

CAMBRIDGE UNIVERSITY PRESS

Cambridge, New York, Melbourne, Madrid, Cape Town, Singapore,
São Paulo, Delhi, Dubai, Tokyo, Mexico City

Cambridge University Press

The Edinburgh Building, Cambridge CB2 8RU, UK

Published in the United States of America by Cambridge University Press, New York

www.cambridge.org

Information on this title: www.cambridge.org/9780521296526

© Cambridge University Press 1977

This publication is in copyright. Subject to statutory exception
and to the provisions of relevant collective licensing agreements,
no reproduction of any part may take place without the written
permission of Cambridge University Press.

First published 1977

First paperback edition 1979

Re-issued 2010

A catalogue record for this publication is available from the British Library

Library of Congress Cataloguing in Publication data

Burton, John, 1929–

The collection of the Qur'ān.

Bibliography: p.

Includes index.

1. Koran – History. 2. Koran – Readings.

3. Islamic law – Interpretation and construction.

I. Title.

BP131.B87 297'.1226 76–27899

ISBN 978-0-521-21439-1 Hardback

ISBN 978-0-521-29652-6 Paperback

Cambridge University Press has no responsibility for the persistence or
accuracy of URLs for external or third-party Internet Web sites referred to in
this publication, and does not guarantee that any content on such Web sites is,
or will remain, accurate or appropriate.

Contents

PART I

The Qur'ān and the Islamic legal sciences

1	Introduction	3
2	The Islamic legal sciences	8
3	The sub-science of <u>naskh</u>	46
	<u>Naskh al hukm wa al tilāwa</u>	46
	<u>Naskh al hukm dūna al tilāwa</u>	49
4	The background to the emergence of the third mode of <u>naskh</u>	68
	1. The exegesis	68
	2. The <u>Fiqh</u> : the penalty for adultery	72
	3. A second instance of the third mode of <u>naskh</u>	86
5	The <u>mushaf</u> : an incomplete record of the Qur'ān	105

PART II

The history of the collection of the
Qur'ān texts

6	The first collection	117
7	The 'Uthmān collection	138
8	The Qur'ān collections: a review	160
9	The <u>isnād</u> of the Qur'ān	190
	The <u>tawātur</u> of the <u>mushaf</u>	220

10	General conclusions	225
	Works cited	241
	Notes	245
	General Index	260
	Index of Qur'ānic references	272

Acknowledgements

I should like to record my gratitude to both the School of Oriental and African Studies in the University of London and the University of St Andrews for grants of study leave with supporting finance which enabled me to consult unpublished manuscript materials in European and Middle Eastern collections, use of which underlies certain aspects of this present study.

I record also with pleasure my debt to my colleague, Dr J. Wansbrough of the School of Oriental and African Studies, who over the years has offered generously both time and encouragement.

The principal debt which must here be acknowledged is to the members of my immediate family whose tolerance and understanding have sustained me and eased the burden of frequent separations.

J. Burton

PART I

The Qur'ān and the Islamic legal sciences

1 Introduction

Classical Islam, as it is referred to by European scholars, may be dated from the stage when Islam first saw itself as a religio-legal system wholly rooted in a divine revelation. As in Judaism the heart of the system was the Law and it has long been a truism for Western scholars that the Law which Islam proclaimed was held by the Muslims to have derived from two co-equal sources, the Islamic Scripture and the Islamic Tradition.

The derivation of the Law had resulted from the labours of a series of individual scholars active in the course of the first two centuries after Muḥammad. To this Law was given the name Ṣarī'a, while the science concerned with its elaboration was called the Fiqh.

At an identifiable moment in recent history God had spoken to and through a prophet, Muḥammad (A.D. 570-632). To Muḥammad God had addressed His Holy Book, the Qur'ān, the written law of Islam, kitāb allāh. Simultaneously through the Prophet's words and actions, lovingly recorded by Muḥammad's contemporaries, God had further communicated to mankind the unwritten law of Islam, the perfect pattern of divinely approved human conduct, the Sunna. The scholars of the classical age of Islam saw themselves as having inherited a revealed Law securely preserved in two literary

sources, the Sunna which had circulated in primarily oral transmissions and the Qur'ān which had been cherished in both oral and written form.

The texts of the Qur'ān had been preserved in two ways. The better to express the Qur'ān's quality as a direct divine revelation independent of earlier revealed religions, Islam portrayed its prophet as doubly illiterate. Despite his personal inability to read and write, during the twenty-odd years of his public activity Muḥammad had employed the services of a series of amanuenses to record at his dictation each of the individual fragments of the revelation immediately he received it.

Others of his followers had devotedly committed the revealed texts to memory. On the death of the Prophet and before the written texts had been assembled, edited and promulgated his Companions had disseminated their knowledge of the Qur'ān texts among the Muslims of the Islamic lands. They simultaneously instructed them in the minutiae of the Sunna. This double body of knowledge became the common heritage of the Muslim faithful.

In time there had arisen throughout the Islamic empire a number of specialists, the scholars of the Fiqh to whom especially belongs the merit of having produced a manageable statement of the Law, devising for the purpose a set of techniques known as uṣūl al fiqh.

These were the rules governing the extraction of the Law from the twin sources of Qur'ān and Tradition.

Scholars may advance the general stock of knowledge in a

variety of ways: by the discovery and publication of hitherto unknown source materials; by placing their entire subject in a wholly novel perspective on the basis of an extensive re-examination and analysis of available sources; or finally, by applying the new perspective to the elucidation of a single long-recognised problem. The present work is of this last kind. It seeks to re-open the question of the collection of the Qur'ān as seen by the Muslims. Their accounts will be re-examined in the light of studies by Goldziher and Schacht, pre-eminent instances of works of the second type.

Each of these scholars had the fortune and the genius to perceive amid the multiplicity of baffling detail presented in the literatures of Islam the few points of significant meaning which held the clue to an overall pattern and which, properly assessed, offered the key to its interpretation.

Goldziher's contribution to modern Islamic studies lay in his observation that the literature of the Muhammadan Tradition, the Ḥadīth, represented less a corpus of information from and about the Prophet as transmitted with verbal fidelity by successive generations after him than a reflection of the social, political and religious ideals of the transmitters themselves and of the societies or groups they served as spokesmen. By Sunna was to be understood, not the inherited instruction of the Prophet, but the ius consuetudinis of a group or party, large or small. By ḥadīth is meant the vehicle of that sunna, a report, verbal or written, conveying a description of the relevant practice, opinion or custom approved by the disseminators of the report.¹

Building upon this ingenious suggestion, Schacht has shown in his studies of the Muhammadan legal traditions that, rather than spreading out from an original centre at Medina, Islamic Law originated in the provinces. Reference of the Sunna to the Prophet was the end rather than the beginning of a process. Its purpose was to verify some local legal viewpoint. In other words, the Sunna differed and was differently defined from region to region. Thus, the individual ḥadīth conveys a truth that is theoretical rather than historical. It served as verification by documenting legal conclusions reached by the scholars of a particular locality on the individual topics of the Fiqh.²

We in our turn are now directed by the findings of these two scholars towards a more detailed consideration of the role played within the broad field of the Islamic Tradition by uṣūl al fiqh, the Islamic source theory.

Our aim shall be to enquire whether and how these uṣūl al fiqh may even have fashioned part of that Tradition, in particular, the part that recounts the history of the collection of the Qur'ān texts. It will be suggested that the available evidence indicates that the Muslim accounts of the history of the collection of their Scripture must now be re-interpreted in the light of a prolonged and highly technical discussion on the role (as opposed to the history) of the revealed book.

The discussion concerned the relative status of Qur'ān and Sunna as legal sources. Although the details of the course of the discussion during the second and third centuries after Muhammad have long been available to us, they

could not hitherto be properly evaluated.

Only one version of the traditions on the collection of the Qur'ān has until now been accepted. This is the version maintained and handed on by Muslim and Western scholars alike. European investigations into Muhammadan accounts of the collection of the Qur'ān texts have hitherto been restricted to the analysis of the accounts as preserved. There is no sign of any realisation that it might be profitable to seek to relate the accounts to the wider background within the totality of the Islamic sciences out of which they had emerged; and nor has there been any effort to enquire whether there might not lurk behind the wording of the accounts some underlying motivation.

We now possess enough information to discover the ideological basis of the accounts and to expose the evolution of the motives which shaped the accounts. The solution lies in an unsuspected yet not improbable quarter.

2 The Islamic legal sciences

Queen of the Islamic sciences and the first to achieve major development was the Fiqh. As we now know it the Fiqh was constructed mainly in the course of the second century A.H. Since then it has been represented in a number of separately developed and frequently conflicting schools or systems independently established in the main cities of the chief centres of the empire, Iraq and the Hijāz. Syria also produced a system of law but this was early replaced by the more vigorous systems of the two neighbouring territories.

Mecca, Medina, Baṣra and Kūfa were the homes of schools of law which had been the gradual creation of locally-settled scholarly groups who had inherited from their predecessors, in addition to their Qur'ān and Sunna knowledge, the broad lines of a developing local Qur'ān science.

These schools of Fiqh had emerged nearly simultaneously and those who received their training in each local legal tradition grew up in the belief that the achievement of those who had founded the local school or madhab (pl. madāhib) had consisted in derivation, in the review in their entirety of the twin constituent source 'documents' of the local expression of Islam, the Qur'ān, and the Sunna.

Included under the heading Qur'ān were close textual study, qirā'a, and the accumulated masses of interpretation of the

individual verses as transmitted in the ta'wīl or tafsīr of the foregoing generations.

The Fiqh, as elaborated locally by the anonymous founders of the several madāhib, represented to their successors the totality of the ṣarī'a, the normative Muslim 'way of life' which the commands, prohibitions, exhortations and recommendations of the common sources could be shown to embody.

This outlook of the later adherents of the madhab was cultivated in a secondary science, uṣūl al fiqh, which sought to determine precisely which source materials the founders of the local Fiqh had consulted in deriving each clause, ḥukm (pl. aḥkām) of the Law. The work was to involve the identification of the materials, their authentication as either Qur'ān or Sunna and finally the definition of the relative primacy that the founders of the madhab had accorded in their derivation of the Law to each of the two primary sources. This, as we see, was a relatively late development posterior to the articulation of the Fiqh and presupposes dispute.

Dispute had been occasioned by the fact that the Muslims were indefatigable travellers, frequently covering enormous distances for the purpose of commerce, warfare against the Infidel, study or pilgrimage to Mecca. These movements would have provided individuals with opportunities to realise that there were numerous disagreements between the madāhib. The word means 'attitudes' or 'interpretations'.

As the Fiqh had been originally a local creation, so also each local madhab evolved its own local science of uṣūl

al fiqh. Uṣūl must therefore be seen not as a unitary science cultivated in different centres, but as a series of local sciences regionally organised like the Fiqh itself, and continuously developing to serve the function of documenting, verifying and defending the Fiqh taught in the parent madhab. Naturally uṣūl scholars engaged in polemics and apologetics.

As the schools of uṣūl became more sophisticated through the discipline of disputation, it became clear that the madāhib differed not merely in the individual aḥkām propounded by their respective founders, but also in the use that these had apparently made of the basic sources - for that is how the observable conflict between the madāhib on the various legal topics came to be explained. The conflicting local schools of uṣūl science are best seen therefore as having been called into being to provide the necessary retrospective rationalisation of instances of such conflict.

Uṣūl studies were not, however, restricted solely to points of law where the paths of the madāhib had diverged. The entire corpus of legal conclusions now represented in the local body of legal knowledge was the proper sphere of the uṣūlī, and as the content of the science expanded the awakening of interest in the technical aspects of the study led the way to the formulation of axioms and definitions, theorems and rules. Refined by use and practice, and improved by the lessons of debate, the framework of rules enabled uṣūl al fiqh to achieve eventual academic independence to be pursued for its own sake within the confines of each of the several madāhib long after the days of inter-school rivalry, when contention had given way to mutual recognition

and a resigned acceptance of differentness. The Muslims never achieved either a unified Fiqh or a unified uṣūl.

Each madhab produced its uṣūl literature, the study of which presents the reader with a series of rationalised justifications of the local school Fiqh. In the analysis of the history and development of the school's agreed set of views, the rationalisations are characterised from madhab to madhab by the varying emphasis placed upon appeal now to the Qur'ān, now to the Sunna.

This differential emphasis affects, however, not only the aḥkām traditionally at issue between the madāhib. It affects also the rationalisation of the aḥkām held in common by all groups of Muslims.

This is especially evident in the treatment of particular aḥkām maintained by a majority of Muslims, which we propose to examine in detail.

Whereas one group of uṣūl writers refers the shared viewpoint to one source, another group refers the same ḥukm to the other source. This had interesting results for the further development of the uṣūl science.

One seldom reads (except in the edited version of a debate penned by his adversary) of a scholar abandoning his original Fiqh or uṣūl viewpoint owing to his finding the representative of the rival madhab adducing more convincing evidence or more cogent logic. Rather one notes a sharpening of the debating techniques and the search for (and discovery of) more impressive Qur'ān or Sunna or interpretative arguments to be used in future.

This prompts the further question: whether it is

possible to understand and interpret all these developments by accepting at face value the insistence of the uṣūlī that he is concerned solely to review the use made of the primary sources by his scholarly predecessors. To what extent would the modern student be justified in adding to Qur'ān and Sunna the local Fiqh, bringing the number of actual sources up to three?

A specific case will help to bring out the relevance of the question, which simply proposes that the local uṣūlī science, developing its own impetus, created a local methodological tradition on the basis of which it proceeded to the examination of the ṣarī'a in the light of its own assumptions.

ibn al 'Arabī (A.H.543) reports from ibn Šihāb that 'Urwa said

'I asked 'Ā'iṣa, "What is your view of Q 2.158?: 'There shall be no blame on him who performs tawāf between Ṣafā and Marwa.' Surely there can be no blame on anyone who does not perform this tawāf?"'

'Ā'iṣa replied that were the case as 'Urwa supposed, the verse would read: 'There shall be no blame on him who does not perform the tawāf.' The Anṣār, feeling certain scruples about this ceremony, on account of the locality's former association with idols, consulted the Prophet. God revealed Q 2.158. The Prophet then laid down the sunna of performing the tawāf. It is thus incumbent upon pilgrims not to omit it.¹

In ibn al 'Arabī's view, the point of the hadīth is that 'Urwa took the verse to indicate that the tawāf was not obligatory. Yet he observed that the ṣarī'a assumed that it might on no account be omitted by those fulfilling their religious obligations.

The Qur'ānic expression: 'there is no blame in doing

it', implies that the performance of an act is legally neutral (mubāḥ). 'Urwa understood the verse to mean that the omission of the act was legally neutral, but 'Ā'iṣa informed him that the verse did not indicate this. Omission of the tawāf would have called for a different reading.

Within the terms of the hadīth, the discussion first arose following the legal conclusion, for 'Urwa noted that the ṣarī'a assumed the tawāf to be required. The discussion occurred at a secondary stage when the Fiqh was already regarded in the circle from which the hadīth stems as a relevant source in its own right. That makes three sources: Qur'ān, Sunna and Fiqh.

It is also of interest to note that whereas this discussion contrasts the Sunna with the Qur'ān, there was in fact an intimate connection between the two. The sunna appealed to by 'Ā'iṣa is a tafsīr-sunna, that is, a sunna which had clearly originated from a comment upon the relevant verse.

We mentioned above what was included under the heading Qur'ān. We now learn that included under the heading Sunna were materials which had originated in scholarly discussions on the implications of Qur'ān verses. The mechanical contrast between Qur'ān and Sunna, arising originally out of the concerns and methods of the uṣūlīs, was to become absolute. Accustomed to trace this doctrine to the Qur'ān and that doctrine to the Sunna (part of which, as we have just seen, proceeds indirectly from the Qur'ān), some scholars from ingrained habit treated their two sources as formally separate and independent. Regular exercise of the

uṣūlī's craft ultimately both conduced to and reinforced this attitude to the sources of the Fiqh.

We have already seen that where a ḥukm could not satisfactorily be traced in any of the statements of the Qur'ān, it was assigned, as an element of the local Fiqh, to an origin in the Sunna.

Where a ḥukm was a matter of contention between two or more madāhib, the uṣūlī of one school might trace the differing conclusions arrived at in his own and those arrived at in the rival groups to what he conceived to be their respective origins in the Islamic Tradition. This might point either to a Qur'ān verse, or to the Sunna. The aḥkām being at loggerheads, the two primary sources were before long thought to be also at loggerheads, not simply separate and independent.

In cases where the general source claimed for competing aḥkām was the same, but where the appeal of the madāhib, if to the Qur'ān, was to different verses, or, if to the Sunna, was to different ḥadīth reports, the verses or the reports, as the case might be, were also thought to be at loggerheads. The preference apparently shown by the founders of the different madāhib for this or that particular source on such occasions of conflict of source was noted and analysed.

As disputes arose, one technique adopted by the uṣūlīs was to question the validity or relative strength of the opposing group's evidence. When the opponent rested his argument on a ḥadīth, the strength of his evidence could be challenged by the rough-and-ready rule of counting ḥadīth reports. The uṣūlī would allege that a greater number of

reports, or transmitters for a particular report, could be amassed in favour of his school's view. This technique resulted in classification of ḥadīth reports according to their 'spread' as: mutawātir (universally acknowledged), maṣhūr (widely attested), and khabar al wāhid (isolate).

More subtle methods of challenging evidence were emerging. One of the most enduring was to be isnād criticism. By isnād (support) is meant the list of guarantors which came to be demanded for all statements as to what constituted the Sunna. To ensure the soundness of information conveyed, all scholars were required to list the names of those persons responsible in each generation for the downward transmission of every individual ḥadīth.

From his knowledge of the mağāzī and sīra sciences, which dealt respectively with the campaigns and the biography of the Prophet and his contemporaries, the scholar might note a discrepancy in the opponent's argument, such as the transmission from a Companion on some topic of a report which could not possibly be authentic, either because the Companion had not been born, or had not yet been converted to Islam, or had already died at the time of the introduction of a particular ruling. The same technique served also to determine 'correctness' as between conflicting views each traced to a different verse of the Qur'ān, for among the masses of information presented in the mağāzī works were frequently to be found also statements as to the date of revelation of this or that Qur'ān passage. Such data, asbāb al nuzūl (the occasion of the revelation of the verses), were eagerly collected.

From statements linking the revelation of particular verses to specific events or individuals, a chronological profile of the Qur'ān could as easily be constructed as the one currently being constructed for the Sunna. We have just seen in 'Ā'īṣa's report the confident dating of Q 2.158.

It was then a simple matter to link both timetables and to argue from the relative chronologies which was the earlier of two ḥadīths, two verses, or ḥadīth and verse.

The extent to which asbāb al nuzūl is exegetical is clear from the frequency of the claim that no assistance is greater for understanding the Qur'ān than a knowledge of when and in what circumstances its verses were revealed.

