



Islamic Studies

SS 101

**Asif Iftikhar
Haniya Yameen**

Fall Semester 2014 – 2015

Department of Humanities and Social Sciences

LAHORE UNIVERSITY OF MANAGEMENT SCIENCES



Lahore University of Management Sciences

SS 101 – Islamic Studies Fall Semester 2014-15

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Course Basics				
Credit Hours	2			
Lecture(s)	Nbr of Lec(s) Per Week	1 Lecture per section (3 sections)	Duration	1 hour 50 minutes each

Course Distribution	
Core	Yes
Open for Student Category	All

COURSE PREREQUISITE(S)	
None	

COURSE DESCRIPTION

This short survey course has clearly defined aims. Conversely, this means that it has its limitations too. Its overriding aim is to introduce the student to the academic study of Islam—Islam here denoting both a religious system, grounded upon certain normative revealed sources, as well as a civilization unfolding over time as a complex network of cultures shaped by historical contingencies. In other words, it may be called as the study of the Islamic Religious Tradition. The course remains indifferent to the personal beliefs of the students, to any sectarian identity they espouse, and any doctrinal point of view they hold. The course also does not take any sides. It aims to report, as much as possible, what has been discussed within the Islamic religious tradition.

We shall begin by building a historical understanding of the field of Islamic Studies, while also opening up the question of revision and criticism of historical timelines. From there we move to the fundamental methodological question: How does one study a given religious system? What are the scholarly tools and conceptual frameworks for exploring a civilization radiating from a religious core? What are the limitations of an academic study of Islam? In what way is it different from the account and conception of the believer or, in the case of cultures, of the actor? In short, how do we approach the study of Islamic religious tradition in the modern world in a university?

From here we move on to a historical overview of the tradition. We look at the ‘doctrinal’ aspects including the Qur'an, Hadith, and the life of the Prophet (PBUH). We move to the ‘intellectual’ aspects exploring the legal/jurisprudential, theological and philosophical developments and discussions in the Muslim experience. Next, we delve into the spiritual realm looking at the mystical tradition of Sufism. We also take up a general study of aesthetics in the context of Islamic literary expressions and material culture, particularly in the realm of literature, art and architecture. The course ends with a discussion of Islam and Muslims in the contemporary world, looking at the post-18th century revivalist, reformist, and modernist movements and connecting it with the 21st century critical issues, such as extremism and violence.

COURSE OBJECTIVES AND LEARNING OUTCOMES

Apart from the general objectives associated with a Humanities course, students will go away with the following specific learning outcomes.

- * 1. The students will gain a basic, yet somewhat nuanced, understanding of the formative period of Islamic civilization.
- 2. They would have a better historical understanding of the origins and development of the fundamental doctrines including Qur'an, Hadith, and biography of the Prophet (PBUH).
- 3. They would appreciate the internal dynamism and diversity of the legal tradition in as much complexity as possible.
- 4. They would also learn the basics of the mystical aspects, and theological and philosophical traditions in Islam, which are often somewhat misunderstood in the society.
- 5. The students will also be able to appreciate the modern context which has influenced the understanding and manifestation of Islamic religious tradition in the Muslim societies.
- 6. An important learning outcome is that they would be able to relate the learning on Qur'an, Hadith, *Sira*, and Law to some of the critical issues in today's Muslim societies.
- 7. The students will be able to distinguish between academic and a confessional study of Islam leading them to appreciate the former and becoming interested in the subject for higher education.

Consequently, the students would also learn that

- 1. Islam is not monolithic.
- 2. Islamic religious tradition cannot be reduced to just ‘Islam’. There is a human agency involved where its ideals and foundational texts are contextually manifested and interpreted.
- 3. Even the legal tradition, considered normative, is internally flexible, dynamic, and pluralistic.
- 4. Islam is actually a complex combination of a diverse Muslim experience which includes various doctrinal, intellectual, spiritual, and cultural aspects and trends.
- 5. It is difficult to separate religion from culture or politics for the sake of a more complete understanding of the religious phenomenon and its impact on the transformation of human life and culture.

COURSE ETHICS, POLICIES, AND DISCIPLINARY ISSUES

1. It is advisable that the students first contact the Head Teaching Assistant of the course. In regular matters for which he/she will have advance approval of the instructors, he/she will try to get back to you directly. Otherwise, he/she will forward the queries to the instructors.
2. Students are required to complete the **readings assigned prior** to the class meeting to which they relate.
3. Timely **attendance is mandatory**. One unexcused absence will lead to 2% reduction in attendance grade. Five unexcused absences will lead to zero. A sixth unexcused absence will lead to failure in the course.
If you are late (once the lecture has started) you will be penalised with 1% reduction. If you leave class and do not come back before it is over, you will get an "absent" for that class, hence 2% reduction.
4. A student is required to attend only the section in which he/she is enrolled and follow the seating plan in order to get attendance marked. In case a lecture is missed, you are advised to immediately contact the Head TA and provide LUMS official petition within 3 days. Instructor's discretion will be used for special cases.
5. Please **switch off your mobile phones** before entering the class.
6. If any student is caught creating any disturbance, he/she will not get full attendance credit for that class.
7. Students are not allowed to record the lectures.
8. In accordance with institutional policy, there will be **no discrimination** in this course on the basis of race, ethnicity, sex/gender, ability/disability, religion/spiritual beliefs or class.
9. Cheating, plagiarism, or any other violations of the honour code will be dealt with according to LUMS policy. For further instructions please check with the latest Student Handbook.
10. The class room is a safe space for respectful sharing of opinions and mutual learning keeping in view the good academic practice. If there are some things that make the students uncomfortable either from the readings or during the lectures, they are advised to speak with the instructors immediately.

Grading scheme
Attendance: 10% Class Participation: 15% Midterm: 35% Final: 40%

COURSE OUTLINE AND READINGS		
Session #	Topics	Required Readings
Module 1. Teaching Islamic Studies and its Methodological Issues (two lectures)		
1.	Introduction to the Course (AI, HY)	<ul style="list-style-type: none"> i. <i>The Oxford Encyclopedia of Modern Islamic World</i>, 1st ed., vol. 2, s.v. "Islamic Studies," by Richard C. Martin, 325-331 ii. Nicholas Badcott, <i>Pocket Timeline of Islamic Civilizations</i>, "Timeline" (in class discussion) iii. Robert Gardner, "Islam: Empire of Faith" (Documentary Clips; in Class)
2.	Approaching the Islamic Religion and Civilization (AI, HY)	<ul style="list-style-type: none"> i. Husnul Amin, "Our Textual Religiosity" (The News) ii. Neal Robinson, <i>Islam: A Concise Introduction</i>, 174-187 iii. R. Stephen Humphreys, <i>Islamic History: A Framework for Inquiry</i>, 89-103
Module 2. Traditional Texts and Formative History (three lectures)		
3.	The Qur'an (HY)	<ul style="list-style-type: none"> i. Farid Esack, <i>Qur'an, Liberation & Pluralism</i>, 52-78 ii. <i>The Oxford Encyclopedia of Modern Islamic World</i>, "Foundational Sources of Muslim Discourse," by Mustansir Mir, 169-175 iii. <i>The Qur'an</i>, Surah 79
4.	Sirah – The Life of Prophet (PBUH) (AI)	<ul style="list-style-type: none"> i. Neal Robinson, <i>Islam</i>, 86-90 ii. Shibli Numani, <i>Sirat al-Nabi (Trans. The Life of the Prophet)</i>, vol. 1. 7-26 iii. Ibid., 36-63
5.	The Hadith Tradition (AI)	<ul style="list-style-type: none"> i. Al-Shafi'i, <i>Al-Risala</i>, Chapter 5, 109-122; Chapter 11, 285-287 ii. Muhammad Taqi Usmani, <i>The Authority of Sunnah</i>, 78-82, 115-126 iii. Shibli Numani, <i>Sirat al-Nabi (Trans. The Life of the Prophet)</i>, vol. 1. 64-75 <p><i>Supplementary Reading:</i></p> <ul style="list-style-type: none"> iv. Wael B. Hallaq, "Authenticity of Prophetic Ḥadīth: A Pseudo-Problem." <i>Studia Islamica</i>, 89 (1999), 75-90
Module 3. Islamic Interpretive and Intellectual Tradition (four lectures)		
6.	The Islamic Legal Tradition I (AI)	<ul style="list-style-type: none"> i. Robinson, <i>Islam</i>, 150-170 ii. Wael Hallaq, <i>An Introduction to Islamic Law</i>, 14-37

7.	The Islamic Legal Tradition II (AI)	<ul style="list-style-type: none"> i. Moeen H. Cheema, "Cases and Controversies: Pregnancy as Proof of Guilt Under Pakistan's Hudood Laws," <i>Brooklyn Journal of International Law</i> 32:1 (2006): 121-160
8.	Theological Reflection and <i>Kalam</i> Tradition in Islamic Thought (HY)	<ul style="list-style-type: none"> i. Timothy Winter, aka. Abdal Hakim Murad, <i>The Theology of the Koran</i> ii. Richard C. Martin, <i>Islamic Studies: A History of Religions Approach</i>, 14-17, 106-125
9.	<i>Adab: The Islamic Literary Tradition (HY)</i>	<ul style="list-style-type: none"> i. George Makdisi, <i>The Rise of Humanism in Classical Islam and Christian West</i>, Chapter 1: Humanism in the Organization of Religious Knowledge, 88-96 ii. <i>The Oxford Encyclopedia of Modern Islamic World</i>, "Urdu Literature," "Arabic Literature" & "Persian Literature," 96-105; 289-296; 312-324 <p><i>Supplementary Readings:</i></p> <ul style="list-style-type: none"> iii. Naili, <i>Ottoman Lyric Poetry</i>, Ed. Walter G. Andrews 122; 251 iv. Hafiz, "Ghazal 4," <i>The Green Sea of Heaven</i>, Trans. Elizabeth T. Gray, 42-43 v. <i>Kuliyat-e-Iqbal</i>, 27-28 vi. Michael A. Sells, <i>Desert Tracings</i>, "The Arabian Ode" and "Is what you knew kept secret," 3-20 vii. <i>The Arabian Nights</i>, "The Tale of the Merchant and the Jinnee," Trans. Richard F. Burton, 23-35 viii. <i>The Qur'an</i>, Surah 27:7-41 <p><i>Additional Handouts will be given in class</i></p>

Module 5. Islamic Aesthetics and Cultural Expressions (one lecture)

10.	Aesthetics and Cultural Expressions (HY)	<ul style="list-style-type: none"> i. John Renard, <i>Seven Doors to Islam: Spirituality and the Religious Life of Muslim</i>, "Aesthetics: From Allegory to Arabesque," 108-135 ii. Syed Hossein Nasr, <i>Islamic Art and Islamic Spirituality</i>, "The Relation between Islamic Art and Islamic Spirituality," 3-13
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Module 4. Sufism: The Inner Resolutions (one lecture)

11.	Sufism; Introduction to Islamic Spirituality (HY)	<ul style="list-style-type: none"> i. William Chittick, <i>Sufism: A Beginner's Guide</i>, Chapter 1: The Sufi Path, 1-21 ii. John Renard, <i>Knowledge of God in Classical Sufism</i>, As-Sarraj, Abu Nasr: <i>The Book of Flashes</i>, 65-78 iii. Selections from <i>Kuliyat-e-Shah Hussain</i>
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Module 6. Critical Issues in Contemporary Muslim Societies (two lectures)		
12.	Islam, Modernity, Reform and Revival (AI)	<p>i. Amina Wudud, <i>Qur'an and Women</i>, 1-11; 74-78; 85-86</p> <p>ii. Iftikhar Zaman, "Towards Islamic Ways of Islamization: Problems in Modernizing the <i>Ahkam</i> of the <i>Shari'ah</i> and <i>Da'wah</i>," <i>Pakistan Administration</i> 22 (July-December, 1985): 128-144.</p> <p><i>Supplementary Reading:</i></p> <p>iii. William E. Shepard, "Islam and Ideology: Towards a Typology," <i>International Journal of Middle East Studies</i> 19 (1987): 307-335.</p>
13.	Critical Issues; Extremism, Violence, Jihad, 'Islam' and the 'West' (AI)	<p>i. Rudolph Peters, <i>Jihād in Classical and Modern Islam: A Reader</i> (Princeton, NJ: Markus Wiener, 1996), 1-7, 27-51.</p> <p><i>Supplementary Reading:</i></p> <p>ii. Osama Siddique & Zahra Hayat, "Unholy Speech and Holy Laws: Blasphemy Laws in Pakistan—Controversial Origins, Design Defects, and Free Speech Implications" <i>Minnesota Journal of International Law</i> (17:2), 316-353</p>

Key

AI: Asif Iftikhar

HY: Haniya Yameen

Session 1

BIBLIOGRAPHY

- Abd al-Salām, Ahmad. *Muṣṭalah al-siyāsah ‘inda al-‘Arab* (The Term "Politics" among the Arabs). Tunis, 1985. Useful historical study of some political concepts in Arabic, including the state.
- Dishmāwī, Muḥammad Sa‘īd al-. *Al-Islam al-siyāsī* (Political Islam). Cairo, 1987. The best contemporary refutation of the dictum *dīn wa dawlah*.
- Ayubi, Nazih N. *Political Islam: Religion and Politics in the Arab World*. London and New York, 1991. Study of the intellectual sources, social origins, and political attitudes of the Islamists, who contend that Islam has a theory of politics and the state, the implementation of which is mandatory.
- Ayubi, Nazih N. *Al-‘Arab wa-mushkilat al-dawlah* (The Arabs and the Problem of the State). London, 1992. Study of the ways Arab writers have conceptualized the state.
- Donohue, John J., and John L. Esposito, eds. *Islam in Transition: Muslim Perspectives*. New York, 1982. Good, balanced selection of excerpts by Muslim and Islamic authors.
- Enayat, Hamid. *Modern Islamic Political Thought*. Austin, 1982. Good introduction to Sunnī and Shī‘ī political ideas in the modern period.
- Esposito, John L., ed. *Voices of Resurgent Islam*. New York and Oxford, 1983. Useful mix of analytic and polemical articles on Islamic identity and Islamic resurgence.
- Halliday, Fred, and Hamza Alavi, eds. *State and Ideology in the Middle East and Pakistan*. London, 1988. Good selection, including excellent pieces by Halliday, Alavi, and Batatu.
- ibn Taymiyah, Taqī al-Dīn Aḥmad. *Al-siyāsah al-shar‘iyah*. Beirut, 1983. Major classic by a medieval jurist with great influence on modern political Islamists.
- ‘Imārah, Muḥammad. *Al-Islām wa-al-sulṭah al-diniyyah* (Islam and Religious Authority). Cairo, 1970. Balanced treatment of the relationship between religion and state in Islam.
- Jābirī, Muḥammad ‘Abid al-. *Al-‘aql al-siyāsī al-‘Arabi* (The Arab Political Mind). Beirut, 1990. Interesting study of Islamic political thought and how it has been influenced by tribal and religious factors and by the "modes of production."
- Kerr, Malcolm H. *Islamic Reform: The Political and Legal Theories of Muḥammad ‘Abduh and Rashid Ridā*. Berkeley, 1966. Subtle treatment of the ideas of two influential Islamic thinkers.
- Khomeini, Ruhollah. *Al-hukūmah al-Islāmiyah*. Cairo, 1979. Arabic translation of *Vilāyat-i faqīh*; English translations also available. Main statement of the novel theory of "guardianship of the juris-consult."
- Lambton, Ann K. S. *State and Government in Medieval Islam*. Oxford, 1981. Solid introduction to the political theory of the Islamic jurists.
- Laroui, Abdallah. *Mafhūm al-dawlah* (Concept of the State). Casablanca, 1981. One of the best discussions by an Arab writer on the state.
- Lewis, Bernard. *The Political Language of Islam*. Chicago and London, 1988. Useful, technically competent monograph.
- Mawdūdī, Sayyid Abū al-A‘lā. *Al-hukūmah al-Islāmiyah* (Islamic Government). Jeddah, 1984. Influential statement of the "Islamic state" position. English translations also available.
- Nassār, Nāṣif. *Taṣawwurāt al-ummah al-mu‘āṣirah* (Perceptions of the

Contemporary Nation in Modern Arabic Thought). Kuwait, 1986. Valuable, comprehensive survey of Arabic writing on community, nation, and state.

Qutb, Sayyid. *Ma‘ālim fi al-ṭariq* (Signposts on the Road). New ed. Damascus and Qom, 1985. Main statement on the "alterity" of the contemporary social and political order and the necessity of a complete Islamic reversal.

Sayyid, Ridwān al-. *Al-ummah wa-al-jamā‘ah wa al-sulṭah* (Community, Group, and Authority). Beirut, 1984. Good discussion of some major political concepts in Islamic history.

NAZIH N. AYUBI

ISLAMIC STUDIES. [This entry comprises two articles. The first presents a history of the study of Islam from its origins to the present, emphasizing scholarship in the West; the second provides a critical analysis of methods developed in Western academies to study Islam as a religion, a civilization, and a culture.]

History of the Field

Islamic studies arose in the ninth century in Iraq, when the religious sciences of Islam began to take their present shape and to develop within competing schools to form a literary tradition in Middle Arabic. Rather than treating the study of Islam within Islamic civilization, however, the focus of this discussion is Islam as a subject matter in the West.

Theological Beginnings. Even before the rise of Islam in the seventh century CE, the Arabs were known to the ancient Israelites, the Greeks, and later to the church fathers. Arabic names appear in the Bible; for example, an Arab named Geshem is mentioned in *Nehemiah* (6.6) among local tribal leaders who opposed the return of the Israelites to power in Palestine after the Exile. Arab names also appear in the Talmud. The historian Herodotus of the fifth century BCE knew of and wrote about the Arabs. After the rise of Greek Hellenistic hegemony in the Middle East in the fourth century BCE, it was Arab kingdoms such as the Nabateans with their capital at Petra in the northeast Sinai peninsula that provided continuing Arab contact with traders, travelers, and soldiers from the Seleucid and later the Roman Empire. In the early centuries of the common era, some Arab tribes converted to Christianity and served as vassal kingdoms to the Byzantine and Sassanian empires, thus providing cultural links between Eastern Christendom and some Arab peoples.

The European view of Islam throughout the Middle Ages was derived from biblical and theological constructs. Mythology, theology, and missionary evangelism provided the main modes of formulating what the church knew about Muslims as well as its reasons for developing an official discourse on Islam. Mythologically, Muslims were conceived as peoples (Arabs, Saracens) descended from Abraham through his concubine Hagar and their son Ishmael (Ar., *Ismā‘il*, see *Genesis* 16.1–16). Indeed, some sources refer to the early Muslim Arabs as “Hagarenes.” Scholars have speculated on the common Arabic root for Hagar/Hagarenes (*Hājar*) and the fundamental Islamic notion of religious emigration (*hijrah/muhājirūn*). In the *Genesis* legend, supplemented by passages in the Apocrypha and Talmud, Hagar and Ishmael are turned out of Abraham’s home at Sarah’s insistence and under God’s direction are taken by Abraham to the wilderness of Beer-sheba, whence they later emigrate to Paran (Sinai). In the *Genesis* account, God says to Abraham: “Do not be distressed over the boy or your slave; whatever Sarah tells you, do as she says, for it is through Isaac that offspring shall be continued for you. I shall make a nation of him, too, for he is your seed” (*Genesis* 21.12–14).

Religious Polemics, 800–1100. Judeo-Christian myth and legend could account, then, for the appearance of non-Jewish, non-Christian Arab monotheists in the seventh century. It was through theological polemics, however, that the boundaries that separated Jews, Christians, and Muslims were worked out in the eighth to eleventh century. Theological disputations (*munāẓarāt*) often took place in public or in the audience of a caliph or other high official, conducted by spokespersons (*muṭakallimūn*) for the various confessional communities. The Nestorian, Monophysite, and Orthodox Christians (as well as Samaritan, Karaite, and Rabbanite Jews) had little contact with the Holy Roman Empire and Western Christendom in the early Middle Ages. Regarded as “protected” (*dhimmi*) confessional communities, Eastern Christians and Jews participated in the social rituals of public discourse and disputation with Muslims (and with each other); this required some knowledge of Muslim doctrine, if only for the purpose of refuting it. [See Dhimmi.]

European Christians and Jews, by contrast, had to construct their own understanding of Islam, again as a theological enterprise. Lacking the symbiotic experience among scriptural religions living under Islamic hegemony in the East, the Roman church experienced Islam

more as an alien “other,” a non-Christian enemy to be converted and/or defeated. Whereas Eastern Christian communities could not mount successful missionary and military campaigns against the their Muslim rulers, Western Christendom lay outside of the territory of Islamic rule (*dār al-Islām*). The Islamic conquests that began under the Rāshidūn (“Rightly Guided”) caliphs in the seventh century were stopped in Europe at Poitiers, France in 712 by Charles Martel. Sicily was ruled by the Muslim Aghlabid dynasty from the ninth to the middle of the eleventh century, when it was reconquered by the Normans.

For the next four centuries until the beginning of the Crusades, Europeans lived in virtual ignorance of the religion and people thriving nearby in Spain. Like the Germanic tribes, Slavs, Magyars, and the heretical movements such as the Manichaeans, Islam was seen as one of several enemies threatening Christendom. It was not until the time of the Crusades, beginning in the eleventh century, that the name Muḥammad was known among Europeans, and then in a very pejorative way. Until the eleventh century the Bible provided for Western, as it did for Eastern, Christendom the exegetical means for identifying the Saracens as the Ishmaelites—descendants of Abraham through Hagar. This was the conclusion drawn by the Venerable Bede (672–735) in his *Ecclesiastical History of the English People* and in his biblical commentaries. Before Bede and Isidore of Seville, Christian exegesis had seen Isaac as the precursor of Christ and the Jews as the descendants of Ishmael. Now Islam replaced Judaism in the Christian world view as the alien Ishmaelites.

Crusades and Cluniac Scholarship, 1100–1500. The study of Islam for missionary purposes began in the twelfth century in the time of Peter the Venerable (c. 1094–1156), Abbot of Cluny in France. This was the period of the beginning of the Crusades as well as the great reforms of monasticism, which was until then the main institution of Christian learning. Indeed, both the Crusades and the scholarly pursuits of monks—translating the Qur’ān and other Muslim texts—served as offensive measures against Islamic civilization, which formed the southern and eastern boundaries of Western Christendom. In 1142 Peter, then abbot of Cluny, undertook a journey to Spain ostensibly to visit Cluniac monasteries. Nonetheless, on the occasion of his journey he determined to undertake a wide-ranging project, involving several translators and scholars, to begin a serious systematic study of Islam. By the time Peter the

le had commissioned translations and interpretations of Arabic Islamic texts, many salacious accounts of Muhammad had long been in circulation, presenting the prophet as a god of the Muslims, an impostor, a womanizer, an apostate Christian (in one version a fallen cardinal), a magician, and so on. The "corpus," as the results of Peter the Venerable's mission to be known, was the beginning of a Western scholarship on Islam. Peter commissioned translators like Robert of Ketton to translate such texts as the Qur'an, the *hadīth*, the biography of Muhammad (*sīrah*) and other Arabic texts, particularly texts written against Muslims.

To leaders of the First Crusade, Peter made it the mission of the church was his principal belief that Christianity could and should triumph. Nonetheless, like a few other scholars, he believed in the blatantly false accounts by Christian Muhammad and the Qur'an, and he was also involved in military campaigns and slaughter, even of innocent name of Christianity. Peter the Venerable's provide Europeans with authentic accounts of texts and doctrines was not well received by at a time when Western Christendom was trying to drive Islam out of the Holy Land. The writing a critique against the Islamic use of war in faith precisely at the time when Christians were marching across Europe in the first of several Crusades to the Holy Land from Muslims was not a Christian scholars like Peter the Venerable. The most influential translations of an apology that of the "Apology of al-Kindi," a conversation between a Muslim and a Christian set off the caliph al-Ma'mūn (r. 813-833). Modip has not been able to reach consensus on what was actually composed; estimates range back to the eleventh centuries. The translator of this text was Peter of Toledo, a Jew who converted to Christianity and who contributed, along with other translators from Hebrew and Arabic into compilation of the Cluniac corpus. "Apology" gained circulation and popularity among scholars in the Middle Ages because it del of argumentation against Islam. These themes in particular on the Qur'an, the prophet Muhammad, and the spreading of the faith by Muhammad. These three themes formed the main focus of scholarship on Islam in the Middle

In this sociopolitical environment another kind of translation activity proved to be of much more genuine scholarly interest in Christian Europe. By the late twelfth century a collection of the works of the Muslim peripatetic Avicenna (Ibn Sīna, d. 1037) appeared and circulated in Europe. As more and more philosophical and scientific works were translated from Arabic to Latin, European scholars of the late Middle Ages came to view the contemporary Muslim world as a civilization of savants and philosophers, in sharp contrast to the popular pejorative views of Muhammad and of Islamic religious practice. Another way in which the Islamic world commanded the respect of Europeans in the Middle Ages came from the Crusades themselves. The military and diplomatic successes of the Ayyūbid sultan Saladin (Ṣalāḥ al-Dīn, 1138-1193) turned into legends that circulated in Europe. Even the religious comportment of Muslims, observed by many European Christians to be simple and pious in the practice of their religion, earned Islamic religion a certain respect among some Christian clerics and scholars. [See Philosophy.]

Reformation, 1500-1650. As Europe entered the period of profound religious, political, and intellectual change in the sixteenth-century Reformation, the knowledge and study of Islam were also affected. In the fourteenth and fifteenth centuries eastern Europe had replaced Spain and Palestine as the main front between Western Roman Christendom and Islam. At the battle of Kosovo in 1389 the Ottomans took control of the western Balkans, driving a non-Christian wedge between Western and Eastern Christendom. By 1453 the Ottomans had taken Constantinople and had pushed back the borders of Serbia to the Danube. By 1500 the Turks exercised rule over Greece, Bosnia, Herzegovina, and Albania. Many Orthodox Christians in these conquered territories were absorbed into the Ottoman military and administration, creating a religious pluralism dominated by Islam that was at once symbiotic and contentious. The Orthodox churches, following longstanding practice in Islamic lands, were protected by Islamic law, and the Ottomans put the hierarchy in charge of the church's local affairs in the Balkans. Such measures in turn earned support for Ottoman rule from the church.

Western Christendom had a different relationship to the Ottomans. From their base in the Balkans the Ottomans were able to contend militarily with Europe for two centuries. In 1529 and again in 1683 Ottoman armies laid siege to Vienna, both times unsuccessfully,

but with the clear warning that an Islamic empire was again a threat to western Europe. The Ottoman challenge did not go unnoticed by Christian clergy and scholars in Europe. With Sulaymān the Magnificent at the gates of Vienna, two humanist scholars, Bibliander (Theodor Buchmann) and Oporinus (Johann Herbst), ran afoul of the Basel city council in 1542 for clandestinely publishing a new edition of the Qur'ān. The matter was resolved in favor of publishing the Qur'ān by no less a figure than Martin Luther. The Reformer said in a letter to the Basel city council that no greater discredit to Islam could be presented to Christians than to make available to them Muslim scripture and other texts in Latin and vernacular languages. The Bibliander edition of 1543 carried introductory essays by Martin Luther and Philip Melanchthon. The view that a rational reading of Muslim texts would evoke self-evident indictments against the Muslim faith did not contribute to a disinterested European tradition of scholarship in Islam. The Reformed impetus to translate religious texts, Christian and Muslim, into vernacular languages, however, was of far-reaching significance.

Reformers like Melanchthon viewed the Turkish "Saracens," along with the Church of Rome, as the Antichrist of the Apocalypse; Bibliander saw Muhammad as the head and Islam as the body of the Antichrist. Protestant comparisons between Rome and Islam indicated a tendency, found already in Catholicism in the Middle Ages, to see Islam as a heresy—as Christianity gone astray, rather than as a distinct religion in its own right. The threat posed by the fall of Hungary at the back door of western Europe was interpreted not in the favor of Islam but rather in the manner of the Hebrew prophets, as God's scourge for moral and religious laxness. It should be noted that the Reformers produced little new actual scholarship on Islam. In the sixteenth century published editions of the Qur'ān and other Muslim texts in Europe leaned heavily on the Cluniac corpus of four centuries earlier.

Discovery and Enlightenment, 1650–1900. New and original European scholarship on Islam was to develop in the late sixteenth and seventeenth centuries for several reasons. First were the new political realities of Ottoman aggression. The Ottoman threat to Europe did not diminish until the eighteenth century, when the Ottoman Empire fell into decline and the balance of power shifted in Europe's favor. Another factor that helped to raise European consciousness about the world of Islam was the increase of navigation and the accompanying

expansion of trade beyond the Mediterranean. The expansion of markets and of military interests was a prelude to colonial ventures and imperial ambitions. Europe entered into treaties and alliances with Muslim states—for example, the French and Ottomans against the Hapsburgs. Europe sent envoys to the Ottoman court and elsewhere in the Muslim world, although reciprocal diplomacy was not as forthcoming from Muslim rulers during this period. In sum, the Protestant/Catholic separation within Western Christendom redirected much of the polemic to doctrinal disputes within Western Christendom, and anti-Muslim polemic waned somewhat. On the other side, European interest in Islamic lands went beyond the polemical interests of the church to include state interest in the potential for trade, politics, and military ambitions. European reasons for studying Islam were no longer confined to theological disputes about the Qur'ān, the Prophet and early Muslim conquests.

At the broadest level, religion was conceived differently during the Enlightenment in Europe. The recognition that other peoples had religions that were not simply heresies or aberrations of Christianity was an important aspect of the new concept of religion. The new theory of "religions" of humankind called for new methods for the study of Islam and other religions that went beyond theological polemic but did not replace it. Late in the sixteenth century the study of Arabic was introduced at the Collège de France, and by 1635, it was taught at Leiden in the Netherlands and at Cambridge and Oxford in England. It fell to the early Arabists to construct grammars and dictionaries of the classical Arabic language—work that has long since been superseded but that was essential to later progress and exemplary in its own time. The work of these university Arabists was the first broad and serious European scholarship on the Arabic textual tradition since the Cluniac corpus in the twelfth century.

An important result of the changing conception of religion during the Enlightenment was a new concern with the life and mission of the prophet Muhammad. By the late eighteenth century some scholars saw in Muhammad a preacher of a religion that was more natural and rational than Christianity. Others saw in him homiletical grist for the ongoing mill of Christian reform—Muhammad the man of sexual and political extremes, some argued, was an example divinely provided in history to help Christianity avoid such mistakes. This latter interpretation of Islam serving divine purposes as

a lesson for Christians was a modern variant of the view that had prevailed from the eighth century onward, that Islam had been sent as an apocalyptic scourge to punish Christians for aberrations of faith and practice. The late eighteenth-century variant, however, reflects the growing importance of the study of history. The portion of Islamic history that interested Enlightenment scholars most was still the life of Muhammad and the military and political intrigues of the Rāshidūn and the Conquests.

Interest in the life of Muhammad and other aspects of Islamic history was not confined to specialists. In *The Decline and Fall of the Roman Empire*, Edmund Gibbon (1737–1794) devoted a chapter to the life of the Prophet and the early stages of Islamic history. Gibbon paid little heed to the scurrilous medieval Christian biographies of the Prophet, relying instead on more recent European scholarship and accounts by travelers. He presented Muhammad as a man of spiritual genius who, in the solitude of his Meccan retreats, conceived an admirably pure form of monotheism; however, with the emigration from Mecca to Medina came success and military power. The latter point is reminiscent of the ancient Christian charge that Islam all too readily spread its faith by the sword, yet Gibbon's assessment of Muhammad was on the whole positive. The distinction between Muhammad in Mecca and Muhammad in Medina was to become a familiar theme in later European scholarship. So, too, was the attempt to credit Muhammad for his spiritual and leadership qualities without going so far as to acknowledge him as a true prophet.

The eighteenth century ended with a European project to study Islam that was more thorough than any such attempt since the compilation of the Cluniac corpus. In 1798 Napoleon invaded Egypt with a military force, accompanied by a large team of scholars assigned to study and document the language, culture, and religion of the Egyptian people. The transparent link between scholarly means and political ends was to replace—some would say supplement—the evangelistic ends of Islamic studies in Europe.

Nineteenth Century. The remoteness of the Middle East and other parts of the Islamic world began to disappear in the nineteenth century. Steamships, railroads, and telegraph made travel and communication to, from, and within the Islamic world much easier. With this came increased opportunity for European scholars, missionaries, entrepreneurs, and travelers to encounter contemporary Islamic societies—an ingredient that had

been largely absent from Islamic studies. Opportunities to discuss Islam with Muslims still often took the form of disputations between Christian and Muslim clerics and leaders, but the terms of these polemics had changed, reflecting new ideas about religion and the evolution of scholarly inquiry into the “human sciences.”

One important development in nineteenth- and early twentieth-century Islamic studies was historicism, the idea that events like the rise of a new religion can be explained as being historically dependent on previous events. One implication of historicism is the denial of absolute originality to the historical phenomena under explanation. Another implication and result of historicism is the view that only Orientalists, Arabists who specialize in Islamic texts, have the scholarly skills to study Islam. Islamic history, religion, science, art, and other topics became the almost exclusive scholarly domain of Orientalists rather than of historians or specialists in religion, science, and art.

The prophet Muhammad and the rise of Islam continued to be a chief preoccupation of Western scholars, joined increasingly in the 1800s by Jewish scholars as well as more secular thinkers. Characteristic of historicist scholarship on Islam was Abraham Geiger, *Was hat Mohammed aus dem Judentum aufgenommen?* (1833). The counterthesis of Christian historicist scholarship on Islam—that Islam was based on the model of Christianity—was epitomized a century later in Karl Ahrens, *Muhammad als Religionsstifter* (1935). Although historicism has fallen out of favor among most twentieth-century historians of Islam, the charge of historicism is still frequently made against those who discuss the rise of Islam against the background of pre-Islamic Arabia and the Middle East.

Quite a different approach was that of William Muir, who reflected in his four-volume *Life of Mohomet* (1858) the growth of evangelicalism in Protestant Christianity, with the expressed missionary claim that salvation is not attainable for Muslims because they do not accept Christ as their savior. Muir regarded Muhammad and the religion he founded as dangerous to evangelical Christianity because Islam had borrowed so many ideas and locutions from Christianity as to be confused with some form of Christianity or a preparation for it. Muir rejected the ultimate consanguinity of Christianity and Islam, and he emphasized Gibbon's point that the worst of Muhammad's qualities came in the later Meccan period with the accumulation of power over his enemies.

Expressing a different nineteenth-century conception of religion, the idea that religion is endemic to human nature, was Thomas Carlyle. For Carlyle, as for many Western scholars since the nineteenth century, a religion's authenticity must be judged in relation to its own intellectual and cultural environment. In his widely influential lecture on Muhammad titled "The Hero as Prophet" (published in 1841), Carlyle argued that Muhammad was an authentic prophet on his own terms, although he was less charitable in his analysis of the Qur'an and Muslim response to Qur'anic recitation.

The idea that human beings are religious by their very nature (*homo religiosus*) was to have a profound effect on religious studies and hence on the study of Islam. Throughout the latter half of the nineteenth century and the first half of the twentieth, various attempts were made to construct a science of the study of religion (*Religionswissenschaft*). Characteristic of *Religionswissenschaft* was the dependence on philology as the chief method of understanding another, particularly an ancient civilization. Friedrich Max Müller (1823–1900) held that "he who knows one, knows none," meaning that one does not really understand religion if he knows and acknowledges only his own. That Islam could and should be studied as a religion in its own right was made possible by the academic science of philology. Müller supervised the *Sacred Books of the East* series in the 1870s, some fifty volumes of texts and translations of Asian scriptures into English. Volumes 6 and 9 contained E. H. Palmer's translation of the Qur'an. By placing an edition of the Qur'an in a textual series on Asian religions, Orientalism was linked with efforts at many European universities to found a scientific method of studying religions.

Orientalism and the Twentieth Century. The study of Islam as a separate discipline, like so many disciplines of the modern university, also emerged in the nineteenth century. The discipline was called Orientalism. Classical humanism with its interest in recovering the richness of past human achievement through the textual record, along with the lingering spirit of the Enlightenment, deeply influenced Orientalism. Nineteenth-century philology was moreover imbued with the worldview of Romanticism and its search for what is noble in the past and in the exotic "other."

Arabic manuscript work was undertaken mainly by scholars who were broadly erudite in biblical and classical philology. Medieval Islam left one of the richest legacies of written works in manuscript form among the

major world civilizations. Thousands of manuscripts in collections throughout the Middle East, Europe, and North America have yet to be edited critically and studied seriously. The task of recovering the ancient literary tradition of Islam by producing scholarly editions of ancient texts surviving in manuscript form was an important achievement of nineteenth-century Orientalists. The training of scholars in the Muslim world as well as in Europe and North America to carry on this important work has generally regressed during the latter half of the twentieth century. As in biblical criticism and historical work on the origins and early periods of Judaism and Christianity, Orientalists had set about to reconstruct a critical account of the origins and rise of Islam. Nineteenth-century historians tended to see their objective the recovery and reconstruction of an accurate picture of the past, which the German historiographer von Ranke was to call history *wie es eigentlich gewesen*—as it actually was.

Some historians of Islamic studies have noted that Western Orientalists and orthodox Muslim scholars have tended to share a common trait of conservatism in their approaches to historiography. Orientalism has by and large accepted the traditional account of Muhammad's life, the articulation of the Qur'an in Mecca and Medina, and the early formation of the Muslim community. While disputes about the age, exact provenance, and authenticity of many of the sayings (*hadīths*) attributed to Muhammad have been disputed between Orientalists and modern Muslim scholars, radical source criticism of the Qur'an and other early Islamic texts has been attempted by virtually no Muslim scholars and by very few Westerners.

Despite the shared conservatism of historiography between Orientalists and traditional Muslim scholars, a great deal of criticism has been leveled at Orientalism in the twentieth century, particularly during the last twenty-five years. The most trenchant articulation of this criticism is *Orientalism* (1979) by the Arab-American literary critic Edward Said. One of the most important criticisms against Orientalism has been that it served European imperial designs on much of the Muslim world: from Napoleon's invasion of Egypt until the rise of independent Muslim states, Orientalism was charged with being the willing handmaiden of European economic and political ambitions. Another factor has been the wider trend in postmodern scholarship to deconstruct the sciences and disciplines that were born of the Enlightenment. As a result, by the end of the twen-

tient century, many Western scholars have preferred to exchange the academic departmental label "Oriental Studies" for less eurocentric labels, such as "Islamic Studies."

Another twentieth-century configuration of scholarship in the United States since World War II has been area studies. Funded by the U.S. government at select graduate institutions, the purpose of these area studies centers was to train Americans in the languages and cultures of non-American societies. Islamic studies have been carried on mainly in Middle Eastern area studies centers, but also in South Asian and Southeast Asian centers.

Some have argued that Orientalism is a frame of mind, a form of scholarly discourse about a reality, the Muslim orient, that has been under construction in the Western consciousness since the days of European colonialism. Orientalism set about the hard task, however, of reading and interpreting Islamic texts. It was at once political and romantic. The texts that held the most interest for Orientalists were the religious and cultural texts of Islam. It follows that the fall from scholarly grace of Orientalism has been associated with a decrease in competent linguistic scholarship on religious and other cultural texts by Western scholars. Area studies, by contrast, has been more focused on the study of Islamic societies in modern times, especially public policy issues, political science, social science, economics and development, and social anthropology. The study of Islamic languages and literatures has been seen more as a means to other ends, not as a humanistic ends in itself.

A different view of Islamic studies has been voiced by some scholars in light of the critiques and failures of Orientalism and area studies. Advocates of this view argue that research on Islam and the production of knowledge about it is the province of disciplines, not of centers organized and financed by special interests in government and organized religion. In this view, the quality of what we know about Islamic history should be judged by academic historians and not just by Arabists; the cultural geography of Muslim peoples should be done by scholars who are geographers, the history of Islamic science by historians of science, and so on. At the end of the twentieth century, this view seems to call for the domestication of Islamic studies within the framework of the modern university, rather than isolating it as a special subject that does not quite fit into conventional departments and disciplines. Nonetheless,

the modern university is constantly evolving its construction of scholarly knowledge, governed by discipline. The current trend toward studying Islam comparatively in world history, epitomized by Marshall Hodgson's *The Venture of Islam* (3 volumes, 1974), may herald the direction Islamic studies will take in the twenty-first century. The increased participation of Muslim scholars and cooperative work between Muslim and non-Muslim scholars are also important aspects of current trends in Islamic studies.

[See also Orientalism.]

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THE BRITISH MUSEUM
The main British Museum website can be found at: www.britishmuseum.org

Click on Explore to browse the British Museum's collection on line, with thousands of images and background information about objects and the people who made and used them. Explore also features a wide range of tours about the British Museum's exhibitions and other themes: www.britishmuseum.org/explore

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www.metmuseum.org/toah

OTHER SITES
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TIME LINE OF ISLAMIC CIVILISATION

EARLY ISLAMIC WORLD 570 – 660

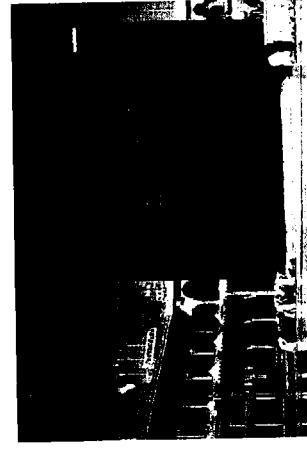
EARLY ISLAMIC WORLD 570–660

■ c. 570

The Prophet Muhammad is born in Mecca in what is now Saudi Arabia. Orphaned when he is six, Muhammad is brought up by his grandfather and his uncle, Abu Talib.

Mecca at the time is a trading centre.

The population follow Judaism, Christianity or worship local gods at the Kaaba, a cube-like granite structure.



The Kaaba in Mecca, Saudi Arabia, today. Muslims pray five times a day facing the Kaaba, from wherever they are in the world.

■ 595

Muhammad marries Khadija, a rich widow, and manages her trading business.

Compass, used to find the direction of Mecca for prayer.
From Iran, 17th–18th century.

BEFORE AD 750



An archangel in a 15th century manuscript from Iraq. Muslims believe that Allah revealed his message to the prophet Muhammad through the archangel jibril (Gabriel).

■ 610

The Prophet Muhammad starts receiving messages from Allah (God) when meditating near Mecca. He first shares the messages with his family and friends but later begins to preach in public. Some people in the city feel threatened and persecute him and his followers.

■ 622

Muhammad and his followers move 200 miles north to Medina. This migration is known as the Hijra and marks the beginning of the Muslim calendar. Muhammad's house in Medina becomes the centre of the first community of Muslims and the model for mosques.

■ 625

Muhammad marries Khadija, a rich widow, and manages her trading business.

THE ABBASIDS 750 - 1258

■ 624–30
The Muslims defeat a large army from Mecca at Badr in 624. Muhammad takes control of Mecca in 630, following a two-year truce.



Soldiers fighting. A detail from the Blacas ewer, Mosul, Iraq, 1232. The earliest Muslim armies fought with swords, spears and bows.

c. 636–52
Arab Muslim forces take control of Syria, Iraq and Iran after defeating the Byzantines and Sasanians.

■ c. 650
The text of the Quran (the word of Allah revealed to Muhammad) is established by Caliph Uthman (reigned 644–56).

■ 661
Following civil war, Ali ibn Abi Talib, the fourth caliph and the Prophet Muhammad's cousin, is murdered.

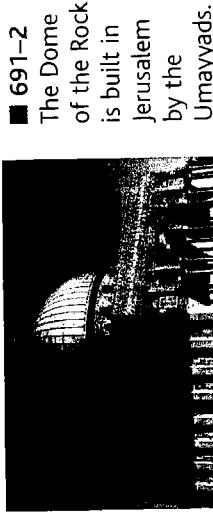
Muawiya of the Umayyad clan of the Quraysh appoints himself caliph and makes Damascus in Syria the capital of the Muslim world.

■ 680
The Umayyads kill Husayn, son of Ali and grandson of the Prophet Muhammad, at Karbala, Iraq.

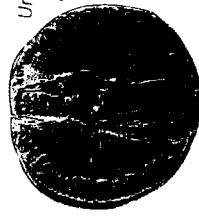


Page from the Quran, from Egypt or Syria, 14th century.

Stucco plaque showing a semmuri, a mythical beast popular in Iran in both pre-Islamic and Islamic times.



The Dome of the Rock.



Umayyad gold dinar with a picture of a standing caliph, made before the coin reforms of Abd al-Malik. It probably comes from Syria

THE ABBASIDS 750–1258

■ 691–2

The Dome of the Rock is built in Jerusalem by the Umayyads.

■ 690s

After Abd al-Malik's reforms, Umayyad coins are minted with Arabic inscriptions and no pictures. Arabic becomes the official state language.

THE UMAYYADS 661–750

■ 661
Following civil war, Ali ibn Abi Talib, the fourth caliph and the Prophet Muhammad's cousin, is murdered.

Muawiya of the Umayyad clan of the Quraysh appoints himself caliph and makes Damascus in Syria the capital of the Muslim world.

■ 711

A Muslim army crosses into Spain from North Africa commanded by Tariq. The Muslim advance is halted near Tours, France in 732.

■ 706–15

The Great Mosque is built in Damascus.

■ 711

Arab forces defeat the Chinese in Central Asia and capture paper-makers, bringing their technology to the Muslim world.

■ 750

Arab forces defeat the Chinese in Central Asia and capture paper-makers, bringing their technology to the Muslim world.

EARLY ISLAMIC SPAIN 756–1031

■ 756

Umayyad prince Abd al-Rahman escapes the Abbasids and establishes Arab rule in Spain.

■ 762

The Abbasid capital, the city of Baghdad, is founded by Caliph al-Mansur beside the river Tigris in Iraq. It becomes an important trading city with land and sea links to East Africa, India and China.

Desert palace of Qasr Amra, in Jordan.

AD 891 – 1000

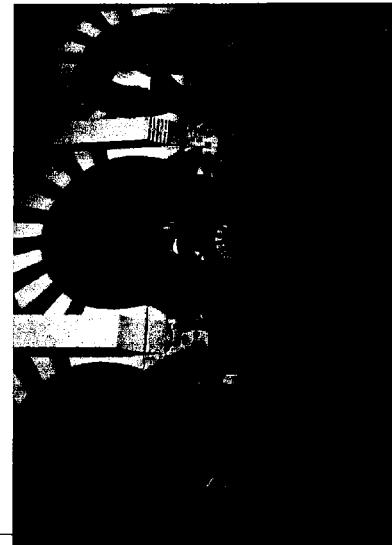
EARLY ISLAMIC SPAIN 756 – 1031

■ Late 8th century
Abbasid coins reach northern Europe via trade.



Cold imitation dinar of Offa, who was king of Mercia (in Britain) from 773–96.

■ 784–6
The Great Mosque in Cordoba, Spain is built.



Inside the Mezquita or Great Mosque in Cordoba in Spain. Its arcades of double-tiered arches, decorated with brick and stone bands, made it one of the wonders of the medieval world.

■ 836
A new Abbasid capital is built at Samarra in Iraq, complete with palaces, mosques and racetracks.

■ 9th century
Lustre decoration on ceramics is developed in Iraq.



Jug painted with lustre decoration, Iraq, 9th century.

THE FATIMIDS 909–1171

■ 909

The Shia Fatimid movement appears in North Africa named after Fatima, the daughter of the Prophet Muhammad.

■ 936

Building begins on the Madinat al-Zahra palace for the Umayyad rulers in Spain. The surgeon Al-Zahrawi (Albucasis) is born near Cordoba.

■ 940

Death of the Abbasid vizier and calligrapher Ibn Muqla, who developed six styles of cursive Arabic script based on a strict system of proportion.

■ 969

The Fatimids conquer Egypt and found al-Qahira (Cairo), meaning 'the victorious', as their capital.

■ 970

The Fatimids found the main mosque in Cairo and a centre for Shia instruction.

Gold pendant with enamel decoration, from Fatimid Egypt, 11th century.

■ c. 1000
Firdawsi completes the Persian epic poem, the *Shahnameh* or 'Book of Kings'.

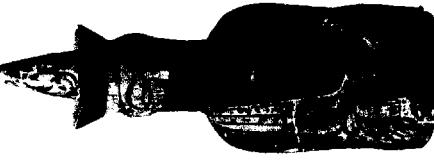


Rock crystal/bottle in the form of a lion, from Egypt, 11th century. The Fatimids obtained crystal, ivory and gold from sub-Saharan Africa.

AD 1001 - 1110

AD 1111-1220 / AH 504-617

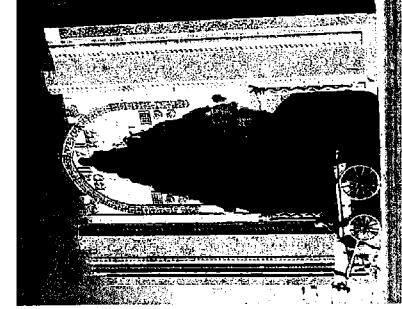
ZENGIDS & AYYUBIDS 1127 - 1250



■ Early 11th century
North African troops revolt and the Umayyad state in Spain breaks up.

Figure of Tughril Beg at prayer.
Kashan, late 13th century.

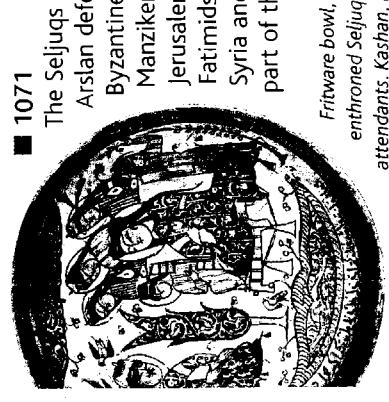
THE SELJUQS 1038-1307



■ 1038
The Seljuqs conquer Nishapur in Iran and the city becomes the Seljuk ruler's residence. This branch become known as the 'Great Seljuqs'.

■ 1055
The Seljuqs, led by Tughril Beg, capture Baghdad.

■ 1071
The Seljuqs under Alp Arslan defeat the Byzantines at Manzikert and capture Jerusalem from the Fatimids, making Syria and Palestine part of the empire.



Fritware bowl, painted with an enthroned Seljuk ruler and attendants. Kashan, Iran, 1187.

THE ZENGIDS & AYYUBIDS 1127-1250

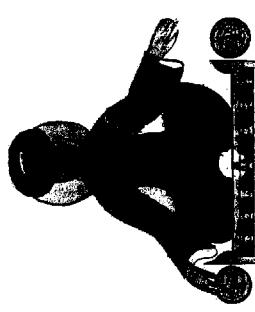


Painting of a battle beneath the walls of a town, from Cairo, Egypt, c. 1200.

■ 1127
Atabeg Imad al-Din Zengi seizes Mosul in Iraq and begins a Muslim fight-back against the Crusaders.

■ 1144
Zengi reconquers the Crusader state of Edessa for the Muslims.

■ 1169
Zengid army enters Cairo.



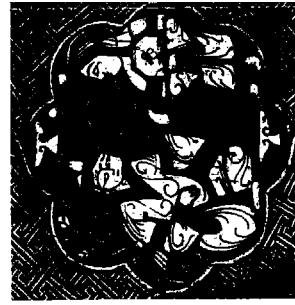
Portrait of
Salah al-Din.

■ 1169-76
City walls in Cairo extended by Salah al-Din ibn Ayyub (Saladin).

■ 1171
Nizam al-Mulk, vizier of the Great Seljuq ruler Malik Shah, writes the *Siyasatnameh* ('Book of Government').

■ 1187
Salah al-Din brings Fatimid rule to an end in Egypt and Syria, founding the Ayyubid dynasty.

■ 1187
Salah al-Din defeats a large Crusader army at Hattin near Tiberias and then retakes Jerusalem after a two-week siege.

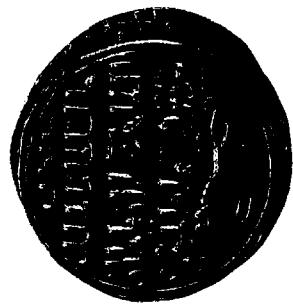


A woman with her servant, from a ewer made for the Zengid vizier of Mosul, Iraq in 1232.

AD 1221–1330 / AH 617–731

THE MAMLUKS 1250 – 1517

Gold dinar of Sultan Baybars, Egypt, 1268.



■ 1260–77

Ibn Nafis works as physician to Sultan Baybars. Ibn Nafis is the first to describe blood circulation.

THE MAMLUKS 1250–1517

■ 1250

The Mamluks, or slave-soldiers, overthrow the Ayyubids, and the Mamluk general Baybars takes control of Egypt and Syria.

THE ILKHANIDS 1256–1353

■ 1256

Mongol leader Hulegu Khan crosses Iran.

■ 1258

The Mongols sack Baghdad and kill the caliph, ending the 500-year rule of the Abbasids. Mongol rulers take the title 'Il-Khan'.

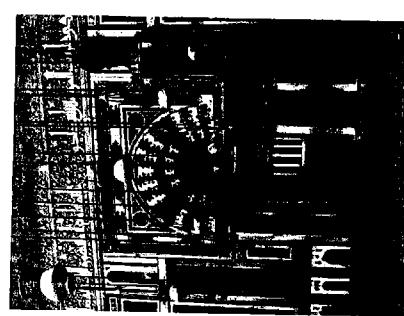
■ 1260

The Mamluk Sultan Baybars defeats the Mongols in 1260 at Ayn Jalut (Goliath's Spring) in Palestine and stops them from advancing further west.

AD 1331–1440 / AH 731–844

ILKHANIDS 1256 – 1353

■ c. 1300
The Ottomans establish control in north-west Anatolia.



A celestial globe, possibly made in Maragha, Iran, 1275–6. The Ilkhans had a serious interest in astronomy and built an observatory at Maragha.

THE OTTOMANS 1281–1923
■ 1291
The Mamluks destroy the remaining Crusader kingdoms.

■ 1294

The Mongol leader Ghazan Khan converts to Islam.

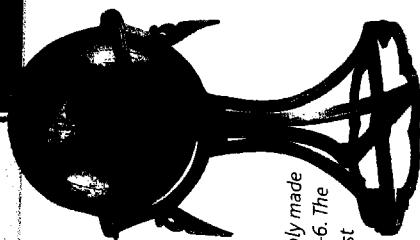
■ 1357

The Ottomans invade Europe via the Dardanelles, in Turkey.

■ 1356–63
The mosque of the Mamluk Sultan Hasan is constructed in Cairo, Egypt.

■ 1357

The Ottomans build the Gur-i-Amir mausoleum in Samarkand, Uzbekistan.



THE TIMURIDS 1370–1506

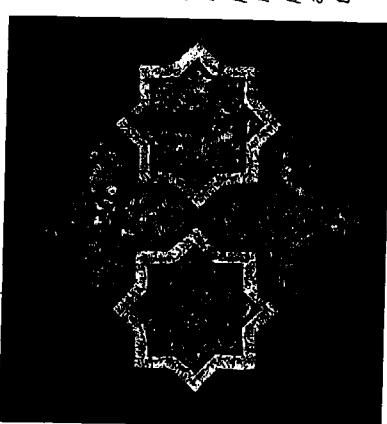
■ 1370

The Central Asian ruler Timur (Tamerlane) takes control of the region and establishes his capital at Samarkand in Uzbekistan. He conquers Iran, Iraq, Armenia, Transoxania and northern India. His successors the Timurids, including Ulugh Beg, control a smaller empire from capitals in Herat and Samarkand. They cannot hold their western territories against Turkmen tribes of eastern Anatolia and Azerbaijan.

■ 1404

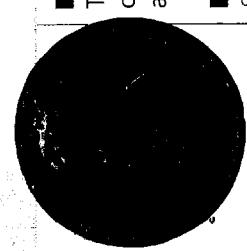
The Gur-i-Amir mausoleum is built in Samarkand. Timur is buried there.

■ 1428–29
The Timurid ruler Ulugh Beg has an observatory built at Samarkand.



AD 1441-1550 / AH 844-957

THE SAFAVIDS 1501 - 1722



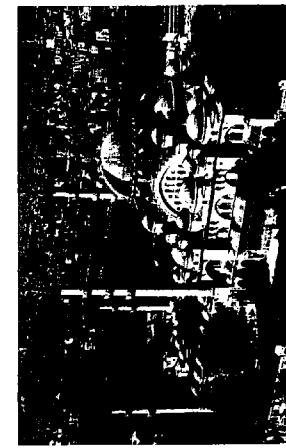
■ 1453
The Ottomans under Sultan Mehmed II capture Constantinople and make it their capital, renaming the city Istanbul.

Bronze portrait medallion of Mehmed II by Gentile Bellini, 1480.



■ 1514
The Ottomans defeat the Safavids and occupy Tabriz.

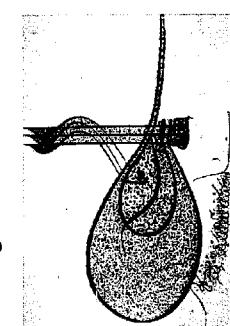
■ 1516-17
Syria and Egypt are captured from the Mamluks by the Ottomans under Sultan Selim I.



■ c. 1450s
The Ottoman Sultan Mehmed II begins construction of the Topkapi Palace in Istanbul (in modern Turkey).

Tughra or monogram of Suleiman 'the Magnificent'.

Ottoman Turkey, mid-16th century.



■ 1520-66
The Ottoman empire reaches its peak under Suleiman I 'the Magnificent'.

THE MUGHALS 1526-1858

■ 1474-5
Burial complex of the Mamluk Sultan Qaitbay is built in Cairo.

THE SAFAVIDS 1501-1722

■ 1501
The Safavid dynasty is founded by Ismail I in Iran. Shia Islam becomes official state religion.

■ 1526
The Mughal empire is founded by Babur when his forces defeat the Sultan of Delhi at Panipat in India.



■ 1550-7
Ottoman architect Sinan builds the Süleymaniye mosque in Istanbul.

Mosque lamp made in Iznik in 1549 for the Dome of the Rock in Jerusalem.



Taj Mahal in Agra, India.

■ 1556
The Mughal emperor Akbar comes to power aged fourteen. He uses diplomacy and military conquest to reinforce his control over the empire.

■ c. 1600
The British East India Company begins trading in India.

■ 1611-38
The Mosque of the Shah is built by the Safavids in Isfahan in Iran.

■ 1622
The Safavids and the British East India Company drive the Portuguese out of Hormuz in the Persian Gulf.

■ 1632-47
The Taj Mahal is built in Agra, India by the Mughal emperor Shah Jahan as a tomb for his wife Mumtaz Mahal.

This jade terrapin may have been an ornament for a garden pool in Allahabad, India, 1600-1605.



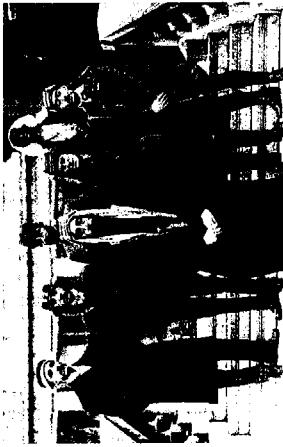
■ 1598
Shah Abbas I builds a new capital at Isfahan. It becomes the centre of artistic life in the empire. Other cities specialize in particular crafts. Shah Abbas refurbishes the shrines at Mashhad and Ardabil in Iran.



Ewer with dragon-headed spout, Isfahan, Iran, 17th century.

AFTER AD 1661 / AFTER AH 1071

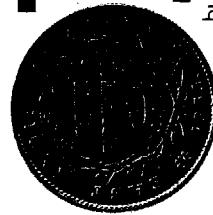
■ 1722 Mir Mahmud, an Afghan tribal leader, invades Iran and captures Isfahan from the Safavids.



■ 1739 Delhi in India is sacked by Nadir Shah, the king of Iran, and the Mughal empire begins to decline.

After World War I, Amir Faisal (shown here at the Paris Peace Conference, 1919) becomes king in Iraq, which was previously part of the Ottoman empire.

■ 1854 Russia threatens the authority of the Ottoman empire, leading to the Crimean War (1854–6).



■ 1857–8 Indian sepoys (soldiers) and civilians rise up against the British East India Company, but are defeated.

Silver rupee of the East India Company, Calcutta, India, 1835.

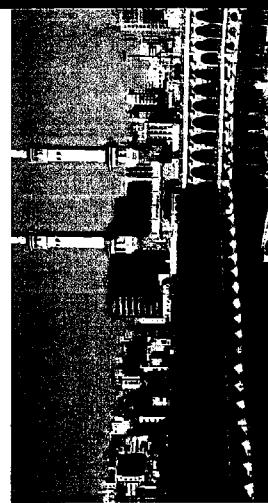
■ 1858 The last Mughal ruler, Bahadur Shah II, is deposed and India is brought under direct rule from Britain until Independence in 1947.

Banknote of Sultan Abdul Hamid II, Ottoman Turkey, 1877.

■ 1922 Following the German and Turkish defeat in World War I, the Ottoman empire is divided up by the victorious powers. The sultanate is abolished and a year later, in 1923, the Republic of Turkey is born.

■ 20th century onwards Modern Islamic states are created across the world.

Muslim pilgrims in Mecca today.



Session 2

Our textual religiosity

Dr Husnul Amin

Tuesday, April 02, 2013

Whereas an ever-growing number of Islamic social forces in the Muslim world are looking towards Turkey and its Justice and Development Party to replicate its workable model of democratisation as well as to imitate Islamic social movements like the Fethullah Gulen.

Countries like Tunisia and Egypt and their respective Islamist movements have positively revised their strategies taking inspiration from the Turkish model of society and statecraft in which both modern trends and Islamic values can coexist in the context of a pluralist society. Yet, one should not be surprised that this wisdom is not found in Pakistan and its self-righteous Islamist movements.

On the contrary, Pakistan and its Islamic forces (both intellectual and social) have gradually become irrelevant in the larger context of the Islam-state-society relationship. The future scene of state and societal configuration in relation to Islamic values will be determined and shaped by the Turkish model and not by the 'Islamic' republic of Pakistan. Modern Turkey symbolises this new trend and the Islamic cosmopolitan culture in Istanbul presents the microcosm of this Turkish model.

Based on my recent visit to Istanbul, I feel that the most interesting part of the recent Turkish upsurge is not restricted to its economic development and the strengthening of democratisation but mainly relates to achieving a considerably beautiful balance between Islam and the needs of a pluralist and open society. A society that feels pride in its Ottoman heritage, projects its art and music, welcomes its guests from diverse cultures and backgrounds and tolerates the manifestations of leisure and pleasure in the streets of Istanbul. At least for now, and in the foreseeable future, Turkey has left us far behind in the context of Islam's role and function in a modern society.

If, on the one hand, the Turkish society has pushed back its military and Kemalist elite, on the other, it could develop a Turkified Islam that better accommodates the needs and concerns of Turkish society. In contrast, Pakistan – this 'laboratory of Islam' – has miserably failed in developing an indigenous and pragmatic understanding of Islam. It seems then that the framework of a modern Muslim society will be set by no other Muslim nation than Turkey.

Caught in a historical process of either transforming and controlling state and society or resolving intellectual subtleties, Islam in Pakistan seems to have lost its creative energy. Every intellectual effort ultimately ends up one way or the other in constructing an empire of ideas that is more exclusive, authoritative and absolutist. The struggle for authenticity and claims to the final truth of everyone's interpretation could not liberate us from despondency and we failed to appreciate the needs of a cosmopolitan culture. The quiet revolution in Turkey – achieved by social movements like the Hizmet movement of Fethullah Gulen – preaches tolerance, freedom, equality and service to humanity.

Islam and society in Turkey, particularly in Istanbul, seem to have achieved a considerably attractive balance. In a number of problematic issues in the context of Islam-state and Islam-society relationships, we are all now bound to ultimately depend on the Turkish experience of an Islamic secularism. The Pakistani experience of top-down Islamisation and social control has nothing to contribute to the development of an emerging Islamic cosmopolitan culture across the Middle East. Despite our claims to authenticity and purity of Islam, as practiced in Pakistani society and manipulated by the state since its inception, the final scene is to be set and shaped by the everyday Islam/lived Islam more in the manner of the Turkish elites and the Turkish bazaar.

Here again the Pakistani religious scholarship engaged day and night in theological discourses and textual intricacies seems to have lost ground in terms of contributing to the emerging Muslim cosmopolitan culture. In the current religious landscape, even one of the few sane and rational voices, Ghamidi seems to have lost his original direction and has thus finally ventured into re-Islamisation of society.

The problem with Pakistani religious scholarship is that it tries to make sense and develop an understanding of Pakistan's culture and society using a social theory mostly derived from doctrinal texts and not from everyday practice of common Muslims. Such efforts in our religious articulations to define, judge and explain society in the light of doctrinal sources have further complicated a set of otherwise simple and intelligible issues.

While walking in the streets and bazaars of Istanbul, my Turkish friend Osman, a volunteer of the Hizmet movement, had more clarity of the issues and problems confronted by the contemporary Muslim world than most of our religiously trained scholars. I found Osman, a clean-shaven young Turk, to be a devout Muslim. At prayer time, he would stop walking and offer his regular prayers. Then he would spend a considerable time in optional prayers and dhikr. But he did not give me the impression that I was bound to offer prayers with him. Apart from his inward religiosity and spirituality, Osman had the ability and openness of mind to accommodate the religious and cultural diversity all around him.

Hundreds of thousands of tourists from diverse cultures travel to Istanbul. A number of critical observations can be made on their dress codes and leisure practices in the streets of Istanbul. I constantly kept my gaze fixed on Osman's response to these 'immodesties' as we in Pakistan would label them. Osman told me that this was the domain of personal freedoms and that any use of force by vigilante groups is counter-productive.

Upon my suggestion that most Pakistani religious circles consider 'immodesty' and 'vulgarity' to be the most daunting challenge to the Muslim world, my Turkish friend added that such things can be normally categorised as sins and it may not be a very good idea

to attack them. He added that there are three major problems of the Muslim countries: iftiraq (internal divisions), faqr (poverty) and jahala (illiteracy). He declined to accept 'immodesty' as a concrete problem for the Muslim Ummah.

Nearly all Muslim societies are facing burgeoning new middle classes, migration, urbanisation and globalisation. These trajectories and processes have their own challenges and opportunities. We cannot stop the development of cities and the introduction of modern lifestyles associated with an urban environment. Cultural and economic globalisation come with their own challenges and

opportunities.

The question is: how would you reconcile inward religiosity with the public manifestations of leisure, music, art and dress code? A textual treatment of these issues – approved by most Pakistani clergy – may never be open to the opportunity of a cosmopolitan culture. The Turkish experience of creating an intricate balance between Islam as a value system and the state and society seems to be the only logical response – at least in the near future.

To conclude, too much engagement with intellectual rigour and doctrinal intricacies – as pursued in subcontinental Islamic scholarship – and top-down Islamisation campaigns including Zia's Islamisation project, the Afghan jihad and vigilante activism of Islamist groups have distorted the intricate balance between Islam, local culture and society. This ill-conceived and illogical struggle of social control and increasing share in the social power has resulted into a social reconfiguration characterised by intolerance and superficial religiosity.

Our intellectual and political elite fail to understand and define this distorted social configuration. Our religious clergy and extreme right-wing intelligentsia insist on accepting and explaining this situation. Despite our louder claims to project Pakistan as the leader of Islamic countries, our textual religiosity has finally dragged us to a point where we are only at the receiving end. I hope our Islamic social forces learn from the Turkish model.

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The Arabic Language and Islamic Names

Johnson, Islam

For convenience we may divide these thirty-four sounds into eight groups:

- 1 Fifteen consonants which are pronounced almost exactly as in English. They are:

b t d r z s sh f k l m n h w y.

- 2 Three others which correspond closely to sounds that are common in English:

th is pronounced like the *th* in thank and think.
j is pronounced like the *g* in gem and gelatine.
dh is pronounced like the *th* in this, these and those.

- 3 Four emphatic consonants – *ṣ ṭ ḏ ḷ* – that do not occur in English. They are similar to *s t d z* but are pronounced with the tongue pressed against the edge of the upper teeth and then withdrawn forcefully.
- 4 Five guttural sounds – *ḥ kh ḡ q* – that do not occur in standard English:

ḥ is more strongly aspirated and rasping than *h*.
kh is pronounced like ch in *loch*.
^c is produced by compressing the throat and forcing up the larynx. If this makes you feel like retching you are probably making the right noise!
ḡ is the sound you make when gargling, like a French *r* but more throaty.
q is like *k* but pronounced further back in the throat.

- 5 The sign [‘] which represents the light breathing that occurs in southern English at the beginning of words such as *awful* and *absolutely* when they are given special emphasis.
- 6 The three short vowels:

ā which is pronounced like the *a* in Englishman
i which is pronounced like the *i* in did,
ū which is pronounced like the *u* in bull.

- 7 The three long vowels:
- 8 The three long vowels:

ā i u ī ī ū.

In the remaining sections of this appendix, I shall use this system to help familiarise you with it, but first we must look briefly at some other systems that you are likely to encounter.

The system of transliteration used in *The Encyclopaedia of Islam* differs from the above in three respects: *th*, *kh*, *dh*, *sh* and *gh* are printed as *th*, *kh*, *dh*, *sh* and *gh* to indicate that each pair represents a single Arabic consonant; *j* is shown as *dj*; and *q* is shown as *k*. So if you want to know about the jinn, you will need to search the entries beginning with *d*, because the word is transliterated as *dīm*. Similarly, if you wish to learn more about the Quran you must look under *k* because it is transliterated as *Kur'ān*.

Transliteration in books published in India and Pakistan is often influenced by Urdu pronunciation. Thus the letters *c* and *z*, and the dots beneath consonants are omitted; the long vowels are shown as *aa*, *ee* and *oo*; *u* sometimes becomes *o*; the letters *z*, *z̤* and *d̤* all become *z̤*; *w* sometimes becomes *v*; and *th* becomes *s*. For example, you are likely to encounter *zikr* for *dhikr*, *hadées* for *hadith*; and *Omar* for 'Umar;

In books written in or translated from French *j* is often transliterated *dj*; the long vowels may appear as *â*, *î*, *û*; and *sh* as *š* or *ch*. (Remember that in French words, *ch* is always pronounced *sh*. Quelle vie de chien! What a dog's life!).

In books written in or translated from German, *j* may be transliterated *dj* or *g*; *kh* as *ch*; and *y* as *j*. (Remember that, in written German, *j* represents the same sound as the English *y*. Ja natürlich! Yes of course!)

Some Hints about the Arabic Language

The definite article (English 'the') is represented by the prefix *al-*. There are two things you need to know about it. The first is that if the word to which it is prefixed begins with *t*, *th*, *d*, *dh*, *r*, *z*, *s*, *sh*, *š*, *d̤*, *t̤*, *z̤*, or *n*, the *l* of the article is pronounced the same as the letter in question. For example, the Arabic word for 'the sun' is pronounced *ash-shams* despite the fact that it is spelled *al-shams*. In the body of the book, my transliteration usually indicates the correct pronunciation, but you will find that many other authors invariably transliterate the article as *al-*, regardless of whether or

not that is how it is pronounced. The second thing you need to know is that if a noun is followed by a genitive it does not have the article. Thus 'the Sun of the Religion' (a fairly common Arab name) is *Shams ad-Dīn*, not *ash-Shams ad-Dīn*.

In Arabic, some nouns are masculine and others are feminine. Most feminine singular nouns end in *-ah*. As the *h* is not actually pronounced, however, it is not always written in transliteration. For instance, you will encounter both *surah* and *surā*, and both *surah* and *sura*. There is an additional peculiarity: when the feminine noun is followed by a word beginning with a vowel, the *h* is pronounced as a *t*. For example the second sura is called *surat al-baqara*, 'the Sura of the Cow'.

In English, most nouns may be put into the plural by simply adding an *s* – tradition, traditions; scholar, scholars and so forth. Some Arabic nouns behave in a similar way: if they are masculine they have a plural in *-im*, and if they are feminine they have a plural in *-āt*. However, many Arabic nouns have what are known as broken plurals. That is to say they undergo internal changes. For example, the plural of '*ālim* (religious scholar) is '*ulamā'*, and the plural of *hadīth* (tradition) is *ahādīth*. When writing about Islam, some authors give the broken plural in transliteration but others simply add *s* or *-s* to the singular. So you will encounter *ahādīth*, *hadīths* and *hadīth-s* all meaning the same thing.

Most Arabic words are derived from trilateral roots. For example, *jihād* (struggle against unbelief), *mujāhid* (a person who engages in *jihād*), *ijtihād* (the exercise of independent judgement in questions of law), and *muftīhād* (a person qualified to practise *ijtihād*), are all derived from the root *jhd*, which expresses the idea of self-exertion. When you come across long words which you are unfamiliar with, try to spot their root. This will help you both to understand them and to remember them.

Islamic Names

Muslim names can be quite bewildering. Before we examine their structure let me give you an important tip. Many names include the words *Abu*, *Ibn* or *'Abd*. These words mean Father, Son and Slave respectively. So never call anyone simply by one of

them as if it were his first name! Likewise, never call him by the word which occurs immediately after Abū, Ibn or 'Abd, for in the first case it is likely to be the name of his elder son; in the second, the name of his father; and in the third, one of the names of God! Classical Islamic names may have as many as five or six components. They are usually, but not invariably, given in the following order. First, there is the *kunya* or agnomen which designates the person as the father or mother of his or her eldest son. For example Abu Müsa (Father of Müsa), Umm Salama (Mother of Salama). Second, there is the *ism* or personal name. This is often the name of someone mentioned in the Qur'ān such as Müsa, Yūsuf or Yūnus; or the name of the Prophet or one of his Companions: Muhammad, 'Umar, Hasan and so on. Quite frequently, however, it is a compound of 'Abd and one of the names of God: 'Abd Allāh (also written Abdullāh), 'Abd al-Rahmān (also written Abdurrahman) and so on. Third, the *ism* may be enlarged by a *laqab* with *ad-dīn*. For example Nūr ad-Dīn, Shams ad-Dīn, or Fakhr ad-dīn (literally the Light of the Religion, the Sun of the Religion, and the Boast of the Religion). Fourth, there is the *nasab* or lineage. This indicates the person's relations with his forefathers over the past one, two or three generations: Ibn Ahmad (Son of Ahmad), Ibn Ahmad ibn 'Abd Allāh (Son of Ahmad Son of 'Abd Allāh), Ibn Ahmad ibn 'Abd Allāh ibn Yūsuf (Son of Ahmad Son of 'Abd Allāh Son of Yūsuf).

Note that, when not the first word, ibn is often abbreviated to b., for example Ibn Ahmad b. 'Abd Allāh. Fifth, there is the *nisba* or relation. This refers to the place of birth, residence or origin. It usually has the form al- + the name of the city + -i. For example, al-Baghdādī. Last of all comes the *laqab* or nickname. This may be bestowed posthumously or during the person's lifetime; it may be honorific, or an insult; or it may simply indicate his trade, or one of his physical characteristics which helps distinguish him from other people with the same name.

Now let us look at some examples. Abū Ja'far Muḥammad ibn Jarīr ai-Tabarī, was a famous historian and quranic commentator. His name consists of *kunya* + *ism* + *nasab* + *nisba*. Abu 'Abd Allāh Muḥammad ibn Ismā'il al-Bukhārī, compiled the most important collection of ḥadīths. His name consists of the same four elements. However, Abu al-Husayn 'Asākir ad-dīn Muslim ibn al-Hajjāj ibn Muslim al-Qushayrī al-Nisabūrī, the name of the

scholar who compiled the second most important collection, is more complex. It consists of *kunya* + *laqab* + *ism* + 2-generation *nasab* + 2 *nishas*. The first *nisha* indicates that he belonged to the Qushayrī tribe of the Arabs, whereas the second indicates that he was a native of Nisapur. The name of the famous Basra polymath 'Amr ibn Bahr al-Basrī al-Jāhiz has four components: *ism* + *nasab* + *nisba* + *laqab*.

You may be wondering how names are indexed. There is no hard and fast rule but it is customary to list a person by the most well-known element of his name. This, of course, varies. Of the four persons whom I have just mentioned, the first two are known by their *nishas*: al-Tabarī and al-Bukhārī. As the definite article is ignored for the purpose of indexing, you will find them listed under T and B respectively. However, the third person is known by his *ism*: Muslim, and the fourth by his *laqab*: al-Jāhiz (literally, 'the boggle-eyed'). All this is not as mind-boggling as it may seem, for the simple reason that names are rarely given in full. Therefore you should not encounter too many difficulties.

The Islamic Calendar and Festivals

Mecca. Every two or three years, they inserted a thirteenth month in order to keep the lunar year in relation to the solar year and the agricultural seasons. However, because they did not have a fixed system of intercalation but simply inserted a thirteenth month when they deemed it necessary, intercalation could be used to one group's advantage because it effectively postponed the arrival of the next sacred month. The Quran resolves the issue by prohibiting intercalation:

Surely the reckoning of months in the sight of Allah is twelve months, in accordance with His decree when He created the heavens and the earth, and of them four are sacred. That is the eternal religion so do not wrong each other in them. . . Postponement of the sacred months by intercalation is an addition to unbelief. The unbelievers are led to wrong thereby for they make it lawful one year and forbidden another year. . . (9:36f)

- 1 The terrestrial day, the period of twenty-four hours that it takes the earth to complete a single revolution on its own axis.
- 2 The lunar month, the period of just over twenty-nine and a half days that it takes the moon to complete a single revolution round the earth.
- 3 The solar year, the period of slightly less than three hundred and sixty-five and a quarter days that it takes the earth to revolve round the sun.

Unfortunately, if you try to divide three hundred and sixty-five and a quarter by twenty-nine and a half, you are left with a remainder. Hence the calendarist is faced with an awkward choice: he can reckon in lunar months or solar years but he cannot easily reckon in both.

The pre-Islamic Arabs operated with a calendar of twelve lunar months, and refrained from shedding one another's blood during four of them which they regarded as especially sacred. The sacred months were: Rajab, during which they performed *umra*; Dhu 'l-Hijja, during which they performed *hajj*; and the months either side of Dhu 'l-Hijja, during which pilgrims from far afield would travel to and from the sacred sites around

The Principle of the Lunar Calendar

There are three natural units which one may take into account when drawing up a calendar:

The obvious disadvantage of the lunar calendar is that it does not correspond to the agricultural seasons. Nevertheless, this is outweighed by three important considerations. First, in breaking with the solar year, the lunar calendar serves to counteract the human temptation to worship the sun and regard it as all-important. Second, annual fixtures, such as the month of fasting and the thirteen days of pilgrimage, migrate through the seasons, with the result that in the course of a lifetime the believer experiences them under a wide range of climatic conditions, learning to serve God faithfully in all of them. Third, the lunar calendar does not require complex calculations; 30-day months alternate with 29-day months and the beginning of each month is marked by the appearance of the slender crescent of the new moon.

The Muslim Year and Festivals

The Muslim year consists of twelve lunar months. Strictly speaking, there are only two Islamic festivals: *id al-adha*, 'the sacrificial festival', and *id al-fitr*, 'the festival of breaking fast'. The

ISLAM: A CONCISE INTRODUCTION

former, which is also known as *al-id al-Kabir*, 'the great festival', occurs at end of the *hajj*. While the pilgrims are offering their sacrifices at Mina to commemorate the supreme sacrifice offered by Abraham and his son, every Muslim household throughout the world sacrifices a lamb or a sheep, distributing two-thirds of it as alms and eating the rest. The latter, which is also known as *al-id al-Saghir*, 'the little festival', celebrates the end of the fast of *Ramadan*. Both festivals usually last for three or four days. They are marked by general feasting and rejoicing, the exchanging of gifts, and the wearing of new clothes. Instead of the normal dawn prayers, the believers perform two *rakas* in congregation.

In addition to the two official festivals, many Muslims preferably out of doors, and listen to a sermon.

In addition to the two official festivals, many Muslims celebrate the Prophet's birthday (*mawlid an-nabi*) although Sunnis and Shiites disagree over the date on which it occurred. The most important specifically Shiite fixture is the commemoration of the death of Imam Hussein at Karbala. Shiites also commemorate the deaths of the other Imams, and the Prophet's designation of Ali as his successor at Ghadir Khumm. In many Muslim countries there are popular local festivals in honour of saints. A saint's festival is held on the anniversary of his death, the day when his soul was finally united with God. It is referred to as his *irs*, literally his 'wedding'.

The following table lists the twelve lunar months and indicates the dates of the two festivals together with other highlights of the Muslim year. Specifically Shiite commemorations are marked with an asterisk.

- 1 Muharram
1–10, Martyrdom of third Imam, Hussein, at Karbala*
- 2 Safar
- 3 Rabia al-Awwal
- 4 Rabia al-Thani
- 5 Jumada al-Ula
- 6 Jumada al-Akhirah
- 7 Rajab
- 8 Shaban
- 9 Ramada (obligatory month-long fast)
- 10 Shawwal
- 11 Dhu l-Qada
- 12 Dhu l-Hijja
- 13 Hajj
- 14–15, Id al-Adha
- 16–17, Id al-Fitr
- 18, Ghadir Khumm*

The Era of the Hijra: How to Convert Dates

In 622 AD, on September 10 or thereabouts, the Prophet left Mecca and went to Medina. His departure from Mecca is known as the *Hijra*, the Arabic word for Migration. The Era of the *Hijra* is deemed, however, to have begun not on the precise day when he left Mecca but on the first day of the Islamic year in which he migrated. This occurred almost two months earlier, on July 16th. Thus, 16 July 622 AD (AD = Anno Domini, the year of coincides with 1 Muharram 1 AH (AH = Anno Hijrae, the year of the Hijra). If you have a date in the Christian or Common Era calendar and wish to know the rough equivalent in the Islamic or Hijri calendar, simply subtract 622. Note, however, that your answer will be only a rough approximation because the Muslim year is eleven days shorter than a solar year and there are consequently 33 Muslim years to every 32 years in the Christian calendar. To convert dates more accurately, it is therefore necessary to use the following formulae:

$$\text{AH} = \text{AD} - 622 + \frac{\text{AD} - 622}{32} \quad \rightarrow \quad \text{AD} = \text{AH} + 622 - \frac{\text{H}}{33}$$

If for a specific date in one calendar you wish to know not only the equivalent year but also the equivalent day and month in the

other calendar, the task of conversion will be much more difficult. There are three reasons for this. First, because a natural lunar month lasts just over twenty-nine and a half days, the Muslims found it necessary to have *kabisah* years in which they added an extra day. The system they opted for was to add a thirtieth day to the twelfth month of the 2nd, 5th, 7th, 10th, 13th, 14th, 16th, 19th, 22nd, 24th and 27th years of every 32-year cycle. Second, because a natural solar year lasts approximately three hundred and sixty-five and a quarter days, the Christians found it necessary to have leap years in which they added an extra day. The system they opted for was to add a twenty-ninth day to the second month at the turn of every century and every fourth year thereafter (1400, 1404, 1408, 1412, 1416 etc.). Third, because a natural solar year is in fact slightly less than three hundred and sixty-five and a quarter days, the Christian calendar gradually became out of step with the solar calendar and by 1582 it was ten days in advance. Pope Gregory XIII therefore ordered that ten days should be omitted from October of that year so that 4.10.1582 was followed immediately by 15.10.1582. Moreover, to prevent future errors from accumulating, Gregory decreed that centenary years whose first two figures were not divisible by four should not be leap years. Thus 1600 and 2000 were to be leap years but not 1700, 1800 and 1900. Most of Europe immediately adopted the Gregorian calendar but England retained the older Julian calendar until 1752 and it is still used for religious purposes in Russia. Fortunately, it is not necessary to engage in complex arithmetic every time you wish to convert a date. The answer can be found relatively quickly by consulting the tables in the book by G. S. P. Freeman-Grenville which is listed in the bibliography.

Select Bibliography

If you have access to a good reference library, you will be able to gain much valuable information from encyclopaedias. M. Eliade (ed.), *The Encyclopedia of Religion* (New York: Macmillan, 1987) contains a number of excellent articles on Islam and is often the best starting point. John L. Esposito (ed.), *The Oxford Encyclopedia of Islam in the Modern World* (New York: OUP, 1995) is also aimed at the general reader. For more advanced study, H. A. R. Gibb et al. (eds.), *The Encyclopaedia of Islam* (Leiden: Brill, 1970-) is indispensable. To consult it, you will need to know the Arabic term for the subject which interests you and to understand the somewhat idiosyncratic system of transliteration which is employed (see Appendix 1). For rapid reference, Ian Richard Netton, *A Popular Dictionary of Islam* (London: Curzon, 1992) is invaluable.

Chapters 1 & 2. There is an extensive literature on European perceptions of Islam. The most accessible account of the early period is R. W. Southern, *Western Views of Islam in the Middle Ages* (Cambridge, Massachusetts: Harvard University Press, 1962); for a balanced survey which continues the story down to the twentieth century, Maxime Rodinson, *Europe and the Mystique of Islam* (London: I. B. Tauris, 1988) is thoroughly recommended.

Chapters 3 & 4. For annotated lists of the principal dynasties, consult C. E. Bosworth, *The Islamic Dynasties* (Edinburgh: EUP, 1967). The most satisfactory one-volume history of Islam is Ira M. Lapidus, *A History of Islamic Societies* (Cambridge: CUP, 1988). Ideally, it should be read in conjunction with William C. Brice (ed.), *An Historical Atlas of Islam* (Leiden: E. J. Brill, 1981) and

Francis Robinson, *Atlas of the Islamic World since 1500* (Oxford & New York: Facts on File, 1982). On the principal Islamist movements the following three books are recommended: G. Kepe, *The Prophet and Pharaoh: Muslim Extremism in Egypt* (London: Al-Saqi, 1985); S. V. R. Nasr, *The Vanguard of Islamic Revolution: The Jama'at-i Islami of Pakistan* (Berkeley: University of California Press, 1994); and Suha Taj-Farouki, *A Fundamental Quest: Hizb al-Tahrir and the Search for Islamic Caliphate* (London: Grey Seal, 1996).

Chapter 5. The most useful general introduction to quranic studies is still W. Montgomery Watt, *Bell's Introduction to the Qur'an* (Edinburgh: EUP, 1970) although there have been a number of important developments since it was written. On the chronology of the revelations and the literary structure of the Quran see Neal Robinson, *Discovering the Qur'an: A Contemporary Approach to a Veiled Text* (London: SCM, 1996). For an introduction to classical exegesis which focuses on the quranic teaching about Jesus see Neal Robinson, *Christ in Islam and Christianity* (London: Macmillan, 1991). There is no detailed study of Quran translations but see Neal Robinson, 'Sectarian and Ideological Bias in English Translations of the Qur'an', *Islam and Christian-Muslim Relations* 8 (1997) 261–78.

Chapter 6. Ian Richard Netton, *Allah Transcendent: Studies in the Structure and Semiotics of Islamic Philosophy, Theology and Cosmology* (London: Routledge, 1989) is an excellent study of the various ways in which Muslims have thought of God, but it will be more readily appreciated by advanced students. The most accessible introduction to Islamic philosophy is M. Fakhry, *A History of Islamic Philosophy* (New York, 1983). There are many good books on Sufism but Annemarie Schimmel, *Mystical Dimensions of Islam* (Chapel Hill: University of North Carolina Press, 1975) is the best and most comprehensive.

Chapter 7. There is a need for a new critical biography of the Prophet but W. Montgomery Watt, *Muhammad: Prophet and Statesman* (Oxford OUP, 1961) is still serviceable. For those who wish to understand the place of Muhammad in Islamic piety, Annemarie Schimmel, *And Muhammad is His Messenger* (Lahore: Vanguard, 1987), is essential reading. Neal Robinson *The Sayings of Muhammad* (London: Duckworth, 1991) contains a selection of hadiths translated into good idiomatic English. The best

introduction to hadith literature is M. Z. Siddiqi *Hadith Literature: Its Origin, Development & Special Features* (Cambridge: Islamic Texts Society, 1993). On non-Muslim hadith criticism see especially G. H. A. Juynboll *Studies on the Origins and Uses of Islamic Hadith* (London: Variorum, 1996).

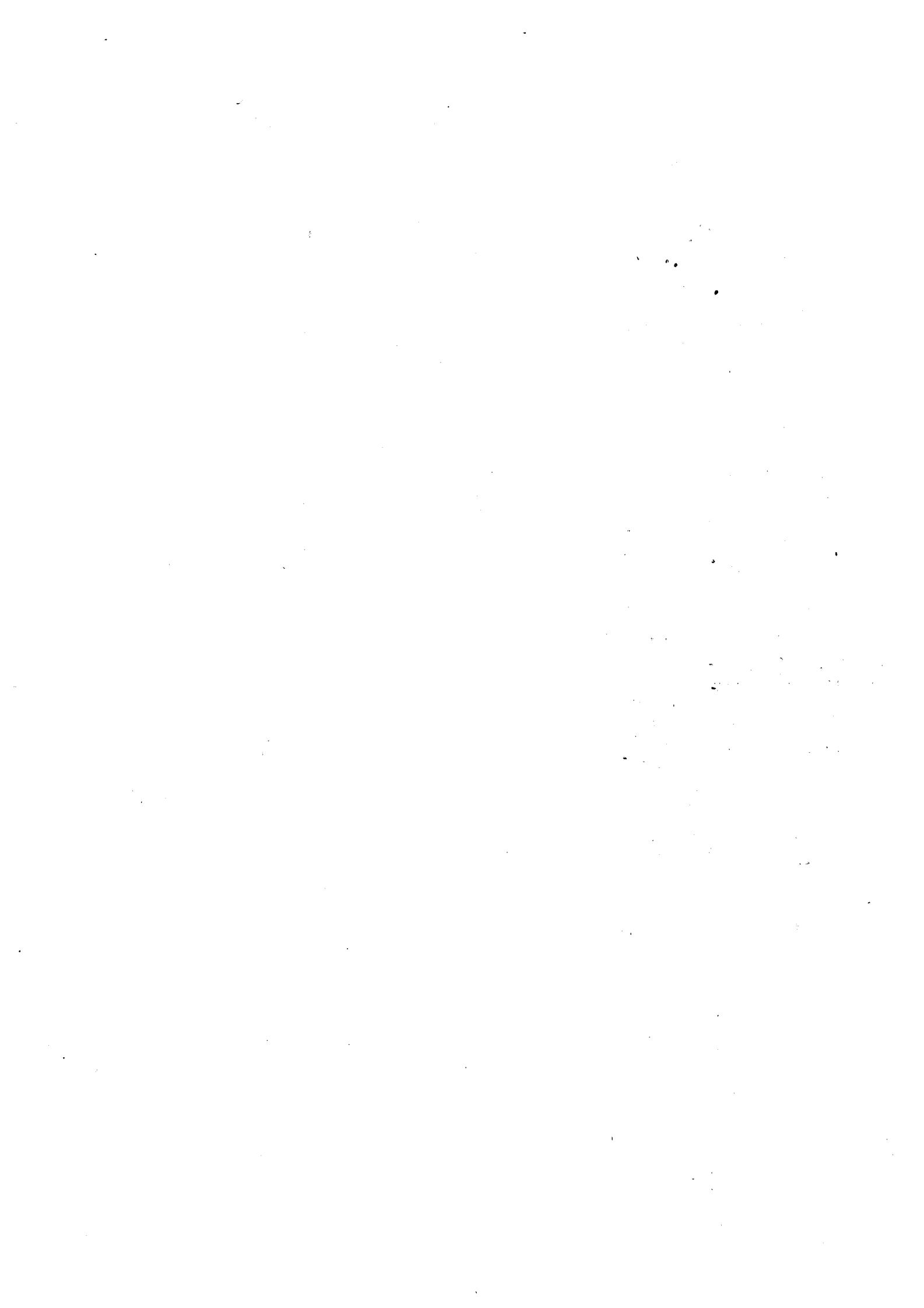
Chapters 8–11. Al-Ghazali *Inner Dimensions of Islamic Worship* (Leicester: The Islamic Foundation, 1983) contains valuable insights into prayer, zakat, fasting and pilgrimage but the reader should bear in mind that the author died in 1111. On prayer, see the audiovisual tape and booklet: Neal Robinson, *Friday Prayers at the Mosque* (Leeds: University Television, 1993). There is much valuable information on the history of the pilgrimage in F. E. Peters, *The Hajj: The Muslim Pilgrimage to Mecca and the Holy Places* (Princeton: Princeton University Press, 1994).

Chapter 12. For a clear and detailed exposition of Islamic law written from a Sunni viewpoint see M. H. Kamali, *Principles of Islamic Jurisprudence*, revised edition (Cambridge: Islamic Texts Society, 1991). On the content of the Sharia, again from a Sunni viewpoint, see A. Rahman I. Doi, *Shar'iah: The Islamic Law*. For a brief history by a distinguished non-Muslim scholar see N. J. Coulson, *A History of Islamic Law* (Edinburgh: EUP, 1989). There is as yet no good introduction to Shiite law in English. On the reform of law in the Muslim world, David Pearl, *A Textbook on Muslim Law* (London: Croom Helm, 1979) is excellent but rather dated.

Chapter 13. There are two excellent introductions to Shiism: Moojan Momen, *An Introduction to Shi'i Islam: the History and Doctrines of Twelver Shi'ism* (New Haven & London: Yale University Press, 1985) and Heinz Halm, *Shiism* (Edinburgh: EUP, 1991). The latter discusses both Twelvers and Ismailis. Farhad Daftary, *The Isma'ilis: Their history and doctrines* (Cambridge: CUP) is massive but very readable.

Appendix 1. See further Annemarie Schimmel, *Islamic Names* (Edinburgh: EUP, 1989).

Appendix 2. Conversion tables are furnished by G. S. P. Freeman-Grenville, *The Islamic and Christian Calendars AD 622–2222 (AH 1–1650)*, 3rd edition (Reading: Garnet, 1995).



the issues debated among the various protagonists in these accounts are often precisely those generated by the political-theological controversies of the late Umayyad and early Abbasid periods. There is surely no reason to doubt that Muhammad's close associates, who had risked so much to follow him, did try to shape their behavior and values according to the imperatives of the new religion. On the other hand, it is far from clear that this religion was at first thought to require a wholesale jettisoning of old ways; we might well argue that the Qur'an and Muhammad were demanding simply a reform (within a new theological context, to be sure) of traditional custom. But however that may be, ought we to imagine that the mass of new Muslims—reluctant converts from Quraysh and the rebellious tribes of the Ridda wars—had more than an inkling of what the new revelation was or how it ought to affect their lives? Should we not assume that they continued to direct their conduct in large part according to the values and attitudes of the Jāhiliyya?

4. A Criterion of Authenticity

If this hypothesis is correct, then we are faced with a serious dilemma. The ancient historical tradition describes the events and personalities of the mid-1st/7th century, but it does so in terms of an interpretive framework and rhetoric shaped by the religio-political conflicts of the late 2nd/8th century. Lacking independent evidence for the development of values, attitudes, and concepts over the intervening 125 years, how can we decide whether or not this 8th-century framework is valid for the earlier period? So long as we restrict our consideration to the early historical tradition *per se*, we can seldom get beyond circular arguments. That is, if we begin by asserting that the earliest Muslims could not have thought in a certain way, we will then reject any text which shows them thinking in that manner. But in fact we have no basis whatever for such assertions *except* the very texts which we are trying to evaluate.

Very occasionally, however, it may be possible to establish the authenticity of a crucial text, and this one text will then provide a firm (albeit very limited) criterion for the assessment of other, still doubtful texts. A very important example would be the agreement between 'Alī and Mu'āwiya at Ḫiṣn al-Ubayda to negotiate an end to their dispute; this agreement has been meticulously reconstructed by Martin Hinds, "The Ḫiṣn al-Ubayda Arbitration Agreement," *JSS*, xvii (1972), 93–129, and his work appears to give us our one solid point of repair in analyzing the first civil war. His conclusions concerning this text seem to concur with those of R. B. Serjeant. In a general survey of allegedly archaic documents preserved in the historical tradition, Serjeant rejects the claims of several items, but he also argues that some do appear to meet both linguistic and substantive criteria for authenticity: "Early Arabic Prose," *Cambridge History of Arabic Literature*, Ch. 3, especially p. 128ff.

More broadly, F. M. Donner attempts to assess the historical tradition by going outside it, in "The Formation of the Islamic State," *JAOS*, cvi (1986),

283–296. Drawing on well-attested documentary evidence (coins, inscriptions, papyri) from the first Islamic century to address a series of questions about the earliest political and administrative institutions of Islam, he suggests that the answers to these questions do conform to the general picture provided by the traditional literary sources.

Unfortunately, documents in the strict sense are rare, and few historical texts can be rigorously authenticated. We might then ask whether non-historical writing suggests any criteria for dating historical *akhbār*. Early theological discourse would seem an ideal choice, since so many political and social conflicts had a religious dimension. Unfortunately, only a few theological writings can be attributed to the early 2nd/8th century, and the authenticity even of these is hotly debated; see Josef van Ess, *Zwischen Hadīt und Theologie* (1975), and *Anfänge muslimischer Theologie* (1977); and the sharp challenge to his relatively optimistic conclusions by Michael Cook, *Early Muslim Dogma: a Source-Critical Study* (1981).

On balance, our best control on the historical tradition may be early Islamic poetry. One of the main functions of poetry in the Jābilliyā and early Islam was the vaunting of one's own group and the vilification of others. That is, it is political verse, often composed for a specific occasion, and addressing (sometimes directly and sometimes allusively) the events and persons of the day. Insofar as this verse may be authentic, it would provide an excellent check on the attitudes, values, and concepts found in historical narratives.

The poetry of early Islam has come down to us in two forms: (1) in separate collections (*diwāns*) of each poet's verse; (2) in citations, sometimes very extensive, in literary anthologies and historical compilations. The function of verse citations in the historical texts has never been properly studied, but I believe that they serve much the same purpose as the speeches and letters which are periodically introduced—*viz.*, to allow the historian to convey an explicit interpretation or evaluation of persons and events without having to speak for himself. Poetry, in short, is editorial comment, safely attributed to others. Among the *dīwāns*, the most important one from the pre-Marwanid era is that of the Prophet's "laureate," Hassān ibn Thābit, which is available in a splendid critical edition by Walid N. 'Arafāt (2 vols., 1971).

Here as in every category of early Islamic literature, authenticity is a critical issue. Blachère, *Histoire de la littérature arabe*, I, 156–179, discusses the general problem perceptively and gives some sensible guidelines for evaluating particular cases. See also two studies by 'Arafāt: (a) "Early Critics of the Authenticity of the Poetry of the Sirā," *BSOAS*, xxi (1958), 453–463; (b) "An Aspect of the Forger's Art in Early Islamic Poetry," *BSOAS*, xxviii (1965), 477–482.

Altogether, then, we do have a few tools (not terribly precise ones, to be sure) for testing our historical texts. Moreover, from the middle of the 2nd/8th century on, we possess reliable testimony on the broader currents of cultural

change in Islam. We can at least guess—though we do not know directly—how change on this level may have affected the form of the historical narratives that have come down to us. What still escapes us, however, is a reliable way of deciding which statements in these reports constitute usable fact. It is certainly possible—by comparing early versions with late ones, by dissecting *isnāds*, etc.—to show that much in them is mere falsification, accretion, or distortion. But what about the residue: does this represent an "authentic core," or is it in turn only the tendentious reshaping of a now irrecoverable primitive narrative? Perhaps we should admit that in this matter we are guided more by intuition than by scientific knowledge, and that a universal consensus is not to be hoped for.

5. Traditional Texts and Contemporary Concepts

Suppose, however, that an agreed-on body of fact could be established. Even in this case, many questions of central importance in modern political studies could not be adequately answered. The problem is that we are not dealing with raw documents but with a consciously shaped literary tradition, and this tradition has constructed its body of historical "fact" according to its own aims and criteria, not ours. We might like to know about social stratification, urban demography, and the like, but the early Muslim historians were concerned with other things—political legitimacy, the nature of right government, whether the redemptive promise of Muhammad's mission had been fulfilled or betrayed by the course of events. The names, actions, statements, and dates which would constitute the facts of Islamic history were determined within this framework, and we are compelled to make do with these.

This does not prevent us from asking our own questions and using the data at our disposal to respond to them as well as we can. At the very least, we can define the limits within which an acceptable answer must fall. Moreover, in some cases we can make progress simply by restating the Muslim historians' questions in our own terms. For example, we would not debate whether 'Uthmān's failings merited his deposition and death, but instead would ask from which segments of the Community his opponents were drawn, and which aspects of his policies had antagonized them. By making our questions congruent with those of the early Muslim historians in this way, we can make maximum use of the material which they have bequeathed us.

B. Two CASES FROM THE EARLY HISTORY OF ISLAM

Our discussion so far has been filled with qualifications and tentative hypotheses. The best way to lend it an air of reality is to look closely at two concrete cases from the formative years of the Islamic polity. The first will focus on that

rare beast, a document of almost unchallenged authenticity; the other will deal with the body of obviously very tendentious narratives that grew up around the death of the third Caliph. Between these two cases, we should obtain a clear sense of what can and cannot be extracted from the ancient historical tradition.

1. *The Constitution of Medina*

Immediately after his account of the *hijra*, Ibn Isḥāq makes the following statement: "The Messenger of God wrote a document between the Emigrants and the *Anṣār*, and in it he made a treaty and covenant with the Jews, establishing them in their religion and possessions, and assigning to them rights and duties." Ibn Isḥāq then proceeds, with no *isnād* or other indication of provenance whatever, to reproduce a text of several pages. (*Sīrat Rāsūl Allāh*, ed. Wüstenfeld, 341–44; trans. Guillaume, 231–33.) As we shall see, this text is a very remarkable one both in content and language. Even more remarkable, no piece is authentic, a point originally established by the formidable Wellhausen. He bases his assessment on the following points: (1) a forgery would reflect the outlook of a later period—e.g., the Community would not include non-Muslims; the tribe of Quraysh (from which all the Caliphs stemmed) would not be so severely assailed as the enemy of God; much more would be made of Muhammad's stature as God's Apostle; etc.; (2) Linguistically, the grammar and vocabulary are very archaic; (3) the text is full of unexplained allusions which could only have been intelligible to contemporaries; (4) the text seems to reflect ancient tribal law far more than developed Islamic practice. (Wellhausen, "Muhammads Gemeindeordnung von Medina" [1889], *Skizzen und Vorarbeiten*, iv [1889], 80.)

Such a refreshing unanimity is not maintained when it comes asking what the document is and what it means, however. On this text, after all, hinges our understanding of the last ten years of the Prophet's career, and indeed of the origins of the Islamic state. In regard to these matters almost everyone has some axe to grind. Thus it is disputed whether it is a single document or a collation of several, at what point it (or its component parts) was drawn up, whether it is a unilateral edict or a negotiated settlement, who the principal parties to it were. It is not even clear how it should be translated, so obscure or ambivalent are many of its key terms. Finally, because the rest of the tradition regarding Muhammad's life (including the Qur'an itself) is so bitterly contested, we do not have an agreed-upon documentary context within which the Constitution might be interpreted.

Given such a level of disagreement, we cannot deal here with every aspect of the Constitution; rather, we will focus on the ways in which recent scholarship has handled two major problems. The first study to define clearly the issues raised by this document was Julius Wellhausen, "Muhammads Gemeindeordnung von Medina," already cited. His conclusions were essentially taken

over and placed in a broader context by (a) Leone Caetani, *Annali dell'Islam*, I, 391–408, and (b) A. J. Wensinck, *Mohammed en de Joden te Medina* (1928), 73–98 (translated together with Wellhausen's contribution by Wolfgang Behn as *Muhammad and the Jews of Medina* [1975]). Study of the Constitution was given new impetus by the translation and discussion in W. M. Watt, *Muhammad at Medina* (1956), 221–260. R. B. Serjeant devoted many years to the elucidation of this text, drawing in particular on his knowledge of tribal custom in South Arabia; see (a) "The 'Constitution of Medina,'" *Islamic Quarterly*, viii (1964), 3–16; (b) "The *Sunna Jāmi'ah*, Pacts with the Yathribi Jews, and the *Tahrīm* of Yathrib: Analysis and Translation of the Documents Comprised in the So-called 'Constitution of Medina,'" *BSOAS*, 41 (1978), 1–42. Finally, Moshe Gil, "The Constitution of Medina: a Reconsideration," *Israel Oriental Studies*, iv (1974), 44–66, has stressed Muslim-Jewish relations as the crucial issue addressed by the Constitution. (Translations of the Constitution are given in most of these studies; a line-by-line comparison of those in Wensinck-Behn, Watt, and Serjeant is most instructive.)

The fundamental problem for students of the Constitution is whether it is in fact one document or several; on the resolution of this apparently technical matter rests one's whole interpretation of its social and political significance. Wellhausen and Caetani regarded it as a unity, and argued that it belonged to the first year or so of Muhammad's residence in Medina, before the battle of Badr in 2/624. Wellhausen bases this judgment on two considerations. First, Muhammad is very diffident about his own status in the Constitution, making no claim whatever that it is in any sense divinely revealed or authorized. Second, both its tone and its concrete provisions are consistent throughout with the situation in Medina at this time; in particular, the Jews are still fully accepted as members of the Community but are regarded with some distrust. Watt contests this view, however. He points to variations between first, second, and third-person forms of address; to repetitions of important clauses at scattered points in the text; to the omission of the names of the three major Jewish clans of Medina, though many minor ones are included. These considerations lead him to reconstruct the development of the Constitution in the following way. Roughly the first half would have been drawn up before Badr; these clauses may even represent the terms under which Muhammad had been invited to Medina. Later on, a second block of articles was added, governing relations between the Muslims and the Jewish clans. Finally, other clauses were added or dropped at various times to fit changing conditions, so that the Constitution as we have it is a composite of the whole Medina period. However, Watt does not feel able to assign any precise chronology to this development, stating that we should not "base an argument solely on the supposed date of any article of the Constitution." (*Muhammad at Medina*, 228)

Serjeant carries Watt's conclusions much further: (1) the Constitution is composed of eight discrete documents, arranged generally in their order of composition; (2) each of these documents can be quite precisely dated and

connected with a known set of circumstances. Serjeant's criterion for separating the documents is a formal one; he posits a juncture wherever there is a sentence which seems to function as a terminal formula (e.g., "probity protects against treachery"). Once these divisions are made, he finds that each section is far more coherent and internally consistent than had previously seemed to be the case. ("Constitution of Medina," 8–9) Thus, he argues, documents A and B were pacts of alliance negotiated by Muhammad immediately after his arrival in Medina; more than that, they represent the *sunna jāmi'a* invoked in the Siffin arbitration agreement between 'Alī and Mu'āwiya—the documents which (alongside the Qur'an) were to govern the negotiations between the two adversaries. Documents C and D, also drawn up before Badr, define Muslim-Jewish relations within the Community of Medina. Document E reaffirms the status of the Jews in the face of serious tensions between them and Muhammad following Badr. Document F, a very late piece, proclaims Medina to be a sacred enclave (*haram*). Document G returns to Muslim-Jewish relations, this time representing the fatal alliance between the Muslims and the Banū Qurayza just before the siege of Medina in 5/627. Document H, finally, is a codicil to F and again concerns the sacred status of Medina.

Moshe Gil, in contrast, asserts the unity of the Constitution, though his reasons for this judgment are not really clear. ("Reconsideration," 47–48) He believes that it represents a specific moment in the Prophet's career, about five months after his arrival in Medina, and that it defines a long-term strategy vis-a-vis both the pagan Meccans and the Jews of Medina.

At this point some notes on method are in order. For all these authors, the Qur'an and the ancient historical tradition are essential for the correct interpretation of the Constitution. Serjeant, however, also draws heavily on his intimate knowledge of tribal life in 20th-century South Arabia. (It is the knowledge of a colonial officer rather than an academic anthropologist, but none the less imposing for that.) He constantly stresses the close resemblance both in language and content between the Constitution of Medina and the legal documents produced in modern South Arabia, especially those concerned with sacred enclaves. In general, he is a strong advocate of the notion that there is an unbroken continuity in the major values and institutions of Bedouin life from the Jāhilīyya down to modern times. As to Muhammad himself, "the Prophet was no innovator... He accepted, with comparatively minor modifications, the ethical code and social framework of his time...." (Serjeant, "Constitution of Medina," 8; cf. "Sunnah Jāmi'ah," 1–2.) Altogether, then, we are entitled to interpret Muhammad's actions and words, as reported by the early historical tradition, in the light of the observed behavior of holy men in modern South Arabia. That behavior has been explored by Serjeant in a number of publications; see especially: (a) *The Sayyids of Hadramaut* (1957); (b) "Haram and Hawtah, the Sacred Enclave in Arabia," in *Mélanges Taha Husain*, ed. A. R. Badawi (1962).

That Muhammad saw himself as a reformer, and in a sense as a restorer, of the established ethical norms of his environment, is now accepted by many scholars. This is indeed Watt's main theme. Even so, Serjeant's approach is daring and controversial. It has certainly enabled him to give a far more detailed and precise reading of the Constitution of Medina than any of his predecessors. On the other hand, the validity of his reading depends on two assumptions: (1) the applicability of contemporary field data to the events of fourteen centuries ago; (2) the authenticity of the early historical tradition, from which he takes so many details and anecdotes essential to his case. The first assumption is undoubtedly useful, but can easily lead to unwarranted dogmatism. As to the second, we will each have to draw our own conclusions.

In the introductory comments to this section, we noted that much of the difficulty in interpreting the Constitution could be attributed to its archaic vocabulary. The second problem which we will examine emerges from one of these lexical puzzles—viz., the precise meaning of the term *ummah*. Again, the solution which we adopt to this issue molds our whole understanding of the kind of social body which Muhammad meant to establish. The word occurs in the opening clauses of the Constitution, and clearly represents a key concept within it:

1. This is a writing (*kitāb*) from Muhammad the Prophet . . . between the Believers (*al-mu'minūn*) and the Muslims of Quraysh and Yathrib, and those who follow them, join with them, and strive alongside them;
2. They are a single Community (*ummah wāhīda*) apart from other people;
3. Any Jews who follow us have support and parity; they are not to be wronged nor is mutual support to be given against them;
4. The Jews of Banū 'Awf are a Community (*ummah*) along with the Believers (*al-mu'minūn*); the Jews have their religion (*dīn*) and the Muslims have their religion. [This applies both to] their clients and themselves, save for him who commits any wrong and acts treacherously. (That person) destroys only himself and the people of his household. (Clause 4 is repeated for the Jews of eight other clans named in succession.)

What precisely does Muhammad mean by "*ummah*" here? Clearly it cannot be the religiously defined "nation of Islam" as understood in later centuries, because it includes the Jews of Medina. On the other hand, the inhabitants of the Yathrib oasis are not all included on an equal footing. Faced with such a quandary, we naturally turn to the Qur'an, where the word is widely used in the late Meccan and early Medinan passages (on which see R. Paret, "Umma," *EI*, iv, 1015–16; or *SEI*, 603–4). But the Qur'an does not really solve the problem either. Thus, Watt argues that an *ummah* is a theocratic community, instituted by God to supplant the traditional kinship-based tribes. God creates such theocratic communities through a revelation to one of His prophets, and within them solidarity and cohesion are based on a shared acceptance of this revela-

tion and obedience to the divinely chosen prophet. On the other hand, Watt is forced to concede that "when *ummah* is first used in the Qur'an it is hardly to be distinguished from *qāim*" (i.e., a kinship-based tribe); only slowly does it acquire its distinctively religious connotations. In the Constitution, he notes that the *ummah* includes Jews as well as Muslims, and "this suggests that the *ummah* is no longer a purely religious community." Finally, he sees that the Constitution's *ummah* is not a body of individuals but a confederacy of already existing clans. (Watt, *Muhammad at Medina*, 238–241, 247)

Wellhausen's discussion ("Gemeindeordnung," 74–75) is not terribly different from Watt's, though he stresses the military dimension of the *ummah*; it is the Community of God organized for defense (*Schutzmehrchaft Allahs*). Likewise, he points out that while the Constitution includes the Jews and gangs of Medina in the *ummah*, they are clients and subordinate members. Serjeant proposes (as we would expect) a far more secular interpretation; an *ummah* is simply a political confederation between a number of autonomous tribes. Following his usual method, he finds a parallel for this term in a semantically related one, *lummīyya wahida*, which is used in modern South Arabia for such confederations. ("Constitution of Medina," 12) At first glance, he seems to withdraw a bit in his second study, where he translates *ummah* as "theocratic confederation." But he intends a very restricted sense for theocracy—simply that God is in some sense the guarantor of the pact, and that the confederation has been entered into under the aegis of some "priestly" or holy person. He finds examples of such theocratic confederations all over ancient and modern Arabia, so that the *ummah* of Muhammad hardly seems exceptional. Only in the course of time (how much time Serjeant does not say) did the new *ummah* become the distinctive Islamic community of faith. ("Sunnah Jāmi'ah," 4–5)

Gil is the simplest case. He knows all the relevant Qur'anic passages, but for him *ummah* is a neutral term—"a group" as opposed to individuals. ("Reconsideration," 49–50)

Semantic hairsplitting abounds in these discussions, no doubt, but serious issues are at stake. Scholars are trying first of all to get at Muhammad's own conception of the new entity which he had founded in Medina, and secondly to determine how broadly his conception was shared by the tribesmen of 7th-century West Arabia. These problems are important in themselves, obviously, but their connection with the fate of the Jews in Medina intensifies our fascination with them. The tragic outcome of the conflict between Muhammad and the old Jewish clans of the oasis is well known; in view of this, we very much want to know what his original intentions toward them were. Plainly this is a bitter issue, especially in the light of our 20th-century history, and modern scholars find it extremely hard to examine the evidence disinterestedly.

Most of the Muslim commentators, including Ibn Ishaq and al-Waqidi, present the Constitution as a treaty with the Jews of Medina. But in the document

itself, the Jews seem to occupy a clearly subordinate place; that is, the confederation (*ummah*) appears to be primarily one between the Meccan emigrants and the various Arab clans (heretofore pagan) of Medina. Moreover, the three largest Jewish clans (Banū Qaynuqā', Banū Nadir, Banū Qurayṣa) are not mentioned by name in the Constitution, even though these were the groups with whom Muhammad came into conflict. To establish the place of the Jews in the primitive *ummah*, then, requires much reading between the lines.

There is a degree of consensus. All modern scholars agree, for example, that by the time of Muhammad's arrival in Medina the Jewish clans had become subordinate allies of the leading pagan Arab clans in the oasis. Because of this, the Jews were in no position to enter the new *ummah* on their own, but instead were brought in as clients of the Arab clans to which they were allied. But whatever their social status, the Jewish clans clearly were accepted as members of the *ummah* and had the rights and obligations entailed by such membership.

At this point the consensus breaks down. Wellhausen, Watt, and Serjeant all take Clause 4 to mean that the Jews could retain their old religion and law. Gil however sharply disagrees. Clause 3, he says, refers only to Jews who convert to Islam: "It can by no means be considered a promise of safety to Jews who wish to keep their faith." ("Reconsideration," 63.) The statement about religion in Clause 4 appears to contradict Gil's assertion, but he reads *dāyñ* (debt) instead of *dīn* (religion, law), and translates: "The Muslims are responsible for the *debt* both of themselves and their clients." For Gil, this reading of the passage undercuts any argument that Muhammad's original intention was to reach some accommodation with the Jews of Medina. On the contrary:

Through his alliance with the Arab tribes of Medina the Prophet gained enough strength to achieve a gradual anti-Jewish policy, despite the reluctance of his Medinese allies. . . . In fact, this inter-tribal law [i.e., the Constitution] had in view the expulsion of the Jews even at the moment of its writing. . . .

The document, therefore, was not a covenant with the Jews. On the contrary, it was a formal statement of intent to disengage the Arab clans of Medina from the Jewish neighbours they had been up to that time. ("Reconsideration," 64–65.)

It is interesting to note that Wellhausen and Wensinck, who also view the Constitution as a unitary document, concur to some extent with Gil's conclusion. Wellhausen finds that it betrays "a certain mistrust of the Jews." ("Gemeindeordnung," 80.) Wensinck goes considerably further: Muhammad drafted the Constitution merely to neutralize the politically influential Jewish clans; he was stalling for time until he could find an opportunity to subdue them. (*Mohammed en de Joden te Medina*, 97–98)

In contrast, the thesis of Watt and Serjeant that the Constitution is a composite document leads them to a different conclusion. For Watt, always ironic in disposition, the Constitution per se displays no particular hostility toward the

island of consensus. All modern scholars agree, for example, that by the time of Muhammad's arrival in Medina the Jewish clans had become subordinate allies of the leading pagan Arab clans in the oasis. Because of this, the Jews were in no position to enter the new *ummah* on their own, but instead were brought in as clients of the Arab clans to which they were allied. But whatever their social status, the Jewish clans clearly were accepted as members of the *ummah* and had the rights and obligations entailed by such membership.

At this point the consensus breaks down. Wellhausen, Watt, and Serjeant all take Clause 4 to mean that the Jews could retain their old religion and law. Gil however sharply disagrees. Clause 3, he says, refers only to Jews who convert to Islam: "It can by no means be considered a promise of safety to Jews who wish to keep their faith." ("Reconsideration," 63.) The statement about religion in Clause 4 appears to contradict Gil's assertion, but he reads *dāyñ* (debt) instead of *dīn* (religion, law), and translates: "The Muslims are responsible for the *debt* both of themselves and their clients." For Gil, this reading of the passage undercuts any argument that Muhammad's original intention was to reach some accommodation with the Jews of Medina. On the contrary:

Through his alliance with the Arab tribes of Medina the Prophet gained enough strength to achieve a gradual anti-Jewish policy, despite the reluctance of his Medinese allies. . . . In fact, this inter-tribal law [i.e., the Constitution] had in view the expulsion of the Jews even at the moment of its writing. . . .

The document, therefore, was not a covenant with the Jews. On the contrary, it was a formal statement of intent to disengage the Arab clans of Medina from the Jewish neighbours they had been up to that time. ("Reconsideration," 64–65.)

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In contrast, the thesis of Watt and Serjeant that the Constitution is a composite document leads them to a different conclusion. For Watt, always ironic in disposition, the Constitution per se displays no particular hostility toward the

Jews, though their special religious status of course had to be recognized. The conflict with the Jews is reflected chiefly in a negative fact—the absence of a clause referring to any of their three major clans. Watt's hypothesis is that clauses were added and deleted according to need, and so this silence is exactly what we should expect in the definitive (post 5/627) form of the document. Serjeant holds that the extant version of the Constitution contains *all* the provisions made during Muhammad's Medinan years. The text's silence in regard to the three major Jewish clans is irrelevant, since he believes (as do Weilhausen and Gil) that the Jews are identified here not by their own clan names but by those of their Arab allies. Although the original agreements (which include Clauses 3 and 4) show no animus towards the Jews and no change in their status from pre-Islamic times, that is not true of the sections appended later on. Particularly noteworthy is the language of Document E (dating from six months after the battle of Badr, 2/624) and Document G (the treaty between Muhammad and the Banū Qurayza, just before the siege of Medina in 5/627). These two documents convey no explicit threats, but for one who is aware of the historical contexts in which they were drawn up they reflect almost explosive tensions. ("Sunnah Jāmi'ah," 32–34, 36–38)

The Constitution of Medina is undeniably the key to the final decade of Muhammad's career, and like many master keys it is very hard to use. Even with its limitations and difficulties, however, it allows us to pose quite precise questions, and to define the terms in which those questions must be answered.

2. The Reign of 'Uthmān ibn 'Affān

Our discussion of the historical texts dealing with the reign of 'Uthmān will focus not on the social and political "realities" which they purport to describe, but on the intentions and concerns of the historians who composed them. In taking this approach, we are asking a question for which the historical tradition gives us direct, extensive, and unimpeachable evidence—viz., how was 'Uthmān's reign understood and evaluated by educated Muslims of the late 3rd/9th and early 4th/10th centuries. Inquiries of this kind are by now fairly common in the early Islamic field. On the other hand, they have usually dealt not with the major historical compilations per se, but rather with particular *akhbār* included within them. This method is of course valid and necessary, but it should be obvious that the separate *akhbār* have been transmitted to us only because they were selected to become part of some larger scheme of historical description and interpretation. It is then this broad framework which ought to be the primary focus of our attention.

In order to determine the covert structure and intention of a compilation made up of disjunct, highly disparate reports, we need to devise some approach by which these separate elements can be read as a coherent text. Perhaps the easiest and most direct one is simply to try to identify the set of

questions which a given compiler was trying to address. Since (as we noted in the first section of this chapter) we can expect to find very few explicit statements of method and purpose, we must discover these questions mainly through a scrutiny of the compiler's selection and arrangement of *akhbār*; we would ask why he chose to include this set of texts, why he omitted others which were available to him, why he fitted them together in one way rather than another. Our solutions will necessarily be hypothetical, and there is always the danger of over-interpreting. But even so, an inquiry of this kind can permit us to see dimensions of these works that would otherwise remain entirely hidden.

To demonstrate how this approach might be applied, we will examine the account of 'Uthmān's Caliphate given by Ahmad b. Yāḥyā al-Balādhuri (d. 279/892) in his vast biographical-historical collection, the *Kitāb ansāb al-ashrāf* (ed. S. D. Goitein, v. 1–105). Along with the parallel section in al-Tabārī (ed. M. J. de Goeje, I. 2776–3065), al-Balādhuri's text is our principal source for this crucial moment in Islamic history. It is clear from his *isnāds* that he had studied with the great biographer of the previous generation, Muhammad b. Sa'd (d. 230/845), and through him had a close acquaintance with the tradition of al-Wāqīdī (d. 207/823); the latter figure is in fact al-Balādhuri's chief authority for the reign of 'Uthmān. In addition, he cites quite extensively the contrasting accounts of Abū Mikhnaf (d. 157/774), al-Madā'imī (d. 225/840), and even Ibn Shihāb al-Zuhārī (d. 124/742). Finally, al-Balādhuri quotes (with meticulous *isnāds*) a good deal of hadith material—i.e., statements by the Prophet and widely revered early Muslims which do not recount events per se, but instead pass judgment on the religious merit of various protagonists in the drama.

Al-Balādhuri gives us some dates, but not enough to establish an adequate chronology of 'Uthmān's reign. His whole presentation in fact is achronic, for he has arranged his chapters according to topic, with no regard for their sequence in time. There are eighteen chapters, which seem to fall naturally into four groups:

- I. 'Uthmān's genealogy, his moral and personal characteristics, and his standing in the eyes of the Prophet and the Companions, especially his rival and successor 'Alī b. Abī Ṭālib.
- II. 'Uthmān's election as Caliph.
- III. 'Uthmān's conduct in office, and the protests and dissension which this aroused.
- IV. The rebellion against 'Uthmān and his murder.

The second of these sections displays very clearly the main features and problems of al-Balādhuri's account, and so we will focus our analysis on it. The section begins with 'Umar's nomination of six senior Companions (including 'Uthmān and 'Alī) to elect a successor to him; it then covers the elec-

tion procedures stipulated by 'Umar, the way in which the choice of 'Uthmān actually came about, and finally the response by various sectors of the Medina Community to this decision. It is composed of thirty separate *akhbār*, of these eighteen rest on the authority of al-Wāqīdī, while six come from Abū Mikhnaf and two from al-Madā'īnī. The longest single *khabar* runs about a page, but everything else is much shorter, in some cases only a line or two. This group of sources might in itself suggest a particular religious and political bias in al-Balādhurī's presentation. Abū Mikhnaf was a scholar of Kufa, which had always been a stronghold of pro-'Alid sentiment. As for al-Wāqīdī, he was born in Medina and spent the first half of his life there before moving to Baghdad. In Medina he was closely connected with Ibn Isḥāq, whose prophecies by later Sunni scholars both for his scholarly practices and for count of the election distinctly hostile to 'Uthmān.

'Alid inclinations are fairly clear, and al-Wāqīdī himself was regarded with some suspicion by later Shi'ite sympathies. Altogether, then, we ought to expect an account of the election distinctly hostile to 'Uthmān. Al-Balādhurī begins with three *akhbār*, the first from al-Wāqīdī and the other two from his "miscellaneous" sources. In the first *khabar*, 'Umar institutes an electoral committee to name his successor, hoping thereby to avoid the charge of "mere happenstance" which some persons had leveled at the choice of Abū Bakr to succeed Muhammad. In the event of a tie vote, states 'Umar, to make the decision. In the second *khabar*, 'Umar is preaching the Friday sermon shortly before he is attacked; he refuses to name an heir-apparent (as Abū Bakr had named him), and instead commands the people to obey the decision of the six electors. In the third *khabar*, 'Umar is lying on his deathbed; with all six electors present, he charges 'Alī and 'Uthmān to fear God if elected, and warns 'Uthmān against burdening the people with his kinsmen. Likewise, he spells out the things which favor the election of each man—in 'Alī's case, his kinship with the Prophet, his marriage to the Prophet's daughter Fātima, and his religious knowledge (*al-fiqh wa'l-'ilm*); in the case of 'Uthmān, his great age and his marriage to another of the Prophet's daughters. These three reports seem perfectly unconnected with one another, and all are related without any narrative context, a knowledge of which is simply taken together they implicitly identify the main issues which he will be addressing in the rest of the section. These issues are as follows:

1. The intensely controversial role of 'Abd al-Rahmān ibn 'Awf, whom Shi'ites came to regard as a man who had knowingly foisted an inferior candidate on the Community.
2. Whether Muslims were obligated to accept the decision of the electoral committee.
3. The rivalry between 'Uthmān and 'Alī, which will be a key motif in al-Balādhurī's presentation of 'Uthmān's entire reign.

4. The relative qualifications of 'Uthmān and 'Alī for the Caliphate.

5. 'Uthmān's nepotism, which led him to appoint allegedly corrupt and tyrannical officials, and ultimately brought about an uncontrollable rebellion against him.

These five issues are dealt with quite explicitly, but they point to a set of covert problems in al-Balādhurī's text which are addressed only between the lines. These problems were undeniably crucial ones in the minds of early Muslims, for they shaped much of the religio-political debate throughout Islam's first three centuries. They can be stated in the following form:

1. Did the electoral committee named by 'Umar really possess the right and authority to choose the head of the Muslim Community?
2. Did the electors carry out their role in a lawful and godly manner, or were they instead governed by faction and selfish ambition?
3. Was 'Uthmān in fact the best available candidate, and was he so acknowledged by all the senior Companions?
4. In the end, was the election of 'Uthmān legally and religiously binding on the entire Community, both at that moment and for all later generations?

Al-Balādhurī uses the remaining twenty-seven *akhbār* in his account of the election to explore the issues which he has stated or implied in the opening three. He never gives us a complete and connected narrative of this event, although we can come close to this by combining four *akhbār* from Abū Mikhnaf which occur at scattered points in the last half of the section. Abū Mikhnaf's version seems to acknowledge the electoral committee's decision as binding, for he has 'Umar demanding on pain of death that all Muslims accept it. However, he is critical of the manner in which the decision was reached; he stresses the kinship ties between 'Uthmān and the "chief elector" Ibn 'Awf, the latter's trickery in getting 'Alī excluded, and the general role of faction and personal ambition in the committee's deliberations. Abū Mikhnaf does not directly challenge 'Uthmān's worthiness or personal integrity, but the electoral process comes across as badly tainted.

On the other hand, the bite of Abū Mikhnaf's account is tempered by the other materials which al-Balādhurī cites. In a sense he uses Abū Mikhnaf's version to set up a list of charges against the validity of 'Uthmān's election, and then draws on other reports to demonstrate that these charges can be refuted, or at least mitigated. For example, was 'Uthmān the best available candidate? Undoubtedly 'Alī was a very strong contender, but he too had significant flaws. Al-Balādhurī recounts an evaluation by 'Umar of his possible successors, and all of them are found wanting in some crucial respect. Moreover, in two separate *akhbār* 'Umar warns both 'Alī and 'Uthmān not to burden the people with their kinsmen. Finally, one of the most learned and revered Companions, 'Abdalrahīn ibn Mas'ūd, directly proclaims 'Uthmān to be the best available man—an evaluation which is all the more significant because Ibn Mas'ūd is normally portrayed as a severe critic of 'Uthmān's regime. In the

final analysis, ‘Uthmān emerges as at least the equal of any other candidate, even ‘Alī, and hence a plausible if not flawless choice as Caliph. In much the same manner, al-Balādhūrī demonstrates the other points at issue: that ‘Abd al-Rahmān ibn ‘Awf was legitimately empowered to name the new Caliph, and that allegiance was sworn to ‘Uthmān by all the Companions, thus making his election binding on all later generations.

Two or three points in al-Balādhūrī's presentation require notice. First of all, there is the crucial role which he assigns to ‘Umar: it is he who establishes the electoral committee and makes its decisions binding, he gives ‘Abd al-Rahmān ibn ‘Awf the final voice, he publicly evaluates all the potential candidates. However, ‘Umar's commands and judgments would be authoritative only for a Sunni audience, and al-Balādhūrī's stress on these entitle us to assume that this is the audience he meant to address. He wanted to show, to anyone who might feel uneasy about the matter, that ‘Uthmān's right to the Caliphate was unimpeachable. On the other hand, he in no way denigrates ‘Alī, who is portrayed throughout in the most sympathetic manner. His purpose is simply to demonstrate that ‘Alī was not indisputably superior to ‘Uthmān, and that he did recognize the latter's election. All this is in line with the Sunni tendency in the 3rd/9th century to assert the equal religious standing and authority of all the Companions (*faswiyat al-sahāba*)—a doctrine bitterly contested of course by Shi‘ite sympathizers. Thus our initial hypothesis that al-Balādhūrī's sources (al-Wāqīdī, Abū Mīkhnaf) might lead him towards a pro-‘Alī interpretation of ‘Uthmān's reign falls to the ground.

One can subject every section in al-Balādhūrī's life of ‘Uthmān to this sort of analysis and come up with similar conclusions. At bottom, he is pursuing a fundamental question generated by the religio-political conflict of the preceding centuries: did ‘Uthmān's Caliphate represent a break in Islamic government, a betrayal of the new covenant brought by Muhammad, or did this new dispensation remain intact in at least its essential points? On the answer to this issue depended a Muslim's whole conception of the nature of religious and political authority in Islam and his evaluation of the socio-political system in which he lived. Al-Balādhūrī is thus wrestling with no trivial problem. On the other hand, his presentation does not constitute a truly historical analysis—i.e., an effort to describe and explain a process of change. Rather, he is presenting a kind of legal-political dossier, a compilation of evidence for and against ‘Uthmān on a series of widely current charges.

Al-Balādhūrī's was of course not the only approach adopted by the historians of his age. For example, the concise account given by al-Yāqūbī (d. 283/897) in his *Tārīkh* (ed. M. T. Houtsma, ii, 186–206) provides us with our earliest full statement of the ‘Shi‘ite paradigm’ of early Islamic history. Naturally we would expect to find here both a profound veneration of ‘Alī and an outright condemnation of ‘Uthmān and all his works. But this kind of partisan display is not what makes al-Yāqūbī worth reading.

Far more significant is his conception of the causal links between the Community and the conduct of its ruler. In the typical Sunni view which had emerged by the end of the 3rd/9th century, the Community and the Caliph are in principle mutually autonomous. Whatever the misdeeds or errors of the ruler, they need not affect the religious and moral integrity of the Community as a whole. Rather, the Community's integrity is preserved by its adherence to the doctrine and example of the pious early Muslims. As the famous hadith proclaims, “My Community will never agree on an error.”

For al-Yāqūbī, however, the primitive Community was itself the source of the corruption in ‘Uthmān's odious regime. That is, the Community did not become corrupt because of ‘Uthmān's actions. Rather, he was only elected in the first place because the senior Companions decided to reject the Prophet's own chosen successor, ‘Alī, in favor of a man whose character flaws were well-known to all. It is as if the Community, once deprived of the Prophet's personal guidance, at once rejected his heritage and reverted to the mean struggle of personal ambition. Under ‘Uthmān, the Community's leaders went so far as to reinstate the kinship-based social order of the Jāhiliyya, and when this was done tyranny and civil strife were inevitable. From this fatal degeneration only a tiny “saving remnant,” consisting of ‘Alī and a few devoted followers, was immune. In short, al-Yāqūbī is less concerned to condemn ‘Uthmān or praise ‘Alī than to ask how the new God-given order brought by Muhammad could have collapsed so quickly. In contrast to al-Balādhūrī, then, he is trying to present and interpret an historical process, albeit within the transcendental framework of the working-out of God's providence.

If space permitted, we might extend our analysis to other historians. This would do much to show the range of concerns and methods displayed by these scholars, and to bring out the varied cultural meanings which might adhere even to a single topic. But we have said enough to suggest what can be found in this literature. More important, we have uncovered some of the problems which the early historical tradition is likely to present for modern efforts to achieve a “scientific” reconstruction of the first century of Islam.

Session 3



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To my late mother who succumbed to the triple oppression of women under apartheid: racism, capitalism and patriarchy . . . and who insisted that her kids were her only form of entertainment.

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use of a text and claims that certain texts are scripture only in so far as they pass 'certain pragmatic and functional tests' (ibid.). While Muslim scholars and organizations involved in the search for a contextual appreciation of the Qur'an do see its essential value in terms of its function today, none would see themselves in opposition to 'revelationists'. Such a category, arguably, does not exist among Muslims. This is not to deny that there are clear differences in focus. Indeed, with some shift in meaning, one can actually speak of 'functionalism' in the Islamic tradition.

Reception hermeneutics focuses on the process of interpretation and how different individuals or groups have appropriated it. According to Francis Schüssler-Fiorenza, such interpretation 'needs to take into account, not only the text or its original audience, but also the transformation between past and present horizons' (1990, p. 23). Reception hermeneutics would thus change the analysis of the different ways in which a text was or is received 'into a task of the study of the meaning of that text' (ibid.). In contrast to historical positivism, which would incline towards a fixed meaning, reception hermeneutics asks that diverse receptions of the texts, 'including present popular understanding of the text as concretization of its meaning, be included in the problem of the interpretation of the text' (ibid.). In so doing, Schüssler-Fiorenza says, reception hermeneutics 'would include within the task of interpretation the problem of the shift in horizons of diverse audiences and the transformation between past and present horizons of expectations toward the text' (ibid.).

The significance of reception hermeneutics and its potential for incorporation into Muslim approaches to the text becomes evident when one understands how the Qur'an is viewed by Muslims.

What is the Qur'an?

The Qur'an as scripture had been dealt with very extensively in Muslim and Other scholarship, both critical and confessional.² Here I shall confine myself to a brief explanation of what the term *qur'an* means to Muslims. The majority of Arabic scholars hold the view that the word *qur'an* is a past participle derived³ from the Arabic root *qara'a*, which means 'he read', or an adjective from *qarana*, 'he gathered or collected' (Lane 1980, 7, p. 2504). In the Qur'an itself, *qur'an* is employed in the sense of 'reading' (17:93), 'recital' (75:18) and 'a collection' (75:17). Literally '*al-qur'an*' thus means 'the reading', 'the recitation' or 'the collection'. From the literal meaning, especially the idea of a 'collection', it

is evident that *qur'an* is not always employed by the Qur'an in the concrete sense of a particular scripture as it is commonly understood. The Qur'an more regularly refers to itself as a revealed discourse unfolding in response to the requirements of society over a period of twenty-three years (17:82; 17:106).

For Muslims the Qur'an as the compilation of the 'Speech of God' does not refer to a book inspired or influenced by Him or written under the guidance of His spirit. Rather, it is viewed as His direct speech. Ibn Manzur (d. 1312), the author of *Lisan al-'Arab*, reflects the view of the overwhelming majority of Muslim scholars when he defines the Qur'an as 'the inimitable revelation, the Speech of God revealed to the Prophet Muhammad through the Angel Gabriel [existing today] literally and orally in the exact wording of the purest Arabic' (n.d., 5, p. 3563).

No Text is an Island unto Itself

The socio-historical and linguistic milieu of the Qur'anic revelation is reflected in the contents, style, objectives and language of the Qur'an. This contextuality is also evident from the distinction made between the Meccan and Medinan verses⁴ and from the way its supposedly miraculous nature is located in the 'purity of its Arabic', its 'eloquence' and its 'unique rhetorical style'. In the relationship between the revelatory process, language and contents, on the one hand, and the community which received it, on the other, the Qur'an is not unique; revelation is always a commentary on a particular society. Muslims, like others, believe that a reality which transcends history has communicated with them. This communication, supposed or real, took place within history and was conditioned by it. Even a casual perusal of the Qur'an will indicate that, notwithstanding its claim to be 'a guide for humankind' (2:175) revealed by 'the sustainer of the universe' (1:1), it is generally addressed to the people of the Hijaz who lived during the period of its revelation.

Muslim scholarship generally has been reluctant to explore this relationship and its implications for the genesis of the Qur'an as well as for its interpretation. The reluctance to pursue the question of temporal causality that might be present in the background is a direct consequence of the passionate commitment to the preservation of the Otherness of the Qur'an as God's speech. The reasoning seems to be that if this-worldly events 'caused' revelation then somehow revelation is not entirely 'otherworldly'. Instead, 'they [the traditional scholars of the Qur'an] have set arbitrary limits to investigations of the myriad historical strands that, from a naturalistic perspective, coalesced in the prophetic-revelatory event that

¹ See also the discussion of the concept of 'functionalism' in the section on 'Reception hermeneutics' above.

² See, for example, the Qur'anic studies of John Wansbrough (1975), Richard Bell (1978), Philip K. Hitti (1978), and others.

³ See Lane (1980, 7, p. 2504).

⁴ See Lane (1980, 7, p. 2504).

⁵ See also the discussion of the concept of 'functionalism' in the section on 'Reception hermeneutics' above.

⁶ See Lane (1980, 7, p. 2504).

⁷ See Lane (1980, 7, p. 2504).

⁸ See Lane (1980, 7, p. 2504).

⁹ See Lane (1980, 7, p. 2504).

¹⁰ See Lane (1980, 7, p. 2504).

¹¹ See Lane (1980, 7, p. 2504).

¹² See Lane (1980, 7, p. 2504).

¹³ See Lane (1980, 7, p. 2504).

¹⁴ See Lane (1980, 7, p. 2504).

¹⁵ See Lane (1980, 7, p. 2504).

¹⁶ See Lane (1980, 7, p. 2504).

¹⁷ See Lane (1980, 7, p. 2504).

¹⁸ See Lane (1980, 7, p. 2504).

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²⁰ See Lane (1980, 7, p. 2504).

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²² See Lane (1980, 7, p. 2504).

²³ See Lane (1980, 7, p. 2504).

²⁴ See Lane (1980, 7, p. 2504).

²⁵ See Lane (1980, 7, p. 2504).

²⁶ See Lane (1980, 7, p. 2504).

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³¹ See Lane (1980, 7, p. 2504).

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³³ See Lane (1980, 7, p. 2504).

³⁴ See Lane (1980, 7, p. 2504).

³⁵ See Lane (1980, 7, p. 2504).

³⁶ See Lane (1980, 7, p. 2504).

³⁷ See Lane (1980, 7, p. 2504).

³⁸ See Lane (1980, 7, p. 2504).

³⁹ See Lane (1980, 7, p. 2504).

⁴⁰ See Lane (1980, 7, p. 2504).

⁴¹ See Lane (1980, 7, p. 2504).

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¹⁶⁸ See Lane (1980, 7, p. 2504).

¹⁶⁹ See Lane (1980, 7, p. 2504).

¹⁷⁰ See Lane (1980, 7, p. 2504).

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brought forth Islamic tradition and faith' (Graham 1980b, p. 21).

Despite this unwillingness to examine the implications of the situational character of the Qur'an, the principle of contextuality itself is generally accepted by all traditional scholars of the Qur'an, including those of fundamentalist persuasion. 'Although the Qur'an addresses itself to all of humankind', acknowledges Abul-*Ala Mawdudi* (d. 1979), 'its constituents are, on the whole, vitally related to the taste and temperament, the environment and history and customs and usages of Arabia' (1988, pp. 26–7). Mawdudi goes further to suggest that without such particularity doctrine would consist of 'mere abstractions' whose impact would be destined to 'remain confined to the scraps of paper on which it was written' (*ibid.*). Along similar lines, although more restrained, is Sayyid Quṭb's (d. 1966) emphasis on the Qur'an's dynamism in the Arabian context. 'We see', he says, how the Qur'an took it [society] by the hand step by step, as it stumbled and got up again, strayed and was righted, faltered and resisted, suffered and endured' (1954, p. 91).

These attempts to remove the Qur'an from its historical and linguistic place of birth both reflected and contributed to a greater rigidity than had been common among the earliest interpreters of the Qur'an. It was, however, rooted in the Muslim's own commitment to the Qur'an and 'a legitimate religious anxiety in its abiding relevance' (Cragg 1971, p. 17). I agree with Cragg that this anxiety was 'groundless' and that the significance of the Qur'an is sure enough and abides beyond such nervous and mistaken defence' (*ibid.*).

Progressive Revelation

The picture which the Qur'an portrays of the Transcendent is one of God actively engaged in the affairs of this world and of humankind. One of the ways in which this constant concern for all of creation is shown is in the sending of prophets as instruments of His progressive revelation.

Translating this divine concern and intervention into concrete moral and legal guidelines requires understanding the contexts of these interventions. The principle of *tadzhīr*, whereby injunctions are understood to have been revealed gradually, best reflects the creative interaction between the will of God, realities on the ground and needs of the community being spoken to. The Qur'an, despite its inner coherence, was never formulated as a connected whole, but was revealed in response to the demands of concrete situations. The Qur'an itself is explicit about the reasons for the progressive nature of its revelation. Firstly, the fact that it came as day-to-day guidance necessitated this manner of revelation. It is 'a Qur'an which

We only gradually unfolded so that you may recite it to the people step-by-step and (therefore) We have reavealed it only in pieces'. (17:106) Secondly, Islam unfolded in the midst of a struggle and Muhammad needed the ongoing support and solace from his encounters with revelation. In response to the question from his detractors as to 'why it was not revealed to him all at once' (25:32), the Qur'an says, 'Thus that we may strengthen your heart thereby. We have arranged it well' (*ibid.*).

The most cogent traditional scholar of the progressive model of revelation is undoubtedly Shah Wali Allah Dehlawi (d. 1762) who developed an elaborate theory of the relationship between revelation and its context. Following on his notion of Unity of Being, where everything is closely integrated, he emphasises the interrelation of the cosmic, divine, terrestrial and human powers and effects in the universe. God would thus not speak into a vacuum nor would He convey a message formed in a vacuum. According to Dehlawi the ideal form of *dīn*, which he interprets to mean primordial ideal religion, corresponds to the ideal form of nature.

'Actualized manifestations of the ideal form descend in successive revelations depending on the particular material and historical circumstances of the recipient community (Hermann 1985, p. 147). Every succeeding revelation reshapes the elements 'previously found into a new gestalt which embodies *dīn*, in an altered form suitable to the recipient community' (*ibid.*). It thus follows that, according to Dehlawi, with every succeeding context, *dīn* has adapted 'its form, beliefs, spiritual practices to the customs, previous faiths and temperaments of the nations to which it has been revealed' (Dehlawi 1952, 1, p. 187). In this schema of revelation, God's way of dealing with humankind is compared to a physician who prescribes different medication to his or her patients in the various stages of their illness; to hold on to a pre-Muhammadan community would, in Dehlawi's view, be tantamount to an adult using medicine prescribed for a child or using yesterday's medicine for today's ailment.

The 'arbitrary limits' set by traditional scholars of the Qur'an in investigating the historical strands in revelation, referred to by Graham (1980b, p. 21), did not exclude the principle of progressive revelation. This principle, which characterized the entire revelatory process, is best manifested in the disciplines of *asbab al-nuzūl* (events occasioning revelation, sing. *ṣabab al-nuzūl*) and that of *naskh* (abrogation). In the case of events occasioning revelation, however, traditional Qur'anic studies reduced the 'event-ness' of the text to story telling while in the case of abrogation, its significance was confined to the legal sphere.

Events Occasioning Revelation (*Asbab al-Nuzul*)

At a first glance, a bit of a clumsy translation; one rather walks a tightrope here. *Asbab al-nuzul* 'deals with the transmission of the *sabab* of the revelation of a chapter or verse and the time, place and circumstances of its revelation. It is verified by the well-known principles of transmission from the pious predecessors' (Khalilah 1935, p. 269). To render *sabab* as 'cause' would suggest that the event created the text and I am not sure whether I want to fly into the face of orthodoxy as directly as this; 'events occasioning revelation' is simultaneously a clear and ambiguous rendition.

Andrew Rippin's survey of classical works on *asbab al-nuzul* (1988a) shows that, unlike most of the works on the subject of abrogation which contain a detailed exposition and defence of the discipline, as well as listing its supposed occurrence in the Qur'an, the works dealing with *asbab al-nuzul* essentially confine themselves to its occurrence. This lack of discussion of *asbab* as a discipline shows the relative absence of any serious consideration in traditional qur'anic scholarship of the question of the historicity and contextuality of the text.

Asbab al-nuzul have been transmitted by Muhammad's Companions and scrutinized for reliability in the same way as the general *hadith* literature (Azami 1978, pp. 189–99). It is thus not uncommon to find some reports regarded as 'unsound' or differing reports from Muhammad's Companions relating to a single revelation. In such cases, the more 'reliable' account is preferred or attempts are made to synchronize the apparent contradiction in different accounts. In traditional Islamic studies, *asbab al-nuzul* forms an important element in the studies dealing with the campaigns and the biography of Muhammad, interpretation and with legal matters. Despite the neglect that it has suffered as a discipline, its significance is evident from the 'frequency of the claim that no assistance is greater in understanding the Qur'an than a knowledge of when and in what circumstances its verses were revealed' (Burton 1977, p. 16). Describing the function of *asbab* in exegesis, Rippin says that 'its function is to provide a narrative account in which basic exegesis of the verse may be embodied. The standard interpretational techniques of incorporating glosses, masoretic clarification (e.g., with variants), narrative expansion and, most importantly, contextual definition predominate within the structure of the *sabab*' (1988b, pp. 2–3). Rippin concludes that on many occasions it seems that *asbab* reports are cited by commentators for no apparent purpose of interpretation. 'They are cited

and then ignored' (ibid.). From the context of these citations, though, he opines that 'they are adduced out of a general desire to historicize the text of the Qur'an in order to be able to prove constantly that God really did reveal His book to humanity on earth; the material thereby acts as a witness to God's concern for His creation' (1988b, p. 2).

Given the general impression in the Qur'an of a God who is constantly involved in the affairs of humankind, this is certainly a credible reason for the adduction of a *sabab*. Jalal al-Din al-Suyuti (d. 1505), in fact, says that the constant reminder of the presence of God in the universe is one the functions of the *sabab* (al-Suyuti 1987, 1, p. 29). 'The *sabab*' as Rippin says, 'is a constant reminder of God and is the rope, that being one of the meanings of *sabab* in the Qur'an, by which human contemplation ascends to the highest levels even while dealing with the mundane aspects of the text' (1988b, p. 1).

The regular reference to the occasion of revelation in the interpretation of the Qur'an, the dates and the circumstances of the individual revelations and its significance for the question of abrogation or *naskh* are all indications that there is more to the Qur'an than a text. In fact, because every chapter 'is so vitally linked with its situational background . . . knowledge of the occasions of revelation is of extreme importance and numerous verses will remain incomprehensible without it' (Mawdudi 1988, p. 3). The significance of this becomes apparent when we read texts which at superficial reading convey an idea of a tribal God bent on holding together a small community at the expense of a broader humanity. In later chapters, I shall show how an appreciation of the occasions of revelation of these texts actually opens them to a pluralist and liberatory reading.

Naskh (Abrogation, Clarification or Particularization?)

Literally *naskh* means 'the removal of something by something else [and] annulment' (Ibn Manzur n.d., 6, p. 4407). In traditional qur'anic studies and Islamic jurisprudence, however, it means the verification and elaboration of different modes of abrogation. The proof text for the notion of *naskh* is Qur'an 2:106: 'Any message (ayat) we abrogate or consign to oblivion We replace with a better for a similar one. Do you not know that God has the power to will anything?' The modes of *naskh* may be classified as follows: 1) the qur'anic abrogation of divine scriptures that preceded it; 2) the repeal of some qur'anic texts that are said to have been blotted out of existence; 3) the abrogation of some earlier commandment of the Qur'an by the later revelations, while the text containing those commandments remained in the Qur'an; 4) the abrogation of a prophetic

practice by a qur'anic injunction and 5) the abrogation of a qur'anic injunction by the prophetic practice.

The significance attached to *naskh* may be gauged from the fact that a large number of independent works were produced on the subject. Besides the literature on the theory of *naskh*, one finds a number of reports attributed to the Companions of Muhammad emphasizing the need to acquire knowledge of the abrogating and abrogated verses of the Qur'an.⁶ Despite this emphasis, there is probably no other discipline in traditional qur'anic studies to rival it in confusion regarding its validity, meaning and applicability. This confusion accounts for the fact that many have doubted its validity beyond the first of the modes listed, i.e., that of the Qur'an abrogating previous divine scriptures (Al-Razi 1990, 3, pp. 245–52).

A number of latter-day reformists such as Sir Sayed Ahmad Khan (d. 1898) and contemporary scholars such as Isma'il al-Faruqi (d. 1986) rejected *naskh*. They argued that the revelations that came earlier in certain circumstances and which were modified or improved later, were not actually abrogated. Instead of viewing previous rulings as abrogated by subsequent ones, it was more appropriate to continue regarding them as valid to be implemented in conditions similar to those in which they were revealed. Much of the concern of these scholars centred around the question of the authority of the text. When almost every passage or practice which is held as abrogated by one scholar is questioned by another, then there is little doubt that the question of scriptural authority itself is involved.

The various transformations in the meaning of the term *naskh* are responsible for much of this confusion, as Dehlawi has pointed out (1966, p. 40). Some Companions, as Ibn Qayyim al-Jawziyyah (d. 1350) illustrates, used the word in the sense of 'either', 'exception', particularly the meaning or clarification of a previous verse (1895, 1, p. 12). Its early usage thus did not necessarily include 'abrogation', with which it subsequently came to be synonymous. These different meanings of the word were later confused and little or no distinction was drawn between them. According to Dehlawi, the Companions and Followers (i.e., the generation of those early Muslims who did not meet Muhammad but knew one or more of the Companions) took *naskh* in the literal sense of 'removal' and not in the more technical sense used by the scholars of the theoretical bases of Islamic law (Dehlawi 1966, p. 40). The use of the term *naskh* in its general sense thus enhanced the number of abrogated verses which, according to Dehlawi, had reached five hundred (ibid.).

It has been the trend among scholars of the Qur'an to reduce the number of abrogated verses (al-Faruqi 1962, PE. 40ff.; Hassan 1965, p. 187). The repeal of the individual verses in the Qur'an was not generally favoured and various ways were used to either reduce their number or to deny their actual occurrence while accepting such a possibility.⁶ Abu Muslim al-Isfahani (d. 1527), for example, denied the theory of *naskh* entirely. Muhammad ibn Idris al-Shaffi (d. 820) and Fakhr al-Din al-Razi (d. 1209) argued that the possibility of abrogation does not actually mean that it occurred (Al-Shafii 1973, 2, p. 285; al-Razi 1990, 3, p. 246). Al-Suyuti reduced the number of repealed verses to twenty-one while Dehlawi, arguing that most of them could be reconciled, reduced them to five (1966, pp. 41–6).

Whatever the various opinions surrounding *naskh*, there is unanimity about what Fazlur Rahman describes as 'the situational character of the Qur'an' (1966, p. 10). Both the entire revelation as well as specific verses were generally revealed within the context of particular social conditions. As Muslim society was taking shape, the qur'anic revelation kept up with the changing conditions and environment.

The principle of progressive revelation is best illustrated in the issue of the prohibition on the consumption of alcohol. In the Meccan period the Qur'an mentions alcohol among the blessings of God, along with milk and honey (16:66–9). In Medina a number of Muslims desired an expressed prohibition of alcohol. In response to this, we have a verse where the Qur'an says: 'They ask you about alcohol and games of chance; tell them that there is a great deal of harm in them but there are also certain benefits for people in them; but their harm is greater than their benefits' (2:219). After a party at the home of one of the Medinan host community a number of people actually became drunk and when one of them led the evening prayers he mispronounced certain words from the Qur'an. When this was reported to Muhammad, the following verse was revealed: 'Do not approach prayers when you are under the influence of alcohol so that you should know what you are saying' (4:43). Much later, according to another report, there was another party where drunkenness led to a brawl when some people quoted pre-Islamic poetry against rival tribes. In response to this incident the following text of the Qur'an was revealed: 'Alcohol, games of chance, divining by arrows and idols-altars are an abomination and work of the devil. The devil wants to sow discord and rancour among you and that you should become oblivious of your duty of praying to God. Therefore desist from alcohol. Are you then going to desist?' (5: 90–1).'

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Progressive Revelation as a Tool for Progressive Islam

The principle of progressive revelation, as is evident from the disciplines of *asbab al-nuzul* and *naskh*, reflects the notion of the presence of a Divine Entity who manifests His will in terms of the circumstances of His people, who speaks to them in terms of their reality and whose word is shaped by those realities. For Muslims committed to discovering the will of God for society today, the message of the Qur'an, as Rahman says, 'despite it being clothed in the flesh and blood of a particular situation, overflows through and beyond that given context of history' (Rahman 1966, p. 11). This word of God thus remains alive because its universality is recognized in the middle of an ongoing struggle to rediscover meaning in it. The challenge for every generation of believers is to discover their own moment of revelation, their own intermission in revelation, their own frustrations with God, joy with His consoling grace, and their own guidance by the principle of progressive revelation. For the numerous Muslims who experience existence as marginalized and oppressed communities or individuals, this discovery clearly has to take place amidst their own Meccan crucibles of the engagement between oppressor and oppressed, the Abyssinian sojourn amidst the gracious and warm hospitality of 'the Other' and the liberating praxis in Medina.

The disciplines of *naskh* and *asbab al-nuzul* have both come to form significant elements in contemporary attempts to contextualize the message of the Qur'an, to recapture territory from the ever-expanding unthinkable in Islamic thought. They are being embraced as key elements in a broader tapestry of historical relevance, contextuality and social justice.⁸ Reformist scholars all agree that the task of interpretation today must consider the time, location and an understanding of how tenets and directives respond to the contemporary context. They also share a commitment to the inner unity of the Qur'an and a rejection of random and selective citation (Rahman 1982a, pp. 3, 20; Asad 1980, p. 7; Ansari 1977, 1, p. 161). The objective is not to search for accounts of isolated historical incidents] which occurred in the prophetic era and then attempt to construct a 'politically correct' view on the basis of these. The Qur'an is, after all, not merely a collection of individual and disjointed injunctions. It is also an integrated whole with a definite ethos; 'an exposition of an ethical doctrine where every verse and sentence has an intimate bearing on other verses and sentences, all of them clarifying and amplifying one another' (Asad 1980, p. vii). An understanding of that interaction and context is a condition for reapplying it. To

understand the Qur'an in its historical context is not to confine its message to that context; rather, it is to understand its revealed meaning in a specific past context and then to be able to contextualize it in terms of contemporary reality.

Traditional Qur'anic Scholarship and Hermeneutics

Two terms are usually employed in Qur'anic studies to refer to interpretative activity: *tafsir* and *ta'wil*. From the root *fassara* (literally, 'to explain' or 'elucidate') or *afسara* (literally, 'to break'), the verbal noun *tafsir*, although only occurring once in the Qur'an, in 25:33 ('Abd al-Baqi 1945, p. 519), came to be used technically for exegesis around the fifth century AH/eleventh century CE.⁹ The other term frequently employed in regard to exegesis is *ta'wil*. Some scholars use both words in the sense of 'elaboration', while others make a distinction between them using *tafsir* to denote external philological exegesis, the exoteric/external, or a reference to both secular and divine books. *Ta'wil*, from 'uwāl', (literally, 'to interpret' or 'to elaborate') is then taken to refer to the exposition of the subject matter, the esoteric/inner or exegesis dealing purely with a divine scripture. Later, *ta'wil* became a technical term to denote the rejection of the obvious meaning of a verse and adoption of an inner interpretation (Ahmad (Jullandri) 1968, p. 73).¹⁰

The term 'hermeneutics' is rather new in Muslim discourse on the Qur'an and is not used at all in traditional or confessional scholarship. The absence of a definitive term for hermeneutics in the classical Islamic disciplines, and its non-employment on a significant scale in contemporary Qur'anic literature, however, does not mean that definite hermeneutical notions or operations in traditional Qur'anic studies or the other classic disciplines are absent. Firstly, the hermeneutical problem was always experienced and actively pursued, rather than thematically posed. This is evident from early discussions on *asbab al-nuzul* and *naskh*. Secondly, as I indicated earlier, the distinction between actual commentary and the rules, methods or theory of interpretation governing it, dates from the earliest exegetical literature. This was systematized in the discipline of principles of *tafsir*. Thirdly, traditional *tafsir* has always been categorized. These categories, 'Shiite', 'Mu'tazilite', 'Ash'arie', 'jurisic', etc. are acknowledged to say something about the affiliations, ideology, period and social horizons of the exegete. To date though, little has been written by Muslims in a historicocritical manner about the relationship

between the social horizons of the exegete and his or her exegesis or about the explicit or implicit socio-political or philosophical assumptions underlying their theological predilections, all of which are key concerns of contemporary hermeneutics.

The meaning assigned to a text by any exegete cannot exist independently of his or her personality and environment. There is therefore no plausible reason why any particular generation should be the intellectual hostages of another, for even the classical exegetes did not consider themselves irrevocably tied to the work of the previous generation. The emergence of *tafsir* as a science in Islam is itself proof of the creativity of exegetes who still continue to be inspired by, assimilate, elaborate upon and even reject the work of their predecessors.¹¹ Qur'anic scholarship today does not require appeals to the intellectual genius or the spiritual heights of pious predecessors. What is required of the interpreter today is a clear understanding of where he or she comes from, a statement of his or her baggage as the word of God is being approached.

The question of the relationship of the birth of the text to its authority and meaning is one left largely unexplored. Unlike early biblical scholarship, which generally agreed that the Bible was a 'production', of God or men, in Islam the traditionalist perspective goes beyond this: the Qur'an as 'production' is itself disputed, as was the question of its (historical) 'event-ness'. Anything seen as remotely conceding any aspect of qur'anic revelation is summarily dismissed as making 'conceptual room for posing a potentially dangerous question about the authority of scripture' (Akhtar 1991, p. 102). For Muslims, God is the author of the Qur'an. From this perspective one cannot even begin to consider the prospect of an 'objective' attempt to get into the mind of the author in order to understand what is intended by the text.

As the progressive South African Islamists discovered in the 1980s, the task of relating the text to the present context in a concrete manner invariably brings one face to face with all the contemporary ideas of hermeneutics and plurality of meanings. While this is a challenge which was, and is being, confronted, there are no illusions that, for the believer,

¹¹ Hermeneutics and plurality of meanings. While hermeneutics is painless. While hermeneutics may deal essentially with the problem of the recovery of meaning, it goes beyond the search for the ultimate in interpretative methodology. Hermeneutics therefore poses three considerable difficulties for confessional Islamic scholarship. Firstly, the insistence of hermeneutics on contexts and human contingency in the recovery of meaning implies that the Qur'an does not 'mean' something outside socio-historical contexts but

'is always possessed of *Deutungsbedürftigkeit* . . . a text in need of interpretation' (Martin 1982, p. 367). In other words, without a context a text is worthless. While this may conveniently bypass the question of the Qur'an's existence outside history, it does not adequately address the traditional idea that the true meaning of the Qur'an is what God means by it. Secondly, the stress on human agency in producing meaning is really opposed to the idea that God can supply people with watertight 'correct' understandings, what Arkoun describes as 'essentialist and unchangeable concepts of rationality which divine intellect protects and guarantees' (Arkoun 1987b, p. 3). The idea that human constructions and contexts make God's presence in the world 'possible' is no less profound for traditionalism than a direct challenge to notions of revelation, infallibility and authenticity. As Aitken has argued, 'to write large the significance of human agency is to see that meaning is itself a contest within power relations; divinity lies within the working of that contest and cannot be predicated transcendentally outside the contest as the guarantor of a finally achievable meaning' (1991, p. 4).

Thirdly, traditional Islamic scholarship has made a neat and seemingly unbridgeable distinction between the production of scripture, on the one hand, and its interpretation and reception, on the other. This distinction is the crucial factor in the shaping of qur'anic hermeneutics, for it implies that the only hermeneutics Islam can presently cope with is that pertaining to interpretation and reception.

In contrast to the impersonalism of the modern scientific worldview that considers language as autonomous, reception hermeneutics argues that the locus of meaning for people is persons. Reception hermeneutics does not try to recover an author's elusive intention. Instead, it studies the contributions to the ongoing and ever-changing understandings of a text. Basing itself on exegetical literature in the widest sense, which may include a radical Islamist's pamphlet or a traditional cleric's sermon, reception hermeneutics would examine the many different ways a text was received, made concrete and interpreted.

Two Contemporary Approaches

Fazlur Rahman (d. 1988) is arguably the foremost reformist scholar in contemporary Islam who remains rooted in notions of an essentialist faith, while Mohammed Arkoun represents a radical break with traditional epistemology. Along with Nasr Hamid Abu Zaid, the exiled Egyptian scholar, Arkoun is an example of Muslim scholarship embracing contemporary hermeneutical insights and literary criticism. His thinking is arguably the

most radical in contemporary Islam and, along with Abu Zaid, he displays a deep insight into the contemporary discourses on language, semantics and hermeneutics. Both Rahman and Arkoun have made an enormous contribution to the methodology of interpretation and to qur'anic hermeneutics respectively, despite the lack of depth in Rahman's work in this field and the repetitive nature of Arkoun's over the last few years.

Fazlur Rahman: A Modernist Rooted in God-Consciousness

My interest in Fazlur Rahman, a Pakistani scholar and graduate from the universities of Oxford and the Punjab was first awakened while at the *madrasah* in Karachi. Our rector, the late Mawlana Yusuf Binnuri, extolling the achievements of our institute, mentioned the important contribution which it had played in forcing Rahman into exile. Rahman had taught in the United Kingdom and Canada before working as the Director of the Institute of Islamic Research in Pakistan. While he was in this post, he was forced into exile for his views on the nature of the Qur'an. He passed away in 1988 in the United States, where he was a professor in Islamic Studies at the University of Chicago.

Among contemporary Muslim scholars the concern for the contextuality and programmatic nature of the Qur'an is best represented by Rahman. His views on the Qur'an and revelation are covered in a chapter in his books *Prophecy in Islam: Philosophy and Orthodoxy* (1958) and *Islam* (1966) while his ideas on hermeneutics and interpretation are dealt with extensively in *Islam and Modernity: Transformation of an Intellectual Tradition* (1982a) and in an article, 'Interpreting the Qur'an' (1986b).

Rahman, a passionate believer, regards the Qur'an as 'a unique repository of true answers to virtually all situations' (1982a, p. 5), and believes that, in returning to it, 'modern man [will] be saved through religion' (ibid. p. 40). He insists that revelation intends obedience rather than information and believes that 'the Qur'an is the divine response, through the Prophet's mind to the moral and social situation of the Prophet's Arabia, particularly the problems of the commercial Meccan society of his day' (ibid. p. 5). He believes that the Qur'an really originated outside this world. This ontological otherness of the Qur'an is seen in the fact that it was 'verbally revealed [italics in original] and not merely in its meaning and ideas' (1966, pp. 30–1). According to him, this 'divine message broke through the consciousness of the Prophet from an agency whose source was God' (1988, p. 24). In this sense it also became a part of Muhammad's speech. It is this area of overlap that earned Rahman the wrath of traditional Muslim scholars.

but orthodoxy lacked the necessary intellectual tools to combine, in its formulation of the dogma, the otherness and verbal character of the revelation, on the one hand, and its intimate connection with the work and religious personality of the Prophet, on the other; i.e., it lacked the intellectual capacity to say both that the Qur'an is entirely the Word of God and, in an ordinary sense, also entirely the word of Muhammad. (1966, p. 31)

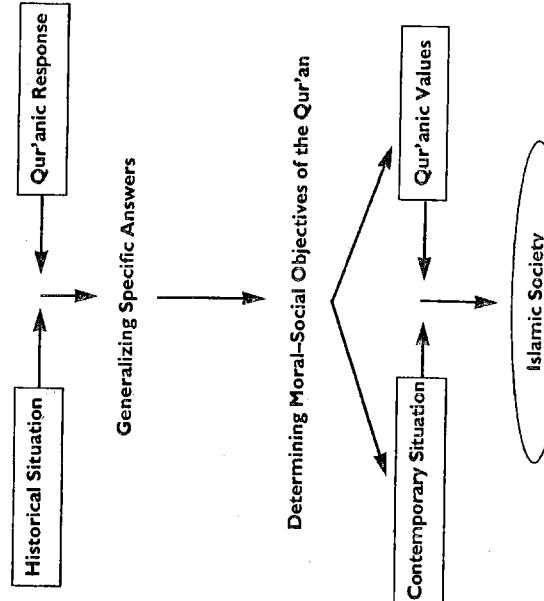
Rahman here refers to the events prior and subsequent to the *mihnah*, a Muslim version of the Inquisition,¹² which resulted in traditionalists emphasizing the externality of the Qur'an (1966, p. 31). He insists that while the Qur'an 'itself certainly maintained its otherness . . . objectivity and the verbal character of the revelation, [it had] equally certainly rejected its externality vis-a-vis the Prophet' (ibid.). Rahman is arguably the first modern reformist Muslim scholar to link the question of the origin of the Qur'an to both its context and interpretation. It is also a connection with which contemporary hermeneutics is also concerned and which is crucial for the question of meaning. Rahman's writings, however, display little insight into hermeneutics as a contemporary discipline. Beyond what has been said, he regrettably leaves unexplored the crucial question of the relationship between the origin of the text and its interpretation. By contemporary Muslim standards his views are fairly radical, but he concentrated on methods of interpretation, rather than on the implications of his views on the nature of revelation for interpretation and meaning.

There are two key concepts in Rahman's approach to qur'anic interpretation: understanding the Qur'an within 'its proper context which is the struggle of the Prophet and the background of that struggle' (1986b, p. 46); and ensuring that the underlying unity of the Qur'an flows through all interpretation (ibid., p. 45). Rahman laments the 'general failure to understand the underlying unity of the Qur'an' (1982a, p. 2) which has led to a 'piecemeal, *ad hoc* and extrinsic treatment of it' (ibid., p. 4). His criticism of the 'extrinsic treatment' of the Qur'an reveals the inadequacy of his hermeneutical methodology and his insistence on an 'objective' appreciation of the Qur'an's meaning. His criticism of the two groups of Muslims, the philosophers and Sufis, who, he believes, often understood the underlying unity of the Qur'an, is a case in point (ibid., p. 3). Rahman argues that this unity was imposed from without rather than derived from 'a study of the Qur'an itself' (ibid.). While their ideas were 'adapted somewhat to the Islamic milieu and expressed in Islamic terminology', this thin veneer could not hide the fact that their basic structure

of ideas was not drawn from within the Qur'an itself' (*ibid.*). He therefore concludes that their intellectual constructs had an 'artificial Islamic character' (*ibid.*).

Rahman argues strongly that there are intellectual constructs which can be 'objectively' arrived at and 'objectively' defined as 'Islamic' (1982a, pp. 8–11). Arguing that a subject-interpreter can break free from the shackles of his or her 'effective history' (Gadamer's term; Gadamer 1992, p. 267), Rahman believes that it is possible to go beyond one's self and to arrive at absolute/objective meaning (Rahman 1982a, pp. 8–11).

In *Islam and Modernity*, Rahman argues the case for an 'adequate hermeneutical method' 'exclusively concerned with the cognitive aspects of revelation' (1982a, p. 4). The *a priori* hermeneutical keys for the 'purely cognitive effort' (*ibid.*) are faith and the willingness to be guided. 'While faith may be born from this effort', he says, 'more patiently, faith may and ought to lead to such cognitive effort' (*ibid.*). Rahman argues that the process of drawing meaning or, more appropriately, guidance, from the Qur'an, can be compared to the process of dynamic revelation. Contemporary exegesis must, therefore, focus on the historical circumstances of revelation as the most valuable means of understanding (*ibid.*, pp. 1–11). He proposes a process of interpretation involving a double movement: from the present to the Qur'anic period and then back to the present (*ibid.*, p. 20). His methodology is diagrammatically illustrated below:



The first movement consists of understanding the Qur'an as a whole and in terms of specific injunctions revealed in responses to specific situations. This proceeds in two steps. The first step, studying the historical situation and its ethico-moral requirements, precedes the study of the Qur'anic texts in the light of specific situations (Rahman 1982a, p. 6). The second step is to generalize those specific answers and frame them as statements of general moral-social objectives that can be drawn from the specific texts in the light of their socio-historical background and the often stated rationale behind the law (*ibid.*).

The second movement involves applying the general objectives achieved under the first in the present concrete socio-historical context. This application requires a study of the present situation in order to change it and to determine priorities to implement Qur'anic values afresh.

Rahman: A Critique

In much of his approach, Rahman shows a lack of appreciation for the complexity of the hermeneutical task and the intellectual pluralism intrinsic to it. This absence of grey areas is the most serious inadequacy in his approach. Faith leads to understanding, he insists, without seeing that these can be intrinsically linked to each other. Similarly, he deplores what he calls 'Islam's pitiable subjugation of religion to politics . . . rather than genuine Islamic values controlling politics' (1982a, pp. 139–40) without acknowledging the dialectical relationship between the two. His criteria of knowledge are based on the primacy of cognition and he ignores the relationship between cognition and praxis. Lastly, as Moosa points out, 'he does not attempt to capture the aesthetic whole, but is pre-eminently preoccupied with the historical cognition which would focus on moral values.' (Moosa 1987b, p. 19).

Rahman's work displays an overriding concern for the 'basic moral élán' (1966, p. 32) of the Qur'an. The twin pillars of this morality, he tirelessly proclaims, are God-consciousness and social justice (1982a, p. 155). While he insists that his commitment to these is derived from the Qur'an and not read into it, they do effectively become significant hermeneutical keys in his methodology. He thus reads into the Qur'an whatever conforms to the requirements of God-consciousness and social justice and, invoking *jihad* (scholarly creative endeavour), applies the principle of progressive revelation to conform with it.

Rahman, however, displays a regrettable ignorance of the structural causes of injustice and refers to the need for social justice in somewhat condescending terms. Those who are engaged in political struggles

employing an Islamic perspective are dismissed as ‘using Islam’ (1982a, pp. 139–40). By so doing, he ignores the fact that the study or articulation of the Qur'an within a particular socio-political framework is not confined to those intent on challenging an unjust status quo.

The idea that those committed to the removal of injustice are ‘political’ or ‘ideological’ beings and those committed to its preservation are ‘apolitical’ or ‘spiritual’ is long since discredited. The South African engagement with the Qur'an and the visible manner in which religion itself became contested territory testify to the fact that apparently apolitical readings of the Qur'an were as much influenced by the power arrangements as any decidedly ethico-political reading. As Tracy says, ‘There is no historyless, discourseless human being’ (1987, p. 107).

The objectivist approach and belief in gaining access to ‘the real truth’, as I have shown, flow through Rahman’s work. Yet his own ideas are not entirely free from ambiguity. On at least one occasion he affirms ‘tentativeness’ as a value intrinsic to modern thought. Addressing the task before the Muslim intellectual, he says that ‘modern thinking, on principle, must reject authoritarianism of all kinds . . . Openness to correction and, in this sense, a certain amount of doubt, or rather tentativeness lie in the very nature of modern thought which is an ever-unfolding process and always experimental’ (1970, p. 651). Elsewhere he has acknowledged that although ‘the meaning of a proposition may be universally true; this does not imply that understanding of that meaning is also universal’ (1982b, p. 191). He has regrettably not interwoven this ‘tentativeness’, which may accommodate pluralism, into his overall methodological approach. He has also not seen how the objectivism that underpins his entire approach to the Qur'an must effectively work against any ideas of heurism and pluralism. Rahman’s approach to the Qur'an from the perspective of its all-pervading insistence on *taqwa* and commitment to social justice is, nonetheless, a welcome departure from Arkoun’s idea that the ideal search for knowledge is motivated by seemingly neutral reason.

Mohammed Arkoun: Deconstructing Revelation

This Algerian Muslim scholar has written a number of books on Arab and Islamic thought. He received his Ph.D. from the Sorbonne, where he currently teaches the history of Islamic thought. Arkoun’s writings show considerable affinity with recent trends in French academic thought, especially structural linguistics, the post-structuralist writings of Paul Ricoeur and Michel Foucault and the deconstructionism of Jacques Derrida.

The discourse on revelation and historicity led by Arkoun is decidedly

more radical and critical than that of any other contemporary Muslim scholar. A critic of orthodoxy, he rejects any links between his ‘modern perspective of radical thought applied to any subject . . . and *islah* (reformist) thinking’ (1987b, p. 2). Arkoun argues that the present crisis of legitimacy for religion compels scholars to ‘only speak of heuristic ways of thinking’ (*ibid.*, p. 10). While he insists on a historical-sociological anthropological approach, he does not deny the importance of the theological and the philosophical. Instead, he says that he wishes ‘to enrich them by the inclusion of the concrete historical and social conditions in which Islam always has been practised’ (*ibid.*, p. 3). Arkoun presents a number of ‘fundamental heuristic lines of thinking . . . to recapitulate Islamic knowledge and to confront it with contemporary knowledge in the process of elaboration’ (*ibid.*).

1. Human beings emerge in societies through various changing ‘uses’ (activity, experience, sensation, observation etc.). Each use in society, he says, ‘is converted into a sign of this use [and] realities are expressed through languages as systems of signs’ (1987b, p. 8). This development occurs prior to any interpretation of revelation. Furthermore, scripture, ‘is itself communicated through natural languages [which are] used as systems of signs’ (*ibid.*, p. 9) and each sign is ‘a locus of convergent operations [i.e., perception, expression, interpretation, translation, communication] which engages all of the relations between language and thought’ (*ibid.*). Two serious consequences for traditional thinking on revelation and language follow: the notion of the sacredness of Arabic is no longer tenable and, more significantly, ‘the core of Islamic thought is represented as a linguistic and semantic issue’ (*ibid.*).
2. All the signs and symbols produced by a human being (i.e., semiotic productions) in the process of his or her social and cultural emergence are inextricably bound to historicity. *As a semiotic articulation of meaning for social and cultural uses [emphasis mine]*, the Qur'an is subject to historicity.¹³ Arkoun raises the fundamental hermeneutical question thus: ‘How can we deal with the sacred, the spiritual, the transcendent, the ontology, when we are obliged to recognize that all this vocabulary which is supposed to refer to stable, immaterial values, is submitted to the impact of history?’ (1988, p. 70).
3. Faith does not exist on its own independent of human beings, nor does it come from a divine will or grace; rather it is ‘shaped, expressed and actualized in and through discourse’ (1987b, p. 10).¹⁴

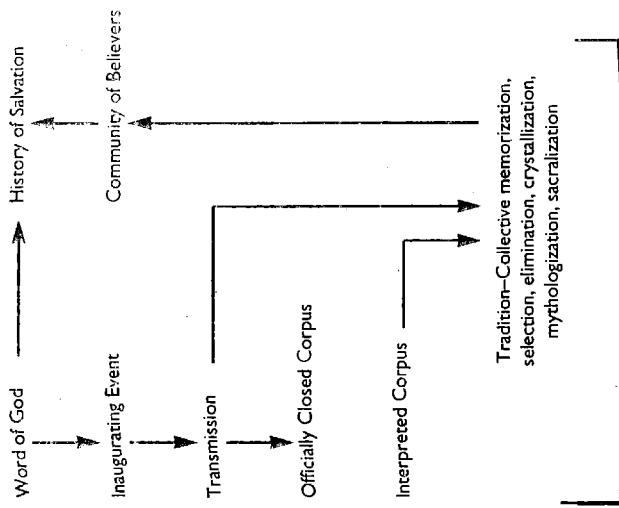
4. The traditional system of legitimization represented by classical Islamic theology and Islamic jurisprudence and their vocabulary does not have any epistemological relevance. In other words, they are useless for the elaboration of knowledge today. These disciplines and their vocabulary, he argues, are too compromised by the ideological biases imposed on them by 'the ruling class and its intellectual servants . . . [and] are authoritative only because they refuse to be engaged by the changing scientific environment' (1988, pp. 64–5).

The application of Arkoun's ideas is best understood in the way he analyses the processes of revelation and the way the written text became a canon, i.e., sacred and authoritative. Following Ricoeur (1981a, p. 15; 1981b, pp. 15–16), Arkoun distinguishes between three levels of the word of God.

The first is the word of God as transcendent, infinite and unknown to humankind as a whole with only fragments of it having been revealed through the prophets.¹⁵ Second are the historical manifestations of the word of God through the Israelite prophets (in Hebrew), Jesus of Nazareth (in Aramaic) and Muhammad (in Arabic). (It was memorized and transmitted orally during a long period before it was written down (1987b, p. 16)).¹⁶ Third, textual objectification of the word of God takes place (the Qur'an becomes a *mushaf*, i.e., written text) and the scripture is available to the believers only through the written version of the book preserved in the officially closed canons.¹⁷ Arkoun's analysis of revelation, its objectification and interpretation as well as the believers' interaction with these on the one hand, and its relationship to the history of salvation on the other, is diagrammatically illustrated on the following page.¹⁸

Here we see what Arkoun describes as the descending movement of the interpreting community towards salvation according to the vertical perspective on all creation as it is imposed by the qur'anic discourse. 'The interpreting community is the subject-actant of the whole terrestrial history represented, interpreted and used as a precatious stage to prepare the salvation according to the History of Salvation narrated by God as an educative part of revelation' (Arkoun 1987a, p. 16). Arkoun argues that the individual relationship to the book as the word of God is equally a socio-political relation to the community. 'The psychological function of the revelation as a message to the heart is inseparable from its social efficacy to transcend divisions and competitions, its legitimizing value for the political order' (*ibid.*, p. 17).

Arkoun's historicico-anthropological perspective on the phenomenon of revelation in history and the relationship of the believing community to



it can easily be interpreted as a scientific reduction of something essentially transcendental. He denies this on two grounds. First, his perspective, he argues, includes the transcendental and does not put it beyond the parameters of 'the true rationality' (*ibid.*, p. 27).¹⁹ Second, the rationality used at the theological stage of reason, Arkoun says, is more 'related to the collective *imaginaire* than to the critical reason' (*ibid.*, p. 28). Since theological reason is 'unable to recognize that it produces *imaginaire* rather than rationality' (*ibid.*, p. 27), this task belongs to those who operate beyond the confines of theological reason but, who nonetheless, embrace it.²⁰

Arkoun: A Critique

My critique of Arkoun's ideas must be viewed in the light of the inescapable links that exist between the formulation of ideas and our histories, a notion seemingly endorsed by Arkoun, as well as my own objective of locating the hermeneutical task within a specific context of a struggle for justice.

Scholars, their critiques of the theories of knowledge and the way it is produced, as well as the intellectualist solutions which they offer, also operate within history. One cannot view revelation and tradition historically and ideologically and then take an ahistorical or ideology-free view of oneself and of one's own critique. For the contemporary scholar, Arkoun argues that 'the problem of authority does not today depend on any religious or secular institutions, in so far as reason has established its authority *vis-à-vis* outside authorities (revelation, church, *shari'ah*, state,)' (1988, p. 68). Writing in another context, but with relevance to our subject here, Gutierrez describes this appeal to ideological neutrality in the following terms:

The last systematic obstacle for any theology committed to human liberation is a certain type of academicism, which posits ideological neutrality as the ultimate criterion, which levels down and relativizes all claims to absoluteness and all evaluations of some ideas over others. This is the theological equivalent of another great ideological adversary of liberation: the so-called quest for the death of ideologies or their suicide at the altars of scientific and scholarly impartiality. (1973, p. 25)

What Arkoun's critique of the authority structures fails to recognize, is that authority does not only derive from formal institutions, but also from other systems of meaning such as academicism. Furthermore, modernity itself functions as an appendage to liberal ideology, which is not without its hegemonic interests. Leonard Binder has raised the pertinent question of whether the critique of Muslim liberals has not been a 'form of false consciousness, an abject submission to the hegemonic discourse of the dominant secular Western capitalist and imperialist societies, an oriental orientalism, or whether it was and is practical, rational and emancipatory' (1988, p. 5).

The call for 'knowledge as a sphere of authority to be accepted and respected unanimously, a knowledge independent of ideologies, able to explain their formation and master their impact' (Arkoun 1988, p. 69), does little other than further the ideological interest within which such knowledge is located and formulated. Knowledge, like any other social tool, while it can be critical, is never neutral. As Segundo has argued, 'every hermeneutic entails conscious or unconscious partisanship. It is partisan in its viewpoint even when it believes itself to be neutral and tries to act that way' (1991, p. 25).

The notion of any sphere of authority being 'respected unanimously',

as advocated by Arkoun is surprising coming from a scholar whose ideas are able to find an audience precisely because of the absence of unanimity. Any form of unanimity, including intellectual unanimity, inevitably implies the formation of another orthodoxy with its implicit denial of the validity of dissent.

Arkoun's ideas imply that there can be a class of 'super readers', expert historians or linguists who will be able to access the true meaning of a text. Schüssler-Fiorenza has outlined how such an approach 'falsely presupposes that the later horizon [of the reader] exists within the earlier horizon [of the author]' (1990, p. 23). Besides underplaying the temporal distance between text and interpreter, it also 'minimizes the fact that no text has been written so that philologists could read and interpret it philosophically or so that historians may read it historically' (*ibid.*).

When one pursues 'independent knowledge' with 'exact methods' and ignores the meaning of the text for the contemporary situation and for people of faith, then one effectively places oneself and a small group of other 'objective' intellectuals outside and above the vast majority of believers for whom the text is a living document. This may be the choice which a scholar living in Antarctica can make. For those living in South Africa during the apartheid years one could not do so and retain one's integrity as a human being.

For me, a fundamental question remains: for whom and in whose interests does one pursue the hermeneutical task? That this is a political question is beyond doubt and may suggest a desire to use the text as 'pre-text'. Arkoun has cogently argued that the history of Qur'anic interpretation activity is precisely this. I am unconvinced that it can be otherwise or that this is intrinsically objectionable.

Understanding a Text

By way of drawing this chapter to a close and laying the basis for the next one, I want to look at the three elements intrinsic to any process of understanding a text: the text itself and the author, the interpreter and the act of interpretation.

Getting into the Mind of the Author

As I mentioned earlier, in the case of the Qur'an where God is regarded as the 'author', the question of identifying with the author in order to get to the real meaning behind the text is problematic. While it is inconceivable that Muslims would claim to get into the mind of God, it is not so

far-fetched for some to claim that God has taken control of their minds. This alternative path to understanding through inspiration-intuition is not without precedent in Muslim approaches to the scripture and it enjoys considerable popularity in traditional and mystical Islamic scholarship. In this methodology piety is combined with scholarship to produce meaning. Piety is also supposed to serve as a barrier between personal opinions and the truth. Muhyi al-Din ibn 'Arabi (d. 1240), for example, suggests that God played a direct role in his understanding of the text (n.d., 1, pp. 3–4).

For others, Muhammad becomes the key agent present in producing meaning. Muhammad, it is claimed, appears to the interpreter in a vision, to clarify a difficult point or to indicate the correct interpretation. In effect, the notions of God or Muhammad getting into the mind of the interpreter or vice versa are really the same. To get to the 'true meaning' of the text, as intended by God, many Muslims would, in effect, ask: 'What did Muhammad understand by this text?' Traditional exegetical scholarship, while rejecting any ideas that an interpreter can get into the 'mind' of God, nevertheless, implicitly bases many of its arguments on the assumption that its interpretation is the meaning intended by God. (The dutiful proclamation of 'God knows better' at the conclusion of most of such works, notwithstanding.) Traditional Islamic scholarship, in dealing with qur'anic texts, effectively works along the lines of a pious form of historical positivism. Meaning, for Rahman and the traditionalist, is located within the text and can be retrieved by 'pure minds'.

