أولا: حصول معنى جديد للاصل عندهم وهو انه: مايحدد الوظيفة العملية لمن يشك في الحكم الشرعي[1].

وقد تبلور هذا المعنى عند وصول فكرهم الاصولي الى ضرورة جعل الاستنباط على مرحلتين هما: مرحلة إثبات الحكم الشرعي، ومرحلة تحديد الوظيفة العملية[2]. والذي دفعهم الى إضافة المرحلة الثانية عدم اعتبارهم لحجية مطلق الظن من ناحية[3]، وعدم وفاء مايوجد من الادلة القطعيّة أو الظنية المعتبرة لاثبات جميع الاحكام الشرعيّة من ناحية أخرى[4]، ولابدّية اتخاذ موقف عملي لكل مورد لم يثبت فيه حكم شرعي من ناحية ثالثة[5]. فتفطنوا الى هذا الموقف الذي يجب أن يُتّخذ على أساس ملاك معيّن يعيّنه الشرع أو العقل، ولهذا فقد تبلورت عندهم فكرة ضرورة محاولة تحديد الموقف العملي على أساسهما، أي: العقل والشرع.

وهكذا تكوّن المعنى الجديد للاصل وصار يطلق على كلّ حكم شرعيّ أو عقليّ يحدد الموقف العملي عند عدم ثبوت الحكم الشرعي، وقد سموا الاصل على أساس هذا المعنى بالاصل العملي.

فكانت حصيلة هذه المحاولة استكشاف أصول عملية أبرزها أربعة حسب التسلسل التالي: الاستصحاب، البراءة، الاحتياط ، التخيير. وهذا الترتيب ناجم من أن لكل أصل من هذه الاصول مجرىً خاصاً[6]. فلا ينتقل من أصل الى أصل لاحق الّا بعد عدم تحقق مجرى الاصل السابق. فمجرى الاستصحاب هو ما إذا علمنا بالحالة السابقة، وأما البراءة والاحتياط والتخيير فتجرى فيما لو لم نعلم بالحالة السابقة، غير أنّ الشكّ حينئذ إن كان في أصل التكليف فهو مجرى البراءة، وان كان في المكلف به بعد علمنا بأصل التكليف فهو مجرى الاحتياط لو كان ممكنا، والّا -اي لو

١- *عناية الاصول* ٢/٤ - ٣، *دروس في علم الاصول* ٢٥٦/٢.

٢- *بحوث في علم الاصول* ٩/٥.

٣- *كفاية الاصول* / ٣٥٣ ومابعدها، *منتهى الاصول* ٧٥/٢.

٤- *اصول الفقه* للمظفر ٢٣٤/٢.

٥- *دروس في علم الاصول* ٢٥٦/٢.

٦- *اصول الفقه للمظفر* ٢٣٥/٢.

لم يمكن الاحتياط - كما لو دار التكليف بين الحرمة والوجوب فهو مجرى التخيير[1].

ومثال الاول: استصحاب طهارة إناءٍ ما شُكّ في نجاسته بعد العلم بطهارته. ومثال الثاني: براءة الذمة من التكليف بوجوب الدعاء عند رؤية الهلال لو شككنا في وجوبه. ومثال الثالث: الاتيان بصلاتي الجمعة والظهر فيما لو شككنا في الواجب منهما. ومثال الرابع: فيما لو حلف ثم نسي هل كان حلفه على الترك أو الفعل.

ثانيا: إن متأخري الاماميّة مع حصول هذا المعنى الجديد لم يهجروا المعاني السابقة للاصل غير أنّهم قد حصل عندهم مايلي:

آ - إنّ المعنى الجديد الذي برز للاصل أصبح - لاهميته - هوالمراد عند إطلاقه من دون قرينة[2].

ب - إنّ الاستصحاب، أصبح بعد هذا التصور مصداقا من مصاديق المعنى الجديد بعد أن كان يعتبر واحدا من معانيه.

وكأنّ بروز هذا المعنى الجديد تمّ كتطور لاطلاق الاصل على الاستصحاب.

جـ - إنّهم يعبرون عن الاصل في باب الالفاظ - والذي كان يذكره القدماء بمعنى الراجح بالاصل اللفظي[3] كأصالة الحقيقة وأصالة عدم النقل وأمثالهما، وقد تمت تسميته باللفظي ليكون مقابل الاصل العملي، حيث أنّ الاصل اللفظي يعد من الامارات[4] لانّ اعتباره إنما هو لاجل كونه يكشف عن مراد المتكلم. وقد يسمى الاصل اللفظي بالعقلائي[5] وذلك لانّ دليله بناء العقلاء.

