#### CHAPTER III

#### BACKGROUND DATA

# A. Joseph Schacht's Biography

## 1. Schacht's background and personality

While it is not our intention to write a biography of Joseph Schacht, we shall attempt to provide a sketch of certain significant events in his career and to concentrate more on those factors that are necessary for the understanding of his background as a scholar of Islamic studies, and particularly of Islamic Law.

Schacht was born on March 15<sup>th</sup> 1902 at Ratibor in upper Silesia, which was then in Germany and is now inside Poland (Raciborz) just across the frontier from Czechoslovakia. In this city he grew up and lived during the first eighteen years of his life.

Schacht came from a relatively religious and educated family. His father, Eduard Schacht, was a Roman catholic and a teacher of deaf and dumb students.<sup>2</sup> His mother was Maria Mohr. In 1943 he married an English woman, Louise Isobel Dorothy, daughter of Joseph Coleman. The religious and educational atmosphere of his home gave him an opportunity to become familiar with Christian religious

<sup>&</sup>lt;sup>1</sup>Robert Brunschvig, Joseph Schacht (1902-1969), "Studia Islamica" (1970), 31.

<sup>&</sup>lt;sup>2</sup>George F. Hourani, *Joseph Schacht*, 1902-1969, "Journal of The American Oriental Society", 90 (1970), 163.

teachings and also with the Hebrew language from early age. This was very important later for his understanding of the great religious in the Middle East.

Schacht was to achieve a high degree of learning. He started his education in his home town of Ratibor. After studying Hebrew from a rabbi and after receiving a classical gymnasium education there (1911-1920). He went on to the University of Breslau (Wroclaw) and Leipziq where he first studied classical and semitic philology, and then theology.<sup>3</sup> In 1922 he won a university prize with an essay on the Old Testament, and received his D.Phil. *summa cumlaude* from Breslaw University at the end of 1923. He also obtained an M.A. degree in 1947 and a D.Litt. in 1952, Both from Oxford University.<sup>4</sup> His doctoral dissertation consisted of an edition, with partial translation and commentary of Khassaf's *Kitab al-hiyal wa al-makharij*, a medieval Arabic text on legal devices.<sup>5</sup>

Schacht had a strong personality and uncompromising integrity which sometimes led him to take an extreme position. As a teacher, Schacht had many admirable qualities. Wakin<sup>6</sup>, who was fortunate to have done her graduate work under his guidance, has recorded some of these. In formal lectures, according to Wakin,

<sup>&</sup>lt;sup>3</sup>Aharon Layish, *Notes on Joseph Schacht's Contribution to The Study of Islamic Law*, "British Society for Middle Eastern Studies", Bulletin 9 (1982), 132.

<sup>&</sup>lt;sup>4</sup>George F. Hourani, Joseph., 163.

<sup>5</sup>Ibid.

<sup>&</sup>lt;sup>6</sup>Jeanette Wakin, Remembering Joseph Schacht (1902-1969), "Islamic Legal Studies Program Harvard Law School", (2003), 168.

Schacht dominated the room. His forceful delivery, his resonant voice, and his precise use of language were very astonishing and fascinating. In a seminar or conference his performance was very remarkable, for his enthusiasm for "his subject, and the vast store of knowledge from many fields that illuminate and broadened every discussion, made these hours delightful and exhilarating ones." Moreover, he had a fine appreciation of humor and a sharp wit which he exercised with unsuppressed pleasure. His generosity also appeared in his attitude towards his advanced students. He was always ready, for example, to lend scarce works from his private library, and turned over copies of rare manuscripts and notes that he had carefully collected during his research over a period of many years.

#### 2. Schacht's career

Schacht's scholarly background supported his career and enabled him to acquire a rare combination of academic qualifications. He received his first academic appointment at the University of Freiburg in Breisgau in 1925. Two years later, in 1927, he was appointed associate professor at the age of twenty five. The year 1929, when he returned 27 years old, was an important one in his career, for in that year he was promoted to full professor of oriental languages. At that time he was the youngest man ever to have achieved this position in Germany. He held this chair for the next three years. In 1932 he was invited to take up a chair in the same subject at

the University of Konigsberg,<sup>7</sup> where he stayed for only two years, for in 1934 he resign his post as a gesture of protest against the Nazi regime.