We have no right to exclude the possibility of the personal usefulness of this approach, nor can one ignore the fact that mystical movements of interpretation had as much impact on popular Islamic practices in certain contexts as the *shari'ah* – if not more. However, the problems involved in consciously applying this approach to the socio-political arena or the domain of public morality in a definitive manner are far too serious for any significant consideration here. Firstly, identification with the authors, the first recipient of the text or the primary audience, in whatever form (cognitive, spiritual, psychological, etc.), does not take into account the differences in the historical situations of the recipient of the text and the interpreter. The relatively common experiences of people may minimize their divergent outlooks in different historical periods, but do not in any way negate them. Secondly, the essentialist and absolutist religio-political claims – 'God has inspired me or us with the correct interpretation' – which must follow any understanding so acquired are not consistent with the quest for pluralism. The problem of conflicting claims of 'purified

minds' – one person's saint is invariably another's charlatan – and consequently conflicting monopolies over absolute truths, is a serious one with little or no space in any discourse on pluralism. These problems are, of course, not peculiar to the intuition-scholarship approach. Here I only wish to underline some of the problems with any approach which cannot be subjected to rational, ethical and sociological scrutiny.

The Interpreter: A Beast of Many Burdens

I have argued that the inevitable active participation of the interpreter in producing meaning actually implies that receiving a text and extracting meaning from it do not exist on their own. Reception and interpretation, and therefore meaning, are thus always partial. Every interpreter enters the process of interpretation with some preunderstanding of the questions addressed by the text – even of its silences – and brings with him or her certain conceptions as presuppositions of his or her exegesis. Meaning, wherever else it may be located, is also in the remarkable structure of understanding itself. 'There is no innocent interpretation, no innocent interpreter, no innocent text' (Tracy 1987, p. 79).²¹

The urgent need of contemporary Qur'anic scholarship is to remove preunderstanding from the much-maligned *tafsir bi'l-ra'y* (interpretation based on considered reasoning) which, in conservative discourse, has come to mean baseless and devious theological or political concoctions superimposed on the Qur'an (Shafiq 1984, pp. 22–3). Once this task is accomplished, one can proceed to examine and discuss the legitimacy, usefulness and justice of particular preunderstandings above or in contrast to others. Preunderstanding is a condition of living in history. By itself, preunderstanding has no ethical value; the ethics or absence of them, are located in an acknowledgement or denial of its presence.

The absolute and undisputed reference point for Muslims is the Qur'an and, for Sunni Muslims, the Prophet's conduct, and these remain the criteria to determine normative Islam. The unavoidable point of departure for approaching these criteria, however, is one's self and the conditions wherein that self is located. In ignoring the ambiguities of language and history and their impact on interpretation, there is no effective distinction between normative Islam and what the believer 'thinks' it to be. Both traditionalism and fundamentalism deny any personal or historical frame of reference in the first instance. While they will insist that normative Islam is 'to be judged solely by the Qur'an and the prophetic practice', they will throughout their discourse simultaneously imply 'and we have correctly understood these'.

Interpretation: No Escape from Language, History and Tradition

The past is not past, it is present. Any person who uses a language 'bears the preunderstandings, partly conscious, more often preconscious, of the history and traditions of that language' (Tracy 1987, p. 16). There is no escape from this. The meaning of words is always in process. I remember my mother telling about a friend, who in her teens, offered to take her to the cinema in his *kar*, which is old Afrikaans for both 'car' and 'cart'. With much anticipation she awaited a drive in a car and was brought back to earth by the clatter of the hooves belonging to a pair of horses. Today *kar* only means 'car'. To use any word, as Cantwell-Smith has illustrated, 'is to participate at a given point – or more strictly, at least two points – in the ongoing historical process of its meaning' (1980, p. 501). The literal meaning of any form of speech is problematic and never value free. This is especially the case with symbolic and sacred speech. Cantwell-Smith has illustrated how the 'magnificent' and always 'impressive device of language' is inescapably imprisoned within imperfection.

What is communicated to the hearer or reader is sufficiently close to what is intended by the speaker or writer, that we do well to be awed and grateful; and yet it is in principle never exactly the same – and especially not in important or subtle or deep matters. Since the meaning for any person of any term or concept, let alone of any phrase or sentence is integrated into that person's experience and worldview, it becomes a part of it . . . Therefore, meaning can never be exactly the same for any two persons . . . nor for any two centuries . . . nor for any two regions. (Cantwell-Smith 1980, p. 502)

'The radical plurality of our differential languages and the ambiguity of all our histories' (Tracy 1987, p. 82) are unavoidable in any attempt at understanding. The problem of language is thus not confined to the interpreter but also extends to the tradition or text being interpreted. Any act of interpretation is a participation in the linguistic-historical process, the shaping of tradition and this participation occurs within a particular time and place. Our engagement with the Qur'an also takes place within the confines of this prison; we cannot extricate ourselves from and place ourselves above language, culture and tradition. I agree with Tracy that 'every interpreter comes to the text bearing those complex histories of effects we call tradition. There is no more a possibility of escape from tradition than there is the possibility of an escape from history or language. (1987, p. 16).

Reformist thinking argues that the crisis in the world of Islam and the inability of Muslims to make a meaningful contribution to contemporary issues is due to tradition. The answer for many of these Muslim reformist scholars is to bypass tradition and 'go back to the Qur'an'. This argument does not take into the account the fact that exegesis is not entirely independent from the text but actually belongs to its historical productivity. Exegesis is not just an interpretation but 'rather an extension of the symbol and must itself be interpreted' (Martin 1982, p. 369). How is it possible to bypass tradition and argue that historical interpretations, an intrinsic part of tradition, must be judged by the understanding gained from the Qur'an itself? Can one emerge at the one end of a vacuum without ever having entered it, with the Qur'an as a disembodied soul floating at the other end? No scripture, least of all a text simultaneously abounding with symbolism and an all-pervasive contextuality as the Qur'an evidently is, emerges from a vacuum and comes to us unencumbered by 'the plural and ambiguous history of the effects of its own production and all its former receptions' (Tracy 1987, p. 69).

Conclusion: Whose Morality? Which Justice?

In chapter 1 I detailed the unfolding of the hermeneutical crisis in South Africa. I also explained how the experience of studying the historical situation and its ethico-moral requirements occurred under specific socio-political conditions. Such study has impacted upon the way progressive Islamists in South Africa understood the ethico-moral requirements of Meccan-Medinan society and of the Qur'an's response to it.

By whose standards would 'the moral-social objectives' of the Qur'an and 'moral-social requirements of society' (Rahman's terms) be defined? The South African experience and, more specifically, the struggle, confronted many a progressive Islamist with the problem of religious pluralism and how God might address Himself to South Africa's people. I showed that the conservative pro-apartheid cleric in South Africa saw a rather different moral-social objective in the Qur'anic message than the anti-apartheid Islamist; the eighteenth-century Muslim in the Cape saw a different moral-social objective in the Qur'an than that seen by the twentieth-century Muslim. The struggle for justice in South Africa that resulted in this hermeneutical crisis came about because its people were suffering under rulers with absolutist claims to 'know'. The oppression of the people of South Africa was based on this 'knowing'. It is thus not surprising that the hermeneutical responses to that situation of oppression-liberation should also involve the quest for pluralism.

How does a theology of pluralism that emerges from a liberation struggle view the traditionalist notions of absolute or universal meaning and the historical positivist's belief that access to 'true meaning' is possible? How does a hermeneutic of liberation respond to the argument that it is possible to ascertain the meaning intended by the author of a text? I have already indicated how a denial of the link between preunderstanding and interpretation is to reject the other's interpretation as eisegetical flights of imagination and accept one's own as the 'uncovering of truth'. This attitude, I have said, invariably leads to the fundamentalist assumption that there is not only a singular truth, but also a singular understanding of it, inevitably that of the speaker or writer.

Arkoun's heuristic methodology, in contrast to that of Rahman, is rooted in pluralism. He argues with impressive effect that the remarkable similarities in the theological and intellectual developments among the Abrahamic religions should be the new basis of dialogue (1987a). However, in the search for meaning, the hermeneutical quest when we do not address the question 'For whom and in whose interest?', then pluralism simply becomes 'a passive response to more and more possibilities, none of which shall ever be practised' (Tracy 1987, p. 90). 'This is the perfect ideology for the modern bourgeois mind. Such a pluralism makes a genial confusion in which one tries to enjoy the pleasures of difference without ever committing oneself to any particular vision of resistance, liberation and hope' (*ibid.*).

For those who eke out an existence on the margins of society, living under the yoke of oppression and struggling with the equally oppressed Other in the hope of liberation, a pluralism of splendid and joyous intellectual neutrality is not an option. On this basis, I argue for the freedom to rethink the meanings and use of scripture in a racially divided, economically exploitative and patriarchal society and to forge hermeneutical keys that will enable us to read the text in such a way as to advance the liberation of all people.

Notes

- Upon the assassination of Uthman in 656, 'Ali became the Caliph. His accession to the caliphate, though, was opposed by a number of Companions who instigated that he was a party to his predecessor's assassination or that he was unwilling to pursue the assassins. Soon after becoming the Caliph, he marched against those who refused to pledge allegiance to him. During this expedition 'Ali moved to the plains of Siffin where Uthman's nephew, Mu'awiya, had camped. Intermittent battles and skirmishes raged until June-July 657 when Mu'awiya's forces, with copies of the Qur'an tied to their lances, demanded that the dispute be submitted to the Qur'an for arbitration.

2. Basic works for the general critical study of the Qur'an include Nöidecke (1908-38), Bell (1970), Watt (1969), al-Said (1975), Abu Zaid (1993) and Goldzihri (1976). Jeffreys has done important work regarding the use of non-Arabic words in the Qur'an (1938), as well as the process of compilation and transcription (1937). Critical studies on the process of compilation and transcription have also been done by Wansbrough (1977) and Burton (1977).

3. A minority of scholars, prominent among whom is al-Shaifi (d. 800), holds that *qur'an* is not derived but is a proper noun, 'in the same manner of the *tawrat* and the *injil*' (al-Nimr 1983, p. 6). This opinion, traced back to 'Abd Allah ibn Mas'ud, would read the word as *qur'an*, i.e., without a *hamza* (Ibn Manzur n.d., 5, p. 3563).

4. Islamic scholarship has divided Qur'anic revelation into two distinct chronological periods: the Meccan and Medinan. The Meccan texts focus on the three essential elements of Islamic doctrines: the unqualified and absolute unity of God, the prophethood of Muhammad and the final accountability of people in the presence of their Sustainer. The Medinan revelations deal with issues of community-building and the resulting problems. Laws regarding socio-political relations, based on the ethico-moral injunctions revealed in the Meccan phase, were elaborated. The intellectual and political challenges presented by the new neighbours of a governing Islam, the Jews and the Christians, were dealt with, as were the problems posed by those who feigned allegiance to Islam, the hypocrites.

5. 'Ali ibn Abi Talib is reported to have seen a man in the mosque of Kufa replying to religious questions put to him by the people around him. He asked the man whether he could distinguish between the abrogating verses and the abrogated ones. When he replied in the negative, 'Ali accused the man of deceiving himself as well as others and prohibited him from speaking in the mosque again (al-Suyuti 1987, 2, pp. 20ff).

6. The Mu'tazilah justified the doctrine of the createdness of the Qur'an on the basis of Qur'an 2:106. They contended that if the Qur'an could be subjected to abrogation then it could not be eternal. However, a group of them, according to al-Razi (1990, 3, p. 248), denied the theory of *naskh*.

7. Rahman explains the motivation behind this gradual prohibition as follows: 'When the Prophet was in Mecca, Muslims were a very small informal community; it was not yet a society. It appears that most of them did not drink at that time. Later, when the prominent Meccans converted to Islam around the year 614, like Hamza, the uncle of the Prophet, and 'Umar ibn al-Khattab, there were some among them who did drink. But this phenomenon did not cause any problems for the Muslims because they were not a society as yet, but only an informal community. When, however, the Muslims moved to Medina they not only became a society but a sort of informal state. Drinking at that time did develop into a problem.' (Rahman 1986b, pp. 47-8)

8. Using *naskh* as the cornerstone of their reformist methodology are Taha Mahmud (d. 1985), the executed Sudanese scholar, and the Republican Brothers. The deployment of *naskh* as the most significant element in the methodology of reinterpreting Islam has been detailed in the writings of the group's most prominent legal scholar, Abdullahi an-Nâ'im, in his work on civil liberties, human rights and international law (1990).

9. The earliest term employed for works of interpretation seems to have been *mâ'ani* (literally, 'meanings') (ER, 'tafsîr'). This is itself significant in its implicit pluralist assumptions. This term, as well as *tafsîr*, was also applied to Arabic and Greek commentaries on Aristotle, as well to the explanations of lines in pre-Islamic poetry. Goldfield has demonstrated how the basic nomenclature for concepts in interpretation in Islam indicates a much longer familiarity with these terms than the few decades since Muhammad's demise in 632 (1993, p. 15).

10. Early exegesis such as al-Tabari and al-Matruhi used the terms interchangeably, as is evident from the titles of their commentaries, *Jam'i al-Bayân an Tâ'wil Ay al-Qur'an* and *Tâ'wilât al-*

Qur'an, respectively. In later editions, al-Tabari's exegesis subsequently came to be renamed *Jam'i al-Bayân fi Tâ'wil Ay al-Qur'an*, itself an indication of the pejorative connotations applied to the word *ta'wil*.

11. Specialist exegetes appeared after the development of various Islamic sciences and each undertook the study of the Qur'anic commentary according to his specialization. Examples of these are al-Zujjāj who did exegesis from a syntactical perspective; al-Wahīdī and Abu Ḥayyān from that of morphology; al-Zamakhsharī from the angle of rhetoric and eloquence; al-Rāzī from a theological perspective. Scholars such as Ibn al-Ārabī and Kashshāfī based their exegesis works on gnostics while others like Qurtubī concentrated on aspects of jurisprudence. In addition to these, a number of exegeses adopted interdisciplinary approaches. They include Ismā'īl al-Hāqī, Shihab al-Dīn Muḥammad al-Baghdādī and Nizām al-Dīn al-Nīṣābūrī.

12. The controversy on the createdness of the Qur'an reached feverish heights during the reign of Abū'l-Abbas al-Mā'mūn (813-833) who instituted the *mīnah*, a kind of public inquisition, in 833 (Watt 1950). Most leading officials and other prominent personalities were forced to publicly profess that the Qur'an was created and failure to do so led to persecution and even to death. With a few exceptions, most theologians submitted publicly. The most prominent among the exceptions was Ahmad ibn Hanbal (d. 855) who was flogged and imprisoned for his beliefs (Patton 1897; Madelung 1985).

13. The implication of this is that 'there is no access to the absolute (emphasis in original) outside the phenomenal world of our historical terrestrial existence' (Arkoun 1987b, p. 8). He thus insists on 'historicity as a dimension of the truth' (ibid., p. 9); truth which is shaped by 'changing tools, concepts, definitions and postulates' (ibid.). Here he challenges all 'medieval thinking based on essences and substances' (ibid.), presumably including the notion of a 'stable scripture'. His emphasis that there is no access to the absolute seemingly, leaves the possibility of a stable and essential truth.

14. 'Discourse as an ideological articulation of realities as they are perceived and used by different competing groups' (Arkoun 1987b, p. 10), he explains, 'occurs prior to the faith' (ibid.). Conversely faith, after it has taken shape and roots through religious political and scientific discourse, imposes its own direction and postulates on subsequent discourses and behaviours' (ibid.).

15. This level is expressed in the Qur'an by such expressions as *al-Lawh al-Mahfuz* 'the well-preserved tablet' (85:22) or the *Umm al-Kibr* (archetypal book) (43:4).

16. He emphasizes that defining scriptures as speech worded by God Himself does not change the linguistic and historical fact that the messages of Jesus and Muhammad are transmitted in human language and collected in an orthodox closed corpus in concrete historical conditions (Arkoun 1987b, p. 16).

17. This textual objectification, according to Arkoun, was contingent on many historical facts depending on social and political agents, not on God. Some of the imperfect human procedures' which determined the shape of the written word to which he refers are 'oral transmission', the use of 'imperfect graphic form . . . conflicts between clans and parties . . . and unreported readings' (1987a, p. 5).

18. Reproduced from Arkoun 1987a, p. 28.

19. 'The transcendence claimed in the traditional theological interpretation of the Book is the problematic (Arkoun 1987a, p. 27). The transience claimed in the study of the societies of the Book projection of the religious *imagine* back to the inaugurating age of revelation. It becomes a psychological, cultural process of transcendentiation, mythologization, sacralization and ideologization in various changing conditions. This process is included in the anthropological

problematic (Arkoun 1987a, p. 27).

20. Arkoun argues that 'critical reason engaged in the study of the societies of the Book knows the distinction between *imagine* and rationality; it integrates both in the same project of intelligibility without reducing one to the other on an illusionary basis. From this exercise emerges a new rationality which avoids the prejudices of the secularized positivists or the polemical model, as well as the so-called spiritual, divine or transcendental model' (1987a, p. 28).

21. Cantwell-Smith summarizes this point so eloquently that a lengthy quote bears reproduction here: 'If you yourself are a Muslim writing a commentary; or a Sufi *pir* instructing your

mund [disciple]; or are a conscientious jurisconsult deciding a tricky point of law; or are a modern Oxford-educated Muslim reflecting on contemporary life; or a twelfth-century Shirazi housewife . . . or are a left-wing leader of the slave revolt of the Zanjī protesting against what seem to you the exploitation and hypocrisy of the establishment – in all such cases the correct interpretation of a particular Qur'an verse is the best possible interpretation that comes to you or that you can think up' (1980, p. 492). He goes on to say that he does not mean a cunning concoction or that the interpretation is irresponsibly contrived; on the contrary, the interpreter is constrained by the very fact of his or her esteeming this as the word of God, 'to recognize as the most cogent among all possible alternatives that interpretation is in his or her opinion the closest to universal truth and to universal goodness'. 'You choose not what is the best for you', he says 'but what in your judgement is the best absolutely, cosmically' (*ibid.*, p. 492).

tion of its standard six-point program, the Jamā'at in the West has also been concerned with the preservation of the religious and cultural identity of Muslims in a non-Islamic environment. Thus it has been active in building mosques and Islamic centers, establishing Islamic Sunday schools for Muslim children and adults, providing *dhabīhah* (ritually slaughtered) meat to Muslim families, and organizing Islamic training camps and retreats for Muslim youth. In North America the Jamā'at has also met with some success in gaining converts among African-Americans and Caribbean immigrants. Chicago, Detroit, Los Angeles, Philadelphia, Atlanta, New York, and Washington, D.C., are the major centers of the Jamā'at's activities in the United States.

Most followers of the Tablighī Jamā'at in South Asia come from the lower middle class with minimum exposure to modern Western education and from semiurban areas. It has also attracted a considerable following among lower-level government employees, paraprofessionals and schoolteachers. Its influence on college and university campuses has been minimal. Because of its nonpolitical orientation it has been easy to spread its message in the armed forces of Pakistan, where it has a considerable following among noncommissioned personnel. The Jamā'at received a great boost during the government of President Zia ul-Haq, who was concerned to develop Islamic spirit among the Pakistani military; an active member of the Jamā'at rose to the sensitive position of chief of Pakistan Military Intelligence during 1991–1993 and reportedly directed Pakistan's Afghan operation both through conventional intelligence techniques and through holding *dhikr* assemblies.

In Malaysia and Indonesia the social bases of the Jamā'at's support are more diverse than in South Asia. Its initial followers in these countries were immigrant Muslims from South Asia, but during the past two decades it has penetrated the Malay Muslim community, especially in rural areas. Today the bulk of its support comes from urban-based, well-educated youth. In Indonesia, where the Jamā'at has worked in close collaboration with such nonpolitical Islamic reform movements as the Muhammadiyah and the Nahdatul Ulama, its activities have focused on converting *abangan* (syncretic, Indic-oriented) Muslims into *santri* (purist) Muslims. Thus the Tablighī Jamā'at in Indonesia, unlike India and Pakistan, has been associated both with the 'ulama' and with urban-based, modern-educated Muslim youth.

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MUMTAZ AHMAD

TAFSIR. Exegesis of the Qur'an is known as *tafsir*. The focus in this article will be on Sunnī *tafsir*, but Shi'i *tafsir* will also be discussed.

The Qur'an, regarded as the word of God, needed

tafsir—elucidation, explanation, interpretation, or commentary—for an obvious reason: it had to be understood clearly and fully so that its commandments could be carried out with the conviction that the will of God had been done. Equally, however, as God's word the Qur'ān seemed to discourage attempts at *tafsir*, for two different but complementary reasons. First, coming as it did from God, the Qur'ān must be assumed to be clear in its import, thus obviating the need for exposition. Second, how could finite human intelligence claim to be able to discover the true meanings of the texts of a book that emanated from the possessor of infinite wisdom? The case of the prophet Muḥammad was different: he had brought the Qur'ān, and, having been appointed by God as prophet, he could explain the sacred text authoritatively. For these reasons there was in the very early years of Islam a reluctance on the part of Muslims to interpret the Qur'ān but at the same time an eagerness to know and transmit the interpretations attributed to the Prophet in the first instance and to his companions in the second—the assumption being that these latter interpretations too went back directly or indirectly to the Prophet himself.

Only a very small amount of *tafsir* is ascribed to the Prophet and his companions, and that usually in the form of brief explanations in response to questions asked. But this was hardly sufficient to satisfy the needs of a community that was not only growing apace in numbers but also was coming into contact with culture and traditions very different from those of Arabia. A host of new problems, both conceptual and practical, were arising and calling for solution. Since the Qur'ān was the fundamental text of Islam, it was natural for Muslims to look in it for answers to new problems; thus a need for more comprehensive *tafsir* was felt.

Soon after the age of the companions, in the age of the successors (those who are said to have met the companions), the so-called schools—Meccan, Medinan, and Iraqi—of *tafsir* came into existence. As in jurisprudence, so in *tafsir* Iraq, as against Mecca and Medina, came to be known for a *ra'y*-based approach, that is, an approach that relied on considered personal judgment and not simply on reports transmitted from the Prophet and his companions through dependable channels. The spread of Jewish apocryphal reports was distinctive of the age of the successors. Until then, *tafsir* on the whole had been transmitted orally and had not been compiled and written down. Furthermore, the discipline of *tafsir* was not yet clearly distinguishable from that of *hadīth*

(prophetic tradition) but was rather a special domain within *hadīth*. In fact, it was the *muḥaddithūn* ("scholars of *hadīth*"; sg., *muḥaddith*) whose collections of *ahādīth* (pl. of *hadīth*, "report"), which included *tafsir* reports, paved the way for the development of an independent discipline of *tafsir*. This development led to the emergence of major *mufassirūn* (pl. of *mufassir*, "*tafsir* scholar") and their works, a topic we shall take up later. The scope of *tafsir* meanwhile continued to widen as new problems and issues arose. At this point it will be useful to take a synoptic view of the issues and problems that have arisen in the history of *tafsir*.

Typology of Issues. Three broad areas can be distinguished: linguistic, juristic, and theological. A few points should be noted before going into detail. First, the following typology does not imply that the different categories are historically sequential. Second, not all the problems within any single category arose at one time, although the questions become noticeably more complex over time. Third, several issues fall into more than one category.

In the beginning, questions of vocabulary and syntax are raised: What is the meaning of a given Qur'ānic word? Which of the several possible meanings of a word is intended in a given context? What is the case-ending of a word? Is there any preposing (*taqdim*) or postposing (*ta'khir*) in a sentence? Then questions involving rhetoric are asked: Does the imperative always signify a command or does it sometimes signify permission or option as well? How is repetition to be explained in a perfect book from a perfect God? The issue of literal and nonliteral meanings also receives attention.

The law early acquired a prominent position in the hierarchy of Islamic sciences, and the preoccupation of scholars with legal issues had its impact on *tafsir*. Among the first issues to be raised was that of abrogation (*naskh*). Since the Qur'ān is made up of revelations that came to Muḥammad over a period of about twenty-three years, certain injunctions were understandably meant to be temporary and were repealed by subsequent ones. The abrogated (*mansūkh*) and the abrogating (*nāsikh*) verses thus had to be identified. Then a distinction was made between the general (*'āmm*) and the specific (*khāṣṣ*) application of an injunction or command. For example, surah 3.97 says that it is incumbent on "people" to perform the pilgrimage to the Ka'bah. While "people" is general, obviously Muslims are meant; more specifically, only those adult Muslims are meant who are physically able to perform the pilgrimage and have the

financial means to undertake the journey. A sophisticated basis for interpreting the Qur'ān from a legal viewpoint was laid down through a fourfold division of the meanings of the text into significative (*'ibārah*), implicative (*ishārah*), analogical (*dalālah*), and assumptive (*iqtidā'*), discussed below.

Several Qur'ānic verses speak of God's hand and face and of his being seated on his throne. Interpreting these verses literally smacked of anthropomorphism, but interpreting them nonliterally seemed to constitute a departure from the Qur'ānic text. A solution considered plausible by many was to interpret the verses literally but with the addition of the rider, "it is not known precisely in what manner." Another issue dealt with was that of the sinlessness or infallibility (*'ismah*) of the prophets; verses involving certain acts of some prophets were explained with reference to this notion. One such instance is Joseph's relations with Potiphar's wife, for surah 12.24 seems to indicate that Joseph and Potiphar's wife both "made for each other," but that Joseph, upon seeing a sign from God, stopped short of committing adultery. A fundamental issue was that of free will and determinism: different verses seemed to support either the predestinarian or the libertarian view, and reconciling the two possible interpretations was a major preoccupation of the *mufassirūn*.

Principles. The multiplicity and diversity of issues, and the variety of perspectives and approaches brought to bear on them, led to the systematization of the discipline of *tafsīr*. Again it must be emphasized that the systematization did not wait until after all issues had arisen but occurred over a period of time, beginning quite early and leading to the formulation of the principles of *tafsīr* among other developments. A convenient way to cover this subject is by glancing at the medieval scholar Ibn Taymiyah's *Muqaddimah fi uṣūl al-tafsīr* (Introduction to the Principles of *Tafsīr*). Ibn Taymiyah (d. 1328) lists the following as the *uṣūl* ("sources" or "principles," translated here by the latter):

- tafsīr* of the Qur'ān by the Qur'ān
- tafsīr* of the Qur'ān by the *sunnah* of Muhammad
- tafsīr* of the Qur'ān by reports from the companions of Muhammad
- tafsīr* of the Qur'ān by the successors

It is obvious that Ibn Taymiyah puts a high premium on *tafsīr* that is provided by the Prophet himself or in some sense goes back to him, for *tafsīr* by the companions (the "occasions of revelation," *asbāb al-nuzūl*, are

apparently subsumed by Ibn Taymiyah under *tafsīr* by the companions) or the successors acquires its authority through its putative connection with the Prophet. Knowledge of the Arabic language—including grammar, rhetoric, and the literary (especially pre-Islamic) tradition—is assumed by Ibn Taymiyah. This approach is heavily weighted in favor of what is known as *tafsīr bi-al-mā'thūr* ("received *tafsīr*," transmitted from the early times of Islam, beginning with the Prophet's age). It evinces a profound distrust of *tafsīr bi-al-ra'y* ("*tafsīr* by opinion," arrived at through personal reflection or independent rational thinking), and a number of reports attributed to the Prophet or other early authorities condemn the latter. Ibn Taymiyah too rejects *tafsīr bi-al-ra'y* out of hand.

We shall have more to say about *tafsīr bi-al-ra'y* later. Here it should be pointed out that although the traditionally listed principles of *tafsīr* appear to be rather simplistic, the application of these principles in practice not infrequently takes a sophisticated form. Two examples, one from the theological realm and the other (in fact a set of examples) from the juristic, are helpful. In both examples (more exclusively in the first) the principle of interpretation of the Qur'ān by the Qur'ān is employed.

Surah 12.24, as noted above, speaks of Joseph and Potiphar's wife in a certain situation. The text seems to suggest that, like Potiphar's wife, Joseph too was sexually aroused. Coming to the defense of the notion of prophetic *'ismah*, Fakhr al-Dīn al-Rāzī (1150–1210) constructs an elaborate argument to prove that this is impossible, basing it on an analysis of all those Qur'ānic texts that, in his view, are relevant to the issue. He shows that not only does Joseph claim his innocence (12.26) and prefer to go to prison rather than succumb to temptation (12.33), but Potiphar's wife admits in front of other Egyptian noblewomen (12.32) and then in front of the king (12.51) that Joseph refused to comply with her demands; Potiphar himself accuses his wife, exonerating Joseph (28); an independent witness supports Joseph (2.26); God himself declares that Joseph was one of his chosen men and that he warded off evil from Joseph (24); and Iblis (Satan) admits that he has no control over the chosen men of God (15.40). In view of such overwhelming evidence from within the Qur'ān, Rāzī concludes, it is impossible to interpret the words, "and he [Joseph], too, made for her" (12.24), to mean that Joseph too had become sexually excited.

The conceptual apparatus developed by Muslim legal

scholars for the interpretation of Islamic texts included the fourfold division of meanings mentioned above. The purpose of this division, which was made by the Ḥanafi school and to which there is a Shāfi‘ī counterpart, was to extend the application of the texts through logical deduction. The significative meaning of a Qur’ānic verse is the obvious and primarily intended meaning. The implicative meaning is that which may not be primarily intended but which, reflection will show, is implied by the text. For example, surah 46.15 says that the combined period of pregnancy and weaning is thirty months. Since surah 31.14 says that the period of weaning is two years, it follows, as Ibn ‘Abbās is said to have argued, that the minimum period of pregnancy (determination of which would have a bearing on issues of legitimacy and paternity) is six months. In analogical meaning, the obvious meaning can be extended to cover cases that are either similar or admit of a readier application of the rule. Surah 17.22 forbids one to say *uff* (an Arabic interjection signifying impatience or anger) to one’s parents; it follows quite obviously that they may not be manhandled or killed. The assumptive meaning is that which, in order to be complete, requires the assumption of certain words. For example, surah 5.4 says that certain things are forbidden, the meaning being that it is forbidden to eat them, “eating” being assumed to be the act forbidden.

Because of its relative paucity, *tafsir bi-al-ma’thūr* could not become the basis for interpreting the Qur’ān in its entirety. The attempts to widen the scope of such *tafsir* necessarily resulted in the inclusion in works on the subject of many reports of doubtful authenticity. Jālāl al-Dīn al-Suyūtī’s (1445–1505) *Al-durr al-manthūr*, a major source of *tafsir bi-al-ma’thūr*, testifies to this. Not only was there a practical necessity to augment *tafsir* material through independent study of the Qur’ānic text, there was also sanction for such activity in the Qur’ān itself. Surah 38.29 reads, “A Blessed Book which We have revealed to you so that they may reflect (*li-yatadabbarū*) on its verses, and so that intelligent people may take remembrance.” Surah 47.2 asks curtly, “Don’t they reflect on the Qur’ān (*a-fa-lā yata dabbarūna al-Qur’ān*)?” The fact that *tafsir bi-al-ra’y* was given a bad name does not mean that the essential activity it represented lacked warrant or justification. What deserved censure was irresponsible interpretation by unqualified people. Responsible interpretation by competent scholars could not be impugned through an indiscriminate use of the label of *tafsir bi-al-ra’y*. That

is why *tafsir bi-al-ra’y*, despite opposition, earned itself a respectable place in the tradition, and the advocates of *tafsir bi-al-ma’thūr* were forced to concede ground in that they came to distinguish between *tafsir bi-al-ra’y* that was desirable and acceptable (*mahmūd*) and *tafsir bi-al-ra’y* that was condemnable (*madhmūm*). Eventually a middle ground between *tafsir bi-al-ra’y* and *tafsir bi-al-ma’thūr* was reached, the rather pointless semantic quarrel giving way to a sound, practical compromise.

Major Mufassirūn. We have seen that only a small amount of *tafsir* was transmitted from the Prophet and his companions. Perhaps the two distinguishing features of that *tafsir* are selectiveness and brevity: as a rule, only certain words or phrases in certain verses are explained, and that through citation of synonymous words or phrases. This is the method used in the *tafsir* attributed to the companion Ibn ‘Abbās, who was Muḥammad’s cousin and is known as the “interpreter of the Qur’ān.” The same method is used by the successor Sufyān al-Thawrī.

The first activities of compilers of *tafsir* consisted of attempts to collect reports that were supposed to have originated with the Prophet and his companions or the successors. Ibn Jarīr al-Ṭabarī (839–923) is generally regarded as the most important figure in the formally established classical tradition of *tafsir*. His *Jāmi‘ al-bayān* is an encyclopedia of *tafsir* comments and opinions that had come into existence up to his time. As such, it is an indispensable source of traditionist *tafsir*, which is made up of reports transmitted from early authorities. Ibn Jarīr aims at being comprehensive rather than selective, which makes his book a treasure-house of information, enabling later *mufassirūn* to select data on their own principles. He provides the names of authorities for the reports he cites but generally does not evaluate the chains of transmission, although he does often give his opinion on the reports themselves, without putting any constraints on the reader. In this too he helps later scholars to form their own judgment. These features give Ibn Jarīr’s book an objectivity that has earned it deserved distinction.

Ibn Jarīr’s work is typical of *tafsir bi-al-ma’thūr*. Several *mufassirūn* with different points of emphasis compiled works in this category. Suyūtī’s *Al-durr al-manthūr* has already been mentioned. Abū Muḥammad al-Baghawī’s (d. 1122) *Ma‘ālim al-tanzil*, an abridgement of Abū Ishaq al-Tha’labī’s (d. 1035) *Al-kashf wa al-bayān ‘an tafsir al-Qur’ān*, is unlike the latter in that it excludes Jewish apocrypha and fabricated *hadīths*. The

tafsīr of Ibn Kathīr (d. 1373) may be called an abridgement of Ibn Jarīr's work; it is much more selective, evaluates the chains of transmission, and pronounces on the authenticity of reports. Ibn Kathīr is essentially a *muhaddith*, however, and his approach to the subject reflects the viewpoint of one, much more geared to advancing the established orthodox viewpoint.

Alongside traditionist *tafsīr* there developed what may be called literary *tafsīr*. At a basic level this consisted in citing Arabic poetry to support an interpretation of a Qur'ānic word or expression, and at an advanced level in making a rigorous analysis of the language of the Qur'ān. Literary *tafsīr* begins quite early. 'Umar is reported to have enjoined Muslims to stick to the works of Arabic poetry (*dīwān al-'Arab*) because it contained *tafsīr* of the Qur'ān. A similar statement is attributed to Ibn 'Abbās, who may be called the progenitor of this *tafsīr*. According to a report, in a dialogue between Ibn 'Abbās and the Khārijī Nāfi' ibn al-Azraq, the latter put about two hundred questions to Ibn 'Abbās about the meanings of certain Qur'ānic words, and Ibn 'Abbās in each case supported his answer by citing Arabic poetry. Whatever authenticity such reports may have, they definitely indicate the crystallization of the general view of the exegetes regarding the usefulness of Arabic poetry in expounding the Qur'ān. Literary *tafsīr* reaches its zenith in Maḥmūd ibn 'Umar al-Zamakhsharī (1075–1144). Despite his nonorthodox views in theology, Zamakhsharī's *Al-kashshāf* is regarded by all as an invaluable source of linguistic and literary insights. Bayḍāwī's (d. 1286) *Anwār al-tanzil* is more or less an "expurgated" edition of Zamakhsharī's work, for Bayḍāwī seeks to purge the latter work of theological views considered objectionable by the Sunnis. Abū al-Barakāt al-Nasafī's (d. 1310) *Madārik al-ta'wil* is an abridgement of the works of Zamakhsharī and Bayḍāwī taken together, although he also deals with legal issues. Another *tafsīr* with emphasis on language and literature, and one that is important in its own rights, is Abū Hayyān's (1256–1344) *Al-bahr al-muhiṭ*.

Fakhr al-Dīn al-Rāzī's *Al-tafsīr al-kabīr* represents the dialectical and theological type of *tafsīr*. Study of this commentary provides a full view of the range of Muslim theological debates and differences, especially those between the traditional Ash'arīs and the so-called rationalist Mu'tazilīs. While Rāzī defends the Ash'arī doctrine, al-Qādī Abd al-Jabbār (d. 1025) in his *Tanzih al-Qur'ān 'an al-matā'in* argues for the Mu'tazilī viewpoint.

Juristic *tafsīr* is represented by the *Aḥkām al-Qur'ān*

of the Ḥanafī Abū Bakr al-Jassās (917–981) and *Al-jāmi' li-ahkām al-Qur'ān* of the Mālikī Abū 'Abd Allāh al-Qurtubī (d. 1273). Ibn al-Jawzī's (d. 1200) *Zād al-masīr*, although it casts its net much wider, may be regarded as representing the Ḥanbalī viewpoint in this field.

It should be noted that many of these *tafsīr* works would fit into more than one category. Zamakhsharī's *Al-kashshāf*, for example, deals not only with the rhetorical aspects of the Qur'ān but also with theological issues, and Qurtubī's *Al-jāmi' li-ahkām al-Qur'ān* is not only juristic *tafsīr* but also discusses linguistic and literary issues. A number of *tafsīr* works were in fact expressly meant to be composite in nature, a good example being the nineteenth-century *tafsīr*, *Rūḥ al-ma'āni*, by Shihāb al-Dīn Maḥmūd al-Ālūsī (1802–1854).

Şūfi Tafsīr. Establishing a close personal relationship with God is, generally speaking, the principal aim of Şūfis or Muslim mystics. The focus of their attention is those Qur'ānic verses that speak of God's magnificent attributes and exhort believers to love and fear God. "Acquire the qualities of God" is a well-known Şūfi motto, interpreted mainly in ethical and behavioral terms.

Şūfi *tafsīr* is notable first for the near absence in it of grammatical, rhetorical, legal, and theological discussions, and second for its attempt to go beyond the apparent meaning of the Qur'ānic text in order to derive deeper, hidden meanings through intuitive perception. Although it is possible to speak of major themes and preoccupations of Şūfi *tafsīr*, it would be difficult to say that the Şūfi *mufassirūn* employ a certain method of interpretation. The interpretations offered do not always challenge those reached through the use of orthodox methods. Not infrequently, however, the Qur'ānic text is used as a springboard for presenting views that have a very tenuous basis in the text and may even be irrelevant in the context or incompatible with the text. Among the well-known Şūfi *mufassirūn* are Sahl ibn 'Abd Allāh al-Tustarī (d. 986; *Tafsīr al-Tustarī*), Abū 'Abd al-Rahmān al-Sulamī (936–1021; *Haqā'iq al-tafsīr*), and Abū al-Qāsim al-Qushayrī (d. 1072; *Lata'if al-ishrāt*).

Shī'i Tafsīr. Imāmī Shī'i *tafsīr* differs from Sunnī not so much in methodology as in respect of its assumptions, sources, and motifs. The distinctive concept of a divinely ordained imamate is expounded and defended, and the verses believed to establish the successorship to Muhammad within the Prophet's family (beginning with 'Alī, the first in a series of twelve infallible imams)

are treated at length, often polemically. Because the interpretations attributed to the twelve imams are regarded as authoritative beyond question, the traditions reporting these interpretations carry the greatest weight. A distinction is made between the exoteric and the esoteric meanings of the Qur'anic texts, with the esoteric meaning that goes back to an imam (and believed to have reached the imam from the Prophet through the chain of imams) taking precedence over the exoteric meaning.

On several theological issues—such as the possibility of the beatific vision, guidance and misguidance by God, and the reality of magic—Shī‘ī *tafsir* reflects the influence of Mu‘tazili thought. In the legal sphere, Shī‘ī *tafsir*, besides expounding Shī‘ī law, dwells on issues on which basic disagreements with the Sunnis exist. Among the major Imāmī *mufassirūn* are Abū Ja‘far al-Tūsī (d. 1067; *Al-tibyān*), Abū al-Faḍl al-Ṭabārī (d. 1153; *Majma‘ al-bayān*), and Mulla Muhsin Fayd al-Kāshānī (d. 1777; *Al-ṣāfi*). Muḥammad Ḥusayn al-Ṭabāṭabā’ī (1903–1981; *Al-mīzān*) is a distinguished modern Imāmī exegete.

Zaydī *tafsir*, judged from the work of Muḥammad ibn ‘Alī al-Shawkānī, a nineteenth-century Yemenite scholar, is not very different from Sunnī. His *tafsir*, *Fath al-Qadīr*, is in fact very popular with Sunnis. As is well known, of all the Shī‘ī sects the Zaydīs are the closest to the Sunnis in respect of doctrine and interpretation of the crucial period of early Islamic history.

Modern *Tafsir*. For our purposes modern *tafsir* is chiefly, though not exclusively, that of the twentieth century. Modern *tafsir* seeks to address a much wider audience—not only the scholars, but the common people as well. The spread of education and the rise of such political institutions as democracy have led to a heightened awareness of the importance of the man in the street, which has in turn led to the use of an idiom comprehensible to the common people. The need to address the populace in various parts of the Muslim world has also led to the writing of *tafsir* works in regions other than the central lands of Islam. Particularly important in this respect is the Indo-Pakistan subcontinent, where a number of major works in Urdu have been produced. Some *tafsir* work has also been produced in the Maghrib and in Southeast Asia.

A change in points of emphasis is notable in modern *tafsir*. There is in some cases diminished emphasis and in others an almost total neglect with regard to such aspects of classical *tafsir* as grammar, rhetoric, and the-

ology. By contrast, there is an increased emphasis on the discussion of problems faced by society at large; the *mufassirūn* dwell on verses that bear on issues in the economic, social, moral, and political spheres. In fact, *tafsir* today has become an important vehicle for advancing ideas in these spheres, and quite a few *mufassirūn* have used it for purposes of reform and revival. The *tafsir* works of Muḥammad Rašīd Riḍā of Syria (*Al-manār*), Sayyid Quṭb of Egypt (*Fi zilāl al-Qur’ān*), Abū al-A‘lā Mawdūdī of Pakistan (*Tafhim al-Qur’ān*), and Ibn Bādīs of Algeria (*Tafsīr al-shihāb*, so called because it was published in the journal *Al-shihāb*), are cases in point. Shawkānī uses the medium of *tafsir* to make a severe criticism of *taqlīd* (unquestioning acceptance of authority). *Tafsīr* remains an important avenue for expressing dissident opinion in closed or repressive societies, and Muslim scholars are not afraid to exploit its potential.

A notable feature of modern *tafsir* is the assumption it makes of the Qur'anic surahs as unities. The surahs in their received arrangement are believed to possess *nazm* (order, coherence, or unity), and this *nazm* is regarded as hermeneutically significant. Thus in many cases a *nazm*-based interpretation overrides an interpretation based on a certain “occasion of revelation.” Perhaps the most successful attempt made in this area is that by Amīn Aḥsan Islāhī of Pakistan in his multi-volume Urdu work *Tadabbur-i Qur’ān*.

A word may be said about scientific *tafsir*. The need to demonstrate the harmony between science and Islamic religion has led certain Muslim writers to argue that all scientific and technological developments were foretold or alluded to in the Qur’ān fourteen centuries ago. The Egyptian scholar ‘Alī Jawharī al-Tanṭawī, in the several volumes of his *Jawāhir al-Qur’ān*, takes this approach to extreme lengths; needless to say, whole sciences are made to hang on tiny pegs.

The differences between classical and modern *tafsir* are certainly important; still, it is a moot question whether modern *tafsir*, taken as a whole, is radically different from classical. The declared aims of the modern exegetes are not very different from those of the classical—to make the divine word accessible to believers in a manner that is authentic and also faithful to the tradition of pristine Islam. Moreover, most of the modern *mufassirūn* are by training not very different from the classical. As such, it may be asked whether the break between classical and modern *tafsir* is fundamental and will become permanent. Here it may not be out of place to look at the views of the late Fazlur Rahman.

Although he was not a *mufassir* as such, Fazlur Rahman was deeply interested in Qur'anic studies, as shown by his several publications on the subject. He was convinced of the need to develop a new approach to Qur'anic interpretation, and in his *Islam and Modernity* he proposed what he regarded as the *tafsir* methodology suitable for modern times. Although he stated the methodology briefly and in general terms and did not expound or support it with actual examples, it nevertheless deserves to be considered. After criticizing the hitherto popular piecemeal approach to the Qur'an, he stated his premises: the Qur'an was revealed against a specific sociohistorical background and embedded in its specific pronouncements are *rationes legis* that may or may not be explicit. In order to interpret the Qur'an meaningfully for present times, therefore, a double movement of thought is needed (pp. 5-7):

The process of interpretation proposed here consists of a double movement, from the present situation to Qur'anic times, then back to the present. The Qur'an is the divine response, through the Prophet's mind, to the moral-social situation of the Prophet's Arabia, particularly to the problems of the commercial Meccan society of his day. . . . The first step of the first movement, then, consists of understanding the meaning of the Qur'an as a whole as well as in terms of the specific tenets that constitute responses to specific situations. The second step is to generalize those specific answers and enunciate them as statements of general moral-social objectives that can be "distilled" from specific texts of the sociohistorical background and the often-quoted *rationes legis*. . . . [T]he second [movement] is to be from this general view to the specific view that is to be formulated and realized now. That is, the general has to be embodied in the present concrete sociohistorical context. This once again requires the careful study of the present situation and the analysis of its various component elements so we can assess the current situation and change the present to whatever extent necessary, and so we can determine priorities afresh in order to implement the Qur'anic values afresh.

On this view, as Fazlur Rahman himself notes, the historical tradition of *tafsir*, instead of serving as a criterion of the validity of, or even as an aid to, "the new understanding," will itself become subject to scrutiny and "an object of judgment" (pp. 6-7).

Fazlur Rahman's approach, though challenging, is unlikely to find ready acceptance among the religious scholars of the Muslim world, for two reasons. First, it calls into question in a fundamental way the value of the historical tradition of *tafsir*; and modern *tafsir*, for all its

distinctive features, is in respect of ethos, inspiration, and structure still dependent on the latter and perhaps not ready to strike out on a totally new path. Second, as Fazlur Rahman himself observes, in order to be successful this approach requires the concerted efforts of the historian, the social scientist, and the ethicist. Modern *mufassirūn*, in spite of their acute consciousness of the changed needs of present-day Muslim societies, continue to be—by training and orientation as well as in their tastes and predilections—theologians and legists in the classical tradition. The role of the social scientist is one that they are particularly ill-equipped to play. [See the biography of Rahman.]

Conclusion. The primacy of the Qur'an in Muslim religious life has always been accepted. In modern times, renewed emphasis has been placed by Muslim scholars on the Qur'an as a source of guidance. Often implicit in this emphasis is a challenge to many facets of the accepted tradition, in the theological, legal, or other spheres. This being the case, it is likely that *tafsir* will gain in importance not only as a discipline of Islamic learning but also as a carrier of new ideas and as a medium scholars can use to initiate change or reform. This is borne out by the ever-growing number of *tafsir* works (sometimes translations or abridgements of existing works) in the Muslim world, not only in Arabic but also in many regional and local languages. The ultimate test of the efficacy of this literature will of course be whether it succeeds in providing satisfactory solutions to the questions it claims to be able to answer.

[See also Qur'an, article on The Qur'an as Scripture.]

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Session 4

Whatever the Messenger gives you, take it, and whatever he forbids you abstain from it.

(59.7)

Verily, in the Messenger God you have a good example.

(33.21)

Moreover, the Quran informs the believers that God and his angels send blessings upon Muhammad, and it urges them to do likewise (33.56). That is why Muslims often say 'peace and blessings be upon him' (sometimes written PBUH) when they mention his name.

Although the Quran ascribes a high status to Muhammad, it indicates that he was nonetheless a human being like those to whom he was sent: he had to eat food (25.7); was unable to perform the miracles which were requested of him (7.109, 13.7, 13.38); needed to ask God's forgiveness (40.55, 47.19, 48.2); and might one day die or be killed (3.144).

The Hadith

As the Quran refers to Muhammad as a teacher of wisdom and a role model for the believers, it is hardly surprising that some of the Companions and Successors made their own collections of his sayings. The sayings are referred to individually as hadiths, and collectively as the Hadith. Most of the early collections have perished because they were superseded by the much more comprehensive collections which were made in the ninth century. These are of two principal types: the *musnads*, in which the hadiths are classified on the basis of the Companions who transmitted them, and the *musannafs*, in which they are arranged in accordance with their subject matter. The former type is exemplified by the *Musnad* of Ibn Hanbal (d. 845), which contains 30,000 hadiths narrated by some 800 Companions. The most famous *musannafs*s are the *Sahih* of Bukhari (d. 870) and the *Sahih* of Muslim b. al-Hajjaj (d. 874). Bukhari recorded 9,082 hadiths, including 6,480 repetitions, whereas Muslim recorded 7,275, including 3,275 repetitions. Each hadith has two components: an *isnad*, or chain of guarantors reaching back to a

Companion, and a *matn* or main text. The following example from Bukhari is typical

Al-Humaydiyy told us Sufyan told us saying I heard az-Zuhri say Ubaydullah Ibn Abbas informed me on the authority of Ibn Abbas that he heard Umar say from the pulpit, I heard the Prophet of God say: 'Do not extol me as the Christians have extolled the Son of Mary. I am only God's servant. Refer to me as the Servant and Messenger of God'.

The *matn* need not necessarily be a saying. It can also be a brief anecdote about the Prophet or a statement about what he tacitly approved or disapproved, for example,

The Messenger of God never sat at a table.

Occasionally, the *matn* is an extra-Quranic revelation related by Muhammad, as in the following instance

Each night, when the night is two thirds spent, our blessed and exalted Lord descends to the lower heaven and says, 'If anyone invokes *rabb* me, I will answer his prayer. If anyone asks me for something, I will grant it him. If anyone seeks forgiveness, I will forgive him.'

A hadith of this kind is called a *hadith qudsi*. Although it is regarded as divine revelation, it is never recited in prayer like the Quran.

By the time Bukhari and Muslim compiled their collections, many spurious hadiths had come into circulation. Some were invented for political reasons, for instance in support of the Umayyads or Abbasids; some out of malice, by people who wished to discredit Islam; some for religious motives – by Shiites, by believers in free will, or by ascetics who wished to encourage works of piety. Finally, there is evidence of people fabricating hadiths for financial gain – story-tellers who made a living by spinning good yarns, and merchants who boosted trade by alleging that the Prophet loved pumpkins or whatever else they were trying to sell. The Hadith collectors were well aware of

this problem so they and subsequent scholars developed the science of hadith criticism to help them separate the wheat from the chaff. This involved scrutinising the *isnads*. It was necessary to identify every person in a given chain and establish that he or she was orthodox, honest, and of sound memory. It was also necessary to ascertain when and where they all lived so as to verify that the first person could have been a pupil of the second, the second of the third, and so on. Hadiths with impeccable *isnads* were classified as 'sound' (*sahih*). The others were deemed 'fair' (*hasan*), 'weak' (*daif*) or 'inauthentic' (*munkar*), depending writer to writer but the criteria varied slightly from absence of a 'sound' hadith, one which was 'fair' would suffice to establish a point of law; 'weak' hadiths had no legal value but could be used for exhortation; and 'inauthentic' hadiths were to be rejected.

The fabric of traditional Islamic societies owes even more to the Hadith than it does to the Quran. The way in which Muslims divorce, rear their children, conduct business, wage war, marry and drink, or attend to matters of personal hygiene, are all largely determined by what the Prophet is deemed to have said and indirectly simply by being born and bred in a Muslim society, but devout Muslims study hadiths so as to be better equipped to emulate the Prophet in every aspect of their lives.

MUHAMMAD THE MESSENGER OF GOD
one of the four Sunni law schools, marked the turning point. Before this seminal work was written, Muslims generally assumed that the Quranic exhortations to obey the Messenger were addressed primarily to Muhammad's contemporaries and applied to specific situations during his lifetime. Shafii, however, was concerned to draw up a strict hierarchy of sources of law, and therefore marshalled these texts as proof that the Quran itself indicated that the Hadith should be regarded as authoritative. Once Shafii's view gained wide acceptance, definitive Hadith collections were compiled and more attention was paid to *isnads*. The sceptics therefore conclude that, in all probability, many of the hadiths were fabricated in the eighth and ninth centuries by lawyers who wanted to justify their own views by tracing them back to the time of the Prophet.

It is arguable that scholars who take this line have overstated their case. For one thing, they ignore the evidence that Companions and Successors compiled collections of hadiths for their private use. Moreover, they too readily assume that the failure of early Muslim lawyers to cite relevant hadiths in support of specific arguments necessarily implies that these hadiths did not yet exist. Similarly, when they infer from the incomplete *isnads* in works like the *Muwatta* of Malik Ibn Anas (d. 795), that these *isnads* were artfully improved in subsequent generations, they go beyond the evidence. Lawyers who cite authorities that are widely acknowledged often do so obliquely without going into unnecessary detail, and Malik may have done the same. Nevertheless, more recent research employing different methods, has shown fairly conclusively that the majority of the *isnads* in the standard Hadith collections are suspect. There are many more collections than the three mentioned in the previous section and they overlap to a considerable extent. In some instances, by searching through all the available collections one can find as many as a dozen *isnads* in support of single *ma'th*. Having done this, the next step is to draw all the *isnads* in grammatical form on a single piece of paper so as to show how they are interrelated. The end result looks like a rather spidery tree in which the compilers of the Hadith collections correspond to the tips of the branches, the Prophet is at the base of the trunk, and the intermediate transmitters occur at various points in-between. What is striking

Modern Scepticism about the Hadiths

Many non-Muslim scholars and Muslim modernists are sceptical about the hadiths, and dismiss the bulk of them as inauthentic. They note that in the early period hadiths were rarely cited to establish points of law, and that in the second half of the eighth century, when they began to be cited for this purpose, they were often given with incomplete *isnads*. From this, they infer that the early lawyers relied primarily on individual reasoning; that recourse to the alleged rulings of the Companions came later still. In their opinion, the *Risala* of Shafii (d. 820), the founder of

is that, when this is done, the tree almost invariably has a trunk. That is to say, most *hadiths* have a single line of transmission for the first two or three generations and then begin to branch out. Now although it is highly likely that some of the things which the Prophet said were heard by only one Companion, it is difficult to believe that the Companion transmitted the saying to only one Successor, and that the Successor in turn transmitted it to only one of his pupils, but that from then on the number of transmitters increased from generation to generation. It is hard to avoid the conclusion that the person whose name occurs at the top of the trunk, at the point where the tree begins to branch, either invented the hadith, or at very least invented that part of the *isnad* which traces it back to the Prophet.

Traditional Biographies of the Prophet

The earliest and most famous of the traditional biographies are *The Life of the Messenger of God* by Muhammad Ibn Ishaq (d. 768) revised by Ibn Hisham (d. 828 or 833), and *The Book of Raiding Campaigns* by al-Waqidi (d. 823). Although these works draw on earlier traditions, they were written more than a century and a half after the events which they purport to describe and cannot therefore be taken at face value. Much of the information which Ibn Ishaq furnishes about Muhammad's early life smacks of legend. For example, he relates that when Muhammad's mother Amina was pregnant with him, she saw a light come forth from her by which she could see the castles of Busra in Syria; and that when as boy he accompanied his uncle with a merchant caravan, they were given hospitality in Busra by a Christian monk called Bahira, who recognised the seal of prophethood between his shoulders. Miracles also abound in Ibn Ishaq's account of Muhammad's ministry in Mecca. These include extravagant details about his night journey and heavenly ascent, which will be mentioned later. We are on somewhat firmer ground with the Medinan period, because the Arabs were accustomed to recording the valiant deeds of their tribal heroes and would therefore have found it natural to preserve similar traditions about the raiding campaigns undertaken by Muhammad and his Companions.

Biography and 'Ilm al-Kalam

Formerly, biography was valued merely as a chronological history. It had nothing to do with 'Ilm al-Kalām. Modern critics, however, argue that, if religion simply means belief in God, the matter ends there. But, if faith in the prophethood is also a part of religion, then the question about the character and life of the person who was the Messenger of God and recipient of His revelation may naturally arise.

European biographers have painted the moral life of the Prophet Muḥammad (peace and blessings of Allāh be upon him) in the darkest colours. Pressed by present day needs, Muslims have generally lost touch with Arabic literature. Those who wish to know something of the Prophet, have, consequently, to resort to the biographies written by Europeans. By slow degrees, and yet continuously, they get poisoned. As a result, there is a large number of people who regard Muḥammad (peace and blessings of Allāh be upon him) as a mere reformer, and hold that if he was able to improve the social environment in any way, he had acquitted himself of his mission ; while the fact that spots could also be detected (as they suppose) in his moral character does not affect his position.

These were the considerations that compelled me to undertake the arduous task of compiling a comprehensive book on the life of the Prophet. Apparently, this seemed to be an easy affair, as there are so many books on the Prophet's life in Arabic, and to produce a large and interesting book based on them would not mean more than a few

months' labour. In fact, however, nothing was more arduous and beset with difficulties than this work.

Further on, I shall try to show at length that so far no biography of the Prophet (peace and blessing of Allāh be upon him) has been based on authentic sayings.¹ Hāfiẓ Zain al-Din

1. Here let another important and delicate problem be settled, which has been created by our lack of knowledge of the "Sīra" literature. Many of us regard "Sīra" as a part of Ḥadīth (sayings of the Prophet). They think that, if we sort out from the books of Ḥadīth facts that belong to the life of the Prophet, then we get "Sīra", the life history of the Prophet. As reliable books of Ḥadīth that contain not a single doubtful report are many, for instance, the *SIHĀH SITTA*: it should be incorrect to assert that an authentic work on "Sīra" does not exist. To further understand this fact the following points should be borne in mind :

(a) First of all we should decide what "Sīra" is ? The old traditionists and the Arbāb Rijāl (compilers of the life histories of the narrators) hold that "Maghāzī" and "Sīra" describe especially the facts pertaining to the campaigns (Ghazawāt) of the Prophet. Hence the work by Ibn Ishāq is called a book of "Maghāzī" as well as of "Sīra". Hafiz Ibn Hajar, in his book *Fath al-Bārī* has also used both these terms as synonymous. In the book on Jurisprudence (Fiqh) this term has been used in the same sense. In such books, the word "Sīra", found in the chapters captioned "Jihād" and "Sīra" refer to Ghazawāt and Jihād injunctions.

It continued to be so, for many centuries. Up to the third century, works designated as "Sīra" books, e.g., *Sīra* of Ibn Hishām, *Sīra* of Ibn 'Ā'id, *Sīra* of Amavī etc., generally give the description of Ghazawāt alone. Later on, however, books on "Sīra" dealt with other subjects also even to the exclusion of the Ghazawāt. In a *al-Mawāhib al-ladunniya* we find almost everything except Ghazawāt.

On the other hand, the traditionists regard "Sīra" and "Maghāzī" as quite different from collections of Ḥadīth. Later on, this distinction grew so pronounced that, in some cases, the authors of "Sīra" and "Maghāzī" were regarded as a group opposed to the traditionists. In controversies on certain incidents, one may see the entire class of *Sīra*-writers arrayed

- 'Irāqī, in his book on "Sīra", says, "The student must know that books of "Sīra" (biography) contain facts faithfully reported and also those the authenticity of which is disputable".

against the Imām al-Bukhārī and Muslim ; and there are people who would reject the statements of the Imām al-Bukhārī and Muslim on the ground that it is belied by writers of books on "Sīra". But critics declare that an authentically reported tradition deserves to be accepted, even though discredited by all the "Sīra"-writers unanimously. Let us cite a few instances here :

(i) Among the various Ghazawāt, there is a Ghazawa known as Ghazwa Dhi Qard (better read as Qarad). Compilers of "Sīra" place the date of its occurrence before the treaty of al-Hudaiyya. But in the *Sahīh* of Muslim there is a report on the authority of Salama ibn Akwa' to the effect that this Ghazawa took place after the treaty of al-Hudaibiya and three days before the battle of Khaibar. 'Allāma al-Qurṭubī, in his comments on this report of Salama says, "The compilers of "Sīra" agreed in holding that Ghazwa of Dhi Qarad took place before the treaty of al-Hudaibiya. As for the report of Salama, it must have been the mere guess of some of its narrators". But Hāfiẓ Ibn al-Hajar, discussing this view of al-Qurṭubi in his book *Fath al-Bārī* says : "All this leads us to conclude that the date of Ghazawa Dhi Qarad as mentioned in the *Sahīh* (of Muslim) is more authentic than the one mentioned by the biographers.

'Allāma al-Dimyāṭī was a famous traditionist. He wrote a book on "Sīra", which exists till this day. He preferred the writers of "Sīra" to the traditionists. But strict obedience to the "Sīra"-writers revealed to him the fact that authentic traditions were preferable to the statements of "Sīra"-writers. Then he wished to make necessary alterations in his book. Unfortunately, he could not do so, as the book had already reached the hands of numerous readers. This fact has been mentioned by the 'Allāma himself. Hāfiẓ Ibn al-Hajar, having quoted al-Dimyāṭī had made up his mind to change those passages wherein he had discredited Hadīth. He had, probably, made this mistake before attaining maturity as a scholar. He wanted to make necessary corrections in his book. But he could not do so as the book had already reached the hands of a large number of readers.

It is thus found that even in the most reliable books on "Sīra" there are incorporated many sayings that are weak. Consequently, it was necessary to collect a large number of books dealing with traditions and the lives of the narrators and then to compile a standard work based on thorough research and critical study. But to make a thorough study of hundreds of books and then to unearth the data was not a job for a single man. In addition to this,

- (ii) A similar controversy exists regarding the Ghazawa Dhāt al-Riqā'. Most of the biographers hold that it took place just before the battle of Khaibar. But the Imām al-Bukhārī states that it took place just after the battle of Khaibar. 'Allāma al-Dimyātī, however, differs with the view of al-Bukhārī. Al-Hāfiẓ Ibn Hajar, in his book *Fath al-Bārī* says: "As for al-Dimyātī, he has discussed this Hadīth and declared it to be unreliable, because all the writers on "Sīra" had rejected it." (Vol. VII, p. 322.) Having referred to al-Dimyātī's view on this point, Ibn Hajar refuted this as well.

The substance of the discussion is that "Sīra" is a separate branch of learning, not identical with Hadīth. Hence, the writers of "Sīra" were not scrupulous about the authenticity of a report to the same degree as the collectors of traditions now found in books known as the *SIHĀH SITTA*. To cite an analogy, Islamic Jurisprudence is all derived from the *Qur'ān* and Hadīth, yet it cannot be said that it is one and the same thing with them or that equals them in merit.

2. "Maghāzī" and "Sīra" require minute details, which, if judged by the strict criteria of Hadīth, are not available. The writers on "Sīra" are thus compelled to relax their standards. Hence this branch of learning does not rank with Hadīth.
3. Al-Bukhārī and Muslim made it a point not to report a single saying of doubtful nature ; while the *Sīra*-writers never worked under such restrictions. There are scores of books by writers from the earliest to the present times, for instance, "Sīra" of Ibn Ishāq, *Sīra* of Ibn Hishām, *Sīra* of Ibn Sayyid al-Nās, *Sīra* of Dimyātī, *al-Mawāhib al-ladunniya*, etc. None of these writers has observed these restrictions.

It may now be seen what we meant when we said that no authentic book had so far been written on "Sīra", and how far it is correct.

a knowledge of what the Europeans have written about the Prophet was indispensable. I do not know any of the western languages ; hence the need of a whole department of translators ; having command over Arabic and western languages both. Now that God has provided these facilities, I have no excuse to make. Failure to discharge my duty now would mean the greatest ill-luck for me.

No personage in the annals of history had, or is ever likely to have, the facts of his life recorded with such comprehensiveness and scrupulous cares as the Prophet of Islam. This is the unique source of pride for the Muslims, and for this performance they shall stand unrivalled for all time to come. Thirteen thousand persons who had associated with or seen the Prophet have had their names and life-histories preserved. Can a more outstanding performance be imagined ; and it was all done at a time when writing had newly come into vogue ?

Tabaqāt of ibn Sa'd, *Kitāb al-Sahāba* by Ibn Sakan, *Kitāb* of 'Abd Allāh ibn 'Alī, *Kitāb al-'Uqailī fī al-Sahāba*. *Kitāb* Ibn Abī Hātim al-Rāzī, *Kitāb al-Azraq*, *Kitāb al-Dawlābi*, *Kitāb al-Baghavī*, *Tabaqāt* Ibn Mākūla (also read as Muqla), *Uṣd al-ghāba*, *Iṣṭī'āb*, *Iṣāba fī aḥwāl al-Sahāba* and others, all deal with such persons.¹ What other hero in the world had the lives of so many of his companions penned down ?

In the following pages we propose to discuss the nature and history of the material collected by the earlier writers relating to the biography of the Prophet, in order to show how it is to be sifted and utilised.²

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1. All these books have been mentioned in the *Iṣṭī'āb*.
 2. It must be borne in mind that, in books of Ḥadīth, one can find numerous notices of the Prophet's life, activities, habits, morals etc. They are immensely helpful to biographers, no doubt. But a full-fledged biography could not be compiled on the basis of these notices alone. Moreover, they lack chronological order. Collections of the Prophet's sayings form a separate literature in addition to the books mentioned above.

Early Biographies and the Written Material

Generally, it is held that reading and writing was not common among the Arabs, and the books first came to be written in the days of the 'Abbasid Caliph Abū Manṣūr, approximately in the year 143 A.H. (760 C.E.). Hence, the sayings of the Prophet (peace and blessings of Allāh be upon him) and the accounts of his life, such as existed, were believed to have been preserved in the archives of memory, and not on paper. But such a superficial view is not warranted. Reading and writing, though limited to a few, had long been known to the Arabs.

In ancient days, the scripts familiar to the Arabs were known as Himyari and Nabatī (Himyarite and the Nabataean); and a large number of inscriptions in both have now been made available through the labour of European scholars. Shortly before the advent of Islam, another script was developed, which having gone through many changes is known as modern Arabic.

The history and origin of the present script is clouded in legends. For example, Ibn Nadīm has quoted al-Kalbī as saying that the men who devised the Arabic script were Abi Jad, Hawāz Ḥuṭṭī, Kalimūm, Sa'fas and Qurishat. Similar to this, there is also a statement from Ka'b, who says that Adam was the originator of all alphabets. Ibn Nadīm has again quoted from 'Abd Allāh ibn 'Abbās that the first to introduce the Arabic script were three persons belonging to the tribe of Bawlān (an off-shoot of the tribe of Tai'), who lived in Anbār, their names were: Murāmir ibn Marwa, Aslam ibn Sadra and 'Āmir ibn Jadara.

Of all such stories, the only probable one seems to be the statement in 'Amr ibn Shabba's book *Akhbār Mecca* (quoted by ibn Nadīm) that the man who invented this script belonged to the tribe of Banū Yakhluḍ ibn Naḍr ibn Kināna. This probably took place at a time when the Quraish had gained ascendancy and were engaged in trade with the outside world. Ibn Nadīm says that in the library of Caliph Māmūm

al-Rashid he had found a document written by 'Abd al-Muṭṭalib ibn Hāshim (grand-father of the Prophet), and it ran thus: "A certain Ḥimyārī (a Ḥimyarite), resident of Ṣanā'a, owes to me, 'Abd al-Muṭṭalib ibn Hāshim, resident of Mecca, one thousand Dirhams of silver, (weighed against iron). He will have to pay the same when called upon to do so; God and two angels stand witness to it".¹

This document shows that 'Abd al-Muṭṭalib had loaned one thousand Dirhams to a certain person belonging to the Ḥimyar tribe ; and that these people believed in angels (and probably in the KIRĀM al-KĀTIBĪN, i.e., the two recording angels). Ibn Nadīm has further observed that the hand in which this document was written looked like that of a female.

Al-Balādhurī says that, at that time when the Prophet entered upon his mission, seventeen persons among the Quraish knew reading and writing ; and they were: 'Umar, 'Alī, 'Uthmān, Abū 'Ubaida, Ṭalḥa, Zaid, Abū Hudhaifa, Abū Sufyān, Shifā' bint 'Abd-Allāh and others.²

Among the prisoners from the Quraish taken in the battle of Badr, which took place in the second year of the Hijra (623 C.E.) there were many who could not pay for their liberty ; and the literate among them were ordered by the Prophet to teach at least ten illiterate Muslim children in lieu of cash payment. Zaid ibn Thābit, who later on became famous as one of the scribes of the Prophet's revelations, learned reading and writing in this way.³

These facts show that literacy had made some headway among the Meccans and Medinites, even in the days of the Prophet. Now it remains to be seen whether the followers of the Prophet noted down his sayings in his life-time and whether we have inherited from them any written material for a biography.

1. Ibn Nadīm, Cairo Edition, p. 17.

2. *Futūh al-buldān*, European Edition, p. 471.

3. *Tabqāt* of Ibn Sa'd, p. 14.

Written Record Contemporary with the Prophet

There are sayings, some of which are to be found in the *Sahih* of Muslim, which speak of the Prophet having ordered his Companions not to write down anything he said. The words of the report are:

"Write not from me anything; and whosoever has written anything from me, other than the *Qur'an* should rub it out". But this seems to have been an order of early days, for there are several authentic sayings to prove that the Companions of the Prophet had his permission to write down whatever he said. Al-Bukhārī, in the chapter entitled "Knowledge", reports from Abū Hurāra that, of all the Companions of the Prophet, none except 'Abd Allāh ibn 'Umar remembered so many sayings as he did, the reason being that 'Abd Allāh used to write down whatever the Prophet said, which he did not do. There is another report that 'Abd Allāh ibn 'Umar was in the habit of writing down every word uttered by the Prophet. Some people, the report adds, asked 'Abd Allāh not to do so, for sometimes the Prophet was displeased and sometimes in a happy mood. At this, 'Abd Allāh stopped writing; and later on reported the matter to the Prophet himself. The Prophet pointed to his lips and said, "Do write, for nothing but truth can escape from them".¹ Khaṭīb al-Baghdādī, in his book *Taqyid al-'ilm*, says that the book in which 'Abd Allāh had written down these sayings was named *Sādīqā*.²

Once the Prophet ordered that the names of all those people who had embraced Islam by that time would be noted down; and the names of about 1,500 of his followers were recorded.³

Al-Khaṭīb al-Baghdādī, in his book *Taqyid al-'ilm*, again says that when the people gathered in a large number to

1. Abū Dāwūd, Vol. ii, p. 77.

2. *Jāmi' bayḍa al-'ilm* by Ibn Abd al-Barr, p. 77.

3. Abū Dāwūd, Vol. i, pp. 21 & 22.

hear Anas repeat the sayings of the Prophet, Anas used to take out a scroll of paper and say, "Here are the sayings that I had written down after I had heard them from the Prophet".

The Prophet sent many written orders concerning charity, Zakāt (poor-due) etc., to various tribes of Arabia; and many of them are still preserved in books of Hadith. In the same way the messages addressed by the Prophet to various kings and chiefs of Arabia and of other countries were also in writing.

The *Sahīḥ* of al-Bukhārī (chapter *Kitāb al-Ilm*), mentions that in the year when Mecca fell into the hands of the Muslims, it so happened that a certain person belonging to the tribe of Khuzā'a killed some other man. At this, the Prophet delivered a sermon while seated on a camel. A man, belonging to the territory of Yemen came and requested the Prophet to let him have a copy of the same in writing. The Prophet ordered a copy of the same sermon to be given to the man.

In short, by the time the Prophet died there was in existence the following material:—

- (a) The sayings that 'Abd Allāh ibn 'Umar, Ibn 'Abbās, 'Alī, Anas and other Companions had preserved in writing,¹
- (b) Written orders, treaties (such as the Treaty of Hudaibiya) or the messages sent by the Prophet to various tribes.²
- (c) Letters sent by the Prophet to various kings³ and,
- (d) Names of 1,500 (fifteen hundred) followers of the Prophet.⁴

1. Al-Bukhārī, Vol. I, pp. 21 & 22.

2. *Sunan* of Ibn Mājah, p. 180, and Abū Dāwūd, Vol. I, pp. 155, 156.

3. Al-Bukhārī, Vol. I, pp. 5 - 15.

4. *Ibid.*

After the death of the Prophet this written material increased enormously. Before the advent of the 'Abbasids, just after the murder of Walīd ibn Yazīd, when books on traditions and sayings were transferred from the library of Walīd, those written by the Imām al-Zuhri alone had to be carried on the backs of mules.¹

Maghazi

The Arabs had no arts or sciences, but they loved to preserve the memory of their warlike deeds and tribal battles. It might therefore be expected that, of all the deeds and sayings of the Prophet, traditions concerning Maghāzī would be the first to gain popularity and prepare the grounds for this branch of knowledge. But this was not the case. Traditions concerning the military activities of the Prophet were the last to receive attention. The Khulafā' Rāshidūn (the righteous Caliphs, four in number, viz., Abū Bakr, 'Umar, 'Uthmān and 'Alī) and the elder Companions of the Prophet paid more attention to those sayings and doings of the Prophet that concerned the Sharī'a and on which Islamic jurisprudence (Fiqh) could be based.

The Imām al-Bukhārī, while relating the battle of Uhud, has quoted the words of Sā'ib ibn Yazīd, "I enjoyed the company of 'Abd al-Rahmān ibn 'Auf, Ṭalha, Ibn 'Ubaid Allāh, Miqdād and Sa'd for a long time. Still I never heard them quoting from the Holy Prophet, except that Ṭalha used to relate the incidents of the battle of Uhud".

The Companions of the Prophet named above, are very well known and have reported a large number of sayings from him. The quotation given above may only mean that the elder Companions of the Prophet desisted from relating the Ghazwāt, except Ṭalha, who often spoke of Uhud. It was on this account that the writers who devoted themselves to Maghāzī (military history) though very popular with the

1. *Tadhkirat al-Huffāz*, Description of Imam al-Zuhri, by Dhahabi.

masses, carried little weight in the eyes of the learned. Ibn Ishāq and al-Wāqidī are regarded as authorities on this subject ; of whom al-Wāqidī is declared by the traditionists to have been a perfect liar. Ibn Ishāq passes, with some of the traditionists for a reliable man ; but others of equal authority do not regard him as worthy of trust. We shall discuss this in some detail later on.

The Imām Ahmad ibn Hanbal, in the *Mauḍū‘at* of Mullā Qārī, is reported as saying : “There are three kinds of writings that have no basis, viz., *Maghāzī*, *Malāhim* (war-strategy) and *Tafāsīr* or commentaries of the *Qur’ān*”.¹ Al-Khaṭīb al-Baghdādī, having quoted these words says that, while making this remark, the Imām Ahmad must have had in his mind those books in particular that were really baseless. He further says, “As regards the *Tafāsīr*, the books by al-Kalbī and Muqātil ibn Sulaimān are widely known. But the Imām Hanbal has said that the commentary by al-Kalbī is a monument of lies from the beginning to the end”.

He further remarks : “As regards the *Maghāzī* literature the most famous book is the work of Muḥammad ibn Ishāq, who borrows freely from the Christians and the Israelites ; and the Imām al-Shāfi‘ī has declared the books by al-Wāqidī to be full of lies”.

In spite of all distinction, it was impossible to ignore this branch of literature. Hence the elder Companions and traditionists were very careful and narrated only such facts as they were quite sure of.

Written Literature Under State Patronage

In the days of the first Four Caliphs, Islamic jurisprudence and traditions were widely studied. They were also taught by a number of teachers. All this was however, done, orally ; and nothing was reduced to writing. The Umayyads were the first to order Muslim scholars to write.

1. *Mauḍū‘at* of Mullā ‘Alī Qārī, Mujtabā‘ī Press, p. 85.

Ibn 'Abd al-Barr, in his book *Jāmi' bayān al-'ilm*, has quoted the Imām al-Zuhrī as saying: "We did not like to transfer knowledge to paper, but at last a time came when men in authority compelled us to do so."¹

Amīr Mu'āwiya was the first to encourage writings. He invited 'Ubaid ibn Sharya to come from Yemen and compile a history of the ancients. The book is named *Akhbār al-Mādiyin*.²

Next to Amīr Mu'āwiya came 'Abd al-Malik ibn Marwān, who ascended the throne in the year 65 A.H. (684 C.E.). He ordered the scholars to write books of every type and on every topic. Sa'id ibn Jubair, the greatest scholar of the day, was ordered to write a *Tafsīr* (commentary of the *Qur'an*). This the Imām did, and the *Tafsīr* was deposited in the state library. The *Tafsīr* considered to have been written by 'Atā' ibn Dīnār is the same that Sa'id had written. 'Atā' had, somehow, secured it from the royal library.³

The reign of 'Umar ibn 'Abd al-'Azīz gave a fresh impetus to literary activity. Orders were promulgated all over the empire for sayings of the Prophet to be compiled into the form of books. Sa'd ibn Ibrāhīm, who was a famous traditionist and the Qādī of Medina, was asked to write into books a very large number of traditions; and they were all sent to various parts of the Muslim empire. Ibn 'Abd al-Barr, in his book *Jāmi' bayān al-'ilm*, quotes Ibn Ibrāhīm as saying: "'Umar ibn 'Abd al-'Azīz ordered us to collect the traditions. We did so and wrote a large number of volumes; and 'Umar ibn 'Abd al-'Azīz sent one set to each of the various parts of his empire.'⁴

Abū Bakr ibn Muḥammad ibn 'Amr ibn Hazm Anṣārī (also ibn Ḥidm Anāṣī), the Qādī of Medina who was a

1. *Jāmi' bayān al-'ilm*, Cairo Edition., p. 136.

2. *Fihrist* of Ibn Nadim, p. 244.

3. *Mizān al-I'tidāl*, 'Atā' ibn Dīnār's version,

4. *Jāmi' baynā al-'ilm*, Cairo Edition., p. 36.

renowned traditionist of his time and the teacher of the famous Imām al-Zuhri, was also ordered to compile books on traditions.¹

Traditions Quoted by 'A'isha

The traditions quoted by 'Ā'isha occupy a unique place of their own. A large number of traditions handed down by her are those that bear upon the fundamentals of Islamic jurisprudence. It was on account of this that 'Umar ibn 'Abd al-'Azīz paid special attention to the sayings quoted by her. 'Amra bint 'Abd al-Rahmān was a lady who had been brought up by 'Ā'isha herself. She was very learned, and she remembered a large number of sayings. All the Muslim scholars agree that none knew the traditions reported by 'Ā'isha more than 'Amra. 'Umar ibn 'Abd al-'Azīz wrote to Abū Bakr ibn Muhammad to collect and put into writing all the traditions reported by 'Amra and send them to him.²

Special Attention paid to Maghāzi.

So far little attention had been paid to Maghāzi and *Sīra*³. 'Umar ibn 'Abd al-'Azīz ordered that people should be taught and trained in this branch of knowledge in schools specially run for this purpose. 'Āsim ibn 'Umar ibn Qatāda al-Anṣārī (d. 121 A.H.—738-39 C.E.) was well versed in *Sīra* and Maghāzi. He was ordered by 'Umar ibn 'Abd al-'Azīz to start a school in the mosque of Damascus for imparting lessons in Maghāzi and Manāqib (Eulogies in praise of the Prophet and his Companions).

The Imam al-Zuhri.

It was in these days that the Imām al-Zuhri wrote a

1. *Tabaqāt* of Ibn Sa'd, Vol. II, p. 134.
2. *Ibid.*, Vol. II, p. 134; and *Tahdhīb al-tahdhīb*, version of Abū Bakr Ibn Muḥammad.
3. It is to be noted that books dealing with Maghāzi and *Sīra* naturally cover much common ground. They may, however be distinguished by the conspicuity they give to the one or the other—Translator.

book on *Maghāzī*; and, as the Imām al-Suhailī, in his book *Raud al-unuf* has remarked, this was the first book on the subject. The Imām al-Zuhrī was the most learned scholar of the time, none being his equal in Fiqh and Ḥadīth. He was the grand-teacher of the Imām al-Bukhārī, the famous traditionist. He took enormous pains to collect traditions, visited the house of each Anṣārī, enquired of all he could meet, young or old, man or woman—even such as lived in seclusion; and tried to pen down all that they knew about the Holy Prophet.¹ He himself belonged to the tribe of the Quraish, was born in the year 50 A.H. (670 C.E.); and had seen many of the Companions of the Prophet. In the year 80 A.H. (701 C.E.) he reached the court of ‘Abd al-Malik ibn Marwān, where he was received with great honour. Most probably he wrote his famous book *al-Maghāzī* at the instance of ‘Umar ibn ‘Abd al-‘Aziz. It is worth noting that he was closely connected with the court. Hishām ibn ‘Abd al-Malik entrusted him with the education of his children. He died in the year 124 A.H. (741 C.E.).

Disciples of the Imam al-Zuhri

As a result of the endeavours of al-Zuhrī people started taking interest in *Maghāzī*, and, among the large number of his pupils, there were many who rose to eminence in this field of literature, such as Ya‘qūb ibn Ibrāhīm, Muḥammad ibn Ṣāliḥ and ‘Abd al-Rahmān ibn ‘Abd al-‘Aziz. Accordingly, the *Tahdhīb al-tahdhīb*, when speaking of any of them, appends the words “Ṣāhib al-Maghāzī” (master of the *Maghāzī*) as a mark of respect and distinction.

Two of his pupils tower high above the rest—and they are also the ones who close the line of writings on this subject—and they are Mūsā ibn ‘Uqbah and Muḥammad ibn Ishāq.

Musa ibn ‘Uqba

Mūsā ibn ‘Uqba had been a slave of the Zubair family

1. *Tahdhīb al-tahdhīb*, version of Ibn al-Zukrī.

and had seen 'Abd Allāh ibn 'Umar living. In Hadith, the Imām Mālik had been his pupil and held him in such high regard that he used to advise others to learn Maghāzī from none but Mūsā. The chief characteristics of his writings are:

- (a) The writers of Maghāzī had cared little for the authenticity of traditions. But Mūsa usually did that.
- (b) Generally, authors delighted in amassing as many facts as they came to know. As a result, all sorts of reports, spurious as well as genuine, found way into their writings. Mūsā made a careful scrutiny and incorporated only those reports that he found to be correct. Hence his work is much less voluminous than the other books on Maghāzī.
- (c) There was no age limit and anybody could attend the lessons of a teacher ; and pass on to others what he had learnt. But it was difficult for an immature mind to understand the actual meaning and implications of traditions at a tender age. Much confusion was therefore created when such youths quoted traditions to others.

Contrary to others, Mūsā learnt the subject in his old age.¹ He died in 141 A.H. (758 C.E.). Mūsā's work is not extant, but it was available for a very long time, and numerous references to it are to be found in all the old books on *Sīra* and Maghāzī.

Muhammad ibn Ishaq

He is the most famed writer of Maghāzī and is recognised as the highest authority. Al-Wāqidī alone can match him as a well-known author ; but al-Wāqidī is notorious for his absurd and baseless reports and his is a negative reputation. Muhammad ibn Ishāq on the other hand, being a Tābi'i, had seen one of the Companions of the Prophet, namely Anas. He was well-versed in the Hadīth literature.

1. *Tāhdhib al-tāhdhib*, version of Mūsā Ibn 'Uqba.

Al-Imām al-Zuhrī kept a watchman at his door and none could enter his house unannounced. For Muḥammad ibn Ishāq, however, there was no such restriction and he had free access to him at any time. As regards the reliability of Muḥammad ibn Ishāq, opinions differ. Al-Imām Mālik is doubtful about his veracity and does not consider him to be dependable, at least in the field of Maghāzī and *Sīra*. The Imām al-Bukhārī did not incorporate in his *Sahīh* any tradition quoted by Muḥammad, yet he drew upon him in the chapter "al-Qirā'a" (Recitation). In books of history, we find quite a large number of facts borrowed from his book. His pen made the Maghāzī literature so popular and interesting that even the 'Abbasid Caliphs, who were more interested in other branches of knowledge, took a fancy to it. Ibn 'Adī has acknowledged his special services, saying that no other work on *Sīra* and Maghāzī could equal the one by Muḥammad ibn Ishāq.¹

In his book *al-Thiqāt*, Ibn Ḥibbān says that the main charge against Muḥammad ibn Ishāq was that, while describing the battle of Khaibar and other battles, he incorporated reports that he had heard from the Jews converted to Islam. As these facts must have been reported to the converts by the Jews, their reliability was questionable. Al-Dhahabī also declares that Muḥammad ibn Ishāq reported facts borrowed from the Jews and the Christians, whom unfortunately, he considered as reliable. He died in the year 151 A.H. (768 C.E.). Abū Bakr Sa'd Zangī ordered his book to be translated into Persian in the days of Sheikh Sa'dī, of which I had the opportunity of seeing a manuscript copy at Allahabad.

Muḥammad ibn Ishāq's work had a wide publicity and many famous traditionists edited it. Ibn Hishām brought out a very elaborate and enlarged edition, known as *Sīra*

1. *Tahdhīb al-tahdhīb*, version of Muḥammad ibn Ishāq.

Ibn Hishām. As the original book of Ibn Ishāq is rarely available, its successor, *Sīra Ibn Hishām* remains as a relic of the original work.

Ibn Hisham

His name was 'Abd al-Malik, and he was a very reliable traditionist and historian. He belonged to the Himyarite tribe, and it was, perhaps, for this reason that he wrote a history of the Himyarite dynasty, which exists even today. His additional contribution to biographical literature consists of clarifications of the difficult words that occur in books on *Sīra*. He died in the year 213 A.H. (823 C.E.).

The popularity of the *Sīra Ibn Hishām* persuaded writers to put it in verse. Abū Naṣr Fath ibn Mūsā Khudrāvī (d. 633 A.H.—1264 C.E.), 'Abd al-'Azīz ibn Ahmad, better known as Sa'd Virī (d. 607 A.H.—1210 C.E.), Abū Ishāq al-Anṣārī, al-Tilisumānī and Fath al-Dīn Muḥammad ibn Ibrāhīm, known as ibn al-Shahīd (d. 793 A.H.—1390 C.E.) brought out versified editions. The last named author's work contains some 10,000 lines and is entitled *Fath al-gharīb fī sīrat al-Habib*.

Ibn Sa'd

Al-Wāqidī himself deserves no notice, but his disciple, Ibn Sa'd, produced so comprehensive and detailed a book on the lives of the Holy Prophet and his Companions that it stands unrivalled even today. He was a famous traditionist, and though, according to some traditionists, his teacher al-Wāqidī does not deserve any consideration. Ibn Sa'd may be relied upon. Al-Khaṭīb al-Baghdādī had remarked of him: "He (Ibn Sa'd) was an eminent scholar and had an unbiased mind. He has compiled a book dealing with the lives of the Companions of the Prophet, and of those who followed them, bringing the narrative to his own day. It is an excellent and beautiful performance."¹

1. *Tahdhīb al-tahdhīb*, version of Muḥammad Ibn Sa'd.

Ibn Sa'd belonged to the tribe allied to the Banū Hāshim. Born in the town of Basra, he had taken up his residence at Baghdād. The famous historian al-Balādhurī was his pupil. He died in 230 A.H. (844 C.E.) at the age of sixty-two.

Ibn Sa'd's work is entitled *Tabaqāt*. It has eight volumes, two dealing with the life of the Prophet and the rest with the lives of the Companions. As the lives of the Companions contain numerous references to the Prophet, these parts also form a valuable source for the Prophet's biography.

Ibn Sa'd's work had become almost untraceable in as much as no library had a complete set, when the German Emperor thought of its publication, donating a lakh of rupees (approximately U.S. dollars 11,111 at the present rate of exchange) from his personal purse. Professor Sachau was entrusted with the task of procuring from various places the various parts of the book. Sachau travelled to Constantinople, Egypt and to other countries, and succeeded in collecting all the volumes. Twelve European professors took upon themselves the onerous duty of correcting the volumes allotted to each ; and thus came out this valuable book from a press in Leyden (Holland) carefully edited and printed. Much of this book is based on al-Wāqidī but all the reports having been referred to the sources, those originating from al-Wāqidī can be easily separated from the rest.

Several other books on *Sīra* were also written during this period ; and books like *Kashf al-Zunūn* mention their names. But we know nothing more about them now. They are no longer extant and so we needn't worry about them.

Tarikh Kabir and Tarikh Saghir by Imam Bukhari

In addition to the books on *Sīra*, there are historical writings following models of the traditionists, that is, recording statements with reference to sources. These works, too,

at least the portions dealing with the life of the Prophet, form a part of the *Sīra* literature. Of these the foremost, and at once the most authentic, are the two books of the Imām al-Bukhārī. But unfortunately both are brief. One of these, the *Ta'rīkh Saghīr*, has now been published. This book does not devote more than a tenth of its space to the life of the Prophet, the topic covering only fifteen pages: and this, too, not in an orderly way. The *Ta'rīkh Kabīr* is fairly voluminous, and I saw a copy of it in a library at the mosque of Āya Šūfiah. But the account of the Prophet's life is short, and scattered here and there.

Ibn Jarir Al-Tabarī

Among books of historical character, an authentic and very comprehensive book is that of the Imām al-Tabarī, known as *Ta'rīkh Kabīr*. Al-Tabarī is a writer whose scholarly attainments and whose sure and extensive knowledge are unanimously recognised by the traditionists. His commentary is by far the best of all the commentaries. The well-known traditionist, Ibn Khuzaima, says that he knew no man more learned than al-Tabarī. Al-Tabarī died in the year 310 A.H.—921 C.E. Some traditionists, al-Sulaimānī in particular, have remarked that al-Tabarī coined traditions for the Shī'a. Regarding this charge against al-Tabarī, 'Allāma al-Dhahabī, in his *Mizān al-i'tidāl*, says :

"This is an allegation based on false misgivings. The fact is that Ibn Jarir is one of the most trust-worthy Imām".

'Allāma al-Dhahabī has further remarked that, although Jarir was inclined towards the Shī'a sect, his Shi'ism was harmless. All the authentic and comprehensive books of history, such as *al-Ta'rīkh al-kāmil* and those written by Ibn al-Athīr, Ibn Khuldūn, Abual-Fidā' etc., are based on his work and abridged from it. Al-Tabarī's work, too, was almost unavailable; and we owe much to the European scholars who put it in print.

Below we give a concise list of the reliable works and authors on the *Sīra*:¹

'Urwa ibn Zubair (d. 94 A.H.—712 C.E.)

He was the son of Zubair and a grand-son of Abū Bakr on mother's side, was brought up by 'Ā'isha and is the source of a good deal of information on *Sīra* and *Maghāzī*. 'Allāma al-Dhahabī, in his *Tadhkīrat al-Huffāz*, says that he was learned in *Sīra*. The author of the *Kashf al-Zunūn* says that some people consider his book to be the first on the subject.

Al-Sha'bī (d. 109 A.H.—727 C.E.)

He was a great traditionist and had full mastery over various sciences. He acted as ambassador of the Umayyad Caliph at Constantinople. He knew so much of *Maghāzī* and *Sīra* that 'Abd Allāh ibn 'Umar once remarked; "Though I was myself present at three Ghazwāt, his knowledge of them is far greater than mine".

Wahb ibn Munabbih (d. 114 A.H.—732 C.E.)

He belonged to a non-Arab family of Yemen and had heard some traditions from Abū Huraira. Prophecies about the advent of the Prophet, as found in ancient books, are mostly narrated by him.

•Asim ibn 'Umar ibn Qatada al-Ansari (d. 121 A.H.—738 C.E.)

He was one of the well-known *Tābi'ūn*, i.e., had been a contemporary of some of the Companions. He narrated traditions from Anas, from his mother Ramiya and from

1. The works of almost all these writers are not available. Quotations from them very often occur in other books on *Sīra*. We have taken these details from the *Tahdhīb al-tahdhīb*, so as to enable our readers to see how far they can be relied upon.

his father. He had an extensive knowledge of *Sīra* and *Maghāzī*, and taught the subjects in the mosque of Damascus under orders from 'Umar ibn 'Abd al-'Azīz.

Muhammad ibn Muslīm ibn Shihab al-Zuhri (d. 124 A.H.—741 C.E.)

Already spoken of.

Ya'qub bin 'Utba ibn Mughira ibn al-Akhnas ibn Shuraiq al-Thaqafi. (d. 128 A.H.—745 C.E.)

He was a highly reliable traditionist. Governors and state officials sought his advice in administrative affairs. He was reputed to be one of the jurists of Medina and a scholar of *Sīra*. His grand-father had been one of the deadliest enemies of the Prophet.

Musa ibn 'Uqba (d. 141 A.H.—758 C.E.)

Already mentioned.

Hashim ibn 'Urwa ibn Zubair (d. 146 A.H. 763 C.E.)

He quoted traditions, generally from his father. He was a pupil of the Imām al-Zuhrī, and was considered one of the learned men of Medina. Some traditionists hold that the traditions collected by him at Baghdād were not carefully scrutinised. A vast number of traditions he traced back, through his father, to 'Ā'isha. He had many famous and illustrious pupils.

Muhammad ibn Ishaq ibn Yasar. (d. 150 A.H.—767 C.E.)

Already spoken of.

Ma'mar ibn Rashid al-Azdi. (d. 152 A.H.—769 C.E.)

Among the disciples of the Imām al-Zuhrī, his name stands second to that of al-Imām Mālik. He was one of the architects of the science of Hadith. He left a work on

Maghāzī, which Ibn Nadīm reports to have been named *al-Maghāzī*.

‘Abd al-Rahman ibn ‘Abd al-Aziz al-Ausi. (d. 162 A.H.—778 C.E.)

He was a disciple of the Imām al-Zuhrī. In the *Sahīh* of Muslim, only one tradition has been quoted on his authority : and he is not considered reliable by traditionists. He was well-versed in *Sīra* : and Ibn Sa‘d calls him a great scholar of *Sīra* and other sciences.

Muhammad ibn Salih ibn Dinar al-Tammar (d. 168 A.H.—784 C.E.)

He too was a disciple of the Imām al-Zuhrī, and was the teacher of al-Wāqidī. Ibn Sa‘d says he was a scholar of *Sīra* and *Maghāzī*. Many traditionists hold him to be trustworthy. Abū al-Dannād, who was himself a great traditionist, says that if one wanted to learn the science of *Maghāzī* one must learn it from Muhammad ibn Ṣāliḥ.

Abu Ma‘shar Najih al-Madani (d. 170 A.H.—786 C.E.)

He was a disciple of Hāshim ibn ‘Urwa. Al-Thaurī and al-Wāqidī have quoted from him. Though regarded by the traditionists as being a weak reporter so far as traditions are concerned, yet in the sphere of *Maghāzī* and *Sīra*, they regard him as a high ranking scholar. Al-Imām Hanbal says that he had a deep insight into the science of *Sīra*. Ibn Nadīm has mentioned his book *al-Maghāzī*. His name frequently appears in *Sīra* literature.

‘Abd Allah ibn Ja‘far ibn ‘Abd al-Rahman al-Makhzumi (d. 170 A.H.—786 C.E.)

He was the great grand-son of al-Miswar ibn Makhrama, a Companion of the Prophet. He held a high position as a traditionist and was regarded as a learned scholar of *Sīra*.

Authenticity of the Sources

The events of the life of the Holy Prophet were first put into writing almost a hundred years after his death. Hence the writers had no written sources to fall back upon except memorized traditions.

In a similar situation, when facts have to be recorded long after their occurrence, people generally pick up all sorts of street gossip, without ever caring to know even the names of the reporters. At the most, out of a worthless heap of hearsay, a selection is made in the light of circumstances or on grounds of probability. Shortly after, this worthless collection passes for a piece of interesting historical literature. European history is a collection of this type of material.

The Islamic Method of Judging the Narrators

Muslims alone, among the nations of the world, may claim the credit of having established a far superior standard of writing history. The first principle the Muslim historians laid down was that the incidents to be incorporated should be such as have been reported by a person who has personally witnessed the affair. If this is not the case, the name of all the intermediaries have to be serially mentioned up to the man who had been an actual participator or eye-witness. The important thing was to see the type of persons the reporters were, what calling they followed, what character they bore, how they stood in the matter of memory and judgement, and whether they were reliable or untrustworthy, had a keen intellect or a shallow mind, were well-informed or ignorant. It was almost impossible, to know all these details. Still, hundreds of workers in the field devoted their lives to this arduous task. They went from door to door, travelled from place to place, met persons who had anything to narrate, and gathered all possible information regarding their life and character. If the person had been dead, en-

quiries were made from those who had known him when living.

Asma al-Rijal

These enquiries gave birth to a new branch of knowledge known as "Asma' al-Rijāl" (Biographies of the narrators of the Prophet's sayings.) To this colossal store-house we are indebted for exhaustive information with respect to at least a hundred thousand narrators; and, if the opinion of Sprenger is to be accepted, to not less than five times than that number.¹

These traditionists, without being influenced by the position or status of a man, gathered all relevant information, detected the innermost moral weaknesses and laid bare every shortcoming, sparing neither kings nor religious heads. Thus, hundreds of books were written, of which we give a brief description here :--

The first book on the subject, i.e., on the critical study of the lives of the narrators, was written by Yahyā ibn Sa'id al-Qatṭān (d. A.H. 198). He was a scholar of such a high calibre that a man like the Imām Ibn Hanbal said of him: "Never have I seen the like of him". After Yahyā this branch of knowledge gained wide popularity and many books

+ Remarks apparently too sweeping, but hardly questionable, where original documentary evidence does not exist. In fact, with respect to early times, post-date recording of historical events without scrutinising and naming the source for each piece of information has been the rule with all the other people; and Europeans are not the only sinners in this respect. (Translator)

A famous German orientalist, who served at the Asiatic Society, Calcutta, for a long time. A.G. Sprenger brought out the edition of the book *Isāba*. In its preface, he says that he had found no other nation having developed so splendid a branch of knowledge as the Asmā' al-Rijāl. He has further remarked that it was owing to this development that we get exhaustive knowledge of about 500,000 narrators.

were produced. A few of the most prominent among them are :

Rijal 'Uqaili (called, *Kitab al-du'afā*)

It dealt specially with the narrators whose reliability was questionable.

The author died in A.H. 322—934 C.E.

Rijal Ahmad (d. 216 A.H.—874 C.E.)

The full name of the book was “*al-Jarkh wal-ta'dil*.” (Scrutiny and Criticism).

Rijal al-Imam 'Abd al-Rahman ibn Hatim al-Razi (d. 327 A.H.—939 C.E.)

It is a voluminous book (Printed in Hyderabad A.H. 1354).

Al-Kamil of Ibn 'Adi

It was the most famous book on the subject. Later traditionists have all drawn from it as their main source (for a copy see Top Kāpu, A. iii. 2943).

Rijal of al-Daraqutni

Al-Imām al-Dāraqutnī (d. 385 A.H.—995 C.E.) was a well-known traditionist. The book deals particularly with the weak narrators (ed. Wajahat Husain, 1934).

Most of these books are now no longer available. Later writings based on them are, however, available.

The most comprehensive and authentic work in this category is *Tahdhīb al-kamāl* by al-Mizzī Yūsuf ibn al-Zākī (d. 742 A.H.—1341 C.E.). 'Alā' al-Dīn Mughlatā'ī (d. 762 A.H.—1361 C.E.) completed it in thirteen volumes. Al-Dhahabī (d. 748 A.H.—1347 C.E.) brought out a compressed and abridged version of this book. Many other traditionists also produced its abridged versions or companion-books.

Based on this material, Ibn Hajar at last compiled a voluminous work, *Tahdhīb al-tahdhīb* running into twelve volumes. It has recently been published from Hyderabad Deccan (India). The author remarks that it took him eight years to compile it. Another popular work in this line is the *Mīzān al-i‘tidāl* by Al-Dhahabī, to which Ibn Hajar has made further additions in his book *Lisān al-Mīzān*.

Books on Rijal Consulted by Us

Of these sources we have made use of the following books :—

Tahdhīb al-kamāl,

Tahdīb al-tahdhīb,

Lisān al-Mīzān,

Taqrīb,

Ta’rīkh Kabīr,

Ta’rīkh Ṣaghīr (both by al-Imām al-Bukhārī)

Thiqāt by Ibn Ḥibbān,

Tadhkīrat al-Huffāz, by al-Dhahabī,

Mushtabih al-Nisba by al-Dhahabī,

Ansāb by al-Sam’ānī and

Tahdhīb al-Asmā.

The First Principle

The principle of investigation has been laid down by the *Qur’ān* itself. The *Qur’ān* says, “O you who believe, if an evil-doer comes unto you with a report, then enquire strictly” (49: 6). A saying of the Prophet, too, confirms this :— “If one relates whatever one hears from others, it is enough for him to be regarded as a liar”.

The Second Principle

The best principle of investigation in order to ascertain the truth of a report is to see whether the statement stands to reason.

This principle, too, has been, enunciated by the *Qur’ān*.

When the hypocrites started a calumny against 'Ā'isha (wife of the Prophet), they advertised and propagated this in a way that some of the Companions of the Prophet were misled. The *Sahīh* of al-Bukhārī and the *Sahīh* of Muslim both state that even Hassān, the poet, was led to believe it; and consequently was ordered to be punished for libel. The *Qur'ān* says : ‘Verily those who brought forward the calumny were a small band among you’ (24 : 11). The author of *Tafsīr al-Jalālain*, a famous commentary of the *Qur'ān*, while explaining the word “*MINKUM* (مِنْكُمْ)” (from among you), says that by this is meant a group of Muslims. One of the verses of the *Qur'ān* that exonerates 'Ā'isha and declares her chastity runs thus: “And wherefore, when ye heard it, did ye not say, it is not for us to speak thereof, hallowed be Thou, that is a slander mighty” (24 : 16). In accordance with the general principle, the procedure for an enquiry would have been to ascertain the names of the reporters and then to see if they were trustworthy. This done, their statements were to be taken. God, however, says that it ought to have been discarded as a baseless calumny. This establishes the principle that an incident that sounds so highly incredible ought to be rejected outright as false.

Thus the method of enquiry called “*Dirāya*” (judging the truth of a report in the light of one's previous knowledge and experience) had made a beginning even in the days of the Companions of the Prophet.

Some fuqahā' (jurists) are of the opinion that ablution, or *WUDU*, has to be performed again if one takes anything cooked on fire. When Abū Huraira attributed this saying to the Prophet in the presence of 'Abd Allāh ibn 'Abbās, the latter said that if it were so, ablution would no longer stand even if one drank water heated on fire.¹ Not that 'Abd Allāh ibn 'Abbās considered Abū Huraira a weak narrator,

1. *Sahīh* of Tirmidhī, Chapter of *Wudū*.

yet he was not prepared to accept this report as it was against Dirāya (Common knowledge and experience). In his opinion Abū Huraira might have erred in grasping the actual meaning.

Side by side with the compilation of books on traditions, the traditionists were engaged in framing the principles of Dirāya. A few of these principles are given here :—

Ibn al-Jauzī says that if you find any Hadīth to be contrary to reason and against the accepted principles, then know it for certain that it is fabricated. You need not bother about the narrators' reliability or unreliability. Similarly, reports that are contrary to our experience and observation and do not admit of any interpretation need not be accepted. Similar is the case with the sayings that threaten people with severe chastisement for trivial errors, or which promise enormous rewards for insignificant acts of virtue, (such sayings are mostly current among the preachers from the pulpit and the unlettered), or the traditions that border on absurdity e.g., the saying that one should not eat a gourd without slaughtering it. Consequently, some of the traditionists hold that the absurdity of the statement is in itself an argument for the falsehood of the reporter. The presumptions given above relate to the reports, but they may as well relate to the reporters, for example, the story of Ghiyāth and Caliph Mehdi. The same presumption should hold good relating to the reporter if he narrates a tradition that has not been narrated by any one else and the person has not even seen the person he narrates from, or when he is the single reporter while the nature of the report warrants the knowledge of the fact to others as well (as Khaṭīb al-Bagh-dādī has elucidated the point in the early chapters of his book *al-Kifāya*), or the reported incident, if, true, ought to have been narrated by hundreds of persons, for example, if some one says that an enemy force prevented the pilgrims

from making the holy pilgrimage".¹

The sum and substance of the foregoing discourse is that the following categories of reports are to be discredited without an enquiry into the characters of their narrators :

1. The traditions that are contrary to reason.
2. The traditions that go against the accepted principles.
3. The traditions that belie common observation and physical experience.
4. The traditions that contradict the *Qur'ān* or a *Mutawātir Ḥadīth* (repeatedly corroborated tradition) or go against a decided consensus of opinion (*Ijmā'* *Qāti'*) and do not admit of any interpretation.
5. The tradition that threatens severe punishment for a minor fault.
6. The tradition that sounds absurd and non-sense, e.g., "Eat not a gourd without slaughtering it".
7. The tradition that promises big rewards for trivial acts of piety.
8. A tradition narrated by a single person who has never personally contacted the man from whom he narrates.
9. A tradition that ought to have been known to all and sundry, but has only a single narrator.
10. Any tradition concerning an incident so noteworthy that, if it had actually taken place, it ought to have been related by many, and yet there is but a single narrator to report it.

1. The original book *Fath al-Mughith*, Lucknow edition, is full of mistakes. Unfortunately, I had to follow its text. In fact, these principles have been framed by the traditionists and not by Ibn al-Jauzi.

Mullā ‘Alī al-Qārī, in his book *al-Maudū‘āt*, has elaborated certain criteria for judging the authenticity of a Ḥadīth, and has cited examples which we summarise hereunder :

1. Any Ḥadīth full of non-sense, which the Prophet could never have uttered ; for instance, the saying, “If one recites ‘*La Ilāha Ill-Lallah-Muhammad Rasūl Allāh*’ (There is no god but Allāh and Muhammad is His Messenger), God creates out of his words a birth with seventy tongues, each tongue having seventy thousand words of the Kalima.”
2. Any Ḥadīth that runs contrary to observation and experience, e.g., “Brinjal is the cure for all diseases and ailments.”
3. Any Ḥadīth that cancels another Ḥadīth of established authenticity.
4. Any Ḥadīth that states something against actual experience, e.g., “One should not take one’s bath in water heated in the sun, as it causes leprosy”.
5. Any Ḥadīth that does not sound like a prophet’s utterance, e.g., “Three things improve eyesight, namely, green meadows, flowing water and a beautiful face”.
6. Any Ḥadīth that predicts the future, specifying the exact date and time, e.g., such an incident is to occur on such and such a day in such and such a year.
7. Any Ḥadīth that looks like the words of a physician, e.g., “Harisa (a kind of sweet preparation consisting of wheat, meat, butter, cinnamon and aromatic herbs) gives vigour to a man” or that “a Muslim is sweet and loves sweets.”
8. Any Ḥadīth that is obviously wrong, e.g., ‘Iwaj ibn ‘Unaq was 3,000 yards (2,742.8 metres) in height.

9. Any Hadīth that contradicts the Holy Qur'ān, e.g., the saying that the life of the world is to be 7,000 years. Were it true, anybody could tell when the Day of Judgment would come, although it is established from the Qur'ān that no mortal knows when the Last Day will come.
10. Any Hadīth concerning Khidr.
11. Any Hadīth whose language is vulgar.
12. Any Hadīth that describes the efficacy and merits of the various chapters of the Holy Qur'ān, though many such traditions are found in the commentaries of al-Baidāwī and the Kashshaf.¹

It was on the basis of these principles that the traditionists rejected many sayings, for instance, the Hadīth that the Prophet had exempted the Jews of Khaibar from the payment of Jizya (capitation tax), and had given them a written document to this effect. Mullā 'Alī al-Qārī, while rejecting this saying, has given the following reasons :—

1. Sa'd ibn Mu'ādh is said to have been one of the witnesses to the document; whereas Sa'd ibn Mu'ādh had breathed his last in the battle of the Trenches (much earlier than the battle of Khaibar).
2. The scribe of the document is said to have been Mu'āwiya. But Mu'āwiya embraced Islam after the conquest of Mecca (long after the battle of Khaibar).
3. Jizya had not been enforced or sanctioned till that time. It was enforced after the battle of Tabūk.
4. The document is reported to stipulate that no forced labour would be exacted from the Jews of Khaibar. As a matter of fact, forced labour was not in vogue then.

1. *Maudū'at*, Mujtabā'i Press Delhi, p. 92.

5. The people of Khaibar had offered a stiff opposition to Islam and so they could not have been exempted from the payment of Jizya.
6. The tribesmen living in distant parts of Arabia who had not shown much hostility to Islam were not exempted ; how, then, could the Jews of Khaibar be exempt from its payment ?
7. Exemption from the payment of Jizya would mean that the Jews of Khaibar had been friendly to Islam and as such deserving of concession. But the fact was that, shortly after, they had to be banished from their land.

R E V I E W

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Review

In the preceding pages we have given a brief and plain

history of the *Sīra* literature. We now wish to discuss its various aspects.

There are hundreds of books on *Sīra* now available, but the ultimate sources to which they are all indebted are : Ibn Ishāq, Ibn Sa‘d, al-Wāqidī and al-Tabarī. Books other than these are later products and draw from them the facts they record—here we are not taking into account the Hadith literature. Thus it is necessary to review these four books critically and exhaustively.

Of these al-Wāqidī deserves no notice. Traditionists are all agreed that al-Wāqidī coined and fabricated traditions—a fact borne out by his book itself. His descriptions of very minor incidents are so replete with varied and interesting detail, the like of which no pen, however masterly, can so vividly describe even the events to which the writer has been an eye-witness.

The other three writers are quite reliable. Ibn Ishāq, though criticised by the Imām Mālik¹ and some other traditionists, holds a high place ; and a traditionist like the Imām al-Bukhārī, in his “*al-Juz’ al-Qirā'a*” (chapter on reading), has quoted many a saying from him.

As to Ibn Sa‘d and al-Tabarī none has to say any things against them. Unfortunately, however, their personal integrity and position of authority do not guarantee the authenticity of their works on *Sīra*. They were not eye-witnesses to any incident and have consequently quoted from others, many of whom are untrustworthy. Moreover, the original book of Ibn Ishāq is not traceable here.

1 Here I beg to differ. The fact is that the Imām Mālik differed with some of the views and opinions held by Ibn Ishāq. But soon after this difference, the Imām Mālik realised his own mistake ; and had the greatness of withdrawing his earlier remarks about him. The Imām Mālik is also reported to have written about this to Ibn Ishāq and along with his letter he also sent to him some gifts, which Ibn Ishāq accepted. This shows that al-Imām Mālik held Ibn Ishāq very high in his opinion—Translator.

What we have here is its version as edited and altered by Ibn Hishām. But Ibn Hishām has reproduced Ibn Ishāq's book as re-written by Ziyād al-Bakkā'i, for he had no direct access to it. Ziyād al-Bakkā'i himself is a respectable author; but he falls short of the high criteria of the traditionists. Ibn Madīnī (the teacher of al-Bukhārī) says that al-Bakkā'i was a weak narrator and so he had to give him up. So does Abū Ḥātim discard him as a source worth-quoting. Al-Nasā'i too regards him as unreliable.

More than half of the reports related by Ibn Sa'd have been borrowed from al-Wāqidī: hence they deserve no better respect than the reports of al-Wāqidī himself. As regards the other sources utilized by him, some are reliable, others not. Similarly, most of the chief narrators that feed al-Ṭabarī are untrustworthy, such as Salama Abrash, Ibn Salama and others. Thus the books on *Sīra* do not stand at par with the traditions in authenticity. Only those statements that may stand scrutiny are worth recording.

Sīra Compared with Traditions

The reason for the inferior authenticity of books of *Sīra* is that research and scrutiny were exclusively confined to the saying of the Prophet on Law (Fiqh). It was supposed that the traditions bearing upon the do's and don'ts were to be critically examined, while the rest, dealing with the life and virtues of the Prophet, did not demand a very severe and cautious scrutiny. Zain al-Dīn al-‘Irāqī, a prominent traditionist, in the preface to his book *al-Sīra al-Mauzūma*, says: "A lover of this branch of learning (*Sīra*) should remember that books on *Sīra* incorporate all sorts of reports, *Sahīh* as well as *Munkar*".

It was for this reason that many unauthentic sayings dealing with the status and excellence of the Prophet or with the meritoriousness of his pious acts got currency. Even learned scholars had no objection to incorporating them in their books. The great scholar Ibn Taimiyya, in his

book *at-Tawassul* says : This Hadīth has been quoted by authors who have written on supererogatory services and prayers ; for instance, the work of Ibn al-Šīnī and Abū Nu‘aim, with all other books of that type, contain a large number of fabricated traditions that are quite unreliable ; and this is the agreed opinion of all the scholars".¹

Al-Hākim, in his *Mustadrak*, has quoted a tradition to the effect that when Ādam committed the Original Sin, he prayed to God in these words : "O God, forgive me for the sake of Muḥammad". At this God asked Ādam how he came to know of Muḥammad ? Ādam replied that on the pedestal of the 'Arsh (heavenly seat of God) he had seen inscribed the Kalima (There is no god but Allāh and Muḥammad is His Messenger) ; and added that this had led Him to believe that he whose name God associated with his own name must certainly be dearest to him. God replied that Ādam was right and that if Muḥammad had not been there, He would not have created Ādam. This tradition has been quoted by al-Hākim with the comment that it is an authentic report. Ibn Taimiyya, having quoted the comment of al-Hākim says : "Al-Hākim has faith in sayings of this type. Leading traditionists declare it to be baseless. They are of the opinion that many of the sayings approved by al-Hākim are coined and forged. Similarly, there are many traditions in *Mustadrak* which are held to be true by al-Hākim, while recognised traditionists declare them to be forged". On another occasion he refers to the book of Abū Sheikh al-Iṣphahāni and says : "And in it there are many sayings that are true and authentic as also many that are fabricated, weak and absurd. The same may be said of the reports quoted by Khaithamah ibn Sulaimān, exalting and eulogising the faithful Companions of the Prophet. The same is true of the reports that have been recorded in a separate book by Abū Nu‘aim al-Iṣphahāni dealing with the virtues of the Companions. And so are the traditions quoted by Abū Bakr

1. *Al-Tawassul*, Minār Press, p. 99.

al-Khaṭīb, Abū al-Fadl, Abū Mūsā Madyanī, Ibñ ‘Asākir, al-Hāfiẓ ‘Abd al-Ghanī and other eminent writers”.

It is to be noted that Abū Nu‘aim, Ibñ ‘Asākir, Khaṭīb al-Baghdādi, al-Hāfiẓ ‘Abd al-Ghanī and others were leading traditionists ; still they freely quoted weak traditions while dealing with the accomplishments of the Caliphs and the Companions of the Prophet. The only explanation is to be found in the belief that strict care and caution had to be observed only when quoting the traditions telling what is lawful and what is forbidden. In matters other than these they thought it enough to quote the names of those from whom they narrated ; and did not care for a critical study and scrutiny.

Mullā ‘Alī al-Qārī, in his *Maudū‘at*, says that in the city of Baghdād a preacher narrated a Hadīth that on the Day of Judgment God will seat Muḥammad by His side on the ‘Arsh. Al-Imām Ibñ Jarīr was indignant when he heard it, and at his door he hung a placard bearing the words : “None can sit by the side of God”. At this the people of Baghdād were so infuriated that they pelted the house of Ibñ Jarīr with stones till the walls were covered.

One thing is worth mentioning here. Al-Bukhārī and Muslim are by general consent the greatest masters of this branch of knowledge. They had a sincere love and a profound sense of reverence for the Prophet, which is another reason for their superiority over the rest of the traditionists. With all that, they have no space for the exaggerated sayings in exaltation of the Prophet, that have been reported by al-Baihaqī, Abū Nu‘aim, al-Bazzār, al-Ṭabarānī and others. Even some of the sayings that one finds in the works of al-Nasā’ī, Ibñ Mājah, al-Tīrmidhi and others are missing there. This proves that the number of overstatements declines with the progress of critical scrutiny. For instance, al-Baihaqī, Abū Nu‘aim, Ibñ ‘Asākir and Ibñ Jarīr relate that on the day of the Prophet’s birth fourteen min-

arts of the imperial palace of Persia fell to the ground, the holy fire in the Zoroastrian synagogue died out, the sea of Ṭabriyah (lake Sāwa) got dried up. But al-Bukhārī or Muslim, or any other of the Six Authentic Books of Ḥadīth has nothing to say of this story.

Books on *Sīra* so far written are generally based on al-Ṭabarānī and others of the same class. Consequently, they contain quite a large number of fabricated reports. This led the traditionists to declare that *Sīra* books contain all sorts of reports.

The principles set forth by the traditionists were mostly overlooked by the biographers. The first Principle was that there should be no break in the chain of the narrators right up to the original source. But all the incidents relating to the birth of the Prophet have a link or two missing in the chain. None of the Companions of the Prophet was old enough to report at the time of the Prophet's birth. The oldest among the Companions was Abū Bakr ; but he too was two years younger than him. This resulted in giving currency to baseless stories concerning the birth of the Prophet, most of which have disconnected chains. For instance there is the story quoted by Abū Nu‘aim, said to be reported by the mother of the Prophet, that at the time of the birth of the Prophet, a large number of small birds flocked into the house ; and their beaks were made of emerald and their tongues of rubies ; then a patch of white cloud was seen in the sky floating very low and that this patch descended down and took away the holy babe then a voice was heard announcing that the holy babe should be shown to all the seas, that all should know him.¹ Most of the Maghāzī literature is based on al-Imām al-Zuhrī. But al-Zuhrī's reports mentioned in the *Sīra* of Ibn Hishām and the *Tabaqāt* of Ibn

1. *Al-Mawāhib al-duniya* has quoted this report ; which contains much exaggerations. I have merely quoted a small part of it.

Sa'd are mostly disconnected, with gaps in the chain of narrators.

Disregard of Traditions by the "Sira" Writers

It is surprising that eminent writers, like al-Tabārī and others, while writing on *Sīra* did not seek help from the standard books on traditions. There are many important events about which one may get valuable information from the books on traditions and thus solve many problems. But books on *Sīra* and history show that their authors have taken no notice of these facts. For example, there is a controversy as to which party was the first to start hostilities after the migration of the Prophet to Medina. From the way the historians and writers on *Sīra* have presented facts, one is led to conclude that it was the Prophet who struck first. But the *Sunan* of Abū Dāwūd records an authentic report definitely saying that before the battle of Badr, 'Abd Allāh ibn Ubayy, the famous hypocrite of Medina, had received a letter from the Quraish of Mecca asking him to turn Muhammad (peace and blessing of Allah be upon him) out of Medina, else they (the Quraish) would come and exterminate them (the Medinites) all as well as the Prophet.¹ The historical and biographical literature has not a word to say of this threat.

Some of the writers realized this fault ; and on a close examination of the traditions, they had to admit that a large number of reports, clearly contradicted by the authentic traditions, had wrongly incorporated in books on *Sīra* and needed correction. But correction was not possible for them because the books had already got into circulation. Ibn Hajar quotes a passage from al-Dimyātī and then writes : "The above passage points to the fact that al-Dimyātī had to revise his opinion regarding many incidents that he had endorsed in persuance of *Sīra*-Writers against the testimony

1. We shall discuss this in detail when dealing with the battle of Badr.

of authentic traditions. This he did before attaining maturity in this art. But the book had got into circulation, and he could not make any corrections.¹

False Play of Sira-Writers

The later writers on *Sīra* have all drawn from the ancients. As the names of the early writers were supposed to guarantee truth, readers were led to take all the contents of the later *Sīra* literature as true facts. Unfortunately, the original sources were not within reach ; so the readers could not trace out the narrators. Consequently, these statements found way into all *Sīra* literature. For instance, sayings reported by al-Wāqidi were regarded by all as untrue ; but the same traditions, when they were mentioned in the name of Ibn Sa'd, were believed to be authentic. When the original book by Ibn Sa'd was available, only then it was found that almost all the material contained in it had been borrowed from al-Wāqidī.

Principles of Narration Sometimes Not Followed

The principles set forth for judging the veracity of the narrators were, in some cases, ignored in respect of the Companions. For example, there are many grades of narrators. Some have retentive memory, keen intelligence and discerning mind, some possess these qualities to a lesser degree, while others possess them still less. These differences are noticed in all kinds of narrators ; and the Companions of the Prophet were no exception. It was on this basis that 'Ā'isha criticised the reports narrated by Ibn 'Umar, while 'Abū Huraira was criticised both by 'Ā'isha and 'Abd Allāh ibn 'Abbās. This we have already spoken of.

This gradation among the narrators forms the basis of many of the questions of great consequence. When two

1. Al-Zurqānī, Vol. III, p. 11.

reports disagree and the integrity of the narrators on either side is not to be questioned, the calibre and the status of the narrators is the deciding factor ; and the report made by superior set is declared to be more authentic. But this criterion is dropped in the case of the Companions. Suppose there is a report made by 'Umar and a contradictory one is made by a bedouin who had chanced to see the Prophet only once. As Companions, both are supposed to stand on the same footing. Al-Māzari, the famous traditionist, who is often quoted by al-Nawawi in his commentary on the *Sahih* of Muslim, has criticised this indiscriminate application of the principle of equality. Ibn Hajar in the preface to his *Isāba*, has quoted al-Māzari saying, "The dictum that the Companions of the Prophet are all equally judicious does not apply, in our opinion, to a man who may have seen the Prophet by chance or visited him with a purpose and then turned back immediately. By Companions we mean persons who were regularly in attendance on him, who helped him and who followed the Light that he had brought unto them ; and verily such men are successful."¹

Traditionists in general have disagreed with this view of al-Māzari. In fact al-Māzari made a mistake in denying judiciousness to any other than the close Companions of the Prophet. This opposition by the traditionists was, therefore, justified. But we could doubt that the reports of Abū Bakr, 'Umar, 'Uthmān and 'Alī do not stand at par with the reports made by a bedouin ? This fact is to be kept in mind particularly when problems of Fiqh (Islamic Jurisprudence) are involved, or where the issues are subtle and deep.

Causal Relations Ignored

Generally the writers on *Sīra* do not concern themselves with causes and effects, which they seldom seek to inter-

1. *Isāba*, Preface, pp. 10 & 11.

relate. The Europeans, on the other hand, have carried things too far. The European mind seeks a cause for each effect ; and weaves into a connected chain of events a whole guess-work of far-fetched possibilities and probabilities. His personal bias and objectives mould his writings, as he sets before himself a particular aim and makes the whole revolve round it ; the facts he describes are all directed to serve the end in view. On the contrary, the Muslim historian tries to find out facts, impartially and with utmost integrity, little caring for their bearing on history or his religious convictions. His main object is the discovery of truth ; and at the altar of Truth he will sacrifice even his beliefs and national interests.

But there the pendulum swings to the other extreme. In his extravagant love for factual description, untinged by subjective colour he ignores the concomitant facts that could evidently explain their effects. He passes on leaving the incidents half-said, dull and dry. For instance, while giving the description of a battle, he will start saying that Prophet sent an army at such and such time against such and such tribe, without giving the reasons that made the expedition necessary. Average readers are led to suppose that non-Muslims could be attacked and destroyed without rhyme or reason, and that the mere fact that they happened to be infidels was a sufficient ground for an attack. Consequently, critics ascribe the spread of Islam to the sword. But a close study reveals that in all cases wars were made upon those hostile tribes that had been found making preparations for an attack on the Muslims.

Nature of the Report and the Status of the Narrator

It is to be noted that the position and status of the narrator must vary according to the nature and importance of the incident. Suppose a man, generally regarded as trustworthy, narrates an ordinary incident that commonly occurs and may occur at any time, his version may then be

accepted without any hesitation. But if the same narrator narrates an extraordinary incident that runs counter to general experience and cannot be reconciled to the attendant circumstances, it should then require a stronger evidence and the reporter has to be uncommonly judicious, discerning and scrupulous, far above the average. He should of necessity be more impartial, more scrupulous, and should possess a deeper insight than an ordinary witness.

For instance, a commonly debated question is this : Is it necessary to impose an age limit for narrators ? Most traditionists hold that a five year old child may narrate a tradition or may later on report an incident he had experienced at the age of five ; and his narration ought to be accepted.¹ For example, there is the case of Maḥmūd ibn Rābi' who at the time of the Prophet's death was five years old. Once the Holy Prophet, by way of sporting with him, spat on him the washing of his gargle. This incident was narrated by him when he was a young man ; and people made no objection. This proves that a report relating to incidents witnessed at this stage of life might be admissible. But some traditionists differ. The author of the *Fa'th al-Mughīth* says : "Some people hold that such a narration should not be accepted ; they are not inclined to accept a narration referring to the experience of a minor". The followers of the Imām al-Shāfi'I hold this view. 'Abd Allāh ibn Mubārak too hesitated in accepting the narration of a child."²

But the pros and cons are both open to discussion. For example, if a child reports that such and such person whom he had seen, had a hairy head, or that he was old, or that

1. There seems to be some ambiguity of expression here. With all that, the issue involved relates to an experience at the age of five reported in after years, not to a child of five appearing as a reporter (Translator).

2. For details see *Fa'th al-Mughīth* (Lucknow Edition), pp. 166-168.

the man used to carry him in his arms, then there is no reason to disbelieve him. But if this child narrated how a certain gentleman had explained a delicate problem of religious law it would be highly doubtful if he had properly grasped the thing explained. The scholars of Fiqh had this point in mind. The author of the *Fath al-Mughīth* had quoted from *Sharḥ al-Muhadhdhab*, says : "It is permissible to accept the version of a grown-up child concerning observable facts only ; but reporting a Hadīth or a legal verdict, the narration of children should in no way be depended on."¹

Unfortunately, this principle was not universally accepted. The author of the *Fath al-Mughīth*, says : "Dabṭ (comprehension) is of two kinds—external or literal Dabṭ and essential or appreciative. External or literal Dabṭ relates to the dictionary meanings of words, whereas the essential or appreciative Dabṭ extends to their implications in relation to Fiqh. The comprehension or Dabṭ considered necessary for a narrator, is the external or literal one. This school holds that it was valid if a narrator narrated the sense of a report when he did not remember the actual words. This was the main reason why the narrators could be suspected of having altered the sense owing to want of knowledge or lack of memory ; and hence the Companions of the Prophet did not narrate many traditions, for it is difficult to retain the sense of words intact in reproduction. But traditionists do not follow such a rigid course in the case of a child (of course a sensible child). They hold that a child when he is able to listen to the talk, and bear company to his elders, can easily narrate what he has heard or seen and his report may be relied on".²

There is another problem : Should a report made by a Companion of the Prophet not well-versed in Fiqh, fail to

1. *Fath al Mughīth* (Lucknow Edition) p. 122.

2. *Ibid.*

conform to the rules of inductive inference, as set forth by religious law or Shari'a, would it then be incumbent to act upon it ? Bahr al-'Ulūm, commenting on the view of al-Imām Fakhr al-Islām in the matter says : "The reasons why al-Imām Fakhr al-Islām holds this view is that people have generally reproduced the sense not the actual words, verbal reproduction is rare ; and one incident has been narrated in different words, not even synonymous. Not only that we meet metaphorical expressions. Hence the narrator, if not a scholar of Fiqh, may err in understanding the legal significance of the report. But this does not imply imputation of a false statement to a Companion".¹

The traditionists were not ignorant of the principle that the character of evidence must vary in accordance with the character of the report. Al-Imām al-Baihaqī, in his *Madkhal*, quotes Ibn Mahdī as saying : "When we quote from the Prophet injunctions forbidding or allowing, we make a thorough examination of the sources and the status of the narrators ; but when we come to the traditions expounding the merits and excellence of persons and things or announcing rewards or punishments in the Hereafter, we relax our criteria for the sources and sometimes overlook the status of narrators".²

Al-Imām Ibn-Hanbal says : "Ibn Ishāq is a narrator on whose reports we can depend so far as Maghāzī are concerned. But when there is a question of legal and religious injunctions, then we require men like this", and saying this he closed his fist tight.³

This means that in view of the importance of a report, the traditionists took into account the status of the narrators. It was on this account that al-Imām Ibn Hanbal declared Ibn Ishāq to have been dependable with respect to

1. *Sharḥ Muslim*, p. 432.

2. *Fath al-Mughīth*, p. 120.

3. *Ibid.*

military history, but was not to be relied upon in matters of Fiqh.¹ This is simply a restatement of the principle that the character of the sources must correspond to the nature of the incident ; and that the evidence required must vary with the importance of the event. But legal injunctions are not the only important things.

The Hanafī school did realize that the nature of the event was very important. Hence they said, we must ascertain, when faced with an improbable report, whether the narrator is learned in Fiqh and capable of giving a ruling. In the book *al-Manār* it is stated thus : "If the narrator happens to be a man of established fame for his knowledge of Fiqh and his proficiency in passing judgement, like the first Four Caliphs or like the 'Ibād Allāh ('Abd Allāh ibn 'Umar, 'Abd Allāh ibn 'Abbās, 'Abd Allāh ibn Zubair and 'Abd Allāh ibn 'Amr ibn al-'Āṣ), his narration need not be disputed and circumstantial consideration should not be allowed to disqualify it. This is a view contrary to that held by al-Imām Mālik. But when the narrator happens to be a man who thought otherwise dependable and judicious, knows nothing of Fiqh, just as Anas and Abū Huraira were, then it will be binding to follow the saying only when it is warranted by circumstantial evidence available ; if not, circumstantial consideration should not be unnecessarily set aside."²

The question whether Abū Huraira was a man of Fiqh or not is debatable. Some scholars hold him to be an authority. But this is a side issue ; for it is the principle and not the personality that is under discussion.

Subjective Element in a Report

A very important and highly debatable question arises

1. Al-Imām Mālik and not al-Imām Ibn Ḥanbal. See my previous note.

2. *Nūj al-ziwār*, pp. 176, 177.

when we try to differentiate the objective truth for the subjective additions by a narrator. Scrutiny sometimes reveals that much of what the narrator is describing as a fact is mostly his own imagination. There are many such examples ; we cite only a few of them.

When the Prophet, displeased with his wives, began to live in seclusion, it was rumoured that he had divorced them all. 'Umar heard of it and came to the Prophet's mosque. He saw people assembled there talking of divorce.¹ 'Umar himself went to the Prophet asked him if it was a fact. The Prophet said he had not divorced them. This Hadīth has been mentioned in the *Sahīh* of al-Bukhārī at several places, with slight difference in words. The version in the chapter on "Nikāh" (Marriage Contract) is commented upon by Ibn Ḥajar thus : "The rumour that gains currency, though repeated by many, need not be necessarily true unless ultimately based on observation by the ear or the eye. Thus it is probable that the particular Anṣārī and the rest of the Companions whom 'Umar had seen talking it over the pulpit, may have believed the rumour, because some person seeing the Prophet living in separation from his wives, which was not his custom, had supposed that the Prophet had divorced his wives so he gave publicity to his conjecture. People then started repeating it to one another. This man who first of all set it afloat must have, in all probability, been a hypocrite".²

Just think of, the Companions assembled in the mosque of the Prophet, and all relating the Prophet's divorce of his wives. The Companions of Prophet are all trustworthy and reliable men ; and a large number of them is narrating this incident. But enquiry later on proves the story to have been a mere conjecture. Ibn Ḥajar has very courageously

1. *Sahīh* of al-Bukhārī, Chapter on 'Ilā' .

2. *Faṣl al-Bārī*, Cairo edition, Vol. IX, p. 257.

declared the originator of the rumour to have been a hypocrite.

There are similar incidents concerning 'Ā'isha, of which one is known as the incident of "Ifk" (false accusation). Ibn Hajar's remarks are equally applicable to these reports. They must have been the malicious imputations of some hypocrite, which got currency among the Muslims in general.

External Influence on Historical Narrations

It is a recognised fact that history telling has always been susceptible to external influences; the most powerful of them being the influence of the government. Muslim historians, however, will always claim credit that their pen had never bowed down to the sword.

Traditions were first formed in book form in the days of the Umayyads, who, for about 90 years, throughout their vast dominions stretching from the Indus in India to Asia Minor and Spain, insulted the descendants of Fātima and got 'Ali openly censured in Friday sermons at the mosques. They had hundreds of sayings coined to eulogize Amir Mū'awiya. Under the 'Abbasids, predictions relating to each Caliph by name made their way into Hadīth literature. But what was the result? In the very days of these Caliphs traditionists boldly declared that such sayings were coined and absolutely baseless. Today we find none of this rubbish in the Hadīth literature. The 'Abbasids and the Umayyads who in their own days were regarded as the 'Shadow of God' and the 'Vicegerents of the Prophet' are now seen in their true perspective. Once a poet read out a panegyric in praise of the famous Caliph Māmūn al-Rashīd, saying that had the caliph been there at the time of the Prophet's death, the question of succession would never have cropped up; and both the parties would have chosen him as their first Caliph. Just then in the open court there stood up a man who said,

"He is telling a falsehood for the great grand-father of the Caliph was there when the Prophet died ; but who cared to take notice of him". He meant 'Abbās, the ancestor of the 'Abbasid caliphs. Māmūn had to appreciate this irrefutable though disrespectful reply.

Nevertheless, this extensively operative factor could not remain totally ineffective ; and in the books on *Maghāzī* one may easily discern the traces of its influence. The old method of writing history was to describe battles and military exploits in lengthy detail ; while administrative measures and social conditions were either entirely neglected or dealt with in a manner so discursive and unappealing that they easily escaped notice. When later on, Muslim authors took to writing, they had no better models before them. The first influence of the *Maghāzī* models is to be seen in *Sīra* receiving the name of *Maghāzī*, just as the biographies of kings and emperors were given the names of *Shāh-Nāmeh* or *Jang-Nāmeh*. Accordingly, early books on like *Sīra Sīra* of Mūsā ibn 'Uqba and *Sīra* of Ibn Ishāq are known as books of *Maghāzī*. Like history books incidents have been described in chronological order, year by year, with warfare occupying a prominent place, and chapters begin with the name of some battle as the heading.

This method, though not quite proper even for a political history, was decidedly unsuited to the biography of a Prophet. A Prophet may have to indulge in warfare, when he appears to us as a conqueror or a general : but this is not the true picture of a Prophet. Piety, sanctity, forbearance, generosity, love of humanity and altruism are the waft and warp that make up the texture of his personality. Even when one is misled to take him for an Alexander, penetrating eye may easily see that it is not Alexander, but an angel from heaven.

That is why the style of *Maghāzī* differs from that of books on *Sīra*. Biographers say that when the Prophet laid

siege to the fortress of Banū Nadīr, he ordered their groves to be cut down.

(The Holy Qur'an too makes a brief reference to it).

They also speak of the Jews having protested against this order as unfair and unhumanitarian. But they do not explain the reasons and pass on.

CIRCUMSTANTIAL EVIDENCE AND ITS VALUE

Another great problem is whether a report that contradicts reason or an established fact, or surpasses all likelihood in view of circumstances definitely known, is to be accepted simply on the ground that the narrator's integrity is recognised and the chain of reporters unbroken. Ibn al-Jauzī has declared that reports that go against reason should be rejected without enquiring into the character of their narrators. But the controversy does not end here. Reason is an elusive term. Advocates of the school that relied on reports argue that the word 'reason', when allowed an extensive application, is sure to give anybody a free licence to reject any report on the ground that, in his opinion, it did not stand to reason.

The fact is that it is hard to decide the controversy one way or the other. Generally it is recognised that a report of which the narrators are all persons of sound integrity and the chain is unbroken is not to be rejected, although it does not stand to reason. The following instances will be useful :

1. The report to the effect that the Prophet, when offering his prayers was made by Satan to utter words "*Tilka al-Gharānīg al-Ulā*" in praise of idols, was discredited by all the traditionists as weak and baseless. The traditionists argued that had it been the case many Muslims must have been led astray ; but nothing like this happened. Ibn Ḥajar, in his *Fath al-Bārī*, comments on this argu-

ment and says : "Such arguments cannot hold on principle, for a report received through various and several sources is an argument in itself, meaning that there is something of truth in it".¹

2. In the *Sahīh* of al-Bukhārī there is a report that the Prophet Abraham told a lie on three occasions. Al-Imām al-Rāzī rejected this report saying that it forced one to grant that a Prophet could lie ; he thinks it safer to suppose that any of the narrators was a liar. Al-Qastallānī, quoting the view of al-Imām al-Rāzī, says : "The view of al-Imām al-Rāzī is unacceptable, because the report, part of which is fully corroborated, is not the only report that ascribes a false utterance to the Khalil (Abraham). How can we condemn the reporter, when there are these clear words of Abraham, viz ; 'This is the work of the greatest of them', 'I am in a wretched condition', and 'Sarah is my sister'.² In all these three sentences, certainly Abraham did not mean what the words outwardly indicate".³

Let us be content with these two instances, though many more could be added.



1. *Fath al-Brāi*, Egypt Edition., Vol. VIII, p. 333.

2. These words occur in the Arabic version of the *Torah*.

3. Al-Qastallānī, Vol. V, p. 280.

Session 5



Chapter V



[ON THE OBLIGATION OF MAN TO ACCEPT THE AUTHORITY OF THE PROPHET]

*A Declaration Concerning the Duty
Imposed by God, as Laid Down in
His Book, [Ordering Men] To Follow
the Prophet's Sunna*

86. Shāfi'i said: God has placed His Apostle—[in relation to] His religion, His commands and His Book—in the position made clear by Him as a distinguishing standard of His religion by imposing the duty of obedience to Him as well as prohibiting disobedience to Him. He has made His merits evident by associating belief in His Apostle with the belief in Him. For God, Blessed and Most High, said:

So believe in God and His Apostles, and do not say: "Three." Refrain; [it will be] better for you. God is only one God. Glory be to Him. His having a son is something alien to him [Q. IV, 169].

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And He said:

The believers are only those who have believed in God and His Apostle, and who when they are with him on some common affair do not go away until they ask his permission [Q. XXIV, 62].

Thus [God] prescribed that the perfect beginning of the faith, to which all other things are subordinate, shall be the belief in Him and then in His Apostle. For if a person believes only in Him, not in His Apostle, the name of the perfect faith¹ will never apply to him until he believes in His Apostle together with Him.²

So the Apostle laid down the sunna [of reciting the Prophet's name together with that of God] for testing the faith of every man [as the following tradition indicates]:

Mālik b. Anas told us from Hilāl b. Usāma from 'Aṭā' b. Yāsār from 'Umar b. al-Ḥakām, who said:

I went to the Apostle of God with a slave-girl and I asked him: 'I have taken an oath [to free a slave]; may I free her?' 'Where is God?' the Apostle asked her. 'In heaven,' she answered. 'And who am I?' asked he. 'You are the Apostle of God,' she answered. 'You may free her,' [the Prophet] said.³

[The transmitter's name, 'Umar b. al-Ḥakām]—Shāfi'i says—should read Mu'āwiya b. al-Ḥakām, for Mālik, I believe, has not correctly reported the name, as others did.

87. Shāfi'i said: God has imposed the duty on men to obey His divine communications as well as the sunna of His Apostle. For He said in His Book:

O our Lord, raise up amongst them an Apostle, one of themselves, to recite to them Thy signs and to teach them the Book and Wisdom and to purify them. Verily Thou art All-mighty, All-wise [Q. II, 123].

And He, glorious be His praise, said:

And also we have sent among you an Apostle, one of yourselves, to recite to you our signs, and purify you, to teach you the Book and the Wisdom, and to teach you what you did not know [Q. II, 146].

¹ I. e., Islam.

² Cf. Ṭabarī, *Tafsīr*, Vol. IX, pp. 422-23; Baydāwī, pp. 197-98, 474-75.

³ Mālik, Vol. II, pp. 776-77.

And He said:

God bestowed a favor upon the believers when He raised up amongst them an Apostle, one of themselves, to recite His signs to them, to purify them and to teach them the Book, although they had formerly been in manifest error [Q. III, 158].

And He, glorious be His praise, said:

It is He who has raised up an Apostle among the untutored people, one of their number to recite to them His signs, to purify them, and to teach them the Book and the Wisdom, though formerly they had been in manifest error [Q. LXII, 2].

And He said:

But remember the goodness which God has shown you and how much of the Book and the Wisdom He has sent down to you to admonish you thereby [Q. II, 231].

And He said:

God has sent down to thee the Book and the Wisdom, and has taught thee what thou did not know before; the bounty of God towards thee is ever great [Q. IV, 113].

And He said:

And call to mind the signs of God and the Wisdom which are recited in your houses; verily God is gentle, well-informed [Q. XXXIII, 34].

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So God mentioned His Book—which is the Qur'ān—and Wisdom, and I have heard that those who are learned in the Qur'ān—whom I approve—hold that Wisdom is the sunna of the Apostle of God. This is like what [God Himself] said; but God knows best! For the Qur'ān is mentioned [first], followed by Wisdom; [then] God mentioned His favor to mankind by teaching them the Qur'ān and Wisdom. So it is not permissible for Wisdom to be called here [anything] save the sunna of the Apostle of God. For [Wisdom] is closely linked to the Book of God, and God has imposed the duty of obedience to His Apostle, and imposed on men the obliga-

B 13

tion to obey his orders.⁴ So it is not permissible to regard anything as a duty save that set forth in the Qur'ân and the sunna of His Apostle. For [God], as we have [just] stated, prescribed that the belief in His Apostle shall be associated with the belief in Him.

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The sunna of the Apostle makes evident what God meant [in the text of His Book], indicating His general and particular [commands]. He associated the Wisdom [embodied] in the sunna with his Book, but made it subordinate [to the Book]. Never has God done this for any of His creatures save His Apostle.

*God's Command Ordering Obedience to
the Apostle Is Both Associated with
Obedience to Him and Ordered Independently*

88. [Shâfi'i said]: God said:

When God and His Apostle have decreed a matter, it is not for a believing man or a woman to exercise a choice in a matter affecting him; whoever opposes God and His Apostle has deviated into manifest error [Q. XXXIII, 36].

And He said:

O you who believe, obey God and obey the Apostle and those in authority among you. If you should quarrel about anything, refer it to God and the Apostle, if you believe in God and the Last Day. That is better and fairer in the issue [Q. IV, 62].

Some scholars have held that "those in authority" [means] the commanders of the Apostle's army. That is what more than one commentator has told us. But God knows best.⁵

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This is in accord with what [God] said, for the Arabs who

⁴ See paragraph 22, above.

⁵ Tabari adds that it may mean the leaders in matters of religion and law. See Tabari, *Tafsir*, Vol. VIII, pp. 495-504; Baydâwi, p. 115.

had been around Makka knew nothing about command, and [the idea of] some submitting to the command of others was repugnant to them.

When, however, they submitted to [the authority of] the Apostle, they did not think that [such an authority] was fit to reside in any hands other than the Apostle's.

So they were commanded to obey "those in authority"—the ones whom the Apostle appointed, with conditional but not absolute obedience, concerning their rights and duties. However, [God] said: "If you should quarrel about anything, refer it to God," that is, in the event of disagreement.

89. Shāfi'I said: * This [i. e., the meaning implied in the latter command] is, if God will, as He said about "those in authority," namely, that "If you should quarrel" (but God knows best), they [the people] and the commander whom they were ordered to obey—should "refer it to God and the Apostle" for a settlement on the basis of what God and His Apostle said, if they know it. If you do not know what God's commands are, you should ask the Apostle, if you are able to reach him,[†] or any one of you who is able to do so. For this is an obligation concerning which there should be no disagreement, in accordance with God's saying:

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When God and His Apostle have decreed a certain matter, it is not for a believing man or a woman to have a choice in a matter affecting him [Q. XXXIII, 36].[‡]

As to the disputes that happened after the Apostle's [death], the matter was decided in accordance with God's judgment [as laid down in the Qur'ān] and then that of His Apostle [as laid down in the sunna]. But if a text were not applicable, the matter was decided by analogy on the strength of a precedent sought [either in the Qur'ān or the sunna] in the same manner as I have [already] explained concerning the qibla,

* Būlāq ed., p. 14.

[†] Tabari, *Tafsīr*, Vol. VIII, pp. 504-505.

[‡] See Baydāwl, p. 558.

[witnesses of] just character, equal compensation, and whatever God has prescribed in parallel cases. For He said:

Those who obey God and the Apostle are with the prophets and the veracious and the martyrs and the upright upon whom God has bestowed favor. Good company are these [Q. IV, 71].

And He said:

O you who have believed, obey God and His Apostle [Q. VIII, 20].

*God's Command Ordering Obedience
to His Apostle*

90. [Shāfi'i said]: God, glorious be His praise, said:

Verily, those who swear allegiance to thee swear allegiance really to God; the hand of God is above their hands. So whoever breaks his oath, breaks it only to his own hurt, and to him who fulfills what he has pledged to God, He will grant a great reward [Q. XLVIII, 10].

And He said:

Whoever obeys the Apostle has obeyed God [Q. IV, 82].

So God instructed [men] that their homage to the Apostle is homage to Him, and their obedience [to him] is obedience to Him.

And He said:

But not by thy Lord, they will not become believers until they make thee judge in their disputes and do not afterwards find difficulty in Thy decisions, but surrender in full submission [Q. IV, 68].

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This verse, we have been told, was revealed in connection with a land dispute between al-Zubayr and another man in which the Prophet gave a decision in favor of al-Zubayr. This

decision is a sunna laid down by the Apostle, not a command in the text of the Qur'ān.*

The Qur'ān indicates what I have just stated; for if this decision were a Quranic decision, it should have been prescribed in the text of the Book of God.

But if men fail to accept a decision based on a clear text of the Book of God, they undoubtedly cease to be believers, for they are rejecting a decision based on divine legislation. For God, Blessed and Most High, said:

Do not put the Apostle's calling on you for aid on the same footing amongst you as your calling on each other. God knows those of you who slip away secretly, so let those who go against His command beware lest a trial befall them, or a painful punishment [Q. XXIV, 63].

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And He said:

When they are called to God and to His Apostle that he may judge between them, lo, a party of them avert themselves. But if they are in the right, they will come to him in submission.

Is there sickness in their hearts, or are they in doubt, or do they fear that God and His Apostle may act unjustly towards them. Nay, but they are the evildoers.

All that the believers said when they were called to God and His Apostle that he might judge between them was: 'We hear and obey.' These are the ones who prosper.

Whoever obeys God and His Apostle, and fears God and shows piety—these are the ones who attain felicity [Q. XXIV, 47-51].

* Yahya b. Adam, in *Kitāb al-Kharāj*, reports the case as follows: "One of the Helpers from among the Banū Umayya had a dispute with al-Zubayr concerning a creek (*sharj*) in the *habra*, and the Prophet said: Irrigate, O Zubayr, and then leave the water alone. Said the man of the Banū Umayya: Justice, O Prophet, even though he is the son of your aunt! And the face of the Prophet changed so that the man knew that what he had said had hurt the prophet. Then the Prophet said: O Zubayr Shut off the water till it reaches the height of two ankles—or he said: —[till it] reaches the fence—and then let the water flow. It was revealed [then]—or he said: recited—: "No, by thy Lord, they do not believe until they make thee judge in the tangles . . ." [Q. IV, 68]. Yahya b. Adam, *Kitāb al-Kharāj*, ed. A. M. Shākir (Cairo, 1947/1929), pp. 106-107; English translation by A. Ben Shemesh, entitled *Taxation In Islam* (Leiden, 1958), p. 74. See also Tabari, *Tafsīr*, Vol. VIII, pp. 519-23.

Through this communication, God instructed men that their recourse to the Apostle to judge among them is a recourse to God's judgment, for the Apostle is the judge among them, and when they accept his judgment they do so only because of an obligation imposed by God.

And He instructed them that the [Prophet's] judgment is His judgment, for his judgment is imposed by Him and by His established knowledge—rendering him a man of destiny and assisting him by preserving him from error and [worldly] success—and by testifying that He guides him and causes him to obey His order. ۲۶

So God imposed the obligation upon His creatures to obey His Apostle, and He instructed them that [obedience] to him is obedience to Him.

The sum-total of what He instructed them is the duty to obey Him and His Apostle, and that obedience to the Apostle is obedience to Him. He [also] instructed them that He imposed the duty on His Apostle to obey His order, Glorious be His praise.

*The Obligation Made Clear by God to His Creatures
That He Imposed upon His Apostle to Follow
What He Revealed to Him, and What He Testified
to of His Obeying His Commands, His Guidance,
and That He Is the Guide of Any Who Follow Him*

91. Shāfi'i said: God, Glorious be His praise, said to His Prophet:

O Prophet, fear God, and obey not the unbelievers and the hypocrites. Verily God is All-knowing, All-wise. But follow what is revealed to thee ~~from~~ thy Lord. Verily God is aware of the things you do [Q. XXXIII, 1-2].

And He said:

Follow what has been revealed unto thee from thy Lord—there is no god but Him—and turn thou away from the polytheists [Q. VI, 106]. 355

And He said:

Then we set thee upon an open way of the Law; therefore follow it, and follow not the whims of those who do not know [Q. XLV, 17].

So God instructed His Apostle that He has favored him with His established knowledge and that he will preserve him from mankind, for He said:

O thou Apostle, proclaim what is sent down to thee from thy Lord—if thou do it not thou hast not delivered His message—and God will defend thee from the people [Q. V, 71].¹⁰

92. Shāfi'i said: ¹¹ And [He], glorious be His praise, certified [the Prophet's] firm belief in what He commanded him, and in Guidance to himself and to whoever follows him. For He said:

Thus We have revealed to thee a spirit belonging to Our affair. Thou didst not know what either the Book or the Faith were. But We have made it a light by which We guide whoever We please of Our servants, and verily thou shalt guide unto a straight path [Q. XLII, 52].

And He said:

Had it not been for the bounty and mercy of God toward thee, a party of them would have proposed to lead thee astray; but they lead only themselves astray; they do not hurt thee at all. God has sent down to thee the Book and the Wisdom, and He has taught thee what thou didst not know; God's bounty to thee is ever great [Q. IV, 113]. 356

¹⁰ See Tabari, *Tafsīr*, Vol. X, pp. 467-72. Previously the Prophet was safeguarded by a few of his followers.

¹¹ Būlāq ed., p. 15.

Thus God declared that He commanded His Prophet to obey His order, and certified what he proclaimed on His behalf as well as what he certified for himself.¹² We [also] certify for him in order to draw near to God by our belief in Him, and we make entreaties to Him by belief in His words. [For] 'Abd al-'Azīz [b. Muḥammad al-Darāwirdī] told us from 'Amr b. Abi 'Amr—the freed slave of al-Muṭṭalib—from al-Muṭṭalib b. Ḥanṭab that the Apostle of God said:

I have left nothing concerning which God has given you an order without giving you that order; nor have I neglected anything concerning which He has given you a prohibition without giving you that prohibition.¹³

93. Shāfi'i said: What God has informed us of in His established knowledge and in His final and irrevocable judgment—a favor and a blessing from Him—is that He prevented those who attempted to lead [the Prophet] astray, and informed him that they could not hurt him at all.

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In certifying that [the Prophet] guides mankind along a straight-forward path—the path of God—and that he delivers His message and obeys His commands—as we have stated before—and in ordering obedience to him and in emphasizing all [of this] in the [divine] communications just cited—God has given evidence to mankind that they should accept the judgment of the Apostle and obey his orders.

94. Shāfi'i said: Whatever the Apostle has decreed that is

¹² Tabarī, *Tafsīr*, Vol. IX, pp. 199-201; Baydāwī, pp. 126-27.

¹³ This is the first part of a tradition, the second part of which Shāfi'i cites in paragraph 97. In his *Kitāb al-Umm* (Vol. VI, p. 209, margin) the two parts are cited as one tradition. Transmitters have related the tradition in a variety of wordings, but all agree on the substance. See al-Suyūtī, *al-Jāmī'* *al-Ṣaghīr* (Cairo, 1352/1935), Vol. I, p. 305. For a discussion on the transmission of this tradition and on al-Muṭṭalib b. Ḥanṭab, Companion of the Prophet, see Shākir's edition of the *Risāla*, pp. 93-102, note 8. This Companion should be distinguished from a Successor by the same name who transmitted traditions on the authority of 'Aishā, Abū Hurayra, and Anas b. Mālik (See Ibn Hajar, *al-Isāba* [Cairo, 1358/1939], Vol. III, p. 404). See also J. Schacht, *The Origins of Muhammadan Jurisprudence*, pp. 53-54.

not based on any [textual] command from God, he has done so by God's command. So God instructed us in His saying:

And verily thou wilt guide [mankind] to a straight path, the path of God [Q. XLII, 52-53].

For the Apostle has laid down a sunna [on matters] for which there is a text in the Book of God as well as for others concerning which there is no [specific] text. But whatever he laid down in the sunna God has ordered us to obey, and He regards [our] obedience to him as obedience to Him, and [our] refusal to obey him as disobedience to Him for which no man will be forgiven; nor is an excuse for failure to obey the Apostle's sunna possible owing to what I have already stated and to what the Apostle [himself] has said:

Sufyān [b. 'Uyayna] told us from Sālim Abū al-Naqr—a freed slave of 'Umar b. 'Ubayd-Allāh—who heard 'Ubayd-Allāh b. Abī Rāfi' relate from his father that the Apostle had said:

Let me find no one of you reclining on his couch,¹⁴ and when confronted with an order of permission or prohibition from me, say: 'I do not know [whether this is obligatory or not]; we will follow only what we find in the Book of God.'¹⁵

95. Shāfi'I said:¹⁶ The sunnas of the Apostle together with the [communications of the] Book of God fall in two categories: First, for every textual [communication] in the Book

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¹⁴ In both the Būlāq and Shākir editions there is a statement following this tradition to the effect that Shāfi'I explained the word *arka* (a couch) to mean a *bedstead* (*sarir*); but this statement is perhaps spurious, as Shākir himself suspected, since it is written on the margin of the MS, possibly by one of the readers.

¹⁵ Abū Dāwūd, Vol. IV, p. 200. This tradition is followed by a statement, paragraph 296 (Shākir's edition), which reads: "Sufyān [b. 'Uyayna] said: '[This ḥadīth] was related to me by Muḥammad b. al-Munkadīr, who transmitted it from the Prophet without citing the names of [other] authorities.' " Such a tradition, lacking the names of other transmitters, is called *hadīth mursal*. Shāfi'I, however, seems to have depended on the authority of 'Ubayd-Allāh b. Rāfi', the son of Abū Rāfi', a freed slave of the Prophet, who transmitted the tradition from his father (See Ibn Hajar, *al-ṣab'a*, Vol. 1, p. 488).

¹⁶ Būlāq ed., p. 16.

the Apostle laid down [a similar sunna] in conformity with divine communication. Second, for any [ambiguous] command the Apostle laid down on God's behalf [a sunna] clarifying the meaning implied by God and specifying what [kind of] duty God imposed, whether general or particular, and how man should carry it out. In both categories [the Prophet] followed the Book of God.

96. [Shāfi'i] said: I know of no scholar who does not agree that the sunna of the Prophet falls in three categories, two of which were agreed upon unanimously. These two categories agree [on certain matters] and differ [on others].

First, for whatever acts there is textual [legislation] provided by God in the Book, the Apostle [merely] specified clearly what is in the text of the Book. Second, as to any [ambiguous] communication in the Book laid down by God, [the Prophet] specified the meaning implied by Him. These are the two categories on which scholars do not disagree.

The third category consists of what the Apostle has laid down in the sunna and concerning which there is no text in the Book.

97. Some [scholars] have said: God empowered [the Prophet], by virtue of the duty He imposed [on mankind] to obey Him and his success in obtaining [God's] approval in accordance with His established knowledge, to provide sunnas [for matters] on which there is no text in the Book. Others said: No sunna was ever laid down [by the Prophet] unless there was a basis¹⁷ for it in the Book, such as the sunna which specified the number of prayers [each day] and [the modes of] their performance, based on the general duty of prayer. In like manner, [the Prophet] laid down sunnas dealing with sale [of property], as well as others. For God said:

Do not consume your property among you uselessly [Q. IV, 99].

And He said:

God has permitted sale-and forbidden usury-[Q-II, 277].

¹⁷ Literally: "Foundation," i.e., a fundamental principle or a precedent.

Whatever God has provided by [way of] permission or prohibition, he has specified on God's behalf as he did in [the case of the duty of] prayer.

Others said: [The Prophet] received a message from God confirming the sunna by a command from Him. 892

Still others said: [The Prophet] was inspired with all that he had laid down. The sunna is [divine] Wisdom inspired by God, and so whatever He inspired him with [constitutes] sunna. [For] 'Abd al-'Azīz [b. Muḥammad al-Darāwirdī] told us from 'Amr b. Abī 'Amr from al-Muṭalib, who related that the Prophet said:

The trustworthy spirit [Gabriel] has inspired me [with the thought] that no soul will ever die until it will receive its full provision. Be, therefore, moderate in your request.¹⁸ 893

98. Shāfi'i said:¹⁹ Among the things with which [the Prophet] was inspired is his sunna. This [sunna] is the Wisdom which God mentioned [in His Book], and whatever He sent down to him is a Book—the Book of God—all of these have been given to him as favors from God and by His will. These favors are either embodied in one Favor²⁰ or take different forms. We pray God for protection from error and success. 894-102

In whatever form it may take, God made it clear that He imposed the duty of obedience to His Apostle, and has given none of mankind an excuse to reject any order he knows to be the order of the Apostle of God. God has rather made men have need for him in [all matters of] religion and He has given the proof for it by providing that the sunna of the Apostle make clear the meanings of the duties laid down in His Book, so that it might be known that the sunna—whether in the form specifying the meaning of God's commands as provided in the text of the Book which they can read or in the form of legislation in the absence of such a text—in either form represents God's command and is in [full] agreement 894

¹⁸ See note 13, above.

¹⁹ Būlāq ed., p. 16.

²⁰ I. e., the Message.

with that of His Apostle; both are [equally] binding in all circumstances. This has been confirmed by the Apostle in the tradition of Abū Rāfi' which has already been cited.²¹

99. Shāfi'i said:²² I shall explain what I have already said about the sunna, [whether] it specifies the Book of God or provides [additional legislation] for matters on which there is no text in the Book, such examples as may clarify the meaning of the subject that was discussed.

The first one I take up will be [a discussion] on the sunna based on the Book of God. I shall discuss by means of *istidlāl* (deductive reasoning) the sunna relating to the subject of the *nāsikh* (abrogating) and the *mansūkh* (abrogated) passages in the Book of God. Next, [I shall] state the duties provided in the text [of the Book] and the sunna which the Apostle has laid down on the basis of the Book; the general duties which the Apostle specified for its modes and its times of fulfilment; next, the general [commands] which were intended to be general and the general [commands] which were intended to be particular; and [finally] the sunna [of the Prophet] for which there is no text in the Book. 828

²¹ See note 15, above.

²² Būlāq ed., p. 16.

Chapter XI



[ON CONSENSUS (IJMĀ')]¹

480. Shāfi'i said: Someone has asked me: I have understood your doctrine concerning God's commands and His Apostle's orders that he who obeys God obeys His Apostle, [for] God has imposed [on men] the duty of obeying His Apostle, and that the proof for what you held has been established that it would be unlawful for a Muslim who has known the Book [of God] and the sunna [of the Prophet] to give an opinion at variance with either one, for I know that this [i. e. acceptance of the Book and the sunna] is a duty imposed by God. But what is your proof for accepting the consensus of the public [on matters] concerning which no explicit command of God nor any [sunna] related on the authority of the Prophet is to be found? Do you assert, with others, that the consensus of the public should always be based on an established sunna even if it were not related [on the authority of the Prophet]? 3471

481. [Shāfi'i] replied: That on which the public are agreed and which, as they assert, was related from the Apostle, that is so. As to that which the public do not relate [from the Prophet], which they may or may not relate as a tradition from the Prophet, we cannot consider it as related on the authority of the Prophet—because one may relate only what

¹ Although Shāfi'i's treatment of ijmā' in this chapter is brief, he has discussed some aspects of it in other parts of the *Risāla*. See Chaps. VI, VII, IX, X, XIV, and XV.

he has heard, for no one is permitted to relate [on the authority of the Prophet] information which may or may not be true. So we accept the decision of the public because we have to obey their authority, and we know that wherever there are sunnas of the Prophet, the public cannot be ignorant of them, although it is possible that some are, and we know that the public can neither agree on anything contrary to the sunna 852 of the Prophet nor on an error.

482. Someone may ask: Is there any evidence in support of what you hold?

483. [Shāfi'I] replied: Sufyān [b. 'Uyayna] told us from 'Abd al-Malik b. 'Umār from 'Abd al-Rahmān b. 'Abd-Allāh b. Māsūd from his father, who said: The Apostle said:

God will grant prosperity to His servant who hears my words, remembers them, guards them, and hands them on. Many a transmitter of law is no lawyer himself, and many may transmit law to others who are more versed in the law than they, etc.²

And Sufyān [also] told us from 'Abd-Allāh b. Abī Labid from 'Abd-Allāh b. Sulaymān b. Yasār from his father, who said: 'Umar b. al-Khaṭṭāb made a speech at al-Jābiya in which he said: The Apostle of God stood among us by an order from God, as I am now standing among you, and said:

Believe my Companions, then those who succeed them [the Successors], and after that those who succeed the Successors; but after them untruthfulness will prevail when people will swear [in support of their saying] without having been asked to swear, and will testify without having been asked to testify. Only those who seek the pleasure of Paradise will follow the community, for the devil can pursue one person, but stands far away from two. Let no man be alone with a woman, for the devil will be the third among them. He who is happy with his right [behavior], or unhappy with his wrong behavior, is a [true] believer.³ 843 844

² Only the first three words of this tradition are cited, because Shāfi'I considered it quite unnecessary to repeat a text which he has already given in full in paragraph 417 above. It is reproduced in full in the Būlāq edition, p. 65.

³ In the year 638 the Caliph 'Umar went to al-Jābiya, a village on the

484. He asked: What is the meaning of the Prophet's order to follow the community?

485. [Shāfi'i] replied: There is but one meaning for it.

486. He asked: How is it possible that there is only one meaning?

487. [Shāfi'i] replied: When the community spread in the lands [of Islam], nobody was able to follow its members who had been dispersed and mixed with other believers and unbelievers, pious and impious. So it was meaningless to follow the community [as a whole],⁴ because it was impossible [to do so], except for what the [entire] community regarded as lawful or unlawful [orders] and [the duty] to obey these [orders].

He who holds what the Muslim community holds shall be regarded as following the community, and he who holds differently shall be regarded as opposing the community he was ordered to follow. So the error comes from separation: but in the community as a whole there is no error concerning the meaning of the Qur'ān, the sunna, and analogy.⁵

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outskirts of Damascus, where he met several leading Companions. For the text of the tradition, see Shāfi'i, *Musnad*, Vol. II, p. 187; and Ibn Hanbal, Vol. I, pp. 112-13, 176-81.

⁴This sentence is twice repeated in the Arabic text, in the middle and toward the end of the paragraph.

⁵For a brief translation of the last two paragraphs, see J. Schacht, *Origins of Muhammadan Jurisprudence*, pp. 90-91.



support the deductive inference about the authenticity of the Sunnah.

The Preservation of Sunnah

It is totally wrong to say that the Sunnah of the Holy Prophet ﷺ was compiled for the first time in the third century. In fact, the compilation had begun in the very days of the Holy Prophet ﷺ as we shall see later, though the compilations in a written form were not the sole measures adopted for the preservation of the Sunnah. There were many other reliable sources of preservation also. In order to understand the point correctly we will have to know the different kinds of the Sunnah of the Holy Prophet ﷺ.

Three kinds of Ahadith

An individual tradition which narrates a 'Sunnah' of the Holy Prophet ﷺ is termed in the relevant sciences as 'Hadhith' (Pl. Ahadith) The 'Ahadith', with regard to the frequency of their sources, are divided into three major kinds:

1- *Mutawatir*: It is a hadith narrated in each era, from the days of the Holy Prophet upto this day by such a large number of narrators that it is impossible to reasonably accept that all of them have colluded to tell a lie.

This kind is further classified into two sub-divisions:

(a) *Mutawatir in words*: It is a hadith whose words are narrated by such a large number as is required for a mutawatir, in a manner that all the narrators are unanimous in reporting it with the same words without any substantial discrepancy.

(b) *Mutawatir in meaning*: It is a mutawatir hadith which is not reported by the narrators in the same words. The words of the narrators are different. Sometimes even the reported events are not the same. But all the narrators are unanimous in reporting a basic concept which is common in all the reports. This common concept is also ranked as a *mutawatir* concept.

For example, there is a saying of the Holy Prophet ﷺ

مَنْ كَذَبَ عَلَىٰ مُتَعَمِّدًا فَلَيَبُرُّ مَقْعِدَهُ مِنَ الشَّارِ

Whoever intentionally attributes a lie against me, should prepare his seat in the Fire.

This is a mutawatir hadith of the first kind, because it has a minimum of seventy four narrators. In other words, seventy four companions of the Holy Prophet ﷺ have reported this hadith a different occasions, all with the same words.

The number of those who received this hadith from these companions is many times greater, because each of the seventy four companions has conveyed it to a number of his pupils. Thus the total number of the narrators of this hadith has been increasing in each successive generation, and has never been less than seventy four. All these narrators, who are now hundreds in number, report it in the same words without even a minor change. This hadith is, therefore, *mutawatir* by words, because it cannot be imagined reasonably that such a large number of people have colluded to coin a fallacious sentence in order to attribute it to the Holy Prophet ﷺ.

On the other hand, it is also reported by such a large number of narrators that the Holy Prophet ﷺ has enjoined us to perform two *Rak'at* in Fajr, four *Rak'at* in Zuhra, 'Asr and 'Isha, and three *Rak'at* in the Maghrib Prayer, yet the narrations of all the reporters who reported the number of *Rak'at* are not in the same words. Their words are different. Even the events reported by them are different. But the common feature of all the reports is

the same. This common feature, namely, the exact number of Rak'at, is said to be mutawatir in meaning.

2. The second kind of hadith is *Mashhoor*. This term is defined by the scholars of Hadith as follows:

"A hadith which is not *mutawatir*, but its narrators are not less than three in any generation" (1).

The same term is also used by the scholars of Fiqh, but their definition is slightly different. They say, "A *mashhoor* hadith is one which was not *mutawatir* in the generation of the Holy Companions, but became *mutawatir* immediately after them (2).

The *Mashhoor* hadith according to each definition falls in the second category following the *mutawatir*.

3. *Khabarul wahid*. It is a hadith whose narrators are less than three in any given generation.

Let us now examine each kind separately:

The authenticity of the first two kinds

As for the *mutawatir*, nobody can question its authenticity. The fact narrated by a *mutawatir* chain is always accepted as an absolute truth even if pertaining to our daily life. Any statement based on a *mutawatir* narration must be accepted by everyone without any hesitation. I have never seen the city of Moscow, but the fact that Moscow is a large city and is the capital of U S S R is an absolute truth which cannot be denied. This fact is proved, to

(1) Tadreeburrawi, by Suyuti P. 181 V.2, Karachi 1972.
 (2) سرل السخی

me, by a large number of narrators who have seen the city. This is a continuously narrated or a *mutawatir* fact which cannot be denied or questioned.

I have not seen the events of the First and the Second World War. But the fact that these two wars occurred, stands proved, without a shadow of doubt on the basis of the *mutawatir* reports about them. Nobody with a sound sense can claim that all those who reported the occurrence of these two wars have colluded to coin a fallacious report and that no war took place at all. This strong belief in the factum of war is based on the *mutawatir* reports of the event.

In the same way the *mutawatir* reports about the Sunnah of the Holy Prophet ﷺ are to be held as absolutely true without any iota of doubt in their authenticity. The authenticity of the Holy Quran being the same Book as that revealed to the Holy Prophet ﷺ, is of the same nature. Thus, the *mutawatir ahadith*, whether they be *mutawatir* in words or in meaning, are as authentic as the Holy Quran, and there is no difference between the two in as far as the reliability of their source of narration is concerned.

'Although the *ahadith* falling under the first category of the *mutawatir*, i.e. the *mutawatir* in words, are very few in number, yet the *ahadith* relating to the second kind, namely, the *mutawatir* in meaning, are available in large numbers. Thus, a very sizeable portion of the Sunnah of the Holy Prophet ﷺ falls in this kind of *mutawatir*, the authenticity of which cannot be doubted in any manner.

As for the second kind, i.e. the *Mashhoor*, its standard of authenticity is lower than that of the *mutawatir*; yet, it is sufficient to provide satisfaction about the correctness of the narration because its narrators have been more than three trustworthy persons in every generation.

trustworthy in all respects, the report given by him can be accepted, but if the single reporter is believed to be doubtful, the entire report subsequently remains doubtful. This principle is followed in every sphere of life. Why should it not be applied to the reports about the Sunnah of the Holy Prophet ﷺ? Rather, in the case of 'Ahadith', this principle is most applicable, because the reporters of ahadith were fully cognizant of the delicate nature of what they narrate. It was not simple news of an ordinary event having no legal or religious effect. It was the narration of a fact which has a far-reaching effect on the lives of millions of people. The reporters of Ahadith knew well that it is not a play to ascribe a word or act to the Holy Prophet ﷺ. Any deliberate error in this narration, or any negligence in this respect would lead them to the wrath of Allah and render them liable to be punished in hell. Every reporter of *hadith* was aware of the following well-known mutawatir hadith:

مَنْ كَذَبَ عَلَيْيَ مُتَعَمِّدًا فَلَيَبْرُوْ مَقْدَهُ مَنْ اثَارَ

Whoever attributes a lie to me, he should prepare his seat in the Fire.

This hadith had created such a strong sense of responsibility in the hearts of the narrators of ahadith that while reporting anything about the Holy Prophet ﷺ, they often turned pale out of fear, lest some error should creep into their narration.

This was the basic reason for which the responsible narrators of *ahadith* showed the maximum precaution in preserving and reporting a *hadith*. This standard of precaution cannot be found in any other reports of historical events. So, the principle that the veracity of a report depends on the nature of its reporter is far more validly applicable to the reports of *ahadith* than it is applicable to the general reports of ordinary nature.

Let us now examine the various ways adopted by the *Ummah* to preserve the *ahadith* in their original form:

Different ways of Ahadith Preservation

As we shall later see, the companions of the Holy Prophet ﷺ reduced a large number of anadith in writing. Yet, writing was not the sole means of their preservation. There were many other ways.

1- Memorization

First of all the companions of the Holy Prophet ﷺ used to learn *ahadith* by heart. The Holy Prophet ﷺ has said:

نَصْرَ اللَّهِ عَبْدًا سَعَ مَقْاتِلَنِي فَوْعَاهَا شَمْ أَدَاهَا كَمَا سَعَ

May Allah bestow vigor to a person who hears my saying and learns it by heart, then conveys it to others exactly as he hears it.

The companions of the Holy Prophet ﷺ were eager to follow this *hadith* and used to devote considerable time for committing *ahadith* to their memories. A large number of them left their homes and began to live in the Mosque of the Holy Prophet ﷺ so that they may hear the *ahadith* directly from the mouth of the Holy Prophet. They spent all their time exclusively in securing the *ahadith* in their hearts. They are called *Ashab al-suffah*.

The Arabs had such strong memories that they would easily memorize hundreds of verses of their poetry. Nearly all of them knew by heart detailed pedigree of not only themselves, but also of their horses and camels. Even their children had enough knowledge of the pedigrees of different tribes. Hammud is a famous narrator of the Arab Poetry. It is reported that he knew by



5. Books of *Muhammad al Baqir* (56-114 A.H.)
6. Books of *Makhul from Syria*
7. Book of *Hakam ibn 'Utaibah*
8. Book of *Bukair ibn 'Abdullah ibn al Ashajj* (d.117)
9. Book of *Qais ibn Sa'd* (d.117). This book later belonged to *Hammad ibn Salamah*
10. Book of *Saltiman al Yashkuri*
11. *Al Abwab of Shabi*, already referred to.
12. Books of *Ibn Shihab al Zuhri*.
13. Book of *Abul-'Aliyah*
14. Book of *Said ibn Jubair* (d.95 A.H.)
15. Books of *Umar ibn Abdullah Aziz* -(61-101 A.H.)
16. Books of *Mujahid ibn Jabr* (d.103 A.H.)
17. Book of *Raja ibn Hywah* (d.112 A.H.)

- (5) تهذيب التقىب ٢ : ١٤ .
- (6) التبرت لابن الصمع ص ٦٨ - ٣٩ .
- (7) تتمة البرج والتعديل ص ٣٢ .
- (8) تهذيب التقىب ١٠ : ٧٦ و ٧٧ .
- (9) ذكرى المفلاط ١٠ : ٥٥ و ٥٦ .
- (10) تتمة البرج والتعديل ص ٣١ و ٣٠ .
- (11) تهذيب الراوي ص ٤٠ .
- (12) بحث بيان الملم ١ : ٣١ .
- (13) لائحة قبيل القدرين (تحفة) ص ٣٣٨ .
- (14) تقييد الملم ص ١٠٢ .
- (15) سن المدارسي ١ : ١٣٩ و تقييد الملم ص ٨٠ .
- (16) تاريخ بغداد للخطيب ١١ : ٣٣٣ .
- (17) تاريخ بغداد للخطيب ١٢ : ٣٣٣ .

18. Book of *Abu Bakr ibn Muhammad ibn Amr ibn Haq*
19. Book of *Bashir ibn Nahik*.

THE BOOKS OF HADITH WRITTEN IN THE SECOND CENTURY

The basic characteristic of the books written in the second century is that a large number of them were arranged subject wise, while the books of the first century were not. However, compilations without due arrangement continued in this century too. The list of books compiled in this period is very long. Few prominent books are referred to here (B).

1. Book of *Abdulmalik ibn Juraij* (d.150 A.H.)
2. *Muwatta, of Malik ibn Anas* (93-179 A.H.)
3. *Muwatta, of Ibn Abi Zi'b* (80-158 A.H.)
4. *Maghazi of Muhammad ibn Ishaq* (d.151 A.H.)
5. *Musnad of Rabi' ibn Sabith* (d.160 A.H.)
6. Book of *Sa'id ibn Abi 'Arubah* (d.156 A.H.)
7. Book of *Hammad ibn Salmah* (d.167 A.H.)
8. *Jame' Sufyan al Thauri* (97-161 A.H.)
9. *Jame' Ma'mar ibn Rashid* (95-153 A.H.)
10. Book of *Abdurrahman al Awza'i* (88-157 A.H.)

(18) تتمة البرج والتعديل ص ٣ .
 (19) ثبات ابن سعد ٧ : ٣٣ .
 (B) For no. 1 to 14 see:

11. *Kitab al zuhd by Abdullah ibn al Mubarak* (118-181)
12. Book of *Hushaim ibn Bashir* (104-183 A.H.)
13. Book of *Jarir ibn Abdulhamid* (110-188 A.H.)
14. Book of *Abdullah ibn Wahb* (125-197 A.H.)
15. Book of *Yahya ibn Abi Kathir* (d.129 A.H.)
16. Book of *Muhammad ibn Suqah* (d.135 A.H.)
17. *Tafsir of Zaid ibn Aslam* (d.136 A.H.)
18. Book of *Musa ibn 'Uqbah* (d.141 A.H.)
19. Book of *Ash'ath ibn 'Abdulmalik* (d.142)
20. Book of *Aqil ibn Kahlid* (d.142 A.H.)
21. Book of *Yahya ibn Sa'id Ansari* (d.143)
22. Book of *Awf ibn Abi Jamilah* (d.146)
23. Books of *Jafar ibn Muhammad al Sadiq* (d.148)
24. Book of *Yunus ibn Yazid* (d.152 A.H.)
25. Books of *Abdurrahman almas'udi* (d.160)
26. Books of *Zaidah ibn Qudamah* (d.161)
27. Books of *Ibrahim al Tahman* (d.163)
28. Books of *Abu Hamzah al Sukri* (d.167)
29. *Algharaib by Shu'bah ibn al Hajjaj* (d.160)
30. Books of '*Abdul Aziz ibn 'Abdullah al Majishun*
d.164 A.H.)
31. Books of *Abdullah ibn Abdulla ibn Abi Uwais* (d.169)
32. Books of *Sulaiman ibn Bilal* (d.172)

33. Books of '*Abdullah ibn Lahi'ah* (d.147)
 34. *Jame' Sufyan ibn 'Uyainah* (d.198)
 35. *Kitabul-Athar by Imam Abu Hanifah* (d.150)
 36. *Maghazi of Mu'tamir ibn Sulaiman* (d.187)
 37. *Musannaf of Waki 'ibn Jarrah* (d.196 A.H.)
 38. *Musannaf of Abdurazzak ibn Hammam* (136-221)
 39. *Musnad of Zaid ibn 'Ali* (76-122)
 40. Books of *Imam Shaff'i* (15-204)
- The following books written in this age are still available in printed forms.
1. *Almuwatta*, by *Imam Malik*.
 2. *Kitabul - Athar by Imam Abu Hanifah*.
 3. *Musannaf* by '*Abdurazzaq*.
 4. *As - sirah* by *Muhammad ibn Ishaq*.
 5. *Kitab - al - Zuhd* by '*Abdullah ibn al - Muharak*.
 6. *Kitab - al - Zuhd* by *Waki 'ibn Jarrah* (3 volumes).
 7. *Almusnad* by *Zaid ibn 'Ali* (76 - 122).
 8. *Sunan of Shaff'i* (150 - 204).
 9. *Musnad of Shaff'i*.
 10. *Siyar of Awza'i* (88 - 157).
 11. *Musnad of 'Abdullah ibn al Mubarak* (d. 181).
 12. *Musnad of Abu Dawood Tayalisi* (d. 204).

13. *Al - Radd 'ala Siyaril - Awza'i by Imam Abu Yusuf.*
 14. *Al - Hujjah 'ala Ahlil Madinah by Imam Muhammad ibn Hasan Shaibani.*

15. *Kitabul - Umm by Imam Shaf'i.*

16. *Al - Maghazi by Waqidi* (130 - 206) (4 volumes).

This list is by no means exhaustive. But a careful study of these books only which are available today in printed forms, would clearly reveal that their style is much developed and they definitely do not seem to be the first books on their subject. Some of them are in more than ten volumes, and their arrangement shows that the compilation of *hadith* in those days reached a developed stage.

All these valuable efforts of compiling the *ahadith* belong to the first and second centuries. Hence, one can easily see how false is the assumption that the compilation of *ahadith* did not take place before the third century.

What we have cited above is more than sufficient to prove that the compilation of *ahadith* has begun in the very days of the Holy Prophet ﷺ and has continued in each point of time thereafter. This process has, no doubt, passed through certain stages as is usual in every new science or branch of knowledge. But the assumption that the process could not begin before the third century cannot be substantiated on any ground whatsoever.

four centuries of Islamic history, yet it does not mean that all the traditions narrated or compiled in this period have been held as true and reliable.

In fact, in the same period in which the work of the compilation of *ahadith* was going on, a very systematic science of criticism was developed by the scholars of *hadith* in which numerous tests were suggested to verify the correctness of a narration. All these tests were applied to each and every tradition or report before holding it reliable. The different branches of knowledge which have been introduced by the scholars of the science of *hadith* has no parallel in the art of historical criticism throughout world history. It is not possible for us to herein present even a brief introduction of these different branches and the valuable works produced in this respect. It may be said without any fear of exaggeration that thousands of books have been written on those different branches of knowledge regarding the science of *hadith*.

It will be pertinent, however, to give a brief example of the nature of the criticism of *ahadith* carried on by scholars and the different tests applied by them to ascertain the veracity of a *hadith*.

The traditions viewed from different angles have been classified into hundreds of kinds. Relative to their standards of authenticity, the traditions are ultimately classified into four major categories:

- (a) *Sahih* (correct)
- (b) *Hasan* (good enough)
- (c) *Da'if* (weak)
- (d) *Maudu'* (coined)

Although the task of preserving of *ahadith* through all the four ways mentioned earlier including compilations in written form, has been performed with due diligence throughout the first

Only the first two kinds are held to be reliable. Precepts of the Shari'ah can be based on and inferred from only these two

be the source of Islamic law. The other two kinds have little or no value especially in the legal or doctrinal matters.

Before declaring a *hadith* as *Sahih* or *Hasan*, the following tests are applied:

- Scrutiny of its narrators.
- Scrutiny of the constancy of the chain of narrators.
- Comparison of its chain and text with other available ways of narration in the same matter.
- Examination of the chain and the text of the *hadith* in the light of other material available on the subject, and to ensure that there is no defect in the chain or in the text.

We will try to give a brief explanation of these four tests as they are applied by the scholars of *hadith* to scrutinize the veracity of a tradition.

1. Scrutiny of the narrators

The first and foremost test of the correctness of a *hadith* on two scores: firstly, examination of the integrity and honesty of a narrator, and secondly, examination of his memory power. To carry out this scrutiny, a separate complete Science has been introduced which is called *'Ilm-Rijal* (The knowledge of men). The scholars of this science devoted their lives for the thorough enquiry about each person who has reported a *hadith*. For this, they used to go to his place and enquire about him from his neighbours, pupils and friends so that no scholar would be

impressed by his personal relations with a narrator. 'Ali ibn al Madini, the famous scholar of *Rijal* when asked about his father first tried to avoid the question and replied "Ask some other scholar about him". But when the question was repeated with :

هُوَ الْأَبْنَاءُ إِلَّا ضَعِيفٌ

(c) It is the matter of Faith, (I, therefore, reply). He is a weak narrator.

Waki' ibn Jarrah, the well-known Imam of *hadith* held his father as "weak" in *hadith*, and did not rely on his reports unless they are confirmed by some reliable narrator.

Imam Abu Dawood, the author of one of the Six Books has opined about his son (1) 'Abdullah, that he was "a great liar". "Zaid ibn Abi Uaisah has said about his brother Yahya: "Do not accept the traditions of my brother Yahya, because he is reputed in lying". (2)

Similar opinions are recorded in the books of the *'ilmur-rijal*. Hundreds of books have been written on this subject. Here are only a few examples:

1. *Tahzibutahzib* by *Hafiz Ibn Hajar*.

Printed in twelve volumes, this book has been designed to give a brief account of all the narrators whose narration is found in the famous Six Books of *hadith* only. It contains the life account of 12455 narrators (3), arranged in alphabetical order.

(1) This is the same 'Abdullah whose work "Kitabul Masail" has been published by some orientalists.

(2) *الكتاب بالمعنى لمن لا يدري*

(3) This is the total of the members given in each volume separately. Sometimes, the same narrator has been mentioned in different places with different names. So, the actual number of the narrators may be less, but not less than 10,000.

You can pick up any name from any chain of any hadith in any book from the Six Books. This name will certainly be found in the *Tahibbuttahzib* recorded in its place in alphabetical scheme. There you can find his dates of birth and death, the list of his teachers, the list of his pupils, important events of his life and the opinions of the scholars about his credibility.

There are several other books meant for the narrators of the Six Books exclusively, and after consulting them one can easily reach a definite conclusion about the veracity of a narrator.

2. *Lisanul-Mizan* by *Hafiz Ibn Hajar*

This book is meant exclusively for those narrators whose names do not appear in any chain contained in any of the Six Books. It means that the traditions reported by them are found only in some books other than the Six Books.

This book consists of seven volumes and embodies the introduction of 5991 narrators.

3. *Taqjilul-Manfa'ah* by *Hafiz Ibn Hajar*.

This book is confined to the introductions of the narrators whose traditions are found in the books of the four Imams: Malik, Abu Hanifah, Shafi'i and Ahmed ibn Hanbal, and are not among the narrators of the Six Books. Thus, it contains the introduction of 1732 narrators.

All these three books are written and compiled by the same person, namely, the *Hafiz Ibn Hajar*. It means that he has compiled the introduction of more than seventeen thousand narrators of the hadith.

This is the effort of only a single scholar. Many other

books are available on the same subject. The following table will show the large number of narrators introduced in few famous books of *rijal* which are frequently referred to.

	Name of the book	Author	Volumes	Number of narrators
1.	Al-tarikh al Kabir	Imam Bukhari	9	13781
2.	Al-Jarh wat-ta'dil	Ibn Abi Hatim	9	18050
3.	Tanzibutlahzib	Hafiz Ibn Hajar	12	12455
4.	Mizanul itidal	Zahabi	4	11053
5.	Lisanul mizan	Hafiz Ibn Hajar	7	2116
6.	As-siqat	Ijli	1	7854
7.	Almughni fid du'afa	Zahabi	2	

The last book of this table has introduced only those narrators who have been held as "weak" narrators. Similar books are written by Ibn Abi Hatim, Darquni etc. On the contrary, there are books which deal with the reliable narrators only like "Thiqat of Ibn Hibban" in eleven volumes.

Anyhow, if a narrator is found to be dishonest, has very weak memory or he is unknown, no trust is placed on his narrations. A large number of traditions has been repudiated on this score alone.

