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Innovation or Deviation: Exploring the Boundaries of Islamic Devotional Law

A dissertation presented by

Raquel Margalit Ukeles

to

The Committee on the Study of Religion

in partial fulfillment of the requirements for the degree of

Doctor of Philosophy

in the subject of

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May 2006

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ABSTRACT

Advisor: Professor William A. Graham **Raquel Margalit Ukeles**

Innovation or Deviation: Exploring the Boundaries of Islamic Devotional Law

How did medieval Muslim jurists deal with popular devotional practices that lacked an explicit source in the Qur'ān and Hadith? Most contemporary scholars — both Western and Muslim — assume that jurists uniformly rejected all innovations (*bida'*; sing., *bid'ah*) in devotional law (*'ibādāt*). They explain the dynamism and diversity within Muslim devotional life by distinguishing between a normative Islam and a popular Islam. This dissertation contributes to the growing literature that challenges the normative/popular dichotomy by demonstrating that jurists were not uniform in their own writings about innovations. Instead, jurists debated the permissibility of devotional innovations throughout the 5th/11th –10th/16th centuries.

The study first explores the debates found primarily in the jurists' *kutub al-bida'* (treatises against innovations) literature. By analyzing not only how they defined *bid'ah* but how they used *bid'ah* to assess acts, the study reveals two distinctive approaches. Jurists, such as the Ḥanbalī, Aḥmad Ibn Taymiyyah (d. 728/1328) and the Mālikī, Ibrahīm al-Shāṭībī (d. 790/1388), used *bid'ah* as a normative statement against any devotional act without a Prophetic precedent and thus rejected all devotional innovations. By contrast, Shāfi'ī jurists, such as 'Izz al-Dīn b. 'Abd al-Salām (d. 600/1262), Abū Shāmah (d. 665/1268) and Jalāl al-Dīn al-Suyūṭī (d. 911/1505), used *bid'ah* also as a

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descriptive statement, meaning an act that arose after Muhammad's time. They then determined the act's legal status on the basis of its content, purpose, and agreement with existing legal rules.

The study then examines two case studies of popular devotional innovations: the Prophet's birthday festival (*mawlid al-nabī*) and the prayer of desirable gifts (*ṣalāt al-raghā'ib*). The case studies show that juristic proponents used the category of *bid'ah ḥasanah* (good innovation) to permit these practices. Moreover, each case study refines our understanding of the legal criteria that jurists used to assess devotional innovations. Juristic proponents looked both to the piety of the practice and to analogies from Muhammad's practices and teachings. That is, these jurists stretched the Prophet's *sunnah* to incorporate new devotional practices. The debate over devotional innovations thus reveals a subtle difference among juristic conceptions of the boundaries of devotional law.

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PREFACE

I was fortunate, one day in December 2004, to travel by train from Boston to New York with the President of al-Azhar University and two Azhari scholars, one of Islamic law and one of Hadith. I seized the opportunity to discuss my dissertation question with them – how did Muslim jurists deal with devotional practices (*'ibādāt*) that emerged after the formative period of Islam and thus lacked a textual precedent in the Qur'ān and Hadith? I also was eager to share my thesis that, contrary to conventional wisdom, medieval jurists debated this question and certain jurists permitted a limited number of devotional innovations (*bida'*). At first, they each insisted that no such debate existed and that the *'ibādāt* were fixed and closed as a corpus of practices from the Prophet's time. I then brought out Suyūṭī's legal treatise on the festival of the Prophet Muhamad's birthday (*mawlid al-nabī*), and asked them how they understood his calling the *mawlid* an "*'ibādah*." They responded unanimously – "*lā, dah mish 'ibādah bas 'ibādah*!!" While it is impossible to convey their intonations adequately in writing, the English equivalent of their statement would be, "Suyūṭī was not referring to devotional practices with a capital "D" but with a lower-case "d." While *'ibādāt* as Devotional practices would refer only to the canonical rites that define Muslim religious behavior, *'ibādāt* can also refer to devotional practices more generally. Once my interlocutors understood that I was referring to the more general definition of *'ibādāt*, they were more open to discussing the merits of my argument.[1]

[1] In retrospect, I realize that I was following Wilfred Cantwell Smith's principle that scholars of the tradition that one studies must be able to recognize the argument that you make as plausible. Wilfred Cantwell Smith, "Comparative Religions—Whither and Why?" in *The History of Religions: Essays in Methodology*, eds., Mircea Eliade and J. M. Kitagawa (Chicago: University of Chicago Press, 1959), 43.

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According to traditional Muslim accounts, the parameters of what constitutes an *'ibādah* in the narrow sense of the canonical rites of Islam were set and sealed during the lifetime of the Prophet Muhammad. All jurists agree, for example, that a sixth obligatory daily prayer would be prohibited. However, what of a devotional practice that has a recognizably pious purpose but no explicit indication (*dalīl*) in the canonical sources, such as the festival to celebrate the birthday of the beloved Prophet Muhammad? Many jurists applied the restrictions on the canonical rites to all devotional practices and rejected the possibility of permitting any devotional practice that lacked explicit textual support. But some jurists, primarily in the Shāfi'ī legal school (*madhhab*), permitted a limited set of these devotional practices that fit the legal criteria of the good innovation (*bid'ah ḥasanah*). My dissertation thus examines juristic debates over the outer boundaries of Islamic devotional law by exploring precisely the permissibility of these devotional practices with a lower-case "d".

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INTRODUCTION

1. Transcending the Official/Popular Divide

Western scholars of Islam have traditionally assumed a wide gap between the uniform and unchanging Islam of the scholars and the endlessly diverse Islam of the people.[1] This assumption found ample evidence in vivid contrasts such as those between the colorful and superstition-filled religious world of nineteenth-century Cairo depicted in Edward Lane's *Account of the Customs and Manners of the Modern Egyptians* and the sober descriptions of the canonical religious rites in the oft-cited Ḥanafī legal manual, *al-Hidāyah.*[2] Western scholars, until recently, used these kinds of contrasts to posit two Islams – official Islam and popular Islam – as if scholars and laypeople occupied parallel realms that met rarely and disdainfully.

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[1] The distinction between official and popular forms of Islam, according to Jacques Waardenburg, derives from differences in the scholarly orientations of early Western researchers. While philologists beginning in the mid-nineteenth century assumed that the texts they studied represented the authoritative Islam, anthropologists and social scientists located the true Islam exclusively in the experiences of particular Muslim communities. Waardenburg adds to this division the political dimension of colonialist and missionary interests in depicting official Islam as a lifeless and out of touch religion and in denigrating popular Islam as a primitive and superstitious set of beliefs and practices. Jacques Waardenburg, "Appendix B: A Note on Earlier Research on Official and Popular Islam," following "Official and Popular Religion as a Problem in Islamic Studies," in *Official and Popular Religion: Analysis of a Theme for Religious Studies*, eds., Pieter Henrik Vrijhof and Jacques Waardenburg (The Hague: Mouton & Co., 1979), 372-9.

[2] Edward W. Lane's *An Account of the Manners and Customs of the Modern Egyptians*, was first published in 1836 by L, Nattali and Bond in London. *Al-Hidāyah*, written by 'Alī b. Abī Bakr al-Marghinānī (d. 553/1196), was one of the earliest Islamic legal texts to be translated to English in the modern era. Charles Hamilton, a British scholar and colonial administrator in India, translated parts of the text under the title, *The Hedaya, or Guide: A Commentary on the Mussulman Laws*, published in London by T. Bensley, in 1791.

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This study of the medieval legal debates over devotional innovations contributes to the growing literature that challenges the simplistic dichotomy between official and popular Islam and explores the complex interplay between scholars and laypeople in Muslim societies. Jacques Waardenburg, in his groundbreaking critique, argued that the normative impulses of scholars and the practiced activities of the Muslim public represent two interrelated types of Islam that fulfilled complementary roles in society. In particular, he suggests that practiced Islam served as a buffer between normative Islam and the non-Muslim world such that outside elements entered into normative Islam through popular Islam. Moreover, Waardenburg challenges the notion that the scholars represented the true Islam and asserts that all Muslim groups within Muslim society justified themselves by Islamic ideals.[3] While scholars generally engaged in normative Islam in the sense of the constant search for clear norms for human life on the basis of a well-defined revelation, Muslim laypeople also regarded their activities as authorized by religion.[4] Waardenburg thus recognized that scholars and laypeople all participated in same "lived religion," even as they contested each other's interpretations.[5]

The main contributions to the further exploration of the relationship between normative and popular Islam have relied primarily on legal treatises on *bid'ah* (innovations). Maribel Fierro, who produced critical editions and translations of two treatises on *bid'ah*, first identified this literature as the set of legal writings that criticized the proliferation of

[3] Waardenburg, "Official and Popular Religion as a Problem in Islamic Studies," 349.

[4] Waardenburg suggests that "normative Islam" better reflects the aims of scholars rather than "official Islam," which makes little sense in a system in which scholars derive their authority not from an established institution but from their religious learning. Ibid., 356-7.

[5] Ibid., 369.

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innovations primarily in the ritual sphere (*'ibādāt*).[6] In her survey of the earliest *bid'ah* treatises, Fierro identifies numerous practices that lacked an explicit textual indication but nonetheless entered Muslim devotional life despite the best efforts of jurists. Fierro expresses a primary interest in the material's capacity to deepen our knowledge of Islamic ritual in practice and to compare it to the "orthopraxis" found in legal works.[7] She also emphasizes the relevance of the material for what she calls, "the study of the processes of continuity and change in Islamic ritual."[8] As she points outs, the persistent objection over certain practices, many of which hearkened back to the formative period of Islam, suggests that they continued to be observed and accepted by sections of the Muslim community.[9]

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[6] In her 1988 edition and translation of Ibn Waḍḍāḥ's *Kitāb al-bida'*, Fierro defines the set of literature that she calls "the treatises against innovations (*kutub al-bida'*) as "those treatises dealing mainly with the condemnation of the innovations introduced in the *'ibādāt* or ritual sphere of the law" (Fierro, ed., *Tratado Contra las Innovaciones* (Madrid: Consejo Superior de Investigaciones Cientificas, Instituto de Filologia, Departamento de Estudios Arabes, 1988), 117-8). Fierro identifies and catalogues systematically this literature until the modern period in a later article, "The Treatises against Innovations (*kutub al-bida'*)," *Der Islam* 69 (1992): 204-246. Vardit Rispler identified independently a smaller subset of the pre-modern material along with a few 20th century works and labeled the genre, "the *bid'a* literature," which she defines as "books which deal with various bid'a and in the majority of which the word bid'a appears in the title." Vardit Rispler, "Towards a New Understanding of the Term *bid'a*," *Der Islam* 68 (1991): 321.

[7] Fierro, "The Treatises Against Innovations," 239.

[8] Ibid., 240.

[9] Among the examples of old and tenacious *bida'* that Fierro mentions are: the embellished chanting of the Qur'ān (*qirā'ah bil-alḥān*), which Mālik b. Anas deplored; the use of a rosary in prayer and recitation (which jurists in the 2nd/8th century tried to stop, but the practice became so widespread that later Mālikī jurists regarded it as a recommended innovation: *bid'ah mustaḥsanah*); and special prayers recited during the time that pilgrims stand at 'Arafah (known as *'ashiyyat 'arafah* or *ta'rīf bid'ah*), which may be traced back to the 1st-2nd/8th-9th centuries (Fierro, "The Treatises Against Innovations," 211-231). Other Western studies of the evolution of even canonical rituals successfully demonstrate that changes to Islamic devotional law did occur in the early centuries despite the claims by Muslim scholars to the contrary. See, for example, Uri Rubin, "Morning and Evening Prayers in Early Islam," *Jerusalem Studies of Arabic and Islam* 10 (1987): 40-64. For a substantial bibliography of modern Western research on ritual , see Fierro, "The Treatises Against Innovations," 241-246.

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Boaz Shoshan, in a pioneering study of popular culture in medieval Egypt, illustrates the pervasiveness of rituals that lacked textual bases within a medieval Muslim society. Shoshan uses the *bid'ah* literature to demonstrates that "high" and "low" forms of Muslim culture existed simultaneously and often influenced each other. He offers, by way of example, glimpses of scholarly participation in popular rituals, such as venerating saints and visiting their shrines.[10] Although jurists such as Aḥmad b. Taymiyyah wrote treatises against popular innovations, other jurists defended popular practices such as pilgrimages to the Prophet's gravesite and celebrations of the Prophet's birthday festival.[11]

Jonathan Berkey, in an article that examines three *bid'ah* treatises from the 12th-16th centuries, similarly reads the treatises as a window into the tensions between the traditionalist leanings of reform-minded jurists and the much more open-ended customs found within their Muslim societies. Berkey contributes the idea that the main tension was between the reform-minded jurists and those individuals who had religious authority among the people and participated in controversial devotional practices. As one jurist writes, these so-called scholars sanctioned these devotional innovations by "participating in wild, ecstatic Sufi rituals...indulging the festivals of their non-Muslim neighbors...participating unashamedly in visitation of tombs, following the common people out to the cemeteries, sharing communal meals and worshipping at the graves of

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[10] Boaz Shoshan, *Popular Culture in Medieval Cairo* (Cambridge: Cambridge University Press, 1993), 76-78.

[11] Ibid., 68-69.

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the venerated dead."[12] The very fact that people of religious authority were involved in non-canonical practices leads Berkey to conclude that the Muslim medieval culture was much more dynamic than Western scholars have previously thought:

> That world, however, was not hostage to the undisciplined excesses of 'popular religion' any more than it was to the blinkered vision of the traditionalists...If 'Islam' in the Middle Period can be defined at all, it can only be as the creative interaction of the spirit of the traditionalists and the less restrictive tendencies of the Muslim population as a whole.[13]

Berkey encourages us to see jurists as one set of voices within the multifaceted religious culture of medieval Muslim society.

These works each allude to the lack of uniformity among jurists but emphasize primarily the successes of other forces within Muslim culture to sustain practices despite the best efforts of jurists. Fierro, towards the end of her article on the *kutub al-bida'*, hints at the idea that the dynamism and variety within Muslim culture can be found in the legal literature as well when she writes,

> The differences in dealing with them (i.e., rituals that lacked a basis in the canonical literature) that can be found in the different *kutub al-bida'*, even in those belonging to the same legal school, prove that the boundaries between theory and practice were not closed, and that a boundary shifted continuously between the two allowing for a relaxing of tensions.[14]

Fierro recognizes that the jurists who wrote treatises against innovations did not speak with one voice, but differed among themselves regarding the status of particular innovations. Fierro's suggestion that variations in approaches to

[12] Jonathan Berkey, citing Ibn al-Ḥājj, "Tradition, Innovation and the Social Construction of Knowledge in the Islamic Near East," *Past and Present* 146 (Feb. 1995): 62.

[13] Ibid., 64.

[14] Fierro, "The Treatises Against Innovations," 240.

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innovations can be found within the *kutub al-bida'* literature served as the launching point for my investigation.

This study is the first Western full-length treatment of the medieval legal debates about *bid'ah.*[15] Building on the suggestions and allusions found in the writings by Fierro, Shoshan and Berkey and others, I explore the *bid'ah* literature and related writings by jurists of the 5th/11th-10th/16th centuries to illuminate a continuing debate over the status of devotional practices that lacked an explicit indication in the legal sources.[16] As I hope to demonstrate, jurists not only disagreed about the status of particular innovations but developed competing theoretical frameworks for defining and applying *bid'ah* to legal acts.[17] The juristic debate is arguably a subtle one, since all the jurists surveyed expressed deep concern about the proliferation of innovations that lacked explicit textual sources and none of them advocated an open-ended policy of permitting devotional innovations. Moreover, each of these jurists derived his authority from his role as a textual interpreter and likely regarded his primary role as preserver of the norms

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[15] In addition to the studies mentioned above, there have been a few other studies that deal with the subject of *bid'ah* and examine *bid'ah* texts, including: Ahmad Haris, "Innovation and Tradition in Islam: A Study on *Bid'ah* as an Interpretation of the Religion in the Indonesian Experience." Ph.D. Thesis, Temple University (May 1998), which devotes a chapter to medieval approaches before moving on to contemporary debates about *bid'ah* in Indonesia; and Asep Saepudin Jahar, "Abu Ishaq al-Shatibi's Reformulation of the Concept of *Bid'a*: A Study of his *I'tisam*." M.A. Thesis, McGill University (1999), which examines closely Shāṭibī's treatise on *bid'ah*. In the Muslim world, there has been an explosion of modern writings on *bid'ah*. I refer to some of the more prominent works throughout the dissertation and cite a number of books in the bibliography.

[16] For a discussion of the time period and regions that define my study, please see the paragraph prior to the Chapter Plan at the end of this Introduction.

[17] On this issue, I benefited from the preliminary work of Vardit Rispler, who collected the various classification systems of jurists as evidence that jurists created a comprehensive system to evaluate new ideas and practices that ran parallel to the *sharī'ah*. While I agree with Rispler's notion that certain jurists created comprehensive classification systems of new ideas and practices, I ultimately take issue with the way she understands both the classification systems and their larger consequences. Rispler, "Toward a New Understanding of the Term *bid'a*," 321. See Chapter Two for that discussion.

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established by the canonical texts and legal sources. The differences among the jurists relate to the way they conceived of the outer edges of devotional law and whether devotional law could accommodate any new devotional practices at all.

2. Devotional Law in Islamic Legal Studies

My dissertation also contributes to the emerging literature on devotional law within Islamic legal studies.[18] The modern field of Islamic legal studies has focused primarily on the "earthly" elements, such as civil law, personal status law and legal institutions. Western scholars, in comparing Islamic law with other legal systems, have tended to exclude those parts of the Islamic law that do not resemble Western law in the sense that are not adjudicated in court. For this reason, the historical introductions to Islamic law by Joseph Schacht and N.J. Coulson do not address the subject of *'ibādāt.*[19] As Coulson writes,

> The ideal code of behavior which is the Sharī'a has in fact a much wider scope and purpose than a simple legal system in the Western sense of the term. Jurisprudence *(fiqh)* not only regulates in meticulous detail the ritual practice of the faith and matters which could be classified as medical hygiene or social etiquette—legal treatises, indeed, invariably deal with these topics firsts; it is also a composite science of law and morality,

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[18] Recent work on devotional law includes: Muhammad Khalid Masud, "The Definition of *bid'a* in the South Asian *fatâwâ* Literature." *Annales Islamologiques* 27 (1993): 55-71; A. Kevin Reinhart, "Impurity/No danger." *History of Religions* 30 (1990-1991): 1-24; Marion Katz, *The Body of Text: The Emergence of the Sunnī Law of Ritual Purity* (Albany: SUNY Press, 2002) and Zev Maghen, "*Al-taharah shatir al-iman*: An Inquiry into the Historical Evolution of the Islamic System of Ritual Purity." Ph.D. Thesis, Columbia University (1997).

[19] As Kevin Reinhart notes, "The scope of the *sharī'ah* and its embodiment in *fiqh* is, as is obvious, much broader than what we think of as the scope of law – with its rules for eating, rules of ritual purification and the like in addition to contracts, criminal law, personal status law, etc." Kevin Reinhart, "Transcendence and Social Practice: *Muftīs* and *Qāḍīs* as Religious Interpreters," *Annales Islamologiques* 27 (1993): 6. Reinhart notes there that Schacht excludes a discussion of these "non-legal" items in his *Introduction*. Ibid., n. 5.

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whose exponents (*fuqahā'*, sing. *faqīh*) are the guardians of the Islamic conscience.[20]

Regardless of his recognition that jurists begin their compendia with devotional law, Coulson regarded the content of *'ibādāt* as beyond the scope of his concern. Recent scholarship by Kevin Reinhart and others have challenged scholars in the field to examine devotional law more closely. Although Reinhart understands the temptation to exclude *'ibādāt* from the study of Islamic law, he asserts that the study of *'ibādāt* would bring us closer to the worldview of Muslim jurists, since "few *fiqh* handbooks do not include the *'ibādāt,* and *muftīs* in particular are constrained to be competent on both the cultic and the practical if they are to be entitled to the name."[21] While it is true that the jurists' realm was much broader than that of the judges and the courts, it is also true that the jurists incorporated the laws of *'ibādāt* and civil law (*mu'āmalāt*) into the same legal system. This study of the boundaries of devotional law seeks to further our understanding of the way that jurists conceived of the relationship between the devotional and civil domains of law.

The dissertation's thesis goes against the general assumption found in most modern scholarship on Islamic law, both Western and Muslim, that jurists consensually rejected the possibility of recognizing additional devotional practices.[22] According to modern

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[20] N.J. Coulson, *The History of Islamic Law* (Edinburgh: Edinburgh University Press, 1964), 83.

[21] Reinhart, "Transcendence and Social Practice," 6, n. 5.

[22] Scholars in recent decades have challenged the idea put forward by 20th century Western scholars, notably Josef Schacht, that large parts of Islamic law ceased to be developed or applied after the 10th century (Wael Hallaq, "Was the Gates of *ijtihād* Closed?" In *Law and Legal Theory in Classical and Medieval Islam* (Brookfield: Variorum, 1995)). However, these scholars tend to use the comparative rigidity of devotional law as the foil for illuminating the more flexible components of Islamic law. For example, see Baber Johansen's work on social and economic innovations in medieval Hanafi law

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scholars, jurists generally maintained two standards when dealing with legal change – the principle when dealing with changes in devotional law was prohibition whereas the principle when dealing with civil change was permission.[23] For example, most would argue that the main tools for expanding the law, e.g., analogical reasoning (*qiyās*) and public benefit (*maṣlaḥah*), are not applicable to devotional law.[24] However, modern scholars seem to be influenced disproportionately by jurists such as Ibrahīm al-Shāṭibī, the fourteenth-century Mālikī jurist who sharply restricted the boundaries of devotional law in order to make room for his expansive approach to incorporating change into

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(Johansen, *Contingency in a Sacred Law: Legal and Ethical Norms in the Muslim fiqh* (Leiden: E.J.Brill, 1999)); Aharon Layish's studies of marriage/divorce law in N. Africa and Israel (Layish, *Divorce in the Libyan Family: A Study Based on the Sijills of the sharī'a Courts of Ajdābiyya and Kufra* (New York: New York University Press, 1991)), and John Bowen's work on inheritance law in Indonesia (Bowen, "'You May Not Give It Away:' How Social Norms Shape Islamic Law in Contemporary Indonesian Jurisprudence." *Islamic Law and Society* 5, no. 3 (1998): 382-408). Gideon Libson's article on custom in Islamic legal theory similarly focuses on non-devotional customs (Libson, "On the Development of Custom as a Source of Law in Islamic Law: *al-rujū'u ilā al-'urfi aḥadu al-qawā'idi al-khamsi allati yatabbana 'alayhā al-fiqhu*." *Islamic Law and Society* 4, no. 2 (1997): 131-55), as does Haim Gerber's studies of Islamic law in the Ottoman Middle East (e.g., Gerber, "Rigidity vs. Openness in Late Classical Islamic Law: The Case of the 17th Century Palestinian *muftī* Khayr al-Din al-Ramli." *Islamic Law and Society* 5, no. 2 (1998)).

[23] A preliminary exploration of the literature on legal rules (*qawā'id*) found that only writers from the Ḥanbalī and Mālikī school included the principle, "the principle regarding devotional practices is prohibition." These include Shihāb al-Dīn al-Qarāfī, in *al-Furūq*, ed., Khalīl al-Manṣūr (Beirut: Dār al-Kutub al-'Ilmiyyah, 1998), 2:217; Ibn Taymiyyah, in *al-Qawā'id al-nūraniyyah al-fiqhiyyah*, ed., Muḥammad Ḥāmid al-Fiqī (Beirut: Dār al-Ma'rifah, 1979), 1:112; Ibn Taymiyyah's disciple, Ibn Qayyim al-Jawziyyah, in *Aḥkām ahl al-dhimmah*, ed., Yūsuf Aḥmad al-Bakrī (Beirut: Dār Ibn Ḥazm, 1997) , 2:715; and, as we discuss at length in Chapter Two, Ibrāhīm al-Shāṭibī in *Kitāb al-I'tiṣām*, ed., Riyāḍ 'Abdallāh 'Abd al-Hādī. Two Volumes in One. (Beirut: Dār Iḥyā' al-Turath al-'Arabī, n.d.). Interestingly, these jurists are the same ones that write against devotional innovations. I would like to thank Ahmed Shamsī for bringing these sources to my attention.

[24] Regarding the use of *qiyās* for *'ibādāt*, Mohammed Hashim Kamali, in his survey of Islamic law, writes, "Ritual performances, or *'ibādāt*, on the whole, are not the proper subject of *qiyās* simply because their effective causes cannot be ascertained by the human intellect. Although the general purpose of *'ibādāt* is often understandable, this is not sufficient for the purpose of analogy. Since the specific causes (*al-'ilal al-juz'iyyah*) of *'ibādāt* are only known to Almighty God, no analogy can be based upon them." In his discussion of of *istiṣlāḥ* (public benefit), which relies heavily on Shāṭibī's method, Kamali asserts "the *'ulamā'* are in agreement that *istiṣlāḥ* is not a proof in respect of devotional matters (*'ibādāt*)." Kamali, *Principles of Islamic Jurisprudence*, Third Edition Cambridge: The Islamic Texts Society, 2003), 270-1, 351.

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customary laws (*'ādāt*).[25] That is not to say that jurists did not maintain more stringent standards for normative devotional practices, but that the boundaries of devotional law seem to be more porous than many others have thought.

The Muslim community, from the earliest period, established stricter standards for normative devotional practices than for normative civil practices. In both devotional and civil law, jurists looked to the Prophet Muhammad's idealized practice (*sunnah*), embodied in the Hadith literature, as the paradigm of normative behavior. However, already in the first centuries following Muhammad's death, the leaders of the Muslim community paid special attention to the Prophet's devotional practice. The Hadith literature records numerous efforts by the Prophet's Companions and their followers to reprimand and stamp out innovations (*bida'*) in devotional practices that did not reflect the Prophet's *sunnah*.[26] At the same time, the Hadith also records the great anxiety of the early leaders over the loss of details of the Prophet's devotional practice and over their failure to protect the pure practice of Muhammad from the accretions of novel elements (*muḥdathāt*).[27] Later jurists would formalize the implicit distinction drawn by the pious

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[25] See Chapter Two for my discussion of Shāṭibī's theory of legal change. Kamali, in particular, is influenced by Shāṭibī's approach to the boundaries of devotional law. See preceding footnote.

[26] See Chapter One, section on "the Hadith Literature on *bid'ah*," for these sources.

[27] There is a common trope, found in the Hadith literature, of Companions expressing anger or concern over the changes that they witnessed, by claiming that they hardly see a connection between the Prophet's own practice and the current practice of the community, such as Abū Dardā' declaration, "By God, the only thing I recognize in the community of Muhammad is that they pray together (*mā a'rifu shay'an 'an ummat Muḥammad illā annahum yuṣallūn jamī'an*)" (*Ṣaḥīḥ Bukhārī*, Book of the Call to Prayer (*adhān*), Chapter 31: Hadith No. 653 (Vaduz, Lichtenstein: Jam'iyyat al-Maknaz al-Islāmī, 2000), 1:126); Ibn Waḍḍāḥ cites a variation on this *ḥadīth*, "the only thing I recognize in them of the command of Muhammad (*min amr Muḥammad*) is that they pray together" (Ibn Waḍḍāḥ, *al-Bida' wal-nahy 'anhā*, ed., Muḥammad Ḥasan Ismā'īl al-Shāfi'ī (Beirut: Dār al-Kutub al-'Ilmiyyah, 1997), 85, Hadith No. 195). Likewise, Shāṭibī cites the same variant as does Ibn Waḍḍāḥ and adds similar statements, such as Anas b. Mālik's statement, "I do

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ancestors (*salaf*) and establish stricter standards for what constitutes a normative devotional practice rather than a normative civil practice. Jurists found confirmation for the stricter standards they applied to devotional practices in the Qur'ān phrase, "Today I have perfected your religion for you," which the majority of scholars understood to mean that the devotional aspects of the religion were completed at the end of the Prophet's lifetime and could not be changed henceforth.[28] When it came to devotional practices, the Prophet's *sunnah* was thus regarded as the exhaustive paradigm for *'ibādāt*.[29] Not only did the Prophet's positive statements and behavior serve as the model for Muslim practice, but the omission of an act was considered by many jurists to be a model as well. Simply put, if the Prophet did not do it, it should not be done.

The Problem of Post-Prophetic Practices

The Prophet's status as the exhaustive paradigm for *'ibadāt* did not prevent Muslims from inventing devotional practices or adapting rituals from neighboring religious traditions. Rather, it shaped the mode by which these innovations entered Muslim life. As Shāṭibī astutely noted, all innovators insist that their innovations actually derive from the Prophet's *sunnah*.[30] That is, Muslims who introduced or followed devotional

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not recognize in you what I used to observe during the time of the Messenger of God except your statement, 'there is no God but God." Shāṭibī, *al-I'tiṣām*, 1:17.

[28] See Chapter One for my discussion of the Qur'ān passage and the exegetical debate over its interpretation.

[29] That being said, there is considerable difference even in the details of *'ibādāt*, which is concealed as "legitimate" difference among the legal schools. For an early example of a difference that was codified in law, see the debate over the placement of one's hands during prayer, in Yasin Dutton. "*'Amal* v. *ḥadīth* in Islamic law: The case of *sadl al-yadayn* (holding one's hands by one's sides) when doing the prayer." *Islamic Law and Society* 3/1 (1996): 13-40. A potentially rich subject for further inquiry is the way in which these differences, both early and late, in Islamic devotional law have been understood by jurists.

[30] Shāṭibī, *al-I'tiṣām*, 1:26.

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practices that lacked explicit precedents in the Prophet's practice consistently maintained that they were in fact following the Prophet's *sunnah.* It is thus not surprising that one of the main ways that new devotional practices entered Muslim life was by means of apocryphal Prophetic traditions, such as the Alfiyyah prayer of the 15th of Sha'bān[31] or the practice of fasting during or throughout the month of Rajab.[32] These and other practices, and the devotion that they inspired in both scholars and laypeople, were the subject of much consternation and anger among reform-minded jurists, who decried the collapse of the boundary between the divine religion and the religion fabricated by human hands.

Since the standard method of legitimizing a devotional practice was to locate a link to the Prophet's practice, I was interested to examine those cases that all acknowledged to be post-Prophetic practices, such as the *mawlid al-nabī* festival. How did juristic proponents of the *mawlid* justify their support in the absence of an explicit link to the Prophet? This question was linked to the general legal debate about *bid'ah.* At the theoretical level, jurists debated the status of post-Prophetic acts by applying competing approaches to the category of *bid'ah.* While some jurists rejected all devotional practices that lacked an explicit source in the Qur'ān and Hadith, others permitted certain innovations that did not conflict with the legal sources and rules. In treatises devoted to particular innovations, such as the *mawlid al-nabī*, I found that both sides of the legal debate turned to the

[31] For sources, see Vardit Rispler-Chaim, "The 20th Century Treatment of an Old *Bid'a: Laylat Al-Niṣf min Sha'bān,*" *Der Islam* 72 (1995): 82-97.

[32] For sources, see M.J. Kister, "'Rajab is the Month of God...' A Study in the Persistence of an Early Tradition," *Israel Oriental Studies* 1 (1971): 199-200.

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Prophet's *sunnah* for support. Juristic proponents of a devotional innovation not only justified the innovation by its agreement with legal rules but by means of analogies from the Prophet's practices and teachings. The debate over devotional innovations thus reveals a subtle difference among juristic conceptions of the Prophetic paradigm. While all jurists decried the possibility of "changing the religion (*taghyīr al-dīn*)" that was perfected by the Prophet, certain jurists stretched the Prophet's *sunnah* to incorporate new devotional practices that were in accord with the Prophet's practice.

3. Background on *'ibādāt*

My dissertation thus analyzes the nexus between devotional law (*'ibādāt*) and juristic debates over the definition and application of the term *bid'ah*. Since most of the first two chapters is devoted to explicating the legal concept of *bid'ah*, here I would like to introduce the definition and parameters of *'ibādāt*.

The concept of *'ibādah* signifies both the entire spectrum of acts that a person does in obedience to God and the limited set of devotional practices that constitute the major rites of the religion. The root, '-b-d, signifies the fundamental position of a human being in relation to God, as a servant (*'abd*) before his/her master (*rabb*, a frequent title for God).[33] All human beings are servants of God by virtue of their being created by God.[34]

[33] As Sachiko Murata and William Chittick write, "The word *'ibāda* (worship) is a term of fundamental importance for understanding the Islamic concept of the human being. It means to venerate, to serve, to be a servant (*'abd*). Ultimately, to be a creature is to be God's servant, and all creatures – except human beings (and the jinn) – serve God by nature. Human beings have the privilege of choosing whether or not to serve God." Murata and Chittick, *The Vision of Islam* (New York: Paragon House, 1994), 31.

[34] "The "*'abd*" is the human being," begins the *Lisān al-'Arab* entry on the term, "whether free or slave, who takes on this position because he is possessed by his Creator, exalted and sublime." Muḥammad b.

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The image of a human being as God's servant, whether willful or disobedient, is central to the Qur'ān's worldview: "I have only created Jinns and people so that they may serve me (*ya'budūni*)."[35] Since the Qur'ān and Sunnah mandate all aspects of a person's life, any act performed with obedience (*ṭā'āh*) and submission (*khuḍū'*) to God's will[36] in mind can be defined as a form of service and worship.[37]

While every human action can be an *'ibādah*, Islamic law designated a limited set of devotional acts as *'ibādāt*. *'Ibādāt*, as a legal term, is used to distinguish acts performed primarily for devotional purposes from *mu'āmalāt*, i.e., acts that are principally engaged in for social, economic and other civil purposes.[38] Jurists also juxtapose the term *'ibādāt* with *'ādāt*, i.e., laws that reflect social customs or conventions;[39] although individual

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Mukarram b. Manẓūr, *Lisān al-'Arab*, ed., Amīn 'Abd al-Wahāb and Muḥammad al-Ṣādiq al-'Ubaydī (Beirut: Dār Iḥyā' lil-Turāth al-'Arabī, 1998), 9:10a.

[35] Qur'ān 51:56. The Qur'ān relies heavily on the paradigm of the human as servant and the worship of God as service, both in its general notion and to refer to particular practices. In certain places, the verb refers to generic worship – whether of God or others [see the condensed polemic against non-believers in Chapter 109], while at other times, it is clearly linked and limited to worshipping of God alone. See also Qur'ān 46:6, for a description of lack of faith as "*kānū bi-'ibādatihim kāfirīn*".

[36] Ibn Manẓūr, *Lisān al-'Arab* 9:11b, with the second interpretation brought in the name of al-Zajjāj. Ibid., 9:12a.

[37] Ibn Taymiyyah emphasizes the comprehensiveness of the concept of *'ibādah* in his treatise, *al-'Ubudiyyah*, Second Edition (Beirut: al-Maktab al-Islāmī, 1389/1969-70), 38-39. Yūsuf al-Qaraḍāwī, the contemporary Muslim revivalist scholar, applauds Ibn Taymiyyah's perspective and develops it further in his treatise, *al-'Ibādah fī al-islām*, Second Edition (Beirut: Dār al-Irtishād, 1971), 49-53. Modern authors of books on *bid'ah* often begin with the idea that the concept of *'ibādah* is both central and comprehensive. See Sa'īd b. Nāṣir al-Ghāmidī, *Ḥaqīqat al-bid'ah wa-aḥkāmuhā* (Riyadh: Maktabat al-Rushd, 2000), 1:18-19.

[38] Marie Bernand, in her entry on "*mu'āmalāt*," cites Shāfi'ī's *Kitāb al-'Umm* that, in its first and strict sense, *mu'āmalāt* means transactions concerning credit granted by a donor to a beneficiary. Bernand defines the term as all types of bilateral contracts, echoing Henri Laost's words that *mu'āmalāt* "presides over the relations of men among themselves." M. Bernand, s.v., "*Mu'āmalāt*," *EI*^{2}, 7:255b. For facility's sake, I will hereafter translate *mu'āmalāt* as civil law.

[39] Ibid. As Bernand explains, Ghazzālī, in *Iḥyā' 'ulūm al-dīn*, defines *'ādāt* as a term that encompasses the two main kinds of interactions among people: exchanges (*mu'āmalāt*), such as buying, selling, association,

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jurists differentiate between *mu'āmalāt* and *'ādāt*, they are used interchangeably as a general term for all acts that do not fall under the category of *'ibādāt*.[40] Jurists limited normative devotional practices to forms that derived from the Qur'ān and Hadith based on the logic that only God could legislate the proper way to worship Him.[41] Legal compendia usually begin with discussions of purity (*ṭahārah*) laws, followed by laws of prayer (*ṣalāt*), almsgiving (*zakāt*), fasting (*ṣawm/ṣiyām*), and pilgrimage (*ḥajj*).[42] These texts elaborate on the details of both obligatory practices, such as the five daily prayers and Friday congregational prayers, fasting during Ramadan, almsgiving, and pilgrimage

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giving, lending and debt, and contracts (*mu'āqadah*) such as marriage, divorce, emancipation, slavery and rights of succession. For facility's sake, I will hereafter translate *'ādāt* as customary law.

[40] While most human acts fall into either *'ibādāt* or *mu'āmalāt/'ādāt*, certain seemingly civil matters, such as marriage or inheritance, have devotional elements that render their legal status ambiguous for some jurists. G.H. Bousquet suggests that marriage is called an *'ibādah* in the generic sense of a pious practice. Bousquet, s.v., "*'Ibādāt*," *EI*², 3:647a.

[41] Western scholars often have described the term, *'ibādah*, as the closest equivalent to "ritual." Frederick Denny, for example, writes, "The most basic term for Islamic ritual is *'ibāda*, 'worship, service,' of inferiors toward their superior, their Lord. All of the official duties of Islam are subsumed under *'ibāda*..." Frederick Denny, "Islamic Ritual: Perspectives and Theories," in *Approaches to Islam in Religious Studies*, ed., Richard C. Martin (Tucson: University of Arizona Press, 1985), 69. However, as William Graham argues, *'ibādah* signifies a broader range of acts and beliefs such as the profession of faith (*shahādah*) and alms-giving, which are not properly speaking "rituals," but they do belong to the sphere of Muslim obligations that might be described as "rite and practice." For this reason, I think it is more appropriate to translate the term as devotional practices, since what distinguishes these practices is their principal (or sole) aim of demonstrating devotion to God. William Graham, "Islam in the Mirror of Ritual," in *Islam's understanding of itself*, edited by Richard G. Hovannisian and Speros Vryonis Jr. (Malibu, CA: Undena Publications, 1983), 61.

[42] A brief sample of jurisprudential (*fiqh*) works shows this pattern with slight variations. Mālik b. Anas (d. 179/795)'s *Kitāb al-Muwaṭṭa'*, considered one of the earliest works of jurisprudence, begins with times of prayer, followed by laws of purity, prayer, funeral rites (*janā'iz*), almsgiving, fasting, and pilgrimage, followed by laws of sanctioned warfare (*jihād*), vows (*nudhūr*) and then sacrifices (*ḍaḥāyā*). *Kitāb al-Umm*, traditionally attributed to Muhammad b. Idrīs al-Shāfi'ī (d. 204/820), follows a similar pattern beginning with the laws of purity, prayer, funeral rites (*janā'iz*), almsgiving, fasting, and pilgrimage, followed by laws of sacrificing, hunting and food in general. Later Ḥanafī compendia, such as *al-Mabsūṭ* by Shams al-Dīn al-Sarakhsī (d. 483/1090) and *al-Hidāyāh* by al-Marghinānī generally subsume the funeral rites into the laws of the prayer and follow the same pattern of laws of purity, prayer, almsgiving, fasting, and pilgrimage, but then follow with marriage and divorce laws. The Mālikī legal handbook, *al-Risālah* by Ibn Abī Zayd al-Qayrawānī (d. 386/996), follows a slight variation by switching almsgiving and fasting. The handbooks demonstrate more variation with regard to what follows the canonical devotional practices.

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to Mecca, as well as specific recommended devotional practices, such as prayers before or after obligatory prayer or on other designated occasions. The term, *'ibādāt*, is thus used to describe the limited set of practices that reflect and shape the human relationship of servitude to God.[43]

Both the narrow and broad meanings of *'ibādāt* can be located in the descriptions of the Prophet Muhammad's own practice.[44] The Prophet's practice was regarded as the paradigm for Muslim devotional practice in every detail. However, Muhammad, in his personal practice, regularly transcended the regimen of fixed practices and engaged extensively in additional prayers and fasts. That is, the Prophet performed three types of devotional activity: fixed practices, i.e., with a specific time and form, that he mandated as obligatory for the community; fixed practices that he mandated as recommended for the community; and additional practices that represented his personal acts of worship. The Prophetic traditions present an ambiguous attitude as to whether the Prophet's own devotional activity, i.e., the third type, should be emulated by Muslim followers. On the one hand, numerous traditions attest to the virtues of his nighttime prayer vigils and his lengthy periods of fasting.[45] These sources are used to support the commendable status

[43] Based on this understanding of *'ibādāt*, I would argue that the Jewish legal distinction between duties between a person and God and duties between and among people is more helpful than the ritual-civil distinction. Knut Vikor similarly distinguishes between *mu'amalāt* as "man's affairs with man" and *'ibādāt* as "man's affairs with God." Knut Vikor, *Between God and the Sultan: A History of Islamic Law* (Oxford and New York: Oxford University Press, 2005), 3.

[44] The Hadith literature refers to the Prophet's devotional practice as "*'ibādāt al-nabī*." (e.g., *Saḥiḥ Bukhārī*, Book of Marriage (*nikāḥ*), Chapter 1: Hadith No. 5118, 3:1062). See Chapter One for references in the Qur'ān to the Prophet as religious paradigm.

[45] For an example of the open-ended devotional activities of the Prophet, see variations on the *ḥadith* related on the authority of Anas that the Prophet used to fast continuously until it seemed as if he never broke his fast and he would, at other times, refrain from fasting until it seemed as if he never fasted. E.g., *Ṣaḥīḥ Bukhārī*, Book of Fasting (*ṣawm*), Chapter 53: Hadith Nos. 2008-2010, 1: 368-9.

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of open-ended supererogatory prayer and fasting. On the other hand, several famous Prophetic *aḥādīth* testify to his admonishing followers for their excessive devotional zeal.[46] Jurists used these sources to set outer limits for supererogatory practices and occasionally to cast aspersions on ascetic practices. Nonetheless, the Prophetic paradigm clearly encompassed both specific devotional practices and open-ended devotional activity.

As we will see, jurists accommodated both fixed and open-ended types of devotional practices, but worked actively to preserve the distinction between the two. So long as these supererogatory practices took a form that was different from the fixed canonical rituals, jurists were comfortable permitting individual expressions of piety. For example, whereas obligatory practices were defined by a regular frequency, time, place and form, supererogatory practices should be performed privately and not on a fixed basis. The greatest concern of jurists, which resounds throughout their writings on *bid'ah*, is the collapse of the boundary between the canonical rites of the religion and other allegedly devotional practices.

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[46] For example, there is a famous *ḥadīth* of three Believers who decide to fast exclusively, pray continuously, and embrace celibacy, respectively. The Prophet is recorded as rejecting their practice as excessive "whoever desires other than my way is not of me (*man raghiba 'an sunnatī fa-laysa minnī*)" (*Ṣaḥiḥ Bukhārī*, Book of Marriage (n*ikāḥ*), Chapter 1: Hadith No. 5118, 3:1062; found also in *Ṣaḥīḥ Muslim*, Book of Marriage (n*ikāḥ*), Chapter 1: Hadith No. 3469 (Vaduz, Lichtenstein: Jam'iyyat al-Maknaz al-Islāmī, 2000), 1: 569). For a slight variation (including one who would not sleep on a bed), see Aḥmad b. Shu'ayb al-Nasā'ī, *Sunan al-Nasā'ī*, Book of Marriage (*nikāḥ*), Chapter 4: Hadith No. 3230 (Vaduz, Lichtenstein: Jam'iyyat al-Maknaz al-Islāmī, 2000), 2: 524. The Prophet also performed devotional practices that he forbade his followers to practice, such as fasting continuously for several days (*wiṣāl*). In this case, the Prophet stepped out of his role of religious paradigm and engaged in types of activities that were beyond the reach of his community. He explicitly distinguishes his capacity from that of his followers when he explains, "I am not like any of you, for I am given food and drink [by God] at night." *Ṣaḥīḥ Bukhārī*, Book of Fasting (*al-ṣawm*), Chapters 48-50: Hadith Nos. 1998-2004, 1:368.

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The reality of Muslim devotional life, however, was much more dynamic and much less attuned to the boundaries set by jurists. As we will see, participants in innovations such as the prayer for desirable gifts (*ṣalāt al-raghā'ib*) asserted the following logic: if congregational prayer is a virtuous activity, would not an extra congregational prayer be additionally virtuous? Moreover, I would argue that the Prophet served not only as the model of specific practices but as the paradigm of devotional activity in general. Instead of accepting the boundary between the canonical rites and other devotional acts, innovators of devotional practices borrowed heavily from the form and content of these rites when they zealously added to its practices most likely because of their authenticity and proven efficacy.

Contrary to conventional wisdom, medieval jurists were not myopic with regard to the merit of these practices despite their problematic form. In legal opinions on particular devotional innovations, jurists debated whether or not practices with a pious content and purpose, but without an explicit indication in the canonical texts, should be permitted. Although no jurist would equate these disputed practices with the obligatory rites, certain jurists did consider a few such devotional practices to be *'ibādāt* as well. This third use of *'ibādāt*, akin to the devotional practices with a lower-case "d" mentioned in the preface, functions as a synonym of *qurbāt*, i.e., acts that aim to draw the practitioner closer to God, and has the status of a recommended act. We can now understand the significance of Suyūṭī's reference to the *mawlid al-nabī* as an *'ibādah*, a reference that

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other jurists would contest sharply.[47] As this study explores, the debates over devotional innovations reveal different conceptions of the boundaries of *'ibādāt*.

4. A Note on Temporal and Geographic Scope

This study focuses primarily on jurists from the 5th/11th-10th/16th centuries, corresponding to Marshal Hodgson's Islamic Middle Period, and from the two geographical regions of the Cairo/Damascus corridor and Andalusia/North Africa.[48] These axes of time and place were chosen because the vast majority of jurists who wrote on *bid'ah* lived during this time period and hailed from these regions. This includes the work of twelve medieval jurists who wrote in the genre of "the *treatises against innovations* (*kutub al-bida'*)," identified by Maribel Fierro, as well as the writings of several jurists who influenced the debate about *bid'ah* but did not write treatises on *bid'ah*.[49] As Jonathan Berkey has noted, the Islamic Middle Period was a time when the stability of the normative Islam that was championed by the *'ulamā'* was under constant pressure. One of the ways that scholars attempted to assert control, Berkey suggests, was to give a particular definition and shape to a religious tradition that was inherently vibrant and polymorphous.[50] These writers self-selected by their interest and concern for this subject, and they clearly read and adapted the approaches of previous writers in the genre.

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[47] For example, Abū Bakr al-Ṭurṭūshī (d. 520/1126) focuses his treatise against innovations on those acts that people mistakenly to be *'ibādat* and *qurbāt* but are not (Abū Bakr al-Ṭurṭūshī, *Kitāb al-ḥawādith wal-bida'*, ed., 'Abd al-Majīd Turkī (Beirut: Dār al-Gharb al-Islāmī, 1990), 78). See my discussion of Ṭurṭūshī's approach and his influence on subsequent jurists in the first part of Chapter Two.

[48] Marshal Hodgson, *The Venture of Islam*, Three Volumes (Chicago and London: University of Chicago Press, 1974).

[49] Fierro, "The Treatises Against Innovations," 204-246.

[50] Berkey, "Tradition, Innovation and the Social Construction of Knowledge in the Islamic Near East," 54.

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They, along with several other jurists from the same period and regions, shape and inform this medieval debate.

5. Chapter Plan

The first chapter introduces the central concepts of *sunnah* and *bid'ah* by tracing their early genealogy from the beginning of Islam through the Hadith collections of the third Islamic century. The purpose of this chapter is to show how *sunnah* and *bid'ah* evolved from multivalent terms – possessing both neutral and value-laden meanings – in 7th c. Arabia to specialized terms in the Hadith signifying the Prophet's normative practice and deviations from that practice, respectively. Although the overwhelming majority of Hadith statements about *bid'ah* were negative, a few exceptionally positive uses of *bid'ah* were preserved. The chapter also highlights the main passages on *bid'ah* that would become the source material for jurists in their debates over the definition and application of *bid'ah.*

Chapter Two examines the medieval juristic debate over *bid'ah*, focusing on the debate that emerged regarding the possibility of permitting devotional innovations. The first part of the chapter surveys the chronological development of this debate found primarily in the *kutub al-bida'* literature from the 5th/11th centuries through the 10th/16th centuries. The purpose is to demonstrate the shortcomings of understanding this debate as one of definition and classification, since several of those who classified *bid'ah* into positive and negative types refused to use the positive type of *bid'ah* to approve of acts in their own times. Instead, if one focuses on how jurists used the category of *bid'ah*, one sees that

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jurists generally divided into two groups: those who use *bid'ah* as a descriptive term, i.e., an act that arose after Muḥammad's time, and evaluate innovations on the basis of certain legal criteria, and those who use *bid'ah* as a normative statement against an act without a prophetic precedent and thus reject all *bida'*. In particular, jurists debated the possibility of using the category of *bid'ah ḥasanah* to permit devotional innovations in the post-*salaf* society. The second part of the chapter analyzes the approaches of five of the main contributors to the *bid'ah* debate. The Shāfi'ī jurists, 'Izz al-Dīn b. 'Abd al-Salām, Abū Shāmah and Jalāl al-Dīn al-Suyūṭī, each use *bid'ah* as a descriptive term whereas the Ḥanbalī jurist, Aḥmad b. Taymiyyah, and the Mālikī jurist, Ibrahīm al-Shāṭibī, use *bid'ah* as normative term. The purpose of this chapter is to illuminate the debate over devotional innovations and to demonstrate that jurists did in fact disagree about the possibility of permitting devotional innovations.

After examining the theoretical approaches of jurists to the question of devotional innovations, the third and fourth chapters turn to two case studies of controversial devotional practices that both sides acknowledged were post-Prophetic developments. In Chapter Three, on the *mawlid al-nabī* festival, the jurists who use *bid'ah* as a descriptive term declare the *mawlid* to be a good innovation (*bid'ah ḥasanah*) whereas jurists who use *bid'ah* as a normative term rejected the *mawlid* regardless of its content or purpose. While some pro-*mawlid* jurists point to the festival's pious contents and purpose, others locate a legal basis for the *mawlid* by drawing analogies from the Prophet's *sunnah*. This first case study demonstrates that jurists debated the use of *bid'ah ḥasanah* as a tool for permitting new practices and highlights the criteria used to support one's position. The

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case also reveals the debate over the use of analogies from the Prophet's *sunnah* to permit new devotional practices.

Chapter Four examines the second case study of the controversial yet immensely popular prayer of desirable gifts (*ṣalāt al-raghā'ib*). Unlike the debate over the *mawlid*, this case study juxtaposes the positions of two 13th century Shāfi'ī jurists, Ibn 'Abd al-Salām and Taqī al-Dīn Ibn al-Ṣalāḥ, who maintain their openness to permitting devotional innovations theoretically. This second case supports the findings of the first one yet sharpens our understanding of when and how jurists use the category of *bid'ah*. While jurists developed legal frameworks to permit devotional innovations that fit their legal criteria, they were much more selective in using the category of *bid'ah ḥasanah* to approve of devotional innovations in practice. These case studies shed light on the contrasting ways that jurists interpreted their roles as religious leaders within Muslim society.

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CHAPTER ONE:

THE EARLY GENEALOGY OF *SUNNAH* AND *BID'AH*

1. Introduction

"I am not the first (*bid'an*) of the messengers," Muhammad proclaimed to the recalcitrant and suspicious Arabs.[1] Muhammad staked the legitimacy of his message on its antiquity. Although he introduced a radically new religious and social order, he claimed that he was not inventing a new religion. Instead, Muhammad characterized his call as a return to the ancient monotheism of Abraham, the true ancestor of the Arabs.

Why would someone founding a new religion claim that he was not inventing something new? Clearly, Muhammad was not the first to use the trope of return/reform in founding a new religion. In Muhammad's case, however, he was tapping into a deep cultural value within pre-Islamic Arabian society. Muhammad's initial audience was suspicious of him precisely because of their loyalty to ancestral ways and to conservative values. Muhammad skillfully, and perhaps even instinctively, appropriated the Arabian loyalty to ancestral ways when he claimed to represent an even older system, that of God's immutable way, embodied in the religion of Abraham. He thus subverted the Arabs' loyalty to ancestral ways by arguing that their religious practices actually represented a deviation from the original Arab religion established by Abraham.

[1] Qur'ān 46:9. See this chapter's section, "*Bid'ah* in the Qur'ān," for the full passage.

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Muhammad's stance of innovating while rejecting innovations and rejecting tradition by calling it a deviation, contains an inherent paradox. The complex relationship thus engendered between tradition and innovation – between old and new – has shaped key aspects of Muslim culture.[2] The early Muslim community adopted both the Arab regard for *sunnah*, i.e., traditional norms and practices, and its suspicion of *bid'ah*, i.e., deviations and innovations from tradition. In the Muslim context, however, the starting point that defined old/tradition and new/deviation was recalibrated to begin with the period of Muhammad and his immediate followers.[3] In this revised context, in which the Prophet became the paradigm of religious practice, the meanings of *sunnah* and *bid'ah* became more loaded. As we will demonstrate in this chapter, *sunnah*, which in pre-Islamic times, was generally positive but could be negative, slowly crystallized into an exclusively positive value. At the same time, *bid'ah*, which had earlier been negative but sometimes positive, became entrenched as a predominantly negative concept. This happened, because, by the third century, Muhammad's practice had slowly evolved into the primary source of normative behavior, and deviations from his practice became illicit.

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[2] Ella Landau-Tesseron explores the continuing tension between innovation and reformation, in her article, "The 'Cyclical Reform': A Study of the *mujaddid* Tradition." *Studia Islamica* 70 (1989): 79-117. In her analysis of the *ḥadīth* that heralds the arrival of a *mujaddid* at the turn of every new century, she posits the novel thesis that "*tajdīd*" implied both innovation (*bid'ah*) and renovation (*iḥyā'*), rather than just the traditional interpretation of renovation. She proposes that the *ḥadīth* was introduced by Shāfi'ī's students, who relied on this ambiguous term to vindicate the innovations of their master. Regarding the pioneering work of Shāfi'ī, she notes the paradox that "when al-Shāfi'ī introduced the notion of the overriding authority of the Sunna, whose consequence was the doctrinal rejection of *bid'a*, he was in fact introducing a *bid'a* himself." Ibid., 109.

[3] This, of course, included myriad pre-Islamic customs that were 'grandfathered' into the system by being recast as part of Muhammad's practice. Wael Hallaq sees this process as the basis for the sub-type of Prophetic Sunnah called *iqrār* (tacit approval). Wael Hallaq, *The Origins and Evolution of Islamic Law* (Cambridge: Cambridge University Press, 2005), 102.

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Bid'ah as Both Problem and Solution

By restricting normative practice to the Prophet's *sunnah* and rejecting any innovations, the early Muslim community potentially prevented its own growth and development. As Goldziher illustrates the problem,

> There soon arose the problem of harmonizing Muslim ideas with the requirements of practical living. If what was theoretically taught about *bid'a* had been logically carried out, a life in different circumstances from the patriarchal conditions of the first three decades of Islam in Medina would have been impossible. For everything which was not known, practised or used during that period must be branded as *bid'a*.[4]

Goldziher here refers to the basic conveniences of everyday life, from the sieve in early Islam to modern technological advances such as the telegraph or telephone.[5] An extreme interpretation of *sunnah* and *bid'ah* would clearly hinder changes in any arena, such as political governance, business and trade, and devotional life. That is, the rigid limitations set on practice would have prevented the Muslim community from developing into an empire and global religion, if the prohibition against *bid'ah* had been taken too literally. Although the extreme interpretation would find adherents in every age, the overwhelming majority of the community recognized from early on that this interpretation created impossible restrictions. The very concept of *bid'ah* as it developed in Muslim discourse thus demanded some kind of qualification to allow for change without undermining the

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[4] Ignaz Goldziher, *Muslim Studies*, trans., C. R. Barber and S. M. Stern (London: George Allen & Unwin Ltd., 1971), 2:36.

[5] Ibid., 2: 34. Bernard Lewis includes a similar list of subsequent innovations that were subject to debate in Muslim history, such as tables, sieves, coffee and tobacco, printing-presses and artillery, telephones, wireless, and votes for women. Lewis, "Some Observations of the Significance of Heresy in the History of Islam," *Studia Islamica* 1 (1953), 52. The reference to the sieve can be found in *Ṣaḥīḥ Bukhārī*, Book of Foods (*aṭ'imah*), Chapter 23, Hadith No. 5468, 3:1133. Aḥmad al-Zarrūq cites a tradition from Anas b. Mālik, that "the first three items that the people created, post Muhammad, were sieves, potash, and sandwiches (cakes of bread and meat that satisfy one's appetite) (*awwal mā aḥdatha al-nās al-manākhil wal-ushnān wal-shib'*)." Aḥmad al-Zarrūq, *'Uddat al-murīd al-ṣādiq 'an asbāb al-maqt fī bayān al-ṭarīq al-qaṣd wa-dhikr ḥawādith al-waqt*, ed., Dawūd 'Alī al-Fāḍil al-Fā'urī (Amman: Dār Zahrān lil-Nashr wal-Tawzī', n.d.), 256.

