

Initiating Sunnah Šābitah And Sunnah Mutaghayyirah as A Typology of The Prophet's Sunnah in The Contemporary Era

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Abstract

The position and function of the Prophet Muhammad (pbuh) in Islamic law is viewed differently among hadith scholars. The modern group of hadith experts see that there are two dimensions in the Prophet Muhammad (pbuh): the dimension as an apostle and the dimension as an ordinary human being. Meanwhile, the group of classical hadith experts believes that the Prophet Muhammad (pbuh) only has one dimension, namely, as an apostle. Classical hadith scholars argue that the Prophet Muhammad (pbuh) was a reflection of revelation, whether it was related to matters of sharia or related to humanity. The group of modern hadith experts made the concept of a prophet sunnah divided into *sunnah tasri'iyah* and *sunnah gairu tasyri'iyah*. Meanwhile, the group of classical hadith experts emphasizes that all of the Prophet's sunnah are *tasyri'iyah* in nature. This paper aims to bridge the two groups of hadith experts by offering the terminology sunnah sābitah and sunnah mutaghayyirah as an alternative typology of sunnah in the contemporary era. This paper is a descriptive-historical-reconstructive literature research using a history of ideas approach. The findings in this article are sunnah šābitah is a sunnah that must be implemented permanently regardless of time and place. In contrast, sunnah mutaghayyirah is a sunnah of the Prophet whose implementation changes according to time and place. Sunnah šābitah is related to aqidah, worship, halal and haram, and general rules of muamalah. In addition to the four categories above, it is included in the sunnah mutaghayyirah

Keywords: *Prophet's Sunnah, sunnah šābitah, sunnah mutaghayyirah.*

Abstrak

Posisi dan fungsi Nabi SAW dalam syariat Islam dipandang berbeda di kalangan ahli hadis. Kelompok ahli hadis modern memandang bahwa dalam diri Nabi Muhammad SAW memiliki dua dimensi, yaitu dimensi sebagai seorang rasul dan dimensi sebagai seorang manusia biasa, sedangkan kelompok Ahli hadis klasik berpandangan bahwa dalam diri Nabi Muhammad SAW hanya memiliki dimensi tunggal yaitu sebagai seorang rasul. Ahli hadis klasik berpendapat bahwa Nabi Muhammad SAW merupakan cerminan dari wahyu, baik itu terkait persoalan syariah maupun terkait kemanusiaan. Kelompok ahli hadis modern melahirkan konsep sunah Nabi SAW terbagi atas *sunnah tasri'iyah* dan *sunnah gairu tasyri'iyah* atau semacamnya, sedangkan kelompok ahli hadis klasik menegaskan bahwa seluruh sunah Nabi SAW bersifat *tasyri'iyah*. Tulisan ini bertujuan menjembatani dua kelompok ahli hadis tersebut dengan menawarkan terminologi *sunnah sābitah* dan *sunnah mutaghayyirah* sebagai alternatif tipologi sunah di era kontemporer. Tulisan ini merupakan penelitian

kepuustakaan bersifat deskriptif-historis-rekonstruktif dengan menggunakan pendekatan sejarah ide. Temuan dalam artikel ini yaitu, *sunnah Ṣābitah* merupakan sunnah yang harus diimplementasikan secara tetap tanpa memandang waktu dan tempat, sedangkan *sunnah mutaghayyirah* merupakan sunnah Nabi yang implementasinya mengalami perubahan sesuai waktu dan tempat. *Sunnah Ṣābitah* berkaitan dengan aqidah, ibadah, halal haram dan kaidah umum muamalah. Selain empat kategori di atas masuk dalam *sunnah mutaghayyirah*.

Kata Kunci: *Sunnah Nabi, sunnah Ṣābitah, sunnah mutaghayyirah.*

INTRODUCTION

Sunnah is important in Islamic law legislation (al-'Tasyrī' al Islāmī). Apart from being the primary explanation for the meaning of the Qur'an, the sunnah often creates new laws whose existence is not contained in the Qur'an in terms of sharia law, morals, and science. Because of this, the position of the sunnah as the second source in Islamic teachings cannot be denied. Qur'an and Sunnah synergize in forming binding laws and regulations for Muslims.

Sunnah occupies a central role in Islam, whose existence complements, explains, and reinforces the Qur'an. However, when viewed from the authenticity aspect, the sunnah differs from the Qur'an. Qur'an is the main source of Islamic teachings with *mutawatir* status, meaning that many Companions narrated the Qur'an, so its position is *qat'iy al-wurud* (certain and guaranteed validity). At the same time, sunnah is sometimes described as *mutawatir* (narrated by many Companions) and sometimes described as *abad* (narrated by few Companions). Therefore, sunnah has the position of *ẓanni al-wurud* (its validity is questionable).¹ Likewise, sunnah is conveyed through a chain of transmission (*sanad*) from generation to generation. It is conveyed by oral or rote (verbal) tradition, and the codification is carried out after two centuries.²

The Sunnah of the Prophet *ẓann al-wurud* impacts his assessment and acceptance as the second authority after the Qur'an. History records that many internal Muslim circles reject it as a source of Islamic law,³ either in whole or in part, such as Taufiq Shidqi (1881-1920),⁴ Ahmad Amin

¹ M. Quraish Shihab, *Membumikan al-Qur'an* (Bandung: Mizan, 2002), p. 122., Muhammad Yusuf, *Metode dan Aplikasi Pemaknaan Hadis* (Yogyakarta: Sukses Offset, 2008), p. 16.

