THE RELATIONSHIP BETWEEN ILM AND KHABAR IN THE WORK OF AL-SHAFII

Abdul Salam Muhammad Shukri

A Thesis Submitted for the Degree of PhD at the University of St. Andrews

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THE RELATIONSHIP BETWEEN

'ILM AND KHABAR IN THE WORK OF AL-SHĀFIĪ

ABDUL SALAM MUHAMAD SHUKRI

THESIS PRESENTED TO THE UNIVERSITY OF ST. ANDREWS
FOR THE DEGREE OF PH. D
JANUARY 1999
DECLARATIONS

This thesis has been composed by me, Abdul Salam Muhamad Shukri. It is a record done by me and has not been accepted in any previous application for any degree.

Date 9.1.99
signature of candidate...

Date of candidate's admission as a research student: December 1993

Mr. Abdul Salam Muhamad Shukri has fulfilled the regulations applying to candidates for the degree of Doctor of Philosophy in the University of St. Andrews.

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Dedicated to
My Family and the Muslim umma
ABSTRACT

This study examines in detail the basis of al-Shāfi‘ī’s arguments for the supremacy of oral tradition over communal legal practice. It concentrates on one broad issue, the definition of 'ilm (knowledge) and one technical issue, the problem of authenticating a particular khabar (oral tradition or report, plural akhbār) and its binding nature, especially a report of the category known as the specialists’ report (khabar al-khāṣṣa). On the first issue, this study examines the concept of knowledge based on reports ('ilm al-khabar) because it had an important influence on al-Shāfi‘ī. This is followed by a detailed account of al-Shāfi‘ī’s own discussion of 'ilm. It brings out clearly that al-Shāfi‘ī means religious law when discussing 'ilm. It also shows how knowledge of religious law can be obtained. Al-Shāfi‘ī’s approach is to restrict the argument to knowledge of specialised and debatable points, rather than what is generally accepted. He seeks to prove the indispensability in this area of specialists’ knowledge of reliable documentation external to the law itself. The following chapter deals with the question of authenticating a khabar from the Prophet (a hadīth), not as purely technical question but within a polemical context in which the practical difficulty of authenticating a khabar was used by those opposed to the intellectual dominance of oral tradition as a reason not to use the khabar. In the final chapter al-Shāfi‘ī’s arguments with two identifiable schools of opposing thought, ahl al-kalām and ahl al-fiqh, are examined in detail. The thesis as a whole gives a significant insight into the efficacy and durability of al-Shāfi‘ī’s arguments, not so much by defeating his opponents’ arguments but by buttressing those of the defenders and advocates of oral tradition.
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Diphthongs

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NOTE ON THE TRANSLATION OF THE QUR’AN

This study uses A. J. Arberry’s translation of the Qur’an (*The Koran Interpreted*, Oxford, 1989). However, other translations are occasionally referred to for comparative purposes and for the sake of elucidation and precision of meaning.
ABBREVIATIONS

AJISS The American Journal of Islamic Social Science
BSOAS Bulletin of the School of Oriental and African Studies
BRISMES British Society for Middle Eastern Studies
EI Encyclopaedia of Islam (First ed., 1913-1938)
EI Encyclopaedia of Islam (New ed., 1960-)
GAS Geschichte des Arabischen Schrifttums
IC Islamic Culture
IJMES International Journal of Middle East Studies
IOS Israel Oriental Studies
IQ Islamic Quarterly
IS Islamic Studies
JAOS Journal of the American Oriental Society
JIS Journal of Islamic Studies
JRA Journal of the Royal Asiatic Society
JSAI Jerusalem Studies in Arabic and Islam
JSS Journal of Semitic Studies
MSOS Mitteilungen des Seminars für Orientalische Sprachen
MW The Muslim World
para/paras Paragraph (s)
Q al-Qur'an
SI Studia Islamica
I wish to convey my thanks to all those persons who have assisted me. My special gratitude is to my supervisor Dr. R. A. Kimber who has given his supervision and useful suggestions to this work. I also would like to acknowledge my gratitude to my former supervisor, Dr. D. E. P Jackson. His guidance has been of great value, especially during the early preparation of this work. I also owe special thanks to Professor John Burton who guided me during Dr. Jackson's sabbatical. Professor Burton, in fact, suggested the study of al-Shafi'i to me. I record also my gratitude to all the staff in the Arabic Department and Institute of Middle East Studies.

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ABDUL SALAM MUHAMAD SHUKRI

Department of Arabic Studies
University of St. Andrews
St. Andrews KY16 9AJ

Kulliyyah of Islamic Revealed Knowledge and Human Sciences
International Islamic University
Malaysia

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10 Sha‘bân 1419
INTRODUCTION

Al-Shafi‘i’s outstanding contribution to the Islamic sciences was to satisfy both himself and subsequent generations that knowledge of religion in all its particulars was possible only on the basis of the direct revelation of God’s words. Rational elaboration and practical development, without reference to a revealed source, were rejected by al-Shafi‘i as arbitrary and unfounded. The revelation of God’s words was regarded as a series of historical events culminating in a final revelation to the Prophet Muhammad (ﷺ). The Prophet not only received revelation, but his words and actions also explained the meaning of the revelation. The crucial question for al-Shafi‘i was how knowledge of these events had been preserved, and might still be known.¹

There is widespread agreement that the Qur’an is a verbatim record of God’s own speech as originally communicated to the Prophet in his lifetime. The strictly legal verses in the Qur’an are rather small in number. These verses serve as the starting point for all legal discussion. However, al-Shafi‘i considered that the practice of the community in relationship to religious knowledge was problematic. Before al-Shafi‘i, the emerging schools of law had been content in general to regard the practice of the community itself as a living document including practice of the Prophet himself, and as representing the true teaching of Islam. Al-Shafi‘i was not

¹Al-Shafi‘i, Muhammad b. Idris, al-Risala, ed. Ahmad Muhammad Shäkir (Beirut, n.d.), especially 39, para. 160 and 503-08, paras. 1456-68; idem, Jimā‘ al-‘ilm, ed. Ahmad Muhammad Shäkir (Cairo, 1940), especially 33-34, paras. 107-08.
satisfied with this loose concept of *sunna* or ideal practice. He insisted that *sunna*, if it had any probative value at all, could only mean the Sunna of the Prophet. Al-Shāfiʿi considered the Sunna of the Prophet to be a part of revelation beside the Qur’an. Al-Shāfiʿi says, “The Prophet proffered nothing that was not revelation (*wahy*), for revelation includes [both] that which is recited (*mā yutlā*, i.e. the Qur’an) and revelation that the Prophet established as *sunna*”. There was obviously a difference between these two types of revelation. In the case of the Qur’an, both text and meaning had come from God and could be relied on with complete certainty. In the case of the Sunna, the word had come from the Prophet but the inspiration had come from God. Historical knowledge of the Sunna was also indispensable for knowledge of the Qur’anic text. For al-Shāfiʿi, this knowledge of the Sunna could not be attained from evolving legal practice, but only from *hadith*, the vast body of oral tradition appearing to document in often minute detail the exemplary conduct and verbal instructions of the Prophet Muḥammad. If a contemporary legal practice, or the consensus of a particular community, was inconsistent with an authentic *hadith*, the practice must be wrong, and must be changed to conform with the authentic *hadith*. Al-Shāfiʿi’s successful arguments in this matter meant the effective supremacy, in the Islamic sciences, of oral tradition or *hadith* over the legal practice of the community.

This study examines in detail the basis of al-Shāfiʿi’s arguments for the supremacy of oral tradition over communal legal practice. It concentrates on one broad issue, the definition of *ḥilm* (knowledge) and one technical issue, the problem...
of authenticating a particular *khabar* (an oral tradition or report, plural *akhbār*) and its binding nature, especially a report of the category known as the specialists' report (*khabar al-khāssa*). On the first issue, Chapter 2 examines the concept of knowledge based on reports (*īlm al-khabar*) because it had an important influence on al-Shāfi‘ī. This is followed in Chapter 3 by a detailed account of al-Shāfi‘ī's own discussion of *īlm*. It brings out clearly that al-Shāfi‘ī means religious law when discussing *īlm*. It also shows how knowledge of religious law can be obtained. Al-Shāfi‘ī's approach is to restrict the argument to the knowledge of specialised and debatable points, rather than what is generally accepted. He seeks to prove the indispensability in this area of specialists' knowledge of reliable documentation external to the law itself. Chapter 4 deals with the question of authenticating a *khabar* from the Prophet (a *hadīth*), not as a purely technical question but within a polemical context in which the practical difficulty of authenticating a *khabar* was used by those opposed to the intellectual dominance of oral tradition as a reason not to use the *khabar*. In the final chapter, al-Shāfi‘ī's arguments with two identifiable schools of opposing thought, *ahl al-kalām* and *ahl al-fiqh*, are examined in detail. The thesis as a whole gives a significant insight into the efficacy and durability of al-Shāfi‘ī's arguments, not so much by defeating his opponents' arguments but by buttressing those of the defenders and advocates of oral tradition.
1. The Original Sources

i. Sources for al-Shâfi‘i’s Biography

Al-Mas‘ūdi (d. 345/956) in his Murūj al-dhahab (The Meadows of Gold) devotes a short section to an account of al-Shâfi‘i’s life. There are also many manāqib works devoted to al-Shâfi‘i. The earliest surviving example is Ādāb al-Shāfi‘ī wa-manāqibuh of Ibn Abi Hātim al-Rāzī (240/854-327/938), who was a scholar of hadith and also the author of Kitāb al-jarḥ wa-l-ta’dīl, a famous work on the science of criticising the reporters of hadith. The work of Ibn Abi Hātim on al-Shâfi‘i is a collection of oral reports concerning his life and attitudes. Some of these reports derive from the lost biographies of al-Shâfi‘i written by Dāwūd al-Zāhirī (d. 270/884) and Zakariyā b. Yahyā al-Sāji (d. 307/920). The main objective of Ibn Abi Hātim in his work is to show the excellence of al-Shâfi‘i. A century later, Abū Bakr Abmad b. al-Ḥusayn al-Bayhaqī (d. 458/1065) produced another work entitled Manāqib al-Shâfi‘ī, which was considered by its own author a complete report of al-Shâfi‘i’s life. A later scholar, Abū ‘Abdallāh Muḥammad b. ʿUmar al-Fakhr al-Rāzī (d. 606/1209) then rearranged al-Bayhaqī’s material into his own Kitāb manāqib al-Shâfi‘ī. Ibn Ḥajar al-ʿAṣqalānī (d. 852/1449) also dedicated a work to al-Shâfi‘i

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7 Al-Fakhr al-Ḥāzī, Muḥammad b. ʿUmar, Kitāb manāqib al-Shāfi‘ī, ed. Ahmad Hijāzī Ahmad (Beirut, 1993).

Besides these four works there are many other authors who give information about al-Shâfi‘i, for example, Ibn al-Nadîm (d. 385/967) in his *al-Fihrist*, al-Khaṭîb al-Baghdâdi (d. 403/1012) in his *Târîkh Baghdâd*, Abû Nu‘aym al-Iṣbahânî (d. 430/1038) in his *Hilyat al-awliyâ‘*, Ibn ‘Abd al-Barr (d. 463/1070) in his *Intiqâ‘*, Yâqût al-Rûmî (d. 626/1229) in his *Kitâb al-Irshâd*, Khallikân (d. 681/1282) in his *Wafayât*, al-Subkî (d. 756/1355) in his *Tabaqât al-Shâfi‘iya*, Ibn Kathîr (d. 774/1273) in his *Kitâb al-bidâya wa-l-nihâya* and many others. In the first chapter of this study, some of these materials are used to present the life of al-Shâfi‘i chronologically, with an emphasis on al-Shâfi‘i’s intellectual endeavour.

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ii. Sources for the Main Subject of this Study

This study relies mainly on two works of al-Shāfī‘ī, namely *al-Risāla* and *Jimā‘ al-‘ilm*. Al-Shāfī‘ī himself acknowledged their importance in his *Ikhtilāf al-ḥadīth* and *Ikhtilāf Mālik wa-l-Shāfī‘ī*.

1. *Al-Risāla*. This work contains most of al-Shāfī‘ī’s thinking on *uşūl al-fiqh* and *uşūl al-ḥadīth*. It was written, allegedly, at the request of ‘Abd al-Rahmān al-Mahdī (d. 198/813), a leading scholar of hadith in Basra. The basic contents of *al-Risāla* are as follows: (1) the Qurʾan and its elucidation, (2) the Sunna and its status in relation to the Qurʾan, (3) *naskh* (the theory of abrogation), (4) religious obligations, (5) conflicting *ḥadīth*, (6) *‘ilm* (knowledge), (7) *khabar al-wāḥid* (the single-transmitter report), (8) *ijmā‘* (consensus), (9) *qiyyās* (analogical reasoning), (10) *ijtihād* (the effort to form a right opinion), (11) *istihsân* (juristic preference), (12) *ikhtilāf* (disagreement). There are several editions of this work. The one most often referred to is by Ahmad Muḥammad Shākir, and this edition is utilised in this study. This study focuses on the following sections: (1) *bāb al-‘ilm* (Knowledge) (2) *bāb khabar al-wāḥid* (The single-transmitter report) and (3) *al-hujja fī tathbit khabar al-wāḥid* (The proof for the verification of the single-transmitter report). These selected sections will be discussed in Chapters 3 and 4 of this study.

2. *Jimā‘ al-‘ilm*. This work was written after the composition of *al-Risāla*, after 198/813. It was composed in order to argue against those who rejected *ḥadīth* as a source of religious knowledge. *Jimā‘ al-‘ilm* consists of four chapters. The most

17 See below, Chapter 1.
relevant chapters for this study are the first two, in which al-Shāfi’ī deals with those who rejected all ḥadīth, and with those who rejected akhbār al-khāṣṣa. There are several editions of this work, of which this study uses Shākir’s edition.\textsuperscript{19} The study focuses on two sections: (1) hikāyat qawl al-tā’ifā allati raddati al-akhbār kulla-hā (The doctrine of the party which rejected all reports) and (2) hikāyat qawl man radda khabar al-khāṣṣa (The doctrine of those who rejected the specialists’ report). These selected sections will be discussed in Chapter 5.

Although the full range of the work of al-Shāfi’ī has been consulted, the Risāla and Ḫīmā’ al-ʿilm are the main sources.

2. Review of Previous Studies

Al-Shāfi’ī is known to orientalists and historians of Islam as an important figure in the history of Islamic law and previous studies have focused on his unique contribution to Islamic legal theory.

In 1884 Ignaz Goldziher in his book, The Zāhirīs, was among the first orientalists to give an analysis of al-Shāfi’ī’s theory of Islamic law.\textsuperscript{20} He believes that it was al-Shāfi’ī who founded the science of ʿushul al-fiqh. He states that al-Shāfi’ī’s legal theory depended greatly on ḥadīth as a point of departure. In his Muslim Studies, first published in 1889-90, he reemphasised al-Shāfi’ī’s unique contribution to the creation of a methodology in legal science.\textsuperscript{21}

\textsuperscript{19}Another edition is edited by Muhammad ʿAbd al-ʿAzīz Zaydān, see al-Shāfiʿī, Ḫīmāʿ al-ʿilm, ed. al-Ustādh Muhammad Ahmad ʿAbd al-ʿAzīz (Beirut, n.d); Other editions are in al-Shāfiʿī, al-Umm, ed. Muhammad Zuhri al-Najjār, 8 vols (Cairo, 1961), vii, 273-92; idem, Kitāb Ḫīmāʿ al-ʿilm, in al-Shāfiʿī, al-Umm, 7 vols (Cairo, 1325 [1907]), 250-67.


In 1903 D. B. Macdonald devoted a few pages to discussing al-Shāfi‘i’s view of legal sources in his *Development of Muslim Theology, Jurisprudence and Constitutional Theory*. For him, al-Shāfi‘i was “without question one of the greatest figures in the history of law”. In his view, al-Shāfi‘i’s legal methodology represented the middle position between the historical or empirical school of Mālik and the speculative school of Abū Ḥanifa. He also briefly mentions al-Shāfi‘i’s view of hadīth, and asserts that al-Shāfi‘i paid great reverence to hadīth in his elaboration of legal theory. Al-Shāfi‘i accepted authentic hadīth or established sunna as having the same divine authority as a passage of the Qur’an. Macdonald also highlights the many difficulties faced by al-Shāfi‘i in accepting hadīth as a legal source. He was accused of accepting hadīth that contradicted the Qur’an or hadīth that contradicted each other.

Another scholar who has contributed much to the study of al-Shāfi‘i in the West is D. S. Margoliouth. He mentions that al-Shāfi‘i was the first who wrote “actual treatises on jurisprudence as a science”. His study on al-Shāfi‘i is more comprehensive than previous studies since he was able to use the printed works of al-Shāfi‘i. He praises the ingenuity of al-Shāfi‘i in presenting his theory of traditional law. It seemed to him that al-Shāfi‘i displayed some acquaintance with Aristotelian logic, though at the time not many Greek works had been translated into Arabic. He also notes that al-Shāfi‘i’s methodology depended greatly on hadīth. He appreciates al-Shāfi‘i’s arguments in verifying the hadīth of a single transmitter as “highly ingenious”.

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Heffening’s article on al-Shāfi‘i in the first edition of the Encyclopaedia of Islam also contributes to our knowledge of al-Shāfi‘i’s legal theory. He describes al-Shāfi‘i as an “eclectic who acted as an intermediary between the independent legal investigation and the traditionalism of his time”. His brief article also covers al-Shāfi‘i’s life and work as well as his influence on the Muslim world.

Eric E. F. Bishop further highlights al-Shāfi‘i’s legal thought. To him, al-Shāfi‘i’s success in developing his legal theory was not because he compromised, “but because he saw facts and had vision”. Al-Shāfi‘i, according to him, “was of a more methodical nature than either Abu Hanifa or Malik”. Bishop believes it was convincing proof that caused al-Shāfi‘i to accept hadith. Furthermore, his view of hadith was followed by others such as Ibn Ḥanbal and Dāwūd al-Zāhiri. Bishop does not elaborate further on this point.

In 1932 A. J. Wensinck gave a brief comment on al-Shāfi‘i in his book, The Muslim Creed. He states that al-Shāfi‘i was among the first to clarify the doctrine of the roots of legal knowledge. However, al-Shāfi‘i’s treatment of this topic, from Wensinck’s perspective, lacks a philosophical outlook, which means, inter alia, the absence of any discussion of a doctrine of cognition in his work.

Muṣṭafā ‘Abd al-Rāziq in his Tamhīd li-tārikh al-falsafa al-Islāmiya asserts that al-Risāla represents the true philosophy of Islam, which is usūl al-fiqh. Many

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27M. ‘Abd al-Rāziq, Tamhīd li-tārikh al-falsafa al-Islāmiya (Cairo, 1966), 244f.
scholars agree that epistemology underlies the discussions of usūl al-fiqh. Abd al-Rāziq argues that al-Risāla is presented in a systematic manner in order to construct a general theory of fiqh. He notes that al-Risāla discusses epistemological problems such as the division of knowledge into certain and probable knowledge, the fact that the position of a mujtahid can be correct or incorrect, the matter of legal reasoning by analogy, the classification of legal sources, and the method of verifying the Sunna. Abd al-Rāziq does not elaborate these aspects further.

In 1949 H. A. R. Gibb briefly highlighted the significance of al-Shāfi‘i in the science of usūl al-fiqh. Gibb states that al-Shāfi‘i based his legal theory on a critical examination of hadith.

The tremendous historical significance of al-Shāfi‘i in the history of Islamic law was underlined by the study of Joseph Schacht in his Origins of Muhammadan Jurisprudence. Schacht identified two major contributions of al-Shāfi‘i. Firstly, al-Shāfi‘i was the first scholar to lay down Islamic legal theory, in which he identified the four major sources of law, namely the Qur'an, the Sunna, ijmā‘ (consensus) and qiyās (analogy). Schacht observes that al-Shāfi‘i's most significant achievement concerned the Sunna, and argues that it was al-Shāfi‘i who first insisted on the authority of the Sunna of the Prophet. Schacht claims that Sunna in the view of al-Shāfi‘i’s predecessors and contemporaries was not necessarily connected with the Prophet, but represented the “living tradition” of their schools. Since al-Shāfi‘i recognised only the Sunna of the Prophet as authoritative, he only accepted the hadith

of the Prophet as the source of the Sunna. Al-Shâfi`i’s second contribution was his role in the formation of technical legal thought. According to Schacht, al-Shâfi`i “carries it to a degree of competence and mastery which had not been achieved before and was hardly equalled and never surpassed after him”. As far as al-Shâfi`i’s view of 'ilm is concerned, Schacht mentions that al-Shâfi`i divided knowledge into 'ilm al-'amma (the knowledge of the general public) and 'ilm al-khâssa (the knowledge of the specialists).

Marshall G. S. Hodgson in his book *The Venture of Islam* also devotes a few pages to discussing al-Shâfi`i’s contribution to Muslim jurisprudence. Al-Shâfi`i, in Hodgson’s view, took more decisive steps in dealing with hadith than his predecessors. For al-Shâfi`i, the prime criterion of the authenticity of a hadith was its isnâd. As far as his predecessors were concerned, some preferred to appeal to reasoning (‘aqî), others to appeal to equity and public interest, and others to appeal to the Qur’an and hadith itself. For Hodgson, al-Shâfi`i’s method “was intensely factualistic ... [he] based his method on quite concrete events: the coming of certain words to certain people under certain conditions; and the meaning of these events must depend on the exact meaning of those words to those people under those conditions.”

Two scholars translated al-Shâfi`i’s Risāla into English, namely Khalil I. Semaan and Majid Khadduri. Semaan provides only a partial translation of al-Risāla in his book, *Ash-Shafi’i’s Risala: Basic Ideas*, in which he translates the chapter on

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Khadduri translates the whole Risāla in his book, Islamic Jurisprudence: Shāfi‘i’s Risāla. In his introduction, Khadduri analyses various aspects of al-Risāla. He firstly contextualises al-Risāla against its historical background. He describes the condition of jurisprudence before al-Shāfi‘i, as well as the life and personality of al-Shāfi‘i as the author of al-Risāla. He goes on to discuss how and why al-Risāla was composed, and its structure. He tries to show that al-Risāla was a well thought-out treatise which came into existence after long periods of reflection. He believes that three important elements influenced al-Risāla, namely, inspiration from the Qur’ān, the Muwatta’ of Mālik, and contemporary scholarship. Khadduri then goes on to discuss the substance and arguments applied in al-Risāla. In this he tries to explain the vocabulary used by al-Shāfi‘i and divides it into the following four sets of terms, namely (1) general terms such as ʿilm (knowledge), bayān (declaration) and ʿādl (uprightness); (2) technical terms such as ʿāmm (general statement) and khāṣṣ (specific statement) and naskh (abrogation); (3) terms applied in the study of hadīth such as sunna, hadīth, isnād and khabar al-wāhid, and (4) specific terms in the exercise of legal reasoning such as ijtihād, qiyās, ijmā‘, and istiḥsān.

Khadduri also analyses the fundamental ideas expressed in al-Risāla. The work confirms the binding authority of the Qur’ān and the Sunna. The Qur’ān is the basis of legal knowledge and the Sunna is its interpretation. The principle of naskh (abrogation) clarifies the role of the Sunna in its relation to the Qur’ān. For example,

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37Khadduri, Islamic Jurisprudence, 28-32.
38Khadduri, Islamic Jurisprudence, 32-40.
the Sunna states which verses of the Qur'an are the abrogating ones and which are the abrogated. *Al-Risāla* also explains the method of knowing the Sunna and how to deal with contradictory *hadith*. The latter part of *al-Risāla* summarises legal reasoning. Khadduri also discusses the significance of *al-Risāla*. For him, *al-Risāla* is a novel work that made its author the founder of the science of *uşūl al-fiqh*. *Al-Risāla* still influences the Muslim world.39

In 1964 the British legal historian, N. J. Coulson, devoted one chapter to discussing al-Shāfi‘i’s legal theory in his book, *A History of Islamic Law*.40 He likens the contribution of al-Shāfi‘i in *uşūl al-fiqh* to that of Aristotle in philosophy. For him, al-Shāfi‘i’s genius lays in his systematic presentation of existing ideas with a new orientation. Al-Shāfi‘i went further than many of his predecessors in defending the authority of the Sunna. The Prophetic Sunna represented the Divine will and not just the function of interpreting the Qur’an. Coulson believes that with this argument, *hadith* was recognised as a binding source for legal decisions.

In 1966 Ahmad Hasan wrote his article on “Al-Shāfi‘i’s Role in the Development of Islamic Jurisprudence”.41 He regards al-Shāfi‘i as the pioneer of a system of law which was adopted by the jurists of later ages. However, he is also critical of al-Shāfi‘i, in particular of his method of establishing the validity of *hadith*. For him, the early schools’ methods were sounder than al-Shāfi‘i’s. They examined *hadith* in the light of historical background and internal evidence, and also by comparison with the Qur’an and established *sunna*. Hasan still admits, however, the

value of al-Shāfiʿi's argument on *khabar al-wāḥid* in supporting the authority of *hadith* as a whole. For him, there is a difference between accepting the authority of *hadith* as a whole and the method of authenticating an individual *hadith*. He is also critical of al-Shāfiʿi's view of *ijmāʿ*. His suggestion that al-Shāfiʿi's attempt to substitute *khabar al-wāḥid* for *raʿy* and *ijmāʿ* amounts to closing the door of *ijtihād* is debatable.

In 1970 Franz Rosenthal highlighted the respective epistemological scope of the two works of al-Shāfiʿi, *Jimaʿ al-ʿilm* and *al-Risāla*. According to Rosenthal, *Jimaʿ al-ʿilm* was “the earliest genuine example so far known of a methodological discussion of “knowledge” in monograph form.” Rosenthal remarks that in *Jimaʿ al-ʿilm*, al-Shāfiʿi discusses knowledge in the sense of the establishment of legal principles based on the four fundamental sources, Qur'an, *hadith*, *ijmāʿ* and *qiyās*. He asserts that al-Shāfiʿi's treatment of *hadith* was highly sophisticated. For him, this shows that before al-Shāfiʿi scholars of *hadith* had already acquainted themselves with the subject, though in an elementary way. Rosenthal also traces the epistemological questions in al-Shāfiʿi's *Risāla*. Al-Shāfiʿi did not just treat the main problem of epistemology, i.e. what is knowledge and what are its limits, but also tried to explore how knowledge can be obtained and how its validity can be ascertained. He believes al-Shāfiʿi's major preoccupation was to discuss the sources of knowledge, but the way he presented his ideas was curious. He did not treat it in the beginning of his work but left it “buried within the context of the work”. Rosenthal


also holds that al-Shāfi‘ī ignored the question of logical reasoning in order to establish the general character of knowledge and how this might affect the sources of legal knowledge. He also emphasises that al-Shāfi‘ī in many places refers to the importance of an accurate knowledge of the Arabic language in the process of making law. This also has its epistemological import. These brief remarks by Rosenthal have not until now prompted further investigation into the above mentioned works of al-Shāfi‘ī.

M. Hamidullah, in his article entitled “Contribution of Ash-Shafi‘i to the Science of Law”, shows two significant contributions of al-Shāfi‘ī.43 He mentions on the one hand al-Shāfi‘ī’s contribution to the science of hadith. Al-Shāfi‘ī convinced people that even khabar al-wāhid was binding, and took precedence over jurists’ opinions. In this he won the confidence of both the muhaddithūn and the fuqahā‘. On the other hand, Hamidullah considers that al-Shāfi‘ī’s greatest contribution was to the science of law. Al-Shāfi‘ī worked out an abstract science of law, a science which could be applied to any and every system of law, past, present and future. This science is what became known later as the science of usūl al-fiqh. It is actually a combination of many sciences including philology, the philosophy of law, the principles of legislation, logic and even historical knowledge of the source material of law. Among the problems discussed in al-Shāfi‘ī’s al-Risāla are “what is law, why should one obey it, how to understand the exact sense, what are the sources of law, how to make new rules, how to reconcile conflicts in the extant rules, how to modify and abrogate rules ...” and many others.

A major study of al-Shāfi‘i has been that of A. H. bin Haji Othman in his doctoral thesis, *Shāfi‘i and the Interpretation of the Role of the Qur’an and the Hadith.* Othman asserts that al-Shāfi‘i’s chief concern is with the Sunna of the Prophet. He tries to show that al-Shāfi‘i’s legal theory was aimed at defending Sunni fiqh against the attacks of the ahl al-kalām and the early schools of fiqh. Othman critically analyses every step taken by al-Shāfi‘i in order to show this aim of his legal theory.

In 1977 John Burton devoted a few pages of his book *The Collection of the Qur’an* to highlighting al-Shāfi‘i’s endeavour as a major representative of the Sunna party to show the authority of hadith. In analysing the development of fiqh, Burton argues that al-Shāfi‘i’s major concern was to prove that the Qur’an and hadith are both aspects of revelation and valid sources for the discovery of God’s law. It seems that Burton asserts the same idea as Othman, who believed the underlying purpose of al-Shāfi‘i’s legal theory, especially his view on hadith, was to counter the challenge to the existing fiqh. Burton argues that the effort of jurists and especially al-Shāfi‘i was effectively to confirm fiqh as a third source of religious knowledge alongside the Qur’an and the Sunna.

Norman Calder in his article entitled “Ikhtilâf and ijmâ‘ in Shāfi‘i’s Risâla” presents al-Shāfi‘i’s epistemology as set out in *al-Risâla.* His article is most relevant to Chapter Three of this study. For him, al-Shāfi‘i not only defined “the nature and limits of knowledge (‘ilm) but defined also its possessors and the extent of their

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authority." Calder’s discussion revolves around the concepts of ikhtilāf and ijmā‘ in al-Risāla. It seemed to him that both ikhtilāf and ijmā‘ are the central issues in al-Shāfi‘ī’s theory of knowledge. However, no detailed attempt is made by Calder to show the relationship between ‘ilm and khabar.

It is also worth mentioning that there are other studies of al-Shāfi‘ī which try to show different aspects of al-Risāla. For example, in 1984 George Makdisi advanced the theory that al-Shāfi‘ī’s aim in writing al-Risāla was to work out a traditional science based on the Qur’an and the Sunna in order to replace the science of kalām. That is why he prefers to call the science founded by al-Shāfi‘ī ‘ilm al-shar‘ (the science that treats of the revelation, the revealed law) in contrast to ‘ilm al-‘aql (the science of reason). Another example is John Kelsay, who presents some observations on the place of al-Shāfi‘ī’s theory in the history of Islamic ethics. Ibrāhīm Ahmad ‘Umar quotes some passages from al-Risāla in his general discussion on the theory of knowledge in Islam. Norman Calder questions the traditional attribution of al-Umm and al-Risāla to al-Shāfi‘ī. Tarif Khalidi also devotes a few pages to discussing al-Shāfi‘ī’s view of khabar in his study. He is of the opinion that al-Shāfi‘ī’s theory was concerned with combating the sceptics as well as the ‘conservatives’ among Muslim scholars.

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48 Calder, “Ikhtilāf and ijmā‘”, 56.
53 T. Khalidi, Arabic Historical Thought in the Classical Age (Cambridge, 1994).
John Burton elaborates al-Shāfi`i's theory of abrogation in his book *The Sources of Islamic Law*. In *An Introduction to the Hadith*, Burton also refers to al-Shāfi`i's views on *hadith*. But he leaves the epistemological dimension of *hadith* untouched. Wael B. Hallaq in his article "Was al-Shafi`i the Master Architect of Islamic Jurisprudence?" questions the claim that al-Shafi`i was the founder of *usūl al-fiqh* by arguing that the title of the "father" of *usūl al-fiqh* was a later adoption.

A recent article by A. Qodri Azizi also discusses al-Shafi`i but only refers to the problem of *ikhtilāf* (disagreement) in Islamic law. Recently, E. Chaumont in his article on al-Shafi`i in the *Encyclopaedia of Islam* has highlighted the need for comprehensive study of two published works of al-Shafi`i, namely *Kitāb iḥtāl al-istihsān* and *Jimā` al-ʿilm*.

A newly available study of al-Shafi`i is A. K. Ali's doctoral thesis entitled, "Al-Shafi`i's Contribution to Hadith with an Annotated Translation of his Work *Jimā` al-ʿilm*", which is mainly devoted to the discussion of *hadith* as the second source in the science of *usūl al-fiqh*. Ali divides his study into two parts. In the first part, he discusses the contribution of al-Shafi`i and also that of his contemporaries on the subject. In the second part, he presents a general introduction to *Jimā` al-ʿilm* followed by a translation of the work into English. Though this study has its merits, it...
has no treatment of the relationship between 'ilm and khabar with which this present study is concerned.

A more recent article by Professor Mehmet Paçaci entitled "The Role of Subject (Mujtahid) in al-Shafi'i's Methodology: A Hermeneutic Approach" represents al-Shafi'i as using a hermeneutic approach for the purpose of understanding religion. In his view, al-Shafi'i's methodology is basically determined by his view of 'ilm. A scholar ('alim) should speak on the basis of khabar or with clear indications on the basis of khabar.\(^{60}\)

To the best of the researcher's knowledge there has been no previous attempt to examine thoroughly the relationship between 'ilm and khabar in the work of al-Shafi'i. The works that have been cited only treat the relationship between 'ilm and khabar summarily to serve as a background for the study of legal aspects of al-Shafi'i. Studies on hadith in general lean more towards examining its historical position without analysing the central epistemic question. In addition, the article on khabar in the Encyclopaedia of Islam does not highlight the importance of khabar as a source of knowledge.\(^{61}\) The following pages attempt to fill this gap in the field.

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\(^{60}\)M. Paçaci, "The Role of Subject (Mujtahid) in al-Shafi'i's Methodology: A Hermeneutic Approach", in AJISS, 14.3 (1997), 1-15 (4).

CHAPTER 1

THE LIFE OF IMĀM AL-SHĀFI`Ī (150-204/767-820)

Imām al-Shāfi`ī was a man whose background amply fitted him for the role he was to play in Islamic scholarship. This chapter will briefly highlight aspects of the life of al-Shāfi`ī in order to provide the background for a clear understanding of his contribution.

1.1 His Full Name


1.2 Date of Birth

The bibliographical sources on al-Shāfi`ī agree that he was born in 150/767. 3 This was the same year as the death of Imām Abū Ḥanīfa 4 Some sources even say that al-Shāfi`ī was born on the same day as the death of Abū Ḥanīfa. 5

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1Al-Bayhaqī, Manāqib, i, 76; al-Khaṭīb, Tarīkh, ii, 57.
2Al-Bayhaqī, Manāqib, i, 76.
4Ibn Abī al-Barr, Intiqā, 66; Ibn Hajar, Tawāli, 52-3; Imām Abū Ḥanīfa al-Nuʿmān b. Thābit (80/699-150/767) was the founder of the school of the Ḥanafīs. He lived in Kūfā and studied under ʿAbbās b. Sulaymān (d. 120/737). After the death of Ṣa`d, he became the foremost authority of law in Kūfā, see J. Schacht, art. “Abū Ḥanīfa”, in EI, i, 123f.
5Ibn Hajar, Tawāli, 53; Ibn Khallikān, Wafayāt, 571.
1.3 Birthplace

Regarding his birthplace, the sources report that al-Shāfi‘i was born either in Gaza or in ‘Asqalān.\(^6\) However, most later biographers believe that he was born in Gaza.\(^7\) Some would reconcile these reports by arguing that these two places are close to each other on the Mediterranean shore in Palestine.\(^8\) Others say that al-Shāfi‘i was born in Gaza but was then brought to ‘Asqalān to stay with the Yamanī tribe to which his mother belonged.\(^9\) There is also a report that al-Shāfi‘i was born in Yemen.\(^10\) According to Yāqūt, this mention of Yemen can be accepted only as referring to the Yamanī tribe mentioned above, which settled in Palestine after the conquest in 15/636.\(^11\)

1.4 Family Background

Most sources show the high lineage of al-Shāfi‘i by referring to his descent from the tribe of Quraysh.\(^12\) He was descended from Banū al-Muṭṭalib,\(^13\) who had a special and strong relationship with Banū Ḥāshim, the clan of the Prophet Muḥammad.\(^14\) The Prophet himself confirmed this special relationship.\(^15\) Al-Muṭṭalib, who was al-Shāfi‘i’s direct ancestor and Ḥāshim, who was the Prophet’s great grandfather, were

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\(^12\) Ibn ‘Abd al-Barr, *Intiqā‘*, 66.
\(^13\) Ibn ‘Abd al-Barr, *Intiqā‘*, 66.
\(^15\) According to the report in Ibn Hajar, ‘Uthmān b. ‘Affān from Banū ‘Abd Shams and Jābir b. Miṭ‘an from Banū Nawfal complained to the Prophet regarding the distribution of *khumus* (war spoils) which was restricted to Banū Ḥāshim and Banū al-Muṭṭalib. The Prophet explained that both Banū Ḥāshim and Banū al-Muṭṭalib were treated as the same, see *Tawālī‘*, 38; the Prophet also says: “We and the sons of Muṭṭalib are like this” and he held two fingers together, see al-Mas‘ūdī, *Muzāj al-dhahab*, iii, 346; idem, *The Meadows of Gold*, 198.
both sons of ‘Abd Manāf b. Quṣayy b. Kilāb b. Murra. It is reported that al-Muṭṭalib and Hāshim had a close friendly relationship in their early life. When Hāshim went to Syria, and later died at Gaza, al-Muṭṭalib adopted Hāshim’s son from his marriage with a woman from the tribe of Khazraj in Medina. This son’s name was Shayba al-Ḥamd, and he had been brought up by his mother in Medina. When al-Muṭṭalib came to Medina he brought Shayba back with him to stay at Mecca, and he became known as ‘Abd al-Muṭṭalib. It was a Meccan tradition that when anyone looked after an orphan child, the latter would be called ‘abd of the one who looked after him. This ‘Abd al-Muṭṭalib was the prophet’s grandfather, and he stayed with al-Muṭṭalib until the latter died. Al-Muṭṭalib also had many sons of his own, one of whom he named Hāshim. This was in order to show his love for his deceased brother, Hāshim. Hāshim b. al-Muṭṭalib was also a direct ancestor of al-Shāfi‘i. Accordingly, al-Shāfi‘i is sometimes known as “al-Imām al-Muṭṭalibi” and as “al-Hāshimi”.