Schacht's theoretical education was not divorced from the practical and topical aspects of his field of study. During the period of his first academic post at Freiburg, he profited from close associations with his colleagues in the faculty of Law. Thus, without having taken a Law degree, he acquired by his own reading and associations a basis of technical knowledge sufficient to support his career of research on Islamic Law.

Schacht was also exceptionally acquainted with both the western and eastern muslim world. During the years 1926-1933, he traveled extensively to the Middle East and North Africa. In the spring of 1930, he was a visiting Professor of Semitic Languages and Islamic Law at Cairo University, lecturing in Arabic, and he returned there again to teach during the years 1934-1939. The outbreak of the second World War in September 1939 kept him from continuing his lectures at that university. And at the end of the war he preferred to stay in England, even though he was invited to return to Egypt. Because of his extended stay in the East, he became an expert in

<sup>&</sup>lt;sup>7</sup>Bernard Lewis, *Joseph Schacht*, "Bulletin of The School of Oriental and African Studies", 33 (1970), 376.

<sup>&</sup>lt;sup>8</sup>George F. Hourani, *Joseph.*, 165.

Arabic and Turkish and had the opportunity to work on rare manuscripts in various collections in the Arab land and Turkey.<sup>9</sup>

In 1939 Schacht moved to England. He worked there as an Oriental specialist and researcher in the British Ministry of Information, and contributed a large number of talks to the Arabic and Persian programs of the British Broadcasting Corporation, many of which were printed in B.B.C. publication called *al-Mustami' al-'Arabi.* In 1946 he was first appointed as a lecturer at the University of Oxford, then later as Reader in Islamic studies (mainly Islamic Law). During his years at Oxford, where he was able to complete his *Origins*, he made a number of trips abroad, for instance, he went on a lecture tour in the United States in 1948; conducted a research mission to Nigeria in 1950 and to the Near East and East Africa in 1953, 1963, and 1964. in 1952 he was appointed as a visiting professor at the University of Algiers. His research in Africa was very significant for his career, for he had an opportunity to come into contact with the real life of Muslim society. More specifically he became more familiar with the problems of the application of Islamic Law in social context. In

In 1954, leaving his post at Oxford with great reluctance, Schacht left England for Holland in order to take up the position of Professor of Arabic the University of Leiden. Here he was able to study intensively under C. Snouck Hurgronje. His stay at

<sup>&</sup>lt;sup>9</sup>Aharon Layish, *Notes on Joseph...*, 132.

<sup>&</sup>lt;sup>10</sup>George F. Hourani, Joseph., 164.

<sup>&</sup>lt;sup>11</sup>Bernard Lewis, Joseph Schacht, 376.

Holland was, however, of a brief duration. He went to Columbia University as a Visiting Professor of Arabic and Islamics in the academic years 1957-1958, and returned there in 1959 to a regular appointment as Professor in the same subjects. Schacht once stated that his intention was to retire from Columbia University after January 1970 and that he was planning to return to England with his wife where he would continue his activities as a scholar and pursue research, travel, and writing. He once said that as soon as he retired he would write a book in which he would integrate the notes and prolegomena he had collected over the years, and which would represent the culmination of his intellectual achievement. Also, he had planned to complete editions and studies of Maturidi's *Kitab al-Tauhid* and Sahnun's *Mudawwana*. Unfortunately, these projects were never realized. He was suddenly stricken by a brain hemorrhage and died at his home in New Jersey on August 1, 1969.

During the last twenty years of his life, Schacht was able to work on several projects that interested him. He replace J.H. Kramers (d. 1951) as an editor of the new edition of the *Encyclopedia of Islam*, and continued this task through the first two and a half volumes, in association with Bernard Lewis, Charles Pellat, and, after 1966, L.V. Ménage. In the same period, together with Robert Brunschvig, he co-founded and became the co-editor of the prestigious *Studia Islamica*, the first issue of which was published in 1953.

<sup>12</sup>George F. Hourani, Joseph., 166.