²Suryadi, "Rekonstruksi Metodologi Pemahaman Hadis Nabi," *Esensia: Jurnal Ilmu-Ilmu Ushuluddin*. 2, (1), 2001, p. 91.

³Imam Syafi'i in his work *al-Umm*, divides the inkar sunnah group into three groups: First, the group that rejects all sunnah. Second, the group that rejects the sunnah, unless the sunnah has something in common with the Qur'an. Third, the group that rejects the sunnah with *Abad* status. Muhammad bin Idris al-Syāfi'ī, *Kitab Iktilaf al-Hadīṣ*, vii (t.tp.: Dār al-Sya'b, t.t.), p. 250-256.

⁴Taufiq Shidqi, *al-Manar*, no 7, (12)., p. 11., He stated that Islam is the Qur'an itself. Suryadi, "Metode Pemahaman Hadis Nabi Atas Pemikiran Muhammad Gazali dan Yusuf al-Qaradhawi)" *Disertation*, Pascasarjana UIN Sunan Kalijaga, 2004, p. 2.

(1886-1954),⁵ and Ismail A'zam.⁶ This rejection is motivated by the belief that the Qur'an is sufficient to explain everything. This phenomenon is a factor in the emergence of the Munkir al-Sunnah group, which continues to occur in every era.

The existence of sunnah as an important source in Islamic law needs to be continuously understood and comprehensively studied so that people can imitate sunnah as an implementation of the Prophet's attitude. When Muslims understand the sunnah, it will positively influence the development of human civilization. But on the contrary, if Muslims misunderstand the sunnah, it will impact the destruction of human civilization itself.

The study of the sunnah must be continuously carried out. According to Suryadi, this is because many dimensions of hadith still have not been explored or need to be rethought. There are three models of sunnah studies in a contemporary context.⁷ The first is examining the sunnah of the Prophet by emphasizing typological aspects and formulating the principles of understanding the Prophet's hadith. Scholars concentrating on this field include M. Syuhudi Ismail and M. `Ajjaj al-Khātib. The second is examining the sunnah of the Prophet by emphasizing the counterattack against Orientalist thought. Figures that focus on this matter include M. M. A'zhami and Mushṭafā al-Sibā'i. The third is understanding the Prophet's hadith by emphasizing the *matan* of hadith. Scholars in this field include Yusuf al-Qaradhawi, al-Adlabi, Muhammad al-Ghazāli, and Fatima Mernissi.

Many previous Sunnah experts have carried out Sunnah studies that emphasize typological aspects, such as the sunnah framework popularized by Mahmūd Syaltūt and M. Syuhudi Ismail. Syaltūt categorizes the sunnah by distinguishing the dimensions of the Prophet Muhammad (pbuh), whether as a messenger or as a human being (*jibillab basyarīyyah*). This sunnah dimension classification gave rise to the terminology of sunnah tasyrīyyah and sunnah *gairu tasyrīyyah*. The typology of sunnah initiated by Syaltūt has implications for the existence of sunnah that do not have to be followed. Meanwhile, M. Syuhudi Ismail classifies sunnah based on aspects of its use and continuity as a source of Islamic teachings. Syuhudi distinguishes sunnah into universal, local, and temporal sunnah. For some hadith scholars who adhere to the *madhhab* of classical hadith experts, the typology of sunnah, according to Syaltūt and Syuhudi, violates the fundamental

⁵Stating the hadith however its quality will still be something *batil*, Ahmad Amin, *Fajrul Islām* (Kairo: al-Nahdah al-Misriyyah, 1974), in *Muqaddimah*.

⁶Ismail A'zam argues that the existing hadith cannot be accepted as authentic and cannot be trusted. Mustafa al-Sibā'i, *al-Sunnah wa Makanatuhā fi al-Tasri' al-Islāmi*, (Beirut: Dar al-Qaumīyyah, 1966), p. 213.

⁷Suryadi, "Pentingnya memahami hadis dengan mempertimbangkan *setting historis* perspektif Yusuf Qardawi," *Jurnal Living Hadis*, 1 (1), 2016, p. 33.

dimensions of Islamic teachings. Followers of classical hadith experts emphasize that all sunnah have *tasyri'iyah* positions because Islam governs all human life and Muhammad (pbuh) is the Prophet of the end times. The teachings of the Prophet Muhammad (pbuh) apply to Muslims in various places and times until the end of time.

In this article, the author offers a typology of the Prophet's sunnah into sunnah *sabitah* and *mutaghayyirah*. This typology can be a basis for understanding the Sunnah of the Prophet. This typology is expected to provide convenience in understanding the current sunnah and provide a new perspective in understanding the sunnah of the Prophet by sticking to Islamic classical literature (al-turāṣ al-Islāmī) and paying attention to aspects of modernity.

METHODOLOGY

This article is a descriptive-historical and reconstructive library research using the history of thought approach or intellectual history. The history of ideas is used to explore and detect the thoughts of classical and modern hadith experts in understanding the typology of the Prophet's hadith. It is important to examine the thoughts of classical and modern hadith experts to find points of contact that cross each other. Furthermore, the author seeks to find common ground from various existing opinions by reconstructing the current hadith typology as an offer to view the Prophet's hadith in the contemporary era.

