

“Sunna” of Western Scholars on the Authenticity of the Document of Medina: What’s So Special About it?

Medine Vesika’sının Sıhhati Konusunda Batılı Araştırmacıların “Sünneti”: Neden Bu Kadar Özel?

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Abstract

The aim of this article is to focus on the views of modern Western scholars regarding the authenticity of the Document of Medina and its unity in relation to its date and preservation, rather than on the debates over its content. The focus is on their rationale for defending its authenticity despite the limited number of *ahadīth* they date back to the first Islamic century. Additionally, considering the fact that many other reports with the characteristics of the document are not considered authentic, the question is raised whether it is the "sunna" of their predecessors that is actually decisive, since the testimony has been considered authentic since Julies Wellhausen on the same grounds.

Anahtar Kelimeler: Sirah, Constitution of Medina, Principle of Dissimilarity, Ḥadīth, Historical Kernel.

Öz

Bu makalede, Batılı arařtırmacıların Medine Vesikası'nın otantiklięi, tarihi ve bütünlüęü hakkındaki görüşleri ele alınmış, içerięi hakkındaki tartışmalarına ise yer verilmemiştir. Oryantalistlerin, vesikanın otantiklięi için öne sürdükleri gerekçelerinin tespitine bilhassa önem verilmiştir. Zira nasıl olup da hicrî I. asra tarihlendirdikleri son derece sınırlı sayıda hadise rağmen bu vesikanın sıhhatini savunduklarını belirlemek önem arz etmektedir. Netice olarak, benzer özelliklere sahip dięer birçok haberin otantik kabul edilmedięi de göz önünde bulundurularak vesikanın Julies Wellhausen'dan beri aynı gerekçeler sıralanarak otantik kabul edimesinden hareketle, aslında belirleyici olanın kendi seleflerinin "sünneti" mi olduęu sorusu yöneltilmiştir.

Keywords: Siyer, Medine Anayasası, Aykırılık İlkesi, Hadis, Tarihi Öz.

INTRODUCTION

The Document of Medina has garnered the attention of Western scholars since Julius Wellhausen's (1844-1918) initial study.¹ It has been referred to using various terms such as *saḥīfa*, constitution, treaty², charter³, *ahd al-umma*, accords⁴, *umma* document⁵, ordinance. Although the document is not a constitution in the modern sense, it is still commonly referred to as such in the literature, and therefore, the term "Constitution" is used in quotations to acknowledge this fact. In this article, however, "document" is the preferred term since the Arabic text characterizes it as "*kitab*."⁶ Additionally, the term "treaty" may be used occasionally to avoid repetition. Another possible term is "*saḥīfa*", which appears nine times in the document.⁷

Michael Lecker's "*Constitution of Medina*": *Muḥammad's First Legal Document*⁸ is the most comprehensive study of the Document of Medina. In addition, Hikmet Zeyveli has recently written an extensive study on the document in Turkish.⁹ Despite the publication of these extensive works and numerous articles,¹⁰ the Document of Medina continues to attract the attention of researchers for several reasons. The primary reason is the possibility of different interpretations of the ambiguous expressions contained within it. Of particular interest are the expressions "*umma*", "*mu'minūn*" and "*muslimūn*", which are relevant to those studying the ecumenical nature of the Islam and Muslim-Jewish relations in post-*hijra* Medina. Furthermore, the Document of Medina has been a primary reference for those who anachronistically attempt to infer pluralism from Islam by arguing that the word *umma* in the document includes Jews. Constitutional debates in the Islamic world have also kept interest in the document alive, as noted by Saïd Amir Arjomand.¹¹ More recently, Fred Donner's thesis that Islam has evolved from ecumenism to an exclusive religion,¹² has

¹ Julius Wellhausen, "Muhammads Gemeindeordnung von Medina", *Skizzen and Vorarbeiten IV* (Berlin- New York: De Gruyter, 1985), 67-83.

² William Muir (1819-1905).

³ Meïr M. Bravmann (1909-1977).

⁴ F. E. Peters (1927-2020).

⁵ Fred M. Donner.

⁶ "وَكُتِبَ رَسُولُ اللَّهِ -صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ- كِتَابًا بَيْنَ الْمُهَاجِرِينَ وَالْأَنْصَارِ" Ibn Hishām Abū Muḥammad Jamāluddīn 'Abdulmalik b. Hishām, *es-Sīra al-nabawiyya*, ed. Muṣṭafā al-Saqqā, Ibrāhīm al-Abyārī, 'Abdulḥafīz al-Shalabī. 2 vols. (Cairo: Muṣṭafā al-Bābī al-Ḥalabī, 1375/1955), I/501); "هَذَا كِتَابٌ مِنْ مُحَمَّدٍ النَّبِيِّ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ" Abū 'Ubayd al-Qāsim b. Sallām, *Kitāb al-Amwāl*, ed. Khālil Muḥammad al-Harrās (Beirut: Dār al-Fikr, n.d.), 166.

⁷ Hikmet Zeyveli, *Medine Sahîfesi* (İstanbul: Kuramer, 2019), 19.

⁸ Michael Lecker, *The "Constitution of Medina": Muḥammad's First Legal Document* (Princeton: The Darwin Press, 2004).

⁹ Hikmet Zeyveli, *Medine Sahîfesi* (İstanbul: Kuramer, 2019). Muḥammad Hamīdullāh (1908-2002) was the first Muslim scholar who wrote an article about the constitution.

¹⁰ For a brief literature on the document see Paul Lawrence Rose, "Muhammad, The Jews and the Constitution of Medina: Retrieving the historical Kernel", *Der Islam* 86 (2011) 17, n. 50.

