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## Hadith in the Ancient Schools of Law According to Joseph Schacht

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**Abstract:** In the sixth book, only those hadiths from Prophet are prioritized. According to Schacht, this focus of attention on the traditions of the Prophet reflects the success of Ash-Syāfi'ī's systematic pressure. Before Ash-Syāfi'ī, the traditions of the Prophet in the ancient schools of law received slight attention. Departing from this problem, the authors attempt to explore more deeply how the hadiths in ancient schools of law were according to Schacht. The purpose of this discussion is to describe Schacht's perception of ancient schools of law and the implementation of hadiths in ancient schools of law. In this study, the authors applied a qualitative descriptive approach with documentary methods and historical analysis. The results of the study, that ancient schools of law were created from the qādī activities and specialists who addressed law matters. Their distinguishing feature is geographic differences. Their reaction to the common practice and administrative regulations of the Umayyad caliphate brought about what is known today as Islamic law. During the Abbasid caliphate, the old schools of law shifted into becoming a new school of law established upon devotion to a teacher. The ancient schools of law exhibited similar attitudes towards hadith. They put the hadiths of the Companions first rather than the hadiths of the Prophet. It is shown by Ash-Syāfi'ī's combative stance against the Madina and Iraqi schools. Other proofs are the administration of the use of Prophetic and non-Prophetic hadiths in the books *al-Muwatta'* and *al-Āsār*.

**Keywords:** Ancient Schools of Law; Hadith; living traditions; Practice; Authority.

**Abstrak:** Dalam kitab yang enam (*al-Kutub as-Sittah*) hanya hadis-hadis Nabi yang diprioritaskan. Fokus perhatian terhadap hadis-hadis Nabi ini menurut Schacht merefleksikan suksesnya tekanan sistematis Ash-Syāfi'ī (w. 204 H). Sebelum Ash-Syāfi'ī, dalam mazhab hukum kuno (*ancient schools of law*), hadis-hadis Nabi kurang mendapat perhatian. Berdasarkan masalah ini, penulis mencoba untuk menggali lebih jauh bagaimana sebenarnya hadis dalam mazhab hukum kuno menurut Schacht. Dari dua karya Schacht: *An Introduction* dan *The Origins*, penulis memfokuskan bahasan pada mazhab hukum kuno dan Hadis dalam mazhab hukum kuno menurut Joseph Schacht. Tujuan dari pembahasan ini adalah untuk mendeskripsikan bagaimana pemikiran Schacht tentang mazhab hukum kuno dan bagaimana hadis digunakan oleh mazhab hukum kuno. Dalam artikel ini penulis menggunakan pendekatan kualitatif deskriptif dengan metode dokumenter dan analisis historis. Hasil penelitian menunjukkan, bahwa mazhab hukum kuno lahir dari aktivitas qādī (*hakim Islam*) dan para spesialis yang konsern terhadap masalah hukum. Ciri khas mereka adalah perbedaan geografis. Respons mereka terhadap praktik populer dan regulasi administrasi dinasti Umayyah melahirkan apa yang dikenal dengan hukum Islam. Pada masa dinasti Abbasiyah, mazhab hukum kuno berubah menjadi mazhab hukum baru berdasarkan kesetiaan kepada seorang guru, yang pada gilirannya terbentuklah kelompok-kelompok seperti pengikut Abū Ḥanīfah (w. 150 H) dan Mālik (w. 179 H). Mazhab-mazhab hukum kuno memiliki sikap yang sama terhadap hadis. Mereka lebih mengutamakan hadis-hadis dari Sahabat daripada hadis-hadis Nabi. Ini terlihat dari polemik Ash-Syāfi'ī melawan mazhab Madinah dan Irak. Bukti lainnya adalah distribusi penggunaan hadis Nabi dan hadis selain Nabi dalam kitab *al-Muwatta'*, *al-Āsār* Abū Yusūf dan *asy-Syaibānī*.

**Kata Kunci:** Mazhab Hukum Kuno; Hadis; living tradition; Praktik; Otoritas.

## INTRODUCTION

In Islamic jurisprudence theory, sunnah is the second principle after Quran. Prophet is the source of the sunnah, an authoritative figure whose behavior displays religious norms. The juxtaposition of the sunnah has been variously mentioned in verses of the Quran such as in surah an-Nisa/4: 59, which commands human beings to obey Allah and His messengers. Similar ones can also be read in surah Ali Imran/3: 164 for people to follow the book (Qur'an) and wisdom (sunnah) (Asy-Syāfi'ī, 2001).

Asy-Syāfi'ī (d. 204 H.) was the earliest jurist to define sunnah as the role model of the Prophet (Schacht, 1953). According to Ash-Syāfi'ī, the only Prophet's actions are to have authority. Other deeds that do not come from the Prophet are annulled from any authority. Asy-Syāfi'ī solely acknowledges the sunnah that is shown by the Prophet. Other sunnah, such as the customs and practices that establish a living tradition, were declined (Schacht, 1953).

To discover the sunnah of the Prophet can be found through hadith. Hadith is not synonymous with sunnah. Hadith provides a document for understanding Sunnah (Schacht, 1953). Any information deemed to be originated from the Prophet and others was recorded in a single, generally brief statement, preceded by an *isnad* (a list of authorities), to ensure the authenticity of a hadith. Therefore, the *isnad* should be passed down by witnesses who hear or are present at the event firsthand, under circumstances that all narrators must be trustworthy (Schacht, 1953).

Hadith began to be established in the third century of the Islamic year (H) /ninth century AD when all the details of the contents were compiled and almost no rejection. By the end of the third-century H/ninth century AD, a fraction of hadith collections had been produced, six of which were very authoritative and were referred to as *al-Kutub as-Sittah*. The most well-known book among the six is Ṣaḥīḥ al-Bukhārī (d. 256 H), whose authority is under Quran, followed by Ṣaḥīḥ Muslim (d. 261 H). The other four books are the compilations of Abū Dāwūd (d. 275 H), at-Tirmizī (d. 279 H), an-Nasā'ī (d. 303 H), and Ibn Mājah (d. 273 H) (Rahman, 1979).

According to Schacht, the center of attention on the hadiths of the Prophet reflects the success of Ash-Syāfi'ī's systematic pressure; only hadiths that have a chain of transmission is traced back directly to the Prophet possess authority (Schacht, 1953)). Contrary to the ancient schools of law, such as the Iraqī and Madina schools, they abandoned the Prophet's hadiths to validate systematic conclusions from general rules, or to support the opinion of the Companions (Schacht, 1953; Brown, 2017). This is shown from Ash-Syāfi'ī's polemic with the Madina and Iraqī schools of thought, in which Ash-Syāfi'ī revealed their inconsistent attitude with the Prophet's hadiths. Besides, it can be observed from the evidence that the hadiths from the Prophet are far less than those of Companions and Tabi'in. In the Madina school of thought, based on the list quoted by az-Zurqānī in the Book of *Muwatta'atā' Mālik* (d. 179 H), out of 1720 hadiths: 822 are directly transmitted back to the Prophet and 898 to other than the Prophet (613 from Companions and 285 from Tabi'in). In *Muwatta'atā' ash-Syaibānī* (d. 189 H), from 1179 hadiths: 429 are directly tracked back to the Prophet and 750 to other than the Prophet (628 from Companions; 112 from Tabi'in; and 10 from other authorities). In the Iraqī school of thought, in *Kitāb al-Āsār Abū Yūsuf*, out of 1110 hadiths: 189 are from the Prophet and 921 are from other than the Prophet (372 from Companions and 549 from Tabi'in). Moreover, in *Kitāb al-Āsār ash-Syaibānī*, out of 971 hadiths: 131 have a chain of transmission from the Prophet and 840 are

from those other than the Prophet (284 from Companions; 550 from Tabi'in, and 6 from other authorities) (Schacht, 1949; Schacht, 1953).

