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The Sunna and its Status in Islamic Law

The Search for a Sound Hadith

Edited by
Adis Duderija



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THE SUNNA AND ITS STATUS
IN ISLAMIC LAW

THE SEARCH FOR A SOUND HADITH

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ADIS DUDERIJA

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THE SUNNA AND ITS STATUS IN ISLAMIC LAW

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Contents

<i>List of Tables</i>	vii
<i>Notes on Transliteration and Other Conventions</i>	ix
Introduction The Concept of <i>sunna</i> and Its Status in Islamic Law <i>Adis Duderija</i>	1
1 The Concept of <i>sunna</i> Based on the Analysis of <i>sīra</i> and Historical Works from the First Three Centuries of Islam <i>Nicolet Boekhoff-van der Voort</i>	13
2 Uṣūl al- <i>sunna</i> : The Tenets of Islamic Orthodoxy and Orthopraxy According to the Traditionalists (Ahl al-ḥadīth) <i>Ahmet Temel</i>	39
3 The Concept of <i>sunna</i> in Muʿtazilite Thought <i>Usman Ghani</i>	59
4 The Sunnification of Ḥadīth and the Hadithification of <i>sunna</i> <i>Aisha Y. Musa</i>	75
5 The Concept of <i>sunna</i> in the Ibādī School <i>Ersilia Francesca</i>	97
6 The Concept of <i>sunna</i> in Early and Medieval Ḥanafism <i>Ali Altaf Mian</i>	117
7 The Concept of <i>sunna</i> in the Early Shāfiʿī <i>Madhhab</i> <i>Gavin N. Picken</i>	139
8 From Tradition to Institution: <i>sunna</i> in the Early Ḥanbalī School <i>Harīth bin Ramli</i>	163
9 <i>Sunna</i> in the Zāhiri <i>Madhhab</i> <i>Amr Osman</i>	195

10	The Relative Status of Ḥadīth and <i>sunna</i> as Sources of Legal Authority vis-à-vis the Qurʾān in Muslim Modernist Thought <i>Adis Duderija</i>	211
	<i>Bibliography</i>	233
	<i>Contributor Biographies</i>	251
	<i>Index</i>	255

Tables

1.1	The Number of <i>sunna</i> , <i>sunan</i> , and <i>sunna</i> in <i>sīra</i> and Historical Works	21
1.2	The Distribution of the Terms in Descriptions about Pre-Islamic Ancestors, the Lifetime of the Prophet, and the Reign of the First Four Caliphs	22
1.3	The Distribution of the Terms in Descriptions in the Period of the First Four Caliphs	24
1.4	The Variant Uses of <i>sunna</i> in the <i>sīra</i> /maghāzī Sources	26

Notes on Transliteration and Other Conventions

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

Introduction

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

Adis Duderija*

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

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

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

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

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

- the continued growth and proliferation of *ḥadīth*;
- the increasing importance given to *ḥadīth* at the cost of what I have termed the *non-ḥadīth-dependent concept of sunna* that was prevalent in the first two centuries of Islam as explained above;
- the articulation of non-verbally based aspects¹¹ of *sunna* into an individual, sound (*ṣaḥīḥ*) *ḥadīth*;

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

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

At the beginning of the second century AH, there was a rapid increase in the number of *ḥadīth* collections, in different formats. These emerging collections were considered by some sections of the Muslim community to be a truer reflection of the Prophet’s legacy (*sunna*) than the epistemologically and methodologically *ḥadīth-independent* concept of *sunna* that was held by other groups. By the second half of the second century AH, the former became known as the *ahl al-ḥadīth* and the latter as *ahl al-raʾy*.¹⁴ The *ahl al-ḥadīth* considered *ḥadīth* to be the sole and complete depository of *Sunna* and the only vehicle of its perpetuation. This *ḥadīth*-based approach to *sunna* came into conflict with how the *ahl al-raʾy* conceptualized *sunna* and the role of *raʾy* in interpreting the Islamic tradition.¹⁵ The *ahl al-ḥadīth* insisted that all law had to be traced back to the Qurʾānic text and *ḥadīth*-based *sunna*, and that *raʾy* was either an illegitimate methodological tool for the derivation of law¹⁶ or that its use had to be constrained to those cases in which Qurʾān and *ḥadīth* texts offered no help at all.¹⁷ According to Melchert, *ahl al-ḥadīth* considered the Qurʾān and *ṣaḥīḥ al-ḥadīth* as the only religiously legitimate basis of Islamic law, ethics, and theology. The *ahl al-ḥadīth* preferred to rely on weak traditions, *daʿīf al-ḥadīth* over principles generally deduced from the Qurʾān or through analogical reasoning (*qiyās*).¹⁸ According to the *ahl al-ḥadīth*, jurisprudence should be based on *ḥadīth*. As such, the *ahl al-ḥadīth* dealt with juridical problems by referring exclusively to and reciting relevant *ḥadīth* reports. In ninth-century Baghdad, the *ahl al-ḥadīth* group was associated with the followers of the eponym of the Ḥanbalī *madhhab* Aḥmad Ibn Ḥanbal (d. 241/855). By contrast, the *ahl al-raʾy*, called “semi-rationalists” by Melchert, considered *fiqh*

