

## Role of Mosque in the Muslim Community

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The word Mosque is an English translation of the Arabic term '*Masjid*', which translated literally means place of prostration. Lisān al'Arab, one of the most authentic sources of Arabic language contains various meanings of the term. It is reported that *Masjid* with an 'a' has been used for the corners of houses, '*Mihrāb al-Buyūt*.' According to one lexicographer '*Masjid*' is a name of the place and a noun. Zaijāj, referring to a tradition of the Prophet defines '*Masjid*' as a place where God is worshipped<sup>(1)</sup>. Since worship of God has always been a cornerstone of every religion, places of worship occupied an important position in the daily life of a religious community.

There is evidence that any place of worship could be called a *Masjid* since Bukhārī referred to a church in Abyssinia as a *Masjid* and Ibn Khaldūn has used the term for any place of worship. John Pederson thinks that this term has been taken from the People of the Book and says: 'There is therefore no question of this word, especially being a Muslim term. This is in entire agreement with Muhammad's original attitude to earlier religions, just as Abraham was a Muslim, so David has a *Masjid*.'<sup>(3)</sup> The Orientalist try to prove that Islam has taken its structure from Judo-Christian tradition, indeed many of them have spent much of their lives tracing the origin of certain Islamic practices to earlier religions. For Muslims, however, it is a simple issue. Islam is not a new religion and its principles are revealed from the same Divine source which guided earlier Hebrew prophets including Jesus. Therefore it is perfectly acceptable if the term *Masjid* was used previously by the People of the Book for their places of worship. It does seem clear, however, that different religious groups with the passage of time, developed special terminology for their different systems of worship and prayer. Qur'ān, while mentioning various places of worship has used different names for them. Qur'ān says:

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ولا تلقوا بأيديكم إلى التهلكة<sup>28</sup>

"And be not cast by your hands to ruin."

Equity cannot overrule the law. the British maxims of equity are the sources of guidance in English law. One of these maxims is "equity follows the law"<sup>29</sup>. Here law means the statutory law. Common law is different from the statutory law, because it consists of legal practices, traditions and customs of the courts. In *Istihsan* we prefer the equitable aspect of law.

Finally we can conclude that generally *Istihsan* is much similar to the concept of equity but in details *Istihsan* is much different from equity.

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<sup>28</sup> Qura'n 195:2.

<sup>29</sup> Snell's Principles of Equity, P. 24.

credit of having been the first to recognize that a strict adherence to analogy would deprive law of that elasticity and adaptability which alone make it the handmaid of justice<sup>24</sup>.

"*Istihsan*, in spite of having similarity with equity is widely different from the British concept of equity. Riazul Hassan says:

"Except professor Fitzgerald no Orientalist has translated *Istihsan* correctly. They have translated it as equity. They do this with the motive of importing the idea of deficiency in the domain of Islamic law. There is a world of difference between the two. In the case of equity a British jurist tries to fill gaps of deficiency in the law. The principle of equity is based on the presumption that the law has failed to provide the adequate remedy. But in the case of *Istihsan* a Muslim jurist endeavors to find what the exact law in a particular case is<sup>25</sup>."

*Istihsan* and equity both provide flexibility in rigidity of laws. Flexibility means the discretion. It is commonly used in two senses;

- (1) sometimes it means a power to depart from the rules;
- (2) sometimes it means a power of choice within fixed limits set up by law<sup>26</sup>.

In the case of *Istihsan*, flexibility is of the second type. A Muslim jurist has only a power of choice within fixed limits.

The principle of *Istihsan* is much older than the British concept of equity, the British concept of equity originated in the thirteenth century<sup>27</sup>. On the other hand *Istihsan* developed alongside the Islamic law. Its roots can be traced to the days of the Holy Prophet. For example, due to intense cold Amr b. al Aas offered prayer with "Tayyammam" in the battle 'zaat us-salasil. When this matter was reported to the Prophet, he (Amr) Quoted this Quranic text in support of his argument.

<sup>24</sup> Rahim, A. The Principles of Muhammadan Jurisprudence, P. 164.

<sup>25</sup> Riazul Hasan, The Reconstruction of legal Thought P. 76.

<sup>26</sup> Rashid Ahmad Khan, Islamic Jurisprudence, 2nd E.D., Lahore 1978, P. 118.

<sup>27</sup> Snell's Principles of Equity, P. 5.

A) New rights firstly, equity enforced rights which the common law courts failed to enforce.

B) New remedies. Secondly, equity developed remedies additional to those provided by the common law for the enforcement of common law rights, such as specific performance of contract.