¹¹ Saïd Amir Arjomand, "The Constitution of Medina: A Sociolegal Interpretation of Muhammad's Acts of Foundation of the 'Umma'", *International Journal of Middle East Studies* 41/4 (2009).

¹² Fred M. Donner, "From Believers to Muslims: Confessional Self-Identity in the Early Islamic Community," *Al-Abhath* 50-51 (2002-2003), 9-53.

increased the discussion of the scope of the words "muslimūn" and "mu'minūn" and "umma" in the document and what they reveal about the process of Islam's evolution into an independent.¹³

It is the objective of this short article to examine the views of Western scholars regarding the historicity and unity of the document, rather than to discuss its content. This is not only because the discussion of its content is beyond the scope of this paper, but also because it is a complex and challenging task. Even scholars like Robert B. Serjeant (1915-1993), well versed in Arab folklore, and Lecker, who possess expertise in Arab and Jewish clans and tribes, genealogy and customs of the *Jāhiliyya* period, and the demographic structure of Medina, could not escape criticism. The article pays particular attention to identifying the reasons given by those who accept the document as authentic.

1. SKEPTICAL APPROACH TO ḤADĪTHS AND HISTORICAL REPORTS

The study of the Prophet (pbuh) as a historical figure faces a significant challenge due to the lack of any surviving source beyond the Qur'ān from his time. Western and Muslim scholars diverge in their approach to written sources compiled approximately 150 years after the Prophet's (pbuh) death. The key question is how reliable the information in these sources is regarding his (pbuh) life and times. In the context of Western scholarship, it can be argued that the growing skepticism towards the authenticity of *aḥadīth*¹⁴ culminated in Joseph Schacht's (1902-1969) work. Schacht built on the foundational ideas of Ignaz Goldziher (1850-1921), who was considered a pioneer in the field. Schacht characterized Goldziher's work as a "fundamental discovery" and proposed that *ḥadīths* should be considered fabricated unless proven otherwise.¹⁵ Although Schacht's conclusions were based on his analysis of legal *aḥadīth*, it is difficult to say that he made a clear-cut distinction between legal *aḥadīth* and historical reports. On the contrary, he extended his conclusions to historical reports based on the presence of common names in the isnads, as evidenced by his following statement:

"A field on which the new method can be applied with particular advantage is the vast field of traditions pertaining to history. The authorities for legal and historical information are to a great extent identical..."¹⁶

In the same article, he points out that *ahkām aḥadīth* and historical reports transmitted through family *isnāds* are fabricated.¹⁷ Schacht argues that the assumption of an authentic core of information that reaches back to the time of the Prophet should be abandoned, which sets him apart from Goldziher, who believed in the existence of authentic narrations. It can be argued that Schacht accepts the existence of authentic *aḥadīth*, but rather suggests that current methods and tools are

¹³ For example see Ilkka Lindstedt, "Muhājirūn as a Name for the First/Seventh Century Muslims", *Journal of Near Eastern Studies* 74/1 (2015), 67-73.

¹⁴ Harald Motzki, "The Question of Authenticity of Muslim Traditions Reconsidered: A Review Article", *Method and Theory in the Studies of Islamic Origins*, ed. Herbert Berg (Leiden: Brill, 2003), 211.

¹⁵ Joseph Schacht, "Revaluation of Islamic Traditions", *Journal of the Royal Asiatic Society* 2 (1949), 143; idem, *The Origins of Muhammadan Jurisprudence* (Oxford: The Clarendon Press, 1975), 149.

¹⁶ Schacht, "Revaluation", 150.

¹⁷ Schacht, "Revaluation", 147.

insufficient to identify them.¹⁸ However, it is difficult to say that Schacht's claim is based on methodological concerns. As a matter of fact, he developed a number of principles/tools and methods for dating *aḥādīth*, such as the backward growth of *isnāds*, the improvement of *isnāds*, family *isnāds*, and the common link theory. His conclusion based on these tools is that the year 125 of *hijra* is a *terminus post quem* for *marfū' aḥādīth*. To summarize, the view that at least half of Bukhārī's *Sahīh* could be authentic,¹⁹ held by the first names of academic Islamic studies starting from the 1830s,²⁰ was replaced first by Goldziher's view of the existence of some authentic *aḥādīth*, and ultimately by Schacht's rejection of the historical kernel. It is worth noting that certain scholars, including scholars such as Alfred Guillaume (1888-1965), James Robson (1890-1981), and Montgomery Watt (1909-2006), have deviated from Schacht's skepticism towards *sīra* reports.²¹ Therefore, it is possible to mention a small number of scholars within the Orientalist tradition who accept the concept of a historical kernel or authentic core, at least with respect to historical reports. Nevertheless, it is important to bear in mind that the accepted concept is only a "core/kernel".

Regarding the concept of the authentic core, it is important to clarify what is meant by "authentic". It is not necessarily the case that the use of "authentic" by Western scholars corresponds to the classical literature's use of "*ṣaḥīḥ*". For example, in his article "The Musannaf of 'Abd al-Razzāq al-Ṣan'ānī as a Source of Authentic *Aḥādīth* of the First Century A.H.", Harald Motzki (1948-2019) means by "authentic" the early *aḥādīth* from the first Islamic century.²² Gregor Schoeler, a middle-ground Western scholars like Motzki, provides further clarification on the matter:

"By 'authentic' I do not wish to imply necessarily that the events described in these traditions took place exactly as depicted. We have to take into account both the chronological hiatus between the earliest reports and the reported events (i.e. some 30-60 years), and any distortion introduced through the perspectives of the narrators. Such interference notwithstanding, we can entertain the hypothesis that such accounts, based as they are on the reports of eye witnesses, or (at the very least) on contemporary reports, reflect, approximately, the main outlines of the actual events, and sometimes perhaps even a few details."²³

The assertion that ḥadīth were altered due to errors both in the oral transmission and the writing of *ḥadīth*, non-verbatim transmission, and deliberate distortions through the addition or omission of

¹⁸ Indeed, Motzki makes an evaluation to this effect (see Bülent Uçar, "Harald Motzki ile Hayatı, İlmî Kariyeri ve Fikirleri Üzerine", tr. Bülent Uçar, *Batı'da Hadis Çalışmalarının Tarihi Seyri*, ed. Bülent Uçar (İstanbul: Hadisevi, 2005), 307. See also, Fatma Kızıl, *Râvi Teorisi ve Tenkidi* (İstanbul: İSAM, 2019), 177, n. 380).

