

CHAPTER ONE

*“The Scholars Are  
Heirs of the Prophets”*

*Why doesn't a company from every party among them (the believers)  
go forth that they may apply themselves to obtain an understanding  
of religion so that they may warn their people upon their return so  
that they may be cautious? (Qur'an 9:122)*

SINCE TIME IMMEMORIAL, diverse groups have wielded authority in the name of religion. These groups have espoused primitive or archaic religions and even founded religions.<sup>1</sup> The manifestation of religious authority in societies has taken different forms, ranging from traditional, scriptural, and charismatic to ecclesiastic and imperial forms.

In this chapter, I propose to examine the role of authority in shaping and molding leadership and other related institutional structures in the classical period of Islam. Initially, I will discuss the type of authority dominant in pre-Islamic Arabia and examine how Muhammad's prophetic movement impinged on the prevalent structures. The chapter will also focus on the nature, vicissitudes, and transformations that the Prophet's charismatic movement had on the established social institutions and the different modes of authority that emerged after his death. More specifically, I will focus on the struggle for authority that ensued between various groups that claimed to be the heirs of the Prophet in the post-Muhammadan era.

I intend to discuss the notion of religious authority and its role in shaping leadership within the Muslim community within the framework of the model constructed by Max Weber (1862–1920) on charismatic authority. In his exposition of the types of authoritative domination, Weber conceptualized a tripartite

typology of the modes of authority: rational-legal, traditional, and charismatic. In the rational-legal case, authority rests in the legality of patterns of normative rules. Obedience is, in this case, owed to those exercising the authority of office by virtue of the formal legality of their commands and within the scope of authority of the office. Their authority is derived from their holding official positions whose power is based on and circumscribed by the law. It was this form of authority that was most prevalent in the time of Weber. He says, "The most common form of legitimacy is the belief in legality, i.e., the compliance with enactments which are formally correct and which have been imposed by an accustomed procedure."<sup>2</sup>

The second form of authority that Weber postulated was the authority of tradition. This mode of authority rests on beliefs in the legitimacy of standardized and sanctified practices from time immemorial. Authority is predicated on the sanctity of ancient traditions and is bound to precedents and norms transmitted from erstwhile figures. Traditional authority further stipulates that obedience be given to those persons who occupy the traditionally sanctioned position of authority and whose roles and functions are defined by traditional norms.<sup>3</sup> Opposition to those exercising leadership within the community is construed as a challenge to the authority of transmitted traditions and even to a "sacred past."

Unlike the rational-legal mode of authority, the obligation to obedience here is not based on the impersonal order, but is a matter of personal loyalty within the area of accustomed obligations. For Weber, the sacredness of traditions is the oldest and most universally held form of authority.<sup>4</sup> As I discuss below, it was this mode of authority (allegiance to tribes and clans based on traditional authority) that was widely prevalent in pre-Islamic Arabia. The authority of normative traditions was exemplified by the Meccan aristocracy that claimed authority based on descent from illustrious ancestors and their normative praxis.

The third mode of authority that Weber postulated is what he called authority based on personal charisma. The etymology of the word "charisma" lies in the name of the Greek goddess Charis, who personified grace, beauty, purity, and altruism.<sup>5</sup> Weber defines charisma (gift of grace) as "A certain quality of an individual personality by virtue of which he is set apart from ordinary men and treated as endowed with supernatural, superhuman, or at least specifically exceptional qualities."<sup>6</sup> According to Weber, these qualities are often regarded as originating from the divine. It is primarily this form of authority with which I will be concerned in this book.

In contrast to the two types of authority previously described, charismatic authority originates from outside of rather than within prevailing institutional

structures. This genre of authority can be appropriately termed anti-institutional in that it frequently inverts social norms, normative traditions, and traditional forms of authority. Charismatic leaders create social revolutions as they challenge and transform traditional and rational norms, overturning all notions of sanctity.<sup>7</sup> It is due to this factor that charisma becomes a creative and revolutionary social force in society, and an antithesis of routine.<sup>8</sup>

For Weber, charismatic leaders radiate the divine force of charisma. They and their followers genuinely believe that the leaders embody specific supernatural gifts of body and mind, which are considered intrinsic to the personality of the leaders. The charismatic figure commands respect because he has an innate gift of grace that is opposed to all institutional routines. Central to the charismatic traits of the leader is what his followers perceive to be the divine sanctification of the mission. Thus, the main source of a charismatic leader's authority is metaphysical.<sup>9</sup> Because of the leader's purported connection with the divine, charisma is a quality that is frequently, though not always, associated with holiness, heroism, or an acute sense of mission or calling.

A corollary to the metaphysical dimension of charismatic authority is the belief that charismatic leaders are bearers of special extraordinary gifts and feats that make them outstanding. Thus, submission to charismatic authority also rests on the devotion to a leader's exceptional and uniquely personal qualities that distinguish him from his peers. Intense emotional arousal and great pathos accompany the call by the charismatic prophet demanding, in the process, complete obedience.<sup>10</sup> The conflation of these features makes the call of the charismatic leader often irresistible and compelling.

In contrast to legal and traditional modes of authority, Weber maintains that pure charismatic authority is transient, available only during the lifetime of the charismatic leader. The death of the charismatic leader deprives the nascent movement of its pristine source of authority. The charisma of the leader is then depersonalized, transformed into a charisma of office or is inherited in the form of what Weber aptly called hereditary charisma. I will discuss these features later on in this chapter.

### *The Authority of the Prophet of Islam*

Weber further distinguished between two types of prophets: the shaman and the ethical prophet. Whereas the former type uses ecstasy as a tool of salvation and self-deification, the ethical prophet is believed to have a divine ethical mission and a systematic remodeling of life along the lines of the great

biblical prophets.<sup>11</sup> In trying to locate an Islamic equivalent of Weber's tripartite division of authority, it is correct to state that Muhammad's mission bears the hallmarks of Weber's characterization of charismatic authority (anti-institutional, a challenge to and final overthrow of existing social structures and norms, intrinsic personal traits and gifts that attracted the masses, belief in the divinely appointed mission). Muhammad further exemplified Weber's description of the ethical prophet insofar as he fashioned the moral community of the righteous by outlining principles for ethical behavior and promises for redemption to the faithful. The Prophet's call to moral uprightness was thus conjoined to the establishment of a just social order.