2. Constancy of the chain of narrators

It is well-known that no report, in the science of *hadith* accepted unless it gives the full chain of narrators upto the Prophet ﷺ. Each narrator from this chain is first scrutinized. the touch-stone of his credibility as discussed above. But even if the narrators of a chain are found to be reliable, it is not enough hold the tradition as authentic. It must be proved that the chain

constant and no narrator has been missed in between. If it is found that some narrator has been missed at any stage, the tradition is held to be unreliable. To ensure the constancy of the chain, it is necessary to know about each narrator whether it is possible for him historically to meet the person from whom he claims to hear the tradition.

This scrutiny is indeed very difficult and delicate. But the scholars of the science of *hadith* have undertaken this task in such an accurate manner that one cannot but wonder.

While holding an enquiry about each narrator, the scholars, beside ascertaining his integrity and memory, would also survey his teachers and pupils. Thus, a detailed list of both his teachers and pupils is available in each detailed book of *Rijal*. So, when deciding about the constancy of a *hadith* the scholars do not only make themselves sure about the dates of birth and death of each narrator, but also examine the list of his teachers and pupils.

Not only this, they often try to fix the time-span in which a narrator had opportunities to meet a particular teacher and that in which he did actually hear *ahadith* from him. On the basis of this information they derive certain important conclusions about the credibility of a narrator.

For example, '*Abdullah ibn Lahi'ah*' is a well-known Egyptian narrator of *hadith*. It is established that his memory was weak and he used to narrate those traditions which he wrote. At a particular time, his house was burnt by fire and all his books were also burnt. After this occurrence he sometimes used to report *ahadith* from his memory. Therefore, some scholars have decided that his narrations before the accident are reliable while those narrated after it are not worthy of trust. Now, the pupils who have accepted, while the reports of those who have heard from him in the later period cannot be relied upon. The scholars have scrutinised the list of his pupils and have specified the names of

1.25

his early pupils like '*Abdullah ibn Wahb*' etc. and have declared that all the rest should be treated as his later pupils, and no trust might be placed on their narrations.

In short, the second type of scrutiny, which is very essential in the criticism of traditions, relates to the constancy and perpetuity of the chain of narrators. If it is found that a narrator has not heard the hadith directly from the one to whom he is ascribing it, the tradition is said to be *Munqati'* (broken) which cannot be treated as reliable.

3. Comparison with other narrations

The third test applied to a tradition relates to its comparison with what is narrated by other pupils of the same teacher.

Sometimes a tradition is reported by several narrators. All these reports about the same saying or event are said to be the "*turuq'* (different ways) of that tradition. While scrutinizing a tradition, the scholars undertake a combined study of all its "ways". If it is found that the majority of the reliable reporters narrate the *hadith* in a particular way, but one of them reports it in a version substantially different from that of the others, his report is held to be a "*Shadh*" (rare) version. In such case, despite the reliability of the reporter, his version is not accepted as a "Sahih" (correct) one, and no trust is placed on it unless it is confirmed and supported by any internal or external evidence.

4. General analysis of the tradition

The last, and very important, scrutiny is accompanied by the general analysis of a tradition. In this scrutiny the tradition is analysed in the light of other relevant material available on the

subject. The tradition is examined from different angles: whether the reported saying or event is at all possible; whether the reported event conforms to the established historical events; whether its text can be held as truly attributed to the Holy Prophet ﷺ; whether the chain of narrators is genuine etc.

This is a very difficult and delicate scrutiny which cannot be undertaken successfully unless the scholar has full command over all the relevant subjects, occupies complete knowledge of *hadith* and has a great skill in the science of criticism of *hadith*.

If, after this scrutiny, a strong doubt appears to a scholar about the authenticity of a *hadith*, he points out that there is a "defect" ('illah) in the chain or in the text of the *hadith*, and a tradition having this kind of 'illah' or 'defect' is not held as 'Sahih'.

Thus, a 'Sahih' (correct) *hadith* has been defined by the scholars as follows:

"What is reported, by a reporter who is honest and of good memory power, without any break in the chain of narrators, without any 'shudhudh' (rareness) and without any 'illah' (defect)".

Conclusion

It is not possible for us to give all the details of the critical sciences developed by the scholars of *hadith*. What we have stated in this chapter is only a simple example of the works undertaken by them. It can, however, help one to imagine the altitude of their academic and scientific efforts and to satisfy oneself that the task of 'preservation of *hadith*' has been performed by this ummah with such diligence, precaution and sense of responsibility that one cannot find its parallel in the history of any other community. It was through these efforts that the divine promise of the preservation of the Holy Quran, with all its letters and meanings, was duly fulfilled.

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Two Schools of Companions

On the other hand there is a group that hesitates to accept a report contrary to reason or unwarranted by attendant circumstances. This tendency was there even in the days of the Companions and continued to the day of the later traditionists. We shall quote several instances because this school stands opposed to the view generally prevailing :

1. Abū Huraira said to 'Abd Allāh ibn 'Abbās that the Prophet had once remarked that eating things heated by fire made a fresh Wuḍū' (ablution) necessary. Ibn 'Abbās replied that it would then mean that they could not perform ablution with hot water. At this Abū Huraira said to him, "Oh my nephew, when you hear a Hadith of the Prophet, you should not start telling adages".¹
2. In his preface to the *Sahīh Muslim*, the author mentions that Ibn 'Abbās, when the judgments pronounced by 'Alī were placed before him, began to take copies of some and rejected others saying, "By God, if 'Alī pronounced this judgment 'Alī must have been one of the misled". (But since 'Alī was not misled, it is not his judgment).

Following this in the *Sahīh Muslim* there is yet another saying to the effect that some people brought to Ibn 'Abbās a book in which the judgments of 'Alī had been recorded. Ibn 'Abbās, leaving intact the writing upto a length of one yard,² rubbed off the rest of what was written. This shows

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1. Ibn Majah and al-Tirmidhi.
 2. Books in times of old used to be long scrolls of paper or parchment etc. The ancients preserved their writings each attached to the other width-wise and the whole length folded up.
(Al-Nawawī *Sharḥ of the Sahīh of Muslim*).

that Ibn 'Abbās, from the very nature of the judgments felt sure that they could never have been the decisions pronounced by 'Alī; and so did not bother about the narrators and authorities.

3. The *Ṣaḥīḥ* of al-Bukhārī has a report (Chapter on Prayers) that once Maḥmūd ibn Rabi' told a gathering that the Prophet once said that God would grant immunity to any one who recited the "*Kalima*" (There is no god but He and that Muhammad is His Messenger), purely for winning His pleasure. Abū Ayyūb al-Anṣārī, at whose house the Prophet had stayed for seven months, was also present. He declared, "By God, I can never imagine that the Prophet may have said what you ascribe to him". Maḥmūd was one of the Companions, and Abū Ayyūb did not doubt his veracity. But as the Hadīth seemed to him unwarranted by known facts and circumstances, he was not prepared to accept it; and said that the Prophet could not have spoken like that. The *Ṣaḥīḥ* of al-Bukhārī adds that Maḥmūd came to Medina and had it confirmed by his narrator, 'Itbān. But this does not affect the point in question. Whatever reasons Abū Ayyūb had for disbelieving Maḥmūd, the same he might have for disbelieving 'Itbān. Abū Ayyūb never thought Maḥmūd, to be a liar: he thought he must have misunderstood what had been narrated to him: and this is a suspicion that could be entertained about the first reporter as well. So had 'A'isha told certain Companions that they drew from trustworthy and truthful persons, but the ear was often at fault.¹

Once 'Ammār ibn Yāsir reported a Hadīth regarding Tayammum (purification with dust in lieu of water when the

1. The *Ṣaḥīḥ* of al-Bukhārī, Chapter Tayammum.

latter is not available) to 'Umar ; and 'Umar did not believe it. The *Sahih* of Muslim reports that he admonished 'Ammār saying, "O, 'Ammār, fear God". Hence it was that 'Abd Allāh ibn Mas'ūd, when Abū Mūsā argued with him on the strength of this Hadith, retorted, "Yes, but 'Umar was not satisfied with 'Ammār's report".¹

Once in the presence of 'Ā'isha, the Prophet was reported to have said that weeping and wailing for the dead brought tormentation to the departed soul. 'Ā'isha refused to accept it, for it was not in accord with the Qur'ānic verse : "None shoulders the burden of the other"

(Qur'ān, 32 : 7).

Similarly, the Prophet's saying that those who had been slain in the battle of Badr could hear what the Prophet said was mentioned to 'Ā'isha, and she said that Ibn 'Umar must have been mistaken. Ibn 'Umar was a well-known Companion and still 'Ā'isha refused to accept the Hadith as it was at variance with the teachings of the *Qur'ān*.

Traditionists in their discourses have tried to prove that the reasoning of 'Ā'isha which led her to reject it was at fault. We are not concerned with this controversy. What we wish to drive at is that some of the top-ranking Companions would reject a reported saying when it did not conform to logical reasoning or authoritative proof, even though there was nothing wrong with the narrators.

Next we turn to the controversy whether the husband of a divorced wife or woman should be held responsible for her maintenance during the '*Iddā*'.² Fātima bint Qais was one of the Companions, whom her husband had divorced. She reports that the Prophet, when she approached him, did

1. The *Sahih* of Muslim, *Kitab al-Jana'iz*, records these reports with several versions.

2. For fuller definition of '*Iddā* see Appendix.

not order maintenance and lodging for her. She made this statement to 'Umar, and the Caliph remarked that he would not set aside the word of God and the precept of the Prophet on the strength of a woman's statement, of whom he could not say with certainty whether she had remembered the thing or it had slipped out of her mind. Al-Imām al-Sha'bī recited this report of Fāṭima to an audience. On hearing it, Aswad ibn Yazīd pelted him with small pieces of stone for saying such a thing : and reminded him of the words of 'Umar.¹

Even after the Companions, there was a school which irrespective of the merit of the reporters, did not accept a report to be true if it baffled reason or was contrary to authoritative proof.

1. There is a weak saying ascribed to the Prophet that one who fell in love and remained chaste till he died would attain martyrdom. Ibn Qayyim, in his book *Zād al-Ma'ād*, proves this saying to be baseless by logical argument and then says: "Had the narrators been as illustrious as the sun, even then we would have regarded it as false and whimsical".²

2. In the *Sahīh* of Muslim, in the Book on Jihād, Chapter, "al-Fā'i", it is recorded that once 'Abbās and 'Alī came to 'Umar. 'Abbās said to 'Umar, "O, Caliph, be judge between me and this liar, this criminal, this misappropriator of trusts, this traitor". As no Muslim could ever utter such words for 'Alī, many traditionists have omitted them from their books.³ Al-Imām al-Māzari says:

1. The *Sahīh* of Muslim, Kitāb al-Talāq (divorce).

2. *Zād al-Ma'ād*, Cawnpore, Part III, p. 96.

3. Al-Nawawī *Shark Sahīh Muslim*, commentary on this Hadith, & Kitāb al-Jihād, Chapter al-Fā'i.

"When we cannot interpret it any other way, we shall say the narrator must have been a liar".¹

3. Al-Bukhārī has a report that God created Adam sixty yards in height. Ibn Hajar, while commenting on this saying has remarked: "This creates a difficulty. The extant relics of the ancient races, like the residences of the Thamūd and the 'Ād prove that the size of those people was not so colossal as mentioned in the foregoing Hadith. Till this time I have not been able to explain away this enigma."²
4. In the *Sahīh* of al-Bukhārī there is a Hadith which says that on the Day of Judgment Abraham will say to God, "O God, I remind Thee of Thy promise not to disgrace me in the eyes of others on the Day of Judgment." While discussing this Hadith, Ibn Hajar says: "Al-Ismā'īlī (Abū Bakr Ahmad ibn Ibrāhīm, d. 371/981) has declared this Hadith to be unintelligible and has questioned its authenticity."³ Ibn Hajar has tried to refute al-Ismā'īlī, but as Ismā'īlī holds a more authoritative place among the traditionists, his objections, even untenable, should carry weight for he rejected it on logical grounds.
5. There is another report by 'Amr ibn Maimūn to the effect that in the days of paganism he had seen a monkey committing adultery, for which the monkey was stoned to death by the other monkeys. Ibn 'Abd al-Barr, a very famous traditionist, refused to accept it on the ground that animals are not bound by religious laws, hence neither could they be

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1. Al-Nawawī, *Sharḥ Sahīh Muslim*, commentary on this Hadith, & *Kitāb al-Jihād*, Chapter al-Fā'i'.
 2. *Faṭḥ al-Bārī*, Cairo Edition, Vol. XVI, p. 260, Chapter Origin of Mankind.
 3. *Ibid.*, Vol. VIII, p. 384.

accused of adultery nor could they be punished for that. Ibn Hajar says : "Ibn 'Abd al-Barr refused to accept this story of 'Amr ibn Maimūn on the ground that adultery had been attributed to and sentence passed upon animals who are not bound by any code of morality."¹ Further on, Ibn Hajar remarks : "It is not proper to pick holes like that ; and if all the narrators are trustworthy, then these monkeys must have been Jinnis, and not ordinary animals".

6. In the *Sahih* of al-Bukhārī there is a report from Anas saying that once Muslims and the followers of 'Abd Allāh ibn Ubayy had a quarrel and at this God revealed the following verse to the Prophet : "And if two parties of the believers quarrel, make peace between them." (*Qur'ān*, 49 : 9). It is a proved fact that 'Abd Allāh ibn Ubayy and his followers had not till then professed Islam, not even outwardly. On this ground Ibn Baṭṭāl has taken exception to the report of Anas. He says that this verse does not concern the quarrel that took place between the Muslims and the followers of 'Abd Allāh ibn Ubayy, for it speaks of two groups from amongst the Muslims, whereas 'Abd Allāh ibn Ubayy was at that time a declared non-believer. Ibn Hajar remarks that Anas expressed a probable opinion.²

There are many other instances to show that the traditionists used to scrutinize traditions in the light of reason and circumstance, besides looking to the narrators.

REPORT..... ACTUAL WORDS OR MAIN IDEA

There is another controversy whether the actual words

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1. *Fath al-Bari* Cairo Edition, Vol. VII, p. 122.
 2. The *Sahih* of al-Bukhari, Kitāb al-'Ilm, contains details of this. We have given a brief description.

uttered by the Prophet or a Companion were narrated or it was just enough to have the idea expressed in the narrator's words. Traditionists hold that it was not necessary to stick to the words if the narrator described the idea, so that the sense was left unimpaired. But it is a matter for personal judgment to find out whether the narrator has faithfully expressed what was really meant. Consequently, traditionists like 'Abd al-Malik ibn 'Umar, Abū Zurāra, Sālim ibn Ja'd, Qatāda and al-Imām Mālik took pains to report actual words.¹ Evidently out of a host of narrators, the number of such cautious persons must have been very small ; and that too only when writing had become known. Usually they expressed the sense and not the actual words. In the *Jāmi'* of al-Tirmidhī, Chapter on "Causes", Sufyān al-Thaurī has been mentioned as saying :² "Believe me not if I say to you that I report that I have heard, what I express is only the sense".

Al-Tirmidhī records similar remarks by Wāthila ibn al-Asqa', Muḥammad ibn Sīrīn, Ibrāhīm Nakha'i, Ḥasan al-Baṣrī, al-Sha'bī and others.

Cautious Companions felt highly nervous while reporting the Prophet's words. In the Preface to the *Sunan* of Ibn Mājah, there is a report from 'Amr ibn Maimūn that he used to pay a visit to 'Abd Allāh ibn Mas'ūd every Thursday night, and he never heard 'Abd Allāh saying "The Prophet said this or that". On a day in an unguarded moment these words escaped his lips. Instantly his head drooped down and when 'Amr looked at him again, he saw his shirt unbuttoned, his eyes full of tears, and the veins of his neck swollen, and he was saying, "The Holy Prophet said this or this or something less or more than this or something like this".

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1. *Jāmi'* of al-Tirmidhī: Chapter on Causes, contains this clarification regarding these men.
 2. Ibid.

Al-Imām Mālik looked apprehensive whenever he narrated a Hadith, doubting whether the Prophet had said so or so. Al-Imām al-Sha'bī says that he remained in the company of 'Abd Allāh ibn 'Umar for a year, but he never heard him quoting a Hadith from the Prophet. Sā'ib ibn Yazid says that he travelled with Sa'd ibn Mālik from Mecca to Medina, but throughout this long journey he did not hear this Companion narrating a Hadith from the Prophet. 'Abd Allāh ibn Zubair once said to his father, "I have never heard you narrating a Hadith from the Prophet like other Companions". The father replied, "Since I came into the fold of Islam, I have never parted company with the Prophet, but I have heard the Prophet saying that whosoever speaks of him anything untrue, makes his abode in Hell".¹

Ibn Mājah reports the Prophet himself addressing from the pulpit the words, "Beware, ye shall not narrate much from me".²

Here it is worth noticing that the scrupulous care taken with regard to the traditions of this kind has nothing to do with the character of the reporters. Authentic and reliable reporters can never be suspected of a wilful misstatement; but the most trustworthy and reliable narrator may possibly misunderstand or misreport a saying; and reports made by reliable Companions, when discounted, were discounted on this basis alone.

Once the following Hadīth was narrated on the authority of 'Abd Allāh ibn 'Umar before 'Ā'isha: "Wailing and weeping by the living bringeth tormentation to the departed soul". Hearing this 'Ā'isħa said, "Neither you tell a lie yourself nor does your narrator, but the ear may err."³

1. All this detail is given in the Preface to the *Sunan* of Ibn Mājah, (Lucknow Edition), pp. 4 & 5.

2. Ibid., p. 5.

3. Muslim, *Šaħħik*, Book of al Janā'iz (funeral).

There is another saying from 'Ā'isha about 'Abd Allāh ibn 'Umar which runs thus : "Of course he did not tell a lie ; yet either he forgot or missed the meanings."

HADITH NARRATED BY A LONE NARRATOR

There is another problem created by the "Ahād Ahādīth". These are the traditions, which at some stage in the chain hang on a single reporter not supported by any one else. Acceptance or non-acceptance of such sayings is a disputed matter. The Mu'tazilites discredit all such reports as a matter of principle. But it comes to denying a patent fact. In our daily life we readily believe a report by a single man and we never question its truth. For instance, a man comes and tells us that Zaid is calling us, we at once get up ; and we never care for the singleness of the reporter. As opposed to the Mu'tazilites there are traditionists inclined to take such sayings as true and unquestionable. But this is carrying things too far ; and the attitude of the Prophet was opposed to it.

Abū Mūsā al-Ash'ari once went to see 'Umar and sought his permission three times. As 'Umar was busy with something, the call was not answered and Abū Mūsā turned back. When 'Umar had done with his business, he sent for Abū Mūsā and asked why he had gone away. Abū Mūsā replied that he had heard the Prophet saying that if one called thrice and there was no response, one should turn back. At this 'Umar asked Abū Mūsā to produce some corroborator or he would punish him. When Abū Mūsā had produced a witness, 'Umar was satisfied. This does not in any way mean that 'Umar did not consider Abū Mūsā a reliable man. But the Hadith pertained to a common experience of every day life, and 'Umar himself had never heard the Holy Prophet saying like that in spite of his long association with him. So he considered a single reporter not quite sufficient and demanded another to confirm it.

A similar incident is reported to have taken place in the days of the first Caliph, Abū Bakr. An old woman who happened to be the paternal grandmother of a dead person came to the Caliph and claimed her share of the property of the deceased. Abū Bakr replied that the *Qur'ān* did not mention a grand-mother's share nor did he know of a saying of the Prophet in the matter. At this Mughīra ibn Shu'ba came forward with a statement that the Prophet allowed one-sixth to a grand-mother. Abū Bakr did not consider a single witness sufficient in such a case, only when Muham-mad ibn Maslama, another Companion of the Prophet, had seconded Mughīra, did Abū Bakr allow the woman her share.

Similarly, in the case of the blood-money of a new-born child, 'Umar did not consider the lone evidence of Mughīra sufficient. More examples of this type can be produced.

The followers of al-Imām Abū Ḥanīfa have adopted a safer course with regard to "Riwāyā Āḥād". They say they may be problematically, not finally, true. Granting that the sources are worthy of trust and reliance, the decision whether a "Riwāyā Āḥād" is genuine or spurious, definitive or merely probable, will in fact, depend on the import of the report itself. If we are informed that Zaid is calling us, we never doubt the information provided the man is reliable and serious. But if the same person tells us that His Majesty the King has invited us to a state function, we would hardly give any credit to the report, unless the news is confirmed through some other source. Similarly, if a narrator says that he had seen the Prophet wearing a white shirt, we shall be prepared to believe him. But if the same person says that he had seen the Prophet coming out bare-bodied (and there is actually a report like that), we will never consider the solitary evidence sufficient.

CONCLUSIONS

In the previous pages we have brought out the attitude

of eminent Companions towards Hadith and its narration, and also dealt at length with the rules and principles followed by the critics and scholars of this science. We reiterate serially the conclusions arrived at :

1. While dealing with an incident, the source we should draw from, should be first the *Qur'ān*, next the well-known authentic collections of traditions, then the other books on traditions, last of all the books on *Sīra*.
2. Books on *Sīra* need scrutiny ; their statements and sources have to be critically examined.
3. Books on *Sīra* being inferior to those on Hadith in respect of authenticity, preference should always be given to the statements of Hadith when the two disagree.
4. In case the traditions record conflicting statements, those made by men of intelligence and aptitude for Fiqh should have preference over others.
5. Biographical events have to be linked to their causes.
6. The criteria for the status and position of a narrator should be flexible according to the nature of the incident.
7. Subjective element entering into a statement has to be distinguished from the objective truth.
8. The impact of external influence has to be appraised.
9. Statements belied by reason, general experience, established principles and attendant circumstances should not be treated as valid.
10. When dealing with important issues varying statements have to be put together and compared

in order to make sure that the narrator has not erred in expressing the meaning intended.

11. The "Riwayā Ahād" should be accepted only if warranted by the import of the report and the circumstances of the time.

This enunciation and elucidation of the principles of historital narration reveals that in order to judge the truth of a report in the light of reason and circumstances, the Muslims had certainly developed scientific methods of a very high order. Can the Western biographers claim, or does the entire historical record of nations present, even an iota of the hard labour of the minute observation and penetrating thought the Muslim traditionists brought to bear upon this science to arrive at facts ? Has a single European biographer of the Prophet wielded his pen with an industry so painstaking and an understanding so discriminating ? Or is it even possible for a non-Muslim to handle the subject in conformity with a code of rules as these ?

EUROPEAN BIOGRAPHIES OF THE PROPHET

In another volume we shall discuss in detail the biographies of the Prophet written by Europeans. There we shall make an extensive survey of the material the Europeans have till now produced since the days of Hal de Bert (living in 1139 C.E.). We shall then examine their general trend, their common mistakes, their sources of information and the reason for the common errors they share. Finally, we shall try to judge to what extent malice and prejudice have been at work. Here we propose a discourse on their works, for in this part as well we have had occasion to refer to or comment on them.

Europe remained ignorant of Islam for a considerably long time and when it tried to get to know something, it was suffering from strange notions—calumnious as well as whimsical. A European author writes : "During the first few

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The Authenticity of Prophetic Hadîth: A Pseudo-Problem

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The Authenticity of Prophetic Hadîth : a Pseudo-problem

I

The most central problem associated with Prophetic *hadîth* has undoubtedly been their authenticity. This issue occupied Muslim specialists since the early classical period, and has continued to command the intense attention of western scholars since the middle of the last century. Gustav Weil was one of the first, if not the first, to suggest, as early as 1848, that a substantial bulk of the *hadîth* should be regarded as spurious (1). In 1861, Aloys Sprenger in effect argued the same point (2). But it was Ignaz Goldziher who inaugurated the critical study of the *hadîth*'s authenticity. Concerned with the early evolution of Islamic dogma and theology, Goldziher concluded that the great majority of the Prophetic *hadîth* constitute evidence not of the Prophet's time to which they claim to belong, but rather of much later periods (3). Goldziher's critical approach to *hadîth* was taken further, and indeed refined, by Joseph Schacht who insisted that insofar as legal *hadîth* are concerned, they must be assumed fictitious until the contrary is proven (4).

An earlier version of this paper was presented at a conference on *hadîth* held at the School of Oriental and African Studies, University of London, March 19-21, 1998. I should like to thank the participants who commented on my presentation, notably M. Qasim Zaman, Lawrence Conrad and Harald Motzki.

(1) *Geschichte der Chalippen*, 5 vols. (Mannheim: Friedrich Bassermann, 1846-62), II, 289 ff.

(2) *Das Leben und die Lehre des Mohammed*, 3 vols. (Berlin: Nicolaische Verlagsbuchhandlung, 1861-5), III, bxxvii-civ; idem, "On the Origin of Writing Down Historical records among the Muslims," *Journal of the Asiatic Society of the Bengal*, 25 (1856): 303-29, 375-81.

(3) *Muslim Studies*, ed. S.M. Stern, trans. C.R. Barber and S.M. Stern, 2 vols. (London: George Allen and Unwin, 1971), II, 19, 89 ff., 126 ff. For a summary of Goldziher's position, see James Robson, "Muslim Tradition: The Question of Authenticity," *Memoirs and Proceedings, Manchester Literary and Philosophical Society* 93, 7 (1951-2):84-102, at 94 ff.

(4) *The Origins of Mubammadan Jurisprudence* (Oxford: Clarendon Press, 1950).

Since Schacht published his monumental work in 1950, scholarly discourse on this matter has proliferated. Three camps of scholars may be identified: one attempting to reconfirm his conclusions, and at times going beyond them; another endeavouring to refute them; and a third seeking to create a middle, perhaps synthesized, position between the first two. Among others (5), John Wansbrough (6), and Michael Cook (7) belong to the first camp, while Nabia Abbott (8), F. Sezgin (9), M. Azami (10), Gregor Schoeler (11) and Johann Fück (12) belong to the second. Harald Motzki (13), D. Santillana (14), G.H. Juynboll (15), Fazlur Rahman (16) and James Robson (17) take the middle position.

Despite significant differences in the methodologies and assumptions of these scholars, even within one and the same camp, and despite the fact that not all of them dealt with the problem of authenticity for its own sake (18) they all share one fundamental assumption, namely, that

(5) See n. 19, below.

(6) *Quranic Studies: Sources and Methods of Scriptural Interpretation* (Oxford: Oxford University Press, 1977).

(7) *Early Muslim Dogma: A Source-Critical Study* (Cambridge: Cambridge University Press, 1981).

(8) *Studies in Arabic Literary Papyri, II: Qur'anic Commentary and Tradition* (Chicago: The University of Chicago Press, 1967), 7 ff.

(9) *Geschichte des arabischen Schrifttums, Band I: Qur'änwissenschaften, Hadith, Geschichte, Fiqh, Dogmatik, Mystik bis ca. 430 H.* (Leiden: E.J. Brill, 1985), 53 ff.

(10) *On Schacht's Origins of Muhammadan Jurisprudence* (Riyadh: King Saud University, 1985); idem, *Studies in Hadith Methodology and Literature* (Repr., Indianapolis: American Trust Publications, 1992).

(11) "Die Frage der schriftlichen oder mündlichen Überlieferung der Wissenschaften im frühen Islam," *Der Islam*, 62 (1985): 201-30; idem, "Weiteres zur Frage der schriftlichen oder mündlichen Überlieferung der Wissenschaften im Islam," *Der Islam*, 66 (1989): 38-67; idem, "Mündliche Thora und Hadith: Überlieferung, Schreiberbot, Redaktion," *Der Islam*, 66 (1989): 213-51; idem, "Schreiben und Veröffentlichen: Zu Verwendung und Funktion der Schrift in den ersten islamischen Jahrhunderten," *Der Islam*, 69 (1992): 1-43.

(12) "Die Rolle des Traditionalismus im Islam," *Zeitschrift der Deutschen Morgenländischen Gesellschaft*, 93 (1939): 1-32. For a summary of Fück's position, see Robson, "Muslim Tradition", 96-8.

(13) *Die Anfänge der islamischen Jurisprudenz: Ihre Entwicklung in Mekka bis zur Mitte des 2./8. Jahrhunderts* (Stuttgart: Franz Steiner, 1991); idem, "Qua vadis Hadith-Forschung. Eine kritische Untersuchung von G.H.A. Juynboll: 'Nāfi' the *mauli* of Ibn 'Umar, and his position in Muslim Hadith Literature," *Der Islam*, 73 (1996): 40-80; idem, "The *Muṣannaf* of 'Abd al-Razzāq al-ṣanā'i as a Source of Authentic *Aḥādīth* of the First Century A.H.", *Journal of Near Eastern Studies*, 50 (1991): 1-21; idem, "Der Fiqh des Zuhri: Die Quellenproblematik," *Der Islam*, 68 (1991): 1-44.

(14) For Santillana's position, see Robson, "Muslim Tradition", 95.

(15) *Muslim Tradition: Studies in Chronology, Provenance and Authorship of Early Hadith* (Cambridge: Cambridge University Press, 1983).

(16) *Islam* (Chicago and London: University of Chicago Press, 1979), 43 ff.; idem, *Islamic Methodology in History* (Karachi: Central Institute of Islamic Research, 1965), 1-24, 27-82.

(17) "Muslim Tradition", 84-102; idem, "Tradition: Investigation and Classification," *Muslim World*, 41 (1951): 98-112; idem, "The *isnād* in Muslim Tradition," *Transactions of the Glasgow University Oriental Society*, 15 (1953-4): 15-26.

(18) Admittedly, a number of historians subjected *hadīth* to the same historiographical apparatus they applied to other types of historical narrative, thus circumventing the issue of authenticity altogether. Although in practical terms their approach is the *desideratum*, the problem remains, theoretically and epistemologically, unsolved.

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the early and medieval Muslim scholars espoused the view that the Prophetic *hadîth* literature is substantially genuine, and that despite the relatively large scale forgery that took place in the early period, the literature, at least as it came to be constituted in the six so-called canonical collections, has been successfully salvaged and finally proven to be authentic. It is only against this backdrop of traditional religious assumptions that the modern controversy can make any sense. For if the mainstream traditional scholarship was perceived not to have made claims for the authenticity of *hadîth* there would be little, if anything, to argue against. In fact, if these were not the perceived traditional claims, there would have been no controversy to begin with, since the issue would in no way pose a problem.

One would expect that before any ink had been spilt in commenting on the problem of authenticity (¹⁹), it would have been a fundamental requirement first to define the traditional Muslim position with regard to this specific question. If mainstream Muslim scholarship considered the *hadîth* literature to be a true representation of the actual words of the Prophet, then by what epistemological yardstick did they measure the veracity of that literature? Furthermore, we should have asked – before Goldziher, Schacht, and their like began to expend so much scholarly energy in treating the matter – how the traditional Muslim criteria for judging the authenticity of the *hadîth* tally with, or more importantly, epistemologically differ from our modern critical and scholarly criteria. In this short essay, I argue that the scholarly output concerned with authenticity since Weil raised the issue a century and a half ago is largely, if not totally, pointless.

I have no new evidence to add to the massive repertoire of existing material, and nothing in my methodology here is unconventional. In fact, I shall – insofar as an author can minimize the divide between his sources and his reader – let the traditional position speak for itself. Once that position is clarified and defined, we will be able to conclude that traditional Muslim scholars have already solved the problem for us, and that we have needlessly expended much scholarly effort because we have not listened carefully to what these scholars have for so long been telling us.

(¹⁹) The secondary literature dealing with the problem of authenticity is massive, and the contributors to the debate mentioned in nn. 1-17 are only among the most obvious. In the west, there are several others who wrote on the problem; in the Muslim world, the list of contributors to this subject, and critics of the Orientalists' findings cannot be exhausted. On additional contributors to the debate, see James Robson, "Hadîth", *Encyclopedia of Islam*, New Edition, III (Leiden: E.J. Brill, 1979), 28.

II

The evidence of my argument is derived from a familiar field of Islamic traditional discourse, a field that has escaped the attention of modern *hadith* scholarship. This is legal methodology, properly known as *uṣūl al-fiqh*. In this methodology, Prophetic *hadith* is treated from a number of perspectives, but what concerns us here is the perspective of epistemology which seeks to order the types of *hadith* on a spectrum that ranges from the dubious to the certain, by way of the central category of the probable. Setting, for obvious reasons, the dubious aside, legal methodology acknowledges two categories, *khabar al-wāhid* (or the *āḥād*) and the *mutawātir* (⁽²⁰⁾). Because of the modalities through which they are transmitted, the contents of the former are known only with probability, the latter with certainty (⁽²¹⁾).

In the following paragraphs, we shall define the two categories in terms of epistemology. It is a curiosity of legal methodology – a curiosity whose explanation is irrelevant here – that the *āḥād* is defined in terms of the *mutawātir*; that is, the *āḥād* can be identified and known only in terms of what the *mutawātir* is not (⁽²²⁾). If this is the case, then what is the *mutawātir*? The common, and indeed indisputable, definition of this type of *hadith* is that it is any report that reaches us through textually identical (⁽²³⁾) channels of transmission which are sufficiently numerous as to preclude any possibility of collaboration on a forgery. The persons who witnessed the Prophet saying or doing a particular thing, or merely approving an act or event tacitly, had to have been sure of what they observed, and their knowledge of what they witnessed must have been based on sensory perception (*māhsūs*) (⁽²⁴⁾). For the

(20) One jurist, for instance, stated the matter in unequivocal terms: "Reports are either *tawātur* or *āḥād*. There is no third (category)" (*al-akbār īmmā tawātur aw āḥād, lā tbālitba labumā*). See Ahmad b. Qāsim al-'Abbādī, *al-Sharḥ 'alā al-Waraqāt*, ed. Sayyid 'Abd al-Azīz and 'Abd Allāh Rabi', 2 vols. (Madīnah (?): Mu'assasat Qurṭuba, 1995), II, 403. Another jurist noted that there is no middle category between the two. See Muhammad Antīn Amīr Bādishāh, *Taysīr al-Tahrīr: Sharḥ 'alā Kitāb al-Tahrīr*, 3 vols. (Meccā: Dār al-Bāz, 1983), III, 37.

(21) 'Alī b. 'Amr Ibn al-Qaṣṣār, *al-Muqaddima fī al-Uṣūl*, ed. Muḥammad Sulaymānī (Beirut: Dār al-Gharb al- Islāmī, 1996), 65-6, 69.

(22) Muḥammad b. 'Alī al-Tahānawī, *Kashshāb Iṣṭilāḥāt al-Funūn*, 2 vols. (Calcutta: W.N. Leeds' Press, 1862), II, 1463.

(23) Meaning that all instances of transmission must be identical in their language (*lafz*). Hence the name *al-tawātur al-lafzi* which is given to this type of *hadith* in order to distinguish it from *al-tawātur al-ma'navi* (to be discussed below).

(24) Shihāb al-Dīn al-Qarāfī, *Sharḥ Tanqīḥ al-Fuṣūl fī Iktīṣār al-Maḥṣūl fī al-Uṣūl*, ed. Tāha 'Abd al-Ra'ūf Sa'd (Cairo: Maktabat al-Kulliyāt al-Azharīya, 1973), 349; Muḥammad b. al-Husayn al-Farrā' al-Baghdādī, *al-'Uddā fī Uṣūl al-Fiqh*, ed. Ahmad al-Mubārakī, 3 vols. (Beirut: Mu'assasat al-Risāla, 1400/1980), III, 848; W.B. Hallaq, "On Inductive Corroboration, Probability and Certainty in Sunnī Legal Thought", in Nicholas Heer, ed., *Islamic Law and Jurisprudence: Studies in Honor of Farbat J. Ziadeh* (Seattle and London: University of Washington Press, 1990): 10 ff.; Bernard Weiss, "Knowledge of the Past: The Theory of *Tawātur* According to Ghazālī", 61 (1985): 88 ff.

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hadîth to attain the level of certainty, these conditions must obtain at all stages of transmission, from the first tier to the last (25).

A great majority of Muslim legal theoreticians (*uṣūliyyūn*) espoused the view that the *mutawâṭir* yields necessary or immediate knowledge (*dâri’i*), whereas a minority thought that the information contained in such reports can be known through mediate or acquired knowledge (*muktasab* or *nazari*) (26). In contradistinction to mediate knowledge, where by definition inference is the means of its acquisition, necessary knowledge is neither inferred nor does it allow for any mental or intellectual reflection. It is directly imposed upon the intellect without any awareness of the process through which knowledge obtained in the mind (27). When a person hears a *hadîth* narrated by one transmitter, he is presumed to have gained only probable knowledge of its contents, and thus of its authenticity. To reach conclusive knowledge, the *hadîth* must be heard by this person a sufficient number of times, and each time it must be narrated by a different transmitter. Four or fewer instances of hearing such a *hadîth* were deemed insufficient to constitute a *tawâṭur* transmission, since, the jurists argued, the *qâdî* in a court of law must deliberate on the testimony of four witnesses (as well as investigate their moral rectitude) before he renders his verdict. This process of deliberation and reflection precludes the possibility of immediate knowledge obtaining, be it in the case of court-room witnesses or of *hadîth* transmission (28).

Some scholars fixed the minimum number of transmissions yielding *tawâṭur* at five, while others set them variably at 12, 20, 40, 70 or 313, each number being justified by a Quranic verse or some religious account (29). The inability to determine, on rational grounds, the minimum number of transmissions required, led Muslim jurists back to the

(25) Qarâfi, *Sbarh*, 349-50; Muhammad al-Izmîrî, *Mir’ât al-Uṣûl fi sbarh Mirqât al-Wuṣâl*, 2 vols. (Istanbul: n.p., 1884), II, 199; Weiss, "Knowledge of the Past", 88-9.

(26) 'Abbâdi, *al-Sbarh al-Kâbir*, II, 392-3. Abû Bakr Ahmad Ibn Saïl al-Sarakhsî, *al-Muharrar fi Uṣûl al-Fiqh*, ed. Salâh b. 'Uwayyâd, 2 vols. (Beirut: Dâr al-Kutub al-'Ilmiyyâ, 1996), I, 213, 218 f.

(27) W.B. Hallaq, *A History of Islamic Legal Theories* (Cambridge: Cambridge University Press, 1997), 37 ff. The immediate knowledge which the *tawâṭur* engenders in the intellect eliminates any possibility of inference because the *mâhsûs*, the original Prophetic event (deeds, words, tacit approval, etc.) perceived by the senses, are directly connected with the comprehension and sense-perception of the hearer. Thus, when one hears a *mutawâṭir* number of identical *hadîths* transmitted, the knowledge that accumulates therefrom is said to carry with it the actual original experience, as if it were the direct experience of the hearer himself. See Abû Ishaq al-Shirâzî, *al-Tâbâṣra fi Uṣûl al-Fiqh*, ed. M. Hasan Haytû (Damascus: Dâr al-Fikr, 1980), 291, 293.

(28) Abû Bakr al-Baqillâni, *Tambid*, ed. R.J. McCarthy (Beirut: Librarie orientale, 1957), 384; Qarâfi, *Sbarh*, 352; Farrâ', *'Uddâ*, III, 856; Sayf al-Dîn al-Âmidî, *al-Îhkâm fi Uṣûl al-Ahkâm*, 3 vols. (Cairo: Maṭba'at 'Alî Šubayh, 1968), I, 230.

(29) Âmidî, *Îhkâm*, I, 229; Imâm al-Haramayn al-Juwayni, *al-Burbân*, ed. 'Abd al-'Azîz Dib, 2 vols. (Cairo: Dâr al-Ansâr, 1400/1979), I, 569-70; Farrâ', *'Uddâ*, III, 856-7.

intellect of the hearer as the point of reference for measuring the number of *hadīths* leading to conclusive, immediate knowledge. It turns out that it is the moment at which a person realizes that he is completely certain of the contents of a reported *hadīth* which determines the number of transmissions required for that particular instance of transmission, not the other way round; the number may be decided only when immediate and conclusive knowledge has been reached (⁹).

Now, the *khabar al-āḥād* is simply defined as any *hadīth* which falls short of meeting the requirements of the *mutawātir* (¹). It may be solitary throughout all tiers of its transmission, but it may begin as an *āḥād* and later acquire added channels of transmission. If the total number of channels becomes at any tier three, four or even five, and continues to be transmitted through any particular number of channels, then it becomes known as *mustafid* (²). If, on the other hand, the channels multiply further so as to reach a *tawātur* number, then it becomes known as *mashbūr* (³). A number of scholars espoused the view that the *mashbūr* and the *mustafid* are identical, in the sense that they are two interchangeable names for any *hadīth* that begins as an *āḥād* and later acquires added channels of transmission (⁴). Some Ḥanafites argued that the *mashbūr* yields acquired knowledge, but the general view seems to have been that since all these types originated as *āḥāds*, they engender only probable knowledge (⁵). In any event, no *hadīth* of the *āḥād* category can, by itself, reach the level of *tawātur*, however many channels of transmission it may later acquire.

Probably sometime during the fourth/tenth century, but certainly not before the middle of the third/ninth, a new category of *hadīth* was introduced. This category acquired the name *al-tawātur al-ma`nawī*, and we have every reason to believe that it was created in order to solve what was considered to be a formidable problem regarding the issue of

(30) Farrā', *Udda*, III, 855; Qarāfi, *Sharḥ*, 352; Muwaffaq al-Dīn Ibn Qudāma, *Rawdat al-Naẓir wa-Junnat al-Munāṣir*, ed. Sayf al-Dīn al-Kātib (Beirut: Dār al-Kitāb al-`Arabi, 1372/1952), 89; Fakhr al-Dīn al-Rāzi, *Lubdāb al-Ishbārāt* (Cairo: Maṭba`at al-Sa`āda, 1355/1936), 27.

It is to be noted that the determination of the *mutawātir* was not in reality as subjective a matter as legal theory makes to be. The community of jurists and traditionists did agree, in the great majority of cases, on which *hadīths* were *mutawātir* and which were not.

(31) Tahānawī, *Kashshāf*, II, 1463.

(32) `Abbādī, *al-Shārḥ al-Kabīr*, II, 404.

(33) The jurists differed on the details of such classifications. See Amīr Bādīshāh, *Taysīr*, III, 37. It is to be noted that some *hadīths* of the *mashbūr* type are considered spurious by the traditionists. Ibn al-Šalāḥ observes that there are *hadīths* of this type that "are attributed to the Messenger of God and circulate in the marketplace, but which are fictitious" (*wa-bundukā ahādīth mashbūra taddūru `an Rasūl Allāh fi al-aswāq laysa labā aṣl*). See his *Mugaddimat Ibn al-Šalāḥ wa-Mahāsin al-Isṭilāḥ*, ed. A'isha `Abd al-Rahmān (Cairo: Dār al-Ma`ārif, 1989), 451.

(34) `Abbādī, *al-Shārḥ al-Kabīr*, II, 404

(35) Amīr Bādīshāh, *Taysīr*, III, 37.

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the authoritativeness of consensus (*hujjiyyat al-ijmā'*)⁽³⁶⁾. Despite the limited use of this type of *tawâtur*, it became nonetheless a widely recognized category, standing on equal footing with the regular *mutawâtir* (technically known as *tawâtur lafzi*) and the *âhâd*. This latter type engenders, in terms of the Probability Theory in mathematics, a degree of probability in excess of 0.5 (certainty being 1.0). Now, when two *âhâdî hadîths* relayed by different transmitters support a particular point or theme (*ma`nâ*), their probability together increases. If we assume that two *âhâdî hadîths* possess in common a given theme, and the probability of each *hadîth* being true is, say, 0.51, then the aggregate probability of their being true is increased to a degree higher than 0.51 but still significantly lower than 1.0. When a greater number of such *hadîths*, all being textually different and all having independent channels of transmission, possess in common the same theme, the knowledge of this theme increases until it finally leads to a degree where it becomes both immediate and conclusive⁽³⁷⁾.

Now, before discussing the epistemic value of the three types outlined here, we shall do well to assess our own epistemic criteria for accepting historical narrative, since, after all, the issue at stake is whether or not we can take the *hadîth* literature to be a true representation of what the Prophet had actually said or done. We have already said that if what Weil, Goldziher, Schacht and their ilk have argued against the *hadîth*'s authenticity is to make any sense, it must be taken for granted that what they have assumed Muslim scholars to say is that the *hadîth* is authentic, namely, that as a whole it represents what the Prophet said or did with certainty. It is inconceivable that these Orientalists would have made such drastic assertions had they understood traditional Muslim scholars to assert the veracity of the *hadîth* merely in probabilistic terms. I for one do not believe that Goldziher, for instance, would have raised such a fuss over the reliability of the *hadîth* as a historical source had he understood the traditional scholars to acknowledge that the *hadîth*'s veracity cannot be known apodictically and that its authenticity can be asserted only in probabilistic terms.

In most instances involving the study of individual *hadîths* (the total numbering in the tens of thousands) it is frequently difficult to establish that a particular *hadîth* represents a later fabrication. But if we are able to cast serious, or even some, doubt about a *hadîth*'s authenticity, then, as careful historians – which I hope we are – we should either dismiss it entirely or, if it is only mildly problematic, use it in a circumscribed

(36) On this, see Wael B. Hallaq, "The Authoritativeness of Sunni Consensus", *International Journal of Middle East Studies*, 18 (1986): 427-54.

(37) Amîdî, *Ihkâm*, I, 232-3; Abû al-Wâlid b. Khalaf al-Bâjî, *al-Minhâj fi Tartîb al-Hîjâj*, ed. `Abd al-Majid Turki (Paris: Paul Geuthner, 1976), 76; Hallaq, "Inductive Corroboration", 17 ff.

manner with the full knowledge and awareness that it cannot constitute a reliable source. In either case, it is not to be trusted. We trust only a historical narrative that we believe with assurance to have originated with the event itself, and even then we must guard against "ideological" biases as well as a variety of other potential problems.

In terms of the Probability Theory, any narrative that we think to be equal to 0.51 or less is to be immediately dismissed. Compare this, for instance, with the case of a human birth, where the probability of the infant being a girl is 0.5, since the remaining 0.5 is assigned to the probability of its being a boy. If the probability of a hadīth being true (=authentic) is only marginally higher (by 0.01 or even moderately more) than the probability of a certain new born being a girl (or for that matter a boy), then surely we have little reason, if any, to trust such a hadīth as a credible historical datum.

In this context, both the *āḥād* and the *tawātūr al-ma`nawī* fail to survive beyond the test of probability. The *āḥād* is admittedly *zannī*, meaning that it engenders in the intellect a probability in the order of 0.51 or higher, but never, even in the most optimistic of circumstances, certainty. It is with this in mind that the Muslim jurists and traditionists readily acknowledged that the *āḥād* is subject to mendacity and error, for probability itself is, by definition, liable to falsification (⁹). If the *āḥād* is not to be trusted as a historical source, then *al-tawātūr al-ma`nawī* is to be treated precisely in the same manner, for this type of *tawātūr* is nothing more than a collection of *hadīths* of the *āḥād* type. In fact, it is precisely on these grounds that a number of scholars denied the *mutawātir lafzī* the status of certainty, although this *tawātūr* was universally acknowledged as being epistemically superior to the *ma`nawī* type (⁹). For our purposes then - and not those of medieval Muslim scholars who associated this concept of *tawātūr* with metaphysical and theological postulates - if the particulars are dubious, then the whole is equally so. In due course, we shall see that, in any event, no *hadīths* of the *ma`nawī* type, except for one (⁹), can

(38) Najm al-Din Sulaymān al-Tūfi, *Sbarī Mukhtaṣar al-Rawda*, ed. `Abd Allāh al-Turki, 3 vols. (Beirut: Mu'assasat al-Risāla, 1407/1987), II, 112, 115 (*kbabar al-wāhid yaḥtamil al-kadhib*); Abū `Amr Ibn al-Ṣalāḥ, *Siyānat Ṣahīḥ Muslim min al-Ikblāl wal-Gbalāl*, ed. Muwaffaq `Abd al-Qādir (Beirut: Dār al-Gharb al- Islāmī, 1404/1984), 85 (*al-żann qad yuḳbi'i*); Ibn al-Qaṣṣār, *Muqaddima*, 110 (*kbabar al-wāhid ... jāza `alaybi al-nasib wal-qbalāl wal-sabu wal-kadhib*); Abū `Alī al-Sarakhsī, *Uṣūl* (Beirut: Dār al-Kitāb al-`Arabi, 1982), 269; "[al-āḥād] fī-bi iḥtimāl wa-shubba".

(39) Sarakhsī, *Muḥarrar*, I, 213 ff.

(40) Which has the common theme "my community shall never agree upon an error". See Hallaq, "On the Authoritativeness of Sunni Consensus", 441 ff. I should note that this *hadīth* was not admitted by all jurists as capable of engendering certainty. Fakhr al-Dīn al-Rāzī and Tūfi, for instance, rejected it as less than an apodictic source, and thus incapable of justifying consensus. See his *al-Maḥṣūl fi `Ilm al-Uṣūl*, 2 vols. (Beirut: Dār al-Kutub al-`Ilmiyya, 1988), II, 8-47. See also W.B. Hallaq, *Law and Legal Theory in Classical and Medieval Islam* (Aldershot: Variorum, 1994), addendum to VIII.

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be said to have survived, assuming that there was more than one in existence (¹).

III

What remains then is the *mutawâtil* of the *lafzî* kind, which is productive of immediate and thus certain knowledge. However, before we address this category, we ought to look at another sphere of traditional Muslim discourse generated not by the jurists and legal theoreticians, but by the traditionists (*muhaddithûn*) themselves, the *hadîth* experts par excellence.

While the linguistic and epistemological study of *hadîth* was one of numerous subjects that preoccupied the legal theoreticians, the traditionists' main business was, by definition, exclusively that of the *hadîth*. This, in other words, was their specialty. But this shared interest in the *hadîth* was virtually the only common denominator between the two groups (²). The legal theoreticians were, in the final analysis, interested in the *hadîth* as part of their epistemological enterprise, which was *uṣūl al-fiqh*. What concerned them in the end was the evaluation of this source, among many other theoretical elements, in terms of the degree to which law as conceived by man is identical or different from that lodged in the mind of God. The higher the probability that a particular *hadîth* (on which a ruling is based) was authentic, the closer the jurist came to the Higher Truth of the Law as it pertained to that particular ruling. It was precisely in this epistemic evaluation that the interest of the legal theoretician lay. (And it is precisely here that the interest of the theoreticians coincides with that of modern scholars. Both groups are interested in the authenticity and veracity of *hadîth* from an epistemological perspective, despite the differing approaches they adopt in their assessments.)

The interest of the traditionists, on the other hand, lay elsewhere. True, they were interested in the veracity of the *hadîth* but from an entirely different vantage point. They studied *hadîth* insofar as it leads to what they called '*amal*' (³), that which is based on probability but

(41) With the exception of the *hadîth* pertaining to the authoritativeness of consensus, I know of no other. See previous note.

(42) Works on *hadîth* constantly make reference to the distinctly different categories and terms used by the jurists and legal theoreticians. Less often, but frequently enough, the theoreticians make the same reference to the traditionists.

(43) See 'Abd al-Rahmân Ibn Khaldûn, *Muqaddima* (Beirut: Dâr Ihyâ' al-Turâth al-'Arabi, n.d.), 442, who argues that the *hadîth* constituting the bulk of the six canonical collections is that which fulfills the requirement of '*amal*'. Undeniably, the consideration of '*amal*' was also important from the legal perspective, but the traditionists laid more stress on it than did the legal theoreticians, who were interested more in the epistemological side of the *hadîth*. See 'Abbâdi, *al-Sbarî al-Kâbir*, II, 405; Tûfî, *Sbarî*, II, 112, 114.

which is also necessary to constitute the foundations of pious religious practice ('). In other words, unlike the legal theoreticians, they were by no means interested in the probable/certain dichotomy, but rather in any Prophetic material that appeared to them to meet the minimal requirements of "soundness." This is why their first and foremost category of *hadīth*, the *sahīh* (sound), consisted of various types, not the least of which are those *hadīths* which engender mere probability ("). Probably for the same reason, they did not, in their classification of *hadīth*, distinguish any category equivalent to the *uṣūlī* type of the *mutawātir*. Ibn al-Ṣalāḥ (d. 643/1245), one of the most distinguished traditionists of the *muta'akibkibrūn* ("), explicitly states that in the traditionists' discourse the taxonomy of the *mutawātir* is nowhere to be found; and this, he says, is due to the fact that such *hadīths* do not constitute part of their *riwāya* (').

It bears some reiteration here that a major criterion of the traditionists (and to some extent of the legal theoreticians) (") was the desideratum of *'amal* (") that is, religious praxis in all spheres of human life, praxis that is founded upon a reasonable knowledge of the divinely ordained sources. Certainty concerning the details of human behaviour was considered unattainable, and if conducting and organizing such behaviour were to depend significantly, or even partly, on such an epistemic category, the regulation of human life would become well-nigh impossible ("). For, as one jurist put it, certainty is a rarity in matters of law (') and law regulates all spheres of human conduct.

If the *mutawātir* was not part of the traditionists' repertoire of *hadīth*, then what they handled were *hadīths* of the *āḥād* type, or those even of a weaker sort. The sources, as is well-known, make it quite clear that the traditionists set forth a classical taxonomy which distinguishes between three main types: the *sahīh* (sound), the *hasan* (good), and the *da`īf* (weak) ("). The last two categories may be further distinguished,

(44) Ibn al-Qassār, *Muqaddima*, 67-8.

(45) Ibn al-Ṣalāḥ, *Muqaddima*, 169-70; Nawawī, *Taqrib*, 23-4.

(46) Ibn Khaldūn remarks that Ibn al-Ṣalāḥ's writings on *hadīth* are the most authoritative among the later Muslim authors (*Muta'akibkibrūn*). See his *Muqaddima*, 443.

(47) Ibn al-Ṣalāḥ, *Muqaddima*, 453-4.

(48) Who are to be distinguished here from *muftis*, *qādīs*, and other members of the legal profession that had to deal with, and directly confront the realia of judicial practice. True, the ultimate destination of *uṣūl al-fiqh* was law in a social context, but in order to be elaborated as a *theory* of law, the *uṣūl* lent itself fundamentally and structurally to epistemological distinctions which seemingly obscured, to some extent, its own genuine interest in the social reality of the law.

(49) See n. 43, above.

(50) Abū Ḥāfiẓ, *al-Sharī' al-Kabīr*, II, 405; Tūfī, *Sharī'*, II, 112, 114.

(51) Tūfī, *Sharī'*, II, 112.

(52) The *da`īf* is less frequently known as *saqīm*. See Ibn al-Ṣalāḥ, *Muqaddima*, 151 ff.; James Robinson, "Varieties of the *Hasan* Tradition", *Journal of Semitic Studies*, 6 (1961): 47-61, at 49.

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or other types may be added; e.g., *hasan-sahîh*, *hasan-gbarib* (*). Be that as it may, the *da`if*, *gharib* and other more inferior types do not concern us, for they are admitted by the traditionists themselves to be highly problematic at best and spurious at worst (*').

The *sahîh* is defined as having been transmitted in an uninterrupted manner by persons *all of whom*, from the first tier to the last, are known for their just character (*‘udûl*) and excellent memory (*dabîl*) (*'). We have already said that not all *hadîths* of this type are of the same quality or strength. At least half a dozen sub-types were distinguished, depending on how they were classified and treated by Bukhârî and Muslim, the authors of the two *Sîhâh* (*'). The *hasan*, on the other hand, is a *hadîth* transmitted by persons whose character is known to be neither just nor nefarious (*'). This type, despite its potential shortcomings, may be acted upon (*yaşlûh lîl-`amal bi-hî*), but cannot be said to represent anything more than mere probability (*').

It appears that after the fifth/eleventh century, the epistemic value of the *sahîh* became a mildly controversial matter among the traditionists - their interest being essentially non-epistemological. Nawawî (d. 676/1277) and Ibn al-Şalâh seem to have spearheaded the two opposing campaigns. Nawawî unequivocally states that "the *sahîh* means just that, *sahîh*, and does not mean that it is certain" (*'). He vehemently argued that the majority of Muslim scholars and leading authorities (*al-muhaqqiqûn wal-aktharûn*) held that unless the *sahîh* is of the *mutawâtil* category, it shall remain probable and can never attain the level of certainty (*'). On the other hand, Bulqînî (d. 805/1402) also enlists the authority of a number of scholars on his side and, basing himself on Ibn al-Şalâh, argues that those *hadîths* of the *sahîh* type on which Bukhârî and Muslim agreed lead to acquired, certain knowledge (*yaqînî nazâri*) (*'). This knowledge, Ibn al-Şalâh maintains, is due to the fact that the community of Muslims has agreed to accept Bukhârî's and Muslim's *Sîhâh* as authoritative, and this agreement amounted in his view to

(53) Muhyî al-Dîn Sharaf al-Dîn al-Nawawî, *at-Taqrîb wal-Tâyîr li-Mâ `rifat Sunan al-Basîr wal-Nâdir*, ed. `Abd Allâh al-Bârûdî (Beirut: Dâr al-Jinââ, 1986), 26; Robson, "Varieties", 48 ff.; Ibn Khalâdûn, *Muqaddîma*, 444.

(54) Nawawî, *Taqrib*, 24; Muslim, *Sahîh*, I, 30; Tûfî, *Sbarh*, II, 148.

(55) Taqî al-Dîn Ibn Daqîq al-`Id, *al-Iqtirâh fi Bayân al-İstîlâh*, ed. Qâhtân al-Dûrî (Baghdâd: Maṭba`at al-Ishâd, 1402/1982), 152; Ibn al-Şalâh, *Muqaddîma*, 151, 152; Tûfî, *Sbarh*, 148.

(56) Ibn al-Şalâh, *Muqaddîma*, 169-70; Nawawî, *Taqrib*, 23-4.

(57) Ibn Daqîq al-`Id, *Iqtirâh*, 162-3; Tûfî, *Sbarh*, II, 148.

(58) Ibn Daqîq al-`Id, *Iqtirâh*, 168; Ibn al-Şalâh, *Muqaddîma*, 175.

(59) Nawawî, *Taqrib*, 21: "wa-idâbâ qîlâ sahîh, fa-hâdbâ ma`nâbu - lâ anna-bu maqîû `un bi-hî".

(60) Nawawî, *Taqrib*, 24; Sirâj al-Dîn al-Bulqînî, *Mâhdîsin al-İstîlâh*, printed with Ibn al-Şalâh's *Muqaddîma*, ed. `Aishâ `Abd al-Râhîmân (Cairo: Dâr al-Mâ`ârif, 1989), 171-2. In fact, Amîr Bâdîshâh, *Tâyîr al-Tâhir*, 37, without making distinctions, generally remarks that probability is the function of the *sahîh* and the *hasan*.

consensus (*ijmā`*) which generates certainty (62). It is important to observe here that certainty for Ibn al-Šalāḥ does not stem from the modalities by which the *sahīh* is transmitted, but is deduced from the extraneous fact that a consensus was concluded on the authoritative choices of Muslim and Bukhārī. The implications of ignoring lines of transmission and the character of transmitters as the established criteria of proof in favour of an extraneous method of evaluation are grave. For Ibn al-Šalāḥ's position amounts in effect to arguing that the Muslim community, in and by itself, is empowered to legislate, by elevating, for instance, the status of a source of law from a level of probability to certainty. More importantly, his argument, once taken to its logical conclusion, destroys the very foundations of consensus as a source of law, since, as I have shown elsewhere, it traps it in the insoluble quandary of a *petitio principii* (63). It was precisely to avoid this very trap that generation after generation of jurists consecrated their intellectual energies. It must have been in this spirit that the influential scholar Ibn `Abd al-Salām (d. 661/1262) reproached Ibn al-Šalāḥ, calling his view defective (*radi`*) (64). Perhaps the most evincive argument against the fictitious authority bestowed by consensus is Goldziher's insightful statement that "[d]espite this general recognition of the *Sahīhān* in Islam, the veneration never went so far as to cause free criticism of the sayings and remarks incorporated in the collections to be considered impermissible or unseemly (65)".

The remaining sub-types of the *sahīh* (on which Bukhārī and Muslim could not agree), as well as those of the *hasan*, are unquestionably considered to be probable, and thus belong to the legal theoreticians' category of the *āḥād*. And if we take exception to Ibn al-Šalāḥ's claims concerning the *sahīh* on which Bukhārī and Muslim agreed, then any non-*mutawātir sahīh* of this category is also considered, by definition, an *āḥād*, falling short of engendering certainty. In favour of this position we can list not only the traditionists who opposed Ibn al-Šalāḥ's view, but also all the legal theoreticians and jurists for whom, after all, the entire *hadīth* literature was collected, organized and scrutinized. In fact, Shawkānī explicitly states that legal rulings may well be constructed on the basis of the *sahīh* and the *hasan* because these two categories engender probability, which suffices in legal matters (66).

(62) Ibn al-Šalāḥ, *Siyānat Sahīh Muslim*, 85-7.

(63) Hallaq, "On the Authoritativeness of Sunni Consensus", 427-54.

(64) Bulqīnī, *Mahāsin al-İṣlāḥ*, 171-2.

(65) *Muslim Studies*, II, 236 and the following pages where he substantiates his assertion.

(66) *Iṣbād al-Fuhūl ilā Tahqīq al-Haqqa min `Ilm al-Uṣūl* (Surabaya: Sharikat Maktabat Ahmad b. Sa`d b. Nabīhān, n.d.), 48.

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Finally, we turn to the problem of the *mutawātir* which engenders certainty. We recall that Ibn al-Ṣalāḥ himself acknowledged that the traditionists' repertoire of *hadīth* does not include this category. But Ibn al-Ṣalāḥ said more. He argued in categorical terms that the *mutawātir* is a rarity ('). "He who is asked to produce an example of a *hadīth* that is transmitted in a *mutawātir* [fashion] will be exhausted by his search" ('). In his own search for such *hadīths*, he could cite only one, presumably narrated by more than a hundred Companions: "He who intentionally lies concerning something I [viz., the Prophet] have said will gain a seat in Hellfire" ('). The other *hadīth* which he could find that seemingly met the standards of the *mutawātir* was: "Acts are judged by intentions". However, he acknowledges that although this *hadīth* was reportedly narrated by a *mutawātir* number of transmitters, its apodictic manner of transmission occurred in the middle tiers of transmission, not from the outset (').

The later legal theoreticians Anṣārī (1119/1707) and Ibn `Abd al-Shakūr (1225/1810) accepted the general tenor of Ibn al-Ṣalāḥ's argument about the scarcity of *tawātur*, but seem to think that there are more *hadīths* of this type in existence. Having enumerated, with what seems to be great difficulty, four such *hadīths*, they call upon Ibn al-Jawzī (d. 598/1201) who is quoted as saying: "I have tracked down the *mutawātir* *hadīths* and found a number of them." He enumerates six, at least one of which, and probably two, had already been listed by Anṣārī and Ibn `Abd al-Shakūr ('). Thus, a thorough search by a number of the most eminent traditionists and jurists of Islam could yield no more than eight or nine *hadīths* of the *mutawātir* type.

This number may be left to stand only if we admit that all were truly of the *mutawātir* type. However, in his commentary on a passage in Anṣārī's work, Ibn `Abd al-Shakūr informs his readers that they will encounter yet other such *hadīths* in the later sections of his commentary, including one which speaks of the infallibility of the Muslim com-

(67) This should not be taken to contradict his earlier assertions about the apodictic status of the *sahīh*. The knowledge engendered by the *mutawātir*, all agreed, was of the immediate type. On the other hand, he held that the *sahīh* on which both Bukhārī and Muslim agreed was capable of yielding mediate, acquired knowledge.

(68) *Muqaddima*, 454; "wa-man su'lla 'an iibrāzī mitbālin li-dbālikā fi-mā yurwā min al-hadīb a'yabu taṭallububu".

(69) *Ibid.* Muḥammad b. Niẓām al-Dīn al-Anṣārī, *Fawātiḥ al-Rahamāt*, printed with Ghazālī's *Muṣṭafā*, 2 vols. (Cairo: al-Majbā'a al-Amīriyya, 1324/1906), II, 120; "man kadbabā 'alayya muta'ammi-dan fal-yatabawwa' maq'adabu min al-nār".

(70) *Muqaddima*, 454; "inna-mā al-a'mālu bil-niyyāt".

(71) *Fawātiḥ al-Rahamāt*, II, 120.

munity (72). This suggests that when at least Ibn `Abd al-Shakûr was speaking of *tawâtur*, he may not have always meant the *tawâtur lafzî*, since the *hadîth* speaking of the infallibility of the Muslim community is of the *tawâtur ma`nawî* type (73). Therefore, it is possible that the total number of *mutawâtil* *hadîths* he cited may even be less than four, with the possible result that the number of such *hadîths in toto* may fall short of even eight or nine.

IV

To sum up, western scholarship has concentrated its attention upon an area of traditional Muslim discourse that is not particularly instructive. The traditionist discourse is stated in terms that are largely incongruent with the epistemic evaluation of the *hadîth*, an evaluation that is directly relevant and indeed central to the Islamicist paradigm of historical research. If minimal traces of this epistemic interest are to be found in the traditionist discourse, it is because legal theory commanded a measure of attention from the traditionists. The epistemic evaluation of the *hadîth* was finely articulated and elaborated by the legal theoreticians and jurists, and it is in this area of traditional discourse that western scholars should have begun their enquiry - if such an enquiry need at all be embarked upon.

The legal theoreticians' classification of the *hadîth* into *mutawâtil* and *âhâd* leaves us with a colossal number of the latter, merely probable type, and less than a dozen of the former, reportedly apodictic, variety. The *âhâd*, including the *hasan*, were universally acknowledged to have constituted the bulk of *hadîth* with which the traditionists dealt, and on the basis of which the jurists derived the law (74). The apodictic type was simply inconsiderable. Even if we assume, for the sake of argument, that the *mutawâtil* *hadîths* are more than a dozen, say a score, or even many more (75), the problem of authenticity nevertheless turns out to be

(72) *Musallam al-Tubûb: Sharî Fawâtihi al-Rahamût*, printed with Ghazâlî's *Mustasifâ*, 2 vols. (Cairo: al-Maṭba`a al-Amiriyya, 1324/1906), II, 120-1. See also n. 36, above.

(73) In fact, one of the *hadîths* enumerated by Ansârî and Ibn `Abd al-Shakûr is that of *al-mash` alâ al-khuffayn*, (wiping one's footgear with wet hands), said to be of the *mutawâtil ma`nawî* type by `Abd al-Wahhâb Ibn Naṣr al-Baghdâdi. See his *Ijmâ`*, printed with Ibn al-Qassâr, *Muqaddîma fi al-Usûl*, ed. Muḥammad Sulaymânî (Beirut: Dâr al-Gharb al-Islâmî, 1996), 276.

(74) Nawawi, *Taqrib*, 24-5; Ibn Daqqâq al-`Id, *Iqtirâh*, 168; `Abbâdî, *al-Shârî al-Kâbir*, II, 416; Jamâl al-Dîn Yûsuf al-Mizzî, *Tabâhib al-Kamâl fi Asmâ` al-Rijâl*, ed. Bashshâr Ma`rûf, 35 vols. (Beirut: Mu'assasat al-Risâla, 1985), I, 171. See also Ibn Abî Shâma's critique of the practices of his fellow Shâfi`ites whom he charges of employing weak *hadîths* in the construction of law. *Mukhtasar Kitâb al-Mu'amalat fi al-Radd îlâ al-Amr al-Awwâl*, printed in *Majmû` al-Râsa'il* (Cairo: Maṭba`at Kurdistân, 1328/1910), 20-1, 36.

(75) In his *Qâlf al-Azbâr al-Mutanâthîra fi al-Akkâbâr al-Mutawâtilâ*, which is an abridgment of *al-Fawâ'id al-Mutakâthîra*, Suyû`î collected 88 *hadîths* claimed to have been narrated through ten or

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a minor one, involving a minuscule body of Prophetic material that can easily lend itself to our critical apparatus.

Ibn al-Ṣalāḥ's claim that the *sahīh* type - on which Bukhārī and Muslim agreed - engenders certainty cannot be taken seriously by modern scholars, and this for two reasons: First, the claim was highly controversial among traditional Muslim scholars themselves, having been rejected, for logical and epistemological reasons, by a significant majority. If consensus, which is alleged to elevate the *sahīh* to an apodictic level, sanctions the authority of *hadīth*, then *hadīth* cannot sanction the authority of consensus; for this would entail a circularity of which Muslim scholars were acutely aware. But *hadīth* does in reality sanction consensus, especially in light of the widely acknowledged fact that it is the only authoritative text which can. Thus, consensus cannot sanction *hadīth*, also a widely accepted conclusion among traditional Muslim intellectuals⁽⁷⁶⁾. Second, and more importantly, the claim is theological in nature, fundamentally departing from the criteria of *hadīth* evaluation established by the Muslim traditionists themselves. The certainty which the *sahīh* yields is not established by means of the modalities of transmission or the quality of rectitude attributed to the transmitters. For instance, it never was the case that the authenticity of an individual *hadīth* of the *sahīh* category was declared *ab initio* and *a priori* certain just because it belonged to that group of traditions agreed upon by Bukhārī and Muslim. A positive affirmation of authenticity always required an investigation of individual *hadīths* insofar as their particular mode of transmission was concerned. When these formal methods of enquiry were applied, Ibn al-Ṣalāḥ himself found that the *mutawātir* is virtually non-existent. Rather, what was said to guarantee Ibn al-Ṣalāḥ's apodictic *sahīh* was the divine grace metaphysically bestowed upon the Muslim community as a collectivity, not any "scientific" enquiry into the concrete historical and socio-moral context (*ilm al-rijāl*) in which these *hadīths* were transmitted.

It is quite possible that some *hadīths* of the *sahīh* type were considered to belong to the *mutawātir* category. What matters, in the final

more channels of transmission. Except for the title itself, nowhere in the manuscript does he qualify these *hadīths* as *mutawātir*. It is noteworthy that Suyūṭī includes here a number of *hadīths* that were clearly dismissed by more distinguished traditionists as failing to meet the standards of *tawātur*. For instance, "Deeds are judged by intentions" was deemed by Ibn al-Ṣalāḥ as falling short of maintaining a *tawātur* transmission throughout all stages. Similarly, Suyūṭī includes therein the two *hadīths* relating to the infallibility of the Muslim community and to the wiping of the footgear, which were considered as *tawātur ma`nawi* not *lafzi*. On these see nn. 40, 70 and 73, above. It is also noteworthy that more than 50 of the *hadīths* listed have to do with rituals and matters of belief. See *Qaif al-Azhar*, ms. 2889, Yahuda Section, Garrett Collection, Princeton University. I am grateful to Ms. AnnaLee Pauls of Princeton University Libraries for her extraordinarily prompt help in making this manuscript available to me.

(76) See n. 36, above.

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analysis, is the fact that this last category is quantitatively insignificant, however it may be measured or calculated. It can be easily controlled and investigated. And surely, the modern western debate about authenticity would be considered absurd if its object were to be confined to a handful of such *hadiths*. That the debate was not so confined, and that it dealt in fact with the vast majority of the *hadith* is quite obvious and need not be demonstrated. If both the traditionists and the jurists - the two most important groups in the study of *hadiths* - have acknowledged the precarious epistemological status of the literature, then we need not squander our energies in arguing about the matter of authenticity. We have been told that except for a score of *hadiths*, the rest engenders probability, and probability, as we know - and as we have also been unambiguously told by our sources - allows for mendacity and error. What more do we want?

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Session 6



The Principal Sunni Law Schools

Although there is a certain amount of legal material in the Quran there is no systematic law code. This should be clear from the last four chapters which have dealt in turn with ritual prayer, *zakat*, fasting and pilgrimage. In each case it has emerged that, although Muslim practice is firmly rooted in the Quran, the Quran by itself gives the believers insufficient guidance on how to fulfil their obligations. We have seen, for example, that there are ayas which stress the importance of prayer, and others which mention certain prayer times or prayer postures, but none which stipulate precisely when and how *salat* should be performed. There are similar problems with the laws which govern interpersonal acts. Take for instance the punishment for theft. The Quran states that the thief's hand should be cut off (5.38) but it leaves many questions unanswered. Does the law apply to children as well as adults? Should it be enforced when the culprit is old, infirm or pregnant? Are there mitigating circumstances such as poverty or feeble-mindedness? Is amputation the punishment for first offenders or merely for habitual thieves? Must the object taken be of value? And what evidence is required to convict someone of theft?

While the Prophet was still alive, the Quran's silence about matters such as these was unproblematic. Sometimes he would receive additional revelations which threw light on difficult questions, but more frequently he gave his own judgement or fell back on the customary law of Medina. After his death, however, the situation changed dramatically. There were no further revelations. Nor, in the view of most Muslims, could there be another charismatic figure like Muhammad who would be a lawgiver in his own right. The first four Caliphs administered justice on the basis of the Quran and the decisions of the Prophet. Like him, they also made *ad hoc* decisions of their own and drew on the customary law of Medina. However, these last two elements proved increasingly difficult to justify. In matters of administration, for instance, the third Caliph, Uthman, was severely criticised for reversing the policies of his predecessor. Moreover, as Islam spread further and further afield, it became less and less practical to rely on the customary law of Medina. A decisive development took place in the Umayyad period, when

the provincial governors appointed qadis to whom they delegated their judicial authority. The governors reserved the right to judge any case themselves if they so desired, and they could of course dismiss the qadis if they saw fit. Nevertheless, the qadis were in charge of the day-to-day administration of justice. They were, for the most part, devout Muslims who were concerned to proceed in accordance with the Quran and Islamic tradition, but they also drew on local custom and frequently had to use their own discretion. Many of the decisions which they took were incorporated into law. The appointment of qadis who were legal experts led in turn, during the early Abbasid period, to the emergence of distinct law schools (*madhhabs*) in different geographical centres. Only those which are still extant will be mentioned below.

The Hanafi School is named after Abu Hanifa (d. 767), who was a native of Kufa in Iraq. He was an academic lawyer and never served as a qadi. His thought was transmitted by his students, notably Abu Yusuf (d. 798) and Muhammad b. al-Hasan ash-Shaybani (d. 804). The latter should perhaps be regarded as the real founder of the school. The Hanafi school is the most liberal and flexible of the four Sunni schools. In establishing points of law, Abu Hanifa relied in the first instance on the Quran, then on analogical reasoning (*qiyyas*). He regarded the latter as more important than tradition although he of course took hadiths into account. A jurist's use of analogical reasoning to extend a Quranic ruling to a new case depends on his ability to identify the underlying cause or reason (*illa*) for the original ruling. For example, according to the Quran, after the call has been given for the Friday congregational prayers, it is forbidden to buy or sell goods until the prayers are over (62.9). The underlying reason for this is that buying and selling distract people from praying. Therefore, by analogy, all other transactions are likewise forbidden at this time because they too are a distraction.

Abu Hanifa invoked the principle of 'legal discretion' (Arabic *istihsan*, literally 'approving or deeming something preferable') in order to justify departing from the letter of the law in circumstances where rigidly applying it would lead to unfairness. For example, the Quran requires women to keep their bodies covered when in the presence of men other than their

husbands or close relatives (24:31), but Hanafi jurists argue that this rule may be set aside in the case of a woman who is seriously ill and needs a medical examination. The principle of *istihsan* rests, they argue, on the following ayas of the Quran

الذين
يسبّبون
المرأة
في نعيمها
أحسنوا

'Those who listen to the word and follow the best meaning in it, those are the ones whom God has guided, and those are the ones endued with understanding.'

(39:18)

And follow the best of what has been sent down to you from your Lord.

(39:55)

God intends facility for you, and He does not want to make things difficult for you.

(2:185).

In a similar vein, the Prophet is reported to have said

The best of your religion is that which brings ease to the people.

Moreover, although the Companions did not explicitly formulate the principle of *istihsan*, there are several well-documented instances of them apparently acting on it intuitively. The most famous example is Umar's decision not to enforce the penalty of amputation for theft during a serious famine.

As well as allowing ample room for the exercise of reason, Abu Hanifa relied on consensus (*ijmā*) to establish points of law, because the Prophet said, 'My people will never agree on an error.' He held that only the consensus of the qualified legal authorities of a given generation was absolutely infallible, but in practice Hanafis have often accepted a local consensus, sometimes involving only a handful of jurists. The Hanafi or Kufan school was the dominant law school during the Abbasid Caliphate and subsequently became the official school of the Ottoman Empire. Largely because of this, it has continued to be the most widespread school. It is adhered to by the majority of Muslims in Syria, Jordan, Turkey North India, Pakistan, China and Central Asia. Approximately a third of all the Muslims in the world are Hanafis.

The Maliki School was founded by Malik b. Anas (d. 796) who was born and died in Medina. The Maliki or Medinan school represents a reaction against the earlier more speculative approaches to law. Malik compiled *al-Muwatta* ('The Trodden Way') which is essentially a legal textbook based on tradition. In dealing with a given topic, he cites the precedent set by the Prophet followed by reports about the opinions and acts of the Companions and later Medinan worthies. Then he discusses them and accepts or rejects them in the light of the legal tradition of Medina and his own reasoning. Let us take for example the *aqīqa*, the sacrifice offered by the parents of a newborn child. Malik first cites a hadith on the authority of a man of the Banu Damra who quoted his father as saying

The Messenger of God was asked about the *aqīqa*. He said, 'I do not like disobedience (*uquq*) as if he did not like the name.' He said, 'If anyone has a child born to him, and wants to sacrifice for his child, then let him do it.'

Then he cites two reports, which resemble each other but have different isnads, and which relate that the Prophet's daughter Fatima weighed the hair of her children and gave away in *sadaqah* the equivalent weight in silver. According to the first report, she did this for her daughters as well as her sons, whereas the second report mentions only Hasan and Hussein. After this, Malik cites a series of traditions about later Medinan practice: Abdullah b. Umar (the son of the second Caliph) gave a sheep as an *aqīqa* for both his male and female children; al-Harith said that an *aqīqa* was desirable even if it was only a sparrow; Malik himself had heard that there had been an *aqīqa* for Hasan and Hussein; and Ibn az-Zubayr made an *aqīqa* for his male and female children of a sheep each. Finally he gives his own opinion as follows

What we do about the *aqīqa* is that if someone makes an *aqīqa* for his children he gives a sheep for both male and female. The *aqīqa* is not obligatory but it is desirable to do it, and people continue to come to us about it. If someone makes an *aqīqa* for his children, the same rule applies as with all sacrificial animals — one-eyed, emaciated or sick animals must not be used, and neither the meat or the skin

is to be sold. The bones are broken and some of the family eat the meat and give some of it away as *sadaqa*. The child is not smeared with any of the blood.

It is clear that in the last analysis what counted for Malik was the legal tradition of Medina. In his view, it was this that enshrined the will of the Prophet as understood by the Companions. Thus, whereas Abu Hanifa had understood *ijma* as the consensus of the qualified legal authorities of a given generation, Malik defined it as the consensus of the people of Medina.

Malik is also credited with having favoured the principle of *istislah*, or taking into account the public interest. He held that new laws could be introduced which had no textual basis in the Quran or tradition, provided that they are intended to secure a benefit or prevent a harm and are in harmony with the objectives of the Sharia to protect the five essential values, namely religion, life, intellect, lineage and property. The principle of *istislah* was frequently invoked by rulers who wished to impose taxes or take other measures which might have appeared to be innovations. The Maliki school is no longer favoured in Medina, its place of origin. It is, however, the dominant school in Upper Egypt and North Africa. The Shafii School was founded by Muhammad b. Idris ash-Shafii (d. 820). His *Risala* ('Treatise'), which was written during the last years of his life when he was living in Cairo, was mentioned in Chapter 7 in connection with modern scepticism about the Hadith. Shafii studied in Mecca, Medina, Iraq and Syria. He was thoroughly acquainted with the various schools of law which existed in his time, but he refused to identify with any one of them. He aimed instead at unifying them by providing a sound theory of the sources from which law is derived. His genius lay in redefining existing terms so as to produce a strict hierarchy of authorities. First and foremost came the Quran. Then he marshalled evidence from the Quran itself to show that Muslims were duty-bound to obey the Prophet because his legal decisions were divinely-inspired. Thus the Sunna as enshrined in people's opinion, however, the hadiths were often contradictory. Shafii therefore devoted much of the *Risala* to demonstrating that apparent contradictions could be explained in terms of a later hadith abrogating an earlier one, or one hadith representing an

exception to the rule laid down in another. Next in Shafii's hierarchy of sources came *ijma*, 'consensus'. We have seen that the Hanafis and Malikis both invoked this concept although they disagreed over what was meant by it. Shafii's solution was to redefine it as the agreement of the entire Muslim community, including both legal experts and laymen. In so doing, he paid lip-service to its value while in practice considerably reducing its importance. Shafii's final source of law was analogy (*qiyas*). Because of his emphasis on the Sunna, he left much less scope for this than Abu Hanifa had done. Moreover, *qiyas* was the only form of reasoning that he allowed; he did not approve of *istislah* or *istislah*. Today, adherents of the Shafii School are found predominantly in Lower Egypt, South India and Malaya.

The Hanbali School is named after Ahmad b. Hanbal (d. 855). He was born and died in Baghdad but travelled extensively in search of hadiths, of which he compiled an enormous collection known as *Musnad al-Imam Ahmad*. He was by temperament more of a traditionalist than a jurist and never wrote a book on the theory of *fiqh*. Nevertheless, he did write one in which he gave his opinion about various legal questions. He was a pupil and admirer of Shafii and had an even higher opinion of the Hadith than he did. He insisted that the Quran and the Sunna, as enshrined in sound hadiths, were the primary source of law, and that the texts were to be understood literally. Later Hanbalites recognised four further sources of law ranking them in the following order: *fatwas* of the Companions provided that they do not contradict the Quran or Sunna; the sayings of individual Companions when in conformity with the Quran and the Sunna; traditions with weak isnads; and finally, analogy when absolutely necessary. Ibn Taymiya (d. 1327), whose writings greatly influenced Ibn Abd al-Wahhab (d. 1792), was a Hanbalite. The success of the Wahhabis led ultimately to the recognition of Hanbalism as the official law school in Saudi Arabia and Qatar. It also has many adherents in Iraq and Syria.

The Origins and Development of Twelver Shiite Jurisprudence

The majority of Shiites are known as Ithna-Asharis or Twelvers because they believe that the Prophet was succeeded by a series

of twelve Imams. Ali, the Prophet's cousin and son-in-law, was the first Imam, and Hasan and Hussein, Ali's sons by the Prophet's daughter Fatima, were the second and third respectively. As we saw in Chapter 3, Hussein died fighting the troops of Yazid, the Umayyad Caliph, at the Battle of Karbala. This incident had a profound effect on the Shiites, and the subsequent Imams were politically quiescent. Jafar as-Sadiq (d. 765), the sixth in the line, was especially renowned for his learning and piety. The Umayyads left him unmolested in Medina where he had a large circle of students, the majority of whom were Sunnis. Shiites maintain that the circle included the eminent jurists Abu Hanifa and Malik b. Anas, both of whom respected him as a teacher of traditions.

Although the Shiite Imams transmitted traditions orally, no Shiite scholar compiled a written collection of traditions before the Buyid period. The earliest collection is *al-Kafi fi IIm ad-Din* ('The Sufficient in the Science of Religion') of Muhammad al-Kulayni (d. 940). There are three others which Shiites regard as canonical: one compiled by Ibn Babuya (d. 991) and two compiled by Muhammad at-Tusi (d. 1067). These differ from the Sunni collections in that they include sayings attributed to the Imams as well as prophetic hadiths.

Shiite reflection on the *Qur'an* (*al-fiqh*) began in earnest in early eleventh-century Baghdad with scholars who were influenced by the rationalism of Maturidi theology. A pupil of Ibn Babuya, known as Sharif al-Murtada (d. 1022) accepted the pre-eminence of the Quran and the Shiite traditions but argued that reason should be used to interpret them. When it came to the opinion of the Imam, and he rejected the usages of rationality, Sharif al-Murtada (d. 1022) championed the authority of the Imams. He argued that those which were contrary to reason should be rejected, as should those which were transgressions by only one interpreter. On the other hand, Muhammad at-Hasan at-Tusi (d. 1067), who is also known as Shaikh at-Tafseer (Sheikh of the Community), accepted traditions transmitted by only one interpreter if he was a Shiite.

After the Mongols sacked Baghdad, the town of Hillah on the Euphrates became the chief centre of Shiite scholarship. At-Tamam al-Hindi (d. 1055) was the most distinguished jurist during the

Mongol period. He was also the first Shiite scholar to be styled Ayatullah (Sign of God). He rejected the exercise of independent judgement in questions of law, but stressed that this was the prerogative of the Imam. The ordinary believer should follow the decisions of a living authority known as a *mujtahid*. However, as *mujtahids* are fallible human beings, they are free to change their opinion and it is only to be expected that they will disagree among themselves at times.

When the Safavids came to power in Persia (1501-1736) and imposed Twelver Shiism as the state religion of Persia, they imported Shiite ulama from Iraq and elsewhere to instruct the people. As foreigners brought in by the new regime, the ulama were at first very insecure. In the long term, however, the Safavid revolution greatly enhanced their status. By the second half of the seventeenth century, some ulama were claiming that from a Shiite perspective, the real ruler of the country ought to be an infallible *mujtahid*, and that the Shah should deal with temporal affairs as his minister. Extravagant claims of this sort led to increasing antagonism between jurists of two opposing schools of thought: the Akhbaris and the Usulis. On the one hand, the Akhbaris (from Arabic *akhbar* 'reports') entirely rejected *ijtihad*. The only sources of law which they were prepared to accept were the Quran and Sunna as interpreted by the Imams. They regarded all four canonical collections of traditions as reliable and recognised additional traditions including some from Sunni sources. On the other hand, their opponents the Usulis (from Arabic *usul* sources) championed *ijtihad*. They accepted the Quran, the Sunna, consensus and intellect as valid sources. They regarded many of the traditions in the four collections as unreliable, and refused to countenance the use of traditions not transmitted from the Imams by reliable Shiites. Since the beginning of the nineteenth century, the majority of the Shiite ulama have been Usulis. Nevertheless, the Akhbaris are still influential in and around the Iraqi city of Basra and on the island of Bahrain.

'Divinely-specified' Penalties

In the minds of non-Muslims living in Europe or North America, the word Sharia almost invariably conjures up gruesome images

of punishment by stoning, amputation or flogging. It should by now be clear that this is a gross distortion, as the Sharia is in fact an all-embracing system which regulates everything from the performance of ritual prayer to the conduct of international relations. Nevertheless, because Islamic modes of punishment loom so large in the western imagination, it is appropriate for them to be discussed here in more detail.

Islamic law distinguishes between *hudud* punishments, which are based on the Quran or Sunna, and are therefore understood to be divinely-specified, and *tazirat* punishments, which are left to the discretion of the judge. The *hudud* punishments are as follows: for theft, amputation of a hand; for fornication, 100 lashes; for adultery, stoning to death; for false accusation of unchastity, 80 lashes; for wine-drinking, 40 lashes according to Imam Shafii but 80 according to the founders of the other law schools; and for banditry, execution, amputation of an arm and a leg on opposite sides of the body, or exile, depending on the seriousness of the crime. The punishments for theft, fornication, and false accusation of unchastity are clearly specified in the Quran (5:38; 24:2; and 24:4 respectively). The punishment for banditry is allegedly based on the Quran (5:33) although it is arguable that the aya in question is not a legal injunction but rather a description of what the unbelievers were doing to each other in the time of the Prophet. The Quran orders the believers to avoid wine (5:90f) but says nothing about flogging wine-drinkers. It seems likely that this particular punishment was first imposed by Umar, although there are hadiths that attribute it to the Prophet. The second Caliph may also have been responsible for the decision to stone adulterers, although he allegedly claimed that he did so on the basis of a quranic aya which was still recited in his day despite not being included in the written text of the Quran.

In traditional Islamic societies, the *hudud* punishments were rarely implemented. Their existence as a theoretical possibility served both as a deterrent and as a reminder of the seriousness with which God viewed antisocial crimes, but because the Prophet asserted that their implementation should be prevented whenever doubt existed, Muslim jurists laid down very strict criteria for their applicability.

Let us take for example the stoning of adulterers. The punishment is not implemented, unless the accused openly

confess their guilt or four witnesses testify against them. The difficulty of finding four witnesses to testify against a crime which is usually committed in private is exacerbated by the fact that they run the risk of receiving 80 lashes for false accusation of unchastity if the accused are acquitted. There was a famous case, early in the history of Islam, where this happened. One day, Abu Bakra, a Companion of the Prophet, was sitting on the covered balcony of his house in Basra chatting with three friends, when a gust of wind blew open the shutters of the house across the road and they caught sight of the governor, al-Mughira b. Shuba, making love to a woman called Umm Jamil. When al-Mughira later left his house to lead the prayers, Abu Bakra prevented him from doing so and accused him of adultery. News of the incident reached the Caliph, who called the governor to account. Al-Mughira protested his innocence, saying that the woman whom they had seen him making love to was none other than his wife. He suggested that the Caliph should interrogate the witnesses and ask them whether they had seen the woman's face. Abu Bakra was the first to be questioned. He claimed to have seen al-Mughira between a woman's thighs, moving in and out like a probe in a jar of eye-shadow. He admitted that he had not seen the woman's face but insisted that he had recognised her feet as those of Umm Jamil. The second and third witnesses gave similar testimonies except that they claimed to have seen the faces of the accused. The fourth witness said that he had seen the woman's feet and naked buttocks and had heard her gasping, but admitted that he had not been able to recognise her. When questioned further, he added that he had not seen al-Mughira move in and out like a probe in a jar of eye-shadow. The Caliph concluded that the first three witnesses had been lying. He therefore had them punished with 80 lashes and set the accused free.

The criteria for imposing the penalty of amputation for the crime of theft vary from society to society but are often even more stringent than those which apply to stoning in cases of alleged adultery. In Pakistan, for example, where amputation has been on the statute books since 1979, it has never been implemented. This is because it is only deemed applicable in cases where the thief believed that the victim was unaware that the crime was taking place; where the stolen property was

worth more than \$100; where it was stolen from a device intended for its safe-keeping; where there were three eyewitnesses who are sane adult males known to be good Muslims; and where the punishment would not endanger the life of the criminal.

The Sharia in the Modern World

In Chapter 4, we saw that Shah Wali Allah's contemporaries in eighteenth-century Delhi held that for Sunni Muslims 'the door of *ijihad*' had been closed some eight hundred years earlier, and that he challenged this assumption by citing the works of Ibn Taymiya. Many books on Islam by western writers refer to the closure of the door of *ijihad* in the course of the tenth century, as if this were an established fact. They assume that from then on jurists could no longer exercise independent judgement and were expected to follow the precedents reached by earlier authorities who belonged to their school. It is now recognised, however, that this is an oversimplification. What is true is that no new law school came into existence after the tenth century and that because of the influence of Shafii the four extant schools had by that time grown closer to each other, adopting what is known as the 'classical' theory of law. They all accepted the fundamental importance of the Quran and Sunna, the need for analogical reasoning, and the validity of consensus defined as the agreement of the qualified legal scholars in a given generation. It is also true that the trauma caused by the Mongol invasions in the mid-thirteenth century led to a widespread tendency for Muslim scholars to be more concerned with preserving and codifying their intellectual heritage than with creative thinking. Moreover, much of the literature produced by Sunni jurists between the tenth century and the nineteenth does give the impression that the Sharia is static and timeless. However, a more attentive reading of the texts shows that this was in many instances a deliberately contrived illusion – an attempt to give the impression that Islam as practised in their day and age was in every respect identical with the Islam of the Prophet and his Companions – and that, despite appearances, they did in fact continue to practise *ijihad*.

In the nineteenth century, most Muslim countries succumbed to European influence and this had a marked effect on the way in which Islamic law was applied. The Ottomans carried out a number of legal reforms. These included abolishing the *hudud* punishments and replacing them with the French Penal Code, and systematising the Hanafi law of obligations so that it could be enforced uniformly by secular law courts. In those countries which were colonised by Europeans, similar developments took place. Elements of British, French or Dutch law were introduced and the scope of the Sharia was restricted. Moreover, its regulations were simplified and codified so that they could be understood and enforced by European administrators without reference to the classical sources. Meanwhile, modernists including Sayyid Ahmad Khan in India and Muhammad Abdhu in Egypt called for a new *ijihad* which would disregard the established schools.

In the post-colonial period, the majority of Muslim countries have either inherited or adopted a judicious mixture of European and Islamic law. This is equally true of democracies such as Turkey, Pakistan, and Bangladesh; absolute monarchies like Morocco; and socialist dictatorships including Egypt, Iraq and Syria. In many instances, however, Muslim governments are under increasing pressure from Islamists to impose the Sharia. This has sometimes led to token Islamization, as for instance in 1983 when President Nimeiri of Sudan introduced the *hudud* punishments without observing the traditional safeguards. Other countries, such as Pakistan, have opted for a gradualist approach. It has a Council for Islamic Ideology which was appointed to bring the existing law into conformity with the Sharia. In the meanwhile, every citizen has the right to approach the Federal Sharia Court to complain that a specific law is repugnant to Islam.

Historically, the Hanafi school has had much more extensive experience of government than either the Hanbali school or the Shiite Usuli school. Unlike them, it has therefore developed a complex network of checks and balances. For this reason, Pakistan is arguably a better role model for Islamization than either Saudi Arabia or Iran. All the same, the reintroduction of the Sharia after the colonial interlude poses formidable problems, even when *ijihad* is given free rein. Had the Muslim

long-standing Companions of the prophet, and they and all who succeeded them were drawn from the Quraish. Moreover, the proto-Sunnis viewed the Caliph in primarily political terms. With the passage of time the legal, religious and military leadership therefore devolved on other members of the community and were given carefully defined institutional forms. The response of the proto-Shiites to the Prophet's death was almost the exact opposite to this. They attempted to preserve his charismatic authority intact in a series of Imams who were his descendants. There was a third response, which proved less successful than either Sunnism or Shiism. This is the movement known as Kharijism. The Kharijites were fiercely egalitarian. They rejected both the return to pre-Islamic principles and the perpetuation of the Prophet's charismatic authority. In their view, the Caliph ought to be elected by the community as a whole and he could be any pious Muslim, Arab or non-Arab. In the rest of this chapter I propose to examine the three main branches of Shiism (Twelver, Ismaili and Zaydi) before looking briefly at Kharijism. I shall then give an account of the principal heresies'. Because Islam has neither church nor priesthood, deciding what is orthodox and what is heretical is not always easy. As a rule of thumb, I suggest that the criterion should be conformity to the *shahada*. Any movement which divinises a human being, or which alleges that God has sent another messenger after Muhammad, is heretical. On this definition, Kharijism is orthodox, so too are Twelver and Zaydi Shiism, despite their addition to the *shahada* of the words 'Ali is the Friend of God'. Ismaili Shiism, which has taken on many different forms in the course of history, is however much more difficult to categorise, unlike the movements which will be discussed in the final section which are clearly beyond the pale of Islam.

his only grandchildren to reach adulthood. Consequently, on one occasion, he referred publicly to Ali, Fatima, Hasan and Hussein as his family. In addition to this, Ali acted as the Prophet's standard-bearer in a number of important campaigns, and when Ali expressed his disappointment at being left in charge in Medina during the expedition to Tabuk, he said to him

Are you not content to be in respect to me as Aaron was to Moses, except that after me there shall be no other prophet?

Finally, when the Prophet was returning to Medina after performing the pilgrimage for the last time, he stopped at Ghadir Khumm, took Ali's hand, and said that whoever looked on him, Muhammad, as his master, should view Ali in similar fashion. Shiites infer from these traditions, and others like them, that Ali, Fatima, Hasan and Hussein had a special status, and that the Prophet intended Ali to succeed him. The traditions are, however, tantalizingly ambiguous. All that we can say with confidence is that a few Muslims refused to swear allegiance to the first three Caliphs because of their belief that Ali was the Prophet's divinely-designated successor.

The Twelver Shiites regard Ali as the first of a series of twelve infallible Imams. The early history of Shiism is a highly controversial subject but there is no reliable evidence that the number of Imams was known in advance. On the contrary, when an Imam died there was a usually a dispute about whether or not the line had come to an end with him. The most serious crisis occurred when the eleventh Imam, Hasan al-Askari, died in 873. He apparently without having a son to succeed him. His followers were split into at least fourteen groups. They disagreed about a variety of issues including whether or not he was really dead; whether or not he (or someone else) would return as the Mahdi; whether or not he had been succeeded by a twelfth Imam; and hundred years or so, all these groups died without issue. Within a of the Twelver Shiites. They held that the twelfth Imam was Hasan al-Askari's son Muhammad, who was four years old when his father died. They alleged that for security reasons his birth had been kept secret; that he made a brief appearance to lead the funeral prayers for his father; and that he went into

From the traditions preserved by the Sunnis and Shiites alike, it is evident that Ali, the first Shiite Imam, held a special place in the Prophet's affections. Ali was the Prophet's cousin and the wife of his daughter Fatima. Their sons Hasan and Hussein were

occultation or concealment. Between 874 and 941, the period of the Lesser Occultation, the twelfth Imam communicated with his followers through a series of four agents. In 941, with the onset of the Greater Occultation, all such communication ceased. Nevertheless, the Hidden Imam is still in control of human affairs and will reappear as the Mahdi shortly before the Day of Judgement.

Throughout history, the Shi'ite ulama have fluctuated between two opposing attitudes to politics. Sometimes they have appeared almost totally indifferent to temporal power and have been content merely to administer the religious law and to act as spiritual guides. At others, however, they have attempted to seize control politically in order to establish the rule of God. This tension was already present during the lives of the Imams. The second Imam, Hasan, relinquished his claim to political power, and most of his successors followed suit. However, his younger brother Hussein, the third Imam, died at Karbala in 680, resisting the tyranny of Yazid, the Umayyad Caliph. Shiites commemorate this event every year on the 10th of Muharram. On that day, they listen to recitals of Imam Hussein's suffering and participate in street processions in which they ritually re-enact his funeral. Ayatollah Khomeini used this powerful ritual to mobilize the Shiite masses during the Iranian revolution. He cast himself in the role of Imam Hussein, stigmatized the Shah as another Yazid, and equated those who were killed in the street demonstrations with the martyrs of Karbala.

According to Twelver Shiites, when the sixth Imam, Jafar as-Sadiq (d. 765), outlived his eldest son Ismail, whom he had designated to succeed him, he designated his second son, Musa al-Kazim in his place. They therefore regard Musa as the seventh Imam and believe that the line continued through him. The early Ismailis, on the other hand, reserved a special role for Ali and held that the line of Imams began with his son Hasan. Thus, according to their reckoning, Jafar was the fifth Imam, not the sixth. They further maintained that Ismail did not die, that his father hid him out of fear for his safety; that he was the sixth Imam; and that his son Muhammad was the seventh. They had a

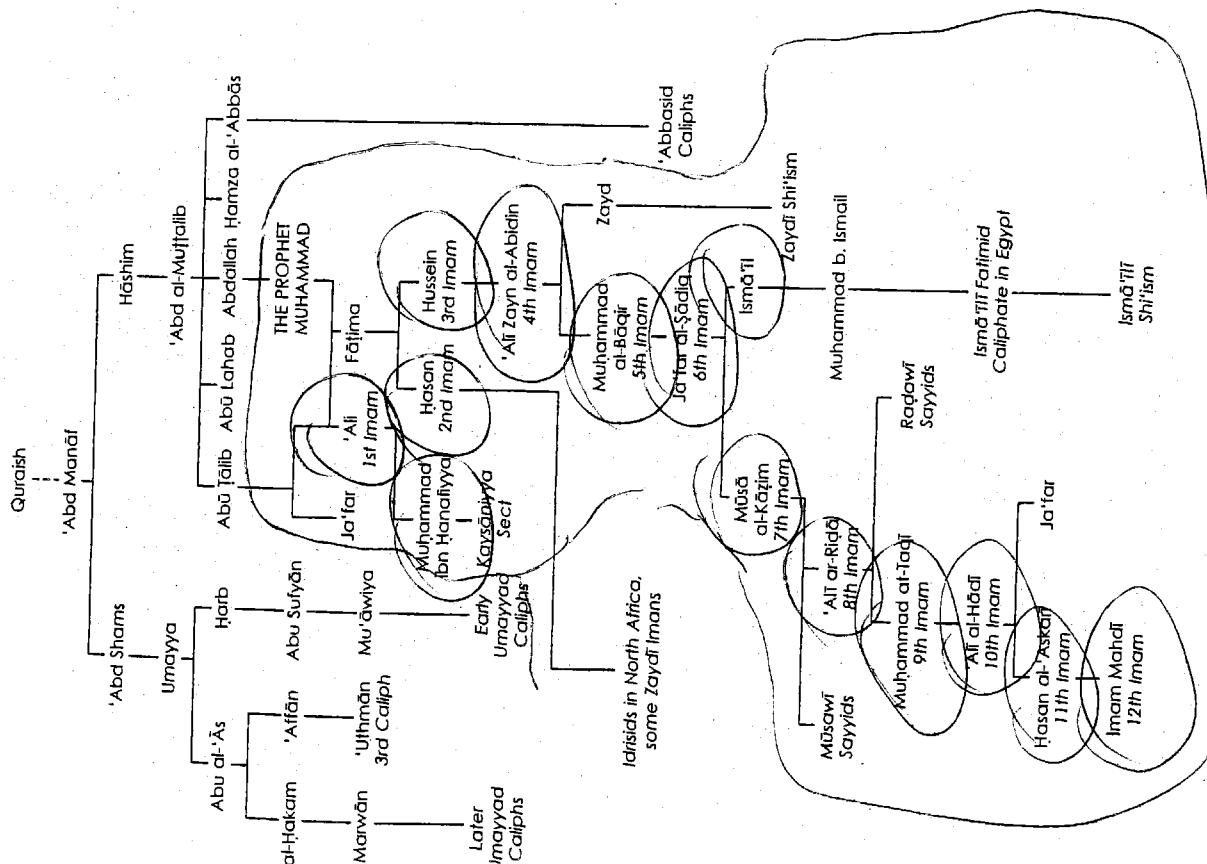


Figure 7 Genealogical Chart of the Shi'i Imams

cyclical view of history, dividing it into seven periods. Each period was inaugurated by a prophet who announced the external aspects of a revealed law. This enunciator (*natiq*) was succeeded by a legatee (*wasi*), who taught the inner meaning of the revelation to the spiritual elite. The legatee was in turn succeeded by seven Imams who guarded the true meaning of the revelations in both their external (*zahir*) and internal (*batin*) aspects. In each period, the seventh Imam rose to abrogate the previous *Sharia* and become the enunciator of the next. The enunciators of the first six periods were Adam, Noah, Abraham, Moses, Jesus, and Muhammad. Their legatees were Seth, Shem, Ishmael, Aaron (or Joshua), Simon Peter, and Ali respectively. They held that he had gone into concealment, but that on his return he would be the Mahdi and would rule over the final era. He alone would unite the roles of enunciator and legatee; for instead of revealing a new *Sharia*, he would reveal the inner truths concealed behind all the previous messages – truths which had been grasped only partially by a spiritual elite.

Although relatively little is known about their early history, the Ismailis emerged from obscurity in the last quarter of the ninth century. In 873, Shiites were thrown into confusion when their eleventh Imam, Hasan al-Askari, died apparently without leaving an heir. Many of them were therefore receptive to the Ismaili claim that the line of Imams had in fact come to an end with Muhammad b. Ismail, and that he was about to return as the Mahdi. Thus, within twenty-five years, Ismaili propagandists succeeded in setting up cells throughout the Muslim world. One branch of the movement were known as the Qarmathians. In 894, they established a state in Bahrain. This continued to flourish until the end of the eleventh century. They pillaged Kufa and gained notoriety for attacking pilgrim caravans. In 929, they even sacked Mecca and carried off the black stone, reluctantly continuing to await the return of seventh Imam, Muhammad b. Ismail, another branch, who subsequently adopted the name Fatimids, accepted the claim of their leader that he himself was the true Imam. In 909, he was declared Caliph in North Africa and took the throne-name al-Mahdi. The Fatimids modified the earlier teaching about the sixth era, the era of the Prophet

Muhammad. They argued that, unlike the previous eras, the sixth era had more than one series of seven Imams. Muhammad b. Ismail, the last of the first series, was succeeded by a second series, all of whom were hidden; these seven hidden Imams were succeeded in turn by the first seven Fatimid Caliphs, who were succeeded by a further seven. Moreover, the second heptad of Fatimid Caliphs were regarded as deputies of Muhammad b. Ismail and discharged some of his eschatological functions. Thus the onset of the final era of history receded further and further into the future.

When al-Mustansir, the eighth Fatimid Caliph, died in 1094, a dispute arose over which of his two sons should succeed him. The vizier installed al-Mustali, the younger of the two, and Nizar, his elder brother, had to flee for his life. Nizar and his son were subsequently murdered, but his infant grandson was allegedly smuggled to Persia. There thus arose a further schism: one group, known as the Mustalians, held that the imamate had passed to al-Mustali, while the other group, known as the Nizaris remained loyal to Nizar's descendants. The leadership of the Nizaris was assumed by Hasan-i Sabbah, a former Fatimid propagandist who had established a mountain stronghold at Alamut in Persia four years earlier. They also had a network of fortresses in Syria. Although there is no evidence that the Nizaris used narcotics, their Sunni opponents gave them the abusive nickname *Hashishiyyin* ('hashish users'), which passed into English as Assassins. At Hasan's instigation, they carried out some fifty or so political murders, hence the use of the word assassin to denote someone who deliberately kills a public figure. During Hasan's reign, and the reigns of his two successors, the identity of the Imams was not disclosed. However the fourth Lord of Alamut, Hasan II or Hasan ala dhikrhi s-salam ('Hasan on his mention be peace') claimed to be the Imam in person. Moreover, on Ramadan 17th 1164, he ordered his followers to stop fasting and he abolished the Sharia, publicly declaring that the Day of Resurrection had arrived. Hasan II was succeeded in turn by his son and grandson, both of whom claimed the Imamate. However the grandson, Jalal ad-Din Hasan III, re-established the Sharia and attempted a rapprochement with the Sunnis. Alamut was sacked by the Mongols in 1256 and the Nizaris sank into relative obscurity until the nineteenth

century, when the Shah of Persia gave the Nizari Imam the title Agha Khan ('Prince'). In 1852, after a subsequent rift with the Shah, the first Agha Khan took up residence in Bombay, where the Nizaris had been active for several centuries. The Nizaris of the Indian subcontinent sing hymns known as *gītāns*. These hymns sometimes speak of the Imams in extravagant terms, deifying them and identifying them with Hindu avatars. The current leader of the Nizaris is Agha Khan IV, who is revered as the 49th Imam. Under his leadership, they have become much more orthodox.

The Mustalians recognised the Fatimid Caliph al-Mustali as Imam. After the murder of his successor in 1130, however, they split into two groups: the Hafizis and the Tayyibis. The former accepted the subsequent Fatimid Caliphs as Imams but died out soon after the dynasty came to an end. The latter believed in a series of hidden Imams. From 1130 to 1591 they established themselves in the Yemen. In 1591 they split into the Daudis and Sulaymanis. The Daudis are still thriving in parts of India, where they are commonly known as Bohoras.

Zaydism

The Zaydis trace their origin to Zayd, the son of the fourth Twelver Imam and half brother of the fifth. He held that it was not necessary for an Imam to be designated by his predecessor; the imamate could pass to any pious descendant of Hasan or Hussein who claimed it 'sword in hand'. He led a revolt against Caliph Hisham in 740 but was killed in battle. There were, however, several subsequent Zaydi uprisings; a Zaydi state was established in northern Iran from 913 to 1032, and another existed intermittently in the Yemen between 901 and 1962. Zaydis acknowledge the first four Twelver Imams but do not consider them infallible. They do not accept the existence of hidden Imams, and do not await a Mahdi. In theology they are Mutazilite but in other ways they are much closer to mainstream Sunnism: they recognise the caliphates of Abu Bakr and Umar and their legal system resembles the four Sunni law schools. There are some four million Zaydis in the Yemen.

2 The Law: how is it found?

Introduction

The question that we need to address briefly at this point is: How did the *mujtahid*s and author-jurists derive the law from its sources? What, in other words, were the interpretive means and methods of reasoning through which the law was inferred? Before we proceed, however, an important point must be made.

Since the first century of Islam, Muslim legal thinking has had to wrestle with the problem of the extent to which human reason can guide humankind in conducting its material and spiritual affairs. Some philosophers thought that the leading intellectuals might be able to exercise their rational faculties in order to judge what is good and what is bad in the way we deal with each other as social beings, and with the natural world around us. They may know, thanks to their trained intellectuals, that a certain code of morality or a set of particular laws is *rationally* required for the orderly and civil functioning of society. They may even understand – given that they have all the facts at hand – that the natural environment around us must not be abused and that we are an integral part of this natural order. Damage that and we damage ourselves in the process.

Yet law is not relevant only to intellectuals, since it is essential to society at large, i.e., to the uneducated man or woman as much as to the highly learned. How can ordinary people come to understand the need to abide by certain patterns of conduct if they do not possess the means to think through life's intricate situations or the world's more complex problems? How can even the elite intellectuals determine the exact way in which we should behave properly? Thus, Islamic law and theology posed the central question: Does rational thinking, *on its own*, accomplish the job? Or, to put it differently, is rational thinking – even in its best forms – sufficient for Muslims to know precisely how to conduct themselves in their worldly and religious affairs? (To bring this point into sharp relief, and to continue with the aforementioned example about the natural

order, one might consider that our best rational and scientific thinking has led us – during the last century or so – to the virtual destruction of our natural environment.)

The Muslim jurists and most Muslim theologians held the view that rational thinking is a gift from God and that we should fully utilize it – like everything else that He bestowed on us – in as wise and responsible a manner as possible. Just as His material blessings (the wealth some of us have come to possess) must be deployed for good works, our intellects must likewise be exercised for good causes. But what are these good works and causes? What is their *content*? If God granted us precious intellects, by what measure do we think about the world, about its human, material and physical components? In other words, how do we determine what is good and what is evil, what is beneficial and what is harmful in both the short and long runs? In yet other words, it is not only precisely *how* we think but also, and equally important, *what substantive assumptions* must we make when exercising our processes of thought? For example, the content of our modern rationalist thinking about the natural environment may be our immediate concern with material welfare and physical comfort (leading, among other things, to heavy industrialization), but the consequences of this thinking and the ensuing actions could well lead us to an environmental disaster. On the other hand, if the positive content of our rationalist thinking were to be, say, the integrity of the natural order (as, for example, Buddhism teaches), then our conclusions and therefore resultant actions and effects would be entirely different, despite the fact that nothing in our rationalist methods *themselves* has changed. It was precisely this dilemma that Muslims encountered virtually from the beginning of their religion. And their solution was, as it continued to be for centuries, that, however precious, *rationalist thought on its own is insufficient*.

Islamic legal tradition adopted the position that, while our reason is to be exercised to its fullest capacity, the *content* of rational thinking must be predetermined, transcendent and above and beyond what we can infer through our mental faculties. Implied in this thinking was the assumption that humans simply do not understand all the secrets of the world, so that attempting to control it is to be vain and arrogant. God is the One who created the world and therefore the One who knows its secrets. We may exercise our intellects to their fullest capacity, but without His aid, we will overlook and misunderstand much. The content of rationality, in their thinking, must thus be predetermined by the all-knowing God, who has revealed a particular body of knowledge through the Quran and the Prophet. This combination, viewed as a marriage between reason and revelation, was the ultimate source of law. Law, put differently, was the child of this marriage.



Transmission of texts

With this background in mind, Muslim jurists proceeded to articulate a theory of law (*USUL AL-FIQH*) that reflected the concerns and goals of this “marriage.” The theory began with the assumption that the Quran is the most sacred source of law, embodying knowledge that God had revealed about human beliefs, about God himself, and about how the believer should conduct himself or herself in this world. This human conduct was the domain of law, and to this end the Quran contained the so-called “legal verses,” some five hundred in all (the others being theological, exhortative, etc.).

But God also sent down a prophet, called Muhammad, whose personal conduct was exemplary. Though not, according to Muslim tradition, endowed with divine qualities (as Jesus Christ is said to have been by Christians), Muhammad was God’s chosen messenger; he understood God’s intentions better than anyone else, and acted upon them in his daily life. Hence the exemplary nature of his biography, which became known in the legal literature as SUNNA – the second major source of law after the Quran. The concrete details of the Sunna – that is, what the Prophet had done or said, or even tacitly approved – took the form of specific narratives that became known as *HADITH* (at once a collective and a singular noun, referring to the body of *hadith* in general and to a single *hadith*, according to context). For example, the Sunna of the Prophet generally promotes the right to private property, but the precise nature of this right was not made clear until the pertinent *hadiths* became known. Thus, we learn in one such *hadith* that when the Prophet once heard that someone had cultivated plants on the land of his neighbor without the latter’s knowledge, he said: “He who plants, without permission, in a lot owned by other people cannot own the crops although he is entitled to a wage [for his labor].” In the context of property rights, he also said: “He who unlawfully appropriates as much as one foot of land [from another], God will make seven pieces of land collapse on him when the Day of Judgment arrives.” These two *hadiths*, along with many others, give a good idea of what the Prophetic Sunna – as an abstract concept – aims to accomplish in the vital area of property law.

One of the concerns of legal theory was to provide criteria by which the subject matter of the *hadiths* (which, in their entirety, exceeded half a million) might be transmitted from one generation to the next in a reliable manner. The application of these criteria finally resulted in the acceptance of only about 5,000 sound *hadiths*. Thus, a *hadith* that had been passed down via a defective or interrupted chain of transmitters, or by transmitters known to be untrustworthy, was held to lack any legal effect even

though its language might be clear and unequivocal. For example, if I know that a *hadith* was transmitted to me from A, B, C, D and F on the authority of the Prophet, but the identity of E is unknown to me or, alternatively, I know him to have been untrustworthy, then I cannot use the *hadith* for reasoning about the law. If the *hadith* passes the test of sound transmission but consists of ambiguous words whose exact meaning I am unable to determine with any precision, then the *hadith* is also rendered useless as the basis of legal reasoning.

Even the Quran contains such ambiguous language, but in terms of transmission it is regarded as *wholly certain*, since the entire community of Muslims was involved in its conveyance from one generation to the next. This position stems from the theory of CONSENSUS, namely, that it is inconceivable for the entire Muslim community to conspire on a falsehood, including forging or distorting the holy Book. Thus, for a text to be deemed credible beyond a shadow of doubt (i.e., to have certainty), it must meet this requirement of multiple transmission, which we will here call RECURRENCE. For recurrence to obtain, three conditions must be met: first, the text must be conveyed from one generation to the next through channels of transmission sufficiently numerous as to preclude any possibility of error or collaboration on a forgery; second, the first class of transmitters must have had sensory perception of what the Prophet said or did; and third, the first two conditions must be met at each stage of transmission, beginning with the first class and ending with the last narrators of the report.

Any text transmitted through channels fewer than those by which the recurrent report is conveyed is termed SOLITARY, although the actual number of channels can be two, three or even more. With the possible exception of a few, the *hadith* reports are generally considered solitary, and, unlike the Quranic text, they do not possess the advantage of recurrence. In fact, there were far more fabricated, and thus weak, *hadiths* than there were sound ones. But even these latter did not always engender certainty, since most were of the solitary type and therefore yielded only probable knowledge. If all this points to anything about Islamic law, it is its own acknowledgment that, as a practical field, religious law (mostly *hadith*-derivative) does not have to enjoy certainty. Certainty is necessary only when the issue at stake is either the status of one of the law’s FOUR SOURCES or a higher order of belief, such as the existence of God himself. As a system of belief and practice, the law on the whole cannot be considered legitimate or meaningful if one or more of its sources rests on probable, and thus uncertain, foundations; or if God himself, the originator of the Law, is not known to exist with certainty.

As we intimated earlier, the trustworthiness of individual transmitters played an important role in the evaluation of *hadiths*. The attribute that

was most valued, and in fact deemed indispensable and determinative, was that of being just, i.e., being morally and religiously righteous. A just character also implied the attribute of being truthful, which made one incapable of lying. This requirement was intended to preclude either outright tampering with the wording of the transmitted text, or interpolating it with fabricated material. It also implied that the transmitter could not have lied regarding his sources by fabricating a chain of transmitters, or claiming that he had heard the *hadith* from an authority when in fact he had not. He had also to be fully cognizant of the material he related, so as to transmit it with precision. Finally, he must not have been involved in dubious or “sectarian” religious movements, for if this were the case, he would have been liable to produce heretical material advancing the cause of the movement to which he belonged. This last requirement clearly suggests that the transmitter must have been known to be loyal to Sunnism, to the exclusion of any other community. The TWELVER-SHI'IS had a similar requirement.

Transmitters were also judged by their ability to transmit *hadiths* verbatim, for thematic transmission ran the risk of changing the wording, and thus the original intent, of a particular *hadith*. Furthermore, it was deemed preferable that the *hadith* be transmitted in full, although transmitting one part, thematically unrelated to the rest, was acceptable.

The jurist may encounter more than one *hadith* relevant to the case he is trying to solve, or *hadiths* that may be contradictory or inconsistent with one another. If he cannot reconcile them, he must seek to make one *hadith* preponderant over another by establishing that the former possesses attributes superior to, or lacking in, the latter. The criteria of preponderance depend on the mode of transmission as well as on the subject matter of the *hadith* in question. For example, a *hadith* transmitted by mature persons known for their prodigious ability to retain information is superior to another transmitted by young narrators who may not be particularly known for their memory or precision in reporting. Similarly, a *hadith* whose first transmitter was close to the Prophet and knew him intimately is regarded as superior to another whose first transmitter was not on close terms with the Prophet. The subject matter also determines the comparative strength or weakness of a *hadith*. For instance, a *hadith* that finds thematic corroboration in the Quran would be deemed more weighty than another which finds no such support. But if the procedure of weighing the two *hadiths* does not result in tipping the balance in favor of one against the other, the jurist may also resort to the procedure of ABRIGATION, whereby one of the *hadiths* is made to repeal, and thus cancel out the effects of, another.

Abrogation was also unanimously held as one of the key methods of dealing with contradictory Quranic texts. But the theory of Abrogation

does not imply that the Quranic passages themselves are actually abrogated – only the legal rulings embedded in these passages.

The fundamental principle of Abrogation is that one text repeals another contradictory text that was revealed prior to it in time. But abrogation may result from a clearer consideration, especially when the text itself stipulates that another should be superseded. An example in point is the Prophet's statement: “I had permitted for you the use of the carrion leather, but upon receipt of this writing [epistle], you are not to utilize it in any manner.” Yet another consideration is the consensus of the community as represented by its scholars. If one ruling is adopted in preference to another, then the latter is deemed abrogated, since the community cannot agree on an error.

That the Quran can abrogate *hadiths* is evident, considering its distinguished religious stature and the manner of its transmission. And it is understandable why solitary *hadiths* cannot abrogate Quranic verses (although a tiny minority of jurists permitted this type of abrogation). However, the question that remained controversial was whether or not recurrent *hadiths* could abrogate Quranic verses.

Reasoning

Be that as it may, the language of the Quran and *hadith* was not always clear and unequivocal. That is, some terms lent themselves to more than one interpretation. Metaphorical words and overly general language had to be interpreted to yield specific meanings and, to do so, the jurists developed linguistic rules in order to resolve such problems.

The aim of the reasoning jurist was to establish, for every new case he encountered, a legal norm. The Shari'a recognizes five such norms, intended to order the entire range of human activity and to set human life in good order. The purpose here is not to control or discipline, the two most salient tasks of modern law and the modern state that yields it. Rather, in Muslim thinking, the purpose of the law is to foster living in peace, first with oneself, and second with and in society. The law bids one to do the right thing, to the extent one can and wherever one happens to be. The state permits and forbids, and when it does the latter, it punishes severely upon infraction. It is not in the least interested in what individuals do outside of its spheres of influence and concern. Islamic law, on the other hand, has an all-encompassing interest in human acts. It organizes them into various categories ranging from the moral to the legal, without however making conscious distinctions between the moral and the legal. In fact, there are no words in Arabic, the *lingua franca* of the law, for the different notions of moral/legal.

Thus, all acts are regarded as *shari'i* (i.e., subject to the regulation of the Shari'a and therefore pronounced as *law* – “*law*” being a moral-legal command), and are categorized according to five norms. The first of these is the category of the forbidden, which entails punishment upon commission of an act considered prohibited, whilst the second category, that of the obligatory, demands punishment upon omission of an act whose performance is regarded as necessary. Breach of contract and theft are infractions falling within the forbidden category, while prayer and payment of pecuniary debts are instances of the obligatory. Both categories require punishment upon non-compliance.

The three remaining categories are the recommended, neutral and disapproved. Helping the poor, consuming particular lawful foods and unilateral DIVORCE by the husband are, respectively, examples of these three categories. Performing the disapproved and not performing the recommended entail no punishment. But if a person is compliant, i.e., by performing a recommended act or refraining from a disapproved act, then he or she will be rewarded, although the reward is assumed to await one in the Hereafter. Since the category of the neutral prescribes neither permission nor prohibition, then neither reward nor punishment is involved.

Thus, when the reasoning jurist encounters in the Quran and/or the Sunna a word that has an imperative or a prohibitive form (e.g., “Do” or “Do not do”), he must decide to which of the five legal norms they belong. When someone commands another, telling him “Do this,” should this command be regarded as falling only within the legal value of the obligatory, or could it also be within that of the recommended and/or the indifferent? The very definition of the imperative was itself open to wide disagreement. Some writers saw it as language demanding of a person that he or she perform a certain act. Others insisted that an element of superiority on the part of the requestor over the person ordered must be present for the expression to qualify as imperative; i.e., an inferior's language by which he commands his superior cannot be taken as imperative. Against the objection that one can command one's equal, they argued that such a command, though it may take the imperative form, is merely a metaphoric usage and should not be treated as a command in the real sense.

These varied interpretive positions do not seem to have offered a satisfactory or consistent solution to the problem of the imperative form. But by the eleventh century, some jurists had succeeded in resolving the issue. They pointed out that the significations of linguistic forms, including the imperative, must be understood in light of what has been established by convention, which is known by means of widespread usage of the

language. Through this pervasive usage, which cannot be falsified, we know from past authorities what the convention is with regard to the meaning of a word, or we know that the Lawgiver has accepted and confirmed the meaning as determined by that convention. Such reported usage also informs us of the existence of any consensus in the community on how these words are to be understood or, in the absence of a consensus, how they were understood by scholarly authorities whose erudition, rectitude and integrity would have prevented them from remaining silent when an error in language was committed.

So far, we have discussed the first two sources of the law: the Quran and the Sunna of the Prophet. We now turn to the third source, consensus, which guarantees not only the infallibility of those legal rulings (or opinions) subject to juristic agreement but also the entire structure of the law. Technically, consensus is defined as the agreement of the community as represented by its highly learned jurists living in a particular age or generation, an agreement that bestows on those rulings or opinions subject to it a conclusive, certain knowledge.

The universal validity of consensus could not be justified by reason, since Muslims held that entire communities or “nations” could go, and indeed had gone, wrong even on important issues. Consensus, therefore, had to be grounded in the Quran and/or the Sunna. But early attempts by theoreticians to articulate a Quranic basis for consensus failed, since the Quran did not offer evidence bearing directly on it. No less disappointing were the recurrent Prophetic reports which contained virtually nothing to this effect. All that were available were solitary reports speaking of the impossibility of the community on the whole ever agreeing on an error. “My community shall never agree on a falsehood” and “He who departs from the community ever so slightly would be considered to have abandoned Islam” are fairly representative of the language employed. While a dozen or more of these reports were considered relevant to the issue of consensus's authority, they gave rise to a problem. Solitary reports are probable and thus cannot prove anything with certainty. Consensus is one of the sources of the law, and must as such be shown to have its basis in nothing short of certain evidence. Otherwise, the whole foundation of the law, and therefore religion, might be subject to doubt.

To solve this quandary, the jurist turned to the reports that are *thematically*, but not verbally, recurrent. Although solitary, these reports not only are numerous but, despite the variation in their wording, possess in common a single theme, namely, that through divine grace the community as a whole is safeguarded against error. The large number of transmissions, coupled with their leitmotif, transforms these reports into the *thematically* recurrent type, thus yielding certain knowledge of an infallible nature.

Conclusively established as a source of law, consensus ratifies as certain any particular rule that may have been based on probable textual evidence. The reasoning advanced in justification of this doctrine is that if consensus on probable evidence is attained, the evidence cannot be subject to error inasmuch as the community cannot err in the first place. Thus, consensus may be reached on rules that were based on inferential methods of reasoning. However, it is important to note that the cases or rules upon which there was consensus are limited, constituting less than 1 percent of the total body of law. Yet because these cases were subject to this extraordinary instrument, they were deemed especially important.

There remains the question of how consensus is determined to have occurred. Much theoretical discussion was devoted to this issue, but in practice knowledge of the existence of consensus on a particular case was determined by looking to the past and by observing that the major jurists were unanimous regarding its solution. And, as we have said, such cases were relatively few.

Knowledge of cases subject to consensus was required in order to ensure that the jurist's reasoning did not lead him to results different from, or contrary to, the established agreement in his school or among the larger community of jurists. The importance of this requirement stems from the fact that consensus bestows certainty upon the cases subject to it, raising them to the level of the unequivocal texts in the Quran and the recurrent *hadith*; thus, reopening such settled cases to new solutions would amount to questioning certainty, including conclusive texts in the Quran and the Sunna. Yet, as already noted, the cases determined to be subject to the certainty of consensus remained numerically insignificant as compared to those subject to juristic disagreement. The point remains, however, that inferential reasoning is legitimate only in two instances, namely, when the case in question had not been subject to consensus (having remained within the genre of juristic disagreement) or when it was entirely new.

The jurists recognized various types of legal reasoning, some subsumed under the general term *QIYAS*, and others dealt with under such headings as *ISTISLAH* (public interest) and *ISTIHSAN* (juristic preference). We begin with *qiyyas*, considered the fourth source of law after consensus.

The characterization of this category as a "source of law" need not imply that it was a material source on the substance of which a jurist could draw. Instead, it is a source only insofar as it provides a set of methods through which the jurist arrives at legal norms. The most common and prominent of these methods is analogy. As the archetype of all legal argument, *qiyyas* is seen to consist of four elements, namely: (1) the new case requiring a legal solution (i.e., the application of one of the five norms); (2) the original case

that may be found either stated in the revealed texts or sanctioned by consensus; (3) the *RATIO LEGIS*, or the attribute common to both the new and original cases; and (4) the legal norm that is found in the original case and that, owing to the similarity between the two cases, must be transposed to the new case. The archetypal example of legal analogy is the case of wine. If the jurist is faced with a case involving date-wine, requiring him to decide its status, he looks at the revealed texts only to find that grape-wine was explicitly prohibited by the Quran. The common denominator, the *ratio legis*, is the attribute of intoxication, in this case found in both drinks. The jurist concludes that, like grape-wine, date-wine is prohibited owing to its inebriating quality.

Of the four components of *qiyyas*, the *ratio legis* occasioned both controversy and extensive analysis, since the claim for similarity between two things is the cornerstone and determinant of inference. Much discussion, therefore, was devoted to the determination of the *ratio*, for although it may be found to be explicitly stated in the texts, more often it is intimated or alluded to. Frequently, the need arose to infer it from the texts. For instance, when the Prophet was questioned about the legality of bartering ripe dates for unripe ones, he queried: "Do unripe dates lose weight upon drying out?" When he was answered in the affirmative, he reportedly remarked that such barter is unlawful. The *ratio* in this *hadith* was deemed explicit since prohibition was readily understood to be predicated upon the dried dates losing weight; hence, a transaction involving unequal amounts or weights of the same object would constitute USURY, clearly prohibited in Islamic law. In other instances, the *ratio* may be merely intimated. In one *hadith*, the Prophet said: "He who cultivates a barren land acquires ownership of it." Similarly, in 5:6, the Quran declares: "If you rise up for prayer, then you must wash." In these examples, the *ratio* is suggested in the semantic structure of this language, reducible to the conditional sentence "If ..., then ..." The consequent phrase "then ..." indicates that the *ratio* behind washing is prayer, just as the ownership of barren land is confirmed by cultivating it. It is important to realize here that prayer requires washing, not that washing is consistently occasioned by prayer alone. For one can wash oneself without performing prayer, but not the other way round. The same is true of land ownership. A person can possess barren land without cultivating it, but the cultivation of it, and subsequent entitlement to it, is the point.

The *ratio* may consist of more than one attribute, all of which must be considered as "causing" a normative rule to arise from them. For instance, the *ratio* of the theft penalty encompasses five attributes: (1) the object stolen must have been taken away by stealth; (2) it must be of a minimum value; (3) it must in no way be the property of the thief; (4) it must be taken

out of custody; and (5) the thief must have full legal capacity. All of these attributes must obtain for an act to qualify as theft, an act punishable by cutting off the hand. All attributes must exist together; no single one by itself suffices to produce the *ratio legis*.

The rationale behind the rule is at times comprehensible: for example, the intoxicating attribute of wine renders it prohibited because intoxication incapacitates the mind and hinders, among other things, the performance of religious duties. In this example, we comprehend the reason for the prohibition. Some properties, however, do not disclose the reason. We do not know, for instance, why the quality of edibility should be the *ratio legis* for the prohibition of usury in the exchange of some goods; all we know is that no object possessing the property of edibility can be the subject of a transaction involving usury.

The *ratio* may also be causally connected with its rule in a less than explicit manner. From Quran 17:23, “Say not ‘Fie’ to them [parents] neither chide them, but speak to them graciously,” the jurists understood that uttering “Fie” before one’s parents is prohibited because of the lack of respect the expression entails. If the utterance of “Fie” is prohibited, then striking one’s parents is *a fortiori* prohibited. The prohibition of striking is indirectly engendered by the prohibition against uttering “Fie,” and is not explicitly stated in the texts. At times, the sequence of events may help unravel the *ratio*, for the sequence may be interpreted causally. The Prophet, for instance, tersely commanded a man to free a slave upon hearing that the man had engaged in sexual intercourse with his wife during the fasting hours of Ramadan. Although the connection between the infraction and the command was not made clear by the Prophet, the sequence of events nonetheless renders them causally so connected. The Prophet would not have behaved in this manner without the occurrence of a particular event that precipitated his particular command.

The *ratio legis* may also be known by consensus. For example, it is the universal agreement of the jurists that the father enjoys a free hand in managing and controlling the property of his minor children. Here, minority is the *ratio* for this unrestricted form of conduct, and property the new case. Thus, the *ratio* may be transposed to yet another new case, such as the unrestricted physical control of a father over his children.

A significant method for discovering and evaluating the *ratio* is that of SURTABILITY (*MUNASABA*). We have noted that the Quran prohibits the consumption of wine because it possesses the attribute of inebriation, leading the intoxicated person to neglect his religious duties. The theorists argued that even if the Quran did not allude to the reason for the prohibition, we would still come to understand that the prohibition was pronounced because of inebriation’s harmful consequences. This is

reasoning on the basis of suitability, since we, independently of revelation and through our rational faculty, are able to recognize the harmful effects of intoxication and thus the rationale behind certain sorts of prohibition.

However, there are limits to rationality within and without the method of suitability. Since the law cannot always be analyzed and comprehended in (exclusively) rational ways, reason and its products are not always in agreement with the legal premises and their conclusions. Suitability, therefore, may at times be relevant to the law, and irrelevant at others. No *ratio* may be deemed suitable without being relevant, and any irrelevant *ratio* becomes unsuitable, precluding it from further juristic consideration. In the case of divorced women who are of the age of majority, male guardianship is waived by virtue of the life experience that such divorcees have gained. Thus, such divorcees may remarry without the need for a guardian’s approval. Logically, this reasoning would apply to divorcees who are minor, but rationally this is inappropriate since it runs counter to the aims of the law in protecting the welfare and interests of minors.

Suitability’s goal is to offer “relevant” ways of reasoning that serve the public interest (*MASLAHA*) as defined by the fundamental principles of the law. In other words, interpreting the law in the light of suitability is accomplished independently of the specific revealed texts, since the *ratio* is not, in the first place, textual. Rather, it is rational and seeks to conform to the spirit of the law, which is known to prohibit what is harmful and to promote what is good for this life and for the hereafter. The systematic exclusion of harm and inclusion of benefit are the fundamental aims of the law, and it is to these aims that the rational argument of suitability must conform. Protection of life, religion, private property, mind and offspring are the most salient of these goals. These are known as the indispensable necessities, for without them no society or legal system can meaningfully exist.

Once the *ratio* in analogical *qiyas* is identified and confirmed to be the *relevant* and *complete* common factor between the original and the new cases, very little else is involved in the transference of the legal norm from the former to the latter case. Analogy, however, is not the only method of inference subsumed under *qiyas*. Another important argument, among others, is that of the *a fortiori* type. For example, from Quran 5:3, “Forbidden unto you are carrion, blood, flesh of the pig,” the jurists took the last four words to include all types of pork, including that of wild boar, although the original reference was to domestic pigs.

Another type of legal reasoning is *istihsan*, which is an inference that presumably starts from a revealed text but leads to a conclusion that differs from one reached by means of *qiyas*. If a person, for example,

forgets what he is doing and eats while he is supposed to be fasting during the month of Ramadan, *qiyyas* dictates that his fasting becomes void, since food has entered his body, whether intentionally or not. But *qiyyas* in this case was abandoned in favor of a Prophetic *hadith* which pronounced the fasting valid if the act of eating was the result of a mistake. The *qiyyas* reasoning here is one that typically falls within a large area of the law where no exceptions are allowed. If fasting during Ramadan is broken on any given day, then *qiyyas* requires compensation. Yet, despite the fact that *istisban* is based on a text, the very choice of this text represents a juristic intention to create an exception to the law. If a mistake does not invalidate fasting, then no atonement or compensation is required.

Some, but by no means all, *istisban* exceptions were justified by sacred texts. Many were in fact based either on consensus or on the principle of NECESSITY. For instance, to be valid, any contract involving the exchange of commodities requires immediate payment. But some contracts of hire do not fulfill this condition, a fact that would render them void if *qiyyas* were to be invoked. The common practice of people over the ages has been to admit these contractual forms in their daily lives, and this is viewed as tantamount to consensus. As an instrument that engenders certainty, consensus becomes tantamount to the revealed texts themselves, thereby bestowing on the reasoning involved here the same force that the Quran or the *hadith* would bestow.

Likewise, necessity often requires the abandonment of conclusions reached by *qiyyas* in favor of those generated by *istisban*. Washing with ritually impure water would, by *qiyyas*, invalidate prayer, but not so in *istisban*. Here, *qiyyas* would lead to hardship in view of the fact that fresh, clean water is not always easy to procure. The acceptance of necessity as a principle that legitimizes departure from strict reasoning is seen as deriving from, and sanctioned by, both the Quran and the Sunna, since necessity, when not acknowledged, can cause nothing but hardship.

A third method of inference is *istislah* (public interest), i.e., reasoning that does not appear to be directly based on the revealed texts. We have already taken note of the important role that public interest plays in determining the *ratio*'s suitability in *qiyyas*. It is because of this relationship between the *ratio* and suitability that *maslaha* is deemed an extension of *qiyyas*. As such, most theorists do not devote to it an independent section or chapter but treat it under the category of suitability. This fact attests to the heavy emphasis that *qiyyas* places upon the non-literal extrapolation of rules.

On the basis of a comprehensive study of the law, the jurists came to realize that there are five universal principles that underlie the Shari'a, namely, protection of life, mind, religion, property and offspring.

The reasoning was that the law has come down explicitly to protect and promote these five areas of human life, and that nothing in this law can conceivably run counter to these principles or to any of their implications, however remotely. If the feature of public interest in a case can be shown to be indubitably connected with the five universals, then reasoning must proceed in accordance with *maslaha*. The condition of universality is also intended to ensure that the interests of the Muslim community at large are served.

Legal pluralism

The foregoing interpretive methods constituted the tools of *IFTIHAID*, the processes of reasoning that the jurist employed in order to arrive at the best guess of what he thought might be the law pertaining to a particular case. Except for a relatively few Quranic and Prophetic statements which were unambiguous and which contained clear and specific normative rulings, the rest of the law was the product of *iijihad*. For unlike the unambiguous textual rulings, which were certain and hence not susceptible to *iijihad* (because the mind cannot see any other meaning in the language in which they were stated), this latter involved inferences, both linguistic and legal. *Iijihad*, therefore, was the domain of probability.

Iijihad is therefore overwhelmingly the result of *iijihad*, a domain of interpretation that rests on probability. Every accomplished jurist could exercise *iijihad*, and no one knew, except for God, which *MUJTAHID* (the jurist conducting *iijihad*) was correct. This relativity gave rise to the famous tenet and maxim that "Every *mujtahid* is correct."

Iijihad also gave Islamic law one of its unique features. For every eventuality or case, and for every particular set of facts, there are anywhere between two and a dozen opinions, if not more, each held by a different jurist. In other words, there is no single legal stipulation that has monopoly or exclusivity, unlike the situation that obtains in the modern state. Islamic law is thus also characterized by legal pluralism, not only because it acknowledges local custom and takes it into serious account, but also because it offers an array of opinions on one and the same set of facts. This pluralism gave Islamic law two of its fundamental features, one being flexibility and adaptability to different societies and regions, and the other an ability to change and develop over time, first by opting for those opinions that have become more suitable than others to a particular circumstance, and second by creating new opinions when the need arose. That Islamic law was accused of rigidity by European colonialism to justify – as we shall see later – the dismantling of the Shari'a system is therefore not only wrong but highly ironic.

Contents and arrangement of legal subjects

Muslim jurists viewed the Shari'a as a mandate to regulate all human conduct, from religious rituals and family relations to commerce, crime and much else. The following is an overview of the contents and range of subjects treated in legal works, from short manuals to much longer treatises. These works tended to differ from each other in terms of the organization of their subject matter, although the chapters on ritual in these works always occupied first place and followed a fixed order (i.e., ablution, prayer, alms-tax, fasting and pilgrimage). The differences in the order of treatment of other legal spheres, at times great, can be attributed to the various ways the LEGAL SCHOOLS (to be discussed in chapter 3) conceived of the logical and juristic connections between one area of law and another, which is to say that the most significant organizational variations between and among these works can be attributed to school affiliation and the particular commentarial and interpretive tradition in each of them.

Generally, Muslim jurists gave the main topics of law the title *kitab* ("book"), e.g., the Book of Agency, which, in our modern organizational scheme, we recognize as a chapter. A sub-chapter was termed "*bab*," which would in turn be broken into a number of *fazl*s (sections).

Many jurists conceived of the whole of Islamic law as falling into four major fields, which were called "the four quarters," i.e., "rituals, sales, marriage and injuries." Each of these terms, used in this context metaphorically, stands for a staggering variety of subjects that belong to a single quarter. Thus, the "quarter of sales" would encompass, among many other subjects, partnerships, guaranty, gifts and bequests, while that of "marriage" would cover as varied a field as dissolution of matrimony, foster relationships, custody, and wifely and family support. In the same vein, the "quarter of injuries" includes homicide, the Quranic punishments and the laws of war and peace, among other topics. Works generally ended with what we term procedural law, supplemented by coverage of slave manumission. Other works ended instead with inheritance and bequests.

What follows is a schematic account of legal subject matter. It will be noticed that the main "book" topics are followed by percentages indicating the space typically allocated to the discussion of each topic in legal works. Obviously, works differed from each other in this respect, and so what are given here are rough estimates of space, intended to give a general idea of the quantitative weight of each subject in the overall coverage of the law. However, the legal works had much in common in

their proportionate coverage of the law. For example, the Book of Pledge, however short or long it is in various works, can never reach the magnitude of the Book of Prayer or that of Sales.

A. The First Quarter

1. Book of Purity and Washing (7%)
2. Book of Prayer (14%)
3. Book of Alms-Tax (4%)
4. Book of Fasting (3%)
5. Book of Pilgrimage (6%)
6. Book of Food and Drink (less than 1%) [some jurists discuss this and the following Book toward the end of the Third Quarter]
7. Book of Hunting and Butchering Animals (less than 1%)

B. The Second Quarter

[Some jurists treat these topics in the Third Quarter, with the exception of inheritance and bequests which are generally delayed to the very end of their works.]

8. Book of Sales (4%)
9. Book of Pledge (1%)
10. Book of Insolvency and Interdiction (1%)
11. Book of Amicable Settlement (less than 1%)
12. Book of Transfer (less than 1%)
13. Book of Guaranty (less than 1%)
14. Book of Partnership (less than 1%)
15. Book of Agency (1%)
16. Book of Acknowledgments (1.2%)
17. Book of Deposit (less than 1%)
18. Book of Loans (less than 1%)
19. Book of Unlawful Appropriation (1.5%)
20. Book of Preemption (1%)
21. Book of Sleeping Partnership (less than 1%)
22. Book of Agricultural Lease (less than 1%)
23. Book of Rent and Hire (2%)
24. Book of Cultivating Waste Land (less than 1%)
25. Book of Charitable Trusts (*WAQF*, 1.5%)
26. Book of Gifts (1%)
27. Book of Found Property (less than 1%)
28. Book of Foundling (less than 1%)
29. Book of Rewards for Returning Escaped Slaves (less than 1%)
30. Book of Quranic Shares (inheritance, 3.5%)
31. Book of Bequests (2.5%)

C. The Third Quarter

[Some jurists treat these topics in the Second Quarter.]

32. Book of Marriage (3.5%)
33. Book of Dower (1%)
34. Book of Contractual Dissolution of Marriage (*khuf'*; less than 1%)
35. Book of Unilateral Dissolution of Marriage by Husband (2%)
36. Book of Re-marriage by the Same Couple (less than 1%)
37. Book of Husband's Oath not to have Sexual Intercourse with his Wife for Four Months (*Id'a*; less than 1%)
38. Book of Husband's Oath not to have Sexual Intercourse with his Wife (*zihar*; less than 1%)
39. Book of Husband's Accusing his Wife of Being Unfaithful (less than 1%)
40. Book of Oaths (2%)
41. Book of Waiting Periods (1%)
42. Book of Foster Relationships (less than 1%)
43. Book of Family Support (1.2%)
44. Book of Child Custody (less than 1%)

D. The Fourth Quarter

45. Book of Torts (2%)
46. Book of Blood-Money (less than 2%)
47. Book of Qurantically Regulated Infractions (5%)
 - a. Sub-chapter on Apostasy
 - b. Sub-chapter on Rebels
 - c. Sub-chapter on Illicit Sexual Acts
 - d. Sub-chapter on Accusing Someone of an Illicit Sexual Act
 - e. Sub-chapter on Theft
 - f. Sub-chapter on Highway Robbers
 - g. Sub-chapter on Drinking Intoxicants
48. Book of Discretionary Punishments (*TA'ZIR*; less than 1%)
49. Book of War and Peace (*JIHAD*, 1.5%) [some jurists place this Book at the end of the First Quarter]
50. Book of Division of Booty (1%)
51. Book of Judges and Judgeship (3%)
52. Book of Suits and Evidence (1%)
53. Book of Testimonies (2%)
54. Book of Manumission (less than 1%)
55. Book of Manumission after Master's Death (less than 1%)
56. Book of Manumission for Payment (less than 1%)
57. Book of Female Slaves who had Children with their Master (less than 1%).

3 The legal schools

One of the most important features of the Shari'a and indeed of Islam as a whole is the pervasive role of the doctrinal legal schools. In Sunni Islam, these schools were four: the HANAFI, MALIKI, SHAFI'I and HANBALI, named after the four MASTER-JURISTS who were assumed to be their founders. (It is worthwhile noting that these schools are entirely different from, and share no characteristics with, the law schools in our universities nowadays.)

The Arabic word for the legal school is *MADHHAB*, a term that has several meanings, all of which are interconnected. Generally, the word means that which is followed and, more specifically, the opinion or idea that one chooses to adopt; hence, a particular opinion of a jurist. Historically, this meaning of the term is of early provenance, probably dating back to the end of the seventh century, but certainly to the middle of the eighth. By the early ninth century, its use had become common.

The term *madhab* is associated with three other meanings that have emerged out of, and subsequent to, this basic usage, and which reflected the formation of schools. The first of these meanings is a principle defining the conceptual juristic boundaries of a set of cases. For example, an assumption of the Hanafis is that misappropriation, in order to obtain, must involve the unlawful removal of property from its original place, where it had been in the possession of the owner. The Hanbalis, on the other hand, define misappropriation as mere seizure of property, whether or not it is removed from its original place of ownership. Thus, taking possession of a rug by sitting on it (without removing it) is considered misappropriation by the Hanbalis, but not by the Hanafis. In terms of recovery of damages, this basic difference in definition contributed to generating significant differences between the two schools. Whereas the Hanbalis make the wrongdoer liable to the original owner for all growth of, and proceeds from, the misappropriated object, the Hanafis place severe restrictions on the ability of the owner to recover his accruing rights. The reasoning here is that the growth or proceeds of the misappropriated property were not yet in existence when the property was

"removed" from the hands of the rightful owner, and since they were not in existence, no liability on the part of the wrongdoer is deemed to arise. This example illustrates a central meaning of the term *madhhab* as a legal doctrine concerning a group of cases – in this instance cases pertaining to the recovery of damages – which are subsumed under a larger principle. And it is in this sense that it can be said that one school's doctrine differs, sometimes significantly, from another's.

The second meaning of *madhhab* is a jurist's individual opinion when this enjoys the highest authority in the school, as distinct from the third associated sense of *madhhab* where it is used to refer to a group of jurists who are loyal to an integral and, most importantly, *collective* legal doctrine attributed to a master-jurist from whom the school is known to have acquired particular, distinctive characteristics. Thus, after the formation of the schools, jurists began to be characterized as Hanafi, Maliki, Shafi'i or Hanbali, as determined by their *doctrinal* (not personal) loyalty to one school or another. This doctrinal loyalty, it must be emphasized, is to a cumulative body of doctrine constructed by generations of leading jurists, which is to say, conversely, that loyalty is not extended to the individual doctrine of a single master-jurist. By the middle of the tenth century, or shortly thereafter, these meanings were all present, which is to say that by this time the legal schools had come into full maturity.

How and when did the concept of *madhhab* evolve from its basic meaning into its highly developed sense of a doctrinal school? As we have already seen, the early interest in law and legal studies evolved within the environment of the STUDY CIRCLES, where men learned in the Quran and the general principles of Islam began to discuss, among other things, various quasi-legal and often strictly legal issues. By about 730 AD, such learned men had already assumed the role of teachers whose circles often encompassed numerous students interested specifically in religious law. However, by that time, no obvious methodology of law and legal reasoning had yet evolved, so that one teacher's lecture might not have been entirely distinguishable, methodologically and as an *articulated* body of principles, from another's. Even the body of legal doctrine they taught was not yet complete, as can be attested from each teacher's particular interests. Some taught rules of inheritance, while others emphasized the law of ritual, which was a fundamental part of the law. More importantly, we have little reason to believe that the legal topics covered later were all present at this early stage.

During the first half of the eighth century, with SUBSTANTIVE LAW having become more systematic, the jurists had begun to develop their own legal assumptions and methodology. Teaching and intense scholarly debates within study circles must have sharpened the methods by which

jurists were doing law, which in turn led them to defend their own, individual conceptions of the law. Each jurist, on adopting a particular method, gathered around him a certain following who learned their jurisprudence and method from him.

Yet, it was rare that a student or a young jurist would restrict himself to one circle or one teacher; indeed, it was not uncommon for young jurists to attend several circles in the same city. During the second half of the eighth century, aspiring jurists did not confine themselves to circles within one city, but traveled near and far in search of reputable teachers (one of the notable characteristics of learning in pre-modern Islam). Each prominent teacher attracted students who "took law" from him. A judge who had studied law under a teacher was likely to apply the teacher's doctrine in his court, although, again, loyalty was not exclusive to a single doctrine. If he proved to be a sufficiently promising and qualified jurist, he might "sir" as a professor in his own turn, transmitting to his students the legal knowledge he gained from his teachers, but seldom without his own reconstruction of this knowledge. The legal doctrines that Abu Hanifa, Malik and Shafi'i, among many others, taught to their students were largely a transmission from their own teachers. None of these, however, despite the fact that they were held up as school founders, constructed his own doctrine in its entirety, as later Islamic history would have us believe. Rather, all of them were in fact as much indebted to their teachers as these latter were indebted to their own.

During the eighth century, therefore, the term *madhhab* meant a group of students, LEGISTS, judges and jurists who had adopted the doctrine of a particular leading jurist, such as Abu Hanifa – a phenomenon that I call here a "personal school." Those who adopted or followed a jurist's doctrine were known as associates, namely, those who studied with or were scholarly companions of a jurist. Most leading jurists had such associates, a term that also meant "followers." Thus, all master-jurists were linked with a *madhhab*, namely, a personal school revolving around both his circle and personal legal doctrine.

Nonetheless, doctrinal loyalty was not yet in order. As we noted, it was not unusual for a legislator to shift from one doctrine to another or simultaneously adopt a combination of doctrines belonging to two or more leading jurists. This became inconceivable once the doctrinal schools emerged.

Indeed, as it came to pass, the standard reference of the technical term "*madhhab*" was to the doctrinal school, which featured several characteristics lacking in its personal counterpart. First, the personal school comprised the substantive legal doctrine of a single leading jurist, and, at times, his doctrine as transmitted by one of his students. The doctrinal

school, on the other hand, possessed a cumulative doctrine of substantive law in which the legal opinions of the leading jurist, now the assumed "founder," were only the first among equals; that is, equal to the rest of the opinions and doctrines held by various other jurists, also considered leaders *within* the school. In other words, the doctrinal school was a collective and authoritative entity, whereas the personal school remained limited to the individual doctrine of a single jurist.

The second characteristic was that the doctrinal school constituted as much a methodological entity as a substantive, doctrinal one. In other words, what distinguished a particular doctrinal school from another was largely its legal methodology and the substantive principles it adopted in dealing with its own law. Methodological awareness on this level had not yet developed in the personal schools, although it was on the increase from the middle of the eighth century.

Third, a doctrinal school was defined by its substantive boundaries, namely, by a certain body of law and methodological principles that clearly identified the outer limits of the school as a collective entity. The personal schools, on the other hand, had no such well-defined boundaries, and departure from these boundaries in favor of other legal doctrines and principles was a common practice.

The fourth characteristic, issuing from the third, was loyalty, for departure from legal doctrine and methodological principles amounted to abandoning the school, a major event in the life of a jurist. Doctrinal loyalty, in other words, was barely present in the personal schools, whereas in the later doctrinal schools it was a defining feature of both the school itself and the careers of its members.

How, then, did the doctrinal schools emerge? A central feature of the doctrinal school – yet a fifth characteristic distinguishing it from the personal school – was the creation of an axis of authority around which an entire methodology of law was constructed. This axis was the figure of the one who came to be known as the founder, the leading master-jurist, in whose name the cumulative, collective principles of the school were propounded. Of all the leaders of the personal schools – and they were many – only the four we mentioned above were raised to the level of "founder" of a doctrinal school. The rest did not advance to this stage, with the result that their personal schools did not long survive their deaths.

The so-called founder, the eponym of the school, thus became the axis of authority construction. As bearer of this authority, he was called the IMAM, and was characterized as an absolute master-jurist who was responsible for having created the school's methodology on the basis of which its precepts and law were constructed. Furthermore, his doctrine laid claim to originality not only because it derived directly from the

revealed texts, but also, and equally importantly, because it was gleaned systematically from the texts by means of clearly identifiable interpretive principles. Its systematic character was seen as the product of a unified and cohesive methodology that only the founding imam could have forged; but a methodology itself inspired and dictated by revelation. To explain all of this epistemic competence, the imam was viewed as having been endowed with exceptional personal character and virtuousity. The embodiment of pure virtue, piety, modesty, mild asceticism and the best of ethical values, he represented the ultimate source of legal knowledge and moral authority.

What made a *madhhab* (as a doctrinal school) a *madhhab* is therefore this feature of authoritative doctrine whose ultimate fount is presumed to have been the absolute master-jurist, the founder, not the mere congregation of jurists under the name of a titular eponym. This congregation would have been meaningless without the centripetal effect of an authoritative, substantive and methodological doctrine constructed in the name of a founder.

Finally, we must ask the question: why did the doctrinal schools come into being in the first place? Wholly native to Islamic soil, the *madhhabs'* gestation was entirely occasioned by internal needs. We have noted that the embryonic formation of the schools started sometime during the last decades of the seventh century, taking the form of study circles in which pious scholars debated religious issues and taught interested students. The knowledge and production of legal doctrine began in these circles – nowhere else. Legal authority, therefore, became epistemic (i.e., knowledge-based) rather than political, social or even religious. That epistemic authority is the defining feature of Islamic law need not be doubted, although piety and morality played important supporting roles.

A masterly knowledge of the law was the sole criterion in deciding where legal authority resided; and it resided with the scholars, not with the political rulers or any other source. This was as much true of the last decades of the seventh century as it was of the eighth century and thereafter. If a CALIPH actively participated in legal life, it was by virtue of his recognized personal knowledge of the law, not so much by virtue of his political office or military power. Thus, legal authority in Islam was personal and private; it was in the persons of the individual jurists (be they laymen or, on occasion, caliphs) that authority resided, and it was this competence in religious legal knowledge that was later to be known as *ijtihad* – a cornerstone of Islamic law.

Devolving as it did upon the individual jurists who were active in study circles, legal authority did not reside in the government or ruler, and this was a prime factor in the rise of the *madhhab*. Whereas law – as a legislated

system – was often “state”-based in other imperial and complex civilizations, in Islam the ruling powers had, until the dawn of modernity, almost nothing to do with the production and promulgation of legal knowledge or law. Therefore, in Islam, the need arose to anchor law in a system of authority that was not political, especially since the ruling political institutions were, as we shall see, deemed highly suspect. The study circles, which consisted of no more than groups of legal scholars and interested students, lacked the ability to produce a unified legal doctrine that would provide an axis of legal authority. For while every region possessed its own distinct, practice-based legal system, there was nevertheless a multiplicity of study circles in each, and within each circle scholars disagreed on a wide variety of opinions.

The personal schools afforded the first step toward providing an axis of legal authority, since the application (in courts and *fatwas*) and the teaching of a single, unified doctrine – that is, the doctrine of a leading jurist around whom a personal school had formed – permitted a measure of doctrinal unity. Yet, the large number of personal schools was only slightly more effective than the multiplicity of study circles, so an axis of authority was still needed. The personal schools, forming around all the major scholars, were doctrinally divergent and still very numerous, numbering perhaps as many as two dozen. Furthermore, the leader’s doctrine (which was little more than a body of legal opinions) was not always applied integrally, being subjected, as it were, to the discretion or even reformulation of the judge or jurisconsult applying it. Doctrinal and juristic loyalty was also still needed.

The eighth-century community of jurists not only formulated law but also administered it in the name of the ruling dynasty. In other words, this community was – juristically speaking – largely independent, having the competence to steer a course that would fulfill its mission as it saw fit. Yet, while maintaining juristic and largely judicial independence, this community did serve as the ruler’s link to the masses, aiding him in his bid for legitimacy. As long as the ruler benefited from this legitimizing agency, the legal community profited from financial support and an easily acquired independence.

Rallying around a single juristic doctrine was probably the only means for a personal school to gain loyal followers and thus attract political/financial support. Such support was not limited to direct financial favors bestowed by the ruling elite, but extended to prestigious judicial appointments that guaranteed not only handsome pay but also political and social influence. These considerations alone can explain the need to rally around outstanding figures whose legal authority as absolute *mujahid-imams* or master-jurists had to be constructed in order to raise their personal

schools to doctrinal entities. This construction was a way to anchor law in a source of authority that constituted an alternative to the authority of the body-politic; or, to put it more accurately, it came to fill a gap left untouched by Muslim rulers. Thus, whereas in other cultures the ruling authority (or legal power), in Islam it was the doctrinal legal school that produced law and afforded its axis of authority. In other words, legal authority resided in the collective, juristic doctrinal enterprise of the school, not in the ruler or in the doctrine of a single jurist.

The legal schools represent a fundamental feature of the Shari‘a. Once they were formed, and until they were dissipated by modern reform, no jurist could operate independently of them. Although lay persons were free to follow any of these schools for a particular transaction or way of conduct (e.g., rituals), each school tended to have influence in particular regions. The Hanafi school started in Iraq but quickly extended its influence eastward, to Iran (until about 1500), Central Asia and the Indian Sub-Continent. Later on, it was adopted as the school of choice of the Ottoman Empire. Today, traditionally Hanafi populations include those in Bangladesh, Pakistan, India, Central Asia, Iraq, Syria, Jordan, Palestine and Turkey.

The Maliki school started in the Hejaz but immediately spread to Egypt and, extensively, to Muslim Spain (until the fifteenth century) and North Africa, where it has continued to hold unrivaled sway until now. With the main exceptions of South Africa, Zanzibar and some parts of Egypt, the populations of the African continent have been traditionally of Maliki persuasion.

The Shafi‘i school began essentially in Egypt, but later spread to Syria (which gradually became mostly Hanafi after the sixteenth or seventeenth century), Lower Egypt, some parts of the Yemen, Malaysia and Indonesia. The Hanbali school, the smallest of the four, was strong in the city of Baghdad between the tenth and thirteenth centuries, but now has a wide following in Saudi Arabia.

While the Zaydi Shi‘i school is predominant in the Yemen, its Twelver (Ja‘fari) counterpart has been strong in Iran (after c. 1500), Bahrain, southern Iraq, southern Lebanon and Azerbaijan.



Session 7



CASES AND CONTROVERSIES: PREGNANCY AS PROOF OF GUILT UNDER PAKISTAN'S HUDOOD LAWS

*Moeen H. Cheema**

ABSTRACT

Pakistan's *Hudood* (Islamic criminal) laws have been a source of controversy since their promulgation by the military regime of General Muhammad Zia-ul-Haq in 1979. For their supporters, these laws are a welcome step towards the enforcement of *shari'ah* (Islamic law) and, as such, represent a logical and inevitable progression of those historic processes that had led to the creation of the Islamic Republic of Pakistan. To their opponents, these laws represent gross violations of fundamental human rights and constitutional norms designed to uphold democratic participation in lawmaking and the equality of citizens irrespective of their religion or gender. However, despite the protests at home and the notoriety generated in the international media, these laws continue to exist on the statute books and are enforced in the courts of law.

This paper will survey the contours of the controversies surrounding the Hudood laws, and seek to broaden the horizons of the debate surrounding these laws by incorporating an "Islamic critique" of these laws that has generally been lacking in the discourse. More importantly, the paper seeks to analyze the role that the Federal Shariat Court has played in substantively shaping the law, through a chronological analysis of the Court's decisions on the most contentious aspects of the Hudood laws: the conviction of rape victims for *zina* (consensual adultery/fornication) regarding as proof the pregnancy caused by the rape. This analysis will indicate the strengths of the Islamic critique and propose reforms that may offer a viable avenue for alleviating the hardships perpetrated in the application of the Hudood laws.

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I. INTRODUCTION

The military regime of General Muhammad Zia-ul-Haq promulgated the controversial *Hudood* laws¹ in its early years in power,

1. The Hudood laws were enacted through four Presidential Ordinances and one Presidential Order. See Offence of Zina (Enforcement of Hudood) Ordinance, 1979 (VII of 1979), *reprinted in* 31 P.L.D. 1979 Central Statutes 51 (1979) [hereinafter Offence of Zina Ordinance]; Offence of Qazf (Enforcement of Hadd) Ordinance, 1979 (VIII of 1979), *reprinted in* 31 P.L.D. 1979 Central Statutes 56 (1979) [hereinafter Offence of Qazf Ordinance]; Offences Against Property (Enforcement of Hudood) Ordinance, 1979 (VI of 1979), *reprinted in* 31 P.L.D. 1979 Central Statutes 44 (1979) [hereinafter Offences Against Property Ordinance]; Execution of the Punishment of Whipping Ordinance, 1979 (IX of 1979), *reprinted in* 31 P.L.D. 1979 Central Statutes 60 (1979) [hereinafter Execution of the Punishment of Whipping Ordinance]; Prohibition (Enforcement of Hadd) Order, 1979 (IV of 1979), *reprinted in* 31 P.L.D. 1979 Central Statutes 33 (1979) [hereinafter Prohibition Ordinance]. Article 89 of Pakistan's Constitution empowers the President to create laws via ordinances when the National Assembly is not in session and "circumstances exist which render it necessary to take immediate action." PAK. CONST. art. 89, cl. 1, *available at* http://www.nrb.gov.pk/constitutional_and_legal/constitution. This provision enables the President to deal with any circumstances that require legisla-

ostensibly to further the process of "Islamization" in Pakistan.² Grafted onto the country's common law system, a remnant of British colonial

tive action when the Parliament is not in session, for example, in the transitory period between elections. Such ordinances were envisaged as temporary measures that would lapse after four months unless adopted by the Parliament. However, having taken over power in a military coup in July 1977, General Zia-ul-Haq dissolved the elected Parliament and replaced it with a nominated assembly called the *Majlis-e-Shoora*. In the absence of Parliament, General Zia-ul-Haq used these law-making powers extensively, especially to further the process of "Islamization" of laws in Pakistan. See Ann Elizabeth Mayer, *Islam and the State*, 12 CARDOZO L. REV. 1015, 1042–47 (1991). In 1985, parliamentary elections were held on a non-party basis and the newly elected Parliament passed the notorious Eighth Amendment to Pakistan's Constitution. Article 270A of the Constitution was thereby amended to state that all ordinances, orders, and other laws made between July 5, 1977, and the date on which the Eighth Amendment came into force (thereby including the Hudood laws) were "affirmed, adopted and declared, notwithstanding any judgment of any court, to have been validly made by competent authority" PAK. CONST. art. 270A, cl. 2. Thereafter, the Hudood Ordinances were accorded the force equivalent to an Act of Parliament, and became entrenched in Pakistani law.

2. Many critics have questioned General Zia's intentions as regards his Islamization program, or *Nizam-e-Mustapha* as he preferred to call it. See, e.g., ASMA JAHANGIR & HINA JILANI, THE HUDOOD ORDINANCES: A DIVINE SANCTION? 18 (1990). They allege

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rule, the laws sought to criminalize extra-marital sexual relations³ and the consumption of alcohol,⁴ as well as to bring into conformity with Islamic injunctions rules relating to certain offenses against property.⁵ The laws also introduced punishments of *rajm* (stoning to death)⁶ and public whipping into the criminal laws of Pakistan.⁷ Concurrent with the promulgation of the Hudood laws, General Zia's regime introduced a parallel judicial system consisting of the Federal Shariat Court (FSC) and the Shariat Appellate Bench of the Supreme Court⁸ empowered to review and declare invalid any law found to be inconsistent with *shari'ah* (Islamic law) injunctions.⁹

3. See Offence of Zina Ordinance § 4, *supra* note 1, at 52.

4. See Prohibition Ordinance §§ 3–16, *supra* note 1, at 34–37.

5. See Offences Against Property Ordinance pml., *supra* note 1, at 44.

6. See Offence of Zina Ordinance §§ 5–6, 17, *supra* note 1, at 52, 55.

7. See Execution of the Punishment of Whipping Ordinance, *supra* note 1, at 60–62.

In fact, while *rajm* was indeed a novel introduction to Pakistan's penal system, it may not be accurate to describe whipping as either a new or an exclusively "Islamic" form of punishment. Whipping was an available punishment prior to the Hudood laws under the Whipping Act, 1909. See Whipping Act, 1909 (IV of 1909), available at <http://www.pakistanlawyers.org> (follow "Statutes and Rules" hyperlink). For example, in *Farzand Ali v. State*, 1971 S.C.M.R. 715 (Sup. Ct. 1971), a case predating the Hudood Ordinances, the Supreme Court upheld a sentence for rape and kidnapping offenses, which included a penalty of twenty lashes. This case is rare, however, and except for whippings carried out in jails for disciplinary reasons, whipping was rarely employed as a punishment under the general criminal laws prior to the Hudood laws' enactment.

8. Initially, the shariat courts constituted part of the Pakistani High Courts. These courts were given judicial independence on May 26, 1980, after the insertion of Article 203C to Pakistan's Constitution. See PAK. CONST. art. 203C. The FSC consists of eight Muslim judges, three of whom are *ulema* (religious scholars). *Id.* cl. 2, 3A. The remaining judges are appointed from amongst those who are qualified to be judges of the High Courts. *Id.* cl. 3A. The Chief Justice must be serving on the High Courts, or should be qualified to be a judge of the Supreme Court of Pakistan. *Id.* cl. 3. Any judge of the High Courts who refuses appointment to the FSC faces automatic retirement. *Id.* cl. 5. The FSC has the power to review any and all Pakistani laws to determine whether they are repugnant to the injunctions of Islam. *Id.* art. 203D, cl. 1. FSC decisions are supreme, binding the High Courts and all lower courts. *Id.* art. 203GG. As regards the Hudood laws, the FSC acts as a court of appeals. *Id.* art. 203DD. Appeals from judgments of the FSC lie before the Shariat Appellate Bench of the Supreme Court. *Id.* art. 203F, cl. 1. The Shariat Appellate Bench consists of three Muslim judges of the Supreme Court as well as two ad hoc *ulema* judges appointed by the President. *Id.* cl. 3. These two appointed *ulema* judges are picked either from the FSC, or from a panel of *ulema* nominated by the President in consultation with the Chief Justice of the Supreme Court. *Id.* cl. 3(b).

9. Commenting on the significance of this event, Dr. Nasim Hasan Shah, retired Chief Justice of Pakistan, stated:

The conferment of such a power of judicial review, with a view to Islamising the existing laws, has no parallel in judicial history. No such power was con-

The promulgation of the Hudood laws received robust support from a small segment of Pakistani society: religious political parties and their most ardent followers.¹⁰ For these supporters, the laws were a welcome step towards the enforcement of shari'ah, and, as such, represented a logical and inevitable progression of those historic processes that had led to the creation of the "Islamic Republic of Pakistan."¹¹ The Hudood laws

ferred on Courts during the Muslim Rule when Islamic Fiqh was the governing law This indeed was a most awesome and far-reaching power, without any parallel in the history of the Islamic world and also a very potent instrument for accomplishing the process of Islamisation of laws within the shortest possible period. This power was, in fact, availed of fully both by the Federal Shariat Court and the Shariat Appellate Bench of the Supreme Court for bringing about the Islamisation of existing laws. Indeed as a result of the decisions of these Courts and the consequential steps taken to implement them, a silent revolution has come about in the legal field.

Nasim Hasan Shah, *Islamisation of Law in Pakistan*, 47 P.L.D. 1995 Journal 37, 41–42 (1995).

10. Religious political parties have historically failed to garner significant support in general elections. See Hassan Abbas, *Pakistan Through the Lens of the "Triple A" Theory*, 30 FLETCHER F. WORLD AFF. 181, 186 (2006). However, such parties have, at various times, enjoyed considerable power by virtue of their presence in governing coalitions. For example, the "MMA" (*Mutahida Majlis-e-Amal*), a coalition of six religious political parties, achieved unprecedented success in the latest general elections held in October 2002, and currently commands a majority in the provincial legislature of the North West Frontier Province. B. Muralidhar Reddy, *Pakistan's Religious Parties Losing Ground?*, THE HINDU, Sept. 2, 2005, at 2.

11. The demands for Islamization of laws are as old as Pakistan itself. According to Maulana Abul A'la Maudoodi, a renowned religious scholar, political activist, and the founder of the *Jamaat-i Islami* religious-political party: "The Pakistan movement was an expression of Muslim India's firm desire to establish an Islamic State. The movement was inspired by the ideology of Islam and the country was carved into existence solely to demonstrate the efficacy of the Islamic way of life." MAULANA ABUL A'LA MAUDOODI, THE ISLAMIC LAW AND CONSTITUTION 10 (Khurshid Ahmad trans., Islamic Publications 4th ed. 1969) (1955). Dr. Nasim Hassan Shah has expressed similar sentiments: "The main reason why the Muslims of undivided India demanded Pakistan was that they wished to have a State where they could live according to their own cultural values, traditions and Laws." Shah, *supra* note 9, at 37. However, despite expressing an aspiration of Islamization in the Objectives Resolution, 1949, the first Constituent Assembly of Pakistan, as well as later framers of the three Constituents of Pakistan, failed to give more than a lip service to the agenda of Islamization of laws. See Tayyab Mahmud, *Freedom of Religion & Religious Minorities in Pakistan: A Study of Judicial Practice*, 19 FORDHAM INT'L L.J. 40, 63 (1995). All three Constitutions, adopted in 1956, 1962, and 1973, included "Islamic provisions" which sought the Islamization of laws through legislation upon the advice of advisory councils composed of religious scholars. However, the process of Islamization did not take hold until the emergence of General Zia on the political scene, who gave the power of Islamization to the shariat courts. See William L. Richter, *The Political Dynamics of Islamic Resurgence in Pakistan*, 19 ASIAN SURV. 547 (1979),

immediately generated vehement protests and criticism from an equal partial sector of the society:¹² urban, "liberal," and "Westernized" members of human rights and women's rights organizations who subscribe to the notion of "separation of church and state."¹³ To these opponents the laws represented gross violations of fundamental human rights, constitutional norms designed to uphold democratic participation in law making, and the equality of citizens irrespective of their religion or gender. However, despite the protests, the majority of Pakistani citizens, ignor-

for a multi-faceted explanation of Islamic resurgence in Pakistan during the Zia regime in addition to Zia's personal interest in raising the banner of Islamization. Richter attributes the revival to a number of socio-political factors: the search for a national identity after the Bangladesh debacle; increased ties and enhanced proximity with the Middle East; increase in the geo-political rise of the Middle East on account of oil wealth; bi-ethnic Islamic revival in the region; and disillusionment with the failures of capitalism and socialism in Pakistan. *Id.* at 549-57.

12. For a pictorial presentation of the protests held in opposition to the Hudood laws and their violent suppression by the military regime, see JAHANGIR & JILANI, *supra* note 2, at 34-45.

13. See *id.* at 18, 21. According to these authors, one can group people into four categories based on their opinions of Hudood laws. First, there are the unrelenting fundamentalists who fully support the laws. See *id.* at 18. Second, there are those amongst the fundamentalists who realize that these laws are defective but "do not ask for their repeal or amendment because they think it would generally undermine the process of Islamization of laws." *Id.* at 21. Third, there are the patchworkers: "Theirs is the mission of law making. They do not advocate any radical positions. They neither support the law in nor seek its repeal. They want to appease both factions through amendments here and there." *Id.* Fourth, and last, there are the secularist opponents who "reject religion as basis or source of law." *Id.*

14. Kennedy, *Islamization and Legal Reform in Pakistan*, *supra* note 2, at 74. Kennedy catalogues the criticisms leveled against the Hudood laws and Pakistan's Islamization program as follows:

- (a) *The human rights argument.* The punishments specified in the *hudood* ordinances (stoning to death, amputation, whipping) constitute cruel and unusual punishments, and border on barbarism. (b) *The reactionary argument.* Nizam-i-Mustapha is characterized as an attempt to set Pakistan back fourteen hundred years to the time of Rightly-Guided Caliphs. (c) *The undemocratic argument.* Zia's Islamization program was designed to lend support to an unpopular military regime. His policies had the effect of banning political parties and silencing political opposition. (d) *The anti-minority argument.* The Nizam-i-Mustapha discriminates against non-Muslims, particularly the Ahmadiyya, and Christians. A corollary of this argument is that Nizam-i-Mustapha is dominated by the Sunni Hanafi *fiqh*, that is, it is anti-Shia. (e) *The misogyny argument.* Nizam-i-Mustapha discriminates against the rights of women. And (f) the *anti-national argument.* Nizam-i-Mustapha is opposed to modernity and Westernization; and it is obscurantist.

of the laws' questionable Islamic credentials, weak doctrinal foundations, and numerous procedural defects, were swayed by the misleading label and remained approvingly silent.¹⁵

Although the Hudood laws have been mired in controversy since their inception, limited meaningful public deliberation has occurred during the last two decades. The argumentation over the Hudood laws, as well as the process of Islamization, has been mostly journalistic and occasionally academic.¹⁶ This has served only to harden the two extreme positions, with the two sides talking at each other, rarely listening, and hardly changing any minds.

Every democratically elected government constituted after the demise of General Zia, representing both sides of the political divide, has refrained from tinkering with the Hudood laws.¹⁷ This suggests an appreciation on the part of the country's lawmakers that the ideology of Islamization, if not the Hudood laws themselves, has continued to command the allegiance of a substantial majority of the citizens.¹⁸ Significantly, the

15. JAHANGIR & JILANI, *supra* note 2, at 22.

16. Whereas Pakistan's print media has historically betrayed a sensationalist bent, Western news media have exhibited a distinct bias against Islamic reforms. See Naz K. Modirzadeh, *Taking Islamic Law Seriously: INGOs and the Battle for Muslim Hearts and Minds*, 19 HARV. HUM. RTS. J. 191, 191–94 (2006). The portrayals of Hudood laws in both domestic and international media have also been particularly affected by the complexity of these laws, resulting in perpetual repetition of inaccurate assertions. Unfortunately, many of these inaccuracies have even filtered into academic discourse. See *infra* note 113 and accompanying text.

17. For example, Benazir Bhutto's fierce opposition to Zia's Islamization program formed the centerpiece of the Pakistan People's Party's (PPP) election campaign in 1988. However, upon forming her government, Bhutto let the issues over Islamization fade from the public debate. As a result, the Hudood laws remained intact during the PPP governments of 1988–1990 and 1993–1996. See Saeed Shafqat, *Pakistan Under Benazir Bhutto*, 36 ASIAN SURV. 655, 657–58 (1996).

18. The "undemocratic" critiques of General Zia's Islamization program implicitly concede this point. See JAHANGIR & JILANI, *supra* note 2, at 22. However, Richard Kurin questions the assumption of widespread support for the Islamization process amongst Pakistan's mostly rural population. Richard Kurin, *Islamization in Pakistan: A View from the Countryside*, 25 ASIAN SURV. 852 (1985). His personal observations from a village in Central Punjab, recorded during 1978 and 1983, indicated only a limited influence of state-sponsored Islamization upon the daily lives of the villagers. *Id.* at 861. Kurin remarks that the villagers continued to exclude religious teachers from public decision-making, play cards, listen to loud music, refrain from praying and fasting, and condone adulterous affairs long after the enforcement of shari'ah laws in Pakistan. *Id.* at 854–61. However, it hardly needs saying that one village in Central Punjab is not a representative sample. But cf. JAHANGIR & JILANI, *supra* note 2, at 18 (arguing that Islamization has taken hold in Pakistan "despite the lack of overall popular support" because "the Islamic

Hudood laws have come to symbolize to many Western observers the perceived retrogressive and discriminatory nature of Islam and Islamic laws. In the present geo-political environment characterized by the "Clash of Civilizations" and the "War on Terror," the Hudood laws appear to highlight the dangers associated with the rise of Islamic fundamentalism.¹⁹

A major reason for the failure of anti-Hudood activists to win widespread public support has been an inability, or perhaps a conscious decision on their part, to effectively and credibly challenge the fidelity of these laws to their Islamic doctrinal foundations.²⁰ Further, a bulk of the critique has focused on the language and the structure of the Hudood Ordinances and their misapplication in the trial courts.²¹ Inadequate attention has been paid thus far to the evolving jurisprudence of the Shariah appellate courts, which, compelled by the logic of traditional *fiqh* (Is-

political parties carry a group of dedicated followers, with enough strength, organisation and clout to keep all governments from implementing a progressive secular policy").

19. See, e.g., CHERYL BENARD, CIVIL DEMOCRATIC ISLAM: PARTNERS, RESOURCES, AND STRATEGIES 17–20 (2003) (discussing the harsh criminal punishments in fundamentalist Islamic justice); Joan Fitzpatrick & Alice Miller, *International Standards on the Death Penalty: Shifting Discourse*, 19 BROOK. J. INT'L L. 273, 358–60 (1993) (contending that the prevalence of capital punishment in Pakistan is owed to the influence of Islamic fundamentalism).

20. In 2002, the National Commission on the Status of Women ("NCSW") formed a fifteen-member Special Committee to review the Hudood Ordinances. The Committee held five meetings and recommended, by a sizable majority, that the Ordinances be repealed. NAT'L COMM'N ON THE STATUS OF WOMEN, REPORT ON HODOOD ORDINANCES 1979 13–14 (2003) [hereinafter NCSW Report]. The NCSW Report, while refreshing the controversy, has added very little to the academic debate. It merely summarizes the diverse opinions expressed at the meetings, which, for the most part, are regurgitations of standard arguments. The superficiality of the analysis conducted in the NCSW Report is reflected most clearly in its discussions on the question of rajm, which the Report acknowledged required detailed study, yet with little hesitation recommended its repeal. See *id.* at 13–14, 36–38. Thus far, no action has been taken in pursuance of the NCSW Report. Like earlier efforts from the Commission of Inquiry for Women, the NCSW Report is likely to be ignored. See THE COMM'N OF INQUIRY FOR WOMEN, REPORT OF THE COMM'N OF INQUIRY FOR WOMEN (Aug. 1997) [hereinafter CIW Report]. In 1997, that commission had also recommended repeal of the Hudood laws after finding, without a thorough investigation, the laws to be "not in conformity with injunctions of Islam." *Id.* at 75. However, this report had done a much better job than the NCSW Report as far as documenting the problems associated with the enforcement of the Hudood laws.

21. See JAHANGIR & JILANI, *supra* note 2, at 85–130, for a work representative of this approach. Jahangir and Jilani's book contains extensive analysis of trial cases in which the Sessions courts have made glaring errors. Problem decisions handed down by the FSC have also been highlighted. However, the book makes only passing references to those FSC cases overturning Sessions courts' decisions or overruling problematic FSC decisions, and it offers no analysis whatsoever of the FSC's jurisprudence.

lamic jurisprudence) doctrines, have managed to shape the substantive laws in a manner that appears to alleviate many of the criticisms directed against these laws.²² This lack of attention towards the role of the Shariat courts in shaping the Hudood laws may be attributable to a general perception amongst the critics that the Shariat courts espouse an essentially conservative ideology in consonance with the proponents of the Hudood laws. This perception, which is rooted in the political origins and the early history of the Shariat courts,²³ does not fully accord with the recent practice or the present jurisprudential approach of the Shariat courts in Pakistan.²⁴

22. Amira Sonbol contends that inattention to the practice of shari'ah courts in general is pervasive in Western scholarship of Islamic law. Amira Sonbol, *Women in Shari'ah Courts: A Historical and Methodological Discussion*, 27 FORDHAM INT'L L.J. 225 (2003). Studying the practice of pre-modern shari'ah courts in Egypt, Sonbol discovers that the legal precedents of these courts protected the rights of women to a greater extent than many of the religious and secular codes in force today. *Id.* at 252. She concludes that "ideological presumptions," along with a lack of research, has led to the almost total disregard for the "legal practices accumulated over the centuries which had constituted a common law" in Islamic societies. *Id.*

23. The establishment of the Federal Shariat Court and the Shariat Appellate Bench of the Supreme Court generated substantial criticism on various constitutional grounds. See generally Kennedy, *Islamization and Legal Reform in Pakistan*, *supra* note 2, at 66–67. First, in establishing these "Islamic" courts, the President amended Pakistan's Constitution in the absence of Parliament. Second, the President's power of appointment of ulema judges to the judiciary gave rise to the concern that the Shariat courts would adopt the orthodox positions on interpretations of Islamic law espoused by a segment of the society that formed a numerically insignificant portion of the electorate. Having the power to overrule any legislation enacted by future democratically elected Parliaments, the Shariat courts, it was feared, would impose the views of this minority over those of the majority. Third, the creation of the Shariat courts appeared to undermine further the idea that the judiciary was an independent branch of Pakistani government.

24. See Julie Dror Chadbourne, *Never Wear Your Shoes After Midnight: Legal Trends Under the Pakistan Zina Ordinance*, 17 WIS. INT'L L.J. 179, 181 (1999) ("[W]hile the body of law relating to the Zina Ordinance is varied, the Pakistani judiciary is developing case law that may assist future advocates . . . in their efforts on behalf of their clients."). In fact, it has been argued that the FSC has always played less of a demonic role than has been attributed to it by its critics. See Charles H. Kennedy, *Islamization in Pakistan: Implementation of the Hudood Ordinances*, 28 ASIAN SURV. 307 (1988) [hereinafter Kennedy, *Islamization in Pakistan*]. In a statistical review of the jurisprudence of the FSC from 1980 to 1984, Charles Kennedy found that the FSC "accepts or partially accepts an extraordinarily high percentage of the appeals before it . . . [and] that the FSC 'upheld fully' only 19% of the convictions brought before it and that it acquitted 52% of the appellates." *Id.* at 309. Kennedy also found that over ninety percent of the cases overturned by the FSC were reversed "because of misappreciation of facts, not misinterpretation of law, . . . [and that] even in cases in which it upheld the conviction of the sessions judge, the FSC was more lenient in its sentencing." *Id.* at 309–10. Accordingly, Kennedy concluded that the "the net effect of FSC decisions . . . has been to moderate substantially

This paper will survey the contours of the controversies surrounding the Hudood laws and seek to identify the extent to which the divergent perceptions accord with the reality. The aim is to broaden the horizons of the debate surrounding the Hudood laws by incorporating an "Islamic critique," something that has generally been lacking in the discourse. More importantly, the paper seeks to analyze the role that the FSC has played in substantively shaping the law, indicating thereby that Islamic critiques may offer a viable avenue for alleviating the hardships perpetrated in the application of the Hudood laws. Whereas, it may not be practical to undertake a holistic analysis of the FSC's entire jurisprudence at this stage, this paper will put forward a chronological analysis of the Court's decisions on one — arguably the most contentious — aspect of the Hudood laws: the conviction of rape victims for *zina* (consensual adultery/fornication) where the pregnancy caused by the rape is regarded as proof of the crime. Criticisms of this scenario have been repeated persistently in both international and domestic news media, and have even become cliché in most academic critiques of the Hudood laws.²⁵ Most such critiques, however, offer little or no analysis of the relevant jurisprudence of the Shariat courts.

Part II of the paper will provide an overview of the provisions of the "Offence of Zina (Enforcement of Hudood) Ordinance, 1979" (Zina Ordinance), and outline the circumstances in which some trial courts have considered pregnancy as proof of zina in cases prosecuted under the Ordinance. Part III of the paper shall present a review of the jurisprudence of the FSC, indicating the extent to which the Court has addressed the criticisms engendered by the consideration of pregnancy as proof of zina.²⁶ Part IV will then highlight the principal arguments presented by both the proponents and opponents of the Hudood laws, and analyze the major disagreements in their approaches. Furthermore, it will be argued that this debate has reached a stalemate primarily because it fails to incorporate a vital dimension: a thorough and credible Islamic critique,

the zeal of the sessions judges in enforcing the Hudood statutes." *Id.* at 310. Kennedy attributes this moderation to the typical composition of the Shariat courts and the background of the judges. Kennedy, *Islamization and Legal Reform in Pakistan*, *supra* note 2, at 65–66. Whereas the critics complain about the presence of ulema judges on the bench, Kennedy points out that eighteen of the twenty-three judges appointed to serve on the FSC between 1980 and 1989 were former High Court judges, and that twenty possessed Western-style law degrees. *Id.* at 66.

25. See, e.g., JAHANGIR & JILANI, *supra* note 2, at 86–87; Weiss, *supra* note 2, at 870.

26. This part of the paper will incorporate detailed excerpts from the relevant judgments, many of which have been written in grammatically or stylistically deficient English. No attempt has been made to revise the language since it is important to let the judges, under scrutiny, speak for themselves.

evaluating the extent to which the Hudood laws, as presently enforced in Pakistan, accord with the traditional fiqh doctrines upon which they are supposedly founded. The paper shall also advance the argument that the positive developments in the jurisprudence of the FSC are not merely attributable to the political pressures generated by the opponents of the Hudood laws or to international media attention. Rather, it will be shown that the categorical imperatives embedded in the Islamic fiqh doctrines at the foundations of the Hudood laws necessitate many of the positions taken by the Court. Proposals for reform and a conclusion will follow.