¹⁹ Harald Motzki, "Introduction", *Ḥadīth: Origins and Developments*, ed. Harald Motzki (Aldershot: Ashgate, 2004), vii. Ayrıca bk. Herbert Berg, *The Development of Exegesis in Early Islam: The Authenticity of Muslim Literature from the Formative Period* (Richmond: Curzon Press, 2000), 51, n. 12.

²⁰ Susannah Heschel, "Orientalist Triangulations: Jewish Scholarship on Islam as a Response to Christian Europe", *The Muslim Reception of European Orientalism: Reversing the Gaze*, ed. Susannah Heschel ve Umar Ryad (London: Routledge, 2019), 155; see also Fatma Kızıl, "Oryantalistlerin Akademik Hadis Araştırmaları", *Hadis ve Siyer Araştırmaları* 5/1 (2019), 166.

²¹ For the approach of these Western scholars who differentiate between *siyar* and *ahkām* reports see Fatma Kızıl, "Sîret ya da Sünnet: Oryantalistler Tarafından Çizilen Sınırlar", *Hadis Tetkikleri Dergisi* 13/2 (2015), 17-20.

²² Harald Motzki, "The *Muṣannaf* of 'Abd al-Razzāq al-Ṣan'ānī as a Source of Authentic *Aḥādīth* of the First Century", *Journal of Near Eastern Studies* 50/1 (1991), 1-21.

²³ Gregor Schoeler, *Biography of Muḥammad: Nature and Authenticity*, tr. Uwe Vagelpohl, ed. James E. Montgomery (New York: Routledge, 2011), 1 ff.

various details driven by certain ideological, theological, or jurisprudential²⁴ considerations, has caused even the middle-ground orientalists to refrain from relying on the wording of a ḥadīth that they dated to the first Islamic century. As a result, only a few scholars refer to an authentic core or kernel at best. This authentic core or kernel may sometimes be replaced by a "general framework" or "broad outline", but nothing precise.

While the number of scholars who accept the existence of an authentic core is limited, the case is different when it comes to the Document of Medina. If we consider the latest of the dates given for the document, which is year 7 of *hijra*, as *terminus post quem*, then the existence of an authentic document with a very early date is recognized. Moreover, scholars who refer to the document as "authentic" mean a *ṣaḥīḥ* document in the classical ḥadīth terminology. This is because they acknowledge the existence of a document that is contemporaneous with the Prophet (pbuh) and has been preserved not only in content but also in wording (except for the claims of some scholars like Wellhausen and Muir, who contend that some of its articles could be spurious). In what follows, we will discuss the dates proposed by Western scholars for the document, their views on its unity, and their justifications, which may be inferred from their assessments or explicitly stated.

2. WESTERN SCHOLARS²⁵ ON THE DATE AND THE UNITY OF THE DOCUMENT

According to Saïd Amir Arjomand, Julius Wellhausen was the first scholar to recognize the importance of the Document of Medina.²⁶ Wellhausen characterized the document as a municipal charter that provides direct, authentic information about the Prophet's time.²⁷ Moshe Gil (1921-2014), taking into account the Erlass characterization, quotes Wellhausen as believing that the treaty was made orally and later reduced to writing.²⁸ Regarding the unity of the document, Wellhausen accepts that it is a single document consisting of 47 articles. He argues that the agreement was made before Badr, in other words, before the year 2 of *hijra*. His justification for this dating is that the Prophet's authority in the document was not yet very firm and the Jews were included in the *umma*.²⁹ Both of these conditions are only possible at the beginning of the Medinan period. Wellhausen's dating considers the gradual increase in the Prophet's authority in Medina and his changing attitude towards the Jews. Although Wellhausen sees the treaty as an authentic and monolithic document, not a composite one, he suggests the possibility that an article³⁰ may have been added later.³¹

²⁴ For example see Hiroyuki Yanagihashi, *Studies in Legal Hadith* (Leiden-Boston: Brill, 2019), 6.

²⁵ Moshe Gil (1921-2014) and Michael Lecker are also included among the Western scholars whose views are quoted in this section since their studies are also outside the classical Islamic paradigm.

²⁶ Arjomand, "The Constitution of Medina", 556. Friedrich Schwally (1863-1919) says that Aloys Sprenger was the first scholar to recognize the document's importance (Nöldeke *et.al.*, *History of Qur'ān*, 375).

²⁷ Wellhausen, "Muhammads Gemeindeordnung von Medina", 67, 73.

²⁸ Moshe Gil, *Jews in Islamic Countries in the Middle Ages*, tr. David Strassler (Leiden-Boston: Brill, 2004), 21, 22.

²⁹ R. Stephen Humphreys, *Islamic History: A Framework for Inquiry* (Princeton University Press, Princeton, 1991), 93. Wellhausen claims that the *umma* includes all the inhabitants of Medina. Lecker objects to this view: "Wellhausen's assumption that Muhammad's ummah comprised all the inhabitants of Medina can no longer be sustained." (Michael Lecker, "Constitution of Medina", Oxford Bibliography 22.04.2023).