DISCUSSION

The issue of sunnah typology is crucial and fundamental in the scope of contemporary hadith studies. Bringing this study into the realm of contemporary studies is worth considering. Discourse on the typology of the sunnah is a vital contribution to understanding the sunnah so that misunderstandings in understanding the sunnah of the Prophet do not occur. Based on typological aspects, Muslims can easily determine sunnah aspects that must be understood textually (rigid) or contextually (dynamic). A person's preference in looking at the typology of the sunnah will determine how he understands the sunnah of the Prophet.

Essentially, the sunnah appears due to several factors; first, the sunnah arises because of the mutual interaction between the apostle and his people. Mutual interaction between the Prophet and his people can be through dialogue between the Prophet (PBUH) and his companions regarding verses of the Qur'an or others. Second, the sunnah emerged because of the Prophet's answers to questions from his companions. The Prophet's answer became a guided sunnah. Third, the sunnah appeared because the Prophet explained the events that happened at that time. The explanation of the event is a guideline that Muslims must follow. The factors that cause the emergence of the sunnah must be considered carefully and comprehensively. Without paying

attention to the factor of the emergence of the sunnah, it will certainly give birth to a wrong understanding. Therefore, the Sunnah of the Prophet must be understood correctly by tracing the historical and typological aspects.

In the Qur'an, it is stated that the Prophet delivered Islamic teachings under the guidance of Allah SWT as an order for the Prophet to be wise in conveying the message of Islam to the Arab polytheists at that time.⁸ Allah's command was carried out perfectly by the Prophet (pbuh) because the Prophet's obedience to Allah was very high. If the Prophet had made a mistake in carrying out Allah's commands, Allah would have guided his mistakes.

In addition to the various causes of the emergence of the sunnah of the Prophet, the understanding of the sunnah also experiences quite serious differences. There are several problems that led to the emergence of differences in understanding of the sunnah of the Prophet. First is the difference in methods of understanding the sunnah of the Prophet, especially regarding the Prophet's role as a messenger or as an ordinary human being. The second is that the different background of a *syarih al-hadīš* (hadith commentator) makes the tendency to study sunnah different according to the field he is involved in. The third is the transformation of the sunnah reality culture (*qaulī, fi`lī, and taqrīrī*) into an oral culture (hadiths in the memorization of companions) and then into a written culture (hadith texts that have been codified in hadith books). Fourth is understanding the sunnah, which is strongly related to the Qur'an.

Differences in methods of understanding the sunnah of the Prophet, especially related to the role and function of the Prophet as a messenger or an ordinary human being, gave rise to various typologies of the sunnah. In addition to making the study of sunnah more lively, the various emerging typologies have also generated controversy among hadith experts. It triggers an interest in reviewing any sunnah typology in the modern era.

Position of Hadith in Islamic Shari'a

Islamic teachings and provisions originating from the Qur'an are accepted for their validity and truth by all Muslims from various groups. In addition, to the Qur'an, the source of Islamic teachings is also based on the sunnah of the Prophet. It synergizes with the Qur'an in forming binding laws and regulations for Muslims, even though Muslims themselves sometimes misunderstand the sunnah.

Muslim intellectuals must understand both comprehensively, so the resulting *ijtihad* will always be enlightening and proportional because the two texts (al-Qur'an and sunnah) may be

⁸Q.S. Al-Hijr (15): 87-99 and Q.S.an-NahI (16): 125.

understood separately, eventually distancing them from the mission of both. Religious texts should always be connected to the various possible similarities and differences in society so that a paradigm in Islam will emerge between universal, temporal, and local teachings.⁹ Thus the texts of the Qur'an are generally global, and their structure is not systematic,¹⁰ providing opportunities to be detailed and developed in practice anytime and anywhere.

The words of the Prophet enshrined in the Qur'an are revelations¹¹ so that it becomes a source of Sharia provisions. Likewise, all the provisions of the Prophet in his hadith, especially those in line with the Qur'an, strengthen its contents because the Quran confirms, "*Whoever obeys the Messenger, has truly obeyed Allah.*"¹² And in another verse, "It is not for a believing man or woman—when Allah and His Messenger decree a matter—to have any other choice in that matter. Indeed, whoever disobeys Allah and His Messenger has clearly gone 'far' astray."¹³

In the affirmation of the verse above, it can be concluded that the sunnah is the postulate after the Qur'an in all matters of sharia. Hence, obedience is an obligation that cannot be denied. Because Rasulullah (pbuh) is a central figure who is very much needed, in addition to the carrier of divine treatises and the messengers of Islamic teachings contained therein, Rasulullah (pbuh) is the only one whom Allah trusts to explain, detail, or give examples of the implementation of his teachings. Therefore, everything that originates from the Prophet Muhammad is the main source of Islamic law and teachings other than the Qur'an in terms of classification, position, or usage.¹⁴ A similar confirmation came from Imam Syafi'i, who stated that anyone who accepts the provisions required by Allah agrees with the sunnah of His Messenger and takes the law. Likewise, people who accept the sunnah of the Prophet mean accepting Allah's commands.¹⁵

Obeying all the provisions of the Prophet was first practiced by the Companions, where they firmly adhered to the teachings conveyed by the Prophet wherever they were so that the

⁹M. Syuhudi Ismail, *Hadis Nabi yang Tekstual dan Kontekstual, Telaah Maani al-Hadis Tentang Ajaran Islam yang Universal, Temporal dan Lokal* (Jakarta: Bulan Bintang, 1994), p.7.