It is important to probe the evidence presented by Schacht regarding the development of hadith, particularly during the ancient jurisprudence schools. As aforementioned, according to Schacht, the hadiths in the ancient schools of law are disparate from those of the period post-Ash-Syāfi'ī (d. 204 H). Schacht's interpretation has garnered mere attention. As seen from the results of Ade Pahrudin's research, of the 23 articles that examined Schacht, the vast major studied the theory of projecting back, common link, and argumentum e-silentio (Pahrudin, 2021). Also, this can be retrieved from articles published succeeding Pahrudin's research, such as Ahmad Saefulloh's (Saefulloh et al., 2022), Ulumuddin (Ulumuddin et al., 2022), Mutaqin (Mutaqin & Muazar, 2022), Nur Hamidah Pulungan (Pulungan, 2022), Gian Nitya Putri (Putri et al., 2022), and Salma Oktaviani (Oktaviani, 2023). There is one article written by Wael B. Hallaq regarding ancient schools of law, however, the author emphasizes the discussion on Schacht's notion of the emergence of schools of law according to geographical distribution (Hallaq, 2001). A similar case can be found in *Nama-Nama Alternatif* (Alternative Names) written by Fahmi Riady; regardless of discussing ancient schools of law, this article does not include the use of hadith in prevailing schools of law (Riady, 2022). Other pieces of research that intersect with this discussion, especially concerning the ancient schools of law, are Syahrani and Abdul Raziq's article, which compares judicial developments according to Goldziher, Joseph Schacht, and James Norman (Syahrani & Raziq, 2022); Ayub's article which raises Schacht's thesis on Ash-Syāfi'ī (Ayub, 2022); Amin Iskandar and Dwi Umardani who analyze Schacht's views on hadith and Islamic law (Iskandar & Umardani, 2020); and Daud Salman who discusses the role of Schacht in transforming the legal status of Nigeria (Salman, 2022). Nevertheless, none of the articles listed specializes in discussing hadith in the ancient schools of law according to Schacht. Therefore, this article attempts to fill in the gaps that were overlooked by Schacht's reviewers; and this aspect can be seen as a novelty compared to similar research.

These two topics of discussion, the ancient school of law according to Joseph Schacht and hadith in the ancient schools of law, are compelling to be discussed. This is because apart from few authors explaining the history of the development of the ancient school of law according to Schacht and how hadith was used by them, in general, the articles examining Schacht's thought only revolve around Schacht's familiar theory, such as the theory of projecting back, common link, and the argumentum e-silentio. In reality, the historical aspect of the development of the ancient school of law is one of the foundations that underlie the emergence of Schacht's theories on hadith which have been widely discussed.

## METHOD

This research is based on library research using two works by Joseph Schacht: 'The Origins of Muhammadan Jurisprudence' and 'An Introduction to Islamic Law' as the main sources. The secondary sources are writings related to the topic of the hadith of the ancient schools of law, either those directly related to the thoughts of Joseph Schacht or those that simply connect with them. This study applied a qualitative-descriptive approach, with the documentary method as the data collection technique. The data were analyzed, classified, and categorized according to the subject matter, in which the ancient schools of law were thoroughly described according to respective stances in the history of

the development of law, then the use of hadith by the ancient schools of law was elaborated in its geographical distribution where the doctrines of the schools of law developed.

Following that, the findings were put into discourse and analyzed historically along with the research results of other scholars such as Christopher Melchert, Wael B. Hallaq, and Muhammad Musthafa Azami. In historical analysis, there are two perspectives used. Despite using the same sources, such as the book of *Muwatta' Mālik*, *Kitāb al-Āsār Abū Yūsuf*, and *asy-Syaibānī*, and the polemic of Asy-Syāfi'ī in the book of *al-Umm*, for Melchert, likewise, Schacht, description in these books represents regional schools in general. On the contrary, for Azami and also for Wael B. Hallaq, the opinions in these books only portray certain schools of thought, not reaching regional general opinions such as Madina, Iraq, and Syria.

## RESULTS AND DISCUSSION

### Ancient Schools of Law

According to Schacht, the emergence of ancient schools of law originated from the position of *qādī* (Islamic judge) in the Umayyad caliphate (late first century Hijriyah) which was specified as a legal specialist. These specialists are not technically professionals but are generally pious people who are interested in legal matters and indulge in thinking about them either individually or collectively (Schacht, 1982; Forte, 1978).

Their main concern in the intellectual climate of the late Umayyad caliphate (which collapsed in 132 H) was to discover whether an existing customary law followed Islamic norms. They studied all contemporary activities at that time, including the legal field; which was not only limited to administrative regulations but also included popular practices. They considered possible objections established to recognizing practices from a religious perspective, especially from a ritual or ethical point of view, the results of which they either support, modify, or reject. They incorporated religious and ethical ideas into the field of law, subjected it to Islamic norms, and put it as a guideline of obligations that must be abided by every Muslim. As a result, the popular practice and administration of the late Umayyad caliphate were transformed into Islamic law (Schacht, 1982).

These devout specialists had authority and were respected by society and the government for their extensive concern for the ideal of living according to Islamic principles, and they issued fatwas on the right way of behaving to those of their faith. In other words, they are the original muftis in Islam. They had the opportunity to criticize the regulations of the Umayyad government as they argued that many popular practices were inappropriate; however, they were not politically opposed to the Umayyad government and the established Islamic state. The period of the Umayyad reign until the civil war that led to the killing of the Umayyad caliph, Walīd ibn Yazīd (126 H), is considered part of the golden time, in which practices existed at that time that were ideal and there were opposites to actual administration (Schacht, 1982).

In the first few decades of the second century hijrah, when these specialists were abundant in numbers and cohesive, they developed into ancient schools of law. This term is not a definitive organization, has a uniform doctrine, formal teaching, or official status, nor is it in the form of a legal entity as it is understood in the West. Their members range from *ulema* (scholars) or *fukaha* (lawyers) to private individuals selected from the great mass of Islam with their special interests, for equal respect and recognition they showed one another (Schacht, 1982). The distinguishing feature between these ancient schools of

law was not individual devotion to the teacher, nor fundamental doctrinal differences, but simply geographical divisions. Among these ancient schools of law were the Kufah and Basrah schools in Iraq; the Madina and Mecca schools in the Hijaz, and the Syrian and Egyptian schools. The latter school did not develop its school of law, yet came under the influence of other schools of law (Schacht, 1953; Latif, n.d.).