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

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

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

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

ḥadīth specialists following the *ahl al-ḥadīth* understanding of *sunna* (in addition to some Islamic jurists who subscribed to the same) and, on the other hand, the Mu'tazila²⁷ and some of the Ḥanafī²⁸ and Mālikī²⁹ legal theoreticians (*uṣūliyyūn*) whose understanding of *sunna* was closer to how *sunna* was understood prior to the process of ḥadīthification of *sunna* and traditionalization of Islamic thought described above. These differences in the relative status and the nature of the concepts of *sunna* and *ḥadīth* as sources of legal authority also gave rise to differences among Muslims as to *sunna's* and *ḥadīth's* respective hermeneutical relationship with the Qur'ān. This is especially true with respect to the issue of whether *sunna* is to be considered as part of Revelation (*wahy*) *on par* with the Qur'ān. If the answer to this question were in the affirmative, it would mean that *sunna* (and therefore the *ḥadīth* for the *ahl al-ḥadīth*,) could be employed as an independent and self-sufficient source of Islamic law and theology, in addition to being utilized as a legitimate exegetical and hermeneutical tool.³⁰

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

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

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

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

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

Put succinctly, the majority of jurists adopted the view³³ that “the *sunna* rules over the Qur'ān (*qāḍiya 'alā al-kitāb*) and the Qur'ān does not rule over the *sunna*”,³⁴ or that the Book [Qur'ān] [often] takes form in general sentences whose preciseness the *ḥadīth* specifies (*yakshifuhā*) and with succinctness (*wa-'khtiṣār*) whose details are indicated (*tadullu*) by the *sunna* (i.e., *al-kitāb Qur'ān* [Qur'ān] *ya'tī bi-l-jumal yakshifuhā al-ḥadīth wa-'khtiṣār tadullu 'alayhī al-Sunna*),³⁵ thereby conferring onto *sunna*³⁶ / *ḥadīth*³⁷ a quasi-status of revelation which can elaborate on, specify (*takhṣīs*)³⁸ or as held by some scholars even abrogate the Qur'ānic text.³⁹ As a corollary, *sunna/ḥadīth*, as demonstrated in this volume, became recognized as a legitimately hermeneutical tool to be employed in Qur'ānic hermeneutics and Islamic legal theory, in the form of either *ḥadīth ṣaḥīḥ* (as in case of mainstream classical Islam) or in the form of *sunna mutawātirah* *sunna 'amalīyya* (as in case of the Mu'tazila and some Ḥanafī and Mālikī *uṣūliyyūn*), and as an *independent* source of Islamic law and less so theology.

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

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

Chapter Outlines

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

historical and *sīra* works that cover the first three centuries of Islam. Among the most important and interesting findings of the study is the fact that eight different kinds of *sunna* existed; that half of the terms referring to the *sunna* of the Prophet appear in combination with the Qurʾān in the phrase “the book of God and the practice of His Prophet”; and finally, that the latest sources contain the most variances of the concept of *sunna*.

Ahmet Temel investigates the conceptual development of the term *uṣūl al-sunna*, especially the manner in which it was employed by the *ahl al-ḥadīth*. Temel argues that the followers of the *ahl al-ḥadīth* attempted to monopolize the term *sunna* as it was employed in the concept of *uṣūl al-sunna* in order to delineate what they considered to be the boundaries of orthodoxy and orthopraxy of Islam. The term *uṣūl al-sunna* was employed to refer to the agreed upon tenets among *ahl al-ḥadīth*, mostly in the field of theology. As a name of a short-lived genre, Temel concludes, *uṣūl al-sunna* was considered as a genuine alternative to the scientific study of *kalām* by the followers of *ahl al-ḥadīth*.