¹⁰Its unsystematic nature is special, because if the Qur'an were arranged according to chapters and chapters in a systematic manner, as found in scientific books, then the Qur'an would have long since become obsolete and out of date. Rasyid Ridha, *al-Wahy al-Muhammadi* (Kairo: Maktabah al-Qahirah, 1960), p. 107-108.

¹¹Al-Gazali said that some of Allah's revelations received by the Prophet were indeed part of the Qur'an and the rest were sunnah. The words of the Prophet are evidence for those who hear them and in general Muslims who accept through oral and written narrations from the Rawis, their authenticity needs to be ensured. Abu Hamid bin Muhammad bin Muhammad bin Muhammad al-Gazali, *al-Mustasfa Min 'ilm al-Usul* (Mesir: Maktabah al-Jadidah, 1971), p. 183.

¹² Q.S. Al-Nisa' (4): 80

¹³ Q.S. Al-Ahzab (33): 36

¹⁴ Muhammad Adib Saleh, *Lambat fi Usul al-Hadis* (Beirut: Maktab al-Islami, 1985), p.34.

¹⁵ Abu Abdullah Muhammad ibn Idris al-Syafi'i, *al-Risalah* (Kairo: Maktabah Dar al- Turas, 1979), p.33.

Prophet gave them the title of the best generation of all time.¹⁶ The form of obedience to the orders of the Prophet was always shown by the companions both when the Prophet was still alive and after his death, regardless of whether the commands and prohibitions were sourced from the Qur'an or other sources.

The motivation to uphold Islamic law based on the guidance of the Prophet was shown by the *khulafa' al-rasyidun*. For example, Abu Bakr and Umar used the sunnah of the Prophet to practice their religion, but if they did not know about it, they tried to find information from other friends related to the problem. Even specifically, Umar issued written instructions to his judges to be guided by the sunnah of the Prophet if he did not find the necessary guidelines in the Qur'an.¹⁷ Therefore, it can be concluded that obeying the Prophet Muhammad is an obligation that cannot be abandoned because obedience to Allah is always accompanied by orders to obey the Prophet.¹⁸

Two editorials related to obedience to Allah and His Messenger in the Qur'an are *Ati'u Allah wa al-rasul* and *Ati'u Allah wa ati'u al-rasul*. The two forms of redaction of the verse above have implications for the content of their meaning. The first verse includes the obligation to obey the Messenger's orders in the same matter as Allah's commands; therefore, the editorial only suffices the use of the word *ati'u* once. In comparison, the second verse includes the obligation to obey the Prophet in certain matters even though Allah does not explicitly order these matters in the Qur'an. That is why the word *ati'u* in the verse is repeated twice in the second editorial above. Unlike the command to obey Ulu al-Amr in the Qur'an, it is not accompanied by the word *ati'u*.¹⁹ It indicates that obedience to the orders of Ulu al-Amr does not necessarily stand alone but must be accompanied by the condition that the order is in line with the commands of the teachings of Allah and the Prophet.

The significance of the sunnah as a source of Islamic teachings can be seen in how it functions as an explanation of the Qur'an, as in the matter of prayer, where the Qur'an does not explain the number of rak'ah of prayer, the times, methods and types of prayer, both obligatory and obligatory. Nor the sunnah, but the sunnah gives details about the prayer command. The same applies to the obligation to pay zakat. The Qur'an makes zakat obligatory but does not explain in detail the types of assets that must be given and does not determine the *nisab* for paying zakat and

¹⁶Muhammad ibn Isma'il al-Bukhari, *Sahih al-Bukhari*, Juz 16 (Riyad: Dar al-Salam, 1419), p. 234.

¹⁷Syawkani, *Iryād al-Fuhūl* (al-Mustafa al-Halaby), p.36; Abd al-Wahab Khalaf, *'Uṣul Al-Fiqh* (Kuwait: Dar al-Kuwaitiyyah, 1968), p.38.

¹⁸The obligation to obey is mentioned in the Qur'an 19 times, sometimes these orders are combined between obedience to Allah and obedience to the Messenger of Allah. Muhammad Fuad Abd al-Baqī, *al-Mu'jam al-Mufabras li Alfaz al-Quran al-Karim*, (t.tp.: Angkasa, t.t.), p. 537.

¹⁹M. Quraish Shihab, *Membumikan al-Quran: Fungsi dan Peran Wahyu dalam Kehidupan Masyarakat* (Jakarta: Mizan, 1992), p. 121.

when it is obligatory. So only in the sunnah of the Prophet an explanation of all that can be found. Likewise with pilgrimage, umrah, fasting, and so forth.

