

Usul al-Fiqh

by Shah Abdul Hannan

3. The Sunnah

Literal meaning of Sunnah in Arabic is beaten track or established course of conduct. Pre-Islamic Arabs used the word for ancient or continuous practice. According to Ulama of Hadith, Sunnah refers to all that is narrated from the Prophet (SM), his acts, his sayings and whatever he tacitly approved. The Jurisprudents exclude the features of the Prophet (SM) from Sunnah. In the Hadith literature, there are uses of the word Sunnah in the sense of sources of law, for instance, in the Prophet's farewell Hajj address and at the time of sending Muadh (R.A.) to Yemen.

The term Sunnah was introduced in the legal theory towards the end of the first century. It may be noted that in the late 2nd Century Hijra, Imam Shafii restricted the term to the Prophetic Sunnah only. In the Usul al Fiqh, Sunnah means the source of Shariah next to the Quran. But to the Ulama of Fiqh, Sunnah primarily refers to a Shariah value which is not obligatory but falls in the category of Mandub or recommended. But as a source, Sunnah can create obligation (wajib), Haram, Makruh, etc. In the technical usage Sunnah and Hadith have become synonymous to mean conduct of the Prophet (SM). The Sunnah of the Prophet (SM) is a proof (Hujjah). The Quran testifies that Sunnah is divinely inspired (53:3). The Quran enjoins obedience to the Prophet (SM) (59:7; 4:59; 4:80; 33:36). Allah asked the believers to accept the Prophet as judge (4:65). One classification of Sunnah is Qawli, Faily and Taqriri (verbal, actions and tacit approval).

Legal and non-legal Sunnah: A very important classification is legal and non-legal Sunnah. Legal Sunnah (*Sunnah tashriyyah*) consists of the Prophetic activities and instructions of the Prophet (SM) as the Head of the State and as Judge. Non-legal Sunnah (*Sunnah Ghayr tashriyyah*) mainly consist of the natural activities of the Prophet (*Al-afal-al-jibilliyyah*), such as the manner in which he ate, slept, dressed and such other activities, which do not form a part of Shariah. This is called *adat* (habit) of the Prophet in the 'Nurul Anwar', a text book of Usul. Certain activities may fall in between the two. Only competent scholars can distinguish the two in such areas. Sunnah which partakes of technical knowledge such as, medicine, agriculture is not part of Shariah according to most scholars. As for the acts and sayings of the Prophet that related to particular circumstances such as, the strategy of war, including such devices that misled the enemy forces, timing of attack, siege or withdrawal, these too are considered to be situational and not a part of the Shariah.

Certain matters are particular to the Prophet (SM) such as, the case of number of wives, marriage without dower, prohibition of remarriage of the widows of the prophet (SM). The Quran has priority over Sunnah, because of nature of revelation (*wahy zahir* over *wahy Batin*), authenticity and also because Sunnah is basically and mostly an elaboration of the Quran. In case of real conflict, the Quran should prevail. Never the Quran was abandoned in favor of the Sunnah.

It may be noted that Sunnah in many instances confirms the Quran. Please look into examples given in the book. There is no disagreement on this. Sunnah also explains and clarifies the Quran as in the case of Salat, Zakat, Hajj, Riba and many other matters of transactions. Another part of Sunnah which is called *Sunnah al-Muassisah* or founding Sunnah (such as, prohibition of marrying paternal or maternal aunt, or the right of pre-emption in property (*shuf'*)) cannot be traced in the Quran and originated in the Sunnah.