³⁰ According to Lecker's numbering: §57.

³¹ See Michael Lecker, *Constitution*, 183.

Goldziher, an essential figure in Western studies on ḥadīth , does not make a direct evaluation of the Document of Medina. However, he does not dismiss the possibility that the Companions wrote some *ṣaḥīfas*:³²

“There is nothing against the assumption that the Companions and disciples wished to keep the Prophet’s sayings and rulings from being forgotten by reducing them to writing. How could communities which preserved the wise sayings (*ḥikma*) of ordinary mortals in writing in *ṣaḥīfas* have left the survival of the Prophet’s sayings to the chance of oral transmission? Many a Companion of the Prophet is likely to have carried his *ṣaḥīfa* with him and used it to dispense instruction and edification to his circle.”

Lecker rightly points out that Goldziher’s acknowledgment of the existence of the *ṣaḥīfas* does not necessarily imply that he ruled out the possibility that they were fabricated.³³ In short, according to Goldziher, written documents could very well have been fabricated. At this point, one may recall G. H. A. Juynboll’s (1935-2010) assertion that a *ṣaḥīfas* transmitted by single strand are also fabricated.³⁴ But according to Lecker, “Goldziher’s conclusions are too sweeping.” and the Document of Medina “was preserved more or less in its original form.”³⁵

Goldziher doesn’t explicitly mention the Document of Medina, but he does mention a ḥadīth about a scroll attached to the sheath ‘Alī’s sword, which overlaps with the content of the document.³⁶ Of particular note is the statement that the scroll contains information about Medina being declared *ḥaram*, which is a significant indication since §49 of the document declares Yathrib *ḥaram*.³⁷ Hiroyuki Yanagihashi also argues that some traditions stemmed from articles of the document and in this context he also mentions the narration about ‘Alī’s sword.³⁸ According to Robert Serjeant, ‘Alī, as the Prophet’s (pbuh) secretary, could have written the document and later preserved it in his sheath of sword.³⁹ Apart from Serjeant argument’s credibility -which was described by Lecker as naive-⁴⁰, what is important here the connection suggested between the document and the scroll kept in ‘Alī’s sword-case.

While Goldziher does not explicitly draw this connection, he believes that ḥadīth about the scroll may have been created by the Ahl al-Sunna⁴¹ to counter the Shī’a’s belief that ‘Alī received unique knowledge from the Prophet, which, when considered together with his view that “Every *ra’y* or

³² Ignaz Goldziher, *Muslim Studies*, tr. C. R. Barber – S. M. Stern, ed. S. M. Stern (London: George Allen & Unwin Ltd., 1971), 2/22.

³³ Lecker, *Constitution*, 2.

³⁴ G. H. A. Juynboll, “Nāfi’, the *Mawlā* of Ibn ‘Umar, and his Position in Muslim *Ḥadīth* Literature”, *Der Islam* 70 (1993), 212.

³⁵ Lecker, *Constitution*, 2.

³⁶ See Gil, *Jews*, 23.

³⁷ Bukhārī, Abū ‘Abdillāh Muḥammad b. Ismā‘īl al-Bukhārī, *al-Jāmi‘ u’ṣ-ṣaḥīḥ*, ed. Muḥammad Zuhayr b. al-Nāṣir (n.p.: Dāru Ṭawqī’n-Najāt, 1422/2001) “I’ tisām”, 5 (no. 7300). See also Gil, *Jews*, 23.

³⁸ Yanagihashi, *Studies*, 444-445. I am planning to review Yanagihashi’s arguments in a separate paper using *isnād-cum-matn* analysis.

³⁹ R. B. Serjeant, “Early Arabic Prose”, *The Arabic Literature to the End of the Umayyad Period*, ed. A. F. L. Beeston *et.al.* (Cambridge: Cambridge University Press, 1983), 134.

⁴⁰ Lecker, *Constitution*, 196, n. 218.

⁴¹ “والله ما عندنا من كتاب يُقرأ إلا كتاب الله وما في هذه الصَّحِيفَةِ” (Bukhārī, “I’ tisām”, 5 [no. 7300]).

hawā, every *sunna* and *bid'a* has sought and found expression in the form of a *ḥadīth*." ⁴² further supports that he sees the scroll as a fabrication. In addition, after his opinion above that written documents can also be fabricated, he says the following in the footnote:

"It is not possible to find out whether the treaties of the Prophet quoted as written documents are an exception as to the authenticity of their wording. W. Muir has supported his assumption of their genuineness with convincing arguments: *Mahomet*, I, p. lxxxii (now cf. Wellhausen, *Skizzen und Vorarbeiten*, IV)." ⁴³

In the passage cited by Goldziher, Muir takes the concessions made in favor of Jewish and Christian tribes in the treaties made by the Prophet after his migration to Medina as evidence that these were not fabricated by Muslims. He suggests that when supported by such evidence, these documents can be used as a historical source almost on a par with the Qur'ān. The volume to which Goldziher refers contains Wellhausen's discussion of the Document of Medina. Muir, in the third volume of his *The Life of Mahomet*, deals separately with the Document of Medina, giving a translation of the text of Ibn Ishāq. Here while he does not claim that the document is fabricated, he notes that some spurious clauses have been added. ⁴⁴ Theodor Nöldeke (1836-1930) is another scholar who expressed the opinion that the document is almost equally reliable historical source as the Qur'ān. Nöldeke places the document among the Qur'ān, the Treaty of Ḥudaybiya, and the Prophet's letters to the Arab tribes, which he characterizes as indisputably authentic documents. ⁴⁵

Montgomery Watt was the first in the West to differ from previous scholars on the unity of the document. ⁴⁶ Watt thinks the document did not receive the recognition it deserved, and suggests that it is composed of two or more documents. ⁴⁷ According to him, the controversy over whether the document belongs to the period before or after Badr stems from the assumption that it is a single document. ⁴⁸ However, he argues that although the document contains a number of clauses from the 'Aqaba, it could not have taken its final form before the 5th year of the *hijra*. His reasoning for this is that the three major Jewish tribes Naḍīr, Qaynuqā' and Qurayza are not mentioned in the document. According to him, after the last of these tribes, Qurayza, was eliminated, the sections on them were omitted and the document took its present form. ⁴⁹

Robert Serjeant is among the scholars who argue that the document is composed of multiple documents. ⁵⁰ He posits that there are eight distinct treaties within the documents, each with a different date. Serjeant labels each document with a different letter from A to H and assigns different

⁴² Goldziher, *Muslim Studies*, 2/131.