These techniques placed in the hands of the uṣūlīs invaluable instruments for measuring the relative correctness of the choice made between the elements of the Islamic Tradition by the several founders of the Fiqh, the fugahā', in determining the ḥukm for each legal topic.

Central to our understanding of these developments was the question of the mutual status of Qur'ān and Sunna in the event of apparent conflict between them. Just as information derived from a later Companion came to be held to supersede information from an earlier Companion, so also the ruling based on a later Qur'ān verse came to be held to supersede that derived from an earlier verse.

But what view would be taken in cases where Qur'ān rulings clashed with Sunna rulings? In some instances, the Qur'ān was acknowledged to be the later statement; in others, the later was said to be the Sunna. This could be decided by comparing both sources with the Fiqh. For example, all

Muslims now pray facing towards Mecca. This is the qibla based on the later source, for the obligation to face the Ka'ba was introduced in the Qur'ān. No other qibla is specifically imposed in the Qur'ān, yet the Qur'ān verse imposing the Meccan qibla implies change of direction.² The qibla apparently abandoned was assigned by some scholars to the Sunna. The verse in question was the later statement. Few topics were quite so universally agreed upon as the qibla. On other topics confusion and dispute reigned. The Muslims, it will be seen, even here failed to achieve a uniform view on the relative status of Qur'ān and Sunna.

Some scholars trusted to their ability to judge each case of Qur'ān-Sunna conflict on its merits, but the majority preferred to draft formal general principles.

Thus, as all the processes which, so far as the uṣūlī judged, had led to the elaboration of the regional madāhib were reviewed in retrospect and in the light of the assumptions adopted in the local science of uṣūl, all instances were noted of conflict of evidence and conflict of sources underlying the conflicting legal views reached in the several Fiqh systems. As a result, in the context of discussions held within and between the several madāhib, a significant methodological role can be seen to have been allotted to a number of phenomena referred to collectively as al nāsikh wa al mansūkh.

Conflict was thought to have obtained between: some statement of an opponent's Fiqh and a relevant Qur'ān or Sunna statement; the choices made by the several fugahā' as between this or that Qur'ān verse, this or that ḥadīth, or a

Qur'ān verse and a hadīth.

From detailed studies of such conflicts there emerged in uṣūl al fiqh a new sub-science on naskh or al nāsikh wa al mansūkh, devoted to the verification and elaboration of the so-called Muslim theories of abrogation - 'so-called' because, as will be seen in what follows, the expression al nāsikh wa al mansūkh conveyed much more to the Muslim than merely abrogation.

In the nature of things, where formal principles of al nāsikh wa al mansūkh were adopted, these showed no more uniformity than the parent Fiqh had done.

According to the Kufans, certain rulings of the Qur'ān had superseded other rulings established either by the Qur'ān or by the Sunna. Šāfi'ī and his followers held that the Qur'ān had superseded the Qur'ān, but had not superseded the Sunna; and that the Sunna had superseded the Sunna, but had not superseded the Qur'ān.³

Very important influences were at play in the shaping of these theories which are directly relevant to our study of the Muslim accounts of the history of the collection of the Qur'ān texts.

The issues involved in the disputes on naskh are identified in the slogans circulated: inna al sunna qādiya 'ala al kitāb (the Sunna is the judge of the Qur'ān); al qur'ān ahwaju ila al sunna min al sunna ila al qur'ān (the Qur'ān has greater need of the Sunna for its elucidation than the Sunna has of the Qur'ān).⁴ These clearly enough express one point of view on the question of the relative primacy thought to have been accorded by the fuqahā' to the two

sources.

We have argued that the differing principles of al nāsikh wa al mansūkh had evolved from the studies of the uṣūlīs on the twin problems of conflict of sources, as this had affected the genesis and development of the local Fiqh; and conflict of evidence, as this now seemed to explain the observable differences between the conclusions historically reached in their own and in the rival madāhib.

We must enquire further into the means adopted by the Muslims to verify the common appeal to naskh and to justify their differing interpretations of the term.

The study of the application of the principle to specific legal problems will clarify the nature of the differences between the principles adopted in the various schools, while throwing light on the evolution of the principles themselves. That will lead us inevitably to ask what, if any, significance the principles of naskh had for the framing of the Muslim accounts of the history of the Qur'ān texts, and when and in what circumstances the texts were envisaged as having been first assembled.

We have suggested that the Muslims were not united in their view of the emphasis that had been placed on the two sources. Indeed, there is evidence in the uṣūl works that as late as the second half of the second century A.H. some questioned that there was more than one legitimate source.⁵ These men insisted on the sufficiency of the Qur'ān source and repudiated the role claimed for the Sunna, not least in view of the differing status and different histories behind the transmission of the two.

They were especially opposed to accepting evidence from elsewhere on legal questions referred to in the Qur'ān. In addition, they were inclined to regard any question not referred to in the Qur'ān as having been left deliberately unregulated by the divine Lawgiver.⁶

The Qur'ān was a public document transmitted from generation to generation by the entire community. On the other hand, the Sunna had come down in hadīth reports transmitted by one, or possibly two or more individuals. The Sunna did not carry the absolute guarantee of authenticity that marked the mutawātir Qur'ān texts, which, besides, were of divine authorship.

All are agreed, including the Sunna supporters, that no human is quite free from error, not to speak of mendacity. Indeed, the Sunna party themselves not infrequently used this argument, picking and choosing among the reports in circulation. The Sunna party were surely wrong in placing their unbounded trust in reports which they then elevated to the level of the Book of God, granting the Sunna the same source status as the Qur'ān, and, in the derivation of the Law, using it to extend or restrict the rulings of the revealed Book.

This severe attitude could not prosper. Too many matters of urgent concern to the fuqahā' were simply unmentioned in the Qur'ān. Other basic matters alluded to in the Qur'ān, such as prayer, fasting, ritual purification, inheritances, sales and the like, were referred to perfunctorily and in terms too general and imprecise to be of assistance in the extraction of the practical rules required for everyday

purposes. That these matters were mentioned in the Book indicated that they were intended to be acted upon. The earlier generations had had to reach for every scrap of exegetical and legal information available in hadīths.

Some of us met to exchange hadīth reports. One fellow said, 'Enough of this! Refer to the Book of God.' 'Imrān b. Ḥuṣain said, 'You're a fool! Do you find in the Book of God the prayers explained in detail? Or the Fast? The Qur'ān refers to them in general terms only. It is the Sunna which supplies the detailed explanation.'⁷

The tendency to exaggerate the sufficiency of the divine revelation provided in the Qur'ān was answered by the tendency to exaggerate man's inability to fathom the intention underlying the divine word without the guidance offered by the community's past practice.

The arguments of the Sunna party are most clearly and in most detail presented in the writings of Šāfi'ī, their greatest spokesman (d. A.H. 204). Stressing the frequency with which Qur'ān verses could be taken in more than one sense, and arguing from the familiar principle that, having taken the trouble after so many centuries of error, ignorance and deviation from the divinely approved path to send His Prophet into the world, God would not then have left mankind in uncertainty, Šāfi'ī insists that God has provided adequate indications of the means by which knowledge of His will on every topic may be secured.

By exegetical subtlety Šāfi'ī wrang from his opponents assent to his view that the Qur'ān imposes upon every Muslim the solemn obligation to obey Muḥammad in all things.

References to the Hikma revealed along with the Book are, he

asserts, references to the Sunna. The Qur'ān speaks of the Prophet instructing his people in the Book and the Hikma and Ṣāfi'ī is unaware that Muḥammad had taught his people two things other than the Qur'ān and the Sunna.

The Muslim has therefore no option, he insists, but to seek out the Prophet's decisions and observe them to the letter.

No one scholar is in possession of all the Sunna; but the collective of Sunna specialists are between them aware of all the Prophet's instructions. The Qur'ān's command to obey the Prophet refers precisely to hadīths, for in no other way can the Prophet's teachings reach us.

The defence and maintenance of the Fiqh renders submission to the Sunna inescapable. Unless we accept the Sunna we cannot counter the arguments of those who challenge certain Fiqh rulings on the ground of their own plausible exegeses. The surest exegesis is that conveyed in a Prophet-hadīth.

This applies with even greater force to those Fiqh rulings based on the Sunna's indication of which Qur'ān rulings were intended to be general and which specific to the individuals or situations referred to in the verses. That distinction had been vital to the patient elaboration of the Law. The categories of persons whom the Muslims have agreed to exclude from general Qur'ān rulings could not otherwise have been identified than by the relevant rulings transmitted in the Sunna.

Similarly, the only sure indication of the repeal of any Qur'ān ruling and the only reliable pointer to the later,

repealing ruling is that afforded by the Sunna. The Sunna served an even wider purpose than merely the elucidation of Qur'ān statements.

In Ṣāfi'ī's view, it had complemented and even extended the Qur'ān's regulations. The Sunna had independently legislated for the Muslims on matters nowhere referred to in the Qur'ān. But it was the Qur'ān by its insistence on acceptance of the Sunna that had sanctioned this extra-Qur'ānic legislative role of the Sunna. The Qur'ān approved and endorsed the Sunna rulings, otherwise it would have repealed them.

The soundest indication of sound Qur'ān exegesis is the Fiqh on which the Muslims are unanimous. The individual might, but the community cannot, err in the discovery of the divine intention.

No madhab permits unbeliever-believer inheritance; slave-free man inheritance; homicide-victim inheritance. All madāhib accept the testimony of two male witnesses in homicide cases. These and many other agreed principles and procedures are unmentioned in the Qur'ān.

Ṣāfi'ī asserts that the Sunna is guaranteed. The Hadīth specialists impose demands on hadīth-transmitters more onerous than those imposed upon witnesses. Many a Muslim, acceptable as witness, would be quite unacceptable as hadīth-transmitter. Witnesses number only two, yet we act without hesitation on their testimony in life-and-death matters. Transmitters are many and security of knowledge is assured when they corroborate each other. We ought to act without hesitation on the information they supply.

Only in certain minor matters have the Muslims been permitted to exercise personal judgment, as in determining the direction of Mecca at prayer time. Different men reach different conclusions. All are right. Each had honestly exercised his judgment. That was all that was required of him. The result must be valid. Only arbitrary decisions are prohibited in Islam. The principle itself is illustrated in a Prophet-hadīth which Šāfi'ī adduces in support of his view.⁸

It will be noted that, in the person of Šāfi'ī, the Sunna party directed their propaganda indifferently at two unrelated groups: the strict Qur'ān party and others who appealed, in addition to the Qur'ān, to sources other than the Sunna of the Prophet.

In his discussion of the relative primacy as source of Qur'ān and Sunna, that is, in what would seem to be a discussion on naskh, Šāfi'ī shows himself particularly concerned to argue that the Sunna of the Prophet could not be held to have ever been abrogated because, as the word of a prophet, it could not be thought to have been superseded by the word of any mere mortal. This adds nothing to the discussion on the relative status of Qur'ān and Sunna. His immediate objective would seem, rather, to have been to establish a theoretical basis on which the special class of hadīth attributed to the Prophet could be securely placed above reports from other Muslims, namely the Companions and Successors.⁹

The practice adopted in the madāhib of ignoring reports from the Prophet in favour of hadīth from others particularly provoked Šāfi'ī's invective. The madāhib's

weakness was in fact their inconsistency. Reference to Prophet-hadīths whenever these are available provides consistency. Reference to others he unfairly characterises as arbitrary. Only Prophet reports set aside Prophet reports.

To preserve the Sunna, Šāfi'ī ferreted out all Qur'ān references to the obligation to obey Muḥammad. He finally so closely bound up the Sunna with the Qur'ān that to question or reject the one was made to appear tantamount to questioning or rejecting the other. Šāfi'ī delivers assertions on the subject, but in fact he never came to grips with the problem of the relative primacy of the Qur'ān and the Sunna sources. His aim was to establish the legitimacy of reference to the Sunna of rulings absent from, or treated differently, in the Qur'ān.

Conflict between any single Qur'ān text and any single Prophet-hadīth led to the elaboration of Šāfi'ī's ingenious theory of takhsīs (exclusion) which lies quite outside his theory of naskh. Conflict between Qur'ān and Sunna is only apparent. To admit otherwise would have led to the wholesale abandonment of numerous Fiqh aḥkām sustainable only by referring them to the Sunna. The Sunna explains occasional exclusion from general rulings.

The gravity of the challenge from the Qur'ān party lay of course not in the justice of their claim. No Muslim could question the claim that the Qur'ān be seen to be the primary source. Šāfi'ī's work did precisely that, although he thought he was questioning the claim that the Qur'ān was the only source.

Schacht has shown in the parallel case of the impact

upon the madāhib of the challenge from the Sunna party that the real danger to be apprehended by the madāhib was the threat of disturbance to the legal doctrine itself by the demands of the stricter theory. The madāhib responded to the challenge not by rejecting the work of generations and agreeing to jettison elements of their Fiqh. Like Šāfi'ī, they preserved the Fiqh but adjusted its documentation in conformity with the novel theory.

Šāfi'ī met the challenge to the Fiqh represented in the exclusive claim advanced on behalf of the Qur'ān by improving the documentation of the Sunna's claim. Addressing his opponents on their own terms, he extracted from the Qur'ān, often with scant regard for the context, every single verse of service to his thesis that the first ruling that might be derived from the Qur'ān was that a Muslim must accept the Sunna of the Prophet. One of his favourite verses, 'Whatsoever the Prophet gives you accept it; whatsoever he denies you, abandon',¹⁰ occurs in a verse on the division of the spoils of war. Another of his favourite arguments, a ḥadīth which requires acceptance of ḥadīths, is merely circular.¹¹

The quality of his arguments makes it plain that, as with the madāhib, Šāfi'ī's concern is to preserve every single ḥukm of his Fiqh. He was determined to yield nothing to the Qur'ān party. He saw that what must be done was so to interweave the Sunna with the divine command to obey Muḥammad that the dangers threatening to wipe out whole areas of the Fiqh could be repelled.¹²

If Qur'ān and Sunna could be shown to be twin aspects of the divine revelation they could never be held to be in

actual conflict. The Qur'ān frequently identified the will of Muḥammad with the will of God. Šāfi'ī copied this by identifying the Sunna with the will of the Prophet. His brilliance in tackling a serious challenge to the Fiqh lay in replying to the Qur'ān party in their own language and on their own terms. Insisting upon the Qur'ān source, they would have been deaf to any attempted justification of the Sunna source; indeed there is none other than Šāfi'ī's argument that it is the Qur'ān source itself which commands reference to and adherence to the Sunna source.

Dealing with two incompatible assaults on the Sunna from different directions, he attempted, but failed, to answer additional unrelated questions. Šāfi'ī discovered in the Qur'ān a rationale to secure his school's claims on behalf of reference to the Sunna of the Prophet against attack from both the Qur'ān party and those madāhib resting the documentation of the Fiqh upon ḥadīths from persons other than the Prophet. Now that the principle of abrogation had been added to the armoury of the uṣūlī, he perceived the dangers that still threatened the Fiqh. Had the Qur'ān party pressed home the attack, they must have gained the day for the claim that in cases of Qur'ān-Sunna conflict, the Qur'ān source must prevail. Šāfi'ī failed to adduce a conclusive argument that the Qur'ān lacked the force to overcome the Sunna, the corollary he alleged of the argument that the Sunna lacked the force to overcome the Qur'ān. He failed to provide the uṣūlī with unequivocal guidance on the problem of Qur'ān-Sunna conflict. He obscured the issue of Qur'ān-Sunna naṣṣ and his rigidity on the question affected its

future discussion.

Šāfi'ī might be said to have ushered in the age of classical uṣūl al fiqh, in the sense that after him the term Sunna is normally a reference to the Sunna of the Prophet. Although not the first to employ the concept of the Sunna of the Prophet, he was the first major scholar to make that concept the corner-stone of a systematic methodology. The emphasis he laid on Qur'ān and Sunna as joint sources of the Fiqh entitles him to be regarded as the first major scholar to treat Islam as a divine revelation in the elaboration of which only revealed sources had a legitimate role to play.

His brilliant response to the threats posed to the Sunna secured the Sunna against any claim that it might be superseded by another source, whether that was ḥadīths from others than the Prophet, or rulings that might be adduced from the Qur'ān. But by arguing that only Qur'ān rulings had superseded Qur'ān rulings, and that Qur'ān rulings had superseded only Qur'ān rulings; that only Sunna rulings had superseded Sunna rulings, and that Sunna rulings had superseded only Sunna rulings, he had unwittingly sharpened the sense of the separateness of the two sources.¹³ That in turn emphasised afresh the gulf separating Fiqh and Sunna from the Qur'ān.

Šāfi'ī failed to address himself directly to that problem. Its solution dates from the post-Šāfi'ī period in the renewed discussions on naskh, the course of which, however, was already predetermined by the principles which Šāfi'ī had established.

An extension of the slogans mentioned above, 'The

Sunna is the judge of the Book, it elucidates it', perfectly mirrors Šāfi'ī's position.¹⁴ His uṣūl are based on stressing this definition of the role of the Sunna vis-à-vis the rulings established in the Qur'ān. The principle that the Sunna had not superseded the Qur'ān in fact plays only a very minor role in his theory. Indeed, it is never applied to actual cases, but occurs simply as part of his methodological argument, where he seeks to give the impression that it is based in turn upon a Qur'ān ruling. This suggests that the terms of this passage were forced upon Šāfi'ī by the arguments of the Qur'ān party.¹⁵

The principle that the Sunna had never superseded the Qur'ān was thus a defensive posture into which Šāfi'ī was forced by opposition to the Sunna. It may be that that principle was the price Šāfi'ī realised he would have to pay to give the corollary principle, that the Qur'ān had never superseded the Sunna, the appearance of having been derived from the same Qur'ān ruling, Q 2.106, which we shall examine more fully below.

Šāfi'ī realised that any claim that the Sunna, even on one topic, had superseded the Qur'ān could with ease have been reversed. His scrupulous abstention from any such claim may account for the frequent complexity and obscurity of his language.

Following and largely owing to Šāfi'ī's brilliant advocacy, the threat posed for the Sunna, and hence for certain elements of the Fiqh, had been averted. The Sunna emerged triumphant and the following generation could busy themselves with the

compilation of the great Hadīth collections.

In reporting Ṣāfi'ī's debates with the Qur'ān party we noted that his reaction in defence of the Fiqh had resulted in an improvement of the technical arguments for appeal to the Sunna. The Qur'ān source was made to appear to require appeal to the Sunna source.

An alternative and simpler technique for placing one's Fiqh views under the aegis of the Qur'ān was quite simply to change the Qur'ān texts. This method worked both to defend the local Fiqh against other madāhib and to defend the commonly agreed Fiqh against the objections of the Qur'ān party who drew attention to the texts preserved in the book (the muṣḥaf).