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Prophet's *sunnah*. The key question was already in the early centuries of Islam, and continues to be: What are the parameters for change? In what domains and under what conditions can change be permitted? The way in which scholars, and especially jurists, wrestled with these questions in determining the boundaries of normative practice motivates this entire inquiry.

While the need to qualify *bid'ah* derived from the exigencies of community life, the complexity of the terms, *sunnah* and *bid'ah*, provided the interpretative space. As we will see, although pre-Islamic Arabs generally used *sunnah* in a positive sense and *bid'ah* in a negative sense, they also used the terms in opposite ways or in a neutral sense. These alternative meanings were preserved in the Hadith literature even as the term, *sunnah*, coalesced as the Prophet's normative way and *bid'ah* coalesced into a term for any deviation. A background understanding of the multivalency of *sunnah* and *bid'ah* grounds our main discussion of the ways in which medieval jurists defined the terms and applied them in dealing with controversial devotional practices. That is, the existence of alternative meanings for *sunnah* and *bid'ah* in the Hadith literature allowed for the later creativity of jurists in adapting these terms as technical legal concepts.

Chapter Overview

This chapter traces the evolution of the terms, *sunnah* and *bid'ah*, from their pre-Islamic usages through the codification of the Hadith literature in the third Islamic century. This first aim of this chapter is to identify and discuss key passages related to *sunnah* and *bid'ah* in the Qur'ān and the Hadith that were cited in later controversies. This

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preliminary discussion anticipates the later interpretation of these passages by medieval jurists, who rely on these sources to advance contrasting positions on the permissibility of certain devotional innovations. The second aim is to demonstrate that multiple definitions of *sunnah* and *bid'ah* existed from pre-Islamic times, and that these definitions survived even as the two terms evolved into their primary Muslim meanings as normative and deviant practice. We will first determine the base-line definitions of both terms in the Arabic lexicographical literature. Then, we will explore the way in which each term was defined and used in pre-Islamic Arabia, in the Qur'ān, in early Muslim literature culled by modern Western scholarship, and, finally in the Hadith.[6] Since this study focuses primarily on *bid'ah*, we will pay greater attention to the main *aḥādīth* on *bid'ah* than to those on *sunnah*. Nevertheless, since the two concepts evolved in tandem over the first two Islamic centuries, it is critical to understand *sunnah*'s early genealogy prior to examining *bid'ah*.

2. Lexical Definitions of *sunnah* and *bid'ah*

Both classical and modern treatments of these concepts generally begin by introducing the lexical meanings of *sunnah* and/or *bid'ah* followed by their legal technical

[6] The Hadith literature, as Vardit Rispler aptly described, mirrors the development of Muslim tradition over the first two hundred years (Rispler, "Toward a New Understanding of the Term *bid'a*," 321 n. 5). The dating and authenticity of particular traditions, however, is the subject of an extensive scholarly debate that is beyond the scope of this inquiry. Scholars generally do agree on when the canonical *ḥadīth* collections were edited and redacted, beginning in the third Islamic century. Moreover, one can readily identify that one of the main goals of *ḥadīth* collectors and editors was to align Muslim practice with records of the Prophet's sayings, deeds and deportment. My decision to treat the Hadith literature in a section separate from other Muslim literature of the first two centuries in no way reflects my position on the ongoing debate about dating individual *aḥādīth*. Rather, I separated the Hadith material for two reasons. First, I wanted to examine the contexts in which the editors and redactors of these collections placed individual traditions, as a way of eliciting how these traditions were understood by those who sought to align Muslim normative practice with the Prophet's explicit practice. Second, I sought to examine the *aḥādīth* as part of a literary genre, since this is how subsequent jurists would treat the material.

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meanings.[7] This is done to distinguish between the neutral quality of the terms in their common parlance and the value-laden quality of these terms as used in Muslim legal discourse. That is, linguistically, *sunnah* and *bid'ah* can be qualified by positive and negative modifiers, which means that both terms can be value-neutral. As we will see, however, the Hadith literature almost never qualifies *sunnah*, since the term became an inherently positive term. The Hadith, in parallel, treats *bid'ah* as an almost exclusively negative term. The line between lexical and legal meanings, however, is not always clear. This is evidenced by the tendency of lexicographers to cite Qur'ān and Hadith passages to derive the basic meanings of words. The lexical/legal divide is especially problematic when it comes to *bid'ah*, since jurists disagree on its legal definition. What is a legal definition for one jurist is called a lexical definition by another. Nevertheless, a basic understanding of these two terms in the lexicographical literature and the roots from which they derive is essential for beginning our inquiry.

Sunnah literally means a way, rule or manner of conduct, derived from the root, *s-n-n*, which means to shape or form and thus to establish as a rule;[8] the term is generally defined as a synonym of *ṭarīqah* or *sīrah*.[9] Lexicographers emphasize that *sunnah*,

[7] See Chapter Two, Section Two for a series of medieval examples. For modern examples, see Qaraḍāwī, *al-Sunnah wal-bid'ah*, 6-9; 'Izzat 'Alī 'Aṭṭiyah, *al-Bid'ah: Taḥdīduhā wa-mawqif al-Islām minhā* (Cairo: Dār al-Kutub al-Ḥadithah, 1973), 193-202; and, al-Ghāmidī, *Ḥaqiqat al-bid'ah wa-aḥkāmuhā*, 1:242-263.

[8] Lane, *An Arabic-English Lexicon*, 1: 1436.

[9] Marilyn Waldman views this definition as deriving from the root's association with "honing or molding, with something firmly rooted, like a tooth (*sinn*). *Sunnah*, by extension, came to mean habitual practice, customary procedure or action, norm, standard, or 'usage sanctioned by tradition" (Marilyn Waldman, s.v., "*Sunnah*," *Encyclopedia of Religion*, ed., Mircea Eliade (New York: Macmillan Publishing, 1987), 14:149). Waldman's semantic link between something rooted and an established practice echoes Schacht's notion that *sunnah* originally represented the custom of the community over time, but also fits Bravmann's thesis that *sunnah* required a specific individual or group to establish a practice or procedure. See in this chapter below, "Sunnah in the First Two Islamic Centuries."

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outside the religious/Muslim context, can be used in both the positive or negative sense.[10] Muḥammad Ibn Manẓūr (d. 711/1311-2), author of *Lisān al-'Arab*, mentions a second literal meaning (*aṣl*) of *sunnah*, that is "the way that the ancestors set down (*sannahu awā'il al-nās*) and thus it became the way of behaving for those who came after them."[11] The modern European lexicographer, Edward Lane (d. 1876CE), applies Ibn Manẓūr's two basic meanings to his definition of the verb, "*sanna*," including the following related meanings: "to form, fashion or shape, and therefore, to institute, establish or prescribe [a custom, whether good or bad], and to pursue [a way, a course, rule, mode or manner of acting or conduct of life or the like].[12]

The term *bid'ah* means something new, unprecedented or invented, derived from the root *b-d-'*, which means to initiate or create;[13] the term is defined generally as a synonym of *ḥadath*. The early lexicographer and author of *Kitāb al-'Ayn*, Khalīl b. Ahmad (d. 175/791), defines *bid'ah* as that which is innovated (*ubtudi'a*) in religion or other areas.[14]

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[10] Ibn Manẓūr, *Lisān al-'Arab*, 6:399. See also, Muḥammad 'Alī al-Fārūqī al-Tahānāwī, *Kashshāf istilāḥāt al-funūn*, ed., Luṭfī 'Abd al-Badī' (Cairo: al-Hay'ah al-Miṣriyyah al-'Āmmah lil-Kitāb, 1977), 4: 53002E

[11] Ibn Manẓūr, *Lisān al-'Arab*, 6:400.

[12] Lane, *An Arabic-English Lexicon,* 1: 1436.

[13] Ibn Manẓūr links *bid'ah* to both *bada'a* and *ibtada'a*, which he defines as synonyms for "he created it (*ansha'ahu*) or initiated it (*bada'ahu*)" (*Lisān al-'Arab*, 1:341). Later in his entry, he states that *abda'a*, *ibtada'a* and *tabadda'a* are all synonyms meaning "to carry out a *bid'ah*" (Ibid., 342). Murtaḍa al-Zabīdī adds that the verb "*abda'a*" is more commonly used than *bada'a*, but the latter is correct as well. Muḥammad b. Muḥammad Murtaḍā al-Zabīdī, *Tāj al-'arūs min jawāhir al-qāmūs*, ed., 'Abd al-Karīm al-Gharbāwī (Kuwait: Maṭba'at Hukūmat al-Kuwayt, 1983), 20:307.

[14] Khalīl b. Aḥmad derives these two meanings from the Qur'ānic usage of the root. He defines "*bad'*" in light of the Qur'ānic name for God, "*badī' al-samawāt wal-arḍ*," (Q2:117; 6:101) and defines "*bid'*" in light of Muhammad's assertion, "I am not the first of the messengers (*last bid'an min al-rusul*)" in Qur'ān 46:9 (Abū 'Abd al-Raḥmān al-Khalīl b. Aḥmad al-Farāhīdī, *Kitāb al-'Ayn*, ed., Mahdī al-Makhzūmī and Ibrāhīm al-Sāmarā'ī (Qumm: Manshūrāt Dār al-Hijrah, 1984), 2:54-5). The author of *al-'Ayn* does not include the term "*sunnah*" in his entry on the root the letters "*s*" and "*n*," but does have an entry for *b-d-'*. Ibn Manẓūr understands the divine name, "*badī'*" as deriving from either meaning connected to *bad'* or

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Ibn Manẓūr gives both a more general and more specific definition, when he says that: "*bid'ah* is a new thing (*al-ḥadath*) and that which is innovated in religion following its completion." By the 18th century, Murtaḍā al-Zabīdī's (d. 1205/1791) dictionary, *Tāj al-'Arūs*, defines *bid'ah* exclusively in terms of religion: "the new thing (*al-ḥadath*) in religion following its completion."[15]

While the lexical meaning of *bid'ah* slowly evolved into a term primarily related to religion, and primarily negative, the related noun "*ibdā'*" preserved the positive aspects of the root. This positive aspect can be seen most readily in the verbal form of *abda'a*, which generally means "to create" in the context of poetic or artistic achievement, as opposed to the more negative cast linked to the verb *ibtada'a*, which was more directly associated with innovations in religion.[16] Lexicography thus preserves the multivalency of *sunnah* and *bid'ah*, by referring to both the value-neutral and value-laden meanings of these terms. And yet, from the later work of Zabīdī, we can see how the lexical meaning of *bid'ah* is here already given religiously-charged connotations.

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bid'. For a discussion of the Qur'ānic use of the root, b-d-', see below in this chapter, "*Bid'ah* in the Qur'ān."

[15] Murtaḍā al-Zabīdī, *Tāj al-'Arūs*, 20:309. It is striking that Murtaḍā al-Zabīdī condenses what look like Ibn Manẓūr's words and in doing so confines *bid'ah* to the realm of religion. He also includes a less neutral definition of *bid'ah*: "arbitrary acts (*ahwā'*) and practices (*a'māl*) that were invented (*ustuḥdith*) after the Prophet."

[16] On *ibdā'* as a poetic term, see, for example, Ibn Rashīq's discussion of *ibdā'* in his treatise on poetry. In his chapter on the difference between "invented (*mukhtara'*) and unprecedented (*badī'*), he explains that *ibdā'* describes "the poet's bringing forth a unique meaning that is unusual (*ityān al-shā'ir bil-ma'nā al-mustaṭraf walladhī lam tajri al-'ādah bi-mithlihi*)." Ubayy 'Alī al-Ḥasan b. Rashīq, *al-'Umdah fī maḥasin al-shi'r wa-ādābihi wa-naqdihi*, ed., Muḥammad Muḥyī al-Dīn 'Abd al-Ḥamīd (Cairo: M. al-Sa'ādah, 1383/1963), 1:265.

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3. Pre-Islamic and Early Muslim Definitions of *sunnah*

As a central Islamic concept, *sunnah* has invited numerous studies by Western scholars primarily those working on early Islam. Beginning with Ignaz Goldziher, scholars have traced the evolution of *sunnah* from a diffuse pre-Islamic concept that invoked tribal or individual behavior to its eventual identification with the practice of the Prophet Muhammad as a key source of law. Scholars generally agree on these endpoints but continue to debate whether Muhammad's own community identified his practice as a/the *sunnah* from early on or whether the process of identification took several centuries. On one side of the chronological spectrum, the Qur'ān does not link the term *sunnah* to the Prophet Muhammad's behavior at all. By the third Islamic century, however, the Hadith literature predominantly uses *sunnah* to refer to the Prophet's way. And yet, the Hadith literature still preserves an alternative, i.e., value-neutral, meaning of *sunnah* in the sense of a mode of behavior whether positive or negative.

One can trace the early genealogy of *sunnah* through four stages: its pre-Islamic usage, the Qur'ān, early Muslim literature, and finally, the Hadith.

3.1 *Sunnah* in Pre-Islamic Arabia

In pre-Islamic Arabia, *sunnah* represented the behavior of an individual or of a group, as shaped by the traditions and customs of his/her/their ancestors.[17] The *sunnah* of a tribe had normative weight for the individual member, in the manner of what Marilyn

[17] Goldziher, *Muslim Studies*, 2:25.

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Waldman calls "the thing to do."[18] The legacy of an individual's practices was also considered a *sunnah* for his/her descendants, as in the poetic line by Labīd b. Rabī'ah, "of a group whose ancestors established a legacy for them and for every people a custom and its guide (*min ma'sharin sannat lahum ābā'uhum wa-likulli qawmin sunnatun wa-imāmuhā*)."[19] A *sunnah* was generally regarded as a positive legacy, but could be used pejoratively.[20] This neutral sense of *sunnah*, with its the capacity of the term to be modified both positively and negatively, is prominent in the Qur'ān's use of the term and survives in a few *aḥādīth* as well.

3.2 *Sunnah* in the Qur'ān

The neutral sense of *sunnah* is most prominent in the Qur'ānic use of the term. S*unnah* appears several times in the Qur'ān, but not to refer to the Prophet's way or example.[21] The Qur'ān seems to use the term to illustrate the early community's transition from the way of their pagan ancestors to the immutable way of God, what Daniel Brown calls "the

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[18] Waldman, "S*unnah*," 14:149. Margoliouth derived the etymology of the word, *sunnah*, from the "beaten track." David S. Margoliouth, *Early Development of Mohammedanism* (London: Constable & Company Ltd., 1926), 69-70.

[19] Goldziher, *Muslim Studies*, 1: 46. See note seven there for additional citations in pre-Islamic poetry that use *sunnah* in similar ways. The line from Labīd comes from his *mu'āllaqah* poem, v. 81, in Aḥmad al-Amīn al-Shanqīṭī, *Sharḥ mu'allaqāt al-'ashr*, ed. Muhammad al-Fāḍilī (Beirut: al-Maktabah al-'Aṣriyyah, 1998),116.

[20] In his article tracing the evolution of the term to its identification with the Prophet's normative practice, Juynboll cites examples of how the pejorative sense of *sunnah* lasted into the second Islamic century, such as the term "*sunnat jawr*," being used for the group that murdered 'Uthmān, in Mubarrad's *Kāmil* (Muḥammad b. Yazīd Mubarrad, *al-Kāmil*, ed. W. Wright (Leipzig: F. A. Brockhaus, 1864-1892), 445, line 13). G.H.A. Juynboll, "Some New Ideas on the Development of *Sunna* as a Technical Term in Early Islam," *Jerusalem Studies in Arabic and Islam* 10 (1987): 102-3.

[21] This has been noted by Juynboll and others. See, for example, G.H.A. Juynboll, s.v. "*Sunna*," *Encyclopaedia of Islam*, New Edition (Leiden: E. J. Brill, 1954-), 9:879. (Hereafter, this reference will be written as *EI*².)

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breaking down of the old order and the establishment of the new."[22] The text highlights this transition by using *sunnah* both to connote the immutable way of God and to describe the practices and fate of those who have rejected God's way in the past and present. First, the Qur'ān invokes "*sunnat Allāh*" (God's way) in contrast to the ways of peoples in previous eras, as a way of admonishing the vacillating Arabs of Muhammad's time. For example, "[Such was] God's way (*sunnat Allāh*) among those who lived in the past: no change will you find in God's way," uttered as a warning to the Hypocrites,[23] and similarly in the context of the divine punishment for those who might break the Hudaybiyah treaty.[24] Second, the Qur'ān uses *sunnah* to indicate the ways and beliefs of the ancients, which have passed away, in contrast to the immutable way of God.[25] The phrase "*sunnat al-awwalīn*" also is used to signify the punishment of peoples who lived in the past and rejected God's previous messengers. The Qur'ān uses the same term as a threat for those who do not repent in the present.[26] By using *sunnah* in relation to multiple referents, the Qur'ān challenges Muhammad's contemporary adversaries to recognize the fate of their own *sunnah* and accept the old/new order of God's way.

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[22] Daniel Brown, *Rethinking Tradition in Modern Islamic Thought* (Cambridge: Cambridge University Press, 1996), 143-4, n. 13.

[23] Qur'ān 33:62.

[24] Qur'ān 48:21; see also 40:85, 48:23.

[25] Qur'ān 15:13 and 3:137.

[26] Qur'ān 8:38 and 35:43.

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Sunnah in the Qur'ān thus does not refer to the Prophet's way or example but mostly to the way that God dealt with people who rejected his previous and current messengers.[27] One might conclude that the substantive meaning of the Prophet's *sunnah* – i.e., the Prophet as a religious authority to be followed – is not a prominent theme of the Qur'ān. However, the Qur'ān does emphasize this theme in numerous other verses that enjoin believers and unbelievers alike "to heed God and God's Messenger, Muhammad (*aṭī'ū Allāh wa-aṭī'ū al-rasūl/rasūlahu*)."[28] The Qur'ān also calls Muhammad "a good example (*uswah ḥasanah*)," as in the passage: "You have had a good example in God's Messenger, for those who hope for God and the Last Day and remember God often."[29] The phrase is also used to describe Abraham, underscoring Muhammad's role as successor to the original monotheism of Abraham.[30] The absence of the linkage between the term, *sunnah*, and its later meaning of the Prophet's normative example, strengthens the idea that *sunnah* possessed multiple meanings during this period and had not yet crystallized as the Prophet's normative way.

3.3 *Sunnah* in the First Two Islamic Centuries

It is clear that for the Muslim community of the first two centuries, *sunnah* was a powerful concept. Still, Western scholars continue to debate exactly what *sunnah* meant

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[27] Juynboll, "*Sunna*," 9: 879.

[28] See Qur'an 3:32, 3:132, 4:59, 5:92, 8:1, 8:46, 24:54, 47:33, 58:13, 64:12.

[29] Qur'ān 33:21. Aḥmad b. Ḥanbal saw in this passage the textual authorization of the Prophet's Sunnah. Other Muslim scholars sought to locate the authority of the Prophet's *Sunnah* in different Qur'ānic verses. For example, Shāfi'ī attempted to locate the *Sunnah* in the Qur'ānic term "*ḥikmah*." Juynboll, "*Sunna*," 9: 879.

[30] Qur'ān 60:4 and 60:6.

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in that period. On the one hand, there is ample evidence that the early Muslim community applied the pre-Islamic notion of *sunnah* to the Prophet's behavior and teachings perhaps as early as his own lifetime. On the other hand, there is strong evidence that the Muslim community of the first two centuries sought guidance in the *sunnah* of others along with that of the Prophet, and that it often referred to the Prophet's *sunnah* as more of an abstract ideology rather than a corpus of norms. Although various Western scholars have argued in favor of one set of evidence over the other, their cumulative findings suggest that *sunnah* was very much in flux, representing the legacy of the Prophet's practice as well as that of others, in both abstract and particular senses.

Goldziher first put forward the idea that the Muslim concept of *sunnah* was a revision of the ancient Arab concept. He traces the origin of the Muslim concept of *sunnah* to sayings that emerged from Muhammad's pious followers in Medina, who scrupulously imitated the Prophet in all aspects of ritual, social conduct and community life. In Goldziher's view, the pious members of the Medinan community adapted and limited the Arabic term, *sunnah*, to represent the standard of correct behavior defined by the practices of the Prophet and his earliest followers.[31] However, Goldziher adds the caveat that the concept of *sunnah* as a normative source of authority evolved over at least a century.[32]

[31] Goldziher writes: "The Muslim community was supposed to honor and obey the new *sunna* in the same way as the pagan Arabs had revered the *sunna* of their ancestors." *Muslim Studies*, 2: 26.

[32] Goldziher, *Muslim Studies*, 2: 32. Goldziher locates an early example of the Prophet's *sunnah* as a normative source in Muḥammad al-Shaybānī's (d. 189/805) assertion that an ordinance from the *sunnah* can abrogate one from the Qur'ān.

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Joseph Schacht argued that this evolution of the pre-Islamic concept of *sunnah* into the distinctly Islamic notion of the Prophet's behavior occurred over several centuries. Furthermore, Schacht asserted that the identification of the term *sunnah* with the practice of the Prophet only crystallized under the efforts of the early jurist, Muḥammad b. Idrīs al-Shāfi'ī (d. 204/820).[33] In his *Origins of Muhammadan Jurisprudence*, Schacht examines sources from the first few centuries of Islam and delineates several stages of *sunnah*'s meaning: from the pre-Islamic notion of custom to the early Muslim usage of *sunnah* as a general term for the mostly administrative practice of rulers; to the "living traditions" of the ancient Muslim schools of law; to *sunnat al-nabī* as a uniquely authoritative concept meant for the Prophet's behavior and rulings, which developed by the early ninth century.[34] According to Schacht, the Muslim community of the first century did not consider the Prophet's behavior to be a *sunnah.*

Schacht's thesis that *sunnah* had to evolve through several stages to arrive at its identification with the Prophet's practice, was, however, based on an erroneous understanding of the term's origin. M. M. Bravmann shows that Schacht and others misunderstood the pre-Islamic usage of *sunnah* when they ascribed its primary meaning to be the cumulative customs and traditions of the tribe. Using numerous passages from the seventh century, Bravmann posits that the primary meaning of *sunnah* is a procedure

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[33] Schacht expanded upon the work of Goldziher and other scholars, such as Margoliouth. In Margoliouth's *Early Development of Mohammedanism*, he concludes that "*sunna* as a principle of law meant originally the ideal or normative usage of the community, and only later acquired the restricted meaning of precedents set by the Prophet. Margoliouth, quoted in Joseph Schacht, *Origins of Muhammadan Jurisprudence* (Oxford: Clarendon Press, 1959), 58; 69 n. 75.

[34] Schacht, "*Sunna*, 'Practice, and 'Living Traditions," in *Origins of Muhammadan Jurisprudence*, 58-81.

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or practice instituted by a specific person or group of persons.[35] In this construction, the anonymously established tribal custom was a secondary meaning. Bravmann asserts that, instead, the pre-Islamic concept of *sunnah* had been applied to Muhammad's activities and rulings already in his lifetime. Based on Bravmann's linguistic distinction, the idea that Muhammad had instituted a *sunnah* was much closer to the pre-Islamic definition of *sunnah* than others had contended.[36]

While Bravmann's linguistic corrective strengthens the notion that the early community regarded the Prophet's practice as *sunnah,* it does not undermine the findings of others that *sunnah* referred to the legacies of other early religious and political leaders as well. Referring to historians like Ṭabarī (d. 102/923) and others, Patricia Crone and Martin Hinds argue that the Prophet's *sunnah* was but one of many *sunnahs* invoked. The early historian Ṭabarī frequently refers to *sunnah* – but references the *sunnah* of the Prophet can be found alongside several other formulations.[37] In their work on the relationship between political and religious authority among the early dynasties, Crone and Hinds

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[35] M. M. Bravmann, *The Spiritual Background of Early Islam* (Leiden: E. J. Brill, 1972), 151-5. The passages cited by Bravmann use "*sunnah*" in the sense of "assigning a certain amount of money (or other property) to a certain category of people." According to Bravmann, this usage would only make sense if *sunnah* was primarily used to specify a practice established by a specific individual or group for a specific group of people.

[36] Daniel Brown concurs with Bravmann's revision of the primary meaning of *sunnah*. According to Brown, Schacht based his thesis regarding the slow evolution of *sunnah* from tribal custom to the Prophet's practice on Margoliouth's mistaken etymology of *sunnah* from "the beaten track." Margoliouth likely derived this etymology from Ṭabarī's citations of *sunnah* used in a general unspecified way. See Daniel Brown, *Rethinking Tradition in modern Islamic thought.* Cambridge: Cambridge University Press, 1996), 143 n. 10.

[37] Ibid., 11. Daniel Brown asserts that Ṭabarī most often refers to *sunnah* as the opposite of *bid'ah*, in the sense of a combined religious and political deviation. If correct, this adds weight to my argument, made later below in this chapter in "*Bid'ah* in the First Two Islamic Centuries," that the *sunnah-bid'ah* opposition was general before it became technical.

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show that every revolt rallied behind the term "the Book of God and the Sunnah of his Prophet (*kitāb Allāh wa-sunnat nabiyyihi*)."[38] These rebelling groups almost always referred to *sunnah* in the general sense of right practice rather than in reference to a specific norm. G. H. A. Juynboll, like Crone and Hinds, counters Bravmann's argument by suggesting that Muhammad's practice was not distinguished from the legacies of Abū Bakr and 'Umar until the end of the Umayyad period.[39] Juynboll reminds us that *sunnah* was still used pejoratively in the second Islamic century, as well as in the broad sense of generic righteous practice (or anything Islamic besides the Qur'ān).[40] Crone, Hinds and Juynboll provide clear evidence that the Muslim community of the first few centuries did not conceive of *sunnah* solely in terms of the Prophet's practice.

These accounts cumulatively paint a picture of *sunnah* as a fluid concept. Daniel Brown emphasizes the importance of situating the evolving notion of *sunnah* in the context of rapid social and political change within the early Muslim community. Following the death of the Prophet, early Muslims debated key questions of religious and political authority, such as who should govern the community, and whether the Prophet's authority should be mediated through solely his records of his own teachings or else through other religious and/or political leaders including members of his own family. Within this dynamic context of the first few centuries, we can better understand the multiple uses of *sunnah* in both religious and political contexts. Combining recent

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[38] Crone, Patricia and Martin Hinds, *God's Caliph: Religious Authority in the First Centuries of Islam* (Cambridge: Cambridge University Press, 1986), 43-57, especially 66.

[39] Juynboll, "Some new ideas on the development of *sunna* as a technical term in early Islam," 101-103.

[40] Ibid., 103, 105.

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findings by Western scholars, it seems likely that, until the ninth-century work of Shāfiʿī and others, *sunnah* referred both to the Prophet's practice and, at the same time, to other sources of authority. Scholars generally agree that, after the time of Shāfiʿī, *sunnah* came to be almost exclusively identified with the Prophet's practice and the other uses of *sunnah* declined in frequency and status.[41]

This discussion highlights both the early Muslim identification of the Prophet's behavior as a *sunnah* and the slower evolution towards an exclusive identification of the Prophet's behavior as **the** *sunnah*, i.e., as the primary source for normative practice. As we have seen, the Qur'ān had already laid the groundwork for this identification by its repeated calls for the community to follow the Prophet and to view him as a good example. Indeed, the fact that all sectarian movements sought to align their position with that of the Prophet indicates the degree to which the Prophet represented religious truth and justice for Muslims.

The success of the transformation of *sunnah* as a fluid concept to its exclusive identification with the Prophet, however, was due in large part to the efforts of those who collected and redacted Hadith collections. In contrast to the ambiguities found within Muslim literature of the first two centuries, the Hadith literature in the collections of the

[41] As Juynboll concludes, "authors who wrote after Shāfiʿī hardly ever thought of *sunna* as comprising anything but that of the Prophet" (Ibid., 108). Recent scholars have challenged Shāfiʿī's role from the other chronological direction and questioned the accuracy of Schacht's thesis that Shāfiʿī was successful in instituting the Prophet's *sunnah* as the second source of Islamic law. See Hallaq, "Was Al-Shafiʿi the Master Architect of Islamic Jurisprudence?" *International Journal of Middle East Studies*, 25 (1993): 587-605. Hallaq focuses on the tension between supporters of Hadith and those of human reason, and does not address nor contest the idea that Shāfiʿī succeeded in establishing the Prophet's *sunnah* over the *sunnah*s of others.

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third century is unambiguous in its identification of the term *sunnah* with the Prophet's practice. This identification reflects the central mission of *ḥadīth* collectors to create an identity between Muslim practice and specifically the Prophet's teachings and behavior. Thus, we find innumerable traditions that refer to *sunnah* either explicitly as the Prophet's normative practice or implicitly as the community's practice learned from the Prophet's teachings. In the next section, we will briefly examine the main ways that *sunnah* occurs in the Hadith literature. Although the overwhelming majority of occurrences use *sunnah* in the sense of the Prohet's normative practice, the canonical Hadith collections nonetheless preserve a few *aḥādīth* that use *sunnah* in its neutral sense, which would become relevant for medieval debates about allowing new practices.

3.4 *Sunnah* in the Hadith Literature

The Hadith literature uses the term *sunnah* both in the abstract sense of the Prophet's cumulative teachings and in the specific sense of the Prophet's practice as relevant to a given case.[42] First, numerous *aḥādīth* record general exhortations by the Prophet to uphold, preserve and even revive his *sunnah*. One hears echoes of the early religio-political conflicts mentioned above since these exhortations to protect the Prophet's *sunnah* refer to situations that will arise in the future. For example, the Prophet is cited as prophesying about the future and describing subsequent cycles of evil and goodness. One sign of a period of evil is the presence of those "who institute [rules] that are other than my practice and direct [others in a direction] other than my direction (*yastannūna bi-*

[42] On occasion, the Hadith literature will link *sunnah* to the practices of others, but almost always when conjoined with the *sunnah* of Muhammad. See, for example, the multiple variants of the phrase, "my *sunnah* and the *sunnah* of the righteous caliphs," discussed in this paragraph.

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ghayr sunnatī wa-yahdūna bi-ghayr hadyī)."[43] Another *ḥadīth*, which is referred to often in medieval discussions about *bid'ah*, expresses the inevitability of these cycles and the important role of those who are loyal to the Prophet's corpus of practices and ideas: "Islam began as a stranger (*gharīb*) and will return to [being] a stranger; blessed are the strangers who correct what the people after me have corrupted of my *sunnah*."[44] Similarly, the Prophet urges, in another famous *ḥadīth*, that the community respond to strife and neglect by holding fast to "my *sunnah* and the *sunnah* of the righteous successors."[45] All of these *aḥādīth* use the term, *sunnah*, to describe the Prophet's cumulative legacy in an abstract way, that is, without specifying what the Prophet's *sunnah* contains.

In its more specific designations in the Hadith, *sunnah* means the way the Prophet performed a specific religious duty, which becomes normative for the community. Those who perform religious duties in a manner that removes elements from or adds elements to the way the Prophet performed a given act are said to be behaving other than according to the *sunnah* of Muhammad.[46] For example, Ibn 'Umar censured a person who had ordered

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[43] *Ṣaḥīḥ Muslim*, Book of Governance (*imārah*), Chapter 13: Hadith No. 4890, 2: 814.

[44] *Sunan al-Tirmidhī*, Book of Belief (*īmān*), Chapter 13: Hadith No. 2838 (Vaduz: Lichtenstein: Jam'iyyat al-Maknaz al-Islāmī, 2000), 2:670.

[45] *Sunan al-Tirmidhī*, Book of Knowledge (*'ilm*), Chapter 16: Hadith No. 2891, 2:681; *Sunan Ibn Mājah*, Introduction, Chapter 6: Hadith Nos. 44-5 (Vaduz: Lichtenstein: Jam'iyyat al-Maknaz al-Islāmī, 2000), 9. It is likely that these traditions are truncated versions of the *ḥadīth* in which the above phrase is followed immediately by a Prophetic warning about *bid'ah*. For numerous attestations of this longer *ḥadīth*, see the section, "*Bid'ah* in the Hadith literature," below in this chapter.

[46] For example, when Ibn 'Abbās heard of an *imām* who recited the *takbīrah* 22 times, he responded, "your mother is grieving for you, *sunnah* of Abī Qāsim (i.e., Muhammad)" (*Ṣaḥīḥ Bukhārī*, Book of the Call to Prayer (*adhān*), Chapter 117: Hadith No. 796, 1:150). Similarly, when 'Alī insisted on performing the 'Umrah and Ḥajj at the same time, contrary to the ruling of 'Uthmān, he explained, "I will not abandon the

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his animal to kneel before slaughtering it at the end of the Pilgrimage, by saying that the *sunnah* of Muhammad is to slaughter the animal while it stands.[47] The Prophet, similarly, is recorded to have used this language to teach proper behavior during *'īd al-aḍḥā'*, when he said, "Whoever prays the morning prayer and then slaughters [the designated animal in honor of the festival], has correctly fulfilled our practice (*aṣāba bi-sunnatinā*)."[48] In addition to designating the Prophet's practice as normative regarding a specific case, *sunnah* is also used to connote normative practice more generally. For instance, there is a famous *ḥadīth* in which the Prophet encounters three zealous practitioners. One prays all the time, one fasts all the time and one would not marry. The Prophet responds by saying "I fast and break my fast, I pray and rest, and I marry; whoever desires other than my way (*raghiba 'an sunnatī*), is not of me."[49] In this and similar cases, *sunnah* represents the corpus of practices that define membership in the normative community, which has both sociological and eschatological implications.[50] All of these attestations underscore the

sunnah of the Prophet on the saying of somebody else." Ibid., Book of Pilgrimage (*ḥajj*), Chapter 34: Hadith No. 1588, 1:296.

[47] Ibid., Chapter 119: Hadith No. 1738, 1:322, with a similar version in Abū Dawūd Sulaymān al-Sijistānī, *Sunan Abī Dawūd*, Book of the [Pilgrimage] Rites (*manāsik*), Chapter 20-21: Hadith No. 1770 (Vaduz: Lichtenstein: Jam'iyyat al-Maknaz al-Islāmī, 2000), 1: 302.

[48] E.g., *Ṣaḥīḥ Bukhārī*, Book of the Two Festivals (*'īdayn*), Chapter 3: Hadith No. 959, 1:180; *Sunan al-Nasā'ī*, Book of the Prayer for the Two Festivals (*'īdayn*), Chapter 8: Hadith No. 1574, 1: 263.

[49] *Ṣaḥīḥ Bukhārī*, Book of Marriage (*nikāḥ*), Chapter 1: Hadith No. 5118, 3: 1062; also in *Ṣaḥīḥ Muslim*, Book of Marriage (*nikāḥ*), Chapter 1: Hadith No. 3469, 1: 569; *Sunan al-Nasā'ī*, Book of Marriage, Chapter 4: Hadith No. 3230, 2: 524.

[50] In a case similar to the previous *ḥadīth*, Muhammad responds to a person who refuses to marry by saying, "Marriage is [part] of my *sunnah*, and whoever does not act according to my *sunnah* is not from me" (*Sunan Ibn Mājah*, Book of Marriage (*nikāḥ*), Chapter 1: Hadith No. 1919, 269. In another case, Ḥudhayfah saw a man praying without performing bowing or prostration properly, and told him that if he were to die, he would die by other than Muhammad's *sunnah*. *Ṣaḥīḥ Bukhārī*, Book of Prayer (*ṣalāh*), Chapter 26: Hadith No. 391, 1:82, repeated in the Book of the Call to Prayer (*adhān*), Chapter 132: Hadith No. 216, 1:155.

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function of the Prophet's *sunnah* as the exclusive source for religious behavior, whether in relation to a specific practice or in defining who is a member of his community.

Parenthetically, the Hadith literature uses also *sunnah* to connote those aspects of the Prophet's own custom that are normative but optional for the community. For example, a *ḥadīth* that enumerates optional details about prayer reads, "the Prophet addressed us and clarified for us our *sunnah* and taught us our prayers."[51] This use of *sunnah* was to become prominent later in legal discussions of religious norms.[52]

While the vast majority of uses of the term *sunnah* in the Hadith literature have a positive value, the neutral meaning of *sunnah* is preserved in a *ḥadīth* with variants that appear in numerous collections. In a chapter entitled "Whoever initiates a good or bad *sunnah* or calls to right guidance or error," Muslim records the following *ḥadīth*:

> Jarīr b. 'Abdallāh reported that some desert Arabs wearing wool came to Allāh's Messenger (may peace be upon him). He saw their sorry state as they had been afflicted by need. He exhorted people to give charity (*ṣadaqah*), but they showed reluctance until anger could be seen on [the Messenger's] face. Then a person from the Helpers (*Anṣār*) came with a purse of silver. Then another came and then other persons followed them in succession until happiness could be seen on his face. Afterwards, Allāh's Messenger (may peace be upon him) said: 'He who initiates a good practice in Islam (*man sanna fī al-islām sunnatan ḥasanatan*), which others then follow, receives the reward of those who followed it, without their reward being diminished at all. And he who initiates an evil practice in Islam (*man sanna fī al-islām sunnatan sayyi'atan*) which others then

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[51] *Sunan Abī Dawūd*, Book of Prayer (*ṣalāh*), Chapter 183-4: Hadith No. 974, 1:166; *Sunan Ibn Mājah*, Book of Performing the Prayer and the *Sunnah* Regarding It (*iqāmat al-ṣalāt wal-sunnah fīhā*), Chapter 24: Hadith No. 954, 131.

[52] For numerous examples and sub-categories of this definition of *sunnah*, see Tahānawī's lengthy description of "*sunnah*." Muḥammad 'Alī al-Fārūqī al-Tahānāwī, *Kashshāf iṣṭilāḥāt al-funūn*, ed., Luṭfī 'Abd al-Badī' (Cairo: al-Hay'ah al-Miṣriyyah al-'Āmmah lil-Kitāb, 1977), 4: 53-56.

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follow, receives the punishment of one who followed this (evil practice), without their sins being diminished at all.[53]

In this case, the Prophet uses the term, *sunnah*, to describe the practice of giving charity (*ṣadaqah*) so that others follow. This passage uses *sunnah* in a striking way, since the injunction to give charity generally was already established in the Qur'ān.[54] *Sunnah*, in this specific case, does not refer to the establishment of a wholly new practice but rather the initiation of a new occurrence of an established practice. Yet, the Prophet clearly considered *sunnah* to function as a neutral term, since he qualifies the term with both positive and negative adjectives. Furthermore, the Prophet takes this opportunity to articulate a general rule regarding the benefit of establishing a good practice and the harm of establishing a bad practice. In fact, several variations of this *ḥadīth* replace the phrase "bad *sunnah*" with "*bid'at ḍalālah*" perhaps reflecting a transmitter's (or collector's) discomfort at modifying the term, *sunnah*, with a negative adjective.[55] However, by linking the term, *bid'ah*, to the noun, "*ḍalālah*," the *ḥadīth* seems to imply that the term, *bid'ah*, does not inherently contain a negative value. The significance of the ambiguous use of *sunnah* in this *ḥadīth*, as well as the seemingly neutral form of *bid'ah* in alternate

[53] *Ṣaḥīḥ Muslim*, Book of Knowledge (*'ilm*), Chapter 6: Hadith Nos. 6975, with alternate chains of transmission provided in nos. 6976-6979, 2: 1131-2. See also *Sunan Ibn Mājah*, Introduction, Chapter 14: Hadith Nos. 208-9 and 212, 34-5. 'Abd al-Razzāq al-Ṣan'ānī cites two versions of this *ḥadīth*. The first, on the authority of Ubayy, is general and does not provide a context. The second, on the authority of Jarīr b. 'Abdallāh (as does Muslim), sets the Prophet's statement in the context of the community giving alms, except this version is shorter than Muslim's, beginning with a man of the *anṣār* offering a purse of gold (!) and continuing from that point. 'Abd al-Razzāq al-Ṣan'ānī, *al-Musannaf*, ed., Ḥabīb al-Raḥmān al-A'ẓamī (Beirut: al-Maktab al-Islāmī, 1983), 11: 466, nos. 21024-5.

[54] See, for example, Qur'ān 2:276; 9:60; 9:103-4; 58:12-13.

[55] One version of the *ḥadīth* states, "He who revivifies one of my sunnahs and the people practice it, receives the reward of those who followed it, without their reward being diminished at all. And he who innovates an innovation of deviancy (*man ibtada'a bid'at ḍalālah)* and it is practiced by the people, receives the sins of those who practiced it, without their sins being diminished at all." *Sunan Ibn Mājah*, Introduction, Chapter 15: Hadith Nos. 214 (with a slightly embellished version in no. 215), 35. See also, *Sunan al-Tirmidhī*, Book of Knowledge (*'ilm*), Chapter 16: Hadith No. 2894, 2: 682.

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variations, would be debated by medieval jurists. On the one hand, the context of this *ḥadīth* suggests that the Prophet used the term in its lexical sense of a way of behaving and not in its legal sense of normative practice. On the other hand, however, the Prophet's general rule does create the possibility of adding a new *sunnah*, in the sense of a wholly new practice.

3.5 Concluding Remarks on *sunnah*

This brief survey of Hadith attestations to *sunnah* confirms the overwhelming link between *sunnah* and the Prophet's normative practice in this body of ninth-century literature. The predominant identification of *sunnah* with the Prophet's normative practice marks the end of the term's slow evolution from its original multivalent meaning, with multiple referents, in pre-Islamic times and into the first few Islamic centuries.[56] With the development of Islamic legal theory of the ninth and tenth centuries, the Prophet's *sunnah* took on the status of the second source of law after the Qur'ān (and even surpassing the Qur'ān), as well as the main source for how to practice religion.

As long as *sunnah* referred to multiple types of behavior, its opposite term, *bid'ah*, could maintain similar fluidity. Once *sunnah* crystallized into the Prophet's practice as the normative source of religious behavior, however, *bid'ah* logically crystallized into anything that was not the Prophet's practice. This distinction was especially obvious in the Hadith literature, in large part because the central mission of *ḥadīth* collectors was to

[56] This is true for the general use of *sunnah* in Muslim literature, excepting the lexicographical literature, which preserves *sunnah*'s neutral meaning.

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limit Muslim practice to that which could be identified explicitly as the Prophet's *sunnah*. The numerous *aḥādīth* that exhort the community to uphold the Prophet's *sunnah* and to avoid innovations testify to the negative value that was placed on *bid'ah* therein. Yet, the sheer number of traditions that enjoins hypercorrectly the community to avoid innovations bespeaks the proliferation of innovations and the conflicts regarding them. With our clearer picture of the early genealogy of *sunnah*, we can begin the exploration of our main focus, *bid'ah*.

4. Pre-Islamic and Early Muslim Definitions of *bid'ah*

4.1 *Bid'ah* in Pre-Islamic Arabia

The early picture of *bid'ah* is, unfortunately, less charted, since *bid'ah* has merited only tangential remarks by most Western scholars of early Islam. Like its opposite concept of *sunnah*, *bid'ah* pre-dates Islam as a term marking deviation whether from oneself, one's ancestors or one's tribe.[57] Abū Tammām (d. 231/849), for example, includes the following line in his celebrated anthology of ancient poets, *Kitāb al-Ḥamāsah*: "and whoever deviates from his own nature, his nature will abandon [the deviation] and will overcome this tendency (*wa-man yabtadi' mā laysa min khīmi nafsihi yada'hu wa-yaghlibhu 'alā al-nafsi khīmuhā*)."[58] According to Goldziher, *bid'ah* and its more common synonym, *ḥadath*, both connoted deviations from ancestral tradition through the invention of new practices.[59] Although *bid'ah* carried generally a pejorative value, the

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[57] Goldziher, *Muslim Studies*, 1: 46.

[58] Abū Tamām Ḥabīb b. Aws, *Kitāb Ash'ār al-ḥamāsah*, ed., Georg Wilhem Freitag (Bonn, 1828), 1: 47, v. 3. (Also listed under the Latin title, *Hamasae Carmina cum Tebrisii scholiis integris primum.*) Goldziher, in *Muslim Studies*, 1: 46, brings this and another reference for pre-Islamic citations of *bid'ah*.

[59] Golziher, *Muslim Studies*, 2: 28.

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term was occasionally used in the neutral or positive sense of invention or innovation. The early Qur'ān commentator, al-Ṭabarī, substantiates the positive meaning of the root, b-d-ʻ, by citing the following line by Maymūn b. Qays (d. after 13/625), the prominent ancient Arab poet, from his poem in praise of Hawdhah b. ʻAlī al-Ḥanafī: "He heeds the opinion of the chiefs of men when they demonstrate prudence or he innovates as he likes (*yarʻā ilā qawli sādāti al-rijāli idhā abdaw lahu al-ḥazma aw mā shā'ahu ibtadaʻa*)."[60] This use of the verb, *ibtadaʻa*, to signify prowess and creativity echoes the lexicographical use of the related verb, *abdaʻa*, to describe the innovative achievements of the poet.

4.2 *Bidʻah* in the Qur'ān

The Qur'ān preserves the multiple meanings of *bidʻah*, since it uses the root in positive, negative and ambiguous ways. Although the term, *bid'ah*, does not appear in the Qur'ān, its root (*b-d-ʻ*) occurs four times.[61] The Qur'ān consistently uses words derived from this root to denote creating or inventing something new. In its positive usages, the root *b-d-ʻ* signifies one of God's beautiful names (*al-asmā' al-ḥusnā*).[62] The Qur'ān refers to God in two places as, "*badīʻ al-samāwāt wal-arḍ*", that is the original creator of heaven and earth who alone can create unprecedented things in the world:

[60] Ṭabarī, in his commentary on Qur'ān 2:117. Abū Ja'far Muḥammad b. Jarīr al-Ṭabarī, *Jāmiʻ al-bayān ʻan ta'wīl āy al-Qur'ān*, Second Edition (Cairo: Mustafā al-Bāb al-Ḥalabī, 1954), 1: 508.

[61] Maribel Fierro, "The treatises against innovations," 205. See also, Ahmad Haris, "Innovation and Tradition in Islam," 80-112.

[62] Fierro, "The Treatises against Innovations," 205. See, for example, Abū al-Qāsim ʻAbd al-Karīm al-Qushayrī's discussion of "*badīʻ*," in *Sharḥ asmā' Allāh al-ḥusnā*, ed., Ṭaha ʻAbd al-Raʻūf Saʻd and Saʻd Ḥasan Muḥammad ʻAlī (Cairo: Dār al-Ḥaram lil-Turāth, 2001), 388.

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> The Originator (*badī'*) of the heavens and the earth! When He decrees a thing, He says unto it only: Be! and it is."[63]

> The Originator (*badī'*) of the heavens and the earth! How can He have a child, when there is for Him no consort, when He created all things and is aware of all things?"[64]

However, the root, *b-d-'*, also signifies a label that the Prophet rejects. In the third instance, Muhammad – as quoted in the chapter's introduction – asserts his place in the spiritual lineage of prophets and rejects the label of one who brings unprecedented ideas:

> Say: I am not the first (*bid'an*) of the messengers [of Allah], nor know I what will be done with me or with you. I do but follow that which is inspired in me, and I am but a plain warner.[65]

The Qur'ān uses this root to convey fundamental ideas about the unique power of God to innovate on the one hand, and Muhammad's role as a reformer rather than an innovator on the other.

The final use of the root is the most ambiguous and yet perhaps the most relevant for our area of inquiry. In Chapter 57, the Qur'ān refers to the origin of Christian monasticism as a human innovation that was not prescribed by God. This use of verb, *ibtada'a*, is morphologically closest to the general name for an innovator in religion, i.e., *mubtadi'*, and the subject matter of the verse is clearly in the domain of devotional practices. Moreover, the verse is ambiguous in its use of the root, *b-d-'*, and it is unclear whether

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[63] Qur'ān 2:117.

[64] Qur'ān 6:101.

[65] Qur'ān 46:9. The classical Arabic lexicographers surveyed agree that "*bid'*" here means the first to do something, as in Muhammad was not the first messenger sent (cf., *Kitāb al-'Ayn*, 2:54; *Lisān al-'Arab*, 20: 342; *Tāj al-'Arūs*, 20:308). Bukhārī brings this position in the name of Ibn 'Abbās. *Ṣaḥīḥ Bukhārī*, Book of Qur'ān Commentary (*tafsīr al-qur'ān*), Chapter 1: Hadith No. 4875, 2:1002.

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the Qur'ān regards the invention of monasticism as a sin or a potentially positive development:

> Then We caused Our messengers to follow in their footsteps; and We caused Jesus, son of Mary, to follow and gave him the Gospel, and placed compassion and mercy in the hearts of those who followed him. But monasticism they invented (*ibtada'ūhā*) – We ordained it not for them – only seeking Allah's pleasure, and they observed it not with right observance. So We give those of them who believe their reward, but many of them are evil-doers.[66]

Does the Qur'ān use the verb, *ibtada'ū*, in a neutral way or in its pejorative sense? The question has significant exegetical consequences for the status of Christian monasticism in particular and other devotional practices initiated by human beings in general.[67] That is, does the Qur'ān view the invention of monasticism as a sincere devotional act – done only to seek God's pleasure, or as a problematic act – done against God's will, who ordained only that they seek God's pleasure through means prescribed by God alone? Qur'ān commentators such as Ṭabarī[68] and Ibn Kathīr[69] (d. 774/1373) relate early

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[66] Qur'ān 57:27.

[67] See Sara Sviri, "*Wa-Rahbāniyyatan ibtada'ūhā*: An Analysis of Traditions Concerning the Origins of Christian Monasticism," *Jerusalem Studies in Arabic and Islam* 13 (1990): 195-208. Sviri uses this verse and its commentaries to assess early Muslim attitudes towards Christian monasticism. She contends that the early exegetical tradition sought to harmonize two contradictory sets of traditions regarding monasticism – one that condemns the monastic life of Christians and the other that relates the recognition of Muhammad's prophethood by hermits, who were the sole guardians of a rejected and forgotten knowledge (Ibid., 208). The harmonization is accomplished by positing two types of monasticism: a benevolent and temporary form – "destined to guard the true Scriptures, and then to dissolve and integrate within Islam," and a false and distorted form, "condemned both for its extreme asceticism and for its apostasy from the true religion of Jesus." (Ibid.) For our purposes, Sviri's harmonized interpretation lends further support to the idea that the Qur'ān is less concerned with whether the people should have innovated in religion but whether their innovation was purely conceived and executed.

[68] Tabarī, *Jāmi' al-bayān*, 26: 238-241. Ṭabarī brings these two readings as two sides of an exegetical debate regarding who are the sinners in this verse.

[69] The fourteenth-century exegete, Ibn Kathīr, cites the exegetical debate in simple terms with regard to the phrase, "only seeking Allāh's pleasure." He writes, "there are two positions. The first of the two is that they intended by [inventing monasticism] God's pleasure, and this is the view of Sa'īd b. Jubayr and Qatādah. And the other [view], is that we did not ordain that for them but rather we ordained for them

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traditions supporting both sides of this exegetical debate and the related question as to whether the sin of the monks, alluded to towards the end of the verse, was that of inventing monasticism or failing to observe monasticism properly. After presenting traditions supporting both views, Ṭabarī offers that the more appropriate interpretation (*awlā al-aqwāl*) of the verse relies on the neutral sense of innovating, since the end of the verse indicates that some of the monks were rewarded by God. He and other commentators deal with the verse's ambiguity towards monasticism by differentiating between the practices of early monks, who were true believers and ultimately rewarded, and that of their followers, who did not have proper belief and were ultimately punished. Understood through this lens, the Qur'ān takes a clear stand that once human beings take on supererogatory behavior, God will hold them accountable for it – rewarding and punishing them accordingly.

On the other hand, Ibn Kathīr does apply the negative sense of innovating to his interpretation and contends that God censured the monks both "for their innovating in religion that which God did not command" and "for their not fulfilling obligations that they claimed were a pious act (*qurbah*) that would bring them nearer to God."[70] Nevertheless, Ibn Kathīr presents evidence for both the neutral and negative interpretations of the verb. Most of the commentators surveyed preserve the neutral meaning of innovating here, and understand the Qur'ān's use of the verb, *ibtada'a*, to emphasize the difference between practices that are prescribed as obligatory vs. practices

seeking God's pleasure." Abū al-Fidā' Ismā'īl b. 'Umar b. Kathīr, *Tafsīr al-Qur'ān al-'aẓīm* (Riyadh: Dār Ṭayyibah lil-Nashr wal-Tawzī', 1997), 8:28-31.

[70] Ibid., 29.

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that human beings take on voluntarily (as supererogatory acts).[71] For our purposes, the ambiguous use of the root, *b-d-ʿ*, in this Qur'ān verse is a good example of the multivalent meaning of innovating in early Islam.[72] These exegetical debates foreshadow the medieval legal debate over whether or not human beings can invent devotional practices that are recognized by God as pious and are thus rewarded.[73]

Additional Qur'ān Verse: "Today I perfected for you your religion"

In addition to the Qur'ān verses that use the root, *b-d-ʿ*, it is worthwhile to examine briefly the Qur'ān verse that, according to some interpretations, asserts that God completed and closed the corpus of Muslim practice at the end of Muhammad's lifetime. This verse would emerge often in medieval *bidʿah* debates, as evidence against

[71] In addition to the above, see for example Fakhr al-Dīn al-Rāzī (d. 606/1210) on Qur'ān 57:27: "God Exalted, by the word, *ibtadaʿūhā*, did not mean by way of censure (*ṭarīqat al-dhamm*), but rather that they created it (*aḥdathūhā*) by themselves and took vows (*nadharūhā*) by it, and that is why the Exalted wrote afterwards "that which we did not obligate (*katabnā*) for them" (Fakhr al-Dīn Muḥammad al-Rāzī, *al-Tafsīr al-Kabīr* (aka *Mafātīḥ al-ghayb*), Third Edition (Tehran: Shirkat Saḥāfī Nawīn, 1980), 29-30: 245). Sayyid Quṭb, in his commentary on the same passage, similarly prefers the interpretation of the verse that those who invented monasticism did so seeking God's pleasure. The sin was that once they invented monasticism and took upon themselves the stricter standards of piety, they were held to that higher standard and those who failed to observe it properly were punished. In Quṭb's view, the moral of the verse is that God cares solely about actions and intentions rather than particular rituals and rites. Quṭb's reading is all the more interesting given that one might have expected him to use this opportunity to criticize the phenomenon of innovations in religion. Sayyid Quṭb, *Fī ẓilāl al-qur'ān*, New Edition (Beirut: Dār al-Shurūq, 1974), 6: 3495-3496.

[72] In his dissertation on *bidʿah* in Indonesia, Ahmad Haris develops what he calls a Qur'ānic definition of *bidʿah*, in which he reads the simple meaning of verse 57:27 as advocating innovations in religion so long as their purpose is to seek God's pleasure and be observed thoroughly (Haris, "Innovation and Tradition in Islam," 112). While the basis of his interpretation is grounded in a strong exegetical tradition, Haris assumes a proactive attitude towards innovations that does not appear in the Qur'ān itself. In other words, it is one thing to read the Qur'ān as rewarding the behavior of certain monks, but quite another thing to conclude that the Qur'ān advocates religious innovations in general.

[73] Thus far, I have only found one reference to the Qur'ānic usage of the root, *b-d-ʿ*, as support for the possibility of incorporating new devotional practices, in an excerpt of Sulayman Ghawji Albani's, *al-Bidaʿ wal-aḥkām* (Lebanon, Dār al-Imām Muslim, 1991), transl., Yusuf Mohidin Bakhour al-Hassani, on the website, http://www.alrashad.net/bida/htm (Accessed August 18, 2003).

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introducing innovations and specifically those in the devotional realm. The relevant portion of this verse reads:

> ...Today I have perfected for you your religion (*al-yawm akmaltu lakum dinakum*); and completed my blessing upon you (*wa-atmamtu lakum ni'matī*); and I have approved Islam for you as a religion (*wa-raḍaytu lakum al-islām dīnan*)."[74]

Numerous *aḥādīth* attest that this verse was revealed to Muhammad on the day of 'Arafah during Muhammad's last pilgrimage to Mecca.[75] All traditions concur that Muhammad received this revelation not three months (lit., 81 days) before his death.

The relevance of this verse to our subject of allowing new practices depends on how one interprets the phrase, "today I perfected for you your religion," and specifically the words "perfected" and "your religion." Ṭabarī presents two approaches to this exegetical

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[74] The beginning of the verse reads: "Forbidden to you are dead meat, blood, the flesh of pig. And that on which the name of other than God has been invoked; and [that which] has been killed by strangling, or by a violent blow, or by a headlong fall, or by being gored to death; that which has been [partly] eaten by a wild animal, unless you are able to slaughter it; that which is sacrificed on stone [altars]; and [that meat which] is divided by lottery with arrows, that is impiety. This day, those who have rejected your religion have despaired, so do not fear them but fear me..."Qur'ān 5:3.

[75] The general trope of this tradition is that a Jew comes to 'Umar b. al-Khaṭṭāb and says, "O Commander of the Faithful, if the verse, 'today I have perfected for you your religion...,' was revealed to us, we would turn the day it was revealed into a festival. 'Umar responds that he knows that the day it was revealed was Friday, the Day of 'Arafah during the Prophet's Farewell Pilgrimage. Variations of the following *ḥadīth* abound, including: *Ṣaḥīḥ Bukhārī*, Book of Belief (*imān*), Chapter 43: Hadith No. 45, 1:14; Book of Military Campaigns (*maghāzī*), Chapter 78: Hadith No. 4451, 2: 879; *Ṣaḥīḥ Muslim*, Book of Commentary (*tafsīr*), Chapter 1: Hadith No. 7710 (adds that Sufyān doubted that it was on Friday); Hadith No. 7711 (adds that it was on the eve of Friday and his companions were with him), and Hadith No. 7712 (adds that it was on the day of Friday); *Sunan al-Tirmidhī*, Book of Commentary of the Qur'ān (*tafsīr al-qur'ān*), Chapter 3: Hadith No. 3317, 2:769; and, *Sunan al-Nasā'ī*, Book of Pilgrimage Rites (*manāsik al-ḥajj*), Chapter 194: Hadith No. 3015, 2: 487.

