*[72] which is still held in esteem by the academia.

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[65] Wakin, 3.

[66] Joseph Schacht, *The Origins of Muhammadan Jurisprudence* (Oxford: Oxford University Press, 1979), p. v. Hurgronje, a former Dutch Professor of Islam at Leiden was considered as the authority on Islamic law by Schacht.

[67] Wakin, 4.

[68] Hourani, 164; Robert Brunschvig, "Joseph Schacht (1902-1969)", *Stvdia Islamica* 31 (1970): vi, http://www.jstor.org/stable/1595057 (accessed: 18/08/2011).

[69] Wakin, 5.

[70] Ibid. 5, 6

[71] It is interesting to note that Schacht probably wrote this book- which he considered as the culmination of his previous studies- without any help whatsoever from his personal library. This library had been left behind in Cairo, and probably included his own notes that every writer naturally takes whenever he reads. The book was then, probably based solely on the collections available in the UK.

[72] *Stvdia Islamica*, ed. Robert Brvnschvig and Joseph Schacht, Paris: Larose (1953)

In the early fifties, he visited Nigeria, Algiers, and finally accepted Professorship of Arabic at Leiden. In 1959, Schacht joined Columbia University, New York and remained there till he died in 1969.[73]

2. Intellectual Context

In order to know Joseph Schacht's station among the modern western *Hadīth* scholarship, it is important to understand his intellectual context. Thus to map Schacht on the modern *Hadīth* scholarship scene it is important to know who his predecessors were as well as those who came after him. In order to achieve that, a look at the 20th century *Hadīth* scholarship in the west is expected to give an overview of its situation there as well as bringing out Joseph Schacht in proper context.

It would not be an exaggeration to say that the 20th century *Hadīth* scholarship in the west saw great development in its major aspects and although it is not easy to draw sharp boundaries on what were the main avenues which came to be explored, yet it appears that a certain pattern was followed in the studies on the subject. Although people wrote extensively on the major aspects of *Hadīth* and its sciences from different viewpoints as Harald Motzki [74] tells us, a greater skepticism marked *Hadīth* scholarship in this period.[75] This skeptical attitude towards *Hadīth* was spearheaded by Ignaz Goldziher[76] with his famous treatise *Muhammadenische Studien.*[77] He appears as the torch bearer for many a western scholar of *Hadīth*. Most *Hādīth* according to Goldziher, was created in the 2nd half

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[73] Wakin, 7-9.

[74] Harald Motzki is a Professor of Islamic Studies at Nijmegen, Holland, and has written vastly on *Hādīth*.

[75] Harald Motzki, introduction to *Hādīth*, ed. Harald Motzki. London: Ashgate Publishing Ltd., 2004, xviii.

[76] Ignaz Goldziher was a 19th to 20th century Hungarian orientalist.

[77] Ignaz Goldziher, *Muhammadenische Studien* (Halle: Max Niemeyer, 1889)

of 2nd century A.H. as a result of legal discussions among the Muslim jurists of that time, to legitimize their individual opinions. This opinion rejects the standard Muslim view. He concluded that most of the traditions were of late origin, and could not be rightly attributed to the Prophet (peace be upon him).[78] This has proven to be a paradigm for many a western scholar on Islam which won mostly applause in that part of the world, while Muslims of his time by and large rejected it. This thesis regarding early Islamic legal discussion and its impress upon *Ḥadīth* literature continued to win applause in the west, and we can say that at least the first half of the 20th century followed this paradigm. As far as the *isnāds* were concerned they were mostly considered as inventions of the early Muslims and unreliable for a sound historical study of early Islam.[79]

Another important contemporary of Goldziher is Leone Caetani (d. 1935).[80] He also wrote extensively on Islam and benefits from the Goldziher in his important work-*Annali dell'Islam,* [81] and his salute to Ignaz Goldziher therein shows his veneration for him, "The greatest historian and critic of Islam, Ignaz Goldziher...who in his work *Muhammedanische Studien* studied the *Ḥadīth*, where that had been left by the Arabs...studied in a scientific way... and has brought about a revolution in the methods"[82].

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[78] Idem., "The Principles of Law in Islam," in *The Historians History of the World*, ed. H.S. Williams (New York: The Outlook Company, 1904) viii: 294-303.

[79] Motzki, "The Muṣannaf of ʿAbd al-Razzāq al-Sanʿānī as a Source of Authentic Aḥādīth of the First Century A. H.," *Journal of Near Eastern Studies* 50, no. 1 (1991): 1 http://www.jstor.org/stable/545412 (accessed on 22nd February, 2011).

[80] Leone Caetani was an Italian prince, who wrote his magnanimous treatise on Islamic History.

[81] Leone Caetani, *Annali Dell'Islam* (Ulrico Hopeli, Milano: 1905) in ten volumes.

[82] Leone Caetani, *Annali Dell'Islam*, 1: 29. All the texts from this source are translated by Bilal Ahmad, unless specified otherwise.

Another contemporary of these two is Snouck Hurgronje.[83] He was Dutch professor of Islam,[84] and a well known figure in western academia. Sharing with us his thesis, Hurgronje tells,

> "When, after a most careful investigation of thousands of traditions which all appear
> equally old, we have selected the oldest, then we shall see that we have before us only
> witnesses of the first century of the *Hijrah*. The connecting threads with the time of
> Mohammed must be supplied for a great part by imagination...it was known for a long
> time that here too, besides theological and legendary elements, there were traditions
> originating from party motive."[85]

He advises further to be careful not to take the legislative tradition as a direct instrument for the explanation of the Qur'an,[86] thereby undermining its legal worth.

Hurgronje and Caetani are among the many western scholars of Islam who look at Goldziher that way. His revisionist approach to the Prophetic traditions was welcomed by others like Margoliouth, Lammens, Guillaume, and Wensinck[87] and he was idolized and idealized by many[88] in the western academia for his contribution to Islamic law, and

[83] Ignaz Goldziher, *Muhammadenische Studien*, vol. 1: Dedication "Meinem lieben Freunde- C. Snouck Hurgronje, widme ich diese Blätter". Here Goldziher dedicates his book to Hurgronje.

[84] His works relevant to the present study are *Mohammedanism* (1916); *Verspreide Geschriften* (1923-27).

[85] Snouck Hurgronje, *Mohammedanism* (New York: Putnam's Sons, 1916), 31

[86] Ibid.31

[87] Zafar Ishaq Ansari, "The Early Development of Islamic Fiqh in Kufah with Special Reference to the Works of Abu Yusuf and Shaybani" (doctoral thesis, McGill University: 1966), 2.

[88] Wakin; G.E. von Grunebaum, "In Memoriam: Joseph Schacht 15 March 1902-1 August 1969" *International Journal of Middle East Studies* 1, no. 2 (1970): 190-191, http://www.jstor.org/stable/162448 (accessed: 18/08/2011); Ch Pellat, *Arabica* 17, fasc. 1 (1970): 1-2, http://www.jstor.org/stable/4055738 (accessed 18/08/2011); Ze'ev Maghen, "Dead Tradition: Joseph Schacht and the Origins of "Popular Practice"," *Islamic Law and Society* 10, no. 3 (2003): 276-279; Aharon Layish, "Notes on Joseph Schacht's Contribution to the Study of Islamic Law," *Bulletin (British Society for Middle Eastern Studies)* 9, no. 2 (1982) 132-133, http://www.jstor.org/stable/195088 (accessed: 06/08/2011); Josef Horovitz, "The Antiquity and Origin of the Isnād," in *Hadīth*, ed. Motzki, 158; Idem., "Further on the Origin of the Isnād", in *Hadīth*,

received a lot of respect for these academic achievements of his. In the west, Goldziher is still seen with awe by many. Dickinson tells us that Ignaz Goldziher was the pioneer of modern *Ḥadīth* scholarship in the west, and that his *Muhammadenische Studien* remains the best general introduction to the study of *Ḥadīth* .[89] Another scholar, Drewes, in an obituary seminar held at Leiden while sharing his opinion of Goldziher commented that the material for the study of Islamic law (which had been left untouched by Westerners) was not to be found, with the exception of the masterly essays of Snouck Hurgronje's senior contemporary, Ignaz Goldziher,[90] and Josef Horovitz[91](d. 1974).

This is Joseph Schacht's intellectual background. Although he was not a student of Goldziher, yet he stands upon what Goldziher had built,[92] and among those who were his teachers was Snouck Hurgronje and he salutes him saying that if the people understand the character of Muhammadan law it is due to him.[93] While his predecessors studied traditions in general, Schacht converged his efforts on legal ones attributed to the Prophet (peace be upon him). As Wakin sums up, he built upon the insights of his two great predecessors, Ignaz Goldziher and Snouck Hurgronje and subjected to minute critical analysis the traditions with a legal content attributed to the Prophet.[94] Their greatness notwithstanding,

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159-161; Ibid., 158-161. It is interesting to note the way Horovitz rejects Jewish origin of *Isnād*. He doesn't seem to be an exception among the western scholars who did not approve of this paradigm.

[89] Eerik Dickinson, *The Development of Early Sunnite Ḥadīth Criticism*, Islamic History and Civilization-Studies and Texts (Leiden: Brill, 2001) 38: vii.

[90] D.W.J. Drewes, "Snouck Hurgronje and the Study of Islam, from Bijdragen tot de Taal-, Land- en Volkenkunde," *KITLV, Royal Netherlands Institute of Southeast Asian and Caribbean Studies* 113, afl. 1 (1957): 7, http://www.jstor.org/stable/27860006 (accessed on 6th August, 2011).

[91] Josef Horovitz, "The Antiquity and Origin of the Isnād," in *Ḥadīth*, ed. Motzki, 158; Idem., "Further on the Origin of the Isnād", in *Ḥadīth*, 159-161; Ibid., 158-161. It is interesting to note the way Horovitz rejects Jewish origin of *Isnād*.

[92] Schacht, *Origins*, p. v

[93] Ibid. p. v

[94] Wakin, 17-18

Joseph Schacht's writings on *Ḥadīth* are definitely important here since skepticism of the traditional Muslim stance on how *Ḥadīth* had originated, as developed by Goldziher was further advanced by Schacht who carried it to new limits and ruled out any verifiable kernel of Prophetic rulings in the *Ḥadīth* literature available.[95] He tells that legal traditions originated during legal discussions among the Muslim jurists in the 2nd century A.H. and must be taken to be fictitious unless otherwise proven.[96] He also joined traditions of historical nature with the legal ones and rejected the former along with the latter.[97] All these notwithstanding, since Schacht's time a lot has been written on *Ḥadīth*, and the post Schachtian era in the west as Harald Motzki calls it[98] has produced scintillations on the canvas of modern *Ḥadīth* scholarship. It can be divided into three groups[99] according to the scholars' attitudes towards Schacht's views. There are those who reject Schacht's extreme skepticism of *Ḥadīth* and there are those who followed him in the main points and didn't try to reject them. The latter may be called true Schachtians. Some of them took up the task of advancing his approach further. By far the largest of the groups consists of those who followed Schacht in some points but their approach may not be labeled as Schachtian

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[95] Joseph Schacht, "A Revaluation of Islamic Traditions," *Journal of the Royal Asiatic Society of Great Britain and Ireland*, no. 2 (1949): 147 http://www.jstor.org/stable/25222333 (accessed: 06/08/2011); Ansari, "Early Development", 2-3, 66

[96] Schacht, *Origins,* 149; idem, "Revaluation": 145

[97] Schacht, "Revaluation": 151, 154. According to Schacht, the two kinds of traditions are intertwined, because they are interdependent when it comes to legal discussions, and thus can't be looked at independently. This clearly includes most *Ḥadīth*. Thereby the historical traditions too are a product of those discussions according to him; Motzki, introduction to *Ḥadīth*, p. xxiii.

[98] Motzki, introduction to *Ḥadīth*, p. xxii.

[99] Ibid., p. xxii; Wael Hallaq, "The Authenticity of Prophetic Ḥadīth: A Pseudo-Problem," in *The Ḥadīth,* ed. Mustafa Shah, (Oxon: Routledge, 2011), 1: 365. The division serves the purpose here and has been retained by the writer.

because of their critique of Schacht[100], with varying intensity. Among the members of this group some are closer to the first group while others to the second one.

The first of the above mentioned groups consists mainly of Muslims, yet a few non-Muslims also fall in this category, because of results being close to the traditional Muslim ones. Nabia Abbott[101] (d. 1981) may be termed as a good example here. She rejects Schacht's rejection of the traditions as being from the 1st century A.H and tries to trace back the steps to their origin which they find to be close to the Muslim point of view. Generally these scholars achieve this by starting without negative presuppositions about *Hadīth* nor about its *isnād* and analyze the given evidence for what it presents.

The second group consists of a large number of western scholars who rejected *Hadīth* as a valid historical source for knowing about early Islam and came up with theories of their own on the issue. An example is Patricia Crone[102] Who finds the origins of *Hadīth* in the Grace-Roman tradition.

Coming to the third group, it can be sub divided further into two sub-groups:

Firstly, those who thought that Schacht was right in most of his ideas on *Hadīth* and that many *Hadīth* which are found in the written collections are late as Schacht had said. Still, a possible presence of traditions from the Prophet and his Companions in the first century A.H. was accepted by them.[103] In this way they hold a position meeting

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[100] G.H.A. Juynboll, *Muslim Tradition* (Cambridge: Cambridge University Press, 1985)
[101] Nabia Abbott, *Studies in Arabic Literary Papyri II- Qur'ānic Commentary and Tradition* (Chicago: Chicago University Press, 1967), 2
[102] Michael Cook and Patricia Crone, *Hagarism* (Cambridge: Cambridge University Press, 1977) 3, 152.
[103] Ansari, "Early Development", 384-385; Juynboll's difference from Schacht probably lies in that among his sources are Fuat Sezgin, and Nabia Abbott, and does not rely on Schacht nor on Goldziher entirely. These

Schacht's in many places, and disagreeing with him in others. This attitude sometimes created new ideas, as well as confusion and contradictions at others.[104] This group of scholars usually tends to be close to Schacht in his basic postulates and conclusions; however they say that they don't agree with him fully. G.H.A. Juynboll,[105] N.J. Coulson,[106] Michael Cook[107] and John Burton[108] belong to this group.

Secondly there are those who were skeptical of Schacht's thesis and critically studied some of Schacht's methods to verify his results. Their initial skepticism of Schacht's ideas is accompanied by a critical study of *Ḥadīth*, thus yielding a spectrum of

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sources oppose Schacht's paradigms. This probably makes his study more balanced. For his own comments, see Juynboll, *Muslim Tradition*, 3-5

[104] N.J. Coulson, *A History of Islamic Law* (Edinburgh: Edinburgh University Press, 1964), 64-65. He considers Schacht's postulates to be generally irrefutable, and rejects some himself. See Ansari, "Early Development," 3, 4, 384-385 f. He considers Coulson's ideas on the origins of Islamic Jurisprudence to be somewhat confused.

[105] For Juynboll's points of agreement with Schacht, see G.H.A. Juynboll, "Some Notes on Islam's First fuqahā' Distilled from Early Ḥadīth Literature," *Arabica* 39, fasc. 3 (1992): 289-290, 297-299, http://www.jstor.org/stable/4057003 (accessed on 6th August, 2011). See idem. *Muslim Tradition*, 4, 87, 124, 206; *E.J. Brill's First Encyclopedia of Islam*, ed. M. Th. Houtsma, A.J. Wensinck, T.W. Arnold (Leiden: E.J. Brills, 1987) s.v. *Hadith*, 3: 190. Here Juynboll seems to be close to Goldziher. He disagrees with Schacht on minor points, like saying "I do not, with Schacht, think of a <<school>> or <<schools>>, but I visualize during the second half of the first/seventh century a mere handful of *fuqaha'* in the different administrative centres of the empire". See idem. "Some Notes": 301, see idem. *Muslim Tradition*, 4. Overall, he seems to be close to Schacht's point of view.

[106] Coulson, *History* , 36-48.

[107] Email message to the author. 16th August, 2011. Cook reverted from his well-known standpoint in *Hagarism* which stated that it was not possible to reconstruct the events in early Islam on the basis of Muslim sources. This change was stated by him in a recent email conversation with the researcher.

[108] John Burton, *An Introduction to the Hadith* (Edinburgh: Edinburgh University Press, 1994), p. xi-xvii, 52-53, 114, 148-149. Here he seems to agree with Schacht and Goldziher and his book seems to be teeming with opinions of these two. He however rejects Schacht's complete rejection of *Ḥadīth* as "missing the point", and tells that he has reservations on his and Goldziher's skepticism. See ibid. 181

conclusions, some far from Schacht while others close to his. Harald Motzki[109] and Gregor Schoeler[110] are two of the important proponents of this thought.

In addition to Western scholars on Islam, Joseph Schacht's paradigm on *Ḥadīth* has also been studied by some Muslim scholars- mostly critically- and two trends appear as a result of this. The first one is a religious response which has been predominantly rejectionist of his ideas. Traditional Muslim scholars who live and work within their religious paradigm are followers of this trend. Inspite of the fact that their responses to Schacht are polemical at times their relevance in the present discussion remains since they represent the traditional Muslim viewpoint on *Ḥadīth*.

The other response is one where the scholars tried to take on Schacht's ideas in an academic manner. This second group of Muslim scholars is what interests us here since they studied Schacht deeply and though they might laud him for his efforts to understand *Ḥadīth* and Islamic law yet upon studying his writings on the subject they found his method and theories to be quite flawed.[111]

Because they remained within the academic paradigm, these people are similar to the Western scholars who rejected Schacht's ideas mentioned previously.[112] Examples from this group are Fuat Sezgin,[113] Muṣṭafa al-Sibāʿī,[114] Mustafa Azami[115] and Zafar Ishaq

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[109] Motzki "The Muṣannaf": 1, 2, 9; idem. Motzki, *Hadith*, p. xxii.

[110] Gregor Schoeler, "The Constitution of the Koran as a Codified Work: Paradigm for Codifying Hadīth and the Islamic Sciences?" *Oral Tradition* 25, no. 1 (2010): 201-203, 206-207.

[111] Ansari, "Early Development", 3.

[112] See 37.

[113] Fuat Sezgin, *Geschichte des arabischen Schrifttums* (Leiden: E.J. Brill, 1967), 1: 53-233.

[114] Mustafa al-Sibāʿī, *Al-Sunnahh wa Makānatuh* (Cairo: Maktaba Dār al ʿArūba, 1961).

[115] Muhammad Mustafa Azami, *On Schacht's Origins of Muhammadan Jurisprudence* (Riyadh: King Saud University, 1985). For a critical review on Azami, see Juynboll, *Muslim Tradition*, 4,5.

Ansari.[116] These scholars, being well versed with the current discourse on the subject addressed issues similar to those which Schacht and Goldziher had addressed, and having come up with interesting conclusions remain as relevant for ascertaining Schacht's place in *Hadīth* scholarship as do the Western scholars mentioned before. Fazlur Rahman, a contemporary of Schacht, however is visibly different from these scholars in that he seems to reject Schacht in some points and agrees with him on others[117], thus remaining somewhere in the middle of the path.

The above mapping of Joseph Schacht's contribution to the modern *Hadīth* studies world remain incomplete if doesn't present a panoramic view of the modern scholarship on *Hadīth* and the writer thinks that adding the following points would serve towards filling in some gaps in it. Firstly, Joseph Schacht's theories on *Hadīth* and *Fiqh* are a continuation of the legacy of Goldziher and Hurgronje and apparently the epitome of theirs. Secondly, his own theories came under critical scrutiny which brought improvements to his view of *Hadīth* as well as creating new ones.[118] Examples are the theories of Juynboll, Crone, and Hallaq and Motzki, to mention a few. Schacht thus appears as a common link or a junction modern in the western *Hadīth* scholarship which branches out after him. It is important to note that before him, we find Goldziher's paradigm followed by a majority, including him.

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[116] Ansari, "Early Development"; Ansari, "The Authenticity of Traditions: A Critique of Joseph Schacht's Argument e Silentio," *Hamdard Islamicus* 7(1984): 103-111.

[117] Fazlur Rahman, *Islamic Methodology in History* (Karachi: Central Institute of Islamic Research, 1965), 1- 84. Although by saying, "the greater part of the content of the Sunnahh was the result of the free thinking activity of the early jurists of Islam", in *Islamic Methodology* (5) he seems to be in agreement with Schacht, yet his disagreement here with the Schachtian paradigm asserts that the concept of "Sunnahh of the Prophet" was a valid one, from the beginning of Islam, *ibid.* (6); For a comparison between him and Schahct see Fatma Kizil, "Fazlur Rahman's Understanding of the Sunnahh/Hadīth - A Comparison with Joseph Schahct's Views on the Subject," *Hadis Tetkikleri Dergii (HTD)*, VI/VII (2008): 44, 45.

[118]36.

After Schacht however, at least three trends are clearly visible, and there are sub strands within each trend as well. This shows a considerable growth in the western study on the subject in which Schacht definitely had a role to play.

Schacht's influence is not limited to Westerners, but he even made modern Muslim *Ḥadīth* scholarship to think in new ways and directions. Sometimes, it was done as a refutation, sometimes as an academic study but usually resulting in a rejection of most of what he had said with some exceptions of course.

3.   Works

Joseph Schacht wrote extensively on a number of themes, including Islamic law, *Ḥadīth*, theology, as well as writing in honor of his teachers[119]. Among his early works is his book, *Der Islam mit ausschluss des Qor'āns[120]*, which studies the different Islamic institutions using classical Islamic texts all translated into German. The book covers different Islamic themes and avoids serious controversies, as it is meant as a reader on Islam in that language.

Later on in life, the different Islamic themes, his main interest became Islamic law in *fiqh*. In 1935, He edited lectures of his teacher Gotthelf Bergsträsser in the form of *Grundzüge des islamischen Rechts,* which is a book on principles of Islamic law. His article on Islamic legal devices, "*Die arabische hijal-Literatur. Ein Beitrag zur Erforschung der islamischen rechtspraxis*",[121] and one on the sociological aspect of Islamic laws, "*Zur*

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[119] C. Bergsträsser and Snouck Hurgronje.

[120] Schacht, *Der Islam mit ausschluss des Qor'āns,* from *Religionsgeschichtliches Lesebuch,* ed. Bertholet, Alfred (Tübingen: Verlag von J.C.B. Mohr, 1931).

[121] Idem. "Die arabische hijal-Literatur. Ein Beitrag zur Erforschung der islamischen Rechtspraxis," *Der Islam* 15 (1926): 211-323.

Soziologischen Betrachtung des islamischen Rechts"[122] show the variety of issues within the Islamic legal framework that he addressed in these works. In addition to these he also wrote some articles for the *Encyclopedia of Islam,* like these titled "*Mīrāth,*[123] "*Sharī'ah*",[124] "*Talāk*",[125] and "*Uṣūl*".[126] These four articles are all critical analyses. Comparing this to his approach in *Origins* shows that Schacht probably remained mostly consistent in his ideas throughout his life, although development is there. Comparing these articles to *Origins* shows a development and maturation of ideas. Ideas first presented and doubts first raised here, are concretized in *Origins.* Of special interest are two references to *Sunnah*/traditions in his article *Uṣūl*: One "the (real and alleged) sayings and actions of the Companions of the Prophet". [127] Furthermore, "Muhammad's *Sunnah* (real or fictitious)" his differentiation between (real and otherwise) traditions/ *Sunnah* here hints towards the fact that although he was quite critical of traditions and believed that forgery had infiltrated them.[128] This seems to be the formative phase in the intellectual life of Joseph Schacht when his writings begin to show an initial skepticism of *Sunnah* and *Traditions.*[129]

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[122] Idem., "Zur Soziologischen Betrachtung des islamischen Rechts, " *Der Islam* 22 (1935): 207-238.

[123] *E.J. Brill's First Encyclopedia of Islam: 1913-1936,* s.v. "Mirāth", v: 508-514.

[124] Ibid., s.v.v "Sharī'a," vii: 320-324.

[125] Ibid., s.v.v "Talāk," viii: 636-640.

[126] Ibid., s.v.v "Usūl," viii: 1054-1058.

[127] Ibid., 1055.

[128] Ibid., 1056.

[129] The grand skepticism displayed in Schacht's later work, *Origins* had not yet developed in these writings. It is worth noting that forgery is something recognized in the traditional Muslim view on the subject too. Certain concepts in *Origins* like that of *living tradition* and the *e-silentio* also don't show in these articles.

The above mentioned skepticism culminated[130] in Schacht's most important work, *The Origins of Muhammadan Jurisprudence,* [131] in which he put forth his theories on Islamic law, discussing the factors that influenced it (like the Umayyad practice) and its influences upon *Ḥadīth*. It is not a large[132], multi- volume work yet it is considered by many in the west as a masterpiece on Islamic origins[133]. Before him, Goldziher had held the opinion that a number of *Aḥādīth* had been a product of generations after the Prophet[134] and not his word. In the absence of a clear cut theory on how did *Ḥadīth* come into existence then, Goldziher's general remarks had probably left the modern western *Ḥadīth* scholarship in confusion[135] when *Origins* appeared. From then on, it is generally accepted that Joseph Schacht was the scholar who filled this gap for the western students of *Ḥadīth* and Islamic jurisprudence[136] through this book. *Origins* offers a panoramic view of the beginning of Islamic jurisprudence,[137] and while its conclusions have been debated a lot he

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[130] Ansari, "Early Development": 3.

[131] It was written during the late 40s, while Schacht was in Oxford. See Brunschvig, "J. Schacht": p. vi,vii

[132] *Origins* is a 351 page book.

[133] For reviews, see J.N.D. Anderson, *Die Welt des Islams,* n.s. 2, no. 2 (1952): 136, http://www.jstor.org/stable/1569046 (accessed: 18/08/2011); Brunschvig, *Arabica* 1, no. 3 (1954): 358, http://www.jstor.org/stable/4054844 (accessed: 08/08/2011); H.A.R. Gibb, *Journal of Comparative Legislation and International Law,* third series 33, no. 3/4 (1951): 113, http://www.jstor.org/stable/754352 (accessed: 18/08/2011); Hourani, "J. Schacht": 165; Arthur Jeffery, *Middle East Journal* 5, no. 3 (1951): 393, http://www.jstor.org/stable/4322320 (accessed: 18/08/2011); H Ritter, *Oriens* 4, no. 2 (1951): 308-309, http://www.jstor.org/stable/1579521 (accessed: 18/08/2011); Montgomery Watt, *Journal of the Royal Asiatic Society of Great Britain and Ireland,* no. 1/2 (1952): 91, http://www.jstor.org/stable/25222560 (accessed: 18/08/2011); Guillaume's opinion of *Origins* is different from others since he too thinks like Schacht that a forgery was committed by the early Muslims, he clearly differs with Schacht on the issue of rejecting all traditions as fictitious. *Bulletin of the School of Oriental and African Studies* 16, no. 1 (1954): 176, http://www.jstor.org/stable/608920 (accessed: 18/08/2011).

[134] Ansari, "Early Development", 2.

[135] Gibb, *Journal of Comparative Legislation*: 114.

[136] ibid.

[137] *Origins* is divided into four main parts, each covering an important aspect of Islamic Jurisprudence: The early development of legal theory, the growth of legal traditions, the legal doctrine, and the development of legal terminology. This makes for a multi-faceted approach to the study of Islamic law.

should be commended for the pains that he took in preparing it. In *Origins,* he was mostly

source critical in his approach to *legal traditions* and tried to show how these traditions

came into being.[138] This was achieved by carrying out critical analyses of tradition texts

found in Islamic juristic and traditional writings from the second century A.H. upon which

his theories about the origins of legal traditions are based. *Origins* became a reference point

for many western writings on the subject that appeared after it. His own writings that

followed *Origins* seem to draw from it and it can thus be termed as the epitome of Schacht's

intellectual enterprise. Among them is his article, *A Revaluation of Islamic Traditions.*[139]

It summarizes his standpoint on *Ḥadīth* as elaborated in *Origins* [140] and helps towards

understanding it by simply offering in a nutshell what is spread all over *Origins* on the

topic of *Ḥadīth*.

Another important book by Joseph Schacht is *An Introduction to Islamic Law*[141]

and its purpose as told by him is to introduce Islamic law to those who are not specialized

in the field.[142] The book is a fruit of his efforts towards understanding Islamic law shown

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[138] To sum up *Origins'* conclusion regarding *Ḥadīth,* one can say that according to Schacht, legal traditions were a product of the 2nd century A. D., and an outcome of legal discussions, a standpoint rejected by Muslims in general. Even the traditions of a historical nature are rejected authenticity by Schacht as they are quite inseparable in his view.

[139] Schacht, "A Revaluation of Islamic Traditions," *Journal of the Royal Asiatic Society of Great Britain and Ireland,* no. 2 (1949): 143-154, http://www.jstor.org/stable/25222333, (accessed: 06/08/2011).

[140] The *Revaluation* was in fact read in a conference in 1948 and first published in 1949 before *Origins* came out. Apparently the book was ready at that time, as the ideas put forth in the two are quite similar.

[141] Schacht, *An Introduction to Islamic Law* (Oxford: Clarendon Press, 1964).

[142] Ibid., p. v. This purpose is not reflected in the actual book, as also pointed out by some scholars. It is reviewed by W. J. D. Holland, *Journal of African Law* 9, no. 3 (1965): 187, http://www.jstor.org/stable/744764, (accessed: 18/08/2011); Coulson, *The International and Comparative Law Quarterly* 14, no. 1(1965): 336, http://www.jstor.org/stable/756752, (accessed: 18/08/2011); Others like Hourani disagree and think that it adapts to the requirements of a text book in "J. Schacht"(165); Hamidullah, reviewing Schacht's *Introduction,* points out a few of the inaccuracies in the book as well as usage of inappropriate and non-academic language. *Middle East Journal* 19, no. 2 (1965): 238-239 http://www.jstor.org/stable/4323860, (accessed: 18/08/2011).

in his earlier works, like *Esquisse d'une historie du droit musulman*,[143] *Origins* and Bergsträsser' s *Grundzüge des islamischen Rechts*.[144] The book carries at its end a very long and detailed bibliography spread over 70 pages,[145] and overall it is a complex book. Its bibliography is divided chapter-wise and repeats the same source if repeated in more than one chapter. It is not even ordered alphabetically, which renders its purpose vague. In spite of these intricacies it does not surpass *Origins* in any way. Apart from these writings which are of primary interest to the present research Schacht also wrote many book reviews throughout his career as well as honoring his teachers for whom he wrote obituaries.

In sum the focus of Joseph Schacht's works remained Islamic legal tradition, its origin and development, and although they were eventually surpassed by the wider range of writings which followed his works, they remain an important milestone in the western scholarship on *Ḥadīth* and an inspiration for many still.

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[143] Schacht *Esquisse d'une historie du droit musulman* (Paris: Librairie orientale et américaine, 1953).
[144] Schacht, *Introduction,* p. vi; To see how it relates to *Origins,* see Coulson, *The International and Comparative Law Quarterly* 14, no. 1 (1965): 337.
[145] Schacht, *Introduction,* 115-185.

44

Joseph Schacht's Approach to Origins of *Ḥadīth*

Introduction:

The western historical study of Islam in the 20th century seems to culminate in Joseph Schacht.[146] He focuses on the origins of Islamic Jurisprudence and tries to show that its source was not Qur'ān nor the Prophetic Traditions (*Ḥadīth*),[147] but other sources secular. He focuses on legal Traditions and tries to show that these had been created by the early Muslim jurists and put in the Prophet's mouth in support of their own juristic schools. Schacht then tries to give his own account of how the grand corpus came into being at the hands of early Muslim jurists and thinks that the legal Traditional texts are fabricated and tell-tale of this forgery. He tries to show here that serious redactions occurred in the *Ḥadīth* texts, so much that at least in the legal Traditions available to us, none are Prophetic and the early jurists would then be inventors of traditions according to him.

His theories on the origins of *Ḥadīth* constitute in-depth criticism of sources of legal *Ḥadīth* corpus as well as its text and render it as a product of *Fiqh* and not its source which is contrary to the traditional Islamic viewpoint on the issue. If accepted, this thus implies a shift in the source of both *Fiqh* and *Ḥadīth* from that held traditionally by Muslims.

It is quite an important matter for any historian of religion to ascertain the worth of different theories on its origin and sources and in order to do that, their underlying assumptions need to be understood first. So, one notices that Joseph Schacht's theories on

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[146] For many a scholar there, his monumental work- *Origins*- sets the standard for all studies to come, on Islam and its origins. It is no doubt, a scholarly work, and as is true for all human endeavors, it has its falls as well. His other works too, are held in high esteem in the academic circles.

[147] Henceforth the two terms shall be used interchangeably.

the origins of *Ḥadīth* (Prophetic Traditions) and *Fiqh* (Islamic Jurisprudence) revolve around a central argument- the *e-silentio* [148] as well as certain other assumptions about *Ḥadīth* and *Fiqh* being pivotal to his discourse on the subject and without understanding them it would be difficult to fully appreciate his criticism of *Ḥadīth* texts and their sources and understand the paradigm that he caused.

1.   The "*e-Silentio*" Argument:

Joseph Schacht's central argument is what he calls *e-silentio*, and elaborates it thus:

"The best way of proving that a tradition did not exist at a certain time is to show that it was not used as a legal argument in a discussion which would have made reference to it imperative, if it had existed...and in a number of cases one or the other of the opponents himself states that he has no evidence other than that quoted by him, which does not include the tradition in question".[149]

The above-mentioned *e-silentio* argument attempts at conclusively showing the absence of legal traditions in the first and the beginning of the second centuries A.H. because they were absent in the Islamic juristic writings from that period. It is interesting to note that he also applied the *e-silentio* to historical traditions which he found similar to the legal ones in this regard.[150] Schacht brings several examples[151] to lend support to this argument, starting with the 2nd century A.H. jurist *Shaibānī's* comments where he appears

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[148] C. A. Briggs, "The Argument E Silentio: With Special Reference to the Religion of Israel," *Journal of the Society of Biblical Literature and Exegesis* 3, no. 1 (1883): 3, 21, http://www.jstor.org/stable/3268680, (accessed: 12/03/2012); He discusses its many usages and limitations. Moreover, it must be handled with great care as advised by him; Irving Copi lists among logical fallacies. *Introduction to Logic* (USA: MacMillan Publishing Company, 1986), 94-95.

[149] Schacht, *Origins,* 240.

[150] See the argument mentioned in Schacht, "Revaluation": 151.

[151] Ibid. 141-152.

to blame the Medinians for giving rulings without giving reference to pertinent legal traditions. The word used here is *athar,* and not *Hadīth* and considering the fact that it is taken from Shāfi'ī'- who differentiates between Prophetic and non Prophetic traditions and uses *athar* for extra Prophetic traditions– [152] it doesn't necessarily point out to the Medinians' ignorance of Prophetic tradition. Also, as pointed out by some scholars there were other reasons besides those feared by Schacht in this regard. As pointed out by some scholars, the use of *e-silentio* in such places is inappropriate and they give alternative explanations for some jurists' not giving evidence from traditions for what they claim to be the right juristic position. [153] In the above mentioned example a contrary line of argument was also developed by Ansari and reconfirmed by Azami[154] and Motzki among others and it clarifies the point in doubt with Schacht.

Taking Ansari's response which is the earliest, it has tried to prove the invalidity Schacht's *e-silentio* in two ways:

1) Upright refutation, by clarifying why else would the jurists in early times not mention pertinent traditions.[155] For example, that it cannot be expected of every jurist to know every tradition (especially in the formative years), and it is not necessary that whenever a legal doctrine was recorded, its supporting arguments especially the traditions, were recorded.

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[152] Schacht, *Origins,* 16.
[153] Ibid. 240; see the original text. Muḥammad b. Idrīs al-Shāfi'ī, "The Book- Muḥammad b. Ḥasan's Refutation," in *al-Umm* (Beirut: Dār al-Ma'rifah, nd.), 7:317; For M. M. Azami's critique, see *On Schacht's Origins,* 123-124.
[154] Azami, *On Schacht's Origins,* 116, 119.
[155] Ansari, "Early Development," 235-237.

2)   Upside down, by comparing the texts of *Muaṭṭa' Mālik* and *Muaṭṭa' Shaibānī*,[156] he shows conclusively the absence of a number of traditions of the former in the latter, although both the latter person and his book are historically newer than the former. This clearly shows that although it is unimaginable that *Shaibānī* did not know the traditions in *Muaṭṭa' Mālik*, yet he did not include them in his collection for reasons best known to him.

To mention another scholar who doesn't approve of the *e-silentio*, Harald Motzki thinks that Schacht's argument is inadmissible: "We can assume that 'Aṭā' already knew the Prophetic *ḥadīth* in some form when he answered Ibn Jurayj's question, but did not consider himself obliged to cite it. There are several imaginable reasons...."[157] While looking for evidence- the minuteness with which Schacht does it- it should be realized that others might demand it in one's own writings too. He himself seems to have committed what he finds wrong with the absence of evidence texts- the Traditions- in early Islamic legal discourse. It is when he writes "The examples adduced here are Medinese, but Iraqians also used this argument"[158] without giving any evidence in support of his claim about the Iraqians. Also, where he mentions "when John of Damascus mentioned the law-givers of Islam, he means the governors and their agents, the judges" [159] and fails to come up with his source for what he claims.

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[156] Ibid. 237-243.
[157] Motzki, *The Origins of Islamic Jurisprudence- Meccan Fiqh before the Classical Schools* (Leiden: Brill, 2002), 90-91; ibid. 120-123 for details.
[158] Schacht, *Origins*, 48.
[159] Ibid. 191.

There are other such instances where Schacht doesn't feel the need to mention the reason for his claim or it is given but carries little relevance to the point that he tries to make. [160] An interesting instance is when he concludes that the traditions from the Companions supersede those from the Prophet, and tells us that it holds true because both the Iraqians and the Medinese held the Companions' traditions in esteem. Here he also tells us that it's because in the view of these two peoples, the Companions would not have been unaware of the Prophetic practice and decisions, and he tells that Ibn Mas'ūd became happy when he came to know that his decision matched with that of the Prophet. [161] One fails to see how this little argument proves the claim that the Companions' traditions supersede the Prophetic ones. [162] A careful look at this reasoning might reveal quite the opposite to the keen eye. It shows clearly the extent of the Companions' respect for the Prophetic rulings, and the extent to which the jurists realized this feeling.

But people, at least in the west, trusted him and accepted his claims. His answer to Ansari's queries shows where he kept his additional evidence- in his 'notes of long ago' [163] that is. Actually, this shows a human attitude towards academic research, of mentioning only that evidence which is deemed necessary by the scholar for his projected audience. The evidence would vary from audience to audience, which is quite natural. We might say- and not as a fixed rule- that wherever an indication suffices, detailed evidence might not

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[160] Ibid. 29; On at least six different points do Schacht's references fail, either because they came out to be inaccurate, or because they are not to be found as pointed out by. Ansari, 565-568.

[161] Schacht, *Origins*, 29.

[162] A careful look at this reasoning might reveal quite the opposite to the keen eye. It shows clearly the extent of the Companions' respect for the Prophetic rulings, and the extent to which the jurists realized this feeling. It has been discussed below as well, in more detail.

[163] Schacht, *Origins*, 569.

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be considered as incumbent upon oneself by many a scholar. It therefore becomes incumbent upon us whenever we study history to develop an understanding and respect for the feelings and emotions of the people (as well as their academic approaches) whom we are endeavoring to study. History without time and space considerations mostly brings inaccurate results. A historian's imagination is a much needed tool in any research of historical nature, without understanding the importance of historical evidence.

2. *Ḥadīth* and *Fiqh*- The Main Areas of His Study:

The *e-silentio* argument is probably the first step for Joseph Schacht towards suggesting a cause-effect relation between *Fiqh* and *Ḥadīth* respectively, as the following pages would reveal further this relation is the core theme of his major works like *Origins*, *Revaluation*, and *Introduction*, which are relevant to the discussion here. It is quite elementary that we take a look at the inter-relation between these two themes- *Fiqh* and *Ḥadīth*- as related by Joseph Schacht.

To start with, *Fiqh* or Islamic Jurisprudence has secular origins in his view; it is a historical- social phenomenon and not a set of norms sent down by God.[164] For him, it had a common center of origin[165] whence it spread and diversified, and it seems to him to have originated out of the Umayyad practice which he fails to accept as Islamic. He also tells of their dependence upon Jewish practice and law.[166] Parts of the Muslim empire which had been under the Roman rule previously, and the Jewish quarters in Madinah are the two

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[164] Aharon Layish, "Notes on Joseph Schacht's Contribution to the Study of Islamic Law," *Bulletin-British Society for Middle Eastern Studies* 9, no. 2 (1982):133, http://www.jstor.org/stable/195088, (accessed: 06/08/2011).
[165] Schacht, *Origins,* 222.
[166] Ibid. 214-222.

places where Joseph Schacht's proposed influence upon Islamic law happened. Schacht

gives some examples to illustrate his point of view, where he finds similarities between the

Arab/Arabic, the Roman, and the Hebraic traditions and concludes that the two latter

traditions influenced the Islamic juristic principles. His linguistic analyses of words like

zakāt, *'umrā*, *suknā*, with their ancient usages, and their similarities to Hebraic words, all

contribute to his conclusion that Islamic law had its roots in those. [167] Such ideas as these

may have been valid had the Umayyads, the conquerors, been inferior to the nation that

they conquered, the Romans. Sahas tells us that it was the Romans that the Syrians wanted

to go away, when Umayyads came to power there. They were probably tired of their

tyranny, and Umayyads treated them more humanely than the Romans. Sahas quotes

Eutychius - a Christian scholar-in this regard. [168] This clearly negates any religious or

juristic influence of the Romans upon the Umayyads. Regarding the word-parallels

implying that the Muslims took certain juristic principles from the nations with which they

interacted, we should divide the issue into two tiers, the micro and the macro. At the micro

level, on similarities between Hebrew and Arabic, one can easily see that the two belong

to the Semitic group, and similarities are bound to exist, which don't prove one language's

dependence on the other for the words therein. At the macro level, if two words like

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[167] Ibid. 191; idem., "Foreign Elements in Ancient Islamic Law", *Journal of Comparative Legislation and International Law*, third series 32, no. 3/4 (1950): 9-17, http://www.jstor.org/stable/754369, (accessed: 27/08/2011). He agrees with Henri Lammens. Henri Lammens, *L'Islam- Croyances et Institutions* (Beyrouth: Imp. Catholique, 1943), 108-109, and Goldziher in *The Principles of Law in* Islam (viii: 296-298). Von Kramer holds similar views of this proposed foreign influence, which is probably a source of Goldziher's- and Schacht's- views on the subject. See von Kramer, *Culturgeschichte des Orients unter den Chalifen* (Vienna: 1875), 1: 532-547; for a summary of western views on this, Jonathan P. Berkey, *The Formation of Islam: 600-1800* (Cambridge: Cambridge University Press, 2003), 61-69.

[168] Daniel John Sahas, "Encounter and Refutation: John of Damascus' Attitude towards the Muslims and his Evaluation of Islam," (doctoral thesis, The Hartford Seminary Foundation, 1969), 31.

"prudence" and *"Fiqh"* -for example- carry similar meanings, it is not necessary that Arabic took from Greek, but because language is a carrier of man's thoughts, and similar thoughts are to be found among different peoples. Arabic, itself a very rich language and culture probably did not need to borrow from Greek language.[169]

The underlying point with Schacht here is that Islamic law did not have Qur'ān nor *Ḥadīth* as its sources. He tries to establish this partly through his attribution of the early jurists' attitude towards Qur'ān and *Ḥadīth* as one of neglect,[170] and gives some evidences to this effect, mostly from Shāfiʻi's *Umm*. A look at these is expected to elucidate his approach to *Ḥadīth and Fiqh* on the one hand and the early (1st and 2nd) Muslim jurist's approach to *Ḥadīth* on the other. On one occasion, Schacht infers from Mālik's statement "We did not apply the *lex talionis* to [broken] fingers until 'Abd al-'Azīz b. Muṭṭalib, a judge, applied it...".[171] 'Abd al-'Azīz was a judge in Umayyad times which does not imply that he was dis-interested in Qur'ān and *Sunnah*. He was a well-respected judge who was held esteem by jurists and traditionists beyond Umayyad times. He was a transmitter of *Ḥadīth* popular even with later traditionists like Bukhārī, Muslim, Tirmidhī, and Ibn Mājah,[172] to name a few and many biographers and *Ḥadīth* scientists too accept him as

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[169] S. Goitein, "Between Hellenism and Renaissance- Islam, the Intermediate Civilization," *Islamic Studies* 2, no. 2 (1963): 227, http://www.jstor.org/stable/20832684, (accessed: 20/03/2012).