Usman Ghani’s chapter focuses on the concept of *sunna* in Muʿtazilite thought and its development from the formative to the classical period. Ghani demonstrates how the nature of the discussions of the concept of *sunna* in Muʿtazilite thought were primarily in relation to the question of the role of reason in authenticating the content of *ḥadīth* in contrast to those of the traditionalists that focused on the *isnād*. Hence, the discussions on *sunna* took place primarily in relation to the meaning of terms such as *mutawātir* and *khabar al-wāḥid* and their respective probity power in authenticating the *ḥadīth*. Ghani concludes that it is difficult to talk about a singular approach to and understanding of the concept of *sunna* in Muʿtazilite thought, since significant shift in thinking about the concept occurred from the formative to the classical period due to the fact that most Muʿtazilite theologians became affiliated with a major school of law and had to adjust their views accordingly.

Aisha Musa’s chapter shows how Sunnī *ḥadīth* literature developed in the service of *fiqh* and the ways in which that literature solidified both what Musa terms the “Sunnification of *ḥadīth*” and the “ḥadīthification of *sunna*.” Methodologically, the employment of the concept of *sunna* is analyzed at two levels: the structure, organization, and content, and the appearance of the term in the titles of *ḥadīth* collections themselves. Musa demonstrates how the various features of the Sunnī *ḥadīth* literature including the size and scope of collections, the specific reports the compilers include, the subject headings under which reports are placed, and the arrangement of sections and subsections are clearly indicative of the process of ḥadīthification of both *sunna* and knowledge and the primacy of the Prophet Muhammad as the originator of *sunna*. Importantly, Musa also

shows that a preliminary and non-exhaustive analysis of the occurrence of the term *sunna* and its related verbs in the texts (*mutūn*) of individual *ḥadīth* reports often conflicts with the above given features of the Sunnī *ḥadīth* literature, including the titles.

Ersilia Francesca's contribution examines the evolution of the concept of *sunna* in the Ibādī *madhhab*. Francesca shows that in the early Ibādī tradition, collections in the vast majority of cases *sunna* refers to both the "living tradition" (of the early Ibādī Baṣran authorities and from Omani jurists) and the traditions arising from the Prophet's closest followers such as Abū Bakr, 'Umar, 'Alī, 'Ā'isha, Ibn 'Abbās, and Jābir b. 'Abd Allāh but not the third caliph 'Uthmān who is considered as having abandoned the *sunna* of God's Messenger. Francesca also explains the mechanisms and factors responsible for *ḥadīth*ification of Sunna in the Ibādī *madhhab* as evident in the works by the Omani encyclopedists at the end of the fifth/eleventh and the beginning of the sixth/twelfth centuries. Finally, Francesca finds that on the question of the status and the position of legal authority of the *sunna* (in the form of *sunnat al-nabī*) with respect to the Qur'ān, the views of the Ibādī mirror those of other Sunnī treatises on this subject.

Ali Altaf Mian's chapter studies the meanings of the word *sunna* in several core texts of early and medieval Ḥanafī law and legal theory. Mian shows how Ḥanafī jurists conceptualized *sunna* in terms of epistemological categories for specific reasons pertaining to the nature of legal authority and religious normativity. In this context, Mian argues that the Ḥanafī conception of certainty-yielding *sunna* served as the master-discourse for interpreting sacred law. This epistemological conception of *sunna* also enabled post-formative Ḥanafī jurists to authenticate and defend the legal positions of their School's founding fathers.

Gavin Picken's chapter investigates the concept of *sunna* in early Shāfi'ī *madhhab*. Picken focuses on the work of Shāfi'ī and, apart from sketching a useful overview of his life and works, Picken unpacks Shāfi'ī's theory of *bayān* as part of what Picken terms Shāfi'ī's "revelatory matrix" and its implications on the hermeneutical relationship between the Qur'ān, *sunna* and *ḥadīth*. In this context, Picken describes Shāfi'ī's disagreement with his former teacher Mālik and his concept of *sunna* embedded in the idea of *'amal ahl al-Madīna*. In the final section, Picken discusses how the work of Shāfi'ī was received in what eventually crystalized into what we today know as the Shāfi'ī *madhhab*. Here Picken highlights the efforts and the contribution of one of Shāfi'ī's most important students, al-Buwayṭī, who, in many ways, played a very important role in the establishment of this school of law. For the purposes of this volume, one of al-Buwayṭī's most important

contributions is in further consolidating Shāfi'ī's ḥadīth-based *sunna* legal hermeneutic that resembled more that of the traditionalists such as Ibn Ḥanbal.

