

THE AUTHORITY AND AUTHENTICITY OF HADITH AS A SOURCE OF ISLAMIC LAW. (1982). By Mohd. Shabbir. Kitab Bhavan, 1214 Kalan Mahal, Daryaganj, New Delhi-110002. Pp. xvi + 131. Price Rs. 65.

THE TERM *Sunna* literally means "a path, a procedure, a way of action", i.e. some kind of practice and precedent. In Islamic law the term usually means the rule deduced from the utterance, deeds and practices of the Prophet. It also includes the unspoken approved course of conduct. In this sense *Sunna* has to be distinguished from the *Hadith*. The term *Hadith* is applied to the particular occurrence, act, deed, or conduct, or model behaviour, while the term *Sunna* is applied to the rule of law deduced from the *Hadith*. In the words of the author, "*Hadith* enshrines *Sunnah* or "beaten track"—the custom and practice of old Muhammadan community. Inasmuch as *Hadith* was often invoked to prove that a certain act was performed by the Prophet (peace and blessing be upon him) and therefore to be imitated by all pious believers, it follows that *Hadith* and *Sunnah* are sometimes names for one and the same thing. But there is no necessary connection between them, and we often find that tradition is in conflict with the custom. The great merit of Malik b. Anas and in the eyes of his contemporaries was that he was an authority both on customary law and on oral traditions. The word *Sunnah* up to the time of Muhammad (peace and blessing be upon him) meant the practice antiquity, after his time it acquired in orthodox circle a different significance and came to denote the practice of the Prophet (peace and blessing be upon him) to his immediate successors. Medina naturally became the "home of the *Sunnah*" because there lived the men who had first to adopt their lives to the teaching of the Prophet (peace and blessing be upon him), thus, so far as corporate life was concerned, Medina was the authority on questions of the orthodox custom."¹

The word *Hadith* is closely connected with the word *Sunna* which originally meant precedent and custom of the doing and practices of the Prophet. It appears that in its wider connotation, the term *Sunna* is applied to the traditions or precedents not merely to those emanating from the Prophet, but also from his companions, successors of successors. As to the traditions emanating from the Prophet all schools of law agree that an authentic tradition is as much binding as the verses in the *Koran*, but as to the traditions of others, there is no such unanimity. Remoter is a tradition from the Prophet, the lesser is its authenticity. There is a great divergence of opinion as to which of the traditions are authentic and which are not. Shafii is categorical in saying that an authentic *Sunna* is infallibly

1. Mohd. Shabbir, *The Authority and Authenticity of Hadith as a Source of Islamic Law* 13 (1982).

universal and eternal. The Sunnis and the Shias differ fundamentally on the acceptance of the *Sunna*. The Shias would not accept a *Sunna* not originating from the household of the Prophet, while the Hanafis go to the extent of accepting even the isolated traditions.

It seems that despite the prohibition of writing of *ahadith* by the Prophet, the writing of them commend even during the life time of the Prophet. But it seems that the first organized attempt in this direction was made at the end of the first century by Caliph Umar-bin-Ahd-al-Azizi, and it seems that within two hundred years almost all the important works of the *Hadith* were compiled. Regular writing of the *ahadith* resulted, on the one hand, in authentic compilations and collection and, at the same time, on the other hand, some spurious works also came. No one is even now certain as to how many *ahadith* really existed. The *ahadith* are not confined to legal norms; they also relate to theology, trade, ethics, government, etc. As it often happens with such texts, some of them are contradictory. Shafii takes the view that a conflict between two or more of them should be resolved by a harmonious construction. Where harmonious construction is not possible, then the one which is in keeping with the Koran should be accepted as authentic. The authenticity of a *Hadith* is checked by *Matn* and *Isnad*, i.e., chain of transmission from Prophet down to the last reporter or the compiler.