The Muslim community (*umma*) that Muhammad established in Medina was structured in accord with his personal charisma. He replaced tribal affiliations with allegiance to the *umma* based on submission to one God and acceptance of his prophethood. The authority that Muhammad was claiming was comprehensive in that his charismatic appeal was linked to his spiritual, military, and political power, thereby enhancing his already considerable religious authority. Thus, the all-embracing authority of Muhammad meant that to be a Muslim necessitated acceptance of his religious, moral, legal, and political authority. Muhammad's claim to prophethood based on divine designation and a fusion of different forms of authority was a close approximation to the Judaic tradition of this archetype. Hence, although the claim to charismatic authority based on divine appointment was new in Mecca and the surrounding areas, antecedents of claims to charismatic authority could be traced to the times of earlier biblical prophets.

In its investiture of authority to Muhammad, the Qur'an replaced traditional tribal authority with a new ethical-moral structure that negated the old normative order. Acceptance of the message of Muhammad also entailed the abandonment of many pre-Islamic ancestral heroes, customs, and practices. In deconstructing an old social order, Muhammad constructed a new one.<sup>12</sup> The juxtaposition of Muhammad's charismatic authority and traditional Arab aristocracy inevitably led to a confrontation and struggle that culminated in the triumph of Muhammad's charismatic authority.

The Qur'an further presented a challenge to the nascent Muslim community to establish a just social order under the charismatic authority of the Prophet Muhammad. Moreover, it supported Muhammad in his claim to exclusive charismatic authority. It maintained that this mode of authority could be traced to erstwhile prophets and that the charisma of the previous prophets had been transmitted to their offspring, the succeeding prophets.<sup>13</sup> The question that needs to be answered here is: what happens to the charisma when the founder of charismatic domination passes away and there is no acknowledged charismatic successor?

*Post-Muhammadan Authority: The Routinization of Charisma*

Weber extended his concept of pure charisma into a continuum that culminated in the routinization of charisma. This is the return to a more mundane form of existence when pure charisma wanes. The most important factor in the dispersion and eventual disappearance of pure charisma is the death of the charismatic leader, for it is this feature that leads to his charisma being transformed to the office of charisma. In the process of being routinized, the disciples transfer the charismatic aura of the leader to traditional institutions and ideologies that carry out the functions that were previously undertaken by the charismatic leader. This transition is an essential component of the routinization process. Once it is routinized, charisma has few traces of the revolutionary powers of the pure charisma of the leader.

Routinization of charisma is necessary, according to Weber, due to the intrinsically transient nature of charisma. In the process of the depersonalization of charisma, charismatic authority becomes institutionalized so that charisma becomes a mere component (sometimes a very insignificant constituent) of a new social structure that emerges after the death of the charismatic leader. Eventually charisma either recedes or is obliterated and is displaced by institutional structures and traditions that replace the belief in the heroic qualities of charismatic figures. Routinization of charisma is in stark contrast to life under the charismatic leader because routinization signifies the transition from the extraordinary to the ordinary, from the revolutionary charismatic domination to a more structured charisma of office.

An important feature of the period after the death of the charismatic leader is the paucity of charismatic figures to succeed him. In the absence of a universally acknowledged charismatic successor, routinization of Muhammad's authority was the only recourse the Muslim community had. After him, no one could command allegiance or embody the different forms of authority the way that Muhammad had done. Certainly Abu Bakr (d. 634), the first of the rightly guided caliphs, lacked the charismatic appeal and qualities of Muhammad. The standard Sunni perspective of post-Muhammadan authority is that the routinization (hence institutionalization) of prophetic charisma that characterized the early Muslim community was a natural corollary to the death of Muhammad.

In his capacity as the Prophet of God, Muhammad was the focus of both religious and political authority. After him, the early caliphate during the times of the rightly guided caliphs (632–661) was also conceived along politicoreligious lines. These caliphs undertook many religious and political functions of the Prophet especially because there was, as yet, no distinct group of scholars that could occupy a separate religious office. At least in the

early period of Islamic history, there was no distinction between the offices of the *‘ulama’* (a scholarly elite) and that of political authority, the caliphate.<sup>14</sup>

The caliphs often used their own understanding of the law to enact provisions that were not explicitly stated in the revelatory sources. They also deduced laws based on practical necessity. The “donkey case” that was explicated by ‘Umar al-Khattab (d. 644) is a good example of this kind of improvisation.<sup>15</sup> In the process of deducing injunctions that were neither stated in the Qur’an nor made explicit in the prophetic practices, the caliphs frequently differed among themselves. For example, Abu Bakr fixed the punishment for the consumption of wine at forty lashes whereas ‘Umar and ‘Ali (d. 656) stipulated that eighty lashes be the appropriate penalty.<sup>16</sup>

Without a charismatic leader to succeed him, there was always the possibility that routinization would also precipitate the segmentation of the Prophet’s all-embracing charismatic authority into different realms. The first obvious sign of the disintegration of the type of authority established by Muhammad was its displacement by a distinct political authority of the rightly guided caliphs. As Hamid Dabashi has shown, various forces led to the subsequent diffusion of the Prophet’s comprehensive authority into the political (caliphate), religious (the *‘ulama’*), spiritual (Sufism), legal (the *qadis*), and military (*umara’*) realms.<sup>17</sup>

Apart from the diffusion of charisma, routinization of charismatic authority also reflects a tendency to revert to the situation before the appearance of the charismatic authority. In the early history of Islam, routinization of the Prophet’s authority was accompanied by a reassertion of the traditional, pre-Islamic, Arab political culture that had been largely marginalized by the Prophet. As I have mentioned earlier, pre-Islamic Arab authority was conceived along tribal lines. In fact, tribal solidarity was the most significant factor that dominated Arab society before the appearance of Islam. Different forces led to the partial emergence of the traditional mode of authority after the death of the Prophet in 632 C.E. Pre-Islamic mode of authority surfaced immediately after Muhammad’s death when some of his followers invoked an erstwhile tribal procedure for the selection of a chief.<sup>18</sup> The convening of the tribal council and the selection of Abu Bakr as the first caliph to succeed the Prophet was the incipience of the routinization of charisma. At the same time it was the first manifestation of the reemergence of the pre-Islamic polity.