In addition, Ṭabarī brings numerous versions of this *ḥadīth* in his commentary on Qur'ān 5:3, adding a version that indicates the interlocutor was a Christian, and in another case, one of the people of the Book (Ṭabarī, *Jāmi' al-bayān*, 9:524-529). Ṭabarī also cites attestations to other days and places when Muhammad received this revelation, including on Monday, in Medinah, and when he was traveling during the Farewell Pilgrimage. Ṭabarī concludes that the best view is that the verse was revealed on the day of *'Arafah* during the Farewell Pilgrimage on Friday, based on the quality of those chains of transmission. Ibid., 530-1.

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question. The first one, based on traditions from ʻUmar, Ibn ʻAbbās and others, asserts that the verse was Muhammad's last divine revelation (at least in the realm of law) and the last verse of the Qur'ān to be revealed. According to Ṭabarī, the word, "religion," (*dīn*) refers to the entire corpus of religious requirements:

> Today I have completed for you, O believers, my obligations (*farā'iḍī*) upon you and explicit punishments (*ḥudūdī*), my positive (*amrī*) and negative (*nahyī*) commandments, my permissible (*ḥalālī*) and prohibited (*ḥarāmī*) [actions], my revelation (*tanzīlī*) that I revealed to you in my Book, my exposition (*tibyānī*) that I explicated for you by revelation (*waḥy*) through the mouth of my messenger, and the indications that I demonstrated for you for your religious commands that you need, and I completed all that for you, with no additions after today.[76]

As Ṭabarī's summary of the first interpretation makes eminently clear, the purpose of this verse is to announce the completion of the entire corpus of Muslim religious practice and rules, rendering any further additions or subtractions impossible and even heretical.[77]

Although this first reading reflects the views of eminent early commentators, Ṭabarī questions whether the corpus of obligations and rulings was in fact completed on that day. He seems particularly bothered by the idea that the Prophet lived for three more months and issued no other rulings.[78] Instead, Ṭabarī cites a series of other traditions that propose a more limited scope for the verse.[79] Paying close attention to the context of the

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[76] Ṭabarī, *Jāmiʻ al-bayān*, 9:517-8.

[77] Ibn Kathīr brings a more diffused version of this first interpretation, that the verse declares that Muslims have a perfect religion and thus have no need for other religions, other prophets, or other laws except that which God has granted. Ibn Kathīr, *Tafsīr al-Qur'ān*, 3:26.

[78] As evidence that this verse was not the last one to be revealed, Ṭabarī mentions another verse that al-Barā' b. ʻĀzib asserts was the last one revealed in the Qur'ān, i.e., 4:126, discussing a separate obligation regarding those who leave no heirs (*kalālah*). Ṭabarī, *Jāmiʻ al-Bayān*, 9:520.

[79] Ṭabarī, Ibid., 519-20.

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verse's revelation, these other traditions suggest that the phrase, "today I perfected your religion for you," refers specifically to the pilgrimage rite. The words, "your religion," means "your pilgrimage" and marks the beginning of an exclusively Muslim pilgrimage rite to Mecca. God completed this rite by ruling that polytheists would no longer be allowed to participate or even to enter the sacred areas of the pilgrimage. The second interpretation also reads the verse as establishing a clear boundary, but here the line is between the nascent Muslim community and other religions.

The first interpretation thus provides strong evidence against the possibility of adding new religious practices whereas the second interpretation takes the verse in a different direction. None of the early proponents of the first interpretation, however, suggest that the term "religion" should be limited to devotional practices. Rather, these proponents view the verse as drawing a comprehensive line around the corpus of divine law. Ṭabarī's preferred interpretation provides subsequent scholars with an alternate, and much less restrictive, approach to the verse.

4.3 *Bid'ah* in the First Two Islamic Centuries

In the first few centuries of Islamic history, the slow evolution of the term *sunnah* into an exclusive and positive designation of the Prophet's behavior as a source for the community's norms had the obverse effect on the label, *bid'ah*. As the antonym of *sunnah*, *bid'ah* often functioned as the symbolic opposite of whatever the Prophet and his Companions embodied. Marilyn Waldman suggests that the *sunnah-bid'ah* opposition first became significant in Muslim critiques of the behavior of the Marwanid caliphs

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(64/685-132/750) "who were seen to have deviated from the ideal of Muhammad and his companions."[80] In the Muslim religio-political conflicts of the first few centuries, *bid'ah* represented an epithet hurled at various religious, political and dogmatic others.[81]

In certain Muslim circles, the religious commitment to follow the Prophet entailed, from early on, a rejection of all practices that had no precedent in his lifetime. Goldziher suggests that the earliest fulminations against *ḥadath* and *bid'ah* bear the stamp of Medina. Although, Goldziher notes, *ḥadath* originally reflected political deviations, the early community of Medina applied both *ḥadath* and *bid'ah* to devotional innovations as well.[82] Pietistic circles in Medina and elsewhere took the injunction against any deviations to its extreme and imitated the Prophet in every way, going beyond political and devotional matters to include clothing and even mannerisms. The fluidity of *bid'ah* thus reflected different interpretations of the Prophet's legacy, whether an abstract ideal or a roadmap for all types of behavior. As the *sunnah* gradually acquired the meaning of the Prophet's normative practice, *bid'ah* coalesced as a critique against specific practices as well as abstract ideals.

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[80] Waldman, "*Sunnah*," 14: 150.

[81] For a more detailed discussion, see the section, "Hadith Uses of *Bid'ah* to Condemn Specific Groups of People," below.

[82] Goldziher *Muslim Studies*, 2:26, n. 5. Goldziher compares *ḥadath* to the Hebrew word "*shonim* (i.e., those who [seek] change)," as in "Fear the Lord, my son, and the king, do not mix with *shonim* (Proverbs 24:21).

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4.4 Hadith Literature on *bid'ah*

We have already seen that a central aim of *ḥadīth* collectors and scholars was to link Muslim practice to the explicit sayings and actions of the Prophet Muhammad. A corollary of this project was to prevent the introduction of practices that did not fit these criteria, i.e., that did not have a clear link to the Prophet or for which a clear link could not be established. And so, one finds throughout the Hadith literature traditions in which the Prophet warns the community to hold fast to his *sunnah* and reject all *bida'*, the latter defined as all that was not regarded as part of his practice and the practice of his immediate Companions. In their mission to define normative practice around the paradigm of the Prophet, it makes sense that *ḥadīth* collectors would gather traditions that emphasized the dangers of any attempt to deviate from the Prophet's way.

The following section has two purposes: first, to survey the main ways in which the term, *bid'ah*, occurs in the Hadith literature, and, second, to scrutinize three particular *aḥādīth* that would ultimately become central in medieval debates about *bid'ah*. Our survey will consider traditions that establish *bid'ah* as the explicit opposite of *sunnah* in a general and abstract way; traditions that use *bid'ah* to reject specific practices and to stigmatize specific groups of people; and finally, traditions that preserve *bid'ah*'s neutral meaning through uncharacteristically positive uses of the term.

Our scrutiny of the three central *aḥādīth* will explicate their basic meanings and contexts, and identify ambiguous elements that later jurists would seize upon in making divergent interpretations. Two of these *aḥādīth* define *bid'ah* as the opposite of *sunnah*, while the

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third uses *bid'ah* in its neutral sense. The first two traditions set out an unqualified and seemingly extreme standard by rejecting all practices that were not established by the Prophet. The third *ḥadīth*, in sharp contrast, reports that 'Umar b. al-Khaṭṭāb, the second caliph, endorsed a new devotional practice, calling it an excellent innovation. All subsequent jurists who address the subject of *bid'ah* would deal with this contradiction by variously interpreting aspects of these three central traditions.

Condemnations of *bid'ah* as an Unqualified and General Principle

The First ḥadīth: From a Principle of Adjudication to a Religious Meta-principle

The first *ḥadīth* that most jurists would cite when they discussed *bid'ah* does not explicitly use the word but simply indicates that practices are licit only if they correspond to the norms set up by the Prophet. Following are the three variations of this first *ḥadīth* that are found in the canonical collections of Bukhārī, Muslim, Ibn Mājah and Abū Dawūd:[83]

[83] The first two variants appear in the collections of both Bukhārī and Muslim. Ibn Mājah cites the first variant and Abū Dawūd includes the first one and then cites the third version as related by Ibn Mas'ūd. The first two variants, the ones cited by most jurists, can be traced back to the Prophet through his wife 'Ā'ishah; the *ḥadith* and its transmission are considered to have the highest degree of reliability (*muttafaq 'alayhi*) (Haris, "Innovation and Tradition in Islam," 182). Bukhārī cites the first variant in the context of facilitated reconciliations (*Ṣaḥīḥ Bukhārī*, Book of Reconciliations (*Ṣulḥ*), Chapter 5, Hadith No. 2737, 1:514). Bukhārī incorporates the second variant into the chapter heading of the Book of Adhering to the Book and Sunnah (*al-I'tiṣām fī al-kitāb wal-sunnah*), Chapter 21, "When the governor (*'āmil*) or judge (*ḥākim*) renders an independent ruling and errs in conflict with the Messenger out of ignorance, his ruling is invalid based on the Prophet's statement, 'whoever does an action that does not fit with what we established, it is rejected'" (Ibid., 3:1483). Likewise, Bukhārī includes the statement in the chapter heading of the Book of Sales, Chapter 60, "*Najsh* (deceiving a purchaser through a third party offering a higher price) and whoever said that this sale is impermissible, Ibn Abī Awfā said the *nājish* is one who benefits from unlawful gain and who is deceitful, in the sense of invalid trickery that cannot be permitted based on the Prophet's statement, 'the *nājish* is in Hellfire and whoever does an action…'" (1:399). Muslim cites both variants consecutively (*Ṣaḥīḥ Muslim*, Book of Cases (*Aqḍiyah*), Chapter 8: Hadith Nos. 4589-4590, 2: 747). Ibn Mājah cites the first variant under the chapter heading, "the glorification of the tradition of God's messenger (*ta'ẓīm ḥadīth rasūl allah*)," (Sunan Ibn Mājah, Chapter 2: Hadith No. 14, 4), and Abū Dawūd cites the first variant on the authority of 'Ā'ishah and then adds the third variant as an alternate tradition based on the authority of Ibn 'Īsā. Sunan Abī Dawūd, Book of the *Sunnah*, Chapter 6: Hadith No. 4608, 2:774.

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Variant 1: Whoever creates something new within what we established, he is rejected (*man aḥdatha fī amrinā fa-huwa radd*).

Variant 2: Whoever does an action that does not fit with what we have established, he is rejected (*man 'amila amalan laysa 'alayhi amrunā fa-huwa radd*).

Variant 3: Whoever brings about a matter not according to what we have established, he is rejected (*man ṣana'a amran 'alā ghayr amrinā fa-huwa radd*)[84]

In the collections of Muslim and Bukhārī, the contexts in which these traditions appear suggest that the Prophet's statement was already being understood by some as a general principle and being applied by the early post-Prophetic community in particular cases. When these collections give a particular context, the Prophet's statement is always applied to civil, rather than devotional, cases. For example, Muslim reports the use of this *ḥadith* in his section on invalid rulings by judges. Muslim's first instance cites the Prophet's statement as a general principle. Muslim next cites the use of the Prophet's statement in the following particular case:

> Sa'd b. Ibrāhīm said, "I asked al-Qāsim b. Muḥammad about a man who had three dwellings (*masākin*) and bequeathed a third of each dwelling, [al-Qāsim] said, all of the [bequeathed] can be gathered into one dwelling, then 'Ā'ishah informed me that the Messenger of God (pbuh) said, 'whoever does an action that does not fit with what we have established, he is rejected.'[85]

[84] The variation among these three versions underscores the traditional notion that Hadith literature reflects the meaning of the Prophet even as it might not reflect the Prophet's literal words. Moreover, the Hadith collections seem to use the three statements interchangeably. That being said, there is a potentially significant difference of scope among the three verbs used here. Of the two main variants, the first uses the verb "*aḥdatha*," to create or originate, a synonym of our verb, *ibtada'a*, to innovate, whereas the second uses a much more general verb, "*amila*," i.e., to do. The third variant, cited as an alternative to the first, also uses a general verb, "*ṣana'a*," that is, to bring forth. The variants suggest slightly different actions that are prohibited. In the first case, the emphasis is placed on one who creates or originates a new practice whereas in the second and third variants, the *ḥadīth* expands the warning to anyone who does anything that is not – simply put - of us. And yet, subsequent scholars of law do not discuss the potentially substantive difference here, but treat the variants as synonymous.

[85] *Ṣaḥīḥ Muslim*, Book of Cases (*aqḍiyah*), Chapter 8: Hadith No. 4590, 2: 747.

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'Ā'ishah thus overturned Qāsim's ruling in this particular case by invoking the Prophet's general statement, which implied that the Prophet had previously ruled against bequeathing parts of dwellings. Bukhārī similarly cites the first variant of the *ḥadīth* in his book of facilitated reconciliations (*ṣulḥ*), as a general principle supporting the invalidity of unjust civil settlements. He then incorporates the second variant of the *ḥadīth* in his chapter headings related to rulings that inadvertently contradict the Prophet's ruling regarding invalid sales. Based on these contexts, this first *ḥadīth* posits simply that the community should not overturn rulings previously made by the Prophet.

The later *Sunan* collections of Ibn Mājah and Abū Dawūd, however, generalized this *ḥadīth* beyond any particular context to become a fundamental Islamic principle. Ibn Mājah includes the statement in his introduction under the heading, "the glorification (*ta'ẓīm*) of the *ḥadīth* of God's messenger." Abū Dawūd, as well, cites the *ḥadīth* under the heading, "the binding effects of the *sunnah* (*luzūm al-sunnah*)." Subsequent scholars emphasize the importance of this *ḥadīth* as a general Islamic principle by referring to it as "a great principle of Islam (*qā'idah 'aẓīmah min qawā'id al-islām*)" and "a third of Islam."[86] From the *Sunan* collections and on, the *ḥadīth* is often cast as a general – and unqualified – Prophetic principle that affects all Muslim practice.

In medieval debates about *bid'ah*, the ambiguous nature of this Prophetic principle would impel scholars of Hadith and law to suggest ways to clarify this first *ḥadīth*'s scope.

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[86] The first statement is by Nawawī in his commentary on Muslim (Abū Zakaryā al-Nawawī, *Sharḥ Ṣaḥīḥ Muslim lil-Imām al-Nawawī*, ed., Khalīl al-Mīs (Beirut: Dār al-Qalam, 1987), 12:257), and the second by Shāṭibī, *al-I'tiṣām*, 1: 47.

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While some jurists would use the *ḥadīth* as a general rule against any deviations, others insist that the *ḥadīth* referred only to new devotional practices. When the *ḥadīth* traditions do relate how the Prophet's principle was applied to particular cases, however, the cases fall within the purview of civil matters (i.e., inheritance law) and matters of the court, and not devotional matters. Jurists were facilitated in their reinterpretations of the *ḥadīth's* scope by the process of generalization that had already occurred by the later Hadith collections.

Second ḥadīth: The Most Exhaustive Rejection of Innovation

The second *ḥadith* is by far the most important and most often cited source in juristic debates on *bid'ah*. Unlike the first *ḥadīth* examined, this tradition relays a direct and explicit warning against the general category of all innovations (*bida'*).Variants of this *ḥadīth* can be found in seven out of the nine major Hadith collections (excepting Bukhārī and Mālik). Among the seven collections in which the *ḥadīth* is found, several collectors cite more than one chain of transmission and often provide more than one version of the text. In his dissertation on *bid'ah* in Indonesia, Ahmad Haris examines all of the variants

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of this central *ḥadīth*.[87] After investigating both the chains of transmission (*isnād*) and textual variants, he concludes that the most reliable versions are brought by Muslim.[88]

Though it is certainly helpful to identify the most reliable version, it is requisite, for our purposes, to examine the versions that medieval jurists would later choose to cite. In general, most jurists would begin with one of Muslim's versions and then mention other variations on this general theme, such as that of Nasā'ī, who adds the dramatic final phrase, "and every error [ends up] in Hellfire."[89] However, scholars of Hadith and law seem relatively unconcerned with locating the most reliable version, preferring, instead to cite all the versions that they regard as reliable. Thus, Nawawī cites versions from Tirmidhī and Abū Dawūd – and not that of Muslim - when he included this *ḥadīth* in his famous collection of forty.[90]

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[87] Haris devotes most of a chapter to examining the chains of transmission and textual variants of what he calls the "*bid'ah ḥadīth*." He investigates the multiple and varying chains of transmissions that include 43 transmitters through three companions of the Prophet, Jābir b. 'Abdallāh, 'Abdallāh b. Mas'ūd and al-'Irbāḍ b. Sāriyah, and reconstructs the transmission chains (see Haris, "Innovation and Tradition," 139 for a full diagram). He then investigates the content of the more reliable *ḥadīth* chains and compares their key components (see Haris, Table 1 on p. 149). By omitting phrases that only appear in one or two versions (such as "every error leads to Hellfire" in Nasā'ī's version) and phrases that add no content but serve to explain terminology (such as "every new thing is an innovation" in Nasā'ī, Abī Dawūd, Ibn Ḥanbal (through 'Irbāḍ) and one version of Ibn Mājah), he identifies the most likely original version as the one cited by Muslim. Ibid., 113-187.

[88] Ibid., 153. Haris here uses the traditional method of *isnād* criticism to identify the *ḥadīth* as sound (*ṣaḥīḥ*), though he notes that it lacks the status of having multiple concurrent Companion narrators (*mutawātir*).

[89] Haris questions the reliability of Nasā'ī's added verse, "and every error [ends up] in Hellfire," because it is missing from any of the other equally reliable transmissions, such as that of Muslim or Ibn Ḥanbal. Ibid., 151-2.

[90] Imam an-Nawawi, *The Complete Forty Hadith*, transl. Abdasammad Clarke (London: Ta-Ha Publishers Ltd., 1998), 108, no. 28. Oddly, the version cited in Nawawi includes the extra line that is only brought by Nasā'ī, but in the collections it is brought in Abū Dawūd and Tirmidhī's names.

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We can identify three main variations on this *ḥadīth* based on different Companion narrators, with each collection citing multiple minor variations within main ones. The three main versions as conveyed by Muslim, with the variation brought by Nawawī, by Abū Dawūd and by Ibn Mājah, follow with the relevant passage in bold.

Variant 1A (from *Ṣaḥīḥ Muslim*):

> Jābir b. 'Abdallāh related: When the Prophet, peace and blessings of God upon him, was giving a sermon, his eyes turned red and his voice rose and his temper intensified until it was as if he were commanding an army, saying: "Your [enemy has made] morning and evening [attacks]," and he said, "I was sent when the [final] hour is like these two," and he linked his forefinger and middle finger. Then he said, "now then, indeed the best speech is the book of God and the best guidance is the guidance of Muhammad, **the worst of matters are their novelties (*muḥdathātihā*) and every innovation (*bid'ah*) is an error (*ḍalālah*).**" Then he said, "I am preferable to every believer; whoever leaves property, then it belongs to his family, and whoever leaves debt or a loss, it is to me and upon me."[91]

Variant 1B (from *Sunan al-Nasā'ī*):

> Jābir b. 'Abdallāh said: "The Messenger of God, peace and blessings of God upon him, was giving a sermon thanking God and praising Him as He deserves, then he said, "Whoever God guides cannot be led astray and whoever God leads astray cannot be [rightly] guided, indeed the most truthful speech is the book of God and the best guidance is the guidance of Muhammad, **the worst of matters are their novelties, and every novelty is an innovation and every innovation is an error and every error [leads to] Hellfire.**" Then he said, "I was sent when the [final] hour is like these two," (omitted - and he linked his forefinger and middle finger), and when he mentioned the [final] hour, his cheeks reddened and his voice rose and his temper intensified as if he was commanding an army, saying "Your [enemy has made] morning and evening [attacks]." Then he said, "whoever leaves property, then it belongs to his family, and whoever

[91] *Ṣaḥīḥ Muslim*, Book of Friday Congregational Prayer (*Jum'ah*), Chapter 14: Hadith No. 2042, 1:339. Muslim also brings two other versions that relate different chains of transmission until Jābir b. 'Abdallāh and different frames but preserve the same core text about *bid'ah*. Specifically, the third version (which Haris also regards as of the most reliable) begins, "Jābir b. 'Abdallāh said, "The Prophet, peace and blessings be upon him, was giving a speech to the people thanking God and praising Him as He deserves and he said, 'Whoever God guides cannot be lead astray and whoever God leads astray cannot be [properly] guided, and the best speech is the book of God...' and the *ḥadīth* continues as above." Ibid., Hadith No. 2044.

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leaves debt or a loss, it is to me and upon me. I am preferable to every believer."[92]

Variant 2 (from *Sunan Abū Dawūd*):

'Irbāḍ b. Sāriyah said, "The Prophet, peace and blessings of God upon him, prayed with us that day then approached us and admonished us with a profound admonition (*maw'iẓah balīghah*), because of which tears flowed from our eyes and our hearts became frightened, and someone said, "O Prophet of God, it is as if this is your farewell sermon, so what do you enjoin/charge for us [to do]?" and he said, "I direct you to fear, heed and obey God even if an Abyssinian slave [is given command over you], for whoever among you who shall live after me will see much disagreement (*ikhtilāf*),[93] So you must keep my way and the way of the righteous successors (*'alaykum bisunnatī wa-sunnat al-khulafā' al-rāshidūn*) and hold fast to them (lit., clench them by your molars), and **beware novel matters (*muḥdathāt al-'umūr*), for indeed every novelty is an innovation (*kull muhdathah bid'ah*) and every innovation is an error (*kull bid'ah ḍalālah*)**)."[94]

Variant 3 (from *Sunan Ibn Mājah*):

'Abdallāh b. Mas'ūd related: "The Prophet, peace and blessings of God upon him, said, 'They are but two – the word and the guidance – and the best (*aḥsan*) word is the word of God, and the best guidance is the guidance of Muhammad, beware novel matters (*muḥdathāt al-'umūr*), for indeed **the worst matters are their novelties (*muḥdathātihā*), and every novelty is an innovation and every innovation is an error (*kull bid'ah ḍalālah*)**..."[95]

Both the context in which this *ḥadīth* is found, and the language that conveys it, underscore its importance. The *ḥadīth* is consistently set as a part of a Prophetic sermon

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[92] *Sunan al-Nasā'ī*, Book of Prayers of the Two Festivals (*ṣalāt al-'īdayn*), Chapter 22: Hadith No. 1589, 1: 265.

[93] Wensinck cites Tirmidhī's version of this *ḥadīth* in his explication of the term, *ikhtilāf*, found in *Fiqh al-akbar* I. He posits that *ikhtilāf* in the canonical Hadith literature "is used in connection with theological discussions which are regarded as the beginnings of rationalism, and which Muhammad is represented as abhorring." A. J. Wensinck, The *Muslim Creed: Its Genesis and Historical Development* (New Delhi: Oriental Books Reprint Corporation, 1979), 112.

[94] *Sunan Abī Dāwūd*, Book of *Sunnah*, Chapter 6: Hadith No. 4609, 2: 774.

[95] *Sunan Ibn Mājah*, Introduction, Chapter 7: Hadith No. 48, 9. Ṣan'ānī also cites a similar tradition from Ibn Mas'ūd, although with different subsequent transmitters. Also, Ṣan'ānī's version includes the same passage cited above (although, like Ibn Ḥanbal, cites "the most trustworthy (*aṣdaq*) word is the word of God,") but incorporates a different beginning than the one cited by Ibn Mājah. Ṣan'ānī, *al-Musannaf*, 11:159, Hadith No. 20198.

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and, in a number of versions, as one of the Prophet's Farewell Addresses.[96] Its significance as the Prophet's will for the people is further emphasized by reports that the Prophet's Companions would recite this *ḥadīth* regularly in their own sermons.[97] Along with its context, the descriptive details included in the *ḥadīth* add to the import of this message. The Prophet's demeanor as he conveys his message is described vividly – his eyes turn red and his voice and temper rise – and the emotional reaction of the people – of their crying and trembling – heightens the readers' sense that this is a dramatic moment and a critical teaching. Moreover, the Prophet is reported to have framed this message as his testament for the future community and, in many versions, specifically as a way to deal with the future controversies that await the nascent post-Prophetic community.

Just as the context highlights the *ḥadīth*'s importance, the *ḥadīth*'s core text emphasizes the all-encompassing scope of the Prophet's warning against innovations. If we rely on Nasā'ī's version as the most exhaustive one, we find four declarative phrases:

1 – "the worst of matters are their novel ones"

The first phrase establishes a clearly negative value to the term, *muḥdath*. The term *muḥdath* appears twice in the Qur'ān, as an adjective denoting "new" in the context that every new reminder sent by God is rejected by the unbelievers.[98] *Muḥdath* is the passive

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[96] Goldziher suggests that the framework of the Prophet's Farewell Address represents a later presentation of the core text. Goldziher, *Muslim Studies*, 2: 35.

[97] Subsequent scholars relate that the Prophet's Companions would recite this *ḥadīth* frequently. Shāṭibī writes that 'Umar used to preach this *ḥadīth* and Ibn Mas'ūd preached it every Thursday. Shaṭibī, *al-I'tiṣām*, 1:48.

[98] Qur'ān 21:2 and 26:5.

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participle of the verb, *aḥdatha*, the object of which the Prophet is reported to have rejected in the first *ḥadīth* analyzed above.[99] The repeated use of the root *ḥ-d-th* in these two central traditions, led Goldziher to suggest that *muḥdath* represented the more common synonym of *bid'ah* in early Muslim statements against innovations.[100]

2 – "every novelty is an innovation"

The second phrase establishes a synonymous relationship between *muḥdath* and *bid'ah*.[101] Each of the *Sunan* versions cites this phrase, whereas Muslim's version assumes this implicitly by citing phrase one and then immediately phrase three.[102] The lack of distinction between *muḥdath* and *bid'ah* is significant to note, because a few medieval jurists, including one tradition from Shāfi'ī, distinguish between these two terms and interpret *bid'ah* as a negative term and *muḥdath*/*ḥadath* as a value-neutral term.[103]

[99] Bukhārī cites the phrase from Qur'ān 21:2 with the comment that God's novelty does not resemble the novelties of human beings, and adds 'Abdallāh b. Mas'ūd's interpretation that God invents (*yuḥdithu*) what He wills. *Ṣaḥīḥ Bukhārī*, Book of Unity (*tawḥīd*), Chapter 42, 3: 1523.

[100] Goldziher, *Muslim Studies*, 2: 28.

[101] Since the second phrase does not add new information but provides an interpretation of the term "*muḥdath*," Haris suggests that it was inserted by the narrator as an interpretation. As further evidence, he notes that Muslim's version, which he regards to be the most reliable, lacks this phrase (Haris, "Innovation and Tradition in Islam," 50). While this theory is plausible, I think it relevant to include the passage to establish the synonymous relationship between *muḥdath* and *bid'ah* at the Hadith level.

[102] The phrase is missing from one of Ibn Ḥanbal's transmissions, that of al-Tirmidhī and two cited by Ibn Mājah. See Haris' table, "Innovation and Tradition in Islam," 149.

[103] For another example of a *ḥadīth* that uses the term, *muḥdath*, in the negative sense later associated with *bid'ah*, Tirmidhī cites a *ḥadīth* related by 'Abd Allah b. Mughaffal, who recited the *basmalah* [out loud] at prayer and his father censured him by saying, "O my son, [this is] a novelty (*muḥdath*) and beware of the novel (*iyyāka wal-ḥadath*)" (*Sunan al-Tirmidhī*, Book of Prayer (*ṣalāh*), Chapter 68: Hadith No. 245, 1:74). Likewise, Tirmidhī and Ibn Mājah both cite a similar tradition by Abū Mālik al-Ashja'ī that his father told him that *qunūt* is *muḥdath*. *Sunan al-Tirmidhi*, Book of Prayer (*ṣalāh*), Chapter 179: Hadith No. 404, 1:118. *Sunan Ibn Mājah*, Book of Conducting Prayer and the *Sunnah* Relating to It (*Iqāmat al-ṣalāt wal-sunnah fīhā*), Chapter 145: Hadith No. 1299, 179.

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3 – "every innovation (*bid'ah*) is an error (*ḍalālah*)"

The third phrase is considered by jurists to be the core part of this *ḥadīth* and is usually cited independently. This phrase further emphasizes the negative value of *bid'ah* by linking *bid'ah* to the central concept of *ḍalālah*. The term, *ḍalālah*, generally connotes a broad range of meanings related to going astray, whether in the mundane sense of losing one's way in the desert or the moral and religious sense of straying off the right path.[104] In this *ḥadīth*, the term evokes the central Qur'ān opposition between *hudā*, right guidance (i.e., guidance by God) and *ḍalālah*, going astray.[105] As Toshihiko Izutsu points out, the principle and immediate cause of *ḍalāl* in the Qur'ān is *hawā*, i.e., following one's own desire: "He who follows his *hawā* in matters that concern religious faith is sure to stray from the right path. And those who follow the person who pursues his *hawā* will inevitably be misled far from God's way."[106]

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[104] Ibn Manẓūr, *Lisān al-'Arab*, 8:79.

[105] For example, see Qur'ān 2:170, 18:16, and 6:117, for the opposition between the verbs. The opposition between *hudā'* and *ḍalālah* is found in the Hadith literature as well. Interestingly, both Bukhārī and Muslim cite chapter headings drawing an analogy between *hudā* and *ḍalālah* on the one hand, and *sunnah ḥasanah* and *sunnah sayyi'ah* on the other hand. *Ṣaḥīḥ Bukhārī*, Book of Adhering to the Qur'ān and Sunnah (*al-I'tiṣām bil-Qur'ān wal-Sunnah*), Chapter 14, "the punishment of one who summons to *ḍalālah* or institutes a bad *sunnah*, based on the Qur'ānic verse, 'and of the sins (*awzār*) of those who lead them astray (*yuḍillūnahum*) without knowledge,'" 3:1478; and, *Ṣaḥīḥ Muslim*, Book of Knowledge (*al-'Ilm*), Chapter 6, "Whoever institutes a good or bad *sunnah* or summons [others] to *hudā* or *ḍalālah*," 2: 1131. Muslim then cites a *ḥadīth* contrasting a good *sunnah* and a bad *sunnah* followed by a parallel *ḥadīth* replacing the terms, *sunnah ḥasanah*, with *hudā* and *sunnah sayyi'ah* with *ḍalālah*. Ibid., Hadith Nos. 6975-6980, 2: 1131-2.

[106] Toshihiko Izutsu, *Ethico-Religious Concepts in the Qur'ān* (Montreal: McGill-Queen's University Press, 2002), 139. Izutsu brings as examples Qur'ān 6:56 and 28:50, the latter stating: "Who is further astray (*aḍall*) than he who follows his own desire (*hawā*) without guidance from God? Verily God guides not evil (*ẓālim*) people."

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Although the negative meaning of *ḍalālah* is clear, jurists would endlessly debate how to interpret the other two terms of this phrase, i.e., every (*kull*) and innovation (*bid'ah*). First, should "*kull*" be understood in its general (*'āmm*) sense or is it subject to specification? Second, should "*bid'ah*" be understood in its general sense, representing all new practices, or is *it* subject to specification, representing certain kinds of new practices that are problematic? The simple interpretation of this phrase is that all novelties or innovations lead one astray. Since it is unlikely that the Prophet intended to prohibit all new behavior, both subsequent Hadith and legal interpreters of this phrase would assume that if one term is general than the other is specific. That is, if one interprets "*kull*" generally, one must define "*bid'ah*" specifically, and vice versa.

4 – "every error [leads to] Hellfire"

The fourth phrase, which might be Nasā'ī's recording of an embellishment, establishes the explicit punishment of *bid'ah*. Given the Qur'ān meaning of *ḍalālah*, this phrase is redundant, but does provide a dramatically explicit fate for those who innovate. The dramatic ending is, in my view, the reason why later scholars almost always cite Nasā'ī's version (at least as an alternate to that of Muslim). What is not clear is whether the phrase is to be taken as a moral admonishment, that innovating will lead one to participate in other sins (as in the colloquial phrase, "this behavior will inevitably lead to no good"), or whether the act of innovating is itself worthy of Hellfire. In the latter case, a further ambiguity is whether this dire fate is limited to the one who creates the innovation or includes those who participate in that innovation. As in each of these phrases, the simplest meaning is the most inclusive and general.

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Taking these phrases together, the *ḥadīth* posits a general condemnation of all new or innovated practices that are not found in either the Qur'ān and Muhammad's practice according to one version, or in the practice of Muhammad and his immediate successors according to another version. The *ḥadīth* makes no further qualifications on what kinds of practices fall under the category of *bid'ah* or *muḥdath*. If taken literally, this *ḥadīth* demands that Muslims institute no practice – in any sphere - that the Prophet did not undertake. However, as discussed earlier, the literalist interpretation presents an impossible demand, one that few if any of Muhammad's successors understood in its absolute literal sense.[107] Therefore, the *ḥadīth* necessitates some kind of interpretation and qualification that does not explicitly come out of its content or context.

Other Statements Condemning bid'ah as an Unqualified and General Principle

Besides the two traditions examined above, the Hadith literature includes numerous variations on the theme of condemning *bid'ah* as the opposite of *sunnah*.[108] Often, these *aḥādīth* establish a one-to-one correlation between *sunnah* and *bid'ah*, suggesting, for example, that introducing one innovation is equivalent to destroying one *sunnah* of the

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[107] As we will see in Chapter Two, Shāṭibī refers to the literalist interpretation as the paradigm embodied by Muhammad's Companion, Muḥammad b. Aslam. But, Shāṭibī asserts, the majority of the *salaf* rejected this literalist interpretation.

[108] E.g., *Musnad al-Imām Aḥmad b. al-Ḥanbal*, Musnad 'Abd Allāh b. 'Amr, Hadith No. 6477, ed., 'Abd Allāh b. 'Abd al-Muḥsin al-Turkī (Beirut: Mu'assasat al-Risālah, 1999), 11:9, in which the Prophet is reported to juxtapose *sunnah* and being rightly guided (*ihtadā*) with *bid'ah* and being lost (*halaka*). However, there are a few seemingly truncated versions of the *ḥadīth* that warn against *bid'ah* without the positive call to protect the Prophet's *sunnah*. We also find a recurring juxtaposition of following (*ittibā'*) the *sunnah* with innovating (*ibtidā'*) a *bid'ah*, e.g., the aphorism attributed to 'Abd Allah b. Mas'ud, "follow (*ittabi'ū*) and do not innovate (*walā tabtadi'ū*) because [the *sunnah*] is sufficient for you" (Abd Allah b. 'Abd al-Raḥmān al-Dārimī, *Musnad al-Dārimī*, Introduction, Chapter 23: Hadith No. 211(Riyadh: Dār al-Mughnī, 2000), 1: 288), and a similar testament by Ibn 'Abbās, (Ibid. , Hadith no. 141, 1: 250). Several subsequent authors on *bid'ah* use the play on words in their book titles, such as Suyūṭī's *al-Amr bil-ittibā' wal-nahy 'an al-ibtidā'*.

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Prophet, and vice versa. This type of *ḥadīth* underscores the explicit opposition between *sunnah* and *bid'ah* such that there is room only for *sunnah* or for *bid'ah* but not both. Similarly, we see variations of the *ḥadīth* mentioned earlier juxtaposing the institution of a good *sunnah* with that of a bad *sunnah*, except here the *ḥadīth* juxtaposes a forgotten *sunnah* with a *bid'ah*, i.e., whoever revivifies a lost *sunnah* of the Prophet also receives the reward of those who follow it and whoever introduces a *bid'ah* receives the punishment of those who follow it as well.[109] These traditions generally remain on the abstract and unqualified level. However, certain *aḥādīth* link general warnings to cases of contentious practices, such as Udayf b. Ḥārith's rejection of two otherwise positive devotional innovations because of the Prophet's general statement, "whenever a group creates an innovation, God removes a *sunnah* like it from them (*mā aḥdatha qawm bid'ah qad naza'a Allāh 'anhum min al-sunnah mithlahā*)."[110] This example reflects the consequences of the explicit opposition between *sunnah* and *bid'ah* – a righteous person refused to endorse a pious innovation because he did not want to lose a parallel *sunnah*. As we will see in the next chapter, certain medieval jurists rely on this explicit opposition to argue against the possibility of even virtuous innovations.

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[109] These *aḥādīth* from *Sunan Ibn Mājah* and *Sunan al-Tirmidhī* were mentioned earlier in note 55.

[110] In the *ḥadīth*, the two practices mentioned are raising one's hands to the pulpit during Friday prayer and having Qur'ān reciters (*qaṣaṣ*) after morning and afternoon prayers (*Musnad al-Imām Aḥmad, Musnad al-Shāmiyyīn*, Ḥadīth *'Uḍayf b. Ḥārith*, Hadith No. 16970, 28: 172). For another example, see *Sunan Ibn Mājah*, Book of Jihad, Chapter 40: Hadith No. 2975, 419, which refers to the practice of delaying prayers instead of reciting them at the onset of the prayer's time, as extinguishing (*yuṭfi'ūna*) a *sunnah*. Goldziher discusses a variant of this second example, and explains that the phrase "killing prayer" does not mean abolishing it but merely delaying the time of its recital. *Muslim Studies*, 2:33.

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Hadith Uses of *bid'ah* to Condemn Specific Innovations

The traditions thus far explored have dealt with *bid'ah*, explicitly or implicitly, as a general and abstract concept. The Hadith literature also contains numerous occasions in which specific practices are labeled *bid'ah*. In the majority of cases, it is not the Prophet who labels an act *bid'ah* but rather one of his Companions or Successors.[111] This suggests that followers used the label of *bid'ah* to sift through existing community practices and identify the Prophet's own practice. These traditions report cases when a religious or political leader, such as 'Abdallāh b. 'Umar, Mālik or 'Umar b. 'Abd al-'Azīz, observed a person or group of persons behaving in a certain way and declared the practice to be a *bid'ah*. For example, Ibn 'Umar is reported to have observed a man adding exhortations (*tathwīb*) after uttering the call for the dawn prayer in the mosque, and Ibn 'Umar responded by saying, "let's get away from this innovator (*mubtadi'*)."[112] *Bid'ah*, in this and similar cases, means an act that cannot be traced to the Prophet's practice and is thus reprehensible or prohibited. These reports use the term, *bid'ah*, to

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[111] The one exception I found is a *ḥadīth* that links the tradition of the Prophet observing people fasting or praying continuously and rejecting their excessive pietism and asceticism, with the tradition of the Prophet juxtaposing *sunnah* and guidance with *bid'ah* and perdition. *Musnad al-Imām Aḥmad, Bāqī musnad al-anṣār, ḥadīth rajul min al-anṣār*, Hadith No. 23474, 38: 457, cited below as well.

[112] *Sunan al-Tirmidhī*, Book of Prayer (*ṣalāh*), Chapter 31-33: Hadith No. 198, 1: 60-1. Tirmidhī concludes the tradition with an explanation of Ibn 'Umar's reaction, "because he detested (*kariha*) the practice that was created (*aḥdatha*) later." Abū Dawūd relates a shorter and slightly different version, with the incident occurring before the midday or afternoon prayer and Ibn 'Umar responding with, "let's get out of here because that is an innovation" (*Sunan Abī Dawūd*, Book of Prayer (*ṣalāh*), Chapter 45: Hadith No. 538, 1: 95). As Fierro explains, the term "*tathwīb*" refers to three kinds of innovated formulae following the call to prayer: (a) the pronunciation of the formula, "prayer is better than sleep," in the call to the morning prayer, which is attributed to 'Umar b. al-Khaṭṭāb and which eventually gained acceptance among Sunnīs; (b) the *iqāmah*, or repetition of the call, which was accepted by Mālik and gained widespread acceptance among Muslims; and (c) the introduction, between the *adhān* and *iqāmah* of a number of exhortations, such as "Come to prayer (*ḥayya 'alā al-ṣalāt*)", to urge the people to perform the prayer. This third type of *tathwīb* was considered a reprehensible innovation by Mālik and his followers, but became commonly practiced in North Africa and Andalusia (Fierro, "The treatises against innovations," 229). It is not clear whether Ibn 'Umar refers to the first or third type of *tathwīb*. Although the *ḥadīth*'s context of the dawn prayer suggests the first type, the fact that other versions place Ibn 'Umar's comment at another time during the day suggests that the time of day was not important.

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refer both to practices that all acknowledge to be post-Prophetic innovations as well as practices that are disputed, as in the case of *tathwīb*. This is noteworthy as it runs counter to claims by medieval (and modern) jurists that *bid'ah* refers only to uniformly rejected practices.

Other examples of condemned or contested practices called *bid'ah* include: Reciting a special supplication before bowing during ritual prayer (*qunūt*);[113] raising one's hands above one's chest during the appropriate standing places in ritual prayer;[114] raising one's hands on or towards the pulpit during Friday prayer;[115] telling improvised stories (*qaṣaṣ*) after morning and afternoon prayers;[116] fasting for six days after the end of Ramadan;[117] excessive fasting or praying;[118] marking an animal to be sacrificed by cutting (*ish'ār*) during the pilgrimage;[119] playing musical instruments (*ma'āzif wa-mizmār*);[120] and cutting down a lotus (*sidr*) tree.[121] The majority of particular innovations discussed in the

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[113] *Sunan al-Nasā'ī*, Book of Placing One's Hands Together Between One's Knees (*taṭbīq*), Chapter 33: Hadith No. 1088, 1: 175. See, also, A.J. Wensinck, s.v. "*Ḳunūt*," *EI*[2], 5:395a.

[114] *Musnad al-Imām Aḥmad*, *Musnad al-mukthirīn min al-ṣaḥābah*, *Musnad 'Abdallāh b. 'Umar*, Hadith No. 5264, 9: 202.

[115] *Musnad al-Imām Aḥmad*, *Musnad al-Shāmiyyīn*, Ḥadīth *'Uḍayf b. Ḥārith*, Hadith No. 16970, 28: 172.

[116] Ibid. The storyteller, who often related narratives of prophets based on a combination of material from Muslim and other sources, was a popular if controversial figure. See Chibli Pellat, s.v., "*Ḳāṣṣ*,"*EI*[2], 4: 733-5.

[117] Malik b. Anas, *Muwaṭṭā' Mālik*, Book of Fasting (*ṣiyām*), Chapter 22: Hadith No. 692 (Vaduz: Lichtenstein: Jam'iyyat al-Maknaz al-Islāmī, 2000), 109.

[118] *Musnad al-Imām Aḥmad*, *Bāqī musnad al-anṣār*, *ḥadīth rajul min al-anṣār*, Hadith No. 23474, 38: 457.

[119] *Sunan al-Tirmidhī*, Book of Pilgrimage (*ḥājj*), Chapter 68: Hadith No. 916, 1: 247-8.

[120] *Sunan al-Nasā'ī*, Book of Dividing the Booty (*qism al-fa'y*), Chapter 1: Hadith No. 4152, 2: 681.

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Hadith literature all fall into the category of devotional practices. This is unlike the *aḥādīth* that used *bid'ah* as a general or abstract concept explored above, which either do not specify a context or refer to civil, rather than devotional, cases. The preponderance of traditions applying *bid'ah* to particular devotional cases suggests that the early followers of the Prophet were particularly concerned with preserving the Prophet's devotional norms. This does not mean that followers defined *bid'ah* exclusively within the devotional realm. However, it does lend weight to the position of later jurists who claim that early followers interpreted the Prophet's injunctions against bid'ah primarily as a warning against devotional innovations.

Hadith Uses of *bid'ah* to Condemn Specific Groups of People

In addition to traditions against particular innovations, we find condemnations of groups associated with *bid'ah*. Traditions use three different terms in referring to innovators. They are: *ahl al-bid'ah*, *ṣāḥib* (or, pl., *aṣḥāb*) *al-bid'ah*, and *mubtadi'*. In distinguishing among these terms, I generally concur with G.H.A. Juynboll's assertion that the *ṣāḥib al-bid'ah and ahl al-bida'* were both used to represent distinct groups of people who were identified by "novel" doctrinal and socio-political views. The third term, *mubtadi'*, referred to an individual who performed contentious acts.[122] We see the term, *mubtadi'*,

[121] *Sunan Abī Dawūd*, Book of *al-Adab*, chapter 172: Hadith No. 5243, 2: 874. Of the innovations cited, traditionists debated the status of *ish'ār* and *qunūt* – with some supporting and others opposing the practice – while they generally agreed on the problematic status of the other practices.

[122] For early attestations of the term *mubtadi'*, Juynboll cites Ibn Hishām's *Sirah* and Ibn Sa'd (G. H. A. Juynboll, "Muslim's introduction to his *Ṣaḥīḥ*—translated and annotated with an excursus on the chronology of *fitna* and *bid'a*," in *Jerusalem Studies of Arabic and Islam* 5 (1984): n. 117). I say "generally," because *Sunan al-Tirmidhī* seems to use the three terms interchangeably as opposites of *ahl al-sunnah* in his Book on Causes (*'ilal*), in the heading of Chapter 1, where he mentions the *ṣāḥib al-bid'ah* as a problematic transmitter; in Hadith No. 4339, where he juxtaposes *ahl al-sunnah* and *al-mubtadi'*; and Hadith No. 4340, where he juxtaposes *ahl al-sunnah* and *ahl al-bida'*, 2: 997. Likewise, *Musnad al-Dārimī* seems to use the terms in a similar fashion ('Abd Allāh b. 'Abd al-Raḥmān al-Dārimī, *Musnad al-Dārimī*,

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used to refer to an individual performing specific innovative practices such as the tradition cited above, when Ibn ʻUmar walked out of a mosque; he had heard the *muadhdhin* utter additional exhortations between the first and second calls to prayer, and he called him an innovator.

While Ibn ʻUmar was clearly unhappy with the practice of the innovator (*mubtadiʻ*), other responses to the *ahl al-bidʻah* and *ṣāḥib al-bidʻah* in the Hadith literature were much harsher. Ibn Mājah relates two traditions from the Prophet that say that God refuses to accept the devotional acts or good works of the *ṣāḥib al-bidʻah*, at least until s/he abandons his/her innovation.[123] In later collections of Hadith, we find general warnings against sitting with *ahl al-bidaʻ*, implying that these people should be ostracized from the community.[124] In the canonical collections, the main reference to *ahl al-bidʻah* relates to their dubious reliability in transmitting traditions from the Prophet. A number of related traditions record that *ḥadīth* collectors instituted the practice of citing their chain of transmitters (*isnād*) in order to weed out the traditions of the *ahl al-bidʻah*. Muslim's version reads:

> They were not used to asking about the chain of transmission (*isnād*), but when the civil war (*fitnah*) occurred they said: 'Name for us your informants,' and if they were members of the normative community (*ahl*

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ed., Ḥusayn Salīm Asad al-Dārānī (Riyadh: Dār al-Mughnī lil-Nashr wal-Tawzīʻ, 2000), 1:387-393. However, these seem to be the exceptions to the general tendency of traditionists mentioned in the text.

[123] *Sunan Ibn Mājah*, Introduction, Chapter 7: Hadith Nos. 51-52, 10. The second one adds the qualification "until he abandons his innovation."

[124] al-Dārimī devotes a section of his introduction to the Chapter, "Avoiding people of vain desires (*ahwāʼ*), innovations (*bidaʻ*) and strife (*khusūmah*)," and quotes a number of early sources warning against sitting with or even arguing against people who have innovated or who are known as "*ahl al-ahwāʼ*." *Musnad al-Dārimī*, 1:387-393.

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> *al-sunnah*), their reports would be accepted, and if they were *ahl al-bida'*, their reports would not be accepted.[125]

In his discussion of this *ḥadīth*, Juynboll suggests that the *ḥadīth* refers to "representatives of the Qadarīya (the majority), and furthermore, a few Khārijites/Ibāḍites, Murji'ites, Rāfiḍites and others…" during the *fitnah* of Ibn al-Zubayr, "when the first groups of people came into existence who were collectively characterized by their belief in and/or readiness to propagate one or more similar innovative ideas."[126] As he astutely emphasizes, these groups were regarded as dangerous because of their intention to spread their ideas throughout the rest of the community.[127] Concern over this intention explains why certain religious leaders warned the community not to listen to nor even to engage with members of these sectarian groups. As we will see, later scholars of religious sects as well as medieval jurists maintained this identification of *ahl al-bid'ah* with religious/political sectarian groups, and specifically with the early groups mentioned by Juynboll. They frequently cited as evidence Muhammad's prophecy that the Muslim community will be fragmented into 73 sects.[128] Nevertheless, these scholars also

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[125] *Ṣaḥīḥ Muslim*, Introduction, Chapter 5:Hadith No. 27, 1: 9. Earlier in his Introduction, Muslim refers twice to *ahl al-bid'ah* as those from whom everyone knows not to transmit traditions. Ibid, 6.

[126] Juynboll, "Muslim's Introduction to his *Ṣaḥīḥ*," 311. In his *EI*[2] article on "*Sunnah*," Juynboll notes that "*ahl al-sunnah*" was used only to describe the majority of Muslims in the second half of the second/eighth century and especially after the *miḥnah* had been decided in favor of Ibn Ḥanbal. Eventually, the phrase "*ahl al-sunnah wal-jamā'ah*," became the label for orthodox Islam, whereas the label "*ahl al-bid'ah*" was and continued to be reserved for members of theological/political sects that were not accepted by the majority, such as the Qadarites, Jaḥmites, Kharijites, etc. Juynboll, "*Sunna*," 9: 879.

[127] Despite the best intentions of certain *ḥadīth* collectors to ostracize the *ahl al-bida'*, the status of these groups continued to be debated among traditionists. Juynboll cites a passage from Nawawī's commentary on *Ṣaḥīḥ Muslim*, which attests to the lengthy debate among traditionists regarding the reliability of transmissions by *ahl al-bida'*, Juynboll, "Muslim's Introduction to his *Ṣaḥīḥ*," 271, n. 15.

[128] The Prophet is reported, on the authority of Abū Hurayrah, to have said, "the Jews divided into 71 or 72 divisions (*firqah*) and the Christians into 71 or 72 divisions, and my community will be divided into 73 sects" (*Sunan Abū Dawūd*, Book of the Sunnah (*al-sunnah*), Chapter 1: Hadith No. 4598, 2:772, with an almost identical version in *Sunan al-Tirmidhī*, Book of Belief (*īmān*), Chapter 18: Hadith No. 2852, 2:673).

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distinguished between groups whose innovations led them to embrace sectarian views and individuals whose innovations did not.[129]

The broader question of whether the innovator is considered a sinner or heretic continues to be a subject of contention, and I might add, confusion. Yohanan Friedmann asserts that "to brand someone as 'innovator (*mubtadi'*)' is one of the most serious accusations in Islam, hardly distinguishable from that of heresy."[130] Bernard Lewis, in an article on the significance of heresy in Islam, likewise suggests that *bid'ah* in many cases can reasonably be translated as heresy.[131] Lewis, however, also recognizes that the two terms are far from exact equivalents. He notes that "even so fanatical an opponent of all innovations" as Aḥmad Ibn Taymiyyah (d. 728/1328) "prefers a sort of quarantining of suspect groups and individuals, followed where necessary by admonition and even coercive action. Only when a *bid'a* is excessive, persistent and aggressive are its followers to be put beyond the pale of the community of Islam."[132] For these authors, the accusation of *bid'ah* approaches or approximates heresy.

Shāṭibī, for example, cites numerous versions of this *ḥadīth* in a chapter dedicated to demonstrating the link between *bid'ah* and the fragmentation of Muslim society. *al-I'tiṣām*, 2: 364-445, especially 364 and 380.

[129] E.g., Ṭurṭūshī who located the origin of innovations in the four early sectarian movements of *khawārij*, *rawāfiḍ*, *qadarīyyah*; and *murji'ah* (Ṭurṭūshī, *Kitāb al-ḥawādith wal-bida'*, 97). Cf., Ibn al-Jawzī, who interpreted the *ḥadīth* of 73 sects to mean that six early sectarian movements, i.e., the *Ḥarūriyyah*, *Qadariyyah*, *Jahmiyyah*, *Murji'ah*, *Rāfiḍah* and *Jabriyyah*, fractured each into 12 other groups, leaving of course the one saved group of the followers of the Prophet and his Companions. Jamāl al-Dīn 'Abū al-Faraj b. al-Jawzī, *Talbīs Iblīs*, eds., 'Iṣām Fāris al-Ḥastānī and Muḥammad Ibrāhīm al-Zaghlī (Beirut: al-Maktab al-Islāmī, 1994), 32-35.

[130] Yohanan Friedmann, "The Idea of Religious Renewal (*Tajdīd*)," in *Prophecy Continuous: Aspects of Aḥmadī Religious Thought and Its Medieval Background* (Berkeley: University of California Press, 1989), 95.

[131] Lewis, "Some Observations on the Significance of Heresy," 52-3.

[132] Ibid., 53.

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Others have questioned the link between *bid'ah* and heresy. James Robson, for example, posits that *bid'ah* should be distinguished from heresy, since the innovator does not seek to rebel against the Prophet but practices out of confusion. Robson defines *ahl al-bida'* less harshly as those who introduce practices based on arbitrary principles without a basis in the recognized foundations of Islam.[133] Similarly, Wael Hallaq argues that the innovator is not a heretic since he "does not intentionally aim to break ranks with the Muslim community or with the teaching of the faith."[134] Hallaq sees the narrower focus on these sectarian groups as the basis for calling them, *ahl al-bida'*. Finally, Marilyn Waldman adds that heresy

> obscures the pragmatic bent of the Islamic tradition in favor of a dogmatic bent more appropriate to a tradition such as Christianity, which had, unlike Islam, institutionalized theological ways in order to judge and control deviation. The charge of *bid'ah* referred not so much to the content of beliefs as to their practical consequences; it was often made by rulers to reprove certain members of society and dissuade them from adopting socially appealing ideas that disrupted the status quo.[135]

In other words, Waldman objects to the imposition of the Christian, i.e., doctrinal, definition of heresy, in favor of a definition that properly focuses on the domain of practice. Although Waldman appropriately questions the use of a laden term like "heresy" to translate the Islamic concept of *bid'ah*, she, as well as Robson and Hallaq, oversimplifies *bid'ah* by ignoring the dogmatic elements as well as the distinctions

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[133] James Robson, s.v. "*Bid'a*," *EI^2*, 1:1199.

[134] Hallaq, s.v., "Innovation," *Encyclopaedia of the Qur'ān*, ed., Jane D. McAuliffe (Leiden: Brill, 2002), 2: 537.

[135] Waldman, "*Sunnah*," 14:150.

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between different types of innovators.[136] As we have seen, *ḥadīth* collectors applied the label of *bid'ah* not only to innovated practices, but also to the ideas of persons who advocated so-called novel theological/dogmatic positions, such as the Qadariyyah. Moreover, certain *aḥādīth* do approach the idea of heresy by speaking of ostracism and of God's rejection as ways of drawing a line between the normative community and the *ahl al-bida'*.[137] While it is fair to argue, therefore, that the innovations of the *mubtadi'* generally focus on wrong practice and right belief, the line is less clear for the *ahl al-bida'*. In fact, even the status of the *mubtadi'* is subject to debate among medieval jurists.[138] Thus, once again, we see that *bid'ah* is a more nuanced and complex term than some have suggested.

The Exceptional Use of *bid'ah* in a Positive Way

The Third Hadith

Although the overwhelming number of *aḥādīth* refer to *bid'ah* as a synonym for reprehensible or rejected behavior, we find a few exceptional cases in which the Companions and Successors use the term positively. The exception that is cited most

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[136] I also wonder if they are misusing the charge of heresy. As I understand it, heresy is a charge that others apply to a group to discredit it. Rarely does a group identify itself as heretic and in rebellion with the theological foundation of their religion. Usually, so-called heretics claim to be the true and often sole believers within an otherwise corrupt religious society. This description fits the groups traditionally associated with "*ahl al-bida'*", such as the *Khawārij* and *Rawāfiḍ*, quite well.

[137] Although I do not focus on the subject in Chapter Two, medieval jurists would maintain this distinction between *ahl al-bid'ah*, some of whom are considered to be beyond the pale of the community, and *mubtadi'īn*, who are generally viewed as sinners rather than heretics. See, for example, Shāṭibī's distinction between innovations that constitute unbelief (*kufr*) and those that do not, in *al-I'tiṣām*, 1:118.

[138] Jurists, such as Ibn Taymiyyah and Shāṭibī, who were particularly concerned with the spread of popular devotional practices, would emphasize the slippery slope between sins of practice and of belief, and even suggest that the innovator slips into heresy by adding to the law that God already deemed complete. See, for example, Aḥmad b. Taymiyyah, *Iqtiḍā' al-ṣirāṭ al-mustaqīm limukhālafat aṣḥāb al-jahīm*, ed., Nāṣir b. 'Abd al-Karīm al-'Aql (Riyadh: Maktabat al-Rushd, 2000), 2:116; and Sḥāṭibī, *Kitāb al-I'tiṣām*, 1:32-3.