٣- قسّم الاصل العملي بتقسيمات عديدة نذكر أهمها:

أولا: تقسيمه الى الاصل المحرز وغير المحرز.

هناك في بيان المقصود من الاصل المحرز احتمالات ثلاثة بل أقوال ثلاثة:

الاول: إنّ ملاك الاحرازية في الاصل هو أنّ دليل حجيته - أي الاصل - إنّما جاء

١- *فرائد الاصول* ١/٢، ٣، *اصول الفقه* للمظفر ٢٣٦/٢، *منتهى الاصول* ١٦٣/٢.

٢- *بدائع الافكار* / ٤. ٣- *الاصول العامة للفقه المقارن* / ٢٣٢.

٤- *فوائد الاصول* ١١٤/٤، *فرائد الاصول* / ١٢٧.

٥- *مقالات الاصول* / ١٢٧.

لينزّل الحكم الظاهري الذي نُريد الحصول عليه من خلال الاصل منزلة الحكم الواقعي[1].

ومثلوا له بأصالة الطهارة حيث أنّ دليلها: «كلّ شيء لك طاهر حتى تعلم أنّه قذر» يجعل الطهارة الظاهرية بمنزلة الواقعية.

القول الثاني: أنّ ملاك الاحرازية في الاصل هو كون دليله منزّلا لنفس الاصل منزلة اليقين من حيث الجري العملي[2]، لا من حيث الكشف: بمعنى أنه كما يجب عند حصول اليقين أن يتم الجرى العملي على طبقه فكذا عند قيام الاصل الاحرازي.

ويدّعي أصحاب هذا القول أنّ الاستصحاب أصل إحرازي بهذا المعنى.

القول الثالث: أنّ ملاك الاحرازية في الاصل هو كون دليله منزلا لنفس الاصل منزلة اليقين من حيث الكاشفية[3]. فلم يبق على أساس هذا القول فرق بين الاصول الاحرازية والامارات في المجعول، وإنّما الفرق في أنّ الشك قد أخذ في موضوع الاصل الاحرازي، حيث أنّ الحكم بالطهارة الظاهرية مثلا تجعل في وعاء الشكّ في الطهارة الواقعية، في حين أنّ الشكّ لم يُؤخذ في موضوع الامارة.

ويدّعي أصحاب هذا القول أنّ الاستصحاب أصل إحرازي بهذا المعنى.

والفرق بين القول الاول والقولين الاخيرين أن المنزّل في الاول هو الحكم الظاهري والمنزّل عليه هو الواقعي، في حين أنّ المنزّل في الاخيرين هو نفس الاصل والمنزّل عليه هو اليقين، وإن كان بين الثاني والثالث فرق من ناحية حيثية التنزيل.

وتترتب على كلّ مبنى من هذه المباني ثمرات أصولية أو فقهيّة للاطلاع عليها راجع مظان بحثها في الكتب الاصولية.

ثانيا: تقسيمه الى الاصل المثبت وغيره.

١- *بحوث في علم الاصول* ١٧/٥، *دروس في علم الاصول* الحلقة الثالثة القسم الثاني /ص ١٦.

٢- *فوائد الاصول* ١٠/٤، ١٤، ٤٨٦، *بحوث في علم الاصول* ١٨/٥، *دروس في علم الاصول* الحلقة الثالثة القسم الثاني / ص ١٧.

٣- *مصباح الاصول* ١٥٤/٣ و ٣٨/٢.

إنّ كلّ أصل عملي تتصور له حالتان[1]:

الاولى: ما إذا لم يُثبت الاصل حكما شرعيّا أو موضوعه بصورة مباشرة بل يُثبت أثرا عقليا أو عاديا يترتب عليه حكم شرعي، مثل استصحاب حياة إنسان غير بالغ لاثبات بلوغه - الذي هو أثر عقلي لاستمرار حياته بعد مضي سنوات - لنرتب عليه حكما شرعيّا. ويسمى الاصل في هذه الحالة بالاصل المثبت لانه يُثبت الآثار العقلية أو العادية.