II. THE ZINA ORDINANCE

A. Overview

It is said that the Zina Ordinance introduced the sexual offenses of zina and *zina-bil-jabr* (rape) into Pakistan's criminal laws.²⁷ Whereas zina was a previously unknown offense,²⁸ the zina-bil-jabr provisions of the Ordinance replaced pre-existing rape provisions in the Pakistan Penal Code.²⁹ However, the FSC has held that the Ordinance represents a

27. See Offence of Zina Ordinance §§ 4, 6, *supra* note 1, at 52. Additionally, the Zina Ordinance transferred some offenses from the general criminal laws of the Pakistan Penal Code to the Hudood laws, or created new offenses similar to those already existing. See, e.g., *id.* § 12, at 54 (prohibiting “[k]idnapping or abducting in order to subject person to unnatural lust”); *id.* § 14, at 54 (prohibiting “[b]uying person for purposes of prostitution”); *id.* § 15, at 55 (prohibiting “[c]ohabitation caused by a man deceitfully inducing a belief of marriage”); *id.* § 16, at 55 (prohibiting “[e]nticing or taking away or detaining with criminal intent a woman”).

28. While zina was a previously unknown offense, adultery was already punishable under the Pakistan Penal Code. The penal code provided:

Whoever has sexual intercourse with a person who is and whom he knows or has reason to believe to be the wife of another man, without the consent or connivance of that man, such sexual intercourse not amounting to the offence of rape, is guilty of the offence of adultery, and shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both. In such case the wife shall not be punishable as an abettor.

PAK. PEN. CODE ch. 20, § 497 (1860) (repealed by Zina Ordinance). Adultery, prior to the Zina Ordinance, was thus an offense that could only be committed by a man. Fornication, or consensual sexual intercourse between unmarried persons, was not an offense prior to the enforcement of the Zina Ordinance.

29. See PAK. PEN. CODE ch. 16-A, §§ 375–376 (1860), *repealed by* Offence of Zina Ordinance § 3, *supra* note 1, at 52.

"complete departure" from the previous law.³⁰ Accordingly, "no offence by the name of rape exists in the *corpus juris* of Pakistan" any longer.³¹

Section 4 of the Ordinance defines the offense of zina as willful sexual intercourse between a man and a woman who are not validly married to each other.³² Zina is liable to the punishment of *hadd* (punishment ordained by the Qur'an)³³ if the following proof is presented to the Sessions Court (the trial court): the accused confesses to the commission of zina before the court, or the prosecution presents four credible adult male Muslim eyewitnesses who have seen the very act of penetration.³⁴ The

30. Muhammad Asghar v. State, 37 P.L.D. 1985 F.S.C. 1, 5 (1984).

31. Muhammad Hayat v. Superintendent, Central Jail, Faisalabad, 2002 Y.L.R. 23, 24 (Lahore High Ct. 2001).

32. Section 4 of the Zina Ordinance provides:

4. *Zina*.—A man and a woman are said to commit '*zina*' if they willfully have sexual intercourse without being validly married to each other.

Explanation.—Penetration is sufficient to constitute the sexual intercourse necessary to the offence of zina.

Offence of Zina Ordinance § 4, *supra* note 1, at 52.

33. Hudood are generally defined as those crimes for which punishment has been fixed by divine commandment. Though this definition is uniformly adhered to by the ulema, the catalogue of the Hudood crimes in fact varies. As such, some consider only those crimes to be Hudood which have been mentioned in the Qur'an and for which the punishment has been explicitly prescribed therein. Others include those crimes that, though mentioned in the Qur'an, punishment is not explicitly provided. For example, the consumption of alcohol is forbidden by the Qur'an, but it provides no punishment. Yet, a majority of the ulema consider this to be a hadd offense and derive its punishment from the Sunnah. A third category of ulema point out that there is no distinction between hadd and tazir in the Sunnah, and consider all those crimes which are referenced in the Qur'an or the Sunnah to be hadd crimes. There are only four crimes that have been explicitly mentioned in the Qur'an: zina, *haraabah* (variously defined as highway robbery, forcible taking of property, or waging war against the state); *shurb al-khamr* (consumption of wine); and *qazf* (unwarranted accusation of zina). Of these, the punishment for *shurb al-khamr* is not mentioned in the Qur'an. Verse 5:33 of the Qur'an, which deals with *haraabah*, mentions four possible punishments for this category of crimes: *taqteel* (execution), *tasleeb* (crucifixion), amputation of a hand and the opposite foot, or exile. As regards zina, although the Qur'an expressly mentions the punishment of one hundred lashes in verse 24:02, a majority of the ulema have relied on certain *ahadith* (narrations on what the Prophet Muhammad approved) to establish rajm as the appropriate hadd punishment. See Hazoor Bakhsh v. Federation of Pakistan, 33 P.L.D. 1981 F.S.C. 145, 153 (1981) (Durrani, J., dissenting) ("No doubt the punishment for a married woman . . . is stoning to death as against [an] unmarried one who is to be given 100 lashes.").

34. Section 8 of the Zina Ordinance, which establishes the proof requirements, provides:

8. *Proof of zina or zina-bil-jabr liable to hadd*.—Proof of Zina or zina-bil-jabr, liable to hadd shall be in one of the following forms, namely:—

hadd punishment for zina committed by a man or woman who is, or has previously been, married and has had sexual intercourse in the course of that marriage is rajm.³⁵ The hadd punishment for zina committed by a

(a) the accused makes before a Court of competent jurisdiction a confession of the commission of the offence; or

(b) at least four Muslim adult male witnesses, about whom the Court is satisfied, having regard to the requirements of tazkiyah al-shuhood, that they are truthful persons and abstain from major sins (kabair), give evidence as eye-witnesses of the act of penetration necessary to the offence. Provided that, if the accused is a non-Muslim, the eye-witnesses may be non-Muslims.

Explanation. In this section “tazkiyah al-shuhood” means the mode of inquiry adopted by a Court to satisfy itself as to the credibility of a witness.

Offence of Zina Ordinance § 8, *supra* note 1, at 53. The FSC has consistently interpreted the confession requirement of subsection (a) to mean confessions freely given before the Sessions Court on four different occasions. Confessions made to the police or to a Magistrate in pre-trial proceedings do not fulfill this requirement. See, e.g., Zafran Bibi v. State, 54 P.L.D. 2002 F.S.C. 1, 14 (2002). The requirement of four Muslim adult male witnesses has been derived from the following Qur’anic injunction:

If any of your women Are guilty of lewdness, Take the evidence of four (reliable) witnesses from amongst you Against them; and if they testify, Confine them to houses until Death do claim them, Or God ordain for them Some (other) way.

Qur'an 4:15 (Abdullah Yusuf Ali trans., The Islamic Center 3d ed. 1938).

35. Offence of Zina Ordinance § 5(2)(a), *supra* note 1, at 52. The distinction between adultery and fornication has proven to be one of the most debated aspects of the Zina Ordinance. The Qur’anic injunction in verse 4:15 has been widely understood to antedate verse 24:2, the only prescription in the Qur'an of a specific punishment for adultery and fornication:

The woman and the man Guilty of adultery or fornication, Flog each of them With a hundred stripes: Let not compassion move you In their case, in a matter Prescribed by God, if ye believe In God and the Last Day: And let a party Of the Believers Witness their punishment.

Qur'an 4:15 (Abdullah Yusuf Ali trans., The Islamic Center 3d ed. 1938). Verse 24:2 betrays no distinction between adultery and fornication and prescribes only one punishment for both offenses, one-hundred lashes in public. A majority of the Justices sitting on the FSC panel in *Hazoor Bakhsh* seized upon this verse to declare rajm un-Islamic. See *Hazoor Bakhsh*, 33 P.L.D. 1981 F.S.C. at 147 (Ali Hyder, J., concurring) (“[S]toning to death . . . is repugnant to the Injunctions of Islam.”). This decision resulted in significant embarrassment to the military regime of General Zia, which immediately amended the Constitution to grant the FSC the power to review its own judgments. JAHANGIR & JILANI, *supra* note 2, at 29. In 1982, the review petition was heard by a wholly reconstituted FSC: the three judges who had formed the *Hazoor Bakhsh* majority had since been removed, and the one dissenting judge, who had opined that rajm is a valid Islamic hadd

man or woman who is neither married, nor previously been married, is public whipping of one-hundred lashes.³⁶ A sentence of hadd may only be executed if the FSC has confirmed it after a hearing, regardless of whether or not the defendant has filed an appeal.³⁷

Section 6 of the Ordinance defines zina-bil-jabr as the act of having non-consensual sexual intercourse with a man or woman with whom the accused is not validly married.³⁸ Zina-bil-jabr is committed when the accused has had intercourse either: (a) against the victim's will; (b) without the victim's consent; (c) after obtaining the victim's consent by duress; or (d) after obtaining the victim's consent by inducing a fraudulent belief of a valid marriage.³⁹ Zina-bil-jabr is liable to hadd punishment if proof according to Section 8 of the Ordinance is presented before the Court.⁴⁰ The hadd punishment for zina-bil-jabr committed by a man who is, or has previously been, married and has had sexual intercourse in the course of that marriage is rajm.⁴¹ The hadd punishment for zina-bil-jabr committed by a man who is not, and has never previously been, married is public whipping of one-hundred lashes, as well as any other punishment, including a death sentence, that the court may consider appropriate

punishment, had died by the time the review petition was heard. This reconstituted FSC unanimously held that rajm was not repugnant to Islam. *Id.* at 29–30.

36. Offence of Zina Ordinance § 5(2)(b), *supra* note 1, at 52.

37. *Id.* § 5(3).

38. *Id.* § 6. Section 6(1) of the Zina Ordinance makes it clear that a woman can be accused of committing zina-bil-jabr against a man, or possibly even a woman. Contrast this with the repealed rape provisions of the Pakistan Penal Code, which defined rape as the commission of sexual intercourse “with a woman . . . [a]gainst her will . . . [or w]ithout her consent.” PAK. PEN. CODE ch. 16-A, § 375 (1860) (repealed by Zina Ordinance). Other than the gender-neutrality of its language, section 6 of the Zina Ordinance mimics the repealed rape provisions. This gender-neutrality is somewhat perplexing since penetration is a requirement for criminal liability. See Offence of Zina Ordinance §4, *supra* note 1, at 52 (“Penetration is sufficient to constitute the sexual intercourse necessary to the offence of ‘zina-bil-Jabr’.”). It is, therefore, hard to conceive of a situation in which a woman may commit zina-bil-jabr with a man or another woman. Additionally, note that the section 6 definition of zina-bil-jabr excludes marital rape from its prohibition. See *id.* §6(1) (providing that the zina-bil-jabr prohibition applies only to those persons “not validly married”). This is a point of divergence between the Zina Ordinance and the repealed Pakistan Penal Code provisions, which provided for a punishment of up to two years imprisonment. PAK. PEN. CODE ch. 16-A, § 376 (1860) (repealed by Zina Ordinance).

39. Offence of Zina Ordinance § 6(1), *supra* note 1, at 52.

40. See *supra* note 34 and accompanying text.

41. Offence of Zina Ordinance § 6(3)(a), *supra* note 1, at 53.

having regard to the circumstances of the case.⁴² As with sentences of hadd for convictions of zina, sentences of hadd for convictions of zina-bil-jabr cannot be executed unless they are confirmed by the FSC.⁴³

If the proof required for hadd punishment is not available, a court may still convict the accused of either zina or zina-bil-jabr liable to *tazir* (discretionary punishment under the Zina Ordinance) where other direct or circumstantial evidence of the commission of the offense is available.⁴⁴ The maximum *tazir* punishment for zina is rigorous imprisonment of ten years.⁴⁵ The *tazir* punishment for zina-bil-jabr is rigorous imprisonment of four to twenty-five years.⁴⁶ In cases of zina-bil-jabr committed by a

42. *Id.* § 6(3)(b). Note that this is the same punishment that the Qu'ran prescribes for zina in verse 24:2. *See supra* note 35. The Qu'ran does not explicitly take cognizance of, or prescribe punishment for, rape.

43. Offence of Zina Ordinance § 6(4), *supra* note 1, at 53.

44. As opposed to hadd punishments, *tazir* punishments are not statutorily fixed and may be left to the discretion of the judge. *Compare id.* § 5(2), at 52 (detailing punishment for zina liable to hadd), *and id.* § 6(3), at 53 (detailing punishment for zina-bil-jabr liable to hadd), *with id.* §§ 10(2), 10(3), at 54 (detailing punishments for zina and zina-bil-jabr liable to *tazir*).

45. *Id.* § 10(2), at 54. Asifa Quraishi has questioned the very logic of awarding *tazir* punishments for zina. Asifa Quraishi, *Her Honor: An Islamic Critique of the Rape Laws of Pakistan from a Woman Sensitive Perspective*, 18 MICH. J. INT'L L. 287, 313 (1997). She points out that punishment for zina as hadd requires the eyewitness testimony of four individuals, because the crime is prosecutable by the state only when it is a public act of indecency. *Id.* at 311–13. At the same time, the Qu'ran strictly forbids qazf, or unsubstantiated accusations of zina. When an allegation of zina is made and four eyewitnesses are not forthcoming, the Qu'ran declares:

And those who launch A charge against chaste women, And produce not four witnesses (to support their allegations), — Flog them with eighty stripes; And reject their evidence Ever after: for such men Are wicked transgressors; — Unless they repent thereafter And mend (their conduct); For God is Oft-Forgiving, Most Merciful.

Qu'ran 24:4. Therefore, Quraishi argues, the Qu'ran forbids prosecution for zina as *tazir*, since such charges are invariably brought only when four eyewitnesses are not available. Quraishi, *supra*, at 312. In such circumstances, she continues, the only offense that should be prosecuted is the qazf committed by the complainant. *See id.* at 299.

46. Offence of Zina Ordinance § 10(3), *supra* note 1, at 54. Sections 10(2) and 10(3) of the Zina Ordinance had prescribed a sentence of whipping of up to thirty lashes in addition to imprisonment for *tazir* offenses. However, the Abolition of the Punishment of Whipping Act, 1996 (VII of 1996) eliminated whipping as a punishment for all offenses, including *tazir*, other than those “where the punishment of whipping is provided for as hadd.” *See, e.g.*, Abdul Razzaque v. State, 2003 P.Cr.L.J. 1256 (Lahore High Ct. 2002) (setting aside the whipping portion of the petitioner's sentence for zina-bil-jabr liable to *tazir*).

gang of two or more people, the tazir punishment is a mandatory death sentence.⁴⁷

B. Pregnancy as Proof of Guilt

One of the primary criticisms leveled against the Zina Ordinance is that it results in the equation of rape with consensual adultery/fornication such that when a victim of rape is unable to prove that she had been subjected to non-consensual intercourse, she herself stands accused of having committed zina and is convicted and punished for that offense. This criticism is indeed founded in the stark reality of the Pakistani criminal justice system. There have been many cases where women allege the commission of zina-bil-jabr against them, but the police, taking into consideration the pregnancy caused by the alleged rape and the delay in bringing the complaint, treat their case as one of zina instead.⁴⁸ In a few of these cases, the Sessions Courts acquitted the accused rapists for lack of sufficient evidence against them, yet nonetheless convicted the female victims for the offense of zina, regarding as proof the pregnancy caused by the alleged rape. The circular argument adopted by the Sessions Courts in these cases is that extra-marital pregnancy amounts to proof that an act of sexual intercourse occurred, and since the woman has failed to prove the rape, through the absence of consent or otherwise, the sexual intercourse is therefore consensual and amounts to zina.⁴⁹ Even

47. Offence of Zina (Enforcement of Hudood) (Amendment) Act (VI of 1997) (amending the Zina Ordinance to provide this punishment through the addition of a new section, § 10(4)).

48. The role of the police in rape cases has been subject to severe criticism. The police in Pakistan are notorious for ill-treatment of rape victims and in many cases refuse to file charges. Police officials have also been accused of committing rape on women in their custody. See generally HUMAN RIGHTS WATCH, CRIME OR CUSTOM?: VIOLENCE AGAINST WOMEN IN PAKISTAN 45–47, 52–64 (2001). For recommendations on reform of police practice and rules, see *id.* at 10–11.

49. This represents a misunderstanding of the burden of proof in criminal cases. In order to convict an accused, the prosecution has to prove “beyond a reasonable doubt” that the accused committed the crime. See, e.g., 32A C.J.S. Evidence § 1308 (2006). In contrast, in order to win a civil case, a party has to prove that it is more likely than not that its claim is true. See, e.g., 32A C.J.S. Evidence § 1311 (2006). Therefore, one might legitimately say that in order to win a civil case a party has to bring sufficient evidence to show that the probability of its version of the events being true is more than fifty percent. On the other hand, it is not possible to assign a numerical value to the burden of proof in criminal cases. For example, when a trial judge in the United States instructed a jury that the standard of proof could be viewed as “seven and a half, if you had to put it on a scale” of ten, the Nevada Supreme Court reversed on appeal stating: “The concept of reasonable doubt is inherently qualitative. Any attempt to quantify it may impermissibly lower the prosecution’s burden of proof.” *McCullough v. State*, 657 P.2d 1157, 1159 (Nev. 1983).

those rape victims who ultimately escape conviction for zina end up suffering significant imprisonment prior to and during trial, and are subjected to unnecessary stigma, humiliation, and pain.⁵⁰

In most jurisdictions, rape and other sexual crimes are usually exceedingly hard to prove. For example, these crimes are often committed in private, so invariably the victim's word is pitted against that of the accused.⁵¹ Given that conviction for a crime, especially one as serious as rape, requires proof beyond a reasonable doubt, courts require the prosecution to adduce significant medical or other circumstantial evidence in corroboration of the victim's testimony.⁵² In Pakistan, the possibility of credible medical evidence being available to a criminal court is minimal. When a victim alleges rape, the normal practice is to present the victim for a medical examination at a government hospital. In most cases, the medical examination reveals only limited evidence: (a) whether sexual intercourse has recently taken place as indicated by the presence of semen in the vagina; (b) whether the victim has been having sexual intercourse in the past; and (c) whether the victim has become pregnant.⁵³ Medical techniques which may identify the perpetrator, such as DNA testing of semen or paternity testing, have become widely available to the police and prosecution in most Western jurisdictions, but still remain unavailable in Pakistan except in the most high profile cases.⁵⁴

Nonetheless, should the prosecution fail to secure a conviction because it only managed to prove that its version of the facts was seventy-five percent probable, it may still be possible to hold that it is more likely than not that the prosecution is telling the truth. For example, whereas O.J. Simpson was found not guilty of murder at his criminal trial, he was, nonetheless, found liable at the subsequent civil trial. *See Rufo v. Simpson*, 103 Cal. Rptr. 2d 492, 497 (Cal. Ct. App. 2001). By the same logic, if a victim brings a charge of zina-bil-jabr but fails to prove it beyond a reasonable doubt, she may still be telling the truth. As such, there is no reason to assume if she has fails to prove zina-bil-jabr, then she must have committed zina. Treating zina and zina-bil-jabr as either/or offenses represents a logical fallacy.

50. *See* Chadbourne, *supra* note 24, at 217–29.

51. *See* Tiffany Bohn, *Yes, Then No, Means No: Current Issues, Trends, and Problems in Post-Penetration Rape*, 25 N. ILL. U. L. REV. 151, 173–75 (2004) (noting that a problem of proof in rape cases is conflicting testimony of the victim and the accused).

52. JAHANGIR & JILANI, *supra* note 2, at 13. *But see* 75 C.J.S. *Rape* § 94 (2006) (“Corroboration of a victim's testimony in sexual offense cases is triggered only by contradictions in the victim's trial testimony.”).

53. *See* Chadbourne, *supra* note 24, at 235–60 (describing the uses and limits of medical evidence in Zina Ordinance cases).

54. *See* HUMAN RIGHTS WATCH, *supra* note 48, at 47–49, 64–95 (detailing the lack of “medicolegal” capabilities and facilities in Pakistan). For recommendations on reform of Pakistan’s medicolegal system, see *id.* at 11–14.

Given Pakistan's conservative social environment, with its stigma attachments and concerns regarding family honor such that "honor killing" is even a possibility, victims in most rape cases do not lodge complaints with the police.⁵⁵ In cases where a complaint is filed, it is usually after long and careful deliberation by the family of the accused. In many cases, the rape is only reported after the victim becomes aware of her pregnancy and realizes that she has no choice but to complain. In such situations, the rudimentary medical examinations conducted are not likely to produce any helpful evidence. In fact, the medical evidence in most cases makes the victim's position even more precarious, since it is assumed that she is making an accusation of rape only to excuse her illicit conduct. Thus, in choosing between reporting and silence, rape victims often find themselves in a lose-lose situation.

III. THE CASES

There have been at least eight reported cases in which the FSC has explicitly dealt with the question of whether pregnancy can be considered sufficient proof of zina in the absence of any other evidence. A chronological analysis of these cases, revealing the progressive development of the Court's views on this narrow issue, as well as the laws pertaining to zina and zina-bil-jabr generally, is as follows:

A. *Sakina v. State (1981)*⁵⁶

Sakina and Wali Dad were married to each other at the time of their arrest for commission of zina. The prosecution, based on the First Information Report (F.I.R.)⁵⁷ lodged by Sakina's brother, alleged that Sakina and Wali Dad had had an illicit relationship prior to their marriage. At the time of her arrest, Sakina, according to the medical examiner, had been pregnant for thirty-two weeks even though less than eighteen weeks had elapsed since her marriage to Wali Dad. Sakina's explanation for her pre-marital pregnancy was that it might have been the result of sexual acts she had been forced to engage in with certain visitors by her family. The Sessions Court disbelieved her, convicted both she and Wali Dad for zina

55. See Manar Waheed, Note, *Domestic Violence in Pakistan: The Tension Between Intervention & Sovereign Autonomy in Human Rights Law*, 29 BROOK. J. INT'L L. 937, 944–46 (2004) (describing the practice of honor killing in Pakistan).

56. 33 P.L.D. 1981 F.S.C. 320 (1981).

57. The F.I.R. is the formal complaint of an offense lodged with the police. The F.I.R. is the pivotal document in Pakistani criminal prosecutions. Judges, both trial and appellate, frequently test the veracity of the prosecution's evidence by comparing it to the version of the events alleged in the F.I.R.

liable to tazir, and sentenced them each to four years of rigorous imprisonment and thirty-three lashes.⁵⁸

In a brief judgment, a full bench of the FSC overturned both convictions. As regards Wali Dad, the Court found no credible evidence against him.⁵⁹ In Sakina's case, the Court stated:

In these circumstances we have no material on record to enable us to hold that Mst. Sakina had been committing sexual intercourse with others willingly. In the absence of proof of her consent she cannot be held to have committed the offence of Zina.⁶⁰

As such, the Court affirmed a cardinal principle of criminal law, that the burden of proving all the elements of the crime beyond a reasonable doubt is on the prosecution.⁶¹ Until the prosecution satisfies that burden, the accused has no case to answer.

A woman's consent is an essential element for any conviction for the crime of zina.⁶² This element has to be categorically proven by the prosecution, and cannot merely be inferred from the accused's pregnancy or other surrounding circumstances. Here, the Sessions Court had treated the question of consent as if the absence of consent is a defense that the accused has to establish to the court's satisfaction. This shifted the burden of proof to the accused. The FSC rightly corrected that error.

B. Jehan Mina v. State (1983)⁶³

Jehan Mina was hardly sixteen at the time of her arrest. She was approximately five to six months pregnant, and claimed that her uncle and cousin had raped her while she was visiting their home to look after a sick aunt.⁶⁴ At the time of the discovery of her pregnancy, Jehan Mina was living with another uncle, Noor Said. Allegedly, Jehan Mina's grandfather, her legal guardian, demanded that Noor Said hand Jehan Mina over to his custody so that he might kill her in order to preserve the family's honor. Noor Said refused his family's pressure, and lodged an F.I.R. with the police. Instead of initiating an investigation of zina-bil-abr, the police made Jehan Mina a co-accused in a case of zina. The Sessions Court trying the case acquitted both of the accused males on the

58. *Sakina*, 33 P.L.D. 1981 F.S.C. at 321.

59. *Id.* at 322.

60. *Id.* at 323.

61. *See supra* note 49.

62. *See* Offence of Zina Ordinance § 4, *supra* note 1, at 52 (requiring persons to "willfully have sexual intercourse" for conviction).

63. 35 P.L.D. 1983 F.S.C. 183 (1983).

64. *Id.* at 184.

grounds that they could not be convicted merely on the basis of Jehan Mina's statement.⁶⁵ However, the court convicted Jehan Mina for zina liable to hadd, and imposed a punishment of one hundred lashes.

The FSC upheld Jehan Mina's conviction on appeal, but reduced her offense from zina liable to hadd to zina liable to tazir. Taking into consideration her "tender age" and the fact that she had been deprived of the "benefit of paternal affection," the Court reduced her sentence to three years rigorous imprisonment and ten lashes.⁶⁶ The Court provided the following rationale in justification of its decision: "[T]he basis of the conviction is her unexplained pregnancy coupled with the fact that she is not a married girl."⁶⁷ The Court added that since Jehan Mina had kept quiet for over five months, it was "difficult to believe her statement that zina-bil-jabr had been committed with her."⁶⁸ The Court also found it important that "she had the opportunity of complaining to her grandfather but . . . never did so."⁶⁹

Given that her grandfather had expressed a serious intent to kill her in order to preserve the family honor, how valid was the Court's reasoning? This case has been widely criticized and cited as a representative example of the gross injustices perpetrated under the Hudood laws.⁷⁰ According to one women's rights campaigner:

Apart from the injustice that Jehan Mina suffered from society and the system of justice, the case had serious future implications for victims of rape resulting in pregnancy. While rapists would have to be proved guilty, victims would be presumed guilty and the burden would be on them to prove their innocence.⁷¹

The legal reasoning employed by the FSC in this judgment clearly conflicted with that in *Sakina*. The Court in *Jehan Mina* appeared to have forgotten the fundamental principles of criminal liability outlined in its own precedent. Further, the purpose of the creation of an independent FSC with three ulema on its bench was to decide cases according to the Islamic injunctions laid down in the Qu'ran and Sunnah.⁷² In this case, the Court based its decision exclusively on misapplied common law

65. *Id.* at 186.

66. *Id.* at 188.

67. *Id.* at 187.

68. *Id.*

69. *Id.*

70. See, e.g., SHAHLA ZIA, VIOLENCE AGAINST WOMEN & THEIR QUEST FOR JUSTICE (2002).

71. *Id.* But see HUMAN RIGHTS WATCH, *supra* note 48, at 40 ("Such cases are far less frequent in the late 1990s than they were in the 1980s.").

72. See *supra* note 8.

principles of criminal liability and evidence, without even once referring to Islamic principles of liability.

*C. Siani v. State (1984)*⁷³

The *Siani* case arose from the discovery of a stillborn fetus in a residential area. The prosecution alleged that Siani, wife of Pahalwan, had engaged in unlawful sexual intercourse with her co-accused, Ghulam Najaf, prior to her marriage, and that this relationship resulted in her pregnancy. The prosecution further charged that in order to conceal her zina and the resulting pregnancy, Siani had caused herself to miscarry and had disposed of the aborted fetus.⁷⁴ The Sessions Court acquitted her male co-accused, finding no evidence against him. The only evidence against Siani was the report of the medical examiner, who had opined that Siani showed signs of recent pregnancy and had probably miscarried around the time of the discovery of the dead fetus.⁷⁵ This was sufficient proof for the Sessions Court, which convicted Siani of the offense of zina liable to tazir under Section 10 of the Zina Ordinance and sentenced her to five years rigorous imprisonment and thirty lashes.

A single bench of the FSC, composed solely of Justice Muhammad Siddiq, overturned Siani's conviction on appeal, holding that medical evidence of pregnancy alone cannot form the basis of a criminal conviction.⁷⁶ The Court, affirming the stance adopted in *Sakina*, and without referring to *Jehan Mina*, made the following comment:

This Court has already said in several cases that a mere pregnancy/abortion or birth of an illegal child of an unmarried girl/widow or a married woman whose husband has no access to her during the relevant period, could not be sufficient to prove her guilty under section 10 of the Ordinance unless it is further proved by the prosecution that she was a consenting party for the said Zina resulting in her conception and then in abortion.⁷⁷

Unlike the accused in *Sakina*, Siani had not alleged that she had been subjected to zina-bil-jabr. In fact, she completely denied that she had ever had sexual intercourse prior to her marriage, or that she had miscarried. In this regard, *Siani* better illustrates the principle already stated: that the burden is squarely upon the prosecution to prove all of the elements of the offense, consent of the woman being the most essential.

73. 36 P.L.D. 1984 F.S.C. 121 (1984).

74. *Id.* at 123.

75. *Id.* at 123-24.

76. *Id.* at 126.

77. *Id.*

The Court in *Siani* considered the status of medical evidence in the following terms:

In the instant case it is an admitted fact that there is no other direct or positive evidence produced by the prosecution to substantiate the charge . . . against Mst. Siani appellant. In addition to the medical evidence the prosecution should have produced some other direct or circumstantial evidence to connect the appellant with the offence charged.⁷⁸

This pronouncement makes clear that in order to secure a conviction, the prosecution has to prove all the elements of the offense through credible direct or circumstantial evidence, including the fact that the accused "was a consenting party for the commission of sexual intercourse."⁷⁹ Medical evidence of pregnancy, and by logical extension, pregnancy itself, can only provide "a piece of independent corroboration."⁸⁰ Thus, the Court unambiguously declared that pregnancy, by itself, cannot form the basis for a conviction.⁸¹

*D. Rafaqat Bibi v. State (1984)*⁸²

Rafaqat Bibi filed a complaint of zina-bil-jabr against Muhammad Suleman. However, when the medical examiner found her to be eight months pregnant, the police instead charged both of them with zina. The Sessions Court convicted Rafaqat Bibi for zina liable to tazir, and sentenced her to five years rigorous imprisonment and five lashes. The court, however, acquitted Suleman.⁸³

A single bench of the FSC overturned the conviction. The Court stated that though Rafaqat Bibi was in the ninth month of her pregnancy at the time of the examination:

[T]he aforesaid evidence cannot be considered sufficient to convict the appellant for commission of offence of zina which has been defined in section 4 of the Ordinance, and *inter alia* involves willfully having sexual intercourse. In the instant case according to the appellant there was no willful participation in the sexual intercourse by her as Muhammad Suleman committed zina-bil-jabr with her.⁸⁴

78. *Id.*

79. *Id.*

80. *Id.*

81. *Id.*

82. N.L.R. 1984 S.D. 165 (F.S.C. 1984).

83. *Id.* at 166.

84. *Id.*

The Court considered relevant the fact that Rafaqat Bibi had filed an F.I.R. of her own volition, "wherein she had expressly stated that she had been made to submit forcibly to sexual intercourse."⁸⁵ The Court did not refer to Rafaqat Bibi's eight-month delay in filing the F.I.R., as if that fact were immaterial.

The Court also dealt with the extent to which an accused's statement may be treated as a partial confession of the fact that sexual intercourse took place and answered it in the negative. An affirmative answer to this question forms the first vital limb of the irrational reasoning of the erring trial courts.⁸⁶ Citing *Safia Bibi v. State* with approval,⁸⁷ the Court said that the "[c]onfession should be read as a whole and exculpatory portions therein cannot be excluded from consideration unless there is evidence on record to prove those portions incorrect."⁸⁸

E. Safia Bibi v. State (decided in 1983, reported in 1985)⁸⁹

This case resulted in widespread notoriety of the Hudood laws in the national as well as international media.⁹⁰ Safia Bibi, a twenty-year-old girl suffering from acute myopia such that she was nearly blind, was engaged in domestic service at the household of Maqsood Ahmad. She alleged that on one occasion, while she was working, Ahmad subjected her to zina-bil-jabr.⁹¹ According to her testimony, Maqsood Ahmad's father had also raped her on a different occasion, but he was not charged with any offense. Succumbing to social and family pressures, Safia Bibi did not file a complaint with the police until she could no longer hide her pregnancy. The police arrested Safia Bibi and implicated her in a case of zina along with Maqsood Ahmad, after her medical examination revealed that she had been pregnant and had given birth. At the ensuing trial, the Sessions Court acquitted Maqsood Ahmad, but convicted Safia Bibi of zina and sentenced her to three years rigorous imprisonment and fifteen stripes.

On appeal, a single bench of the FSC reversed Safia Bibi's conviction for zina. However, the Court affirmed that there was no evidence to convict Maqsood Ahmad of zina-bil-jabr, stating that "[i]t is clear from this

85. *Id.*

86. See *supra* text accompanying note 49.

87. Interestingly, the FSC's decision in *Safia Bibi* had not yet been reported at this time. For a treatment of the case, see *infra* Part II.E.

88. *Rafaqat Bibi*, N.I.R. 1984 S.D. at 166.

89. 37 P.L.D. 1985 F.S.C. 120 (1983).

90. *Id.* at 121 ("This is an unfortunate case which received considerable publicity in the national and International Press").

91. *Id.* at 122.

evidence that no offence was proved against Maqsood Ahmad as the bare statement of his co-accused [Safia Bibi] was not sufficient for his conviction.”⁹² In its judgment, the Court analyzed the relevant principles of Islamic jurisprudence in some detail and summarized the positions of the different schools of fiqh:

If an unmarried woman delivering a child pleads that the birth was the result of commission of the offence of rape on her, she cannot be punished. This is the view of the Hanafis and the Shafis. But Imam Malik said she shall be subjected to Hadd punishment unless she manifested the want of consent on her part by raising alarm or by complaining against it later.⁹³

The Court went on to elaborate:

There is little difference between the view of Imam Malik and others on the point of law that rape with a woman absolves her of criminal liability. The only difference is on the point of the evidentiary value of the self-exculpatory statement. Imam Malik places the burden of proving the self-exculpatory evidence on the woman, and this burden can be discharged by her by proving that she raised alarm or complained against it. She can discharge her burden by production of circumstantial evidence The others, however, consider her statement including the self-exculpatory portion thereof as sufficient for absolving her of the charge.⁹⁴

So, as opposed to the view of Imam Malik, who places the burden of disproving consent on the woman, the opinion of the Hanafis and the Shafis is that the woman’s statement is sufficient in itself to absolve her of all charges. This view is preferable according to the FSC, since it “is in conformity with the modern law.”⁹⁵

F. Rani v. State (1996)⁹⁶

Rani was seven months pregnant when she lodged a complaint of zinabili-jabr against her two male co-accused. She claimed that she had refrained from filing a complaint because of threats made against her and her family by these men until her pregnancy became impossible to hide. The Sessions Court acquitted both males because there was no evidence against them “except the word and accusations” of Rani. The court, however, convicted Rani after taking into account her pregnancy and the de-

92. *Id.*

93. *Id.* at 124.

94. *Id.*

95. *Id.* at 125.

96. 35 K.L.R. 1996 Sh.C. 150 (F.S.C. 1996).

lay in lodging the F.I.R. She was sentenced to two years rigorous imprisonment and seven lashes.⁹⁷

The appeal before the FSC raised all the issues that had arisen in the previous cases. In an incisive and articulate judgment, Justice Ghous Muhammad reviewed the Court's earlier case law on the subject. First, the Court criticized the decision in *Jehan Mina* and recommended that it be "confined to the annals of legal history." That judgment, the Court found, was in conflict with established FSC jurisprudence.⁹⁸ As regards the issue of pregnancy being considered as proof of guilt, the Court then concluded:

- (i) mere pregnancy is not sufficient to convict a woman for *Zina*, especially where she claims the pregnancy to have been caused due to her rape/*Zina-bil-jabr* by man/men who later stand acquitted on any ground;
- (ii) to convict a woman for *Zina*, the prosecution would have to discharge the heavy onus of proof by bringing forth positive and independent evidence that the woman actually and in fact had committed *Zina* with her own free will and consent with another man to whom she was not lawfully married to. In this regard it may also be stated that mere proof of pregnancy or some form of medical testimony/report on its own could be of no consequence as the latter would at best only serve to be corroborative in nature . . .⁹⁹

Next, on the matter of delay in registering a complaint of *zina-bil-jabr*, usually considered a detriment to the victim's case, the Court opined:

On the contrary, this point would fall in favour of the female accused i.e. the appellant since she could well forward the plea that the inordinate delay by the prosecution in detecting her pregnancy would entitle her to an acquittal on the general principle that any delay in lodging the FIR/complaint weakens the case of the prosecution/complainant.¹⁰⁰

Finally, Justice Muhammad stated that:

[B]y its very nature '*Zina*' is a joint offence requiring positive identification of a man and a woman, distinctly, consenting [to] an unlawful sexual intercourse . . . In case any one of them fails to be so identified, as has been in the present case, no offence of '*Zina*' can be made out by the prosecution.¹⁰¹

97. *Id.* at 151.

98. *Id.* at 157.

99. *Id.*

100. *Id.* at 157–58.

101. *Id.* at 159.

Though interesting and persuasive, these arguments are, nonetheless, only dicta and as such are not binding on the Court in future cases.

*G. Zafran Bibi v. State (2002)*¹⁰²

Despite such clear pronouncements of the FSC, history unfortunately repeated itself in the case of Zafran Bibi. The case brought to the fore, once again, many of the problems associated with the Hudood laws and reignited the criticisms.

On March 26, 2001, Zabta Khan, accompanied by his daughter-in-law Zafran Bibi, went to the police station to lodge an F.I.R. Zabta Khan did the talking, while Zafran Bibi stood quietly to the side. He claimed that about two weeks earlier, while Zafran Bibi had gone to a nearby hill to cut fodder, Akmal Khan had assaulted her and committed zina-bil-jabr against her. At the time of the incident, Zabta Khan had been away visiting his son, Zafran Bibi's husband, who was serving a sentence in jail for murder. Because Zabta Khan was away, Zafran Bibi took the advice of her mother-in-law to wait for his return before deciding whether to report to the police.¹⁰³

Upon his return, and having heard about the incident, Zabta Khan decided to lodge the F.I.R. At least, this is what he claimed. The police directed Zafran Bibi, as well as Zabta Khan, to thumb-mark the F.I.R., and then sent her for a medical examination. The examination revealed that she was approximately seven to eight months pregnant.¹⁰⁴ Based on the discrepancy between the alleged date of the incident and the estimated date of conception, the police arraigned Zafran Bibi as a co-accused along with Akmal Khan for the offense of zina liable to tazir.

The trial did not begin until a year later. By then, Zafran Bibi had given birth to a baby girl. In a statement recorded before the Magistrate, she claimed that Akmal Khan had repeatedly raped her and that she was willing to take an oath on the Qu'ran that no one except Akmal Khan had committed zina-bil-jabr with her. As the trial proceeded, Zafran Bibi changed her stance, contending that, since she was illiterate, she may have thumb-marked an incorrect account of the incident to the police at the time of lodging the F.I.R. She then made the following statement on oath before the trial court:

Zabta Khan is my father-in-law. I was residing in the house of my husband along with his father. One day he took me to the Police Station

102. 54 P.L.D. 2002 F.S.C. 1 (2002).

103. *Id.* at 8.

104. *Id.* at 9.

... where he lodged the report. I have not given any statement in police station nor lodged any report to the police In fact Jamal son of Zabta Khan has committed Zina forcibly with me and my father-in-law to save his son Jamal involved accused in the case in hand. Accused Akmal has not committed Zina with me. He is innocent.¹⁰⁵

On April 17, 2002, the Sessions Court announced the verdict. Akmal Khan was acquitted of the offenses charged for lack of evidence. However, Zafran Bibi was found guilty of the offense of zina liable to hadd, and the court imposed the punishment of rajm. No action was directed against Jamal, Zafran Bibi's brother-in-law, as he had neither been named in the F.I.R. nor charged with any offense.

Since a hadd punishment cannot be executed unless confirmed by the FSC,¹⁰⁶ Zafran Bibi's conviction and sentence were appealed. Delivering the judgment of the Court, Justice Fida Muhammad Khan held:

[M]ere pregnancy, by itself when there is no other evidence at all, of a married lady, having no access to her husband, or even of an unmarried girl is no ground for imposition of Hadd punishment if she comes out with the defence that that was the result of commission of rape with her.¹⁰⁷

On the burden of proving consent, the Court reiterated that "the cardinal principle of Islamic Criminal Law that conviction of someone for commission of unlawful sexual intercourse, it is not only necessary to make certain that he/she committed that act, but it is also to be ensured that he/she committed that of his/her own free-will."¹⁰⁸ Finally, as regards the requirements for confessions to form the basis for a conviction, the Court emphatically stated:

It is pertinent to mention that the confession to be effective in the context of the Ordinance, firstly must be voluntary, with free consent without any coercion or inducement, secondly must be explicit as to the commission of the actual offence of Zina with free-will, thirdly must be four times in four different meetings as held in a number of cases by Federal Shariat Court and Shariat Appellate Bench and, fourthly, must

105. *Id.* at 10.

106. See *supra* text accompanying note 37.

107. *Zafran Bibi*, 54 P.L.D. 2002 F.S.C. at 15.

108. *Id.* at 17. Nonetheless, despite these forceful pronouncements, the Court managed to muddy the waters and negate the freshness of approach evidenced in *Rani*. On the one hand the Court insisted that the element of consent has to be proven by the prosecution, while on the other it kept referring to consent as a defense shown by the accused. *Id.* at 14.

be recorded by the Court who has competent jurisdiction to try the offence under the law.¹⁰⁹

In some measure of consonance with the dicta of *Rani*, the Court stated that though delay in lodging a F.I.R. normally weighs negatively against an accused, that is not a hard and fast rule. In cases of zina, which invariably concern family honor, "mere delay per se is no ground for drawing [an] adverse inference."¹¹⁰ Accordingly, the Court overturned Zafran Bibi's conviction.

*H. Gul Hamida v. State (2004)*¹¹¹

Yet another appeal from a conviction where pregnancy was used as proof of zina reached the FSC in 2004. Gul Hamida had been pregnant for approximately eight months at the time she lodged the F.I.R. She alleged that her pregnancy was the result of a rape committed by two men. The Sessions Court convicted her of zina, but acquitted the accused rapists.¹¹² The court inferred Gul Hamida's guilt from two circumstances: (i) her pregnancy, and (ii) her failure to disclose the rape for close to eight months.

The FSC overturned Gul Hamida's conviction, noting that she had voluntarily lodged the F.I.R. and had adequately explained her delay:

It is a known fact that in our society the girls are ordinarily hesitant to disclose such an unfortunate incident out of fear or infamy. There is always a lurking fear in the mind of the victim that she may herself be held an accused of the sin or the offence. The same apparently has happened in case of the appellant.¹¹³

On the issue of the evidentiary value of pregnancy, the FSC held:

In the absence of any positive evidence merely on the basis of pregnancy it cannot be presumed that the victim girl was a willing partner. To record conviction under the Hudood Ordinance, evidence of an unimpeachable character is required.¹¹⁴

109. *Id.*

110. *Id.* at 16.

111. 2005 P.Cr.L.J. 167 (F.S.C. 2004).

112. This was the result of an error by the police and prosecution. They framed the crime as falling under section 10(2) of the Zina Ordinance, which covers only consensual extramarital sexual relations. The charge should have been brought under sections 10(3) or 10(4), which deal with rape and gang rape respectively.

113. *Gul Hamida*, 2005 P.Cr.L.J. at 171.

114. *Id.*

I. Summation

With the exception of *Jehan Mina*, the FSC cases reviewed have clearly and consistently laid down the following rules regarding the use of the evidence of pregnancy in framing charges of zina against a woman:

1. Consent is a vital element of the offense of zina. It must be proven beyond a reasonable doubt through direct eyewitness testimony, and medical as well as other circumstantial evidence. Evidence of an unexplained pregnancy, in and of itself, is not conclusive proof of consent.¹¹⁵

2. When a woman alleges rape, she cannot be implicated in a case of zina. If a woman is charged with zina on account of her pregnancy and, in her defense, she alleges that she had been raped, then she must be acquitted regardless of whether or not she complained at the time of the rape. Any delay in lodging an F.I.R., or even an outright failure to do so, is irrelevant when rape is alleged.¹¹⁶

IV. THE CONTROVERSIES

The jurisprudence of the Federal Shariat Court analyzed in this paper provides valuable insight into the nature of the debate between the proponents and the opponents of the Hudood laws. The following are some of the main arguments and counterarguments advanced by both sides:

A. The Standard Critique

The opponents of the Hudood laws have argued all along that the Zina Ordinance is blatantly discriminatory on its face as well as in its consequences.¹¹⁷ For instance, they argue that the Zina Ordinance discrimi-

115. This rule might only be applicable in cases where a female is accused of zina. In a recent case, the Shariat Appellate Bench of the Supreme Court considered a woman's pregnancy as evidence against a male accused. *Muhammad Sharif v. State*, 2006 S.C.M.R. 1170 (2005). Charges of enticing and zina were brought against the defendant after his sister-in-law died while undergoing an abortion. *Id.* at 1171. The defendant's conviction was upheld based upon evidence that the deceased had resided with him prior to her death, presumably to hide her pregnancy. *Id.* at 1173.

116. This is in conformity with Hanafi and Shafi fiqh. See *supra* text accompanying notes 93–95.

117. See, e.g., NCSW Report, *supra* note 20, at 14; Quraishi, *supra* note 45, at 309. However, Charles Kennedy points out that the overwhelming number—eighty-two percent—of defendants in Hudood cases are men, and that “84% of those convicted in district and sessions courts . . . and 90% of those whose convictions are upheld by the FSC are men.” Kennedy, *Islamization in Pakistan*, *supra* note 24, at 312. Even as regards cases of zina, a facially gender-neutral offense, the study found that “56% of those convicted of this crime by district and sessions courts, and 70% of those convicted by the FSC were men.” *Id.* Therefore, Kennedy argues, “[o]ne may have legitimate quarrels

nates against women through its evidentiary rules requiring four Muslim male witnesses to impose hadd punishment in zina-bil-jabr cases.¹¹⁸ Since it is highly unlikely that a rape will be committed in the presence of, or be passively witnessed by, four men of a good character, it is almost inconceivable how a hadd conviction for zina-bil-jabr could ever materialize. Furthermore, if a rape is witnessed by four women instead of four men, hadd punishment cannot be awarded. As a result, this requirement deters rape victims from complaining, and indirectly encourages the incidence of rape.

An even more serious consequence of the promulgation of the Zina Ordinance has been the equation of rape with zina. This equation is not merely nominal, but substantive and substantial in that the Ordinance is regularly misused to convert complaints of zina-bil-jabr, or rape, into those of zina when the accuser fails to bring sufficient evidence to prove rape.¹¹⁹ This is invariably the case in a criminal justice system character-

with the implementation of the Hudood Ordinances, but gender bias against women is not one of them." *Id.* at 313. For an explicit rebuttal of Kennedy's argument, see JAHANGIR & JILANI, *supra* note 2, at 137–38. They contend that the figures are misleading since a number of cases are converted from rape to zina. *Id.* However, it is difficult to understand how this makes any difference, since both offenses are prosecuted under the Ordinance. If their point is meant to suggest that more men are convicted under the Ordinance because more men are charged with rape, then it becomes easier to understand the argument. This though would then suggest that at least some men who are guilty of rape, if not all, are charged with zina-bil-jabr and convicted of that offense, and that number far exceeds the number of women prosecuted for and convicted of zina. See Kennedy, *Islamization in Pakistan*, *supra* note 24, at 312–13.

118. As Salman Akram Raja has noted, this is not a fully informed argument:

The popular perception of the Zina Ordinance, largely based on the image carried in the press, is that a raped woman must produce four male witnesses against the accused for a conviction. The legal position that a conviction leading to a tazir punishment can be maintained on the basis of other evidence, including that of the woman herself, is generally absent in the popular understanding of the Zina Ordinance.

Salman Akram Raja, *Islamisation of Laws in Pakistan*, 2 S. ASIAN J. 94 (2003), available at http://www.southasianmedia.net/Magazine/Journal/islamisation_laws.htm.

119. It has been recommended that until the Zina Ordinance is repealed, the offenses of zina and zina-bil-jabr should be separated out into separate sections of the statute. This is recommended because:

The police frequently register rape complaints simply under Section 10 of the Zina Ordinance, without specifying the applicable subsection. The ensuing ambiguity as to the type of crime in question not only mars the police investigation but also leads to additional trauma for the rape victim because of the potential created for a wrongful prosecution for adultery.

ized by inadequate investigative and evidentiary mechanisms. The victim's situation is made worse should she become pregnant, in which case many trial courts are quick to assume that she is only alleging rape to cover up the illegitimate pregnancy. Thus, women, who are already relegated to a lesser status in various social, political, and economic settings in Pakistan, are unable and justifiably unwilling to complain when their physical sanctity is violated.

The Zina Ordinance has also provided disgruntled parents, brothers, and former spouses with an opportunity to malign young women in order to deter them from rebelling against the predominantly patriarchal family structures by asserting the rights of free choice in marriage and divorce, or sometimes even the right to live a financially independent life.¹²⁰ A majority of zina cases, it is argued, are malicious prosecutions that have the net effect of reinforcing the socio-economic subservience of women to the entrenched patriarchal norms.¹²¹ These facets of the Hudood laws and their implementation support the discriminatory milieu of Pakistani society. So, even if such cases ultimately end in acquittal, the women who are subjected to the humiliations of trial have already suffered irreparable injustice.

B. A Staunch Defense

The above criticism is usually answered with the assertion that hadd punishments are fixed maximum punishments that are to be administered in the clearest of cases only: when the accused has freely confessed or evidence is available which proves the crime beyond all doubt.¹²² Since such proof is not usually forthcoming, hadd punishments act as a deterrent only, serving the vital function of laying down fundamental moral principles. In fact, there have been no cases in Pakistan in which hadd punishments have been executed for either zina or zina-bil-jabr.¹²³ The majority of cases under the Hudood laws are cases of tazir offenses,

HUMAN RIGHTS WATCH, *supra* note 48, at 8.

120. See Kennedy, *Islamization in Pakistan*, *supra* note 24, at 316 ("Added to the normal social control mechanisms available to them, parents, husbands, and guardians have been empowered by the introduction of the Hudood Ordinances with the real or implicit threat of bringing criminal charges against their children or wives.").

121. See Chadbourn, *supra* note 24, at 217-29.

122. For example, Chief Justice Fazal Ilahi Khan, in *Zafran Bibi*, stated that "it is much better that an Imam (i.e. Judge) should err in acquitting someone rather than he should err in punishing someone (who is not guilty)." *Zafran Bibi*, 54 P.L.D. 2002 F.S.C. at 17.

123. See, e.g., JAHANGIR & JILANI, *supra* note 2, at 47. Though acknowledging that a hadd punishment has never been executed, Jahangir and Jilani nevertheless argue that its existence and potential for misuse require its abolition. *Id.*

where convictions are based on the same evidentiary standards that are applicable in normal criminal trials.

It is also argued that though miscarriages of justice do occur during the trial stage of some Hudood laws cases, just as miscarriages occur in trials for all offenses in Pakistan's defective criminal justice system, those errors are corrected by the appellate courts in all but a few cases.¹²⁴ Thus, the Hudood laws' supporters argue that there are no problems inherent in the substantive rules laid down by the Zina Ordinance, as the injustices and controversies result from their misapplication. Such sentiments were expressed by the FSC in *Zafran Bibi*:

On account of disinformation, misunderstanding, lack of knowledge of the facts and circumstances of the case, some organizations resorted even to take out processions and demand repeal of the Hudood Laws itself without realizing that it was not the laws of Hudood (i.e. fixed sentence prescribed by Holy Qur'an and Sunnah) but its misapplication that resulted in miscarriage of justice . . . Like other laws, the prosecuting or other components of law-enforcing machinery may err in its application in respect to various facts and circumstances, however, the ideal nature of these laws . . . is admittedly far-superior to the man-made laws on account of its highly balanced approach to individual and public interest.¹²⁵

Therefore, in defense of the Hudood laws, their proponents ultimately argue that the laws themselves are not problematic. Rather, it is their misapplication and misuse by the police and trial courts that results in the miscarriage of justice.¹²⁶

C. Resolution of the Political Impasse

It is precisely at this juncture that the debate has come to an impasse; both sides believe that they have a sufficient basis for their respective positions, and a satisfactory resolution appears to be presently out of

124. As Charles Kennedy points out, "[b]ecause the percentage of acquittals on appeal is so high it is doubly important to note the speed with which cases are disposed by the courts." Kennedy, *Islamization in Pakistan*, *supra* note 24, at 311. Kennedy's study found that the average time taken by the FSC in disposing of cases was reduced from eleven months in 1981 to four months in 1987. The sessions courts, on the other hand, lagged behind, taking an average of eighteen months to decide cases after the F.I.R. was filed. *Id.*

125. *Zafran Bibi*, 54 P.L.D. 2002 F.S.C. at 12.

126. See Kennedy, *Islamization in Pakistan*, *supra* note 24, at 311-15 (describing how the problems affiliated with the implementation of the Hudood Ordinances are precisely those which plague the entire criminal justice system in Pakistan).

reach. Further, the controversies have become politicized to such an extent that it is impossible for either side to retrench.

The opposition to the Hudood laws has thus far focused on campaigning for an outright repeal of these laws.¹²⁷ This approach is unlikely to succeed so long as the vast majority of Pakistani citizens continue to believe that the Hudood laws correctly reflect the shari'ah, a conviction based on the fact that the Qu'ran expressly proscribes zina and assigns punishment for it.¹²⁸ However, few are cognizant of the reality that the Hudood laws misrepresent the shari'ah in certain vital respects, and that there are glaring defects in the legislation, such as the provision for punishment of zina as tazir.

In such a situation, it is not only unfair to decry the shari'ah for the failings of the Hudood laws, which are only a cheap imitation, but it is also impractical to argue for their outright repeal. The only viable option is to advocate for such amendments to the Hudood laws that would obviate the injustices perpetrated in the name of the shari'ah. However, such amendments are not likely to be made until a convincing critique is generated, which questions the Hudood laws' doctrinal foundations and highlights the discrepancies between the shari'ah doctrines and its counterfeit version presently in force. The possibility of such an "Islamic" critique has already been demonstrated.¹²⁹

Such a possibility can be seen in the jurisprudence of the FSC, which implicitly demonstrates the strength of such a critique. Consider again *Zafran Bibi*, where the Court, prior to reaffirming the principle that pregnancy by itself may not be used to prove the commission of zina, appeared to suggest the existence of some circumstances in which pregnancy will become sufficient corroborating evidence:

There is nothing on record to even presume that she was a woman of easy virtue. There is also no iota of evidence to show even that she was having any illicit liaison with any male person. The available record is also completely silent about her having been seen in the company of any accused, nominated by her in her statements.¹³⁰

Likewise, in *Gul Hamida*, the FSC noted that conviction for zina may be based on circumstantial evidence, presumably including evidence of pregnancy:

127. See, e.g., HUMAN RIGHTS WATCH, *supra* note 48, at 7; see also *supra* note 20.

128. See Qur'an 4:15 and 24:2.

129. See Quraishi, *supra* note 45, at 313 (arguing that the Quranic requirements for the punishment of zina do not leave room for it to be tried as a tazir offense).

130. *Zafran Bibi*, 54 P.L.D. 2002 F.S.C. at 14.

No doubt conviction can be based on the strength of circumstantial evidence but the circumstances should be of such a nature which are unexceptionable and which lead to no other inference or hypothesis except the guilt of the accused and commission of the offence.¹³¹

This language is reminiscent to that found in *Safia Bibi*, where the Court stated that consent could not be established "in the absence of any evidence . . . that [Safia Bibi] and Maqsood Ahmad had any sentimental attachment for and were on intimate terms with one another."¹³² Likewise, in *Rafaqat Bibi*, the Court held that "in absence of any evidence to establish sentimental attachment for co-accused it could not be said that sexual intercourse was indulged into willfully."¹³³

However, refer to the FSC's mechanically precise statement of the elements of the offense of zina in *Rani*:

- i. there should be a man and a woman;
- ii. such man and a woman are not validly married to each other;
- iii. such man and woman should have committed sexual intercourse with each other;
- iv. such man and woman should have committed sexual intercourse willfully;
- v. there ought to be a penetration.¹³⁴

Important here is that consent has to coincide with the act of sexual intercourse, or penetration. Even if the accused is reputed to be a woman of "easy virtue," the prosecution still has to prove beyond a reasonable doubt that at the time of the alleged incident she willfully had had sexual intercourse. The same holds true if a woman had had a prior "illicit liaison" with her male co-accused, or if there was sentimental attachment. More than talking, holding hands, kissing, touching, or even fondling is required to secure a conviction. Also note that in *Sakina* there was credible evidence that prior to elopement the accused had had an intimate relationship characterized by "sentimental involvement."¹³⁵ Similarly, in *Rani* there were allegations that the accused was reputed to be a woman of "easy virtue."¹³⁶ In fact, the defense in *Rani* was that the accused's family had forced her into prostitution. Yet, in neither case was the extra-

131. *Gul Hamida*, 2005 P.Cr.L.J. at 171.

132. *Safia Bibi*, 37 P.L.D. 1985 F.S.C. at 123.

133. *Rafaqat Bibi*, N.L.R. 1984 S.D. at 167.

134. *Rani*, 35 K.L.R. 1996 Sh.C. at 156 (citing *Sukhan v. State*, 1985 P.Cr.L.J. 110, 118–19 (F.S.C. 1984)).

135. *Sakina*, 33 P.L.D. 1981 F.S.C. at 321.

136. *Rani*, 35 K.L.R. 1996 Sh.C. at 152.

marital pregnancy corroborated by such other evidence found sufficient to secure a conviction for zina.

If the above analysis is correct, in what circumstances may an accused be convicted for an offense of zina liable to tazir? Apparently, the only circumstances where a conviction can properly be secured is when there are eyewitnesses, but numbering less than four, or, hypothetically, when there is other conclusive evidence such as a video-recording. If there are less than four witnesses, initiating a prosecution for zina is tantamount to *qazf* (unwarranted accusation of zina) under recognized shari'ah principles.¹³⁷

In *Muhammad Masood v. Abdullah*,¹³⁸ Justice Maulana Muhammad Taqi Usmani, an *alim* (religious scholar) member, delivered the judgment of the Shariat Appellate Bench of the Supreme Court holding that someone who bears false witness in a case of zina will not be guilty of *qazf* until the Court formally declares that such a witness has lied.¹³⁹ However, the complainant in a case of zina will only avoid liability under the Qazf Ordinance if he or she can bring four eyewitnesses. In the absence of four eyewitnesses, the complainant will automatically be deemed guilty of *qazf* whether or not a court declares that he or she has lied. Further, the Court expressly overruled an earlier FSC decision which had held that a complainant of zina who fails to produce four eyewitnesses may only be liable for *qazf* if the accusation of zina had been made in bad faith.¹⁴⁰

It is very difficult to reconcile *Muhammad Masood* with Section 10 of the Zina Ordinance. When a case of zina is prosecuted in the absence of four eyewitnesses, which is practically all zina cases since most are tazir cases, will the court convict the accused for zina while simultaneously convicting the complainant of *qazf*? Following this line of reasoning, it is extremely difficult to conceive of many circumstances in which a prosecution for zina liable to tazir may be initiated. Unfortunately, however, this contradiction in the FSC's jurisprudence has not been pressed upon the Shariat courts or the Pakistani legislature.

137. The law of *qazf* is derived from verse 24:4 of the Qur'an. See *supra* note 45. In practice, zina prosecutions have overwhelmingly outnumbered *qazf* cases. See CIW Report, *supra* note 20, at 70 (documenting that only forty-three *qazf* cases were filed in the FSC between 1980 and 1987, as compared to 3,399 zina cases).

138. 1992 S.C.M.R. 638 (1992).

139. *Id.*

140. *Id.* (overruling *Muhammad Bashir v. State*, 37 P.L.D. 1985 F.S.C. 384, 394 (1985)).

D. Reformation of the Hudood laws

Reform, pursuant to an Islamic critique, rather than repeal, represents the only hope for resolving the intractable argumentation over the Hudood laws. Preferably, such reform should be implemented through appropriate amendments to the Hudood Ordinances. However, until such amendments become politically feasible, it is advisable to press for the reformation of Hudood laws before the Shariat courts. After all, the Shariat courts have the power to review legislation for compatibility with shari'ah principles.

At the least, the Shariat courts should be asked to harmonize their own jurisprudence so that their precedents may be widely known, followed where applicable, or critiqued if they represent a perversion of Islamic injunctions. Until now, the FSC has failed to regularly refer to its own previous judgments, or rationalize them. For example, in the cases reviewed, only *Rani* discussed prior FSC precedent.¹⁴¹ In *Zafran Bibi*, the Court failed to refer to any of its own precedents, including *Safia Bibi*, which followed a similar reasoning. A harmonization of the law will enable lawyers to cite the appropriate cases before the trial courts, ensuring that errors of law are reduced. In order to achieve this, academics, human rights activists, and women's rights campaigners should give greater attention to researching and analyzing the jurisprudence of the Shariat courts in Pakistan.¹⁴² This will enable them to disseminate relevant and

141. See *Rani*, 35 K.L.R. 1996 Sh.C. at 151–59 (using the holdings of *Sakina*, *Safia Bibi*, and *Siani* to disagree with the holding of *Jehan Mina*).

142. The critics of the Hudood laws have thus far focused primarily on those decisions of the Sessions courts embodying miscarriages of justice and case studies of police brutality. Further, the critics have shown such a distrust of the FSC that they have failed to carefully analyze its decisions. See *supra* note 21 and accompanying text. As Julie Dror Chadbourne notes, this approach is not only incomplete, but it is also fundamentally unhelpful:

Despite the social, legal and political impact of the Zina Ordinance in Pakistan, there is still little or no analysis of the substantive law relating to the Offence of Zina. . . . Instead, Pakistani practitioners as well as the Western media have focused their energies on publicizing a few “shocking” cases and on expressing their beliefs that the Ordinance is wrong and must be repealed. While it is true that there are problems with the Ordinance and that it has the capacity to support a social system which is highly biased against women, it is crucial that activists stop the debate on these points long enough to understand how the Ordinance actually affects the lives of women and girls in Pakistan. Until they do, they will remain denuded in their advocacy efforts because they will see neither the true impact the Zina Ordinance has on people living in Pakistan nor will they see that in the eye of the storm the judiciary is their greatest ally in ameliorating the practical impact of the Zina Ordinance.

correct information to all concerned parties, including the public. Such efforts will also facilitate more effective representation of the innocent victims.

The second range of options that ought to be pursued is to advocate the adoption of enhanced procedural safeguards. For instance, Parliament passed the Criminal Law (Amendment) Act, 2004,¹⁴³ which mandates that only a senior police officer of the rank of superintendent may conduct an investigation in a case of zina, and an arrest may be made only with the permission of the court.¹⁴⁴ These provisions do not apply to cases of zina-bil-jabr. Other procedural safeguards may include the appointment of specialist and more qualified judges for Hudood trials in the Sessions Courts. Alternatively, the FSC may be decreed the trial court in Hudood laws cases. The FSC is arguably more competent to try such cases, and has demonstrated a much more refined approach towards the enforcement of Hudood laws than the Sessions Courts. Further, it may be made mandatory for adequate medical tests to be performed in cases of zina before any prosecutions are initiated. Though this would require significant expenditure for the necessary facilities and infrastructure, the development of adequate forensic investigation mechanisms is a pressing need and such an effort is feasible as well as easily justified.¹⁴⁵

Chadbourne, *supra* note 24, at 180.

143. Criminal Law (Amendment) Act, 2004 (Act I of 2005), *reprinted in* 57 P.L.D. 2005 Federal Statutes 77 (2005).

144. Section 13 of the Act, which amends Section 156 of the Criminal Procedure Code, reads:

13. Amendment in Chapter XIV, Act V of 1898. —In the Code, of Criminal Procedure, 1898 (Act V of 1898), hereinafter referred to as the Code, after section 156, the following new sections shall be inserted, namely:—
....

156B. Investigation against a woman accused of the offence of Zina. Notwithstanding anything contained in this Code, where a person is accused of offence of Zina under Offence of Zina (Enforcement of Hudood) Ordinance, 1979 (VII of 1979), no police officer below the rank of a Superintendent of Police shall investigate such offence nor shall such accused be arrested without permission of the Court.

Explanation. —In this section 'Zina' does not include 'Zina-bil-Jabr'.
Id. at 79–80.

145. See generally HUMAN RIGHTS WATCH, *supra* note 48, at 10–16 (suggesting recommended reforms for police practice and the medicolegal system).

V. CONCLUSION

This paper has attempted to expand the debate concerning the Hudood laws and their enforcement in Pakistan. It has done so through examination of the FSC's precedents on the controversial issue of pregnancy as proof of zina. Admittedly, sufficient evidence has not been adduced to conclusively prove that the Shariat courts have developed an approach that has rebutted the criticisms of the skeptics.¹⁴⁶ In fact, it has not even been argued that the Shariat courts are capable, by themselves, of resolving all the difficulties. This is because many of the current problems are rooted in the investigative, prosecutorial, and procedural deficiencies of Pakistan's criminal justice system, and are therefore beyond remediation through reform of substantive laws.

Nonetheless, it has been argued that the debate concerning the Hudood laws in Pakistan has been both misleading and unproductive, because not all of the relevant aspects and nuances of the issues have been explored. First, the role of the Shariat courts in shaping the law through the implementation of coherent and just Islamic doctrines of criminal liability has been overlooked. Second, the possibility of obviating some of the procedural defects in the criminal justice system, not only in the context of the Hudood laws but also other "secular" criminal laws, has also been underestimated. If a more nuanced perspective on the Hudood laws is adopted — incorporating the possibility of substantive reform in accordance with an Islamic critique implemented preferably through statutory amendments, coherent case law, enhanced procedural safeguards, and a general reform of the criminal justice system — this may lead to a resolution of these controversies. The alternative is a continuation of an ideological struggle in which the politicos win but the victims lose out.

VI. POSTSCRIPT

As of the date of publication, the processes of reform advocated in this paper have begun to materialize. For the first time since the enactment of the Hudood Ordinances, mainstream news media organizations in Pakistan have started a dialogue on the laws and their the conformity to Islamic injunctions.¹⁴⁷ Additionally, on November 15, 2006, the "Protec-

146. *But see* Kennedy, *Islamization in Pakistan*, *supra* note 24, at 309–11 (arguing that the statistical data on the disposition of Hudood Ordinances appeals shows that the FSC has played a significant role in moderating the zealousness and remedying the incompetence of sessions court judges).

147. This public debate began when Geo Television, a leading Urdu-language Pakistani television network, launched a series of programs entitled *Zara Socheye*. *Zara Socheye*, <http://www.geo.tv/zs>. In these programs, notable religious scholars, lawyers, for-

tion of Women (Criminal Laws Amendment) Bill”¹⁴⁸ was passed by the National Assembly after receiving support from both the government and several opposition parties.¹⁴⁹ The bill proposes several major changes to the Zina Ordinance:

1. Abolition of the offense of zina-bil-jabr liable to hadd;
2. Abolition of the offense of zina-bil-jabr liable to tazir and reinstatement of the pre-Hudood rape provisions in the Pakistan Penal Code, including the removal of the marital rape exemption;
3. Abolition of the offense of zina liable to tazir;
4. Introduction of the offense of public lewdness in the Pakistan Penal Code;
5. Abolition of the penalty of rajm for zina liable to hadd;
6. Abolition of the mandatory death sentence for the offense of gang rape, and replacing in its stead a discretionary sentence of either death or life imprisonment;
7. Criminalization of the publication of a case of zina or rape;
8. Zina shall be cognizable only by a court of competent jurisdiction upon the presentation of four witnesses; and
9. Qazf proceedings may automatically be instituted by a court where a complaint of zina has been made but four witnesses are not presented.

The bill has been passed amidst steadfast claims by the government that the proposed amendments conform to Islamic injunctions.¹⁵⁰ As noted in the bill’s statement of objects and reasons: “The primary object of all these amendments is to make zina and qazf punishable only in accordance with the injunctions of Islam as laid down in the Holy Qur'an and Sunnah, to prevent exploitation, curb abuse of police powers and

mer judges, and other intellectuals questioned whether the Hudood Ordinances completely conform to the injunctions of the Qu’ran and Sunnah.

148. A copy of the bill, as originally presented in the National Assembly, is available at <http://www.dawn.com/2006/08/24/nat3.htm>. The version passed by the National Assembly, however, includes certain amendments to the original version.

149. Ifran Ghauri, *NA Passes Women's Protection Bill*, DAILY TIMES (Pak.), Nov. 16, 2006, available at http://www.dailytimes.com.pk/default.asp?page=2006%5C11%5C16%5Cstory_16-11-2006_pg1_3. Before the bill becomes law, it must now be approved by the Pakistani Senate.

150. See, e.g., *Prove It Un-Islamic and I'll Resign: Shujaat*, DAILY TIMES (Pak.), Nov. 16, 2006, available at http://216.122.144.99/default.asp?page=2006\11\16\story_16-11-2006_pg1_5.

create a just and egalitarian society.”¹⁵¹ Opponents of the bill from the religious right, however, have criticized it as being “un-Islamic.”¹⁵²

Some civil society and human rights organizations have also been vocal in their criticism of the bill. They believe the bill does not go far enough, and insist that the Hudood Ordinances be repealed outright.¹⁵³ Nevertheless, most Pakistani commentators perceive the bill as being a step in the right direction.

151. Raja Asghar, *Pakistan: Opposition Up in Arms over Women's Rights Bill*, MUSLIM NEWS (U.K.), Aug. 22, 2006, available at <http://www.muslimnews.co.uk/news/news.php?article=11594>.

152. *Id.*

153. *WPB: A Step Forward or a Step in the Wrong Direction*, DAILY NEWS (Pak.), Nov. 16, 2006, available at http://www.dailytimes.com.pk/default.asp?page=2006\11\16\story_16-11-2006_pg7_18.

Session 8



The Theology of the Koran

Timothy Winter aka. Abdal Hakim Murad

The message which, as Muslims believe, the Angel Gabriel brought from God to the Prophet Muhammad, was not delivered instantaneously. An intriguing, somewhat mysterious *sura* (chapter), *Sura* 97, speaks a ‘Night of Power’ (Laylat al-Qadr), in which the Koran was revealed. This night is usually thought to be ‘hidden’ in one of the last nights of the fasting month of Ramadan, and therefore to be the holiest month of the year, which Muslims greet with all-night vigils. It is the night when the great mystery of Islam took place: when the book, which is from the infinity of God, broke through into this finite world. Hence, according to the commentators, the mysterious tone of *Sura* 97, and the obscurity which surrounds its exact timing.

Yet the biography (*sira*) of the Prophet always reports that Gabriel would dictate the text of the Revelation piecemeal, at various key points during his 23-year ministry. The scholars therefore concluded, on the basis of a large number of early reports, that the entire text was revealed from a celestial archetype, identified with the ‘Preserved Tablet’ (*al-lawh al-mahfuz*) mentioned elsewhere in the Koran (85:22), to the lowest level of the non-material world, from which the angel would then convey it in segments to the Prophet. This is the doctrine of ‘*tanjim*’: the piecemeal revelation of the Book, the term rather poetically indicating a parallel with shooting stars, which unpredictably ‘fall’ to earth from heaven.

In Lecture 10 we will examine the consequences for theology of this distinctive doctrine of revelation. This week we will set aside the issue of the ontological status of the text, and attempt to offer some generalisations about the doctrinal, theological and moral content of the principal Muslim scripture.

That content is inseparable from the book’s form. The Koran is a profoundly rhetorical document, addressing a culture whose sole major aesthetic form was poetry. The Koran is not itself poetry; it is set in a kind of dynamic prose, with highly complex assonances, rhymes, and internal rhythms. But it is poetic inasmuch as the form of its discourse interacts intimately with the meaning that it conveys. This may be one reason why the various English translations are so unsuccessful as literature: the meaning is inseparable from the splendour of the language. Reading the Koran in English can be like reading the libretto of, say, *Fidelio*, with all the repeats included. Without the music it can seem reiterative and prosaic. To translate the Koran is to strip it of its orchestral accompaniment, which is its splendidly Arabic matrix. This is, in fact, an interesting theological difficulty for Muslims: the faith is claimed to be addressed universally to all nations, and yet its scripture, on whose credibility its claims stand or fall, is not perfectly accessible to the majority of mankind who do not know Arabic.

To understand the Koran, as Neil Robinson points out in his book *Discovering the Qur'an*, we have to understand the multiple modalities of the text. Muslims do not perceive it as primarily a physical phenomenon: the real Koran is the oral memory of the speech of God. The calligraphed or printed book is simply an *aide-memoire*, never

touched by the several million people who have committed the whole text to memory. There is here an interesting parallel with Christianity which we have noted before: just as the vessel of the uncreated Logos had to be virginal, to emphasise Christ's sinless status, so too the human recipient, paradigmatically the Prophet, is not contaminated by already existing knowledge reified through writing. The traditional Muslim belief is that he was illiterate: the divine word came, as it were, through a virgin. And Muslims, as they recite the Koran, whose very name means 'that which is often recited', participate in this divine 'breathing-in' of the word, undiminished by the world as represented in paper and ink.

There are, then, two distinct channels through which the Koranic canon has been handed down to us and is utilised by Muslims. Firstly, the written tradition, and secondly, and more importantly, the oral. The significance attached to both has had a profound influence in shaping Muslim culture. Both are, as it were, vessels of the divine word, like a Communion chalice, through which the faithful imbibe something of eternity. The existence of a written text (known as a *mushaf*), was not unimportant; indeed it inspired the development of Arabic calligraphy, arguably the most distinctive and sophisticated of the arts of Islam. (For a great contemporary exponent of this art, see www.zakariya.net). And the oral tradition fostered an entire musicology, with a system of modes, keys, and strict rules for pronunciation known as *tajwid*. (An American scholar, Christina Nelson, has written a book called *The Art of Reciting the Qur'an*, where you can find further details.)

In Muslim societies, any important event: a marriage, a birth celebration, a funeral, or the opening of a mosque or a shop, or an airport, will typically begin with a Koranic recitation from memory, in order to suffuse the new undertaking with blessings. *Tajwid* is also held to have strongly incantatory properties: couples who move into a new house will recite certain *suras* in each room to chase out any malevolent spirits. It is used in exorcisms. The written text, or passages from it believed to be charged with special spiritual power, is used folklorically as a talisman, to be suspended in an amulet from a baby's neck, or buried in the foundation of a new building. Or it may be placed in a car in the hope of reducing the danger from car-thieves or traffic accidents. The physical text is treated reverently. It is never placed on the floor, and will always be placed on rather than under other books. Most Muslims hold that it may only be touched in the state of *tahara*, or ritual purity. It will often be kissed after it is recited, and then wrapped in a valuable piece of cloth.

This discussion brings us close to another dimension of the Koran: its liminal, sacred function as bridge between the divine and the human. The examples I have just cited suggest how Muslim cultures view the text not simply as a narrative about God, but as something which, in the world, preserves a sacred nimbus. This is an inevitable concomitant of doctrine. The Logos is made book: hence instead of an incarnation Islam has what the orientalist Harry Wolfson called a kind of 'inlibration'. There is a real presence in the Scripture, and to recite it is, as we have suggested a kind of Islamic equivalent of the Eucharist. But this parallel should not be pushed too far. Allah's Word is not hypostatised: and it has no trace of personhood. The Koran is God's uncreated

speech, existent with Him since pre-existence, but it is not worshipped. In Islamic theology, One God alone has personhood.

To this ‘ontological’ dimension of the Koran we intend to return. But now: we need to ask the obvious question: what does the book actually say?

The Pakistani theologian Amin Ahmad Islahi (d.1997) proposed a sevenfold division of the Koranic text. Each group begins with suras revealed in Mecca, and ends with material revealed in Medina. And each has a ‘pillar’, or dominant theme, as follows:

Group 1 (Suras 1-5 [1 Meccan, 2-5 Medinan]): Pillar: The Revealed Law

Group 2 (Suras 6-9 [6-7 Meccan, 8-9 Medinan]): Pillar: Abrahamic Religion

Group 3 (Suras 10-24 [10-23 Meccan, 24 Medinan]): Pillar: Struggle between Truth and Falsehood

Group 4 (Suras 25-33 [25-32 Meccan, 33 Medinan]): Pillar: Proof of Messengership

Group 5 (Suras 34-49 [34-46 Meccan, 47-9 Medinan]): Pillar: The Unity of God

Group 6 (Suras 50-66 [50-56 Meccan, 57-66 Medinan]): Pillar: The Hereafter

Group 7 (Suras 67-114 [67-109 Meccan, 110-114 Medinan]): Warning to Unbelievers

Of course, the Book itself, revealed once on the Night of Power, and distributed ‘as stars’ through the years of the Prophet’s ministry, can and has been divided up in different ways. Islahi’s scheme is by no means the only Muslim way of identifying a thematic conglomeration of subjects in the body of the text, and even a quick read of the Koran will show that each of the ‘pillars’ is referred to virtually everywhere. However Islahi, and many others, hold that the general weighting of Koranic subjects is as he has described.

The fact that each group, although returning constantly to the theme of its pillar, nonetheless includes material connected to all the other pillars, makes it difficult for beginners to sift out the Koran’s doctrinal content. Properly speaking, the Koran has no ‘doctrinal section’ or even ‘doctrinal passages’.

Note that there is no pillar which deals with God’s existence. It is sometimes said, for instance by Montgomery Watt and Richard Bell in their book *Introduction to the Qur'an*, that the Koran assumes the existence of God, and does not argue for it. This is something of an oversimplification. The Koran does recognise the problematic of how a transcendent God can be recognised by ordinary mortals here below. Moses on Sinai is told: ‘You shall never look upon Me.’ (7:143) Elsewhere the text says: ‘No perceptions can attain Him, but He attains all perceptions’. (6:103) In other words, it is only through God’s self-disclosure that he may be known. And this has two aspects. Firstly: His revelation in the cosmos, and secondly, His articulation of His nature and will in the various scriptures which have been given to humanity. Let us take these in turn.

Firstly, God may be veiled, given the incommensurability (*tanzih*) which the Koran establishes between the two categories of God and humanity. But His works, His evidentiary signs, are made strikingly palpable to us:

‘In the creation of the heaven and the earth, and the succession of night and day, are signs for people of understanding (*lubb*). Those who remember God while standing, sitting, and on their sides, and who meditate on the creation of the heavens and the earth. ‘Our Lord! You have not created this in vain!’’ (3:190-1)

And again:

‘Do they not see the camels, how they are created?
And the sky, how it is raised?
The hills, and how they are set up?
The earth, how it is spread out?’ (88:17-20)

These ‘panenhenic’ verses seem to suggest that the natural world is a book waiting to be read: it contains the *vestigia Dei* which speak not firstly to the human mind (*aql*) but to the *lubb*, a distinctive Koranic word whose resonances include ‘core’ or ‘seed’, and which seems to denote an intuitive rather than a purely discursive manner of knowing. Inasmuch as the Koran has an argument for God, then, it has an argument from His works, but not framed rationally, but poetically and, one might say, mystically. This Koranic epistemology was of little interest to later Muslim theologians, who concerned themselves with the endless quest for intellectual proofs of God’s existence. But it resonated strongly in the mystical tradition; indeed, the strength of mysticism in classical Muslim culture may well reflect the fact that it could claim such unmistakeably Koranic roots, something which for the formal scholars (*ulama*) sometimes seemed a little more difficult.

The Koran’s emphasis on nature as a world of signs makes possible, and in turn presupposes, the absence of a radical doctrine of original sin. The Koran gives us an account of the Fall, in which Adam, after eating of the forbidden fruit, is forgiven by God (2:34-38). Subsequent human sinfulness is hence the consequence of imperfect upbringing, not of a primordial inheritance. The vision of human beings and the world is hence rather upbeat and optimistic. Men and women are not so fallen that they cannot unaided read the signs of God in nature and be transformed in a saving way. For their souls are fundamentally pure, and nature is a perfect theophany: a manifestation of the divine.

Some European scholars have speculated, quite interestingly, I think, that the very positive view the Koran takes of nature is either a product of, or a response to, the pre-Islamic animism of Arabia, which invested natural phenomena with supernatural charge. For such writers, these passages comprise the most significant pre-monotheist survival in the Koran, accounting for much of its distinctive teaching about the world and human nature. However this suggestion remains no more than speculative. The Koran recognises three orders of subsidiary rational spirits: angels, jinn, and demons. But the genuinely powerful demiurges so important to the Bedouin shamans of old are eliminated, in favour of the all-embracing power (*qudra*) of the One True God.

Let us now look briefly at the Koran's teaching on the second of God's languages: revelation. This is covered by Group II in Islahi's system. According to the Koran, 'a guide has been sent to every nation' (13:7). This is part of God's justice (*adl*) – another fundamental presupposition. The Muslims are instructed to:

'Say: we believe in God, and in that which is revealed to us, and in what was revealed to Abraham, Ishmael, Isaac, Jacob and the Tribes, to Moses and Jesus and all the Prophets by their Lord. We make no distinction between any of them, and to God are we surrendered.' (2:136)

And in the main Abrahamic passages which occur in Group II, we find Muhammad projected as a continuation of the Abrahamic line of prophecy. For instance: sura 6, verses 74-90.

It is not clear how many earlier prophets received written scriptures, although commentators later thought that they could read four into the Koran: texts were given to Abraham, David, Moses and Jesus. But the followers of those books have now strayed from the path, and to put humanity back on an even keel God has sent His definitive scripture: the Koran. This, like nature, is composed of 'signs' (*ayat*): each 'verse' is called a sign. Like nature, too, its divine authorship is self-authenticating:

'Had it been from any but God they would have found many discrepancies therein' (6:82)

Again, it is not so much the brain, but the *lubb*, the core, which perceives its divine authorship:

'A Book which We have revealed unto you, full of blessing, that they may reflect upon its signs, and that people of *lubb* may remember.' (38:29)

People whose inner faculties are in working order, then, will intuit God's presence in both its revealed modalities: nature and Book. This will result in the condition of '*iman*', usually translated as 'faith', but more accurately rendered as 'a condition of secure confidence'. And yet it is the will of the Koranic God that not all can maintain this inward openness. In Sura 6:25 we read:

'We have set veils over their hearts, lest they understand it, and a barrier in their ears.'

To be able to respond to both of God's languages, the Koran explains that human beings need God's grace (*rahma*), and providential guidance (*huda*). Although, as it says, 'God singles out for His grace whom He will' (2:105), a human being may render himself or herself more deserving of this gift by cultivating a policy of inward strife against *hawa*: an instinctive, animal propensity to immediate gratification, which is the domain and instrument of Satan.

Hawa is the cause of *dalal*, going astray, which may lead not simply to moral depravity, but to the greatest sin of all: polytheism (*shirk*). The lower soul, the *nafs*, is therefore the enemy:

‘He who purifies it has succeeded,
and he who stunts it has failed.’ (91:9-2)

The *nafs* inclines towards the world, *dunya*, a key Koranic term which means, literally, that which is lower. It is described as ‘nothing but game and play’ (6:32). Its baseness and short duration are contrasted constantly with the *akhira*, literally, ‘the other’, which refers to the life to come. The believer must choose the latter over the former, by means of a self-control and discipline enabled by God’s grace.

The methods of this inward struggle are enumerated in several places in the Koran: although Pillar III contains much of this material, the ‘via purgativa’ is a recurrent theme in all the pillars. There is the virtue of *tawakkul*, reliance upon God; there is *tawba*, the turning towards Him in repentance; there is *khawf* and *raja*: fear of God’s chastisement and hope for His reward. By cultivating these virtues, the believer is said to attain to *al-qalb al-salim* (‘a sound heart’, 26:89), and hence to Paradise, conceived, as in the Biblical tradition, as a celestial garden, but with the added dimension of sexual fulfilment. Those who refuse the challenge to purify the self can only expect ‘Jahannam’: a hellfire where demons torment the damned.

Eschatology is dealt with mainly towards the end of the text, in Pillars VI and VII. After the insistence on God’s unity, this was the signature tune of the Prophet’s mission in Mecca. The Arabs appear to have had no clear idea of what happened after death. The pre-Islamic poetry whose authenticity seems probable evokes a bleak, fatalistic outlook. Sometimes we learn of spirits manifested as birds, particularly the owl, which would haunt the graves of those unjustly killed, and cry out for justice. Such beliefs were thoroughly swept aside by the Koran.

The ancient Meccans were not unfamiliar with ‘Allah’, as the overarching creator, or sky-god. But heaven and hell were, as far as we can tell, alien to their worldview. So we find the Koran spending much time on death, judgement, heaven and hell. Death is seen as God’s decree, its time already known and which man cannot escape. This was perfectly familiar to the fatalistic Arab conception of *dahr* – implacable time which wears out and destroys all human creatures and their works. What happens between death and the Judgement is not clear from the Koran, although the hadith literature stepped in to describe the post-mortem state known as *barzakh*. Two angels will question the deceased about his/her faith and works, and depending on the reply, will bring about a foretaste of heaven or hell while the individual is still awaiting the Judgement. This came to be part of mainline Sunni doctrine.

Regarding the Resurrection, the Koran has much to say. A Last Trump will be blown, and then:

‘On that Day mankind shall be as thickly-scattered moths, and the mountains as carded wool.’ (101:4-5)

‘On that Day shall each nursing mother be oblivious to her suckling, and every woman great with child deliver, and you shall see mankind as drunken, yet they are not drunken, it is only that God’s chastisement is severe.’ (22:2)

‘On that day every soul shall find in attendance all that it had wrought of good and ill, and shall yearn that there be between it and its works a great gulf.’ (3:30)

Many verses clearly form part of the Prophet’s urgent preaching to the Meccans, in an apocalyptic register that at times seems distinctly reminiscent of modern charismatic and revivalist Christian preaching:

‘How shall you ward off, if you deny God, a day that will turn children’s hair to grey? The heavens are pregnant with it; it is a promise that shall be fulfilled.’ (73:17)

Or, for instance:

‘Do not consider that God is heedless of what oppressors commit. He only gives them respite until a Day on which eyes shall stare, as they come hurrying on in fear, their heads upraised, their gaze returning not to themselves, and their hearts as air. So give warning to mankind!’ (14:43)

Eschatology is hence a central theme; with the divine unity, it forms a deep rhythm running beneath all the other themes of the Muslim scripture. It shows existence apart from God as dyadic: a dynamic interaction of opposites. The Koran conjures ceaselessly with oppositions such as heaven and earth, light and darkness, virtue and evil, God and the devil, but rigorously excluding any dualism. The former prevails in each case; the second is merely the shadow, or the absence of the former. Hence God is reported as saying: ‘My mercy outstrips My wrath’. People are taken from hell into heaven, but there is no traffic the other way. Darkness is simply the absence of light; it has no ontological reality. The objective is *wilaya*, ‘friendship’ with God. A verse says:

‘God is the friend of those who believe; He brings them from the shadows into the light. And those who reject Him, their friends are false gods, which bring them from the light into the shadows.’ (2:257)

To achieve this state of *wilaya* is a constant struggle, and this forms the particular theme of Pillar III. It is to be of a fundamentally ethical character.

A number of key virtues are held up as weapons in this battle. Generosity, courage, loyalty, truthfulness and patience receive the greatest emphasis. Humility is also stressed, so that the Koran tells the Prophet:

'It was by the grace of God that you were gentle with them. Had you been stern and fierce of heart they would have dispersed from round about you. So pardon them, and ask forgiveness for them, and consult with them in affairs.' (3:159)

Other passages condemn backbiting, lying, extravagance and hypocrisy, and praise justice, sexual continence, forgiveness and moderation, building up a comprehensive system of practical ethics which was firmly to underpin the ideals of subsequent Muslim thought and society.

Private morality is seen as the path to God; public morality, and hence law (*Shari'a*), is understood as the support for a private morality. As we saw in the previous lecture, the *Shari'a* does not save, it provides a context in which individuals can attempt to put themselves in the 'path of salvation.' Koranic ethics are hence, ultimately, individualistic. Society is a means to a higher end; and everything within it must be constructed so as to foster *dhikr*, the remembrance of God, and minimise *ghafila* – heedlessness of Him.

In Pillar I, the concept and most of the content of the Koranic law is spelt out. The second *sura* begins with a denunciation of what it sees as the wrong kind of law-based religion, telling the story of how the Israelites, unwilling to slaughter a cow at God's command, introduced casuistic arguments: what kind of cow should it be? What colour? Can it have any faults, or must it be perfect? The Koran deploys this as an argument against focussing on the law to the exclusion of God, which Muslims traditionally believe to be the principal danger implicit within a purely formal type of religion.

However Sura 3 makes it clear that the law is not to be jettisoned altogether. Sura 3, also in Pillar I, contains material on Christianity, and denounces attempts to throw the baby out with the bathwater; this being the traditional Muslim perception of Christianity's break with Second Temple Judaism. It closes with a warning against loose hermeneutics (*ta'wil*), the reinterpretation of revelation on the basis of personal preference.

Having made its case against Jewish and Christian understandings of the Law, the Koran, in *sura* 4, then develops guidelines for family life: this is the Chapter of Women, which includes many of the foundations for the subsequent *Shari'a* rules on inheritance, divorce, and the forbidden degrees of marriage. Sura 5, which closes Pillar I, includes more rulings, this time on ablutions before prayer, and the main dietary requirements.

This close linkage between public morality and the individual quest for the One God is, we may say, the fundamental theme of the Koran. As in Judaism, marriage, war, legal matters, table manners, hospitality: these and all areas of life are to be fully integrated into religion, since they exist to furnish one thing: opportunities for self-denial, and the retrieval of the primordial purity of soul with which we were born. Here, then, is Islam's strategy for coping with sin. God has not come into history in person, as in Christianity, because nothing less than an infinite sacrifice will redeem what Augustine called the *massa damnata* of the human race. Instead, Muslims came to believe that God has placed his Word in history as a book, as a series of truths, proclaiming to humans that they can find within themselves the capacity to seek purity and justification. The world and man,

in the Koranic vision, are not radically fallen. The entire world is sanctified; and the invitation is made to sanctify all of human life in response to this joyful realisation.

Human life, as it ought to be lived, is hence at the centre of the Koran's concerns. Experiencing God's signs in nature, we are moved to recognise the authoritative source of His 'signs' in His book. But we may only perceive these if the heart is 'sound'. And to reach that state the forms of the religious life are gifted by God. The Law is hence itself an epistemology: through ritual and the virtuous ordering of society, we know ourselves, and when we know ourselves, God makes himself known.

The Koran nonetheless insists on a God that cannot be known. Its response to the great paradox of all religion: how can we respond to the Absolute when we are relative, takes the form of a theology which allows the divine transcendence (*the tanzih*) to coexist with divine immanence (*tashbih* – literally 'the affirming of resemblance'). The Koran's God often seems anthropomorphic: God has a 'hand', a 'face', and so on. God can be prayed to as we would pray to a personal deity – in fact the Koran contains a wealth of vivid and heartfelt prayers. By contemplating God's qualities as disclosed in nature we know Him in a general way. By contemplating His 'Most Beautiful Names' which are scattered throughout the Koranic text, we can articulate what we already know from nature. However the Divine Essence is always unlike everything else. 'Nothing resembles Him', the Koran says (42:11). The simultaneity of *tanzih* and *tashbih*, of the God who is 'like' and also 'unlike', is the central metaphysical move of Koranic revelation. Its unfolding will be detailed in the coming lectures.

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who have since represented them have often served as leaders of spiritual and political resistance. In this context, the Passion of Husayn has served as a symbol of the ultimate promise of salvation. Participation in the Passion is participation in a salvation history that has distinct tones in Shi'i Islam. In the pages ahead it will be important to distinguish the differences of tone without losing sight of the essential agreement of faith and practice between the two branches, Sunni and Shi'i Islam.

THE COMMON DENOMINATOR

Let us return to consider in brief the Five Pillars of Islam. They are: (1) the witness; (2) the prayer; (3) the alms; (4) the fasting; and (5) the pilgrimage. We have already seen how the witness, or shahada, contains two essential themes in Islam, when a Muslim declares: "I witness that there is no God but Allah; I witness that Muhammad is His Messenger." The other four Pillars are known as the religious duties (*'ibadat*). The rules governing these acts of worship in particular have been carefully argued and expounded by each of the Sunni and Shi'i schools of law, with slight variations among them. This is because the Pillars are considered "obligatory" for all Muslims, whereas other Acts of Worship are "recommended." Without going into the complexity of Muslim worship at this point, let us nonetheless consider the main features of worship.

The Religious Duties

Prayer (Salat). Performing the daily prayers is the second Pillar of Islam. As in other religions, prayer is an act of communication between human beings and God, and Muslims may choose to pray at many times and for a variety of reasons. Five daily prayers, known in the Arabic singular as *salat*, are considered a duty for all Muslims, and on these occasions preparations in ritual purity are required. Salat must be said and performed while facing in the direction of Mecca. It may be performed virtually anywhere except on Fridays, when at the midday call to prayer Muslims should gather at a nearby mosque. There a sermon is heard, and then the prayer is performed in uniform rows of worshippers.

Alms (Zakat). The mission of the Prophet Muhammad was directed in part against the injustices that the tribal Meccan economy imposed upon widows, orphans, and others without means. The *zakat* is a form of giving to those who are less fortunate, and, as the Third Pillar, it is obligatory upon all Muslims with the means to do so. In general, the schools of law have interpreted this Pillar to mean that one should give a certain amount from that part of one's wealth and assets each year in excess of what is required for a

respectable standard of living. Normally this should be done before the beginning of the month of Muharram, the first of the new year. Each Muslim may choose the form and recipient of his *zakat*. Giving the *zakat* is considered an Act of Worship because it is a form of offering thanks to God for the means of material well-being one has acquired.

Fasting (Sawm or Siyam). Another expression of thanksgiving is the Fourth Pillar, fasting. Like the *zakat*, *sawm* is considered meritorious whenever it is performed (without detriment to one's health), but it falls as a duty to all Muslims to fast in particular during the ninth month, the month of Ramadan. During Ramadan, refraining from food, drink, and sexual activity during daylight is enjoined upon all Muslims except those who are in ill health. This restriction also applies to pregnant and menstruating women and to persons engaged in strenuous work or demanding travel. One's duty then is to make up lost days of fasting at a later time. Each day of Ramadan, the time of fasting is from just before sunrise to just after sunset. Breaking the fast is otherwise permitted, and often evenings during Ramadan are joyous and sumptuous occasions in Muslim homes. It is reported that the Prophet often fasted, particularly when he was directing his attention toward God in meditation. Sawm during Ramadan or any time is recognized as physically demanding but spiritually rewarding.

Pilgrimage (Hajj). The pilgrimage season begins in the tenth month, the month following Ramadan, and lasts through the middle of the twelfth month, Dhu al-Hijja. The Fifth Pillar requires all Muslims who are physically and financially capable of it to make the *hajj* to Mecca once during their lives. The actual rites and prayers take place at the sacred Ka'ba in Mecca and at other locations nearby. The rite of pilgrimage is very old, having existed in pagan forms long before Muhammad. Muslims associate the origin of the *hajj* and the founding of the Ka'ba with the prophet Abraham (Ibrahim). Today the *hajj* is a spectacular gathering of Muslims at Mecca from all over the world, numbering about two million people each year.

Striving (Jihad). Although it is not universally recognized as a Pillar of Islam, *jihad* is a duty in one form or another. The general meaning of the term is "striving for moral and religious perfection." *Jihad* is the form that patriotism and citizenship take within the Islamic umma. Because Islam regards itself as a universal religion, *jihad* can be in the service of the spread or defense of Islam. This sense of *jihad* is often translated as "holy war." In the event of attack from outside forces, *jihad* calls for fighting and, if necessary, dying for the sake of Islam. In this case it is a duty that falls to all able-bodied male Muslims. It is true that the cry of "*jihad!*" has been raised from time to time in Islamic history, but it is the broader meaning of striving within the context of one's life and community for moral and religious perfection that is the main sense of this duty in Islam. One who so strives is known as a *mujahid*. Every Muslim can and should be a *mujahid*.³

Being a mujahid, a striver for moral and religious perfection, involves numerous forms of public and private devotion that characterize the "practice" of Islam generally. We will encounter some of these in greater detail in Chapters 11 and 12. Among the most important dietary laws are the quranic injunctions against eating pork and drinking alcohol. Muslims are also enjoined to respect their parents and elders, to help provide for close relatives and kin, and to give to the poor and disadvantaged when at all possible. On the other hand, murder, theft, fornication, adultery, lying, cheating, and wrongly accusing or testifying against someone are all strictly forbidden by the Sharī'a.

Iman: Islamic Beliefs

The term *islam* in a technical sense means "the practice of the religious and social duties" outlined above. There is another term, *iman*, which means "faith," and like the Five Pillars, iman can be divided into parts or categories. In Chapter 6 we will consider the content of Muslim faith and thought in more depth. As we proceed to learn about Islamic history and culture generally in the next few chapters, it will be useful to bear in mind the six parts of iman or "faith," which answer the question: faith in what?

1. *God and His Attributes.* Belief in Allah and His unity (*tawhid*) entails belief in His attributes such as knowledge and speech. God's attributes are inherent in His being and not apart from Him. In popular piety, it is believed that God has ninety-nine beautiful names or attributes, and rosaries of thirty-three beads are used to conduct private devotions that consist in remembering God by naming his attributes.
2. *Prophets.* The Muslim belief that Muhammad is the Messenger of Allah is grounded in the belief that many prophets preceded Muhammad. Selected from among ordinary mortals to bring the divine message to humankind for their guidance, prophets and messengers were necessary for salvation. From Adam (the first) to Muhammad (the final "Seal"), prophets have taught humankind about matters of faith and practice necessary to salvation.
3. *Angels.* In addition to the earthly messengers of God's will, Muslims believe there are numerous invisible beings who execute the commands of God in the invisible, supramundane sphere. The most important of these are: Gabriel, the messenger of God's will to His prophets; Michael, in charge of the natural world; Israfil, who trumpets in the Last Judgment; and Azrael, the angel of death.
4. *Sacred Books.* Belief in sacred books or scriptures sent to confessional communities, particularly to the Jews and Christians, is the fourth category of iman. It follows from the aspects of faith just mentioned, for God's communication to His prophets through His angels has resulted in other sacred books. In addition to the Qur'an, Muslims acknowledge the Torah of Moses, the Psalms of David, and the Gospel of Jesus as previously sent scriptures.
5. *The Last Day.* Muslims believe that the world as we know it will end in divine destruction followed by a Day of Resurrection at which all of humankind, past and present, will be brought to strict account for the decree to which they kept the faith

and the practice enjoined upon them by their prophets. Those who obeyed God and His messengers will henceforth enjoy Paradise; those who did not will suffer in Hell. Those who had iman, "faith," but who nonetheless sinned in significant ways will suffer temporarily before attaining Paradise.

6. *Predetermination.* The sixth part of faith is the omnipotence of God, that is, belief in His total power (*qadar*) as Creator to shape and determine the course of His creation. The paradox of divine power and agency in all events versus human responsibility for moral and immoral acts indicates that the frequent charge of fatalism against Islam is no more true than in any religious tradition that believes in divine predestination. Belief in predestination, or *qadar*, is a positive affirmation of God's power and majesty for most Muslims, and not an excuse to become resigned to the way things are in the world.

These general descriptions of the terms iman and *islam*—that is, of faith and practice—apply throughout the tradition. Like believers in other religious traditions, Muslims vary in the intensity of their faith and the diligence of their practice. Some are very pious, however, and one important form of pious devotion throughout the centuries has been Islamic mysticism, known in Islam as *tasawwuf*, or "Sufism."

MYSTICAL ISLAM

From the interior of a compound in North Africa, the name of Allah may also be heard—as it frequently is throughout the Muslim world—but not from a muezzin, nor at intervals prescribed by the Sharī'a. Those who utter it call themselves Sufis. They are Islamic mystics, gathered in a community around a spiritual master, or Shaykh. Such communities have existed for a long time in Islam, and those who have chosen the path of mysticism have been Sunnis in some cases, Shi'ites in others.

In Sufi gatherings, the two syllables *Al-lāh* dominate the atmosphere. In quiet moments in his or her own cell, each devotee softly murmurs the divine name repeatedly. "Allah." One so occupied is conscious of nothing else. At other times the divine name is more audible, more disturbing. A French physician attending to the health of a Sufi Shaykh reported the following experience:

Fairly often . . . while I was talking directly with the Shaikh, the Name "Allah" had come to us from some remote corner of the zawiyyah [Sufi convent], uttered on one long drawn out, vibrant note:
"A...l...la...h!"

It was like a cry of despair, a distraught supplication, and it came from some solitary cell-bound disciple, bent on meditation. The cry was usually repeated several times, and then all was silence once more.

Islamic thought had another, more intrinsic impulse, in the view of many scholars. The two sources of the Qur'an and the Sunna required considerable interpretation for each generation of Muslims after the Prophet, and inevitably, differences of opinion occurred. The expanded Muslim community in the newly conquered lands of the Middle East experienced numerous threats of internal disruption. The sectarian groups of Shi'a, Khawarij, and Murji'a, described in Chapter 5, sought to define and clarify the meaning of crucial concepts such as faith, sin, and the nature of human freedom and ability to act independently of divine empowerment. From these early disputes came schools of thought that in time produced important theologians and theological works. Islamic thought, then, centers around theological issues that sprang from the historical circumstances of early Islam. The chief language of discourse during the early centuries—Arabic—was soon adapted to the theological and philosophical discussions of contemporary Christian, Jewish, and other religious thinkers. The result has been a rich literary history of religious thought, which we shall survey briefly.

7



The Formation of Islamic Religious Thought

GOING BEYOND SCRIPTURE

Scripture serves the needs of basic beliefs. Sacred texts like the Qur'an indicate how a community comes into being and receives a prophet, and what purpose the community serves in the cosmos. Scripture informs the liturgical rituals of worship and the legal modes of social behavior. The Qur'an thus served its proper function in the early Islamic community. With the expansion of Islam into lands already settled by Jews, Christians, Zoroastrians, and other religious communities, the simple enunciation of scripture proved to be insufficient for the discussion of Islam, both among Muslims and by Muslims with non-Muslims. With the help of Greek philosophy and established rhetorical traditions, Jewish and Christian thinkers developed systematic articulations of their beliefs as well as arguments against the beliefs of rival traditions. Thus, by the time Islam appeared in the seventh century, Jews and Christians had already engaged in sophisticated polemics with each other in attempts to prove the truth of one tradition against the claims of the other. In this environment of theological controversy, which flourished in the towns and cities conquered by the Arab armies, Muslim intellectuals found themselves drawn to respond in kind.¹

KALAM: DISPUTING DIFFERENCES

Those who formulate religious beliefs into doctrines are called theologians in Western parlance. In classical Islam they were called *mutakallimun*, and their activity—a term derived from the same Arabic root (*k-l-m*)—was called *kalam* or, more formally, *'ilm al-kalam*, the discipline or science of kalam. What, then, is kalam? Quite literally it means "speech," or "talking." The mutakallimun were specialists in speaking about the "fundamentals of religion," the *usul al-din*. It is tempting to translate kalam as "theology" and the mutakallimun as "theologians," as was implied in the first two sentences of this paragraph. The differences between kalam and theology are interesting and important to note, however. The term theology is derived from two familiar Greek words, *theos* (god) and *logos* (reason, rational speech). Among the Greeks, *theologiein* meant "to discourse about the gods." In early and medieval Christian civilization, theology came to mean "the study of God and His relation to humankind." In Western Christendom, after several centuries of determining religious doctrine by grand councils of bishops, universities began to appear in Paris, Bologna, Oxford, and elsewhere. Theology emerged as an authoritative discipline, often in conflict with the church hierarchy, to become "queen of the sciences" within the university. The matter was otherwise in early and medieval Islam.²

Caliphs and wealthy patrons in the first centuries of Islam frequently gave audience to Muslims of various points of view as well as Christians, Jews, philosophers and others, letting them dispute their doctrines openly. These disputation, called *munazarat* (singular, *munazara*) were a cultural product of

Islamic society from the very beginning. They took place in virtually every discipline of the Islamic religious sciences, especially in *fīqh* (the study of the roots of the Shari'a) and kalam. But these disputations—even the ones sanctioned by caliphs—never attained the degree of magnitude or magisterial authority of the church councils called by the Emperor Constantine and his Byzantine successors, beginning with the Council of Nicaea in the fourth century. Whereas the church councils of medieval Christendom were convened by Christian emperors to settle doctrinal disputes, Muslim lawyers and theologians engaged in a continual process of disputation to resolve questions of religious practice and belief as they arose. Disputation was a normal cultural process for finding peaceful settlement of divisive religious issues.

The earliest function of the mutakallimūn may have been as military missionaries during the Umayyad period (661–750), serving as "spokesmen" for Islam (or Islam as the Umayyad caliphs and regional governors and Arab generals understood it) on the frontiers of territory just under, or not yet under, Islamic rule. In the next section, we will review the chief issues in dispute during the first few generations of Muslims, for these became the foundation issues of *ilm al-kalam*. The reader will recall that the earliest issues in dispute were related to the experiences and conflicts (fitnas) that occurred in the formation of Islamicate society in the periods of the Rashidun and Umayyad caliphs.

EARLY THEOLOGICAL PROBLEMS

The monotheistic traditions—Islam, Judaism, and Christianity—have each wrestled with a common set of theological problems. For example, the problem of evil has occupied the minds of religious thinkers in all three traditions. God is described as good and all-powerful in the creeds of all three faiths. The question then arises: Given the nature of God, is there a source of evil in the cosmos other than God? If not, why is there suffering?

Another problem that divided early Muslim thinkers was the seeming contradiction between free will and predestination. In this case, not only the nature of God but the nature of man was at issue.³ The problem that drew the most attention was free will versus predestination, to which we shall turn our attention briefly.

God's Determination of Events

During the Umayyad Age (661–750), many mutakallimūn attempted to define God's "power" to determine events. The real problem arose when it came to defining acts done by human beings. To what extent is God involved in the doings of humankind? Who is the efficient cause or agent of, say, an

act of murder, or of saving a life? One group of thinkers took the position that God is all-powerful and thus the ultimate source of the power behind all events in the cosmos; humans act under the compulsion of God's power. This group of predestinarians was known as the "Compulsionist" party (*muhibra*). Another group argued that human morality would be thereby undercut; thus humans must be held responsible for their own acts. This latter group became known as the "Free Will" party (*qadiriyya*).

These early theological debates did not take place in a historical vacuum. They were related to claims, especially of the later Umayyad rulers, that their control and conduct of the caliphate was divinely willed, that is, a matter of God's power, not man's. Many Muslim thinkers, regardless of their personal offense and distaste for the impiety and secular interests of several of the Umayyad caliphs, defended the current state of political affairs and thus accepted the Umayyad caliphate on theological grounds. The others, the Free Will party, held the Umayyads accountable on the ground that human beings (including the caliph) are responsible for their own acts. The Free Will party of the Umayyad Age, then, was political as well as theological in its opposition to the mainstream of thought. Many of them paid for their stubborn resistance by imprisonment and even execution.

Both the Free Will party and the Predestination party claimed that the Qur'an and the sayings (hadiths) of the prophet supported their views, and in this claim each was correct, for passages from the Qur'an could be found that supported each position. Islamic theology, like Christian and Jewish theology, accepts scripture and tradition as authoritative sources on which to build decisive arguments. The problem is that scripture and tradition can be read in more than one way on most theological problems that divide the religious community. The Qur'an, like the Bible, is not a systematic theological or philosophical treatise.

Many passages of the Qur'an suggest that whatever befalls a man or woman in life, there is nothing that person can do; only God can do an undo what happens in the universe. Consider the following passage from the Sura of Jonah (Qur'an 10): "If God afflicts you with some hurt no one can remove it except Him; and if He desires some good [for you] no one can repel his goodness." The role of the book and of writing in Islamic cosmology is made clear in his regard in the Sura of Hud (Qur'an 11:6): "And there is not a beast in the earth whose sustenance does not depend upon Allah. He knows their habitation and reserve. All is in a clear book."

Other passages appear to say that humankind is to be held accountable for its sins on the Last Day, with the obvious implication that human beings are masters of their own acts. The Sura of Ya Sin (Qur'an 36:54) puts the matter this way: "On the Day [of Resurrection] no one is wronged for anything, nor is he recompensed, except for what you have been doing." The eschatological significance of free will is confirmed by the following passage from the Sura of the Cave (Qur'an 18:29–30):

Say: "The truth is from your Lord, so, whosoever wills let him believe and who-ever wills let him disbelieve. Truly, We have prepared Hellfire for disbelievers. . . ."

Lc: As for those who believe and do good works, We do not allow to go lost the reward of any who do good deeds.

Thus, although theological disputants sought to rest their cases on the warrants of scripture, the matter could not be decided on scripture and tradition alone. The process of theological argumentation, already highly developed by Christian thinkers who used Greek philosophy to support their claims, was soon adopted by Muslim thinkers. On the other hand, internal political problems led to sectarianism in early Islam and thus provided an urgent need for theological reflection.

The Circle of Hasan al-Basri

During the Umayyad period, there lived a pious, reflective and somewhat ascetic man named al-Hasan al-Basri (Hasan of Basra, d. 728). Born in 642, just ten years after the death of the Prophet Muhammad, Hasan came from a Persian family living in Iraq at the time of the Muslim conquests. His father had converted to Islam, which made him a *mawla*, a Muslim by virtue of being a client of the Arab family that had converted him. Hasan himself was born a freed man. As a young man he participated in the continuing conquests of lands beyond Persia in what is now called Afghanistan. Later he became secretary to the governor of Khurasan. He returned to live in the Iraqi garrison town (one of the *ansar*) of Basra around 680. There he soon formed around him a circle of students with whom he debated the theological implications and interpretations of the political events of the day. These were quite tumultuous, as this was the period of the great fitnas or sectarian uprisings, which were described in Chapter 5.

Among the issues that Hasan debated was the one raised by the Khawarij who, as we have seen, argued that the Muslims had a duty, established in the Qur'an, to punish sinners (like the caliph Uthman, whom they alleged had ruled in violation of Quranic precepts). Against this view, Hasan argued "that a Kharrijite who tries to right a wrong (*munkar*) commits a greater wrong." By this he meant that the social order of the Muslim umma is only made worse when wrongs are met with self-righteous acts of reprisal.⁴ Hasan also attacked the Khawarij for their insistence that a grave sinner is an unbeliever, a *kafir*, who must be excluded from the Muslim umma, by putting him to death if necessary. On the other side, Hasan rejected the position of the *Murji'a*, who argued that the fate of the grave sinner was in the hands of God, and thus action against such a person must be postponed until the Day of Judgment, because even a grave sinner must be regarded as a believer, a *mu'min*. Invoking the Quranic notion of "backslider" (*munafiq*) against both positions, Hasan argued that sinners, even grave sinners, were

hypocrites, subject to punishment as provided by the Shari'a. Nonetheless, they were still Muslims and should not be excommunicated from the Muslim umma. In rejecting both the Kharrijite and *Murji'a* positions on the matter of the communal status of the grave sinner, Hasan was said to have taken up the "intermediate position" (*al-manzila bayn al-manzilatayn*).

We shall meet up with this doctrine again when we discuss the Mu'tazila, who adopted it. Indeed, even the earliest Arabic sources are in conflict over whether Hasan took this position or whether one of his disciples, Wasil ibn 'Ata (d. 748), did. According to the standard account of the origin of the Mu'tazili movement (which we shall consider in more detail below), during one of the sessions someone asked Hasan of Basra whether the grave sinner should be regarded as a believer or unbeliever. Hasan is reported to have hesitated, at which Wasil jumped up and said that the grave sinner was neither, but rather in an intermediate position. W. M. Watt recounts this version as follows: Wasil "then withdrew to another pillar of the mosque, followed by a number of those in [al-Hasan al-Basri's] circle, whereupon al-Hasan al-Basri remarked 'Wasil has withdrawn (*i'azala*) from us.' From this remark came the name Mu'tazila."⁵

On another matter of grave concern to the early Muslim umma, Hasan took a stand that was to be debated throughout the early centuries of Islam. This was the problem of the antinomy between free will and predestination, the problem dealt with above. The Muslim predestinarians, who came to be called the "Compulsionists" (*al-mujibira*) argued that all that happens in the world, including human acts, is determined by God's decree (*qadar*). Opposing this view were early *mutakallimun*, who ironically were labeled the "Qadarinya." In effect, the Qadarites were those who contended that God's decree (*qadar*) does not override the human capacity to act and, more important, it does not obviate people's moral responsibility for their own actions.

There is some debate among scholars as to how much al-Hasan al-Basri deserves to be called a Qadarite. That he shared some of their views is made clear in an exchange of correspondence with the Umayyad caliph 'Abd al-Malik (reg. 685-705), attributed to al-Hasan al-Basri. We begin with a few lines from the caliph, to give the reader a sense of the literary formalities and style of religious discourse in translation (which loses the effect of the word-play and zest of the original):

From 'Abd al-Malik ibn Marwan, Commander of the Faithful, to al-Hasan ibn Abi al-Hasan al-Basri. Greetings to you! May the only God who exists command you. The Commander of the Faithful [caliph] has heard your views on *qadar*, hearing the like of which he has never heard before. Nor has the Commander of the Faithful heard of any of the companions of Muhammad talk about [this] matter. . . . So write to him about your position on this matter. . . . explaining whether this is on the basis of transmissions from the companions of the Prophet [i.e., hadith about Muhammad's Sunna], or according to your own view of things, or on the basis of truth which is known from the Qur'an. We shall listen to no other disputant nor intelligent person on this topic until we hear from you.⁶

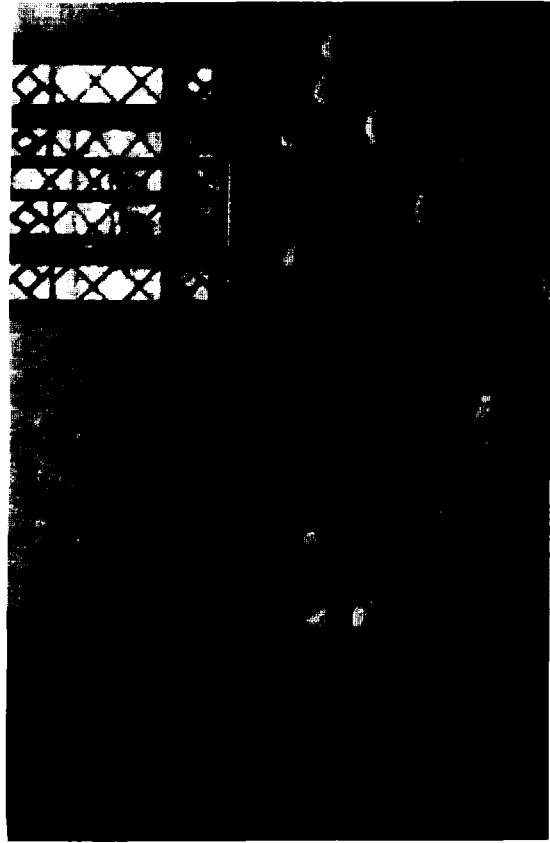


FIGURE 7.1 Traditional circle of Muslim scholars, mosque in Egypt. (Photo by author.)

Note the caliph's reference to the two sources of religious authority we discussed in Chapter 1 above, the Sunna of the Prophet and the Qur'an. 'Abd al-Malik mentions a third source, Hasan's "own view of things": what early Muslim jurists such as Abu Hanifa (d. 767) called "legal opinion" (*ra'y*) and later jurists called "independent reasoning" (*ijtihad*). The legitimate role of the individual scholar, in applying his considered judgment to the interpretation of the Qur'an and the Sunna, has been much debated throughout Islamic history. Those Muslims who have insisted on a literal reading and understanding of the roots of religion and law, excluding reason as an acceptable or even valid method of determining belief and practice, have always been critical of intellectual enterprises like that of kalam. Both the scholars of kalam (the mutakallimun) and the scholars of law or "fiqh" (the *fujūha*) differentiated into schools (*madhabs*), some of which were more rationalist, while others were inconsistent on reliance on fundamental sources (the *usūl*), such as the Qur'an and the Sunna. Interestingly, in his reply to Caliph 'Abd al-Malik, Hasan does not cite the Sunna of the Prophet; he relies mainly on proof texts from the Qur'an, and very little on independent rational argument. We quote a small but indicative portion toward the middle of Hasan's letter.

Consider also, O Commander of the Faithful, the statements of God in Qur'an 26:99: *Only the evil-doers led us astray*, and 20:85: *The Samaritan led them astray*, and 17:53: *Satan is an obvious enemy for people*, and 41:17: *As for Thamud, We guided them but they preferred blindness over guidance because of what they had earned*. So, the beginning of guidance was from God but the beginning of their deserving blindness was in their erroneous opinions. My statements and my letter do not demand a lot from you, O Commander of the faithful, for the proofs are quite clear in them for whoever's soul is free of guilt. . . .⁷

[The predestinarians] also dispute about Qur'an 11:105: *Some of them will be unfortunate, others fortunate*. They interpret this such that God created people in their mothers' wombs either fortunate or unfortunate so there is no way for whoever is fortunate to become unfortunate nor is there a way for the unfortunate to become fortunate. . . . God has said. . . in Qur'an 11:105: *A day comes; no soul shall speak except with His permission. Some of them will be unfortunate, other fortunate*. The fortunate ones on that day will be those who hold fast to the command of God while the unfortunate will be those who scornfully neglect the command of God about His religion [*dīn*].⁸

Hasan al-Basri's letter indicates that the predestinarians also based their arguments on passages from the Qur'an. Interpretation (or "exegesis" as textual commentary is called in religious studies) then turns on disputing the meaning of one passage by bringing other verses to bear on the meaning one wishes to impute. The meaning of one passage in the text is to be found elsewhere in the same text. There were two reactions to this manner of quranic argument. One came from Wasil ibn 'Ata and his followers, who "withdrew" from Hasan's circle (or at least from reliance solely on quranic proof texts) to

found the "madhhab" or movement known as the Mu'tazila. The other came from the early jurists, the *fujūha*, who vested great authority in the practice of the Prophet Muhammad as a second source of information about Muslim faith and practice besides the Qur'an. We turn, now, to consider further intellectual disputes among the mutakallimun.

THE CLASSIC SCHOOLS OF ISLAMIC THOUGHT

By the middle of the eighth century, when the Abbasid caliphs came to power in Baghdad, Islam was entering its golden age. Baghdad became an intellectual marketplace for many new ideas, religious and secular. The Free Will party was no longer politically suppressed. Shi'i theologians more openly argued their claims that 'Ali, not the first three rightly guided caliphs, was the true successor to the Prophet. Christians, Jews, Manicheans, and even atheists with schooling in Greek philosophy gained established reputations in the Abbasid court, as we have seen. During the eighth through the early eleventh century, the various theological trends in Islam produced noteworthy figures who gathered many pupils around them in Baghdad and elsewhere. In the next chapter we will look at the main Sunni madhhab of kalam today, the Ash'rites. In this chapter the focus is more on the Mu'tazili madhhab and their early opponents, the Traditionalists, the Shi'a, and the philosophers.

The Mu'tazila

One of the most powerful theological movements in the early Islamic Middle Ages was known as the Mu'tazila. The origin of this school in the circle of al-Hasan al-Basri was discussed above. In reality, the Mu'tazila were not a unified school at all, but rather various groups of intellectuals with common but not identical sets of views. In a sense, the Mu'tazila were the continuation of the Free Will party, and like that party, they soon ran afoul of both the religious and the political establishment. Yet in the teachings of the early Mu'tazila, much of which has been cited in later works we now possess, we find these theologians to be extremely sophisticated in their articulation of Islamic thought. They were among the first Muslims to challenge heretics and non-Muslim thinkers. Their attempt to systematize Islamic thought in a way that was intellectually defensible had the effect of identifying the most essential doctrines of the Islamic religion.

In an eleventh-century commentary on a work by one of the last great Mu'tazili thinkers, Qadi 'Abd al-Jabbar (d. 1024), the following postulate of Mu'tazili kalam is set forth:

The Chief Magistrate Abu I-Hasan 'Abd al-Jabbar... began his commentary with a question about the five fundamental principles, saying: "If a questioner asks 'what is the first thing God imposes on you,' say to him, 'speculative reason [nazar] that leads to knowledge of God Almighty, because He is not known intuitively, nor empirically, so we must know him through thinking and speculative reason.'¹⁹

The Mu'tazila organized their discussions around five fundamental principles. First was the doctrine of tawhid, God's unity. Most Mu'tazili mutakallimun denied any resemblance between God and His creatures. Against more popular conceptions, the Mu'tazila argued that God could not be conceived in human terms; that is, they "deanthropomorphized" the notion of God in order to be more clear about His unity and uniqueness. This view had implications for quranic interpretation as well. In one famous passage of the Qur'an, God is described as sitting on the throne of Heaven. In this and all such passages, the Mu'tazila argued, it is best to give the verse an allegorical interpretation, for it could not be an accurate literal description of God. The early Mu'tazila developed their understanding of tawhid particularly in arguments against the Zoroastrians and Manicheans, who held dualist notions of the godhead. But their arguments were also a challenge to those Muslims who read the Qur'an literally and thus understood God in anthropomorphic terms. Thus we see how early mythical world views of monotheism versus pagan polytheism were translated and developed into a sophisticated theological doctrine.

Second was the doctrine of *'adl*, divine justice. In Western theological terms, 'adl has to do with the problem of *theodicy*. Given the existence of evil

in the world, how can the notion of an all-powerful, good God be justified? Here the Mu'tazila carried the arguments of the Free Will party further, asking about the implications of the doctrine of qadar for the ethical nature of God's being. The basic premise of the Mu'tazila under the doctrine of 'adl is that God is just, and therefore He must do what is best for His creation. It also means that God, though all-powerful, cannot (or does not) do evil or require human beings to do what is evil. Human beings, then, are responsible for their own acts, which they commit under their own power.

The third fundamental doctrine of the Mu'tazila was *al-zuhd wa l-wa'i id*, the Promise and the Threat. Under this heading, theologians discussed religious beliefs concerning the Last Day or Day of Judgment. In Western religious thought this is the problem of *eschatology*. The fourth fundamental Mu'tazilite principle was *al-manzila bayn al-manzilatayn*, literally "the position between the two positions." This position was first attributed to al-Hasan al-Basri, as we saw above. Under this category came the discussion of what we might call *political theology*. The Arabic phrase refers to the early period of conflict, when many of the Mu'tazila adopted a middle position between the extremes of the Khawarij on the one hand and the Murji'a on the other. All questions concerning the caliphate and imamate were discussed here, as well as the nature of the Islamic state or community, that is, the umma.

The fifth and final principle was *al-amr bi l-ma'ruf wa l-nahy 'an al-munkar*, roughly "commanding the known (good) and prohibiting evil." It is a Quranic phrase that all Muslim jurists and theologians have regarded as a religious impetus to spread Islam. Here the missionary enterprise of spreading the faith came under discussion. Islam first grew under the impulse not just to conquer, but to spread the faith. The Mu'tazila had been especially active helping the Abbasid family overthrow the Umayyads in the first half of the eighth century. This they did through their interpretation of Islam, which denied the predestinarian views supported by the Umayyads. Mu'tazilite political and missionary doctrines were especially popular in the Abbasid court until the middle of the ninth century. Mu'tazili mutakallimun continued to be influential in Iraq and in Eastern Islam until the eleventh century. When the Seljuq Turks took possession of the Abbasid caliphate, more conservative religious sensibilities took hold of the intellectual ethos of Islam. Mu'tazilism had by then run its course. The appeal of rationalism in theology remained dormant in Islam for many centuries until the twentieth century, when modernists such as the Egyptian Muhammad 'Abduh (d. 1905) revived interest in the spirit of Mu'tazilism, but not in the five fundamental principles.

These five fundamental principles—the doctrines of God, theodicy, eschatology, political theology, and missions—nonetheless formed the five subdivisions of most early works on theology. Even the opponents of the Mu'tazila adopted these categories, if only to refute the main arguments. Before long, however, opposing trends of thought became powerful enough

to challenge the schools of the Mu'tazila in Baghdad, Basra, eastern Persia, and elsewhere.¹⁰ One of the most powerful Sunni countermovements came from the Traditionists, often called the People of Hadith. Their strength in early Islam can be attributed to the popular teacher, jurist, and collector of hadith Ahmad ibn Hanbal.

Ahmad ibn Hanbal (780–855)

There is hardly any aspect of the religion of Islam upon which the stamp of Ibn Hanbal's name and influence does not appear, either positively or negatively.¹¹ His collection of hadith, known as the *Musnad*, is still widely used in the Muslim world. But Ibn Hanbal was more than a Traditionist (*muhadith*, one who collected and taught prophetic traditions); he was also a Traditionalist. By this latter term we mean those Muslims who insist that religion is founded on revelation and prophetic example, not on speculative theology and reason. As a jurist he offered penetrating insights that drew a large following, and the Hanbalite school of Islamic law became one of the four orthodox branches of religious jurisprudence in Sunni Islam. Ibn Hanbal also became a legend in his own time by refusing to subscribe to the Abbasid court's official pronouncements on Islamic doctrine. As a Traditionalist, Ibn Hanbal held views that were much closer to those of the pious masses of Sunni Muslims, and soon his heroic resistance and refusal to recant his views, even in prison and under physical punishment, forced the government to release him and eventually to condemn his theological opponents. Throughout the Middle Ages the term "Hanbalite" was practically synonymous with the English term "Traditionalist," as defined above. A revival of Hanbalism in the fourteenth century was headed by Ibn Taymiya, as noted in Chapter 1. The religious monarchy in Saudi Arabia traces its spiritual heritage to Ahmad ibn Hanbal, as do many Islamic revival movements in modern times.

Ibn Hanbal's family had descended from a prominent Arab clan. His grandfather and father had participated in the conquest and pacification of Iraq and Persia. By the time of Ibn Hanbal's birth in 780, the family had settled in the recently built city of the Abbasids, Baghdad. The social and intellectual climate of the Abbasid capital must have been quite stimulating for the bright young son of a retired military figure. Most of the great religious teachers of the day found their way to Baghdad, and Ibn Hanbal was to become the pupil or teacher of many of them.

The main focus of his education was the collection and study of the hadiths attributed to the Prophet Muhammad. Until Ibn Hanbal's time, these had been preserved mainly by oral tradition. The early Abbasid period, however, produced an environment in which Islamic religious knowledge turned increasingly to literary forms. Such scholars as Ibn Hanbal were still known for their extensive memories and wide travels to gain comprehensive command of the thousands of sayings attributed to the Prophet. With the expansion of Islamic civilization came the growing need for an established

literature about the Prophet's Sunna. Judges, lawyers, teachers, and other religious writers were to profit greatly from the work of Ibn Hanbal and others in classifying and writing down the prophetic sayings that played such an important role in the life of the Islamic umma. In this activity, Ibn Hanbal came to adopt a theological position that ran directly counter to the Mu'tazilites of his day.

The Uncreated Qur'an. The divinely given message of the Islamic way of life, contained in the Qur'an and the Sunna and known as the Shari'a, was viewed in a very particular way by the Traditionists, who were known more broadly as the *ahl al-sunna wa l-jama'a*, "the People of the Sunna and the Community." Against the Mu'tazilite theologians and others, the People of the Sunna argued that innovations through reasoning and individual judgments had no part in religious matters. The Shari'a prescribed a total way of life. To thinkers like Ibn Hanbal, it was not necessary to go beyond the Qur'an and the Sunna to establish the Islamic way of life. This is why Ibn Hanbal was so extremely popular among the common people, and less so among Muslim and non-Muslim intellectuals who were not ready to accept the Qur'an and the Sunna as the sole authoritative sources of belief. Thus, as we have seen, tradition and reason emerged as two different, sometimes incompatible, sources of religious knowledge.

The conflict surfaced during Ibn Hanbal's lifetime, creating a whirlwind of controversy that swept the entire sociopolitical structure of the intelligentsia of Baghdad into the eye of its storm. The caliphs, their large staffs of civil servants, famous Mu'tazilite teachers, eminent philosophers, and many others became involved. Fortunes and reputations were gained and lost almost overnight. At the center of the storm stood two men of immense public stature: Caliph al-Ma'mum (reg. 813–833) and the Traditionist (and Traditionalist) Ibn Hanbal. Both men claimed deep commitment to the Islamic religion. The confrontation between them was a poignant reminder that religious ideas do not just inhabit the minds of pious recluses; the controversy over right belief (orthodoxy) can affect the whole social and political order.

The theological issue that brought Ibn Hanbal and al-Ma'mum into public conflict had political and social dimensions, but it was the Qur'an that stood at the center of the controversy. Al-Ma'mum, in addition to the matters of state for which he was directly responsible, took a personal interest in 'ilm al-kalam, the study of theology. He gathered around him many of the eminent Mu'tazili mutakallimun of the day. He even wrote several treatises on theology that were decidedly influenced by Mu'tazili arguments. He thus came to favor the Mu'tazili view that the Qur'an was God's revelation to man, created and recited to the Arabs in their own language at a particular and finite moment in history. The Mu'tazilites had further argued that the notion of God's unity, tawhid, would be compromised if the Qur'an were regarded, as it was in the popular view, as an eternal, preexistent document inscribed in Heaven. The question that exercised so many minds, then, was this: Is the Qur'an eternal or created? The Mu'tazilites, whom Caliph al-

Ma'mun supported, said that it was created and that it could not be otherwise. The Traditionalists and People of the Sunna, whom Ibn Hanbal supported, said that the Qur'an was the eternal, uncreated Word of God. The arguments that raged back and forth were sometimes subtle and elusive, but the social and political effects were not.

Al-Ma'mun took decisive steps to implement the Mu'tazili views as state policy. He required his chief civil servants to state publicly that the Qur'an was created. Many were willing to submit to this imperial meddling in matters of belief in order to save their jobs, despite their own convictions to the contrary. Along with a few others, Ibn Hanbal chose imprisonment over subscription of religious conviction. The rounding up and conviction of dissenters was known as the inquisition (*mihna*).¹² Outside the Baghdad prison in which Ibn Hanbal was incarcerated, the streets filled with common folk who supported his resistance to the caliph. Most of them were devoted to the popular belief in the uncreated, eternal Qur'an. Soon afterward Caliph al-Ma'mun died, and under his successors, Ibn Hanbal was held in prison for a few more years. During that time the additional measures of scourging could not persuade him to accept the doctrine of the created Qur'an. And so he was released on his own recognition to live in retirement in his own home. There he remained in seclusion until the accession of Caliph al-Mutawakkil in 847, when Ibn Hanbal was able to resume his lectures on Traditions. Five years later Ibn Hanbal was invited to the new royal palace in Samarra, a town not far up the Tigris River from Baghdad. In the royal compound he tutored the caliph's son and, in sharp contrast to much of his public career in Baghdad, Ibn Hanbal enjoyed the last years of his life as something of a celebrity in the highest echelons of government, where he was guaranteed independence of thought. He died at the age of seventy-five in 855, and his body was interred in a cemetery near one of the main four gates of the city of Baghdad. Thousands of Muslims mourned at his graveside, and for generations his grave was a shrine for the large segment of Sunni Islam that in law and orthodox interpretations of the Shari'a goes by the name Hanbalite.

Ahmad ibn Hanbal's legacy in the Abode of Islam has been considerable. As a personality, he is remembered in history and legend as a heroic resister of doctrinal innovations and of rationalism, where these appeared to threaten popular, Traditionalist notions about the Qur'an and the Sunna. In theology, the widely accepted view that the Qur'an is the eternal, literal word of God found its most popular champion in Ibn Hanbal. Throughout the Middle Ages, many of the Ash'arite theologians defended such Hanbalite doctrines, although not all Ash'arites followed or studied the Hanbalite branch of Sunni law; and to many Hanbalites, the Ash'arites erred on the side of rationalism as opposed to Tradition. Historically, the Hanbalites have reappeared from time to time as the inspiration behind religio-political attempts to reform Islam. The terms "fundamentalist" and "puritan" are often applied to the Hanbalites and to Ahmad ibn Hanbal himself. Accurate

as these terms may be, it would be unfortunate if such terms were taken to mean that a great religious and theological figure such as Ahmad ibn Hanbal (and his followers) should be overlooked in the intellectual history of Islam.

The Shi'a

During the eighth and ninth centuries, as the Traditionalists, Mu'tazila, and Ash'ariyya (see next chapter) were striving to clarify Sunni Islamic religious doctrines, the Shi'a were also engaged in theological reflection. Like the Mu'tazila, the Shi'a were motivated by political considerations. At first the Abbasid court had seemed much more friendly toward Shi'i groups than had the Umayyad court. Against the prevailing view of the Abbasids and of Sunni Islam, however, Shi'i theologians argued that 'Ali, not the first three rightly guided caliphs (Abu Bakr, 'Umar, and 'Uthman), had been the rightful successor to the Prophet, designated by Muhammad himself. The Shi'a preferred the term "imam" to "caliph," and their religious thought sprang from the twelve (five or seven) imams whose teachings were regarded as sources of inspiration along with the Qur'an and the Sunna. Most of the early Mu'tazili and Ash'ari writings contained refutations of the political and religious views of the Ithna Ash'ari (Twelver) Shi'a in particular. For their part, the Shi'a were not silent. Many of them wrote important theological and philosophical treatises about the various Shi'i world views and doctrines.

The terms each group used for the others were seldom polite and often extremely deprecating. The Isma'ilii branch of the Shi'a spread esoteric doctrines throughout Islamicate society, using highly trained missionaries known as *da'is*, as we have already seen. Thus during the classical period of Islam, theologians of all branches formed a class of intellectual elites whose function it was to articulate interpretations of Islam commensurate with distinct religious and political groups within the Abode of Islam. Looking backward into those turbulent moments of intellectual history, we see that the categories of heresy and atheism, bandied about with emotion and conviction, were related to the articulated political convictions that each group of Muslims established for itself.¹³

Nasir al-Din al-Tusi (1201–1274). One of the most important Shi'i thinkers of the late classical period was Nasir al-Din al-Tusi. Born in Tus, Persia, Tusi managed to gain a solid education in the religious, philosophical, and physical sciences before the destructive armies of the Mongols marched across the Islamic East. In his early professional career he served as an astrologer to an Isma'ilii prince, but when the Mongol invasions posed a threat to libraries and academies, he gained the confidence of the famed Mongol lord, Hulagu. Tusi was thereby able to save many libraries containing intellectual treasures of the past. Much of the Mongol "booty" of this type was brought to Azerbaijan, where, with the support of Hulagu, Tusi founded an important institution that housed an observatory, library, and

academy of scholars. Tusi's keen analytic mind ranged over a variety of subjects about which he wrote more than one hundred books. He is best known in the West for his work in astronomy and mathematics. In the Islamic world, particularly among the Shi'a, Tusi's works (written in Arabic and Persian) in theology, philosophy, ethics, and logic mark an important stage in intellectual history. Not only did Tusi save books and libraries from extinction, but he revived the achievements of philosophers such as Avicenna from the intellectual decline of the thirteenth century.

FALSAFA

The last group of intellectuals to be considered in this chapter is those who followed the Greek and Hellenistic traditions of *falsafa*, an Arabic loan word from the Greek *philosophia*, "love of wisdom" or philosophy. Greek philosophy—in particular, that of the Stoics, the Academy of Plato, Neoplatonism, and the Peripatetic tradition of Aristotle—played an important role in medieval thought. Among the Jewish philosophers, Philo (fl. circa 39 C.E.) and Moses Maimonides (d. 1204) interpreted and explained the Torah and Jewish beliefs with arguments drawn from Greek philosophy. Maimonides lived, wrote, and taught in Islamicate society (Islamic Spain and Egypt), where he had considerable contact with Muslim intellectuals. So, too, the Fathers of early Christianity and the Schoolmen of the Middle Ages employed Stoic, Platonic, Neo-Platonic, and especially Aristotelian philosophy to elaborate on Christian doctrine. We have already seen that in Islamicate society during the early Abbasid Age, there was much interest among Muslim rulers and intellectuals in translating the works of Greek philosophy into Arabic. This produced Islamic interpretations and elaborations of the Greek classical intellectual heritage, which Muslim intellectuals generally referred to as *rum*, (pronounced "room") "Rome."

In this regard, it is important to note that Western civilization is not the only intellectual inheritor of ancient Greece. The Greek heritage also played an important role in Islamic intellectual life in the Middle Ages. Indeed, Islamicate society was host, as just mentioned, to Jewish, Christian and Muslim philosophical traditions that relied on Greek thought.¹³

The Philosophers

Al-Kindi (d. circa 866). Abu Yusuf Ya'qub ibn Ishaq al-Kindi was a younger contemporary of Ahmad ibn Hanbal; like the latter, he was born of pure Arab lineage. Nonetheless, al-Kindi, as we shall call him, was a man of completely different intellectual temperament than Traditionalists like Ibn Hanbal. Al-Kindi was involved in the translation movement, referred to pre-

viously in this chapter and in Chapter 4. Although he was probably not the translator of Greek works into Arabic, as some historians have claimed, as a philosopher he rephrased earlier translations in order to make more rational sense out of the texts. Like several Mu'tazili mutakallimun of his day, al-Kindi received patronage from Caliph al-Ma'mun (reg. 813-833) and his two successors. Indeed, there is some indication that al-Kindi was sympathetic with some of the doctrines supported by the Mu'tazila. One of his books, on the justice of God's actions, recalls the Mu'tazili doctrine of theodicy. His association with the Mu'tazila is also suggested by the fact that in 847, when an anti-Mu'tazilite, al-Mutawakkil, became caliph, al-Kindi lost favor with the court and his personal library was confiscated. Al-Mutawakkil was the same caliph who liberated Ahmad ibn Hanbal from prison and exonerated him publicly.

Ya'qub ibn Ishaq al-Kindi wrote many works, some of which have survived to the present day. Some of these works seem more theological in scope. Others are decidedly philosophical, reflecting Aristotelian and Platonic approaches to metaphysics. Philosophers like al-Kindi were able to find value in the intellectual contributions of the ancient civilizations of the Greeks, Chinese, Indians, and others, whereas Traditionalists like Ahmad ibn Hanbal sought to restrict knowledge to that which is known from the Qur'an and the Sunna. The following passage illustrates al-Kindi's appreciation of the ancient philosophers:

We owe great thanks to those who have imparted to us even a small measure of truth, let alone those who have taught us more, since they have given us a share in the fruits of their reflection and simplified the complex questions bearing on the nature of reality. If they had not provided us with those premises that pave the way to truth, we would have been unable, despite our assiduous lifelong investigations, to find those true primary principles from which the conclusions of our obscure inquiries have resulted, and which have taken generation upon generation to come to light heretofore.¹⁴

Reasoning from first principles rather than starting from quranic teachings, al-Kindi sought nonetheless to establish the truths of religion on rational grounds. That he found himself in conflict with Traditionalist Muslims should not surprise students of early and medieval Christianity, where the same conflict between reason and revelation occurred.

Al-Farabi (d. 950). Abu Nasr Muhammad ibn Tarkhan al-Farabi, a Turk, studied and wrote in the Abbasid capital, Baghdad, though he journeyed also to Egypt and Syria. Farabi studied logic from the masters of his day, in which field he showed himself to be of more subtle mind than al-Kindi. Baghdad in the tenth century was home to many scholars, some of them Christians, in logic and in related sciences, such as rhetoric. Again, we discover in philosophers such as al-Kindi and al-Farabi intellectual interests that transcended Islamic religion or, rather, that sought to integrate Islamic

beliefs with other metaphysical systems. For example, in the field of political philosophy, Farabi wrote about Plato's Republic, in which he substituted the Islamic notion of prophet as ruler in place of Plato's philosopher-king. Farabi also gave the emanationist philosophy of Neo-Platonism much place in his own evolving system, as did many other Muslim, Jewish, and Christian philosophers in the Middle Ages.

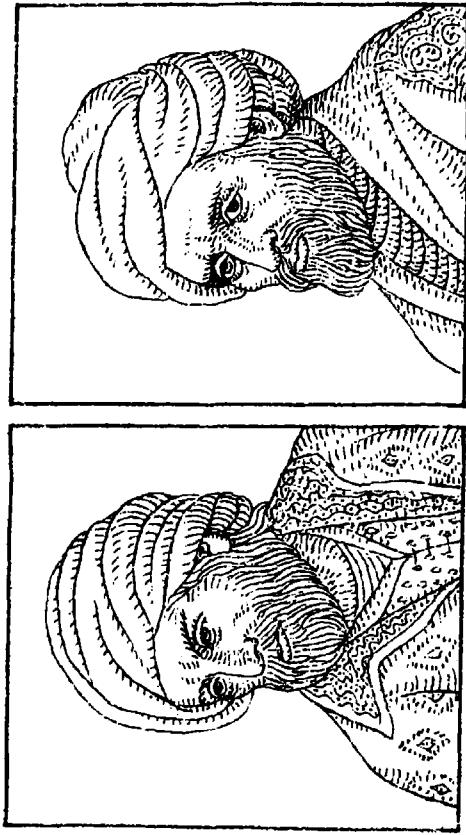
Ibn Sina (d. 1037). Abu 'Ali Husayn ibn Sina is known in the West as Avicenna. He was born near Bukhara, in Khurasan. Like all Muslims, Ibn Sina began his studies in the Islamic disciplines. In typical fashion for him, he tells us with no attempt at modesty, "I had completed the study of the Qu'ran and a major part of Arabic letters [*adab*], so much so that people wondered at my attainments."¹⁵ He is even more pointed in recounting how quickly and thoroughly he surpassed his teachers in logic, metaphysics, and other philosophical subjects. More of his works than those of al-Kindi and al-Farabi were translated into Latin. One modern biographer has counted nearly 300 works or fragments of works in print or in manuscript. In the Middle Ages in Europe, Ibn Sina was known both as a philosopher and as a physician. His best known work, the *Kitab al-shifa'*, "Book of Healing," was widely read among Latin and Arab Christian thinkers. Like most of the philosophers in Islamicate society, Ibn Sina was attacked by Sunni jurists and theologians for his heterodox religious views. In the next chapter we will mention one such attack, from the great thinker of the Islamic Middle Ages, al-Ghazali (d. 1111).

In addition to the Greek philosophical tradition, Ibn Sina was greatly influenced by the illuminationist tradition in Sufism, a form of theosophical reflection called *ishraqi* philosophy in Islam. These latter works, few in number, contain a much different discourse than commentaries on the Greek tradition, like the *Kitab al-shifa'*. Also of interest to Ibn Sina was the Neo-Platonist tradition, expounded in a treatise that had been composed by Isma'il Shi'i authors, titled *Epistles of the Brethren of Purity*.

Ibn Rushd (d. 1198). Abu I-Walid Muhammad ibn Ahmad ibn Rushd, known in the West as Averroes, lived and wrote in Muslim Spain. Like Ibn Sina, his education began in the traditional way, with study of the Qur'an, hadith, and fiqh (jurisprudence). And like Ibn Sina and many other philosophers in the Middle Ages, Ibn Rushd studied medicine, which he practiced along with his duties as a teacher and a qadi (judge). He was recognized as a master commentator on the works of Aristotle by his Jewish contemporary, Moses Maimonides (d. 1204), and later by the great Latin Christian Aristotelian, St. Thomas Aquinas (d. 1274). Al-Ghazali's attack on the philosophy of Ibn Sina, titled *Incoherence of the Philosophers*, drew a reply from Ibn Rushd, titled *Incoherence of the Incoherence*. It is a carefully reasoned work that faults al-Ghazali, not for his reading of earlier Muslim philosophers like Ibn Sina, but rather for his understanding of Aristotelian philosophy.¹⁶ Ibn Rushd's works were translated into Latin and enjoyed wide reading, comment, and refutation in the late European Middle Ages. Today numerous analytical translations of his Arabic works have been made into English and European languages.

Brethren of Purity. Along with the writings of Plato and Aristotle on logic, physics, metaphysics, politics and ethics, more esoteric Greek writings on Pythagoreanism and Neo-Platonism were translated into Arabic, where they enjoyed considerable reading and influence. Among the Islamic religious world views that favored esoteric interpretations of texts was that of the Isma'il Shi'a. It will be recalled from Chapter 5 that the more radical Isma'ilis were propagandists who sought to subvert the Sunni Abbasid regime. During the Buyid Age of the tenth century, when Shi'i warlords ruled eastern Islam, and an Isma'il Shi'a secret society was formed, called the *Ikhwan al-Safa*, "Brethren of Purity." It was a fraternal society of philosophers committed to a common search for truth and a way of life bent on avoiding the pitfalls of this world. Its members were later exposed as being Isma'il Shi'a religious philosophers. They nonetheless produced a work of considerable interest at the time, called *Epistles of the Brethren of Purity*. We have seen that Aristotelian philosophers like Ibn Sina were influenced by this work, despite its different tenor from the Greek philosophical heritage. It consisted of

FIGURE 7.2 Al-Razi (left), ninth century, and Avicenna, eleventh century. Two noted philosopher/physicians.



fifty-two epistles and was eclectic in the scope of knowledge it sought to integrate with the teachings of the Quran, the Prophet, and the Isma'ili imams. In one passage from *Episites*, the society's members are described as pledging "to shun no science, scorn any book, or to cling fanatically to no single creed. For [their] own creed encompasses all others and comprehends all the sciences generally. This creed is the consideration of all existing things, both sensible and intelligible, from beginning to end, whether hidden or overt, manifest or obscure... in so far as they all derive from a single principle, a single cause, a single world, and a single Soul."¹⁷

The emanationist philosophies of Islamic Neo-Platonism and Isma'ili Shi'i sm were part of the varied intellectual landscape of medieval Islam. At once more eclectic and inclusive than the Sunni or other Shi'i madhhabs, the Isma'ilis were driven underground to conduct their intellectual activities. Eventually they thrived in places like India, where religious pluralism has been the norm. Today the Isma'ili Shi'a remain a small but vital part of the world of Islam.

The formation of Islamic religious thought during the first few centuries produced a number of madhhabs and trends now considered to be heterodox, outside the mainstream of Sunni (or Twelver Shi'i) Islam. It is best, perhaps, to think of Islam today as a dynamic and varied theological and ritual system that was forged out of these different trends. Today, some of these early trends, like the Traditionalism of Ahmad ibn Hanbal, are more influential than others, like that of the rationalist Mu'tazila. Nonetheless, they are all still there in the historical consciousness of Muslims. Our next task is to look more closely at the orthodox movements and thinkers that emerged from intellectual dramas of these early centuries.

NOTES

1. For an account of Christian-Jewish polemics in fourth-century Syria, see Robert L. Wilken, *John Chrysostom and the Jews: Rhetoric and Reality in the Late 4th Century* (Berkeley: University of California Press, 1983).
2. On the institutional comparison of universities and theology in Islam and in the West, see George Makdisi, *The Rise of Humanism in Classical Islam and the Christian West: With Special Reference to Scholasticism* (Edinburgh: University Press, 1990), esp. Ch. 1.
3. An excellent history of the early period of Islamic thought is W. Montgomery Watt, *The Formative Period of Islamic Thought* (Edinburgh: Edinburgh University Press, 1973).
4. Watt, *Formative Period*, p. 80.
5. Watt, *Formative Period*, p. 209.
6. Translated in *Textual Sources for the Study of Islam*, ed. and trans. Andrew Rippin and Jan Knappert (Manchester: Manchester University Press, 1986), p. 115.

7. *Textual Sources*, pp. 118–19.
8. *Textual Sources*, p. 120–21.
9. 'Abd al-Jabbar, *Sharh al-usul al-kamisa* [Commentary on the five fundamentals (of religion)], ed. 'Abd al-Karim 'Uthman (Cairo: Maktabat al-Wahba, 1965), p. 39.
10. For more on the Mu'tazila, see Watt, *Formative Period*, pp. 209–50.
11. *Encyclopaedia of Islam*, 2nd ed., s.v. "Ahmad b. Hanbal."
12. On the Mihna and Ibn Hanbal's role in it, see *Encyclopaedia of Islam*, 2nd ed., s.v. "Mihna."
13. On the Shi'i theologians in early Islam, see Watt, *Formative Period*, pp. 252–78, and Abdulaziz Abdulhussein Sachedina, *Islamic Messianism: The Idea of the Mahdi in Twelver Shi'ism* (Albany, N.Y.: State University of New York Press, 1981).
14. Quoted by Majid Fakhry, *A History of Islamic Philosophy* (New York and London: Columbia University Press, 1970), p. 87.
15. Quoted by Fakhry, *Islamic Philosophy*, p. 149.
16. Fakhry, *Islamic Philosophy*, p. 308.
17. Quoted by Fakhry, *Islamic Philosophy*, p. 187.

Session 9

A TOI, NICOLE

On the Dignity of Man

O Slave of the body! how you toil to serve it!
Where there's nothing but loss, you seek to profit.
Turn to the mind, which you need to perfect:
You are man, not by the body, but by the intellect.

Yā khādīma 'l-jismi! kam tashqā bi-khidmatihī!

Li-tatluva 'ribha mimmā sihī khusrānu.

Aqbil 'alā 'n-nafsi wa 'stakmil fadā' ilahā:

Fa-anta bi 'n-naffi, lā bi l-jismi, insānu.

Abu 'l-Fath al-Busti (d. 363/973-4, or c. 400)
(*Munätzam*, VII, 73)

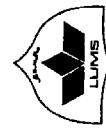
I have read, reverend Fathers, in the works of the Arabs, that when Abdala the Saracen was asked what he regarded as most to be wondered at on the world's stage, so to speak, he answered that there was nothing to be seen more wonderful than man.

*Legi, patres colendissimi, in Arubum monumentis
interrogatur. Abdalam Sarracenum, quid in hac quasi
mundana scaena adtraendu[m] maxime spectavelur, nihil*

Giovanni Pico della Mirandola (d. 1481), *Oration de dignitate hominis, Oration on the Dignity of Man*

of *Man* (P_{KK}, 4/6; *Lanth*, 213)

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THE RISE OF HUMANISM IN CLASSICAL ISLAM AND THE CHRISTIAN WEST

WITH SPECIAL REFERENCE TO SCHOLASTICISM

GEORGE MAKDISI

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Advocates
Bar & Bench
Bengali Bazar Calcutta

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PART ONE

SCHOLASTICISM

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George Makdisi
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al-adab, *al-ādāb*, *al-adabīyāt*, *anwā'* *al-adab*, *durūb* *al-adab*, *fūnūn* *al-adab*,
'ilm *al-adab*, *'ilm* *al-ādāb*, *al-'ulūm* *al-adabīya*, *'ilm* *al-'Arab*, *'ulūm* *al-*
'arabīya, *al-'ulūm* *al-'arabīya*, *'ilm* *al-tiśān*, *'ulūm* *al-tiśān*. Note that these
 terms call to mind the *classical*, the *artistic* and the *philological*, in the
 Arabic language of the ancient Arabians. It will be noticed also that
 the plural predominates in the terminology designating the studies of
adab, humanistic studies which may be called the *studia adabīya*.

Avicenna's description of the arrangement of books in the library
 of Nuh b. Mansur gives us, by comparison with other fields, a good
 idea of what the field of humanism consisted. This is what he says:
 I entered a house with many rooms, in each of which there were
 trunks of books stacked one upon another. In one of its rooms
 there were books of classical Arabic and poetry (*al-'Arabīya wa*
'sh-shīr'), in another there was law, and so on, in each room books
 of *one field of knowledge*.⁴

Thus the phrase '*al-'Arabīya wa 'sh-shīr*' ('Arabic philology and
 poetry') is used by Avicenna in the sense of *adab* humanism, con-
 sidered as an independent field of knowledge.

C. DEFINITIONS, CHARACTERISTICS AND SCOPE

As can be seen in Nallino's study of the term *adab*,⁵ writers were not
 always in agreement as to the number of studies covered by the term.
 Their numbers, he says, fluctuated between four and fourteen. The
 term *ta'dib* stands for the instruction received in a preliminary period
 of education during which the student learns the literary arts. The
 boon companion of 'Abd ar-Rahman I (caliphate: 138-72/756-88),
 ash-Shamir b. Numair, had finished his *ta'dib* in Cordova before his
 travel (*rīḥla*) to the East to perfect his knowledge in the religious
 sciences.⁶ The fields of al-Mufaddal ad-Dabbi (d. c. 170/786) are said
 to have been grammar, poetry, lexicography (*gharib*, rare words), and
 biography (*aiyām an-nās*).⁷ Khalaf al-Ahmār (d. 180/796), in his *al-*
Muqaddima fi-r-nāhu (*Prolegomena to Grammar*) states that a knowledge
 of the principles of grammar is of value for 'poetry, speeches, letters,
 and the writing of treatises'.⁸ Note that this statement was made
 around the middle of the second/eighth century, encompassing essen-
 tial fields of humanistic studies. Jumahi's (d. 232/846) fields were
 given as 'poetry and *al-thibār*-history', with the following explanation:
 'both of which are part of the arts of *adab*'.⁹ Mazini's (d. 248/862)
 fields, like those of al-Mufaddal ad-Dabbi, were listed as grammar,
 poetry, lexicography (*gharib*), and biography.¹⁰ Jahiz is quoted saying
 that, when he was interested in learning poetry, he went from one
 master to another finding that their knowledge of that field was
 restricted either to its rare words (*gharib*), or to its desinential syntax
 (*i'rāb*), or to what it contained of *akhbār*-history, or to the history of
 battles (*aiyām*) and the genealogies (*ansāb*) of the ancient Arabians.

HUMANISM IN THE ORGANIZATION OF RELIGIOUS KNOWLEDGE

A. DIVISIONS OF KNOWLEDGE

In classical Islam, knowledge was organized into three major divisions: (1) the Arabic literary arts, (2) the Islamic religious sciences, (3) the 'foreign sciences' or 'the sciences of the Ancients', especially the Greeks. When Ibn Butlan (d. 460/1068) reminisced about his contemporaries who had died in the calamities of the first half of the eleventh century, the intellectuals he named were representatives of these three major divisions of knowledge that had developed by the third/ninth century of Islam.¹¹ In the Fihrist of Ibn an-Nadim, these three divisions are discernable in the ten discourses of his book. After treating of languages and religions in the first discourse, he devotes the third and fourth to the literary arts, the fifth and sixth to the Islamic sciences, and the seventh to the 'foreign sciences'. The last three discourses deal with non-Islamic subjects considered of lesser import, such as legends, fables, magic, non-theistic religions, alchemy.

In contrast to Ibn an-Nadim, Khawarizmi (*f.* 365-87/975-97) divides his *Mu'āfiṣh al-'ulūm* (*Keys to the Sciences*) into two discourses, the first of which is devoted to the Islamic sciences and the literary arts; and the second, to the foreign sciences. Thus his organization of the fields of knowledge appears under two rather than three, major divisions. Such a division does not show that the literary arts were propaedeutic to the 'foreign' as well as to the Islamic sciences. But besides being ancillary to the two other divisions, the literary arts constituted a division of knowledge in themselves; an independent field in which students could pursue advanced studies, on a graduate level, as in the case of the other two divisions; like them, its professors had their fellows (*asfāḥ*, pl. of *sāḥib*) who graduated under their direction.¹² This independent field, called *adab*, was that of humanistic studies.

B. TERMINOLOGY OF HUMANISTIC STUDIES

Over the years the following terms were used for humanistic studies:

Having named these humanistic studies, he goes on to say:

I did not succeed in obtaining what I desired [i.e. poetry] except with the humanist secretaries, such as al-Hasan b. Wahb [d. c. 247/861]¹¹ and Muhammad b. 'Abd al-Malik az-Zaiyāt [d. 233/847].¹²

When a Hashimite, arriving in Basra as its governor in 276/889–90, asked Abu Hatim as-Sijistani, who were the intellectuals in the city, he was given their names and the subjects in which they excelled: grammar, lexicography, *akhbār*-history, law, the art of the notary, hadīth, Koranic studies.¹³ The humanist al-Mubarrad, in the introduction to his work *al-Kāmil* (*The Perfect*), states that he brings together 'various kinds of *studia adabīya*' (*durih min al-adab*): artistic prose, poetry, apophthegms, sermons, speeches, and letters.¹⁴

Abu Bakr as-Suli is described as a scholar in the various kinds of humanistic studies (*fünūn al-adab*). The fields that are attributed to him are grammar, lexicography, history, poetry and 'the discipline of the secretary'.¹⁵ Zamakhshari (d. 538/1144) gives the following definition of the disciplines of *adab*:

The disciplines of *adab* are those by means of which one guards against errors in the discourse of the ancient Arabians in speech and in writing.

He then divides them into two sets:

The principal disciplines are: lexicography, morphology, etymology, syntax, the rhetoric of *ma'āni*, *baṭāgha* and *baṭfī*, metrics and rhyme. The subsidiary disciplines are: writing or calligraphy, versification, composition, and the disciplines that sharpen the minds (*mukhaṣṣat*), of which histories (*tawārīkh*) is a part.¹⁶

Among Ibn 'Aqil's *studia adabīya* the academic sermon is cited, and he himself, in an autobiographical note, adds the following: grammar and '*adab*', poetry and the epistolary art.¹⁷ Abu 'l-Barakat al-Anbari lists the fields of *adab* as follows: grammar, lexicography, morphology, metrics, rhyme, prosody, Arabian history, Arabian genealogy.¹⁸

Ibn Mammati (d. 606/1209), a Coptic Christian humanist, originally from Asyut, who rose to be prime minister under the Aiyubids, was one day conversing with colleagues about grammarians, who spend their whole lives on grammar without proceeding to other fields of *adab* for which grammar is sought in the first place, in complete indifference to eloquence (*baṭāgha*), poetries, history, lexicography, narratives, and the like. Mammati remarked:

'The case of those grammarians is like that of the manufacturer of scales, who has nothing to weigh. Others acquire them and use them to weigh priceless pearls, precious gems, gold dinars and silver jewels.'¹⁹

In his *Miftāḥ al-'ulūm* (*Key to the Sciences*), Sakkaki (d. 626/1229) lists the *studia adabīya* (*anwār al-adab*) he treats: morphology, etymology,

syntax, rhetoric, metrics and rhyme (omitting lexicography, though he treats it).²⁰

Yaqut on Humanism and Scholasticism

In his biographical notices Yaqut treats of the following representatives of subjects in humanism: grammarians, lexicographers, genealogists, Koranic scholars, *akhbār*-historians, *ta'rīkh*-historians, copyists-bookellers, calligraphers, epistolographers whose letters are collected in formulae, orators, secretaries chancellors, and generally 'anyone who has written a book in the field of humanism [*adab*]'.²¹ He also devoted a separate work to poets. He observes that most intellectuals versed in *adab*, i.e. most humanists, often wrote both poetry and artistic prose. He therefore decided to treat, in a separate work, those humanists whose poetry was collected and published, and who had gained their reputations through their poetry. Unfortunately, this work has not come down to us. His extant work is devoted to those humanists who, though also composers of poetry, made their reputations in other fields of humanism. He goes on to say: 'Thus in these two works are to be found biographies of most of the humanists (*udahīa*, sg. *adib*), both prose writers and poets'.²²

In deference to religion, Yaqut makes the following apology for not spending his time on matters pertaining to it, matters of greater benefit for his soul:

Man has his way paved to accomplish that for which he was created. I do not deny that if I had kept to my mosque and my place of private devotion, and occupied myself with what at the end of this life would serve me well in the life to come, it would have been more fitting, and more adequate for the road to salvation. But the ability to seek what is preferable is lacking, and the capacity to hold to what is more suitable is missing. Yet it is merit enough for a man not to commit a forbidden act, and not to follow the path that leads astray.²³

Having said this, Yaqut hastens to point out that the *studia adabīya* nevertheless have their importance, serving as propaedeutic to the religious sciences, and are in fact indispensable for the saving of souls. He does this by resorting to a well-known argument: a good knowledge of syntax helps the Koranic reciter from falling into unbelief by misreading a word in the genitive, instead of the nominative, giving, for instance, this wrong reading: 'God is not obligated to the idolators nor to His Messenger', instead of the correct reading: '... nor is His Messenger (obligated to the idolators).'²⁴

It is towards the end of his introduction that Yaqut gives us a glimpse of the world of *humanism* as he sees it:

Note that this variety of learning will not do for those who seek it in order to gain their livelihood, or to acquire ornaments and

fine clothing, nor is it of the variety that has a ready market in the madrasa-colleges, or that one can use in scholastic disputations in ceremonial gatherings. Rather, it is the learning of kings and prime ministers, of people of eminence and masters, who make it a springtime meadow for their hearts, a pleasurable entertainment for their minds, a relaxing recreation for their souls, and on which their joys shower their blessings. For this learning is the springtime of excellent minds, and the cost price of the superior sciences [i.e. what one must expend in effort in order to gain access to the superior sciences: law, theology, medicine].²⁵

Having paid his respects to religion, Yaqut could now afford to give vent to his true thoughts as to humanism's place vis-à-vis its rival in religious studies; namely, law and the scholastic method, and all the fanfare and fracas of its obstreperous disputation. Not so is humanism, the very quintessence of refinement. *Adab* moves in an atmosphere of grandeur and urbane elegance. Its world is that of kings and prime ministers, chancellors and high functionaries, adepts and lovers of the language arts, held in high honour in the royal courts, where wit and repartee, elegance of dress and eloquence of speech are the coin of the realm. In reading this work of Yaqut, replete with the record of humanistic activity in Islamic history up to his times, the reader can hardly miss his message.

It would seem, on reading the above-quoted passage, that Yaqut was placing religious studies on a high pedestal, beyond the reach of *adab*'s paltry powers, making *adab* the lowly handmaid. In reality, he regarded the legal studies of the madrasa schoolmen lacking in lofty delicacy, incapable of moving in the rarefied atmosphere of Humanism's eloquence. His sentiments are clearly on the side of Humanism. The passage quoted hints at a certain antipathy toward the pugnacious language of dialectic and disputation. Note that in paying his respects to the studies of the schoolmen he merely invoked grammar as their handmaid, not the whole spectrum of *adab* studies, for which grammar was but a tool and a starting-point. That such was his opinion stands out clearly in the example of the erroneous Koranic reading, where the error is redeemed by the saving grace of syntax.

The jurisconsult schoolmen were carefully trained and cared for in the endowed colleges, whereas the humanists were, in the main, self-made men, whose fortunes varied from rags to riches, and back again. But they were not without help. Books began to appear with humanists particularly in mind. Arabic humanism tended to harbour highly motivated omnivorous readers, devouring books and memorizing their contents with the intense desire of souls craving for knowledge. They searched for manuscripts, bought or copied them, collected libraries. Books were written, with autodidacts in mind, on the

divisions and classifications of knowledge, on the technical terminology of the various fields of learning. Such books were veritable maps laying out the unfamiliar territory of newly approached fields, with clear lines of demarcation, across the territories of which the neophyte was taken, as it were, by the hand and led, step by step, from one field to the next.

The list of *adab*'s fields in *al-Mathāl as-sā'ir* of Diya' ad-Din Ibn al-Athir contains those commonly found in other lists. They are those which Diya' considered imperative for the training of the humanist secretary and poet: grammar (syntax and morphology), lexicography, history of the ancient Arabians, apophthegms, speeches, letters, poetry, Koran and hadith (the Sacred Scriptures), metrics and rhyme.²⁶

Akfani on Humanism

Al-Akfāni (d. 749/1348), in a passage of his *Iṣrāḥ al-qāḍī idh as-nā‘ l-maqāṣid* (*Guide of the Purposeful to the Highest Endeavours*), gives a definition of *adab* and circumscribes its scope:

Adab is a field of knowledge by virtue of which mutual understanding of what is in the minds is acquired through word-signs and writing. The word and writing are its subject-matter with respect to their communication of ideas. Its benefit is that it discloses the intentions in the mind of one person, communicating them to another person, present or absent. *Adab* is the ornament of the tongue, and of the finger tips. By virtue of *adab* man is distinguished from the rest of the animals. I have begun with *adab* because it is the first element of perfection; he who is devoid of it will not achieve perfection through any of the other human perfections. Its objects are concentrated in ten disciplines, namely, (1) lexicography; (2) morphology; the rhetoric of (3) *al-ma‘āni*; (4) *al-hayān*, and (5) *al-bāti*; (6) metrics; (7) rhyme; (8) syntax; (9) the rules of writing, and (10) the rules of reciting, because a person's thinking is expressed either in words or in writing.

These disciplines are not peculiar to classical Arabic; rather they are found in the language of all other civilized nations, such as the Greeks and others. Note also that the disciplines in classical Arabic were not acquired from all the Arabians without exception; on the contrary, they were acquired from those among them whose language was characterized by purity and eloquence. These Arabians were the ones who did not mix with non-Arabians, namely, the Hudhayl, the Kinana, parts of the Tamim, the Qais, the Ghailan, and their analogues among the Arabians of Hijaz and the central parts of Nājd. However, the dialects of those who had common borders with the foreigners were not

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taken into consideration regarding the principles of these disciplines; such tribes as the Himyar, the Hamdar, the Khauilan, and the Azd, because of their proximity to Abyssinia and the Blacks; the Taiy and the Ghassan, because of their association with the Byzantine Greeks and the Syrians; the 'Abd al-Qais, because of their proximity to the inhabitants of al-Jazira and Fars.

Then came the persons of sound intellect and upright minds who arranged *adab*'s material sources and refined its various parts, until it became so well established that nothing more could be added.²⁷

The meaning of the term *adab* is complex; it has a number of acceptations. Two basic meanings are brought out in an anecdote describing the uncouth table manners of Abu Riyash al-Basri (d. 339/950–1) whom Prime Minister Muhallabi had invited to dinner. After blowing his nose and spitting in his napkin, Abu Riyash took an olive and squeezed it so hard that the pit hit the face of his host. The biographer goes on to say that the Prime Minister 'was astonished at his bad manners (*adab*)', but tolerated him because of his *humanism* (*adab*).²⁸

In his *Nafh aṣ-ṣib min ghush al-Andalus ar-rafīb* (*The Perfume's Aroma from the Coal Bougs of Andalusia*), Maqqari (d. 1014/1632) gives the contents of *al-adab al-manthūr* ('the scattered flowers of humanistic studies') as consisting of 'history, poetry, artistic prose, and entertaining narratives', and says that this field, in the eyes of the Spaniards, is the most noble field of knowledge.²⁹

The disciplines of *adab* requiring evidential examples (*shawāhid*, pl. of *shāhid*) are listed as being lexicography, morphology, syntax, the rhetoric of *al-mā'āni*, *al-bayān*, and *al-bādi'*, metrics and rhyme.³⁰ For it was strongly felt that the *istiṣṭa adabīya* had to rest on the solid foundations of classical Arabic ('al-'Arabīya'), in what was perceived as the pristine purity of its origins, in the heart of Arabia.

D. HUMANISTS AN INTELLECTUAL CLASS

There was a consciousness among humanists that they formed a class apart in society. Asma'i (d. 213/828) lists, among the six types of humanists without possessing humanism,³¹ 'a person who mixes with people for whom distress is inescapable, 'a person who mixes with humanists without becoming a member of *Ahl al-Adab* ('The Humanists', 'The Members of Humanism').³² Tāuhidi relates that 'Ali b. Jahm (d. 249/863) was heard singing the praises of the poet Abu Tamamm. Someone remarked that had the poet been 'Ali's brother he could hardly have praised him more. 'Ali answered that although the poet was not his brother through family kinship, he was his brother through the *kinship of humanism*. He then quoted three

verses which the poet had addressed to him, of which this final hemistich: '*adab* to which we have given the position of progenitor.'³³

E. ELOQUENCE THE ESSENCE OF HUMANISM

Al-Ahnaf b. Qais (d. 72/691–2) was reported saying: 'The most essential part of *adab* is eloquent speech'.³⁴ Ibn al-Muqaffa' (d. 142/759) says in his *al-Adab aṣ-ṣaghīr* (*The Minor Humanism*): 'The principal part of humanism is eloquent discourse; and the principal part of eloquent discourse is acquired through learning'.³⁵ Someone was reported saying to Khalid b. Safwan: 'How does it happen that when I see you exchanging narratives (*akhbār*), helping one another to study the traditions of old, reciting poetry to one another, I am overcome with sleep?' 'Because', he retorted, 'you are a jackass in the guise of man!'³⁶ The following saying was attributed to 'Umar b. al-Khattab (caliphate: 13–23/634–44): 'Learn classical Arabic, it will fire up your mind and intensify the manly virtues' (*muru'a: virtū*). The following one was attributed to Asma'i: 'He who is downgraded by his lineage is upgraded by his humanism'.³⁷

Al-Hasan b. Sahl (d. 236/851), Prime Minister of al-Ma'mun, is quoted advising his sons:

Learn to speak eloquently; for it is through speech that man is superior to all other animals; and the more eloquent you are in speaking, the more worthy you are of humanity.' (*Tā'allamū 'n-nuq, fa-inna fadla' l-insāni 'lā sā'i 'bahā'imi bih; wa-kullamā kuntum bi 'n-nuqiqi aḥḍhaq, kuntum bi 'l-insāniyyati aḥaqq*)³⁸

The Spaniard Ibn 'Abd Rabbih (d. 328/940) quotes the following anonymous statement:

The *adib*-humanist cannot dispense with three things and two. The three things are eloquence, purity of language, and beauty of expression. The two things are knowledge of ancient traditions, and memorization of the Prophetic Traditions.³⁹

When Ibn al-'Arīd (d. 360/970), Prime Minister of the Buwāhilid Rukn ad-Daula (*rīgnum*: 335–66/947–77), was asked why he did not react to someone's attack on the reputation of the famous humanist Jahiz, the Prime Minister, himself considered the last of the great literary stylistis, and dubbed 'The Second Jahiz', answered:

I found nothing in return more serious than to leave him to his ignorance. Had I carried on a dispute with him, dear Abu 'l-Qasim, and made things clear to him, he would have studied the books of Jahiz, and by doing so would have become a man.

For the writings of Jahiz teach, first, rationality, and second, humanism; but I did not deem him fit for that!⁴⁰

Zubaidi's (d. 379/989) biographical notice on the 'humanist Mubarrad describes him as possessing the following attributes, considered high on the list of humanism: an abundance of humanistic

international deals struck at the close of World War II, and from successful revolutionary movements. These countries initially had little to cling to as they attempted to fashion new governmental structures. Most had to rely on institutions inherited from the colonial order. The activities and professional practices of urban policy were among those services that had been institutionalized by preindependence colonial governments. Following independence, departments of planning, housing, and urban development were set up as cabinet-level ministries to implement an agenda of modernization.

As a result, the grid plan, with its principal and secondary streets, repetitive housing blocks, and unprotected, unsupervised open spaces, became a dominant feature of cities in the Islamic world. New development strategies favoring large-scale projects and the imitation of Western zoning practices distorted an already fragile system of urban values. New building codes, based on Western norms and requiring setbacks in residential lots, forced the traditional courtyard house out of existence, and replaced it with characterless single-family dwelling units or public housing blocks that were not socially, culturally, or climatically suitable. Today, anyone walking in the streets of cities in the Muslim world cannot help but be surprised by the excessive amount of infringement on public space and a general lack of respect for planning codes. In traditional Islamic culture, people were accustomed to a more fluid relationship with the public realm, which allowed them to appropriate parts of it without necessarily violating it. The new codes have denied them this traditional freedom. In the process, respect for both the new codes and the innovative traditions of Islamic urbanism have been compromised.

Furthermore, an obsession with modernity became a characteristic of most new Islamic nation-states. The Western pattern of urban development continued to serve as the reference for those—particularly among the new elite—who inherited the structures of colonial government. Cut off from established tradition, their new urban planning efforts were not adequately rooted in the culture of the people they intended to serve. This was especially true in relation to the high-rise urban blocks and mid-rise public housing schemes of the 1950s and 1960s. By the early 1980s, however, many architects and planners in the Islamic world had begun to rethink this distorted value system, particularly in light of the evolution of a vibrant urban informal sector that gener-

ated its own rules. Some even called for a fundamental rejection of Western norms, forgetting that the Western model will continue to shape their cities through inherited values and regulations.

Currently, the story of Islamic urban planning is incomplete. New chapters are being written by innovative planners and local government administrators in a variety of contexts. These people are discovering that the principles which generated the great Islamic cities of the Middle Ages are not archaic, and that many planners in the West itself are trying to humanize the residential block, differentiate the circulation system, and devise more flexible systems of private and public property rights. All of these were once paradigms of practice within the traditional Islamic city. A new era of authentic regionalism in urban planning may have already begun in the Islamic world.

[See also Architecture.]

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NEZAR ALSAYYAD

URDU LITERATURE. The articulation of Islamic themes and values in nineteenth- and twentieth-century Urdu literature was in response to two factors: the loss

of Muslim political power in the subcontinent to the British, and a deeply felt need to cure Indian Muslims of their spiritual and religious malaise. This second factor was a consequence of a widespread perception among Muslims that as a community they needed to reinvigorate their relationship with Islam in the context of rapid change.

The first attempts to advocate sociopolitical reform of the Indo-Muslim community using Islam as a basis can be traced to Shāh Wali Allāh (d. 1762), the great theologian of Delhi, who believed himself to be a renovator (*mujaddid*) of Islam. Although the most important work in which he expressed his reformist teaching was in Arabic (the *Hujjat Allāh al-bālighah*), Shāh Wali Allāh's ideas had a deep impact on later generations of reformist writers in Urdu, ranging from conservatives to modernists and including such luminaries as Sir Sayyid Ahmad Khān and Muhammad Iqbal. Shāh Wali Allāh felt strongly that Muslims would be better able to live in accordance with the precepts of their faith and to begin resolving their socioreligious problems if they could understand the Qur'ān for themselves without relying on the secondary interpretations of commentaries. Hence he translated the Qur'ān into Persian, the language of belles lettres, historiography, and administration in early modern India, paving the way for his two sons Rafī'uddin (d. 1818) and 'Abdulqādir (d. 1813) to translate it into Urdu; the latter appropriately called his Urdu translation *Mūdiḥ al-Qur'ān* (Explainer of the Qur'ān). [See the biography of *Wali Allāh*.]

No doubt inspired by Shāh Wali Allāh's activism, his grandson Ismā'il Shahīd (d. 1831) became the theoretician for the energetic *mujāhidīn* reformist movement of the early nineteenth century initiated by Sayyid Ahmad of Rae Bareilly (Sayyid Ahmad Barelwī), a charismatic preacher who wanted to purge Islam of its accretions and corruptions. Ismā'il Shahīd's work *Taqwiyat al-imān* (Strengthening of the Faith) summarizes the basic ideas of the movement, which called Muslims to '*amal sālih*' (righteous action) according to God's command to improve their situation in this world and the next. Although both reformers lost their lives in a futile attempt to overthrow Sikh rule and establish an Islamic state in the Punjab, their disciples organized themselves into a large-scale popular movement and produced a vast number of religious tracts in simple but vigorous Urdu; these called on the Muslim masses, especially in rural areas, to abandon syncretistic practices in favor of "pure" Islam. [See the biography of *Barelwī*.] Prominent

among these reformers in Bengal was the indefatigable Karāmat 'Ali of Jaunpur (d. 1873) who, despite his affiliations with the reform movement, argued that India under British rule was still part of *dār al-Islām*, making rebellion against the British unlawful. Ismā'il Shahīd, like his grandfather, was affiliated to a branch of the activist Naqshbandī Sūfi order known as the Ṭarīqah Muḥammadiyah (Muhammadan Path). As its name suggests, this movement placed strong emphasis on the figure of the prophet Muhammad as a true and stable paradigm for the Muslim community in a period of political and social flux, a theme that recurs frequently in later Urdu literature. The ideology of the Ṭarīqah Muḥammadiyah influenced many prominent Urdu poets, including the so-called "pillars of Urdu"—the stern Mazhar Jānjanān (d. 1781) and the mystic poet Mir Dard (d. 1785). Mu'min (d. 1851), a nineteenth-century writer famous for his exquisite Urdu love poetry, was also connected to this movement and wrote short epic poems in support of the revivalist *mujāhidīn*.

In the aftermath of the 1857 military rebellion, the Muslim community was forced to come to terms not only with British political supremacy in South Asia but also with the growing presence of Western cultural institutions, particularly churches, schools, and colleges. The most influential response to this situation came from Sir Sayyid Ahmad Khān (d. 1898) and his circle of colleagues. As a young man, Sir Sayyid was well trained in theology in the tradition of Shāh Wali Allāh as well as in Mu'tazilah rationalism; he was also affiliated to the Ṭarīqah Muḥammadiyah. In keeping with the spirit of this Prophet-oriented movement, he wrote in his early years a study intended to help Muslims examine Muhammad's exemplary life and conduct without such customary hagiographic elements as miracles. In *Khuṭbat-i Ahmadiyah*, an Urdu biography of the Prophet, he also defended Muhammad against derogatory attacks by Western scholars. Sir Sayyid was keenly interested in history and authored and edited several historical studies, including *Āṣār as-Sanādīd*, a valuable account of the historical buildings and personalities of Delhi.

After the traumatic events of 1857, Sir Sayyid was convinced that the best path for the Muslim community to follow was that of absolute and unwavering loyalty to the British. In support of his position he cited traditional Muslim authorities on the duties of subjects toward their rulers. Furthermore, he felt that Muslims should participate fully in the Western-style educational

system being established by the British in India so that they would not become a social and economic underclass. Western thought, he believed, was not in fundamental conflict with Islam, nor was studying the natural sciences, for there was no conflict between the Qur'an, the word of God, and nature, the work of God. In this regard he advocated a rational approach to the Qur'an based on fresh *ijtihad*, because Islam, in his interpretation, accommodates historical change. The mandates of the Qur'an, as interpreted by generations of medieval religious scholars, needed to be reexamined to determine whether they were in fact the essential mandates of the faith. To promote his ideas and provide young Muslims with Western-style higher education, he fought for and eventually founded the Anglo-Muhammadan College, which later became Aligarh Muslim University. Sayyid Ahmad Khan was a prolific writer in Urdu and hoped to influence Muslims through his books and journals. The most significant of the latter was the monthly Urdu periodical *Tahzib al-akhlāq* (The Polishing of Morals), also known as the *Mohamedan Social Reformer*, which revolutionized Urdu journalism. Its pages contained articles in clear and simple prose reflecting Sir Sayyid's modernist views on a wide range of issues, from public hygiene to rational speculation on religious dogma. [See Aligarh and the biography of Ahmad Khan.]

Sayyid Ahmad Khan's approach enjoyed the support of several important personalities in Indo-Muslim society and formed the basis for the so-called Aligarh Movement. Among its members were several important literati who wrote Urdu poetry and prose to disseminate its ideas. Most prominent among these was Altāf Husayn Hāli (d. 1914), the founder of Urdu literary criticism. Trained in a strict theological tradition, Hāli was an employee of the Government Book Depot in Lahore, where he translated works of English literature into Urdu. He first became famous for the unusual themes of the poems he recited at poetical meetings (*mushā'irah*) in Lahore. In 1874 Hāli moved to Delhi and was drawn into Sir Sayyid's circle. In 1879 he published his *Madd va gazar-i Islām* (The Ebb and Flow of Islam), an epic poem considered to be the Aligarh movement's most enduring literary monument. Popularly known as the *Musaddas* after its six-line stanzas, it contrasts the past glories and achievements of Islamic civilization with the miserable status of the Muslims of Hāli's time. The poem, which was recited aloud at conferences and boldly calligraphed in journals and newspapers, sharply

attacked the evils prevalent in all segments of the Indian Muslim community. It marked the beginning of a new period in the history of Urdu poetry in which themes of revivalism and political romanticism became dominant. A generation later, we see the same spirit alive in Muhammad Iqbal's *Shikvā* and *Javāb-i shikvā* (The Complaint, Answer to the Complaint) which record the Muslim community's laments to God about seeing wealth and glory everywhere except in the Islamic world.

Some of Hāli's poems, such as *Ek bīwī kī munajāt* (A Woman's Petition), focus on the plight of women in Muslim society. This theme was taken up by several reformist writers, including Nazīr Ahmad (d. 1912), a pioneer in the development of the Urdu novel. By profession a teacher and a translator of English legal texts into Urdu, Nazīr Ahmad had also published a good Urdu translation of the Qur'an, unusual in that it did not include the Arabic original. He was a firm believer in the importance of educating young people, particularly young women. Most of his novels therefore illustrated social or moral themes, showing the need for reform and change. His most famous book, *Mir'at al-'arūs* (The Bride's Mirror), emphasized the need for female education by highlighting the miseries of an uneducated Muslim bride. In other works he addresses the evils of polygamy and attacks the Indian taboo against the remarriage of widows, which he felt was contrary to the spirit of Islam. Notwithstanding their didactic and moralistic tone, his works were tremendously popular for their realistic descriptions of middle-class Muslim life. They also inspired similar works in other languages such as Sindhi—so much so that a school for girls was a standard feature of Indo-Muslim reformist novels of the late nineteenth century. Other members of Sir Sayyid's circle, particularly Mumtāz 'Ali, were equally concerned about improving the status of women. He seems to have devoted all his energies to this important issue and even published a special journal, *Tahzib al-niswān*, containing articles on women's issues. In his major work *Huqūq al-niswān* (The Rights of Women) he advocates complete equality between men and women.

Perhaps the most radical of Sir Sayyid's collaborators was Chirāgh 'Ali (d. 1895), who served as finance secretary for the nizam of Hyderabad. Like Sir Sayyid, he advocated a modernist interpretation of the Qur'an, which he regarded as not containing all the civil and political codes necessary for the regulation of modern society. He dismissed traditional Islamic jurisprudence, claiming that it took little from the Qur'an. In many

instances he was more daring than Sir Sayyid in his Qur'anic interpretations. For example, he demonstrated that the Qur'an was actually intended to ameliorate the position of women and implicitly prohibited polygamy, a theme repeated in the works of numerous later reformists. His most controversial stance, however, was in regard to the *hadīth* literature, which he considered entirely fabricated and therefore unworthy as a basis for Islamic jurisprudence. [See the biography of Chirāgh 'Alī.] A more conservative and moderate colleague of Sir Sayyid was Muhsin al-Mulk (d. 1907), a regular contributor to the journal *Tahzib al-akhlāq* on a variety of theological issues. It was mainly his advocacy of a balance between religion and science in education that lessened the opposition of conservative religious scholars to the Western-style Aligarh University. Muhsin al-Mulk played an active role in the Hindi-Urdu controversy in 1900 by founding the Urdu Defence Association; he was also instrumental in establishing Urdu as the official language of Hyderabad state.

Sir Sayyid and the Aligarh Movement represented a pragmatic pro-Western response to the encroachment of Western ideas and customs into Muslim India, but there were a variety of other responses. Interestingly, almost every response (including Sir Sayyid's) based interpretations on and drew inspiration from the work of Shāh Wali Allāh. His writings had placed a renewed emphasis on the *hadīth* as a source of authority and guidance for Muslims. In the nineteenth century this emphasis formed the focal point of a group called the Ahl-i Hadīth. In an attempt to make the Muslim community conscious of the true heritage of the Prophet, this group stressed the exclusive primacy of the Qur'an and the *hadīth* as fundamental guides in life. One of its most important leaders was Ṣiddiq Hasan Khān (d. 1890), whose father had participated in the *jihād* movement of Sayyid Ahmad of Bareilly and Ismā'il Shahīd. A prolific writer of innumerable Urdu works on religious topics, especially *hadīth* literature, Ṣiddiq Hasan Khān married, amidst great controversy, the widowed princess of Bhopal. He and his colleagues in the Ahl-i Hadīth rejected the authority of the founders of the four Sunnī schools of law as interpreters of the *sharī'ah* and thus aroused the hostility of the conservative religious establishment. Since the latter group accepted the entire corpus of classical *hadīth* as genuine, they were also extremely critical of the scepticism displayed by some the Aligarh modernists toward the prophetic traditions. For them Sayyid Ahmad Khān, whom they called "the modern prophet

of nature-worshippers," was just the latest instigator of anarchic evils in Muslim society. With their extreme emphasis on the *hadīth* as a form of "concealed" revelation, the Ahl-i Hadīth became involved in a vitriolic polemical war with a counter-group led by 'Abdullāh Chakrālavī, called the Ahl al-Qur'an. As its name suggests, this movement advocated total reliance on the Qur'an as the most perfect source of guidance; the Qur'an, according to them, contained all the basic injunctions for Muslims and left them free to decide on other matters.

