

LEGISLATIVE AND NON LEGISLATIVE VERBAL SUNNAH: AN ANALYTIC STUDY

Dr. Hafiz Muhammad Zubair¹

Dr. Hafiz Hussain Azhar²

Abstract

Verbal Sunnah (Al-Sunnah Al-Qawliyyah) is defined as the sayings of the Prophet PBUH through which he recommended the laying down of the law or the explanation of Quranic rulings. Scholars say that not every saying of the Prophet PBUH is a source of Islamic Law. To become a source of law, the purpose of the saying should be the ordaining of the law or its explanation. Therefore, A difference is usually, made between non-legislative Sunnah and legislative Sunnah. The former refers to Prophet Muhammad's acts in person, specific to him or not binding on his followers while the latter describes the rules and principles of Sharia that the Prophet laid down in his capacity as a Messenger of God, as the head of state, or as an Judge.

1. INTRODUCTION

The word Sunnah has a literal and several literary meanings in various Islamic sciences. In its literal meaning it stands for the “well-trodden path”, which is followed repeatedly. Technically, Sunnah means, “What was transmitted from the Prophet PBUH of his words, acts and tacit approvals”.¹

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¹ Assistant Professor Department of Humanities COMSATS Institute of Information Technology Lahore, Pakistan

² :Assistant Professor Department of Social Science University of Veterinary & Animal Sciences Lahore, Pakistan

LEGISLATIVE AND NON LEGISLATIVE VERBAL SUNNAH:

explanation of Quranic rulings. Scholars say that not every saying of the Prophet PBUH is a source of Law. To become a source of law, the purpose of the saying should be the ordaining of the law or its explanation.ⁱⁱ

Sheikh Maḥmūd Shaltūt has categorized Sunnah as legislative and non-legislative Sunnah.ⁱⁱⁱ A distinction is usually, made between non-legislative Sunnah and legislative Sunnah. The former refers to Prophet Muhammad's acts in person, specific to him or not binding on his followers while the latter describes the rules and principles of Sharia that the Prophet laid down in his capacity as a Messenger of God, as the head of state, or as an Judge.^{iv}

For example, there are some Sunnah of the Prophet that are based on a particular culture and tradition, and this type of Sunnah is not considered as legislation for Muslims at all. This type refers to his preference in food, ways of talking, looking and walking, and the colour and type of his dress, etc. This type of Sunnah is known as non-legislative Sunnah and Muslims are not obliged to follow it.^v

2. TYPES OF VERBAL SUNNAH

Sometimes Verbal Sunnah comes as a confirmation or explanation to the Quranic text but occasionally it comes as an independent source of legislation without having any prior reference of these judgements in the Quran. However, not every statement or saying of the Messenger is a legislative verdict. Types of legislative and non-legislative verbal Sunnah are as below:

2.1 WĀJIB (OBLIGATORY) RULINGS:

Sometimes verbal Sunnah indicates the obligatory verdict as Jarīr bin Abdullāh said: I asked the Messenger of Allah about (the Islamic ruling on) accidental glance (i.e., at a woman one is not Islamically allowed to look at) and he ordered me to turn my eyes away.^{vi}

Imam Al-Nawawī said that there is no sin on the first glance but if he continues to look then he is sinning, because of this hadith. The Prophet PBUH instructed him

LEGISLATIVE AND NON LEGISLATIVE VERBAL SUNNAH:

to avert his gaze. Furthermore, Allah, may He be exalted, says: “Tell the believing men to lower their gaze...”^{vii}

2.2 MUSTAAB (RECOMMENDED) RULINGS:

Some verbal Sunnah narrate the recommended rulings not obligatory as Allah’s Messenger said, “Pray before Maghreb.”^{viii} The evidence for it is not an obligatory ruling is that the Messenger PBUH also said; “Pray before Maghrib,” and the third time he said: “for whoever wants to,”^{ix} not wanting the people to take it as a binding Sunnah. The words “for whoever wants to” indicate that the command in the words “Pray before Maghrib” does not mean that it is mandatory.