[170] This idea is elaborated by him throughout his *Origins*, and summarized in his article, *Revaluation.* Regarding *Ḥadīth,* see Schacht, *Origins,* 20-35, while regarding Qur'ān, see ibid. 224; idem. "Problems of Modern Islamic Legislation," *Stvdia Islamica* xii (1960): 106-107; The Umayyads, despite their flaws, were nonetheless interested in preserving *Ḥadīth,* as pointed out by Nabia Abbott. *Studies,* 2: 18-32; Dutton studies some examples from *Muʻatta* and shows that the popular Umayyad practice was based on Qur'ān, against the Schachtian conclusion. Yasin Dutton, "Judicial Practice and Madinian 'Amal," in *Islamic Law*, ed. Gavin N. Picken (Abingdon: Routledge, 2011), 2: 17.

[171] Schacht, *Origins,* 68. For the original text, see Shāfiʻī, "b. Ḥasan's Refutation", 7: 333.

[172] Jamāluddīn Yusuf al-Mizzī, *Tahdhīb al Kamāl fī Asmā' al-Rijāl* (Beirut: Mu'assasah al-Risāla, 1992), 18: 208.

reliable and truthful.[173] Wakī' discusses his judicial activities in relative detail which show

a few of his traits, like his taking back a decision if convinced by the person convicted, and

his advice that he should not be approached when angry since it might affect his judgment,

to mention a few. This shows that as a judge 'Abd al-'Azīz was a man of principles, and

such a man is not expected to judge blindly by the Umayyad yardstick if that really is a

problem.[174]

Technically, we must also be mindful of the fact that Qur'ān had already established

lex talionis for different parts of the body which are their counterparts,[175] and while Mālik

definitely knew of this Qur'ānic injunction, he probably wanted to make sure that there

was a precedence for it in practice,[176] which he found in the practice of 'Abd al-'Azīz, the

respectable *Hadīth* transmitter and judge. Injuries to the body and breaking of bones are

criminal acts in the different Islamic juristic schools. There is a detailed discourse on the

issue, owing to the differences among the injured, broken, or severed parts of the human

body. Mālik considers the case of different bones in the human body as similar to each

other, including the fingers, and if broken, the criminal's corresponding organ is to be

broken.[177] So, this period- the early 2nd century A.H. - was the formative period in Mālik's

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[173] Mizzī, 207-208. Ibn Ḥajr, Ibn Hibbān, Abu Ḥātim, Dārquṭnī are few such luminaries mentioned by Mizzī.

[174] Muḥammad b. Khalaf Wakī', *Akhbār al-Quḍāt* (Egypt: al Maktabatut Tijariya, 1947), 204-206.

[175] *Qur'ān,* 5: 45; The āyah mentions life, eyes, nose, ears, and teeth only, and is a reminder to the Jews, as well as being a commandment to Muslims. It should be noted that the important Qur'ānic fact was ignored here by Schacht. For a detailed, in-depth exegesis of the āyah. Muḥammad b. Aḥmad al-Anṣārī al- Qurṭubī, *Al-Jami' li Ahkām al-Qur'ān* (Cairo: Dār al-Kutub al- Miṣriyyah, 1937), 5: 191- 208. Qurṭubī was himself a jurist par excellence. He divides his discussion on the āyah into thirty different cases sprouting from it and elucidates the legal maxims developed by the prominent early jurists around these.

[176] Wael Hallaq, *The Origins and Evolution of Islamic Law* (Cambridge: Cambridge University Press, 2005), 45; Coulson, *History*, 46-47.

[177] Mālik b. Anas, *Al-Mudawwanah al-Kubrā* (Beirut: Dār al Kutub al 'Arabiyyah, 1994), 4: 571.

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juristic school's history, and its final form with Mālik is its confirmation of *lex talionis*. Moreover, the context of Shāfi'ī's comment in *Umm* is not the way it appears in *Origins*, since Schacht therefore seems to be ignoring the context of this matter, and infers against Mālik's reliance upon *Sunnah*, which is inaccurate. Shāfi'ī here is trying to answer to Shaibānī on the issue and not to Mālik.

Continuing with his critique of the jurists, Schacht tells that the attitude of jurists towards *Sunnah* was not positive:

> "...Shāfi'ī was the first lawyer to define *Sunnah* as the model behavior of the Prophet (peace be upon him), in contrast with his predecessors, for whom it was not necessarily connected with the Prophet, but represented the traditional, albeit ideal, usage of the community, forming their living tradition"[178].

These 'predecessors' as Schacht calls them would then include the first and second Islamic centuries jurists like *imāms* Zayd b. 'Ali (d. 122 A.H.), Abū Ḥanīfah (d. 150 A.H.), al Awzā'ī (d. 157 A.H.), Mālik (d. 179 A.H.), Sufyān al- Thawrī (d. 161 A.H.).[179] Schacht divides these into the Iraqians, the Medinians, and the Syrians,[180] and the above jurists would fall under their respective regional schools. The salient members of none of the above ancient schools (as Schacht calls them) considered *Ḥadīth* as having a marginal position for them in their juristic activities. Hallaq, pointing out the relevance of Prophetic

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[178] Schacht, *Origins*, 2.

[179] All dates of death here, have been taken from Muḥammad Baltāji. *Manāhij al-Tashrī' al Islāmi fi Qarn al-Thāni al-Hijrī* (Riyadh: The Imām Muḥammad b. Sa'ūd Islamic University, 1977) v. 1-2.

[180] These are the three schools around which Schacht's discussions revolve.

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material for the jurists tells us: "...qualitatively, the Prophetic materials represented a superior authority to many specialists...",[181] although they might not have been mentioned by them, and as we are told by him it is very important for us to go deeper into the methodology of *Uṣūl al-Fiqh* in order to get a better insight into early *Ḥadīth* development, which reveals that the jurists in the first and second centuries A.H. held Qur'ān and *Ḥadīth* to be the primary sources of their legal reasoning.[182] Hallaq criticizes modern scholarship for having ignored the point of view of traditional Muslim scholars in this regard, which already had given a valid solution to the question of authenticity of *Ḥadīth* in his view.[183] It appears that where the problem lies in Schacht's view lies the solution in Hallaq's, at least in part.

From the above, a balanced point of view regarding the sources with jurists of that time would then be: "they often stated their doctrines, presumably without feeling the necessity of mentioning the arguments which justified them or the sources whence they had been derived".[184]

Coming back to Schacht, he carries out a numerical comparison between the Prophetic and the non- Prophetic elements in the Traditions referred to by the classic texts of these juristic schools from the second A.H. It provides him with another reason to

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[181] Hallaq, *Origins*, 70; A glimpse of the traditionists' piety is well provided by Melchert in his article where he highlights some of their positive qualities, like seriousness, piety, etc. "The Piety of the Ḥadīth Folk," in *The Hadith,* ed. Mustafa Shah, 3: 246-257.

[182] Baltājī, *Manāhij,* v.1-2.

[183] Hallaq, "Authenticity," in *The Ḥadīth,* 1:366-367.

[184] Ansari, "Early Development," 223-225. Skepticism began to arise among the jurists in early second century, A.H. This skepticism was due to the rise of unorthodox sects like the Khārijīs and the Shī'a, and the challenges posed by it. Thus, demand for clarifications about evidence for what one claimed to be the right juristic opinion, arose.

believe that the Prophetic elements were outnumbered by the non-Prophetic ones in these early writings by the jurists, which showed to him their neglect of the former.

Table 1: Joseph Schacht's Quantitative Comparison[185] between Ancient Jurists' Attitudes towards Traditions

S. #	The Juristic School	The Person	The Source	Ḥadīth-The Prophetic Traditions	The Companion Traditions	The Successor Traditions
1	Medinese	Mālik	*Muaṭṭa' Zurqānī*	822	613	285
2	Medinese	Mālik	*Muaṭṭa' Shaibānī*	429	628	112
3	Egyptian Medinese		*Ikhtilāfu Mālik wash Shāfi'ī* in Shāfi'ī's *Umm* vol. 7	They diverge from traditions (of all three kinds) transmitted by themselves.		
4	Iraqians	Ibn abi Lailā, Abū Ḥanīfa, Abū Yusuf	*Ikhtilāful 'Irāqiyyīn* in Shāfi'ī's *Umm* vol. 7	Much less	Many more	Many more
5	Iraqian	Abū Yusuf	*Kitābul Āthār*	189	372	549
6	Iraqian	Shaibānī	*Kitābul Āthār*	131	284	550

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[185] Schacht, *Origins*, 22.

| 7 | Syrian | Auzā'ī | *Siyarul Auzā'ī* in Shāfi'ī's *Umm* vol. 7 | Much more frequently | (Much less frequently) | |

The above table clearly shows the trends of different early juristic schools towards reporting of *Hadīth*. It points out to the fact that there were other sources with these early Islamic jurists beside *Hadīth* and not that it was ignored by them. Among these other sources were the Companions' opinions [186] which are contrasted by Schacht to *Hadīth*. [187] However, when we look at the data beyond numbers it shows that on a number of occasions the different kinds of traditions reported by these jurists were dealing with different issues, and should not be pitted against one another, and even if the issue were the same there are many other explanations besides those given by Schacht that they were giving more importance to non-Prophetic material than the Prophetic one. [188]

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[186] Or what they probably believed to be the right Islamic conduct, known best to them because of their one time close affiliation to the Prophet (peace be upon him). As Ahmad Hasan notes, one should not forget that during the lifetime of the Prophet, *Sunnahh* also implied the conformity of the acts of the Companions to the acts of the Prophet. *The Early Develoment of Islamic Jurisprudence* (Islamabad: Islamic Research Institute, 1970), 91.

[187] Ansari, "Early Development," 373-374. His discussion on the early legist Shaibānī's attitude towards traditions from the Prophet (peace be upon him), the Companions and the Successors shows the esteem in which each was held in the Islamic juristic discourse. It also points out to the fact that the two latter kinds of traditions do not oppose the true among the former, and might reflect the true *Sunnah* in a better way than some of the traditions attributed to the former. This is contrary to what Schacht had said.

[188] See 50. Not mentioning something doesn't negate its existence. It might indicate towards an ignorance of it, or it might be that its attribution to the Prophet did not convince the jurist; In summary, some standards common to these were the piety of the narrator, and his or her moral integrity. His or her juristic or legal sense was also important when selecting or preferring a tradition. A report by a man of desire, a hedonist, was also not given importance by these major jurists. Abu Ḥanīfa's internal criticism of traditions also deserves appreciation. For a detailed discussion on Abu Ḥanīfa's methodology in taking *Hadīth*, whose attitude towards *Ḥādīth* is the usual object of criticism with many a learned scholar. Baltāji, *Manāhij*, 1:294-

In order to ascertain any differences between the Prophetic and the Companion traditions, one is required of us to see who a Companion is? Briefly, he or she is one who met the Prophet as a Muslim, and died as a Muslim.[189] This indicates towards his or her loyalty to the Prophetic message and to that his or her tradition was loyal to the Prophetic model. As Shah Wali Ullah points out, the Companions' and the Successors' opinions are fine since they are based upon the Prophet's (peace be upon him).[190] The vogue of the word 'Companion' itself points out to a certain relationship of this generation with the Prophet (peace be upon him).[191]

To the data given by Schacht in the above table should be adduced another recent quantitative comparison[192] among the early *Hadīth* transmitter Companions (and their children)[193] in different locales. Although it doesn't point out to the early jurists' attitude towards *Hadīth*, yet it shows the presence of a traditionist activity in the earliest times of Islam. In this comparison, the number of Companions given by Hallaq is 418 and nearly all of them transmitted *Hadīth*. This activity was popular then, within or without the juristic domain. It shows the locale-wise number of these *Hadīth* transmitters in percent of the total. According to it, more *Hadīth* transmitters probably flourished in each of Kūfa (28

313; For Muḥammad b. abi Lailā al-Ansārī (d. 148 A.H.), the Kufan legist. ibid.1:240-243; ibid. For Sufiān ath Thaurī (d. 161 A.H.). 1: 491-493; For Mālik b. Anas (d. 179 A.H.). Ibid. 2:573-591.

[189] Fu'ād Jabali, "A Study of the Companions of the Prophet: Geographical Distribution and Political Alignments," (doctoral thesis, McGill, 1999), 68; Moreover, one should notice the difference between the Catholic concept of Apostles and the Prophet Muḥammad's Companions. Paul, a contemporary of Jesus Christ, was his enemy as long as he lived among the people, and it was only later that Paul became a believer in him and then even the co-founder of Christianity and the spiritual head of the Catholics.

[190] Shah Wali Ullah Dehlawi, *Hujjat Allāh al-Bālighah* (Sheikhupura: Al-Maktabah al Athariyyah, nd.) vol. 1, p. 304-306

[191] Ansari, "Early Development", 373.

[192] Hallaq, *Origins,* 72.

[193] between the years 80-120 A.H.

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%), Basrā (27%), and Madīnah (24%) than Syria (12%). In addition, the sheer number of traditionists was larger than that of the jurists at that time according to Hallaq.[194] This does not undermine the importance of juristic activity in early Islam but tries to fill in a few gaps alleged by Schacht and shows the definite presence of *Hadīth* at the junction of the first-second centuries A.H., which also show that the two disciplines developed together since the early times. Here, the two quantitative analyses reveal striking results, like the fact that in comparison to Hallaq's given source -which is a specialized historical-biographical one, namely Ibn Ḥibbān's *Mashāhīr 'Ulamā' ul Amṣār-*[195] Schacht's sources in the above table were of a limited nature, namely writings by jurists like Shāfi'ī, Mālik, Shāṭibī, Abū Ḥanīfah, and their interest is not to report the traditions. So, figures given by Schacht can reveal at best only a part of the intersection of the traditionist-jurist domains which grants the readers a limited vision of such a vast subject as *Hadīth* in early Muslim history.[196]

Last but not least is Schacht's discourse on early jurists' legal disagreements and debates. Here he introduces his readers to Shāfi'ī's critique of his predecessors' attitudes regarding *Hadīth*.[197] He tells us at the outset: "Shāfi'ī devotes a considerable part of writings to discussions with and polemics against his opponents, but always with a view to making them acknowledge and follow the *Sunnah* of the Prophet...".[198] Henceforth he

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[194] Hallaq, *Origins,* 70; For the distribution of Companions in different regions. Muḥammad 'Ajāj al-Khatīb, *Al-Sunnah qabl al-Tadwīn* (Beirut: Dār al-Fikr, 1980), 164-175.

[195] Ibn Ḥibbān, *Mashāhīr 'Ulamā' al-Amṣār* (Al Mansūrah: Dār al-Wafā' li al-Ṭibā'ah wa al-Nashr, 1991).

[196] Another scholar, Harald Motzki also differs to some extent with Schacht. His viewpoint would form the 2nd Chapter of this thesis.

[197] The *Origins* is teeming with examples of disagreements and debates among the early jurists. Most of these are taken from three of Shāfi'ī's books, *Umm, Risāla,* and *Ikhtilāf al-Hadīth,* including many cases where Shāfi'ī is not himself a party, but just a narrator of these disagreements and discussions.

[198] Schacht, *Origins,* 6.

begins to explore Shāfi'ī's writings against these 'opponents'. Here one notices that his presentation of Shāfi'ī's standpoint regarding the Iraqians and the Medinese fluctuates. The following abridgement from *Origins* would serve to illustrate this critical methodology, and where it is lacking. In one instance Shāfi'ī is shown as attacking (presumably) Abū Ḥanīfa's chief disciple Shaibānī for ignoring a clear *Ḥadīth* in blind following of the master even though the opponent knew of it.[199] Here Schacht tells us that it was presumably Shaibānī whom Shāfi'ī was rebuking for his blind following of Abū Ḥanīfa. Shāfi'ī's original text mentions just an interlocutor, with whom he is discussing things. The relevant paragraphs do not show who this man is. No doubt, the early Ḥanafi school disagreed with Shāfi'ī on this issue of following a singularly transmitted tradition and this disagreement was based on a juristic principle held by them. The principle was not explicitly iterated by Abū Ḥanīfa though, in unison with the juristic trend of the age and goes like this: If *āḥād Ḥadīth* (conveyed by single person at any level of the transmission chain) disagrees with the principles established by *Qiyās* (it is "concrete knowledge upon whose verity the scholars agree", as defined by Shāfi'ī)[200] then it is not acted upon.[201] Another example

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[199] Ibid., 6.

[200] Shāfi'ī, *Umm*, 7: 281.

[201] In the above mentioned case it is the Companion Abu Huraira-not known for his juristic sense- who narrates this *Ḥadīth*, in all the collections where it appears. Shāfi'ī here takes every *Ḥadīth* coming his way and tries to find concordance among them all, while Abu Ḥanīfa tends to take only those *Ḥadīth* which are according to a set of criteria. Both the two said juristic arguments, then, seem to be based upon certain principles. Which of the two opinions is right is a normative question, and out of this research's scope. Shāfi'ī himself tells us that it is just a matter of disagreement on the *Ḥadīth*'s meaning here. *Risāla* (np: Dār al-Fikr, 1309 A.H.), 555-558; Shāfi'ī's opinion of Abu Ḥanīfa' elsewhere is different from what Schacht apparently thinks: "I din't see anyone juristically wiser than Abu Ḥanīfa". Al-Khaṭīb al-Baghdādi, *Tārīkh Baghdād* (Beirut: Dār al-Kutub al-'Ilmiyyah, 1997), 13: 345. Regarding his students, Shāfi'ī says: "One who wishes to know *fiqh* ought to remain attached with Abu Ḥanīfa and his associates, because the people are all his inferiors in *fiqh*". Ibid. 13: 346; Some of the scholars also differentiate between the *Aḥādīth* narrated by those having a juristic sense and those who did not have it. see Baltāji, *Manāhij*, 1:303-304; Musaed Salim

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deserves to be mentioned here. Firstly, regarding the key sentence quoted by Schacht: "Perhaps all these adherents of different masters exaggerate".[202] It is not difficult to say that he misrepresented what Shāfi'ī had said. Had it been translated as "Perhaps all these sorts of adherents..." then it would have conveyed the meaning more accurately- however subtle the difference- since the original text says: "...لعل كل صنف من هؤلاء قدم صاحبه".[203] Secondly, Shāfi'ī's comments should not be taken as aimed at 'Atā', nor Mālik, nor Ibrāhīm anNakh'ī, but at those among their followers who tended to exaggerate. Thirdly, these comments by Shāfi'ī deserve to be looked at, in context of the bigger arena- *Ijmā'*- where he was preparing to call the people to, as the name of the treatise- *Jimā' al 'Ilm*- carrying these comments suggests. For Shāfi'ī, true *Ijmā'* probably lied in unconditionally bowing before *Hadīth*, which was his prime motive whenever he would talk about his fellow jurists critically.

Besides these, there are other instances of Shāfi'ī's critique of his contemporaries in his writings. Schacht's long quote from Shāfi'ī's *Umm* clearly shows that there were people in different locales who followed one notable local figure or another.[204] Shāfi'ī here is objecting upon the state of affairs among the people of his time, which he does in other places as well. He is seen blaming his contemporaries in different locales, for immoderation in their following, and critique of those whom they don't follow. This reflects his views on immoderation in differing with others, around the last quarter of the second century A. H.

Abdulkader, "The Role of Hadīth in Ikhtilāf Among Muslim Jurists," (MA Thesis, McGill, 1983), 20-33. For the Māliki School's opinion see ibid., 27-29.

[202] Schacht, *Origins*, 8.

[203] Shāfi'ī, "Kitāb Jimā' al 'Ilm" in *Umm*, 7: 281.

[204] Schacht, *Origins*, 7-8.

and lends an insight into some of the popular local trends with the people in important cities like Makkah, Madīnah, and Kūfah. Shortly before these comments though, he tells the interlocutor: "...the most learned people by us and them (traditionalists) are those who follow *Ḥadīth* most, while for you this is the height of ignorance, since for you following singular *Ḥadīth* is ignorance." This simply elucidates his stance towards other schools with reference to singular *Ḥadīth*. He seems more inclined towards the traditionalists here than the groups whom he mentions, and it is upon such people that Shāfiʿī levels his criticism. This rich Muslim tradition of disagreeing exists because Islam doesn't want to drown out diversity, which is the essence of *Ikhtilāf*. The requirement of an absolute agreement on unity of faith and Islamic universals does not contradict this.[205] In another example Schacht tells that some of the Medinese followed Mālik while others didn't, as was the case with the Iraqians,[206] which doesn't much of a problem in itself.

Moreover Schacht tells that the real important distinguishing feature among the ancient schools of law is simply their geographical distribution and not personal allegiance to a master nor any essential difference of doctrine.[207] In support of this, he cites from Shāfiʿī: "Every capital of the Muslims is a seat of learning whose people follow the opinion of one of their countrymen in most of his teachings".[208] One fails to see how Shāfiʿī's statement here proves the point for Schacht. However what it explicitly establishes is that

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[205] Looking at the matter of exaggeration, one might note that a certain scintillating personality like Schacht himself was followed by many a person in his own locale and beyond and some of those who praised (or criticized) him exaggerated too. Still, that doesn't imply anything negative against him, nor even against those who might have exaggerated in their praise of him. It simply reflects how far human feelings might take man.

[206] Schacht, *Origins*, 7. The sweeping statement here seems out of place.

[207] Ibid. 7.

[208] Ibid. 7.

the people used to follow one of their countrymen, which is different from his claim that the simple distinguishing feature among the schools was geographical.

Coming back to the differences, we then find Joseph Schacht mentioning-in Shāfiʻī's words- the great differences of opinion existent among jurists within locales. Also, that they hardly agree on a single point of law. This he says owes to the fact that these people didn't have strict rules. He continues to tell of an impossibility of compromise between Shāfiʻī and his opponents -Ḥanafīs and the Medinese - owing to their differences regarding *Ḥadīth*.[209] According to Schacht, Shāfiʻī considered them as ignoring *Ḥadīth*, and following their own local traditions. As seen above, it is important to know Shāfiʻī better to appreciate his work, especially his attitude towards these scholars.[210] Shāfiʻī himself tells in his monumental treatise on the principles of Islamic jurisprudence- *Risāla*-that *Sunnah* was known to the jurists, the way Arabic language was known to Arabs. It means that everyone doesn't know it all, yet collectively they know the whole of it. This epistemological principle ought to put the issue in the right perspective.[211]

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[209] Ibid. 9-10. Generally, a deeper insight into a genre of Islamic juristic literature- *Ikhtilāf*- is the point to start with, while discussing such disagreements as these. *Fiqh* being the knowledge of the practical rules of the *Sharīʻah* pertaining to the conduct of a competent (*mukallaf*) person, derived from the detailed evidence in the sources of *Sharīʻah*. See Hashim Kamali, "The Scope of Diversity and Ikhtilāf in the Sharīʻah," *Islamic Studies* 37, no. 3 (1998): 316. See A. Qadri Azizi and A. Qodri Azizi, "Ikhtilāf" in Islamic Law with Special Reference to the Shāfiʻī School," *Islamic Studies* 34, no. 4 (1995): 368-369; One is bound to find diverse opinions on issues where the sources of *Shari'ah* are not explicit. A Muslim luminary in the fields of Sociology and Historiography, Ibn Khaldūn also comments on *Ikhtilāf* among the Muslim jurists, and notes that diversity and disagreement is necessary, owing to the nature of sources of *Fiqh*. These being mostly texts are bound to carry different connotations, he notes. Also, the *Sunnahh* comes by many ways... These are among the reasons for this diversity, he tells us. see Ibn Khaldūn, *Muqaddimah* (Egypt: Maṭb'a Muṣṭafa Muḥammad, 1318 A.H.), 445.

[210] Muḥammad Abu Zahrā, *Al-Shāfiʻī* (Egypt: Dār al-Fikr al-ʻArabī, 1948).

[211] Shāfiʻī, *Risāla*, 42-43.

Schacht uses exxageratvie words like "unjustified", "vigorous" for Shāfi'ī's "attacks", and phrases about him that he "distorts their doctrine".[212] His reasoning appears faulty to Schacht, who laments it for its "lack of objectivity" [213] and faulty reasoning that fluctuates between brilliance and irrationality[214]. Schacht then says that Shāfi'ī's attitude towards his opponents seems better in his book, *Ikhtilāf al Hadīth.*[215]

The whole of *Origins* is seen teeming with examples and remarks the likes of which have been presented above. Much harsher are Schacht's comments against the other Muslim jurists from the 2nd century A.H. But as it appears here, he who relies mostly upon Shāfi'ī for his critique of others himself tries to demolish Shāfi'ī's credibility, which seems quite a confusion of arguments.

According to Joseph Schacht *Hadīth* somehow originates in such an environment as theirs. He tells: "The vague collective memory of the community was formalized, systemized, replenished with details, and shaped into formal traditions with proper *isnāds* only in the second century A. H."[216] Here he is referring to the time of Shāfi'ī onwards.[217] A detailed discussion on Schacht's criticism on *Hadīth* texts, its sources, and how it came into existence form the latter part of this chapter, yet here a few comments would suffice in passing:

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[212] Schahct, *Origins,* 10.

[213] Ibid. 321.

[214] Ibid. 318-320. Schacht dedicates a whole chapter of *Origins* to Shāfi'ī's reasoning, and gives a number of examples from *Umm* in this regard. The readers are told at the end that Shāfi'ī was brilliant, yet had his breakdowns when trying to deal with inconsistencies among traditions.

[215] Ibid. p. 10.

[216] Idem. "Revaluation":154; idem. 145. He stresses upon the early jurists' disregard of *Hadīth* throughout his discourse, and thinks that sometime during the 2nd century A. H. it seems to appear, fabricated by them. It appears as a result of an increasing need for them in their discussions, in Schacht's view.

[217] Ibid. 145.

❖ Qur'ān establishes itself as the primary source of Islamic legislation, as well the role of the Prophet (peace be upon him) as lawgiver,[218] and the idea of foreign Islamic law seems weak. Some western scholars too find the Prophet's (peace be upon him) example as normative since earliest times, and notice Qur'ānic evidence to the effect.[219]

❖ Seeing early Islamic legislation as a purely government funded or a controlled enterprise, doesn't do justice to the issue. If it had been true, then diversity would not have been allowed to survive.[220] An example has been analyzed in the

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[218] Muhammad Hamidullah, *Emergence of Islam,* tr. Afzal Iqbal (Islamabad: Islamic Research Institute, 1993), 62-63, 105-107. To see how Islamic law originated, and how it can be compared to Roman law; Idem. "Islāmī Qānūn aur Bairūnī Ātharāt," *Charāgh e Rāh- Islāmi Qānūn Number* 12, issue 6 (1958): 231. Here, he concludes that if at all, Islamic law could be said to have been influenced by Roman elements, then it would not be more than 1% of the extra-influences. Generally, the early Muslim rulers did not attempt to kill those local customs which were not against Qur'ān nor *Sunnahh*; For an elaborate discussion on Qur'ān's juristic elements, and the Prophet's (peace be upon him) role as defined by it, see Ansari, "Early Development", 32-38; Dutton studies some examples from *Mu'atta* and shows that the early Islamic law was based on Qur'ān, in "Judicial Practice", 17.

[219] Hallaq, *Origins,* 47-48.

[220] An example of the rulers gathering the scholars from everywhere, and asking them to come up with an agreed upon creed, which would serve as the State Creed for centuries to come, is when the Roman Emperor Constantine gathered the Church Fathers from all over in the city of Nicea, in the year 325 C.E. Henry Chadwick, *The Early Church* (Middlesex: Penguin Books, 1967), 130-132. This probably was the first agreed upon Christian Creed, which was updated a few more times in similar Church councils held elsewhere. In the 4th and the 5th centuries C.E., the four Gospels, Mark's, Matthew's, John's, and Luke's, were accepted as the only authoritative Gospels within the New Testament. These (along with some other books) constituted the closed New Testament Canon. It meant a rejection of other previous gospels kept by individuals and groups, like the Marcionites, the Montanists, and the Gnostics. Kenneth Scot Latourette, *A History of Christianity* (New York: Harper and Brothers, 1953), 123-135; *The Encyclopedia of Christianity,* ed. Fahlbusch, Erwin, and others (Leiden: Koninklijke Brill, 1999) s.v. "Canon"; Alexander Allen, *Christian Institutions* (New York: Charles Scribner's Sons, 1897), 89; Church Creed and the closed Canonical Bible became the two centers of authority in Christianity, and they continue to be so. In contrast, even those among the jurists and the associated *Hadīth* collections which were considered against the Islamic ideals or spurious by their respective scientists, were not annihilated. What was simply done was that their flaws were pointed out as strictly as was deemed necessary by the scientists. Thus, various juristic ideas, as well as *Hadīth* collections of sorts- with their natural differences (and flaws) - survived and found their way to our times. Conversely, some like Awzā'ī's Syrian juristic school didn't survive, even though it had not opposed the Islamic ideals as Baltāji says in *Manāhij* (1: 436). This disparity between the Muslim and the Christian cases

preceding pages which attempts at illuminating the true essence of Mālik's juristic method, showing his independence, and serves as a word to the wise.

❖ Diversity- being a natural outcome whenever there are a variety of texts- has been a hallmark of Islamic jurisprudence. The claim that early Muslim scholars disagreed, yet in an ethical manner can well be illustrated by taking the example of correspondence between two of the luminaries of the period, namely Mālik b. Anas[221] (d. 179 A.H.), and al-Laith b. Sa'd[222] (d. 175 A.H.). In the first letter,[223] Mālik, after general salutations, starts thus:

> "...Allah bless you, I came to know that you give people your (expert) legal
> opinion against that which the people are in consensus on in the town where
> we live. You ought to be more careful with yourself, and should take the
> course that would hopefully take you to safety, owing to your religious
> leadership, eminence, and high place among the people in your area, and
> since they need you and trust your words. Therefore: (listen that) Allah, the
> Greatest, the Loftiest, says in His Glorious Book "And the first to lead the
> way, of the *Muhājirīn* and the *Anṣār*, and those who followed them in
> goodness - Allah is well pleased with them and they are well pleased with

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was probably because the concept of a Church did not find recognition with the Muslims at large, and so strict canonization which was an enterprise by the Church did not happen in their case.

[221] The most well respected early Medinese legist and traditionist.

[222] He is the second century A.H. Egyptian authority on *Ḥadīth* and *Fiqh*.

[223] "Mālik's letter to al- Layth b. Sa'd" in al-Qāḍl 'Ayaḍ, *Tartīb al-Madārik* (Rabaṭ: Maṭba'ah al- Shimāl al- Ifrīqī, 1965), 1: 41-43.

Him, and He hath made ready for them Gardens underneath which rivers

flow, wherein they will abide forever. That is the supreme triumph."[224] "

Mālik then continues to give further arguments in support of his juristic

principle- the Medinian practice-[225] and ends the letter thus:

"So, note what's in my letter for your benefit- may Allah have

Mercy on you. Hopefully, it's just out of sincerity, concern and consideration

for you for Allah's sake, which made me write to you. Take this letter

seriously, and you will notice my sincerity that I have for you..."

And the letter ended with a prayer for the both of them.

The cordial demeanor in the letter shows the academic environment there

and then, and shows how Mālik felt towards those among his contemporaries who

opted to disagree with him.

Al-Laith's reply[226] to the above-mentioned letter is expected to serve this

illustrative purpose further. It appears that earlier, al-Laith had sent some books to

Mālik for his comments. Along with his comments, Mālik had sent the letter whose

abridged form is given above. Here, after general salutations, al-Laith thanks Mālik

for his valuable comments, saying:

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[224] Qur'ān's English translation by Muḥammad Marmaduke Pickthall, http://quran.com/9, (accessed: 12-04-2012).

[225] Note: The purpose of quoting from the letter is just to offer a glimpse of the ethics of disagreement with two of the leading Muslim scholars; therefore, the contents of discussion on "Medinian practice" have been omitted here.

[226] "Layth's letter" in Ibn al Qayyim Al-Jauziyyah, I'lām al-Muqi'īn 'an Rabb al-'Ālamīn (Beirut: Dār al-Jīl, nd), 3:83-88.

"You mentioned that you had reviewed the books sent by me and put your seal on them. We received them, may Allah reward you for the effort you put into it. These had come to me and I needed your views on them. You mentioned that my request for your clarifications on what you had sent me (earlier) had prompted you to write to me, and hoped that I would appreciate them. You noted that the reason why you had held back from it earlier was not due to your low opinion of me, but because I hadn't before entered in discussion with you in this way myself."

He continues, clarifying his standpoint on the many issues where he disagreed with 'Medinian practice', as a reply to Mālik's contention in its favor. A few pages and many examples later, al-Laith humbly ends his letter:

"I have omitted many similar things and wish that Allah's Succor be with you, and may you live a long life; for in my view, people's interest lies in your being, so loss of someone like you would be great. Also, your presence matters to me even if you are far.

Please keep in mind that I hold you in such high esteem, and this is the way that I think of you. So, please stay in touch, keeping me informed of your well-being, and of your family's, your people's, and your town's too. Let me know too, if you or your close ones need something.

As I write, we are all right and well, thanks to Allah; May He grant us that we may thank Him for whatever He has bestowed upon us, and that He may complete His bounties upon us. Peace and His blessings be upon you."

The above letters clearly show the two leading luminaries' attitude to legal discussion and the ethics of disagreement. The issue at hand with them, as has been

mentioned, was the Medinian practice and their opinions are opposed to each other. Still, the courteous feelings that one sees reflected in these two letters, gives a glimpse at the fact that it was a disagreement handled academically and without personal bias.

❖ If Schacht's thesis on Islamic law is accepted as many people have done and made it their paradigm, its outcome would tend to spread beyond its scope which is intertwined with the domain of *Hadīth* and would attempt at casting serious doubts around nearly every aspect of a Muslim's faith and activity. The important factor here is his inference on the late origin of *Hadīth* at the hands of the second century A.H. jurists and its divorce from earlier *Fiqh*. If *Hadīth*- and Qur'ān as well- were proven not to have played any genuine role in the early Islamic juristic discourse, and taking in view the *e-silentio* it would definitely leave a gap therein as Schacht thinks. The reason for such a conclusion as Schacht's is probably a lack of historical imagination and inappropriate use of evidence, something which will hopefully become more evident as the current chapter mores forth.

To put it in other words, if the efforts of early jurists to incorporate Prophetic *Sunnah* (mostly informally, as well as formally at times) into their juristic discourse and a part and parcel of their method are denied their due position, then this would be tantamount, in addition to ignoring genuine historical evidence since one lacks in historical imagination, to creating an abyss between the Prophet's *Sunnah* and the formally published *Hadīth* genre. More than anything, it would provide a canvas for further theorization such as Schacht's. It would be an interesting exercise to apply the approach developed by Schacht upon other religious traditions, especially

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those where one finds little or no text documents whatsoever in their first few (or many) centuries. It would probably serve to cast doubts on most things religious, and even non-religious. This however does not seem to be the case with *Fiqh* and *Ḥadīth* as many scholars in the east as well as in the west have studied and come up with a spectrum of conclusions on the origins of *Fiqh* and *Sunnah,* many of which don't support such suppositions. Some of these have already been noted above, while the rest would follow in what remains of this work.

Ḥadīth Criticism:

As the above-mentioned examples show, Joseph Schacht's *Ḥadīth* criticism revolves around legal *Ḥadīth* which appears in his works as a product of early Muslim history- political and juristic- as has been pointed out in the previous section. This would, if accepted imply a shift in the source of *Ḥadīth,* from that which is believed (and established) traditionally by Muslims.[227] To show how the grand corpus of traditions originated- and what its sources were- remained among the chief concerns of Joseph Schacht throughout his studies on Islamic origins, and to achieve this, historical criticism remained among the tools of choice for him. Before him, the commonly-held view in the west considered most of *Ḥadīth* as redacted, and the existence of a core of genuine

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[227] Abd-al-Jabbar Danner, *The Islamic Tradition- An Introduction* (Lahore: Institute of Islamic Culture, 1991), 116. According to the traditional Muslim view, the genre of *Ḥadīth* or Prophetic Tradition is the report of the *Sunnah* or the (well-trodden) path of the Prophet Muḥammad (peace be upon him); Manā ẓir Aḥsan Gilānī, *Tadwīn Ḥadīth* (Karachi: Idāra Majlis 'Ilmī, 1956), 16. The sayings, and the acts of the Prophet, and those acts which were approved by him (peace be upon him), traditionally constitute *Ḥadīth.* see Muhammad Zubayr Siddiqui, *Hadith Literature- Its Origin, Development and Special Features* (Lahore: Suhail Academy, 2001), 1-2; John B. Christopher, *The Islamic Tradition* (Lanham: University Press of America, 1972), 31; Being a narration, or the vehicle of the Prophet's *Sunnahh,* its source thus is the Prophet himself.

Prophetic traditions was not entirely rejected.[228] The traditionists were therefore probably considered as redactors and not the ultimate source of all *Ḥadīth*. With Joseph Schacht the case is a bit different. He first reasoned that legal traditions went farther into history than the historical ones,[229] mostly studied the former kind,[230] and reached the conclusion regarding *Ḥadīth*, legal as well as historical, that it is not right to think that "the genuine core was not completely overlaid by later accretions".[231] In the case that this paradigm was accepted, early collectors of *Ḥadīth* and the jurists would then become not its redactors, but actual sources.

Schacht tries to prove his above claim partly through an extensive critical study of (mostly legal) *Ḥadīth* texts, which brings this research to its core and the following sections of the current chapter aim at understanding his approach to *Ḥadīth* through an investigation into the way he subjects the legal traditions to criticism.

This criticism is based primarily upon second century A.H. collections and treatises which were juristic or juristic-traditional in nature. The authorial intention that went into these collections and treatises was to mention juristic principles, discuss legal issues, their pertinent traditions and the disagreements therein, and not just to gather and report traditions, although they did contain them. Keeping these 'authorial intentions' in mind, the research moves on to the textual critical aspects of Joseph Schacht's study of *Ḥadīth*.

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[228] Eerik Dickinson, *Early Sunnite Ḥadīth Criticism*, p. vii.
[229] Schacht, "Revaluation": 144.
[230] For details. Idem. *Origins*; *Introduction*.
[231] Schacht, "Revaluation":147.

Textual Criticism

Joseph Schacht took the early second century A.H. jurists' disagreements and debates around legal *Ḥadīth* as an argument to show that it didn't exist in the early period of Islamic history but was created by these jurists didn't think much of it and just wanted to support their doctrines with it.[232] Keeping the above assumption central, he studied these texts through critical comparisons among text variants, minor and major, to illustrate a number of problems in them. One such kind of comparisons is between what he names as 'counter-traditions' and through them he tried to show that in order to oppose a principle popular with one juristic school Traditions were invented by another.

Moreover, the *isnāds-* the textual vehicle- were as far as he is concerned carelessly concocted and adduced to these texts, to accord them more worth in pertinent discussions. [233] Harsh critique of these *isnāds* is also an important part of his textual criticism of *Ḥadīth.* These were used by him to ascribe all legal *Ḥadīth* to the early jurists and date this alleged fabrication to late 2nd century A.H. onwards, which is one of the most important of his conclusions. In his view these assumptions are a pre-requisite for any study on *Ḥadīth*, and from there he embarks upon a critical study of its texts. In summary, Harald Motzki, whose own approach to *Ḥādīth* would be discussed in the next chapter, summarizes Schacht's approach to textual criticism in the following points: 1: Hypothetical reconstruction of judicial theory in early 2nd century (based upon Shāfiʿī's criticism), 2: Dating traditions on the bases of collections in which they first appear (shorter texts are older in Schachtian

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[232] These points have been discussed earlier in this chapter.
[233] The Prophetic Traditions or *Ḥadīth* can be termed as carriers of Prophetic *Sunnah*, thus the Prophet (peace be upon him) is the source of *Ḥadīth* according to traditional Muslim view. Joseph Schacht's paradigm implies a clear shift forward in history, on the source of *Ḥadīth* from that claimed traditionally by Muslims.

scheme), 3: *Ḥadīth* textual comparisons, and 4: *Isnād* comparisons.[234] He moreover thinks

that it is a continuation of Goldziher's approach to the subject.[235]

Kinds of *Ḥadīth* Texts

Joseph Schacht classifies *Ḥadīth* in at least two ways for use in his textual

comparisons, one with respect to its subject and the second with respect to its source. These

are eventually considered in context of *Fiqh*, which seems to be his paradigm for the study

of *Ḥadīth*[236].

In the first classification, Joseph Schacht concerns himself mainly with two kinds

of *Aḥādīth*, namely the historical and the legal ones.[237] The latter kind, as has been

mentioned earlier, is the pivot of his discussions on *Ḥadīth*. It is for two reasons that he

chose to study the legal traditions, as he mentions. First, the available literary sources carry

one back in law farther than in history. And they are much more Abūndant for the 2nd

century A. H., which is crucial for his studies. Second, it's less probable that one might

distort one's judgments on abstract, formal legal issues, than what might be expected of

one on religious or political issues in Islamic history.[238] This however doesn't imply that

he denied the inter-relations of the two kinds. Another difference that he gives between the

historical and the legal traditions is that the former traditions lack proper *isnād*, while that

is not the case with legal ones,[239] which would seemingly make it more difficult to date

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[234] Motzki, "Dating Muslim Traditions- A Survey," in *The Ḥadīth- Critical Concepts in Islamic Studies,* ed. Mustafa Shah (London: Routledge, 2011), ii: 44.

[235] Ibid. 41- 43.

[236] Dickinson, *Early Sunnite Ḥadīth Criticism*, p. vii

[237] Schacht, "Revaluation": 151, 154; Motzki "Introduction", in *Ḥadīth*, p. xxiii. There are other traditions as well which are irrelevant for his discussions. Among them are those advising good morals, for example.

[238] Schacht, "Revaluation": 144.

[239] A discussion on the *isnāds* would follow in a coming section.

them, in comparison with the legal ones. He tells us that Shāfiʿī also doesn't consider them at par with legal ones because of the former's lack of *isnād*,[240] for which the examples given are mostly from Shāfiʿī's *Umm* which is a book on law. In the first instance given by Schacht, a juristic disagreement is presented between an interlocutor and Shāfiʿī on whether it is permissible to burn buildings, crops and/or other things in the enemy territory, or not? Two given traditions, one a Companion tradition from Abū Bakr through Mālik, and the other a Prophetic Tradition appear to Schacht to be ruling oppositely. Shāfiʿī opts for the latter for obvious reasons and tells that the former is disconnected, thus cannot possibly stand when compared to the latter.[241] The attribute 'biographical' given by Schacht here thus doesn't seem to apply to the former tradition which is just disconnected.[242] In another theorization attempt Schacht points out that the 'historical' traditions found their way into legal discussions with the passage of time. Legal- historical traditions likewise penetrated into the Prophet's biography he tells. The first example mentioned here is that of the Prophet's marriage to Maimūnah while he was a pilgrim- in the ritual state of *iḥrām*. It is shown here as a legal- historical tradition. The readers are informed that marriage conducted while pilgrim is invalid according to Medinese, but valid according to the Meccans and Iraqians. The Medinese take their principle from a Companion tradition while the others tell of a biographical report where the Prophet married the lady while pilgrim. Upon careful examination of the two traditions, one finds

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[240] Schacht, *Origins*, 139.

[241] Shāfiʿī, *Umm*, 7: 228-229.