#### 3. Schacht's work

In the preface to his *Origins*, Schacht admitted that his work was influenced by other scholars. D.S. Margoliouth, according to him, "was the first and foremost among my (his) predecessors to make more than perfunctory use of the then recently printed works of Shafi'i. H. Lammens had a significant influenced on him in terms of critical insight and an historical appreciation of Islamic traditions. Gotthelsf Bergstrasser (1886-1933) is included among his important predecessor, for he guided his first steps in Muhammadan Jurisprudence.

C. Snouck Hurgronje (1857-1936) was also one of his important predecessors. Hurgronje's works were very important to Schacht's understanding of the character and the nature of Islamic law. <sup>16</sup> During his stay at the Uiversity of Leiden, he profited from direct contact with Hurgronje. It should come at no surprise that immediately after Hurgronje's death, Schacht wrote a memoir on him, *Christiaan Snouck Hurgronje* in 1937, he presented a short introduction surveying Hurgronje's most important works, besides editing and translating four of his articles, mainly on the subject of Islamic law.

<sup>&</sup>lt;sup>13</sup>Joseph Schacht, The Origins of Muhammadan Jurisprudence (Oxford University Press, 1979), v.

<sup>&</sup>lt;sup>14</sup>Some of lammens' works used by Schacht are: Etudes sur le siecle des Omayyades (1930), Fatima et les filles de Mahomet (1912), Islam, beliefs, and institutions (1929), and many others.

<sup>&</sup>lt;sup>15</sup>Together with Bergstrasser, Schacht wrote Grundzuge des islamische rechts (1935).

<sup>&</sup>lt;sup>16</sup>Some of Hurgronje's works used by Schacht are: Mohammedanism (1916), The Achenese, (1906), Mekka In The Latter Part Of The 19th Century (1931), and Verspretde Geschriften (Gessammette Schriften), 1923.

most important works, besides editing and translating four of his articles, mainly on the subject of Islamic law.

One cannot discuss Schacht's predecessors without mentioning Ignaz Goldziher (1850-1921) whose contribution to the study of historical development of Islamic tradition literature and foreign elements in Islamic law (mainly Roman law), was perhaps of the greatest importance to Schacht's works. In his first essay on traditions, "a revaluation of Islamic Traditions," Schacht declared that he took for granted Goldziher's thesis that the traditions "reflect opinions held during the first two and a half centuries after the hijrah." His views about foreign elements in Islamic law, which were more elaborate than Goldziher's, were discussed in his Foreign Elements in Ancient Islamic Law, considered as a pioneering essay on the subject.

# B. Muhammad Mustafa Azami's Biography

### 1. Azami's background and career

Before elaborating one's thought we should know more his historical background and education. This is because a thought or idea can be detected from the socio cultural setting around the author.

Muhammad Mustafa Azami was born in Mano, Azamgarh Uttar Pradesh, North India, in 1932. After finishing his study in Islamic senior high school, where

<sup>&</sup>lt;sup>17</sup>Joseph Schacht, Islamic Traditions, 143.

taught Islamic studies. In 1952, he finished his study and continued to Arabic Faculty of Al-Azhar University in Cairo, majoring *tadris* and graduated in 1955, then he came back to India.

In 1956, Azami was appointed to be a lecturer of Arabic for non-Arabians in Qatar. In the next year, he was appointed to be a secretary of Qatar National Library (Dar al-Kutub al-Qatriyah). In 1964, Azami continued his study at Cambridge University, United Kingdom. He took his Ph.D in 1966 there with his dissertation: Studies In Early Hadith Literature With A Critical Edition Of Some Early Texts. Then he came back again to Qatar to take hold back his position as secretary of Qatar National Library.

In the next year, Azami quit from his position in Qatar and moved to Makkah Al-Mukarramah. He taught in Shariah and Islamic Studies faculty at Post Graduate Program King Abdul Azis University (recently named Ummul Quro University). Azami and Dr. Amin al-Mishri were two of the founders of this faculty. In 1973, he moved to Riyadh to teach in department of Islamic studies, Tarbiyah Faculty, Riyadh University (later named King Saud University). During his stay in this city, Azami won King Faisal International Prize for his achievement in Islamic studies. He become a professor of *Hadits* and *Hadits* Science at King Saud University until now. 18

<sup>&</sup>lt;sup>18</sup>M. M. Azami, *Hadis Nabawi Dan Sejarah Kodifikasinya*, trans. Ali Mustafa Yaqub (Jakarta: Pustaka Firdaus, 1994), 700.