The attitude of the ancient schools of law towards popular practice and administrative regulation of the Umayyad caliphate was largely skin (Schacht, 1982). Their attitude on each particular issue was purely coincidental, whether they support, modify, or reject the practices they encountered (Schacht, 1953). They incorporate religious and ethical ideas into it and juxtapose them according to Islamic norms (Schacht, 1982). Apart from their basic attitude, at the early stage of Islamic jurisprudence (early second century H), a large number of common doctrines existed which in later times decreased due to increasing differences between schools of law. However, this does not imply that Islamic law was originally developed exclusively from one origin, but that one place was the intellectual center of the theory and the first systematization of transforming the popular practices and administration of the Umayyad caliphate into Islamic law. The intellectual center was in Iraq and became an influential force in the development of Islamic law throughout the second century H. Interdoctrinal relations with each other almost always progressed from Iraq to the Hijaz, not otherwise (Schacht, 1982).

The most important aspect of the activity of the ancient schools of law was that they took the norms contained in the Koran seriously for the first time, in contrast to that which occurred in the first centuries of Islam. For almost the entire period of the Umayyad dynasty, the governors and judges who represented them, in practice, as John Damascus stated regarding the flogging law, it turned out that they had neglected the provisions clearly stated in the Qur'an. In many ways, Asy-Syāfi'ī and his predecessors, in most of their polemics, referred to legal provisions originating from the decisions of the governors and their deputies (Schacht, 1982).

Apart from sharing a common attitude towards popular practice and administrative regulation of the Umayyad caliphate and having a large group of positive religious laws, they also shared the essence of legal theory. The main notion of this theory is the living tradition of the school of law as a constant doctrine represented by delegation authorities. This idea dominated the development of the legal doctrines of the ancient legal schools throughout the second century of Islam. The development of this doctrine appears in two aspects: retrospective and synchronous. The retrospective aspect exists in the form of sunnah or practice (*'amal*) or established precedents (*sunnah mādiyah*) or ancient practice (*amr qadīm*). This practice partially reflects the actual habits of the local community, however, it also contains theoretical or ideal elements which later become normative sunna (*normative sunna*). This supposedly constant ideal practice is found in the doctrines of figures who are recognized as leading specialists in religious law representing each region. As for the synchronic aspect, there is a consensus (*ijmā'*) on the dominant doctrine that is mutually agreed upon (common denominator of doctrine) achieved by each generation (Schacht, 1982).

The consensus (*ijmā'*) on this synchronous aspect is anonymous, that is, only the general opinion of a representative school is taken into account, not the individual opinion of a prominent scholar in the said school. The anonymous character of the living traditions of these ancient schools was maintained until the second half of the second-century hijriya. However, the conception of continuous practice in the concept of *sunna*

and the need to create theoretical justifications from the first decade of the second century H onward led the living tradition to be projected backward and attributed to the great figures of the past. In Kufah, the scholars attributed their doctrine to Ibrāhīm an-Nakha'ī (d. 96 H.). In Madina, it was attributed to representative figures who died at the end of the first or early second century Hijriya. There were seven representative figures in Madina: Sa'īd ibn al-Musayyib (d. 90 H.); 'Urwah ibn Zubair (d. 94 H.); Abu Bakr ibn 'Abd ar-Raḥmān (d. 94 H.); 'Ubaidullāh ibn 'Abdillāh ibn 'Utbah (d. 94/98 H.); Kharijah ibn Zaid (d. 99/100 H.); Sulaimān ibn Yasār (d. 100 H.); and Qāsim ibn Muḥammad (d. 106 H.). The process of going back and forth to build a theoretical foundation of Islamic law was not only carried out by the ancient schools of law but also by figures who came later. They did not only attribute the doctrine to figures from the Tabi'in circle such as Ibrāhīm an-Nakhā'ī (d. 96 H.) but also to Companions such as Ibn Mas'ūd (d. 32 H.) in Kufah; Ibn 'Abbas (d. 68 H.) in Makkah; 'Umar ibn Khaṭṭāb (d. 23 H.) and his son 'Abd Allāh ibn 'Umar (d. 73 H.) in Madina. Each of the ancient jurisprudence schools projected their doctrines onto the eponym with their claims of authority as the basis of their teachings (Schacht, 1982).

A theoretical foundation of the ancient schools of law doctrine performed by the Iraqis in the early second century hijriya was to transfer the term *sunna* of the Prophet from the realm of politics and theology into a legal context and identified as *sunnah*, the ideal practice of society and the doctrines of the ulema. This term expresses axioms but does not yet imply positive information as a common hadith as sayings and deeds attributed to the Prophet. The concept of the Sunnah of the Prophet from Iraq was later adopted by Syria in the sense of a living tradition that was unbroken starting from the Prophet, maintained by the first Caliphs and rulers who came later, and endorsed by the scholars. While the Madina scholars rarely used this concept, they did use the concept of '*Amal* (practice) which was otherwise rarely used by the Iraqis (Schacht, 1982).

When the Umayyad caliphate was replaced by the Abbasid (132 H), Islamic law acquired its essential character. The Arab Muslim community's need for a new legal system had been fulfilled. The Abbasid dynasty continued and reemphasized the Islamization propensity that had been carried out by the previous caliphate, Umayyad (Schacht, 1982; Forte, 1978). In the early period of the Abbasid caliphate, the ancient schools of law, which had the main reason for their geographical separation, transformed themselves into new schools of law based on devotion to the teacher (master). The specialists of religion in each of the geographical areas of the Islamic world developed a certain minimum agreement on their doctrines, and by the mid-second century H, many individuals, instead of developing their independent doctrines, were following the doctrines of scholars whose authority was generally acknowledged, while retaining the right to differ from the teacher on certain details (Schacht, 1982).

This led to the formation of groups or circles within the ancient legal schools. Therefore, the followers of Abū Ḥanīfah (d. 150 H) formed the Kufah school of law, which involved Abū Yūsūf (d. 182 H) and ash-Syaibānī (d. 189 H). Then the extensive literacy activities of Abū Ḥanīfah followers, especially ash-Syaibānī, inspired the Kufah school to change itself into the Hanafi school. Likewise, the followers of Maliki (d. 179 H) from Madina to North Africa, remolded into the Maliki school. Other groups in Kufah, and possibly also Iraqis, followed the school of Sufyān as-Ṣaurī (d. 161 H). The Syrian school of law also transformed itself into the Auzā'ī school (d. 157 H). The transformation of the ancient schools of law into personal schools, which no longer maintain the living

traditions of the region but the teachings of a teacher and his students, was concluded in the mid-third century H (Schacht, 1982).

### **Hadith in the Ancient Schools of Law**

According to Schacht, the attitude of the Iraqi and Madina legal schools towards legal hadiths is principally equal and fundamentally different from that of Ash-Syāfi'ī (d. 204 H). Both disregard the traditions of the Prophet in favor of systematic conclusions from general rules or enforce the opinions of the Companions. Asy-Syāfi'ī opposes the attitude of these two schools. According to him, their attitude of shunning the hadiths from the Prophet contains many inconsistencies (Schacht, 1953; Asy-Syāfi'ī, 2001, 749).

Ash-Syāfi'ī's polemic against the Iraqi and Madinan schools of law provides a plain portrait of the attitude of the ancient schools of law towards the Prophet's traditions. Additionally, as illustrated in the introduction, the use of hadiths from the Prophet and people other than the Prophet in the book *Muwatta' Mālik* (d. 179 H), *Muwatta' asy-Syaibānī* (d. 189 H), *Kitāb al-Āsār Abū Yusūf* (d. 182 H), and *Kitāb al-Āsār asy-Syaibānī* (d. 189 H), denotes that the stages referring to the teachings and examples of the Prophet were preceded by and grown from an initial stage where references were solely aimed at Companions and Tabi'in (Schacht, 1953).