[242] As a principle, such traditions are not accepted by traditionists since the missing link is unknown as Maḥmūd al-Taḥḥān tells. *Taisīr Muṣṭalaḥ al Ḥadīth* (Multan: Nashr al-Sunnahh, nd) 76-77. However, the fact that these traditions were not anecdotal remains. They contained religious themes in a fairly clear manner, which renders them valid as a source of Islamic law, in a hierarchy.

here a simple case of natural disagreement among the jurists, based upon two traditions in equivalent collections.[243]

There seems to be a little problem with Schacht's classification of traditions, which refers to his distinction between 'religious and political' and 'formal legal' issues, and their interplay in *Hadīth*. Their interplay would be a valid concept if they could be considered as different classes. This of course follows from Schacht's paradigm of secular origins of Islamic law and has been shown to be inaccurate in the previous pages. Regarding *Ahādīth*, the 'biographical' ones about the Prophet (peace be upon him) whether of much interest to a 'jurist' in a strictly technical sense or not (and fabrications accounted for) are a part of what many define as '(the well-trodden) way' or the *Sunnah* of the Prophet and this includes his words, actions, and approvals/ disapprovals.[244] A realization of this is what makes a person a Muslim from the time Muhammad (peace be upon him) came to this world. Its juristic worth is also attested to in Qur'ān which has been pointed out in a previous section as well. Thus the *matn* or the text of a *Hadīth* is its part that interests a lay reader as well as a scholar, for many reasons, and while a lay reader may want to benefit from the pearls of wisdom contained in it, for a scholar it carries a lot more than that, like first of all, he looks for intrinsic as well as extrinsic indicators of genuineness or otherwise,

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[243] Schacht, *Origins,* 139, 153; Jalāl ul Dīn Suyutī, *Tanwīr al-Hawālik- Sharh Muatta' Imām Mālik* (Egypt: Al-Maktabah al-Tijāriyyah al-Kubrā, nd.), 1:321; Abu al-Walīd Sulaimān b. al-Khallāf Al- Andalūsī, *Al Muntaqā Sharh al-Muatta'* (Cairo: Dār al-Kutub al-Islāmī, 1332 A. H.), 2: 238; 89. The example shall be further elaborated in the section on 'Counter traditions'.

[244] Mustafā Al Sibā'ī, *Al-Sunnahh wa Makānatuhā fī al-Tashrī' al-Islāmī* (Cairo: Maktabah Dār al-'Arūba, 1961), 59; Muhammad 'Ajāj Al Khatīb, *Al-Sunnahh qabl al-Tadwīn,* 17-20; Azami, *On Schacht's Origins,* 34. He admits that the word *Sunnah* had more than one connotation, still as 'the Prophet's way' its meaning was concretized, and has hitherto remained so; Hallaq, *Origins,* 102-104. He also tells that although large scale fabrications occurred, yet a genuine core of *Hadīth* probably found its way in the later collections.

and then analyzes it for legal data or to find out about the origins of Islam: Therefore, at the same time legal as well as historical motives may be behind a scholarly study of the *Hadīth* texts. Their importance is further increased when one appreciates that their legal and historical aspects tend to merge which is simply because the *Hadīth* texts represent the Prophetic model or the way which is a primary source of law in Islam along with Qur'ān. This way all *Hadīth* texts are sources of Islamic law, although in different levels and according to certain principles.

From this it becomes clear that a sharp separation between legal and biographical *Ahādīth* is a little out of the historical context here, since Islamic law is based primarily upon Allah's word- Qur'ān- and the Prophet's way- the *Sunnah* as explained above and it can be safely concluded that 'historical/ biographical' *Hadīth* contains juristic or legal elements, while those *Hadīth* in which the Prophet (peace be upon him) instructs of something, may or may not be historical/ biographical.

With respect to their source, all *Hadīth* of the above mentioned kinds come from the jurists or the traditionists of the late 2nd century A.H. and beyond according to Joseph Schacht. As has been mentioned earlier, these people, according to him, concocted *Hadīth* for their own secular purposes.[245] Such a separation as Schacht's above seems to be avoiding a historical fact in the study of Islamic origins that Islam was taken as a religion and the code of life by its early followers.[246]

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[245] See 33.

[246] In the context of early Islam, distinction between the religious and the secular by its followers tends to be un-warranted, as Hallaq also notices while rejecting secular origins of Islamic law. He tells that it could be validated only "if we assume that the *sunan* that appeared prior to Prophetic *hadīth* were not conceived by

Another classification employed by Schacht in his analyses and comparisons among traditions is a classical one, namely 'Prophetic' and 'non-Prophetic' among the traditions. According to him, the Companion and the Successor traditions are different from Prophetic ones as discussed in a previous section.[247] Here, it is just mentioned in passing that since the two kinds have different given sources, namely the Prophet and 'others' they should be treated differently and it seems fine enough hitherto. From the outset of his *Origins* Schacht pits one kind against the other as he tells, "the first considerable body of legal traditions from the Prophet originated towards the middle of the second century, in opposition to slightly earlier traditions from Companions and other authorities".[248] So, in his schema, Companions traditions are the older, and the Prophetic ones were created to oppose them. As before, Shāfiʿī's 'attacks' against the other schools come in handy for him. He tells in Shāfiʿī's words, "traditions from other persons are of no account in the face of a tradition from the Prophet".[249] This is a well-known principle with Shāfiʿī which doesn't appear to be hinting towards anything beyond establishing the over-riding status of Prophetic (peace be upon him) *Sunnah*. As Schacht himself tells, Shāfiʿī even gives the latter the name *Athar*,[250] while the former is called *Ḥadīth*. However, at a few places he himself seems to ignore his differentiation which is queer.[251]

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the new Muslims as being religious in nature… But this assumption can in no way be granted". *Origins* (103). If applied to any given religion, it would hold in the researcher's opinion.

[247] See 60.

[248] Schacht, *Origins,* 4-5.

[249] Ibid. 12.

[250] Ibid. 16.

[251] See 82. An example to this effect has been adduced in a previous section where Schacht discusses an *Athar* and a *Ḥadīth* and comments only that Shāfiʿī gives preference to the latter tradition over the former because the latter is a legal one and has a complete *isnād,* while the former is historical and has an incomplete

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As it has been said earlier the Companions were clearly the closest to the Prophet (peace be upon him) and can be expected to know his *Sunnah* better than the rest.[252] In fact, all of *Sunnah* that has reached us, has reached through this generation and no Prophetic tradition is 'strong' if it doesn't have a Companion in its chain. Therefore one can easily see that their own traditions too reflect the *Sunnah* well enough. Companion traditions, in addition to Prophetic ones are quite useful for a researcher into *Ḥadīth* who might be interested in knowing the Prophet's (peace be upon him) *Sunnah*.[253] Chronologically, it even seems fine that some Companion traditions might have appeared earlier than Prophetic *Ḥadīth* (with *isnād*) in legal discussions, since among the notable early jurists were in fact students of the Companions, and referring to their teachers whom they saw is considered very much natural, and not at all an issue. However, in the case of the Prophet (peace be upon him) honesty demanded of them not to mention the complete chain to him (peace be upon him) unless sure.

That the Companion traditions at times might disagree with the Prophetic ones reminds the researcher of the need of deeper insight into the sciences of *Ḥadīth*, as well as the *Uṣūl al fiqh,* since diversity among all kinds of traditions naturally exists. For this insight to be, one has to think with a historical imagination, see things in their context, and with a positive attitude. The matter has been mentioned earlier on and would become clearer when comparisons between texts are carried out in the following section.

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isnād. As it was found out, the basic difference between the two traditions was that the latter was Prophetic while the former not. Ignoring this point leads Schacht in an entirely different direction.
[252] See 63.
[253] In comparison, the way to know about Christ and his teachings is with his apostles, according to the Christian creed.

Differences among *Ḥadīth* Texts

The textual critical aspects of Joseph Schacht's works constitute a methodical study of differences among legal *Ḥadīth* texts, which serves for him as the primary tool for proving his claims about Islamic origins that have been mentioned in the previous pages. The kind of difference that concerns him here is 'conflict' among legal *Ḥadīth* which he handles by first mentioning his own principles regarding this 'conflict' and examining early Muslim legal *Ḥadīth*, followed by an analysis of examples relating to this 'conflict'.

Joseph Schacht seems to be quite skeptical of legal *Ḥadīth* texts and advises that all of it should be considered as forged unless proven otherwise,[254] and an aura of sanctity which usually surrounds these texts should be removed according to him. He thinks that Muslim traditionists did pay service,[255] only lip service to making sure that only authentic texts should reach us and takes a look at early Muslim views on differences among *Ḥadīth* texts, where his favorite source is Shāfiʿī as before. While the other jurists of note would easily reject a *Ḥadīth*, Shāfiʿī tries to find concordance in difference as Schacht tells.[256] The hierarchy of traditions according to Shāfiʿī is Prophetic, then Companion, then Successor.[257] Schacht tells that in contrast to Shāfiʿī, the other early jurists considered Prophetic traditions as subservient to Companion traditions as well as their own local practice.[258] Schacht's rendition of Shāfiʿī's ideas about the attitude of such jurists to Prophetic *Ḥadīth* is elaborated in the following sections:

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[254] Schacht, *Origins,* 149.

[255] Schacht, *Origins,* 63.

[256] Ibid. 13, 47.

[257] Ibid. 19-20.

[258] Ibid. 13.

Anti _Ḥadīth_ Traditions and their Authority:

Among the attitudes towards the position of _Ḥadīth_ as a source of Islamic law- as mentioned by Shāfi'ī- is that of those people who didn't consider _Ḥadīth_ as authentic. Some of them rejected the whole corpus, while others only the solitarily transmitted ones.[259] Joseph Schacht tries to make it a point that there were (many) among the early Muslims who did not recognize the authority of Traditions, some inexplicitly,[260] while others quite explicitly so.[261] Evidence to the latter kind of rejection as adduced by him includes _Ḥadīth_ texts, would be presented here to see whether the claims associated with this evidence hold or not.

In one place the Prophet (peace be upon him) says, "Compare what is related on my authority, with the Koran; if it agrees with it, I have said it, and if it does not agree, I have not said it." [262] Schacht tells us that this and other _Aḥādīth_ are used by anti-traditionists to establish that since _Aḥādīth_ contradict Qur'ān, they should be denied any juristic position. Shāfi'ī however rejects this _Ḥadīth_ for being in-authentic, he tells.[263] Another _Ḥadīth_ states: "People ought not to shelter behind my authority...; I allow only what Allah allows, and forbid only what Allah forbids."[264] This example is made to follow the first one above by Schacht. Here he tells that Shāfi'ī considers it as referring to personal privileges of the Prophet.[265] He (peace be upon him) says at another place: "Let me find no

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[259] For a classification of those who rejected _Ḥadīth_ and a detailed discussion on the topic, see Shāfi'ī, _Umm_, 7:273-286.

[260] As seen earlier, he considers the mainstream pre- Shāfi'ī era jurists as ignoring Traditions.

[261] Schacht, _Origins_, 40-52.

[262] Only the quoted _Ḥadīth_ is as given by Schacht. see ibid. p. 45.

[263] Ibid. 45.

[264] Ibid. 45.

[265] Ibid. 46.

one of you reclining on his couch, and, when confronted with an order or a prohibition from me, saying: I do not know [whether this is authentic or not], we follow [only] what we find in the Koran".[266]Although the *Hadīth* rejects the notion that *Ahādīth* might be rejected on the basis that they contradict Qur'ān, according to Schacht indicates towards the polemics on *Hadīth* which were taking place in the 2nd cent. A.H. and dates it accordingly.[267] Abū Yusuf, while warning against rare (*Shādhdh*) *Ahādīth* tells that the Prophet (peace be upon him) said: "Traditions from me will spread; those that agree with the Koran are really from me, but what is related from me and contradicts the Koran is not from me". [268] Here it seems to Schacht as pointing towards the Iraqians' neglect of Traditions.[269]

Another example adduced by Schacht mentions a saying of 'Alī, the Companion: "Traditions from the Prophet are to be interpreted in the most righteous and God-fearing way",[270] and at another place further warns against taking every *Hadīth* that comes one's way.[271] This tradition has an Iraqian *isnād* and Schacht relates it to Iraqians' negative attitude towards *Hadīth* as alleged by him.

Taking things up front, the above mentioned warning- traditions do indicate towards the presence of other traditions- true and false- which are their subject of discussion, and repeated warnings by the Prophet (peace be upon him) mentioned above

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[266] ibid. 46.
[267] Ibid. 46.
[268] ibid. 28.
[269] Ibid. 28.
[270] Ibid. 28.
[271] Ibid. 28.

against fabricating texts along with its consequences do imply that it would happen.[272] The above quoted tradition texts also establish that true words and acts of the Prophet never go against Qur'ān, an epistemological principle which establishes the Qur'ān-*Ḥadīth* dichotomy, and seems to fit in perfectly with Muslims scholars' attitudes towards *Ḥadīth*. Many scholars of *Ḥadīth* have observed that all the texts in the *Ḥadīth* collections might not reflect the Prophet's true teachings, or may be fabricated but the above given texts do not imply in any way that all or most of the *Ḥadīth* are so. The fact that true traditions would reach the people is clearly indicated in the third Tradition mentioned above.

As it is well known, the earliest of jurists and traditionists gave due importance to genuine *Ḥadīth* and based their practice upon Qur'ān, *Ḥadīth* and *Sunnah*; and their *Fiqh* was not different from these.[273] The scholars were from the generation of the Companions and the Successors and they held *Sunnah* of their beloved Prophet in esteem, and their interest in preserving the text as well as the *isnād* of *Ḥadīth* seems to be well grounded.[274]

Thus, an informal activity had thus already been in vogue with the earliest of jurists to in the first century A.H. to make sure that a report about the Prophet (peace be upon him) really reflected his *Sunnah*. Comparisons among texts and demands for extra evidence point out towards the care with which they handled any text concerning their beloved Prophet (peace be upon him). As an example of this, among the reasons behind Mālik's principle of the Medinian practice was probably to make sure that something which had

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[272] For some more relevant *āyāt* and traditions, see 'Alī Ḥasan Alī Al Ḥalabī, *Mausū'ah al- Aḥādīth wā al-Āthār al-ḍa'īfah wa al-Mauḍū'ah* (Riyadh: Maktabah al-M'ārif li al-Nashr wa al-Tauzī', 1999), 1: 5-11.
[273] Abbott, *Papyri*, 2:13-14.
[274] Gregor Schoeler, "The Constitution of Koran as a Codified Work: Paradigm for Codifying Ḥadīth and the Islamic Sciences?," *Oral Tradition* 25, no. 1(2010): 202.

been in practice since the Prophet's times and in among his closest followers was more reflective of his *Sunnah* than one which was just a report.[275] Before him, one sees Mālik's teacher Rabī' considering that something which had remained in continual practice was more worthy of action than what was not so,[276] the principle seems fine enough in the setting of the Prophet's own city and just a generation after his.

Importance given by the early jurists to the Prophets' *Sunnah* is well displayed in Mālik's approach to traditions as mentioned in reports about him that he used to ask his students to read his book *Muaṭṭā'* to him.[277] They would come to him and he would even read what they had written[278] to ensure that nothing against the Prophet's *Sunnah* nor anything fake was conveyed through them.[279] When Abū Ḥanīfah, another jurist from the first-second centuries A.H. objected upon a text he would do so if he found its link to Prophetic *Sunnah* as doubtful, among other reasons. Shāfi'ī's analyses of texts also show that texts of *Ḥadīth* were the focus of these scholars since early times.[280] Thus, it appears that be the general approach of Muslim jurists and traditionists since the early times was to ensures the quality of *Ḥadīth* transmission in the first and second centuries A.H.

Still, it seems to be popular with many a western scholar that the early traditionists did not pay attention to the text of *Ḥadīth*, but just its *isnād*.[281] This notion seems to be

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[275] See 56.

[276] Abu Zahrā, *Mālik* (Cairo: Dār al-Fikr al 'Arabī, nd.), 280.

[277] Gregor Schoeler, *The Oral and the Written in Early Islam*, tr. Uwe Vagelpohl, (Oxon: Routledge, 2006), 33.

[278] Abu Zahrā, *Mālik*, 197.

[279] This is called *Munāwalā*, and was a method popular with many early teachers.

[280] These are inferences from reading about the mentioned jurists. The early jurists' attitudes towards *Ḥadīth* have been well elucidated by Baltāji. *Manāhij*; Brown notices that the jurists like Shāfi'ī and Ibn Ḥanbal would not accept every tradition coming their way. Jonathan Brown, *Hadith* (Oxford: Oneworld, 2010), 103.

[281] See 118. A discussion on *isnād* and its relation with the text would take up the next section.

based upon their understanding that the scholars of *Ḥadīth* classified it according to its *isnād* and not its text, which is tantamount to judging a book by its cover. A deeper insight into major *Ḥadīth* collections shows that the arrangement of *Ḥadīth* in most of them is based upon the content of its text, and not its *isnād*. An arrangement popular in many a collection of *Ḥadīth* is one starting with *Īmān*, then *'Ibādāt*, then *M'uāmalāt*, and on a variety of topics like morals, Qur'ānic exegesis, and signs of the day of Judgment etc.[282] This might be called juristic arrangement, which had been in vogue with the traditionists before the arrangement per *isnād*.[283] This also reveals the importance accorded the text of *Ḥadīth* by them, as well as showing that *Ḥadīth* collections are not devoid of juristic sense.

A look at traditional collections by jurists/ traditionists is expected to give further insight into their approach to traditions, whence it appears that it was important for the jurists/ traditionists to report traditions which might seem to some as 'counter traditions' and it ought in fact be a vital part of every honest legal discourse. Sometimes a jurist would report traditions which support his doctrine, as well as mentioning those which don't, and they seem to be contributing towards making their juristic discussions wholesome and complete. Since the salient early juristic treatises-cum-*Ḥadīth* collections come from jurists/traditionists, therefore this hue is clearly seen in collections like Mālik's *Muaṭṭa'*,

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[282] Tables of contents of major *Ḥadīth* collections are ordered by their own compilers according to Islamic juristic themes. This is usually called *al-Tartīb al-Fiqhī*. Bukhārī, "Saḥīḥ," in *Al-Kutub al-Sittah*, ed. Ṣāliḥ b. 'Ābd al-'Azīz Aal al-Shaikh (Riyadh: Dār al-Salām, 1999), 632-670; ibid. Muslim, "Saḥīḥ," 1203-1218; ibid. Ibn Dāwūd, "Sunan," 1609-1625; ibid. Tirmidhī, "Jāmi'," 2062-2083.

[283] Fikret Karcic, "Textual Analysis in Islamic Studies- A Short Historical and Comparative Survey," *Islamic Studies* 45, no. 2 (2006): 195, http://www.jstor.org/stable/20839015, (accessed:12/04/2012).

and *Al Āthār* (both of Abū Yusuf and Shaibānī), which seems to go well with the trend of the times mentioned above.[284]

Forgeries also remained in view of these traditionists which made it difficult for these to infiltrate freely in the mass of *Ḥadīth* available. Still, the possibility of fabricated material encroaching in did not die away,[285] and thus the written *Ḥadīth* collections have been continually under review by the scholars of *Ḥadīth* who have pointed out the markers of fabricated *Ḥadīth*. [286] This also shows that no one, not even Bukhārī was considered above board by *Ḥadīth* critics.[287]

The care with which the traditionists reported *Ḥadīth* can be illustrated by considering the great care which Muslim b. Ḥajjāj took with the texts that make up his *Ṣaḥīḥ*. For example, he doesn't report traditions in meaning but in word and wherever a variant text is reported by him, it is mentioned.[288] His differentiation among the words, 'from' (*'an*), 'he told us' (*ḥaddathanā*), and 'he informed us' (*akhbaranā*), is another marker of textual accuracy when reporting *Ḥadīth* and this can be easily noticed upon simply opening any page of the major *Ḥadīth* collections.

Coming back to the idea of anti-tradition traditions as proposed by Joseph Schacht, even if the earlier mentioned texts are interpreted after the anti-traditionists, it seems quite

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[284] See 108. 'Counter Traditions' are discussed below.

[285] Abbott, *Studies,* 2: 39-40; Also Siddiqi tells that the Muslim traditionists were quite wary of the problem of fabrication and how they dealt with it. *Hadith Literature* (31-36, 113-114).

[286] Islām b. Maḥmūd al-Najjār,, *Fawā'id wa Qawā'id* (Riyadh, Aḍwā' al-Salaf, 1997), 110-112; Zubayr Siddiqi, "The Sciences and Critique of Ḥadīth," in *Ḥadīth and Sunnah,* ed. P.K. Koya. (Kuala Lumpur: Islamic Book Trust, 1996), 96.

[287] Siddiqi, "Critique of Ḥadīth," 95-98.

[288] Jalāl al-Dīn Suyūṭī, *al-Dībāj 'alā Ṣaḥīḥ Muslim b. al-Ḥajjāj* (Karachi: Idāra al-Qur'ān wa al-'Ulūm al-Islāmiyyah, 1412 A.H.), 1: 39.

improper to use them against their own genre because this would then negate their own value. One the other hand, if these texts are looked at in a positive way, they are expected to illuminate the whole genre of *Ḥadīth* in a manner different from that perceived by anti-traditionists old and modern, eastern as well as western, Schacht included, and it would also elucidate the idea that early Muslim scholarship did try to accomplish what they had been advised by the Prophet (peace be upon him) and his Companions regarding *Ḥadīth*.

Textual Comparisons among Traditions:

Joseph Schacht considers a number of traditions to have been invented by the early jurists to counter those which supported views other than theirs. He employs this to show that all juristic traditions were thus concocted by these jurists.

In his schema, the opinion of an early jurist is mentioned as the starting point, while a later jurist's opinion which is supported with a Prophetic tradition is supposed to be an invention of someone between the two jurists. Two or more tradition-texts are compared for this purpose and it is concluded that they originated between two named persons in their *isnāds* and were not present before the time of these two, according to his reasoning. His methodological principle shall become clearer from the following analysis of the texts studied by Joseph Schacht.

In one of the examples, he tells that a certain tradition text pertaining to a certain action originated between Ibrāhīm al Nakha'ī and Ḥammād. [289] The action hinted towards here is 'prostrating when coming across a specific *āyah* in the Qur'ānic *Sūrah Ṣād'*. In order to support his above-mentioned claim, he gives examples from two books- *Al Āthār*

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[289] Schacht, *Origins*, 141.

of Abū Yusuf, and *Al Āthār* of Shaibānī. These are a mix of traditions reflecting the *Sunnah* of the Prophet, the way of his Companions Ibn Masʻūd, and Ibn ʻAbbās, and opinions of early jurists like the ones mentioned above.[290] The traditions in *al-Āthār* of Abū Yusuf via Abū Ḥanīfah-Ḥammād- Ibrāhīm report that Ibn Masʻūd did not practice it; via Abū Ḥanīfah-Ḥammād ʻAbd-al-Karīm that the Prophet (peace be upon him) practiced it.[291] On the other hand, the traditions in *al-Āthār* of Shaibānī say via Abū Ḥanīfah-Ḥammād that Ibrāhīm did not follow it; nor did Ibn Masʻūd; Shaibānī says that a narration from the Prophet is contrary to this; A Prophetic tradition via Ibn ʻAbbās tells that it should be practiced. Joseph Schacht claims that the last one- the only explicit Prophetic text of the group- is polemically directed against the other opinion.[292] He concludes from this that Ibrāhīm is often a label for ancient Iraqian doctrine, and his opinion became spread via Abū Ḥanīfah-Ḥammād. Its contrary got better *isnāds* and spread as a tradition between Ibrāhīm and Ḥammād according to Schacht. In fact, what one notices is that both Abū Yusuf and Shaibānī report two different traditions and there are some other Prophetic traditions, although in later collections, which show that the Prophet (peace be upon him) did prostrate when reading the 'prostration *āyah*' in *Ṣād*. These are found in *Ḥadīth* collections like Bukhārī's[293] and Abū Dāwūd's[294], et cetera, and some juristic works like

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[290] For an in depth analysis of this example. M. M. Azmi, *Studies in Early Ḥadīth Literature,* (Beirut: Al-Maktab al-Islami, 1968), 256-258.

[291] Schacht, *Origins,* 141; Abu Yūsuf Yʻaqūb al-Anṣārī, *Kitāb al-Āthār,*(Sheikhupura: Al-Maktabah al-Athariyyāh, nd.), 40-41.

[292] Schacht, *Origins,* 141; Muḥammad b. al-Ḥasan al-Shaibānī, *Kitāb al-Āthār* (Karachi: Idārah al-Qurʼān wal al-ʻUlūm al-Islāmiyyah, 1987), 42-43.

[293] For Ibn- ʻAbbās' words. Bukhārī, "Ṣaḥīḥ," 279, 382; for Ibn- Abbās referring to the Prophet. ibid. 382; for Ibn- Abbās referring to the Prophet in two traditions. 408.

[294] For two traditions, one via Ibn ʻAbbās, the other more detailed one via Abu Saʻīd al Khudrī. Abu Dāwūd, "Sunan," 1328.

Shaibānī's *Al Ḥujjah 'alā Ahl al-Madīnah.*[295] A Prophetic tradition common to these collections is one via Ibn 'Abbās, whose own opinion is based upon it. The traditionists mentioned above are not Ḥanafis, so the claim of a polemic element by Schacht seems quite unfair. Strangely, he still thinks that the tradition originated between Ḥammād and Ibrāhīm.[296] Abū Ḥanīfah appears to be mentioning the traditions as he heard from Ḥammād and still does not seem to be with the opinion carried forth by 'Ḥammād-Ibrāhīm' *isnād.* Abū Ḥanīfah, Abū Yusuf, and Shaibānī could never benefit by reporting sloppily made up texts, especially if they were of altogether different kinds with respect to the original sources and if it involved their own senior- Ḥammād. In this case, Ḥammād seems to be honestly transmitting differing texts and since differing texts abound in all the known *Ḥadīth* collections, it can be referred to the honesty of traditionists[297] that they convey what they come across, and not just what they agree with. Being a jurist, it is expected of Ḥammād to tell what he knows on the issue, and where his tilt is, but this ought not to imply his dishonesty in any case. Another possible reason for his mentioning these variants is that he may have developed forgetfulness in old age, which is quite a common human quality,[298] but this still doesn't affect his honesty. [299]

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[295] al-Shaibānī, *Al Ḥujjah 'alā Ahl al-Madīnah* (Beirut: 'Ālam al-Kutub, 1403 A.H.), 1: 109.

[296] Ibn Mas'ūd 's opinion reaches us through 'Ḥammād-Ibrāhīm,' while the Prophet's via 'Ḥammād-Ibrāhīm-'Abd al-Karīm.'

[297] Melchert mentions their moral integrity. Christopher Melchert, "The Piety of the Ḥadīth Folk," in *The Hadith,* ed. Mustafa Shah, 3: 246-257.

[298] This human quality is found even in writings like Schacht's *Origins.* It appears that there are citation mistakes in it, as when Schacht says '*Āthār Shaib.* : 37' twice. *Origins* (141). The correct tradition numbers were found to be 209 and 210. However, to err is human, which should not be taken as intentional dishonesty.

[299] Ḥammād is well respected by his peers and successors among the scholars, and is considered quite honest. Khair al Dīn al-Zarkalī, *Al-A 'lām* (Beirut: Dār al-'Ilm li al-Malāyīn, 1980), 2: 272; Ibn Ḥajar al-'Asqalānī, *Tahdhīb al-Tahdhīb* (Lahore: Al-Maktabah al-Atharīyyah, nd.), 3:11-16; Mizzī, 7: 253-268.

In another example titled "Traditions Originating between "Ibrāhīm Nakha'ī" and Mālik", [300] Joseph Schacht mentions that full daylight was the popular time with the Companions for saying morning prayers. He also reports a relevant text from *Āthār A. Y*, [301] and the word used is *tanwīr*, which broadly means to gleam, to glow, [302] and not exactly full daylight. Full daylight in any case was not a popular time for praying morning prayers even with Kufans with whom some light was the appropriate time. [303] His comment that 'this seems to be an authentic statement of Ibrāhīm' [304] proves to be a blind shot if taken by Schacht's own yardstick of distrust, [305] since no reason is given for this statement. Upon looking at the original text, one finds it transmitted to the collector Abū Yusuf via 'Abū Ḥanīfah-Ḥammād'. [306] Schacht then mentions a 'later tradition from the Prophet in Mālik's *Mu'atta* ' [307] where the time mentioned is close to dawn and not to sunrise. If the texts are compared to each other and to later ones like 'Abd al-Razzāq's *Muṣannaf*, [308] and Aḥmad's *Musnad*, [309] one finds that he (peace be upon him) prayed it between two times: close to dawn break and close to sunrise, something which tells that its proper time is in-between

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[300] Schacht, *Origins,* 142.

[301] Ibid. 142. For the original text from *al-Āthār*, see ibid. Abu Yūsuf, *Kitāb al-Āthār*, 20.

[302] J. G. Hava, *Al-Faraid Arabic-English Dictionary* (Beirut: Catholic Press 1964), 806.

[303] Azami, *On Schacht's Origins*, 119.

[304] Schacht, *Origins,* 142.

[305] This however, is not the researcher's viewpoint.

[306] Based on the previous example given, one fails to see how the same persons were somehow involved in fabrications (according to Schacht) while here their report is authentic, and that too without any given reason.

[307] *Al-Muwatta of Imam Malik ibn Anas*, tr. Aisha Abdurrahman Bewley, (London: Kegan Paul International, 1989), 3; Schacht also seems to refer to a tradition in *Muatta'* (142) and tells that it establishes the correct time to be in early dawn. It comes via 'Āishā, mother of the Believers, who tells that the people would not recognize the ladies after they would come out after the prayer and that it was because of low light. It is the starting time for the said prayer, as can be verified from the present citation from *Muatta'*, and doesn't illustrate a disagreement.

[308] 'Abd al Razzāq al-Ṣan'ānī,', *Al Muṣannaf* (Beirut: Al Maktab al-Islāmī, 1403 A. H.), 1: 533.

[309] Aḥmad b. Muḥammad b. Ḥanbal al-Shaibānī, *Al-Musnad,* ed. Aḥmad Muḥammad Shākir, (Cairo: Dār al-Ḥadīth, 1995), 3: 338, 10: 97.

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the two extremes and an explicit statement of the Prophet to this effect re-confirms it.[310]

This considered, it is quite possible that Ibrāhīm was mentioning the time to pray when the sunlight starts to show, and not full daylight, as he reported about the Companions, which is among the appropriate times for the said prayers. In the end, one fails to understand quite fully how does Schacht's reasoning show that the traditions originated between Ibrāhim and Mālik.

In yet another example, Joseph Schacht examines how- according to him- Mālik's words got merged into traditions and found their way in other collections, and mentions that Mālik's *Muaṭṭa'* contains a *Ḥadīth* on two of the kinds of forbidden sale, *mulāmasa* and *munābadha*. To this *Ḥadīth* are adduced Mālik's comments on the meaning of the two terms, [311] which is a problem according to Schacht. Another couple of *Ḥadīth* similar to this are to be found in Bukhārī's *Ṣaḥīḥ*. The first of the two is a report by 'Āmir b. Sa'd that: "narrated Abū Sa'īd: Allah's Apostle forbade the selling by *Munābadha*, i. e. to sell one's garment by casting it to the buyer not allowing him to examine or see it. Similarly he forbade the selling by *Mulāmasa*. *Mulāmasa* is to buy a garment, for example, by merely touching it, not looking at it."[312] The second report is by Abū Hurairah. It simply states: "Narrated Abū Hurairah: 'Allah's Apostle forbade selling by *Mulāmasa* and *Munābadha*."[313] According to Ibn Ḥajar whose exegesis of Bukhārī's *Ṣaḥīḥ* is well-acclaimed, definitions of the two kinds of sale are from the Companion reporting the

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[310] Ibid. 7: 27-28.

[311] Muḥammad Zurqānī, *Sharḥ al-Zurqānī 'alā Muaṭṭa'* (Cairo: Maṭba'a al-Istiqāmā, 1954), 3: 315-316; *Al-Muwatta*, tr. Bewley, 271; Schacht, *Origins,* 144.

[312] Muhammad Muhsin Khan, *The Translation of the Meanings of Sahih al-Bukhari* (Gujranwala: Sethi Straw Board Mills, 1971), iii: 200.

[313] Ibid.iii: 200-201.

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Ḥadīth.[314] Muslim also gives the same two *Aḥādīth* as Bukhārī's above. The first one was reported via three other Successors also-in addition to the one appearing in Bukhārī- with a slight difference in wording implied by using the word 'like this', meaning similar to the afore-mentioned *Ḥadīth*. Another *Ḥadīth*, similar to Bukhārī's second, but via Abū Hurairah through another Successor was reported by Muslim. This makes a total of five reports via the same Companion. A *Ḥadīth* similar to Bukhārī's second follows these five *Aḥādīth*.[315] Coming to Mālik's juristic treatise, the *Mudawwana*, two *Ḥadīth* texts are mentioned on the issue. One is via Abū Sa'īd, and the other via Abū Hurairah. These two as well, are reports of the Prophet's prohibition of *Mulāmasa* and *Munābadha*.[316] The traditions are to be found in other *Ḥadīth* collections with slight variations, including one from the first century A.H., namely the *Ṣaḥīfa Hammām b. Munabbih 'an Abi Hurairah*.[317]

Comparing the above-mentioned texts reveals a few important points. All the *Aḥādīth* reported or mentioned above are prohibitions of the Prophet (peace be upon him) no doubt, but not in his own words, and it is quite fine if explanations or interpretations or a slight difference in the wording appears, especially since they all imply the same. This considered, it appears that the prohibitive *Ḥadīth* was heard by different Successors, who conveyed it to their own students which does not seem to be hinting towards fabrication

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[314] Aḥmad b. 'Alī Ibn Ḥajar, *Fatḥ al-Bārī- Sharḥ Ṣaḥīḥ al-Bukhārī* (Riyadh: Maktabah Dār al-Salām, 1997), 4: 455.

[315] Muslim, *Al Ṣaḥīḥ*, tr. Abdul Hamid Siddiqi, (Lahore: Sh. Muhammad Ashraf, 1987), iii: 797-798.

[316] Mālik b. Anas, *Al-Mudawwana al-Kubrā* (Egypt: Al Ḥāj Muḥammad Afandī Sāsī al-Maghribī, 1323 A. H.), 9: 38.

[317] Hammām b. Munabbih, *Ṣaḥīfah Hammām b. Munabbih,* ed. Muhammad Ḥamīdullah, (Haiderabad Dakkan: Maktabah Nash'at Thānia, 1956), 120. This collection reports only the traditions of Hammām b. Munabbih as he heard them from the Companion Abu Huraira. It was edited from manuscripts from Berlin and Damascus by a scholar contemporary to Schacht, Muhammad Ḥamīdullah. *Ṣaḥīfah* (10). It is dated at before 58 A.H. by Ḥamīdullah. *Ṣaḥīfah* "Title page".

contrary to Schacht's comment: "But this interpretation has become part of the words of the Prophet in Bukhārī and Muslim".[318] Technically, if a reporter adds something of his own to the Prophet's words as Schacht says, it might compromise the text's validity, and the matter requires of a research to take a brief look into it which would serve to elucidate whether Muslim traditionists did keep it in their consideration or not. Text additions sometimes do appear attached to sayings of the Prophet (peace be upon him) and usually serve the purpose of definition and elucidation.[319] The presence of an additional phrase in one/some and not in other similar *Ḥadīth* texts is termed by the traditional Muslim science of *Ḥadīth* as *Mudraj*.[320] If it is clearly a reporter's (may he be a Companion, a Successor, or someone else) own elucidation of a term it deserves consideration,[321] but if it modifies an injunction, while also covering up its extra- Prophetic nature, then the tradition loses its validity.[322] Those who would make it a habit to add things to Prophetic texts also lost their credibility with the traditionists and jurists. Intentional mixing up of texts renders the ones

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[318] Schacht, *Origins*, 144.

[319] Such an explanatory phrase is also called 'gloss'. P. Kyle Jr. McCarter, *Textual Criticism,* ed. Gene M. Tucker, (Philadelphia: Fortress Press, 1986), 32.

[320] Uthmān b. 'Abd al Raḥmān Ibn Ṣalāḥ, *Ma'rifā Anwā' 'Ulūm al-Ḥadīth (Muqaddimā Ibn Ṣalāḥ),* ed. *Nūr al-Dīn 'Itr* (Beirut: Dār al-Fikr al-Mu'āṣir, 1986), 1:95; Azami, *On Schacht's Origins,* 150; Alfred Guillaume, *The Traditions of Islam* (Beirut: Khayats, 1966), 181.

[321] *Al-Bā'ith al-Ḥathīth Sharḥ Ikhtiṣār 'Ulūm al-Ḥadīth li al-Ḥāfiz Ibn Kathīr,* ed. Aḥmad Muḥammad Shākir, (Al Azhar: Muḥammad 'Alī Ṣabīḥ and Sons, nd.), 84; Jalāl al-Dīn Al Suyuṭī, *Tadrīb al-Rāwi fi Sharḥ Taqrīb al-Nawāwī,* ed. 'Abd al-Wahhāb 'Abd al Laṭīf, (Lahore: Dār Nashr al-Kutub al-Islāmiyyah, nd.), 1: 274; Another traditionist, Al Khaṭīb al Baghdādī dedicated a whole in two volumes book to this cause, and deserves to be mentioned here. He applied the above mentioned methods to effectively finding text additions, the *Mudraj,* in *Al Faṣl li al-Waṣl al-Mudraj fi al-Naql,* ed. Muḥammad al-Zahrānī, (np.: Dār al-Hijra,1997). Note: The traditionists developed certain methods for finding out such traditions. Among them is comparing similar texts which would reveal text additions. Sometimes the reporter clearly states that he had added something to the *Ḥadīth*. In other cases, the text of *Ḥadīth* itself may reveal that something extra- Prophetic has been adduced in it. Nūr al-Dīn 'Itr, *Manhaj al-Naqd fi 'Ulūm al-Ḥadīth,* (Damascus: Dār al-Fikr, 1981), 439-443.

[322] Al-Khaṭīb al-Baghdādī, *Al Faṣl,* 1: 30.

involved in it among liars. [323] Whichever is the case, if the text additions are in-discernible, a (*Mudraj*) *Ḥadīth* is a weak one.[324] A possible cause of confusion in discerning Prophetic from non-Prophetic texts is the absence of punctuation marks in pre- modern Arabic language. Their absence might have made some people think of certain elucidatory remarks as part of the Prophet's words. By adding appropriate punctuation marks- hyphens or brackets, for example- such text additions would look altogether different and many a doubt would be cleared. [325] In the absence of these marks written texts might appear confusing, but not those which were heard directly from the adducer. So, when the Companion Abū Hurairah or the traditionist Zuhrī was adducing explanations to Prophetic texts, they realized that these were extra-Prophetic, and that it was all-right to do so. Later generations however, faced some difficulties discerning these text additions and as mentioned above, they considered some of these as harmful to a tradition's value, which seems like a precaution against forgery. In light of above considerations, it seems important that one looks at the reporters' integrity too, before marking a *Mudraj Ḥadīth*, because an honest person would not add his own thoughts to the Prophet's words, otherwise he would not be honest in the first place. Regarding traditions in which the Prophet's commands are mentioned in meaning (or indirectly)-as is the case here- text additions stop to matter much since they are all the reporter's words.

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[323] *Al-Bā'ith al-Ḥathīth,* 84; Suyuṭī, *Tadrīb,* 1: 274.

[324] 'Itr, *Manhaj al Naqd,* (Damascus: Dār al-Fikr, 1981), 443; Israr Ahmad Khan, *Authentication of Hadith-Redefining the Criteria* (London: The International Institute of Islamic Thought, 2010), 33.

[325] The Biblical texts also show text variations, because of absence of spaces and punctuation marks in ancient languages like the Greek. J. Harold Greenlee, *Introduction to the New Testament Textual Criticism* (Peabody: Hendrickson Publishers, 1995), 55.

Another example discussed by Schacht looks at how the Muslim jurists disagreed on the issue whether 'Bathing on Friday' was incumbent or not. According to him, reconciliation was not easy among jurists like Mālik and Shaibānī on the traditions available in the two versions of *Muaṭṭa'* and reconciliatory traditions first appeared in Shāfiʿī's *Ikhtilāf*[326] and *Āthār*[327] of Abū Yusuf. In the latter, it just went till Ibrāhīm[328] and not higher while in the former it went up to the Prophet (peace be upon him). The reconciliatory tradition thus originated around Shāfiʿī's time according to Schacht.[329]

Upon looking at the traditions with Mālik, one finds five. The first one reaches till the Prophet (peace be upon him) in which he mentions the reward for one who bathes on Friday, the way one would after ritual un-cleanliness (*Jināba*). The next four of them tell that the Prophet (peace be upon him) did stress upon the Friday bath. The only word that might confuse someone here is '*wājib*' which could be taken over a band of meanings, from incumbent to being stressed upon. These traditions notwithstanding, one immediately realizes that two opinions could be generated based upon these, plus the explicit tradition from Ibrāhīm in *Āthār,* and the one from the Prophet himself in *Ikhtilāf.* The researcher in no way wishes to side with any of the two opinions here, but still wants to point out a few things relevant to the discussion here. Firstly, the traditions mentioned by Schacht do not seem to contradict each other once one understands the probable connotation of the word '*wājib*'. Zurqānī and Suyuṭī- two of the exegetes of *Muaṭṭa'*- tell us that the word *wājib*

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[326] Shāfiʿī, "*Ikhtilāf al-Ḥadīth*," in *Umm,* (Beirut: Dār al-Maʿrifa, 1990), 8: 627.

[327] Abu Yusuf, *al-Āthār,* 72.

[328] Ibrāhīm al-Nakhaʿī (d. 195/ 196 A.H.) was a Successor. G.H.A. Juynboll, *Encyclopedia of Canonical Ḥadīth* (Leiden: Brill, 2007), 238; Abbott, *Studies* ii: 74.

[329] Schacht, *Origins,* 145. His reasoning seems to be based upon his *e-silentio,* discussed earlier in this chapter.

here is for stress not for obligation, which is the opinion of the majority,[330] and Shāfiʿī also interprets it similarly.[331]

One notices that Joseph Schacht's theory of fabrication of traditions between two jurists or traditionists is based upon a certain interpretation of texts by him in each example, while ignoring their context and the way Muslim scholars explained these texts. Schacht simply carries out a basic comparison between texts reported by Abū Yusuf and Shaibānī, while telling that the traditions are originating between Ibrāhīm and Ḥammād; A comparison between texts reported by Abū Yusuf and Mālik, while saying that the traditions are originating between Ibrahīm and Mālik; A comparison between texts reported by Mālik and 'The Classical Collections', and tells that the traditions are originating between Mālik and 'The Classical Collections'; A comparison between texts reported by Mālik, Abū Yusuf, and Shaibānī and Shāfiʿī, and tells that the traditions are originating between Shaibānī and Shāfiʿī. These textual comparisons by him try to take his readers to the earliest texts according to his varying approach in which these texts are personal opinions of the 'first person' according to him, and change into traditions around the 'second person' mentioned by him. So the traditions originated between the two persons according to Schacht.

These comparisons are however not between two collections taken at face value, nor are they among the sources mentioned by these two collections. Many examples

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[330] Muḥammad b. ʿAbd al-Bāqī al-Zurqānī, *Sharḥ al-Zurqānī ʿala Muaṭṭaʾ al-Imām Mālik* (Beirut: Dār Iḥyāʾ al-Turāth al-ʿArabī, 2000), 1: 319; For Suyutī's opinion see *Tanwīr al Ḥawālik,* 1: 95; literalist jurists like Ibn Ḥazm do take *wājib* here to stand for obligatory, which is a respectable opinion as well. See Abu Muḥammad ʿAlī b. Aḥmad Ibn Ḥazm, *Al-Maḥallā bi al-Āthār,* (Beirut: Dār al-Fikr, nd.), 1: 262.
[331] Shāfiʿī, "Ikhtilāf," in *Umm,* 8: 626-627.

mentioned by Schacht involve Ibrāhīm, whence he appears as the 'first person' in the origin

of many traditions.[332] These show a mix of approaches on his part and sometimes a text is

traced back to someone earlier like Ibrāhīm, and not the collector/author of the book- who

just reports from him- as in the first of the above-mentioned examples in this regard. At

other times, as in example number four, an earlier person like him is mentioned, and yet

the text seems to be originating between the compared books' collectors/authors, and not

him and someone else.

While comparing texts, it would have been a sounder approach had the texts been

compared according to one principle. In view of the present research, if there is no strong

reason to believe that a certain collector of traditions, say Abū Yusuf was a fabricator or a

liar, then his reports should be considered as going at least till where he is saying that they

go, and then compared to other texts and a shift in the sources of many texts as proposed

by Schacht would occur as a result.

Counter Traditions

Joseph Schacht also introduced the idea of 'traditions created by the jurists to

counter certain prevalent doctrine' to further elaborate his theory of later origins of *Ḥadīth*

texts, and here he compares some of these texts to legal maxims and principles and attempts

to establish their relationship of dependence.

