A Revaluation of Islamic Traditions

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I should like to present some ideas on what I think, is a necessary revaluation of Islamic traditions in the light of our present knowledge; but am at a loss whether to call my conclusions something new and unprecedented or something old and well known. No one could have been more surprised than I was by the results which the evidence of the texts has forced upon me during the last ten years or so; but looking back I cannot see what other result could possibly be consistent with the very foundations of our historical and critical study of the first two or three centuries of Islam. One of these foundations, I may take it for granted, is Goldziher's discovery that the traditions from the Prophet and from his Companions do not contain more or less authentic information on the earliest period of Islam to which they claim to belong, but reflect opinions held during the first two and a half centuries after the Hijra.

This fundamental discovery, as I scarcely need emphasize, put our study of early Islam for the first time on a sound basis, and I know of no serious contribution to the history of early Islam in any of its aspects which does not take this character of Islamic traditions into account. But whilst general homage has continued to be paid to the work of Goldziher[1], his results have gradually been whittled down and their implications neglected in the sixty years since they were first published. Historical intuition, as it was sometimes called, began to take the place of sound historical criticism[2]. This lowering of standards need not surprise us. It is only natural for a historian to wish to have positive conclusions, and I agree whole-heartedly that it is not satisfactory to regard the collections of Islamic traditions as a mass of contradictory views formulated at uncertain times by unknown persons.[3] This, however, is a caricature rather than a definition of what follows from Goldziher's discovery, and I propose to show a workable and I think, a successful alternative to the counsel of despair which, finding no guiding thread through the mass of traditions, tries by arbitrary guesswork to build a seemingly historical picture of certain aspects of early Islam.

I elaborated my method while studying the origins of Muhammadan jurisprudence.[4] Law is a particularly good subject on which to develop and test a method which claims to provide objective criteria for a critical approach to Islamic traditions, and that for two reasons. Firstly, our literary sources carry us back in law farther than, say, in history, and for the crucial second century they are much more abundant on law than on any other subject. Secondly, our judgement on the formal and abstract problems of law and legal science is less likely to be distorted by preconceived ideas (those expressed in our sources as well as our own), than if we had to judge directly on the issues of political and religious history of Islam.

For instance, the analysis of technical legal problems shows that the doctrine of the Medinese often lags behind and is dependent on that of the Iraqians; our sources show that the term "Sunna of the Prophet" is early, Iraqian and not Medinese; and the whole concept of Medina as the true home of the Sunna turns out to be a fiction of the early third Century and as yet unknown to the end of the second. This direct evidence of our sources enables us to draw conclusions which we could not draw with anything like the same certainty if we had to apply our historical intuition or personal prejudice to the historical tradition which is notoriously weighed in favor of Medina and against the Umayyads. I shall later have occasion to mention another group of examples, in which the evidence of legal traditions is of even greater material importance for the correct appreciation of the Umayyad period.

Let us consider the broad outlines of the reasoning by which we can arrive at the new approach to Islamic traditions which I have in mind. Volume VII of the printed edition of Shafi'i's *Kitab al-Umm*[5] contains several treatises in which Shafi'i discusses the doctrines of his predecessors: Iraqians, Medinese, and Syrians. Widely as these ancient schools of law differ amongst themselves, they are agreed on one essential point, which divides them sharply from Shafi'i. According to the ancient schools, traditions from the Prophet as such do not as yet possess an overriding authority; only Shafi'i, obviously under the influence of the pressure group of traditionists, upholds consistently the doctrine that when there exists a tradition from the Prophet, no other argument is valid. Shaf'i's work is full of monotonous repetitions of this essential doctrine of his, and it is clear that this doctrine was a startling innovation in his time.

It is certain, too, that the great mass of legal traditions which invoke the authority of the Prophet, originated in the time of Shafi'i and later; we can observe this directly by following the successive stages of legal discussion and the ever-increasing number of relevant traditions incorporating gradual refinements. It can further be shown that legal traditions from the Prophet began to appear, approximately, in the second quarter of the second century A.H.. This explains why the doctrine of Medina as established by Malik in his *Muwatta'*, disagrees often with traditions from the Prophet with Medinese isnads, related by Malik himself. These traditions sometimes express Iraqian doctrines and for this reason alone cannot represent the old Arab customary law of Medina as has been pretended.[6] They had gained currency in Medina immediately before Malik and are the result of the activity of a pressure group of traditionists, whose alms were the same as those of a corresponding group in Iraq, each group in sometimes successful and sometimes unsuccessful opposition to its local school of law.