⁴³ Goldziher, *Muslim Studies*, 2/57, n. 1.

⁴⁴ William Muir, *The Life of Mahomet* (London: Smith, Elder and Co., 1861), 3/34.

⁴⁵ Theodor Nöldeke et. al., *The History of Qur'ān*, tr. and ed. Wolfgang H. Behn (Leiden-Boston: Brill, 2013), 7.

⁴⁶ Zeyveli, *Medine Sahîfesi*, 87.

⁴⁷ W. Montgomery Watt, *Muhammad at Medina* (Oxford: The Clarendon Press, 1956), 225; idem, "Muhammad", *The Cambridge History of Islam 1A*, ed. P. M. Holt, Ann K. S. Lambton, Bernard Lewis (Cambridge: Cambridge University Press, 1977), 41.

⁴⁸ Watt, *Muhammad at Medina*, 225 ff.

⁴⁹ W. Montgomery Watt, *Prophet and Statesman* (London: Oxford University Press, 1961) 93-4.

⁵⁰ R. B. Serjeant, "The Sunna Jāmi'ah, Pacts with the Yaḥrib Jews, and the 'Tahrīm' of Yaḥrib: Analysis and Translation of the Documents Comprised in the So-Called 'Constitution of Medina'", *Bulletin of the School of Oriental and African Studies, University of London* 41/1 (1978), 1.

dates for each document. For documents A, B, and C, he places them in the first year of the *hijra*, specifically, 5 months after the *hijra*; for document D, he gives the same or close to the same time as C, and document E is placed in the 3rd year of the *hijra*. Serjeant claims that document F cannot be dated later than Hudaibiya, while document G is dated just before the Handak. Document H, on the other hand, is dated 7 years after the *hijra*. Serjeant is confident in these datings and the historical background of the documents, going so far as to suggest that they can be used in Qur'anic exegesis. He also adds the following:

“...in a number of such cases where the diction of the Qur'ān is closely parallel to that of the documents in question, it is not because they derive from the Qur'ān, but because the Qur'ān is alluding to these documents already in existence.”⁵¹

Frederick Denny shares Serjeant's belief that the document is complementary to the Qur'ān.⁵² He also agrees that the document is comprised of multiple treaties from different periods in Medina.⁵³ Similarly, Paul Lawrence Rose also supports the idea that the Document of Medina is composed of more than one document, though he does not give an exact number. Rose refers to the document, the Qur'ān, and the *siyar* as “three controls” and argues that “While the Qur'ān and the *Sīra* sides of the triangle may be less certain, the third side, the Constitution, has a strong certitude and allows us to set limits to the less known sides.”⁵⁴ He believes that by using the document as the primary control, a historical understanding of the Prophet's views and relationships with the Jews can be obtained from these three sources.⁵⁵ At this point, he reminds of Humphreys, who characterizes the testimony as the key to understanding the Medinan period of the Prophet's life.⁵⁶

Other scholars who accept the authenticity of the document and their views are listed in the table below:⁵⁷

Chase F. Robinson	Authenticity:	“...the only documentary material survive from Muḥammad's time...” ⁵⁸
	Unity:	“...a set of documents...” ⁵⁹
	Date:	“...soon after the <i>hijrah</i> .” ⁶⁰ “...none can date much beyond the Battle of Badr in AH 2” ⁶¹

⁵¹ Serjeant, “Sunna”, 40.

⁵² Frederick M. Denny, “Ummah in the Constitution of Medina”, *Journal of Near Eastern Studies* 36/1 (1977), 47.

⁵³ Denny, “Ummah”, 39.

⁵⁴ Rose, “Muhammad, The Jews and the Constitution of Medina”, 10, 17.

⁵⁵ Rose, “Muhammad, The Jews and the Constitution of Medina”, 29-29.

⁵⁶ Humphreys, *Islamic History*, 98.

⁵⁷ Names are listed alphabetically.

⁵⁸ Chase F. Robinson, “The rise of Islam, 600-705”, *The New Cambridge History of Islam*, ed. Chase F. Robinson (Cambridge: Cambridge University Press, 2010), 1/189.

⁵⁹ Chase F. Robinson, *Islamic Historiography* (Cambridge: Cambridge University Press, 2004), 22.

⁶⁰ Chase F. Robinson, “Reconstructing Early Islam: Truth and Consequences”, *Method and Theory in the Studies of Islamic Origins*, ed. Herbert Berg (Leiden: Brill, 2003), 126.

⁶¹ Robinson, “The rise of Islam, 600-705”, 189.

