



The Polemics of Delegitimizing the Sunnah *Qawliyyah* From The Perspective of Mahmud Abu Rayyah in the Book *Adwa' 'Ala Al-Sunnah Al-Muhammadiyah*

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Received: 2025-01-05; Revised: 2025-06-14 Accepted: 2025-06-26; Published: 2025-06-29

Abstract: The Sunnah is an authoritative source after the Qur'an, accepted by most Muslims, both Sunni and Shi'ah, and other Islamic schools. Ironically, the authoritative Sunnah is viewed differently by a group of Muslim outsiders and insiders. On the insider side, Mahmud Abu Rayyah re-reads and delegitimizes the authority of Sunnah Qawliyyah as the second source of Islamic law by positioning the Qur'an as the first source, while Sunnah 'Amaliyyah is the second source. This study aims to further examine Abu Rayyah's delegitimization of Sunnah Qawliyyah and its polemics among Hadith scholars. This research is a Library Research with Qualitative approach and Historical and Text Study methods. The result of the research is that Mahmud Abu Rayyah's perspective of Sunnah 'Amaliyyah has higher authority than Sunnah Qawliyyah. Sunnah Qawliyyah does not have the same authority as the Qur'an or Sunnah Amaliyyah. This implies the rejection of the *kutub hadith* and *kutub al-fiqh* products of the *kutub hadith*.

Keywords: Sunnah Qawliyyah; Mahmud Abu Rayyah; Hadith Criticism; Islamic Law Sources; Delegitimization of Sunnah

Abstrak: Eksistensi Sunnah sebagai sumber otoritatif setelah al-Qur'an diterima oleh mayoritas umat Islam baik dari kalangan Sunni, Syi'ah maupun aliran Islam lainnya. Ironisnya, otoritatif Sunnah dipandang tidak proporsional oleh sekelompok outsider maupun insider muslim. Di pihak Insider, Mahmud Abu Rayyah melakukan pembacaan ulang dan mendelegitimasi otoritas Sunnah Qawliyyah sebagai sumber hukum Islam kedua dengan memposisikan al-Qur'an sebagai sumber pertama, sedangkan Sunnah 'Amaliyyah justru sumber kedua. Tulisan ini hendak meneliti lebih lanjut delegitimasi Abu Rayyah terhadap Sunnah Qawliyyah serta polemiknya di antara para ahli Hadits. Penelitian ini merupakan Library Research dengan pendekatan Kualitatif serta metode Historis dan Studi Teks. Hasil penelitian adalah Perspektif Mahmud Abu Rayyah Sunnah 'Amaliyyah memiliki otoritas lebih tinggi dibanding Sunnah Qawliyyah. Sunnah Qawliyyah tidak memiliki otoritas sama kuatnya dengan Al-Qur'an maupun Sunnah Amaliyyah. Implikasinya adalah tertolaknya kutub hadits dan kutub al-fiqh produk dari kutub hadits

Kata Kunci: Sunnah Qawliyyah; Mahmud Abu Rayyah; Kritik Hadis; Sumber Hukum Islam; Delegitimasi Sunnah.

1. Introduction

The majority of scholars agree that the Sunnah is an authoritative source other than the Qur'an (al-Siba'i, 1994) and they position the Sunnah as a second authoritative source and as an explanation of the Qur'an ('Ajjaj al-Khatib, 1993). They argue that the Sunnah facilitates the determination of rulings that are not discussed in detail or not at all by the Qur'an, such as determining the procedure for prayer, the rate and conditions of zakat, the method of Hajj and so on. The Qur'an only speaks globally, while the Sunnah explains in detail. There will be difficulties when interpreting verses that are multi-meaning and contain alternative meanings without any explanation from the Sunnah. If the interpretation of the Qur'an is only based on ratio considerations, it will give birth to subjective interpretations and is difficult to account for. Therefore, in general, the Sunnah functions as *bayān taqrir*, *bayān tafsir*, *bayān tashri'* and *bayān naskh* against the Qur'an (Hammadah, n.d).

Among the madhhab imams there are several views regarding the position of the Sunnah as an explanation of the Qur'an. According to Abū Hanīfah, the position and function of the Sunnah towards the Qur'an is as *bayān taqrir*, *bayān tafsir*, and *bayān tabdil*. Malik ibn Anas functions the Sunnah as *bayān taqrir*, *bayān tawdih*, *bayān tathbit*, and *bayān tashri'*. According to al-Shafii, the Sunnah is positioned and functions as *bayān tafsir*, *bayān takhsis*, *bayān ta'yin*, *bayān tasyir*, and *bayān naskh*. Meanwhile, according to Ahmad ibn Hanbal, the Sunnah functions as *bayān ta'kid*, *bayān tafsir*, *bayān tasyir*, *bayān takhsis* and *bayān taqyid* (Hammadah, n.d).