The reference to the Companions, as was customary in the ancient legal schools, is not similar to the subsequent reference to the Prophet. Instead of relying on individual traditions from the Companions, some schools adopted one or more of the Companions as their eponym or as Schacht puts it their patron-saint, making their doctrine complete under the patronage of the Companions and naming them as their authority in general (Schacht, 1949).

The following will explain the use of hadith in ancient schools of law, starting from the Madina school, the Iraqi school, and finally the Syrian school. In the following discussion, Schacht drew many conclusions from the evidence shown by the Ash-Syāfi'ī polemic and his attitude towards the ancient schools of law.

### **Madina School of Thought**

In describing the use of hadith by the Madina school, Schacht explores the discourses and attitudes of Ash-Syāfi'ī (d. 204 H) in *Kitāb al-Umm*, *Kitāb Ikhtilāf Mālik wa Asy-Syāfi'ī* and *Ikhtilāf al-Ḥadīṣ*. Schacht explains how Mālik (d. 179 H) recommended following the hadiths, in which in detail he harmonized the hadiths of Caliph Abū Bakr with the historical hadiths of the Prophet (Schacht, 1953; at-Tanukhi, tt.,7). The Egyptians of the Madina school criticized others for deviating from the Prophet's traditions and blamed them for rejecting them and interpreting them arbitrarily. However, Ash-Syāfi'ī implied idem action on his end. For Ash-Syāfi'ī, the people of Madina were shallow about treating the Prophet's traditions. In general, they addressed the traditions of the Prophet, but in practice, they deviated from the core of these traditions (Schacht, 1953; Asy-Syāfi'ī, 2001, 273).

According to Schacht, in the context of contradictory hadiths, Malik and the Madina school preceded Ash-Syāfi'ī in using interpretation to harmonize hadiths, both on hadiths from the Prophet and hadiths from Companions. Regardless, compared to Ash-Syāfi'ī, they rarely implemented it. They appeared to take an arbitrary attitude, choosing openly the contradictory hadiths. In his choices, Malik sometimes used the expressions *aḥabbu*

*ilayya* (I prefer) or *aḥsana mā sami'tu* (the best I've ever heard); but the expression *aḥsana mā sami'tu* does not always refer to hadith (Schacht, 1953; az-Zurqānī, tt., 348).

According to Schacht, the Madina school of thought voluntarily chose traditions from the Prophet and those from other than the Prophet or rejected both hadiths (Schacht, 1953). Schacht quotes the Rabbi's words that their doctrine only validates hadiths corresponding to the Madina people while ignoring other countries' (Schacht, 1953; Asy-Syāfi'ī, 2001, 750). According to Schacht, for the Madina school, clear reasoning and analogy can replace hadiths (Schacht, 1953; Asy-Syāfi'ī, 2001, 740). Malik justifies his doctrine not only by harmonizing interpretation but also by legal and moral reasoning (Schacht, 1953; Asy-Syāfi'ī, 2001, 528). He defended that it was difficult to practice a hadith, and Malik abandoned it (Schacht, 1953; Asy-Syāfi'ī, 2001, 569).

The Madina school of thought often replaced the hadiths of the Prophet with those of Companions or ignored them for no apparent reason. Moreover, the hadiths from the Prophet were interpreted according to the perspective of the hadiths from the Companions with the assumption that the Companions understand the sunnah of the Prophet best. Therefore, Malik argues there is no single piece of evidence that the Prophet commanded following the Hunain war. According to Schacht, Mālik ignored the fact that the Hunain war was the last in the Prophet's lifetime (Schacht, 1953; az-Zurqānī, tt., 305). The Madina side interpreted a hadith from the Prophet according to 'Umar's decision, upon the ground that 'Umar never neglected and contradicted the Prophet's orders (Schacht, 1953; az-Zurqānī, tt., 263). Hadiths from the Prophet were also minimized or strictly interpreted without justification from other hadiths (Schacht, 1953; az-Zurqānī, tt., 348).

Schacht added, based on the Ash-Syāfi'ī polemic, it cannot be inferred that the doctrine of the Madina school was in many ways based on the hadiths of the first caliphs alone (besides the caliph 'Umar ibn 'Abd al-'Azīz). This was refuted by the few evidences of hadiths from Abū Bakr and Usman compared to the hadiths from 'Umar and Ibn 'Umar in *Ikhtilāf Mālik wa Asy-Syāfi'ī*. Also, this is rebutted by the attitude of Ash-Syāfi'ī who views the hadiths of the first caliph as more authoritative than the hadiths of other Companions. According to Schacht, this concept was imposed by Ash-Syāfi'ī on the Madina school as a rationalization and rejection of their attitude which put the hadiths of the Companions first (Schacht, 1953).

According to Schacht, the two authorities of the Madina school are 'Umar and Ibn 'Umar. This is shown by Ash-Syāfi'ī's words about 'Umar's role: "You say that if something was narrated from 'Umar, people would not bother why and how, and people would not challenge it by interpreting the Qur'an differently." This is also illustrated from the discussion of the generation before Mālik (d. 179 H): Mālik reported to us, from Ibn Syihab, from Muḥammad ibn Abdullah bin al-Harīṣ bin Naufal, that he heard Sa'd bin Abi Waqqāṣ and Aḍ-Ḍaḥḥāk bin Qais during the pilgrimage of Muawiyah bin Abi Sufian's, and both discussed *tamattu'* by performing umrah before hajj. Aḍ-Ḍaḥḥāk said, "That is not performed except by those who do not understand Allah's commands." Sa'd said: "What a loathsome you utter, O son of my brother." Aḍ-Ḍaḥḥāk said: "Umar has forbidden it." Sa'd said: "The Prophet used to do it, and we did it with him." Ar-Rabi' said to Asy-Syāfi'ī, that Mālik preferred the words of aḍ-Ḍaḥḥāk to those of as-Sa'd, and that 'Umar knew more about the Prophet than Sa'd (Schacht, 1953; Asy-Syāfi'ī, 2001, 586).

Ibn 'Umar was famous among Maqriẓi as the main authority of the Madina school. The role of Ibn 'Umar can be seen in several polemics in the *Ikhtilāf Mālik wa Asy-Syāfi'ī*, as



Ash-Syāfi'ī said to followers of the Madina school: You leave the hadith of the Prophet for an analogy based on Ibn 'Umar's opinion by saying: Ibn 'Umar would never violate the Prophet's doctrine (Schacht, 1953; Asy-Syāfi'ī, 2001, 703).

Asy-Syāfi'ī accused the Madina school of being inconsistent in following 'Umar and Ibn 'Umar; because they often differed from these authorities (Schacht, 1953; Asy-Syāfi'ī, 2001, 703). From several polemical evidence, Schacht considers that the Madina school during the time of Ash-Syāfi'ī (d. 204 H) had not yet acquired a reputation for their special attention to the hadiths of the Prophet, which later they earned (Schacht, 1953).

