

THE ORIGINS OF
Muhammadan
Jurisprudence

JOSEPH SCHACHT

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CHAPTER 5

TECHNICAL CRITICISM OF TRADITIONS BY SHĀFI'Ī AND HIS PREDECESSORS

THE use of traditions in the ancient schools of law took little account of the standards of criticism which in the time of Shāfi'ī had been developed by the specialists on traditions (*Tr.* III, 62). Their technical terms *thābit* 'well-authenticated', *mashhūr* 'well-known', *maṣūl* or *muttaṣil* 'with an uninterrupted *isnād*', *maqṭū'* or *munqaṭi'* 'with an interrupted *isnād*', *mursal* 'lacking [the mention of] the first transmitter', *ḍa'īf* 'weak', *majhūl* 'unknown, not identified', *munkar* 'objectionable', were known to Shāfi'ī and his opponents, the adherents of the ancient schools, alike,¹ but it was left to Shāfi'ī to introduce as much of the specialized criticism of traditions as existed in his time into legal science.

Shāfi'ī tries to follow a middle course between two opposite tendencies: some do not pay sufficient attention to traditions, 'others aspire to a thorough traditional foundation of their doctrine, so much so that they accept traditions from transmitters from whom it would be better not to accept them, . . . provided only their traditions agree with their opinions, and reject traditions from reliable people if they happen to contradict their opinions. He who scrutinizes the traditional foundations of legal doctrines with competence and accuracy, is staggered by the *mursal* traditions of all who are not prominent Successors' (*Ris.* 64). It is Shāfi'ī's rule that only well-authenticated traditions are to be accepted (*Ikh.* 58), that is to say, the criterion of their reliability or lack of it is the *isnād*.

It is stated on the authority of the Successor Ibn Sīrīn that the demand for and the interest in *isnāds* started from the civil war (*fitna*), when people could no longer be presumed to be reliable without scrutiny;² we shall see later³ that the civil war which

¹ The technical criticism of traditions as known to Shāfi'ī and his opponents, represents an earlier stage than the fully developed 'science of traditions', for which see Marçais, *Taqrīb*. In particular, the systematization of the degrees of reliability by the categories *ṣaḥīḥ*, *ḥasan*, *gharīb* did not yet exist.

² Muslim, introduction: *Bāb bayān ann al-isnād min al-dīn*; Tirmidhī, at the end. Without mention of the period in Dārimī, introduction: *Bāb fil-ḥadīth 'an al-thiqāt*.

³ Below, p. 71 f.

began with the killing of the Umayyad Caliph Walid b. Yazid (A.H. 126), towards the end of the Umayyad dynasty, was a conventional date for the end of the good old time during which the *sunna* of the Prophet was still prevailing; as the usual date for the death of Ibn Sīrīn is A.H. 110, we must conclude that the attribution of this statement to him is spurious. In any case, there is no reason to suppose that the regular practice of using *isnāds* is older than the beginning of the second century A.H.¹

Shāfi'ī resigns himself to assuming the good faith of the transmitters, notwithstanding the existence of many errors of which he is aware. 'We are not much embarrassed', he says, 'by the fact that well-authenticated traditions disagree or are thought to disagree, and the specialists on traditions are not embarrassed by traditions that are likely to be erroneous and the like of which are not well authenticated' (*Ikh.* 365 f.). He is loath to face the fact of *tadlīs*, which consists in dissembling or eliminating the names of discreditable transmitters from *isnāds* (*Ris.* 53); but he knows that Mālik and Ibn 'Uyaina, two of his most highly esteemed authorities, practised *tadlīs*.² Shāfi'ī's lenient standards appear in *Tr.* III, 56, where Rabī' asks him: 'Did Ibn Zubair hear this from the Prophet?', and he replies: 'Yes, he remembered it from him; he was 9 years old when the Prophet died.'

Criticism of traditions on material grounds is not quite as exceptional in Shāfi'ī's writings as one would expect in view of *Tr.* III, 148 (p. 241), where Rabī' asks: 'Is it possible to throw doubt on any tradition?', and Shāfi'ī replies: 'Only if two contradictory traditions are related from the same man, then we follow one of them.' But Shāfi'ī recognizes such criticism cautiously in *Ris.* 55 where he says: 'In most cases the truthfulness or lack of truthfulness of a tradition can only be known through the truthfulness or lack of truthfulness of the trans-

¹ Horovitz (in *Islam*, viii. 44 and in *Islamic Culture*, i. 550) has pointed out that the *isnād* was already established in the generation of Zuhri (d. A.H. 123 or later), but to project its origin backwards into 'the last third of the first century A.H. at the latest' or 'well before the year A.H. 75', is unwarranted. Caetani (*Annali*, i. Introduction, § 11) has shown that the *isnād* was not yet customary in the time of 'Abd-almalik (A.H. 65-86). Sa'id b. Jubair (d. 95) is represented as rebuking a hearer who asks him his *isnād* (Dārimī, *Bāb fī tauqīr al-'ulamā'*), but Ibn Mubārak (d. 181) already considers it 'part of the religion' (Muslim, *Bāb al-nahy 'an al-riwāya 'an al-du'afā'*).

