CHAPTER IV

ANALYSIS

A. Schacht's Viewpoint On *Hadits* With Special Reference To *Isnad*

1. Origin of *sunnah* according to Schacht

According to Schacht, the origin of *sunnah* is a living tradition in the classic schools of law, which means the idea or normative usage of the community. There is no relation between this concept and the Prophet, and only later acquired the restricted meaning of the precedents set by the Prophet.[1]

As an important point of Schacht's thesis, concept of *sunnah* generally explained as:

a. Origin of *sunnah* is the customary or generally agreed practice ('*amal, al-amar al-mujtama' 'alaih*), and he called it "living tradition". He followed D.S. Margoliouth's conclusion, and to support his thesis, he cited Ibn Muqaffa' that, according to him, found that term used in the first second century as a administrative regulation of the Umayyad government.[2] As we know, Ibn Muqaffa' was a secretary of state in late Umayyad and early Abbasid times.

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[1] Joseph Schacht, *The Origins of Muhammadan Jurisprudence* (Oxford University Press, 1979), 58.

[2] *Ibid*, 58-59.

b. The origin of *sunnah* is that *sunnah* was formed later by Iraqians for about the second century.[3]

c. Using of the term "*sunnah* of the Prophet" doesn't mean that it is actually sourced from the Prophet. It is only a "living tradition" from from the school of law and then is projected back to the past until the saying of the Prophet.[4]

In order to justify his argument that *sunnah* is a practice or a living tradition, Schacht made a reference to Margoliouth. He wrote that the foremost of the concept is the customary or generally agreed practice. We shall call them the living tradition of the ancient schools, not by way of projecting a category of the later system, under another name, back into the early period, but in recognition of the fact that they are all inter-related, and in fact, interchangeable, to such an extend that they can not be isolated from one another. Here one of the evidences on the concept of *sunnah* as what had been explained by Margoliouth and followed by Schacht, that the early texts contain numerous traces of the process by which traditions from the Prophet imposed themselves on the old idea of *sunnah* and thereby prepared the ground for Shafi'i's identifications of *sunnah* with them. In the time of Shafi'i, traditions of the Prophet

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[3]*Ibid.* 70

[4]*Ibid.*

particularly isolated ones, were still felt to be something recent which disturbed the living tradition of doctrine in the ancient schools.[5]

From the references which had been collected, Margoliouth made a conclusion that the practices of the Prophet taken from those narratives more customarily accepted than other phrases. Those statements commonly used in the context of reference to the third caliph, Utsman, whose acts were reputed very different than his predecessors, although the accusations to him were unprovable. At last, according to Margoliouth, the second source of law is not really evident. It is only custom or habitual agreed by the authoritarians and later united to the Prophet.[6]

2. Problem of *isnad*

In *The Origins Of Muhammadan Jurisprudence*, Schacht wrote, specifically in chapter 4, that although the *isnads* constitute the most arbitrary part of the traditions, the tendencies underlying their creation and development, once recognize, enable us to use them for the dating of traditions in many cases. It is common knowledge that the *isnad* started from rudimentary beginnings and reached perfection in the classical collections of traditions in the second half of the third century A.H. This makes it

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[5]*Ibid*, 59

[6]D.S. Margoliouth, *The Early Development Of Mohammedanism* (London: William and Norgate, 1914), 69-70.

possible for us to share the confidence of Muhammadan scholars in first-class *isnads*.[7]

The *isnads*, wrote Schacht, were often put together very carelessly. Any typical representative of the group whose doctrine was to be projected back on to an ancient authority, could be chosen at random and put into the *isnad*.

Schacht's viewpoint on *isnad* generally is that *isnad* system may be a valid way to identify the *hadits*' up to the second century scholar era. But it could not be used to trace the *hadits* before the second century until the saying of the Prophet PBUH and the Companions. So the link of *isnad* between those era is unreliable.