وقد اختلف الاصوليون في حكمه، فالرأي السائد هو عدم حجيته[2]. لانّ الآثار العقلية والعادية أمور تكوينية فهي لاتخضع لجعل الشارع أو رفعه[3].

الحالة الثانية: ما إذا أثبت الاصل حكما شرعيا أو موضوعه من دون الاعتماد على أيّة واسطة عقلية كانت أو عادية مثل استصحاب وجوب صلاة الآيات بعد حصول الشك بسبب انقضاء وقت الآية، أو استصحاب حياة إنسان لاثبات استحقاقه الارث.

ويسمى الاصل في هذه الحالة بالاصل غير المثبت، وقد اتفق الاصوليون على أنّه حجة[4].

ثالثا: تقسيمه الى الشرعي والعقلي[5]: يشترك الاصل الشرعي والاصل العقلي في أنّهما يحددان الوظيفة العملية غير أنّ الاول مجعول من قبل الشارع أما الثاني فيحكم به العقل.

ويقسم كل من البراءة والاحتياط والتخيير الى عقلي وشرعي[6]. أما الاستصحاب وأصالة الطهارة فهما أصلان شرعيان فحسب[7].

١- *علم اصول الفقه في ثوبه الجديد* / ٣٨٣.

٢- راجع المصادر السابقة - بحث الاصل المثبت.

٣- *منتهى الاصول* ٤٨٣/٢، *علم اصول الفقه في ثوبه الجديد* / ٣٨١.

٤- راجع المصادر السابقة.

٥- *مصباح الاصول* ٢٤٧/٢-٢٤٨.

٦- *بحوث في علم الاصول* ٢٤/٥، *الاصول العامة للفقه المقارن* / ٤٩٢ و ٥١٩ و ٥٠٣ و ٥٣٩.

٧- *مصباح الاصول* ٨٣/٢، *اصطلاحات الاصول* للمشكيني / ٥٩.

Ibn al-Qayyim illustrates some cases of claims in which customary evidences are taken into consideration.[98] He goes further and says that the consideration of *'urf* in some cases is an obligation *(wājib)*.[99] Ibn al-Qayyim knew more than one hundred issues, as he mentions, in which the *'urf* is effective and decisive.[100]

It is clear that the *Sharī'ah* is the major norm which regulates the conduct and governs all aspects of individual and collective life. Its basic sources are the Qur'ān and the *Sunnah*. There are also secondary sources, but they are not independent; they are based on the primary sources of *Sharī'ah*. Further, all methods of *ijtihād* including the *'urf* and *'ādah* are derived from the original sources. Moreover, the *Sharī'ah* permits the application of appropriate and constructive customs and usages that fit in the framework of the *Sharī'ah*.

The *Khulafā'* employed such customs as were compatible with the teachings of the Qur'ān and the *Sunnah* to keep the development of the early Islamic society, as has already been discussed. The *fuqahā'*, in the later period, continued to follow this practice. They provided legal and rational grounds for the acceptance of *'urf*. It was indeed the enduring wisdom of Islam to recognize and accommodate useful customs that were prevailing in a civilized society. It was perhaps the *hadīth* of the Prophet (p.b.u.h.) "Wisdom is the lost property of the Faithful who deserves it most wherever it may be found". It encouraged the Muslim scholars to accept useful knowledge and all such good things of life as were consistent with the general scheme of the *Sharī'ah*.

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[98] Ibn al-Qayyim, *al-Turuq*, 87-92.

[99] Ibid. 88-89, 91, 114.

[100] Ibn al-Qayyim, *I'lām*, vol. 2, 393-94; vol. 3, 3-9.

☆امام محمد بن ادریس شافعی رحمۃ اللہ علیہ کا سن ولادت ۱۵۰ ہجری اور سن وفات ۲۰۴ ہجری ہے۔☆

Ibn Taymiyyah and Ibn al-Qayyim, however, accept *'urf* and *'ādah* in theory and practice. Ibn Taymiyyah divides names of things into three categories; the first is what is often called *'urf shar'ī*, such as *īmān, ṣalāh, zākāh, kufr, nifāq*, etc. The meaning of these terms are determined and explained exclusively by the *Sharī'ah*. Then, there are those names that have literal meanings, and generally are known and understood within the context of custom and usage. According to Ibn Taymiyyah, the *Sharī'ah* does not confine these words to certain limits. That will be as numerous and different as they occur in different societies. The third category comprises those words which are understood in their literal sense.[95]