As mentioned earlier, a strong relationship developed between Banū al-Muṭṭalib and the family of the Prophet, Banū Hāshim. For example, both of them helped each other in their struggle with Banū ‘Abd Shams for political and religious authority. This co-operation was maintained in the time of the Jāhiliya and continued in the time of Islam. Muḥammad Abū Zahra states that the attitude of Banū al-Muṭṭalib never changed during the confrontation between the Muslims and Quraysh. When Quraysh boycotted Banū Hāshim, they did the same with Banū al-Muṭṭalib.

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16Other sons of ‘Abd Manāf are ‘Abd Shams and Nawfal, see Ibn ‘Abd al-Barr, Intiqā, 66.
17Ibn Hajar, Tawālīf, 35.
19Yaqtīn, Ishād, 368.
20Ibn Abī Ḥātim, Adāb, 123.
That was why the Prophet included both families in the group of *dhawī al-qurba*, those who qualified for booty (*ghanīma*).²¹

It is also worth mentioning that al-Sā‘ib, another ancestor of al-Shāfi‘i, was held the banner of Banū Hāshim during the battle of Badr (2/624). He fought against the Muslims at Badr. He was captured, but then ransomed himself, and later, he converted to Islam. When the Prophet met al-Sā‘ib together with his son, Shāfi‘, the Prophet prayed for him. At that time, Shāfi‘ b. al-Sā‘ib was only a small boy.²²

### 1.5 Al-Shāfi‘i’s Immediate Family

Al-Shāfi‘i’s father was Idrīs. He was born in Yemen, in a place called Tabāla,²³ but stayed in Medina. Later he moved to Syria with his family and stayed in ‘Asgalän, and died before or shortly after the birth of al-Shāfi‘i.

As far as al-Shāfi‘i’s mother was concerned, there are different reports. The well-known and authoritative view is that al-Shāfi‘i’s mother was a woman from the tribe of Azd. She was known as “Umm Ḥabība al-Azdiya” or “Umm Asadiya”.²⁴ The Prophet Muḥammad praised this tribe of al-Azd as “the root of the Arabs” (*furthumât al-‘arab*).²⁵ According to al-Subki, there is another view that his mother was a descendent of ‘Alī b. Abī Ṭālib. According to this view, al-Shāfi‘i’s mother was Fāṭima bint ‘Ubaydallāh b. al-Ḥasan b. al-Ḥusayn b. ‘Alī b. Abī Ṭālib. However, this report may be not reliable since as far as we know otherwise, al-Ḥusayn b. ‘Alī had only one son, ‘Alī Zayn al-‘Ābidīn. Most probably for this reason, another report puts

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²²Al-Khaṭīb, *Ṭārikh*, 58.
²⁴Al-Subki, *Tabagāt al-shāfi‘iya*, i, 100.
²⁵Al-Khaṭīb, *Ṭārikh*, 58.
al-Hasan b. 'Ali instead of al-Husayn. Nevertheless, the view that al-Shafi'i's mother was a direct descendant of 'Ali merits consideration. It could be linked with al-Shafi'i's attitude during a fitna in Yemen, which ended with his appearance before the caliph Harun al-Rashid in Raqqa.

Al-Shafi'i married three times and had four children. His first wife was a descendant of 'Uthman b. 'Affan. It is reported that al-Shafi'i married her in San'a', Yemen. According to his grandson, Ahmad b. Muhammed, her name was Hamda bint Nafi b. 'Abbas b. 'Amr b. 'Uthman b. 'Affan. From this wife, he had a son and two daughters, namely Abu 'Uthman Muhammad b. Muhammed b. Idris, Fatima and Zaynab. Zaynab was Ahmad's mother. Al-Shafi'i's eldest son, Abu 'Uthman, was appointed as the Qadi of Aleppo in Syria.

Al-Shafi'i also married his maid, Dananir. By her he had another son named Abu 'I-Hasan Muhammed. The report says that Abu 'I-Hasan was small when al-Shafi'i died. His third wife was the daughter of Zurara al-Zuhriya from the tribe of Zuhra. However, this marriage ended in divorce.

1.6 Al-Shafi'i's Education and Scholarly life

1.6.1 Early Life and Education in Mecca

After the early death of al-Shafi'i's father, his uncle came to 'Asqalan to bring al-Shafi'i and his mother to Mecca. According to al-Shafi'i himself, he was at that time

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26 Al-Subki, Tabaqat, 100.
27 Chaumont, “Al-Shafi’i”, 181-182; on this event, see below, 37.
28 Al-Bayhaqi, Manaqib, i, 86.
29 Al-Bayhaqi, Manaqib, ii, 306.
30 Al-Subki, Tabaqat, 226.
31 Abu Nu‘aym, Hilya, ix, 142.
two years old. However, some sources report that al-Shafi‘i only arrived in Mecca when he was ten.32

The sources reveal little information about al-Shafi‘i’s early life. He is said to have been brought up in Mecca by his mother in poor circumstances.33 Their house was at the Shi‘b al-Khayf in Mecca. Al-Khaṭib mentions that al-Shafi‘i’s mother wished to bring him to Mecca in order that he should have a better religious education.34 Thus, his mother played an important role in developing al-Shafi‘i’s scholarly career. With her encouragement, al-Shafi‘i, in his early life, devoted himself fully to the search for knowledge.35 It is worth noting that, in al-Shafi‘i’s time, various kinds of knowledge had already developed, including religious and philosophical knowledge. It is not certain whether al-Shafi‘i had any knowledge of philosophy. He did however study astrology or astronomy for a short period.36

According to al-Shafi‘i, it was his usual practice after having finished reading the Qur‘an to go to the Holy Mosque to listen to religious discussions. So it is not surprising that he memorised many hadiths and discussions of religious problems.37 It is also reported that he memorised the Qur‘an at the age of seven38 and committed to memory al-Muwatta’ at the age of ten.39 His Qur‘anic teacher was Ismā‘il al-

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32Ibn Hajar, Tawāli, 50-51; al-Khaṭib, Tārikh, 59.
33Khadduri, ShWS’s Risāla, 10; Abu Zahra, ShArjl, 18-19.
34Al-Khaṭib, Tārikh, 59; also Yaqūt, Irshād, 368.
35His another interest was in archery (al-ramy), see Ibn Hajar, Tahdhib al-tahdhib (Beirut, 1326[1908]), vii, 26 (cited hereafter as Tahdhib); al-Shafi‘i excelled in this sport by “hitting the bull’s-eye nine (or ten) times out of ten”, see Chaumont, “al-Shafi‘i”, 181.
36Ibn Hajar, Tawāli, 115.
37Ibn Abī Hātim, Adab, 24.
38Ibn Hajar, Tawāli, 54.
39Ibn Khallikān, Wafayāt, 570.
Qaṣṭantín.\textsuperscript{40} In the field of \textit{tafsir}, al-Shāfi‘ī esteemed very much the commentary on the Qur’an by the Zaydi-Mu’tazili scholar, Muqātil b. Sulaymān (d. 150/767).\textsuperscript{41}

Most sources state that al-Shāfi‘ī stayed in his early life with the tribe of Hudhayl in order to acquire a thorough knowledge of Arabic. This tribe was renowned its use of pure Arabic.\textsuperscript{42} However, the sources disagree on the period of his stay. Some say seven,\textsuperscript{43} some ten,\textsuperscript{44} some even twenty years.\textsuperscript{45} In any case, al-Shāfi‘ī gained a vast knowledge of Arabic, poetry, tales and the history of the Arabs. In fact, he was an expert in the Arabic language. This is evidenced by his commitment to teaching Arabic to his students in later life. It is also reported that al-Āṣma‘ī (d. 213/828), an eminent scholar of Arabic, studied under al-Shāfi‘ī, and read over with him the Hudhali poems and the \textit{Diwan} of al-Shanfarā in Mecca.\textsuperscript{46}

Al-Shāfi‘ī’s commitment to poetry and the Arabic language then turned to the study of \textit{fiqh} and \textit{hadith}. The sources state that al-Shāfi‘ī was reminded one day that it was better for him to study religious knowledge than to study poetry.\textsuperscript{47} Though this anecdote cannot be verified, it was used by Ibn Abī Hātim, for example, to indicate a turning point in al-Shāfi‘ī’s intellectual endeavours.\textsuperscript{48} When he began his quest for religious knowledge in the field of \textit{fiqh} and \textit{hadith}, his vast knowledge of Arabic helped him to master that knowledge in a short period. At the age of fifteen, al-Shāfi‘ī was authorised by Muslim b. Khālid al-Zanjī (d. 180/796), the \textit{mufti} of

\textsuperscript{40}Abū al-Fidā’ Ibn Kathir, \textit{al-Bidāya wa-l-nihāya} (Beirut, 1966), ix, 252.

\textsuperscript{41}Hamidullah, “Contribution of al-Shafi‘i”, 55; Muqātil b. Sulaymān was a \textit{muḥaddith} and \textit{mufassir}. His \textit{tafsir} includes \textit{Tafsir Muqātil b. Sulaymān} in 5 vols. and \textit{Kitāb tafsir al-khams mi`at āya min al-qur`ān}, see M. Plessner- [A. Rippin], art. “Muqātil b. Sulaymān”, in \textit{EF}, vii, 508-09.

\textsuperscript{42}Ibn Hajar, \textit{Tawāli}, 54-55.

\textsuperscript{43}Yaʿqūb, \textit{Irshād}, 368.

\textsuperscript{44}Ibn Kathir, \textit{Bidāya}, 252.

\textsuperscript{45}Ibn Kathir, \textit{Bidāya}, 252.


\textsuperscript{47}See, Ibn Hajar, \textit{Tawāli}, 58 and Abū Nu`aym, \textit{Hilyat}, 70.
Mecca, to give *fatwās*.49 What is more, al-Shāfi`i's involvement in the search for knowledge was enhanced by the status of Mecca itself as a centre for religious learning. Later on, al-Shāfi`i appears in the history of Islam as a jurist and thinker *par excellence*.

Among al-Shāfi`i’s distinguished teachers in Mecca were Muslim b. Khālid al-Zanjī, Ṣufyān b. ʿUyayna (d. 193/813) and others.50 According to al-Shāfi`i himself, some claimed that the highest authority in religious knowledge in Mecca was held by ʿAtā’ b. Abi Rabāḥ.51 He was succeeded in this rank by ʿAbd al-Malik b. ʿAbd al-ʿAzīz, known as Ibn Jurayj (d. 150/767), who later became the *muftī* of Mecca. According to Ibn Ḥajar, al-Shāfi`i learned Ibn Jurayj's books from his students, namely Muslim b. Khālid al-Zanjī, Saʿid b. Ṣālim al-Qaddāh, ʿAbd al-Majīd b. ʿAbd al-ʿAzīz b. Abī Rawwād and ʿAbdallāh b. al-Ḥārith al-Makhzūmī.52

1.6.2 Al-Shāfi`i in Medina

After finishing his studies in Mecca, al-Shāfi`i went to Medina to study under Imam Mālik in 170/786. Imam Mālik, the author of the *Muwaṭṭa*, was regarded as the highest authority in *fiqh*. His name was known throughout the Islamic world and he attracted many students from all over that world. Al-Shāfi`i studied under Mālik until the latter died in 179/795.53 This means that al-Shāfi`i was under Mālik’s supervision for a period of nine years. Mālik had an even greater influence on him than his Meccan teachers, and al-Shāfi`i sometimes acknowledged himself as a Medinese and

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51 Al-Shāfi`i, *Jirīmā al-*Ilm, 63, para. 245.
52 Ibn Ḥajar, *Tawālī*, 72-73; on Ibn Jurayj, see Ch. Pellat, art. “Ibn Djuraydj”, in *EI*, supp. 5-6, 386.
a pupil of Mālik. However, at this time al-Shāfī‘ī had not yet developed his own approach to fiqh, even though he had already succeeded as a brilliant jurist.

Al-Shāfī‘ī also studied under various other scholars in Medina. One of these was Ibrāhīm b. Muḥammad b. Ṭāhā, a faqīh who had received his own education from ‘Amr b. ‘Ubayd, a Muʿtazili. Ibrāhīm is reported to have had a Muʿtazili tendency and may well have been a Muʿtazili. Therefore, it is likely that al-Shāfī‘ī was well-versed in the Muʿtazili approach to knowledge which put reason as the primary source of knowledge. Suffice it to say that the Muʿtazili hierarchy of evidences (adilla) was as follows: reason, the Qur’an, the Sunna and ijmā‘.

However, this was not the first time al-Shāfī‘ī had been exposed to Muʿtazili views, since his teacher in Mecca, al-Zanjī, was also well-acquainted with them. It is reported that al-Zanjī had studied under Ghaylān b. Muslim al-Dimashqi.

Al-Shāfī‘ī was also well-versed in the approach to knowledge of the Hijāzī school, the school of thought of Mecca and Medina. The Hijāzī school was also known as ahl al-hadīth, as established by Mālik in Medina. To Mālik, the sources of knowledge were as follows: the Qur’an, the Sunna, ijmā‘, Medinese practice (‘amal ahl al-madīna), qiyās and considerations of public interest (maṣlaḥa mursala). The

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54 His full name is ‘Amr b. ‘Ubayd b. Bāh, one of the first Muʿtazila. He was born at Balkh in 80/699 but moved to Baṣra, see W. Montgomery Watt, art. “‘Amr b. ‘Ubayd”, in EP, i, 454.
56 ‘Abd al-Jabbār, Tabagāt, 139; refer further to Chapter 2.
57 ‘Abd al-Jabbār, Tabagāt, 139; Ghaylān b. Muslim is chiefly known as one of the advocates of free will, which is in agreement with the Muʿtazili view, see Ch. Pellat, art. “Ghaylān b. Muslim”, in EP, ii, 1026.
views of *ahl al-hadîth*, however, were not confined to Medina and its surrounding areas alone, but influenced and shaped all the great centres of Islam.\(^{60}\)

If al-Shâfi`î was familiar with the Mu`tazili approach to knowledge while studying under Mâlik, he probably did not have direct access to the approach to knowledge of the school of *ra`y* (the speculative school), which prevailed in Iraq, especially in Kûfa and Baghdad.\(^{61}\) For this school the sources of knowledge were the Qur`ân, the Sunna, *ijmâ`, the sayings of the Companions (*aqwâl al-sahâba*), *istihsân* (juristic preference)\(^{62}\) and *`urf* (custom).\(^{63}\) Imâm Abû Ḥanîfa was acknowledged as the father of this school of thought. Two of Abû Ḥanîfa’s followers, the grand Qâdi Abû Yûsuf (d. 182/798)\(^{64}\) and al-Shaybânî (d. 189/804)\(^{65}\) then developed his ideas.

1.6.3 Al-Shâfi`î in Yemen

After the death of Malik in 179/795, al-Shâfi`î was invited to become the Qâdi at Najrân in Yemen. His departure for Yemen as an Islamic authority in his own right was due to the death of Malik. At that time, al-Shâfi`î was around thirty years old and he could well have been regarded as one of the contemporary representatives of the

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\(^{60}\) Schacht, *Introduction*, 34.

\(^{61}\) See I. Schacht, art. “*aṣḥâb al-ra`y*”, in *EF*, i, 692; see further Chapter 2.

\(^{62}\) *Istihsân* literally means ‘to approve, or to deem something preferable’. It is derived from *hasuna*, meaning being good or beautiful. Technically, it is ‘a method of exercising personal opinion in order to avoid any rigidity and unfairness that might result from the literal enforcement of the existing law’. It involves setting aside an established analogy in favour of an alternative ruling which serves the ideals of justice and public interest in a better way, see M. H. Kamali, *Principles of Islamic Jurisprudence* (Cambridge, 1991), 246.

\(^{63}\) *Urf* is derived from the root word *`arafa* (to know), and literally means ‘that which is known’. Technically, *urif* is ‘recurring practices which are acceptable to people of sound nature’, see Kamali, *Principles*, 283; also Mar`î, “al-`Ijtihâd”, 97-99.

\(^{64}\) His name was Abû Yûsuf Ya`qûb al-Ansârî. He was a prominent lawyer and one of the founders of the Hanafi madhâhab. His was born in the year 113/731 and studied under Abû Ḥanîfa, Malik b. Anas, al-Layth b. Sa`d and others. He was appointed as the Qâdi in Bağhdâd and then received the title Qâdi al-qadî (the grand Qâdi). His famous work is *K. al-kharâj*, a treatise on public finance, taxation, criminal justice and related subjects, see I. Schacht, art. “Abû Yûsuf”, in *EF*, i, 164f.

\(^{65}\) His name was Abû `Abdallâh Muhammad b. Ḥasan, a *mawla* of Banû Shaybân. He was a jurist who studied under Abû Ḥanîfa, Abû Yûsuf and Malik. Born at Wâṣîn in 132 (749/50) but brought up in Kûfa, see Heffening, art. “Al-Shaibânî”, in *EF*, iv, 271-72.
school of Medina. While he was in Yemen, al-Shāfīʿī studied under celebrated teachers such as Muṭṭarīf b. Māzin al-Ṣanʿāʾī, who was the Qadi of Ṣanʿāʾ, and Hishām b. Yūṣuf al-Ṣanʿāʾī. However, while al-Shāfīʿī was in Yemen, he was accused of supporting an ʿAlid movement to topple the Abbasid caliphate. This movement was led by the Zaydī Imām Yaḥyā b. ʿAbdallāh. Al-Shāfīʿī was arrested together with three hundred other men and brought to Raqqa before the caliph Ḥārūn al-Rashīd (d. 193/809) in 184/800. All the prisoners were sentenced to death for their crimes, but, al-Shāfīʿī was pardoned when he defended his loyalty to the caliph and denied the allegation that he was a Shiʿī.

1.6.4 Al-Shāfīʿī in Iraq

Al-Shaybānī was at that time the Qadi of Raqqa, and attended the court hearings of al-Shāfīʿī. He was attracted by the answers given by al-Shāfīʿī, and is reported to have defended him by acknowledging him as a well-versed scholar in fiqh. This provided an opportunity for al-Shāfīʿī to meet al-Shaybānī and to associate with him and with other scholars of Iraq. It was probably in the year he spent with al-Shaybānī in Iraq that al-Shāfīʿī read all his works. One report says:

"He [al-Shāfīʿī] was attached to Muḥammad ibn al-Ḥasan for a year, so as to write down his books. They related to us what al-Rabīʿ ibn Sulaymān quoted from al-Shāfīʿī, who said, "I wrote down for Muḥammad a camel's load of books.""

By associating with the scholars of Iraq and discussing with them, al-Shāfīʿī was able to master the method of the school of raʿy. This, according to Majid
Khadduri, had a great impact on him.\(^{72}\) By now he had been exposed to the two main intellectual trends in the Islamic world, namely the school of hadith and the school of ra'y. Both schools, each with its own approach to religious knowledge, were responsible for the process of translating Islamic norms into practice. Therefore, al-Shäfi`i had acquired in his possession a broad basis of contemporary Islamic expertise. In other words, al-Shäfi`i was well-versed in all growing trends in the Islamic world because of his wide travel and broad relationship with people. It is not surprising that with his brilliant intelligence al-Shäfi`i came up with a synthesis and a systematised approach to knowledge. His approach was an integrated approach combining that of ahl al-hadith with that of ahl al-ra'y. The importance of al-Shäfi`i was his deliberate effort in choosing and arranging the arguments made by ahl al-hadith and ahl al-ra'y regarding religious knowledge.\(^{73}\)

The reason for al-Shäfi`i's creativity is not difficult to find. He studied under the best teachers of his age. These teachers were not merely involved in the transfer of knowledge from one person to another but were men of calibre and creativity. In making decisions in matters of religion, they applied their own method constructively and did not depend on others. In short, every one was an independent scholar. This includes all the known scholars who had personal contact with al-Shäfi`i.

1.6.5 Al-Shäfi`i's Return to Mecca

After staying in Iraq for nearly two years, al-Shäfi`i returned to Mecca and stayed there for nine years.\(^{74}\) He devoted himself to teaching, but his teaching began to

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\(^{72}\) Khadduri, *Shäfi`i's Risalah*, 12.


\(^{74}\) Chaumont, "Al-Shäfi`i?", 182; see also Othman, *Shäfi`i and the Interpretation of the Role of the Qur'an and the Hadith*, 12.
differ from Mālik’s because he was now well-acquainted with both Mālikī and Ḥanāfī legal opinions. He knew some advantages and disadvantages of both these schools.

Al-Shāfi’ī’s combining of the approaches of *ahl al-hadīth* and *ahl al-ra’y* influenced many people in Mecca. Among them were Abū Bakr ʿAbdallāh b. al-Zubayr b. ʿAbdallāh b. Zakariyā al-Ḥumaydī (d. 219/834), Abū Ishāq Ibrāhīm b. ʿAbdallāh b. Muḥammad b. ʿAbbās, also known as Ibn ʿUthmān b. Shāfi’ī al-Muṭṭalibī (d. 237/851), Abū Bakr b. Muḥammad b. Idrīs Warrāq al-Ḥumaydī and Abū ʾl-Walīd Mūsā b. ʿAlī al-Jarūd b. ʿImrān. Some of them wrote books according to al-Shāfi’ī’s views. However, in some matters, they had a different opinion from al-Shāfi’ī. All of them except al-Ḥumaydī studied under al-Shāfi’ī only in Mecca, before he went to Baghdad. Al-Ḥumaydī followed al-Shāfi’ī when the latter moved to Egypt, and stayed there until al-Shāfi’ī died.

1.6.6 Al-Shāfi’ī’s Alleged Early Arrival in Egypt

There is no report from the sources supporting a view that the first arrival of al-Shāfi’ī in Egypt was earlier than 198/813, as suggested by Heffening. According to Heffening, al-Shāfi’ī travelled to Egypt for the first time before he returned to Mecca from Baghdad, and journeyed through Harran and Syria after leaving Iraq. Since no evidence can be found for this view in the sources, one may concur with Schacht that the view of Heffening is not accurate. Al-Shāfi’ī came to Egypt for the first time in

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75For the last two, their years of death are not known, see, Ibn ʿAbd al-Barr, *Intiqāl*, 104-105.
76Ibn Hajar, *Tawāli*, 244-45.
77Heffening, “Al-Shāfi’ī”, 252.
198/813. Al-Kindi mentions that at this time al-Shāfi‘i was known as a great jurist and teacher in Baghdad, and had attracted many followers there.79

1.6.7 Al-Shāfi‘i’s Return to Baghdad

On his second arrival in Baghdad in 195/811, two years after the death of the caliph Hārūn and six years after al-Shaybānī’s death, al-Shāfi‘i’s ideas were fully developed. His arguments were always based on the Qur’an and the Sunna, as opposed to those of other scholars who referred to the sayings of their masters.80 He now succeeded in attracting a considerable audience in Baghdad. After his arrival in Baghdad, it is reported that only one ḥalqa (study circle) was left, under al-Shāfi‘i. He stayed in Baghdad for two years, before once more returning to Mecca. It was at this time that he established himself as a high calibre jurist and thinker.81

Among al-Shāfi‘i’s students in Baghdad were Abū ‘Alī al-Ḥasan b. Muḥammad al-Sabbaḥ al-Za‘farānī (d. 260/873), Abū ‘Alī al-Ḥusayn b. ‘Ali al-Karābīsī (d. 256/869), Ibīrīhm b. Khālid al-Kalbī, known as Abū Thawr (d. 240/854), Abū ‘Abdallāh Ḥaḍm b. Ḥanbal (d. 241/855), Abū ‘ Ubayd al-Qāsim b. Sallām (d. 224/838), Abū ‘ Abd al-RAHMān b. Ḥaḍm b. Muḥammad b. Yahyā al-As̲h’ārī al-Baṣrī, Abū Ya‘qūb Ishāq b. Makhlad, known as Ibn Rāhawayh (d. 238/852)82 and Sulaymān b. Dāwūd b. ‘Alī b. ‘ Abdallāh b. ‘ Abbās al-Ḥāshimi, known as Abū Ayyūb al-Baghdādi.83 These students of al-Shāfi‘i were responsible for the spread of his ideas in the form known later as al-qawl al-qadīm (the old doctrine), which was based

80Ibn Hajar, Tawālīḥ, 12-13.
82Ibn ‘ Abd al-Barr, Intīqāʾ, 105-107.
83Ibn Hajar, Tawālīḥ, 245-56.
on his writings and lectures delivered in Baghdad. Some of his students, however, did
not follow him strictly. Al-Za‘farānī, for example, made alterations to al-Shāfi‘ī’s
views which annoyed others of his students. Accordingly, most of al-Za‘farānī’s
books disappeared because nobody wanted to copy them. Abū Thawr developed his
own legal thought which differed from the system of al-Shāfi‘ī.84

1.6.8 Al-Shāfi‘ī in Egypt

Al-Shāfi‘ī returned to Mecca after his two years in Baghdad. Then he went back to
Baghdad in 198/813, but only stayed there for a few months. At this time there was
political instability in Baghdad because civil war had erupted between the Caliph al-
Amīn (d. 198/813) and his half-brother al-Ma’mūn (d. 218/833) over the succession
to the caliphate. In year of al-Shāfi‘ī’s return, the caliph al-Amīn was murdered, and
Baghdad remained in chaos until the arrival of al-Ma’mūn in 204/820 from
Khurasan.85 Al-Shāfi‘ī left Baghdad before the murder of the caliph, but did feel that
the disorder in public life was harmful to his intellectual endeavours. He also
believed that al-Ma’mūn had a bias towards Mu‘tazilī views, which were not
compatible with his own views. Al-Shāfi‘ī’s expectations proved correct when al-
Ma’mūn in 213/828 proclaimed the createdness of the Qur’an (khalq al-Qur’ān).86

With these considerations al-Shāfi‘ī decided to settle in Egypt, and went there on 28
Shawwāl 198/(21 June 814).87 According to Abū ‘Umar al-Kindī (d. 350/961), al-
Shāfi‘ī set out to Egypt on the invitation of his friend, ʿAbdallāh b. ʿAbbas b. Mūsā,
the son of the newly appointed governor of Egypt.88 However, his arrival in Egypt

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84Ibn Nadīm, Fihrist, 520.
86Abū Zahra, Shāfi‘ī, 28.
87Ibn ‘Abd al-Barr, Ittiqā‘, 67; also Heffening, “Al-Shāfi‘ī”, 253.
88Al-Kindī, Kitāb al-wulā‘, 158.
co-incided with an outbreak of fighting there, and he returned to Mecca. He returned to Egypt in 200/815 to settle there for good.89

Al-Shaf‘ī’s intellectual activities flourished in Egypt. It was here that he composed the new version of _al-Risāla_ and other treatises collected in _al-Umm_.90 He taught at the Mosque of ‘Amr in Fustāṭ. Here he was initially well received, and regarded probably as a disciple of Mālik by Banū ‘Abd al-Ḥakam, an important family who supported the Mālikī school in Egypt. Later he became a target for criticism by the Maliki Egyptians. Apart from this criticism, his teaching was most favourably accepted by his many students. Among the students who took knowledge of _fiqh_ and its methodology from al-Shaf‘ī in Egypt were Ḥarmala b. Yahyā b. Ḥarmala b. ‘Imrān b. Qarāḍ al-Tujibī (d. 226/840), Abū Ya‘qūb Yūsuf b. Yahyā al-Buwayṭī (d. 231/845), Abū Ibrāhīm Ismā‘īl b. Yahyā b. ‘Amr b. Ishāq al-Muzani (d. 264/877), al-Shaf‘ī’s son, Abū ‘Uthmān Muḥammad b. Muḥammad b. Idrīs (d. 232/846 or 242/856), Abū Muḥammad al-Rabi‘ b. Sulaymān b. ‘Abd al-Jabbār b. Kāmil al-Murādī (d. 270/883), ‘Abdallāh b. ‘Abd al-Ḥakam (d. 210/825) and his son Muḥammad (d. 268/881), and others.91 Almost all of them wrote books based on al-Shaf‘ī’s views and they followed strictly al-Shaf‘ī’s approach. They were responsible for spreading al-Shaf‘ī’s teachings to other places. Later these disciples of al-Shaf‘ī competed successfully with the Mālikīs for supremacy in Egypt. The most famous direct disciples of al-Shaf‘ī were al-Buwayṭī, al-Muzani and al-Rabi‘ al-Murādī. Al-Shaf‘ī is reported to have said of them: al-Buwayṭī is “my tongue” (_lisān_), al-Muzani is the “one who championed my view” (_nāṣir madhhab_), and al-

Rabî’ is the “transmitter of my books” (rāwiyat kutub). The legal decisions of al-Shāfi‘î in Egypt became known as al-qawl al-jadid (the new doctrine). This doctrine was a modification of his qawl al-qadîm (old doctrine), which had been developed before his arrival in Egypt in 198/814. It is worth noting that al-Shāfi‘î’s followers regarded his later decisions as the right decisions in all except a few cases. Al-Nawāwî says, “every case has two judgements of al-Shāfi‘î: the former and the final; the final is the correct one, but most of his followers make an exception for twenty cases.” With his two different doctrines, based on differences in reasons, time, place and custom, al-Shāfi‘î provides a positive example to all Muslim scholars to engage in ijtihād in the contemporary world.

1.7 Date of Death

Four years after he arrived in Egypt, al-Shāfi‘î died at the age of fifty-four in Fustāt on a Thursday night, the last day of Rajab 204/January 20, 820. The governor of Egypt himself led al-Shāfi‘î’s funeral prayer, and his body was buried on the Friday at the foot of al-Muqattam hills in the vault of Banû ‘Abd al-Ḥakam. The cause of his early death remains a mystery.

1.8 Al-Shāfi‘î’s Works

Traditional biographers have attributed many works to al-Shāfi‘î. Al-Nawāwî, for example, claims al-Shāfi‘î composed 113 works. His works cover various fields of

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92 Chaumont, art. “Al-Shafi‘iyya”, EI², ix, 186.
Islamic studies including usūl al-fiqh, fiqh, tafsīr, hadīth, usūl al-dīn, and others. His known works are as follows. On usūl al-fiqh, his works are al-Risāla, Jimā‘ al-‘īlm,Bayān farā‘īd Allāh,97 Șifat naḥy rasūl Allāh,98 Kitāb ibṭāl al-istīhsān,99 Kitāb al-ījmā‘,100 Kitāb ikhtilāf Malik wa-l-Shāfī‘ī,101 and Kitāb al-radd ‘alā Muḥammad b. al-Hasan.102 On fiqh, his works are Kitāb al-mabsūt fī l-fiqh103 also known as al-Mukhtasar al-kabīr wa-l-manthūrāt, and al-Umm.104 In the category of ikhtilāf in fiqh, his works are Kitāb ikhtilāf al-‘Irāqīyīn (or mā khtalafa fī-hi Abū Ḥanīfa wa-lbn Abī Laylā wa-Abū Yūsuf),105 Kitāb ikhtilāf ‘Alī wa-‘Abdallāh b. Mas‘ūd,106 Bāb khilāf Ibn ‘Abbās fī l-buyūd,107 Bāb khilāf Zayd b. Thābit fī l-ṭalāq,108 Bāb khilāf ‘Umar b. ‘Ābd al-‘Azīz fī ‘ushūr ahl al-dhimmā,109 and Bāb khilāf Sa‘īd wa-Abī Bakr fī l-ilā.110 On tafsīr (exegesis), his one work is Kitāb aḥkām al-Qur‘ān.111 On hadīth, his works include two collections of hadīth, namely al-Sunan al-ma‘thūra112 and al-Musnad,113 and Kitāb ikhtilāf al-ḥadīth.114 On usūl al-dīn,115 his works are al-
‘Aqidah,116 Usul al-din wa-masa’il al-sunna,117 al-Fiqh al-akbar,118 Kitab fi tashih al-nubuwwa wa-l-radd ‘ala al-barahima and Kitab fi l-radd ‘ala ahl al-ahwâ’.119 On siyar (Muslim law of nations), his works are Kitab siyar al-Waqidi120 and Kitab siyar al-Awza’.121 He also composed many poems, some of which are collected in works such as Natijat al-askar fi-ma’ yu’zâ ilâ al-imam al-Shafa’i min al-ash’ar, al-Jawhar al-naftis fi ashar Muhammad b. Idris, Mukhtasar min ashar al-Shafa’i, Abyat min kalâm al-Shafa’i, Qasida and Diwan al-Shafa’i.122 His other writings include Kitab al-sabq wa-l-ramy,123 Wasiya,124 Munajat, al-Fawa’id wa-l-hikayat wa-l-akhbar, Hijab, Hizb li-ma rawâ-hu ‘an Malik ‘an Nafi‘ ‘an Ibn Umar,125 Kitab al-shurut and Kitab faida’il Quraysh.126

In writing up his works, al-Shafa’i used at least three methods. Firstly, he himself would write a work. Secondly, his students would summarise his lectures and read them back to him for his approval. Thirdly, he would dictate his works to his students.127 Regarding the places where he composed his works, it is reported that al-Shafa’i wrote them in the three major cities where he stayed, first, Mecca, then

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114 In al-Sha’i, al-Umm, viii, 473ff; also in new edition, al-Sha’i, Ikhtilaf al-hadith, ed. al-Ustadh Muhammad Ahmad ‘Abd al-`Aziz (Beirut, 1406/1986).
115 Chaumont doubts the attribution of theological works to al-Shafa’i, see Chaumont, “al-MAP!”, 183.
116 It was translated into German by F. Kern, see F. Kern, “Ein dogmatisches Vermächtnis des Imam al-Shafi’i”, in MSOS, 2 Abt 13 (1910), 141-45; Sezgin, GAS, 489.
117 Sezgin, GAS, 489.
118 Sezgin, GAS, 490; Heffening, “Al-Shafi’i”, 253; Wensinck, Muslim Creed, 264ff.
119 The last two works are mentioned by al-Baghdadi, see al-Baghdadi, Al Fang bayna al-firaq, ed. Muhammad Muhay al-Din ‘Abd al-Hamid (Beirut, 1413/1993), 363.
120 Al-Shafi’i, al-Umm, iv, 260ff.
121 Al-Shafi’i, al-Umm, iv, 333-69.
122 Sezgin, GAS, 490; Diwan al-Shafi’i, ed. Zuhdi Yakan (Beirut, 1961).
123 Yaqut, Irshad, 398; Ibn al-Nadim, al-Fihrist, 296; Ibn Hajar, Tahdhib, ix, 31; Sezgin, GAS, 490.
124 Yaqut, Irshad, 398; Sezgin, GAS, 490.
125 Sezgin, GAS, 490.
126 Ibn al-Nadim, al-Fihrist, 296; Yaqut, Irshad, 397.
Baghdad, and then Egypt. However, the only surviving works are those that were written in Egypt.¹²⁸

Al-Shāfi`i’s scholarly life and works have made him one of the most prominent figures in the history of Islam. In appreciation of his illustrious career and vast contribution especially to the science of fiqh, he was called al-imâm al-mujtahid and al-mujaddid. The title mujaddid (reformer) was given to him by Ahmad b. Ḥanbal.¹²⁹ He was also given the honorific names of al-imâm zayn al-suqahā’, tâj al-suqahā’ and sayyid al-suqahā’.¹³⁰ Many scholars, traditional and modern alike, believe the emergence of the science of uşûl al-fiqh was due to his intellectual effort. That is why he is described as the “father” of this science. In the field of the science of hadith, his contribution is highly appreciated and he was called nāṣir al-hadith (the champion of the hadith).¹³¹ Al-Shāfi`i’s contribution to knowledge is still relevant even now, and he is credited with the foundation of the Shāfi`i school of fiqh even though he himself did not have any intention to do so. He warned against taqlīd. Al-Muzani in his introduction to al-Mukhtaṣar says, “I composed this book [Mukhtaṣar] as an extract from the doctrine of al-Shāfi`i and from the implications of his opinions, for the benefit of those who may desire it, even though al-Shāfi`i himself prohibited anybody from following him or anybody else ...”.¹³²

In conclusion, this chapter has highlighted some aspects of al-Shāfi`i’s intellectual life. To write a full biography of his life would require a more thorough

¹²⁸ Al-Shāfi`i, al-Risāla, intro., 9.
¹²⁹ Ibn Ḥanbal regarded al-Shāfi`i as the mujaddid (reformer) of the second century and the caliph ‘Umar b. ‘Abd al-‘Azīz as the reformer of the first century, see al-Khatīb, Tārikh, 62; al-Ṣubki, Tabaqāt, 104.
¹³⁰ Al-Khaṭīb, Tārikh, 56.
¹³¹ Al-Khaṭīb, Tārikh, 68.
¹³² Al-Muzani, Kitāb mukhtaṣar al-Muzani, in al-Umm, viii, 1; cf. Schacht, Origins, 6; also, Azizy, “Ikhtilāf”, 376.
research, as many reports on him are scattered throughout Islamic literature. One problem that a researcher faces is that these reports are not chronologically arranged, and the exact historical data are also not recorded in detail. Some reports seem to be contradictory, for example those concerning the place of his birth. The first historian who mentions al-Shaf`i is al-Mas`udi (d. 345/956). Later biographies are of the category of *manāqib*, such as those composed by Dāwūd al-Zāhirī (d. 270/884), al-Sāji (d. 307/920) and Ibn Abī Ḥātim (d. 327/938) and others. There are claims that *manāqib* are not reliable because many reports they include are mixed up with legends. However, from an Islamic perspective such stories have their own value and spiritual import, especially regarding the importance of dreams (*ru'ya*) to a pious individual. Islam does not separate the spiritual and physical aspects of life, and probably on this basis, biographers consider such reports worth including in their biographical works.