Hadith emerged because of mutual interaction between the Prophet and his people. The Messenger of Allah often even received questions from his Companions. Likewise, the Prophet explained the events happening at a certain time. The Qur'an states that when the Prophet conveyed Islamic teachings, the Prophet received guidance from Allah as an order for the Prophet to preach wisely.²⁰ Allah's command must have been carried out perfectly by the Prophet because the Prophet's obedience to Allah was very high.²¹ If the Prophet had an error in carrying out Allah's commandments, Allah would have guided his mistakes.²²

Discourse on Typology of the Sunnah of the Prophet in the Perspective of Classical Ulama

The classical scholar who was the first to concentrate on the typology of the Prophet's sunnah was Imam Syihab al-Din al-Qarafi (d. 694 H). Through his book entitled *al-furūq* and *al-ihkām fī tamyiz fatāwā min al-ahkām*,²³ as quoted by Quraish Shihab in the introduction to Muhammad al-Ghazali's book that al-Qarafi was the first scholar to classify the sayings and attitudes of the Prophet Muhammad. According to al-Qarafi, the Prophet Muhammad had various roles in life. Apart from being an Apostle, the Prophet Muhammad sometimes had the role of a high priest, qadi, or mufti, who was very knowledgeable. This opinion for adherents of contextual understanding is further elaborated and developed so that the context of each hadith must be sought.

According to al-Qarafi, the Prophet, in his role as a great man, has different positions:²⁴ a) The Prophet as a messenger; the sayings and actions of the Prophet as Messenger come from Allah so that they are always true without the slightest error; b) The Prophet as a *mufti*; the position of the Prophet as a *mufti* who gave fatwas based on the understanding and authority given to him by Allah. It must be true and generally applies to every Muslim. c) The Prophet as a judge who decides a case; In this matter, what the Prophet decided formally must be correct, but materially, it is sometimes wrong. It is caused by the ability of one disputing party to cover up the truth, while on the other hand, the decision only applies to the disputing parties; d) Prophet as a leader of society; the position of the Prophet as a community leader was aligned with attitudes, guidance, and

²⁰Q.S. Al-Hijr (15): 87-99 and Q.S.an-NahI (16): 125.

²¹Among the verses relating to the status of the Prophet is in the Q.S. Ali Imran (3): 44, Q.S. al-Ahzab (33): 40, Q.S. Muhammad (47): 2 Q.S. al-Kahfi (18): 110.

²² See for example in the case of revelation Q.S. 'Abasa.

²³Yusuf al-Qardhawi, *Sunnab Rasul Sumber Ilmu Pengetahuan dan Peradaban*, trans. Abdul Hayyie al-Kattanie (Jakarta: Gema Insani Press, 1998), 49.

²⁴Muhammad al-Gazali, *Studi Kritis atas Hadis Nabi SAW, Antara Pemahaman Tekstual dan Kontekstual*, trans. Haidar Baqir (Bandung: Mizan, 1988), p. 9-10.

instructions following the cultural conditions of the people that the Prophet met. In this case, the attitude and guidance must be right and follow the community, but other people can learn the values contained in the instructions to be applied according to the conditions of each society. e) The Prophet is a good person because the Messenger of Allah: 1) has certain specialties and rights that are bestowed or imposed by Allah SWT in the context of his prophetic duties, such as the obligation to pray at night or the ability to gather more than four wives at one time. 2) Specifics caused by human nature that differ from one person to another, such as feelings of liking or disliking something. This last issue is not the main focus of attention for those who focus their views on words or attitudes related to law.

Discourse on Typology of the Sunnah of the Prophet in the Perspective of Modern Scholars

One of the modern scholars who are concerned with typological issues is Mahmud Shaltut. According to Mahmud Shaltut (1893-1963), sunnah is divided into non-tasyri'iyah sunnah and tasyri'iyah sunnah. Sunnah *non-tasyri'iyah* includes sunnah in the Prophet's daily life, such as how to eat, stand, sleep, dress, favorite colors, and other activities. He stated that the Prophet's daily life was not too important for his prophetic mission, so it was not included in the legal norms. According to Shaltut, these various things show the ability (*ibāhah*). There is no obligation to follow the sunnah in the above categories.

In addition, the sunnah of the Prophet, included in the *non-tasyri'iyah* category, is related to human knowledge and experiments on world problems, such as leasing, agriculture, managing soldiers, and war tactics. All of this is not Islamic law because everything does not originate from prophetic teachings but is limited to the knowledge of the Prophet about the world and individual knowledge. The actions and words of the Prophet related to certain situations, such as the withdrawal of war troops, encirclements of enemies, and war strategies, are considered situational and are not part of Islamic law.²⁵

As for the sunnah *tasyri'iyah*, according to Syaltūt, it is an exemplary behavior of the Prophet (pbuh), which consists of the deeds, words, and provisions of the Prophet related to the provisions of sharia principles. Shaltut divides this pattern of sunnah into three types, namely, the sunnah that was placed by the Prophet in his capacity as an Apostle, as an imam or head of state, and as a judge. All of these are Shari'a principles that form the basis of the provisions of Islamic law. Following the Sunnah of the Prophet in this category is mandatory.

²⁵Mahmūd Syaltūt, *al-Islām: Aqīdah*, p. 512.

First, the sunnah that the Prophet placed in his capacity as an Apostle is like a sunnah that functions as a complement to the Qur'an and as a determination of laws that were not sparked by the Qur'an. Sunnah in this category deals with religious principles such as prayer, fasting, zakat, and so on, as well as provisions that explain halal and haram.²⁶ The Sunnah is valid as a source of Islamic law that must be adhered to by a Muslim until the Day of Judgment.