The insistence by Abu Bakr and many of his followers that the leadership be restricted to a person of Qurayshi descent was a further example of the reassertion of traditional notions of authority. All future Umayyad and ‘Abbasid caliphs were Qurayshis. This was a perpetuation of a pre-Islamic norm that only tribal affiliates to the tribal chief (that is, the Prophet) could succeed him, a notion that is absent in the Qur’an. The preponderance of pre-Islamic

Qurayshi aristocracy was an important constituent to the routinization of the Prophet's authority since it signified the resumption of an ordinary stable mode of existence, which, as I have mentioned, is often concomitant to the routinization of charisma.<sup>19</sup>

Pre-Islamic traditions and notions of Arab aristocracy resurfaced at various times during the reign of the first four caliphs. During the caliphate of 'Umar, Islam came to be identified with the Arabs. He tried to keep non-Arab Muslims out of Arabia, especially from Medina. According to Wilferd Madelung, the caliph regarded all Arabs, whether Muslims or Christians, as his primary subjects.<sup>20</sup> The councils, prominent members, and tribal affinity, as prescribed by pre-Islamic tribal norms, decided the successor to 'Umar b. al-Khattab in 644 C.E.

Pre-Islamic tribal affiliations emerged again during the reign of 'Uthman (d. 656) when members of his clan engaged in nepotism and appropriation of economic and political powers. When the Umayyads were in power between 661 and 750 C.E., political leadership was restricted to the Umayyad clan. Arab Muslims were granted honorific status relegating, in the process, non-Arabs to a status of second-class citizens. Despite the Qur'anic injunction on egalitarianism, Arab sense of pride in Arab identity reasserted itself soon after the Prophet's death. Non-Arab converts to Islam, whatever their previous social standing, were treated as second-class citizens (*mawali*). Degrees of social stratification aimed at perpetuating social distinctions between Arabs and non-Arabs were enforced more so in places like Iraq than in Arabia. For example, the procedure of becoming a client by contract was recognized by the school of Iraq rather than in Medina.<sup>21</sup> The preceding discussion indicates that the routinization of prophetic charisma was accompanied by the emergence of pre-Islamic tribal order. It was the manifestation of this tribal order that was to engender further segmentation of the Prophet's comprehensive authority.

### *The Authority of the Umayyad and 'Abbasid Caliphs*

The establishment of the Umayyad dynasty (661–750) after the assassination of 'Ali in 661 C.E. perpetuated caliphal claims to both religious and political authority. Although they were not experts in religious matters and their acts deviated significantly from Islamic normative praxis as explicated by the Qur'an and Prophet, the Umayyad caliphs portrayed themselves as religious figures who could adjudicate on and intervene in legal and doctrinal matters.<sup>22</sup> They reportedly appropriated the title *khalifat Allah* (God's Caliph), a title that had religious connotations since it symbolized the fusion of religious and political authority.<sup>23</sup> The title *khalifat Allah* also implied divine legitimation for

the power that the caliph exercised since he was depicted as the deputy of God rather than of the Prophet.

In substantiating their thesis that the Umayyad caliphs sought religious and political authority, Patricia Crone and Martin Hinds rely partially on evidence provided by numismatics. Coins from the reign of the Umayyad caliph 'Abd al-Malik b. Marwan (d. 705), for example, bear this nomenclature.<sup>24</sup> However, Crone and Hinds do not mention that the use of this title in official contexts is very rare. They also fail to explain the fact that many coins conjoin this title with *amir al-mu'minin* (commander of the believers) and that many other coins do not bear the title *khalifat Allah* at all. It is quite possible that *khalifat Allah* may have been used purely for propaganda purposes and to glorify the caliph rather than to enhance his claim to rule on God's behalf. Crone and Hinds also draw heavily on panegyrics of Umayyad court poets in corroborating their thesis. However, by insisting on a literal rendering of these verses, they may be reading too much into the poems. They do not take into account that the panegyrics may have been expressed as part of courtly etiquette that necessitated usage of imagery, flattery, and poetical language in the hope for generous rewards from the caliphs.

Different epithets were invented to glorify and refer to the Umayyad caliphs. The caliphs proclaimed themselves to be blessed and rightly guided; they were the tent pegs and basis of religion; soteriology was contingent on the recognition and acknowledgment of the authority of the caliphs.<sup>25</sup> In essence, the Umayyad caliphs were claiming to be the deputies of God on earth.<sup>26</sup> The Umayyad caliphs also adopted some doctrines that characterized Shi'i views of their imams. The caliphs were seen as superior to all mankind, ranking below only the prophets.<sup>27</sup> Like the Shi'i imam, the caliph 'Abd al-Malik b. Marwan was regarded as immune from error.<sup>28</sup> Some caliphs also used the Prophet's staff and cloak as a symbol of their power and to legitimize their claim to have inherited the Prophet's authority.<sup>29</sup> Crone and Hinds maintain that in the first two centuries, the caliphs laid claims to religious authority along the same lines that the Shi'is had accorded authority to their imams. Indeed, the caliphs' authority resonated very closely with the Shi'i view of the comprehensive authority of the imam. Crone and Hinds further maintain that it was only later on that this authority was wrestled away from the caliphs by the scholarly elite.

The Umayyad claim to religious authority was expressed in a myriad of forms. Some caliphs were seen as capable of issuing legal judgments, many of which were accepted by the jurists.<sup>30</sup> In fact, the *Muwatta'* of Malik b. Anas (d. 795), a famous jurist of Medina, contains references to the judgments of various Umayyad caliphs.<sup>31</sup> The caliphs Marwan and Umar II (d. 720) are cited as authorities of prophetic traditions<sup>32</sup> and some juridical opinions of 'Abd al-Malik



b. Marwan are also cited.<sup>33</sup> It was even claimed that religious acts could be validated by the presence of the caliph, a view that was later endorsed by Ghazali.<sup>34</sup> To accentuate their religious authority, the Umayyad caliphs enforced laws on marriage, divorce, ritual, and other matters.<sup>35</sup> The caliphs also proclaimed themselves as the guardians of the community, leaders of the army, and defenders of the *shari‘a*, conferring on them an aura of religious authority. In essence, the caliphs presented themselves as the ideal religiopolitical imams. A corollary to the Umayyad rulers’ contention that God had bestowed the caliphate to them was that any disobedience to them was construed as disobedience to God’s wishes. This was tantamount to disbelief.<sup>36</sup>