This is the first consideration; the second is as follows. In the course of his polemics against the ancient schools of law, Shafi'i continuously reproaches them for relying on traditions from persons other than the Prophet, from his Companions and their Successors, rather than on traditions from the Prophet himself. This is borne out by the evidence of the texts. Malik's *Muwatta'* contains 822 traditions from the Prophet as against 898 from others, that is 613 from Companions and 285 from Successors. Shaibani's edition of the *Muwatta'* contains 429 traditions from the Prophet as against 750 from others, that is 628 from Companions, 112 from Successors, and 10 from later authorities. The *Kitab al Athar* of Abu Yusuf contains 189 traditions from the Prophet, 372 from Companions, 549 from Successors. In the incomplete text of the *Kitab al-Athar* of Shaibani[7] we find 131 traditions from the Prophet, 284 from Companions, 550 from Successors, and 6 from later authorities. It cannot be doubted that the stage of referring to the teaching and the example of the Prophet was preceded by, and grew out of, an earlier stage in which reference was made to Companions (and Successors) only. It is not the case, as has often been supposed a priori, that it was the most natural thing, from the first generation after the Prophet onward, to refer to his real or alleged rulings in all doubtful cases.[8]

The reference to Companions, as customary in the ancient schools of law, was not even of the same kind as the later reference to traditions from the Prophet, when a separate precedent was demanded for every individual decision. Instead of relying on individual traditions from Companions, the several schools adopted rather one or the other Companion as their eponym, or I might say patron saint, putting their doctrine as a whole under his aegis, and referring to him as their authority in general terms. In the case of the Kufians, for whom Ibn Mas'ud fills this role, we can still see clearly that the general reference to Ibn Mas'ud himself grew out of a similar reference to the Companions of Ibn Mas'ud as the alleged founders of the Kufan doctrine, and most of the members of this group who are mentioned by name, turn out to be relatives of the Kufian Successor, Ibrahim Nakha'i, who died in A.H. 95 or 96, and to whom most of the earliest Kufian doctrine was attributed in the first place. In other words: even the general reference to Companions (or to Successors), a stage which preceded the technical and formal reference to individual traditions from the Prophet, date only from about the year A.H. 100.

We must therefore abandon the gratuitous assumptions that there existed originally an authentic core of information going back to the time of the Prophet, that spurious and tendentious additions were made to it in every succeeding generation, that many of these were eliminated by the criticism of isnads as practised by the Muhammadan scholars, that other spurious traditions escaped rejection, but that the genuine core was not completely overlaid by later accretions. If we shed these prejudices we become free to consider the Islamic traditions objectively in their historical context, within the framework of the development of the problems to which they refer, and this enables us to find a number of criteria for establishing the relative and even the absolute chronology of a great many traditions. We find these criteria both in the text and in the isnad of traditions, and I should like to mention some of the more obvious conclusions.

One of these is that isnads have a tendency to grow backwards, that after going back to, say, a Successor to begin with, they are subsequently often carried back to a Companion and finally to the Prophet himself;[9] in general we can say: the more perfect the isnad, the later the tradition. Whenever traditions claim an additional guarantee by presenting themselves as transmitted amongst members of one family, e.g., from father to son and grandson, from aunt to nephew, or from master to freedman, it can be positively shown that these family isnads are not a primary indication of authenticity, but only a device for securing its appearance.[10] In other words: the existence of a family isnad, contrary to what it pretends, is a positive indication that the tradition in question is not authentic. This applies, for instance, to the legal and historical traditions related, according to their isnads, on the authority of 'Urwa b. Zubayr by his son Hisham, and on the authority of Ibn 'Umar either by his sun Salim or by his freedman Nafi. I do not deny, of course, that 'Urwa was the father of Hisham, or Ibn 'Umar the father of Salim, or that a person called Nafi' was a freedman of Ibn 'Umar. But it is certain that neither 'Urwa nor Ibn 'Umar had anything do to with the traditions in question, and it can even be positively shown that the references to Hisham, Salim, and Nafi' themselves are spurious.

Our new approach to traditions disposes of the fictitious reputation as forgers acquired by some Companions of the Prophet. I mentioned how the natural desire to push back the frontiers of the unknown, caused some scholars after Goldziher to presume the authenticity of more and more traditions until they found themselves back in the generation of the Companions, in the thirty years after the death of the Prophet. From making the first step into the time of the Prophet himself, they were prevented by the influence of Goldziher's achievement and by their own critical sense. But then they had to credit the Companions of the Prophet, during the first thirty years or so after the death of their master, with the large-scale fabrication of spurious and contradictory information about him. This opinion seemed to gain credence from the fact that some groups of traditions which go under the name of individual Companions, show indeed common features, and from these features the alleged characteristics and tendencies of the personalities and doctrines of particular Companions were deduced.[11] The common characteristics and tendencies, however, are not those of the Companions themselves but of schools of thought in the second century, which put themselves under the aegis of the Companions in question in the way I have described before, and it is unwarranted to consider the Companions of the Prophet personally responsible for the large-scale creation of spurious traditions.