Second, all the provisions of the sunnah originate from the Prophet in his capacity as an imam or head of state. The sunnah of this model is reflected in the Prophet's policies regarding the allocation of public spending, decisions on military strategy, the appointment of State officials, the distribution of State spoils, and the signing of treaties. These examples fall into the category of *sunnah tasyri'iyah* but are not general legislation (*tasyri' am*). Individuals cannot practice this type of sunnah without prior permission from the competent government authorities.

Third, Sunnah originates from the Prophet in his capacity as a judge in resolving special disputes. The Sunnah of this category consists of two parts: first, the Sunnah of the Prophet, which is situational and not a general provision such as lawsuits, legal considerations, and factual evidence. Second, the Sunnah of the Prophet is a general provision, but with the condition that it is not directly binding on individuals, and no one can act on that basis without obtaining prior authority from a competent judge because the Prophet himself acted in his judicial capacity,²⁷ the provisions stipulated must be applied by the judge (*qadi*).²⁸ Therefore, if someone sues another person and the plaintiff knows the decision taken by the Prophet in a similar case, then the plaintiff has no right to enforce that decision for him. He must follow the applicable procedural law by proving his lawsuit for a judicial decision.

The form of understanding of Shaltut above is followed by many figures behind it, including Yusuf al-Qardhawi. Al-Qardhawi explicitly distinguished between sunnah related to religion (*sunnah tasyri'iyah*) and sunnah related to world affairs (*sunnah non-tasyri'iyah*). Al-Qardhawi's thoughts on the sunnah categorization are contained in his book entitled *al-Sunnah Masdaran li al-Ma'rifah wa al-Hadara*. What Syaltut and al-Qardhawi put forward clearly has broad implications for fiqh law because the authority of the sunnah grouped in the *sunnah non-tasyri'iyah*²⁹ will decrease. After all, it is not used.³⁰

²⁶Muhammad Abu Zahrah, *Usul al-Fiqh* (t.tp.: Dar al-Fikr, t.t.), p. 90; Syawkani, *Iryad*, p.35.

²⁹Mahmud Syaltut, *al-Islam: Aqidah*, p.517.

²⁸Syaukani, *Iryad*, p.36; Khalaf, *ilm usul*, p. 44.

²⁹Al-Qardhawi provides various definitions, but the meeting point can be taken that sunnah non-tasyri'iyah is sunnah that has no burden to follow and practice.

³⁰for example, the hadith which explains the division of the land of Khaibar which was carried out by the Prophet to the warriors after conquering it. The Sunnah of the Prophet was ignored by Umar when he served as Caliph, namely by donating land (not sharing it with the soldiers after conquering the land of Iraq) to the State for the benefit of generations of

It is slightly different from what was initiated by al-Qardhawi because his thinking has implications for several hadiths related to *muamalah*, and worship is seen as *non-tasyri'iyah*. For example, hadiths related to *muamalah* are about marriage, human rights, economics, politics, etc. Likewise, regarding worship, such as hadiths which explain zakat and pilgrimage, some are *non-tasyri'iyah*.³¹

Among the scholars, it is proposed to give several different terms to describe *non-tasyri'iyah*, namely al-Syaukani (d. 1251 H.) coined three terms, *sunnah laisa fihī uswah* (not to be imitated) *sunnah laisa fihī ta'assin* (not to be used as a foothold), and *sunnah la bibi iqtida'* (not to be followed).³² Al-Syirazi named it as *laisal bi qurbah* sunnah.³³ Al-juwaini named it as *la istimsaka bih* sunnah (not to hold), while al-Gazali named it as *la bukma labu aslan*.

The difference in the meaning of sunnah *non-tasyri'iyah* promoted by al-Qardhawi as a contemporary 'ulama' with his predecessors is limited to its terms and scope. If the classical scholars were limited to acts of *tabi'iyah* alone, but if al-Qaradawi expanded it to economic, political, and legal issues, this also included some of the sunnah of the Prophet in the form of sayings.

In addition to the division of sunnah initiated by Syaltūt and Yusuf Qardhawi, M. Syuhudi Ismail divided sunnah into universal, local, and temporal sunnah. The differences in the sunnah above have implications for the specific and general character of the sunnah, between temporary hadith and eternal hadith, and between the particular and the universal. All of these sunnah have different legal consequences.

M. Syuhudi Ismail emphasized the importance of reviewing Islamic teachings' principles (foundations). He emphasized that Muslims to be able to choose and sort out which Islamic teachings are always applicable in all places and times, as well as for all human beings regardless of differences in race and generation. M. Syuhudi Ismail views that humans in every generation and place have similarities, differences, and specialties. Suppose the Islamic teachings which always apply in all places and times are associated with various possible specificities and differences. In that case, this will give birth to Islamic teachings, which are bound by place and time, and the

Muslims. Yusuf al-Qardhawi, *al-Sunnah Masdaran li al-Ma'rifa wa al-Hadarah* (Kairo: Dar al-Syuruq, 1998), p. 79.

³¹According to Tarmizi M. Jakfar, although basically the hadith is partial, temporal and conditional *tasyri'iyah*. While out of context he is *non-tasyri'iyah*. Tarmizi M. Taher, *Otoritas Sunnah Non-Tasyri'iyah Menurut Yusuf al-Qardhawi* (Yogyakarta: ar-Ruz Media, 2011), p. 18.