Due to the authority invested in them, some caliphs even claimed the prerogative of formulating and establishing a binding *sunna*. The aforementioned caliph ‘Abd al-Malik and the ‘Abbasid caliph al-Mahdi (d. 785) are both reported to have “made” unprecedented *sunna* or normative praxis.<sup>37</sup> For Muslims, *sunna* is important as it designates a symbolic link with the times of the Prophet, an embodiment of the Muslim connection with and continuation of an idealized past. The Umayyad claim to formulate the *sunna* was significant to their claim to wield religious authority since their acts could be incorporated in normative praxis. It was later asserted that the caliphs derived their authority not from the Prophet but directly from God. Stated differently, the functions of the Prophet were now undertaken by the caliphs who were, to use a distinctly Shi‘i term, divinely designated. The caliphs were representing God in the same way that the prophets had done earlier.

After defeating the Umayyads in 750 C.E., the ‘Abbasid caliphs also sought to clothe their rule in religious terminology and symbolism. Like their Umayyad predecessors, the ‘Abbasid caliphs laid claims to religious authority by projecting themselves as the righteous ones whom God had guided. They were the standards of guidance, the doors to God’s mercy, the repository of God’s blessings and where justice could be dispensed.<sup>38</sup> The caliph al-Mansur (d. 775) declared himself the authority of God on earth.<sup>39</sup> The ‘Abbasid caliphs also gave public expression of their religious proclivities and commitment to the *sunna* (the writing of the *Muwatta’* is just one example) by reportedly performed a wide array of “religious” functions including those of transmitting traditions<sup>40</sup> and exercising *ijtihad* (reasoning). Prominent jurists like Malik, Shafi‘i (d. 820), and Ahmad b. Hanbal (d. 855) recognized the caliph’s competency to exercise *ijtihad*.<sup>41</sup> The caliph was thus as capable as a scholar in deducing laws that were not mentioned in the Qur’an and *sunna*. Some ‘Abbasid caliphs also upheld, in conjunction with the scholars, religious norms by persecuting deviants like the Manicheans.<sup>42</sup>

The ‘Abbasid caliphs further sought to cover themselves with a certain religious aura by advancing exaggerated claims to divine authority. The caliph

was addressed as the shadow of God on earth, and visitors were expected to kiss the ground before addressing him. The title “shadow of God” implied that the caliph was invested in sacred divine glory. The famous jurist Abu Yusuf’s work also contains elements that legitimized the caliph’s religious authority. He states that the caliphs are the deputies of God on earth and the revivers of the *sunna*. The obvious implication is that obedience to them is tantamount to obedience to God.<sup>43</sup>

The caliphs clearly wielded much authority in the Muslim community in the eighth and ninth centuries. Acceptance of this authority was normally expressed by giving the oath of allegiance (*bay‘a*) to the caliph. The *bay‘a* was an important vehicle that was designed to recognize and assert the authority of a ruler and to promise him obedience. It was normally offered to a new caliph whose succession had been established by the testamentary designation (*‘ahd*) of his predecessor. Such oaths of allegiance were significant precisely because they reflected statements of social obligations and became a means for acknowledging that the caliph’s authority was binding on the citizens. Breaking the oath was considered a major social taboo, especially as the oath of allegiance was normally offered in public.

This binding effect of the oath was further reinforced by the religious character that the *bay‘a* connoted from early ‘Abbasid times. Due to the caliphal claims to be ruling on behalf of God and the theocratic nature of the state, the oath of allegiance was often used as a rhetorical device against those who reneged on their *bay‘a* since swearing an oath of allegiance to the caliph was construed as an allegiance to God. Breaking the allegiance could invoke God’s punishment and curse.<sup>44</sup> To depose rulers or engage in any insurrection was tantamount to arrogating oneself the role of God.<sup>45</sup> The *bay‘a* was also offered on the condition that its recipient fulfill the conditions entailed in the divine prescriptions. If the ruler violated any of these prescriptions (e.g., guarding the boundaries of Islam, enforcing the legal injunctions of Islam, etc.), those who offered the *bay‘a* to the caliph were released from their obligations.

For the caliphs, *bay‘a* was important precisely because it was a vehicle for securing loyalties of the citizens in the name of God and reducing the chances of rebellion. When faced with rebellion, the caliphs often reasserted their authority by reminding people of their allegiance.<sup>46</sup> Thus, the ‘Abbasid caliph al-Muqtadir (d. 932) reminded rebels that to break the oath of allegiance was to perjure oneself in front of God.<sup>47</sup> These types of loyalties held the community intact and perpetuated caliphal dominance.

The *bay‘a* was a device that facilitated both the acceptance and the protection of the authority of the caliph when it was challenged. Due to the significance attached to the *bay‘a*, Muslim legal discourse on warfare focused not only on fighting non-Muslims and defending against attacks by outsiders but

also articulated rules of warfare against Muslim rebels who broke their allegiances and challenged the authority of the caliph. Citizens were expected to remain loyal to the caliphs and distance themselves from rebels and their activities. On its part, the army was expected to defeat rebels in accordance with the rules of engagement that were defined in the juridical manuals.<sup>48</sup> The sole earthly punishment enunciated in Islamic juridical literature for violators of the *bay‘a* was one of extreme severity: capital punishment.

### *The Authority of the Scholarly Elite*

I have stated previously that the Umayyad caliphs’ self-definition of authority saw them claiming to be God’s representatives on earth. The religious authority that the Umayyad and ‘Abbasid caliphs claimed was gradually contested by an emerging scholarly elite, the ‘*ulama*’, especially when the caliphs’ lifestyles deviated significantly from Islamic norms.