In the first example, he looks at a tradition from 'Ā'isha, the Prophet's wife, where

she asks the people not to forget that funeral prayers could be offered inside the Masjid and

mentions the Prophet's example when he (peace be upon him) prayed over Suhail b. Baiḍā'

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[332] Schacht, *Origins,* p. 141-142, 150.

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inside it. Schacht then tells that its wording showed its polemic nature, and concludes that it- and other traditions similar to it- originated as counter traditions against the Medinese practice.[333] It may appear here that people were not obeying 'Ā'isha- the 'Mother of the believers'- and she reminded them by giving an example. The tradition mentioned above by Schacht reaches us with an incomplete chain via Mālik in his *Muaṭṭa'*[334] and another tradition via Mālik saying, " 'Umar was prayed over in the Masjid" follows this tradition. The latter appears in Shaibānī's version of *Muaṭṭa'* via Mālik as well. Shāfi'ī also mentions the first tradition as it is and hints towards the latter. He strongly advises his interlocutor to go by the traditions.[335] Much discussion can be had on whether to pray over a dead body in a Masjid or not, but it is not the point here. The above comparison between a Medinese juristic principle- Medinese practice- and the above mentioned texts by the juristic school's founder- Mālik- doesn't logically seem to be even hinting towards these traditions having been invented in the same way as no intelligent person could be expected to make up or report authoritative documents to contradict his own doctrine. Being a traditionist, he reported the traditions and being a jurist, he probably did not consider them in unison with the Medinese practice.[336] He tells in his juristic treatise, the *Mudawwana,* of his dislike for keeping the dead body inside the Masjid, and it was fine if it were kept outside, while the

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[333] Schacht, *Origins,* p. 152.

[334] Zurqānī, *Sharḥ al-Zurqānī*, 2: 63-64; Suyuṭī, *Tanwīr al Ḥawālik*, 1: 228.

[335] Shāfi'ī, *Umm,* 7:211.

[336] Whether he was right in his giving preference to Medinese practice over traditions at times, is a normative question and beyond the scope of this research. Shāfi'ī criticized his approach strongly, and this shows a development in the Islamic legal methods in the second century A.H. For a detailed discussion on Shāfi'ī's critique of Medinese practice, see Zafar Ishaq Ansari, "The Significance of Shāfi'ī's Criticism of the Medinese School of Law," *Islamic Studies* 30, no. 4 (1991): 485-499, http://www.jstor.org/stable/20840054, (accessed: 27-01-2012).

imām prayed inside.[337] To say it again, whether he was wrong or right in his doctrine doesn't concern this research.

Another example given by Schacht studies traditions related to the effect of ritual impurity while in Ramaḍān upon one's fast,[338] and all of these are taken from Mālik's *Muatta'*.[339] The first tradition is via 'Ā'isha, the mother of believers. In it, a person comes to the Prophet (peace be upon him) asking whether he can keep his fast since he is ritually impure? The Prophet tells him that when he himself is in a state of ritual impurity and wants to fast, he bathes and keeps his fast. The man wonders if it isn't the Prophet's privilege, to which the Prophet responds angrily, saying that he (peace be upon him) fears Allah most and knows best how much *Taqwā* he has. Two more traditions from two of the Prophet's wives- 'Ā'isha and Umm Salama- affirm that the Prophet (peace be upon him) would wake up during Ramaḍān ritually impure from intercourse, not dream,[340] and would fast.

Another tradition is expected to clarify the issue further. It tells of an incident where the reporter Abū Bakr b. 'Abd al Raḥmān b. al Ḥārith b. Hishām -a trusted jurist- and his father are sitting with Marwān b. Ḥakam- the then Madīnah's Governor. Someone mentioned that Abū Hurairahh considered the fast of a person who got up ritually impure

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[337] Mālik, *Al-Mudawwana*, 1:177; Mālik says in another place that it is no problem if someone opted to pray inside a Masjid, since the Prophet (peace be upon him) did it. see Ibn 'abd al-Barr al-Qurṭubī, *Al Istidhkār* (Beirut: Dār al-Kutub al-'Ilmiyya, 2000), 3: 47.

[338] Schacht, *Origins*, p. 152-153.

[339] *Al-Muwatta*, tr. Bewley, 112-113; Zurqānī, *Sharḥ*, 2:158-162; *Muaṭṭā' Shaibānī* adds opinions of Shaibānī and Abu Ḥanīfa at the end of the last of the below mentioned traditions. Mālik b. Anas, *Mu'aṭṭā Mālik bi Riwāya Muḥammad b. Ḥasan al Shaibānī*, ed. 'Abd al Wahhāb 'Abd al-Laṭīf, (Egypt: Dār al-Taḥrīr li al-Ṭab' wa al-Nashr, 1967), 123-124.

[340] The Prophet, being in protection from Satan, did not have wet dreams. Suyuṭī, *Tanwīr al-Ḥawālik*, 1: 272-273.

as invalid. Marwān[341] advised to go ask the mothers of the believers- 'Ā'isha and Umm Salama- about it. Abū Bakr tells that he and his father went to them who disagreed with Abū Hurairah and said to the same effect that the two previous traditions narrate. Then they went to Abū Hurairah, who simply said that he didn't know about that, he had just heard from someone. A *Ḥadīth* via Abū Hurairah-not mentioned by Schacht- also deserves to be included in this discussion. He says, said the Prophet (peace be upon him): "If the call for Morning Prayer is raised and one of you is ritually impure, then one shouldn't fast that day".[342]

Schacht claims on this issue that the traditions were made to counter Abū Hurairah's juristic opinion. It is also claimed by him that even Abū Hurairah is shown in one of the traditions to be reverting from his own standpoint, apparently for the sake of supporting these counter-traditions.[343] To this we should add the fact that *Muaṭṭa'* was intended by Mālik also to be a reference book for his juristic school and not just a collection of traditions. His intention was to report traditions as well as juristic opinions of a variety including his of course. If text variants then appear in it, it is not out of place, and as the last of the above mentioned texts show a doctrine- Abū Hurairah's- found in it seems to be opposed by another doctrine-'Ā'isha and Umm Salama's- affirmed in the text itself. The remaining array of texts affirms the latter doctrine. This is something definitely expected of a text of juristic nature.

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[341] This incident also hints towards the fact that at least some rulers were interested in religious matters.
[342] Hammām b. Munabbih, *Ṣaḥīfah*, 91.
[343] Schacht, *Origins*, 152-153.

It is also noticed in the above-mentioned texts that disagreement existed among the Prophet's Companions and it is quite natural a trait that their opinions vary on a given issue since all the Companions were not present with the Prophet at all times and knew him for equal lengths of time.[344] Comparing the texts therefore doesn't conclusively show that parts or whole of these texts were made to counter Abū Hurairah's doctrine. Then, it should also be noted that everyone did not have access to what all these Companions had to share with them, since settled down in different locales and their traditions thus reached different people.[345] Keeping the above points in view, if a doctrine and its supposed 'counter' are mentioned in the same narrative text-or a different one- it doesn't show that they were made up, and they can just be said to be reporting a legal discussion then.

Coming to yet another example, the Prophet's marriage to Maimūnah while he was pilgrim has been mentioned in an earlier section of this chapter.[346] It is also considered by Joseph Schacht as an illustration of 'counter traditions' and he tells that Ibn Musayyib, Sālim, and Sulaimān b. Yasār, in answer to a question, said that the pilgrim must not marry nor give in marriage[347], and referred to Uthmān b. 'Affān's report of a Prophetic decree to the effect.[348] Then comes the tradition which permits it: That the Prophet (peace be upon him) married Maimūnah while pilgrim[349] and it is reported by Ibn 'Abbās, her maternal

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[344] The Church's councils, the first of which was held at Nicea in 325 A.D., too had natural doctrinal differences at their centre. The Church fathers, following a different path from the early Muslims did not close to preserve and encourage, these various opinions, which are a salient feature of early Islamic history.

[345] Brown, *Hadith,* 160.

[346] See 83.

[347] Schacht, *Origins,* 153.

[348] Mālik, *Mu'attā Shaibānī,* 149; Zurqānī, *Sharh,* 2: 273-275.

[349] Schacht, *Origins,* 153.

nephew.[350] Schacht considers this tradition as a 'counter tradition',[351] but before this claim has any value other traditions about the issue need to be brought forth. So, another tradition tells that Maimūnah was married to the Prophet before he set out from Al Madīnah (for pilgrimage),[352] and its reporter was present at the marriage ceremony.[353] It is labeled by Joseph Schacht as a 'counter tradition' to the previous 'counter tradition' and he adds that the details of the Prophet's biography are based upon fiction and are meant to support legal doctrines.

Taken at face value, the above texts might confuse many a reader, but all that is required here to sort this issue out is that it requires one to really ponder deeper into the meaning of a 'pilgrim' and see if all the Companions agreed upon it. As Suyuṭī explains, Ibn 'Abbās considered a person a pilgrim when one would attach a marker *qalāda-* on a sacrificial animal; he probably knew that the Prophet had done so before marrying and still said that he (peace be upon him) was pilgrim. Still another possible explanation is that Ibn 'Abbās had meant that the Prophet was in the '*Ḥurum* months'-or the sacred ones- when he married Maimūnah.[354]

This perspective added, the texts give a more complete picture of their histories and conversely, without understanding the religious context, the real meaning of texts can't be realized,[355] and "For this we need more than grammatical comprehension: we must be able

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[350] Mālik, *Mu'aṭṭā Shaibānī,* 149.

[351] Schacht, *Origins,* 153.

[352] Zurqānī, *Sharḥ,* 2:272.

[353] Suyuṭī, *Tanwīr al Ḥawālik,* 1:321; Al-Andalūsī, *Al-Muntaqā,* 2:238.

[354] Suyūṭī, *Tanwīr al Ḥawālik,* 1:321; Al-Andalūsī, *Al-Muntaqā,* 2:238.

[355] Anders Nygren, *Meaning and Method- Prolegomena to a Scientific Philosophy of Religion and a Scientific Theology,* tr. Philip S. Watson, (London: Epworth Press, 1972), 334.

to enter into the mind of the author and grasp empathetically what he is after and what he means".[356] Or in other words a historical imagination is required of a historian, without which one is bound to conclude wrongly.[357]

The next example looks at some of the traditions affirming that recitation from Qur'ān is not necessary for the prayer to be valid, and others which render it necessary.[358] The first group of traditions represents what Schacht calls 'the common ancient doctrine' and takes it entirely from Mālik's *Mudawwana* and Shāfi'ī's *Umm*. Mālik tells of the Companion 'Umar's statement when he did not recite, people said to him that he hadn't recited at which had inquired: how were the *Rukū'* (bowing down) and *Sujūd* (prostration)?" They said: fine, to which he said, then it's not a problem.[359] Shāfi'ī seems to be in disagreement with Mālik on this issue and in support of his viewpoint reports a similar tradition from 'Umar.[360] Mālik's own opinion on this doesn't agree with this view present by him in this tradition.

A *Ḥadīth* which supports Mālik's view on the issue comes from Abū Yusuf's *Āthār* and is also mentioned by Schacht. It stresses upon the necessity of reciting *Al Fātiḥa* plus something else from Qur'ān.[361] Shāfi'ī reports from Mālik a *Ḥadīth* to the same effect.[362] In a similar *Ḥadīth*- not mentioned by Schacht here- to be found in *Muaṭṭa'*, the Prophet

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[356] Ibid. 326.

[357] R.G. Collingwood, *The Idea of History*, (Oxford: Clarendon Press, 1946), 331.

[358] Schacht, *Origins*, 154.

[359] Mālik, *Al-Mudawwana*, 1: 65; The tradition is considered *Munkar* by Ibn 'Abd al-Barr. *Al-Istidhkār* (1: 427).

[360] Shāfi'ī, *Umm*, 7: 237.

[361] Abu Yusuf, *Āthār*, 1.

[362] Shāfi'ī, *Umm*, 7: 237.

says that without reciting the *Fātiḥa* the prayer remains incomplete.[363] Also some other traditions to the same affect are reported by Mālik at the end of his discussion on the subject.[364] At another place he also tells of a tradition in which 'Alī was approached by a man who tells him that he had prayed and hadn't recited. 'Alī asked him if he had completed the *Rukū'* (bowing down) and *Sujūd* (prostration)? To this the man replied in affirmative. 'Alī told him that his prayer had been complete.[365]

Schacht's comparison of the texts seems to be based upon his claim that the 'common ancient doctrine' was reflected in the practice of the Companions 'Umar and 'Alī' mentioned above, and those traditions which go against this attitude are termed as counter traditions. A point to be noted here is that all the above reported traditions appear in equivalent collections and hail from the second century A.H. A difference among them though is that Schacht's 'counter traditions' all come from the Prophet (peace be upon him) while the common ancient doctrine from two of the Companions. Ignoring this major difference in the *isnāds* of these traditions and calling some of them counter traditions, while considering the others to be ancient without giving any reasons whatsoever doesn't seem appropriate in a sound historical textual study. If the word 'Umar or 'Ali in the in *isnād* or the text renders a tradition 'ancient' then even more so should the word 'Prophet' affect this. One ought to keep this in one's mind while discussing as to which text is the oldest and the closest to the authentic *Sunnah*- the Prophet's way. Moreover, it also deserves to be kept in mind that when there are naturally variant texts, such discussions

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[363] Mālik, *Muaṭṭā' Shaibānī*, 60.
[364] Mālik, *Mudawwana*, 67-68.
[365] Shāfi'ī, *Umm*, 7:165.

among jurists are their natural consequence. As seen above, Mālik and Shāfi'ī both mention traditions which they give preference to over those that they don't, which shows their honesty. If they would have wanted to concoct counter-traditions they would not have done so in a way which may compromise their own viewpoint.

This fact is quite visible in yet another example analysed by Schacht where he tried to show that the *Khiyār al Majlis* (option before departure) doctrine in matters of sale was not recognized by the ancient Islamic juristic schools, but became popular later on and then only did it get converted into *Hadīth*.[366] This happened through a claimed-process which is studied by him in vivid detail as discussed below.

In his discussion on *Khiyār al Majlis* Schacht says that the doctrine is not supported in any of the two *Muatta' s*, although it is mentioned in them in the form of a Prophetic tradition. It finds favor for the first time in Shāfi'ī's *Umm*, in a tradition from 'Atā'-the first century Meccan scholar- according to Schacht. The tradition seems to him to be genuinely coming from 'Atā' as there is no mixing of a legal maxim into it. There are two other Prophetic traditions supportive of the doctrine in *Umm*, and these seem to Schacht to be interpolated, and we are told by him that some of the jurists tried to interpret the tradition in an unreasonable manner.[367] The reasons for this alleged interpolation are not clear from his explanation though.

Looking at *Muatta'*, one comes across two Prophetic traditions pertaining to choice in sale. The first one is through the Companion Ibn 'Umar and affirms that the two parties

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[366] Schacht, *Origins*, 159-161.
[367] Ibid. 160-161.

in a sale have the right to withdraw till they separate, except in 'choice-sale'.[368] Mālik

comments that it is not to be practiced upon.[369] The second one is from the Companion Ibn

Mas'ūd who says that when two parties disagree on a sale, the seller's word is taken, else

they annul it.[370] Some scholars think that Mālik doesn't seem to be accepting the first

Tradition to be valid here since it is not in line with the Medinian practice.[371] As Ibn 'abd

al-Barr comments, the first Tradition seems to be abrogated by the second in Mālik's

view.[372] Suyūṭī tells that it's one of those *Aḥādīth* which Mālik reports but doesn't act upon

and gives preference to Medinese practice over it.[373]

Seeing the fact that Mālik reported it makes one think that it had some value being

a Tradition, something confirmed when Shāfi'ī reports it from him, as do many others. The

text too remains more or less the same.[374] One also notices that Mālik mentioned the

tradition even if he may have considered it abrogated, or was unsure of its status, and had

he considered it a brazen lie, he would not have reported it with a continuous chain reaching

himself. His report thus provided others who came after him with something to be checked.

They put his report up for scrutiny and eventually found it valid. Shāfi'ī-his student- for

example, found other similar reports to the effect and reported them in *Umm* as mentioned

above.

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[368] Zurqānī, *Sharḥ al-Zurqānī*, 3:320; Mālik, *Mu'aṭṭā Shaibānī*, 277.

[369] Zurqānī, *Sharḥ al-Zurqānī*, 3:320-321.

[370] Ibid. 3:322.

[371] Hashim Kamali, *Shari'ah Law* (Oxford: One World, 2008), 105.

[372] Ibn 'abd al-Barr, *Al Istidhkār*, 7:271.

[373] Suyūṭī, *Tanwīr al-Ḥawālik,* 1: 161.

[374] Shāfi'ī, *Umm,* 2:4-5; For Ibn 'Abd al-Barr's detailed analysis of the other places where the tradition has been mentioned. *Al Istidhkār* (7:271-287); In summary, it comes through a continuous chain and is considered sound by the traditionists and valid by the jurists.

Another consideration is expected to further clarify the early jurists' position on the issue of *Khayār al Majlis.* The limit of 'choice' in 'choice sale' is naturally different with different jurists, as Shaibānī elucidates the sale-logic for his school[375] which doesn't seem to be negating the Tradition but qualifying it in the light of a couple of other traditions.[376] Schacht however says that the Kufans consider the Tradition as invalid, which appears inaccurate because Shaibānī above is not rejecting it at all. Understanding a religious juristic discussion to be a war of words among the jurists seems to be a historical mistake, which appears to be a salient feature of the Schachtian paradigm while studying *Ḥadīth* texts. In the end, it becomes quite clear that *Ḥadīth* textual criticism with Schacht starts with negative theories about it, constitutes comparisons among seeming opposite texts which all concludes in considering all legal *Ḥadīth* as fabricated.

Isnāds- The Textual Vehicle

Any analysis of Joseph Schacht's extensive studies on *Ḥadīth* would remain incomplete unless one looks at his approach to the *isnāds,* or the 'chains of narration'. These are the vehicle which carries tradition-texts, and brings them to subsequent generations. The members of a chain are those persons who supposedly narrated the attached text to their audience, and the chain is thus expected to give an insight into the history of the text carried by it. It might also be called the 'reporting speech' and is found attached to the 'reported speech' or the *Ḥadīth* texts in all the *Ḥadīth* collections available today. Among the earliest of these *Ḥadīth* collections is *Ṣaḥīfah Hammām b. Munabbih,* compiled by a Successor, Hammām b. Munabbih (d. 132 A.H.). The collection contains

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[375] Mālik, *Mu'aṭṭā Shaibānī,* 277.
[376] For details, see Ansari, "Early Development," 354.

Aḥādīth and sayings from the Companion Abū Hurairā, and it was compiled before 58 A.H.[377] It deserves mention here, since it shows at least two important things pertinent to the present discussion.

Firstly, while reporting traditions in the first century A.H., the Successor Hammām mentioned at the outset of the said collection that he had been reporting the traditions from the Companion Abū Hurairā.[378] This shows the existence of the *isnāds* in the first century A.H., something noted even by modern day western scholars like Horovitz and Motzki.[379]

Secondly, reporting Prophetic Tradition at the turn of the first century A.H. usually did not require an *isnād* longer than one or two persons- the Companion and the Successor- which is perfectly logical since many of the Companions were still alive, and to demand more than that in the *isnāds* would be irrational then. Many other small collections besides Hammām's *Ṣaḥīfah* probably existed, which carried the reports of different Successors from their teachers, the Companions. These small collections became part of the *Musnad*[380] genre of *Ḥadīth* collections, salient examples of which are the *Musnad* of Aḥmad b. Ḥanbal[381] and that of Ibn Kathīr[382].

Taking notes of whatever they heard from the Prophet's (peace be upon him) *Sunnah* seems to have been quite popular an activity with the Successors as early as the

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[377] Hammām, *Ṣaḥīfah*, Title page.

[378] Ibid. 20, 83.

[379] Motzki, *Origins*, 296-297; Jonathan Brown, "Critical Rigor vs. Juridical Pragmatism: how legal theorists and Ḥadīth scholars approached the backgrowth of *isnāds* in the genre of *'ilal al-ḥadīth*" in *The Hadith*, ed. Mustafa Shah, ii:309; Josef Horovitz, "Alter und Ursprung des Isnād", *Der Islam* VIII (1918): 43-44.

[380] The *Musnad* is a kind of *Ḥadīth* collection in which the traditions are classified according to their reporter Companion.

[381] Aḥmad, *Al-Musnad.* It includes traditions from most of the important Companions.

[382] Ismāʿīl b. ʿUmar b. Kathīr, *Jāmiʿ al-Masānīd wa al-Sunan,* ed. ʿAbd al-Muʿṭī Amīn Qalʾajī, (Beirut: Dār al Fikar, 1994).

middle of the first century A.H. Even those among them who opposed keeping written records of *Sunnah* seem to be preserving it, in their hearts and it is quite natural an attitude, taking in consideration the love of these people for their beloved Prophet (peace be upon him). This opposition to put into writing the *Sunnah* itself seems to be growing weaker in the second half of the first century A.H., and written collections became popular with the Successors.[383] Their students continued with their efforts towards preserving the *Hadīth* along with their *isnāds*.

Early (first-second centuries A.H.) juristic activities also reveal a few other points pertinent to the discussion here. A major manner in which the *Sunnah* was conveyed to the subsequent generation by the Successor-jurists and their disciples was an informal one which manifested in statements like: the *Sunnah* is like this or like that, or giving a legal opinion according their best of knowledge of the *Sunnah*, or sharing a Companion's view on an issue. Examples of these abound in Mālik's *Muaṭṭa'* as well as in Shaibānī's version of *Muaṭṭa'*, *Al Āthār* and Abū Yusuf's *Al Āthār*.[384] Being jurists, they had their legal opinions on different matters, and these legal opinions conveyed by them to their disciples were based upon the knowledge of the *Sunnah* that they had gathered during their educational endeavors. Their approaches varied and sometimes they would just give their opinion on a certain issue, while at others they would also share the evidence from the

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[383] 'Ajāj al-Khatīb, *Al-Sunnah*, 309-328; Gregor Schoeler, *The Oral and the Written in Early Islam* (Oxon: Routledge, 2006), 127-129; Nabia Abbott, *Papyri*, II:5-11; Sezgin, *Geschichte*, I:55. He divides the development of *Hadīth* literature in three phases, the writing of, the collection, and the composition in the form of collections of *Hadīth*. The first of these phases begins in the time of the Companions, the second around the last quarter of the first century A.H., and third one around 125 A.H.

[384] Examples from these books have been studied in the last section above.

Sunnah supportive of their opinion.[385] Mentioning the *isnāds* all the time does not seem to have been a necessary part of these scholars' approaches to reporting the Prophet's life and times. The method of reporting a continuous narrative text- in *sīra* for example- differed from that of reporting a discontinuous text- a *Hadīth* text for example- which would not lose its flow if *isnāds* were inserted into them. The way of telling one's legal opinion or ruling likewise naturally differed.[386]

A look at the juristic method of the Kufan jurist Abū Ḥanīfah shows that he considered the *Hadīth* in its different classes, although the sciences of *Hadīth* probably had not yet formally appeared. Singular *Hadīth* did not pass his litmus test (as evidence) if its *isnāds* contained immature, irreligious, or dishonest people. He was a bit harsher in his conditions for the acceptance of *Hadīth* than his contemporaries and would reject reports if their attributability to the Prophet did not satisfy him.[387] Awzāʿī- the Syrian jurist- likewise had his principles for accepting *Hadīth* and sayings of the Companions. Among them was accepting a *Hadīth* with a disconnected chain if its reporter before the disconnected part was sound.[388] Mālik would not act upon a *Hadīth* if he found that its link to the Prophet was weak, or was brought by either a fool, or a man of desire, or a liar, or a man without legal sense.[389] Shāfiʿī too demanded a balanced personality in a reporter of *Hadīth*.[390] Beyond these above mentioned standards for the *isnāds,* there were others to ascertain the status of known *Ahādīth* in that era, some of which are known to us while

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[385] See 46.

[386] Horovitz, " Ursprung des Isnād", 39-41.

[387] For a detailed look at Abu Ḥanīfā's approach to *Hadīth,* see Baltāji, *Manāhij,* 1:290-301.

[388] Ibid. 1:445-450.

[389] Ibid. 2:573.

[390] Ibid. 2:699.

others not anymore.[391] Keeping these points in view would provide a clearer perspective of *isnāds* which would help understand Schacht's views on them better.

Joseph Schacht and the Origin and Early Development of the *isnāds*

As the *Hadīth* texts are considered products of the second century A.H. Muslim juristic discourse by Joseph Schacht, their *isnāds* too are claimed by him to have come in regular use in the 2nd century at the earliest, and not before. He follows Leone Caetani in his claim,[392] who had contended that in 'Urwā b. Zubair' s (d. 94 A.H.) time- when two generations had already passed after the Prophet, the *isnāds* had not yet started to accompany the traditions. Taking this as a rule, Caetani says that even though there are many traditions with *isnāds* that reach 'Ā'isha via 'Urwā, their *isnāds* are spurious and can't be trusted.[393] His claim that 'Urwā did not know *isnāds* seems to be unwarranted as Robson remarks telling that while the developed system had a slow growth, some element of *isnād* would be present from as early a period as people could demand it.[394]

The Successor Ibn Sīrīn had reported that interest in demand for the *isnāds* started after the *fitna*. This became center of attention with the western scholars because he had died in 110 A.H. and accepting this report would imply that the *isnāds* became in vogue after the *fitna* mentioned therein. Joseph Schacht rejected this report as spurious but didn't bring any evidence to the effect. He also claimed that the *fitna* (civil war) which had been

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[391] These standards do not imply that they could be applied perfectly to all the traditions by these persons, which seems quite normal a feature of all human endeavors and doesn't reflect dishonesty on the part of these jurists from the 1st -2nd centuries A.H. More detailed discussion on these issues would follow in the current section.

[392] Schacht, *Origins,* 36-37.

[393] Leone Caetani, *Annali,* 1:31.

[394] James Robson, "The *Isnād* in Muslim Tradition," in *The Hadith,* 2: 16.

the end of the good old days had started with the death of the Umayyad Caliph Walīd b. Yazīd (d. 126 A.H.). Schacht said that Ibn Sīrīn who had died before the event could not have reported about it. It seems that Schacht picked up one of the civil wars arbitrarily. According to the view of contemporary scholars, the *fitna* mentioned by Ibn Sīrīn was not the death of the Umayyad caliph as claimed by Schacht. Even Juynboll doesn't seem to agree with Schacht on the date of the start of *isnāds* usage[395] but with Horovitz[396] and Robson.[397] Sezgin has similar opinion on the matter.[398]

To serve as evidence in support of Schacht's claim on the late origin of the *isnāds*, a couple of examples from classical Muslim sources that he brings forth need to be discussed here. In one such example that he brings, he tells that Sa'īd b. Jubair (d. 95 A.H.) rebuked a person who had asked him for his *isnād*. This means to Schacht that *isnāds* were not customary at the turn of the first century A.H. [399] A look at the original text[400] reveals a simpler explanation which is 'class ethics' or 'respect for the scholars', as the section heading there shows too. Sa'īd was a well respected Successor and a Kufan *muftī*, who had studied with 'Abd Allah b. 'Umar and 'Abd Allah b. 'Abbās, the two well-known Companions.[401] There appear two traditions about Sa'īd in the above mentioned section and both are illustrative of his attitude towards teaching. In the first one Sa'īd tells his

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[395] G.H.A. Juynboll, "The Date of the Great *Fitna*," in *The Hadith*, 2: 34-35.

[396] Josef Horovitz, " Ursprung des Isnād," 44.

[397] James Robson, "The *Isnād*," in *The Hadith*, 2: 16-17. Robson thinks it to be the civil war that arose when 'Abd Allah b. Zubair declared himself Caliph in Makkah and suggests the beginning of the usage of *isnāds* in the last third of the first century A.H., and he also thinks that Ibn Sīrīn's statement is authentic.

[398] Sezgin, *Geschichte*, 1: 77.

[399] Schacht, *Origins*, 37.

[400] 'Abd Allah b. 'Abd al-Raḥmān al-Dārimī, *Sunan al-Dārimī* (London: Muḥammad Aḥmad Dahmān, 1349 A.H.), 1: 111.

[401] Al-Zarkalī, *Al-A 'lām*, 3:93.

students a *Ḥadīth* and is asked by Ayyūb- a student- to repeat what he had said before, on which he rebukes him. In the second one Saʿīd narrates a *Ḥadīth* and is asked by a student what the source for the *Ḥadīth* is, or who told him it? At this, Saʿīd rebukes the man. The two traditions simply show that Saʿīd did not like to be asked questions nor disturbed during his lectures, and it was probably not because *isnād* were disliked by the Successors. Asking for clarifications seems to be a habit with many an apt student even nowadays, and sometimes the teachers do not respond to it in a pleasant manner. This doesn't necessitate the teacher's ignorance.[402] The *e-silentio* has already been critically analyzed and the results of its critique in a previous section of this chapter can be applied to Schacht's critique of the above mentioned tradition about Saʿīd b. Jubair as well.

If the two above mentioned traditions- Ibn Sīrīn's and Ayyūb's- are compared, it is noted that an instance of Ibn Sīrīn's is reported in the same collection- on the next page-[403] in which Ayyūb's tradition about Saʿīd is. Only Ibn Sīrīn's tradition is mentioned in Muslim[404] and Tirmidhī's[405] collections as well. It seems queer that Schacht should take Saʿīd's tradition while rejecting Ibn Sīrīn's and that too without giving any reasons. In the light of above evidence the *isnāds* can be safely estimated to have started in the first century A. H., as early as its middle or a few years after that, keeping in mind also the fact that they were quite short in those years.

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[402] See 50; Ansari, "Early Development," 569. A letter written by Ansari to Schacht asking for clarifications of the source of some claims that the latter had made in *Origins* was answered by the latter in a rebuking manner, which seems to be hinting towards his attitude towards such questions.

[403] Darimī, *Sunan,* 1:112.

[404] Muslim, "Saḥīḥ," in *Al-Kutub al-Sitta,* 675.

[405] Tirmidhī, "Jāmiʿ," in *Al-Kutub al-Sitta,* 2057.

The Kinds of *isnāds*: Joseph Schacht's Critique of the Second Century A. H. Muslim Scientists of *Ḥadīth*

The *isnāds* are chains of transmission of *Aḥādīth* as has been mentioned above and quite naturally contain different persons at its different levels. If a chain is broken or has a weakness then there is room for doubt with a researcher on the *isnāds* and thereby on the text that they carry. These doubts then need to be clarified as the Muslim scientists of *Ḥadīth* have endeavored to do. Whether their efforts had been in the right direction has been a question with modern historians of early Islam. With Joseph Schacht, the Muslim scientists of *Ḥadīth* were far from being meticulous in their approach to the *isnāds* and his analyses constitute a critical study of some of the *isnāds*-wise *Ḥadīth* classes (by its scientists and some of the jurists) in the second century A.H. whence he tries to conclude that the *isnāds* were rudimentary then. Coming to the development of *isnāds*, Joseph Schacht thinks that they underwent an artificial growth at the hands of the traditionists.[406] In order to show that the second century A.H. Muslim scholars were careless in their attitude to the *isnāds*, Schacht analyzed a number of examples from juristic writings from the second century A.H., especially the juristic treatise *Umm*. In one of the examples, he tells that even Shāfiʿī- *Sunnah*'s champion- had resigned to accepting all sorts of transmitters uncritically, while he had been aware of the errors involved therein. He quotes Shāfiʿī thus:

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[406] Schacht, *Origins*, 163. This growth reached its epitome in the third century A.H. at its earliest according to Schacht; Motzki calls the notion that the *isnāḍs* were rudimentary an insufficiently thought-out concept. Harald Motzki, Nicolet Boekhoff-van der Voort and Sean W. Anthony, *Analysing Muslim Traditions: Studies in Legal, Exegetical and Maghāzī Ḥadīth* (Leiden: Brill, 2010), 136.

"We are not much embarrassed by the fact that well-authenticated traditions disagree or are thought to disagree, and the specialists on traditions are not embarrassed by traditions that are likely to be erroneous and the like of which are not well-authenticated"[407]

If the original text in *Umm* is visited, it however shows two differences from Schacht's translation of it. The researcher's modification in the translation would highlight these differences. Shāfiʿī says:

"We are not much daunted by well-authenticated *Hadīth* if it disagrees, or is thought to differ, and those who know *Hadīth* or its specialists are not daunted by traditions that appear to be erroneous and the like of which is not authenticated."[408]

According to Schacht's above translation, there are three kinds of *Ahādīth* mentioned here which do not embarrass the scholars and experts, while Shāfiʿī doesn't seem to be daunted by them:

1. Well authenticated ones which disagree or seem to disagree,

2. Those which are likely to be erroneous,

3. The like of which are not authenticated.

The first kind of *Hadīth* form the core material for *Ikhtilāf* among the jurists and traditionists, and this has been discussed in a previous section of this chapter. In the presence of a multiplicity of texts, it is quite natural that they may disagree or seem to disagree, and is not a methodological mistake on Shāfiʿī's part.

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[407] Schacht, *Origins*, 37.
[408] Shāfiʿī, "Ikhtilāf" in *Umm*, 8:561-562.

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The second kind ought to be translated in a different manner to bring accuracy to its meaning. The Arabic word used by Shāfiʿī is *"yushbihu an yakūn Khaṭaʾ "*, which doesn't mean 'likely to be erroneous' and a more accurate translation would be 'appears to be erroneous'.

The three kinds according to Shāfiʿī would then be:

1. Well authenticated ones which disagree or seem to disagree,

2. Those which appear to be erroneous, and

3. The like of which are not authenticated.

A comparison between Schacht's understanding of Shāfiʿī's text and the original text itself shows that Shāfiʿī was talking in an altogether different context than the one portrayed by Schacht. The section is titled: 'The Diverse (*Aḥādith*), among which some are not certified'. Shāfiʿī mentions three kinds of *Aḥādith* here and shows his preference for the first of the three kinds mentioned above. A simple analogy to these traditions is then given by his anonymous disciple, and it helps elucidate the true meaning of Shāfiʿī's statement cited above by Schacht. It is that of three witnesses who are brought before a judge:

1. A known veracious person: His testimony ought to be accepted

2. A known untrustworthy person: His testimony ought to be rejected

3. A person neither whose untrustworthiness nor his veracity is known: Decision on his testimony should be withheld unless his veracity or otherwise is confirmed.[409]

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[409] Ibid. 8:561-562.

The analogy here serves to clarify Schacht's misunderstanding concerning the texts which he had quoted wrongly from Shāfiʿī. It is evident that Shāfiʿī was simply mentioning the three kinds of traditions according to him, and the juristic worth of each, and it also shows that the scientists of *Hadīth* and jurists in the second century A.H. were well aware of problems in the then existent *Hadīth* corpus and were not daunted by them. To think then of the second century A.H. Muslim scholarship as lenient or dishonest would be a gross injustice to history.

Joseph Schacht continues with his critique of the *isnāds* and looks at the following well known kinds of weak *isnāds* and their status in the second century A.H. Muslim sciences, with the aim to affirm his claim about the isnāds that the early second century A.H. scholars ignored these weak chains.

1. *Mudallas*

2. *Munqaṭiʿ*

3. *Mursal*

4. Family *isnāds*

5. *Khabar al Wāḥid* (isolated traditions)

1.   Mudallas

Literally speaking, *tadlīs* stands for 'hiding' or 'covering' a flaw. In the science of *Hadīth,* it stands for a kind of chain in which one of its (narrator-) members narrates a *Hadīth* from one of his sources from whom he didn't hear the particular *Hadīth,* yet doesn't name the person from whom he reports, resulting in a void in the chain of narration, plus a possible doubt in the minds of the audience as from whom he had heard the *Hadīth* under question. Two kinds of words may be used by a narrator in *tadlīs*, and each one has its own

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implication. The first kind includes words like "... said...", or "from..." for narrating from

someone from whom he did not hear directly.[410] Al Ḥākim shares an example in which Ibn

'Uyaina who was among the most reliable students of Zuhrī reports from him. Once he

said, "Zuhrī said..." His students asked him whether it was Zuhrī who had said this. At

this, Ibn 'Uyaina told them that he had heard it from 'Abd al Razzāq, who had told him it

on the authority of Maʿmar, who had heard it from Zuhrī.[411] Such a narration does not seem

to be implying a lie in the isnāds, although it is still not ignored by the scientists of Ḥadīth

as it appears. The Ḥadīth scientists differentiate between a reliable narrator and an

unreliable one, which also makes a difference here.

The second kind is one in which the narrator uses words like "he narrated to me/us"

or "he told us" to narrate something from someone from whom he did not hear it from.

This clearly is fibbing, and is not at all accepted by any Muslim Ḥadīth scientist.[412]

Generally, any incompleteness in isnāds-including tadlīs- would render it and the

text that it carries as weaker than the one which is clear of it. As is noted by Schacht, Shāfiʿī

doesn't approve of tadlīs, yet he claims that Shāfiʿī ignores it because among the most

esteemed of his own sources Mālik and Ibn 'Uyaina, practice it. This shows to Schacht that

Shāfiʿī's standards on tadlīs were not very sound.[413] The texts which confused Schacht into

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[410] Maḥmūd al-Ṭaḥḥān, Taisīr Muṣṭalaḥ al-Ḥadīth (Multan: Nashr al Sunnā, nd.), 78-79.

[411] Al-Ḥākim Abu 'Abd Allah al-Nisāburī, Kitāb Maʿrifa 'Ulūm al-Ḥadīth (Beirut: Markaz al-Mausūʿāt al-'Alamiyyah, nd.), 105-112. He mentions a number of examples, and points out the flaws wherever they lie; M.M. Azami, Studies in Hadith Methodology and Literature (Indianapolis: American Trust Publications, 1977), 65-65. It provides an abridgement of previous works on tadlīs- like Ḥakim's- in English language.

[412] Al-Ṭaḥḥān, Taisīr, 79.

[413] Schacht, Origins, 37.

believing that Mālik[414] and Ibn 'Uyaina[415] practiced *tadlīs*, are both taken from *Umm*.

Shāfi'ī is very careful about accepting *Hadīth* from someone who is known to practice *tadlīs* and comments against taking one's *Hadīth* reports unless one categorically states having heard it from one's source. A look at Shāfi'ī's other treatise *Risāla* too shows that he doesn't approve of *tadlīs*,[416] yet, he doesn't seem to be equating *tadlīs* to lying.[417] Later Muslim scholars like al-Ḥākim al-Nīsābūrī considered *tadlīs* in its different forms, all of which do not constitute lies.[418] It deserves note here too, that the sciences of *Hadīth* developed over centuries, and so did the scholars' given standards till they seem to have reached their culmination in the stricter standards of some of the 3rd century A.H. or later *Hadīth* scientists and traditionists. Mālik, Ibn 'Uyaina, and even Shāfi'ī then would stand somewhere in the middle of this centuries long development of *Hadīth* sciences, meaning also that they were neither liars nor incompetent. The cause of this confusion here seems to stem out of Joseph Schacht's proposed idea of *tadlīs*, whence he doesn't appear to be differentiating between its varieties, and considers 'not mentioning the source' as something inherently wrong.[419] This idea seems quite weak in itself, so if we suppose that whenever someone does not tell of one's source it turns one's narration or report into

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[414] Shāfi'ī, *Umm*, 7: 254. Here the example goes like this: "Shāfi'ī said: Mālik informed us that it reached him that Ibn 'Umar and Ibn 'Abbās were asked a question about a man..." As is clear, Mālik can't be accused of hiding something with ulterior motives here.

[415] Ibid. 7: 343. Here Shāfi'ī reports something from Sufyān b. 'Uyaina and comments that he avoids mentioning Yaḥyā b. 'Abbād in his report, while others who narrated the same text did mention him. An example involving Ibn 'Uyaina has been mentioned above in text, and might serve towards understanding his alleged of *tadlīs*.

[416] Shāfi'ī, *Risāla*, 371.

[417] Ibid. 379-380.

[418] Al-Ḥākim, *'Ulūm al-Hadīth*, 105-112. He mentions a number of examples and points out the flaws wherever they lie; Azami, *Studies*, 65-66.

[419] Schacht, *Origins*, 37; Burton, *Introduction*, 112. He translates *tadlīs* as fibbing, which results with him in a definitely negative connotation to it.

inherently wrong, most news telecast[420] on TV and other electronic media, a number of

books and articles, in fact a large portion of human communication would lose its meaning.

E-silentio which has already been discussed in a previous section deserves to be kept in

mind while discussing *tadlīs,* since not mentioning something doesn't necessitate its non-

existence.

Munqaṭi'

Broken *isnāds* are called *Munqaṭi',* which is a general term for an *isnād* that has

one of its members missing,[421] excepting at its beginning or its end, in which cases it is

known as *Mu'allaq*[422] or *Mursal*[423] respectively. *Inqiṭā'* is then a break in the middle[424] of

the *isnāds* and this takes away an otherwise sound one's strength for obvious reasons. A

continuous *isnād* reported by a second century traditionist like Shāfiʿī might be graphically

represented as follows:

Compiler → Narrator 1 → Narrator 2 (the Successor) → Narrator 3 (the

Companion) → the Prophet (peace be upon him)

The above *isnād* consists of four narrators (including the compiler), the last two of

which are from the first century A.H. and the first two are from the second century A.H. If

'the Successor' is missing from the *isnād*, then it would be called *Munqaṭi'* according to

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[420] Azami, *Studies,* 65.

[421] Al-Ṭaḥḥān, *Taisīr,* 76-77.

[422] Ibid.68. It literally means 'hanging' or 'suspended', and as a term in *Ḥadīth* sciences it is defined as a chain in which one or more narrators together are amiss in its beginning. So it might be that one or more than one- even all- narrators are missing from the *isnāds.*

[423] Ibid.70. It is such an *insād* in which the last member- the Companion- is missing. It shall be discussed in the subsequent sub-section below.

[424] Ibid.74. If the *isnāds* have two or more than two missing members in the middle, it is called *Mu'ḍal.*

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its above-mentioned definition and the diagram. The missing person might be good or bad and as long he remains unknown a shroud of uncertainty remains over the text that the *isnād* carries. Wherever a break in *isnāds* occurs, it can probably be checked out efficiently enough by first checking out its given narrators, and it should be considered that the veracity of those not given in it was probably known to those who narrated from them. So, by checking the veracity, honesty and sound mindedness of the narrators before the missing link or links, his or their narrations' worth can be ascertained to a good degree. In the time of Shāfiʿī then, it is a matter of checking just one person- the person before the missing one- who would be the traditionist's direct source. Shāfiʿī's approach to *Munqaṭi'* *isnāds* is that if a traditionist's direct source were unknown, the *isnāds* became weak. On the other hand, if he was known to be a sound person then it can be expected of him to narrate from a sound person, the missing narrator that is. Also, other parallel traditions were to be searched for and if found they would provide external witnesses for the *Munqaṭi'* ones. If the narrator was not sound, then the text that it carried lost its value with Shāfiʿī.[425]

Joseph Schacht thinks that although Shāfiʿī had made such statements, yet the principle that a *Munqaṭi'* *Hadīth* doesn't hold was not followed by him in practice. He mentions of disagreements between Shāfiʿī and Shaibānī as evidence, whence each one of them had claimed that the other had cited disconnected traditions.[426] A look at Shāfiʿī's *Umm* shows that he and Shaibānī did disagree on juristic issues, which was quite normal an attitude with the second century A.H. Muslim jurists and traditionists, and the debate-apparent between Shāfiʿī and Shaibānī doesn't show any friction between the two jurists

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[425] Shāfiʿī, *Risāla,* 462-464; idem. *Umm,* 7: 308.
[426] Schacht, *Origins,* 38.

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but appears to have been more of a discussion about each others' sources, whence both the jurists brought forth traditions in support of their respective claims on a certain issue. Coincidently, *Aḥādīth* brought forth by both Shāfiʿī and Shaibānī on the issue under discussion between them are *Munqaṭiʿ*. Shāfiʿī appears to be comparing his own narrators with Shaibānī's and points out that in the latter's evidence-text, the narrator before the missing one is unknown to him (Shāfiʿī) and thereby he doesn't trust him. He tells of his own source that it is more reliable on the other hand.[427] Shāfiʿī here seems to be pointing out the importance of known narrators in a *Munqaṭiʿ Hadīth* over the unknown ones. This sums up his simple approach to such traditions if one keeps in mind that one has to deal with them sometimes.