We earlier handled the case of the tawāf between Ṣafā and Marwa on which there had been disagreement. The Fiqh had, we were told, evolved in a way which suggested that the tawāf might on no account be omitted. This ḥukm was challenged. In a ḥadīth, 'Urwa represented the protest of those who were inclined to argue that the wording of Q 2.158 indicated, on the contrary, that the observance was quite optional. Performance or neglect of the tawāf was at the discretion of the individual.

However, those who viewed the observance as obligatory, and who are represented in the report by the figure of 'Ā'īṣa, justified their view by the bald assertion that the Prophet had established the sunna of performing the tawāf, whence it was to be regarded as obligatory. The Sunna of the Prophet had settled the dispute as to the interpretation of the verse. Had the divine intention been to declare the

tawāf optional, that would have been indicated by a different reading.

Farrā' (A.H. 207) reports: 'Some Muslims read Q 2.158: "There shall be no blame on him if he do not perform the tawāf."' He comments that this reading can be explained in one of two ways:

1. That the negative is linguistically inoperative. cf. Q 7.12: 'mā mana'aka an lā tasjuda', which of course means an tasjuda.
2. Alternatively, the tawāf may be entirely optional. But the first explanation is the basis of the practice.¹⁶

Ṭabarī (A.H. 310) reports the views of the madāhib. Ṣāfi'ī's opinion was that the tawāf is an essential and indispensable hajj rite. Anyone omitting it must return to Mecca to perform it.¹⁷

Mālik, Thawrī and the Ḥanafīs, while not insisting that he return and perform it, would impose on anyone omitting this tawāf a special sin-offering.

'Aṭā' regarded the tawāf as entirely optional. This view, Ṭabarī explains, was explicitly derived from the variant reading of Q 2.158 transmitted in the muṣḥaf of 'Abdullāh b. Mas'ūd. The same is reported from Anas, ibn 'Abbās and Mujāhid.

Thus, on this topic we are left in no possible doubt that for some the practice was at variance with the Qur'ān. The practice was held to derive from the Sunna. The partisans of a particular Fiqh attitude appealed to the Sunna; the

opponents appealed to the Qur'ān. This provokes the upholders of the practice to look again at the Qur'ān. As long as the dispute centred upon the words of the Qur'ān, both sides acknowledged a common reading, disputing the exegesis. It is not at this stage self-evident that the practice represents the most natural meaning of the verse, least of all when one considers the gravity of the view taken of omission of the tawāf by the fugahā'.

The really interesting point is, however, that when the discussion advanced beyond the exegetical stage, the proponents of the practice next seek their support in the Sunna, whereas their opponents improve upon the wording of the Qur'ān, inserting a word and appealing to the authority of a Companion of the Prophet, from whom not merely a variant reading, but a variant Qur'ān had apparently been transmitted. The alleged variant reading unmistakably proceeded from one of two rival and competing interpretations. To that extent the reading arose at a secondary stage.

A practice which does not immediately commend itself to the reader as the most natural meaning of the verse had been challenged by scholars referring to the same verse. After an initial unsatisfactory appeal to the Qur'ān to document the usage, support was finally discovered in the Sunna. Thus usage and Sunna were both placed in conscious opposition to the Qur'ān. The Sunna is guaranteed by 'Ā'īṣa, a widow of the Prophet, in a Companion-sunna-ḥadīth. This appeal to the Sunna is countered by what presumably was thought to be an even stronger argument in favour of the opposite view, that is, renewed appeal to the Qur'ān by means of a

Companion-Qur'ān-ḥadīth.

Methodologically expressed, this means that some thought that the Sunna (as the Prophet's implicit exegesis) adequately countered the Qur'ān. Their opponents considered that the Companion variant (as the Companion's report on the Prophet's explicit exegesis) was the 'superior' argument, hence to be preferred in documenting their opinion. Four elements are involved: the practice (Figh); the Qur'ān; appeal to the Sunna; a second Qur'ān (i.e. counter-appeal to the Qur'ān now suitably amended by interpolation with reference to a Companion-muṣḥaf).

The interpolation favours a counter-Figh and, it must be emphasised, was originally hypothetical: 'Were the case as you allege the verse would read differently.' It next appeared as the reading of certain anonymous Muslims. Finally it emerged as the ascertained reading of a contemporary of Muḥammad. In other words, this reading has always been recognised as at variance with the Qur'ān text. When acceptance of a variant reading had been won, it could nevertheless still be neutralised by further appeal to the Qur'ān. The Companion reading supplies the exegesis of the Qur'ān. Suitably neutralised, the Companion reading is harmonised with the Qur'ān reading and held to be the basis of the practice. One perceives that, throughout, the really significant factor is the practice, that is, the Figh.

The wheel of argument turned full circle. Some were content to rest the documentation of the practice on the Sunna. Others evinced an irresistible desire to have the Qur'ān appear to be the primary source - that is, although in

this instance their effort failed, some sought to use the Qur'ān to counter the Qur'ān.

We had supposed that the Fiqh had derived from the Qur'ān. We now observe how a particular Qur'ān derived from a particular Fiqh.

The implication of the reference to the variant reading ascribed to 'Abdullāh is that, in the field of the Qur'ān, information reported from the Companions (i.e. appeals to the Companion sources) conflicts in phase with conflicts in the information reported from the Companions in the Sunna field. Both appeals originated from conflicts in Companion information in the legal field.

Anas recited: hiya ašaddu waṭ'an wa ašwabu qīlan. Someone pointed out that the 'correct' reading was aqwamu; aqwamu, he retorted, ašwabu, ahya'u - they're all the same!¹⁸

Muḥammad b. Sīrīn said, 'We read, "in kānat illā ṣaiḥa wāḥida." 'Abdullāh reads, "illā zaqya wāḥida."¹⁹

Q 5.89 regulates the penalties for breach of oaths. Among these is a three days' fast and the Ḥanafīs argue that the fast should be consecutive. 'Abdullāh is said to read, 'a fast of three [consecutive] days'.²⁰

Šāfi'ī argued that, as the Qur'ān did not stipulate that it should be consecutive, the Muslim was free to decide whether to fast on consecutive or separate days. The Q 5.89 fast should be read on the analogy of the substitute fast imposed for breach of Ramaḍān. The Qur'ān merely says, 'a similar number of days' (Q 2.183).²¹

Ġazālī argues,

The fast in expiation for a breach of one's oath need not be consecutive, even if 'Abdullāh did read, 'three [consecutive] days'. This reading is not universally acknowledged to be the Qur'ān text. Perhaps 'Abdullāh adduced this reading in order to elucidate what he took to be a justifiable exegesis. Or, perhaps he may have attracted to Q 5.89, by analogy, the word 'consecutive', which does occur in Q 58.4. Abū Ḥanīfa, conceding that the reading is not Qur'ānic, accepted it, but as a ḥadīth. The practice however, should be based exclusively on what is explicitly attributed to the Prophet.²²

Sarakhsī (A.H. 490) a Ḥanafī, argued,

The fast in expiation of a breach of oath is consecutive on the basis of 'Abdullāh's reading which was in circulation as late as the time of Abū Ḥanīfa, but did not turn out to be mutawātir, the sole criterion for inclusion in the muṣḥaf. No one can question 'Abdullāh's veracity, nor his memory. We can but conclude that the word 'consecutive' was part of the original wording of the Qur'ān and has been preserved in 'Abdullāh's reading. The word was apparently withdrawn in the lifetime of the Prophet. The Muslims were caused to forget it, with the exception of 'Abdullāh who was honoured with its preservation, in order to preserve the ruling. The isolate sunna-ḥadīth may establish a practice: the isolate Qur'ān-ḥadīth can do no less.²³

The same variant reading was attributed to Ubayy who, in addition, was credited with reading Q 4.24, a verse charged with significance for the Muslim law on marriage, in a variant version: fa mā stamta'tum bihi minhunna [ilā ajalīn musamman].²⁴

Although it may have implications for the view that

may be formed of the manner of the textual transmission of the Qur'ān, it matters not a whit to the Qur'ān's revealed status whether one reads aṣwabu, aqwamu, or ahya'u; saiha or zaqya. These are more or less synonymous.

On the contrary, it was of the highest significance to the incessant inter-madhab polemic whether one read Q 5.89 or Q 4.24 with or without 'Abdullāh's or Ubayy's reported interpolations. Only with the Ubayy interpolation does Q 4.24 sanction the doctrine of mut'a, or temporary marriage, rejection of which was elsewhere being propounded on the basis of information from a third Companion of the Prophet as a part of the Sunna. Evidently the Qur'ān, in the form of the Ubayy reading, is playing the role of a counter-sunna, rather, a counter-exegesis, the function of the Ubayy interpolation being to gloss and bring out the full meaning of the root of stamta'tum, mt'.

The Muslims were fully alive to the import of variant readings: 'The differences in the readings indicate the differences in the legal rulings.'²⁵

Two opposing doctrines - the invalidation of the ritual purity [wuḍū'] and the contrary doctrine - could both be referred to the Qur'ān, according as the contending fuqahā' read: lamastum/lāmastum; or the permissibility of sexual intercourse with the menstruating woman at the expiry of her period but before she has cleansed herself, and the contrary doctrine, according as they read either yathurna or yattahirna.

There is an interesting discussion on verses yielding two-fold readings. Abū al Laith reported two views: 1. God had uttered them both; 2. God had uttered only one, but permitted the verse to be read

in two possible ways. Samarqandī's own view was that if each of the two readings was susceptible of a distinct interpretation and legal application, God had uttered both. In such instances, the two readings were the equivalent of two distinct revelations. If the two readings yielded a single meaning, God had uttered only one reading, but permitted the other, owing to the differences between the dialects of the peninsular Arabs.

Q 5.6, the verse imposing the wuḍū' yielded a two-fold reading, the distinction this time residing in the vowelling. 'The verse was revealed to sanction two distinct legal doctrines: arjulakum - enjoined the washing of the feet
arjulikum - permitted the wiping of the feet.'²⁶

Rather, the differences over the Fiqh on this question had called forth the differences in reading. Šāfi'ī (Ikhtilāf, p. 204) stipulates the accusative reading. He bases his Fiqh argument in support of the permissibility of wiping the feet (more precisely, the wiping of the boots), which he simultaneously upholds, exclusively upon an alleged concession documented in the Sunna of the Prophet.²⁷

Factors affecting variant readings thus far, are: dialect differences; interpolation; vowel choice; synonyms.

Abū 'Ubaid [A.H. 224], in his Faḍā'il al Qur'ān, stated that the function of the isolate reading was the elucidation of the mašhūr reading. For example, 'Ā'īša's reading, which she shared with Ḥafṣa: wa al ṣalāt al wuṣṭā ṣalāt al 'aṣr.²⁸

Compare this with Ṭabarī's reports (Tafsīr, vol. 5, pp. 168-98): 'Alī, ibn 'Abbās, Abū Huraira, 'Abdullāh b. 'Umar, Abū Sa'īd al Khudrī all interpreted the verse as referring to the 'aṣr. The reading in 'Ā'īša's mushaf identified al ṣalāt al

wuṣṭā with ṣalāt al 'aṣr. Umm Salama and Ḥafṣa both ordered their scribes to write the verse in the same way in their private codices. Finally, we are informed that the Prophet identified the wuṣṭā with the 'aṣr.

Another case in point is 'Abdullāh's reading of Q 5.

38: faḡṭa'ū aimānahum (for aidiyahum).

These and similar instances provide the exegesis of the Qur'ānic texts... By degrees, what was originally exegesis penetrated into the actual reading. This is more common than exegesis and better founded. At the least, the readings show the correctness of the tafsīr.²⁹

The variant readings were classed then as isolate and the legitimacy of deriving legal rulings from them was long debated: Ṣāfi'ī does not have a statement on the question, but

what may be deduced from his practice is that he thought it not permissible. Those who took his view argued that the isolate reading had been transmitted as Qur'ān, whereas it is not. Those who permit the derivation of a ruling from the isolate reading plead the analogy of the isolate ḥadīth. This line was approved by ibn al Subkī in Jam' al Jawāmi', and our madhab adduce as evidence of the legitimacy of basing a ruling on a variant reading the practice of cutting off the right hand of the thief on the ground of 'Abdullāh's reading, also adduced by Abū Ḥanīfa. He further adduced 'Abdullāh's reading in arguing that the fast in expiation of the breach of an oath is consecutive. We do not accept this view because that reading has been repealed.³⁰

The isolate reading is analogous to the isolate ḥadīth, yet was distinguished from it.

Impeccability of the isnād alone was insufficient guarantee that the reading was Qur'ānic. Further restrictions were imposed upon it, as will be seen.

The majority of the variant readings came to be regarded as little more than exegeses that had gradually crept into the texts transmitted from the Companions. It is reported of Ubayy that he read: kullamā aḡā'a lahum maṣaw fīhi [marrū fīhi sa'aw fīhi]³¹ and from 'Abdullāh that he read lilladīna āmanū anzirūnā [amhilūnā akhkhirūnā].³²

Related to the reading just attributed to Ubayy, is the statement that the transmission of the reading, famḡū ilā dīkr allāh, showed that the meaning of the Qur'ān's fas'aw is 'go!' rather than 'run!' or 'hurry!'.³³

In Ṭaḡāwī's view, the frequency of variants was the result of the first generation's inexperience of verbatim oral transmission of texts together with their ignorance of the art of writing.³⁴

Like the isolate ḥadīth, the isolate reading had originated with the Companions, and the scholars were divided on the question of alleging a Qur'ānic origin for rulings derived from these isolate readings.

On one aspect of the use of the Qur'ān variants, the scholars were, however, undivided. They are unanimously of the view that use of an isolate Qur'ān reading in the ritual prayer is quite irregular and renders the prayer invalid.

This attitude of the scholars introduces a wedge between the Qur'ān and the Sunna and discloses an awareness that the two sources were not in fact similar in nature or function.

The analogy which permitted some to derive legal rulings from the isolate Qur'ān reading, as they had derived rulings from the isolate ḥadīth, had occurred in a context where both types of report were relevant to the use that may be made of the sources of the Law.

The unanimity of the scholars in condemning the use of the isolate reading at prayer occurs, on the contrary, in a context in which the Qur'ān is seen as a document.

Variations have frequently been alleged in the appeals to the Qur'ān source. Deviation has never been permitted from the Qur'ān document.³⁵

Impeccability of the isnād was insufficient guarantee that the variant reading was Qur'ānic. The scholars classified two kinds of reading variant:

1. What is transmitted in reliable reports, conforms with Arabic usage and coincides with the written text.
2. Isolate transmissions which conform with Arabic usage but do not coincide with the written text.

The second readings may be accepted but may not be employed at prayer for two reasons: they vary from what has been sanctioned by the consensus (i.e. from the texts recorded in the mushaf); and they are based upon isolate reports, whereas the mushaf is mutawātir.

The first class of readings consist of minor variations upon the vowel/consonant rendering of the universally acknowledged text. The second class of variants show frank departures from the agreed text.

To deny any of the reported isolate readings is deplorable conduct. To deny any fragment of the universally

acknowledged Qur'ān text as transmitted in the mushaf is unbelief (kufr).³⁶

The Qur'ān party by their assault upon the role allotted to the Sunna as a source for the derivation of the Law had provoked two types of reaction from the defenders of the existing Fiqh.

They pushed Ṣāfi'ī to assert that it was the Qur'ān source which enjoined reference to the Sunna source. This attitude is summarised in Ṣāfi'ī's slogan, 'the ḥukm of Muḥammad is the ḥukm of God'.³⁷

Other scholars reacted by attempting to strengthen the visible links between their legal views and the Qur'ān texts. In other words, they improved the text, a technique that could be applied in defence of their local Fiqh against other maḏāhib, but also in defence of the commonly agreed Fiqh against protests based on the texts as preserved in the universally agreed mushaf.

Companion readings of the kind adduced on the occasion of the quarrel over Q 2.158 show that in both Qur'ān and Sunna fields alike, appeals to the Companions conflict, as befits evidence brought to support conflicting legal viewpoints. For the Sunna, there are Companion-sunna-ḥadīths; for the Qur'ān, there are variant readings, that is, Companion-Qur'ān-ḥadīths. Companion readings vary from the universally acknowledged readings and Companion-mushafs vary from the universally acknowledged mushaf.

The mutawātir mushaf is held to have come into its present form and condition only after the death of the Prophet. Muḥammad, having had no hand in its compilation

and collection, the Qur'ān as we know it we owe to the labours of certain of his associates.³⁸

Variant readings were attributed to individual Companions, and it came to be assumed that those readings had figured in the personal copies of the Qur'ān which those Companions had drawn up for themselves during the days of the Qur'ān's revelation to the Prophet.

The first stage in the history of the Qur'ān texts had been marked by the circulation in the regions of these parallel, not quite identical, recensions independently prepared by their several owners.

As the Companion-sunna-ḥadīths have come down, each equipped with its isnād, the Companion-Qur'ān-ḥadīths have come down, each equipped with its isnād.

Companion-sunna-ḥadīths, in Ṣāfi'ī's day and since, have been distinguished from and compared with ḥadīth reports coming down from the Prophet. That was a necessary stage in the definition of the Sunna.

Companion-muṣḥafs have similarly been distinguished from and compared with the mutawātir muṣḥaf coming down from the Companions responsible for its first collection. Since its collection, following the death of the Prophet, there has, however, been no need to define the mutawātir muṣḥaf. It was universally known and it was universally used - at prayer. That is, it was both source and document.

Variant readings reported from Companions played their role in inter-madhab disputes on legal points. Variant ḥadīth reports reported from Companions played their role in the very same disputes. Only the mutawātir Qur'ān text

might be solemnly recited; only that text rendered the prayer valid.³⁹

The implication of the concern with the isnād of the variant Qur'ān reading is quite simply that it was seen by the Muslims as but another element in their Tradition. This brings it into the range of the ideas of Goldziher and Schacht. Production of Qur'ānic evidence responded to the demand of those dissatisfied with Sunna evidence.

With the development of the concept of the Sunna of the Prophet, a device to overcome the difficulty that juridical sunnas reported from a wide variety of Companions tended to contradict each other, one finds Companion-ḥadīths evolving into Prophet-ḥadīths. It was necessary only to extend the isnād by one stage.⁴⁰ Having regard to their origin, many ḥadīths reported as from the Prophet contradict each other. This led to isnād study. Ḥadīths transmitted via Companions of later conversion date came to be regarded, since later, as abrogating ḥadīths from Companions of earlier date.

One finds, however, no parallel evidence of Companion readings, where these go against the texts of the mutawātir muṣḥaf, evolving into Prophet readings.

Rather, one is aware of a consistent sense that the Companion readings are at odds with a vigorous textual tradition, independent of all madāhib and, to all appearances, not amenable to manipulation. This very inflexibility suggests, indeed, that the reverse of the Sunna situation obtained in the Qur'ān field.