All this can be proved in detail with regard to legal traditions, and I should now like to say a few words on the application of the same method of research to traditions concerning other subjects. We ought, of course, not to overlook the possibility of different developments in different fields. Goldziher has pointed out that those traditions that were current in the Umiyyad period, were hardly concerned with law but rather with ethics, asceticism, eschatology, and politics.[12] This is confirmed by additional evidence and by the modest remains of Umayyid literature which have come to light since.[13] "As early as the year 128 we read of an official appointing a committee of pious men to make a collection of *sunan* or approved practices and *sayir* rules of conduct, which

were then to be written out by his scribe";[14] but this refers to the recording of a political program of government, and not to legal matters or traditions.

A.J. Wensinck, in studying the traditions concerning points of dogma, came to the conclusion that they reflected the development of dogma only as far as the end of the Umayyid period.[15] "The main explanation of this," Wensinck adds, "is that the large mass of materials contained in the canonical collections, though it received its final form in the middle of the third century A.H., covers a period reaching no farther than the beginning of the second century." But this generalization goes beyond the facts of the case, and Wensinck's assumption that the same applies to traditions concerning questions of law, is contradicted by the whole evidence of the ancient texts. That the development of dogmatic tradition was indeed different from that of legal ones becomes obvious, for example, from Shaibani's *Kitab al-Athar*, where the dogmatic sections (pp. 56-60) consist almost entirely of traditions from the Prophet himself, whereas they form only a small minority in the other sections.

Even so, dogmatic traditions from the Prophet ought not to be dated back into the first century indiscriminately. The dogmatic treatise ascribed to Hasan Basri, whether or not it is genuinely his, cannot be later than the very early years of the second century,[16] and it shows that dogmatic traditions on the important problem of free will and human responsibility hardly existed at the time of its composition. There is no trace of traditions from the Prophet, and the author states explicitly: "Every opinion which is not based on the Koran, is erroneous." Two important dogmatic traditions in particular (they occur in the classical collections) cannot yet have existed when the treatise was written. The reasoning of one, "the writing of the recording pens has dried, and on every forehead is written Blessed or Damned," is decried by the author, as an excuse of his opponents for breaking Allah's commands, and the argument, of the other, that one should not [‘not’ was missing in the original article, but clearly intended] hobble one's camel but put one's trust in Allah, is used by the author against what became later the orthodox doctrine.[17] If we compare the relevant chapters in Malik's *Muwatta'* and in Shaibini's *Kitab al-Athar* (the authors of these two works died in A.H. 179 and 189, respectively), the growth of dogmatic traditions, concerning the same problem, about the middle of the second century becomes obvious.

A field on which the new method can be applied with particular age is the vast field of traditions pertaining to history. The authorities for legal and historical information are to a great extent identical; apart from protagonist such as 'Umar, 'Ali, Mu'awiya, and 'Umar b. 'Abdal 'Aziz. I will mention only important transmitters of traditions such as 'Urwa and Hisham, of whom I spoke before, Zuhri and Sha'bi. If the family isnad with the names 'Urwa and Hisham in it serves to lend authority to legal traditions put into circulation after the time of Hisham, the same applies to historical traditions with the same isnad. If we can show that the legal opinions attributed to Sha'bi are invariably spurious, that this ancient worthy of Kufa had nothing to do with the nascent religious law of Islam as it was being elaborated in his hometown, and that his name was later claimed by two contending schools of thought we are able to assess his political activity much more objectively than if we looked at it through the colored glass of the religious and legal prejudices of a later generation.

As regards the biography of the Prophet, traditions of legal and of historical interest cannot possibly be divided from one another. The important point is that to a much higher degree than hitherto suspected, seemingly historical information on the Prophet is only the background for legal doctrines and therefore devoid of independent value. For instance, the Medinese regarded the marriage concluded by a pilgrim as invalid, the Meccans and the Iraqians regarded it as valid. The Medinese projected their doctrine back to Ibn 'Umar and, with spurious circumstantial details, to 'Umar himself. The opposite doctrine was expressed in a tradition to the effect that the Prophet married Maymuna as a pilgrim. This tradition was countered, on the part of the Medinese, by another tradition related by Sulaiman b. Yasar who was a freedman of Maymuna to the effect that the Prophet married her in Medina, and therefore not as a pilgrim, and by more

explicit tradition to the same effect related by Yazid b. Asamm, a nephew of Maymuna,[18] We see that even the details of this important event in the life of the Prophet are not based on authentic historical recollection, notwithstanding the family isnads; but are fictitious and intended to support legal doctrines.