Al-Shafi'i in *al-Risalah* states that the Sunnah which "enforces its own law" i.e. does not have a direct meaning and relationship with the text of the Qur'an must be obeyed because the Messenger received tawfiq directly from Allah. The Sunnah basically does not branch out except from the main points of the Qur'an such as the explanation of the number of prayers and others. The Sunnah is also a treatise of Allah and the wisdom revealed by Allah (al-Shafii, 1937).

Among modern scholars, including Mustafa al-Ṣiba'i (d. 1964 AD) in *Hal Tastaqil al-Sunnah bi al-Tashri'* states that there is no dispute among scholars that the function of the Sunnah against the Qur'an is to explain three things, namely, 1) Sunnah strengthens the information of the Qur'an, 2) Sunnah explains the meaning of the Qur'an, 3) Sunnah explains the law that is not explained by the Qur'an, such as the prohibition of polygamy between a wife and her aunt, stoning adulterers married women, a grandmother receiving inheritance, the prohibition of fanged animals and so on (al-Siba'i, 1977).

Muḥammad Mustāfa al-A'ẓami, in *al-Sunnah wa Makanatuha fi al-Islam* explains that the position of the Sunnah in Islam gets direct legitimacy from the Qur'an as *Mubayyin li kitabillah* (surat *al-Nahl*, 44), as *Uswah Hasanah* which must be followed by Muslims (surat *al-Ahzab*, 21) and regarding *Mutha' Wujub* (the messenger who must be obeyed) as stated in surat *al-Anfal*, 20, *al-Nisa'*, 58 to 65, verse 69 and verse 80. These verses *sarih* indicate that Allah commands obedience to the Messenger not only in his capacity as a messenger of revelation but someone is forever not called a believer if he does not submit to the Qur'an and al-Sunnah (al-A'zami, 2009).

Ironically, classical and contemporary thought in hadith studies as mentioned above, which has contributed tremendously in positioning hadith as the basis of Islam, has left many corrections and criticisms along with modernization in Islamic thought world. If this is seen in the perspective of Thomas Kuhn's Philosophy of Science as written by Wahidul Anam, this kind of dynamic is *normal* because a science when it has become a *normal science* then in the next period it will inevitably be faced with contradictions and deviations commonly referred to as Anomalies (Anam, 2017) .

In this perspective, the emergence of Mahmud Abu Rayyah's hadith thinking through his work *Adwa' 'ala al-Sunnah al-Muh}ammadīyah* can be clearly seen. The hadith thinking developed by Abu Rayyah had a tremendous impact and it can even be stated that it caused academic surprises and had serious implications for the theory of classical hadith studies. Therefore, it is natural that the "anomaly" presented by Abu Rayyah sparked a big reaction so that he was accused and labeled "denying the sunnah" and even the title of disbeliever was often addressed to him (Anam, 2017) .

Nurkholis Sofwan in his writing said that Mahmud Abu Rayyah's thinking in principle is not much different from the models of originalist thinking that can undermine Muslim faith in the Hadith. According to him, it is not surprising if he is called a Sunnah denier in the contemporary era (Sofwan, 2019) . Faridi included Abu Rayyah in the line of Modern period Inkar Sunnah figures from the occidentalists along with other figures such as Ghulam Ahmad Parvez (1903-1985) from India, Taufiq Sidqi (1880-1920 AD) from Egypt, Ahmad Amin (1886-1954 AD.) from Egypt, Mustafa Mahmud (1921-2009 AD) from Egypt, Rashshad Khalifah (1935-1990 AD) founder of *United Submitters International* from Egypt and Kassim Ahmad (1933-2017 AD) from Malaysia etc. (Faridi, Imam Sucipto, 2023). Sochimin cites G. H. A. Juynboll (1935-2010 AD) that Abu Rayyah is a controversial Egyptian intellectual who is categorized as a modern Inkar Sunnah where the early generation of this ideology was driven by Muh}ammad 'Abduh (1845-1905 AD) and in his youth Abu Rayyah attended an

educational institution founded by Rashid Rida (1865-1935 AD) called *Madrasah al-Da'wah wa al-Irsyad* (Sochimin, 2012) .

The study of Abu Rayyah's thought cannot be said to be abundant in quantity both from insiders and outsiders. Among the Insiders are Sochimin, he highlighted Abu Rayyah's thoughts regarding the concept of *Adalat al-Shahabah*, the companions of the Prophet who were "exposed" to *tarjih*, his criticism of *Matn* Hadith to the theories used by Abu Rayyah in analyzing Hadith texts (Sochimin, 2012) . Mohamad Sobirin wrote a highlight on Abu Rayyah's Hermenutics. In his writing he introduces Abu Rayyah's thoughts regarding the concept of '*adalat al-Sahabah* and its controversy, Abu Rayyah's highlights of the three Companions indicated by *Tarjih* to the description of the theories offered by Abu Rayyah related to Matan Criticism, namely the *first* Theory of Comparison of Text Truth; *second*, the Theory of Authenticity of Text Sources; *third*, the Theory of Text Content (Mohamad Sobirin, 2014).