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often by medieval jurists in *bid'ah* debates is the statement uttered by 'Umar b. al-Khaṭṭāb regarding congregational night prayer (*tarāwīḥ*) during Ramadan. The same version of this *ḥadīth* is found in two authoritative collections, the early *Muwatta'* of Mālik and the *Ṣaḥīḥ al-Bukhārī*:

> 'Abd al-Raḥmān b. 'Abd al-Qārī reported, "I went out with 'Umar b. al-Khaṭṭāb, may God be pleased with him, one night during Ramadan, to the mosque and found the people praying in scattered groups, one man praying by himself and another praying with a small group praying with him, and 'Umar said, 'In my opinion (*arā*), it would be better (*amthal*) if I were to gather these [people] to [pray behind] one reciter.' So he decided to gather them behind 'Ubayy b. Ka'b. I went out with him another night, and the people were praying behind one reciter, and 'Umar said, 'What an excellent innovation this is (*ni'm/at al-bid'ah hadhihi*)[139] ; and if they would sleep [and then pray], it would be preferable to [the prayer] they are offering,' by which he intended in the last part of the night, while the people were praying in the early part of [the night].[140]

Both collections include this *ḥadīth* following a tradition about the Prophet praying the night prayer during Ramadan. In that tradition, the Prophet is reported to have prayed two nights in a row in congregation with the people. On the third and fourth nights, however, he did not emerge to pray congregationally. Later, the Prophet explained that he had refrained from emerging so that the people would not infer that night prayer

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[139] Bukhārī's version records *ni'm* in the masculine, whereas Mālik's version records *ni'mat* in the feminine. In his commentary on Bukhārī, Ibn Ḥajar al-'Asqalānī mentions that other transmissions report "*ni'māt*" with a "*tā'* " (Shihāb al-Dīn Aḥmad b. Ḥajar al-'Asqalānī, *Fatḥ al-bārī bi-sharḥ al-Bukhārī* (Cairo: Maktabat wa-Maṭba'at Muṣṭafā al-Bābī al-Ḥalabī wa-Awlādihi, 1959), 5:156-7). Still other transmissions spell "*ni'mat*" with a "*tā' marbūṭah*." According to Sulaymān b. Khallāf al-Bājī, author of *al-Muntaqā*, the commentary on Mālik's *Muwaṭṭa'*, the different spellings ("*tā'* " vs. "*tā' marbūṭah*") reflected regional differences between Basran and Kufan grammarians, respectively. Bājī. *al-Muntaqā sharḥ al-Muwaṭṭa' Mālik*, ed., Muḥammad 'Abd al-Qādir 'Atā (Beirut: Dār al-Kutub al-'Ilmiyyah, 1990), 2:148.

[140] *Ṣaḥīḥ Bukhārī*, Book of the *tarāwīḥ* Prayer, Chapter 1: Hadith No. 2049, 1:374. Malik's version is virtually identical (with the exception mentioned in the next footnote) and also includes the interpretative comment at the end. Mālik b. Anas, *al-Muwaṭṭā'*, Book of Prayer during Ramadan (*al-ṣalāh fī Ramaḍān*), Chapter 2: Hadith No. 249, 38. Ṣan'ānī also relates the *ḥadīth* on the authority of 'Abd al-Raḥmān b. 'Abd al-Qārī, in *al-Muṣannaf*, 4: 258-9, Hadith No. 7723. Ibn al-Jawzī also includes this *ḥadīth* in his collection about 'Umar b. al-Khaṭṭāb, *Manāqib amīr al-mu'minīn 'Umar b. al-Khaṭṭāb*, ed. 'Alī Muḥammad 'Umar (Cairo: *Maktabat al-Khānjī*, 1997), 71-73.

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during Ramadan is obligatory.[141] The sequence of the traditions – about the Prophet, and then about 'Umar – clarifies that 'Umar's innovation was not the institution of Ramadan night prayer in general but of congregational night prayer. 'Umar initially referred to the change he made as a good idea that derived from his own opinion, as evidenced by his use of *ra'y*. 'Umar only called the practice a *bid'ah* when he saw that his decision to gather the people in congregational prayer had been accepted as a fixed recurring practice. Thus, 'Umar's use of *bid'ah* parallels the previous uses of *bid'ah* in the sense of institutionalizing a regular practice. However, in this case, 'Umar clearly regarded this new institution of congregational prayer to be a favorable development.

'Umar's remark, "what an excellent *bid'ah*" in the case of congregational *tarāwīḥ* challenges central assumptions about *bid'ah*. Given the Prophet's general admonition, "every *bid'ah* is an error," one can see how subsequent scholars would struggle to understand how 'Umar could have used the term *bid'ah* to praise the congregational prayer. Moreover, 'Umar used the term specifically in relation to a devotional practice and a public devotional practice at that, two domains that many medieval jurists would insist are impervious to innovations. The key challenge in interpreting 'Umar's statement is: Does 'Umar's statement establish a legal precedent for permitting certain devotional innovations? Or, does it represent a linguistic turn of phrase, and thus an exception to the general rule condemning all innovations? It is here that the linguistic/legal divide over how one defines *bid'ah* has the sharpest consequences.

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[141] See *Ṣaḥīḥ Bukhārī*, Book of the *tarāwīḥ* Prayer, Chapter 1:Hadith No. 2048, 1: 374; and Mālik b. Anas, *al-Muwaṭṭa'*, Book of Prayer during Ramadan (*al-Ṣalāh fī Ramaḍān*), Chapter 1: Hadith Nos. 247-8, 38.

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'Umar's statement uniquely preserves the alternate meaning of *bid'ah* in its neutral sense of a new practice. There is also a report that al-Ḥasan al-Baṣrī endorsed the storytellers (*qaṣaṣ*) by saying, "the storytellers are an innovation and an excellent innovation (*al-qaṣaṣ bid'ah wa-ni'mat al-bid'ah*)."[142] It is clear that Ḥasan, who was himself a storyteller, consciously invoked 'Umar's language, or at least the same language was put in his mouth, as a way of endorsing this practice.[143] Likewise, Ibn 'Umar is reported in a tradition to have made a similar statement about the performance of *ṣalāt al-ḍuḥā*, i.e., extra prayer cycles after the sunrise.[144] One might think that 'Umar's one positive formulation of *bid'ah* would be washed away by the myriad negative references. However, it seems that early jurists like Shāfi'ī regarded 'Umar's statement as a useful qualification to the seemingly unqualified restrictions set by the Prophetic tradition prohibiting all innovations.[145] Once Shāfi'ī uses this statement as the basis for classifying types of *bid'ah*, subsequent jurists felt that they needed to address 'Umar's statement, whether to uphold Shāfi'ī's reading or to qualify and dismiss it as a legal source.

[142] Ibn al-Jawzī quotes the report in *Talbīs Iblīs*, 30, and Suyūṭī copies Ibn al-Jawzī's formulation in *al-Amr bil'ittibā' wal-nahy 'an al-ibtidā'*, ed., Muṣṭafā 'Āshūr (Cairo: Maktabat al-Qur'ān, 1987), 37. The *qaṣaṣ* or *quṣṣāṣ* were a controversial group in early Islam, often accused by scholars of Hadith and Law of inventing Prophetic traditions. 'Alī b. Abī Ṭālib is said to have thrown them out of the mosque in Baṣrah. See Pellat, "Ḳāṣṣ," 4: 733-5.

[143] Ibid., 734.

[144] Aḥmad b. Ḥanbal cites a tradition that 'Urwah entered the mosque and saw people praying *ṣalāt al-ḍuḥā* while Ibn 'Umar was sitting on the side. When 'Urwah asked him, "what is this?" Ibn 'Umar replied, "*it is a bid'ah*," and then the two continued on to another discussion (*Musnad Aḥmad, Musnad al-mukthirīn min al-ṣaḥābah, Musnad 'Abd Allāh b. 'Umar*, Hadith No. 6430, 10:471). Ibn Ḥajar al-'Asqalānī cites this same tradition and then adds a sound (*ṣaḥīḥ*) tradition relayed by al-A'raj that when he asked Ibn 'Umar about the *ḍuḥā* prayer, Ibn 'Umar responded, "it is a *bid'ah* and an excellent one (*bid'ah wa-ni'mat al-bid'ah*)." Ibn Ḥajar al-'Asqalānī, *Fatḥ al-bārī*, 3: 295.

[145] For Goldziher, the fact that Mālik transmitted this *ḥadīth* was a sign that he recognized the need to harmonize Muslim ideas with the requirements of practical living. Goldziher, *Muslim Studies*, 2: 36.

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In addition to 'Umar's surprisingly positive use of the term, *bid'ah*, a few major changes reported of the *salaf* challenge the absolute rejection of innovations suggested by the above *aḥādīth*. In particular, the decision of the Caliphs to collect and redact the Qur'ān – despite the fact that Muhammad did not to do so – represents either a precedent or a problem for later jurists. Besides the fact that the Companions enacted a significant change in the religious life of the community, the traditional account indicates that they initially hesitated to collect the Qur'ān. Their hesitation suggests that the Companions also believed the act to be a deviation from the Prophet's way, but they carried out the collection in any case. Bukhārī records the event as follows:

> Zayd b. Thābit said, "Abū Bakr sent for me on the occasion of the deaths of the people of the Yamāmah [wars], and 'Umar b. al-Khaṭṭāb was with him when I came, and Abū Bakr, may God be pleased with him, said, ''Umar came to me and said, 'in the Yamāmah battle, death has dealt most severely with the Qur'ān reciters (*qurrā'*) and I fear that the death will deal with equal severity with the *qurrā'* in other battles, and thus much of the Qur'ān will disappear. I therefore am of the opinion that you should order the collection of the Qur'ān,' and I said to 'Umar, 'how can you do something that the Messenger of God, peace and blessings be upon him, did not do,' and 'Umar said, 'By God, it is good.' And 'Umar continued to respond to [my hesitations] until God reconciled me to it and I was of the same opinion as 'Umar was.' Abū Bakr continued, 'Zayd, you are a young and intelligent man and we know nothing of suspicion about you. You used to record the revelations for the Messenger of God, so pursue the Qur'ān and collect it all together.' By God! Had they asked me to move one of the mountains it could not have more weighty upon me than commanding me to collect the Qur'ān, and I said, 'How can you do something that the Messenger of God did not do,' and he said, 'By God, it is good,' and he continued to reply to [my hesitations] until God reconciled me to it as He had already reconciled Abū Bakr and 'Umar. I then pursued the Qur'ān collecting it from palm-branches, stones and the memories of men, until I found the last verse in *Sūrat al-Tawbah* in the possession of Abū Juzaymah al-Anṣārī that I could not find with anyone else."[146]

[146] *Ṣaḥīḥ Bukhārī*, Book of the Virtues of the Qur'ān (*faḍā'il al-Qur'ān*), Chapter 3: Hadith No. 5037, 3: 1047-8, and Book of the Commentary on the Qur'ān (*tafsīr al-Qur'ān*), Chapter 20: Hadith No. 4725,

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The tradition describes the events that led up to the decision by Abū Bakr and ʻUmar to collect the Qur'ān fragments into one text.[147] The text preserves the initial hesitation by Abū Bakr and Zayd b. Thābit to perform an act that the Prophet did not perform, and suggests that ʻUmar also went through a period of uncertainty. Although the word, *bidʻah*, is not invoked in this passage, the hesitation of the main actors suggests that they initially believed the act to be a deviation from the Prophet's way but eventually recognized that it was a good deviation nonetheless. For jurists who asserted the possibility of positive types of *bidʻah*, the collection of the Qur'ān would become the paradigm of the commendable innovation.[148] In contrast, jurists who would reject the possibility of a good type of *bidʻah* would invoke other categories, such as public benefit (*maṣlaḥah*) or necessity (*ḍarūrah*), to explain this apparent inconsistency.

4.5 Concluding Remarks on *bidʻah*

This survey of the main ways that *bidʻah* occurs in the Hadith literature demonstrates the crystallization of *bidʻah* as an almost exclusively negative term. The overwhelming majority of *aḥādīth* define *bidʻah* as the antonym to the Prophet's normative practice, or *sunnah*. As an abstract concept, *bidʻah* symbolizes the dangers facing the community should they abandon the path laid out by the Prophet. The Hadith records the Prophet's

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2:945. Translated referring to John Burton, *The Collection of the Qur'ān* (Cambridge: Cambridge University Press, 1977), 118-9.

[147] Ibid., 120. While this tradition suggests that ʻUmar originally recommended that Abū Bakr order the collection, other traditions suggest that alternately ʻUmar or Abū Bakr alone ordered the collection of the Qur'ān.

[148] Ibn ʻAbd al-Salām went further and upheld the collection of the Qur'ān as an obligatory innovation. See section on Ibn ʻAbd al-Salām below in Chapter Two.

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warnings that alternative paths would lead only to perdition and the potential collapse of the religion. While the Prophet issued general warnings against *bid'ah*, the Companions and Successors to the Prophet were the ones to reject particular practices as innovations. Whether as a label attached to particular practices or to groups of people, *bid'ah* represents the ongoing process of establishing the boundaries of normative practice. *Bid'ah* in the Hadith literature thus symbolizes the human – that is, arbitrary and ungrounded – elements that interfere with the divinely ordained religion embodied in the Prophet's practice.

Regarding the three central *aḥādīth* scrutinized, the first *ḥadīth*, which likely began as a procedural rule to prevent future judges from overturning the Prophet's rulings, evolved into a general principle to prevent any additions to the religion. The second *ḥadīth* conveys an unqualified and explicit principle to prohibit any innovation from entering the normative system. Both Prophetic statements suggest that the boundary between normative and deviant practice is the explicit teachings and practice of the Prophet, and that all practices not performed by the Prophet are to be rejected. The unqualified and overarching nature of these statements creates a problem of interpretation, at minimum, in the way that the concept of *bid'ah* is defined. Against this background, the surprisingly positive statement of 'Umar, found in the third main *ḥadīth*, provides a potential way forward. By modifying the term, *bid'ah*, with a positive adjective, 'Umar opened up the possibility of a good innovation.

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5. Conclusion

This chapter has traced the parallel evolution of *sunnah* and *bid'ah* from their pre-Islamic meanings to the ways that they are defined and used in the Hadith literature. While in pre-Islamic Arab culture, *sunnah* was used in generally positive ways but sometimes in negative and neutral ways to describe the practices of individuals and groups, the Hadith defined *sunnah* almost exclusively as a positive term representing the normative practice of the Prophet Muhammad and his early followers. *Bid'ah* similarly evolved from a fluid concept in pre-Islamic Arab culture, generally connoting deviations from tribal norms but also reflecting positive inventions, to a predominantly negative concept meaning practices that have no precedent in the Prophet's practice. These *aḥādīth* thus regard *sunnah* and *bid'ah* as terms that possess inherent and opposing values. Based on these definitions, the main *aḥādīth* surveyed set forth highly restrictive boundaries of normative practice that allowed for no additions.

The Hadith literature, however, also preserves the value-neutral meanings of both *sunnah* and *bid'ah* in at least two traditions. First, a Prophetic statement uses *sunnah* in a neutral way, modified by positive and negative adjectives, in the phrase, "whoever institutes a good *sunnah*...or bad *sunnah*." Second, a statement by 'Umar similarly uses *bid'ah* in a neutral way modified by a positive adjective, in his phrase, "what an excellent *bid'ah* this is!" These alternative usages, and particularly that of 'Umar, would subsequently provide interpretative space for jurists to allow certain new practices to enter the Islamic legal system.

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As we will see in the next chapter, medieval jurists would propose divergent ways to address the Prophet's seeming rejection of any new practices. One interpretative route would be to limit the concept of *bid'ah* to the devotional realm or to claim that the devotional realm demands stricter standards than does the civil realm. Jurists who developed this first approach would follow the general trend of the Hadith and defined *bid'ah* as a term having inherent, that is exclusively, negative value. These jurists would regard *bid'ah* as a normative label, in the sense that labeling an act "*bid'ah*" determines its legal status. Using the variables identified in our analysis of the key phrase, "every innovation is an error," these jurists would accept the generality of the first word, "every," but qualify the second word, innovation, to mean devotional innovations exclusively. The first challenge to this approach is that the general *aḥādīth* statements against *bid'ah* are rarely limited to the devotional realm. In fact, one can say clearly that traditions recorded the use of *bid'ah* in civil contexts. It is only in traditions describing particular cases of innovations that we find a disproportionate focus on the devotional realm. The other challenge to this approach would come from 'Umar's exceptional use of the term *bid'ah* among other examples of positive innovations by the *salaf*. Proponents of this first interpretative route would dismiss 'Umar's statement as an example of the linguistic, as opposed to the legal use, of *bid'ah*.

A second interpretative route would propose that the general statements against *bid'ah* only prohibited innovations that conflicted with other legal principles. Jurists who developed this second approach would apply the lexical definition of *bid'ah*, in the sense of an unprecedented act, or else they would borrow the common usage definition, in the

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sense of innovations that are generally negative but occasionally positive. These jurists would use *bid'ah* as a descriptive label, in the sense that labeling an act "*bid'ah*" only describes it as something new or unprecedented but does not determine its legal status. The main challenge to this route is the seemingly unqualified rejection of all types of innovations in the *ḥadīth*, "every innovation is an error." This interpretative route would rely heavily upon 'Umar's statement, which preserved the neutral sense of *bid'ah* and implied the possibility of different types of innovations. That is, they qualify the word "every" and claim that the seemingly general term (every) actually means that every <u>prohibited</u> *bid'ah* is an error.

Thus, both routes taken by later jurists address the problematically unqualified rejection of all new practices and the contradictory messages in the three *aḥādīth* by interpreting the three traditions creatively. In the next chapter, we will examine the ways that medieval jurists used these traditions to develop contrasting approaches to devotional innovations.

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Chapter Two:

The Medieval Legal Debate about *Bid'ah*

1. Introduction

In the previous chapter, we traced the development of the concepts, *sunnah* and *bid'ah*, from their multivalent meanings in pre-Islamic Arabia to the almost exclusive identification of *sunnah* with the Prophet's normative practice and of *bid'ah* with deviations from the Prophet's practice in the Hadith literature. In the process, we identified three discrete definitions of *bid'ah*: (1) the lexical definition of *bid'ah*, meaning an unprecedented act that could be positive or negative; (2) the common usage definition of *bid'ah*, meaning a generally negative innovation but sometimes positive; and (3) the Hadith definition of *bid'ah*, meaning a deviation that is always negative. Although the overwhelming majority of statements by the Prophet and the *salaf* about *bid'ah* were negative, a few exceptionally positive uses of *bid'ah* survived in the Hadith and *athār* literature. The most vexing positive usage was by the Prophet's close Companion, 'Umar b. al-Khaṭṭāb, who declared his institution of regular congregational night prayers during Ramadan to be an excellent innovation. For jurists seeking to interpret the canonical sources, the paradoxical use of *bid'ah* in this case led some to suggest that not all innovations are to be rejected in Islamic law. Other jurists, motivated by the unqualified rejection of the Prophetic *ḥadīth*, "every innovation is an error," among other similar statements, discounted 'Umar's statement as a linguistic and not a legal pronouncement, and upheld the rejection of all *bida'*. The larger problem of *bid'ah*

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fueled this exegetical debate as well, namely when and how the legal system can accommodate change given the Prophet's injunctions against deviating from his way. Jurists who allowed for multiple types of innovations permitted certain developments based on their category of the good innovation (*bid'ah ḥasanah*). Jurists who rejected the classification of *bid'ah*, however, limited *bid'ah* to illicit change in order to make room for other categories of licit change.

This chapter examines the medieval juristic debate over the definition and application of *bid'ah*, focusing on the debate that emerged regarding the possibility of permitting devotional innovations. The conventional way that scholars have understood this debate is to distinguish between those who classify *bid'ah* into positive and negative types and those who reject all *bida'*. This distinction stems from the tension between the unqualified rejection of *bid'ah* in most *aḥādīth* and the exceptionally positive use of *bid'ah* by 'Umar and others. As I will demonstrate, however, this distinction does not necessarily illuminate what is at stake in the different approaches to *bid'ah*. Jurists who hold opposite positions on whether or not to classify types of *bida'* generally agree about which innovations and new developments are permissible. For example, all jurists agree that the collection of the Qur'ān and the establishment of different fields of religious knowledge were positive developments in Muslim history. Some jurists call these developments good innovations (*bida' ḥasanah*) while others call them *sunnah, maṣlahah* or another term. That is, most jurists recognize that the some change is necessary and hold that the Prophet could not have prohibited all new matters. They agree that certain innovations and developments – particularly in the realm of civil

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(*mu'āmalāt*) or customary (*'ādāt*) law – are necessary and beneficial to the community. The difference between those who classify types of *bid'ah* and those who only use *bid'ah* in its negative sense is, in many arenas, only one of terminology.[1]

The *bid'ah* debate shifts from terminology to substance when one examines when and how jurists use the category of *bid'ah ḥasanah* to permit practices that other jurists rejected. With this focus, we find that only a subset of the jurists who classified *bid'ah* into types were open to permitting controversial practices in their own times. These jurists used the category of *bid'ah* as a descriptive term, meaning an unprecedented act with an undetermined legal status, and then determined its legal status by means of legal criteria they delineated. In contrast, jurists who rejected the use of *bid'ah* as a legal tool for permitting controversial new practices, argued that *bid'ah* could function only as a normative term with an implied legal status of reprehensibility or prohibition. When one focuses the *bid'ah* debate on the status of specific acts, one sees that the main area of contention for jurists was the status of devotional practices that lacked a precedent or explicit basis in the canonical sources. Most jurists who used *bid'ah* as a descriptive term were open to using *bid'ah ḥasanah* to permit devotional innovations that met their legal criteria, whereas jurists who used *bid'ah* as a normative, negative term rejected the possibility of using *bid'ah ḥasanah* to permit new devotional practices regardless of the merit of the practice itself. Unlike the focus on typologies, the focus on the uses of

[1] Numerous modern writers on *bid'ah* argue that the juristic debate about *bid'ah* is merely one of terminology. These scholars claim that jurists all agree that devotional innovations are prohibited but disagree over what to call permissible innovations in the civil or customary realms. This chapter is partially a rejoinder to this modern claim. See, for example, Qaraḍāwī, *al-Sunnah wal-bid'ah*, 22; and Tawfīq Yūsuf al-Wā'ī, *al-Bid'ah wal-maṣāliḥ al-mursalah: Bayānuhā, ta'ṣīluhā, aqwāl al-'ulamā' fīhā* (Kuwait: Dār al-Turāth, 1984), 95.

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bid'ah enables us to assess whether and how the category of *bid'ah ḥasanah* functioned as a constructive tool in Islamic law to permit controversial practices in the devotional realm.

Chapter Overview

The first part of this chapter traces the chronological development of the *bid'ah* debate, beginning with opposing positions attributed to Mālik b. Anas and Muḥammad b. Idrīs al-Shāfi'ī. The survey focuses primarily on the work of twelve medieval jurists who wrote treatises against innovations (*kutub al-bida'*), as well as the writings of six other jurists who influenced the debate about *bid'ah* but did not write treatises on *bid'ah*.[2] In addition to identifying the main perspectives on *bid'ah*, the purpose of this survey is to demonstrate the shortcomings of the conventional way of dividing juristic approaches according to those who do or do not classify types of *bid'ah*, and to show the general, though by no means linear, evolution towards a more focused debate over the status of devotional innovations.

The second and main part of the chapter examines the approaches of the major juristic contributors to the *bid'ah* debate in greater depth. By analyzing how these jurists use the category of *bid'ah* to evaluate or exclude new practices, as well as the legal proofs they marshal to defend their usage, we elucidate the substantive debate between descriptive and normative approaches to *bid'ah*. The Shāfi'ī jurists, Ibn 'Abd al-Salām, Abū Shāmah

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[2] As I explained in my Introduction, this study focuses on those jurists who wrote *kutub al-bida'*, a legal genre that Maribel Fierro defines as the "treatises against innovations" (Fierro, "The treatises against innovations," 206). These writers self-selected by their interest in and concern with the proliferation of innovations, and they clearly read and adapted the approaches of previous writers in the genre.

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and Suyūṭī represent the descriptive paradigm, whereas the Ḥanbalī jurist, Ibn Taymiyyah, and the Mālikī jurist, Shāṭibī represent the normative paradigm. The purpose of this examination is to illumine the debate over devotional innovations and to demonstrate that jurists did in fact disagree over the possibility of permitting certain devotional innovations. Whereas Ibn Taymiyyah and Shāṭibī rejected devotional innovation but allowed for customary innovations under the category of *maṣlaḥah*, Ibn 'Abd al-Salām, Abū Shāmah and Suyūṭī were open to permitting devotional innovations by applying their legal category of *bid'ah ḥasanah.*

2. The Historical Development of the Legal Debate about *bid'ah*

Mālik (d. 179/795) and Shāfi'ī (d. 204/820)

The juristic debate over the definition and usage of *bid'ah* can be traced back to two opposing positions held by Mālik b. Anas[3] and Muḥammad b. Idris al-Shafi'ī.[4] Mālik was famous for his fierce loyalty to the Prophet's *sunnah*, as he interpreted it, and his utter intolerance of practices that deviated from those of the Prophet and of the *salaf.*[5] He

[3] Born in 97/715 in Medinah, Mālik b. Anas al-Aṣbaḥī was a leading *ḥadīth* scholar and jurist in Medīnah, and the eponym of the Mālikī legal school. For further biographical information, see Carl Brockelmann, *Geschichte der arabischen Litteratur* [hereafter, *GAL*] (Leiden: Brill, 1937-1949), 1:175 and S 1:297, and Fuat Sezgin, *Geschichte des arabischen* Schrifttums [hereafter, *GAS*] (Leiden: E. J. Brill, 1967), 1: 457-464. See, also, Schacht, s.v., "Mālik b. Anas," *EI²*, 6:262b-265a.

[4] Born in 150/767 in Gaza (or possibly in Yemen), Muḥammad b. Idrīs al-Shāfi'ī was a leading scholar, and the eponym of the Shāfi'ī legal school. He was a disciple of Mālik in Medinah and then of Abū Ḥanīfah's disciples in Iraq and finally, he settled towards the end of his life in Fusṭāṭ. For further biographical information, see Brockelmann, *GAL*, 1:178 and S 1:303, and Sezgin, *GAS*, 1:484-490. See, also, E. Chaumont, s.v. "al-Shāfi'ī," *EI²*, 9:181a-184b.

[5] Yassin Dutton has argued convincingly that Mālik's reliance on the practice of Medinah (*'amal ahl al-Medīnah*) more than on written *aḥādīth* reflected his belief that community practice was a more authentic

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was said to recite often the poetic lines that echo the Prophetic *ḥadīth* against *bid'ah*, "the best of the matters of religion are *sunnah* and the worst of the matters are the innovated novelties (*al-muḥdathāt al-badā'i'*)."[6] For Mālik, *sunnah* and *bid'ah* were terms of opposite value, and he rejected the possibility of a positive type of *bid'ah*. A tradition is relayed that Ibn al-Mājishūn heard Mālik say, "whoever innovates in Islam a *bid'ah* that he sees as good (*yarāhā ḥasanah*), has claimed that Muhammad betrayed (*khāna*) the message, because God Exalted said, 'Today I completed your religion for you,' and whatever was not [part of] religion in that day is not [part of] religion today."[7] He was deeply concerned about the proliferation of *bid'ah* in general; Abū Dawūd is reported to have said that Mālik "dreaded *bid'ah* (*akhshā 'alayhi al-bid'ah*)." Mālik is also known for loathing all practices and beliefs that the Prophet and *salaf* did not practice, from pursuing theological questions, such as the meaning of God's sitting on His throne,[8] to ritual matters, such as *tathwīb*,[9] even to changing one's facial hair.[10] He was especially concerned with fighting the proponents of doctrinal innovations and supported measures

mode of preserving the Prophet's practice than were written records. Dutton, *Origins of Islamic Law: The Qur'an, the Muwaṭṭa' and Madinan 'Amal* (New Delhi: Lawman (India) Private Ltd., 2000), 41-52.

[6] 'Iyād b. Mūsā, *Tartīb al-madārik wa-taqrīb al-masālik li-ma'rifat a'lām madhhab Mālik*, ed., 'Abd al-Qādir al-Ṣaḥrāwī (Rabat: Wizārat al-Awqāf wal-Shu'ūn al-Islāmiyyah, 1983), 2:38. Also, in Shāṭibī, *al-I'tiṣām*, 1:60.

[7] Shāṭibī, *al-I'tiṣām*, 1: 33. See, also, Aḥmad b. Yaḥyā al-Wansharīsī, *al-Mustaḥsan min al-bida', A Section from al-Mi'yār al-mu'rib wal-jāmi' al-Maghrib (Fez, 1305AH)*, ed., Henri Pérès (Algiers: n.p., 1946), 16. I have not yet found an earlier attestation of this tradition.

[8] 'Abd Allāh b. Abī Zayd al-Qayrawānī, *Kitāb al-Jāmi' fī al-sunan wal-ādāb wal-maghāzī wal-tā'rīkh*, ed., Abd al-Majīd Turkī (Beirut: Dār al-Gharb al-Islāmī, 1990), 155.

[9] Muhammad b. Waḍḍāḥ, *Al-Bida' wal-nahy 'anhā*, ed., Muḥammad Ḥasan Ismā'īl al-Shāfi'ī (Beirut: Dār al-Kutub al-'Ilmiyyah, 1997), 54. For an explanation of *tathwīb*, see Chapter One, 70, n. 112.

[10] Ibid., 233.

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to ostracize them.[11] Although Mālik recorded 'Umar's statement, "what an excellent innovation this is!" in *al-Muwattā'*, he was one of the only early jurists to uphold the original ruling that it is preferable to pray the *tarāwīḥ* prayer individually and at home than congregationally and in the mosque.[12] In other words, Mālik did not regard 'Umar's institution of congregational *tarāwīḥ* prayers as establishing a new norm that overrode the general norms regarding optional prayer. It is significant that he downplays this event, since it confirms his rejection of a positive type of *bid'ah*, which rests upon 'Umar's statement. Mālik thus embodies the Hadith approach to *bid'ah*, since he upheld the universal rejection of all practices that deviated from the Prophet's *sunnah* and denied the possibility of a positive *bid'ah*.

While Malik's position represents continuity with the approach found in the overwhelming majority of *aḥadīth* towards *bid'ah*, Shāfi'ī is credited with introducing a distinctive – or, one might even say, innovative – approach to *bid'ah*. Certainly Shāfi'ī, who spent his scholarly life asserting the Prophet's *sunnah* as the most authoritative source of law after the Qur'ān and establishing the superiority of the Prophet's *sunnah* over any other *sunnah*, was primarily interested in harmonizing Muslim practice with the

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[11] Fierro writes that Mālikī interest in *bid'ah* dates back to the correspondence between Mālik b. Anas and Ibn Farrūkh of Qayrawān on how to fight the innovators (Fierro, 210, citing *Tartīb al-madārik*, 3:110-1). Early Mālikī scholars, such as Saḥnūn and Ibn Abī Zayd al-Qayrawānī are also said to have written against *ahl al-bid'ah* (Ibid., 210). Ibn Abī Zayd's *Kitāb al-Jāmi'* also records Mālik's ruling against accepting the transmission of traditions by innovators who publicly summon others to their innovations. Ibn Abī Zayd, *Kitāb al-Jāmi'*, 176.

[12] Nawawī, Shāfi'ī and his disciples, Abū Ḥanīfah, Aḥmad b. Ḥanbal and some Mālikīs all held that congregational *tarāwīḥ* prayer is preferable to private prayer based on 'Umar's action and that of the Companions. Mālik, in contrast, held that individual prayer during the nights of Ramadan was preferable, based on the *ḥadīth*, "the most preferable prayer is the prayer of the man (*al-mar'*) in his home except for the canonical ones (*al-maktūbah*)." Nawawi, *Sharḥ Ṣaḥīḥ Muslim*, ed., Khalīl al-Mīs (Beirut: Dār al-Qalam, 1987), 6: 286.

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practices of the Prophet.[13] However, in two traditions ascribed to him, Shāfi'ī establishes the basis for allowing new practices by distinguishing between positive and negative types of innovation. In the first tradition, relayed by Shāfi'ī's disciple, al-Rabī' b. Sulayman, Shāfi'ī differentiates between novelties that are erring innovations and novelties that are good:

> There are two types of novel matters: the first is a created [practice] that conflicts with a Book [passage], a Sunnah [passage], a consensus (*ijmā'*) or a tradition from the *salaf* (*athār*); this is a deviating innovation (*al-bid'ah al-ḍalālah*). The second is a good [practice] that is created (*mā aḥdatha min al-khayr*) for which there is no conflict with one of these [sources]; this is a novelty that is not blameworthy (*muḥdathah ghayr madhmūmah*).[14]

Shāfi'ī here suggests that not all novel acts should be rejected out of hand, but that they should be evaluated according to their congruence with the main sources of law. Whereas Shāfi'ī, in this first tradition, limits the term *bid'ah* to the reprehensible type of novelty, in the second tradition, relayed by his disciple, Ḥarmalah b. Yaḥyā, he uses *bid'ah* to describe both positive and negative novel practices:

> Shāfi'ī said: there are two types of *bid'ah* (*al-bid'ah bid'atān*): a praiseworthy innovation (*bid'ah maḥmūdah*) and a blameworthy

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[13] In numerous traditions, Shāfi'ī advises his disciples, "if you found a conflict with the Prophet's *sunnah* in my book, uphold the Prophet's sunnah and leave my position." (Aḥmad b. al-Ḥusayn al-Bayḥaqī, *Manāqib al-Shāf'ī*, ed., Aḥmad Saqr (Cairo: Dār al-Turāth, 1971), 1: 472-3). For Shāfi'ī's role in establishing the Prophet's *sunnah* as the most authoritative *sunnah*, see the last section of Chapter One.

[14] Aḥmad b. al-Ḥusayn al-Bayḥaqī, *Manāqib al-Shāf'ī*, ed., Aḥmad Saqr (Cairo: Dār al-Turāth, 1971), 1:469-470. 'Abd al-Raḥmān b. Ismā'īl Abū Shāmah cites this version in *al-Bā'ith 'alā inkār al-bida' wa al-*ḥawādith, ed., 'Ādil 'Abd al-Mun'im Abū al-'Abbās (Cairo: Maktabat Ibn Sīnā, n.d.), 35. The printed edition of Nawawī, however, cites a slightly different version, but it is likely due to a typographical error – instead of "and the second, a good [practice] that is created, for which there is no conflict with one of these [sources], it is a novelty…" Nawawī relays "and the second, a good [practice] that is created, for which there is no conflict with one of the scholars, and this is a novelty…" Nawawī, *Tahdhīb al-asmā' wal-lughāt* (Beirut: Dār al-Kutub al-'Ilmiyyah, 1980), 3:23.

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innovation (*bid'ah madhmūmah*), and that which agrees with the *sunnah* is praiseworthy and that which conflicts with the *sunnah* is blameworthy.[15]

Contrary to the *aḥādīth* that assert *sunnah* and *bid'ah* as opposites, this tradition from Shāfi'ī suggests that certain innovations can agree with the *sunnah*. Taken together, the two traditions were interpreted by later Shāfi'ī jurists to mean that Shāfi'ī regarded the legal definition of *bid'ah* as reflecting its lexical meaning, i.e., an unprecedented act, and not its primary Hadith meaning, i.e., a deviation.[16] The term, *bid'ah*, was not to be limited to blameworthy practices that did not exist during the first period of Islam, but should be used to refer to novel practices of both positive and negative types. Shāfi'ī thus condemned only innovations that conflicted with legal sources as opposed to Malik who condemned all innovations that lacked an explicit supporting source.

Shāfi'ī, in both traditions, bases his use of *bid'ah* on 'Umar's approbation of the congregational *tarāwīḥ* prayer that he instituted: "And he located proof (*iḥtajja*) in the statement by 'Umar b. al-Khaṭṭāb regarding night prayer during Ramadan, 'it is an excellent *bid'ah*.'"[17] Shāfi'ī interpreted 'Umar's statement as establishing a precedent for praiseworthy innovations under the label, "*bid'ah*." Based on this precedent, Shāfi'ī established the notion that *bid'ah* practices should be evaluated by their congruence or

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[15] Aḥmad b. 'Abd Allāh Abū Nu'aym al-Isbahānī, *Ḥilyat al-awliyā' wa-ṭabaqāt al-aṣfiyā'* (Beirut: Dār al-Kitāb al-'Arabī, 1987), 9: 113. See also, Abū Shāmah, *al-Bā'ith*, 35.

[16] There are modern writers who want to distinguish between *iḥdath*, as a neutral term, and *bid'ah*, as a negative term, and claim that not all novel (*muḥdath*) acts are *bida'*, but most medieval jurists who follow Shāfi'ī do not differentiate between terms. One exception to this tendency is the Mālikī scholar, Aḥmad al-Zarrūq, discussed below, who cites a tradition from Shāfi'ī that any act that leans on a legal basis is not a *bid'ah*. Zarrūq reads this statement as evidence that the term *bid'ah* represents only negative innovations but that *muḥdath* denotes both licit and illicit novelties. Aḥmad Zarrūq al-Baransī al-Fāsī, *al-Nahy 'an al-ḥawādith wal-bida' aw 'Uddat al-murīd al-ṣādiq 'an asbāb al-maqt fī bayān al-ṭarīq al-qaṣd wa-dhikr ḥawādith al-waqt*, ed., Dawūd 'Alī al-Fāḍil al-Fā'urī (Amman: Dār Zahrān lil-Nashr wal-Tawzī', n.d.), 87.

[17] Abū Nu'aym al-Isbahānī, *Ḥilyat al-awliyā'*, 9: 113.

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incongruence with legal sources and not by the existence of an explicit source. That is, Shafi'ī interpreted 'Umar's statement as the precedent for rehabilitating the term *bid'ah* as a legal technical term and allowing certain innovated practices to enter into the legal system.[18]

Ibn Waḍḍāḥ (d. 287/900)

Subsequent jurists who wrote treatises or contributed to the legal discourse on *bid'ah* situated themselves in relation to one or both of these positions. The earliest independent treatises on *bid'ah* were written by Mālikī jurists who took up Mālik's mission to stop the spread of innovations. Muḥammad b. Waḍḍāḥ al-Qurṭubī[19] is credited with writing the first treatise on *bid'ah*, entitled, *al-Bida' wal-nahy 'anhā.*[20] Ibn Waḍḍāḥ's treatise is a collection of canonical and non-canonical traditions from the Prophet and *salaf* on the subject of *bid'ah*, and the author rarely injects his own opinion.[21] Nevertheless, his choice of traditions demonstrates his clear adherence to Mālik's general rejection of

[18] One does not have to conclude, as certain later jurists would, that Shāfi'ī ascribes to 'Umar the authority to override the Prophetic statements about *bid'ah*. Rather, 'Umar's statement indicates that 'Umar regarded the Prophet's statement "every innovation is an error" as a general ruling that includes certain qualifications.

[19] Born in 199/815 in Cordoba, Muḥammad b. Waḍḍāh was an Mālikī jurist and Hadith scholar. For further biographical information, see Sezgin, *GAS*, 1:474-5. See also, Fierro's Introduction in *Kitāb al-Bida' = Tratado Contra las Innovaciones*, transl. and ed., Maribel Fierro (Madrid: Consejo Superior de Investigaciones Cientificas, Instituto de Filologia, Departamento de Estudios Arabes, 1988).

[20] Ibn Waḍḍāḥ, *al-Bida' wal-nahy 'anhā.* Fierro refers to this work as *Kitāb al-bida'* (Fierro, "Treatises Against Innovations," 206), and Brockelmann lists another title, *Ittiqā' al-bida'* (Brockelmann, *GAL*, S 2:978, but otherwise provides no information on Ibn Waḍḍāḥ). Vardit Rispler cites from *Tartīb al-Madārik* that two other early Mālikī jurists, Muḥammad b. Saḥnūn (d. 256/870) and Abū Zakariyyah Yaḥyā b. 'Awn (d. 298/910), wrote treatises against *bid'ah*, but their manuscripts are not extant. Rispler, "Toward a New Understanding of the Term *bid'a*," 322.

[21] As an example of a comment by the author found in the treatise, Ibn al-Waḍḍāḥ summarizes Mālik's approach to *bid'ah* by saying, "Mālik had detested every *bid'ah*, even if it was good (*kāna fī khayr*)." Ibn al-Waḍḍāḥ, *al-Bida' wal-nahy 'anhā*, 58.

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bid'ah as deviating from the Prophet's *sunnah*; one notable absence from his otherwise extensive collection is the tradition relating 'Umar's statement in favor of congregational *tarāwīḥ* prayer. In addition to the traditions against the proliferation of *bid'ah* and against *ahl al-bid'ah*, Ibn Waḍḍāḥ addresses the devotional innovations in the mosque, including ones on particular days, such as the congregational prayers on the eve of the 15th Sha'bān and gathering at the mosque on the day of 'Arafah.

al-Ṭurṭūshī (d. 520/1126)

Kitāb al-ḥawādith wal-bida', by Abū Bakr al-Ṭurṭūshī,[22] is in many ways the first analytical treatise on *bid'ah*, and almost all subsequent writings on *bid'ah* refer back to it. Ṭurṭūshī, like other early Malikis, defines *bid'ah* as "that which does not have a basis (*aṣl*) in the Qur'ān, in the Sunnah, in consensus (*ijmā'*) or anything else (*wa-ghayrihi*)."[23] In sharp contrast to Shāfi'ī's position, Ṭurṭūshī asserted that novel practices that lack an explicit canonical source are called *bid'ah*, and that *bid'ah* can only be reprehensible or prohibited. As he explains, the phenomenon of *bid'ah* includes two types: innovations that all laypeople (*'awāmm*) and specialists (*khawāṣṣ*) know are *bid'a muḥdathah*, whether as forbidden (*muḥarramah*) or as detestable (*makrūhah*); and innovations that most people, except for those whom God protects, believe to be devotional practices

[22] Born in 451/1059 in Randaqa, Spain, Abū Bakr Muḥammad al-Ṭurṭūshī was an Mālikī jurist in Saragossa and Seville, traveled widely and settled eventually in Alexandria. For further biographical information, see Brockelmann, *GAL*, 1: 459 and S 1: 829. See, also, A. Ben Abdesselem, s.v., "al-Ṭurṭūshī," *EI²*, 10:739a-749a, and Fierro's Introduction in *Kitāb al-ḥawādith wal-bida' = El libro de las novedades y las innovaciones*, trans. and ed., Maribel Fierro (Madrid: Consejo Superior de Investigaciones Cientificas, Instituto de Cooperación con el Mundo Árabe, 1993).

[23] Ṭurṭūshī, *al-Ḥawādith wal-bida'*, 78. Later in the treatise, Ṭurṭūshī provides a basic definition (*aṣl*) of word, "*bid'ah*" as "invention (*al-ikhtirā'*), being something that is created without a precedent and without a prior example or something similar to it," and he brings two examples from the Qur'ān, namely, "*badī' al-samāwāt wal-arḍ*" and "*lastu bid'an min al-rusul*." Ibid., 108.

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(*'ibādāt*), acts of drawing near to God (*quraban*), acts of obedience (*ṭa'āt*) or normative commendable acts (*sunanan*). Ṭurtūshī focuses his writing on combating the second type of innovation, since, he reasons, even the innovator of the first type of innovations would admit that his innovation is not part of the religion (*laysa min al-dīn*)."[24] In other words, Ṭurṭūshī envisioned his main challenge to be stopping the proliferation of devotional innovations that Muslims believed to be pious and normative acts. Ṭurtūshī begins his discussion with the doctrinal innovations of sectarian groups and then shifts to innovations of practice.[25] He, like Ibn Waḍḍāḥ, focused primarily on devotional innovations, but he did include a short chapter on innovations in food and dress.

Ibn al-Jawzī (d. 597/1200)

Abū al-Faraj Ibn al-Jawzī's[26] *Talbīs Iblīs* deals at length with *bid'ah* as one of the numerous ways that the devil insinuates himself into human life and as an outgrowth of vain desires (*hawā*).[27] His book primarily deals with devotional issues, such as deviations in prayer or temptations towards asceticism that lead away from normative devotional life, but also includes a section on the deviations of political rulers.[28] Ibn al-Jawzī defines *bid'ah* as "an action that did not exist and was innovated (*'ibārah 'an fi'l lam yakun fubtudi'a*)," but adds that "the majority (*al-aghlab*) of innovated acts are those that clash

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[24] Ibid., 78.

[25] Ṭurṭūshī, *al-Ḥawādith wal-bida'*, 101.

[26] Born in Baghdad in 510/1126, Abū al-Faraj b. al-Jawzī was a leading Ḥanbalī jurist and Hadith scholar. For further biographical information, see Brockelmann, *GAL*, 1:500-506 and S 1:914. See, also, Henri Laoust, s.v. "Ibn al-Djawzī," *EI*[2], 3:751a-b.

[27] Ibn al-Jawzī, *Talbīs Iblīs*, 12.

[28] Ibid., 171-174.

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with the law and require a change to the law of addition or subtraction."[29] Ibn al-Jawzī qualifies his lexical definition of *bid'ah*, as an unprecedented act, by stipulating that most unprecedented acts conflict with the law. Although this definition leaves open the possibility of an exceptional innovation that does not conflict with the law, Ibn al-Jawzī further qualifies his legal definition by regarding otherwise permissible innovations as reprehensible:

> And if something was innovated that did not conflict with the law and did not entail a negative change [to the law], the *salaf* as a whole (*jumhūr al-salaf*) would detest it (*yakrahūnahu*) and would avoid every innovated act even if it were permitted (*jā'izan*) out of concern for the principle, which is obedience (*ittibā'*)."[30]

Ibn al-Jawzī recognizes the possibility of permissible innovations but overturns their status based on the precedent set by the *salaf* of avoiding all practices that did not originate with the Prophet. He thus combines both approaches to *bid'ah*. On the one hand, he evaluates *bid'ah* according to its congruence or conflict with the law. On the other hand, he undermines this evaluative process by arguing that all *bida'*, as acts that did not originate with the Prophet, are reprehensible regardless of their content. He further complicates the matter by asserting a similar category of permissible novelty (*muḥdath*) to explain 'Umar's institution of the *tarāwīḥ* and al-Ḥasan al-Basrī's defense of the *qaṣaṣ*. Ibn al-Jawzī permits 'Umar's act as an example of "novelties (*muḥdathāt*) [that] occurred that do not clash with the law (*sharī'ah*) and do not negatively affect it, and they saw no harm in doing them (*fa-lam yaraw bi-fi'lihā ba'san*)."[31] Regarding *al-*

[29] Ibid., 29.

[30] Ibid.

[31] Ibid., 30.

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qaṣaṣ, Ibn al-Jawzī writes, "how many brothers have benefited and [how many] calls (*da'wah*) have been answered, since admonition is licit and when a novelty is linked to a licit principle it is not censured."[32] Ibn al-Jawzī exemplifies the approach of admitting the classification of *bid'ah* into positive and negative types but only using the positive type of *bid'ah* to permit practices in the time of the *salaf*.[33]

Muḥammad al-Maqdisi (d. 643/1245)

Ibn al-Jawzī's younger Ḥanbalī colleague, Abu 'Abd Allāh Muḥammad 'Abd al-Wāḥid al-Maqdisī,[34] wrote a short treatise against *bid'ah*, *Ittibā' al-sunan wa-ijtināb al-bida'*, that seems to reflect issues of the author's personal concern. After citing a series of Hadith and poetic passages condemning *bid'ah* in general, Maqdisī focuses on innovations related to sexual indiscretions – between men and women as well as between men and boys – and innovations related to singing, dancing and music playing. Although the treatise contains little commentary from the author, his choices lead us to conclude that Maqdisī upheld the Hadith's universal rejection of *bid'ah* and did not share in the trend of limiting *bid'ah* primarily to devotional innovations.

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[32] Ibid., 30.

[33] Ibn al-Jawzī's approach is a good example of the shortcoming of dividing jurists along the lines of those who do or do not classify types of *bid'ah*. For example, the modern writer on *bid'ah*, Wā'ī, includes Ibn al-Jawzī in his list of those who distinguish between good and censured types of innovations, together with Shāfi'ī jurists (Wā'ī, *al-Bid'ah wal-maṣāliḥ al-mursalah*, 89). Modern Sufi scholars and advocates argue that Ibn al-Jawzī did apply this category of non-reprehensible innovations to the Prophet's birthday festival. They point to Ibn al-Jawzī's composition of poetry in honor of the Prophet's birthday festival as evidence that he supported the practice. The treatise is entitled, *Mawlid al-Jawzī al-shahīr bil-'arūs* (also known as "*Hādhā mawlid al-nabī*") (Cairo: al-Maṭba'ah al-Bahīyah al-Miṣriyah, [1850?]). However, Ibn al-Jawzī does not explicitly endorse the festival as a commendable innovation in this work or in any other treatise.

[34] Born in 569/1173, Abu 'Abd Allāh Muḥammad 'Abd al-Wāḥid al-Maqdisī was a Ḥanbalī scholar of law and Hadith. He lived primarily in Damascus but traveled throughout the Muslim Middle East to study with great scholars. For further background, see 'Umar Riḍā Kaḥḥālah, *Mu'jam al-mu'allafīn* (Beirut: Mu'assasat al-Risālah, 1993), 3: 468-9.

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Ibn ʻAbd al-Salām (d. 660/1262)

Although ʻIzz al-Dīn Ibn ʻAbd al-Salām al-Sulamī[35] did not write a treatise on *bidʻah*, his brief treatment of *bidʻah* in his book on legal rules, *al-Qawāʻid al-Kubrā*, changed the parameters of the *bidʻah* debate. Ibn ʻAbd al-Salām there defines *bidʻah* strictly as a neutral term, by referring only to its lexical meaning and by not invoking any negative meanings found in the Hadith literature. He writes, "*Bidʻah* is an act that was not known during the time of God's Messenger (*al-bidʻah fiʻl mā lam yuʻhad fī ʻaṣr rasūl allah*)."[36] Ibn ʻAbd al-Salām expands Shāfiʻī's binary typology of *bidʻah* and applies the five values of *fiqh* to *bidʻah*. He furthermore subsumes the subject of *bidʻah* under the rubric of the legal system, by determining the legal status of an innovation by the applicable legal rule. In the examples he brings, Ibn ʻAbd al-Salām applies the category of *bidʻah* to both devotional and civil acts and to acts in both the past and the present. Although Ibn ʻAbd al-Salām, in other contexts, treats the category of commendable innovation as the exception to the general rule against innovations, he is credited with (or vilified for) removing the absolute stigma of *bidʻah* and establishing it as a category within the framework of legal acts.

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[35] Born in Damascus in 577/1181-2, ʻIzz al-Dīn b. ʻAbd al-Salām al-Sulamī was known as the "Sultan of the scholars (*sulṭān al-ʻulamāʼ*)," both for his authority in Shāfiʻī jurisprudence and his staunch independence from the political authorities of his time. Ibn ʻAbd al-Salām was also an Ashʻarī theologian and, as we discuss below, a member of the Suhrawardī Order of Sufis. He lived for the last twenty years of his life in Cairo and headed the Shāfiʻī academies there. For further biographical information, see below in the section on Ibn ʻAbd al-Salām. See Tāj al-Dīn al-Subkī, *Ṭabaqāt al-Shāfiʻiyyah al-kubrā*, ed., Muṣṭafā ʻAbd al-Qādir Aḥmad ʻAṭā (Beirut: Dār al-Kutub al-ʻIlmiyyah, 1999), 4: 354-385, no. 1183. See also Brockelmann, *GAL*, S 1:766-768, and E. Chaumont, s.v. "al-Sulamī," *EI²*, 9: 812b-813b.

[36] Ibn ʻAbd al-Salām, *al-Qawāʻid al-kubrā (also known as, Qawāʻid al-aḥkām fī iṣlāḥ al-anām)*, ed., Nazīr Kamāl Ḥammād and ʻUthmān Jumʻah Ḍamīriyyah (Damascus: Dār al-Qalam, 2000), 337.

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Abū Shamah (d. 665/1268)

Ibn 'Abd al-Salām's students qualified Ibn 'Abd al-Salām's neutral approach in different directions but maintained his assertion that the legal status of an innovation should be determined by its content and not merely by its lack of precedent. Abū al-Qāsim 'Abd al-Raḥmān Abū Shāmah,[37] in *al-Bā'ith 'alā inkār al-bida' wal-ḥawādith*, preserves the legal category of *bid'ah ḥasanah*, but as the exception to the general rule against *bid'ah*. Abū Shāmah, on the one hand, cites Ṭurṭūshī's definition of *bid'ah* and indicates his support for this perspective when he writes, "the term (*lafẓ*), "*bid'ah*," is mostly used for the reprehensible innovation in religion, and the term "*mubtadi'*" is almost always used for censure (*al-dhamm*)."[38] On the other hand, Abū Shāmah cites Shāfi'ī's definition of *bid'ah* and asserts that *bid'ah* – as a legal term – is divisible into positive and negative innovations. Following Ibn 'Abd al-Salām, Abū Shāmah argues that the legal status of an innovation should be determined by its agreement and lack of conflict with a legal rule. He furthermore adds that a commendable innovation should be recognized by jurists as a meritorious act with a pious purpose. Abū Shāmah applies this category to both devotional and civil innovations in both past and present. He thus parts company with other jurists who are sympathetic to the Hadith perspective when he defines and uses the category of *bid'ah ḥasanah* to permit a limited set of new practices.

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[37] Born in 599/1203 in Damascus, Shihāb al-Dīn Abū al-Qāsim 'Abd al-Rahmān Abū Shāmah was a Shāfi'ī jurist and Arab historian. For further biographical information, see below in the section on Abū Shāmah. See also, Subkī, *Ṭabaqāt al-Shāfi'iyyah al-kubrā*, 4: 329-331, no. 1161; Brockelmann, *GAL*, S 1:550-1; and Hilmy Ahmad, s.v. "Abū Shāmah," *EI²*, 1:150a.

[38] Abū Shāmah, *al-Bā'ith*, 31.

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al-Nawawī (d. 676/1277)

Similarly, the Shāfiʿī jurist, Abū Zakariyyā Muḥy al-Dīn al-Nawawī[39] uses the lexical approach when defining *bidʿah* as a legal category, but preserves the Hadith approach by positing the category of *bidʿah ḥasanah* as the exception to the general rule against *bidʿah*. He, like Ibn ʿAbd al-Salām, did not write a treatise on *bidʿah*, but his opinion is often cited as one of the main proponents of the classifying approach. Nawawī, in his dictionary of technical terms, *Tahdhīb al-asmāʾ wal-lughāt*, promotes the Shāfiʿī approach to *bidʿah* when he writes, "According to the law [*bidʿah*] is a new thing (*ihdāth*) that did not exist in the time of the Messenger of God – peace and blessings be upon him and his family – and it is divided into good (*ḥasan*) and bad (*qabīḥ*)."[40] For support of this legal definition, he then cites verbatim Ibn ʿAbd al-Salām's entry in *al-Qawāʿid* followed by Bayhaqī's entry on Shāfiʿī.[41] He further confirms this position in his commentary on the *ḥadīth* phrase "*kull bidʿah ḍalālah*" by saying,

> This is a general statement that should be qualified (*ʿāmm makhṣūṣ*), and the intended meaning is most of the innovations (*wal-murād ghālib al-bidaʿ*), and the linguists say 'it is every thing that was done without a precedent,' and the scholars said '*bidʿah* [has] five divisions…"[42]

Nawawī, like Abū Shāmah, harmonizes this *ḥadīth* against *bidʿah* with Ibn ʿAbd al-Salām's position by interpreting the word "every" to mean "most" innovations are

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[39] Born in 631/1233 south of Damascus in Nawa, Abū Zakariyyā Muḥy al-Dīn al-Nawawī was a leading Shāfiʿī jurist and Hadith scholar. For further biographical information, see Subkī, *Ṭabaqāt al-Shāfiʿiyyah al-kubrā*, 4: 471474, no. 1288; Brockelmann, *GAL*, S 1:680-686; and W. Heffening, s.v. "al-Nawawī," *EI*[2], 7:1041a-b.

[40] Nawawī, *Tahdhīb al-asmāʾ wal-lughāt*, 3: 22.

[41] Ibid., 23. The editor of could not resist inserting his own opinion in the *bidʿah* debate. He adds a footnote here that Shāṭibī has a valuable statement (*kalām nafīs*) in *al-Iʿtiṣam* that tears down the division of *bidʿah* into types and demolishes its supports.

[42] Ibid., *Sharḥ Ṣaḥīḥ Muslim*, 6: 403-4. After summarizing Ibn ʿAbd al-Salām's position, Nawawī then references his longer citation of Ibn ʿAbd al-Salām and Shāfiʿī in *Tahdhib al-asmāʾ wal-lughāt*.

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deviations. He justifies this interpretation of "every" by bringing 'Umar's statement 'what an excellent innovation this is,' as support for a positive meaning of *bid'ah.*[43] That being said, Nawawī at times veers from Ibn 'Abd al-Salām's typology and uses the term *bid'ah* in an unqualified negative way.[44] Unlike Abū Shāmah, it is not clear whether Nawawī was open to applying the category of *bid'ah ḥasanah* to devotional innovations.

al-Qarāfī (d. 684/1285)

Ibn 'Abd al-Salām's Mālikī student, Shihāb al-Dīn Abū al-'Abbās Aḥmad al-Qarāfī,[45] broke *madhhab* allegiance by expressing his preference for Ibn 'Abd al-Salām's typology of five categories of *bid'ah* over the Mālikī rejection of all innovations, in his work on legal rules, *al-Furūq*.[46] After admitting that the disciples of Mālik are unanimous in rejecting all innovations, Qarāfī declares that "the truth is classification (*al-ḥaqq al-tafṣīl*) and it is divided into five."[47] He then emulates Ibn 'Abd al-Salām's entry on *bid'ah* and

[43] Ibid. Nawawī also cites another example of "every" functioning as a qualified term, in the case of the Qur'ān verse, "*tudammiru kull shay'*." Q 25:46.