C) New procedure. In the third place, the procedure in common law courts was defective, especially in not compelling or even allowing a defendant to give evidence. In this matter, equity took a more liberal view.

Nevertheless certain rules of equity contradicted rather than complemented the rules of law, and where this occurred section 25 of the Judicature Act, 1873, provided that equity should prevail.

#### **Comparison of *Istihsan* with Equity.**

As we came to know that equity means natural justice or morality and in its narrow sense, it means the portion of law which is not enforced by the common law courts, is supplied by the courts of chancery which administer equity. It also means the body of rules formulated and administered by the courts of chancery. Equity provides relief in case of hardships or cases where common law is unable to provide any remedy due to its rigidity.

As far as the literal meaning of *Istihsan* is concerned it may be termed as preferring or regarding a thing to be as good. In the technical sense, if any law deduced by analogical deduction is inequitable, inconvenient and harsh, the Hanafi jurist is at liberty to discard it and adopt one that is convenient and just. It is the type of *Qiyas* and also termed as a Hidden *Qiyas*. It is to give preference to one *Qiyas* over the other.

In the case of English law the way in which equity developed side by side with the common law, to abate the rigour of law, *Istihsan* developed in Islamic law in the same manner to remedy *Qiyas*, Mr. Abdur Rahim says:

"If we call analogical deduction the common law of the Mohammadans, the juristic preference may be relatively styled as their equity. It has largely helped to develop the Hanafi system, the founder of which deserves the

i) Where the application of a strict *Qiyas* would lead to abolishing an already existing and salutary, or at least, harmless custom.

ii) When the application of a strict *Qiyas* would lead to an unnecessarily harsh result<sup>19</sup>.

### Equity:

The term "equity" has a broad propular sense and a narrow technical sense. In its propular sense equity is practically equivalent to natural justice or morality<sup>20</sup>.

Equity is a body of rules or principles which form an appendage or gloss to the general rules of law. It represents the attempt of the English legal system to meet a problem which confronts all legal systems reaching a stage of development. To ensure the smooth running of society it is necessary to formulate general rules which work well enough in the majority of cases. Sooner or later cases arise in which the general rules produce substantial unfairness<sup>21</sup>. Where this occurs, justice requires either an amendment of the rule or if the rule is not freely changeable, a further rule or body of rules to mitigate the severity of the rules of law.

In its technical sense equity can be defined as a portion of natural justice which, although of a nature suitable for judicial enforcement, was for historical reasons not enforced by the common law courts, an omission which was supplied by the court of chancery<sup>22</sup>.

### Contents of Equity:

The main work of equity could be classified as follows<sup>23</sup>.

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<sup>19</sup> Najmee, Abdul Hassan, Islamic legal Theory and the Orientalists, Lahore 1989, P. 94.

<sup>20</sup> Megarry, R. E. and Baker, P.V., Senll's Principles of Equity, London, 1960, P.3.

<sup>21</sup> Paton's Text Book of Jurisprudence. 2nd E.D., 1951, P. 169.

<sup>22</sup> Snell's Principles of Equity P.10.

<sup>23</sup> Snell's Principles of Equity P. 10

Schachet, describing the view of *Shafi's*, says, "if one were authorized to use *Istihsan*, one would have to acknowledge that others are free to use another *Istihsan*, and there would be several right decisions and fatwas on one and the same problem<sup>15</sup>.

Ibn Taymiyah and Ibn Qayyim have curtsied *Istihsan*. The jist of their argument is that against the rule which is substantiated from the *Quran* and the *Sunnah*, no analogical deduction is conceivable. On the other hand, analogy is based on the *Quran* and the *Sunnah* and the analogy which stands on the footing other than this is not juristic *Qiyas* but it is analogy based on personal opinion<sup>16</sup>.

These objections if viewed closely, appear to spring from the misconception that *Istihsan* amounts to giving preference to a solitary judgment of a jurist over an applicable analogy. If so, it would definitely give rise to unbridled and free use of judgment and the consequent chaos resulting from everyone's coming to his own conclusion<sup>17</sup>.

But this is not the case. *Istihsan* is juristic and not personal preference. It is a method in which, if there is a basis stronger than analogy, such as the text or consensus, the apparent and forthright analogy would be set aside and the stronger basis adopted instead, through *Istihsan*.

Viewed in this perspective, there can be no two opinions on the validity of *Istihsan*. Taftazani states,

"*Shafi'i* does not oppose Hanafi *Istihsan* and the *Istihsan* he opposes, is rejected by *Hanfi's* also"<sup>18</sup>.

*Istihsan* is applied to two main classes of cases.