Harith bin Ramli, in his comprehensive overview of the Ḥanbalī legal tradition, discusses the concept of *sunna* in this school of thought including its hermeneutical position in relation to the Qur'ān and the epistemological status of *mutawātir*, *āḥād* and non-*ṣaḥīḥ* ḥadīth. Ramli paints a complex picture of these issues as they emerged in Ḥanbalī *madhhab*. In this context, Ramli demonstrates how the Ḥanbalī legal tradition arose as a result of the efforts by traditionist-jurists to supplant localized *ra'y*-based traditions with an entirely text-based tradition that not only included the corpus of sound prophetic *ahādīth*, but also the example of companions, successors and the *fatwās* of leading figures of later generations. In doing so they resisted the influence of Shāfi'ī whose concept of *ṣaḥīḥ al-ḥadīth* meant that lot of space for analogical reasoning was created, something that Ḥanbalī, at least in theory, were very suspicious of. Hence, according to this view the concept of *sunna* was a "living tradition" embodied by those who were considered to be most erudite about it and best exemplified its spirit in their belief and practice." Importantly, argues Ramli, the idea that decisions regarding what constituted *sunna* must be based on textual grounds as much as possible implied that in the Ḥanbalī legal tradition the mere knowing of the transmitters of the *sunna* was conceptually equivalent to the knowledge of the *sunna* itself.

Amr Osman's contribution examines the concept of *sunna* in the now extinct Zāhiri school of thought from the perspective of all legal theory and the kind of debates that were taking place at the time under discussion. Amr focuses on the works of Ibn Ḥazm the main theoretician and codifier of Zāhiri school of thought, and the kind of arguments he proffered for defending a ḥadīth-based concept of *sunna* in contrast to those of Mālikīs and Ḥanafīs. Osman demonstrates that Ibn Ḥazm's concept of *sunna* represents the culmination of the view that the Prophetic Sunna is one and the same as that of ḥadīth.

Adis Duderija shifts the discussion from pre-modern Islam to that of modern times to demonstrate the continuities and discontinuities of the issues under discussion. He examines the views of several prominent modernist Muslim scholars who have developed some innovative arguments and ideas regarding the question of the relative status of the *sunna* and ḥadīth as sources of legal authority vis-à-vis the Qur'ān and their normative role in Qur'ānic interpretation. They include Javed Ghāmīdī, Fazlur Rahman, Muḥammad Shahrūr and Ghulām Parwez. He also briefly provides his own understanding of the concept of *sunna*.

NOTES

*I would like to express my gratitude to Dr. Abdessamad Belhaj for reading through this introduction and offering his helpful comments.

1. Adis Duderija, *Constructing Religiously Ideal "Believer" and "Muslim Woman" Concepts: Neo-Traditional Salafi and Progressive Muslim Methods of Interpretation* (Manāhij) (Palgrave, New York, 2011).
2. D. Brown, *Rethinking Tradition in Modern Islamic Thought* (Cambridge: Cambridge University Press, 1996); W. A. Graham, *Divine Word and Prophetic Word in Early Islam—a Reconsideration of the Sources, with Special References to the Divine Saying or Hadith Qudsi* (Hague: Mouton, 1977); F. Rahman, *Islamic Methodology in History* (Lahore, Central Institute of Islamic Research, 1965); Adis Duderija, "The Evolution in the Canonical Sunni Hadith Body of Literature and the Concept of a Sound Hadith during the Formative Period of Islamic Thought as based on Recent Western Scholarship," *Arab Law Quarterly*, 23(4) (2009a): 1–27; Adis Duderija, "The Evolution in the Concept of Sunnah during the First Four Generations of Muslims in Relation to the Development of the Concept of an Authentic Hadith as based on Recent Western Scholarship," *Arab Law Quarterly*, 26(4) (2012): 393–347.
3. See Z. I. Ansari, "Islamic Juristic Terminology before Shafi'i : A Semantical Analysis with Special Reference to Kufa," *Arabica*, 19 (1972); M. M. Bravmann, *The Spiritual Background of Early Islam—Studies in Ancient Arab Concepts* (Leiden: E.J.Brill, 1972); P. Crone and M. Hinds, *God's Caliph: Religious Authority in the First Centuries of Islam* (Cambridge: Cambridge University Press, 1986); N. Calder, *Studies in Early Muslim Jurisprudence* (Clarendon Press, Oxford, 1993); M. Al Azami, *Studies in Early Hadith Literature* (Beirut: Al-Maktab al-Islami, 1968); I. Ahmed, *The Significance of Sunna and Hadith and their Early Documentation*, Edinburgh University, PhD Thesis, 1974; G. H. A. Juynboll, "Some New Ideas on the Development of Sunna as a Technical Term in Early Islam," in *Studies on the Origins and Uses of Islamic Hadith*, ed. G. H. A. Juynboll (Variorum: Ashgate, 1996); B. M. Wheeler, *Applying the Canon in Islam—the Authorization and Maintenance of Interpretive Reasoning in Hanafi Scholarship* (SUNY Press, 1996). See also chapter 1 of this volume, which summarizes this body of scholarship.
4. M. Guraya, "The Concept of Sunna in the Muwatta of Malik b. Anas," McGill University, unpublished PhD Thesis, 1969. U.F Abd-Allah, *Malik and Medina-Islamic Reasoning in the Formative Period* (Leiden: Brill, 2013). Hence, this study will not include a chapter on Mālikī school of thought.
5. Duderija, "The Evolution in the Concept of Sunnah"; Duderija, "The Evolution in the Canonical Sunni Hadith."
6. Ibid.
7. Guraya, "The Concept of Sunna." Montreal, Introduction. Cf. U. Abd-Allah, *Malik's Concept of Amal in the Light of Maliki Legal Theory*, PhD thesis, Department of Near Eastern Languages and Civilizations, University of Chicago, Chicago, 1978.