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133 Heffening, “Al-Shafi`i”, 252; Schacht, “Shafi`i’s Life”, 319; one example is the legend of al-Shafi`i’s birth. It is reported that when al-Shafi`i was still in his mother’s womb, his mother dreamt that the planet Jupiter came forth from her womb and proceeded to Egypt, where it fell, but a portion of its rays reached every city upon earth, al-Khatib, *Tārikh*, 59; Ibn Khallikān, *Wafayāt*, 571
CHAPTER 2
THE CONCEPT OF

‘ILM AL-KHABAR (KNOWLEDGE BASED ON REPORTS)

Before proceeding, brief definitions of the terms ‘ilm and khabar are useful at this point.

2.1 What is ‘Ilm?

The Arabic word ‘ilm is a verbal noun of the root verb ‘alima. Literally, ‘alima means “he knew, and he was acquainted with”. The active participle, ‘alim (pl. ‘ulamā‘), ‘alimūn), means someone who knows and the passive participle, ma’lum (pl. ma’lumāt), denotes an object known (or an object of knowledge). In English the equivalent of ‘ilm is ‘knowledge’.

The word ‘ilm has many synonyms. However, the common synonyms are ma’rīfā (cognition) and shu‘ūr (feeling). For al-Zabidi, both ma’rīfā and shu‘ūr denote

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1Ibn Manzūr, Lisān, 311; al-Zabidi, Taj, 405; al-Jawhari, al-Sihāh, 1990; Lane, Lexicon, 2138.

2In English ‘knowledge’ has the following meanings: “the fact of knowing a thing, state or a person” and “intellectual acquaintance with, or perception of, fact or truth”. It also means “theoretical and practical understanding of an art, science, language etc” and “the fact or condition being instructed”. Other meanings of knowledge are “information”, “a science” and “a sign, mark and token”, see William Little, H. W. Fowler & Jessie Coulson, The Shorter Oxford English Dictionary, 2 vols., ed. C. T. Onions (Oxford, 1983), i, 1162.

3Al-Fakhr al-Rāzī, for example, mentions ma’rifā (cognition), shu‘ūr (feeling), idrāk (perception), ṭasawwur (idea), hīfz (memory), tadhakkur (remembrance), dhīkr (recollection), fārm (understanding), fiqīh (comprehension), ‘aqīl (reason), dirāya (cognizance), hikma (wisdom), yaqīn (certainty, ‘ilm al-yaqīn, ‘ayan al-yaqīn and ḥaqq al-yaqīn), dhīhn (mind), fikr (thought), ḥads (intuition),

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the literal meaning of 'ilm which is an intellectual process. However, al-Zabidi mentions that some scholars of Arabic disagree with these meanings. For them, 'ilm is in the highest position since it is an attribute of God, who is never called 'ärif (connoisseur) or shā'ir (one who feels).\(^5\)

According to Ibn al-Manẓūr, 'ilm is generally defined as complete comprehension of a thing or things.\(^6\) Al-Rāghib defines 'ilm as "perception of a thing in its reality" (idrāku al-shay'ī bi-haqqati-hī).\(^7\) Such definitions of 'ilm are broad enough to include both God's knowledge, which is comprehensive in its scope, and human knowledge. Ibn Manẓūr refers to 'ilm as an attribute of God. God, in the Qur'an, is described as 'alim, 'alim and 'allām signifying Omniscient.\(^8\) God is al-'ālim who "knows what has been and what will be; who ever has known, and ever will know,

dhakā' (mental acuteness), fiṭna (intelligence), khāṭīr (impression of the mind), wahm (delusive imagination), zann (conjecture), khayāl (imagination), badhha (spontaneous intuition), awwaliyyāt (axioms), rawiya (deliberation), kiyyasa (deduction), khihra (knowledge by acquaintance), ra'y (opinion), and firāsā (insight), see al-Fakhr al-Rāzi, al-Tafsīr al-kabīr, 32 parts in 16 (Tehran, n.d.), i-i, 203-208; Another connotation is ihšāṣ (comprehension), see al-Zabidi, Tāj, 405; on distinctions in usage between 'ilm and fiqh, see I. Goldziher, art. "fiqh", EI, ii, 101; as far as the distinction between between 'ilm and ra'y is concerned, we have Bravmann's statements: "'ilm refers to matters for the settling of which one has already established "procedures" (or "norms") at one's disposal, while ra'y is applied to matters the handling of which requires the establishment of new "procedures" (or "norms".)", see M. M. Bravmann, The Spiritual Background of Early Islam: Studies in Ancient Arab Concepts (Leiden, 1972), 184.

\(^4\) Al-Zabidi, Tāj, 405; D. B. Macdonald, art. "Ilm", in EI, ii, 469.
\(^5\) Al-Zabidi, Tāj, 405; cf. Macdonald, "Ilm", 469.
\(^6\) Ibn Manẓūr, Lisān, 310f.
\(^7\) Al-Rāghib, al-Mufradāt, 348.
\(^8\) As far as the term 'ālim is concerned, it exclusively refers to God and appears about thirteen times (Q 6: 73; 9: 94, 105; 13: 9; 23: 92; 32: 6; 39: 42; 59: 22; 62: 8; 64: 18; Q 34: 3; 35: 38; 72: 26). God is described as "'ālimu al-ghaybi wa-l-shahāda" (The Knower of the Unseen and the Visible) and 'ālimu 'l-ghayb (The Knower of the Unseen). The word al-'ālim occurs thirty two times and 'alima twenty two times as an attribute of God. The word 'ālim appears about one hundred and nine times. All refer to God except in a few places, see 'Abd al-Bāqī, al-Mu'jam al-mufahras li-alfāz al-Qur'ān al-karīm (Beirut, n.d.), 469-81.
what has been and what will be; from whom nothing is concealed in the earth nor in the heaven; whose knowledge comprehends all things, the covert thereof and the overt, the small thereof and the great, in the most complete manner.”

A second corollary of the above definition is that only facts, information or understanding that a person has acquired through experience, learning or being given information properly comes into the category of ʿilm. Ibn Manzūr asserts that a man who is taught by God could be called an ʿalīm (one who possesses the quality of ʿilm and in a high degree). He gives an example from the Qur’anic verse in which the Prophet Joseph says to the King of Egypt, “‘inni harizun ʿalimun” (I am a guardian knowing”, Q 12: 55). God has taught him the interpretation of dreams (Q 12: 6). Matters acquired using unsound channels of knowledge remain outside of ʿilm.

A third corollary of the definition of ʿilm is that it is the opposite of jahl, that is to say, ʿilm is “the disappearance of obscurity from the object known” (zawālu al-khafā'i mina al-maʿām). In the Qur’an, ʿilm is contrasted with jahl in three verses, (Q 11: 46; 12: 89; 46: 23). Al-Rāghib points out that fahl is of three kinds, namely “the mind’s voidness of knowledge, which is the primary meaning; and the believing a thing to be different from what it is; and the doing a thing in a manner different from that in
which it ought to be done." From this definition of jahl it can be deduced that ilm signifies (1) the presence of knowledge in the mind (2) knowing what a thing is really like and (3) knowing how to act.

The presence of knowledge in the mind means an object of knowledge has been imparted into the locus of knowledge (i.e. aql, qalb or sadr) to form understanding (fahm, fiqh etc) in the mind. So we find philosophers defining ilm as "the occurrence in the mind of the image of a thing" (husulu surati al-shay'i fi l-'aqil) and "the arrival of the soul at the meaning of a thing" (wusulu al-nafsi ilâ ma'nah al-shay').

Knowing what a thing is really like denotes factual knowledge or knowledge of truth. Ilm is then defined as "the definite and firm belief that conforms to reality" (al-i'tiqadu al-jazimu al-thabitu al-mutabi'qu li-l-waqi'), "perception of a thing as it really is" (idraku al-shay'i 'ala ma' huwa 'alayh), and "a deeply rooted quality in which the universals and the particulars are perceived" (sifatu rasikhatun yudraku bi-ha al-kulliyat wa-l-juz'iyyat). Ilm is also defined as "an attribute that necessitates a discernment that does not leave open the possibility of the opposite (sifatu tujibu tamyizan lâ yahtamilu al-naqid).
Knowing how to act means having practical knowledge (\textit{ilm} `amali). This is an important kind of human knowledge related to human actions. In Islam, practical knowledge comes under the field of law (\textit{shari`a}, \textit{fiqh}, \textit{hukm}), and al-Shâfi`i’s contribution specifically concerns this realm of knowledge. Knowledge relates to:

(i) Human acts relating exclusively to commands of God, namely prayer (\textit{salâh}), fasting (\textit{sawm}), alms-giving (\textit{zakât}), pilgrimage to Mecca (\textit{hajj});

(ii) Human acts relating to individual private rights (\textit{huqûq} al-`ibād), such as marriage, inheritance etc.

From this brief definition of the word \textit{ilm}, the most important question to be asked is how do we know anything? What are the sources of human knowledge? From the above definitions of knowledge, one can conclude that there are at least three sources of \textit{ilm}, namely reason, the senses and the report of another (\textit{khabar}). However, we will deal only with the last source here, i.e. knowledge based on \textit{khabar}.

2.2 What is \textit{Khabar}?

The word \textit{khabar} (plural \textit{akhbâr}, \textit{akhābûr}) is related to the verb \textit{khabara} which means “he knew; or had, or possessed, knowledge”. The noun \textit{khabar} is defined as “news that comes to you from someone whom you ask” or “what is transmitted from another

\footnote{It is worth noting that the term \textit{khabar} is close to the term “testimony” in modern theories of knowledge. On testimony, see C. A. J. Coady, \textit{Testimony: A Philosophical Study} (Oxford, 1992) and E. Sosa, art. “Testimony” in \textit{A Companion to Epistemology}, ed. J. Dancy and E. Sosa (Oxford, 1992), 503.}
\footnote{Ibn Manzûr, \textit{Lisân}, v, 308; Al-Zabîdî, \textit{Tâj}, iii, 166; Lane; \textit{Lexicon}, 695.}
THE CONCEPT OF 'ILM AL-KHABAR 46

or others”.\textsuperscript{19} Hence khabar means “information; a piece of information; a notification; intelligence; an announcement; news; tidings; a piece of news; an account; a narration, or narrative; a story”.\textsuperscript{20} Closely related to khabar, is a simple substantive khubr which is derived from the verb khabura (to know). According to Ibn Manzûr, the expression “khaburtu bi-l-amîr” (I knew an affair or case) conveys the meaning of “‘alimtu-hu”. So khubr denotes knowledge of a thing (al-‘ilm bi-l-shay’a’).\textsuperscript{21} Al-Râghib, however, defines it as knowledge of the things known by means of a report (al-‘ilm bi-l-ashyâ’ al-ma’lûma min jihat al-khabar).\textsuperscript{22} Here it is already clear that khabar is one of the sources of ilm.

The synonyms of khabar are naba’ and hadith.\textsuperscript{23} Regarding naba’, however, al-Râghib disagrees with the view that it is synonymous with khabar. According to him, both terms have different meanings in which naba’ relates to “a thing of great importance” and khabar only signifies “what is related from another or others”, which “may be true or false”.\textsuperscript{24} This may refer to the usage of the Qur’an. There is a sûra in the Qur’an named al-naba’. In this sûra, God says, “Of what do they question one another? Of the mighty tiding (al-naba’ al-‘azîm)” (Q 78: 1-2). This may refer to the Qur’an itself, or the resurrection. Naba’ also refers to news brought by the Prophets. For

\textsuperscript{19} Al-Zabidi, Tāj, iii, 166; cf. Lane, Lexicon, 696.
\textsuperscript{20} Lane, Lexicon, 696
\textsuperscript{21} Ibn Manzûr, Lîsân, v, 308; al-Firûzâbâdî, al-Qârnûs al-mubîl (Cairo, n. d), ii, 18.
\textsuperscript{22} Al-Râghib, al-Mufradât, 141.
\textsuperscript{23} Ibn Manzûr, Lîsân, v, 308; al-Zabidi, Tāj, iii, 166.
\textsuperscript{24} Al-Zabidi, Tāj, 166; Lane, Lexicon, 696.
example, God says, "Has there not come to you the tidings of those who were before you - the people of Noah, ād, Thamūd, the people of Abraham, the men of Midian and the subverted cities?" (Q 9: 70). However, naba' is also used in the Qur'an to convey the same meaning as khabar. God says, "O believers, if an ungodly man [fäsiq] comes to you with a tiding [naba'], make clear, lest you afflict a people unwittingly, and then repent of what you have done” (Q 49: 6).

The word khabar and its plural akhbār both occur in the Qur'an. The word khabar in its literal meaning occurs in the story of the Prophet Moses when God says "Remember when Moses said unto his household: I observe a fire, and will bring you news of it ("inna anastu na'ran sa'āti-kum min-hā bi-khabarīn") (Q 27: 7).

As far as the word hadith is concerned, it has two meanings. Firstly, hadith as an adjective means "new or recent", the opposite of qādim. Secondly, hadith is synonymous with khabar. Its use in the expression "sami'i'u hadithan hasanan (I heard a good story or narration, etc) clearly shows the meaning of hadith as khabar.

Technically, the word khabar has different meanings in different fields of study. We find that khabar is used in Arabic grammar, manṭiq (logic), kalām (theology), hadith and usūl al-fiqh as follows:

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25 The word khabar occurs twice in the Qur'an (Q 27: 7; 28: 29) and the word akhbār occurs thrice (Q 9: 94; 47: 31; 99: 4).
26 See al-Tahānawi, Kashshāf, i, 410-13.
i. Khabar in Arabic grammar. In grammar, the word *khabar* indicates the predicate of a nominal clause. For example, in a nominal phrase "Zaydun karimun" (Zayd is noble), Zayd, the first term, is the *mubtada'*. (inchoactive) and *karim*, the second, is its *khabar* (enunciative). The *mubtada' - khabar* is the term used in the formation of the nominal phrase in Arabic language.

ii. Khabar in *mantiq*. Ahl al-*mantiq* (logicians) use *khabar* to refer to a statement which may be true or false. The term is the counterpart of *inshā'*. (the interrogative, the vocative, the optative and the imperative discourses).

iii. Khabar in *kalām*. The *mutakallimūn* discuss *khabar* as a part of their theory of knowledge. For example, al-Māturīdī (d. 333/944), in his *Kitāb al-tawḥīd*, mentions three means of acquiring knowledge, namely (1) *ʿiyān* (use of the senses); (2) *khabar* (a report); and (3) *nazar* (speculative thinking). Al-Māturīdī divides *khabar* into three kinds: (1) the divine; (2) the prophetic; and (3) the general or historic. From the general report we gain knowledge of our own names, of our parents, of things, countries and history. The divine report which is revelation, is recognised as conveying absolute truth. Al-Māturīdī also credits the prophetic report with the highest degree of

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29 Al-Māturīdī, *Kitāb al-tawḥīd*, ed. F. Khulayf (Alexandria, n.d.), 7-11; He was among the first Sunni *mutakallimūn* who made a serious attempt to define a systematic theory of Islamic theological knowledge, see I. Schacht, "New Sources for the History of Muhammadan Theology", in *SI*, 1 (1953), 41; M. Cerić, *Roots of Synthetic Theology in Islam: A Study of the Theology of Abū Maṣūr al-Māturīdī (d. 333/944)* (Kuala Lumpur, 1995), 74. Al-Bāqillānī adopts this division in his *Tanhīd fi l-radd ‘alā al-
truthfulness. This is because there is clear evidence of the Prophets’ truthfulness, and because they were supported with clear and miraculous signs. What is problematic about the prophetic report, however, is the transmission of report from the Prophet by others. The reports of others are liable to error and untruthfulness. “For (the transmitters) do not possess the proof of their truthfulness nor do they have the demonstrative proof of their infallibility”. Accordingly, such reports should be scrutinised. However, if the concerned report which is related from the Prophet turns out to be transmitted by those whose reliability are undoubtedly proved, the report they transmit has the status of khabar mutawâtir and must be considered to impart true knowledge. But if individuals whose reliability is not verified have transmitted the report, it must be examined further before it is rejected or accepted. If such a report is compatible with either reason or the senses, it must be accepted as imparting true knowledge.

In sum, al-Mātifidi subdivides the prophetic report into khabar mutawâtir and khabar ghayr mutawâtir. He accepts the former as certain since no possibility of error or untruthfulness exists. As far as khabar ghayr mutawâtir is concerned, one should act in accordance with it even though one cannot be absolutely certain about its authenticity. However, al-Mātifidi reduces the importance of both the senses and reports as sources


30 Al-Mātifidi, Kitâb al-Tawhîd, 8; Ceriç, Roots of Synthetic Theology in Islâm, 95.
of knowledge by saying that they need reason (nazar) to confirm their reliability. Reason sets the limits of the senses and also verifies the truthfulness of a report.

iv. Khabar in ḥadīth and usūl al-fiqh. Scholars of ḥadīth and usūl al-fiqh refer to khabar as ḥadīth. Ḥadīth is defined as whatever is attributed to the Prophet by way of a saying, action, or silent endorsement. The term khabar is more general than ḥadīth. Khabar is applied to any sort of report, either about the Prophet or others, but ḥadīth only denotes a report about the Prophet. Therefore, every ḥadīth is a khabar, but not every khabar is a ḥadīth.

It is worth noting that each ḥadīth or khabar consist of two parts, namely its sanad or isnād (pl. asānīd, literally meaning support, and indicating how the content has been transmitted) and its matn (content). The sanad is the whole chain of transmitters from “its originator to its last transmitter, who have handed down the particular tradition and on whose authority its authenticity is based”. The matn is the text which comprises the actual wording of the ḥadīth by which the subject matter is known.

The muḥaddithūn have divided khabar into several categories most of which concern the isnād. The categories are defined as follows:

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31 Al-Zabidi, Tāj, i, 167; al-Tahānawi, Kashshāf, i, 410, 413.
33 Subhi al-Sālib, Ulūm al-ḥadīth wa-mustalahu-h (Beirut, 1959), 10; Mannāʾ al-Qaṭṭān, Mabāḥith fi Ulūm al-ḥadīth (Cairo, 1987), 9.
34 See al-Suyūṭī, Tadrib al-rawi fi sharh taqrīb al-Nawāwī, ed. ʿAbd al-Wahhāb ʿAbd al-Latīf (Medina, 1972), 41-2; Goldziher, Muslim Studies, ii, 19.
35 Al-Suyūṭī, Tadrib al-rawi, 42.
According to the reference to a particular authority, for example, the Prophet, a Companion, or a successor; a hadith is called marfu' (elevated), if the isnād of the hadith goes back to the Prophet though it might be broken somewhere, mawqūf (stopped), if the isnād of the hadith goes back to a Companion only, and maqtū'(severed), if the isnād of the hadith going back to a successor only;

According to the links in the isnād, i.e. whether the chain of reporters is interrupted or uninterrupted; a hadith is called musnad (supported), if its isnād is uninterrupted and goes back to the Prophet, muttaṣil (continuous), if its isnād is unbroken, munqatī' (broken), if its isnād has a single link missing somewhere in the middle, in one place or more, mu'allaq (hanging or suspended), if its isnād lacks one or more authorities from the beginning, mu'ḍal (perplexing), if its isnād lacks two continuous links in one or more than one places, and mursal (hurried), if its isnād omits the name of a Companion, i.e. a successor relates directly from the Prophet without quoting a Companion as an immediate authority;

According to the numbers of reporters in each stage of the isnād; a hadith is called mutawātir (consecutive or concurrent), if it is related by many people in a way that precludes the possibility of their colluding to create a lie. Akhbār al-ḥāḍ (reports from isolated individuals) are reports by a single person or two persons from the Prophet which do not fulfil the requirements of the category of mutawātir. There are two sub-divisions of
mutawātir, firstly mutawātir bi-l-lafz (the texts are identical in wording); and secondly, mutawātir bi-l-maʿnā (the texts are identical in meaning only). The category of āḥād is generally sub-divided into three, namely mashhūr (well-known), a report which was originally transmitted by one or two or more Companions from the Prophet or from another Companion, but which later became well-known and was transmitted by an unlimited number of people, ʿazīz (strong), a report transmitted by at least two reliable transmitters in any generation, but not as widely disseminated as the first, and gharīb (scarce or strange), a report with a single transmitter either throughout its isnād, after the Companion, or at any stage. A khabar al-āḥād may also be termed khabar al-wāḥid, khabar al-infīrād and khabar al-khāṣṣa.

(iv) According to the manner in which the hadith has been reported, such as using the word ʿan (on the authority of), ḥaddathānā (he narrated to us), akhbaranā (he informed us) or samīʿtu (I heard). In this category also, there are reports termed mudallas (concealed), if they have a concealed defect in the isnād and musalsal (uniformly linked), if their transmitters have a similar background or did similar things while narrating.

36'Uthaymin, MuMlah, 8; Kamali, Principles, 70; Wensinck, "Mutawātir", 781.
(v) According to the nature of the text and isnād. In this category, a hadīth can be ziyyādat thiqa (an addition by a reliable reporter), shādhdh (irregular), if it is reported by a reliable person but is at variance with a more reliable report, munkar (unrecognised), if it contains a vulgar expression, unreasonable remark or obviously erroneous statement in which case it is rejected without consideration of the isnād and mudraj (interpolated), if an expression or statement is proved to be an addition to the text by a reporter.

(vi) According to hidden defects found in the isnād or text of a hadīth, such ahādīth are called muʿallal (defective), and are of two types, namely maqlūb (overturned or transposed), if a report is attributed to someone other than the real authority in order to make it an acceptable report, or when two reports have the isnād of one with the matn of the other, and mudtarib (incongruous or shaky), if a report in has two people or more disagreeing with one another in their version of the report.

(vii) According to the reliability and memory of the reporters. The nature of the reporters in the isnād may qualify a hadīth as sahīh (sound or authentic), if the report has an uninterrupted isnād, is not irregular (shādhdh), and does not have any hidden defect such as a trustworthy

\[\text{\footnotesize 37See al-Shāfiʿi, Jīmāʿ al-ʿilm, 46; see also al-Khaṭīb, Usūl al-hadīth, 302f; Juynboll, "Khabar al-wāḥid", 896.}\]
scholar’s attributing a companion’s report to the Prophet, hasan (good), if its isnād is not totally complete or there is disagreement on the reliability of its authorities, and da’īf (weak), if there are serious defects in the narrator, and mawdū’ (fabricated or fictitious), if it is a false report attributed to the Prophet.38

The above classification of reports is a part of ‘ilm al-hadith (the science of hadith). Its rules provided a method of criticism to check and eliminate false reports. In this process of criticism, there are two basic assumptions held by muhaddithūn, namely (1) the authenticity of a report is best measured by the reliability of its transmitters, and (2) by scrutinising both individual transmitters and the continuity of chains of transmission, both authentic and spurious reports can be identified.

The focus of the science of usūl al-fiqh is on the legal importance of both mutawātir and āhād reports. All the important Sunni fuqahā’ recognise mutawātir reports as the second source of Islamic law after the Qur’ān. There is some disagreement about khabar al-wāhid. Some scholars, for example Ibn Ḥazm, treated it as having the same value as a mutawātir report.39 However, most Muslim scholars held that it only imparts probable knowledge. But since khabar al-wāhid does convey at least

39 Ibn Ḥazm, al-Inkār, i, 119-23.
a probability, every believer is bound by it and obligated to practise what it lays down.\footnote{Al-Khaṭṭāb, \textit{Usūl al-hadīth}, 302.}

2.3 What is *īlm al-khabar*?

*Khabar*, as already said, is a source of human knowledge along with the senses and reason.\footnote{See above, 47.} These sources provide the answer to the question “how do we know?” One can say respectively “someone told it to me”, “I saw it”, and “it derives from this”. *Khabar* as a matter of fact is the most important source of our knowledge of anything beyond our own experience. We only know, for example, our birthday, our parents, of foreign countries, of the existence of the Prophets and much else through the medium of *khabar*. We cannot attain knowledge of these above matters through the senses or reason. Such knowledge gained from the reports of others is called *īlm al-khabar*.

The Qur’an itself is a *khabar* from the Prophet Muhammad comprising revelation which he received from God. With the death of the Prophet, reliance on *khabar* as a source of knowledge became inevitable as his followers transmitted his teaching to later generations. We have a *hadīth* attributed to the Prophet: “The learned (*‘ulamā*) are the heirs of the prophets. The prophets bequeathed neither dinar nor dirham but rather knowledge; so he who receives it, obtains an abundant portion.”\footnote{Al-Khaṭṭāb, \textit{Usūl al-hadīth}, 302.}

Though the exact number of the Prophet’s Companions cannot be determined, it has...
been estimated that their number ran into thousands. These Companions transmitted the teachings of the Prophet to their successors. Later generations of ulamā' are fortunate to have at their disposal not only the Qur'ān but also the vast collection of the prophetic hadith. These teachings of the Prophet have a chain of transmission going back from one narrator to another until it reaches the Prophet.

Since khabar means "speech (kalām) that may be true or false", the question arises whether a particular khabar is reliable as a source of 'ilm (knowledge). What makes us justified in believing the truth of a khabar and what is the source, or nature of that justification? Is it grounded on sensory experience or is it grounded on reason and understanding alone? Is there any other ground for justification? In other words, the most important question relating to khabar as a source of knowledge is how to distinguish truth from falsehood.

To seek answers to these questions of how to deal with khabar, the Qur'ānic viewpoint will be referred to in the first instance. Perhaps the most important Qur'ānic verse in respect of dealing with reports is God's command, "O believers, If an ungodly man [ṣīq] comes to you with a tiding [naba'], make clear, lest you afflict a people unwittingly, and then repent of what you have done" (Q 49: 6). Ibn Kathīr argues that even though this verse refers specifically to the report of a sinful person, it can also

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THE CONCEPT OF ‘ILM AL-KHABAR refer to a report by a person about whom we know little. In either case the report should be verified. The Qur’an indicates some basic methods of verification. One is to refer the matter to the Prophet or to those in authority (Q 4: 83). With the Prophet no longer alive, reference should be made to the learned authorities acquainted with the appropriate methods of ascertaining the truth with varying degrees of certainty. Other means of determining the truth of a report include: (1) documentation (Q 2: 282); (2) testimony (Q 2: 180, 282; 24: 4); and (3) the use of reasoning (Q 49: 6). No report is to be accepted unless its reporters are demonstrably reliable persons.

The reliability of the text of the Qur’an is beyond doubt because the entire text has come down through continuous and widespread transmission (tawātur). The problem is with the Sunna of the Prophet because it has been transmitted in large part in the form of khabar al-āḥād. Only a small portion has been transmitted in the form of khabar mutawātir. Thus, the importance of the work of al-Shāfī’i is evident, shedding light upon this major problem.

2.4 The Debate on ‘Ilm al-khabar

Al-Shāfī’i in his Jimāʾ al-‘ilm identifies two schools opposed to his view of khabar. They are ahl al-kalām (the scholars of ‘ilm al-kalām) and ahl al-fiqh (the scholars of

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44Al-Jurjāni, al-Ta’rifāt, 101; al-Zabidi, Tāj, 166.
47Siddiqi, Hadith, 107.
48See Chapter 4.
It is necessary to define precisely what points of difference were raised by these scholars with regard to this debate.

2.5 The View of Ahl al-kalām on Khabar

Those involved in the field of 'ilm al-kalām are known as ahl al-kalām or mutakallimūn.50 Ahl al-kalām emerged from disputes over matters of religious belief and their ultimate concern is with the religion of Islam and its fundamental beliefs. Their early intellectual efforts were aimed at defending Islam and its beliefs against the attacks of heretics. They are divided into several different sects (fīraq), namely the Mu'tazila, the Khawārij, the Murji’ā, the Shī’a and the Bāṭinīya.51 Ibn Qutayba also includes the Qā'īds, the Qadariya, the Mufawwids and the Rāfīḍa among ahl al-kalam.52 The Mu'tazila are generally regarded as the founders of the discipline of kalām.53 When al-Shāfi‘ī refers to as ahl al-kalām, many scholars believe he means the Mu’tazila specifically.54 The Mu’tazila flourished during the ninth century and their cause was zealously championed by the Abbasid caliph al-Ma’mūn. The leading figures of the Mu’tazila during the first half of the ninth century were Bishr b. al-Mu’tamir (d.

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49See below, Chapter 5.
50On 'ilm al-kalām, see L. Gardet, art. “‘Ilm al-kalām”, in EF, iii, 1141-50; Among the first theologians are Ma'bad al-Juhani (d. 80/699), Ghaylân b. Muslim al-Dimashqi (d. before 126/743), Wāsîl b. 'Atâ’ (d. 131/748) and 'Amr b. 'Ubayd (d. 145/762), see Fakhry, A History of Islamic Philosophy, 42.
51See al-Shahrastānī, al-Milal wa-al-nihal, ed. Ahmad Fahmi Muḥammad (Beirut, 1948), vol. I.
52Ibn Qutayba, Ta’wil, 10-17.
53This was a religious movement founded at Basra, in the first half of the 2nd/8th century by Wāsîl b. 'Ata’ (d. 131/748), see D. Gimaret, art. “Mu’tazila”, in EF, vii, 783-93.
THE CONCEPT OF 'ILM AL-KHABAR

210/825), Thumâma b. Ashras (d. 213/828), al-Nazzâm (d. 220/835 or 231/845), Abû Hudhayl al-‘Allâf (d. 227/841 or 235/849) and al-Jâhiz (d. 255/868).\(^{55}\) By the time of the Caliph Hârûn al-Rashîd, the Mu‘tazilis, under the leadership of Abû Hudhayl and Bishr b. al-Mu’tamir, were formed the schools of Basra and Baghdad respectively. Among the Mu‘tazilis who disputed with al-Shâfi‘î were Ḥâfîz al-Fard,\(^{56}\) Sufyân b. Sakhtân,\(^{57}\) Ibn ‘Ulayya\(^{58}\) and Bishr b. al-Ghiyâth al-Marisi.\(^{59}\)

According to al-Shahrastâni, the Mu‘tazila were the proponents of divine justice and unity (ašhâb al-‘adl wa-l-tawhîd). In theology, they believed in five basic principles (al-usûl al-khamsa) which became their distinctive characteristics, namely the unity of God (tawhîd), justice (‘adl), an intermediate position (manzila bayn al-manzilatayn), the promise and the threat (al-wâd wa-l-wâ‘id), and commanding the right and forbidding the wrong (al-amr bi-l-ma’nîf wa-l-naﬁ‘ an al-munkar).\(^{60}\)

As far as the sources of knowledge are concerned, it has been mentioned earlier that the Mu‘tazila regarded reason as the primary source.\(^{61}\) For the Mu‘tazila, all knowledge and all obligations come through reason. Reason discerns what is good and what is evil. In other words, man is obliged by reason to know good and evil; he is

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\(^{55}\)See Ibn Qutayba, Ta’wil, 26.  
\(^{56}\)Ibn Abî Ḥātim, Ādâb, 182, n. 2, 192-94; see also W. M. Watt, The Formative Period of Islamic Thought (Edinburgh, 1973), 202-03  
\(^{57}\)Ibn Abî Ḥātim, Ādâb, 167-69; see also Watt, Formative Period, 203.  
\(^{58}\)Ibn Abî Ḥātim, Ādâb, 186, n. 5; al-Bayhaqi, Manâgib, i, 457; see also Ali, al-Shâfi‘î’s Contribution, 132-36.  
\(^{59}\)Ibn Abî Ḥâtim, Ādâb, 175, n. 1; al-Bayhaqi, Manâgib, i, 463-64.  
\(^{60}\)Al-Shahrastâni, al-Milal, i, 57.
likewise under an obligation to do what is good and avoid evil. The Mu'tazila prefer reason to revelation. In studying the Qur'an, according to al-Ash'ari, they generally interpreted its teachings according to their own opinion without referring to what has been transmitted from the Prophet (i.e. hadith). In contrast, the Sunnis held that all obligations as well as all knowledge of good and evil are known through revelation. When the Mu'tazila were involved in discussion of the law (fiqh), they used their speculative method. They tried to philosophise and rationalise every religious precept. However, their attempts to rationalise religious precepts had been ruled out by many fuqahā', including Imām Mālik and al-Shāfi'i.

According to Ibn Qutayba (d. 276/889), ahl al-kalām attacked the acceptance of hadith by ahl al-hadīth and they opposed ahl al-hadīth because the latter claimed that the knowledge of law could be deduced from the hadith of the Prophet. For ahl al-kalām, many ahādīth were unreliable and some contradicted the Qur'an and reason. Ahl al-kalām believed that ahl al-hadīth were involved in error, lies and contradiction in transmitting hadith. Al-Nazzām claimed that both Abū Hurayra and Ibn Mas'ūd lied in transmitting reports from the Prophet. For al-Nazzām, some ahādīth reported were

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61 See above, 28.
63 Al-Ash'ari, al-Ībāna 'an usūl al-diyāna (Medina, 1405H), 46-51.
64 This group are those who refrain from deviating from dogma and practice, see art. "Sunna", EI', iv, 555.
66 See, Fakhry, A History of Islamic Philosophy, 63; Ibn Abī Hātim, Ādāb, 182-89.
incompatible with a rational understanding of God’s justice and of Islam in general. These were among the reasons why they did not accept khabar of the Prophet as a source of knowledge.

At a more detailed level, ahl al-kalam questioned the assumption of jurists and others regarding the truth of narration of khabar mutawätir or khabar al-‘āmma. Al-Shâfi‘i and his fellow jurists maintained that a mutawätir report was a source of certain knowledge, termed ‘ilm al-‘āmma, which is not susceptible to error and is beyond dispute. Al-Nazzâm, however, held that it did not impose certainty by itself but only together with external evidence. He argued strongly against the method of gaining knowledge through mutawätir report since “they may occur falsely”. He asserted that a khabar mutawätir conveys no proof since it might be false in its origin. As an example, he mentioned the report of the crucifixion of the Prophet Jesus. Even though this report is mutawätir, it is known to be false from the Qur’an in which it is mentioned that the Prophet Jesus was not really crucified (Q 4: 157). Al-Nazzâm also argues that if each of several persons was individually capable of lying, their mere coming together would not make them more reliable.