To give another example, there is in Shāfiʿī's treatise *Ikhtilāf* mention of a dialogue between Shāfiʿī and an interlocutor whence the latter says that a certain *Hadīth* is not juristically valid with him since he knows it to be *Munqaṭiʿ*. At this, trying to convince the interlocutor, Shāfiʿī says that neither they (the jurists) nor the traditionists validate a *Munqaṭiʿ Hadīth per se* (it needs an external supportive text for that) and gives a *Hadīth* with an uninterrupted *isnād* as argument.[428]

The two above-mentioned pieces of evidence in the form of dialogues between jurists from the second century A.H. confirm some features of the juristic approaches to *Hadīth* in that era. Firstly, juristic discussions among the jurists were not independent of *Hadīth*, and if a jurist rejected an opposite or different point of view, he had to substantiate his argument with *Hadīth*. It was in turn accompanied by its *isnād*, which was also

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[427] Shāfiʿī, *Umm*, 7: 308.
[428] Shāfiʿī, *Ikhtilāf*, in *Umm*, 8: 486-487.

discussed among the scholars for its strengths and weaknesses. It appears that the approaches of these scholars agree on this point. Secondly, the *Aḥādīth* available to different jurists were sometimes different, or came via different *isnāds*, some of which were complete while others might have been incomplete, and although these *isnāds* varied 'n their quality, yet this did not mean that the scholars used to invent traditions or that they were lies. It was just demanded of them to either verify or reject them. Shāfiʿī also deserves note here as he is known among the second century A.H. jurists as one who supported formal *Ḥadīth* most strongly in his writings, and is seen to be critical of broken *isnāds* and the texts that they carry. He accepts them if external support is found, otherwise not. [429] Last but not least, the above examples also show how Joseph Schacht's approach to Shāfiʿī's method fares, and his claim that Shāfiʿī's opposition to *Munqaṭi'* *isnāds* was just lip service seems like an overstatement. It was not just followed in theory but Shāfiʿī among others put it in practice.

Mursal

Among the different varieties of disconnection in *isnāds* is one in which a Successor narrates a *Ḥadīth* from the Prophet (peace be upon him) without mentioning the Companion who had reported it from him (peace be upon him). [430] It is called *Mursal*.

Joseph Schacht tells us that Shāfiʿī and the ancient jurists treated *Mursal* in the same way as they treated *Munqaṭi'*. He then explains its usage in their juristic approach, and claims that although they themselves used the two kinds of *Ḥadīth- Mursal* and

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[429] Baltāji, *Manāhij,* 2: 702-704.
[430] Ṭaḥḥān, *Taisīr,* 70-71.

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Munqaṭi' therein, yet they appear to be quite critical of other jurists' use of these. He also appears to be implying that their own use of *Mursal* is older than their theoretical rejection of it and the *Mursal* traditions are older than those with complete *isnāds*. [431] Schacht says: "The *mursal*, which forms the most important group of *munqaṭi',* reflects the interval between the real origins of Muhammadan law and the much earlier period in which its fictitious authorities were being sought"[432] This statement implies a temporal gap between the origins of Islamic law and the mass fabrication of *Ḥadīth* -both as claimed by Schacht-which provided the alleged fake authority needed by the second century A.H. jurists to strengthen their juristic views. The use of *Mursal* by some of the second century jurists is then explained by Schacht, who as usual critically analyses Shāfi'ī's approach to this kind of traditions. According to him, Shāfi'ī uses *Mursal* as subsidiary argument, yet doesn't accept it from others methodologically.

To better understand Shāfi'ī's approach to *Mursal* we have also to see his other juristic treatise *Risālā,* where he considers *Mursal* with reference to its *isnāds* as well as its content. He looks for external evidence to confirm or reject *Mursal* whence complete *isnāds* carrying equivalent texts are to be searched for. If they are not found, then the *Mursal* tradition loses in its juristic worth with Shāfi'ī.[433] It seems fine if a certain report reaches through incomplete *isnāds,* and if there are other equivalent reports which confirm that the incomplete *isnāds* were not a historical fraud.

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[431] Schacht, *Origins,* 38-39.
[432] Ibid. 39.
[433] Shāfi'ī, *Risālā,* 461-463.

At yet another place Schacht objects to the Iraqians as well, that they take Ibrāhīm

al Nakhaʿī's *Mursal* from Ibn Mas'ūd, the Companion and then comments: "(They) justify

this even theoretically by making Ibrāhīm say: 'Whenever I say: "Ibn Mas'ūd has said so-

and-so", this has been related to me by more than one of his companions'".[434] Upon looking

at the original saying of Ibrāhīm in *Umm*, one wonders whether there really is any

indication that the Iraqians -or anyone for that matter- did put anything in Ibrāhīm's mouth.

What one notices there instead is Shāfiʿī's claim that they (the Iraqians) relate from Ibrāhīm

the above mentioned principle with him and that they accept his *Mursal*.[435] The narration

principle can be stated like this: 'A says that whenever A relates from B, A has heard it

from more than one of B's companions.' What would remain to be checked now- as before-

is to check the other narrators who reported these from Ibrāhīm. Their credibility and

soundness would be the factor deciding the *isnāds'* strength.

Family isnāds

If a tradition is reported by members of a family, as a son reporting from his elders

till it reaches the Prophet (peace be upon him) or a Companion, it is simply known as "sons

reporting from fathers", and such *isnāds* include two or three members of a family.[436] Such

isnāds sometimes extend beyond family members and may include other members of the

household, like servants or freedmen.[437]

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[434] Schacht, *Origins*, 39.
[435] Shāfiʿī, *Umm*, 7: 174.
[436] 'Itr, *Manhaj*, 159-161.
[437] Schacht, *Origins*, 170. He even includes the traditions being conveyed by servants from their masters in this genre.

Family *isnāds*- as they are called- are quite large in number and are considered valid by *Hadīth* scientists if they fulfill the requirements of a sound or valid tradition, and they lose their validity if they contain unsound persons. Thus, a decision is made after studying individual *isnāds* of this kind, and if the members are found to be sound the *isnāds* are approved. So if a family *isnād* is *Mursal,* it is treated as such, and if continuous, it is treated accordingly.[438] This is a guiding principle with *Hadīth* scientists, but since different *Hadīth* scientists have had their own yardsticks for validating or invalidating *Hadīth*, difference of opinion regarding family *isnāds* is also to be found among them in more or less the same manner as it does with regards non- family *isnāds*.

A special case is when a family *isnād* remains within a learned Companion's learned household. In that case it would carry extra weight. In the case that a Companion's students or servants showed more aptness than his sons, like the Companion Ibn 'Umar's servants and students Nāfi' and Sālim, they became members of his family *isnāds* while the traditionists did not consider his half a dozen sons- who were also traditionists- as members of his family *isnāds*. This shows the level of objectiveness with the traditionists, who would give credit where it is due.[439] Such family *isnāds* and the traditions that they carried were probably protected like valuable heirlooms, owing to the natural respect and esteem in which the people of those early generations held the Prophet's *Sunnah*.

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[438] Abu Mūsa Muḥammad b. 'Umar al-Iṣbahānī al-Madīnī, *Al Laṭā'if min Daqā'iq al M'ārif fil 'Ulūm al Huffā ṭ al-A'ārif*, ed. Muḥammad 'Alī Samak(Beirut: Dār al-Kutub al-'Ilmiyya, 1999). Many examples of such family *isnāds* are given by the author, which show that family *isnāds* are to be treated like the other *isnāds*; Azami, *On Schacht's Origins,* 196-197. He tells us that all family *isnāds* are not taken as genuine.
[439] Nabia Abbott, *Papyri,* 2:36.

Commenting on the attitude of Muslim scholars on family *isnāds*, Joseph Schacht says that they had attached an extra value to family *isnāds* as compared to the other kinds, whereas upon careful examination, he finds them to be spurious. He further tells that family *isnāds* were a tool used by Muslim scholars to strengthen the otherwise fake, weak *isnāds*, [440] and presents some examples to support his claim, among which are his comparisons among the *isnāds* of reports about Maimūnah's marriage to the Prophet (peace be upon him) while a pilgrim, and it has been discussed earlier on in this chapter, and Schacht's misunderstanding therein pointed out. [441] In other examples mentioned by him some family *isnāds* are discussed and their flaws pointed out. In one place he finds Ḥammād to be weakly connected to one Thumāma from whom he reports something. [442] A look at the original text in Shāfiʿī's *Umm* seems enough here to clarify the problem. Shāfiʿī mentions there some other traditions to the same effect as the one conveyed by the weak Ḥammād-Thumāma *isnāds* and that these lend strength to their tradition. [443] In another example Schacht just mentions members of a family chain, and alleges that it is a new (fabricated) report without telling what made it weak. [444]

A balanced view of the issue would then be that some family *isnāds* might boast a certain advantage over others since they are preserved by members of an educated household but there still are many flawed family *isnāds* recognized by Muslim scholars and Schacht's comments on such family *isnāds* seem superfluous.

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[440] Schacht, *Origins,* 170.

[441] See 112.

[442] Schacht, *Origins,* 73.

[443] Shāfiʿī, *Umm,* 7: 170.

[444] Schacht, *Origins,* 114. This appears to be a case of vague comments by Schacht, which do not serve the purpose they claim.

Khabar al Wāḥid (Isolated Traditions)

Joseph Schacht considers isolated traditions as another kind of traditions on whose

worth he finds the Muslim jurists and traditionists in disagreement and tells that a number

of jurists from the 2nd century A.H. didn't have a clear standpoint with regards them. On

the one hand these jurists seem to Schacht as rejecting such reports while on the other

employing them in their legal reasoning. Schacht tries to show that there was a state of

chaos regarding such traditions among the jurists and the traditionists of the second century

A.H. and tells that a group that he calls the anti-traditionists even rejected a number of

traditions on the basis of their having been carried by single narrators. His claims appear

to be based upon his comparison between *Hadīth* transmission and legal witness,[445] a

notion wrought with problems, since a tradition carried by singular narrators doesn't in fact

imply that it is worthy of rejection. As Shāfiʿī points out, the Prophet (peace be upon him)

deputed individuals with important duties also singularly, sometimes to other locales.[446]

Selection of Abū Bakr- an individual- as the first caliph of Muslims is an example of such

a policy which continued even after the Prophet's death.[447] Secondly, there are differences

between legal witness and *Hadīth* transmission, as noted also by Lowry in his recent study

on Shāfiʿī's *Risāla,* among which is the simple fact that hearsay is accepted in *Hadīth*

transmission, while legal testimony must be based upon a witness' personal knowledge of

facts.[448] Also, if a given *Khabar al Wāḥid* has parallels which are not singularly conveyed,

or if it can be interpreted according to higher level traditions then the problem if any, is

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[445] Ibid. 50-52.
[446] Shāfiʿī, *Risāla,* 412; Joseph Lowry, *Early Islamic Legal Theory- The Risāla of Muḥammad ibn Idrīs al-Shāfiʿī* (Leiden: Brill, 2007) 190. He quotes from Shāfiʿī's *Risāla* here.
[447] Shāfiʿī, *Risāla,* 419-420.
[448] Shāfiʿī, *Risāla,* 372-392; Lowry, 194-195.

automatically resolved according to Shāfiʿī.[449] Singular reports are not inherently flawed - as said before- also since all Prophets and founders of religions started their religious endeavors alone, and people joined them late. Prophets had apostles and deputies, Companions and Successors, and they would spread in different regions, again usually alone. What mattered for their peoples is their credibility and, needless to say, the continuity-or otherwise- of the various religious traditions and the overall internal uniformity therein is also vital for establishing the true worth of their message.

It also becomes evident from the above discussion that Shāfiʿī (as well as other jurists) had a certain juristic framework which provided him with the basic principles needed for legislation, and taking the things superficially. Last but not least, as Hallaq points out and can be observed reading through most of the traditional Muslim writings on the sciences of *Hadīth*, many of the *Hadīth* (singular) are probably not considered epistemologically absolute, the way Qur'ān and the few *Mutawātir Hadīth* are.[450]

Based on Joseph Schacht's idea of singular reports is his unique theory on dating traditions through their *isnāds*. It is probably the final note in his orchestrated claim that *Hadīth* had originated in the second century A.H. -and not before- and was projected backwards till the Prophet or his Companions.

According to Schacht, the traditions were created by persons whom he calls 'common links'-or by someone who used their names- and thinks that they are the ones responsible for their spreading. He tells us that in many legal traditions that he studied, he

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[449] Shāfiʿī, *Risāla*, 263-264; Lowry, 191-192.
[450] Wael Hallaq, "Authenticity," in *The Hadīth*, 1: 374.

had noticed that their *isnāds* would converge at certain persons from the time of the Successors, whence the *isnāds* branched out into multiple paths, till they reached the major collections of *Ḥadīth*. These points of convergence are called the 'common links' by Joseph Schacht. Any given *isnād* then- whether it starts from the Prophet (peace be upon him) or one of his Companions- would have the 'common link' as its *terminus quo* or the starting point according to Schacht. The part above the common link is a fabrication of either the 'common link' or of 'someone who used his name' according to him, and the part below it the real part of the *isnāds*. The *isnāds* would thus have a real part- the one starting at the 'common link' and reaching the major collections- and a fabricated part- the one between the 'common link' and the source of the tradition- thus causing a shift in the origin of the tradition from the one claimed in the *isnāds*.[451]

Schacht did not develop his 'common link' idea any further, and after him, G.H.A. Juynboll took it up and added to it. He introduced some further concepts in the basic Schachtian idea of the 'common link' as the origin of the *isnāds*. The 'dives' are one such concept which Juynboll relates to *mutābi'āt* and *shawāhid*[452] or additional witnesses to the 'common link', and they go back farther back in the *isnāds* than the 'common link', as

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[451] Schacht, *Origins,* 172; Fahad Alhomoudi, "On the Common Link Theory" (PhD thesis, McGill, 2006), 61-68. Joseph Schacht studied two examples to support his 'common link' theory, both of which have been recently studied in depth by Fahad Alhomoudi. He shows that in each of the examples brought forth by Schacht, the alleged 'common link' does not exist, because both the traditions are conveyed by more than one Successor. Moreover, a theory based on just two examples is not a strong one according to him, something with which the researcher doesn't agree since people after Schacht did study a number of their examples in support of the theory proposed by Schacht. G.H.A. Juynboll's and Motzki's works are good examples of this.

[452] 'Itr, *Manhaj,* 418. *Mutāba'āt* are those traditions which affirm other traditions through other reporters or *isnāds*. *Shawāhid* are those traditions which are reported from Companions other than the one from whom a certain seemingly singular tradition is reported. Both these kinds lend strength to seemingly singular reports. So, if a tradition is itself carried by singulars but has *mutāba'āt* or *shawāhid,* it is considered stronger than if it had none.

noted by Juynboll. He considers them as creations of the collectors of traditions to lend them more worth and thereby fake.[453] He seems to be agreeing with Schacht's generalized claim that the 'common links' did not convey the truth about their real informants. This however seems unwarranted and fails to convince. A recent scholar, Harald Motzki also based his *isnād* studies on the 'common link' but without agreeing neither with Schacht nor Juynboll on all its constituents.[454] No doubt, as Muslim scholarship on *Hadīth* had concluded centuries ago and as Motzki also notes, *Hadīth* were fabricated, but saying that all *Hadīth* were is a problematic generalization.[455] Rubin also rejects Schacht's sweeping statements on the claim that the 'common links' fabricated the *Hadīth*.[456] Hallaq, another modern day western scholar tells us that the Companions had been involved in *Hadīth* related activity in their own locales and in their own ways,[457] and among the thousands of Companions a few hundred of them seem to have become well known teachers of *Hadīth*. They had in turn their pupils who were responsible for further spread of traditions. As has been noted in an earlier section, not all traditions were mentioned nor recorded by all the Successors, which doesn't imply that the Prophet's way was suddenly forgotten by them. There were scholar-Successors as there had been scholar- Companions, who seem to have played a central role in the spread of *hadīth*. Besides them there may have been others whose reports may not have reached us.[458] It would help to introduce here the Muslim

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[453] G.H.A Juynboll, "(Re)Appraisal of Some Technical Terms in Hadīth Science," in *The Hadīth*, 2:264-266; idem. "Some Isnād- Analytical Methods Illustrated on the Basis of Several Women- Demeaning Sayings from Hadīth Literature," in *Hadīth*, 208-210.

[454] It is discussed in chapter 2 of this thesis.

[455] Motzki, "Dating Muslim Traditions- A Survey," in *The Hadīth*, 2: 55.

[456] Uri Rubin, *The Eye of the Beholder- The Life of Muhammad as Viewed by the Early Muslims: A Textual Analysis* (New Jersey: The Darwin Press Inc., 1995), 237.

[457] See 6371.

[458] Motzki, "Dating Muslim Traditions- A Survey," in *The Hadīth*, 2: 56.

traditionist term *madār*, which means the person from whom a tradition spread to many pupils, who in turn spread it to their audience. In a recent study, Ozkan compares *madār* with the 'common link', and shows how the *madār* concept helps in dating traditions. He shows that there were many *madārs* among the Companions who were responsible for the dissemination of traditions, contrary to Schacht's claim that *madārs* were among the Successors.[459]

As seen before, *madār* is the carrier of a report whose *isnād* paths are different, all of which converge upon him. Also a *Ḥadīth* is a textual-representation of a *Sunnah*, partly or in the whole. Keeping these two points in view, if a given *Ḥadīth* text is grouped with other similar ones in their meaning- given that they all are concerned with the same *Sunnah*, in part or in the whole- but different in wording, it would reveal that many different *madārs* disseminated the same *Sunnah* in different ways. Sometimes different people conveyed different parts of a Prophetic *Sunnah* not out of 'dishonesty' as alleged by Schacht, but as historical events. The *Sunnah* is also reflected in the first-second century A.H. Muslim juristic writings, as has been mentioned in a previous section above. The same *Sunnah* thus appears to be represented in a variety of texts, at times in a formal *Ḥadīthic* manner and at others in another, and carried forth by many people in every generation. The 'common link' which may appear to formally exist in the formalized *Ḥadīth* collections of third-fourth centuries A.H., thus would not seem to be so in the first-second century A.H. repositories of *Sunnah*. The singularity of *madārs* may disappear in many cases if such a historical consideration is given importance. These various ways in which *Sunnah* appears

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[459] Halit Ozkan, *The Common Link and its relation to the Madār*, in *The Ḥadīth*, ed. Shah, Mustafa, 2: 227-232.

to have been preserved and spread also serve as additional historical evidence to its general veracity. It is a historical probability much stronger than the assumption that all those people in the first-second century A.H. who were responsible for the spread of *Ḥadīth* had to have the same fully developed approach and carried notebooks all the time, thus having a fully developed system of *Ḥadīth* preservation upon which they all agreed. If accepted, it would be tantamount to a gross injustice with history.

The above mentioned considerations form the corner stone of the Muslim *Ḥadīth* scholarship as well, as can be seen in their writings on the subject. The fact that the traditionists sifted out just about a percent from the total *Ḥadīth* corpus available to them serves as additional evidence to this effect.[460]

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[460] Alhomoudi, "On the Common Link Theory", 61-68.

Chapter 2: Harald Motzki's Method in Textual Criticism of *Ḥadīth*

Harald Motzki: Intellectual Personality

Life

Born in 1948 in Berlin, Harald Motzki had his early education at the Ludwigsgymnasium[1] in Saarbrücken whence he graduated in 1968 with majors in ancient languages. Over time he developed an interest in the field of comparative religion which took him to Bonn. There he got his MA in the Science of Religion in 1974. He also visited Paris and Cologne during this period. A few years later in 1978, Harald Motzki completed his doctorate in Islamic studies from Bonn. His work was on the 18th century non-Muslim minorities in Egypt and was written under the supervision of Albrecht Noth, a well known western scholar of Islam. Motzki worked as scientific researcher at the Institute for Historical Anthropology in Freiburg from 1979 to 1983, and issues related to children, the youth, and the family in Islam remained of special interest to him while he was there. He then moved to Hamburg where he worked till 1989 at the Institute for Middle Eastern History and Culture, and worked on his post-doctorate in Islamic Studies, which he completed with his dissertation on the subject of the origins of Islamic jurisprudence. It was published as a book with the same title. In 1991 he moved to Netherlands where he is still professor of Islamic Studies at the University of Nijmegan and among the well-respected western authors on Islam today. He is one

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[1] Gymnasium is the German equivalent of High School.

of the very few scholars in whose own lifetime a collection of essays has recently been published in his honor.[2]

Mapping Motzki and His Works

Motzki's relentless pursuit of perfection in the study of *Islamwissenschaft*- especially *Ḥadīth* and *Fiqh*- has earned him respect with many a western scholar on the subject, as well as among Muslims showing him the same for his in-depth studies on Islam and for his academic honesty.[3] His studies on Islam however seem to be a later phase in his academic career since his early studies and writings were on Comparative Religion.[4] Among his articles on other religions besides Islam is one on the religion of Israel, and another on Shamanism. which were published in the 1970s.[5]

Coming to his Islamic studies, Motzki grew up in an environment where Joseph Schacht's rejectionist approach on Islamic origins had come to be challenged in the east as well as the west. After the early critiques on his approach by Ansari, Azami, and Abbott, and some scholars like Burton and Juynboll disagreeing with Schacht on some issues, it turns out that the overwhelmingly rejectionist attitude towards *Ḥadīth* had come to be reviewed.[6] Fuat Sezgin is

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[2] *Festschrift: The Transmission and Dynamics of the Textual Sources of Islam. Essays in Honour of Harald Motzki*, ed. N. Boekhoff-van der Voort, K. Versteegh and J. Wagemakers (Leiden/Boston: Brill, 2011). It shows how Motzki has become a sort of a living legend on Islamic studies in the west.

[3] N. Boekhoff-van der Voort, K. Versteegh and J. Wagemakers, "Introduction," in ibid. 9-11.

[4] "Bibliography Harald Motzki," in ibid. 13.

[5] Ibid.

[6] See 38-39.

another scholar whose *Geschichte*,[7] a megapedia of the history of Islamic literature also showed the existence of traditions in the first century A.H. Others like Watt showed Schacht's claims against historical traditions to be weak, which is well illustrated in his biography of Prophet Muḥammad.[8] Schacht's legacy did survive with scholars like Crone[9] and Coulson[10] while came to be challenged by many others. It was in such an environment as this that a new generation of western scholars on Islam appeared, including Harald Motzki- along with Gregor Schoeler[11] and Wael Hallaq,[12] to name a few- who saw its historical sources for what they are and studied them without the exaggerated bias that had been the hallmark of earlier western studies on the subject.

Coming to Motzki, he wrote his doctorate thesis on the subject of non-Muslim minorities in Egypt in the second half of the 18th century and the Bonaparte expedition,[13] and this piece of research marks the beginning of his three-and-a-half-decade long quest into understanding Islam and its sources. It was not written on classical Islam or Muslims, but on the religious minorities living under them in the setting of 18th century Ottoman Egypt. This was probably his own introduction to Islam and Muslims and it led him to shift from the more general *Religionwissenschaft* to *Islamwissenschaft*. It was written in German language and

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[7] Sezgin, *Geschichte*.

[8] Montgomery Watt, Muhammad at Mecca (Oxford: The Clarendon Press, 1956), p. xiii.

[9] Crone, *Hagarism*.

[10] Coulson, *History*.

[11] Schoeler, "Paradigm for Codifying Ḥadīth".

[12] Hallaq, "The Authenticity of Prophetic Ḥadīth".

[13] *Festschrift*, 13.

published in 1979. His second dissertation, *The Origins of Islamic Jurisprudence* [14] came out ten years later in 1989 and is known today as one of the most important works on *Ḥadīth*, *Fiqh*, and their interplay by a western scholar. It starts with an in-depth analysis of modern writings on the subject including a strongly critical review of Joseph Schacht's ideas on the subject. Motzki then introduces sources like 'Abd al-Razzāq's *Muṣannaf* that were probably missed in previous studies on the subject of *Ḥadīth* and *Fiqh* and thus had given these studies their inaccurate results. He tries to establish the fact that *Ḥadīth* from the first century A.H. did reach us through books like 'Abd al-Razzāq's and also rejected the *e-silentio* argument as inadmissible thus rejecting Schacht's and others' sweeping claims of large scale forgery of *Ḥadīth* in the second century A.H. Added to this is another interesting aspect of the *Ḥadīth- Fiqh* discourse in Motzki's *Origins*: his in-depth analysis of the juristic roles of salient 1st- 2nd century A. H. Meccan jurists/traditionists like 'Aṭā' ibn Abī Rabāḥ, 'Amr ibn Dīnār, and Ibn Jurayj as the sources of *Ḥadīth* and *Fiqh*, and one finds Motzki mapping each of the above mentioned scholars and his position on the early *Ḥadīth-Fiqh* landscape and concluding that *Fiqh* and *Ḥadīth* did exist in the first century A.H. This way Motzki rejects many of the Schachtian claims on the subject of *Ḥadīth* and its relation to *Fiqh*, like the one in which he had said that Islamic law had not existed for the better part of the first century A.H. in the technical meaning of the term but was based upon personal opinion and living

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[14] Ibid. 17; Harald Motzki, *Die Anfange der Islamischen Jurisprudenz: Ihre Entwicklung in Mekkabis zur Mitte des 2./8. Jahrhunderts* (Stuttgart: Kommisionsverlag Franz Steiner, 1991). It was translated into English. *The Origins of Islamic Jurisprudence-Meccan Fiqh before the Classical Schools* (Leiden: Brill, 2002).

tradition, and not upon Qur'ān nor *Ḥadīth*. Methodologically, Motzki's *Origins* limits itself to passing judgments only on the issues discussed therein and avoiding sweeping statements and generalized claims. In this too it parts ways with Schacht's approach whose *Origins* abounds in such generalized statements and claims. In other words, Motzki's *Origins* concludes in a shift in the 'origins' of Islamic Jurisprudence to the 'better' part of the first century A. H.

Motzki's interest in early Muslim jurists-traditionists and their methods continues in his two articles, one on 'Abd al-Razzāq's (d. 211 A.H.) *Ḥadīth* collection, the *Muṣannaf*[15] and the other on Ibn Shihāb al Zuhrī's (d. 124 A.H.) *Fiqh*.[16] Both the articles were published in 1991 and bring out the two early Muslim scholars in a new light. In the first of the two articles, Motzki tries to find Traditions from the first century A. H. in the *Muṣannaf* which dates from the late second century A. H. The *Muṣannaf* is significant because as Motzki points out, it contains Traditions from the second half of the first century A.H., something denied most of the *Ḥadīth* collections by majority of western scholars on the subject. The study on one hand affirms that 'Aṭā's (d. 115 A.H.) transmissions in the *Muṣannaf* are genuinely from him and yet doesn't attempt at clearly establishing whether the Prophetic Traditions contained in the *Muṣannaf* could be authentically Prophetic or not,[17] a point on which Motzki's viewpoint becomes clearer in his later works. The second article- the one about Zuhrī's *Fiqh*- tries to establish his credibility as a jurist

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[15] Motzki, "The Muṣannaf".
[16] Motzki, "Der Fiqh Des Zuhrī- Dei Quellenproblematik," in *Islamic Law* (London: Routledge, 2011), 2: 169-208.
[17] Motzki, "The Muṣannaf," 1-21.

and that his *Fiqh* was based upon *Ḥadīth*, something which had been denied him by Schacht and his followers. Rejecting Schacht's claims of massive scale fabrications, Motzki studies Ibn Shihāb al-Zuhrī's traditions found in different collections and comparing their text-variations as well as the *isnāds*. This brings him to the conclusion that in spite of variations, a considerable portion of Zuhrī's traditions are genuinely his, while also implying that his *Fiqh* was not based upon *ra'y* alone.[18] As Motzki points out, sources for study on the subject have become richer since Schacht's times resulting in more accurate results,[19] to which he may not have had access. Among the examples from Zuhrī's traditions taken by Motzki is one about the Prophet's *fatwa* for Sahla; he dates it to the first half of the first century A.H. and admits the possibility that it comes from the Prophet (peace be upon him) himself.[20] Here it deserves note that Motzki doesn't deny occurrence of fabrications and tells that sometimes Zuhrī's pupils may have misreported him by mistake.[21]

Although the two above- mentioned articles are still relevant in any discourse on the early development of *Ḥadīth* and *Fiqh* even after more than 20 years of their coming out, it should be remembered that they represent the formative period of Motzki's thought, and this would become clearer as this chapter moves forward.

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[18] Idem. "Der Fiqh," 2: 203.
[19] Ibid. 2:171.
[20] Ibid. 2:201-202.
[21] Ibid. 2: 202-203.

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Motzki also wrote articles on personalities like 'Abd al-Razzāq al Ṣanʿānī[22] and Nāfiʿ, *mawlā* ibn 'Umar and his role in *Ḥadīth*. The latter of the two articles studies the available biographical information about the Successor Nāfiʿ and concludes that he was a historical figure, something which had been seriously doubted by G. H. A. Juynboll.[23] Motzki analyzed the available variants of Nāfiʿ 's transmissions in different tradition collections and concluded that their identical features probably went back to Nāfiʿ himself, however minor these may have been.[24] Harald Motzki's approach in these writings constituted *Ḥadīth* textual comparisons among their variants as well as the *isnāds*, all with the aim to ascertain their date of origin. By the end of the first millennium, his comparisons among the *matns* or texts, and the *isnāds* or chains, and co-joining the results of the two to ascertain the date of traditions had developed into what is now better known as his *isnād*-cum-*matn* analysis approach. It became the hallmark of his studies on *Ḥadīth*, be it legal, exegetical or biographical, or of any other sort.

Harald Motzki's edited book on the Prophet's biography and its sources appeared in the year 2000, [25] and among other valuable essays, contained his source critical study of the Muslim narrative on the incident of one Ibn Abī al-Ḥuqayq's murder[26] which had happened in the time of the Prophet according to Muslim

[22] *The Encyclopedia of Islam*, ed. C.E. Bosworth, new edition, (Leiden, Brill), s.v. " 'Abd al-Razzāk al-Ṣanʿānī."

[23] Idem. "*Quo vadisḤadīt*-Forschung? Eine kristische Untersuchung von G.H.A. Juynboll: 'Nāfiʿ the *mawla* of Ibn 'Umar. And his position in Muslim *Ḥadīth* literature'," *Der Islam* 73: 40-80.

[24] In retrospect, Schacht had denied Nāfiʿ any such role and his followers followed suit.

[25] *The Biography of Muhammad-The Issue of the Sources*, ed. Motzki, (Leiden: Brill. 2000).

[26] Ibid. "Ibn Abī al-Ḥuqayq"

sources on his (peace be upon him) biography. Motzki's *isnād-*cum-*matn* analysis of the traditions reporting this murder is a fine illustration of a modern day in-depth western study on an incident in the life of the Prophet (peace be upon him) and the way such case studies are, their results are not meant to be generalized. That is what makes Motzki's studies more valuable than those in which a scholar may study some examples, theorizes much and generalizes his conclusions.[27] Another recent book titled *Hadīth* and edited by Motzki includes his previously published article on 'Abd al-Razzāq's *Muṣannaf*, which shows its continued relevance with him and in the current discourse on the subject.

The epitome of Motzki's writings on *Hadīth* is his book "*Analysing Muslim Traditions*" which came out in 2010.[28] In addition to revised versions of a couple of his previous articles like the one about Zuhrī and his *Fiqh*, and another about Nāfi' *mawlā* ibn 'Umar and his role in *Hadīth*, the book also contains a very interesting study on debt slavery in the light of variants of a tradition on the subject. Harald Motzki also contributed in it with a detailed study on early Qur'ānic exegesis and tried to answer questions like: was Ibn 'Abbās truly the grandfather of Qur'ānic exegesis and what were the respective roles of early Muslim exegetes like 'Ikrima and Qatāda?

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[27] Such a study with overly generalized results is Joseph Schacht's *Origins*, whence he studied examples of limited nature but made generalized claims in conclusion. His approach has been studied in depth in the first chapter of this thesis. However, since Harald Motzki also criticized him, he becomes a part of the discourse on Motzki for obvious reasons.

[28] Harald Motzki, Nicolet Boekhoff, Van Der Voort, and Sean W. Anthony, *Analysing Muslim Traditions* (Leiden: Brill, 2010).

A salient feature of Motzki's above mentioned and other recent studies is that he keeps relevant contemporary research on the subject at the core of his discussions, making them more comprehensive and fulfilling discourses. For example, in his article on Nāfi', Motzki starts with G. H. A. Juynboll's earlier studies on the same, critically analyses them and adds his own perspective to the subject at hand. Likewise, his study on debt-slavery revolves around Irene Schneider's study on the same. Such an approach surely adds to the current western perspectives on the subject. As he himself tells many times that the way to correct *Ḥadīth* analysis is his *isnād*-cum-*matn* approach, and that neither pure *isnād* nor pure *matn* analyses yield correct results, his two articles (one published in 2005 and the other in 2012) are rendered as very important to anyone intending to understand his approach. Both are excellent surveys on dating *Ḥadīth* in the light of current western scholarship on the subject and introduce the subject well. Last but not least is Harald Motzki's most recent article- which he wrote in collaboration with Görke and Schoeler- in response to Shoemaker, another contemporary scholar who had criticized the three scholars for their methods in the study of *Ḥadīth*. Whether Motzki and his friends were successful in defending their approach to the study of *Ḥadīth* is not the question here, but his approach's multifarious nature surely makes it an excellent subject for a modern researcher on *Ḥadīth*.

Harald Motzki's Study of the Origins of *Ḥadīth*

Introduction

In retrospect, the second century A.H. witnessed a number of writings by the Muslim academia of the time, many of which had the core aim of presenting the Prophetic *Sunnah* to their readership and their writers tried to achieve this in different ways. Apart from juristic writings, numerous works on the Prophet's life and times came to appear in this era. Highlighting the Prophetic model appears as the main ingredient in the above mentioned kinds of writings, sometimes visibly so while at others not. To ascertain whether the tradition texts claimed by their collectors and compilers to come from the sources- the Prophet, his Companions, or their Successors - to which they attribute them are rightly theirs, is a question which the Muslim scholars have tried to answer ever since. Western scholarship has also endeavored to put its share in this legacy; however with a slight difference- their sentiments about the Prophet Muhammad (peace be upon him) are usually quite different from the Muslims'. For them, it's just a matter of checking out another religion's texts for genuineness and epistemological worth.

In this regard, the Schachtian approach has influenced many a *Ḥadīth* scholar in the west [29] and this continues beyond the turn of the second millennium as reflected in most modern day writings on the subject. Be this influence evident or not, many works have had Joseph Schacht's approach at their heart. Regarding

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[29] 37-40. It has been discussed in the previous chapter of this thesis.

his claims and inferences, many people may not accept them while still referring to his works in their studies on the subject.

It was seen in the previous chapter that Joseph Schacht did not only analyse the text of *Ḥadīth* but also its textual vehicle, the *isnāds*. While he did claim that the latter were quite arbitrary, yet he studied them in detail as subsidiary argument for proving his claims on the origins of *Ḥadīth*.[30] This is from where Harald Motzki started. As seen earlier, his first major study on Islamic origins was titled *Anfange* (or 'origins') similarly as Schacht's, and highlights the relation between *Ḥadīth* and *Fiqh* in vivid detail. In this book he studied texts and their vehicle for what they are, toned down skepticism, used a variety of sources, stressed upon the importance of the *isnāds*, incorporated other recent studies in his own and their respective approaches on the subject at hand, thus developing a unique discourse on *Ḥadīth*. While his approach developed further in his subsequent studies on traditions, and new questions were raised- like the one about the epistemological worth of *Ḥadīth*-the above mentioned features remain central to his studies. It is the goal of this chapter to analyze this multi dimensional textual-critical discourse on *Ḥādīth* as developed by Motzki and to see what the scholar has achieved beyond where his learned predecessors had reached.

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[30] Schacht, *Origins,* 163; Alhomoudi, "On the Common Link Theory", 61-68; Halit Ozkan, "The Common Link and its relation to the Madār," in *The Ḥadīth,* 2. The two latter and recent studies show that Schacht's studies on the *isnāds* are quite relevant even today. The 'Common link' is a part of *isnāds*. For a detailed discussion on Schacht's study of the *isnāds,* see the first chapter of this thesis.

Harald Motzki, *Ḥadīth* and *Fiqh*

As is the case with many a current study on Islamic jurisprudence, Harald Motzki's discourse on the subject starts with an analysis of the way Joseph Schacht had approached *Ḥadīth* and the way he had rendered it a product of Muslim jurists from the second century A.H. onwards. From the outset he criticizes Schacht's conclusions on the origins of *Ḥadīth* and *Fiqh* and points out that these conclusions are for the large part untenable. A number of Schacht's premises are questionable as well as some of his methods, to different extents, according to Motzki. He tells us that it is partly because of weakness in Schacht's sources, and introduces one, the *Muṣannaf* of 'Abd al-Razzāq which was probably not available to Schacht in Motzki's view.[31] It is a second century A.H. collection of traditions and remains an important source of data around which many of Motzki's works are woven or dependent, in one way or the other. Motzki's *Origins* thus revolves around this *Ḥadīth* collection, the *Muṣannaf*, as the current chapter shall show.

Staying lighter on skepticism than Schacht in his studies on *Ḥadīth*, Motzki takes on the *Muṣannaf* in two tiers. In the first he tries to establish that the *Muṣannaf* probably came from 'Abd al-Razzāq himself. In the second tier, assuming that his ('Abd al-Razzāq's) statements of origins are correct, Motzki traced his steps farther into history and reaches at four of his sources, Ma'mar, Ibn Jurayj, al- Thawrī, and Ibn 'Uyayna, who could well have been his teachers according to Motzki. If 'Abd al-Razzāq had concocted their traditions, they ought to have been similar in

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[31] Motzki, *Origins,* 52.

structure. Motzki then analyses the traditions by each one of these authorities quantitatively and finds out that they all maintain their individuality and it would not have been possible for a forger to fabricate with such precision. So, 'Abd al-Razzāq's sources are probably real according to Motzki. Pointing towards another very important aspect of the said traditionist's honestly critical approach to transmission where he himself mentions his doubts about specific transmissions, like saying that he was unsure about a person in a chain, Motzki believes that it negates fabrication.[32]

He also points out the importance of reconfirming the verity of the above mentioned internal indications in the *Muṣannaf* against mass forgery through other biographical sources. This external evidence surely opens up new vistas, as is the case here. Motzki discusses from such sources an event in 'Abd al-Razzāq's life in detail, which is his conversion to mild *Shī'ism* in his later years.[33] Although some scholars gave up their approval of him, yet many *Ḥadīth* specialists like Yaḥyā bin Maʿīn and Ibn Ḥanbal continued to regard his transmissions as reliable. Others like Bukhārī, Abū Dāwūd, al-Bazzār, and al-Dārquṭnī accepted his transmissions with some exceptions. A deeper look into the matter makes it clear that 'Abd al-Razzāq's emotional attachment to the Prophet's (peace be upon him) family was not of the kind objectionable with the *Sunni* scholars as relevant biographical literature tells, and this also shows their objectiveness.[34] His old age may also be a cause of

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[32] Ibid. 61.
[33] Ibid. 67-69.
[34] Ibid. 68.

concern for a traditionist-who is essentially a historian too and *Hadīth* specialists did notice that 'Abd al-Razzāq had grown quite old and blind when the *Muṣannaf* was composed. Motzki also appreciates this and looks at those who transmitted the *Muṣannaf* from 'Abd al-Razzāq, concluding that his transmission to Isḥāq ibn Ibrāhīm al Dabarī - whose version of the *Muṣannaf* is the basis of its edition available today - seems genuine, because 'Abd al-Razzāq had the habit of checking upon his students regarding what they had written down in their notebooks to make sure that they were transmitting accurately. So, except for the possible minor clarifications or additions made by his students at some places, the *Muṣannaf* seems to be genuinely enough 'Abd al-Razzāq's as confirmed by Motzki.[35]

Coming to the issue of relation between *Hadīth* and *Fiqh,* Motzki studies legal traditions in the *Muṣannaf* coming from the first century Makkan jurist, the Successor 'Aṭā', those which reached 'Abd al-Razzāq via Ibn Jurayj, in order to ascertain their historical worth. Applying the same intrinsic-cum-extrinsic criteria on 'Aṭā' and his transmitter Ibn Jurayj as he had done in the case of 'Abd al-Razzāq earlier, Motzki commented that Ibn Jurayj didn't lie while transmitting from 'Aṭā' and came to the conclusion that the latter's traditions and legal opinions contained in the *Muṣannaf* of 'Abd al-Razzāq are real for the most part, while also rejecting Schacht's statements against this as sweeping and unwarranted. Appropriately enough Motzki also mentions Ibn Jurayj's views of 'Aṭā' 's traditions and opinions which show the existence of a fair legal discourse in the first-second centuries A.H.

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[35] Ibid. 72.

The people involved in these discussions were not ignorant of *Sunnah* nor were they devoid of *Fiqh* or deep understanding. Ibn Jurayj's comments and additions to 'Aṭā''s transmissions elucidate the fact that he didn't just transmit from 'Aṭā' but adduced to it his comments and other pertinent traditions by people other than 'Aṭā', if deemed important by him. Their transmission of traditions may include text additions to them and this was done meticulously and with a purpose as Motzki tells: "Thanks to the precision and completeness of Ibn Jurayj's transmission from 'Aṭā', which is visible..."[36] A discussion on text additions has already concluded in the previous chapter that such additions by transmitters are different from fabrications and may serve various purposes among which is to provide explanations or adduce one's own comments on the narration at hand. It is the prudent traditionist who analyses the text and its carrier, intrinsically and extrinsically, looking for traces of dishonest additions which indicate fabrication if found.

'Aṭā' 's honest 'weaknesses' are another important indicator of realness of his opinions and traditions according to Motzki. 'Weakness' is those data which don't show 'Aṭā' as an infallible legal expert. Statements like 'I don't know' or 'I haven't heard anything about it' are examples of this 'weakness.' Also when Ibn Jurayj tells about 'Aṭā': 'Earlier I heard him say...' or 'later he said...' and gives preference to one of the two opinions, he is showing markings of a truthful person.

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[36] Motzki, *Origins*, 90.

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It is because, Motzki tells that a forger could not commit the error of discrediting his master through contradictory statements."[37]

'Aṭā' also had other students besides Ibn Jurayj and their traditions from him are also to be found in the *Muṣannaf,* although their number is much smaller as compared to Ibn Jurayj's transmissions from him. Some people also visited 'Aṭā' at one time or the other and in this list are names like al-Zuhrī, al- Awzāʿī, and Abū Ḥanīfa among the important jurists and traditionists of the first-second centuries A.H.

Coming to 'Aṭā' 's *Fiqh* and its relation to *Ḥadīth,* one notices that his statements via Ibn Jurayj in the *Muṣannaf* sometimes appear as legal views, while at others in the form of legal traditions from higher authorities, the Prophet or the Companions that is. These legal traditions sometimes also appear in collections other than the *Muṣannaf* and this serves as external evidence in their favor. Motzki studies some examples to the effect, like the one about divorcing a woman while she is menstruating. Motzki mentions the report:

Ibn Jurayj said: I said to 'Aṭā': "He divorced her while she was menstruating." ['Aṭā'] said: "He should take her back and then, when she is pure [again], pronounce the divorce or keep [her]."[38]

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[37] Ibid. 94.
[38] Ibid. 90.

Negating Joseph Schacht's *e-silentio* he states that sometimes a scholar mentions a corresponding tradition while at others he does not-for different reasons-and it doesn't imply the *e-silentio*. He elucidates this thus:

> Ibn Jurayj said: I said to 'Aṭā': "He divorced her while she is menstruating." ['Aṭā'] said: "She may not calculate her waiting period according to it, she should fulfill three [cycles of] menstruation." I said: "[Assuming] he divorced her in the hour in which she menstruated" ['Aṭā'] said: "It was reported to us that the Prophet said to Ibn 'Umar: 'take her back until the time when she is pure, then divorce or keep.'"[39]

The Prophetic tradition mentioned above by 'Aṭā' is in turn an abbreviated version of a tradition which is preserved in numerous variants [40] in the *Muṣannaf* as well in other collections like the *Muaṭṭa'*.[41] Here Harald Motzki comments that juristic opinions seem to have been based upon *Ḥadīth* and Schacht's idea that 'legal maxims were created first and supporting traditions adduced after' is contradicted by examples such as the one mentioned above.