8. See Jonathan Brown, *Hadith: Muhammad's Legacy in the Medieval and Modern World* (Oxford: Oneworld, 2009).
9. In contrast to the Sunna of others such as that of the "rightly guided caliphs." See Duderija, "The Evolution in the Canonical Sunni Hadith Body of Literature."
10. N. Abbott, *Studies in Arabic literary papyri, Qur'ānic Commentary and Tradition*, Vol. 2 (Chicago: University of Chicago Press, 1967), 56.
11. Such as the idea that *sunna* represented certain abstract ethico-religious principals and norms. See discussion below.
12. Duderija, *Constructing*, 29.
13. Being methodologically dependent on the *ḥadīth* implies that *sunna* compliance (or otherwise) of certain (legal, ethical, or theological) practices or principles is, and can only be, determined by sifting through numerous narratives reportedly going back to the time of the Prophet Muhammad via an authentic chain of narrators (*isnād*).
14. Ch. Melchert, "Ibn Mujāhid and the Establishment of Seven Qur'anic Readings," *Studia Islamica*, 91 (2000): 5–22. For a more complex picture of the *ahl al-ḥadīth* vs. *ahl al-ra'y* divide, see A. Osman, *The History and the Doctrine of the Zahiri Madhhab*. PhD thesis, Department of near Eastern Studies, Princeton University, Princeton, 2010, 106–161.
15. I. Goldziher. *Muslim Studies*. Vol. 2. Translated by C. R. Barber and S. M. Stern (London: Allen & Unwin, 1971), 81; J. Schacht, "Ahl al-Hadith," in *The Encyclopaedia of Islam*, Vol. 1 (Leiden: Brill, 1960), 258. Edited by: M. Th. Houtsma, T. W. Arnold, R. Basset and R. Hartmann.
16. Such as in the case of the Hashwiyya or Nābita, which were often given the epithet *ahl al-ḥadīth*. See Ed, "Hashwiyya," in *Encyclopaedia of Islam*, Second Edition, edited by P. Bearman, Th. Bianquis, C. E. Bosworth, E. van Donzel, and W. P. Heinrichs (Brill Online, 2014).
17. Sh. Jackson, "Literalism, Empiricism, and Induction: Apprehending and Concretizing Islamic Law's Maqāsid al-Sharīa," *Mich. St. L. Rev.* (2006): 1469–1486.
18. M. Abū Zahra, *Ta'rikh al-madhāhib al-islāmiyya* (Cairo: Dār al Fikr al-'Arabī n.p.), 458.
19. Melchert, "Ibn Mujahid," 6.
20. I. Goldziher, *The Zahiris-Their Doctrine and Their History* (Leiden: E.J.Brill, 1971), 3.
21. Ch. Melchert. *The Formation of the Sunni Schools of Law in the 9th-10th Centuries* (Leiden: Brill, 1997).
22. Goldziher, *The Zahiris*, 3; W. Hallaq. *The Origins and Evolution of Islamic Law* (Cambridge: Cambridge University Press, 2005), 122–128. Hallaq refers to this as the "Great Synthesis."
23. Goldziher, *The Zahiris*, 4–5.
24. Duderija, "The Evolution in the Concept of Sunna."
25. D. Brown, *Rethinking Tradition in Modern Islamic Thought* (Cambridge: Cambridge University Press, 1996), 20.
26. Ibid.