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67 Ibn Qutayba, Ta‘wil, 10-56.
68 Ibn Qutayba, Ta‘wil, 32, 35-42.
69 Al-Baghdâdi, al-Farq bayn al-firaq, 143; al-Khayyât, al-Intisâr wa-l-radd ‘alâ Ibn al-Râwandi (Cairo, n.d), 95; Khalidi, Arabic Historical Thought, 139.
71 Al-Baghdâdi, Uṣūl al-din, 11; al-Baghdâdi, al-Farq bayn al-firaq, 143; al-Khayyât, al-Intisâr, 95; Khalidi, Arabic Historical Thought, 140.
However, according to al-Baṣrī, al-Nazzām believed that khabar al-wāḥid can impart knowledge if it is accompanied by other evidence. 72 An example of this is a report that someone has died. If there is a crowd at his door, the sound of weeping is heard, and a bier appears, this imposes certainty. Thus, al-Nazzām does not reject khabar per se. For him, khabar al-wāḥid may well be true, whereas a khabar mutawātir may equally be false if external evidence proves it to be so. Al-Nazzām takes a rational approach by requiring external evidence to support a khabar. The later Muʿtazili, Abū ʿAlī al-Jubbāʾi (d. 303/915), admits the reliability of khabar al-wāḥid if it is accompanied by a witness, who is upright in character, and confirms the truth of that khabar. 73

Abū Hudhayl formulates another view. According to him, a proof cannot be established about something in the past except with the testimony of twenty witnesses, of whom one or more must belong to the people of Paradise (ahl al-janna). By ahl al-janna, he means only those who profess the Muʿtazils’ basic principles. He describes these people as the friends of God who never lie or commit grave sins. These people of Paradise are the proof, not the mutawātir reports. 74

In conclusion, it is clear that the Muʿtazila did not deny altogether the importance of khabar. What troubled them was the reliability of khabar in transmitting

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74 Al-Shahrastānī, al-Mīlal, 71.
the Sunna of the Prophet. In response to this problem, they held that if khabar is to be admitted as a source of 'ilm, its acceptance must be based on the Qur'an and reason.

2.6 The Views of Ahl al-fiqh on Khabar

Ahl al-fiqh are represented by the two schools of the Hanafis and Mālikis. They are identified as the "followers of the ancient schools of law, who prefer the 'living tradition' of the school to individual traditions from the Prophet".75

2.6.1 The Views of Abū Hanifa and his School

The Hanafis' approach to knowledge relies on the use of general principles (qawā'id kulliyāt).76 They use general (āmm) wording in the text of the Qur'an to derive these general principles. If a command or prohibition is expressed with a general term, the rule must apply to all the categories that could possibly be covered by the general principle. A general principle in its application is definitive (qat'ī). This means that the general principle cannot be restricted by an evidence that has a weak application, that is which is only probable (zannī). The Hanafis hold that khabar al-wā'iṣid is only ever probable evidence, and cannot restrict the general wording of the Qur'an which is definitive both in its transmission and evidential strength.77 A well-known case is that of a dog's licking a water utensil. It is reported in a hadith that the utensil should be purified by washing it seven times.78 Al-Shāfi'i takes this hadith literally. Abū Ḥanifa,

75Schacht, Origins, 41.
however, did not deem a particular number of washings to be a necessary condition for the purification of the utensil, as this is opposed, in his view, by *qiyaṣ* arising from the general principle of washing unclean things, which is simply, the removal of dirt. Furthermore, Abū Hurayra, the narrator of this *hadith*, did not act in accordance to his report. By applying a general principle, the Ḥanafīs appear to have ignored or rejected an authentic *hadith*. However, this may not be the case, as will be shown later.

For the Ḥanafīs, the secure basis of the legal system consisted of only those *ahādīth* which are *mutawātir* and *mashhūr* (widespread). As far as *khabar al-wāhid* was concerned, it had to judged against this secure basis in addition to being subjected to other tests. This was because the mode of transmission of *khabar al-wāhid* could not convey certainty. One of these tests was that the narrator’s action must not contradict his report. If the transmitter had adopted a different practice from the one which he narrated, Abū Ḥanīfa would not rely on his *hadith*, as shown by the above example of the utensil licked by a dog. The Ḥanafīs further required that the point of *khabar al-wāhid* should not be contrary to *ʻumūm al-balwā* (matters of general necessity which all Muslims must know). The Ḥanafīs, for example, did not accept the *hadith* that “Anyone who touches his sexual organ must make a fresh ablution”. They explain that if this *hadith* been binding, it would have become an established practice among all Muslims, however, this is not the case. The Ḥanafīs also maintained that if the narrator of *khabar al-wāhid* is not a *faqīḥ*, his report is acceptable only if it agrees with *qiyaṣ*, otherwise *qiyaṣ* is preferable. However, if a *faqīḥ* has transmitted the report, the report

is given preference over *qiyyās*. In other words, priority is given to *khabar al-wāhid* which is transmitted by a *faqīh* over *khabar al-wāhid* transmitted by others, i.e. *muhaddithūn*. The Ḥanafīs rejected, for example, the *ḥadīth* of *musarrāt* (animals whose milk is confined in their udders so as to impress a buyer). In this *ḥadīth*, it is reported that anyone who buys a *musarrah* has the choice for three days after having milked it either to keep it, or to return it with a *sā’* (a measure of volume) of dates. The Ḥanafīs argued that this *ḥadīth* is contrary to *qiyyās*, as the *sā’* of dates may not be equal in value to the amount of milk the buyer has consumed. The Ḥanafīs also maintained that *khabar al-wāhid* must not contradict the practice of the Companions.

2.6.2 The Views of Mālik on *Khabar al-wāhid*

Imam Mālik’s views on *ḥadīth* can be examined in his *Muwatta*’. There we find that Mālik does not consistently give priority to *ḥadīth* in determining detailed legal issues, although he generally begins each legal topic with a *ḥadīth* from the Prophet. This suggests that Mālik had a different view from al-Shāfī‘ī concerning prophetic *ḥadīth*. Mālik exercises great caution towards accepting *khabar* in general and especially towards examples of *khabar al-wāhid* that have irregular or unusual meanings and implications. For example, under the title “Fasting when *junub* in the morning during *Ramādān*”, it is reported that Abū Hurayra said “If some one begins the morning *junub*, he has broken the fast that day”. But after ‘Ā’isha and Umm Salama had confirmed that

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80 One *sā’* is equivalent to four *mudds* (a *mudd* is a measure of volume approximating to a double-handed scoop) of dates.

this was not true, and that the Prophet used to get up in the morning junub from intercourse, and would then fast for that day, Abū Hurayra was asked about what he had said. He replied, "I don't know anything about it. I was just told that by some one."

This answer shows how complete reliance on a report is not justifiable. The report may need another criterion to show whether it is true. This is the view of Mālik towards khabar in general. He takes a cautious approach in order not to commit the same error as Abū Hurayra.

Recent scholars have argued that Mālik's criterion for determining the correct judgement on a legal issue is the live context of the 'amal (practice) of the people of Medina, and not hadith. Mālik saw Medinan 'amal as the authoritative source of knowledge. He said in a letter to al-Layth b. Sa'd: "... So if there is something which is clearly acted upon in Medina, I am not of the opinion that anyone may go against it". For Mālik, all people should follow the people of Medina. The reason is that they had direct experience of having the Prophet with them, and they now have a collective knowledge of the Prophet's Sunna transmitted by many from one generation to another. Mālik sees the 'amal of Medina as representing the Sunna of the Prophet on the grounds that the practice of the city was sanctioned by the Prophet himself. In other words, Mālik regarded Medinan 'amal to be both authoritative and reliable. This method is in sharp contrast to that of al-Shāfi'i, who attacks Mālik in his work Ikhtilāf Mālik wa-

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82Mālik, al-Muwatta', i, 303-04 (Arabic text); trans. 140-41.
84Qādī 'Iyād. Tartib al-madarik, ii, 64-65 (as cited by Abd-Allāh, Mālik's Concept, 311-21); al-Murabit, Root Islamic Education, 62-65.
Shāfi'ī. For al-Shāfi'ī, Medinan ‘amal is very dubious. Like the ijmā‘ of the people of Medina, it is just a claim made by the Medinans. The question of how ‘amal could be verified, and how it had been kept intact during the generations prior to Mālik, was a puzzle to al-Shāfi'ī.

Be that as it may, in Mālik's view, the ‘amal of the people of Medina is more reliable than hadith. ‘Amal was the criterion for deciding whether a hadith was binding. As far as khabar al-wāhid is concerned, Mālik did not consider khabar al-wāhid to be a valid source of knowledge, even on the condition that it had been transmitted with sound isnād. Unlike al-Shāfi'ī and Ibn Hanbal, Mālik was very cautious of its implementation. He regarded khabar al-wāhid as the weakest and least authoritative of the sources to which he subscribed. He did not question the authenticity of hadith but said that it can be used only if it is supported by more established sources of law. He used ‘amal in order to place hadith in its proper context.

Ibn Qutayba explains the advantage of ‘amal and of the ijmā‘ of the people of Medina over a mere hadith. He says:

"In our opinion the truth is more likely to be established by ijmā‘ than by the transmission of hadith (al-riwāya). Hadith may be subject to forgetfulness, error, uncertainties, different possible interpretations, and abrogation; someone trustworthy may transmit from someone who is not; there may be two different commands, both of which are possible, such as making either one or two taslīms [at the end of the prayer]. Similarly, a man may have been present when the Prophet, may God bless him and grant him peace, gave a certain command and then been absent when he told [people] to do something different: he will then transmit the first command and not the second, because he does not know it. Ijmā‘, however, is free from such vicissitudes. This is why Mālik, may God have mercy on him, sometimes transmits a hadith from the Messenger of God, may God bless him and grant him peace, but then says,
‘The ‘*amal* in our city is such-and-such’, mentioning something that is different to the *hadith*. [This is] because his city was the city of the Prophet, may God bless him and grant him peace, and if the ‘*amal* in his time included such-and such a practice, that would have become the ‘*amal* of the following generation, and the generation after them, and the generation after them – and it is not possible that all the people would have stopped doing something that they were all doing in his city at his time and then done something else instead – and one generation from one generation is a much greater number than one from one. Indeed, people have related many *hadiths* with complete chains of authority (*muttasi*la) and then not acted according to them.15

In conclusion, Mālik considered the practice of Medina as a more sound proof of the Sunna than *khabar al-wāhid*. In general the criteria of *ahl al-fiqh* of the schools of both Abū Ḥanīfa and Mālik for determining the binding force of *khabar al-wāhid* are *ijmāʿ*, *khabar mutawātir*, and *khabar* from the Companions about which there is no disagreement. If *khabar al-wāhid* coincides with these criteria, it is accepted as valid and engenders knowledge. Therefore, one can say that *ahl al-fiqh* maintained an experiential approach to *khabar al-wāhid*. In contrast to the Muʿtazila, who use the criterion of reason, *ahl al-fiqh* stress empirical proofs in deciding the truth of *khabar*.

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CHAPTER 3

AL-SHÄFI`I'S DISCUSSION OF 'ILM (KNOWLEDGE)

In the first part of this study, we discussed al-Shäfi`i’s life and his interest in Islamic knowledge, an interest cultivated from an early age. His contribution lies in this realm of Islamic knowledge, and modern scholars such as ‘Abd al-Räziq and Rosenthal acknowledge his early importance in the history of Muslim thought dealing with the question of 'ilm (knowledge).¹ Al-Shäfi`i wrote his work as a methodological discussion of 'ilm al-din (religious knowledge). His main concern in his work, especially in al-Risäla and Jima 'al-`ilm, was to discuss how knowledge of religious law had been preserved and might still be obtained. In other words, al-Shäfi`i pursues his discussion of 'ilm with reference to how that knowledge may be derived. Before we proceed to al-Shäfi`i’s discussion of 'ilm, it will be useful to explain briefly the meaning of 'ilm in his terminology.

3.1 'Ilm in al-Shäfi`i’s Terminology

Al-Shäfi`i does not exactly define the term 'ilm in his work. This is also true of other terms that he uses. This does not, however, indicate weakness or carelessness. The most probable reasons for leaving terms not precisely defined are that his readers had a thorough knowledge of the general and technical terms that he used, and that such words were generally employed in his time.²

From the context of al-Shäfi`i’s work, it is clear that the word 'ilm is used in the sense of knowledge of religious law. This knowledge derives from a Divine source, revelation, in which knowledge of the rulings of God ('ilm ahkām Allāh)³ and

¹‘Abd al-Räziq, Tathhid, 244f; Rosenthal, Knowledge, 72f. 232; cf. Introduction.
²See Khadduri, Islamic Jurisprudence, 28.
³Al-Shäfi`i, al-Risäla, 19, para. 46.
the rulings of the Prophet (*ahkām al-rasūl*) are the object of his main discussion. Al-Shāfi‘ī seeks to understand religious law, which is generally the concern of the science of *fiqh*.

### 3.2 Al-Shāfi‘ī’s Classification of Knowledge

Al-Shāfi‘ī divided *‘ilm* into two types: religious knowledge and worldly knowledge. The saying is attributed to him, "*inna ma‘ṣū‘ah: ‘ilm al-dīn wa-‘ilm al-dunyā*" (knowledge is of two kinds: religious knowledge and worldly knowledge). Imām al-Ghazālī (d. 505/1111), himself a Shāfi‘ī scholar, used the terms "revealed" (*shar‘ī*) and "non-revealed" (*ghayr shar‘ī*) for this same division of knowledge.

Knowledge for al-Shāfi‘ī was not limited to religious knowledge but also included worldly knowledge. As far as he was concerned, the Muslim community should excel in both types of knowledge. However, religious knowledge is certainly al-Shāfi‘ī’s priority. This is clear from his life’s work as already discussed in the first chapter. Throughout his life, he devoted himself to acquiring this religious knowledge.

Al-Shāfi‘ī in his *Risāla* divides religious knowledge into *‘ilm al-‘āmma* (common knowledge) and *‘ilm al-khāssa* (specialists’ knowledge). He also divides knowledge between the categories of *ijmā‘* (consensus) and *ikhṭilāf* (disagreement), and between those of *al-iḥtāta fī ‘l-zāhir wa-l-bāṭin* (certain knowledge) and *haqq fī ‘l-zāhir* (probable knowledge). Of these divisions, the first is the most important by a long way, since it merits an entire chapter to itself.

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10. Al-Shāfi‘ī, *al-Risāla*, 478, para. 1328; 479, para. 1335 and; 485, para 1368; see below (3.5).
3.3 *Ilm al-‘āmma* and *Ilm al-khāṣṣa*

*Ilm al-‘āmma* is that sort of common knowledge or knowledge of the generality that no sane, mature adult could possibly not have. As al-Shāfi‘ī puts it in *Jimā‘ al-‘īlm*, “you will not meet a single Muslim without finding knowledge of it in his possession”\(^\text{11}\). Examples of this knowledge are the five daily prayers, fasting in Ramadan, the pilgrimage and zakāt on wealth. Other examples are the prohibition of fornication, killing, stealing and drinking wine, and other matters of this kind, which God has charged his servants either to know, or to give, or to abstain from.

As far as the sources of this knowledge are concerned, it is found textually (*nassan*) in the Book of God or generally (*‘āmman*) among the Muslims (*ahl al-islām*). Muslims know the details of this knowledge because it has been transmitted from the Prophet to each succeeding generation in turn (from the generality of them (*‘awāmmuhum*) to the generality, i.e. transmission by *tawātur*). There is no dispute concerning its authenticity and all Muslims are agreed that it is binding. They do not, according to al-Shāfi‘ī, dispute whether it has been related or whether it is incumbent on them. In fact the nature of this common knowledge is such that there can be no error in its transmission (its reported form, *khabar*) or interpretation (*ta‘wīl*). In addition, no dispute is permissible therein (*wa-lā yajūz fihi al-tanāzu*).\(^\text{12}\)

*Ilm al-khāṣṣa* is knowledge of details of matters that are *Ilm al-‘āmma*. It consists of subsidiary duties and specific rulings (*furū‘ al-farā‘id, khāṣṣ al-ahkām*) which are prescribed for God’s servants. Examples of this type of knowledge are the details of the law of prayer, fasting, pilgrimage, zakāt, etc. Most of these details are not mentioned in any scriptural text (*nass kitāb*) or in any text of Tradition (*nass sunna*) apart from the reports of specialists (*akhbār al-khāṣṣa*). In *Jimā‘ al-‘īlm*, al-


Shāfī’i describes *ilm al-khāṣṣa* as “knowledge (you find) of the predecessors and the successors who came after them, up to those whom you have met. Their opinion and the explanations on matters where there is no text of the Qur’ān available which they could interpret, are different and obviously at variance, [and they did not have recourse to qiyaṣ] and when they use qiyaṣ, qiyaṣ admits disagreement.” 13 This type of knowledge is susceptible to interpretation (ta’wil) and is to be understood by deduction (istinbāt) or analogy (qiyaṣ). 14 The end result of this knowledge is ikhtilāf (disagreement). To cite one example, the prohibition of theft is part of *ilm al-‘āmma*, in which disagreement is not permitted. However, scholars disagree with each other in determining the value of stolen goods for which the hand of the thief must be cut off. Al-Thawrī, for example, states that the value of stolen goods must be equivalent, at least, to ten dirhams or one dinār. Mālik, al-Shāfī’i and Abū Thawr are of the opinion that it must be equivalent to one-quarter of a dinār or more. Ibn Abī Laylā believes that it must be equivalent to five dirhams or more. 15

Let us further examine al-Shāfī’i’s view of both types of *ilm*. In the first place, al-Shāfī’i makes it clear that the division itself is based on the responsibility of Muslims to acquire religious knowledge. He divides Muslims into al-‘āmma and al-khāṣṣa. The term ‘āmma (pl. ‘awāmm) signifies Muslims in general. 16 As for the term khāṣṣa (pl. khawāṣṣ), it denotes Muslim scholars. 17 Thus, *ilm al-‘āmma* is the knowledge which Muslims have to acquire in order to fulfil their religious obligations, and *ilm al-khāṣṣa* refers to the specific areas of knowledge possessed by Muslim scholars, especially the *fugahā*.  

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14 Al-Shāfī’i, *al-Risāla*, 359, para. 967; Calder, “Ikhtilāf and ḫumā”, 56;
15 Azizy, “Ikhtilāf”, 375.
16 Lane, *Lexicon*, s.v., ‘āmma.
17 Lane, *Lexicon*, s.v., khāṣṣa.
Al-Shāfiʿi classifies *ʿilm al-ʿāmma* as the necessary knowledge that every Muslim must know. He reiterates that this type of knowledge is part and parcel of all Muslims' religious lives, and comes under the heading of *taklīf* (religious obligation).

Al-Shāfiʿi also touches on the sources of this knowledge, and acknowledges the Qur'an and the Sunna of the Prophet as the major sources. He goes on to explain that religious duties are derived from the Book of God and also from information that is preserved, and tradition that is practised by the Muslim community at large. In his view, this religious learning is based on the authority of reports from the Prophet. Accordingly, al-Shāfiʿi is no doubt that lawful and unlawful matters are decided on the textual basis of the Qur'an and the Sunna.

Therefore, according to al-Shāfiʿi, the Qur'an and the Sunna as the sources of *ʿilm al-ʿāmma* are transmitted in a type of *khabar* wherein error is not possible (*al-ladhlī lā yumkin fi-hi al-ghalāt min al-khabar*). This is *khabar mutawātir* or in al-Shāfiʿi’s term, *akhbār al-ʿāmma* from which certain knowledge can be attained. Hence this kind of knowledge is such that nobody could ever dispute its transmission or the obligations it imposes upon them. He thus concludes that this knowledge is true and that there can be no disagreement on it. In this case, al-Shāfiʿi takes the position of defending *ʿilm al-ʿāmma* against his opponents among *ahl al-kalām*.

After a brief explanation of the first type of knowledge, al-Shāfiʿi proceeds to discuss the second type, i.e. *ʿilm al-khāssa*. The whole chapter of *ʿilm* in *al-Risāla* centres around this second type of knowledge. It is clear that al-Shāfiʿi’s main concern is *ʿilm al-khāssa* (the specialists’ knowledge), which is also very important to the whole of society. This is because the responsibility of guiding the Muslim

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community lies on the *khāṣṣa* group, i.e. the specialists. It can be understood from his discussion that al-Shāfi‘ī’s main objective is to guide these specialists, who need this knowledge in fulfilling their responsibility.

The elaboration of *ʿilm al-khāṣṣa* is the responsibility of the specialists. Although the task of acquiring this knowledge is incumbent upon scholars, all believers are required to follow the provisions of the detailed duties once they are established by these scholars. The reason is that this knowledge is relevant to all. In the details of the law, the task of the believers is to follow those who have made a special study of it. One can say that this is also the case in other disciplines. For example, in medicine, only those who are experts in that field have the authority to prescribe medicine.

The details of the law are indispensable for all Muslims to enable them to fulfil their religious duties. It is not easy for ordinary Muslims to formulate them on their own because *ʿilm al-khāṣṣa* is not explicitly mentioned either in the Book of God or for the most part in the Sunna. Al-Shāfi‘ī adds that whenever this kind of detailed knowledge is found in a *sunna*, it is related only by *akhbār al-khāṣṣa* and not by *akhbār al-ʿammā*. Different interpretations among specialists are inevitable as a result of the difficulty of understanding *akhbār al-khāṣṣa*. In this case, the specialists use the methods of *qiyyās* and *taʾwil* (interpretation) in order to reach their conclusion.21 In other words, they apply *ijtiḥād*.

It should be noted that, according to al-Shāfi‘ī, *ʿilm al-khāṣṣa* is subject to different interpretations because of the different methods applied by the specialists. Among the methods of *ijtiḥād* used by the specialists are *qiyyās*, *taʾwil*, *raʾy* and

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istihsän. However, to al-Shāfi‘i, the only correct method of ijtihād is the method of qiyās.23

In general, ‘ilm al-khässa is beyond the capability of the masses and it is only obligatory for the specialists to acquire it. This is what is implied when al-Shāfi‘i’s interlocutor asks him whether ‘ilm al-khässa is binding upon all or upon certain specialists. His interlocutor holds that it is only a supererogatory act, and that one who has not sought this knowledge has not committed any sin.24

Al-Shāfi‘i elaborates that in certain cases acquiring this knowledge is only binding upon certain specialists or an élite group. Other specialists are accordingly released from this duty. Here al-Shāfi‘i lays down the general principle governing the pursuit of this knowledge, namely that not every expert must be involved in pursuing it. In other words, one may abstain from studying it if enough experts have acquired it. It needs to be stressed here that al-Shāfi‘i does emphasise the virtue of those who acquire it. When he is asked to give proof of this view from the Qur’ān and the Sunna, he justifies his claim by mentioning several duties such as jihād, attending funerals, performing burial prayers, replying to a salutation and studying religion in depth, which are all collective duties rather than individual ones.25

As an analogy to the above division of knowledge into ‘ilm al-‘āmma and ‘ilm al-khässa, al-Shāfi‘i compares it with the division of obligatory religious duties (farā‘id, singular farā‘id). Al-Shāfi‘i divides farā‘id into two types, namely, farā‘ al-‘āmma (a duty obligatory on all individual)26 and farā‘ fi-hi qasād al-kifāya (a

22Ra‘y denotes the “considered, judicious opinion of a qualified scholar”, Burton, Hadith, 200: istihsän signifies a “method of finding the law which for any reason is contradictory to the usual qiyās”, R. Paret, art. “Istihsän and istishäb” in EF, iv, 258.
23Al-Shāfi‘i, al-Risāla, 477, para 1326; 504-8, paras. 1457-68.
24Al-Shāfi‘i, al-Risāla, 359, para. 968.
25Al-Shāfi‘i, al-Risāla, 360-69, paras. 972-997.
26Al-Shāfi‘i, al-Risāla, 364, para. 982.
collective duty). The first category includes the five daily prayers, fasting, pilgrimage, legal alms, and the prohibition of usury, murder, adultery, theft and wine. Al-Shafi‘i states that all individuals are obliged (kulli fi‘ al-‘ibād) to know and practise these duties. This category is later known as far‘l ‘ayn (a duty obligatory on every individual) which directly relates to ‘ilm al-‘āmma. As far as the second type of far‘l is concerned, al-Shafi‘i defines it as a duty that, if performed by enough Muslims, is no longer obligatory on any other Muslims, whose non-performance would thus not be sinful. This is later known as far‘l kifāya (a duty obligatory on all, or a collective duty) which directly relates to ‘ilm al-khäsṣa.

Al-Shafi‘i justifies the notion of far‘l kifāya by reference to the duty of jihād, quoting the Qur’anic verses (Q 9: 5, 29, 36, 38-9, 41, 111). In some verses (Q 9: 38-39, 41), God condemns those who do not want to join a naft (party of warriors). Al-Shafi‘i explains that this duty must be either an obligation for all capable Muslims, like the duties of prayer, fasting, alms and others, or a collective duty. He argues that the duty of jihād is a collective duty by using the Qur’an (Q 4: 95), which mentions the difference between those who sit at home (al-qā‘idūn) and those who go out on jihād (al-mujāhidūn). Al-Shafi‘i points out that although God promises a high rank to the mujāhidūn, He also grants a good reward (al-husnā) to the others. Al-Shafi‘i asks how it is that those who do not go out on jihād receive a reward. It is that jihād is a collective duty. Al-Shafi‘i argues further that the duty of jihād is not incumbent upon all by quoting the verse:

“It is not for the believers to go forth totally; but why should not a party of every section of them go forth, to become learned in religion, and to warn their people when they return to them, that haply they may beware?” (Q 9: 122).

27 Al-Shafi‘i, al-Risāla, 363, para. 981.
28 Al-Shafi‘i, al-Risāla, 358, para. 962.
29 Al-Shafi‘i, al-Risāla, 360, para. 971.
30 Al-Shafi‘i, al-Risāla, 360-365, paras. 972-986.
The nature of *farḍ al-kifāya* is explained in order to maintain that *ilm al-
khāṣṣa* is a part of *ilm farḍ al-kifāya*.\(^{31}\) Having discussed the nature of the two
divisions of knowledge, al-Shāfi‘i has identified his main concern, which is the
sources of *ilm al-khāṣṣa*. He has narrowed down his argument to deal with
knowledge of specialised and debatable points rather than what is generally accepted
and agreed. His main argument is to prove the indispensibility in this area of reliable
documentation external to the religious law itself. Here he elaborates his view on the
sources of religious knowledge.

### 3.4 Sources of the Derivation of *Ilm al-dīn*

The central question for al-Shāfi‘i, on which many Muslim scholars have divided, is
how religious knowledge can be derived. The important question is the sources of the
derivation of knowledge, and not the nature of knowledge itself. *Ahl al-kalām*,
especially the Muʿtazila, have argued that reason is the primary source of knowledge.
Revelation is treated as only complementary to reason. *Ahl al-fiqh*, in particular Abū Ḥanīfa and Mālik, have also authorised the use of reason (*ijtihād bi-l-ra'y*) in addition
to revelation. Both approaches seem to argue for the same position, that is to say the
independent use of human reason in deriving knowledge.\(^{32}\)

A significant turning-point in the debate among Muslims scholars regarding
al-Shāfi‘i’s discussion is that knowledge in its totality is based on the direct
revelation of God’s words alone and not on human experience and reason. Al-Shāfi‘i
explicitly formulates the view that, in every problem faced by a Muslim, the Book of
God will surely provide him with guidance. He says, “No misfortune will ever
descend upon any of the followers of God’s religion for which there is no guidance in
the Book of God to indicate the right way.”\(^{33}\) So any rational elaboration or historic

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\(^{31}\) Cf. Calder, “*Ikhūlāt and *ijmā’*”, 58.

\(^{32}\) Cf. Chapter 2.

\(^{33}\) Al-Shāfi‘i, *al-Risāla*, 20, para. 48.
development without reference to a revealed source was rejected as arbitrary and unfounded. In what follows, we are going to examine how al-Shafi‘i argues his case.

According to al-Shafi‘i, the sources of religious knowledge are the Book of God (the Qur’an), the Sunna, ijmā‘ and qiyās. In his own words: “No one may ever judge a thing as being lawful or unlawful unless (this judgement) is based on 'ilm: the basis of 'ilm can be either khabar in the Qur’an, or the Sunna, or ijmā‘, or qiyās".34 In addition to these sources, al-Shafi‘i also accepts the opinions of the Companions (aqāwil al-sahāba) as a supplementary source. In his own words again:

“Knowledge has many categories: firstly, the Book and the Sunna if authentic; secondly ijmā‘ on matters on which the Qur’an and the Sunna are silent; thirdly the view of some Companions which have never given rise to any objection; then different opinions of the Companions in that matter and finally analogy based on some of these categories.”35

What we can understand from al-Shafi‘i’s words is that the Qur’an and the Sunna are the foundation of religious knowledge. Ijmā‘, the opinion of a Companion and qiyās are supplementary sources to the primary sources. Anything decided using other methods of derivation remains outside the category of knowledge. The only kind of reasoning permitted is qiyās.36

3.4.1 The Book of God (The Qur’an)

By the term the Book of God (kitāb Allāh), al-Shafi‘i means the Qur’an. Al-Shafi‘i believes that the Qur’an is a proof of the prophethood of Muḥammad, the most authoritative guide for Muslims and the first source of knowledge. Thus, it is the duty of all Muslims to derive knowledge from the Qur’an.

34 Al-Shafi‘i, al-Risāla, 39, para. 120; in his translation, Khadduri misses the word khabar (report), 78; see also L. Safi, The Foundation of Knowledge: A Comparative Study in Islamic and Western Methods of Inquiry (Petaling Jaya, 1996), 35.
35 Al-Shafi‘i, al-Umm, vii, 265.
Al-Shāfi‘i points out that knowledge of God’s commands is guidance for a Muslim. He explains this concept of guidance in his chapter on *al-bayān*. According to al-Shāfi‘i, God guides man to know His commands through different means.

Firstly, certain commands are explained by the Qur’an itself, for example, specific obligations such as prayer, *zakāt*, pilgrimage, fasting, and specific prohibitions such as adultery or the drinking of wine or the eating of carrion or pork.

Secondly, certain commands are explained by the Qur’an in general while the Prophet provides the necessary details, for example, the number of prayers and the amount of *zakāt*.

Thirdly, certain God’s commands are established by the Prophetic Sunna.

Finally, al-Shāfi‘i acknowledges that certain God’s commands are established by *ijtihād*. In his view, God Himself orders man to exercise *ijtihād*. It is a way of obedience to God.

Al-Shāfi‘i also classifies Qur’anic statements into general (*ʿāmm*) and particular (*khāss*), and divides them further into the following categories:

Firstly, statements in which the meaning is intended to be general. For example, the verse “*Allāhu khāliqu kulli shay’in wa-huwa ‘alā kulli shay’in wakīl*” (God is the Creator of everything; He is Guardian over everything, Q 39: 62). In this verse, the word “*kull*” (i.e. “every” or “all”) is an expression which identifies the general. The verse consists of a general proposition which precludes specification of any kind. Hence it remains absolutely general.

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Secondly, statements in which both general and particular situations or events are included. For example, "\textit{inna khalaqna-kum min dhakarin wa-unthä wa-ja\textquotesingle alnä-kum shu\textquotesingle aban wa-qabä ila li-ta\textquotesingle araifin inna akrama-kum 'inda Ilahi atqä-kum}" (We created you male and female, and appointed you races and tribes, that you may know one another. Surely the noblest among you in the sight of God is the most godfearing of you" Q 49: 13). In this verse, the words "male", "female", "races" and "tribes" indicate the general. Male and female include created beings whether in the Prophet's time or before or in the future. The particular is "surely the noblest among you in the sight of God is the most godfearing". The concept of \textit{taqwa} (fear of God) refers only to those who may have this quality among the children of Adam. It does not refer, for example, to animals or to children below the age of puberty.

Thirdly, statements which are intended to be particular. For example, "\textit{alladhina gäla la-humu 'l-näsu inna'l-näsa qad jama 'Ü la-kum}" (those to whom the people said: The people have gathered against you, Q 3: 173). The second word "people" refers only to a particular tribe, Quraysh, and not to the whole of mankind.\footnote{Al-Shafi'i, \textit{al-Risâla}, 53-60, paras. 179-201.}

There is another category of Qur'anic statements which are apparently general, but which the Sunna specifies as particular. For example, the inheritance verse (Q 4: 12) declares in general terms that amongst those who are eligible to inherit are fathers, wives and children. However, the Sunna specifies that fathers, wives and children are able to inherit only if they are of the same religion (Islam), and provided that none is a killer or a slave. This shows the importance of the information (\textit{ikhbär}) of the Sunna in clarifying the meaning of Qur'anic verses.\footnote{Al-Shafi'i, \textit{al-Risâla}, 64-66, paras. 214-219.}
Al-Shaʿfīʿi along with other scholars declares the Qurʾan to be the prime source of ʿilm. In other words, the Qurʾan must be accepted as axiomatic by all believers. This is why al-Shaʿfīʿi says,

“All that [God]-glorified be His praise-has revealed in His Book is a mercy [from Him] and an evidence [for His existence]. Whoever knows [the Book], knows it; and whoever is ignorant of it, is ignorant of it. He who is ignorant of it does not know it, and he who knows it, is not ignorant of it.”

3.4.2 The Sunna of the Prophet

Before elucidating al-Shaʿfīʿi’s own position, it will be useful to draw attention to the meaning of Sunna. Originally the word sunna comes from the verb sann, yasinn or yasunn, which has various meanings. The most important meaning for our purposes is in the expression “sanantu lakum sunnatan fa-ʿttabiʿūhā” (I have instituted, established, prescribed for you an institution, a custom, a practice, a usage, or the like, to be followed, therefore follow it). This gives the meaning of sunna as a custom or practice, whether good or bad, to be followed later on. It is because of this that sunna can be used in the sense of “a way, course, rule, mode, or manner of acting or conduct of life or the like”. Its synonyms are ṭariqa (way, manner) and sira (way of life). The Prophet is reported to have said “Whoever sets a good example (sunna hasana), he and all those who act upon it shall be rewarded, and whoever sets a bad example (sunna sayyiʿā), he and all those who follow it will carry the burden of its blame till the day of Resurrection”.

In the Qurʾan, the term sunna (including its plural sunan) occurs 18 times either in the phrase “sunnat Allah” or “sunnat al-awwalin” or merely as “sunna”.

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41 Al-Shaʿfīʿi, al-Risāla, 19, paras. 43-44; trans. Khadduri, 65.
42 Lane, Lexicon, 1435-36.
43 Al-Shawkānī, Irshād al-fuḥūl, 29.
45 Q 8: 39; 15: 13; 35: 43.
Generally it conveys the meaning of a practice or course of conduct. The most usual phrase is "sunnat Allâh" which refers to God's law of retribution as applied to those peoples who rejected God's message. The phrase "sunnat al-awwalin" is closely related to "sunnat Allâh", and also refers to God's scourging of nations which forsook the religious message. Another usage is God's sunna in respect of His prophets when the latter were received with hostility by their people. In these cases, God supports His Prophet and destroys those people.

The Qur'an never uses the term sunnat al-rasûl, but the concept can be traced to a verse which does refer to the conduct of the Prophet as "uswa hasana", a good example. God says to the believers, "You have had a good example in God's Messenger for whosoever hopes for God and the Last Day, ..." (Q 33: 21). This reference to a good example in God's messenger is made not only in respect of the Prophet Muhammad but also in respect of other prophets. God says, "You have had a good example in Abraham, and those with him, ..." (Q 60: 4). It can be said that the concept of the Sunna of the Prophet owes its origin to the rise of the Prophet himself. In addition, the Qur'an also repeatedly mentions the obligation to obey the Prophet alongside the obligation to obey God.

For the muhaddithûn, the term sunna refers to all that is narrated from the Prophet regarding his acts, his sayings and whatever he has tacitly approved, plus all the reports which describe his physical attributes and character. The fuqaha', however, exclude the description of the physical features of the Prophet from the definition of sunna. The terms sunna and hadîth are used interchangeably. Are

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46 Hasan, Early Development, 85; Kamali, Principles, 44.
47 See Z. I. Ansari, "Islamic Juristic Terminology before Sâfi'i: A Semantic Analysis with special Reference to Kûfa", in Arabica, 19 (1972), 261.
48 Al-Baydawi, Anwâr al-tanzil, his commentary on Q 8: 39.
49 Q 17: 77; cf. Ansari, "Juristic Terminology", 262.
50 See for example, Q 4: 59; 5: 95; 24: 54; 47: 33; 64: 12 etc.
51 Kamali, Principles, 44.
sunna and hadith thus the same? The answer is no, even though the terms are used interchangeably now. A hadith is a narration of the behaviour of the Prophet. The noun hadith is related to tabdith (narration), and has the same meaning as ikhbär.52 The sunna is the behaviour of the Prophet himself constituting a way (tariqa) which is traced in his personal history (sīra). Hadith is the documentation of the Prophetic sunna or its vehicle. It is said that a “certain hadith contains five sunnas”.53 According to a dictum attributed to 'Abd al-Rahmān b. al-Mahdī (d. 198), “Suṣyān al-Thawrī is Imam in Hadith but not Imam in Sunna, while al-Awzā’ī is Imam in Sunna and not in Hadith. Mālik is Imam in both”.54 Sunna in the early period means the established practice and agreed usage of the Muslims, and hadith is the narration of the fixed and definite laws enunciated by the Prophet.