As a document, the Qur'ān had existed and was widely known before it was called upon to behave as the source of the uṣūlīs in their inter-regional dispute. We have seen that the isnād technique was applied to the reported Qur'ān variants.

The differences between the madāhib centred upon the details of the Fiqh doctrines. When the Qur'ān had begun to be demanded as the primary source in the uṣūlīs' consideration of the documentation adduced in support of the varying legal viewpoints, each madhab reached for the Qur'ān.

For Sunna documentation purposes, the teachings of the madhab had been traced to the stock of Sunna information transmitted from the Companions under whose aegis the school had placed its Fiqh. By analogy, the same technique was now extended into the Qur'ān field. A variant reading was attributed to the school's Companion eponym. But the local Fiqh can occasionally be fitted to the Qur'ān texts only by means of an interpolation. Suitable words would be concocted and inserted in the reports on the text of the muṣḥaf ascribed to the madhab's Companion patron.

Like the appeals to the Sunna, the appeals to the Qur'ān from time to time clash. The same remedy, that is, consideration of the isnād in terms of the late or early date of a man's conversion, was applied.

Certain of the legal conclusions for which, at this stage in the development of uṣūl al fiqh studies, Qur'ān documentation was being peremptorily demanded are quite unmentioned in our Qur'ān texts. These were legal conclusions of a more than merely local or regional character. We have

in mind certain ahkām, to be examined in greater detail below which were upheld by the majority of the madāhib in all the regions but which were under attack from the Qur'ān party for the very reason that they were nowhere referred to in the Qur'ān, as we know it. In their case, the revelations relevant to their documentation were referred by the madāhib, not merely to the muṣḥafs of the Companions to whom they traditionally appealed, but to the Qur'ān. Two factors underlay this procedure, one entirely exegetical in origin, the other jurisprudential.

3 The sub-science of naskh

The terms naskh or al nāsikh wa al mansūkh, despite the uṣūlīs' habit of treating them in a single chapter, refer not to one but to three methodological principles. They are quite unconnected with each other, and each has evolved from its own evidentiary base to supply three distinct needs in separate Islamic sciences.

That there are indeed three modes of naskh has never been the universal view of the Muslims.¹ The majority acknowledged only two modes and this further division of opinion will help solve the mystery of the origin of the third mode.

That the three modes have little in common is best shown by an analysis of the naskh formulae.²

NASKH AL HUKM WA AL TILĀWA

This principle refers to the suppression of both the ruling and the wording. It is of relevance to Qur'ān studies only, since it is impossible to conceive of any ḥadīth whose ruling and wording have both been suppressed but which nevertheless merited discussion.

In the exploitation of the Qur'ān source for Fiqh documentation purposes, it might also be supposed that the reference in the formula to the suppression of the ruling

would render the material irrelevant. There could be no access to the knowledge of any Qur'ān ruling, any more than to a Sunna ruling, if the wording had been suppressed. But we noted that the Qur'ān, unlike the Sunna, is both document and source. This alerts us to the suspicion that the formula really refers to the allegation that omission from the Qur'ān has occurred. Certain materials, originally part of the revelation, have apparently been omitted from the collected texts.

The rulings have also apparently been suppressed. We are, thus, not discussing naskh at all, and certainly not abrogation. It would seem, therefore, that in their discussions of the Qur'ān and its history, the Muslims eschewed use of the word 'omission', perhaps because omission might suggest either negligence or inadvertence. Neither should be posited of the Prophet or of his Companions by scholars entirely dependent upon that one generation for all their knowledge of the sources. Nor should such words be used of the history of a divine book revealed to a prophet and a generation of saints by the creator of the universe. No man could have been permitted to frustrate the divine design. If so much as a dot has been omitted from the record of the revelation, this can be held to have occurred solely by the intention of the divine author. Omission ought not to be predicated of a divine book, nor inadvertence of its divinely guided recipient.

There are, or there appear to be, references to Muḥammad's forgetting in the Qur'ān:

Q 17.86: If We wished, We could make away with what We have

revealed to you.

Q 87.6-7: We shall teach you to recite it and you will not forget - except what God wills.

Q 2.106 : mā nansakh min āyatin aw nunsī hā na'ti bi khairin min hā aw mithli hā.

Examination of the Muslim commentaries shows clearly that the exegesis of these verses concentrated solely upon the issue of the precise relation between the Qur'ān's references to forgetting and the prophetic office.

For Q 2.106 at least a dozen suggested readings have been recorded - ample evidence of the extent, and hence of the significance, of the dispute as to the meaning. What was eventually settled as the joint exegesis of Q 87 and Q 2 (the interpretation of each of these verses operating upon that of the other) was that there were indeed verses once revealed to Muḥammad as part of the 'total Qur'ān revelation' which, however, have been omitted from the collected texts of the Qur'ān, the muṣḥaf. That had by no means occurred from Muḥammad's having merely forgotten them. Q 87 refers to God's will and Q 2 uses the root n s y in the causative. God had caused Muḥammad to forget in conformity with the mysterious divine intention as to the final contents of the Book of God.

Part of the armoury of those exegetes who had promoted this way of reading Q 87 was a series of ḥadīths designed expressly to give the impression that Muḥammad had forgotten part of the revelations. The reports were specific and detailed enough to identify the actual wording of the verses in question. Anas is reported in the two

Ṣaḥīḥ's as declaring: 'There was revealed concerning those slain at Bi'r Ma'ūna a Qur'ān verse which we recited until it was withdrawn: "Inform our tribe on our behalf that we have met our Lord. He has been well pleased with us and has satisfied our desires."' ³

That verse had been 'withdrawn'. Concentration upon the divine will, as opposed to mere forgetting, and developments in the exegetical discussion of Q 2.106, where we find both the roots n s kh and n s y in a single context, had led to the accommodation under the general heading of naskh of a type of Qur'ān omission. Muḥammad's supposed forgetting, having been formalised, had been neutralised. A satisfactory means had been found of re-stating a prophet's forgetting in a way that conflicted with no basic theological axiom. The divine revelations had been in no sense hostage to a human weakness. It could be admitted that there were omissions from the muṣḥaf, but those were solely due to the intentions of the divine author.

NASKH AL HUKM DŪNA AL TILĀWA

The second mode of naskh alleges the replacement of the ruling of an earlier statement by the ruling of a later statement. This is the only one of the three modes of naskh which properly corresponds to our concept of abrogation. This is par excellence the naskh of the uṣūlīs and the formula is so worded as to adapt it for application to either Qur'ān or Sunna. The Qur'ān abrogates the Qur'ān; the Sunna abrogates the Sunna. On these two principles, the majority of the uṣūlīs were agreed.

As to whether the Qur'ān abrogates the Sunna, or the Sunna abrogates the Qur'ān, unanimity was not achieved. The two principles were readily accepted by the majority, and strenuously resisted by the Šāfi'ites.

We earlier touched upon the technique of alleging abrogation when appeals to the sources conflicted. Since that was the business of the uṣūlīs, it cannot be surprising if, to underpin their assumptions, they once more appeal to the Qur'ān source to verify the general thesis that abrogation has indeed affected the Qur'ān and the Sunna. The appeal to the Qur'ān is indicated by the choice of technical term. The word they hit upon to denote their general theory of abrogation, naskh, was selected precisely on account of its occurrence in Q 2.106 which they interpreted: 'Whatsoever verse of the Qur'ān We abrogate, or cause to be forgotten, We shall bring another like it, or superior to it.'

The charm of their verificatory exegeses is self-evident: consigning to oblivion by causing to forget is presented in the more attractive formal attire of naskh, or conscious suppression, expressed in the theorem: naskh al hukm wa al tilāwa. Q 2.106's separate terms n s kh and n s y are here fused into one.

Playing fast and loose with the legal rulings that might be derived from the verses of the revelation to bring them into harmony with the rulings of the Fiqh was similarly made to sound respectable and legitimate by reference to conscious supersession: naskh al hukm, the replacement of the Qur'ān ruling, despite the survival in the mushaf of the

Qur'ān's wording.

Use was made of the Qur'ān source to reinforce both modes. The first, suppression, was to be 'proved' by incidental reference to Q 17 and to Q 87, while the second, supersession, was confidently endorsed by appeal to Q 16.101: idā baddalnā āya makāna āya, 'Whenever We substitute one āya for another'. Tabdīl, replacement, an undeniable divine activity, was equated with another undeniable divine activity, naskh. Q 2.106 refers, it was alleged, to substitution, replacement, abrogation.⁴

The development of notions about the Qur'ān's i'jāz, interpreted to mean its literary inimitability, meant that the minority of scholars who objected to the use made of Q 2.106, to 'prove' that the Qur'ān itself proclaimed that one verse had been revealed to supersede another, were able to exploit the same verse. God said that on the naskh of a verse He would bring a better verse. Since the Qur'ān is of divine authorship, and is perfect in construction and style, no verse can be better than another verse. All verses are equally perfect. No sunna, of acknowledged human origin, is similar, let alone superior to any verse in the Book of God.

To both protests, the uṣūlīs could return a single answer: It is precisely because the Qur'ān is inimitable, no one verse being superior to another and no sunna equal, let alone superior to a single verse of the Qur'ān, that the exegetes, following the indications of the Qur'ān and of reason, had appreciated that the abrogation had affected not the wording of the Qur'ān, but only its rulings.⁵

Šāfi'ī, referring to this same Q 2.106, had insisted that in this verse, God had stated unequivocally that only the Qur'ān abrogates the Qur'ān. The Sunna did not have this prerogative of abrogating the Qur'ān. Its function, secondary to that of the Book, was to establish rulings like those imposed in the Qur'ān. Further, it indicated the interpretation of those verses of the Book which were couched in general terms.

The Qur'ān itself, in Q 10.15, denied that Muḥammad had the prerogative to alter any of the verses of the Qur'ān on his own initiative.⁶

We have already seen that Šāfi'ī's exploitation of Q 2.106 had been dictated by the circumstances prevailing in his day. His approach to the question of abrogation had been two-sided. The denial that the Sunna could be held to have ever superseded the Qur'ān was forced upon him by the realisation that resort to naskh implied conflict. The admission that there was actual, rather than apparent, conflict between the Qur'ān and the Sunna spelled great danger for the Sunna, whilst the claim that the Sunna abrogated the Qur'ān could be reversed by the Qur'ān party, not least on the ground of appeal to na'ti bi khairin min hā aw mithli hā. The Sunna, they argued, was not the equal of the Qur'ān. The Qur'ān was unquestionably superior to the Sunna.

Šāfi'ī's second argument, designed to prevent the madāhib, who rested the documentation of much of their Fiqh on reports from Companions and others, from using naskh to justify their ignoring or even setting aside Prophet-hadīths, again exploited Q 2.106. He made the point that no

Companion was similar or superior to the Prophet. No Companion-hadīth could therefore set aside and supersede a Prophet-hadīth.

The schools might argue that none would have known the mind and purpose of the Prophet better than those who had spent their lives in his service. When they transmitted rulings at variance with those conveyed in Prophet reports, that could safely be taken to indicate that the Companions were aware that the Prophet had altered one of his own rulings. Šāfi'ī insisted that we may not act on mere pre-sumption. Only a later report from the Prophet himself stating or indicating that he himself had altered his own ruling was acceptable evidence of the abrogation of a sunna. Only the Sunna of the Prophet abrogated the Sunna of the Prophet.

In the face of this insistence, the madāhib could not do other than improve the isnāds of their hadīths, projecting the threatened Fiqh backwards from the Successors and the Companions to the Prophet.

In constructing his defence of the appeal to the Sunna, and in defining its role, Šāfi'ī had described it as bringing that which is like the Qur'ān rulings. This motif was itself to become a hadīth in which the Prophet was made to claim that he had been given the Qur'ān, and along with it its like. But, as we shall see, what is really a subtle appeal to Q 2.106, 'We shall bring that which is better than it, or like it', was to be exploited, once the threat to the Sunna and hence to the Fiqh had been removed, by scholars seeking to free themselves from the rigidity of Šāfi'ī's

impossibly mechanistic arguments.

The Qur'ān party's repudiation of the Sunna was likewise cast in hadīth form. 'The Prophet said, Compare what I am reported to have said or done with the Book of God. If it agrees, I did actually say it; if it disagrees, I did not say it.'⁷

Šāfi'ī rejected this hadīth on isnād grounds, countering with an isnād which he admits is incomplete: 'The Prophet said, "Don't let me find one of you hearing a command or prohibition from me and saying, 'We shall follow what we find in the Book of God.'"'

To those who besought him to alter the Qur'ān Muḥammad replied, 'It is not for me to alter it on my own initiative. I merely follow what is revealed.'⁸

Šāfi'ī exploited this verse to 'prove' that the Sunna had never superseded the Qur'ān. From the Qur'ān source one could show that the Qur'ān had never been abrogated by the Sunna source.

Šāfi'ī was to progress to the view that the Sunna was revealed. The Qur'ān is waḥy matlū, solemnly recited inspiration; Sunna, waḥy ḡair matlū, is non-recited inspiration. To that extent, they are alike.⁹

Šāfi'ī's usūl doctrine that Sunna does not abrogate Qur'ān was dictated by the prevailing intellectual circumstances. Once those circumstances altered in favour of the uncomplaining acceptance of the Sunna, owing largely it must be said to Šāfi'ī's brilliant defence of the Sunna, and once the Sunna's survival was assured by the completion of the great medieval collections of Hadīth, another result of

Šāfi'ī's triumph, the threat to the Sunna receded. Many scholars could now afford to take a more relaxed attitude to the question of whether the Sunna had abrogated the Qur'ān, or the Qur'ān the Sunna. Lists were drawn up of the instances in which this had been seen to occur on the evidence of the Fiqh.

The Qur'ān's rulings on inheritances, for example, had been abrogated by Prophetic rulings prohibiting believer-unbeliever inheritance and slave-free man inheritance. Bequests to parents and nearest kin had been set aside by the Prophetic dictum that no heir might benefit by bequest. The same Sunna ruling barred the widow from benefit, and had thus set aside both Q 2.180 and Q 2.240. The Prophet had forbidden the marriage of the niece to the husband of her aunt, and a woman to her sister's husband. He had in addition extended the forbidden degrees which prevented marriage to include foster relationships as well as blood ties. Muḥammad had modified the general provisions of the Qur'ān's penalty for theft to exclude the stealing of small cattle left unpenned at night, dates left outside the drying-store, the spadix of the palm and all articles valued at less than a quarter dīnār. To prohibited foodstuffs he had added wild beasts and birds of prey. He had modified the rules governing prayer by permitting the shortening of prayers while on a journey, whether or not danger threatened, and had permitted the mounted traveller to take as his qibla the direction in which his mount was heading.¹⁰

Those who argue that the Sunna abrogated the Qur'ān appeal to Q 53.4, 'He does not speak from mere whim,'

and to Q 59.7, 'Whatsoever the Prophet brings you, accept it.' They say that the Muslim has no option but to accept Muḥammad's words. Their opponents retort that Q 59.7 is a reference to whatsoever he brings of the Qur'ān. That we must all accept. Q 53.4 similarly refers to that which he recites of the Qur'ān which comes to him from God. Muḥammad did not get it up out of his own head. This interpretation is confirmed by the continuation of the same verse: 'It is but inspiration.' The reply to this is the argument that the Sunna explains the Qur'ān. Explaining is not abrogating. Besides, the Qur'ān is inimitable, the Sunna is not. What is not inimitable cannot supersede what is. God said, 'We shall bring one better than it, or like it.' The Sunna is created; what is created is not like what is uncreate. God also said, 'When We substitute one verse for another', and, 'Say, "It is not for me to alter it on my own initiative."' All these arguments indicate that the Qur'ān cannot be abrogated save by the Qur'ān.¹¹

It is refreshing, if ironical, to see one of Ṣāfi'ī's regular Qur'ān evidences for fastening adherence to the Sunna around the necks of his opponents now in the hands of those who would argue the abrogation of the Qur'ān by the Sunna.

Q 59.7, in any case, has nothing to do with the Sunna. The verse occurs in a context regulating the distribution and division of spoils of battle.

The exploitation of irrelevant verses exposes the methods adopted in these uṣūl squabbles. But the report does show how dispute had encouraged the Ṣāfi'ites to sharpen up their tafsīr of the verses.

The development of the principle that the Sunna is inspired is illustrated in a comment of Qazālī's:

There is no dispute concerning the view that the Prophet did not abrogate the Qur'ān on his own initiative [Q 10.15]. He did it in response to inspiration [Q 53.4]. The nāsikh in such cases was not worded in the Qur'ān style. Even if we consider him capable of abrogating the Qur'ān on the basis of his own ijtihād, the authority to exercise his discretion derived from God. Thus, God does the actual abrogating, operating through the medium of His Prophet. One ought thus to hold that the rulings of the Qur'ān may be abrogated by the Prophet, rather than solely by the Qur'ān. Although the inspiration [wahy] in these cases is not Qur'ān inspiration, the Word of God is nevertheless one. The Word of God is both the nāsikh and the mansūkh. God does not have two words, one expressed in the Qur'ān style which we are bidden to recite publicly, and called the Qur'ān, while the other word is not Qur'ān. God has but one word which differs in the mode of its expression. On occasions, God indicates His Word by the Qur'ān, on others, by words in another style, not publicly recited, and called Sunna.

Both were mediated by the Prophet. In each case, the nāsikh is God alone Who indicates naskh by means of His Prophet at whose hands God instructs us of the abrogation of His Book. This none other than the Prophet is capable of manifesting; none other than God of initiating. Were God in this manner to abrogate a verse by the instrumentality of His Prophet, and subsequently to bring another verse similar to that which had been abrogated, He would have made good His promise [Q 2.106]. It is not necessary to consider only this second verse the actual nāsikh. God did not mean to say that He proposed to bring a verse superior to the first. No part of the Qur'ān is superior to another. He meant to state that He would bring a ruling superior to the first, in the sense of its being easier to perform, or richer in terms of reward.¹²

This statement marks the shaking off of Šāfi'ī's over-rigid doctrine that only the Qur'ān had abrogated the Qur'ān, as supposedly indicated by Q 2.106. Between the revelation of the first and second verses, Ġazālī invites us to suppose that Muḥammad might introduce a Sunna regulation. That sunna would be the nāsikh of the ruling of the earlier verse, while the second verse, in being revealed, redeems the divine promise to bring it.

Ġazālī asserts that the Qur'ān may be abrogated in-differently by the Qur'ān or by the Sunna, and that the Sunna may be abrogated by the Sunna or by the Qur'ān. Both alike come from God. He adds that if it be objected that Šāfi'ī held that the Qur'ān had never abrogated the Sunna, nor the Sunna the Qur'ān, and that Šāfi'ī was far too great a scholar not to have taken account of the various instances that had been cited, he, Ġazālī, suggests that Šāfi'ī might well have been arguing that one sunna superseded an earlier sunna, since the Prophet could set aside his own rulings. He was thus elucidator both of his own Sunna and of the Qur'ān.