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<sup>15</sup> Schacht, J., The Origins of Muhammadan Jurisprudence, Oxford, 1950, P. 121-122.

<sup>16</sup> Riazul Hasan, The Reconstruction of legal Thought, P. 70.

<sup>17</sup> Mahmassani, S., Falsafat al-Tashri, P. 86-87.

<sup>18</sup> Taftazani, Talwih Vol. II, P. 81.

or unlimited public interest and recommended to apply it under very strict conditions; namely:

- i) The case under review should be one pertaining to matter of transactions so that interests involved in it may be considered upon grounds of reason. The case should not be one relating to religious observances.
- ii) The Interest should be in harmony with the spirit of *Shariah* and should not be in conflict with any one of its sources.
- iii) The interest should be of the essential and necessary and not of the perfectionist (luxury) type. The essential type includes the preservation of religion, life, reason, off-spring and property<sup>12</sup>.

#### Shafi, is Criticism on Istihsan:

*Shafi*, is strongly rejected *Istihsan* as a source of *Shariah* saying that :

من استحسّن فقد شرّع<sup>13</sup>

"He who practices *Istihsan* assumes to himself the power of law-making."

*Shafi'i* states, no-one is allowed to judge a thing as permitted or prohibited on the basis of things other than the book, the *Sunnah* of the Prophet, consensus and the use of analogy. These sources are the ultimate and exclusive sources of knowledge<sup>14</sup>.

<sup>12</sup> Mahmasani, S. Falsafat Al-Tashri, Fi Al-Islam. The Philosophy of Jurisprudence in Islam tr. Farhat Ziadch, Leiden, 1961, P. 88.

<sup>13</sup> Ghazali, Al-Mustasfa min "Ilm al-Usul Cairo, 1937, Vol.I P. 137 Sabki, Jam-ul-Jawame, P.353.

<sup>14</sup> *Shafi'i*. Mohammad B. Idrees, Al-Risalah Tr. Khalil I. Semaan Lahore. 1971, P. 32.

enactment. Hazarat Ali declared that the relationship with the artisans would be that of guarantee instead of deposit. In the contract of guarantee the artisan becomes liable for damages whether he is negligent or not.

Most of the jurists maintain that there are only two kinds of *Istihsan*<sup>10</sup> : *Istihsan* or preference by juristic analogy and preference by legal necessity and they rejected *Istihsan us-Sunnah* and *Istihsan ul- Ijma*, because it is not possible that a correct juristic analogy can contradict an authoritative text that is the *Quran* and *Sunnah*, or *Ijma*. The Hanafi, is also do not consider the two kinds of *Istihsan* (*Istihsan us-Sunnah* and *Ijma*). If they mentioned these kinds in their books, it is only to support their case. They want to make the people recognize *Istihsan*. To convince them they try to prove that the *Sunnah* and *Ijma* have also abolished the existing analogy.

Abu Hanifa, Malik and Ahmad b. Hanbal accept *Istihsan*. *Shafi's* and *Zahiri's* are deadly against it<sup>11</sup>. The concept of *Masaleh Mursalah* ( مصالح )

( مرسله ) among the Maliki jurists is the same as *Istihsan al-dharoorah* or preference by legal necessity among the Hanafi jurists. The problem of changing the nature of the contract of the artisan from deposit to guarantee has been described by the Maliki jurists under the heading of *Masaleh Mursalah*, while the same has been explained by the Hanafi jurists as an illustration of *Istihsan*.

### **Masaleh Mursalah:**

*Masaleh Mursalah* literally means unrestricted interests. Imam Malik, considering the *Shariah* stands for social utility and benefit, and Islamic law should always serve public interest, favoured the deduction of law based on the general consideration of public good. However it is neither an arbitrary act nor an addition to *Shariah* but is only a mode of deducting law to promote the spirit and object thereof. Malik never meant, by it, unrestricted

<sup>10</sup> Riazul Hasan, The reconstruction of Legal Thought in Islam Lahore P. 70.

<sup>11</sup> Al-Amidi, *Ihkam*, P. 209. Ibn Hazm, *Al-Ihkam Fi Usulil Ahkam* 1st Ed. Egypt 1347 A.H. P. 16.