For al-Shāfi‘ī, the term sunna refers to a source of religious knowledge and a legal proof next to that of the Qur’ān. Scholars of usul al-fiqh in general take the same position.55 Al-Shāfi‘ī holds that the function of the Sunna is to explain the Qur’ān. He observes:

“I know of no scholar who does not agree that the sunna of the Prophet falls into three categories, two of which were agreed upon unanimously. ... 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.”56

52Al-Ṣālih, 'Ulām al-hadīth, 3ff; cf. Chapter 2.
54Hasan, Early Development, 87.
55Kamali, Principles, 46.
It is therefore safe to infer from this evidence that Muslim scholars accepted the Sunna as a source of 'ilm. Fazlur Rahman asserts that no group in classical Islam - be it the Khawārij or the Muʿtazilah - denied the validity of the Sunna.⁵⁷ Ahl al-kalām, according to him, though originally sceptical of ḥadīth on the basis of its reliability, "nevertheless accepted the Sunna and consensus and indeed they interpreted the Qur’an in the light of these principles, as is attested by al-Shāfi‘ī."⁵⁸ Disagreement is only on commands in the Sunna that depart from the meaning of a relevant Qur’anic statement, when there is no text in the Qur’an to support them. To answer this, al-Shāfi‘ī goes on to explain that scholars have already provided proofs to support his understanding of the Sunna. These include (1) God Himself validates the Sunna since He has made obedience to the Prophet an obligatory duty. (2) Every sunna has a basis in the Qur’an for example, the sunna specifying the number of prayers and how to perform them. (3) Every sunna of the Prophet is confirmed by God as correct. (4) The Prophet himself was inspired. In other words, his sunna is divine wisdom, inspired by God.⁵⁹

Al-Shāfi‘ī himself prefers to argue for the binding nature of the Sunna on the basis of the duty to obey the Prophet. On this basis the Prophet’s Sunna must be accepted as a source of religious knowledge. In his introduction to his discussion on the obligation to obey the Prophet, al-Shāfi‘ī says "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 belief in Him."⁶⁰ Thus, al-Shāfi‘ī's discussion

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⁵⁸Rahman, Islam, 63 (cited Kitāb jīmā‘ al-‘ilm, in al-Umm, 7, 252, the case of evidence in a murder case).
⁵⁹Al-Shāfi‘ī, al-Risāla, 92-105, paras. 302-308.
of the obligation to obey the Prophet aims to support the authority of the Sunna in relation to the Qur'an. The Sunna together with the Qur'an forms the basis which supports the structure of Muslim religious thought.

The merit of al-Shāfi‘ī lies in his presentation of the theory of the Sunna in a consistent and systematic way. Schacht believes that al-Shāfi‘ī was "the first lawyer to define sunna as the model behaviour of the Prophet, in contrast with his predecessors for whom it was not necessarily connected with the Prophet, but represented the traditional, albeit ideal, usage of the community, forming their ‘living tradition’ on an equal footing with customary or generally agreed practice".61 In contrast to his contemporaries, al-Shāfi‘ī "identified the ‘sunna of the Prophet’ with the contents of traditions from the Prophet to which he gave, not for the first time, but for the first time consistently, overriding authority, thereby cutting himself off from the continuous development of doctrine before him."62 Talking about the relationship between Sunna and Hadith, Schacht says, "For Shāfi‘i, the sunna is established only by traditions going back to the Prophet, not by practice or consensus ... Apart from a few traces of the old idea of sunna in his earlier writings, Shāfi‘i recognises the ‘sunna of the Prophet’ only in so far as it is expressed in traditions going back to him. This is the idea of sunna which we find in the classical theory of Muhammadan law, and Shāfi‘i must be considered as its originator there."63 Schacht then makes a far-reaching conclusion following his study on al-Shāfi‘ī’s works that can be summarised in the following quotation:

"One of the main conclusions to be drawn from Part 1 of this book is that, generally speaking, the ‘living tradition’ of the ancient schools of law, based to a great extent on individual reasoning, came first, that in the second stage it was put under the aegis of Companions, that traditions from the Prophet himself, put into

61 Schacht, Origins, 2; see also Kamali, Principles, 47; Coulson, Islamic Law, 57.
62 Schacht, Origins, 80.
63 Schacht, Origins, 77.
circulation by traditionists towards the middle of the second century A.H., disturbed and influenced this ‘living tradition’, and that only Shafi'i secured to the traditions from the Prophet supreme authority.”

In principle, al-Shafi'i is of the opinion that knowledge of the Sunna can be attained not from evolving legal practice, but from hadith, the vast body of oral tradition appearing to document in often minute detail the exemplary conduct and verbal instructions of the Prophet Muhammad. Since many ahadith are ahad, al-Shafi'i’s intellectual endeavour revolves around the problem of authenticating khabar al-wahid, and its binding force.

3.4.3 Ijmâ’ (Consensus)

Al-Shafi'i, along with other Muslim scholars, accepts ijma’ as a source of knowledge. Ijma’ means “resolution” or “agreement”. It is the verbal noun of ajma’a which has two meanings, “to determine” and “to agree upon something”. Both meanings can be seen in the sayings “ajma’a fulân ‘alâ kadhâ”, which means “someone decided upon a certain matter”, and “ajma’a al-qawm ‘alâ kadhâ’, which means “the people reached a unanimous agreement on a certain matter”. Ijma’, in the technical sense, means the “unanimous agreement of the mujtahidûn, at any given time, on a religious point”.

Al-Shafi'i in his chapter on ijma’ refers to the ijma’ of the Muslim community. For him, “we have to obey their authority, and we know whenever there are sunnas of the Prophet, the public cannot be ignorant of them, although it is

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Schacht, Origins, 138.
65See below, Chapter 4.
66For the legitimation of ijma’ as a source of knowledge, see, G. F. Hourani, “The Basis of Authority of Consensus in Sunni Islam”, in his Reason and Tradition in Islamic Ethics (Cambridge, 1985), 190-226
67Al-Jurjani, al-Ta’rifat, s.v. ijma’.
68Lane, Lexicon, s.v. ijma’
69Cited from Kamali, Principles, 169.
70Al-Jurjani, al-Ta’rifat, s.v. ijma’.
possible that some are, ...". Al-Shafi'i seeks to justify his claim that the *ijma* of the Muslim community must be followed, the principle of *luzum al-jama'a*. This notion indicates that every Muslim must follow and confirm as valid what the Muslim community regards as lawful and unlawful (*al-tablil wa-l-tahrîm*). Toward the end of his chapter on *ijma*, al-Shafi'i asserts "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 error comes from separation ...". The reason is that the Muslim community has a thorough understanding of the real meaning of the Qur'an and the Sunna, and of *qiyas*.

However, according to Khadduri, al-Shafi'i refers to the *ijma* of the scholars in order to explain a *hukm* on which his contemporaries have agreed. This view is supported by Muslim scholars such as Shâkir and Abû Zahra, who also hold that al-Shafi'i's *ijma* is the *ijma* of the scholars. Abû Zahra provides us with a proof from al-Shafi'i's own statement that, "Neither I nor any of the scholars would say: "This is [a matter] agreed upon," unless it were [a matter] about which you would never find a scholar who would not repeat it to you and relate it from a predecessor, such as that the noon-prayer has four [cycles, râk'as] and that wine is forbidden, and the like." Abû Zahra provides us with a proof from al-Shafi'i's own statement that, "Neither I nor any of the scholars would say: "This is [a matter] agreed upon," unless it were [a matter] about which you would never find a scholar who would not repeat it to you and relate it from a predecessor, such as that the noon-prayer has four [cycles, râk'as] and that wine is forbidden, and the like."

However, if we study further examples of *ijma* as mentioned in *al-Risâla*, we find that *ijma* can be categorised into: (1) *ijma al-umma* (the consensus of the

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73 Khadduri's trans, Intro., 37f.
75 Abû Zahra, *Shåfi*, 255.
77 The following examples are taken from *al-Risâla*: (1) In religious duties, there is *ijma* on performing duties such as prayers, fasting in Rama\dan, *zakât*, pilgrimage (paras. 1559, 438-39); five obligatory prayers (para. 342); menstrual women are not to make up the prayers that they omitted during their period, but they are to make up days of fasting (para. 351); it is permitted to wipe over
entire Muslim community); (2) *ijmāʿ* al-saḥāba (the consensus of the Companions); (3) *ijmāʿ* al-ʿulamāʾ (the consensus of the Muslim scholars, either all the scholars or within the various schools of *fiqh*) and (4) *ijmāʿ* ahl al-maḍīna (the consensus of the common people of Medina). Some of the examples mentioned in *al-Risāla* would be agreed by all Muslims, for example, the obligation to pray five times a day; some of them are agreed by only Sunni scholars such as the prohibition of *mutʿa*, and some of them are agreed by a particular school of thought, for example, the *muḥaddithūn* accept the authoritative nature of *khabar al-wāḥid*.

Al-Shāfiʿī is critical of the views of Abū Ḥanīfa and Mālik on *ijmāʿ*. Imām Mālik held that only the people of Madīna were authorised for *ijmāʿ* and that their *ijmāʿ* was proof on its own. By the term *ijmāʿ* ahl al-maḍīna Mālik means the practice (*ʿamāl*) of the people of Medina, since they had inherited the practice of the Companions and the early Muslim community, and the Sunna of the Prophet. Al-Shāfiʿī, though he always considers Mālik as his great teacher, argues against his

boots (para. 636); washing (*ghush*) includes ablation (*wudūʿ*), i.e. there is no need to perform ablation afterward (para. 464); the funeral prayer which is obligatory can be performed after the morning and afternoon prayer irrespective of the forbidden times (para. 893); (2) In dietary laws, there is *ijmāʿ* on the prohibition of eating the meat of beasts possessing canines (para. 641); (3) In sales, there is *ijmāʿ* on certain kinds of unlawful sales such as the exchange of gold *dinār* for silver *dirāhīm* to be paid later (al-danār bi-l-dirāhīm ilā ajāl) (para. 644, 1533); exchanging foodstuffs by measure or weight for *dinār* or *dirāhīm* to be delivered at an appointed time (para. 1533); the sale of risk (*bayʿ al-gharār*) and the sale of dry dates for ripe dates (para. 943); (4) In marriage, there is *ijmāʿ* on certain types of unlawful marriage such as al-shighār and mutʿa (para. 939); taking two sisters as wives, taking a fifth woman as wife; marrying a woman during her *ʿidda* (paras. 937-38); pilgrims marrying (para. 939); and taking a woman together with her aunt, paternal or maternal, as a wife (paras. 628, 937); (5) In penal law, there is *ijmāʿ* on the prohibition of adultery (para. 439); the punishment of stoning for married adulterers (para. 382); that slaves who commit adultery are not subjected to the punishment of stoning (para. 386); *ihšān* for a slave-woman is accepting Islam (para. 387-88); the prohibition of murder (para. 439); *diya* (blood money) for unintentional homicide committed by a free Muslim against another shall be 100 camels to be paid by the *āqila* (the killer's male relatives who are under obligation to pay *diya*) (para. 1536); that *diya* shall be paid within 3 years, one third in each year; compensation shall be paid out of a free Muslim's own property if he commits an intentional offence against the life or limb of a person or destroys his property (para. 1538); the *āqila* shall pay one third of the *diya* for an offence in the category of injuries and upwards (para. 1539); the prohibition of drinking wine (para. 1559); (6) In inheritance, there is *ijmāʿ* on the application of fixed shares (para. 478); a Muslim can inherit from another Muslim unless the inheritor is a slave or a murderer (para. 478); a grandfather [as a joint successor] with a brother is entitled to an equal or greater share in inheritance (para. 1801); (7) In *usūl al-fiqh*, most scholars have agreed on the necessity of accepting *khabar al-wāḥid* in practical matters (para. 1248).

78See above, Chapter 2.
views on *ijmāʿ* and the practice (*ʿamal*) of Madīna in his *Kitāb ikhtilāf Mālik wa-l-Shāfiʿī*.

He also opposes Abū Ḥanifa, who used *ijmāʿ* as a criterion to decide the validity of *khabar al-wāḥid* and other matters.

3.4.4 *Ijtihād* and *Qiyās* (The Effort to form a Right Opinion and Analogical Reasoning)

*Ijtihād* is the most important source of knowledge next to the Qur'an, the Sunna and *ijmāʿ*. It will fulfil the objective of religion as a way of life. As far as al-Shāfiʿī is concerned, *ijtihād* needs to be regulated. He argues the need for *ijtihād* and its proper application. For him, *qiyās* is the method of *ijtihād*. It is worth mentioning that there are several groups who opposed the use of *qiyās* as proof in the matter of laws. They are al-Nazzām and his followers, the Zāhirīs (Dāwūd and Ibn Hazm), the Shiʿīs and some Ḥanbalis. Al-Shāfiʿī himself argues against *ahl al-kalām* in respect of *qiyās* in his *Jimāʿ al-ʿilm*.

Before considering al-Shāfiʿī's theory of *ijtihād*, it will be useful to look briefly at the origin of *ijtihād* and its place in Muslim scholarship. The death of the Prophet deprived Muslims of direct revelation. The search for God's law continued after his death, but the means had to change. Muslim scholars used *ijtihād* to fill the vacuum and answer current problems. Its function was to interpret the divine message and relate it to the changing conditions of the Muslim community. Since it is just an interpretation of existing sources, *ijtihād* cannot be said to be an independent source, but is a subsidiary one only. The primary sources are still the Qur'an and the Sunna.

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79 Al-Shaфиʿī, *Kitāb Ikhtilāf Mālik wa-l-Shāfiʿī*, in *al-Umm*, iv, 307-324; see also Bernard, "IJMĀtain", 1024.

80 For detailed information, see Chapter 5.

81 See Chaumont, "al-Shariʿah", 184.


83 See Chapter 5.
The term *ijtihād* is from the verb *ijtahada* meaning “he strove or exerted himself, or his power, efforts, endeavour or ability”. As a technical term, *ijtihād* is a “lawyer’s exerting of the faculties [of the mind] to the utmost, for the purpose of forming an opinion in a case of law [respecting a doubtful and difficult point]”. In other words, *ijtihād* is an effort to form a right opinion. This can be achieved by reasoning, but the validity of *ijtihād* is from revelation. Accordingly, it cannot exceed the authority of revelation. *Ijtihād* therefore is defined as “a creative but disciplined intellectual effort to derive legal rulings from those [revealed] sources while taking into consideration the variables imposed by the fluctuating circumstances of Muslim society”.

Knowledge of the practical rules that regulate the conduct of Muslims depends on this principle of *ijtihād*. The enlargement and thorough understanding of the precepts in the Qur’an and the Sunna are finally systematised in the science of *fiqh*. The literal meaning of *fiqh* as “understanding” shows the role of *ijtihād* in enriching the regulations of the Qur’an and the Sunna.

As far as the problem of *ijtihād* is concerned, al-Shāfi‘i believes in principle that all problems faced by Muslims have an answer in revelation. For Muslims, the statements of the Qur’an provide the right answers to all problems. However, if there is no relevant text or sunna or *ijmā‘* of the community, al-Shāfi‘i resorts to the principle of *ijtihād* through the application of *qiyyās*. The aim of *ijtihād* is to arrive at a right decision, or in other words to discover the will of God. The exercise of *ijtihād* is done only by *qiyyās*.

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84Lane, Lexicon, 473.
85Lane, Lexicon, 473.
When al-Shāfi‘i asserts that the appropriate form of *ijtihād* is *qiyaṣ*, he explains that *ijtihād* must be based on the texts of the Qur’an and the Sunna. Accordingly, he rejects *ijtihād* based on *istihsān*, which is, in his view, a form of self-indulgence (*taladhdhuhu*). His view is that

"... *ijtihād* should not be exercised except for a specific object, and the object must be something definite that can be determined by means of evidence or resemblance to an established object. Thus, it should be clear that it is unlawful for anyone to exercise *istihsān* whenever it is not called for by a narrative [*khabār*], whether the narrative is a text of the Qur’ān or a sunna, by virtue of which an [unknown] object is sought, just as when the Sacred House is out of sight it should be sought by analogy."

*Qiyaṣ*, in this sense, is a means of extending the scope of legal decisions beyond what is stated in the Qur’ān and the Sunna. It is not a means to innovate or create a new ruling since it is based on these two sources. *Qiyaṣ* is only an extension of transmitted knowledge.

Al-Shāfi‘i’s sources of *īlm* can be considered as *akhbār*. This is based on his statement in *Jimai al-īlam* as follows: "No-one is permitted, neither I nor scholars, to say that something is lawful or unlawful, or to take anything from anyone or give it to anyone, unless he finds that there is a text in the Book of God, in the Sunna, in *ijmā‘* or in a report which is binding. If it is not included in *any of these reports* (*akhbār*), it is not permitted for us to say anything ... except according to the rule of *qiyaṣ* ...". As far as *qiyaṣ* is concerned, it is only a subordinate source which is used in new cases by comparing it to these *akhbār*.

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92 Al-Shāfi‘i, *Jimai al-īlam*, 33f, para. 107-08; cf. idem, *al-Risāla*, 503-08, para. 1456-68 (chapter on *istihsān*).
We can see further that these *akhbār* represent knowledge based on revelation. For al-Shāfi‘ī, the source of religious knowledge—whether concerning the laws of *'ibāda* (laws dealing with man’s duties to God) or the laws of *muʿāmala* (laws governing human relations), is the text (*nass*) of revelation. The text is the source of knowledge. The way to acquire knowledge lies, therefore, in an exhaustive inquiry into the meaning of the Qur’an, the *hadīth* of the Prophet and the textual interpretation of these two sources. The human intellect plays only a limited role in elucidating religious knowledge given the termination of revelation with the death of the Prophet. For al-Shāfi‘ī, human opinion and Muslim practice were both fallible, and neither had authority to determine the law with any claim of infallibility. One of the poems which reflect al-Shāfi‘ī’s view of knowledge proclaims that:

\[
\text{kullu 'l-ʻulūmi siwā 'l-qur'āni mashghalatun}
\]

\[
\text{illā 'l-hadītha wa-ʻilmā 'l-fiqqī fi 'l-dīnī}
\]

\[
\text{al-ʻilmu mā kāna fi-hi qāla haddathanā}
\]

\[
\text{wa-ma siwā dhāka waswāsu 'l-shayātīn}\]

All sciences are only distraction except the Qur’an, *hadīth* and the science of religious understanding;

Knowledge is that in which is found, “he said: he related to us”, anything else is only Satanic whispers.

3.5 Other Features of al-Shāfi‘ī’s Discussion of *IIm*

On the basis of al-Shāfi‘ī’s two other divisions of *`ilm*, namely into (1) *ijmā‘* (consensus) and *ikhtilāf* (disagreement), and into (2) *al-ihāta fi `l-zāhir wa-l-bātin* (certain knowledge) and *haqq fi `l-zāhir* (probable knowledge), we can investigate

\[^{93}\text{Al-Shāfi‘ī, Diwān, 179; H. Ṣalih, Dirāsā sanniyya fi shi‘r al-Shāfi‘ī (Beirut, 1984), 123.}\]
other features of his discussion of 'ilm, namely the limits of 'ilm, and the defence of al-Shafi'i's criteria of 'ilm against the sceptics and the conservatives.

3.5.1 The Limits of 'Ilm

The division of 'ilm into certain and probable knowledge defines the limits of both 'ilm al-'amma and 'ilm al-khassa. According to al-Shafi'i, knowledge which is acquired through an explicit text of God's command, or a Sunna passed from generation to generation (khabar mutawatir), is ihata fi'l-zahir wa-l-batin (certainty based on comprehending both surface appearance and underlying reality). Knowledge which is acquired through other sources, i.e. sunna min khabar al-khassa (a tradition from the specialists' report), 'ilm ijmã' (knowledge derived from consensus), or 'ilm ijtihad bi-qiyas (knowledge derived from ijtihad through qiyas) is only probable knowledge (haqq fi 'l-zahir). Al-Shafi'i gives a simple example to distinguish between the two types of knowledge, his famous example of someone who prays in front of the Ka'ba. In this case, there is no doubt at all concerning the direction of the qibla. Thus, perceiving an object directly leads to certainty. But when someone is far away from the Ka'ba, he has to conceive it through his intellect guided by data of the senses. This, according to al-Shafi'i, leads to probable knowledge.

Al-Shafi'i is of the opinion that the above sources are essential in order to derive any hukm in the context of fiqh and ijtihad. Al-Shafi'i explains probable knowledge three times in his discussion on qiyas and raises it again in his discussion on ikhtilaf. As well as the term haqq fi 'l-zahir, he also uses ihata bi-
All of these terms define the scope of probable knowledge. For example, knowing the uprightness of a man, or knowing whether someone is a Muslim or not in cases of marriage and inheritance, is knowing what is only probable. We do not know for certain any man's inward character. Al-Shāfi‘i's reasoning is that all decisions taken are most likely based on outward considerations, and in applying qiyās, for example, differences of opinions are inevitable between one person and another.

Let us briefly discuss the sources of probable knowledge. According to al-Shāfi‘i, khabar al-khāṣṣa is any hadīth related by specialists on the authority of the Prophet, his Companions and Successors. It may be found either with all or with only a few scholars. Al-Shāfi‘i holds that Muslim scholars should try to acquire and be well-acquainted with such traditions, because they are transmitted on the authority of the Prophet whom all Muslims agree to obey as an obligation. It is the duty of scholars to accept any such khabar as binding on them. However, the nature of khabar al-khāṣṣa does not permit it to impart certainty because transmitters may commit errors in its transmission. That is why khabar al-khāṣṣa attains only the standard of probable knowledge, and its interpretation may vary from one scholar to another. The general public cannot be expected to be familiar with it. This aspect of the authenticity of khabar al-khāṣṣa will be discussed in the next chapter.

As far as knowledge derived from ijma` is concerned, al-Shāfi‘i gives only a brief statement. He refers to it as “'ilm ijma’” (consensus knowledge). The
question arises as to why *ijmâʿ* is categorised under *'ilm al-khâṣṣa*. The reason is that *ijmâʿ* refers to the consensus of the scholars of the community, and is therefore *'ilm al-khâṣṣa* by definition. Furthermore, *ijmâʿ* begins with the personal *ijtihād* of a scholar and culminates in the collective *ijtihād* of a particular community or group of scholars. In other words, *ijmâʿ* originates from human effort and is not directly based on revelation or the Sunna.106

Finally, knowledge on the basis of *ijtihād* through *qiṣāṣ* (analogy) is included under the category of probable knowledge.107 Al-Shāfīʿī asserts that by means of *qiṣāṣ* the right decision is sought. However, because of its nature, the judgement derived by the mujtahids through *qiṣāṣ* is true only for them, and scholars are not obliged to follow the *ijtihād* of others. This is because knowledge attained from the exercise of *qiṣāṣ* is not certain. *Qiṣāṣ* attains only the level of probable knowledge.108

Nevertheless, when a decision on the point of law is needed, the judgement made must be based on evidence. Al-Shāfīʿī says “ḥakamnā bi-1 ḥaqiq ‘l-zâhih” (we have made the decision correctly according to probable knowledge).109 Al-Shāfīʿī provides a guideline for decision making. He says at the end of *al-Risāla* that:

“I could make a decision against a person either on the basis of my knowledge that the accusation made against him was right, or on his [own] admission. If I neither had the knowledge or if he did not confess, I could decide against him on the basis of [the testimony of] two witnesses [of just character]. Since witnesses may make mistakes or be confused, my knowledge and the [defendant’s] admission would be stronger [evidence] against him than the [testimony of] two witnesses. I could [also] decide against him on the strength of [the testimony of] one witness and the [plaintiff’s] oath; but [such evidence] is weaker than the [testimony of] two witnesses. I could also decide

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against him if he refused to take an oath whereas the plaintiff did take an oath; but [such evidence] is weaker than the [testimony of] one witness and the oath, since the accused’s refusal might have been the result of his fear for his reputation or his feeling that the matter was too insignificant for an oath, whereas he who did swear an oath on his own behalf might be a covetous or debauched person."\textsuperscript{110}

In conclusion, al-Shāfi‘ī has succeeded in defining the scope of 'ilm. Knowledge can be certain when it is transmitted by general or mutawātir report, which includes the Qur’an and the Sunna. On the other hand, there is probable knowledge that may be true in appearance only. Under the category of probable knowledge are khabar al-khāssa, the ījmā‘ of the scholars and qiyās. However, in the scholarly exercise, probable knowledge is in practice the most important kind. Scholars need to establish reliable interpretations by applying ījtihād. This field of probable knowledge is highly susceptible to criticism by sceptics, who will only accept knowledge as reliable if it is based on clear sources. Looked at from this perspective, the importance of al-Shāfi‘ī’s contribution becomes clear.

3.5.2 Against the Sceptics (ahl al-kalām) and the Conservatives (ahl al-fiqh)

From al-Shāfi‘ī’s discussion of 'ilm and its sources, we can see that he identifies two main sources of knowledge: the revealed text (nass), and inference (istīdālā) from the text.\textsuperscript{111} Al-Shāfi‘ī discusses the two sources under the headings of bayān (declaration) and qiyās (analogy). On the basis of these two sources, 'ilm, according to al-Shāfi‘ī, may be divided between the categories of ījmā‘ and ikhtilāf. The former indicates the body of knowledge that is agreed by the Muslim community, and the latter indicates the body of knowledge where there is dispute.\textsuperscript{112}

\textsuperscript{110} Al-Shāfi‘ī, al-Risāla, 600, para. 1821; trans. Khadduri, 351-52.
\textsuperscript{111} Al-Shāfi‘ī, al-Risāla, 19, para. 42; see also Safi, Foundation of Knowledge, 35.
\textsuperscript{112} Al-Shāfi‘ī, al-Risāla, 40, para. 126; for detailed treatments of ījmā‘, see, al-Risāla, 471-76, paras. 1309-20 and Ikhtilāf, 560-600, paras. 1671-1821; cf. Khadduri, Shāfi‘ī’s Risāla, 285-87 and 333-352 respectively; Safi, Foundation of Knowledge, 35.
This division of \textit{`ilm} implies an endeavour on the part of al-Shāfi`i to defend his concept of \textit{`ilm} against the attacks of \textit{ahl al-kalām} (the sceptics), and to combat conservatism among \textit{ahl al-fiqh}. This is already evident from our discussion. In putting \textit{`ilm} under the category of \textit{ijmā'}, in lawful and unlawful matters, al-Shāfi`i’s motive is to defend the basis of \textit{`ilm} against the sceptics. The intended effect of \textit{ijmā'} is stability in basic legal rules. Al-Shāfi`i realises, however, that excessive dependence on \textit{ijmā'} could have a negative effect. That is why he limits \textit{ijmā'} to \textit{farā'īd} (obligatory religious duties) such as prayers, \textit{zakāt}, fasting and others. Thus, \textit{ijmā'} is a juristic concept and in al-Shāfi`i’s view is quite limited.\footnote{Calder, “Ikhtilāf and ijma”, 72, 80.} In al-Shāfi`i’s view, \textit{ijmā'} should not apply to every matter, especially in the realm of \textit{`ilm al-khāṣṣa}.

It is likely that al-Shāfi`i is trying to restrain conservatism when he confines the application of \textit{ijmā'} to obligatory religious duties. According to Kamali, \textit{ijmā'}, has been regarded primarily as an “instrument of conservatism and of preserving the heritage of the past. This is obvious enough in the sense that whatever is accepted by the entire Muslim community as true and correct must be accepted as such”.\footnote{Kamali, Principles, 171.} To keep back the conservatives, al-Shāfi`i contradicted Mālik, his own teacher, to show the people of Egypt that Mālik was merely a thinker who could be wrong. He also acknowledges the possibility of \textit{ikhtilāf} in the details of religious knowledge. It is also worth noting that knowledge under the category of \textit{ikhtilāf} is a major focus of al-Shāfi`i. He tries to show this aspect to his fellow scholars. For him, knowledge of \textit{ikhtilāf} is very important. That is why in his \textit{Kitāb ibtāl al-istihsān}, he states that it is necessary for anyone who wants to make a judgement or to exercise \textit{qiyyās} to be acquainted with \textit{ikhtilāf}.\footnote{Al-Shāfi`, \textit{Kitāb ibtāl al-istihsān}, in al-Umm, vii, 301-302; This view is also supported by others, for example al-Shāṭibi quotes the saying, “whoever does not know the place of \textit{ikhtilāf}, does not reach the level of \textit{ijtihād},” al-Muwāfaqāt, iv, 160-1; see also Qadri, “Ikhtilāf”, 368.}

As far as \textit{ikhtilāf} is concerned, al-Shāfi`i defines it as
“judging a single matter in different ways”. What he means is that there could exist many answers to a single problem. For example, in deciding the direction of the qibla, two persons may disagree with each other concerning its direction. Even though such an example is now out-dated, it shows how ikhtilaf can happen. The same applies to accepting the testimony of witnesses (shahada). It is possible that two judges could decide differently on the testimony of different witnesses. One of them might accept one person’s testimony while the other rejects it, and in this way ikhtilaf occurs. In addition, ikhtilaf is accepted in the hadith, “If a judge makes the right decision through ijtihad, he shall be doubly compensated; if he errs, he shall be compensated once.” In exercising ijtihad, there is always the possibility for ikhtilaf to occur. Differences of opinion may occur in applying qiyas, for example, when jurists cannot precisely identify the illa (effective cause) in the texts.

Why is there ikhtilaf? Al-Shatibi has identified eight important causes of ikhtilaf among the fuqaha. Most of them are related to the occurrence of ambiguous evidence such as the use of words that carry more than one meaning, the metaphoric use of words, whether the evidence has a general or specific meaning, differences between reports and texts which are liable to several interpretations. Al-Shafi‘i observes that the main cause of ikhtilaf is the unsystematic method used by his predecessors in organising the materials they used to document their doctrine. For al-Shafi‘i, religious knowledge must be based on the four sources and the hierarchical order of these sources must be strictly observed. Thus we find al-Shafi‘i on many occasions criticising his opponents for taking evidence from the bottom, and not from the top of the hierarchy. For Abū Ḥanifa and Mālik, for example, the principle of

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117 Al-Shafi‘i, al-Risāla, 494, para. 1406-09.
118 Abu Isbaq al-Shatibi, at-Muwafagat fi usul al-fiqh, 4 vols. (Cairo, n. d), iv, 211-14
119 Abū Zahra, al-Shafi‘i, 28.
qiyās or *ijmāʿ* in some circumstances took priority over the Sunna, i.e. *khabar al-wāḥid*.

*Ikhṭilāf* is always associated with *ijtihād*. For al-Shāfiʿī, *ikhṭilāf* must not occur in matters of basic religious principle, for instance, in *ʿIlm al-ʿāmma*. That is why he says, “Disagreement is of two kinds: One of them is prohibited, but I would not say the same regarding the other”. Thus scholars are forbidden to disagree in any matter where God has provided clear textual proof in His Book or the Sunna of His Prophet. On other matters, al-Shāfiʿī allows room for differences of opinion.

Al-Shāfiʿī’s account of *ʿilm* is an important discussion of epistemology in Islam, even though it is limited to Islamic jurisprudence and its principles. For him, there is a need for reliable documentation to support any religious viewpoint. Without this support, religious knowledge would lack of any external proof.

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120 Cf. Chapter 2.
CHAPTER 4

AL-SHĀFI’Ī’S DISCUSSION OF KHABAR AL-WĀHID AS

A SOURCE OF ‘ILM

One of the crucial questions in Muslim thought is the authenticity and binding nature of khabar al-wāhīd, and it created considerable discussion between al-Shāfi’ī and his contemporaries. The focus of this chapter is on al-Shāfi’ī’s view of the matter.

4.1 Al-Shāfi’ī’s Concept of Khabar

Khabar al-wāhīd is connected to al-Shāfi’ī’s second source of knowledge, the Sunna. His discussion centres on the question of how to obtain knowledge of the Sunna of the Prophet, and he takes the view that the Sunna is best known through khabar. He discusses the function of khabar of the Prophet as a vehicle of the Sunna and gives a thorough exposition of his views in his major works, namely al-Risāla, Kitāb jimmā’ al-‘ilm, Kitāb ikhtilāf al-ḥadīth and Kitāb ikhtilāf Mālik wa-l-Shāfi’ī. His ideas are presented in the form of a reported dialogue between him and his unnamed interlocutors. As far as his interlocutors are concerned, al-Shāfi’ī in his Jimmā’ al-‘ilm identifies them only as those who do not accept the khabar of the Prophet, comprising ahl al-kalām and certain fuqahā’. In his Risāla, he devotes a long chapter to discussing khabar al-wāhīd, in which the focus is on khabar al-wāhīd as a legal proof (ḥujja).

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1For detailed information see Chapter 5.
4.2 Two Types of Khabar in al-Shafi'i

Al-Shafi'i divides khabar into two types, namely, khabar al-ʿāmma and khabar al-khāssa (the specialists' report). Khabar al-ʿāmma denotes khabar mulawātir as it is called by later scholars. In his Ikhtilāf al-hadith, al-Shafi'i defines both types of khabaras follows:2

Khabar al-ʿāmma is a report transmitted by many narrators of each generation on the authority of the Prophet. Examples of this kind include reports on the numbers of rak`as in the prayers, fasting in the month of Ramadān, the prohibition of evil deeds, and God's claims on a person's wealth. Such reports carry injunctions concerning words and deeds to be implemented by all men, including scholars as well as the masses. They are not permitted to be ignorant of them, and every member of the Muslim community is obliged to accomplish these duties.3

Khabar al-khāssa is a report which deals with the details of legal decisions (khāss al-ahkām), and it is not a duty of the masses to acquire it. This is because the masses for the most part cannot understand this kind of report, unlike the first kind, i.e. khabar al-ʿāmma. The duty to acquire knowledge of these reports is laid on the scholars and not on the ordinary public. Examples of these reports include the duty of sujūd al-sahw (the prostration of forgetfulness) in prayers, specifically in which circumstances it is obligatory and in which it is not; what invalidates the pilgrimage rites; and what makes the sacrifice of a camel (al-badana) obligatory. None of these are mentioned textually in the Book. Only scholars know this kind of report.4

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2See, al-Shafi'i, Ikhtilāf al-hadith, in al-Umm, vii, 476; idem, Ikhtilāf al-hadith, ed. al-Ustādh Muhammad Ahmad 'Abd al-'Aziz (Beirut, 1986), 13f (My reference will be to 'Abd al-'Aziz's edition).

3Al-Shafi'i, Ikhtilāf al-hadith, 13.

4Al-Shafi'i, Ikhtilāf al-hadith, 13f.
Al-Shāfi‘ī adds that since a report of this kind comes from a single transmitter, its authenticity depends on the truthfulness of the transmitter. However, rejecting this type of report by reason of its nature as a single-transmitter report is not admissible. All reports must be accepted as true on the face of it, as is the case with the legal testimony (shahāda) of witnesses.5

Khabar al-`ämma, whose transmission is beyond any doubt, is not al-Shāfi‘ī’s major concern because it is commonly known in the Muslim community and there is no question about it being legally binding. His main concern is with khabar al-khāssa as a ḥujja (legal proof). He argues strongly in favour of khabar al-wāḥid, and devotes much thought and argument to convincing his fellow scholars. To this subject we now proceed.

4.3 Al-Shāfi‘ī’s View of Khabar al-wāḥid

Al-Shāfi‘ī defines khabar al-wāḥid as the “report of one man from another going back until it reaches the Prophet, or whomever it reaches”, that is to say, a Companion or Successor.6 That is to say khabar al-wāḥid depends on a single authority in its line of transmission (isnād). Is the report of one-man reliable knowledge? Can a chain of transmitters be a valid criterion of authenticity? The answers are important since on khabar al-wāḥid depends the Sunna of the Prophet that Muslims wish to practise. Al-Shāfi‘ī answers as follows:

Firstly, he sets criteria for the acceptance of khabar under which transmitters must fulfil certain requirements.

Secondly, he argues against any attempt to discredit khabar al-wāḥid by comparing it with legal testimony (shahāda).

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5Al-Shāfi‘ī, Ikhtilāf al-hadīth, 14; see below (4.6).
6Al-Shāfi‘ī, al-Risāla, 369, paras. 998-1000.
Thirdly, al-Shāfīʿī claims khabar al-wāhid is transmitted by muḥaddithīn (scholars of ḥadīth).

Finally al-Shāfīʿī gives positive reasons why khabar al-wāhid should be accepted. He does so by referring to the Qurʾān, the Sunna, the practices of Companions and Successors, and ijmaʿ.