27. R. El-Omari. "Accommodation and Resistance: Classical Mu'tazilites on Ḥadīth," *Journal of Near Eastern Studies* 71(2) (2012): 231–256.
28. V. Stodolsky, *A New Historical Model and Periodization for the Perception of the Sunnah and his Companions*. PhD thesis, Department of Near Eastern Languages and Civilizations, University of Chicago, Chicago, 2012, 2.
29. On Mālikī *madhhab* see Abd-Allah, *Malik and Medina*.
30. Duderija, *Constructing*.
31. A. Ibn Ḥazm, *Al Ihkām fī uṣūl al-aḥkām*, Vol. 1, edited by Aḥmad Shākīr (Cairo: Maṭba'at al-Imām, 1987), 87.
32. Brown, *Rethinking Tradition*, 16.
33. For an excellent in-depth discussion of theories of legal hermeneutics and their theoretical presuppositions that were developed by classical Muslim scholars, and some of which were supportive of this function of *sunnā*, see D. Vishanoff, *The Formation of Islamic Hermeneutics: How Sunni Legal Theorists Imagined a Revealed Law* (New Haven, CT: American Oriental Society, 2011.)
34. A. Al-Baghdādī, *Al-Kifāya fī 'ilm al-riwāya* (Hayderabad Deccan: Dā'irat al-Ma'ārif al-'Uthmāniyya, 1938), 14.
35. See A. Ibn Qutayba. *Tā'wil Mukhtalif al-Ḥadīth*, edited by M. Z. al-Najjār (Beirut: n.p. 1972), 87.
36. For those who had a *ḥadīth-independent* concept of Sunna as outlined above.
37. For those who had a *ḥadīth-dependent* concept of Sunna as outlined above.
38. Which means the ability to restrict the application of a general command of the Book of God in any measure.
39. See the discussions in the chapters of this volume for details.

Chapter 1

The Concept of *sunna* Based on the Analysis of *sīra* and Historical Works from the First Three Centuries of Islam*

Nicolet Boekhoff-van der Voort

Muslims commonly refer to the beginning of Islam as the golden era of their religion, both in terms of piety and preeminence. This period comprised the career of the Prophet Muḥammad and the subsequent first four leaders of the Islamic community, known as the “rightly guided caliphs.” According to Islamic Tradition, the Qur’ān was put into writing during this period, which is also the nascent stage in the transmission of the sayings and actions of the Prophet and his companions, transmitted by generations of Muslims and still considered authoritative today. To many Muslims, the period of the Prophet and the first four caliphs is normative and, therefore, the most important part of their history. The primary source of information for Muslims is the Qur’ān, immediately followed by the *sunna* of the Prophet, that includes his deeds, sayings, and tacit approval, preserved by consecutive generations of Muslims. How did the concept of *sunna* develop within the formative period of Islam? Was it derived from the exemplary behavior of the Prophet or is it a mixture of different manifestations of *sunna*, for example, the living tradition of the Muslim community, the exemplary behavior of the companions of the Prophet, or caliphs with the pre-Islamic concept of *sunna*?

The present chapter will contribute to the discussion about the development of *sunna* by comparing the concept of *sunna* in historical and *sīra* works, that is, works dealing with the biography of the Prophet Muḥammad, from the first three centuries of Islam. However, since these works cover different periods of time, the analysis of the concept of *sunna* is limited to those traditions or their parts that deal with the lifetime of the Prophet Muḥammad and the reigns of the first four caliphs of the Islamic empire, Abū Bakr (r. 11–13/632–634), ‘Umar b. al-Khaṭṭāb (r. 13–23/634–644), ‘Uthmān b. ‘Affān (r. 23–35/644–656), and ‘Alī b. Abī Ṭālib (r. 35–40/656–661). The terms under scrutiny are the noun *sunna*, its plural *sunan*, and derivatives of the verb *sanna*.

The first part of this chapter is dedicated to the discussion about the origin and the development of the concept of *sunna* from pre-Islam to the end of the second Islamic century, as well as the relationship between the *sunna* of the Prophet and the “living tradition,” or the generally agreed practice, of the community. The second part consists of an analysis of the three above-mentioned terms in the source material followed by a discussion of the different types of *sunna* as represented by the terms *sunna*, *sunan*, and *sanna* in the *sīra* and historical works of the first three centuries of Islam.