Next is Wahidul Anam, who highlights Abu Rayyah's views on the concept of Sunnah, his criticism of '*adalat al-Shahabah* and Abu Rayyah's sharp criticism of Abu Hurairah. The codification of Hadith and the authenticity of the *Israiliyyat* hadith of the Companion Ka'ab al-Ahbar are also read in this paper (Anam, 2017).

The controversy of Abu Rayyah's thought also became a specific study of Nur Kholis Sofwan in his writing analyzing Abu Rayyah's thoughts. According to him, although Abu Rayyah is of "Eastern" nationality, his thoughts are much in line with the typology of "Western" scientists . Among Abu Rayyah's controversial opinions according to him is about the position of Hadith which is different from the term Sunnah, especially in writing Hadith, Abu Rayyah according to him dismantles the establishment of the theory of justice of the Prophet's Companions and doubts the credibility of Abu Hurairah. The conclusion released by Sofwan is that Mahmud Abu Rayyah's thoughts on Hadith have many weaknesses, especially about the history of Hadith writing and his doubts about Abu Hurairah actually contradict his own opinion (Sofwan, 2019) .

The study of Abu Rayyah's thought is comprehensively written in two dissertations. One of them is the work of Ade Pahrudin. This dissertation concludes that Abu Rayyah's rejection of the authority and authenticity of hadith through his book can be categorized into two things; *first*, criticism of the authority of hadith and its transmission process; *second*, Abu Rayyah's distrust of the credibility of hadith narrators especially the credibility of Abu Hurairah as the Companion with the highest quantity of narration and the credibility of al-Bukhari as the compiler of the book that

is considered the most Sahih. However, after analysis, the arguments presented by Abu Rayyah are not solid and even ambiguous due to his lack of thoroughness. Abu Rayyah's quotation was out of context and his assumptions were premature (Pahrudin, 2021).

Three (3) years before Ade Pahrudin, a dissertation entitled *Mahmud Abu Rayyah's Criticism of Hadith in the Perspective of Sociology of Knowledge* was first written by M. Burhanuddin Ubaidillah. In this study, Burhanuddin examines the anomaly of Abu Rayyah's reconstruction of the redefinition of Sunnah, the repositioning of Sunnah, the methodological reconstruction of the codification of Hadith and his criticism of Sahih al-Bukhari. These themes are studied objectively in the reality of knowledge from the perspective of Peter L. Berger's Sociology of Knowledge. As a result, Mahmud Abu Rayyah's redefinition of Sunnah is considered substantively narrow because it does not see the development of the essence of Sunnah. Abu Rayyah's repositioning of the Sunnah is doubted by scholars, the argument for removing the Sunnah from the scope of shari'a is not academically acceptable and the methodological reconstruction of Abu Rayyah's Hadith codification is still doubted by scholars (Ubaidillah, 2018).

From some of the core findings of previous research both in the form of dissertations and books and journal articles, the author can ensure the position of this research is very important and can fill the void that has not been filled by previous research. This is because this research focuses on reading Mahmud Abu Rayyah's thoughts on the Authorization and Repositioning of Sunnah and the distinction of Sunnah *Tashri'iyyah* and Sunnah *Ghair Tashri'iyyah* which implicates the Delegitimization of Sunnah *Qawliyyah* implicitly. Abu Rayyah's thoughts are then "clashed" *head to head* with the opinions of scholars both in the fields of Hadith and Ushul both before and after him so that readers get a full picture of where Abu Rayyah's position and how strong his arguments are compared to those of his opponents.

2. Results and Discussion

Delegitimizing Abū Rayyah's Sunnah Qawliyyah as the Second Authoritative Source after the Quran

In *Makanat al-Sunnah fī al-Din*, Mahmud Abu Rayyah states that the first authoritative source of Islamic law is the Qur'an then the *Sunnah 'amaliyyah* occupies the second position while the *Sunnah qawliyyah* occupies the third position by quoting

al-Ghazali's statement. The Qur'an ranks highest because according to him comes *mutawatir* and certain so that there is not the slightest doubt about it either globally or in detail. Unlike the Sunnah, according to him, the Sunnah does not come *in mutawatir*. The *mutawatir* Sunnah is only the *Sunnah of 'amaliyyah* and only that which is agreed upon by the early generations of Muslims. According to Abu Rayyah, this kind of understanding can be known as *ma'lum dlaruri*; for example, regarding the five obligatory prayers, the Ṣubuh prayer is two raka'at, the Maghrib prayer is three raka'at, and the remaining four raka'at are four raka'at. Each raka'at must stand, recite a verse of the Qur'an, bow, and perform two prostrations. According to him, this is what is referred to as the true Sunnah of the Messenger until now (Abu Rayyah, 1993).

This redefinition of Sunnah as the practice of the Prophet's life implies that the *sunnah 'amaliyyah* has a higher authority than the *sunnah qawliyyah*. *Sunnah qawliyyah* becomes the third authoritative source after *sunnah 'amaliyyah* and the Qur'an. The basis of his rational argument refers to two rational arguments of al-Shatibi. *First*, in terms of its existence, the Qur'an is *qat'i al-dilalah*, while the Sunnah is *Zanni al-dilalah*. The law of *qat'i al-dilalah* must take precedence over the law of *zanni al-dilalah*. Thus, the Qur'an which is *qat'i al-dilalah* must take precedence over the Sunnah which is *Zanni al-dilalah* (al-Shatibi, 1997).