² For Mālik: *Tr.* III, 97; for Ibn 'Uyaina: *Tr.* IX, 9; *Umm*, iv. 69.

mitter, except in a few special cases when he relates what cannot possibly be the case, or what is contradicted by better-authenticated information.¹

Shāfi'ī is rather careless about his *isnāds*, and often refers to his immediate authority simply as 'a reliable man'; but 'reliable' means nothing and is put in only for convenience, as appears from *Tr. III*, 148 (p. 249) where the *isnād* runs: Shāfi'ī—a reliable man—'Abdallāh b. Ḥārith (unless, Shāfi'ī is not sure, he has heard it from 'Abdallāh b. Ḥārith directly)—Mālik, or from *Tr. IX*, 38, where Shāfi'ī says: 'a reliable man, I think Ibn 'Ulaiya'. In *Ikh.* 88 Shāfi'ī relates a tradition from 'more than one scholar', and still calls it 'a very reliable *isnād*'. In *Tr. IX*, 9, he says: 'I remember having heard from one of our companions whom I met personally'; this shows that Shāfi'ī did not have all his traditions from his authorities personally, and in *Ikh.* 359 he refers to a written record.

Shāfi'ī agrees with the Iraqians and the specialists that *munqaṭi'* traditions, that is, traditions with an interrupted *isnād* from which a link is missing, are not to be recognized if they stand by themselves (*Ikh.* 53); Shāfi'ī never recognizes them if their transmitters are *majhūl*, that is, not well known (*Ris.* 32). But this theoretical position had been gained only recently and was not yet consistently applied in actual reasoning. The gap between theory and practice could not be illustrated better than by *Tr. VIII*, 1, where Shaibānī and Shāfi'ī confront each other with objections to their respective traditions because they are *maqṭū'*, which means the same as *munqaṭi'*.

Mursal is a special case of *munqaṭi'*, where the mention of the first transmitter is lacking. In later terminology its use is restricted to traditions from the Prophet which are related without the authority of a Companion who was present; but in Shāfi'ī's time it was still used in a wider sense, including traditions from Companions without the authority of a Successor who was in immediate touch with them. The numerous traditions of Ibrāhīm Nakha'ī from Ibn Maṣ'ūd are *mursal* in this sense because Ibrāhīm was not in direct touch with Ibn Maṣ'ūd. Shāfi'ī and the representatives of the ancient schools treat the *mursal* in the same way in which they treat the *munqaṭi'*; these

¹ For individual cases, see *Tr. I*, 194; *Tr. III*, 30 (compared with *Aluw.* iii. 11); *Tr. VIII*, 13 (p. 293); *Ikh.* 195 ff., 301, 318.

last in particular use *mursal* traditions from the Prophet and from Companions freely in favour of their own doctrine, but are inclined to reject reference to them on the part of their opponents as inconclusive. It is obvious that the actual reasoning represents the older and the emerging theoretical doctrine the later stage, and also that *mursal* traditions are, generally speaking, older than traditions with full *isnāds*. The *mursal*, which forms the most important group of *munqaṭi'*, reflects the interval between the real origins of Muhammadan law and the much earlier period in which its fictitious authorities were being sought.

Shāfi'ī disregards the *mursal* in theory and in his actual reasoning.¹ On the other hand, he does not hesitate to use the *mursal* from the Prophet and from Companions as a subsidiary argument, or when he has forgotten the relevant traditions with full *isnāds*, or even by itself. He states explicitly in *Ris.* 63 f. that the *munqaṭi'*, that is, the *mursal*, of the prominent Successors is to be accepted under safeguards, although it has not the same authority as traditions with full *isnāds* (*muttaṣil*); this is followed by a denunciation of the *mursal* of others.

The use of *mursal* traditions from the Prophet and from Companions by Mālik is well known. On the other hand, Mālik disregards *mursal* traditions which disagree with his doctrine, even if he relates them himself (*Tr. III*, 34), and the Medinese suspect those traditions which do not agree with their doctrine (*Tr. VIII*, 14).

The Iraqians show the same inconsistency with regard to the *mursal*. They use *mursal* traditions as arguments, and even consider a tradition with a full *isnād* as repealed by a *mursal* (*Muw. Shaib.* 113), but at the same time do not consider the *mursal* as well authenticated.² In particular, they recognize the *mursal* traditions of Ibrāhīm Nakha'ī from Ibn Mas'ūd, and justify this even theoretically by making Ibrāhīm say: 'Whenever I say: "Ibn Mas'ūd has said so-and-so", this has been related to me by more than one of his companions.'³

On 'isolated' traditions (*khābar al-wāḥid*) see below, pp. 50 ff.

¹ *Tr. VIII*, 1, 13; *Ikh.* 195, 360.

² *Ikh.* 360, 375, 390.

³ *Tr. II*, 11 (b); Tirmidhī, at the end; with more details in Ṭahāwī, i. 133; this last version emphasizes that Ibrāhīm's *mursal* from Ibn Mas'ūd, implying the existence of several parallel reports, is even more reliable than his traditions from him through one individually named intermediary.