A ruling that does not come with any indication as to whether it is obligatory or not, is what the scholars say al-‘Amr al-Mulaq (i.e. absolute command). The majority of scholars from the four schools of jurisprudence say the ruling on such commands is that they are obligatory.^x

2.3. MUBĀ (ALLOWED) RULINGS:

Another type of rulings derived from verbal Sunnah is Mubā. The Prophet said; narrate traditions from the children of Israel; there is no harm.^{xi} The first phrase “narrate traditions from the children of Israel” indicates that it is compulsory to relate from Jews, then the Prophet PBUH pointed out that it is not necessary but permissible when he said, “there is no harm”, meaning no harm in not relating their traditions.^{xii}

2.4 MAKRŪ (DISCOURAGED) RULINGS:

Verbal Sunnah also describe the Makrū rulings. Abu Huraira reported Allah’s Messenger as saying; none of you should walk in one sandal; he either should wear the two or should take off the two.^{xiii} Imam al-Nawawi said, “Walking with

LEGISLATIVE AND NON LEGISLATIVE VERBAL SUNNAH:

one shoe without an excuse is Makrū^{xiv} **because it is contrary to somberness** and may even cause falling.

2.5 HARAM (PROHIBITED) RULINGS:

Haram rulings are also reported in verbal Sunnah as the Messenger of Allah said, “A person should not enter into a transaction when his (Muslim) brother has already negotiated, nor should he make a proposal of marriage when that of his brother is pending, except with the permission of the latter.”^{xv} The wisdom behind this ruling is that it generate enmity and hatred among Muslims, and everything that leads to hostility among Muslims is haram.

2.6 MANSUKH (ABROGATED) RULINGS:

It is narrated from Abū Hurairah that the Messenger of Allah said, “Perform Wudhū (ablution) from that which has been touched by fire.”^{xvi} This ruling is Mansukh (abrogated) as the hadith of Jābir says that the last of the two commands from the Messenger of Allah PBUH was that there was no need to do Wudhū after eating food that had been touched by fire.^{xvii} Similarly, Alībin Abīlīb and Abdullāh bin Abbās did not do Wudhū after eating cooked food.^{xviii}

2.7 SUNNAH REGARDING WORLDLY MATTERS:

Allah’s Messenger migrated to Medina and the people had been grafting the trees. He said, “What are you doing?” They said, “We are grafting them.” Whereupon he said, “It may perhaps be good for you if you do not do that.” Therefore, they abandoned this practice (and the date palms) began to yield less fruit. They made a mention of it to the Holy Prophet, whereupon he said, “I am a human being, so when I command you about a thing pertaining to religion, do accept it, and when I command you about a thing out of my personal opinion, keep it in mind that I am a human being.”^{xix}

LEGISLATIVE AND NON LEGISLATIVE VERBAL SUNNAH:

This hadith indicates that the worldly matters that have nothing to do with Halal and Haram or Right and Wrong, do not come under the mission of the Messenger PBUH as the conveyor of the Message from His Lord. Thus, Sunnah relating to specialized knowledge such as medicine, commerce and agriculture do not establish binding Sharia either. However, those people who try to confine Islam only to rituals of worship, such as prayer, fasting and Hajj, and want to separate Sharia from other aspects of life are also wrong. To say that the social, economic and political spheres are human affairs in which people can do whatever they want and can legislate and govern however they wish, is incorrect.^{xx}

2.8 DIFFERENCE BETWEEN INTERCESSIONAL WORDS AND

COMMANDS:

A maidservant named Barīrah was set free in the times of Prophet PBUH and she chose to cancel her marriage to her husband, who was a slave. Her husband, Mughīth, loved her, and he was walking behind her on the streets of Madinah with tears flowing down his cheeks, begging with her to come back to him. However, she refused the Prophet PBUH when He interceded for Mughīth and said to her – as is narrated by Abu Dawood – “O Barīrah! Fear Allah, for he is your husband and the father of your child.” She said, “O Messenger of Allah! Are you commanding me to do that?” He said, “No, I am just interceding.” She said, “I have no need of him.”^{xxi} Imam Ibn Taymiyyah said; She said, “Are you commanding me?” because it is established among the Muslims that his command is binding for Ummah.^{xxii}