Implication of verse 16:44 (Surah Nahl) does not clearly over-rule the recognition of Sunnah as an independent source, at least in some respects. It may be noted from other books (not discussed in Hashim Kamali's book) that the experts in Hadith literature at the stage of collection of Hadith examined all Hadith before recording in their collections (particularly the claim of transmission from the Prophet (SM) downward) and classified Hadith into strong (*sahih/hasan*), weak (*daiif*) and forged (*Mawdu*). It is now re-examination of Hadith literature is continuing. In current century, Nasiruddin Albani had good work on this subject. Anybody who knows Arabic well, can look into Albani's works (see also 'Studies in Hadith Methodology', by M.M. Azami, published by American Trust Publications). *Mutawatir Hadith* has been considered Qati (definitive) in concept (*Mutawatir bil Ma'na*) mostly. There are only a few Hadith which are *Mutawatir bil Lafz* (Mutawatir word by word). Also note that because of large number of reporters of Mutawatir Hadith, diversity of residence of the reporters, it is impossible to concoct a lie in this manner. The main conditions of Mutawatir Hadith are:

- a. large number of reporters,
- b. reports must be based on direct knowledge and through sense perception,
- c. reporters must be upright,
- d. reporters are free from sectarian or political bias of that time.

According to the majority of Ulama of Usul, the authority of Mutawatir is equivalent to the Quran. It gives positive knowledge, the denial of Mutawatir Hadith or Sunnah is equivalent to denial of the Quran.

Mashhur Hadith is a kind of Hadith, which is reported by one or two companions, then become well known. The majority of Ulama considered Mashhur as a kind of *Ahad Hadith* and it gives speculative knowledge, not positive knowledge. *Ahad Hadith* (in most cases reported by a single companion and which did not become well-known in the 2 or 3 generations) does not give positive knowledge. Majority of Jurists hold that if *Ahad* is reported by reliable reporters, it establishes a rule of law. Some hold acting upon *Ahad* is only preferable. *Aqidah* (beliefs) or *Hadud* (prescribed punishment) should not be based on *Ahad Hadith*.

If a Hadith is narrated by a number of narrators and there is additional words in some of them, then it should be looked into whether the Hadith was originally uttered in one sitting. In that case, the words narrated by more narrators will be accepted. Imam Malik did not rely on *Ahad Hadith*, if it was in conflict with the practice of Madinah. Most Imams considered *Ahad Hadith* to be authoritative in principle if reported by reliable reporters. Majority of Ulama do not insist on verbatim transmission (*riwayit bil Lafz*) of *Ahad*. Transmission of a part of Hadith is permitted, if it is not in conflict with the full Hadith.

Muttasil (connected) & *Ghair al-Muttasil* (disconnected) Hadith: What is the difference between *Muttasil* (connected) and *Ghair al-Muttasil* (disconnected) Hadith? *Mutawatir*, *Mushhur* and *Ahad* are kinds of *Muttasil* hadith. *Mursal*, *Mudal* and *Munqati* are various types of *Ghair al-Muttasil* Hadith. According to majority, *Mursal* means that a successor (*Tabii*), narrates a Hadith without mentioning the name of companions. Majority of Ulama of Hadith do not accept the *Mursal* as evidence. Imam Ahmad and Imam Shafii do not rely on *Mursal* unless reported by famous successor, even then *Mursal* have to meet certain conditions as mentioned in books on *Usul*. Imam Abu Hanifa and Imam Malik are less stringent in their acceptance of *Mursal*. *Munqati* refers to a Hadith whose chain of narrators single missing link somewhere of the middle of the chain. *Mudal* is a Hadith in which two consecutive links are missing.

Sahih, Hasan & Daif: The Hadith has also been classified into *Sahih*, *Hasan* and *Daif*. Hadith is called *Sahih* (that is excellent in terms of quality of narrators - not in the sense of *Qati* or absolutely correct), if it is reported by *Thiqat Sabitun* (highly trustworthy) or by *Thiqat* (trustworthy) narrator. A Hadith is considered *Hasan* if among the narrators are included (apart from the categories of narrators of *Sahih* Hadith) some persons who are *Sadiq* (truthful), *Sadiq Yahim* (truthful but commits error) and *Maqbul* (accepted that is there is no proof that he is unreliable). A Hadith is considered *Daif* if among the reporters are any *Majhul* person (that is unknown person in terms of identity or conduct) or if there is any *Fasiq* (violator of any important practice) or any liar.