Apart from the hadiths from the Companions, the hadiths from the Tabi'in also play a significant role in the doctrine of the Madina school (see the distribution of hadiths in the introduction). These hadiths are narrated carefully as they are considered relevant and often used to replace hadiths from Companions. This can be observed in the words of Ash-Syāfi'ī towards the Madina school: "You have differed from Ibn 'Umar. If it is allowed to disagree with Ibn 'Umar on this matter because of the views of several Tabi'in, is it allowed for other than you to differ with him for a similar reason? Or do you limit others to what is easy for you, so that you are being unfair, and this becomes unacceptable? Is it allowed for you to leave Ibn 'Umar because of someone from the Tabi'in and the opinion of your friend (Mālik), while in other matters you use Ibn 'Umar's opinion as an argument against the sunnah?" (Schacht, 1953; Asy-Syāfi'ī, 2001, 706). But even so, the hadiths from Tabi'in were not followed naturally (Schacht, 1953).

### **Iraqi School of Thought**

Regarding hadiths in the Iraqi school, Schacht refers to several passages in *Kitāb al-Umm*, such as *Ikhtilāf al-'Irāqiyīn*, *Kitāb Siyar al-Auzā'ī*, *Kitāb Ikhtilāf al-Ḥadīṣ*, and *ar-Radd 'ala Muḥammad ibn Ḥasan*. According to Schacht, based on Ash-Syāfi'ī's opinion, the Madina school often deviated from the few hadiths they narrated compared to the Iraqi school. In some regards, the Iraqi school is far more knowledgeable about hadith than the Madina and Syrian schools. Abū Ḥanīfah (d. 150 H) and Abū Yusūf (d. 182 H) were earlier than Mālik (d. 179 H) in compiling hadiths. As for the attitude of the Iraqi school towards hadith, it is equal to the attitude of the Madina school, however, the theory of the Iraqi school is far more advanced than the Madina school (Schacht, 1953).

According to Schacht, Iraqi opponents frequently agreed with Ash-Shafi'ī that no one has authority as the Prophet does. Nevertheless, this statement should be understood carefully because ash-Shaibānī states that there was a determining role in the Prophet's decisions and this shows that the Iraqi school of thought had previously formulated this thesis but they only applied it occasionally. Compared to Ash-Syāfi'ī, the Iraqi school is still far from being truly dependent on the hadiths of the Prophet (Schacht, 1953).

With regard to the authority to determine hadiths from the Prophet, Schacht cites statements in *Kitāb Siyar al-Auzā'ī*, which explains that the authenticity of hadiths must be determined by the Quran; and that hadith must be interpreted in a way that is morally justified and pious; 'Umar reduced the hadith narration; 'Umar accepted the hadith supported by two witnesses; Ali rejected the hadith unless it was confirmed by an oath; be careful of hadiths that are *syadz* and accept hadiths that are recognized by congregations and judges that are following the Qur'an and sunnah; The Prophet only permitted or only prohibited what was determined by Allah in the Quran; and should make the Al-Qur'an and Sunnah as a leader and guide (Schacht, 1953; Asy-Syāfi'ī, 2001, 187-189).

But despite these limits in its application, according to Schacht, the Iraqi school's thesis on the determining authority of the hadiths of the Prophet is overshadowed by the role assigned by the Iraqi school to the hadiths of the Companions in practice and theory. In *Kitāb Ikhtilāf al-Irāqiyīn*, these principles are formulated in many places. Asy-Syāfi'ī affirmed that the Iraqi school of thought claimed that they did not violate any of the Companions of the Prophet, even though they had violated the decision of 'Umar ibn al-Khaṭṭāb. They also claimed not to agree to any suggestion to leave *qiyas*, even though they had already left it (Schacht, 1953; Asy-Syāfi'ī, 2001, 286). Further, in the matter of hunting birds during ihram, the Iraqi school of thought claims that their opinion does not conflict with the opinion of the Companions, even though according to Asy-Syāfi'ī four Companions contradict them on this matter (Schacht, 1953; Asy-Syāfi'ī, 2001, 345).

According to Schacht, the argument of the Iraqi school regarding the role given to the opinions of the Companions is identical to the argument of the Madina school of thought, that the Companions must know the practices and decisions of the Prophet ((Schacht, 1953; Asy-Syāfi'ī, 2001, 263), and the opinions of the theirs were probably in line with the Prophet's decisions. Ibn Mas'ūd was once asked about a matter but he did not know the Prophet's decision regarding the matter. When asked to give his opinion, Ibn Mas'ūd complied. One *halaqah* participant said that his opinion was the same as the Prophet's decision (Schacht, 1953; Yusuf, t.t., 132). So according to Schacht, it is not surprising that the hadiths from the Companions replace the hadiths from the Prophet, in which both types of hadiths are placed on the same level and that the hadiths from the Prophet are interpreted based on the hadiths from the Companions. Hence, Schacht concluded that the reference to the hadiths from the Companions was an earlier procedure and the theory regarding the determining authority of the hadiths from the prophet was an innovation that at that time was perfectly adopted by the Iraqi and was then ideally implemented by Asy-Syāfi'ī (Schacht, 1953).

The Iraqi school recognizes a harmonizing method of interpreting hadith. But if there is no chance for harmonization, they perceive the majority of Companions as decisive. They usually choose arbitrarily one of the contradicting hadiths, even though these hadiths can be harmonized. The Iraqi school rejects or accepts hadiths based on whether or not these traditions are in line with previously established doctrines. According to Schacht, this can be seen in Thahawi, *Syarḥ Ma'ānī al-Āsār*, where his efforts to harmonize hadiths are defeated by his tendency to find contradictions, so he eliminated hadiths opposing the doctrine of the Hanafi school of thought. This confirms that the defining criterion of the Iraqi school was the pre-established doctrine (Schacht, 1953).

Asy-Syāfi'ī accused the Iraqi school of being a group that more easily accepts traditions from Companions than traditions from the Prophet. According to Schacht, Ash-Syāfi'ī's accusation is valid, even the Iraqi school is also often in line with the traditions of the Companions, especially when there are many contradictory hadiths narrated by the two authorities of their school, namely Ali and Ibn Mas'ūd. Asy-Syāfi'ī collected cases when the Iraqi school disagreed with Ali and Ibn Mas'ūd in *Ikhtilāf 'Alī wa 'Abd Allah ibn Mas'ūd* (Schacht, 1953; Asy-Syāfi'ī, 2001, 391).

Schacht also shows evidence of the attitude of the Iraqi school of thought towards their authorities; Ali and Ibn Mas'ūd. In the case of raising hands in prayer which was narrated by Wa'il ibn Hujr from the Prophet, the Iraqi school of thought rejected the hadith because Ibrāhīm an-Nakhā'ī (d. 95/96 H) denied Wa'il's hadith by saying: "do you think Wa'il il ibn Hujr knows better than Ali and Ibn Mas'ūd?" Although in later debates, the Iraqi school

admitted that Ibrahim an-Nakha'i did not narrate from 'Alī and Ibn Mas'ūd a single explicit statement from both (Schacht, 1953; Asy-Syāfi'ī, 2001, 169).

According to Schacht, hadiths from Tabi'in were often put forward by the Iraqi school at the same level as hadiths from Companions and were even more often put forward independently. However, during the ash-Syaibānī (d. 189 H) and Ash-Syāfi'ī (d. 204 H) periods, it was recognized that Tabi'in's opinions had no authority. This theoretical stance contradicts the widespread usage remaining practiced by the Iraqi school (Schacht, 1953).