The arguments used by Schacht concerning with *isnad* can be concisely known below:

a. System of *isnad* started from the beginning of the second century, or the end of the firs century.

b. The *isnads* were often put together very carelessly by the persons who wanted to project their doctrines to the classic sources.

c. The *isnads* were gradually falsified. The *isnads* that were not complete then intentionally completed in the era of classic collections.

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[7] Schacht, *The Origins*..., 163.

d. Many additional sources were created in the Shafi'i times to answer any rejections appeared because of the *hadits'* of the one source. The family *isnads* and the material contents of those were all false.

e. The existence of common narrator in transmission link indicates that the *hadits* was created in the era of the narrator.

3. Projecting back theory

The most popular work made by Schacht was *The Origins Of Muhammadan Jurisprudence* containing the theory concluding that there is no *hadits* to be considered authentic. It is called projecting back theory.

The Projecting Back Theory says that *sanad* of *hadits* is a judges product to legitimate their judicial sentences which were assumed to be sourced from Muhammad PBUH.

Schacht stated that Islamic law had not existed yet before the era of al-Sya'bi (d. 110 11).[8] This statement means that *hadits'* related to Islamic law are the products of the people living after al-Sya'bi era. According to Schacht's opinion, Islamic law started to be known after appointing religion judges (*qadhi*) since Bani Umayyah Dynasty.[9] The judicial sentences of *qadhi* needed a legitimation from the more

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[8]Schacht, *The Origins...*, 230.

[9]Joseph Schacht, *An Introduction to Islamic Law*, (Oxford University Press, 1971), 16.

more authoritative scholars. So they couldn't relate their sentences to themselves, but they had to relate them to the figures living before them. For example, the Iraqi *qadhi* related their sentences and opinions to Ibrahim al-Nakha'i.

Further, the sentences of *qadhi* were not only related to the figures before them, but also related to the figures that had more authority, like to Masruq, then Ibn Mas'ud. And at the last step, the sentences were related to the Prophet Muhammad PBUH. In Schacht's viewpoint, these reconstructions form the *sanad* of *hadits* by projecting back the sentences and opinions of *qadhi* back to the figures before them. So it is called projecting back theory.

Schacht had reached a conclusion that none of *ahadits*, especially related to Islamic law is authentic. This is what he wrote:

> We must postulate the same process of growth from the pre-literary period, and formulate again the methodical rule which follows from Goldziher's results but which had been lately neglected: that every legal traditions from the Prophet, until the contrary is proved, must be taken not as an authentic or essentially authentic. The sources available enable us to draw these conclusions in many cases. We shall find that the bulk of legal traditions from the Prophet known to Malik originated in the generation preceding him, that is in the second quarter of the second century A.H. and we shall not meet any legal tradition from the Prophet which can be considered authentic.[10]

B. Azami's Critics On Schacht's Viewpoints

1. On the origin of *sunnah*

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[10]Schacht, *The Origins...*, 149.

In the first chapter of his *On Schacht's Origins Of Muhammadan Jurisprudence,* Azami at first elaborated the basic concept of *sunnah*. According to Azami, *sunnah* in the Arabic lexicography term means way of act, rules, or life behaviour.[11]

Furthermore, azami mentioned the other meaning of *sunnah*, until he got a conclusion that the word *sunnah* had been used continuously in the pre-Islam era, which meant way, law, and life behavior.[12] The *sunnah* of the Prophet term was used since the life of the Prophet Muhammad PBUH, when the muslim are ordered to obey the Prophet and make his life as their precedent. The term was also used by the Prophet himself.

Azami also explained that the term *sunnah* as such is not restricted to the *sunnah* of the Prophet. Therefore sometime it is found this term used for others than the Prophet as well, which resulted in some misunderstanding by modern scholars. It is claimed by some modern scholars that Shafi'i was the first to define *sunnah* as the model behavior of the Prophet. The problem would not have arisen if they realized that the concept of *sunnah* predated the definition of that term. The powers of legislation, for example, are determined by the constitution of modern states. When constitutions endorse the legislative powers and the range of their legislation, nobody

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[11]See Muhammad ibn Manzhur al-Mishri, *Lisan al-'Arab* (Beirut: Dar Shadir), IV, 1438.