More influential among the conservatives than these two groups was the theological school of Deoband, founded in 1867 by Rashid Ahmad Gangohī (d. 1905) and Maulānā Muḥammad Qāsim Nanotavī (d. 1880). The latter was a charismatic theologian who settled in Mecca after the 1857 rebellion and wrote several Urdu works on *jihād* and Islamic mysticism, and of Rashid Ahmad Gangohī. Deoband became a bastion of conservative Sunnī Islam, and its theologians prided themselves on upholding the authority of the four traditional schools of law. In time it acquired a reputation as an outstanding theological school, enrolling students from many parts of the Islamic world. Its curriculum, with Urdu as the medium of instruction, was strictly traditional, excluding English and modern sciences. In their works Deobandī theologians vigorously defended the need to accept the interpretations and consensus of the earlier Sunnī scholars and jurists and attacked all dissenting voices in the Muslim community. Rashid Ahmad Gangohī, for example, dismissed Sir Sayyid's approach as a "deadly poison." In addition, Maulānā Muḥammad Qāsim acquired a stellar reputation for his polemical disputations with Hindu and Christian missionaries, authoring the book *Taqrīr-i dil pāzīr* on the subject. A later Deobandī scholar, Ashraf 'Ali Thānvi (d. 1943), who attempted to popularize Islamic values among the less-educated, achieved fame for his ten-volume Urdu work *Bihishtī zevar*, a conservative guidebook for the life and education of Muslim women. [See Deobandis.]

The prestige of Deoband as guardian of Sunnī Islam was enhanced in the late nineteenth and early twentieth centuries when its scholars took a leading role in refuting the claims of Mirzā Ghulām Ahmad (d. 1908), the founder of the Ahmadiyah movement. The orthodox were particularly enraged at what they perceived as Ghulām Ahmad's challenge to the finality of Muhammed's prophethood. The Ahmadiyah controversy pro-

duced a voluminous stream of pamphlet literature and booklets in Urdu as well as Punjabi, both attacking and defending the movement and its doctrines; after considerable loss of life in riots, the Ahmadiyah were declared non-Muslim in 1975. [See Ahmadiyah.]

Between Deoband's rigid conservatism and Aligarh's pro-Western stance were a group of religious scholars who founded in 1894 at Lucknow the Nadvat al-'Ulamā', the second great theological institution of Muslim India. The Nadvat al-'Ulamā' was conceived as an institution to bridge the gap between religious scholars of all shades of opinion and modern educated Muslims. Playing a key role in the establishment of this institution was Muḥammad Shibli Nu'mānī (d. 1914), a professor at Aligarh University and the founder of historiography in Urdu. He wrote several biographies of the heroes of Islam, including the caliph 'Umar, the medieval theologian al-Ghazālī, and the mystic poet Jalāl al-Dīn Rūmī. His biography of the prophet Muḥammad, *Sīrat al-nabī*, partially intended as a response to polemical works by Christian missionaries, was posthumously completed by his disciple Maulānā Sulaymān Nadvī (d. 1953). A prolific writer, Shibli also achieved renown for his history of Persian literature. Shibli's interest in Islamic history stemmed primarily from his convictions that Islam needed to be revived from within and that the Muslims of his time could learn valuable lessons from the heroes of the past. His writings show a keen awareness of the social problems facing the Muslim community, not only in India but elsewhere. In this regard Shibli had established contacts with Muḥammad 'Abduh in Cairo, a connection that aroused British suspicion that Shibli was a Pan-Islamist. Toward the end of his life Shibli established the Dār al-Muṣannifīn or Shibli Academy at Azamgarh, with a view to organizing a school of writers who would engage in the highest traditions of Islamic scholarship. Its journal, *Ma'ārif*, contains interesting articles of a theological nature.

Aside from theologians and religious scholars, the burgeoning Urdu press was also active in expressing its views on the challenges faced by the subcontinent's Muslim community. The papers and periodicals varied widely in their positions on various issues, so we cite only a few examples. Extremely popular for its satire was *Avadh Punch*, founded in 1877 by Munshī Sajjād Ḥusayn and modeled after the British *Punch*. Narrow in outlook and conservative on reform, it singled out the reformist Aligarh Movement for its biting sarcasm. Akbar Allāhābādī (d. 1921), a government civil servant and High Court

judge, was among its most noted contributors; a poet trained in the Lucknow style, he had a marvelous command of Urdu vocabulary that permitted him to engage in ingenious wordplays, puns, and rhymes. His conservatism led him to write satirical verses that mocked everything Western, particularly Muslims who aped the West. Not surprisingly, Sir Sayyid was an obvious target. Akbar's witty observations on contemporary Muslim life reinvigorated satire in Urdu poetry.

Another periodical given to satire was *Zamīndār*; its editor, after 1909, was Maulānā Zafar 'Ali, who was renowned for his satirical skills and extremely firm in his commitment to Islam. His vehemently anti-British poems had a profound impact in agitating the Muslims of northern India. As Zafar 'Ali satirized everything and everyone he disliked, several of his Muslim compatriots also became targets. Very different in character were Abū al-Kalām Āzād's *Al-hilāl* (founded in 1912) and *Al-balāgh* (1915). Though by training a traditional theologian, Āzād (d. 1958) was unusual in his politics and theology. Pan-Islamic in his views, he was one of the leading thinkers behind the Khilāfat movement that hoped to rally Indian Muslims around the Ottoman Caliph as head of the world Muslim community. His journals took a definite stance against the British and the pro-British loyalties of the Aligarh group. During the independence movement he was firmly against the creation of a separate Muslim country, because he felt that the concept of a nation-state was a Western one, contradicting the models prescribed by God and his prophet Muḥammad. Both his journals had a deep impact on their Muslim readership, but Āzād's main fame in modern Urdu literature rests on his *Tarjumān al-Qur'ān*, a translation and commentary on the Qur'ān begun in 1931 and never completed. This masterpiece of beautiful Urdu reveals the author's mystically tinged theology, stressing God's compassion, love, and beauty. His liberal and humanitarian interpretation of Islam and his theory of divine providence (*rubūbiyah*) have had considerable influence in recent Indo-Muslim thought. [See the biography of Āzād.]

The events of the first half of the twentieth century, which eventually led to the establishment of Pakistan as a separate Islamic state, influenced many Urdu writers to produce an interesting diversity of works in which they addressed pressing political, social, and religious issues. The figure that towers over all these writers and whose work had the most profound impact on the Muslim community was Muḥammad Iqbal (d. 1938), the

philosopher whose reformist poetry achieved such an impact that he is counted among the most significant thinkers of modern Islam. Since Iqbal was the first to advocate the idea of a separate Muslim homeland, he is also widely perceived as the spiritual founder of Pakistan. A huge number of books, articles, and pamphlets have been written in Urdu and English to explain and interpret his ideas on virtually every subject. Every religious, political, and social movement in contemporary Indo-Muslim thought has turned to Iqbal's poetry and prose to find justification for its position.

Iqbal lived in a period of great change during which both Muslim and non-Muslim leaders in several countries were actively advocating revolutionary changes in the nature of their societies. It was the age of Lenin, Ziya Gökalp, Atatürk, and Gandhi. Iqbal received his early education in Lahore, influenced in his thought by Sir Sayyid Ahmad Khān, the historian Shibli, and Sir Thomas Arnold, an Orientalist who was attempting to revive a less polemical and more sympathetic understanding of Islam in Western scholarship. In many ways Iqbal was also the inheritor of the ideas of Shāh Wali Allāh and Hālī, whose poetic style he followed. At the turn of the century he had already become well known for his Urdu poems expressing nationalist ideas, Hindu-Muslim solidarity, and freedom for India. One of his poems from this period, *Tarānah-yi Hind*, praised the glories of Hindustan and is still popular in India today. In 1905 Iqbal went to Cambridge, where he studied Hegelian philosophy; in 1907 he also received a doctorate from Munich for a thesis entitled *The Development of Metaphysics in Persia*. Iqbal's stay in the West was instrumental in the further evolution of his reformist ideas: it allowed him to become familiar with European philosophy—especially that of Nietzsche and Bergson, whose influence can be detected in his writings; it gave him the opportunity to reflect on the strengths and weaknesses of Muslim societies; and it enabled him to observe firsthand the positive and negative aspects of Western civilization.

On his return to India Iqbal was offered a position at Aligarh but chose to practice law. At heart, however, he was primarily a poet and used his poetry to articulate his thought in a manner unprecedented in modern Islamic history. In his first major reformist Urdu poem, *Shikvā* (The Complaint), written in 1911, he complains that God is fickle and has abandoned the faithful Muslims in favor of the infidels. A year later he composed God's reply in the form of *Javāb-i shikvā* (Answer to the Com-

plaint); here God points out the defects in the way Muslims practice and understand their faith. Both poems were clearly inspired by Hālī's *Musaddas*. During the war, Iqbal composed two major works—*Asrār-i khūdī* (Secrets of the Self) and *Rumūz-i bikhūdī* (Mysteries of Selflessness). These, like all his major philosophical poems, he chose to write in Persian because he intended his ideas for an audience beyond the subcontinent. Here he reinterpreted the Persian mystical concept of *khūdī* (ego) in a positive sense, criticizing traditional Islamic mystical concepts and articulating the dynamic role of the individual in society. His emphasis here and his other Urdu and Persian poems was on activity and dynamism at both the individual and communal levels. He believed that each human, as the vicegerent of God on earth, had a duty actively to develop himself or herself to the highest potential. In 1924 Iqbal published a major collection of Urdu poems under the title *Bang-i darā* (The Call of the Caravan Bell). The title is significant in that it reflects Iqbal's perception of his role and his message: he is the bell at the head of the caravan that rouses the sleeping and erring Muslims of India to activity, leading them to the center of Islam, the Ka'bah in Mecca. By this time his poetry had garnered so much attention that he was knighted in 1922 by the British monarch.

For more than ten years after this period Iqbal published most of his significant writing either in English (*Reconstruction of Religious Thought in Islam*) or in Persian (*Zabūr-i 'ajam*, Persian Psalms; *Javīdnāmah*). In all these works Iqbal reveals his unique way of interpreting and expressing Islamic concepts and ideas through a skillful combination of Western and Eastern intellectual and literary tools. His next two Urdu works were *Bāl-i Jibril* (Gabriel's Wing, 1936) and *Zarb-i Kalīm* (The Stroke of Moses, 1937). The former contains some of the finest of Iqbal's Urdu poems, including a renowned piece on the Mosque of Cordoba that recalls the past glory of Muslims. The poems of the latter work are mainly critiques of the existing political and social order, attacking both the British and Muslims who ape Western ways blindly.

Notwithstanding his tremendous literary output in Urdu, Persian, and English, Iqbal was not a systematic thinker. There are many contradictions in his works, a fact that explains why liberals, conservatives, reactionaries, and progressives were all able to interpret them according to their own inclinations. Nor does he seem to have thought through the practical application of his

ideas. Some of them, such as the call to return to "pristine" Islam free from the fetters of tradition, the interpretations of the religious scholars, and the demand for *ijtihād*, were typical of the Islamic reformers of his time. His reinterpretation of the active participation of human beings within a dynamic creation, his call for individual action and responsibility, and his conception of the Qur'ān as a revelation that unfolds in time and eternity, were unusual and for some controversial. Yet Iqbal's Urdu verse, with its direct style devoid of the traditional flowery language and literary acrobatics, had tremendous appeal for the Indian Muslims who were searching for leaders with an intellectual and political vision. [See the biography of *Iqbal*.]

Although Iqbal far outshines other twentieth-century Urdu authors writing on Islamic themes, there are several other individuals who should be mentioned either for the uniqueness of their ideas or for the popularity of their works. An interesting contemporary of Iqbal is 'Ubaidullāh Sindī (d. 1941), a Sikh convert to Islam. Initially trained at Deoband, he regarded himself as a disciple of Shāh Wali Allāh but interpreted his works with a strong revolutionary bias. Islam, in his estimation, preached social revolution and the overthrow of imperialism and feudalism. *Jihād*, the basis of this Islamic revolution, need not be violent; it could be the peaceful work of the pen and heart. The Sūfi concept of *wahdat al-wujūd* or oneness of being formed the foundation for his ideas on Hindu-Muslim unity. Not surprisingly, the British exiled this "firebrand agitator" for more than twenty years.

Socialist ideas also influenced the writings of a few traditionally trained '*ulamā'*, notably Ḥifz al-Rahmān Sihvārvī of the Deoband school. In his book *Islām kā iqtiṣādī nizām* he attempts to interpret socialism within an Islamic framework by claiming that the concentration of wealth in the hands of an elite was against Qur'ānic teachings. The Qur'ān, in his interpretation, prescribes *zakāt* (the alms tax) on a Muslim's income as a means of ensuring that wealth was equally distributed among all segments of society. Those whom God has blessed with wealth, intelligence, and skills have an obligation to share with the less privileged. Similar in orientation to 'Ubaidullāh Sindī and Sihvārvī was Ḥasrat Mūhāni (d. 1951), an unusually talented poet responsible for introducing sociopolitical subjects into the *ghazal*, a poetic genre usually reserved for expressing the tragedies of unfulfilled love. His *ghazals*, considered by many to be literary masterpieces (he has been honored

with the title "prince of *ghazal* writers"), have a powerful socialist message: Islam was socialistic in its essence. In recent times, the poet perhaps most renowned for his biting criticism of the social system, especially in Pakistan, was Faiz Ahmad Faiz (d. 1984); however, like many contemporary Urdu members of the Progressive Writers Movement, he did not explicitly deal with Islam or Islamic reform.

Rather different was the versatile Hasan Nizāmī (d. 1955), a prolific writer with more than one hundred books and articles on an astonishing range of topics to his credit. The majority of these were in simple, smooth-flowing, and attractive Urdu, which partially explains their enormous popularity. Hasan Nizāmī was active in the Tabligh, an Islamic movement intended to counteract the attempts of Hindu reformists to reconvert former Hindus. Through its literature and eloquent preachers, the Tabligh called for stronger Islamic religious education, especially for the uneducated masses who still observed many Hindu customs. In a rather different context, the call for a total islamization of Muslim life was also the central theme in the right-wing ideology of Sayyid Abu al-'Alā Mawdūdī (d. 1979). Mawdūdī and his activist organization, the Jamā'at-i Islāmī, launched the most serious challenge to liberal and modernist interpretations of Islam in recent times, disseminating their ideas through the Urdu journal *Tarjumān al-Qur'ān*. Mawdūdī's writings, which have been translated into many languages, were especially critical of the secular leadership of Pakistan and the Western values prevalent among the Muslim elite. Instead, Mawdūdī advocated the establishment of a theocracy governed by a highly elaborated and codified *shari'ah* interpreted by qualified religious scholars. [See the biography of *Mawdūdī*.]

Antithetical to Mawdūdī was Ghulām Ahmad Parvez, a civil servant associated with a journal named after one of Iqbal's poems urging Muslims to seek new forms of creativity—*Tulū'i Islām* (The Rise of Islam). Parvez and his small group of followers proposed a rather daring interpretation of Qur'ānic vocabulary and concepts in a special four-volume dictionary; they also dismissed the validity of *hadīth* as a basis for building an Islamic society. According to Parvez, the precarious state of Islam in modern times was the result of the suppression of the open and simple original religion by the traditional legalistic interpretations of the '*ulamā*'. Not surprisingly, several religious scholars countered by declaring him an apostate.

In summary, Urdu literature in the nineteenth and twentieth centuries has witnessed a blossoming of work in both poetry and prose dealing with Islamic themes. The writers surveyed here reflect different strands within Indo-Muslim society as it has continued attempts to define itself in a changing sociopolitical environment. In giving literary expression to these strands, Urdu writers differed not only in the genres they chose but also in the traditions that inspired them. They have varied greatly in their interpretations of the role of Islam and the duties of a believing Muslim in modern society. Although collectively they represent an entire spectrum of opinions and views, each would agree in his own way with the Qur'anic verse, "God changes not what is in a people until they change what is in themselves" (surah 13.11).

[See also Islam, article on Islam in South Asia.]

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ALI S. ASANI

'URF. The Arabic term 'urf (from the root '-r-f, "to know, to be aware of, to be acquainted with") is perhaps best translated as "what is commonly known and accepted." In the central Islamic countries it is the common name for unwritten customary law, in contrast to written holy law (*shari'ah*) or other legal canons. 'Adat is a synonym used in other parts of the Islamic world, especially in Indonesia.

In the beginning of the Islamic era 'urf was regarded as complementary to *shari'ah*, which did not contain all the regulations needed to make an increasingly complex society function. Customary handling of legal matters that did not clearly contradict the spirit of *shari'ah* was accepted. Attempts were even made to treat 'urf as another legitimate foundation of Islamic law, alongside the Qur'an, the traditions (*hadīth*), analogic reasoning (*qiyyās*), and the consensus of the religious community (*ijmā'*). But because *shari'ah* in principle covers everything, and above all because it is God-given and not man-made like 'urf, these attempts were never successful. It could be argued, of course, that elements of customary legal practice entered into *shari'ah* by means of *hadīth*, *qiyyās*, and *ijmā'*, which all relied on human reasoning. Already the acceptance of sources of *shari'ah* other than the Qur'an was a tacit recognition of contributions that are not divine in origin. This was an unavoidable measure, since in its revealed state the holy law was neither complete nor detailed enough. Its general character and selective prescriptions forced succeeding generations of Muslims to develop it into a complete legal system.

'Urf has been used to designate three different types of jurisdiction: the way common people maintain order locally, for instance in the marketplace; the legal decisions made by a ruler and his secular representatives; and finally, the practices of local courts. In the first sense, 'urf has often been used for larger political purposes. Imām Yahyā (1918–1948) of Yemen tried to impose *shari'ah* all over the country as a means of centralization. One judge appointed by the government was to replace several local arbitrators chosen by the people themselves. At the same time, 'urf was actually practiced by the members of the state apparatus themselves. In Indonesia, customary law (*adat*) was sponsored by Dutch colonialists in order to counterbalance the Islamic threat and later by native nationalists in order to build the state.

In the second sense, opposition to 'urf has been a motive for rebellion by Muslim revivalists who have reacted against un-Islamic decrees made by a sultan, shah, or president. The most noteworthy example in modern times is Iran.

In the third sense, 'urf appears as a malleable legal practice of the Islamic law courts that is closely related to social and cultural features of the wider society and that may sometimes depart from strict Islamic doctrine. It is reminiscent of case law in contrast to statute law.

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MUSTANSIR MIR

ARABIC. Although the Arabic language existed long before the inception of Islam, it has been closely associated with this religion ever since the Qur'ān, its holy scripture, was revealed in Arabic to the prophet Muḥammad ibn 'Abd Allāh in seventh-century Arabia. As a cosmopolitan religion, Islam carried Arabic to all peoples who became Muslims. Those in the regions nearest to Arabia whose languages were originally Semitic—Mesopotamia and Syria—eventually became Arabic speaking, as did those whose languages were originally Hamitic in Egypt and North Africa. Together with Arabia itself, these regions constitute the Arab world today, which also includes non-Muslim religious minorities who speak Arabic (e.g., Christian Arabs) and non-Arab Muslim minorities who have retained their original languages but use Arabic as a second language (e.g., Kurds and Berbers). Peoples who adopted Islam in other regions of the world have kept their ethnic or national languages but have borrowed many words from Arabic and often also the Arabic writing system (e.g., Persian, Ottoman Turkish, and Urdu). During the heyday of Islamic civilization, Arabic was the lingua franca of a vast Islamic empire and its universal language of learning. Muslim scholars of non-Arab origin, like the historian and theologian al-Ṭabarī (d. 923), the philosopher and physician Ibn Sīnā (d. 1037), the astronomer and encyclopedic scientist al-Bīrūnī (d. 1048), and many others wrote their works in Arabic. Arabic today is not so widespread a language of scholarship as it was earlier, but it continues to be the common language of worship for Muslims all over the world and, of course, the living language of the Arab people themselves.

Despite its long history and great geographical spread, Arabic has retained its identity and distinctive characteristics. Its flexible structural system has continuously

absorbed the cultural differences it encountered, and it has adapted itself in order to serve the needs of its new speakers. Perhaps in no period of its history has Arabic faced a greater challenge than in the modern age with its dizzying advances in science and technology and its seemingly endless cultural flux; yet Arabic continues to adapt to modernity and to retain its flexibility and adaptability despite claims that it cannot cope with the pace of change, particularly in specialized scientific and technological disciplines and in areas of complex societal organization.

Translators of Western works into Arabic and Arab journalists in the burgeoning Arabic press of the nineteenth century were perhaps the first to feel the necessity of adapting the language creatively to modern needs. Their success in updating Arabic depended on their grasp of the intricacies of Arabic morphology and grammar, as well as on their knowledge of the history of the language, its adaptability, and its wealth. Efforts to modernize Arabic remained more or less individual, and the process was not organized, but as new knowledge kept pouring in from the West, the necessity of organizing academic institutions for language development and of adopting planning principles was increasingly felt. In 1892 a circle of scholars was founded in Cairo to discuss linguistic matters, and in 1907 scholars at Dār al-'Ulūm in Cairo established a similar circle; but these efforts remained limited and did not achieve continuity. *Lughat al-'Arab* (The Language of the Arabs), a journal founded in 1911 in Baghdad by Anastase-Marie al-Karmilī (1866–1947), was devoted to issues related to the Arabic language and was an effective inter-Arab forum on the subject.

In 1919 the first academy for the Arabic language was founded in Damascus, thanks to the organizing efforts of Muḥammad Kurd 'Ali (1876–1953) and the support of King Fayṣal and his government. Called al-Majma' al-'Ilmi al-'Arabi (The Scientific Arabic Academy), it concerned itself with linguistic and literary matters as well as with problems in the arts and sciences related to Arabic. In 1921 it founded a journal that is still published. In 1932 scholars in Egypt succeeded in founding another academy with government support. Originally called Majma' al-Lughah al-'Arabiyyah al-Malaki (The Royal Academy of the Arabic Language) and, since the abolition of the monarchy in 1952, renamed Majma' al-Lughah al-'Arabiyyah (The Academy of the Arabic Language), it publishes a journal and the minutes of its meetings; the academy concerns itself with preserving the purity of Arabic and with rendering Arabic a capa-

ble vehicle of modern communication. In 1947 an Iraqi academy was established in Baghdad with government support and called al-Majma' al-'Ilmī al-'Irāqī (The Scientific Iraqi Academy). Since 1950 it has published a journal reflecting its concerns and contributing to keeping the Arabic language abreast of cultural and civilizational developments. The Arab League has worked to unify the academies of Damascus, Cairo, and Baghdad so that they can coordinate their work, and a conference of academies of the Arabic language was held in Damascus in 1956, attended by representatives from all over the Arab world. Pan-Arab efforts still continue, but the formation of a united Arabic academy is still an unfulfilled hope.

These Arabic academies have been instrumental in updating Arabic and enriching it with new words, although at times they have been the butt of popular jokes for their pedantry and snail-like pace. With their help and the continuing creative efforts of individual Arab translators, journalists, linguists, scientists, poets, novelists, essayists, and other Arab literati, the Arabic language today has become adequately modernized. Cutting across the boundaries of the Arab countries, each with its own spoken dialect or dialects, an overarching modern standard Arabic is now used, mainly in written communications but also in formal oral presentations and in radio and television broadcasts. It is understood by the general Arab public and is a functional vehicle of communication in any field of knowledge. It has been declared one of the official languages of the United Nations. Based on classical Arabic (*al-'Arabiyyah al-fushā*), it has retained the latter's syntax and morphology to a large degree but has acquired a renewed phraseology and many additional lexical elements.

In modern standard Arabic one may find words like *barlamān* (parliament), *tilifūn* (telephone), and *tilifizyūn* (television), directly borrowed from Western languages and assimilated into Arabic. This arabicization is not usually the Arab academicians' preferred method of updating the language, although it is a practice of scholars of the 'Abbāsid period and earlier: witness, for example, old Arabic words like *falsafah* (philosophy) and *iqlim* (climatic region), arabicized from Greek. With common usage, verbs have been derived from some of the recently arabicized words, for example, *talfana* (to telephone) and *talfaza* (to televise); one further finds participles like *mutalfaz* (televised) and substantives like *tilfāz* (television set)—very much as past scholars treated Greek loanwords in *tafalsafa* (to philosophize) and *faylasūf* (philosopher). Such arabicized words have been usu-

ally made to agree with the rules of Arabic morphology and phonology.

Modern Arabs, however, prefer to form new words by deriving them from existing Arabic roots whenever possible. Thus the word *sayyārah* (automobile) is derived from the verb *sāra* (to walk); *thallājah* (refrigerator) from the noun *thalj* (snow, ice); *mīṣad* (elevator) from the verb *ṣāda* (to ascend); and *maṭār* (airport) from the verb *ṭāra* (to fly). These neologisms follow Arabic morphological rules and have been smoothly assimilated into the language. Modern Arabs also derive new meanings from old Arabic vocabulary by figurative extension or semantic approximation; thus *qitār* (train) in old Arabic meant a string of camels, and *jaridah* (newspaper) meant a stripped palm-branch once used for writing. They do not mind translating Western expressions—for example, *majlis al-nuwāb* (chamber of deputies), *markaz al-thiqal* (center of gravity), and *mukayyif al-hawā'* (air-conditioning)—but with due respect to heaven, they have translated "skyscraper" as *nātiḥat al-sahāb* ("cloudscraper"). Some Western idiomatic expressions have been literally translated in modern Arabic usage, like *la'iba dawran* ("he played a role"), *ṭalaba yadahā* ("he asked for her hand"), or *qatala al-waqt* ("he killed time"). In the manner of European languages, prefixes have been used in some words—successfully in *lāsilki* (wireless), *lānihāya* (infinity), *lāshū'ūrī* (unconscious), and *lāmubā-lāh* (indifference), which are now common words, and not so successfully in *ghibjalidī* (postglacial), *qabiārikh* (prehistory), and *takshū'ūrī* (subconscious), which have been suggested by Sāti' al-Huṣrī (1880–1968).

On the whole, modern standard Arabic has retained the basic characteristics of classical Arabic. Reformers who wanted to modify its writing system or adopt Latin characters for it have been vehemently resisted; so were those who called for replacing it with vernacular dialects. This continuing resistance is based in part on the political need of Arab nationalists to preserve Arab cultural unity and historical continuity, for they consider the use of dialects to be divisive, and they fear that the adoption of Latin characters will alienate Arabs from their heritage. Islamic religious fervor strengthens this resistance, considering it a duty to preserve the language of the Qur'an and all the Islamic culture that has flowed from it.

[See also Arabic Literature.]

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ARABIC LITERATURE. [This entry comprises two articles on Islamic themes and values in modern Arabic literature. The first presents a general overview; the second focuses specifically on issues of gender in fiction and poetry.]

An Overview

From the beloved pre-Islamic odes, the *mu'allaqāt*, to the contemporary novel, literature written in Arabic spans centuries, continents, and historical periods. Although Arabic literature began during the *Jāhilīyah* (pre-Islamic period), Islam has had a profound influence on its development. The Qur'an itself is a literary tour de force, and down to the present day Islamic texts forming part of the centuries-long *turāth* (the textual tradition of the Arabo-Islamic world) continue to play an important role in the development of contemporary literature. With the award of the Nobel Prize in Literature in 1988 to the Egyptian Naguib Mahfouz (Najib Mahfūz), Arabic literature became poised to play a larger role on the world literary scene.

The literature of the *Jāhilīyah* was that of a partly Bedouin society and was dominated by poetry; the poet often acted as the oracle of his tribe. The premier art form was the *qaṣīdah* or ode. The poet was conventionally inspired to compose an ode by the sight of animal droppings that signaled an abandoned encampment. The critic and anthologist Ibn Qutaybah (d. 889) links the creation of the ode to the remnants of this encampment and elucidates the ode's structure. Although twentieth-century critics have questioned Ibn Qutaybah's classification of the *qaṣīdah*, this has by no means

detracted from the significant role that poetry played in the codification of the Arabic language and Arabic grammar by medieval grammarians and lexicographers. Both the male and the female poetic voices existed in the pre-Islamic period; the female poet al-Khansā' has entered the annals of Arabic literature with the elegies she composed for her brother.

With its powerful imagery and its often incantatory style, the Qur'an joined the pre-Islamic poetic corpus as a literary and aesthetic model as well as a religious one. For Muslims the Qur'an is the direct, unmediated word of God; therefore it is as perfect from a literary standpoint as it is from a religious one. The speech of God is not normal speech, and its inimitability (*i'jāz*) becomes a topic of central concern for later theorists, both grammatical and literary.

The Arab-Islamic conquests of the seventh and eighth centuries created a multinational empire from Spain to Afghanistan. This cosmopolitan society drew virtually without prejudice from the previous cultures of local regions, spawning a sophisticated literature far exceeding in richness and quantity the literatures of either the classical Mediterranean world or of medieval Europe. Paper had recently been invented in China, and its dissemination through the lands of Islam had much to do with this literary florescence; so too did the opening of cultural channels and the circulation of ideas across an unprecedented geographical expanse. Scholars and writers might begin their careers in what is today Portugal and end them on the banks of the Red Sea or the borders of the Hindu Kush.

Most critics associate classical Arabic literature with poetry. A formalized and detailed metrical system was codified by al-Khalil (d. 791). The panegyric became a highly refined art form, as did the lighter *ghazal*, a shorter ode. The *qaṣīdah* survived the passage of time, although its erotic prologue was transformed and adapted to new needs, such as the pastoral and the ascetic. The neoclassical duo of Abū Tammām (d. 845) and al-Buhtūrī (d. 897) became familiar literary names, as did that of the heroically inclined al-Mutanabbi (d. 965). Not all poets, however, felt constrained to obey the sacred rules of the poetic genre; thus Abū Nuwās (d. 815) mocked the erotic prologue by addressing the opening of one of his poems to a tavern.

Numerous works have come down to us from the classical period of this highly sophisticated culture. One of the literary genres dominating the Arabic prose corpus is an anecdotal form designed to be at once edifying and

entertaining, known as *adab*. To characterize it as prose can be, however, misleading. In its discourse *adab* can include Qur'anic verses, poetry, and traditions of the Prophet. These traditions, called *hadīth*, are collections of the sayings and actions of the Prophet intended to serve as guides for the daily life of the Muslim. Generally recognized as the greatest master of Arabic *adab* is the ninth-century writer al-Jāḥīz. His *Book of Misers* (*Kitāb al-bukhalā'*) has survived the centuries, and its anecdotes circulate in children's literature in the contemporary Arab world. The characters who populated medieval Arabic anecdotal works ranged from rulers and judges to misers and party-crashers.

Medieval anecdotal literature had close family relations to two other literary products, the *maqāmah* and *The Thousand and One Nights*. The *maqāmah* is an indigenous Arabic form invented by Badi' al-Zamān al-Hamadhānī (d. 1008). His *Maqāmāt* (loosely translated as "Séances"), executed in rhymed prose, featured a sort of picaresque hero whose narrative existence centered around his eloquence and his ability to outwit his listeners and gain from them. Al-Harīrī (d. 1122) also made his name by writing in this genre, although his literary constructions are more rhetorically fanciful than those of his predecessors. It is his *Maqāmāt* that would serve as the model for nineteenth-century writers anxious to reenergize Arabic literature.

The Thousand and One Nights is a much more amorphous literary text whose stories were collected over centuries. The *Nights* is now as much a classic of Western literature as of Arabic. Magic, sexuality, flying carpets, questions of the body: all were part and parcel of the stories associated with the *Nights*. Shahrazād and her sister Dunyāzād, Shahriyār and his brother Shāhzāmān, are the two couples whose lives set the narrative in motion. Shahrazād weaves the tales that will immortalize her in the annals of world literature, at the same time as she will help resolve the dilemma of the heterosexual couple whose instability opens the narrative. Many of the story cycles from the *Nights*, like that of Sindbad, reappear in modern guises in twentieth-century Arabic writings. In these rewritings, the personality of Shahrazād holds pride of place as the female hero who can play in two arenas—classical and modern Arabic literature.

Literature flourished in the Islamic West as it did in the Islamic East. Although the *maqāmah* was invented in the Eastern part of the Arabo-Islamic world, examples of it appeared in Islamic Spain. The hybrid literary

population of that region gave birth to a new poetic form, *muwashshahāt*, a complex poem combining Arabic and local linguistic elements. These *muwashshahāt* can be set to music, and one can still hear them sung in the Arab world today. The Andalusian author 'Alī Ibn Ḥazm (d. 1064), displays another dimension of anecdotal prose literature in his treatise on the psychology of love, *Tawq al-hamāmah* (The Dove's Neckring). The special development given to courtly love themes in Hispano-Arabic literature has often been linked to the rise of the troubadours in neighboring Provence.

From quite early in the development of Islamic orthodoxy, echoes of asceticism and mysticism could be heard. Generally these came from individuals dissatisfied with what they perceived to be the loss of the personal dimension in the religious experience, buried under legalistic discussions and ritualized practice. A different sort of mystical and philosophical narrative was woven in Andalusia by the physician-philosopher Ibn Tufayl (d. 1185–1186). His great allegory *Hayy ibn Yaqzān* (Alive Son of Awake) had medieval relatives in the Arabo-Islamic philosophical tradition; it is a masterpiece whose literary echoes, from gender to philosophy, can be heard across the centuries down to the contemporary Middle East, where it resurfaces in children's literature from Egypt to Tunisia. Its appeal lies partly in its plot: an abandoned infant grows up alone on an island and discovers science and mysticism on his own. He then meets another young man who also seeks shelter from his own society, and the two, after an aborted attempt at setting this society on the right path, live happily on their own island.

The competing trends of the mystical and the legal were harmonized by the great thinker Abū Ḥāmid al-Ghazālī (d. 1111), whose autobiography, *Al-munqidh min al-dalāl* (The Rescuer from Error), talks about this dilemma. Al-Ghazālī's autobiography, like that of St. Augustine, recounts a religious quest. But the premodern period also boasted other autobiographical sagas, among them that of the great twelfth-century Syrian warrior-writer Usāmah ibn Munqidh. His story takes place during the Crusades, and some of his observations of Western combatants in his *Kitāb al-i'tibār* are by now classic. As an Arabic writer living through the occupation by Western invaders, Usāmah has great appeal to modern-day Palestinian writers such as Emile Habiby, who do not hesitate to draw parallels spanning the centuries.

The medieval autobiographical form coexisted with a

well-developed indigenous Arabo-Islamic literary form, the biography. The genesis of the biographical dictionary has been linked by some to the science of *hadīth* criticism and by others to Arab genealogical storytelling and poetic traditions. The arrangement of biographical compendia is linked to the concept of *tabaqāt* or classes. In *tabaqāt* collections the biographies were divided into groups that could be arranged according to generations (as with *hadīth* transmitters) or on levels of merit or skill (as with poets). In a possibly later development, this term was also applied to compendia limited to a given type. Biography developed into a diverse and sophisticated historical and literary genre that saw its golden age under the Mamlūks (c. 1250–1500) and included works devoted to persons with particular physical characteristics, such as the blind. [See *Biography and Hagiography*.]

To read Usāmah's autobiographical text in which he discusses the Crusaders or the biographical compendia is to realize that Arabic literature is an inherent part of the political and cultural processes in the region. This becomes clearer in the modern period. In the nineteenth and twentieth centuries the West had a more profound influence on the Middle East than that of mere politics. With Western imperialism came new literary genres, the novel and the short story. Poetry, which has always been one of the mainstays of Middle Eastern culture, continues to be promoted and promulgated in a spirit different from that of prose.

It is generally considered that the first Arabic novel is *Zaynab* by the Egyptian Muḥammad Ḥusayn Haykal, published in 1913. But this point is the culmination of a process that started in the nineteenth century and involved the revitalization of the Arabic literary scene. Here the name of the Syrian Nāṣif al-Yāzijī (d. 1871) looms large; he penned *maqāmāt* in imitation of those of his medieval predecessor al-Harīrī. Modern-day travelers who walk the Cairo streets and pick up a copy of the Egyptian monthly magazine *Al-hilāl* may not know that this long-lived periodical owes its existence to this early revitalization movement, in which its founder, Jirjī Zaydān (d. 1914), was quite prominent. Other nineteenth-century intellectuals, such as Rifā‘ah Rāfi‘ al-Tahtāwī (d. 1873), traveled in Europe (al-Tahtāwī was imam of the Egyptian educational mission in France) and wrote about it in their native Arabic. This early phase of modern Arabic literature also saw other literary experiments, including the early twentieth-century neoclassical prose works of Muḥammad al-Muwayliḥī (d. 1930), Aḥmad

Shawqī (d. 1932), and Ḥāfiẓ Ibrāhīm (d. 1932). Drawing on the traditional form of the *maqāmah*, these authors composed texts that were literary masterpieces functioning as well as social criticism. Shawqī and Ibrāhīm were also famed for their neoclassical odes.

This early twentieth-century neoclassical experiment in poetry was not to last, however. The classical *qaṣīdah* was doomed to fade away, except among old-fashioned poets. Free verse invaded the Arabic poem, from Iraq and North Africa, and dominated it. Prose poems did not lag behind, and today the field of Arabic poetry is as complicated as the political face of the region. Writers such as Ṣalāḥ ‘Abd al-Ṣabūr (d. 1981), Adonis, Maḥmūd Darwīsh, and Aḥmad ‘Abd al-Mu‘ti Ḥijāzī are those who give Arabic poetry a prominent place on the regional (and world) scene.

The distance that twentieth-century Arabic literature has traveled from the days of neoclassicism to the present postmodern narratives is enormous. The names and works that loom large fill library catalogs. Drama as an independent literary genre (and not as a modern rewriting of the *maqāmah*, as some critics would have it) appears. Because Arabic literature has traditionally been considered to be written in the literary language (*fushā*), vigorous debates arise over the possibilities of using the vernaculars in this high-cultural product; both authors and audiences must appreciate the artificiality of having a peasant appear on the stage speaking in literary Arabic.

One of the foremost proponents of the pure Arabic language was himself a man of letters. Tāhā Ḥusayn (d. 1973), an Egyptian scholar and writer, was one of the Arab world's leading modernizers. He penned an autobiography, *Al-ayyām* (The Days), that remains one of the most beloved works of twentieth-century literature as well as being a landmark in Arabic letters. The saga it recounts forms part of its appeal: a blind Egyptian boy conquers social and educational barriers to become a professor at the modern university in Cairo. Along the way, he becomes part of the student delegation to France and returns to his native Egypt with a French doctorate and a French wife. His visual handicap only accentuates the drama of this text and the cultural differences it raises between tradition and modernity, East and West. It is no accident that schoolchildren from Syria to the Sudan and from Saudi Arabia to North Africa still read this work. This most dramatic of Arabic stories, the tale of “the Conqueror of Darkness,” has also been made into a film and broadcast for

millions of Arab viewers. [See the biography of Husayn.]

Tāhā Husayn lived through the traumatic days of Egypt's battle for independence, that precious contemporary commodity that was to spread throughout the Arab region. With newfound independence, critics of Arabic literature could now begin to speak of Egyptian literary production in comparison with Syrian or Sudanese; but in fact, tempting as these national categories might be, the major driving force behind literary categories is linguistic. Does a writer write in Arabic, or does he or she write in the colonizer's language? Literature written in Arabic now stands alongside Franco-Arab literature or Anglo-Arab literature (to take but two examples) that comprise texts written by Arab authors, not in Arabic. The fact that many contemporary Arab writers, whether writing in Arabic or in a Western language, live in exile—combined with the transnational nature of cultural production in the world—generally means that writers from one Arab country are read in many. For example, the prominent Lebanese woman writer Ḥanān al-Shaykh lives in London, but her novels are available to Arabophone readers the world over. The same is true for the verse of the important Palestinian poet Maḥmūd Darwīsh.

Naguib Mahfouz is undoubtedly the name that most Westerners today associate with Arabic literature. The Nobel Prize is crucial here, as are Mahfouz's novels and short stories portraying Egyptian life, sometimes at its seediest. At the time Mahfouz won the coveted prize, however, there were many other writers whose fame might have suggested that they too should have been laureates. Yusūf Idrīs (d. 1991), considered by many younger writers to be the *shaykh* of the short story, is one such writer. Some of Idrīs's narratives are among the most powerful in world literature, rife with sexuality and exploitative male-female relationships.

In the modern period more than genres have changed. The female voice is much more important in the contemporary literary production of the Middle East than it was in the premodern period. The male dominance of most classical Islamic literary genres has been replaced by a far greater balance between male and female voices. This is true not only in poetry (where women contributed even in classical times) but also in the novel and short story.

With women's writings have come women's concerns, and often feminism. Both male and female literature, of course, also often reflects the political and social issues in contemporary Middle Eastern societies. Many women

writers have distinguished themselves, from Morocco to Saudi Arabia, but undoubtedly the most visible Arab woman writer is the Egyptian feminist physician Nawāl al-Sa'dāwī. Among women writers al-Sa'dāwī stands out by virtue of her uncompromising texts, from fiction to autobiography and didactic essays and studies (e.g., *The Hidden Face of Eve*). She comes closest to her male colleagues in her outspoken fiction, dealing as it does with sexuality and woman's exploitation. Hers is a searing gender critique added to the class critique, familiar to Arabic readers from the work of Yūsuf al-Qa'īd. Al-Qa'īd exposes the less savory aspects of government bureaucracies, imbuing his narratives with a bleak vision that allows his characters no escape (e.g., *War in the Land of Egypt*). In this al-Qa'īd is not too dissimilar from the Palestinian Ibrāhim Naṣr Allāh, whose postmodern fiction (for instance, *Prairies of Fever*) is a desperate commentary on Arab political and social dilemmas. [See the biography of Sa'dāwī.]

Arabic literature today is undergoing profound changes. Metafictional narratives and narratives rich in intertextuality are invading contemporary prose, as they have done in the West. But the new Middle Eastern literary experiment is different. Contemporary writers, whatever their religious or political allegiance, are turning toward the classical tradition, redigesting it, redefining it, and recasting it. The name most often associated with this development is that of the Egyptian Jamāl al-Ghitānī. He draws on the rich Arabo-Islamic textual heritage, including historical, biographical, and mystical texts, to create modern narratives, demanding that his reader intertextually link his literary universe with that of his medieval antecedents. The intertextual use and reuse of classical Arabo-Islamic materials is not restricted to al-Ghitānī; practitioners of the contemporary Arabic metafictional narrative cover the entire geographical range of Arabic letters and include the brilliant Palestinian writer Emile Habiby and the innovative Tunisian author al-Mis'adi, to cite but two.

This attempt to return to the classical heritage and to exploit it in new narrative ways was predominantly, and until recently, the domain of Arabic male writers. Once again it is Nawāl al-Sa'dāwī who has made the breakthrough: Her two recent novels, *The Fall of the Imam* and *The Innocence of the Devil*, are attempts at a redefinition of the rich Arabo-Islamic tradition in both its more secular and its more religious manifestations.

It is one of the ironies of literature that it can be manipulated to various ends. One of the most important

international developments to date, the religious revival, has played a significant role in literary developments, changing the face of Arabic literature. Despite its image in the West, the Islamist movement is not just a matter of street demonstrations or sermons in the local mosque. At stake is the control of various forms of cultural production, some of which—such as literature and the arts—have long been in the hands of more secularized and leftist intellectuals. The transnational nature of Islamism means that its ideas and advocates know no borders. Books may be printed in Cairo and Beirut, but one is as likely to find them in bookstores in other Middle Eastern cities as well as in European capitals with large Muslim populations.

This literary movement has been dubbed “*Adab Islāmī*,” or “Islamic literature.” Islamic literature is a parallel Islamic literary production that encompasses all the genres hitherto promulgated by more secularly minded intellectuals—plays, novels, short stories, and poetry. Even the terms of the debate are clearly laid out. “Committed” literature is no longer the prerogative of one group. One must extend it, we are told, to the religiously engaged text.

The nexus of literature and the religious revival has still to be fully explored. Oddly enough, this critical occultation comes about because of the unwitting collusion of different academic specialists. On the one hand, most studies of religious movements concern themselves with political and theological questions. On the other hand, Western specialists in Arabic and other literatures of the Middle East confine themselves to the enormous secularized literary production of the region, perceived as it is to be artistically serious and hence more worthy of study.

The Islamist movement is teaching us that literature is as political today as it was in the medieval period. The deep influence of the dual and complementary processes of islamization and arabization is perhaps most visible in North Africa, where many writers once consciously employed the language of the colonizer; now, in an equally conscious move, many of them are switching to Arabic.

Islamic literature is, of course, not neutral. It advocates a way of life—the religious way. (Statistically, in Arab countries, sales of Islamic books far outnumber those of secular ones.) One of the favored modern Islamic literary genres is the autobiography. The major figures of the Islamist movement have indulged them-

selves here, from the popular television preacher Muḥammad Mutawallī al-Sha‘rāwī to the equally colorful blind Shaykh ‘Abd al-Ḥamīd Kishk. Kishk’s *Story of My Days* chronicles not only his religious development but also his saga as a visually handicapped young man. In an ironic twist of literary fate, it calls to mind Tāhā Husayn’s *The Days*. [See the biography of Kishk.]

The Islamist movement has also given rise to many female literary voices. The classic example here remains that of Zaynab al-Ghazālī, whose *Days from My Life* recounts her religious activism and her dramatic imprisonment. In recent years, as veiling has become more popular among the educated elite of the Arab world and North Africa, many women writers are taking the occasion to exhibit not their bodies but their narratives of salvation. These spiritual autobiographies, not too distant in their aim from that of al-Ghazālī, now abound on the shelves of Islamic bookstores all over the world. [See the biography of Ghazālī.]

Nonetheless, the contemporary autobiography, like its other contemporary generic prose relatives, differs in spirit from its classic antecedent. Whereas it can be argued that classic literary text (be it anecdote or biography, to take but two examples) is more an expression of collective norms, the modern literary text expresses and centers more deeply on the individual. Genres may be superficially similar, but their cultural bases alter their articulation.

Examining this recent literary production that is Islamic literature alongside the intertextual postmodernism of someone like al-Ghīṭānī will show that contemporary Arabic literary discourse is being transformed. The new Arabic discourse is one that synchronically telescopes centuries of previous Arabic literary production. When verses from the Qur’ān, sayings from the *ḥadīth*, or historical incidents from Usāma’s chronicle are transposed and embedded into a twentieth-century Arabic creation, a new literary product emerges. Present-day Arabic literature is to be characterized as a complex discourse that partakes of cultural elements from both the rich Arabo-Islamic past and the equally rich Western tradition.

Arabic literature, whether in its more secular or in its more religious guises, is today a major cultural force in the Middle East. Through its relations with other contemporary literatures, especially Western, it participates in an emerging world literary culture. At the same time,

through its frequently self-conscious relation to its own immense Arabo-Islamic textual inheritance, it adds its own distinctive flavor.

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FEDWA MALTI-DOUGLAS

Gender in Arabic Literature

Most twentieth-century Arabic fiction is informed by an Islamicate consciousness, yet relatively few authors have chosen specifically Islamic themes. Many writers question the place of tradition in a rapidly modernizing world, but few examine the religion as a social, symbolic system. Those novels and poems that have dealt with Islam specifically have three foci: criticism of the institutions of orthodox Islam; the spiritual role of Islam and of the prophet Muhammad as a counterproject to westernization; and Islamicist activism. Such texts tend to exaggerate traditional conceptions of gender roles and behaviors. Gender is here used to refer to the images, values, interests, and activities held to be important to the realization of men's and women's anatomical destiny. As women have added their voices to the corpus of literature on Islam, so have the understandings of gender changed.

It was in the first quarter of the twentieth century that Muslim intellectuals began to write fiction that reflected political and socioreligious concerns. Members of the

Egyptian Madrasah Ḥadīthah exposed the oppressive treatment of women and the unchallenged power of religious authorities. Maḥmūd Tāhir Lāshīn's 1929 short story "Bayt al-tā'ah" ("House of Obedience") criticizes men who use what they consider to be an Islamic institution to crush women's will; the "house of obedience" authorizes the husband of a woman who wants a divorce to become his wife's jailer. One of the earliest Arabic novels is Tāhā Husayn's autobiographical *Al-ayyām* (published serially in 1926–1927 and as a book in 1929). In this *Bildungsroman* that traces the triumphs of Egypt's blind doyen of letters, the pro-Western Tāhā Husayn criticizes the all-male, tradition-bound al-Azhar system and its hypocritical 'ulamā'. He constructs himself as a strong man in defiance of social expectations that blind men should be as marginal to society as are women.

While some intellectuals were attacking the corrupt institutions and agents of modern Islam, others were invoking the power at the core of a well understood, timeless faith. The neoclassical court poet Ahmād Shawqī was one of the first to write long poems on Muḥammad; his *Alhamzīyah al-nabawīyah* and *Nahj al-burdah* inspired others to write about Islamic history and the life of the Prophet. The 1930s in Egypt saw the publication of fiction and drama by leading modernist writers lauding the Islamic exemplar and showing that Islam is no obstacle to progress, for example Tawfiq al-Ḥakīm's unwieldy play *Muḥammad* (1936), Muḥammad Husayn Haykal's *Hayāt Muḥammad*, and Tāhā Husayn's 'Alā hāmish al-sirah' (1937–1943). During the post-Revolution period two more important works focusing primarily on Muḥammad were published. In 1959 the Egyptian Nobel laureate Najib Maḥfūz (Naguib Mahfouz) published *Awlād hāratina*, an allegory based on the lives of several Islamic prophets that was considered blasphemous and was censored. Qāsim-Muḥammad is the revolutionary with the widest vision, the toughest foe whom the unruly gangs of the alley had yet confronted, yet he like his predecessors was doomed to find his revolution coopted. 'Abd al-Rahmān al-Sharqāwī's Marxist study *Muḥammad rasūl al-hurriyah* (1962) presents the prophetic mission as an exploitative obsession. Each Muḥammad is at once an ordinary man and a driven reformer. The women characters in the Prophet's life are presented as at best foils to his greatness.

One of the first attempts to consider Islam in tandem rather than in mutually exclusive competition with mo-

dernity was *Qindil Umm Hāshim* (1945) by the Egyptian *adib* Yahyā Ḥaqqī. It tells the by now paradigmatic tale of the rejection of Islam in favor of Western science, the failure of this science, and the recognition of the need to meld the spiritual and the material. Women act as vehicles of each culture's values and shape Ismail's decisions.

During the globally troubled decade of the 1960s Arab men and women began to question the role of religion in the rapidly changing life of the modern individual. While Saudi poets like ‘Abd al-Rahmān Ṣalih al-‘Ashmāwī and Ṭāhir Zamakhsharī were writing pious poetry, Egyptian secularists were targeting religion. Najīb Maḥfūz laments the transformation of Islam into an ideology and the concomitant loss of soul in society. Several characters search in vain for an absent father-figure, a transparent symbol for God. These desperate quests involve Ṣūfi masters and chaste prostitutes, the latter often providing greater solace than the former. The Sudanese al-Ṭāyyib Ṣalih seems less pessimistic: in *Urs al-Zayn* (1966), Zayn, the saintly fool, wins the love of the village beauty and assumes his real persona when he becomes united with her. Both writers create women who merely facilitate a man's access to the spiritual realm.

While some women were writing overtly feminist texts, others turned to Islam to find a legitimate space for women as active agents. In 1966 the leader of the Egyptian Association of Muslim Ladies, Zaynab al-Ghazālī, published *Ayyām min hayātī*, her memoir of six years in prison under Nasser. She describes torture so great that only she, and not the men, could bear it. In a kind of gender reversal, she cites men only to demonstrate her spiritual superiority. At about the same time in Iraq, another pious woman was producing religiously didactic yet also arguably feminist literature. In the 1960s and 1970s Bint al-Hudā, also known as Aminah Ṣadr, participated in the Islamicist revivalism in Najaf; in 1980, the Ba’th regime executed her. She wrote several novels (notably *Liqā’ fi al-mustashfā*, c. 1970), short stories, and poems in which she created models of ideal behavior for Muslim women. These women are anti-Western; they embrace domesticity and advocate the veil, yet they are not subservient to men; and they may work in the public sphere as long as they follow correctly understood Islamic prescriptions. They may even bear arms should the Islamic mission require it.

With the rise of Islamicist movements during the 1970s and 1980s, a few women have chosen to devote

their literary talents to Islam. These women do not try to support or oppose gender bias in Islam or its texts. They see rather the hand of patriarchy at work in the misappropriation of scripture to oppress women. The Egyptian feminist physician and novelist Nawāl al-Sādāwī has written more than twenty novels, of which two concentrate on Islam. The heroine of *Suqūt al-Imām* (1987) is called Bint Allāh, or Daughter of God; not only is her name a blasphemy, but she also has dreams of being raped by God. *Jannāt wa-Iblīs* (1992) delves into the psyche of the Islamicist movement to expose men's expedient uses of religion. When God declares Satan to be innocent, the transcendent binary of good and evil is undermined. Sa‘dāwī's fearless condemnations of those who abuse religious privilege have earned her a place on the death list of a powerful fundamentalist group. Another Egyptian, but of the next generation, is Salwā Bakr. Her 1986 novella *Maqām ‘Aṭiyah* explores the relationship between Islamic sensibilities and the pharaonic heritage. Should the shrine of Lady ‘Aṭiyah be removed to give access to archaeological remains that hold a secret that will transform modern Egypt? Her next novel, *Al-‘arabah al-dhahabiyah lā taṣ‘adu ilā al-samā’* (1991), takes place in the women's prison, by now a familiar place for readers of Egyptian women's writings, where a “madwoman” assesses her companions' eligibility to join her in the golden chariot that will whisk them all off to heaven.

Men and women have both extolled and criticized Islamic texts and institutions throughout the twentieth century. Men have depicted the Prophet as the perfect man who might serve as a model for all, and women have looked into the scriptures for right guidance in their search for power and position in society. However, many have recognized that unscrupulous individuals have used Islam to further their own ambitions. Those who have dared to speak out against such distortions have often had to pay a dear price.

[See also the biographies of Ḥusayn, Ghazālī, and Sa‘dāwī.]

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MIRIAM COOKE

ARAB-ISRAELI CONFLICT. The origins of the Arab-Israeli conflict can be traced back more than a century, when Jews, disillusioned with prospects for integration into European societies, began to immigrate to Palestine in 1882, not as individuals seeking to pray and die in Jerusalem but as a part of a political movement. In 1897, this political trend was further inspired by the First Zionist Congress, which called for the creation of a Jewish homeland in Palestine, thus spawning the modern Jewish national movement, Zionism. The land, which the Jews considered theirs by virtue of God's will and historic rights, was, however, inhabited by another people, the Palestinians who had been living there for centuries, albeit not until recently as a political entity.

Yet the first Jewish immigrants to Palestine did not encounter resistance from the local population. It was only a few decades later that the Zionist movement began to be perceived as a threat by the indigenous Palestinian population, as well as by other Arabs. The turning point in the relationship between the two national movements, the Arab and Palestinian on the one hand and Zionism on the other, was the Balfour Declaration of 2 November 1917, in which British Foreign Minister Arthur Balfour promised a "national home for the Jewish People" in Palestine, adding that the British Government would pursue its "best endeavors to facilitate the achievement of this object. . . ."

This move by the British Government, which acquired mandatory power in Palestine in 1920, following the end of World War I, angered the Palestinians and resulted in an eruption of violence that was to continue, intermittently, to the present day. The Palestinians were further alienated by the massive Zionist immigration to Palestine, which had brought the number of Jews from 24,000 in 1881 (less than 5 percent of the population) to 85,000 by 1914 (12 percent of the total population).

Immigration intensified further following the Balfour Declaration and the rise of Nazism in Germany in 1933, swelling the number of Jewish immigrants to 368,845 between the years 1921 and 1945. In Jerusalem alone, the most significant city in Palestine for both Jews and Arabs (Muslims and Christians alike), the number of Jews grew from 53,000 to 70,000 during the four years from 1931 to 1935.

Consequently, in 1936 the Palestinians began a revolt against British policy in Palestine which was to last until 1939. One of the leaders of this revolt was al-Hājj Amīn al-Husaynī, *muftī* of Jerusalem and president of the Supreme Muslim Council in Mandatory Palestine (appointed to these posts by the British in 1920). When the revolt began, al-Hājj Amīn assumed the presidency of the Arab Higher Committee, thus becoming a pivotal figure in the Palestinian national movement.

Several years before the revolt began, al-Hājj Amīn had sought to bring the Palestinian national struggle against Zionism to the attention of the international Muslim community by (1) raising funds to refurbish the two revered mosques on al-Haram al-Sharīf ("the Noble Sanctuary") in Jerusalem, al-Aqṣā and the Dome of the Rock (*Qubbat al-Ṣakhrah*); (2) holding an international congress of '*ulama'* in November 1928, attended by delegations of Damascus, Beirut, and Transjordan; and (3) holding an international Muslim conference in Jerusalem in December 1931. This conference, attended by 150 Muslim scholars from all over the Islamic world, passed a resolution on the importance of Palestine and the holiness of Jerusalem for Muslims. [See the biography of Husaynī.]

The *muftī*'s drive to refurbish the Muslim holy sites in Jerusalem occasioned a strong reaction from the Jewish populace, which claimed that this reconstruction would adversely affect the Western Wall, the ancient site of the first and second Jewish temples, and Jewish access to it. Thus, the national conflict took a religious turn in the Holy Land, the struggle over competing national goals assuming at times the shape of a religious war over holy places and symbols. This trend was reinforced by unfortunate events in another holy city for both Jews and Muslims, Hebron (al-Khalīl). Sixty-four unarmed Orthodox Jews were massacred in Hebron on 28 August 1929 by Arabs in riots, which had erupted in several cities, echoing growing tension surrounding the refurbishment of al-Haram al-Sharīf.

During the late 1920s and early 1930s, there were intermittent calls for *jihād* by some groups—most notably

the Tunku's contacts with elites in the Muslim world, notably Saudi royalty, the Organization of the Islamic Conference, and a \$12-million gift from Libya.

PERKIM's principal goal is the promotion of Islam as the national religion, with particular emphasis on the conversion of the non-Malay population, although without pressure or coercion. PERKIM's character as a non-communal, or ethnic-bridging, religious organization is unique in multiethnic Malaysia; it was symbolically affirmed in the beginning by the ethnic identities of its cofounders, Haji Ibrahim Ma, Tan Sri O. K. Ubaidullah, and Tan Sri Mubin Sheppard, who are Chinese, Indian, and European Muslims, respectively.

Relatively inactive before 1970, PERKIM sprang to public attention during the 1970s following the ethnic and political conflicts of the late 1960s, which resulted in growing ethnic and religious polarization between the Muslim Malays and other groups. The New Economic Policy, enshrining strong affirmative action in favor of Malays, initiated two decades of Malay economic and constitutional assertiveness and tied economic and educational opportunity to Malay ethnic status, of which Islam is an essential cultural attribute. This was also the era of the Islamic resurgence in Malaysia, locally known as *dakwah* (Ar., *da'wah*), whose activities were directed exclusively toward the Malay community.

In this social climate, PERKIM's distinctiveness lay in its continued attempts to create a multiethnic Islamic community and to reduce the perceived threat of a resurgent Islam among non-Malays. To these ends, PERKIM provides a wide range of support and services, including hostel accommodation and religious instruction for new converts and advice on personal problems arising from their conversion. Among its many educational services are preparation for government examinations, vocational courses, a variety of training schemes, and its own nondenominational kindergartens. PERKIM also sponsors clinics and drug rehabilitation schemes, which are important sources of new converts.

The total number of converts to Islam via PERKIM is hard to estimate precisely, partly because of an enthusiastic tendency toward overestimation during the early 1970s, and partly because of a subsequent high rate of recidivism; however, the total number of converts has probably never exceeded 120,000. During the early 1970s, the largest single constituency of converts to Islam via PERKIM consisted of working-class urban Chinese, who sought through Islam an assimilatory route to Malay ethnic and legal status, together with jobs and

other privileges. For several years Tunku Abdul Rahman defended the Chinese converts' rights of access to occupational and other Malay quotas, both in parliament and in the Malay community at large, but he was ultimately unsuccessful. At this point, many Chinese Muslims were designated only as *Saudara Bahru* ("new brothers in the faith"), but not as Malays, and were relegated to a separate Chinese Muslims' Association. As a result, the rate of Chinese conversions has declined significantly to a level of less than one hundred annually, and many earlier converts have disappeared from view. More recent converts have tended to be young, male, and single, and to come from assorted Chinese, Indian, Eurasian, and European backgrounds; many of them are contemplating marriage with a Muslim, although a few still anticipate advantages in doing business with Malays. Finally, in 1979, PERKIM opened a settlement Pusan Pelarian Indochina (Indochina Refugee Center) in coastal Kelantan state specifically for Muslim (Cham) refugees from Cambodia.

The founding chapter and headquarters of PERKIM is the Balai Islam in the capital of Kuala Lumpur, with a further fifty or so branches throughout Malaysia, several of them supported by commercial and shopping complexes. In the East Malaysian states of Sabah and Sarawak, PERKIM's branches (USIA and BINA, respectively) have been particularly active among the non-Malay indigenous population, which accounts for another substantial category of recent converts.

PERKIM's publications include instructional books on Islam and social problems, as well as regular newsletters in three languages—*Suara PERKIM* (Malay), *Nur Islam* (Chinese), and the *Islamic Herald* (English).

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JUDITH NAGATA

PERSIAN LITERATURE is a body of poetic and other literary works created principally, but not exclusively, in Iran. Beyond the present political boundaries of Iran proper, Afghanistan, the Indian subcontinent, Central Asia, and Turkey have been home to a rich body of literary work written in Persian.

In the context of Iran's full and multifaceted participation in and contributions to what has been called "the

Islamic civilization," Persian literature constitutes a rich, diversified, and autonomous aesthetic event to which the Iranian, or more accurately Persian-speaking, literati and their historical audiences have actively contributed. In its language and rhetoric, aesthetic and disposition, sensibilities and imagination, this literature is not, to any significant degree, reducible to fundamental tenets and doctrines of Islam. Although the majority of Persian poets and literati have been born to families and raised in environments in one way or another identifiable as "Islamic," their universe of imagination and literary production constitutes a reality *sui generis*, a space of aesthetic experience irreducible to any particular religious worldview. Zoroastrianism, Judaism, Buddhism, Hinduism, Manichaeism, Mazzakism, and all the major and minor sectarian divisions within Islam have invariably contributed to the Persian literary imagination. And yet the totality of that imagination is principally an aesthetic phenomenon irreducible to any one of its religious or nonreligious informants.

Perhaps the single most significant aspect of the Persian literary imagination, as it was delivered in a colorful panorama of formal styles and aesthetic sensibilities, is the noncanonical nature of its language. As it gradually developed after the Arab invasion of the early seventh century, modern Persian (as distinct from Pahlavi, or middle Persian, and Avestan, or old Persian) was a language in which no sacred text was believed to have been revealed. As opposed to Hebrew and Arabic, in which the Bible and the Qur'an were revealed, Persian remained a constitutionally vernacular or, more accurately, secular language. The memories of the sacred language of the Avesta and the exegetical language of Pahlavi having been surpassed and superseded by the absolutist hegemony of the Arabic Qur'an, Persian language occupied a noncanonical space in which secular events could occur beyond the doctrinal inhibitions of the sacred Arabic of the Qur'an. It is crucial to remember that there were syncretic religious movements immediately after the Arab invasion, such as Khurramiyah and Bih-Afridiyah, that had occasional rhetorical claims to the revelation of a "Persian Qur'an" (see Sadighi, 1938, *et passim*; Amoretti, 1975, pp. 489–490; Shahrestānī, 1979, vol. 1, p. 397). But with the political demise of such movements, the idea of a "Persian Qur'an" never materialized. The Arabic Qur'an remained the canonical text of all sacred imagination for Muslim Iranians who fully and productively participated in that imagination. The phrase "Persian Qur'an" is later used

by 'Abd al-Rahmām Jāmī (d. 1492), who called Jalāl al-Dīn Rūmī's *Maṣnavī* "the Qur'an in Persian," meaning that Rūmī's text has the sacred sanctity of the Qur'an expressed in Persian. Such hyperbolic expressions notwithstanding, the historical fact has always been that Persian remained a noncanonical language in which the literary imagination could be let loose.

The Persian literary imagination has been acted out in a conjunction of multiple sacred imaginings both domestic and foreign to Iranian communities. Zoroastrian, Manichaean, Mithraic, Mazzakian, Hindu, Buddhist, Judaic, Christian, Islamic, and a host of other less politically successful religions have emerged or arrived in historical succession and left indelible marks on Persian literary culture. But the very fact of their multiplicity, that they have come in succession and, in hostility or mutual tolerance, have coexisted together, has prevented any one of them from exercising absolutist, hegemonic power over the Persian literary imagination. Extensive scholarship (Mu'in, 1959; Melikian-Chirvani, 1974, 1984 in particular) has established that Zoroastrian, Manichaean, and Buddhist imageries entered the aesthetic parlance of the Persian literary imagination and endured, even flourished, well into the Islamic period. Even within the Islamic context, sectarianized doctrinal differences continued to divide the active and passive loyalties of Persian literati throughout the ages. Whereas up until the fifteenth century the majority of Persian poets and literati could be identified as Sunnis, after the establishment of the Ṣafavids (1501–1732), Shiism became at least the nominal faith of many poets and writers. Having theological/antitheological, philosophical/antiphilosophical, or so-called Ṣūfi/anti-Ṣūfi predilections further added to the divisive orientations that loosened the active absolutism of any one particular ideological force over the Persian literary imagination. As for the oral and literary sources of this imagination, Iranian, Indian, Chinese, Arabic, and Turkish material converged to create a multicultural literary universe that went beyond the confines of any particular politics. The world was home to the Persian poet as he or she sat to wonder on the nature and purpose of being.

The first textual evidence of a literary tradition in Iran is the royal inscriptions of the Achaemenid kings, Darius I (522–486 BCE) and Xerxes, his son, in particular. Inscribed in old Persian, these royal texts indicate a proud, self-confident, assertive, and theocentric imagination: "A Great God is Ahūrā Mazdā," reads one, "who created the earth, who created the sky, who cre-

ated man, who created happiness for man, who made Darius the King" (quoted in Yarshater, 1988, pp. 5–6). Although theocentric, this royal self-conception is clearly conscious of an individual existence: "Says Darius the King, by the favor of Ahûrâ Mazdâ I am such a man who is friend to right. I am not a friend to wrong. It is not my wish that the weak man should have wrong done to him by the mighty; nor is it my wish that the mighty man should have wrong done to him by the weak" (*Ibid.*, p. 6). In these inscriptions, the king as narrator extends his authority from the supreme deity, Ahûrâ Mazdâ, and then acts as an individual full of moral and ethical convictions. With an authority extended from God, Darius the king is the man, the law-giver, the monarch, the chronicler, and the historian of the Achaemenid's glorious deeds. In an inscription, Darius gives a rather full, boastful account of how he overthrew Gaumâtâ, a magian who had pretended to be the slain brother of Cambyses, Smardis. Darius's account is swift, concise, not devoid of narrative elegance.

From the royal inscriptions of the Achaemenids to Zoroaster's own hymns, the Gathas, there lies a vast arena of imaginative oral traditions that are distilled and barely visible through the Avestan prism. This oral tradition was perpetuated by Iranian minstrels, or *gosâns* who carried forward a fantastic tradition of narrative songs. As storyteller/magicians, *gosâns* had a central social function in ancient, particularly Parthian and Arsacid, communities (see Boyce, 1957). They sang songs, told stories, recited poems, delivered satires, mourned and celebrated on occasions, and carried forward a rich and rewarding tradition of songs and tales, legends and myths, stories and anecdotes (for a discussion of the Avestan literature, see Dale Bishop's article in Yarshater, 1988, chap. 2).

In the Avesta, the Gathas and the pre-Zoroastrian hymns Zoroaster remembered later, the Yashts, are the first, most comprehensive poetic narrative we have which remain principally subservient to the Zoroastrian sacred imagination. Gods, deities, and heroes, as well as their metahistorical relations to worldly being are the subjects of these sacred narratives in which the poetic plays a vital role. But the same poetic urge that partially subserved the sacred imagination of the Avesta was forcefully at work in the muscular epic narrative of ancient Iranians. As evident through the prism of the Avestan Yashts, a flourishing oral tradition had given epic proportions to legendary rivalries between the Iranian house of Kayânîyân and its perpetual enemies, the

Turanians. Not until the time of Firdawî (d. about 1025) do we have textual evidence of this effervescent oral tradition, which must have been active and widespread during the composition of the Yashts. Iranian minstrels must have transmitted various versions of these epics from generation to generation. Under the patronage of Parthians and the Arsacids (247 BCE–226 CE), this minstrel tradition was given enough political momentum to permit the extension of a folkloric narrative into a royal lexicon of cultural legitimacy. It has been suggested (Yarshater, 1988, pp. 10–11) that the overwhelming, and politically successful, Eastern (Zoroastrian) tradition overshadowed the receding memory of the legends and histories of the Persians and the Medes, and that by the time of the Sassanians (224–651 CE) only the Kayânîyân legends had been constituted as the legitimizing force at the disposal of courtly scribes.

The Sassanian emperors were the direct beneficiaries of both the sacred and the secular imagination that had informed much of the earlier Iranian communities. Certainly by the time of the composition of *Khwadây-nâmag* (The Book of Lords) during the reign of Khusraw II (590–628 CE), the renarration of already ancient legends and stories had assumed legitimizing status. *Khwadây-nâmag* represents the earliest extant fictive renarration of a legendary history that puts the poetic occasion at the service of ideological legitimization of the state apparatus. As the first man/king, Gayômarth, in this narrative, presides over the creation and succession of the rendition of much older stories. As "the most important literary heritage of ancient Iran" (Yarshater, 1988, p. 10), *Khwadây-nâmag* is a compendium of moral and philosophical injunctions as delivered through the Persian poetic imagination. As such, however, it is as much a distant memory of pre-Sassanian legends and stories as it is an immediate mirror of the moral and political imperatives of the Sassanian monarchy. As a supreme example of storytelling, *Khwadây-nâmag* preserves some of the rhetorical features that have endured through subsequent variations in the epic genre.

The absence of textual evidence has permitted suggestions that pre-Islamic Persian literature lacked any significant secular literature. "This judgment," Ehsan Yarshater has suggested, "ignores two basic facts: that the secular literature of Iran prior to Islam was essentially oral, and that much of the early New Persian literature was in fact only a new recension or direct rendering of Middle Persian and Parthian creations" (1988, p. 10). As an example, Fakhr al-Dîn As'ad al-Gurgâni's (d.

about 1063) eleventh-century modern Persian renditions of the love story *Vis and Rāmīn* is our textual link to the Parthian version of the story available to al-Gurgānī in middle Persian and Georgian. As an adventurous love story, *Vis and Rāmīn* reads in marked contrast to *Darakht-i asūrīg*, which, extant in middle Persian, provides one of the earliest examples of didactic dialogics in Persian poetry, in this case between a tree and a goat. Among an overwhelming body of religious verses that Manichaean and Zoroastrian priests produced in Parthian and Pahlavi, *Ayādgār-i zarirān* and *Drakht-i asūrīg* are among the few textual examples of a secular literary imagination. Indirectly, however, we know of a more elaborate secular literature. What in later sources is identified as *Fahlaviyat* refers to an elaborate body of beautiful poetic traditions—*Surūd*, *Chakāmah*, and *Tarānah* among them—with which even the later Persian poets, whose prosody was considerably arabicized, were familiar.

The Persian literature produced after the Arab invasion of the seventh century was thus both textually and orally heir to a substantial body of literature that, whether in direct (written or oral) tradition or in continuation of literary imagination, persisted well into the later periods. As it gradually emerged as a noncanonical language, Persian evolved into a literary language of monumental imagination. Always under the shadow of Arabic, modern Persian carried within its slanted relation of power to Arabic the debilitating memory of the decisive Battle of Qādisiyah (June 637) in which the Persians were defeated by the newly Muslim Arabs. In a remarkable division of creative imagination, the Persian scientific and philosophical writings were produced primarily, but not exclusively, in Arabic, while their literary output continued to flourish in Persian. Arabic then became the paternal language of the hegemonic theology, jurisprudence, philosophy, and science, while the maternal Persian, the language of mothers' lullabies and wandering singers, songwriters, and storytellers, constituted the subversive literary imagination of a secular and poetic conception of being.

As Iraq (Baghdad in particular) emerged as the cultural capital of the Arabic west, Khurasan (Nishapur in particular) emerged as the cultural capital of the Persian east. From the central heartland of Khurasan, Persian literature spread as far east as the Indian subcontinent, as far west as the Balkans, as far north as China, and as far south as the Persian Gulf. Contemporary Iranians, Afghans, Tajiks, Indians, Pakistanis, Turks, and Arabs

have almost as equal a claim on the literary history of Persian as they have on Arabic and Turkish. Relations of power, the changing features of royal patronage, revolutions, wars, invasions, and conquests have had much more to do with literary productions than anything ethnic, racial, or linguistic. For Turkish warlords, in particular, Persian literature became the chief ideological legitimizer of their rule. As an apparatus of political legitimation, production of Persian literature functioned as one of the principal ideological forces at the disposal of the Ghaznavids (977–1186), the Seljuks (1038–1194), and even the Ottomans (1281–1924). As a courtly artifact, Persian poetry was equally present and instrumental in India, particularly during the reign of the Mughals (1526–1858). Exacerbated by the coming to power of the Shī‘ī Safavids (1501–1722), who, having substituted Shiism as the state ideology, had no particular need, penchant, time, or taste for Persian poetry, Persian and Indian poets found India a more congenial place than Iran. The result of this historical displacement is that any history of Persian literature in the sixteenth and seventeenth centuries ought to be traced to India rather than Iran. Whether self-consciously or not, dynasties that considered themselves Turkish, Persian, or Indian throughout the medieval period adopted the political apparatus of Persian poetry to fulfill the major ideological task of state legitimization in a space adjacent to other, principally Islamic modes and modalities of legitimacy.

The roots of Persian poetic imagination in the ideological apparatus of the Persian court is evident in the first, most successful form of its historical record, that is, the panegyrics (see Meissami, 1987). As it emerged in Khurasan between the tenth and twelfth centuries, Persian court poetry put itself at the disposal of the Samānids (819–1005) and the Ghaznavids, who consciously fashioned themselves after the enduring memories of the Sassanians. As Rūdakī (d. 940), Farrukhi (d. 1037), and Manūchihrī (d. 1040), among scores of others, marked the particular characteristics of Persian panegyric poetry, marks of chivalry and warfare, as symbolics of banquets and feasts, found their way into the operative repertoire of Persian aesthetics (for a full discussion of the prominent features of court poetry, see Jerome E. Clinton's article in Yarshater, 1988, chap. 4). But perhaps the most striking aspect of this poetry, best exemplified by Rūdakī's pictorial representations of nature, Farrukhi's penchant for exquisite physical details, and Manūchihrī's festive celebration of nature and particularly his joyous description of wine and wine drinking,

is its worldly imagination, which has an unmitigated, direct, and spontaneous contact with the physicality of being. Thus, although Persian panegyrics developed into a highly stylized courtly form, its imageries and historical consciousness represent a wide spectrum of aesthetic and material sensibilities.

Rooted in the same political necessity, as well as in Persian folkloric traditions, is the epic poetry that comes to its fullest and aesthetically most sustained manifestation in Firdawṣī's *Šāhnāmah*. Composed in some fifty thousand couplets over a period of thirty years, *Šāhnāmah* is a singular heroic narrative of a people's mythical, legendary, and historical memories. In *Šāhnāmah*, Firdawṣī brings the diverse and scattered memories of a people he deliberately identifies as "Iranians" into the sustained imaginative force of a single poetic event. *Šāhnāmah* is self-consciously heroic, from its metrics to its diction. Firdawṣī's epic narrative describes the heroic deeds of Rustam, the treacheries of Zahhāk, the innocence of Siyāvush, the bedeviling attraction of Sudābah, the tragedies of Suhrāb and Isfandyār, the love stories of Bīzhan and Manizhah, Zāl and Rūdabah. What holds these stories together is Firdawṣī's self-conscious presence, his periodic interruptions of the epic narrative to dwell on the nature of human beings and their destiny, his unfailing moral gaze at the glories and atrocities of human existence. Firdawṣī tells old stories with an unmistakably moral verve that operates in the towering imagination of a self-confident poet, fully conscious of his epic narrative (for two excellent essays on *Šāhnāmah*, see the articles by William L. Hanaway and Amin Banani in Yarshater, 1988, chaps. 5 and 6, respectively; for a good translation of a story from *Šāhnāmah*, see Firdawṣī, 1933).

If epic poetry appealed to the heroic aspirations of both the changing monarchies and of folkloric traditions at large, a particular aspect of it, the romantic, catered to finer sensibilities of love and adventure. By the time Niẓāmī (d. 1209) composed his famous *Khamsah*, the Persian romantic tradition was already rich and diversified. Written about 1050, Gurgānī's *Vis and Rāmīn* borrowed from pre-Islamic Iranian themes and constructed the first and most successful example of this genre. *Vis and Rāmīn* of Gurgānī is one of the most brilliant examples of Persian narrative poetry, one in which pre-Islamic stories are resuscitated with powerful poetic imagination. The origin of *Vis and Rāmīn* has been traced back to the Sassanian (226–652) or even Arsacid (250 BCE–224 CE) period. Gurgānī reports that he found

the Pahlavi version of this story in Isfahan and, following the orders of Abū al-Faṭḥ Muẓaffar al-Nishāpūrī, rewrote it in poetic Persian with particular attention to the dramatic rhetoric of storytelling (for a comprehensive essay on *Vis and Rāmīn*, see M. J. Mahjoub's introduction to his critical edition of the text, *Gurgānī*, 1959; for an excellent prose translation, see *Gurgānī*, 1972). In producing his version, Gurgānī took advantage of both written and oral accounts of the story, but he embellished and delivered it with particular attention to the details of dramatic delivery, a trademark of Persian narrative poetry. Adopting a number of Pahlavi words in his poetic rendition, Gurgānī produces a clear narrative with a stunning simplicity as its moving energy. Despite the brilliance of its poetic composition, *Vis and Rāmīn* experienced a period of eclipse when its uncompromising celebration of physical love offended Islamic sensibilities. Nevertheless, *Vis and Rāmīn* had a profound impact on subsequent Persian romances, not least on the master of Persian romantic narrative, Niẓāmī.

Niẓāmī's brilliant achievement in *Khamsah* (Quintet), however, brought the Persian romantic tradition to a height comparable to Firdawṣī's achievement in epic poetry. In a masterful construction of a dramatic narrative, Niẓāmī, always personally present in his tales, constructs a literary humanism resting on nothing but the dramatic movement of his own power of storytelling. *Khamsah* consists of five narratives, each evolving around a thematic treatment of love and adventure. As evident in such stories as "Khusraw and Shirīn" and "Layli and Majnūn," Niẓāmī took full advantage of dramatic techniques to develop a particularly haunting narrative of love and adventure (for an excellent introduction to Niẓāmī's poetry, see Peter Chelkowski's article in Yarshater, 1988, chap. 10; J. C. Bürgel's article in the same volume, chap. 9, is a comprehensive introduction to the genre).

The romantic genre thus brought to full fruition by Niẓāmī soon unfolded into a rich tradition to which such gifted poets as Amīr Khusraw Dihlāvī (d. 1325), Khwājū Kirmānī (d. 1352), and 'Abd al-Rāhmān Jāmī (d. 1492) added dimension and brilliance, qualities never to reach the height of the master of the genre, Niẓāmī himself.

Whereas both the epic and the romantic genres demanded longer attention spans, the brevity of lyrical poetry tested the power of the Persian poets for the economy of their wording. From its origins in amorous occasions in the panegyric, epic, and romantic poetries,

lyrical poetry emerged and found its most successful and enduring form in Persian *ghazal*. *Ghazal* became the functional equivalent of musical sonatas in Persian poetry. With sustained and implacable economy of wording, masters of Persian lyrics, principally Sa'dī (d. 1292) and Hāfiẓ (d. 1390), shed all extrapoetic functions of poetry and created perhaps the most artistically successful experience in the whole spectrum of Persian literature. *Ghazal* is the aesthetic challenge of brevity, the formal occasion of poetic mastery, a short space where the mosaics of words, sensibilities, and imageries demand the best in aesthetic creativity that a poet can command.

Although the origins of *ghazal* go back to such masterful practitioners as Sanā'i (d. 1130) and Nizāmī (d. 1209), it is with Sa'dī (d. 1292) that the miniaturesque composition of lyrics comes to its most brilliant fruition. Sa'dī's *ghazals* are the very picture of beauty and subtlety. Rarely has a Persian poet had such a perfect, almost magical, command over words, with flawless harmony in their sound effects. The sheer musicality of Sa'dī's *ghazals* defies all description. His *ghazals* read and sound like a Chopinesque nocturne: crisp, clear, concise, brevity the very soul of their amorous movements. Sa'dī's works portray a human, physical, perfectly tangible love that registers with unfailing impact. The whole spectrum of Persian poetic repertoire, having come to perfection by the thirteenth century, is at the disposal of Sa'dī. Never after Sa'dī did classical Persian *ghazal* benefit from the ingenious powers of such a word magician. Sa'dī's lyrical humanism is arguably the zenith of Persian poetry and all its worldly possibilities (for a discussion of Persian lyric poetry, see Heshmat Moayyad's article in Yarshater, 1988, chap. 7).

Neither the romantic nor the lyrical possibilities of Persian poetry escaped the attention of Persian mystics. Devoted to a particular doctrinal reading of the Qur'ān and of the Muhammadan message, the Persian Šūfis joined their Arab, Turkish, and Indian brethren in a massive mystification of the physical world. Finalized in the doctrine of *wahdat al-wujūd* (the Unity of Being), the Šūfis collectively engaged in a radical mystification of both literature and love. Persian lyrical poetry in particular proved most appropriate for such a grand act of mystification. Three successive poets, Sanā'i (d. 1130), 'Attār (d. about 1220), and Rūmī (d. 1273), are chiefly recognized as the master-builders of Persian mystical poetry.

With Sanā'i we witness the decline of the court as the great patron of Persian poetry and the rise of religious

sentiments to substitute the physical beauties that principally informed Persian poetry's imaginative repertoire. The substantial mystification of Sanā'i by later Šūfis is not borne out by the actual presence of religious sensibilities in his poetry. Sanā'i professed that his worldly poetics did not in any significant way promote his station in life, and that consequently he decided to devote his talent to religious poetry. He blamed his contemporaries, a vague reference to his liaisons with the Ghaznavid court, for not having appreciated his poetry. He seems to have felt particularly humiliated by submitting his poetic gift to the brute taste of his patrons. He was the master of the world of words, he thought, and yet a servile slave to his brute masters. As a result, he informs us, he abandons worldly poetry and turns his attention to religious matters. But the conversion is not so dramatic as to abandon poetry altogether. He simply decides to attend to religious matters poetically. "My poetry shall be a commentary on Religion and Law / The only reasonable path for a poet is this." Despite his Shi'i sentiment, Sanā'i equally praised the first three caliphs, indicating a less than zealous religiosity (see Ṣafā, vol. 2, p. 560 for a discussion). Nevertheless, later Šūfis took full advantage of this "conversion" and fabricated fantastic stories about it, turning Sanā'i into a full-fledged Šūfi. As a poet, however, Sanā'i remained singularly attached to religious matters, a fact best represented not only in his poetry but also in his pilgrimage to Mecca, which he undertook from Khurasan (for further details, see De Bruijn, 1983).

After his Mecca pilgrimage, a friend of Sanā'i, a man named Khvājah 'Amid Ahmad ibn Mas'ūd, provided him with a home and daily sustenance and asked Sanā'i to collect his own poems and prepare a *divān* (collection of poetry). Sanā'i spent the rest of his life in this house in Ghaznī and compiled his collected works, including his masterpiece *Hadiqat al-ḥaqīqah*. Sanā'i's *divān*, masterfully edited in more than thirteen thousand verses by Mudarris Radavī, is a compendium of his secular and religious sensibilities. His *madā'iḥ* (panegyric praises) demonstrate Sanā'i's mastery of the genre and are clear indications of a boastful awareness of his poetic gifts. *Hadiqat al-ḥaqīqah va sharī'at al-ṭariqah* (also known as *Ilāhi-nāmah*) is by far the most significant work of Sanā'i, which he composed between 1129 and 1130 in ten thousand verses. Sanā'i dedicated this *magnāvī* couplet to the Ghaznavid warlord Bahrāmshāh (r. 1118–1152). *Hadiqat* begins with conventional salutations to God, the Prophet, and his companions, and

then proceeds to poetic discourses on reason, knowledge, wisdom, and love. In his original version, something must have been in Sanā'i's *Hadiqat* that caused the anger of contemporary religious authorities. He sent a copy of it to a prominent religious authority, Burhān al-Dīn Abū al-Hasan 'Alī ibn Nāṣir al-Ghaznavī, in Baghdad and asked him to issue an edict in its support. In his letter, composed in the form of a poem, Sanā'i went so far as to identify *Hadiqat* as "the Qur'ān in Persian," a phrase that has been used for other texts as well, particularly by Jāmī in reference to Rūmī's *Masnavī*. Immediately after the death of Sanā'i, there was no complete version of *Hadiqah* extant. Muḥammad b. 'Alī al-Raffā', a Ṣūfī as judged by his introduction, prepared an edition of the text.

Kārnāmah-yi Balkh, another *masnavī* of Sanā'i, thought to be the earliest poetic composition, is in an entirely worldly and humorous mode. Composed for the Ghaznavid ruler Maṣ'ūd ibn Ibrāhīm, *Kārnāmah-yi Balkh* is full of praises for the nobility and poetic dialogues with his contemporary poets. *Sayr al-'ibād ilā al-Ma'ād*, *Tariq al-tahqīq*, and *'Ishq-nāmah* are three other of Sanā'i's *masnavīs*.

'Aṭṭār's *Mantiq al-Tayr*, among his numerous other *masnavīs*, has been persistently read as a mystical allegory, foretelling Rūmī's *masnavī* to be composed later in the same century. 'Aṭṭār's story of a group of birds persuaded by the hoopoe (Hudhud) to look for a King is a simple didactic narrative. Thirty of the many birds thus persuaded to look for their King finally make it to their destination, where they meet *Simurgh* (the "thirty-bird," or simply a reflection of the thirty birds). (For a brilliant translation of this poem, see 'Aṭṭār, 1984.)

Sanā'i and 'Aṭṭār's experimentation with didactic *masnavī* narrative for suggestion of mystical allegories ultimately reached Rūmī, in whose hands Persian mystical poetry achieves its height and most prolific potentials. Rūmī's *Masnavī*, dubbed "the Qur'ān in Persian" by Jāmī, is the highest achievement and the metalogical conclusion of Persian mystical poetry. Rūmī took equal advantage of Persian *ghazal* lyricism and supplanted his mystical love where the physical love of Sa'dī was. With slight poetic modifications in conceptual and aesthetic sensibilities, Rūmī gave full expression to a mystical narrative that postulated an all-loving God presiding over the worldly manifestation of his omnipresence. Man in Rūmī's narrative became a Man-God potentially endowed with the realization of all divine attributes. Rūmī's became a passionate quest inward, toward the

realization of God within (for the English translation of Rūmī's *Masnavī*, see Rūmī, 1925–1940).

After Rūmī the colossal mystification of Persian lyrical and romantic poetry was so pervasive and powerful that not until the advent of modernity in the wake of the Constitutional Revolution of 1906–1911 did an alternative universe of poetic imagination have a literary space to emerge. The only exception to that massive mystification in premodern Persian poetry is in the lyrical poetry of Hāfiẓ and a whole new universe of aesthetic sensibilities that he created.

With Hāfiẓ (d. 1390), Persian lyrical poetry reached a new height, the refreshing space of a whole new poetic thinking. Hāfiẓ's poetic narrative, the physical beauty of his verses, is above and beyond anything achieved before or after in Persian lyrics (for a sample of his poems, see Hāfiẓ, 1897). In Hāfiẓ's poetry dwells an unrelenting engagement with the physical presence of life, with the stunning irreducibility of being. He comes after both Sa'dī and Rūmī, and in a remarkable way weds the worldliness of one to the passionate intensity of the other. Hāfiẓ's *ghazals* defy the temptations of Rūmī's mysticism, confront the world directly, and shift Sa'dīs worldliness to a new, aesthetically more compelling, engagement with being. The overriding sentiments of Hāfiẓ's lyricism is the pivotal primacy of physical love necessitated by an existentially ironic and paradoxical conception of being. The two crosscutting senses of paradox and irony give Hāfiẓ's conception of love a critical sense of urgency:

Seize the moment, you and I here together, Once
The short trip over, and we shall never meet again.

And as for the promises of knowledge and wisdom to mediate any conception of being:

Thank God, just like us, no faith no fidelity
Was in he who was called the wise, the trustworthy!

Testing the power of brevity in Persian poets even more vigorously than *ghazal* was *nubā'i* or *dū-baynī* (quatrains). Bābā Tāhir-i 'Uryān (d. about 1063) was the indubitable master of a stunningly beautiful, yet irreducibly simple, genre of quatrains most probably first comprised in Lori dialect and then modified by later scribes to literary Persian (*Ṣafā*, vol. 2, p. 386).

A farmer was once waiting in a pasture,
Crying sadly while to his tulips he attended.
"Alas," he said, as he planted his flowers,
"That we should plant and leave them unattended."

Bābā Tāhir's imageries are drawn from daily observations, to which a twist of unexpected poetic significance is given. Reading and understanding Bābā Tāhir requires no grand leap of faith. He addresses simple but compelling realities that can immediately register with his readers. A feeling of the simultaneous beauty and brutality of life abounds in his poetry (for a translation of Bābā Tāhir's poetry, see Bābā Tāhir, 1902).

In 'Umar Khayyām's (d. about 1129) quatrains, however, Persian literature finally recognized one of its greatest potentials: an autonomous poetic voice radically subversive of all metaphysics, of all unexamined sacred assumptions (the most deservedly famous translation of Khayyām is that of Edward FitzGerald; see Khayyām, 1859). The prevalence of historical references to Khayyām in Persian primary sources make the Orientalist assumption that prior to FitzGerald's translation, Khayyām was not significantly recognized or appreciated highly dubitable. Equally challenging that assumption is the still widespread presence of oral traditions of Khayyāmesque quatrains. In the Persian and Arabic primary sources (e.g., Nizāmi 'Arūdi's *Chahār maqālah* or al-Qiftī's *Akhbār al-hukamā'*) Khayyām is widely reported in association with quite a number of his prominent potential contemporaries. Ibn Sīnā (Avicenna, d. 1036), Abū Ḥāmid al-Ghazālī (d. 1111), Ḥasan al-Šabbāh (d. 1124), and Nizām al-Mulk (d. 1092) are among historical characters associated, in fiction or in fact, with 'Umar Khayyām. Whether identified as a philosopher, mathematician, astronomer, or poet, Khayyām was widely known, loved, and respected by his contemporaries. This wide contemporary recognition is crucial to an understanding of the centrality of 'Umar Khayyām in the Persian literary imagination.

'Umar Khayyām's poems, marked principally by a frightful recognition of the fragile beauty of life, reject all intermediaries of human existential understanding. In these quatrains Khayyām confronts and celebrates reality—always with a fearful embracement that trembles with life and anxiety—without a moment of neglectful blinking. Khayyām's quatrains are as compelling, simple, and unadumbrated:

Here with a Loaf of Bread beneath the Bough,
A Flask of Wine, a Book of Verse—and Thou
Beside me singing in the Wilderness—
And Wilderness is Paradise enow.

as they are matter-of-factly subversive of all the metaphysics of the sacred:

You are a compound of the elements four,
The seven planets rule your fevered life.
Drink wine, for I have said a thousand times
That you will not return: once gone, you're gone.

In marked contrast to Khayyām's constitutional doubt is Nāṣir-i Khusraw's (AH 394–481/1003–1088 CE) propagational poetry, which he put fully at the disposal of his Ismā'īlī faith. Nāṣir-i Khusraw, as one of the most significant figures in Iranian intellectual history, had a profound effect on Persian poetic imagination. As an Ismā'īlī *dā'i* (propagandist) he put his immense poetic power at the full service of his faith. In such philosophical treatises as *Jāmī al-hikmatayn*, *Zād al-musāfirin*, and *Khwān va ikhwān*, Nāṣir-i Khusraw expounded proto-Neoplatonic ideas in the Persian philosophical tradition. In his *Safar-nāmah* he demonstrated an uncanny capability for critical social observations. But it was chiefly in his poetry that he is observed as a staunch ethicist fully aware, proud even, of his poetic powers. Much of Nāṣir-i Khusraw's poetry is also autobiographical, in the sense that he gives a full and detailed account of his moral and intellectual dilemmas at various stages of his life. Although he ultimately put his poetic gift fully in the service of the Ismā'īlī cause, Nāṣir-i Khusraw leaves a detailed trace of his doubts and uncertainties prior to his conversion to Ismā'īlism. His poetry in fact gives a rather full account of all sectarian, juridical, theological, philosophical, and even interreligious divisions that divided his contemporaries (for a sample of his poetry, see Schimmel, 1993).

By the end of the thirteenth century, classical Persian poetry reached its zenith. 'Abd al-Rahmān Jāmī is universally recognized as the last master practitioner of the classical style of practically all genres, with the exception of the epic (for a sample of his poetry, see Jāmī, 1956). During the Ṣafavid period, Shiism functioned as the operative state ideology, and as a result the royal patronage of poetry considerably declined. Persian poetic imagination flourished in India and at the Mughal (1568–1858) court. Not until the middle of the eighteenth century did the Persian literary imagination take partial advantage of the Ṣafavid demise and begin to reassert itself. With the decline of the Ṣafavid in the mid-eighteenth century and the rise of the intervening dynasties of the Afshārs (1736–1795) and the Zands (1750–1794), the Shī'ī ideological grip began to loosen. Nādir Shāh Afshār (r. 1736–1747), in particular, weakened Shiism considerably when he contemplated its ef-

fective doctrinal elimination by reducing it to the fifth school of Islamic law (see Arjomand, 1984). The so-called Literary Revival (*Bāzgasht-i Adabī*) in the eighteenth century, and the relative prominence that such poets as Hātif-i Isfahānī (d. 1783) found in that movement, was a substantial response to the decline of Persian literature in the sixteenth and seventeenth centuries. This revival, however, could not and did not do much to put the Persian literary imagination on a new plane. Age-old imageries and sensibilities began to be resuscitated in the service of new dynasties. The Qājārs (1796–1925) succeeded the Zands as the penultimate variation on the theme of Persian monarchy. With very few exceptions, Qājār monarchs were deeply corrupt despots, overpowering against their own defenseless subjects, weaklings and servile in front of their powerful external adversaries. The so-called literary revival could only serve outdated and repleted imageries full of empty praises for deeply corrupt kings. Even the spontaneous zeal of the Bābī movement, led by Sayyid ‘Alī Muhammad Shīrāzī (d. 1849), which produced a brilliant poet in one of its radical exponents, Tāhirah Qurrat al-‘Ayn (d. 1851), could not for long save Persian poetic imagination from futile redundancy. What Persian literature needed, and received, were two major political and poetic revolutions.

The Constitutional Revolution of 1906–1911 was the festive birth of Iran as a nation of self-conscious citizens mobilized to define their inalienable rights. The Constitutional poetry in particular became the tumultuous birth channel of the dominant ideas of nation and nationalization (see Aryānpūr, 1978). The occasion of the Constitutional Revolution, in which the absolutist monarchy of the Qājārs was forced to accept the central political authority of a national assembly (*majlis*), gave full, colorful, and enduring expressions to hopes, fears, and aspirations of a nation in the making. In the hands of these revolutionary poets, Persian poetic narratives were recast into the formative mold of a whole new aesthetic self-conception. Persian language in effect was liberated from old and tired repetition of outdated sensibilities. Īraj Mirzā’s (d. 1925) brutal satire, ‘Ārif’s (d. 1933) stunningly beautiful lyricism, Parvīn I’tiṣāmī’s (1907–1941) quiet anger, and Farrukhī Yazdi’s (d. 1939) radical socialism gave fresh and invigorating blood to Persian poetry.

The revolutionary effervescent created by the poetry of the Constitutional period continued well into the 1920s and 1930s. But the political momentum that the

revolution had given to the Persian poetic imagination was not internal and strong enough to shed the shackles of tired, old formalities forever. Toward that end a revolution was needed from within the poetic imagination itself, a radical rethinking of the poetic act that would match the revolution without.

If the poetry of the Constitutional Revolution of 1906–1911 gave birth to the Iranian “nation,” the Nīmaic revolution in Persian poetics was commensurate with the birth of the Persian “individual.” Nīmā Yūshīj (1897–1960), the indisputable founding father of “New” Persian poetic imagination (*shi’r-i naw*), gave full theoretical and poetic expression to a whole new universe of creative imagination in Persian poetry. There is no historical comparison to what Nīmā did in Persian poetics in the millennium-old history of Persian poetry. Through a sustained theoretical and practical rethinking of the very act of poetic imagination, Nīmā revolutionized Persian poetry to the marrow of its bones and opened a vast spectrum of creative reconception of poetic being. Against tremendous odds, antagonized by generations of hostile and mediocre contemporaries, Nīmā singlehandedly made a monumental case for a radical rethinking in the very constitutional configuration of sensibilities that make a particular narrative “poetic.”

Nīmā radically questioned the very validity of all hegemonic prosodies and persuasively argued for what he considered the innate, “natural” musicality of the poetic narrative itself as it emerges from the creative imagination of the poet. Nīmā argued that the hegemonic dictation of no extrapoetic prosody should hamper that innate force and presence of the poetic narrative. Futile attempts have been made to trace the aesthetic origins of the Nīmaic revolution to vague and conventional references to “The West.” The fact, however, is that in his major theoretical manifesto, *Arzish-i ihsāsat dar zindagi-yi hunarmand* (The Significances of Sensibilities in the Life of [an] Artist), Nīmā makes as many references to Russian, French, and German poets and theorists as he does to classical Persian and Arab prosodists. His argument, theoretical as indeed the very reading of his poetic narrative, is *sui generis*. Undoubtedly Nīmā’s knowledge of his contemporary Russian and French poetics was as much a part of his radical rethinking of the Persian poetics as his knowledge of his own classical heritage. But no amount of historical or geographical genealogy or archeology can account for the unprecedented individuality of his poetic revolution. Nīmā

changed the landscape and the topology of Persian poetic imagination, the very terms and thrusts of its worldly engagements.

Nimā had to suffer the consequences of his poetic genius. With few but crucial exceptions, his contemporaries had no taste or patience for his radical reconfiguration of Persian poetics. Powerful and influential neoclassicists vehemently opposed him. But a group of young but extremely talented poets picked up where he had left off. Chief among these young followers is Ahmad Shāmlū (b. 1925), who pushed the Nimaic poetics to even fresher, physically more tangible, edges. The radical physicality of Shāmlū's poetry, and ultimately his unbelievably daring experimentations with the full potentialities of Persian language, his poetico-politics, gave a supremely elegant twist to every possibility of poetic materialism available in Persian. In his hand, and through the effervescent force of his creative imagination, Persian poetic drive was pushed to exhilarating edges of radical narrativity. In his poetry, all extrapoetic realities dissolve and rise obediently to meet the poetic.

Another major voice in the Nimaic movement was the most eloquent feminine voice in the entire history of Persian poetry: Furūgh Farrukhzād (1935–1967). No woman had hitherto dared to subvert so much so publicly in such a short span of time. Furūgh's decidedly feminine voice settled a millennium-old account of suffocating silence imposed on the Iranian woman in her relentlessly patriarchal society. Furūgh's naked, exquisite, beautiful, and daring subversion of Persian cultural taboos was so radical that it would take generations of her readers to map out the range of physical sensibilities with which she dared to experiment (see Hillmann, 1987).

Mahdī Akhavān-i Şālis (1928–1990) was yet another forceful poetic voice that successfully and convincingly combined the best and the most eloquent potentialities of the Khurasani poetic tradition with an unflinching political commitment to radical reutilization of the Persian poetic. The result was a nuanced and barely noticeable balance between a poetic narrative that had nothing but its own story to tell and a relentless engagement with the political. Akhavān's poetry is a nostalgic reading of a glorious past that may or may not have been there and yet was narratively put there to make the present read a particularly powerful song. His poetry then became the conscience of a whole generation of poetic politics: a poetry that took zest and momentum from life, a politics that was embedded in the humanizing force of poetry.

In the same category of the master lyricists of the "New" Persian poetic imagination is Suhrāb Sipihrī (1928–1980), who gave momentous, elegant, and stunningly beautiful expression to a radical physicality in his poetry. A painter-poet, Sipihrī utilized almost identical strokes of simple, articulate, and deceptively naive staccatos to create sheer astonishment at the awesome physicality of the mere act of living, of the forceful, absolutist, conception of existence.

In many respects a follower of Akhavān in poetic diction and sentiment is Ismā'īl Khū'i (b. 1938) who, from an early romantic beginning, grew to fruition in the post-Islamic Revolution period as a poet of massive rhetorical skills put squarely in the service of a severe, almost debilitating, anticlerical sentiment. Khū'i's poetry in the 1980s emerged as the most articulate voice of Iranian diaspora in total disillusion with the consequences of the Islamic Revolution in Iran (1978–1980).

Two unusually gifted poets—Ahmad Rizā Ahmadi (b. 1940) and Manūchihr Yaktā'i (b. 1921)—took the Nimaic revolution in poetic narrative to yet another direction. Fuller experimentations with the aesthetic possibilities of the poetic narrative became paramount in Ahmadi's poetry. Having lived most of his adult life in New York, Manūchihr Yaktā'i, yet another painter-poet in the Nimaic tradition, has been in a state of almost obsession with narrative experimentation. Coming to him from a distance, as it were, has made the poetic narrative of Nimā something of a linguistic fable for Yaktā'i, folding and unfolding itself in self-descriptive directions.

Closer to popular taste but with no particularly significant connection to these phenomenal revolutions in Persian poetics were a number of poets, such as Farīdūn Mushītī (b. 1926), Farīdūn Tavallulī (b. 1919), Hushang Ibtihāj (H. I. Sāyah, b. 1927), Simīn Bihbahānī (b. 1927), Nādir Nādirpūr (b. 1929), and Manūchihr Shaybānī (b. 1923). At times virtuoso performers of pictorial and mental imageries, these poets had no particularly powerful connection to their time and space and spoke mostly of outdated and even irrelevant sentimentalities. The effective shock of the Islamic Revolution had a considerable impact on some of these poets—for example, Hushang Ibtihāj and Simīn Bihbahānī—but not to such a degree as to cause a drastic, qualitative change in their poetic diction or the narrative force of their creative imagination.

The Islamic Revolution in Iran subjected Persian poetry to a major political shock. The leading poets of the

early 1970s, whose level and mode of discourse was established by the political-poetic power of Ahmad Shāmlū, fully participated in the course of the revolution so far as they thought it a monumental, secular event. In the wake of the revolution, Shāmlū moved to London and published *Irānshahr*, a journal that took full political and intellectual account of the event. After the success of the revolution and the commencement of its Islamization, Shāmlū moved back to Iran and started a new journal, *Jum'ah*, to which the leading secular intellectuals contributed.

With the successful Islamization of the revolution, Persian poetic imagination went into a major period of hiatus characterized by effective neoclassical Islamization (characterized by Tāhirah Ṣaffārzādah), silent secular commitment (represented by Ahmad Shāmlū), and radical exilic defiance (best voiced in the most recent poems of Ismā'il Khū'i).

In the meantime, a new generation of Iranian poets are coming of age and fruition—some inside Iran, others in exile. This generation is too young to remember with any degree of intensity the particular package of sensibility carried for long by the no longer so “New” poetry. The rising spirit that informs and animates this generation is bilingual to the soul of its apparition.

Modern Persian fiction received its greatest narrative and aesthetic impetus from Muḥammad ‘Ali Jamālzādah (b. 1892) and Sādiq Hidāyat (1903–1951). With such works as *Yakī būd*, *Yakī nabūd*, and *Sar-va tāh yik karbās*, Jamālzādah successfully brought earlier attempts at a simplified prose to an effective and promising conclusion. He built on decades of revolutionary, simplified prose from the Constitutional period and rescued the suffocating Persian prose from the shallow formalism of the Qājār period. While Jamālzādah’s simple, effective, colorful colloquialism provided ample opportunity for Persian prose to cultivate expressions of diverse social types and groupings, Hedayat took that prose and drove it into the darkest and most unexplored corners of Iranian communal and individual sensibilities. Hidāyat’s *The Blind Owl* is the first and the most successful attempt to reach for and achieve a literary narrative in frightful tune with irreducible (at times even ahistorical) anxieties of being. Publication of *The Blind Owl* in the early 1940s was followed by other novellas and short stories, chief among them *Hājjī āqā* (1945). Although many prominent writers—for example, Buzurg ‘Alavī (b. 1904), Sādiq Chūbak (b. 1916), Maḥmūd I‘timādzādah (b. 1915), and Jalāl Āl-i Ahmad (1923–1969)—fol-

lowed Hidāyat’s socially conscious fiction, no other author matched, let alone surpassed, him in his existential insights in *The Blind Owl*. The only exception to this assertion is perhaps the brilliant achievements of Ibrāhīm Gulistān (b. 1922), who took up and developed a particularly compelling aspect of Hidāyat’s legacy, namely, an unwavering penchant for the primacy of the aesthetic narrative. In such brilliant staccatos as “Az rūzgār-i raftah ḥikāyat” and “Jūi va dīvār-i tishnah,” Gulistān created and sustained flawless sketches of a descriptive self-signification that always surpassed the traces of its own acts of significations. What exactly these highly stylized, flawlessly crafted, descriptions “meant” or “signified” almost fades under the dazzling brilliance of the aesthetic act of narrativity itself.

Standing exactly at the opposite side of Gulistān is Āl-i Ahmad, who took Hidāyat’s social realism and carried it to thinly fictionalized political manifestos. Infinitely more effective as an essayist and an engagé intellectual, Āl-i Ahmad’s perhaps most successful fiction was *Nūn va al-qalam* (translated as *By the Pen*), in which he borrowed from traditional narratives to depict a revolutionary society in the wake of a popular uprising.

In the same generation, and somewhere between Gulistān’s aesthetic narrativity and Āl-i Ahmad’s excessive realism, is Sādiq Chūbak, one of the most prolific writers. In such works as *Tanqsīr* and *Antarī kih lūtiash mur-dah būd*, Chūbak paid critical attention to the narrative realism of his art. Having been born and bred in southern Iran, Chūbak was chiefly responsible for introducing a whole new repertoire of southern sensibilities to modernist Persian fiction, a trend that was then successfully pursued by Maḥmūd in such works as *Hamsāyah hā* and *Zā'iñ dar zīr-i bārān*.

The more aesthetically serious work that commenced with Hidāyat and continued with Gulistān was subsequently picked up by perhaps the most brilliant contemporary writer, Hushang Gulshīrī (b. 1938). Gulshīrī’s *Prince Iḥtijāb* reads in the same vein as Hidāyat’s *The Blind Owl* and Gulistān’s “Az rūzgār-i raftah ḥikāyat.” Manipulating the tormented consciousness of a Qājār prince, Gulshīrī masterfully re-creates in *Prince Iḥtijāb* the social and psychological malaise of a whole cycle of corruption and decay. Love and loyalty, power and seduction, corruption and decay, are the undercurrents of a narrative labyrinth that weaves its own story around itself.

Sīmīn Dānishvar (b. 1921), Shahrnūsh Pārsipūr (b. 1946), Munīrū Ravānīpūr, and Maḥshīd Amīrshāhī (b.

1940) are the four leading women writers who have contributed massively to a strong, pronounced, and articulate feminine consciousness in modern Persian fiction (for a detailed study, see Milani, 1992). Dānishvar's *Savāshun* became the most widely read fiction in the entire history of the genre. Shahrnūsh Pārsipūr's *Tūbā' va ma'na-yi shab* and *Zanān bi-dun-i Mardān* explored deeply into the labyrinth of a feminine consciousness in history and politics. Ravānipūr's *Ahl-i Gharg* opened a whole new vista of southern mythical sensibilities in Persian fiction. In this respect, Ravānipūr's fiction sided itself with a tradition that claimed Šādiq Chūbak and Ahmad Mahmūd among its founding members. Amīrshāhi's *Dar Hāzār* became a sensitive chronicle of a deep frustration with the religious and antisecular turns that the Iranian Revolution of 1979 took.

Publication of Mahmūd Dawlatābādī's ten-volume epic *Klidar* in the late 1970s must be considered a major event in the history of Persian fiction. Centered around a fictionalized version of a local hero in Khurasan, *Klidar* is a majestic narrative of legendary proportions. Dawlatābādī constructs a full-bodied epic in which love and adventure, atrocity and nobility are woven together and led toward a uniquely ennobling tragedy.

From such local traditions as romance literature, *shāhnāmah-khvāni*, *ta'ziyah*, *rū-hawzī*, *siyāh-bāzī*, *khayāl-bāzī*, *'arīsak bāzī*, and *khaymah shāh bāzī*, in conjunction with widespread exposure to other theatrical traditions in the Arab world, India, Central Asia, China, Turkey, and eastern and western Europe, a thriving Persian drama emerged in the middle of the nineteenth century. In the wake of the Constitutional Revolution of 1906–1911, drama took center stage in the Persian creative imagination. Mīrzā Fath 'Ali Akhundzādah (1812–1878) and Mīrzā Malkom Khān (d. 1908) were the forerunners of social realism and political satire in Persian drama. Translations from Russian, French, and English plays increased dramatically after World War II; and such talented actors as 'Abd al-Husayn Nūshīn gave institutional recognition to the genre. But a major culmination of Persian drama is to be seen in the 1960s and 1970s, when leading playwrights such as Ghulām Husayn Sā'idi (1935–1985) ("Gawhar-i Murād" was his nom de plume), Akbar Rādī, Bahrām Bayzā'i (b. 1938), and 'Abbās Na'lbandiyān, among many others, took full advantage of drama to address prevailing social and political issues. Sā'idi, in particular, explored the deepest corners of anxiety (he was a trained psychologist) in local characters and cultures beyond the reach of

Tehran-based café intellectuals. Bahrām Bayzā'i very soon linked his interest in theater to a brilliant directorial career in cinema and created a whole spectrum of dramatic and visual sensibilities entirely his own. Another playwright/director of considerable talent is Parvīz Ṣayyād (b. 1937), who successfully bridged a widening gap between premodern and modern, as well as between popular and avant-garde art (see Dabashi, 1992).

The Iranian Revolution of 1979 and its immediate Islamization by the victorious faction introduced the combined forces of a triple imperative in the Persian literary imagination: the first formed by those who opted for an exilic life over the militant censorship of a theocracy; and the second shaped by those who ideologically, or as a matter of principle, chose not to oppose the political formation of a theocracy; and the third grouped by those secular intellectuals who preferred to stay inside Iran. Ismā'il Khū'i and Ghulām Husayn Sā'idi are prime examples of Iranian literati who left their country and chose the bitter tongue of expatriate intellectuals. Tāhirah Ṣaffārzdāh and Shams Āl-i Ahmad (the brother of Jalāl Āl-i Ahmad) are among those members of the literati who wholeheartedly celebrated the Islamic Revolution, remained in Iran, and continued to be productive in the new political environment. But not all who have remained inside Iran advocate or even accept the radical Islamization of the literary imagination. Ahmad Shāmlu, Ahmad Rizā Ahmādī, Hushang Gulshīrī, Mahmūd Dawlatābādī, Sīmīn Dānishvar, Shahrnūsh Pārsipūr, and Bahrām Bayzā'i, among scores of other poets, novelists, playwrights, and filmmakers, continue to produce in active or tacit celebration of an autonomous creative imagination. In the meantime, the younger generation of poets, novelists, dramatists, and critics are charting their own separate ways into the future. Inside Iran the radical implications of an Islamic revolution have stirred up the deepest emotions and anxieties. A flood of literary and visual outputs marks the younger generation's creative response to a groundbreaking revolution, to unfathomable sacrifices during the eight-year war with Iraq (1980–1988), and to the continued anxieties of a collective imagination still not at peace with itself. Iranians live in exile in all parts of the world, and whatever the language of their host-culture, they try to teach their children Persian, and these children are growing up to express the particular configuration of their history and identity in Persian and in the language of their adopted culture. Young poets, such as Ru'yā Hakkākiyān, 'Alī Zarrīn, and Ramin

Aḥmadī (all outside their homeland) and Qāsim Ahanīn-Jān, Aḥmad ‘Alī-pūr, Mihrī Murādī, Bīzhan Jalālī, Zuhrah Khāliqī, and ‘Alī Mu’minī, among scores of others (all inside Iran), are the emerging signs, the dancing rays of a rising sun, whose full, shimmering proportion and colorful disposition, its nature and orientation, are not yet in full view.

[See also Devotional Poetry; Iran.]

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HAMID DABASHI

PESANTREN. A type of school in Southeast Asia offering second-level training in Islamic subjects is termed *pesantren* on Java, *surau* on Sumatra, *pondok* on the Malay Peninsula, and *pandita* ("school") in the Philippines. *Pesantren* derives from the sixteenth century, when learning centers known as the "place of learning for the Islamic faithful (*santris*)" were established. *Surau* was a place for worship in early Southeast Asia, while *pondok* derives from the travelers' inns (Ar., *funduq*) of the Middle East. *Pandita* was the local term for a holy man in the Philippines.

By the seventeenth century the *pesantren* on Java had become alternate centers of authority to the princely courts. The courts stressed elaborate lifestyles based on Old Javanese values of refinement, while the *pesantren*



51. Nâ'ilî

d. 1666

We are the snake hidden in the staff
in the hand of Moses
Don't believe we are the snake, we are the ant
crushed beneath the foot

Even if we are reflected in the mirror
before the face of intellect
It cannot see us, we are hidden
within its proud gaze

Our place of refuge is in the wild eye
of Mejnûn
We are the charm of beauty, hidden
in the cheek of Leylâ

Even were it diamonds, it would not serve us
as a cure
We are the brand of madness, hidden in the black
center of the heart

Moses couldn't see us on Mount Sinai,
nor in the flaming bush
We are hidden in the shining of God's radiant face
We are the sickness, our health is an addict
of our suffering
We are love, hidden in the secret house
of passion

We are the changing wand in the hand
of the trickster of the turning skies
Every moment we are hidden in a thousand
watching eyes

Oh Nâ'ilî, with our poems we are magicians
of the image
We are visible in our words, but hidden deep
in the heart of meaning

to his hometown of Urfa. There he was to remain for nearly a quarter century, there he would enjoy the patronage of the local governor, and there his two sons would be born and grow into young manhood. For one of them, Ebulhayr Mehmed, he wrote his famous *Hayriyye*, a verse book of advice for young men. The reigns of two sultans passed without recognition by the great poet, but as some of his old friends, among them his former protégé Mehmed Râmî (now a pasha and vizier), rose to high office, he again began sending poems of praise to the capital. In 1710 with his patron, Baltaç Mehmed Pasha, he returned to Istanbul, where he enjoyed both lucrative positions and the respect of a poet community that included such brilliant figures as the young Nedim.

Only two years following his return to Istanbul, the great Nâbî, now recognized as the Sultan of Poets in the Ottoman Empire, died shortly after writing a chronogram (a couplet, hemistich, or phrase in which the numerical values of the letters add up to a specific date) to commemorate his own demise. The year was 1712 and the poet was seventy years old.

Nâ'ilî

Nâ'ilî, whose common name was Mustafâ and who is often referred to as Nâ'ilî the Older to distinguish him from a nineteenth century poet who took the same pen name, is one of the two or three finest poets of the seventeenth century and perhaps the most exciting lyricist of them all. Nonetheless, we know little of his life, because he never attained high office or the patronage of a significant power-holder and so was not of much interest to the recorders of history. He was born in Istanbul sometime around 1608–1611. His father, Pîrî Hâlîfe, was a secretary in the Department of Mines, the bureaucratic office in which Nâ'ilî himself would work for most of his life.

From indications in his poetry it appears that his parents died when he was still rather young and that he lost a beloved brother sometime later. He seems to have had a good education but did not finish the usual full course of study. It also seems that he was an adherent of the Halvetî order of dervishes, although nothing is specifically said of this in the sources. We do know that his poetry is unusual and striking and that it seems to have done him little material good. He submitted sheaves of wonderful poems to all manner of officials, but even the rare support he received soon passed without real consequence. His most recent modern biographer reached the conclusion that he was a nervous, unsympathetic, and

somewhat paranoid person who complained constantly of plots against him—which may have really existed in the highly competitive atmosphere of Istanbul art-politics. In any case, some such plot or Nâ'ilî's own complaining caused the powerful Grand Vizier Köprülûzâde Fâzîl Ahmed Pasha to send him from his lifetime home to exile in the European city of Edirne.

This exile was a great tragedy for the poor poet, and his occasional poetry of the time reflects his agony. Finally, as a result of a *kasîde* to Fâzîl Ahmed Pasha, he was pardoned and allowed to return to Istanbul. Nâ'ilî was overjoyed, and that joy also reflects in his poetry. However, in 1666, within a year of his return, the great poet, who had always been slight and sickly, died while still in his late fifties.

Neshâtî

Neshâtî was from Edirne. He must have been born sometime around the turn of the seventeenth century because in his collected poems we find a verse chronogram that celebrates the terrible winter of 1622 when the Bosphorus was covered with ice. We could assume that Ottoman poets usually begin writing decent poetry (the kind one would include in a *divân*) in their early twenties. His name was Ahmed, and it is said that he first took the pen name Semendî (Of the Roan Horse) and later, *sheyh*, changed it to Neshâtî (the Cheerful).

Details about Neshâtî's life and background are few. He was a dervish, one of the many famous Mevlevî poets. The *sheyh* to whom he was attached was Ağaçâde Mehmed Dede, who served as master of the Mevlevî dervish lodges of Gallipoli and Beshiktash (in Istanbul). Neshâtî apparently began as a disciple in Gallipoli and followed his master to Istanbul. Following Ağaçâde's death in 1652, Neshâtî made his way to Konya, the spiritual center of the Mevlevîs. Sometime later he returned to Istanbul and in 1670 was appointed *sheyh* of the Mevlevî lodge in Edirne. Neshâtî was a Mevlevî poet whose poems creatively reflect the philosophy of Rûmî, but he was also a master poet of the Ottoman tradition. He knew Persian well and in many ways modeled himself on the Indian style (*sebb-i hindî*; see the explanation following poem no. 67) poet Urfî admired Nefî and among his many *kasîdes* are several that contain clear echoes of this admiration.

غزل ۴

Ghazal 4

صوفی بیا که آینه صافیست جام را
تا بنگری صنای می لعل فام را
راز درون پسرده ز نزدان مست برس
کلین حال نیست زاهد عالی مقام را

عنقا شکار کس نشود دام باز چیز
کاینها همیشه باد بستست دام را
در عیش نقد کوش که چون آبغور نماند
آدم بهشت روپنه دارالسلام را

در بنم دور یک دو قدر در کش و برو
یعنی طمع مدار وصال حمام را

ای دل شبیب رفت و نجیدی گلی زعیش
پیرانه سرکن هنری نگ و نام را

ما را بر آستان تو بس حق خدمتست
ای خواجه بازین بترخم غلام را

حافظ مرد جام میست ای صبا برو
وز بنده بندگی برسان شیخ جام را

Sufi, the mirror of the cup is clear. Come,
and see the purity of this ruby wine.

Ask the drunken rends for the veil's secret,
for this state is not for the "highly ranked" ascetic.

The 'angá is no one's prey. Take up your snare,
for here it will find only wind in its grasp.

In life, be content with what you have,
for when the wellspring dried Adam left the garden.

The world and the wine go round. At this banquet
drain a bowl or two and go, that is, don't long for eternal life.
O heart, youth has gone, and you didn't pick life's rose.
In old age make something of your name and reputation.

We who have served you have a claim, here, on your threshold.
O lord, look again, with compassion, on your slave.
Háfi is the disciple of the wine cup. O dawn wind, go,
and take my devotion to the Shaikh of Jám.

لَا إِلَهَ إِلَّا اللَّهُ

خودی کا ستر نہ اس لَا إِلَهَ إِلَّا اللَّهُ
خودی ہے تیغ، فسان لَا إِلَهَ إِلَّا اللَّهُ
یہ دُور اپنے براہمیم کی تلاش میں ہے
صمم کدھ ہے جہان، لَا إِلَهَ إِلَّا اللَّهُ
کیا ہے تو نے متاع عن رور کا سودا
فریب سُود و زیان، لَا إِلَهَ إِلَّا اللَّهُ
یہ مال و دولت دنیا، یہ رشتہ و پوند
بُتان و ہم و کسان، لَا إِلَهَ إِلَّا اللَّهُ
خود چوتی ہے زمان و مکان کی زناری
نہ ہے زمان نہ مکان، لَا إِلَهَ إِلَّا اللَّهُ

یعنی فصل کل ولاہ کا نہیں پاسند
بہار چوکہ خزان، لا الہ الا اللہ
الرچہبٹ ہیں جماعت کی آسمینوں میں
مجھے ہے حنفیم اذان، لا الہ الا اللہ

تن بہ قدر

اسی قرآن میں ہے اب تک جہاں کی تعمیم
جس نے مومن لو بنا یا مہ و پرویں کا ہیسر
”تن بہ تقدیر ہے آج ان کے عسل فانداز
تھی نہماں جن کے ارادوں میں خدا کی تقدیر
تحاجونا خوب بتدیج وہی خوب ہنوا
کہ غلامی میں بدل جاتا ہے قوموں کا ہیسر

Introduction

The Arabian Ode

Traces of an abandoned campsite mark the beginning of the pre-Islamic Arabian ode. They announce the loss of the beloved, the spring rains, and the flowering meadows of an idealized past. Yet they also recall what is lost—both inciting its remembrance and calling it back. To hear this poetry now is to experience a similar transformation: across expanses of time and place, it is a voice at once immediate and profound. The bedouin tribes of pre-Islamic Arabia are said to have held poetry competitions during the annual fair at ‘Ulkáz, near Mecca. The winning poems—seven in all, according to most accounts—were embroidered in gold on rare Egyptian cloth and suspended from the ancient shrine in Mecca known as the Ka‘ba. The story has been dismissed by some as an attempt to explain the puzzling name of Arabia’s most famous poetry collection, the *Mu‘allaqát* (suspended ones).¹ Yet the Legend of the Hanging Odes may offer a deeper message as a sign of cultural self-understanding. The image of the seven odes suspended from Arabia’s most sacred shrine, a shrine that has since become the ritual center of Arabic culture and of the multicultural world of Islam, mirrors the generative role within the Arabic-speaking world of the *Nu‘allaqat* and a large number of equally great poems.

Although it had labeled pre-Islamic Arabia “the *Jahiliyya*” (period or place of moral ignorance), Islam never abandoned the poetic heritage of that era. In the first four centuries after the founding of the new religion in 622 C.E., in cities such as Basra, Kufa, Baghdad, and Aleppo, Muslim scholars collected and preserved the oral poetic tradition of Arabia, integrating it into written culture and into the new Islamic religious sensibility. From that time the deeper patterns of the ode—if not always its formal structure—have continued to inform the Arabic literary tradition and to influence non-Arabic literatures within the world of Islam.

The origin, authorship, and transmission of this poetry, so finely developed by the time of its recording, remain a mystery. Tradition suggests that the poetry was composed by individual authors, to whom it ascribes names and biographies, and then memorized and transmitted word for word by *rāwīs* (rhapsodes) endowed with prodigious memories.² More recently some have suggested, following the oral-performance

model developed by Homeric scholars, that the roles of the poet and *rāwi* were intertwined: the *rāwi* did not memorize precomposed poems, but, after mastering thematic, lexical, and metrical possibilities, would compose the poem in the act of performing it.¹

Another largely oral tradition, jazz, may offer an analogy. A song evolves with each performance. The artist learns its basic contours and then, building upon a rigorous apprenticeship in the expectations and possibilities of the tradition, performs it. The richest layering of tradition combines with the most striking spontaneity. Whether composed in the act of performance or precomposed before performance, or through some combination of the two, the early Arabian poem was not—or not only—memorized. It was remembered, recalled from out of a common sensibility and a common cultural gestalt.

The *ode* (*qasida*) is a poem seldom longer than 120 lines, composed in one of several possible meters, with a single end rhyme that remains the same throughout the poem. Its most distinctive feature is its division into three major thematic movements: the *nasib* or remembrance of the beloved, the journey, and the boast.

The *qasida* opens onto the abandoned campsite—traces in the sand from rain trenches and tent pegs, blackened hearthstones, ruins (*atīl*) left by the beloved's tribe. The traces are silent. Yet they invoke. As the poet stands before them the tension of this silent invocation demands release. This is the site and wellspring of the poem.

Remembrance takes a variety of forms: torrent beds paradoxically more apparent the more they are worn down; the absent beloved's night apparition (*tayf*) before the sleepless poet; the recounting of her shifting moods and affections (*ahwāl*); remembrance of her departure with the women of her tribe in their richly embroidered camel litters or howdahs; the recounting of the stations (*maqāmāt*) of her journey away from the poet; the black wing of the crow or the sorrowful moaning of the dove; the hoariness of a poet who looks back upon a lost youth. These and other themes and subthemes recur from poem to poem, with a measured, almost ritual solemnity. Yet in each poem they acquire a new configuration according to a subtle and always newly discovered logic of sorrow.

Each new realization of loss generates a new poem, with its own circumstances, undertones, personality.

What presents itself as a description of the beloved is something very different. The simile dissembles. What occurs is not so much description as it is metamorphosis. Whenever we think we have the image pinned down, it changes. The beloved's mouth might be compared to wine as fresh as a cold stream, her grace to that of a gazelle, her eyes to the

eyes of a white oryx. In apparent digression the poetic voice outruns any descriptive point through the indefinite extension of the simile or through chains of similes. The images evoked—spring rains, flowing streams, flowering meadows, desert animals birthing or nursing in poses of idyllic tranquillity—are parts of a recalled wholeness. Within the dissembling simile and at odds with its explicit intent—as if the poetic voice were pulled along against its will—the archetype is re-collected, re-membered: beloved as lost garden or spring meadow.

Look again and there is no garden, only a deserted campsite. The companions, mentioned as present with the poet when the campsite was recognized as the beloved's, are gone. The poet who in the *nasib* meditated on what he had lost, is now himself lost, beyond the margins of human community. He embarks on a journey marked by the perishing of locusts in the midday heat, the death call of the owl by night, the wasting away of the camel, the disequilibrium and terror of the mirage. As night falls, the rider's own image—the last human form—is enveloped by darkness.

The journey account can be displaced by the depiction of the rider's mount, the camel mare (*nāqa*). The *nāqa* can be displaced in turn by episodes involving other desert animals: the Arabian white oryx, an exquisitely graceful antelope with long, straight, cylindrical horns; the wild ass or onager, a cousin of the zebra; and the ostrich. These animals are introduced through similes likening the *nāqa* to them, but again the simile dissembles. The continued extension of the simile opens onto an independent animal episode, onto a semantic and symbolic field that stretches far beyond any descriptive similarity. The associations of the oryx (beauty, grace, fragility, giving birth, the beloved) are in fact precise opposites of those of the *nāqa* (strength, a quasi-elemental endurance, wasting away, tied udders, the self of the poet). Even as the simile proclaims the *nāqa* to be like the oryx, it extends in apparent digression into an independent vignette, revealing a more profound set of associative polarities.

The animals are called not by name, but by epithet: “red-legged clump-wing” for the ostrich, for example, or “sheen-of-udder,” “wide-of-eyes,” “wild one,” “flat-nosed one,” for the oryx. The more central its symbolic associations, the more epithets an animal will have.² Unlike the English and Homeric variety (rosy-fingered dawn, wine-dark sea), the Arabic epithet has no noun. It resembles English nomenclature for birds (red-breasted nuthatch), or horses (bay, chestnut), but for each animal there are hundreds of such terms. The animal is not so much described as it is performed. A generic term like oryx and a named object of description are replaced with an almost limitless possibility of meta-

phorical and metonymic marks, opening the figure onto a deeply textured world of semantic and symbolic play.

When the oryx doe is surrounded by hunters, we know she will escape. In an ostrich tableau, we can expect to find the male ostrich running back to the nest. These vignettes and metaphors and similes must have been honed and selected over generations according to the bedouin aesthetic and the subtle poetic logic of the ode. They take on a totemic solidity. Yet in suppleness of allusion and in the continual expansion and deepening of epithetic and symbolic association they achieve a remarkable sense of freedom.

The transition from the journey to the ode's final movement, the boast, often takes the form of a wine song. The wine and the song of the singing girl (*qāyina*), consolations for the loss of the beloved, contain a paradox common to many traditions: the more the poet drinks, the more he proclaims how well he has forgotten the beloved, and the more he proclaims, the more he belies his proclamation. This bacchic antinomy is at the heart of the ode as a whole. However much the *wasib* may now be left behind, remembrance of the beloved haunts the poem, guiding and controlling the poetic voice.

The dramatic center of the boast is the *náqa* sacrifice. The poet-hero slaughters his camel mare and distributes the meat through a ritual lottery (the *máisir*) played with arrow shafts. The *náqa*'s association with the self of the poet is made explicit in the practice, mentioned in the boast, of the tying of his riding camel to the grave of the fallen hero. This connection as well as the symbolic importance of the *náqa* to the preceding journey section charge the sacrifice. In the ode of Labid, the sacrifice marks the point at which the individual heroic boast of the poet merges with the tribal voice, the poem ending with a kind of tribal chant. In the ode of Tárafa the sacrifice goes wrong, ending with the poet's community split and his psyche split into mutually recriminating sides, one blaming, the other enraged, casting off the blame.⁶ In the Ode of the *sūfiyuk* (brigand-poet) Shánfara, the sacrifice occurs only in a metaphor, when the brigand-poet, cut off from all community, sees himself as the hamstrung *náqa* carved up by the personifications of his many crimes. The long war of Basús, subject of many odes, was begun by the sacrilegious killing of a *náqa*. The *náqa* sacrifice is a ritual and poetic performance, sign and prediction of the precarious balance of the community and the vitality of its bonds.

Within the heroic battle-boast as an affirmation of human struggle is a meditation upon fate and the absurdity of the human condition. Two warring opponents or tribes exchange boasts and taunts. Yet within this personalized antagonism lies the suspicion that there is nothing

personal at all about an encounter guided and predetermined by the hands of fate—fate as time (*dahr*) that changes and wears down all things, and fate as allotted death (*māniyya*). As the battle-boast intensifies, the hierarchies of tribal society and the sense of self-identity that the boast is upholding begin to unravel from within. The moment of death in battle unmasks the truth that the poet-hero and his enemy, kin and non-kin, self and other, father and son, can no longer be distinguished. The warrior looks into the death grin of his antagonist and sees his own reflection.

The tripartite movement of the qasida, from *wasib* through journey to the boast, bears a remarkable resemblance to models of the quest theme in folk tale and myth. One model divides the basic mythopoetic paradigm of Western literature into three acts: an initial Edenlike condition of blissfulness that exists only as a memory; the home-leaving or expulsion of the hero and his subsequent journey; re-creation or homecoming, a return not to the original blissful lack of conflict, but to a less ideal society transformed and criticized by the culture hero's own will, act, or sacrifice.⁷ This pattern, so astonishingly similar to the tripartite pattern of the qasida, was developed by an author apparently unfamiliar with pre-Islamic poetry. More recently, a close reading of several key odes has demonstrated with philological and critical precision the parallels between the qasida and the tripartite pattern of the rite of passage: initial phase of separation; a liminal phase in which the "passenger" moves beyond the margins of human community and societal restraint; and a final reaggregation into a new, more mature social role.⁸

Though the qasida is based upon an archetypal pattern with universal resonances, it achieves a distinctive mythopoetic intensity in the modulation of that pattern through its own subtle and fluid conception of the sacred. Yet perhaps the most distinctive feature of this poetry is to be found in its poetics of thematic interpermeation, the functioning of a term, epithet, image, or vignette as a matrix for associations from other, thematically distinct sections. A simple example is Shánfara's companion of the twanging of his bow to the wailing of a grief-stricken woman. This apparently descriptive simile calls up the major *topos* of death elegy, evoking themes of community and mourning at odds with the *súfiyuk* boast's explicit thematic and rhetorical intent. Within the linear and irreversible progression through the major themes of the ode, other themes, movements, and moods are evoked as subtexts, counter-texts, and intertexts.

In its range of mood and mode (elegiac, lyric, bacchic, satirical, heroic, tragic, comic) and in its foundational role in subsequent literature, the

qasida in Arabic civilization would be equivalent to the full variety of classical Greek literary genres subsumed into one comprehensive genre.⁶ Yet it has been given less attention in the West than later, less central works, such as the *Arabian Nights* cycle. From the perspective of our "histories of civilization," rooted in the equation of civilization with the *civitas* or city, it has seemed inconceivable that a few tribes of camel-breeding bedouin, largely illiterate, largely ignored by the surrounding civilizations of Rome, Persia, and Ethiopia-Yemen, would over the space of unrecorded generations, or centuries, create one of the masterworks of world literature, a highly articulate, metrically and semantically intricate, fully achieved poetic form that was to serve as the basis for the classical Arabic language, and as a foundation of one of humankind's major civilizations. This fact left in disbelief a century of Arabist and Islamicist scholarship, a disbelief only recently giving way to appreciative wonder.⁷

A further complication is the qasida's ambivalent place within Islam. The Qur'an appropriated many of the central values of pre-Islamic poetry. The role of the *karim* (the generous one) in the qasida, for example, is reflected by its similarly central role in the Qur'an, though its heroic and poetic context has been transformed. Despite such continuities, and despite the central influence of the qasida on many areas of Islamic literature, the qasida world is in tension, a creative tension, but no less a tension, with Islam. Upon arrival at the Ka'ba, the pilgrim finds the walls hung with tapestries of rare Egyptian cloth inscribed in gold. What appears there is not poetry, however, but passages from the Qur'an.

Here are six of the odes, in full, selected with a view toward both poetic quality and balanced representation of the tradition.⁸ I have not imitated the complex meter and rhyme of the original, but have used cadence, as modulated through the line breaks, to re-create the original rhythmic texture formed by the play of syntax across the meter. The goal is a rendition of the poem in a natural, idiomatic, and contemporary American verse. On the other hand, I have kept some key features, such as the relatively independent nature of each verse and the complex epithets, even where such features may be initially confusing or strange. Experiments with giving them up have proven to me their centrality. Place names carry a high semantic charge. Where their imagistic associations are striking, as in the case of the stations of the beloved's departure, I have translated them (Twin Mountain, Marblehead). Where such feature translation would be distracting or where the original feature meaning is less apparent, I have used the Arabic names (Minan,

Rukhám, Fayd, Tilkhám). The translator walks a fine line. The new poem should not be too alien to be appreciated, but it must retain enough of the distinctive character of the original to provide a true encounter. During the ten years spent on translating these poems, I consistently found that when a verse failed to come alive in English, I had not grasped its meaning as well as I had thought—an experience that has shown me most vividly the multilayered depth and complexity of early Arabic poetry.

This is the voice of a distant, bedouin world. Yet the poetry itself has much about it that appeals to our time: sharpness of image, symbolic depth, subtlety and suppleness of allusion, honesty in encounter with the human condition, and unsentimental expression of feeling. And for all its distance from us, we encounter this poetry with a remarkable immediacy. Through the transmutations of poetry, these remembrances of the beloved, these journeys, these battles are recognized to be our own.

1. See Reynold Nicholson, *A Literary History of the Arabs* (Cambridge: Cambridge Univ. Press, 1956), pp. 101–102, and "The Mu'allaqāt Problem" by Abdulla el-Tayib, an appendix to his "Pre-Islamic Poetry," *Cambridge History of Arabic Literature*, vol. 1 (Cambridge: Cambridge Univ. Press, 1983), pp. 111–113.

2. The view that the poetry is a forgery of the Islamic period has not gained much acceptance. See D. Margoliouth, "Origins of Arabic Poetry," *Journal of the Royal Asiatic Society* (1925): 417–419, where the forgery theory is propounded with abuse, typical of his time, of Arabic culture as a whole, and Taha Husayn, *Fi l-addab al-jālibī [On Jālibī Literature]* (Cairo: Dār al-Ma'rif, n.d.).

3. See J. Monroe, "Oral Composition in Pre-Islamic Poetry," *Journal of Arabic Literature* 3 (1972): 1–53; M. Zwettler, *The Oral Tradition of Classical Arabic Poetry* (Columbus: Ohio State Univ. Press, 1978).

4. See J. Stetkevych, "Name and Epithet: The Philology and Semiotics of Animal Nomenclature in Early Arabic Poetry," *Journal of Near Eastern Studies* 45:2 (1986): 89–124; and Th. E. Homerin, "Echoes of a Thirsty Owl: Death and Afterlife in Pre-Islamic Arabic Poetry," *Journal of Near Eastern Studies* 44:3 (1985): 165–185.

5. See M. Sells, "The Mu'allaqāt of Tarafa," *Journal of Arabic Literature* 17 (1986): 21–33. For reasons of space I have not been able to include the Mu'allaqāt of Tarafa in this present volume.

6. Harry Slochower, *Mythopoeis: Mythic Patterns in the Literary Classics* (Detroit: Wayne State Univ. Press, 1970), pp. 22–24.

7. See S. Stetkevych, "Structuralist Interpretations of Pre-Islamic Poetry: Critique and New Directions," *Journal of Near Eastern Studies* 42:2 (1983): 85–107; "The Su'lūk and His Poem: A Paradigm of Passage Manqué," *Journal of the American Oriental Society* 104:4 (1984): 661–668.

8. Whether these various movements existed as independent genres before the development of the qasida has long been a matter of speculation.

⁹. See J. Stetkevych, "Arabic Poetry and Assorted Poetics," *Islamic Studies: A Tradition and Its Problems* (Malibu, CA: Undena Pub., 1980), pp. 103–123; and M. Sells, "The Qasida and the West: Self-Reflective Stereotype and Critical Encounter," *Al-'Arabiyya* 20 (1987), pp. 307–357.

¹⁰. These six odes are only a sample of the heritage of pre-Islamic poetry. I have not included the much translated *Mu'allqa of Imru' al-Qays*: see the version of Basima Bezigian and Elizabeth Fernea in J. Berque, *Cultural Expressions in Arab Society Today* (Austin: University of Texas Press, 1978). In the translations and introductions I have rendered Arabic words with an English qualitative accent, saving for the notes the more formal transliteration. The introductions are meant to serve several purposes, from introduction of key terms and conventions to critical reevaluation of the poems. Some may find it preferable to read the poem first, then the introduction, before returning to the poem. Sources include the Anbānī, Tibrīzī, and Zawzānī versions of the *Mu'allqa*, al-Mufaddal al-Dabbī's *al-Mufaddaliyyat*, Shantamari's *Dīwāns* of the Six Jāhilī Poets, the Zāmakhshārī, Mallūhī, and pseudo-Mubarrad versions of Shanshārī's *Lāmiyya*, and various editions of the *dīwāns*. Technical discussion of texts and variants has been saved for another occasion.

'Alqama

Is What You Knew Kept Secret

This poem opens with a classic example of the remembrance of the beloved's departure, the *za'*. The episode is introduced by a series of obliquely related questions concerning the beloved and the secret she entrusted to the poet. At its center is the reference to the *utriija* (the cition, *erog*), a word with a clearly non-Arabic origin that would have been almost as exotic to the Arabs as the Arabic word is to the modern reader. In order to preserve the intertwined associations of the rare, the sensual, and the exotic, I have kept the Arabic word in the translation. The colors of the howdah are indicated with a suggestion, somewhat shocking, of birds (probably birds of prey) confusing the rich red dye of the cloth with blood. A mention of the poet's tears, through an outrun and dissembling simile, flows into an extended depiction of the roan mare (the *náqa*) pulling an irrigation bag, with all the associations of fertility and overflowing abundance that the memory of the beloved evokes. A final, proclaimed effort to renounce memory of Sálma is followed by the most specific memory of her, of the folds and clings of her garment. This is the closest the poem comes to describing her, her features still, as always, poetically veiled.

The journey begins with the night courser, *náqa*, only to turn rather quickly to a one-verse mention of the "tuck-bellied brindle-leg" (bull oryx), a mention that is as compelling as it is brief, as if the image were glimpsed in the depths of the imagination. The substitutions end with the "red-legged clump-wing" (ostrich), at which point the poem opens onto a classic tableau: the male ostrich browsing, then racing back to the nest (here, as if in two temporally separate flashes, racing back once to the eggs, another time to the chicks), the thin mouth, feet flying past the small, earless head, a clucking that is like the babble of foreigners. The babbling foreigners are Byzantine Romans (*rūm*), a reversal of the etymology of the English term *barbarism* as the babble of those speaking other (non-Greek) tongues. Here it is the Greeks who are the babblers to a bedouin poet at home in a highly articulate cultural-linguistic world of his own. The comparison of the wing carriage of the ostrich to a tent shows how such standard features, fine-honed over generations and selected down to the precise simile, can achieve the most striking originality in how they are performed. In the Mu'allqa of 'Antara, the same

comparison is made, with a subtle and important difference. 'Alqama's comparison fits in perfectly with the erotic and humorous mood of the entire ostrich scene, the wing carriage compared to a "caved-in heap of a tent set up wrong by a clumsy maid." In 'Antara, the ostrich performance is dominated by a more tragic mood, as is the ode as a whole, the wing carriage compared to a "funeral litter above a tented bier."

The boast is introduced by a powerful set of proverbs. Proverbs most often appear in the qasida individually, usually in the second hemistich of a verse, offering a timeless perspective in balance with the particular situation evoked in the first hemistich, as in a verse that occurs later in the poem: "Whatever the stakes, the loser pays." At times proverbs dominate an ode, as in the Mu'allaqa of Zuháyir. Here they extend to seven verses, carefully balanced with the other sections of the poem. At any point in the qasida, the proverbial meditation on fate and loss can be evoked in a variety of ways with the subtlest movement in grammar or diction.

The wine song, one of the earliest in a long line of homages to the magic qualities of wine, presents the wine with a ritual formality. This banquet is followed by the image of the warrior on horseback, enduring hunger, heat, and sandstorms. The ode also ends with pageantry, as the horse and camel are led in a procession with praise of their qualities and lineage. Pageantry ties together several movements: the *nasib* scene of the maiden servants leading in the howdah camels (which are always stallions); the veiling of the beloved within her howdah drapery and the procession that leads her away from the poet; the bringing out and unveiling of the wine; and the formal procession of horse and camel mare that closes the poem. The reference to the camels pleading like a tambourine being torn on the heights carries a special force due to its echoing of similar comparisons, usually to mourning women wailing on a high ridge.

This ode of 'Alqama is a balanced representation of the qasida model at what seems to be a very early period. It is vivid in its imagistic surface, and unsentimental in its hesitancy to reveal directly the interior world of emotion, allowing the material image or impersonal proverb in almost every case to speak, articulating its secret within the subtle resonances of a formal pageantry and its brilliant poetic veils.

¹'Alqama ibn 'Abada of the tribe of Tamim is said to have lived in the sixth century C.E., to have been a poetic rival of Imru' al-Qays, and to have been involved in the struggle between the Arab kingdoms of Ghassān (a satellite of the Byzantine empire) and Lakhm (a satellite of the Persian empire).

²The meter is quantitative (a long vowel, diphthong, or vowel followed by a

double consonant forming a long foot, all other vowels forming a short foot). The meter is the *basīf*, based upon the feet: ~ (or -) - - / - (or -) - -. The first verse would be scanned as follows, a macron indicating a naturally long vowel:

— — — / ~ ~ — / — — ~ — / — —
hal mā alimta wa mā stūfa maktūmū
— — — / — — — / — — — / — —
am ḥabluhā idh na'atka l-yawma maṣrūmū

Translator's divisions: *nasib*; journey, with *māqā* ("night courser"), oryx bull ("tuck-bellied bridle-leg"), and ostrich ("red-legged clump-wing"); proverbs; wine song; horse scene and pageantry.

Is What You Knew Kept Secret

Is what you came to know,
given in trust,
kept secret? Is her bond to you
broken, now that she is far?

Does a grown man weeping
tears without end for those he loved,
the dawn of parting,
receive his fair reward?

By the time I knew,
they had set their leave,
all the camel stallions
standing bridled before dawn.

Camel stallions of her tribe
led in by maiden servants,
then loaded,
bundles bound in Tazidi brocade,

While birds hung in the air
plucking at dye streaks and tassels
as if they'd been stained
heartsblood crimson.

They carried an *utrujja* away.
A saffron-scented perfume trailed.
Before the senses even now
her fragrance lingers,

The folds of her hair
redolent as musk when the pod is opened.
Reaching out to touch it
even the stuff-nosed is overcome.

Liken my weeping eye to a water bag
dragged down the well slope
by a roan mare, withers
bound to the saddle-stay.

For a full season unsaddled,
until her hump hardened,
firm as the rounded side
of a smith's bellow,

Cured of the mange
and covered
with a resinous balm,
clear and pure,

Spilling water into channels
as grain husks part
from the ripening fruit,
the flooded slopes flowing over.

To remember Salma! to recall
times spent with her
is folly, conjecture about the other side,
a casting of stones,

Breast sash crossed
and falling, gown folds
at the hip, clinging tender
as a gazelle fawn reared within the yard.

Will I overtake
her far-flung tribe's rear guard
on a night courser,
solid as a worn boulder in a stream,
Dromedarian lips,
tinged by a wash of green mallow
that foams up
over cheek and jaw?

On one like that,
borne through the desert,
ranging far, while in the shadows
the owl sends forth a muffled cry.
She side-eyes the whip,
silent as a tuck-bellied brindle-leg,
ears sharpened
to the softest sound,

Or like a red-legged clump-wing,
bitterapple and castorberry
ripening for him
behind the twisting dune.

At the black-banded colocynth
he lingers,
cracking pods,
and snipping sprouts of grey castor,
Mouth like the split in a stick—
you barely make it out—
and ears, tufted markings,
as if he'd been docked,

Until he remembers some eggs,
disquieted by a day
of drizzle and wind
and a covering of cloud.

He quickens his pace,
without strain,
whisking along just short of all out,
untiring,
Split-foot flying
past his bulging eye,
as if he were wary of ill luck,
fear-quickened,

A strider, forechest
like the string of a lyre,

like a water bird
in a meadow pool.

He doubles back to a down-cropped
brood of nestlings
that appear when they tumble over
like a clod-covered root,

Circling the nest hollow,
circling again,
searching for tracks . . .

Until he reaches
as the sun's horn rises
the nest hollow
and a heap of eggs,

Beckoning to them
with a cackling and clucking
like the babble of Greeks
in their fortresses,
Small-headed, thin-necked,
wings and chest
like a caved-in heap of a tent
set up wrong by a clumsy maid.

A female draws near,
long neck lowered,
responding
with a warbling cry.

Every tribe,
though great, though many,
will one day see its chief
struck down by the hearthstones of evil.

Praise can't be purchased
except for a price
men begrudge,
one that is well known.

Generosity is a blight on riches,
an abode of loss.
What you hoard is left over,
the object of scorn.

What you own
is a wooly plaything,
growing long on stubby sheep,
then shorn.

He who gains his quarry
the day of the raid
finds it wherever he turns.
He who misses, misses out.

Hot-neck folly will cross your path.
You don't have to track it down.
Foresight and self-command
make themselves scarce in the crowd.

Whoever comes upon crows
and scatters them for an omen
though secure at the time
is fated to ruin.

Every fortress,
long safe on great pillars,
will one day
be razed to the ground.

I could well see the drinkers,
among them a ringing lyre,
men laid low
by golden, foaming wine,

The drink of a potentate,
aged by tavernkeepers
for a special occasion.
It'll take you up and spin you around.

For the headache it's a cure.
A jolt of it won't harm you.
No dizziness from it
will mix in your brain,

A vintage of 'Anah, a slammer,
for a full year unexposed,
kept in a clay-stoppered jug
with a waxen seal,

Glistening in its decanter,
while a foreign-born page,
mouth covered with a cotton band,
pours it,

Flagon like a gazelle
high on the cliff face,
neck and spout sealed
with a linen sieve.

Its keeper brings it out into the sun.
It flashes white,
ringed by branches of sweet basil,
fragrance brimming over.

Many times have I set out early
against a peer,
accompanied by a firm,
fine-honed, piercing blade.

Many times have I gambled,
trusting hunger to an arrow
carved from hard wood,
bound with sinew and notched.

They put their stallions up for wager.
I offered mine first.
Whatever the stakes,
the loser pays.

I might well ride with a band of braves,
no provisions
but a food sack green with mold
and some stinking meat.

Many times have I mounted the saddle frame,
face seared
by a day of the Gemini
and pestilent, blistering winds,

Burning,
as if one were cloaked
and turbaned, wrap on wrap
in the kindled air.

I might well lead before the tribe
a tall mare,
as if her lineage, known to all,
were leading her,

With a flawless splint bone
and a flawless pastern,
with hoof walls
trimmed and intact,

With shanks like the base of a palm branch,
legs like a Náhdi's staff,
feet with a hoof frog as tough
as a hard-gnawed date pit from Qúrran,

She follows a troop of black dromedaries
that cry out when driven
like a tambourine
torn on the heights.

On one side a spring-born calf
is pleading, while on the other
the old camels, humps high,
bellow.

Led by a stallion,
worn and tried,
an old-timer,
meaty, huge.

Shánfara

Arabian Ode in “L”

The “Arabian Ode [Rhyming] in ‘L’” (*Lámiyyat al-‘Arab*) is the most famous *su'luk* qasida. It appears to neglect the normal qasida tripartite pattern, and, like the *su'luk* or brigand himself, to wander without apparent sense of progression or goal. The poem begins with Shánfara abandoned by, or abandoning, his tribe, claiming that he has better friends in the desert scavengers and in his sword, heart, and bow. In embracing this paradoxical community of marauding animals, weapons, and self, Shánfara refers to himself as a *karím*. The term is often translated as “generous one” or “noble,” but its range of heroic values is so comprehensive that I have rendered it as “man,” allowing the poem to fill in its meaning. The *Lámiyya* has become a touchstone for the ethos of the pre-Islamic *karím*, even though on the formal level the *su'luk* inverts many of the *karím*'s most important traits.

The poem then turns to abusive satire (*hijá*). The traits ridiculed (vanity, laziness, inability to follow through on plans, susceptibility to being flustered or taken unawares) are associated with *jahl*, an undisciplined impetuosity opposed to the virtue of *hilm* (self-command, calm and seasoned calculation of one's situation). This poem is a vivid manifestation of the heroic *hilw-jahl* ethos before its transformation by the Qu'ran into a religious ethic.

The satirical tone grows suddenly somber as the desert overcomes the unskilled traveler, “lagging, frantic, losing his way.” Two similes then lead into extended animal vignettes. In each case the initial descriptive point (patient as a wolf, swift as a sand grouse) is both accomplished and outrun as the poetic voice overflows into two of the more famous extended similes in Arabic poetry.

The voice then becomes more personal. In a passage of psychological intensity, Shánfara personifies his crimes as drawing lots for his “hamstrung flesh.” The heroic boast is being inverted. In the standard boast, the hero reaffirms his role as a *karím* by sacrificing his *náqa* and distributing the meat through the *máysir* game. In Shánfara’s metaphor, it is the poet himself who is depicted as the slaughtered *náqa*. This portrayal of the *su'luk* as his own riding camel echoes a similar inversion earlier in the poem where the poet refers to his “sole pads.” The paradox within the outcast’s assertion of the quintessentially tribal role of the *karím* is



kissed the ground, and he permitted her to take a seat near the foot of the couch. Then the king arose and departed away with his bride's maidenhead, and the three fell asleep. But when midnight arrived, Scheherazade awoke and signaled to her sister, Dunazade, who sat up and said, "May Allah be with you, my sister, please tell some delightful story to while away the waking hours before dawn."

"I'd be most happy and willing to do this," answered Scheherazade, "if this pious and auspicious king will permit me."

"Permission granted," said the king, who happened to be sleepless and restless and was therefore pleased by the prospect of hearing her story. So Scheherazade rejoiced and on the first night of many nights to come, she began telling the tales that were to fill the volumes of *The Arabian Nights*.

The Tale of the Merchant and the Jinnee

There was once a very wealthy merchant who had a great deal of business in various cities. Now, one day he mounted his horse and went forth to collect debts that were owed to him in certain towns. The heat was so terrible along the way that he dismounted and sat down beneath a tree. He put his hand into his saddlebags, took out some bread and dry dates, and began to break his fast. When he had finished eating the dates, he threw away the pits with all his might, and suddenly a huge jinnee appeared brandishing a drawn sword. As he approached the merchant, he said, "Stand up so I can slay you just as you've slain my son!"

"How have I slain your son?" asked the merchant.

"When you ate the dates and threw away the pits, they struck my son in the breast as he was walking by, and he died right on the spot."

"By Allah, if I slew your son," the merchant responded, "I slew him by chance. Therefore, I beg your pardon."

"There's nothing you can do," asserted the jinnee. "You must die." Then he seized the merchant, threw him down on the ground, and raised his sword to strike him. But the merchant wept and cried out, "May Allah take pity on me and hear my plea!"

"Cut your words short," the jinnee answered. "You must die."

But the merchant pleaded with him, "Listen to me. There's a great deal of money that's owed to me. I'm very wealthy and have a wife and children and many pledges in hand. So, permit me to go home and take care of all my claims, and I shall come back to you at the

beginning of the new year. Allah be my witness that I return to you, and then you can do what you want with me."

The jinnee accepted his promise and let him go. So the merchant returned to his city and completed all his transactions. He gave all people their due, and after informing his wife and children what had happened to him, he appointed a guardian and lived with his family for a full year. At the end of that time, he performed the Wuuz ablution to purify himself before death, took his shroud under his arm, said farewell to family, friends, and neighbors, and went forth against his own will. As he left, the began weeping, wailing, and beating their breasts, but he traveled until he arrived at the same garden where he had encountered the jinnee. The day of his arrival was the beginning of the new year, and as he sat weeping over what had happened to him, a very old and honorable sheikh approached, leading a gazelle on a chain. After saluting the merchant and wishing him a long life, he asked, "Why are you sitting all alone in this place? Don't you know that it's the abode of evil spirits?"

The merchant related to him what had happened with the jinnee, and the old man was astounded and said, "By Allah, I've never seen such fidelity, nor have I ever heard such a strange story. If it were engraved for all to see, it would serve as a warning for all those who need to be warned." Then, seating himself near the merchant, he said, "My brother, I won't leave you until I see what is going to happen between you and this ifrit."

And after he sat down and the two were talking, the merchant became extremely anxious, terrified, and pressed. Just then a second sheikh approached them, with him were two dogs, both black greyhounds. After the second man greeted them with the salaam, he asked them, "Why are you sitting in this place? Don't you know that it is the abode of the demon jinnees?"

So they told him the tale from beginning to end, as they had not been conversing very long before a third sheikh arrived, and with him was a she-mule with a bright bay coat. He saluted them and asked them where they were seated in that place, and they told him the entire story, and he too sat down with them. Just then a dust cloud advanced, and a mighty sand devil ap-

amidst the waste. Soon the cloud opened, revealing the jinnee with a drawn sword and eyes shooting fire-sparks of rage, and he stepped forward, grabbed hold of the merchant, and separated him from the rest of the men.

"Stand up so I can slay you just as you slew my son, the soul of my life," the jinnee bellowed.

The merchant wailed and wept, and the three old men began sighing and crying with their companion. Soon the first man, the owner of the gazelle, approached the ifrit and kissed his hand. "Oh jinnee, crown of the kings of the jinn, if I were to tell you a story about me and this gazelle, and if you were to consider it wondrous, would you give me a third of this merchant's blood?"

"If you tell me your tale, oh sheikh, and it is indeed marvelous," the jinnee replied, "I'll give you a third of his blood."

Thereupon the old man began to tell

The First Sheikh's Story

I'll have you know, oh jinnee, that this gazelle is the daughter of my paternal uncle, my own flesh and blood, and I married her when she was a young maid. I lived with her for close to thirty years, but I was not blessed with any offspring. So I took me a concubine, who gave birth to a boy, fair as the full moon with glistening eyes, straight eyebrows, and perfect limbs. Little by little he grew to be a tall young man, and when he was fifteen, it became necessary for me to journey to certain cities with a large amount of goods. But my wife had learned the art of witchcraft, and she turned my son into a calf and his mother into a cow and placed them under the care of the herdsman. So, after a long time had passed and I returned from my journey, I asked for my son and his mother, and she answered me by saying, "Your slave girl is dead, and your son has fled, and I don't know where he's gone."

So my heart grieved for an entire year, and my eyes

did not stop weeping until the time came for the Great Festival of Allah. Then I sent for my herdsman and asked him to choose a fat cow for me. He brought me the one which had been my handmaid, whom this gazelle had bewitched. I tucked up my sleeves, put on an apron, and taking a knife, I began to cut her throat, but she belched so loudly and wept such bitter tears that I was astonished. Out of pity, I dropped the knife and said to the herdsman, "Bring me a different cow."

Then my wife cried out, "Slay her! There's none fatter or fairer."

Once more I made a move to sacrifice her, but again the cow bellowed loudly, and I could not bring myself to kill her. Instead, I commanded the herdsman to slay her and flay her. So, he performed the sacrifice and skinned her, but could not find fat or flesh, only hide and bone. He repented when it was much too late, and I gave her to the herdsman and said to him, "Fetch me a fat calf."

So he brought me my bewitched son. When he saw me, he broke his tether, ran to me, fawned upon me and shed tears. Consequently, I took pity on him and said to the herdsman, "Bring me a cow, and let this go."

But my wife cried out, "You must kill this calf. It is holy and blessed day, and nothing is to be slain except what is pure and perfect. And there is nothing among our calves that is fatter or fairer than this one!"

"Look at the cow that I have just had slaughtered to your request and how disappointed we are by the results," I said. "There was no benefit from her at all, and I'm extremely sorry for having killed her. So this time I'm not going to listen to you, and the calf will not be sacrificed."

"By Allah, you have no choice. You must kill him this holy day, and if you don't kill him, you're no man me, and I shall not be your wife."

Now, when I heard those hard words, I went up to the calf with knife in hand, unaware of my wife's real pose. However, when I looked at the calf, I commanded the herdsman to take it away, and he did as I ordered him to do. On the next day as I was sitting in my house, the herdsman came up to me and said, "Master,

want to tell you something that will make your soul rejoice and enable me to be the bearer of good tidings."

"I'm listening," I said.

"I have a daughter," he began, "and she learned magic in her childhood from an old woman who lived with us. Yesterday, when you gave me the calf, I went into the house with it, and she looked at it and veiled her face. Then she kept laughing and weeping and at last said to me, 'Oh father, has my honor become so cheap that you're now bringing strange men into the house for me?'

I asked her, 'Where are these strange men and why are you laughing and crying?' She answered, 'To tell you the truth, the calf that you have with you is the son of our master, the merchant, but his wife bewitched him and his mother. That's why I laughed, and I wept because of his mother, whom the merchant slew unaware that it was she.' Of course, I was most astonished by this revelation, and I could hardly wait until the break of day to come and tell all this to you."

When I heard my herdsman's words, I went with him to his house and was drunk with joy without having the least bit of wine. His daughter welcomed me and kissed my hand, and the calf came right away and fawned all over me as before. "Is it true," I asked the herdsman's daughter, "all that you've said about this calf?"

"Yes, oh master," she said. "He's your son, your very own flesh and blood."

I rejoiced and said to her, "If you can release him from this spell, you can have whatever property and cattle I have."

"Master," she smiled, "I don't desire such goods, and I shall take them only under two conditions: the first, that you marry me to your son, and the second, that you allow me to bewitch your wife and imprison her. Otherwise, I won't be safe from her malice."

Now when I heard these words, I replied, "Not only do I grant you your wish, but you may have all the cattle and the household stuff in your father's charge, and as for my wife, anything you do to her is all right with me."

After I had spoken, she took a cup and filled it with water. Then she recited a spell over it and sprinkled it on the calf, saying, "If Almighty Allah created you as a calf,

then remain as you are and don't change. But if you are and my brothers did the same. However, I had been in enchanted, return to your rightful form!" business just for a short time when my elder brother sold

All of a sudden, the calf trembled and became a man and I embraced him and said, "By Allah, tell me all that his stock for a thousand dinars, and after buying equipment and merchandise, he journeyed to foreign lands. the daughter of my uncle did to you and your mother. He had been gone with his caravan for one whole year And when he told me how everything had happened, when, one day, as I was sitting in my shop, a beggar said, "My son, Allah blessed you by enabling someone to stand before me asking for alms, and I said to him, "Go restore you to your real form, and you may now receive try somewhere else!"

In response, the beggar began weeping, "Have I changed Then I married him to the herdsman's daughter, and so much that you don't recognize me anymore?" she transformed my wife into this gazelle by giving her shape that is by no means loathsome. After this the herdsman's daughter lived with us day and night until she died. Then my son journeyed forth to the cities of Hind and also to the city of this man who has offended you. And I also took this gazelle and wandered with her from town to town seeking news of my son until destiny drew me to this place where I saw the merchant sitting and weeping. Such is my tale!

Then I looked at him more closely, and I realized it was my brother. So I stood up and welcomed him, and after seating him in my shop, I asked him what had happened.

"Don't ask me," he replied. "My wealth is all gone, and so is my health."

So I took him to the public bath, dressed him in a suit of my own, and gave him a room in my house. Moreover, after looking over the accounts of my stock in trade and my business profits, I found that my hard work had enabled me to earn one thousand dinars while my principal amounted to two thousand. So I shared the whole thing with him and said, "Just assume that you didn't make a journey abroad but remained at home. There's no reason now for you to be dejected about your bad luck."

He took the share gleefully and opened up his own shop. Things went well for some days, but soon my second brother, that dog over there, also set his heart on traveling. He sold whatever goods and stock in trade that he had, and although we tried to prevent him from leaving, he would not listen to us. He equipped himself for the journey and joined a group of travelers. After an absence of one year, he came back to me just as my elder brother had, and I said to him, "Didn't I try to dissuade you from traveling?"

"Destiny decreed it this way!" he wept and cried out. "Now I am a mere beggar without a penny to my name or a shirt on my back."

So I led him to the bath and dressed him in my own new clothes. Then I went with him to my shop, where I gave him something to eat and drink. Furthermore, I told him, "Brother, I generally draw up the accounts of my

"This story is indeed strange," said the jinnee, "and thus I shall grant you a third of the merchant's blood."

Thereupon the second old man, who owned two greyhounds, came up and said, "Oh jinnee, if I relate to you what my brothers, these two hounds, did to me, and you admit that it is more wondrous and marvelous than the tale that you've just heard, will you grant me a third of the merchant's blood as well?"

"I give you my word," said the jinnee, "but only your adventures are truly more marvelous."

Thereupon the old man began

The Second Sheikh's Story

Let me begin by telling you, oh lord of the kings of jinn, that these two dogs are my brothers, and I am the third. When our father died and left us a capital of thousand gold pieces, I opened a shop with my sha-

shop at the beginning of every year, and I intend to share the surplus with you."

Thus, some time later, when I found a profit of two thousand dinars, I praised the Lord and gave my brother one half and kept the other for myself. Thereupon, he set up his own shop, and we lived peacefully for many days. After a while, however, my brothers began to urge me to travel with them, but I refused and argued, "What do you two gain from all your voyages that would make me want to travel?"

Since I would not listen to them, we each returned to our own shops, where we bought and sold as usual. They kept urging me to travel for a whole year, but I continued to refuse. Finally, after six years had passed, I consented and said, "All right, my brothers, I shall be your companion and am ready to travel. Now, let me see what money you intend to bring with you."

I found, however, that they did not have anything, for they had squandered their funds on rich food, drink, and carnal pleasure. Still, I did not reproach them. Far from it. Instead, I looked over my shop accounts once more and sold what goods and stock in trade were mine, and came out with a profit of six thousand ducats, which I divided into half. After doing this, I went to my brothers and said, "These three thousand gold pieces are for me and you to conduct our trade during our travels. Let's bury the other three thousand in the ground in case anything should happen to us. And if something does, each shall take a thousand to open new shops."

Since they both agreed, I gave each one a thousand gold pieces and kept the same sum for myself. Then I prepared some goods for trading and hired a ship to carry our merchandise and proceeded on our voyage. After a month at sea, we reached a city, where we sold our goods, and for every piece of gold that we had invested we gained ten. And when we were about to resume our voyage, we found a maiden on the seashore clad in worn and ragged clothes. She kissed my hand and said, "My master, are you a man of charity and kindness? If so, am I prepared to repay you for your aid?"

"You may find me benevolent and a man of good works," I said. "But I don't want any return for my deeds."

Then she said, "Please have me as your wife, oh master, and take me to your city, for I'm giving myself to you. Be kind, for I am one of those on whom charity and good works will not be lost. I can make you a fitting return for them, and you will not be shamed by my condition."

When I heard her words, my heart went out to her as though Allah had willed it. Therefore, I took her, clothed her, gave her a comfortable place in the vessel, and treated her with honor. So we continued our voyage, and I became more and more attached to her so that I could not bear to be separated from her day or night. Indeed, I paid more attention to her than to my brothers, with the result that they grew apart from me and became jealous of my wealth and the large amount of merchandise that I had acquired. So they planned to murder me and seize my wealth, and Satan made this seem right in their eyes.

They waited one night and found me sleeping by my wife's side, whereupon they carried us up to the deck of the ship and threw us overboard. My wife awoke startled from her sleep, and immediately she changed into a jinnee, whereupon she lifted me up, carried me to an island, and disappeared for a short time. When she returned in the morning, she said, "Here I am, your faithful slave, who has duly repaid you for your kindness, for I have saved you from death in the deep waters. I am a jinniyah, and when I first saw you, my heart went out to you by the will of the Lord, for I am a believer in Allah. So I went to you in the condition you saw me, and you married me. But I'm angry at your brothers, and I must certainly slay them."

When I heard her story, I was surprised and thanked her for all she had done. "But," I said, "when it comes to slaying my brothers, you must not do this."

Then I told her the tale of our lives from the beginning to the end, and on hearing it, she said, "Tonight I shall fly like a bird over their ship and sink it, causing them to die."

"By Allah," I responded, "don't do this! Remember the proverb: Whoever helps an evildoer should let the evildoer do his own evil deeds."

"Nothing can help them," the jinniyah replied. "By Allah, I must slay them."

I humbled myself before her and begged that she pardon them, whereupon she picked me up and flew away with me until she set me down on the terrace of my own house. Then I took what I had hidden in the ground, bought new merchandise, greeted various people, and reopened the doors of my shop. When night came, I went home, and there I saw these two hounds tied up. Upon seeing me, they arose, whined, and fawned upon me, and before I knew what was happening, my wife said, "These two dogs are your brothers!"

"Who has done this to them?" I asked.

"I sent a message to my sister, and it was she who transformed them into dogs. And they will not be released from their present shape until ten years have passed."

You find me now, oh jinnee, on my way to my wife's sister, because the time has come to release my brothers from their condition. I stopped at this place when I saw this young man, who told me all that had occurred to him, and I decided not to leave here until I saw what would happen between you and him. Such is my tale!

"This is certainly a remarkable story," said the jinnee. "Therefore, I'll give you a third of this man's blood."

Now the third sheikh, the master of the she-mule, approached the jinnee and said, "If I can tell you a tale more wondrous than these two, will you grant me the remainder of the merchant's blood?"

"You have my word!" the jinnee answered.

Then the old man began

The Third Sheikh's Story

I'll have you know, oh jinnee, that this mule was my wife. Now, it so happened that I had to leave home for one year, and when I returned from my journey, it was night, and I found my wife lying with a black slave on my couch. They were talking, laughing, kissing, and playin-

the close-buttock game. When she saw me, she stood up and rushed over to me with a jug of water. As she ran toward me, she muttered spells over the water and sprinkled me with it. "Change your shape," she exclaimed, "and become a dog!"

All of a sudden, I was a dog, and she drove me out of the house. I ran through the doorway and did not stop running until I came to a butcher's stall, where I rested and began to eat what bones were there. When the butcher saw me, he grabbed me and carried me into his house, but as soon as his daughter caught sight of me, she veiled her face and cried out, "What are you doing? Why are you bringing men to me?"

"Where's the man?" he father asked.

"This dog is a man, and his wife has enchanted him," she replied. "If you want, I can release him from the spell."

When her father heard her words, he said, "May Allah be with you, my daughter, release him."

So she took a jug of water, and after uttering words over it, she sprinkled a few drops on me and said, "Leave that shape and return to your former one."

And I returned to my natural shape. Then I kissed her hand and said, "I wish you'd transform my wife the same way you just changed me."

Thereupon she gave me some water and said, "As soon as you see her asleep, sprinkle this liquid on her and say the words you heard me utter. Then she'll become whatever you desire."

I returned to my house and found my wife fast asleep, and as I sprinkled the water on her, I said, "Leave that shape and change into a mule."

Within seconds she became a mule, and you are looking at her now, oh jinnee, with your own eyes!

Then the jinnee turned toward her and asked, "Is this true?"

And she nodded her head and replied by signs, "Indeed, it's the truth, for such is my tale."

The jinnee was very pleased by the old man's extraordinary story, and he gave him a third of the merchant's blood. Shaking with delight, he told the three sheikhs, "Thanks to you and your storytelling, the merchant is

yours! You've saved him, and I now release him from his punishment."

Thereupon, the jinnee disappeared, while the merchant embraced the old men and thanked them. Then the sheikhs wished him happiness and continued their journeys, each one heading toward the city of his destination.

And Scheherazade noticed that dawn was approaching and stopped telling her tale. Thereupon Dunazade said, "Oh sister, your tale was most wonderful, pleasant, and delightful!"

"It is nothing compared to what I could tell you tomorrow night if the king would spare my life and let me live."

"By Allah," the king thought to himself, "I won't slay her until I hear some more of her wondrous tales."

So they continued to rest in mutual embrace until day light finally arrived. After this the king got up to perform his official duties, but he did not call upon the vizier to perform the execution. Instead, he went to his assembly hall and began holding court. He judged, appointed, and deposed, forbidding this and permitting that, the rest of the day. After the divan was adjourned, King Shahryar returned to the palace. That night he had his will of Scheherazade, as was his wont, and afterward, as they were relaxing, Dunazade came to her sister and asked her to tell another tale.

"With the king's permission," she said.

And Shahryar replied, "You have my permission."

So Scheherazade resumed her storytelling.

The Fisherman and the Jinnee

There was once a poor old fisherman who had a wife and three children to support. When he went to work, he customarily cast his net four times a day, and no more than that. Now, one day he went to the seashore about noon and set his basket on the ground. After rolling up his shirt and plunging into the water, he cast his net and waited until it settled to the bottom. Then he gathered the cords together and tried to haul in the net. However, he found it too heavy, and no matter how hard he pulled, he could not bring the net up. So he carried the ends ashore, drove a stake into the ground, and tied the net to it. Afterward he stripped, dived into the water, and kept working until he had brought the net up. Filled with joy, he put on his clothes again and went to the net, in which he found a dead jackass that had torn the meshes. In his grief, he exclaimed, "By Allah, this is a strange way to earn a living!" Then he said to himself, "Up and at it! I'm sure that this must be some sort of blessing."

Once the fisherman got the dead ass free of the cords, he wrung out the net and spread it on the shore. Then he plunged into the sea, cast the net again, and cried out, "In Allah's name!" When he began pulling the net, it grew heavy and settled down more firmly than the first time. Now he thought that there were fish in it and tied the net to the stake again. He took off his clothes, dived into the water, and pushed and pulled until he got the net on dry land. Then he found a large clay pitcher filled with sand and mud and was very disappointed.

After throwing away the pitcher, he wrung his net, cleaned it, and cast it into the sea for a third time. Once

Session 10





SEVEN DOORS TO ISLAM

*Spirituality
and the
Religious Life
of Muslims*

JOHN
RENARD

4 Aesthetics

From Allegory to Arabesque

Although various aesthetic aspects of the literary and visual sources of Islamic spirituality have already surfaced, an explicit consideration of the role of beauty in word, picture, and architecture is important for several reasons. It offers an opportunity to ask why certain modes of human communication are more effective than others in conveying religious values. In addition, an appreciation of aesthetic qualities facilitates a deeper understanding of the emotional dimensions of a spiritual tradition. Feeling, mood, and intensity are important but often neglected aspects of religious experience. Last, a study of the aesthetic aspects of Islam's textual and visual sources brings to the fore the roles of imagination and creativity in the communication of religious values.

Revelation and artistic inspiration go back a long way, but theirs has been an often tempestuous love-hate relationship. The Islamic tradition has drawn an exquisitely fine line between divine initiative and human effort, between genuine spiritual experience and simple self-deception, between verbal and visual imagery and the transcendent reality to which they allude. This study of religious aesthetics attempts to trace that line. In chapter 1, I introduce the classic distinctions between canonical and ambiguous Qur'anic texts, and between outward and inward meanings. Here those insights raise deeper questions of the relationships between form and meaning, between the hidden and the manifest.

The literature and art I explore in this chapter exhibit clear thematic, formal, and functional affinities with material treated in other chapters. But two additional elements essential to the creation of high quality arts—namely, deliberate artistic production and elite patronage—change the focus in a subtle but important way. The expense and effort required to pro-

Figure 18. (Opposite) The crested hoopoe (middle right) addresses all the assembled birds about setting out on their journey to find the Simurgh; a painting illustrating the beginning of Attar's allegorical *Mantiq al-tayr*. The text was written in Herat in 1483 under Timurid patronage, but the illustration was added in the early seventeenth century under Safavid patronage. New York: The Metropolitan Museum of Art, Fletcher Fund



duce or own many of the works treated here, or to do both, means that they have been created by and available to relatively narrow segments of society. Though highly refined poetry has enjoyed wide popularity in some cultures, often the highest-quality illustrated manuscripts have been within reach of only the wealthiest. Still, the more elite works form an important element in the story of Islamic religious life. In addition, Islamic spirituality has found expression in a wide range of popular and folk poetry that has often flourished alongside of the less accessible forms. Before turning to the principal poetic genres and the visual arts associated with them, I survey the origins and history of Islamic religious poetry.

LITERATURE AND SPIRITUALITY

In chapter 2, I introduce the Arabic term *adab*, where the phrase *adab al-minbar* means the “literature of the pulpit” and refers in a general way to the form and functions of religious discourse (*khutba*) in its various ritual contexts. But the term has a wider range of meanings. In this chapter *adab* denotes the whole spectrum of fine or artistic literary production, as distinct from the writings of jurists, theologians, historians, and geographers, for example. *Adab* in the present context therefore means literature as literature, and it includes a plethora of prose and poetic forms.

Three considerations have influenced my choice of textual sources. First, strictly speaking, not all poetry (*shī'r*) belongs to the category of *adab*. Some finely constructed and powerful poems have originated in spontaneous creative impulse; in many cases their creators probably did not intend that the fruits of their inspiration should eventually be written down. Some of this material is popular or folk poetry. Second, although *adab* encompasses prose as well as poetry, I consider poetry almost exclusively, with a nod in the direction of rhymed prose and several works that interweave poetry with prose. Third, I deal only with those types of *adab* that promise deeper insight into Islamic spirituality.¹

Religious Poetry

Refined or elite literature has long been a significant part of Muslim cultures, though it did not enjoy pride of place during Muhammad's lifetime and those of first and second generation Muslims. Pre-Islamic poets exercised an important function in Arabian society, but the advent of Islam brought with it a reassessment of poetry's value. Muhammad's critics, the scripture records, dismissed the Prophet as a mere poet, scarcely worthy of

credence beyond what one might accord any tribal bard, however eloquent. The Qur'an even seems to condemn outright the practice of poetry, as in this text: “Those who wander malevolently follow the poets. Do you not see how they loiter absentmindedly in every valley? How they say one thing and do another?” (26:224–26). The scripture makes a notable exception for three poets who turned their art to the defense of the new faith. But because the tone of the earliest poetry was often adversarial and polemical, it was employed “for special occasions.”² Meanwhile, Muslims came to regard the Qur'an itself as the inimitable standard and epitome of literary eloquence. Under the Umayyad dynasty (661–750), religious poetry flourished among nascent dissenting factions, such as the Shi'a and the secessionist Khawarij,³ as a weapon against what was to become Sunni Islam. A dominant theme of mourning over martyrs suggests a religious development of the time-honored pre-Islamic opening scene of weeping over the campsite traces of departed friends. In the words of Imru' al-Qays, author of one of the famous seven odes known as the *Suspended Ones* (*Mu'allaqat*), “Let us stop and lament at the remembrance of the beloved and of our resting place, on the edge of the desert between Dakhl and Haumal.” These odes evoke extraordinarily vivid images of nature; for example, in the *Mu'allaqat* of Labid, the speaker recalls:

The tent marks in Minan are worn away,
where she encamped
and where she alighted,
Ghawl and Rijam [place names] left to the wild,
And the torrent beds of Rayyan
worn thin, like inscriptions
naked tracings,
carved in flattened stones,
Dung-stained ground
that tells the years passed
since human presence, months of peace
gone by, and months of war,
Replenished by the rain stars
of spring, and struck
by thunderclap downpour, or steady,
fine-dropped, silken rains,
From every kind of cloud
passing at night,
darkening the morning,
or rumbling in peals across the evening sky.⁴

The great pre-Islamic poems represent the earliest polished examples of a poetic form called the *qasida*, usually translated as "ode." These mono-rhyming works are medium length, sometimes up to 120 lines longer than the love lyric called the *ghazal* and shorter than narrative epic poetry. The classic genre begins with a section (*nasib*) in which the lover expresses a longing for the departed beloved, as in the *Mu'allqa* of Labid. Then the poet describes the subject's quest and concludes with the lover boasting ironically of how he has succeeded in exiling her from his memory. Muslim poets transformed both the themes and the three-part structure of the *qasida* form, adapting the genre to specifically religious and mystical purposes. Another important early theme, that of a "pristine Islamized Bedouin love that was far removed from the polluted urban sexuality," developed in poems and tales originally popular among the 'Udhra clan. Reminiscences of this Arab version of platonic love, recommended by a number of famous ascetics, are found in later lyric and romance poems.⁵

During the long tenure of the Abbasid caliphs (750–1258), new genres of religious poetry developed in Arabic while Persian grew into an important vehicle for some of the world's finest mystical verse. Early ninth-century themes of ascetical self-denial, personal discipline, and flight from the world soon yielded to more genuinely mystical sentiments. The Iraqi poet Rabi' al-'Adawiya (d. 801) boldly explores the hitherto forbidden territory of reciprocal, though perhaps not precisely mutual, divine-human love. She prays,

O God, the night has passed and the day has dawned. How I long to know if Thou has accepted my prayers or if Thou hast rejected them. Therefore console me for it is Thine to console this state of mine. Thou hast given me life and cared for me, and Thine is the glory. If Thou want to drive me from Thy door, yet would I not forsake it, for the love that I bear in my heart towards Thee.⁶

Following Rabi'ī's lead, Arabic-speaking mystics developed new genres of poetry. Descriptive poems adapted a language formerly confined to verbal depictions of an outer world, to portraits of the seeker's inner cosmos and of the ideal lover. From this point, mystical verse grew in two very different directions more or less simultaneously. First, more technical poems evolved as a means of refining the developing lexicon of terminology now needed to analyze mystical experience with greater precision. Full of arcane wordplay and subtle allusions, this genre was naturally available only to initiates. Meanwhile, a genre of popular poetry in simpler and more attractive language made the intuitions of the mystics more accessible while injecting a new element of feeling into the religious expression of ordinary folk.

The martyred mystic Hallaj (d. 922) wrote some of the most famous of such verses; the sentiment is lofty, and he uses a somewhat technical vocabulary, but his language is relatively straightforward and simple.⁷ In one poem, Hallaj addresses God:

I saw my Lord with the eye of my heart, so I asked, Who are you? He said, You.

And there is no "where" apart from you, and no "where" where you are. Imagination can conceive no image of you, so how can imagination know where you are?

You are the One that encompasses every "where" on the way to "no where," so where are you?
So in my passing away (fana') even my dying to self (fana') has vanished
(fana'), and in my loss of self (fana') you are found.⁸

After reaching a high point during the early tenth century, Arabic mystical poetry declined in both quality and quantity until the thirteenth century when its literary and intellectual sophistication was revived. Poetry of the shorter lyric form known as the *ghazal* spoke intimately of the lover-beheld relationship. From the religious confraternities (*tariqas*), with their total dedication to pivotal founding figures, came poems that emphasize the affinity of the founder and his legitimate successors with the "light" of Muhammad. Two of the thirteenth century's most influential Arabic religious poets were the Egyptian Ibn al-Farid (d. 1235) and the Andalusian-born Ibn 'Arabi.⁹

Though Ibn 'Arabi is better known as an author of tightly woven, and often arcane, mystical treatises than as a poet, his collection of poems entitled *The Interpreter of Desires* (*Tarjuman al-as'laq*) offers a fine example of an adaptation of classical language and themes for mystical purposes, Ibn 'Arabi appends to each poem a commentary on its esoteric meaning, to insure the reader's understanding. The poet-commentator refers to himself in the third person, much as the Iberian Christian mystic John of the Cross does when he glosses some of his own poetry. Recalling the tone of the pre-Islamic ode with an unmistakable allusion to *Imru' al-Qays*, Ibn 'Arabi writes:

Halt at the abodes and weep over the ruins and ask the decayed habitations a question.

"Where are the loved ones? Where are their camels gone?" ("They answer,

"Behold them traversing the vapour in the desert."

Ibn 'Arabi then comments that the poet is answering the voice of God that calls from his heart. The former abodes of the loved ones are the stations at which mystical journeyers pause in their quest; here the poet must weep, since he cannot remain in the company of those travelers. Their former rest-

⁵ See, for example, the *Qasida al-Udhriyya* of 'Abd al-Rahman al-Sayyid, trans. M. A. J. Gaskins, in *Arabic Literature: Anthology and Guide* (London, 1980), pp. 101–102.

⁶ Quoted in D. S. Margoliouth, *Arabic Poets* (London, 1923), p. 103. The original is in *Kitab al-Asra' wa'l-Asra' min Kitab Rabi' al-Adawiyah* (Cairo, 1930).

⁷ Quoted in D. S. Margoliouth, *Arabic Poets* (London, 1923), p. 103.

⁸ Quoted in D. S. Margoliouth, *Arabic Poets* (London, 1923), p. 103.

⁹ Quoted in D. S. Margoliouth, *Arabic Poets* (London, 1923), p. 103.

ing places are "decayed" because those who once dwelt there are gone. Camels are the spiritual aspirations that bear the mystics away, and the vapors are the hints that entice the seeker to press on.¹⁰

Ibn 'Arabi further spiritualizes the classic imagery into a description of the soul's journey:

My longing sought the Upland and my affliction the Lowland, so that I was between Najd and Tihamā [Arabian place names].

They are two contraries which cannot meet; hence my disunion will never be repaired.

The camels, footsore from the journey, long for their homes and utter the plaintive cry of the frenzied lover.
After they have gone my life is naught but annihilation. Farewell to it and to patience!