[44] In his discussion of the practice of shaking hands after morning and afternoon prayers (*muṣāfaḥah*), Nawawī cites Ibn 'Abd al-Salām's position that shaking hands after these prayers, for those who greeted each other before prayer, is a permissible *bid'ah* (*bid'ah mubāḥah*) (Nawawī, *al-Majmū' Sharḥ al-Muhadhdhab* (Cairo: Maṭba'at al-Imām Bil-Miṣr, n.d.), 3: 470). In contrast, Nawawī interprets the *ḥadīth*, "whoever does an action that does not fit with what we have established, he is rejected," as a clear rejection of all innovations. (Nawawī, *Sharḥ Ṣaḥīḥ Muslim*, 12:257-8). Similarly, Nawawī interprets Ibn 'Umar's pronouncement, that *ṣalāt al-ḍuḥā* is a *bid'ah*, as a rejection of the practice (Ibid., 6:238), whereas Ibn Ḥajar al-'Asqalānī locates an alternate source that has Ibn 'Umar saying, "*It is a bid'ah, and an excellent bid'ah*" (*Fatḥ al-bārī*, 3: 295).

[45] Born in the Qarāfah section of Cairo in 626/1228, Shihāb al-Dīn Abū al-'Abbās Aḥmad al-Qarāfī was a leading Mālikī jurist and scholar of legal theory. For further biographical information, see Sherman Jackson's Chapter One in *Islamic Law and the State: the Constitutional Jurisprudence of Shihāb al-Dīn al-Qarāfī* (Leiden: Brill, 1996), 1-32. See also, Brockelmann, *GAL*, 1: 385 and S 1:665-6.

[46] Shihāb al-Dīn Aḥmad b. Idrīs al-Qarāfī, *al-Furūq* (also known as, *Anwār al-burūq fī anwā' al-furūq*), ed., Khalīl al-Manṣūr (Beirut: Dār al-Kutub al-'Ilmiyyah, 1998), 4: 345-350. For more details on Qarāfī's relationship with his teacher, Ibn 'Abd al-Salām, see Jackson, *Islamic Law and the State*, 9-13.

[47] Qarāfī, *al-Furūq*, 4: 345.

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provides examples for each of the five types of *bid'ah* and the legal rules that apply. When he applies the five types to actual innovations, however, Qarāfī adheres to the Mālikī approach on the substantive level. He regards all devotional innovations as reprehensible or prohibited, such as "specifying special days or other types of devotional practices (*takhṣīṣ al-ayām al-fāḍilah aw ghayrihā bi-naw' min al-'ibādāt*)."[48] Unlike Ibn 'Abd al-Salām and Abū Shāmah, who leave open the possibility of permitting devotional innovations, Qarāfī applies the positive types of *bid'ah* only to civil innovations.[49]

Ibn Taymiyyah (d. 728/1328)

Most jurists, until the eighth/fourteenth century, assumed that *bid'ah* encompassed innovations in both devotional and civil realms even as they focused their concern on devotional innovations. Aḥmad Ibn Taymiyyah,[50] the Hanbali jurist and reformer, altered the very definition of *bid'ah* so that it focuses on the devotional realm. Ibn Taymiyyah outlines his approach to *bid'ah* in his polemic against Muslim imitations of non-Muslim festivals, *Iqtiḍā' al-ṣirāṭ al-mustaqīm limukhālafat aṣḥāb al-jahīm.* After surveying the main *aḥādīth* against *bid'ah*, he defines *bid'ah* as an act that one performs to gain divine nearness by it (*yataqarrabu bihi ilā Allāh*) without its being prescribed by God.[51] *Bid'ah*, as a legal term, denotes an act that lacks a legal indication (*dalīl shar'ī*).[52]

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[48] Ibid., 347.

[49] For more details on Qarāfī's approach, see the section on Ibn 'Abd al-Salām below in the second part of this chapter.

[50] Born in 611/1262 in Ḥarrān, Taqī al-Dīn Aḥmad b. Taymiyyah was the leading Ḥanbalī jurist and theologian of his time. He lived much of his adult life in Damascus, but also spent several periods in Cairo. For further biographical information, see below in the section on Ibn Taymiyyah. See also Brockelmann, *GAL*, 2:100-105, and Laoust, s.v. "Ibn Taymiyya," *EI*², 3:951a-954b.

[51] Ibn Taymiyyah, *Iqtiḍā'*, 2: 84.

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Whereas certain customary acts (*'ādāt*) might be permissible without an explicit legal indication, all devotional acts require one.[53] However, given the Hadith's unqualified condemnation of *bid'ah*, Ibn Taymiyyah rejects the possibility of calling these new customary acts by the label, *bid'ah ḥasanah*; *bid'ah* always signifies a reprehensible or forbidden act, while certain customary acts can be considered permissible if they serve the public's benefit (*maṣlaḥah*).[54] Thus, although he did not limit *bid'ah* to devotional innovations, Ibn Taymiyyah shifted the definition of *bid'ah* to focus on innovations in the devotional realm.

Ibn al-Ḥājj (d. 737/1336)

The Māliki jurist, Abū 'Abdallāh Muḥammad b. al-Hājj al-'Abdarī[55] also rejects the classification of *bid'ah* into positive and negative types in his treatise on proper religious behavior, *al-Madhkhal*.[56] Although he does not define *bid'ah* explicitly, Ibn al-Ḥājj clearly upholds the Hadith approach to defining *bid'ah* and the opposition between *sunnah* and *bid'ah*.[57] *Bid'ah* represents human inventions that people mistakenly believe

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[52] Ibid., 2:95.

[53] Ibid., 2:86.

[54] Ibid., 2:100.

[55] Born in 737/1336 of North African lineage, Abū 'Abdallāh Muḥammad b. al-Hājj al-'Abdarī was an Mālikī jurist who lived in Cairo. For further biographical information, see Brockelmann, *GAL*, S 2:95, and J. C. Vadet, s.v. "Ibn al-Ḥādjdj," *EI²*, 3:779b.

[56] The full title is Ibn al-Ḥājj, *al-Madkhal ilā tanmiyyat al-a'māl bi-taḥsīn al-niyyāt wal-tanbīh 'alā ba'ḍ al-bida' wal-'awā'id allatī intaḥalat wa-bayān shanā'ihā*, ed., Tawfīq Ḥamdān (Beirut: Dār al-Kutub al-'Ilmiyyah, 1995).

[57] Ibn al-Ḥājj, after citing several *aḥādīth* against *bid'ah*, asserts that there are numerous *aḥādīṭh* and innumerable traditions by the *salaf* against *bid'ah* (Ibid., 61). Rispler, in her table of medieval classifications of *bid'ah*, identifies Ibn al-Ḥājj as one who classifies *bid'ah* into the five *fiqh* values

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are *sunnah* and that, regardless of the virtue of the intent, end up corrupting the faith. Instead, the Muslim community, and the scholar particularly, should limit their behavior to the norms established by the Prophet and interpreted by the *salaf.* One who holds that *bid'ah* can be commendable (*mustaḥsanah*) and brings a textual indication, abandons the principles of the *salaf*, and that is rejected (*mardūd 'alayh*) and unacceptable (*ghayr maqbūl*).[58] Like Ṭurṭūshī, Ibn al-Ḥājj uses the label of *bid'ah* not only for problematic devotional practices, but also for deviations in clothing,[59] in the behavior of women,[60] in eating habits,[61] and in the appropriate behavior of the scholar in society.

al-Shāṭibī (d. 790/1388)

Kitāb al-I'tiṣām, by the Mālikī jurist, Ibrahīm al-Shāṭibī,[62] represents the culmination of several centuries of juristic writing against *bid'ah* and its most sophisticated articulation. Shāṭibī's interest in *bid'ah* was both personal and part of his reformist aim to realign Muslim practice with the norms established by the Prophet and the *salaf.* He wrote *al-I'tiṣām* in order to defend himself against the charge of *bid'ah* for his attacks on local custom and to combat the religious excesses of Sufi groups and even his fellow Mālikī

("Toward a New Understanding of the term *bid'ah*," 324). However, given the entire thrust of *al-Madkhal*, I find this classification to be inaccurate.

[58] Ibn al-Ḥājj, *al-Madkhal*, 58.

[59] Ibid., 96-115.

[60] Ibid., 174-177.

[61] Ibid., 157-170.

[62] Born in Granada, Abū Isḥāq Ibrahīm al-Shāṭibī was a Mālikī scholar of law and legal theory in Andalusia. For further biographical information, see the section on Shāṭibī below. See also, Brockelmann, *GAL*, S 2:374-5, and Fierro, s.v. "al-Shāṭibī," *EI*[2], 9:364a-b. For an extensive treatment of Shāṭibī's life, works and thought, see Muhammad Khalid Masud, *Shāṭibī's Philosophy of Islamic Law* (Kuala Lampur: Islamic Book Trust, 2000).

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jurists in Andalusia.[63] Shāṭibī's major contribution to the *bid'ah* debate is his subtle delineation between licit and illicit change. Through an exhaustive survey of early Muslim traditions, he argues that the Hadith establishes a universal principle against *bid'ah* that leaves no room for positive and negative classifications. The Hadith's rejection of *bid'ah*, however, does not negate the possibility of change in the customary realm, based on the principle of *maṣlaḥah*. Shāṭibī limits his definition of *bid'ah* to religious practices that take the form of a legal norm and have as their express purpose the fulfillment of God's will: "*Bid'ah* is an invented way in religion that resembles the legal way, and which is intended to be followed in order to strive in the utmost in obedience to God Sublime."[64] Shāṭibī thus goes one step further than Ibn Taymiyyah by limiting the definition of *bid'ah* almost exclusively to devotional innovations. In this way, he preserves the unqualified tone of the *aḥādīth* against *bid'ah* while allowing customary law to address the new challenges of his day.

al-Turkumānī (8th/14th – 9th/15th c.)

Idris b. Baidakān al-Turkumānī,[65] the only Ḥanafī jurist known to have written a treatise on *bid'ah*, theoretically allows for multiple types of *bid'ah*, but does not apply the positive definition of *bid'ah* in his critique of contemporary Muslim practice, *al-Luma' fī al-ḥawādith wal-bida'*. Unlike Shāṭibī, Turkumānī applied the label of *bid'ah* to social,

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[63] Shāṭibī, *al-I'tiṣām*, 1:241ff. See also, Masud, *Shāṭibī's Philosophy of Islamic Law*, 75, and Hallaq, *A History of Islamic Legal Theories: An Introduction to Sunnī uṣūl al-fiqh* (Cambridge: Cambridge University Press, 1997), 163.

[64] Shāṭibī, *al-I'tiṣām*, 1:25. For an extensive discussion of Shāṭibī's definition, see the next section.

[65] Idris b. Baidakān al-Turkumānī was a Ḥanafī scholar who lived in Egypt and wrote his treatise in Mecca. For further biographical information, see Brockelmann, *GAL*, 2:169 and S2:168.

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political, cultural, and religious innovations. He acknowledges that there are different types of *bid'ah*, including permissible (*mubāḥ*), rewarded (*thawāb*), reprehensible (*makrūh*) and prohibited (*ḥarām*), but discusses only the blameworthy innovations in this book.[66] Although Turkumānī classifies *bid'ah* into positive and negative types, he gives no indication of how and when he would use the category of rewarded *bid'ah*. He, instead, upholds the general traditions against *bid'ah* and describes the innovator as a "betrayer (*khā'in*)," likely evoking Malik's statement against one who suggests that there are positive innovations.[67] Turkumānī thus distinguishes himself from the approaches of Abū Shāmah and Nawawī by failing to qualify the seemingly general *aḥādīth* against *bid'ah* or to suggest ways to harmonize the *aḥādīth* he cites with his typology of *bid'ah*.

Ibn Ḥajar al-'Asqalānī (d. 852/1449)

By the 9th/15th century, the juristic debate over *bid'ah* and its application to popular innovations had developed well-established tropes. The Shāfi'ī scholar, Abū al-Faḍl Aḥmad Ibn Ḥajar al-'Asqalānī[68] in his commentary on *Ṣaḥīḥ Bukhārī*, draws from more than one of these tropes, leading modern scholars to classify him as someone who rejects all types of *bid'ah*[69] or someone whose views are internally contradictory.[70] In a long

[66] Idrīs b. Baydakīn al-Turkumānī, *Kitāb al-Luma' fī al-ḥawādith wal-bida'*, ed., Ṣubḥī Labīb (Cairo and Weissbaden: Qism li-Dirāsāt al-Islamiyyah bil-Ma'had al-Almānī lil-Āthār bil-Qāhirah, in conjunction with Franz Steiner Verlag, 1986), 3.

[67] Ibid., 18.

[68] Born in Cairo 773/1372, Abū al-Faḍl Aḥmad Ibn Ḥajar al-'Asqalānī was a leading Hadith scholar and Shāfi'ī jurist, as well as Chief Judge of Egypt (and Syria). For further biographical information, see Brockelmann, *GAL*, 2: 67-70; and F. Rosenthal, s.v. "Ibn Ḥadjar al-'Asḳalānī," *EI*^{2}, 3:776a-778a.

[69] For instance, see 'Izzat 'Alī 'Īd 'Aṭiyyah, *al-Bid'ah—taḥdīduhā wa-mawqif al-Islām minhā* (Cairo: Dār al-Kutub al-Ḥadīthah, 1973), 198.

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discussion of *bid'ah* in his commentary on the *ḥadīth*, "every innovation is an error," Ibn Ḥajar echoes Ṭurṭūshī when he writes that *bid'ah*, in legal usage (*'urf al-shar'*), is that which has no basis in the law (*laysa lahu aṣl fī al-shar'*) and is blameworthy. In contrast, *bid'ah* linguistically refers to every act that lacks a precedent, whether praiseworthy or blameworthy.[71] He then goes on, after surveying other *aḥādīth* against *bid'ah*, to cite without comment Shāfi'ī's typology followed by Ibn 'Abd al-Salām's typology of five values. Later in the passage, when discussing the central phrase of this *ḥadīth*, "every innovation is an error," Ibn Ḥajar refers back to his legal definition and qualifies it slightly, saying, "and the intended meaning of 'every innovation is an error,' is that which is created that lacks a legal indication in a *specific or general way*." As we will see, Ibn Ḥajar (and Suyūṭī) would argue that a general textual basis is sufficient grounds to support the devotional innovation of the *mawlid al-nabī*.

Whereas in this first entry, Ibn Ḥajar's position seems paradoxical, in his interpretation of the tradition describing 'Umar's institution of the congregational *tarāwīḥ* prayer, he presents a more integrated approach to *bid'ah*. First, Ibn Ḥajar gives the standard lexical definition of *bid'ah* as "something that was created without a precedent." Second, he posits that *bid'ah* is applied in the law as the opposite of *sunnah* and thus censured (*tuṭlaqu fī al-shar' fī muqābil al-sunnah fatakūnu madhmūmah*)." And third, he modifies the legal definition of *bid'ah* by saying that "more precisely (*wa-fī al-taḥqīq*), if it is included under the commendable in law (*mimmā tandariju taḥt mustaḥsan fī al-shar'*),

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[70] For instance, see 'Īsā b. 'Abd Allāh al-Ḥumayrī, *al-Bid'ah al-ḥasanah aṣl min uṣūl al-tashrī'* (Beirut: Dār Qurtubah, 2001), 157.

[71] Ibn Ḥajar al-'Asqalānī, *Fatḥ al-bārī*, 17:9-11.

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then it is good (*ḥasanah*) and if it is included under the reprehensible then it is reprehensible (*mustaqbaḥah*) and if neither, then it is of the category of the permissible, and it may be divided into the five values..."[72] Unlike in the first entry, where he limited the classification of *bid'ah* to the lexical level, Ibn Ḥajar, in the second entry positions the classification of *bid'ah* as the more nuanced legal approach.[73] Although Ibn Ḥajar regarded *bid'ah* as a term worthy of censure, he nevertheless demonstrated an openness to permitting certain devotional and civil innovations.

Zarrūq (d. 899/1493)

Abū al-'Abbās Zarrūq,[74] like Ibn Taymiyyah and Shāṭibī, is regarded as a reformer of popular Sufism. However, Zarrūq of Fez distinguished himself as a Sufi master criticizing Sufism from within. Zarrūq wrote his treatise, *'Uddat al-murīd al-ṣādiq* (also called *al-Nahy 'an al-hawādith wal-bida'*), to help the Sufi novice avoid the pitfalls of popular innovations.[75] A Mālikī jurist as well as a Sufi *shaykh*, Zarrūq was influenced by Shāṭibī's approach to *bid'ah*. He paraphrases Shāṭibī's definition when he writes, "As for

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[72] Ibid., 5:156-7.

[73] In another entry, Ibn Ḥajar displays a subtle awareness of the complexity within the term, *bid'ah*, when he examines Ibn 'Umar's statement that the first *adhān* on Friday is a *bid'ah*. He writes, "it is possible that he meant it by way of rejecting [the *adhān*] or perhaps he meant that it did not exist during the Prophet's time, and everything that did not exist during the Prophet's time is called *bid'ah*, but some of them are good and some of them are the opposite" (Ibid., 3:45). In my view, Ibn Ḥajar here captures the essence of the *bid'ah* debate – some jurists maintained the lexical definition of *bid'ah* and used *bid'ah* as a descriptive term that can be commendable or blameworthy while others maintained the Hadith's rejection of *bid'ah* and used *bid'ah* as a normative term meaning only rejection.

[74] Born near Fez in 846/1442, Abū al-'Abbās Zarrūq al-Barūsī al-Fāsī was a Mālikī jurist and Sufi master who founded the Zarrūqiyyah Order. For extensive background information on Zarrūq's life, works and reform program, see A. F. Khushaim, *Zarrūq the Ṣūfī: A Guide in the Way and a Leader to the Truth* (Tripoli: General Company for Publication, 1976). See, also, Brockelmann, *GAL*, 2:253-4.

[75] Ibid., 85. Zarrūq also wrote a pamphlet called, *Risālah fī al-radd 'alā ahl al-bida'*, which survives in manuscript form. Ibid., 68.

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the true meaning (*ḥaqīqah*) of *bid'ah*, according to the law (shar'an) it is the creation (*iḥdāth*) of a matter in the religion that seems to be from [the religion] but is not so, either in form (*ṣūrah*) or in fact (*ḥaqīqah*)."[76] He refines this definition by adding that *bid'ah* does not refer to *iḥdāth* in general but to "an act of drawing near that is not one (*mā laysa bi-qurbatin qurbah*)," and that *bid'ah* can only be either prohibited or reprehensible.[77] Zarrūq here rejects the possibility of a positive type of innovation, but limits the label of *bid'ah* to devotional innovations that take the form of devotional norms.[78]

al-Suyūṭī (d. 911/1505)

Jalāl al-Dīn al-Suyūṭī,[79] both Shāfi'ī jurist and consummate synthesizer of scholarly traditions, was strongly influenced by previous writers in his own treatise against *bid'ah*, *al-Amr bil-ittibā' wal-nahy 'an al-ibtidā'*. On the one hand, he borrows extensively from

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[76] Zarrūq al-Fāsī, *'Uddat al-murīd*, 85.

[77] Ibid.

[78] I say "here" because Khushaim notes that Zarrūq, in his treatise, *al-Radd 'alā ahl al-bida'*, suggests that "the word itself does not necessarily imply a total rejection of *bid'ah* in everything. That is because there are certain innovations, or let us say additions, in religion, which although they are innovations, are accepted by the scholars of Islam." Khushaim further notes that Zarrūq uses the label of *bid'ah ḥasanah* for the *tarāwīḥ* prayer and for the use of prayer beads (Khushaim, *Zarrūq the Ṣūfī*, 195-6). Unfortunately, I am not able to examine this text and his exceptional use of the term in that context. Zarrūq does discuss briefly 'Umar's institution of congregational *tarāwīḥ* in *'Uddat al-murīd*, but explains that 'Umar called it a *bid'ah* only in the sense of the form of its establishment (*min ḥayth ṣūrat ithbātihā*). Space does not allow for a further discussion of Zarrūq's approach to *bid'ah*. Although he borrows heavily from Shāṭibī, Zarrūq develops his own theory and typology of *bid'ah*. It is possible that Zarrūq represents a distinct position in the *bid'ah* debate, a jurist who rejects all *bid'ah* but allows for certain Sufi devotional practices that can be linked generally to canonical sources. It is also possible that Zarrūq's position represents a distinct perspective of rejecting the use of the term *bid'ah* but allowing for certain *devotional* innovations under the label of *muḥdath*.

[79] Born in 849/1445 in Cairo, Abū al-Faḍl 'Abd al-Raḥmān Jalāl al-Dīn al-Suyūṭī was a polymath scholar who is considered to be the most prolific author of the whole of Islamic literature. Suyūṭī was best known as a scholar of Hadith and law, but also contributed works on history, biography, Arabic language, and mysticism. For an extensive treatment of Suyūṭī's biography and works, see E. M. Sartain, *Jalāl al-Dīn al-Suyūṭī*. Vol. One. Cambridge: Cambridge University Press, 1975. See, also, Brockelmann, *GAL*, 2:143-159; and E. Geoffroy, s.v. "Suyūṭī," *EI*², 9:913a-916a.

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Ibn al-Jawzī's *Talbīs Iblīs*, especially from Ibn al-Jawzī's collection of Prophetic and other early traditions against *bid'ah*. Following Ibn al-Jawzī, he defines *bid'ah* as an act that clashes with the law or demands a change to it either by addition or subtraction.[80] On the other hand, Suyūṭī follows the Shāfi'ī approach of classifying *bid'ah* into positive and negative types.[81] He borrows directly from Abū Shāmah's approach to defining the category of commendable innovation (*bid'ah mustaḥsanah*) and delineating the necessary criteria for permitting a new practice.[82] Suyūṭī makes an original contribution to the general legal debate on *bid'ah* by emphasizing, in the most explicit language of all the jurists, the possibility of commendable devotional innovations in his own day.[83]

al-Wansharīsī (d. 914/1508)

Finally, it is fitting to conclude this survey with Abū al-'Abbās Aḥmad b. Yaḥyā al-Wansharīsī,[84] since his treatment of *bid'ah* points up the spectrum of juristic positions across the legal schools. Wansharīsī's section on *bid'ah*, "*Al-Mustaḥsan min al-bida' wa-ghayruhu*," in his grand collection of *fatāwā*, *al-Mi'yār al-Mu'rib*, reads like a catalog of 15th century Maghrebi religious practices and the status of each among

[80] Suyūṭī, *al-Amr bil'ittibā'*, 34.

[81] Ibid., 37.

[82] Ibid., 38-9.

[83] See section on Suyūṭī below for the full discussion.

[84] Born possibly in the Ouarsenis (modern day Algeria) in 834/1431, Wansharīsī was an important Mālikī jurist in Tlemcen, who devoted himself to teaching and to issuing and collecting legal opinions. For further biographical information, see Brockelmann, *GAL*, 2:248; and V. Lagardère, s.v., "al-Wansharīsī," *EI²*, 9:139b-140b.

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jurists.[85] Wansharisī gathered cases of innovations from various scholars, Mālikī and non-Mālikī, including those with different approaches to *bid'ah*. He also leaves many of the 129 cases unattributed. In some cases, he classifies innovations as commendable or prohibited.[86] In other cases, however, he simply refers to the example in question as a *bid'ah*, most likely in the sense of a reprehensible act, or cites the position of Ibn al-Ḥājj or Ṭurṭūshī against a particular innovation.[87] In yet other cases, especially in the beginning of the treatise, Wansharīsī merely describes a given practice starting with the phrase, "and among them (*wa-minhā*)," the pronoun most likely referring to category of commendable innovations as is evidenced by the section's title.[88] Wanshārisī's collection reflects the spectrum of juristic positions on *bid'ah*: on one side of the spectrum are jurists who apply the category of commendable innovations to devotional innovations of

[85] This section, "*al-Mustaḥsan min al-bida' wa-ghayrihā*," was extracted from Wansharīsī's *al-Mi'yār al-mu'rib wal-jāmi' al-Maghrib* by Henri Pérès, who published it separately in 1946.

[86] For an example of a commendable innovation, Wansharīsī cites the positions of two scholars from Qayrawān, Abū Bakr b. 'Abd al-Raḥmān and Abū 'Imrān al-Fāsī, who ruled that the contested practice of gathering for recitation of God's name (*dhikr*) on the day of 'Arafah or on other seasonal festivals (*mawāṣim*) was a commendable innovation (Ibid., 1, no. 4). For an example of a negative innovation, he cites the position of Nawawī that lighting candles on the eight day on Mount 'Arafah is a bad innovation (*bid'ah qabīḥah*) (Ibid., 13, no. 41). In addition, Wansharīsī brings debates between scholars, such as the practice of mentioning the Sultans' names during the Friday sermon. Among the several opinions that he cites, Ibn 'Abd al-Salām called it an undesirable innovation (*bid'ah ghayr maḥbūbah*) whereas Suyūrī said that it was permitted (Ibid., 10-13, no. 40). Similarly, the innovation of mentioning the Companions' names in the mosque was considered by some, such as Ibn 'Arafah, to be a permitted good (*jā'iz ḥasan*) innovation (Ibid., 13, no. 40).

[87] For example, "and among them is kissing the grave of a righteous man or a scholar, for it is all innovation." (Ibid., 34, no. 82). Wansharīsī cites Ibn al-Ḥājj's position in several cases, such as Ibn al-Ḥājj's rejection of preparing a banquet in honor of the Prophet's birthday festival, which we discuss below in Chapter Three (Ibid., 33, no. 76). He also cites Ṭurṭūshī's position on the *raghā'ib* prayer, which we discuss below in Chapter Four (Ibid., 54-55, no. 124).

[88] For example, "and among them is reciting the litany (*ḥizb*) in the mosques." Ibid., 1, no. 3.

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their day, whereas on the other side of the spectrum are jurists who reject all practices that lack a basis in the practice of the Prophet and the *salaf*.[89]

Conclusion

From this brief survey of the chronological development of the debate about *bid'ah*, we see that most jurists relied alternately on the lexical definition of *bid'ah* or on its Hadith definition when they constructed their legal definitions of *bid'ah*. Of those who drew primarily from the Hadith approach, early opponents of all *bida'* defined the term as an act that lacked a basis in the Qur'ān, Sunnah or practices of the *salaf*, and thus could only be reprehensible or prohibited. Later opponents of all *bida'*, beginning with Ibn Taymiyyah, further defined *bid'ah* as an act of misguided piety. In contrast, those who applied the lexical definition defined *bid'ah* as an act that had no precedent in the first period of Islam, and could be classified into positive and negative types of two or more. The legal debate over *bid'ah* can thus be understood as one between jurists who regarded *bid'ah* as a term of censure and rejected the classification of *bid'ah* into types, and jurists who regarded *bid'ah* as a neutral term and classified *bid'ah* into positive and negative types.

Although this description accurately portrays most of the juristic positions, the focus on definitions and classifications only partially illuminates and, in some cases, obscures what is at stake in the *bid'ah* debate. First, the focus on whether or not one classifies

[89] For example, Malik loathed inserting any markers to delineate number of verses in the Qur'ān, and particularly in marking every tenth verse in red. In case, however, the tone of Wansharīsī's description suggests that his contemporary community engaged in this practice regularly. Ibid., 3, no. 16.

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does not distinguish between those who posit the classification of *bid'ah* only in theory and those who were willing to use the positive types of *bid'ah* in practice. For instance, Turkumānī theoretically classified *bid'ah* into positive and negative types but did not seem to use the positive types or have the positive exceptions affect his interpretation of the *aḥādīth* against *bid'ah*. In contrast, Abū Shāmah and Nawawī reinterpreted the *aḥādīth* against *bid'ah* to make room for an exceptional category of *bid'ah ḥasanah* and applied the category to particular practices. This focus also oversimplifies the perspectives of jurists who advance compound positions, such as that of Ibn Ḥajar al-'Asqalānī. If we evaluate Ibn Ḥajar's position solely on the basis of his definition and assertion that *bid'ah*, as a legal category, is only blameworthy, we would ignore the fact that Ibn Ḥajar was open to using the category of *bid'ah ḥasanah* to permit even devotional innovations.

Most importantly, the narrow focus on whether "to classify or not to classify" obscures the fact that jurists who classified *bid'ah* into positive and negative types disagreed as to when and where to apply the category of *bid'ah ḥasanah*. Some jurists, such as Ibn al-Jawzī, applied the category of *bid'ah ḥasanah* only to the innovations of the *salaf* while other jurists, such as Ibn 'Abd al-Salām and his disciples, applied the positive types of *bid'ah* to innovations in post-*salaf* Muslim society. Within the latter group, jurists, such as Qarāfī (and possibly Nawawī), only applied the positive categories of *bid'ah* to civil innovations whereas Abū Shāmah and Suyūṭī were open to applying *bid'ah ḥasanah* to both devotional and civil innovations. By focusing on how jurists <u>used</u> the label of *bid'ah*, and whether and how they used the category of *bid'ah ḥasanah*, we identify two

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distinct debates. One debate revolves around the use of *bid'ah ḥasanah* to permit acts that all jurists approve of, such as: the innovations of the *salaf*; 'Umar's institution of congregational *tarāwīḥ* prayer or the collection of the Qur'ān; or positive developments in the civil realm. Here, the debate is over the use of the term, *bid'ah*, as opposed to *maṣlaḥah* or *sunnah*, and not over the status of the act in question. Once one sets aside the terminological debate, one can identify a second debate over whether or not one can use the category of *bid'ah ḥasanah* to permit practices that other jurists reject. In particular, can one use *bid'ah ḥasanah* to permit devotional innovations of post-*salaf* Muslim society? Whereas the first debate is over the definitions of terms, the second debate is over the status of the acts themselves. This second debate drives the rest of the chapter's inquiry.

3. The Normative and Descriptive Approaches to *bid'ah*

Introduction

In the previous section, we traced the development of a juristic debate over the definition and application of *bid'ah* in Islamic law, beginning with opposing positions attributed to Shāfi'ī and Mālik. This survey of the various positions identified the shortcomings of the conventional approach to the *bid'ah* debates, namely seeing these as occurring simply between those who classified *bid'ah* into positive and negative types and those who rejected all types of *bid'ah*. This conventional approach obscures the fact that not all jurists who classified *bid'ah* into positive and negative types were amenable to using the category of *bid'ah ḥasanah* as a legal tool for permitting practices that other jurists rejected. Instead, one can identify two parts to the debate found in these writings on

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bid'ah. First, jurists engaged in a terminological debate over what to call universally lauded developments instituted by the *salaf* and even by others in later periods of Muslim history. Some jurists called these changes *bid'ah ḥasanah* while others rejected the use of *bid'ah* and called these changes by other names, such as *maṣlaḥah* or *sunnah*. Second, jurists also engaged in a substantive debate over the permissibility of certain new practices that lacked a precedent in the Qur'ān and Sunnah. A subset of jurists who classified *bid'ah* into types were open to using *bid'ah ḥasanah* to permit controversial practices in their own times. These jurists distinguished themselves by using the term *bid'ah* in the legal context as a descriptive term, meaning an unprecedented act that is otherwise value-neutral. In contrast, jurists who rejected the use of *bid'ah* in the legal context to permit new practices insisted that *bid'ah* could only be used as a normative term, meaning a reprehensible or prohibited act that lacked a textual precedent. When the *bid'ah* debate is examined along these lines, one finds that jurists disagreed over whether the term *bid'ah ḥasanah* could function as legal tool of change in general, and for permitting innovations in devotional matters in particular.

Jurists who used *bid'ah* in its descriptive sense certainly accepted the normative understanding of *bid'ah* as the fundamental legacy of the Hadith literature. In fact, the jurists who proposed a descriptive approach to *bid'ah* were often on the forefront of combating popular innovations in their day. They distinguished themselves, however, by also articulating a method that allowed for the possibility of positive innovations, and most notably, positive innovations in the devotional realm. These jurists evaluated acts that have no precedent in the Qur'ān and Hadith, by examining the act's content for

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compliance or non-compliance with legal rules and for the act's intrinsic virtue. The main basis of this position is the statement by 'Umar, "what an excellent innovation this is!" as the precedent for permitting certain devotional innovations, as well as other examples of positive inventions by the early community. In order to create space for their descriptive approach, these jurists were forced to contend with the Hadith's general rejection of *bid'ah* either by qualifying the scope of the Hadith's condemnation, or by establishing the category of the good innovation as the exception to the general rule.

Jurists, in turn, who used *bid'ah* exclusively in its normative sense, certainly recognized the need for legal tools to accommodate change. However, they rejected the use of *bid'ah*, given its tainted status in the Hadith. Instead, these jurists limited the definition of *bid'ah* primarily to devotional innovations to make room for their alternate tools for evaluating change, such as the category of *maṣlaḥah*. They grounded this approach in the numerous Prophetic *aḥādīth* against *bid'ah* and the manifold statements by the *salaf* against deviations from the Prophet's *sunnah*. At the same time, jurists who rejected the possibility of a good *bid'ah* needed to contend with 'Umar's positive statement regarding a devotional innovation and to explain why positive developments in Muslim history, such as the collection of the Qur'ān or the developments of the Islamic sciences, did not fall under the category of *bid'ah*.

The next section examines the work of five of the jurists surveyed who exemplify these two approaches. The Shāfi'ī jurists, Ibn 'Abd al-Salām, Abū Shāmah and Suyūṭī, go beyond asserting the existence of a positive category of *bid'ah* to articulate criteria for

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applying *bid'ah ḥasanah* to specific innovations. While these three jurists differ in the degree to which they were willing to countenance novel practices, all three use a descriptive approach to *bid'ah* in the legal context. Unlike most jurists who permitted only civil innovations, these jurists were open to permitting novel practices in both devotional and civil realms. In contrast, the Ḥanbalī jurist, Ibn Taymiyyah and the Mālikī jurist, Shāṭibī, insist that *bid'ah* be defined strictly as a normative term of reprehensibility. Their writings on *bid'ah* represent the most systematic analyses of the problem of *bid'ah* and of the distinction between licit and illicit change. Unlike most writers against *bid'ah* who leave the definition of *bid'ah* broad, both Ibn Taymiyyah and Shāṭibī limit *bid'ah* either primarily or exclusively to devotional innovations. While these five jurists are by no means the only contributors to this debate, they are its central discussants.

3.1 Paradigm One: The Descriptive Approach to *bid'ah*

Ibn 'Abd al-Salām, his student, Abū Shāmah, and the great Shāfi'ī synthesizer, Suyūṭī, all define *bid'ah* in ways that allow for more than one legal status. They share the view that *bid'ah ḥasanah* functions as a legal category that can be applied constructively, that is, to cases in the present and not just as a label for past events regarding which all jurists concur. Most distinctively, they are open to using *bid'ah ḥasanah* as a legal tool to permit practices that other jurists might dispute, and they do not limit the tool to civil innovation but included certain devotional innovations.

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As we will see, Ibn ʻAbd al-Salām is the only one to assert a completely descriptive approach to *bid'ah*. Abū Shāmah and Suyūṭī posit a modified descriptive approach whereby a positive innovation is the exception to the general rule against *bid'ah*. One reason for this difference lies in the genre of material examined. While Ibn ʻAbd al-Salām discusses his typology of *bid'ah* in his theoretical work on legal rules, Abū Shāmah and Suyūṭī introduce their typologies in writings that were aimed at reprehensible innovations in their times that were popularly construed as pious acts. The latter two works, like most treatments of *bid'ah*, were thus slanted against the negative manifestation of innovations in society and not towards identifying positive developments. When one incorporates Ibn ʻAbd al-Salām's alternate typology of *bid'ah* in his essay against "the prayer of desirable gifts (*ṣalāt al-raghā'ib*),"[90] (which we will analyze in Chapter Four), one finds that the positions of the three jurists were very similar. Despite their general recognition of the Hadith censure of *bid'ah*, all three jurists carved out legal space for certain devotional innovations under the label of *bid'ah ḥasanah.*

3.1.1 Ibn ʻAbd al-Salām

In his brief treatment of *bid'ah* in *al-Qawā'id al-kubrā* (*The Great Collection of Legal Rules*), Ibn ʻAbd al-Salām presents the clearest example of the descriptive paradigm. He defines the term, *bid'ah*, strictly in terms of chronology and evaluates innovated acts only according to the legal criteria that he outlines. Ibn ʻAbd al-Salām establishes a substantive category of "*bid'ah ḥasanah,*" based exclusively on the act's agreement and

[90] The popular innovation was to recite the prayer congregationally in the mosque on the first Thursday night of Rajab. For more details on the structure and form of the prayer, see Chapter Four.

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lack of conflict with the rules of the law (*qawā'id al-sharī'ah*). While he clearly draws on Shāfi'ī's definition of a good innovation, he is the first to articulate fully the method by which a good innovation can agree, and not conflict, with the legal rules. Ibn 'Abd al-Salam, more than any other jurist, is associated with removing the absolute stigma of the term and establishing *bid'ah* as a category within the framework of legal acts.

Ibn 'Abd al-Salām, in *al-Qawā'id*, establishes that *bid'ah* is divisible into five types, which parallel the five jurisprudential values of obligatory, forbidden, commendable, reprehensible and permitted. He thus goes beyond Shāfi'ī's binary approach in two ways. He first expands the typology of *bid'ah* from two to five types.[91] More importantly, he refines the method for determining the status of an innovation. As he explains,

> The way to know that [i.e., which of the five values to apply], is for the innovation to be subjected to the rules of the law (*qawā'id al-sharī'ah*), for if it falls under the rules of obligation then it is obligatory...[92]

Ibn 'Abd al-Salām thus incorporates the category of innovated acts into his larger project in *al-Qawā'id* of evaluating all acts by legal rules. On the one hand, this method naturally follows from Shāfi'ī's principle that the status of an innovation is determined by its agreement or conflict with the sources of the law. On the other hand, by applying his general method of evaluating the legal status of acts according to the category of *bid'ah*,

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[91] In his first treatise against *ṣalāt al-raghā'ib*, Ibn 'Abd al-Salām condenses his five types to three: permissible (*mubāḥ*), good (*ḥasan*), and conflicting with the law (*mukhālafan lil-shar'*) ('Izz al-Dīn b. 'Abd al-Salām and Taqī al-Dīn Ibn al-Ṣalāḥ, *Risālah fī dhamm ṣalāt al-raghā'ib wa-risālah fī radd jawāz ṣalāt al-raghā'ib*, ed., Iyād Khālid al-Ṭabbā' (Beirut and Damascus: Dār al-Fikr, 2001), 26). The fact that he describes his typology as threefold leads me to believe that his application of the five *fiqh* values was more symbolic than usable.

[92] Ibn 'Abd al-Salām, *Qawā'id al-kubrā*, 337.

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Ibn 'Abd al-Salām radically normalizes a category that many scholars regarded as beyond the pale of juristic analysis. The very fact that he posits a category of "obligatory innovation" testifies to how far Ibn 'Abd al-Salām was willing to deviate from the Hadith consensus on *bid'ah.*[93]

While symbolically powerful, the method of evaluating innovated acts by subjecting them to the rules of law is unclear and demands further explication. Ibn 'Abd al-Salām accordingly devotes the rest of this section to providing examples of each of the five types of *bid'ah* and, in some cases, to articulating the underlying legal rule that he uses to determine the act's status. Most of his examples are interesting more for understanding his method than for their content, since he uses examples that most jurists would agree as to their legal ruling. The most interesting set of examples, for our purposes, are the ones he brings for the commendable innovation (*bid'ah mandūbah*). It is here that Ibn 'Abd al-Salām introduces examples that other jurists would contest both in content and underlying rule. The range of examples are thus instructive, and their scrutiny leads to a clearer understanding of Ibn 'Abd al-Salām's criteria for determining what constitutes a commendable innovation.

[93] Vardit Rispler describes Ibn 'Abd al-Salām's typology as the most surprising classification. In particular, the very concept of an obligatory innovation is an absurd formulation, given that it assumes that "some mandatory activities did not originate in the *sharī'ah*, but are missing from God's doctrine." She offers that the absurdity is removed if we assume that at least by Ibn 'Abd al-Salām's time, *bid'ah* was already released from its early negative connotation in Islamic theology and was used as an innovation in the lexical sense. Although I agree with her final conclusion that Ibn 'Abd al-Salām uses the concept of *bid'ah* in its lexical sense, I believe that Rispler-Chaim oversimplifies the matter by assuming that jurists had "stripped" *bid'ah* of its negative theological sense. This point seems untenable in the face of Ibn 'Abd al-Salām's recourse to the negative approach to *bid'ah* in other places, just as Abū Shāmah and Suyūṭī were both able to maintain two parallel definitions of *bid'ah*. Rispler-Chaim does point us in the direction of interpreting the legal definition of *bid'ah* as distinct from its Hadith definition. Rispler, "Toward a New Understanding of the term *bid'a*," 326.

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Ibn 'Abd al-Salām's examples of obligatory innovations, while conventionally regarded as positive developments, effectively illustrate his method. These examples all deal with disciplines of religious study including: grammatical science (*'ilm al-naḥw*); the preservation of the linguistically unusual (*gharīb*) words in the Qur'ān and Sunnah; principles of jurisprudence (*uṣūl al-fiqh*); and the discourse on the merits and flaws of Hadith transmitters (*al-jarḥ wa-ta'dīl*).[94] Ibn 'Abd al-Salām explains that all of these examples relate to the broader obligation of preserving the law (*ḥifẓ al-sharī'ah*), which he asserts is a collective obligation (*farḍ kifāyah*) upon the Muslim community. As he illustrates in relation to the first example, knowledge of grammar is obligatory because it is a prerequisite for understanding the key elements of the law, i.e., God's speech and the speech of God's Messenger. Ibn 'Abd al-Salām here demonstrates his method of subjecting a given innovation to the rules of law, when he justifies the status of "obligatory" by invoking the principle, "an act is obligatory only if it is necessary for the completion of an obligatory act (*mā lā yatimmu al-wājib illā bihi, fa-huwa wājib*)."[95] All of these innovations have the status of obligatory innovations because they are necessary prerequisites for the preservation of the *sharī'ah*, which is itself an obligatory practice.

Ibn 'Abd al-Salām's examples of forbidden innovations focus exclusively on the doctrinal innovations of generally rejected doctrinal groups of the *Qadariyyah*, *Jabriyyah*, *Murji'ah* and *Mujassimah*.[96] In the discussions of other jurists, such as Ibn

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[94] Ibn 'Abd al-Salām, *Qawā'id al-kubrā*, 2: 337.

[95] Ibid.

[96] What distinguishes this list from that of Ibn Taymiyyah is that Ibn 'Abd al-Salām does not mention the *Khawārij* and the *Rāfidah*/Shi'ī groups. For background information on these groups, see: A. J. Wensinck,

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Taymiyyah, these groups constitute several of the main manifestations of "*ahl al-bid'ah*," which, as discussed in the previous chapter, bore the brunt of the Companions and Successors' rancor. Ibn 'Abd al-Salām concludes this section by saying that rebutting these sectarian approaches is an obligatory innovation (*min al-bida' al-wājibah*).[97] Here, too, we see his method of subjecting each innovation to the rules of law to determine its status.

Ibn 'Abd al-Salām's examples of reprehensible innovations are also indistinguishable from the examples given in the writings of jurists such as Ṭurṭūshī who take normative approaches to *bid'ah*. Specifically, he lists the adorning (*zakhrafah*) of mosques, the embellishing (*tazwīq*) of Qur'ān copies and chanting the Qur'ān such that its pronunciation changes from the original Arabic (*al-waḍ' al-'arabī*). Ibn 'Abd al-Salām shows no tolerance for these notorious innovations, and even suggests that improper Qur'ān chanting should be considered a forbidden innovation.

As for the fourth category of permitted innovations, Ibn 'Abd al-Salām includes shaking hands (*muṣāfaḥah*) after morning and afternoon prayers, and improving the quality of food, drink, dress and dwelling.

Unlike the other categories that can be construed as terminologically but not substantively distinct from that of other jurists, Ibn 'Abd al-Salām's list of commendable

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s.v., "*Ḳadariyya*," *EI*[2], 4:368a; W. Montgomery Watt, s.v. "*Djabriyya*," *EI*[2], 2:2:365a; W. Madelung, s.v., "*Murdji'a*," *EI*[2], 7:605a; and for the *Mujassimah*, see, J. van Ess, s.v. "*Tashbīh wa-tanzīh*," *EI*[2], 10:341b.

[97] Ibn 'Abd al-Salām, *Qawā'id al-kubrā*, 2:338.

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innovations includes both conventional examples and ones that normatively-oriented jurists would dispute. Among the conventional examples he cites, he focuses on physical innovations such as the creation of religious cloisters (*rubuṭ*),[98] seminaries (*madāris*) and bridges (*qanāṭir*), and intellectual innovations such as the gathering of assemblies (*maḥāfil*) for determining (*istidlāl*) particular matters, so long as it is for God's sake.[99] Ibn 'Abd al-Salām, however, also includes examples that other jurists do not mention. In particular, he posits an open-ended category of "every beneficent deed (*iḥsān*) that was not known during the first period."[100] Ibn 'Abd al-Salām mentions a similar formulation in his treatise against the *raghā'ib* prayer. In that treatise, he brings the category forward after mentioning the physical innovations mentioned above and describes it as, "other types of pious deeds (*birr*) that were not considered to be from the first period (*al-'aṣr al-awwal*)."[101]

Both terms, *iḥsān* and *birr*, are intriguing choices for exemplifying commendable innovations, since the scope of their meanings, as represented by Ibn 'Abd al-Salām, is open-ended. Both are key ethical terms in the Qur'ān, synonymously signifying

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[98] The term, *rubuṭ*, can also mean hospices for the poor. I translated the term as cloisters following Shāṭibī's interpretation of the term to refer to buildings dedicated for those seeking to occupy themselves exclusively with devotional practices. See Shāṭibī, *al-I'tiṣām*, 1: 136.

[99] Ibn 'Abd al-Salām, *Qawā'id al-kubrā*, 338.

[100] Ibid.

[101] In Ibn 'Abd al-Salām's first treatise against *ṣalāt al-raghā'ib*, he paraphrases this category as "and other types of pious deeds (*birr*) that were not considered to be from the first period (*al-'aṣr al-awwal*)," and further explains, "It is in accord with what the law brought in terms of producing the good (*iṣṭinā' al-ma'rūf*) and mutual assistance motivated by piety and fear of God. (*al-birr wal-taqwā*)" (Ibn 'Abd al-Salām, "*Risālah fī dhamm ṣalāt al-raghā'ib*," 26). As we discuss below, both Abū Shāmah and Suyūṭī cite the "*birr*" formulation as an example of a commendable innovation in their treatises against *bid'ah*.

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goodness, righteousness and piety.[102] The Qur'ān uses the terms to describe both acts of kindness among people and acts signifying devotional obedience to God.[103] It is highly significant for our purposes that Ibn 'Abd al-Salām chose these open-ended terms to exemplify the scope of commendable innovations. In both places, Ibn 'Abd al-Salām does not limit this category, leaving open the possibility of allowing for new devotional practices as expressions of beneficence or piety.[104]

In addition to the open-ended category of unprecedented pious deeds, Ibn 'Abd al-Salām includes in his list of commendable innovations the study of Sufism, and specifically, "discourse on the detailed questions (*daqā'iq*) of Sufism."[105] Lest one think this a typical

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[102] A. Kevin Reinhart, in his discussion of synonyms for virtuous acts in the Qur'ān, cites the twelve times that *iḥsān* occurs and the eight times that *birr* occurs in the Qur'ān. Reinhart, "Ethics and the Qur'ān," in *Encyclopaedia of the Qur'ān*, 60-61.

[103] *Iḥsan*, according to Izutsu, "most generally it means 'to do good,' but in the actual Qur'ānic usage this word is applied mainly to two particular classes of 'goodness:' profound piety towards God and all human deeds that originate in it, and acts motivated by the spirit of *ḥilm* (stoic patience)" (Izutsu, *Ethico-Religious Concepts in the Qur'ān*, 224). Reinhart concurs that *iḥsān* is used both to signify good deeds and as a reference to approved religious behavior (Reinhart, "Ethics and the Qur'ān," 61). In the Hadith literature, *iḥsān* (and other derivations of the root, *ḥ-s-n*) appear innumerable times, such as in the famous *ḥadīth* in which the angel Gabriel teaches Muḥammad and his Companions the three elements of religion, which are *imān*, *islām* and *iḥsān*. Here, Gabriel describes *ihsān* as the term that defines the quality of one's relationship with God, that is, "to worship Allah as if you see Him; for if you do not see Him, surely He sees you." *Ṣaḥīḥ Muslim*, Book of Faith (*īmān*), Chapter 1: Hadith No. 102, 1:23.

Birr, which Izutsu regards as one of the most elusive of the Qur'ānic moral terms, is also applied to both acts of religious service to God and acts of justice and love in society. The elusive meaning of the term stems from the complex Qur'ānic notion that piety "cannot be piety unless it manifests itself in various works motivated by the will to practice justice and love towards others" (Izutsu, *Ethico-Religious Concepts in the Qur'ān*, 207). Reinhart adds that the concept of *birr* evolves throughout the Qur'ān, and is linked alternatively to cultic practice, to faith and to ethical behavior. Reinhart, "Ethics and the Qur'ān," 60-61.

[104] As we discuss below in Chapter Three, Suyūṭī invokes this principle in support of the *mawlid*.

[105] Ibn 'Abd al-Salām, *Qawā'id al-kubrā*, 338. He includes this example along with "the discourse on disputation (*jadal*)."

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inclusion, Ibn ʻAbd al-Salām is the only jurist to include any mention of Sufism in his list of commendable innovations.[106]

Ibn ʻAbd al-Salām also includes the example of *ṣalāt al-tarāwīḥ*, by which he implicitly links the category of commendable innovations to ʻUmar's statement regarding *bid'ah*. It is noteworthy that Ibn ʻAbd al-Salām does not discuss the circumstances surrounding the establishment of prayer and does not limit the relevance of the prayer's status of commendable innovation by grounding the prayer's basis in the practice of Muḥammad (as we will see with Abū Shāmah). Instead, Ibn ʻAbd al-Salām uses the *tarāwīḥ* prayer as the paradigmatic example of a commendable innovation, suggesting again that he did not limit the category to civil examples.

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[106] Ibn ʻAbd al-Salām seems to take a middle path here on the issue of Sufi discourse. On one side of the spectrum, other Sufi-sympathizers would demand that all parts of Sufism are part of the *sunnah*, and would deny that any part of Sufism constitutes a *bid'ah* at all. On the other side, critics of Sufism would not recognize the meritorious aspects of Sufism. Chaumont mentions that Subkī cites this sentence as evidence that Ibn ʻAbd al-Salām's juridico-spiritual thought was "profoundly influenced by Sufism." Chaumont, "Ibn ʻAbd al-Salam," 9:812. See, Subkī, *Ṭabaqāt al-Shāfiʻiyyah al-kubrā*, 4:358, for his discussion of Ibn ʻAbd al-Salām strong affiliation with Sufism. Subkī writes that he adopted Shihāb al-Dīn al-Suhrawardī (d. 632/1234) as his spiritual guide and was invested with the mystical cloak (*khirqah*) of the Suhrawardī order. Others speak of his close relationship with Abū al-Ḥasan al-Shādhilī (d. 656/1258). (However, I was not able to find the line that Chaumont cites in Subkī regarding an explicit link between Ibn ʻAbd al-Salām's devotion to Sufism and his inclusion of Ṣūfī discourse in his *Qawāʻid*.) Ibn ʻAbd al-Salām wrote two works on Sufism, *Shajarat al-maʻārif wal-aḥwāl wa-ṣāliḥ al-aʻmāl wal-aqwāl* and *Ḥall maqāṣid al-riʻāyah*. Several other biographers, including al-Dhahabī, note that Ibn ʻAbd al-Salām attended *samāʻ* sessions and even danced (cited in ʻAbd al-Ḥayy b. ʻImād, *Shadharat al-dhahab fī akhbār man dhahab*, ed. ʻAbd al-Qādir al-Arnā'ūṭ and Maḥmūd al-Arnā'ūṭ (Beirut: Dār Ibn Kathīr, 1991), 7:524). In his biography of Ibn ʻAbd al-Salām, Sayyid Rizwan ʻAli examines these types of statements in light of Ibn ʻAbd al-Salām's condemnation of popular *samāʻ* and especially of dancing, and concludes that it is possible that Ibn ʻAbd al-Salām attended *samāʻ* without music, which he regarded as a non-reprehensible innovation (Sayyid Rizwan ʻAli, *Izz al-Din al-Sulami: His Life and Works* (Islamabad: Islamic Research Institute, 1978), 44). The influence of Sufism on Ibn ʻAbd al-Salām's legal approach has been raised by contemporary scholars as well. Hallaq, in an article on different medieval approaches to legal theory (*uṣūl al-fiqh*), offers Ibn ʻAbd al-Salām as an example of a jurist who incorporated mystical and contemporary political influences into his theoretical approach to law. Ibn ʻAbd al-Salām, according to Hallaq, synthesizes "several competing components that variably derive from political reality, juridical practices, positive and customary law, Ṣūfī experience, metaphysics, and other, perhaps less well-defined elements" in *al-Qawāʻid*. Hallaq, "*Uṣūl al-fiqh*: Beyond Tradition," *Journal of Islamic Studies* 3, no. 2 (1992): 185.

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Taken together, these examples demonstrate Ibn 'Abd al-Salām's willingness to use the category of *bid'ah ḥasanah* as a tool for supporting innovations beyond the conventional agreement of jurists. By incorporating his open-ended category of "*iḥsān*," Ibn 'Abd al-Salām suggests that certain new pietistic practices can fit within the framework of Islamic law. By including the example of Sufi discourse, Ibn 'Abd al-Salām uses the category of *bid'ah ḥasanah* to permit a contemporary practice that others may have regarded as controversial. Ibn 'Abd al-Salām thus envisions a category of "good innovation" that can be applied to both the civil and devotional realms.

The broad scope of these examples are illuminated when contrasted with the narrow scope of examples brought by Ibn 'Abd al-Salām's Mālikī student, Shihāb al-Dīn al-Qarāfī. As we mentioned in the first section, Qarāfī adopts Ibn 'Abd al-Salām's typology and applies the five values to contemporary cases, but does not include any contemporary devotional innovations in his positive examples.[107] In contrast, Qarāfī's examples of reprehensible innovations all deal with devotional innovations and follow Mālik's disapproval of unprecedented devotional practices.[108] Qarāfī's approach exemplifies how Ibn 'Abd al-Salām's system could be used also to support a more conservative approach to devotional innovations. In other words, the five-value system, in and of itself, is

[107] Qarāfī, *al-Furūq*, 4:346. Qarāfī does mention the *tarāwīh* prayer in passing, but then uses the category of commendable innovations to justify the use of images by political rulers to instill authority and respect in their communities. He acknowledges that the original rulers, such as 'Umar, had no need for such symbolism but instead lived modestly among the people. However, Qarāfī asserts, "the circumstances of state leaders (*a'immah*) and military rulers (*wulāt al-umūr*) evolve with the change of periods, countries, generations and circumstances," and thus contemporary rulers are in need of renewed pomp and policies that did not exist earlier.

[108] Ibid., 347. For example, Qarāfī follows Mālik's rejection of devotional practices that add extraneously to the normative practice, such as the recitation of 100 praise passages (*tasbīḥāt*) after ritual prayer instead of the licit 33 times or the giving of ten measures of alms (*zakāt*) for breakfast instead of the one measure (*ṣā'*).

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radical only in removing the stigma from the term, *bid'ah*, and incorporating the category into the universe of legal acts; Qarāfī was duly criticized by other Mālikī jurists for borrowing Ibn 'Abd al-Salām's approach.[109] Nevertheless, however contentious Ibn 'Abd al-Salām's system was, the more contentious issue was whether one should apply this system to devotional as well as civil cases.

Ibn 'Abd al-Salām's final passage of his section on *bid'ah* confirms the lack of distinction between devotional and civil cases. Ibn 'Abd al-Salām here alludes to the broader debate regarding innovated acts, writing: "some of those [examples] might be disputed, for certain scholars made them reprehensible innovations while others [made them] of the norms that were set during the time of God's Messenger, peace and blessings be upon him, and what came after it, and this is like [the debate about] the phrases, 'I seek refuge with God from the cursed Satan" (*isti'ādhah*)' and 'in the name of God the Merciful the Compassionate (*basmalah*)' in prayer."[110] These examples, which touch on debates among the legal schools regarding whether or not one includes these phrases in the prayer rite, suggest that Ibn 'Abd al-Salām regards the application of *bid'ah* categories to be yet another legal debate. In this passage, Ibn 'Abd al-Salām summarizes the broader juristic debate regarding the status of innovated acts by outlining three positions: (a) they are reprehensible since they are innovations; (b) they are permissible since they are considered norms with sources from the Prophet's time (*sunan*); and (c) they are permissible as innovations, this being his own approach. By

[109] As we will see below, Shāṭibī's would criticize Qarāfī for classifying *bid'ah* into five types.

[110] Ibn 'Abd al-Salām, *Qawā'id al-kubrā*, 339.

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drawing a parallel between his examples and the debates about the prayer rite, Ibn ʻAbd al-Salām signifies that he regards the legal debates over permitting innovated acts as equivalent to the debates about particular matters within devotional law.

Although his treatment in *al-Qawāʻid* presents *bidʻah* in a purely descriptive light, Ibn ʻAbd al-Salām was by no means neutral in the juristic struggle to regulate religious practice. From his biography and other works, we know that he was active in condemning innovations and weaning the community from practices that lacked a textual precedent and conflicted with established law. Ibn ʻAbd al-Salām, according to his biographers, used his position as preacher (*khaṭīb*) in the Umayyad mosque in Damascus to denounce numerous innovations of preachers, such as rapping one's sword on the pulpit and wearing black, as well as innovated practices such as the *raghāʼib* prayer and the prayer on the eve of the 15th of Shaʻban.[111] Moreover, in Ibn ʻAbd al-Salam's treatises against the *raghāʼib* prayer, which we will examine in chapter four below, he describes the category of *bidʻah ḥasanah* as the exception to the general rule against *bidʻah*. In the broader light of his oeuvre, Ibn ʻAbd al-Salām's approach to *bidʻah* in *al-Qawāʻid* must not be mistaken for an anti-Hadith approach. Instead, the subjection of *bidʻah* to the five values of *fiqh* should be seen as part of his attempt to submit the whole of human actions to the test of legal rules. Despite the shift in tone between treatises, Ibn ʻAbd al-Salām in both places consistently applies a descriptive method of evaluating innovated acts based on their agreement or conflict with the rules of law and

[111] Subkī, *Ṭabaqāt al-Shāfiʻiyyah al-kubrā*, 4: 355.