The above points considered, Motzki moves towards answering a very important question: Was 'Aṭā' relying upon Qur'ān and the Prophetic *Sunnah* in his legal reasoning or not? Qur'ān appears to Motzki as the source most referred to by 'Aṭā'. He sometimes alludes to Qur'ān while at others clearly citing from it in his legal discussions with his students, especially Ibn Jurayj. This shows that

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[39] Ibid. 91.
[40] Ibid. 91.
[41] Ibid. 132; Mālik, *Al-Muwatta*, tr. Bewley, 233.

Qur'ān had a role in 'Aṭā''s juristic approach, and Motzki here points out Schacht's fail in assigning Qur'ān a secondary role in Islamic law. An example in which 'Aṭā' mentions a Qur'ānic reading by Ibn 'Abbās- the Companion- yet himself follows the Qur'ānic *textus receptus* as Motzki calls it- serves towards an important conclusion that the Qur'ān had already been fixed in 'Aṭā''s time, and opposed to the thesis on its late fixation. Motzki quotes from the *Muṣannaf*:

> Ibn Jurayj from 'Aṭā'. He said He said: "She [the wife's mother] is not permitted to him [in marriage]; it is revealed." I said: "Didn't Ibn 'Abbās read '*wa- ummahātu nisā'ikumu llātī dakhaltum*' (and mothers of your wives with whom you have consummated the marriage)?" ['Aṭā'] said: "We do not read [in this way]!" [42]

Among the possible reasons for the difference between Ibn 'Abbās' reading and the fixed Qur'ānic text, is that it might have been an exegetical textual addition by the said Companion.[43] 'Aṭā''s other allusions to the Qur'ān whence he mentions 'in the Qur'ān' or 'Allah's Book' point to further historical conclusions according to Motzki like the one that the Qur'ān had already been fixed quantitatively by 'Aṭā''s time, the first-second centuries' junction that is. 'Aṭā' also seems to be conscious of qualitative differences among 'statements' and sometimes he clarifies that his interpretation is not his personal view, but rests upon '*ilm*, thereby the different formulae: 'we are of the opinion' and 'we transmit'.[44] Even if it is not noticeable all the time, 'Aṭā''s reliance upon Qur'ān seems to be a historical fact,

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[42] Ibid.110-111.
[43] Ibid.110-111.
[44] Ibid.115.

and Motzki concludes saying that the said Successor was already using Qur'ān in his legal reasoning, as well being a good scholar.[45]

Regarding *Ḥadīth* as a source in 'Aṭā''s legal reasoning, Motzki mentions the Companion traditions first and the Prophetic ones after. It is based upon a quantitative consideration by him, the former kind appearing in the *Muṣannaf* more often than the latter. Among the Companions, the most commonly referred to sources with 'Aṭā' are Ibn 'Abbās, 'Umar, and 'Ā'isha. A direct relationship can however be confirmed only between 'Aṭā' and Ibn 'Abbās according to Motzki because the latter is the only Companion whom 'Aṭā' quotes from saying that he heard from him. The results of such occasions when extended to all the places in the *Muṣannaf* where 'Aṭā' mentions Ibn 'Abbās' traditions even if without an explicitly direct quote, show their direct relationship.

Harald Motzki then notices another aspect of 'Aṭā''s jurisprudence and it is quite a significant one. On one occasion, his student Ibn Jurayj sought confirmation from him on a legal decision by Ibn 'Abbās, which he had heard from 'Aṭā''s son Ya'qūb who had told him that on his father's authority. 'Aṭā' 's response to Ibn Jurayj is monumental whence he denies hearing the decision from Ibn 'Abbās categorically. The incident indicates to Motzki that wrong attributions or fabrications had already started to occur in 'Aṭā' 's time, and yet he is clearly not involved in it. This is a piece of internal evidence in favour of 'Aṭā' 's honesty as well.

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[45] Ibid. 115-117.

Motzki considers it a way of instruction with 'Aṭā' in places where he doesn't always mention his source. In religious-legal instruction different scholars may have different approaches, some always mentioning their sources, while other scholars may not find it necessary, the latter being 'Aṭā' 's case. The 'Zeitgeist'[46] probably changed according to Motzki, and one finds 'Aṭā' mentioning his authorities more often in his later years.

Since Motzki considers 'Aṭā' 's reports from Ibn 'Abbās in the *Muṣannaf* to be generally genuine, with regards his other sources from among the Companions-who appear less often than Ibn 'Abbās in the *Muṣannaf*- the above mentioned considerations can be extended to their cases, after checking for indications of fabrications. It seems to be viable also because Motzki's critical analyses of Ibn Jurayj and 'Aṭā' 's lives and works do confirm that they were honest traditionists and jurists, and if they were, 'Aṭā' 's reports about the Companions who were still alive and around in his time, seem to be genuine. An honest person would not be so if he reports from one person honestly and from another in another way.

Harald Motzki shares with his readers some examples which highlight an important methodological feature of 'Aṭā' 's legal thought that he doesn't always consider mentioning the Prophet's *Sunnah* on the legal issue under discussion. Motzki says: "Only thanks to Ibn Jurayj's question do we learn that this legal maxim is in reality not a creation of 'Aṭā' 's but a saying which was also ascribed

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[46] Literally: the spirit of time, or the need of the day.

to the Prophet and was already known as such around the turn of the first/ seventh century."[47] At another place Motzki comments: "Although it would have been natural, 'Aṭā' does not at first refer to the Prophet as a precedent for his legal opinion. Ibn Jurayj must painstakingly coax it out of him."[48] Ibn Jurayj's question in the above mentioned legal discussion also shows that in his generation more people had started to demand that the *Sunnah* pertaining to legal issues should be formally mentioned. Considering that it was linked to a rise in the demand for the *isnāds* seems to fit in the scenario and Motzki's other comment 'Although it would have been natural…' stops seeming natural here, since not mentioning it would be as natural as mentioning it in a legal discussion between a teacher and a student, in the environment there and then. The incident also shows that although scholars among the Successors- like 'Aṭā'- may not always prefer to mention their source, yet they would tell it if asked, which shows their approach to *Fiqh* in relation to *Ḥadīth*.

Accounting for an apparent lack of Prophetic traditions as a visible source of 'Aṭā''s legal opinions, Motzki thinks that the latter knew many more traditions of the Prophet than he mentioned. He draws this from his similar conclusions about the Companions, that although 'Aṭā' didn't always mention his source, yet it was probably known to him. Still, this quantitative lack of explicit Prophetic traditions in 'Aṭā''s legal reasoning shows to Motzki that "the idea of the exemplary character of the *Sunnah* of the Prophet and its possible function as a legal source

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[47] Motzki, *Origins,* 126.
[48] Ibid. 126.

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supplementary to the Qur'ān had not yet made its way into his thinking."[49] Motzki then interprets the word *Sunnah* in Aṭā''s *dictum* as the recognized social practice in Makkah which is similar to the conclusion reached at by Juynboll before him.[50] A look into its meaning in his *dictum* in the *Muṣannaf* shows that while Motzki may be right in saying that the word *Sunnah* was used as the recognized social practice in Makkah, it doesn't imply Motzki's other conclusion about 'Aṭā''s thinking above. The word *Sunnah* had different connotations according to the context and the variations in its meaning can be best understood if that context is understood. Nine meanings of *Sunnah* have been discussed by another contemporary Zafar Ishaq Ansari, who points out that although it was used in a variety of meanings- especially with reference to the Prophet and his Companions- yet with the passage of time, it moved towards a narrower meaning. Among these meanings was the 'established practice' with Mālik, Abū Yusuf, and Shaibānī, to name a few of the jurists.[51] Apparently, this practice was in line with the Prophetic and the Companion *Sunnah*. Looking at 'Aṭā''s example and expecting that an honest, learned Successor like 'Aṭā'- who knew Qur'ān as well as many Companion and Prophetic traditions, and used his sources in a methodological framework- would ignore his Prophet's *dicta* while his Companions were still alive, doesn't seem in place here. On the other hand, to say here that 'Aṭā''s legal thought

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[49] Ibid. 127.
[50] Ibid. 127.
[51] Ansari, "Early Development," 276-277.

incorporated Prophetic *Sunnah*- sometimes explicitly while at others discreetly-would be to point out the obvious.

Motzki's analysis of Irene Schneider's work on debt slavery in early Islamic law whence she studies many different traditions on the subject and tries to see their relation to other older legal systems in neighboring lands, is worth a glance. Her theory bears impressions of Joseph Schacht's and Patricia Crone's theories, who think that Islamic law sprouted from Roman, Jewish, and Christian laws, in the regions where the Arabs met these peoples. Harald Motzki negates that external influence upon Islamic law happened to the extent proposed by these scholars for a lack of evidence in its support.[52]

Instead of basing his studies on *Ḥadīth* upon early Islamic legal theory Harald Motzki analyses legal traditions found in early collections of traditions like the *Muṣannaf* of 'Abd al-Razzāq, through which he tries to ascertain the relation between *Ḥadīth* and *Fiqh,* which seems to go in a direction different from that in which Schacht went. The two aspects of his approach on the subject can be summarized thus:

1. Ascertaining the genuineness- or otherwise- of traditions in the *Muṣannaf* and a rough dating of these traditions: As mentioned earlier, Motzki achieves his above mentioned goal through direct analyses of texts as well as their vehicle and that also involves comparing internal evidence for the reliability of transmission with the external to confirm

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[52] Motzki, *Analysing,* 125-128.

the correctness of the former. It is supplemented by detailed analyses of analyses by those who have written on the issue before him, and he tries to date the traditions thus. This aspect of his approach to *Ḥadīth* and *Fiqh* is not limited to the *Muṣannaf* but extends to a spectrum of sources as the later part of the current chapter discusses.

2. Looking into historically genuine among the texts in t*he Muṣannaf* for evidence of legal activity in the first century Makkah, and pointing out its features therein: Once the genuineness or otherwise of traditions is affirmed by him and 'wrong' notions about them dispelled, Motzki moves on to the second aspect of his studies on *Ḥadīth-Fiqh* dichotomy in Makkah. The core issue addressed here by Motzki is the extent to wh*ich Fiqh* in Makkah in the first century A.H. was related *to Ḥadīth* and his findings are that *Fiqh* did exist there and then and many *Aḥādīth* were known to early jurists like 'Aṭā' and his apt student Ibn Jurayj, and that they used these in their legal reasoning according to certain guiding principles, some of which have been mentioned above. Motzki raises similar questions around the *Ḥadīth-Fiqh* dichotomy in his other studies as shall be mentioned in the coming pages. This brings out a wider picture of the *Ḥadīth-Fiqh* dichotomy than the one presented by many of his western predecessors and peers.[53]

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[53] Although the *Ḥadīth-Fiqh* relationship is not the central theme of this thesis, it is an important one for any researcher on *Ḥadīth* nonetheless. Examples from Harald Motzki's works illustrative of the nature of relation between the two would come throughout the current chapter.

Motzki's studies on Islam however don't just focus on legal traditions but give due importance to biographical ones as well as those of an exegetical nature where he uses his trademark- 'the *isnād* cum *matn* analysis' to achieve his goal of dating the traditions. His study on the *Muṣannaf* - which is a collection of traditions, Prophetic, Companion, and Successor, and coming from the second century A.H.- is such a work that attempts to trace back 'Abd al-Razzāq's footsteps, minutely checking whether the traditions contained in it really show signs of genuineness or not.[54] Results of Motzki's studies on the traditions in the *Muṣannaf* have been used by him in his other studies wherever he analyses 'traditions', clearing a few of the doubts raised by his seniors, and raising a few questions as well. Needless to say, his later works also show an evolution in his approach to *Ḥadīth* from that in his study on the *Muṣannaf*. An important factor in his thought evolution is his view point on the issue addressed in his recent writings: whether *Ḥadīth* is objective and provides a view of historical reality or not?

Ḥadīth and Historical Reality:

Harald Motzki's textual criticism of *Ḥadīth* rests upon his recent viewpoint on the nature of *Ḥadīth* which does not appear explicitly in his early writings like the one on *Muṣannaf* of 'Abd al-Razzāq but in later ones. Although his study on the *Muṣannaf* can be considered to be an important building block of his approach

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[54] Here genuineness means that if for example, a tradition reaches to the Prophet, it can be shown that it really contains his words, and another reaching a Companion is really his, and so on.

to *Ḥadīth,* some of his recent studies reveal some other equally important principles influencing his views on the subject.

Among these general principles held by Motzki is one which he presents thus: "As every historian knows...Traditions are subjective due to their choice of what they mention and what not; they put facts into a certain perspective, sequence and connection; and they use these topoi or even create facts which have never existed or not in the manner that they describe them."[55] This statement, if validated, would reduce along with *Ḥadīth* all human history to a collection of fabricated and manipulated bits of data, since it is based upon traditions of people about others they may have known about. Moreover such skepticism as professed by Motzki is not accepted by all historians as he claims it. Yet he continues and criticizes non-critical western biographies of the Prophet by western scholars because of their ignorance of the 'principle' as given by him and says: "M. Cook and P. Crone are perfectly right in rejecting the claim that historical reality is reconstructed in these books; they are nothing more than arbitrary summaries of the Muslim tradition on their Prophet."[56] In order to ascertain the true worth of the above statements by Motzki their underlying argument needs to be analysed in depth. It is clearly based upon his claim that traditions are subjective, which according to him is because they mention details and leave others out, put facts into a certain perspective and sequence, and even create facts which have never existed or not in the way that they

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[55] Harald Motzki, "The Murder of Ibn Abīl-Ḥuqayq: On the Origin and Reliability of Some *Maghāzī* Reports", in *The Biography of Muhammad- the Issue of the Sources,* ed. Harald Motzki, 170.
[56] Ibid. 233.

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describe them. This leads him to agree with the claim that historical reality can't be reconstructed from them since it is the Muslim tradition about their Prophet with the above mentioned features. Such non-critical summaries would have been objectionable if their source- the Muslim tradition on their Prophet- itself had been non-critical, so it seems like a gross generalization and an overstatement by Motzki and a denial of his own efforts to study the said Muslim tradition. Still, a few questions regarding Motzki's claims arise here: Are someone's memoirs about a person one knew unreliable because they may not mention all the details, or in other words, is omniscience or omniparlance a requisite for reliability of historical reports? And last but not least, what does really constitute truly historical reality?

Regarding Motzki's objection on the traditions that they mention some details while leaving others out, and also that they put things in a certain perspective, he seems to have ignored the fact that saying everything one knows is not the yardstick of objectiveness, integrity or honesty. Not transmitting everything is not tantamount to hiding facts, but may have other reasons as well.[57] History is to be constructed from bits and pieces of information and as said earlier more than once, ignorance of this fact is ignorance of history. This feature follows from a historian's duty to stay connected to history and he should see events in their context and their time and space framework, without which he would not be able to unravel the truth about the people he is studying. As Collingwood tells, historical imagination is to be used by a historian, who himself becomes a part of the historical

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[57] 50-54. Some of these reasons have been discussed in Chapter the first, with reference to the *e-silentio* argument.

process which he is reporting.[58] Canonization of history, if one may put it that way, would have been unnatural here, and if historians report events the way they see them their histories would be honest and would give an insight into how people reported of what they were living through. A view into their own method and honesty would then afford us a view into past.

To give an example, part of the first chapter of this thesis revolves around understanding Joseph Schacht's persona. Many have said or written about him which all adds to reconstructing his personality- in varying details- and the present research has also benefitted from these reports in reconstructing his personality. For this, it relies mainly upon memoirs of his contemporary scholars who knew him to different extents. These scholars knew him well and are considered academically sound, which makes them reliable enough sources for knowing Joseph Schacht's true mettle. Thus, in order to reconstruct someone's personality (or history in general for that matter), two considerations are central. The first is to study about those who remained in someone's company in positive relations with one since they (someone's companions) would be able to report more than those who remained one's enemies and therefore away. This manner of reconstructing a personality from history then revolves around a task: evaluating those people who knew and have reported about a certain personality under reconstruction. If there is enough evidence to establish that they are honest, sensible, methodical and critical in the way they approach things, it is different from the case if people are not so. As Day

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[58] Collingwood, *Idea*, 240-243.

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points out, "Presumably those who transmit the messages from the past, in speech or in writing, are usually more conscientious than whispering children, and are much more so where the preservation and transmission of information from the past is a professional duty."[59]

This brings the research back to the Prophet Muḥammad's Companions, for whom it was a religious and spiritual duty to convey his life and teachings. Still, a few questions may be asked here: Were they critical and autonomous in their approach or did they just transmit what they would hear from their authorities?[60] What was the nature of their loyalty to the Prophet? Regarding the fact that they believed him to have been sent by God as the last Prophet there is no doubt, but did it make them oblivious to facts or made them lose their sense is the question here? To answer these questions requires primarily that one looks at the way the Companions relate to the Prophet, and then the way their Successors relate to them. As Ansari comments, the vogue of the word 'Companion' itself points out to a certain relationship of this generation with the Prophet (peace be upon him).[61] The loyalty of these Companions to the Prophet was unflinching and yet they always remained objective, quite honest and open in their relationship with him, like when he (peace be upon him) noticed that a man named Mughīth was not happy with divorcing his wife Barīrah while she was not interested in remaining that anymore.

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[59] Mark Day, The Philosophy of History (London: Continuum International Publishing Group, 2008), 200.

[60] Collingwood, Idea, 234-238. The ideas of a historian's autonomy and his dependence upon his authorities in general terms have been discussed in detail there.

[61] Ansari, "Early Development," 373.

So, the Prophet (peace be upon him) asked her to review her decision of divorce from her husband at which she asked him (peace be upon him) if it was an order or a suggestion. He (peace be upon him) replied: it's just intercession; which she didn't accept.[62] Another incident is reported by Al-Ḥākim, where a Companion-Ḥubāb ibn al-Mundhir- asked the Prophet (peace be upon him) on a decision of the latter in the battle of Badr whether it was a revelation by Allah or his own opinion? To this the Prophet replied: it is an opinion. Then Ḥubāb gave his own view which the Prophet accepted.[63] A more interesting incident is one in which 'Umar ibn Khaṭṭāb- the Companion- became quite excited when the Meccans started to dictate their unjust terms at *Ḥudaybiyah* and the Prophet was accepting them. 'Umar asked the Prophet: Aren't you Allah's Messenger, aren't we Muslims, aren't they idolaters? To each of these the Prophet replied "of course". And then he (peace be upon him) added that he couldn't go against Allah's decision.[64] 'Umar used to fast, give charity, pray, and free slaves in remorse of what he had said to the Prophet that day.[65]

Still another illustration of the Prophet's attitude towards his Companions is when he advised some farmers on grafting, and after sometime when he passed by them and saw their trees in poor condition, they told him that they had followed

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[62] Bukhārī, "Saḥīḥ," in *Al-Kutub al-Sittah*, 456; Ibn Māja, "Sunan," in *Al-Kutub al-Sittah*, 2601.

[63] Al-Ḥakim al-Nīsābūrī, *Al Mustadrak 'alā al-Ṣaḥīḥain*, ed. Maḥmūd Muṭarjī (Beirut: Dār al-Fikr, 2002), 4: 1710.

[64] Ibn Kathīr, *Al-Bidāya wa al-Nihāya*, ed. 'Alī Shayrī (np: Dār Iḥyā' al-Turāth al'Arabī, 1988), 4: 192; Ibn Ḥibbān al-Tamīmī, *Al-Sīrah al-Nabawiyyah wa Akhbār al-Khulafā'*, ed.'Azīz Beg (Beirut: Al-Kutub al-Thaqāfiyyah, 1417 A.H.), 1: 283.

[65] Ibn Kathīr, *Al-Bidāya*, 4: 192.

his advice. His reply was that: "You know about your professional matters better."[66]

Numerous other examples are also found in Muslim's *Saḥīḥ*[67] as well as in most other collections of traditions which serve to illustrate the nature of Companions' relations with their Prophet. These examples clearly show that it was a relation of mutual respect and understanding where the Prophet (peace be upon him) had given his Companions permission to clarify things and ask him questions explicitly. Also women used to approach him and discuss with him their issues and concerns openly.

The next tier in the transmission of traditions-from the Companions to the Successors- is also quite important for a student of history since the latter were the generation responsible for disseminating the traditions which they had learnt from the former to a larger audience. It is therefore of prime importance to analyze the way in which the Companions related to their contemporaries from among themselves and their Successors; it is observed that their mutual relations were based upon mutual respect with the clear right to disagree. If needed the student would verify what he had reported from his teacher, the Companion. The latter may confirm that the report belongs to him or may deny it, and the fact that it was

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[66] Muslim, "Saḥīḥ," in *Al-Kutub al-Sittah*, 1093.

[67] Muslim, *Saḥīḥ*, tr. Mahmoud Matraji (Beyrouth: Dar el Fiker, 1993), 4: 99-109. The extent and manner in which the Companions- and all Muslims to come- are supposed to respect the Prophet (peace be upon him) and obey him is explained by way of examples from his life in three subsequent chapters of Muslim's *Saḥīḥ* are titled: 36: 'It is Obligatory for a Muslim to Follow the Holy Prophet (may peace be upon him) Earnestly'; 37: 'Respect for Allah's Messenger and Abandoning of too Many Questions Especially those for which there is no Genuine Need'; and 38: 'It is Obligatory to follow the Prophet (may peace be upon him) in all Matters Pertaining to Religion, but one is Free to Act on one's own Opinion in Matters which Pertain to Technical Skill'.

common practice among that generation is corroborated by examples from their lives. Ibn Ḥajar reports of a Successor Bashīr ibn Nahīk who went to Abū Hurairah to re-check what he had noted down from the latter, who verified it.[68] Another explicit example has already been discussed in the first chapter which shows the Companions and their Successors disagreeing on the issue of the validity of the fast if one wakes up impure in Ramaḍān.[69] After a Successor 'Abd al Raḥmān talked to him on the issue, the Companion Abū Hurairah didn't insist on his opinion and quite easily said: "I don't know anything about it. I was just told that by someone."[70] This shows two things, the first being their professionalism in reporting the Prophetic material, and the other that written traditions did exist in the time of the Companions. If such was the approach of the Successors towards accepting or rejecting reports by their own teachers- the Companions- who in turn would not waste a minute in verifying or recognizing the truth, then it establishes at least one fact, that this was a generation of people who wanted to convey about the life and teachings of their Prophet responsibly unlike the way children whisper something in each other's ears in the well known game 'Chinese Whispers'. It was after all demanded by their intelligent love and loyalty for the Prophet (peace be upon him) that they should be careful while reporting anything related to him, something which their reports about him reflect, and although every one of them didn't know everything about the Prophet (peace be upon him) and his *Sunnah* yet collectively they knew him quite comprehensively. This continued into the coming generations

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[68] Ibn Ḥajar, *Tahdhīb*, 1:470; Sezgin, *Geschichte*, 1: 61-62.

[69] Mālik, *Al-Muwatta,* tr. Bewley, 112-113; Zurqānī, *Sharḥ al-Zurqānī*, 2:160-161.

[70] Ibid.

as even a brief look at Shāfi'ī's *Umm* shows how the Companions and the early jurists disagreed and developed a deep understanding of God's will and the Prophet's *Sunnah* through discussion and debate.[71]

The above notwithstanding, in order to fully appreciate Harald Motzki's above-discussed claims about the historical worth of traditions, the following pages would try to examine a few examples from Harald Motzki's *isnād* cum *matn* analyses since his approach to *Ḥadīth* or Islamic traditions can only be truly appreciated by doing that. These would also confirm or dispel notions-apparent of skepticism in his earlier mentioned comments on the historical worth of traditions.

The *Isnād* cum *Matn* Analysis

Motzki's *isnād* cum *matn* analysis of a tradition starts with a discussion on the subject consisting of a critique of contemporary studies in the west and then collecting different instances of the same tradition as they appear in different collections, differences in the *isnāds* considered and plotted. The common links and the other important members of the *isnāds* are highlighted. In the next step, the *matn* analysis, text variants are grouped according to their common links or *madārs* as highlighted in the first step. Similarities and differences in texts are pointed out, high-lighting the extent to which they vary or agree. Next, Motzki draws conclusions from the *matn* analysis after comparing them with the results of his analysis of the *isnāds*. It is a painstaking process which Motzki carries out with a

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[71] al-Shāfi'ī, *al-Umm*, vol. 7.

lot of patience and minuteness, and the following examples would serve to illustrate his *isnād* cum *matn* analysis with lucidity as it appears.

A   Traditions about the Murder of *Ibn Abī al-Ḥuqayq*

Some Jews of Khybar were conspiring with the Meccans against the Prophet (peace be upon him) and among their leaders was one Abū Rāfi', also known as Ibn Abī al-Ḥuqayq. A team of *Anṣār* went to kill him since his actions were hurting the Prophet and they came back successful. The event is reported in different collections of *Ḥadīth* and *Sīrah* by different people (that is, with different *isnāds*) who narrated it in different ways, some in detail while others were quite brief in their description of the event.

Motzki finds the variety of reports about the murder of Ibn Abī al-Ḥuqayq useful for his *isnād* cum *matn* analysis, since it requires comparisons among different lines of transmission as well as variations in text. He goes about his *isnād* cum *matn* analysis of the traditions reporting this incident in vivid detail which can be divided in two tiers: the *isnād*, and the *matn* analyses, whose results are then conjoined by him to reach at conclusions about the history of these reports.

Isnād Analysis

Harald Motzki's *isnād* analysis constitutes collecting the various chains of transmission by which the Muslim narratives about the murder of Ibn Abī al-Ḥuqayq reach us. These chains are diagramed by him in the same style as G.H.A. Juynboll before him had done in his *isnād* analysis.[72] In case of the traditions narrating the murder of Ibn Abī al-Ḥuqayq, Motzki points out that there are four groups of transmission based upon the authorities till which the reports go back according to his assessment. These are: the Companion al-Barā' b. 'Āzib, a son (or a grandson) of the Companion Ka'b b. Mālik, the Companion 'Abd Allāh b. Unays, and Ibn Lahī'a (but it purports to go back to the Successor 'Urwah b. al-Zubayr),[73] and Motzki then analyses each of these *isānd* groups as follows:

Al-Barā' 's tradition:

Motzki tells that variants of Al-Barā's version of the tradition about the murder of Ibn Abī al-Ḥuqayq are to be found in five sources: Bukhārī's *Saḥīḥ*, Ṭabarī's annals, Rūyānī's *Musnad*, Bayhaqī's *Sunan* and his *Dalā'il*.[74] Bukhārī reports two brief and three detailed versions. The detailed ones all have Abū Isḥāq as their informant, who is the common link of this bundle according to Motzki. Moreover, three transmission lines in

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[72] Motzki, *Biography*, 237-239; G. H. A. Juynboll, "Some *Isnād-* Analytical Methods Illustrated on the Basis of Several Woman- Demeaning Sayings from *Ḥadīth* Literature", in *Ḥadīth*, 176-216. The *isnāds* are diagramed by Juynboll in this article who then explains the common links, the partial common links, the dives and some other terms which he coined. Motzki uses a similar approach in his *isnād* analysis, except that he modifies Juynboll's above mentioned terms wherever he finds them inaccurate.

[73] Motzki, *Biography*, 175.

[74] Ibid. 175-176.

the detailed versions in the above mentioned collections also by Ṭabarī and Bayhaqī go via Isrā'īl, Abū Isḥāq's learned grandson, making him a 'partial common link'. The short versions are peculiar according to Motzki in that their common link is Yaḥyā b. Ādam whom he holds responsible for these versions. Thus considering the detailed versions and ignoring the brief ones, Harald Motzki comments that the tradition about the murder of Ibn Abī al-Ḥuqayq which is connected with the name of al-Barā' as the original transmitter, was spread in Kūfā in the first quarter of the second century A.H. by Abū Isḥāq (d. 126 A.H.).[75]

Ibn Kaʿb 's tradition:

According to Harald Motzki, a version of the tradition reporting the murder of Ibn Abī al-Ḥuqayq comes from either a son or a grandson of the Companion Kaʿb b. Mālik and appears in various collections of traditions including Mālik's *Muaṭṭa'*, Shāfiʿī's *Umm*, 'Abd al-Razzāq's *Muṣannaf*, Ibn Hishām's *Sīrah*, Bayhaqī's *Sunan* and his *Dalā'il*, et cetera. As is the case with al-Barā''s tradition, there are some short and other long versions of this Companion's version of the tradition in question. Motzki, following in the footsteps of Juynboll makes an *isnād* bundle from all the variants available to him and points out that as many as seven transmitters claim to

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[75] Ibid. 176-177.

have the story from the common link. He then remarks that this common

link is Zuhrī who is one level later than Ibn Ka'b.

A problem with regards the alleged source of Zuhrī's narration is

noted by Motzki whence three names are mentioned: 'Abd Allāh ibn Ka'b,

'Abd al-Raḥmān ibn Ka'b, and 'Abd al-Raḥmān ibn 'Abd Allāh ibn Ka'b.

A fourth source mentioned is 'son of Ka'b' without saying the son's name.

Motzki also mentions here Mālik's hesitation over the son of Ka'b: was it

'Abd al-Raḥmān or 'Abd Allah? He considers the *isnāds* of this tradition as

disconnected and concludes that Zuhrī himself was confused about his

source and mentioned different names at different times which later

transmitters had to rectify by giving names themselves.[76] The fact that

different transmitters have reported different names from Zuhrī as his

source doesn't mean that he confused names. Also regarding Motzki's

rectification claims of names confused by Zuhrī, it would be admissible on

the condition that the resultant *isnāds* would not show signs of 'confusion'.

These names however appear in different *isnāds* as they are. A plausible

explanation ignored by Motzki here is that Zuhrī may have heard it from

the two brothers on separate occasions, or from Ka'b's grandson who was

a (grand) son of Ka'b too and may have informed Zuhrī that his father or

uncle was his source who in turn told these different names to his students.

While it is still quite possible that Zuhrī may have mixed up the names, even

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[76] Ibid. 178-179.

that would not weaken the *matn* that he transmitted but strengthens his credibility as an honest traditionist who would specify what he remembered as well as what he did not, in *matn* and in *isnāds*. Whether it was 'Abd Allāh ibn Ka'b, 'Abd al-Raḥmān ibn Ka'b, 'Abd al-Raḥmān ibn 'Abd Allāh ibn Ka'b, or 'son of Ka'b' from whom Zuhrī reported is important to ascertain,[77] yet even without that the tradition stands since it comes from a honest Successor-traditionist of the highest caliber. The fact that each of these names is mentioned in other versions of the tradition in a variety of *Ḥadīth* and *Sīrah* collections further affirms Zuhrī as a responsible transmitter. Moreover, western scholars like Nabia Abbott have discussed Zuhrī and his transmission of *Ḥadīth* in detail and she mentions that Zuhrī kept written record of what he transmitted from the Prophet (peace be upon him) as well as from the Companions and their Successors.[78] Schoeler considers him to be among the earliest Muslim scholars and the most illustrious student of 'Urwah ibn al-Zubayr who wrote down traditions in a proper way, and faced difficulties while doing it.[79] None of these comments is supportive of the claim that Zuhrī became confused about his source and did not inform his students-who were quite large in number- of it. The fact that he used to lend his notebooks to his students so that they may copy from

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[77] Ibid. 179. Here Motzki doesn't consider it important to ascertain the exact person from whom Zuhrī reported, because the *isnād* doesn't go an eye-witness anyway, thus undermining its authenticity.

[78] Ibid. 174-175.

[79] Gregor Schoeler, Shawkat M. Toorawa, *The Genesis of Literature in Islam*, tr. Shawkat M. Toorawa (Paris: Edinburgh University Press, 2002) 47-50; Schoeler, *The Biography of Muhammad*, tr. Uwe Vagelpohl (New York: Routledge, 2011) 23-25.

them[80] shows that the manner in which his traditions were dissipated among them was quite phenomenal and academically sound.

Coming back to Zuhrī's students, Motzki remarks that they would sometimes try to improve their teacher's disconnected *isnāds*-like the one under discussion here- and here he holds Sufyān, Ibn Jurayj, and Al Walīd responsible.[81] Improvement of *isnāds* here means 'addition of an earlier as the original informant',[82] and it would be a valid allegation if these scholars had been dishonest in their work. In itself, such a difference in *isnāds* should not be labeled as an 'improvement', since it implies multiple sources for the information transmitted by them. This claim is weakened further by the fact that in an earlier writing, Motzki himself praises Ibn Jurayj thus:

> "The fact that Ibn Jurayj claims to have 90% of his material from specific informants but leaves 8% without statements of provenance speaks against the assumption that his informants are fabricated; since, if he had a motive to father his traditions on others, it would have affected all the texts...On the contrary, all of these indices suggest that Ibn Jurayj's statement of sources, when he makes them, are credible and that he actually received from his informants the traditions ascribed to them."[83]

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[80] Idem. *Genesis,* 48.

[81] Motzki, *Biography,* 178-179. In general, different students would relate from their teachers in different ways at different levels of accuracy. Some would do it with honesty while others not so. It depends upon the integrity or otherwise of individual students.

[82] Ibid. 178-179

[83] Motzki, *Origins,* 243-244; Ibid. 218-219. Here too Motzki affirms Ibn Jurayj's honesty in transmitting from Zuhrī.

The allegation of improvement is weakened still further when one finds Motzki praising Ibn Jurayj's transmission of traditions in one of his more recent writings by saying: "It would be unwarranted to regard Ibn Jurayj as unreliable or as a forger... A historian need not necessarily share the *ḥadīth* critics' reservations regarding Ibn Jurayj's Zuhrī transmission."[84]

The two above-mentioned comments by Motzki weaken his allegation against Ibn Jurayj that he was among those responsible for improvement of Zuhrī's otherwise weak *isnāds*. Other scholars also consider Ibn Jurayj and Sufyān-among other transmitters of Zuhrī- as reliable transmitters of traditions[85] which renders Motzki's claim against them as untenable and finally it appears that Zuhrī had probably mentioned different names in front of different students and they reported it as they heard or read it.

Ibn Unays 's tradition:

This version of the tradition in question appears in Ṭabarī's *Tārīkh* and al-Wāqidī's *Maghāzī* in its complete form. Harald Motzki finds an oddity in its instances that appear in the latter collection which is related to al-Wāqidī's immediate source- Ayyūb b. Nu'mān. While narrating the incident in detail he reports from Abū Ayyūb b. Nu'mān and just beneath it from Ayyūb b. Nu'mān. Motzki thinks that the correct name would be

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[84] Motzki, *Analysing*, 17.

[85] Abbott, *Papyri*, 2:178-182. Among his students Sufyān is known to have had the habit of putting traditions on paper and his notebooks became collector's items among those interested in *Ḥadīth*, as Abbott tells us.

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Ayyūb b. Nu'mān while Abū is incorrect.[86] A search into al-Wāqidī's

Maghāzī concludes that the name Ayyūb b. Nu'mān appears eight times

while the name Abū Ayyūb b. Nu'mān appears only twice. Moreover, upon

checking out reports by scholars like Ibn 'Asākir, Bukhārī, Ibn al-Athīr, it

appears that they consistently mention the name Ayyūb b. Nu'mān in

different places and contexts, while the Abū adduced by al-Wāqidī is never

mentioned by them.[87] This corroborates Motzki's opinion that the correct

name is Ayyūb b. Nu'mān and not Abū Ayyūb as it occurs in Wāqidī's book

once. If Wāqidī were correct, then Abū Ayyūb would be Nu'mān himself

rendering al-Wāqidī's Abū Ayyūb b. as redundant in any case. Last but not

least is the fact that al-Wāqidī himself is considered unreliable by Muslim

Ḥadīth scientists like al-Haithamī who considers him specifically to be the

weak link in the chain Ayyūb b. Nu'mān via al-Wāqidī.[88] Among the other

scientists of *Ḥadīth,* Ibn Ḥajar considers al-Wāqidī in spite of his vast

knowledge as an ignorable transmitter,[89] and Nasā'ī narrates from Yaḥyā b.

Ma'īn that al-Wāqidī was a fabricator of *Ḥadīth.*[90] Such evidence goes

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[86] Motzki, *Biography,* 180.

[87] Bukhārī, *Al-Tārīkh al-Kabīr* (Hyderabad Dakkan: Dā'irat al M'arif al 'Uthmānia, nd.), 1: 424; Muḥammad ibn Sa'd, *Al-Ṭabaqāt al-Kubrā,* ed. Ihsān 'Abbās (Beirut: Dār Ṣādir, 1968), 1:216, 2:348, 3: 584, 590,...; Abū Na'īm Aḥmad al-Isbahānī, *Ma'rifat al-Ṣaḥāba* (Riyadh: Dār al-Waṭn li al-Nashr, 1419 A.H.), 3: 1180, 6: 3037...; Ibn 'Asākir, *Tārīkh Dimashq* (np: Dār al-Fikr, 1415 A.H.), 44: 22, 50: 207, 56: 105, 58: 387, 396, 423, 454.

[88] Nūr al Dīn al-Haithamī, *Majma' al-Zawā'id wa Manba' al-Fawā'id* (Cairo: Maktaba al-Qudsī, 1414 A.H.), 6: 109.

[89] Ibn Ḥajar al-'Asqalānī, *Taqrīb al-Tahdhīb* (Syria: Dār al-Rashīd, 1406) 498.

[90] Aḥmad bin Shu'aib al-Nasā'ī, *Tasmiyat Mashāikh Abī 'Abd al-Raḥmān Aḥmad bin Shu'aib bin 'Alī al-Nasā'ī wa Dhikr al-Mudallisīn,* ed. Al-Sharīf Ḥātim bin 'Ārif al-'Aunī (Makkah: Dār 'Ālam al-Fawā'id, 1423 A. H.), 76.

against al-Waqidī (and his *Maghāzī*) as a reliable source for knowing about the events in the Prophet's life with certainty, meaning that his reports should be taken with utmost care, comparing them to others' reliable reports to see if they fit in their framework or not. If they do, then they are acceptable, otherwise maybe not.[91]

Lastly, Motzki mentions that Ṭabarī's version of the tradition under question is via an *isnād* which is different from the one given by al-Wāqidī and doesn't involve Ayyūb b. Nuʿmān. Motzki moves forward commenting that the two *isnāds* meet at the Companion ʿAbd Allah b. Unays (d. 54 A.H.) who seems to him to be the common link of the version.[92]

'Urwa 's tradition:

The last version of the tradition reporting the murder of Ibn Abī al-Ḥuqayq comes from ʿUrwa as discussed by Motzki who tells us that it appears only via the *isnād*: Ibn Lahīʿa- Abū al Aswad- ʿUrwa b. al-Zubayr.[93]

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[91] In order to ascertain the effects of the inaccuracy in *isnāds* on his version of the incident, discussion on the *isnād* would come in the corresponding discussion in the next section on Motzki's *matn* analysis of the traditions about Ibn Abī al-Ḥuqayq's murder.

[92] Motzki, *Biography,* 181.

[93] Motzki, *Biography,* 181. It appears in Bayhaqī, *Dalāʾil,*(4:38) while its fragments are to be found in some other books.

Matn Analysis:

Traditions reporting Ibn Abī al-Ḥuqayq's murder come to us via their common links, the persons responsible for the first formal dissemination of the information[94] about the said expedition according to Motzki. In his *isnād* analysis he considers the *isnād* bundles and points out these common links. In the first step of his *matn* analysis he looks for similarities and differences in the text variants under each common link separately, and a kernel text is pointed out by Motzki for each common link, as discussed below. The second step comprises of comparisons among the *matn* variants transmitted from different common links, with the goal to see if the kernel goes beyond them. Motzki says that this would help answer the question whether historical conclusions can be drawn from the resultant kernel or not.[95] In short, kernel texts are compared to each other to find out till where they go back in history. The following discussion on each of the form *matn* versions of the traditions regarding the murder of Ibn Abī al-Ḥuqayq is expected to help in understanding Motzki's approach in his *matn* analysis:

The Version from Al-Barā'

Among the detailed versions about the murder of Ibn Abī al-Ḥuqayq and found in Bukhārī's *Ṣaḥīḥ*, the one transmitted by Isrā'īl from Abū Isḥāq is the starting point for Harald Motzki's textual analysis of this tradition complex. It reads:

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[94] Motzki, *Origins*, 25.
[95] Motzki, *Biography*, 182.

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Yusuf b. Mūsā--- 'Ubayd Allāh b. Mūsā--- Isrā'īl--- Abū Isḥāq--- al-Barā'
b. 'Āzib. He said:

The Messenger of God sent people of the Anṣār to the Jew Abū Rāfi'. He
gave the command to 'Abd Allāh b. Atīk. Abū Rāfi' had hurt(yu'dhī) the
Prophet and had assisted [his enemies] against him (yu'īnu 'alayhi). He
lived in one of his fortresses in the Ḥijāz. When they came near it--- the sun
was setting and people were returning (going) with their pasturing cattle
(sarḥ)--- 'Abd Allāh said to his companions: "Sit down here. I will go and
talk friendly with the gatekeeper, so that perhaps I can enter." He went on
until he came near the gate Then he concealed his face as if he was going
about his business. People entered and the gatekeeper called out to him:
"Servant of God! If you wish to enter, do it [now], because I wish to close
the door!" I entered and hid. After the people had entered, he closed the
gate and then he hung the keys (aghālīq) on a pin (watid/wadd). I reached
for the keys (aqālīd), took them and opened the gate. An evening party was
taking place (yusmaru 'indahu) at [the place of] Abū Rāfi' on the upper
floor of his [house]. After the people of his party had left, I climbed up to
him. Every time I opened a door, I locked it behind me from inside. I said
[to myself]: "If people have been alarmed by me they cannot touch me until
after I have killed him." Finally, I found him. He was, however, in a dark
room (bayt) in the midst of his family. I did not know where in the room he
was. I said: "Abū Rāfi'!" He answered: "Who is there?" I rushed (ahwaytu)
towards the direction of the voice and gave him a stroke with the sword. I
was [too] perplexed/excited (dahish) and so could not finish him off. He
cried out and I ran out of the room and waited not far away. Then I entered
anew and said: "What was the reason for this noise, Abū Rāfi'?" He

answered: "Damn you! (*li- ummika al- wail*, literally: Woe unto your mother!). A man in the house struck me with a sword." When he said it, I gave him a heavy stroke without killing him. Then I plunged the blade (*zuba/ dubayb*) of the sword into his belly until it forced its way right to his back. Now I knew I had killed him. I began to open door after door until I finally arrived at a stair (*daraja*) of his [house]. When I thought that I had reached the ground, I took my feet [off the stair] and fell, although the night was moonlit, breaking my leg. I tied it with my turban and then left. I sat down at the gate and said [to myself]: "I shall not leave this night until I know that I have [really] killed him." When the cock crowed and the announcer of the death (*al-nā'ī*) appeared on the wall and cried: "I announce the death of Abū Rāfiʿ, the merchant of the people of Ḥijāz," I left, went to my companions and said: "Escape! God has killed Abū Rāfiʿ!" I then went to the Prophet and reported it to him. He said to me: "Show me your foot [*sic*]." I did and he touched it with his hand. Then it was as if I had never had pain in it.[96]

Harald Motzki mentions that a variant of the above tradition is found in Bayhaqī's *Dalā'il* with two *isnāds* attached to it- one via Isḥāq b. Ibrāhīm and the other via Abū Bakr b. Abī Shayba- implying that the said traditionist considered both these versions as identical, except for some typical copyist errors. Yet another version found in Ṭabarī's *Ta'rīkh* is compared by Motzki to these versions which shows that they must derive from a common source by way of written transmission. This is because of some significant

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[96] Motzki, *Biography*, 182-183.

differences among the versions as mentioned here by Motzki, like *rabbāḥ* in place of *tājir* and *yabghī* in place of *yu'īn* in Ṭabarī's *Tārikh* and Bukhārī's *Ṣaḥīḥ* respectively. There are also some additions like *wa kāna bi arḍ al-Ḥijāz* and *taḥta āriyy ḥimār*, which are significant enough and beyond copyist errors according to Motzki. Further corroborative evidence is found by Motzki in a third variant which is found in Bayhaqī's *Sunan*. This text corresponds to both the previous versions as well as seeming independent from them. Motzki concludes that the common source of these versions according to *isnāds* is the *matn* transmitted by Isrā'īl.[97]

Three remaining detailed versions of the tradition are different enough and yet structurally identical when compared to those discussed above, to be considered independent of them and Motzki considers them one by one. The first of these occurs in Bukhārī and Bayhaqī via Yusuf b. Isḥāq whence Motzki notices a few differences from those previously discussed, like the word *kuwwa* or *kawwa* instead of *watad* or *wadd*, the assassin fell from a *sullam* (ladder) and not a *daraja* (stair), instead of breaking his lower leg, his foot was dislocated, respectively.[98] Other versions mentioned by Motzki in this regard are those of Zakariyyā b. Abī Zā'ida and Sharīk.[99]

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[97] Ibid. 184, 185.

