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# **The Sunna and its Status in Islamic Law**

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The Search for a Sound Hadith

Edited by  
**Adis Duderija**



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*The Sunna and its Status in Islamic Law: The Search for a Sound Hadith*

Edited by Adis Duderija

THE SUNNA AND ITS STATUS  
IN ISLAMIC LAW

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THE SEARCH FOR A SOUND HADITH

EDITED BY  
*ADIS DUDERIJA*

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THE SUNNA AND ITS STATUS IN ISLAMIC LAW

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## Notes on Transliteration and Other Conventions

The transliteration system used in this volume is in accordance with the *International Journal of Middle East Studies*. The editor makes a distinction between technical terms and names. Only the fully transliterated, with the exception of the word “Qur’ān,” and technical terms (i.e., those having diacritics and emphatic consonants) are italicized. The initial *hamza* and *tā’ marbūʿa* are not transliterated. Both *alif* and *alif maqṣūra* are transliterated with *ā*. In the bibliography the original spelling and transliteration of works have been kept. All dates are Common Era unless otherwise indicated with (AH) in few references.

# Introduction

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## The Concept of *sunna* and Its Status in Islamic Law

Adis Duderija\*

The concept of *sunna*, as one of the two normative fountainheads of the Islamic tradition, is of fundamental importance in understanding nearly all the branches of Islamic knowledge, including Islamic law and politics. It is, however, a contested concept that—like the Qurʾān,—has been used by many Muslim groups throughout history to both discredit the views of their opponents as being misguided (or even heretical) and bolster their own credentials as followers of the “true” Islamic teachings.<sup>1</sup>

The purpose of this book is to equip readers with a better understanding of the nature and scope of the concept of *sunna*, in both premodern and modern Islamic discussions on the topic. In this context, the discussion often focuses on the conceptual, epistemological, and hermeneutical relationship between the concepts of *sunna* and a sound (*ṣaḥīḥ*) ḥadīth, which was considered by many classical schools of thought (*madhāhib*)—as documented in this volume—as the *sunna*’s only vehicle of embodiment and transmission, thereby conceptually conflating the two concepts. Some scholarship exists, however, that points to the fact that during the formative period, this conceptual conflation of *sunna* and ḥadīth did not exist.<sup>2</sup>

Although a number of authors have examined the concept of *sunna* from various perspectives during the formative period of Islamic thought,<sup>3</sup> none of these studies, outside the context of the Mālikī school of thought,<sup>4</sup> have systematically explored the issue of the exact nature and scope of the concept of *sunna*, its evolution, and its role in authenticating ḥadīth. What this book proposes to do is exactly that.

As evident in its massive exegetical corpus, the Qurʾān, as a text (*mushaf*), is in need of elucidation and interpretation. Recognizing this, Muslim scholars developed a theory regarding the hermeneutic and exegetical necessity of *sunna* at an early date.<sup>5</sup> During the first three centuries Hijri (AH), the concept of *sunna* seems to have been understood as a general, unsystematically defined ethico-behavioral practice of the early Muslim community that had been formulated, preserved, and transmitted either orally and/or through the practices of the Prophet's Companions.<sup>6</sup> Guraya, who investigated the concept of *sunna* in the early Mālikī school of thought, for example, has argued that during this period, *sunna* was a concept based on "recognized Islamic religious norms and accepted standards of conduct derived from the religious and ethical principles introduced by the Prophet."<sup>7</sup> I refer to this concept of *sunna* as the *non-ḥadīth-dependent concept of sunna*.

However, before the end of the first century AH, Muslims began to systematically document the events surrounding Prophet Muhammad's life in the form of traditions known as *ḥadīth* (*aḥādīth*).<sup>8</sup> One reason behind the initiation of this process was to utilize this body of knowledge for the growing legal, religious, political, and social needs of the ever-expanding Muslim empire. Another factor was the rise of the Abbasids' dynasty (132/750) and their claim to be the legitimate custodians of the *Prophet's sunna*,<sup>9</sup> the religious importance of which was increasingly recognized by the Muslim masses. This situation created an ever-greater impetus for a systematic search for, and collection of, the events surrounding the life of the Prophet, especially in its written form of *aḥādīth*.<sup>10</sup> This entire process of documentation of the Prophet's life, over time, in turn, gave rise to the formulation and consolidation of *ḥadīth* sciences (*ʿulūm al-ḥadīth*). These included branches of knowledge pertaining to the collection, assessment, and evaluation of *aḥādīth* based upon methodological principles and mechanisms designed to ensure their authenticity. I refer to this broader process as the traditionalization of Islamic thought and the "ḥadīthification" of *sunna*. In a broader sense, this process refers to those social, political, and jurisprudential mechanisms that contributed to the following phenomena throughout the latter half of the first and the entire second and third centuries AH:

- the continued growth and proliferation of *ḥadīth*;
- the increasing importance given to *ḥadīth* at the cost of what I have termed the *non-ḥadīth-dependent concept of sunna* that was prevalent in the first two centuries of Islam as explained above;
- the articulation of non-verbally based aspects<sup>11</sup> of *sunna* into an individual, sound (*ṣaḥīh*) *ḥadīth*;

- the increased application of *ḥadīth* to Qurʾān and *sunna* sciences such as jurisprudence (*fiqh*), Qurʾānic exegesis (*tafsīr*), and legal hermeneutics (*uṣūl al-fiqh*);
- the development of *hierarchical*, legal, hermeneutical models that were entirely text-based (i.e., based on Qurʾān and *ḥadīth*) and the marginalization of non-text-based epistemological and methodological tools of *sunna* (and Qurʾān) such as *raʾy* (reason-based opinion), *ijtihād*, *istihsān*; and
- the idea that *sunna* (and the Qurʾān) are conceptually coterminous with certain ethical values or principles, such as justice or righteous conduct, including the expression *sunna ʿādila* that was employed by Muslims in the second century AH.<sup>12</sup>

By “ḥadīthification” of *sunna*, I refer to the idea that the written *ḥadīth*-based body of knowledge became *sunna*’s only vehicle of transmission/embodiment leading to *ḥadīth-dependent* methodology of derivation of *sunna*.<sup>13</sup>

At the beginning of the second century AH, there was a rapid increase in the number of *ḥadīth* collections, in different formats. These emerging collections were considered by some sections of the Muslim community to be a truer reflection of the Prophet’s legacy (*sunna*) than the epistemologically and methodologically *ḥadīth-independent* concept of *sunna* that was held by other groups. By the second half of the second century AH, the former became known as the *ahl al-ḥadīth* and the latter as *ahl al-raʾy*.<sup>14</sup> The *ahl al-ḥadīth* considered *ḥadīth* to be the sole and complete depository of Sunna and the only vehicle of its perpetuation. This *ḥadīth*-based approach to *sunna* came into conflict with how the *ahl al-raʾy* conceptualized *sunna* and the role of *raʾy* in interpreting the Islamic tradition.<sup>15</sup> The *ahl al-ḥadīth* insisted that all law had to be traced back to the Qurʾānic text and *ḥadīth*-based *sunna*, and that *raʾy* was either an illegitimate methodological tool for the derivation of law<sup>16</sup> or that its use had to be constrained to those cases in which Qurʾān and *ḥadīth* texts offered no help at all.<sup>17</sup> According to Melchert, *ahl al-ḥadīth* considered the Qurʾān and *ṣaḥīḥ al-ḥadīth* as the only religiously legitimate basis of Islamic law, ethics, and theology. The *ahl al-ḥadīth* preferred to rely on weak traditions, *daʿīf al-ḥadīth* over principles generally deduced from the Qurʾān or through analogical reasoning (*qiyās*).<sup>18</sup> According to the *ahl al-ḥadīth*, jurisprudence should be based on *ḥadīth*. As such, the *ahl al-ḥadīth* dealt with juridical problems by referring exclusively to and reciting relevant *ḥadīth* reports. In ninth-century Baghdad, the *ahl al-ḥadīth* group was associated with the followers of the eponym of the Ḥanbalī *madhhab* Aḥmad Ibn Ḥanbal (d. 241/855). By contrast, the *ahl al-raʾy*, called “semi-rationalists” by Melchert, considered *fiqh*

as a separate field from *ḥadīth* sciences. This school of jurisprudence was primarily associated with the emerging Mālikī and Shāfiʿī schools of thought of the second and third century AH.<sup>19</sup> The two designations *ahl al-raʿy* and *ahl al-ḥadīth* can thus be considered to have “[o]riginally referred to branches of legists occupied with the investigation of Islamic law: the former were concerned with the study of transmitted sources (i.e., *ḥadīth*) and the latter with the practical aspects of the law.”<sup>20</sup>