Under the Umayyad and ‘Abbasid caliphs, Muslims lived under rulers who did not endeavor to create the Qur’anic ideal of a just social order. Despite their religious pretensions, the culture developed by the ‘Abbasid caliphs was highly aristocratic, indulging in elaborate and luxurious habits that were based largely on courtly traditions imported from the Persians by the caliph al-Mahdi (d. 785).<sup>49</sup> Another caliph, Harun al-Rashid (d. 809), was famous for his extravagant spending on poets and women.<sup>50</sup> Al-Rashid alienated himself from his citizens by replacing the simple lifestyle of the Prophet and the early caliphs with elaborate pomp. He also distanced himself from supervising the daily affairs of the community, thus further reinforcing the emerging administrative authority of the *wazirs*. The caliphs’ authority was gradually taken over by those around them. Political power came to reside with the rapidly emerging Barmakid family who had surrounded the caliph in his court.<sup>51</sup> This was far removed from the egalitarian vision that was posited by the Qur’an. The caliphs were regarded by many Muslims as corrupt and, therefore, were never accorded the reverence that was offered to the rightly guided caliphs. The erosion of the caliph’s religious authority probably began in the Umayyad period and culminated during the ‘Abbasid reign. Under such circumstances, the Muslim community sought to assert its religious autonomy from the rulers.

The routinization of the Prophet’s all-embracing charismatic authority, combined with the reemergence of pre-Islamic norms and the un-Islamic lifestyles of the caliphs, created a vacuum in the religious field, a lacuna that was filled by the scholarly elite, the ‘*ulama*’. It was probably during the times of the Umayyad caliphs that the office of a definitive class of scholars emerged.<sup>52</sup> Appropriating the title “*waratha al-anbiya*” (heirs of the Prophets),

the scholars sought authority based on their claim to be successors to the Prophets. Their authority was grounded on their acclaimed role as the inheritors of the religious traditions that connected the prophetic times to their own. These traditions referred primarily to the scholars' understanding and interpretation of the religious sciences, especially the Qur'an, *hadith*, law, and theology. It was the knowledge, purportedly transmitted from the companions of the Prophet, that linked the scholars to the Prophet, for it was this that they had inherited and guarded.<sup>53</sup> It was this same knowledge that enabled the scholars to extract rulings not directly mentioned in the revealed sources. The establishment of a religious scholarly elite, and their claim to religious authority, was a further manifestation of the diffusion of the Prophet's all-embracing authority and the institutionalization of the office of charisma.

Although the term '*ulama*' was initially used as a generic term, applied to those endeavoring to learn and transmit Islamic sciences, the domain of the '*ulama*' was soon differentiated into several fields of specialization. These included the interpretation of the Qur'an, compilation of the traditions of Muhammad in the form of the *hadith* literature, and the formulation and articulation of Islamic law. A group within the scholars, the *qadis* (judges), was concerned with giving legal decisions and administering the law in courts under the authority of the caliphs.<sup>54</sup> Other related sciences in which the scholars were engaged included Arabic language and grammar, collection and compilation of the biography of the Prophet, and, at a later period, the compilation of biographical dictionaries of the companions, their successors, and other transmitters of traditions. 'Abd Allah b. 'Abbas (d. 687–688) was reportedly an expert in Qur'anic exegesis (*tafsir*), while Ibn Ishaq (d. 767) had composed a biographical account of the Prophet. Hasan al-Basri (d. 728), an important representative of the early '*ulama*', was, for a time, a judge in Basra and a theologian. He is also frequently mentioned in Sufi texts as a prominent ascetic. Gradually, the '*ulama*' emerged as a powerful entity that could challenge the authority of the caliphs.

### *The Relationship between the Caliphs and the 'Ulama'*

The precise nature of the interaction between the political and religious authorities has been disputed in recent Western scholarship on the topic. When they came to power in 750 C.E., the 'Abbasid caliphs claimed to be the protagonists of Islam. They regularly attracted specialists in religious law to their courts and consulted them on problems that pertained to legal and theological issues. The caliph al-Mansur (d. 775), for example, commissioned Malik b. Anas (d. 795) to compose his famous work on jurisprudence, *al-Muwatta'*.

Harun al-Rashid (d. 809) appointed Abu Yusuf (d. 799) as his chief judge and commissioned him to compose a treatise on the land tax (*al-kharaj*). This was a long treatise on public finance, taxation, criminal justice, and other related subjects. Some jurists were appointed to the judiciary and employed by the government as legal advisers. Gradually, the scholars emerged in the ‘Abbasid era as a visible and increasingly influential religious group. As I have mentioned, however, the caliphs also saw themselves as capable of elucidating matters pertaining to religious issues. Just like the jurists, the caliph was expected to exercise *ijtihad* in resolving legal problems.<sup>55</sup>

Not all scholars agreed to be co-opted by the ‘Abbasid regime. A large number of scholars, for example, supported the revolt by al-Nafs al-Zakiyya (the Pure soul) (d. 762) against al-Mansur. These included prominent jurists like Malik b. Anas and Abu Hanifa.<sup>56</sup> Many scholars did not accept government positions since they felt that acceptance of such positions could be construed as an endorsement of government policies. Other scholars preferred to remain autonomous from the ruling elite. Sufyan al-Thawri, for example, refused to participate in the judicial administration of or even give religious advice to the caliph.<sup>57</sup> Hasan al-Basri was also famed for his anti-Umayyad attitude and ascetic exercises.<sup>58</sup> The emerging scholarly elite distanced itself from the political corruption. In fact, the probity and piety of a religious scholar were often measured by his detachment from worldly power and direct political involvement.

The relationship between the caliphs and the scholars took a decisive turn under the caliph al-Mansur. In response to the prevailing diversity in the application of Islamic law, his administrator, Ibn al-Muqaffa’ (d. 756) urged the caliph to establish uniformity in the legal field by codifying a coherent legal system.<sup>59</sup> The caliph, Ibn al-Muqaffa’ insisted, should incorporate Islamic law within the state in the light of the Qur’an and *sunna*, especially where there was no legal precedent. Ibn al-Muqaffa’ also urged al-Mansur to incorporate the *‘ulama’* within the state apparatus and assert caliphal authority over them. This would curb the autonomy of the scholars. Ibn al-Muqaffa’ wanted to impose an undisputed rule of the caliph and ensure that the law became uniform so that it was applied equally in all parts of the Islamic empire. This was an important measure that exacerbated tensions between the religious and political authorities in the Muslim community.