F. E. Peters	Authenticity:	"...perhaps an authentic preserved document..." ⁶²
Fred Donner	Authenticity:	"...a rare example [of preserved records]" ⁶³
	Unity:	"...the transcript of a set of documents..." ⁶⁴
Michael Lecker	Authenticity:	"...the earliest and most important document from the time of Muḥammad." ⁶⁵ "...the most important document preserved from the time of Muḥammad..." ⁶⁶ "a prominent example of meticulous transmission..." ⁶⁷
	Unity:	"The whole document originated at one time..." ⁶⁸
	Date:	"...concluded during his first year of Medina..." ⁶⁹ "But the more cogent evidence points to the first year after the <i>hijra</i> ..." ⁷⁰
Moshe Gil	Authenticity:	"One of the oldest extant documents in Islamic history..." ⁷¹
	Unity:	"...genuine and cohesive..." ⁷²
	Date:	"...one of the Prophet's very first acts after his arrival in Medina." ⁷³
Nicolai Sinai	Authenticity:	"...and even though the question would merit reexamination, I am not at

⁶² F. E. Peters, *Jesus and Muhammad: Parallel Tracks, Parallel Lives* (New York: Oxford University Press, 2011), 191.

⁶³ Fred M. Donner, *Narratives of Islamic Origins: The Beginnings of Islamic Historical Writing* (Princeton: The Darwin Press, 1998), 57.

⁶⁴ Donner, "From Believers to Muslims", 29.

⁶⁵ Lecker, *Constitution*, 1.

⁶⁶ Michael Lecker, "Did Muḥammad conclude treaties with the Jewish tribes Nadir, Qurayza and Qaynuqā?" *Israel Oriental Studies* 17 (1997), 1.

⁶⁷ Michael Lecker, "Waqidi's Account on the Status of the Jews of Medina: A Study of a Combined Report", *Journal of Near Eastern Studies* 54/1 (1995), 24.

⁶⁸ Michael Lecker, "Constitution", *The Encyclopaedia of Islam* Three, 100.

⁶⁹ Michael Lecker, "Glimpses to Muḥammad's Medinan Decade", *The Cambridge Companion to Muḥammad*, ed. Jonathan E. Brockopp (New York: Cambridge University Press, 2010), 67.

⁷⁰ Lecker, *Constitution*, 182, see also 98, n. 41.

⁷¹ Gil, *Jews*, 556.

⁷² Gil, *Jews*, 25.

⁷³ Gil, *Jews*, 26, 76.

		present minded to doubt the consensus in favour of its authenticity." ⁷⁴
	Date:	"...the treaty is not unreasonably considered to document an initial status quo that crystallised relatively soon after the arrival of Muḥammad and his followers at Medina..." ⁷⁵
Robert Hoyland	Authenticity:	"... a document which marks the foundation of Muḥammad's polity..." ⁷⁶
	Unity:	"I accept, however, his [Watt's] point that parts of the document may have been drafted at different times, though Serjeant's division of the Constitution into seven different documents seems to me excessive..." ⁷⁷
Shelomo D. Goitein (1900-1985)	Authenticity:	"...even the most critical minds do not cast doubt on its authenticity." ⁷⁸
	Date:	"Watt... assumes that "the Constitution"... was promulgated after year 5 of the Hijrah. For many reasons, which cannot be discussed here, this surmise is unacceptable." ⁷⁹

Other modern scholars who consider the document authentic include Meïr M. Bravmann,⁸⁰ Bernard Lewis,⁸¹ Irene Schneider,⁸² James Howard-Johnston⁸³ and Stephen J. Shoemaker, Ilkka

⁷⁴ Nicolai Sinai, "Muḥammad as Episcopal Figure", *Arabica* 65 (2018), 8.

⁷⁵ Sinai, "Muḥammad as a Episcopal Figure", 10.

⁷⁶ Robert Hoyland, "Sebeos, the Jews and the Rise of Islam", *Medieval and Modern Perspectives on Muslim-Jewish Relations*, ed. Ronald L. Nettler (New York: Routledge, 1995), 93.

⁷⁷ Hoyland, "Sebeos", 100, n. 33.

⁷⁸ Shelomo Dov Goitein, "Birth-Hour of Islamic Law: An Essay in Exegesis", *Studies in Islamic History and Institutions* (Leiden-Boston: Brill, 2010), 128.

⁷⁹ Goitein, "The Birth-Hour of Islamic Law", 128, n. 2.

⁸⁰ M. M. Bravmann, *The Spiritual Background of Early Islam: Studies in Ancient Arab Concepts* (Leide: E. J. Brill, 1972), 315.

⁸¹ Bernard Lewis, *The Arabs in History* (Oxford: Oxford Universit Press, 2002), 39-40.

⁸² Harald Motzki, "The Prophet and the Debtors. A *Ḥadīth* Analysis under Scrutiny", *Analysing Muslim Traditions: Studies in Legal, Exegetical and Maghāzī Ḥadīth*, ed. Harald Motzki et al. (Leiden-Boston: Brill, 2010) 177, 187.

⁸³ According to him the documnet "appears to be a composite document." (James Howard-Johnston, *Witness to a World Crisis: Historians and Histories of Middle East in the Seventh Century*, [New York: Oxford University Press, 2010], 409).

Lindstedt. Uri Rubin's approach to the document deserves to be discussed separately. Rubin wrote an article on the document in which he expressed the opinion that it could have been written very soon after the *hijra*.⁸⁴ However, Rubin later changed his opinion and revised his position on the dating of the document:

"Modern scholars (including myself) have usually accepted the authenticity of the Constitution as self-evident, ...However, there is no reason why this document should be treated as more authentic, say, than Muḥammad's letters to the emperors of Byzantium and Persia. A careful textual examination of the Constitution may reveal various layers in it..."⁸⁵