In the attached commentary Ibn 'Arabi explains that the Upland represents God enthroned. The two contraries represent the struggle between the physical and spiritual sides of humanity. And in a slight variation on his interpretation of the first text, the camels here are the noble thoughts that bear good words toward God's throne. Finally, Ibn 'Arabi, like Hallaj, refers to the passing away of his passing away.¹¹

As Arabic spiritual poetry was nearing the apogee of its renaissance, Persian was already coming into its own as a vehicle of polished mystical expression at the eastern fringes of the Abbasid caliphate. Persian poets refined forms already in use: the distinctively Persian form known as rhymed couplets (*mathnawi*); the older Arabic *qasida* and *ghazal*; and the shortest of poetic genres, the quatrain (*rubaiyat*). The major poets who wrote in Persian are Sana'i of Ghazna (in present-day Afghanistan, d. 1131), Attar, Rumi, and Jami.¹²

As Persian mystical poetry neared its zenith, poets in far-flung lands had begun to adapt to Islamic spiritual purposes the dozens of regional and local tongues of post-Abbasid Muslims. The most important of those vernacular languages came to be the various Turkic dialects of central Asia, along with several south Asian languages (such as Urdu, Sindhi, Bengali, Panjabi), as well as Malay and other Southeast Asian languages (especially of Indonesia, today by far the most populous Islamized nation on earth). In addition to importing and adapting forms originally developed in Arabic and Persian, these poets used distinctive local genres. The writing of mystical poetry in the vernacular languages was an important factor in the spread of Islamic religious concepts and terminology well beyond the Middle East.¹³

Metaphor

Muslim scholars early on began to debate the degree to which one may—or must—interpret as metaphors the numerous examples of anthropomorphic or other figurative speech in the Qur'an. Some argued that it is best simply not to ask questions at all about the scripture's references to God's face or hands, or any other attribute to which ordinary human experience provides the only analogy. They argued that God chose to describe the divine reality in these terms, and that it is not up to human beings to second-guess or speculate. Others insisted that since such anthropomorphic features clearly compromise God's transcendence, one has no choice but to understand them in a purely metaphorical way. Thus, the terms *face*, *hand*, and *throne* merely suggest the divine omnipresence, power, and sovereignty. Those who rejected speculation replied that in spite of the expressed concern for divine transcendence, this dalliance with metaphor runs the risk of infidelity to the sense of God's mystery. That was the beginning of a long and lively exchange of views about the uses of language as a vehicle for communicating the ineffable.¹⁴

According to an Arabic proverb, "Metaphor is a bridge to ultimate reality." Islam's various literary traditions, beginning with those of Arabic, Persian, and Turkish, and growing to include dozens of other languages, have developed an enormous range of metaphors with which to hint at the divine-human relationship. In the following kaleidoscopic overview, I allow images to blend into one another as if in a stream of consciousness, for that is indeed the feeling the reader often gets from the primary sources. God and the human being are beloved and lover, a metaphor that in turn generates a whole complex of others. The nightingale cannot get enough of the beloved rose, but its thorns keep the lover at bay. Finding separation too cruel, the lover will nevertheless go to any lengths to elicit a response from the beloved—even if only an angry "Get away from my doorstep," even if only to have his or her head (polo ball) whacked downfield by the beloved's arrogantly raised eyebrow (polo stick).

The beloved is the flame into which the loving moth crashes and burns; that image in turn merges either with that of the raw beloved becoming cooked or with that of the green fruit becoming ripe. God is the pilgrim's goal, and the journey, a *mi'raj*, an ascending alchemical transformation of base matter into precious metal. To arrive at one's true and original home, one must be willing to leave one's present secure dwelling, that is, to make a *hijra* after the example of Muhammad; that in turn transforms life into a

jihad, a continual struggle for victory over one's inner tendencies to self-centeredness.

God is wine, and the lover cannot but become intoxicated; but the hapless drunk then becomes a pariah, scandalously preferring tavern to mosque. It is true that drunkenness blunts out stark realities that sobriety will not suffer; but sobriety's penchant for control and fear of ecstasy can leave one trapped in oneself. God is the ocean in which the seeker either willingly drowns or becomes a fish; but still the soul's fire blazes unquenched.

In garden and desert, palace and ruin, mountain and valley, the seeker goes from feast to fast, light to darkness, expansion to contraction, birth to death, annihilation to survival, and then back again. Behind the imagery lies a wealth of insight into the dynamic quality of religious experience, the subtle circular relationship between human longing and divine initiative or response, and the gradual unfolding of the kind of self-knowledge that leads to intimate knowledge of God.

Allegory

Stories of both historical figures and fictional characters form an integral part of Islam's spiritual heritage. Narratives of important persons, particularly Muhammad's, can educate and entertain. Beyond the paradigmatic purpose of narrative, however, lies the conscious elaboration of its more symbolic dimensions. Allegory explicitly links the various elements of a narrative to the elements of another order of meaning. For example, the parable of the sower in the Christian scriptures (Matt. 13:1–23, Mark 4:1–20, Luke 8:4–15) narrates the actions of a farmer at planting time. Some seed he sows falls on rocky ground; some falls by the wayside and is eaten by birds; some falls among the weeds that choke the seedlings; and some falls on good soil where it produces abundantly. The first part functions as a teaching story. But all three evangelists then explain why Jesus taught in parables and reveal the parable's allegorical meaning (allegoresis). The seed is the word of God; the rocky ground represents those who refuse to hear at all; the weeds are the cares of ordinary life that keep one from carrying out the demands of the word.

In the didactic mathnawi *The Garden of Ultimate Reality* (*Hadiqat al-haqqa*), Sana'i of Ghazna tells the ancient and popular story of the blind men and the elephant. Then he adds an element of allegoresis. Once upon a time a king marched his vast retinue through a city of blind people. In the vanguard of his army strode a huge elephant. When the townspeople heard about the awesome beast, several went out to explore its immense form.

Each touched a different portion of the pachyderm and came away with an idea as to the nature of the beast. When they returned to the city, their fellow citizens excitedly asked for a description of the elephant. The man who had felt the elephant's ear described the beast as broad and rough like a carpet; he who had explored the trunk said the behemoth was a long, hollow instrument of death; while the man who had touched the legs explained that the elephant was a straight pillar. Because no one had experienced the whole animal, none could make sense of it. Sana'i then draws from the story a lesson on the futility of speculation about the reality of God. Alluding caustically to the hapless interpretive squabbles of the early schools of theology, he observes:

One talks of "the foot," the other of "the hand," pushing beyond all limits their foolish words; that other speaks of "fingers" and "change of place" and "descending," and of His coming as an incarnation. Another considers in his science His "settling himself" and "throne" and "couch," and in his folly speaks of "He sat" and "He reclined," making of his foolish fancy a bell to tie around his neck. "His face" says one; "His feet" another; and no one says to him, "Where is thy object?" From all this talk there comes alteration, and there results what happened in the case of the blind men and the elephant.¹⁵

Of course, just as a good comedian does not need to explain a punch line, an apt allegory rarely follows itself with footnotes about its various referents and levels of meaning. The reader usually has to look for less obvious indications as to the allegorical key to a story.

Allegory, both subtle and blatant, is an important feature of the literary communication of Islamic spirituality. Neat examples of allegory and allegoresis may be found, such as those just cited from the Gospels and Sana'i, but it is not so much a discrete literary form as a structural device and a way of thinking. Hence one finds strong traces of allegory in both prose and poetry in mystical as well as in ethical and theological works, in Qur'anic exegesis as well as in fictional narrative.

As Peter Heath observes, allegory operates on two levels at once: "While its literal levels are intended to be comprehensible and attractive to a broad spectrum of readers, its symbolic levels direct restricted levels of meaning . . . to select groups or individuals." Thus aiming to be simultaneously democratic and elitist, the genre rests on an aesthetic contradiction.¹⁶ Less complex forms such as fables and proverbs are generally employed in popular literature, but allegory more often serves the purposes of elite works. Allegory is meant, Heath suggests, to hold competing tensions in a harmonious

balance in idealistic and sophisticated societies. It tends to increase in popularity when social conditions limit freedom of expression, and to recede as those conditions abate.

In Islamic thought, the Qur'an provides the key to allegory in its distinction between verses that are clear and those that are ambiguous, and in its references to God as both the outward (*zahir*) and inward (*batin*). Allegory may be either compositional, a narrative with at least two levels of meaning, or interpretive, an exegesis of a narrative through the prism of some system of thought, whether or not the author of the narrative had any such point in mind. Hence, some narratives (like *Moby Dick*) may be interpreted allegorically, even though they are not technically allegories as such. In such a work, Heath explains, "narrative event, character development, and detail overshadow allegorical allusion . . . because [the work] lacks a readily identifiable and consistently foregrounded ideological program." In a true allegory, on the other hand, the author places clearly before the reader a specific program that serves as a guide to the inner meaning of the story.¹⁷

PRINCIPAL POETIC FORMS

Although allegory as narrative structure often overlaps with poetic form, they are not synonymous. Islamic poetry has two formal and functional categories, didactic and lyric, whose form and thematic content are distinct. In general, lyric poems are shorter and more emotionally charged, focusing on the intricacies of an interpersonal relationship. Didactic poetry tends to use longer forms with more narrative elements and is often dispassionate in its treatment of themes.

Didactic Poetry

Didactic works differ from the inspirational works discussed in chapter 3, in that the teaching function remains diffuse and suggestive rather than direct and explicit. Poems of this type are often quite long. Although several forms may be said to perform a teaching function, I consider only the mathnawi genre. Major examples in Persian are works by Sana'i, 'Attar, Ilyas ibn Yusuf Nizami of Ganja (d. 1209), Rumi, and Jami. The term *mathnawi* means "couples," and the form typically features half-lines, or hemistichs, whose endings rhyme with each other. A Persian invention, the mathnawi form originally served the needs of epic and historical narrative, most notably in the early eleventh-century Iranian paean to the nation's great heroes, Abu

'l-Qasim Firdawsi's (d. c. 1020) *Book of Kings (Shahnama)*. Firdawsi set a standard emulated by many later poets commissioned to aggrandize warriors past or sovereigns present. Over the centuries important Turkish, Urdu, and Sindhi poets adapted the genre to different purposes, often borrowing thematic material as well as prosody, and putting their own stamp on it. Religiously oriented mathnawis have three kinds of content: romantic, ethical, and mystical. Rumi's mystical work has a strong ethical dimension, and Nizami's romantic poems are full of mystical themes. Sana'i pioneered the use of rhyming couplets for didactic purposes in his *Garden of Ultimate Reality*. The tone of the classic religious mathnawis runs the gamut from the more explicitly spiritual (such as Sana'i, 'Attar, and Rumi) to the more subtly mystical (such as some of Nizami's).

Mathnawis are structured in various ways. Some organize material in a more or less continuous narrative, as in Jami's *Joseph and Zulaykha* (*Yusuf wa Zulaykha*) (see reprise). Some arrange diverse smaller forms, such as illustrative anecdotes and moralizing glosses, within a larger narrative framework, as in Attar's *Conference of the Birds (Maniqat-tayr)*, with its seven parts structured around the narrative of journey through seven valleys. Attar has his avian pilgrims traverse the various realms of inner spiritual experience, borrowing a metaphor from the traditional view of the external world as composed of seven regions or climes.

Nizami's *Seven Portraits (Haft paykar)*, employs a similarly symbolic arrangement, but its structure suggests a more direct influence from astrology. The story follows King Bahram Gur from one wondrous pavilion to another, in each of which a princess from a different kingdom regales him with beguiling romantic tales, each on a different day of the week. Each palace's decorative scheme is dominated by one of the seven colors of a traditional artistic palette, and each is symbolically associated with one of the seven planets. Others, such as Rumi's *Spiritual Couplets (Mathnawi-yi ma'navi)*, seem to pursue a more spontaneous development, often not following an integral story line, but flowing from one topic to another and often doubling back in arabesque fashion.

One English translation of Attar's *Conference of the Birds* seeks to preserve the rhyming hemistichs of the mathnawi form. The setting is a gathering of all the world's birds and their deliberations as to whether and how to set out in search of their king, the Simurgh. (See Fig. 18.) A volunteer, the crested hoopoe, responds to the nightingale, who has just attempted to excuse himself from the arduous journey by saying he loves the rose far too deeply to risk separation from her:

The hoopoe answered him: "Dear nightingale,
This superficial love which makes you quail
Is only for the outward show of things.
Renounce delusion and prepare your wings
For our great quest; sharp thorns defend the rose
And beauty such as hers too quickly goes.
True love will see such empty transience
For what it is—a fleeting turbulence
That fills your sleepless nights with grief and blame—
Forget the rose's blush and blush for shame!
Each spring she laughs, not for you, as you say,
But at you—and has faded in a day."¹⁸

In these lines the hoopoe, which represents a kind of spiritual guide, counsels the nightingale about one way that the seeker can become distracted from the ultimate goal of life's quest.

Lyric Poetry

In the category of lyric poetry I include shorter, non-narrative forms that generally elicit a more intensely personal emotional response. Three principal lyric forms, whose chief subject is the lover-beloved relationship, are the qasida, the ghazal, and the ruba'iyyat.¹⁹ Virtually all the great mystical poets employed the qasida form. Arab poets began early in the Islamic era to adopt the pre-Islamic genre as a vehicle for lavish praise of their royal patrons. Islamic panegyric largely borrows the formula of the pre-Islamic odes, highlighting the ruler's prowess and bravery in battle, along with his largesse, and adds some distinctively Islamic elements: "The ruler is not only just and resolute but the Guardian of the Faith and God's favorite, ruling by a special mandate from Him according to His dictates; the poet also sees to it that there are some Qur'anic allusions in his language."²⁰ The reader may decide whether or not the poet is merely laying a pious veneer over the "real" work of art to maintain an air of respectability.

Mystical poets gradually adapted the qasida form to praise God further, with elaborate reflections on the divine names and attributes. Each of the three structural segments of the early Arabic form has its unique tone and emphasis, offering the religious poet both a pattern to imitate and a challenge to meet in adapting and modifying the genre's purposes. The romantic prelude's (*nasib*) lamentation over the loss of longtime friends becomes a song of grief over distance from the divine beloved. This is allegorical thinking even though the form does not utilize an allegorical organizing principle.

The second part of the classical qasida, the journey (*rahil* or *takhaillus*, "disengagement") in search of the departed one, becomes an image of spiritual pilgrimage for example, to the Ka'bā of the heart. One discovers the poet's main motive in the ode's third section (*gharad*). In the classical form, the *gharad* can embrace any of at least seven themes, and occasionally it combines several of the following: love, description, praise, boasting, lampooning, panegyric, threnody, and wisdom saying.²¹

Recent studies have suggested that the tripartite structure of the classical Arabic ode reflects the three phases of the rite of passage, namely, separation, liminality and transformation, and return to community.²² As adapted by mystics, the principal theme became some variation on the relationship of seeker to sought (God). Ibn al-Farid stands out as a master of the Arabic mystical ode; and Sana'i pioneered the qasida's adaptation into Persian.

Ibn al-Farid transforms the journey motif into that of pilgrimage to the Ka'bā, and then further spiritualizes the journey's goal into the ultimate Ka'bā, the divine beloved as paragon of beauty.²³ One of his most celebrated poems is the "Wine Ode" ("Al-Khamriyya"). It develops the imagery of intoxication as a mystical theme, beginning with an allusion to the lament for the lost loved one. Ibn al-Farid refers to an eternally ancient wine that is divine love. An artifact called a drinking bowl gives Ibn al-Farid's visual imagery a material counterpart:

In memory of the Beloved we quaffed a vintage that made us drunk before
the creation of the vine.
Its cup the full-moon itself a sun which a new moon causes to circle. When
it is mingled (with water), how many stars appear!
But for its perfume, I should not have found the way to its taverns; and but
for its resplendence, the imagination would not have pictured it.
Time has deserved of it but a breath: it is unseen as a thing hidden in the
bosom of the mind.

The poet then describes how the merest whiff of this vintage is enough to render even the casual passerby senseless. One whose palm is stained red by one drop of this wine will never lose the way, for the guiding star now shines from that hand. Many will fail to understand the one so intoxicated and may even condemn that person, but it matters little in the long view of life. For, Ibn al-Farid concludes:

Joyless in this life is he that lives sober, and he that dies not drunk will miss
the path of wisdom.

Let him weep for himself—he whose life is wasted without part or lot in wine!²⁴

Sana'i of Ghazna was an influential Persian religious poet, many of whose odes are best characterized as homiletical. They provide a link between poetry and liturgical and popular preaching, and underscore from a slightly different perspective the problem of aesthetic ambiguity discussed earlier in this chapter. Homiletic poetry supplies preachers with poetic imagery for illustrating their oratory. But the relationship between this type of poetry and religious oratory is complex. The hearer, steeped from childhood in the language and symbol systems of Islam, must decode the poetic allusions and translate them mentally into the religious concepts to which the allusion refers. For example, a passing allusion to some aspect of a prophet's story such as the rod-dragon of Moses that God causes to devour Pharaoh's magicians, reminds the hearer of the whole of Moses' story with its emphasis on God's power and sovereignty (Q 7:100 ff.). A reference to Nimrod's fire recalls how God looks after Abraham even in the face of death (Q 21:60–70).

The homiletical qasida is characterized by more exhortation and less description than the standard classical ode. In one poem Sana'i outlines the spiritual journey. The seeker must move from ascetic control over self to awareness of the rose garden of realities beyond this world's mere appearances to the level of companionship in the mosque's rows with the great religious heroes wherein one becomes like a lover who abandons self entirely before the beloved's dwelling. The coded message in the second line of the quotation below is an allusion to a key episode in Abraham's life. According to Qur'an 6:76–79, God reveals his transcendence to Abraham by making the prophet understand that God is far beyond stars, moon, and sun—all of which eventually set. When Abraham accepts his own tendency to idolatry, he smashes the idols in the shop of his father, who makes a living by carving statues of them:

Whatever you find, if it is not wickedness, it is religion; take it to your heart.
Whichever you see, if it is not the Lord, it is an idol; smash it.
When your heart and soul have become a leather cloth under your feet,
dance upon it.
When two forms of existence are united in your hands, try your hand.
Rise through the rose-garden of searching truth; in the lane of religion
You will see those who are living, though they have been killed, multitude
upon multitude.
On one row you will see those wounded by a sword like Husain.
On another row you will see those killed by a poison like Hasan.
The pain of religion is in fact a pain full of tricks; you become like a candle;
"When you fall ill, you only recover when they cut your throat."²⁵

The poet then describes the parallel function of suffering in both religion and love. The imagery of the candle shedding tears of love as it burns has been a favorite of artists in bright metal as well as dark ink.

Another important adaptation of the qasida genre extols the exceptional qualities of the Prophet. During his lifetime, poets were already turning the classical genre's spotlight on Muhammad. Ka'b ibn Zuhayr (d. c. 630) wrote one of the earliest panegyrics of Muhammad; and Hassan ibn Thabit composed numerous verses that recount the Prophet's biography.²⁶

After a hiatus of several centuries, the genre reemerged not long after the year 1000. It reached its peak, some critics believe, with Sharaf ad-Dir Muhammad al-Busiri's "Mantle Poem" ("Burda") in the thirteenth century, one of many imitations of Ka'b ibn Zuhayr's poem of the same name. Launching the long ode with an adaptation of the *nasib*, nostalgic for happier days, Busiri (d. 1298) issues a warning against succumbing to desire of the flesh and then develops an elaborate description of Muhammad that has an epic flavor. Busiri's glowing encomium concludes with an autobiographical note:

Him have I served by my panegyric, by which I ask pardon for
The faults of a life passed hitherto in poetry and serving [others].
Whoever sells his future life for this transitory [world],
Will discover how he has been defrauded in the selling and the bargaining.
Even though I commit a fault, yet unbroken is my covenant
With the Prophet, nor is my tie [with him thereby] cut.
Far be it from him to disappoint one who hopes for his protection,
Or to let a client return from him unaided.
Ever since I began to apply my thoughts to praising him,
I have found him the best of helpers towards my redemption.
Riches from him never pass by a hand that is destitute,
Any more than the rain which makes flowers bloom on the hillocks.²⁷

The poet insists that he writes out of sheer devotion rather than out of desire for the "flower of this world," that is, the hope of material gain that he suggests often motivates panegyrist.

Encomiums, or panegyric poems, can occur as part of a longer mathnaw as well as stand alone in the qasida or ghazal genres. Works praising the virtues of the Prophet are usually called *nāfi* (literally, "qualities, attributes"), a term that distinguishes works by content rather than by form. The distinction between panegyric (*madih*) and eulogy (*ritha*)—praise of the living and of the dead, respectively—does not apply in the case of the Prophet, since poets praised him with the same medium both while he lived

and after he died. They did so because they thought of Muhammad as still alive spiritually even after his death.²⁸ Virtually every composer of religious mathnawis has included one or more na't sections as prologue to the work. Standard thematic elements include a recounting of the wonders of Muhammad's Ascension and an encomium of his heroic qualities. In illustrated manuscripts, painters often took the occasion to produce an image of Muhammad's mi'raj. (See Fig. 35.)

Among the shorter lyric forms several contribute significantly as sources of Islamic spirituality. The ghazal, often explained as deriving from the first segment of the qasida, the nasib, is the most important and widespread. The ghazal, roughly analogous to the English sonnet, is generally limited to fourteen or fewer monorhyming verses. Many Muslim poets have written ghazals in Arabic, Persian, Turkish, as well as in other languages; but perhaps none have been more popular or famous than Rumi and Hafiz of Shiraz (d. 1389).²⁹ In the following lines from Rumi's *Diwan*, the poet uses the imagery of wine, drunkenness, and the paraphernalia of the drinker, including the drinking bowl in the penultimate line, that recalls a favorite theme of Ibn al-Farid's. Rumi slides from one image to another, returning at the end to the metaphor with which he begins:

Drunkards as a rule fall on one another, causing a great ruckus as they brawl.
The lover is one up on the drunkard, for the lover keeps the same company.

Let me tell you what love is: falling into a goldmine.

And what is that gold? [It makes the lover the Sultan of Sultans, safe from death and beyond concern for a [mere] crown of gold.

The dervish wears a cloak with a pearl in its pocket. What! shame can door-to-door begging bring?

A drunken moon came along last night, letting his waist-garment slip to the road, so tipsy that he did not notice his clothes had fallen.

"O Heart," I said, "jump up and put wine in the soul's hand; the time has come: it's time to scuffle,
To consort with the orchard nightingale, with the parrot of the spirit to dive into sugar." [Parrots love to eat sugar.]

Benefit of the heart I've given away I have stumbled onto your road—and, by God, I know no place else to fall.

I broke your bowl, O my Adored, because I am drunk. Do not let me fall drunk into danger from your hand.

So now there is a new protocol and regimen [for drunkards to follow]:
breaking the drinking glass and picking a fight with the glassblower!³⁰

In content, feeling, and form this poem well represents the ghazal as adapted to mystical purposes.

The most compact form popularly employed by Muslim poets is the quatrain (ruba'iyyat), composed of two distichs, with the first, second, and fourth

hemistichs rhyming. Rumi composed several hundred of these short poems, and a number of others before and after him were equally gifted in the genre. The famous Sufi Awhad ad-Din Kirmani (d. 1237) communicates the intensity of his longing for God in these lines:

Without the remembrance of you earthly life would be nothing,
without your love our hearts and souls nothing.
If we miss one breath of your invocation (*dhiikr*)
in the two worlds our reward would be nothing.

From love of you passion enters every heart; without the remembrance
of you not a breath would rise from the soul.
Do not sell me, do not pardon me, do not free me; though you have
countless slaves, you are my lord.

Dawn again, and the thought of you opens me . . . then in every breath
your vision indwells my spirit.
The odor of decay will never reach my soul
so long as your perfume is the wound of my senses.³¹

Quatrains like these serve as memorable condensations of intense feeling, each wrapped around a single sense-image cluster (such as odor/perfume) or mystical concept (such as *dhiikr*, remembrance of the divine beloved).

Finally, an important poetic variant that developed far from the Middle East lends some geographical balance to this poetic map of the Islamic world. The Malay *syair* (from the Arabic *shai'r*, "poet, one whose sensitivities are heightened"), a poetic form, played an important role in expressing a mystical side of Islamic spirituality as it developed in Southeast Asia. Using a quatrain structure with an *a-a-a-a* rhyme scheme (as distinct from the Persian quatrain *a-a-b-a* scheme), the *syair* is a medium length poem, created by stringing from ten to twenty (but most often thirteen to fifteen) quatrains together. The sixteenth-century Sumatran Hamza Fansuri crafted perhaps the earliest examples of the form as a vehicle for interpreting the mystical thought of Ibn 'Arabi. I locate the genre, as exemplified in Hamza's work, in the context of lyric poems because of its form, though one could argue that the tone and content of his verses qualifies them equally as didactic.

Of Hamza's thirty-two poems, a group of thirteen read like short exhortatory sermons, recalling in tone if not in form the homiletical odes of Sana'i. Hamza emphasizes the need to recite the Qur'an, for the scripture is the source of that salutary knowledge and wisdom that constitute union with God. His work is unusual and very important, even if not nearly as widely known as works by famous Persian and Arabic poets. Hamza provides a rare view of Muslim thought in Southeast Asia.

He begins one of his homiletical *syair* with a call to the community of

Muslims to seek out the mystical knowledge that Friends of God possess. Exemplified in the life of Muhammad, that knowledge leads to union with God. Hamza then uses two Qur'anic references as metaphors for mystical experience. The first, the confluence of the two seas, refers to the goal of Moses' journey in Sura 18, under the enigmatic guidance of a figure whom post-Qur'anic tradition came to identify as the prophet Khizr:

He has mingled the two seas which meet
Between which is a barrier which they do not overstep

That here there is question of this knowledge
Is evident to all knowers endowed with faith.

These two seas are most amazing

The barrier between them is constituted by the "light of the Beloved"

(nur [i.e., light of] Muhammad)

As its outer meaning is all too obvious
It is improbable in the opinion of the strangers (in this world).

The words "the two seas" have a profound meaning
They denote the meeting of God and the world

That was the secret of the final Prophet

Which sets the lovers aglow with an inextinguishable blaze.

The two seas are shoreless
Their waters are pure and very clear

They are not situated in the eyes, the nose or the brows

If you look for them there your head will spin.

Hamza's second scriptural allusion, to the "two bow-lengths," comes from the description in Sura 53:1–18 of Muhammad's mystical experience known as the Ascension. In that text, the expression "two bow-lengths off or nearer" appears to refer to the Prophet's encounter with the revealing angel. As with the reference to the two seas, Hamza also considers this allusion a figure of speech:

The meaning of "two bow-lengths off or nearer" [Q 53:9]
Is the meeting (of the servant) with the Lord most high

The words "The heart did not falsify what it saw" [Q 53:11]
Mean, "There was nothing but what it saw."

"Two bow-lengths" is an allegorical term [*tantihil*]
Of a lofty meaning and decisive weight

The two seas referred to are of a supreme beauty
Very few in number are those who are privileged to know them.³²

Hamza was much influenced by the works of major Persian poets as well. One interesting theme is that of his recurrent allusions to Attar's *Conference*

of the Birds. He speaks of the "naked bird," an image of the mystic freed of earthly attachments. Inebriated with the love of God, the yellow bird enjoys proximity to God's footstool. In a series of four poems, Hamza describes how the bird, of spiritual origin and mystical creed, begins at God's throne in the cage of God's house and journeys toward ultimate reality:

Listen, oh [sic] stranger

That bird is everyone of you

You should gather this knowledge
So that your being be exalted.³³

The circumstances under which the works of these poets have survived vary. Some, like those of Rumi and Hafiz, have remained popular and accessible in modern editions. Others, like those of Hamza, have only been rediscovered recently by scholars, although the form of the *syair* has remained alive as a medium of oral expression in Southeast Asia.

This overview of poetic forms and functions yields two insights into the relationships between literature and Islamic spirituality. First, virtually all genres and themes of literature have become vehicles for the loftiest sentiments. Even the most secular forms, from drinking song to hunting poem to political praise to celebration of victory in battle, have served the religious imagination. Second, Muslim religious poetry testifies to the tenacity of the creative spirit. Over the centuries official religious, social, and other cultural pressures often demanded that Muslims repudiate modes of discourse that might threaten to compete with the divine revelation for the attention of the populace. Muslim poets have weathered many a storm. Notwithstanding the Qur'an's own evidently negative attitude to poetry, Muslims throughout the world have continued to use indigenous literary forms in writing Islamic poetry and to indigenize Islam through those forms.

ARABESQUE AND AESTHETICS

In *The Alchemy of Happiness* (*Kimiya-yi sa'adat*), Ghazali writes, "The beauty of a thing lies in the appearance of that perfection which is realizable and in accord with its nature. When all possible traits of perfection appear in an object, it represents the highest stage of beauty; when only part of them occur, it has that measure of beauty which appears in the realized degree of perfection."³⁴ Thus, Ghazali describes harmony, a quality Muslims have found in their arts on five levels: sensual, psychological, ethical, theological, and mystical. First, beautiful objects give pleasure to the senses. Second, formal linear harmony and the harmonious juxtaposition of color

schemes can also satisfy psychological needs by supplying a sense of order and variety in the midst of what might otherwise seem a random and monotonous routine.

Third, Muslims have interpreted artistic harmony as a reflection of virtue. Only the pure of heart are capable of purity in artistic creation, and the harmony of the art can in subtle ways instill moral discipline in the viewer. Qadi Ahmad's sixteenth-century Persian treatise on calligraphers and painters, *Rose Garden of Art* (*Gulistan-i-hunar*), cites two related proverbs: "The essence of writing is in the spirit" and "Excellent writing clears the eyes." He also quotes a saying that he attributes to Plato, "Writing is the geometry of the soul." The translator explains in the introduction that "[b]y maintaining that 'purity of writing is purity of soul,' . . . the medieval outlook made on the master calligrapher the same demands of asceticism as it did on members of the religious class."³⁵ Muslims have considered copying the Qur'an an exquisite calligraphy, a devotional act worthy of spiritual merit.

Fourth, a combination of historical, mythical, and theological elements describe several Muslim views about the spiritual origins of the arts. Dust Muhammad, an older contemporary of Qadi Ahmad, wrote a treatise on painters. He reiterates there a long-standing Shi'i tradition that Muhammad's son-in-law Ali invented the first authentically sacred style of calligraphy. Ali thus bestowed on the Kufic script a religious legitimization by its association with a relative of the Prophet's.³⁶ Dust Muhammad also relates the tradition that the art of painting originated with the prophet Daniel.³⁷ Rumi provides further traditional lore about the myth of architecture's religious origins. He echoes ancient legends of how Abraham and his son Ishmael built the Ka'ba in Mecca, and of how Solomon constructed the Farther Mosque—the al-Aqsa—actually dating to the eighth century, at the southern end of the site of Solomon's Temple in Jerusalem.³⁸

Tradition traces the origins of the arts—especially of calligraphy—all the way back to God, who wrote the celestial archetype of the Qur'an. Then, after fashioning the pen before any creature, God taught the Prophet "[b]y the Pen" (Q 68:1) what he had not known before.³⁹ According to Qadi Ahmad, creation itself is the divine calligraphy with which God "covered the pages of changing time with the black-and-white design of nights becoming days and days becoming nights." God, he continues, has "arranged the album of the revolving skies with the multi-colored pages of spring and autumn." Referring to God as the first painter, Qadi Ahmad justifies the art of painting as well as of writing. God created two kinds of pen: a vegetable type, the reed pen, and an animal type, the brush with its tip of hair.⁴⁰ Spiritual origins therefore account at least in part for the harmony of great religious art.

Finally, there is the mystical level. Carrying out the aesthetic implications of the classical distinction between outer and inner meanings, many Islamic writers have suggested that a work of art is always more than it appears. Ghazali writes that children and animals can experience form, but only the eye of the heart can perceive "inward form."⁴¹ All things reflect divine beauty, says Rumi, for every visible form originates in the unseen world. God is Beauty itself, and from the "mine of loveliness" in which God dwells, "filings of beauty" fall into the possession of all creation.⁴² Ibn al-Farid said that true pilgrims journey not to the physical Ka'ba at Mecca but toward the Ka'ba of Splendor that is God.⁴³ Rumi calls himself a painter whose images melt away in the presence of the divine beloved. God is the calligrapher who writes with the pen of the human heart. Every beautiful face is like a flawlessly executed copy of the Qur'an.⁴⁴

Rumi comes as close as any classic Muslim author to describing a spiritual aesthetic when he says that no painter, no potter, no calligrapher creates a work of art for the sake of the work itself. One must regard all created form as a vehicle for appreciating the unseen beauty of the divine. The art historian A. Papadopoulos calls this point of view an "aesthetic of ambiguity," for the work does not coerce the viewer into attaching any one spiritual meaning to the form. The aesthetic of ambiguity suggests that the viewer cannot always say for certain which painters, for example intended their scenes of lovers in a paradise garden to be taken as visions of heavenly reality, and which wanted the viewer to see merely an earthly picnic.⁴⁵ Unfortunately, relatively few Muslim artists have left their own explanations about how they viewed the spiritual or symbolic dimensions of their arts. When such documents do turn up, they are more fascinating for their rarity. One such work is the seventeenth-century *Manners of Practice* (*Adab al-masha'*) of Baba Shah Isfahani. The author delves into the technical aspects of the craft, to be sure; but his overall concern is with the deeper reach of the art. As a result, Baba Shah adds the invaluable perspective of a practitioner. He speaks of the requisite mastery of principles and of purity of intention, but then he begins to slide into the realm of mystical contemplation: "heedless of the pleasures of the world, he [the calligrapher] turns his heart toward practice, and the luminous sparks of the real beloved's beauty appear in his vision."⁴⁶

Quoting a verse of poetry about seeing the beloved's face everywhere, Baba Shah notes that when the calligrapher writes, "he reddens that paper with the bloody tears from the extremity of his love for that letter." He then describes three stages in the artist's development. Moving from the visual practice of studying a master's work to the pen practice of attempting to

emulate the exemplar, the calligrapher advances to imaginative practice. Here the contemplation of God's beauty begins to suffuse the activity with life; no longer is the writing a mimetic craft but a spontaneous and genuine art.⁴⁶

Visual Symbolism

Opinions on how best to interpret the essential Islamic message of visual arts vary widely, from an almost total denial of any symbolic content to a penchant for discerning symbols in the slightest curlicue and variation in color. Ironically, theories at both ends of the spectrum purport to derive their theological aesthetic from the same principle, namely, *tawhid*—the acknowledgment and assertion of God's unpromised unity and transcendence. Each approach has both strengths and weaknesses, and each highlights important aspects of Islamic spirituality.

The minimalist approach argues that Islam's art, from architecture to miniature paintings to calligraphy, communicates not through literal or explicit symbolism, but only through implicit symbolism. I use a Byzantine icon as an illustration since it may be interpreted according to any of these three types of symbolism, and therefore exemplifies the two kinds of symbolism the minimalist view says Islamic art lacks. At the level of literal symbolism, the image communicates through specific iconographic clues, such as certain physical attributes or implements. For example, John the Baptist appears dressed in rough garments and is thus identifiable as an ascetic. He is also accompanied by a lamb. If the icon's symbolism is understood literally, the viewer might take John for a shepherd. But the lamb also operates at the level of explicit symbolism; Christian viewers already know that the lamb is an explicit referent for Jesus, the sacrificial Lamb of God. An icon can communicate through implicit symbolism as well. It can convey a sense of mystery through its use of nonrational colors, as in the case of a golden firmament, suggesting an otherworldly setting. The use of a strictly frontal view of figures, the intense and unbroken gaze, the lack of shadow, the sense of evenly suffused light as though the image were illuminated from within itself or from behind—all are what Lois Ibsen al-Faruqi calls implicit symbolism—symbolic content conveyed by means of indirect and subtle suggestion rather than a one-to-one correspondence between visual and nonvisual referent.

In Faruqi's minimalist view of Islamic symbolism, Islamic art communicates *only* through implicit symbolism. It does so out of the utmost care to avoid compromising God's unity and transcendence by even the slightest hint that any one visual form can fully portray any divine quality or attribute. Islamic art intimates, suggests, and, at most, alludes to transcendence,

infinity, power, and majesty by its use of variations of vegetal and geometric arabesque, an infinitely repeatable pattern. Because the central realities so elude direct human apprehension as to be nonrepresentable, no visual creation can presume to point directly to them. Therefore, shapes, colors, or architectural features such as the dome or the niche have no explicit external referents. The dome is not a symbol of the firmament, nor is the niche in the back wall of the mosque a symbol of divine light, for example. Instead, all products of artistic creativity manifest such fundamental characteristics of arabesque as abstraction, modular composition, repetition, intricacy, dynamism, and successive combination—all of which imply or hint at the divine attributes of unity and transcendence.⁴⁷

According to Faruqi, the qualities of arabesque pervade all visual forms and media. Even the human and animal forms found in miniature painting are variations on this theme. Faruqi suggests that Muslim miniature painters have never intended to portray the created world but rather meant to hint at the divine reality indirectly. Her conclusion is based on these features: multipoint (rather than single-point) conceptual (what one can "see" mentally all at once, rather than perceptual: what one would actually see) perspective; use of suffused light that results in lack of shadow and thus in a lack of any perception of mass in bodies or architectural shapes; and the denaturalization of human and animal forms (bodies without volume, for example).⁴⁸

While the minimalist approach to symbolism has the merit of consistency and coherence, it presumes that all of Islamic art has been produced under the uniformly powerful influence of theological principles and does not take sufficient account of the presence of other factors. It tends, in other words, to be ahistorical and to force the issue of arabesque as the guiding principle, especially in its attempts to explain the figural art of miniature paintings.

At the other end of the spectrum are the maximalist theories founded on the pervasive influence of universal symbolic forms or archetypes, all ultimately to be taken as manifestations of the divine unity. Nader Ardalan's *The Sense of Unity: The Sufi Tradition in Persian Architecture*, Titus Burckhardt's *Art of Islam: Language and Meaning*, and S. H. Nasr's *Islamic Art and Spirituality* discuss the symbolic sensibilities that permeate Islamic cultures and the subtle influences that play a part in artistic creativity.⁴⁹ Their desire to view the arts as organic developments of a religious culture add an important perspective to the understanding of aesthetic questions.

Variations on the ancient theory of correspondences among cosmic realms or levels, along with shades of the Neoplatonic distinction between

form and reality, characterize this approach. Ardalan, Burkhardt, and Nasr interpret shapes partly with reference to the theory of traditional geometries in which primal forms in the visible universe correspond with ideal forms in the uncreated realm. Hence, for example, the square represents earth; the circle, heaven; the cross (a quincunx composed of four points and center); the five elements (including ether); and so forth. When one interprets the meaning of an architectural composition, horizontal shapes must of course be taken together with their vertical counterparts. A ground plan may reveal shapes that suggest a mandala, but a mandala is fully significant only when understood as three dimensional.⁵⁰

Faruqi classifies such an archetypal reading of shapes and forms as a theory of explicit symbolism. Where Ardalan sees symbolic shapes, Faruqi sees merely evidence of abstraction and modular composition. The maximalist view has the advantage of attempting to reconstruct an organic, all-encompassing cultural and intellectual context for the arts. That context functions in the maximalist position somewhat the way the religious or theological matrix serves the minimalist position. But, like the minimalist view, the maximalist also has serious limitations. This intensely idealistic approach presumes that the artist lives in and re-creates a seamless, perfect world, like that of the Neoplatonic forms. For that reason among others, the maximalist view is attractive and thought provoking; but it does not quite describe the ordinary experience of Muslim artists as religiously committed human beings living on terra firma. Both views are useful in that they seek to explain their subject from within, as it were, by discerning eternal principles at work within the heart of the artist and the soul of a global culture. But one also needs to account for many other factors that have come to bear on artists and cultures from without, while also taking seriously the relationships between creativity and experience, and accounting for the sheer physical reality of the work of art.

One of the most original and thought-provoking ventures into the enchanted forest of interpretations of Islamic art and its symbolism (or lack thereof) is Oleg Grabar's *Mediation of Ornament*. This work stands more or less in between the omni-symbolic view of the maximalists' and the minimalist view of Faruqi's. Grabar identifies, within the "visual order" that he calls ornament, a number of "visual characteristics as frequent enough to be typical of Islamic art." He defines ornament as an aspect of the broader category of decoration; it is "that aspect of decoration which appears not to have another purpose but to enhance its carrier."⁵¹ One perceives in ornament attributes of several kinds: iconophoric, which has relatively clear and widely accepted referents (e.g., the hand suggesting the five members of

Muhammad's family in Shi'i iconography); formal, consisting of color, shape, texture, but with no clear referent; expressive, as in the emotional tone of Michelangelo's *Pieta* or Caravaggio's *Deposition*; and optisemic (having to do with perceiving signs or phenomena as broad categories), including themes recognizable apart from any further iconophoric, formal, or expressive meaning (e.g., a human-headed quadriga that Islamic tradition then identifies as Muhammad's mount, Burat).⁵²

Grabar sees in Islamic ornament's abstraction and repetitiveness no inherent symbolism. Ornament mediates experience through calligraphy, nature (also called vegetal or floral motifs), geometry, and architecture. Grabar does not discern explicit symbolism in calligraphy, for example. He does, however, find a curious "ideological significance" in the contrast between the "visual brilliance but comparative senselessness" of an arresting tenth-century "blue Qur'an" and the "absolute clarity and legibility" of the early eleventh-century Qur'an attributed to the legendary master of calligraphy Ibn al-Bawwab. Grabar observes that "[i]t is in the realm of the minority and esoterically inclined world of the Fatimids and of Shiism in general that the blue Korans were executed, whereas the centers of the Sunni revival with its emphasis on the literalness and clarity of the divine message were the ones that fostered the new kind of precise writing."⁵³

On the other hand, Grabar does not see in either mysticism or the Qur'anic impulse sufficient cause for the development of Islamic calligraphy. Rather, the "true reasons must be sought much more profoundly within the fabric of classical Muslim life than within the mechanisms of the Revolution or of esoteric interpretations."⁵⁴ As he searches for the elements underlying the works of art, Grabar is momentarily tempted by the essentialist interpretations of both the maximalists and minimalists. His identification of Sunni revival with an "emphasis on literalness and clarity," for example, suggests a connection between doctrine and visual expression with which Faruqi and Nasr might concur. But Grabar prefers to find the key in the workings of Islamic societies rather than in the recesses of what he calls the "Islamic soul."

Faruqi's minimalist approach detects in all Islamic art the direct formative and controlling influence of a theological principle, tawhid. Translated into visual terms, strict adherence to tawhid and all its implications means that no artistic work can presume to make direct allusion to God's transcendent reality. Implicit symbolism can only hint obliquely at the divine. The maximalist view on the other hand finds explicit symbolism in virtually every facet of art and architecture, interpreting each facet as part of an organic cosmic system of color, form, and number. Artists assimilate the pri-

mordial archetypal realities as naturally, and perhaps as unconsciously as they inhale air. And when they exhale creatively, they give physical expression just as naturally to those realities. Each approach begins with a system of thought that is regarded as undergirding all artistic expression, and then interprets a work of art in terms of that system. Grabar begins with the visual expression and works his way toward a systematic explanation, discerning symbolism in some manifestations but not in others. All three approaches are useful, but I believe the third offers the most realistic and balanced perspective.

Architectural Symbolism

Gülu Necipoglu's approach to architectural symbolism also stands somewhere between the symbolic maximalists and minimalists. Her interpretation of the Suleymaniye Mosque complex in Istanbul (see Fig. 19) is an illuminating example. Necipoglu's purpose is "to demonstrate that culturally recognized symbolic and ideological associations do constitute a significant aspect of the Suleymaniye's multilayered architectural discourse."⁵⁵ Those layers are the functional, the commemorative (myths and cultural associations), the formal (architectonic), and the "literal" (inscriptions). Suleyman the Magnificent (d. 1566) had his chief architect, Sinan, lay out a grand complex, centered around a mosque, including educational facilities serving every pedagogical level (from Qur'an and Hadith study to advanced tuition in religious law), a medical school, a hospital, a hostel, and a public kitchen. Taken together the various elements make "the religious complex a model of the world, signifying values and themes that are to be emphasized in the good life."⁵⁶

Documents dating from not long after the sultan built his complex on one of Istanbul's highest hills suggest that the culture of the time attached a number of symbolic meanings to the structure. Likening the mosque to Paradise, the sources speak of the incomparable loftiness of its dome. The fountain at the center of its courtyard is likened to the celestial basin of Kawthar into which flow the waters of the four heavenly streams. Inside the structure, particularly on the dome and the qibla wall, inscriptive and visual allusions to the Verse of Light (Q 24:35) associate the sacred space with themes of firmament and celestial garden. But the mosque imitates Paradise indirectly, taking as its model the famous many-columned garden of Iram, whose creator, Shaddad, desired to emulate the celestial garden. Many of the Qur'anic inscriptions were evidently chosen to highlight the garden theme, transforming the portals, for example, into images of the gates of Paradise: One text, for example wishes peace to those who have persevered,



Figure 19. The west facade of the Suleymaniye Mosque and welcomes them to the most excellent home (Q 13:24). Another acclaims those in the state of purity and greets them, "Peace unto you; come into the garden on the strength of what you have done" (Q 16:32). Still another declares that God-fearing believers in throns will find the gates flung open to them (Q 39:73). And on the interior of the main dome is the text "God it is who maintains the heavens and the earth in existence. Should they cease to exist, no one could again revive them. Indeed He is the Clement and For-giving One" (Q 35:41).⁵⁷

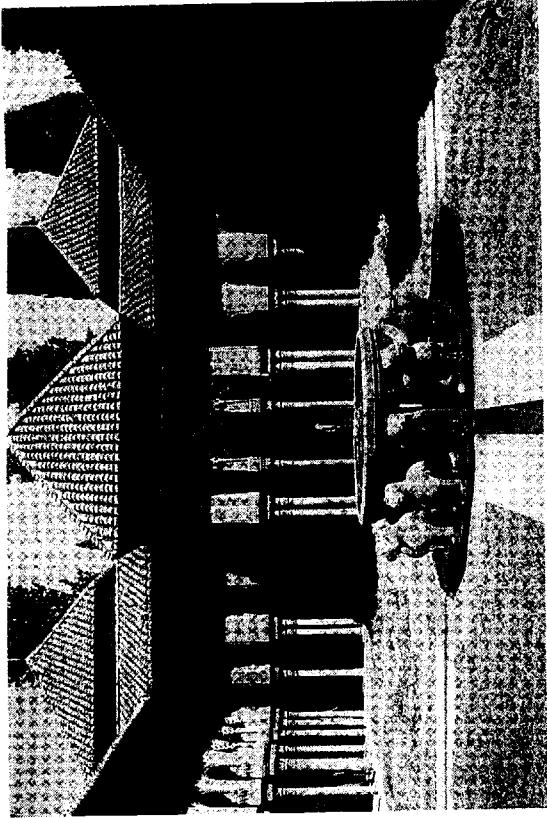


Figure 20. The mid-fourteenth-century Court of the Lions in the Alhambra, Granada, Spain, showing the lion-borne fountain and the watercourses dividing the courtyard into quadrants.

The tombs of the sultan and sultana behind the mosque continue these themes, amplifying them by means of decorative and structural allusions to the Dome of the Rock in Jerusalem, the site of the ancient temple of the sultan's namesake, King Solomon. Sulayman associated himself with King Solomon in several other ways as well. He went to the enormous trouble of shipping construction materials from a temple site now in Lebanon (Baalbek) where, according to Islamic lore, the prophet-king Solomon built a palace for the queen of Sheba. These are complex symbolic associations whose implications are at least as political as they are religious; still, they offer important insights into the public expression of traditional Islamic values.

Turkish sources like the Sulaymaniye Mosque to the Ka'ba, and the four columns that support its dome, as well as the four minarets, are viewed as reminders of Muhammad's four immediate successors, the Rightly Guided Caliphs: Abu Bakr, 'Umar, 'Uthman, and 'Ali. Popular lore has it that the number of the minarets recalls that Sulayman was the fourth sultan after the conquest of Constantinople; and the total number—ten—of galleries or small balconies on the minarets reminds the viewer that Sulayman was the tenth sultan in the house of Osman, founder of the Ottoman dynasty. Sinan is reported to have told Sulayman on completion of the project that the structure would last till Judgment Day. Invoking images of a popular and influential mystic, Sinan assured the sultan that even if the martyred Hallaj were to return and shatter Mount Damavand (a peak in north-central Persia with powerful mythic associations), the dome would stand unscathed.⁵⁸

A related spatial art highly refined in several Islamic societies is garden architecture. Formal garden settings lend themselves readily to the appropriation of Paradise imagery. As in the case of the Taj Mahal, elaborate garden compositions often provide a physical and metaphorical context for large funerary monuments. (See Fig. 24.) These compositions seek to reproduce visually the various Qur'anic allusions to the heavenly garden. Watercourses, recalling the rivers of Paradise, form a central design element, usually dividing the space into repeating quadrant modules, so that the overall design resembles a mandala. Many important gardens delight the living as well. India's Mughal dynasty produced some of the most extensive compositions, often laid out in such a way as to remind one of a vast floral carpet.

A prime example from the western end of medieval Islam is the spectacular Court of the Lions at the Alhambra in Granada. Its function is not specifically religious, but the symbolism makes important religious connections. In the center stands a basin borne on the backs of twelve water-spouting lions, from which four courses channel water back and forth across

the garden. (See Fig. 20.) Poetic inscriptions make clear references to Paradise. In addition, the lions not only recall zodiacal imagery but also the basin King Solomon constructed on the backs of twelve bulls in his temple in Jerusalem.⁵⁹ Whatever the garden's particular utilization, from funerary enclosure to vacation hideaway, this branch of the spatial arts draws heavily on imagery from Islamic religious cosmology.⁶⁰

Painting and the Decorative Arts

Among the most spectacular visual creations ever produced in Muslim cultures are the miniature paintings that adorn exquisitely written manuscripts of didactic and mystical poetry. In form these works are sometimes similar to those that illustrate the written sources mentioned in earlier chapters, and to those found in texts whose themes are not explicitly religious. And to some extent, these images serve the same functions of beautifying a book and entertaining the fortunate viewer. But because these manuscripts communicate a different kind of message than, say, the stories of the prophets or the pilgrimage manuals, their visual interpretations communicate at another level.

Here the image illuminates, but not merely as decoration, in the man-

ner of illuminated or historiated letters in a medieval European manuscript. These images are the visual counterpart of the beauty of the literature. As such, they are not simply illustrations. This visual imagery complements and rounds out the experience of savoring the beauty of the verbal imagery, which reflects the popular conviction expressed in the hadith especially dear to Sufis, "God is beautiful and loves beauty." (See Fig. 38 and note relationship of text to image.)

Mention of figural imagery in connection with Islamic art frequently elicits one of two responses: either "I always heard Muslims don't do figures" (usually from non-Muslims); or "Whoever did these images, they were obviously not good Muslims" (often from Muslims). But, in fact, professed Muslims have produced an enormous amount of such work, and there is little evidence to suggest that either the artists themselves or the majority of their contemporaries considered them reprobates. In fact, the Qur'an does not explicitly forbid the making or use of images; and the hadiths on the subject are inconclusive at best. Still, the concept of Muslims as always and uncompromisingly iconoclastic persists.

How then might one interpret the visual data in light of the widely known concern among Muslims about the potential dangers of figural imagery? One can draw a distinction between sacred and religious art. Islamic sacred arts, those defined by their direct relation to worship and prayer, seem never to employ images of humans or animals, and rarely of products of human making, such as buildings. Religious arts, on the other hand, those defined by their inclusion of religious subject matter but used only outside cultic settings, often include anthropomorphic and zoomorphic imagery.⁶¹

Second, the representational and figural arts are also distinct. The term *representational* applies to any conscious portrayal of a living being, human or animal, as in a portrait, for example. Figural art, by contrast, refers to human and animal forms used in a reserved fashion and in such a way as to suggest strongly that the artist never intended to "create" or represent a living being. According to this distinction, traditional Islamic artists have often produced figural, not representational, art. From a religious perspective one can argue that figural art does not violate any stricture, on the grounds that the nonscriptural ban that has become widely accepted in Islamic traditional thinking refers to representational imagery. By making such a distinction, Faruqi includes miniature painting within the orbit of imagery that is acceptable within Islam. That is significant in this context if only because Faruqi was a Muslim searching for a religiously acceptable way of accounting for the visual data. She further qualified the notion of

figural art, subsuming it under the category of arabesque. Just as calligraphic, geometric, and floral designs are highly abstract, Islamic miniature painting renders superficially anthropomorphic forms into abstractions.⁶²

In the vast repertoire of Muslim religious painting, a number of visual themes and metaphors stand out. One that gained enormous popularity all over the Islamic world, but especially in Mughal India, is the theme of the prince taking counsel with a holy man, a theme reminiscent of the literary genre mirrors for princes. Scenes of intoxicated Sufis appear almost as frequently. (See Fig. 36.) These are sometimes set in a bucolic landscape outside of a town, where the ecstatic adepts can give free expression to their experience of inebriation with God's love and beauty.

Dancing and music, with or without the accompanying imagery of intoxication, offer another set of metaphors. Famous mystics are often pictured in illustrations for stories of how the mystic "discovered" the style of paraliturgical gesture and dance that has become a hallmark of his fraternity. A legend of how a casual walk through that area of the bazaar where metalsmiths tap out their wares with danceable rhythms, for example, provides a natural setting for images and stories of this genre. Friends of God appear often; painters depict them preaching to crowds of disciples or effecting some miraculous deed. Picnicking lovers offer artist and viewer alike yet another ambiguous device: are the lovers and their garden to be taken literally or regarded as a glimpse of life in Paradise?

In addition to paintings and drawings whose thematic content seems relatively straightforward, there are also images whose purpose is quite subtle and elusive. For example, one manuscript of mystical poetry contains marginal images that appear to depict scenes related to life in the various valleys through which Farid ad-Din Attar's birds travel on their pilgrimage to find their king, the Simurgh. Scenes that appear to show travelers, herdsmen, lovers, and scholars, for example, are in fact oblique allusions to the various stages in spiritual progress. In other words, images related to a famous and popular Sufi didactic mathnawi are superimposed on a later collection of lyric poems, thus serving as a kind of visual allegory.⁶³

Especially in the Middle East, metalworkers have developed a wide range of objects that have often expressed profound spiritual sentiments, among them, the culturally and religiously important pen box and mosque candlestick. Other artifacts such as the oil torch (and the functionally related small candlestick, intended for private rather than institutional use) and the so-called dervish begging bowl have continued until relatively recent times to attract the attention of artists and patrons. By their evocative shapes and

the frequent use of epigraphic poetry to comment on their meanings, these objects offer an unequalled opportunity to appreciate the interrelationships among visual form, textual interpretation, and function. Since metalwork has always been a costly medium, the objects produced represent understandably the taste and values of wealthier individuals; but the persistence of the themes suggests a broader base of popularity for the metaphors and the convictions they convey.

A much-loved product of the metalworker's art is the oil torch or similarly shaped candlestick. These elaborately decorated objects are usually of brass, sometimes inlaid with silver or gold. Like some beggar's bowls, they speak metaphorically and often ambiguously, of the lover's longing for the beloved. Inscriptions from the great poets of earlier times, or of poetry composed specially for the object in question, play on the imagery of the burning heart and of the tears (wax) the candle sheds. Often the candle itself speaks, as in this text from Sa'di's *Orchard* (*Bustani*), with its punning reference to the unrequited love of the sculptor Farhad for the King's wife, Shirin (Sweet).⁶⁴ (See Fig. 21.) The moth is a favorite image of mystical poets for the lover who willingly loses self in the flame of divine love. The moth says to the candle,

O my poor admirer,
The honey which is my sweet beloved is burning down.
When I see that the sweetness departs from me,
Like Farhad, the fire flames from my head.

The artist who made the candlestick, Khwaja Ibn Mahmud, then adds a prayerful wish above his signature, "O God, may I die as a good man."⁶⁵ Cylindrical or polygonal cast-brass oil torches (ranging from fifteen to thirty inches in height) often use similar imagery to describe the experience of love's longing and the searing pain of separation from the beloved. Inscribed ghazals by the Indian poet Amir Khushraw (1254-1325) give the torch eloquence. Around the uppermost part of the torch stand runs this Persian inscription:

There is no time in which my soul from love of you is not burning.
What breast is there which that artful glance does not burn?
My own lamp does not burn at night because of my cold sighs.
Even in my neighbor's house that lamp does not burn brightly.

A little lower a band of inscription reads:

All night I burn with weeping, in darkness and in loneliness,
For in this house no friendly one burns with me.

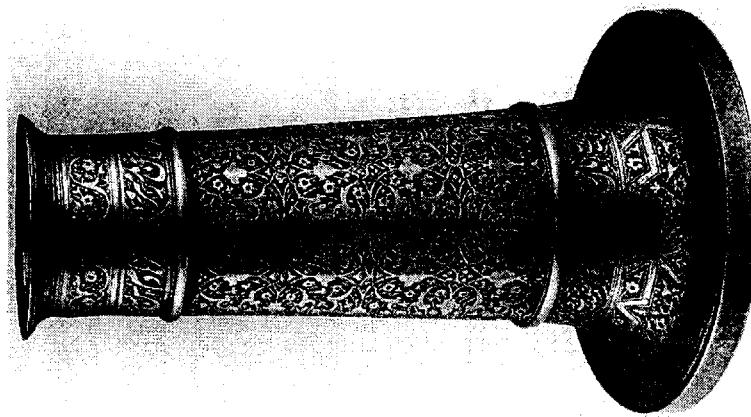


Figure 21. Brass candlestick from
seventeenth-century Iran. Texts by Sa'di
are inscribed in panels above the upper and
beneath the lower metal joins. The Saint
Louis Art Museum, Purchase.

You know of Khusraw's pain but make yourself not know—
I burned with envy, my beloved, when you set light to another.
You set light to another and none but me is burning.

And the torch concludes with this less ambiguously religious sen-

The lamp that God lights up—Who blows it burns his beard.⁶⁶

This light imagery, especially as interpreted from a mystical perspective, recalls the Qur'anic Verse of Light: all light is ultimately a reflection of the divine presence in creation.⁶⁷
Especially popular as an art form in Iran, the so-called beggar's

hibits an extraordinarily wide spectrum of meanings and presents a diverting set of paradoxes. First, a beggar's bowl crafted of precious metals and covered with lavish decorative detail hardly conveys a sense of penury and utility. In addition, the primary identification of the bowl as a wine vessel might indicate that the poets' frequent references to the lover's intoxication with beloved are more—or perhaps less—than merely metaphorical. Islam's prohibition of wine notwithstanding.

But the richness of the bowl's imagery goes further still. Shaped like miniature boats, the bowls also remind the viewer of the crescent moon; and since they are often gold in color, they have become associated with the sun, while the wine in turn recalls liquid sunlight. Classic verses hint at the various meanings of the object: "From the sun and from the sky request your food and your tray; at the time of banqueting / The crescent-moon became an illuminated bowl for your feast"; and "Bring me a boat of wine, for without the Friend's face [often likened to the full moon] / Every corner in my eye has become an ocean from the grief in my heart." Other lines also apparently refer to the scenes of sailors depicted inside the object: "Inside the golden boat of the cup filled with an ocean of rubies [i.e., wine] / The exquisite imagery of its sailor(s) is silver-bodied." Thus, the full-moon-faced beloved cupbearer passes around the crescent moon full of the intoxicating beverage of rubies.⁶⁸

Originally plainer objects called *kashkul* (literally, "rug shoulder," one who makes a request of another, hence, "beggar") were used by wandering dervishes as containers for whatever alms or food they might beg. Once again, both textual content and shape offer clues to meaning. More elaborate Iranian versions, dating from the sixteenth to the nineteenth centuries, bear a variety of inscriptions from Qur'anic, poetic, and occasionally hadith texts. The inscriptions suggest still further layers of meaning that are expressly religious, even if not always acceptable to mainstream Muslims. For example, use of the Verse of the Throne (Q 2:255), identifying the boat with the dome of heaven, along with texts inscribed on one bowl that clearly extol the virtues of actual intoxication, "leaves no doubt about the non-conformist background" of its owner.⁶⁹ Much less questionable references associate the object with charitable purposes as suggested by Qur'an 76:8–9: "And they feed the poor, the orphan, the prisoner out of love for Him, [saying] We feed you but to please God, requesting neither favors nor thanks from you."⁷⁰

Some bowls are likened to the boat that carried Moses and Khizr toward the mystical goal of the "confluence of the two seas," as in the text of Sura 18 mentioned above in Hamza Fansuri's *syair*.⁷¹ Others bear messages that

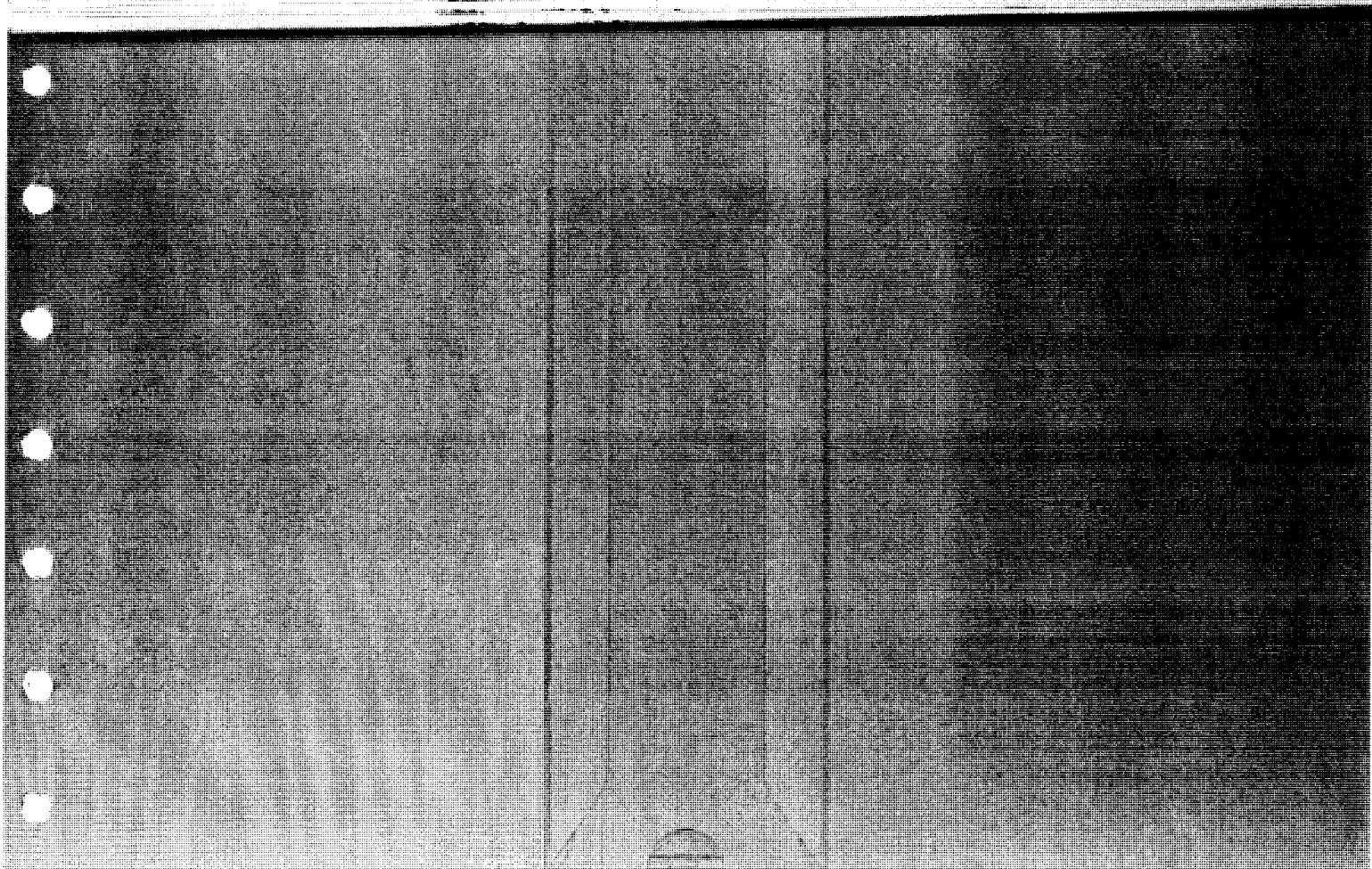
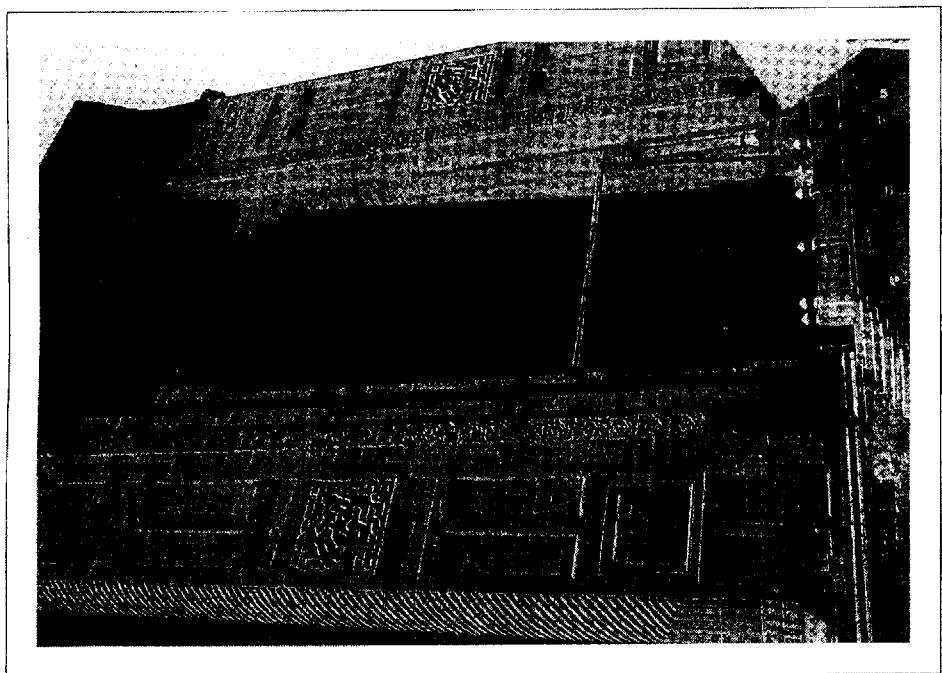
suggest a more devotional purpose. One bowl, for example, conveys a wish for the Shi'i owner's successful voyage through life. It recommends that the owner

[c]all unto 'Ali the manifestation of wonders
O God may thy grace descend upon [then the first five imams are named]
You shall find him your succor in calamity
Every care, every sorrow shall be dispelled [then the remaining seven imams
are named]

Through your divine friendship, O 'Ali, O 'Ali, O 'Ali.⁷²

A wide range of metaphors is expressed on the beggar's bowls.

Muslim artists and architects have spoken eloquently and evocatively, if sometimes also enigmatically, through their works. Unfortunately they have left almost no textual documentation as to either their methods or their intentions. Balanced interpretation of their visual legacy requires first a careful assessment of the monuments and objects themselves, including analysis of material, structure, style, and inscriptions. But these creations must also be related to their broader religious, cultural, and social contexts. In the absence of specific conceptual background provided by the creators themselves about, for example, the use of symbolism, the greatest challenge of contextual interpretation is how to relate the visual material to the thought world of the artists and builders without claiming to read their minds. Although some residual ambiguity as to the original meanings of a monument or work of art is inevitable, this overview hints at how the major aesthetic dimensions of the visual arts suggest Islamic purposes and values. Massive urban complexes and miniature masterpieces alike reveal something of the essential beliefs and convictions of Muslims, and evoke intriguing images of the societies in which they were produced.



Islamic Art and Spirituality

SEYYED HOSSEIN NASR



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بِكَرِيمٍ

Yā Karīm

كتاب الله الاحسان على كل شئ

God has inscribed beauty upon all things.

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In the Name of God - Most Merciful! Most Compassionate

PREFACE

ISLAMIC ART has been the subject of study by Western scholars since the nineteenth century and by Western-trained Muslim savants for several decades. It has, moreover, come to receive special attention during the past two or three decades by the larger public as a distinct category of art. Numerous works have appeared in nearly every European language on the history, technical formation, social setting, and other aspects of this art. A few books and articles have been devoted to its spiritual significance and meaning, but these have been few and far between. Except for the writings of T. Burckhardt, which cast special light upon the intellectual, symbolic, and spiritual dimensions of Islamic art, there are very few works which look upon Islamic art as the manifestation in the world of forms of the spiritual realities (*al-haqâ'iq*) of the Islamic revelation itself as coloured by its earthly embodiments. The present work seeks to glance at certain aspects of Islamic art from the point of view of Islamic spirituality and in relation to the principles of the Islamic revelation. It is neither a systematic exposition of the Islamic philosophy of art nor a history of that art. Rather, it is a study of certain important facets of Islamic art, including the literary and the musical as well as the plastic, in the light of the Islamic conception of sacred art and what one might call the Islamic philosophy of art, if philosophy of art is understood in its traditional sense as used by such authorities as A. K. Coomaraswamy. The domain to which the principles in question are applied is mostly, but not wholly, Persian art with which the author is best acquainted because of his own cultural background. Moreover, this art pro-

vides peaks of Islamic art in nearly every field. Persian art of the Islamic period, while being profoundly Persian and in conformity with the sensibility of the Persian people, is also Islamic art in the traditional sense of that term and therefore can serve perfectly to demonstrate the universal rapport between Islamic spirituality and Islamic art.

Several of the chapters of this book have appeared earlier in essay and monograph form and have been revised for this work, while many of the chapters are new. The translations throughout the book are ours unless otherwise indicated. Footnotes have been kept to a minimum; their aim is to guide the reader towards further studies in the field or to elucidate or document a point in the text where necessary. Otherwise, since the book is addressed primarily to the general reader, both Western and Muslim, interested in the relation between Islamic spirituality and Islamic art, rather than only to the specialist of Islamic art, we have not attempted to provide exhaustive scholarly notes as in a technical work addressed to scholars in the field.

We wish to express our gratitude to Miss Katherine O'Brien, whose help in many ways with the preparation of the manuscript has been invaluable.

Wa mā tawfiqī illā bī'Līāh

Seyyed Hossein Nasr
Newton, Massachusetts
October, 1983

INTRODUCTION

I

The Relation between Islamic Art and Islamic Spirituality

IF ONE LOOKS with the eye of discernment upon the extremely varied manifestations of Islamic art over vast expanses of space and time, the question arises as to the source of the unifying principles of this art. What is the origin of this art and the nature of this unifying principle whose dazzling effect can hardly be denied? Whether in the great courtyard of the Delhi Mosque or the Qarawiyin in Fez, one feels oneself within the same artistic and spiritual universe despite all the local variations in material, structural techniques, and the like. The creation of this artistic universe with its particular genius, distinct characteristics, and formal homogeneity underlying distinctions of a cultural, geographical or temporal nature requires a cause, for no effect of such immense dimensions can be considered as simply a result of chance or the agglomeration of accidental historical factors.

A whole library of works in nearly every European language, to which must now be added not only the Islamic languages themselves but also Chinese and Japanese, have studied the history, description, and material characteristics of this art. But rarely has the basic question of the origin of this supra-individual and sacred art been posed.¹ It is by now well known how Sassanid and Byzantine techniques and models were emulated in early Muslim architecture and Roman ones in city planning and how Sassanid music was adopted by the Abbasid court musicians. But the solution of the problems of links across centuries and cultural boundaries, despite their interest from the point of view of the history of art, does not reveal to us the origin of Islamic art, for Islamic art like any other sacred art,² is not simply the materials used but what a particular religious collectivity has done with the material in question. No one

would equate a Byzantine church in Greece with a Greek temple even if the actual stone blocks used for the church were taken from a temple. The blocks have become units in an edifice which belongs to a religious universe very distinct from that of the ancient Greeks. In the same way the Umayyad Mosque in Damascus is filled with a presence and reflects a spiritual ambience which are nothing other than Islamic no matter what the historical origins of that building may have been.³

The question of the origin of Islamic art and the nature of the forces and principles which brought this art into being must therefore be related to the world view of Islam itself, to the Islamic revelation, one of whose radiations is directly the sacred art of Islam and indirectly the whole of Islamic art. The causal relation between the Islamic revelation and Islamic art, moreover, is borne out by the organic rapport between this art and Islamic worship, between the contemplation of God as recommended in the Quran and the contemplative nature of this art, between the remembrance of God (*dhikrallāh*) which is the final goal of all Islamic worship, and the role played by Islamic art of both a plastic and sonoral nature in the life of individual Muslims and the community or *al-Ummah* as a whole. This art could not perform such a spiritual function if it were not related in the most intimate manner to both the form and content of the Islamic revelation.

Some might concede such a relationship but seek the origin of Islamic art in the socio-political conditions created by Islam. This view is a thoroughly modern and non-Islamic one, even if now emulated by certain Muslims, for it sees the origin of the inward in the outward and reduces sacred art with its interiorizing power to simply external, social and, in the case of Marxist historians, economic conditions. It can be easily rejected from the point of view of Islamic metaphysics and theology which see the origin of all forms in God, for He is the Knower of all things, and therefore the essences or forms* of all things have their reality in the Divine Intellect. Islamic thought does not allow the reduction of the higher to the lower, of the intellectual to the corporeal or the sacred to the mundane. But even from the non-Islamic point of view the very nature of Islamic art and the sciences and spiritual realization necessary for its

creation would make it evident to any impartial observer—not blinded by the various ideologies which parade as all-consuming world views today in place of traditional religion—that whatever relation exists between Islamic art and the Islamic revelation, it cannot be simply on the plane of socio-political changes brought about by Islam.⁴ The answer must be sought in the Islamic religion itself.

Islam consists of a Divine Law (*al-Shari'ah*), a spiritual path (*al-Tariqah*) and the Truth (*al-Haqīqah*) which is the origin of both the Law and the Way.⁵ It also possesses many forms of science of a juridical, theological, philosophical and esoteric nature related to these basic dimensions. When one analyzes Islam in this perspective, one realizes that Islamic art cannot have its origin in the Divine Law which defines the relation between God and man and society on the level of action. The Divine Law plays a very important role in creating the ambience and background for Islamic art, and in setting certain limitations upon some arts while encouraging others. But essentially the Divine Law contains instructions for Muslims on how to act, not how to make things. Its role in art, besides providing the general social background, is in moulding the soul of the artist by imbuing it with certain attitudes and virtues derived from the Quran and the prophetic *Hadīth* and *Sunnah*.⁶ But it does not provide guidance for the creation of a sacred art such as that of Islam.

Nor can one discover the origins of Islamic art in the juridical sciences and theology, both of which are closely associated with the Divine Law and the question of defining and defending the tenets of the Islamic faith. An individual theologian like al-Ghazzālī may have written on beauty. Authorities on jurisprudence such as Bahā' al-Dīn al-'Amīlī even built beautiful gardens, but treatises on theology (*kalām*) or jurisprudence (*fiqh*) are not known for casting light upon the questions of Islamic art and aesthetics.⁷ Moreover, many of the greatest masterpieces of Islamic art were created before these sciences became fully codified and accepted as the ultimate authoritative works produced in these fields.

It is therefore to the inner dimension of Islam, to the *bātin* as contained in the Way and elucidated by the Truth, that one

must turn for the origin of Islamic art. This inner dimension is moreover inextricably related to Islamic spirituality. The term for spirituality in Islamic languages is connected to either the word *rūh* denoting spirit or *ma'rāh* signifying meaning.⁹ In both cases the very terms imply inwardness and interiority. It is within the inner dimension of the Islamic tradition that one must seek the origin of Islamic art and the power which has created and sustained it over the ages while making possible the blinding unity and inebriating interiority which this art possesses.

The twin sources of Islamic spirituality are the Quran, in its inner reality and sacramental presence, and the very substance of the soul of the Prophet which has remained as an invisible presence within the Islamic world, not only through his *Hadīth* and *Sunnah*, but also in an intangible way within the hearts of those who have sought and who still seek God as well as in the very air which the invokers of His Blessed Name have breathed and still breathe. The origin of Islamic art must be sought in the inner realities (*haqīq*) of the Quran which are also the principal realities of the cosmos and the spiritual reality of the Prophetic Substance from which flows the 'Muhammadan grace' (*al-barakat al-muhammadiyyah*). The Quran provides the doctrine of Unity while the Prophet provides the manifestation of this Unity in multiplicity and the witness to this Unity in His creation. For who would be able to testify to *Lā ilāha illa 'Llāh* if there were no *Muhammad*¹⁰ *rusūl Allāh*? Wherever the Muhammadan *barakah* has flowed and still flows, there one must seek the origin of the very creative act which has made the sacred art of Islam possible, for only by virtue of this *barakah* has it been possible to crystallize in the world of form, time, and space, the *haqīq* which the Quran contains within its inner dimension. Is it any wonder that the great masters of Islamic art have always displayed a special love and devotion for the Prophet and in the case of Shi'ism for the Prophet and his household, and that in both Sunni and Shi'ite Islam, 'Alī, who represents more than any other companion the inner dimension of the Islamic message, is considered as the founder of many of the basic arts such as calligraphy and the patron of all the guilds (*asnāf* and *futu-*

wāt). The link of Islamic art to the inner dimension of Islam could not be demonstrated to an outsider in a better manner than by pointing to the role played by 'Alī in both the guilds of craftsmen who have produced Islamic art and the Sufi orders which are the main custodians of the esoteric teachings of Islam.

Without the two fountains and sources of the Quran and the Prophetic *barakah* there would be no Islamic art. The art of Islam is Islamic art not only because it was created by Muslims but because it issues forth from the Islamic revelation as do the Divine Law and the Way. This art crystallizes in the world of forms the inner realities of the Islamic revelation and, because it issues from the inner dimension of Islam, leads man to the inner chamber of the Divine Revelation. Islamic art is a fruit of Islamic spirituality from the point of view of its genesis and, as an aid, complement and support for the spiritual life from the vantage point of realization or return to the Origin.

Islamic art is the result of the manifestation of Unity upon the plane of multiplicity. It reflects in a blinding manner the Unity of the Divine Principle, the dependence of all multiplicity upon the One, the ephemerality of the world and the positive qualities of cosmic existence or creation about which God asserts in the Quran, 'Our Lord! Thou createst not this in vain.' (111; 191) This art makes manifest, in the physical order directly perceivable by the senses, the archetypal realities and acts, therefore, as a ladder for the journey of the soul from the visible and the audible to the Invisible which is also Silence transcending all sound.

Islamic art derives from Islamic spirituality in a direct manner while being also of course moulded by the particular characteristics of the container or vessel of the Quranic revelation, that is, the Semitic and nomadic world whose positive traits Islam universalized.¹¹ But this link with the form of the Islamic revelation does not detract from the truth that the origin of this art lies in the inner content and spiritual dimension of Islam. Those who have created objects of Islamic art over the ages have done so either by being able to gain a vision of that archetypal world, thanks to the means made available by the Islamic revelation and specifically the Muhammadan

barakah, or have been instructed by those who have had such a vision. For the supra-individual character of Islamic art cannot have been brought into being by simply individualistic inspiration or creativity. Only the Universal can produce the Universal. If Islamic art leads to the inner chamber of the Islamic tradition, it is because this art is a message from that inner chamber sent to those qualified to harken to its liberating message and also to provide a climate of peace and equilibrium for society as a whole in conformity with the nature of Islam, to create an ambience in which God is remembered wherever one turns. Does not the Quran assert, 'Whithersoever ye turn, there is the Face of God'? (11:109 Arberry trans.)

Islamic art is based upon a knowledge which is itself of a spiritual nature, a knowledge referred to by traditional masters of Islamic art as *hikmah* or wisdom.¹² Since in the Islamic tradition with its gnostic mode of spirituality, intellectuality and spirituality are inseparable, being facets of the same reality, the *hikmah* upon which Islamic art is based is none other than the sapiential aspect of Islamic spirituality itself. The dictum of St. Thomas, *ars sine scientia nihil*, certainly pertains in a most evident manner to Islamic art. This art is based upon a science of an inner nature which is concerned not with the outward appearance of things, but with their inner reality. Islamic art manifests, with the aid of this science and by virtue of the Muhammadan *barakah*, the *haqāiq* of things which reside in the "Treasury of the Invincible (*khazā'in al-ghayb*) upon the outward plane of corporeal existence. In beholding the portal of an edifice like the Shah Mosque with its incredible geometric and arabesque patterns one bears witness to this truth as one contemplates the intelligible world in the world of sensible forms; in listening to the melodies of traditional Persian or Arabic music, one hears that pre-eternal melody which entranced the soul before the brief episode of its earthly journey. The undeniable intellectual character of Islamic art is not the fruit of a kind of rationalism but of an intellectual vision of the archetypes of the terrestrial world, a vision made possible by virtue of Islamic spirituality and the grace flowing from the Islamic tradition. Islamic art does not imitate the outward forms of nature but reflects their principles. It is based upon

a science which is not the fruit of either ratiocination or empiricism but a *scientia sacra* which is attainable only by virtue of the means provided by the tradition. It is not accidental that whenever and wherever Islamic art has experienced a peak of its creativity and perfection there has been present the powerful, living intellectual—which also means spiritual—current of the Islamic tradition. And conversely, this causal nexus provides the reason for understanding why whenever there has been a decay or eclipse of the spiritual dimension of Islam the quality of Islamic art has diminished. In the case of the modern world Islamic art itself has been destroyed to the extent that the spirituality and intellectuality which provides its life force have been neglected.

In certain epochs of Islamic history written sources are present to provide evident proof of the relationship between Islamic spirituality and intellectuality on the one hand and art on the other, while in many other cases the oral tradition has left no direct written trace to enable this relationship to be studied in detail from the outside. An example of the first case is Safavid Persia, which marks one of the most creative periods of Islamic art and also of Islamic metaphysics and philosophy. If one studies closely the doctrine of the world of imagination, or rather the imaginal world ('*ālam al-khayāl*),¹³ in the writings of such masters as Sadr al-Dīn Shīrāzī,¹⁴ one sees the correlation between the metaphysical and cosmological doctrines involved and the art of the period including not only the miniature with which we shall deal later in this volume, but also poetry, music, and even landscape architecture.¹⁵ This relation does not imply a departure from the norm but a fortuitous example of a general principle which allows this basic relationship to be understood even in other cases where explicit formulations of the intellectual principles involved are not available. If there are new phases or chapters in Islamic art, that fact does not mean in the light of this rapport a change in Islamic spirituality, but demonstrates the continuous application of principles of a living tradition to different circumstances and conditions.

To illustrate further the direct relation between Islamic art and spirituality one can turn to the case of the performing arts.

Because of the nature of the Islamic religion, which is not based upon the dramatic tension between Heaven and earth or the way of heroic sacrifice and redemption through divine intercession and also because of its non-mythological character, a sacred and religious theatre did not develop in Islam such as one finds in ancient Greece, India, or even medieval Christian Europe. But to the extent that the elements of passion and drama did enter into the Islamic perspective and became an aspect of Islamic spirituality, namely in Shi'ism, a religious theatrical art called the *ta'ziyah* developed reaching elaborate proportions in both Safavid and Qajar Persia and Moghul and post-Moghul India.¹⁶ The creation of such an art form, although not central to Islam, and not being even sacred art but properly speaking religious art,¹⁷ nevertheless points to the nexus between Islamic spirituality and Islamic art not only in the grand manifestations of that art in such domains as calligraphy and architecture but also in more particular and limited branches such as the Shi'ite passion play or *ta'ziyah*, which reflects directly the Shi'ite sense of tragedy.

Islamic spirituality is of course also related to Islamic art through the manner in which the Islamic rites mould the mind and soul of all Muslims including the artist or artisan. The daily prayers which punctuate the day and night and systematically break the strangling hold of daydreaming upon the soul, the proximity to virgin nature which is the primordial mosque that the mosque in Islamic cities and towns only emulate, the continuous references in the Quran to the eschatological realities and the fragility of the world, the constant repetition of Quranic phrases which remould the soul of the Muslim into a mosaic of spiritual attitudes, the emphasis upon the grandeur of God which prevents any kind of Promethean humanism from taking place, and many other factors related to the particular genius of Islam have moulded and continue to mould the mind and soul of every Muslim. In the training and education of man as *homo islamicus* at once the slave and vice-regent of God (*'abdallāh* and *khalifatullāh* to use the Quranic terminology), Islamic spirituality has influenced Islamic art directly through the inculcation of certain attitudes and the elimination of other possibilities within the mind and soul of those men and women

who have created this art. If a traditional Muslim finds the titanic statues of a Michaelangelo crushing and Rococo churches stifling, it is because of that sense of submission to God created in his soul by Islamic spirituality and his horror of human self-aggrandizement at the expense of the Divine Presence. It is not that no Muslim could create a titanic and Promethean art as the modern period demonstrates amply, but that no Muslim would do so as long as the imprint of Islamic spirituality upon the soul of the Muslim remained strong.

Only that which comes from the One can lead back to the One. If virgin nature serves as support for recollection or remembrance of God (*dhikr*), it is because it was created by the Divine Artisan, one of God's Names being *al-Šāni'*, literally the Divine Artisan or Maker. In the same way, if Islamic art can serve as support for remembrance of the One, it is because, although made by men, it derives from a supra-individual inspiration and a *hikmah* which comes ultimately from Him. If the most spiritually gifted among Muslims can fall into spiritual ecstasy through hearing an Arabic or Persian poem, listening to a chant, or contemplating a piece of Arabic calligraphy, it is because of the inner nexus between these forms of art and Islamic spirituality. The powerful support that Islamic art provides for the soul's quest for the world of the spirit could not exist save through the inner link between this art and Islamic spirituality. If any extrinsic proof be needed of the relation of Islamic art to Islamic spirituality, it can be found in the role of support that this art plays in the induction of *hāl* or spiritual state, which is itself a grace from Heaven, and in the attitude of those closest to the heart of Islamic spirituality to this art in its manifold manifestations. This relation alone would suffice to reduce to insignificance the arguments of all those who consider Islamic art as merely the product of external historical factors divorced from the principles and spiritual springs of the Islamic revelation.

Finally, in a discussion of the relation between Islamic art and Islamic spirituality something must be said about the patronage of this art because too often the spiritual is understood by Western readers in the context of the dichotomy between the sacred and the secular which characterizes Wes-

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tern civilization. Some might ask why, if there is such a relationship between Islamic art and Islamic spirituality, some forms of Islamic art have never received patronage from the religious authorities or the 'mosque' but only from the court, the ruling classes, or the merchant classes which are usually identified with the secular in European history. In answer to this question it must be pointed out first of all that there exists no such dichotomy between the religious and the secular in Islam. The so-called secular powers or elements in traditional Islamic society have always possessed as much religious significance within the all-embracing Divine Law as have the specifically religious elements. Secondly, there is a more subtle relationship to be discovered in the question of the patronage, the use, and the function of the arts, a relationship which is based on the complementarity between what one might call in summary fashion the mosque and the court.

There are certain arts which may be said to have issued from the mosque, in the general sense of its being the centre of religious activity — such arts as Quranic psalmody, sacred architecture, and calligraphy, especially the Kufic which represents the most archaic, formal and religiously significant calligraphic style. There are other arts such as music, poetry, and miniature painting whose most important patronage always came from the court although they also reached society as a whole. Moreover, paradoxically enough, the first type of art represents the more 'masculine' and the second the more 'feminine' types of art. In the case of calligraphy, which also received patronage from the court and the ruling aristocracy, the styles which are more gentle and feminine are again to be associated more with the arts of the court and the more masculine and heraldic with the mosque, the exception being when the court itself patronized the building of mosques and other religious institutions.¹⁸

There is, however, a third element to consider which alone explains the spiritual quality of the courtly arts, and that is Sufism. Although the Sufis were naturally related to the mosque in their defense of the *Sharī'ah*, many of them being among the 'ulamā', they were also profoundly connected to political authority, not in submitting to the power of the world

The Relation between Islamic Art and Islamic Spirituality

and its luxury or in composing panegyrics for the powerful, but in providing spiritual guidance and example for those who wielded power. While certain Sufi orders kept aloof from political authority others permitted their members to accept even the highest offices.¹⁹ In any case the Sufi influence was strong in the domain of the arts for which the court acted as patron. It is enough to study the religious background of many minstrels and musicians of the Safavid, Ottoman and Mogul dynasties to become aware of this fact. The 'feminine' arts supported by the courts are interiorizing by their very nature and of a highly spiritual quality. They possess unmistakable spiritual traits which could not come about except through the presence of the influence of Islamic esoterism. Through an inner complementarity between the mosque and the court, both contributed to the creation of forms of Islamic art which are complementary in nature while sometimes combining in the creation of single works such as the royal mosques, some of which are among the greatest masterpieces of Islamic art.

The more one penetrates into the significance of Islamic art the more one becomes aware of the most profound relationship between this art and Islamic spirituality. Whether sponsored by the mosque or the court used by the religious scholar, the prince, the merchant, or the peasant, traditional Islamic art was created by an inspiration which issued ultimately from the Muhammadan *barakah* and with the aid of a *hikmah* which resides in the inner dimensions of the Noble Quran. To grasp fully the significance of Islamic art is to become aware that it is an aspect of the Islamic revelation, a casting of the Divine Realities (*haqā'iq*) upon the plane of material manifestation in order to carry man upon the wings of its liberating beauty to his original abode of Divine Proximity.

NOTES

1. One might say that the same holds for Christian or Buddhist art, but in no case is the negligence of the religious and spiritual cause of the art in question as general and widespread as in that of Islam.

2. A distinction must be made between the sacred art of Islam and traditional Islamic art. The sacred art relates directly to the central practices of the religion and the practice of the spiritual life, embracing such arts as calligraphy, mosque architecture, and Quranic psalmody. Traditional Islamic art, however, embraces every form



Session 11



Sufism

A Beginner's Guide

A OneWorld Book

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The Sufi path

More than a thousand years ago, a teacher called Ali the son of Ahmad, who hailed from the town of Bushanji in eastern Persia, complained that few people had any idea of what "Sufism" was all about. "Today," he said, speaking Arabic, "Sufism is a name without a reality, but it used to be a reality without a name."

Nowadays in the West, the name has become better known, but its reality has become far more obscure than it ever was in the Islamic world. The name is a useful label, but the reality will not be found in definitions, descriptions, and books. If we do set out looking for the reality, we will always have to keep in mind that the divide between our own times and the times of Ali ibn Ahmad Bushanji – when the various phenomena that came to be named "Sufism" were just beginning to have a shaping effect on Islamic society – is so deep and stark that it may be impossible to recover anything more than the dimmest trace of it.

One easy way to avoid searching for Sufism's reality is to replace the name with another name. We often hear that Sufism is "mysticism" or "esoterism" or "spirituality," usually with the adjective "Islamic" tacked on front. Such labels can provide an orientation, but they are both far too broad and far too narrow to designate the diverse teachings and phenomena that have been identified with Sufism over history. They can never do more than hint at the reality Bushanji had in mind, and they may be more of a hindrance than a help, because they encourage people to file Sufism away unthinkingly into a convenient category. In order to justify using one of these alternative names, we would have to provide a detailed and careful definition and analysis of the new term, and the three I mentioned are

notoriously vague. Even if we could provide an adequate definition, we would still have to explain why it is appropriate for "Sufism." That would lead to picking and choosing among Sufi and scholarly writings to support our own definition. We may get closer to the reality of our definition, but probably not to the reality that Bushanji was talking about.

Rather than trying to domesticate Sufism by giving it a more familiar label, we should recognize at the outset that there is something in the Sufi tradition that abhors domestication and definition. It may be helpful to suggest that Sufism has a family resemblance with other traditions – such as Kabbalah, Christian mysticism, Yoga, Vedanta, or Zen – but making this connection does not necessarily help us get any closer to Sufism itself.

If we look at the Arabic original of the word *Sufism* (*sufi*), we see that the term is already problematic in Islamic civilization. Although it was widely used in several languages, it usually did not have the broad meaning that it has now acquired. Its current high profile owes itself mainly to the writings of Western scholars. As Carl Ernst has pointed out in his excellent introduction to the study of Sufism, the word was given prominence not by the Islamic texts, but rather by British Orientalists, who wanted a term that would refer to various sides of Islamic civilization that they found attractive and congenial and that would avoid the negative stereotypes associated with the religion of Islam – stereotypes that they themselves had often propagated.¹

In the Islamic texts, there is no agreement as to what the word *sufi* means, and authors commonly argued about both its meaning and its legitimacy. Those who used the word in a positive sense connected it with a broad range of ideas and concepts having to do with achieving human perfection by following the model of the prophet Muhammad. Those who used it in a negative sense associated it with various distortions of Islamic teachings. Most Muslim authors who mentioned the word took a more nuanced stand, neither accepting it wholeheartedly nor condemning it.

The modern studies of Sufism reflect the disagreements over the word found in the primary texts. Scholars do not agree among themselves as to what the name means, and any number of definitions and descriptions can be culled from their studies. I will not add to the confusion by providing my own definition, but I will use the word because it seems less inadequate than the alternatives. My purpose, however, will be to try to get at the reality behind the name, to provide a series of pointers at the moon.

The Islamic context

It is not uncommon to meet people in the West who are familiar with certain Sufi teachings and practices but who are ignorant of, or would deny, anything more than an accidental relationship between Sufism and Islam. There are books that enthusiastically acclaim Sufism as an exalted wellspring of spirituality and beauty, while considering Islam, if it is mentioned at all, in terms of the stereotypes that have haunted the West since the Middle Ages. This commonly encountered view of Sufism has been strengthened by the reaction of many modern-day Muslims against it. The great historian of Islamic civilization, H. A. R. Gibb, pointed out fifty years ago that such Muslims look upon Sufism either as a "survival of superstitions" and "cultural backwardness" or as a deviation from "true Islam." Gibb was sufficiently sensitive to Sufism's reality to perceive that such attitudes seem bent on "eliminating the expression of authentic religious experience" from the Islamic world.²

In short, many people, both Muslims and non-Muslims, consider "Sufism" as alien to "Islam," however these two terms are defined. But, from the first appearance of teachers who came to be designated as Sufis in the ninth century (the third Islamic century), they have always claimed to speak for the heart and marrow of the Islamic tradition. My first task here is to try to

shed some light on their point of view. What role did they accord Sufism within Islam? This question is not as irrelevant today as some people might think, because most of those who now speak for the Sufi tradition – at least within the Islamic world itself – have kept the same understanding.

In the early texts, scores of definitions were offered for the words "Sufi" and "Sufism," just as scores of definitions were offered for numerous other technical terms associated with the same teachers.³ Although it would be possible to begin with one or more of these definitions, it may be more useful simply to suggest that Gibb is on the right track when he implies that Sufism is equivalent to "authentic religious experience." In other words, the early Sufi teachers held that they spoke for the animating spirit of the Islamic tradition. From their point of view, wherever this spirit flourishes, Islam is alive to its own spiritual and moral ideals, but to the extent that it languishes, Islam becomes desiccated and sterile, if it survives at all. This identification of Sufism with Islam's spirit is prefigured in a famous saying of the Prophet known as the "Hadith of Gabriel." Reflecting on the content of this saying can help us situate Sufism's reality in relation to other realities that were given names over the course of Islamic history.

According to this hadith, the Prophet and a few of his companions were sitting together when a man appeared and asked him several questions. When the man departed, the Prophet told his companions that this had been the angel Gabriel, who had come to teach them their religion (*din*). As outlined by Gabriel's questions and the Prophet's answers, the religion of Islam can be understood to have three basic dimensions. Those familiar with the Koran, the wellspring of Islamic teachings, will recognize these three as constant Koranic themes, though nowhere does the Koran provide such a clear and succinct overview. The three are "submission" (*islam*), "faith" (*imran*), and "doing the beautiful" (*ihsan*).⁴

The Prophet defined submission as "to bear witness that there is no god but God and that Muhammad is His messenger, to perform the daily prayers, to pay the alms tax, to fast during Ramadan, and to go on the pilgrimage to Mecca if you can find the means to do so." He said that faith is "to have faith in God, His angels, His scriptures, His messengers, and the Last Day, and to have faith in the measuring out, both the good of it and the evil of it." He said that doing the beautiful is to "worship God as if you see Him, for even if you do not see Him, He sees you."

The first two categories, "submission" and "faith," are familiar to all students of Islam. They correspond to the religion's "Five Pillars" and its "three principles," or to practice and belief, or to the Sharia (the revealed law) and the creedal teachings. The "Five Pillars" are voicing the testimony of faith, doing the daily prayers, paying the alms tax, fasting during the month of Ramadan, and making the pilgrimage to Mecca. The "three principles" are the assertion of divine unity (*tawhid*), prophecy, and eschatology. What needs to be noticed is that the third category mentioned in the hadith – "doing the beautiful" – is just as important for the Prophet's definition as the other two, but its meaning is not nearly as clear.

"Doing the beautiful" is not discussed by the most vocal of the scholars who speak for Islam, that is, the jurists (*fujūlha*). By self-definition they limit their field of vision to the Sharia, which defines the Five Pillars and the other practices that Muslims need to perform. Nor is doing the beautiful discussed by a second influential group of scholars, the theologians (*mutakallimun*), who are the experts in the science of Kalam, or dogmatic theology. Their concern is to articulate and defend creedal teachings, which establish and explain the meaning of the three principles. Neither of these schools of thought has the interest or the competence – qua jurists and theologians – to deal with doing the beautiful, so we would be wasting our time if we read their

books looking for an explanation. It is the Sufis who take doing the beautiful as their own special domain.

In order to understand why the great Sufi teachers considered themselves genuine Muslims deeply involved with everything that God and Muhammad have asked from human beings, we need to grasp the logic of this tripartite division of the Islamic tradition and the special role played by doing the beautiful.

On the most external level, Islam is a religion that tells people what to do and what not to do. Right and wrong practices are delineated and codified by the Sharia, which is a compendium of systematic law based squarely on Koranic teachings and prophetic practice, but adjusted and refined by generations of scholars. The Sharia can be likened to Islam's "body," because it designates proper activities, all of which are performed by the body, and because it supports the tradition's life and awareness.

On a deeper level, Islam is a religion that teaches people how to understand the world and themselves. This second dimension corresponds to the mind. It has traditionally been called "Faith," because its points of orientation are the objects to which faith attaches – God, the angels, the scriptures, the prophets, and so on. These are mentioned constantly in the Koran and the Hadith, and investigation of their nature and reality became the domain of various disciplines, such as Kalam, philosophy, and theoretical Sufism. Any serious attempt to investigate these objects globally cannot fail to investigate the deepest questions of human concern. The great philosophers, mathematicians, astronomers, and physicians of Islam, who have been studied and admired by many Western historians, were trained in this dimension of the religion. So also, the most famous of the Sufis were thoroughly grounded in the theoretical knowledge of the objects of faith.

On the deepest level, Islam is a religion that teaches people how to transform themselves so that they may come into harmony with the ground of all being. Neither activity nor understanding, nor both together, are humanly sufficient. Activity and understanding

need to be focused in such a way that they bring about human goodness and perfection. This goodness is inherent and intrinsic to the original human disposition (*fitra*), created in God's image. If the first dimension of Islam keeps in view the activities that must be performed because of our relational situation with God and others, and the second our understanding of self and others, the third points the way to achieving nearness to God. For those with any sensitivity to the religious life, the various terms that are employed in discussing the focus of this third dimension are immediately recognizable as the heart of religion. These include sincerity, love, virtue, and perfection.

Three domains of faith

The Hadith of Gabriel talks about *imān* or "faith" in terms of its objects, and these specify points of reference that are needed to understand the nature of things. In another hadith, the Prophet spoke about the meaning of the word *imān* itself. "Faith," he said, "is to acknowledge with the heart, to voice with the tongue, and to act with the limbs."¹⁵ This hadith suggests that human beings are compounded of three domains ranked in a clear hierarchy – heart or innmost awareness, tongue or articulation of understanding, and limbs or bodily parts. These three domains are distinct, yet thoroughly intertwined. Inasmuch as they are distinct, they came to be studied by different disciplines and judged by different standards.

"Acting with the limbs," or putting faith into practice, is the domain of jurisprudence. It is here that people "submit" to God's will by obeying the commands set down in the *Sharia*.

"Voicing with the tongue" is the realm of expressing faith through articulated self-awareness, or rational speech. Human beings are differentiated from other animals precisely by their power of speech, which expresses and conveys the awareness

hidden in the depths of the heart. As a domain of learning, voicing faith belonged to those Muslim scholars who investigated the best ways to understand God, the universe, and the human soul. Finally, "acknowledging with the heart" is to recognize the truth and reality of faith's objects in the deepest realm of human awareness. The "heart" in Koranic terms is the center of life, consciousness, intelligence, and intentionality. The heart is aware and conscious before the mind articulates thought, just as it is alive before the body acts. Faith's innmost core is found only in the heart. The Prophet seems to be referring to this core when he says, "Faith is a light that God casts into the heart of whomever He will."

The Prophet's tripartite definition of faith designates the same three domains as the Hadith of Gabriel – body, tongue, and heart; or activity, thought, and awareness. The body's realm is defined by the *Sharia*, the tongue's realm is expressed in theology (in its various forms, not simply *Kalam*), and the heart's realm is associated with doing the beautiful in the depths of the soul. To achieve the last, the heart must be rooted in awareness of truth and reality in a pre-cognitive manner. Beautiful acts must well up from the depths of the heart spontaneously, before mental articulation and physical activity. More will be said about what this implies as we go along. This is only the first finger pointing at the moon.

In short, the Islamic tradition recognizes three basic domains of religiosity – body, tongue, and the depths of the heart. These are the domains of right doing, right thinking, and right seeing. The last is an inner awareness of the reality of things that is inseparable from our mode of being in the world. The three realms can also be called perfection of acts, perfection of understanding, and perfection of self. All three are understood and conceptualized as ideals that must be realized in order to live up to the potentialities that were given to human beings when God created Adam in His own image.

These three domains were intensely scrutinized by serious Muslims – those who came to be known as the Muslim “scholars” (*ulama*). The domain of right activity was the specialty of jurists, that of right thinking the specialty of theologians, and that of right seeing the specialty of Sufis. “O God,” the Sufis like to quote the Prophet as saying, “show us things as they are.” One does not see things as they are with the eyes or the mind, but rather with the core of the heart. From the heart, right seeing will then radiate forth and permeate every pore of the body, determining thought and activity.

The Shahadah

In this brief outline of the basics of Islam, it is important to notice the primary place accorded to the dual Shahadah or “testimony of faith.” This is to bear witness that “There is no god but God” and that “Muhammad is His messenger.” The Shahadah provides the key to understanding the Islamic perspective in all domains.

In the definition of “submission,” the Shahadah is listed as the first required act of Muslims. By verbally acknowledging the reality of God and the prophetic role of Muhammad, one makes the other four pillars and the Sharia incumbent upon oneself. The Shahadah also defines the content of faith, whose primary element is faith in God. The nature of the God in whom Muslims have faith is set down briefly by the first Shahadah, while all the objects of faith are conceptualized in terms of the concomitants of the second Shahadah, which designates the domain of the message and the messenger.

Finally, it is impossible to understand what “doing the beautiful” entails unless we know what human beings are, and this knowledge also wells up from the Shahadah. To know the reality of human beings is to know how God impinges on the

human situation, because the human image of God cannot be understood apart from the object that it reflects. Human goodness and perfection can be achieved only in terms of God on the one hand and those who have already achieved it on the other, and these are the prophets, Muhammad in particular. This achievement is to actualize the divine image inherent in the soul, and this depends upon putting the Shahadah into practice.

All three dimensions of Islam have been present wherever there have been Muslims. People cannot take their religion seriously without engaging their bodies, their minds, and their hearts; or their activity, their thinking, and their being. But these dimensions became historically differentiated in many forms, the diversity of which has all sorts of causes, about which historians have written no end of books. After all, we are talking about how Muslims practice their religion, how they conceptualize their faith and their understanding of things, and how they express their quest to be near to God. We are talking about various branches of Islamic law and institutions of government, diverse schools of thought investigating the nature of God and the human soul, and multifarious organizations that guide people on the path of spiritual aspiration and give focus to their vastly different experiences of God’s presence.

These diverse expressions of Islam, which have undergone tremendous historical and regional variation, have been given many names over Islamic history. The whole situation has become much more complex because of the investigations of modern scholars, who have had their own programs, agendas, and goals and who have employed diverse interpretative schemes in their attempts to make sense of Islamic history in contemporary terms.

In short, Islam, like any full-blown religion, embraces the whole range of human activities and concerns, and the Islamic approach to these has become manifest in a great variety of forms and institutions over history. In contrast to contemporary

stereotypes, Islam has a special affinity for diversity of expression. Part of this has to do with the fact that there is no centralized authority comparable to a priesthood or the Catholic church. Instead, Islamic civilization has produced a variety of institutional forms that have come and gone, and all of them have transmitted and inculcated practice, understanding, and the interior life.

As Islam gradually assumed its specific historical form through the codification of various teachings and practices and the establishment of social institutions, the three dimensions designated by the Hadith of Gabriel came to be reflected within society as relatively distinct, though thoroughly interrelated, aspects of Islamic civilization. However, doing the beautiful remained an intangible inner sanctum. On the individual level, this third dimension has been found in the heart of all Muslims who practice their religion for God's sake alone. In the social sphere it has been given its clearest expression in the life of those whom I would like to call the "Sufis," even though many who claimed this label for themselves did not live up to the ideal, and many who did in fact live up to it did not want the name.

Sufism in this understanding can be viewed as an invisible spiritual presence that animates all authentic expressions of Islam. The various historical forms in which it has appeared serve to demonstrate that this dimension of the religion has remained an ideal of fundamental importance. Nonetheless, the difficulty of achieving human perfection has meant that the individuals and institutions historically connected with the name cannot necessarily be held up as expressions of Sufism's true nature. The Sufis themselves have always been aware of the danger of degeneration and corruption inherent in attempting to adapt social institutions to ideals that can only be fully actualized by rare individuals. When Bushraji said that Sufism is now a name without a reality, he was referring to these inadequate attempts to codify and institutionalize the heart of the tradition.

Mercy and wrath

Sufi teachers have frequently explained Sufism's role in the context of *tauhid*, the assertion of God's unity that is given its most succinct expression in the first Shahadah, *la ilaha illa Allah* ("There is) no god but God." By creating the universe, God causes multiplicity to appear from unity. He displays the potentialities of existence implied by His own "names and attributes" (*asma' wa sifat*) in an infinite universe. The creatures of this universe make manifest the nature of their Creator. The tremendous diversity of creation discloses the unlimitedness of God's creative power. All opposition and strife express the boundless range of God's perfections and the fact that the richness of the divine reality can only appear outside of itself in a domain of infinite differentiation and dispersion. The contrasting and conflicting things of the world can never achieve the peace and stillness of the divine, which alone is the coincidence of opposites. Many Sufis reduce the basic archetypes for all plurality and multiplicity to two divine attributes – beauty and majesty, or mercy and wrath, or gentleness and severity. The created traces of mercy and wrath can be pictured in terms of the yin-yang symbol. Just as there is no pure yin or pure yang (as represented by the black dot in the white half and the white dot in the black half), so also there is no pure mercy or pure wrath in the created domain. Wherever mercy displays its signs and traces within creation, there will also be manifestations of wrath, and vice versa. In the world as we experience it, certain things display the attribute of wrath more directly, and others are dominated by mercy. In general, things pertaining to the external and material realms tend to manifest wrath, whereas the closer we move to the spiritual world, the closer we approach pure mercy. As Rumi puts it, "This world is the house of God's severity," which is to say that the other world is the house of God's gentleness and mercy.

Given that God's wrath is associated with this world's distance from God, it is also closely associated with the Sharia, which concerns itself with the outermost human domain, that of bodily activity. However, the wrath that shows its face in the Sharia derives from God's mercy and leads back to it. Although mercy and wrath have a yin-yang sort of relationship in this world, the two do not have equal weight with God. A famous prophetic saying tells us that God's mercy takes precedence over His wrath, which is to say that God's essential nature is mercy and gentleness, and that wrath and severity pertain to the domain of created things. The rather stern and forbidding face of the Sharia, which demands that people follow its commandments or taste the chastisement of hell, displays God's majesty and severity, but lurking beneath its surface is the promise of the precedent mercy. All things came forth from mercy, and all will return to mercy in the end.

Once we see the parallel between the Sharia and the divine majesty and wrath, it is easy to discern a relationship between the spiritual perfection that is sought by the Sufis and the divine mercy, gentleness, and beauty. Here love, central to the expression of Sufi teachings, also enters the picture. Mercy's connection with love is especially obvious on the level of theology, because both mercy and love are said to be the cause of creation. According to the great Sufi theoretician Ibn Arabi (d. 1240), the divine mercy that gives rise to the universe is existence itself. The very act of bringing things into existence is an act of gentleness and kindness. The same point is made in terms of love in a saying constantly quoted in Sufi texts: "I was a Hidden Treasure," God says, "so I loved to be known. Hence I created the creatures that I might be known."

God's mercy and love give rise to the world, but there is an important difference between the two attributes. Mercy flows in one direction, from God to the world, but love moves in both directions. People can love God, but they cannot have mercy

upon Him, only upon other creatures. When Sufis say that God's love for creation gives existence to the universe, they quickly add that the corresponding human love for God closes the gap between God and His creatures. Human love makes itself known in sincerity of devotion to the One God. The greater the love, the greater the degree of participation in the divine image, and the greater the degree of human perfection. Hence "love" is often taken as a synonym for doing the beautiful.

The differing theoretical and practical emphases of Islam's three dimensions help explain why Westerners can be simultaneously attracted by Sufism and repelled by "Islam." Such people typically have no knowledge of Islam except the stereotypical types that have been passed down from the Middle Ages, or they identify Islam with the Sharia, or with various political and social movements among contemporary Muslims. To the extent that they are aware of the Sharia and the more external aspects of Islamic life and civilization, they are repelled by the sternness and severity of the divine wrath. In contrast, Sufism – whose characteristic expressions are found in beauty, love, poetry, and music – illustrates the dimension of divine beauty and mercy. When Gibb writes that "the aesthetic element in Sufism plays a part which can hardly be overemphasized in its later expression,"⁷ he is pointing to the appreciation of beauty and love that is a hallmark of the Sufi tradition.

When Westerners take their first look at Islam, they often feel [as if they have been taken into a desert and set down outside the austere walls of a city that smells of death. In contrast, when they are drawn to Sufism, they enter the delightful gardens that are hidden by the walls surrounding traditional Muslim houses. In a living Islamic community, the walls protect the garden from the desert winds and the eyes of strangers, but the garden and the human warmth inside the walls are the reason for the walls' existence.

Sufi theory

The Sufi view of reality derives from the Koran and the Hadith, but it has been amplified and adapted by generations of Sufi teachers and sages. It provides a map of the cosmos that allows people to understand their situation in respect to God. It explains both what human beings are, and what they should aspire to be. It sets down a practice that can lead people from their actual situation to the final goal of human life, or from imperfection to perfection.

The first Shahadah – “(There is) no god but God” – discerns between the Real and the unreal, or between the Absolute and the relative, or between God and “everything other than God,” which is the universe. Traditionally the Shahadah is said to be divided into two halves, the negation (“no god”) and the affirmation (“but God”). The first half denies the inherent reality of the world and the self. The second half affirms the ultimacy of the divine reality. The Shahadah means that there is “no creator but God,” “none merciful but God,” “none knowing but God.” In sum, it means that there is ‘no reality but God’ and that all the so-called realities of our experience are secondary and derivative. Numerous Koranic verses and hadiths reiterate the basic discernment contained in the Shahadah and explain its ramifications. One of the most often cited in Sufi texts is the verse, “Everything is perishing but His face” (28:88). As one of the Sufi masters explains,

God did not say, “will perish,” for He wanted it known that the existence of all things is perishing in His Being today. Only those still veiled [from the reality of things] postpone the observance of this until tomorrow.^x

God's reality is such that nothing can stand up to it. His unique possession of all that is real and all that provides reality to “others” means that the others are in fact nonexistent. This is

how the Sufis interpret the saying of the Prophet, “God was, and nothing was with Him.” The great Sufi shaykh Junayd (d. 910) added, “And He is now as He was.” Only God is, and everything that appears to exist along with Him has no true existence. Ibn Arabi remarked that there was really no need for Junayd to add the clarification, because the verb “was” in reference to the Eternal denotes all tenses. “God was,” “God is,” and “God will be” all have the same meaning.^y

The primary discernment between the Real and the unreal, or between God and the world, is followed by a secondary discernment among the realities of the world. The second Shahadah tells us that “Muhammad is the messenger of God.” It follows that he is a clear, designated manifestation of the One Real. In other words, he represents God more directly than other creatures. He and the Koran for which he is the vehicle are guiding lights in the darkness of unreal things. More generally, all prophets have been sent to reveal God's guidance and mercy to human beings, so revelation plays a special role in human becoming. Without the revealed guidance, people can only wander in ignorance and illusion, immersed in the unreal things that veil them from the truth.

On closer examination, the distinction between divine revelation and all that does not reveal God is much more subtle than at first appears. The Koran calls its own verses and other divine revelations “signs” (*ayat*), and it employs the same word to refer to the things of the universe. If the Koran is God's Book, displaying His “signs,” so also the universe is God's Book announcing His revelations. It follows that the world and everything within it can be viewed from two points of view. In one respect, all things are “other than God” and hence unreal. In another respect, all things are “signs” of God and therefore real in some degree. Here then we have a further discernment of fundamental importance – between phenomena as “signs” and phenomena as “veils.”

Sufis explain the distinction between signs and veils employing many sets of terms. According to one formulation, each existent thing can be said to have two faces. These two faces are the "eastern face" and the "western face." If we look at the western face of things, we find no trace of the sun, since it has set. If we look at the eastern face of the same things, we see the sun shining in its full glory. Everything displays both faces at the same time, but the vast majority of people see only the western face. They have no awareness that everything is a sign of God in which He is disclosing His own reality. For them, the Koranic verse, "Wherever you turn, there is the face of God" (2:115), is a dead letter. In contrast, the prophets and the great Sufis see the eastern face. They witness God in everything. In their case, God has answered the prayer, "Show us things as they are." For them, all things are truly and actually signs of God.¹⁰

Islamic anthropology pictures human beings as the only creatures who have freely chosen God over the world, the Real over the unreal, the East over the West. In the Koran, this free choosing of God is called the "Trust." "We offered the Trust to the heavens and the earth and the mountains, but they refused to carry it and were afraid of it; and human beings carried it." But, the verse concludes, they are "very ignorant, great wrong-doers" (33:72). This suggests that they have failed to live up to their freely chosen responsibilities.

Many would object that they have never made any such choice. The Sufis typically respond that the objection is contradictory. Every time we undertake the slightest volitional act, we have freely accepted our human condition as a given. To be human is to possess a degree of freedom, and to make choices is to put oneself in the position of having to answer for the choices. Rumi provides many entertaining arguments to show that attempts to shuck off responsibility are always self-serving. People try to do so only when they are confronted with a choice that they do not want to make. Otherwise, every time they see

a course of action that suits their fancy, they freely enter into it, knowing all the while that their choices will have consequences.

Like a hypocrite, you offer your excuses –

"I'm so busy providing for wife and children,

"I don't have time to scratch my head

How could I have time to practice religion? . . .

"I cannot escape from feeding my family,

"I must seek lawful earnings tooth and nail" . . .

You have an escape from God – but not from food.

You have an escape from religion – but not from idols.¹¹
You have an escape from religion – but not from idols.¹¹

To carry the Trust people must follow the guidance of those who have already carried it, and such people are known as "prophets." More specifically, to be Muslim and Sufi, one submits to God by acknowledging the truth of the Shahadah, by having faith in God and in the perfectibility of human nature as taught in the Koran, and by living the spiritual virtues that are embodied in Muhammad and the great exemplars of the tradition.

In short, the initial discernment between God and the world leads to two secondary discernments, both expressed at least implicitly in the statement, "Muhammad is the messenger of God." People need to discern between revelation and human knowledge, or between the Koran and merely human attempts to understand. They also need to discern between eastern faces and western faces, or between signs and veils. Once they make the discernments, they need to put them into practice. The religious teachings and institutions provide the practical means to choose eastern faces over western faces.

In questions of discernment, the difference between the general Islamic viewpoint and the specifically Sufi perspective does not lie in principles, but rather in a certain self-conscious application of principles. The Sufis do not consider it sufficient for people to have faith and to submit themselves to the Sharia if they also have the capacity of deepening their understandings.

purifying their hearts, and doing what is beautiful. In order to reach human perfection, it is not enough to imitate others and follow religion blindly (*taqlid*). Rather, one must achieve a total awareness of the principles and the spirit that animate the religion, or, as the Sufis express it, one must realize the Real Itself (*lahaqqah*). On the theoretical level, the Shahadah becomes a concrete expression of the absolute reality of God, a sword that cuts away the illusory from the Real. On the practical level, the guidelines set down by the Sharia perform the same function, but here Sufis do not accept these guidelines "because they must," but because of their awareness that these play a basic role in allowing human beings to act in accordance with revealed truth and avoid error.

Sufi practice

If Sufism is an appropriate name for doing what is beautiful and striving after spiritual perfection, then it is built on two foundations – *islam* or submission to God (the practice of the Sharia and the prophetic model) and *iman* or faith (acceptance of basic Islamic teachings concerning God, prophecy, and the Last Day). Once seekers have gained sufficient grounding in these two dimensions, they can focus their efforts on "worshiping God as if they see Him." Eventually, sincerity and love may take them to the place where the "as if" ceases to apply. In other words, they will worship Him while seeing Him. An often cited model here is the Prophet's cousin and son-in-law Ali, who said, "I would not worship a Lord whom I do not see."

Like Sufi faith, Sufi practice is rooted in the Shahadah. Hence it combines two complementary perspectives – negation and affirmation, or "no god" and "but God." The "god" or false reality that needs to be negated is the individual self or ego, the face turned toward the west and oblivious of the east. As long as self-awareness is dominated by the ego, people will not be able

to see the sun's light. Instead, they will perceive a multitude of shadows, false realities, and "idols." In Rumi's words, "The mother of all idols is your own ego."¹²

The actual path of Sufism entails a process of inner transformation whereby the powers of the soul are turned toward God. Sufism adds to the strictly Sharia practices many devotional and spiritual exercises. The most important of these, around which the others are ranged as so many auxiliary means, is the "remembrance" (*dhiikr*) of God, which the Koran commands people to perform in many verses. Remembrance was taught by the Prophet to his close companions in the specific forms that make up the kernel of Sufi discipline.

The "normal" human situation is one of forgetfulness and heedlessness. The least precondition for human perfection is to recognize one's own imperfection and to remember the perfection of the one Reality. But in order to remember the Real in Its fullness, seekers must forget the unreal, which, is the western face of their own selves and the world.

In the Koran and in Islamic usage in general, the command to "remember" God also means to "mention" God, so the actual means of remembering God is the mention of God's name (or names). The name is considered to be the direct manifestation of the divine on the human level. Through a gradual process of transformation, the name fills up the mind and consciousness, leaving no room for remembrance of others. The basic insight here is that awareness is the fundamental reality of human nature, and its content determines who we are. As Rumi puts it,

You are your thought, brother,
the rest of you is bones and fiber.
If you think of roses, you are a rose-garden.
if you think of thorns, you're fuel for the furnace.¹³

Constant focus on God leads eventually, God willing, to the goal of the Sufi path, which is "union" with God, or the full

2

The Sufi tradition

realization of human perfection, or actualization of the divine image in which human beings were created. Once perfection is achieved, the separation between the divine and the human that was envisaged in the original discernment has been overcome, at least from a certain point of view. The west has disappeared because the Sun has risen.

Having traversed the path, the Sufis can say with Hallaj (d. 922), "I am the Real," that is, "I am God." This will be no baseless claim, for they will simply be seeing the reality of their own situation. Or rather, these words will be nothing but the Sun showing its rays. This is the final realization of the initial discernment, the fact that "God is, and nothing is with Him." Illusory selfhood has been negated and God alone has been affirmed. "No god" has taken away all impermanent things, and "but God" has left that which truly is. As Rumi puts it,

When Hallaj's love for God reached its utmost limit, he became his own enemy and he naughted himself. He said, "I am the Real," that is, "I have been annihilated; the Real remains, nothing else." This is extreme humility and the utmost limit of servanthood. It means, "He alone is." To make a false claim and to be proud is to say, "You are God and I am the servant." In this way you are affirming your own existence, and duality is the necessary result. If you say, "He is the Real," that too is duality, for there cannot be a "He" without an "I." Hence the Real said, "I am the Real." Other than He, nothing else existed. Hallaj had been annihilated, so those were the words of the Real.¹⁴

In a broad sense, Sufism can be described as the interiorization and intensification of Islamic faith and practice. The Arabic word *sufi*, however, has been used in a wide variety of meanings over the centuries, both by proponents and opponents, and this is reflected in both the primary and secondary sources.

The derivation of the word has often been debated. Modern scholars have concluded that the most likely original meaning was "one who wears wool." It is said that by the eighth century (the second century of Islam) the term was sometimes applied to people whose ascetic inclinations led them to wear coarse and uncomfortable woolen garments. Gradually it came to designate a group who differentiated themselves from other Muslims by stressing certain specific teachings and practices of the Koran and the Prophet.

By the ninth century, a great variety of approaches to Islamic learning had developed. The proponents of each discipline considered it essential for understanding the Koran and the Hadith. At this time some of those who were called Sufis adopted the gerund form *tazakuf*, which means "being a Sufi" or "Sufism," as an appropriate designation for their activities and aspirations. However, these same people also called themselves by other names, such as "knowers" and "ascetics" and "renouncers" and "poor men." What is peculiar about the term Sufi is that its derivation is not completely clear, so it took on the aura of a proper name. But, even if the name was new, the focus and interests of the Sufis were not by any means new. The "reality," as Bushanji points out, was there from Islam's beginning.

Knowledge of God in Classical Sufism

FOUNDATIONS OF ISLAMIC MYSTICAL THEOLOGY

TRANSLATED AND INTRODUCED BY

JOHN RENARD

PREFACE BY

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Cover art: Detail courtesy of the Saint Louis Art Museum (108.29), gift of James F. Ballard. The niche of this Turkish prayer rug alludes to the Qur'an's Verse of Light (24:35) and therefore to a central Sufi metaphor for the experiential knowledge of God.

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Abū Nasr as-Sarrāj:

The Book of Flashes

(*Kitāb al-luma'*)

Here are fifteen brief chapters—somewhat less than 10 percent of his whole work—in which Sarrāj sets out his understanding of legitimate Sufi claims to credibility among the other Islamic religious disciplines. The foundation of his argument rests on the “sociology” of Islamic religious knowledge that Sarrāj discusses in most of the first dozen sections of the book. After affirming Sufism as an authentic religious discipline, he delves into the finer points of Sufi modes of knowing in later chapters. Where gaps occur between chapters devoted to epistemological issues, I will summarize sections not translated here.¹

Chapter 1: [4] Explanation of the discipline of Sufism, the method of the Sufis, and their relationship to scholars of unassailable credibility

Shaykh Abū Nasr said: Someone asked me to explain the science of Sufism and the method of the Sufis. He argued that people are of various opinions about it. Some praise it excessively and elevate it above its rightful place; some consider it beyond the limits of rational and scientific investigation. Others regard [5] it as little more than a pastime, a trifling game for the feeble-minded. Still others associate it

with piety, asceticism, woolen garments, affectation in the use of idiosyncratic jargon, habits of dress, and other such things. Some go so far as to impale the Sufis on the gibbet of their own terminology by accusing them of free thinking and doctrinal error.

So he asked me to expand on how I understand the soundness of the principles of the Sufis' method, as supported and sanctioned by adherence to the Book of God, the exalted and glorified, by imitation of the Messenger of God, God's blessings and peace upon him, by ethical conduct modeled on that of the Companions and Followers,² and by behavior consistent with that of devout servants of God Most High. He asked me to record that in writing with proof that would corroborate the true and discredit the false, separate the serious from the frivolous, the sound from the sickly, and set the record straight about all these variant opinions as to whether theirs is a credible religious discipline.

I say, therefore—and from God alone comes success—that God, blessed and exalted, has laid down the foundations of religion and has removed uncertainty from the hearts of the faithful concerning His command that they adhere to His Book and be committed to the implications of the words He addressed to them, may His majesty be magnified, "And hold fast to the rope of God all together, and do not break into factions" (3:103); and "Assist one another in devotion and piety" (5:3). Next, God Most High mentioned those whom He lists among the most excellent believers and the loftiest in religion, ranking them just after His angels. He testified to their witnessing to His transcendent oneness, placing His angels second only to Himself, saying—may He be exalted and glorified—"God has testified that there is no deity but He, as have His angels and those endowed with knowledge of unassailable credibility" (3:18).

Tradition has it that the Prophet, God's blessings and peace upon him, said, "Those who possess *ilm* are the heirs of the Prophets." I am of the opinion—and God knows best—that those endowed with knowledge of unassailable credibility are the heirs of the prophets; it is they who are devoted to the Book of God Most High, who strive to follow God's Messenger, God's blessings and peace upon him, and who emulate the Companions and Followers in traveling the road of God Most High's devout Friends and upright servants. They are of three

categories: scholars of the Hadith, jurists, and Sufis. These are the three groups endowed with knowledge of unassailable credibility who are the heirs of the prophets. Thus, of the many varieties of knowledge, these three are religious disciplines: knowledge of the Qur'an, knowledge of the Sunna, and the exposition [6] and knowledge of the realities of the faith. These three groups together share the aforementioned religious disciplines, which represent the sum of the religious sciences, and none of them departs from the three above-cited verses of the Book of God, exalted and glorified, or from the sayings of God's Messenger, God's blessings and peace upon him, or from the profound wisdom that has moved the heart of any of the Friends of God Most High.

[That state of affairs] is rooted in the "Hadith of faith," in which the Prophet, God's blessings and peace upon him, asked Gabriel, peace be upon him, about the three principles, surrender (*islām*), faith (*imān*), and spirituality (*īhsān*)—the external, the internal, and the ultimate spiritual reality. *Islam* is the outward, *imān* both outward and inward, and *īhsān* the outward, the inward, and the ultimate spiritual reality.³ The Prophet, God's blessings and peace upon him, said that *īhsān* is serving God Most High as though you saw Him, but even if you don't see Him, He sees you, and Gabriel confirmed that. *Ilm* is linked to action, and action to sincerity. Sincerity means that the servant seeks the face of God, glorious and mighty, in his knowledge and his action. These three groups mentioned above differ in both theory and practice and are organizationally disparate. God Most High alluded to their disparity and their respective levels when He, may He be exalted and glorified, said, "(God will raise) in rank those possessed of knowledge" (58:11); and, "all have ranks according to what they have done" (46:19); and, "Observe how We have made some excel over others" (17:21). The Prophet, God's blessings and peace upon him, said, "People are alike, lined up like the teeth of a comb, none more excellent than another except in knowledge and piety."

Anyone who has a question concerning one of the principles of the religion and its ramifications, legal implications, spiritual meanings, sanctions, or stipulations, whether external or internal, has no choice but to have recourse to these three groups—the traditionists, the jurists, and the Sufis. Each of these groups has its distinctive brand of

theory and practice, spiritual reality and spiritual state, each its own interpretation of knowledge and action, spiritual station and expression, profound comprehension and place, deeper understanding and approach to interpretation of the sources. Those who are learned in it have knowledge of it, and those who are not schooled in it do not. No one group can achieve a comprehensive grasp of theories and practices and spiritual states; each one has its spiritual station where God Most High has placed it, and its spiritual state where God, exalted and glorified, has situated it. I will explain to you, God Most High willing, to the best of my ability, how each of these groups pursues one or another theory [7] and practice, in what aspect each excels, and which of them is of the highest level. I will do so in a way that you will find intellectually appealing and understandable, if God Most High wishes.

Chapter 2: [7] Characteristics and distinguishing features of the traditionists with regard to transmission and insight into the Ḥadīth and their unique ways of knowing the subject

Said the shaykh, God be compassionate to him: The traditionists are concerned with understanding the outward meaning of the sayings of God's Messenger, God's blessings and peace upon him. They have asserted that this is the foundation of the religion because God Most High says, "Take what the Messenger gives you and refrain from what he forbids for you" (59:7). Therefore, when material of this sort came to their attention, they would travel from one land to another in search of transmitters of Ḥadīth. They would stay with them until they had received from them the traditions of God's Messenger, God's blessings and peace upon him. Collating what had been transmitted from the Companions and Followers, they then analyzed carefully what they had gathered about the Companions' and Followers' life stories and sayings, their views and differences of opinion as evidenced in their decisions, utterances, deeds, character, and personal spiritual qualities.

The scholars would then assess the authenticity of what they had transmitted orally, committed to memory, and written down—material handed on from one trustworthy person to another, one individual of integrity to another. They then carefully preserved that material. They determined the whereabouts of the transmitters who were involved in compiling each report and entry, noting their names, their surnames, and recording precisely their birth and death dates. As a result, they gathered data on how many Ḥadīths each of those individuals had transmitted, from whom they had received each Ḥadīth, and to whom each transmitter had related the Ḥadīth. They were able to determine who had communicated a Ḥadīth inaccurately, which individuals had erred by either inserting a letter or deleting a word, which individuals had done so intentionally, and which had simply made an honest mistake.

These Ḥadīth scholars thus ascertained the names of suspect transmitters caught in a lie about God's Messenger, God's blessings and peace upon him. They identified whose transmissions were sound and whose not, and who had transmitted Ḥadīths otherwise unattested or whose precise wording was unique and not found in others. By this method they made note of how many individuals had transmitted each variant Ḥadīth and indicated the weak links in its chain of transmission. Thus they organized categories, classifying the *sunna*⁴s into chapters. They distinguished between those that were judged "sound," those of questionable reliability, and those whose chain of transmission included an untrustworthy individual. The scholars narrowed their attention to those Ḥadīths that were transmitted, respectively, by the fewest [8] and by the greatest number. They identified Ḥadīths transmitted by leading figures in the cities, and categorized lesser, derivative transmitters as distinct from the greater, leading figures. These scholars possessed comprehensive knowledge of the flaws evidenced in the disparity of views among transmitters, whether in the form of addition or deletion, and of their place in the chain of transmission of *sunna*s and traditions; for these things form the basis of religious practice.

In that matter these Ḥadīth scholars are superior to the (generalist) religious scholars, so that by dint of greater learning, one of them can lay claim to accuracy and capacity of memory in handling the evidence, when it comes to impartiality and critical assessment, of rejection and acceptance of traditions, on the grounds that a text's testimony

is consistent with what God's Messenger, God's blessings and peace upon him, said and did, commanded and forbade, enjoined and prayed for. God Most High has said, "Thus did We fashion you as a morally balanced community so that you might bear witness to humankind and so that the Messenger might be a witness to you all" (2:143). The traditionists are said to be the custodians of what the Messenger of God, God's blessings and peace upon him, and the Companions and Followers, said and did. The scriptural text "and so that the Messenger might be a witness to you all" therefore refers to their testimony to the Prophet's deeds, words, spiritual states, and moral character. The Prophet, God's blessings and peace upon him, has said, "Whoever knowingly lies about me will sit on his own couch in hell." And the Prophet, God's blessings and peace upon him, said, "May God make radiant the face of one who has heard a Ḥadīth from me and spreads it abroad," and so on. It is said that every traditionist bears on his countenance a glow as a result of the Prophet's prayer.

The traditionists have produced written sources containing the findings of their research. As has been widely attested, famous masters among them have enjoyed the acknowledgment of their contemporaries for their outstanding learning, surpassing intellect, and exemplary religious practice and faith. What I have said is sufficient for those who know, and it is God who grants success.

and abrogated texts,' between principles and particulars, separating the specific from the general, with reference to the scripture, the Sunna, consensus (*ijmā'*), and analogical reasoning (*qiyās*).⁶ They then explain to the people the requirements of their religion on the basis of Qur'ān and tradition. Some requirements are no longer in force but are still on the books, while others not attested to in writing nevertheless retain the force of law. Some are expressed in general terms but are understood specifically, while others are couched as specific rules but are understood more generally. Some regulations address a collectivity of people but are interpreted as referring to individuals, while others address the individual but are taken to refer to groups.

Legal scholars marshal intellectual arguments against their opponents. They draw conclusions on the basis of evidence in shaping their arguments against those in error, to bolster the religion. They adhere to the text of the scripture or the text of the Sunna, or to analogical reasoning on the basis of the text, or to the consensus of the community. In response to anyone who disagrees with them, they argue by the rules of rational argument. To any who dispute with them they respond with the etiquette of debate. Should anyone take issue with them contentiously, they counter with equally trenchant rejoinder, matching one imputed weakness with another in return. Thus they put everything in its place, prioritize every definition according to its category, distinguishing among rational analogy, formal similarity, affinity, and parallelism.⁷ As for things either commanded or forbidden, they differentiate as to which are required, which are recommended, which are to be avoided and cause for alarm, and which are urged and called for.

These scholars thus explain obscurities, untie knots, illuminate paths, dispel ambiguities, bring forth branches from roots, expand the cryptic, unravel the densely packed, and evaluate religious sanctions judiciously. They do this so that, in the external requirements and sanctions of the Sharī'a, one scholar does not follow another scholar blindly, nor the ignorant person an ignorant person, nor the socially elite individual an elite person, nor the common person a common person. Legal scholars keep watch over their ordinances for the Muslims. God Most High, may He be exalted and glorified, referred to them in His Book when He said, "Let parties from every contingent set out to dedicate themselves to understanding the religion."⁸ And the Prophet,

Chapter 3: [8] On the classifications of the legal scholars and the unique features of their methodology among the various disciplines

Said Shaykh Abū Naṣr, God be compassionate to him: As a category of those who possess knowledge, the legal scholars are superior to the traditionists. The two groups are comparable with respect to the general import [9] of their disciplines and their methods. But the legal scholars possess a specialized understanding and deeper interpretation of the Ḥadīth, steeping themselves in detailed investigation for setting forth religious regulations and sanctions and the principles of Revealed Law. With those concerns in mind, they distinguish between abrogating

God's blessings and peace upon him, said, "When God desires an individual's good, He gives that person deeper religious understanding."

Concerning their branch of learning and methods, legal scholars, too, have their written sources, as well as their renowned masters, [10] whose leadership their contemporaries acclaimed unanimously for their greater learning, insight, religious commitment, and trustworthiness. But a full explanation of that would be too lengthy, and the perspicacious reader will draw fuller conclusions from these brief hints. And in Allah is our success.

Chapter 4: [10] On the classifications of the Sufis, their various approaches to ‘ilm and action, and their outstanding virtues and excellent qualities

Said Shaykh Abū Nasr, God be compassionate to him: The Sufis are analogous to the legal scholars and the traditionists in that they, also, have their groups with their distinctive opinions. They agree with the other groups of religious specialists on their disciplines and are not at odds on their meanings and methods, to the extent that they avoid innovation and the pursuit of personal whim, while conforming to the established pattern and example of tradition. They are allied in their asseent to and affirmation of all aspects of their discipline and do not disagree on them.

Any Sufis who do not measure up to the qualifications of the legal scholars and traditionists in knowledge and insight and fail to amass the broad learning they command will have recourse to those other religious experts in the event any divinely revealed commandment or religious sanction should become unclear to them. Thus, when they are in agreement about such a thing, they are unanimous in what they profess together; and when they disagree, the Sufis have recourse, according to their method, to the best, the first, and the most complete option out of care for the religion. They give priority to what God has commanded His servants and avoid what God has forbidden them. Their way does not include stooping to licentious behavior, going in

search of esoteric interpretations, the tendency toward a life of ease and dissipation, and the espousal of questionable views, all of which amount to a disregard for the religion and throwing caution to the wind. On the contrary, their way is to hold fast to what is fundamental and most complete in the matter of religion.

This is what I have come to know about the ways of the Sufis and their methods in their use of the exoteric sciences as practiced by and current among the classes of religious scholars and traditionists. Beyond that, they ascend to high ranks and have a propensity for noble spiritual states [11] and elevated spiritual abodes, which consist of various forms of worshipfulness, profound obedience, and exquisite moral character. The upshot of that is a unique and distinctive quality not shared by other religious scholars, jurists, and traditionists. A full analysis of that would require a lengthier explanation. I can elucidate for you only a sample of the whole reality, so that, God willing, you might infer from what I have said to what I have not said.

Here we skip Chapter 5: "On the unique understandings with which the Sufis construe conduct, spiritual states, and knowledge and which set them apart from the generality of religious scholars." Sarrāj does not advance specifically his treatment of knowledge in this chapter but focuses instead on more praxis-oriented ways in which the Sufis differ from other "learned" people.

Chapter 6: [13] On the special qualities of the Sufis among the categories of those who possess ‘ilm with respect to other epistemological issues

Said Shaykh [Abū Nasr], God be compassionate to him: Another unique feature of the Sufis, among the categories of the religiously learned, is their use of verses recited from the Book of God Most High, and of traditions transmitted from God's Messenger, God's blessings and peace upon him, which no scriptural verse has abrogated and

whose authority no prophetic tradition or report has preempted. These call for lofty moral conduct and impel toward elevated spiritual states and noble deeds. They speak of high spiritual stations in the religion and exalted stages that distinguish one segment of believers and characterize a group of the Companions and Followers. Those verses and traditions embrace the behavior and moral values of the Messenger, God's blessings and peace upon him, as he says, "Indeed God has instilled in me good conduct and has highly refined my behavior." And God, exalted and glorified be He, says, "Indeed you are of exquisite moral character" (68:4).

These matters are to be found in the documents of the religious scholars and jurists, but here they lack the penetrating understanding and insight that they display in the other aspects of their discipline. Apart from the Sufis, no scholars of unassailable credibility have a share in the present topic apart from general affirmation and belief that it is true. These matters include such things as the reality and characteristics of repentance, the ranks of the penitent, and their spiritual realities; the details of piety and the spiritual states of the god-fearing; the classifications of those who trust in God; the stations [14] of those who experience spiritual contentment; and the ranks of the patient. They speak similarly of modesty and humility and love, fear and hope, desire and introspection, contrition and tranquility, certainty and spiritual satisfaction. The numbers of these spiritual states are virtually beyond counting, each of them with its own practitioners and classifications. Each has essential details, including [contemplative method, spiritual states, self-scrutiny, mysteries, inner combat, spiritual stations, discrete levels], unique intentionality, distinctive strength of will, resistance to lassitude, and being overwhelmed by ecstasy. And each of these has its definition, spiritual station, type of knowledge, and analysis, to the extent that God, exalted and glorified, apportions them.

The Sufis are also distinguished by their *marifa* of the specific features of concupiscence and earthly expectation; and their insight into the ego-soul with its opportunities and ephemeral proclivities, and into the subtleties of conceit, disguised lust, and covert idolatry. Sufis are unique in their understanding of the means for liberation from these things and for turning toward God the Exalted and Glorified, for sincerely taking refuge in God, and for persisting in spiritual needfulness,

surrender, handing all over to God, and admitting one's lack of power and strength.

In addition, the Sufis have discovered deeper interpretations of knowledge that have eluded the jurists and religious scholars. They couch these subtleties in allusion and conceal them in technical expressions because of their sensitivity and delicacy. That is the case with their talk of obstacles, hindrances, obligations, concealments, arcane secrets, the stations of sincerity and the states of insight into mystery, the realities of thought and the degrees of nearness to God, the laying bare of acknowledgment of divine transcendent unity, the stages of acknowledging the divine simplicity, the realities of servanthood, the obliteration of temporal existence in pre-eternity,⁹ the ephemeral nature of created things by contrast with the eternally ancient, the passing away of the vision of what one might accept as a substitute for God, and the perduration of the vision of the giver [even as the vision of the gift passes away], the fading of the states and stations, the uniting of [the separated], the passing away of the experience of striving while the vision of the goal survives, [avoidance of the vision of what substitutes for God,] letting go of resistance, of raiding travelers on obliterated paths, and of wandering through [15] perilous wastelands.

Among the religious scholars of unassailable authority or integrity, the Sufis distinguish themselves in untangling these knots and penetrating the problematic aspects of these things. They pursue these questions tenaciously and doggedly, and attack them with complete unselfishness. They do not desist until they have communicated about their flavor and taste, decrease and increase. They inquire of any who lay claim to one of these spiritual states as to their evidence for it, and discourse about the state's soundness or weakness. There is more here than a single person can mention even a little about, since it is so vast there is no way to encompass it.

Knowledge of all of this is found in the Book of God, exalted and glorified, and in the traditions of God's Messenger, God's blessings and peace upon him, and is familiar to specialists; and the religious scholars do not dispute that when they discuss these matters. However, a group of those who specialize in exoteric learning do take issue with the Sufis because the exotericists understand only those aspects of the Book of God Most High and the traditions of God's Messenger, God's

blessings and peace upon him, that pertain to outward requirements and that support their polemic against their opponents. People nowadays are more inclined to that sort of thing because it more closely approximates what they want in leadership, gaining standing among the masses, and achieving worldly ends. You will see precious few occupying themselves with the learning I have been describing, for this is a unique *ilm* alloyed with bitterness and choking torment. At the sound of it knees weaken, the heart grows sad, eyes fill with tears, the great becomes small and the small great. But what an enterprise, what an experience, what savor, what an encounter does that knowledge bring! Ego has no share in the inward encounter, for the ego-soul is hemmed in by mortality, the fallibility of the senses, and the ephemeral nature of objects of desire. As a result, the religious scholars have eschewed this knowledge, engrossing themselves in cultivating a knowledge that lightens their burden and impels them toward permissiveness, license, and facile interpretation, a knowledge that is congenial with human tendencies and rests more lightly on human souls, bent as they are toward yielding to baser proclivities and turning aside from duty. God Most High knows best.

In the next chapter, Sarrāj seriously undertakes to defend the Sufis' detailed analysis of elements of the spiritual life. They base their analysis on the occurrence of specific terms and descriptions found in the Qur'ān and Ḥadīth, and Sarrāj is concerned with demonstrating that every aspect of Sufi psychology and epistemology has a firm basis in tradition and revelation.

His Book to upright men and women, to humble men and women, as well as to the submissive, the pious, the sincere, those who do good, the fearful, the hopeful, the awestruck, the worshipful, the sojourners, the long-suffering, the spiritually content, the god-trusting, the self-abasing, the Friends of God, the god-fearing, the elect, the chosen, the devout, and those who are close to God. God Most High mentioned those who bear witness when He said, "or one who gives ear, that person is a witness" (54:37). And God Most High refers to the serene when he says, "Surely hearts become serene when they remember God" (13:28). God Most High also speaks of those who arrive ahead of others, those who are temperate, and those who hasten to good deeds.

And the Prophet, God's blessings and peace upon him, said, "In my (religious) community there are those spoken about and those addressed, and 'Umar is one of them." And the Prophet, God's blessings and peace upon him, said, "Many are the disheveled, dusty ones, clad in a pair of rags, whose oath God would honor, and Barā' (d. 72/691) is one of them." To Wābiṣa he said, "S seek advice from your heart," and he did not say that to anyone else. And the Prophet, God's blessings and peace upon him, said, "As a result of the intercession of a man of my community, people as numerous as the tribes of Rabī'a and Mudar will enter the Garden. That man's name is Uways al-Qarani."¹⁰ And in the Ḥadīth we find also, "In my community there are those whom I know to be god-fearing when they recite Qur'ān, and Tālq ibn Ḥabīb (d.c. 90/178) is among them." Another saying of the Prophet, God's blessings and peace upon him, goes, "Seventy thousand of my community will enter the Garden without being called to account." "O Messenger of God," someone asked, "who are they?" He replied, "They are the ones who do not allow themselves to be branded¹¹ and put their trust not in sorcery but rely on their Lord."¹²

There are numerous traditions and accounts of this sort, and everyone agrees that all of the people mentioned in these texts were of the community of Muḥammad, God's blessings and peace upon him. Had they not been part of the community, and if they could not have existed in every age, then God Most High would not have mentioned them in His Book, nor would the Messenger of God, God's blessings and peace upon him, have described them. On the one hand, we have seen that the term "faith" applies to the collectivity of believers; [17]

Chapter 7: [16] A rejoinder to the claim that the Sufis are an ignorant lot and that the science of Sufism has no support from the Book and tradition

Said Shaykh [Imām Abū Nasr], God be compassionate to him:
The imāms agree unanimously that God, Blessed and Exalted, refers in

on the other, those people stand out from the crowd as individuals with specific names. That is proof of their uniqueness among the generality of believers united under the term “faith.” Not one of the imāms disputes that the prophets, on whom be peace, are of higher rank than these individuals (mentioned above) and dwell nearer to God. Most High than these, and that they were human beings subject to all the same needs as other human beings for food, sleep, and ordinary cares. Nevertheless, there is a vast difference between the prophets, God’s blessings be on them all, and the rest of these people I have been talking about. That is due to the existence of a secret between them and the One they serve, and to the increase in their certitude and their belief in what God Most High has communicated and apportioned to them. Only the prophets, upon whom be peace, are set apart from these individuals by the unique features of prophetic revelation, prophetic mission, and proofs of prophethood. No one else can compete with them in that respect. And God is the one who knows most fully.

Chapter 8: [17] On the counter argument of the Sufis to those who make a profession of legal scholarship, and an explanation, supported by evidence, of deep religious understanding

Said Shaykh [Abū Nasr], God be compassionate to him: It is reported that the Prophet, God’s blessings and peace upon him, said: “When God wishes the best for an individual, he grants that person deep religious understanding.” It has come to my attention that someone said to Ḥasan al-Baṣrī,¹³ God be compassionate to him, “So-and-so is a *fāqīh*.” Hasan replied, “And have you ever seen a *fāqīh*? The *fāqīh* is the one who has forsaken this world, prefers the next, and possesses spiritual insight into his religion.” God Most High says, “So that they might gain profound religious understanding” (9:122). “Religion” is a term that encompasses all requirements, both external and internal. Erudition in the requirements of these spiritual states and the meanings

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رنگ صاحب دے رنگی ہاں!

مندی ہاں کہ چنگی ہاں، بھی صاحب تری بندی ہاں
 کہلا لوک جانیں دیوانی، رنگ صاحب دے رنگی ہاں
 ساجن میرا اکھیں وسدا، گلیمیں پھراں تھنگی ہاں
 کہے حسین فقیر سائیں دا، ور چنگے نال منگی ہاں

الفاظ و معنی:

* مندی — نرمی * چنگی — اچھی * بندی — نوکر۔ خادم۔ غلام
 * کہلا — غافل۔ نہ سمجھ، بے خبر * رنگی — فریقتہ ہونا۔ دوسرے کے انداز
 میں ڈھل جانا۔ دوسرے کا ہو جانا۔ دوسرے کی مرثی پر چلانا * گلیمیں — گلیوں
 میں * تھنگی — تلاش کرتی ہوئی۔ ڈھونڈتی۔ کھوجتی * ور — خاوند۔
 محبوب * منگی — نسبت طے ہو گئی۔ منسوب ہو گئی۔ حوالے کر دی گئی۔



(1)

رتبا میر سے حال دا گرم ٹوں

رتبا میر سے حال دا گرم ٹوں
اندر توں میں، باہر توں میں، روم روم وچ ٹوں
توں میں تانا، توں میں بانا، سبھ کجھہ میرا ٹوں!
کہہ حسین نقیر نانا، میں ناہیں بھے ٹوں!

اتفاق و متعنی:

* گھم، سام ٹوں — جانے والا، آفنا، واقف * روم روم — رونگھے، سام ٹوں
 * کی بھی پڑے میں لہائی کر رخ پر
 توں (مراد جو کہ ہر حصے میں) * تانا — کی بھی پڑے میں چڑائی کے رن پر دھا کے کی
 دھا کے کی بنت * بانا — کی بھی پڑے میں چڑائی کے رن پر دھا کے کی
 بنت * نانا — سکین غاز



میں سما جن دی گلڈی!

نے اسیں آؤ کھڑا ہاں لذی
توں تار ڈور گئی دی، اسیں لے کر ہاں آؤ
سما جن دے ہتھ ڈور اساؤ، میں سما جن دی گئی
اس دیلے نوں پچھوتائیں، جا پوئیں وغ کھڈی
کہے حسین فتحر سائیں دل، ذیما جائی بڈی

الفاظ و معنی:

کھڈہ ہاں ————— کھلیں * لذی ————— بخوب میں کیا جانے والا مشہور قصہ
جس میں نوجوان لاکریاں اوزڑ کے دونوں حصے لے کئے ہیں عام طور پر شادیوں میں بھی اسی
قصہ کو کیا جاتا ہے اور جو ٹھیک ہالیاں یا ڈڑھوف کی چھڑیاں ہاتھوں میں تھام کر بجائی جاتی
ہیں اور ایک رہنم بیدا کر کے قصہ کو کلش ہلیا جاتا ہے * نوں تار ————— نوجوان۔ نو
راتے، سورا، ن، انسانی تو ایسی دو گھمیں، دوکان * دو تاک کے نتھے ایک نہ ایک
پاخا نے ایک پیٹھاب کا سورا * کھڈی ————— قبر * بڑی ————— ذوبی





Session 12





Introduction

How Perceptions of Woman Influence Interpretation of the Qur'an

My objective in undertaking this research was to make a 'reading' of the Qur'an that would be meaningful to women living in the modern era. By 'reading' I mean the process of reviewing the words and their context in order to derive an understanding of the text. Every 'reading' reflects, in part, the intentions of the text, as well as the 'prior text' of the one who makes the 'reading'. Although each 'reading' is unique, the understanding of various readers of a single text will converge on many points.

In this Introduction I will give the background to this work. In particular, I will look at how the perception of woman influences the interpretations of the Qur'an's position on women. I will give an overview of my own perspective of woman and of the methods of interpretation I used in analysing the Qur'an which have led to some new conclusions.

No method of Qur'anic exegesis is fully objective. Each exegete makes some subjective choices. Some details of their interpretations reflect their subjective choices and not necessarily the intent of the text. Yet, often, no distinction is made between text and interpretation. I put interpretations of woman in the Qur'an into three categories: 'traditional', reactive, and holistic.

The first category of Qur'anic interpretation I call 'traditional'. Traditional *tafsirs* (exegetical works) give interpretations of the entire Qur'an, whether from the modern or classical periods, with certain objectives in mind. Those objectives could be legal, esoteric, grammatical, rhetorical, or historical. Although these objectives

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may lead to differences in the *tafasir*, one similarity in these works is their atomistic methodology. They begin with the first verse of the first chapter and proceed to the second verse of the first chapter—one verse at a time—until the end of the Book. Little or no effort is made to recognize themes and to discuss the relationship of the Qur'an to itself, thematically. A brief mention of one verse's relation to another verse may be rendered but these are haphazard with no underlying hermeneutical principle applied. A methodology for linking similar Qur'anic ideas, syntactical structures, principles, or themes together is almost non-existent.²

However, what concerns me most about 'traditional' *tafasir* is that they were exclusively written by males. This means that men and men's experiences were included and women and women's experiences were either excluded or interpreted through the male vision, perspective, desire, or needs of woman.³ In the final analysis, the creation of the basic paradigms through which we examine and discuss the Qur'an and Qur'anic interpretation were generated without the participation and firsthand representation of women. Their voicelessness during critical periods of development in Qur'anic interpretation has not gone unnoticed, but it has been mistakenly equated with voicelessness in the text itself.

The second category of Qur'anic interpretation concerned with the issue of woman consists primarily of modern scholars' reactions to severe handicaps for woman as an individual and as a member of society which have been attributed to the text. In this category are many women and/or persons opposed to the Qur'anic message (or more precisely, to Islam) altogether. They use the poor status of women in Muslim societies as justification for their 'reactions'. These reactions have also failed to draw a distinction between the interpretation and the text.⁴

The objectives sought and methods used, often come from feminist ideals and rationales. Although they are often concerned with valid issues, the absence of a comprehensive analysis of the Qur'an sometimes causes them to vindicate the position of women on grounds entirely incongruous with the Qur'anic position on woman. This shortcoming must be overcome in order to make use of a most effective tool for the liberation of Muslim women: demonstrating

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the link between that liberation and this primary source of Islamic ideology and theology.

The interpretations which reconsider the whole method of Qur'anic exegesis with regard to various modern social, moral, economic, and political concerns—including the issue of woman—represent the final category. It is in this category that I place this work. This category is relatively new, and there has been no substantial consideration of the particular issue of woman in the light of the entire Qur'an and its major principles.

I propose to make a 'reading' of the Qur'an from within the female experience and without the stereotypes which have been the framework for many of the male interpretations. In the final analysis, this reading will confront some of the conclusions drawn on this subject. Because I am analysing the text and not the interpretations of that text, my treatment of this issue differs from many of the existing works on this topic.

Background

Methodology: A Hermeneutical Model

A hermeneutical model is concerned with three aspects of the text, in order to support its conclusions: 1. the context in which the text was written (in the case of the Qur'an, in which it was revealed); 2. the grammatical composition of the text (how it says what it says); and 3. the whole text, its *Weltanschauung* or world-view. Often, differences of opinion can be traced to variations in emphasis between these three aspects.

I argue against some conventional interpretations, especially about certain words used in the Qur'an to discuss and fulfil universal guidance. I render some discussions heretofore considered as gendered, into neutral terms. Other discussions, heretofore considered as universal, I render specific on the basis of their limitations and on the expression in terms specific to seventh-century Arabia. Some historical information with regard to occasions of revelation and the general period of revelation was considered here.

Thus, I attempt to use the method of Qur'anic interpretation

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proposed by Fazlur Rahman. He suggests that all Qur'anic passages, revealed as they were in a specific time in history and within certain general and particular circumstances, were given expression relative to those circumstances. However, the message is not limited to that time or those circumstances historically. A reader must understand the implications of the Qur'anic expressions during the time in which they were expressed in order to determine their proper meaning. That meaning gives the intention of the rulings or principles in the particular verse.

Believers from another circumstance must make practical applications in accordance with how that original intention is reflected or manifested in the new environments. In modern times this is what is meant by the 'spirit' of the Qur'an. To get at that 'spirit', however, there must be some comprehensible and organized hermeneutical model.⁵

The initial question behind my research was, why does the Qur'an specify males and females on some occasions (like 'Believing males and Believing females' [masculine plural followed by feminine plural forms]), while on other occasions it uses a more generic ('Oh you who believe ...' [masculine plural]) form? From my perspective on the Qur'an, every usage of the masculine plural form is intended to include males and females, *equally*, unless it includes specific indication for its exclusive application to males.

The plural in Arabic is used to denote three or more rational beings. Thus the following Arabic sentences:

- A. *Al-tullab fi al-ghurfah* (masculine plural form) means
 - 1. three or more students in the room—including at least one male
 - 2. three or more exclusively male students in the room.
- B. *Al-talibat fi al-ghurfah* (feminine plural form) means
 - 1. three or more female students in the room.

As there is no form exclusively for males, the only way to determine if the masculine plural form (*al-tullab fi al-ghurfah* (A)) is exclusively for male (2) would be through some specific indication in the text. Thus:

- C. *Al-tullab wa al-talibat fi al-ghurfah* indicates that the use of the

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mASCULINE plural (*al-tullab*) refers exclusively to males since the inclusion of the female plural form distinguishes the female students present.⁶

All the verses which contained any reference to women, separately or together with men, were analysed with the traditional method of *tafsir al Qur'an bi al Qur'an* (interpretation of the Qur'an based on the Qur'an itself). However, I elaborated these particular terms of this method: each verse was analysed: 1. in its context; 2. in the context of discussions on similar topics in the Qur'an; 3. in the light of similar language and syntactical structures used elsewhere in the Qur'an; 4. in the light of overriding Qur'anic principles; and 5. within the context of the Qur'anic *Weltanschauung*, or world-view.

Language and Prior Text

One unique element for reading and understanding any text is the prior text of the individual reader: the language and cultural context in which the text is read. It is inescapable and represents, on the one hand, the rich varieties that naturally occur between readers, and, on the other hand, the uniqueness of each.

Prior text adds considerably to the perspective and conclusions of the interpretation. It exposes the individuality of the exegete. This is neither good nor bad in and of itself. However, when one individual reader with a particular world-view and specific prior text asserts that his or her reading is the only possible or permissible one, it prevents readers in different contexts to come to terms with their own relationship to the text.

To avoid the potential of relativism, there is continuity and permanence in the Qur'anic text itself as exemplified even through various readings by their points of convergence. However, in order for the Qur'an to achieve its objective to act as a catalyst affecting behaviour in society, each social context must understand the fundamental and unchangeable principles of that text, and then implement them in their own unique reflection. It is not the text or its principles that change, but the capacity and particularity of the understanding and reflection of the principles of the text within a community of people.

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Thus, each individual reader interacts with the text. However, the assertion that there is only one interpretation of the Qur'an limits the extent of the text. The Qur'an must be flexible enough to accommodate innumerable cultural situations because of its claims to be universally beneficial to those who believe.⁷ Therefore, to force it to have a single cultural perspective—even the cultural perspective of the original community of the Prophet—severely limits its application and contradicts the stated universal purpose of the Book itself.

THE PRIOR TEXT OF GENDER-SPECIFIC LANGUAGES

The significance of masculine and feminine forms, whether used distinctively or to make generic indications, was an important part of my analysis. Perspectives on gender, particularly on the understanding of what constitutes feminine or masculine behaviour, and the roles of men and women in society, are based on one's cultural context. Gender-specific languages, such as Arabic, create a particular prior text for the speakers of that language. Everything is classified male or female. English, Malay, and other languages do not share this prior text with Arabic. This results in a distinction between the various readings of the Qur'an. This distinction becomes apparent in the interpretation of the text and the conclusions drawn from the function of the text with regard to gender.

With regard to Arabic, the language of the Qur'an, I approach the text from the outside. This frees me to make observations which are not imprisoned in the context of a gender-distinct language.

There exists a very strong, but one-sided and thus untrustworthy, idea that in order better to understand a foreign culture, one must enter into it, forgetting one's own, and view the world through the eyes of this foreign culture. This idea, as I have said, is one-sided. Of course, a certain entry as a living being into a foreign culture, the possibility of seeing the world through its eyes, is a necessary part of the process of understanding it; but if this were the only aspect of this understanding, *it would merely be duplication and would not entail anything new or enriching.* Creative understanding does not renounce itself, its own place in time, its own culture; and it forgets nothing. In order to understand, it is immensely important for the person who understands to be located outside the object of his or her creative understanding—in time, in space, and in culture.⁸ [emphasis mine]

A new look at Qur'anic language with regard to gender is especially necessary in the light of the absence of an Arabic neuter.

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Although each word in Arabic is designated as masculine or feminine, it does not follow that each use of masculine or feminine persons is necessarily restricted to the mentioned gender—from the perspective of universal Qur’anic guidance.⁹ A divine text must overcome the natural restrictions of the language of human communication. Those who argue that the Qur’an cannot be translated believe that there is some necessary correlation between Arabic and the message itself. I will demonstrate that gender distinction, an inherent flaw, necessary for human communication in the Arabic, is overcome by the text in order to fulfil its intention of universal guidance.

Perspectives on Women

‘Most men have at one time or another heard, or perhaps even believed, that women are “inferior” and “unequal” to men.’¹⁰ I worked against the backdrop of common prejudices and attitudes among Muslims towards women which have not only affected the position of women in Muslim societies but also affected the interpretation of the position of women in the Qur’an. One such belief is that there are *essential* distinctions between men and women reflected in creation, capacity and function in society, accessibility to guidance (particularly to Qur’anic guidance), and in the rewards due to them in the Hereafter.

Although there are distinctions between women and men, I argue that they are not of their essential natures. More importantly, I argue against the *values* that have been attributed to these distinctions. Such attributed values describe women as weak, inferior, inherently evil, intellectually incapable, and spiritually lacking. These evaluations have been used to claim that women are unsuitable for performing certain tasks, or for functioning in some ways in society.

The woman has been restricted to functions related to her biology. The man, on the other hand, is evaluated as superior to and more significant than woman, an inherent leader and caretaker, with extensive capacity to perform tasks that the woman cannot. Consequently, men are *more* human, enjoying completely the choice of movement, employment, and social, political and economic

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participation on the basis of human individuality, motivation, and opportunity. This is actually an institutionalized compensation for the reverse situation:

Woman alone gives birth to children, nurses them, and is their primary nurturer in their early formative years. Moreover, the social and economic roles that commonly have been defined as the province of the male have never been performed exclusively by men. Subconsciously, men are aware of this fact.... *The male has never had an exclusive social or economic role that woman could not participate in too.* . . .

. . . Awareness of woman's monopoly was psychologically repressed and overshadowed by institutionalizing and socially legitimating male values that had the effect of creating self-fulfilling prophecies (emphasis mine).¹¹

DISTINCTIONS BETWEEN MEN AND WOMEN

The Qur'an acknowledges the anatomical distinction between male and female. It also acknowledges that members of each gender function in a manner which reflects the well-defined distinctions held by the culture to which those members belong. These distinctions are an important part of how cultures function. For this reason, it would be unwise if the Qur'an failed to acknowledge and, in fact, sympathize with culturally determined, functional distinctions.

As they are divided, so genders are also interwoven differently in each culture and time. They can rule separate territories and rarely intertwine, or they can be knotted like the lines in the Book of Kells. Sometimes no basket can be plaited, no fire kindled, without the collaboration of two sets of hands. Each culture brings the genders together in its unique way.¹²

The Qur'an does not attempt to annihilate the differences between men and women or to erase the significance of functional gender distinctions which help every society to run smoothly and fulfil its needs. In fact, compatible mutually supportive functional relationships between men and women can be seen as part of the goal of the Qur'an with regard to society.¹³ However, the Qur'an does not propose or support a singular role or single definition of a set of roles, exclusively, for each gender across every culture.

The Qur'an acknowledges that men and women function as individuals and in society. However, there is no detailed prescription set on how to function, culturally. Such a specification would be an

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imposition that would reduce the Qur'an from a universal text to a culturally specific text—a claim that many have erroneously made. What the Qur'an proposes is transcendental in time and space.¹⁴

Gender distinctions and distinct gender functions contribute to the perceptions of morally appropriate behaviour in a given society. Since the Qur'an is moral guidance, it must relate to the perceptions of morality—no matter how gender-specified—which are held by individuals in various societies. Yet, the mere fact that the Qur'an was revealed in seventh-century Arabia when the Arabs held certain perceptions and misconceptions about women and were involved in certain specific lewd practices against them resulted in some injunctions specific to that culture.

Some prevailing practices were so bad they had to be prohibited explicitly and immediately: infanticide, sexual abuse of slave girls, denial of inheritance to women, *zihar*,¹⁵ to name a few of the most common. Other practices had to be modified: polygamy, unconstrained divorce, conjugal violence, and concubinage, for example. With regard to some practices, the Qur'an seems to have remained neutral: social patriarchy, marital patriarchy, economic hierarchy, the division of labour between males and females within a particular family.

Some women activists today openly question this neutrality. Why didn't the Qur'an just explicitly prohibit these practises? If the evolution of the text and its **overall** objective is consumed under one—albeit important—aspect of social interaction, say consciousness raising with regard to women, then the Qur'an is made subservient to that aspect, rather than the other way around. There is an essential acknowledgement of the relationship between men and women as they function in society, but it is not the sole nor primary objective of the text.

In addition, certain practices encouraged by the Qur'an may be restricted to that society which practised them, but the Qur'an is 'not confined to, or exhausted by, (one) society and its history....'¹⁶ Therefore, each new Islamic society must understand the principles intended by the particulars. Those principles are eternal and can be applied in various social contexts.

For example, in Arabia at the time of the revelation, women of

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wealthy and powerful tribes were veiled and secluded as an indication of protection. The Qur'an acknowledges the virtue of modesty and demonstrates it through the prevailing practices. The principle of modesty is important—not the veiling and seclusion which were manifestations particular to that context. These were culturally and economically determined demonstrations of modesty.¹⁷ Modesty is not a privilege of the economically advantaged only: all believing women deserve the utmost respect and protection of their modesty—however it is observed in various societies.

Modesty is beneficial for maintaining a certain moral fibre in various cultures and should therefore be maintained—but on the basis of faith: not economics, politics or other forms of access and coercion. This is perhaps why Yusuf Ali translates verse 24:31 'what (must ordinarily) appear'¹⁸ (with regard to uncovered parts), to indicate that (ordinarily) there are culturally determined guidelines for modesty.

This method of restricting the particulars to a specific context, extracting the principles intended by the Qur'an through that particular, and then applying those principles to other particulars in various cultural contexts, forms a major variation from previous exegetical methodologies. The movement from principles to particulars can only be done by the members of whatever particular context a principle is to be applied. Therefore, interpretation of the Qur'an can never be final.

Key Terms and Concepts in the Qur'an

In addition to analysing gender in Qur'anic Arabic, I also analyse certain key words and expressions with regard to humankind in general and to woman in particular, in order to reveal a contextual understanding. Words have a basic meaning—that which can be understood by it, in isolation—and a relational meaning—that connotative meaning derived from the context in which that term is used.¹⁹

The Qur'an has its own *Weltanschauung*.²⁰ Despite the basic meaning of certain terms prior to the revelation of the Qur'an, some of the same terms hold different indications specific to their

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usage in the Qur'an. Each word must be understood within its contextual constraints. As discussed above, I will also demonstrate that there is a distinct relationship between the Qur'an and gender specifications commonly understood as part of Arabic.

What is more, particular emphasis must be made on language used to discuss the Unseen. The Unseen is a part of reality concealed or hidden from human perception. As such, all discussions that the Qur'an contains about matters from the Unseen involve the ineffable: the use of language to discuss what cannot be uttered in language. Such language cannot be interpreted empirically and literally.

Finally, a correlation needs to be made between guidance and every theme discussed in the Qur'an. The Qur'an identifies itself as *hudan*: guidance. When it is shown that guidance extends beyond the normal boundaries which distinguish one human being from another, then it will be seen that it extends beyond gender distinction.

A Word About Quotations and Translations of Qur'an

Throughout this book I have chosen to use Muhammad Marmaduke Pickthall's *The Glorious Qur'an: Text and Translation*, with several alterations. Each Qur'anic usage of the word *insan*, I have translated as 'humankind'. More importantly, I have exchanged archaic terms with more modern ones.

Occasionally, when a verse is discussed at length, the original Arabic text has been transliterated and my own translation has been offered—especially of key terms. This is necessary for the particular interpretation I have made of the text involved.

Finally, there are a few instances in which I have used the translation offered by A. Yusuf Ali in *The Holy Qur'an: Text, Translation and Commentary*. These are marked in the endnotes.

With regard to the Qur'anic quotations in general, they are always noted in the text in parentheses by two numbers with a colon between them, like (1:1-7). The first number refers to the chapter, and the number(s) after the colon refer to the verse(s). In a few instances, I have given the name of the chapter in transliteration, but I have also included the number of this chapter.

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attitude inclined towards responsibility must be cultivated. It is easy enough to see the cases in which it has not been acquired.

However, such an attitude should not be restricted to mere material *qiwamah*. In broader terms, it should apply to the spiritual, moral, intellectual, and psychological dimensions as well. Such a perspective on *qiwamah* will allow men to truly fulfil their *khilafah* (trusteeship) on the earth, as ordained by Allah upon human creation. Such an attitude will overcome the competitive and hierarchical thinking which destroys rather than nurtures.

Men are encouraged to fulfil their trusteeship of the earth—especially in relationships with women, the child-bearers and traditional caretakers. What women have learned through bearing and caring for children, men can begin to experience, starting with their attitudes to and treatment of women.

Nushuz: Disruption of Marital Harmony

Finally, with regard to this verse, I will discuss whether this portion, So good women are *qanitat*, guarding in secret that which Allah has guarded. As for those from whom you fear [nushuz], admonish them, banish them to beds apart, and scourge them. Then, if they obey you, seek not a way against them

means that a woman *must* obey her husband, and if she does not, he can beat her (here translated ‘scourge’). I believe the passage intends to provide a means for resolving disharmony between husband and wife.

First, the word *qanitat* used here to describe ‘good’ women, is too often falsely translated to mean ‘obedient’, and then assumed to mean ‘obedient to the husband’. In the context of the whole Qur'an, this word is used with regard to both males (2:238, 3:17, 33:35) and females (4:34, 33:34, 66:5, 66:12).³¹ It describes a characteristic or personality trait of believers towards Allah. They are inclined towards being co-operative with one another and subservient before Allah. This is clearly distinguished from mere obedience between created beings which the word *ta'a* indicates.

Sayyid Qutb points out that this choice of words indicates that the Qur'an intends there to be a personal emotional response rather than the external ‘following of orders’ which the *ta'a* (obey) would suggest.³² As for the use of that word *ta'a* and the remainder of the

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verse, 'As for those (feminine plural) from whom you fear *nushuz* ...', it should first be noted that the word *nushuz* likewise is used with both males (4:128) and females (4:34), although it has been defined differently for each.³³ When applied to the wife, the term is usually defined as 'disobedience to the husband'. With the use of *ta'a* that follows. Others have said this verse indicates that the wife must obey the husband.

However, since the Qur'an uses *nushuz* for both the male and the female, it cannot mean 'disobedience to the husband'. Sayyid Qutb explains it as a state of disorder between the married couple.³⁴ In case of disorder, what suggestions does the Qur'an give as possible solutions? There is 1. A verbal solution: whether between the husband and wife (as here in verse 4:34) or between the husband and wife with the help of arbiters (as in 4:35, 128). If open discussion fails, then a more drastic solution: 2. separation is indicated. Only in extreme cases a final measure: 3. the 'scourge' is permitted.

With regard to regaining marital harmony, the following points need to be raised. First, the Qur'an gives precedence to the state of order and emphasizes the importance of regaining it. In other words, it is not a disciplinary measure to be used for disagreement between spouses. Second, if the steps are followed in the sequential manner suggested by the Qur'an, it would seem possible to regain order before the final step. Third, even if the third solution is reached, the nature of the 'scourge' cannot be such as to create conjugal violence or a struggle between the couple because that is 'un-Islamic'.³⁵

It appears that the first measure is the best solution offered and the one preferred by the Qur'an, because it is discussed in both instances of the word *nushuz*. It is also in line with the general Qur'anic principle of mutual consultation, or *shura*, being the best method for resolving matters between two parties. It is obvious that the Qur'an intends a resolution of the difficulties and a return to peace and harmony between the couple when it states: '...it is no sin for the two of them if they make terms of peace between themselves. *Peace is better.*' (4:128). It is peace and 'making amends' (4:128) that are the goals, not violence and forced obedience.

The second solution is, literally, to 'banish them to beds apart'.

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First, the significance of 'beds apart' is possible only when the couple continually shares a bed (unlike polygamy when husband and one wife do not), otherwise, this would not be a meaningful measure. In addition, 'beds apart' indicates that at least one night should pass in such a state. Therefore, it is a cooling-off period which would allow both the man and the woman, separately, to reflect on the problem at hand. As such, this measure also has equally mutual implications.

As one night apart can lead to many nights apart before any resolution is made, this separation could go on indefinitely. This does not indicate that a man should then begin to physically abuse his wife. Rather, it allows for a mutually found peaceable solution, or a continued separation—divorce. Divorce also requires a waiting period, and beds apart is characteristic of that waiting. Thus, this measure can be taken as part of the overall context of irreconcilable differences between the married couple.

It cannot be overlooked, however, that verse 4:34 does state the third suggestion using the word *daraba*, 'to strike'. According to *Lisan al-'Arab* and *Lane's Lexicon*, *daraba* does not necessarily indicate force or violence. It is used in the Qur'an, for example, in the phrase '*daraba Allah mathalan . . .*' ('Allah gives or sets as an example. . .'). It is also used when someone leaves, or 'strikes out' on a journey.

It is, however, strongly contrasted to the second form, the intensive, of this verb—*darraba*: to strike repeatedly or intensely. In the light of the excessive violence towards women indicated in the biographies of the Companions and by practices condemned in the Qur'an (like female infanticide), this verse should be taken as prohibiting unchecked violence against females. Thus, this is not permission, but a severe restriction of existing practices.

Finally, the problem of domestic violence among Muslims today is not rooted in this Qur'anic passage. A few men strike their wives after completely following the Qur'anic suggestions for regaining marital harmony. The goal of such men is harm, not harmony. As such, after the fact, they cannot refer to verse 4:34 to justify their action.

Finally, the word *ta'a* in this verse needs a contextual consideration. It says 'if they obey (*ta'a*) you do not seek a way against them.'

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For the women, it is a conditional sentence, not a command. In the case of marriages of subjugation—the norm for Muslims and non-Muslims at the time of the revelation—wives were obedient to husbands. The husbands are commanded ‘not to seek a way against’ wives who are obedient.³⁶ The emphasis is on the male’s treatment of the female.

The Qur'an never orders a woman to obey her husband. It never states that obedience to their husbands is a characteristic of the ‘better women’ (66:5), nor is it a prerequisite for women to enter the community of Islam (in the Bay'ah of the women: 60:12). However, in marriages of subjugation, wives did obey their husbands, usually because they believed that a husband who materially maintains his family, including the wife, deserves to be obeyed. Even in such cases, the norm at the time of the revelation, no correlation is made that a husband should beat his wife into obedience. Such an interpretation has no universal potential, and contradicts the essence of the Qur'an and the established practices of the Prophet. It involves a severe misreading of the Qur'an to support the lack of self-constraint in some men.

With regard to the relationship between maintenance and obedience, it can be observed that even husbands who are unable or unwilling to provide for their wives, believe they should be obeyed. In fact, this widespread characteristic of Muslim marriage is only one example of the association of men as natural leaders deserving obedience.

This belief in the need to obey the husband is a remnant of marriages of subjugation and is not exclusive to Muslim history. It has not progressed, although today couples seek partners for mutual emotional, intellectual, economic, and spiritual enhancement. Their compatibility is based on mutual respect and honour, not on the subservience of the female to the male. The family is seen as a unit of mutual support and social propriety, not an institution to enslave a woman to the man who buys her at the highest price and then sustains her material and physical needs only, with no concern for the higher aspects of human development.

If the Qur'an was only relevant to this single marriage type, it would fail to present a compatible model to the changing needs and

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requirements of developing civilizations worldwide. Instead, the Qur'anic text focuses on the marital norm at the time of revelation, and applies constraints on the actions of the husbands with regard to wives. In the broader context, it develops a mechanism for resolving difficulties through mutual or extended consultation and arbitration.

In conclusion, the Qur'an prefers that men and women marry (4:25). Within marriage, there should be harmony (4:128) mutually built with love and mercy (30:21). The marriage tie is considered a protection for both the male and the female: 'They (feminine plural) are raiment for you (masculine plural) and you are raiment for them.' (2:187). However, the Qur'an does not rule out the possibility of difficulty, which it suggests can be resolved. If all else fails, it also permits equitable divorce.

The Significance of Context and Chronology in Qur'anic Social Reforms for women

With regard to matters related to the subject of women, like divorce, it is apparent that the order in which verses were revealed in the Qur'an is more significant than for some other issues. The Qur'an responded to particular circumstances in Arabia at the time of the revelation. It is interesting to note that there are no references made in the Qur'an to specific rights, responsibilities and treatment of women until the Madinan period. 'They consult you concerning women. Say: Allah gives you decree concerning them....' (4:127). If a woman was mentioned in the Makkan period, she was a generic example for all humankind.

In the Madinan period of revelation, the particular social reforms introduced were related to the existing practices. In this respect, it is also interesting to note that most reforms were for the benefit of the females. No equivalent reforms benefiting the males were instituted, ostensibly because the existing androcentric norm greatly provided for male needs and wants. The Qur'anic responses were directed towards the pressing need for reforms regarding women.

Although the Qur'an responded to the need for reform with regard to women in the Madinan *surah*, these responses have implications



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wife, these moral virtues are equally significant for the husband. It is clear that the Qur'an does not stress a high, civilized level for women while leaving men to interact with others at the basest level. Otherwise, the mutual responsibility of *khilafah* (trusteeship) would be left to one half of humanity while the other half remains near the animal state.

Witness

Another consideration in contemporary discussion on the issue of women in the Qur'an focuses on the woman as a potential witness. Is one male witness equal to two female witnesses and, therefore, one male equivalent to, or as good as, two females absolutely? In the related verse, a 'record in writing ...' 'when a debt is contracted' calls for two witnesses, 'if two men be (not at hand) then a man and two women, of such as you approve as witnesses, so that if the one errs (*tudilla*) the other can remind her ...' (2:282). In the wording of this verse, both women are not called as witnesses. One woman is designated to 'remind' the other: she acts as corroborator. Although the women are two, they each function differently.

In addition, there are some contextual considerations regarding the need for more than a single witness in the first place. The purpose is to see to it that there is no error—intentionally or unintentionally—regarding the terms of the contract. Fazlur Rahman takes exception to the application of the literal wording of the verse in all future transactions as follows:

...since the testimony of a woman being considered of less value than that of a man was dependent upon her weaker power of memory concerning financial matters, when women become conversant with such matters—with which there is not only nothing wrong but which is for the betterment of society—their evidence can equal that of men.⁴⁶

Thus the verse is significant to a particular circumstance which can and has become obsolete. However, I have found no commentary which considers the matter of intentional error. The call for two witnesses 'of such as you approve as witnesses' in the first place indicates an attempt to prevent corruption. If one goes wrong, or is persuaded to give untrue testimony, the other is there

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➤ Maulvi Iftikhar Zaman* *Towards Islamic Ways of Islamization Problems in Modernizing the Ahkaam of the Shariah and Dawah†*

The *ahkaam* (commandments) of *Shariah* are derived from the Quran and the Hadith using well-defined procedures of derivation. Although such derivation is based on a commitment to a literal obedience of the edicts of the Quran and the Hadith (irrespective of apparent loss or gain in human welfare), as believing Muslims it is axiomatic that these derived *ahkaam* embody *maslihah* (roughly, welfare, good or benefit) for man. The basis of this axiom is that since *Deen* is for the betterment of man, each of the *ahkaam* will also embody *maslihah* for man.

After agreement on this fundamental axiom, modern Muslim thinkers have taken two roads. Some claim that the *ahkaam* of *Shariah* always efficiently achieve the *Masalih* they were formulated for in the form they have been traditionally derived in and are embodied in what is denoted by the word '*figh*' despite all changes in social, cultural, political and economic conditions. Others argue that sometimes situations can arise where the *ahkaam* of *Shariah*, in the traditional formulation, no longer effectively achieve the *masalih* they were formulated to achieve. Such situations might very well be only transitory in the interim stage during

which societies work to replace un-Islamic socio-economic structures with Islamic ones.

These two points of view lead to different conceptions concerning the role of the *maslihah* in Islamic law-making. We have tried to give each of the two views totally sympathetic consideration, followed by a discussion of the shortcomings of each view.[2]

I. *MASALIH AS THE ANCHOR FOR THE AHKAAM*

a. Social Planning: The Role of the Milieu

Human actions gain meaning because of the social, cultural, economic, and political milieu in which they occur. Thus, for example, a man's look at a woman may be meaningless in one society, while the same look would be a compliment to the woman in another, bad manners in a third, and the cause for a challenge to a duel in a fourth.

A direct consequence of this is that all planning for human welfare must take the environment into account. For example, although austerity is generally considered a virtue, sermons on austerity to people in an economy with high unemployment could lead to disaster. Similarly, in a milieu where wealth is seen as the possession of lands and hoarded capital, relatively stiff moral sanction against theft compared to the sanctions against other money related crimes (such as embezzlement, tax evasion, cheating in credit dealings, etc.) would be sensible in maintaining high levels of honesty. But in a society with a more fluid conception of wealth, where wealth is not what you own but the profit you can make,

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maintaining high levels of honesty would require a more uniform treatment of money-related crime (Foucault, 1983, pp. 43-44).

b. The Shifting Anchor: The Ahkaam in a Changed World

That there have been drastic changes in human society since the sixth century A.D. hardly needs documentation. The sheer increase in population has resulted in drastic changes--thus, for example, many forms of representative government that were possible previously have become quite impractical in modern societies. The magnitude and nature of responsibilities of the head of the state has changed with drastic increases in population, leading, naturally, to new conceptions of governmental responsibility and making obsolete many old concepts. These complex and drastic changes in the structure, infrastructure and superstructure of human society have been the subject of much literature on modernization and development, and are well-known.

Since human action gains its meaning with reference to the social context, and the context has changed drastically, social strategy must be changed accordingly — if we are to remain true to the objectives of such strategy and not just to their outward forms. This is not to say that old strategies have become wrong and good has become bad. It is just that old strategies have become, in large part, irrelevant as the arena for battle against injustice has changed.

[3] So, it is illogical to assume that submission to the *ahkaam*, despite their being a function of social situation (that has changed), would still efficiently achieve all the objectives they were formulated to achieve. Thus, for

example, let us consider a subsistence economy with low rates of capital accumulation because of low income levels, where most expenditure is on consumption and most borrowing is to finance consumption of necessities. In such a society the crucial role a ban on usury would play in the struggle against social injustice is obvious. But would a ban on usury have the same meaning when most borrowing is neither to finance consumption of necessities nor even of luxury goods but for capital accumulation, and furthermore, where the lenders are small savers and the borrowers large capitalists?

The case can be made in a similar fashion considering many laws of *fiqh*. For example, the value of *Qisaas* in maintaining the peace in a society with a long tradition of feuds is far more evident than its value in maintaining the peace when it is levied, for example, in a car accident case in a modern cosmopolitan city.

c. Theological Questions

The thesis that we must reconsider the *ahkaam* in the light of changes in social structure is often mistakenly taken to imply that Islam is time bound. This is really the result of a confusion of *shariah* and its particular interpretations. Islam is perennial, although particular formulas of *fiqh* might be time-bound. For example, Allah's command for *Adl* is perennial notwithstanding the fact that *Adl* can mean cutting a thief's hand at one time and not cutting it at another.¹

We have here two separate things--*shariah*, by which I refer to the perennial set of moral and ethical values which Allah ordains

¹ I refer to the Caliph Omar's (r) famous decision not to cut the hand of a thief since he had been stealing because of hunger.

man to pursue and which form the basis of the system known as 'fiqh,' and fiqh itself which is a mirroring of these values and an embodiment of the ethical goals. One is the spirit of the divine law and the other its letter.

The Quran and the Hadith contain both the exposition of the spirit and of the letter. It is the task of the *fāqīh* to separate the letter from the spirit and, in cases where the letter is no longer faithful to the spirit, to give precedence to the spirit. Thus, for example, the ayah "and don't say to them (your parents) 'uf' (17 : 23), in its letter, forbids the saying of 'uf' to one's parents. But as Qazi Abu Zaid al-Daboozi has pointed out, were there a society in which saying 'uf' was a way of honouring one's parents by virtue of this very ayah the child would be obliged to say 'uf' to his parents (Ishaaq, 932 AH). Here is a case where the *fāqīh* has reached through the letter to the spirit, to make the spirit of the law binding even though it very clearly contradicts the letter of the law.

[4] Another common misconception about the view that the *ahkām* must change with times is the view that Allah's complete power over Creation (omnipotence) and His complete knowledge (omniscience) demand that He be able to design a set of *ahkām* for all times. And to say that his *ahkām* are not relevant, if only in letter, to changing societies is to deny either his omniscience (by saying, in effect, that He did not know that societies were going to change) or his omnipotence (by saying, in effect, that despite knowing the change to come He did not have the power to design a set of *ahkām* that would take all the changes into consideration).

But this objection merely reflects a shallow understanding of social structure. Societies do change, and as they change the significance of human action, and hence social strategy, changes along with societies. In so far as the significance of human action is a function of the social milieu, a social strategy valid for all human societies is logically impossible without the counterfactual assumption that there is no such thing as societal change which alters the significance of human action. And, as is clearly stated in books on *Kalaam*, to say that Allah cannot do the logically impossible does not mean to deny His omnipotence.

II. PROBLEMS IN THE ARGUMENT FOR CHANGE

The argument for change in the *ahkām* due to change in social structure which alter their effectiveness in achieving *masalih* is based on (a) a clear perception of the *ahkām* as tools for the achievements of human welfare (i.e. the effects of the *ahkām*), (b) a clear vision of the Islamic concept of human welfare, and (c) a knowledge of how far the *ahkām* are still achieving their effects.

a. The Ahkām as Tools for Human Welfare

This is the field in which most work is being done in the Islamic Social Sciences. There have been analyses of the merits of *riba-based* trade and profit-sharing based ventures, of the effects of *Zakah* on the distribution of wealth and income, etc. But an unfortunate development in this field is the increasing specialization and narrowing of outlook. For example, the economist will look at certain *ahkām* only with view to discovering the economic effects. Such an approach can lead to serious misunderstandings

concerning the *ahkaam*. For, it is often the case that some economic efficiency of a *hukm* is sacrificed in view of some psychological, or sociological factor that acts as a parameter on the efficiency of the *hukm*.² The result becomes puzzling to the economist trained only in his own science. Similarly, it seems reasonable to assume that sometimes the efficiency of a *hukm* in obtaining objectives in the economic [5] field is sacrificed in view of spiritual and other-worldly factors, the result now being puzzling even to the social scientist versatile in all the sciences.³ Thus an analysis

² To accuse critics of a narrow outlook has actually been the course that has been taken by defenders of the traditional formulas of *fiqh* over the centuries. Thus, the fact that the Law of Inheritance provides the largest shares to closest relatives and that in voluntary *sadaqaat* we have been exhorted to begin with the closest relatives seems to go against the thesis that Islam ordains a just distribution of wealth. Mufti Shafi has voiced the traditional defense when he states that more is considered here than just the question of distribution. Man is more willing to part with his wealth seeing it go into the hands of those close to him. This aspect of the human psyche has been taken into consideration in the *ahkaam* of Islam that have to do with the transfer of wealth. Thus, the wealth he is most attached, his life-savings and those of his forefathers, are distributed among his closest relatives. And the voluntary *sadaqaat*, can be given out anywhere since he is less attached to what he gives out voluntarily. But here too, since he feels better at giving close to home, he is encouraged to do so, so that this good deed becomes easier on him (Shafi, 1982).