**Illustration:**

This is accepted principle of law that the mortgagee is the guarantor of the mortgage property. In case the mortgaged property is lost or damaged by the mortgagee, the mortgagor is exonerated from the debt to the extent of the value of the property. If the mortgagor has received the money before the property is damaged, he would have to return the money. Following the line of this principle, if the mortgagee rights off his debt but before he hands over the possession of the mortgaged property, it is damaged, the patent analogy (قياس جلي) is that the righting off the debt on the receipt of the money requires that the mortgagee should pay the price of the property as he is the guarantor. But the requirement of *Isuhsan* or latent analogy (قياس خفي) is otherwise. The mortgagor ceases to be the guarantor after righting off his debt. by doing so he dissolves the mortgage for which he is always authorised. After this the mortgage for which he is always authorised. After this the mortgaged property becomes a deposit in his hands and in the case of deposit he is not liable for compensation unless his negligence is established.

**4-- Preference by Legal necessity.**

When an object can be achieved in more than one legal ways and the prevalent way causes serious practical problems its form is changed into another legal way.

**Illustration:**

According to the prevalent practice, the things in the hands of the artisans like the carpenter, washerman, tailor etc. were considered to be the deposits. This was the implied nature of the contract between the people and the artisans. In the contract of deposit, if the thing deposited are lost, the depository is not liable for the damaged unless his negligence is proved. The artisans took wrong advantage of the necessary ingredient of negligence and became very careless regarding the safety of the things of the people. Their behavior became a nuisance for the society. It is permitted by law that the nature of a contract whose terms are implied by virtue of some customary practice, can be changed by express terms or by an

### 1-- Preference by *Sunnah*:

This can be defined as:

In case of a legal problem, a specific code is created by the Prophet against its analogous precedents which are formulated in the light of general legal principles (القواعد الفقهية العامة) Illustration:

General legal principle is that the sale of a thing which is not in existence at the time of signing the contract, is void. But the case of "Salam" is exceptional and this exception is created by the *Sunnah*. The Prophet says:

من أسلف في شيء فقي كيل معلوم ووزن معلوم إلى أجل معلوم<sup>9</sup>

"One Who pays the seller for the thing to be produced, should determine size, weight of the thing and time to produced the thing."

### 2-- Preference by *Ijma*

In this case exception in the general principle is created by *Ijma*.

Illustration: General principle is that the contract about the non-existent thing, is void. But on the basis of *Istihsan*, the contract to produce a thing )

( عقد الاستصناع is valid because the people have been acting upon this contract since the time of the Holy Prophet and none of them differed from it.

### 3-- Preference by Legal Analogy:

This refers to seeking preference between more than one inconsistent analogical deductions on a particular legal problem. Some significant characteristic features call for an argument from *Shariah* which enables a jurist to give preference to one analogy over the other.

<sup>9</sup> Bukhari, Mohammad B. Ismail, Al-jame' as-Sahih, 4th E.D. Berut, 1990. P.781.

الذين يستمعون القول فيتعون أحسنه أولئك الذين هداهم الله وأولئك هم أولو  
الألباب<sup>6</sup>

"Those who listen to the word and follow the best (meaning in it), are the ones whom Allah has guided and those are the ones endowed with understanding. "

The Hadith narrated by Ibn Mas'ud is also quoted in the support of *Istihsan*.

ما رآه المسلمون حسنا فهو عند الله حسن<sup>7</sup>

"That which the Muslims find agreeable is agreeable to Allah"

### **Kind of *Istihsan*.**

There are four kinds of *Istihsan*:<sup>8</sup>

1-- Preference by *Sunnah*. ( استحسان السنة )

2-- Preference by *Ijma*. ( استحسان الإجماع )

3-- Preference by Juristic Analogy. ( استحسان القياس )

4-- Preference by legal necessity . ( استحسان الضرورة )

<sup>6</sup> Qur'an 39:81

<sup>7</sup> Ibn-Hanbal, Ahmed B. Mohammad B, Al Musnad with comentry, Ahmed M. Vol. V. Egypt 1950, P. 211.

<sup>8</sup> Ibn Sabki Taj-ud-Din, Jam-ul-Jawame, with Hashia al-Bannani Vol. II, Bombay, P. 353. Al-Amidi, Ihkam, P. 210

When a Muslim jurist faces a problem, his method to solve the problem is to discover uniformities between the situations; and he formulates the rules. That is why the religious theoretical framework comprises multifarious theories which sometimes, give rise to conflicting principles. When a Muslim jurist finds that regarding a certain situation, more than one rules are derivable from the legal framework he give preference to the one which is supported by strong legal argument from the *Quran* and the *Sunnah*. This process of juristic preference is termed as *Istihsan*.