Similar is the case when Alī bin Abūālib penned the treaty between the Prophet and the polytheists on the Day of udaibiyah. He wrote, “This is what Muhammad, the Messenger of Allah, has settled.” They (the polytheists) said, “Do not write words the Messenger of Allah.” If we knew that you were the Messenger of Allah, we would not fight against you. The Prophet said to Ali,

LEGISLATIVE AND NON LEGISLATIVE VERBAL SUNNAH:

“Strike out these words.” He (Ali) said: “I am not going to strike them out.” Therefore, the Prophet struck them out with his own hand.^{xxiii}

2.9 JURISTIC JUDGMENTS OF THE PROPHETS PBUH:

The Messenger of Allah PBUH said, “I am but a man to whom you bring your disputes. Perhaps one of you is more eloquent in his proof than the other, so I give judgement according to what I have heard from him. Whatever I decide for him which is part of the right of his brother, he must not take any of it, for I am granting him a portion of the Fire.”^{xxiv} This hadith clearly shows that the implementation of the judgments of a Judge will be apparently not realistically.

2.10 SUNNAH RULINGS FOR A SPECIFIC PERSON:

Al-Barā bin Āzib reported that Abū Burdah slaughtered the animal as a sacrifice before the Eid prayer. Thereupon Allah’s Apostle said, “Offer a substitute for it.” Thereupon he said, Allah’s Messenger! I have nothing with me but a goat of less than six months. Thereupon Allah’s Messenger said, “Make it a substitute for that, but it will not suffice for anyone after you.”^{xxv} The phrase “It will not suffice for anyone after you” is a definitive statement that it would not count for anyone after him.

2.11 SUNNAH RULINGS FOR BLOCKING THE MEANS:

Abū Saīd Al-Khudrī reported that The Prophet PBUH said, “Beware of sitting on ways.” The people said, “We have but them as sitting places.” Thereupon the Messenger of Allah said, “If you have to sit there, and then observe the rights of the way.”^{xxvi} The phrase “If you have to sit there, and then observe the rights of the way” indicates that the initial ruling of not sitting on ways was because of the principle “blocking the means”. This principle means that everything that is a

LEGISLATIVE AND NON LEGISLATIVE VERBAL SUNNAH:

means and leads to falling into something haram is also forbidden, even if it is permissible in principal.

2.12 SUNNAH RULINGS FOR GAINING PUBLIC INTEREST:

Some Bedouins came to Al-Madinah at the time of Eidal-Adhā and the Messenger of Allah said, “Eat, and store (the meat) for three days.” After that they said, “O Messenger of Allah, the people used to benefit from their sacrifices by melting down the fat, and also making water skins from them.” He said, “Why are you asking?” They said, “Because you forbade us from keeping the meat of the sacrificial animals.” He said, “I only forbade that because of the Bedouins who came. (Now) eat it, store it and give it in charity.”^{xxvii}

Al-Nawawī said, commenting on this hadith, the phrase “I forbade you to do that because of the people who came” refers to the poor Bedouin who came to Madinah, and this was so that they could be helped.^{xxviii} This phrase is a clear statement that this prohibition of keeping more than three days’ worth of meat was for public interest and the general ruling is to eat some and to give some in charity.