³ As an elementary example consider the fact that ayaat exhorting to *infaaq* are addressed to rich and poor alike. In fact there are ahadith which go so far as to specifically recommend to those who cannot afford *sadaqah* to go out and earn something just to be able to give their earnings in *sadaqah* ("the best *sadaqah* is the 'effort' (juhd) of the poor" Abu Daud). Such a *hukm* is counter productive when the system of *infaaq* is viewed as a strategy for attaining a just distribution of wealth. This question, although

of the effects of the *ahkaam* should never be carried out within the narrow confines of one social science, for even the confines of the social sciences prove too narrow for such analysis. Our analyst must have a grasp of all the social sciences, a knowledge of those aspects of man covered in the science of *tasawwuf*, and an ability to judge how the other worldly rewards promised man are affected by his obedience to the *ahkaam* of Allah.⁴

b. The Islamic Conception of Human Welfare

This is a rather impoverished area in research on Islamic social science. Rarely does one find a social scientist specifying the components of human welfare from the Islamic point of view, and even more rare is any attempt to derive such components from a study of the Quran and the Hadith. Most authors simply assume a

it might be puzzling to the economist, is transparently simple for the Sufi. The Sufi will say that beyond a distribution of wealth the system of *infaaq* aims to develop in man generosity and, although the *sadaqaat* of the poor are counterproductive when viewed from a distribution point of view, they are highly efficient in developing generosity.

⁴ This concern with the other-worldly and the spiritual is not just for the sake of argument. Islam's great emphasis on these aspects is evident to anyone with the slightest acquaintance with the Quran and the Hadith. This is why Shah Waliullah has incorporated a metaphysics of the other-worldly and spiritual effect of the *ahkaam* in the science of *masalih* he has developed. So he talks of how obedience to various *ahkaam* has specific effects on the angels and heavenly spirits of the *Mali-i-A'ala* and how such effects are imprinted on the individual's soul. His science has room for this, since it is based on *Ilhaam* (revelation) and not on empirical observation (eg Shah Waliullah, pp 15). And, as a result of this broadend scope he has, in the *Mugaddamah*, discussed at length the additional qualities of Gnosis, that the researcher must have in this field. In the final analysis as he himself claims this science of *masalih* is *ilhaam* ("revealed").

total agreement between Islam and *Kufir* concerning what human welfare is. And those who try to specify the components of human welfare rarely proceed from a study of the Quran or the Hadith. Instead, considering those aims and goals commonly considered 'good' in their particular field of specialization to be objectively good they posit these as a characteristic of the Islamic concept of human welfare. At this point some leave out the attempt to support their thesis with quotes from the Quran and the Hadith, and some rummage through and find a bit of an *ayah* or two to anoint their view of human welfare.

The first problem with this approach is that knowledge of the components of human welfare is never enough to specify the ethical basis of a social system. It is always the mix of such components which plays the crucial role in decisions that are based on policy. Thus, both capitalists and communists consider both equity in the distribution of wealth and income and efficiency of the economic system to be components in human welfare. The place they part ways is in decisions where one of equity and efficiency has to be sacrificed for the other--the communist is willing to sacrifice more efficiency and the capitalist is willing to sacrifice more equity. Thus, it is not enough, for example to say that the Islamic economic system is based on freedom, responsibility, unity and equilibrium since no one would base his economic philosophy on determinism, irresponsibility, discord and disequilibrium. One must specify the relative weights of these values to determine the priorities of the system.

The second problem with this approach is the parochialism involved in approaching human welfare from the narrow view of one discipline of the social sciences. It is quite possible that a genuinely valuable goal might have an insignificant effect, or none at all, on the choices made within a social program [6] simply because that goal is far too low on the system of

priorities that governs choice in that system. For example, while cheese is a good thing in itself, it would take a Frenchman to demand ordinances concerning regulation of quality in the cheeses produced in one's land. Thus, it is not justified to analyse the *ahkaam* with a view to their ability to maintain an economy in general equilibrium or even with a view to their ability to create an even distribution of wealth, until one proves that these things are not only considered good in Islam but are actually among the values that played a part in Allah's forming these *ahkaam*. Neither is it correct to maintain that equilibrium and a good distribution of wealth are self-evidently good things, nor can one suggest that they 'must have played a part in the development of the Islamic system of *ahkaam*--such claims need support from the Quran and the Hadith.

And finally, it seems patently wrong to allow an implicit or explicit assumption that the concept of human welfare is the same or even has the same components in *Kufir* and Islam to play any part in drawing the Islamic picture of human welfare. The fact of an everlasting life in the hereafter where pain and pleasure are disproportionately magnified must create an irreconcilable difference between the *kafir* conception of human welfare and the Islamic conception. It is this basic difference between the way Islam views this life and the way the *Kafir* views it that allows us to repeat "O Disbelievers! I worship not that which you worship; Nor worship you that which I worship. And I shall not worship that which you worship. Nor will [you] worship that [which] I worship. Unto you your religion (*deen*), and unto me my religion (*deen*). (109)

c. How far are the Ahkaam Still Achieving their Objectives?

The answer to this question requires a knowledge of the complete set of effects for each of the ahkaam--including all material, spiritual and

other-wordly effects that the *ahkaam* are having. This set must then be compared against a similar complete set of objectives of each of the *ahkaam*. And then we need a schedule of the relative weights of each of the objectives with respect to the other objectives to be able to judge if the total good lost through the objectives not being attained outweighs the total good still being achieved through the objectives still being attained. If either the set of objectives or the set of effects still being achieved is incomplete (i.e. invisible to our methods of investigation) we can never know what *masalih* are still being achieved (in this world or the hereafter) that might outweigh any *masalih* that are no longer being attained. And if we are unable to come up with a schedule of the relative weights of the various objectives of the Islamic system it might be that one objective of the system that is still being achieved might outweigh many others that are not being attained.⁵

[7] Thus, although it might be correct to talk of the *maslihah* of a *hukm* it is not justifiable to consider altering the *ahkaam* if we see that some *masalih* of particular *ahkaam* are not being achieved.⁶ Because,

⁵ Clearly, a complete schedule of all the intended goals of the *ahkaam* and a measure of how important each goal is with respect to other goals is impossible to discover. The practical impossibility of developing explicit measures of the relative values of various goals in an economic system is why we do not see 'axiomatic development' of economic systems except in Islamic Economics (where little consideration is given to methodology). Social scientists do not 'derive' social systems from first principles. Instead, by observing how choices are actually made where different values conflict they characterize, for example, the capitalist system as 'efficiency oriented' and the communist systems as 'equity oriented' and the socialist systems as something in between.

⁶ This is why the ulama distinguish the *illah* of a *hukm* from its *maslihah*. For example, when a companion came to the

even conceding that the effects of social strategy, and hence social strategy itself, must change with changes in social milieu--functionally this does us no good. Change, there has been: but we cannot identify how much of it has adversely affected the *ahkaam* in attaining their objectives, and if it has adversely affected the *ahkaam* whether there has been loss of enough *masalih* of enough importance, that the remaining *masalih* that might still be obtained are outweighed by those that are no longer obtained.

III. OTHER USES OF THE MASLIHAH

As we noted at the beginning of this paper, a possible position is to maintain that although the *ahkaam* have both a letter and spirit, such a distinction is academic, since our belief in Allah's omniscience and omnipotence dictates our belief that the letter of the *ahkaam* is always faithful to the spirit. We have now seen that the argument that the *ahkaam* no longer efficiently achieve intended *maslihah* can always be effectively refuted by referring to actual or hypothetical other-worldly or spiritual goals these *ahkaam* might be achieving. Thus seeing that this is a tenable position, we must investigate it closely.

The immediate problem with this position is that it is clearly a tautological one--since we claim that whatever effects the *ahkaam* are having are *maslihah* (by referring, in the last resort to possible

Prophet (s) asking what he should do since he had had intercourse with his wife during *Ramazan* fast the Prophet (s) told him to free a slave or fast sixty days or feed sixty poor people. The *fugahaa* will identify the *illah* for this *hukm* of fasting, freeing a slave or feeding the poor to be the intentional breaking of a *Ramazan* fast without an excuse recognized by the *Shariah*. But the *Maslihah* for this form of repentance remains hidden from us. This is what Shah Wali Ullah refers to when he says that it is not allowed to suspend obedience to *ahkaam* until we gain knowledge of the *Maslihah* (Wali Ullah, p. 6).

unobservable effects), it is not surprising that we conclude that the *ahkaam* embody *maslihah* for mankind. Thus, this becomes a content free thesis--it is like saying that the *ahkaam* achieve *maslihah* because whatever effects the *ahkaam* have are *maslihah*. What can be the use of such a position?

Dawah and Relevance

As is evident from a study of the Quran and the Hadith, the cardinal rule in *dawah* is to show man that his benefit (*maslihah*) lies in Islam and not away from it.⁷ Thus, not by merely claiming that whatever the *ahkaam* achieve are *maslihah*, but by proving it, do we develop a science of *dawah* relevant to modern man. Since modern man's conception of welfare has increasingly come to rely on the formulae of the human sciences, it is necessary to formulate the benefits of the *ahkaam* in these same terms. The need to impress upon man the relevance of Islam to his problems in a constantly changing world has been felt again and again in the last fourteen centuries--this need is what results in the great importance of the work of various "mujaddids" down the centuries. In our times, Shah Waliullah has epitomized this approach

⁷ Thus, the ayah "say: In both (drinking and games of chance) there is great sin, and (some) utility for man; but the sin of them is greater than their usefulness" (2:219) was a call to consider the benefits of leaving drink. And, in the final ayah which forbid drinking and games of chance, Allah makes clear that man's benefit lies in leaving these things: "Satan seeketh only to cast among you enmity and hatred by means of strong drink and games of chance, and to turn you from remembrance of Allah and from (His) worship..." (5:94). Similarly, Allah does not simply reveal the command for *Qisaas*, rather, by pointing to its social benefit as deter rent' He invites to obedience: "And there is life for you in *Qisaas*, O men of understanding (2:171). And when He calls to *jihad* and castigates the weak hearted He points out the folly of cowardice: "Wherever you may be death will find you, though you be in "fortified castless" (4:72).

to *dawah* in his *Hujjatullah Al Balighah*.

[8] The exposition of the *masalih* of a *hukm* has a three-fold purpose. For the believer, explanation of *maslihah* is necessary to develop an obedience which springs from the depth of his soul. For, man is a questioning creature. He will obey authority but his heart will not be in it until his mind is put to rest. As for the unbeliever, a science of *maslihah* is necessary to silence those who would object that Islam is an 'irrational' religion, and to explain its practices to those among the *kafirs* who would try to understand. The program of *dawah* through *masalih*, as we see, stands to reason as a form of *dawah* and is also backed by a venerable tradition. Further, there is no doubt about its practical value, for the number and frequency of non-Muslims converting to Islam upon perceiving its logic, is no secret.

IV. RESERVATIONS CONCERNING DAWAH BASED MASLIHAH

a. The Bases of Dawah

Despite the weight of tradition, the rationality of the approach, and the historical success of this approach to *dawah* one must not overlook certain methodological considerations. It should be clear that when, for example, one calls to *Salah* by pointing out its values as exercise, this is not only a call to *Salah*, it is also a call to exercise. Any description of the *maslihah* of a *hukm* is automatically an endorsement of that *maslihah*. Thus, for example when we say that *Zakah* is instrumental in producing an equitable distribution of wealth, we endorse equity in the distribution of wealth as a laudable goal. But, and this is what is important, not only do we endorse it, we ascribe this endorsement to *Allah*--in other words we make the claim that *Allah* considers equity in

the distribution of wealth a goal worth working for. And probably this is the reason that Shah Waliullah writes: "It is *Haraam* to delve into this (science of *masalih*) with mere opinion (*ra'iyy*) that is not based on the tradition of the Prophet (s) or sayings of his companions" (Waliullah, p. 6).

Any goal that the Prophet (s) or his companions have considered laudable is certainly laudable but all other goals stand suspect of being derived from cultures and philosophies that could be antithetical to Islam. This is why Shah Waliullah's warning deserves close attention. Even a cursory glance at goals considered laudable in the current intellectual fashions brings forward "virtues" which Islam is indifferent about.⁸

⁸ For example, consider the modern concern for higher standards of living through economic development. It is related that the Prophet (s) said it is not poverty that I fear but what I really fear is that the world should be opened for you as it has been opened for those who came before you, so that you should covet it as they had coveted it and that it then destroy you as it destroyed them (Bukhari, Book of Zuhd; and Muslim, Book of Zakah). This seems to indicate that development in this sense, was not one of the concerns of the Prophet (s). He was interested in it only in as much as it had an effect on human morality. Thus, this Hadith puts the desirability of one of the commonly accepted aspects of economic development in serious doubt. This example is not meant to be final word on this complex question — no doubt the Hadith has to be considered in context of other ahaadith. The point is merely to illustrate the possibility that eminently respectable goals of modern human sciences can be un-Islamic and hence, need to be shown to be Islamic through reference to Quran and Hadith. And the fact that research has not been concerned with this points to an unwarranted complacency about the virtue of goals we have imbibed uncritically from our intellectual atmosphere. We need to begin a ruthless search through the ideals popularly championed in modern social scientific discussion to root out any that do not find a basis in the Quran and the Hadith. And we cannot be too thorough in

b. The Danger of Distortion.

A related problem is that if we confine the set of *masalih* to those goals commonly accepted as laudable by social scientists or even to those goals that can be formulated in the formulae of the soical science, we have already restricted [9] our vision severely. When the Prophet gave *dawah* he would very often talk of the benefits of *ahkaam* in terms of the hereafter—all such approaches are closed to us. Since the human sciences are averse to acknowledging the existence of any metaphysical and non-wordly entities we are forced, in effect, to give *dawah* to striving for wordly goals and to the adoption of the *ahkaam* as means for obtaining such goals. Thus obedience of the *ahkaam* becomes a means for attaining wordly goals and we create mercenaries for Islam not soldiers of Allah. Not only then do we limit our discussion of Islam to only those aspects of Islam which are relevant to the secular materialist intellectuality which has produced the human sciences, but we run the risk of turning the eyes of those who already believe, away from the hereafter towards this world. And this was a tendency the Prophet took great pains to check.⁹ Thus, when some one would be concerned with wordly pain or pleasure he would remind him of the pain and pleasure of the hereafter.¹⁰

this search, since many seemingly sound ideals have no such basis.

⁹ Thus, when a companion expressed his pleasure at an abnormally successful day of trading the Prophet (s) asked him how much profit he had made and then told him that the profit to be had from two *raka'ah* *salah* was much more (Abu Daud Book on Jihaad, Chapter on Trading in Jihaad).

¹⁰ So, when Abu Saeed Khudri's (r) father died and he came to the Prophet with the intention of asking for some aid, before Abu Saeed (r) could speak the Prophet (s) said 'Whosoever shall ask Allah for wealth he will give him wealth, and whosoever

c. Psychological Considerations

Finally, it would be instructive to consider the motivation for the program of *dawah* through *masalih*. No doubt the motivation is a concern for the pro-pagation of Islam--what I would like to discuss are the motivations for this specific approach to *dawah*, its peculiar modern formulation.

The Voice of Reason

Perhaps when the wisdom of a *hukm* is demonstrated through the tools of the social sciences there is a feeling that we have obtained an impartial opinion on the matter. It no longer remains a matter of Muslims praising their own religion, we seem to have the voice of reason itself commanding Islam to us. We feel we have faced the enemy on his own grounds and have defeated him with his own weapons. Such considerations go a long way in explaining the popularity of social scientific analyses of Islamic *ahkaam*. They also explain much of the popularity of comparative studies in social scientific or religious fields (works,

will ask for patience, he will give him patience' (Al-*Isaabah* under "Sa 'd ibn Malik ibn Sinaan"). Similarly, when the Prophet (s) would pass by the family of Yasser being cruelly tortured in Mecca, he would remind them of the blessings that were being stored up for them in the hereafter (Al-*Isaabah*, under "Ammar ibn Yasser"). In the same vein, when Umar (r) expressed his grief that the Prophet (s) should be living in poverty while the Persian and Roman emperors should be in plenty, the Prophet (s) sat up surprised that Omar should say such a thing inspite of his wisdom since the relevant thing to note was not the plenty of the *Kuffar* and the poverty of the Muslims in this world, but the plenty and poverty of the next world (Bukhari, 4913 Book of Tafsir, Tafsir of Surah Tahrim. Muslim, Book of Nikah, Chapter 'That Giving Option of *Talaq* is not *Talaq*'). In a sense, then, this manner of dawah while seemingly calling to Islam cuts at its very root which is liman in the hereafter

for example, on Islam vs Marxism, Islam vs Christianity), and that of quotations from Western intellectuals on the virtues of Islam.

The historical studies on the glorious Islamic past and the scholarship on Muslims being the pioneers in various scientific disciplines (like those on Al Bayrouni as the first anthropologist and Ibn Khaldun as the first sociologist) probably derive from similar motivations. Basically, this is a call to Islam on the grounds that Islam offers all that modern man considers worth striving for.

An Alternative Thesis on the Motivation

(i) The Strain of the Project: There is a disturbing tendency in these studies, [10] however, for the project of portraying the greatness of Islam to interfere with the development of any profound understanding of the subject at hand. We have already seen how the desire to show that the *ahkaam* of Islam are rational leads to ascribing to them any *Masalah* considered fashionable in the current intellectual climate. By emphasizing only those aspects of the *ahkaam* which will go over well with our secular audience we belie the emphasis Islam places on the spiritual and the otherworldly. And, finally, our desire to champion Islam against the West closes the door on any scientific approach. Our research is guided by pre-determined conclusions. There is great emphasis on the deductive approach: we try to deduce the *ahkaam* metaphysically from some 'first principles' of social justice we have acquired from our times. This is bad enough but even worse is the fact that the conviction that the *ahkaam* embody some conventional wisdom does away with our desire to empirically check whether the *ahkaam* have ever measured up to the demands of these first

principles.¹¹

Much has been written comparing Marxism and Islam but it is a rare article that displays anything more than a superficial understanding of the problems Marx perceived in Capitalism and tried to remedy. A reading of much of this literature fails to yield a clear idea of what Marx's program was, other than to deny man his natural right to private property. But it should be evident that until we see clearly the problems Marx perceived we cannot appreciate the superiority of Islam's solution to these human problems over the solutions Marx proposed.

Similarly, there is no dearth of literature comparing Islam and Christianity, but again, this literature offers little more than caricatures. One comes away from reading these books wondering how any sane man could be a Christian. Indeed this is often exactly the impression the author wishes to create. But does not such an approach close all possible avenues to understanding even before any dialogue with Christianity has begun? If we are really concerned with *dawah*, or at least just with honest scholarship,

we need to try to reach through the distorted formulas to the agony of human religious feeling and the centuries of searching reflected in the dozens of different denominations - indeed even in the desperate theologizing about the Trinity. It is not enough to talk of the absurdity of equating one and three; we must understand this equation as a human expression and try to comprehend what it has meant to eminently rational and deeply religious men from Pascal to Kierkegaard, from Hegel and Feuerbach to Pierre Teilhard de Chardin and Karl Barth.¹²

We encounter the same blurring of the subject under the strain of the project of glorifying Islam when the discussion turns to Western views of Islam. We read triumphant quotes from the work of (often minor) Western intellectuals praising Islam - but we come away from these expositions with no knowledge of their conception of Islam. A chance statement praising some aspect of Islam is held up as [11] evidence of the author's great esteem for Islam when very often the author is simply involved in subtle criticism of Islam.¹³ No effort is made to

¹¹ So, for example, the claim that zakah is an instrument for the equitable distribution of wealth has gone unchallenged for a number of years. And the claim is that the only reason it is no longer effective in this function is that economic differences have grown too vast in modern societies for such a small levy to be useful. But no one has considered whether such a small levy actually was effective in redistributing wealth even in the Prophet's (s) time. Assuming Allah's omniscience, if this was its purpose, Zakah should have been an efficient means of distributing wealth, at least at the time the commandment for zakah was revealed. Once again, it is not the substance of this that I am trying to establish; I merely wish to consider how it is that well trained intellectuals have managed to take such an unscientific approach in developing a scientific understanding of their religion.

¹² For an excellent introduction see Hans Kung (1981).

¹³ For example, much has been made of the lavish manner in which Professor Gibb has praised traditional Islam. But seen within the context of his oeuvre this is no praise. Professor Gibb's stand is that the real Islam is tied to the traditional formulation ulama give it — but, unfortunately this form is no longer relevant to modern needs. This results in the 'displacement' modern Muslims feel. And the efforts of the Muslim modernists who try to make Islam relevant are doomed at the outset — since the real Islam is only present in the traditional formulation the ulama give it. Thus, when Professor Gibb praises Islam, he does not praise the live, vital religion we know, he praises an outdated historical phenomenon. Edward Said (1978, 278-283) has made this point in an eloquent manner.

understand the author's view of Islam--his oeuvre is considered a hunting ground for complimentary phrases on Islam. Indeed the very obvious question of why the author did not accept Islam despite his high opinion of it is rarely addressed. And, in the end, when we quote someone praising Islam without accepting it we invite our readers no further than to do likewise, so our *dawah* remains limited to a demand for praise.

And, then, concerning the literature on Muslims preceding the West in various fields of scientific endeavour it is interesting to note that we have produced scarcely any literature on Islamic science--instead we find rows of books on Islam's contribution to the Western Sciences. This kind of work would appropriately be called a history of the prototypes of Western Science among Muslims, not a history of science as conceived by the Muslims. Once again, the project of championing Islamic intellectual power looms so large that we are unable to discover what Muslims considered science--who their heroes were and which ways of research they thought to be dead ends. It would be an educational exercise to study, for example, the stature and influence of Ibn Khaldun among Muslim scholars relying entirely on literature of the Muslims before their encounter with the Western sciences. Only such an approach could claim to be a study in Islamic intellectual history.¹⁴

¹⁴ It is my guess that Ibn Khaldun never had as much prestige as a scholar among Muslims as he does today. Of course, this is conjecture, but the fact that no substantial school of thought formed around him seems to support this conjecture. It is clear that since he has been 're-discovered' as having followed paths of thinking similar to those that Western thinkers later were to follow, his importance has increased. Naturally, this thesis needs considerable research. For an initial appraisal see Nizamuddin (1982, pp.

Finally, when we talk of the past glories of Islam our imaginations do not travel beyond the architecture of Al Hamra and the beauties of Mughal art. The subject is the glorious past of Islam and we obscure what is truly glorious in Islam with our concern for championing the cause of Islam. Are these extravagances of decadent royalty what Islam considers its glories or is the glory of Islamic history to be found in the consistently superb human material the Prophet (s) wrought in his companions?

What is alarming is not that we have failed to present Islam to our audience accurately, but that we ourselves have been deceived by this Islam we have created, by its history and the history of its science. Certainly, it could be argued that it is good strategy to present Islam's material benefits to the materialist - but unfortunately, far more is involved here than just us as creators of an image and the image as our creature. We find our own imaginations entrapped in this vision of Islam we have created. So, when we think of the golden age of Islam our initial thought is of Agra, Cordoba or Granada, even though on reflection we would all agree that the golden age was really the Prophet s (s) era.

(ii) Apologetics: At the beginning of our discussion of these genres - namely the projects of social-scientific analysis,

111-116). A more well-documented case is that of Mansoor Al-Hallaj. If we judge his importance in the general structure of Islamic intellectual history by the amount of literature on him after the immediate controversy on his execution died out, we find it to be minimal. But, if we look at the amount of literature produced on him since Massignon 'discovered' him he seems to be a figure as important in Muslim religious thought as Imam Ghazali. (See Said (1978, pp. 268-269) for more detail on Massignon and his popularizing Hallaj).

comparative studies, analysis of Western [12] views on Islam, studies of the scientific tradition in Islam, and the study of Islamic history--we chose to look at them as a method of dawah relevant to the modern mentality. These approaches to dawah presented a way of demonstrating the glory of Islam by impartial evidence given by social science, history, and non-partisan intellectuals. But this discourse could be interpreted another way.

"Apologetics" has been defined as the endeavor to prove to oneself, or to others, that Islam is sound. The apologetic literature is inevitably concerned with championing rather than understanding, buttressing rather than elucidating.¹⁵ We have seen how the desire to champion and glorify Islam has remained in the forefront in the literature of these genres, and how this desire has obscured the development of understanding. But we would object to picturing our efforts as attempts to prove Islam sound while, really, we are interested in the more positive task of demonstrating its glory. Similarly, the use of the word "buttressing" presents our work of dawah in the light of an attempt to support a collapsing structure as if dawah were a negative, defensive affair. The difference between apologetics and the modern conception of dawah seems to be that dawah springs from a confidence in the strength of Islam which we want to share with the world, while, apologetics springs from a felt weakness in its structure which we wish to cover up.

Admittedly, as our discussion has indicated, the task of understanding has consistently remained subordinate to the object

of glorification, so much so that it is difficult to attribute this distortion to poor scholarly judgement. A tone of urgent anxiety about Islam's image does colour this work and this could be interpreted as an expression of the feeling that Islam needs "buttressing." It could be asked whether this discourse has been produced in the spirit of dawah or is it an attempt to soothe our hurt pride at being left behind in the race for power in this world? Similarly one could ask whether we have really been involved in understanding and explaining various aspects of Islam or whether we have been merely trying to deal with repressed feelings of discomfort about our Islam? One could wonder why we are so loud and insistent in our claims to Muslim intellectual superiority, since we originated the sciences and since the best Western intellectuals have been sympathetic to the virtues of Islam, or to its political clout since we have ruled large parts of the world for twelve centuries, or, to its ideological excellence since Islam provides solutions whose effectiveness can be proved not only by human scientific methods but are also manifestly superior to solutions offered in competing ideologies. These are serious questions demanding serious answers.

d. Religious and Philosophical Considerations.

The strategy of dawah through masalih is based on the claim that the ahkaam always achieve human good because whatever they are achieving is good. But, by putting on the spectacles that the modern secular mentality provides us with, and limiting the scope of "human good" to include only that good which [13] our secular audience considers to be good, this formula becomes: The ahkaam always achieve material good since

¹⁵ These two sentences are taken with only slight modification, from Smith (1977, pp. 85 ff.).

whatever effects the ahkaam have are material goods. The total, very dangerous effect of such dawah is the equation of human welfare with material welfare and a narrowing of human concern to material problems.¹⁶

Does this mean that there is no place for exposition of the *masalih* of *ahkaam* in *Dawah*? Before answering this question we must distinguish sharply between dawah to Islam, where the audience is *kafir*, and *targheeb* (incitement) for *a'maal* (good deeds) where the audience is Muslim.

Dawah should not be based on *masalih*--we want Muslims who obey the *Quran* because of a belief that it is right not because of a belief that it is beneficial, expedient or that it will lead to material welfare. *Dawah* must expand the scope of man's vision of the value of human existence and not simply appeal to pre-existing perverted systems of priority.

Philosophically, the reason for this is that any structure created for a purpose must be judged according to its own purpose. Thus, one does not try to sell a bulldozer by trying to prove that it can outrace a racing car - one emphasizes its effectiveness in achieving the aims it was built for. And if the buyer is interested in speed one either refers him to a racing car dealer or one tries to impress upon him how important and useful the bulldozing business is--one does not try to prove to him that the bull-dozer is also a very fast vehicle.

Religiously, one should note that a Muslim obeys the

commandments of Allah, in the last analysis, because he believes in the Prophet (s) and thinks that the Quran and the Prophet s (s) explanation of it is correct and binding. And that if he obeys or does not obey the Quran all that the Prophet (s) has said will come to be. Now if some one neither believes the Prophet (s) nor believes that there is a hereafter, the relevant thing to do is to get him to believe in these things. If, by pointing out the *Masalih* of *Zakah* I get a *Kafir* to give *Zakah* every year this has done him no good. To be significant *a'maal* must spring from *I'man*.

Targheeb, where the audience is Muslim, can be attempted through an exposition of *Masalih*. Where the audience is already obeying *ahkaam* this obedience can be assumed to spring from *I'man*. If such a person acting on the *ahkaam*, is told of the *masalih* of the *ahkaam* it certainly will add to his feeling of well being (*tamaaninah*). But here, too, one must be careful that one does not focus too exclusively on material aspects. A Muslim who values his religion simply because it leads to material welfare is like a Rolls Royce owner who likes his car because it has a nice keychain. For, however much material wealth man amasses in this world he has to leave it behind--and a single shady tree in the hereafter will save one from the hellfire forever. Certainly, in the language of the economists, the utility of a single tree in heaven (which the Prophet (s) tell us is planted when one says one subhanallah) is more than the utility of all the wealth of this world.

[14] As for silencing those who object that the *ahkaam* of Islam are 'irrational' this desire in us is symptomatic of the weakness of our own *I'man*¹⁷.

¹⁶ It is interesting to note how Allah has compared His strategy of dawah and Shaitan's strategy: "The devil promiseth you destitution (i.e. if you spend in Allah's path)...But Allah promiseth you forgiveness from Himself with bounty...." (2:268) Thus material welfare and loss are the concerns Shaitan tries to ensnare man with, while Allah would raise his level of consciousness to higher things like divine forgiveness and grace.

¹⁷ It is interesting to note that this situation occurred in the time of the Prophet (s) and is recorded in the Quran. The kuffar objected on the practice of Zabiha — that Muslims will eat meat of animals they kill with their own hand, but that which Allah kills (i.e.

Were a street urchin to walk up to a Rolls Royce owner and claim that his bicycle was better than this car because it could turn sharper corners the Rolls Royce owner would be inclined to do no more than to laugh. If we are affected at all by someone's objections that the *ahkaam* are not efficient in achieving material welfare it means that we have ourselves put a higher price on material welfare than on the *Jannah* and *Maghfirah* (Heaven and Salvation) that Allah has promised us on the word of his Prophet (s).

V. CONCLUSION

The modern anxiety to see Islam as a "complete" religion has resulted in an imbalance -- in emphasizing the completeness of Islam we have de-emphasized the fact that it is basically a religion, a way of getting close to Allah ("Say O Prophet, (to the people:) If you love Allah follow me, Allah will love you"). There is aversion to form and a great willingness to talk of substance. All form is seen as having hidden in it substantive benefits for man, benefits of the kind that everyone recognizes as benefit (as opposed to, for example Allah's love, *Jannah*, *Maghfirah* etc). Thus, we hear claims that, for example, doctors say that the Sunnah posture in sleeping contains medical benefits, and that doctors certify that circumcision and drying urine with stones is a prophylactic against many diseases, and that *Zakah* is not just 'ibadat', it helps attain a just distribution of wealth--all these forms (*ibadaat*) have been redeemed and shown to have substantive (material)

that dies a natural death) they will not eat of. The only reply given to this is in the ayah "Eat of that over which Allah's name has been mentioned if ye are believers in his Revelations" (6:118). Thus the Muslims are reminded that their obedience to the *ahkaam* springs from belief in Revelation — not from some intellectual understanding of the bases of the *ahkaam*. See the very enlightening discussion on this ayah in Shafi, 1982, v.2., p. 432-3.

benefits. Is it that we are ashamed to say that we do all these things 'just' because the Prophet (s) ordered it or did it? Is it, perhaps, easier to talk of these practices along with mention of medical and economic benefits because we are ashamed that we could do something for no reason other than the love of Allah and His Prophet (s)? Or is it perhaps a desire not to be labelled 'superstitious', in an age where belief in what cannot be measured is seen as superstition? Although these are simply suggestions that one must go through and see if they 'fit', this much is clear--the aspect of Islam being a 'complete' religion, i.e. a religion that will solve for secular man all the problems he finds himself in, has been emphasized to the detriment of its being a way to get close to Allah and his Prophet (s).

a. The importance of form

For, what is known as 'ritual' is very important in all religions, even in Islam. For example, if one is in a mosque one is not allowed to leave the mosque after *azzaan* before praying in that mosque, except to prepare for the *salah* by, for example, making ablutions. But if one is right outside one is allowed to leave. Allama Binori writes: "The Shaykh (Allama Anwar Shah Kashmiri) said that this indicates that the *Shar'i* value can differ even while the purpose is the same, meaning that the purpose (of the command not to leave the mosque), [15] is that congregational prayer should not be missed - and the people inside the mosque and those outside do not differ with respect to this purpose. Despite this, the *fuqaha* have specified that only those that are inside are not allowed to leave. The Shaykh said: And this kind of *mas'ala* can be used against Ibn Taymiyah where he has claimed that *shar'i* value does not change

by changes in forms and details, when the purpose is the same. And similarly against him runs (the hadith of) the Companions buying high quality dates for lower quality dates at the rate of two for one. The Prophet (s) forbid them this (since it is *riba*) and said, Sell the low quality ones ones and then buy the high quality ones with the price you receive for the low-quality ones. Here the value (of the transaction) has changed while the purpose (i.e. substance of the transaction) remains the same. Similarly, it is allowed to give dirhams (silver coins) as loan, while it is not allowed to transact a trade of dirhams for dirhams under the condition that one of the parties will defer payment of his dirhams--even though the purpose of both loan and this trade is the same (i.e. that one party gives dirhams to the second immediately and the other party gives dirhams to the first at a later date)." (Binori, 1965, p. 22, v. 2, translation and explications in brackets are mine)

One finds numerous instances where form is all-important--thus, all the prescribed number of *rikah* in the different *salah*; the fact that *salah* by English translation of the Quran, for example, is not allowed although the meaning is the same. Indeed, a large part of *deen* is *ta'abbud*--form which is beyond human comprehension.

b. The Legalistic Vision

De-emphasis of the purely religious aspect of Islam has led to another fundamental misconception--the view of *fiqh* and *shariah* as a legal system. A look at *fiqh* with its division of the commandments into *farz*, *wajib*, *sunnah*, *mandoob*, *makrooh*, *tanzih*, *makrooh tahrimi*, *haraam* etc., indicates that it is far more than a legal system or even a code of personal conduct. But the demand for 'completeness' has often led to a

confusion of these subtle but important shades of difference between various commandments of Allah. The view is that there is an Islamic system which once implemented, will lead to all sorts of good. Thus, since the Islamic system is a thing that can be implemented, making sure all of it is obeyed is the task of the implementor (i.e. the government). And, this leads to the result that all of *Shariah* is *wajib*. This is the source of argument, for example, that the Hadith "and certainly there are in wealth rights (of others) other than *zakah*" implies that the government has a right to tax wealth, when needed, for the poor. Whereas all the Hadith stated was that there is a right in wealth and the person to determine and dispense this right is not determined in the Hadith. Eagerness to see the 'Islamic system' implemented leads to the idea that a single implementer must have the right to make sure this and all other commandments are obeyed.

I would like to raise the possibility that there is no Islamic system. This statement sounds like blasphemy today, but only because we are under the spell [16] of a new Cartesianism. We have come to identify design and purpose with rationality and even with good. We are unable to think that anything is good unless it has been achieved through reason. Thus, it is not enough to believe, one must know why one believes. It is not enough to act, one must be able to give detailed analysis of why one acts. It is not even enough to act on a Divinely designed plan for human reform, one must be able to specify how this reform will come to take place.

This is indeed the legacy of Marxism and the French

Revolution, where Reason was viewed as the supreme goddess--able to formulate a program for all-encompassing human reform after calculating all the vicissitudes of human nature, and anticipating all the complexities of human relations out of which springs social structure, which in turn acts on human beings in their individual capacities and in their relations with other and so forth ad infinitum. Indeed, this is a task only a goddess would take up--or else a man very deluded by the hubris of new-found knowledge.

There is, however, another view of human reason, which shows more respect for the complexity of human nature. Society is viewed as an organism,¹⁸ constantly growing and in constant evolution. This view, because of due respect of social structures that have evolved due to numerous undefinable internal and external exigencies and that are still evolving, makes impossible the vision of the imposition of 'system' of reform onto society.

This view is far more in line with the Islamic concept of social structure than the Cartesian view.¹⁹ And, it makes more sense when one looks at the ahkaam of Islam. In addressing man the ahkaam invariably take the collective (*ijtima'i*) aspect as given,

and order man to act within them. Certainly, sometimes he is ordered to deal with collective aspects of society, but being good and being bad (i.e. Islamic and non-Islamic) are always adjectives that relate to the individual not to social conditions. Also, implementation of a large part of *Shariah* (i.e. the *Sunnah* the *mandoob*) has not only been left to the individual (in the sense that government cannot regulate it) it has also been left to individual volition. These observations show the way to the path towards reform that the *Shariah* has taken--the 'Islamic system' is not a master plan of reform to be implemented from above, rather, each individual must tend to the duties assigned to him (whether these duties lead him into political or social involvement is another matter). When the *ahkaam* are being obeyed by a set of individuals in any society a certain social structure will emerge, which might differ according to the structures that had been present in the society before obedience to Islam--this emerging social structure could be called an Islamic social structure, or an "Islamic system". But there is no need to assume that there is a blueprint for society present in the Quran and the *Hadith* that, once we discover it, we can implement in society making it an Islamic society.

¹⁸ The use of this word is to indicate that society has a life of its own, beyond being the sum total of its individuals. It is this vision of social structure as something beyond a sum of individual purposes that is the basis of all the social sciences--the object studied in the social sciences is this "life" of society that is over and above its individual components.

¹⁹ See, for example, Shah Waliullah's discussion of social structure under the heading *Al-Mabhat al-thalith; Mabhat al-irtifaqaat*, in *Hujatullah al-Balighah*.

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William E. Shepard

ISLAM AND IDEOLOGY: TOWARDS A TYPOLOGY

It is probably fair to say of labels such as "fundamentalist," "modernist," and "secularist," which are in common use today in writing about modern Islam, that we cannot live very easily with them, but that we certainly cannot live without them.

On one hand, such labels have undoubtedly often functioned as obstacles to understanding the actual people and tendencies involved, in part because they are frequently used without explicit definition, in part because they perforce lump together widely differing phenomena, and in part because they often convey an implicit bias or value judgment. In my view, this is particularly true of the label "fundamentalist."¹ On the other hand, we cannot avoid labels if we are to talk about things, and we certainly cannot begin to make sense of an area as vast and complex as the modern Muslim world unless we can analyze its manifold phenomena into a manageable number of categories with suitable designations. It is not a question of whether we use labels, but how we use them. One purpose of this article is to contribute to the quest for suitable labels in this area. Another, and of course more important one, is to contribute to an understanding of those so labeled. I shall attempt to do this by presenting and discussing a typology of "ideological orientations." The main types will be called "secularism," "Islamic modernism," "radical Islamism," "traditionalism," and "neo-traditionalism," with subtypes discerned in several cases. It is not claimed, of course, that either the typology or the labels are radically novel. In fact, I think they reflect what is a fair degree of scholarly consensus, but it is hoped that the presentation and discussion will help to refine and clarify, and perhaps at some points modify, that consensus.²

It will help to minimize the dangers of labeling if we think of these to some extent as Weberian "ideal-types," that is analytical constructs which may or may not correspond in detail to actual cases but which help us analyze and compare a large number of cases.³ I also hope to minimize the dangers by presenting them not as "pigeon-holes" or "boxes" but as points on a two-dimensional spectrum, one axis of which we may label as "Islamic totalism" and the other as "modernity." It will be argued that the first three types are all very high on the scale of "modernity" but vary widely on the scale of "Islamic totalism," while traditionalism and neo-traditionalism vary from them primarily on the scale of "modernity."

By "Islamic totalism" I mean the tendency to view Islam not merely as a "religion" in the narrow sense of theological belief, private prayer and ritual worship, but also as a total way of life with guidance for political, economic, and social behavior. Commonly this takes the form of the claim that Muslims should have an "Islamic State," that is, a state in which all law is based on the Shari'a. It is not here assumed, however, that those who assert this are necessarily "better" Muslims in a general sense than others.

By "modernity" I mean in the first place a tendency to place a high value upon modern material technology and to use modern techniques of social organization and mobilization, but also a tendency to accept certain modern institutions such as parliaments and political parties, certain attitudes such as a positive orientation toward change, and certain ideas such as a belief in "progress."⁴ "Modernity" also includes the highly ambivalent attitudes toward the West that have attended the Western impact of the last two centuries, and the spiritual crisis so eloquently described by Wifred Cantwell Smith:

The fundamental *malaise* of modern Islam is a sense that something has gone wrong with Islamic history. The fundamental problem of modern Muslims is how to rehabilitate that history: to set it going again in full vigour, so that Islamic society may once again flourish as a divinely-guided society should and must.⁵

Our typology may be said to be a typology of responses to the Western impact and of proposals for rehabilitating Muslim history.⁶ It is beyond the scope of this article to deal in any detail with the vexed question of whether "modernization" necessarily involves "Westernization." Suffice it to say that in my view they are conceptually distinct but up till now have been largely identical in practice. Whether they need to be so in the future is perhaps the most important issue on which the types here presented vary. The radical Islamists, in particular, are committed to the proposition that they need not and must not be the same.

The expression "ideological orientation" is used to underline the fact that we are dealing with ideological issues but not necessarily with particular ideologies as such—a type such as "secularism" includes several different and even radically opposed ideologies—while insofar as ideology is a modern phenomenon, the traditionalist positions could not be said to involve ideology in the strictest sense.⁷ For the tendency to view Islam as an ideology I shall use the term "Islamism." We could to some extent summarize the presentation that follows by saying that as we move to the "right" along the scale of Islamic totalism from secularism toward radical Islamism, ideology becomes more Islamic, while as we move "up" the scale of modernity away from pure traditionalism, Islam may become more ideological.

The focus here is upon the doctrinal content of the ideologies and teachings involved, and not upon the leadership styles, political methods, or social locations that may be associated with them. Thus, this typology is complementary to other possible typologies, such as James Bill's distinction between "establishment Islam" and "populist Islam."⁸ In principle, at least, each of these ideological orientations may be either "establishment" or "populist." Likewise each may be more or less oriented toward charismatic leadership, more or less elitist, and most may be

more or less violent (in word and/or deed) and more or less revolutionary.⁹ They may also be either Shi'i or Sunni.¹⁰ It is important to stress, furthermore, that each type may be more or less sophisticated and intellectually consistent, though it does not follow that they are all equally viable, that is, capable of actually becoming the ideological basis of the Islamic community or a significant part of it over the long term. I shall make some suggestions about the viability of these types in the last section of this article.

SECULARISM

The term "secularist" is here applied to any view that would openly follow an ideology other than Islam in most areas of public life.¹¹ The most radical form of secularism, of course, would be one that wants to replace Islam in all areas, public and private, as in Marxist Albania, whose constitution makes virtually no reference to religion and whose government has closed the mosques and churches.¹² Such a radical secularism has been unusual in Muslim countries, however.¹³

Far more influential has been a "moderate secularism" which seeks to "separate" religion from politics and other areas of public life. In this case the ideology is generally nationalism in diverse alliance with others such as capitalism, socialism, liberalism, etc. In a "moderate secularist" constitution Islam is not the religion of state and sovereignty is not vested in God but in the "nation" or the "people." The best known example is Turkey, which in 1928 removed from its constitution the clause that made Islam the religion of state. At present the relevant article reads: "The Republic of Turkey is a democratic, secular and social state governed by the rule of law, . . . loyal to the nationalism of Ataturk, and based on the fundamental principles set forth in the Preamble" (Article 2). The preamble vests sovereignty "unconditionally" in the nation and explicitly separates "the sacred tenets of religion" from "state affairs and politics."

A still more moderate type of secularism is found in the Indonesian constitution, which affirms belief in "One, Supreme Divinity"¹⁴ as the first of its "five principles" (*pancasila*), but not Islam nor even "Allah." Perhaps we might label the Turkish type of secularism "neutral secularism" and the Indonesian type "religious secularism."

Constitutions that make Islam the religion of state do not conform to the "pure" secular type but may be closer to it than to Islamic modernism on the scale. The Egyptian constitution of 1972 says, "Islam is the religion of the State" and "The principles of the Islamic Shari'a are primary sources of legislation," but also says that "sovereignty belongs to the people only, who are the source of authority" (Articles 2 & 3). Popular sovereignty along with the fact that the principles of the Shari'a are, by implication, not the only source of legislation make this constitution substantially secular. We might label such constitutions, common in the Arab world, "Muslim secularist."

In the area of legal reform, secularism in its "pure" form replaces the Shari'a in all areas of public law with codes of other, in practice Western, origin and makes citizens of all religions in principle equal before the law. The best known

example of this is, of course, the Turkish legal reforms of the 1920s. Most other Muslim countries have in fact done the same thing in many areas, usually excepting the more "sensitive" areas relating to family life, such as marriage, divorce, inheritance, etc. This, too, is secularism insofar as it establishes substantial areas where the Shari'a does not apply, although the line between the "religious" and the "secular" is drawn in a different place from where it is drawn in the West.

We may discern two major sets of motives to which the first two different types of moderate secularism to some extent correspond. The first set involves a concern for "progress" and national strength, which, when allied with the conviction that the way to achieve these is to follow an essentially Western model, leads to "neutral" secularism of the Turkish type.¹⁵ The other motive is a concern for national unity where there is a significant non-Muslim minority. In Indonesia, with its Christians and Balinese Hindus, "divinity" is affirmed but not a specific kind of divinity, as noted above. In Egypt, with a significant Coptic minority, political rhetoric often speaks of "religion" rather than "Islam."¹⁶ Of course, in Egypt and Indonesia the concern for "progress" and national strength is also present.¹⁷

To speak of secularism as "separation" of religion from public life is misleading, however, since Muslim secularism has not involved a separation of "mosque" and state on the pattern of the American separation of church and state. Secularist governments both support and control religious teaching and institutions to a considerable degree. Essentially, secularism has meant state control of religion and state effort to use religion in the service of its nationalist and developmental goals.¹⁸ Furthermore, particularly in its nationalist form, secularism is by no means inconsistent with an appreciation of Islam as cultural heritage, and may even see it as a necessary component of the national identity. No one is considered a "Turk" who is not also a Muslim,¹⁹ while Shi'ism was an important element in the Iranian identity pushed by the late Shah.²⁰ Likewise, Arab nationalists, whether Christian or Muslim, have emphasized the role of Muhammad and his companions as Arab national heroes.²¹ What makes all of these secular is the subordination of Islam to national identity and the tendency to view the Islamic heritage as a human cultural achievement rather than a response to Divine initiative.

Likewise, Pan-Islamism may be secularist, insofar as it means loyalty to and/or feeling for Muslim peoples, but does not call on them to rule themselves by the Shari'a. Since Pan-Islamism is also consistent with Islamic modernism and radical Islamism, it can provide an ideological basis for cooperation among adherents of these types, in spite of their major differences.

It is important to stress that moderate secularism is not necessarily "irreligious." A secularist may perform faithfully all of the Islamic rituals and follow an Islamic code of ethics in his or her personal life. They may be actively concerned with *da'wa*, whether in the sense of calling Muslims to more faithful ritual and ethical practice or non-Muslims to Islam. They may actively promote Muslim charitable organizations and the like. Secularists may also, quite consistently, view religion as a desirable or even necessary support for personal ethics and,

thus, for public order and well-being. They may hold the common idea that religion is necessary for the cultivation of the feelings, as distinct from reason.²²

In fact, under certain circumstances, secularist styles and rhetoric may be highly Islamic. Ataturk resisted the Greeks under Islamic colors and even received the Islamic title "Ghazi" for his efforts. Having established such Islamic "credentials" was undoubtedly another condition of his later success in "reforming" Islam. On similar grounds, I suspect that close analysis would lead us to consider Colonel Qaddafi a secularist, for all his "fundamentalist" rhetoric.²³ These considerations mean that to the extent that Islamic "resurgence" involves increased devotional practice, concern with cultural heritage and Pan-Islamic feeling, it can be expressed within a secularist framework.

ISLAMIC MODERNISM

In formal contrast to secularism, Islamic modernism²⁴ insists that Islam does provide an adequate ideological base for public life. The Egyptian statesman, Abd al-Rahman 'Azzam, whose book, *The Eternal Message of Muhammad*, may be taken as representative of this orientation, states

The difference between Islam and most other religions is that it did not content itself with merely establishing acts of worship and abandon the needs of society to a Caesar or any form of temporal governing body. Rather, Islam established ways of conduct, relationships, and rights and obligations for the individual vis-à-vis members of his family and the nation and for the nation vis-à-vis other nations.²⁵

The 1973 constitution of Pakistan, likewise modernist²⁶ in my view, asserts that "sovereignty over the entire Universe belongs to Almighty Allah alone" and that the authority of the people is a "sacred trust" exercised "within the limits prescribed by Him" (Preamble).

This Islamist position is, however, qualified by a very strong tendency to emphasize the flexibility of Islam in the public sphere and to use this flexibility to interpret Islam in terms congruent with, or at least in very positive dialogue with, one or more Western ideologies. Among Sunnis this commonly includes the insistence that the "gate of *ijihad*" be reopened, that Muslims not rely on the "medieval synthesis" represented by the four schools of jurisprudence (*madhahib*) but that they go back directly to the Qur'an and the Sunna to seek a fresh interpretation and synthesis for modern times, and also, of course, that "superstitions" derived from local pre-Islamic cultures be eliminated. 'Azzam says:

When we look at the Scripture, the Sunnah, and Muslim history in the days of the Rightly-Guided Caliphs, we find that Islam is definite and conclusive on all general principles suitable for all times, places, and peoples. When it comes to implementing these principles, one can see clearly the flexibility of the Islamic Shari'a and the authority it gives to our reason and our *ijtihad*. The Shari'a in effect upholds the guidance given by the Prophet when he said, "You know best about your earthly matters." Thus there is wide scope for human opinion and it is up to reason and experience to distinguish correct from incorrect action, to show the road to the general welfare and to steer clear of harm.²⁷

The latter part of this quote may appear to be virtually a justification for secularism and, in fact, some Islamic modernism comes very close to this. Furthermore, 'Azzam's "general principles," which include justice, freedom, brotherhood of man, the value of work, religious tolerance, and the redistribution of excess wealth,²⁸ sound very Western, as does the order envisaged by the Pakistan constitution, "wherein the principles of democracy, freedom, equality, tolerance and social justice as enunciated by Islam shall be fully observed" (Preamble). Modernists may also insist that Islamic social principles are capable of development and able to "keep up with the times."²⁹ The crucial point, however, is that, unlike the secularists, the modernists are at pains to justify the general principles and the developments in terms of the Qur'an and the Sunna.

As suggested earlier, legal reform in the "sensitive" areas of family-related law has commonly been done in a more modernist than secularist way, although to the extent that it has been justified by traditional legal devices rather than an open exercise of absolute *ijtihad*,³⁰ it moves in a traditionalist direction.

Modernism achieves flexibility in three main ways. The first is by the tendency to restrict the specific and detailed content of the authoritative tradition as much as possible by limiting it to the Qur'an and the authentic Sunna and then possibly limiting the latter by a radical Hadith criticism.³¹ This does not mean that the later tradition is necessarily ignored, but the tendency is to use it selectively. A few, such as Parwez in Pakistan, would go even further and treat only the Qur'an as absolutely binding.³² Still more radical is the teaching of Mahmud Muhammad Taha, the recently executed leader of the Republican Brothers in the Sudan, who would restrict it to the Meccan part of the Qur'an.³³ Open advocacy of these more radical approaches is rare, however.

The second way is a more or less radical (re)interpretation³⁴ of the authoritative sources. This is particularly the case with the Qur'anic texts on polygyny, the *hadd* punishments, *jihad*, and the treatment of unbelievers,³⁵ which appear to conflict with "modern" views. In some cases modernist (re)interpretation can find considerable support in the text, such as the requirement of four witnesses to adultery,³⁶ which may have the effect of voiding the *hadd* in practice, or the well-known argument that the Qur'anic permission of four wives is conditioned on the ability of the husband to treat them fairly, which ability is denied by another passage.³⁷ A more subtle form of this argument is that the Qur'an at the legal level limited the number of wives to four but affirmed monogamy as an ideal toward which the community should strive.³⁸ This underlines the flexibility of the Shari'a, which allows polygyny since circumstances sometimes require it but provides a clear impetus toward monogamy. The modernist tendency has been to interpret *jihad* as defensive war and to stress the texts that call for tolerance of non-Muslims.³⁹ In some cases modernist (re)interpretation in these and other areas may avail itself of traditional *fiqh* doctrines, although to the extent that it does so, it may move in a traditionalist direction.

(Re)interpretation in its extreme form would lead to the "neo-modernism" proposed by Fazlur Rahman, in which all the specific cases in the Qur'an and the Sunna would be in effect converted into moral principles. The specific cases would be studied in the light of their context to see what moral principles they exemplify, and it is these principles that would be considered authoritative.⁴⁰

The third way is an apologetic which links aspects of the Islamic tradition with Western ideas and practices, and may claim that the Western practices in question were originally derived from Islam. This may be a simple identification, as, for example, the Nasserist writer who defends the adaption of Yugoslavian "direct democracy" in Egypt on the grounds that "This recent concept of 'direct democracy' is not original. It was to be found in early Islamic democracy."⁴¹ More subtly, the claim may be that the Western practice represents the best way to carry out the traditional Islamic injunction under modern conditions. Ahmad Bahgat says of the Qur'anic injunction to the ruler to consult others (*shura*): "*Shura* in modern political terminology is democracy. Islam did not explain the form, type, or stages of this democracy but left this to the minds of the Muslims and the considerations of time and place."⁴²

It is not just a matter of identification, however, since Islam is usually claimed to be superior in some respect. It may be that it adds a spiritual dimension to what in the West is a purely materialist institution, or that it provides a *via media* between opposing Western ideologies or the solution to dilemmas inherent in such ideologies. Mustafa Mahmoud says: "As a dialectical synthesis of two extremes [i.e., communism and capitalism] it [Islam] combines the virtues of both; but then it goes further than either by giving man ineffable bliss—spiritual satisfaction."⁴³ According to Ali Shariati, Islam and in particular the first Shi'i Imam, 'Ali, incorporated the positive aspects of "Mysticism, Equality, and Freedom," the last two in their separated and thus negative forms being found particularly in Marxism and Western existentialism.⁴⁴

Modernist apologetic has been severely criticized by many scholars as superficial, tendentious, and even psychologically destructive,⁴⁵ so much so that the term "apologetics" has almost become a term of abuse in the literature on modern Islam. Apologetics as such, however, is not necessarily bad. Indeed, it must feature in any religion that would defend itself at the bar of reason or recommend itself to outsiders. If modernist apologetics are open in practice to such criticism, its failings are not inherent in the type, but result rather from the difficult psychological position in which modern Muslims have found themselves. Although it may seem at times that apologetic modernism is little more than a cover for what secularists do more openly, it at least allows Islam to act as a principle of selection among competing Western ideologies. This is undoubtedly one reason why ideologies such as nationalism and socialism find more ready reception among Muslims than Marxism or fascism. It will also tend subtly to Islamicize any ideology or practice adopted. To call democracy *shura*, for example, will encourage an interpretation of the concept in the direction of the traditional Islamic practice of *shura*, especially in the minds of those who do not speak a Western language.

Modernist ideologies will, of course, vary depending on which of these three ways are most prominent in a given case and which Western models are followed. Thus, one may speak of an "apologetic" modernism which relies heavily on the less subtle forms of "identification," and a "(re)interpretive modernism," which seeks to avoid this. One may, likewise, speak of a "liberal-nationalist" modernism, a "socialist" modernism (such as "Islamic Socialism"), or a "third-world radical" or "post-Marxist revolutionary" modernism (e.g., the Shah's "Islamic Marxism").

This last uses the Qur'an and the Sunna in a very flexible way and draws on modern tendencies that have major roots in the West, in writers such as Marx, Weber, and Fanon, and is exemplified by Ali Shariati and the Mujahidin-i Khalq of Iran.⁴⁶

RADICAL ISLAMISM

By "radical Islamism" I mean the orientation of many of those who are often called "fundamentalists." This type is especially well represented by Sayed Abul A'la Mawdudi and the later writings of Sayyid Qutb,⁴⁷ and in only slightly lesser degree by Imam Khomeini and other current Iranian leaders.

Like modernists, but even more insistently, radical Islamists claim that Islam is for all aspects of social as well as personal life. They agree with the modernists that Islam is flexible and that un-Islamic "superstitions" must be eliminated. They also accept the need for absolute *ijtihad*, but they are likely to grant it less scope and they emphasize that it must be done in an authentically Islamic way and not as a covert means of copying the West. Mawdudi says, "The purpose and object of *ijtihad* is not to replace the Divine law by man-made law. Its real object is to understand the Supreme Law."⁴⁸ Sayyid Qutb says that Islam is "flexible" but not "fluid"⁴⁹ and stresses that "if there is an authoritative text (*nass*), then that text is decisive and there is no scope for *ijtihad*. If there is no *nass*, then comes the time for *ijtihad*, in accordance with the established principles of God's own method."⁵⁰ Consistently with this, radical Islamists tend to accept more of the past *ijtihad* of the scholars and to emphasize somewhat less the failings of the community in pre-modern times and somewhat more the distortions caused by Western colonialism.⁵¹

They also strongly emphasize the distinctiveness of Islam. Mawdudi objects to those who wish to identify Islam with "democracy," "communism," or "dictatorship" on the grounds that such identifications result from "the belief that we as Muslims can earn no honour or respect unless we are able to show that our religion resembles modern creeds."⁵² They tend to reject terms like "Islamic socialism," and Khomeini even refused to include the word "democratic" in the name of the Islamic Republic of Iran.⁵³ By contrast, the Mujahidin-i Khalq, for example, do speak of the "Democratic Islamic Republic of Iran." This concern for distinctiveness may manifest itself in an insistence on clearly distinctive Islamic laws, such as the hadd penalties. More subtly, though, distinctiveness is achieved by emphasizing that Islam as a whole is a distinct and integrated system, so that even if individual elements do not seem distinctive, their place in the Islamic system makes them different.⁵⁴ Consistently with this approach, some say that punishments like cutting off the hand of a thief should be carried on only after a truly Islamic society is established.⁵⁵

In accord with this concern for authenticity and distinctiveness, radical Islamists place less emphasis on apologetics. In practice this may be only a difference of degree, but in intention it is more than that. Both Mawdudi and Sayyid Qutb see an "inferiority complex" in modernist apologetics.⁵⁶ Notably, they tend to be uncompromising on the question of non-Muslim minorities.

Mawdudi openly attacks "equality before the law" as a sham and defends the Islamic provision for *dhimmi* status.⁵⁷

More than others, the radical Islamists emphasize the urgency of putting the Shari'a into practice. It is not only an ideal to be known and revered, but a law to be put into effect and obeyed. This, in fact, is the main burden of Khomeini's lectures on *Islamic Government*.⁵⁸ At this point, though, there are significant variations of strategy. Some are more willing to accept a gradualist approach to Islamic legislation and to cooperate with those of other ideological persuasion. In Egypt in 1984, some Muslim Brothers were elected to parliament as members of the Wafd, the leading secularist party of the pre-Nasser era. Other radical Islamists are more oriented toward violent or revolutionary action, as in the Iranian revolution or the assassination of Anwar Sadat. These may accuse the former type of "selling out."⁵⁹

In spite of its conscious stress on authenticity, however, radical Islamism is still very modern and accepts much that is borrowed from the West. In some ways this is hardly surprising since it arose primarily as a reaction against Westernizing trends, and reactions commonly take on some of the characteristics of what they react against. Most obviously, it has no difficulty accepting modern material technology, as the role of the cassette tape recorder in the Iranian revolution and the clash of modern weapons in the Iran-Iraq war dramatically illustrate. This does not compromise its authenticity since classical Islamic civilization had little problem borrowing purely material technology. In fact, the hadith quoted above by 'Azzam ("You know best about your earthly matters") refers in context to the pollination of date palms, a matter of agricultural technology. Beyond this, however, radical Islamists have been able to accept and use effectively many modern methods of political and social organization that are of Western provenance and to adapt at least some Western political ideas and symbols. The Islamic Republic of Iran has political parties, elections, and a parliament, and its "Crusade for Construction" (*Jihad-i Sazandegi*) is at least distantly reminiscent of the U.S. Domestic Peace Corps. The youth organizations and cooperatives developed by the Muslim Brothers in Egypt afford another example. In the realm of ideological concepts, Khomeini may have rejected "democratic" but he accepted "republic," and the ability of the Iranian leaders to use populist and third world revolutionary rhetoric is well known. Mawdudi says that "Muslim is the title of that International Revolutionary Party organized by Islam" and that jihad refers to "revolutionary struggle,"⁶⁰ while Sayyid Qutb speaks in a similar context of a "vanguard,"⁶¹ and describes Islam as "a universal proclamation of the liberation of man."⁶²

Although radical Islamists try to avoid following Western models, these models do undoubtedly exercise some influence on them and lead to some variation among them. Thus Mawdudi is sometimes said to be more "capitalist" and Sayyid Qutb more "socialist," and similar differences have apparently surfaced in Iran. Still, the variations within this type are less than within any of the others.⁶³

Particularly important is the fact that radical Islamists accept the idea of progress. With their zeal for following the Sunna of the Prophet, they are commonly accused of wanting to turn the clock back to seventh century Arabia,

but this is a serious misapprehension. They not only want progress but insist that Islam is the way to get it. Khomeini, for example, describes Islam as "progressive,"⁶⁴ and Mawdudi says, "we can accelerate the onward march to progress only on the strength of the moral values enunciated by Islam."⁶⁵ In fact, far from reflecting a rejection of the idea of progress, their zeal reflects an acceptance of it, since the idea of progress cuts the ground out from under one of the most common traditional justifications for inaction, the view that historical decline is more or less inevitable so that the ideal of the "golden age" of the Prophet cannot be realized in later times.⁶⁶ Radical Islamists undoubtedly want to undo many of the effects of Western-style "progress," but this is not the same as wanting to turn the clock back.

The social and political activism of radical Islamists also bespeaks a much more worldly orientation than has been usual among pious Muslims in the past, and they are strikingly characterized by what Weber called "inner worldly asceticism." This must be kept in perspective, though. They are not unconcerned for otherworldly things, and to some extent their emphasis on this-worldly things is a function of the fact that it is mainly in the this-worldly sphere that secularism has called Islam into question. The ability of Shi'i radical Islamism, in particular, to combine otherworldly concern with this-worldly action in martyrdom has been dramatically demonstrated on the city streets and on the battlefield.

We may note in passing two other "Protestant" tendencies of radical Islamism. One is a clear tendency to urge a "Weberian" work ethic, and the other is a tendency to "simplify" the Islamic symbol system⁶⁷ by concentrating on certain basic elements. Both of these it shares with Islamic modernism, but in the latter case the motivation is different. Whereas modernism simplifies the symbol system in the interests of "flexibility," radical Islamism does so more in the interests of authenticity. Seeing the basics as under threat, it wishes to reinforce them and relate everything more firmly to them. In fact, its long-range tendency may be more to "rationalize" than to simplify the symbol system.

Its tendency to view Islam as a "system" is also modern, I think.⁶⁸ Traditionally, the political provisions of the Shari'a were understood as commands incumbent on the ruler rather than as a "system" in the usual sense of the term.⁶⁹ Related to this is their strong tendency to "reify" Islam, which W. C. Smith has argued is a modern phenomenon, although with roots in the past.⁷⁰

The "modernity" of radical Islamism is related to the fact that in the Sunni world radical Islamists have tended to be "laymen,"⁷¹ and thus probably not so fully aware as the ulama of the complexity and resources of the past tradition. Among Shi'is, on the other hand, it has been led by the ulama, partly because the "gate of ijihad" was not closed among Shi'is. This may have made Shi'i ulama a bit more flexible in interpretation, but more importantly it has given them more authority over their followers and allowed them to maintain much greater independence of Westernizing governments than was possible for their Sunni counterparts. The fact that Shi'i radical Islamism is ulama-led means that it has a greater rootage in the past tradition and tends in a somewhat "neo-traditionalist" direction.

Apart from the area of material technology, it is often hard to say whether "borrowing" is the best way of describing the relationship of radical Islamism to

Western ideas and practices. In many cases it would be more accurate to say that it develops certain aspects of the basic Islamic symbol system in certain ways in response to the Western challenge. In either case, of course, the effect of the modern West is extremely significant and often decisive. In both cases, also, Islamic modernism has played an important mediating role, to the extent that radical Islamism has accepted its "borrowings" or its interpretations.⁷² The conscious concern of the radical Islamist, however, is that where there is borrowing it be controlled by the Islamic symbol system. Particularly with ideological symbols, it is important that they have a clear Islamic rootage.⁷³ We might say that the radical Islamist in a secularist country is like a person who has grown up in a house whose structure he does not like and who would like to take it over and demolish it and rebuild it to a different plan, but is quite willing to use some of the old materials in the process. In Iran the process has begun.

THE SCALE OF "ISLAMIC TOTALISM"

As indicated earlier, the three orientations so far discussed vary primarily along the scale I have labeled "Islamic totalism," that is, the degree to which Islam is accepted as the guide to social action and public legislation. At the extreme "left" of radical secularism, Islam is totally rejected even as "religion," somewhat to the right of this it is accepted as "religion" but rejected as the guide to public life, while at the extreme right of radical Islamism, it is insisted upon as both "religion" and ideology. In between, there is some effort to have it both ways.

If we were to locate the constitutions of several Muslim countries along this spectrum, we might come up with the following order from left to right: Albania (radical secularist), Turkey (neutral secularist), Indonesia (religious secularist), Syria, Iraq, Egypt (Muslim secularist), Pakistan (Islamic modernist), Iran (between radical Islamist and Islamic modernist). When the Egyptian constitution was amended in 1980 to make the principles of the Shari'a "the primary source" rather than "primary sources" of legislation, this represented a slight shift to the right; but it is still closer to the secularist type, since the principles of the Shari'a are still not the only source and it is still presumably "the people" who have the authority to determine when they will and will not be followed.

On the scale of modernity, these three types are fairly close, but there is some difference since radical Islamism would be less willing to sacrifice elements of Islam to the needs of "modernity." For example, they would certainly not be willing to modify the fast of Ramadan in the interests of development, as Bourgiba wanted to.

The discussion so far has drawn mainly on the areas of political ideology and legal reform. The same typology, however, could be applied to other areas. For example, I view the current movement for "interest-free" banking as radical Islamist. The secularist position would be, of course, that economics and religion are separate. A capitalist oriented modernism might justify modern interest by arguing that the Qur'anic term *riba* does not really apply to modern banking practices,⁷⁴ while a socialist oriented modernism might generalize the prohibition into an attack on capitalist economic injustice.⁷⁵ The radical Islamist position represents a reaffirmation and in some ways an intensification of the traditional

prohibition and is prepared to restructure the banking system in a major way to accomplish this. The new female Islamic garb is radical Islamist insofar as it involves a traditional prescription but not the traditional styles. It is possible, obviously, for one to be modernist or secularist in some respects, for example, political ideology, and radical Islamist in others, for example, female garb.

TRADITIONALISM

A traditionalist may be defined as one whose allegiance is to what many would consider the particular "mix" of Shari'a and non-Shari'a elements characterizing his area on the eve of the Western impact, and who has not significantly internalized the Western challenge, that is, who has not felt the attraction as well as the threat of Western ways, and thus has not fully appreciated the depth of the threat. He will probably be more "otherworldly" than the types so far discussed and certainly more given to traditional "superstitions."

Traditionalists respond to the Western challenge strictly in terms of the paradigms offered by the tradition for coping with adversity. The Westerners may be *kafirs* to be resisted by force or to be tolerated as one of the punishments God visits upon his faithful for their sins or one of the trials by which He tests their faith.⁷⁶ To some extent the Crusades and the Mongol invasions can offer historical precedents.⁷⁷ Some have taken consolation in the thought that God may grant *kafirs* worldly success but reserves the bliss of paradise for the Muslims.⁷⁸ Nevertheless, even the traditionalists are slightly "modern," insofar as they have had to make this much response. Those who have made no response at all we could call simply "traditional." In the nineteenth century and decreasingly in the twentieth, the traditionalist orientation has generally characterized the ulama and other traditional elites, the Sufi orders, and the lower classes, especially the peasants, except that many of these last, along with higher classes in areas such as central Arabia and Afghanistan were presumably traditional into the twentieth century.

We may discern a scale of traditionalism from "rejectionist" on the right to "adaptationist" on the left.⁷⁹ The rejectionists would be those, particularly in the nineteenth century, who mounted revolts and resistance against the encroaching colonial powers, or violently resisted the reform efforts of the Westernizing Muslim rulers, but without significant efforts to reform the understanding of the Shari'a or to extend it in practice to areas of life where it had traditionally held less sway, or to assert its relevance to distinctively modern issues.

The adaptationists would be those who have gone along or at most used delaying tactics. Their actions make sense within the framework of a view that the times are inherently corrupt, due to the distance from the ideal time of the Prophet, and that necessity, therefore, makes such adaptation appropriate.⁸⁰ They may in fact prefer to allow the ruler the traditional, but implicitly secularizing, expedient of removing certain classes of cases from ulama jurisdiction, than to allow Islamic modernist reformers to tamper with the ideal. It may be such an attitude that explains the opposition of the Azharis to the reforms of Muhammad 'Abduh and his followers.

Traditionalists have often been accused of a rigid conservatism (*jumud*), but such an accusation may be unfair. The tradition has always had its ways of gradually coping with change. Even if the gate of "absolute" ijтиhad had been closed,⁸¹ ijтиhad within the framework of tradition has always been possible. The traditionalists have been those who felt that the time-honored ways of change were adequate or, if they became rigid, did so in reaction to the modernizing pressures put upon them.

The most conservative elements in Saudi Arabia are best described, I think, as traditionalist, and certainly those who opposed the introduction of television, for example, were at the rejectionist extreme. The fact that Saudi Arabia does not even have a constitution, in the modern sense, argues for considering it traditionalist. Analysis of present thinking and practice in Saudi Arabia would, I think, uncover both modernist and radical Islamist, and perhaps even secularist tendencies, with modernist tendencies probably strongest in official circles.⁸² Those who took over the sanctuary in Mecca in 1979 may have been radical Islamists reacting against other trends, although "rejectionist neo-traditionalist" may be a better label.

NEO-TRADITIONALISM

When the traditionalist begins to come more deeply to grips with the Western challenge, he may become a "neo-traditionalist." Here, too, we may discern "rejectionist" and "adaptationist" extremes. Neo-traditionalism may be viewed as a transitional stage on the way to secularism, modernism, or radical Islamism, but it is also possible that it may generate more permanent and distinctive types.

The neo-traditionalist accepts the need for modern technology, but is likely to be more selective than the modern types in appropriating it, and likely to give it less symbolic, as distinct from functional, value.⁸³ He is also likely to have internalized other Western ideas and values somewhat less, particularly the idea of progress and the "Weberian" work ethic. To the extent that he is less committed to the idea of progress, he may feel it less urgent that the Islamic ideal be translated at once into social practice, and, if he is of the adaptationist sort, he may feel that the traditional ways of coping with change are adequate in the long run though perhaps not in the short run and thus that it is better to have a temporary secularist gap between ideal and reality for a time than to have an overhasty modernist or radical Islamist tampering with the ideal. At the same time, he may feel it appropriate to use "obstructionist" tactics to slow down a secularist government's ill-considered rush to certain forms of modernity.⁸⁴ He will prefer gradual to revolutionary change. The rejectionist neo-traditionalist, on the other hand, may feel the need for more revolutionary action but may derive the motivation for this more from traditional Mahdist ideas than from the modern idea of progress.⁸⁵

The adaptationist neo-traditionalist may see positive value in local traditions *qua* local traditions, over against Western ways and also over against the more unitary Islamic model advocated by the radical Islamists. He is more likely than the other types to recognize that certain local customs are both non-Islamic in

origin and non-“modern,” and yet still value them. One of the leaders of the Nahdatul Ulama in Indonesia has criticized radical Islamism for its “rejection of the past adaptive ways of Islam as a religion ‘living’ in a concrete local tradition.”⁸⁶

The neo-traditionalist is likely to value the depth and complexity of the past Islamic tradition as represented by the learning of the ulama and the wisdom of the Sufi sheikhs more than the more modern types. Thus, a case might be made for considering the Iranian revolution more rejectionist neo-traditionalist than radical Islamist, both because of the place of the ulama and because of its distinctively Shi‘i and Iranian elements. In fact, I would be inclined to place it somewhere on the scale between the radical Islamist and rejectionist neo-traditionalist types. The same may be true of some of the recent violent or potentially violent manifestations of Sunni “fundamentalism” in the Arab world.⁸⁷

I believe that many of the ulama and members of Sufi orders in Egypt today are best seen as adaptationist neo-traditionalists.⁸⁸ The Hamidiyya Shadhiliyya order, as described by Gilsonan, fits this type quite well.⁸⁹ Ayatollah Shariati-madari in Iran could probably best be placed here. I believe that writers such as Sayyid Hossein Nasr and Martin Lings⁹⁰ are best seen as neo-traditionalists, and this suggests that neo-traditionalism may be able to draw support from more recent Western doubts about aspects of “modernity,” such as reservations about “progress” and the effects of technology on the environment.

THE TWO-DIMENSIONAL SPECTRUM

We can now fill out our spectrum and present it in its two dimensions (see Figure 1). On the scale of “modernity,” we have already seen some differences among the non-traditionalist types, but obviously it is on this scale especially that the traditionalist types vary from all of them, with pure traditionalism at the lowest point and neo-traditionalism intermediate. I see no reason for placing the rejectionist and adaptationist types of pure traditionalism any differently on this scale, but adaptationist neo-traditionalists will rank a bit higher than rejectionist neo-traditionalists for reasons like those that put secularists higher than radical Islamists. On the scale of “Islamic totalism” rejectionist traditionalism is considerably to the left of radical Islamism because of the many areas of life that even the “fundamentalist” forms of traditional Islam did not seek in practice to bring strictly under the sway of the Shari‘a. Probably rejectionist traditionalism should be placed even to the left of the strictest forms of Islamic modernism (whether in the “apologetic” or “neo-modernist” mode). The sides of the diagram are skewed to the right because I think rejectionist types have probably moved more quickly to the “right” on the Islamic totalism scale than “up” on the modernity scale, while positions corresponding to a strict secularism of even the moderate type have not been part of the traditionalist option. The term “fundamentalism” is sometimes used to refer to everything to the right of a line drawn vertically from rejectionist traditionalism to modernism, but if it were to be used at all, I would rather limit it to radical Islamism and rejectionist neo-traditionalism (see Figure 1), since these are the positions that have both the radicalness and the modernity that seem to me implicit in the term. In fact,

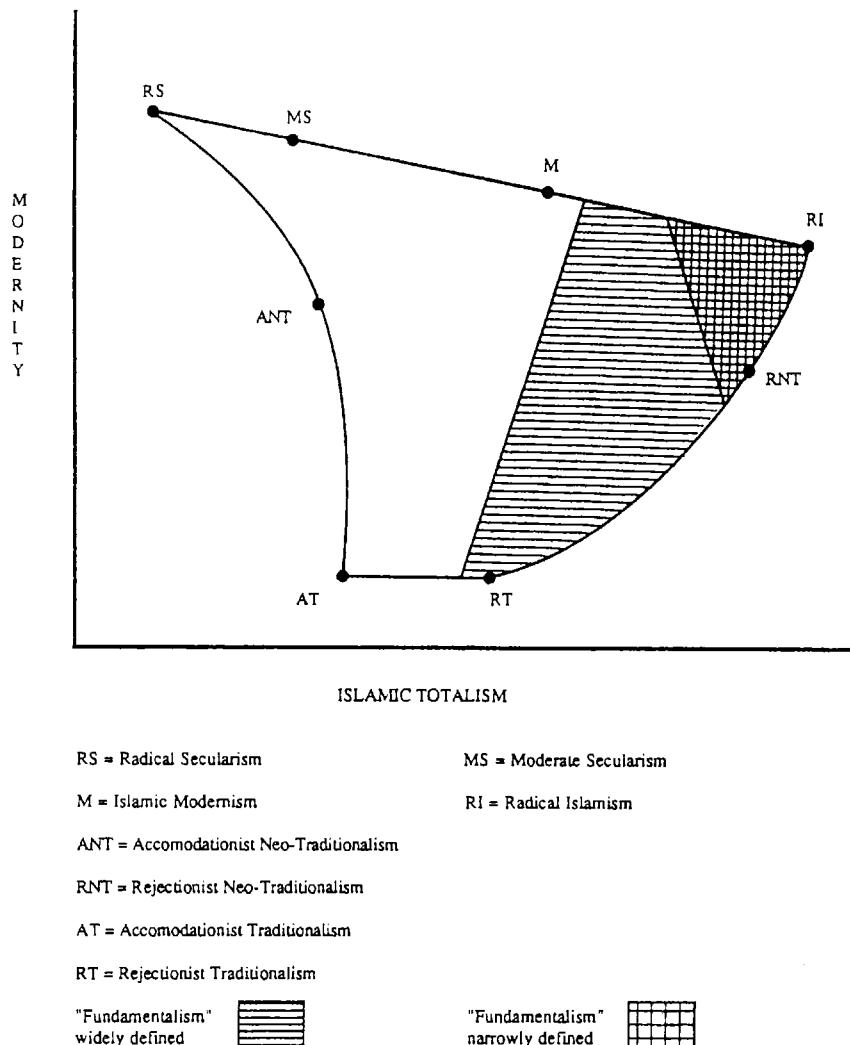


FIGURE I.

however, this term seems to me a seriously misleading one and I would suggest that "Islamic radicalism" be used instead.⁹¹

It may be observed that the types will tend to show more ideological diversity within them the further they are from the extreme of radical Islamism in either direction. Secularism, in principle at least, can include a wide variety of Western-derived ideologies, while traditionalism will reflect the diversity of the traditional Islamic world. Radical Islamism should show the least diversity both because it most strictly insists on making "Islam" its ideology and because it tends to "simplify" that Islam and stress the widely shared basics.

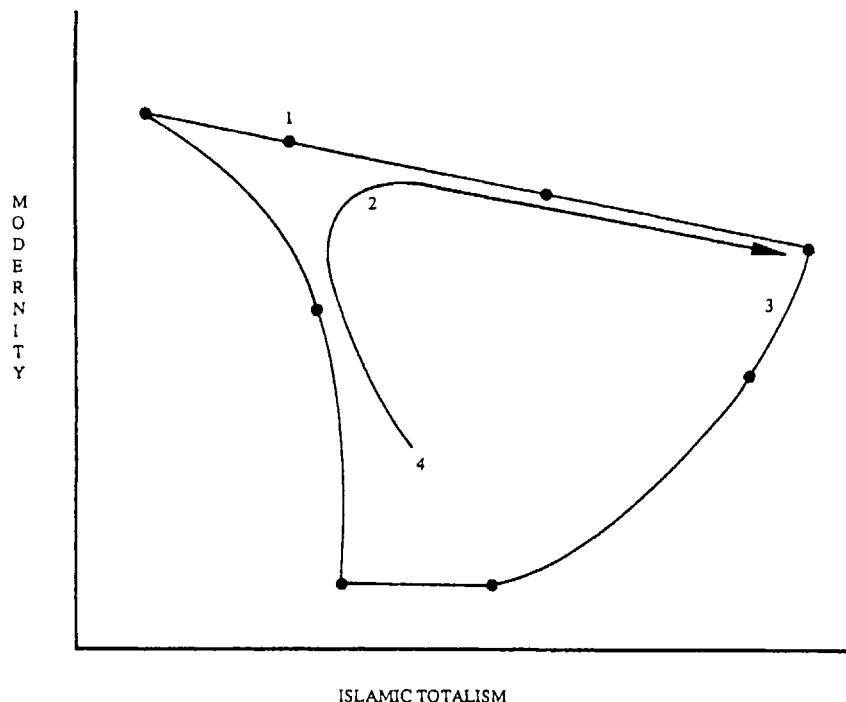


FIGURE 2.

While this diagram may suggest a greater degree of precision than is in fact possible, it should be possible to plot various modern Islamic phenomena on it in a rough way, and it should help us to avoid the danger of "pigeon-holing." In Figure 2, I have very provisionally suggested locations for (1) Gamal Abdel Nasser, (2) Anwar Sadat, and (3) Imam Khomeini. A writer such as Sayyid Qutb may be said to have moved on the scale over the course of his life in a manner suggested by the line (4).

BY WAY OF EVALUATION

What are the strengths and weaknesses of the various types here described, and what might the future hold? The following remarks represent a very tentative effort at assessment, based on the assumption that to be viable in the long term an ideology must have a somewhat realistic assessment of the actual situation and must be able to call forth a high degree of moral commitment.

Undoubtedly the greatest strengths of secularism lie in the "practical" areas. It follows what are, to a considerable degree, tried and proven models. While Western prestige in the third world is undoubtedly not what it once was, it is still undeniable that many nations have been able to develop technologically on the

basis of ideologies such as liberal nationalism and Marxism, whereas no fully non-Western ideology has yet demonstrated its capacity in this regard.

Furthermore, with its ideals of religious freedom and equality before the law, modern secularism provides a widely accepted way of dealing with religious plurality. The presence of non-Muslims has probably been the most important single factor in pushing countries such as Indonesia and Egypt toward secularism. Likewise, secularism would seem the best ideology for Muslims who are minorities in the countries in which they live. A discussion of Muslim minorities is beyond the scope of this article, but their relevance is undeniable. Beyond this is the fact that the Muslim *umma* is a minority in the world population as a whole and even the most anti-secularist Muslim regimes have to contend with this. Presumably when Iranians convince North Koreans to sell them arms or proclaim solidarity with Nicaraguans, they do not advance Islamist arguments.

The closeness of secularists to Western ways of thinking is both a strength and a weakness. On one hand, they are more likely than others to know how to deal with Westerners and to have an appreciation of the sources of Western strength.⁹² On the other hand, they are more likely to have an indiscriminate admiration for all things Western, or at least to appear to, although this is perhaps less true today than it once was.⁹³ The foreign provenance of basic secularist ideas is clearly a disadvantage in today's climate.

The clarity and consistency of secularism's position on the Shari'a may also be either an advantage or a disadvantage. Clarity is often not an advantage in day-to-day politics, where conceptually vague slogans may appeal to a wider range of people. But an uncompromising clarity and consistency may mobilize a greater depth of commitment in a revolutionary situation and may help assure that a program of radical social change is carried through consistently and effectively in the long run.

Still another aspect of secularism that cuts both ways is the fact that its constituency has been largely among the social, political, and economic elite. On one hand, this has meant that its adherents have been better positioned to put their beliefs into practice, but on the other hand, the weakness of secularism among the masses makes its position always somewhat insecure, and contributes to the sort of gap between the Westernized elite and the rest of society that exploded so dramatically in Iran.

A particular problem for secularism is its relatively weak roots in the Muslim past, although these are not totally absent. Some precedent for the separation of religion from other areas of life can be found in the fact that the Shari'a was spelled out in far more detail and far more regularly followed in areas of personal ritual and family matters than in other areas of public law. Particularly if secularism allows the areas of family law to be placed on the sacred side of the sacred-secular divide, it can be argued that secularism merely carries traditional practice a logical step further. In a similar way, equality before the law can find precedent in the high degree of tolerance given to non-Muslims in the periods of greatest Islamic cultural flourishings, such as 'Abbasid Baghdad, Umayyad Spain, and Akbar's Mogul India; and nationalism certainly can find nourishment in ethnic feelings and local loyalties that have existed for centuries. On the other hand, down through the ages the most pious and committed Muslims have

probably felt their ethnic identity less than others, certainly viewed the failure to enforce the Shari'a as a sign of corruption, and tended to be restive when rulers gave too much freedom and recognition to non-Muslims. In general, the elements in traditional Muslim practice upon which secularism can call for support are those that have been least well integrated into the central Islamic symbol system.

In fact, a very major reinterpretation of Islam will be necessary before it can be congenial to secularism. A step in this direction is a reinterpretation of Islamic history that puts the relatively secular Umayyads in a much better light than pious Muslims have usually seen them, that emphasizes the secular elements in the 'Abbasid period of glory, and deemphasizes the cultural (as distinct from more strictly "religious") significance of the early Medinan state and the Rightly Guided Caliphate;⁹⁴ but I doubt if this is sufficient. Beyond this, it would be necessary to develop a secularist interpretation of the basic Islamic symbol system as found in the Qur'an and the Sunna, both of which have a lot to say about public life. Reinterpretations of this magnitude needed are by no means unknown to the history of religion, and secularists sometimes point to the Protestant Reformation as a possible model.⁹⁵ The best known effort is 'Ali Abd al-Raziq's *al-Islam wa-usul al-hukm*, published in Cairo in 1925.⁹⁶ The violent attacks to which the book and its author were subjected effectively stifled further public developments along this line in Egypt, and the climate today in the Muslim world seems even less conducive to such an effort.⁹⁷

In the past, it has been Islamic symbols that have mobilized moral commitment in the Muslim world, and I do not think any secularist ideology has yet given a really convincing demonstration of its ability to do this in other terms. The Palestinians might be an exception to this point, but their situation is distinctive and even among them of late an increase in Islamism is reported. The record of secularism so far in providing a basis for development and social integration in the Muslim world is much poorer than was widely expected a generation ago, and it is not surprising that many are seeking an alternative. Secularism is currently on the defensive, but the vast majority of Muslims still live under secularist governments and these governments will not yield power easily.

By contrast, the strength of radical Islamism lies precisely in its claim to Islamic authenticity and its consequent ability to call forth commitment; radical Islamists are commonly respected by others for their sincerity and willingness for self-sacrifice if for nothing else. Since it combines this with many modern characteristics, it has an appeal to those who have been exposed to "modernity" in a major way, but still value tradition, and to those who may have experienced more of the disruption than the benefits of modernization. These include many young people and recent immigrants from the countryside to the city, groups undoubtedly crucial for the future of developing countries.

The fact that radical Islamism takes a position on the place of the Shari'a clearly and diametrically opposed to secularism and its tendency to be intolerant of other views allows it easily to be labeled "fanaticism" or "extremism," but also helps make it a suitable vehicle for movements of protest or revolution.

Perhaps the greatest long-run challenge for radical Islamism is the very size of the task to which its inner logic impels it. As already suggested, the undertaking

implicit (and sometimes explicit) in it is to "dismantle" Western civilization and rebuild using many of its elements. The resulting society would be at least as different from present "free world" and communist societies as each of them are from the other, perhaps more so. Few radical Islamists, I think, realize the size of this undertaking.⁹⁸ Whether this is possible in today's shrinking world in the face of the continued vitality of both the liberal and Marxist forms of Western civilization is not clear. On the other hand, the very size of the task may force radical Islamists to be more creative than either they or others expect. Their combination of a central concern for authenticity with a very real openness to change may well be the best recipe for a genuinely Islamic creativity. In fact, radical Islamists might conceivably generate changes in the Islamic symbol system of the magnitude, if not of the kind, that secularism needs. The doctrine of *vilayat-i saqih* in Iran today suggests such a possibility.⁹⁹ If they should accomplish this, the implications could be no less earth-shaking than was the Protestant Reformation, which in many ways sought to "go back" but in fact released energies that impelled society forward. To realize this possibility, however, radical Islamism will have to show that it can elicit moral commitment not only for oppositional efforts but for constructive ones as well.¹⁰⁰

In short, radical Islamism has the strengths and weaknesses of any revolutionary ideology. Its power is great and the obstacles to it formidable; its potential for long run significance is probably greater than most observers are prepared to recognize.

Modernism may be said to attempt to combine Islamic authenticity with adherence to the "tried and proven" models for development drawn from the West. To the extent that it can do this, it can draw on traditional sources of moral commitment more effectively than secularism, while avoiding the disruption and "risk" involved in radical Islamism. On the other hand, it often involves a desire to "have one's cake and eat it too" and is apt to be used as a "cover" for essentially secularist programs. "Modernist" legislative reform has tended to be a matter of finding Islamic precedents for laws desired on essentially secularist grounds, rather than a serious reformulation of the tradition by absolute *ijtihad*.¹⁰¹ To this extent, its claim to authenticity loses credibility.

The apologetic effort to interpret Islam in "Western" terms is not without significant basis, for Western and Islamic civilizations are historically affiliated and have much in common, and the West did in fact borrow much from the Muslims. This all too often, however, developed in a shallow and intellectually inadequate way. Modernist apologetic is particularly inadequate at the point where secularism has one of its greatest strengths, and radical Islamism is at least forthright, in the response to religious plurality. Despite its insistent proclamation of Islamic tolerance and its ability to adduce some impressive examples from past Muslim history, it rarely if ever comes to real grips with the fact that traditional dhimmi status is simply not the same as modern "equality before the law."¹⁰² Hence, it is less than convincing to skeptical non-Muslim minorities. Unfortunately, the pressures of the modern situation make this sort of thing almost unavoidable. This issue is so sensitive that it is hard to allow the kind of frank public discussion that is necessary to arrive at less superficial positions.

It seems to me that Islamic modernism may play a useful role in easing some of the psychological and social strains of modernization by giving it a less alien face, but that it is unlikely to provide a really sound basis for social development in the long term unless it can develop the sort of radical reinterpretation proposed by Fazlur Rahman as "neo-modernism." There is undoubtedly an awareness of the need for this in some quarters, but whether the climate is much more ripe for it than for a "secularist" reinterpretation may be doubted. Short of this, modernism is likely to remain an essentially unstable stopgap or halfway house.

The distinctive strength of the traditionalist and neo-traditionalist positions is their rootage in the past tradition. Particularly insofar as they are members of the ulama, they are likely to have an awareness of and access to the riches of the past tradition that the more "modern" types often lack. Undoubtedly, pure traditionalism does not feel the Western challenge deeply enough to come up with an adequate response, but neo-traditionalism in some cases may feel the challenge sufficiently to respond while at the same time not being so "hung up" on the Western temptation-cum-threat as the more "modern" types. It may therefore be capable of a more balanced and critical assessment of the West in the long run. Adaptationist neo-traditionalism may provide the best framework for an evolutionary adaptation of the Islamic tradition to "modernity," while rejectionist neo-traditionalism may provide a revolutionary radical Islamism with the rootage it needs for long term survival, as may be happening in Iran.

What of the future? At present there is considerable "rightward" and perhaps some "downward" pressure everywhere, but also considerable resistance by the secularized elites. Further Islamic radical (i.e., radical Islamist or rejectionist neo-traditionalist) takeovers could happen in the near future but seem a bit less likely today than a few years ago. In the short term, I would expect secularist ideologies to maintain themselves, though with some "erosion" to the right. In the medium term, much will depend on the ability of the Iranian revolution to institutionalize itself and appeal to Muslims outside Iran. Assuming that it does so and "moderates" to some degree, one might foresee a situation in which the two main options are a very moderate and slightly traditionalist secularism and an Islamic radicalism intermediate between radical Islamism and rejectionist neo-traditionalism. Equally likely, though, unforeseen developments may confuse the categories of academic observers and confound their prophecies.

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NOTES

Author's note: This article is based on ideas that I have been developing over a period of about seven years. In an earlier version it was presented to a conference in New Zealand in 1981 and later published and circulated locally as "Working Paper No. 2" by the Australasian Middle East Studies Association under the title "Towards a Typology of Modern Islamic Movements?" (Christchurch: University of Canterbury, 1982). Later versions were presented informally in Jakarta and Yogyakarta in 1984, in Cairo in January 1985, and as a paper at the XVth Congress of the International

Association for the History of Religions in Sydney, Australia, in August 1985. Let me express my appreciation to those who have heard and responded to these ideas and particularly to the unnamed evaluators whose comments, both acerbic and constructive, have provided stimulus and guidance for the final revision. Appreciation is also due to Dr. David Brewster, my predecessor at the University of Canterbury, one of whose class handouts bequeathed to me started my thinking on the subject. Unless otherwise indicated, quotations from constitutions are from A. P. Blaustein and G. H. Flanz, eds., *Constitutions of the Countries of the World* (Dobbs Ferry, N.Y.: Oceana Publications, 1984).

¹Yvonne Haddad rightly complains of "the tendency of Western readers to dismiss 'fanaticism' and 'fundamentalism' as passing fads that need to be ignored because of their transient nature" (*The Link*, 15, 4 [September/October, 1982], 4). Also, the term carries with it many associations from its original use in a Protestant Christian context that are inappropriate for an Islamic context. My current preference for an alternative is given below, p. 321 and fn. 91.

²Space prohibits a thorough examination of the literature relevant to this subject, but let me indicate how I see this typology in relation to a few recent treatments. Leonard Binder in *The Ideological Revolution in the Middle East* (New York: John Wiley, 1964), pp. 31–40, appears to use "secularist" and "modernist" much as I use "secularist" and "Islamic modernist." His "traditionalist" (or "traditional Islam") appears to correspond to my adaptationist (neo-)traditionalism, his "early fundamentalism" to my rejectionist traditionalism, and his "[later] fundamentalism" to my radical Islamism and probably the "right-wing" of my Islamic modernism. He claims to find a basically similar analysis in the works of H. A. R. Gibb, W. C. Smith, and Albert Hourani. John Esposito's "four positions or attitudes toward modernization and Islamic socio-political change," "secularist," "conservative," "neo-traditionalist," and "Islamic reformist" (along with "modernist"), correspond to my "secularist," "(neo-)traditionalist," "radical Islamist," and "Islamic modernist" respectively (*Islam and Politics* [Syracuse: Syracuse University Press, 1984], pp. 216–18). H. Mintjes uses the terms "secularist," "modernist," and "traditionalist" pretty much as I do and his "fundamentalist" corresponds to my "radical Islamist" ("Mawlana Mawdudi's Last Years and the Resurgence of Fundamentalist Islam," *Al-Mushir*, 22, 2 [1980], 46–73). R. Stephen Humphreys' use of the terms "secularist," "modernist," and "traditionalist" seems to correspond to mine ("Islam and Political Values in Saudi Arabia, Egypt, and Syria," *Middle East Journal*, 33, 1 [Winter 1979], 1–19). His "fundamentalist" seems to correspond to my "rejectionist neo-traditionalist" but whether it includes my "radical Islamist" is less than clear. He describes Sayyid Qutb as "militantly Fundamentalist in tone, Modernist in content" (p. 6) but he may have in mind his somewhat earlier, more "moderate" works (see fn. 47 below). In describing fundamentalism as a "tendency" and a "set of attitudes" (p. 4) rather than a group or a movement, he appears to be making the same point that I make by speaking of ideological "orientations." Yvonne Haddad, in *Contemporary Islam and the Challenge of History* (Albany: SUNY Press, 1982), esp. pp. 7–23, and "The Islamic Alternative" (*The Link*, 15, 4 [September/October, 1982], 1–14) presents a threefold typology: "acculturationist," "normativist," and "neo-normativist." The first seems to correspond to my "secularist," the second to my "rejectionist traditionalist," and the third to my "radical Islamist" and "rejectionist neo-traditionalist." My "modernist" category would probably be divided between her "acculturationist" and "neo-normativist" categories, but I do not know where she would put my "adaptationist (neo-)traditionalist." My typology in its formal aspect is, I think, particularly close to that of Fazlur Rahman as found in several writings: "Revival and Reform in Islam" (*The Cambridge History of Islam*, Vol. 2 [Cambridge: Cambridge University Press, 1970], part VIII, ch. 7); "Islamic Modernism: Its Scope, Method and Alternatives" (*IJMES*, 1, 4 [October, 1970], 317–33); "Islam: Challenges and Opportunities," in A. T. Welch & P. Cachia, eds., *Islam: Past Influence and Present Challenge* (Edinburgh: Edinburgh University Press, 1979), pp. 315–30; *Islam*, 2nd edition (Chicago & New York: University of Chicago Press, 1979), chs. 12–14; and "Roots of Islamic Neo-Fundamentalism," in Philip H. Stoddard et al., eds., *Change and the Muslim World* (Syracuse: Syracuse University Press, 1981), pp. 23–35. My "Islamic modernism" corresponds on the whole to the various forms of "modernism" that he discusses, and my "radical Islamism" corresponds to his "neo-revivalism" or "neo-fundamentalism" (sometimes "fundamentalism" in the earlier writings). While I disagree with his analyses and critiques at some points, I have unfailingly found his views immensely stimulating. Another writer whose categories bear a significant and interesting relation to mine is John Voll (see "The Sudanese Mahdi: Frontier Fundamentalist," *IJMES*, 10, 2 [May, 1979], 167–86; *Islam: Continuity and Change in the Modern World* [Boulder, Colo.: Westview Press, 1982]; and "Wahhabism and Mahdism: Alternative

Styles of Islamic Renewal," *Arab Studies Quarterly*, 4, 1 & 2 [1982], 110-26). In *Islam: Continuity and Change* he presents four "styles of action": "adaptationist," "conservative," "fundamentalist," and a style which emphasizes "the more personal and individual aspects of Islam" (pp. 29-31). The first three correlate with my types as follows: his "adaptationist" = my "secularist" and "adaptationist neo-traditionalism," his "conservative" = my "adaptationist traditionalist," and his "fundamentalist" = my "radical Islamist" and "rejectionist (neo-)traditionalist." It is from him that I have adapted the term "adaptationist." His fourth type seems to me relevant to a different scale, text-oriented/leader-oriented (see fn. 9, below). Thus, like Yvonne Haddad, he in effect divides the spectrum into three rather than four types. An important difference between his treatment and mine is that he is describing "styles of action" while I am describing "ideological orientations." One might say that a given "style of action" issues from or is congenial to a given "ideological orientation," but they are not identical. This may be why he classes as "fundamentalists" figures such as Qaddafi and Ali Shariati whom I will put elsewhere (cf. fn. 46 below). Another difference between our treatments is that his categories are intended to apply to the whole of Islamic history, while mine are designed specifically for the modern period. My "secularism" and "radical Islamism" could be considered as distinctively modern manifestations of his "adaptationism" and "fundamentalism" respectively.

³Humphreys makes the same point in "Islam and Political Values," p. 2.

⁴My use of the term "modernity" here fits very well with the definition of modernization as an increase in conscious human control over the environment, especially if that includes the social as well as the physical environment. On this definition certain recent tendencies in the West, connected, e.g., with environmentalism, that question the ideal of complete human control of the environment and prefer to speak of harmony with it, might be called "post-modern."

⁵*Islam in Modern History* (New York: New American Library, Mentor, 1957), p. 47. See chapters one and two for what in my view is still an excellent analysis of the spiritual crisis of modern Islam.

⁶It is not intended here to imply that only external factors have shaped modern Muslim developments. Obviously internal factors, such as pre-modern revivalist movements, have also been important, but in terms of this typology their importance has been in influencing which types of responses particular Muslims would give, rather than the typology as such.

⁷It seems to me we might define ideology as a systematically developed worldview oriented toward stimulating and guiding social change (cf. the definition proffered by Ronald Bruce St. John, "a system of ideas, beliefs and myths justifying or attacking a given social order," *IJMES* 15, 4 [November 1983], 471). What is new, in relation to traditional Islam, is the greater social and worldly orientation, the conscious and systematic elaboration of a social doctrine, and the expectation of significant social change wrought by human effort.

⁸"Resurgent Islam in the Persian Gulf," *Foreign Affairs*, 63, 1 (Fall 1984), 108-27. Bill does not make clear the doctrinal content of "fundamentalism" as he uses the term, but it seems to correspond to my radical Islamism and rejectionist (neo-)traditionalism. Insofar as he identifies fundamentalism with "populist" Islam, he fails to take account of the fact that "fundamentalism" is now the establishment in Iran and to a considerable degree in Pakistan. It also obscures the fact that certain forms of modernism, such as that of Ali Shariati and the Mujahidin-i Khalq (see pp. 313-14) can be "populist" in his sense (see also note 9).

⁹This is the case also with Voll's distinction between "text-oriented" and "leader-oriented" ("Wahhabism and Mahdism"). Ataturk's movement was a "leader-oriented" secularism and the Iranian revolution was certainly "leader-oriented," while Ali 'Abd al-Raziq's book presents a "text-oriented" secularism and both Mawdudi and Sayyid Qutb a "text-oriented" radical Islamism. Similarly, "the Technical Military Academy group" and the "Takfir wa-Hijra group" as described by Saad Eddin Ibrahim ("Anatomy of Egypt's Militant Islamic Groups: Methodological Note and Preliminary Findings," *IJMES* 12, 4 [December, 1980], 423-53) would appear to be fairly close in ideological orientation, but the former seems more "text-oriented" and the latter more "leader-oriented."

¹⁰Space forbids more than occasional reference to the ways in which Shi'i-Sunni differences may affect these types. Suffice it to say that I believe all the types may be found, with the characteristics ascribed to them here, among both Sunnis and Shi'is, although Shi'is probably tend more toward the extremes of the Islamic totalism scale.

¹¹Fazlur Rahman says, "Secularism in Islam . . . is the acceptance of laws and other social and political institutions *without reference to Islam*, i.e., without their being derived, or organically linked

to the principles of the Qur'an and the Sunna . . . Islamic modernism . . . means precisely the induction of change into the content of the *Shari'a*" ("Islamic Modernism," p. 311).

¹²The only references to religion in the constitution are in Articles 37 and 55. The former reads: "The state recognizes no religion whatever and supports atheist propaganda for the purpose of inculcating the scientific materialist world outlook in people," and the latter reads "Fascist, anti-democratic, religious, war-mongering, and anti-socialist activities and propaganda . . . are prohibited." Mosques and churches were officially closed in 1967.

¹³The 1980 Afghanistan constitution speaks of "the resolute following of the principles of the sacred religion of Islam" (Basic Principles) and includes the "rules of Shari'ah law" as residual law (Art. 56). The South Yemeni constitution recognizes Islam as religion of state, although not until Article 46.

¹⁴My translation of *ketuhanan yang maha esa*, though *ketuhanan* is more literally "lordship" than "divinity." It is worth noting that the Indonesian phrase not only uses a very abstract term for God but also avoids words of Arabic derivation, which have a more Islamic flavor. The Jakarta Charter of 1945 included a provision that Muslims should be obliged to follow Islamic law, but this was not included in the constitution. For further details see B. J. Boland, *The Struggle of Islam in Modern Indonesia* (The Hague: Nijhoff, 1971), pp. 24-39.

¹⁵The preamble to the Turkish constitution notes "the determination of the Turkish Republic, an equal and honorable member of the family of nations, to insure its everlasting existence, welfare, and material and spiritual well-being and its determination in attaining the standards of contemporary civilization."

¹⁶For example, the following from Nasser: "We boast that we stick to religion, each one of us according to his religion. The Muslim upholds his religion and the Christian upholds his, because religion represents the right and the sound way. . . . It is the great secret behind the success of this Revolution: the adherence to religion" (D. E. Smith, ed., *Religion and Political Modernization* [New Haven & London: Yale University Press, 1974], p. 275).

¹⁷For example, the well known statement of Taha Hussein, "In order to become equal partners in civilization with the Europeans, we must literally and forthrightly do everything that they do; we must share with them the present civilization, with all its pleasant and unpleasant sides" (*The Future of Culture in Egypt*, S. Glazer, trans. [Washington, D.C.: American Council of Learned Societies, 1954], p. 21).

¹⁸Turkey's efforts to have the *adhan* recited in Turkish are an extreme example of government interference in religion for nationalist goals, but not the only one there. On the efforts of the Egyptian government to use religion for its own purposes, see especially Daniel Crecelius, "The Course of Secularization in Modern Egypt," chapter 3 in J. Esposito, ed., *Islam and Development* (Syracuse: Syracuse University Press, 1980), esp. pp. 69-70.

¹⁹Noted, for example, by Smith in *Islam in Modern History*, p. 85. The very firmness and security of this identity must have been one of the factors that made it possible for Atatürk to undertake his radically secularist reforms.

²⁰Muhammad Reza Shah Pahlavi, *Mission for My Country* (London: Hutchinson, 1961), pp. 20, 23-24.

²¹See S. G. Haim, ed., *Arab Nationalism: An Anthology* (Berkeley, Calif.: University of California Press, 1976), pp. 57-64, 167-71, 214. The close relation between Arabism and Islam is stressed by 'Abd al-Rahman al-Bazzaz in "Islam and Arab Nationalism" (*ibid.*, pp. 172-88), although he seems to me here more Islamic modernist than secularist since he justifies Arab Nationalism at the bar of Islam, rather than vice-versa.

²²For example, Taha Hussein's well known distinction between a "reasoning" personality "that investigates, criticizes, analyses," and a "sentient" one "that feels pleasure and pain, rejoices, sorrows, . . . without criticism, investigation or analysis" (*al-Siyasa al-usbu'iyya* [Cairo], July 17, 1926, 5, cf. translation in Charles Adams, *Islam and Modernism in Egypt* [London: Oxford University Press, 1933], p. 258). See also my discussion of this and similar views held by Taha Hussein's colleague, Ahmad Amin, in my *The Faith of a Modern Muslim Intellectual* (New Delhi: Indian Institute of Islamic Studies in Association with Vikas, 1982), pp. 8-9, 68-83.

²³This comment is based on material contained in two recent articles: Ronald Bruce St. John, "The Ideology of Mu'ammar al-Qadhdhafi: Theory and Practice," *IJMES*, 15, 4 (November, 1983), 471-90, and Ann Elizabeth Mayer, "Islamic Resurgence or New Prophecy: The Role of Islam in

Qudhdhafi's Ideology," in Ali E. Dessouki, ed., *Islamic Resurgence in the Arab World* (New York: Praeger, 1982), pp. 196-220, and on perusal of the English translation of his *Green Book* (Tripoli: Public Establishment of Publishing, Advertising and Distribution, n.d.).

²⁴ A label such as "moderate Islamism" might be more consistent with the next label, "radical Islamism," but it seems to me that "moderate" may be a bit misleading for a type that includes groups such as the Mujahidin-i Khalq of Iran. "Islamist modernism" would be better and would fit my definition of Islamism as Islam qua ideology, but I stick with "Islamic modernism" as the better known term and one that is generally adequate.

²⁵ English translation by Caesar E. Farah (New York: New American Library, 1964), p. 82; cf. *al-Risala al-khalida* (Cairo: al-Majlis al-A'la li-al-shu'un al-Islamiyya, 1964), p. 53. In my view the title would be better translated "Eternal Mission" and may be compared with the "eternal mission" of the Arab nation in Ba'athist thinking. A slight variation on this position is that of Muhammad 'Amara, who speaks of a "distinction" (*tamayuz*) but not a "separation" (*infisal*) between "Islamic religion" (*al-din al-islami*) and "the thought of Muslims" (*fikr al-muslimin*) in worldly matters (*al-Islam wa-al-mustaqqbal* [Cairo & Beirut: Dar al-Shuruq, 1405/1984], p. 43). In the latter area there is considerable freedom for ijtihad even where there are authoritative texts (pp. 31ff.).

²⁶ For convenience, I shall use "modernist" instead of "Islamic modernist" where the context makes the meaning clear. "Modernist" sometimes is used to include secularists as well as Islamic modernists. For example, C. C. Adams includes both 'Ali 'Abd al-Raziq and Taha Husayn in the chapter on "The Younger Egyptian Modernists" in *Islam and Modernism in Egypt* (New York: Russell & Russell, 1968, originally published in 1933), pp. 253-68.

²⁷ *Risala* (Arabic), p. 212, my translation; cf. English translation, p. 105.

²⁸ *Risala*, English translation, pp. 54ff., 90-92, 101-2. In the chapter on "The Islamic State" it is hard to say whether the Shari'a means much more than the fact that there are moral laws that even a sovereign nation may not rightfully violate (pp. 111-14), something Smith claims for the Turks (*Islam in Modern History*, pp. 185-87).

²⁹ E.g., Mahathir Muhammad, Prime Minister of Malaysia, as quoted in the *New York Times*, May 16, 1985, 2.

³⁰ See especially J. N. D. Anderson, *Law Reform in the Muslim World* (London: Athlone Press, 1976), ch. 2.

³¹ Muhammad 'Abduh, for example, said that a Muslim was obliged to accept only *mutawatir* hadith, and was free to reject others about which he had doubts (*Risalat al-Tawhid*, 17th Printing [Cairo: Maktabat al-Qahira, 1379/1960], pp. 201-3; English translation by K. Cragg and I. Masa'dad, *The Theology of Unity* [London: Allen and Unwin, 1966], pp. 155-56). Ahmad Amin, in his popular series on Islamic cultural history, cautiously suggested that there were few if any *mutawatir* hadith (especially, *Fajr al-Islam*, 10th edition [Cairo: Maktabat al-Nahda al-Misriyya, 1965], p. 218); see also G. H. A. Juynboll, *The Authenticity of the Tradition Literature: Discussions in Modern Egypt* (Leiden: Brill, 1969), and my *Faith of a Modern Muslim Intellectual*, p. 113.

³² Sheila McDonough, *The Authority of the Past: A Study of Three Muslim Modernists* (Chambersburg, Pa.: American Academy of Religion, 1970), p. 37.

³³ According to him, the Medinan part of the Qur'an, which contains the legal details, is the "First Message of Islam," which was necessary at the time of the Prophet but is now superseded by the "Second Message" of Islam, which is found in the general principles contained in the Meccan part. On Taha and his movement see Paul Magnarella, "The Republican Brothers: A Reformist Movement in the Sudan," *Muslim World*, 72, 1 (January 1982), 14-24, and Richard P. Stevens, "Sudan's Republican Brothers and Islamic Reform," *Journal of Arab Affairs*, 1, 1 (1981), 135-46.

³⁴ In Arabic, *ta'wil*. Whether interpretation or reinterpretation is a debatable issue which I do not wish to prejudge here.

³⁵ See Qur'an 4:3 on polygyny, 5:38 on cutting off the hand of the thief, 24:2-5 on whipping for fornication (the provision for stoning for adultery is in the Hadith). On jihad and the treatment of unbelievers, the difficult passages for modernists are the so-called "verses of the sword," such as 9:5 on the Arab pagans and 9:29 on the people of the Book. In these and other Qur'anic references I follow Pickthall's numbering (*The Meaning of the Glorious Koran* [New York: New American Library, Mentor, n.d.]).

³⁶Qur'an 24:4.

³⁷Qur'an 4:129.

³⁸For an example of this argument, see Rahman, *Islam*, 2nd ed., p. 38.

³⁹On the modernist treatment of jihad, see R. Peters, *Islam and Colonialism: The Doctrine of Jihad in Modern History* (The Hague: Mouton, 1979), ch. 4.

⁴⁰"Islamic Modernism" in *IJMES*, 1, 329–31, and "Islam: Challenges and Opportunities," in Welch & Cachia, pp. 323–27.

⁴¹Said, Abdel Moghny, *Arab Socialism* (London: Blanford Press, 1972), p. 50. Ahmad Shalaby sees the annual meeting of the U.N. as copying the Islamic Hajj (*Islam, Belief, Legislation, Morals* [Cairo: Renaissance Bookshop, 1970], p. 225). See note 43, below.

⁴²*Anbiya 'Allah* (Cairo & Beirut: Dar al-Shuruq, 1977), p. 436. Cf. Muhammad Iqbal's discussion of *ijma'* as a legislative assembly (*The Reconstruction of Religious Thought in Islam* [Lahore: Ashraf, 1960], pp. 173–74, and Abbas Mahmoud al-Akkad [Aqqad], *The Arab's Impact on European Civilization*, Cashmire & Al-Hadi, trans., 2nd ed. (Cairo, Supreme Council for Islamic Affairs, n.d.), pp. 140–46. Along the same line, though more subtle, is Iqbal's interpretation of the finality of prophethood as involving the enthronement of reason (*Reconstruction*, pp. 126–27) and the idea that *tawhid* involves resistance to tyranny and rejection of superstition (see, e.g., Iqbal, *The Mysteries of Selflessness*, A. J. Arberry, trans. [London: John Murray, 1953], pp. 21–23, and Shepard, *Faith of a Modern Muslim*, pp. 99–111).

⁴³*Marxism and Islam*, M. M. Enan, trans. (Cairo, n.d.), p. 21; cf. Shalaby: "But modern civilization . . . could not fully copy Islam's attitudes. The United Nations Organization has been content to derive from the Pilgrimage its material part, that is, the annual meeting. It has forgotten that Islamic legislation furnished the Pilgrimage spirituality" (*Islam*, p. 225).

⁴⁴"Mysticism, Equality, and Freedom" in *Marxism and Other Western Fallacies*, R. Campbell, trans. (Berkeley, Calif.: Mizan Press, 1980), pp. 97–111, esp. pp. 118–19. It is not that Shariati identifies Islam with either Marxism or existentialism, but he presents Islam as a solution to a Western dilemma presented in essentially Western terms.

⁴⁵See, e.g., Smith's criticism of Farid Wajdi in *Islam in Modern History*, pp. 139–59, and Gibb's complaint about "the intellectual confusions and the paralyzing romanticism which cloud the minds of the modernists of today" (*Modern Trends in Islam* [Chicago: University of Chicago Press, 1947], pp. 105, 106).

⁴⁶That Shariati is to be seen as modernist and not "fundamentalist" may be illustrated by his virtual identification of God and "the people" (*al-nas*) on social matters; "wherever in the Qur'an social matters are mentioned, Allah and *al-nas* are virtually synonymous . . . 'Rule belongs to God' [means] rule belongs to the people" (*Sociology of Islam*, Hamid Algar, trans. [Berkeley: Mizan Press, 1979], p. 116). One could hardly imagine people like Sayyid Qutb, Mawdudi, or Khomeini (contrast *Islam and Revolution*, Hamid Algar, trans. [Berkeley: Mizan Press, 1981], p. 55) saying anything like that.

⁴⁷A comparison of earlier and later editions of *al-'Adala al-ijtimaiyya*—the third edition (Cairo: Matba'at al-Kitab al-Arabi, 1952) and a much later edition (Dar al-Shuruq: Cairo and Beirut, in 1394/1974) have been available to me and illustrate how Sayyid Qutb shifted to the right along the spectrum in his later years. In these he shows the influence of Mawdudi at several points. The Muslim Brothers are generally thought of as "fundamentalist," or radical Islamist in my terms, but in fact they undoubtedly contain a spectrum of views, some of which may be closer to modernist than radical Islamist (see fn. 53, below).

⁴⁸*The Islamic Law and Constitution*, Kurshid Ahmad, trans. and ed., 5th ed. (Lahore: Islamic Publications Ltd., 1975), p. 72.

⁴⁹"Flexibility is not fluidity (lit. "melting")," *Ma'alim fi al-tariq*, 1975, p. 121, cf. English translation: *Milestones* (Beirut & Damascus: The Holy Koran Publishing House for the I.I.F.S.O., 1978), p. 197.

⁵⁰*Ma'alim*, pp. 94–95; cf. *Milestones*, pp. 157–58.

⁵¹Mawdudi states that the Shar'i'a was in effect in India until the British took over (*The Islamic Law*, p. 118). The later edition of Sayyid Qutb's *'Adala* puts much less emphasis on the failings of post-Rashidun community than the earlier edition (cf. fn. 47, above). In the earlier edition, for

example, the coming to power of the Umayyads is described as a virtual disaster for Islam (1953 ed., p. 198, Hardie translation, pp. 197–98), while in the later edition it is said only to lead to a decline (1974 ed., pp. 216–17).

⁵² *The Islamic Law*, p. 118.

⁵³ *Islam and Revolution*, pp. 337–38.

⁵⁴ E.g., Sayyid Qutb, *Adala*, 1974 ed., p. 94; cf. *Social Justice*, Hardie, trans., p. 88.

⁵⁵ See, e.g., R. P. Mitchell, *The Society of the Muslim Brothers* (London: Oxford University Press, 1969), pp. 240–41.

⁵⁶ Mawdudi, *The Islamic Law*, p. 118; S. Qutb, *Milestones*, pp. 259–61.

⁵⁷ *The Islamic Law*, pp. 265–68.

⁵⁸ In *Islam and Revolution*, pp. 27–165.

⁵⁹ See, for example, the article “Al-Ikhwan al-Muslimin” in *Echo of Islam* (Ministry of Islamic Guidance, Tehran), June–July, 1982, 23, 70, and Ibrahim, “Anatomy,” pp. 434–36.

⁶⁰ *Jihad in Islam*, p. 5.

⁶¹ *Ma‘alim*, p. 9; *Milestones*, pp. 16–17.

⁶² *Ma‘alim*, p. 59; *Milestones*, p. 103.

⁶³ On Mawdudi and the Muslim Brothers, see, e.g., Mintjes, “Maulana Maududi’s Last Days,” p. 73, fn. 85. Sayyid Qutb became less “socialist” as he became more radical Islamist (compare, e.g., *Adala*, 3rd ed., pp. 108, 144; and *Social Justice*, Hardie, trans., pp. 106–7 with *Adala*, 1974, pp. 115–16, 160–61). Comments on Iran are based on Western press reports and indications in the *Tehran Times*.

⁶⁴ *Islam and Revolution*, p. 30.

⁶⁵ *The Role of Muslim Students in the Re-Construction of the Islamic World*, N. A. Khan, trans. (I.I.F.S.O., 1401/1981), p. 16. For Sayyid Qutb see my “Role of Islamic Fundamentalism” in John M. Ker and Kevin J. Sharpe, eds., *Religion’s Response to Change* (Auckland, New Zealand: Auckland University Chaplaincy Publishing Trust, 1985), pp. 40–41. also *Khasa‘is al-tasawwur al-Islami wa-muqawmatuh* (Cairo & Beirut: Dar al-Shuruq, 1403/1983), p. 72.

⁶⁶ On the absence of the idea of progress from traditional thinking, see fn. 80, below.

⁶⁷ I prefer the expression “Islamic symbol system” or “basic Islamic symbol system” to “Islam” here. What I mean by the “basic Islamic symbol system” is those central beliefs and practices, such as the unity of God (*tawhid*), the final prophethood of Muhammad, and the five “pillars,” found in the Qur‘an and the Sunna and viewed as an organized system. This is not simply the same as the Qur‘an and the Sunna; for example, the doctrine that Muhammad is the last prophet is a central and essential part of the “symbol system” but is mentioned only once in the Qur‘an. For the idea of religion as a “symbol system” see especially Clifford Geertz, “Religion as a Cultural System” in William A. Lessa and Evon Z. Vogt, eds., *Reader in Comparative Religion: An Anthropological Approach*, 2nd ed. (New York: Harper & Row, 1965), pp. 205–16; also Robert N. Bellah, “Religious Evolution,” in ibid., pp. 73–87. Modernists insist that Islam is an essentially simple religion and one way they “simplify” the symbol system is by reducing the obligatory content of the Hadith and rejecting much of traditional fiqh. Radical Islamists such as Mawdudi and Sayyid Qutb do these things too to some extent, but they also simplify the symbol system with their stress on *tawhid* in the sense of obedience exclusively given to God as the central linchpin of their system.

⁶⁸ Smith has remarked on this in relation to Mawdudi (*Islam in Modern History*, p. 236), as has Charles Adams (“The Ideology of Mawlana Mawdudi” in D. E. Smith, ed., *South Asian Politics and Religion* [Princeton University Press, 1966], pp. 394–95). Sayyid Qutb also sees Islam as a system, or perhaps as a program or a method (*manhaj*) which gives rise to a system (see fn. 62, above). The idea of Islam as a system is closely related to the idea of Islam as an ideology (Adams, ibid.).

⁶⁹ Marshall Hodgson, *The Venture of Islam. Conscience and History in a World Civilization*, Vol. 3, *The Gunpowder Empires and Modern Times* (Chicago: University of Chicago Press, 1974), p. 389.

⁷⁰ *The Meaning and End of Religion* (New York: Macmillan, 1962 and New American Library, Mentor, 1964), ch. 4.

⁷¹ Mawdudi, Qutb, and Hasan al-Banna, the founder of the Muslim Brothers, were all “laymen” and this point is commonly made concerning Sunni “fundamentalists” (e.g., Mintjes, “Mawlana Mawdudi’s Last Years,” p. 54; Ibrahim, “Anatomy,” p. 434). Nevertheless, there certainly are

"fundamentalist" ulama in Egypt today, and I presume elsewhere too. Khomeini is, of course, one of the ulama, as were also the earlier figures, Abu al-Qasim Kashani and Mujtaba Nawwab Safawi (see Voll, *Islam. Continuity and Change*, p. 204).

⁷¹ Though in some cases radical Islamism uses modernist interpretations in its own ways. Examples would be the idea of tawhid as meaning rejection of the worship of any but God, which modernists present as the charter of political freedom (see note 42, above) and radical Islamists use to stress the necessity of relating every area of life to Islam, and also the idea of jihad as necessary so that Islam may be freely preached, which modernists use to restrict the need for jihad where a non-Muslim government allows Muslims religious freedom but radical Islamists use to insist that government must be in the hands of Muslims (for examples see Peters, *Islam and Colonialism*, pp. 125-31).

⁷² I suspect that Khomeini could accept "republic" but not "democracy" because the former in Persian (*jumhuri*) comes from an Arabic root, though so far as I know its use in the sense of "republic" is new.

⁷³ See Fazlur Rahman's suggestion ("Islam: Challenges," p. 326).

⁷⁴ E.g., Mahmud Shaltut, *al-Islam, 'aqida wa-shari'a* (Cairo & Beirut: Dar al-Shuruq, n.d.), pp. 270-75.

⁷⁵ See, for example, the attitude of Ahmad Amin's father toward the British occupation of Egypt (Shepard, *Faith of a Modern Muslim*, p. 15).

⁷⁶ The following reaction of the scholar Ahmad ibn Sa'd to the fall of the Sokoto caliphate to the British in 1903 seems to me a good example of traditionalism: "We have a precedent in what the unbelievers did with . . . Baghdad. They burnt it, destroyed it, desecrated the graves of the saints, tore the community apart, and killed the Caliph such that the world was without a Caliph for a while. We have a precedent and a consolation in the Qarmatian unbeliever whom God granted the power over Mecca on the Day of Sacrifice. . . . Even the Black Stone he took and went away with it. As God restored normalcy for the Muslim by the return of the Stone and the Caliphate to them, so also do we hope God will resolve this matter for us and grant us amelioration by His power and His grace." (Quoted in *Inquiry*, 1, 7, December 1984, 54.) Secularists, modernists and radical Islamists all realize that "normalcy" is gone forever. Cf. Fazlur Rahman, "For the traditionalist there is no new age in the real sense of the word" ("Roots," p. 32).

⁷⁷ For an example, see G. von Grunebaum, *Modern Islam: The Search for Cultural Identity* (Berkeley: University of California Press, 1962), p. 270.

⁷⁸ These may be seen as continuations of the "adaptionist" and "fundamentalist" styles of traditional Islam described by Voll (see note 2, above).

⁷⁹ Traditional Islam, like other traditional religions, did not hold the Western myth of progress, a point argued forcefully by Martin Lings writing under his Muslim name, Abu Bakr Siraj ed-Din, in "The Islamic and Christian Conceptions of the March of Time," *Islamic Quarterly*, 1, 4 (December, 1954), 229-35.

⁸⁰ In fact, there is debate about this. See, e.g., Rudolph Peters, "Idjihad and Taqlid in 18th and 19th Century Islam," *Die Welt des Islams*, 20 (1980), 131-45.

⁸¹ Zaki Yamani's article, "Islamic Law and Contemporary Issues," in Charles Malik, ed., *God and Man in Contemporary Islamic Thought* (Beirut: American University of Beirut, 1972), pp. 49-82, strikes me as modernist. Dekmejian reports that in 1983 the King Fahd "called upon Islamic scholars to hold an international conference to modernize Islamic law through rigorous *ijihad*" (*Islam in Revolution: Fundamentalism in the Arab World* [Syracuse University Press, 1985], p. 148 and fn. 26). This has a modernist ring to me.

⁸² The attitude is illustrated by the following from Sayyed Hossein Nasr: "Of course we do not propose that Muslims should remain oblivious of the world around them. This is neither desirable nor possible. No Islamic state can avoid owning trains and planes" (*Islamic Life and Thought* [Albany: SUNY Press, 1981], p. 28). This seems to suggest that modern technology is more something that cannot be avoided than something to be positively valued.

⁸³ D. Crecelius accuses the ulama of the Azhar of subservience combined with obstructionism in "Non-Ideological Responses of the Egyptian 'Ulama' to Modernization," chapter 7 in Nikki Keddie, ed., *Scholars, Saints and Sufis* (Berkeley: University of California Press, 1972).

⁸⁴ This seems to be the case with 'Abd al-Salam Faraj in *al-Farida al-gha'iba* (n.p., 1402/1982, pp. 7-8, English translation, *Jihad: The Forgotten Pillar*, Ottawa [?], n.d.), pp. 8-10. The idea of

Khomeini as a precursor to the return of the Twelfth Imam is evidently held by some in Iran; e.g., the author of the wall slogan I saw in Tehran in 1984, "O God, O God, protect Khomeni until the revolution of the Mahdi" and the article, "Who will be the next president of Iran?" in the *Tehran Times*, Sept. 14, 1981, 1-2.

⁸⁶"Is There 'Islamic Fundamentalism' in Indonesia Now?" mimeographed copy of article prepared for *The New Internationalist*. One of the best known policies of the Nahdatul Ulama, their holding to the four *madhab* over against groups such as the Muhammadiyya, marks them as (neo-)traditionalist.

⁸⁷See note 85, above. Hassan Hanafi states that some of these groups rejected the use of radio and television and practiced traditional rather than modern medicine (*al-Haraka al-Islamiyya*, part 2, *al-Wadan*, November 20, 1982, page numbers, etc., not available to me).

⁸⁸Though many of the leading Ulama today might better be described as modernist. The fatwa of the sheikh of the Azhar against *al-Farida al-gha'iba* claims that Islam teaches that "the nation is the source of authority" (*al-Fatawa al-Islamiyya min Dar al-Ifta'* *al-Misriyya*, 10, 31 [Cairo, 1404/1983], p. 3750), almost a secularist position. On the other hand, the argument that a ruler should be considered a Muslim, and thus not the object of jihad, if he does no more than perform Salat, even if he does not rule by the Shari'a (ibid., pp. 3744), has an adaptationist traditionalist flavor.

⁸⁹Michael Gilsenan, *Saint and Sufi in Modern Egypt* (Oxford: Clarendon Press, 1973).

⁹⁰Nasr's discussion of "secularism" as "all that is, from the human point of view, non-sacred or non-divine" (*Islamic Life and Thought*, p. 8) seems to me a bit more in line with traditional Islamic thinking than most definitions of secularism. Note also his attack on progress as a "false idol" (ibid., p. 27), his willingness to accept the traditional limitation of the Shari'a to the area of "personal law" (pp. 27-29), his concern for the full "intellectual and spiritual riches" of Islam (p. 32), and his concern that Islam be the judge of "the times" and not vice-versa while at the same time desiring that the traditional truths of Islam be translated into contemporary language and urging that Muslims must know the West well, not just at second hand (p. 32). Cf. note 83 above. On Lings, see note 80.

⁹¹This term has been used by Eric Davis in "Ideology, Social Class and Islamic Radicalism in Modern Egypt" in Said Amir Arjomand, ed., *From Nationalism to Revolutionary Islam* (London: Macmillan, 1984), pp. 134-57.

⁹²They are, I think, more likely than others to appreciate the moral commitment that is a condition of modern science and technology and that underlies secular ideologies; e.g., Taha Hussein, *Future of Culture*, p. 21.

⁹³E.g., Taha Hussein's oft-quoted statement about "literally and forthrightly doing everything" the Europeans do, quoted in note 17 above.

⁹⁴One finds these things in Ahmad Amin's popular series on Islamic cultural history, *Fajr al-Islam* (Cairo, 1929 and later editions), *Duha al-Islam*, 3 vols. (Cairo, 1933-1936 and later editions), *Zuhr al-Islam*, 4 vols. (Cairo, 1944-1955, and later editions). Such writing has undoubtedly contributed to the considerable amount of secularist opinion in educated circles in Egypt.

⁹⁵See, e.g., Smith, *Islam in Modern History*, pp. 206-7. Other examples, at least as relevant, would be the major changes in Judaism involved in the transition from ancient to "Rabbinic" Judaism and in modern times from this to either Reform Judaism or Zionism. Whether Islam has ever undergone such a shift in its basic symbol system may be doubted.

⁹⁶*Al-Islam wa-usul al-hukm* (Cairo, 1925); French translation, "L'Islam et les bases du pouvoir," by L. Bercher, *Revue des Etudes Islamiques*, 7 (1933), 353-91, and 8 (1934), 163-222. See also the summary and discussion of this in A. Hourani, *Arabic Thought in the Liberal Age* (London: Oxford University Press, 1970), pp. 184-92.

⁹⁷According to Kenneth Cragg, writing in 1955, "Ali Abd al-Raziq's view was a "now largely accepted reinterpretation of the Caliphate" (Richard N. Frye, ed., *Islam and the West* [The Hague: Mouton, 1957], p. 158). This may be so in many circles, but I am not aware of any serious public discussion that has led to it.

⁹⁸One who does recognize it, at least in the area of intellectual endeavor, and who may perhaps be located somewhere between modernism and radical Islamism on the scale, is Ziauddin Sardar. See "Is There an Islamic Resurgence?" *Afkar International*, 1, 1 (June 1984), 35-39, and "Reconstructing the Muslim Civilization," *Inquiry*, 1, 6 (November 1984), 39-44.

⁹⁹That the doctrine of *vilayat-i faqih* is new has been recognized by more than one scholar, e.g., Said Amir Arjomand, "Traditionalism in Iran," in S. A. Arjomand, ed., *From Nationalism to Revolutionary Islam* (London: Macmillan, 1984), 222–23.

¹⁰⁰Iran is of course crucial here, but its war with Iraq and international ostracism tend to keep it in an "oppositional" mode.

¹⁰¹See, for example, the story reported by Anderson in *Law Reform*, p. 75; also Schacht's comments in "Problems in Modern Islamic Legislation," in R. H. Nolte, ed., *The Modern Middle East* (New York: Atherton, 1963), ch. 11, esp. pp. 190–91, 199.

^{102c}Azzam, for example, equates dhimma with "modern citizenship" in *The Eternal Message*, p. 124, but never mentions the "verse of the sword" that relates to the people of the Book (Qur'an 9:29).

Session 13

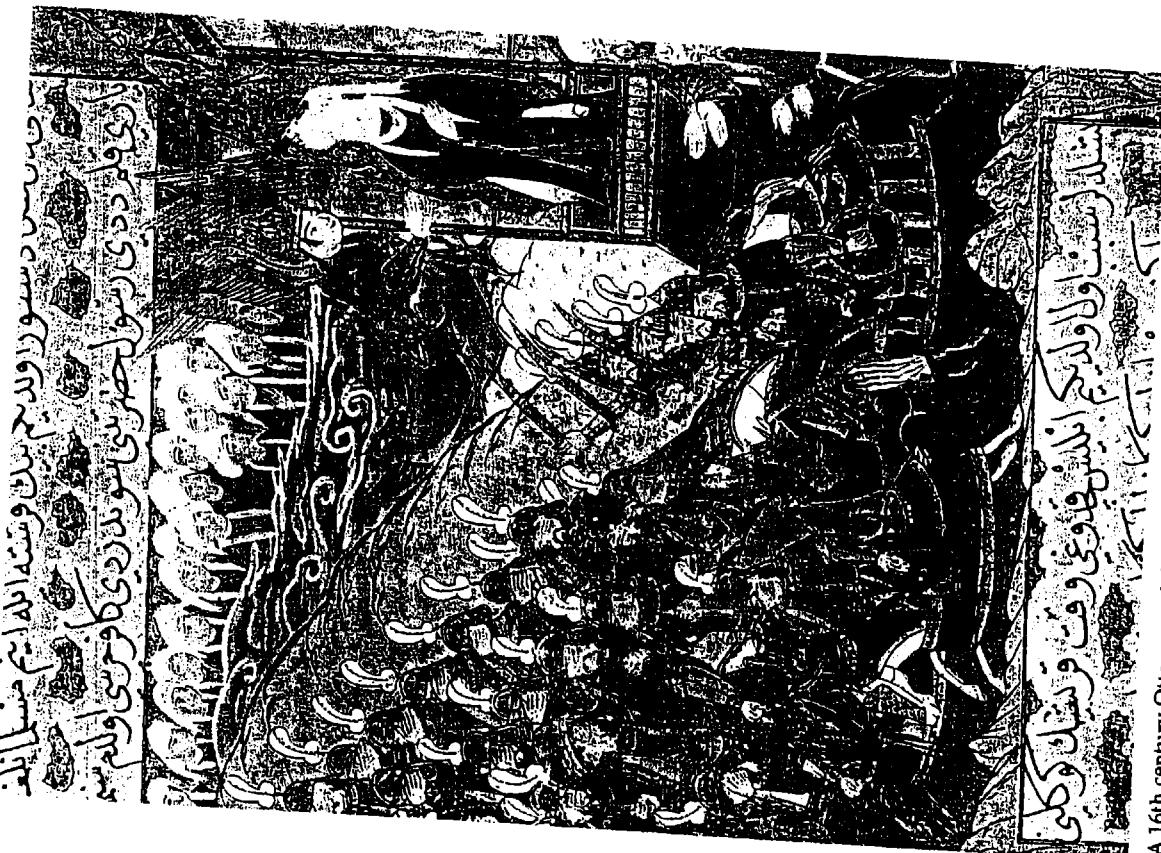




Jihad, an Introduction

The Arabic word *jihād* (verbal noun of the verb *jāhada*) means to strive to exert oneself to struggle. The word has a basic connotation of an endeavour towards a praiseworthy aim. In a religious context it may express a struggle against one's evil inclinations or an exertion for the sake of Islam and the *ummā*, e.g. trying to convert unbelievers or working for the moral betterment of Islamic society ("jihad of the tongue" and "jihad of the pen"). In the books on Islamic law, the word means armed struggle against the unbelievers, which is also a common meaning in the Koran. Sometimes the "jihad of the sword" is called "the smaller jihad," in opposition to the peaceful forms named "the greater jihad." Nowadays, it is often used without any religious connotation, more or less equivalent to the English word crusade ("A crusade against drugs"). If used in a religious context, the adjective "Islamic" or "holy" is currently added to it (*al-jihād al-Islāmī* or *al-jihād al-muqaddas*).

The origin of the concept of jihad goes back to the wars fought by the Prophet Mohammed and their written reflection in the Koran. It is clear that the concept was influenced by the ideas of war among the pre-Islamic Northern Arabic tribes. Among these, war was the normal state, unless two or more tribes had concluded a truce. War between tribes was regarded as lawful and if the war was fought as a defence against aggression, the fighting had an additional justification. Ideas of chivalry forbade warriors to kill non-combatants like children, women and old people. These rules have become incorporated into the doctrine of jihad which was fixed in the latter half of the second century of the Hijra era.



A 16th century Ottoman miniature shows how, during the Battle of Badr (624), the angel Izra'il or Gabriel informs the Prophet Mohammed that a host of angels (depicted on top, with white turbans) will assist the Muslims.

The Koran frequently mentions jihad and fighting (*qital*) against the unbelievers. K. 22:39 ("Leave is given to those who fight because they were wronged—surely God is able to help them—who were expelled from their habitations without right, except that they say 'Our Lord is God,'"'), revealed not long after the Hijra, is traditionally considered to be the first verse dealing with the fighting of the unbelievers. Many verses exhort the believers to take part in the fighting "with their goods and lives" (*bi-amwālihim wa-anfusihim*), promise reward to those who are killed in the jihad (K. 3:157–158, 169–172) and threaten those who do not fight with severe punishments in the hereafter (K. 9:81–82, 48:16). Other verses deal with practical matters such as exemption from military service (K. 9:91, 48:17), fighting during the holy months (K. 2:217), and in the holy territory of Mecca (K. 2:191), the fate of prisoners of war (K. 47:4), safe conduct (K. 9:6) and truce (K. 8:61).

It is not clear whether the Koran allows Muslims to fight the unbelievers only as a defense against aggression or under all circumstances. In support of the first view a number of verses can be quoted justifying fighting as a reaction against aggression or perfidy on the part of the unbelievers (e.g. "And fight in the way of God with those who fight you, but aggress not: God loves not the aggressors," (K. 2:190) and "But if they break their oaths after their covenant and thrust at your religion, then fight the leaders of disbelief." [K. 9:12]). In those verses that seem to order the Muslims to fight the unbelievers unconditionally, the general condition that fighting is only allowed by way of defense could be said to be understood (e.g. "Then, when the sacred months are drawn away, slay the idolaters wherever you find them, and take them, and confine them, and lie in wait for them at every place of ambush." (K. 9:5) and "Fight those who believe not in God and the Last Day and do not forbid what God and His Messenger have forbidden—such men as practise not the religion of truth, being of those who have been given the Book—until they pay the tribute out of hand and have been humbled." [K. 9:29]). Classical Muslim Koran interpretation, however, did not go into this direction. It regarded the Sword Verses, with the unconditional command to fight the unbelievers, as having abrogated all previous verses concerning the intercourse with non-Muslims. This idea is no doubt connected with the pre-Islamic concept

that war between tribes was allowed, unless there existed a truce between them, whereby the Islamic *umma* took the place of a tribe.

During the second half of the eighth century the first comprehensive treatises on the law of jihad were written by al-Awzā'i (d. 774) and Muhammad al-Shaybānī (d. 804). The legal doctrine of jihad was the result of debates and discussions that had been going on since the Prophet's death and through which the doctrine had been developed. The period in which the doctrine of jihad was gradually formulated coincided with the period of the great conquests, in which the Muslim conquerors were exposed to the cultures of the conquered peoples. With regard to the doctrine of jihad, there may have been some influence from the Byzantine Empire, where the idea of religious war and related notions were very much alive. It is, however, very difficult to identify these influences. If there are similarities, they are not necessarily the result of borrowing and may be due to parallel developments.

The doctrine of jihad, as laid down in the works on Islamic law developed out of the Koranic prescriptions and the example of the Prophet and the first caliphs, which is recorded in the *hadīth*. The crux of the doctrine is the existence of one single Islamic state, ruling the entire *umma*. It is the duty of the *umma* to expand the territory of this state in order to bring as many people under its rule as possible. The ultimate aim is to bring the whole earth under the sway of Islam and to extirpate unbelief: "Fight them until there is no persecution (or: seduction) and the religion is God's (entirely)." (K. 2:193 and 8:39). Expansionist jihad is a collective duty (*fard 'a'lā al-kifāya*), which is fulfilled if a sufficient number of people take part in it. If this is not the case, the whole *umma* is sinning. Expansionist jihad presupposes the presence of a legitimate caliph to organize the struggle. After the conquests had come to an end, the legal specialists laid down that the caliph had to raid enemy territory at least once a year in order to keep the idea of jihad alive.

Sometimes jihad becomes an individual duty. This is the case when the caliph appoints certain persons to participate in a raiding expedition or when someone takes an oath to fight the unbelievers. Moreover, jihad becomes obligatory for all people capable

of fighting in a certain region if this region is attacked by the enemy. In this case, jihad is defensive.

Sunni and Shi'ite theories of jihad are very similar. However, there is one crucial difference. The Twelver Shi'ites hold that jihad can only be waged under the leadership of the righteous *Imām*. After the Occultation of the last one in 873, theoretically no lawful jihad can be fought. This is true for expansionist jihad. However, as defence against attacks remains obligatory and the 'ulamā' are often regarded as the representatives of the Hidden *Imām*, several wars between Iran and Russia in the 19th century have been called jihad.

War against unbelievers may not be mounted without summoning them to Islam or submission before the attack. A *hadīth* lays down the precise contents of the summons:

Whenever the Prophet appointed a commander to an army or an expedition, he would say: "(. .) When you meet your heathen enemies, summon them to three things. Accept whatsoever they agree to and refrain them from fighting them. Summon them to become Muslims. If they agree, accept their conversion. In that case summon them to move from their territory to the Abode of the Emigrants [i.e. Medina]. If they refuse that, let them know that then they are like the Muslim bedouins and that they share only in the booty, when they fight together with the [other] Muslims. If they refuse conversion, then ask them to pay poll-tax (*jizya*). If they agree, accept their submission. But if they refuse, then ask God for assistance and fight them. (. .)"

This *hadīth* also neatly sums up the aims of fighting unbelievers: conversion or submission. In the latter case, the enemies were entitled to keep their religion and practice it, against payment of a poll-tax (*jizya*) (cf. K. 9:29, quoted above). Although the Koran limits this option to the People of the Book, i.e. Christians and Jews, it was in practice extended to other religions, such as the Zoroastrians (*Majis*).

Whenever the caliph deems it in the interest of the *ummah*, he may conclude a truce with the enemy, just as the Prophet did with the Meccans at al-Hudaybiyya. According to some law schools a

truce must be concluded for a specified period of time, no longer than ten years. Others hold that this is not necessary, if the caliph stipulates that he may resume war whenever he wishes to do so. The idea behind it is that the notion of jihad must not fall into oblivion.

The books on law contain many practical rules concerning warfare, dealing e.g. with exemptions from the obligation to fight, the protection of the lives of noncombatants, lawful methods of warfare, treatment of prisoners of war, safe-conduct to enemy persons and the division of the spoils.

The most important function of the doctrine of jihad is that it mobilizes and motivates Muslims to take part in wars against unbelievers, as it is considered to be the fulfillment of a religious duty. This motivation is strongly fed by the idea that those who are killed on the battlefield, called martyrs (*shāhid*, plur. *shuhādī*), will go directly to Paradise. At the occasion of wars fought against unbelievers, religious texts would circulate, replete with Koranic verses and *hadīths* extolling the merits of fighting a jihad and vividly describing the reward waiting in the hereafter for those slain during the fighting.

Another function was to enhance the legitimization of a ruler. After the year 750, the political unity of the *ummah* was lost, never to be restored again. Several rulers would govern different regions of the Muslim world. One of the ways to acquire greater legitimacy was to wage jihad against unbelievers, which is one of the main tasks of the lawful caliph.

A final function of the jihad doctrine was that it provided a set of rules governing the relationship with the unbelieving enemies and behaviour during actual warfare. Muftis could invoke this set of rules and give fatwas showing that a ruler's foreign policy was in conformity with the rules of Islamic law. These rules could be moulded to fit the circumstance. A case in point is that, due to the collapse of Islamic political unity, often two Muslim states would be at war with one another. In such situations muftis would usually find cause to label the enemies either as rebels or as heretics, thus justifying the struggle against them.

During Islamic history, but especially in the 18th and 19th centuries, radical movements striving for a purification of Islam

and the establishment of a purely Islamic society proclaimed jihad against their opponents, both Muslims and non-Muslims. To justify the struggle against their Muslim adversaries, they would brand them as unbelievers for their neglect to adhere to and enforce the strict rules of Islam.

For some Muslim intellectuals the colonial experience affected their outlook on jihad. Some would argue that in view of the military superiority of the colonizer, jihad was not obligatory anymore on the strength of K. 2:195 ("... and cast not yourselves by your own hands into destruction . . ."). Others, however, elaborated new interpretations of the doctrine of jihad.

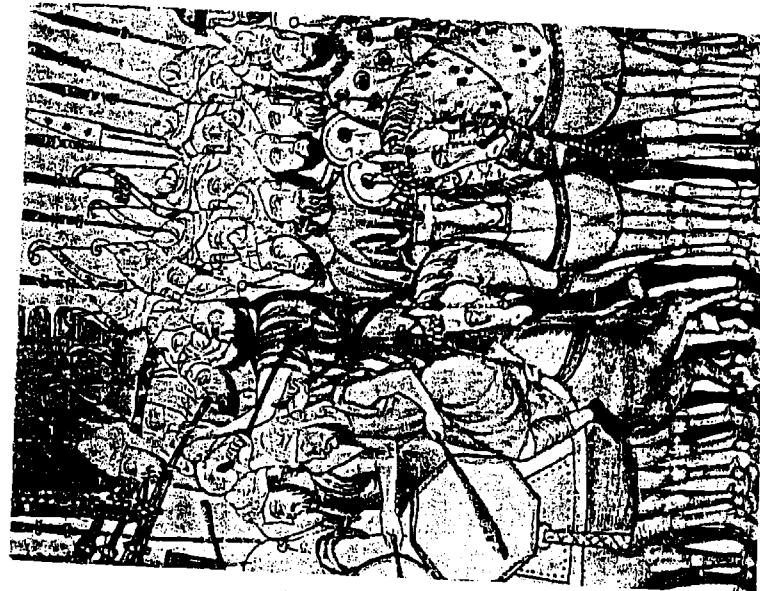
The first one to do so was the Indian Muslim thinker Sayyid Ahmad Khān (1817–1898). When after the Mutiny of 1857 the British, arguing that the Muslims wanted to restore Moghul rule and that the doctrine of jihad made them fight the British, began favouring the Hindus in the army and in government service, Sayyid Ahmad Khan wanted to show that Islam did not forbid cooperation with the British colonial government. In this he was motivated by his desire to safeguard employment for the young Muslims from the middle and higher classes. In order to demonstrate that the Indian Muslims were not obliged to fight the British and could be loyal subjects, he gave a new interpretation of the jihad doctrine. On the basis of a new reading of the Koran, he asserted that jihad was obligatory for Muslims only in the case of "positive oppression or obstruction in the exercise of their faith (. . .) impair[ing] the foundation of some of the pillars of Islam." Since the British, in his opinion, did not interfere with the practice of Islam, jihad against them was not allowed.

Middle Eastern Muslim reformers like Muhammad 'Abduh (1849–1905) and Muhammad Rashīd Ridā (1865–1935) did not go as far as Sayyid Ahmad Khān. On the strength of those Koranic verses that make fighting against the unbelievers conditional upon their aggression or perfidy, they argue that peaceful coexistence is the normal state between Islamic and non-Islamic territories, and that jihad is only allowed as defensive warfare. This, however, left the way open to proclaim jihad against colonial oppression, as the colonial enterprise was clearly an attack on the territory of Islam. A recent development in this line of thinking

is the presentation of the jihad doctrine as a form of Muslim international law and the equation of jihad with the concept of *bellum justum*. Those who have elaborated this theory proudly point out that Muḥammad al-Shaybānī (d. 804) had formulated a doctrine of international public law more than eight centuries before Hugo Grotius.

Present-day thinking about jihad, however, offers a wider spectrum than only the modernist interpretation mentioned here. Apart from the conservatives, who adhere to the interpretation as given in the classical books on Islamic law, there are the ideologues of the radical Islamic opposition, who call for jihad as a means to spread their brand of Islam. Some of these radical groups call for the use of violence in order to defeat the established governments. However, they are faced with a serious doctrinal problem, as they preach an armed revolution against Muslim rulers, whereas Islamic law allows revolt only in very rare circumstances. One of these is when a ruler abandons his belief. Since the apostate deserves capital punishment, fighting against him is allowed. Throughout Islamic history, governments and opposition movements have declared their Muslim adversaries to be heretics or unbelievers (*takfir*, declaring someone to be a *kāfir*, unbeliever) in order to justify their struggle against them. It is this line of reasoning that is used by contemporary radical Islamic groups to give legitimacy to their use of arms against rulers who are to all appearances Muslims. In modern times these views were first propagated by fundamentalists like Sayyid Qutb (d. 1966) and Abū 'l-Āfiā al-Mawdūdī (1903–1979).

The most eloquent and elaborate statement of this view can be found in a pamphlet published by the ideology of the Jihad Organization, whose members, in 1981, assassinated President Sadat of Egypt. It is called *al-Farīda al-Ghāiba*, or "the Absent Duty," referring to the duty to wage jihad, which, according to the author, 'Abd al-Salām Faraj, is not fulfilled anymore. The author borrows his arguments from two fatwas issued by the fundamentalist author Ibn Taymiyya (1263–1328), whose opinion was sought regarding the legitimacy of Mongol rule in the Middle East. The prop of Ibn Taymiyya's reasoning is the fact that they apply their own law instead of the Sharī'a. This, in his opinion,



Portrayal of Muslim soldiers in a 13th century manuscript of the *Cantigas de Santa María* by Alfonso X of Castile.

Yahya related to me from Malik from Yahya ibn Sa'īd that Mu'adh ibn Jabal said, "There are two military expeditions. There is one military expedition in which valuables are spent, things are made easy for a fellow, the authorities are obeyed, and corruption is avoided. That military expedition is all good. There is a military expedition in which valuables are not spent, things are not made easy, the authorities are not obeyed, and corruption is not avoided. The one who fights in that military expedition does not return with reward."

The Legal Doctrine of Jihad:

THE CHAPTER ON JIHAD FROM AVERROES'
LEGAL HANDBOOK AL-BIDĀYA

Introduction

Averroes (Ar.: Abū al-Walid Muhammād ibn Muhammād ibn Rushd) was born of a family of lawyers, in the then Arabic town of Córdoba, in 1126 A.D. His grandfather and namesake had written a number of works on Islamic law which enjoyed great popularity and it was as a matter of course that Averroes followed in the footsteps of his ancestors. He held the post of judge (*qādi*) in Sevilla and in his native town Córdoba, but he also became known as a physician—he was the courtphysician of the Almohad prince Abū Yāqūb (who reigned from 1162 until 1184)—and as a philosopher. It is in this latter quality that he achieved fame in Europe, especially through his comments on the works of Aristotle. In the Islamic world, on the other hand, he remained famous chiefly as a lawyer. He died in Marrakesh (Morocco) in 1198.

His best known legal handbook is *Bidāyat al-Mujtahid wa-nihayat al-Muqtashid* (lit.: The beginning for him who interprets the sources independently and the end for him who wishes to limit himself). With the exception of the chapter on pilgrimage (*hadjij*), which he did not finish until 1188, he wrote the work around the year 1167, when he accepted the post of *qādi*. The book belongs to the genre of *ikhtilāf*-works. These are treatises in which the opinions of the different schools are juxtaposed and in which the controversies (*ikhtilāf*) between the early lawyers are discussed. Although traditional as far as contents are concerned, the manner of presentation of the *Bidāya* is original. In his treatment of each controversy Averroes enters deeply into the different arguments underlying it. Usually, he reduces the controversy

to a disagreement about the question of how two conflicting Koran-verses or Traditions are related to each other. This often boils down to the question whether the one rule is a general one and the other an exception, or whether the one rule has abrogated the other. However ingenious these reasonings may be, it is to be kept well in mind that this is a matter of *hineininterpretieren*. The prescriptions of Islamic Law had already been formulated soon after Mohammed's death, the theoretical foundations with Koran-verses and Traditions followed later. Averroes was an adherent of the Malikite School, the ruling one in Islamic Spain. Nevertheless he juxtaposes the opinions of the different Schools with impartiality and refrains from passing judgements on the validity of the arguments brought forward. The only indication that he is a Malikite might be found in the fact that he sometimes expatiates a little longer on the controversies within this school.

For the translation of the *Bidāya* I used two nearly identical Cairo editions: Muṣṭafā al-Bābī al-Halabī, 1960 and Dār al-Fikr / Maktabat Khānji, n.d. The points wherein they differ are of minor importance and mainly due to printing errors. The present translation appeared originally in *Jihad in Medieval and Modern Islam: The Chapter on Jihad from Averroes' Legal Handbook 'Bidāyat al-Mujtahid' and the Treatise 'Koran and Fighting'* by the Late Shaykh al-Azhar, Mahmūd Shaltūt. Translated and annotated by Rudolph Peters. Leiden: E. J. Brill, 1977, pp. 9–25, 80–84.

Literature:

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 L. Bercher, "Averroës "Bidāyat al-Mujtahid," *Revue Tunisiene de Droit*, 1955, no. 3/4, pp. 34–37 (translation of the introduction to the *Bidāya*, in which Averroës expounds his method).
 R. Brunschwig, "Averroës juriste," in *Etudes d'Orientalisme, dédiées à la mémoire de Lévi-Provençal*. Paris: Maisonneuve, 1962, Vol. I, pp. 35–68.

The Jihad

The most important rules concerning this subject will be dealt with in two chapters. The first will contain the most important regulations as regards warfare, the second the rules pertaining to the enemy's property when it is captured by the Muslims.¹

The first chapter consists of seven paragraphs:

1. The legal qualification (*hukm*) of this activity and the persons who are obliged to take part in it.
2. The enemy.
3. The damage allowed to be inflicted upon the different categories of enemies.
4. The prerequisites for warfare.
5. The maximum number of enemies against which one is obliged to stand one's ground.
6. Truce.
7. The aims of warfare.

Par. 1. The Legal Qualification (*Hukm*) of this Activity and the Persons Obligated to Take Part in It.

Scholars agree that the jihad is a collective not a personal obligation. Only 'Abd Allāh Ibn al-Hasan² professed it to be a recommendable act. According to the majority of scholars, the compulsory nature of the jihad is founded on [2:216]: "Prescribed for you is fighting, though it be hateful to you."³ That this obligation is a collective and not a personal one, i.e. that the obligation when it can be properly carried out by a limited number of individuals, is cancelled for the remaining Muslims, is founded on [9:122]: "It is not for the believers to go forth totally,"⁴ on [4:95]: "Yet to each God has promised the reward most fair"⁵ and, lastly, on the fact that the Prophet never went to battle without leaving some people behind. All this together implies that this activity is a collective obligation. The obligation to participate in the jihad applies to adult free men who have the means at their disposal to go to war and who are healthy, that is, not ill or suffering from

chronic diseases. There is absolutely no controversy about the latter restriction because of [48:17]: "There is no fault in the blind, and there is no fault in the lame, and there is no fault in the sick"⁶ and because of [9:91]: "There is no fault in the weak and the sick and those who find nothing to expend."⁷ Nor do I know of any dissentient views as regards the rule that this obligation applies only to free men. Nearly all scholars agree that this obligation is conditional on permission granted by the parents. Only in the case that the obligation has become a personal one, for instance because there is nobody else to carry it out, can this permission be dispensed with.⁸ This prerequisite of permission is based on the following authentic Tradition: "Once a man said to the Messenger of God: 'I wish to take part in the jihad.' The Messenger said to him: 'Are both your parents still alive?' When he answered in the affirmative, the Messenger said: 'Then perform the jihad for their sake.'" Scholars are not agreed whether this permission is also required of parents who are polytheists. There is controversy, too, about the question whether the creditor's permission has to be asked when a person has run into debt. An argument in favour of this can be found in the following Tradition: "A man said to the Prophet: 'Will God forgive me my sins if I shall sacrifice myself patiently and shall be killed in the way of God (i.e. by taking part in the jihad)?' The Prophet said: 'Yes, with the exception of your debts. This Jibril has told me before.'⁹ The majority of scholars do not consider it obligatory, especially not when the debtor leaves enough behind to serve as payment for his debts.

Par. 2. The Enemy. Scholars agree that all polytheists should be fought. This is founded on [8:39]: "Fight them until there is no persecution and the religion is God's entirely."¹⁰ However, it has been related by Mâlik¹¹ that it would not be allowed to attack the Ethiopians and the Turks on the strength of the Tradition of the Prophet: "Leave the Ethiopians in peace as long as they leave you in peace." Questioned as to the authenticity of this Tradition, Mâlik did not acknowledge it, but said: "People still avoid attacking them."

Par. 3. The Damage Allowed to be Inflicted Upon the Different Categories of Enemies

Damage inflicted upon the enemy may consist in damage to his property, injury to his person or violation of his personal liberty, i.e. that he is made a slave and is appropriated. This may be done, according to the Consensus (*ijmâ'*) to all polytheists: men, women, young and old, important and unimportant. Only with regard to monks do opinions vary; for some take it that they must be left in peace and that they must not be captured, but allowed to go unscathed and that they may not be enslaved. In support of their opinion they bring forward the words of the Prophet: "Leave them in peace and also that to which they have dedicated themselves,"¹² as well as the practice of Abû Bakr.¹³

Most scholars are agreed that, in his dealings with captives, various policies are open to the Imam [head of the Islamic state, caliph]. He may pardon them, enslave them, kill them, or release them either on ransom or as *dhimmi* [non-Moslem subject of the Islamic state], in which latter case the released captive is obliged to pay poll-tax (*jizya*). Some scholars, however, have taught that captives may never be slain. According to al-Hasan Ibn Muhamad al-Tamimi,¹⁴ this was even the *Consensus (ijmâ')* of the *Sâhaba* [contemporaries of Mohammed that have known him]. This controversy has arisen because, firstly, the Koran-verses contradict each other in this respect; secondly, practice [of the Prophet and the first caliphs] was inconsistent; and lastly, the obvious interpretation of the Koran is at variance with the Prophet's deeds. The obvious interpretation of [47:4]: "When you meet the unbelievers, smite their necks, then, when you have made wide slaughter among them, tie fast the bonds," is that the Imam is only entitled to pardon captives or to release them on ransom. On the other hand, [8:67]: "It is not for any Prophet to have prisoners until he make wide slaughter in the land,"¹⁵ as well as the occasion when this verse was revealed [viz. the captives of Badr] would go to prove that it is better to slay captives than to enslave them. The Prophet himself would in some cases slay captives outside the field of battle, while he would pardon them in others. Women he used to enslave. Abu Ubayd¹⁶ has related that the Prophet never enslaved male Arabs.

After him, the *Sahāba* reached unanimity about the rule that the people of the Book (*ahl al-kitāb*), both male and female, might be enslaved. Those who are of the opinion that the verse which prohibits slaying [K 47:4] abrogates the Prophet's example, maintain that captives may not be slain. Others profess, however, that this verse does not concern itself with the slaughter of captives and that it was by no means intended to restrict the number of policies possible with regard to captives. On the contrary, they say, the fact that the Prophet used to slay captives adds a supplementing rule to the verse in question [K 47:4] and thus removes the occasion for the complaint that he omitted to kill the captives of Badr. These, now, do profess that the killing of captives is allowed.

It is only allowed to slay the enemy on the condition that *amān* [safe-conduct] has not been granted. There is no dissension about this among the Muslims. There is controversy, however, concerning the question who is entitled to grant *amān*. Everyone is agreed that the Imam is entitled to this. The majority of scholars are of the opinion that free Muslim males are also entitled to grant it, but Ibn Mājishūn¹⁸ maintains that in this case, it is subject to authorization by the Imam. Similarly there is controversy concerning the *amān* granted by women and slaves. Ibn Mājishūn to authorization by the Imam. Abū Hanīfa¹⁹ has taught that the *amān* granted by a slave is only valid when the slave is allowed to join in the fighting.²⁰ The source of the controversy is that a general rule is in conflict with the analogous interpretation of another rule. The general rule is founded on the words of the Prophet: "The blood(money) of all Muslims is equal. Even the humblest strives for their protection. Together, they make up a unity against the others." These words, in their universality, imply that *amān* granted by a slave is valid. The conflicting analogy is that in order to be able to grant *amān*, full legal capacity is required. Now, a slave has only partial legal capacity by the very fact of his being a slave. By analogy, the fact that he is a slave should counteract the validity of his *amān*, as it does with regard to numerous other legal acts. The general rule, then, should be restricted by analogy. The controversy about the validity of *amān* granted by a

woman owes its origin to two different readings of the words of the Prophet: "We grant protection to those to whom you have granted protection, Umm Hāni"; as well as to the question whether women are to be put on a par with men by analogy. Some read in the words of the Prophet an authorization of the *amān* granted by Umm Hāni; not a confirmation of its validity, and they infer that her *amān* would have had no legal effects had the Prophet not authorized it. Consequently, they maintain that *amān* granted by a woman is only valid when the Imam has authorized it. Others hold that the Prophet confirmed the *amān* granted by Umm Hāni in the sense that he approved something which already existed and had legal effects, not in the sense that the act was only validated by his authorization. Thus, the latter group maintains that a woman is entitled to grant valid *amān*. This view finds also favour with those who, in this respect, put women on a par with men and feel that there is no difference between them here. Others, who are of the opinion that a woman is inferior to a man, consider an *amān* granted by her invalid. Anyhow, *amān* does not afford protection against enslavement but only against death.²¹ The controversy [about the validity of *amān* granted by women] might also be explained by the divergent opinions about the use of the male plural: does this include women or not? All this, of course, according to legal usage.

As regards injury to the person, that is, the slaying of the enemy, the Muslims agree that in times of war, all adult, able-bodied, unbelieving males may be slain. As to the question whether the enemy may also be slain after he has been captured, there is the above-mentioned controversy. There is no disagreement about the rule that it is forbidden to slay women and children, provided that they are not fighting, for then women, in any case, may be slain. This rule is founded on the fact that, according to authoritative Traditions, the Prophet prohibited the slaughter of women and children and once said about a woman who had been slain: "She was not one who would have fought."²²

There is controversy about the question whether it is allowed to slay hermits who have retired from the world, the blind, the chronically ill and the insane, those who are old and unable to fight any longer, peasants, and serfs. Mālik professes that neither

the blind, nor the insane, nor hermits may be slain and that of their property not all may be carried off, but that enough should be left for them to be able to survive. Neither is it allowed, according to him, to slay the old and decrepit. Of the same opinion are Abū Hanīfa and his pupils. Thawrī²⁴ and Awzā'ī²⁵, however, have taught that of these groups, only the aged may not be slain. On the other hand, Awzā'ī had also taught that this prohibition is also valid with regard to peasants. According to the most authoritative opinion of Shāfi'i,²⁶ all of these categories may be slain. The source of this controversy is to be found in the fact that in a number of Traditions, rules are given which are at variance with the general rule from the Book [i.e. the Koran] as well as with the general rule of the authentic Tradition: "I have been commanded to fight the people until they say: 'There is no God but God.'"²⁷ [9:5]: "Then, when the sacred months are drawn away, slay the idolaters wherever you find them."²⁸ as well as the above-mentioned Tradition give as a general rule that every polytheist must be slain, whether he is a monk or not. Nevertheless, the following Traditions, among others, are brought forward in support of the prescription that the lives of the categories mentioned must be saved: 1. Dāwūd Ibn al-Hasīn²⁹ has related on the authority of 'Ikrima³⁰ on the authority of Ibn 'Abbās³¹ that the Prophet used to say, whenever he sent out his armies: "Do not slay hermits." 2. On the authority of Anas Ibn Mālik³² it has been related that the Prophet said: "Do not slay the old and decrepit, children, or women. Do not purloin what belongs to the spoils." Abū Dāwūd³³ included this Tradition in his compilation. 3. Mālik has related that Abū Bakr said: "You will find people who will profess that they have dedicated themselves entirely to God. Leave them in peace and also that to which they have dedicated themselves."³⁴ 4. "Do not slay women, nor infants, nor those worn with age." However, it seems to me that the chief source for the controversy about this question is that [2:190]: "And fight in the way of God with those who fight you, but aggress not: God loves not the aggressors" is in conflict with [9:5]: "Then, when the sacred months are drawn away, slay the idolaters wherever you find them."³⁵ Some maintain that K 9:5 has abrogated K 2:90, because at the outset it was only allowed to slay people who were able-bodied.³⁶ Consequently, the latter take it that K 9:5 gives a rule without exception.

factions. Others are of the opinion that K 2:190 has not been abrogated and that it is valid with regard to all those categories which do not take part in the fighting. According to these, K 2:190 gives an exceptive regulation as regards K 9:5. Shāfi'i, in support of his interpretation, argues that it has been related on the authority of Sumra³⁶ that the Prophet commanded: "Slay the polytheists but spare their children." The only motive why the enemy should be put to death, according to him, is their unbelief. This motive, then, goes for all unbelievers. Those who maintain that peasants are not to be slain argue that Zayd Ibn Wahb³⁷ has related: "We received a letter from 'Umar," saying: Do not purloin what belongs to the spoils, do not act perfidiously, do not slay babies and be god-fearing with regard to peasants."³⁸ The prohibition to slay polytheist serfs is based on the Tradition of Rabāh Ibn Rabī'a: "Once, when Rabāh Ibn Rabī'a sallied forth with the Messenger of God, he and (the) companions of the Prophet passed by a woman who had been slain. The Messenger halted and said: 'She was not one who would have fought.' Thereupon he looked at the men and said to one of them: 'Run after Khālid Ibn al-Walid (and tell him) that he must not slay children, serfs or women.'" Basically, however, the source of their controversy is to be found in their divergent views concerning the motive why the enemy may be slain. Those who think that this is because they are unbelieving do not make exceptions for any polytheist. Others, who are of the opinion that this motive consists in their capacity for fighting, in view of the prohibition to slay female unbelievers, do make an exception for those who are unable to fight or who are not as a rule inclined to fight, such as peasants and serfs. Enemies must not be tortured nor must their bodies be mutilated. The Muslims agree that they may be slain with weapons. Controversy exists, however, concerning the question whether it is allowed to burn them by fire. Some consider it reprehensible to burn or to assail them with fire. This is also the opinion of 'Umar. It has been related that Mālik held a similar view. Sufyān al-Thawrī, on the other hand, considered it admissible. Others allow it only in case the enemy has started it. The source of this controversy is again in the fact that a general rule and a particular rule are at variance. The general rule is given by [9:5]: "Slay the idolaters wherever you find them."⁴⁰ This does not

Muslims in the war. If they refuse that, then summon them to the payment of poll-tax. If they consent to that, accept it and refrain from [attacking] them. But if they refuse it, then invoke the help of God and attack them." Nevertheless it has been related irrefutably that the Prophet repeatedly made sudden attacks upon the enemy at night or at dawn. Some, consequently, maintain, and they are in the majority, that the practice of the Prophet has abrogated his words. According to the latter, the relevant dictum dates back from an early period of Islam, before the summons had been propagated, because it contains a summons to emigration (*hijra*).⁴⁴ Others are of the opinion that more weight should be attached to the Prophet's words than to his deeds, because the latter are to be interpreted in the light of the particular circumstances. Those, lastly, who consider it recommendable, do so in order to reconcile both views.⁴⁵

Par. 5. The Maximum Number of Enemies Against Which One is Obliged to Stand One's Ground.

The maximum number of enemies against which one is obliged to stand one's ground is twice the number [of one's own troops]. About this, everybody agrees on account of [8:66]: "God has *lightened it for you, knowing that there is weakness in you.*"⁴⁶ Ibn Majishūn maintains, on the authority of Mālik, that the actual force, rather than the number, is to be considered and that it might be allowed for a single man to flee before another if the latter should possess a superior horse, superior weapons and superior physical strength.

Par. 6. Truce.

The conclusion of truce is considered by some to be permitted from the very outset and without an immediate occasion, provided that the Imam deems it in the interest of the Muslims. — Others maintain that it is only allowed when the Muslims are pressed by sheer necessity, such as a civil war.

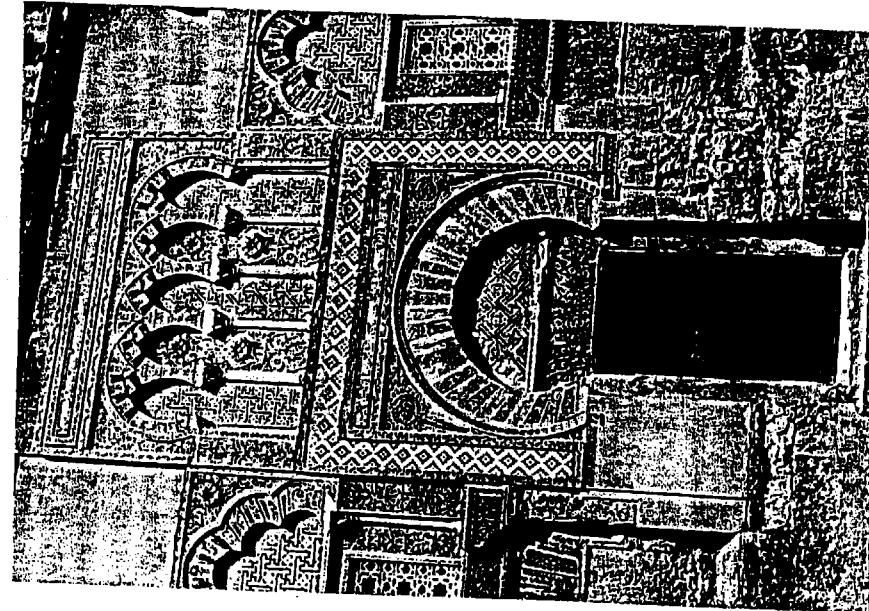
condition for truce, it may be stipulated that the enemy pay a certain amount of money to the Muslims. This is not poll-tax (*jizya*), because for that it would be required that they come under Islamic rule [which is not the case here]. Such a stipulation [the payment of a tribute], however, is not obligatory. Awzā'i even considered it admissible that the Imam should conclude a truce with the stipulation that the Muslims pay a certain amount to the enemy, should this be forced upon them by emergency, such as a civil war and the like. Shāfi'i's opinion is that the Muslims may never give anything to the unbelievers, unless they are in mortal fear of being extinguished, on account of the enemy's superiority or because they are being harassed by disasters. Among those who profess that the Imam is entitled to conclude a truce when he considers it in the interest [of the Muslims] are Mālik, Shāfi'i and Abū Ḥanifa. Shāfi'i maintains that a truce may not be concluded for a period longer than that of the truce which the Prophet concluded with the unbelievers in the year of Hudaybiyya.⁴⁷ The controversy about the question whether the conclusion of truce is also allowed without a compulsive reason, is rooted in the fact that the obvious interpretation of [9:5]: "Slay the idolaters wherever you find them,"⁴⁸ and that of [9:29]: "Fight those who believe not in God and the Last Day,"⁴⁹ contradict that of [8:61]: "And if they incline to peace, do thou incline to it."⁵⁰ Some hold that the verse which commands the Muslims to fight the polytheists until they have been converted or until they pay poll-tax (*jizya*) [K 9:29] abrogates the Peace-verse [K 8:61]. Consequently they maintain that truce is only admissible in cases of necessity. Others are of the opinion that the Peace-verse [K 8:61] supplements the other two verses and they consider the concluding of truce allowed if the Imam deems it right. They also argue, in support of their view, that the Prophet acted accordingly as the truce of Hudaybiyya had not been concluded from necessity. According to Shāfi'i, the principle is that polytheists must be fought until they have been converted or until they are willing to pay poll-tax (*jizya*). The acts of the Prophet in the year of Hudaybiyya are an exception to this [principle]. Therefore, says Shāfi'i, a truce may never exceed the period for which the Prophet concluded truce in the case of

Period. According to some it amounts to four years, but according to others three or ten years. Shāfi‘ī opts for the latter. As to the view of some, that in cases of emergency such as civil war and the like, the Muslims may conclude a truce on the stipulation that they pay the enemy a certain amount of money, this is based on the Prophet’s example, for it has been related that he was seriously contemplating to bestow a third of the date-harvest of Medina upon a group of polytheists belonging to the Confederates with a view to induce them to move off. However, before he had time to reach an agreement on the basis of the quantity of God granted him the victory.⁵¹ The opinion of those who profess that a truce may only be concluded when the Muslims are in mortal fear of extinction, is founded on analogous application of the rule that Muslim captives may be ransomed; for when Muslims have been reduced to such a state they are in the position of captives.

Par. 7. The Aims of Warfare.

The Muslims are agreed that the aim of warfare against the People of the Book, with the exception of those belonging to the Quraysh-tribe and Arab Christians, is twofold: either conversion to Islam, or payment of poll-tax (*jizya*). This is based on [9:29]: “*Fight those who believe not in God and the Last Day and do not forbid the religion of truth, being of those who have been given the Book—until they pay the tribute out of hand and have been humbled.*” Most lawyers Zoroastrians (*mādūs*) on the strength of the words of the Prophet: “*Treat them like the People of the Book.*” There is, however, controversy with regard to polytheists who are not People of the Book: is it allowed to accept poll-tax (*jizya*) from them or not? Some like Mālik, have taught that it may be collected from any polytheist. Others make an exception for the polytheist Arabs. Shāfi‘ī, Abū Thawr⁵² and a few others maintain that poll-tax (*jizya*) may only be accepted from People of the Book and Zoroastrians. The

controversy is again brought about by the fact that a general rule conflicts with a particular one. The general rule is derived from [2:193 and 8:39]: “*Fight them until there is no persecution and the religion is God’s (entirely),*”⁵³ and from the Tradition: “*I have been commanded to fight the people until they say: ‘There is no god but God.’ When they say that, then their lives and property are inviolable to me, except [in the case when] the [law of] Islam allows it [to take them]. They will be answerable to God.*” The particular rule is founded on the Tradition mentioned earlier,⁵⁴ viz. that Mohammed used to say to the leaders of troops which he sent out to the polytheist Arabs: “*When ye will encounter your polytheist foes, then summon them to three things,*” etc. In this Tradition, poll-tax (*jizya*) is also mentioned. Now, some scholars hold that a general rule cancels a particular one if the general rule was revealed at a later date. These do not accept poll-tax (*jizya*) from others than People of the Book, since the verses prescribing, in general terms, to fight them are of a more recent date than the Tradition mentioned; for the general command to fight the polytheists is to be found in the *Sūrat Barā’at*⁵⁵ which was revealed in the year of the conquest of Mecca.⁵⁶ The Tradition in question, on the other hand, dates back from before the conquest of Mecca, in view of the fact that it contains a summons to emigration.⁵⁷ Others, however, maintain that general rules should always be interpreted in association with the particular rules, no matter whether the one is more recent than the other or whether this is unknown. The latter group, accordingly, accepts poll-tax (*jizya*) from any polytheist. The People of the Book are in an exceptional position with respect to the other polytheists because they have been excluded from the general rule just mentioned, on the strength of the particular rule given in [9:29]: “*... being of those who have been given the Book—until they pay the tribute out of hand and have been humbled.*”⁵⁸ The poll-tax (*jizya*) itself and the rules related to it will be dealt with in the next chapter. So much for the principles of warfare. One famous question remains to be touched upon in this connection: that whether it is prohibited to march into hostile territory carrying a copy of the Koran. Most scholars do not consider it allowed because an authoritative rule to this effect has been handed down from the Prophet in an authentic Tradition. Abū



Great mosque in Córdoba (961-966 A.D.)

Hanifa, on the other hand, has taught that it is allowed, provided that it is done under the protection of a strong and safe army. The source of this controversy is the question: was this prohibition put in general terms in order that it might hold good universally and without exceptions, or was the prohibition put in general terms intended as a particular rule?

Introduction

IBN TAYMIYYA ON JIHAD

The Religious and Moral Doctrine of Jihad:

Taqi al-Din Ahmad Ibn Taymiyya (1263-1328) was a Syrian Hanbali theologian and jurist. His approach towards religion and law was fundamentalist, in the sense that he emphasized that the example of the pious ancestors (*al-salaf al-salih*) was the highest authority. His intransigent stances brought him several times into conflict with the religious establishment and the political authorities of his era, and he spent many years in prison because of his beliefs. His concern for the purity of Islam was not only academic as he is known to have participated in several military expeditions against heretics. This, however, did not detract him from producing an immense body of works consisting of books, treatises and fatwas.

In his *al-Siyasa al-shariyya fi islah al-rabi' wa-al-raiyya* ("Governance according to God's Law in reforming both the ruler and his flock"), he developed a political theory that on the one hand legitimized the political system prevailing after the fall of the Caliphate in 1258 and on the other emphasized the necessity for the ruler to wield his power in accordance with the *Sharia*. The main function of government, in his view, is to maintain order through coercion, but coercion exercised in a correct way, i.e. by enforcing God's law. In this treatise he sketches a broad outline of the ideal principles of government.

The passages on jihad deal more with the religious and moral than the purely legal aspects. Quoting a host of Koranic verses and sayings of the Prophet he underlines the excellence and meritousness of the jihad duty. Then he deals briefly with the possi-

tion of non-combatants among the enemies and the fate of prisoners of war. A great part of the text is devoted to the legitimacy of waging jihad against Muslims who revolt against the established political authorities or refuse to abide by the rules of the Sharī'a, and therefore compromise the pure religion. Finally he discusses the difference between war waged at the initiative of the Muslims' and defensive warfare.

The translation is based on the edition by Muhammad Ibrāhīm al-Bannā and Muhammad Ahmad 'Āshūr, published in Cairo by Dār al-Shā'b in 1971.

Literature:

H. Laoust, *Essai sur les doctrines sociales et politiques d'Ibn Taimiyya*. Cairo: IFAO, 1939.

H. Laoust, *Le traité de droit public d'Ibn Taimiyya. Tr. ann. de la Siyāsah Ḫāriyya*. Beirut: Institut Français de Damas, 1948.

Thereafter He gave him and the Muslims permission with the words:

Leave is given to those who are fought¹ because they were wronged—surely God is able to help them—who were expelled from their habitations without right, except that they say 'Our Lord is God.' Had God not driven back the people, some by the means of others, there had been destroyed cloisters and churches, oratories and mosques, wherein God's name is much mentioned. Assuredly God will help him who helps Him—surely God is all-strong, all-mighty—who, if We establish them in the land, perform the prayer, and pay the alms, and bid to honour, and forbid dishonour; and unto God belongs the issue of all affairs. (K. 22:39–41)

Then after that, He imposed fighting to them with the following words:

Prescribed for you is fighting, though it be hateful to you. Yet it may happen that you will hate a thing which is better for you; and it may happen that you will love a thing which is worse for you. God knows and you know not. (K. 2:216)

He has emphasized this command and glorified jihad in many of the Medinese suras. He has criticized those who fail to participate in it and called them hypocrites and sick in their hearts. God has said:

Say: 'If your fathers, your sons, your brothers, your wives, your clan, your possessions that you have gained, commerce you fear may slacken, dwellings you love—if these are dearer to you than God and His Messenger, and to struggle in His way, then wait till God brings His command; God guides not the people of the ungodly. (K. 9:24)

And:

The believers are those who believe in God and His Messenger, then have not doubted, and have struggled with their posses-

The penalties that the *Sharī'a* has introduced for those who disobey God and His Messengers are of two kinds: the punishment of those who are under the sway [of the imam], both individuals and collectivities, as has been mentioned before [in the chapter on criminal law], and, secondly, the punishment of recalcitrant groups, such as those that can only be brought under the sway of the Imam by a decisive fight. That then is the jihad against the unbelievers (*kuffār*), the enemies of God and His Messenger. For whoever has heard the summons of the Messenger of God, Peace be upon him, and has not responded to it, must be fought, "until there is no persecution and the religion is God's entirely." (K. 2:193, 8:39)

When God sent his Prophet and ordered him to summon the people to His religion, He did not permit him to kill or fight anyone for that reason before the Prophet emigrated to Medina.

sions and their selves in the way of God; those—they are the truthful ones. (K. 49:15)

And:

Then, when a clear sura is sent down, and therein fighting is mentioned, thou seest those in whose heart is sickness looking at thee as one who swoons of death; but better for them would be obedience and words honourable. Then when the matter is resolved, if they were true to God, it would be better for them. (K. 47: 20-21)

There are numerous similar verses in the Koran and equally frequent is the glorification of jihad and those who participate in it, [for instance] in Surat The Ranks (*al-saff*):

O believers, shall I direct you to a commerce that shall deliver you from a painful chastisement? You shall believe in God and His Messenger, and struggle in the way of God with your possessions and your selves. That is better for you, did you but know. He will forgive you your sins and admit you into gardens underneath which rivers flow, and to dwelling places goodly in Gardens of Eden; that is the mighty triumph; and other things you love, help from God and a nigh victory. Give thou good tidings to the believers. (K. 61:10-13)

And [elsewhere] He has said:

Do you reckon the giving of water to pilgrims and the inhabiting of the Holy Mosque as the same as one who believes in God and the Last Day and struggles in the way of God? Not equal are they in God's sight; and God guides not the people of the evildoers. Those who believe, and have emigrated, and have struggled in the way of God with their possessions and their selves are mightier in rank with God; and those—they are the triumphant their Lord gives them good tidings of mercy from Him and good pleasure; for them await gardens wherein is lasting bliss, therein to dwell forever and ever; surely with God is a mighty wage. (K. 9: 19-21)

And:

O believers, whosoever of you turns from his religion, God will assuredly bring a people He loves, and who love Him, humble towards the believers, disdainful towards the unbelievers, men who struggle in the path of God, not fearing the reproach of any reproacher. That is God's bounty; He gives it unto whom He will. (K. 5:54)

And He has said:

That is because they are smitten neither by thirst, nor fatigue, nor emptiness in the way of God, neither tread they any tread enraging the unbelievers, nor gain any gain from any enemy but a righteous deed is thereby written to their account; God leaves not to waste the wage of the good-doers. Nor do they expend any sum, small or great, nor do they traverse any valley but it is written to their account, that God may recompense them the best of what they were doing. (K. 9:120-121)

Thus He has mentioned [the reward] resulting from their deeds and the deeds they must practice.

The command to participate in jihad and the mention of its merits occur innumerable times in the Koran and the Sunna. Therefore it is the best voluntary [religious] act that man can perform. All scholars agree that it is better than the *hajj* (greater pilgrimage) and the *'umra* (lesser pilgrimage), than voluntary *salat* and voluntary fasting, as the Koran and Sunna indicate. The Prophet, Peace be upon him, has said: "The head of the affair is Islam, its central pillar is the *salat* and its summit is the *jihad*." And he has said: "In Paradise there are a hundred grades with intervals as wide as the distance between the sky and the earth. All these God has prepared for those who take part in *jihad*." There is unanimity about the authenticity of this Tradition. Al-Bukhārī² has transmitted that he has said: "Him whose feet have become dusty in the way of God [i.e. *jihad*] will God save from hellfire." And, as related by Muslim³, he has said:

A day and a night in spent in *ribāt*⁴ are better than one month spent in fasting and vigils. If he dies [in the fulfillment of this task], he will receive the recompense of his deeds and subsistence, and he will be protected from the Angel of the Grave⁵.

It is related in the *Sunan* that "a day spent in *ribāt* in the way of God is better than thousand days spent elsewhere." He has said: "Two eyes will not be touched by the fire: the eye that has wept out of fear for God and the eye that has spent the night on the watch in the way of God." Al-Tirmidhi⁶ has said about this tradition that it is good (*hasan*).⁷ In the *Musnad* of Ahmad ibn Hanbal⁸ we find: "A night spent on the watch in the way of God is better than a thousand nights and days spent in nightly vigils and fasting." In the *Sahih* of al-Bukhārī as well as in the *Sahih* of Muslim we find:

A man said: 'O Messenger of God, tell me of an act that equals jihad in the way of God.' He answered: 'You will not be capable of it.' The man said: 'Tell me anyway.' The Messenger of God said: 'Can you, when a jihad warrior has gone out on expedition, fast without interruption and spend the night in continuous prayer?' The man said: 'No.' Then the Messenger of God said: 'This then is what equals jihad.'

In the *Sunan* we find that Mohammed has said: "Every community has its devotional journeys and the devotional journey of my community is jihad in the way of God."

This is a vast subject, unequalled by other subjects as far as the reward and merit of human deeds is concerned. This is evident upon closer examination. The [first] reason is that the benefit of jihad is general, extending not only to the person who participates in it but also to others, both in a religious and a temporal sense. [Secondly] jihad implies all kinds of worship, both in its inner and outer forms. More than any other act it implies love and devotion for God, Who is exalted, trust in Him, the surrender of one's life and property to Him, patience, asceticism, remembrance of God and all kinds of other acts [of worship]. Any individual or community that participates in it, finds itself between two blissful outcomes: either victory and triumph or martyrdom and Paradise. [Thirdly] all creatures must live and die. Now, it is in jihad that one can live and die in ultimate happiness, both in this world and in the Hereafter. Abandoning it means losing entirely or partially both kinds of happiness. There are people who want to perform religious and temporal deeds full of hardship,

in spite of their lack of benefit, whereas actually jihad is religiously and temporally more beneficial than any other deed full of hardship. Other people [participate in it] out of a desire to make things easy for themselves when death meets them, for the death of a martyr is easier than any other form of death. In fact, it is the best of all manners of dying.

Since lawful warfare is essentially jihad and since its aim is therefore, according to all Muslims, those who stand in the way of this aim must be fought. As for those who cannot offer resistance or cannot fight, such as women, children, monks, old people, the blind, handicapped and their likes, they shall not be killed, unless they actually fight with words [e.g. by propaganda] and acts [e.g. by spying or otherwise assisting in the warfare]. Some Jurists are of the opinion that all of them may be killed, on the mere ground that they are unbelievers, but they make an exception for women and children since they constitute property for Muslims. However, the first opinion is the correct one, because we may only fight those who fight us when we want to make God's religion victorious; God, Who is exalted, has said in this respect: "And fight in the way of God with those who fight you, but aggress not: God loves not the aggressors." (K. 2:190). In the *Sunan* it is reported from the Messenger of God, Peace be upon him:

That he once passed by a woman who had been slain. The Messenger of God halted and said: 'She was not one who would have fought.' Then he said to one of [his companions]: 'Catch up with Khālid ibn al-Walid and tell him not to kill women, children and serfs.'