³²Al-syaukani, *Iryad*, jilid I, p. 167; Tarmizi M. Taher, *Otoritas Sunnah*, p. 125.

³³Al-Syirazi al-Fairuzzabadi, *al-Luma' fi Usul al-Fiqh* (Surabaya: Syirkah Maktabah wa Mathba'ah salim ibn sa'ad, t.t.), p. 36.

teachings of the Prophet, which are not bound by a particular place and time. Such a paradigm gives rise to universal, temporal, and local Islamic teachings.³⁴

M. Syuhudi Ismail emphasizes his notion that the existence of Islamic teachings must be understood not only textually but also contextually so that it gives birth to the characteristics of the Prophet's traditions that are universal, temporal, and local. The understanding of hadith that must be understood textually is done if the hadith is seen from the aspect of the background of its occurrence and its urgency. These hadiths demand an understanding according to what is written in the text. Meanwhile, understanding and applying the hadith contextually must be done if the contents of the hadith (*matan*) require it to be understood in context by involving historical aspects and the purpose of the hadith. The hadith is applied not according to its explicit (textual) meaning in the hadith³⁵ but must be understood contextually.

M. Syuhudi Ismail describes four methodological steps in understanding the text or *matan* hadith. In these ways, the understanding of the hadith can be scientifically accounted for. The four methodological steps include examining hadiths through the aspect of the hadith *matan* and the scope of its guidance, through the contents of hadiths related to the function and position of the Prophet Muhammad, through the guidance of the Prophet's hadiths linked to the background of the occurrence (*asbāb al-wurūd*), and through the guidance of the Prophet's hadiths, which seem contradictory. In addition, M. Syuhudi Ismail stressed the importance of involving macro-historical aspects, anthropology, and scientific facts as considerations in understanding the hadith of the Prophet.

The categories of *sunnah* above both hold on to the paradigm which adheres to the notion that the Prophet (pbuh) had different positions and functions as an Apostle and an ordinary human being. The results of the study concluded that the validity of a hadith could be determined whether temporally or universally.³⁶ Syah Waliyullah ad-Dahlawi, through his book entitled *Hujjatullah al-Baligah* divides the hadith of the Prophet into two, *Sunnah al-Risalah* and *Sunnah Ghairu al-Risalah*.³⁷

The typology of *sunnah tasyri'iyah* and *ghairu tasyri'iyah* cannot be separated from the criticism of the scholars, one of whom is Musa Syahin. According to Syahin, all *sunnah* have *tasyri'i* values. All scholars have accepted this position for fourteen centuries until it appeared in the mid-fifteenth century Hijriyah that Shaltut pioneered the terminology. Syaltūt was the first figure to

³⁴M. Syuhudi Ismail, *Hadis Nabi Yang Tekstual Dan Kontekstual: Telaah Ma'ani al-Ḥadis Tentang Ajaran Islam Yang Universal, Temporal Dan Lokal*, (Jakarta: Bulan Bintang, 1994), p. 3-4.

³⁵M. Syuhudi Ismail, *Hadis Nabi Yang Tekstual*, p. 6.

³⁶Yusuf al-Qardhawi, *Sunnah Rasul Sumber Ilmu*, p. 50.

³⁷Syah Waliyullah ad-Dahlawi, *Hujjatullah al-Baligah* (Beirut: Dār al- Jīl, 2005), 17-325.

distinguish between the sunnah *tasyri'iyah* and *ghairu tasyri'iyah*.³⁸ Yusuf al-Qardhawi states that the Shaltut is a reference for contemporary scholars who write about the sunnah and its classification into *tasyri'iyah* and *ghairu tasyri'iyah*.³⁹

Syahin believes that the distinction of sunnah pioneered by Syaltūt threatens the existence of sunnah because it indirectly undermines the building construction and the legitimacy of sunnah. According to Syahin, this division is part of a colonial effort contradictory to comprehensive Islamic teachings (*syamil*), covering all aspects of human life. According to Syāhin, the provisions of the Prophet (pbuh) in his capacity as an Apostle are sources of Shari'a that are not disputed.

The typology of hadith initiated by M. Syuhudi Ismail raises many questions, especially regarding which criteria of hadith are universally applicable, locally, and temporally. Many people consider that the application of universal, local, and temporal aspects is only based on the aspect of logic alone. For example, the temporal prohibition of *kehamr* has meaning for someone who has just embraced Islam, whereas before converting to Islam, he used to drink *kehamr*. In this example case, when he embraced Islam, he was allowed not to stop his habit all at once, he was allowed to gradually. With such an understanding, it can be stated that *kehamr* is haram, but temporally, certain people drink *kehamr* permissible in the framework of da'wah policy.⁴⁰

***Sunnah Šābitah* and *Sunnah Mutaghayyirah* as an Alternative Typology**

The terminology of *Šābitah* and *mutaghayyirah* is known in the study of *fiqh* and *ushul fiqh*. The fuqaha' use the terminology plural, namely *Šawābit* and *Mutagayyirāt*. *Šawābit* is the plural form of 'Šābitah.' It is derived from the word ša-ba-ta, which means to inhabit.⁴¹ *Šawābit* according to *ushul* circles, is related to matters of religious principles which postulate qaṭ'i (absolute and certain), both concerning qaṭ'i al-subūt (absolute and certain proof) as well as qaṭ'i al-dilālah (meaning and absolute meaning). As for mutaghayyirah, everything that can undergo change, development, replacement, *takwil*. It's just that these changes must remain based on corridors and have boundaries that do not conflict with permanent laws (*Šawābit*). Mutaghayyirah is a necessity and a need born due to changes in place and time that naturally demand adaptation, flexibility, and response while maintaining the šawābit aspect. The mutaghayyirah aspect will make Islam always in harmony with the challenges of the times.