The main authority for the doctrines of the Iraqi school and the Kufah school of thought is Ibrāhīm an-Nakhā'ī (d. 95/96 H). Schacht shows the distribution of hadiths from Ibrāhīm an-Nakhā'ī in *Kitāb al-Āsār Abū Yusūf* (d. 182 H) and *Kitāb al-Āsār asy-Syaibānī* (d. 189 H). Of the 549 hadiths in *Kitāb Āsār Abū Yusūf*, 443 hadiths are from Ibrāhīm an-Nakhā'ī. Likewise, in *Kitāb al-Āsār ash-Syaibānī*, out of 550 hadiths, 472 come from Ibrāhīm an-Nakhā'ī. The 15 hadiths and 11 hadiths in the two books are from Ibrahim through other Tabi'in. Ibrāhīm an-Nakhā'ī is also a narrator of hadiths from the Prophet and Companions. In the history of Abū Yusūf, out of 189 hadiths, 53 of them are chained directly to the Prophet; and of the 372 hadiths, 147 are from Companions. Then in the history of ash-Syaibānī, out of 131 hadiths, 26 have been directly transmitted to the Prophet; and of 284 are traditions, 104 go back to the Companions (Schacht, 1953).

Schacht concludes that the reference to the Tabi'in precedes the reference to the Companions, and the consequence of his theoretical considerations is that authority is projected backward from the Tabi'in back to the Companions, and then from the Companions back to the Prophet. Both the Madina and the Iraqi schools have identical attitudes towards Tabi'in and Companions (Schacht, 1953).

Finally regarding individual Iraqis, according to Schacht, Abū Yusūf (d. 182 H) had a greater dependence on hadiths originating from the Prophet and Companions than Abū Ḥanīfah (d. 150 H). In the context of introducing hadiths and changing doctrines because of hadiths, Abū Yusūf outshone Abū Ḥanīfah. Meanwhile, Ash-Syaibānī (d. 189 H) has technical attention to hadith with the support of Muwaṭṭa' Mālik which he narrated. Asy-Syaibānī's usual expression: "we follow this," shows the level of formal dependence on hadith. He changed the doctrine for the sake of the Prophet's traditions. However, this leads to inconsistency and eclecticism, so it does not escape the target of Ash-Syāfi'ī's criticism. Like Abū Ḥanīfah, ash-Syaibānī also considered the doctrines of the Tabi'in Madina figures (Schacht, 1953).

### Syrian School

About the Syrian school of thought, Schacht refers a lot to the *Kitāb Siyar al-Auzā'ī*. According to Schacht, al-Auzā'ī (d. 157 H) is the only authentic figure of the Syrian school of thought. His attitude towards the hadiths was the same as that of the Madinah and Iraqi schools. Most of al-Auzā'ī's statements regarding the laws of war relating to the Prophet's life journey are generally not accompanied by *isnads*. As with al-Auzā'ī's reference to the acts of the Prophet, the same problem was found in the texts of the Iraqi school (Schacht, 1953).

According to Schacht, for al-Auzā'ī, the Prophet is exemplary and the most worthy to be followed (Schacht, 1953; Asy-Syāfi'ī, 2001, 228). However, to uphold the practice of the Prophet, al-Auzā'ī referred to what has been running at the time of the Prophet and after. Besides referring to the Prophet, Al-Auzā'ī also referred to Ibn 'Umar, Abū Bakr, 'Umar, and 'Umar ibn Abd al-'Azīz, the Umayyad caliph. Schacht shows the arguments that the

ancient schools of law used to support the authority of the Companions in the *Kitāb Siyar al-Auzā'ī*. In interpreting Q.S. al-Hashr/59:5, Abū Ḥanīfah saw that it was okay to diminish the trees belonging to the polytheists and their date palms or burn them. However, according to al-Au'za'i, Abū Bakr knew more about the interpretation of the verse. Abū Bakar forbade it as well as Muslim priests (Schacht, 1953; Asy-Syāfi'ī, 2001, 241).

Then regarding a man who had intercourse with a female slave from the spoils of war, Abū Ḥanīfah said, that the man is not subject to the law of had, but he has to pay for the woman and her child with the spoils of war. The child of the slave is not attributed to him. According to al-Auzā'ī, our previous scholars imposed the lightest punishment of the two had, namely one hundred lashes or paying a fair dowry. The child born to the slave is attributed to him, and the man gets a share of the spoils (Schacht, 1953; Asy-Syāfi'ī, 2001, 209). According to at-Tabari, as quoted by Schacht, the opinion of the scholars is related to the issue of whether to reject or accept the hadith of the Prophet (Schacht, 1953). Schacht added by quoting Ibn Qutaibah, where al-Auzā'ī said, that he blamed Abū Ḥanīfah not because he used a personal opinion (*ra'yu*), but because we all use personal opinions (*ra'yu*) he said, but because when confronted with a hadith to him, he ignores it (Qutaibah, 1999, 103). According to Schacht, if history is true, this cannot be separated from the polemic that usually occurs among schools of law, it does not prove that al-Auzā'ī's attitude towards hadiths is different from other ancient schools (Schacht, 1953).

### Criticism of Schacht's Thought

Christopher Melchert in his work *The Formation of the Sunni School of Law, 9 th-10 th Centuries C.E.*, further elaborates on the ancient legal schools which transformed from geographical (regional) schools to individual (personal) schools. Related to this, Melchert says that he owed his perception to Schacht regarding the shift in the schools of law (Melchert, 1997); where in the article *Kitāb al-Ḥujjah 'Alā Ahl al-Madīnah* and the Transition from Regional Schools to Personal, Melchert strengthened his argument again (Melchert, 2022). However, the shift believed by Schacht and agreed by Melchert was denied by Wael B. Hallaq. In his article, Hallaq explains at length the fallacy of Schacht's assumptions regarding shifts in schools of law. Hallaq concludes that there is no such transformation, that there is a transformation from individual legal doctrines to sect legal doctrines. Where according to Hallaq this is in line with the natural development of the history of Islamic law (Hallaq, 2001).

Apart from Wael B. Hallaq, there is also Muhammad Mustafa Azami who criticized Schacht's opinion, especially regarding hadith in ancient law schools. In *On Schacht's Origins of Muhammadan Jurisprudence*, Azami pointed out the weaknesses of Schacht's arguments. According to Azami, First, regarding the materials used as reference sources, Schacht used them arbitrarily. About the hadith of the Prophet in the ancient legal schools, Schacht took from the writings of Ash-Syāfi'ī which he then deduced at will. Of course, this is not reliable. Moreover, Schacht often cites many examples regarding the shortcomings of Ash-Syāfi'ī. Second, Schacht overgeneralizes. Like when Schacht said that Mālik is the representative of Madina, and Abū Ḥanīfah is the representative of Kufah and all of Iraq. Third, Schacht's argument is internally inconsistent. As he said, the hadiths of the Prophet had to overcome the strong opposition of the ancient legal schools, as well as theologians, before they became generally accepted. But elsewhere, Schacht expresses that the best way to prove the absence of a hadith at a particular time is to show that it is not used as a legal argument in discussions that require reference to it if it does exist.

According to Azami, if ancient law schools are hostile to hadith, how can they be forced to refer to the hadith of the Prophet. Azami also gave an example of Schacht's inconsistency regarding the distribution of hadith in the *Muwatta'* and *Āsār Kitāb*. According to Azami, the number of hadiths of the Prophet in the *Muwatta'* is almost the same as those from Companions and Tabi'in. In the *Muwatta' ash-Syaibānī*, the number of hadiths of the Prophet is about half that of the others. Then in *Āsār Abū Yusūf*, the ratio is one to five. In *Āsār ash-Syaibānī*, it is one to six Fields(A'zamī, 1996).