Second, in terms of its function, the Sunnah functions as an explanation or addition to the Qur'an. If the Sunnah functions as an explanation, the Sunnah is secondary to the explanation. Logically, the fall of the explained means the fall of what is explained. Conversely, the death of the explained does not necessarily mean the death of the explained. Under these circumstances, the explained must take precedence. In the second context, if it functions as an addition to the Qur'an then the Sunnah cannot be considered law because the addition to the Qur'an does not function as an obligation arising from the Sunnah in the legislative process (al-Shatibi, 1997).

Third, referring to the instructions as illustrated in the *khavar* or *Athar* about the Companion Mu'adz who was asked by the Prophet, "With what do you give judgment?" Mu'adz replied, "Based on the Book of Allah". The Prophet asked again, "If you do not find it there?" he replied, "based on the Sunnat of the Prophet". The Prophet asked again, "If you do not find?" he replied, "I will make *ijtihad*" (Abu Dawud, 2007). On the basis of these three logics Abu Rayyah confirmed that the Sunnah does not have the same level of position as the Bible.

Although Mahmud Abu Rayyah generally still accepts the Sunnah as the second authoritative source after the Qur'an, in its implementation Abū Rayyah in the legality of the Sunnah, delegitimizes the Sunnah *qawliyyah* and hadiths that have the dimension of *al-ziyadah 'ala al-kitab* (the term used by Abu Rayyah to call Hadith additional to the Qur'an means hadith that does not have a direct correlation with the texts of the Qur'an). He maintains that in the legislative process they have no impact on the obligations that must be followed even though they arise from the Sunnah of the Prophet which correlates with the Qur'an. Instead, he emphasized the full authority of the Qur'an. According to him, the Qur'an has discussed all the problems faced by humans and even the Qur'an is sufficient for everything without having to burden itself with *sunnah qawliyyah* and *al-ziyadah 'ala al-kitab* (Abu Rayyah, 2016).

The basis of Abū Rayyah's next textual argument is thenarrated by Mu'adh bin Jabal when he was delegated to Yemen (Abu Dawud, 2007), Imam Ahmad bin Ḥanbal's (d. 241 AH) response when asked whether the Sunnah can determine the ruling of the Qur'an (Yusuf bin Abd al-Bar, n.d), al-Shafi'i's statement that the Sunnah will never contradict the Qur'an (al-Shafii, 1973). Based on these logics Abu Rayyah then asserted that the Sunnah does not have a position equal to that of the Bible.

Moreover, Mahmud Abū Rayyah also rejected the *naskh al-Sunnah ala al-Qur'an*, either canceling, eliminating, moving and changing the Qur'anic law. He argued that the explanation of the Sunnah is only *tafsil*, *takhsis* and *taqyīd*, but does not cancel a law or change the decree of the Qur'an. He stipulates that *al-Sunnah la tansakh al-Qur'an abadan* as per Rashid Ridā's opinion. Hence, he confirmed that the foundation of religion is the Qur'an in the first place, *al-Sunnah al-'amaliyyah al-muttafaq 'alaiha* in the second place and Hadith *Ahad* in the third place. He firmly said that whoever practiced *al-muttafaq 'alaiha* would be safe before Allah (Abu Rayyah, 2016).

Regarding the position of the Sunnah in relation to the Qur'an, the key proposition put forward by Mahmud Abū Rayyah is the position of the Sunnah behind the Bible. He states that *rutbat al-sunnah al-ta'akhkhur 'an al-kitab fī al-i'tibar*. This view is in line with the *fuqaha'* in general who place the Sunnah in the second position after the Qur'an as written by Abd al-Karim Zaidan in his work (Zaidan, 1998). However, according to Mustafā al-Ṣibā'i, the Sunnah can have the same position as the Qur'an and sometimes the Sunnah takes precedence over the Qur'an. Sunnah when it functions as an explanation of the Qur'anic law such as *tafsil mujmal*, *taqyid al-mutlaq*, *takhsis al-'am* then the Sunnah can have the same position as the Qur'an.

Alternatively, if the Qur'an contains the possibility of two or more meanings then the Sunnah comes to determine or decide one of them. In this case, the provisions of the Qur'an are abandoned and what is taken is the provisions of the Sunnah (al-Siba'i, 1977).