The Qur'ān, in Šāfi'ī's view, could never act to elucidate the Sunna (invariably posterior to the Qur'ān which it elucidates). Only the second sunna abrogated the earlier sunna on the same topic; it elucidates the intervening Qur'ān verse on that topic. Whenever God revealed such a verse, at variance with the sunna which the Prophet had established, the Prophet immediately introduced his second sunna on the lines of the Qur'ān verse, to demonstrate that only like abrogates like.¹³

Šāfi'ī claims never to have come across an instance

of the Qur'ān's elucidating a sunna. For him, every sunna established to abrogate another sunna invariably survived in the transmitted Hadīth. His claim never to have found the Qur'ān elucidating a sunna may mean, either that such a thing had never been transmitted, or that it had never once occurred. If he meant the latter, his argument can be disposed of, in Ġazālī's opinion, by showing that it had occurred. Further, it can be documented from the Qur'ān itself. The Qur'ān imposed the Mecca gibla to replace the Jerusalem gibla which had been introduced in the Sunna. There is no necessity to postulate, as Šāfi'ī would have us do, in every such instance of abrogation, the existence at one time of a nāsikh sunna which has merely failed to reach us. Šāfi'ī's conclusion that the naskh of the Sunna by the Qur'ān had never occurred is mere pedantry.¹⁴

Baiḍāwī had an even shorter way with Šāfi'ī's theory:

The majority concede that the Sunna abrogated the Qur'ān, as occurred in the case of the penalty of flogging [Q 24.2]. Šāfi'ī disputed the possibility and urged Q 2.106. He can be refuted by the consideration that the Sunna also was revealed.¹⁵

Since the occurrence of naskh can be demonstrated by appeal to the Qur'ān, and since the word naskh itself occurs in the Qur'ān, the theories of naskh were easily given the appearance of Qur'ānic sanction. The Sunna party could also claim, on the basis of the same reference, that the phenomenon had been of frequent occurrence during the Prophet's public ministry. Since God Himself had declared that He used naskh, there was no barrier to the claim that the Prophet had also used it. This had apparently been

doubted, to judge by the circulation of hadīths stating that he had, on the analogy of naskh as it affected the texts of the Qur'ān. 'Urwa alleges that his father told him that the Prophet would regulate some matter, then, after some time, replace his first ruling with a second regulation - just as the Qur'ān did.¹⁶

Clearly, by naskh the uṣūlīs meant replacement, a phenomenon the legitimacy of which none could question following these evidences from the two sources. naskh al ḥukm wa al tilāwa means, however, the suppression of the wording and the ruling. naskh al ḥukm dūna al tilāwa means the suppression of the earlier ruling alone. That can mean only its supersession.

The second formula had been constructed on the analogy of the first, and we have just encountered the allegation that the principle that naskh affects the Sunna had been constructed on the analogy of its having affected the Qur'ān. What, in fact, such procedures illustrate is the urgency felt by the uṣūlīs to find Qur'ānic support for a principle they desired to extend to rationalise every single instance of conflict of evidence or of conflict of sources.

The impression derived from a reading of the uṣūl works is that the analogy they alleged served to verify, rather than suggest, a principle. The naskh of one hadīth by another is a claim more frequently met in inter-madhab squabbles engendered by the simultaneous existence in the parallel schools of conflicting legal views. Šāfi'ī himself devoted his Ikhtilāf al Ḥadīth to exposing the errors in Fiqh documentation committed by his opponents.

The claim that one Qur'ān ruling had abrogated another tends rather to be encountered in the defence against the common enemy's minority objections of the legal views shared by the madāhib. One instance in point was the unanimity of the schools in the denial of the rights assigned to the widow in Q 2.240, on the ground that Q 2.234 (which deals with an entirely different subject) had been revealed later than verse 240. On this and similar topics, the conflict obtained, in fact, between the inherited Fiqh and the Qur'ān.

From our experience of Šāfi'ī's debating methods there arises the question of whether the claim that naskh had affected the Qur'ān by replacing some of its rulings, may not have been merely part of the response in defence of the Fiqh to the challenge offered by the Qur'ān party, who questioned the discrepancy between the Fiqh rulings and the rulings of the Book.

The quarrels over the question of whether the Qur'ān had abrogated the Sunna, judging by Šāfi'ī's reaction, point to a similar challenge. The Sunna must always be made to appear posterior to the Qur'ān, otherwise many Fiqh rulings would have to be abandoned. That is why Šāfi'ī asserted that the nāsikh sunna had always been handed down. He simply had not dared to claim that the Sunna had abrogated the Qur'ān. The entire drift of his method was to preserve and maintain the Sunna. This he sought to do by emphasising the Qur'ān's occasional ambiguity. Only thus could he hope to harmonise the Fiqh with the Book.

Those who argued, on the contrary, that the Sunna had

superseded the Qur'ān were simply in disagreement with Šāfi'ī's exegeses, hence with his Fiqh conclusions, or, if they agreed with his legal standpoint, merely indulging their differing uṣūl theories.¹⁷

The claim to find Qur'ānic sanction for the general theory of naskh (the substitution of one ruling for another) is diluted by the evident difficulty posed for the Muslims in their attempts to accommodate to their theory, and so justify their procedure, the Qur'ānic term naskh which, in both its Qur'ānic contexts, can mean only suppression, not the supersession of the uṣūl.

If we look again at their principal Qur'ānic prop, Q 2.106: mā nansakh min āya aw nunsī hā na'ti bi khairin min hā aw mithli hā, we observe that if replacement is referred to in this verse, it can only be in the final clause: 'We shall bring something better than it, or something like it'; in which event, naskh refers to what necessitates the replacement, namely suppression. That is certainly the meaning of the word in its second context, Q 22.52, as the Muslims themselves unanimously insist.¹⁸

Their semantic difficulty is confirmed by the very clumsiness and artificiality of their naskh formulae.

1. When Muḥammad's forgetting became formalised, what was always intended to refer to suppression was cramped into the procrustean and absurdly inappropriate frame: naskh al ḥukm wa al tilāwa. Naskh al tilāwa would have sufficed, for if indeed there had originally been a ḥukm, it would normally now be unknown. Known or not, the ḥukm would have been of no interest to the Muslims. It certainly held no interest

for the legal specialists, and played no part in the extraction of the Law. This mode had been purely the invention of the exegetes who, acting from suspicion of words like 'forgetting' and under the influence of the technical jargon of the uṣūlīs, were attracted by a scientific-sounding phrase.

In all his writings, Šāfi'ī, for example, is supremely indifferent to exegeses that have no legal or jurisprudential application. Far from referring to omissions from the Qur'ān, Šāfi'ī was fully preoccupied with what is present in the Qur'ān. Central therefore to his interests was naskh al ḥukm dūna al tilāwa

On the basis of a variant consonantal reading of Q 2.106, which incidentally strengthens the suggestion that there was pressure to make the transition from mere forgetting to some conscious divine revelatory activity, such as either deliberate omission or replacement, Šāfi'ī interpreted the verse to mean: 'Whatsoever verse We replace and whatsoever revelation We postpone to a later time, We shall bring another like it, or better than it in the meantime.' This reading, nansa', like the reading adopted by the majority, nunsī, represents equally the flight from a reading of the script which provoked serious theological compunction for the Muslims, that is, nansa (we forget). God does not forget!¹⁹

Ṭabarī, by contrast, was both a prominent uṣūlī, although his chief work in this field has not reached us,²⁰ and an outstanding, painstaking commentator on the Qur'ān, whose approach to exegesis was clearly influenced by his

legal and jurisprudential interests. It is he who throws light on the connection dawning on the Muslim mind between the phenomena of forgetting and suppression or replacement denoted by the term naskh.

It appears that, with no fear of the implications, Sa'd b. abī Waqqāṣ recited Q 2.106: aw tansa hā. His reading was challenged, on the ground that Sa'īd b. al Musayyab read: aw tansa hā. Sa'd countered with a reference to two further verses, Q 87.6-7: sa nuqri'uka fa lā tansā [illā mā šā'a allāh] and Q 18.24 udkur rabbaka idā nasīta.

Sa'd, a Meccan, in addition, challenged the isnād of the reading of Sa'īd, a Medinese.²¹

Both readings in question, here attributed to major figures of an earlier generation, had, as is clear, proceeded from clashing exegeses of Q 87, thence of Q 2. The technique of linking the two contexts is unmistakable.

Ṭabarī acquaints us with a further quarrel involving the technical implications of the Q 2 verse. Certain anonymous opponents had expressed the view that if Muḥammad be admitted to have merely forgotten parts of the revelation, the mushaf and the Qur'ān would not be co-extensive. The mushaf would not preserve a true and complete record of the revelations. As they hold this to be absurd, they cannot concede that the Prophet had ever forgotten a single syllable of the Qur'ān.²² Arguments to the effect that Muḥammad had indeed forgotten parts of the Qur'ān, which appeal to Q 17.86, they reject on the reasonable grounds that that verse

linguistically represents an unfulfilled hypothesis, and is thus rhetorical rather than affirmative.

The opponents betray, however, that their concern is less with the quality of Muḥammad's memory than with the present state of the Qur'ān texts, the mushaf. This is shown by their further argument that the Prophet might be admitted to have forgotten part of the Qur'ān, but only for a moment. He recalled immediately what he had at first had difficulty in summoning to mind. Even if Muḥammad had forgotten some part of the revelation he was surrounded by the Companions who would not all simultaneously forget the very same passage.

Finally, it is their statement that Muḥammad could not forget some part of the Qur'ān unless it were mansūkh which enables us to realise that the argument concerned, not the question of the effect upon the present state of the Qur'ān texts of Muḥammad's human fallibility, but the implications for the present state of the Qur'ān texts both of (a) certain verses in the Qur'ān and of (b) certain hadīths in circulation, to the effect that on several occasions Muḥammad had admitted that he had forgotten, or was seen to have forgotten some part of the divine revelation. Those hadīths had originally been the product of earlier tafsīr quarrels about the meaning of those Qur'ān verses (sc. Q 2.106 and Q 87.6-7).

This can be seen from one hadīth in which forgetting has not yet been transmuted into naskh:

The Prophet recited the Qur'ān and omitted an āya. When he had finished the prayer, he asked, 'Is Ubayy in the mosque?'

'Here I am, Messenger of God.'
 'Then why didn't you prompt me?'
 'I thought the āya had been withdrawn.'
 'It hasn't been withdrawn, I forgot it.'²³

The arguments on the exegesis of Q 87 and Q 2 can be summarised as dealing with the implications of the distinction between Muḥammad's forgetting (tansa) and Muḥammad's being caused to forget (tunsa/nunsi). The distinction was made between his human memory and his prophetic memory.

Unfortunately, the proviso added by Ṭabarī's opponents, unless it were mansūkh, is ambiguous. We have seen that the term naskh is defined now as to suppress, now as to replace, depending upon whether one is discussing the Qur'ān document or the Qur'ān source.

If Muḥammad forgot some part of the Qur'ān which God intended to remove from the muṣḥaf, or to replace in the muṣḥaf, Muḥammad's forgetting was of no material relevance. It was, in either case, divinely determined.

Ṭabarī, as we see from his argument, took the word in this context to mean replaced, since he urges two considerations: by Q 17.86, God did not mean that He would remove all the Qur'ān. He merely stated that He would remove such parts of it as His creatures did not need. Since we are in no need of Qur'ān materials which have been suppressed, these could well be removed and fail to come down to us in the muṣḥaf. Besides, there are traditions to the effect that this or that passage, mentioned by certain of the Companions as having once figured in the sacred texts, was removed. Anas reported on the verse revealed at the

time of the Bi'r Ma'ūna massacre and Abū Mūsā al Aṣ'arī said they used to recite the ibn Ādam verse before its removal. Other similar reports are too numerous for Ṭabarī to quote.

Whether or not they were of interest to particular schools for the purposes of immediate exploitation, ḥadīths, of whatever provenance, flowed into the ageless stream of the Islamic Tradition. As nothing once called into existence in Islam ever quite perished, such reports having once been added to the general stock of Muslim learning were sooner or later used by Muslim scholars.

Thus it happened that the exegetical musings of one age generated ḥadīths which became the Tradition of a later age. The charm of this study lies in our observing how a later generation, in treating the Tradition that had come down to it and unaware that part of the Tradition had originated in older scholastic disputes, solemnly eyed the added material as part of the Fiqh and proceeded to construct its own new analyses, thus unconsciously in its turn contributing further additions to the fund of the general Tradition.

Theory passed through the thin membrane separating one Islamic science from another to become part of the data of the second science. Exegesis became sīra; sīra became Fiqh; and Fiqh must be traced back to an origin in either the Qur'ān or the Sunna.

Apparently we now have the Qur'ān's word for it: the muṣḥaf is incomplete and abrogation has occurred.

4 The background to the emergence of the third mode of naskh

1. THE EXEGESIS

A combination of asbāb al nuzūl and comment upon the verses themselves gave rise to two distinct strains of interpretation as to the meaning of Q 5.42-9:

[Certain Jews] are very ready to listen to lies, prepared to incur divine wrath. If however they come to you, either judge between them or ignore them. If you ignore them, they cannot harm you. If you judge, judge between them impartially. God loves the impartial. (42) But how should they seek your judgment when they have the Torah in which is God's verdict, then turn their backs. They are not in fact believers. (43) We revealed the Torah in which is guidance and light; by which the prophets who submitted to God's will have judged the Jews, as also have the rabbis and the priest-scholars, by God's Book which they have preserved, whose witnesses they are. Fear not men. Me alone fear. Do not exchange My signs [āyāt] for a paltry gain. Whoso does not judge on the basis of what God has revealed is an unbeliever. (44) We imposed upon them [the rule]: a life for a life; an eye for an eye; a nose for a nose; an ear for an ear; a tooth for a tooth. Wounds may be repaid, but he who forgoes retaliation will have that counted as an expiation. Whoso does not judge in accordance with what God has revealed, is a wrongdoer. (45)...We have revealed the Book to you in truth and in confirmation of the foregoing revelations which it verifies.

Judge therefore between them on the basis of what God has revealed. Do not listen to their views to the detriment of the truth that has come to you ... (48)

Only the minority exegetical tradition viewed this passage as having been revealed to regulate the laws governing the talio. The greater weight of exegetical judgment was thrown into the contrary assertion that the verses refer to the penalties for adultery.¹ Given the slight inducement of the statement that the prophets who had aslamū judged the Jews in accordance with the Law of the Torah, a massive haggada grew up as to the occasion of the revelation of Q 5. This body of comment is based partly on the interpretation of the Qur'ān's frequent admonition of the Jews for concealing part of what had been revealed to them, but it is also modelled on the story of the Christian prophet's confounding of the Jews in the case of the woman taken in adultery. Verses 46-7 of Q 5 continue:

In the footsteps of the prophets We sent Jesus, son of Mary to confirm the Torah. To him We gave the Gospel in which is guidance and light and as a confirmation of the Torah which preceded him, and as a guidance and lesson to those who would avoid the wrath of God. Let therefore the people of the Gospel judge in accordance with what God revealed in it. Whoso does not judge on the basis of what God has revealed is in sin.

The Jews, it was alleged, had referred to Muḥammad for judgment when a man and woman of their community had committed adultery. Muḥammad enquired as to the penalty in the Torah. The scrolls were brought out for consultation, but one of the Jewish doctors covered over a particular passage with his hand. A supporter of Muḥammad, converted

to Islam from Judaism, pointed this out and the man was made to remove his hand. The stoning verse was uncovered, and as a true prophet of the Lord, Muḥammad applied the verdict of God. Muḥammad stoned Jewish adulterers. The source of that penalty had been the stoning verse.

In time this became shortened. Muḥammad had stoned adulterers. The source of that penalty had been the stoning verse. This development can be traced without difficulty in Mālik's Muwatta', K. al Ḥudūd. There we find two strands: Muḥammad had stoned Jews; Muḥammad had stoned Muslims. The source was the stoning verse.

Already before Mālik the search had begun for the source of the Islamic Fiqh's stoning penalty. The old haggada narratives, having become halakha, had passed into the hands of the uṣūlīs and become part of their source-Tradition. Muḥammad had stoned on the basis of the Book of God.

It was now the uṣūlīs' task to relate the contents of the narratives to the conclusions of the Fiqh. These had derived, in this instance, not directly from the Qur'ān texts which we have before us in the muṣḥaf, but indirectly, from the intervening gossip about this or that implication of the Qur'ān verses, the occasion of their revelation, in connection with whom or what they had been revealed, and the traditional statements as to their meaning.

Stoning, as the attested practice of the Prophet, had next to be assigned to an origin in Sunna or Qur'ān, depending upon the source theory of the school.

At this point in our investigation it would be most

enlightening to discover what, if any, debt the Muslim uṣūlīs owed to external influences in developing both their Fiqh and their source theories. It is, for example, surely a striking coincidence that on this very topic of the penalty for adultery, the Islamic ḥukm, death by stoning, and its justification, the penalty laid down in the Book of God, exactly mirror both the Karā'ite penalty and its rationalisation.²

Unhappily, however, it is not possible in the present state of our knowledge to do more than merely draw attention to the coincidence. The basic research has not yet been done that might supply us with a clear picture of the contacts and relations between the first generations of the Muslim scholars and their Jewish counterparts, orthodox or schismatic.

Such relations were, in any case, in this instance, denied from the Muslim side.³ They would not, in any event, have been indispensable to either the evolution of the actual penalty in the Islamic penal system or to the determination of thinking as to its source.

The stoning penalty of the Islamic Fiqh, in the view of the uṣūlīs, had derived from their Prophet. Muḥammad had stoned either to establish his Sunna, or to implement the rulings of the Book of God. If the former were the case, the Sunna had incontrovertibly abrogated the Qur'ān ruling, for all we find there is a flogging penalty introduced in Q 24.2. If the latter were the case, a very crucial question for uṣūl al fiqh arises.

2. THE FIQH: THE PENALTY FOR ADULTERY

The discussion of this topic is exceedingly complex. Only those aspects of immediate relevance to our study will here be discussed.

The kernel of our problem is that the majority of the maḏāhib are unanimously of the view that in certain circumstances, the penalty for adultery is death by stoning. Now, we know that this penalty is not only nowhere mentioned in our texts of the Qur'ān, it is totally incompatible with the penalty that is mentioned: al zāniyatu wa al zānī fajlidū kulla wāḥidin minhumā mi'ata jaldatin (The adulteress and the adulterer, flog each one of them one hundred strokes) (Q 24.2).

Noting that this verse fails to distinguish between adultery and fornication, since the root employed, z n y, is interpreted rather in the sense of sexual misconduct, the scholars further assert that it apparently clashes with another verse of the Qur'ān which they also take to be a reference to the revealed penalty for the sexual misconduct of married women.

Those of your women who commit acts of gross moral turpitude, seek against them the testimony of four of your number, and should these bear witness, confine the women in quarters until death release them or God appoint a way for them.