Then about hadith in the Madina school. First, Azami cited Schacht's conclusion regarding the freedom of the Madina school to choose traditions from the Prophet and traditions from others, and even the Madina school rejected both. In this case, Azami interpreted Rabi's statement that they doubted the hadiths narrated by people other than the Madina people. It is not meant to be free of choice. Furthermore, according to Azami, Rabi' was not a resident of Madina, nor was he a follower of the Madina school, but a follower of Ash-Syāfi'ī. Then about the view of the Madina school, that analogy replaced hadith. According to Azami, this was Ash-Syāfi'ī's statement, not Mālik's statement. This is the incorrect support. Further, the hadiths of the Prophet were replaced by the hadiths of the Companions, and the hadiths of the Prophet were left out for apparent reasons. In this case, according to Azami, Schacht did not provide supporting evidence. Finally, it is regarding the hadiths of the Prophet interpreted from the perspective of the hadiths of Companions because they know the sunnah of the Prophet; the opinion of the Companions applies to what was narrated by the same Companions from the Prophet; and the hadiths of the Prophet were interpreted in a limited way if they were not justified by the hadiths of the Companions. According to Azami, to solve the misunderstanding, it is necessary to examine the special position given to the Companions of the Prophet. As mentioned in Q.S. al-Baqarah/2:142; then Q.S. Ali Imran/3:110; Q.S. at-Tauba/9:100; Q.S. al-Fath/48:18; etc. All schools of law recognize this position of the Companions. Therefore, it is natural for Ash-Syāfi'ī to criticize the Iraqi and Madina schools for not following the opinion of the Companions. The conclusion is that Schacht's arguments regarding the Madina school are baseless (A'zamī, 1996).

As for Schacht's statement about the Iraqi school is that according to Azami, the conclusions that Schacht drew regarding the Iraqi school were based on the writings of Ash-Syāfi'ī, not the writings of related parties. Schacht mentions that the Iraqi school rejected obscure hadiths. According to Azami, the rejection was not binding on the Iraqi; and the hadith was widely rejected. Then, the Iraqi school of thought places the hadiths of the Prophet under the hadiths of the Companions. The example shows Schacht's arbitrariness, which the sources themselves contradict. Even though it is clear that Companions have a special position. Furthermore, hadiths were rejected because they contradicted the Qur'an, or what the hadith mentioned was in the Qur'an, or contained in equivalent Prophetic traditions, or because the four caliphs did not say words about hadiths. the. Regarding the hadith discussed, Malik discussed at length that the hadith does not conflict with the Qur'an. All scholars agree that a hadith that contradicts the Qur'an cannot be deemed Sunnah. The next two arguments of Schacht are also unfounded. Because Abū Ḥanīfah considers these two factors mutually reinforcing. The quality of the third hadith is doubtful. Then the argument that the hadith is not used in general. principally, this hadith has been contradicted by some Iraqi scholars and accepted by other Iraqi scholars; so it would be wrong to say that they used tricks to discredit the hadiths of the Prophet. Furthermore, the different public opinions and contradictory

Prophetic hadiths can be eliminated. According to Azami, this does not mean that public opinion takes precedence over the hadiths of the Prophet. Then regarding the Iraqi school of thought that seeks contradictions in a hadith and rejects one of them, it is based on Ash-Syāfi's opinion, not the firm statement of the Iraqi school of thought (A'zamī, 1996).

Finally regarding Auzā'ī's attitude as a representative of the Syrian school of thought. According to Azami, Schacht's statement that al-Auzā'ī is the only representative of the Syrian school of thought and his attitude is similar to the Madina and Iraqi schools of thought that there is no power other than the hadiths of the Prophet can be approved. In his statement, Schacht wanted to lead people to conclude that the hadiths of the Prophet could stand alone without being supported by other actions, while others can stand alone. To refute it, according to Azami, it is sufficient to refer to the treatise of al-Auzā'ī. The facts in the treatise contradict Schacht. The conclusion is that al-Auzā'ī's attitude towards the authority of the Prophet is the same as that of other scholars. This is by the word of God in Q.S. Ali Imran/3:59 (A'zamī, 1996).

Criticism of Schacht's thought, especially that of Mustafa Azami, can be seen from two perspectives: first, regarding Azami's assumptions. Azami believes that historical data presented in historical books - especially hadith books - is authentic. Because of this he strongly opposed the skepticism of Joseph Schacht. Second, Azami reverses Schacht's generalization regarding regional schools of thought. Although the sources used are the same, such as *Muwatta' Mālik*, *Kitāb al-Āṣār Abū Yusūf*, and *easy-Syaibānī*, as well as al-Umm Asy-Syāfi. For him, the opinions in these books only represent personal and do not include regional popular opinion - Madina, Iraq, and Syria - as Schacht has claimed. A general summary of Azami's criticism of Schacht's hadith thinking can be seen in Lidia Nur Eka Safitri's article (Safitri et al., 2023).

## CONCLUSION

Joseph Schacht in his book: *The Origins of Muhammadan Jurisprudence and An Introduction to Islamic Law* has succeeded in filling the historical void in the development of law in the first century Hijriyah. Schacht's writings in the two books above were very influential, so Wael B. Hallaq said: "His writings especially in *Origins* and *An Introduction*, have led to a slowing down, if not retarding, of the sub-field of Islamic legal studies during the past five decades" (Hallaq, 2002). According to Schacht, Islamic law only existed almost a century after the Prophet Muhammad. In his presentation, Schacht mentioned the important role of *qādīs* (Islamic judges) and specialists who were interested in legal issues during the Umayyad dynasty. Through their response to the popular practice and administrative regulations of the Umayyad caliphate, religious and ethical ideas were incorporated into the field of law, thereby transforming it into Islamic law. At the beginning of the second century H, these *qādīs* and specialists developed into ancient schools of law. They have the essence of legal theory based on living tradition. Where during the Abbasid dynasty, the old school of law turned into a new school of law based on loyalty to a teacher who led them to the formation of schools of law. The attitude of the ancient legal schools towards hadith is relatively the same. The Madhhab of Madina tended to be free to choose between hadiths from the Prophet and others and even rejected both. They often replace hadiths from the Prophet with those from Companions or ignore them for no apparent reason. The hadiths from the Prophet are interpreted according to the perspective of the hadiths from the Companions with the assumption that the Companions know the sunnah of the Prophet

best. Even these hadiths are interpreted strictly without being accompanied by the hadiths of the prophet. In addition to the hadiths from the Companions, the hadiths from Tabi'in also played a big role in the Madina school. For Schacht, the Iraqi school understands hadith better than the Madina school. They had a much more advanced legal theory than the Madina school. Like the Madhhab, they also argued that the Companions must have known about the Prophet's practices and decisions. The majority of the Companions are the arbiters of contradictory hadiths and these traditions can be chosen arbitrarily. Hadiths can be rejected or accepted as long as they conform to previously established doctrines. They more easily accept traditions from Companions than traditions from the Prophet. As for the hadiths from Tabi'in, they put them on the same level as the hadiths of the Companions, and they were often presented alone. The main authority of the Iraqi school is Ibrāhīm an-Nakhā'ī (d. 95/96 H). The reference to the Tabi'in precedes the reference to the Companions. As for the Syrian school of law, according to Schacht, in general, it is not much different from other ancient legal schools. Schacht's theory of ancient schools of law and their use of hadith found support from Christopher Melchert and strong criticism from Wael B. Hallaq and Muhammad Mustafa Azami. Hallaq criticizes Schacht's theory of the transformation of schools of law from geographical (religious) to individual (personal) schools. Meanwhile, Azami denied Schacht's theory about the use of hadith by ancient law schools, which according to Azami was formulated by Schacht arbitrarily and without any basis.