Tensions between the caliphs and the *‘ulama’*, the contenders for religious authority, reached a climax during the *mihna*, an inquisition on the doctrine of the created Qur’an that was initiated by the caliph al-Ma’mun before he died in 833 C.E. This period was marked by a dispute on the nature and extent of the caliph’s authority. To vindicate his claims to religious authority, al-Ma’mun added the title “imam” to his name on the coins and letters he wrote.<sup>60</sup> He was the first ‘Abbasid caliph to appropriate the term imam, thus accentuating the

fusion between religious and political authority. Some coins suggest that he also described himself as the *khalifat Allah*.<sup>61</sup>

As the religious-political authority, al-Ma'mun tried to impose the Mu'tazilite doctrine of the created Qur'an on the community. Through the inquisition, al-Ma'mun tried to redefine orthodoxy in terms of accepting the belief in the created Qur'an. Not only was the caliph defining the orthodoxy, he was also to be seen as the defender of that orthodoxy. Thus, the *mihna* signified caliphal attempts at asserting control over religious doctrine and praxis.

Al-Ma'mun's move was vehemently opposed by some 'ulama', especially Ahmad b. Hanbal (d. 855). A member of the scholarly elite, Ibn Hanbal, was regarded by many as an imam and as a symbol of scholarly opposition to the caliph. Protest from the scholars and the imprisonment of Ibn Hanbal further enhanced the authority of an autonomous group of scholars who claimed complete independence from the ruling elite. According to Crone and Hinds, after the *mihna* a rapprochement and division of labor was worked out, by which scholars were incorporated in the political structure. The caliphs needed the scholars to validate their authority. By recognizing the political authority of the caliphs, the 'ulama' could concentrate on cementing their own religious authority.

This view of an ongoing, acrimonious relationship between the 'Abbasid caliphs and the scholars has been challenged by Muhammad Qasim Zaman. In contrast to the arguments advanced by Crone and Hinds, Zaman maintains that the caliphs and scholars were in close mutual dependence and that the caliphs played an integral part in shaping early Sunnism.<sup>62</sup> Caliphate collaboration with the scholars also meant that the end of the inquisition signaled a return to normal relations between caliph and the scholars, not, as has been suggested by Crone and Hinds, the scholar's triumph after a protracted struggle.

Zaman further argues that the scholars benefited from caliphal support and patronage. They often praised and prayed for the caliphs. Ibn Hanbal, for example, extolled the virtues of al-Mutawakkil.<sup>63</sup> Zaman claims that there is little evidence to suggest that, apart for the interregnum of the inquisition, there was a struggle for authority between the caliphs and 'ulama'.<sup>64</sup> He further challenges the view that the failure of the inquisition to force the 'ulama' to accept the doctrine of the created Qur'an confirmed the separation between religion and state, the caliphs and the scholars. Even after the *mihna*, Zaman states, the caliphs were involved in the religious life of the community and they continued to patronize many religious scholars. In conjunction with the 'ulama', al-Mutawakkil, for example, dissolved the *mihna*.<sup>65</sup> A letter written by the caliph al-Mu'tadid (d. 902) suggests that the caliphs continued to regard themselves as religious authorities and heirs of the Prophet even after the *mihna*.<sup>66</sup> Zaman maintains that the state was not only establishing an orthodox

position but also supporting and patronizing the guardians of orthodoxy as well as protecting the *sunna* from falling into oblivion.

Overall, Zaman’s work argues that the notion of a bifurcated authority, with the caliphs and scholars contesting for leadership of the community, is not tenable. Zaman’s thesis rests on selected illustrations and anecdotes. For example, he presents anecdotal evidence of early ‘Abbasid patronage of the ‘*ulama*’ that ranged from almsgiving and appointment of judges to promoting the study of *hadith*. Zaman also examines three early ‘Abbasid texts that attempt to delineate the caliph’s functions. He quotes Abu Yusuf’s *Kitab al-Kharaj* and claims that the caliph was required to conform to a definitive and precisely defined transmitted *sunna*.<sup>67</sup>

In constructing his model, Zaman acknowledges that the narratives of caliphal-‘*ulama*’ cooperation could be literary inventions rather than documentary evidence of what actually occurred.<sup>68</sup> Many reports and anecdotes whose presence is acknowledged by Zaman belie his exposition. He accepts the stories about the caliphs and their relations with the ‘*ulama*’ almost at face value while ignoring the contrary evidence presented by Crone and Hinds. Zaman also ignores reports of ‘Abbasid caliphs’ attempts to impose doctrinal interpretations asserting that “claims to religious authority . . . are scarcely attested for [al-Ma’mun’s] predecessors.”<sup>69</sup>

In addition, the work of Ibn al-Muqaffa’, which Zaman cites to vindicate his thesis on caliphal-‘*ulama*’ cooperation, is concerned more with accentuating caliphal power and control than with fostering closer relations with the scholars. Zaman also adduces evidence from the treatise of Abu Yusuf’s *Kitab al-Kharaj*. However, this has limited value as its authenticity has been questioned by Norman Calder; it was probably composed under caliphal pressure. Furthermore, the scholars’ support of various ‘Alid revolts against the ‘Abbasids seems to challenge Zaman’s notion of their political quietism and endorsement of caliphal policies, especially as many scholars who were close to the caliphs reportedly endorsed the rebellions. By ignoring these issues, Zaman plays down the role of the scholars in these revolts and their opposition to the caliphs. Zaman’s work overlooks evidence of antagonism between the scholars and the caliphs and also disregards reports suggesting that the scholars differed among themselves regarding their interaction with the caliphs.

### *The Emergence of the Shari‘ Men in Sunni Islam*

Islamic law, the *shari‘a*, occupies a central role in Muslim devotional practices. Indeed, obedience to God is frequently measured by adherence to His law. The concern for articulating and implementing God’s law led to the establishment

of the office of jurists. The Arabic term that denotes a jurist (*faqih*) was originally used to refer to anyone possessing knowledge (*fiqh*) of a thing. In its older application, like the term *fiqh*, *faqih* was used in contradistinction to an *‘alim*—that is, it referred to a speculative, systematic lawyer who exercised rational faculties independently of any textual source. The *‘alim*, on the other hand, was a specialist in the traditional elements of religious law. Later, as *fiqh* became a technical term for the science of religious law (*shari‘a*) and in particular for the science of its derivative details (*furu‘*), *faqih* became a technical term for a specialist in religious law.<sup>70</sup> It is in this later sense of a jurist who was concerned primarily with discerning and articulating the law that I use the term *shari‘* man.