4.4 Criteria for the Acceptance of Khabar al-wāhid

According to al-Shāfīʿī, khabar al-wāhid cannot become evidence unless it fulfils certain criteria for reliability. Every khabar other than khabar al-ʿamma must fulfil these conditions, and must be verified by examining the reliability of its transmitters. His criteria are as follows:

1. One who relates a report (khabar) must be reliable (thiqā) in matters of religion;

2. He must be acknowledged as truthful in his speech;

3. He must understand what he transmits;

4. He must have sufficient knowledge of the language to recognise words which can change the meaning of the ḥadīth;

5. He must transmit the exact words he heard and not report merely the meaning of the ḥadīth. The reason is that if he transmits only the meaning, he may be unaware of what might change its meaning. He may change something lawful to unlawful or vice-versa. If he transmits word for word, there is no reason to fear a change of meaning;

6. He must memorise the text precisely if he relates from memory; if he relates from a book or written text, he must know it by heart;
7. He must be completely free from *tadlis* (interpolation). A *mudallis*, according to al-Shāfiʿi, is a person who reports from someone whom he has met but from whom he has really heard nothing. He can also be a person who attributes to the Prophet something, which contradicts a report of those who are more reliable.7

8. These requirements are applied to those after and before the transmitter in question until the chain of transmitter reaches back to the Prophet or his Companions or their Successors. Al-Shāfiʿi’s rationale here is that everyone in an *isnād* has verified a *hadith* as he received it, and that each transmitter has also verified it for him to whom he passed it. Al-Shāfiʿi concludes that what he has said must apply to every single transmitter of a *hadith*.8

From the above criteria, it is clear that al-Shāfiʿi’s response to *khabar* is to examine its transmitters. We can call his approach “external vindication” since he verifies any *khabar* first with the evidence of the reliability of its transmitters.9 He uses this criterion to determine the truth of a *khabar*. Al-Shāfiʿi says,

“Nor was my search for knowing the veracity of him [al-Shāfiʿi’s own teacher] who related a tradition to me more of an obligation than my quest for knowledge of the veracity of those from whom he had received the tradition. For as far as all of them are concerned I know all I need [to know] about those from whom I receive a tradition, since all of them confirmed the narrative as received from those before them and handed it on to those after them.”10

The question of how one can assess the integrity of the transmitters of a report is important. According to the *muhaddithūn*, the necessary qualities for the transmitters of *hadith* are four, namely belief in Islam, ʿ*aql* (intelligence), ʿ*adāla

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9The term is taken from E. Fricker, “Telling and Trusting: Reductionism and Anti Reductionism in the Epistemology of Testimony”, in *Mind*, 104 (1195), 409.
(integrity or uprightness) and *dabt* (retentiveness). The first two are only general requirements, and are in any case included in the meaning of *'adāla*, which according to Ibn al-Ṣalāḥ consists in "the reporter's being mature, a Muslim, intelligent, and void of tendencies to impiety and vagaries of opinion". It is clear that the transmitter of *hadith* can be anyone who attains the requirement of integrity and retentiveness. Females, slaves and non-jurists alike can be a transmitter. To determine a transmitter's integrity, he or she needs the affirmation of at least one upright person, or to have been admitted as a witness in court, or to be known to have had a *faqīh* rely on his or her report.

In his *Risāla*, al-Shāfī‘i defines *'adl* (just or upright) as "acting in obedience to God. Anyone who seems to be acting in such a manner is an upright person (*'ādil*) and anyone who acts in a contrary manner is regarded as lacking in *'adl*."

Al-Shāfī‘i is more specific when describing the conditions for witnesses of just character. For al-Shāfī‘i, *'adl* is an inner attribute, and cannot be identified with a man's body or his word. On this basis, al-Shāfī‘i formulates a means to distinguish between just and unjust witnesses. According to al-Shāfī‘i, *'adl* can be distinguished by two qualities, namely the evidence of truthfulness reflected in a person's behaviour, and good behaviour itself. Al-Shāfī‘i holds that no one is devoid of sin, and therefore accepts the testimony of one who in general is good. But one whose goodness is less clear-cut cannot automatically be accepted. The acceptance of his testimony depends on interpretation. It is up to the scholars to

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13 Kamali, *Principles*, 73.
find out which qualities are dominant, the good or the bad. If the good are more apparent, his testimony will be accepted. However, in this situation, disagreement is unavoidable. The conclusions reached by one scholar may sometimes differ from those of another.  

Besides 'adāla, another important quality for the transmitter of hadith is dabt (retentiveness). In hadith terminology, dabt refers to the “reporter’s being observant [mutayaggiz] and mindful (hāfiz], not heedless nor careless, nor dubious, whether in taking up tradition or in reciting it; for, if he gives out tradition by his memory, he must be mindful, and if he gives it out by his book he must firmly hold to that, and if by the sense [wa-in haddatha bi’l-ma’nā], he must know how to seize the sense".  

Dabt is also determined by comparison of a transmitter’s report with the report of other reliable authorities, known for their retentiveness. This quality of retentiveness is undermined when the transmitter commits one of the following: (1) shows frequent carelessness (kathrat al-ghafla); (2) makes frequent mistakes (kathrat al-ghalal); (3) disagrees with reliable authorities (mukhālafat al-thiqāl); (4) shows erroneous impression (al-wahm) and (5) shows poor memory (ṣū' al-hifz).  

Although the term dabt does not occur in al-Risāla, al-Shāfi‘i touches on the issue indirectly when he discusses the criteria for accepting a hadith. According to al-Shāfi‘i, a report must be rejected if its transmitters make frequent mistakes in transmission and do not relate the report from a sound copy of written texts. This

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14 Al-Shāfi‘i, al-Risāla, 25, para. 71 and 38 paras. 115-16; see also M. Khadduri, The Islamic Concept of Justice (Baltimore, 1984), 145.
15 Al-Shāfi‘i, al-Risāla, 493, paras. 1402-06; Khadduri, Justice, 145.
16 Salisbury, “Contribution”, 64; see also Ibn al-Salāh, Ulūm al-hadith, 104-05; al-Khaṭīb, Usūl, 232.
17 Al-Khaṭīb, Usūl al-hadith, 232.
shows that the quality of *dabī* is absent from the transmitters. This fatal flaw occurs in testimony if witnesses frequently make an error. This discussion about the transmitters of *hadīth* then leads al-Shāfi‘i on to discuss those who are expert in *hadīth*.19

In conclusion, there are two important criteria for the assessment of transmitters of *hadīth*, namely ‘adāla and *dabī*. Both criteria are used to determine the reliability of transmitters.

4.5 The Comparison between Accepting *Khabar al-wāḥid* and Accepting *Shahāda* (Legal Testimony)

This comparison is made because al-Shāfi‘i’s interlocutor is familiar with the procedure of *shahāda* (legal testimony).20 Before we proceed, it is important to know the definition of legal testimony. Legal testimony is “a report of what one has witnessed made before a judge with use of the precise word of ‘testimony’.”21 In order to be accepted testimony normally needs two male witnesses, or one male, together with an oath. The argument is made with this provision for legal evidence that *khabar al-wāḥid* falls short of legal proof since it is related by a single transmitter.

It is generally sound to draw a parallel between *khabar* and testimony because both of them are forms of reports. Though testimony given in court is formal, since it uses some performative formula, such as “I testify”, it is, in fact, the adaptation of an everyday phenomenon or non-formal situation in which

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19See below (4.6).

someone says “I have his report ...” or “He says”. Furthermore, if we look at the conditions for a witness, that is, one who gives testimony, we can see many similarities between the conditions for testimony and those for khabar al-wāhid. Among the conditions for a witness are the following:

1. Having accurate knowledge (ilm) of what he is talking about and having perceived it with his own eyes and ears;

2. Being mukallaf (legally capable, sane in mind, *compos mentis*);

3. Being a free man;

4. Being a Muslim (if he is giving evidence in a case brought against a Muslim);

5. Being in full possession of his mental faculties;

6. Being ‘adl;

7. Leading a decent and moral life (the quality of *muruwwa*);

8. Being above suspicion.22

Some of these conditions are quite similar to those for a reporter of khabar, such as being a Muslim, having mental capacity, and possessing upright character (‘adl). However, there are also some differences. For example, in testimony, the witness must be a free man, not a slave, and his testimony must be based on first-hand experience. A report can be based on a third-party statement.

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22 W. Heffening, art. "Shāhid", in *EtF*, iv, 261.
Khabar al-wähid as a source of 'ilm

Al-Shāfi‘ī acknowledges that to some extent khabar al-wähid and testimony are parallel, but argues strongly that they are fundamentally different. He has good reason since khabar al-wähid is a source of 'ilm but not of testimony. To al-Shāfi‘ī, khabar is sui generis (aslın fi nafsi-hi). Al-Shāfi‘ī considers khabar to be an autonomous source of 'ilm, and rejects the effort to compare it with testimony. He elaborates the differences between khabar and testimony as follows:

1. **Khabar** needs only one reporter, who may be either male or female. Testimony requires two male witnesses or one male together with an oath.

2. Testimony must be based on direct witnessing and use phrases such as “I heard”, “I myself saw”, or “I witnessed”. Testimony thus contrasts with khabar, for which it is only necessary to say “this man related it to me from that man”. **Khabar** can be a third-party statement.

3. Any contradictions in testimony may result in its rejection, but this is not the case with khabar. If two khabars are in conflict with each other, they can be harmonised, or a choice can be made on the basis of the Book, the Sunna, ijmā’ and qiyās.

4. Generally any individual Muslim can give testimony. This is not true of khabar. Only khabar from certain individuals who possess certain qualities can be accepted. In this case, the acceptance of khabar is dependent on more onerous proofs than acceptance of testimony. The transmitter of khabar must be scrutinised in case of his changing words or omitting words, which then affect the meaning.

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23 Al-Shāfi‘ī, al-Risāla, 372, para. 1006; also 384, para. 1051; Hasan, Early Development, 182.

24 Al-Shāfi‘ī, al-Risāla, 372-73, paras. 1008-14
For al-Shāfi‘ī, the comparison between accepting khabar and accepting testimony is a weak argument. Both have their own conditions for acceptance as valid evidence. Al-Shāfi‘ī pays much attention to this problem because the procedure for testimony is used as an argument to undermine khabar al-wāhid.

Besides showing the differences between testimony and khabar al-wāhid, al-Shāfi‘ī also uses some of the rules of testimony to confirm the acceptance of khabar al-wāhid. He refers specifically to the testimony of one woman concerning childbirth and the chastity of a woman, which is accepted by all. He points out that khabar al-wāhid is more secure than accepting the testimony of a single woman.25 In order to be accepted as reliable, a hadith must fulfil all the conditions in respect of its transmitters which have been mentioned earlier. He says, “We have held the same opinion [as the testimony of one woman relating to childhood] concerning the confirmation of the single-individual tradition, based on reasons all of which are stronger than that permitting the testimony of women.”26

Al-Shāfi‘ī argues that even though the Qur’an never mentions witnesses unless they are at least one male and two females, it never actually prohibits the testimony of one witness.27 His interlocutor is unable to give a ready answer to this argument.

In conclusion, al-Shāfi‘ī makes the above comparison between khabar and testimony in order to demonstrate the binding nature of khabar al-wāhid. As far as he is concerned, khabar al-wāhid should be accepted if its transmitters are proved to be reliable and trustworthy. The same procedure applies to legal testimony, that is to say, when a judge considers witnesses trustworthy, their testimonies are accepted.

Thus, this argument further strengthens al-Shāfi‘ī’s thesis that khabar al-wāhid is a source of ‘ilm.

4.6 Khabar al-wāhid as Expert Reports

Khabar al-wāhid can be considered as expert reports which are transmitted by experts in hadith (muhaddithīn). In this section al-Shāfi‘ī’s view of them as such will be analysed.

According to al-Shāfi‘ī, experts in hadith are of different grades.\(^{28}\) According to al-Tahānawi, they consist of four grades: (1) al-fālib (the student) - he is the beginner and seeker after hadith; (2) al-muhaddith (the traditionist) - he is the accomplished teacher (al-uslādh al-kāmil) and also known as the shaykh or the imām; (3) al-hā’īt (the magnate in learning or one who has attained expertise); (4) al-hujja (the specialist or highest authority).\(^{29}\) Al-Shāfi‘ī refers to them only in general as ahl al-hadith, or muhaddithīn. He defines them as those who are “well known [for their knowledge] of tradition; who make every effort in their search for it, listening to their fathers, uncles, next of kin and friends, as well as spending long hours in the company of scholars and disputants in the field.”\(^{30}\) In al-Tahānawi’s definition, a muhaddith is

“one who has been a writer and reader of tradition, and has heard it and committed to memory, journeying to cities and towns, and who has summed up principles, and noted special rules, from books of sustained tradition, of archaeology and of history, to the number of nearly a thousand as reported, and is solicitous that it should be known”.\(^{31}\)

\(^{28}\) Al-Shāfi‘ī, al-Risāla, 382, para. 1045.

\(^{29}\) Al-Tahānawi, Kashshāf, i, 27; see Salisbury, “Contribution”, 61-63; al-Khatīb divides ahl al-hadith into six groups: (1) fālib al-hadith, (2) al-musnīd, (3) al-muhaddith, (4) al-hā’īr, (5) al-hā’īrī, and (6) amīr al-mu’minin fī’l-hadith, see al-Khatīb, ʿUsūl, 448-49.


The authority of *ahl al-hadith* is fully recognised by al-Shāfi‘ī. Al-Shāfi‘ī puts them in the forefront in respect of memorising (*al-hifi*) of hadith. Hence it is preferable to accept their hadith when there is a contradiction between their transmission and that of others who are less capable (*ahl al-taqṣīr ‘an-hu*). Ahmad Muḥammad Shākir points out from the context of al-Shāfi‘ī’s writing, that he takes *ahl al-hadith* as a model for deciding the reliability of any hadith. For example, when they engage in discussion to consider a hadith related by a certain man, its reliability is decided according to whether or not it agrees with the memory of one of them, or is supported by *ahl al-hifi* (people who have memorised hadith and learned by heart).

In the case of conflicting modes of transmission (*riwāya*), al-Shāfi‘ī’s solution is to decide which hadith is properly memorised and which is mistaken (ghalat). However, he does not elaborate further. Al-Shāfi‘ī only says, “One can then tell from the error and other indications therein what the truth is.” This statement implies that there are methods of verifying conflicting hadith.

Besides talking about the experts in hadith, al-Shāfi‘ī here indirectly touches on the method of hadith transmission. However, he mentions only the direct method of transmitting hadith by *sami‘* (direct hearing of an oral communication of the master or shaykh). This is, according to Ibn al-Ṣalāh, the highest form. It can be conveyed through expressions such as *haddathānā* (he narrated to us), *akhbarānā* (he reported to us) *anba‘anā* (he told us), *samī‘tu* (I heard), or *gāla lanā fulān* (so-and so said to us). Other methods of transmission of hadith are as follows: (1) *qirā‘a*
(reading aloud in the presence of the shaykh); (2) ijāza (getting permission to transmit a hadīth or a book on the authority of a certain scholar without having read the book to him); (3) munāwala (obtaining a compilation of hadīth together with permission to relate it to others); (4) mukātaba (written communication); (5) iʿlām (certification from muḥaddithūn that the student has received a certain amount of hadīth); (6) wasīya (obtaining the work through a bequest) (7) wijāda (discovery of hadīth in a book, perhaps after the death of its owner).

As far as the intention of a muḥaddith in transmitting a report is concerned, al-Shāfīʿi holds that his intention is sincere. He argues that the muḥaddithūn do not gain any material benefit when they transmit ahādīth concerning unlawful or lawful things. In legal testimony, such an intention of gaining some benefit may be present, especially in the case of testimony on behalf of near relatives. Testimony can be given for money. This problem does not arise in transmitting a report. Furthermore, a hukm is derived from the report, it is binding to all Muslims, that is, on its transmitters as well as other Muslims. That is why, according to al-Shāfīʿi, hadīth related by ahl al-hadīth can be relied on.

A hadīth is well authenticated if it is related by any of the muḥaddithūn. In certain circumstances, a report by an ordinary person is also reliable. Here al-Shāfīʿi speaks about an inner aspect of man. He believes that in some critical conditions, a man tends to speak correctly and soundly. He gives as examples when a man is in fear of death, especially during an acute illness or on a journey, or at a time of remembering death (dhikr al-mawt), or in other similar states that rouse him from negligence. All of these circumstances, according to al-Shāfīʿi, produce positive

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40 Ibn al-Salāh, Ulūm al-hadīth, 132-81; see also Siddiqi, Hadith, 86; Salisbury, "Contribution", 75-78; James Robson, "Tradition, the Second Foundation of Islam", MW, 41 (1951), 27-29.

41 Al-Shāfīʿi, al-Risāla, 392, para. 1086.
results, namely a strong feeling of taqwā (fear of God), good intentions, clear thinking and little risk of forgetfulness.\textsuperscript{42}

Al-Shāfi‘ī argues that in such circumstances, a normally untrustworthy person might well become trustworthy. With regard to hadīth, his transmission can be reliable and his hadīth may be regarded as fully trustworthy. Al-Shāfi‘ī provides two reasons for his view. First, that such a person impressed with the sense of taqwā. Second, if not taqwā, he has at least a sense of shame (hayā‘) at the thought of undermining people’s trust in hadīth. Furthermore, his hadīth is not to his own advantage, either to defend or to bring benefit to himself. However, al-Shāfi‘ī does not deny that this is a temporary state. After a while, there is the possibility that the person might lie or abandon careful memorisation.\textsuperscript{43}

Ahl al-hadīth can accept a hadīth from such persons in the circumstances mentioned above. The report satisfies the criteria set by ahl al-hadīth. The question now arises concerning ahl taqwā wa-l-sidq which refers to ahl al-hadīth themselves. Are their reports reliable? Al-Shāfi‘ī provides a logical answer which is self-evident. For al-Shāfi‘ī, ahl al-hadīth are those well-known for being muttaqūn (godfearing) and sādiqūn (truthful), and are likely to memorise all the more carefully in important matters like hadīth. Al-Shāfi‘ī gives some reasons for his view. Firstly from the public perspective, ahl al-hadīth are in a position of public trust. They are those who truly follow the teachings of religion. They represent the ideal of religious observance. Secondly, ahl al-hadīth know that they must be trustworthy in all circumstances because trustworthiness is a duty imposed on them by God. They also know the importance of matters concerning what is lawful and unlawful. It is

\textsuperscript{42} Al-Shāfi‘ī, al-Risāla, 393, para. 1087.
\textsuperscript{43} Al-Shāfi‘ī, al-Risāla, 393, para. 1088.
unthinkable for them to fabricate or lie. In addition, Hell is threatened if they present something that is unfounded.44

Al-Shafi‘i quotes five hadith5 to support his argument that this group of people is the more reliable. All these hadith tell of the dreadful consequences of lying about the Prophet. It is certain that they ahl al-hadith well-acquainted with these hadith. These hadith become a guiding principle for al-Shafi‘i in his method of authentication of hadith. The narrator of hadith must be a reliable transmitter (thiga). The trustworthiness of every person in an isnad is a priority. The narrator must have sufficient knowledge of the trustworthiness of those who transmitted it from the beginning to the end.46 This approach is used by scholars of hadith to decide the truth of hadith, and it is also al-Shafi‘i’s method of dealing with hadith.

4.7 The Basis of the Acceptance of khabar al-wahid as a Source of 'Ilm

The problem with khabar al-wahid is its isnad, the fact that it is a hadith transmitted by one single authority. Dissatisfied with this, many scholars among the fuqahā’ cast doubt on its binding force.47 They require at least two or three individuals to support any khabar. Al-Shafi‘i believes it his duty to convince his fellow scholars that a khabar must be accepted even though a single authority relates it. It is, after all, a report on the authority of the Prophet. Al-Shafi‘i believes that if there is a report from the Prophet, any other reports from Companions or Successors can be safely left out of consideration. Such reports, according to al-Shafi‘i, neither strengthen nor weaken a report from the Prophet.

44Al-Shafi‘i, al-Risala, 394, para. 1089.
45Al-Shafi‘i, al-Risala, 394-98, paras. 1090-94.
46Al-Shafi‘i, al-Risala, 398, para. 1095.
47See Chapter 5.
In what follows, al-Shāfi‘ī’s discussion of khabar al-wāhid as he sets it out in al-Risāla under the title of “Proof in verifying khabar al-wāhid” will be presented. Al-Shāfi‘ī presents evidence that his position is supported by the Qur’ān, the Prophet’s Sunna, the practice of the Companions and Successors, and the ijmāʿ of the scholars. His aim is to prove the validity of khabar al-wāhid. His argument will be presented under the following headings:

4.7.1 The Qur’ān;
4.7.2 The Sunna of the Prophet;
4.7.3 The practice of the Companions;
4.7.4 The practice of the Successors;
4.7.5 The ijmāʿ of Muslim scholars.

4.7.1 The Qur’ān

Al-Shāfi‘ī supports his case for the binding nature of khabar al-wāhid with evidence in the Qur’ān that, in most cases, God sent the prophets one at a time. At any one time only one prophet was sent to a given nation. The prophets Nūḥ, Ibrāhīm, Ismā‘īl, Hūd, Sāliḥ, Shu‘ayb, Lūt and Muḥammad were each sent to their respective nations as a sole messenger. Al-Shāfi‘ī stresses that God has established the proof of His creation of the world through His prophets. These prophets are distinct from ordinary people. Their attestation is enough for those who directly witness the aspects of the prophetic revelation and the signs that distinguish the prophets from other people, that is, their contemporaries. In other words, the prophets are reliable persons and their word is taken as proof.

Commenting on Q 26: 13-15 which mentions that two messengers were sent by God and that later God strengthened them with another, al-Shāfi‘ī says this is not

48Al-Shāfi‘ī, al-Risāla, 401-71, paras. 1101-1208; Khadduri, chap. x, 239-84.
the rule. For al-Shāfi‘i, the sending of an additional messenger is only to strengthen the position of the first (paras. 1201-13).

Al-Shāfi‘i attempts to show here that the prophets provide proof even though they are only single persons. We cannot reject them on the grounds that they are single individuals. The same applies to *khabar al-wahid*. It must be accepted if its transmitters are reliable persons.

4.7.2 The Sunna of the Prophet

Al-Shāfi‘i uses *ahādīth* reported on the authority of the Prophet and his Sunna to argue in favour of *khabar al-wahid*. For him, the Prophet himself was in favour of a single individual. Al-Shāfi‘i presents three *ahādīth* (paras. 1102-1112) to support his position and gives reasoning based on them as we shall see. He also provides examples from the Sunna.

It is worth noting that the use of these *ahādīth* does not raise any objection from al-Shāfi‘i’s interlocutor. Therefore, we can say that *hadith* on the authority of the Prophet was already accepted by his interlocutor as a source. The question about the authenticity of these *ahādīth* did not arise at all.

In al-Shāfi‘i’s first *hadith* the Prophet is reported to have 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 (*hāmil fiqh*) is no lawyer (*faqīh*) himself, and many may transmit law to other who are more versed in the law than they. The heart of a Muslim shall never harbour vindictive feelings against these three: sincerity in working for God; faithfulness to Muslims; and conformity to the community of believers - their call shall protect [the believers] and guard them from [the Devil’s] delusion.”49

49Al-Shāfi‘i, *al-Risāla*, 401-02, para. 1102; Khadduri, 252.
Al-Shâfi‘i argues that the Prophet in this hadith is addressing a man to encourage him to memorise his words (maqâl), his sayings or teachings, and to understand them. But what is most significant is that the Prophet asks those who preserved his teaching to transmit it. The transmitter in this case is a single individual. For al-Shâfi‘i, the Prophet would not have asked someone to transmit his teaching unless it would become a hujja to whomever it was transmitted to. These transmitted teachings are important matters in the life of Muslims because they give guidance on what is lawful and unlawful, and on punishment, property and other matters both religious and worldly.

Al-Shâfi‘i also points out that someone may directly question the Prophet regarding any religious obligations mentioned in the Qur’an. He also may seek information from another man who has already approached the Prophet regarding a certain obligation, and can transmit the Prophet’s instruction to someone else. The transmitter of hadith, according to al-Shâfi‘i, is not required to be a faqîh. It is enough if he can transmit by his memory. In addition, al-Shâfi‘i argues from the above hadith that it proves that the ijmâ‘ of the Muslims is binding. This hadith and another hadith on the authority of the Caliph ‘Umar I are used to support the case that ijmâ‘ is one of the sources of ‘ilm. On the basis of ijmâ‘ too, al-Shâfi‘i argues that khabar al-wâhid is a source of ‘ilm.

The second hadith quoted by al-Shâfi‘i conveys a warning from the Prophet against arguing on the basis of the Qur’an alone. The hadith warns against a tendency to accept only what is mentioned in the Qur’an, and reject what is in the Sunna.

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51Al-Shâfi‘i, al-Risâla, 473-4, para. 1315.
52Cf. al-Shâfi‘i, al-Risâla, 89-91, para. 295-97 and 225, paras. 622-23 on the same hadith.
Al-Shafi'i argues that this is the Prophet’s own validation of the transmission of his sunna through reports. The Prophet informs Muslims that his Sunna is indeed binding. Ahadith containing his commands are self-sufficient. Their validity is self-evident, even though there is no relevant text in the Book of God. Al-Shafi'i mentions that he has discussed the question of the authority of the Prophet in another place. This can be called al-Shafi'i’s theory of the Sunna. For him, the authority of the Prophet is second only to the authority of God. The authority of the Prophet manifests itself in his Sunna and God’s authority manifests itself in His Book.

Al-Shafi'i’s third hadith is a hadith from Umm Salama about kissing while fasting. This hadith is used to show the binding nature of khabar al-wähid, as the Prophet showed anger to a man who had doubted his own wife’s report from Umm Salama that kissing while fasting is permitted.

Al-Shafi'i implies that the words of the Prophet in this hadith, “Have you not told her ...” show the importance of a report. The Prophet, according to al-Shafi'i, would not have asked his wife to transmit a report if it did not establish anything. In fact, Umm Salama’s report does establish something for those to whom she has mentioned it. The same applies to the report of the man’s wife if she is in the category of truthful persons.

The Sunna of the Prophet is indeed strong evidence for the authority of khabar al-wähid. Al-Shafi'i uses all of these examples from the Prophetic Sunna as an argument for accepting khabar al-wähid.

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53 Al-Shafi'i, al-Risâla, 404, para. 1108.
54 Al-Shafi'i, al-Risâla, 73-105, paras. 236-311; Khadduri, Chap. v (On the Obligation of Men to accept the Authority of the Prophet), 109-22.
Al-Shâfi‘i’s main argument is that the Prophet relied on single persons to convey his orders. The condition was that they must be reliable and trustworthy. This indicates that the report of a single transmitter becomes a proof for those who hear it. For example, Abû Bakr was sent to lead the pilgrimage on behalf of the Prophet in the year 9/630, and at the same time, the Prophet sent ‘Alî to recite part of sūrat al-barā’a at the ceremony of the sacrifice. Al-Shäfi‘i points out that Abû Bakr and ‘Alî were each well respected among the people of Mecca for their honesty and religious knowledge. Anything that came from them was true, because they were reliable persons.

The same can be said with regard to appointing the commanders of expeditions. Al-Shäfi‘i gives the example of the Mu‘ta expedition in 8/629, an expedition into Byzantine territory. In the first place, the Prophet assigned the command of the expedition to Zayd b. Hâritha. If he died, Ja‘far would replace him. After Ja‘far, Ibn Rawâha would take command. All of this implies the sufficiency of one person. The authority of these men cannot be denied. They play the role of judge and decide on matters that they are sent to do. Their task in general is to call to Islam and to fight those who are against Islam. According to al-Shâfi‘i, the same task was given to every governor. He notes that the Prophet could have appointed more than one person in these situations, but that he still chose to send only one.

In conclusion, al-Shâfi‘i holds the view that one person is sufficient to convey the truth. Nobody has any right to reject a report on the basis that it is a single transmitter report.
4.7.3 The Practice of the Companions

Al-Shafi'i strengthens his argument for the acceptance of khabar al-wähid as a source of 'ilm by referring to various pieces of historical evidence concerning the practice of the Companions. We can classify his evidence into three major categories, which according to al-Shafi'i represent three different degrees of proof. These are, firstly, the practice of the Companions in general in the time of the Prophet, secondly, the practice after the death of the Prophet, of 'Umar ibn al-Khaṭṭāb in particular, and lastly the practice of other Companions. In all cases al-Shafi'i shows that the Companions accepted khabar from a single person.

The general attitude of the Companions is represented as acceptance of any khabar from an individual of unquestionable integrity. Al-Shafi'i presents, for example, the case of changing the qibla (direction of prayer) from Jerusalem to the Ka'ba.56 This happened two months before the battle of Badr in 2/624, i.e. sixteen months after the hijra.57 Ibn 'Umar is reported to have said, "When men were performing the dawn prayer at [the mosque] of Qubā', a messenger arrived and said: A Qur'anic communication was revealed to the Apostle last night ordering him to face the qibla [of the Ka'ba]. So whereas they had been facing al-Shām [Syria], they [immediately] turned around toward the Ka'ba."58

Al-Shafi'i argues that this report shows an underlying principle. His first argument is that the people of Qubā' were of high status. They were among the first of the Ansār and very knowledgeable. They also used to face the previous qibla, and would not lightly change to another. However, they readily obeyed the instruction to do so after receiving it from a reliable reporter. Al-Shafi'i's second argument is the important one. The matter was one of changing one obligation to another obligation

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56 Al-Shafi'i, al-Risāla, 406-09, paras. 1113-19.
57 Al-Shafi'i, al-Risāla, 125, para. 366.
that is completely opposite. Hence, it is a major issue, and needs solid evidence to confirm it. This evidence, according to al-Shāfi‘ī, can be established by khabar al-wāhid if its transmitter is trustworthy. In other words, khabar al-wāhid can establish knowledge. Legal proof is established not only by the direct method of hearing from the Prophet or by khabar al-‘āmma, but also by khabar al-wāhid. Al-Shāfi‘ī’s third argument is related to the second. This event happened at the time of the Prophet. The Prophet would know the reaction of the people of Qubā’, and they themselves would ask the Prophet about it. If accepting instructions from a single reporter had been wrong, the Prophet would have told them. He would have said that in the issue like this, the Muslims should only accept a report by direct audition (sama) or by khabar al-‘āmma, or by khabar related at least by more than one transmitter. However, he did not do so.

Al-Shāfi‘ī deals especially with legal decisions (singular, qadā) taken by the caliph ‘Umar ibn al-Khattāb. ‘Umar, according to al-Shāfi‘ī, sometimes changed his decision after learning the sunna of the Prophet. Al-Shāfi‘ī refers to ‘Umar’s practice since ‘Umar was a main authority of scholars of both Medina and Kūfa in fiqh and hadith. It can be shown that al-Shāfi‘ī tries to bring the practice of the caliph ‘Umar into agreement with his view on the authority of khabar al-wāhid. Al-Shāfi‘ī presents many examples of ‘Umar’s decisions.

Al-Shāfi‘ī’s references to ‘Umar show that the report of the sunna of the Prophet has greater authority than ‘Umar’s own decision. For example, he refers to ‘Umar’s decree concerning the compensation (diya) for the loss of a hand. It is well-known that the Prophet’s sunna for this is fifty camels. In the case of the loss of a hand

59 Schacht, Origins, 25, 32.

The following practices are quoted by al-Shāfi‘ī: (i) compensation for the loss of a hand (para. 1160); (ii) a wife can share in the compensation of her murdered husband (para. 1172); (iii) compensation for foeticide (para. 1174); (iv) the return of ‘Umar before visiting Syria after knowing that a cholera epidemic was spreading there (para. 1180); (v) the status of Magians and collecting the jizya from them (para. 1182). Al-Shāfi‘ī stresses that all actions were taken by ‘Umar on the basis of a single individual report.
finger, 'Umar's decision was that it had to be decided according to the nature of each of the fingers themselves.\textsuperscript{61} This is based on the \textit{hadith} that the Prophet decided fifty camels as compensation for the loss of the whole hand.

However, the Muslims later discovered that 'Umar's decision was different from the decision of the Prophet. A letter belonging to the family of 'Amr b. Hazm was found in which it was stated that the Prophet had decided that the \textit{diya} is ten camels for any one finger. Scholars were inclined towards accepting this Prophetic \textit{sunna}, but before accepting it, they had to confirm the authenticity of the report. Al-Shâfi‘i does not state how this was done, because it is not his purpose here to elaborate how reports are evaluated. The point is that the scholars abandoned 'Umar's decision in favour of the Prophetic \textit{sunna}.

The main point here is that the authority of this \textit{hadith} must be accepted as soon as it is verified, even though it is not supported by any practice of a caliph. Al-Shâfi‘i adds that if any practice is in opposition to the \textit{hadith}, the practice must be abandoned in favour of the \textit{hadith}. Here it is indicated that al-Shâfi‘i is trying to evaluate the practice of his time to see whether it is in agreement with \textit{hadith} or not. If a practice is in conflict, it is better to accept the \textit{hadith}. His position is based on the authority of \textit{hadith}, which derives its authority from itself (\textit{yathbutu bi-nafsi-hi}), and not from the practice of later authorities. The authority of \textit{hadith} is self-evident. Its validity does not require confirmation by evidence of subsequent practice, and any conflict with actual practice does not affect it at all.\textsuperscript{62}

According to al-Shâfi‘i, Muslims unanimously agree to accept the \textit{hadith} of the Prophet. When the practice of 'Umar was in conflict with the decision of the

\textsuperscript{61}The opinion of 'Umar is for the thumb fifteen camels, the index finger ten camels, the middle finger ten camels, the ring finger nine camels and the little six camels.

\textsuperscript{62}Al-Shâfi‘i, \textit{al-Risâla}, 424, para. 1166.
Prophet, all Muslims unanimously agreed to accept the Prophetic Sunna. The Sunna supersedes all contrary practices. 63

There is no report that `Umar actually changed his decision on compensation for the loss of a finger. This is because the decision of the Prophet was discovered later. Al-Shāfī‘i argues that if this had occurred in the time of `Umar, he would have changed his decision. `Umar would have accepted that hadith because of (1) his taqwā (fear of God), (2) his willingness to carry out the duty of obeying the Prophet, (3) his knowledge and (4) his conviction that obedience to God also means obedience to the Prophet. In this way al-Shāfī‘i in one way or another delineates the principle behind acceptance of Prophetic hadith. It is not only based on a logical foundation, but also on religious piety.

The example above did not show that `Umar changed his decision. Al-Shāfī‘i’s interlocutor challenges him to mention a case in which `Umar did change his own practice after discovering a khabar about the Prophet. This time al-Shāfī‘i asks for an admission of his argument if he can provide such evidence. His interlocutor argues that two major points will be established if al-Shāfī‘i can produce his evidence. They are: (1) a decision is merely an opinion if there is no sunna to support it. When a sunna is found, individuals must abandon their opinions if they are contrary to the sunna, and the community must abandon any practice that is contrary to the sunna. (2) the validity of the sunna does not require confirmation with evidence of its subsequent application. Hadith is not weakened by anything that contradicts it. 64

One of al-Shāfī‘i’s examples concerns the right of the wife to inherit from the diya of her husband. At first, `Umar maintained that the wife cannot inherit from

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64 Al-Shāfī‘i, al-Risāla, 425-26, para. 1171.
her husband's diya. However, after al-Dāhhāk b. Sufyān mentioned to him that the Prophet had written to him on this matter, 'Umar changed his decision. The Prophet in his letter had ordered al-Dāhhāk to permit the wife of Ashyam al-Dibābī to inherit from the diya of her husband. Al-Shāfi‘ī argues that ‘Umar changed his decision on the strength of al-Dāhhāk’s hadith.

This example and many others show how ‘Umar in the first instance judged by his own reasoning. Al-Shāfi‘ī argues that ‘Umar then changed his decision after knowing the hadith of the Prophet. Once he knew the decision of the Prophet, he submitted to it (sallama la-hu). He obeyed the Prophet and abandoned his own decision. Al-Shāfi‘ī says, “His ['Umar's] own decision had been taken without his having heard anything with reference to it from the Apostle, but when he learned that his action was not in accord with the Prophet's decree, he abandoned his practice in order to obey the Apostle's decree and did likewise in all matters.”

Basing himself on the practice of ‘Umar, al-Shāfi‘ī makes a far-reaching appeal. He asks all people, individuals and society alike, to submit to this position, that hadith is binding upon them.