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demonstrates a willingness to apply his category of commendable innovation to both devotional and civil acts.

Conclusion

Ibn ʻAbd al-Salām's treatment of *bidʻah* in *al-Qawāʻid* exemplifies the descriptive paradigm. That is, he transforms the lexical, and thus neutral, definition of *bidʻah* into a legal definition. He evaluates innovated acts solely based on their alignment with existing legal rules, rather than on the presence or absence of a clear precedent in the Qur'ān and Hadith. This approach to *bidʻah* reflects his general approach to law. By applying the five jurisprudential values to *bidʻah*, he affirms the comprehensive nature of *fiqh*, which can cover all types of acts including those that have no clear precedent in the canonical sources. His concern with preserving the law pervades the entire discussion, including his assertion that the study of religious sciences is obligatory because it is a prerequisite for preserving God's law. In sharp contrast to the Hadith approach, which regards *bidʻah* as the vehicle for destroying God's law, Ibn ʻAbd al-Salām reconfigures the category to include developments that are necessary for the preservation of the law.

The examples that Ibn ʻAbd al-Salām offers shed light on his method for determining the legal status of an innovation. He seeks to extract the underlying rule that drives these unprecedented practices and judges that rule in relation to the law. On the one hand, Ibn ʻAbd al-Salām merely engages the apparatus of Islamic law to deal with new cases. On the other hand, he is the first to expand actively the legal system to deal with the underlying rules involved in unprecedented cases. This is the hallmark of the descriptive

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approach – the willingness to scrutinize the content of the novel act rather than dismissing it outright because of its novelty.

However, as Qarāfī's position demonstrates, the willingness to examine the content of a novel act does not in and of itself lead to flexibility with regard to the scope of permissible innovations. It is through Ibn 'Abd al-Salām's examples of commendable innovations that he demonstrates an openness to positive innovations in the devotional realm. In particular, his open-ended category of unprecedented beneficent/pious deeds and his inclusion of the intricacies of Sufi discourse indicate that Ibn 'Abd al-Salām did not restrict the category of "*bid'ah ḥasanah*" to the civil realm alone.

3.1.2 Abū Shāmah

Ibn 'Abd al-Salām's student, Abū Shāmah, crafts a more conservative approach to *bid'ah*. In his treatise dedicated to eradicating the reprehensible innovations of his time, *al-Bā'ith 'alā inkār al-bida' wal-ḥawādith* (*The Motivation for Rejecting Innovations and Novelties*), Abū Shāmah positions himself as heir to two traditions on *bid'ah*. He subscribes first to the numerous passages from the Qur'ān, Hadith and early Muslim community that condemn all innovated practices and praises the work of Ṭurṭūshī and other like-minded scholars. However, he also situates himself within the Shāfi'ī legal approach to *bid'ah* by articulating a constructive category of the good innovation that echoes the approach of Ibn 'Abd al-Salām. Abū Shāmah shifts from the Hadith approach to that of Ibn 'Abd al-Salām when he turns from discussing *bid'ah* as a general religious category to defining *bid'ah* as a legal technical term. He distinguishes himself from other

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normatively-inclined jurists who divide innovations into positive and negative types by specifying criteria for determining a positive innovation and by creating some space for positive innovations in both civil and devotional realms. Despite his strong affinity with the Hadith perspective on *bid'ah*, and his conceding that most innovations are reprehensible, he recognizes that a few innovations are commendable. When Abū Shāmah evaluates a novel act according to his set of criteria, he looks to the act's content and the actor's intention rather than judging the act based solely on its novelty.

The first line of argument found in *al-Bā'ith* follows the Hadith definition of *bid'ah* and seems to leave no room for commendable innovations. Abū Shāmah demonstrates his strong allegiance to the Hadith perspective by opening his discussion with a series of Qur'ān and Hadith citations that call upon followers to obey God and the Prophet and to eschew all innovations.[112] Here he brings several versions of the principal two traditions against *bid'ah* (discussed in the previous chapter), among other traditions.[113] He next cites a series of further condemnations of *bid'ah* by Companions and Successors. Among these condemnations are general warnings to obey and not innovate, with specific examples of Companions rejecting particular innovations, including both practices from pre-Islamic times and new pietistic practices.[114] Abū Shāmah, through his choice of

[112] Abū Shāmah, *al-Bā'ith*, 18-23.

[113] Ibid., 20-22. Abū Shāmah first cites the version of "every innovation is an error," related by Jābir b. 'Abd Allāh found in *Ṣaḥīḥ Muslim* and then two alternative versions found in Bayhaqī's *Kitāb al-I'tiqād* (that follow the version related by 'Abdallāh b. Mas'ūd and Nasā'ī's final line). Finally, Abū Shāmah brings the version related by 'Irbāḍ b. Sāriyah found in *Musnad al-Dārimī* and alternate versions related in the *sunan* collections of Abū Dāwud, Ibn Mājah and Tirmidhī. After citing the first *ḥadīth* in its many versions, Abū Shāmah brings the two main versions of the *ḥadīth*, "whoever creates something new..." For a discussion of the variants of this *ḥadīth*, see above in Chapter One.

[114] Ibid., 23-5.

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citations, emphasizes that all innovations should be avoided, including even those that can be construed as positive and pious.[115] He also states that

> [part] of following the *sunnah* of God's Messenger, peace and blessings of God be upon him, and the *sunnah* of his righteous successors, may God be pleased with them, is the rejection of the forbidden (lit., of the rejected) and revivification of the norms (*al-sunan*), and abolition (lit., killing) of the innovations (*al-bida'*), for in that [is] the most preferable reward and the most beautiful remembrance [of God].[116]

This summary statement underscores his unilateral rejection of *bid'ah* as the opposite of *sunnah*. Abū Shāmah thus introduces the subject of *bid'ah* from the perspective of one who rejects all innovations in a general and unqualified way.

Abū Shāmah further demonstrates his allegiance to the Hadith perspective by highlighting the normative definition of *bid'ah* espoused by Ṭurṭūshī and other scholars and by making a point of praising Ṭurtūshī's book. Like Ṭurtūshī and other scholars, he distinguishes between the etymology (*aṣl al-ishtiqāq*) of *bid'ah*, according to which *bid'ah* is something invented and can be praised or censured, and the common usage or application of the term *bid'ah*, which is generally negative. He writes: "The term innovation (*bid'ah*) has predominantly meant a reprehensible novelty in religion (*al-*

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[115] Ibid., 26. This he accomplishes by numerous citations, including: repeated references to the inverse and oppositional relationship between *sunnah* and *bid'ah*, such that every added innovation destroys a *sunnah*; the passage by Ibn 'Umar that "every innovation is an error even if the people view it as a good [act]"; the warning to avoid every devotional act that the Companions did not perform; and, finally, the passage attributed to the Prophet that a few good works in the *sunnah* is better than many good works in innovation. It is striking that Abū Shāmah here relies on a number of transmissions that are considered of weak reliability.

[116] Ibid., 28.

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ḥadath al-makrūh fī al-dīn), whenever this term is applied, and likewise the term innovator (*al-mubtadi'*) is almost always used for censure."[117]

Abū Shāmah, however, parts company with the normative approach of Ṭurtūshī when he limits the scope of this understanding of bid'ah as a generally reprehensible term. In fact, as just quoted, he intimates that the negative connotation of *bid'ah* is its predominant, though not exclusive, meaning. He further defines a reprehensible innovation as an act "that did not exist during the period of the Prophet [either with regard to] his actions or of that which he affirmed (silently), or [that for which] permission was not granted by the rules of His law (*ma'a qawā'id sharī'atihi*)."[118] Although Abū Shāmah never explicitly disputes Ṭurṭūshī's approach, he introduces a significantly different element in his definition of a reprehensible innovation. While Ṭurṭūshī only permits acts that have clear bases in one of the main sources (*uṣūl*) of the law, Abū Shāmah also permits those practices that lack clear bases but can be justified through legal rules. He does, however, immediately follow this definition with several examples of Companions and Successors fighting the innovations of their time. He thereby sets up the basis for his distinct approach to *bid'ah* while still preserving the generally rejectionist approach that aligns him with the Hadith perspective.

Abū Shāmah's shift to his second line of argument, in which he distinguishes between positive and negative innovations, offers a stark contrast to the many pages in which he

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[117] Ibid., 31.

[118] Ibid., 32.

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has condemned *bid'ah* unilaterally and suggested that the Companions had taught the community to avoid even virtuous innovations. He asserts now, however, that novelties are divided into good and bad innovations, basing this division on two traditions originating from Shāfi'ī, the eponymous founder of his legal school. Shāfi'ī, as we discussed in the first part, defines the praiseworthy innovation, according to one tradition, as an act that is in accord with the *sunnah* and, in another tradition, as an act that does not conflict with one of the main sources of law. These definitions create the potential for permitting innovated acts that do not have a clear basis in the main sources of law but that do not conflict with them either. Abū Shāmah thus relies on Shāfi'ī's explicit teachings to ground his own distinction between positive and negative innovations.

Shāfi'ī, in both traditions, cites 'Umar's innovation of a regular congregational *tarāwīḥ* prayer as the legal basis for this binary typology. Abū Shāmah's interpretation of 'Umar's statement, "what an excellent innovation!", offers an insight into how he reconciles the Hadith and Shāfi'ī's arguments. Abū Shāmah understands 'Umar's use of the term "*bid'ah*" in its descriptive and innocuous sense, meaning: "it (i.e., the congregational *tarāwīḥ* prayer) was a novel matter that did not exist previously (*muḥdathah lam takun*) and when it came into existence, there was no opposition between it and what was before (*wa-idhā kānat, fa-layṣa fīhā radd limā maḍā*)."[119] In other words, the practice instituted by 'Umar was innovative because it had no established precedent and was innocuous because it did not conflict with previous practice. Abū Shāmah further explains:

[119] Ibid., 35.

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> It was like this because the Prophet urged night vigils during Ramadan and performed them in the mosque, and some of the Companions followed him one night after the other, then the Prophet left it out of concern that it would become obligatory for them, but when the Prophet passed away, the Companions agreed to perform the night prayer during Ramadan in the mosque congregationally in order to revive this rite (*shi'ār*) that the Lawgiver enjoined and urged and recommended.[120]

Abū Shāmah's explanation utilizes three principles, each of which becomes relevant for his understanding of positive innovations. First, he asserts that there was no conflict between 'Umar's act and previous law. Second, he notes that the Prophet had indicated his strong interest in the people following the practice. This principle suggests that the Companions were following his will even when instituting a regular practice that the Prophet himself did not institute. Third, he contends that the Companions agreed that this was a good idea. It is striking that Abū Shāmah interprets the acceptance of this innovation as a group decision, since this interpretation runs counter to the simple meaning of the story. He reads the element of consensus into the story as a way of grounding a crucial element of his approach to good innovations. Rather than envisioning the Companions rejecting novel practices in order to preserve the Prophet's way, Abū Shāmah, through his reading of the *tarāwīḥ* case, demonstrates the possibility that a novel practice could in fact be in accord with the Prophet's way.

These three principles that Abū Shāmah extracted from the *tarāwīḥ* case serve as criteria that define a good innovation.[121] He defines the term, good innovation, as follows:

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[120] Ibid., 35-36.

[121] Were Abū Shāmah to have remained strictly within the normative approach, he probably would have used the fact that the Prophet all but commanded the congregational recitation of the *tarāwīḥ* prayer to restrict the applicability of 'Umar's statement. As we will see, this is the approach of Ibn Taymiyyah. Instead, Abū Shāmah uses the *tarāwīḥ* case as a precedent for defining good innovations.

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> There is agreement on the permissibility of doing it, and that it is considered good (*istiḥbābihā*), and that there is the hope of reward for one who has a good intention in [doing] it (*wa-rajā' al-thawāb li-man ḥasanat niyyatuhu fīhā*), this being every innovated [act] that agrees with the legal rules and does not conflict with it in any respect, and a legal prohibition (*maḥẓūr shar'ī*) does not follow from doing it.[122]

A good innovation is thus an unprecedented act that is in accord with the legal rules and that does not conflict with them. It is also assumed to possess a content that is universally perceived as meritorious, and the person who participates in the innovation must behave out of a pious intention.

Abū Shāmah, in this definition, displays a number of complex tendencies. His definition of a positive innovation, in emphasizing the act's accord with the rules of the law and its lack of a conflict with them, strongly resembles that of Ibn 'Abd al-Salām. He does not mention Ibn 'Abd al-Salām by name, however, or cite the division of *bid'ah* into its five legal values. By borrowing Ibn 'Abd al-Salām's formulation, he indicates his support for evaluating an innovation by analyzing how its content fits within the framework of legal rules.

Abū Shāmah, however, adds two other criteria that Ibn 'Abd al-Salām does not mention. Parallel to his interpretation of the *tarāwīḥ* case, Abū Shāmah asserts that an innovation must be generally perceived as meritorious to be valid. This assertion sharply restricts the use of *bid'ah ḥasanah* as a tool for permitting new practices, since it limits the category's scope to the realm of juristic consensus. It is likely that Abū Shāmah incorporates this criterion to prevent the use of *bid'ah ḥasanah* as a tool of the activist

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[122] Ibid., 36.

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jurist to expand the law in radical ways. Still, this criterion might be more rhetorical than substantive, since Abū Shāmah himself fails to abide by it when he applies the category of *bid'ah ḥasanah* to the contentious case of *mawlid al-nabī*.

A more substantive criterion that Abū Shāmah uses in the case of *mawlid al-nabī* is the pious intention of the innovator. By emphasizing the relevance of the innovator's intention, he departs sharply from the Hadith perspective on *bid'ah*. Earlier in the treatise, he seemed to support that perspective by citing a number of passages attributed to Companions and Successors that reject innovations even when they are performed for pious reasons. Abū Shāmah's emphasis on intentions here thus signals his willingness to evaluate an innovated act by its content instead of by its source in the early literature. As we will see, jurists who use *bid'ah* as a normative term, such as Ibn Taymiyyah, will reject this notion that a person's intention can affect the legal status of a devotional innovation.

The final element in Abū Shāmah's definition is that the performance of a commendable innovation does not lead to a legal prohibition. Given Abū Shāmah's affinity with the Hadith approach to *bid'ah*, one might have thought that the stigma of *bid'ah* would carry over to even a commendable innovation. In that case, a person who performs an innovated practice would incur both a reward (for the "good" part) and a punishment (for the "innovation" part). Abū Shāmah's final statement indicates that a person only receives a reward for this practice. The lack of a negative consequence for performing a

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good innovation is the best indication that Abū Shāmah applies only descriptive criteria when he determines the legal status of a particular innovated act.[123]

If we consider Abū Shāmah's criteria for a good innovation all together, we find that he posits a category that cannot be used to expand radically the corpus of practices but can be used as a way to permit new pious deeds on a case-by-case basis. In order to understand how Abū Shāmah envisions the application of the category of "*bid'ah ḥasanah*," it is instructive to examine the examples he brings and the criteria that he uses to explain them.

Abū Shāmah cites three sets of examples of good innovations, including many examples that echo Ibn 'Abd al-Salām's list of commendable innovations. Two sets of examples are mostly conventional, in the sense of those post-formative developments that all jurists would support whether or not they called them "innovations." The first set deals primarily with physical innovations, including "building pulpits (*manābir*), hospices for the poor (*rubuṭ*), seminaries, and caravanserais for travelers (*khānāt al-sabīl*)." However, rather than restrict this list to the commonly cited examples, Abū Shāmah adds an open-ended category of unprecedented virtuous deeds, or in his words, "and other types of pious deeds (*birr*) that were not considered to be from the first period (*al-ṣadr al-awwal*)." His formulation of this category follows almost verbatim that of Ibn 'Abd al-

[123] The significance of Abū Shāmah's position becomes clearer when juxtaposed with that of Ibn Taymiyyah, who concludes that a pious practitioner of a devotional innovation receives both a reward for his good purpose and a punishment for participating in an innovated act. Although Ibn Taymiyyah does not explicitly cite Abū Shāmah's position, it is possible that Ibn Taymiyyah develops his nuanced position in response to Abū Shāmah's ruling on the *mawlid.*

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Salām in the latter's treatise against *ṣalāt al-raghā'ib*. Abū Shāmah likewise copies Ibn 'Abd al-Salām's explanation there that all of these examples are commendable because they follow from a legally commendable rule: "It is in accord with what the law brought in terms of producing the good (*iṣṭinā' al-ma'rūf*) and mutual assistance motivated by piety and fear of God (*al-birr wal-taqwā*)."[124] Like Ibn 'Abd al-Salām, Abū Shāmah explains his choice of examples by invoking a general legal rule, i.e., the virtue of producing good works based on piety. Abū Shāmah thus reiterates Ibn 'Abd al-Salam's idea that one can apply the principle of doing good and pious deeds beyond the scope of what was done during the Prophet's time.

The other set of conventional examples deals with intellectual developments and the establishment of various disciplines of religious study. Abū Shāmah here elaborates on the examples that Ibn 'Abd al-Salām offers for his category of "obligatory innovations." Although he does not use the latter's five-value typology, he likewise suggests that the intellectual developments are both innovative and obligatory for understanding God's law. These include:

> Compositions of all the sciences (*'ulūm*) that are legally beneficial according to their various disciplines (*funūn*); determining their rules, divisions and decisions; the study of them and their subdisciplines; examining questions that did not occur and determining the answers for them; Qur'ān commentary; reports of prophethood (*akhbār al-nubuwwah*); discourses on chains of transmission and [*ḥadīth*] content; study of the Arabic language – including prose (*nathr*) and poetry (*naẓm*); and writing down all these [subjects] and extracting numerous disciplines from them, such as grammar, verbal expression (*ma'ānī*); metaphor (*bayān*); prosidy (*awzān*); and all sciences that contribute to understanding God's rulings and the meaning of His book and the Sunnah of His

[124] Ibid., 36.

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> Messenger, peace and blessings be upon him, and all of this is commanded and does not entail a legal prohibition (*maḥẓūr shar'ī*).[125]

Abū Shāmah implicitly bases his rationale on Ibn 'Abd al-Salām's method of determining the status of a new development or practice by identifying the appropriate legal rule. In these cases, the post-Prophetic disciplines and sciences are obligatory since they fall under the obligation of understanding God's law.

Bracketed between these two sets of uncontroversial and long established examples, Abū Shāmah applies the category of the "good innovation" to a contemporary and controversial innovation, that of the *mawlid al-nabī* festival. As we will discuss in the next chapter, he bases his support of this innovated practice on the virtuous content of the festival and the pious intention of its innovator and subsequent practitioners. What is striking about this example is that Abū Shāmah uses the category of "*bid'ah ḥasanah*" to permit a devotional act that other jurists would reject. Unlike the first set of examples that included only civil developments that all jurists would allow as virtuous, the *mawlid* was not universally accepted among jurists. Abū Shāmah's inclusion of the *mawlid* in his examples of commendable innovations demonstrates his willingness to use the category of "*bid'ah ḥasanah*" to permit new devotional practices.[126]

Abū Shāmah's formulation of a constructive category of *bid'ah ḥasanah* does not mean that he supports the proliferation of devotional innovations in general. After discussing

[125] Ibid., 38-39.

[126] Abū Shāmah even uses Ibn 'Abd al-Salām's term, *iḥsān*, to describe the virtuous acts of doing good deeds for the poor (*iḥsān ilā al-fuqarā'*) on this day. Ibid., 38.

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the concept of *bid'ah* from the Hadith perspective and the Shāfi'ī legal perspective, Abū Shāmah devotes the rest of his treatise to criticizing popular devotional innovations of his day. He expresses particular concern regarding the many popular practices that most people mistakenly believe to be "acts of devotion, piety, obedience and religious norms (*'ibādāt wa-quraban wa-ṭa'āt wa-sunanan*)."[127] These fasts, festivals and prayers adapt times and places from normative practices and apply them to times and places that the law prohibits. The practitioners harbor the mistaken belief that God will reward their actions, because either God rewards their actions during the established time or God wants them to multiply their performance of such devotional acts.[128] Abū Shāmah touches upon many contemporary practices, but focuses on the three most pervasive devotional innovations of his day: congregational supplications in mosques in parallel with the pilgrims at 'Arafah (*ta'rīf*);[129] "the thousands" prayer recited congregationally on the eve of the 15th of Sha'bān (*al-alfiyyah*);[130] and "the prayer of desirable gifts" (*ṣalāt al-raghā'ib*).[131] His deep concern about the proliferation of these reprehensible practices can be seen in his recourse to normative use of *bid'ah*, such as in his citing the phrase "every innovation is an error" in response to the practices of the 15th of Sha'bān.[132] In Abū Shāmah's estimation, the reprehensible devotional innovations far

[127] Ibid., 39-40. Abū Shāmah relies here on Ṭurṭūshī's distinction between innovations, discussed above, that all know to be reprehensible and innovations that most mistakenly believe to be commendable.

[128] Ibid., 43.

[129] Ibid., 48-51.

[130] Ibid., 51-58.

[131] Ibid., 58-74.

[132] Ibid., 58.

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outnumber the commendable ones. Moreover, the legal exception of the commendable innovation does not cancel out the general warnings against reprehensible innovations.

Conclusion

Abū Shāmah thus preserves both normative and descriptive approaches to *bid'ah* by defining the good innovation as the exception to the general rule against *bid'ah*. The category of good innovation is a technical category belonging to the domain of law, since it is determined by applying or extrapolating legal rules. In this treatise, he outlines his criteria for determining a good innovation, namely that it agrees with the legal rules and does not conflict with them and that it is recognizably virtuous in content and intention. His emphasis on juristic consensus sets up restrictive guidelines for the application of the category and prevents *bid'ah ḥasanah* from becoming the tool of activists and expansionists. While his examples are mostly conventional, Abū Shāmah cites two examples that demonstrate his willingness to apply the category in the present and not merely retroactively. Abū Shāmah's open-ended category of unprecedented pious deeds, which conflicts with the Hadith perspective, indicates his conviction that certain acts that do not have a precedent in the Prophet's time can still be considered virtuous. More importantly, his example of the *mawlid al-nabī* indicates his conviction that the category of "good innovation" can be applied to contemporary devotional practices as well. These criteria and examples reflect key aspects of the descriptive paradigm, namely the jurist's openness to judging an unprecedented devotional act by its content, and, in Abū Shāmah's case, by the piety of the practitioner's intention.

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3.1.3 Suyūṭī

Suyūṭī, in his treatise against *bid'ah*, *al-Amr bil-ittibā' wal-nahy 'an al-ibtidā'* (*The Command to Follow and the Prohibition against Innovating*), likewise demonstrates an affinity with both Hadith and Shāfi'ī approaches to *bid'ah*. As the consummate synthesizer, his treatise weaves the writings of disparate scholars together with his own interpretations.[133] On the one hand, he borrows extensively from Ibn al-Jawzī's *Talbīs Iblīs*, alternately copying and paraphrasing Ibn al-Jawzī's collection of early traditions against *bid'ah* and his perspective that most innovations are reprehensible.[134] On the other hand, Suyūṭī follows the Shāfi'ī legal approach to *bid'ah* and borrows heavily from Abū Shāmah's *al-Bā'ith* when he describes good and bad innovations and the legal criteria to identify a good innovation. He too was deeply concerned with the spread of popular innovations in his time and wrote *al-Amr* primarily to combat this phenomenon.

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[133] Geoffroy writes that Suyūṭī envisioned as his life's mission to assemble and transmit "the Islamic cultural patrimony before it might disappear" (Geoffroy, "Suyūṭī," 9: 914). Geoffrey adds that Suyūṭī should be considered merely as a mere compiler, since he pursued his own scholarly aims in neglected fields as well as developing critical methods for gathering and synthesizing previous works on scholarly topics. Ibid., 9: 915.

[134] Much of Suyūṭī's first three chapters, excluding the introductions, are copied from Ibn al-Jawzī. In the first chapter, containing passages from the Qur'ān, Hadith and traditions of the Companions emphasizing the importance of adhering to the *sunnah* and the dangers of dispute and sectarianism, Suyūṭī copies Ibn al-Jawzī's first chapter except for three traditions and multiple versions of the same tradition (Suyūṭī, *al-Amr bil-ittibā'*, 20-23, corresponding to Ibn al-Jawzī, *Talbīs Iblīs*, 15-22). In the second chapter, detailing the great distaste of the first three generations for deviations from the Prophet's practice and particularly for the deviations of the *ahl al-bida'*, Suyūṭī copies almost all the traditions mentioned by Ibn al-Jawzī but supplements the chapter with many of his own examples and concludes it with his own summary (Suyūṭī, *al-Amr bil-ittibā'*, 24-33, corresponding to Ibn al-Jawzī, *Talbīs Iblīs*, 23-28). The few differences in choice of passages, found in these two chapters, seem mostly to be stylistic (e.g., Suyūṭī might quote a *ḥadīth* in another location) or perhaps reflecting different attitudes towards a particular passage's authenticity, and do not seem to reflect a difference in attitude towards *bid'ah*. In the third chapter, which includes definitions of *sunnah* and *bid'ah* and passages demonstrating that the early generation eschewed even pious innovations, Suyūṭī again copies Ibn al-Jawzī's third chapter almost verbatim but with an interesting difference (see my discussion below in the text). In my view, Suyūṭī consciously uses the writing of Ibn al-Jawzī as opposed to that of Ibn Taymiyyah or perhaps Shāṭibī because Ibn al-Jawzī, unlike the others, recognizes the theoretical possibility of a non-reprehensible innovation. That is, Suyūṭī's choice of Ibn al-Jawzī reflected his deep sympathy with the early traditions against *bid'ah* but also allowed for a way to affirm an exceptional category of the commendable innovation.

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Suyūṭī thus follows Abū Shāmah's example of creating space for a usable category of good innovations as the exception to the general rule against *bid'ah*.

Since much of Suyūṭī's theoretical approach to *bid'ah* follows that of Abū Shāmah, our discussion here will focus on Suyūṭī's own contributions to the *bid'ah* debate in general and to the descriptive paradigm in particular. These contributions can be found in Suyūṭī's selective omissions and additions in his citations and borrowings from the work of other jurists. For example, Ibn al-Jawzī, in his definition of *bid'ah*, notes that the majority (*al-aghlab*) of innovated acts clash with the law and require a change to the law either of addition or subtraction. He then continues and says, "And if something was innovated that did not conflict with the law and did not entail a negative change [to the law], the *salaf* as a whole (*jumhūr al-salaf*) would [still] detest it and would avoid every innovated act even if it were permitted (*jā'izan*) out of concern for the principle, which is obedience (*ittibā'*)."[135] Suyūṭī cites this section selectively, omitting two phrases. Following Ibn al-Jawzī, he defines *bid'ah* as an act that clashes with the law and entails a change of addition or subtraction, but he omits the caveat that this applies to the majority of innovated acts. Suyūṭī then moves directly to Ibn al-Jawzī's line, "and the whole of the pious ancestors..." omitting the previous line that emphasized the ancestors' rejection of innovations that did not clash with the law.[136] Suyūṭī's selective reading here softens the idea that the early generations rejected even innovations that did not clash with the

[135] Ibn al-Jawzī, *Talbīs Iblīs*, 29.

[136] Suyūṭī, *al-Amr bil-ittibā'*, 34-5.

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law without denying this altogether. He thus prepares the ground for a category of good innovations based on the main criterion of the lack of conflict with the law.

The most significant emendation that Suyūṭī makes to the writing of other scholars is his addition to Ibn al-Jawzī's definition of a non-reprehensible innovation. He uses this opportunity to affirm the possibility of permitting optional devotional innovations. The clearest way to demonstrate his contribution is to juxtapose the way he incorporates his own ideas into a paragraph that he copies from Ibn al-Jawzī.

The paragraph in *Talbīs Iblīs* follows the section on the definitions of *sunnah* and *bid'ah*, discussed above, and a series of passages conveying the way that the early generations detested and avoided all novel acts that deviated from the Prophet's way, including those acts that were potentially pious.[137] Ibn al-Jawzī then states:

> We have clarified that the people (*qawm*) were wary of every innovation, even if there was no harm lest they create something that was not. And yet, novelties (*muḥdathāt*) occurred that do not clash with the law (*sharī'ah*) and do not negatively affect it, and they did not see harm in doing them, as it was related that the people used to perform prayer during Ramadan individually, with one man performing his prayer and a group would pray with him, and 'Umar b. al-Khaṭṭāb gathered them behind him (i.e., the man leading a small group in prayer), and when he went out [the next night], and saw them, he said 'What an excellent innovation, and if they would sleep on it, it would be preferable to this,' by which he meant prayer at the end of the night, and the people would perform [vigils] at its beginning. And al-Ḥasan [al-Baṣrī] said: the storytellers – what an excellent innovation. How many brothers have benefited and [how many] calls (*da'wah*) have been answered,'[138] since admonition is licit and when a novelty is linked to a licit principle it is not censured.[139]

[137] Ibn al-Jawzī, *Talbīs Iblīs*, 28-30.

[138] Since I have not succeeded in locating this transmission prior to Ibn al-Jawzī, I do not know whether the second statement, "How many brothers have benefited and [how many] calls (*da'wah*) have been

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Ibn al-Jawzī, after establishing the general rule that the Companions detested all practices that deviated from the Prophet's way, recognizes two exceptions to the rule in 'Umar's statement regarding *tarāwīḥ* and Ḥasan's statement regarding *qaṣaṣ*. Ibn al-Jawzī is unclear as to whether these exceptions constitute precedents for contemporary Muslims or historical anomalies. On the one hand, he elaborates an underlying principle that explains why Ḥasan would call storytelling an excellent innovation. That is, the act of storytelling is a form of preaching, which is a licit and virtuous practice. On the other hand, unlike the other jurists who read 'Umar's statement as a precedent, Ibn al-Jawzī provides no further examples by which to identify a non-reprehensible innovation.

In contrast to the ambiguity found in Ibn al-Jawzī's passage, Suyūṭī makes his support of the category eminently clear. In Suyūṭī's version, the passage follows a section that is virtually identical to the one found in Ibn al-Jawzī. Suyūṭī then states:

> It has been clarified for you that the people (*qawm*) were wary of innovation, even if there was no harm lest they create something that was [harmful]. And yet, novelties (*muḥdathāt*) occurred that do not clash with the law (*sharī'ah*) and do not negatively affect it, and they did not see harm in doing them, **but rather some of them said, 'they are acts of drawing near to God (*innahā qurbah*)' and this is correct**, as it was related that the people used to prayer during Ramadan individually...[140]

answered" is part of the statement originally attributed to al-Ḥasan al-Baṣrī, or whether it is part of Ibn al-Jawzī's interpretation. From the syntax of the sentence, however, it seems that Ibn al-Jawzī included it as part of al-Ḥasan's original statement, since he then goes on to explain the underlying principle of non-blameworthy innovations found in this passage.

[139] Ibid., 30.

[140] Ibid., 36-37, bolded text for emphasis. The rest of the passage is identical to that of Ibn al-Jawzī, except that Suyūṭī excludes Ibn al-Jawzī's commentary on Ḥasan's statement. Suyūṭī's inclusion of the first statement, "How many brothers have benefited and [how many] calls (*da'wah*) have been answered" in his own retelling, but not the second line of Ibn al-Jawzī's commentary, further strengthens the idea that the first line was part of Ḥasan's original statement.

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Suyūṭī, in vivid language, presents the opinion that non-reprehensible innovations can be considered as "*qurbah*," i.e., supererogatory acts that draw a person near to God, and then affirms that this is correct. With this addition, 'Umar's statement becomes the judicial precedent for establishing a category of commendable devotional acts that were not instituted by the Prophet himself. Suyūṭī thus contributes to our understanding of the descriptive paradigm by providing very explicit support for including devotional acts in his category of good innovations.

3.1.4 Conclusion to Descriptive Paradigm

Ibn 'Abd al-Salām, Abū Shāmah and Suyūṭī distinguish themselves by carving out legal space for new devotional and civil practices under the label of *bid'ah.* Ibn 'Abd al-Salām, in *al-Qawā'id*, defines *bid'ah* strictly as a term describing an unprecedented act and evaluates *bid'ah* according to the rules of Islamic law. Ibn 'Abd al-Salām's application of the five values of *fiqh* to *bid'ah* clearly indicates that he envisioned *bid'ah* as a descriptive legal category. Abū Shāmah and Suyūṭī, as well as Ibn 'Abd al-Salām in other writings, define *bid'ah* as both a descriptive and a normative term, since they draw from both Shāfi'ī and Hadith approaches to the term. They use the descriptive approach to *bid'ah*, however, when they evaluate *bid'ah* as a legal category. Despite their affirmation of the myriad texts against *bid'ah*, all three jurists incorporate *bid'ah* into their legal frameworks as the umbrella category for novel acts.

As a legal category of post-Prophetic acts, *bid'ah* for these jurists is judged according to the act's content and purpose, and not according to the presence or absence of an explicit

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precedent in the Qur'ān and Sunnah. All three jurists insist that a positive *bid'ah* act must agree with the rules of the law and not conflict with it. Abū Shāmah and Suyūṭī add that such an act should be of virtuous content and purpose. Each of the three elaborates both criteria and examples in order to demonstrate how the category of *bid'ah ḥasanah* might apply to specific acts.

While numerous jurists envision a category of good innovation, these descriptively-oriented jurists go one step further by applying *bid'ah ḥasanah* to contemporary and controversial practices. They regard 'Umar's statement, "what an excellent innovation this is!" – mediated through Shāfi'ī's interpretation – as the judicial precedent for establishing a category of *bid'ah ḥasanah*. 'Umar's statement, juxtaposed by the overwhelming statements by Companions against *bid'ah*, serves as a model for establish a category of *bid'ah ḥasanah* as the exception to the general rule against *bid'ah*. Each of the three applies the criteria developed for *bid'ah ḥasanah* to contemporary cases and does not shy away from applying the label to acts that other jurists rejected. That is, Ibn 'Abd al-Salām, Abū Shāmah and Suyūṭī each regard *bid'ah ḥasanah* as a usable legal tool to permit new practices.

Not only do Ibn 'Abd al-Salām, Abū Shāmah and Suyūṭī develop constructive categories of *bid'ah ḥasanah*, but they are willing to apply the category to devotional innovations under certain conditions. Ibn 'Abd al-Salām's open-ended category of "every beneficent (*iḥsān*) or pious (*birr*) act that was not known in the first period", among other potent examples, suggests that he does not limit the scope of commendable innovations to civil

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innovations. Abū Shāmah, despite his ample use of *bid'ah* as a purely reprehensible term, applies the category of *bid'ah ḥasanah* to the contemporary devotional practice of the *mawlid al-nabī.* Finally, Suyūṭī contributes the strongest endorsement of the inclusion of devotional practices in *bid'ah ḥasanah* when he affirms that non-reprehensible innovations include acts of *qurbah.* These jurists, even with their sympathy for the Hadith approach, evaluate *bid'ah* as a legal term of multiple values and are open to permitting post-Prophetic devotional practices under the rubric of *bid'ah ḥasanah.*

3.2 Paradigm Two: The Normative Approach to *bid'ah*

Although Ibn 'Abd al-Salām, Abū Shāmah and Suyūṭī believed that they had located a balance between the Hadith legacy of *bid'ah* and the need to evaluate *bid'ah* as a legal category of change, jurists such as Ibn Taymiyyah and Shāṭibī regarded their descriptive approach as a reprehensible innovation in and of itself. The legal debate over *bid'ah* was, to a large degree, an explicit debate only from the side of the normatively-inclined jurists, who actively challenged the perspective of jurists open to a descriptive approach. Ibn 'Abd al-Salām, Abū Shāmah and Suyūṭī cite respectfully the views of Ṭurṭūshī, Ibn al-Jawzī and other jurists that reject all types of *bid'ah.* In contrast, Ibn Taymiyyah and Shāṭibī implicitly or explicitly condemn the positions of Ibn 'Abd al-Salām and other likeminded jurists.

In the following section, we will analyze Ibn Taymiyyah and Shāṭibi's writings to evaluate their definitions of *bid'ah*, the proofs they marshal, the way that they distinguish between licit and illicit change, and how they deal with sources that seem to contest their perspectives. Both Ibn Taymiyyah and Shāṭibī regard the Hadith approach to *bid'ah* as

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the direct and sufficient basis for their legal position against *bid'ah*. The *ḥadīth*, "every *bid'ah* is an error" must be understood, they argue, as a universal rejection of *bid'ah*; the basic meaning of the *ḥadīth* left no room for distinguishing between positive and negative types. Unlike the descriptively-oriented jurists who incorporate *bid'ah* into Islamic law, Ibn Taymiyyah and Shāṭibī regard every *bid'ah* as beyond the pale of law and antithetical to its rules.

While they reject *bid'ah*, Ibn Taymiyyah and Shāṭibī do not reject the possibility of all new practices. Both jurists distinguish between licit and illicit change by focusing the category of *bid'ah* on devotional innovations. The Prophet forbade all changes to the religion once God declared it to be complete; *bid'ah* is akin to trespassing on God's exclusive rights as Lawgiver. Ibn Taymiyyah holds that all devotional innovations are considered *bid'ah* regardless of whether the content or purpose of the innovation is virtuous. While civil innovations that conflict with the law also fall under the category of *bid'ah*, civil developments that reflect the public interest (*maṣlaḥah*) and do not conflict with the law are permissible. Shāṭibī further limits the scope of *bid'ah* and defines it strictly in terms of devotional practices. Whereas Ibn Taymiyyah regards the pious intent of the innovator as irrelevant to the act's legal ruling, Shāṭibī regards it as crucial for identifying an act as *bid'ah*. Only the person who misguidedly believes that his innovation fulfills God's will is considered a *mubtadi'*. Shāṭibī refines the definition of *bid'ah* in this way in order to create room for his expanded category of *maṣlaḥah* as a vehicle for legal reform. With their definitions of *bid'ah* primarily limited to the

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boundaries of devotional law, Ibn Taymiyyah and Shāṭibī make the permissibility of devotional innovations the crux of the juristic debate.

3.2.1 Ibn Taymiyyah

Ibn Taymiyyah[141] was one of the most vociferous medieval proponents of realigning Muslim normative practice with the Prophet's *sunnah* and of limiting devotional practice to that of the Prophet and the early Muslim community. His censure of *bid'ah*, as the opposite of *sunnah*, recurs throughout his legal writings. Ibn Taymiyyah addresses the phenomenon of *bid'ah*, in particular, in *Iqtiḍā' al-ṣirāṭ al-mustaqīm limukhālafat aṣḥāb al-jahīm* (*The Necessity of the Straight Path in Order to Oppose the Disciples of Hell*), his polemic against Muslim imitation of non-Muslim religious practices. Ibn Taymiyyah directs his critique both at laypeople, who were participating en masse in popular religious festivals and rites, and at other scholars, who were either turning a blind eye or justifying these practices as positive innovations.[142] Ibn Taymiyyah rejects the notion

[141] Ibn Taymiyyah dedicated much of his life, and ultimately his freedom, to promoting a Salaf-oriented approach to religion and to opposing the widespread popular Sufi and other religious practices that permeated Muslim society of his time. In particular, Ibn Taymiyyah attacked the proponents of speculative or ecstatic Sufism and the defenders of speculative theology (*kalām*) for what he considered to be heterodoxical views on God. He also attacked the concomitant practices of these and more popular Sufis, such as *samā'* circles of poetry and music or saint worship at gravesites. Recent research has moderated an early picture of Ibn Taymiyyah as an enemy of Sufism. George Makdisi demonstrates Ibn Taymiyyah's identification as a Sufi and credentials as part of the Qādirī lineage (Makdisi, "Ibn Taimīya: A Ṣūfi of the Qādiriya Order." *American Journal of Arabic Studies* 1 (1973): 118-29). Th. Emil Homerin similarly points to Sufi influences upon Ibn Taymiyyah's thought (Homerin, "Ibn Taiymīya's *al-Ṣūfīyah wa-al-fuqarā'*." *Arabica* 32 (1985): 219-44). However, Ibn Taymiyyah's rejection of the monism/pantheism of Ibn 'Arabī and his opposition to popular Sufi practices led Homerin to describe him as a "neo-Ṣūfī" (Ibid., 241). Unfortunately for Ibn Taymiyyah, his opponents were often entrenched in the political and religious establishments; his vigorous campaign brought him into conflict with the political and religious establishments of the day and landed him in prison on three separate occasions. Ibn Taymīya's last prison term in the Citadel at Damascus lasted for 26 months until his death on September 26, 1328 (Laoust, "Ibn Taimiyya," 3: 951a-954b).

[142] Muhammad 'Umar Memon, *Ibn Taimīya's Struggle against Popular Religion* (The Hague: Mouton & Co., 1976), 5-6.

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that *bid'ah* can be classified into positive and negative types. He regards the concept of a good innovation as a violation of the unqualified and universal scope of the *aḥādīth* against *bid'ah*. Unlike Ibn al-Jawzī and others who focus on *bid'ah* as a social problem, symptomatic of Muslim disunity, Ibn Taymiyyah in *al-Iqtiḍā'* primarily condemns *bid'ah* as a theological problem. A person who innovates a religious act, in the sense of an act that aims to draw the person near to God, impinges upon God's unique role as legislator of religious norms. Ibn Taymiyyah, in his desire to protect the boundaries of religious norms, establishes much more restrictive guidelines for defining normative devotional practices than for defining normative civil practices. Though he allows room for certain new customary practices that serve the public benefit (*maṣlaḥah*), he regards all devotional innovations as reprehensible or forbidden. That being said, Ibn Taymiyyah recognizes the attraction and even piety of devotional innovations. It is precisely the virtuous elements of devotional innovations, however, that lead to the dangerous blurring of the line between divinely-sanctioned norms and those norms initiated by human beings.

For Ibn Taymiyyah, the Hadith's general condemnation of *bid'ah* is sufficient to have established a legal rule condemning all innovations. He bases his legal position on the unqualified condemnation of the two main traditions against *bid'ah*, i.e., "every innovation is an error," and "whoever does an act that does not fit with what we have established, he is rejected."[143] Throughout his discussion of *bid'ah* in *al-Iqtiḍā'*, Ibn

[143] Ibn Taymiyyah cites both versions of the "every innovation is an error" *ḥadīth* transmitted by Jābir b. 'Abdallāh and 'Irbāḍ b. Sāriyah respectively, as well as the two main versions of the *ḥadīth* (with the verbs *aḥadatha* and *'amila*) transmitted by 'Ā'ishah. Ibn Taymiyyah, *Iqtiḍā'*, 2: 82-83.

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Taymiyyah uses the universality of these two traditions to assert the comprehensive rejection of *bid'ah* and to challenge the legal basis of a good innovation. He states, for example, "know that this rule (*qā'idah*), that is, the inference (*istidlāl*) that something is reprehensible because it is an innovation (*bid'ah*) is a great general rule, its comprehensiveness being the answer to what opposes it (*wa-tamāmuhā bil-jawāb 'ammā yu'ārid̦uhā*)."[144] In contrast to Abū Shāmah and Suyūṭī, who, though affirming the Hadith's general rule against *bid'ah*, still locate space for good innovations as exceptions, Ibn Taymiyyah asserts that the *aḥādīth* do not allow for positive exceptions.

Ibn Taymiyyah's position goes beyond a surface reading of the Hadith's general condemnations of *bid'ah*. Unlike other normatively-oriented jurists who focus on *bid'ah* as a manifestation of disorder (*fitnah*), Ibn Taymiyyah emphasizes the theological problem of *bid'ah*. He views the act of innovating a religious practice as trespassing on God's exclusive domain as legislator and thus locates further corroboration against *bid'ah* in the Qur'ānic passage, 42:21, "Do they have partners (*shurakā'*) who have legislated for them as religion that which God did not permit?" Based on this scriptural text, Ibn Taymiyyah identifies two separate theological sins within *bid'ah* – one for the innovator and one for the person who follows the innovations of others:

> One who recommends (*nadaba ilā*) something with the idea of gaining divine nearness by means of it (*yataqarrabu bihi ilā Allāh*), or makes something obligatory by word or deed without it being prescribed by God, is indeed guilty of laying down as religion that for which God has given no permission, while the other man who follows this one in the matter is

[144] Ibid., 2:87.

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> guilty of ascribing a partner to God – a partner who laid down for him as religion that for which God has given no permission.[145]

An innovator is thus guilty of adding to the very religion that God had previously declared to be complete, while the follower of innovations is guilty of *shirk*, i.e., ascribing a partner to God, by accepting the religious legislations of another human being. Ibn Taymiyyah's contention that *bid'ah* is the misguided act of a person attempting to draw nearer to God (*qurbah*), places it distinctly in the realm of a religious problem, the result of a misguided or vain inclination to worship God through means that God rejects.

Ibn Taymiyyah, having reoriented the problem of *bid'ah* around theological trespass and misguided piety, naturally concerns himself more with innovations in the devotional realm (*'ibādāt*) than with ones in the customary realm (*'ādāt*). He defines *'ibādāt* as "acts that are taken as religion, and one benefits from them in the next world, or in this world and the next," as opposed to *'ādāt*, "acts that one benefits from in one's life."[146] Though not restricting the category of *bid'ah* to devotional acts, Ibn Taymiyyah establishes stricter standards for what constitutes a normative devotional act than for a normative customary act.[147] Reprehensible customary innovations are limited to practices that directly conflict with existing sources of law; civil acts are always licit unless God has specifically forbidden them. Devotional acts, by contrast, are only licit if God has prescribed them. He explains, "the principle regarding *'ibādāt* is that there is no

[145] Ibid., 2:84.

[146] Ibid., 2:86.

[147] Ibn Taymiyyah's definition of *'ibādāt* is not limited to cultic practices/ritual acts per se, but would include all acts that are recompensed in the Hereafter.

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legislating from it except that which God legislated and the principle regarding *'ādāt* is that there is no prohibiting it except that which God prohibited."[148] Ibn Taymiyyah would thus label any devotional act that lacks an explicit source in the Qur'ān, Sunnah or Consensus of the early community as a *bid'ah* and a theological sin. Included in this category would be all particularized devotional acts, marked by a specific time, place or set of practices, even if these practices correspond with generally approved devotional activities, such as prayer or fasting.[149] He declares, "*shirk* enters into every devotional act (*'ibādah*) that God does not permit."[150] Reprehensible customary innovations, in contrast, are limited to practices that directly conflict with existing sources. Ibn Taymiyyah posits two different standards for devotional and customary acts. Unlike novel customary practices that can be permitted if they do not transgress an existing prohibition, all novel devotional practices by definition contravene God's domain and are reprehensible or forbidden.

Ibn Taymiyyah, in allowing zero-tolerance for devotional innovations, is implicitly challenged by 'Umar's statement in favor of a devotional innovation. As we saw in the first paradigm, jurists who approach *bid'ah* descriptively regard 'Umar's statement as the legal basis for good innovations. Ibn Taymiyyah rebuts this position by focusing on the general condemnation found in the *aḥādīth* against *bid'ah*, and by asserting that 'Umar's statement does not serve as the legal precedent for good innovations.

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[148] Ibid., 2:86.

[149] Ibid. 2: 117.

[150] Ibid., 2: 86.

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Ibn Taymiyyah first challenges the validity of any interpretation that denies the comprehensiveness of the prohibition in the *aḥādīth* against *bid'ah*. He insists that the Prophet's statement is conclusive and general, and that these *aḥādīth* may be read solely as universal injunctions against all innovations.[151] He later returns to this point and argues that his opponents are guilty of fallacious reasoning and of distortion when they limit the text's meaning to outlawing negative innovations that are enumerated elsewhere in the Hadith. In Ibn Taymiyyah's view, such reasoning undermines the purpose of the text and relegates it to an ineffectual meaning (*'adīm al-ta'thīr*), while, at the same time, rendering the Prophet's words incoherent and deceitful (*muddalas*). He further asserts that, since there are many more general statements against *bid'ah* than statements prohibiting specific innovations, his opponents are guilty of applying a general statement to a minority rule.[152] Ibn Taymiyyah concludes his criticism of what he perceives as fallacious reasoning by stating, "it is not permissible for anyone to deal with this universal (*kulliyah*) comprehensive (*jāmi'ah*) word of the Prophet, i.e., 'every innovation is an error,' by negating its generality (*'umūmihā*), which equivalent to saying 'not every innovation is an error.'"[153]

It would seem that the general rule established by the Hadith leads to only two possible conclusions: either what is proven good (*mā thabata ḥusnuhu*) is not an innovation, or

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[151] Ibid., 2:87.

[152] Ibid., 2:91-2.

[153] Ibid., 2:93.

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what has been proven good has been singled out from the general category as an exception.[154] Ibn Taymiyyah, insists, however, that such an exception, though theoretically possible, would require authoritative proof from the Qur'ān, Hadith or Consensus and that local custom or scholarly affirmation would not be sufficient.[155] Ibn Taymiyyah, in this instance, both suggests the possibility of a good innovation, and, at the same time, undermines it.

Ibn Taymiyyah next contests the idea that 'Umar's statement regarding the *tawārīḥ* prayer functions as the legal basis for establishing the concept of *bid'ah ḥasanah.* He refutes its relevance by arguing both that the *tarāwīḥ* prayer already had the status of *sunnah* by 'Umar's time and that 'Umar referred to the prayer as a *bid'ah* only in its lexical not in its legal sense. The Prophet himself established the general principle of nightly prayer during Ramadan by the *ḥadīth*, "Indeed God has made fasting in Ramadan obligatory (*faraḍa*) for you and I have established (*sanantu*) for you nightly prayers."[156] The Prophet furthermore instituted the particular structure of congregational prayer with a prayer leader for the first three nights of Ramadan, and only removed himself from the practice to prevent the people from mistaking the night prayer for an obligation. A third Prophetic *ḥadīth* asserts that congregational night prayer is preferable to individual prayer during Ramadan.[157] And, the final evidence that the *tarāwīḥ* prayer already had the status

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[154] Ibid., 2:88.

[155] Ibid., 2:88-9.

[156] Ibid., 2:94. For the *ḥadith*, see, for example, *Sunan Ibn Mājah*, Book of Performing the Prayer and the *Sunnah* Regarding It (*īqāmat al-ṣalāt wal-sunnah fihā*), Chapter 173: Hadith No. 1389, 192.

[157] Ibid., 2:94. For the *ḥadith*, see, for example, *Sunan al-Tirmidhi*, Book of Fasting (*ṣawm*), Chapter 81: Hadith No. 811, 1: 223.

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of a *sunnah* was the *iqrār* of the Prophet, i.e., that the Prophet observed his followers praying in groups and tacitly approved. For these reasons, the *tarāwīḥ* prayer was already considered to have the status of a *sunnah*, here in the sense of an optional practice established by the Prophet, prior to 'Umar's time.

Since the congregational *tarāwīḥ* prayer already had the status of *sunnah*, 'Umar could only have called the practice a *bid'ah* in its lexical, and not legal, sense. Despite the elevated stature of 'Umar b. al-Khaṭṭāb and the other Companions in Ibn Taymiyyah's legal system, Ibn Taymiyyah here denies him the independent authority to establish norms, holding that "the statement of a Companion is not an authoritative proof (*qawl al-ṣāḥib laysa bi-ḥujjah*)," and especially when a Companion's statement conflicts with that of the Prophet.[158] Instead, Ibn Taymiyyah reads 'Umar's statement as introducing a distinction between a lexical *bid'ah* and a legal *bid'ah*: "this is a lexical designation (*tasmiyah lughawiyyah*) not a legal designation (*tasmiyah shar'iyyah*), since linguistically *bid'ah* includes all that is done first without a precedent but the legal [definition of] *bid'ah* is that for which there is no legal indication."[159] It is true, Ibn Taymiyyah acknowledges, that 'Umar established something unprecedented when he gathered the people behind one leader and lit the mosque with lights. However, 'Umar's act does not constitute a legal *bid'ah*, since the Prophet had already deemed congregational night prayer during Ramadan as a righteous act (*'amal ṣāliḥ*).[160] 'Umar's

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[158] Ibn Taymiyyah, *Iqtiḍā'*, 2:95.

[159] Ibid., 2:95.

[160] Ibid., 2:97.

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institution of congregational *tawārīḥ* prayer, like the collection of the Qur'ān and Abū Bakr's military campaigns against those who refused to pay tithes (*zakāt*), was a pious act that was approved of by the Prophet in theory but was impossible to execute systematically as long as he was alive.[161] Following the Prophet's death, the hindrance was removed and these unprecedented, but not 'innovated,' practices were actualized.

Once he opens up the possibility for some beneficial post-Prophetic developments, Ibn Taymiyyah must articulate guidelines for distinguishing between these beneficial developments and so-called innovations. In what might be construed as a clever rhetorical move, Ibn Taymiyyah insists that the *ḥadīth*, "every innovation is an error," could not meant all new acts, since the religion of Islam was itself a new act (*'amal mubtada'*).[162] Drawing on his previous point that certain acts that are proven good may function as exceptions to the general rule against *bid'ah*, Ibn Taymiyyah formulates a series of guidelines for defining "proven good." The emphasis on good stems from Ibn Taymiyyah's reasoning that people do not create a novel practice (*yuḥdithū*) if they do not believe that it serves a public benefit (*maṣlaḥah*).[163] It is thus important to investigate the need that an act serves in order to determine whether or not it is actually beneficial.

[161] Ibid., 2:98-100. There is something fascinatingly paradoxical about this logic – since the Prophet is the only human capable of establishing obligatory norms, the community had to wait until he died in order to enact the practice as an optional one. The very fact that 'Umar enacted the practice, which is a devotional innovation, after the Prophet's death is a testament to 'Umar's lack of legislative capacity...

[162] Ibid., 2:96. Ibn Taymiyyah here cites a line from Ibn Kathīr's biography of the Prophet, that the messengers of Quraysh were to have described Muḥammad's companions as those who abandoned the religion of their ancestors and followed an unknown novel religion (*dīn muḥdath lā yu'rafu*).

[163] Ibid., 2: 100.

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Ibn Taymiyyah offers two principles for permissible unprecedented acts and two principles for prohibited unprecedented acts:

Guidelines for permissible post-Prophetic acts

1) If the warranted need occurred after Prophet's death, and it was a need that was not deliberately neglected by the Prophet, it is permissible to originate what the need warrants.[164]

2) If the original need was present during the Prophet's lifetime, but he abandoned it because of an impediment that was lifted with his death, it is permissible.[165]

Guidelines for impermissible post-Prophetic acts

1) If a practice was created without a warranted need or if the need was based on human transgressions, its creation is not permissible.[166]

2) Any matter that may have been considered beneficial in the Prophet's lifetime but was not acted upon by him, is, by definition, not a public benefit (*maṣlaḥah*).[167]

Permissible post-Prophetic acts include the broad category of practices that respond to the needs of the community as it develops and the narrow category of practices, such as the congregational *tarāwīḥ* prayer, that the Prophet approved of but could not enact in his lifetime. Through these two guidelines, Ibn Taymiyyah accommodates the main examples brought by descriptively-oriented jurists of good innovations, such as the redaction of the Qur'ān, the establishment of the Islamic sciences and the decisions of the early Caliphs mentioned above. The overwhelming majority of cases that fit these guidelines are in the customary realm, as will become clear from Ibn Taymiyyah's explanation of his other guidelines.

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[164] Ibid., 2:101.

[165] Ibid., 2:101.

[166] Ibid., 2:101.

[167] Ibid., 2:102.

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Impermissible post-Prophetic acts, in contrast, are practices that do not fit the criteria of need or benefit, for reasons that include a non-justifiable need, a transgression of a legal prohibition or a clear omission on the part of the Prophet. Ibn Taymiyyah presents two examples to clarify this second category. For an example of the first impermissible guideline, Ibn Taymiyyah mentions the practice of certain rulers of moving the sermon ahead of prayers during the two major holidays, since many worshippers otherwise would leave after prayers prior to hearing the sermon. In Ibn Taymiyyah's view, this practice is based on an unwarranted need. The people stayed to hear the Prophet's sermon after prayers because he spoke about issues that benefited the people whereas the princes seek to promote their own interests.[168] As an example of the second guideline, Ibn Taymiyyah mentions the innovation by certain rulers to add a call to prayer (*adhān*) right before the prayers on the two main holidays. Even though the practice may seem beneficial based either on general principles (*al-'umūmāt*), such as mentioning God and enjoining Muslims to God's worship, or on an analogy from its presence before Friday prayer, this *adhān* is a reprehensible *bid'ah*. Ibn Taymiyyah likens this case to adding a sixth [daily] prayer.[169] The addition of such a practice constitutes a change in the religion (*taghyīr li-dīn Allāh*), since the Prophet's abstention (*tark*) from enacting a potentially beneficial devotional practice is itself a *sunnah*.

Just as the seemingly innocuous addition of an *adhān* constitutes a reprehensible innovation because the Prophet omitted it, all post-Prophetic devotional practices fall

[168] Ibid., 2:103-4.

[169] Ibid., 2:102-3.

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under the category of potentially beneficial acts that the Prophet deliberately neglected. For Ibn Taymiyyah, the Prophet's omission or abstention from a devotional act is itself a source against the claim that the devotional act serves a public benefit. Unlike in the domain of *'adāt*, the scope of benefit in the devotional realm is defined by what the Prophet established; if the Prophet did not establish it, it cannot represent a warranted need. The idea that *sunnah* covers all normative devotional acts and all potential devotional acts necessarily means that post-Prophetic devotional acts are always forbidden, with the exception of those few actions, such as the *tarāwīḥ* prayer, covered under the second guideline. Ibn Taymiyyah thus outlines different standards for post-Prophetic devotional and customary practices. He allows for the possibility of beneficial novel practices in the customary realm, but not in the devotional realm.