The incipience of the concept of a *shari‘* man can be traced to the Prophet himself. Although the Qur’an has many verses of legal import, it provides only general guidelines on the legal verses it mentions. In fact, Qur’anic legislation amounts to about six hundred verses, many of which relate to prayers, fasting, and pilgrimage.<sup>71</sup> The lack of a detailed exposition of legal verses accentuated the role of the Prophet as the explicator of the law. In addition to being seen as a lawgiver, the Prophet came to be viewed as a paradigmatic model whose very actions were seen as the basis of the *shari‘a*.<sup>72</sup> Hence the Prophet was seen as the source of the law (*masdar al-shari‘a*).

The first generation of those who came after the Prophet (called successors) was associated with a discussion on the legal import of Qur’anic verses. Many successors are mentioned as having acumen in juridical matters. These included figures like Sa‘id b. al-Musayyab (d. 712) in Medina, ‘Alqama b. Qays (d. 692), ‘Amir b. Sharahil (also called Sha‘bi) (d. 721–728) in Kufa,<sup>73</sup> Muslim al-Yasar (d. 719), and the aforementioned Hasan al-Basri. Ibrahim al-Nakha‘i (d. 713), a slightly younger Kufi, is also mentioned as a jurist. The Umayyad period also saw the emergence of the seven scholars of Medina.<sup>74</sup> These experts in the legal field tried to define Islamic law in precise legal terms and were actively involved in expounding legal doctrine, especially on issues that pertained to rituals, inheritance, marriage, and so on.<sup>75</sup> These early jurists formed the provenance of the *shari‘* men—a group of scholarly elite who specialized in the study of Islamic legal science, the *shari‘a*. The role of the jurists became increasingly important because, as noted, the Qur’an provided only a brief outline of the law. Hence, it was essential that the jurists elaborate the law from the Qur’an and *sunna* and formulate other sources of law as circumstances determined. Whereas the jurists (*fuqaha’*) discovered and articulated the law, the *qadis* (judges) implemented it, often using local customs and their own understanding (*ra’y*) of the law. As a matter of fact, it was quite common for scholars to wear diverse hats. Juynboll notes that ten of Basra’s judges were also jurists while some were also transmitters of *hadith*.<sup>76</sup>



Gradually, the scholars came to exercise almost exclusive control over the religious, juridical, and educational fields.

Increased legal activities by the *shariʿ* men led to the development of personal schools of law. Guided by a corpus of precepts and laws and their own independent reasoning, the *shariʿ* men, especially in the ʿAbbasid period, attempted to construct a legal edifice by developing and elaborating a system of *shariʿa* law binding on all Muslims. They began to interpret and develop Islamic law, invoking various hermeneutical principles like *maslaha* (derivation and application of a juridical ruling that is in the public interest) and *istihsan*<sup>77</sup> to respond to the needs of the times. Gradually, the *shariʿa*, as articulated by these jurists, became a structured, normative praxis; and an amorphous flow of religious experience developed into a fixed pattern of laws, a comprehensive system that governed personal and public demeanor. By creating a homogeneous religious life based on the law, the *shariʿ* men hoped to replicate the paradigmatic demeanor of Muhammad in minute details. This commitment to the *shariʿa* also enabled Muslims to internalize the archetypal figure of Muhammad at a very deep level, making him a living presence in their lives.<sup>78</sup>

The goal of the jurists’ endeavor was to comprehend and articulate the law of God in minute details. The *shariʿ* men saw the world as an exoteric juristic construct; their mission was to determine and formulate normative law and praxis. As far as the *shariʿ* men were concerned, the Islamic community was to be imbibed by the law, for the *shariʿa* was deemed to be pervasive, dominating every facet of a person’s life. The jurists stressed the performance of legal commandments because salvation was deemed to be contingent on realizing and implementing the law.

As the influence of the *shariʿ* men over the lives of the people increased, they came to exercise extensive but not exclusive control of Muslim public and personal life. Religious authority came to reside in the developing religious corpus and the scholars who could expound and interpret the sacred texts. Claiming to possess the requisite knowledge to interpret God’s will, they issued edicts to guide the community in their own times. It was knowledge, purportedly inherited from the Prophet, that distinguished the scholars from the rest of the community. It was knowledge that also made the community of believers dependent on the ʿ*ulama*’ and justified the subordination of the laity to the emerging authority of the scholars. As Calder states, “the *fuqaha*’/ʿ*ulama*’ as heirs of the Prophet, custodians of revelation, with a unique access to necessary knowledge, enunciated for the Muslim community the law they should follow if they were to achieve an orderly social life and, ultimately, salvation.”<sup>79</sup>

Routinization of charisma, initiated by the Muslim leaders immediately after the Prophet's death and the concomitant establishment of the charisma of office, led to a gradual diffusion and dissipation of the Prophet's comprehensive authority by the ninth century. Judicial power fell into the hands of the *qadis*, political authority was appropriated by the caliphs, administrative powers rested with the *wazirs* (administrators), military authority was exerted by the military commanders (*amirs*), and, as we will see in the next chapter, the Prophet's spiritual authority came to rest with the Sufi shaykhs. The function of articulating the law came to rest in the hands of the *shari'* men, although administration of the law remained in the hands of the caliphate, which utilized the law to enforce control over the society. The fragmentation of the Prophet's authority also resulted in the gradual bifurcation of the leadership into religious and political branches. By the time of Baqillani (d. 1013), a prominent jurist of the eleventh century, it was recognized that the right to preserve and propound the law lay with the scholars (imams), whereas the right to execute it lay with the political imams, the caliphs.<sup>80</sup>

### *Different Conceptions of Authority among the Shari' Men*

As the group of jurists grew in number during the first few decades of the eighth century, they developed into the "ancient schools of law." Among the *shari'* men of the eighth century, there were different notions of authority. There was, at this time, a two-fold conception of the revelatory sources, which included both the message embodied in the Qur'an and the *sunna* exemplified by the practices of the Prophet. The authority of the *shari'* man was predicated not only on his pronouncement of the law but also on his interpretation and articulation of correct prophetic practice based on the normative revelatory sources. As we will see, this often necessitated the refinement of hermeneutical skills to harmonize apparent contradictions between prophetic traditions and even, at times, between the Qur'an and *sunna*.