Q 4.15 was traditionally read as a reference to adultery. The immediately following verse 16: 'Those two of your number who commit like acts, punish them, but if they repent and amend, let them be', although phrased in the masculine dual, and thus possibly a reference to two males, has

traditionally been read by most scholars as a reference to the male and female partners in the act of gross moral turpitude. The argument is that the dual is of common gender.

Various suggestions were mooted as to the nature of the punishment referred to, but as it has apparently been left to the Muslims to determine the penalty, and as the punishment laid down in the previous verse, imprisonment for life, is of greater severity, verse 15, it was thought, must refer to a sin of greater heinousness. It was for that reason concluded that the penalty for the female partner must be 'heavier' than that for the male.

Further, since the penalty of the second verse was presumed to be lighter and the sin envisaged thus less heinous, the dual could simultaneously be read as a reference to the two partners in some act of sexual misconduct of lesser gravity than that referred to in verse 15. Verse 16 was therefore construed as referring to fornication between unmarried partners.

Their penalty, whatever that was, had been overtaken and superseded by the flogging of Q 24.2.

In the Fiqh, Q 24.2's flogging penalty, in fact, applies exclusively to free unmarried persons guilty of sexual misconduct. Within these limits, Q 24.2 abrogated (i.e. replaced) Q 4.16. This is therefore an attested instance of naskh al ḥukm dūna al tilāwa.

In the wording of Q 4.15 'or God appoint a way', God had marked the penalty for married women as temporary. It is an example of what Ṣāfi'ī had called nasā - the

postponement of a revelation until a later time, with the revelation of an interim regulation in the meantime.

Now, we find in the Tradition a celebrated ḥadīth transmitted from 'Ubāda of which there are many very interesting variant versions. The 'basic form' of the report runs as follows:

The Prophet said, 'Take it from me! God has now appointed a way for women: the virgin with the virgin, one hundred strokes and a year's banishment; the non-virgin with the non-virgin, one hundred strokes and stoning.'⁴

Stoning was established by the Sunna.

Among the interesting variants of this ḥadīth we find:

The descent of inspiration [wahy] was troublesome to the Prophet. His face would go ashen in colour. One day inspiration came down upon him and he showed the usual signs of distress. When he recovered, he said, 'Take it from me! God has appointed a way for the women: the non-virgin with the non-virgin and the virgin with the virgin. The non-virgin, one hundred strokes and death by stoning; the virgin, one hundred strokes and banishment for a year.'⁵

The stoning penalty had been established by God through the medium of that part of the Prophet's Sunna which was inspired.

This claim may be seen even more clearly in the other variant:

We could tell when the inspiration descended upon the Prophet. When the words, 'or until God appoint a way', were revealed, and the inspiration ascended, the Prophet said, 'Take heed! God has now appointed the way: the virgin with the virgin, one hundred

strokes and banishment for a year; the non-virgin with the non-virgin, one hundred strokes and death by stoning.'⁶

Some appeared concerned at the equity of imposing two penalties for a single misdemeanour and, without reference to 'Ubāda, make it certain that they were aware of a Fiqh-Qur'ān conflict. It is related that when a woman guilty of adultery was brought before 'Alī, he flogged her and then had her stoned. Someone protested: 'but you have inflicted two penalties!' 'Alī replied, 'I stoned her in accordance with the Sunna of the Prophet and flogged her in accordance with the Book of God.'⁷ The expression Book of God here refers to Q 24.2. The equation in these contexts of the Book of God with the Qur'ān is crucial to the development of this discussion.

Others are reported as exclaiming, 'What is this stoning? The penalty in the Book of God is flogging.'⁸

ibn 'Abbās reports a sermon by 'Umar in the course of which he said, 'Men! stoning is a penalty laid down by God. Do not neglect it. It is in the Book of God and the Sunna of your Prophet. The Messenger of God stoned; Abū Bakr stoned, and I have stoned.'⁹

Mālik reports ibn 'Abbās as declaring, 'I heard 'Umar b. al Khaṭṭāb say, "Stoning in the Book of God is a just claim against the non-virgin, man or woman, who fornicates, when valid proof is adduced, or pregnancy ensues, or self-condemnation is volunteered."¹⁰

What can here be meant by the Book of God?

Mālik reports also the celebrated ḥadīth of the hired hand:

Two men brought a case before the Prophet. One of them said, 'Messenger of God, judge between us in accordance with the Book of God.'

The other, who was more familiar with litigation, said, 'Yes, Messenger of God, judge between us in accordance with the Book of God and let me speak first. My son served as a hired hand under this man, but he fornicated with his employer's wife. The man, informing me that my son had incurred the stoning penalty, I ransomed him from that penalty with 100 sheep and a slavegirl I had. Subsequently I enquired of the learned who informed me that the stoning penalty lay on the man's wife.'

The Messenger of God said, 'By Him in Whose hand is my soul! I will judge between you in accordance with the Book of God. Your cattle and slavegirl are to be restored to you.'¹¹

At this point, the direct speech ends, but the ḥadīth continues, 'He awarded the son 100 strokes and banished him for a year. He ordered Unais al Aslamī to go to the employer's wife, and in the event that she confess, imposed the stoning penalty. She confessed, and Unais stoned her.'

There are strong grounds for considering this continuation foreign and irrelevant to the ḥadīth. ibn Ḥajar, for example, comments,

The Book of God might refer to the verdict of God. It has also been held that it refers to the Qur'ān. ibn Daqīq al 'Īd suggested that the first explanation was preferable since neither stoning nor banishment is mentioned in the Qur'ān, apart from the general injunction to obey the Prophet's commands. One might also consider the possibility that the reference is to God's words, 'or until God appoint a way'. The Prophet showed that the way was the flogging and banishment of the virgin, and stoning

the non-virgin. A further possibility, it may be, is that the Book of God is a reference to a verse whose wording alone has been withdrawn, that is, the stoning verse, although the verse also fails to mention banishment. Finally, the reference may be to the Qur'ān's prohibition of wasting another's property without legal title to it. The man had taken possession of the other's cattle and slavegirl, but the Prophet insisted that they be returned.¹²

The last suggestion may imply that the ḥadīth at one time terminated with the words 'Your cattle and slavegirl are to be restored to you.'

We have a report from 'Umar that he said, 'The Messenger of God stoned, Abū Bakr stoned and I have stoned. I am not prepared to add to the Book of God, otherwise I would write it into the muṣḥaf, for I fear that there will come some people who, not finding it, will not accept it.'¹³ Stoning must therefore be a sunna. 'Umar admits that it had never figured in the Qur'ān. 'Umar is credited with a further dictum,

Do not complain about stoning. It is a just claim and I am minded to write it in the muṣḥaf. I fear that with the passage of time some will say, 'We do not find stoning in the Book of God', and on that pretext they will neglect a divine ruling which God revealed. Stoning is a just claim against the married person who fornicates, when there is adduced valid proof, or pregnancy ensues, or a confession is offered.¹⁴

'Umar appears in a further series of ḥadīths designed to inculcate an alternative view of the matter. He announced from the Prophet's pulpit,

God sent Muḥammad with the truth and revealed to him the Book. Part of what God revealed was the stoning

verse. We used to recite it and we memorised it. The Prophet stoned and we have stoned after him. I fear that with the passage of time some will say, 'We do not find stoning in the Book of God', and will therefore neglect a divine injunction which God revealed. Stoning is a just claim...¹⁵

In this ḥadīth the transition from the stoning penalty to the stoning verse has been made. What does the Book of God now mean?

In a variant version, 'Umar fears that with the passage of time some will say, 'We do not find the stoning verse in the Book of God',¹⁶ while in a further 'Umar ḥadīth we are acquainted with the wording of the stoning verse. Mālik reports that when 'Umar returned from the pilgrimage, he addressed the people of Medina,

Men! the Sunna has been established, the obligatory duties imposed and you have been left in no uncertainty. Beware lest you neglect the stoning verse on account of those who say, 'We do not find two penalties in the Book of God.' The Prophet stoned, and we have stoned. By Him Who holds my soul in His hand! but that men would say, 'Umar has added to the Book of God', I would write it in with my own hand, 'The ṣaikh and the ṣaikha, when they fornicate, stone them outright.'¹⁷

The version that occurs in the Hulya reads, 'I would write at the end of the Qur'ān.'

Abū Ma'ṣar has,

But that men would say, 'Umar has written what is not in the Book of God', I would write it in, for we used to recite it, 'The ṣaikh and the ṣaikha, when they fornicate, stone them outright, as an exemplary punishment from God. God is mighty, wise.'

In the Mabaḍī, Sarakhaī reports,

'Umar said from the pulpit, '...and part of what was revealed in the Qur'ān read, "the ṣaikh and the ṣaikha, when they fornicate, stone them outright". Some will repudiate this, and but that men would say, "Umar has added to the Book of God," I would write it on the margin of the muṣḥaf.'¹⁸

ibn Ḥajar compares two versions of the 'Umar ḥadīth, one related by 'Alī b. 'Abdullāh, teacher of Bukhārī, and the other related by Bukhārī himself. In 'Alī's version we find

'Umar declared, 'I fear that with the passage of time some will say, "We do not find stoning in the Book of God", and will neglect a divine injunction revealed by God. Stoning is a just claim against the non-virgin fornicator when valid proof is brought, or pregnancy occurs, or confession is made. We used to recite it, "the ṣaikh and the ṣaikha, when they fornicate, stone them outright." The Messenger of God stoned and we have stoned.'

Bukhārī's version stops at 'confession is made', and ibn Ḥajar suggests that Bukhārī deliberately ignored the remainder of the ḥadīth.

Nasā'ī stated that he knew of no transmitter who included the words of the 'verse' in this ḥadīth, apart from Sufyān who here transmits the report as from Zuhri to 'Alī b. 'Abdullāh. Nasā'ī took Sufyān's version to be erroneous, as numerous transmitters relate the ḥadīth from Zuhri without this addition.

But ibn Ḥajar reminds us that the report is transmitted by Mālik and by others in this form which he judges to be 'correct'.¹⁹

As a divine revelation, the stoning verse had been revealed as part of the Qur'ān. In which sūra did it originally

appear?

Ubayy asked Zirr b. Ḥubaiṣ, 'How many verses do you recite in sūrat al Aḥzāb?'

Zirr replied, 'Seventy-three verses.'

Ubayy asked if that was all. 'I have seen it,' he said, 'when it was the same length as Baqara. It contained the words "the ṣaikh and the ṣaikha, when they fornicate, stone them outright, as an exemplary punishment from God. God is mighty, wise."²⁰

This version of the stoning verse is a fair imitation of the Qur'ān style, drawing upon both Q 24.2, and Q 5.38, which is a penal verse, but Nöldeke observed that the terms ṣaikha and battata are alien to the vocabulary of the Qur'ān.²¹

An improved version had, 'as an exemplary punishment from God and His apostle'.²²

Ubayy said, 'It used to equal in length sūrat al Baqara and we used to recite in Aḥzāb the stoning verse.'

Zirr asked, 'What is the stoning verse?'

Ubayy recited, 'If the ṣaikh and the ṣaikha fornicate, stone them outright as an exemplary punishment from God. God is mighty, wise.'²³

The stoning verse, therefore, once stood in the Qur'ān texts. Why is it now absent?

Zaid b. Thābit and Sa'īd b. al 'Āṣ were writing out the mushaf. When they came to this verse, Zaid said, 'I heard the Prophet say, "the ṣaikh and the ṣaikha."

'Umar stated, 'When it was revealed, I went to the Messenger of God and said to him, "Shall I write it?" but he seemed to disapprove.' 'Umar added, 'Don't you see that the mature, if unwed, would only be flogged in the event of fornication, yet the youth, if wed, would be stoned?'²⁴

In other words, the stoning verse is at variance with both

the 'Ubāda ḥadīth and the Fiqh. Doubtless that is why Ubayy was projected as having isolated three categories of unchaste: (a) virgins, (b) non-virgins and (c) the mature.²⁵

The stoning verse involves an age criterion and is in conflict with the marital status criterion of 'Ubāda's ḥadīth. The name of Ubayy represents those who attempted to harmonise both documents. The source conflict is acknowledged by ibn Ḥajar, who comments that the reason for the withdrawal of the stoning verse was that the Fiqh was at variance with the apparently general wording of the verse.²⁶

This observation may perhaps also explain why Mālik, who does not present the text of the 'Ubāda report, nevertheless glosses the terms ṣaikh and ṣaikha as thayyib and thayyiba (sc. non-virgin), reducing thereby the meaning of the stoning verse to coincide with the meaning of the 'Ubāda ḥadīth.

Further, ibn Ḥajar concluded that the reason for the withdrawal of the wording of the verse was conflict of opinion among the Companions. He reports that 'Umar addressed the people, saying,

Do not complain about stoning. It is a just claim and I was minded to write it into the mushaf, so I consulted Ubayy. But he said, 'Didn't you come to me once before, when I was asking the Prophet for permission to recite the verse? You shoved me in the chest with the words, "Are you asking him to permit the recitation of the stoning verse when the people are as randy as donkeys?"'²⁷

Marwān b. al Ḥakam asked Zaid why he would not write the verse in the mushaf. Zaid replied,

Don't you see that the youth if married is stoned?
We raised this question with 'Umar and he said, 'I'll see to it.' He went to the Prophet and asked his permission to record the verse. The Prophet said he could not permit that.²⁸

The verse would have conflicted with the 'Ubāda ḥadīth which is the basis of the practice.

The Muslim exegetes concluded, on the basis of their reading of Q 87.6-7 that they must distinguish between the Qur'ān and the muṣḥaf. Relative to the first, the second is obviously incomplete.

We now consider a series of ḥadīths with one common theme: verses now absent from the muṣḥaf had once nonetheless been received direct from the Prophet. Common to the entire series is the use of the term agra' (to teach to recite), derived from the verse in Q 87 with the reference to forgetting.

The aunt of Abū Usāma b. Sahl told him that the Prophet had instructed them in the reciting of the stoning verse.²⁹

Ubayy reports, 'The Messenger of God said to me, "God has commanded me to instruct you in the reciting of the Qur'ān." He then recited: "Did not those who rejected the Prophet among the people of the Book and the associators..." The verse continued, "Did ibn Ādam possess a wādī of property", or, "Were ibn Ādam to ask for a wādī of property and he received it, he would ask for a second, and if he received that, he would demand a third wādī. Only dust will fill the maw of ibn Ādam, but God relents to him who repents. The very faith in God's eyes is the Hanifiya, not Judaism nor Christianity.

Whoso does good, it will never be denied him."³⁰

ibn 'Abbās said, 'Did ibn Ādam possess two wādīs of pelf, he would desire a third. Only dust will fill the maw of ibn Ādam, but God relents to him who repents.' 'Umar asked, 'What is this?' ibn 'Abbās replied that Ubayy had instructed him to recite this. 'Umar took ibn 'Abbās to confront Ubayy. 'Umar said, 'We don't say that.' Ubayy insisted that the Prophet had instructed him. 'Umar asked him, 'Shall I write it into the muṣḥaf, in that case?' Ubayy said, 'Yes.' This was before the copying of the 'Uthmān muṣḥafs on the basis of which the practice now rests.³¹

Abū Mūsā al Aṣ'arī reports, 'There was revealed a sūra the like of Barā'a, but it was later withdrawn.' He recalled of it, 'God will assist this polity with peoples who have no share in the Hereafter. Did ibn Ādam possess two wādīs of property, he would crave a third. Nothing will fill the maw of ibn Ādam but dust, but God will relent to him who repents.'³²

Abū Wāqid al Laithī reports, 'When inspiration came upon the Prophet, we would go to him and he would instruct us in what had been revealed. I went to him once and he said, "God says, 'We sent down wealth for the upkeep of prayer and alms-giving. Were ibn Ādam to possess a wādī he would desire another like it, which, if he had, he would desire yet another. Nothing will fill the maw of ibn Ādam but dust, but God relents to him who repents.'"³³

Buraida claims to have heard the Prophet recite ibn Ādam at prayer. The āya was in sūrat Yūsuf.³⁴

There can therefore be no doubt that it was Qur'ānic.

Abū Mūsā said, 'We used to recite sūrat al Aḥzāb, likening it for length and severity with Barā'a. But I have

been caused to forget it, except that I recall the ibn Ādam verse.³⁵

Anas was unable to say whether ibn Ādam was a Qur'ān verse or not. He reports from Ubayy, 'We supposed that ibn Ādam was a Qur'ān verse until sūrat al Takāthur was revealed.'³⁶

This report reduces ibn Ādam from ever having been a Qur'ān verse, to being merely a tafsīr of Takāthur.³⁷

Aḥzāb was identified as the sūra originally containing the stoning verse, and, in addition to Ubayy and Abū Mūsā, 'Ā'īsa reports that Aḥzāb used to be recited, in the lifetime of the Prophet, as having 200 verses, but when 'Uthmān wrote out the muṣḥafs, all they could find was its present length.³⁸ A variant of this ḥadīth speaks of writing out the muṣḥaf with, however, no mention of date or of attribution. ibn al Anbārī concluded from 'Ā'īsa's report that God withdrew from the sūra everything in excess of its present length, and Mekkī reminds us that withdrawal is one of the modes of naskh.³⁹

Aḥzāb has only seventy-three verses in today's muṣḥaf.

Mekkī grades the mansūkh of the Qur'ān into six categories, including that whose wording has been withdrawn from the muṣḥaf, although surviving in the memories. The consensus as to the contents of the muṣḥaf prevents that from being recited as part of the Qur'ān. The ruling remains valid, again on account of the consensus. His example of this category is the stoning verse.⁴⁰

The contrast between the Qur'ān document and its relation with the valid Muslim prayer, and the Qur'ān source with its relation to the ṣarī'a in the science of Fiqh could not be more explicitly drawn.

Mekkī's second category of mansūkh involves that whose ruling has been withdrawn and with it the memory of the wording. This class is known only from isolate reports. He instances the report from Abū Mūsā as to the sūra like Barā'a which was revealed, but later withdrawn. Abū Mūsā recalled something of it, but Mekkī resolutely refuses to go into further detail. The Qur'ān text cannot be established on the basis of reports. The many examples of this category he would therefore prefer to pass over in silence. God alone knows the truth of the matter.

A third category consists of that whose wording has been withdrawn from the muṣḥaf, whose ruling is void, but whose wording has not quite departed from the memories of men. The consensus as to the muṣḥaf has here again determined that this class may not be recited at prayer. Like the foregoing, this category is known solely through the medium of ḥadīth reports.

Only the Qur'ān texts, the document, is in view. The text of that document was not determined on the basis of stray reports. The text of the muṣḥaf was determined by ijmā', the muṣḥaf is mutawātir.

Next are the verses whose rulings have been superseded by the rulings of other verses. In this category of mansūkh, the wording of both verses is extant in the muṣḥaf. One example would be Q 24.2, whose ruling superseded that of

Q 4.15-16.