Schacht's thoughts regarding the history of the development of ancient schools of law and hadiths according to these schools of law have implications for Schacht's theories which are skeptical of the authenticity of legal traditions. Schacht's conclusion regarding the ancient law schools and his statement that the hadiths of the Companions took precedence over the traditions of the Prophet had an impact on the emergence of the theory of projecting back, common link, and argumentum e-silentio. Without understanding how Schacht's line of thought relates to the development of legal history that has been described previously, readers will find it difficult to identify the emergence of Schacht's phenomenal theories in hadith studies in the West. Because of that, for those interested in Schacht's theories, it is better to first study the history of legal development which has been extensively reviewed in his book *An Introduction to Islamic Law*.

## REFERENCES

- A'zamī, M. M. (1996). *On Schacht's Origins of Muhammadan jurisprudence*. Oxford Centre for Islamic Studies ; Islamic Texts Society.
- Asy-Syāfi'ī, M. ibn I. (2001). *Al-Umm* (Ed. Rif'at Fawzī, Cet. I). Dār al-Wafā.
- at-Tanukhi, S. ibn S. (tt.). *Al-Mudawwanah al-Kubra*. al-Mamlakah al-'Arabiyah as-Su'udiyah.
- Ayub, A. (2022). Imam al-Syafi'i dalam Kesarjanaan Barat: Tesis Schachtian dan Kritik Terhadapnya. *Kalimah: Jurnal Studi Agama Dan Pemikiran Islam*, Vol. 20. <http://dx.doi.org/10.21111/klm.v1i1.6612>
- az-Zurqānī, ibn Y. (tt.). *Syarḥ az-Zurqānī 'alā al-Muwaṭṭa' al-Imām Mālik*. al-Khairiyah.
- Brown, J. A. C. (2017). *Hadith Muhammad's Legacy in the Medieval and Modern World* (2nd ed.). One World Academic.
- Forte, D. F. (1978). *Islamic Law: The Impact of Joseph Schacht*. 1.
- Hallaq, W. B. (2001). From Regional to Personal Schools of Law? A Reevaluation. *Islamic Law and Society*, 8(1), 1–26.

- Hallaq, W. B. (2002). The Quest for origins or doctrine? Islamic Legal Studies As Colonialist Discourse. *Journal of Islamic and Near Eastern Law*, Vol. 1.
- Iskandar, A., & Umardani, D. (2020). Analisis dan Kritik pada Pandangan Joseph Schacht terhadap Hadis dan Hukum Islam. *Jurnal Studi Hadis Nusantara*, 2.
- Latif, F. (n.d.). The Sunnah and the Orientalists: A Critical Examination of Joseph Schacht's theory. academia.edu.
- Melchert, C. (1997). *The Formation of the Sunni School of Law, 9 th-10 th Centuries C.E.* (Vol. 4). Brill.
- Melchert, C. (2022). Kitāb al-Ḥujjah 'Alā Ahl al-Madīnah and the Transition from Regional Schools to Personal. *Studia Islamica*, 117(1), 64–87. <https://doi.org/10.1163/19585705-12341457>
- Mutaqin, R. S., & Muazar, D. S. (2022). Kritik Epistemologis Ignaz Goldziher Dan Joseph Schacht Terhadap Kitab Al-Muwattha' Imam Malik. *Al-Dzikra: Jurnal Studi Ilmu al-Qur'an Dan al-Hadits*, 16.
- Oktaviani, S. (2023). Pemikiran Joseph Schacht terhadap Hadis.
- Pahrudin, A. (2021). Pemikiran Joseph Schacht dalam Studi Hadis Kontemporer di Indonesia. *Diroyah: Jurnal Studi Ilmu Hadis*, 6.
- Pulungan, N. H. (2022). Skeptisisme Joseph Schacht Terhadap Studi Hadis Kajian Buku *The Origins Of Muhammadan Jurisprudence*. *Jurnal Pendidikan Dan Konseling*, 4.
- Putri, G. N., Meylani, H., & Agustina, I. (2022). Kritik Hadis Menurut Orientalis: Studi Komparatif Pemikiran G.H.A Juynboll dan Joseph Schacht. *Integritas Terbuka: Peace and Interfaith Studies*, 1(1), 59–70. <https://doi.org/10.59029/int.v1i1.3>
- Qutaibah, I. (1999). *Ta'wil Mukhtalif al-Ḥadīṣ*. al-Maktabah al-Islami.
- Rahman, F. (1979). *Islam* (2nd Edition). University of Chicago.
- Riady, F. (2022). Nama-Nama Alternatif dalam Isnad Menurut Joseph Schacht. *Mashdar: Jurnal Studi Al-Qur'an dan Hadis*, 3(2), 31–56. <https://doi.org/10.15548/mashdar.v3i2.2938>
- Saefulloh, A., Maghfur, A., & Sumbulah, U. (2022). Teori Dekonstruksi Hadis Josep Schacht dan Bantahan Musthafa Azami. *Analisis: Jurnal Studi Keislaman*, 21(2), 365–386. <https://doi.org/10.24042/ajsk.v21i2.8003>
- Safitri, D., Marna, S. M., & Amin, A. S. (2023). Metodologi Pembacaan Kritis Atas Kajian Orientalis Terhadap Hadis: (Studi Metodologi M. Muṣṭafā al-A'zami dalam Mengkritik Pandangan Hadits Orientalis). *Madinah: Jurnal Studi Islam*, 10(1), 11–29. <https://doi.org/10.58518/madinah.v10i1.1495>
- Salman, D. (2022). Joseph Schacht'S Role In Changing The Status Of Islamic Law In Nigeria. *Akdeniz Havzası ve Afrika Medeniyetleri Dergisi*, 4(1), 89–101. <https://doi.org/10.54132/akaf.1109550>
- Schacht, J. (1949). *A Revaluation of Islamic Traditions*. Cambridge University Press, 143–154.
- Schacht, J. (1953). *The Origins of Muhammadan Jurisprudence*. The Claredon Press.
- Schacht, J. (1982). *An introduction to Islamic law*. Clarendon Press.
- Syahran, S., & Raziq, A. (2022). Komparasi Pemikiran Orientalis Tentang Perkembangan Hukum Islam (Goldziher, Joseph Schacht, Dan James Norman). *Al-Azhar Islamic Law Review*, 4(2), 132–144. <https://doi.org/10.37146/ailrev.v4i2.185>



- Ulumuddin, U., Rike Uyunul Mukarromah, W., & Sumbullah, U. (2022). Joseph Schacht, Teori Skeptisisme Hadist dan Bantahan Sarjana Muslim Terhadapnya. *El-Sunnah: Jurnal Kajian Hadis Dan Integrasi Ilmu*, 3.
- Yusuf, A. (n.d.). *Kitāb al-Āsār*. Dār al-Kutub al-'Ilmiyyah.