Distinguishing Sunnah from Mahmud Abu Rayyah's Perspective

In the next stage, Mahmud Abū Rayyah in his work *Adwā' 'ala al-Sunnah al-Muhammadiyah* distinguishes Sunnah into Sunnah *tashri'iyah* and Sunnah *irshadiyyah*. According to him, Sunnah *irshadiyyah* is nothing more than the opinion of the Prophet so that doing an act that is guidance (*irshadiyyah*) is limited to permissible, not obligatory or Sunnah to follow. In the sub-theme entitled "The Law of *Kalam al-Rasul*" he states that the words of the Apostle as commonly referred to by scholars with the term "guidance / *irshad*" are actually just the opinion of the Apostle alone and do not have a *taklif* dimension. He argues by using the basic assumption of the *usuliyyah* rule of doing something that does not have the dimension of an obligatory command or recommendation then the law is permissible. According to him, a job cannot be punished as obligatory or recommended unless there is certain evidence that obliges or recommends (Abu Rayyah, 2016).

In his view, the Messenger is only *ma'sum* in *tabligh al-risalah* but not *ma'sum* in *tabligh ghair al-risalah*. In strengthening his argument he quoted the opinion of scholars including the opinion of al-Safaraini that Abu Hamdan stated that the Apostles were only *ma'sum* in *tabligh al-risalah* but not *ma'sum* in *tabligh ghair al-risalah*. Ibn 'Uqayl also stated that the Messengers were not *ma'sum* in all their actions but were *ma'sum* when conveying the message of Allah. In addition, according to al-Qadli 'Iyad, regarding the affairs of the world, the Messengers sometimes showed something but it did not correspond to reality, either because of doubt or according to their presumptions (al-Qadli 'Iyadl, 2001).

Furthermore, Abu Rayyah ensures that the behavior of the Prophet (*af'al al-Nabi*) does not necessarily imply mandatory following nor is it at the legal level of *nadb* (main to do) but only to the extent of *ibahah* (may be followed). Therefore, if the Prophet does something then it must be studied first whether there are indications of doing *qurbat ila Allah* or not. If not then there is no demand to follow it because it is limited to Mubah. Abu Rayyah's opinion is based on the Prophet's *Iqrar* to Umar ibn al-Khattab when Umar differed with the Prophet regarding the prisoner of war of Badr (Abd al-Aziz Mani', 1983).

The words of the Apostle called by the scholars with the term guidance (*irshad*) in the perspective of Mahmud Abu Rayyah are only the opinion of the Apostle, this indicates the law of Mubah and does not fall into the category of *tashri'* and not as a source of *tashri'* because there is no demand to do or leave. The words of the Messenger are merely his opinion as an ordinary person, not his capacity as the Messenger. Abu Rayyah said that *Mujarrad Amr al-Rasul la Yaqtadi al-Wujub*. Therefore the command of the Messenger is Mubah, anyone can do and may leave (Abu Rayyah, 2016).

Among the historical facts presented by Abū Rayyah as authentic evidence in order to strengthen his argument is that he presents several Hadiths such as the Hadith of Hubab bin al-Mundzir Hadith of *date pollination*, the Hadith of Muhammad bin al-Hanafiyah about the story of Mariyyah al-Qibtiyyah and the history of Sa'd bin Abi Waqqas who was visited by the Prophet when he was sick (Abu Rayyah, 2016).

Scholars' Views on the Delegitimization of Sunnah Qawliyah Mahmud Abu Rayyah

Hierarchically, for the majority of scholars, the first authoritative source of Islamic law is the Qur'an, the Sunnah occupies the second position. Both are an integral unity. The Sunnah as the second authoritative source is accepted by scholars and Muslims, both among Sunnis, Shias and other Islamic schools. The legitimacy of the sunnah authority is not the legitimacy of the Muslim community to the Prophet alone but direct legitimacy from God through verses of the Qur'an (al-A'zami, 2009). About 50 verses explicitly command Muslims to obey Allah and His Messenger (Fuad Abd al-Baqi, 1364 AH). The obligation to obey the Rasūl is a logical consequence of one's faith. The Prophet, for a believer, is believed to be guided by direct revelation; anything that comes from the Prophet must carry theological guarantees (Arkoun, 1996).

Mustafa al-Siba'i in his work *al-Sunnah wa Makanatuha fi al-Tasyri' al-Islamy* states that the majority of scholars agree that the Sunnah is an authoritative source other than the Qur'an (al-Siba'i, 1994). The majority positioned the Sunnah as the second authoritative source after the Qur'an and acted as an explanation of the Qur'an ('Ajaj al-Khatib, 1993). The Jumhur argument is that the Sunnah facilitates the determination of laws that are not discussed in detail or not at all discussed by the Qur'an such as determining the procedure for prayer, the rate and conditions of zakat, the method of Hajj and so on.

‘Abbas Mutawālī Ḥammadah in his work *al-Sunnah al-Nabawīyyah wa Makanatuha fi al-Tashri* states that the Qur’anic verse only speaks globally while explaining in detail is the Sunnah. Without the Sunnah will get difficulties when interpreting verses that are multi-meaning, containing alternative meanings that require Sunnah explanation. If the interpretation of the Qur’an is only based on ratio considerations, it will give birth to subjective interpretations and is difficult to account for. Therefore, in general, the Sunnah functions as *bayan taqrir*, *bayan tafsir*, *bayan tashri*’ and *bayan naskh* against the Qur’an (Ḥammadah, n.d). This attitude is based on the command of the Qur’anic verses and the Prophet himself who taught the necessity of using his Sunnah in carrying out religious teachings (al-Suyuthi, n.d).