[12]M.M. Azami, *Menguji Keaslian Hadits-Hadits Hukum,* trans. Asrofi Shodri (Jakarta: Pustaka Firdaus, 2004), 38.

can challenge them or claim rightfully that he is not to be bound by them. Thus-according to Islamic concept- it is not for the lawyers but for The Almighty Allah who is The Law Giver to determine the legislative authority if there is any.[13]

The conclusion for Azami's concept of *sunnah* is that *sunnah* had been used along ago before them coming of Islam. Then the Muslims used it terminologically by adding (*al*) before the word *sunnah*, which means ways or procedures of shari'ah from the Prophet PBUH. The most important part is that the etymological meaning is not disappeared, because the second is only used in a specific meaning.

2. On the Problem of *isnad*

Azami's response to the system of *isnad* is written in his *On Schacht's Origins* specifically in chapter six. He cited that in evaluating *isnad* system, we have to make sure its position in Islam. Belief that *hadits* has a force of law based from the Al-Quran orders. Those *hadits'* came to us through the chain of transmitter (*isnad*). So *isnad* system is the basic thing of Islamic belief. Sufyan al- Tsauri said: "*isnad* is the weapon of a believer, if he doesn't have any weapon, how could he make war?". Ibn al-Mubarak also said: "*isnad* is a part of the religion, if there were no *isnad*, everyone could report what he want to report".[14]

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[13]M.M. Azami, *Studies in Hadith Methodology and Literature* (Indianapolis: American Trust Publication, 1978), 8.

[14]Azami, *Menguji...*, 223.

According to azami, origin of *isnad* is that *isnad* was used casually in some literatures in pre-islamic period in a vague manner, without attaching importance to it. The *isnad* system was also used to some extent in some transmitting pre-Islamic poetry. But it was in the *hadits* literature that its importance culminated till it was counted as part of the religion.[15] The *isnad* was used to the full for documenting the *hadits* literature. The *sunnah* of the Prophet being a basic legal source, it was natural to deal with these documents with utmost care. Thus with the introduction of the *isnad*, a unique science *ilm al-jarh wa al-ta'dil* came into existence for the evaluation of *isnad* and *hadits*'.

It was the common practice among the Companions – even in the life of the Prophet – to transmit the *hadits*' of the Prophet, when they saw each other. Some of them had even made special arrangements to attend the Prophet circle in shifts and to inform each other what they had heard and seen in the presence of the Prophet.

Naturally in informing their fellows they would have used sentences like: "the Prophet did such and such or the Prophet said so and so". It is also natural that one of them who had gained knowledge at second hand, while reporting the incident to a third man, might have disclosed his sources of information and might have given the full account of the incident. There are ample references of this kind in the *hadits* literature. One of them is quoted here:

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[15]Muslim Ibn al-Hajjaj, *al-Jami' al-Shahih*, introduction (Beirut: Dar al-Afaq al-Jadidah), 14-16.

Dimaam ibn Tsa'labah came to the Prophet and said to him: " Muhammad, your messenger came to us and told us…"[16] These methods which were used in the early days for the diffusion of the *sunnah* of the Prophet gave birth to *isnad*, and this was the rudimentary beginning of the system. In this regard, Ibn Sirrin would be helpful. He said: "they did not ask about the *isnad*, but when civil war *–fitnah-* arose, they said; name to us your men, those who belong to *ahl al-sunnah*, their *hadits'* were accepted and those who were innovators their *hadits'* were neglected.[17]

This gives the impression that the *isnad* was used even before the *fitnah*, but the narrators were not so perfect in applying it. Sometimes they employed it and at others neglected it. After the civil war they became more cautious and began to enquire about the sources of information and scrutinized them. At the end of the first century, the science of *isnad* was fully developed. Shu'bah used to watch the lips of Qataadah, in the lecture, to discriminate between his first and second hand information. There are ample references to asking and enquiring about the *isnad* in the first century of the Hijrah.[18]

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[16]*Ibid*, iman, 10.