This transformation of legal propositions into pseudo historical information is one aspect; another is what might be called the independent growth of alleged historical material concerning the biography of the Prophet. We can observe this growth directly over the greater part of the second century in the discussions on the law of war, concerning which the biography of the Prophet was searched for precedents. The polemical nature of these discussions makes it safe to conclude that whenever an author does not mention a relevant historical tradition which agrees with his own doctrine and disagrees with that of his opponents, he was not aware of it, in other words, it cannot have as yet existed in his time. We find new traditions at every successive stage of doctrine, and the lawyers occasionally object to historical traditions adduced by their opponents because they are unknown to or not accepted by the specialists on the biography of the Prophet. A considerable part of the standard biography of the Prophet in Medina, as it appeared in the second half of the second century A.H., was of very recent origin and is therefore without independent historical value.[19]

But the real test of the new approach to Islamic traditions which I advocate lies not in the negative and critical conclusions derived from it, important and timely as these may be; it lies in the value of the method as a tool for arriving at new and positive results. Here are some of these results in so far as they relate to Umayyad administration. An attentive study of legal traditions reveals by certain indications, that a number of problems of early Muhammadan law arose from Umayyad administrative practice. If we collect the points which we must postulate an Umayyad administrative regulation is the starting-point of Muhammadan jurisprudence, we find that practically all fall under the three great headings of fiscal law, law of war and penal law.

For instance: the Umayyad administration imposed the *zakat* tax on horses, it used to deduct the *zakat* from Government pensions; it levied *zakat* tax on the property of minors. When payments were made in kind the administrition issued assignments on its stores which were considered negotiable. The Government gave detailed regulations on the levying of tolls is a prospective residuary heirs it restricted legacies to one-third of the estate. As regards the law of war, it was the policy of the Umayyads not to lay waste the enemy country wantonly; the Government controlled the distribution of booty, and recognized the customary right of the killer to the spoils.

The Umayyad administration did not interfere with the working of the old Arab *lex talionis*, it only supervised the payment of weregeld: it deducted the sums due from the pension account of the culprit or of his tribe, if necessary in three yearly installments, and paid them to the family of the victim; if a Christian was killed, only half the weregeld was paid to his family but the Treasury took the other half. Concerning the purely Islamic *hadd* punishments and similar penalties, the administration took a greater interest, though its practice differed in some respects from that regarded as normal later. The non-Muslim slave who tried to escape to the enemy was killed or crucified at the discretion of the Government, but the Government refused to cut off the hands of slaves who had escaped in Islamic territory and stolen, and reserved to itself the right to carry out all *hadd* punishments for theft on slaves. It was the practice under the Umayyads not to apply *hadd* punishments in the army in enemy country, for fear of desertion, but military commanders were otherwise entitled to apply them, and banishment as part of the punishment for fornication was introduced in the interest of public morals. Traces of Umayyad regulations outside the three fields mentioned are confined to the administration of justice, to the remarriage of wives whose husbands disappeared and were no more heard of, and to fixing the position of the grandfather in the law of inheritance.

The points I have mentioned are not simple surmises; they are based on positive indications in traditions, if we are prepared to look at them historically and critically. I can fairly claim it as a confirmation of the soundness of my method that it shows the existence of Umayyad administrative regulations on those subjects on which we should more or less have expected them. But the full inference from the details I mentioned has never been drawn. This is the best proof that a truly historical and critical study of Islamic traditions is not only destructive but constructive that it helps us not only to demolish the one-sided traditional sham-castle, but to use its materials for building a truer more adequate, and more satisfactory model of the past.

Since I presented these conclusions to the Twenty-first Congress of Orientalists in Paris, I have found an independent confirmation of them in a paper of R. Brunschvig, "Ibn 'Abdalhakam et la Conquête de l'Afrique du Nord par les Arabes."[21] In this critical study Professor Brunschvig examines "historical" traditions relating to the Arab conquest of North Africa and shows how deeply imbued they are with legal interest, how the seemingly straightforward statements on historical persons and events are often nothing but decisions of legal problems, provided with alleged historical precedents; he concludes that the whole of the "historical" narrative is subject to grave doubts, that only the barest outlines represent, or are likely to represent, authentic historical recollection, and that the details are unreliable.