Another example of consideration of *'urf* discussed by him, is *al-safar* (travelling). The traveller, according to the *Sharī'ah*, is permitted to shorten his prayer, but what the *safar* is, is left to the *'urf* of the people. The person is allowed to shorten his prayer when he is regarded as traveller according to his *'urf*. There is no geographic limit indicated in the *Sharī'ah*. Sometimes a person goes on a long journey, such as the postman, but he is not considered a *musāfir*. Similarly, the people who come from the suburbs of a big city for work are not regarded *musāfir*, and, therefore, they are not permitted to shorten their prayers. The people of Makkah, on the other hand, when they go to Minā and 'Arafāt during *Hajj* days, and where they stay over night are considered *musāfir* and, therefore, resort to *qaṣr* in their prayers. The rule of shortening prayer is to be applied when a person is regarded as *musāfir* according to his *'urf*.[96] He cites some other examples to which the *Sharī'ah* rule is applicable in the context of *'urf*. For example, the *kaffārah* (expiation) for dishonouring oath is feeding ten poor people with the average food that a person provides to his own family. The average food is decided according to the *'urf*.[97]

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[95] Ibn Taymiyah, *Fatāwā'* vol. 19 *(Uṣūl al-Fiqh)* 235.

[96] Ibid. 19, 243-47.

[97] Ibid. 252-53; also see Qur'ān, 5: 89.

We do not have any clear and definite opinion from Aḥmad b. Ḥanbal on *'urf.* Mostly, the early *fuqahā'* discussed only the sources which have religious significance or are sanctioned by the religious sources. However, Aḥmad b. Ḥanbal recognized the principles of *istehsān* and *al-masālih al-mursalah,* as we have discussed in "Early *Fuqahā'* on the Development of *Ijtihād.*"[90] Both principles cover *'urf* and *'ādah.*

Abū Dāwūd (d. 275 A.H.) compiled a book, *Masā'il al-Imām Aḥmad,* comprising the legal opinions of Aḥmad b. Ḥanbal. Abū Dāwūd discusses in this book several issues in which *'urf* and *'ādah* have been considered. For example, Aḥmad b. Ḥanbal was asked about hoarding *(ḥukrah).* He said that it can only be applied to what people use as food. He left the details of people's food up to the *'urf and ādah.* People in different areas of the world have use different kinds of food. The case of hoarding, therefore, is decided aceording to the *'urf* in every society.[91] Abū Dāwūd expressed Aḥmad b. Ḥanbal's views on many other *fiqhī* issues relating to commercial transactions without referring to *nass* or *ijmā'*. Obviously, in those cases, he could not neglect the *'urf* and *ijmā'*. Obviously, in those cases he could not neglect the *'urf;* he has accommodated it considering the interest of the people.[92]

Ibn-Qudāmah (d. 620 A.H.) the most prominent *faqīh* of the Ḥanbalī school of thought, describes his own opinion and that of Aḥmad b. Ḥanbal in his work, *al-Mughnī.* He mentions that Aḥmad b. Ḥanbal accepted a weak report if he found it corresponding to the *'urf* of the people.[93] Ibn Qudāmah himself recognizes *'urf* and *'ādah* as a source and refers to it in many rules of *fiqh.*[94]

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[90] M.Y. Farūqī; "Early *Fuqahā'* on the Development of *Ijtihād*", *Hamdard Islamicus,* vol. No.

[91] Abū Dāwūd, *Masā'il al-Imām Ahmad,* 191.

[92] Abū Dāwūd, *Masā'il,* see the issue of hiring a skilled person for a particular work, 206.

[93] Ibn Qudāmah, *al-Mughnī,* vol. 6 485, see the issue of *Khafa'ah.*

[94] Ibid. vol. 3, 561-62; vol. 6, 485; vol. 7, 18.