*Istihsan* is to give preference to one *Qiyas* over the other *Qiyas*. Where a rule of law attained by analogy is either in conflict with *Ijma* or is likely to cause hardship and inconvenience, the *Hanfi* jurist would refuse to follow that and instead give preference to a rule which in his opinion would better advance to welfare of man and the interest of justice. This doctrine is chiefly resorted to in those cases which arise out of the complex conditions of a growing society when a strict adherence to analogy would fail to meet the wants of the people<sup>4</sup>. It aimed at removal of discrepancies and inequities in law. *Istihsan* prescribes what ought to be. The jurist has to examine carefully whether a particular law suites the people or not. Mr. Ahmad Hasan says,

"A lawyer is sometimes forced to depart from a binding rule for a certain serious consideration. It depends, indeed, on one's legal acumen to distinguish where a rule is applicable and where it should be abandoned<sup>5</sup>.

*Istihsan* creates flexibility in law and keeps the law fresh and up-to-date. It protects the people from the harshness and strictness of law and a jurist will adopt that course which is fair, just and equitable.

The term *Istihsan* has been adopted from the Quranic verse:

<sup>4</sup> Rahim, A. The Principles of Mohammad an jurisprudence, Lahore 1968, p.166.

<sup>5</sup> Ahmad Hasan, The Early Development of Islamic Jurisprudence, Islamabad, 1970, p.145.

## Istihsan and its comparison with Equity.

Mohammad Ijaz\*

*Istihsan* literally means preferring or regarding a thing as good. As a term of Islamic Jurisprudence, *Istihsan* has been defined by Shokani:

الاستحسان هو العدول عن قياس إلى قياس أقوى منه<sup>1</sup>

*Istihsan* is to give preference to stronger *Qiyas* over the other *Qiyas*. Karkhi definition is the most comprehensive one. He says,

الاستحسان هو أن يعدل الإنسان عن أن يحكم في المسألة بمثل ما حكم به في نظائرها إلى خلافه لوجه يقتضي العدول عن الأول<sup>2</sup>

"In case of some legal problem exception is created from its analogous precedents on the basis of some stronger argument which renders it distinguishable."

Mac. Danald Defines:

"*Istihsan* is the one that the legist, in spite of the fact that the analogy of the fixed code clearly points out to one course, considers it better to follow a different one."<sup>3</sup>

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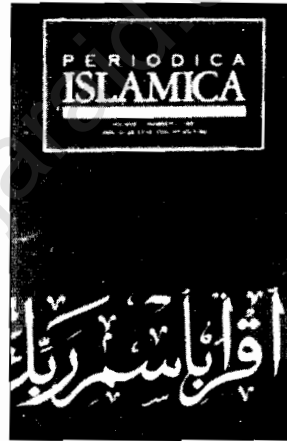
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- Ta'riḥ* Al-Khaṭīb al-Baghdādī, *Ta'riḥ Baghdād*, Cairo, 1931.

the city he was told about the death of the former and serious illness of the later.<sup>(54)</sup> Ḥammād b. Salamah (d. 167) when reached Makkah to acquire knowledge from `Aṭā b. Abī Rabāḥ (d. 114) the Shaykh had already passed away.<sup>(55)</sup> `Abd Allāh b. Dāwūd al-Khuryabī when reached Baṣrah to acquire *al-`ilm* from `Abd Allāh b. `Awn, the later had passed away.<sup>(56)</sup>

The fact is that these academic travels which started in the life time of Prophet accelerated in the succeeding generations and continued with zeal and fervour till the time Muslim retained their leading role in world affairs and their socio religious institutions did not became decadent. When non-Muslim west took over the Muslim world new institutions were introduced replacing the classical pattern of Islamic education. However, the tradition survived upto recent years though in low profile. This tradition, surely, indicate the commitment, sincerity dedication of early generations of the Muslims *Ummah*.

## Abbreviations and Bibliography

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<sup>54</sup> Ibid, 168.

<sup>55</sup> Ibid, 177-72.

<sup>56</sup> Ibid, 176-177.



Umar for their contention which they heard in Iraq.<sup>(44)</sup> Abū 'Uthmān al-Nahdī (d. 95) travelled for Ḥajj with the purpose to listen a *ḥadīth* transmitted by Abū Hurayrah from him personally.<sup>(45)</sup>

The references reveal that the *riḥlah* was at first a more or less personal affair, with one scholar seeking another usually for a particular piece of information but by the end of first century Hijrah a second practice evolved, whereby the travelling 'Ulamā' were sought by or presented to the learned people in the cities which they visited. Umar II presented Abū Qilābah al-Jarmī (d. 104) who was himself seeking knowledge.<sup>(46)</sup> During Hishām's regin Ibn 'Ā'idh visited Iraq when both Baṣrans and Kūfians wrote down his *aḥādīth*.<sup>(47)</sup> Later in the second century A.H., scholars of repute were invited to address and disseminate the knowledge to the learned circle.