[98] Ibid. 186. Here as before, Motzki suffices mentioning these differences without pointing out whether they are detrimental to the integrity of these texts or not, although the needed clarifications have been given by the exegetes of Bukhārī like Ibn Ḥajar, *Fatḥ al-Bārī*,(7: 428-430) and al-'Ainī, *'Umdat al-Qārī*,(17: 138).

[99] Motzki, *Biography*, 187.

Being independent of one another, all of the above versions come from Abū Isḥāq (d. 126 A.H.), and he is the common link of the traditions from al-Barā' b. 'Āzib (d. 72 A.H.) according to Harald Motzki. Since al-Barā' did not participate in the expedition, he must have heard of it from Ibn 'Atīk (d. 12 A.H.). Al-Barā' was 24 years old at that time as Motzki tells us and comments that the veracity of this ascription cannot be substantiated on the basis of this tradition alone. Since a long time had passed before Abū Isḥāq had heard the story from al-Barā' (between 50 A.H. and 72 A.H.). Further transmission to his pupils happened around 125 A.H. and these long spans of time probably caused changes in the story's form-even if only slightly- every time it was retold.[100] However, as has been mentioned earlier on, historical reporting is different from a game of whispers, and the differences among the traditions about the murder of Ibn Abī al-Ḥuqayq point out to another fact that they are accounts of the said event in the Prophet's life which different people narrated to different people- via Abū Isḥāq--- al-Barā' in different wordings and appear in books of history like the one by Ṭabarī and Bayhaqī as well as collections of *Ḥadīth* like that of Bukhārī and Bayhaqī. Al-Barā' may have heard about the expedition from Ibn 'Atīk and/or from some other Companion/s, and related it to his students who further conveyed it. Being a Companion himself made it possible for him to have any and all of these Companions as his sources. Since there was no official version of the story, so whichever

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[100] Ibid. 190.

version a traditionist would hear he would report it after due verification according to his standards. Bukhārī for example, sincerely mentions two detailed versions one after the other within the same collection, both of which satisfy his standards. One version only, if there, would in fact imply that different narratives were redacted and transformed into one standard version, which would not stand as a naturally historical phenomenon. As far as the current research is concerned, such evidence appears to be internally corroborative where one bit supports the others and it is expected that the other versions would follow suit.

The Version from Ibn Ka'b

The starting point of Motzki's textual analysis of Ibn Ka'b's version of the traditions reporting the murder of Ibn Abī al-Ḥuqayq is a tradition reported by 'Abd al- Razzāq (from Ma'mar d. 153 A.H.) in his *Muṣannaf.* It is a very detailed version,[101] even longer than Bukhārī's cited above and starts by providing the backdrop of this expedition, which was carried out by a group of Companions from the Khazraj tribe in Madīnah upon their own request. The Prophet prohibited the team members from killing women and children. Ibn 'Atīk was the team leader and there were four other members. Details about the guard and where he hung or put the keys are absent from the account, but details about the staircase/ladder leading to the victim's quarters are mentioned, that steps had been cut in a trunk of a palm

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[101] Ibid. 191-192.

tree.[102] The team went up it and entered the victim's quarters. One of them attacked him, but he survived the initial blow, after which 'Abd Allah b. Unays killed the man and he was also the one whose foot was seriously sprained from the fall according to this version. Exchange of words between the assailant and Ibn Abī al-Ḥuqayq's wife is also narrated in this version clearer than in the previously mentioned and one of the Jews in the vicinity confirmed having heard Ibn 'Atīk's voice. Ibn Ka'b informs that the day the expedition returned was Friday and upon seeing them coming, the Prophet (peace be upon him) prayed for them during his sermon.

Ibn Isḥāq's version as reported by Ibn Hishām and Ṭabarī is similar in structure and wording to this report by 'Abd al-Razzāq via Ma'mar but the former's own report is visibly different from that of the latter according to Motzki.[103] These differences are in repetition of elements, completeness of some names, order of others, and placement of Prophetic prohibition in the texts. The person suddenly changes from first to third somewhere in Ibn Isḥāq's version. In Ma'mar's text, the person who fell down was Ibn Unays, while it was Ibn 'Atīk in Ibn Isḥāq's, which is corroborated by the version from al-Barā'. In one of the versions from Ibn Isḥāq via Ibn Hishām, Ibn 'Atīk's hand was injured (in place of leg/foot in other versions) which is an inaccuracy as Motzki comments, since his partners would not have carried him away had he injured his hand. In Ibn Isḥāq's text, it is said that Ibn

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[102] In the researcher's view, it probably sheds light on why, in one version of al-Barā' 's tradition 'ladder' was mentioned and in another 'stair'... it may have been a hybrid as explained here.

[103] Motzki, *Biography*, 193-194

'Atīk's voice was recognized by Ibn Abī al-Ḥuqayq's wife, which according to Motzki had been 'put in her mouth' (by a reporter). Moreover, it is different from Ma'mar's report: "One of them said "By God, I certainly heard the voice of Ibn 'Atīk" according to Motzki.[104] It may have been as Motzki says or it might have been that Ma'mar or his source simply didn't specify who among the Jews had said it, keeping in view the fact that the wife of Ibn Abī al-Ḥuqayq also qualified as one. In any case, saying that something has been put in someone's mouth requires evidence to that effect since it is a grave accusation of forgery, and one fails to find any evidence of that here.

Here Motzki also comments that one of the versions of the tradition in question was not a model for another, and that the *isnāds* show their common link Zuhrī, whose version would then serve as their model. Motzki also explains that the source of differences among the versions sprout either from Zuhrī's pupils-who had different levels of memory retention- or from Zuhrī himself, who may have narrated differently at different times. One may alternatively assume that one of Zuhrī's informants was responsible for these variations as Motzki adds (who are 'Abd Allah b. Ka'b or 'Abd al-Raḥmān b. Ka'b). He then rejects this assumption since the texts from the two informants correspond to each other to such an extent that they must have been preserved in written form, something which can be attributed to Zuhrī and his pupils at the earliest, and not his informants. Motzki further

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[104] Ibid. 192.

remarks that writing down was an exception and not a rule in the first century A.H. [105] Firstly, Motzki's claim here that if texts correspond strongly to each other they must have been in written form, seems odd. As it appears oral transmission is predominantly the basis for written transmission and doesn't deserve to be methodically rejected as a secure means of transmission. The millions of *ḥuffāẓ* of Qur'ān and many of *Ḥadīth* all over the world and all over Islamic history are enough to belie this notion, and on the other hand millions others also remember intricate details of a host of literature vividly just because they put their efforts into the task. Therefore, what appears to the researcher is that the strong correspondence between the two informants' texts (who are brothers also) is because of their care in listening to their sources and meticulousness in reporting to their audience, as well as Zuhrī's efficiency and not because they were necessarily in written form. It is true that while some people have photographic memory, others also remember things well and still others' may not be up to the mark but it doesn't imply that the two latter kinds of people are unable to convey things correctly. In the end it all comes down to checking out the transmitter of a report for his mental and ethical merits and weaknesses. As discussed earlier, Zuhrī can be considered as among the highest ranking traditionists of his time, and resorted to writing as well as memory while transmitting to his students, through handbooks that he used

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[105] Ibid. 195.

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to pass over to his pupils,[106] some of whom were also well-known for keeping written records of these reports. A complete transmission of traditions in written form was not an exception, at least in the second half of the first century.[107] Traditions from the Companions Anas b. Mālik, Abū Hurairah, and the Successor Nāfi' were already in circulation in that period because of the efforts of their apt pupils. Those scholars who found distaste for their writing down of traditions in Madīnah would take their manuscripts with them to places far and beyond, thus causing them to be spread all over the Muslim lands, as illustrated by Abbott in detail.[108]

Coming back, some other shorter versions are also discussed for their inaccuracies by Harald Motzki here and an interesting example is his discussion on a participant's name which is mentioned as *fulān* (so-and-so) ibn Salama, found in Ibn Bukayr's version,[109] as well as in Ma'mar's version discussed above.[110] While in Bayhaqī's *Dalā'il*, Ibn Bukayr reports it as Ibn Isḥāq's opinion, in Ma'mar's version it is simply reported that 'so-and-so ibn Salama' was among the participants. Motzki thinks that this was a part of Zuhrī's version.[111] For all that we may speculate, Ibn Isḥāq's straightforward statement 'I think that so-and-so ibn Salama...'may have

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[106] Schoeler, *Genesis,* 48

[107] Idem. *Biography,* 20. He puts the start of formal compilation of Prophetic material at around the last third of the first century.

[108] Abbott, *Papyri,* 2: 40-50;

[109] Motzki, *Biography,* 196; Abū Bakr al-Bayhaqī, *Dalā'il al-Nubuwwah* (Beirut: Dār al-Kutub al-'Ilmiyyah, 1405 A.H.), 4:34.

[110] Motzki, *Biography,* 191.

[111] Ibid. 196.

been based upon what he heard from his source, Zuhrī and the fact remains that a 'so-and-so ibn Salama' was a part of the expedition as reported by 'Abd al-Razzāq (and others).

Motzki's comparisons of the short versions of Yunus b. Bukayr and Muḥammad b. Salama with others try to render these erroneous because of their lack of accuracy in reporting, like when Ibn Bukayr reports the Prophetic prohibition. In versions like those of Ma'mar and Ibn Isḥāq, he (the Prophet) said: Do not kill the women and the children. In Ibn Bukayr's version, the Prophet prohibited from killing...[112] This 'error' becomes immaterial when one notices that in some versions the Prophet's direct speech is reported while in the others his indirect speech is reported, and both are academically sound ways of reporting.

In another illustration of error, the problem with the first transmitter's name (whom Motzki calls Zuhrī's informant) whether it is 'Abd Allah or 'Abd al-Raḥmān is resolved here by Motzki simply by counting the number of transmitters who mentioned each name, and concluding that it was 'Abd Allah since three transmitters from Ibn Isḥāq (al- Bakkā'ī, Salama b. al-Faḍl, and Ibn Bukayr) mentioned 'Abd Allah while Muḥammad b. Salama and Ma'mar both mentioned 'Abd al-Raḥmān.[113] Oddly enough, Motzki had discussed the issue of Zuhrī's informant in detail in his *isnād* analysis of Ibn Ka'b's version which was

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[112] Ibid. 191, 197.
[113] Ibid. 197.

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duly analysed there.[114] Still, since he discusses the issue here it may be useful to have a look at Ma'mar whose given original informant is doubted here. Motzki gives preference to the three above-mentioned (in text above) transmitters over Ma'mar since they agree on a name against the one given by the latter and it would have been more plausible if he had checked out the persons and compared them with Ma'mar to see how their chain's connections fare in comparison to his, as he had done in establishing the veracity of transmitters from and of 'Abd al-Razzāq's *Muṣannaf* in one of his earlier studies quite meticulously. Here, Ma'mar is an important student of Zuhrī who eventually settled down in Yemen. He was himself a well respected teacher there and among his pupils was 'Abd al-Razzāq who remained with him for at least seven years[115] and took written notes.[116] The tradition under discussion is a part of 'Abd al-Razzāq's *Muṣannaf* as everyone knows and comes to us from him via Ma'mar-- Zuhrī link, and as Schoeler agrees[117] a chain of teachers and students offers the best chance of providing authentic material.

Next, Motzki mentions two short stories about the incident, one in Ibn Shabba's *Ta'rīkh al Madīnah* and the other in Bayhaqī's *Dalā'il*. The

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[114] It has been said earlier in the discussion on Motzki's *isnād* analysis (Motzki: 178-179) of this tradition that Zuhrī may have heard from both the brothers and reported accordingly since both the names of the brothers are mentioned in the many books where the tradition is reported, and some scholars didn't go beyond saying that it was a son of Ka'b. It was said there that all this doesn't necessitate a flaw in the transmission as claimed by Motzki there.

[115] Abbott, *Papyri*, 2: 179; Motzki, *Origins*, 63.

[116] Abbott, *Papyri*, 2: 179.

[117] Schoeler, *Biography*, 15.

latter is via Mūsā b. ʿUqbā–Zuhrī and the already short narration is actually broken into two parts. The first part's *isnād* is *Mursal* since it doesn't mention the Companion Ibn Kaʿb, while the second part's *isnād* is complete as Motzki point out.[118] He claims the incompleteness in the second *isnād* to be due to carelessness on Mūsā's part,[119] but it shows his honesty and accuracy to the researcher. Two considerations help towards this realization: Firstly, the narration is divided into two parts and each part is carried by its *isnāds*. It seems that the *Mursal* part is left so because Mūsā came to know of it that way, and didn't try to improve its *isnāds*. For the second part he was probably sure of the *isnāds'* completeness and presented them accordingly. This attests his honesty and accuracy in reporting. The second consideration is that the tradition's genuineness is corroborated by many other traditions in other collections which narrate the same incident in different levels of detail. Last but not least is the fact that Mūsā was among the oldest Medinian students of Zuhrī and that he and his recently discovered *Maghāzī* are revered by traditionists and *Hadīth* scientists go against the claim.[120]

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[118] Mūsā b. ʿUqbā, *Al-Maghāzī*, ed. Muḥammad Bāqshīsh (Agadir: The Ibn Zuhr University, 1994), 228-229; Bayhaqī, *Dalā'il,* 4: 38-39. Here, the first part's *isnād* is *Mursal* since it doesn't mention the Companion Ibn Kaʿb, while the second part's *isnād* is complete at its end and misses the transmitters between Mūsā and Bayhaqī, thus rendering it *Mu ʿallaq* or hanging.

[119] Motzki, *Biography,* 198.

[120] Ibn Saʿd, *Al-Ṭabaqāt al-Kubrā: al-Qism al-Mutammim li Tābiʿyī ahl al-Madīnah,* Ziyād Muḥammad Manṣūr(Al-Madīnah al-Munawwarah: Maktaba al-ʿUlūm wa al-Ḥikam, 1408 A.H.),340; Mūsā b. ʿUqbā, *Al-Maghāzī,* 49-50, 229 fn; Sezgin, *Geschichte,* 1: 286.

Coming back to Harald Motzki's analyses of the texts in the tradition complex about the murder of Ibn Abī al-Ḥuqayq and his inference from the above discussion on variations in the texts of the tradition complex about the murder of Ibn Abī al-Ḥuqayq, when he says, "We come across the phenomenon that textual variations are corroborated by two or more scholars so that the conclusion suggests itself that the difference has been caused by the common link, here al-Zuhrī himself."[121] One can easily notice that Motzki conclusion would be quite correct if put in a slightly different way, that the difference (is not caused by but) comes from or via the common link, owing to the fact that the common link is not the cause of a tradition, but its dissipater, by his own standards. A second consideration is that even if variations are corroborated by one scholar it may have come from the common link, as can be checked for individual cases.

A very important claim by Motzki concludes his discussion on the short stories discussed above. He considers the word *ḥalīf lahum* found in some versions[122] in place of the fifth participant's name and thinks that it doesn't make sense since the tribe referred to in *lahum* is missing.[123] The comment itself may not be clear but what follows it is quite important an inference to notice. Motzki says: "Little inconsistencies such as this *lahum* corroborate our conclusion that the "short stories" are indeed abbreviations

[121] Motzki, *Biography,* 198-199.
[122] Bayhaqī, *Dalā'il,* 4:39; Ibn Shabba, *Ta'rīkh al-Madīnah,* ed. Fahīm Muḥammad Shaltūt (Jeddah: Syed Ḥabīb Maḥmūd Aḥmad, 1399 A.H.), 2: 464
[123] Motzki, *Biography,* 202.

of longer versions."[124] He further remarks that the cause of these abbreviations- whether it is Zuhrī's pupils or later transmitters- is not always clear.[125]

Motzki's discussion on short stories about the murder of Ibn Abī al-Ḥuqayq is followed by one on certain brief texts which do not serve as summaries of long versions but are concerned with details which could be used as legal arguments according to him.[126] Here he refers to those parts of the long versions and their parallels which mention the Prophetic prohibition against killing of women and children. Some of its illustrations are found in Mālik's *Muaṭṭā'* and Shāfiʿī's *Umm*,[127] on which Motzki comments that either Zuhrī must have told the story in varying versions or his pupils didn't always reproduce his texts religiously.[128] It is quite strong a probability that Zuhrī shared it with different people at different times in different levels of detail, keeping them matched with what he had come to know of from his sources. This is quite probable since he was an honest traditionist of the highest caliber and conveyed traditions orally, in written form, or a combination of the two as mentioned before. To confirm Motzki's comment whether Zuhrī's pupils may have taken their teacher's narrations religiously or otherwise here demands a peek into what 'religiously' is. As is evident from Motzki's comment, since the texts were

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[124] Ibid. 202.
[125] Ibid. 202.
[126] Ibid. 202-203.
[127] Shāfiʿī, *Umm*, 4:239; Mālik, *Muaṭṭā'*, tr. Bewley,174.
[128] Motzki, *Biography*, 204.

not conveyed ditto, they were not conveyed religiously. Texts which are transmitted word to word are definitely the surest, as is the case with Qur'ān, yet narrating about someone's life and times doesn't require a word to word correspondence with the original text simply because there is none but different renditions of the same event. Its details ought to be constructed from those reports which are coming from reliable sources via a reliable chain. Taking Mālik's text as an example, one notices that it falls in the chapter titled: 'The Prohibition against killing Women and Children in Military Expeditions', which also contains some other traditions reporting the general Prophetic prohibition. Being a student of Zuhrī, it can be expected of Mālik to have received or heard the story about the murder from him, but reported only the part which concerned him then and there. It thus seems to be a case of an intelligent transmission of traditions on the part of Mālik, and not an example of an irreligious one.

Motzki's *matn* analysis compares word differences whenever and wherever they occur in the texts. In the case of the Prophetic prohibition against killing women and children mentioned above, he points out that the wording of the 'legal deductions' varies among the versions reporting the murder of Ibn Abī al-Ḥuqayq. He says:

> According to Ma'mar's version of it, the Prophet used the words
> *walīd aw/wa-mra'a*; in the three versions of the "legal
> deduction", however, he spoke of *al-nisā' wa-l-wildān* (Mālik,
> Sufyān) or *al-'nisā' wa-l-ṣibyān* (Ma'mar) in the plural form and
> in a reversed order. This change seems to reflect the priorities

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and the generalizing tendency of legal thinking. Most remarkable is that both versions were spread by one and the same scholar, Ibn Shihāb al-Zuhrī. This explains why the wording of the 'legal deduction' was able to intrude in transmissions of the *maghāzī* tradition, as we have seen above.[129]

The above mentioned word differences would have led one towards suggesting that Zuhrī or his students may have inserted their own words into the Prophetic ones or that legal thought infiltrated into traditions, if the above mentioned words were Prophetic in the first place. Reading the parts of traditions where the Prophetic prohibition is mentioned one finds them to be in indirect speech with stress on meaning and not on exact words.[130] The issue remains whether these versions of the prohibition convey the same meaning or not? A brief look at the versions is all that is needed to show that they all convey the same prohibition that is not to kill the members of the female gender and the minors. In view of these simple considerations it becomes immaterial if the words are the same or different and just their connotation remains. Motzki's inference about 'legal deduction' intruding into traditions also becomes irrelevant here.

His *matn* analyses of different versions- long, short and 'legal'- of the traditions from Ibn Ka'b are followed by his overview[131] of the story

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[129] Motzki, *Biography*, 204-205.
[130] 'Abd al-Razzāq, *Muṣannaf*, 5:202; Ibn Shabba, *Ta'rīk*, 2:462; Shāfi'ī,*Umm*, 4:239; Mālik, *Muaṭṭā'*, tr. Bewley, 174.
[131] Motzki, *Biography*, 205-206.

which can be called his rendering of the incident and goes with the many versions of the said tradition complex discussed above. Wherever a detail doesn't seem to him to fit in seamlessly with the overall story, Motzki duly points it out.

The discussion on Ibn Kaʻb's tradition complex concludes with Motzki's comment that his *matn* analysis has not produced any further evidence which could help identify Zuhrī's actual informant, beyond the fact that he was a member of the Kaʻb b. Mālik's family. He also believes that the name of the original author is missing because there is none identifiable and that the version is a condensation of the reports from the participants which were retold from generation to generation and in order to praise the great deeds of their ancestors in favour of Islam.[132] His theorization here appears to be judgmental when it comes to people's intentions without providing any corroborative evidence to the effect. Similarly, none of the reports from Ibn Kaʻb claim an original author or narrator save himself in the first place, who had come to know of its details like others. To validate or reject a report in which someone from among the Companions reports about an expedition that he came to know about from a participant- since they belonged to the same small Medinian community- requires two things. Firstly, the people involved in the report should be checked for their honesty and reliability, something which can be well achieved through *isnād* analysis. If someone else has reported the same

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[132] Ibid. 206-207.

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story- like a participant himself or one of his Companion fellows- then these reports support one another. Secondly, the *matn* analysis here involves looking out for irreconcilable differences among the versions, the absence of which helps towards authenticating them. In case of the event under discussion here, one finds quite a large number of parallel reports with similarities and differences, some of which have been discussed above while others below, and before they are all studied and their points of divergence and convergence are confirmed, it is improper to pass judgments about them.

Finally, while theorizing on how the text of the tradition in question developed before Zuhrī, Motzki mentions that even if the story really came from the descendents of Ka'b b. Mālik, a long time had passed and the story was conveyed orally and took its final form in which Zuhrī received it[133] which means that his *isnāds* didn't accurately carry the text to him or that they were unreliable. Motzki's other statement that weaknesses in Zuhrī's *isnāds* speak in favour of their reliability[134] seems odd here since if an *isnād* is broken, incomplete or weak, it is usually a cause of worry for the scientist of *Ḥadīth* or its historian since he has to take up the task of either authenticating or rejecting the text that it carries. It also seems odd that if a text is carried orally it is a case for redaction as Motzki claims, and in

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[133] Ibid. 206-207.

[134] Ibid. 206. Here, since none of the given participants of the expedition was from Ka'b's family, nor is his name given in the *isnād*, no direct report is available and this weakness speaks in favour of the reliability of Zuhrī's *isnād* according to Motzki.

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Zuhrī's case it has already been seen that he was careful of whom and what he reports, so the texts carried by his *isnāds* generally appear to be fine. Whether his informants had any need to modify the texts that they transmitted is the point to be pondered over here and to sort it out, the following may be considered. First, it is a case of misunderstanding that the story took a certain final form in Zuhrī's time, since such a final form is not even the point anyway. Different Companions would share their views of the Prophet's life and times with their audiences till they reached the collectors. The early generations were naturally much more careful of what they conveyed about their beloved Prophet than their descendents. Zuhrī is one of the first and most illustrious students of the Companions and senior Successors who took up the task of collecting reports about the Prophet and sharing them with their audiences in more than one media as has been discussed before. There were those after Zuhrī who too accurately transmitted from him in different levels of detail from what they came to know, and those who didn't stress so much on word accuracy but still conveyed the story or its parts as they were. A few people no doubt made serious mistakes here and there so that wherever there is an irreconcilable difference it may be because of the latter group. Historical reality however can be reconstructed from the two former kinds of people and not just from the first, since it doesn't constitute more than honest, intelligent reporting.

The Version from 'Abd Allah b. Unays

There is a version of the tradition reporting the murder of Ibn Abī al-Ḥuqayq which starts with the name of a member of the team sent by the Prophet (peace be upon him), namely 'Abd Allah b. Unays, at the start of its *isnāds*. It appears in historical collections of Ṭabarī and Wāqidī, naturally with some similarities, differences and irreconcilable portions in their texts.[135] Motzki considers their differences as pointing to their individuality and their similarities- which are more than their differences- pointing to their common source, as he did with other versions discussed above. He then puts the common points in the texts together and tries to reconstruct the story related by the common source, which he tells is very brief and obscure. He also points out that there are five contradictions between the two versions and they support a very important claim, namely that the two versions are not based upon one another.[136] These differences are: 1) The number of persons who entered the quarters of the victim: two in Ṭabarī's report, and the group in Wāqidī's. 2) The person who raised the sword upon the victim's wife and remembered the Prophetic prohibition: In Ṭabarī's version it is Ibn Unays, and in Wāqidī's it is someone else. 3) The one who hurts his foot: Ibn 'Atīk in Ṭabarī's version and Abū Qatāda in Wāqidī's. 4) The episode of the forgotten bow is about: Ibn Unays in Ṭabarī's version and Abū Qatāda in Wāqidī's. 5) The wife of Ibn Abī al-Ḥuqayq recognizes

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[135] Motzki, *Biography*, 207-212.
[136] Ibid. 212-213.

the voice of Ibn 'Atīk in Tabarī's version, while it is mentioned in Wāqidī's that the Jews of Khyber had heard what had happened and went on a search for the killers.[137]

Onwards, Motzki adds another version- that of Zuhrī's discussed earlier- to this textual comparison and once again says that similarities among the versions point to a common source while differences against their inter-dependence.[138] Differences in content among the versions of Zuhrī, Tabarī and Wāqidī are then discussed by Motzki in detail. He notices that fewer text elements in Zuhrī's version correspond to elements in Tabarī's than in Wāqidī's, which leads him to believe that Zuhrī's version is closer to Waqidī's than Tabarī's. He claims that the three versions, that of Zuhrī from Ibn Ka'b and those of Wāqidī and Tabarī from Ibn Unays must have come from the narratives circulating in the family of Ka'b b. Mālik. These narratives vary in content and length while also having similarities, which is probably so because their sources are different and also because they were transmitted orally for a long period of time which may have been the cause of interferences among the variations and expansion and abbreviation of the stories may also have happened then according to Motzki.[139]

Moving on with his theorization, Motzki raises the question that if the above mentioned history of the traditions is accepted, why is it that two

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[137] Ibid., 213-214.
[138] Ibid. 215-219.
[139] Ibid. 219.

of them have been constructed as going back to Ibn Unays, while that of Zuhrī doesn't specify the real author of the report? He then tells that every participant must have narrated his version which found its way to one's descendents and friends and became part of the tribal memory of the Banu Salīma clan to whom all the participants belonged. These descendents and friends would emphasize the role played by their elder, however some of these transmitters may have even tried to reconcile the family biases and concede important roles to the leading participants.[140] The above mentioned claims by Motzki on the origins of the different versions of the tradition about the murder of Ibn Abī al-Ḥuqayq give an insight into his view on how and why the Companions' families and friends shared the Prophetic material among themselves and with their audiences, and how the different versions were 'constructed' upon them. It is true that people share their memories in their own individual ways as the participants in the expedition did, but saying that some of them did it in order to exalt their elders or friends is tantamount to saying that they were generally dishonest and requires solid evidence to this effect, something lacking in Motzki's claim here.

Further, if an *isnād* doesn't mention the 'original author' as Motzki claims about Zuhrī's, it may well have been a case of Zuhrī hearing from Ibn Ka'b the event's details who came to know of these from his father,

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[140] Ibid. 219-220.

mother or paternal uncle. [141] Ṭabarī reported a parallel (and non-contradictory) version from another path which passes through Ibn Kaʿb and sheds some light on the source of his version of the incident who is: 'his mother (who is also the daughter of Ibn Unays) - Ibn Unays'. It shows that Ibn Unays is Ibn Kaʿb's maternal grandfather-[142] a relation which is quite reliable and strong- and was a source of information for him in addition to his paternal grandfather. Any family bias claim also disappears since it were Ibn Kaʿb's two grand-parents from whom he came to know of the incident. As far as the textual differences between the two narrations, Ibn Kaʿb may have reported it the way he heard it from his different family sources and transmitted it without family biases. The way in which Zuhrī[143] and Ibrāhīm b ʿAbd al-Raḥmān b. Kaʿb b. Mālik[144] related the incident in their turns was probably the way it reached them, which also shows their honesty and it is important to note that no attempts at a uniform, constructed narrative by these scholars appear to have happened here.

Wāqidī's case is different from that of Zuhrī's or Ṭabarī's since his version contains some irresolvable differences from the other two versions as mentioned above. If they can't be resolved, Wāqidī's laxity in reporting may have been among its causes, something which Motzki seems to

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[141] Ibid. 191. A paternal uncle of Ibn Kaʿb is mentioned as his source in a short version.
[142] Ibid. 207.
[143] Ibid. 203.
[144] Ibid. 207.

ignore.[145] Correct conclusions can't be drawn from *Ḥadīth* textual criticism unless such versions are taken into consideration, especially in those parts where the text transmitted is irreconcilable with the many versions which don't contradict one another. This is not to deny Wāqidī his due place as a historian, but to point out that his *Maghāzī* probably doesn't present historical reality the way clear-cut *matn-isnād* combination affords us. In other words, it doesn't imply that whatever he presents is wrong since he writes in the continuous narrative of a seasoned historian, whence the *matn-isnād* combination may suffer. His versions do agree with those traditionists who use the said combination approach on many points as Motzki's comparisons show too. What needs to be carried out is a comparison of his narrative with those traditionists who use the said combination approach before the former is accepted.

1. The Version from 'Urwa

Bayhaqī reports in his *Dalā'il* a short version of the tradition about the murder of Ibn Abī al-Ḥuqayq having 'Urwā b. Zubayr in its *isnād*. It doesn't recur in other collections of traditions which is problematic for Motzki's *isnād* cum *matn* analysis since his approach requires multiple paths to a version of a tradition.[146] He also thinks that it may have originally

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[145] Ibid. 217. He rejects Horovitz's and Schoeler's critique of Wāqidī. Methodologically it seems quite odd that he doesn't consider the Muslim critique of Wāqidī's traditions as discussed above.
[146] Motzki, *Biography,* 223; Görke, "Prospects and Limits in the Study of the historical Muḥammad", in *The Transmission and Dynamics of the Textual Sources of Islam,* ed. Boekhoff-van der Voort, Kees Versteegh and Joas Wagemkers (Leiden: Brill, 2011), 143.

been a detailed version of the tradition without giving any reason here.[147]

Among the textual differences noted by Motzki is that one Aswad al-Khuzāʿī mentioned here is given as Aswad b. al-Khuzāʿī in Zuhrī's version but the major difference according to him is that the three participants' names are given in the tradition while the fourth, Ibn Unays is missing. These lead him to conclude that this version is not directly dependent upon Zuhrī's.[148]

The tradition reaches us through Ibn Lahīʿa - Abū al-Aswad – ʿUrwa, and Motzki thinks that the former's *Maghāzī* reports from ʿUrwā are not quite secure, and contain features which don't belong to ʿUrwā.[149] He concludes his discussion on ʿUrwa's tradition with the comment:

> "We must, therefore, admit the possibility that either Ibn Lahīʿa
>
> or Abū al-Aswad used elements of al-Zuhrī's tradition which he
>
> recalled, adding other elements from unknown sources or which
>
> he invented. As long as Ibn Lahīʿa's transmissions from Abū al-
>
> Aswad have not been systematically studied and compared with
>
> other versions, and as long as variants of this alleged ʿUrwa
>
> tradition which are separate from Ibn Lahīʿa's are lacking, we

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[147] Ibid., 222.

[148] Motzki, *Biography,* 223

[149] Ibid. 224; Andreas Görke, "The Historical Tradition about al-Ḥudaybiya. A Study of ʿUrwa b. al-Zubayr's Account", in *Biography,* ed. Motzki, 257; Yusuf b. ʿAbd al-Raḥmān al-Mizzī, *Tahdhīb al-Kamāl fī asmā' al-Rijāl* (Beirut: Muassasat al-Risāla, 1980), 15:501.

should refrain from making hasty conclusions and had better not

used this tradition ascribed to 'Urwa for dating purposes."[150]

The two parts of Motzki's concluding comments seem to mismatch, since on one hand he says that Ibn Lahī'a or Abū al-Aswad added elements to Zuhrī's version, while on the other he warns against hasty conclusions about their version unless we have versions of the tradition ascribed to 'Urwa.

At the end of the above discussion, his *isnād-cum-matn* analyses of the variety of traditions reporting the murder of Ibn Abī al-Ḥuqayq, it is observed that he is able to sift out very little information on this important event in the Prophet's life, and this is the historical kernel of the event in question according to him:

"...that the Prophet sent a few men under the command of 'Abd Allah b.

'Atīk to Abū Rāfi' b. Abī l-Ḥuqayq who lived outside Medina in order to

kill him. The assassin (or assassins) had to ascend to his appartment and

when descending he or another man missed a step and hurt his foot. They

did not leave until the death of the victim had been verified."[151]

However, the evaluation of his analyses carried out in the previous sections pointed out the many inaccuracies in his own approach to traditions, like magnifying otherwise insignificant natural differences among text variants, and

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[150] Ibid. 224.

[151] Motzki, "The Murder of Ibn Abī l-Ḥuqayq: On the Origin and Reliability of some *MAghāzī*-Reports," in *Biography,* ed. Motzki, 232.

ignoring the fact that biographies of narrators carry much more significance for historical research than meets the eye.

B   *Zakāt al-Fiṭr* Traditions

Motzki's examination of the texts (*mutūn*) of the *Zakāt al-Fiṭr* tradition is preceded by an analysis of Juynboll's *insād* centric study on it. He probably had knowledge of the variants of this tradition, but did not mention its text variants and had concentrated upon its *isnāds* alone. Such as *insād* centric approach is problematic according to Motzki since it seems to imply that there was 'one' text carried forth by different *isnāds*. Juynboll did so because he considered the text variants to be forgeries by their transmitters and therefore unimportant for dating these traditions. Motzki however doesn't think that textual variations of 'one' tradition may be because of this only. He tells: "If reports are handed down from one generation to another, they are bound to change. These changes are, as everyone knows from everyday experience, most significant in the case of oral transmission."[152] He further comments that the distortions in content decrease the more the process of transmission is standardized...for instance by writing them down. Apparently, Motzki is not outright accusing transmitters of forgery but saying that differences do appear when anything is transmitted especially orally, hints towards it. Still, his definitive statement above '...bound to change' seems unjustified in itself since it puts a negative sign to all transmissions oral. Of course there is a possibility of variations in everything conveyed, and in *Ḥadīth* it

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[152] Motzki, *Analysing*, 91.

happened often, yet it remains a possibility. For example, the care with which Qur'ān was conveyed to successive generations in an oral form deserves mention here. Its text has been carried forth orally as well as in written form and has remained identical over centuries. Audition in fact has it uses and merits and sometimes its validity goes beyond that of the written text. So, sweeping statements here don't reflect the truth, unless supported by concrete evidence. In one of its illustrations, Ibn Ṣalāḥ mentions the case of misreading in a text and tells that it happens when a text is taken from the source by someone in written form without confirming it by audition. Similar words may sometimes be confused as a result of this,[153] something which should be clarified by audition. Thus, methodologically viewing transmissions as oral/written doesn't seem appropriate here, but more importantly the motives behind preservation of texts, mental abilities and strength or weakness, and the honesty or dishonesty of those who transmit it deserve to be considered among other things. Another consideration which supports the cause of audition is that most of the writings from the past which reached us as manuscripts had in fact started as oral transmissions and were noted down by one's students or disciples. Even such manuscripts- written transmissions- of the same book and coming from the same era may differ from one another. It probably refers to the abilities and approaches of those who transmitted them more than to their mode of transmission. Furthermore, a 'tradition' is a report of what the Prophet (peace be upon him) did, said and/or approved/disapproved, or his Companions and has held central for Muslims throughout their history, which is quite natural for a personality

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[153] Ibn al-Ṣalāḥ, *The Muqaddimā,* tr. Eerik Dickinson, 201.

such as his. As mentioned before, different traditionists would transmit it in different ways, oral or written; word by word or in meaning, owing to differences in approaches and their abilities among other things and does not imply changes but differences in transmitting the *Sunnah* in its above mentioned forms. So, the important thing is how well they reflect the *Sunnah* and that can be checked in two ways, namely checking out the transmitters qualitatively and quantitatively and then comparing the texts with others on the same issue with the goal to find their due place in the Islamic discourse. Thus to see things in isolation from their context is not expected to yield accurate results here.[154]

Coming to Motzki's *isnād* cum *matn* analysis of *Zakāt al-Fiṭr* tradition, the *isnād* and the *matn* analyses progress in tandem and in a more refined manner unlike his earlier *isnād* cum *matn* analysis of the reports about the murder of Ibn Abī al Ḥuqayq, whence he first analysed the *isnāds,* then the *matn* and later joined the results of the two analyses, one kind delving into another at the end in any case. Here, in the case of *Zakāt al-Fiṭr* tradition, the first step is to determine the 'point of reference' -the earliest available source where a tradition text under scrutiny starts with- which is Mālik's *Muaṭṭa'* according to Motzki here.[155] It comes to us in two well known versions, Shaibānī's and Yaḥyā's, the former being the earlier of the two, and is considered even by many a scholar among the Muslims as a primary source for later collections of *Ḥadīth.* The tradition under scrutiny is however not

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[154] See 97-100. Some of the examples already mentioned in the previous chapter also serve to illustrate this important point as do the subsequent pages.
[155] Motzki, *Analysing,* 91.

found in Shaibānī's and only in Yahyā's *Muatta'*. Motzki says that if one goes by Juynboll's instinct, the tradition was spread by Yahyā and doesn't go back to Mālik and later transmitters adduced false chains to it. Both these are conclusions reached at by Juynboll in haste and there may be other possible reasons for the presence of the *Zakāt* tradition in Yahyā's and its absence in Shaibānī's versions according to Motzki. It might be that Mālik lectured with incomplete notes in Shaibānī's time, while they became more complete later on, or Shaibānī may have well forgotten some parts of *Muatta'*. Here Motzki clearly rejects the *e-silentio* which had found support with Juynboll and Schacht.

The next step in Motzki's *matn* analysis of the *Zakāt* tradition constitutes analyses of other texts from Mālik and close to the one in *Muattā'*. One such early instance is found in Shāfi'ī's *Umm* who quotes it from Mālik: "Yahyā from Mālik from Nāfi' from 'Abd Allāh b. 'Umar that the Messenger of God imposed the breaking of the fast at Ramadān upon the people, [being] a *sā'* of barley for every free man or slave, male or female among the Muslims"[156] It is similar to the text in *Muattā'* but differs from the one attributed to Mālik in later collections of traditions, called by Motzki as 'canonical', as well as in a twelfth century A.H. exegesis of *Muatta'*- Zurqānī's *Sharh*- whence all the texts have: "...*sā'* of dates or a *sā'* of barley..."[157] The latter phrase appears in another place in Shāfi'ī's *Umm* too,[158] which is also an early treatise and Motzki wonders which the text that Mālik

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[156] Ibid. 94.
[157] Ibid.
[158] Ibid.

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transmitted was, keeping in view the variations. It seems to him that the omission in Yaḥyā's version of Mālik's *Muaṭṭa'* must be sought in an error in the transmission process which in all probability goes to Yaḥyā himself according to him. [159] Missing a word however does not necessarily constitute an error in transmission since other possible equally valid reasons may be given for such occurrences. Mālik, in the legal treatise *Al Mudawwanah* contextualizes the choice of items in *Zakāt al-Fiṭr* when he says that something which is dear in a region should be given for this charity, and gives the example of wheat for the people of Egypt and dates for the people of his own city- Madinah. [160] This doesn't mean that Mālik redacted traditions, but just that he may have been talking to people of different regions at different times, and mentioned only the item relevant for his audience-to avoid confusion among them- which Yaḥyā transmitted in his version of the *Muaṭṭa'*. An excellent, detailed discussion by Ibn Ṣalāḥ gives some other well needed possibilities on the issue of omission in text, the most important of which is the principle that one must differentiate between a scholar-transmitter and a one who is not a scholar. On word omissions, he comments that although one has to be careful with them, yet great credible scholars also did it, and if it doesn't affect the meaning nor the injunction, it is acceptable. [161] The matter of text additions which has been discussed in the first chapter also deserves to be considered here. [162]

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[159] Ibid.
[160] Mālik, *Al Mudawwana*, 464.
[161] Ibn Ṣalāḥ, *Muqaddimah*, 187-217.
[162] See 104.

All the above notwithstanding, errors did happen in transmission of traditions, as Ibn Ṣalāḥ also points out, and to confirm one on the part of a transmitter, one needs to view him critically for his strengths and weaknesses, and once his status is ascertained, the reasons for such omissions would become clearer. Coming to Yaḥyā b. Yaḥyā- who is held responsible for the error in text transmission by Motzki - one finds him to be a reliable enough personality according to biographers of traditionists. Al Dhahabī describes him as a great scholar with a merit unparalleled by any and when he went to Andalus people used to come to him for their needs and held him in great esteem. It is admitted that some people thought that Yaḥyā reported the chapters on *I'tikāf* indirectly-via Ziad Shabatūn- while the rest of *Muaṭṭa'* directly from Mālik[163] and that doesn't imply error in reporting. At this point, Motzki says: "Experts on the *Muwaṭṭa'* like Ibn 'Abd al-Barr pointed out several mistakes and *lapses calami* in Yaḥyā's version."[164] Even a casual reading of Ibn 'Abd al-Barr's comments about Yaḥyā's worth as a transmitter reveals that he was among the best of Mālik's students in accuracy in reporting and among the most uncompromising on points of disagreement among them; except for loss of clarity and slip of the pen (*lapsus calami*) at places of doubt.[165] As far as Yaḥyā's mistakes are concerned, a careful reading of Ibn 'Abd al-Barr's *Tamhīd* shows that while recognizing the merits of Yaḥyā's version of

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[163] Shams al Dīn Al Dhahabī, *Siyar A'lām al-Nubalā'*, (Al Resalah Publishers, Beirut: 1998), 10: 520-524.

[164] Motzki, *Analysing*, 94. Here he quotes from Ibn 'Abd al-Barr in Ibn Ḥajr al Asqlānī, *Tahdhīb*, 11: 301.

[165] Ibn 'Abd al Barr, *Al Tamhīd*, 10.

Muaṭṭa', in a few places he does find Yaḥyā to have missed in transmission[166] or

gives his own opinion against Yaḥyā's and uses a version by another transmitter

but such comments don't affect the veracity of the report under discussion here by

Yaḥyā since the difference between it and other reports is reconcilable. Yaḥyā

report can also be verified by the fact that others like Shāfiʿī also reported it in his

Umm. Motzki's comments about Yaḥyā thus seem a bit exaggerated here in the

light of Ibn ʿAbd al-Barr's own words of praise about him, and Shāfiʿī's attestation,

not to mention Mālik's own explanation in the *Mudawwanah*.[167]

Motzki moves on to analyze other transmitters of slightly different versions

of *Zakāt al-Fiṭr* tradition besides Mālik and following Juynboll's *isnād* diagrams,

considers the following five *isnād* bundles to be important ones (including those

containing Mālik as their common link). Along with Mālik's these are Mūsā b.

ʿUqbah's, ʿUbayd Allāh b. ʿUmar's, Ayyūb al Sakhtiyānī's, and Layth b. Saʿd's

isnād strands:

❖ Mūsā b. ʿUqbah narrated a tradition on *Zakāt al-Fiṭr* from Nāfiʿ which is

shorter than Mālik's aforementioned report. It first appeared in ʿAbd al-

Razzāq's *Muṣannaf* via Mūsā- Nāfiʿ- b. ʿUmar *isnād* and tells that Allah's

Messenger (peace be upon him) ordered the alms of breaking the fast before

the people went out to the place of prayer.[168] When compared to Mālik's

report on *Zakāt al-Fiṭr*, Mūsā's is brief and lacks in details like who has to

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[166] Ibid. 10.
[167] Mālik, *Mudawwanah*, 2:118-119.
[168] Motzki, *Analysing*, 99.

pay the alms and according to which measure? Motzki starts with a

rejection[169] of Juynboll's idea that it was constructed after Mālik's tradition

as its model because he had thought that "Mālik's juridical expertise and his

concise, finely-chiseled legal parlance in these *mutūn* eventually acquired

widespread fame."[170] Had it been a fabrication, the narrators could have

easily taken Mālik's *matn* and pasted their own concocted *isnāds* to it,

which doesn't seem to be the case here according to Motzki, since the text

is very different from Mālik's and it seems improbable that on the one hand

it may be modeled on Mālik's text while on the other it clearly deviates

from it.