2.13 ABSOLUTE OR CONDITIONAL RULINGS IN SUNNAH:

Ibn Umar said, The Apostle of Allah said that Trim closely the moustache, and let the beard grow.^{xxix} Some of the scholars say that the Messenger of Allah PBUH commanded Muslims to leave the beard alone and let it grow naturally. They consider this command as an absolute order. However, some of them are of the view that it is permissible to remove anything more than a “handful” of the beard, basing that on the action of Ibn Umar. Narrated Nāfi, whenever Ibn Umar performed the Hajj or Umrah, he used to hold his beard with his hand and cut whatever moustaches and he used to cut the hair between his moustaches and his beard.^{xxx}

LEGISLATIVE AND NON LEGISLATIVE VERBAL SUNNAH:

2.14 VARIATION OF SUNNAH RULINGS ACCORDING TO TIME AND

PLACE:

Changing rulings according to changing times is not to be denounced but this principle is for Minhāh (methodology)^{xxxii} and Sharia remains same for times. Ibn Umar reported the Messenger of Allah PBUH as saying, “Do not prevent the female servant your women from visiting the mosques of Allah.”^{xxxiii} His son Bilāl said to him, “We would never let them go out, that they may not be caught in evil.” Ibn Umar reprimanded him and said, “I am saying that the Messenger of Allah said this, but you say: We would not allow!”^{xxxiii}

Narrated Ibn Umar that one of the wives of Umar bin al-Khaāb used to offer the Fajr and the Ishā prayer in congregation in the Mosque. She was asked why she had come out for the prayer, as she knew that Umar disliked it, and he has great self-respect. She replied, “What prevents him from stopping me from this act?” The other replied, the statement of Allah’s Messenger PBUH “Do not stop Allah’s women-slave from going to Allah’s Mosques.”^{xxxiv}

2.15 ROOM FOR DIFFERENCES IN UNDERSTANDING THE SUNNAH:

Narrated Ibn Umar: On the day of Al-Azāb the Prophet said, “None of you Muslims should offer the Ar prayer but at Banū Quraizah place.” The Ar prayer became due for some of them on the way. Some of those said, “We will not offer it till we reach it, the place of Banū Quraizah.” while some others said, “No, we will pray at this spot, for the Prophet did not mean that for us.” Later on It was mentioned to the Prophet and he did not berate any of the two groups.^{xxxv}

Although, those who prayed in time were more correct, but the Prophet PBUH did not rebuke either of the two groups. Thus, the Muslims who claim to follow the Sunnah should not divide into sects, fighting one another verbally, arguing, and hating one another for a matter in which they are allowed to have different opinions. They should unite even though they differ in the ways in which they

LEGISLATIVE AND NON LEGISLATIVE VERBAL SUNNAH:

interpret those texts, which may be understood in different ways. There is room for differences in such issues.^{xxxvi}

3. Conclusion:

The legal Sunnah consists of the model conduct of the Prophet Muhammad, which defines the rules of Sharia.^{xxxvii} In his capacity as a messenger, the Prophet explained rules, which, overall, complement the Quran but also established rules on which the Quran is silent. Whatever the Prophet has authorized, respecting to principles of religion constitutes general legislation whose validity not limited by time and circumstances.^{xxxviii}

Moreover, the non-legal Sunnah consists of the natural activities such as manner in which the Prophet slept and ate and his favorite color. Activities of this nature are not of primary concern to the Prophetic mission and therefore do not constitute legal standards. Sunnah relating to specialized knowledge such as medicine, commerce and agriculture do not establish binding Sharia either. Acts and sayings of Prophet Muhammad related to particular circumstances such as strategy of war, misleading the enemy forces, timing of attack etc., are considered to be situational and do not set up binding Sunnah. However, there is no issue in using these instances in similar situations for guidance.^{xxxix}