In a further comment on the stoning verse, Mekki informs us that that is one instance of something whose wording has been withdrawn from that which might be publicly recited (sc. at prayer). The wording had survived, but may not be recited as part of the Qur'ān. The ruling has persisted in the Fiqh on the grounds of the ijmā' or consensus that stoning is, in fact, the Law. The report is notorious that they used to recite: 'the šaikh and the šaikha'. The wording was later withdrawn from the unanimously settled wording of the muṣḥaf. The recital of the verse did not become established, yet the wording was never quite forgotten.

‘Ā’iṣa explains how the wording came to be omitted from the muṣḥaf. The stoning verse and another verse were revealed and recorded on a sheet (ṣaḥīfa) which was placed for safe-keeping under her bedding. When the Prophet fell ill and the household were preoccupied with nursing him, a domestic animal got in from the yard and gobbled up the sheet.⁴¹

A SECOND INSTANCE OF THE THIRD MODE OF NASKH

Šāfi‘ī was aware of a mode of naskh in which the original Qur’ān wording no longer appeared in the muṣḥaf although the ruling remained valid for the Fiqh.

He knew and used the ḥadīth about the stoning verse that had once figured in the Qur’ān before the collection of the texts into the muṣḥaf.⁴² Yet we shall see that it played no part in his substantiation of the stoning penalty unanimously adopted by the Ṣaḥāb.

On quite another legal topic, much debated, that of the minimum definition of the term riḍā', or fosterage, Šāfi‘ī showed a much more positive attitude.⁴³

This was a question of some social importance since it defined the forbidden degrees and identified who might and who might not visit Muslim ladies.

Riḍā' is a comprehensive term which might refer either to one suckling or to more than one, up to the complete course which takes two years [Q 2.233]. Indeed, the term could still apply after the two years. This being the case, it is incumbent on scholars to seek out some indication as to whether any bar to marriage is set up by the minimum that would constitute riḍā'. ‘Ā’iṣa reported, 'In what was revealed, ten attested sucklings were required to establish the ban. The ten were later replaced by five. The Prophet died and the five were still being recited in the Qur’ān.' She used to say, 'The Qur’ān was revealed with ten attested sucklings setting up the bar. These later became five.' No man ever called upon her who had not completed a course of five sucklings.

‘Abdullāh b. al Zubair reports, 'The Prophet said, "Not one and not two sucklings constitute the bar, nor one nor two sucks."'

‘Urwa reports that the Prophet commanded the wife of Abū Ḥudāifa to nurse Sālim five times to set up the bar. She did so and always considered Sālim a son.

Sālim b. ‘Abdullāh reports that ‘Ā’iṣa sent him away and refused to see him. He was being suckled by her sister Umm Kulthum who had fallen ill after suckling him only three times. Sālim said, 'I could never visit ‘Ā’iṣa, since I had not completed the course of ten.'

Nor, Šāfi'ī points out, in the interests of his Fiqh, had Sālim completed the course of five. Šāfi'ī adopted the rule of five sucklings as coming from the Prophet on the strength of the 'Ā'īša report that the five were Qur'ānic and constituted the ban. He was to enlarge on his views on the subject in his dispute with the Mālikīs.⁴⁴

Here, he uses another ḥadīth: Ḥafṣa sent 'Āsim b. 'Abdullāh b. Sa'd to her sister Fāṭima to be nursed ten times. This was to enable him to visit her.

The Mālikīs report the 'Ā'īša ḥadīth that the five sucklings were being recited as part of the Qur'ān when the Prophet died; they report the Prophet's command to Sahla bint Suhail to nurse Sālim; they report from two widows of the Prophet; yet they choose to neglect all these reports in favour of the personal opinion of Sa'id b. al Musayyab that a single suckling sets up the marriage bar. They ignore both the reports from 'Ā'īša and her and Ḥafṣa's opinion in favour of the opinion of Sa'id, although on other occasions they ignore Sa'id's view in favour of their own opinions. They set aside what comes from the Prophet, from 'Ā'īša, from Ḥafṣa, from ibn al Zubair and from Abū Huraira. They have shown themselves inconsistent.

Mekkī regards the 'Ā'īša report on the ten and the five sucklings verses as one of the curiosities of this science:

Neither the mansūkh nor the nāsikh [neither the ten nor the five] is today part of the Qur'ān text, yet the ruling derived from the nāsikh is upheld in some legal schools. Both the mansūkh and the nāsikh were regarded by Mālik and the Medinese as having been

abrogated in respect of wording and ruling. They regarded the ultimate nāsikh on the subject as having been Q 4.23.⁴⁵

In other words, as far as they were concerned, the minimum number, one suckling, sufficed to set up a marriage bar. 'This is sound doctrine, since the nāsikh is still recited, the mansūkh no longer recited.'⁴⁶

That is just a roundabout way of telling us that on this topic, as far as the uṣūlī could judge, since the muṣḥaf adequately accounts for Mālik's view, he must have ignored all other statements. Sa'id b. al Musayyab's opinion, so scathingly dismissed by Šāfi'ī as ra'y, would have been the expression of Sa'id's view of the implications of Q 4.23, that is, it was tafsīr.

As far as we can judge, on this topic Šāfi'ī certainly deserves Mekkī's comment that he had upheld a Fiqh view based on the ruling of a verse whose wording does not appear in our muṣḥaf - it had been withdrawn.

In other words, Šāfi'ī acknowledged a third mode of naskh: naskh al tilāwa dūna al ḥukm. His ruling was based on a verse once revealed as part of the Qur'ān, which remained valid for Fiqh purposes despite the omission of the wording of the verse from the Qur'ān texts collected together in the muṣḥaf.

Mekkī's own example of this mode had been the stoning verse. It would therefore be instructive if, for completeness' sake, we enquired into Šāfi'ī's view of the source of the stoning penalty. His examination of this question is quite unrelated to his discussion of the problem of Qur'ān-Sunna abrogation, which we have seen he denied. Šāfi'ī

discusses stoning under the heading of takhṣīs, part of the Sunna's elucidation of the Qur'ān.

Flogging, he argues, is mentioned in a Qur'ān statement couched in general terms, Q 24.2.⁴⁷ The meaning apparently is that flogging applies to all who engage in sexual misconduct. That this is not however the case is borne out by the Qur'ān itself which, in Q 4.25, excludes slave women from the full rigour of Q 24.2. Q 24.2's flogging is, therefore, not a general rule. While it may appear so, there are exceptions to it.

The scholar's business is to try and discover by an extensive study of the Sunna whether the Prophet had indicated further exceptions. Q 4.25 categorised the offenders according as they were free or slave. The 'Ubāda ḥadīth similarly categorised them according as they were virgin or non-virgin at the time of the offence.

Further, the Sunna, in the 'Ubāda ḥadīth, informed us of the abrogation of Q 4.15, since in the ḥadīth the Prophet declared, 'Now God has appointed the way', that is the way promised in Q 4. On the evidence of the same ḥadīth, the Sunna introduced a dual penalty: flogging and banishment for all virgin offenders; flogging and stoning for non-virgin offenders. The Sunna endorsed the Q 24.2 flogging penalty.

Yet another ḥadīth, that of the 'hired hand', shows that in his later period, the Prophet had abandoned the dual penalty established by his own Sunna. The penalty of the non-virgin was now stoning alone. 'Ubāda must be earlier than 'hired hand', as is indicated by this and by 'Ubāda's reference to the immediately foregoing punishment, that of

Q 4. 'Ubāda conveyed the first penalty to be revealed since the revelation of Q. 4.⁴⁸ It may also be deduced that 'hired hand' was later than 'Ubāda from its endorsing of the dual penalty for the virgin offender introduced in 'Ubāda.

The 'hired hand' report being later, leads to the conclusion that, in respect of the non-virgin, the flogging element of 'Ubāda's dual penalty had been abrogated.⁴⁹ The Sunna abrogated the Sunna. The penalty for non-virgins was stoning alone and that has remained the penalty of the Islamic Fiqh ever since.

Thus Ṣāfi'ī took the view that the source of the stoning penalty had been the Sunna of the Prophet. Other scholars fall into several classes.⁵⁰ We know of those who, finding no reference to the stoning penalty in the Qur'ān, simply rejected it. They insisted on acknowledging only the Qur'ān's flogging penalty.⁵¹

Others concluded that the fukahā' had based the Fiqh in this instance on the Sunna. These uṣūlīs were then driven by simple logic to conclude that the Sunna had superseded the Qur'ān and adduced this example.

Those who denied that the Sunna had ever superseded the Qur'ān had no way to go but to argue that the source of the Fiqh's stoning penalty must have been the Qur'ān. They acknowledge that there is no reference in the texts of the mushaf to a stoning penalty but insist that it must at one time have been mentioned in the Qur'ān. The Fiqh's stoning penalty indicates the Qur'ān's stoning verse. The wording had simply been omitted from the collected texts.

Ṣāfi'ī, obliged to accept the stoning penalty on

account of its presence in the Fiqh, yet denying a priori that the Sunna had ever superseded the Qur'ān, had endeavoured to argue that the stoning penalty had derived from the Sunna, not indeed as abrogating the Qur'ān, but as providing its ideal exegesis. This view breaks down on our observing that stoning is not the exegesis of flogging. Stoning represents in the 'Ubāda ḥadīth a blatant attempt to add to the Qur'ān ruling, and in the 'hired hand' ḥadīth, the frank substitution of a different ruling. The Qur'ān's corporal penalty was replaced by the Fiqh's capital penalty.

We investigated the circumstances that had prevented Ṣāfi'ī in his day from ever conceding that the Sunna had ever superseded the Qur'ān's rulings. His forensic skill was largely instrumental in rescuing the Sunna, and hence the Fiqh, from the propaganda of the Qur'ān party. As the threat to the Sunna receded, scholars in the post-Ṣāfi'ī period felt free to revert to the pre-Ṣāfi'ī position, that stoning had indeed represented an attested instance of the abrogation of the Qur'ān at the hands of the Sunna of the Prophet.

Only the members of the madhab set up in memory of Ṣāfi'ī continued to withstand the uṣūlīs' concession. Some of them had been deeply influenced by the compelling logic deployed by the imām in his several reviews of the origin and source of the stoning penalty. When they themselves came to tackle the problem, unable to accept that here was an undeniable instance of the abrogation of the Qur'ān by the Sunna - since it had been drummed into them that that had never happened, they concluded that it could only be an

instance of the abrogation of the Qur'ān by the Qur'ān.

They reached a conclusion at variance with that achieved by Ṣāfi'ī himself who had been at pains to adopt a different approach. But we have noted that in his repeated investigations into the matter he had used uncharacteristically equivocal language: 'Ubāda he described as the first revelation since Q 4; stoning he described as remaining the sole penalty for the non-virgin when the flogging penalty had been abrogated. To be consistent, his admirers were forced to the conclusion that the stoning penalty had been the subject of a revelation. For some of them, this meant that it had been a Qur'ān revelation; for Ṣāfi'ī it meant a Sunna revelation.

That stoning had been a Qur'ān revelation was a conclusion that, for some, relieved the anxiety of their realisation that to abrogate the nāsikh must, in the jargon, be superior to the mansūkh, or at least its equal. This was a requirement derived by tendentious uṣūlī comments upon Q 2.106: na'ti bi khairin min hā aw mithli hā.

It incidentally placed their argument beyond the protests of those who pressed for the exclusive acknowledgment of the penalty that is mentioned in the Qur'ān texts.

The protests of those among the Khawārij and the Mu'tazila who would have none of the Fiqh's stoning penalty, on the ground that it nowhere appears in our texts of the Qur'ān, were now swept aside by the bald assertion that stoning had indeed been revealed as part of the Qur'ān. The stoning verse had merely been omitted from the collected texts of the revelation as preserved in the mushaf.

Although this departs from the conclusion reached by Šāfi'ī, he too had arrived at the third mode of naskh, naskh al tilāwa dūna al ḥukm, in the course of his discussion of the ridā', or the Fiqh governing the fosterage of adults.

It was, therefore, solely on this topic of ridā' that Šāfi'ī, although he does not use the terminology, had isolated naskh al tilāwa dūna al ḥukm. Indeed, he may even be said to have invented this third mode of naskh. On the question of stoning, he knew the wording of the so-called stoning verse. This he had learned from Mālik who used it in his K. al Hudūd, where it is to be found cheek by jowl with a reference to the Torah, and other materials suggesting that the source of the Islamic stoning penalty had been the Sunna. Mālik made no attempt to resolve his materials, and Šāfi'ī, as we have seen, does not emphasise the stoning verse ḥadīth, nor rely on it in his analysis.

Scholars long continued to raise arguments against the third mode of naskh and we have stated that it was never universally acknowledged.

Šāfi'ī adopted and defended the five sucklings' rule on the basis of the 'Ā'īša ḥadīth. Mekki (A.H. 437) knows a version of the ḥadīth related by Yaḥyā b. Sa'īd of Medina which does not contain the words, 'The Prophet died and they were still being recited as part of the Qur'ān.' The scholars and the uṣūlīs consider this version sound, since there can be no naskh after the death of the Prophet. It is not possible that there should be a part of the Qur'ān which the Muslims agreed to drop after the Prophet's death.⁵²

Like many another ḥadīth document, the 'Ā'īša report,

seeking to explain the loss of certain verses by asserting that the sheet on which they had been recorded had been gobbled up by a domestic animal, is a composite document representing the conflation of two originally separate and independent stories.

ibn Qutaiba (A.H. 276), patiently answering the objections of the Mu'tazila to ḥadīths which bring both Islam and learning into disrepute, addresses himself to the comparison between that ḥadīth as reported by Muḥammad b. Ishāq and the 'sunder' version from Mālik.⁵³

In the opinion of the Ḥadīth specialists, Mālik was by far the more reliable transmitter. He reported from 'Abdullāh b. abī Bakr from 'Amra from 'Ā'īša that she said,

Among what had been revealed in the Qur'ān was the provision that ten attested sucklings set a bar to marriage. The ten were subsequently replaced by the rule that five attested sucklings set up the bar. The Prophet died and the five were still being recited as part of the Qur'ān.

Among the fugahā' who adapted their Fiqh to this report were Šāfi'ī and Ishāq (b. Rāhawaih), both of whom made five the minimum line of demarcation between what does and what does not establish a bar to marriage.

The wording of Mālik's version clearly differs from that of ibn Ishāq's who mentioned both the 'suckling verse' and the 'stoning verse' in a single ḥadīth. Mālik's is the preferable version of the two.

ibn Qutaiba is inclined to an equal scepticism about the mention in the ibn Ishāq report of the stoning verse and the supposed method of its withdrawal.

The attacks of such scholars on reports of this kind are directed, however, not at the central information conveyed in the reports, but at the peripheral details. What dismayed them was the low quality of rationalisation displayed in the reports which tended to bring the essential central information itself into disrepute in some quarters.

ibn Qutaiba resorts to logic. It is quite feasible that a ruling be revealed in the Qur'ān, yet the wording subsequently be annulled, leaving the ruling alone valid. 'Umar reported this to have been the case in the instance of the stoning verse, and others have reported the like in connection with other revelations that had been part of the Qur'ān before the texts were brought together. If it is possible to abandon the ruling yet retain the wording in the muṣḥaf, it is equally possible to abandon the wording, yet retain the ruling in the Fiqh.

Similar is the tone of Zarkaṣī (A.H. 794) who reports that al Wāḥidī had given as an example of the abrogation of something whose wording was still in the muṣḥaf by something whose wording had not been endorsed for inclusion in the muṣḥaf, the abrogation of flogging by stoning, in the case of the non-virgin. Stoning is not publicly recited today, although it had been in the days of the Prophet. The ruling has remained valid, but the wording has not. Similarly, certain wordings have been endorsed as part of the muṣḥaf, whose rulings have ceased to be valid. If there can be a Qur'ān revelation which is recited, but not practised, there can be a Qur'ān regulation which is practised but not recited.⁵⁴

The feature of the five sucklings report which least commended itself to the scholars was the claim that that verse was still being recited after the death of the Prophet. This detail conflicted head-on with another rule in the science of naskh: that abrogation occurs only at the hands of him who was responsible for the original ruling. Mekkī states it as follows: lā yajūz an yakūn al naskh illā qabla wafāt al nabī.⁵⁵ Sarakhsī (A.H. 490) states: inna al naskh lā yakūn illā 'alā lisān man yunazzal 'alaihi al waḥyu.⁵⁶

Expressed in this fashion, the rule was always liable to misinterpretation owing to the mischance that the Qur'ān's term naskh had to do service for both withdrawal and replacement. Clearly, only replacement is intended by the rule, but in the interest of the rule as here expressed, Suyūṭī intervened to suggest one of two interpretations of 'Ā'īṣa's report:

1. the Prophet's death approached and these words were still being recited as part of the revelation;
2. the Prophet died and it was some time before all the people came to hear of the abrogation of the verse.⁵⁷

The confusion occasioned by the dual interpretation of the Qur'ānic term naskh at the hands of the uṣūlīs is clearly demonstrated in a statement by Zarkaṣī:

The naskh [sic] of the wording and recital occurred by means of God's causing them to forget it. He withdrew it from their memories, while commanding them to neglect its public recital and its recording in the muṣḥaf. With the passage of time, it would quite disappear like the rest of God's revealed Books which He mentions in the Qur'ān, but nothing of which is known today. This can have happened either

during the Prophet's life so that, when he died, the forgotten material was no longer being recited as part of the Qur'ān; or it might have happened after the death of the Prophet. It would still be extant in writing, but God would cause them to forget it. He would then remove it from their memories. But, of course, the naskh of any part of the revelation after the death of the Prophet is not possible.⁵⁸

After Muḥammad's death the omission of a Qur'ān wording is conceivable; the alteration of a Qur'ān ruling is inconceivable.

Sarakhsī is prepared to concede that parts of the Qur'ān may have eluded the recording procedures during the Prophet's life, on account of the Qur'ān verses: mā nansakh min āya aw nunsī hā; 'If We wished, We could make away with what We have revealed to you'; 'We shall teach you to recite it and you will not forget - except what God wills.'

He will, however, have none of the suggestion that this is conceivable after the Prophet's death. The possibility, he claims, is not admitted by the Muslims.⁵⁹ The reports, allegedly from Abū Bakr, Anas, Ubayy and others, indicating the loss or the forgetting of this or that āya which 'they used to recite in the lifetime of the Prophet', he regards as circulated by the enemies of Islam bent upon its destruction.

Among such 'lies' he includes 'Umar's report to the effect that the stoning verse had once been part of the Qur'ān, and he cannot explain how such a great scholar as Ṣāfi'ī should be represented by a similar view on the question of the suckling 'verses' as that alleged in the 'Ā'īṣa report, which, incidentally, he words: 'and that

was part of what was recited in the Qur'ān following the death of the Prophet'.