The names of Western scholars who accept the authenticity of the document are not limited to those listed here, but the scholars mentioned provide sufficient enough to point to the consensus among Western scholars on the authenticity of the document. The strongest evidence of this consensus is the fact that even Patricia Crone (1945-2015), who was critical of the Islamic tradition and wrote in *Hagarism*, co-authored with Michael Cook, that "...one can take the picture presented or one can leave it, but one cannot work with it."⁸⁶ still described the document as a "plausibly archaic element of Islamic tradition."⁸⁷ In her later book, *Slaves on Horses*, Crone described it as "a piece of solid rock in an accumulation of rubble."⁸⁸ However, she also used this "solid rock" as evidence against the Islamic tradition, arguing that *aḥādīth* quoting various parts of the document "resulted in the disintegration of the text, the loss of context, and a shift in the general meaning." His conclusion is in the same direction:

"The religious tradition of Islam is thus a monument to the destruction rather than the preservation of the past."⁸⁹

1. Excursion: The Document and Origins of Islamic Law

Michael Lecker, who has written the most detailed study on the document, rightfully subtitles his book on the document "Muḥammad's First Legal Document." This is because it contains articles on various legal issues. As a matter of fact, Joseph Lowry has noted that the document includes legal regulations on topics such as "ransoming prisoners, fixing compensation or retaliation in tort cases, forming alliances, granting asylum, and conducting defense."⁹⁰ Wael b. Hallaq also argues that the Prophet and the Companions, as prominent merchants, were well acquainted with cultures of the Near East, and that the Qur'ān and the Document of Medina show that he had a sophisticated

⁸⁴ Uri Rubin, "The 'Constitution' of Medina: Some Notes", *Studia Islamica* 62 (1985), 19.

⁸⁵ Uri Rubin, *Between Bible and Qur'ān*, 49. See also, Stephen J. Shoemaker, *The Death of a Prophet: The End of Muhammad's Life and Beginning of Islam* (Philadelphia: University of Pennsylvania Press, 2012), 335, n. 50.

⁸⁶ Patricia Crone, *Slaves on Horses: The Evolution of Islamic Polity* (Cambridge: Cambridge University Press, 2003), 4.

⁸⁷ Patricia Crone - Michael Cook, *Hagarism: The Making of Islamic World* (Cambridge: Cambridge University Press, 1977), 7.

⁸⁸ Crone, *Slaves on Horses*, 7. In 2008, Crone would characterize the document as "broadly authentic" (https://www.opendemocracy.net/en/mohammed_3866jsp/).

⁸⁹ Crone, *Slaves on Horses*, 7.

⁹⁰ Joseph E. Lowry, "Prophet as Lawgiver and Legal Authority", *The Cambridge Companion to Muḥammad*, ed. Jonathan E. Brockopp (New York: Cambridge University Press, 2010), 84.

knowledge of legal practices at the time.⁹¹ In fact, in his earlier book *A History of Islamic Law* (1997), Hallaq also mentioned the authenticity of the Document of Medina and the jurisprudential level of the provisions it contains, and stated that this is not surprising when the Qur'ān is taken into consideration.⁹²

Hallaq's views inevitably bring to mind Joseph Schacht's claim that Islamic law is not even Qur'anic, let alone Islamic.⁹³ At this point, it is necessary to determine what he thinks about the document. Michael Lecker notes that he mentions the document in his entry "Kıṣṣāṣ" in the second edition of *the Encyclopaedia of Islam*.⁹⁴ In this entry, Schacht describes the Document of Medina as belonging to "the early Medinan period." More interestingly, he states that "Here the kıṣṣāṣ is brought from the sphere of tribal life into that of the religious-political community (*umma*), which finds an echo in the law." Nevertheless, he did not take the document into account when looking for the beginning of Islamic law in the second century of the *hijra*. Similarly, it is known that he did not take into account the legal regulations in the Qur'ān, and perhaps the most accurate criticisms have been directed at him in this respect.⁹⁵ So, accepting the document's early date should have implications for the origins of Islamic law. Unfortunately, this aspect of the document has remained unexplored.

4. Western Scholars' Reasons for Accepting the Document of Medina as authentic

In the Western scholarship, Julius Wellhausen's reasons for accepting the authenticity of the document have been reiterated, and, with one exception,⁹⁶ no new reasons have been added. Stephen Humphreys summarizes Wellhausen's reasons as follows:

"He bases his assessment on the following points: (1) a forgery would reflect the outlook of a later period – e.g., the Community would not include non-Muslims; the tribe of Quraysh (from which all the Caliphs stemmed) would not be so severely assailed as the enemy of God; much more would be made of Muhammad's stature as God's Apostle; etc.; (2) linguistically, the grammar and vocabulary are very archaic; (3) the text is full of unexplained allusions which could only have been intelligible to contemporaries; (4) the text seems to reflect ancient tribal law far more than developed Islamic practice.

⁹¹ Wael b. Hallaq, *The Origins and Evolution of Islamic Law* (New York: Cambridge University Press, 2005), 19.

⁹² Wael b. Hallaq, *A History of Islamic Legal Theories: An Introduction to Sunnī Uṣūl al-Fiqh* (Cambridge: Cambridge University Press, 1997), 4-6.

⁹³ Joseph Schacht, "Law", *Unity and Variety in Muslim Civilization*, ed. Gustave E. von Grunebaum (Chicago: The University of Chicago Press, 1955), 65.

⁹⁴ Lecker, *Constitution*, 127, n. 140.

⁹⁵ For example see Noel Coulson, *A History of Islamic Law* (Edinburgh: Edinburgh University, 1978), 64-65; David S. Powers, *Studies in Qur'ān and Ḥadīth: The Formation of the Islamic Law of Inheritance* (Berkeley: University of California Press, 1986), vii, 8. Wael b. Hallaq, "From Fatwās to Furū': Growth and Change in Islamic Substantive Law", *Islamic Law and Society* I/3-4 (1994), 61- 65, Harald Motzki, *The Origins of Islamic Jurisprudence: Meccan Fiqh before Classical Schools*, tr. Marion H. Kartz (Leiden: Brill, 2002), 115.