Despite his rejection of the idea that devotional innovations can be licitly beneficial, Ibn Taymiyyah does recognize the partial good in many devotional innovations. In response to the claim that the very devotional practices that Ibn Taymiyyah condemns are practiced by learned and sincere believers, he acknowledges that a person may perform a devotional innovation out of sincere belief and a pious purpose:

> There is no doubt that one who performs [these innovated festivals], either because of his own interpretation and independent reasoning or his being a blind imitator (*muqallid*) of another, receives a reward for his good purpose (*ḥusn qaṣdih*) and for the aspects of his act that conform with the lawful, and he is forgiven for those aspects that fall under the scope of the innovated if his independent reasoning or blind obedience was pardonable.[170]

[170] Ibid., 2:117.

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Not only does Ibn Taymiyyah recognize the pious elements within devotional innovations, but he asserts that sincere practitioners of these innovations merit a reward. However, he continues, the beneficial aspects of these practices do not change their status as reprehensible and forbidden acts.[171] *Bid'ah*, in Ibn Taymiyyah's final estimation, can be a combination of good and evil elements, but the evil elements outweigh the good.

The good within *bid'ah* is ultimately the reason why it is so dangerous for the community. Ibn Taymiyyah develops this idea by means of a recurring metaphor of *sunnah* as spiritual nourishment and *bid'ah* as, essentially, spiritual candy, which is appetizing but not healthy. He introduces this metaphor in an earlier chapter in *al-Iqtiḍā'*:

> The laws (*sharā'i'a*) are food and sustenance for the heart, as observed by Ibn Mas'ūd: "Every host wishes his banquet to be attended, the Qur'ān being the banquet of God!" It is in the nature of the body that when it is hungry and has eaten as much as it needs, it is no longer in need of more and would only eat more food under compulsion and duress. But perhaps this food is harmful for his body or, at least, unbeneficial, simply because it is not the same as the food that strengthens him. Likewise, if a worshipper satisfies some of his needs by performing illicit deeds (*min ghayr al-a'māl al-mashrū'ah*), his interest in the licit ones and in deriving benefit from them diminishes to a degree corresponding to his substitution of the unlawful.[172]

By his metaphor of spiritual candy, Ibn Taymiyyah acknowledges that an innovated act of devotion can spiritually satisfy its practitioner and even admits that it fulfills some of the functions of normative worship. The difference, however, between normative

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[171] Ibid.

[172] Ibid., 1:542-3.

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practices and innovated ones is the quality of the spiritual nourishment received by the practitioner.

Besides improperly nourishing the believer, the performance of innovated acts has a corrosive effect on one's attitude towards similar normative practices. He provides several examples of this process, including the following:

> Thus you find that the more a person listens to songs (*qaṣā'id*) with the ostensible purpose of improving his soul, the more his desire lessens for listening to the Qur'ān and even to the point of disliking it...[173]

Ibn Taymiyyah sees a clear correlation between performing an innovated act and distancing oneself from a similar normative act. By this and other examples, he illustrates the numerous *aḥādīth* that warn of the inverse relationship between every *sunnah* and *bid'ah*.[174] One who performs innovated acts might believe that he is improving his spiritual capacity but, Ibn Taymiyyah says, he is training himself away from normative spiritual development.[175]

Given *bid'ah*'s capacity to invert one's spiritual focus, Ibn Taymiyyah ultimately concludes that *bid'ah* borders on heresy. By performing devotional innovations, one empowers those besides God to establish devotional norms: "And whoever contemplates

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[173] Ibid., 1:543.

[174] Ibn Taymiyyah here cites the Prophetic *ḥadīth*, "whenever a group innovates, God removes from them a corresponding *sunnah*," transmitted by Aḥmād b. Ḥanbal via 'Uḍayf b. al-Ḥārith (Ibid., 2:543-4). Ibn Taymiyyah cites this and similar traditions earlier in *Iqtiḍā'*, 1: 352.

[175] Later in his *Iqtiḍā'*, Ibn Taymiyyah applies this rationale to the prayer innovations at gravesites, and the highly problematic innovation of shrine worship. He declares in those cases, "A heart occupied with innovations has little room for the normative practices (*sunan*)." Memon, *Ibn Taiymiya's Struggle Against Popular Religion*, 299.

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that [i.e., that innovations combine God's norms with those of human beings] certainly knows that innovations contain poisons that weaken belief, and for that reason it is said, '*bid'ah* is derived from unbelief (*kufr*).'"[176] The right to legislate these norms is limited to God, as they are enacted by the Prophet and his Companions. Ibn Taymiyyah's discussion of *bid'ah* thus comes full circle and returns to his main concern that *bid'ah* blurs the boundary between the divine and human domains.

Conclusion

Ibn Taymiyyah consistently applies the Hadith definition of *bid'ah* in his legal treatment of innovated practices. Following the general and unqualified rejection of innovations by the Prophet and his Companions, Ibn Taymiyyah regards the label of *bid'ah* as a normative statement against an act. Since the Prophet declared that every innovation is an error, it is untenable that jurists assert that some innovations are good. That being said, he does allow for the possibility of positive civil developments as long as they serve the public interest and do not transgress existing prohibitions. Ibn Taymiyyah's main concern is with the spread of devotional innovations and his definition of *bid'ah* reflects this focus. The sin of the innovator and follower of innovations is inextricably linked to their aim to engage in practices that they mistakenly believe will lead them closer to God. *Bid'ah* is thus a distinctly religious problem, of human-originated acts that transgress the boundaries established by the religion. It goes against the basic principle of limiting the right of religious legislation to God as embodied in Muḥammad's behavior.

[176] Ibn Taymiyyah, *Iqtiḍā'*, 2:116.

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In locating the problem of *bid'ah* in the misguided piety of Muslim practitioners, Ibn Taymiyyah was sensitive to the positive elements within devotional innovations as well as their pietistic purpose. However, in sharp contrast to Abū Shāmah who regarded the sincere intention of the practitioner as a necessary criterion for permitting a devotional innovation, Ibn Taymiyyah regards the innovator's motive as irrelevant for determining its legal status and perhaps even dangerous. Ibn Taymiyyah's sensitivity yet legal stringency would carry over to his approach to particular devotional innovations, such as the *mawlid al-nabī* festival, as we will see in the next chapter.

By emphasizing the devotional realm of *bid'ah*, Ibn Taymiyyah distances himself from the broad approaches of descriptively-oriented jurists and paves the way for Shāṭibī's more restrictive approach. In contrast to those descriptively-oriented jurists who reject only those devotional innovations that conflict with the law, Ibn Taymiyyah tightens the boundaries of normative devotional practice to include only acts that have a clear precedent in the canonical sources. By asserting that God alone may determine devotional norms, Ibn Taymiyyah confronts those jurists who claim to add devotional practices by virtue of analogy, custom or public benefit. On the other hand, Ibn Taymiyyah does not go so far as to limit the realm of *bid'ah* to devotional acts, as Shāṭibī later does. What is implicitly laid out in Ibn Taymiyyah becomes explicit in Shāṭibī's system.

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3.2.2 Shāṭibī

Ibrahīm al-Shāṭibī's *al-I'tiṣām* (*Adhering*) is by far the most extensive and systematic treatment of *bid'ah*. Like Ibn Taymiyyah, Shāṭibī rejects all types of innovations, in keeping with the Hadith's unqualified condemnation of *bid'ah*. At the same time, Shāṭibī renders explicit what is implicit in Ibn Taymiyyah's approach to *bid'ah* — whereas Ibn Taymiyyah's definition includes all devotional innovations and some customary innovations, Shāṭībī limits his definition of *bid'ah* almost exclusively to devotional innovations. The debates about *bid'ah*, in Shāṭibī's view, derive from broad misunderstandings about both the concept and the parameters of Islamic law. His treatise attacks two opposite positions: those who bring *bid'ah* into the framework of law by establishing positive and negative types of innovations; and those who understand the Hadith's censure of *bid'ah* to outlaw all types of change. Shāṭibī, in contrast, outlaws all types of *bid'ah* (read: devotional innovations) in order to make room for his permissive attitude towards legal change in the customary realm.[177] In this way, he addresses the comprehensive rejection of *bid'ah* in the Hadith while explaining the way that legal change has and continues to function in Islamic law.

Shāṭibī establishes his normative approach to *bid'ah* by means of textual, legal and rational evidence. He first demonstrates – through an exhaustive survey of the Qur'ān, Prophetic Hadith, traditions of the first three generations, and even the writings of Sufi masters – that the canonical sources condemn *bid'ah* in a general and absolute way

[177] Shāṭibī develops his theory of legal change primarily in his treatise on legal theory, *al-Muwāfaqāt*, although he alludes occasionally to this theory in *al-I'tiṣām*. For an extensive analysis of Shāṭibī's approach to legal change, see Masud, *Shāṭibī's Philosophy of Islamic Law*, especially 151-162.

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(*muṭlaqah 'ammah 'alā kathratihā*) and do not allow for commendable exceptions.[178] Shāṭibī then asserts the unqualified censure of *bid'ah* by applying the principle of "universal rule (*kulliyah*)" in Islamic legal theory. These canonical sources form a universal rule against *bid'ah*, since they follow its three criteria, namely, multiple repetitions in different places; attestations of both its theoretical and applied meanings (*shawāhid 'alā ma'anin uṣuliyyah aw furū'iyyah*); and no qualification or specification attached (*lam yaqtarin bihā taqyīd aw takhṣīṣ*).[179] As a universal rule, the general censure of *bid'ah* overrides any claim to a positive exceptional use of the term. Moreover, Shāṭibī posits that the pious ancestors among the Companions and Successors established a firm consensus (*ijmā' thābit*) regarding the censure of *bid'ah* and the need to avoid it.[180] Finally, he argues that the very definition of *bid'ah*, as an act that resembles a legal act but does not originate with the Lawgiver, logically demands its universal condemnation and the impossibility of its being divided into good and bad.[181] Since the law is comprehensive, any act approved by the Lawgiver would already be licit (*mashrū'*). *Bid'ah*, in contrast, stands outside the boundaries of law since it undermines the legislative rights of the Lawgiver. Shāṭibi thus demonstrates that *bid'ah* is an irredeemable category that cannot be drawn into the framework of Islamic law.[182]

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[178] Shāṭibī asserts that had there been an exceptional novel act that was considered commendable, it would have been mentioned in the sources (Shāṭibī, *al-I'tiṣām*, 1: 99). Through this provocative statement, Shāṭibī foreshadows his response to the claim that numerous practices of the pious ancestors and a particular statement of the Prophet do suggest that commendable innovations are possible. See below for this discussion.

[179] Ibid.

[180] Ibid.

[181] Ibid.

[182] Ibid., 99-100.

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Shāṭibī's Definition of bid'ah

Although Shāṭibī's survey of the early sources that argue against *bid'ah* is perhaps more comprehensive and sophisticated than previous treatments, the substance of his argument follows the early Mālikī writings of Ibn al-Waddāḥ and Ṭurṭūshī. His contribution to *bid'ah* debates is his intricate definition of *bid'ah.* Unlike other normatively-inclined jurists who are content to define *bid'ah* as an act that has no legal precedent, Shāṭibī's definition of *bid'ah* identifies the elements that delineate between licit and illicit legal change. He initially presents two definitions of *bid'ah*, one that limits the category to devotional acts and a second that includes both devotional and customary acts. He later claims that the correct definition draws from both approaches, but ultimately limits *bid'ah* primarily to devotional innovations and a few customary innovations under particular circumstances. The first definition calls bid'ah

> An invented way in religion that resembles the legal way by following which is intended to be an utmost exertion[183] in obedience to God Sublime (*ṭarīqah fī al-dīn mukhtara'ah tuḍāhī al-shar'iyyah yuqṣadu bil-sulūk 'alayhā al-mubālaghah fī al-ta'abbud lillāh subḥānahu*).[184]

The second definition begins the same way but ends with a much broader scope:

> An invented way in religion that resembles the legal way by following which is intended to be that which is intended by the legal way (*ṭarīqah fī*

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[183] The term, *mubālaghah*, according to *Lisān al-'Arab*, means "*tablughu fī al-amr juhdak*," where *balagha* is a synonym of *jahada* (Ibn al-Manẓūr, *Lisān al-'Arab*, 1:487. Although *mubālaghah* could connote exaggeration or excess, especially in modern Arabic, here I follow the classical definition, which Muhammad Khalid Masud uses as well. Masud translates the first definition as follows: "A way of innovation in religion that resembles the way of the *sharī'ah* and which is intended to be followed in order to strive in the utmost toward obedience to Allah." Masud, *Shāṭibī's Philosophy of Law*, 219.

[184] Shāṭibī, *al-I'tiṣām*, 1:25.

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> *al-dīn mukhtara'ah tuḍāhī al-shar'iyyah yuqṣadu bil-sulūk 'alayhā mā yuqṣadu fī al-ṭarīqah al-shar'iyyah).*[185]

Shāṭibī explains his first definition by highlighting four main elements. First, by the term "a way in religion," he immediately excludes any mundane innovations, (lit., in the world, *fī al-dunyā*), such as changes in crafts or building methods.[186] Shāṭibī next explains that the term, "invented (*mukhtara'ah*)" is designed to include ways that have been invented but have no precedent offered by the Lawgiver, but to exclude both matters that have a basis (*aṣl*) in the law and matters that might appear invented but are linked to religion either by a clear basis or by the category of public benefit (*maṣlaḥah mursalah*). As an example of an innovation in the figurative sense that actually has a link to the religion, Shāṭibī mentions the development of the religious sciences that emerged after the Prophet's time. These sciences, from grammar to legal theory, might appear to be invented, but they are grounded in the law because they serve as necessary preconditions for understanding the law (*al-khādimah lil-sharī'ah*). On the other hand, the written compositions of these fields of study similarly may be termed "invented" developments that have no specific source in the law, but Shāṭibī excludes them from the definition of *bid'ah* because they represent acts of public benefit (*maṣlaḥah mursalah*), on which he elaborates later.[187] Shāṭibī thus builds into his definition of *bid'ah* two ways to distinguish between reprehensible innovations and those positive developments in Muslim history that descriptively-oriented jurists would call good innovations.

[185] Ibid. Masud translates the second definition as follows: "A way of innovation in religion that resembles the way of the *sharī'ah* and which is intended to be followed with the same intentions that *sharī'ah* aims at." *Shāṭibī's Philosophy of Law*, 219.

[186] Shāṭibī, *al-I'tiṣām*, 1:25.

[187] Ibid. For other examples of collection of the Qur'ān and 'Umar's statement, see Ibid., 1:26.

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The third element in Shāṭibī's definition is that the innovated act must resemble a legislative act (*tuḍāhī al-shar'iyyah*) even though it does not derive from the law. The legislative structure of an innovated act manifests itself in a number of ways, including: setting new boundaries (*waḍ' al-ḥudūd*), such as one who vows to fast continuously or who habitually engages in other ascetic activities; demanding specific modalities and forms (*al-kayfiyyāt wal-hay'āt al-mu'ayyinah*) for how the act is to be practiced, such as establishing the day of the Prophet's birth as a festival; and requiring particular devotional practices at particular times (*iltizām al-'ibādāt al-mu'ayyinah fī awqāt mu'ayyinah*) that are not appointed by the law, such as fasting during the day of the 15th of Sha'bān and praying that night.[188] Like Ibn Taymiyyah's stipulation that innovated acts are defined by particular times, places and sets of behavior, Shāṭibī limits the category of *bid'ah* to acts that are performed regularly with specific and required conditions. This is to distinguish *bid'ah* from the occasional and thus licit performance of non-obligatory devotional practices.[189] For example, supererogatory fasting is an open-ended commendable act according to Islamic law. However, one who regularly fasts on a particular day to commemorate the death of a scholar, or another such reason, emulates the Lawgiver in particularizing that day with specific practices.[190] Shāṭibī refers to this defining feature of *bid'ah* as additional legislation (*tashrī' zā'id*), that is an act that

[188] Ibid., 1:26.

[189] That being said, Shāṭibī expresses his concern regarding the person who performs extensive non-obligatory devotional practices, since these practices often take the cast of obligations and eventually become burdensome. Ibid., 1:199-203.

[190] Ibid., 2:262.

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takes the form of a legal obligation that is not designated by God.[191] The legislative form of an innovated act gives the act prestige and the aura of a religious duty. The similarity in structure between a devotional innovation and a devotional norm confuses people into believing that the innovation is in fact a normative practice. For this reason, the innovator (*ṣāḥib al-bid'ah*) will support his claim to an innovated act's legitimacy by using the language of obligation and stipulating conditions.[192] Shāṭibī, in this third element in his defintion, echoes the concern of numerous other jurists that *bid'ah*'s insidiousness stems from the way it blurs the boundary between normative and new practices.

The final and perhaps definitive feature of Shāṭibī's first definition of *bid'ah* is the innovator's aim of divine obedience (*ta'abbud*). For Shāṭibī, *ta'abbud* reflects both the purpose of the act, which is the desire to worship God, and the domain of one's activity, namely the realm of devotional acts that have no rationally intelligible purpose other than obeying God's command. The criterion of divine obedience means that the innovator must be motivated by theological aims. As Shāṭibī writes, "one who acts without the *sunnah* in a religious manner, he is the very definition of the innovator (*wal-'āmil bi-ghayr al-sunnah tadayyunan, huwa al-mubtadi' bi-'aynihi*)."[193] This element excludes any practice that serves no religious purpose, such as using a sieve, or any legislation that

[191] See also Ibid., 2:308.

[192] Ibid., 1: 26-7. Shāṭibī here brings several examples from the Qur'ān of the claims by polytheistic Arabs that their adherence to pre-Islamic practices was based on divine obligations, such as the requirement to circumambulate the Ka'bah naked.

[193] Ibid., 1:29.

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does not aim at worshipping God, such as imposing certain financial penalties.[194] According to Muhammad Khalid Masud, Shāṭibī's emphasis on the pious purpose of the innovator reflects his understanding of the relationship between intention (*niyyah*) and action:

> If the intention of an act and the act itself conform with the purpose of the *sharī'ah*, the act certainly is valid. The act is not valid if the act and the intention both do not conform with the *sharī'ah*. If the intention conforms and the act does not, it is called *bid'ah*. If the act conforms but the intention does not the act belongs to the category of *ri'ā'* and hypocrisy.[195]

Unlike Ibn Taymiyyah, who recognizes the sincere intention of the innovator but ultimately discounts the relevance of piety for determining the act's legal status, Shāṭibī regards the pious intention of the innovator as a defining feature of *bid'ah*.

However commendable the intentions of the innovator, the innovator's actions reflect, at best, confusion, and, at worst, arrogance regarding the boundaries between human and divine domains. Shāṭibī, throughout the treatise, vacillates between sympathy and antagonism towards the innovator. At times, he describes the innovator as humbly striving for God's pleasure and at other times, as guilty of theological hubris. Whether the innovator acts out of ignorance or deceit, *bid'ah* ultimately reflects a failure to respect that the religion is complete and that only God has the right to expand its devotional boundaries. As we saw with Ibn Taymiyyah, Shāṭibī's theological interpretation of *bid'ah* points the way to a focus on devotional innovations, by which human beings aim to come closer to God.

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[194] Ibid., 1:27.

[195] Masud, *Shāṭibī's Philosophy of Law*, 219, citing from Shāṭibī, *al-Muwāfaqāt*, ed., Muṣṭafā Maḥmūd (Cairo edition), 2: 337.

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Shāṭibī limits this definition of *bid'ah* to devotional acts not only because he regards *bid'ah* as theological trespass, but because it reflects his understanding of the fundamental legal difference between devotional (*ta'abbudī/ 'ibbādiyyāt*) and customary (*'āḍī/'ādiyyāt*) norms. *Ta'abbud*, for Shāṭibī, is defined by the conformity of one's action with the intent of the Lawgiver.[196] In the case of *ta'abbudī* acts, such as purifications, prayers, fasting and pilgrimage, the Lawgiver's intent to be obeyed is the only relevant factor.[197] For this reason, the law does not give reasons for particular devotional laws, such as why certain types of physical emissions require a minor ablution (*wuḍū'*) while other types require a major ablution (*ghusl*), or why prayers at various times of the day require a different number of prayer cycles (*rak'āt*).[198] Devotional laws are thus not intended to be expanded by means of legal tools. Customary laws, in contrast, reflect both God's will to be obeyed and the immediate interests (*maṣālīḥ*) of human beings.[199] These customary (*'ādī*) laws, such as sales, marriage, purchases, divorce, leases and crimes/penalties (*jināyāt*), have rulings that are rationally intelligible (*aḥkāmahā ma'qūlat al-ma'nā*) and are meant to be expanded.[200] Shāṭibī, by incorporating the concept of *ta'abbud* into his definition of *bid'ah*, lays the groundwork for distinguishing

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[196] My understanding of Shaṭibī's concept of *ta'abbud* is based on Muhammad Khalid Masud's analysis of Shāṭibī's discussion of the concept in *al-Muwāfāqāt*. See Masud, *Shāṭibī's Philosophy of Law*, 196-204.

[197] Shāṭibī, *al-I'tiṣām*, 2:307.

[198] Ibid., 2:341.

[199] Shāṭibī acknowledges in this passage that all customary norms in Islamic law have an element of *ta'abbud*, since they are specified by legal matters that are not optional for the legal subject (*mukallaf*). As such, it is possible that an innovation in customary practices can become a reprehensible *bid'ah* if it takes the form of an unintelligible religious duty, as is explained below.

[200] Ibid., 2:307.

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between two kinds of legal change: *bid'ah*, which is reprehensible and primarily limited to devotional acts, and *maṣlaḥah*, which is permissible and limited to customary acts. Masud, drawing on Shātibī's broader discussion of *ta'abbud* in *al-Muwāfaqāt*, explains,

> In *'ibādat* the extension of the scope of *ta'abbud* is not intended. In other words, the obligation is limited to the specific commands comprised in the *'ibādāt*. This is why no explicit reason is given for promulgating such commands. In the case of *'adāt*, on the contrary, the objective of the law is to extend the rules to other cases. Hence the Lawgiver generously explains the rules of law relating to *'ādāt* providing their *'ilal* (reasons) and *ḥikam* (wisdom)."[201]

Unlike devotional laws that have rationally unintelligible reasons and are not meant to be expanded, customary laws have clear reasons so that human beings can expand the law. The problem of *bid'ah* is thus not only theological but legal, since the innovator seeks to expand the law in a direction in which the law is not set up to be expanded.

As for Shāṭibī's second definition, which includes both devotional and customary innovations, he emphasizes that the innovator's sin is to believe that he can create norms that are superior to the practices laid out by the Lawgiver. If, for example, one considered a sieve to be an innovation, it is because the innovator regards sifted flour to be superior in taste to non-sifted flour.[202] The innovator, in this second definition, fails to understand that the Lawgiver outlined the most perfect (*akmal*) set of laws possible in both the devotional and customary realms.

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[201] Masud, *Shāṭibī's Philosophy of Law*, 201-2, based on *al-Muwāfaqāt*, 2: 301-6.

[202] Ibid., 1:28.

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Shāṭibī, later in the treatise, gives every indication that he upholds the first definition of *bid'ah*, although he claims to synthesize the correct elements of both definitions.[203] He describes both positions and their proponents' reasoning, but then rejects the reasoning of those who assert that *bid'ah* extends to the customary realm as well as to the devotional realm. For example, the proponents of the second and broader definition of *bid'ah* cite traditions of the pious ancestors using the term *bid'ah* to describe customary practices, like the sieve, or post-Prophetic developments that others would call good innovations. Shāṭibī acknowledges that the Companion, Muḥammad b. Aslam, and a few others rejected all types of change as deviations from the Prophet Muhammad's practice. However, Shāṭibī asserts that the majority of the *salaf* permitted new customary practices.[204] Although Muḥammad b. Aslam's paradigm is virtuous, it establishes impossibly strict restrictions on the Muslim community.[205] Moreover, the proponents of the broader definition of *bid'ah* argue that the law does not differentiate in its rules between devotional and customary acts. Shāṭibī strongly objects to this idea, since it undermines his theory that beneficial changes in customary law are permissible, based on his concept of *maṣlaḥah* (which will be discussed below). Shāṭibī, by rejecting

[203] Ibid., 2:307.

[204] Ibid., 2:307.

[205] He alludes to the impossibility of the Muḥammad b. Aslam's approach by a long rebuttal placed in the mouths of the proponents of the first definition of *bid'ah*: "If the pious ancestors had considered every novel matter in the customary realm to be a *bid'ah*, they would count all types of food, drink, clothing, speaking, etc., that they did not have in the first period to be innovations and thus repugnant (*shanī'*). Indeed, there are customs (*'awā'id*) that change with the times, places and persons, and if everyone who differed from those Arabs who knew the Companions and followed their customs, were considered to be deviating from [the Companions' way], this would be highly objectionable" (Ibid., 2:306). Masud likewise concludes that Shāṭibī's own position was represented by the narrow definition of *bid'ah*. However, Masud takes an additional interpretative step when he ignores Shāṭibī's claim to a third position and cites the above passage as Shāṭibī's own view. Masud, *Shāṭibī's Philosophy of Law*, 221-2.

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arguments that include customary changes in *bid'ah*, demonstrates his affinity for limiting *bid'ah* to devotional innovations.[206]

In rare cases, Shāṭibī recognizes the possibility of a *bid'ah* in the customary (*'ādī*) realm. He synthesizes the two definitions in the case of a customary act that takes the form of a religious duty. If an innovated practice in the customary realm takes on the form of legislation (*tashrī'*) and the status of a divinely-mandated obligation (*ta'abbud*) for rationally unintelligible reasons, it falls into the category of *bid'ah*.[207] For example, if a ruler were to establish a type of customs duties (*mukūs*) as a permanent religious obligation as opposed to a one-time or short term tax for specific purposes, he would be guilty of *bid'ah*. As Shāṭibī explains,

> As for the second (i.e., the establishment of a permanent customs duty as opposed to a one-time tax), it is clearly a *bid'ah*, since it is an additional legislation and an imposition of a duty upon the legally eligible (*mukallafīn*) that resembles the imposition of the obligatory tithes (*al-zakāt al-mafrūḍah*)… it has even become, for them, similar to the obligatory devotional practices (*kal-'ibādāt al-mafrūḍah*).[208]

Customary innovations are labeled *bid'ah* when they assume the problematic characteristics of devotional innovations. Most new customary practices, however, do not resemble religious obligations and do not constitute reprehensible innovations.

Bid'ah, for Shāṭibī, thus refers to all invented practices that take the form of religious normative acts misguidedly designed to fulfill God's will. This category primarily

[206] Ibid., 89-90. Shāṭibī, in his *fatāwā*, follows this approach and only applies the category of *bid'ah* to *'ibādāt*, and primarily to devotional practices established by Andalusian Sufis.

[207] Shāṭibī, *al-I'tiṣām*, 2:307; see also his own summary of his position on 2:320-1.

[208] Ibid., 2: 308.

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consists of acts of the devotional (*ta'abbudī*) realm, including both acts of the heart (i.e., theological deviations, such as the *Qadariyyah* and *Khawārij*) and acts of the limbs (i.e., the invention of devotional practices that have no precedent nor a source upon which to rely (*ikhtirā' al-'ibādāt 'alā 'ghayr mithāl sābiq walā aṣl marjū' ilayhi*)).[209] Shāṭibī calls the realm of devotional innovations the "prevalent category (*'āmmat al-bāb*)" of *bid'ah* and insists that all agree that invented devotional acts are considered reprehensible *bid'ah*. Moreover, only those customary innovations that resemble devotional innovations are called *bid'ah*. Instead, most changes in the customary realm are not considered *bid'ah*, since they either have rationally intelligible reasons and do not constitute religious obligations, or are based on precedents in the canonical literature. An innovator is thus defined by his misguided sense of the divine-human boundaries, both theological and legal. Although his intentions are pious, the innovator mistakenly believes that he can rationally understand the Divine Lawgivers' inscrutable intentions and apply them elsewhere.

Bid'ah vs. *maṣlaḥah*

Shāṭibī designed his elaborate definition of *bid'ah* to clarify the boundary between illicit and licit change. Changes in the law are licit when they reflect the interests of the entire community, since "the entirety of Islamic law was established for the benefits of the believers (*al-sharī'ah...wuḍi'at li-masāliḥ al-'ibād*)."[210] Since, as we have discussed, the

[209] Ibid., 2: 302.

[210] "*al-Sharī'ah...wuḍi'at li-masāliḥ al-'ibād.*" Shāṭībī, *Muwāfaqāt*, 2:3, as cited in Hallaq, *A History of Islamic Legal Theories* (Cambridge: Cambridge University Press, 1997) 168, n. 15. Shāṭibī defines *maṣlaḥah* as "the subsistence of human life, the completion of man's livelihood, and the acquisition of what his emotional and intellectual qualities require of him, in an absolute sense" (Shāṭibī, *Muwāfaqāt*, 2:25, as cited in Masud, *Shāṭibī's Philosophy of Law*, 131). His approach to *maṣāliḥ* is part of his

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public benefits of customary laws can be rationally discerned, these benefits can be applied to determine the status of new social, economic and other customary cases. *Maṣlaḥah*, i.e., public benefit, thus functions as a mechanism for expanding the law. In *al-I'tiṣām*, Shāṭibī defends his use of the most controversial form of *maṣlaḥah*, i.e., *maṣlaḥah mursalah*, which is the application of the principle of public interest to cases that have only a general and not explicit indication in the Qur'ān and Sunnah. The controversial status of *maṣlaḥah mursalah* derives from the same problems that jurists have with *bid'ah* – both concepts represent new acts that have no clear mention in the canonical texts. Certain jurists regarded both concepts as suspect or reprehensible, while other jurists regarded the permissibility of *maṣlaḥah mursalah* as evidence in favor of a positive form of *bid'ah*.[211] Because of this unflattering similarity and the problematic conclusions thereof, Shāṭibī devotes significant space to distinguishing *maṣlaḥah mursalah*, which he regards as licit under particular conditions, from *bid'ah*, which he regards as wholly illicit.

Although he acknowledges the apparent similarities, Shāṭibī insists that *maṣlaḥah mursalah* – unlike *bid'ah* – fits within the framework of the law and is derived from its

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overarching theory of the aims (*maqāṣid*) of the law, which are generally understood to mean the preservation of religion, life, reason, descendants and property (see, R. M. Gleave, s.v., "Maqāṣid al-sharī'ah," *EI²*, 12:569b). As Masud explains, Shāṭibī sought to establish *maṣlaḥah* as an essential element of the ends of the law: "The obligations in *Sharī'a* concern the protection of the *maqāṣid* of the *Sharī'a* which in its turn aims to protect the *maṣāliḥ* of the people" (Masud, *Shāṭibī's Philosophy of Law*, 155). Although Shāṭibī's theory follows the work of previous legal theorists, notably that of Ghazzālī, modern scholars – both Western and Muslim – have recognized Shāṭibī's unique contribution to legal theory (Ibid., 110). Hallaq, who devotes a chapter to Shāṭibī's approach to the *maqāṣid*, similarly describes Shāṭibī's legal theory as the "culmination of an intellectual development that began in the fourth/tenth century" (Hallaq, *A History of Islamic Legal Theories*, 162). See Masud, *Shāṭibī's Philosophy of Law*, 127-168, for a detailed examination of the development of *maṣlaḥah* in Islamic legal theory prior to, during and after Shāṭibī.

[211] Shāṭibī, *al-I'tiṣām*, 2:329.

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principles. The very term, *maṣlaḥah*, is a more promising mechanism for change than *bid'ah ḥasanah*, since it – unlike *bid'ah* – carries no negative baggage from the Hadith literature. On the contrary, Shāṭībī asserts that *maṣlaḥah mursalah* and its necessary conditions derive from the actions of the *salaf.* He brings as evidence numerous examples of new acts of public benefit by the *salaf* that lacked an explicit source in the Qur'ān and Sunnah, such as their collection of the Qur'ān and their instituting a punishment of eighty lashes for intoxication.[212] These cases reflect Shāṭibī's claim that the customary changes enacted by the *salaf* all exemplify the aims (*maqāṣid*) of the law such that they do not conflict with a source (*aṣl*) or an indication (*dalīl*).[213] The most important condition, for our purposes, that Shāṭibī deduces from these examples is that *maṣlahah* only functions in the customary realm, since it demands that the rulings for particular acts be rationally understandable.[214] This condition necessarily precludes the rationally unintelligible domain of devotional acts, leaving new devotional acts with no explicit textual indicant to be branded as *bid'ah.* Shāṭibī, by grounding the conditions for change in the acts of the *salaf* and limiting *maṣlaḥah* to customary practices, constructs a mechanism for licit legal change that incorporates the changes brought by the *salaf* and upholds their censure of *bid'ah.*

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[212] Other practices that the *salaf* instituted include: guarantees in case the producer fails to produce (*taḍmīn al-ṣinā*); prison for someone accused of a crime; the appointment of a person as a great scholar (*imām kabīr*) even if he is not a *mujtahid*, if no one else is more qualified; the right of the righteous leader to seize property (*māl*) from the wealthy to pay for the army if there are no other resources; the permissibility to kill a group of people as punishment for their killing of one person; and, the permissibility to transgress regular prohibitions in dire circumstances (Ibid., 2: 330-341). Interestingly, Shāṭibī includes both practices that are unanimously accepted by jurists and those that are contested, such as prison for an accused person. This demonstrates his willingness to use *maṣlaḥah mursalah* as a constructive legal tool.

[213] Ibid., 2:341.

[214] Ibid.

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The Challenges to Shāṭibī's Approach

Shāṭibī, like other normatively-oriented jurists, is challenged in his universal rejection of *bid'ah* by examples of the Prophet or the *salaf* referring to innovations positively in either word or deed. His articulated distinction between *maṣlaḥah* and *bid'ah* enables Shāṭibī to circumvent most of these examples. However, he still addresses at length the two main challenges to his approach, namely, statements attributed to the Prophet that relativize the terms *sunnah* and *bid'ah* and the inventions of the *salaf* that others, such as Ibn 'Abd al-Salām and Qarāfī, have called good innovations.

First, the Prophetic traditions that use the terms *sunnah* and *bid'ah* in both positive and negative ways challenge Shāṭibī's assertion that the terms are exclusively positive or negative. Shāṭibī, in response to the claim that *aḥādīth* such as, "*man sanna sunnah ḥasanah/sayyi'ah...*"[215] suggest that the Prophet endorsed legal inventions, argues that the verb, "*sanna*," cannot mean "to invent a practice" but rather must be understood as "to practice" (*'amala*) more generally.[216] From the context of the *ḥadīth*, one finds that whenever the Prophet used this phrase, he was referring to the already licit practice of almsgiving (*ṣadaqah*).[217] As for the variations on this *ḥadīth* that differ in context, Shāṭibī asserts that it would be impossible for any of these traditions to refer to invention (*ikhtirā'*) because the Hadith had already established that invention independent from the

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[215] See Chapter One, "the Hadith uses of *sunnah*," for a discussion of this *ḥadīth*.

[216] Shāṭibī, *al-I'tiṣām*, 1:123-4. Shāṭibī maintains that even if, in this *ḥadīth*, the Prophet did mean "to invent," this specific *ḥadīth* would be overturned by the numerous *aḥādīth* that repeatedly condemn innovations without exceptions.

[217] Ibid.

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Prophet's way is bad and the very notions of good and bad are only defined in relation to the law. As he says,

> its being good or bad is only known from the perspective of the law, because declaring something good or bad is relative to the law, and there is no place for [independent] reason (*al-'aql*); this is the approach of the entire people of the Sunnah. But that is [the opinion that] the innovators (*al-mubtadi'ah*) hold – I mean, declaring something good or bad by reason. Rather, it is necessary that the term *sunnah* in the Hadith be [determined] good according to the law and bad according to the law.[218]

The innovators arrogantly believe that they have the power to determine good and evil by their own reason but the normative community sees good and evil strictly in terms of the law. Shāṭibī, like Ibn Taymiyyah, invokes the Hadith's universal rejection of innovation to deny the possibility that any individual *ḥadīth* permits innovation. He uses this strategy to dismiss any one tradition that may contradict the dominant Hadith approach, such as the need to add the noun, "*ḍalālah*" to "*bid'ah*," in the *ḥadīth*, "*man ibtada'a bid'at ḍalālah*."[219]

Second, the post-Prophetic changes enacted by the early community suggest both that innovations are permissible and, in certain cases, that the *salaf* referred to them by the term, *bid'ah*. Shāṭibī repeatedly invokes his concept of *maṣlaḥah* to dismiss the claims by other jurists that these changes represent positive innovations.[220] For example, the collection of the Qur'ān, which Ibn 'Abd al-Salām and others call an obligatory or commendable innovation, is, for Shāṭibī, the paradigm of *maṣlaḥah* in action. During the

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[218] Ibid., 1:125.

[219] See Chapter One, 44, n. 55.

[220] Shāṭibī, *al-I'tiṣām*, 1:125ff.

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Prophet's lifetime, the seven traditional dialectical variations were necessary for facilitating communication with different Arab tribes. After the Prophet's death, the Companions were concerned that these variations would cause strife and intra-communal disputes, and so they reduced the variants to one official version of the Qur'ān. Their concern was compounded by the conversion of non-Arabs (*ahl al-'ajamah*), who might be vulnerable to the claims of heretics (*ahl al-ilḥād*) that qur'ānic variants undermine the revelatory status of the text. In addition to the clear public benefit of the Companions' action, Shāṭibī locates a general indication for the action in the Qur'ān and in Hadith injunctions to proclaim the revealed law (*tablīgh al-sharī'ah*).[221] The redaction of revelatory material thus constitutes a perfect example of *maṣlaḥah mursalah*.[222]

Shāṭibī, in addition to developing *maṣlaḥah* as a mechanism for legal change, must demonstrate the superiority of his approach to those who promote *bid'ah* as such a mechanism. Unlike Ibn Taymiyyah, he responds explicitly and at length to the application of the five *fiqh* values to *bid'ah* by Ibn 'Abd al-Salām and Qarāfī.[223] In

[221] From the Qur'ān, Shāṭibī cites 5:67, "O Messenger, proclaim (*balligh*) what has been revealed to you from your Lord..." For the *aḥādīth* cited, see *Ṣaḥīḥ Bukhārī*, Book of Pilgrimage (*ḥajj*), Chapter 133: Hadith No. 1766, 1: 326, and for other examples, see *al-I'tiṣām*, 1: 126. Shāṭibī is not the first to ground the collection and redaction of the Qur'ān in the command to proclaim God's law (*tablīgh*). Qarāfī, for example, mentions the connection in his list of obligatory innovations (Qarāfī, *al-Furūq*, 4:346; and Shāṭibī, *al-I'tiṣām*, 1: 128). Regarding the novelty of the decision to write down the Hadith, Shāṭibī argues that this act reflected both the Companions' concern that the dwindling number of trusted transmitters might lead to the loss of this specialized knowledge, and the sources endorsing redaction in traditions from the Prophet and from the Companions. Shāṭibī, *al-I'tiṣām*, 1:126.

[222] Ibid., 1:127. Shāṭibī adds another rationale for approving the redaction of the Qur'ān, namely that the decision of the Companions constituted a normative consensus, based on their authority jointly to enact norms as an extension of the Prophet's *sunnah*, based on the *ḥadīth*, "so you must keep my way and the way of the righteous successors (*'alaykum bisunnatī wa-sunnat al-khulafā' al-rāshidīn*)...", which was discussed in Chapter One. He provides this alternate rationale for those jurists who rejected his concept of *maṣlaḥah mursalah* in order to prevent their recourse to *bid'ah ḥasanah*.

[223] Ibid., 1:130-1. Shāṭibī is particularly incensed that Qarāfī, a member of his own legal school, would abandon the school's universal condemnation of *bid'ah* and take up Ibn 'Abd al-Salām's classification of

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general, Shātibī regards the very dividing of *bid'ah* into types as an invented act in and of itself that has no indication in the law.[224] He writes, "if there were something from the law (*al-shar'*) that indicated [the status of] obligatory, recommended or permitted, it then would not be *bid'ah* and the act would enter under the general category of acts that are commanded or are optional "[225] Ibn 'Abd al-Salām's attempt to incorporate *bid'ah* into the legal framework is impossible, from Shāṭibī's perspective, since his very definition of *bid'ah* is that it transgresses the law.

Shāṭibī generally criticizes Ibn 'Abd al-Salām not for the latter's positions on particular practices but for referring to those acts by the term, *bid'ah.* In fact, the dominant criticism that Shāṭibī lodges against Ibn 'Abd al-Salām and Qarāfī is that they call acts that are clearly *maṣlaḥah murslah* by the name of *bid'ah*, thereby blurring the difference between the two concepts:

> As for Ibn 'Abd al-Salam, it is clear that he named the [cases of] *maṣlaḥah mursalah* "*bid'ah*" based – and God knows best – on the fact that their essential parts (*a'yān*) did not fall under specific texts even though they fit the legal rules (*qawā'id al-shar'*).[226]

Ibn 'Abd al-Salām uses the same method as Shāṭibī for determining the status of an unprecedented act without a clear indicant in the Qur'ān and Sunnah, but he calls the end product *bid'ah* instead of *maṣlaḥah.*

bid'ah into positive and negative types: "It is astounding that he reports the [school's] agreement together with his clashing by opposing [it] and with his knowledge of it that would lead him to breeching consensus. It is as if he merely followed his teacher regarding the division [of *bid'ah*] without consideration."

[224] Ibid., 1:130.

[225] Ibid.

[226] Ibid., 1:131.

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When it comes to new customary practices, Shāṭibī stands on firm ground in claiming that the differences between his position and that of Ibn ʻAbd al-Salām are terminological. As we indicated in our analysis of Ibn ʻAbd al-Salām's descriptive approach, many of the practices that he called obligatory or commendable innovations were called *sunnah* or *maṣlaḥah* by other jurists. The more challenging question for Shāṭibī, however, is how he explains Ibn ʻAbd al-Salām's paradigm of a commendable innovation, i.e., ʻUmar's endorsement of a devotional innovation, as well as Ibn ʻAbd al-Salām's open-ended category of *iḥsān*. Shāṭibī, in a similar way to that of Ibn Taymiyyah, asserts that ʻUmar could not have meant *bidʻah* in a substantive sense since the act already had the status of a commendable normative practice (*sunnah*) from the Prophet's time. While Ibn Taymiyyah invokes the language of a lexical-legal difference, Shāṭibī argues that ʻUmar's act "was an apparent *bidʻah* (lit., in consideration of the apparent state, *bil-iʻtibār ẓāhir al-ḥāl*), from the perspective that the Prophet abandoned it and it is agreed that it did not occur during the time of Abū Bakr, may God be pleased with him, but not because it is a substantive *bidʻah* (*bidʻah fī al-maʻnā*)."[227] However, the fact that the Prophet stopped praying *tarāwīḥ* congregationally, in order to prevent the people from taking on the practice as an obligation, did not alter the practice's original status as a commendable normative act.[228] Shāṭibī acknowledges that Abū Bakr's failure to reinitiate the congregational prayers undermines his theory that the Prophet's death

[227] Ibid., 1:132-3. Shāṭibī later clarifies that ʻUmar's practice did contain an innovative element, that of permanence (*dawwām*), since the people prayed congregationally only occasionally until that time (Ibid., 1:222). Shāṭibī refers to the innovative element in ʻUmar's act as a way of explaining how ʻUmar's act was a relative innovation, as opposed to a real innovation, as will be discussed below.

[228] Ibid., 1:132.

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caused the practice to revert to its permissible state. He justifies it either, by way of Ṭurṭūshī, by the fact that Abū Bakr preferred that people prayed at the end of the night rather than gathering them at the beginning of night, or that Abū Bakr was only caliph for a short period and was occupied with military conflicts such as the *Riddah* wars.[229] During 'Umar's lengthier and more peaceful tenure, he ruled that congregational prayer was preferable to individual prayer during Ramadan and the other ancestors concurred.[230] Shāṭibī thus recognizes the innovative element of 'Umar's act but grounds the practice in both the Prophet's *sunnah* and the consensus of the *salaf*.

Just as Shāṭibī denies that 'Umar's devotional innovation was a substantive *bid'ah*, he denies that Ibn 'Abd al-Salām's category of *iḥsān* can apply to new devotional practices. Shāṭibī writes,

> The presumed [category of] *iḥsān* can either be understood by the law to be limited by a devotional/non-extendible connection or not, for if it were limited by devotion (*ta'abbud*), the meaning of which is not rationally intelligible, it should only be used in that sense. (*Fa-lā yakhlū al-iḥsān al-mafrūḍ an yufhama min al-sharī'ah annahu muqayyad bi-qayd ta'abbudī aw lā, fa-in kāna muqayyadan bil-ta'abbud alladhi lā ya'qilu ma'nāhu, falā yaṣihhu an yu'mala bihi illā 'alā dhalika al-wajh*).[231]

Iḥsān can only function as an open-ended category of positive change in the customary realm, since *ta'abbudī* acts by definition do not have rationally intelligible reasons and thus those reasons cannot be applied elsewhere. If the legislative status of *iḥsān* is not defined by its being a devotional command, then it is only considered a *bid'ah* in these

[229] Ibid.

[230] Ibid.

[231] Ibid., 1:140.

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three cases: if charity is given from money owed to others, then it is a sin as well; if the beneficent act is linked to a requirement that cannot be transgressed, then the requirement is a reprehensible innovation; and if the beneficent act proceeds from one who holds that something rationally intelligible (*ma'qūl al-ma'nā*) is a reprehensible innovation, such as one who detests sifted flour, then all such acts are reprehensible *bida'*.[232] In other words, Shāṭībī interprets the category of *iḥsān* as those new beneficent acts that do not impinge upon the other restrictions that he has set up. Shāṭibī's interpretation reflects his assumption that Ibn 'Abd al-Salām, or his followers, regarded the concept of *iḥsān* as applicable to both devotional and customary cases.[233] However, his response – that *iḥsān* can only be applied to non-devotional cases – is inextricably linked to his own definition of *bid'ah*, which Ibn 'Abd al-Salām does not share. This is also true for Shāṭibī's argument against Ibn 'Abd al-Salām's incorporation of *bid'ah* into the legal framework. His argument that *iḥsān* cannot be linked to devotional matters makes sense within his own system, but is not an effective rebuttal to Ibn 'Abd al-Salām; there is no indication that Ibn 'Abd al-Salām shares Shāṭibī's notion that devotional acts can never be extended. One of the limitations of Shāṭibī's approach is that he is not able to challenge the inclusion of devotional innovations outside of his own definition of *bid'ah*.[234]

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[232] Ibid., 1:140-1.

[233] Shāṭibī's interpretation of Ibn 'Abd al-Salām's category of *iḥsān* adds strength to our argument that Ibn 'Abd al-Salām's category exemplifies his willingness to permit devotional innovations.

[234] Shāṭibī likewise denies that the discourse on the intricacies of Sufism constitutes an innovation. He defines Sufism in two ways. Sufism, that is the exclusive focus on sublime traits and the rejection of all base traits, is clearly grounded in the Qur'ān and Hadith. Although he acknowledges that the branches (*furū'*) of this kind of Sufism, such as matters of sobriety (*saḥw*), were not known to the *salaf* and thus seem like innovations, Shāṭibī asserts that those branches should not be called innovations because they are derived from legal bases (*'uṣūl shar'iyyah*) (Ibid., 1:141). The other meaning of Sufism, the annihilation of self and abiding (*baqā'*) in God, has laudable and reprehensible elements. The discourse on overcoming the obstacles facing a spiritual traveler is grounded in the Hadith. Similarly, the discourses on miracles and on self-annihilation are rooted in legal theory and law respectively. However, the discourse on the hidden

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Shāṭibī's Alternate Typology of bid'ah

Shāṭibī, despite his rejection of all types of innovations, was not myopic with regard to the sheer diversity of Muslim innovated practices as well as the variety of their purposes. On the contrary, Shāṭibī regarded the proliferation of innovations as part of natural cycle of corruption and reform that began in the Prophet's own lifetime.[235] Although he rejects the classification of *bid'ah* into positive and negative types, his own typology of *bid'ah* acknowledges that certain innovations are worse (or less bad) than others. Shāṭibī introduces numerous distinctions within the category of *bid'ah*, relating to whether the innovator claims to act based on his independent reasoning (*mujtahid*) or based on the reasoning of another (*muqallid*), whether the act is done in public or private; whether the innovator seeks to spread his innovation or keep it personal; whether or not the innovation is part of establishing a sectarian identity; whether or not the innovation represents unbelief (*kufr*);[236] whether the action is clearly wrong (*ẓāhirat al-ma'khadh*) or an ambiguous (*mushkil*) act; whether a person insists on continuing the practice when admonished or abandons the practice; and whether the innovated act is true (*ḥaqīqī*) or relative (*iḍāfī*).[237] Elsewhere, Shāṭibī adds the distinction between reprehensible

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world (*al-'ālam al-ghā'ib*), including the essences of spirits, angels and devils, is a reprehensible *bid'ah*, since this was not part of the discourse of the *salaf* but rather of the philosophers who are counted among the deviating sects (Ibid., 1:142). Shāṭibī's approach to the discourse of Sufism is decidedly more permissive than his attitude towards Sufi practices. In his *fatāwā*, Shāṭibī prohibits several Sufi practices that developed in Spain. See Masud, *Shāṭibī's Philosophy of Law*, 89-90.

[235] This is the central theme of Shāṭibī's introduction. Shāṭibī, *al-I'tiṣām*, 1:11-23.

[236] As Shāṭibī writes, "the innovations of the *Bāṭiniyyah* and the *Zanādiqah* are not the same as the innovations of the *Mu'tazilah* and the *Murji'ah*" (Ibid., 1:118). *Bid'ah* thus encompasses both those practices that render one an unbeliever, beyond the boundaries of the community, and those practices that render one a sinner but still a part of the Muslim community.

[237] Ibid., 1:114-8.

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innovations and prohibited innovations.[238] That is, the least problematic of the innovations would be the private act of a layperson who did not realize that his devotional act was an innovation, whereas the most problematic would be the educated innovator who publicly practices an innovation as part of a sectarian identity, summons others to join him and refuses to renounce the activity. These distinctions suggest that Shāṭibī's deepest concerns with *bid'ah* differed from that of Ibn Taymiyyah. Unlike Ibn Taymiyyah who aimed to stop jurists and laypeople from participating or mimicking non-Muslim devotional practices, Shāṭibī was primarily concerned with jurists who led others to innovate under the guise of law and those groups who practiced innovations as a marker of sectarian identity.[239]

With his distinction between true and relative innovations, Shāṭibī softens his otherwise sharp division between normative and deviant practices. True innovations are those acts that lack any legal indication whatsoever and are always prohibited, whereas relative innovations are linked to some legal indication in one aspect and not linked in another aspect, and are thus only considered *bid'ah* in the latter aspect. Unlike true innovations, which are always prohibited, relative innovations encompass a spectrum of acts. On one end are acts that approach true *bida'*. On the other end of the spectrum are acts that

[238] Ibid., 2:288ff.

[239] Masud contends that Shāṭibi wrote *al-I'tiṣam* as a polemic against both the growing Sufi groups who adhered to special devotional practices more than to the devotional obligations and his contemporary Maliki jurists who tolerated or initiated numerous innovations (Masud, *Shāṭibī's Philosophy of Law*, 75, and in conversations with the author in November, 2002). Hallaq similarly posits that Shāṭibī's legal theory must be understood as an attempt to restore what Shāṭibī perceived to be the true law from the adulterations of two groups, jurists who were lax in their attitudes towards the boundaries of law and the Sufi groups who imposed excessive legal demands upon their followers. Hallaq, *A History of Islamic Legal Theories*, 163.

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approach the status of *sunnah*. Shāṭibī uses the true/relative distinction to explain the Qur'ān's cryptic verse regarding Christian monasticism, which seems to refer to monasticism as an innovation and perhaps even a commendable innovation. Since, for Shāṭibī, the root, *b-d-'*, always refers to a negative act, he dismisses the simple meaning of the text and the position of certain scholars that monasticism was originally a commendable innovation and the sin was that the monks failed to continue their ascetic practices.[240] Instead, he interprets the verse as saying that the original monastic movement was approved by God but only on the condition that they seek God's pleasure (*ibtighā' raḍwān Allāh*). When the Christians failed to believe in God's final and superior prophet, Muḥammad, their continued practice of monasticism became an innovation.[241] As Shāṭibī explains,

> [Monasticism] is called *bid'ah* in the sense that they violated a condition of its licit status, since it was stipulated for them and they did not abide by it. And when a devotional practice is tied to a condition and is then practiced without its condition, it is no longer a devotional practice and becomes an innovation.[242]

In contrast to those who argued that the Christians sinned when they failed to continue their monastic practices, Shāṭibī asserts that the Christians' sin was their stubborn insistence on continuing an obsolete practice. In fact, at the end of his long exposition on the status of monasticism, Shāṭibī concludes that the practice is actually a true and not a relative innovation.[243] Monasticism is thus an example of a relative innovation that, post-Islam, became a real innovation.

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[240] Shāṭibī, *al-I'tiṣām*, 1:197.

[241] Ibid., 1:196.

[242] Ibid.

[243] Ibid., 2:235.

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While monasticism exemplifies a relative *bid'ah* that is essentially a real innovation, 'Umar's institution of congregational *tarāwīḥ* prayer exemplifies a relative *bid'ah* that is, in substance, a *sunnah*. Although the congregational *tarāwīḥ* prayer already had the status of *sunnah* by 'Umar's time, as discussed above, 'Umar introduced an innovative quality of permanence (*dawwām*) to the prayer by instituting the practice as regularly observed.[244] For Shāṭibī, the act of changing an occasional practice to a regular practice, or an optional practice to required practice, is one of the defining characteristics of *bid'ah*.[245] Shāṭibī uses the *tarāwīḥ* case, which he elsewhere calls a *sunnah*, to demonstrate how a normative practice could include an element of *bid'ah* without becoming a legal (i.e., reprehensible) *bid'ah*. Shāṭibī's category of relative *bid'ah* fills the gray area between *sunnah* and *bid'ah*, since the two ends of the relative *bid'ah* spectrum merge with the two oppositional categories. By positing this composite category, Shāṭibī is able to respond to the complexity of the human practices without formally compromising his universal rejection of *bid'ah*.[246]

Conclusion

Shāṭibī, of all the jurists surveyed, focuses most explicitly on *bid'ah* as a devotional problem.[247] By defining *bid'ah* in terms of *ta'abbud*, Shāṭibī limits *bid'ah* to those acts

[244] Ibid., 2:222.

[245] Ibid., 1:199ff.

[246] As Vardit Rispler observes, Shāṭibī's two categories is an admission that some innovations were closer to the law than others. Rispler, "Towards a New Understanding of *Bid'a*," 325-6.

[247] Shāṭibī's approach becomes centrally important – perhaps uniquely so – in the modern period, especially for those reformist scholars who sought to strip away the multi-layered devotional practices of popular Sufism, which they regarded as one of the main reasons for the decline of Muslim power, and realign

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that a person engages in regularly for strictly devotional reasons, i.e., with the goal of worshipping God. The follower of innovations is guilty both of trespassing on God's exclusive domain as Lawgiver and of misunderstanding the fundamental legal difference between devotional and customary acts. All devotional innovations are real innovations and range from individual sins to outright heresy.

By explicitly limiting the realm of *bid'ah* to devotional practices, Shāṭibī opens up the possibility of positive change in the realm of customary law. He thus succeeds in honoring the meaning of "every" in the *ḥadīth*, "*kull bid'ah ḍalālah,*" while circumventing the simple meaning of the *ḥadīth* as an injunction against change in general. Instead, Shāṭibī develops the controversial category of *maṣlaḥah mursalah* as a tool untainted by the Hadith for permitting new social, economic and civil laws that only have a general link to the canonical sources. He then locates this category of *maṣlaḥah* in the inventions of the *salaf* as a way of both grounding his mechanism in early Islam and countering the claim that the *salaf* engaged in *bid'ah*. However, Shāṭibī's own inventiveness with the category of *maṣlaḥah* undermines his ability to counter Ibn 'Abd al-Salām's attempt to incorporate *bid'ah* into the legal framework.

3.2.3 Conclusion to the Normative Paradigm

Ibn Taymiyyah and Shāṭibī exemplify the normative approach to *bid'ah*, in their efforts to define *bid'ah* as a term indicating legal reprehensibility. The Hadith's universal and

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Muslim devotional practice with the Prophet's *sunnah* while, at the same time, applying the category of *maṣlaḥah* to deal with the challenges of modernity. See the Conclusion below, n. 1.

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unqualified censure of *bid'ah* leaves no room for defining the term in a neutral or positive way. The term *bid'ah* represents acts that undermine the foundation of the law because they effectually deny that God is the exclusive lawgiver. *Bid'ah* acts, regardless of their content or purpose, are transgressions that should not be evaluated by the rules of law.

Both jurists regard *bid'ah* as a distinctly religious problem, of theological and/or legal trespass. While Ibn Taymiyyah focuses his critique of *bid'ah* on devotional innovations but includes certain customary innovations, Shāṭibī focuses almost exclusively on devotional innovations. Both locate the central problem of *bid'ah* in a person's misguided attempt to become closer to God by means that God did not legislate. For Ibn Taymiyyah, the boundaries of Islamic devotional law are closed because God declared the religion to be complete. Shāṭibī, through his concept of *ta'abbud*, adds that God structured devotional laws to be non-extendible. In contrast to their restrictive attitudes towards the boundaries of devotional law, Ibn Taymiyyah and, to an even greater extent, Shāṭibī are open to expanding the boundaries of civil law based on the category of *maṣlaḥah*. Their writings against *bid'ah* are central to their overarching mission to realign Muslim religious practice with the Prophet's *sunnah* without collapsing the possibility of enabling legal change in the customary realm.