Here Motzki also compares the five text variants coming from

different narrators of Mūsā b. 'Uqbah's tradition mentioned above. Four out

of five of these versions appear close enough to Motzki since the text varies

little among them but he finds Ibn Abī Zinād's report from Mūsā which is

to be found in Tirmidhī's collection differing considerably from all other

Mūsā versions. A change of tense occurs from "*amara...*" in other versions

to "*kāna ya'muru...*" making the text suffer severely according to Motzki.

Still a graver corruption according to him is "*bi-ikhrāji zakāti qabla al-

ghuduwwi li-l-ṣalāti yawma al-fiṭr*" instead of "*bi-zakāti l-fiṭri qabla

khurūji l-nāsi l-ṣalāh*"[171] and he doesn't give here any sound reason for his

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[169] Ibid. 99.

[170] Juynboll, "Nāfi', the *Mawlā* of ibn 'Umar", 237.

[171] Motzki, *Analysing,* 101; Tirmidhī, "Al Jāmi'," in *Al-Kutub al-Sitta,* 1713.

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claim of corruption and what constitutes that. Moreover, a look at the section on *Zakāt al-Fiṭr* in Tirmidhī's *Jāmi'* is enough to clarify Motzki's confusion here, where the given traditions vary in details but never tend to contradict each other, thus clearly reporting the same *Sunnah* of the Prophet (peace be upon him) as reported by his different Companions to their subsequent audience in varying levels of detail, everyone in one's own individual manner and till these found their place in different *Ḥadīth* collections. Sezgin mentions eight methods of *Ḥadīth* transmission in *Geschichte*.[172] Among them is usage of the word *'an* (from) as different from *akhbaranī* (he informed me) when mentioning one's source, the former of which is used in the variants of the *Zakāt al-Fiṭr* tradition and conveying the Companion Ibn 'Umar's statement-that the Prophet (peace be upon him) commanded the payment of *'Īd al-Fiṭr* alms- in his words and without corruption.

To sum it up, Motzki thinks that Mūsā's version of *Zakāt al-Fiṭr* tradition is distinctive and does not seem to have been modeled over Mālik's version. Mūsā may well have been the source of the *matn* of his version and therefore a genuine common link according to Motzki.

❖ The *matn* of 'Ubayd Allāh b. 'Umar's report is found in different collections like the *Muṣannaf*s of 'Abd al-Razzāq and Ibn Abī Shaibah. These versions are different from one another and from Mālik's version in some of their

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[172] Sezgin, *Geschichte,* 1:55-60.

details, one transmitter using one word and the other another, like *amara bi* and *faraḍa* both signifying obligation, and *sadaqa* and *zakāh,* both meaning alms. According to Motzki its *matn* seems independent from Mālik's version because of these differences.

Ayyūb al-Sakhtiyānī's report about the Prophetic injunction on *Zakāt al-Fiṭr* which appears in 'Abd al-Razzāq's *Muṣannaf* is very similar to Mālik's version according to Motzki. In another collection, his report is quite brief as well as having some word differences, like using the word *qāla* in place of *faraḍa* or *amara* which are found in other reports.[173] *Qāla* signifies that the Prophet (peace be upon him) said what comes after. Other differences also appear in the texts of other reports containing Ayyūb in their *isnāds.* Motzki thinks that these are not modeled over Mālik's tradition since they don't have the latter's characteristic words like *'ala al Nās* and *min al Muslimīn.* Motzki thinks that the common features of Ayyūb's and Mālik's texts do not necessarily suggest interdependence- and there is no need to suggest it here- but they may have been caused by 'dependence on a common source'[174] and which that source is, he doesn't tell.

Regarding interdependence, Motzki's principle is postulated by him thus: "If one wishes to assume an interdependence of the two traditions of texts, it makes more sense to postulate that the Ayyūb *matn* was the model for Mālik rather than the other way around since Mālik's *matn* is more

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[173] Motzki, *Analysing,* 105-106.
[174] Ibid. 107.

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detailed and precise."[175] It clearly implies that texts developed over time and became more detailed and precise, a point on which one can't easily agree with him. Of course, many religious texts were developed over the ages till they became finely polished and refined, but such is not the case with *Ḥadīth*. The Bible is sometimes compared to it[176] since they both report the life and times of Christ and Muhammad (peace be upon them) respectively, yet unlike the Bible, *Ḥadīth* were not canonized by its mainstream scholars; they were instead collected, analysed, classified, and published[177] and all discussion among the *Ḥadīth* scientists revolved around separating the authentic from the spurious, and not improving upon the texts nor merging the variants to form 'canonized *Ḥadīth* collections.' Coming to Mālik, different people reported traditions which appear less refined and briefer than his reports of the same, not just before him but after him as well. As before, what matters is the traditionist's approach to reporting and not whether the report is detailed or otherwise, and in fact sometimes detailed versions are redactions or forgeries. In any case, accepting Motzki's comment would be tantamount to accepting that later texts are probably 'improved upon' the older ones, which doesn't seem plausible here.

❖ Layth ibn Saʿd is the fifth transmitter of *Zakāt al-Fiṭr* tradition discussed by Motzki, and his version appears in Muslim's as well as Ibn Māja's

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[175] Ibid. 107.

[176] Wilfred Cantwell Smith, *What is Scripture?* (Minneapolis: Fortress Press, 2005), 46.

[177] Sezgin, *Geschichte*, 55.

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collections. It doesn't mention the group of persons for whom the order is obligatory, a feature separating it from the versions of Mālik, 'Ubayd Allāh, and Ayyūb.[178] Motzki finds Layth's version as individual and distinctive as the other versions mentioned above and rules out dependence of this version upon Mālik's for the same reason mentioned by him in the case of Ayyūb's version mentioned above.[179]

Having discussed the five most frequently occurring and important versions of the *Zakāt al-Fiṭr* tradition coming from Nāfi' - b. 'Umar chain, Motzki comes to three others which he finds to be less frequent in their occurrence, but nonetheless important for a comprehensive study of the *Zakāt al-Fiṭr* tradition. These are the versions of Ayyūb b. Mūsā, Ibn Abī Laylā, and 'Abd Allāh b. 'Umar.

The first one, by Ayyūb ibn Mūsā, appears in 'Abd al-Razzāq's *Muṣannaf* via Ibn Jurayj - Ayyūb - Nāfi', and is almost identical to Layth's version discussed above. Motzki thinks that Juynboll would probably say: 'Abd al-Razzāq copied the text from one of Layth's pupils or from Layth himself, but not wanting to admit this, fabricated his own *isnād* to support the tradition.[180] This he doesn't find plausible since there appears to be no reason why 'Abd al-Razzāq would choose Layth's tradition when there were much more detailed ones at his disposal and also points out that 'Abd al-Razzāq's *Muṣannaf* contains a number of traditions by Layth which makes Juynboll's supposed comments implausible. Motzki concludes

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[178] Motzki, *Analysing,* 107-108.
[179] Ibid. 108.
[180] Ibid. 109.

that 'Abd al-Razzāq was not a forger of the tradition under discussion. What Juynboll 'would have said' is not so important here as what Motzki gives in support of genuineness of Ayyūb's report under discussion here, since understanding the latter's approach to tradition-texts is the current chapter's primary concern.

Next, Motzki tells that since Ibn Jurayj - who transmitted the text from Ayyūb - is a generation older than Layth (d. 175 A.H.), his version can hardly go back to Layth. Thus, either Layth's version depends upon Ayyūb's or both depend on a common source- Nāfi', Motzki thinks, and concludes that it is not possible to decide in favour of either possibility without including more texts in the comparison.[181] To the fact that both Layth and Ayyūb are reported to have reported from Nāfi' may be added another, that Layth also reported from Ayyūb.[182] It shows his honesty and it would leave little charm for him in taking a tradition from Ayyūb and pasting his own name in place of the real reporter, a point missed by Motzki here. It also deserves to be noted that they are both considered as trustworthy and truthful by *Hadīth* scientists. Layth's report from Nāfi' is also considered quite reliable.[183] It seems strange that Motzki, who relies upon Ibn Hajar's *Tahdhīb* at other places, doesn't even mention the many attestations by numerous *Hādīth*

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[181] Ibid. 110.

[182] Muslim, "Saḥīḥ," in *Al-Kutub al-Sitta,* 1710, 1913; Abū Dawūd "Sunan," in *Al-Kutub al-Sitta,* 870; Muhammad b. Naṣr al Marwazī, *Al-Sunna,* ed. Sālim Aḥmad (Beirut: *Mu'assa al-Kutub al-Thaqāfiyya,* 1408 A.H.), 79; Abū Jaʻfar al-Ṭaḥāwī, *Sharḥ Mushkil al-Āthār,* ed. Shʻuaib al-Arnaʼwūṭ (np.: Muʼassa al-Risāla, 1415 A.H.), 3:75,81, 176, 6: 82, 15: 208; Sulaimān b. Aḥmad al-Ṭabarānī, *Al-Muʻjam al-Kabīr,* ed. Ḥamdī b. 'Abd al-Majīd (Cairo: *Maktaba Ibn Taimiyyah,* 1415 A.H.), 6: 267. Different traditions are reported in these collections from different sources, all containing the 'Al Layth- Ayyūb' string.

[183] for Layth ibn Saʻd. Ibn Ḥajr, *Tahdhīb* (8: 461); ibid. 1: 412-3, for Ayyūb.

scientists reported in it and attesting to Layth's integrity as a *Ḥadīth* transmitter. Moreover, as Layth himself was quite the Egyptian jurist of the second century A.H. and one of the most well known traditionists of his time, there seems little reason to accept that he would need to invent a tradition in the first place or would have gotten away with it so easily. It therefore is safe enough to say that Layth's version of the *Zakāt al-Fiṭr* tradition probably came from Nāfi' and not Ayyūb, whose version too seems to have come from the same source.

'Abd al-Razzāq's *Muṣannaf* contains a slightly different report of the *Zakāt al-Fiṭr* tradition from Ibn Abī Laylā. Motzki rejects any probability of forgery on the part of 'Abd al-Razzāq and attributes the version to Ibn Abī Laylā.

'Abd Allāh b. 'Umar also reports the *Zakat al-Fiṭr* tradition which Motzki compares to his brother's, 'Ubayd Allāh and finds out to be different but close. 'Abd Allāh's version mentions six categories of persons who are asked to pay the alms. Two of these "a minor and an adult" had earlier been considered by Motzki as typical of 'Ubayd Allāh. 'Abd al-Razzāq writes in his *Muṣannaf* that he took the 'Abd Allāh text from Ma'mar and tells that it is similar to 'Ubayd Allāh's text without quoting the former. Motzki mentions that if this comment were taken literally, then it would mean that the former's text was originally identical to the latter, which in turn would imply that other transmitters expanded it to the version in Aḥmad's *Musnad*. Motzki says:

> "the phrase '*mithla ḥadīth 'Ubayd Allāh*' may, but need not refer to a *word-for-word* correspondence of the texts. Here it can only denote similarity, since the text of 'Ubayd Allāh (as given by 'Abd al-Razzāq) is

in any case a hybrid containing elements of Ibn Abī Laylā's version. Therefore, 'Abd al-Razzāq's remark about the tradition of 'Abd Allāh tells us nothing about the original wording of the text."[184]

In his analysis of Ibn Abī Laylā's version, Motzki's comment however seems to be diametrically opposed to this: "The fact that the tradition of Ibn Abī Laylā is not just a copy of the 'Ubayd Allāh-*matn* but rather an independent tradition..."[185] The claim that 'Ubayd Allāh's version is a hybrid of Ibn Abī Laylā's, seems to be an exaggeration here since Motzki had himself concluded in his analysis of 'Ubayd Allāh's version that it had its distinctive features and was distinct from Mālik's version, and did not point out that it was a hybrid.[186]

Finally, 'Abd Allāh's version appears to Motzki as a combination or a hybrid of 'Ubayd Allāh's version and that of Mālik's, since it shares features of the both.[187] Whether a variant can be labeled as a hybrid since it has characteristic elements found in older, more reliable versions of a *Hadīth*, is a claim which demands a deeper insight into its transmission process and it doesn't seem very probable on its own since all variants have common elements with variations here and there, otherwise they would be altogether different traditions. An equally valid possibility is that different reporters reported from the same source- Nāfi' thus resulting in similarities among variants. Motzki's use of 'characteristic' words like *amara* or *faraḍa* is also debatable since both denote obligation and are quite

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[184] Motzki, *Analysing*, 112.
[185] Ibid. 110-111.
[186] Ibid. 101-104.
[187] Ibid. 113.

common words in Arabic, used interchangeably commonly. An equally probable explanation for similarities in 'characteristic' elements would be that they have a common source- Nāfiʿ- who might have used different synonyms at different times while instructing different audiences in matters of religion. One also needs to examine the persons alleged with creating the 'hybrid version' to see who among them had a known tendency of such behavior or didn't have. Here Motzki alleges that either ʿAbd Allah or his reporter Surayj is responsible for creating this version.[188] Upon checking Surayj, one finds him to be strong and reliable in his *Hadīth* transmission and most of the important collections of traditions report from him without hesitation.[189] Regarding ʿAbd Allah, some prominent scholars like al-Ḥākim, Bukhārī and Tirmidhī did not consider him to be careful enough in reporting.[190] So, the tradition's *isnād* is weak owing to ʿAbd Allah's weakness, yet many other transmitters have also reported its text in slightly different wording, therefore it remains valid.[191]

Harald Motzki also discusses three secondary reporters of the *Zakāt al-Fiṭr* tradition like al-Ḍaḥḥāk, ʿUmar b. Nāfiʿ, and Ibn Abī Rawwād, whose reports appear in the collections with the least frequency of all its versions. Two versions of the *Zakāt al-Fiṭr* tradition-one short and the other long- are reported from al-Ḍaḥḥāk in Muslim's and Ibn Abī Shaybah's *Hadīth* collections. Both have similarities with other variants of the tradition under question and Motzki finds the

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[188] Ibid. 113.

[189] Ibn Ḥajar, *Tahdhīb,* 3: 457.

[190] Ibid. 5: 326-328.

[191] Aḥmad ibn Ḥanbal, *Musnad,* ed. Shuʿaib al-Arnuʾwūṭ (np.: Muʾassat al Risāla, 2001),10: 164.

shorter one to be independent of Ayyūb b. Mūsā's and Layth's versions although it uses the the *amara-* which is characteristic of them- because it lacks their additional comment by Ibn 'Umar. The longer version is similar to 'Abd Allah's version- a forged hybrid according to Motzki - since "it combines several elements of texts which are found in a number of different *matn*-traditions."[192] So, Motzki thinks that the longer version is not coming from Ḍaḥḥāk, but a creation of the transmitter Ibn Abī Fudayk, who is immediately after him in the *isnād*.[193] He is considered as a reliable transmitter by Ibn Ma'īn, Nasā'ī, and Ibn Ḥibbān among others, and many scholars have reported from him including Shāfi'ī.[194] Such attestations weaken Motzki's hypothesis that he was a forger, especially since his principle: it combines several elements of texts which are found in a number of different *matn*-traditions, too is weak in its applicability to *Ḥadīth*.[195] So, al-Ḍaḥḥāk's version seems to be just another narration of the *Zakāt al-Fiṭr* tradition by a traditionist.

'Umar bin Nāfi' 's version of the *Zakāt al-Fiṭr* tradition is almost the same as Mālik's and Motzki thinks that the latter version probably served as model for

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[192] Motzki, *Analysing,* 114.

[193] Ibid. 114.

[194] Ibn Ḥajar, *Tahdhīb,* 9:61.

[195] One may expect the principle to be applicable to books which are clearly known to have been redacted into one authorized, canonical version where elements 'characteristic' of persons, time and space are found in them, and to find the oldest version is the goal of the scholar studying them. An example is the Bible, whose versions were authorized by the Church after redaction and modern day biblical scholars try to sift out its source from the available material. But such a principle is not generally applicable to *Ḥadīth,* which was never canonized by any mainstream Muslim religious authority nor an institution. Motzki's principle is quite out of the context here and is another example of a faulty view of *Ḥadīth* whence he alleges of 'attempts' to construct texts by traditionists out of older ones to lend them authority. Mainstream Muslim scholarship on *Ḥadīth* has never tried this, and had they done it, they would have tried to hide their fabrications by presenting just 'authorised-canonised' versions and hiding or destroying the others.

the former. Also, 'Umar's version has elements 'characteristic' of some other versions like al-Ḍaḥḥāk's and Mūsā b. 'Uqbah's, and added to this is the fact that the latter's *matn* is even attached to 'Umar's version. Motzki thinks that this points to "an attempt to construct the text of 'Umar b. Nāfiʿ as a single version of all Nāfiʿ-traditions which would be as complete as possible."[196] The absurdity with such an idea as Motzki's here has been mentioned earlier and it would be redundant to mention it again and again. Here Motzki also says that a third century A.H. scholar Muḥammad b. Jaḥdam- who must have been quite active as a scholar then- is a likely candidate for this text amalgam and oddly enough, Ibn Ḥajar- who is cited by Motzki as his source of information here-[197] writes that he was considered as a truthful and reliable person by scholars like Abū Zurʿā and Ibn Ḥibbān.[198] The reason for Motzki's allegation on Ibn Jaḥdam seems out of place here, not to mention his other claims against 'Umar's version.

The last version of the *Zakāt al-Fiṭr* tradition discussed by Harald Motzki is Ibn Abī Rawwād's from Nāfiʿ. It appears in Abū Dāwūd's collection only and is different from the other traditions in that it narrates common practice of the Companions in the time of the Prophet Muḥammad (peace be upon him) regarding alms on the day of *'Īd al-Fiṭr*. Motzki finds it to be a case of elements which do not belong to the *Nāfiʿ b. 'Umar* transmission feeding into the *Nāfiʿ* context,[199] since it doesn't have the characteristics of that transmission. He then links it to another

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[196] Motzki, *Analysing*, 115.
[197] Ibid. 115. He cites from Ibn Ḥajar, *Tahdhīb*, 9: 100.
[198] Ibn Ḥajar, *Tahdhīb*, 9: 100.
[199] Motzki, *Analysing*, 115.

tradition, by the Companion Abū Saʻīd al-Khudrī who comments that they used to bring the alms...in the time of the Prophet (peace be upon him).[200] Motzki concludes that the Ibn Abī Rawwād text is either a forgery or an error and thinks that he himself was responsible for it. He vindicates Abū Dāwūd from this forgery/error because the collectors of the 3rd century A.H. and their pupils knew the two textual traditions too well for anyone to have been able to do it.[201] There are two problems with Motzki's conclusion here. The first problem -as with the last example above- is that Motzki takes his information about Ibn Abī Rawwād from Ibn Ḥajar incompletely since he ignores the part where Ibn Ḥajar mentions renowned *Hadīth* scientists like Ibn Jurayj, Ibn Maʼīn, Nasāʼī, Yaḥyā al-Qaṭṭān, al-Ḥākīm, Aḥmad, and others praising Ibn Abī Rawwād for his piety and consider him to be reliable.[202] Considering a couple of negative comments,[203] error is not out of question but the positive comments seem to be overwhelming here.[204] The second problem with Motzki's conclusion is his over-emphasis on his theory of 'characteristic elements' in *Hadīth* versions which sometimes ignores context and gives a false impression that forging amalgams of traditions was routine among Muslims before the third century A.H. In fact, elements characteristic of one report are commonly found in other reporters' versions of the same tradition mainly because they have a common source and represent the same incident. Therefore a

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[200] Ibid. 116.

[201] Ibid. 116.

[202] Ibn Ḥajar, *Tahdhīb*, 6:338-339.

[203] Ibid.

[204] Badr al-Dīn al-ʻAinī, *Sharḥ Sunan abi Dāwūd*, ed. Khalid b. Ibrāhīm (Riyadh: Maktaba al Rushd, 1999), 6: 329.

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much clearer approach to Ibn Abī Rawwād's version of *Zakāt al-Fiṭr* tradition would be that he was reporting Ibn 'Umar's memories of the Prophet's times as he recalled them from Nāfi' which need not include all the details given by others who reported the same from Nāfi' as long as they doesn't negate any other version of the traditions about *Zakāt al-Fiṭr* and it may be considered as a part of traditions about this obligatory part of the annual Muslim festival *'Īd al-Fiṭr.*

As it is the case with other tradition complexes, the traditions about *Zakāt al-Fiṭr* also vary in detail as well as textual accuracy. The preserved *isnāds* also vary in strength. All this owes to the fact that different people report the same event over a spectrum of detail and quality, cumulatively giving a complete picture of the Prophet's life and times, which has been carried forth by the subsequent generations of Prophet's biographers and traditionists. In brief, a tradition transmitted by weak or unreliable people should be taken to be generally weak, while one transmitted by reliable people as generally reliable and it turns out that ascertaining the quality of a transmission lies primarily in knowing its transmitters, while also staying alert against any irresolvable contradictions in text variants.[205] However, one should not generalize the above comments on Harald Motzki's *isnād* cum *matn* analysis of the *Zakāt al-Fiṭr Ḥadīth* complex without comparing its results to his *isnād* cum *matn* analysis of previously analysed tradition complexes. It would serve towards relating these into a systematic affirmation or rejection of these comments, and this takes the present chapter to its end.

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[205] This two pronged approach also constitutes classical Muslim *Ḥadīth* sciences and usually offers a reliable way to ascertain a tradition's quality.

Generally what appears to the researcher here is that although Motzki has put a great amount of effort into his *isnād* cum *matn* approach to *Ḥadīth* case studies, yet his sweeping statements discussed in these case studies are what define his approach to traditions and they seem to mar the reach of his efforts. His approach would become clearer in the following pages where it is compared to Joseph Schacht's generalizing approach to *Ḥadīth* whose pivotal claims like the *e-silentio* were rejected by Motzki.

Chapter 3: Comparison between the Methods of Joseph Schacht and Harald Motzki in their Study of *Ḥadīth*

The previous chapters of this research looked at the methods of two of the most important modern day western scholars of *Ḥadīth*, namely J. Schacht's and H. Motzki's, and the way they blend in with the classical and modern discourses on the subject. As it was discussed there, that while Schacht drew from his western predecessors' theories on *Fiqh* like Goldziher's and came up with a greater skepticism against the genuineness of *Ḥadīth* texts, Motzki outright rejected their paradigm in the *Origins,* his first major study on *Ḥadīth* and *Fiqh,* and tried to develop his own approach on the subject.

The current chapter looks at the approaches of Joseph Schacht and Harald Motzki side by side in an attempt to highlight their points of departure as well as those where they may be in accord, thus trying to draw a panorama of modern western *Ḥadīth* studies. Knowing the origins of *Ḥadīth* through an in-depth study of its texts and their *isnāds* seems to be the prime motive with these scholars beyond which they march on their own paths, meeting at places and disagreeing at others. While Motzki clearly rejects some of his predecessor's basic ideas they are closer to one another in their conclusions than meets the eye, and in other words it may mean that their approaches are closely enough knit that their common features overwhelm their differences which results in all roads leading to Rome. In order to test this claim, one should start with a look at the similarity in their goals, take on the differences and the similarities in their approaches and move on to the similarities and differences in their conclusions, to see how one delves into the other. This way, it would become clear how starting with similar goals, different people take different paths, meeting

at some places and coming up with similar conclusions. The following points give further insight into the methods of Schacht and Motzki:

Differences between Schacht's and Motzki's Approaches:

Different Environments and their Effects on the Studies on *Ḥadīth*:

Ḥadīth texts have been studied in the west mostly with two given goals: to find the oldest texts and to date them, which both Joseph Schacht and Harald Motzki have considered as among the *raison d'être* of their studies on the subject. Although Schacht and Motzki share the two above-mentioned goals like most others in the west, Motzki tries to achieve them differently from his predecessor since they grew up in different environments and with different mindsets. Schacht grew up in an environment where a well developed greater skepticism against *Ḥadīth* existed and it saw its epitome with his rejection of all legal and historical *Ḥadīth* as having any genuineness, while Motzki grew up and the western academia was already reviewing Schacht's ideas on the subject.

Schacht's inspiration for studying the origins of Islam came from the legacies of personalities like von Kramer's, Lammens', Becker's, Caetani's, Goldziher's and Hurgronje's. All of them had at least one thing in common: the claim that a major portion of *Ḥadīth* was not rightly from the Prophet Muḥammad (peace be upon him), but a product of later generations of Muslims. Still they were probably not sure enough to deny a verifiable kernel of Prophetic material in it. Standing on the foundations provided by his above-mentioned teachers, Joseph Schacht was able to take their skepticism up one notch and afford making the claim that all legal and historical *Ḥadīth* were fake. Realizing that *Fiqh* is traditionally believed by Muslims to be based upon Qur'ān and *Ḥadīth*, he then

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gave theories on how it had been formulated by early Muslim jurists, taking inspiration from the Romans whose lands Muslims had conquered.

Even during Schacht's lifetime, people from east and west had started to reject his theories in different ways. Ansari, Azami and Abbott rejected Schacht's basic claims quite early on and may be called as among the first ones to have done so academically. Among the others who did so were Juynboll and Burton, agreeing with Schacht on things and yet challenging his complete rejection of traditions. Watt is another scholar who also didn't completely agree with such a rejectionist attitude as Schacht's.[1] The spectrum of views on the origins of Islam that appeared after Schacht's *Origins* had its effect upon late twentieth century *Ḥadīth* scholarship and there appeared a new generation of western academicians like Motzki, Hallaq and Schoeler who critically reviewed Schacht's paradigm on the origins of Islam, coming up with their own conclusions on how it came about. The environment in which Motzki grew up has had its effect upon his study of *Ḥadīth* which has a different outlook on the subject from the fifty years plus old paradigm. These scholars also stressed more upon case studies instead of generalizations reminiscent of their predecessors.

The Paradigm:

The feature of Schacht's approach to *Ḥadīth* texts that strikes a reader at first is his preliminary theorization on how these texts came into being at the hands of the second century A.H. jurists, in support of their doctrines. He deduced it from his 'argument from

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[1] Watt, *Muhammad at Mecca,* p. xiii. Here he doesn't agree with Schacht on his rejection of all historical traditions as fabricated.

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silence' or the *e-silentio* which states that if a *Ḥadīth* text was not explicitly a part of a legal discussion in early second century A.H. it was so because it wasn't there in the first place, and appeared with the jurists later on when it appeared in their discussions. Referring to numerous examples mainly from Shāfiʿī's juristic treatise- the *Umm*- where relevant *Aḥādīth* were not cited by jurists, he concluded that *Ḥadīth* did not form a part of legal discussions at the juncture of first and second Islamic centuries. Schacht also suggested that all legal *Ḥadīth* was invented by the jurists of the time at their Caliphs' behest and therefore forged. With these glasses on, he studied yet another array of traditions, and all these together confirmed to him his *e-silentio* based claim. So, methodologically, Schacht started with theorization and looked at the mass of texts in context of these theories. Having once decided that these texts were all forged, Schacht had no more any interest in digging deeper into history for a genuine core of text. These texts then don't appear to have been studied in a proper context by him and his study can't be called an independent one.

Harald Motzki challenged such an attitude as Schacht's towards *Ḥadīth* texts by rejecting the *e-silentio*'s admissibility thereby its applicability on it. Having rejected it, he also analyzed *Ḥadīth* texts in his early major work on the subject of *Ḥadīth* and *Fiqh,* where he took the example of 'Abd al-Razzāq's *Muṣannaf* -a collection of *Aḥādīth*- and showed that it contained traditions from the first century A.H., also those of a legal nature. Here also he studied *Ḥadīth* and *Fiqh* in each other's context and concluded from his analyses of legal discussions between 'Aṭā' and Ibn Jurayj- the first century A.H. jurists/traditionists- that they were not detached from *Ḥadīth*, thus showing its existence then. His later studies however mainly comprise of in-depth *Ḥadīth* case studies where he

applied his *isnād* cum *matn* analysis, yet some generalized theorization seeped in there as well.

Historical Criticism:

Historical criticism is the method of choice with both Joseph Schacht and Harald Motzki, who try to analyze these historical documents critically in the quest for their source by way of tracking the history of these texts backwards from collections from the second century A.H. onwards. While Schacht remains pre-occupied with proving these texts to be forgeries, Motzki tries to find the oldest genuine core texts and sometimes goes till the middle of the first century A.H. with that genuine core. Since his method doesn't take him further back into history, he stops there with that core but with more positive results. He may be considered among the pioneer western scholars who whole-heartedly endeavored towards finding out the original *Hadīth* texts, while most of his predecessors were following Schacht's way. So, Motzki's purer textual criticism is his stronger point, while Schacht did it in a very limited theoretical framework, with an adverse outcome. This framework is built around his argument from silence which is at the core of his works.

Historical documents need to be looked at with an imagination for history and this aspect seems quite weak in Schacht's history of Islamic origins. Motzki in comparison shows his historical imagination especially in his *Origins*. Still, much needs to be desired in terms of historical imagination in his more recent studies, for example, because of his occasional sweeping theorizations on the nature of traditions.

The Text and its Carrier:

Beyond the *e-silentio* and its rejection by Motzki among others, a major difference between the approaches of the two scholars is that while Schacht considered not only the

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texts but their carriers as well to have been forged by Muslim academia from second century A.H. for worldly gain, examined the text or *matn* and the carrier or *isnād* and clearly rejected them any genuineness whatsoever. Out of the two, Schacht considered the *isnāds* as the more arbitrary and thought that they had been put together quite carelessly.[2] In one of his later studies Motzki rejected such an approach to *Hadīth* and developed his own, called the *isnād* cum *matn* analysis where both the text and its carrier are discussed. It is probably because the *isnāds* do have historical worth with Motzki, as he uses them for dating purposes. While the person (or somebody using his name) after whom an *isnād* branches out-its common link- was considered by Schacht as the inventor of the tradition attached to it as well as itself, for Motzki it was the first person who formally spread it. He has some common links among Successors like Nāfi', which is also strikingly different from Schacht and Juynboll who considered the common links to have from the second century A.H. Still, Motzki considers the part beyond the common link as uncertain and its history hypothetical and yet it can't be ruled out that it contains a genuine kernel nor that it was all invented by the common link.[3] A possible reason for this uncertainty as compared to Motzki's confidence in the part of the *isnāds* after the common link is his reliance on Juynboll's plotting approach of the *isnāds*, unlike the *matn* where he is probably more independent than many other western scholars. This dependence lies in the process of arranging the *isnāds* and identifying the common links through the latter's diagramming technique, plus the notion that the part before them is different from the one after. Once the common link and the partial common links are identified, Motzki tends to divide the

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[2] Schacht, *Origins,* 163.
[3] Motzki, Görke, Schoeler, "First Century Sources": 45

isnāds into the part before and the one after the common link, the latter being the more reliable part with him. It is noticed that while Schacht considers the common link as a forger, for Motzki he is responsible for variants in the text or the *isnāds* spread by him, whether by mistake or intentionally. An example of this is Zuhrī as the common link, as discussed in the previous chapter where Motzki finds him to be the cause of confusion in the *isnāds*. It means that while Schacht generally considered the second century A.H. jurists to be forgers, Motzki has some of those doubts to a lesser degree about people much closer to the Prophet's time. Whether these doubts stand historically or not lies in mapping the members of the *isnāds*, before the common link s well as after him. Secondly, it needs to be seen how these two parts of the *isnāds* are epistemologically different? While the west generally considers them to be quite different, Muslims may not think so and the current thesis shall consider this point in it conclusion. The part closer to the source may well be the stronger part of the *isnāds* than the farther part.

The Sources of Texts:

Schacht had made it a point to analyze *Hadīth* texts in support of his paradigm of its mass forgery by the early second century Muslim jurists and he selected them mainly from major legal treatises of that era. Motzki on the other hand would pick a tradition along with its variants and analyze the texts as well as their carriers, the *isnāds,* in detail. At the end, Motzki studied fewer traditions but those that he did, he would have their major and minor variants under the microscope, along with their *isnāds,* while Schacht's case is different; being selective and analyzing a much larger total number of traditions than his junior but probably without the finesse of going into all its variants that he could find.

Schacht's source selection is much wider than Motzki's who tries to dig deeper than the former.

Generalization of Results:

Last but not least is a difference between the two scholars which seems to disappear at times. While Schacht generalized his results and applied them to all legal and historical *Hadīth,* Motzki didn't approve of the idea and called for keeping the results for the specimens studied. He prefers case studies, as can be seen from his studies on the murder of Ibn Abī al-Ḥuqayq or the *Zakāt al-Fiṭr* traditions and tells that his remarks ought to be restricted to those cases. However some of his comments do appear to be generalized ones, like the one about traditions being subjective, or that the history of the part before the common link is not certain.

Similarities between Schacht's and Motzki's Approaches:

Backward-oriented Study of History:

The idea of historical studies with these scholars is oriented backwards, starting from the last transmitter and moving to the earliest, as the *isnāds* go. It is not however the direction in which history or historical documents actually moved since they never really move backwards, and this fact needs to be considered while studying history. Schacht tried to go back in time, starting from second century A.H. legal treatises and tradition collections and finds out that all legal and historical *Hadīth* was invented in the second century A.H. by the common links or someone using their names. Motzki also tries to trace back the footsteps of *Hadīth* transmitters in order to find the earliest texts confirmable and he too feels on shaky ground beyond the common links. The difference then between the two is that while Schacht clearly rejected that part of *isnāds* Motzki didn't clearly say so,

and while the former considered them to be inventors of traditions, for Motzki they were the first formal transmitters, redactors and sometimes the cause of serious flaws in transmission. By putting things in a certain context from the outset, Schacht had probably lost track of proper context of the history of *Hadīth*. While Motzki avoided hasty theorization in his early writings, his later writings show that he also tends to lose context partly because of his increasing skepticism, which made him increasingly unsure of the persons before the common link.

It is probably because both the scholars only tried to trace back the steps into history and when crossing the common links felt uneasy, without considering the direction in which history moves, forward that is. Whether history should be looked at backwards or forward is a question which would be answered in the conclusion of this research and it suffices here to say that seeing phenomena in their proper context demands that they be looked at the order in which history moves, forward that is. This is not tantamount to saying that tracing back the footsteps is improper and it has been the given order in the *isnāds*, but that it needs the support of forward history. Proper historical imagination also demands it in view of the researcher, since a historian has to be a part of the historical process that he is trying to observe since history is far from us and it can't come to us. Instead we have to try to go back to it in order to know what happened and to find positive links between today and the time when it happened. He has to go back to the time and place of events under study and move forward hand in hand with them as they move. It is expected that studying history in a combination of approaches would give better results than the back tracking approach employed by both the scholars.

Literalism:

Literalism is common feature in the approaches of both Schacht and Motzki that one cannot but notice, even if to varying degrees. Schacht's literal comparisons abound and are easily detectable, but Motzki's appear in his important recent writings like those on the traditions reporting the murder of Ibn Abī al-Ḥuqayq or those about *Zakāt al-Fiṭr*. Such an approach to historical documents notices even small naturally occurring differences in texts reporting the same event or set of events and tends to ignore the fact that they should be interpreted and at least some of the differences-apparent may disappear. Another important point is that it's natural for documents written for history to report the same event in different words and levels of details, the absence of which points out clearly to their organized redaction or even fabrication. For Motzki if one version of a tradition is detailed while another leaves some details out- a common feature of traditions- it shows that they are of a subjective nature and some of the transmitters added things to them. As a result of this, historical reality is not contained in them according to Motzki. Such a line of reasoning where if something is missing from an account and present in another it is a problem, seems to be turning into a quasi-*e-silentio* which he himself had rejected in his first major work on the subject, *the Origins*.

Inconsideration for Traditional Muslim *Ḥadīth* Discourse:

Last but not least is the fact that both Schacht and Motzki ignore traditional Muslim *Ḥadīth* scholarship to varying degrees. Being the people who had answered at least some of the basic questions raised by modern scholarship a millennium or more before, traditional Muslim scholars and their point of view does matter if one wants to develop an honest discourse on the subject. While Schacht introduced the 'common links' to the

modern western world, it was already present as 'madār', and while text additions had already been discussed by traditional *Hadīth* scientists, Schacht picked up the terms without sharing with his readers this millennium long legacy of Muslim *Hadīth* scholarship. Schacht analysed differences of opinion among the scholars and seems to have ignored the correct connotations of words like *tanwīr*, the spectrum of meanings which *wājib* carries, and the fact that 'pilgrim' was considered slightly differently by different Companions; and came up with negative results, although their interpretations had been given by traditionists long ago.

Motzki in turn ignores the fact that some short versions of the traditions reporting the murder of Ibn Abī al-Ḥuqayq are in indirect speech, or ignored a possibility that a hybrid staircase may have led to his quarters. While discussing transmitters, he was source-selective in a way that an unclear picture was painted about some of them. Such an attitude is also problematic since these scholars lose touch with history and its context which had been provided by those closer in time and space to those events- early Muslims that is- and deserve to be given a fair chance. These people are thus taken away from the proper context of events in the Prophet's life which requires of them to consider every bit of relevant information and as a result, their mapping of historical events which are closely interlaced loses its accuracy. So, if someone tries to re-enact historical events and ignores the efforts of those who had done it before, one can't really do it well, and the resultant history turns out to be absurd. History lies in creating a link with the past, which is possible only if the previously made links are considered since they are our link to it too.

Conclusion

The current research raised a few questions at its outset and in order to answer them, explored two modern western trends in the study of early history of Islam and the approach to its religious texts, the *Ḥadīth,* heralded by Joseph Schacht and Harald Motzki. They are in turn two of the most important modern western scholars on the subject, the former representing the epitome of the modern western *Ḥadīth* rejectionist trend while the latter representing the current western trend in *Ḥadīth* studies, called the *isnād* cum *matn* analysis. The findings of this research have been summarized in the following points:

❖ It has been observed that many modern western *Ḥadīth* studies approached the subject of *Ḥadīth* in the framework of *Fiqh* or Islamic jurisprudence, like Joseph Schacht. While the two relate to one another positively, the former being the latter's source, many such studies on *Ḥadīth* have had an inverted view of them. The outdated *e-silentio* argument was presented by Schacht in support of this view which tried to reduce early Islamic jurisprudence to a politically motivated enterprise and *Ḥadīth* a forgery by the second century A.H. jurists. It also painted an exaggerated scene of chaos and polemics among the early Muslim scholars. It was observed in the current research that such a conclusion as this is not well grounded and does little justice to the early history of Islam including *Ḥadīth* and *Fiqh.* While Schacht took this idea to its epitome and rejected all legal and historical *Ḥadīth* as forgeries, people were already disagreeing with him on this in his own lifetime and a spectrum of views appeared on the scene of contemporary *Ḥadīth* studies. Scholars like Ansari, Azami, Sibāʿī, Sezgin, Abbott, Fazlur Rahman, Lowry, Motzki, Hallaq, Juynboll and Coulson represent some of the major trends therein, ranging from those who invalidated his views to those who tried to revisit them to different degrees, respectively. It shows that while it was generally Muslims who rejected Schacht's method on academic grounds, western scholars like Abbott and others as well didn't agree with such a limited methodological framework as Schacht's and viewed *Ḥadīth* as largely genuine historical documents *per se* with their origins farther back than those Schacht had concluded to have been.

❖ Western scholars like Harald Motzki who tries to approach *Ḥadīth* as historical documents *per se* by use of his self-devised *isnād* cum *matn* analysis, at times also reach

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at conclusions about it similar to Schacht's. While the former had rejected the *e-silentio* in his early work, *Origins,* his later writings appear to be suggesting something close to it. A probable reason for this is his borrowings of some of the methodological principles from Schacht or those who followed him therein, like Motzki's *isnāds'* back tracking approach drawn from Juynboll's *isnād* mapping technique, and their similar views on the common link or *madār.* Variants of the *matn* or text of *Hadīth* which remain generally un-canonized nor standardized to date, at times are also seen in a very narrow skeptical framework by these scholars with adverse conclusions. The variants to them a cause of doubting the veracity of these texts, and literalism and a lack of context on their part are some of the causes of these problems in the researcher's view as is their inconsistency of method clearly visible with Schacht as well as Motzki and their respective followers.

❖ Many contemporary western studies on *Hadīth* discussed in the current work also try to evade an important consideration regarding its *isnāds* as well as the *matn,* namely the fact that it has been around for fourteen hundred odd years and has been meticulously preserved and its variants critically studied by Muslims themselves. Sound methods of *Hadīth* analysis and criticism were developed by early Muslim traditionists and Jurists in order to achieve a very important goal, which is to ascertain the worth of these traditions with respect to the quality of their link to their purported source, the Prophet (peace be upon him) or his Companions. Muslim *Hadīth* sciences have continually developed into one of the most advanced methods of historical inquiry into texts available today and while Sezgin's *Geschichte,* Azami's *Studies,* and Abbott's *Studies II* are such modern day writings which highlight this fact, yet many in the west ignore it and keep on trying to improve upon the less than two centuries old rejectionist western views of Islam and its sources. It is suggested that a historian should try to be a part of his subject of study by staying connected to it through those who were a part of it themselves as well as being its earliest observers, early Muslim *Hadīth* scholars in this case. Such an internalization is the building block of history in the researcher's view and involves both backward and forward tracing it so as to take everything relevant into account. The many examples discussed throughout the current research elucidate these points.

❖ It is also observed that *Hadīth* as a unique religious text has generally been misunderstood in the modern western studies on the subject, with some exceptions. Their

carriers or *isnāds* attached to them, *Hadīth* texts are quite different from other historical documents that we come across, and should be studied differently from those documents which have just their texts available for an academic study. While most western scholars of *Hadīth* have approached it either by way of its text or *matn* like Schacht who outright rejected the historical worth of its chain or *isnād,* and ended up rejecting the genuineness of *matn* as well; or vice versa like Juynboll who tried to date them by their chains or *isnāds* alone and concluded that they were forgeries; few like Motzki view it through both its *isnād* and *matn.* Although this seems plausible, he and those who follow his method like van der Voort sometimes also drag along some of the older notions like Juynboll's *isnād* mapping technique which divides the *isnād* into the real and the fake parts, and Schacht's source selective literalism and *e-silentio* restricted frame of study, and ignore the relevance of Muslim *Hadīth matn* and *isnād* sciences. The end result is thus more attached to these western studies than the Muslim ones which are a part of their own history and better connected to it. Consequently they remain generally detached from the source of the text of *Hadīth.*

❖   Text variants also deserve special note here because *Hadīth* texts have this quality also. It is observed that standardized, redacted texts like the Bible's don't present objective reality because the process of removing differences and creating a standard version itself is opposed to objectiveness and in view of Smith, such a scripture standardized by people as the Bible is not inherently authoritative,[4] since it also took a long time for them to do this, causing loss of its first three odd centuries of its history. *Hadīth* on the other hand is not a standardized text in that meaning and wherever its continuity is verifiable, it provides for an altogether unique historical experience for a neutral observer. It is observed that such a historically continuous text as *Hadīth*, with its variants, is representative of the events it presents and wherever it is possible to verify that a certain text has a continuous history and has been conveyed objectively, it serves as a building block for the history it purports to present. This aspect also appears to the researcher as lacking in many contemporary western *Hadīth* studies, and while Schacht uses its variants to corroborate his rejectionist

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[4] Wilfred Cantwell Smith, *What is Scripture?* (Minneapolis: Fortress Press, 2005), 12.

theory of *Ḥadīth,* Motzki tends towards a milder version of the same in his recent writings as the current work shows.

❖ Multi-pronged approaches to *Ḥadīth* and *Fiqh* like that of Ansari in his "Early Development," and elsewhere, Baltājī in his *Manāhij,* Abbott in her *Papyri II,* and Motzki in his early work, *Origins,* are a step in the right direction and correlate *Ḥadīth* and *Fiqh* in a framework which tries to accommodate the Muslim one. *Ḥadīth* and early *Fiqh* relate to each other quite closely and work together as these studies have shown. Again, this has generally been either under or over-emphasized in contemporary western discourse on the subject resulting in adverse conclusions.

In short, being such a unique religious text genre as *Ḥadīth,* its studies require a lot more effort on the part of any modern day historian than is seen in contemporary western *Ḥadīth* studies as the current research shows.

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