The Debate about the Development of Prophetic *sunna*

The classical Islamic view on the development of prophetic *sunna* during the first three centuries of Islam is that already, during the lifetime of the Prophet Muḥammad, Muslims imitated the Prophet’s conduct. The subsequent generations continued this custom and preserved the Prophet’s *sunna* in oral or written tradition. While Islamic scholars certainly played an important role in the preservation of the *sunna*, the ordinary Islamic community was also instrumental in the preservation of practices.¹

Joseph Schacht was not the first to oppose the classical Islamic view on the origin and the development of the *sunna* of the Prophet, but his study of the concept of *sunna* in the work of the Islamic legal scholar al-Shāfi‘ī (d. 204/819) brought about many scholarly publications by Muslims as well as non-Muslims.² Schacht coined “living tradition” as a collective name for several concepts of *sunna* in the ancient school of laws, ranging from “generally agreed-upon practice” to the original pre-Islamic meanings of “precedent” or “way of life.”³ He argues that *sunna* originally denoted the normative practice of the community and was, from the time of al-Shāfi‘ī onward (i.e., from

the end of the second Islamic century), formalized and eventually restricted to the normative behavior of the Prophet Muḥammad.⁴

According to Zafar Ansari, the idea of *sunna* as the normative behavior of the Prophet Muḥammad (*sunnat al-nabī*) existed already during the lifetime of the Prophet and this concept was continued by the following generations.⁵ Although the Qurʾān does not make mention of the expression *sunnat al-nabī*, Ansari refers to Q.33:21 to show that the *idea* of the Prophet's normative behavior is present in the Qurʾān, "Certainly you have in the Messenger of Allāh a good example."⁶ The expression *sunnat al-nabī* has been attributed to Prophet himself sometimes, and it appears in traditions describing events in the first Islamic century. According to Ansari, in each case, *sunnat al-nabī* refers to the normative behavior of the Prophet.⁷ Furthermore, he argues that several instances of an inadvertent substitution of the word *sunna* with *sunnat al-nabī* in some traditions was proof that already, in the first half of the second Islamic century, *sunna* as a replacement for *sunnat al-nabī* was a well-established expression, which point to a lengthy period of identifying the authority of the normative *sunna* with the Prophet. During the second Islamic century, the expression *sunnat al-nabī* was increasingly used.⁸

Until the last quarter of the second Islamic century, the term *sunna* was not yet exclusively reserved for the Prophet, but also used to refer to 1) the *sunna* of the companions, in which the normative behavior of the first four caliphs, in particular, played an important role—a concept of *sunna* well established in approximately 75/694; 2) the *sunna proper* or the *sunna* of the "virtuous people" or the *sunna māḍiyya*, which is a well-known and well-established practice that originated during the time of the Prophet or his companions. Ansari also substitutes the expression *sunna* of the virtuous people with "good example," but he stresses that it is not the same as "actual practice," since it is either based on practice that originated in the time of the Prophet and his companions, or reflects the teachings of the Prophet, both authenticated by consensus;⁹ and, 3) the *sunna* of the jurists, that is "*ḥadīth* (traditions) transmitted by trustworthy people and supported by those noted for their proficiency in *fiqh* (legal understanding)," although of a lesser authority than the *sunna* of the Prophet or his companions.¹⁰

According to Meir Bravmann, the concept of imitating the example of a person can be traced back to pre-Islamic times, when the practice of an individual—but sometimes also of a specific group—was adopted by others from the same tribe, which thus became *sunna* and the "customary practice of the community."¹¹ Consequently, *sunna*, or its plural *sunan*, refers to the practices established by individuals, and not to some anonymous communal practice. This applies to pre-Islamic as well as early Islamic times.¹²

From a very early period, the Muslims started to follow the practice of the Prophet. During the time of the succession of Caliph 'Umar, his practice had already formed its normative character, distinct from the behavior of Abū Bakr and 'Umar.¹³ This practice consisted of the Prophet's concrete, personal behavior, which could sometimes be derived from earlier practices. It is possible, according to Bravmann, that the early Muslims may have considered the latter type of practices as part of the Prophet's *sunna*, because the Prophet acted according to them in certain situations.¹⁴ Bravmann opposes the view of Schacht that the *sunna* of the Prophet originated from the anonymous practice of the community and was later on ascribed to the Prophet to provide these practices with authority.¹⁵