This is different from the assumption of Mahmud Abū Rayyah who only functions the Sunnah as an explanation of the Qur’an but rejects *al-ziyadah ‘ala al-kitab* and *naskh al-sunnah ‘ala al-kitab*. According to him, in the legislative process both do not function as an obligation arising from the Sunnah against the Qur’an. On the contrary, Abū Rayyah emphasizes the full authority of the Qur’an because the Qur’an has discussed all the problems faced by humans and even the Qur’an has also fulfilled everything needed without having to burden themselves with the Sunnah and *al-ziyadah ‘ala al-kitab* (Abu Rayyah, 2016)

‘Abbas Mutawālī Ḥammadah calls *al-ziyadah ‘ala al-kitab* as *bayan tashri*’ which functions to realize a law or teaching that is not found in the Qur’an or in the Qur’an there is only the principal. The Sunnah of the Apostle in all its forms shows legal certainty on various issues that arise which are not found in the Qur’an (Ḥammadah, N.d.). According to Ibn Qayyim (d. 751 AH), the Sunnah of the Apostle in the form of an addition to the Qur’an is an obligation that must be obeyed, not to reject or deny it. This is not the attitude of the Messenger who preceded the Qur’an but solely because of Allah’s command (Ibn Qayyim, 1995).

Long before contemporary scholars, al-Imam al-Shafi’i (d. 204 AH) in *his al-Risalah* stated that the Sunnah that establishes its own law, which is not mentioned in the Qur’an must be obeyed because the Messenger received *tawfiq* directly from Allah. The Sunnah does not branch out except from the main point, namely the Qur’an, such as the explanation of the number of prayers and others. The Sunnah is also the treatise of Allah and the wisdom revealed by Allah (al-Shafi’i, 2001).

Makki al-Shami (1954-2016 CE) asserts that a Muslim who believes in Allah, His angels, His Book and His Messenger cannot deny the validity of the Sunnah and reject the rulings derived from it (al-Shami, 1999). The validity of the Sunnah is a religious

imperative and a consensus of the scholars, conveying the apostolic mission and explaining the Qur'an. Therefore, whoever separates the Sunnah from the Qur'an is the same as separating the Qur'an from its Prophet (Khudlari Biek, 1969 & al-Shafi, 2001).

In response to the *sunnah qawliyyah* as the third authoritative source of religion, 'Abd al-Raḥman al-Ma'lamī al-Yamānī states that what Abu Rayyah states is clearly wrong. It has never been stated by any of the earlier scholars or contemporary scholars of today. According to 'Abd al-Raḥman al-Ma'lamī al-Yamānī, the quotations cited by Maḥmūd Abū Rayyah are obscured by many of the earlier scholars, especially al-Ghazālī and al-Shatibi. He leaves out a lot of information, even though the author comes to the same conclusion as Maḥmūd Abu Rayyah (al-Ma'lamī al-Yamani, 1996).

Sulaymān al-Ashqar stated that the *sunnah of aqwāl* is a part of the Sunnah that is not disputed. The *sunnah of aqwāl* is more powerful than the *sunnah of af'āl* in determining rulings, because the *sunnah of aqwāl* includes *tablīgh al-risālah*. The study of *sunnah af'āl* is mostly given priority in Sunnah studies compared to *sunnah aqwāl* (al-Ashqar, 2003). Abū al-Wafā' ibn 'Uqayl adds that the sayings of the Messenger that describe the practice of Allah's commands, such as the ruling of cutting off the hand for thieves and stoning for adulterers, are proofs that must be followed (Ali ibn 'Uqail, 1999). Ṣaliḥ al-'Uthaymin (d. 1423 AH) states that the words of the Apostle should take precedence over the actions of the if there is a conflict. This shows that the position of the Apostle's words must take precedence over the Apostle's actions. Al-Najjar al-Ḥanbali quoted by al-Futuḥi argues that the words of the Apostle should take precedence over the actions of the Apostle, because of the clarity of the Apostle's words as agreed by the scholars (al-'Uthaymeen, 2009).

According to 'Alī al-Shayrazi, if there is a conflict between the words of the Apostle and the actions of the Apostle in an explanation, then the words of the Apostle must take precedence over the actions of the Apostle. According to him, the argument for the precedence of the words of the Apostle over the actions of the Apostle, because the words of the Apostle can show the law by itself, while the actions of the Apostle cannot show the law by itself except with other intermediaries. Thus, the words of the Apostle which can show the law by itself, take precedence over the actions of the Apostle which cannot show the law by itself except by an intermediary (al-Shairazi, 1983).