To sum up: In the field of law, the "Sunna" of the Prophet based on formal traditions from him, developed out of the "living tradition" of each of the ancient schools of law, the common doctrine of its specialists. Some of its features might, of course, in the last resort, go back to an early period, but it acquired its super-structure of formal traditions from the Prophet with proper isnads only about the middle of the second century A.H., as a result of the activity of the traditionists. The imposing appearance of the isnads in the classical collections of traditions ought not to blind us to the true character of these traditions, which is that of a comparatively recent systematization of the "living tradition." The same is true in the field of history; here too, the vague collective memory of the community was formalized, systematized, replenished with details, and shaped into formal traditions with proper isnads only in the second century A.H..

NOTES

This paper was read to Section VIII (A) of the 21st International Congress of Orientalists, Paris, July, l948. I have added notes and a few paragraphs.

[1] H.A.R. Gibb, *Mohammadanism* (Oxford: Oxford University Press, 1949), p. 196, calls Goldziher's *Muhammedanische Studien* "the standard critical study of the Hadith."

[2] C. H. Becker, *Islamstudien*, vol.1 (Leipzig, 1924-1932), pp. 522, 526, uses the expressions "der historische Instinkt" and "das historische Gefühl" in an otherwise fair and balanced review of Lammens, *Fatima*. But the reaction to Lammens's one-sided thesis ought not to have left to a reversion from historical criticism, a thing which Becker himself had feared would happen.

[3] I borrow this formula from A. N. Poliak, in *AJCL* 57, (1940): 52.

[4] See my forthcoming book, *The Origins of Muhammadan Jurisprudence*, (Oxford: Clarendon Press).

[5] Shafi'i, *Kitab al Umm* (Cairo: Bulaq Press, 1325/1907).

[6] E.g., by C. A. Nallino, *Raccolta di Scritti*, vol. 4 (Rome, 1942), p. 89. Nallino arguments take no account of the legal texts of the second century A.H.

[7] Abu Usuf, *Kitab al-Athar* (Cairo, 1355-1936).

[8] Shaibani, *Kitab al-Athar* (Lahore, 1329/1911).

[9] Goldziher, *Muhammedanische Studien*, vol. 2 (Halle, 1889-1890), p. 72, rightly emphasizes the fact that only very few decisions of the Prophet on legal subjects can have been current in the Umayyad period.

[10] This has already been pointed out by Goldziher in his *Muhammedanische Studien*, ii. p.157, and in ZDMG I (1896): 483f.

[11] This has already been noticed by Gertrude H. Stern, *Marriage in Early Islam*, (London, 1939), pp. 12, 16, although Miss Stern on the whole seems to take isnads to readily at their face value.

[12] The most ambitious effort of this kind was made by Prince L. Caetani, *Annal dell Islam*, vol.1 (Milan, 1905-1926) Introduction, 19,24-29.

[13] *Muhammedanische Studien*, ii. p. 72f.

[14] See C. Brockelmann, *Geschichte der arabischen Literatur*, vol. 1 (Weimar 1898-1902), (and *Supplementbände*). pp. 64ff. Brockelmann erroneously states that Muhammad b. 'Abdalrahman 'Amiri, one of the reputed earliest collectors of legal traditions from the Prophet, died in 120; he died in A.H. 158 (Ibn Hajar'Asqalani, *Tahdhib al Tahdhih*, ix, no.503).

[15] D. S. Margoliouth, *The Early Development of Mohammadanism* (London, 1914), p.91, referring to Tabari, *Annales*, ii, p. 1918.

[16] A. J. Wensinck, *The Muslim Creed* (Cambridge, 1932), pp. 52, 59.

[17] Text, ed. H. Ritter, in *Der Islam*, 21 (1933): 67ff. translation and commentary by J. Obermann, in *JAOS* 55 (1935): 1380

[18] The first tradition has parallels, somewhat differently worded, in Shaibani's *Kitab al-Athar*, pp.56, 60 (not yet in the *Muwatta*), and appears for the first time in Ibn Hanbal.

[19] See Shaibani, *Muwatta'* (Lucknow, 1297 and 1306), p. 208: Malik, *Muwatta*, (Cairo, 1310), ii, p. 183; Shafi'i, *Kitab Ikhtilaf al-Hadith*, on the margin of his *Kitab al Umm*, vii, p. 238.

[20] This conclusion agrees well with the evidence, correctly interpreted, of the fragments of Musa b. 'Uqba's (d. 141) *Kitab al-Maghazi*. I intend to discuss it in detail in a separate paper.

[21] In *Annales de l'lnstitut d'Études Orientales* (Faculté des Lettres de l'Universite' d'Alger), vi, 1942-1947, pp. 108-56. The paper is dated January 1945, and was published in October, 1948.