In his Ikhtilaf al-hadith, al-Shāfi‘ī states that ‘Umar accepted a hadith transmitted by a single authority whenever it was transmitted by a truthful transmitter. Al-Shāfi‘ī argues that if ‘Umar had intended to reject a hadith, he would have said to al-Dāhhāk, for example, “you are of the people of Najd”, or to Hamal b. Mālik al-Nābigha, “you are of the people of Tihāma, you have little knowledge of the Prophet and have had little association with him. I and others who are with me are of the Muhājirīn and Ansār, and were always with the Prophet. How could this be lost to our own group? You are the only one who claims to know it. A single

66 Al-Shāfi‘ī, al-Risāla, 429, para. 1179
person could possibly err or forget.” Al-Shāfi‘ī adds that, “the true opinion (ra‘y al-haqq) should be followed and the changing of one’s previous opinion is indispensable.” The case of ‘Umar has shown this. Hadith should be promptly accepted without any question of “why” or “how”. No one can ever reject an authentic hadith even if a single authority transmits it.67

From the discussion of ‘Umar’s practice, al-Shāfi‘ī has established two major conclusions:

(1) The authenticity of khabar al-wāhid is confirmed, whether it is in accordance with subsequent practice or not.

(2) Renunciation of a contrary practice is required when a hadith is established as genuine.68

Al-Shāfi‘ī also tries to answer the argument of some of his critics that ‘Umar’s method was to demand at least two transmitters for a hadith to be acceptable. This refers to the famous case of Abū Mūsā al-Ash‘arī with ‘Umar. Though al-Shāfi‘ī does not elaborate it, the story is that Abū Mūsā tried to see ‘Umar. When he had asked ‘Umar’s permission to see him three times, but had not been allowed in, he went away. Later ‘Umar asked Abū Mūsā why he had not waited longer, Abū Mūsā mentioned the Prophet’s saying that “asking for permission is three times. If he gives permission [all well and good], if not, go away”. Though ‘Umar knew Abū Mūsā, he asked him to bring another witness to confirm what the Prophet had said. It was then confirmed by Abū Sa‘īd al-Khudri.69

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67 Al-Shāfi‘ī, Ikhtilāf al-hadith, 21; idem, al-Risāla, 429, n. 1.
68 Hasan, Early Development, 183.
Al-Shāfi‘i takes the views that ‘Umar’s method was simply to prove the reliability of the hadith. He argues that if proof is provided by khabar al-wāhid, the evidence of two people can only make it stronger. His justifications for this are: (1) in his own experience, he has seen that someone, most likely a scholar of hadith, who has established the validity of khabar al-wāhid, will still seek a second confirmation. In another case, a muhaddith who had a sunna related through five different channels only wrote it down when he had it through a sixth. This is because a hadith is more reliable as a hujja, and more reassuring to the hearer when it has been transmitted by many and is well known; (2) a judge can find himself in the same situation. He may already have two or three upright witnesses, but still ask for another. The judge simply wants to satisfy himself of the validity of their testimony. He may, however, still judge the case with two witnesses if no other witnesses can be found. Hence, it is not a rule to produce at least two transmitters for a khabar, it is just a precautionary measure.

Al-Shāfi‘i thus concludes that ‘Umar’s practice in this case is not a binding rule, it was only a precautionary measure. In addition, he argues that it is impossible for anyone who holds the position of leadership in religion, whether ‘Umar or anyone else, to act inconsistently, sometimes accepting khabar al-wāhid and sometimes not. This is impossible for them, and also impossible for intelligent scholars. As far as ‘Umar is concerned, inconsistency in his case is ruled out by his good qualities, namely his knowledge, intelligence, trustworthiness and general merit.

According to al-Shāfi‘i, other Companions also accepted the report of a single individual, whether it was a man or woman who transmitted it. For example, the validity of accepting a report from only one woman is proven by the case of the caliph ‘Uthmān, when he accepted a report from al-Furay‘a bint Mālik b. Sinān regarding the ‘idda (the woman’s waiting period following dissolution of her
marriage by death or divorce). Al-Shāfi‘ī’s point is that a reporter of hadith can be either male or female, without any discrimination.

Al-Shāfi‘ī also gives the example of the Companion, Ibn ‘Umar, who renounced the practice of mukhābara (the lease of agricultural land for a share of its production) when he was informed that the Prophet had prohibited it. Al-Shāfi‘ī’s argument is, at first, Ibn ‘Umar viewed mukhābara as lawful. Once he knew the hadith of the Prophet forbidding it, he abandoned the practice. This was after verifying the authority of the transmitter of the hadith. Al-Shāfi‘ī concludes from the action of Ibn ‘Umar that any practice which occurred “after the Prophet’s death and was not supported by any khabar from the Prophet does not impair an authentic khabar from the Prophet.”

4.7.4 The Practice of the Successors

According to al-Shāfi‘ī, the Successors also used to decide cases on the basis of the Sunna, even when it was only reported by khabar al-wāhid. He shows that the Successors would change any decision if it was found to be contrary to the Sunna of the Prophet. Let us cite one of his examples.

Al-Shāfi‘ī mentions that the caliph ‘Umar b. ‘Abd al-‘Azīz (Umar II) changed his decision concerning a defective slave after learning the Sunna. The report is from a reliable person (lit. one whom I do not suspect, man lā attahimu) - Ibn Abī Dhi‘b - Makhlad b. Khufāf. According to Makhlad, he himself bought a slave and used him to gain an income. Later, he found out about a certain defect (‘ayb) in the slave, and took the case to the caliph. The caliph decided that he could return the slave to his former owner, but that he must return the profit he had made

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71 Al-Shāfi‘ī, al-Risāla, 446, paras. 1227.
72 According to Khadduri, he was Ibrāhīm b. Abī Yahyā, Khadduri, Islamic Jurisprudence, 273; cf. al-Shāfi‘ī, al-Risāla, 129, n. 8
from the slave. Dissatisfied with this judgement, he visited ʿUrwa b. al-Zubayr and told him the story. ʿUrwa agreed to see the caliph to tell him a hadith of the Prophet on the authority of ʿĀʾisha. According to ʿUrwa, ʿĀʾisha related to him the decision of the Prophet in a similar case as “the profit belongs to him who bears responsibility” (al-kharāj bi-J damān). When Makhlad told this hadith to the caliph, he said, “What a hasty decision I have taken! God knows that I sought nothing but what was right [al-haqq]. Now that you have informed me of a sunna of the Apostle concerning this matter, I shall revoke the decision of ʿUmar [he means himself] and carry out the sunna of the Apostle of God”. When ʿUrwa came, the caliph decided that Makhlad could keep the profit. It is clear from this action of ʿUmar II that he considered a single-transmitter report as preferable to his own opinion.

Al-Shāfi‘ī mentions other practices of the Successors which show that they accepted khabar al-wāḥid. For example, he cites the report of Saʿīd b. al-Musayyab (d. 95/714) from Abū Saʿīd al-Khuḍrī concerning sarf (the exchange of currency). Although a single transmitter relates this report, it is still accepted as the Sunna. He gives further examples showing that many Successors transmitted a sunna through khabar al-wāḥid, such as ʿUrwa b. al-Zubayr (d. 94/712), al-Qāsim b. Muḥammad (d. 107/725), ʿAlī b. Ḥusayn and Muḥammad b. ʿAlī b. Ḥusayn. Al-Shāfi‘ī argues that all Muslims simply accept these reports as sunna.

Al-Shāfi‘ī also mentions scholars of Medina who accepted khabar al-wāḥid such as Muḥammad b. Jubayr b. Muṭʿim and Nāfi‘ b. Jubayr b. Muṭʿim (d. 99/717), Khārīja b. Zayd b. Thābit (d. 100/718) Sulaymān b. Yaṣār (d. 107/725) and others.

In addition to those of Medina, al-Shāfi‘ī also lists Successors in Mecca, Yemen, Syria, Başra and Kūfa who accepted khabar al-wāḥid. In Mecca, al-Shāfi‘ī mentions ʿAṭāʾ b. Abī Rabāḥ (d. 113/731), Ṭāwūs b. Kaysān (d. 106/724), Mujāhid b. Jabr al-Makki (d. 104/722), Ṭ[Ubayd Allāh] Ibn Abī Mulayka (d. 117/736),
The authenticity of *khābār al-wāḥid* was accepted by the Successors and scholars of other provinces as well. According to al-Shāfi‘ī, they all agreed that it could be used in giving *fatwās*. Each Successor accepted *ḥadīth* from a preceding transmitter, and from him it was accepted by a succeeding transmitter.

4.7.5 The *Ijmā‘* of the Muslim scholars

With the arguments that he has presented, al-Shāfi‘ī claims that his methodology is in agreement with that of his pious predecessors (*al-salaf*) and his contemporaries. For al-Shāfi‘ī, nobody among the specialists may ever reject the validity of *khābār al-wāḥid*.

Al-Shāfi‘ī claims that his position on accepting *khābār al-wāḥid* is supported by the *ijmā‘* of the scholars. He has never found even one jurist who disagreed with this position. In taking his position, he only follows the *ijmā‘*. If this is the position of Muslim scholars, “it is permissible for me to say so also”.

4.8 Concluding Remarks

Having shown al-Shāfi‘ī’s view of *khābār al-wāḥid*, we can say that al-Shāfi‘ī believes that *khābār* as a whole is an autonomous source of knowledge (*aṣl fi nafsīh*). In his view, the reliability of *khābār* can be evaluated only by evaluating the

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reliability of its reporter. Justifying khabar by reference to other sources of ʿilm, that is to say, observation (the senses) and reason, only reduces the importance of khabar as an independent source of ʿilm. Al-Shāfiʿi’s response to khabar shows that his epistemology is in agreement with that of ahl al-ḥadīth. Their position accepts without question the authority of khabar al-wāḥid as means of engendering knowledge. In other words, they place uncritical trust in a khabar from others. Scholars such as Ibn Ḥanbal (d. 241/855) and Ibn Ḥazm (d. 456/1063) adopt this position. Ibn Ḥanbal, for example, trusts any sound khabar from others and accepts it as a source of ʿilm. He is reported to have said: “When a hadrīth from the Prophet with a sound isnād concerning a hukm or duty turned up, I acted upon it ...”\(^{75}\)

Al-Shāfiʿi is not uncritical of ahl al-ḥadīth. According to him, they went too far in accepting everything transmitted to them “from men who are at best ignored.”\(^{76}\) Al-Shāfiʿi comments on this group,

“I have noticed that most of them are inclined to be unreliable, because they accept [traditions] from the same transmitters whose similar and better traditions they rejected. They accept traditions that are interpolated, as well as those from unreliable sources if they agree with their opinions, while they reject traditions from reliable transmitters if they happen to contradict their opinions.”\(^{77}\)

This is why al-Shāfiʿi applies strictly his conditions of verification to the transmitter of the report. However, his method strengthens ahl al-ḥadīth’s theory, for example, his proof that the report of a single-transmitter is sanctioned by the authority of the Qur’an, the Sunna, the practice of the Companions and Successors and the ijmaʿ of Muslim scholars. Such arguments demonstrate the reliability of khabar as a source of ʿilm. Al-Shāfiʿi is known accordingly as nāṣir al-ḥadīth (the

\(^{75}\)Al-Hafuwī, *Dirāsāt*, 169.
\(^{76}\)Burton, *Hadrīth*, 163.
champion of the *hadith*. However, some supporters of *khabar al-wähid*, for example, the *hashwiya* of the Hanbalis,\textsuperscript{78} and Ibn Ḥazm,\textsuperscript{79} go further than al-Shāfi‘ī in regarding *khabar al-wähid* as necessary knowledge (*‘ilm ẓarūrī*).\textsuperscript{80}

Among the many examples provided by al-Shāfi‘ī to support his view, we can trace other responses to *khabar al-wähid*. For example, the caliph `Umar asked for another witness to support Abü Müsä. Probably on this basis, scholars such as Abü Ḥanifa and Abü Yūsuf (d. 182/798) would take a reductive position towards *khabar al-wähid*. For them, in order to be a source of *‘ilm*, *khabar al-wähid* must be grounded in other epistemic resources such as “living Sunna”, the Qur’an and inference which are regarded as more fundamental sources of *‘ilm*. Abü Yūsuf, for example, renounces any *khabar al-wähid* which contradicts the “living Sunna”, and issues a general warning against uncritical acceptance of such *hadith*. He says, “*Hadith* multiplies so much that some *hadiths* which are traced back through chains of transmission are not well-known to legal experts, nor do they conform to the Qur’an and the Sunnah. Beware of solitary *hadiths* and keep close to the collective spirit of *hadith* [i.e. “living Sunna”]”.\textsuperscript{81} As this suggests, some scholars attempt to show the validity of *khabar al-wähid* by comparing it with the Qur’an. This method is supported by a *hadith* reported from the Prophet. The Prophet is reported to have said, “Compare whatever is related on my authority with the Book of God; if it agrees with it, I have said it, but if it does not agree, I have not said it”.\textsuperscript{82} Abū Yūsuf has the same *hadith* with a different wording. The Prophet once said, “*Ḥadith* in my name will spread; so what comes to you in my name and agrees with the Qur’an,


\textsuperscript{80}On necessary knowledge, see Binyamin Abrahamov, “Necessary Knowledge in Islamic Theology”, in *BIMES*, 20.1 (1990), 20-32.


take it as coming from me while what comes to you in my name but is in conflict with the Qur'an cannot be from me".  

What is al-Shafi'i's view? According to Ahmad Hasan, al-Shafi'i strongly opposed that “current meaning of Sunnah [living practice] and insisted on taking the Sunnah from genuine traditions of the Prophet. He preferred a genuine Hadith from the Prophet to the agreed and established practice of the Muslims. Henceforth Sunnah was identified with Hadith". However, al-Shafi'i never says that he disagrees with Muslim practice. If all Muslims are agreed, this constitutes ijma'. There is no need for a specific hadith to support ijma' al-umma. In fact, the Muslim practices, which come under the scrutiny of al-Shafi'i, are those practices concerning which disagreement occurs. In such cases, he refers to many ahadith which are also widely available. From al-Shafi'i's resorting to hadith in this way, Ahmad Hasan concludes that he equates the Sunna with hadith. But actually this is not the case. What al-Shafi'i tries to do is to prove that the Sunna can only be authentically known through khabar. Al-Shafi'i also rejects the need to compare hadith with the Qur'an. For him, hadith has to stand on its own. If hadith is compared with the Qur'an, a lot of hadith will be seen to contradict the apparent meaning of the Qur'an. Al-Shafi'i rejects as weak the hadith used by Abü Yüsuf and quoted above. He presents another hadith to counter it. The Prophet said, “Let me find no one of you reclining on his couch, who, when confronted with an order of permission or prohibition from me, says: I do not know [whether this is authentic or not]; we will follow only what we find in the Book of God”.

Al-Shafi'i takes the approach of the scholars of hadith to the requirements governing the transmission of hadith by verifying the reliability of its transmitter.

83Abü Yüsuf, al-Radd, 25 (cited from Rahman, Islamic Methodology, 35).
84Ahmad Hasan, Early Development, 87.
85Al-Shafi'i, al-Risāla, 225, paras. 618-19
86Al-Shafi'i, al-Risāla, 225-26, para. 620-23; trans, Khadduri, 187.
He demonstrates the reliability of khabar as a source of 'ilm, and does not try to reduce the importance of khabar as a source of 'ilm. His theory of the truth and falsehood of khabar depends on the veracity of the reporter. However, in certain circumstances, al-Shafi'i has another criterion. He says in al-Risāla: “The truth or falsity of most hadith cannot be inferred except through the truth or falsity of the narrator, except for a few special instances where truth or falsity may be inferred if the narrator narrates what cannot possibly be the case or if the item of information is contradicted by another better established [hadith] or more bolstered with proof of veracity”. Al-Shafi'i’s other criteria are inference (istidlāl) on the basis of the Book, the Sunna, ījmāʿ and analogy. So besides the external verification, al-Shafi'i also uses internal verification to determine the truth and applicability of certain reports.

Al-Shafi'i also provides guidelines for solving the problem of contradictory hadith. If there are two contradictory hadiths, consideration should be given first to whether one of them is abrogated (mansūkh) or not. If there is no indication that either hadith is either abrogating (nāsikh) or abrogated (mansūkh), and both of them are sound in their isnāds, preference should be given to the one which is closer in meaning to the Qur'an, the Sunna and qiyās.

The problem of legal proof (hujja) predominates in al-Shafi'i's discussion of khabar al-wāhid. According to al-Shafi'i, the first category of hujja is derived from a clear text of the Book or from generally agreed sunna (sunna mujtamaʿ alayh). When a hujja is taken from one of these two sources, nobody is permitted to doubt it, and the hujja must be accepted. It constitutes a proof that requires anybody who denies its authority to repent. Al-Shafi'i, however, pays little attention to this type

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87 Al-Shafi’i, al-Risāla, 399, para, 1099; trans. Khalidi, Arabic Historical Thought, 138-39;
88 Al-Shafi’i, al-Risāla, 373, para, 1012.
89 See Ali, Al-Shafi'i's Contribution, 119; also al-Bayhaqi, Manāqib, I, 510-11.
90 Al-Shafi’i, al-Risāla, 460, para. 1259.
of *hujja* because all Muslims submit to its authority. What concerns him more is another type of *hujja*. This is a *hujja* derived from *khabar al-khāṣṣa*. Some differences may occur when deriving a *sunna* from this kind of *khabar*. There are two reasons. Firstly, *khabar al-khāṣṣa* permits different interpretations and secondly, it is transmitted by a single authority transmits it. In these circumstances, disagreement is inevitable. However, according to al-Shāfi‘ī, it is incumbent upon scholars to accept such *khabar* even though it is not as certain as the text of the Book and *khabar al-‘āmma*. It still constitutes knowledge. Al-Shāfi‘ī compares the case with that of judges who are bound to accept the testimony of witnesses of just character. Why, then, should scholars accept *khabar al-wāḥid*? The reason is that there is a text to support it. Al-Shāfi‘ī holds therefore that *khabar al-khāṣṣa* is authoritative. Its authority stands on its own and cannot be rejected by means of *ta‘wil* of the Qur‘an or other *ahādith* which convey only a general meaning. Al-Shāfi‘ī points out that such *akhbār* were known to his fellow scholars and but are not put into practice. But due to the nature of *khabar al-khāṣṣa*, al-Shāfi‘ī concedes that in respect of *khabar al-khāṣṣa*, someone may doubt and yet not be required to repent. He appeals to Muslim scholars as follows “If you are a learned man, you should not doubt this matter. Similarly, you should only judge on the basis of the witnesses of just character, even though they are subject to error. You are only bound to judge on the basis of apparent truthfulness on their part since God is responsible for what you do not know about them.” Proof in al-Shāfi‘ī’s view should be based on knowledge. Knowledge should be derived from *khabar*, and not from evolving legal practice. So if a point of contemporary legal practice or consensus was inconsistent with a *khabar* of the Prophet, the practice was wrong and must be changed.

94 Cf. Chapter 3.
Hadith is regarded as a vehicle of the Prophetic Sunna and a source of reference to past experience. However, the authenticity of hadith and its practical application were matters of controversy in the early history of Islam. Nevertheless, hadith has proved too important to be ignored even by those who reject its authenticity as well as its binding force. Ibn Qutayba, for example, states that ahl al-kalām and others who allegedly rejected hadith still used hadith to support their doctrinal views. The fact that al-Shāfi‘ī had to argue for the identification of sunna with hadith provides sufficient evidence of the existence of other approaches to hadith prior to and during his time. At least two approaches to hadith were represented among al-Shāfi‘ī’s contemporaries, namely by ahl al-kalām and ahl al-fiqh.

This chapter examines al-Shāfi‘ī’s critique of the views of ahl al-kalām and ahl al-fiqh on akhbār. He discusses the views of ahl al-kalām in the first chapter of Jimā‘ al-‘ilm, and argues against ahl al-fiqh in its second chapter. Ahl al-fiqh, who represented the early schools of law, objected particularly to akhbār al-khāṣṣa which tended to disrupt the local established practice of the Muslim community. For ahl al-fiqh, the living practices of the Muslim community, although frequently only valid practice in one locality, were the result of Prophetic Sunna, and consequently these

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1 Ibn Qutayba, Ta’wil 10-24.
2 See above, Chapter 2.
practices were used to justify their *fiqh* views. In *Jimâ‘ al-‘ilm*, al-Shâfi‘i criticises ahl al-kalâm and ahl al-fiqh for their methodology of hadîth criticism not only to undermine their positions but also to explain his own methodology, so that we are afforded an insight into the use of hadîth in his *usul al-fiqh*. Before going further, it will be useful to reiterate the attitudes of ahl al-kalâm and ahl al-fiqh to khabar as discussed in Chapter 2 as well as in al-Shâfi‘i’s *Jimâ‘ al-‘ilm*.

5.1 The Response of ahl al-kalâm to khabar

Ahl al-kalâm take a sceptical attitude towards all kinds of khabar. Al-Shâfi‘i explains out the general ideas of this group as follows:

“Someone who is credited with knowledge of the doctrine of his colleagues said to me: “You are an Arab, and the Qur’an has been revealed in the tongue of whom you are [a part], and you are more knowledgeable (adra) in memorising the Qur’an. In it, there are injunctions of Allah which He has revealed. If anyone to whom the Qur’an may have become confusing has doubted one single letter- you would call him to repent, and if he does not repent you will kill him. And Allah, the Exalted says about the Qur’an “... (it is) an explanation for all matters”. Then how is it possible for yourself or for anyone, concerning anything which Allah has laid down, to say at one time that the obligation in it is general; at another time that the obligation in it is particular; at another that the order is obligatory; at another to say that the order has an indication (dilâla) in it or if he wishes, is optional. Frequently you draw this distinction that a hadîth you relate from one man from another, or two hadîths or three until you reach the Messenger of Allah (May Allah bless him and grant him peace). However I found that you and those who followed your doctrine do not exonerate anyone whom you met, nor anyone whom I have met of those whom who you have met, and to whom you give precedence in truthfulness and memorising [of hadîth] from error and forgetfulness and making a mistake in his report; rather I have found you saying of more than one of them, “so and so has a mistake in such and such hadîth,

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and so and so has a mistake in such and such hadith. I have also found you saying, if a man says of a hadith which only a few people know (min ilm al-khass) and which you have used to declare something lawful or unlawful: "The Messenger of Allah did not say this". Either you are in error or those who related the hadith to you are in error. You do not call him to repent. You said no more to him than "How shameful is what you say". Is it then possible to make a distinction between any of the laws of the Qur'an (alikâm al-Qur'ân), when its outward appearance is one and the same to those who hear it, on the basis of the khabar of those who are as you have described? Do you treat their khabar as you would the Book of Allah, so that you give and withhold on their basis?"4

In order to understand the disagreement between al-Shâfi`i and ahl al-kalâm, the above response of ahl al-kalâm to hadith can be summarised as follows: Firstly, ahl al-kalâm believe that hadith (khabar on the authority of the Prophet) is unreliable. In other words, khabar fails to attain certainty, which is a criterion for knowledge. Abl al-kalâm doubt the truth of khabar on the basis that its transmitter may forget or make an error in reporting the khabar. Therefore, it is reasonable to reject khabar because it may be unreliable. Hadith is seen as a weak source of knowledge and incapable of adding to or adapting the regulations of the Qur'an.5 Secondly, ahl al-kalâm regard the Qur'an as a more reliable source of knowledge than hadith because it comes from God. That is why no other source can ever replace the Qur'an. They also believe that the injunctions of the Qur'an should be understood in their explicit meanings. They argue for the sufficiency of the Qur'an as the source of knowledge. In matters where there is no Qur'anic injunction, ahl al-kalâm rely on reason.6

4Al-Shâfi`i, Jims` al-`ilm, 13-14, paras. 4-6; Ali, 160-62.
6See above, 28, 59.
However, *ahl al-kalam* do not reject the authority of the Sunna, since their disagreement revolves around the transmission of the Sunna. The interlocutor who represents *ahl al-kalam* argues against al-Shafi'i as follows: “I do not accept any of them (i.e. *khabar*) for there is a possibility of mistake (*wahm*) by the reporters. I do not accept (anything) except what I call Allâh to bear witness, just as I acknowledge His Book of which no one can doubt a single letter therein. Is it then admissible that anything should take the place of knowledge (certainty) when it is not?”

What concerns *ahl al-kalam* here is the fallibility of *khabar*. This is because *khabar* reporters are liable to make mistakes. The Qur’an by contrast, is certain and infallible. *Ahl al-kalam* question the whole central assumption of the reliability of *khabar*.

For *ahl al-kalam*, it is not enough in order to establish truth that *khabar* has a sound chain of transmission. *Khabar* needs other criteria to prove its reliability, such as correspondence with the Qur’an and reason. However, doubting the transmission of *khabar* does nothing to undermine the central pillar of Islam, which is the belief in the Prophet and the binding force of his Sunna. Fazlur Rahman points out that *ahl al-kalam*, even though originally sceptical of *khabar* on the ground mentioned above, “nevertheless accepted the Sunna and the consensus and indeed they interpreted the Qur’an in the light of both these principles”.

The attitude of *ahl al-kalam* to *khabar* is not uniform. Some of them accept *khabar* if there is no sufficient statement in the Qur’an. If they feel that the Qur’an gives satisfactory answers, they refrain from accepting any *khabar* of the Prophet. Al-

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8 Cf. Chapter 2; see also Khalidi, *Arabic Historical Thought*, 139-141.
Shafi'i's interlocutor also criticises such an attitude of *ahl al-kalām* by commenting that this attitude leads them into error, since the Qur'an never mentions details of any form of worship such as prayer or zakāt. The Qur'an does not say how the act of worship can be performed because this is left to the Sunna to clarify.\(^9\) Another group of *ahl al-kalām* accept *khabar* only on subjects mentioned in the Qur'an.\(^10\) If the matter mentioned in the *khabar* is also mentioned in the Qur'an, they accept the *khabar*. This is because they are sceptical about transmitters of *khabar* in respect of their accuracy in reporting the Prophet's Sunna, and the errors made by them. Relying solely on the Qur'an, they believe that there is no stoning punishment (*rajm*) to be applied to married adulterers, and that the wiping of boots is not valid. They do not accept any *khabar* concerning these matters.\(^11\) By limiting the acceptance of *khabar* on the basis of the Qur'an, this group of *ahl al-kalām*, as claimed by al-Shafi'i's interlocutor, deprive themselves of essential knowledge such as that of the *naskh* (abrogation) and the *‘āmm* (general) and *khas* (particular) in the Qur'an. They are also unable to detect any error committed by a previous group of *ahl al-kalām*.\(^12\) This is because such knowledge can only be gained through *khabar* of the Prophet.

As far as *ijmāʾ* (consensus) is concerned, *ahl al-kalām* "acknowledge the consensus on the ground that Muslims, Allah willing, would not agree on any given doctrine unless they were right, and so their majority (*‘ammatu hum*) could not be mistaken as to the meaning of the Koran, even if individuals might be".\(^13\) With this explanation, we can say that *ahl al-kalām* also regard *ijmāʾ* as another criterion for

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13Al-Shafi'i, *Jimāʿ al-`ilm*, 27f, paras. 77-81.
AL-SHÂFI‘I’S CRITIQUE OF THE VIEWS OF AHL AL-KALÂM AND AHL AL-FIQH 141

evaluating the reliability of khabar. Thus, ahl al-kalâm hold that any khabar which agrees with ījmâ‘ is acceptable.

Since ahl al-kalâm doubt the authenticity of khabar, their approach towards fiqh also differs from that of al-Shâfi‘i. Their approach is to augment the scope of knowledge by the use of human reason. Al-Shâfi‘i restricts the method of ījtihâd to qiyâs. For ahl al-kalâm, qiyâs is largely speculative and superfluous. They argue against qiyâs as follows:

“What do you think if we do not find an explicit text in the Book of Allâh, the Exalted, nor a report [khabar] from the Prophet (May Allah bless him and grant him peace) on matters which I hear you being asked about and to which you reply by either declaring something wâjib (obligatory) or declaring it bâţil (invalid)? Where do you get the authority to do this? And how can you tell what is correct (sawâb) and what is wrong (khata‘)? Are you exercising ījtihâd in seeking some specific object which is not visible to you or are you speaking arbitrary? Who has permitted you to make lawful or to make unlawful, or to separate (things) without any existent example which you can follow? If you allow yourself that it would be permissible too for another to say whatever comes into his mind, without any example (mithâl) to follow and without any guideline (ībra) cited against him by which you can know the correct from the erroneous!”15

It is worth noting that this quotation makes clear the existence of religious law and its methodology at that time.16 Ahl al-kalâm generally accept that a legal structure existed in the Muslim community. Their intention may have been to restrict religious law to certain areas, specifically to areas already mentioned in the Qur’ân. This strict approach would have far-reaching results if it were accepted. Ahl al-kalâm

14Schacht, Origins, 41; cf. al-Shâfi‘i, Jimâ‘ al-‘ilm, 30, para. 96; also 54, para. 204.
16Rahman, Islam, 72.
prefer to apply human reason in areas where there are no injunctions in the Qur'an. Reason is then the criterion to decide in those areas between right and wrong.

In matters where there are no Qur'anic injunctions, *ahl al-kalām* are hostile to the practice of making analogies. For them, *qiyyās* is an innovation, since it seeks to enquire into the causes and objectives of divine injunctions. Furthermore, *qiyyās* is associated with human speculation. The interlocutor who represents *ahl al-kalām* questions the validity of *qiyyās* by saying: "What I know is that your scope for speaking is restricted unless it is extended by *qiyyās*, as you have described. And I have two questions for you; first: you have to mention the proof that you have authority to practise *qiyyās* since *qiyyās*, we all know, is like *khabar*, nothing but *ijtihād*. So how is it restricting for you to speak without *qiyyās*?"18

*Ahl al-kalām* argue that reason is sufficient, and that there is no need for *qiyyās*. They are inclined to regard questions not referred to in the Qur'an as having been left out deliberately, and as unregulated by the Divine Lawgiver.19 Al-Shāfī'ī charges *ahl al-kalām* with using their own opinion (*istihsān*) and whatever comes to their mind (*khawāṣir*) in confronting new problems that may emerge. Furthermore, *ahl al-kalām* simply make up answers that are without any foundation (*muta`assif*), i.e. lacking the support of revelation.20

*Ahl al-kalām* do not deny the importance of *khabar*. What troubles them is the question to what extent *khabar* is reliable in transmitting the Sunna of the Prophet. *Ahl al-kalām* hold that if *khabar* is to be vindicated as a source of *'ilm*, the

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17See above Chapter 3.
20Al-Shāfī'ī, *Jimā' al-`ilm*, 33, para 105; also, 35, para., 113.
acceptance of such *khabar* must be based on the Qur'an and what is acceptable to reason.\(^{21}\) However, there are limits to the use of reason in accepting and discarding the *khabar* of the Prophet. For example, a report that the Prophet used to sleep on his right side, and that before going to bed he used to recite certain prayers cannot be judged on the basis of reason alone. Reason may say that any sleeping position is possible. To say that a certain position is correct on the basis of reason is in fact illogical. In this case, reason can neither prove nor disprove the *khabar*.\(^{22}\)

5.2 The Response of *Ahl al-fiqh* to *Akhbār al-khāṣṣa*

The views of Abū Ḥanīfa and Mālik have been referred to in Chapter 2. However, *Jimāʻ al-ʿilm* illuminates the contemporary attitudes of *ahl al-fiqh* towards *akhbār al-khāṣṣa* to an extent that hardly any other work of the period does. The major issue from the point of view of al-Shāfīʿi and *ahl al-hadīth* is that *ahl al-fiqh* do not accept *khabar al-khāṣṣa* when it contradicts either a definitive general principle (*qāʿidat al-ʿamma*), *ijmāʿ* or the opinion of a Companion. The Ḥanafīs and also the Mālikīs used the above criteria to evaluate the truth of *khabar al-wāḥid*.\(^{23}\) By contrast, the primary goal of al-Shāfīʿi is to secure acceptance of *akhbār al-khāṣṣa* without any evaluation, qualification or restriction. In order to secure this acceptance of *akhbār al-khāṣṣa*, al-Shāfīʿi has to refute the position of *ahl al-fiqh* on *ijmāʿ* and the opinion of a Companion. In doing so, al-Shāfīʿi elaborates his own methodology of *fiqh* by stressing the use of *akhbār al-khāṣṣa* for the derivation of actual legal points.\(^{24}\)

\(^{21}\) See above, Chapter 2.


\(^{23}\) See Chapter 2.

\(^{24}\) See al-Shāfīʿi, *Jimāʿ al-ʿilm* (*bayān farrāʿiḍ Allāh tabārakā wa-taʿāla*), 103-34, paras. 461-555.
Ahl al-fiqh, as pointed out by al-Shafi‘i, are of the opinion that the ijmā‘ of the scholars is an important source for justifying the truth of any hukm.25 Since scholars are the sole possessors of religious knowledge, it is their agreement that constitutes ijmā‘. Ordinary people (man lā ‘ilma lahu, literally, those who do not know), are required simply to follow the scholars (yajibu ittibā‘u-hum fī-fihi). Thus, when the scholars agree, their agreement stands as proof for the ordinary people. Al-Shafi‘i also points out that ahl al-fiqh, especially Malik, are of the opinion that a khabar will be accepted only if there is ijmā‘ on it. For ahl al-fiqh, ijmā‘ ensures the faithful understanding and acceptance of the transmission of the Prophetic Sunna. Ijmā‘ enhances the authority of rules derived from khabar al-wāhīd.

As far as the opinion of a Companion is concerned, al-Shafi‘i claims that ahl al-fiqh believe that the opinion of a Companion is valid if there is no report to the contrary, i.e. if other Companions do not oppose it. According to al-Shafi‘i’s interlocutor, a Companion might relate a report about the Prophet in front of a group of other Companions, and if they do not object to it, this proves that they accept the report.26 For the interlocutor, the Companion’s report is true knowledge about the Prophet, if there is no objection to it from other Companions.27 He compares such a report with a decision made by a judge. If other judges do not raise any objection, it

25 According to Rahman, ijmā‘ has an authority since it is not just an opinion but a living practice of Muslims. It thus equates with the Sunna of the Prophet. It is not claimed as infallible source but authoritative one because it has the authority of the Sunna proper, that is the Sunna of the Prophet, see Rahman, Islam, 74.

26 Al-Shafi‘i, Jimā‘ al-‘ilm, 83, para. 334.

27 The reason is the Companions would not have been unaware of the practice and decision of the Prophet, see Schacht, Origins, 29.
shows that the judgement is correct. In the interlocutor's view, every judge should adhere to the decision.  

The opinion of a Companion is linked to the question of precedent. A number of leading *fuqahā'* from various schools have held the view that the opinion of a Companion is a proof which must be followed. The Hanafis, for example, maintain that the opinion of a Companion which is transmitted by earlier *fuqahā'* prior to them is binding upon all Muslims. Their assumption is that the Companion was in the best position to know the actual state of the law as laid down by the Prophet. Thus, Abū Ḥanīfa would give priority to the opinion of a Companion over *qiyyās*, and regard the opinion as preferable to *ijtiāhād*. Mālik not only upheld the opinion of a Companion but almost equated it with the Sunna of the Prophet. Al-Shāfi‘i, however, only follows the opinion of a Companion in the absence of a ruling in the Qur’an, Sunna and *ijmā‘*.  