It is also reported in the *Sunan* that he used to say: "Do not kill very old men, nor small children or women." The reason is that God has [only] permitted to shed blood if that is necessary for the welfare of the creation. He has said: "Persecution is more grievous than slaying." (K. 2:191). This means that, although there is evil and abomination in killing, there is greater evil and abomination in the persecution by the unbelievers. Now, the unbelief of those who do not hinder the Muslims from establishing God's

religion, is only prejudicial to themselves. In the same vein, the jurists have said that the one who propagates innovations (*bida*) that are contrary to the Koran and the *Sunna* must be punished much more severely than the person [who holds such beliefs but] remains silent. "A mistake that is kept secret," says a Tradition, "only harms the person who has committed it, but if it becomes public and is not denounced, it harms the community."

The *Shari'a* enjoins fighting the unbelievers, but not the killing of those who have been captured. If a male unbeliever is taken captive during warfare or otherwise, e.g. as a result of a shipwreck, or because he lost his way, or as a result of a ruse, then the head of state (*imām*) may do whatever he deems appropriate: killing him, enslaving him, releasing him or setting him free for a ransom consisting in either property or people. This is the view of most jurists and it is supported by the Koran and the *Sunna*. There are, however, some jurists who hold that the options of releasing them or setting them free for a ransom have been abrogated. As for the People of the Book and the Zoroastrians (*Majūs*), they are to be fought until they become Muslims or pay the tribute (*jizya*) out of hand and have been humbled.¹¹ With regard to the others, the jurists differ as to the lawfulness of taking tribute from them. Most of them regard it as unlawful to accept it from [heathen] Arabs.

If a rebellious group, although belonging to Islam, refuses to comply with clear and universally accepted commands, all Muslims agree that jihad must be waged against them, in order that the religion will be God's entirely.¹² Thus Abū Bakr al-Siddīq¹³ and other Companions, may God be pleased with them, have fought those who refused to pay *zakāt*. Initially some of the Companions hesitated in fighting them, but eventually they all agreed. 'Umar ibn al-Khaṭṭāb¹⁴ said to Abū Bakr, may God be pleased with them: "How can you fight these people? Has the Messenger of God, Peace be upon him, not said: 'I have been ordered to fight people until they profess that there is no god but God and that Muhammad is God's Messenger. If they say that, their lives and properties will be inviolable for me, unless there is a rule of law that allows taking them. [For their actions] they must render account to God.' Abū Bakr then said: 'The [obligation to pay] *zakāt*

is such a rule. By God, if they refuse to give me one she-kid which they used to give to the Messenger of God, Peace be upon him, I shall fight them for this refusal.' 'Umar said: "Then I realized immediately that God had opened his heart for fighting and I knew that that was right."

There are various authentic Traditions according to which the Prophet, Peace be upon him, has ordered to fight the Kharjites.¹⁵ In the *sahīh* of al-Bukhārī as well as in the *sahīh* of Muslim it is reported on the authority of 'Ali ibn Abi Ṭalib,¹⁶ may God be pleased with him, that he said:

I have heard the Messenger of God, Peace be upon him, saying: Towards the end of time a group of people will emerge, young of age and simple of minds, who will speak the most beautiful words, but whose faith does not go deeper than their throats. They will abandon the religion just like an arrow pierces and then abandons a game animal. Wherever you find them you must kill them since those who kill them will be rewarded on the Day of Resurrection.

Muslim has reported that 'Ali, may God be pleased with him, said:

I have heard the Messenger of God, Peace be upon him, saying: 'A group of people will emerge from amongst my community who will recite the Koran [very well]. Your recitation is nothing compared to theirs. Likewise your way of performing salāt and your way of fasting are nothing compared with theirs. They will recite the Koran believing that its text supports them, whereas [in reality] it condemns them. Their recitation does not go deeper than their collarbones. They will abandon the religion just like an arrow pierces and then abandons a game animal. If the army that reaches them would know how much [reward] the Prophet has promised them, they would rely on this deed [alone] and not worry about other good deeds.'

In another version of this Tradition, transmitted on the authority of Abū Sa'īd from the Prophet, Peace be upon him, we find the following words: "They will fight the people of faith and leave

Unholy Speech and Holy Laws: Blasphemy Laws in Pakistan—Controversial Origins, Design Defects, and Free Speech Implications

Osama Siddique* & Zahra Hayat**

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I. INTRODUCTION

Though blasphemy laws are not peculiar to Pakistan, they arguably exist in a more problematic and controversial form in that country than in others. Since their introduction in the 1980s, blasphemy laws have frequently captured the local and international headlines for the apparent injustice of their form and procedure, as manifested in the tragic human dramas that have been played out as a result.¹ This article attempts to provide the first exhaustive and analytical review of Pakistan's historical and continuing experience with blasphemy laws and argues that these laws were introduced for the less than bona fide political imperatives of an authoritarian regime. These laws continue to be a cause of grave concern because of their patent defects of form and procedure, which are exacerbated by Pakistan's current social and political milieu.

This article, *inter alia*, attempts to analyze and focus on the historical, formalistic, and design aspects of Pakistan's existing blasphemy laws from a comparative perspective. It argues that, quite apart from procedural inadequacies of the Pakistani legal system and its special socio-political circumstances, the very form and design of the blasphemy laws invite abuse.² Findings demonstrate that textual lacunae in the law enable its use as an instrument of misuse, hence leading to the argument that the abusive potential of the law exists even independently of social context. When the blasphemy laws are contextualized within the atmosphere of increasing religious intolerance pervading certain sections of the social fabric in Pakistan, however, their

1. See, e.g., U.S. COMM'N ON INT'L RELIGIOUS FREEDOM, ANNUAL REPORT OF THE U.S. COMM'N ON INT'L RELIGIOUS FREEDOM (2005), available at <http://www.thepersecution.org/ussdcirf/usirf2005.html> (describing conditions for religious freedoms in countries of particular concern). See generally U.S. DEP'T OF STATE, COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES, available at <http://www.state.gov/g/drl/rls/hrrpt/> (providing reports on the status of internationally recognized human rights in foreign countries).

2. For details of these laws, see *infra* Part I.B.

subversive potential is revealed in its entirety. In effect, the blasphemy laws, in their current form, are an instance of legislation inherently open to abuse, operating in an environment that is at times unfortunately conducive to that abuse. This has also resulted in their emergence as a potent tool for the victimization of religious minorities and relegation of these minorities, in many instances, to the status of fearful pariahs subject to legally mandated persecution. The existence of blasphemy laws can be argued for in a society and under a constitutional framework that attaches a premium to the underlying sacred values that such laws may be promulgated to protect. This article, however, argues that the laws, in their current form, have caused, and continue to cause, several miscarriages of justice and are a stimulus for strengthening the negative and highly divisive forces of obscurantism, intolerance, and fanaticism in Pakistani society.

Whether there is a philosophical, moral, and legal justification for having blasphemy laws at all is a question which is evidently amenable to discussion and analysis within the theological realm from which such laws ostensibly stem. Therefore, evaluations of blasphemy laws under Islam, Christianity, Hinduism, etc., in spite of having areas of overlap at the higher philosophical level, are in many ways independent and discreet discussions with different reference points, justifications, qualifications, and practical manifestations. They emerge from different historical, theological, social, political, and legal experiences that precede, surround, and stem from the theological debates and jurisprudence of Islam, Christianity, Hinduism, etc. With the increasingly controversial and arguably problematic continuation of blasphemy laws in various Muslim and non-Muslim jurisdictions well into the twenty-first century, there is a greater need to closely listen to what religious legal scholars have to say. This article, however, does not concern itself with exploring the roots, justification, and nature of blasphemy laws within the Islamic theological, jurisprudential, and historical perspectives and experience, though that is a highly pertinent mode of enquiry within its own right.³

At another distinct and fundamental level, however,

3. From a purely theological and historical standpoint, there is a diversity of viewpoints on what exactly constitutes blasphemy, the significance and stringency of blasphemy laws, and the implementation responsibility and mechanisms for such laws within Islamic theological and legal scholarship.

blasphemy laws are assailable from a completely neutral and non-theological standpoint. This article argues that they are essentially a category of prohibitive laws that are meant to curtail certain kinds of speech and hence raise fundamental questions of freedom of speech, as well as of legitimate arenas of state proscription of certain kinds of speech for certain public interest and policy imperatives.⁴ It basically boils down to whether—using a rather colloquial expression—through the existence and operation of such laws, truth and healthy discussion emerging in the “marketplace of ideas”⁵ are being subjected to a “chilling effect.” The theological arguments focus on the inherent undesirability and offensiveness of blasphemous speech in view of the sacred personages and ideas that it befools and defames, hence deserving curtailment, deterrence, and punishment. This article, however, focuses on the additional aspect that the alleged blasphemer utters certain words that can be regarded as offensive to other fellow citizens and can create situations that breach the peace. Therefore, the State determines that the relative free speech value of utterance of such words is trumped by the damage caused to the sensitivities of others and/or even the potential for breach of peace which may be triggered by such provocation and annoyance.

In this sense, blasphemy is similar to other kinds of speech which may be restricted by the State on the basis of such a cost benefit analysis. In other words, blasphemous speech may be regarded as a kind of “hate speech”—a now internationally well-recognized category of speech that can be validly prohibited. Furthermore, it can be placed under its narrower sub-category of “fighting words.” Both these types of speech have been identified and exhaustively discussed in various international legal jurisdictions that have contributed to the jurisprudence on the right of free speech as possible exceptions to the generic protection of that right.⁶

4. See Sydney Kentridge, *Freedom of Speech: Is It the Primary Right?*, 45 INT'L & COMP. L.Q. pt. 2, 253, 258–69 (1996) [hereinafter Kentridge, *Freedom of Speech*]. The author notes three main objectives identified by judges and jurisprudence writers for recognizing the value and importance of free speech. They are: (1) that freedom of speech encourages the self-fulfillment of individuals in society; (2) truth is likely to emerge from the free expression of conflicting views; and, (3) the integrity of democratic government requires that opinion and information about those who govern us or who would wish to govern us are available to the electorate. *Id.*

5. See Abrams v. United States, 250 U.S. 616, 629 (1919) (Holmes, J., dissenting).

6. Various tests have emerged over the years in the United States in the area

In view of the above, an additional question that this article attempts to address is whether the text of the blasphemy laws, as well as their judicial interpretation in Pakistan, provides any room for assailing these laws from a purely non-theological perspective—in other words, as a kind of “hate speech.” “Hate speech” has come to be internationally recognized as a category of speech which can be legally prohibited so long as it meets certain prerequisites that ensure protection of valid debate, discussion, and analysis. This article explores whether the blasphemy laws, as drafted and judicially interpreted in Pakistan, impinge upon valid and legitimate discourse, and, if they do or have the potential to do so, whether valid speech in Pakistan is consequently a victim of over-broad and over-reaching laws that can be regarded as draconian. Such an exercise cannot be undertaken with a starting point that accepts and adopts free speech as an absolute virtue, which in itself is a controversial and by no means universally accepted position. We start, therefore, by gauging the general level of protection of the right of free speech in Pakistan *vis-à-vis* the situation in some international jurisdictions in order to determine both the extent of such protection in Pakistan as well as the judicial approach to balancing free speech against any conflicting rights and public policy imperatives. With this backdrop, this article then proceeds to analyze whether the blasphemy laws, if they are judicially recognized in Pakistan as prohibiting a kind of “hate speech,” embrace the paradigm of such a cost-benefit approach to speech protection and prohibition.

A. STRUCTURE OF THE ARTICLE

Part I of this article will introduce the nature and specifics of the Pakistani blasphemy laws. Part II will first briefly describe Pakistan’s political history in order to provide a necessary context to the readers. It will then go on to discuss

of “hate speech.” *See, e.g.*, *Brandenburg v. Ohio*, 395 U.S. 444, 447 (1969) (stating that there is a right to advocate the use of force or other unlawful conduct “except where such advocacy is directed to inciting or producing imminent lawless action and is likely to incite or produce action”); *Schenck v. United States*, 249 U.S. 47, 52 (1919) (noting that speech should be punishable only when “the words used are used in such circumstances and are of such a nature as to create a clear and present danger that they will bring about the substantive evils that Congress has a right to prevent”). *See also* *Masses Publishing Co. v. Patten*, 244 F. 535, 540 (S.D.N.Y. 1917) (speech should not be punishable unless it constitutes a direct incitement to violence).

the authoritarian, illegal regime of General Zia-ul-Haq (Zia) and its impact on democratic institutions and culture in Pakistan. Finally, it will analyze the introduction of and political imperatives behind the promulgation of the blasphemy laws under Zia against the backdrop of his controversial program of Islamization of laws and institutions. It will also highlight and contrast the role played by Islam in Pakistan's early history with its blatant political use in Zia's era. Part III will present a statistical snapshot of the extent and nature of the problem created by the blasphemy laws and a detailed review of one of the most notorious and representative cases to arise in light of these laws. This section will discuss whether the Pakistani courts consider allegedly blasphemous speech that has been challenged under the blasphemy laws as "hate speech" and, if they do, whether they have historically considered the freedom of speech provided under Article 19 of the Pakistani Constitution as an applicable defense in such instances. If the Pakistani courts have indeed invoked Article 19 in blasphemy cases, have they undertaken a cost-benefit analysis of balancing the value of such speech against the public policy imperative of preventing any breach of peace? Part IV will conduct a comparative analysis of the blasphemy laws with the pre-Zia religious offenses under Pakistani criminal law and the fundamental design faults that make the blasphemy laws conducive to abuse. This article will then compare some examples of blasphemy laws in other jurisdictions with those of Pakistan and will further discuss how the blasphemy laws hold up when examined through the lens of the internationally recognized "doctrine of vagueness."

Having conducted an exhaustive review of the history, nature, and impact of the blasphemy laws on rights protection and society in Pakistan, Part V will attempt to place the freedom of speech under the Pakistani Constitution in the context of the balancing of speech *vis-à-vis* other rights and public policy imperatives in some leading international jurisdictions. This analysis will be conducted in order to gauge where Pakistan lies along the free-speech spectrum, ranging from free speech absolutism to total control of speech by an authoritarian state. The purpose is to provide an understanding of how the value assigned to certain rights *vis-à-vis* other rights and public policy imperatives may be a direct function of a country's history, politics, society, and ethos, as well as the structure of its constitutional framework. This part will then

draw upon the analysis done in the first four Parts to reach some conclusions regarding the design defects from which the blasphemy laws suffer, review the judicial approach to the adjudication of blasphemy law cases, and discuss both whether the courts, at any level, regard blasphemous speech as not just a religious offense but also “hate speech” and whether they regard Article 19 to be of any relevance in their adjudication. This Part will also discuss the potential for future abuse of these laws by presenting hypothetical scenarios, while highlighting that overbroad protection of speech presents its own set of issues. Part VI will analyze the death penalty for defilement of the Holy Prophet of Islam’s (PBUH) name under one of the blasphemy laws, in the context of the international legal and human rights perspectives on capital punishment. Finally, Part VII will offer conclusions regarding the existing abuse of the blasphemy laws, their potential for future abuse, and suggest reforms for redressing the prevalent situation.

B. THE BLASPHEMY LAWS IN PAKISTAN

Chapter XV of the Pakistan Penal Code (PPC) is titled *Of Offences Relating to Religion*.⁷ During the military regime of Zia, spanning the period from 1977 to 1988, five additional clauses⁸ were inserted in this chapter through a series of

7. PAK. PEN. CODE, ch. XV [hereinafter PPC].

8. These are Sections 295-B, 295-C, 298-A, 298-B, and 298-C. Their text is reproduced below:

295-B [President's Order 1 of (1982) Ordinance (1 of 1982) dated 18.3.1982]

Defiling, etc, of Holy Qur'an. Whoever willfully defiles, damages or desecrates a copy of the Holy Quran or of an extract therefrom or uses it in any derogatory manner or for any unlawful purpose shall be punishable with imprisonment for life.

295-C [Criminal Law (Amendment) Act, (111 of 1986), S. 2.]

Use of derogatory remarks, etc; in respect of the Holy Prophet. Whoever by words, either spoken or written, or by visible representation, or by any imputation, innuendo, or insinuation, directly or indirectly, defiles the sacred name of the Holy Prophet Mohammed (peace be upon him) shall be punished with death, or imprisonment for life, and shall also be liable to fine.

298-A [Pakistan Penal Code (Second Amendment) Ordinance (XLIV of 1980), S.2]

Use of derogatory remarks, etc., in respect of holy personages. Whoever by words, either spoken or written, or by visible representation, or by any imputation, innuendo, or insinuation, directly or indirectly, defiles

martial law legal amendments. Of these, Section 295-C declares defilement of the name of Muhammad (PBUH), the Prophet of Islam, a criminal offense punishable by death.⁹ This particular legal provision is the main focus of this article (hereinafter referred to as “Section 295-C”), although there are several levels of interplay between it and other blasphemy laws which are also analyzed (hereinafter collectively referred to as “the blasphemy

the sacred names of any wife (*Ummul Mumineen*), or members of the family (*Ahle-bait*), of the Holy Prophet (peace be upon him), or any of the righteous caliphs (*Khulafa-e-Raashideen*) or companions (*Sahaaba*) of the Holy Prophet (peace be upon him) shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

298-B [(Prohibition and Punishment) Ordinance XX of 1984]

Misuse of epithets, descriptions and titles, etc., reserved for certain holy personages or places. (1) Any person of the Quadiani group or the Lahori group (who call themselves ‘Ahmadis’ or by any other name) who by words, either spoken or written, or by visible representation, –

(a) refers to, or addresses, any person, other than a Caliph or companion of the Holy Prophet Muhammad (peace be upon him), as ‘Ameer-ul-Mumineen’, ‘Khalifat-ul-Muslimeen’, ‘Sahaabi’ or ‘Razi Allah Anho’;

(b) refers to, or addresses, any person, other than a wife of the Holy Prophet Muhammad (Peace be upon him), as ‘Ummul-Mumineen’;

(c) refers to, or addresses, any person, other than a member of the family (*Ahle-bait*) of the Holy Prophet Muhammad (peace be upon him), as *Ahle-bait*; or

(d) refers to, or names, or calls, his place of worship as ‘Masjid’;

shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

(2) Any person of the Quadiani group or Lahori group (who call themselves ‘Ahmadis’ or by any other name) who by words, either spoken or written, or by visible representation, refers to the mode or form of call to prayers followed by his faith as ‘Azan’ or recites Azan as used by the Muslims, shall be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to fine.

298-C [(Prohibition and Punishment) Ordinance XX of 1984]

Person of Quadiani group, etc., calling himself Muslim or preaching or propagating his faith. Any person of the Quadiani group or the Lahori group (who call themselves ‘Ahmadis’ or by any other name), who, directly or indirectly, poses himself as a Muslim, or calls, or refers to, his faith as Islam, or preaches or propagates his faith, or invites others to accept his faith, by words either spoken or written, or by visible representations or in any manner whatsoever outrages the religious feelings of Muslims, shall be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to fine.

9. PPC ch. XV sec. 295-C.

laws"). The remaining blasphemy laws, except for Section 295-B, largely involve certain distinctive characteristics and dimensions that have an exclusive impact on the Ahmadis,¹⁰ an additional aspect of the problem that will be discussed.

II. THE POLITICS OF ISLAMIZATION DURING THE ZIA REGIME

This section begins by describing the events preceding the imposition of martial law by Zia in order to illustrate the illegitimate credentials of his regime. It then moves on to review the Zia era and to contextualize the enactment of the blasphemy laws within the broader political context and legislative trends of that era in an attempt to argue that the passage of these laws was largely motivated by Zia's aspirations for political entrenchment.¹¹

A. POPULIST POLITICS DISPLACED BY AN ILLEGITIMATE REGIME

The emergence of Zulfiqar Ali Bhutto's populist Pakistan People's Party (PPP) on the political scene in the 1970s was a watershed event in Pakistan's political evolution.¹² Considering

10. Ahmadis claim to be a sect of Islam. *See* Lahore Ahmadiyya Movement in Islam vs. Qadiani/Rabwah Jamaat, <http://aagil.org/text/books/others/misc/lahoreahmadiyyamovementislamvsqadianirabwahjamaat.shtml> (last visited Mar. 8, 2008). Their basic departure from mainstream Islam, in addition to certain other differences, is that they regard a certain Mirza Ghulam Ahmad of Qadiaan—a religious figure from the mid to late nineteenth century—as a prophet, in contrast to mainstream Muslims who regard Prophet Muhammad (PBUH) as the last prophet of God and thereby a closure to any further prophets being sent by God to guide humanity. *Id.* There are two different schools within the Ahmadi belief system, namely the Lahore Ahmadiyya Movement and the Rabwah Jamaat (also referred to as the Qadianis), which, *inter alia*, disagree over the definition of prophethood and what exactly constitutes finality of prophethood. *Id.* The very assertion by Ahmadis of their being Muslims is the main contention between them and mainstream Muslim scholars and clerics who do not recognize them as Muslims. *Id.* The Ahmadis have also been categorized as non-Muslims under the Pakistani Constitution. *Id.*

11. *See generally* AYESHA JALAL, THE STATE OF MARTIAL RULE: THE ORIGINS OF PAKISTAN'S POLITICAL ECONOMY OF DEFENCE 295–328 (Cambridge Univ. Press 1990); HAMID KHAN, CONSTITUTIONAL AND POLITICAL HISTORY OF PAKISTAN 579–708 (Oxford Univ. Press 2001); OMAR NOMAN, THE POLITICAL ECONOMY OF PAKISTAN 1947–85, 117–56 (Kegan Paul Int'l. 1990); NADEEM QASIR, PAKISTAN STUDIES: AN INVESTIGATION INTO THE POLITICAL ECONOMY 1948–1988, 110–28 (Oxford Univ. Press 1991); MOHAMMAD WASEEM, POLITICS AND THE STATE IN PAKISTAN 349–420 (1st ed. Progressive Publishers 1989).

12. Zulfiqar Ali Bhutto emerged on the political arena when he was inducted into President Iskander Mirza's cabinet after Mirza's imposition of martial law on

the country's tumultuous past, commentators give Bhutto credit for undertaking various measures to curb the influence of the hitherto dominant military-bureaucratic oligarchy. They emphasize the gargantuan forces that Bhutto faced.¹³ At the same time, they argue that Bhutto's eventual demise resulted from both the legacy of "political structures . . . persistently impaired by the precedent set by previous military rule," as well as his government's failure "to abide by the framework of legitimate civilian rule."¹⁴ Other commentators place the blame on Bhutto for transforming his civilian government into a highly autocratic regime, betraying his charismatic promises to bring about a progressive, participatory government, thereby paving the way for Zia's martial law.¹⁵

Bhutto's paradoxical personality seems to have characterized his politics, which were distinguished by mass populism that galvanized—for the first time in the country's

October 8, 1958, in cohorts with the Commander-in-Chief of the Army, General Muhammad Ayub Khan. See KHAN, *supra* note 11, at 434–37 (noting that Bhutto created an "entirely new" party with support of students and professionals; its "main plank" resembled a "socialist manifesto," including nationalization of industries and banks). Despite the ouster of Mirza on October 27, 1958, the Army Commander-in-Chief and now President, General Khan, retained Bhutto. *Id.* Bhutto held various positions in Ayub's cabinet, including becoming Foreign Minister in 1963, but eventually left the cabinet as a "disillusioned young man." *Id.* at 435. Ayub stepped down on March 25, 1969, succeeded by the Army Commander-in-Chief General Yahya, who immediately placed the country under martial law and assumed the office of President on April 1, 1969. *Id.* at 371. Under Yahya, Pakistan held general elections on December 7, 1970, for the National Assembly, and on December 17, 1970, for the Provincial Assemblies. *Id.* at 381–83. Bhutto's newly formed Pakistan People's Party (PPP) emerged with a large majority in both elections. *Id.* at 381–82. A series of events led to East Pakistan, now Bangladesh, declaring independence on March 25, 1971. *Id.* at 385–404, 406. Following Pakistan's military debacle in the region in the same year, Bhutto succeeded Yahya as President and Chief Martial Law Administrator. *Id.* at 438. Pakistan did not hold new elections for the National Assembly after the division of the country. *Id.* at 448. No elections were held under either the Interim Constitution of 1972 or the Constitution of 1973, which resulted in the same National Assembly, elected prior to the split, remaining intact until August 14, 1977. *Id.* at 509. On August 12, 1973, the National Assembly elected Bhutto as Prime Minister. *Id.* at 510. For further coverage of events leading to Pakistan's breakup in 1971 and Bhutto's emergence as a politician, see generally *id.* at 375–438.

13. See generally JALAL, *supra* note 11, at 310–16 (explaining that, following the military's debacles, effecting change required maintaining support of a coalition with extremely varied ideologies and interests while working within the entrenched institutional balance of power by cooperating with the military and the civil bureaucracy).

14. See NOMAN, *supra* note 11, at 58.

15. See generally LAWRENCE ZIRING, PAKISTAN IN THE TWENTIETH CENTURY: A POLITICAL HISTORY 371–422 (Oxford Univ. Press 1997).

history—huge disadvantaged sections of society.¹⁶ Controversial nationalization policies, strong-arm tactics, and political intolerance, however, characterized his later years.¹⁷ While attempting to keep the military out of politics through the creation of his own civilian militia, Bhutto had the dubious distinction of further institutionalizing the use of the state's coercive arm to quell the growing unrest triggered by his policies and style of governance. This eventually led to increasingly disruptive street agitations against Bhutto, led by a coalition of nine political parties called the Pakistan National Alliance (PNA).¹⁸ These represented, among others: the disgruntled, religiously inclined lower-middle classes, which had always found Bhutto's rhetoric disturbingly secular; the urban-middle classes, which were frustrated with Bhutto's scant regard for civil liberties and inept handling of growing inflation; and regional political movements that felt oppressed by Bhutto's brutal centrist rule.¹⁹ All these disparate oppositions cohesively rallied against Bhutto after what many believed were rigged elections in 1977, giving rise to a grave constitutional crisis.²⁰ However, just when it seemed that a political solution was within reach, Zia marshaled his troops.²¹

The 1977 martial law that ousted Bhutto's government gave birth to Zia's eleven-year-long authoritarian rule over Pakistan.²² Most importantly, Zia assumed for himself the power of amending the Constitution. Judges of the superior courts were required to take a loyalty oath under the Provisional Constitutional Order,²³ which amounted to a pledge of allegiance to the new military order, to the exclusion of the earlier constitutional system.²⁴ At the same time, the oath was used to purge independent-minded judges who refused the oath or were not invited to take it.²⁵ Bhutto's highly controversial trial and execution, in the face of strong domestic and international protest, is perhaps the most ignominious episode

16. See NOMAN, *supra* note 11, at 101–02.

17. See KHAN, *supra* note 11, at 522–24.

18. *Id.* at 554.

19. See NOMAN, *supra* note 11, at 67–68, 110–11.

20. *Id.*

21. See KHAN, *supra* note 11, at 541–79; NOMAN, *supra* note 11, at 118.

22. PROVISIONAL CONSTITUTION ORDER, 1982 art. 16 (Pak.).

23. Provisional Constitution Order, Chief Martial Law Administrator's Order No. 1 of 1981 (Pak.), reprinted in PLD 183, 183–91 (1981) (Pak.).

24. See KHAN, *supra* note 11, at 648.

25. *Id.* at 648–51.

from Zia's early years.²⁶ Zia's regime curtailed fundamental rights and political activity on a day-to-day basis, as well as in deep institutional ways. Other prominent fallouts of the Zia era include the militarization of society, the emergence of drug barons as a potent political force, and language-based politics.²⁷ Throughout this period, Zia received strong support from the United States and other Western powers owing to the Russian invasion of Afghanistan and the resultant jihad that made Zia a necessary ally for the West.²⁸

After eight years of rigid clampdown on political activity, Zia reluctantly and only ostensibly relinquished limited powers to a timid new government in 1985.²⁹ This government was elected on a non-party basis in a strategically depoliticized environment. Most of the country's leading politicians had been marginalized in one way or another—they were banned, constrained, restricted, or compelled to boycott the elections because they had no faith in its freedom and fairness.³⁰ Zia's martial law is distinct from previous martial laws in one significant respect. While his predecessors drastically and irrevocably brought closure to short periods of constitutional rule through outright abrogation of constitutions, Zia put the only consensus-based constitution of the country—the Constitution of 1973—into cold storage, resurrecting it at a later stage, but with crucial structural changes to enhance executive power.³¹ To many who categorize Zia's regime as Machiavellian, the particular set of amendments to the Constitution of 1973 that Zia brought about through the new Assembly epitomizes his stratagems to further entrench his rule.³²

A careful perusal of the voluminous legislative debates surrounding the introduction of these amendments reveals an

26. See generally *id.* at 596–628. For an account of the events leading up to Bhutto's execution, including the role played by Zia, see WASEEM, *supra* note 11, at 358–65.

27. See KHAN, *supra* note 11, at 700.

28. See WASEEM, *supra* note 11, at 366; Osama Siddique, *The Jurisprudence of Dissolutions: Presidential Power to Dissolve Assemblies under the Pakistani Constitution and its Discontents*, 23 ARIZ. J. INT'L & COMP. L. 615, 627–28 (2006) [hereinafter Siddique, *Jurisprudence of Dissolutions*].

29. See PAULA R. NEWBERG, *JUDGING THE STATE: COURTS AND CONSTITUTIONAL POLITICS IN PAKISTAN* 188–90 (Cambridge Univ. Press 1995).

30. *Id.*

31. See ZULFIKAR KHALID MALUKA, *THE MYTH OF CONSTITUTIONALISM IN PAKISTAN* 271–73 (Oxford Univ. Press 1995).

32. See *id.* at 271–74; NEWBERG, *supra* note 29, at 190–91; KHAN, *supra* note 11, at 676–79; Siddique, *Jurisprudence of Dissolutions*, *supra* note 28, at 628.

intriguing story and displays a very strong public indictment of Zia, even as his regime continued. During general discussion on the floor of the Assembly, many of the members conducted an exhaustive, and at times emotional, analysis of Pakistan's constitutional debacles. They came up with a severe critique of Zia's reneging on his promise to hold elections in time, his resultant low credibility, and what they considered to be the various failings of his regime.³³ They highlighted Zia's track record and openly suggested that his proposed amendments to the Constitution, giving the President unprecedented powers to dissolve Assemblies on a subjective evaluation of their performance, were *mala fide* and a façade for the perpetuation of his rule as an overlord over a weak parliamentary system.³⁴ Others stated categorically that Zia was introducing amendments of an un-Islamic nature to the Constitution, since they attempted to concentrate power in an individual.³⁵ While reviewing the debate, it is fascinating to see anti-Zia arguments stemming and converging from both secular-democratic and Islamic-democratic perspectives. One thing which clearly emerges is that state-sponsored religion, more than ever, had come to play a significant role in mainstream Pakistani politics.

B. ISLAM AS A POLITICAL SLOGAN AND LEGITIMIZING DEVICE— ISLAMIZATION IN THE LEGISLATIVE AREA

The scale of Zia's Islamization and his aim to convert Pakistan into a theocracy was unparalleled in Pakistan's political history and can be contrasted with the pluralistic, progressive, and non-theocratic ethos of the Pakistani state apparent in various speeches by Mr. Muhammad Ali Jinnah—the founding father of Pakistan.³⁶ Immediately after he assumed power, Zia proclaimed his commitment to imbuing the state and all sectors of its citizens' lives with the spirit and, more importantly, the practice of Islam: "Pakistan, which was created in the name of Islam, will continue to survive only if it sticks to Islam. That is why I consider the introduction of the Islamic

33. See, e.g., THE NATIONAL ASSEMBLY OF PAKISTAN DEBATES: OFFICIAL REP. IV, 1964–66 (1985) at 601–03, 1246–50, 1252–53, 1273–76, 1282–83, 1364, 2087–90, 2127–28, 2241–43, 2293, 2295–96, 2370–71, 2389, 2403–04.

34. *Id.* at 1817, 2360–61, 2392–93, 3102.

35. *Id.* at 65–66, 486–88, 1099–100.

36. See generally QUAID-I-AZAM MOHAMMED ALI JINNAH: SPEECHES & STATEMENTS 1947–1948, 17–18 (Oxford Univ. Press 1989) [hereinafter JINNAH: SPEECHES & STATEMENTS].

system an essential pre-requisite for the country.”³⁷

There cannot be a more remarkable contrast than the one between Zia’s assertion above and Jinnah’s vision of the Pakistani state, as epitomized in the following excerpt from one of his most celebrated speeches:

You are free; you are free to go to your temples, you are free to go to your mosques or to any other place of worship in the State of Pakistan. You may belong to any religion or caste or creed—that has nothing to do with the business of the State . . . Now, I think we should keep that in front of us as our ideal and you will find that in course of time Hindus would cease to be Hindus and Muslims would cease to be Muslims, not in the religious sense, because that is the personal faith of each individual, but in the political sense as citizens of the State.³⁸

There is increasing and widespread consensus that Zia’s appeal to religion was a popular legitimacy-gaining ploy³⁹ and that, almost from the beginning, the Zia regime recognized the tremendous potential of Islamic idiom as a political resource.⁴⁰ Zia’s recourse to religion in the interests of political expediency was not unprecedented, as examples of the use of religion as a political tool were to be found as far back as the independence movement.⁴¹ Some commentators argue that the rhetoric of the independence movement employed religious terms in an attempt to give at least the appearance of unity to an otherwise

37. See KHAN, *supra* note 11, at 579.

38. JINNAH: SPEECHES & STATEMENTS, *supra* note 36, at 28–29 (addressing the Constituent Assembly of Pakistan on his election as the first President of the Constituent Assembly, Aug. 11, 1947).

39. See Charles H. Kennedy, *Islamization and Legal Reform in Pakistan*, 1979–1989, 63 PAC. AFF. 62, 72 (1990) [hereinafter Kennedy, *Islamization and Legal Reform*] (arguing that legitimacy remained Zia’s perennial challenge and that his Islamization program was partly designed to provide an Islamic justification for his regime); Ann Elizabeth Mayer, *Islam and the State*, 12 CARDOZO L. REV. 1015, 1042–47 (1991).

40. See NOMAN, *supra* note 11, at 150–56.

41. Muhammad Ali Jinnah, in his address to the Sindh Bar Association on January 25, 1948, urged the Muslims to prepare themselves to “sacrifice and die in order to make Pakistan [a] truly great Islamic State.” See HINA JILANI, HUMAN RIGHTS AND DEMOCRATIC DEVELOPMENT IN PAKISTAN, 1998, PAKISTAN: PROSPECTS FOR DEMOCRACY 41 (Maktaba Jadeed Press 1998). Author Ayesha Jalal finds this a radical departure from Jinnah’s other speeches from that time and proposes, as one possible explanation, that the travails of office as Pakistan’s first Governor-General may have weakened Jinnah’s resolve to take the path of least resistance on matters to do with religion. See JALAL, *supra* note 11, at 279–80. The other explanation, she asserts, could be that the definition of an “Islamic State” in Jinnah’s personal lexicon was wholly unique. However, even if the truth lies somewhere in between, Jalal is of the view that the conclusion must still be that Jinnah—the secularist—was above all else a hardened politician, ready to take refuge in Islam to survive the cross-fire of provincialism and religious extremism. *Id.*

fragmented people and facilitated state control over a “society with highly localized and fragmented structures of authority.”⁴² The legacy of using Islam for political purposes has persisted into independent Pakistan. Despite the commitment, by and large, to steer clear of a theocracy, religion—“the leitmotif of an otherwise variegated culture”⁴³—has continued to be used as an instrument for engendering unity, garnering support for unpopular regimes, and preventing backlashes that invariably arise against any regime that appears unacceptably un-Islamic.⁴⁴

The groundwork for Zia’s appeal to Islam had already been laid in the PNA’s opposition to Bhutto.⁴⁵ Some commentators argue that the roots of the PNA’s demands for an “Islamic revival,” implemented in the form of the “Nizam-e-Mustafa” (system of the Prophet Muhammad), lay in various trends in international and domestic politics in the 1970s.⁴⁶ The oil boom of 1973 spurred external financing for Islamic political parties in Pakistan, whose socio-economic interests were adversely affected by Bhutto’s policies.⁴⁷ The fundamentalist Jamaat-i-Islami (JI), in particular, fomented the “religious sensibilities of a people dispirited by military defeat” in the 1971 debacle that resulted in the separation of Pakistan and the creation of Bangladesh, claiming that Pakistan’s disintegration was attributable to the “state’s lack of Islamic morality.”⁴⁸ It was thus natural for Zia to capitalize on this ready-made constituency and more importantly to employ its rhetoric: “It was convenient that the use of Islamic symbolism by the three religious constellations in the nine-party [PNA]—the [JI], the [JUI] and the [JUP]—had become the best remembered expression of the movement”⁴⁹ and hence the perfect precedent for Zia to declare a return to Islam as an anathema for the “degenerate Pakistani society.”⁵⁰

Zia zealously employed his appeal to religion to justify the

42. See JALAL, *supra* note 11, at 277–78. For further review of the role of Islam in the independence movement, see NOMAN, *supra* note 11, at 3–26.

43. See JALAL, *supra* note 11, at 278.

44. See generally JALAL, *supra* note 11, at 277–328; and NOMAN, *supra* note 11, at 144–156.

45. See JALAL, *supra* note 11, at 317–20.

46. *Id.* at 318.

47. *Id.* at 317.

48. *Id.*

49. *Id.* at 320. JUI and JUP stand respectively for Jamiat-e-Ulema-e-Islam and the Jamiat-e-Ulema-e-Pakistan. *Id.*

50. *Id.* at 319.

dictatorial authority he had arrogated to himself. He attacked free democratic elections as a secular institution, deemed democracy incompatible with the supremacy of divine law, and declared that political parties were prohibited in an Islamic state, since they promote sectarianism.⁵¹ The unprecedented presidential authority Zia conferred upon himself via the 1985 constitutional amendments was also justified by recourse to religion: since Muslims believed in “one God, one prophet and one book,”⁵² being ruled by one man was consistent with their mentality.⁵³

A new brand of Islamic obscurantism and, to many, a facile, opportunistic use of religion to legitimize *realpolitik*, brought about the introduction of flawed and highly controversial personal morality and blasphemy laws, the empowerment of courts to declare any law un-Islamic, and the concurrent curtailment of courts’ jurisdiction in matters concerning fundamental rights and civil liberties.⁵⁴ These steps caused jurisdictional and doctrinal confusions in many areas of law.

The Islamization program inevitably encompassed the Islamization of laws as well as the judiciary. It is significant, therefore, that the Islamic Ideology Council, formed six weeks after the coup and entrusted with the task of preparing an outline of an Islamic state, had a panel on Islamic Law.⁵⁵ One of the most decisive steps towards the Islamization of the legal system was the creation of a parallel judicial apparatus, comprising the Federal Shariat Court (FSC)⁵⁶ and the Shariat Appellate Bench of the Supreme Court (SAB).⁵⁷ The FSC was authorized and mandated to ensure the conformity of all legislation to the Quran and Sunnah⁵⁸ and to strike down any law it considered repugnant to either.⁵⁹ Moreover, an appeal against a decision of the FSC was possible only to the SAB.⁶⁰ The composition of the FSC⁶¹ and the SAB⁶² itself cemented the formalization of the role of the “Ulema”—Islamic religious

51. See NOMAN, *supra* note 11, at 143–44.

52. *Id.*

53. *Id.*

54. See KHAN *supra* note 11, at 627–28, 663–66.

55. See NOMAN, *supra* note 11, at 118.

56. See CONSTITUTION OF THE ISLAMIC REPUBLIC OF PAKISTAN art. 203C (1).

57. *Id.* art. 203F (3).

58. *Id.* art. 203D (1).

59. *Id.* art. 203D (3).

60. *Id.* art. 203F (1).

61. *Id.* art. 203C (3A).

62. *Id.* art. 203F (a) & (b).

scholars—in this new graft onto the existing judicial system.⁶³ The FSC was, at times, used for promoting independent-minded judges of the high courts.⁶⁴ The implications of the powers vested in the FSC appear in the analysis of the death penalty for commission of blasphemy under one of the blasphemy laws, discussed later in the article.⁶⁵

Apart from the alterations to the structure of the judicial system and the enactment of the blasphemy laws, the controversial Hudood (Islamic Criminal) laws governing areas of personal morality also formed a very important part of Zia's Islamization program.⁶⁶ Significant changes were made to the law, which were vociferously questioned by moderate elements in society, including rights groups and political and legal commentators. They highlighted what they found to be the introduction of cruel and unusual punishments, such as stoning to death, amputation, and whipping. These punishments could be meted out as a result of prosecutions, trials, and convictions under laws that they argued suffered from several substantive and procedural issues, thus creating a huge potential miscarriage of justice. This was quite apart from their fundamental protest that the Hudood laws were inherently *mala fide*, as they had been essentially introduced to support an illegal and unpopular regime, and were discriminatory against

63. Thus the composition of the FSC and SAB in itself assured the adoption of a conservative rather than a modernistic and progressive interpretation of the Quran and Sunnah. Interview with Khawaja Harris Ahmad, Advocate, Supreme Court of Pakistan, in Lahore, Pak. (Aug. 25, 2007) [hereinafter Interview with Khawaja Harris Ahmad].

64. See KHAN, *supra* note 11, at 638, 641. In effect, the FSC indirectly performed legislative functions by: (a) reviewing existing laws to see if they were in conformance with the *Sharia* and, if not, declaring in which case such laws ceased to exist after a stipulated time period; and (b) laying down guidelines and formulations to direct what the laws should be, which guidelines and formulations were in turn required to be kept in consideration by the legislature. Thus they played a significant role in the promulgation of various criminal laws under Zia. See Interview with Khawaja Harris Ahmad, *supra* note 63.

65. See *infra* Part VI.

66. The Hudood Laws were enacted through as many as four Presidential Ordinances and one Presidential Order, namely, Offence of Zina (Enforcement of Hudood) Ordinance, 1979 (VII of 1979), reprinted in 31 PLD 1979 Central Statutes 51 (1979); Offence of Qazf (Enforcement of Hadd) Ordinance, 1979 (VIII of 1979), reprinted in 31 PLD 1979 Central Statutes 56 (1979); Offences Against Property (Enforcement of Hudood) Ordinance, 1979 (VI of 1979), reprinted in 31 PLD 1979 Central Statutes 44 (1979); Execution of the Punishment of Whipping Ordinance, 1979 (IX of 1979), reprinted in 31 PLD 1979 Central Statutes 60 (1979); and, Prohibition (Enforcement of Hadd) Order, 1979 (P.O. 4 of 1979), reprinted in 31 PLD 1979 Central Statutes 33 (1979).

the rights of women, and were inherently retrogressive and unrepresentative of the true spirit of Islam.⁶⁷ Women's rights groups in Pakistan and abroad in particular have continued to regularly document, analyze, and protest against the various aspects of these laws which they believe to be discriminatory against women. The critique has come both from a doctrinal and ideological perspective,⁶⁸ as well as through exhaustive empirical studies of the several problems of these laws. Their criticism targets discriminatory evidentiary rules, as well as the consequence of the equation of rape with adultery. The latter has led to the conversion of complaints of rape into prosecutions for adultery, when the accusers fail to bring sufficient evidence to prove rape due to inadequate investigative and evidentiary mechanisms, quite apart from the incidence of malicious prosecutions.⁶⁹

It is evident, therefore, that the blasphemy laws form a part of a larger pattern in which the subjugation of legislation to political expediency has subverted the processes of justice in

67. See Kennedy, *Islamization and Legal Reform*, *supra* note 39; see also ASMA JAHANGIR & HINA JILANI, THE HUDOOD ORDINANCES: A DIVINE SANCTION? 18, 21–22, 32–33 (Rhotas Books 1990) (castigating Zia's Islamization of laws as an attempt to consolidate his power, analyzing the adverse impact of these laws and their implementation mechanisms in an equally adverse socio-political and legal environment, and commenting on how extension of religious sanctity to these laws makes any criticism of them tantamount to heresy).

68. See Fauzia Gardezi, *Nationalism and State Formation: Women's Struggles and Islamization in Pakistan*, in *ENGENDERING THE NATION-STATE*, 79–80 (Neelam Hussain, Samiya Mumtaz, & Rubina Saigol eds., Simorgh Women's Resource and Publication Centre 1997) (arguing that Zia's Islamization of laws is unprecedented in Pakistan's history and discussing their impact on shaping gender relations and the nature of the State); see also Saba Gul Khattak, *Gendered and Violent: Inscribing the Military of the Nation-State*, in *ENGENDERING THE NATION-STATE* 38 (focusing on the impact of the military upon civil society in terms of perpetuating gender ideologies, exploring the specific issues of engendering the nation-state and how the processes of engendering are directly connected to violence and defense even when the language they use is one of "caring," and examining the militarization of civil society and its unquestioned "normal" status *vis-à-vis* democracy); Saadia Toor, *The State, Fundamentalism and Civil Society*, in *ENGENDERING THE NATION-STATE* 111–12 (arguing that Zia's legal interventions continue to have an impact long after his demise because, quite apart from their being an imposition from above by a repressive and authoritarian regime which held power through domination, the effect of Islamization on Pakistani civil and political society has been far greater than usually acknowledged). Other commentators have squarely described the Islamization agenda as one meant to systematically reduce the power and participation of women in the public sphere and such dilution of their role as not just a mere side-effect as such. See Anita M. Weiss, *Women's Position in Pakistan: Sociocultural Effects of Islamization*, 25 ASIAN SURV. 863, 876–77 (1985).

69. See JAHANGIR & JILANI, *supra* note 67, at 13–15.

Pakistan. This is the first major criticism of the blasphemy laws, which, as has been discussed, are not the product of a pluralistic and participatory democratic discourse. Instead, they are essentially the legislative interventions of a military dictator who adopted a theocratic rhetoric and agenda for clearly self-serving motivations. Therefore, quite apart from their flawed design, which we shall soon discuss, the very genesis and ethos of the blasphemy laws are highly tainted.

III. EXTENT OF THE PROBLEM

It should be stated at the outset that the bulk of the blasphemy cases are decided at the trial court level, and there is no reliable, publicly-available record of the same.⁷⁰ There are, however, some publicly-available reports generated by Pakistani and international human rights groups that discuss some of these cases. Some cases, however, have been appealed, and most of these have been reported in Pakistani law reports; the statistics provided below have been calculated from these reported cases. While a review of the reported cases alone does not communicate a complete picture of the frequency of incidence of blasphemy prosecutions, it does convey the complex issues involved and the various defects and shortcomings that characterize both these prosecutions as well as the laws that generate them—in turn conveying a very real sense of how blasphemy laws in Pakistan have been prone to abuse in various instances.

A. GENERAL STATISTICS AND BROAD SPECTRUM OF ABUSE

The information in this section is based on reported case law spanning the period from 1980—when the first Zia-era

70. We contacted the Home Department and the Law Department of the Government of Punjab to access data pertaining to registration of cases under various offenses of the PPC. It transpired that the Government of Punjab had only started compiling such data last year and that the collected data was very generic. More specific to our query, the data did not show the number of cases registered under the various blasphemy provisions but lumped it with data pertaining to other kinds of offenses under the omnibus category of “religious offenses.” In other words, there was neither yearly data over a longer period of time for us to do a trend analysis, nor was it provision-specific for us to gauge which provisions were being more frequently invoked compared to others. The non-availability and non-specificity of such data further underlines the low level of importance that the Government has historically attached to the documentation and analysis of, *inter alia*, blasphemy offenses.

amendment was inserted into the PPC—through the first quarter of 2007 (except for Tables A & B, which also include reported cases under pre-Zia religious offenses dating back to 1960). The tables below emerge from an exhaustive review of reported cases over this period, pertaining both to the pre-Zia offenses that form part of the PPC, as well as the blasphemy laws introduced by Zia.

**TABLE A: Incidence of Religious Offense Cases from 1960-2007,
at Court and Province levels (including both pre-Zia offenses
under the Pakistan Penal Code as well as the Blasphemy Laws)**

Total No. of Cases		104				
High Court Cases	Total number of High Court Cases	Lahore	Karachi	Peshawar	Quetta	Azad J & K (High Court + Shariat Court)
	91	62	21	6	1	1
Cases at the Apex Court Level	Total number of Apex Court Cases	Supreme Court of Pakistan	Federal Shariat Court of Pakistan	Supreme Court of Azad J & K	Shariat Court of Azad J & K	
	13	10	1	1	1	

TABLE B: Incidence of Pre-Zia Offenses and Blasphemy Cases from 1960-2007, by Code Section⁷¹

Section	No. of Cases ⁷²
295	12
295-A	39
295-B	29
295-C	16
295-C & other Chapter 15 provisions	41
296	0
297	5
298	5
298-A	5
298-B	4
298-C	19

TABLE C: Incidence of Pre-Zia Offenses and Blasphemy Cases from 1980-2007, by Year

Year	No. of Cases	Year	No. of Cases	Year	No. of Cases
1980	1	1990	1	2000	8
1981	0	1991	3	2001	6
1982	0	1992	5	2002	5
1983	0	1993	7	2003	8
1984	0	1994	4	2004	4
1985	0	1995	3	2005	6
1986	0	1996	5	2006	8
1987	3	1997	3	2007	3
1988	5	1998	4		
1989	3	1999	2		

TABLE D: Incidence of pre-Zia Offenses and Blasphemy Cases from 1980-2007, by Decade

71. The sections added to Chapter 15, PPC, during the Zia regime (i.e. the blasphemy laws) are highlighted.

72. The total number of cases calculated on the basis of this table is greater than 104, due to the fact that the same case may invoke more than one provision of Chapter 15, PPC, and will therefore be counted multiple times. The table explicitly states the number of times Section 295-C was invoked, along with other provisions, but does not do this for the rest of the Chapter 15, PPC provisions.

Decade	No. of Cases
1980-89	12
1990-99	36
2000-	48

Table B shows that there are forty-one reported cases that involve Section 295-C. Of these forty-one cases, twelve cases involved a decision on the merits of the case, twenty-one cases involved a decision on bail applications, six cases involved applications to quash the proceedings, and two were constitutional petitions that involved adjudication on certain aspects of the blasphemy laws. As far as the religious profile of the accused is concerned, of the forty cases (the constitutional petition before the FSC that challenged the constitutionality of the punishment of “life imprisonment” under Section 295-C on account of it being against the injunctions of Islam is excluded), in fifteen cases the accused were Ahmadis, in five they were Christians, and in the remaining twenty they were Muslims. Therefore, in fifty percent of the cases, the accused were non-Muslims. This is a very large proportion given the otherwise minute size of these religious denominations in Pakistan’s population, which is roughly ninety-seven percent Muslim.⁷³

Of the thirty-nine cases that involved the adjudication of an actual blasphemy charge and/or conviction (again excluding the two constitutional petitions), sixteen constitute implication exclusively under Section 295-C, and in twenty-three cases the accused were charged in conjunction with some other blasphemy laws. A review of these cases divulges certain disturbing features. Of the twelve cases that were decided on the merits, the accused were acquitted in eleven and in only one was a sentence of life imprisonment confirmed. In all of the eleven cases of acquittal on merits, the appellate courts pointed out weaknesses, inconsistency, and lack of veracity of evidence as a major determinative factor persuading them to return a verdict in favor of the accused. Additionally, in seven of these eleven cases, the court also pointed out various procedural violations and problems with the investigative, prosecutorial, and trial processes that proved instrumental in defeating or weakening

73. See POPULATION ASSOCIATION OF PAKISTAN, POPULATION OF PAKISTAN, <http://www.pap.org.pk/statistics/population.htm#tabfig-1.1> (last visited Mar. 8, 2008).

the prosecution's case. Very significantly, in eight out of these eleven cases, the courts found *mala fides*—such as personal enmity, religious rivalry, property disputes, etc.—to have played an important role in the implication of the accused, thus destroying or weakening or putting into question the credibility of the prosecution's case.

Of the twenty-one cases involving bail applications, bail was granted in eleven cases, denied in nine cases, and in one case the matter was remanded to the trial court to determine the suitability of granting bail on evidence. Of the six applications to quash the proceedings, applications were allowed in three cases and denied in the others. Even though the merits of the cases were not dealt with in any detail in the bail applications, the courts noted *prima facie* weakness of evidence in all eleven cases in which bail was granted; process violations, etc., were found in one case, and the possibility of personal vendetta as possible motive for implicating the accused was noted by the courts in three cases. In the three cases where the proceedings were quashed, the courts noted weakness of evidence, procedural violations and weakness of evidence, as well as the possibility of personal enmity as an ulterior motive, respectively. Even in one case where the proceedings were not quashed, the court criticized process delays and incompetent police investigation. Looking collectively at these cases, it turns out that in twenty-four (sixty percent) of the forty cases, weakness and lack of integrity of evidence was an issue; in nine (twenty-two percent) of the forty cases, process violations and/or weaknesses in investigation, prosecution and/or trial processes was an issue; and in twelve (thirty percent) of the forty cases they found *mala fide* intent and vendetta to be a major or important factor in the implication of the accused. This snapshot thus underlines the evidentiary and procedural issues that have plagued blasphemy prosecutions and convictions in Pakistan. It can be logically deduced that for every reported case, there are several unreported ones, which were evidently so weak and baseless that they got dismissed at the trial stage and thus never made it to appeal.

Tables C and D show a definite upward trend in the incidence of blasphemy cases (note that for many cases filed over the years, there is no accessible public data). This is in spite of the fact that the blasphemy laws have increasingly come under criticism both domestically and internationally. This trend emphasizes the fact that rather than receding in the face

of increasing adverse public opinion, the blasphemy laws pose a greater problem today than during the time of Zia, when there was a greater level of official sanction and support for these laws and a political and legislative atmosphere officially infused with an Islamization drive.

This article has essentially focused on the story told by the reported cases. The available secondary sources, however, also tell a highly disturbing story about the actual experiences of scores of accused under the blasphemy laws—those whose cases, though they were reported, do not divulge these details or those which remain unreported. In certain instances, attempts have been made by vigilantes on the lives of those accused under trial, some of whom have lost their lives; many have been maltreated and abused while under trial and/or in custody, and others have received serious threats and/or have had to relocate from their homes or even go into exile outside Pakistan, even though they were ultimately acquitted by the Pakistani judicial system.⁷⁴ That is a severe indictment of the laws as they stand. The statistics tell a compelling story. The following case-study further humanizes it.

B. SALAMAT MASIH AND ANOTHER VERSUS THE STATE

One of the most highly publicized and notorious blasphemy cases in Pakistan is *Salamat Masih v. the State*,⁷⁵ which is highly demonstrative of how Section 295-C has been abused and the various defects from which it suffers. The case involved Salamat Masih—a thirteen-year-old Christian boy sentenced to death for blasphemy in 1995 for scrawling offensive words on the wall of a mosque. Of the two co-accused—Rehmat Masih and Manzoor Masih—the latter was murdered by religious extremists during trial. Salamat and Rehmat were sentenced to death on February 9, 1995 by a Sessions Court in Lahore but were successful in their appeal to the Lahore High Court.⁷⁶ The

74. See Naeem Shakir, *The Impact of Shari'ah Laws on Minorities in Pakistan*, PAK. CHRISTIAN POST, available at <http://www.pakistanchristianpost.com/erdetails.php?id=47>; Press Release, Amnesty International, Pakistan: Blasphemy Acquittal Welcome but Law Must Be Amended (Aug. 16, 2002), available at <http://web.amnesty.org/library/Index/ENGASA330262002?open&of=ENG-PAK>; HUMAN RIGHTS COMM'N OF PAK., STATE OF HUMAN RIGHTS IN 2004, 117 [hereinafter STATE OF HUMAN RIGHTS IN 2004]; CTR. FOR LEGAL AID, ASSISTANCE AND SETTLEMENT, BLASPHEMY CASE LIST (2004) <http://www.claafamily.org/bcl.htm> (last visited, Mar. 8, 2008).

75. Salamat Masih v. State, (1995) 28 P.Cr.L.J. 811 (Lahore) (Pak.).

76. *Id.*; AZIZ SIDDIQUI, *Law of the Mullah*, NEWSLINE, Feb. 1995, at 60; HUMAN

High Court judgment⁷⁷ is a stinging critique of the Sessions Court judgment, which was held to display a gross disregard of evidentiary requirements, as well as being based on tenuous grounds.

Charges against the accused were registered in 1993 at the complaint of Hafiz Muhammad Fazl-e-Haq, who claimed to be a khateeb,⁷⁸ and the Imam⁷⁹ at a mosque in a village in central Punjab.⁸⁰ The complainant alleged that about a year prior to the registration of the case, “objectionable words about the Holy Prophet” were discovered scrawled in the toilet of this mosque.⁸¹ After some time, a piece of paper containing “derogatory words about the Holy Prophet” was thrown at the door of the mosque; later, similar pieces of paper were thrown near the area designated for ablutions.⁸² Additionally, the complainant alleged that “objectionable words” were also written on a poster displaying the “Kalima Tayyaba.”⁸³ On the evening of May 9, 1993, the complainant and the “lambardar”⁸⁴ allegedly saw the three accused writing words “derogatory to [the Holy Prophet]” as well as “other religiously provocative words” on the wall of the mosque, in addition to other places, with a piece of brick.⁸⁵ According to the complainant, he and the lambardar attempted to apprehend the accused, but they ran away, whereupon the complainant and other witnesses “immediately wiped out these objectionable words.”⁸⁶ The complainant produced the material containing the objectionable writings before the police (claimed to have kept in his possession for a year), which took two pieces of paper into its possession.⁸⁷

The investigation was conducted by Sub-Inspector Aman Ullah of the Police,⁸⁸ who arrested Salamat and Manzoor from

RIGHTS COMM'N OF PAK., STATE OF HUMAN RIGHTS IN 1993, 40–41 [hereinafter STATE OF HUMAN RIGHTS IN 1993]; HUMAN RIGHTS COMM'N OF PAK., STATE OF HUMAN RIGHTS IN 1995, 105–07 [hereinafter STATE OF HUMAN RIGHTS IN 1995].

77. *Salamat Masih*, 28 P.Cr.L.J. at 811.

78. The person who gives sermons at a mosque.

79. Prayer leader.

80. *Salamat Masih*, 28 P.Cr.L.J. at 814.

81. *Id.*

82. *Id.*

83. The Muslim creed: “There is no God but Allah and Muhammad is the Prophet of Allah.” *Id.*

84. The village headman. *Id.*

85. *Salamat Masih*, 28 P.Cr.L.J. at 814.

86. *Id.*

87. *Id.*

88. He also appeared as the prosecution’s fourth witness. *Id.*

their houses on the same day that a case was registered against them. Rehmat Masih voluntarily surrendered five days later.⁸⁹ After completion of the investigation, the “challan”⁹⁰ was submitted to the court, and the trial of the accused before the Additional Sessions Judge of Lahore began. On November 8, 1993, Salamat Masih was granted bail, while on January 12, 1994 the other two accused were also released on bail. Their case was then shifted from Gujranwala, where they belonged, to Lahore, due to security concerns.⁹¹ On April 5, 1994, a hearing of the case was held in the District and Sessions Court. Upon leaving the courtroom, the accused—along with an escort—were attacked by three gunmen. While Salamat Masih and Rehmat Masih were seriously injured, Manzoor Masih died on the spot.⁹²

Salamat and Rehmat’s trial continued. Of the four prosecution witnesses, the first—the complainant—stated under oath that in view of the danger to his life, he no longer wished to pursue the case.⁹³ Despite this, the trial court had held that the material in the First Information Report (hereinafter F.I.R) initially registered by the complainant would continue to be treated as evidence against the accused.⁹⁴ The High Court, however, declared this witness “an unreliable witness” and rejected his testimony.⁹⁵

The prosecution’s second witness testified that as he was emerging from the mosque with the complainant and the third witness, he saw Salamat Masih writing something on the wall with a stone, while the two co-accused stood nearby.⁹⁶ He

89. *Salamat Masih*, 28 P.Cr.L.J. at 814.

90. Police Report (report containing findings of the police investigation).

91. The trial had started receiving a lot of attention both from local public and religious parties as well as foreign correspondents and observers. See Interview with Khawaja Harris Ahmad, *supra* note 63.

92. STATE OF HUMAN RIGHTS IN 1995, *supra* note 76, at 105; AMNESTY INT’L, PAK.: USE AND ABUSE OF BLASPHEMY LAWS (1994), available at <http://web.amnesty.org/library/index/ENGASA330081994>.

93. *Salamat Masih*, 28 P.Cr.L.J. at 814–15.

94. *Id.* at 817.

95. *Id.* at 824. The High Court noted that given that the prosecution’s first witness had withdrawn his testimony while under oath, his admission under cross-examination that the event that he had alleged as having taken place, had indeed taken place, was of no worth and did not advance the prosecution’s case in any manner. The fact that he had withdrawn the case once and then subsequently applied to be allowed to pursue the case (which application was allowed in the interest of justice) showed that he was an unreliable witness. Other factors such as failure in reporting the alleged incident for two days, and holding onto the blasphemous chits for a year, further confirmed his unreliability. *Id.*

96. *Id.* at 815.

claimed that he could not “express those words keeping in view the sanctity.”⁹⁷ He also claimed that “some unknown persons used to throw Chits in the toilets,” but, as he and the other respondents were unaware of their identity, they did not take any action.⁹⁸ During cross-examination, this witness admitted that the first time he saw the two pieces of paper obtained from the complainant was two days after the registration of the case.⁹⁹ He also admitted that Rehmat Masih was a resident of a village one-and-a-half miles from his own, where the alleged incident occurred.¹⁰⁰

The prosecution’s third witness repeated his predecessor’s story, also claiming to be unable to repeat before the court the allegedly offensive words on the wall.¹⁰¹ However, whereas the second witness claimed that only Salamat was writing on the wall, the third claimed to have seen all three accused writing on the walls with stones.¹⁰² According to the High Court, this was a “serious contradictions [sic] which reflects on the veracity of these witnesses and makes their statements doubtful.”¹⁰³ Moreover, the court also questioned the second witness’s statement that five or six offensive words were written on the wall by noting: “if his statement is read in consonance with the statement of [the third witness] it becomes unbelievable and ridiculous” that despite all three accused writing on the wall, the words collectively amounted to only five or six.¹⁰⁴

Asma Jahangir, counsel for the appellants, argued that the prosecution’s case and trial court verdict suffered from several serious flaws. She elaborated that since the first witness had stated on oath to the trial court that he did not wish to pursue the case and had been declared a hostile witness on grounds of intentionally suppressing the truth, his statement, which comprised the F.I.R, lost all evidentiary value. In addition, all

97. *Id.*

98. *Id.*

99. *Id.* The prosecution’s third witness admitted the same. *Id.* at 816.

100. *Id.* at 815.

101. *Id.* at 816. This raises a unique problem; can any Muslim ever repeat aloud any blasphemous words about the Holy Prophet, even when required by a court? If not, can any oral blasphemy be proceeded against if requisite testimony cannot be adduced from witnesses? What would then be the quantum of evidence required in such cases? Similarly, a problem would also always arise with any written words that have been subsequently erased or removed, if witnesses cannot repeat those words before a court. See Interview with Khawaja Harris Ahmad, *supra* note 63.

102. *Salamat Masih*, 28 P.Cr.L.J. at 816.

103. *Id.* at 825.

104. *Id.*

that the second and third prosecution witnesses posited was that something had been written by the accused on the wall, while saying nothing about the derogatory/defamatory nature of the writing. She further noted a glaring contradiction between the accounts of these two witnesses. According to her, it was highly noteworthy that the alleged derogatory words on the wall of the mosque were wiped out immediately by the witnesses and were not reproduced and stated in Court by the witnesses—consequently, only the impressions and opinions of the witnesses were made the basis of the conviction. She maintained that the prosecution had failed to show any nexus between the appellants and the objectionable pieces of paper allegedly found by the complainant a year before registration of the current complaint; and the fact that the chits had been kept by one of the prosecutors for a whole year and produced for the first time on the date the F.I.R. was registered undermined the credibility of the prosecution's case. At the same time, she drew the court's attention to the fact that the other prosecution witnesses had admitted under oath to having never seen the chits before that date, concluding that it was highly suspicious that the F.I.R. had been registered two days after the accused were allegedly seen scrawling blasphemous writings on the mosque wall.¹⁰⁵

Of the eight *amicus curiae* requested by the court to render assistance in the case, seven argued that the prosecution's case was unsupported by evidence and resulted in baseless convictions.¹⁰⁶ They also criticized the negligence of the lower judicial authorities in delivering a guilty verdict on such tenuous grounds.¹⁰⁷ The view of one of the *amicus curiae*, Khawaja Sultan Ahmad, is quoted below:

[T]he investigating agency, the Public Prosecutor and the trial Court . . . failed to perform their respective duties in a case based on a serious charge. The police did not take remand of the accused and [did] not [try] to take their samples of handwriting to compare the same with the writing on the chits. The Court framed erroneous charge[s] with regard to the recovery of [the] chits . . . Deputy District Attorney failed to perform his duty, [and] did not confront the prosecution witnesses with each fact of the F.I.R. . . . The P.Ws. did not state anything regarding any word defiling the sacred name of the Holy Prophet (peace be upon him) and despite that the learned trial Court

105. *Id.* at 817–18.

106. *Id.* at 818–23.

107. *Id.*

convicted the appellants.¹⁰⁸

In light of all the above, the High Court declared the prosecution's witnesses as having "bitterly failed to prove the case of the prosecution"¹⁰⁹ and acquitted the appellants forthwith.

The High Court judgment also alluded to the possibility of a personal vendetta having motivated the charges, though it did not state this explicitly. The judge merely noted that the defense had alleged a "background of strained relations between [the prosecution's second witness] on one side, and Manzoor Masih and Salamat Masih on the other,"¹¹⁰ as well as a background of previous enmity between the accused and the third witness, even though the latter denied it.¹¹¹ In his statement, Salamat Masih denied the allegations against him, claiming that they were motivated by a quarrel between him and the nephew of the prosecution's second witness; Salamat also claimed enmity with that prosecution witness regarding the theft of a tree.¹¹² Rehmat Masih also pleaded personal enmity as a motive for his implication in the case, claiming that he had collected the signatures of the Christian community and lodged

108. *Id.* at 823. Another important point raised by the amicus curiae Khawaja Sultan Ahmad was that a perusal of the chits showed that after the name of the Holy Prophet, a letter of the Urdu alphabet (which denotes in commonly used abbreviated form the salutation "May peace be upon him") had been added which clearly divulged that the writing was not only that of a Muslim but indeed of an educated and experienced person. Hence, it could not be ruled out that the chits had been fabricated by a saboteur in order to frame the accused. *Id.* It thus appears from this as well as other examples, that the credibility of witnesses for blasphemy cases tends to be suspect and the evidentiary content weak—yet, the same witnesses and evidentiary content form the basis for death sentences by lower courts. In light of this, a pre-trial investigation of witnesses was proposed by human rights activists, to the effect that prior to the registration of an F.I.R., the witnesses quoted in the complainant's application be investigated. The justification for this proposal was found in Islamic law, since that is the purported basis for the blasphemy law—as mandated by a Federal Shariat Court judgment dated October 30, 1990, the offense of blasphemy falls within the purview of "hadd" [Islamic] punishments. Taking this as their premise (though not necessarily agreeing with it), the proponents of the pre-trial investigation argued that the Quran ordains a pre-trial credibility verification of witnesses, called "*tazkiat-us-shaoor*" for all offenses declared within the purview of "hadd" punishments—since blasphemy was declared a "hadd" offense too, it merited the same pre-trial investigation. Interview with Mr. Abid Hassan Minto, Senior Advocate, Supreme Court of Pakistan, in Lahore, Pak. (Aug. 20, 2007) [hereinafter Interview with Abid Hassan Minto].

109. *Salamat Masih*, 28 P.Cr.L.J. at 826.

110. *Id.* at 825.

111. *Id.*

112. *Id.* at 817

a report against a local teacher who had refused to teach Christian children. According to Rehmat, the teacher had “threatened to teach him a lesson at [a] proper time”¹¹³ and had formed a group against him.¹¹⁴ Rehmat claimed that the responsibility for Manzoor Masih’s murder and his own injuries lay with these people.¹¹⁵

While not determinative of whether personal enmity did indeed motivate the charges, these statements at least imply the possibility that it did, especially in light of the weakness of the prosecution case. Moreover, the fact that the High Court incorporated these considerations in the rationale for its judgment can be seen as lending further credibility to the appellants’ claims.

A division bench of the Lahore High Court heard the case over seven days amid violent demonstrations and barrages of threats to the accused, the judges, and the defense lawyers by gangs of zealots collected on court premises and on the Mall Road—the central and most prominent boulevard in the provincial capital of Lahore where the High Court for the province of Punjab is situated.¹¹⁶ Apart from the slogans demanding death for the accused that were being vociferously raised during the siege of the court, Salamat and Rehmat Masih continued to receive individual death threats. A religious organization, “Jamaat Alh-e-Sunnat,” announced a prize of a million rupees for the killing of Salamat and Rehmat, while another, “Muttahida Ulema Council” of Sargodha, offered 300,000 rupees for the same task.¹¹⁷ In the face of these threats, as well as the earlier attack, it was clear that Salamat and Rehmat could not continue to live in Pakistan even if they were acquitted; their families—as well as twenty other Christian families of the locality, village Ratta Dhotran in Gujranwala—had already fled their village. Upon their acquittal by the

113. *Id.* at 816.

114. *Id.* at 817. Rehmat Masih also alleged that the teacher had protested that a loudspeaker that Rehmat Masih had had installed in the local church disturbed his students. The teacher had allegedly removed the loud speaker even though, according to Rehmat Masih, it had been installed after obtaining official permission and in consultation with the respectable elders of the village and was kept closed for the duration of Muslim prayers, so as to not cause any disturbance. Rehmat Masih also said that not only was Salamat Masih not his relative, he was not even acquainted with him. *Id.* at 816–17.

115. *Id.* at 817.

116. STATE OF HUMAN RIGHTS IN 1995, *supra* note 76, at 105.

117. At the current exchange rate this amounts to roughly U.S. \$16,666 and U.S. \$5,000, respectively.

Lahore High Court on February 23, 1995, Salamat and Rehmat Masih fled to Germany, where they had received an offer of asylum.

The outcry did not end with their departure. The government, defense counsel, and churches were all accused of complicity, and street rioting continued. A National Solidarity Council was established, bringing together twenty-one religious parties; it issued angry statements and organized a day-long, countrywide strike. With the accused beyond their reach, the prosecution and its allies directed their outrage at the defense counsel and the panel of judges. Even during the trial, the defense attorney's car was vandalized and her driver manhandled, resulting in police protection. The subsequent attempts at victimization were far more serious—four attempts were made on her, her sister Hina Jilani (another prominent human rights lawyer), and their family's lives. In the most serious of the four, seven members of a religious organization broke into Hina Jilani's house early in the morning of October 19, 1995, equipped with a "haversack filled with instruments good for shooting, slaying and strangulation."¹¹⁸ Fortunately, the police were alerted, and the house was surrounded. The culprits, however, escaped, and even though four were later arrested, the principal culprit remains unapprehended.

Meanwhile, Justice Arif Iqbal Bhatti, the senior member of the Lahore High Court bench that acquitted Salamat and Rehmat Masih, continued to receive death threats. On October 10, 1997, an individual posing as a client gained access to Justice Bhatti's chambers, where the former judge practiced law subsequent to his retirement. The individual opened fire at Mr. Bhatti, who was hit by five bullets, sustaining injuries to his face and stomach. The assailant reportedly left the office quite calm, and local police allegedly reached the scene more than ninety minutes after the occurrence. Mr. Bhatti's younger brother, who had chambers close by, was immediately informed of the shooting and rushed to Mr. Bhatti's office. Mr. Bhatti was alive but critically injured. It is said that due to security arrangements pertaining to a visit from Queen Elizabeth, Mr. Bhatti was unable to reach hospital on time and died en route.¹¹⁹

118. Aziz Siddiqui, *Terror Remains Untamed*, DAWN WIRE SERVICE, Oct. 25, 1997, available at <http://www.lib.virginia.edu/area-studies/SouthAsia/SAserials/Dawn/1997/25Oct97.html>.

119. Sajid Iqbal, *Former LHC Judge Bhatti Gunned Down in Lahore*, DAWN WIRE SERVICE, Oct. 11, 1997, at 1.

Mr. Bhatti's family claimed that the murder was a result of the acquittal granted to Salamat and Rehmat Masih by the Lahore High Court division bench in 1995. A source in the police department quoted Justice Bhatti's family as accusing unidentified activists of a religious party for involvement in the murder, claiming that after the announcement of the verdict in the Masih case, Mr. Bhatti had been receiving threatening and abusive calls from some activists of that religious organization.¹²⁰

In many ways, the above case epitomizes the various defects and shortcomings that plague the blasphemy laws and the adjudication of these cases in Pakistan. Quite apart from the design flaws (discussed in detail in the following section), procedural issues, the propensity for misuse of blasphemy laws for *mala fide* purposes, the social and political pressures that impede the objective and fair adjudication of blasphemy cases, and the vulnerability of the accused, especially if they belong to a minority, further confound and aggravate the situation. These are complex and intertwined aspects of the larger problem, though this article will focus on the design flaws, while occasionally touching upon some of the additional aforementioned factors during the course of the discussion.

IV. ORIGINS OF CHAPTER 15 OF THE PAKISTAN PENAL CODE: A COMPARATIVE PERSPECTIVE

In order to more fully understand the import and ramifications of the blasphemy laws, it is necessary to conduct a comparative analysis of Chapter 15 of the PPC—“Of Offences Relating to Religion”—prior to and subsequent to Zia’s amendments introducing the blasphemy laws.

A. THE PURPOSE BEHIND CHAPTER 15: PRE AND POST-ZIA VERSIONS - FROM PROTECTING ALL RELIGIONS TO PROTECTING ONE

The origins of this chapter lie in the Indian Penal Code (XLV of 1860)¹²¹ enacted for the Indian subcontinent in October 1860 by the British colonial government.¹²² Before the

120. *Id.*

121. INDIA PEN. CODE, Act XLV of 1860 (Krishen Lal & Co. Law Publishers, 1929) [hereinafter INDIA PEN. CODE].

122. See MUHAMMAD MAZHAR HASSAN NIZAMI, THE PAKISTAN PENAL CODE WITH

enactment of this code, the three Presidency towns of Calcutta, Bombay and Madras fell within the purview of English Criminal Law, while large portions of the rest of the country were subject to the Mohammedan (Islamic) Criminal Law.¹²³ In light of the fact that the blasphemy laws introduced by Zia in the PPC during his regime formed part of a larger aim to “Islamize” the country’s judicial system, the following observations made by the Indian Law Commission—formed in 1837 and responsible for drafting the Indian Penal Code¹²⁴—provide an interesting contrast:

[I]t appears to us that none of the systems of penal law established in British India has any claim to our attention except what it may derive from its own intrinsic excellence. All those systems are foreign. All were introduced by conquerors differing in race, manners, language and religion from the great mass of people. The criminal law of the Hindus was long ago superseded, throughout the greater part of the territories now subject to the Company, by that of the Mohammedans, which is certainly the last system of criminal law which an enlightened and humane Government would be disposed to receive.¹²⁵

Thus one basis for the introduction of the Indian Penal Code was to replace what the British considered an unsuitable system of Islamic (Mohammedan) law. The fact that the Indian Penal Code contained a chapter titled “Of Offences Relating to Religion” (Chapter XV) (hereinafter “Chapter 15”)¹²⁶ must therefore be explained with reference to factors other than the retention of components of Mohammedan law. In the preface to Chapter 15, the Law Commissioners outlined their main motive for its inclusion in the Indian Penal Code:

The principle on which this chapter has been framed is a principle on which it would be desirable that all governments should act but from which the British Government in India cannot depart without risking the dissolution of society; it is this, that every man should be suffered to profess his own religion, and that no man should be suffered to insult the religion of another.¹²⁷

The Law Commissioners thus attach a greater importance to protecting religious sensibilities in British India than elsewhere. Whereas it is merely “desirable” for all governments to follow this principle, it is stated that the British Government

COMMENTARY 269 (All Pakistan Legal Decisions 1974).

123. *Id.*

124. *Id.*

125. *Id.* at a2.

126. INDIA PEN. CODE, *supra* note 121.

127. *Id.* at 1322.

in India cannot depart from it “without risking the dissolution of society.” The obvious reason for this difference appears to be the fact that the British colonial government was faced with the challenge of establishing its writ over a religiously heterogeneous society, comprising, *inter alia*, Muslims, Hindus, Christians, Jains, Buddhists, Parsis, and Sikhs. Therefore, it would appear that the purpose of Chapter 15 was the maintenance of order in a multi-religious society and the containment of attacks targeted at *any* religion. Moreover, given the fact that Muslims formed a minority in the Indian subcontinent prior to its partition, it appears plausible that part of the motivation for the inclusion of this chapter was the protection of the religious rights of minorities. In a recent Lahore High Court judgment, Justice Ali Nawaz Chohan corroborated this viewpoint: “Historically speaking, [these laws were] enacted by the British to protect the religious sentiments of the Muslim minorities in the subcontinent before partition against the Hindu majority.”¹²⁸

The blasphemy laws added to Chapter 15 during the Zia era represent the antithesis of both the possible motivations for the inclusion of Chapter 15 in its original form in the Indian Penal Code—i.e. the maintenance of order in a multi-religious society necessitating protection of *each* creed from attack on its beliefs and practices, as well as the protection of minority faiths. The underlying motivation for the blasphemy laws is the protection of Islam—the religion of the overwhelming majority in Pakistan—as they pertain only to offenses against Islam, as opposed to applying generally to all religions as did the original clauses in Chapter 15. Furthermore, they lack any nexus with the prerequisite of a causation of any breach of peace, and in that sense are strict liability offenses.

Consider the language of the original sections in Chapter 15 of the Indian Penal Code:

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Whoever destroys, damages or defiles *any place of worship, or any object held sacred by any class of persons* with the intention of thereby *insulting the religion of any class of persons* or with the knowledge that *any class of persons is likely to consider such destruction, damage or defilement as an insult to their religion*, shall be punished with imprisonment of either description for a term which may extend to two

128. Muhammad Mahboob v. State, (2002) 54 P.L.D. 587, 597 (Lahore) (Pak.).

years, or with fine, or with both.¹²⁹

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Whoever, with the deliberate intention of *wounding the religious feelings of any person*, utters any word or makes any sound in the hearing of that person or makes any gesture in the sight of that person, or places any object in the sight of that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.¹³⁰

In 1927, Section 295-A was inserted into the PPC, by the Criminal Law Amendment Act of (XXV of 1927):

295-A

Whoever, with deliberate and malicious intention of outraging *the religious feelings of any class of His Majesty's subjects*,¹³¹ by words, either spoken or written, or by visible representations, *insults or attempts to insult the religion or the religious beliefs of that class*, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.¹³²

The italicized phrases clearly indicate the generic application of Sections 295, 298, and 295-A to all religions. The blasphemy laws, as indicated earlier, however, pertain specifically to the protection of Islam. Section 295-B, for instance, pertains only to the defilement of the Holy Quran, the Islamic religious text;¹³³ Section 295-C pertains exclusively to derogatory remarks against Muhammad (PBUH), the prophet of Islam,¹³⁴ whereas Section 298-A pertains only to defilement of Islamic holy personages.¹³⁵ Sections 298-B and 298-C, also added during the Zia regime, pertain specifically to Ahmadis, a religious sect that considers itself Muslim but is constitutionally declared beyond the fold of Islam. Section 298-B makes it a criminal offense for Ahmadis to use Muslim nomenclature for their holy personages, as well as to refer to their call for congregational prayers as "Azan," the term Muslims use for their call to prayers. Section 298-C makes it a criminal offense for an Ahmadi to directly or indirectly profess himself as a

129. See INDIA PEN. CODE, *supra* note 121, at 1324 (emphasis added).

130. *Id.* at 1341–42 (emphasis added).

131. Replaced with "the citizens of Pakistan" by Adaptation Order 1961, art. 2 (w.e.f. Mar. 23, 1956).

132. See INDIA PEN. CODE, *supra* note 121, at 1328 (emphasis added).

133. For the text of Section 295-B, see *supra* note 8.

134. For the text of Section 295-C, see *supra* note 8.

135. For the text of Section 298-A, see *supra* note 8.

Muslim and, *inter alia*, to “in any manner whatsoever outrage the [religious] feelings of Muslims.”¹³⁶

The blasphemy proceedings against Ahmadis make apparent the wide-ranging implications of these sections for the freedom of expression and religion of Ahmadis in Pakistan. Though this is a complex area deserving of a separate, exhaustive study, from this cursory review it emerges that given the Ahmadis’ consideration of themselves as Muslim and the fact that they share a variety of religious terms and practices with Muslims, the effect of Sections 298-B and 298-C is to make the very act of publicly discussing or practicing the Ahmadi faith a criminal offense.

It is also important to mention here certain arguments that have been raised recently to broaden the ambit of Section 295-C in order to incorporate blasphemy against other prophets as an offense.¹³⁷ While this could potentially address the criticism that Section 295-C is religiously discriminatory in terms of its protective ambit, it has the potential of further increasing the incidence of blasphemy charges, given the many flaws in the law.

B. REQUIREMENT OF INTENT

1. *The Pre-Zia Offenses: Intent a Vital Prerequisite*

Another fundamental difference between the original sections of Chapter 15 of the Indian Penal Code and the blasphemy laws is the elimination of any requirement of intent, deliberate or malicious.¹³⁸ The 1860 and 1927 versions of the Indian Penal Code greatly emphasize the intention of the

136. For the text of Section 298-B & 298-C, see *supra* note 8.

137. See *Riaz Ahmad v. State*, (1994) 46 P.L.D. 485, 494–95 (Lahore) (Pak.) where some Christian parties supported Section 295-C as it maintained peace in society by upholding the sanctity of the name of the Holy Prophet (PBUH). While criticizing human rights organizations which opposed Section 295-C, they said that Section 295-C was not in violation of any human rights and further requested that it be amended so that those defiling the name of Jesus Christ could also be similarly punished. This, they said, would bring Section 295-C in line with Section 295-A which protected the religious feelings of all religions. The Court cited the earlier FSC case of *Muhammad Ismail Qureshi*, where it had been observed that a clause be added to Section 295-C to make defamation of other prophets, an offense with the same punishment. The Court then observed that this was a matter under active consideration of the Government. See *Muhammad Ismail Qureshi v. Pakistan*, (1991) 43 P.L.D. 10 (Fed. Shariat Ct.) (Pak.).

138. See INDIA PEN. CODE, *supra* note 121.

accused, as evidenced by their inclusion of the following requirements in the relevant provisions: “with the intention of thereby insulting the religion of any class of persons or with the knowledge that any class of persons is likely to consider such destruction, damage or defilement as an insult to their religion”¹³⁹ in Section 295; “with the deliberate and malicious intention of outraging the religious feelings of any class of His Majesty’s subjects” in Section 295-A,¹⁴⁰ and “with the deliberate intention of wounding the religious feelings of any person” in Section 298.¹⁴¹

Moreover, it is evident from the Law Commissioners’ commentaries on the Indian Penal Code that proof of intent was a *prerequisite* to the application of these sections. Commenting on Section 295, for instance, the Law Commissioners state that “it must be distinctly proved that there was an intention on the part of the accused to insult the religion of a class of persons,”¹⁴² and that “where there is no intention to wound the religious susceptibilities there will be no offence.”¹⁴³ Similarly, the Law Commissioners’ commentary on Section 298 contains a detailed exposition of the intent requirement.¹⁴⁴ It distinguishes between “a deliberate intention of wounding”¹⁴⁵ and one “conceived on the sudden in the course of discussion”¹⁴⁶ and holds that only the former makes the defendant liable to conviction. It suggests that a deliberate, premeditated intention to wound could be inferred if “a party were to force himself upon the attention of another, addressing to him, an involuntary hearer, an insulting invective against his religion,”¹⁴⁷ but not if it was apparent that the party uttered the words “on the spur of the occasion, in good faith, simply to further his argument—that he did not take advantage of the occasion to utter them in pursuance of a deliberate purpose to offend,”¹⁴⁸ even if he were “conscious at the

139. *Id.* at 1324.

140. *Id.* at 1328.

141. *Id.* at 1341.

142. See NIZAMI, *supra* note 122, at 270 (“Under this section it must be distinctly proved that there was an intention on the part of the accused to insult the religion of a class of persons. This intention could be ascertained from the nature of the act done. Where there is no intention to wound the religious susceptibilities there will be no offence.”)

143. *Id.*

144. *Id.* at 274.

145. *Id.*

146. *Id.*

147. *Id.*

148. *Id.*

moment of uttering them that they were likely to wound the feelings of his auditors.”¹⁴⁹

2. Legal Interpretations: Judicial Emphasis on the Intent Requirement in the Pre-Blasphemy Laws Era

The important case of *Punjab Religious Book Society, Lahore v. State* contains a detailed exposition of the intent requirement *vis-à-vis* Section 295-A.¹⁵⁰ The Book Society petitioned to have set aside an order of the Home Department, declaring that a book published by the society contained matter “calculated to outrage the religious feelings of the Muslims of Pakistan and publication of which is punishable under section 295-A of the Pakistan Penal Code.” The book—titled “Mizan-ul-Haq”¹⁵¹ —was a comparison between Islam and Christianity, and the court observed that:

[A]s was but to be expected the object of the author, who was a Christian, was to show that Christianity was a true religion and Islam was not. The author did not deny that his object was to show the superiority of Christianity over Islam, but he has said at more places than one that he had no intention of injuring the feelings of Muslims whom at places he called his brethren.¹⁵²

The reasoning underlying the court’s finding that Section 295-A did not apply to the allegedly offensive material stems from its interpretation of the “deliberate and malicious intent” requirement in Section 295-A. In a paragraph that illustrates the liberality of the court in the early post-independence era, the Lahore High Court noted that:

[T]he intention contemplated by Section 295-A of the [PPC] is not just the ordinary intention that one finds mentioned with regard to almost all other offences made punishable by that Code but a deliberate and malicious intention to do the thing mentioned therein. . . . [I]n section 295-A . . . the Legislature hedged “intention” with “deliberately” and “maliciously” because it was providing punishment for insulting or attempting to insult the religion or religious beliefs of a person and it is well-known that when followers of a religion try to show that their religion is the best in the world, words which will not be palatable to

149. *Id.*

150. The Punjab Religious Book Society v. State, (1960) 12 P.L.D. 629 (Lahore) (Pak.). See also Muhammad Khalil v. State, (1962) 13 P.L.D. 850 (Lahore) (Pak.). This case deals with similar facts, and confirms the interpretation of the Section 295-A intent requirement employed by the court in the *Punjab Religious Book Society*.

151. Literal translation: Balance of Truth.

152. *Punjab Religious Book Society*, 12 P.L.D. at 631.

the followers of other religions are difficult to avoid and if it were not made necessary that the intention to do the things mentioned in the section should be deliberate and malicious the door would have been closed on all religious discussions.¹⁵³

The court noted further that the “laws of Pakistan, like those of every other civilized country, do not forbid religious discussions and preaching,” and, therefore, if “a person engaged in a religious discussion is merely attempting to show that the religion he is advocating is the best in the world, he is not doing anything to which the law takes exception.”¹⁵⁴ The court, in fact, went as far as to say that, in the attempt to establish the superiority of one religion over another:

[T]hings may be said or written which will outrage the religious feelings of followers of other religions. When a person does that, the law will presume that he intended to insult the religious beliefs of the followers of other religions. But even so the ingredients of Section 295-A of the [PPC] will not have been satisfied because they can be satisfied only if it is established that the intention to insult the religious beliefs was deliberate and malicious.¹⁵⁵

The presumption that the intention to outrage religious feelings was deliberate and malicious would be raised only when the conduct objected to “is extremely offensive and has no reliable source to justify its acceptance as correct” or when it indicates that the “argument in favour of one religion has sunk to the level of abuse to another.”¹⁵⁶

3. Absence of the Intent Requirement in Blasphemy Laws: Judicial Approaches and Resultant Injustices

This degree of emphasis on the intent requirement represents a direct contrast to the blasphemy laws, which contain no reference to the intention of the accused. The absence of an intent requirement in Sections 295-B, 295-C, and 298-A has made it possible for blasphemy charges that may otherwise have failed the mens rea test to spawn lengthy trials continuing to the appellate level.

The case of Dr. Younas Sheikh—sentenced to death on August 18, 2001 for violation of Section 295-C by a Sessions Court in Islamabad, but eventually acquitted in 2003—is highly

153. *Id.* at 637.

154. *Id.* at 637–38.

155. *Id.* at 638.

156. *Id.*

illustrative in this regard.¹⁵⁷ On October 2, 2000, Maulana Abdul Rauf, leader of a local religious organization,¹⁵⁸ leveled blasphemy charges against Dr. Sheikh.¹⁵⁹ Rauf based his accusation on a petition signed by eleven of Dr. Sheikh's students, claiming that Dr. Sheikh had insulted the Holy Prophet (PBUH) during the course of a lecture. The F.I.R deemed the following statements made by Dr. Sheikh during the course of answering some questions by his students in class as blasphemous: Prophet Mohammad was a non-Muslim until the age of forty; he had not been circumcised until the age of forty; he married for the first time at the age of twenty-five, when he was neither a prophet nor a Muslim, and that therefore his "nikah" (marriage contract) was not solemnized; at age forty his armpit and under-naival hair was not removed; and his parents were non-Muslims.¹⁶⁰

According to Mr. Abid Hassan Minto, a senior advocate of the Supreme Court of Pakistan who has successfully defended many accused in blasphemy cases and who also acted as the defense attorney in the Younas Sheikh case,¹⁶¹ Dr. Sheikh's allegedly blasphemous remarks were delivered in response to a student's question regarding practices prevalent among Arabs before the advent of Islam.¹⁶² Mr. Minto argued that, regardless of the actual truth of the remarks, they were based on common sense and would be perceived by most as a logical or even definitional response to the question—that before the advent of Islam, practices in Saudi Arabia, including those of the Holy Prophet (PBUH) and his family were "a-Islamic," was a truism.¹⁶³

It is clear that had the requirement of intent entrenched in the original pre-Zia offenses under the PPC existed in Section 295-C, the basis for registering charges against Dr. Sheikh would have been considerably weaker, if not altogether absent. The remarks were delivered in the course of a lecture and in

157. Nadeem Iqbal, *Only Death Will Do*, NEWSLINE, June, 2001, available at <http://www.newsline.com.pk/NewsJune2001/humanR.htm>.

158. The organization's name translated as "Conference for the Preservation of the Finality of Prophethood."

159. First Information Report (FIR), Police Station: Margela, Islamabad, Case of Dr Younus Shaikh (Oct. 2, 2000), available at http://www.rationalistinternational.net/Shaikh/fir_dr_shaikh.htm.

160. *Id.*

161. Mr. Abid Hassan Minto represented Dr. Younas Sheikh in the Lahore High Court.

162. Interview with Abid Hassan Minto, *supra* note 108.

163. *Id.*

response to specific queries by some students, and it could thus be argued that the defendant had not “entered into the discussion with the deliberate purpose of so offending”¹⁶⁴ his students. Furthermore, since the remarks were delivered in response to questions from the students, he did not “force himself upon the attention of [his listeners].”¹⁶⁵ Consequently, there was no basis for declaring the latter “involuntary hearer[s].”¹⁶⁶ As a teacher attempting to clarify a point to his students, “he [had] uttered [the remarks] on the spur of the occasion, in good faith, simply to further his argument.”¹⁶⁷ However, all these defense arguments were unavailable to the defendant, since Section 295-C makes desecration of the Prophet’s (PBUH) name the basis for a blasphemy conviction, regardless of the intention of the accused.

Another case highlighting the drastic consequences of the absence of the intent requirement in Section 295-C is that of Anwar Masih.¹⁶⁸ The accused was arrested in Faisalabad on January 2, 1993, on charges of “argu[ing] loudly, abusing Muslims and blaspheming.”¹⁶⁹ The complainant alleged that in the course of an argument with Mohammad Aslam, a shopkeeper, Anwar Masih had uttered blasphemous words. According to a witness, an argument between Masih and Aslam had turned acrimonious, and “both used objectionable words about each other’s prophets and religion.”¹⁷⁰ From the Law Commissioners’ commentary pertaining to Section 298 in the Indian Penal Code (XLV of 1860), it is apparent that utterances made during the course of an argument or quarrel do not constitute blasphemy. Had these qualifications been incorporated into Section 295-C as well, Anwar Masih would have had various defenses available to him. He could, for one, have asserted that since the argument was about a minor debt he owed to the shopkeeper,¹⁷¹ “he [had not] entered into the discussion with the deliberate purpose of . . . offending [the latter]”¹⁷² and “that he did not take advantage of the occasion to

164. See NIZAMI, *supra* note 122, at 274.

165. *Id.*

166. *Id.*

167. *Id.*

168. For a detailed account of the case, see STATE OF HUMAN RIGHTS IN 1995, *supra* note 76, at 20.

169. *Id.*

170. *Id.*

171. *Id.*

172. See NIZAMI, *supra* note 122, at 274.

utter them in pursuance of a deliberate purpose to offend.”¹⁷³ Furthermore, according to the Human Rights Commission of Pakistan (HRCP), he was a mentally unbalanced drug addict,¹⁷⁴ which, had there been an intent requirement in Section 295-C, could have formed the basis of a clemency appeal.

When Anwar Masih’s trial was finally concluded in 1998, his conviction was revised from a violation of Section 295-C to one of Section 295-A. Since he had already served the designated punishment as an under-trial detainee, he was released.¹⁷⁵ His eventual acquittal should not, however, occlude the fact that he was detained for six years, facing the prospect of a possible death sentence.

The conviction by lower courts of mentally imbalanced persons, as it transpired in the case of *Arshad Javed*,¹⁷⁶ can be seen as an extreme example of the absence of the intent requirement, where the strict liability nature of Section 295-C manifests itself very strongly. In this case, a finding of not guilty by reason of insanity would have been the only just outcome.¹⁷⁷ On February 9, 1993, the Additional Sessions Judge, Bahawalpur, convicted Arshad Javed under Section 295-C and sentenced him to death.¹⁷⁸ In addition, he was sentenced to three years rigorous imprisonment for claiming to have read and agreed with *The Satanic Verses*, Salman Rushdie’s controversial novel that is banned in Pakistan.¹⁷⁹ The charges against the accused included having declared the following in front of a procession of university students protesting against *The Satanic Verses*:¹⁸⁰ “I am Hazrat Isa.¹⁸¹ I have no father. The Day of Judgment would fall on 21-2-1989. *The Satanic Verses* written by Salman Rushdie is correct.”¹⁸²

Javed’s brother filed an application before the court, stating that Javed was mentally ill; multiple independent medical examinations subsequently ordered by the trial court reported that Javed exhibited typical symptoms of Mania—an effective

173. *Id.*

174. See STATE OF HUMAN RIGHTS IN 1993, *supra* note 76, at 41.

175. See Shakir, *supra* note 74.

176. State v. Muhammad Arshad Javed, (1995) 13 M.L.D. 667, 669 (Lahore) (Pak.).

177. *See id.*

178. *Id.*

179. AMNESTY INTERNATIONAL 1994, *supra* note 92.

180. *Muhammad Arshad Javed*, 13 M.L.D. at 669.

181. The Prophet Jesus Christ. *Id.*

182. *Muhammad Arshad Javed*, 13 M.L.D. at 669.

disorder resulting in elation of mood, pressure of speech and increased energy and a grandiose association with God—and was insane,¹⁸³ that he was “suffering from Hypomania and is not yet fit to stand trial,”¹⁸⁴ and that he had “totally lost his mental balance.”¹⁸⁵ However, two years after the registration of the case, one of the medical boards declared after a second examination that the accused was fit for trial, at the conclusion of which he was sentenced to death.¹⁸⁶

OVERTURNING THE CONVICTION, the High Court noted that the defense had not properly pleaded the case before the trial court, “inasmuch as the plea of insanity was neither seriously put to the prosecution in cross-examination nor . . . specifically taken in his statement . . .”¹⁸⁷ Moreover, it noted that except for the application made by the accused’s brother, “no other evidence was brought on record by the defence to show that the accused was suffering from insanity.”¹⁸⁸ After quoting the legal provisions regarding the defense of insanity¹⁸⁹ and various cases elucidating the requirements of the defense, the court concluded that the convict had been unaware of the nature of the act he had committed and hence fell within the ambit of the insanity defense. The Court observed that “a bare reading” of the F.I.R sufficed to show that the accused was “mentally deranged.”¹⁹⁰ The Court further noted that since the provocative speech he had made before “a spirited crowd was by itself an act which no person with normal mental capacities would do,” and because no one in the procession reacted to his statements indicated that they did not take him seriously.¹⁹¹ The Court stated that despite the second opinion furnished by one of the medical boards declaring the accused fit for trial, there was “persuasive material on record to suggest that the convict was insane.” This evidence included medical reports, an affidavit an acquaintance of the convict’s family stating that most of the elders in his maternal and paternal families suffered from bouts of insanity, and the fact that the accused did not seriously defend his case

183. *Id.* at 670.

184. *Id.* at 671.

185. *Id.* at 675.

186. *Id.* at 676.

187. *Id.* at 672.

188. *Id.*

189. PPC § 84; Evidence Act art. 121 (1984), *see* SHAUKAT MAHMOOD & NADEEM SHAUKAT, LAW OF EVIDENCE 1483–84 (Legal Research Centre 2004).

190. *Muhammad Arshad Javed*, 13 M.L.D. at 675.

191. *Id.*

and chose not to appeal against his conviction.¹⁹² The Court thus found him to be exempt from criminal liability.

There are other examples where mentally unstable persons have found themselves implicated in blasphemy prosecutions. In *Saifullah Khan v. State*, the Peshawar High Court issued a scathing indictment of an Additional Sessions Judge's refusal to grant bail to the accused, despite the opinion of a medical board which had found the accused to be mentally unfit for trial.¹⁹³ The medical board found that the accused was "suffering from bipolar disorder with psychotic features," needed "treatment with medication," could not understand the proceedings of the court or defend himself, and was therefore unfit to plead.¹⁹⁴ Counsel for the state did not dispute the report of the medical board, consisting of "medical experts of high repute." The accused—a shopkeeper—was charged under Sections 295-B and 298. According to the F.I.R, he allegedly came out of his shop holding a calendar which he tore and threw in a waste drum, started abusing God, and threw a copy of the Quran in a waste basket after defiling it.¹⁹⁵ The High Court deemed the denial of bail a "denial of justice" and opined that "the shocking aspect of the matter" was that the trial judge had "allowed religious sentiments to prevail on her judicial mind instead of deciding the bail petition on the basis of settled principles."¹⁹⁶ Concluding that the accused was indisputably insane, the Court declared that his case fell squarely within the legal provisions of an insanity defence.¹⁹⁷

It is thus apparent that the trial court in both the above cases ignored the applicability of an insanity defense under Pakistani law, which is based on the "M'Naughten rule" and states that: "Nothing is an offence which is done by a person who, at the time of doing it, by reason of unsoundness of mind, is incapable of knowing the nature of the act, or that he is doing what is either wrong or contrary to law."¹⁹⁸ Lower courts have therefore proven unreliable in blasphemy trials to the extent

192. *Id.* at 676.

193. *Saifullah Khan v. State*, (2006) 58 P.L.D. (Peshawar) 140, 141 (Pak.).

194. *Id.* at 142.

195. *Id.* at 141.

196. *Id.* at 142–143.

197. *Id.* at 143–144. See S.M.NAZIM, CODE OF CRIMINAL PROCEDURE 1898 at 575–576 (2007) for the text of the penal code provisions on insanity with commentary.

198. *Muhammad Arshad Javed*, 13 M.L.D. at 672; see also M'Naughten's Case, (1843) 8 Eng. Rep. 718 (H.L.).

that even when a defense such as insanity, which applies even to offenses without an explicit mens rea requirement, is available to the accused, they have still handed down convictions. While there is no guarantee that such patently unjust convictions would be eliminated if a mens rea requirement were inserted into the blasphemy laws, it is arguable that the chances of such convictions would be lowered. This would be especially useful for situations where the accused is not insane, yet did not intend to defile the Quran, the Prophet, or any holy personages.

4. Judicial Omissions to Read Intent into Blasphemy Laws: A Departure from Precedent

The above examples of trial courts ignoring the intent requirement are not entirely excused by the absence of such an element in the blasphemy laws, as there are instances of appellate courts reading an intent requirement into these, as well as other, laws. In *Engineer Iftikhar Ahmad Khilji*,¹⁹⁹ for example, the petitioner sought direction from the court to the respondent, forbidding him from defacing postal stamps with black ink, since they contained, *inter alia*, verses of the Quran. The petitioner argued that the respondent's actions fell within the ambit of section 295-B, which pertains to defilement of the Holy Quran. The court dismissed the petition, stating that the reason for defacing stamps was not to disrespect or insult the Quranic verses printed on them, but to stop revenue leakage by preventing their reuse; "no intention of malice, hatred or ridicule" was involved, and Section 295-B was not implicated "at all."²⁰⁰

The absence of an explicit intent requirement is apparent from a reading of Section 295-C, which makes it a capital offense to "defile the sacred name of the Holy Prophet" by "words, either spoken or written or by visible representation, or by any imputation, innuendo, or insinuation, directly or indirectly." There is no requirement that the defilement be intentional, or even "willful," as in Section 295-B. Nor is there any requirement that the religious feelings of any individual be hurt by the accused's act. Section 295-C is, therefore, a *per se*, strict liability offense, carrying a maximum penalty of death.

199. *Engineer Iftikhar Ahmad Khilji v. Deputy Post Master Gen.*, (2004) 6 Y.L.R. (Azad J & K) 1736 (Pak.).

200. *Id.* at 1737.

However, this particular provision has not received any meaningful judicial attention in terms of mandating an intent requirement through judicial interpretation, as was the case in the aforementioned judicial interpretation of Section 295-B. In such circumstances, it is interesting to assess the rationale for the loyalty of courts to the strict wording of Section 295-C, thereby abstaining from incorporating an intent requirement into it, in order to circumscribe its ambit.

There are few exceptions to the judicial trend in blasphemy cases of not imputing an intent requirement into Section 295-C. In *Akbar v State*,²⁰¹ the Sind High Court granted bail to the accused, who was charged under Sections 295, 295-A, and 295-C, and stated that the words/act complained of did not appear to be derogatory towards the Prophet (PBUH), and that the criminal intention of the accused had yet to be established at the trial.²⁰² Another clear example is *Mirza Mubarak Ahmed v State*,²⁰³ where the fact pattern is typical of blasphemy cases against the Ahmadis. The accused was charged with writing a letter offering blessings upon the Holy Prophet (PBUH) as well as Mirza Ghulam Ahmed,²⁰⁴ who, according to the F.I.R, was an infidel; thus, by blessing Ghulam Ahmed along with the Holy Prophet (PBUH), the accused had defiled the latter's name and committed a Section 295-C offense. Justice Imam Ali Kazi declared that it was a "cardinal principle of our penal law that 'mens rea' criminal intention, or guilty mind, evil intention or knowledge of the wrongfulness of the Act, is an essential ingredient of guilt of a criminal offence."²⁰⁵

According to Justice Kazi, where one of the methods mentioned in Section 295-C is "expressly employed to defile the sacred name of Holy Prophet . . . in a direct manner . . . [the] mens rea of the offence will be patent in the accusation itself."²⁰⁶ However, in the instant case, the accusation was not of a direct nature. The prosecution's case was that the accused had indirectly defiled the Prophet's (PBUH) name. Yet, Justice Kazi ruled that "using the above sentences by itself would not prove that the name of the Holy Prophet . . . has been defiled. It would be necessary for the prosecution to lead further evidence

201. *Akbar v. State*, (2004) 6 Y.L.R. (Karachi) 2249 (Pak.).

202. *Id.* at 2250–51.

203. *Mirza Mubarak Ahmed v. State*, (1989) 7 M.L.D. 896, 896 (Pak.).

204. See *supra* note 10, and accompanying text.

205. See *Mirza Mubarak Ahmed*, 7 M.L.D. at 899.

206. *Id.* at 898.

to prove as to *what was actually intended* by the applicant by using such sentences in the letter addressed to the complainant.”²⁰⁷

It must, however, be remembered that this case concerned a bail application. The proceedings of the case before the trial court are unreported, and it is not known whether Justice Kazi’s reading of a mens rea requirement into section 295-C was adopted by the trial court. Very few other cases at the appellate level, including various cases with a near-identical fact pattern, appear to have adopted Justice Kazi’s approach, and *Mirza Mubarak Ahmed* remains a comparatively obscure case despite its potential to radically circumscribe the ambit of section 295-C by reading in a mens rea requirement where none was explicitly incorporated into the section.

There are only two additional examples which demonstrate an attempt by the judiciary to read the requirement of intent into blasphemy laws. In *Nasir Ahmad v. State*, the accused, who were Ahmadis, had been charged for posing as Muslims as they printed common Muslim expressions on wedding cards issued by them.²⁰⁸ While granting bail to the accused, the Supreme Court said that while looking at whether defilement of the name of the Prophet (PBUH) has taken place *ex facie* by written or spoken words or the act of the person accused, “the totality of the milieu, including necessarily the faith, the intention, the object, and the background of the person using them” has to be kept in view.²⁰⁹ In the earlier case of *Rasheed Ahmad v. State*, involving an Ahmadi charged for inscribing a verse of the Quran on the door of his house, the Sind High Court made a similar attempt.²¹⁰ While granting bail to the accused and ordering further inquiry, the Court said that it could not refuse bail in a criminal case on the mere presumption that the accused had used the words with a *mala fide* intent—it still had to be “proved before the trial court whether and in what sense the verse in question was written on the wall.”²¹¹ However, these are the few exceptions in the cases reviewed and, by and large, the absence of the intent requirement in blasphemy laws is exacerbated by judicial silence on the subject, causing them to

207. *Id.* (emphasis added).

208. See *Nasir Ahmad v. State*, (1993) 26 S.C.M.R. 153, 154 (Pak.).

209. *Id.* at 155.

210. See *Rasheed Ahmed Khan v. State*, (1988) 21 P Cr. L.J. (Karachi) 1595, 1595 (Pak.).

211. *Id.* at 1595–96.

be interpreted like strict liability offenses.

C. DEFINITIONAL SPECIFICITY

A major factor compounding the absence of an intent requirement in the blasphemy laws, especially in Sections 295-C and 298-C, is their lack of specificity, making their ambit virtually limitless. Consider once again the text of Section 295-C:

Whoever by words, either spoken or written, or by visible representation, *or by any imputation, innuendo, or insinuation, directly or indirectly, defiles the sacred name of the Holy Prophet Mohammed* (peace be upon him) shall be punished with death, or imprisonment for life, and shall also be liable to fine.²¹²

The phrase “defiles the sacred name of the Holy Prophet Mohammed (PBUH)” is open to the most diverse interpretations, and lends itself to a high degree of subjectivity. The section offers no elucidation on the types of behavior that can constitute defilement. Moreover, the ambit of Section 295-C is virtually unlimited, since the manner of defilement can constitute “imputation, innuendo, or insinuation,” either direct or indirect. Section 298-C carries this definitional breadth further, by declaring, *inter alia*, that any Ahmadi who “in any manner whatsoever” outrages the religious feelings of Muslims’ is liable to conviction under this clause. A comparison with one of the original provisions in Chapter 15 of the PPC—Section 298—is illustrative. Section 298 states that:

Whoever, with the deliberate intention of wounding the religious feelings of any person, *utters any word or makes any sound in the hearing of that person or makes any gesture in the sight of that person* shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or both.²¹³

Thus the manner of wounding the religious feelings of any person is clearly circumscribed in Section 298—only words, sounds, or gestures in the hearing or sight of the complainant will suffice as a basis for conviction under Section 298. This is in direct contrast to Section 298-C, where an Ahmadi can be convicted for outraging the religious feelings of Muslims in “any manner whatsoever,” as well as Section 295-C, where direct and indirect imputations, innuendos, or insinuations—not necessarily in the sight or hearing of the complainant—will

212. PAK. PEN. CODE § 295-C (emphasis added).

213. PAK. PEN. CODE § 298 (emphasis added).

suffice.²¹⁴ Such phrases are open to diverse interpretations and potential abuse and lend themselves to a high degree of subjectivity on the part of the complainants, the police, magistrates, and judges involved in blasphemy cases. The cases reveal the variety of situations attracting blasphemy charges and make apparent the consequences of the extremely overbroad drafting of Sections 295-C and 298-C.

Like the restriction of academic expression exemplified by the case of Dr. Younas Sheikh,²¹⁵ journalistic expression has not remained exempt from charges of blasphemy, either. The office of a local Urdu daily, *Muhasib*, owned by the Islamabad-based *Al-Ikhbar* group of newspapers, was sealed by the police and its editors arrested on charges of blasphemy. The charges were initiated by the president of the Organization for the Defence of the Finality of Prophethood, following the publication of an article by the newspaper, titled *Islam and the Beard*. In the article, the author had argued that it is not mandatory in Islam for men to wear a beard and that the Prophet's (PBUH) keeping a beard was merely a prevailing tradition of his times. He also criticized the clergy for their hypocrisy in advocating the mandatory keeping of a beard while adopting various other aspects of a modern life.²¹⁶

It is also important to note the occasional attempts by certain judges in recent years to advocate a forgiving approach in order to discourage charges under blasphemy laws. In *Ghulam Akbar v. State*, the Lahore High Court said that if a person claiming to be Muslim denied committing blasphemy before a trial court and sought pardon for any misunderstanding, there was no justification for persisting with the accusation.²¹⁷ The Court further exhorted that such matters should then be dropped given the teachings of forgiveness and mercy of the Holy Prophet (PBUH).²¹⁸ In *Muhammad Mahboob v. State*, the Lahore High Court further elaborated that in situations where a person had committed blasphemy and denied the charge during trial or repented of his act, there were sufficient examples under Islamic legal history to demonstrate

214. The use of Section 298-C against Ahmadis reveals a great diversity of situations attracting blasphemy charges, though it is beyond the ambit of this article to discuss that in any further detail.

215. See Iqbal, *supra* note 157.

216. Nadeem Iqbal, *Blaspheming the Beard*, NEWSLINE, July 2001, at 66.

217. Ghulam Akbar v. State, (2000) 2 Y.L.R. (Lahore) 1273 (Pak.).

218. *Id.* at 1275.

that a clement and forgiving approach had been adopted.²¹⁹ In a 2006 case, the Sind High Court also stated that that the life of the Prophet (PBUH) clearly showed that where a person had repented after insulting him, he had forgiven that person.²²⁰

While these are commendable attempts to check false accusations and overzealous prosecutions, such instances are few and far between and surrounded by various examples of a less than benevolent stance on the part of the judiciary. Additionally, these instances do not mention whether such a benevolent and forgiving approach can and should also be adopted towards non-Muslims, though it can be argued that in the instances cited from Islamic history, such clemency had been extended to non-Muslims, as well. Coupled with the lack of an intent requirement, the lack of definitional specificity makes the blasphemy laws extremely broad in reach and ambit. Furthermore, no procedural safeguards have been provided in the text of the laws, despite the fact that a conviction under Section 295-C carries the death penalty.²²¹

D. DESIGN ISSUES—AN INTERNATIONAL COMPARATIVE PERSPECTIVE

Having shown the various inherent design and drafting shortcomings of the blasphemy laws, it is useful at this stage to compare the text of the Pakistani blasphemy laws with similar laws in other jurisdictions, especially to gauge whether they address the kind of significant issues that have been pointed out above.

219. Muhammad Mahboob v. State, (2002) 54 P.L.D. 587, 600–01 (Lahore) (Pak.).

220. See Muhammad Ali v. Qadir Khan Mandokhail, (2006) 58 P.L.D. (Karachi) 613, 616 (Pak.).

221. While several cases have strongly criticized investigative incompetence, prosecutorial errors, and trial inadequacies that have contributed to false accusations under blasphemy laws, one recent case proffered some meaningful suggestions in this regard. See *Mahboob*, 58 P.L.D. at 599, 601. After soundly criticizing various aspects of the investigation and the trial proceedings, the judge warned against a growing number of false cases that were motivated by mischief and *mala fide* intent. He then directed the Inspector General of Police, Punjab, to ensure that all future investigations of blasphemy cases were entrusted to a team of at least two gazetted investigating officers, preferably conversant with Islamic jurisprudence. In case they did not have such expertise, a scholar of known repute and integrity could be added to the investigation team. The judge further proposed that all blasphemy trials ought to be presided over by a judicial officer who was not less than the rank of a District and Sessions Judge—the highest judicial post in Pakistan below the appellate courts.

1. Other Jurisdictions: Repealed and Non-Functional Blasphemy Laws

Some other jurisdictions, where laws pertaining to blasphemy continue to exist or once existed, include, *inter alia*, Northern Ireland, Scotland, Denmark, France, Germany, Ireland, the Netherlands, Spain, Switzerland, India,²²² New Zealand, Sweden, the Czech Republic, and Norway.²²³ Our review divulges that the offense of blasphemy has been either completely abolished or, in those jurisdictions where it continues to exist, seriously curtailed either through stricter intent requirements or judicial attempts to strike a balance between conflicting rights.²²⁴ It is also evident that in certain jurisdictions where the law remains on the books, violations have either not been prosecuted or prosecuted unsuccessfully, rendering the law redundant. For instance, in Northern Ireland, where blasphemy is a common law offense, the first and the last successful prosecution took place in 1703.²²⁵ Similarly, in Scotland, the last reported prosecution for blasphemy was in 1843.²²⁶ Some writers have therefore argued that blasphemy may no longer be a crime in Scotland.²²⁷ Some commentators opine that, in any event, since Scottish law, unlike English law, requires a personal interest in a matter before there can be any private prosecution, and since the State is unlikely to want to prosecute for blasphemy, a prosecution—though technically possible—is unlikely to occur.²²⁸ In Belgium, there is no longer a

222. For details see SELECT COMM. ON RELIGIOUS OFFENSES, FIRST REPORT: RELIGIOUS OFFENSES IN ENG. AND WALES (House of Lords 2003), available at <http://www.parliament.the-stationery-office.co.uk/pa/l200203/ldselect/ldrel0f/95/9501.htm> [hereinafter FIRST REPORT].

223. For details see Interights—The International Center for the Legal Protection of Human Rights, <http://www.interights.org/page.php?dir=Publication&page=wingrove.php> (last visited Jan. 6, 2008) [hereinafter Interights].

224. It has to be highlighted, though, that based on our review we have seen that the interpretive approach adopted by the appellate courts in Pakistan *vis-à-vis* the blasphemy cases has been quite fair and balanced. Furthermore, to date no blasphemy case has resulted in a conviction leading to the implementation of capital punishment and the appellate courts have always struck down or caused to be struck down (by remanding these cases after pointing out flaws of evidence and procedure) convictions at the trial court level.

225. The prosecution involved a certain Thomas Emlyn, a Unitarian minister who had written a book arguing that Jesus Christ was the equal of God the Father. See FIRST REPORT, *supra* note 222, at app. 5.

226. H.M. Advocate v. Robinson, (1843) 1 Broun 643 (H.C.J.) (Scot.).

227. GERALD H. GORDON, THE CRIMINAL LAW OF SCOTLAND, 998 (W. Green & Son Ltd. 2d ed. 1978) (1967).

228. G. Maher, *Blasphemy in Scots Law*, 1977 S.L.T. 257, 260 (Nov. 11, 1977).

law criminalizing blasphemy.²²⁹ In Denmark, while a law prohibiting blasphemy exists under its penal code, it has not been used since 1938.²³⁰ Australia is another jurisdiction which recently experienced a case involving an allegation of blasphemy.²³¹ The Supreme Court held that a crime of blasphemous libel did not exist in the Australian state of Victoria. It went on to rule that if such a law did in fact exist, it was necessary to show that the publication of the matter complained of would cause unrest of some sort. In the absence of such evidence, the court declined to grant the injunction sought.²³²

There are also jurisdictions where the law on blasphemy exists and convictions can be brought. However, as mentioned earlier, these convictions are curtailed by way of a strict intent requirement. In Germany, for instance, the criminal code forbids insults to a religion publicly or by dissemination of publications.²³³ However, "for an insult to be punishable under this law "the manner and content" of the insult must be such that an objective onlooker could reasonably apprehend that the insult would disturb the peace of those who share the insulted belief."²³⁴ Moreover, to be convicted, an offender must "intend or at least be aware that his or her action constituted an offence."²³⁵ In Ireland, the Constitution guarantees citizens' liberty (subject to public order and morality) to express freely their convictions and opinions but provides that "the publication or utterance of blasphemous, seditious or indecent matter is an offence which shall be punishable in accordance with law."²³⁶ However, the Irish Supreme Court held in 1999 that it was impossible to decipher from previously decided case law what

229. FIRST REPORT, *supra* note 222, at app. 5. Article 4 of the Decree of 23 September 1814, which penalized writings and images offensive to religion, was abrogated by the Fundamental Law of 1815. *Id.*

230. See FIRST REPORT, *supra* note 222, at app. 5 (citing Straffeloven [Criminal Code] § 140 (Den.)).

231. *Pell v. Council of Tr. of the Nat'l Gallery of Vict.* (1998) 2 V.R. 391 (Vict.).

232. *Id.* A Roman Catholic Archbishop had sought an injunction against the showing of a photograph on the basis of such showing being blasphemous libel. The court weighed on the one hand whether blasphemous libel was an offense under the laws of the state of Victoria and on the other whether a multi-faith society might be better served by a law that protected different faiths from scurrility, vilification, ridicule, and contempt.

233. Strafgesetzbuch [StGB] [Penal Code] § 166 (F.R.G.).

234. FIRST REPORT, *supra* note 222, at app. 5.

235. *Id.*

236. IR. CONST., 1937, art. 40.6.1.i.

the elements of the crime of blasphemy were.²³⁷ It is thus now considered largely impossible to bring a blasphemy prosecution in Ireland.²³⁸ In the Netherlands, blasphemy is a criminal offense under its penal code, but this provision covers only expressions concerning God, not saints and other revered religious figures. Further, the criminal offense of blasphemy has been interpreted to require that the person who makes the expression must have had the intention to be “scornful.”²³⁹ This is a stricter test than normally applied to the intent of the accused. Thus, even if it was objectively foreseeable that people would be aggrieved—and those people actually were aggrieved—there is no offense if the speaker did not have the intent to be scornful.²⁴⁰ This intent requirement was confirmed in one of the very few blasphemy cases in the Netherlands.²⁴¹ In 1968 the court acquitted an author because it was not proven that his aim was to be scornful.²⁴²

The Indian Penal Code states that a person is liable to punishment where the act committed is “deliberate and malicious” and done with the “intention of outraging the religious feelings of any class of citizens of India.”²⁴³ In such a case, however, “[t]he prosecution must establish that the intention of the accused to outrage was malicious as well as deliberate, and directed to a class of persons and not merely to an individual.”²⁴⁴ The legislative intent in introducing the provision was that “the essence of the offence . . . [was] that the insult to religion or the outrage to religious feelings must be the sole, or primary, or at least the deliberate and conscious intention.”²⁴⁵

In New Zealand, it is not against the law “to express in good faith and in decent language, or to attempt to establish by arguments used in good faith and conveyed in decent language, any opinion whatever on any religious subject.”²⁴⁶ In Norway, the Penal Code provides for the possibility of punishment for

237. *Corway v. Indep. Newspapers (Ir.) Ltd.*, [1999] 4 I.R. 484 (Ir.).

238. FIRST REPORT, *supra* note 222, at app. 5.

239. Article 147 of the Penal Code. *Id.*

240. FIRST REPORT, *supra* note 222, at app. 5.

241. *Id.* A Dutch writer represented God in a novel as a donkey and contemplated his having sexual intercourse with the animal. *Id.*

242. FIRST REPORT, *supra* note 222, at app. 5.

243. RATANLAL AND DHIRAJLAL'S LAW OF CRIMES: A COMMENTARY ON THE INDIA PEN. CODE, 1860 1171 (Bharat Law House 25th ed. 2003).

244. *Id.* at 1172.

245. *Id.* at 1173.

246. Crimes Act 1961, 1961 S.N.Z. No. 43, Part 7, S. 123(3).

any person who publicly insults or in an offensive manner shows contempt for any religious creed or for the doctrines or worship of any religious community lawfully existing there. However, this provision has not been applied by the courts since 1936.²⁴⁷ In France, there is no law against blasphemy; only the showing of a film contrary to good morals is proscribed under the Penal Law.²⁴⁸ In Sweden, crimes relating to blasphemy or religious insult have been abolished.²⁴⁹ The general law of blasphemy was abolished in 1949, and a narrower crime of religious insult was abolished in 1970.²⁵⁰ In the Czech Republic, there is no offense of blasphemy. It is only a provision of the Criminal Code which provides that insults to the nationality, race, or conviction of a group of inhabitants of the Republic can be punished.²⁵¹

It would also be instructive to look at the range of penalties for the commission of blasphemy in these jurisdictions. In New Zealand, the relevant law states that “[e]very one is liable to imprisonment for a term not exceeding one year who publishes any blasphemous libel.”²⁵² Further, “[w]hether any particular published matter is or is not a blasphemous libel is a question of fact.”²⁵³ Finally, “[n]o one shall be prosecuted for an offence against this section without the leave of the Attorney-General, who before giving leave may make such inquiries as he thinks fit.”²⁵⁴ In India, a person committing such an offense can be punished with imprisonment which may extend to three years, or with fine, or with both.²⁵⁵

The above analysis highlights that blasphemy laws are fast becoming antiquated in many international jurisdictions. Where they persist, law-makers and judges have ensured that the prerequisites of actual intent, specificity of offense, and a linkage of blasphemous speech as a causal factor for actual creation of breach of peace are rigorously employed to both ensure that valid speech is not curtailed and that innocent people are not implicated in a blasphemy case.

247. Interights, *supra* note 223.

248. *Id.*

249. *Id.*

250. *Id.*

251. Trestní zákon č. 140/1961 §198, *translated in* CRIMINAL CODE 192 (Trade Links 1999).

252. Crimes Act 1961, 1961 S.N.Z. No. 43, Part 7, S. 123(1).

253. *Id.* S. 123(2).

254. *Id.* S. 123(4).

255. See RATANLAL, *supra* note 243, at 639.

E. THE BLASPHEMY LAWS AND THE DOCTRINE OF VAGUENESS

It is instructive here to briefly examine the “doctrine of vagueness,” enshrined in the jurisprudence of many legal jurisdictions.²⁵⁶ To take an illustrative example—in the United States for instance—the “doctrine of vagueness” is embodied in the Due Process clauses of the U.S Constitution and has been essentially invoked in situations where certain statutes have been challenged as being in violation of these clauses and their underlying principles of fairness, justice, and liberty that should permeate the process of law.²⁵⁷ The essence of the doctrine was explained in the case of *Connally v. General Construction Company*, in which the Supreme Court held that a penal statute creating a new offense is required to clearly state what conduct is proscribed and the penalties the offender is likely to face.²⁵⁸ The doctrine thus puts forth the requirement that legislatures use clear and precise language so that people of common intelligence do not have to guess at the meaning of a law or its application.²⁵⁹ In other words, an individual must be able to reasonably understand that certain action or conduct is proscribed²⁶⁰ and cannot otherwise be criminally liable in the event that such action or conduct occurs.²⁶¹ A statute must not only be defined with certainty and precision but must also contain ascertainable standards of guilt.²⁶² In *Lanzetta v. New Jersey*, the Court found that a statute was void for vagueness because the action or conduct it prohibited was not clearly defined.²⁶³ The Court reasoned that if a statute does not clearly

256. See, e.g., The Obscenity Law Reporter, Vagueness Doctrine, <http://www.moralityinmedia.org/nolc/olrChapters/vagueness.htm> (last visited Mar. 8, 2008) [hereinafter Law Reporter].

257. See U.S. CONST. amend. V & XIV. The 5th and 14th Amendments to the U.S. Constitution forbid the government from taking life, liberty, or property without due process of law. *Id.*

258. See *Connally v. General Construction Company* 269 U.S. 385, 390–92 (1926).

259. *Id.*; See *McBoyle v. United States* 283 U.S. 25, 27 (1931) (holding that an accused has the right to fair warning, “in language that the common world will understand, of what the law intends to do if a certain line is passed.”).

260. See *United States v. Lanier* 520 U.S. 259, 271 (1997).

261. See Law Reporter, *supra* note 256.

262. *Id.*; see *United States v. Cohen Grocery Co.* 255 U.S. 81, 97 (1921) (holding that the text of the statute in question did not fix an ascertainable standard of guilt).

263. *Lanzetta v. New Jersey*, 306 U.S. 451, 453 (1939) (“If on its face the challenged provision is repugnant to the due process clause, specification of details of the offense intended to be charged would not serve to validate it. It is the statute, not the accusation under it, that prescribes the rule to govern conduct and warns under transgression. No one may be required at peril of life, liberty or property to

define what constitutes a criminal act and gives inadequate warning of what the law forbids, an innocent act could become a criminal one.²⁶⁴ Hence, a vague statute may be potentially unconstitutional if an individual implicated under it could not defend himself against the charged crime because of its vagueness. Its vagueness results in a denial of the due process mandated by the Fifth and Fourteenth Amendments—constitutional provisions that guarantee, *inter alia*, that citizens are given fair warning that certain conduct will be deemed criminal.²⁶⁵ In other words, the test is whether the language of a statute—challenged as being vague—provides a person of average intelligence with sufficient warning that his action is illegal by common understanding and practice. If this test cannot be satisfied, a law will be held to be vague and hence void.²⁶⁶

The “doctrine of vagueness,” as it is understood in the United States, however, requires more than just textual ambiguity. Many statutes contain some vagueness.²⁶⁷ Therefore, the enforcement of a statute will be prohibited on the basis of vagueness only when it is found to be so vague that it enables “arbitrary and discriminatory” enforcement.²⁶⁸ The test for vagueness is more strictly applied in the case of criminal statutes since the penalties imposed are stringent. Whereas if the penalties are being imposed for conduct contrary to civil statutes—e.g., an obscenity statute—the courts have found that the lack of precision does not by itself offend due process, as long as the language sufficiently conveys definite warning as to proscribed conduct, when measured by common understanding and practices.²⁶⁹

The above review illustrates the rationale and ambit of the “doctrine of vagueness,” and it is readily apparent that the blasphemy laws fall well short of giving clear and meaningful warning of the exact nature of offenses. This is especially true in the case of Section 295-C, which carries such stringent

speculate as to the meaning of penal statutes.”).

264. See Law Reporter, *supra* note 256.

265. Talya Yaylaian, *Statutes May Be Interpreted in an Unforeseeably Expansive Manner: United States v. Councilman*, 41 NEW ENG. L. REV. 293, 293 (2007).

266. Raley v. Ohio, 360 U.S. 423, 438 (1959) (“A State may not issue commands to its citizens, under criminal sanctions, in language so vague and undefined as to afford no fair warning of what conduct might transgress them.”).

267. United States v. Lanier, 520 U.S. 259, 266 (1997).

268. Kolender v. Lawson, 461 U.S. 352, 357 (1983).

269. Miller v. California, 413 U.S. 15, 28 (1973); Law Reporter, *supra* note 256.

penalties. Considering the lack of definitional specificity discussed *supra*, the blasphemy laws and Section 295-C, in particular, are highly questionable in view of the internationally recognized “doctrine of vagueness.”

V. BLASPHEMY LAWS AND THEIR IMPLICATIONS FOR FREE SPEECH IN PAKISTAN

A. THE RIGHT OF FREE SPEECH IN PAKISTAN AND THE INTERNATIONAL SPECTRUM OF FREE SPEECH ABSOLUTISM AND TOTAL STATE CONTROL

There is an important nexus—and at times conflict—between free speech and the freedom of religion, the right to human dignity, and the equal protection of law provisions or other important rights under various constitutional systems. This is an important aspect of this issue, which is the subject matter of another fairly developed body of legal thought. While recognizing the importance of this dimension, this article will not delve into that independent and complex debate. The preliminary discussion of the Pakistani free speech laws that follows—and their comparison with other international jurisdictions—will provide an idea of where along the spectrum of free speech absolutism and total state curtailment of speech Pakistan lies and how that influences the existence and perpetuation of its blasphemy laws.

1. Free Speech Protection Models and the Impact of Structure on Degree of Protection: Built-in Restrictions vs. Open-ended Protection

What catches one’s immediate attention upon glancing through Article 19,²⁷⁰ the constitutional provision providing protection for freedom of speech under the Pakistani Constitution, is the number and extent of qualifications and

270. PAK. CONST. art. 19 (“Every citizen shall have the right to freedom of speech and expression, and there shall be freedom of the press, subject to any reasonable restrictions imposed by law in the interest of the glory of Islam or the integrity, security or defence of Pakistan or any part thereof, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of Court, commission of or incitement to an offence”).

exceptions embedded in the text of the provision.²⁷¹ These “claw-back” provisions are *prima facie* broad and generic. Consider a right of free speech and expression, as well as freedom of press, that can nonetheless be circumscribed by “reasonable restrictions” imposed by the law in the interest of “the glory of Islam . . . the integrity, security or defense of Pakistan or any part thereof . . . friendly relations with foreign states . . . public order . . . decency or morality . . . or . . . in relation to contempt of Court or incitement to an offence.”²⁷² The more flippant may comment that these restrictions hardly leave room for any halfway decent conversation. The pragmatists and those sensitive to the arguments of cultural relativism would, however, urge one to delve deeper in order to gauge whether the Pakistani courts have salvaged sufficient room for meaningful speech in spite of the built-in restrictions in the constitutional text, while striking a balance with other values, freedoms, and public interests that it may want to protect.

This preliminary review necessarily propels one to draw a broad comparison with another rather obviously pertinent jurisdiction (where the jurisprudence on free speech is widely regarded to be highly developed and sophisticated)—namely the United States. The First Amendment to the U.S. Constitution lays out a definitive and absolutist sounding right of free speech: “Congress shall make no law . . . abridging the freedom of speech”²⁷³ Over two-hundred years of complex jurisprudence, courts have essentially, though not always consistently or convincingly, carved out certain categories of speech to which the First Amendment protection does not extend. It is important to note, however, that these categories are limited and progressively circumscribed by the very broad right of free speech stated in the Constitution. In other words, while upholding the sanctity of freedom of speech as an absolute virtue, the U.S. courts have rigorously scrutinized all kinds of speech prohibiting or curtailing legislation to glean and uphold only what was, in their view, legislation essential for protecting or furthering a conflicting public policy imperative. It is only these limited categories of speech proscription, under certain circumstances, that have been allowed to trump speech. This

271. PAK. CONST., Part II of Chapter 1 lays out a comprehensive list of the Fundamental Rights enjoyed by the citizens of Pakistan. Article 8 declares laws inconsistent with or in derogation of Fundamental Rights to be void.

272. See *supra* note 270, and accompanying text.

273. U.S. CONST. amend. I.

has caused some commentators to say that there is inherently a hierarchy of rights in the United States, and the right of free speech lies at the very apex of that hierarchy.²⁷⁴

2. *The Doctrine of “Hate Speech” in the United States: From Evolution to the Existing State of the Law*

To focus on the category of speech that can be validly prohibited in the United States most relevant for our purposes, we must look to the seminal case of *Chaplinsky v. New Hampshire*.²⁷⁵ In this case the U.S. Supreme Court prefaced its introduction of the category of “fighting words” by mentioning “certain well-defined and narrowly limited classes of speech, the prevention and punishment of which have never been thought to raise any Constitutional problem.”²⁷⁶ These words, the Court found, were “those which by their very utterance inflict injury or tend to incite an immediate breach of the peace.”²⁷⁷ The Court went on to enunciate the rationale for their non-protection by stating that, “[i]t has been well observed that such utterances are no essential part of any exposition of ideas, and are of such slight social value as a step to truth that any benefit that may be derived from them is clearly outweighed by the social interest in order and morality.”²⁷⁸

A half-century separates this judgment from the most significant recent revisiting by the U.S. Supreme Court of this unprotected category of speech. The majority opinion of five judges in the case of *R.A.V. v. City of St. Paul*²⁷⁹ dealt with the constitutionality of a city ordinance banning display of symbols, including a burning cross that could arouse anger in others on the basis of race, color, creed, religion, or gender. This case seems to further circumscribe the domain of what remains unprotected by the First Amendment within the “fighting words” category. The Court stated that selective suppression of speech that is unprotected because of a broader characteristic (“fighting words” in this case) can still violate the freedom of speech if the selection is made on the basis of the particular message conveyed, unless the particular message lies at the

274. See Kentridge, *Freedom of Speech*, *supra* note 4, at 254–56.

275. *Chaplinsky v. New Hampshire*, 315 U.S. 568, 569 (1942).

276. *Id.* at 571–72.

277. *Id.* at 572.

278. *Id.*

279. *R.A.V. v. City of St. Paul*, 505 U.S. 377, 380 (1992).

heart of what makes it suppressible.²⁸⁰ In other words, the regulator of speech—in this case the city of St. Paul—could not properly choose among “fighting words” based on the content of the particular message. It could not punish racial epithets but not equally punish those disparaging other characteristics of the addressee, such as his prejudices or his illegitimacy or his sexual orientation—at least not without a credible determination that the forbidden messages were more likely to provoke a violent response or to provoke a more violent or dangerous response than those not forbidden.²⁸¹

In essence, “fighting words” are unprotected in the United States because they are likely to provoke violence and not because they express prejudice or bias on the part of the speaker. Prejudice or bias lies within the realm of ideas and cannot be suppressed because of wrongness or unpopularity; it is the violence-inducing dimension of such speech that needs to be clearly identified and can as such be suppressed. Meanwhile, the minority opinion of the remaining four judges found the ordinance to be substantially overbroad—prohibiting not just fighting words but a range of constitutionally protected speech as well as activity which is not protected—thus finding it invalid on its face and subject to challenge even by the persons whose conduct is not protected, in order to avoid the “chilling effect” which the ordinance would have on law-abiding persons who would otherwise wish to engage in protected expression.²⁸²

The *R.A.V.* verdict thus stands, albeit controversially, for further restricting the possible doctrinal scope of “fighting words” by holding unconstitutional the prohibition of speech solely on the basis of the content or “subjects the speech addresses.”²⁸³ Thus, in order to find out whether certain words are “fighting words,” there can seemingly be no recourse to the content and subject matter of what is said.²⁸⁴ In its promotion of

280. *Id.* at 393–94.

281. *Id.*

282. *Id.* at 394.

283. *Id.* at 381; *cf. Wisconsin v. Mitchell*, 508 U.S. 476, 490 (1993) (distinguishing punishment of the defendant’s abstract beliefs as such from consideration of his prejudice as a motive for otherwise wholly unprotected conduct. In other words, the Court said that it was reaffirming what had always been the case that motive either as an essential element of a crime or as an aggravating factor in determining punishment is not successfully challengeable on free speech ground.).

284. See JUDITH BUTLER, EXCITABLE SPEECH 52, 53 (Routledge 1997) (“[A]t stake in the majority opinion is not only when and where ‘speech’ constitutes some component of an injurious act such that it loses its protected status under the First

the free marketplace of ideas, viewpoints—including those that are unpopular, unpleasant and/or offensive—are also protected by the First Amendment, and it has to be clearly shown that the alleged “fighting words” are indeed that and not just an unpopular viewpoint. Any proscriptive legislation thus must be content-neutral. Writing the majority opinion, Justice Scalia “establishe[d] a distinction between the content and vehicle of that expression; it is the latter which is proscribable, and the former which is not.” As Justice Scalia says, “fighting words are thus analogous to a noisy sound truck.”²⁸⁵ Thus, what is injurious is the sound and not the truck!

3. Multiple Approaches to Free Speech Protection: The Impact of History and Culture and the Prioritization of Conflicting Rights and Policy Imperatives

The manner in which First Amendment debates dominate the constitutional discourse in the United States is unique.²⁸⁶ The above analysis bolsters the views of commentators who find that the United States in recent times has stood out for providing exceptionally broad protection for otherwise objectionable speech. Hate speech is understood to be one of the areas in which it has positioned itself further out on the speech-protective end of the legal spectrum than perhaps most other countries have been willing to venture.²⁸⁷ There is no dearth of staunch supporters of this position, who find that the strong

Amendment, but what constitutes ‘speech’ itself.”). The author draws the compelling analogy that the majority, while finding the act of cross-burning reprehensible, is also wary of another fire—i.e., what it finds to be overbroad restrictions in the city ordinance—a fire that may lead to the incineration of free speech. *Id.* at 55.

285. *Id.* at 56.

286. See Christina E. Wells, *First Amendment: Discussing the First Amendment*, 101 MICH. L. REV. 1566, 1566 (2003) (reviewing ETERNALLY VIGILANT: FREE SPEECH IN THE MODERN ERA (Lee C. Bollinger & Geoffrey R. Stone eds., 2002)) (describing the remarkably advanced and diverse strains of free speech debate in the United States, which surely makes it one of the most sophisticated avenues for such discourse).

287. See William B. Fisch, *American Law in a Time of Global Interdependence: U.S. National Reports to the XVIth International Congress of Comparative Law: Section IV Hate Speech in the Constitutional Law of the United States*, 50 AM. J. COMP. L. 463 (2002). The author does argue, however, that despite the vast extent of protection for such speech in the United States *vis-à-vis* other jurisdictions, such protection is narrower in scope than might be supposed and that there is still allowance for the suppression of, or legal sanctions against, a great deal of conduct motivated by and expressing hostility towards particular social groups.

constitutional protection for freedom of speech in the United States is itself an American humanistic value—a value that is the product of its own history and experience—and is reflected in American culture.²⁸⁸ But there are also those who find that “hate speech” intentionally used to intimidate others can drastically undermine public safety and social welfare, and hence the freedom to intimidate must be balanced against the reasonable expectation of civic order. A federal uniform law may accordingly be the panacea.²⁸⁹ There are others who believe that although the First Amendment purports to offer a way for subordinate social groups to participate in political discourse and to hold and exercise power through communication through its protection of dissident speech, in recent times one could question whether these traditional principles inherent within the First Amendment and the Supreme Court’s reliance on them may have become an outdated idea of liberty.²⁹⁰ They argue that by focusing overtly on autonomous individuals, these principles fail to address societal power and the role of speech in that power dynamic.²⁹¹ While an ongoing debate, there is persistent difficulty in determining with any great certainty—in spite of the Supreme Court declaring “fighting words” as a well-defined class of speech—whether any individual’s speech constitutes unprotected fighting words rather than expression protected by the First Amendment. This remains an area of evolution and growth.²⁹²

288. See Robert A. Sedler, *An Essay on Freedom of Speech: The United States Versus the Rest of the World*, 2006 MICH. ST. L. REV. 377, 378 (2006). The author argues, *inter alia*, that since many of the guarantees of the Bill of Rights have been drafted in sweeping and broad terms, so that their meaning depends on court interpretations over a long period of time, and since the First Amendment’s guarantees for freedom of speech are perhaps stronger than those accorded to any other individual right under the U.S. Constitution; over the years so many concepts, principles, doctrines, and precedents have accumulated to form the Law of the First Amendment that that itself provides a great deal of protection to Freedom of Speech. As a result, in First Amendment litigation there is an increased likelihood that the First Amendment claim will prevail.

289. See Alexander Tsesis, *Symposium Essay: Regulating Intimidating Speech*, 41 HARV. J. ON LEGIS. 389, 389 (2004). The author argues against free speech absolutism by emphasizing both the low social and political value of hate speech, as well as the use of hate speech as a façade to intimidate speakers from freely exchanging ideas on topics of public interest—the political exploitation of intimidation, as he calls it.

290. See Chris Demasko, *Modern Power and the First Amendment: Reassessing Hate Speech*, 9 COMM. L. & POL’Y 273, 273 (2004).

291. *Id.*

292. See Linda Friedlieb, *The Epitome of an Insult: A Constitutional Approach to Designated Fighting Words*, 72 U. CHI. L. REV. 385, 414 (2005) (proposing a new

The manner in which such an embedded and broad right of free speech in a constitution—as is the case in the United States—and the peculiar socio-political and cultural developments surrounding its constitutional evolution impacts the exact nature of emerging rights is highlighted in the comparison with other jurisdictions. Take, for example, a jurisdiction without a written constitution and with only fairly recent legislation explicitly incorporating the right to freedom of expression into law, such as the United Kingdom.²⁹³ Or another jurisdiction with a constitutional framework based on a written constitution but with no explicit right to freedom of speech in its main instrument of government, such as Australia. It has been argued that since the introduction of the Human Rights Act of 1998, constitutional interpretation changed considerably in the United Kingdom. As a result, legislators are bound to take account of a guaranteed right to freedom of expression, individual citizens have easier access to his or her rights under the European Convention, and there is an emerging notion of the court acting as a guardian of rights, which is explicit in the Human Rights Act of 1998.²⁹⁴

It is still true that, in the United Kingdom, the Parliament and not the courts have the power and responsibility for striking a balance between freedom of expression and unlawful conduct. This is to be done in a manner and under a legal tradition whereby there already exists, *inter alia*, extensive legislation proscribing racially motivated speech, speech that will stir up religious hatred, speech that contains official secrets, and obscene speech, as well as common law prohibitive provisions relating to blasphemy and treason.²⁹⁵ Conversely, in Australia,

approach to the fighting words doctrine whereby state and local governments can—consistent with First Amendment jurisprudence—designate words or symbols as criminal, but only when used in certain situations where an ordinary listener in that situation might respond in such a way as to lead to a breach of the peace).

293. Human Rights Act, 1998, c. 42, sched. 1, art. 10 (U.K.).

294. See Christopher J. Newman, *Allowing Free Speech and Prohibiting Persecution—A Contemporary Sophie's Choice*, 70 J. CRIM. L. 329 (2006) (considering the approach of three common law jurisdictions—U.S.A., U.K., and Australia—to the problems faced by courts when an individual's right to freedom of expression is invoked as a defense to a low-level public order offense and while doing so, *inter alia*, highlights the difference of approach that stems from differences in constitutional history and frameworks).

295. See Crime and Disorder Act, 1998, c. 37, § 28 (Eng.); Serious Organized Crime and Police Act, 2005, c. 15 (Eng.); Official Secrets Act, 1989, c. 6 (Eng.); and Obscene Publications Act, 1959, 7 & 8 Eliz. 2, c. 66 (Eng.). A new Racial and Religious Hatred Bill is also in the offing. See Dr. Dawn Watkins, *Racial and Religious Hatred v. Free Speech*, 155 NEW L.J. 1737, 1737–38 (2005). See also

each state has its own method of regulating criminal law; despite the fact that the Australian Government has signed the International Covenant on Civil and Political Rights,²⁹⁶ contained within which is a qualified right to freedom of expression, Australian courts are not bound by that international treaty. While this does not mean that Australian citizens must endure a basic lack of human rights, Australia has no provisions to embed such freedoms into its domestic law, either by legislation (as in the United Kingdom) or constitutionally (as in the United States). Commentators argue that in this context—while there has been an on-going program of constitutional reform—in the final analysis it is the common law which has been slowly garnering the right to freedom of expression.²⁹⁷

4. Free Speech in Pakistan: Traditional Approaches and the Impact of History, Culture, and Politics

In Pakistan, the constitution and constitutional culture have been traditionally and, in recent years, increasingly influenced by a religious ethos. At times, freedom of speech has had to give way to several other rights, values, and imperatives on which the State and society put a premium.²⁹⁸ What used to be the preamble to previous constitutions²⁹⁹ is now an operative part of the current Constitution as Article 2-A, and very much

Kentridge, *Freedom of Speech*, *supra* note 4, at 258–70 (conceding that judged by the measure of the legal protection given to freedom of speech in the United States, England seems to have fallen behind, but agreeing with the approach adopted in England in the areas of the law of contempt of court and defamation where he argues that the English Courts have tried to strike a balance between the right of free speech and the rights to a fair trial as well as the right to the reputation of an individual, unlike the United States which has tilted far too much towards protection of freedom of speech at the cost of other conflicting rights).

296. International Covenant on Civil and Political Rights, Mar. 23, 1976, 999 U.N.T.S. 172.

297. See Kentridge, *Freedom of Speech*, *supra* note 4, at 254–55 (describing how The High Court of Australia has recently discerned in the Australian Constitution an entrenched freedom of public discussion of political matters and how the freedom is implied as being essential to the system of representative democracy established by the Constitution).

298. See Siddique, *Jurisprudence of Dissolutions*, *supra* note 28, at 627–29 (discussing the various Islamization-motivated steps and legislation in the 1980s during the regime of General Zia-ul-Haq).

299. We are referring here to the Constitutions of 1956 and 1962 and the unamended version of the Constitution of 1973.

defines its ethos as a non-secular one.³⁰⁰ Yet, recent Pakistani judgments have put a halt to the discussion regarding whether Article 2-A can trump other constitutional provisions—thus acting as a sort of *grundnorm*—and have declared instead that it stands on an equal footing with other provisions of the Constitution, no more and no less.³⁰¹ Indeed, these judgments have firmly precluded and strongly warned against an interpretation of Article 2-A which would raise it to the point of being a litmus test for gauging, evaluating, and potentially justifying the judiciary to strike down any other constitutional provisions. While acknowledging that various such provisions may be inconsistent with Article 2-A, the courts clearly warned that such an interpretive approach would undermine the entire Constitution.³⁰²

It must be reemphasized that Pakistan has faced several praetorian interventions throughout its history which have resulted in long periods of military rule, with constitutions abrogated or held in abeyance, and fundamental rights suspended for extended periods of time. This trend can explain to a great extent why the political and judicial ingredients for rights protection and growth are relatively underdeveloped in that country. This is an important dimension. Having said that, one can still plausibly argue that in spite of the several impediments to normal functioning of the courts in view of Pakistan's troubled history, the Pakistani judiciary has made various attempts to protect free speech. They have only allowed its proscription when the facts and circumstances of a case, in their view, seriously merited so, adopting a cost-benefit analysis and a clear case-by-case approach, as shall be discussed below.

300. PAK. CONST. art. 2A. This article makes the Objectives Resolution a part of the substantive provisions of the Constitution. The controversial Objectives Resolution, which was opposed by all the minority members of the Constituent Assembly at the time of its adoption in 1949, apart from having an overtly religious tone starts with the words: "Whereas sovereignty over the entire universe belongs to Allah Almighty alone and authority which He has delegated to the State of Pakistan, through its people for being exercised within the limits prescribed by Him is a sacred trust." It extends protection to the Fundamental Rights under the Constitution subject to "law and public morality." *Id.*

301. See Sharaf Faridi v. Federation of Islamic Republic of Pakistan, (1989) P.L.D. 404, 430, 452 (Karachi) (Pak.).

302. See Hakim Khan v. Government of Pakistan, (1992) P.L.D. 595, 617, 620, 634 (Pak.), *aff'd* by Zaherrudin v. State, (1993) S.C.M.R. 1718 (Pak.). In our view this interpretation was not necessarily giving precedence to the secular provisions of the Constitution over the "sacred" ones but simply blocking an emerging trend which the Supreme Court feared could lead to a complete unraveling of the existing constitutional structure and its stability.

Before analyzing free speech protection under Article 19, it is significant to look at a snapshot of the Pakistan's early jurisprudence on freedom of speech, which is heartening for its progressive, well-reasoned, and sensitive support for free speech. In several cases dealing with press regulatory laws and controversial political and religious discourse and publications, there was a concerted judicial attempt to dilute stringent government regulations and to resist public and political pressure to curb and censor uninhibited and critical speech. In one such case which involved, *inter alia*, newspaper articles that strongly criticized the religious practices of certain Muslim sects and were contended by the state to be promoting feelings of hatred between different classes of citizens as well as bringing into contempt a class of citizens, the court endeavored to circumscribe the ambit of "hate speech" and carve out room for even polemical or controversial debate. Justice A.R.Cornelius said:

[A]ny form of mere dislike is not enmity; the feelings must be one of hostility, antagonism and ill-will. Similarly, hatred is much stronger than mere opposition; it means aversion carried to the point at which there is a desire to injure or destroy the object of the emotion, and contempt means more than regarding the object as inferior; it involves an opinion that is the object of a vile, despicable or worthless character.³⁰³

In similar subsequent attempts, the judiciary further narrowed the ambit of press regulatory laws by stating that, "In construing the offending article, we must read it as a whole in a fair, free and liberal manner and not in any narrow minded or sectarian way, nor are we to pick out isolated words or sentences from one or the other place of the article or

303. In the matter of The Daily Ehsan, (1949) P.L.D. 282, 296 (Lahore) (Pak.). In a subsequent case, the court looked at the rules of engagement in controversial religious speech and said that there was no restriction on such speech as long as the speech or writing furthered the ends of the controversy. It was only when such speech contained malice and was not necessary to further the ends of the controversy, that it could be scrutinized by the courts. See Working Muslim Mission and Literary Trust, Lahore v. The Crown, (1954) P.L.D. 724, 730 (Pak.). In a later case, while examining the limits of political and anti-government speech, the court urged that it was very important to make a distinction between the effect of an article which was merely disparaging in nature and one which had the effect of bringing the Government into hatred and contempt — which in turn were very strong terms and may not necessarily follow from a disparaging remark against the Government or its executive officers. See Ilyas Rashidi v. Chief Commissioner, Karachi, (1975) P.L.D. 890, 891 (Karachi) (Pak.).

publication.”³⁰⁴ Indeed, judicial pronouncements from that era vibrantly extol the virtues of “healthy” criticism and underline that “politics” entails the expression of a developed human mind and could not be repressed for long periods of time.³⁰⁵ The commitment to free speech and to a truly democratic ethos in such judgments is highly significant, for they came during an era of multiple interruptions of democratic politics and blatant state suppression of rights such as that of speech.

5. Free Speech Protection under Article 19 of the Pakistani Constitution: A Cost-Benefit Approach

Coming now to Article 19, with so many “claw back” provisions protecting different public interest and public policy imperatives enshrined in its text, it is already evident that freedom of speech is neither phrased in as liberal and empowering a fashion as in the Constitution of the United States, nor does it enjoy supremacy over other rights as it does in that document. At the same time, it arguably still provides the judiciary ample room for defining the ambit of constitutionally protected speech by potentially elaborating upon the restrictive limits of the “claw back” provisions. There are several important Pakistani judgments that underline the importance of interpreting the Constitution in a manner that the ambit of fundamental rights, including that of freedom of speech, is not curtailed, but indeed expanded.³⁰⁶ And yet the judicial pronouncements in the case law generated under Article 19 specifically are not that extensive—both in terms of clearly defining and expanding categories of untouchable speech or

304. See *The Sangbad Newspaper and Nasiruddin Ahmed v. Province of East Pakistan*, (1958) P.L.D. 324, 330 (Dacca) (Pak.). See also further reaffirmation of this in *Mahmood Ahmad Abbasi v. The Governor of West Pakistan*, PAK. CRIM. L.J. 1139, 1148 (1968).

305. See *Muhammad Saleem v. Government of West Pakistan*, (1960) P.L.D. 206, 207, 210 (Lahore) (Pak.).

306. For example, the Pakistan Supreme Court has held that constitutional interpretation should not just be ceremonious observance of the rules and usages of interpretation but instead inspired by, *inter alia*, Fundamental Rights, in order to achieve the goals of democracy, tolerance, equality and social justice. See *Benazir Bhutto v. Federation of Pakistan*, (1988) P.L.D. 416, 489 (Pak.). The prescribed approach while interpreting Fundamental Rights is one that is dynamic, progressive and liberal, keeping in view the ideals of the people, and socio-economic and politico-cultural values, so as to extend the benefit of the same to the maximum possible. The role of the courts is to expand the scope of such a provision and not to extenuate the same. See *Muhammad Nawaz Sharif v. Federation of Pakistan*, (1993) P.L.D. 473, 674 (Pak.).

alternatively, categorically and clearly limiting certain kinds of speech and the circumstances under which they can be legitimately proscribed by the State. Instead, the courts have essentially adopted a case-by-case approach. While espousing the importance and value of free speech, they have chosen to gauge the “reasonableness” of any restrictions imposed by the legislature by attempting to strike a balance between conflicting rights and public interest and public policy imperatives.

What emerges is a stream of cases where the Pakistani courts of the more recent era have continued to emphasize the freedoms of speech and press as essential requirements for the survival and sustenance of democracy, but qualify that such rights are not absolute, that reasonable restrictions based on reasonable grounds can be imposed, and that reasonable classifications can be created for differential treatment.³⁰⁷ There is a fairly developed body of law on the area of interplay between free speech and the laws of contempt and defamation. The courts have come out strongly in saying that a free speech right does not give citizens a license to commit contempt of court.³⁰⁸ While striking down any state attempts to directly or indirectly curtail freedom of the press,³⁰⁹ and refusing temporary injunctions to restrain publication of a news item about alleged malpractices,³¹⁰ the courts have at the same time restrained

307. See *Engineer Jameel Ahmad Malik v. Pakistan Ordnance Factories Board, Wah Cantt*, SCMR 164, 178 (2004) (Pak.). The Supreme Court had also said in an earlier seminal case, which dictum has since been followed in subsequent cases, that the law permits reasonable classification and distinction in the same class of persons but it should be founded on reasonable distinction and reasonable basis. See *Abdur Rehman Mobashir v. Syed Amir Ali Shah Bokhari*, PLD 113 (1978) (Pak.).

308. See, e.g., *The State v. Sheikh Shaukat Ali, Advocate*, (1976) PLD 355, 364 (Pak.). The Court said that Article 19 is in a way subject to Article 204 of the Constitution which provides a safeguard in the public interest against any attempt to scandalize the courts or undermine their dignity. See PAK. CONST. art. 204(2)(d).

309. See *Muzaffar Qadir v. Dist. Magistrate*, (1975) 27 P.L.D. (Lahore H.C.) 1198, 1204–05 (Pak.) (striking down a law found to illegally refuse permission to the petitioner to bring out a newspaper through the imposition of certain unreasonable requirements). See also *Indep. Newspapers Corp. v. Chairman, Fourth Wage Bd. Implementation Trib. for Newspaper Employees*, (1993) 26 S.C.M.R. 1533, 1544 (Pak.) (finding that any measure, including the cost of production and resultant price increase, that directly or indirectly restrains the circulation of newspapers should be avoided as far as possible); *Qaisar Nadem Saqi v. Dist. Coordination Officer*, (2006) 58 P.L.D. (Lahore H.C.) 76, 81 (Pak.) (saying that any attempt to curtail freedom of press must not be slipshod and must withstand judicial scrutiny).

310. See *Unichem Corp. v. Abdullah Ismail*, (1992) 10 M.L.D. (Sindh H.C.) 2374, 2376–77 (Pak.) (finding such an injunction to be in violation of the principles of free speech as it may suppress facts which may be of public interest, and warning that if a newspaper report against which such an injunction was sought was later found to

publications they have found to be defamatory.³¹¹ At times the courts have even exhorted the press to bring excesses of government authorities to the public's attention and strongly promoted political speech.³¹² The courts have also determined that restrictions on speech which may have the effect of creating or increasing hatred or animosity between different ethnic groups may be reasonable. However, the courts have also advocated a cost-benefit approach to striking a balance between preservation of freedom of speech and protecting conflicting imperatives of public interest within the restrictive categories acting as caveats to Article 19.³¹³

We have already seen that when it comes to the right of free speech—or for that matter any other fundamental right—there can be considerable variation in terms of its ambit in different jurisdictions. Free speech is a very different concept in the United States than in the United Kingdom. Both positions have arguments in their favor, their own respective protagonists and antagonists, and remain in a constant state of evolution. Furthermore, at a preliminary level, it is apparent that such variations are a function of the structure and form of a country's

be false and defamatory, the publisher could face an action under the law of defamation; publishing the story would be at their own risk and cost).

311. See *Sadia Sumbel Butt v. Rafiq Afghan*, (2006) 24 M.L.D. (Sindh H.C.) 1462, 1465–68 (Pak.) (finding allegations of prostitution and drinking made against a female airhostess in a newspaper to be defamatory and in violation of Article 14, which protects the right of human dignity under the Pakistani Constitution). See also *Syed Masroor Ahsan v. Ardesir Cowasjee*, (1998) 50 P.L.D. 823, 834 (Pak.) (observing that freedom of press was not “absolute, unlimited and unfettered” and that its “protective cover” could not be used for wrongdoings); *Muhammad Rashid v. Majid Nizami*, (2002) 54 P.L.D. 514, 524–25 (Pak.) (saying that despite the fact that Article 19 did not contain defamation as a claw-back provision, it did not give license to the press to publish harmful and damaging material).

312. See *Sultan Ali Lakhani v. Shakil ur Rehman*, (1997) 49 P.L.D. (Sindh H.C.) 41, 48–49 (Pak.) (saying that pre-censorship in the absence of any reasonable restrictions imposed by the law for any purposes specified by Article 19 would be violative of the freedoms of speech and press). See also *Benazir Bhutto v. News Publ'ns (Pvt.) Ltd.*, (2000) 22 C.L.C. (Sindh H.C.) 904, 911–12 (Pak.) (stating that in an Islamic society, every citizen was entitled to raise objective criticism on the ruler of the day—which was also in keeping with the modern democratic ethos); *Abu Bakar Muhammad Reza v. Sec'y to Gov't of Punjab, Home Dep't*, (2005) 57 P.L.D. (Lahore H.C.) 370, 372–74 (Pak.) (stating that the distribution of anti-government materials came under the protection of Article 19).

313. See *Ghulam Sarwar Awan v. Gov't of Sind*, (1988) 40 P.L.D. (Sindh H.C.) 414, 418–24 (Pak.) (“The phrase ‘reasonable restriction’ connotes that the limitation imposed on a person in enjoyment of the right should not be arbitrary or of an excessive nature, beyond that [which] is required in the interest of the public. The word ‘reasonable’ implies intelligent care and deliberation, that is, the choice of a course which reason dictates.”).

constitutional framework, its political ideology, and its own unique alchemy of historical events, social structures, cultural values, political evolution, and contemporary realities. Pakistan in that sense is no different, and in many important ways these factors have defined and continue to define not only the scope of free speech in Pakistan, but also what price the State and society are willing to pay for such freedom. On the speech-protection spectrum, Pakistan lies short of the controversial position of the United States, but by no means is it a country where various categories of speech are not accorded due protection. In spite of the several “claw back” provisions, the Pakistani courts have adopted a case-by-case, cost-benefit approach to deciding whether speech ought to be protected or trumped by any conflicting values, and, where speech is proscribed, it is not always for less-than-defensible grounds.

B. THE BLASPHEMY LAWS IN PAKISTAN AND FREE SPEECH IMPLICATIONS

Having analyzed at length both the controversial evolution and ethos and the various design and drafting defects of the blasphemy laws, it is now appropriate to review these laws in view of the international jurisprudence on “hate speech.” Review of the United States’ jurisprudence in particular, and also that of other jurisdictions, reveals that the relevant laws limiting hate speech attach great importance to the fact that, in order for speech to fall in the proscribable category of “fighting words,” it must be shown to trigger a violent reaction and a resultant breach of peace. It is not the mere prejudice of the idea or the unpleasantness of the form of its communication which makes it subject to restriction. Analysis of the blasphemy laws as a form of “hate speech,” as initially proposed, reveals that they (in particular Section 295-C) do not require a linkage between blasphemous speech and a breach of peace. Not only do these laws not require a nexus between intent and action, they also do not require a nexus between action and outcome.

We now move on to the blasphemy laws and their free speech implications. Our review of the forty-two reported cases as well as several unreported cases under Section 295-C reveals that speech was impugned as blasphemous in a variety of forms and situations, including, *inter alia*, casual conversations, speeches at religious congregations, raising slogans at processions, provocation leading to retorts, arguments and altercations, publishing and/or teaching, translating and

calligraphy, photocopying, possessing someone else's writings, wearing badges with certain inscriptions, placing a sticker with a certain inscription on a motorcycle, sending wedding invitations with certain verses of the Quran, displaying certain verses of the Quran on a poster or in front of a house, sending anonymous messages or letters, proselytizing and preaching, religious polemics, publishing of viewpoints, editing magazines, etc. What is quite remarkable, however, is that even though in some of the cases the courts discussed whether the impugned speech was likely to provoke and/or create a breach of peace, in not a single instance did they invoke or discuss whether Article 19 Free Speech protection had a role to play given that it was always speech that was being challenged and demanded to be proscribed.

This is all the more significant given that, as it turns out, the accused were found to be innocent in a majority of these cases at the appellate level. In the remaining, the verdict was invariably in their favor at the trial court level after bail questions had been determined by the appellate courts. We also know for a fact that not a single person has been sent to the gallows for a blasphemy conviction in Pakistan.³¹⁴ And yet though speech was always in question, and speech was invariably found to be neither unholy nor illegal —the constitutional protection for speech was never raised as directly or indirectly relevant in these cases. Given the general approach which the Pakistani courts have adopted in Article 19 jurisprudence while dealing with other kinds of speech, this is highly aberrational.

On the very rare occasion that Section 295-C or other blasphemy laws have been challenged on constitutional grounds, the courts have been swift and categorical in rejecting such arguments.³¹⁵ The most direct judicial tackling of the question of whether some of the Pakistani blasphemy laws are in conflict with the freedoms provided under the Pakistani

314. See *Pakistani Gets Life for Blasphemy*, BBC NEWS, Nov. 30, 2004, http://news.bbc.co.uk/2/hi/south_asia/4055723.stm.

315. See *Riaz Ahmad v. State*, (1994) 44 P.L.D. (Lahore H.C.) 485, 495–96 (Pak.). In *Kurshid Ahmad v. Government of Punjab*, (1992) 44 P.L.D. (Lahore H.C.) 1, 16 (Pak.), the court rejected a challenge to Section 298-C on the basis of Article 20's "Freedom of Religion" provision of the Constitution by saying that Article 20 was subject to Article 260(3) of the Constitution which declared the Qadianis to be non-Muslims, which meant that Qadianis could profess that they believe in the unity of Allah and/or the prophethood of Mirza Ghulam Ahmad, but they could not profess themselves to be Muslims or their faith to be Islam.

Constitution, however, has come in the very important case of *Zaheeruddin v. State*.³¹⁶ A three-judge majority in a five-member bench of the Supreme Court held that resort to Article 20's "Freedom of Religion" provision³¹⁷ on part of members of the Qadiani/Ahmadi sect, in their effort to challenge Section 298 of the PPC, could not be allowed to succeed on grounds of their interference with the law and order and breach of public peace and tranquility.³¹⁸ The State would not permit, the majority said, anyone to take away the fundamental rights of others, in the enjoyment of his own rights, and no one could be allowed to insult, damage, or defile the religion of any other class or outrage their religious feelings, so as to disturb the peace.³¹⁹ This is a rare instance of the courts gauging the acceptability of allegedly blasphemous actions and speech while conducting a cost-benefit analysis of the freedoms enshrined under the Constitution *vis-à-vis* public policy imperatives to prevent breach of peace. Though not talking directly about Article 19—focusing instead on Article 20—the majority drew an analogy which very much sounds like a "fighting words" scenario relatable to Article 19 speech, as the impugned actions of the appellants were both ostensibly an exercise of freedom of religion as well as free speech. In spite of the clear applicability of Article 19 to the case, however, the majority did not rely on Article 19.

The majority conducted a historical and theological evaluation of the impugned actions and speech of the appellants and discussed at length the various doctrinal differences between the faith systems of mainstream Islam and the Ahmadi sect. It then condemned as unpardonable any insulting and

316. *Zaheeruddin v. State*, (1993) 26 S.C.M.R. 1718 (Pak.). The case was decided in the context of the larger constitutional question of the Qadiani sect's freedom to profess its own religion and its conflict with the Pakistani blasphemy laws. The petitioners had been charged and sentenced for wearing badges displaying the "Kalima" or the Muslim creed. The Supreme Court dismissed appeals against convictions under The Anti-Islamic Activities of Qadiani Group, Lahori Group and Ahmadis (Prohibition and Punishment) Ordinance 1984 (Ordinance NOXX of 1984) which was also challenged by the appellants as being *ultra vires* of the Pakistani Constitution. A specific challenge was directed at Sections 298-B and -C that had been introduced to the PPC by the said Ordinance. For details of these provisions see PPC, *supra* note 7, at 647–48.

317. PAK. CONST. art. 20 ("Subject to law, public order and morality (a) every citizen shall have the right to profess, practise and propagate his religion; and (b) every religious denomination and every sect thereof shall have the right to establish, maintain and manage its religious institutions.").

318. *Zaheeruddin*, 26 S.C.M.R. at 1765.

319. *Id.*

offensive use of language or behavior on the part of the Ahmadis directed at the Muslims, highlighting the breach of peace ramifications of the same.³²⁰ However, this clamping down was not just on so-called offensive behavior. The majority said that given the significant differences between the two faith systems—even the adoption by the Ahmadis of certain words, names, descriptions, titles, epithets, etc., traditionally used by Muslims—would be validly regarded as misrepresentative, belittling, and offensive by the Muslims.³²¹ Adopting a firmly public policy promotion approach, the majority went on to say:

So, if an Ahmadi is allowed by the administration or the law to display or chant in public, the ‘Shaair-e-Islam,’³²² it is like creating a ‘Rushdi’ out of him. Can the administration in that case guarantee his life, liberty and property and if so at what cost? Again if this permission is given to a procession or assembly on the streets of a public place, it is like permitting civil war.³²³

The minority of two judges, however, also tackled the question as to whether any violation of Article 19 freedom of speech was involved in the prohibitions introduced, *vis-à-vis* the Ahmadis' propagation of their faith, by Section 298 of the PPC, and found that a violation could only be found if there were a discriminatory prohibition on the Ahmadis in terms of propagation of their religion, but that if such propagation were coupled with any offensive speech or behavior, the Article 19 protection would not be available.³²⁴ The difficulty of adjudicating legal cases deeply imbued with theological complications and controversies was, however, not lost to the judges.³²⁵

The *Zaheeruddin* case occurred in the context of the blasphemy laws specifically directed at the Ahmadis.³²⁶ In the final analysis, however, Section 295-C remains unassailed on fundamental rights grounds, in contexts where allegedly blasphemous speech may be actually valid academic or general discussion and dialogue, potentially garnering protection from

320. *Id.* at 1776–77 (“It is the cardinal faith of every Muslim to believe in every Prophet and praise him. Therefore, if anything is said against the Prophet, it will injure the feelings of a Muslim and may even incite him to the breach of peace, depending on the intensity of the attack.”).

321. *Id.* at 1765–78.

322. The distinctive characteristics of Islam. *See id.* at 1755.

323. *Id.* at 1777.

324. *Id.* at 1747–48, 1780.

325. *Id.* at 1749.

326. *Zaheeruddin*, 26 S.C.M.R. at 1765.

Article 19.

C. NON-INVOCATION OF ARTICLE 19 IN BLASPHEMY CASES AND FUTURE SCENARIOS OF POTENTIAL ABUSE

The reported and unreported cases under Section 295-C encompass speech in a variety of forms. Whether the speech was unintentional, obscure, taken out of context, misinterpreted, misconstrued, logically and analytically defendable, manipulated by those with a *mala fide* intent or a personal gripe against the speaker, made in the heat of the moment or on provocation, made by an insane person, or made during an academic discourse does not seem to preclude the implication of people under the very broad ambit of Section 295-C. Cases like that of *Dr. Younas Sheikh* illustrate that even ordinary, classroom discussions can be taken out of context and deemed as blasphemous.³²⁷ This, combined with the non-invocation of Article 19 in such cases, can bode rather ominously for innocent and, at times, socially meaningful speech in the future.

Consider the following hypothetical scenario, which may not be as unlikely as it may seem. Given the current formulation of Section 295-C, even this Article can potentially trigger a blasphemy charge and prosecution. The wide ambit of the law, the increasingly religiously intolerant environment gripping Pakistan, and the lack of resilience shown by Pakistan's lower judiciary in the face of street pressure and threats by religious zealots and self-styled custodians of faith, create a rather volatile alchemy. Though it is based on rigorous academic work, written by Muslims who have tremendous respect for and devotion to the Holy Prophet (PBUH), and with the intention of highlighting the injustices perpetrated by a flawed and highly unjust law, any portion or aspect of this Article could be mischievously or misguidedly challenged as blasphemous. Direct or indirect "imputation, innuendo, or insinuation" is after all an incredibly wide definition, and, regardless of the fact that Pakistan's appellate judiciary has by and large shown the sophistication, thoroughness, and courage to throw out false convictions, that dispensation has mostly come after the accused has at times borne a heavy cost. In the recent case of *Ranjha Masih v. State*,³²⁸ the Lahore High Court overturned the

327. See FIR, *supra* note 159, and accompanying text.

328. *Ranjha Masih v. State*, (2007) 9 Y.L.R. (Lahore H.C.) 336, 340 (Pak.).

conviction of a person who had been charged under Section 295-C for allegedly committing blasphemy while raising slogans in a procession, and vehemently denounced the fact that the accused had been languishing in jail for almost eight-and-a-half years. Justice was eventually done, but it was inexorably delayed.

The state of Pakistan's lower judiciary merits some discussion here as well. After all, it is its courts of first instance that take up blasphemy cases coming through investigative and prosecutorial systems which suffer from many deficiencies and which, along with the performance of the lower judiciary, have been roundly criticized by the appellate courts in various reported judgments. The judges manning the lower judiciary have been historically under-funded, under-trained, and overburdened with work, so that such careers are primarily opted for by those who have few other alternatives—essentially the very bottom of the available talent pool.³²⁹ The fact that all the provincial governments as well as the federal government in Pakistan allocate less than one percent of their respective budgets to the judiciary underlines historical low-prioritization and neglect of the justice sector.³³⁰ The adverse impact on both the morale and performance of the Pakistani lower judiciary of meager salaries, inadequate facilities, poor working environment, low social status, and overwhelming workloads is a well documented phenomenon. Pleas for reform have been consistently ignored.³³¹

329. See generally BHANDARI & NAQVI, COUNTRY STUDY: PAKISTAN (The Asia Foundation & Asian Development Bank Judicial Independence Project 2002) (identifying and analyzing the following factors as responsible for the highly unsatisfactory state of the lower judiciary in Pakistan: poor legal education, as well as lack of on-going training opportunities; a culture of litigation and an insufficient number of judges causing existing judges to be over-worked; the plummeting of funding levels for the judiciary over the years; the very low-level of judicial salaries, as well as their rapid decline in real value terms over the past century; the highly inadequate physical infra-structure and facilities; the, at times *ad hoc*, policies followed by the High Courts with regard to the promotion, transfer and disciplinary actions of lower courts judges and the resultant negativities; personal security concerns and the threat of intimidation or even individual violence from disgruntled litigants and intimidating lawyers, as well as organized terrorist, sectarian, and other groups; instances of high-handedness by the Executive branch; and ethnic and clan loyalties and their impact on judicial dispensation). These, of course, are independent factors, in addition to the general impact of the various constitutional upheavals throughout Pakistan's history and the resultant instability.

330. *Id.* at 92–132.

331. See ASIAN DEV. BANK & PAK. MINISTRY OF LAW, JUSTICE & HUMAN RIGHTS, STRENGTHENING THE SUBORDINATE JUDICIARY IN PAKISTAN (Asian Dev. Bank & Pak. Ministry of Law, Justice & Human Rights 1999).

With pluralism and religious and political tolerance facing their strongest challenge yet in Pakistan, and with the forces of dogma, intolerance, and obscurantism becoming increasingly assertive and violent, laws like Section 295-C pose a constant threat to both innocent citizens and the freedom of speech in Pakistan. With the blasphemy laws persisting in spite of recent pressures to amend them,³³² innocent, socially relevant, and meaningful speech continues to be a potential victim of the same.

VI. CAPITAL PUNISHMENT

A. THE FEDERAL SHARIAT COURT JUDGMENT

Section 295-C states that the defilement of the Holy Prophet's name is punishable with life imprisonment or death.³³³ In 1990, a petition demanding that the alternative punishment of life imprisonment be declared void on account of repugnance to the Quran and the Sunnah, was moved before the FSC.³³⁴ The petition was accepted and its demands endorsed on the basis of arguments employing the FSC's interpretation of various Quranic verses.³³⁵ The FSC further directed that a copy of the court order be sent to the President of Pakistan to constitutionally require him to take steps suitably to amend the law and demand that should such an amendment not take place before April 30, 1991, the words "or imprisonment for life" in Section 295-C PPC shall cease to have effect on that date.³³⁶ The amendment directed by the FSC was not made to the PPC; as a result, the clause "or imprisonment for life" remains a part of

332. In 2000, President General Pervez Musharraf withdrew his earlier announcement to bring procedural changes in the manner of registration of blasphemy cases. Though this was not even a substantive change to the laws, he quickly capitulated to a threat of street protests by some religious parties. See Owen Bennett-Jones, *Pakistan's Blasphemy Law U-Turn*, BBC NEWS, May 17, 2000 http://news.bbc.co.uk/2/hi/south_asia/751803.stm. This was looked upon as betrayal on part of Musharraf, who had criticized the laws in the past and promised amendments, by many human rights organizations as well as minority groups. Two years earlier a Roman Catholic bishop had committed suicide in protest against the death sentence awarded to an accused—a Christian. See *Despatches*, BBC NEWS, May 8, 1998, http://news.bbc.co.uk/2/hi/south_asia/88890.stm.

333. For text of Section 295-C, see *supra* note 8.

334. Muhammad Ismail Qureshi v. Pakistan, (1991) 43 P.L.D. 10 (Fed. Shariat Ct.) (Pak.).

335. *Id.* at 34.

336. *Id.* at 34–35.

Section 295-C.³³⁷ Since all injunctions of the FSC are binding,³³⁸ as a result of this judgment, the alternative penalty has presumably lapsed, and death is a mandatory punishment for the offense of blasphemy under Section 295-C.

According to Minto, the very premise upon which the death penalty was declared mandatory is flawed—and if blasphemy falls within the purview of “hadd” (Islamic punishments that carry the mandatory death penalty), as the FSC ruled, then the higher burden of proof requisite for convictions in “hadd” cases also ought to be required.³³⁹ Moreover, according to Minto, the legislature alone possesses the competence to enact legislative amendments. Not only does the FSC, in his view, represent a redundant, parallel judicial apparatus, but by requiring it to change or strike down law repugnant to Islam, the purpose of the judiciary as the interpreter rather than the formulator of law is subverted. While he advocates restoration of the alternative punishment of life imprisonment, even that, according to him, is a temporary measure. In the long term it is essential to drastically mitigate the penalty for the offense of blasphemy.³⁴⁰ Indeed, in the Indian Penal Code, the maximum penalty awarded to any category of religious offenses was two years.³⁴¹

It is significant that the declaration of death as the mandatory punishment for blasphemy under Section 295-C has led to an increase in the number of blasphemy cases registered. It can be ventured, based on a review of the nature of allegations made in these cases and their eventual verdicts, that the death sentence has increased the potency of Section 295-C as an instrument for victimization. This view is shared by the Lahore High Court, which said in a recent judgment:

It appears that ever since the law became more stringent, there has been an increase in the number of registration of blasphemy cases . . . between 1948 and 1979, 11 cases of blasphemy were registered. Three

337. Interview with Abid Hassan Minto, *supra* note 108.

338. PAK. CONST. art. 203 GG, at 119.

339. See Qureshi, 43 P.L.D. at 30. Mr. Minto, as the counsel of an accused under Section 295-C, raised this point before the Supreme Court of Pakistan as an alternative plea in the case of *Ayub Masih v. State*, (2002) 54 P.L.D. 1048, 1054–55, 1059 (Pak.). The accused was, however, acquitted on merits and this question was left unaddressed by the court. At the same time, however, there was no affirmation by the Supreme Court of the declaration of blasphemy as a “hadd” offense by the FSA. This issue can thus be considered as currently unresolved at the level of the apex court.

340. Interview with Abid Hassan Minto, *supra* note 108.

341. INDIA PEN. CODE, *supra* note 121, at 1324–42.

cases were reported between the period 1979 and 1986. Forty-four cases were registered between 1987 and 1999. In 2000 alone, fifty-two cases were registered . . . this shows that the law was being abused . . . to settle . . . scores.³⁴²

It is fortunate that appeals against Section 295-C convictions have so far been allowed by appellate courts and the penalty revoked. As mentioned earlier, acquittal is not sufficient compensation for the physical and emotional trauma borne by blasphemy convicts on the death row, especially in light of the threats to their security which they face upon release.

B. THE DEATH PENALTY FOR BLASPHEMY AND THE INTERNATIONAL TRENDS VIS-À-VIS CAPITAL PUNISHMENT

There is a broad international consensus on the undesirability of the death penalty in principle. The U.N. General Assembly Resolution 32/61, dated December 1977, calls for “progressively restricting the number of offences for which the death penalty may be imposed with a view to the desirability of abolishing this punishment.”³⁴³ Moreover, extremely strict guidelines regulate the use of this penalty in countries where its use persists. The first clause of the U.N. Economic and Social Council’s (ECOSOC) “Safeguards guaranteeing protection of the rights of those facing the death penalty,” approved by the U.N. General Assembly in 1984, states that “capital punishment may be imposed only for the most serious crimes, it being understood that their scope should not go beyond intentional crimes, with lethal or other extremely grave consequences.”³⁴⁴ There is, however, an increasing international movement to bring about total abolition of the death penalty. Amnesty International—one of the most prominent international organizations actively working towards an end to executions and the abolition of the death penalty everywhere—in its latest report reiterates its strong anti-death penalty stance by describing it as “the ultimate cruel, inhuman and degrading punishment.”³⁴⁵ The organization also argues that the death penalty “violates the right to life,” “is irrevocable,” might be inflicted on the innocent, and “does not

342. Muhammad Mahboob v. State, (2002) 54 P.L.D. 587, 597 (Lahore) (Pak.).

343. G.A. Res. 32/61, ¶ 11, U.N. Doc. A/RES/32/61 (Dec. 8, 1977).

344. ECOSOC Res. 1984/50, ¶ 14, U.N. Doc. E/1984/50 (May 25, 1984).

345. Amnesty Int'l, *Death Penalty*, Apr. 1, 2007, <http://archive.amnesty.org/library/index/engact500102007>.

deter crime more than other punishments.”³⁴⁶

There are additional persuasive arguments against the death penalty, especially in countries where the legal systems suffer from several shortcomings and are thus more prone to making mistakes and giving in to political and other pressures. Critics of the death penalty point out the high probability of legal and procedural inconsistencies and errors. These inescapable flaws, they say, are exacerbated by discrimination, prosecutorial misconduct, and inadequate legal representation, leading to execution of innocent people. They further criticize the death penalty for its misuse by authoritarian states as an instrument of coercion and persecution against dissenting voices, for its perpetuation of a culture of violence and brutalization, for its discriminatory use against minorities and members of racial, ethnic, and religious communities, for its divisive impact on widely held values, for its cost on the public purse, which funds could be better expended on rehabilitation and reconciliation, crime prevention, and helping the victims’ families, and for the cost put on the families of the executed and the non-impact of the execution on the families of the victims of those executed, as well as further extension of their torture. They also argue, relying on various scientific studies, that the death penalty has no greater deterrent effect compared to other lesser penalties and is a simplistic solution to complex human problems.³⁴⁷

Amnesty International points out the large number of international covenants, treaties, and developments that demonstrate that the international mood is fast moving towards the abolition of the death penalty.³⁴⁸ It supports its claims by reporting that while in 1977 only sixteen countries had abolished the death penalty for all crimes, today the figure stands at ninety-one.³⁴⁹ To date, 135 countries have totally

346. *Id.*

347. *Id.*

348. *Id.*

349. According to Amnesty International, to date ninety-one countries have abolished the death penalty for all crimes, eleven have abolished it for ordinary crimes only, and thirty-three countries are abolitionists in practice. In this way, 135 countries have either totally abolished the death penalty in law, or abolished it in law for ordinary crimes or abolished it in practice. Pakistan is amongst the sixty-two remaining countries (which, barring the U.S.A, Japan, South Korea, Malaysia, Singapore and China, are mostly less developed countries with undemocratic political governance setups) that retain the death penalty. See Amnesty, Int'l, *Death Penalty: Abolitionist and Retentionist Countries*, Sept. 17, 2007, <http://www.amnesty.org/en/death-penalty/abolitionist-and-retentionist-countries>.

abolished the death penalty in law, abolished it in law for ordinary crimes, or abolished it in practice. Pakistan is among the sixty-two remaining countries that retain the death penalty.³⁵⁰

Given the above snapshot of the fast changing global opinion on the death penalty, its continuation in Pakistan looks increasingly untenable and indeed many of the problems pointed out by critics of the death penalty plague its legal and judicial system, thus making the possibility of investigative and judicial errors high. The implications of capital punishment for a conviction under Section 295-C, in particular, become clearer when one considers the context of religious intolerance within which the law operates. A grave consequence of the death penalty is the implicit sanction it grants extremist elements which invariably demand such penalty in blasphemy cases, to themselves inflict the penalty through vigilante justice if the court does not deliver according to their wishes. That acts of this nature have occurred make the barbarism of the extremists evident. While it is arguable that even in the absence of the death penalty, the bigoted attitude of the extremists would remain unaltered, it is undeniable that legal sanction for death to the accused is an added impetus to their taking the law into their own hands.

Taking into account the abuse and manipulation to which Section 295-C is subjected, as well as the context within which it operates, the adverse consequences of capital punishment for blasphemy become evident and make the case for greater substantive and procedural safeguards against false convictions and a more lenient penalty stronger.

VII. CONCLUSION

Pakistan's citizenry, and in particular its vulnerable groups, remain besieged by blasphemy laws that were clearly promulgated in an undemocratic environment and manner. The products of a self-perpetuating dictatorial ethos, they suffer from several serious design and drafting issues and when applied in a legal environment that is debilitated by several

For Amnesty International's justifications for its position and its response to arguments in favor of the death penalty, see Amnesty Int'l, *supra* note 345.

³⁵⁰ Amnesty, Int'l, *Death Penalty: Abolitionist and Retentionist Countries*, Sept. 17, 2007, <http://www.amnesty.org/en/death-penalty/abolitionist-and-retentionist-countries>.

constraints and shortcomings, they have resulted in the persecution, harassment, unjust confinement, exile, and even the death of innocent people. At the same time these laws continue their highly problematic existence in the name of Islam, an additionally painful fact to many Muslims. Furthermore, they underline autocratic attempts to create a theocratic state to entrench certain vested, and by no means majority, interests in a country whose founding father visualized, and whose vast majority of citizens are committed to, the creation and sustenance of a pluralistic, progressive, and tolerant democracy. The blasphemy laws, however, continue to perpetuate a highly uncomfortable incongruity and apart from being responsible for several miscarriages of justice, they exacerbate a growing environment of dogma and intolerance — spawning a culture of extremism and violence. They provide openings and cover to religious zealots and vigilantes as well as those wanting to settle personal scores through the coercion of law, as well as create serious doubts about the future of free speech in the country.

At the very least, addressing the design and drafting faults as well as of the shortcomings of the investigative, procedural, prosecutorial, and adjudicative regimes highlighted and discussed in this article can greatly redress the current misuse and exploitation of the blasphemy laws. However, it is high time that the very existence of the blasphemy laws is collectively and meaningfully reappraised by Pakistani policy makers, religious scholars, legal experts, human rights activists, citizen groups, and the people at large, in order to determine whether they deserve perpetuation. A related challenge is to question whether the pre-Zia religious offenses are not sufficient to tackle any genuine issues of hate speech, including blasphemous speech, and whether legal process and procedural reforms as well as tremendous budgetary and technical support and capacity building of the judiciary are not vitally required to prevent the abuse of even the pre-Zia religious offenses, and for that matter other existing laws. At a higher and fundamental level, Pakistan's blasphemy laws raise a palpable moral question as to that nation's commitment and ability to becoming a progressive, just and fair society where fundamental rights protection is accorded the highest values in its list of priorities. Pakistan's blasphemy laws damage both at a practical and at a symbolic level. It is high time to shed this tainted vestige of a period of its history that ought to not in any circumstances be

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allowed to repeat itself.