The different conceptions of authority between the *shari'* men in the eighth and ninth centuries can be illustrated by a comparison of the *shari'* men of Medina and Kufa. The *sunna* in Medina was informed not only by transmitted reports from the Prophet but also by the agreed practices of the community. The local character of the traditional practices was partially incorporated in the Medinese concept of prophetic *sunna*. Thus, as a source of authority, prophetic *sunna* was one among other forms of *sunna*. As a matter of fact, preference was frequently given to local practice over reports of prophetic practice, since, it was argued by the scholars of Medina, that contemporary practice could interpret or supplement earlier precedence. This

view is corroborated by ‘Abd al-Salam b. Sa‘id Sahnun (d. 840), a prominent scholar of Medina. Referring to the textual transmission of the *sunna*, he states, “Only what is corroborated by practice is followed and considered authoritative.”<sup>81</sup> The view that there were different conceptions of the *sunna* is further substantiated by a letter written by Ibn al-Muqaffa’ to the caliph al-Mansur. He states that some judges claim to follow the *sunna* but in reality they followed their own predilections in the name of the *sunna*.<sup>82</sup>

The Medinese view that the collective experience of the community was to be preferred over textual reports on prophetic practice is further corroborated by the formulations of Malik b. Anas, an important early *shari‘* man of Medina. His legal opinions were documented in the *Muwatta‘*, the first written exposition of Islamic law. In this work, Malik often transmits earlier or contemporary Medinese practice on a legal point, thereby accentuating the authority of Medinan practices. He also cites different reports on the practices of the Prophet to vindicate his own legal opinion. He then accepts or rejects these in the light of his own reasoning and the practices of Medina. This selective process can be corroborated from his frequent usage of the statement, “This is the opinion that we (the people of Medina) hold.” The term that Malik often invokes (*‘indana‘*—that we have recourse to) refers to the views of the jurists of Medina.<sup>83</sup> The elevated status that Malik accords to Medinese practices can be further discerned from his practice of authenticating only those traditions that are agreed on by the people of Medina to the exclusion of other places.<sup>84</sup>

Malik further asserts that all people are bound to the *‘amal* (contemporary practices) of Medina since they reflect prophetic practices.<sup>85</sup> For Malik, it was the link to the Prophet that made the *‘amal* of Medina normative. As he states in a letter to al-Layth b. Sa‘id, “all people are subordinate to the people of Medina. . . . the Messenger of Allah was living among them and they were present during the very act of revelation.”<sup>86</sup> Due to his emphasis on Medinese practices, Malik’s *Muwatta‘* represents the law as a lived reality rather than a text-based construct. I say this because Malik maintains that prophetic *sunna* was preserved by the practices of the people of Medina. The *Muwatta‘* suggests that the *‘amal* of Medina was considered stronger and more reliable than transmitted *hadith* and that it could even override and have precedence over traditions.<sup>87</sup>

For Malik, authority lay in the practices of the previous generations of Medinese, which, he maintained, accurately reflected prophetic practice. The authority of the jurists was also augmented by the fact that they were the guardians and transmitters of the correct *sunna*. However, Malik’s own authority as the *shari‘* man of his time was tacitly enhanced in his interpretation and issuance of juridical verdicts on legal points.<sup>88</sup>

It was in the interpretive realm that the *shari‘* man in Medina manifested his legal authority. His authority developed not only by compiling transmitted

traditions and the opinions of previous *shariʿ* men, but also by interpreting these in light of current practice. The exercise of hermeneutic skills conferred authority to the *shariʿ* man because his understanding and enunciation of prophetic *sunna* became an intrinsic part of contemporary practices and a binding precedent for subsequent practices. Moreover, Malik's hermeneutical skills empowered him to venture beyond the realms of prophetic and Medinese practices. At times, Malik even resorted to analogy to extend the purported reference of a prophetic tradition. Thus, although a prophetic tradition allowed the killing of wild dogs only in the sacred area by a sacralized pilgrim, Malik extended this permission to apply to all wild animals in the sacred area.<sup>89</sup> This suggests that the jurists of Medina sometimes resorted to their own reasoning in their formulation of the correct *ʿamal*. It is thus correct to state that the expression "practices of Medina" was a composite term that incorporated the Qur'an, *sunna*, and the interpretations of Medinan jurists. The authority of the Medinan *shariʿ* man was interwoven in the *sunna* he was promoting because it contained his interpretation of correct practice.

A study of Malik's *Muwattaʿ* and early Medinese practice further suggests that the authority of the *shariʿ* man was not confined to his interpretation of scripture and prophetic traditions. Rather, his authority was also predicated on demonstrating the claim that the Medinan practice on a legal point could be traced to the earlier generations' definition of practice, which, in turn, originated with prophetic practice. Viewed in this light, it is correct to say that his interpretation was not concerned with extending the canon but limiting its possible conclusions. Thus, the authority of the *shariʿ* man was, in part, contingent on his ability to function as a mediator between established authority and present circumstances. The *Muwattaʿ* seems to reflect the pivotal roles of the jurist of Medina in deducing, enunciating, and even formulating normative law and praxis. It was here that his authority lay.

The idea of the pervasive authority of the Medinan jurists is further corroborated by Jonathan Brockopp's "Great Shaykh" theory. Based on his study of some early Maliki texts, he maintains that apart from residing in the Qur'an and *sunna*, religious authority in Medina was also transmitted through an individual, a "Great Shaykh" as Brockopp calls him, who was invested with authority due to the knowledge of the religious sources.<sup>90</sup> The "Great Shaykh" theory postulates that authority resides in the great imams of Medina and in the practices of the people of Medina. The shaykh is not only the interpreter of the Qur'an and *sunna*, but also the judge of the correct practices, and also a source for deducing laws that are not found in the revelatory sources. Viewed in this light, the shaykh becomes a living source on matters that are not treated in the revealed texts. Thus, authority not only resides in the practices of Medina, but also is extended to include the "Great Shaykh" who interprets and decides on normative *sunna*.