[17]*Ibid*, introduction, 15.

[18]Azami, *Studies…*, 32-33.

Further Azami gave a detail of the proliferation of *isnad*s. He cited that it is common phenomenon of *isnad* system that as we go in time the number of transmitters increases. Sometimes a *hadits* transmitted by one Companion acquires ten students in the next generation, in the class of successors, and in turn these ten students have in cases twenty or thirty students belonging to difference countries and provinces. Here is the example how the *isnad* proliferated:

Abu Hurairah reported that Rasulullah PBUH said: "when anyone amongst you wakes up from sleep, he must not put his hand in a utensil till he has washed it three times, for he doesn't know where his hand during sleep."[19]

At least thirteen students of Abu Hurairah transmitted this *hadits* from him. 8 of them were from Madinah, 1 was from Kufah, 2 from Basrah, 1 from Yemen, and 1 from Syria. There are sixteen scholars who transmitted this *hadits* from the students of Abu Hurairah. 6 of 16 were from Madinah, 4 from Basrah, 2 from Kufah, 1 from Mecca, 1 from Yemen, 1 from Khurasan, 1 from Hims (Syria).

Example 2:

حدثنا عبد الغزيز بن المختار قال حدثنا سهيل بن أبي صالح عن ابيه عن ابي هريرة رضي الله عنه أن النبي صلى الله عليه و سلم قال: انما الإمام ليؤتم به إذا كبر

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[19]*Ibid*, 34.

فكبروا، و إذا ركع فاركعوا، و إذا قال سمع الله لمن حمده فقولوا: اللهم ربنا لك

الحمد، و إذا سجد فاسجدوا ولا تسجدوا حتى يسجد، و إذا رفع فارفعوا ولا ترفعوا

حتى يرفع، وإذا صلى قاعدا فصلوا قعودا أجمعون.

Abu Huraira reported the Prophet saying: "the imam ought to be followed. So recite

takbir when he recite, and bow down when he bows down. And when he says سمع

الله لمن حمده, say اللهم ربنا لك الحمد. And when he prostates you should prostate.

You must not prostate till he prostates. When he raises his head you should raise

yours, you must not raise your head till he raises. If he prays sitting, all of you should

pray sitting."[20]

This *hadits* is reported by twenty six generation authorities, all of whom trace

the origins of their knowledge to Companions of the Prophet. It found almost in the

same form or in the same meaning in all versions in ten different locations at this time

(Madinah, Makka, Egypt, Hims, Yemen, Kufah, Syria, wasith, and Thaif). Three of

the twenty six authorities heard it from more than one source.

The course of transmission from only one of the Companions-Abu Hurairah-

shows clearly how the number of transmitters increased from generation to generation

and how the *hadits* became known in widely different locations. Abu Hurairah had at

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[20]*Ibid*, 34-35.

least seven students who transmitted this *hadits* from him. Four of these belong to Madinah, two to Egypt, and one to Yemen. These students in turn transmitted to at least two others- five from Madinah, two from Makka, one each from Syria, Kufah, Thaif, Egypt, and Yemen.

Similar pattern of transmission from the other Companions shows how the *hadits* spread wider- to Basrah, Hims, and Wasith-and reinforced the *hadits* in Madinah, Makkah, Kufah, Egypt, and Syria.[21] It shows how easy it was for *hadits* knowledge to spread throughout the Islamic world, and how the number of transmitters, in most cases, increase in each generation.