Ibn Rahawayh (d. 238), as mentioned in the sources, undertook a journey of Iraq at the request of some traditionists of Iraq so that he might preside at a certain meeting of the traditionists.<sup>(48)</sup> Hushaym b. Bashīr al Wāsiṭī (d. 163) continuously was moving between Baṣrah and Khfah to hear *aḥādīth*.<sup>(49)</sup> 'Abd Allāh b. al-Mubārak (d. 181) travelled from Merve to different cities at the age of 20 to acquire *al-ilm* from *ṭabī'ūn*.<sup>(50)</sup> Ḥafṣ b. Ghiyāth (d. 194) travelled to Baghdād and other cities to acquire and disseminate *al-ilm*.<sup>(51)</sup>

There are several instances that these assiduous students of *ḥadīth* travelled to hear and acquire *al-ilm* from some *shuyūkh* but on their arrival knew about their death.

For instance 'Abd al-Raḥmān b. 'Usaylah travelled to Madīnah to acquire knowledge from Prophet, but on his way knew about the sad demise of the Prophet.<sup>(52)</sup>

Likewise Zayd b. Wahb (d. 83) travelled to Madīnah to see the Prophet on his way he knew that the Prophet had passed away.<sup>(53)</sup> Al-Awzā'ī (d. 153) travelled to Baṣrah to hear from Ḥasan al-Baṣrī (d. 110) and Ibn Sīrīn (d. 110). On his arrival in

44 Ibn Ṣalāḥ, 247

45 *Riḥlah*, 132 ff.

46 Sa'd, VII/1/134; *Faṣīl*, 223.

47 *BTK*, III/1/324.

48 *Tarīkh*, VI/351; 'Asākīr, II/412.

49 *Riḥlah*, 155.

50 *Siyar*, VIII/379; *Riḥlah*, 156-157.

51 *Tadh*, I/298.

52 *Riḥlah*, 167.

53 *Idem*.

available sources reveal that these devotees of *ḥadīth* and *sunnah* travelled to hear/check only one tradition from the *Ṣaḥābī* who had heard directly from the Prophet. Older companions were sought out for their knowledge. Abū Ayyūb al-Anṣārī (d. 52), a renowned *Ṣaḥābī*, travelled to Egypt to hear a *ḥadīth* from 'Uqbah b. 'Āmir (d. 58) and returned to Madīnah as soon as he got the objective.<sup>(34)</sup>

Masrūq b. al-Ajda' (d. 62), a student of 'Ā'ishah Ṣiddīqah, travelled back and forth among the provinceds in pursuit of knowledge.<sup>(35)</sup>

'Abd Allāh b. 'Umar followed Prophet's movements in order to gather informations concerning the events of Muḥammad's life associated with various localities.<sup>(36)</sup> Faḍālah b. 'Ubayd (d. 53) was visited by a *Ṣaḥābī* for a *ḥadīth* which he had heard from the Prophet directly.<sup>(37)</sup>

'Alqamah (d. 62) and al-Aswad (d. 75) travelled to Madīnah to listen a *ḥadīth* directly from 'Umar which they had heard in 'Irāq.<sup>(38)</sup>

Jābir b. 'Abd Allāh travelled for a month likewise in search of a tradition.<sup>(39)</sup>

Abū al-'Āliyah (d. 93) travelled to provinces to acquire knowledge,<sup>(40)</sup> Sa'īd b. al-Musayyab (d. 93) reports that he travelled nights and days in search of a single tradition.<sup>(41)</sup> Al-A'raj (d. 117), famed Qur'ān copyist, travelled from Madīnah to Syria, Egypt and Alexandria. Wherever he went his materials were written down by the students of *ḥadīth*.

Busr b. 'Ubaydullāh al-Haḍramī (d. 110) travelled from Syria to Egypt for a single tradition.<sup>(42)</sup>

Baṣrans were on the move in search of knowledge from the time their city was founded. Many Baṣrans travelled to Makkah to hear 'Abd Allāh b. 'Amr b. al-'Āṣ.<sup>(43)</sup> Many of them not content with the version of *ḥadīth* heard from Companions who had settled in Baṣrah, journeyed to Madīnah to hear the same traditions. 'Alqaamah (d. 62) and al-Aswad (d. 75) travelled to Madīnah to hear a *ḥadīth* directly from

34 *Riḥlah*, 118-19, et passim; *Ma'rifah*, 7-8.

35 *Faṣīl*, 224.

36 *Ta'rikh*, I/172.

37 *Riḥlah*, 124-125.