Patricia Crone and Martin Hinds share Schacht's view, although they do agree with Bravmann that the concept of *sunna* as normative behavior originated from pre-Islamic customs and that it was restricted to tribes.¹⁶ However, while the Prophet was likely seen as a source of exemplary behavior by his followers, they do not agree with the classical Muslim view that he was the only source of piety.¹⁷ The *sunna* or practice of the Prophet was rather "good practice in general and that of caliphs and prophets in particular," without a fixed set of rules. This lasted until the end of the first Islamic century.¹⁸ During the last quarter of the Umayyad caliphate (ended in 132/750), the *sunna* of the Prophet became distinguished from, and an alternative to caliphal *sunna*, although this happened mainly among Islamic scholars and was not supported within the Umayyad caliphal court and its employees.¹⁹

The first 'Abbāsid caliphs who reigned the Islamic empire after the fall of the Umayyads claimed to rule the empire according to the Qur'ān and the *sunna* of the Prophet. This *sunna* was still to mean only good or acceptable practice.²⁰ Around the middle of the second Islamic century, the specific behavior of the Prophet, as illustrated in *Ḥadīth* became an autonomous source of law.²¹ According to Crone and Hinds, the first 'Abbāsid caliph to use this "newly developed *sunna*" or "new concept of *sunna*" in his speeches was al-Mahdī (r. 158–169/775–785).²² By the end of the second Islamic century, *sunna* was restricted to a narrow set of rules preserved in *Ḥadīth* by the hands of Islamic scholars. The 'Abbāsid caliphs no longer had the authority to establish new *sunna*.²³

Gualtherus Juynboll agrees that toward the end of the lifetime of the Prophet, the idea of his behavior as exemplary and normative may well have existed because of his prestige among his followers, but it appeared alongside the exemplary behavior of what Juynboll calls "his (Muḥammad's) most devoted followers." He argues that after the death of the Prophet, the *sunna* of the first three caliphs was considered as authoritative as the *sunna* of the Prophet and the Qur'ān, although in a more political and administrative

sense. Even during the Umayyad period, *sunna* could refer to the Prophet as well as to other persons or institutions. He notices that while the earliest sources mention *sunnat al-nabī* sometimes, usually, *sunna* or *al-sunna* are used. The context does not reveal whether it refers to the Prophet, one of his companions, the community as a whole, or to a specific region. Until the middle of the second Islamic century, the *sunna* of people other than the Prophet outnumbered the Prophetic *sunna* in reports from sources other than *ḥadīth*.²⁴ Henceforth, the narrow concept of *sunna* exclusively relating to the *sunnat al-nabī* began (i.e., the exemplary behavior of the Prophet). Juynboll notes that due to al-Shāfiʿī's influence, the occurrence of *al-sunna* in writings of the third Islamic century and onward can, in general, be identified with *sunnat al-nabī*.²⁵

Based on his study of Mālik b. Anas' (d. 179/795) legal work *al-Muwattaʿ*, Yasin Dutton distinguishes four categories of *sunna*. The first is the normative practice of the Prophet Muḥammad, the "living embodiment" of the Qurʾān. The second is the practices of Muḥammad's companions. The third is the general practices of the people in Medina. To Mālik, this *sunna* is intrinsically and perpetually linked to the practices of the Prophet. While Juynboll considers the *sunna* of the Prophet and the *sunna* of his companions as different practices, to Dutton, the *sunna* of the Medinans originated from the practices of the Prophet and thus represents the same continuous normative practice of Muḥammad, implemented by the companions and then preserved by the Medinans until the time of Mālik. During Mālik's period, as well as in previous generations, the *sunna* was not only preserved by the 'ulamā' (religious scholars) of Medina, but by the whole community of Medina. Dutton furthermore distinguishes a fourth category of *sunna* in Mālik's work—the *sunna* of the Muslims, constituting the practices generally accepted by the Muslim community as a whole. Similar to the practices of Medina, he considers this to be, among Muslims, generally agreed upon as the *sunna* that is sanctioned by the scholars. Dutton disagrees with Schacht and Burton in considering this kind of *sunna* to be theoretical or "idealistic" instead of as an actual existing practice.²⁶

The discussion about the development of the concept of *sunna* and, in particular, the *sunna* of the Prophet Muḥammad as the normative behavior for later generations of Muslims from the first Islamic centuries among present-day scholars, shows that while the majority agree that, during the lifetime of the Prophet Muḥammad, Muslims probably followed his example in certain spheres of behavior, they disagree about the direct link between the *sunna* of the Prophet during his lifetime and the concept of the prophetic *sunna*, as formulated by the end of the second Islamic century.