Schacht and some other western scholars hold the view that the concept of the *Sunna* was adopted by the Muslim jurists from the pre-Islamic Arabia. It is an Arab legacy to Islam. In pre-Islamic Arabia, it denoted normative customs or precedents. The entire conservatism of the Arabs found expression in the *Sunna*. And, according to Schacht, it was this ancient Arab concept of *Sunna* which was to become one of the central concepts of Islamic law. In Islamic law, the term *Sunna* originally had a political and administrative connotation. It referred to the policy and administration of the caliphs. The question whether the administrative acts of Abu Bakr and Umar should be regarded as binding precedent cropped up at a time when a successor to Umar had to be appointed. One of the charges against the third caliph was that he had deviated from the policy of his predecessors and defiled the Koran. Thus originated the concept of the "*Sunna* of the Prophet." In their search for theoretical foundations, the ancient schools of law transferred the term "*Sunna* of the Prophet" from its political and theological context into a legal context, and identified with the *Sunna*, the idealised practice of the local community and the doctrine of its scholars. This is disputed by the author, who says that *Sunnha* was the practice of the community as supported by well known tradition from the Prophet or the conduct of the companions or the successors. In the words of the author:²

During the lifetime of the Prophet (peace and blessing be upon

2. *Id.* at 7.

him) *Sunnah* implied the conformity of the acts of the companions to the acts of the Prophet (peace and blessing be upon him). They regulated their lives according to the *Qur'an* as exemplified in and illustrated by the behaviour of the Prophet (peace and blessing be upon him). No separate law was needed to support the veracity of their actions except the sayings and model conduct of the Prophet (peace and blessing be upon him). After his life-time, the companions had with them *Qur'an*, the conduct of the Prophet (peace and blessing be upon him) and their own practice prevalent while he was alive. The companions settled in different towns outside Arabia. They were not transmitters of the *Sunnah* of the Prophet (peace and blessing be upon him) but also its interpreters and elaborators. They widened the scope of the *Sunnah* to receive within its orbit new contents. Being the representative of the life and conduct of the Prophet (peace and blessing be upon him) the conduct and opinions of the companions began to be regarded as exemplary by the succeeding generation.

Shafii did not recognize the tradition as idealized practice but identified it with the formal traditions coming from the Prophet. Shafii, thus, started the process of limiting the scope of the *Sunna* and, at the same time, placed them even higher to the Koran. He maintained that one should not conclude, as the ancient schools of law did, that the companions of the Prophet knew the intentions of their master best, and would, therefore, not hold an opinion incompatible with them. A fortiori, Shafii maintained that practices originating from persons other than the companions of the Prophet had no authority whatsoever. Thus, the concept of "living tradition of the Prophet", so ably developed by the ancient schools of law, was given a go by. On the other hand, Shafii held the view that the traditions of the Prophet could not be invalidated even by reference to the Koran. He took for granted that the Koran could not contradict the tradition of the Prophet, and, therefore, the Koran had to be interpreted in the light of the tradition, and not vice versa. In the later development of Muslim law, an attempt was made to incorporate the view of Shafii into the living traditions of the Prophet.

The *Sunna*, whether considered as a body of traditions coming down from the Prophet or from his companions, successors or successors of successors or from the general body of the *Ulema* is a very important source of Muslim law. This work is indeed an indepth study of *Hadith* as a source of Muslim law. The great merit of the present study lies in the fact that the author has neither followed the orthodox and biased approach of the fundamentalist, nor the so-called detached, scientific and ultra-clinical methods of a modernist, but has adopted the "golden mean". The author opines—and to which this reviewer agrees that the closing the door of *ijtihad* is responsible for the stagnation of Islamic law and that it is unfortunate, that there is no rational and logic in closing the door of

ijtihad and that it reflects the intellectual backwardness of the community. The author observes:

The "living *Sunnah*" of our early forefathers, therefore, while it has lessons for us as a genuine and successful interpretation of the *Qur'an* and the Prophetic activity for the early days of the community, is, in its flesh and blood, absolutely irrepeatable, for history really never repeats itself so far as societies and their structures are concerned. There is only one sense in which our early history is repeatable—and, indeed, in that sense it must be repeated if we are to live as progressive Muslims at all viz., just as those generations met their own situation adequately by freely interpreting the *Qur'an* and *Sunnah* of the Prophet (peace and blessing be upon him)—by emphasizing the ideal and the principles and re-embodying them in a fresh texture of their own contemporary history—we must perform the same feat for ourselves, with our own effort, for our own contemporary history.³

This reviewer will say *amen*, and wish that progressive Muslim intellectuals like Mohammad Shabbir will succeed in performing the same feat as the early *majtihad* did, and the gate of reason will thus be opened once again.

*Paras Diwan**

3. *Id.* at 107,

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