'Alī al-Shayrazi gave the example that when the Messenger performed the Hajj then explained with his words, "Take from me the procedure for performing Hajj"

when the Apostle performed Ṣalat then explained with his words, “Pray all of you as I pray” when the Apostle prayed with Jibril then explained with his words, “The time of prayer is between these two times of prayer.” These examples show that it is not enough for something to be made clear by action, but by words. Thus, words must take precedence over actions

‘Abd al-Muhdi b. ‘Abd al-Qadir gave the example of many Hadiths that establish the fact that the Sunnah is a revelation from God. At times the Prophet would affirm that the Sunnah is a revelation from God, at other times the Prophet would affirm that God showed something or announced something, or the Prophet would affirm that Gabriel had just come with news of something, or that some angels said this or did this and so on (Abd al-Qadir, 1998). According to Ṣaḥīḥ al-Yafī’i, if the *Sunnah qawliyyah* is not considered legal, it will not be able to know the ruling of the Sunnah, whether it is obligatory, ḥaram, sunnah, mubaḥ or makruh (al-Yafī’i, 1999). Ṣaḥīḥ al-’Uthaymin is also similar, if there is a *sunnah qawliyyah* from the Messenger, then it becomes legal. If we do not practice the *sunnah qawliyyah* that was not done by the Companions, then we will miss the majority of the *sunnah qawliyyah* (al-’Uthaymeen, 2009).

According to Abu Shuhbah, had Maḥmūd Abū Rayyah been honest in his research and not limited himself to the opinions of the *mutakallimīn* and *fuqahā’* to the exclusion of the opinions of the *muhaddithīn* by limiting himself to the *sunnah ‘amaliyyah* only, then this would have denied the thousands of mutawatir Ḥadith narrated from the Prophet in the collection of books of Ḥadith both in law, morals and other religious instructions. The same applies to the books of *Sharḥ Ḥadith*, *Uṣul al-Ḥadith*, *Rijāl al-Ḥadith* and all branches of Ḥadith science (Abu Shuhbah, n.d).

Scholars’ Views on the Distinction between Sunnah Tashri’iyyah and Sunnah Irshadiyyah Maḥmūd Abu Rayyah

The polemics over the pros and cons of the discourse on the distinction between *sunnah tasyri’iyyah* and *sunnah irsyadiyyah* from the perspective of Mahmud Abu Rayyah, basically rests on the principle of separation made by Abu Rayyah between God’s revelation (*al-wahy al-ilahi*) and human reason (*al-jibl al-basyarī*). On the one hand, the authority of the Sunnah is narrowed by him with the argument that the Sunnah of the Prophet is nothing more than the prophet’s personal opinion (*al-ra’y*) or just his recommendation (*irsyad*) so that it has no legal value. But on the other

hand, all Sunnah is of *tashri'iyyah* value, hence the distinction between *sunnah tashri'iyyah* and *sunnah irshadiyyah*.

Mahmud Abu Rayyah in *Ḥukm Kalam al-Rasul fī al-Umur al-Dunyawiyyah* states that the words of the Apostle in worldly matters referred to by the scholars as guidance (*irsyad*) are only the opinion of the Apostle, not including *taklif* based on the Usuliyyah Rule of doing an act that is guidance (*irsyad*) the law is not obligatory or sunnah but the law is Mubah. An action cannot be deemed obligatory or Sunnah unless there is certain evidence that obliges or recommends it. Mubah is not included in *tashri'* because there is no requirement to do or leave it. It is only an act as an ordinary human being not in the capacity of a Messenger (Abu Rayyah, 2016).

According to Musa Shatin Lashin's research in *al-Sunnah Kulluha Tashri'*, the first originator of the distinction between *sunnah tashri'iyyah* and *sunnah ghair tashri'iyyah* was Mahmud Shaltut in his work *al-Islam 'Aqidah wa Shari'ah* (Lashin, 1411 H). Yusuf al-Qardlawi in his work *al-Sunnah al-Nabawiyyah masdaran li al-Ma'rifah wa al-Hadlarah* also states that Mahmud Shaltut is a reference for contemporary scholars in the study of the distinction between *sunnah tashri'iyyah* and *sunnah ghair tasyri'iyyah* (al-Qardlawi, 1997). But if traced historically, before Mahmud Shaltut was Mahmud Abu Rayyah in *Adlwa' 'ala al-Sunnah al-Muhammadiyah* (Abu Rayyah, 2016). Rashid Rida in *Tafsir al-Manar* (Rashid Ridla, 1999) and Shah Wali Allah al-Dahlawi in *Hujjat Allah al-Balighah* (al-Dahlawi, 1322).

According to M. Quraisy Shihab, the typology of hadith understanding can be classified into two. *First, ahistorical textual* typology with a scheme is trusted as an authoritative source of religious teachings without sorting out the status of the Prophet, whether in his capacity as a Messenger, Mufti, Judge, leader or person. *Second, historical contextual* with the scheme of critically considered the origin of its appearance (*asbab al-wurud*). Ḥadith is understood contextually by placing the Prophet as a historical being who is always faced with a series of pluralistic value system choices (Quraisy Shihab, 1996 & Amin Abdullah, 1996).