38 Ibn Ṣalāḥ, 246-47.

39 *Jāmi'*, I/93.

40 *Kifāyah*, 402-403.

41 *Faṣīl*, 223; *Kifāyah*, 402; *Ma'rifah*, 8.

42 *Riḥlah*, 147-148.

43 *Ibid*, 137-138

It will be evident from the following instances that most of these travels were made to hear *aḥādīth* from principal transmitters. The 'Ulamā' and *muḥaddithūn* appreciated 'Uluw al-Sanad and urged students to acquire *Sanad 'ali*.<sup>(28)</sup>

The *riḥlāt* also helped the people to know about the personal life of transmitters by meeting them and asking others about their veracity and honesty. Some of the people were eager to hear a *ḥadīth* from a number of chain of transmitters which strengthened the genuineness of *ḥadīth*.<sup>(29)</sup>

The practice of memorising *ahadith* collectively was considered necessary.<sup>(30)</sup> We find in the second century that the students of *ḥadīth* travelled to other cities for *mudhakarh al-ḥadīth*.<sup>(31)</sup>

These *riḥlāt* played an important role for the ascertainment and verification of a particular piece of information. When a tradition reached to these travelers from a number of *ṭuruq* (chain of transmitters) it helped them in distinguishing a spurious *ḥadīth* from a genuine one.

It also played a significant role in unifying and crystallising Islamic culture.

It contributed to the recording of traditions. The travelling scholars usually wrote down the *aḥādīth* they acquired for preservation and future reference though their teachers were also busy writing their own material. They acquired a large body of traditions on one theme or a group of related themes to transmit or to recast them.

It is difficult to mention all the travels of *muḥaddithūn* in details. Therefore we will limit this study to a few of travels during the first two centuries A.H.

To acquire some of the 'ilm of 'Umar I was purpose of the *riḥlah* of many of the Companions. Older Companions such as 'Alī b. Abī Ṭalīb, Ibn 'Umar, 'Abd Allāh b. 'Amr b. al-'Āṣ, Ma'ādh b. Jabal etc. were likewise sought out for their knowledge.<sup>(32)</sup> Anṣār either living in Madīna or settled in different provinces, were visited by scholars who were eager to hear and transmit from them directly.<sup>(33)</sup> The

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informed that Allāh forgave him due to his travels in pursuit of *aḥādīth* (*Riḥlah*, 90).

28 Ibn Ṣalāḥ, 254 ff; *Irshād*, 175 ff; *Manhaj*, 358 f.

29 The scholars preferred to hear a *ḥadīth* from different chain of transmitters. Yahyā b. Ma'in is reported to say: **لو لم نكتب الحديث خمسين مرة ما عرفناه**. (*Siyar*, XI/84).

30 See present writers article ( **مذاكرة الحديث** ) in *Al-Qalam*, Vol: I No. 1, P. 43 ff. Instt: of Islamic Studies, Punjab University, LHR

31 *Siyar*, XI/49, 50-51, IX/157; *Riḥlah*, 23.

32 Ibn Ḥanbal, *Musnad*, V/196; For details see Tarājim in *Rijāl* books.

33 *Jāmi'*, I/32-38, 92-95.

does not travel to acquire knowledge".<sup>(15)</sup>

Sha'bi (d. 104), a veteran scholar of *ḥadīth* and *fiqh* told an inquirer that travel and patience accumulated his 'ilm.<sup>(16)</sup> Again he is reported as saying that a journey from Northern Syria to Southern Yemen in search of a wisdom was not a lost effort.<sup>(17)</sup> It became accepted among the people that the *Ummah* will be protected from misfortunes because of these travels.<sup>(18)</sup> Ibn Ḥanbal (d. 241) is reported to have said that to travel for hearing a *ḥadīth* from principal transmitter is a part of *dīn*.<sup>(19)</sup>

The following informations will depict to the reader that arduous travels were undertaken inspite of meagre means of subsistence and transport facilities. The students of *ḥadīth* experienced destitution and ate herbs and other petty things to keep body and soul together. But all these disagreeable conditions were borne by these lovers of *ḥadīth* with courage and determination. Shu'bah is recorded to have said that he had to sell the *ṭast* (tub) of his mother for acquiring knowledge.<sup>(20)</sup> Bukhārī (d. 256), the compiler of *al-Jāmi' al-Ṣaḥiḥ* during one of his travels was forced to eat herbs.<sup>(21)</sup> Baqī b. Makhlad (d. 276) travelled on foot to hear from *shuyūkh*.<sup>(22)</sup>