4. References

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- ⁱ Imran Ahsan Khan Nyazee, *Outlines of Islamic Jurisprudence*, Islamabad: Center for Islamic Law and Legal Heritage, 2010, p. 168.
- ⁱⁱ *Outlines of Islamic Jurisprudence*, p. 169.
- ⁱⁱⁱ Yusuf al-Qaradhawī, *Approaching the Sunnah*, USA: The International Institute of Islamic Thought, 2006, p. 20.
- ^{iv} Zafar Iqbal, Mervyn Lewis, *An Islamic Perspective on Governance*, UK: Edward Elgar Publishing Limited, 2009, p. 31.
- ^v Abu Umar Faruq Ahmad, *Theory and Practice of Modern Islamic Finance, The Case Analysis from America*, USA: Brown Walker Press, 2010, p. 59.
- ^{vi} Muslim bin al- aġġāġ al-Qushairī, a ġ Muslim, Beirut: Dār I yā *al-Turāth al- *Arabī, 3/1699.
- ^{vii} Al-Nawawī, Ya yā bin Sharaf, Al-Minhāj Shara * ġ ġ Muslim, Beirut: Dār I yā *al-Turāth al- *Arabī, 1392 AH, 14/139.
- ^{viii} Abū Dāwūd, Sulaymān bin al-Ash *ath, Sunan Abū Dāwūd, al-Maktabah al- *A riyyah, Beirut, 2/26.
- ^{ix} Ibid.
- ^x Ibn Najjār al- anbalī, Shara *al-Kawkab al-Munīr, Beirut: Maktabah al- *Abīkān, 3/39.
- ^{xi} Al-Bukhārī, Muhammad bin Ismā ġīl, a ġ ġ Bukhārī, Beirut: Dār waq al-Najāh, 1422 AH, 4/170.
- ^{xii} Ibn aġġar al- *Asqalānī, A mad bin *Alī, Fat *al-Bārī, Beirut: Dār al-Ma rifah, 1399 AH, 6/498.
- ^{xiii} Ibn Māġah, Muhammad bin Yazīd, Sunan Ibn Māġah, Beirut: Dār I yā * al-Kutub al- *Arabiyyah, 2/1195.
- ^{xiv} Al-Minhāj: 14/75.
- ^{xv} a ġ ġ Bukhārī: 3/69.
- ^{xvi} Sunan Abū Dāwūd: 1/50.
- ^{xvii} Sunan Abū Dāwūd: 1/49.
- ^{xviii} Mālik bin Anas, Al-Muwa *a *, Beirut: Dār I yā *al-Turāth al- *Arabī, 1985, p. 26.
- ^{xix} a ġ ġ Muslim: 4/1836.
- ^{xx} Al-Munajjid, Muhammed āli *Does the Sunnah Govern People’s Worldly Affairs?, Retrieved 16 November, 2015 from <http://islamqa.info/en/1053>.
- ^{xxi} Sunan Abū Dāwūd: 3/548.
- ^{xxii} Ibn Taymiyyah, A mad bin *Abd al- ālīm, Majmū * al-Fatāwā, Medina: Shah Fahd Printing Press, 1995, 1/317.

LEGISLATIVE AND NON LEGISLATIVE VERBAL SUNNAH:

- ^{xxiii} Al-Nasā'ī, Ahmad bin Shuaib, Al-Sunan al-Kubrā, Beirut: Mu'assasah al-Risālah, 2001, 7/482.
- ^{xxiv} Al-Mawatta: 2/719.
- ^{xxv} al-Bukhārī: Muslim: 3/1552.
- ^{xxvi} al-Bukhārī: 3/132.
- ^{xxvii} al-Bukhārī: Muslim: 3/1561.
- ^{xxviii} Al-Minhāj: 13/129.
- ^{xxix} Al-Muwa'ata': 2/947.
- ^{xxx} al-Bukhārī: 7/160.
- ^{xxxi} Quran: 5: 48.
- ^{xxxii} Sunan Abū Dāwūd: 1/155.
- ^{xxxiii} al-Bukhārī: Muslim: 1/327.
- ^{xxxiv} al-Bukhārī: 2/6.
- ^{xxxv} al-Bukhārī: 5/112.
- ^{xxxvi} Al-Uthaymīn, Muhammad bin 'Alī, Majmū' al-Fatāwāwa Rasā'il, Kuwait: Dāral-Wa'ān, 1413 AH, 1/41.
- ^{xxxvii} Niaz A. Shah, Islamic Law and the Law of Armed Conflict, USA: Routledge, 2011, p. 19.
- ^{xxxviii} Ibid., p. 20.
- ^{xxxix} Ibid., p. 19.