The terms *sunnah tasyri'iyyah* and *sunnah irshadiyyah* are still polemical with variant definitions emerging and no clear guideposts. Each has different standards and there is no agreement on one comprehensive definition (*jami' wa mani'*). Some of the terms that have emerged are *sunnah laysa fih uswah* (sunnah that should not be emulated), *laysa fih ta'assi* (sunnah that should not be imitated), *la biha iqtida'* (sunnah that should not be followed), *laisat bi qurbah* (sunnah that does not contain *taqarrub* to Allah), *la istimsaka bih* and others.

Fathi ‘Abd al-Karim in *al-Sunnah Tashri’ Lazim wa Daim* rejects the division of sunnah into *sunnah tashri’iyyah* and *sunnah ghair tashri’iyyah*. According to him, the entire sunnah is the basis of shari’a (*kull al-Sunnah tashri’*) whether it is related to religious affairs or worldly affairs. All must be followed by Muslims because the Prophet’s actions concerning traditions and worldly affairs provide the benefit of the law of Mubah and Mubah is part of the law of shari’a (Abd Al-Karim, 1985).

Musa Shahin Lashin in *al-Sunnah Kulluhā Tashri’* states that sharia law defined by scholars as the provisions of Allāh related to the actions of mukallaf, whether the command is obligatory (*wujub*), prohibition (*ḥurmah*), choice (*nadb*), advice not to do (*karāhah*), or freedom of choice to do or not to do (*ibāḥah*) (Lashin, 1987). Al-Qirahdaghi in *al-Tashri’ min al-Sunnah wa Kayfiyyah al-Istinbat minha* adds, based on the above definition, the law of shariat is not limited to the command to do (*wujūb*) or prohibition (*ḥurmah*) only, rather it includes all *taklifi* laws and *waḍ’ī* laws, both from the Qur’an and sunnah (al-Qirahdaghi, 1987).

Al-Shatibi in *al-Muwafaqat* gives a firm statement related to the Mubah case which according to him has a legal position in Islamic law. A permissible matter, although outwardly falling within the realm of the Mukallaf’s choice, actually falls within the realm of the Mukallaf’s choice after being legalized by the legislator. Thus, the Mukallaf’s choice still follows shara’ and its objectives. Mubah is still under the roof of *al-Shari’* permission and not under the leeway of *tabi’*. In this sense, permissibility actually means freeing the believer from the servitude of his lusts to the servitude of Allah (al-Shatibi, 1997).

Al-Juwayni in *al-Burhan fi Ushul al-Fiqh* states that Mubah is a *shar’i* ruling, and whatever comes from the Messenger is *shar’i*, while the lowest level is Mubah according to the consensus of the scholars of Uṣul (al-Juwaini, 1399 AH & al-Shayukani, 1999). Musa Shahin Lashin in *al-Sunnah Kulluha Tashri’* states that the problem of *al-sunnah kulluha tashri’* has been the consensus of scholars for fourteen centuries. We do not hear a single scholar dividing the sunnah into *sunnah tashri’iyyah* and *sunnah ghair tashri’iyyah* (Lashin, 1987).

‘Abd al-Ghani ‘Abd al-Khaliq in *Ḥujjiyyat al-Sunnah* states that all that the Prophet said besides the Qur’an and had done, starting from the beginning of the message until the end of his life is the Sunnah both in the dimension of general law for all individuals of the ummah as well as the law specific to the Prophet or specifically for some of his companions, whether the Prophet’s actions are in accordance with his natural character or not. No utterance or action that comes from the Prophet has the

force of shar'i law that must be believed regardless of whether it has the force of obligation, sunnah, haram, makruh or mubah. Regardless of whether it is general or specific. Regardless of whether it relates to the character of the Prophet or the different choices of the Prophet (Abd. Al-Khaliq, 1998).

3. Conclusions

The delegitimization of Sunnah Qawliyyah by Mahmud Abu Rayyah in his work *Adwa' 'ala al-Sunnah al-Muhammadiyah* resulted in a prolonged scientific polemic in the academic world. Mahmud Abu Rayyah stated that the first authoritative source of Islamic law is the Qur'an, followed by the *Sunnah 'amaliyyah*, while the *Sunnah Qawliyyah* actually occupies the third position. The Sunnah that he recognizes is only *mutawatir* while the *mutawatir* is only *sunnah 'amaliyyah*. Thus he delegitimizes the *sunnah qawliyyah* and hadiths that have the dimension of *al-ziyadah 'ala al-kitab*. The impact is *kutub hadith* and *kutub al-fiqh kutub hadith* products by itself rejected and has no legitimacy in Islamic law. The behavior of the Prophet (*af'al-Nabi*) does not necessarily imply that it must be followed nor does it imply the law of *nadb* (main to do) but only to the extent of *ibahah* (may be followed). If the Prophet does something then it must be studied first whether there are indications of *qurbat ila Allah* or not. If not then there is no demand to follow it because it is limited to Mubah. Mustafa al-Siba'i, 'Abbas Mutawāli Hammadah, Makki al-Shami, Musa Shatin Lashin and others are among the scholars who rejected and countered Abu Rayyah's thoughts and ideas.

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