He become a professor of *Hadits* and *Hadits* Science at King Saud University until now. 18

Beside the road of his education and career, here the list of positions he occupied:

- a. Curator of National Public Library, Qatar.
- b. Professor Emeritus at King Sa'ud University, Riyadh. He also chaired the department of Islamic Studies.
- c. Associate Professor at Ummul Qura University, Mecca Saudi Arabia.
- d. Visiting Scholar at Michigan University (Ann Arbor), USA.
- e. Visiting Fellow at St. Cross College, Oxford University.
- f. Associate Professor of King Faisal Foundation for Islamic Studies at Princeton University.
- g. Visiting Scholar at Colorado University (Boulder).
- h. Honorary Professor at Wales University (Lampeter). 19

Azami also has a number of works, most of them concerned with hadits studies, here are they: Studies In Hadith Methodology And Literature, On Schacht's Origins Of Muhammadan Jurisprudence, The History of the Quranic Text: from Revelation to Compilation, The Qur'anic Challenge: A Promise Fulfilled, The

<sup>&</sup>lt;sup>18</sup>M. M. Azami, *Hadis Nabawi Dan Sejarah Kodifikasinya*, trans. Ali Mustafa Yaqub (Jakarta: Pustaka Firdaus, 1994), 700.

<sup>&</sup>lt;sup>19</sup>Ali Mustafa Yaqub, *Hadis Nabi: Otentisitas Dan Upaya Dekonstruksinya*, "Jurnal Al-Insan", 2 (vol. 1, 2005), 143.

Isnad System: Its Origins And Authenticity, Dirasat Fi Al-Hadith Al-Nabawi, Kuttab An-Nabi, Manhaj Al-Naqd 'Inda Al-Muhaddithin, Al-Muhaddithin Min Al-Yamamah. There are also books he edited, some of them are: Al-Illah Of Ibn Al-Madini, Kitab Al-Tamyiz Of Imam Muslim, Maghazi Rasulullah Of Urwah Ibn Zubayr, Muwatta' Imam Malik, Sahih Ibn Khuzaimah, And Sunan Ibn Majah.<sup>20</sup>

Azami's phenomenal work concerning with authenticity of hadits specifically related to Schacht's viewpoint is Studies in Early Hadith Literature with A Critical Edition of some Early Texts.<sup>21</sup> Perhaps we will agree with Juinboll<sup>22</sup> that until the present time Muhammad Mustafa Azami is the scholar who has provided the most articulate critique of Schacht's thesis regarding the authenticity of hadits. More than this, his study has been considered, at least by A.J. Arberry, as "one of the most exciting and original investigations in this field of modern times". Here the full statement of him regarding the work:

No doubt the most important field of research, relative to the study of hadith, is the discovery, verification, and evaluation of the smaller collections of traditions antedating the six canonical collections of al-Bukhari, Muslim, and the rest. In this field Dr. Azami has done pioneer work of the highest value, and he has done it according to the exact standards of scholarship. The thesis which he presented, and for which Cambridge conferred on him the degree of

<sup>&</sup>lt;sup>20</sup>Ibid.

<sup>&</sup>lt;sup>21</sup>As we cited in chapter one that this work was his doctoral dissertation at Cambridge University in 1966, and published in Beirut in 1968 which is now also available in an Arabic translation under the title *Dirasat fi al-Hadits al-Nabawi wa Tarikh Tadwinihi*, and even now had been translated into Indonesian language by Ali Mustafa Yaqub and first published in 1994.

<sup>&</sup>lt;sup>22</sup>G.H.A. Juynboll, *The Authenticity Of The Tradition Literature: Discussion In Modern Egypt* (Leiden: E.J. Brill, 1969), 1.