Let us cite one example to show the position of *ahl al-fiqh*. The Qur’an lays down the penalty of a hundred lashes for unmarried persons who commit adultery (Q 24: 2). A *khabar al-wāḥid* adds to the Qur’anic punishment the penalty of exile for one year. Although the Hanafis accept this hadith as authentic, they maintain that the penalty added by this hadith is not *hadd* (a prescribed penalty) but *ta‘zīr* (a discretionary penalty). This is because ʿUmar and ʿAlī sometimes applied the additional penalty of exile, and at other times did not. For al-Shāfi‘i, the opinion of a Companion is not binding, especially when it conflicts with a hadith. Al-Shāfi‘i,

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30 Nyazee, *Theories of Islamic law*, 182.  
31 See above, Chapter 3.
therefore, considers the penalty of exile as part of the hadd to be applied at all times in addition to flogging.\textsuperscript{33}

5.3 Al-Shafi‘i’s Objection to Ahl al-kalām

Al-Shafi‘i takes a clear-cut approach by equating the acceptance of authentic khabar with acceptance of the Sunna.\textsuperscript{34} His simple logic is that khabar records the Sunna. This is why he holds that it is the duty of Muslim scholars to accept a valid khabar from the Prophet. However, al-Shafi‘i’s view may not necessarily be true, since one can deny the khabar and still accept the Sunna. This view, however, differentiates between the khabar and the Sunna. This is against al-Shafi‘i’s general thesis which he asserts in Jamā‘al-‘ilm:

\begin{quote}
“I never heard anybody whom the people recognised or claimed himself to be a scholar disagree about the fact that Allah (to Him belong glory and power) imposed upon man the religious obligation to follow the orders of the Messenger of Allah (May Allah bless him and grant him peace) and to submit to the Prophet’s decision, since Allah did not grant for anybody else anything after him except to follow the Prophet. There is no teaching which is ever obligatory unless [it is commanded] the Book of Allah or the Sunna of His Messenger. Everything else except those two [the Qur’an and the Sunna] is merely subordinate and dependent on them. The religious obligations that Allah (Most High) imposed upon us and upon anybody after and before us concerning having to accept khabar from the Prophet is the same. There is no difference between the obligation and duty to accept khabar from the Messenger except one party whose doctrine I should now describe if Allah (Most High) wills.”\textsuperscript{35}
\end{quote}

\textsuperscript{32}Al-Shafi‘i, al-Risāla, 131-32, para. 381.
\textsuperscript{33}Nyazee, Theories of Islamic Law, 183.
\textsuperscript{34}See above Chapter 4.
\textsuperscript{35}Al-Shafi‘i, Jamā‘al-‘ilm, 11-12, para.1; trans. Ali, 159.
For al-Shafi‘i, any attempt to question his view on khabar from the Prophet is therefore directly to question the authority of the Sunna itself, because the validity of the Sunna depends on the validity of khabar. This is what actually happens in the case of ahl al-kalâm, who doubt authentic khabar. Al-Shafi‘i sets up rigorous criteria for determining the reliability of hadith, the most important of which is the reliability of the transmitters (ruwāt) of hadith, based on the requirements of ‘adāla (uprightness) and dabb (retentiveness). The Shi‘is consider that transmitters must above all be favourably disposed towards the family of the Prophet, in particular towards ‘Ali. Contrary to these views of al-Shafi‘i and the Shi‘is concerning the transmitters of hadith, ahl al-kalâm maintain that such criteria are not sufficient to distinguish between truth and falsehood.

The arguments with which al-Shafi‘i seeks to convince ahl al-kalâm that khabar of the Prophet’s Sunna is a source of religious knowledge are as follows:

(1) Al-Shafi‘i argues that there is no way for a later generation of Muslims, who have not met the Prophet, to know his teachings except through khabar, either khabar al-‘amma or khabar al-khāssa. Al-Shafi‘i says:

"Anybody who understands the language (i.e. Arabic) in which the Book of Allāh and His laws have been revealed, [surely] his knowledge of both will lead him to the acceptance of the akhrār of those who are truthful from the Messenger of Allah. He must also accept the difference between things the Messenger of Allah has indicated and the difference he has made between the laws of Allah. He would therefore know the place of the Messenger of Allah since you yourselves did not meet him either through the

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specialists’ report (khabar al-khāṣṣa) or general report (khabar al-‘āmma).”37

For al-Shāfi‘i, our knowledge of the Book of God and His law depends on the Prophet. The Prophet has transmitted this knowledge to his Companions. Al-Shāfi‘i is of the opinion that this knowledge is then transmitted through authentic khabar. If khabar is a vehicle of the Sunna, Muslims who have not themselves met the Prophet may not doubt a khabar on the authority of the Prophet. However, other criteria are needed apart from the criterion of isnād in order to implement the content of any authentic khabar as al-Shāfi‘i’s interlocutor would like to ask. The interlocutor asks “Could you give me an example of this [the claim that ahl al-kalām rejected the khabar], from matters in which proof can be supporting [for you] about the acceptance of the khabar?”38 Where actual legal points were concerned there are many factors to be considered in order to apply a particular khabar of the Prophet. one cannot claim that any authentic khabar should be automatically binding. Ahl al-fiqh and ahl al-kalām generally accepted a distinction between actions of the Prophet that were related to his religious mission, and his other actions, and regarded the latter as non-binding.39 This point will not, however, challenge the theoretical status of the authentic khabar.

For al-Shāfi‘i, logical justification in matters related to religion is not essential. For him, the most important obligation is to submit to the Sunna of the

37Al-Shāfi‘i, Jīmā‘ al-ilm, 16-17, para. 12.
38Al-Shāfi‘i, Jīmā‘ al-ilm, 16-17, para. 15; trans. Ali, 163.
39The basis of this argument is a famous date-tree hadith. The Prophet says, “I am only human. If I command something related to religion, then obey, but if I order you to something on the basis of my own opinion (ru’uy), then I am only a human being”, Muslim, Kītab al-fadā‘il, 31 (as cited from Daniel W. Brown, Rethinking Tradition in Modern Islamic Thought (Cambridge, 1996), 18).
Prophet as transmitted by authentic khabar. Ignoring it is negligence (ghafala) which, according to al-Shafi‘i, is the attitude of ahl al-kalām.\(^{40}\)

(2) Al-Shafi‘i refers to the binding nature of the Sunna and the office of the Prophet to argue against ahl al-kalām who rejected all khabar. For him, doubting khabar is the same as doubting the authority of the Sunna, and therefore degrades the authority of the Prophet himself. However, this is not a good argument against ahl al-kalām as we shall show later.

Al-Shafi‘i presents Qur’anic verses to show the obligation to obey the Prophet.\(^{41}\) To cite one example, the Qur’an says, “Whosoever obeys the Messenger, thereby obeys God” (Q 4: 80). Al-Shafi‘i uses these verses to bind together the two sources, the Qur’an and the Sunna. Accordingly, to question or reject one of them leads to questioning or rejecting the other.\(^{42}\) His interlocutor affirms this and all Muslims do the same. Al-Shafi‘i then says,

\[\text{“Do you find the way to perform the obligation of Allah (to Him belong glory and power) concerning following the orders of the Messenger of Allah or has anybody before and after you of those who have not met the Messenger of Allah known that way except through a khabar from the Messenger of Allah. The fact that I can only achieve this through a khabar shows that Allah has required me to accept [everything] from the Messenger of Allah”}\(^{43}\)

Thus, al-Shafi‘i’s main concern is to show the need for khabar since it records the Sunna. He is presenting a new definition of the Sunna by saying that it must be derived from khabar. He justifies this claim by referring to two fundamental

\(^{40}\)Al-Shafi‘i, Jimā‘ al-‘Ilm, 17, para. 16.
\(^{41}\)Reference is to the Qur’an 4: 65, 80; 24: 63; 59: 7; cf. al-Shafi‘i, al-Risāla, 79ff, paras. 258-92.
\(^{42}\)Burton, Collection, 21-29.
problems of *uşūl al-fiqh*, namely, the question of abrogation (*naskh*), and the question of what is general (*‘āmm*) and what is particular (*khāṣṣ*)

Al-Shāfi‘ī maintains that it is impossible to have knowledge of these two questions without the assistance of *khabar* of the Prophetic Sunna. The case of *naskh* (abrogation) demonstrates the importance of *khabar*. It will be useful to give a brief explanation of what *naskh* means to al-Shāfi‘ī. His doctrine of *naskh* is based on “the rule that the Qur‘ān can only be abrogated by the Qur‘ān and the *sunna* only by the *sunna*. The *sunna* cannot abrogate the Qur‘ān because its function is to interpret the Qur‘ān, not to contradict it. Equally the Qur‘ān cannot abrogate the *sunna* because to recognise this possibility would be to nullify the explanatory role of the *sunna*. If a prior precedent of the Prophet was in fact contradicted by a later Qur‘ānic revelation, then, argued ash-Shāfi‘ī, there would certainly exist a further *sunna* in conformity with this later revelation.”

As an example, al-Shāfi‘ī cites the problem of bequests. On this problem, he cites three texts: (1) Q 2: 180 commanding bequests (*wasiya*) in favour of parents and near relatives; (2) Q 4: 10-12 allotting specific portions of the estate to legal heirs in inheritance; (3) the hadith, “no bequest (*wasiya*) in favour of an heir”. In the first place, there is an apparent conflict between two rulings. Three solutions can be derived from the above three texts: (1) parents and near relatives can receive bequests in addition to their specific shares of the estate. (2) the second ruling (Q 4: 10-12) can be seen as abrogating the first ruling (Q 2: 180), and (3) vice versa, the first ruling
Al-Shafi‘i’s Critique of the Views of Ahl al-Kalām and Ahl al-Fiqh

Abrogating the second ruling. Al-Shafi‘i chooses the second solution in the light of the above hadith. This is not an abrogation of the Qur’an by hadith, but that hadith indicates the Qur’anic ruling on specific shares abrogates the Qur’anic ruling on bequests.

The above example shows the importance of khabar in al-Shafi‘i’s view of ilm. Without khabar, such problems cannot be solved. Al-Shafi‘i’s interlocutor now admits the importance of khabar, and changes his position to support al-Shafi‘i’s view.\(^{47}\)

Al-Shafi‘i now turns to the problem of classifying Qur’anic rulings into those that are general (‘āmm) and those that are particular (khäs).\(^{48}\) In this case, al-Shafi‘i’s classification is generally acknowledged as necessary for a proper understanding of the meaning of the Qur’an.\(^{49}\) There is also no dispute among jurists, so far as mutawātir hadith is concerned. They are unanimous that this kind of hadith can specify Qur’anic rulings (into ‘āmm and khäs).\(^{50}\) Controversy arises only on the question of whether khabar al-wāhid can specify Qur’anic rulings or not. Some jurists, especially the Hanafis and ahl al-kalām, reject the idea that khabar al-wāhid can specify Qur’anic rulings since khabar al-wāhid is only probable knowledge, and it cannot specify the definitive statements of the Qur’an. Al-Shafi‘i, however, takes

\(^{47}\) Al-Shafi‘i’s interlocutor is satisfied and accepts al-Shafi‘i’s explanation and follows al-Shafi‘i’s ideas. He says, “This is similar to the Book and Wisdom [concerning bequests]. The evidence that you have is very sound since it is a religious obligation upon us to accept reports from the Messenger of Allah. I now have turned to accept that [it is an obligation for] Muslims to accept binding reports because of the argument that you have produced and others from the Book of Allah. I am not too proud to admit that I have changed [my mind] when evidence became clear, in fact, I consider it is necessary that I should abandon my previous opinion and accept your present opinion since it is true.”, see al-Shafi‘i, Jirmā al-‘ilm, 23, para. 53.

\(^{48}\) Al-Shafi‘i, Jirmā al-‘ilm, 24-25, paras., 55-62.

\(^{49}\) Hasan, Early Development, 181; al-Shafi‘i is the first scholar who has proposed this classification of Qur’anic verses.

\(^{50}\) Kamali, Principles, 108; Hasan, Early Development, 180f.
the view that *khābar al-wāhid* can specify general statements of the Qur'an, and his
task is to prove that this is possible, and indeed necessary.

Al-Shāfi‘i presents examples to show the importance of *khābar* in
distinguishing *‘amm* and *khāṣṣ* in the Qur'an and the Sunna.\(^{51}\) One is that the Qur'an refers to prayer in a general statement as an obligation imposed on all Muslims. But then the *sunna* shows among other things that menstruating women are excluded from that obligation of prayer. The same is true of the *zakāt* (the obligation to give alms). The ruling is general in the Qur'an as though all property had to be assessed for this purpose, but the *sunna* limits it to specific kind of property. The same is true in the case of inheritance. The Qur'anic rulings are in general terms, but the *sunna* makes it clear that inheritance is forbidden between believers and unbelievers, between slaves and free men, and between murderers and victims. All Muslims are unanimous on these matters. Al-Shāfi‘i concludes that "it is clear from the *ahkām* of Allāh in His Book that Allāh (made) it obligatory to obey His Messenger, as is also the position which Allāh has given him as the clarifier (*al-ibānā ‘anhu*) what Allah has revealed in terms of whether it is particular or general, abrogating or abrogated."\(^{52}\)

Al-Shāfi‘i points out that the basis for the acceptance of *khābar* is the duty of
mankind to follow the Prophet. There is no dispute concerning the obligation to obey the Prophet. There is dispute, however, concerning the transmission of the Sunna. This is the underlying reason behind the rejection of *khābar*, that there is doubt about the reliability of the reports. For *ahl al-kalām*, it is an epistemic problem, a question

\(^{51}\) Al-Shāfi‘i, *Jimā‘ al-‘ilm*, 26-27, paras. 63-64.

of criteria for accepting a report. How can it convey reliable knowledge, and is it true or not? The main concern of *ahl al-kalām* is with how we can know the Sunna rather than with the Sunna itself. In short, it is a problem of evidence. For *ahl al-kalām*, the criteria advanced by al-Shāfi‘i are not rigorous enough in themselves to guarantee sound transmission of a report. More is needed to establish truth than the reliability of the reporter or even of many reporters.

(3) Al-Shāfi‘i considers resorting to *ijtihād* in general to be acceptable, and even praiseworthy, provided that it is not used as an alternative to *khabar lāzim* (a binding report, whether the Qur’ān, Sunna and *ijmā‘*, but as a means of determining its legal import or of deciding legal points, in the absence of *khabar lāzim*. He says:

“It is not for me or for any ‘ālim (knowledgeble person) to speak about permitting or prohibiting anything, or to take anything from anyone or to give it to anyone, unless he finds it (written) as a text in the Book of Allah, a *sunna* or *ijmā‘*, or in a binding *khabar* (*khabar yalzamu*). What is not included in one of these *khabars*, we are not allowed to say on the basis of our own approval (*istihsān*), nor by what comes in to our minds. We can say it only as *qiyyās* (analogy) based on *ijtihād* required by binding *khabar*. If it were permissible for us to say it without any model such as *qiyyās* by which the correct and the incorrect can be known, it would also be permissible for everyone to say, like us, whatever comes into his mind. But we and the people of our time are obliged not to say anything other than as I have described.”

Al-Shāfi‘i’s argument then revolves around the use of *qiyyās* as the proper method of *ijtihād*, implying the need for *khabar lāzim* as a basis for any analogical reasoning in *fiqh*.

Al-Shafi‘i’s objection to *ahl al-kalām* is straightforward. He tries to refute their assertion that a *khabar* from the Prophet may be rejected because it is difficult to verify it. Al-Shafi‘i responds that *khabar* is the record of the Sunna. The command of the Qur’an to obey the Prophet refers precisely to *khabar* from the Prophet. As far as *qiyaṣ* is concerned, al-Shafi‘i is of the opinion that it must be made on the basis of textual evidence from the Qur’an, the Sunna and *ijmā‘*. For him, these sources are the foundation of *ijtiḥād*.

Al-Shafi‘i and *ahl al-kalām* represent two approaches to the question of the validity of *khabar*, which reflect two different views of its function. Al-Shafi‘i is concerned with *khabar* as a source of religious knowledge. *Ahl al-kalām* are more interested in the epistemic status of *khabar*, whether, for example, knowledge based on *khabar* of one or a few persons can produce necessary or acquired knowledge, or just opinion.55 Since al-Shafi‘i’s primary interest is in making practical decisions on the basis of *khabar*, he does not argue very seriously with *ahl al-kalām* on the epistemic problem of *khabar*. He is content with the method of *hadīth* criticism as advanced by *muhaddithin*.

5.4 Al-Shafi‘i’s Arguments against *Ahl al-fiqh*

Al-Shafi‘i sets up to convince his opponents amongst *ahl al-fiqh* of the validity of his view on *akhbār al-khāssa*. He does so by challenging the arguments of his opponents and undermining their doctrine of *ijmā‘*. He uncovers contradiction and conflict within their doctrine, and his critical weapon, from the very beginning, is this accusation of contradiction within *ijmā‘*. He arrives at the conclusion that the

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outcome of ‘ilm al-khāṣṣa is ikhtilāf, and not ijmāʾ. His aim in undermining ijmāʾ is to establish akhbār al-khāṣṣa as a source of ilm.

The reason behind al-Shafiʿi’s ijmāʾ polemics lies in the view of ahl al-fiqh, who use ijmāʾ as a criterion for the authentication of hadith and as a barrier against akhbār al-khāṣṣa. In al-Shafiʿi’s view, ahl al-fiqh have given ijmāʾ a higher status than akhbār al-khāṣṣa because they use ijmāʾ as a criterion to determine the authenticity of akhbār al-khāṣṣa and its binding force. Al-Shafiʿi points out that such a view would give the impression to ordinary people that authentic khabar is worthless, and ijmāʾ is the one most important source of knowledge. Al-Shafiʿi’s arguments with which he undermines the notion of ijmāʾ according to ahl al-fiqh are as follows:

1. Al-Shafiʿi argues that disagreement (ikhtilāf) among Muslim scholars happens everywhere. He highlights internal and regional divisions among Muslims, and mentions differences among local scholars of various places such as Mecca, Medina and Kufa. In Mecca, for example, al-Shafiʿi cites ‘Āṭāʾ b. Abī Rabāḥ (d. 114/732). Although some people agreed with him, yet others preferred a different opinion to his. Another example is Muslim b. Khālid al-Zanjī (d. 189/804) who gave fatwās. Some preferred him, but others inclined towards the view of Saʿīd b. Sālim (d. 200/815). These men’s followers would find fault with their opponents, and exaggerate their faults beyond the limit (of politeness). Al-Shafiʿi also mentions that

57 Al-Shafiʿi, Jimāʾ al-ʿilm, 52-53, paras. 190-93.
58 Cf. Schacht, Origins, 7f; according to Maktisi, Schacht highlights the significance of geographical regions as far as schools of law were concerned, see George Maktisi, “The Significance of the Sunni Schools of Law in Islamic Religious History”, in IMES, 10 (1979), 2.
people in Medina preferred Sa'id b. al-Musayyab (d. 94/712), but then abandoned some of his opinions. In al-Shafi'i's time, the majority preferred Malik b. Anas (d. 179/795), but others were extreme in condemning Malik's view. Ibn Abi al-Zinad (d. 174/790) went beyond politeness in blaming Malik. Al-Mughira (d. 186/802), Ibn Abi Hazim (d. 185/801) and al-Darawardi (d. 187/802 or 189/804) accepted Malik's views, yet others condemned them. 59

Accordingly, al-Shafi'i concludes that no agreement exists, but instead only disagreement exists. Therefore, there is no *ijma* at all. Here al-Shafi'i denies the existence of any single system of *fiqh* (*tafaqquh wahid/fāmm*), since no agreement has been achieved. For al-Shafi'i's interlocutor, the most important thing is that scholars should reach an agreement. Questions such as different approaches (*madhāhib*), interpretation (*ta'wil*), unawareness (*ghafla*) [of particular *hadiths*] and rivalry (*nafāsa*) among the *fugahā’* are put aside. 60

(2) Al-Shafi'i also dismisses the possibility of universal *ijma* in *ilm al-khāṣṣa*. He refers to the occurrence of *ikhtilāf* in the time of the “rightly-guided caliphs” (*al-khulafa’ al-rāshidūn*) concerning *fay* 61 and inheritance, on which there were disagreement between Abū Bakr and ‘Umar. 62 In the case of inheritance, Abū Bakr held that the grandfather takes the position of the father if the latter dies before him. ‘Umar, however, gave the grandfather the same share as an inheriting brother. 63

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60 Al-Shafi'i, *Jimā'al-Ilm*, 64, paras. 249-51.
61 *Fay* literally means “that which came back”. Al-Shafi'i points out that the *fay* is property “that which God returned to his people (without fighting on their part) from those who opposed His religion”, see Nicholas P. Aghnides, Mohammedan Theories of Finance with an Introduction to Mohammedan Law and a Bibliography (New York, 1969), 425.
(3) Al-Shafti criticises *ijma* as subjective. There is no agreement on the number of scholars needed to constitute *ijma*, or on how to measure a majority. Al-Shafti shows that majority opinion is not the correct criterion of *ijma*. He points out that neither the exact number of the majority nor that of the minority can be determined. He claims that if one agrees with a certain opinion, one says it is the view of the majority and if one wishes to reject it, one says that it is the minority view. Thus, the claim to pass the test of *ijma* was arbitrarily made.

(4) In order to reject the view of *ijma* taken by *ahl al-fiqh*, Al-Shafti argues further that their definition of a scholar is ambiguous. As far as *ahl al-hadith* are concerned, *ahl al-fiqh* always accuse them of being ignorant since they accept *khabar al-infirad* (isolated reports). In fact, according to Al-Shafti, most Muslims deny the ability of *ahl al-hadith* to be *fuqahā*, and accuse them of ignorance. Accordingly, *ahl al-hadith* are not permitted to give any view, and their views have always been excluded. Al-Shafti is of the opinion that a great jurist is one who has faith in *hadith*, but to his interlocutor, who represents *ahl al-fiqh*, *ahl al-hadith* are the most ignorant since they accept isolated reports.

As far as *ahl al-kalām* are concerned, Al-Shafti points out that his interlocutor's view is inconsistent. In some cases, he accepts them as knowledgeable, and in other cases, he rejects them when they contradict *ijma*. The question arises, does the interlocutor consider *ahl al-kalām* to be jurists even though others reject them? To clarify the matter, Al-Shafti refers to two cases, the wiping of boots and

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64 Al-Shafti, *Jimā' al-`ilm*, 56-57, paras. 219-32.
66 Al-Shafti, *Jimā' al-`ilm*, 60, para. 239.
67 Al-Shafti, *Jimā' al-`ilm*, 54-55, paras. 204-08.
the stoning of married adulterers. *Ahl al-kalām* reject them both as invalid. In the first case, the interlocutor prefers ablution (*wuḍū‘*) as prescribed in the Qur‘an, since there is disagreement on the validity of wiping especially with *ahl al-kalām*. For the interlocutor, if there is disagreement, the matter must be referred to its origins when in this case is ablution. Al-Shāfi‘i now refers to the stoning of married adulterers. In this respect, *ahl al-kalām* differ from *ijmā‘* since the Qur‘an only refers to flogging, and executing people is unlawful unless Muslims agree on it. Accordingly, there is no basis for stoning married adulterers since no universal *ijmā‘* has been reached on it. This, however, is contrary to the interlocutor’s position (as well as al-Shāfi‘i) since he also seeks to apply the stoning punishment to married adulterers.68

(5) Al-Shāfi‘i also argues that there is no possibility of the occurrence of *ijmā‘* since there is no common meeting place for scholars. Hence, it is impossible to ask each of them whether he agrees or not. Moreover, the transmission of their consensus by the generality (*naqīl al-‘āmma*) is unlikely to occur. Only the transmission of specialists (*naqīl al-khāṣṣa*) is possible. Since the interlocutor dislikes *naqīl al-khāṣṣa* on the basis of its unreliability, he has no means of verifying his presumed *ijmā‘*. In this case, *khabar al-khāṣṣa* is indispensable. Al-Shāfi‘i stresses that accepting *naqīl al-khāṣṣa* is necessary whether in respect of *ijmā‘* or *hadith*. Thus, there is no reason to reject *khabar al-khāṣṣa* in respect of *hadith* when it is accepted in respect of *ijmā‘*. Al-Shāfi‘i then compares the attitude of his interlocutor with that of *ahl al-hadith*. Both in fact have the same attitude, that is to say, both rely on *taqlīd*. In the case of *ahl al-hadith*, they put their trust in *hadith*, and base their *fiqh* upon it. This is already well-known. As far as the interlocutor is concerned, al-Shāfi‘i claims

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that he puts his trust in *ijmāء*’. So, if the interlocutor accuses *ahl al-hadīth* of being ignorant because they accept *khabar al-infīrād*, the interlocutor is also guilty of ignorance since he just assumes something as *ijmāء*’ which in reality is not *ijmāء*.69

(6) Al-Shāfi‘ī cites many examples to show that *ikhtilāf* is inevitable. His well-known example is how to decide the direction of the *qibla*. *Ikhtilāf* can happen when the Ka‘ba is not visible. However we cannot conclude that al-Shāfi‘ī favours *ikhtilāf*. He does say that if *ijtihād* is properly conducted, *ikhtilāf* could be limited and minimised. With such arguments, al-Shāfi‘ī attempts to undermine *ijmāء*’ as used by *ahl al-fiqh*. His aim is to show that *ijmāء*’ is not a criterion for validating *akhbār al-khāṣṣa*.

(7) Al-Shāfi‘ī analyses the true nature of *ijmāء*’. He perceives that claims made for *ijmāء*’ were largely polemic, and did not reflect any real certainty or absence of dispute. As mentioned earlier, al-Shāfi‘ī was inclined to restrict the application of *ijmāء*’ to *‘ilm al-‘āmma*, that is to the realm of general religious obligations such as fasting in Ramadān and *zakāt*. Here, he explains when it is said, “people agree” (*ajmāء‘*), it means that nobody can claim that there is no *ijmāء*’. As far as details of the law are concerned, al-Shāfi‘ī classifies them under *‘ilm al-khāṣṣa*, wherein precisely there was no certainty but only *ikhtilāf*. Al-Shāfi‘ī points out that there is no occurrence of any *ijmāء*’ in *‘ilm al-khāṣṣa*.

As far as *ijmāء*’ *ahl al-madīna* is concerned, al-Shāfi‘ī defends it as more reasonable than the claimed Iraqi *ijmāء*’ because *ijmāء*’ *ahl al-madīna* is the agreement of a particular group. Al-Shāfi‘ī criticises his opponent’s position on *ijmāء*’ by

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claiming that it is worse than *ijma* `ahl al-madina. If it can be claimed that there is no *ijma* in a particular group, it is even less likely to occur universally.

For al-Shafii, the nature of *ijma* as held by *ahl al-fiqh* is different from true *ijma* (khilaf al-*ijma*). Their so-called *ijma* may be mere opinion transmitted through an isolated report (khabar munfarid). Al-Shafi'i give examples to support his argument that in actual fact there is no *ijma*. The earliest authorities, like Ibn al-Musayyab, 'Ata', al-Sha`bi, al-Hasan and others, had different opinions on several issues, for example on *sarif* (exchange of currency), *mukhābara* (contract to cultivate land for a share of its produce) and other matters. There was hardly any such thing as the agreed practice.

Such examples enhance al-Shafi'i's argument that there is no *ijma*. In their own lifetime, the views of the above authorities were not universally accepted by Muslims and when they died there was no *ijma* either.

Al-Shafi'i adds that the Successors also accepted isolated reports in making decisions. So how could some people disagreed with their decisions basing on *al-khabar al-munfarid*. Al-Shafi'i's main argument is that *ahl al-fiqh* oppose isolated reports (*khabar `ala al-infirād*) even though the Successors accepted them and furthermore allowed disagreement. For al-Shafi'i, the Successors are in full agreement about accepting isolated reports and have an accommodating view towards disagreement, while, *ahl al-fiqh* reject isolated reports, prohibit disagreement and assume the Successors exercised *qiyyās*.70

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70 Al-Shafi'i, *Jimā` al-`ilm*, 70-73, paras. 281-88.
Al-Shaf'i points out that *ijma'* did not occur among the Successors. They never used the word *ijma'* if *ijma'* had occurred, they would have described it as *ijma'* because they would never have concealed anything that they knew (*lá yaskutūn ʿalā shayʿin ʿalimūn-hū*). For al-Shaf'i, if there had been *ijma'* as claimed by *ahl al-fiqh* it would have played a major role in knowledge. However, this was not the case.71

Referring to the *ijma'* of the Companions, al-Shaf'i defines it as agreement both in words and in actions. By contrast, *ahl al-fiqh* take the *ijma'* of the Companions to mean that when one of them relates a *hadith* from the Prophet, none of them will contradict it (for example by producing a contrary *hadith*). This is enough to indicate their consensus that the report has come from the Prophet. The absence of any objection from other Companions shows their satisfaction with the *hadith*, and constitutes their *ijma'*:72

Al-Shaf'i opposes this view of the *ijma'* of the Companions. For him, the context or background of a *hadith* may determine whether it encounters opposition. It is possible that when one Companion relates a *hadith*, the others do not listen to it, or have no knowledge at all whether it was a saying of the Prophet. The *hadith* may be contrary to the actual practice of the Prophet, but because the Companions do not know anything to the contrary, it is not their duty to reject what another has said. Moreover, it is a moral duty to listen when someone is talking, and for this reason they may have simply kept silent.73

73 Al-Shaf'i, *Jimāʿ al-ʿilm*, 89, paras. 368.
In conclusion, al-Shâfi‘i holds that *ijmâ‘* is not a valid criterion for deciding the reliability and truth of *khabar*. For him, *ijmâ‘* is acceptable as a source of knowledge, but is not binding when it opposes the authentic Sunna, even when that Sunna is contained in *akhbâr al-khâssa*. However, the stand of *ahl al-fiqh* cannot be totally rejected. *IJmâ‘* can play a role when necessary as external evidence to verify the binding nature of *akhbâr al-khâssa*. For example, an interpretative step is needed between *khabar al-khâssa* and its legal application: not every *khabar* that appeared to be a command was in fact a command. The command may be interpreted as required, recommended, indifferent, discouraged, and forbidden.

5.5 The Opinion of a Companion

For al-Shâfi‘i, the condition laid by his interlocutor that *khabar* from the Prophet is authentic only when there is no contradictory report from a Companion is a weak argument. Knowledge of the circumstances of the report may explain why it was not opposed. Firstly, there is the possibility that a contradictory report has been transmitted in other countries. Secondly, a Companion related such a report when he was on a journey or when he was dying. In these two situations, it is possible that no other Companions would have been present at the time. Al-Shâfi‘i’s interlocutor, however, believes that a Companion in such circumstances would only transmit a well-known (*mashhûr*) report. This answer is used by al-Shâfi‘i as an argument in support of *khabar al-wâhid*. If this is the case, he says, he also finds that a large number of Successors transmit a report by naming only one authority, even though they know that a report has many transmitters.74

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74Al-Shâfi‘i, *Jimâ‘ al-‘ilm*, 82-84, paras. 333-42.
Thus, al-Shafi`i maintains that the Qur'an and the opinions of the Companions should be interpreted in the light of the authentic Sunna transmitted through the authentic akhbār. His principle is that expressed later in the phrase: *al-sunna qādiya `ālā al-Qur'an* (the Sunna is the decisive authority for determining the meaning of the text of the Qur'an).\(^{75}\) In contrast, *ahl al-fiqh*, especially the Ḥanafis, maintain that the Qur'an and the Sunna should be interpreted in the light of the practice of the Companions. This is because the Companions knew better the true intentions of God and His Prophet.

The vitality of al-Shafi`i's works illustrates the tension that had arisen out of the divergence between the use of hadīth and the legal practice of the community in the Islamic sciences. Al-Shafi`i upholds in theory and practice the importance of hadīth by insisting on its application in legal points. *Ahl al-fiqh*, however, resist the thorough application of hadīth. In so doing, they became vulnerable to the attacks of al-Shafi`i and *ahl al-hadith*. However, *ahl al-fiqh* remained largely unaffected by the triumph of al-Shafi`i's thesis. They continued existing legal practice by means of the doctrine of *ijmā`, and continued to use *ijmā`* as a criterion for validating hadīth.

In the final analysis, al-Shafi`i's efficacy in his polemics against his opponent is not so much in rejecting his opponent's views as a whole but in bolstering *ahl al-hadith* who seek to establish practice exclusively on the hadīth of the Prophet.

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\(^{75}\)Nyazee, *Theories of Islamic Law*, 179.
CONCLUSION

Al-Shāfi‘ī presents his ideas on ‘ilm and khabar systematically. The evidence presented in this study has shown that there is a close relationship between ‘ilm and khabar in al-Shāfi‘ī’s view.

In general, khabar is a source of ‘ilm along with other sources: senses and reason. In the history of Islam, al-Shāfi‘ī is the first scholar who highlights the claim that true knowledge arises from khabar. His view of ‘ilm is based exclusively on khabar. The Qur’an, the Sunna and hadith of the Prophet are all called akhbār.1 Thus, ‘ilm and khabar come together in al-Shāfi‘ī’s view. In fact, for al-Shāfi‘ī, all ‘ilm must be based on akhbār, and this is the epistemological position that he fought to establish.

Al-Shāfi‘ī’s division of ‘ilm into ‘ilm al-‘āmma and ‘ilm al-khāṣṣa is closely related to his division of khabar into khabar al-‘āmma and khabar al-khāṣṣa. In short, khabar al-‘āmma leads to ‘ilm al-‘āmma, and khabar al-khāṣṣa leads to ‘ilm al-khāṣṣa. Khabar al-‘āmma has two main characteristics: (1) Its truth cannot be denied or doubted; (2) It is transmitted by a source which cannot and does not choose to lie, that is to say, a general public transmission. Examples include the Qur’an and the established Sunna (e.g. that the afternoon prayer comprises four cycles). By contrast, khabar al-khāṣṣa implies a report which may be true or false. Accordingly, it has two main characteristics: (1) its truth may be doubted; (2) it is transmitted by a fallible source which means, inter alia, a possibility of lying. The prime example is a single-transmitter report (khabar al-wāḥid).

The most original contribution of al-Shāfi‘ī to the problem of the relationship between ‘ilm and khabar is his discussion of khabar al-wāḥid, that is to say the single-

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1See above Chapter 3, pp. 91f.
transmitter report of the Prophet’s Sunna. Though al-Shafi’i’s concern is more with using *khabar al-wahid* as a legal proof, his discussion also has epistemological implications. He attempts to demonstrate the reliability of *khabar al-wahid* as a source of *ilm*. His main criterion is the *isnad* of the *khabar*. An authentic *khabar* stands as an authentic sunna. His originality lies in his claim that *khabar* is the only means of knowing the Prophetic Sunna, not the legal practice of the community. His arguments vindicate the reliance on *khabar al-wahid*. He uses religious arguments and a common sense approach to argue the reliability of *khabar*. As far as religious arguments are concerned, he refers to the binding authority of the Sunna and the promise of hell fire to those transmitters who lie in their reports. For al-Shafi’i, *khabar* about the Prophet’s Sunna is transmitted by experts (*muhaddithin*). In other words, he argues the truth of *khabar* on the basis of the reliability of its transmitters. As far as a common sense approach is concerned, al-Shafi’i argues that for those who have not met the Prophet, the only way to know him is through *khabar*.

There is no general rejection of *khabar* as a source of *ilm*. The concern is with knowledge that arises in respect of *khabar* of the Prophetic Sunna. The work of Imam al-Shafi’i illustrates this interesting and controversial issue concerning *khabar*. The positions of Muslim scholars prior to al-Shafi’i and of his contemporaries towards *khabar* can be summarised as follows:

1. The early schools of law (*ahl al-fiqh*) and *ahl al-kalam* hold a “reductive response” to *khabar*. This approach holds that if *khabar* is to be vindicated as a source of *ilm*, its acceptance must be on the basis of other sources of *ilm*, such as contemporary *ijma*, the practice of the Muslims, and reason. *Ahl al-kalam* have a negative attitude towards any type of *khabar* whether *khabar al-‘amma* or *khabar al-khassa*. This is as expected since their main source of *ilm* is reason. The acceptance

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2 The term is borrowed from Coady, *Testimony*.
3 See above Chapter 2, pp. 57-68.
of *khabar* may be seen as inconsistent with their epistemological world-view. As far as *ahl al-fiqh* are concerned, they accept both types of *khabar* in a general sense as a source of *ilm*. In the case of *akhbār al-khāssa*, they attempt to evaluate the truth of *akhbār* by referring to contemporary *ijmāʿ* and common practice. If *khabar al-khāssa* is in agreement with their criteria, they accept it as a source of *ilm*. Their objection to *khabar al-wāḥid* concerns a transmission of *khabar* that fails to fulfil the conditions of legal testimony, since *khabar al-wāḥid* is related by only a single transmitter. Al-Shāfiʿī argues against these views of *ahl al-fiqh* and *ahl al-kalām*.

2. *Ahl al-hadīth* hold an "anti-reductive response"4 to *khabar*. This approach accepts *khabar* absolutely as a source of *ilm*. Al-Shāfiʿī in general agrees with *ahl al-hadīth*’s approach. For him, there is no way for those who live after the death of the Prophet to know the Sunna of the Prophet except by means of *khabar*. In al-Shāfiʿī’s view, *ahl al-hadīth* perform great service to the cause of Islam in their enthusiasm to collect every report about the Prophet’s Sunna. He vigorously supports the method of transmitting *hadīth* through a single transmitter by arguing that this method is sanctioned by the Qur’an, the Sunna, the precedent of the Companions and the Successors and the *ijmāʿ* of the scholars. Al-Shāfiʿī’s intellectual arguments have a great influence. In the first place, he attempts to persuade his fellow scholars to accept the binding authority of *khabar al-wāḥid*, and secondly, he motivates *ahl al-hadīth* to systematise their *hadīth* collections.

Muslim scholars have their own approaches to *khabar*, in which they attempt to answer the problem of how the reliability of *khabar* can be proved. Al-Shāfiʿī provides strong evidence for the acceptance of *khabar al-wāḥid* as a source of *ilm*. He succeeds in defending and arguing for the cause of *hadīth*. The end result has been

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4 The term is borrowed from Coady, *Testimony*. 
the establishment of al-Shāfi‘i’s school of law, which seeks to establish legal points on the basis of the Prophetic *hadith*.
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