As the influence of *ḥadīth*-based concept of *sunna* gained more credence in the second and third centuries AH, the *ahl al-raʿy*, which at this point had crystallized into several regional and, subsequently, personal schools of thought (*madhāhib*),<sup>21</sup> took steps to accommodate and award more legitimacy to the *ḥadīth*-based concept of *sunna* in their overall Qurʾān-*sunna* hermeneutic. Thus, a process of synchronism and cross-pollination between the *ahl-raʿy*, the precursors of the *madhāhib*, and *ahl al-ḥadīth* took place, resulting in the formation of what are today are the four extant Sunnī *madhāhib*.<sup>22</sup> The Ḥanafīs were generally considered closer to the *ahl al-raʿy* legal hermeneutic. The Hanbalī *madhhab* is generally regarded as the successor of the *ahl al-ḥadīth* approach.<sup>23</sup> The Mālikīs and Shāfiʿīs stood in the middle, evolving over time. However, the concept of *sunna* according to the *madhāhib* was still independent of *ḥadīth*, both epistemologically and methodologically. This *ḥadīth-independent concept of sunna* was evident, for example, in the writings of the eighth-century Iraqi scholars such as Abū Yūsuf (d. 182/798), who referred to it as *al-sunna al-mahfūza al-maʿrūfa*, the preserved and well-known *sunna*, or those of the Medinian scholar Mālik Ibn Anas (d. 178/795) who referred to it primarily as *sunna mādiya lʿamal*.<sup>24</sup>

According to D. Brown, however, the *madhāhib* “had given assent in theory to the importance of *ḥadīth* whilst resisting its thorough application,” thus creating a tension between *ahl-ḥadīth*’s definition of *sunna* and “the actual doctrine of the *madhhab*.” Increasingly, the *ahl-ḥadīth* movement questioned the systematically constructed Qurʾān-*sunna* hermeneutical doctrine of the *madhāhib* as not being based on “true” *sunna*.<sup>25</sup> This opened the doors for the argument of *ihyāʾ al-sunna*—the revivification of, and the return to, “true” prophetic *sunna*. This revival of the “true” *sunna* was to be achieved by insisting that only the adherence to the body of “authentic *ḥadīth*,” as defined by *ahl al-ḥadīth*, constitutes *ihyāʾ al-sunna*. Thus, the main purpose behind the call for *ihyāʾ al-Sunna* was to undermine the *madhhab*-based approach to conceptualizing and interpreting the Islamic tradition, especially their concept of the nature and the scope of the concept of *sunna*.<sup>26</sup>

There has always been tension between, on the one hand, the epistemologically and methodologically *ḥadīth-dependent concept of sunna* of the

*ḥadīth* specialists following the *abl al-ḥadīth* understanding of *sunna* (in addition to some Islamic jurists who subscribed to the same) and, on the other hand, the Mu'tazila<sup>27</sup> and some of the Ḥanafī<sup>28</sup> and Mālikī<sup>29</sup> legal theoreticians (*uṣūliyyūn*) whose understanding of *sunna* was closer to how *sunna* was understood prior to the process of ḥadīthification of *sunna* and traditionalization of Islamic thought described above. These differences in the relative status and the nature of the concepts of *sunna* and *ḥadīth* as sources of legal authority also gave rise to differences among Muslims as to *sunna*'s and *ḥadīth*'s respective hermeneutical relationship with the Qur'ān. This is especially true with respect to the issue of whether *sunna* is to be considered as part of Revelation (*waḥy*) *on par* with the Qur'ān. If the answer to this question were in the affirmative, it would mean that *sunna* (and therefore the *ḥadīth* for the *abl al-ḥadīth*.) could be employed as an independent and self-sufficient source of Islamic law and theology, in addition to being utilized as a legitimate exegetical and hermeneutical tool.<sup>30</sup>