It is on record that Ya'qūb al-Fasawī (d. 277) continued travelling between different cities for a period of thirty years. His means of subsistence finished then he engaged himself in copying books at night and attended the circles of 'Ulamā' during day time.<sup>(23)</sup> Abū Ḥatim al-Rāzī (d. 277) is recorded as saying that he travelled on foot thousands of miles. On one occasion he stayed in Basrah for 14 years to acquire *al-ʿilām*. During his stay his means of livelihood finished and he had to sell his clothes and faced starvation.<sup>(24)</sup>

These strenuous travels were made with noble aim and goal. Some of the students of *ḥadīth* travelled in compliance of the order of God<sup>(25)</sup> and the Prophet;<sup>(26)</sup> while others in the hope of reward from Allāh.<sup>(27)</sup>

15 *Riḥlah*, 89; *Ma'rifah*, 9.

16 *Siyar*, IV/300.

17 *Jāmi'*, I/95.

18 Ibn Ṣalāḥ, 247; *Riḥlah*, 90;

19 *Riḥlah*, 89.

20 *Tadh*, I/195.

21 *Fath al-Bārī (muqaddimah)*, 566.

22 *Tadh*, II/632, 631.

23 *Tadh*, II/583; *Siyar*, XI/386, 87

24 *Ibid*, II/568.

25 *Al-Tawbah*/122; *Tafsīr* Ibn Kathir, II/393.

26 Ibn Mājah, *al-Sunan, muqaddimah*, I/81, 83, 85, 86.

27 Ibn Mājah, *op.cit.*, I/82; Zakariyyā b. 'Adī says that he saw Ibn al-Mubarak in sleep and he was

These travels started in the Prophet's time.<sup>(9)</sup> Representatives of various tribes came to the Prophet and acquired some traditions; some of them wrote them down while others committed them to memory and subsequently returned home to teach their tribes and family members.<sup>(10)</sup> Ḍimām b. Tha'labah, of the tribe of banū sa'd, came to the Prophet to know and learn Islām and then convey it in his turn to his tribe.<sup>(11)</sup>

A group of the tribe of `Abd al-Qays is reported to have visited the Prophet to acquire knowledge.<sup>(12)</sup> The ninth year of *hijrah* is marked for such visits. A large number of individuals as well as tribes came to the Prophet from different parts of Ḥijāz, to seek knowledge and afterwards disseminate it to the members of their tribes.<sup>(13)</sup>

After the demise of the Prophet and with the extension of Islamic domain, quite a large number of *Ṣaḥābah* moved from Ḥijāz and settled in different parts of Islamic state where new cities were built.

To understand the Qur'ān, the basic source of Islām, and to get religious knowledge it was necessary to know, learn and check the acquired knowledge of *aḥādīth* with those who had heard from the Prophet. The material indicates that the *Ṣaḥābah*, *tābi`ūn* and succeeding generations tried to learn *aḥādīth* directly from the persons who had heard from the Prophet or from the senior *Ṣaḥābah*.

These devotees of *ḥadīth* and *sunnah* showed great enthusiasm in assimilating *aḥādīth* and undertook journeys. These travels were highly exalted by *Ṣaḥābah*, *tābi`ūn* and succeeding generations and became inseparable from *talab al-'ilm*. Ibn Salah is reported to have said that a student after hearing from the '*Ulamā'*' of his city should travel to avail from the '*Ulamā'*' settled in different cities.<sup>(14)</sup> Yahyā b. Ma'īn is on record as saying, "No integrity of conduct can be expected from a person who

9 Goldziher places the start of this institution towards the end of the first century (*MST*, II/42), while Juynboll concludes that the earliest data on *talab al-'ilm* journeys cannot be traced back to a time earlier than the beginning of the second century" (*Muslim Tradition*, 66) While this may be true of very long journeys from one region to another for purposes to *talab al-'ilm*, it is nonetheless evident from the sources that shorter journeys within particular regions were undertaken earlier for that purpose (note that Rāmahurmuzī refers to *al-raḥitūn alladhīna Jama'ū bayn al-aqṭār*) *Fāsil*, 229.

10 *Taqyīd*, 64 ff; *Riḥlah*, 187 ff; *Jāmi'* 1/94, 95.

11 Bukhārī, *K. al-'ilm bāb al-qira'at*, 1/23.

12 Muslim, *K. al-īmān, bāb al-'amr bi'l-īmān* 1/35, 36, Dar al-Fikr Beirut.

13 *Sīrah*, IV/205-243.

14 Some of the traditionists did not appreciate travelling and preferred to hear and acquire knowledge from *Shuyūkh* of their own city cf. *Fāsil*, 216-17.