What guarantees for him the 'unsoundness' of the report is Q 15.9, 'We it is Who have revealed the Reminder, and We shall preserve it.' God clearly is not speaking of preserving it for His own benefit, since He is above and beyond all benefit. God cannot forget, nor grow heedless. It must therefore mean that He will preserve the Qur'ān for us men. We are all capable of forgetting revelation if God does not preserve it for us. Were we to insist upon a breach of that guarantee in respect of part of what was revealed, we might as well admit breach of the guarantee in respect of all of the Qur'ān. We could thus have no assurance that part of what is in our hands today, if not all of it, is not at variance with the Ṣarī'a mediated by Muḥammad. But that would be the case if, by abrogating part of it after Muḥammad's death, God had caused men to adopt something different.

'Adopting something different' and 'forgetting' exhibit the ever-present confusion between the dual semantics imposed by the Muslims upon the term naskh.

It is Sarakhsī's view that Q 15.9 makes it certain that nothing can have been abrogated from the Qur'ān after Muḥammad's death, in the sense of fading away from men's memories. Reports to the effect that such had happened are mostly isolate. The story that stoning had once been part of the Book of God are to be interpreted: part of the verdict of God, in accordance with His Law. The story from 'Ā'īṣa is certainly not correct, for the destruction of her

ṣaḥīfa would neither cause the alleged verse to depart from the memories of all the Companions, nor prevent them from writing out the verse on a fresh ṣaḥīfa.

The author of the Mabānī considers both 'Umar's and 'Ā'īṣa's reports. Of the latter, he knows the form: kāna fī mā yuqra' min al qur'ān but makes a particular point of stressing that she did not say: kāna min al Qur'ān.⁶⁰ This enables him to argue that the root q r ' may be used of the Sunna.⁶¹ The word Qur'ān he notes has two aspects in Arabic usage:

1. as the proper name of the book revealed to Muḥammad;
2. as the verbal noun of the root q r '.

'Ā'īṣa had used it in the latter sense.⁶²

Nahḥās, in his work on naskh, mentioned but rejected a mode of naskh in which

a verse is revealed and recited, then abrogated and no longer recited, nor recorded in the muṣḥaf, although the ruling allegedly continued valid. Those who numbered this mode in their theory, adduced the 'Umar ḥadīth: 'We recited, al ṣaikh wa al ṣaikhā idā zanayā farjamūhumā al battata bi mā qaḍayā min al laḍḍa.' The isnād is sound, but the wording is not to be regarded as Qur'ān handed down 'from the many to the many'. It is a sunna. One may say, 'I recited [q r '] x y or z' without meaning to imply that what one recited was necessarily once part of the Qur'ān.⁶³

Similarly, the author of the Mabānī, in his comment on 'Umar's ḥadīth, argues that the reports are isolate and cannot be set against that which is mutawātir. Rather a means ought to be established of reconciling isolate reports in order to make use of what information they convey. They might, for

example, tell us that that was a sunna statement which they used to relate from the Prophet. The root q r ' may be used of the Sunna.⁶⁴

'Umar is supposed to have been afraid of being accused of adding to the Book of God. One would not employ the term 'adding' when speaking of what is recognised as authentically Qur'ānic. Stoning was, in 'Umar's view, an attested sunna, and hence an essential Islamic ruling, and an integral element in the Muhammadan revelation and Law. 'Umar sought to exhort the Muslims to preserve it, to recite it and study it lest it be neglected. This is confirmed by his decision to summon a group of the Muhājirs and the Anṣār and inscribe their testimony on the margin of the muṣḥaf: 'The testimony of 'Umar and of NN that the Messenger of God stoned adulterers.'

'Umar feared that there would come after him some who, aware that it is not to be found in the Qur'ān, would repudiate stoning. But, had it been Qur'ān, 'Umar would have recorded it, without heed to what might be said, since he would have no excuse therein for leaving it out. Besides, if it really were Qur'ān, the people would not say that it wasn't. What 'Umar feared was to record in the Qur'ān something that was not Qur'ān. He would then be justly accused of adding to the Qur'ān. His aim was to establish, not that stoning was Qur'ān, but that it was a divine imposition. That is shown by his speaking of entering it in the margin, as opposed to in the corpus of the text.

It was 'Umar who urged Abū Bakr to assemble the texts of the Qur'ān in order to preserve them. How, then, should

there have been omitted on that occasion just the thing that 'Umar is supposed to have regarded as part of the Qur'ān? Presumably 'Umar would not include something that Abū Bakr did not recognise as part of the Qur'ān. The other Companions who had collected the Qur'ān in the lifetime of the Prophet would surely have included the stoning verse in their personal codices, if they knew it. Had 'Umar had any doubt, he needed only to have consulted them. If they did not know it, they would not enter it. It is absurd that Abū Bakr appears to have omitted the very verse that 'Umar felt inclined to record.

Concluding that stoning had been a sunna, the author of the Mabānī finds excuse for the early Muslims who had spoken of it as a revelation, by reminding us that there are elements of the Sunna which were revealed.⁶⁵ They were not necessarily revealed as Qur'ān which must be recorded and which might be recited at prayer. Gabriel instructed Muḥammad in certain matters which, in that sense, were revelations. The Prophet would observe them, without recording them in the texts of the Qur'ān. Such rulings are attested as coming from God, but their wording was not recorded, since the mode of their revelation was not that of the revelation of the Qur'ān, now recited at prayer. That there was such a mode of revelation is indicated by the Prophet's words, 'I have been given the Qur'ān and along with it, its like [mithl].' That is a reference to the Sunna.

In the 'hired hand' ḥadīth, the Prophet said, 'I shall judge in accordance with the Book of God.' He thereupon inflicted the stoning penalty, of which there is no

mention in the Book of God. He must have meant, therefore, by the expression the Book of God, the ḥukm, the verdict of God, revealed in the manner stated.

The Companions did not record the stoning verse despite the statement attributed to 'Umar, and despite their certainty that the Prophet had stoned, and that stoning is one of God's injunctions upon the Muslims.

'Umar did not record it in spite of his certainty that it was an āya revealed by God, and in spite of his being Head of State and Church. 'Umar knew perfectly well that it was not Qur'ān.

ibn Qutaiba had been familiar with the ḥadīth, 'I have been given the Qur'ān, and with it its like',⁶⁶ an undoubted calque on Q 2.106. He explained it as a reference to the Sunna which Gabriel brought to Muḥammad, as he brought him the Qur'ān. Thus, for ibn Qutaiba, as latterly also it had been for Ṣāfi'ī, the Sunna was part of revelation.

Ṣāfi'ī, in an exegetical dispute, had similarly asserted that the root t l w (cf. tilāwa) might be used equally of the Qur'ān and the Sunna.⁶⁷

Like the anonymous author of the Mabānī, Zarkaṣī, after agonising long over the 'Umar ḥadīth, at length concluded that this was an instance of the isolate report on the basis of which the text of the Qur'ān could not be established, although the relevant ruling might be ascertained.⁶⁸

ibn Zūfar in the Yanbū' considered that this case ought not to be included in the list of āyas withdrawn in

respect of their wording alone. It was the subject of khavar al wāhid which gives no basis for statements as to the text of the Qur'ān. In an undisguised reference to the parallel quarrels as to the wording of Q 2.106, and its interpretation, he argues that, in any event, stoning is not an instance of naskh. It is an example of raf' or of nasā' - deliberate omission from the mushaf. The rulings of verses of this kind can be known from sources other than the original texts.⁶⁹

Suyūṭī rejects Zarkaṣī's convenient solution. Stoning cannot be considered from the angle of khavar al wāhid. 'Umar had received his Qur'ān text direct from the Prophet. His own solution is merely apologetic: the reason for the withdrawal of this wording is the divine solicitude for the welfare of the Muslims. Non-recording of the verse means non-dissemination of the ruling. Where committed, the offence is best left undisclosed (a detail which has some measure of support in a source as distant in time as Mālik, K. al Hudūd).

Zurqānī improves even on Suyūṭī's banality by adding that the Qur'ān, the Word of God, is inimitable in, among other respects, its brevity - hence the omission of this verse!⁷⁰ Besides, he argues, such things are unseemly, not merely to perform, but even to mention in so holy a book.⁷¹

5 The muṣḥaf: an incomplete record of the Qur'ān

It seems perfectly clear that in all this material - the formation of ḥadīth reports; the recognition of the inadequacy of the wording of this or that ḥadīth and the consequent improvement of the text; the commentary and criticism leading to 'interpretation' of the reports; appeal to the exegesis of this or that helpful Qur'ān verse - we are dealing with the attempt to provide the documentation of one of two allegations stemming from the ongoing theoretical discussion between two sets of uṣūlīs.

One group insisted, for methodological reasons, that the stoning or the suckling regulations had originally been revealed as part of the Qur'ān. The other group, appreciating that in this view lay serious hidden theoretical dangers for the creative role of the Sunna, argued that the stoning penalty had been introduced by the Prophet as an element in his Sunna.

Both groups are agreed on the common legal doctrine that stoning is indeed the Islamic penalty, and from the attempts of the uṣūlīs to document the unanimity of the fuqahā' there naturally developed the secondary dispute as to whether the Sunna might or might not supersede the Qur'ān.

Ṣaḥīḥī had not invented the stoning penalty. It was in circulation before his day, as was also the stoning verse,

in response to the challenge of those who rejected the Fiqh penalty on account of their inability to find any reference to it in the Qur'ān texts. Šāfi'ī, on the other hand, had espoused the 'Ā'iṣa reports on the suckling verses and his argument clearly leads directly to naskh al tilāwa dūna al hukm.

Ṭabarī, the exegete, embraced and defended the view that there were omissions from the muṣḥaf which must therefore be distinct from the Qur'ān. By the latter, he would understand all that had ever been revealed to Muḥammad. By muṣḥaf, he would understand all of the Qur'ān which had been preserved in writing and passed down to posterity by the first generation of Muslims, the Companions. Ṭabarī had reached this position solely on the basis of exegetical ḥadīths originally constructed to document one point of view as to the meaning of Q 87, and still in circulation in his day. Ṭabarī, the uṣūlī, found the source of the Islamic Law's stoning penalty in the Sunna. He therefore never had need of a principle of naskh al tilāwa dūna al hukm. As far as he was concerned, the Sunna in this instance undoubtedly had superseded the ruling of the Qur'ān.

Only those uṣūlīs who could never concede that the Sunna had abrogated the Qur'ān were responsible for the addition to the theory of this third mode of naskh.

The wording al ṣaikh wa al ṣaikha has been withdrawn, but the ruling is still valid in Law. On this question, certain scholars advanced the view that the Qur'ān may be abrogated by the Sunna. They allege that Q 4.15 was abrogated by the 'Ubāda ḥadīth. This view is utterly unacceptable since even those

who countenance the repeal of a Qur'ān ruling at the hands of the Sunna admit this only in the case of the mutawātir or maṣhūr ḥadīth. Isolate reports may never in any circumstances supersede the Book. Further, all scholars are agreed that the wording of the Book could never be superseded, whatever the 'spread' of the report. Our opinion is that neither the ruling nor the wording of the Qur'ān can in any circumstances be superseded by the ḥadīth reports of the Sunna. Q 4 can be regarded as having been abrogated solely by the stoning verse.¹

The Qur'ān, we are reminded by another scholar was established by the consensus. It is thus very different from that which is liable to provoke argument. The texts of the Qur'ān are securely recorded in the muṣḥaf, they are repeated on the tongues and preserved in the breasts of men. The Almighty has testified to its rulings, has promised to preserve it and has rendered His Prophet immune from errors, slips of the tongue or forgetfulness in respect of His revelations which He had taught him to recite.

The Sunna, on the contrary, has not come down from the whole body of the Muslims. It is transmitted by a mere one or two. The total number of the transmitters does not match that of the Qur'ān. How then could the Sunna replace the Qur'ān, when they are far from equal in terms of inimitability, textual preservation and transmission? Differences have afflicted the interpretation of the Sunna, somewhat reducing its probative force. The utmost that can be claimed on its behalf is that the Sunna serves to elucidate the Qur'ān, never to abrogate it.

Consider the case of Q 4.15. The text is mutawātir. It conveys the command to detain women in their quarters until

death release them or God appoint a way. The Prophet said, 'Take it from me! God has now appointed the way', and he explained what that way was. It was the flogging penalty revealed in Q 24.2.²

The Sunna - the Prophet's stoning the adulterer - has not been established by tawātur, but only by isolate reports. The most one might say is that the community unanimously accepts stoning and since ijmā' cannot abrogate a source (it merely serves to indicate the existence of a mutawātir source that did abrogate), to identify that source as having been a mutawātir sunna which, however, has not reached us, is no more satisfactory than to attribute the naskh in question to a mutawātir verse which also has failed to reach us owing to the withdrawal of the wording.³

Statements of this kind identify the methodological theories as the birthplace of the stoning verse.

It cannot be argued, merely because 'Umar said in his ḥadīth, 'But that I fear that men will accuse me of adding to the Qur'ān something that does not belong to it I would have recorded al ṣaikh wa al ṣaikhā', or that, if recorded, it would have been written on the margin of the muṣḥaf, that that indicates that it was not really part of the Qur'ān. For we hold that it could have been a verse whose wording alone was withdrawn. Nor can it be held that āyat al ṣaikh wa al ṣaikhā was never established by tawātur but depended solely upon 'Umar's word; that the abrogation of the mutawātir [Q 24.2] by the isolate is never admitted by the scholars; and that, since stoning is documented solely in isolate reports, one is inevitably forced to the conclusion that stoning is derived from the consensus of the scholars. But the ijmā' cannot serve in its own right to abrogate a source - it merely indicates the

fact of abrogation, and thus signals their awareness of the existence of a mutawātir source that did the abrogating. Thus, to postulate on this topic the existence at one time of a mutawātir sunna, which has not however reached us, is in no way preferable to postulating the existence at one time of a Qur'ān verse which has not reached us, owing to the withdrawal of the wording.⁴

The significant feature of the discussions is the central fact of the consensus among the fugahā' that, in given circumstances, the Islamic penalty is in fact death by stoning. All that the discussions make clear is that what the Muslim who inherited the Fiqh rulings and then set out to review them in the light of the assumptions of uṣūl al fiqh sought to discover was, which of the two primary sources, conceived as underlying the Fiqh, had provided the document which led to the ruling and best served to verify it.

ibn al Jawzī reports: 'The scholars are divided on the question of the documentation of the stoning penalty. One party argues that it was derived from a Qur'ān revelation whose wording alone, however, was withdrawn. The second party sees the source as having been the Sunna.'⁵

Only the first of the two groups interests us. It is surely undeniable, in the light of all that has been set out up to this point, that given that a sizeable number of the Muslim scholars - and those not among the least influential thinkers in the history of the development of the Islamic sciences - maintained that the Qur'ān had originally been of greater extent than is to be found in the texts as they have come down to us, the effect of such ideas upon the Muslim version of the history of the Qur'ān texts, and especially upon the

history of their first collection, must be traceable in the collection ḥadīths as these begin to appear, and in their turn evolve in the light of the findings of uṣūl al fiqh.

The Muslims would naturally adopt that version of the history of the Qur'ān, and especially of its first collection, which was in conformity with their outlook. It was immaterial whether their theoretical views had derived from the implications of the Fiqh, or from the implications of exegetical ḥadīths relevant to the interpretation of certain Qur'ān verses.

Unlike Ṣāfi'ī, Ṭabarī was one of those scholars who accepted with equanimity the uṣūl proposition that the Sunna had superseded the Qur'ān. Ṭabarī had no theoretical need of any principle of naskh al tilāwa dūna al ḥukm - of a principle that is, that the mushaf did not coincide with the Qur'ān. Ṭabarī found the source and the justification of the stoning penalty in the Sunna.⁶ He did not require to posit the existence at one time of a stoning verse, present no longer in the mushaf. But neither could he ignore the presence in the Tradition of ḥadīths reporting the absence of this or that āya of the Qur'ān from the texts which had been put together by the Companions. The verses had been forgotten either by the Prophet or by his Companions before the texts had been first assembled.

We have seen that such stories can be accounted for in terms of the exegesis of verses such as Q 87. But in the age of taqlīd, ḥadīths of sound isnād must be accepted. To that extent, therefore, Ṭabarī was obliged to suppose that Qur'ān and mushaf were two distinct and separate entities.

Thus, scholars who for systematic reasons were driven to presume the presence in the Qur'ān at one time of certain legal rulings which are not referred to in the Qur'ān, were joined by scholars such as Ṭabarī who had no theoretical need to seek refuge in such an assumption. Both classes of scholar subscribed in common to the view that our present texts of the Qur'ān, that is, the mushaf, must be incomplete.

The general view that the texts of the mushaf are incomplete leads quite naturally to the exclusion of the Prophet from the history of their collection, but only as long as the Muslims are discussing the history of the Qur'ān document.

The Qur'ān, however, as we have already noted, was much more to the Muslims than merely a document. For them, the Qur'ān was both document and source. As document, it was referred to as the mushaf. As source, it was known as kitāb allāh, the Book of God. Obviously the Muslims had to associate their Prophet with the Book of God, since only through him and by him was the Book of God knowable. The fact of the revelation to the Prophet is the sole sanction of kitāb allāh as source, both for those elements in which it happens to agree with the mushaf, but even more particularly for those which kitāb allāh guarantees, despite their absence from the mushaf. Instances met with were the stoning verse and the sucklings verse.

In brief, the term kitāb allāh represents a convenient concept of both a theoretical and an ideal pseudo-historical exegetically derived nature. The term mushaf, by contrast, refers to a physical object.

The verbal distinction between mushaf and kitāb was not always strictly observed and great care has to be exercised if one is to determine what, in any given context, is actually being discussed.

The Muslim argument on the collection of the Qur'ān texts is the reverse of the European. Since we 'know', but only by accepting at face value Muslim assertions to this effect, that the Qur'ān was not first collected until after the Prophet's death, we have on that account supposed that the likelihood is that it will be incomplete.⁷ The Muslims, 'knowing' that it is incomplete, have on that account argued that it could not have been collected until after the Prophet's death.

Verses which remained valid for the Fiqh up to the moment of the Prophet's death, and were recognised as continuing valid after the Prophet's death, would not, one might suppose, have been omitted from the mushaf if the texts of the revelation had been assembled, checked, edited and promulgated by the Prophet himself.

Unfortunately, as will also shortly be seen, the Muslims required simultaneously to hold certain other views touching the Qur'ān incompatible with this particular conclusion. One might instance their doctrine of the Qur'ān's tawātur alongside their acceptance and recognition of so-called Companion variant readings. The total evidence they have adduced in this sphere, and in that in confirmation of the sum of their attitudes, has led to confusion and serious contradiction within the Muslim accounts of the history of the collection of the texts of the Qur'ān. These

confusions and contradictions will be of considerable assistance as we review and analyse their accounts.