While stressing the uniqueness and inimitability of the Qur'ān as Revelation *par excellence*, the classical Muslim scholarship, partly as the result of what I described as the processes of ḥadīthification of *sunna* and the traditionalization of Islamic thought, developed a theory of recited (*waḥy matlū*) and un-recited revelation (*waḥy ḡhayr matlū*) applying the former to the Qur'ān and the latter to the *sunna/ḥadīth*. Ibn Ḥazm (d. 456/1064) describes this theory in a following manner:

The Revelation (*waḥy*) from God Almighty to His Messenger (s.) comes in two forms: One of the two is recited (in ritual) revelation (*waḥy matlū*) which takes form of the Qur'ān, which is an inimitably organized written masterpiece. The other form of revelation consists of transmitted sayings, the reports that originated from God's Messenger (s.). These sayings do not constitute an inimitably arranged written composition and, although this form of revelation is read, it is not used in ritual recitation (*lā matlū*).<sup>31</sup>

The inherent tension between the traditional doctrine of Qur'ān's inimitability (*i'jāz*) and the theory of two forms of revelation (*waḥy*) has been noted by D. Brown as follows:

This antinomy that the Qur'ān is unparalleled but that *sunna* is nevertheless equal to it in status was enshrined in the classical formulate which defines *sunna* as un-recited revelation (*waḥy ḡhayr matlū*) and differentiated it from recited revelation (*waḥy matlū*), which is only found in the Qur'ān. The distinction made here is one of form and not of substance. *Sunna* is not a different mode of revelation but it is used differently and transmitted differently. This formula maintains the superiority of the Qur'ān in the realm of ritual and devotion while asserting the equal status of *sunna* as a source of legal

authority. In the Qur'ān, words and commands are of divine provenance, in the *sunna* only the intent of command is trustworthy, for the text itself is liable to corruption.<sup>32</sup>

Put succinctly, the majority of jurists adopted the view<sup>33</sup> that “the *sunna* rules over the Qur'ān (*qādiya 'alā al-kitāb*) and the Qur'ān does not rule over the *sunna*”,<sup>34</sup> or that the Book [Qur'ān] [often] takes form in general sentences whose preciseness the *ḥadīth* specifies (*yakshifuhā*) and with succinctness (*wa-'khtiṣār*) whose details are indicated (*tadullu*) by the *sunna* (i.e., *al-kitāb Qur'ān* [Qur'ān] *ya'tī bi-l-jumal yakshifuhā al-ḥadīth wa-'khtiṣār tadullu 'alayhī al-Sunna*),<sup>35</sup> thereby conferring onto *sunna*<sup>36</sup> / *ḥadīth*<sup>37</sup> a quasi-status of revelation which can elaborate on, specify (*takḥṣīs*)<sup>38</sup> or as held by some scholars even abrogate the Qur'ānic text.<sup>39</sup> As a corollary, *sunna/ḥadīth*, as demonstrated in this volume, became recognized as a legitimately hermeneutical tool to be employed in Qur'ānic hermeneutics and Islamic legal theory, in the form of either *ḥadīth saḥīh* (as in case of mainstream classical Islam) or in the form of *sunna mutawātirah sunna 'amaliyya* (as in case of the Mu'tazila and some Ḥanafī and Mālikī *uṣūliyyūn*), and as an *independent* source of Islamic law and less so theology.

This book revisits and aims to shed more light on these debates, especially how they played themselves out in the pre-modern Islamic legal traditions. Moreover, in order to contextualize the discussion in broader terms this volume examines the concept of *sunna* in early historical works in general and those pertaining to the life of the Prophet (*sīra*) in particular, the canonical Sunnī *ḥadīth* literature and the short lived genre known as the principles of *sunna* (*uṣūl al-sunna*). To demonstrate the continued significance and various continuities and discontinuities between the pre-modern and the modern discussions on the topic, the final chapter includes the views of some of the most prominent modern scholars who have developed some innovative arguments and ideas regarding the question of the relative status of the *sunna* and *ḥadīth* as sources of legal authority vis-à-vis the Qur'ān and their normative role in Qur'ānic interpretation.

Although the book, which for a number of reasons had a difficult birth, was unable to encompass all of the major Sunnī and Shī'ī schools of jurisprudence as it originally had intended, it is hoped that the presented material will stimulate further academic studies on this important topic in the future.

## Chapter Outlines

In the first chapter Nicolet Boekhoff-van der Voort offers a detailed comparative analysis of the meaning and the nature of the concept of *sunna* in