³⁸ *As-Sunnah kulluha Tasyri'*, p. 38

³⁹ Yusuf al-Qardhawi, *al-Sunnah an-Nabawīyyah Masdaran li al-Ma'rifah wa al-Hadarah*, (Kairo: Dar asy-Syuruq, 1998), p. 12.

⁴⁰ Yusuf al-Qardhawi, *al-Sunnah an-Nabawīyyah*, 12.

⁴¹ Ibn Manzūr, *lisān al-Arab* p. 1405.

The dichotomy between *ṣawābit* law and *mutaghayyirāt* initiated by jurists can be drawn within the scope of the Sunnah of the Prophet. Sunnah *Ṣābitah* means the sunnah of the Prophet, whose implementation is permanent at any time and does not experience differences due to changes in place and time. In contrast, the sunnah *mutaghayyirah* is the sunnah of the Prophet, whose implementation can change according to place and time.

Sunnah ṣābitah is a sunnah that has a legal dimension that cannot be changed in any situation, and its application is valid for all time. Sunnah *Ṣābitah* is closed because it cannot accept renewal, *ijtihād*, and changes. This sunnah category includes *aqidah* matters, general principles, and *qaṭ'i* laws. Husein Muhammad explained that everything is standard (fixed) and cannot change (fixed) among them:⁴² the first is belief in Allah, Allah's messengers, holy books, and life after death. Second is the main points of worship, such as prayer, fasting, *zakaṭ*, and pilgrimage. Third is universal human principles.⁴³

Sunnah mutaghayyirah is the sunnah of the Prophet, who can accept renewal, change, and *ijtihād* within the *ṣawābit* frame, which is *qaṭ'i*. The sunnah *mutaghayyirah* has the position of *ẓanni*, contains an understanding that is not single, and the sunnah's existence is felt less relevant when it has to be understood as it is. Sunnah *mutaghayyirah* demands contextualization involving various scientific aspects, both micro and macro-historical aspects, and having a dialogue on this sunnah with current aspects of modernity and human civilization.

*Sunnah ṣābitah categorizations are:*⁴⁴ First, sunnah related to the issue of *aqidah*. Sunnah in this form must be believed in absolutely, such as sunnah related to the pillars of Islam, pillars of faith, and sunnah related to life after death and beliefs about the existence of rewards and sins.⁴⁵ Second, sunnah is related to matters of worship, such as purification, prayer, fasting, *zakaṭ*, pilgrimage, and other acts of worship. Third, sunnah is related to fixed legal issues, such as sunnah, which explains *halal* and *haram* matters. The criteria and limitations related to these laws apply at all times.⁴⁶ Fourth, sunnah is related to *uṣhul al-muamalat* (principles of *muamalah*).⁴⁷ The sunnah in this category contains general principles which serve as general guidelines in *muamalah*, such as fairness,

⁴²Husein Muhammad, "Hukum Islam, Yang Tetap dan Yang Berubah" dalam *Islam Nusantara* (Bandung: PT Mizan Pustaka, 2015), 6.

⁴³Akhmad Sahal dan Munawir Aziz (edt), *Islam Nusantara: Dari Ushul Fiqh Hingga Konsep Historis* (Bandung: PT Mizan Pustaka, 2015), 101.

⁴⁴This category comes from the tradition of the *uṣhul* scholars by adjusting a number of things that are deemed necessary.

⁴⁵Kamaluddin bin al-Hammam, Fath al-Qadir, (Beirut: Dar al-Fikr, tt), 35.

⁴⁶Ibnu Taimiyah, *Majmu' al-Fatawa*, (Kairo: Dar al-Wafa', 2005), 20.

⁴⁷Shalih bin Fauzan. *Al-Ajwibah al-Mufiidah 'an As-ilati Manaahij Jadiidah*. (Riyadh: Daarul Manhaj, 2003), 259.

trustworthiness, fairness, the principle of deliberation, and so on. In addition to the four categories above, the sunnah of the Prophet is included in the category of *Sunnah* mutaghayyirah.

CONCLUSION

Based on the above review, it can be concluded that *sābitah* and *mutaghayyirah* are terminologies originating from the study of *ushul fiqh*. Still, the authors argue that these terminologies can also be used to map the typology of the Prophet's sunnah based on the principles of *šawābit* and *mutaghayyirāt*. Mapping the sunnah of the Prophet based on the principles of *sawabit* and *mutaghayyirāt* is a new thing that needs attention from sunnah researchers. Sunnah *šābitah* is a sunnah that must be implemented regularly regardless of time and place. In contrast, *sunnah mutaghayyirah* is a sunnah of the Prophet whose implementation changes according to time and place. Sunnah *šābitah* is related to *aqidah*, worship, *halal-haram* and general rules of *muamalah*. In addition to the four categories above are included in sunnah *mutaghayyirah*.

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