Further down the chain, the number of narrators increases and localities spread even further into different provinces. The flourishing of *isnad* and diffusion of *ahadits* in this way made it easy to check the faults of the scholars, or any forgery that was committed. This proves the early existence of the *isnad* system and shows how impossible it would have been to fabricate *isnad* in this large scale.

In answering Schacht's argument on the making of *isnad* that- according to Schacht-put very carelessly by the persons who wanted to project their doctrines to the classic sources, Azami analyzed the examples of the alternative projection to generation before Malik. Those alternative persons that Schacht cited are:

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[21]*Ibid*, 36.

the classic sources, Azami analyzed the examples of the alternative projection to generation before Malik. Those alternative persons that Schacht cited are:

a. Nafi' and Salim

b. Nafi' and 'Abdullah ibn Dinar

c. Nafi' and Zuhri

d. Yahya ibn Sa'id and 'Abdullah ibn 'Umar 'Umari

e. Yahya ibn Sa'id and Rabi'ah

f. Muhammad ibn 'Amr ibn Hazm and Abu Bakr ibn 'Amr ibn Hazm

Those names are cited in Muwattha'. Unfortunately, Schacht did not give any indication or evidence that the transmission of the original classic doctrine was impossible. Azami made assumed some possibilities on it. Are those persons were really not exist? Did those persons not have any opportunity to learn the doctrine from the same or even different scholars? Is the content of the *hadits* was impossible to be in that era? Azami then answered that they all are exist in the history. He also gave detail information on those persons. All of them were in the same generation and lived in the same town in about 30-40 years. So there is no impossibility in it.

Here one of the persons that Azami cited in detail and proved that they were really exits. Schacht did not cited any *hadits* from Nafi' and Salim, so Azami

proved that both scholars had opportunity to learn from the common source. Their relation to Ibn 'Umar was documented well. According to al-Dzahabi, Nafi' was a servant for more than 30 years then Ibn 'Umar set him free. Data also shows that he died in Madinah in 117 H.[22] Salim is son of Ibn 'Umar. He died in 106 H, 32 years after his father's death.[23] He was a popular scholar in the end of the first century in Madinah. Both of them were in the same city, even in the same home for about 30-40 years. Both of them have a great opportunity to learn from Ibn 'Umar.[24]

Azami also answered Schacht's conclusion that the family *isnads* and the material contents of those were all false. Schacht mentioned in his *Origins*:

> There are numerous traditions which claim an additional guarantee of soundness by representing themselves as transmitted among members of one family, for instance, from father to son (or grandson), from aunt to nephew, or from master to freedman. Whenever we come to analyze them, we find these family traditions spurious, and we are justified in considering the existence of family *isnad* not an indication of authenticity, but only a device for securing its appearance.[25]

Azami said in responding to this statement that many scholars agreed with the view that not all of the family *isnad*s are authentic, as clearly from their biographical works. But we should not be in deep rejection. If the statement of a father on his son, or just the opposite, the statement of a wife on his husband, or

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[22]Ibn Hajar al-'Asqolaniy, *Tahdzib al-Tahdzib*, X(Beirut: Dar al-Fikr, 1995), 414.

[23]*Ibid*, VI, 280.

[24]Azami, *Menguji...*, 238.

[25]Schacht, *The Origins...*, 172.

those informations. The early scholars had researched this kind of family *isnad*s, and they rejected the doubtful *isnad*s and *hadits*.

3. On the projecting back theory

To critisize the theory, Azami researched the classic manuscripts of *hadits* nabawi. One of them is manuscript of Suhail ibn Abu Shalih (d. 138 H). This manuscript contains 49 *hadits*'. Azami researched the transmitters of the *hadits* from Prophet Muhammad PBUH to Abu Hurairah to Abu Shalih, which was the student of Abu Hurairah. and then to his son Suhail (the third level). He proved that the transmitter of this level (*thabaqat al-tsalitsah*) reached between 20-30 people. Meanwhile, they didn't live in one place but they were dispersed all over India, Morocco, Turkey, and Yemen. And the texts of the *hadits* they transmitted were definitely same.