For example, if a person swears that he will not offer *salāh* (prayer), his oath is not undone by uttering some words of prayer or supplication, unless, he does perform *salāh* by standing, bowing, prostrating and sitting as prescribed by the *Sharī'ah*, and this is understood by the word *salāh* by the people.[79] In case of a social transaction, if there is conflict between literal meaning and customary meaning, the customary meaning, according to al-Baghawī, is given consideration as the *'urf* is decisive in such cases.[80] And, if there were some particular conditions established and known in society with a particular social transaction, they will be considered even if they were not mentioned when the contract was entered into. In such transactions, Al-Suyūṭī explains, *'urf* is decisive.[81] He also mentions that whatever the *Sharī'ah* states as general and there is nothing in the *Sharī'ah* source to limit it nor does the language restrict the meaning, the *'urf* may fix the limits. He cites the example of *hirz*, discussed above, in case of theft; it is in the context of *'urf*, that the condition of *hirz* is to be decided.[82]

In his discussion, al-Suyūṭī refers to many prominent *fuqahā'* who gave due consideration to *'urf* and *'ādah* in the formulation of rules of the *Sharī'ah*, such as, Qādī Ḥusayn (d. 462 A.H.),[83] al-Subkī (d. 771 A.H.),[84] al-Shaykh Abū Zayd,[85] al-Baghawī (d. 516 A.H.),[86] Ibn al-Salaḥ (d. 642 A.H.)[87] al-Isnawī (d. 772 A.H.),[88] and al-Rafī'ī (d. 623 A.H.).[89]

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[79] Al-Suyūṭī, *al-Ashbāh*, 93.

[80] Ibid. 94.

[81] Ibid. 95.

[82] Ibid. 98.

[83] Ibid. ۹۳.

[84] Ibid. ۹۷.

[85] Ibid. 95.

[86] Ibid. 90-99.

[87] Ibid. 92.

[88] Ibid. 92.

[89] Ibid. 91.

This has already been discussed how al-Shāfi'ī and the Shāfi'ī *fuqahā'* accepted the authority of *ijmā'*.[74] Al-Ghāzalī confines his discussion to lexicography in which he divides words into two categories; the words spoken and understood in a literal sense, and the words which are used in a customary sense. Al-Ghazālī does not explain the role of *'urf* and *'ādah* in forming legal rules.[75]

Jalāl al-Dīn al-Suyūṭī (d. 911 A.H.) is, perhaps, the first Shāfi'ī *faqīh* who acknowledges the momentous impact of *'urf* and *'ādah* on social life. He discusses them theoretically as a source of law and mentions there practical application to legal issues. He refers to the *fiqhī* maxims discussed by *Qāḍī* Husayn b. Muḥammad (d. 462 A.H.) upon which the whole Shāfi'ī *fiqh*, according to him, is based. The fourth principle, according to al-Suyūṭī, is: "Usage is decisive". Al-Suyūṭī explains that this principle has been derived from the saying attributed to the Prophet. "Whatever the Muslims see as good is good unto Allah.[76] Under the heading of this maxim, al-Suyūṭī discusses *'urf* and *'ādah* at length. He affirms that there are countless issues in *fiqh* which are solved by referring to *'urf* and *'ādah*.[77] He further explains that if there is conflict between customary usage of a word and its literal meaning, the usage is to be preferred, even if it is against the *Sharī'ah*. For example, al-Suyūṭī explains that if a person swears that he will not eat meat, he will not dishonour his oath by eating fish as people are not accustomed to applying the word *laḥm* (meat) to fish. However, the Qur'ān calls it *laḥm*, "It is He Who has subjected to you the sea so that you may eat fresh *laḥm* from it".[78] Another example he cites is that if the word is used by the *Sharī'ah* in a particular sense, then mere literal meaning has no consideration.

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[74] Muḥammad Yūsuf Fārūqī. *Development of Ijmā', Practices of the Rāshidūn Khulafā', and the Views of the Classical Fuqahā'*, 177.

[75] Al-Ghazālī, *al-Mustasfā*, vol. 1, 325-26.

[76] Al-Suyūṭī, *al-Ashbāh*, 7-100; Qādī al-Husayn was a leading Shāfi'ī *faqīh* of the 5th century of Hijrah who states four principles on which the Shāfi'ī *fiqh* is based.

[77] Al-Suyūṭī, *al-Ashbāh*, 90.

[78] Qur'ān, 16:14; al-Suyūṭī, *al-Ashbāh*, 93.