⁹⁶ Ilkka Lindstedt cites the absence of Qur'anic verses in the document as additional evidence. According to him "...if it had been authored later, a Qur'anic flavor might have been included here and there in the text." (Ilkka Lindstedt, "'One Community to the Exclusion of Other People': A Superordinate Identity in the Medinan Community", *The Study of Islamic Origins: New Perspectives and Contexts*, ed. Mette Bjerregaard Mortense et.al., [Berlin/Boston: De Gruyter, 2021], 334.)

(Wellhausen, "Muhammads Gemeindeordnung von Medina" [1889], *Skizzen und Vorarbeiten*, iv [1889], 80.)⁹⁷

Wellhausen's main argument for the authenticity of the Document of Medina mainly revolves around three factors: the inclusion of Jews within the *umma*, the negative depiction of the Quraysh, and the Prophet's limited role in the document, all of which contradict the conventional assumptions of later orthodoxy. Essentially, Wellhausen argues that since these elements contradict the later Islamic orthodoxy, they are more likely to have been preserved from an earlier time. This reasoning is based on the principle of dissimilarity. Pavel Pavlovitch explains this principle as follows:

"...we may appeal to the 'dissimilarity criterion,' also called 'the criterion of embarrassment,' which has been an important method-logical tool of historical criticism. If an isolated report contradicts in a discomfiting manner the established narrative about a historical event or an intellectual current, we are entitled to regard such a report as a repository of pristine information that evaded suppression by the triumphant narrative."⁹⁸

Other names defending the authenticity of the document based on the principle of dissimilarity are William Muir, Leone Caetani, Moshe Gil, Crone-Cook, Fred Donner, Aaron Hughes, Stephen Schoemaker, Ilkka Lindstedt. In addition to Moshe Gil, Crone-Cook, Fred Donner; Anderas Görke is also of the opinion that Wellhausen's other reason, namely the archaic style of the document, is also evidence for its authenticity.⁹⁹

FINAL REMARKS

The notion of a singular authentic ḥadīth in the classical sense is not accepted by Western scholars today. However, there is near-unanimous agreement among Western scholars regarding the authenticity of the Document of Medina since Julius Wellhausen's initial study. Even revisionist scholars have acknowledged the document's authenticity, surpassing the "magical limit of the year 100."¹⁰⁰ Since Wellhausen's work, there has been no change in the reasons presented for the document's authenticity. The presence of expressions incompatible with the conventional assumptions of the *Ahl al-sunna* (the principle of dissimilarity) and the document's archaic language and style are at the top of these reasons. However, one question arises: Is the Document of Medina

⁹⁷ Humphreys, *Islamic History*, 92. Watt summarises Wellhausen's reasoning as follows (*Muhammad at Medina*, 225): "The reasons for its authenticity have been succinctly stated by Wellhausen. No later falsifier, writing under the Umayyads or 'Abbasids, would have included non-Muslims in the *umma*, would have retained the articles against Quraysh, and would have given Muhammad so insignificant a place. Moreover, the style is archaic, and certain points, such as the use of 'believers' instead of 'Muslims' in most articles, belong to the earlier Medinan period."

⁹⁸ Pavel Pavlovitch, "The Origin of the *Isnād* and al-Mukhtār b. Abī 'Ubayd's Revolt in Kūfa (66-7/685-7)", *al-Qanṭara* 39/1 (2018), 41.

⁹⁹ William Muir, *The Life of Mahomet* (London: Smith, Elder and Co., 1861), I/Ixxxii; Gil, *Jews*, 22, Crone-Cook, *Hagarism*, 7; Aaron W. Hughes, *Muslim Identities: An Introduction to Islam* (New York: Columbia University Press, 2013) 52; Stephen J. Shoemaker, "In Search of 'Urwa's Sīra: Some Methodological Issues in the Quest for 'Authenticity' in the Life of Muḥammad", *Der Islam* 85 (2011), 276 ff; idem, *The Death of a Prophet*, 206-207, Donner, "From Believers", 29, 77, 227, Michael Cook, *Ancient Religions, Modern Politics The Islamic Case in Comparative Perspective* (New Jersey: Princeton University Press, 2014), 21; Ilkka Lindstedt, "One Community to the Exclusion of Other People", 334.

¹⁰⁰ Harald Motzki, "Al-Radd 'alā l-Radd: Concerning the Method of Hadīth Analysis", *Analysing Muslim Traditions: Studies in Legal, Exegetical, and Maghāzī Hadīth*, ed. Harald Motzki et al. (Leiden: Brill, 2010), 228.

the only report in the ḥadīth and historical sources with these characteristics, or is its acceptance a result of scholars following the “*sunnah*” of their predecessors?¹⁰¹ Furthermore, if the principle of dissimilarity is considered a useful tool for dating, how plausible is it to assume that there is no other reports that should be considered authentic according to this principle? After all, other traditions with various archaic words (*gharīb al-ḥadīth*) describe the Prophet as a human who can make mistakes, change his mind, or become angry. In short, it is worth questioning whether the Document of Medina is the only report that should be deemed authentic.

¹⁰¹ In this context, it is worth quoting Dale F. Eickelman’s following anecdote (<https://brill.com/display/book/edcoll/9789004386891/front-9.xml> 22.06.2023): “To give a sense of the mid-twentieth-century context for Islamic studies, let me describe the distinguished historian who led my first-ever seminar in Islamic history at McGill University in 1964, informing our class that the key texts had all been established by the ‘greats’ of an earlier generation – including Theodor Nöldeke (1836-1930), Ignaz Goldziher (1850-1921), and others. The role of our generation, it was explained, was to ferret out typographical errors and other minor imperfections.”

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