Azami concluded that it is really impossible for them to gather and make a counterfeit *hadits* at the same time. Azami also criticized the study of Schacht which used the *fiqh* books as object of study. According to his opinion, *hadits* literatures and *fiqh* literatures have their own different characteristics. Therefore, researching *hadits* in the *fiqh* literatures is not proper, researching *hadits* must be from the *hadits* literatures.[26]

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[26]Azami, *Studies*..., 398.

According to Azami, Schacht had researched the books like al-Muwattha' of Imam Malik, al-Muwattha' of Muhammad al-Syaibani, al-Umm of al-Shafi'i. Azami cited that those books appropriately called the law books than the *hadits* books. Schacht had generalized his study of those books to the *hadits* books, he made as if there is no differences between the method of law and *hadits* books. The *fiqh* scholars did not have to mention the complete information on the source of the doctrine.

C. Analytical Reading

Perhaps we can say that Muhammad Mustafa Azami is the scholar who had provided the most articulate critique of Schacht's thesis regarding the authenticity of *hadits*. Azami successfully demonstrated that the process of collecting *hadits* begun during the time of the Prophet Muhammad PBUH. He calculated, for instance, 47 cases and examples discussed by Schacht and examined 24 of them, which led him to the following conclusion:

> Careful scrutiny of Schacht's examples and repeated reference to the original source material, however, reveals inconsistencies both within the theory itself and in the use of source material, unwarranted assumptions and unscientific method of research, mistakes of fact, ignorance of the political and geographical realities of the time, and misinterpretation of the meaning of the

Schacht's conclusions regarding the authenticity of traditions go hand in hand with his other conclusion regarding the origin of Islamic Jurisprudence, as shown clearly in the title of his first book. Therefore, it is understandable that Schacht concentrated hid critical analysis more on legal traditions instead of traditions in general. Here the reason why Schacht concentrated his analysis more on legal traditions. Schacht argued that law is particularly good subject on which to develop and test a method which claims to provide objective criteria for a critical approach to Islamic traditions.[28]

In Azami's view, it is quite wrong to study traditions of *ahadits* as a subject by limiting them to the legal tradition literature alone. He emphasized that any conclusion about traditions, their transmission, or the *isnad* system based on the study of legal literature would be faulty and unreliable.[29]

The other point raised by Azami is Schacht's suspicion about the *isnad* of Malik – Nafi' – Ibn 'Umar which is based on two grounds: the age of Malik and the position of Nafi' as the client of Ibn 'Umar. Schacht wrote: "but Nafi' died in 117 A.H. of thereabouts, and Malik in 179 A.H. their association can have taken place, even at the most generous estimate, only when Malik was little more than a born.[30]

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[28]Schacht, *The Origins*..., 144.

[29]Azami, *Studies*..., 222.

[30]Schacht, *The Origins*..., 176-177.

Azami then laid the blame on Schacht's omission of the birth of Malik which can lead only to erroneous conclusions. Than he wrote:

Had he (Schacht) consulted any bibliographical work he would have found that most of the scholars, even those who were born a little earlier than Malik, state that he was born in 93 A.H. a few put in the early months of 94 A.H., a few in 90 A.H. and a few in 97. but there is no one who maintains any date later than this. So, Malik was at least twenty years old, if not twenty four or twenty seven, when Nafi' dead.[31]

Generally, Azami accused, as he cited, Schacht that he reveals inconsistencies both within the theory itself and in the use of source material, unwarranted assumptions and unscientific method of research, mistakes of fact, ignorance of the political and geographical realities of the time, and misinterpretation of the meaning of the text quoted, and misunderstanding of the method of quotation of early scholars.

However, Azami's rejection to Schacht's claims is not contradictable. He said that Schacht was often wrong in understanding the sources he quoted.

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[31]Azami, *Studies...*, 245.