امام محمد بن ادریس شافعی فرماتے ہیں: فقہ میں مجھ پر سب سے زیادہ احسان امام محمد بن حسن کا ہے۔

habitually left by the owner in the same place and were regarded safe by them, it means that the condition of *ḥirz* is fulfilled.[67] He also says that *jarīn* (the place in which dates or grain are kept) is regarded as *ḥirz* while *ḥā'iṭ* (fence or railing around the garden or field) is not regarded as *ḥirz* as the people accepted *jarīn* as *ḥirz* and not the *ḥā'iṭ*.[68] Al-Shāfi'ī was speaking about the custom and usage as it existed in his time.[69] The fence was not regarded proper protection for the garden and fruit trees. However, the special place prepared to dry dates or to store grain was regarded as a protected place. This *'urf* was to be considered when a case of stealing from these places was submitted to the court of a *qāḍī*. It also appears from the discussion of al-Ramlī that *'urf* and *'ādah* help to determine the *ḥirz*.[70]

Al-Māwardī (d. 450 A.H.) who may be considered an early *Shāfi'ī faqīh* discusses *uṣūl al-fiqh* in the context of practical judgement, considers both reason and *'urf* equally important in the process of decision-making and in settling matters. All legal systems *(Sharā'i')*, al-Māwardī explains, take reason and *'urf* into consideration.[71]

One can understand the importance of *'urf* and *'ādah* to the *Shāfi'ī fuqahā'* by the fact that al-Khaṭīb al-Baghdādī insists that the *muftīs* and *qāḍīs* must be aware of the customs and traditions of the people in order to understand the cases in proper perspective, and then to give legal opinion or judgement accordingly.[72]

Imām al-Ḥaramayn, al-Juwaynī (d. 478 A.H.) points out the significance of customs and traditions in his discussion on *ijmā'*. He says that *ijmā'* is proved by uninterrupted *'urf*.[73]

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[67] Al-Shāfi'ī, *al-Umm*, vol. 6, 148-49.

[68] Ibid. 148.

[69] Al-Ramlī, *Nihāyat al-Muḥtāj* (Cairo: Muṣṭalā al-Bābī al-Ḥalabī, 1386/1967) vol. 7, 439-48.

[70] Al-Shāfi'ī, *al-Umm*, vol. 6, 5-7.

[71] Al-Māwardī, *Adab al-Qāḍī*, vol. 1, 135-36.

[72] Al-Khaṭīb al-Baghdādī, *al-Faqīh*, vol. 2, 135-36.

[73] Al-Juwaynī, *Ghiyāth*, 39.

Ibn Farḥūn (d. 799 A.H.), another Mālikī *faqīh* and contemporary of al-Shāṭibī, discusses law cases in which *'urf* is decisive.[62] He makes it clear that if there is contradiction between literal meaning of the word and its usage in society, the court should uphold what is determined by *'urf*, and not the literal meaning.[63] In commercial transactions also we find the *fuqahā'* giving due consideration to customary law and practice. In case of commercial dealings, if the currency is not specified when the contract is made, the custom will determine it; i.e., the currency in use in the market. However, if there are different currencies prevailing in a country, the dominant currency that is commonly acceptable among the traders shall be deemed as applicable.[64] Whenever *'urf* is changed, the legal effect is also liable to change. The cases of marriage, divorce, will, oath and dealings in which the customary practice is significant have received due legal consideration.[65] Ibn Farḥūn explains another dimension of the significance of *'urf*. If a *muftī*, for example, goes to a country where different traditions and customs are in force, he should not give legal opinion unless he is well aware of the customs and conventions of that country. [66]

Imām al-Shāfi'ī does not discuss *'urf* and *'ādah* as a source, or as an authentic legal argument when he explains the legal sources in *al-Risālah* or in *al-Umm*. However, there are evidences that al-Shāfi'i did accept *'urf* in practice as a valid argument. Discussing the offence of theft, for example, he describes *al-ḥirz* (normal safe-keeping or protection) which is an essential condition for the enforcement of *ḥadd* punishment in case of theft. What constitutes *al-ḥirz* may be decided by *'urf*. He cites an example of a case of goods left lying in an open market-place and were stolen from there. The custom will determine whether they were in *ḥirz* or not. If they were

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[62] Ibn Farḥūn, *Tabsirat al-Ḥukkām*, on the margin of *Fath al-'Alī al-Mālik*, vol.2, see *Bāb fī al-Qadā' bi al- Urf wa al-'Ādah*, 75.

[63] Ibid. 67.

[64] Ibid. 64-66.

[65] Ibid. 66-67.

[66] Ibid. 71.