Ph.D. , is in my opinion one of the most exciting and original investigations in this field of modern times.  $^{23}$ 

Azami was lucky that Cambridge University permitted him to criticize Schacht's thesis. Unlike his colleague, Muhammad Amin al-Mishri, he was not permitted to criticize Schacht's thesis when he wrote his dissertation.<sup>24</sup>

# C. Significant Orientalist Study On Hadits Prior To Schacht

Orientalist study on hadits started in the middle of the 19<sup>th</sup> century. Alois Sprenger was the first to question the status of hadits in Islam. This Germany missionary had been stayed in India for a long period. Through his book, das leben und die lehre des Mohammad, he claimed that hadits is a collection of anecdotes.<sup>25</sup>

In the same era, William Muir appeared to agree with Sprenger's viewpoint. Muir was an English orientalist that studied the biography of the *Prophet PBUH*. and the history of Islam. According to Muir, the name of Muhammad was abused to support all possible lies and absurdities. As the consequence of this thesis, almost 4000 *hadits*' collected by al-Bukhari must be rejected, without hesitation, at least

<sup>&</sup>lt;sup>23</sup>Muhammad Mustafa Azami, Studies In Early Hadith Literature (Indianapolis: American Trust Publications, 1978), vi.

<sup>&</sup>lt;sup>24</sup>Ali Mustafa Yaqub, Kritik Hadis (Jakarta: Pustaka Firdaus, 1995), 26.

<sup>&</sup>lt;sup>25</sup>Syamsuddin Arif, Gugatan Orientalis Terhadap Hadits Dan Gaungnya Di Dunia Islam, "Jurnal Al-Insan", 2 (vol. 1, 2005), 10.

Ignaz Goldziher was one of orientalists who continued the *hadits* study after both of them. Goldziher was a Hungarian jew who had ever study in al-Azhar University Cairo for more than a year (about 1873-1874). <sup>27</sup> Born in a Jewish heritage, he was educated at the universities of Budapest, Berlin, Leipzig and Leiden. He became *privatdozent* at Budapest in 1872. In the next year, under the auspices of the Hungarian government, he began a journey through Syria, Palestine and Egypt, and took the opportunity of attending lectures of Muslim Syaikhs in the mosque of al-Azhar in Cairo.

In 1890 he published *Muhammedanische Studien* in which he showed how Hadith reflected the legal and doctrinal controversies of the two centuries after the death of Muhammad rather than the words of Mohamed himself.

Owing to strident anti-Semitism in Hungary, Goldziher was denied a teaching post at Budapest University until he was 44. In doing so, he became the first Jewish scholar to accede to such a position. He represented the Hungarian government and the Academy of Sciences at numerous international congresses. He received the large gold medal at the Stockholm Oriental Congress in 1889. He became a member of several Hungarian and other learned societies, was appointed secretary of the Jewish community in Budapest.

<sup>&</sup>lt;sup>27</sup>See Alexander Schreiber, *Ignaz Goldziher Tagebuch* (Leiden: E.J. Brill, 1978), 68-70; Arif, *Gugatan*..., 11.

His eminence in the sphere of scholarship was due primarily to his careful investigation of pre-Islamic and Islamic law, tradition, religion and poetry, in connection with which he published a large number of treatises, review articles and essays contributed to the collections of the Hungarian Academy.<sup>28</sup>

Goldziher said that most of the existing hadits' are not reliably authentic, so that they can not be the information sources on early history of Islam. This because, according to him, the hadits was just a representation of the interaction, conflict, and tendency of Muslim society in their golden era. It means that hadits is just a product of Muslim society long centuries after the death of the Prophet PBUH.<sup>29</sup>

As we cited above, Goldziher was one of the most important person that inspired him to produce his thesis'. Schacht then processed the thesis of Goldziher and finally found a conclusion that there is no legal tradition (hadits) which can be considered authentic. Even if there are some authentic traditions, there would be few in number.

<sup>28</sup>Patricia Crone, *Roman, Provincial and Islamic Law* (Cambridge: Cambridge University Press, 2002), 3.

<sup>&</sup>lt;sup>29</sup>Ignaz Goldziher, Muhammedanische Studien (Halle: Max Niemeyer, 1890), 5; Arif, Gugatan..., 11.