Although they disregard the content and purpose of a devotional innovation when determining its legal status, both Ibn Taymiyyah and Shāṭibī demonstrate a subtle awareness of the appealing and even virtuous elements of certain devotional innovations. Ibn Taymiyyah even suggests that the sincere purpose of the pious practitioner of

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innovations is worthy of a reward despite the reprehensibility of the act itself. Shāṭibī, while not recognizing a reward for innovators, distinguishes between different motivations for innovating and regards the private devotional practices of the individual as less problematic than the public practices of sectarian groups. Ultimately, however, both jurists regards the pietistic inclinations of innovators to be a source of *bid'ah*'s danger. By taking the shape and form of normative practices, *bid'ah* collapses the boundaries between divinely mandated acts and human inventions.

4. Conclusion

The five jurists examined above debated the use of *bid'ah* as a legal, as opposed to an extra-legal, category. While Ibn Taymiyyah and Shāṭibī rejected the possibility of evaluating acts they called *bid'ah*, Ibn 'Abd al-Salām, Abū Shāmah and Suyūṭī outlined explicit legal criteria for evaluating positive and negative types of *bid'ah*. At the same time, when their positions are examined closely, one finds that each of the jurists demonstrated some measure of ambivalence regarding the simple classification that they espoused. Abū Shāmah and Suyūṭī, as well as Ibn 'Abd al-Salām in other contexts, applied a suspicious rather than a strictly descriptive approach to *bid'ah* when they treated the category of *bid'ah ḥasanah* as the exception to the general rule against *bid'ah*. Ibn Taymiyyah and Shaṭibī, despite their assertions that *bid'ah* is an extra-legal term, developed their own typologies for assessing the content and purpose of devotional innovations. The nuances within these approaches suggest that all five jurists were aware of the tension between the limited corpus of practices outlined in the Qur'ān and Sunnah and the endlessly expanding corpus of devotional practices that attracted fellow Muslims.

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This debate is, in effect, about where these jurists locate the boundary between the normative and the living traditions. For most legal cases, the jurists agreed on what is licit and illicit. Moreover, each jurist worked to reign in the practices of laypeople or even other jurists who strayed from the normative path. Part of the difference in approach must be understood as one of strategy – will a relatively flexible or more rigid boundary be more successful at drawing the normative and living traditions closer together? Is it better to incorporate the range of human devotional innovations into the framework of law in order to evaluate them and, if necessary, reject them, or is it better to maintain clear boundaries between devotional practices and community activities and encourage the Muslim community to uphold them?

That being said, the debate over the use of *bid'ah ḥasanah* to permit devotional innovations cannot merely be understood as a difference in strategy. The debate also reflects a difference in the jurists' conception of the boundaries of the Prophet's *sunnah* itself. Although all five jurists relied on the *sunnah* as the key source for normative devotional practice, they differed as to what extent this *sunnah* could be interpreted. For Shāṭibī and Ibn Taymiyyah, the Divine Lawgiver's ways are inscrutable when it comes to devotional law. Regardless of whether a devotional innovation is potentially beneficial for the community and does not conflict with the law, as in the case of adding an *adhān* to the *'īd* prayers, it cannot be permitted. The Prophet's omission is considered a boundary, and the boundaries of devotional law cannot be expanded for any reason. In contrast, Ibn 'Abd al-Salām, Abū Shāmah and Suyūṭī were more willing to analogize

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from one devotional practice to another or to permit innovations based on a general source. In other words, the jurists' willingness to permit new devotional practices reflected a more intelligible conception of devotional law and a more flexible conception of its boundaries. The legal debate over *bid'ah* thus illuminates a fundamental difference in the conception of the boundaries of Islamic devotional law.

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CHAPTER THREE:

CASE STUDY – THE *MAWLID AL-NABĪ* FESTIVAL

1. Introduction

In the previous chapter, we identified and evaluated competing theoretical approaches to classifying devotional acts in Islamic law. In particular, we distinguished between those jurists who used *bid'ah* normatively, in the sense of a reprehensible or a forbidden innovation, and those who used *bid'ah* descriptively, in the sense of an act that has no precedent in early Islam and thus demands further investigation to determine its legal status. In the next two chapters, we will compare these theoretical approaches with how jurists dealt with two devotional innovations in practice, that of the Prophet's birthday festival (*mawlid al-nabī*) and the prayer of desirable gifts (*ṣalāt al-raghā'ib*). These are two examples of devotional practices that developed in various parts of the Arab Muslim world after what Muslim tradition determined to be the formative period of Islam (i.e., its first three generations), and thus had no explicit precedent in the canonical sources of Islamic law. Despite widespread debate among jurists over the permissibility of these practices, Muslim practitioners have regarded them for centuries as praiseworthy if not obligatory devotional acts.

In our examinations of these cases, we will ask the following questions: How do jurists apply their theories of *bid'ah* to actual cases of devotional innovations? Do supporters of these practices use the category of *bid'ah* to evaluate these practices, and do they marshal

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the same criteria developed in theory to support or reject a devotional innovation in practice? Do opponents of these devotional practices value the pious intentions of the practitioners while viewing them as misguided, or do they deny the piety of practices that have no textual justification?

The purpose of these case studies is first and foremost to demonstrate that jurists used the category of *bid'ah ḥasanah* as a legal tool to permit devotional innovations. That is, the theoretical debates over the definition and application of *bid'ah* did have practical consequences for determining the legal status of devotional acts. The second purpose is to show that, while jurists did apply the criteria for determining positive innovations that we examined in the previous chapter, most supporters of devotional innovations also sought out legal bases in the canonical sources and, particularly, in the Prophet's *sunnah*. This shift from the theoretical to the practical realm thus demonstrates the power of the Prophet's *sunnah* as the paradigm of Muslim religious practice. It also reveals a fundamental debate over the possibility of stretching the Prophetic paradigm to cover new devotional practices. Finally, these cases draw out the role of what one might call "extra-legal" factors in the determination of Islamic law, such as the pious purpose of an act or the intense devotion of the people to a particular practice. The fact that jurists debated the relevance of these factors and, in some cases, took them into account, demonstrates that the defenders of the textual tradition were very much engaged with the living traditions of their own societies.

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Introduction to the *Mawlid al-nabī* Festival

The birthday of the Prophet (*mawlid al-nabī*) is celebrated across the Muslim world on the 12th day of the month of Rabīʿ I.[1] Despite its lack of precedent in early Islam and relatively late introduction into Islamic practice, the *mawlid* is the third most widely celebrated festival in the Islamic calendar after the two canonical festivals (*ʿīd al-fiṭr and ʿīd al-aḍḥā*).[2] In his study on the origin of the *mawlid al-nabī'*, N.J.G. Kaptein finds the earliest attestation of the festival in the court records of Egyptian Faṭimid Caliphs of the early 6th/12th centuries.[3] The Fāṭimid court celebrated the Prophet's birthday as part of a series of six birthday celebrations, including that of ʿAlī, Fātimah, Ḥasan, Ḥusayn and the current ruler. These festivals were solemn yet full of pageantry, with formal processions leading up to the public appearance of the Caliph, liturgical rites of supplication (*duʿā*), Qur'ān recitations and sermons, and distributions of money and sweetmeats.

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[1] Although the vast majority of communities have celebrated the *mawlid al-nabī* on the 12th of Rabīʿ I, the actual date of the Prophet's birth has been contested at times, with the rare community celebrating the *mawlid* on the 11th. As we discuss below, Ibn Taymīyyah argues that the actual date is unknown. The Prophet was said to have died in the same month, with one tradition placing his death date on the 12th as well. See sources cited in Annemarie Schimmel, *And Muhammad is His Messenger* (Chapel Hill and London: University of North Carolina Press, 1985), 45, n. 3.

[2] As Hava Lazarus-Yafeh writes, "the most famous of [the *mawlid* festivals] is the anniversary of the birth and death of the Prophet Muḥammad, on the twelfth day of Rabīʿ Al-Awwal, the third month of the Muslim year. Despite the opposition of theologians, *Mawlid Al-Nabī*, probably introduced in the early thirteenth century, has become a kind of official festival, threatening to deprive the two real official festivals of their privileged position." Hava Lazarus-Yafeh, "Muslim Festivals," in *Some Religious Aspects of Islam: A Collection of Articles* (Leiden: E. J. Brill, 1981), 39.

[3] N. J. G. Kaptein, *Muḥammad's Birthday Festival: Early History in the Central Muslim Lands and Development in the Muslim West Until the 10th/16th Century* (Leiden, New York, Köln: E. J. Brill, 1993), 7. Kaptein rejects the view of Egyptian scholar Ḥasan al-Sandūbī, who attributes the first celebration to the first Fāṭimid ruler in Egypt, al-Muʿizz li-Dīn Allāh (reigned 341/953-364/975), for lack of supporting data (Ibid., 21). Instead, Kaptein hypothesizes that the *mawlid al-nabī* festival arose in the 5th/11th century but was only able to find attestations from the following century (Ibid., 29-30).

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Originally a Shiʻī festival, the *mawlid al-nabī* spread within a century to major Sunni courts in Damascus, Mosul, Irbil and, perhaps most importantly, Mecca.[4] These celebrations were hosted by rulers with invited guests partaking in feasts and festive recitations of Qur'ān and poetry.[5] In Mosul, a Sufi shaykh named ʻUmar al-Mallā' urged the people to celebrate the Prophet's birthday and inspired the local ruler, Nūr al-Dīn, to conduct courtly celebrations. While each of these early celebrations took a different shape, they shared the common feature of a pious festival organized by the political ruler in the presence of guests from the political and religious establishment, with occasional involvement of the public. At some point, although Kaptein is unclear when, the *mawlid al-nabī'* became a popular as well as an official festival, as we will see in the description by 14th century jurist Ibn al-Ḥājj.

For many medieval jurists, the *mawlid* was the most compelling of all the popular devotional innovations.[6] All jurists who discuss the *mawlid*'s legal status acknowledged that it is an innovation (*bidʻah*), at least in the sense of an unprecedented festival that was not celebrated during the Prophet's lifetime nor during the age of the *salaf*. For jurists

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[4] Kaptein documents the rapid dissemination of the festival to these major Sunni centers, but notes that the documentation available does not shed light on the process of dissemination. Kaptein, *Muḥammad's Birthday Festival*, 31-40.

[5] Ibid., 42.

[6] In addition to the jurists cited in this chapter, see the complimentary description of al-Muẓaffar's *mawlid* celebration in Ibn Kathīr's *al-Bidāyah wal-nihāyah fī al-tārīkh* (Cairo: Maṭbaʻat al-Saʻādah, 1932-9), 13: 136-137). Ibn Kathīr also wrote one of the first *mawlid* books, dedicated to praising the Prophet through miraculous stories surrounding his birth (Ibn Kathīr, *Mawlid rasūl Allāh*, ed. Ṣalāḥ al-Dīn Munajjid (Beirut: Dār al-Kitāb al-Jadīd, 1961)). These books were designed to be read during *mawlid* celebrations. See also, the defense of the *mawlid* as a good innovation in ʻAlī b. Sulṭān Muḥammad al-Qārī, *al-Mawrid al-rāwī fī mawlid al-nabī wa-nasabihi al-ṭahir*, ed., Mabrūk Ismāʻīl Mabrūk (Cairo: Maktabat al-Qur'ān, 1992), and in Aḥmad b. Muḥammad Ibn Ḥajar al-Ḥaytamī, *Itmām al-niʻmah al-kubrā ʻalā al-ʻālam fī mawlid sayyid wuld Ādam*, ed., ʻAbd al-ʻAzīz Sayyid Hāshim al-Ghazūlī (Beirut: Dār al-Kutub al-ʻIlmiyyah, 2001), 21-25.

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who applied the category of *bid'ah* normatively, this was enough to render a legal judgment against the practice. Yet, for many medieval jurists, the obvious merit of the festival that venerated the Prophet's birth and showed gratitude to God for sending him demonstrated by extension the possibility of a meritorious innovation.

Legal Texts on the *Mawlid*

In the next section, I will examine the views of six jurists on the *mawlid*, found in the *kutub al-bida'* literature and in *fatāwā*.[7] I begin my analysis with Abū Shāmah's (d. 665/1268) positive yet brief endorsement of the *mawlid* based on its pious content and purpose. Then, I examine the extensive discussion of the *mawlid*'s status in a *fatwā* written by Suyūṭī (d. 911/1505), in which he juxtaposes his support of the *mawlid*'s status as a good innovation with the views of three earlier scholars, including: Fākihānī's (d. 734/1334) opposition to the practice because it lacks an explicit basis in the canonical sources, Ibn al-Ḥājj's (d. 737/1336) ambivalence towards the *mawlid* given its pious purpose but lack of a textual basis, and third, Ibn Ḥajar al-'Asqalānī's (d. 852/1449) support of the *mawlid* as a good innovation with a legal basis in the Prophet's *sunnah*. Suyūṭī's "dialogues" with these previous scholars provide us with the opportunity to evaluate the arguments on all sides of this debate. Finally, I examine Ibn Taymiyyah's (d. 728/1328) position on the *mawlid* both in a *fatwā* and in *al-Iqtiḍā'*. While Ibn Taymiyyah opposes the *mawlid* as a *bid'ah*, he regards the piety demonstrated by certain

[7] Western scholars, such as Kaptein and Memon, have examined and translated some of these texts before, but have not evaluated their legal arguments on the *mawlid*. Kaptein translated the paragraph on *mawlid* by Abū Shāmah and the *fatwā* by Suyūṭī for the express purpose of gathering these jurists' views on the origin of the *mawlid*. Memon does highlight some of the meta-legal issues at play in Ibn Taymiyyah's *Iqtiḍā'*, from which I have benefited. However, Memon is not specifically interested in Ibn Taymiyyah's legal argumentation here and in his *fatāwā*, which he cites but does not discuss.

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practitioners as worthy of reward. These six opinions fill out the spectrum of juristic positions on the *mawlid.* Only by closely examining the details of each jurist's argumentation can we discern their positions on the *mawlid* in particular and on the capacity of the tradition to incorporate new devotional acts in general.

2. Abū Shāmah

In his treatise, *al-Bā'ith 'alā inkār al-bida' wal-ḥawādith,* Abū Shāmah identifies the commemoration of the Prophet's birthday festival as the example *par excellence* of a praiseworthy innovation:

> Among the most beautiful of these types of matters [i.e., good innovations], of what has been innovated (*ubtudi'a*) during our time, is what was done in the city of Irbil – may God exalted keep it strong – every year on the day corresponding with the birthday of the Prophet, peace and blessings of God upon him, including voluntary contributions of alms (*ṣadaqāt*), good deeds (*al-ma'rūf*) and the displays of splendor and joy. For these [practices] are, together with beneficent acts toward the poor (*al-iḥsān ilā al-fuqarā'*), a visible expression (*mash'ar*) of love for the Prophet, out of reverence and veneration for him in the heart of the practitioner, and out of gratitude to God, may He be exalted, for the blessing that He bestowed upon [the practitioner], that is, bringing forth His messenger that He sent as a mercy for humankind and [out of gratitude] for all messengers. And the first one who practiced that was Shaykh 'Umar ibn Muḥammad al-Mallā', one of the famous holy men, and the Lord of Irbil and others – God's mercy be upon them - followed him in that.[8]

First, Abū Shāmah recognizes the celebration as a *bid'ah,* and even identifies the originator of the festival by name.[9] He then describes the practices that took place on this

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[8] Abū Shāmah, *al-Bā'ith,* 38.

[9] As Kaptein points out, scholarly proponents of the *mawlid* such as al-Suyūṭī and Abū Shāmah both ascribed its origin to Sunni rulers of Irbil and Mosul, respectively, even though they likely knew its Fāṭimid origins (Kaptein, *Muḥammad's Birthday Festival,* 67, 71). In re-ascribing the festival's originator, they thereby provided the controversial practice with what Kaptein calls "unimpeachable origins" (Ibid., 69). Abū Shāmah called his alleged originator, Shaykh 'Umar ibn Muḥammad al-Mallā, "a famous holy man" (*al-Bā'ith,* 38), and Suyūṭī referred to his alleged originator of the *mawlid,* Muẓaffar al-Dīn Kökbürī, as "a

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day, namely, pious works, alms-giving and regal displays. It is noteworthy that Abū Shāmah only mentions acts that are universally acknowledged as meritorious. Finally, he alludes to the purpose of this festival, namely, the demonstration of one's love and veneration for the Prophet as well as gratitude to God for sending to the world this and other messengers. Although Abū Shāmah does not articulate what distinguishes this *bid'ah* from other devotional innovations, his description highlights three key elements that will recur in the writings of others: the pious intent and status of the originator, the meritorious nature of the practices involved, and the piety of the overarching purpose of this festival.

3. Suyūṭī – in conversation with al-Fākihānī, Ibn al-Ḥajj, and Ibn Ḥajar al-Asqalānī

Jalāl al-Dīn al-Suyūṭī devoted a lengthy *fatwā* to the defense of the *mawlid*, which he entitled, "*Ḥusn al-maqṣid fī 'amal al-mawlid* (*The Good Intention in the Practice of the [Prophet's] Birthday*)."[10] The *fatwā* responds to the following questions: "Regarding the observance of the birthday of the Prophet in the month of Rabī' I: What is its legal status? Is it commendable or blameworthy? Does the practitioner receive a reward or not?"[11] Suyūṭī structures his response first by articulating his own legal view and then by presenting a series of dialogues with the previous legal responses of three jurists: al-Fākihānī, who rejects the *mawlid* as a blameworthy innovation; Ibn al-Ḥājj, who presents an ambivalent position; and finally, Ibn Ḥajar al-'Asqalānī, who endorses the practice.

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judicious and learned ruler (*malik 'ādil 'ālim*)." Jalāl al-Dīn al-Suyūṭī, "*Ḥusn al-maqṣid fī 'amal al-mawlid*" in *al-Ḥawī lil-fatāwī* (Beirut: Dār al-Kutub al-'Ilmiyyah, 1975), 1:192.

[10] Ibid., 189-198.

[11] Ibid., 189.

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Although he does not explain his choice of conversation partners, Suyūṭī likely chose these three both as representing the predominant positions and as foils for elucidating his own approach. For our purposes, Suyūṭī's "dialogues" with other jurists provides a rich source in which to analyze the legal arguments marshaled in defense of adding or rejecting a devotional innovation.

3.1 Suyūṭī's Own Legal View

Suyūṭī opens his response with a clear indication of the *mawlid's* positive legal status as he describes it:

> The legal basis of the observance of the Prophet's birthday – which constitutes a gathering of people, a recitation of appropriate portions of the Qur'ān, the recounting of transmitted stories about the beginning of the Prophet's life, peace and blessings be upon him, and the signs that occurred upon his birth, followed by a banquet that is served to them and from which they eat, whereupon they leave without doing anything else – is of the good innovations *(al-bidaʿ al-ḥasanah)* for which one is rewarded because of the glorification of the position of the Prophet, peace and blessings be upon him, and the display of joy and delight on his noble birth.[12]

As long as the *mawlid* celebration is limited to the practices outlined in this *fatwā*, Suyūṭī asserts that the *mawlid* is a good innovation (*bidʿah ḥasanah*) for which one receives a reward. Like Abū Shāmah, Suyūṭī bases the merit of the act on its undeniably pious purpose, namely, the glorification of the Prophet and joy over his birth, as well as the righteousness of its practices (though we will later see that the latter is secondary to the former).[13] Both jurists emphasize the righteousness of the *mawlid*'s purported originator,

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[12] Ibid.

[13] Interestingly, though tangential for our discussion, Suyūṭī's description of a normative *mawlid* celebration overlaps with that of Abū Shāmah but differs; while the latter emphasizes good works and alms-giving, Suyūṭī focuses on acts that recount the biography and the revelation brought by the Prophet.

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although they ascribe it to different rulers.[14] Suyūṭī attributes the origination of the *mawlid* to al-Malik al-Muẓaffar, ruler of Irbil, and describes a description of al-Muẓaffar's elaborate *mawlid* celebration, including a lavish banquet given for the scholars (*'ulamā'*) and Sufis, with gifts for his guests and a special concert (*samā'*) that included dancing in which the ruler participated.[15] It is striking to note that the Irbil *mawlid* celebration contained practices, such as dancing and *samā'*, that Suyūṭī does not mention in his *fatwā*. The discrepancy suggests that Suyūṭī is willing to tolerate a broader range of behavior associated with the *mawlid* than he at first admits, and this foreshadows Suyūṭī's emphasis on the pious purpose of the *mawlid* practitioners more than on the content of their behavior. Suyūṭī thus sets the stage for his series of responses to the views of previous jurists by establishing his strong support of the *mawlid* as a pious devotional act.

3.2 First Dialogue: Suyūṭī and al-Fākihānī

Once he establishes the legal status of the *mawlid* observance, Suyūṭī turns to the opposing position of the Mālikī jurist, Tāj al-Dīn ibn 'Umar 'Alī al-Lakhmī al-Iskandarānī, known as al-Fākihānī (d. 734/1334).[16] In his treatise, *al-Mawrid fī al-kalām 'alā 'amal al-mawlid* (The Source in the Discussion Regarding the Practice of the

[14] In order to substantiate the piety of the *mawlid*'s originator, Suyūṭī then cites a series of biographical passages describing al-Malik al-Muẓaffar's erudition and extraordinary generosity towards others, while he wore a garment of coarse cotton. Sibṭ Ibn al-Jawzī, *Mir'āt al-zamān fī tārīkh al-a'yān*, cited in Suyūṭī, "*Ḥusn al-maqṣid fī 'amal al-mawlid*," 1:190.

[15] Ibid., 190. Note that already certain differences in the description of the *mawlid* celebration arise between Suyūṭī's ideal celebration and the one organized by the ruler of Irbil.

[16] Born in 654/1256, Tāj al-Dīn ibn 'Umar 'Alī al-Lakhmī al-Iskandarānī, known as al-Fākihānī was most famous as grammarian in Alexandria, and was also a scholar of Hadith and law. For further biographical information, see Brockelmann, who describes Fākihānī as both a grammarian and jurist but lists him among the philologists. Brockelmann, *GAL*, 2:22.

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[Prophet's] Birthday), Fākihānī concludes that the *mawlid* constitutes a blameworthy innovation (*bid'ah madhmūmah*).[17] Suyūṭī reproduces a large passage that he cites as Fākihānī's words verbatim and then responds to Fākihānī's three arguments point-by-point. Fākihānī argues, first, that the *mawlid* has no textual basis and, second, that it was originated by gluttons. Third and most significantly for our broader discussion, Fākihānī contends that the consensus of Muslim scholars does not permit new devotional practices. Suyūṭī responds by applying the Shāfi'ī approach to *bid'ah* to justify that some innovations, whether devotional or civil, are permitted. Suyūṭī uses this dialogue to develop his idea that new devotional acts can be authorized by means of textual analogy.

Dispute #1. Is there a legal basis (i.e., a textual source) of the mawlid practice?

Fākihānī – "I know of no basis for this *mawlid* in the Qur'ān and the Sunnah, nor is the practice transmitted upon the authority of one of the great scholars (*'ulamā' al-ummah*) who are the exemplars in religion and who hold fast to the traditions of the ancients."[18] The *mawlid*, according to Fākihānī has no recognizable basis in Islamic law.

Suyūṭī – "It can be said that just because it is not known does not mean that it does not exist. Ibn Ḥajar al-'Asqalānī already derived (*istakhraja*) a legal basis [for the *mawlid*] from the Sunnah and I derived a second basis, which I will mention later."[19] Suyūṭī

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[17] Kaptein believed this work to be lost, as it is mentioned in later biographical dictionaries but does not appear in Brockelmann, or in Sezgin, *GAL*, 51, n. 31). I recently found the treatise in a collection of mostly contemporary writings against the *mawlid* compiled by the head of the Department of Scholarly Research and Legal Opinions (*Ri'āsat idārat al-buḥūth al-'ilmiyyah wal-iftā'*), entitled, *Rasā'il ḥukm al-iḥtifāl bil-mawlid al-nabawī* (Riyadh: Dār al-'Āṣimah, 1998), 1: 7-14. Since the edition does not provide manuscript information, there is reason to believe that the editors lifted the text from Suyūṭī's treatise as it matches Suyūṭī's citation almost verbatim.

[18] Suyūṭī, "*Ḥusn al-maqṣid fī 'amal al-mawlid*," 1:190-1.

[19] Ibid., 192. As I explain in detail below, Ibn Ḥajar al-'Asqalānī located support for the *mawlid* in the Prophet's approbation of a Jewish fast in honor of God's rescue of Moses. Suyūṭī draws an additional

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challenges Fākihānī's assertion by locating two possible bases for the *mawlid* in Islamic law.

Dispute #2. What is the intention behind the practice?

Fākihānī – "It is an innovation that was created (*ahdathahā*) by idlers (*al-baṭṭālūn*) and by the vain desires to which the gluttons (*al-akkālūn*) abandon themselves."[20] Fākihānī regards the practices associated with the *mawlid* to be irredeemable.

Suyūṭī – Its originator was a just and knowledgeable ruler whose intention was to draw near to God (*wa-qaṣduh al-taqarrub ilā allah*).[21] Moreover, other scholars approved the practice, such as Ibn Ḍiḥyah, who wrote a treatise in honor of al-Muẓaffar entitled, *Kitāb al-tanwīr fī mawlid al-bashīr al-nadhīr* (The Book of Illumination on the Birthday of the Messenger of Glad Tidings and Warnings).[22] Unlike Fākihānī, who views the *mawlid* as an excuse for a gluttonous celebration, Suyūṭī sees the *mawlid* as an act of devotion, with the pious purpose of drawing near to God (*taqarrub*).

Dispute #3. What is the legal status of the mawlid?

Fākihānī – "If we applied the five legal values (*al-aḥkām al-khamsah*)...[it] would not be obligatory (*wājib*) according to consensus (*ijmā'an*) nor would it be commendable (*mandūb*) because the essence of the commendable [act] is that the law (*al-shar'*)

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analogy from the Prophet's performance of a sacrifice in honor of his own birth (*'aqīqah*) after he received prophecy.

[20] Ibid., 191.

[21] Ibid., 192.

[22] Ibid.

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demands it without any censure upon its omission. And [as for the *mawlid*], the law does not permit it, nor did the Companions, Successors, or religious scholars (*'ulamā' al-mutadayyinūn*) observe it as far as I know."[23] He further argues that the *mawlid* is not permitted (*mubāḥ*) because "innovation in religion is not permissible according to the consensus of Muslims (*al-ibtidā' fī al-dīn laysa mubāḥan bi-ijmā' al-muslimīn*)."[24] That is, any devotional innovation – which clearly falls under the category of innovations in religion – would necessarily be rejected. Fākihānī concludes that the *mawlid*'s status is either reprehensible or forbidden, determined by the state (*ḥāl*) of activities performed during the celebration. If a person engages only in permissible activities such as eating and providing food for his relatives and friends, the observance is reprehensible because of its lack of legal precedent or scholarly justification. If, however, activities include a transgression (*jināyah*), such as singing with full bellies – accompanied by the instruments of the idle, such as drums and reed flutes – and the gathering of men with young boys and with attractive women, or women singing in high voices during [Qur'ān] recitation, then the observance is forbidden.[25] It is particularly galling to Fākihānī that the same people who use the *mawlid* as an excuse for sexual indiscretion and revelry mistakenly regard it as an act of devotion (*'ibādah*).[26] Fākihānī makes it clear that the *mawlid* would be rejected under the best of circumstances, because the practice is a devotional innovation and the consensus of Muslim scholars rejects devotional

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[23] Ibid., 191.

[24] Ibid.

[25] Ibid.

[26] Ibid.

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innovations. He examines the content of the *mawlid* only to determine whether the *mawlid* is forbidden outright or merely reprehensible.

Suyūṭī – First, in response to Fākihānī's claim that the *mawlid* cannot be commendable, Suyūṭī argues that "the demand regarding the commendable [act] are sometimes based on an explicit textual source (*naṣṣ*) and sometimes based on analogical reasoning (*qiyās*), and this [case], even though there is no revealed source, the analogy can be applied on two bases, which will discussed later."[27] Suyūṭī here outlines his theory that even new festivals can be supported by means of an analogy from textual sources.

Second, Suyūṭī rejects Fākiḥānī's claim that the consensus of scholars rejects all innovations in religion. "This is an unacceptable statement," says Suyūṭī, "since *bid'ah* is not limited to the prohibited and reprehensible but also can be permissible, commendable and obligatory."[28] To support this argument that innovations in religion are permissible, he cites the *bid'ah* definitions and classification systems first of Nawawī, then of Ibn 'Abd al-Salām, and finally of Shāfi'ī (by means of Bayhaqī).[29] Suyūṭī uses the approaches of previous Shāfi'ī scholars to undermine Fākihānī's claim to scholarly consensus against permissible types of *bid'ah* and to substantiate his position that the *mawlid* can be permitted:

> For this [i.e., the *mawlid*] is of the novel (*ḥadath*) [acts] but contains neither an opposition to the Book nor to the Sunnah nor to the traditions

[27] Ibid., 192.

[28] Ibid.

[29] Ibid.

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> about a Companion (*āthār*) nor to a Consensus, and thus it is not blameworthy, as in the statement of Shāfi'ī. And, it (i.e., the *mawlid*) is among the beneficent acts (*iḥsān*) that did not exist during the first period [of Islam], for the provision of a banquet without sins being committed is a beneficent act (*iḥsān*), being of the commendable innovations (*al-bida'al-mandūbah*), as in the statement of Ibn 'Abd al-Salām.[30]

Against Fākihānī's claim that the label of a "good innovation" cannot apply to devotional matters, Suyūṭī applies Shāfi'ī's category of *bid'ah ḥasanah* to the *mawlid*, and locates the *mawlid* in Ibn 'Abd al-Salām's subcategory of unprecedented and commendable acts of beneficence (*iḥsān*).

Thus far, Suyūṭī and Fākihānī disagree on the legal bases and the status of the *mawlid* at the level of theory. However, Suyūṭī still must address Fākihānī's charge that at the level of practice the *mawlid* incorporates many forbidden acts. Suyūṭī acknowledges that forbidden practices occur during *mawlid* celebrations but denies that their occurrence renders the entire festival forbidden.[31] Instead, he reformulates Fākihānī's argument to claim that the only reason for forbidding the *mawlid* would be the inclusion of forbidden practices. Then, Suyūṭī brings two analogies to illustrate the idea that an event can be meritorious while being an occasion for repugnant acts: first, the inclusion of reprehensible practices during the Friday congregational prayer would never render the Friday prayer reprehensible; and second, the (more frequent) case of people including reprehensible practices during the Ramaḍān night (*tarāwīḥ*) prayer, which does not affect

[30] Ibid., 193. I believe that this parsing of the paragraphs makes more sense than Kaptein's reading here (Kaptein, *Muḥammad's Birthday Festival*, 56), since the quote that he ascribes to Shāfi'ī belongs in fact to Ibn 'Abd al-Salām in his *Qawā'id al-kubrā*, as discussed in Chapter Two.

[31] As we will discuss in Chapter Four, Ibn al-Ṣalāḥ uses this same argument (i.e., distinguishing between the virtuous essence of the innovation and the reprehensible practices that are associated with the innovation) in his defense of the *raghā'ib* prayer.

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the commendable status of the *tarāwīḥ* prayer as a "normative commendable practice (*sunnah*) and pious act (*qurbah*)."[32] Similarly, he argues, "the legal basis (*aṣl*) of gathering for the performance of the *mawlid* ceremony is a commendable and pious act (*mandūb wa-qurbah*), though these matters that are included with it are censured and forbidden (*madhmūm wa-mamnū'*)."[33] By demonstrating analogically (and even *ad absurdum* in the case of Friday prayers) that the *mawlid* observance should be judged separately from practices associated with it, Suyūṭī argues that the fact that problematic acts are performed as part of *mawlid* celebrations should not impugn the meritorious nature of the *mawlid* itself. Suyūṭī is willing to condemn the inappropriate singing and dancing associated with the *mawlid* without changing his legal opinion of the *mawlid*. He thus distinguishes between the virtuous parts of *mawlid* celebration that he regards as essential to the *mawlid* and the reprehensible parts that he considers as tangential.[34] By constructing a *normative* type of *mawlid*, Suyūṭī upholds the possibility of permissible devotional innovations while distancing himself from its problematic popular practices.

Discussion

This interchange displays sharp differences in the way jurists determine the status of a devotional act. First, the jurists disagree on the kinds of textual evidence that could

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[32] Suyūṭī, "*Ḥusn al-maqṣid fī 'amal al-mawlid*," 1:193. For an example of innovated practices included in *tarāwīḥ* prayers, see Ibn Taymiyyah's *fatwā*, *Kitāb majmū'at al-fatāwā Taqī al-Dīn Ibn Taymiyyah al-ḥarrānī* (Cairo, Kurdistān al-'Ilmiyyah Press, 1908-11), 1: 147-148.

[33] Suyūṭī, "*Ḥusn al-maqṣid fī 'amal al-mawlid*," 1:193.

[34] G. E. Von Grunebaum also noted how Suyūṭī sifts the essential *mawlid* from the tangential acts associated with the *mawlid* celebration: "Suyūṭī considers the recitation of the Koran and of the 'histories' of the Prophet - often in verse or in a combination of prose and poetry – the core of the celebration, and the processions, feasting, and fairs mere accessories." G. E. Von Grunebaum, *Muhammadan Festivals* (London: Curzon Press, 1971), 76.

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justify a devotional practice. Fākihānī looks only for an explicit textual source or precedent whereas Suyūṭī allows an additional type of legal basis, namely, a textual source that serves as the basis for analogy. Second, they disagree on the possibility of adding devotional practices altogether. Fākihānī assumes a consensus against any religious innovations while Suyūṭī cites the *bid'ah* classification systems of Nawawī and Ibn 'Abd al-Salām to demonstrate that no such consensus exists. Instead, Suyūṭī reads the opinions of these previous Shāfi'ī scholars on *bid'ah* as support for permitting devotional innovations.[35] In particular, he interprets (or, one might say, expands) Ibn 'Abd al-Salām's concept of "*iḥsān*" (beneficent acts) to include public and wholly new devotional practices such as the *mawlid* festival. Ibn 'Abd al-Salām does not indicate how broadly he intended to apply the category of *iḥsān* and perhaps might have used it to authorize only private acts of piety. Suyūṭī thus establishes a legal basis for devotional innovations by two means, by analogical reasoning from textual precedents and by applying as if it were not in dispute the category of *bid'ah ḥasanah*. Fākihānī, who permits only devotional practices that have explicit textual sources, rejects the use of *bid'ah ḥasanah* as a method of adding new types of *'ibādāt*.

The opposition between the two jurists stems also from the way in which they perceive the *mawlid* and the way that they interpret the intention or motivation of its practitioners. Fākihānī, who focuses on the materialistic and sensual aspects of the celebration,

[35] It is noteworthy that Suyūṭī uses interchangeably the two-value classification system of Shāfi'ī and Nawawi and the five-value system of Ibn 'Abd al-Salām and does not differentiate between the two systems; this supports our previous suggestion that jurists did not regard these two *bid'ah* classification systems as substantively different.

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attributes gluttony and laziness to the practitioners. Suyūṭī, who regards the festival as an act of devotion and of drawing near to God, views the *mawlid* celebrants' motivations as pious and righteous. Although their contrasting descriptions might lead one to think that the jurists witnessed two different kinds of *mawlid* celebrations, it is more likely that their legal attitudes towards the *mawlid* and towards devotional innovations in general colored their perceptions of its practices. For Fākihānī, the degenerate aspects of the *mawlid* determine its nature. Regardless of what practitioners believe that they are doing, they are deviating from true Islamic practice. Fākihānī, in his conclusion, invokes the *ḥadīth*, "Islam began as a stranger," as evidence that the true Islam is often the one practiced by the minority of Muslims.[36] For Suyūṭī, in contrast, the reprehensible activities associated with the *mawlid* are accidents that do not fundamentally change the pious nature of the festival. By opposing Fākihānī's narrow conception of religious practice, Suyūṭī implicitly recognizes a broader realm of devotional acts that fit within the category of *'ibādāt.*

3.3 Second Dialogue: Suyūṭī and Ibn al-Ḥājj

Suyūṭī then turns to the position of the Mālikī jurist, Ibn al-Ḥājj al-'Abdarī, who challenged in his own time the distinction between normative and popular *mawlids*. Ibn al- Ḥājj dedicates a chapter to the *mawlid* in *al-Madkhal* (The Introduction).[37] Suyūṭī

[36] Suyūṭī, "*Ḥusn al-maqṣid fī 'amal al-mawlid,* "1:191-2. Fākihānī also cites here the poetic decrial of Shaykh al-Qushayrī on the *ḥadīth*'s theme, beginning with "the objectionable has become commonplace..." Kaptein identifies the shaykh as Ibn Daqīq al-'Īd al-Qushayrī (625/1228-702/1302), who was known to compose poems (Kaptein, *Muḥammad's Birthday Festival*, 53, n. 34). As discussed in Chapter One, Shāṭibī, in his introduction to *al-I'tiṣām*, invokes the image of the pious as the stranger (*gharīb*) who counters mainstream Muslim culture.

[37] Ibn al-Ḥājj, *al-Madkhal ilā tanmiyat al-a'māl bi-taḥsīn al-niyyāt wal-tanbīh 'alā ba'ḍ al-bida' wal-'awā'id allatī intaḥalat wa-bayān shanā'atihā* (The Introduction to the Development of Acts by the

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attempts to read Ibn al-Ḥājj as supporting the distinction he draws at the end of his response to Fākihānī, namely, judging the essence of the *mawlid* separately from its problematic parts: "The essence of what [Ibn al-Ḥājj] mentions is that he does not condemn the *mawlid* but rather the forbidden and reprehensible practices that have been included in it".[38] Ibn al-Ḥājj's attitude towards the *mawlid* is decidedly ambivalent, and his full account has a more negative cast to it than does the summary presented by Suyūṭī. Although Ibn al-Ḥājj recognizes the virtue of celebrating the Prophet's birth, he expresses distaste for the reprehensible practices of popular celebrations and for the unprecedented establishment of a special day for the veneration of the Prophet.

Ibn al-Ḥājj, a careful recorder of contemporary Muslim practice in Egypt, bemoans the gap between the decadent nature of the popular *mawlid* celebration and the sacredness of the occasion:

> Among the [innovations and reprehensible deeds] are the performance of singers accompanied by percussive instruments like jingling tambourines, reed flutes and other instruments, which they use for musical concerts (*samā'*). In doing so, they carry out blameworthy customs (*'awā'id dhamīmah*) because they engage in innovations and reprehensible acts during times that God has favored and venerated. If there is no doubt that musical concerts [pose numerous problems] on other nights, how much more so when [these acts] are associated with the virtue (*faḍīlah*) of this great month that God – may He be exalted – venerated and favored us by this noble Prophet. For, what connection is there between percussive instruments on the one hand, and the esteem for this noble month in which

Improvement of Intentions and the Warning about Some of the Innovations and Customs That Have Been Adopted and the Clarification of their Ugliness) (Beirut, London: Dār al-Kutub al-'Ilmiyyah, 1415/1995), 2: 229-261. In contrast to Suyūṭī's 'verbatim' approach vis-à-vis Fākihānī, he excerpts Ibn al-Ḥājj's chapter and then discusses the two main arguments that he identifies in Ibn al-Ḥājj's position.

[38] Suyūṭī, "*Ḥusn al-maqṣid fī 'amal al-mawlid*," 1:195.

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> God bestowed upon us the lord of the early and late [messengers] on the other hand?[39]

Popular celebrations of the noble Prophet's birth teem with reprehensible acts, chief among them singing and dancing with musical instruments, which undermine the venerable status of the Prophet. This tension is the source of Ibn al-Ḥājj's ambivalence: on the one hand, he applauds the desire to venerate the Prophet's birth yet, on the other hand, he regards the *mawlid* festival as a day of reprehensible if not sinful deeds and a clear addition to the Prophet's own practice.

In support of singling out the Prophet's birth for veneration, Ibn al-Ḥājj describes the month of the Prophet's birth as worthy of special favor and greater acts of devotion:

> For this reason, it was necessary that acts of devotion (*'ibādāt*) and good works (*khayr*) were added during [this month] as a sign of gratitude to the Lord Sublime and Exalted for these great benefactions that He gave us, although the Prophet (pbuh) did not perform additional acts of devotion (*'ibādāt*) more than in another other month. This was only out of mercy for people and out of his gentleness for them because he, peace and blessing be upon him, would omit [this] practice out of a concern for obligating his people, because of his mercy upon them...[40]

The Prophet's birth is worthy of additional devotional acts even though the Prophet himself did not establish a special practice for the community. According to Ibn al-Ḥājj, the lack of precedent in the Prophet's behavior can be understood by his general concern not to overburden his followers with extra obligations.[41] Ibn al-Ḥājj even identifies a potential textual basis (*aṣl*) for these devotional practices, by analogizing from the

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[39] Suyūṭī, "*Ḥusn al-maqṣid fī 'amal al-mawlid*," 1:193, corresponding to Ibn al-Ḥājj, *al-Madkhal*, 2: 229.

[40] Suyūṭī, "*Ḥusn al-maqṣid fī 'amal al-mawlid*," 1:193-4, corresponding to Ibn al-Ḥājj, *al-Madkhal*, 2: 229.

[41] Ibn al-Ḥājj returns to this justification a second time a few paragraphs later in the form of a straw man argument "*fa-in qāla qā'ilun...*" Suyūṭī, "*Ḥusn al-maqṣid fī 'amal al-mawlid*," 1:194, corresponding to Ibn al-Ḥājj, *al-Madkhal*, 2: 230.

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Prophet's personal custom of fasting on Mondays in honor of his birthday: "[The Prophet], peace and blessings be upon him, alluded to the venerable status of this month, in his statement to a questioner who asked about fasting on Mondays. He said: 'on that day I was born.'"[42] Based on this analogy, Ibn al-Ḥājj advocates the performance of additional acts of almsgiving and other pious acts (*ziyādat al-a'māl al-zākiyyāt fihi wal-ṣadaqāt ilā ghayr dhālik min al-qurbāt*) to venerate the month of the Prophet's birth.[43] It is important to note, however, that Ibn al-Ḥājj applies the analogy to justify venerating the whole month of Rabi' I, but not the particular day of the Prophet's birth on the 12th. By consciously supporting additional acts of piety but not a new festival day, Ibn al-Ḥājj draws a line between adding personal devotional acts and adding public days of devotion. He underscores this distinction by specifying that this and other holy months, such as Ramaḍān, are times in which one is expected to stay clear of novel religious practices and avoid locations of innovations (*fa-yatruku al-ḥadath fī al-dīn wa-yajtanibu mawāḍī' al-bida'*).[44]

When it comes to the actual *mawlid* festival, Ibn al-Ḥājj decries the highly impious events that he observes in contemporary celebrations, which he sees as exploiting the Prophet's birthday as an excuse for improper entertainment. A far cry from the engagement in supererogatory pious acts, these celebrations begin with Qur'ān recitation

[42] *Ṣaḥīḥ Muslim*, Book of Fasting (*al-ṣiyām*), Chapter 36: Hadith No. 2807, 1: 464. Suyūṭī, "*Ḥusn al-maqṣid fī 'amal al-mawlid*," 1:194, corresponding to Ibn al-Ḥājj, *al-Madkhal*, 2: 229.

[43] Suyūṭī, "*Ḥusn al-maqṣid fī 'amal al-mawlid*," 1:194, corresponding to Ibn al-Ḥājj, *al-Madkhal*, 2: 231.

[44] Ibid.

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but lead into boys singing love songs (*taghazzul*) suggestively, resulting in lewd intermingling between men and women.[45]

Given this dichotomy of views, one might expect (as Suyūṭī claims) that Ibn al-Ḥājj would formulate two rulings for the *mawlid*, i.e., a favorable ruling if one performs only righteous acts and an unfavorable ruling if one engages in the practices described above. However, Ibn al-Ḥājj concludes that even one who eschews problematic aspects of the celebration and merely holds a banquet for his family and friends with the intention of celebrating the *mawlid* is still performing an innovated practice as a result of having that intention (*niyyah*). Despite the potentially legal basis established by the Prophet's Monday fasts, the *mawlid* is still considered by Ibn al-Ḥājj to be an addition to the normative religion and not part of the practice of the pious ancestors (*'amal al-salaf al-māḍīn*).[46]

Suyūṭī calls Ibn al-Ḥājj's ruling against the *mawlid* contradictory and suggests halfheartedly that Ibn al-Ḥājj must have been referring to a good innovation (*bid'ah ḥasanah*). Ibn al-Ḥājj, according to Suyūṭī, recommends supererogatory acts of devotion to venerate the Prophet's birth as long as one does not intend to celebrate the Prophet's actual birthday! However, without that intention, one is left with an absurd and impossible position of recommending pious deeds with no intention, which undermines

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[45] Suyūṭī, "*Ḥusn al-maqṣid fī 'amal al-mawlid*," 1:194-5, corresponding to Ibn al-Ḥājj, *al-Madkhal*, 2:231-4. Here, Suyūṭī excerpts from Ibn al-Ḥājj's longer discussion regarding the flaws (*mafāsid*) of musical sessions (*samā'*) during the *mawlid* and at other times.

[46] Suyūṭī, "*Ḥusn al-maqṣid fī 'amal al-mawlid*," 1:195, corresponding to Ibn al-Ḥājj, *al-Madkhal*, 2: 234.

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the legal principle of "acts being judged by their intentions" and contradicting Ibn al-Ḥājj's earlier position of the duty to venerate the Prophet's birth with pious works.[47] In Suyūṭī's view, the only intention motivating *mawlid* observers is that of gratitude to God for the Prophet's birth; this, he concludes, is an undoubtedly commendable intention (*niyyah mustaḥsanah*).[48]

Discussion

One of the main conclusions drawn from this second dialogue is Suyūṭī's reiteration of the principle that the status of the festival should be judged on the basis of its essential purpose and not by the practices that come to be associated with it. This allows Suyūṭī to focus his main argument on the legal legitimacy of the *mawlid* in general and not on every associated practice. He also reiterates the idea that only pious intentions motivate the *mawlid* observer. In contrast, Ibn al-Ḥājj seems to regard the gap between the *mawlid* in theory, as a time to increase one's devotional acts, and in practice, as a music- and food-laden celebration of intermingling men and women, as unbridgeable. Furthermore, although he is willing to analogize from the Prophet's practice to a general increase in pious deeds in gratitude of a historical event, Ibn al-Ḥājj is not willing to accept a wholly new festival day as a good innovation. While Suyūṭī reformulates Ibn al-Ḥājj's argument to sound absurd, he fails to challenge Ibn al-Ḥājj's distinction between the propriety of increasing one's devotional practices for the Prophet's birth and establishing a new particular day in the Muslim calendar. Ibn al-Ḥājj's critique foreshadows the position of

[47] Suyūṭī, *al-Ashbāh wal-naẓā'ir fī qawā'id wa-furū' fiqh al-Shāfi'iyyah*, ed., 'Alā' al-Sa'īd (Mecca: Maktabat Nizār Muṣṭafā al-Bāz, 1990), 12ff.

[48] Suyūṭī, "*Ḥusn al-maqṣid fī 'amal al-mawlid*," 1:195.

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Ibn Taymiyyah, in recognizing the motivation for establishing a new festival for the Prophet but ruling that devotees should use the legally prescribed avenues for performing additional acts of piety and gratitude. This debate exposes the fault line between those who regard the canon of devotional practices as closed and sufficient to meet the community's needs and those who regard the canon as more open to new occasions of piety.

3.4 Third Dialogue: Suyūṭī and Ibn Ḥajar al-ʻAsqalānī

Once he has firmly established his view that the *mawlid* should be judged separately from its reprehensible associated practices, Suyūṭī returns to the question of an appropriate legal basis for the *mawlid*'s justification on legal grounds. Suyūṭī turns to the position of one of his avowed masters, Ibn Ḥajar al-ʻAsqalānī, whose approach is closest to his own.[49] In response to a question regarding the *mawlid* observance, Ibn Ḥajar states:

> The legal basis (*aṣl*) of the [Prophet's] birthday is that it is an innovation that was not transmitted on the authority of one of the righteous ancestors (*al-salaf al-ṣāliḥ*) from the [first] three generations. However, despite this, the festival includes good aspects (*maḥāsin*) and the opposite. If one pursues only the good aspects in observing it and avoids the bad, then it is a good innovation (*bid'ah ḥasanah*), and if not, then not.[50]

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[49] In his autobiography, Suyūṭī lists Ibn Ḥajar as one of his teachers from whom he received a learning certificate (*ijāzah*), even though Suyūṭī was only four years old when Ibn Ḥajar died. He relates that he used to attend Ibn Ḥajar's sessions with his father, and when Ibn Ḥajar granted *ijāzah*s to everyone present, the children were included as well. See Sartain, *Jalāl al-Dīn al-Suyūṭī*, 1:26; also Kaptein, *Muḥammad's Birthday Festival*, 63, n. 50.

As for Ibn Ḥajar's discussion of the *mawlid*, I have not been able to locate Ibn Ḥajar's original treatise in his extant writings. Brockelmann cites a catalogue listing for a treatise by Ibn Ḥajar entitled, *Mawlid al-nabī* (written *maulid an nabī*) in a Cairo catalogue (Brockelmann, *GAL* (Weimar, 1898), 2:20, no. 39), but it is likely to be an error. I thank Marion Katz for pointing out that an independent treatise by Ibn Ḥajar on the *mawlid* would have a lengthier title that rhymed.

[50] Suyūṭī, "*Ḥusn al-maqṣid fī 'amal al-mawlid*," 1:196.

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In other words, the *mawlid* is no doubt an innovated practice, a category which Ibn Ḥajar views as suspect but not necessarily forbidden. For Ibn Ḥajar, the legal status of the *mawlid* depends on the nature of its related practices and their purpose: if the practitioner performs only good acts, the practice is commendable whereas if the practitioner engages in problematic acts, the *mawlid* is reprehensible or perhaps forbidden.

Before describing a proper *mawlid* celebration, Ibn Ḥajar first suggests "a firm legal basis (*aṣl thābit*)" for the innovated festival.[51] He looks to the narrative, found in the two *Ṣaḥīḥ* collections of Hadith, of the Prophet extolling the Jewish practice of fasting on the day of *'Āshūrā'* (i.e., the 10th day of the month of Muḥarram) out of gratitude to God for drowning Pharaoh and saving Moses on that day. Ibn Ḥajar infers that expressions of gratitude to God on particular days by means of pious acts are appropriate:

> The act of gratitude to God for His conferring benefit or turning away evil on a particular day can be inferred from [this story], and that this may be repeated on the equivalent day each year. Gratitude to God occurs by means of a variety of acts of devotion (*'ibādāt*), such as prostration, fasting, alms-giving, and recitation. And what greater benefaction is there than the appearance of this Prophet, the Prophet of Mercy, on that day?"[52]

Just as the Prophet approved the observance of a particular day by adding devotional acts, so too should Muslims celebrate the Prophet's birthday with acts of devotion.

For this reason, Ibn Ḥajar concludes, it is necessary to limit *mawlid* practices to acts that express gratitude to God. These include "[Qur'ān] recitation, holding a banquet, almsgiving, some songs of praise for the Prophet and some songs of ascetic praise, which

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[51] Ibid.

[52] Ibid.

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move the [people's] hearts towards good works and to acts focused on the Hereafter."[53] Ibn Ḥajar's list of proper practices is the most inclusive of any prior ones that we have seen. He explicitly includes certain types of musical concerts (*samā'*) that reflect the day's joy and purpose, while excluding other types that are reprehensible or forbidden (though he does not elucidate their criteria here).

As an indication of his general agreement with Ibn Ḥajar, Suyūṭī does not quarrel with any points raised by Ibn Ḥajar. Instead, he proceeds to identify another source for analogy in the *ḥadīth* related by Anas b. Mālik that "the Prophet, peace and blessings be upon him, himself performed the sacrifice in honor of his own birth (*'aqīqah*) after he received prophecy, even though it was conveyed that his grandfather, 'Abd al-Muṭṭalib, had performed the sacrifice on the seventh day after his birth, and the sacrifice should not be repeated a second time."[54] Suyūṭī interprets this Prophetic act as an expression of gratitude to God for bestowing life upon himself as prophet and mercy for the world. He also interpreted this act as a legislative principle (*tashrī'*) for the Muslim community, similar to the way the Prophet Muhammad would model devotional behavior by reciting prayers about himself (i.e., as a pedagogical tool).[55] Therefore, Suyūṭī concludes, it is meritorious for us as well to show gratitude at his birth by gathering and holding banquets, as well as other types of pious acts (*qurbāt*) and displays of joy.

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[53] Ibid.

[54] Ibid.

[55] Ibid.

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As a third possible source for analogy, Suyūṭī then cites a few passages relating that the Prophet Muhammad's uncle and adversary, Abū Lahab, would gain a brief reprieve from the fires of hell every Monday as a reward for having released a slave on the occasion of the Prophet's birth.[56] Suyūṭī produces an *a fortiori* argument in this case: if God granted the great sinner a reprieve for his joy over the Prophet's birth, how much more so for the monotheistic Muslim (*muslim muwaḥḥid*) who rejoices over Muhammad's birth and loves him with all his might.

Discussion

Ibn Ḥajar and Suyūṭī agree that the lack of a precedent in early Islam does not render the *mawlid* reprehensible or forbidden. While both jurists look to the intentions and content of the *mawlid* festival to determine its legal status, Ibn Ḥajar seems more readily inclined to declare the *mawlid* forbidden on account of popular transgressions during the festival. Suyūṭī, in contrast, strives to maintain the permissibility of the *mawlid* while condemning those same popular transgressions separately. This difference aside, both characterize *mawlid* acts as those that reflect the pious intention of showing gratitude to God for sending the world God's final prophet. While the content of the *mawlid* determines its status, each of the two jurists sought to ground the practice in the canonical sources. Ibn Ḥajar locates an analogical source for adding new days of celebration in general, but not one that is specific to the *mawlid*. This legal basis is broader and ultimately less compelling than finding an analogical source for the *mawlid* alone. Perhaps this is the reason why Suyūṭī supplies another textual source for analogy that is more specific to

[56] Ibid.

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celebrating the Prophet's birth. That being said, both jurists locate a legal basis for the *mawlid* in the Prophet's *sunnah* by means of an analogy, demonstrating their willingness to expand the Prophet's practice to incorporate this new practice.

Suyūṭī's series of dialogues with three partners illuminates the legal issues at stake in determining the status of the *mawlid.* Suyūṭī's legal argumentation goes far beyond the homiletical endorsement of the *mawlid* by Abū Shāmah. He rejects Fākihānī's claim to consensus by applying the *bid'ah* classification systems of Nawawī and Ibn 'Abd al-Salām to support the idea that Islamic law recognizes certain devotional innovations. For criteria, he relies on Ibn 'Abd al-Salām's category of *iḥsān,* confirmed by his own descriptions of the *mawlid* as a day of pious activities for a pious purpose. Moreover, he identifies two possible legal bases for the *mawlid* and sets up the idea that the Prophet's *sunnah* can be expanded by means of analogical reasoning. In contrast, the opponents of the *mawlid* maintain that the only acceptable legal basis for permitting a devotional act is an explicit textual source (*naṣṣ*).

The legal positions of these four jurists shape the way they see the *mawlid* festival. Both Fākihānī and Ibn al-Ḥājj render a ruling based on their image of the festival as flamboyantly and sensually practiced instead of that of the idealized *mawlid* conceived by Suyūṭī. Fākihāni, who holds to the narrowly defined boundary of normative practice, sees only the problematic behavior associated with this devotional innovation. While Ibn al-Ḥājj recognizes the potential for pious acts during the *mawlid,* he is uncomfortable with the establishment of a completely new festival for this purpose. The opposing

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viewpoints reflect or result in a radically different conception of the purpose and practices of the *mawlid.*

4. Ibn Taymiyyah

Ibn Taymiyyah discusses the *mawlid* festival in a *fatwā* regarding permissible practices on that day and in a long passage in his polemical monograph against Muslim imitations of other traditions, *Iqtiḍā' al-ṣirāṭ al-mustaqīm limukhālafat aṣḥāb al-jahīm.* Like Fākihānī, Ibn Taymiyyah regards the *mawlid* as legally reprehensible given its lack of textual precedent. However, Ibn Taymiyyah differs in his increased sensitivity to the pious impulses driving certain practitioners, which he views as legitimate and meritorious. In his view, the role of the scholar is to help re-channel those pious feelings into normative devotional practices.

In a *fatwā* on the Prophet's *mawlid,* Ibn Taymiyyah responds to the question, "can one recite the whole Qur'an (*khatmah*) in honor of the Prophet's birthday?"[57] Rather than dealing with only the narrow question of the petitioner, Ibn Taymiyyah takes the opportunity to address all innovated festivals.[58] He writes:

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[57] Ibn Taymiyyah, *Majmū'at fatāwā shaykh al-Islām Taqī al-Dīn Ibn Taymiyyah* (Cairo: Maṭba'at Kurdistān al-Azharī, 1910), 1:312.

[58] The petitioner asks if the practice of reciting annually the entire Qur'an (*khatmah*) on the night of the Prophet's birthday (*mawlid*) is recommended (*mustaḥabb*) or not? Although the question focuses on one seemingly pious practice, which is performed to mark a special occasion, Ibn Taymiyyah uses the opportunity to address the range of particular days that have no precedent in early Islam. In fact, he does not address the petitioners' specific question, regarding Qur'ān recitation, at all, but understands it as representing all special practices to mark the Prophet's birthday.

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> The gathering of people for a banquet during the two [canonical] festivals or the 11th-13th of Dhū al-Hijjah (*ayyām al-tashrīq*)[59] is a normative commendable practice (*sunnah*), these being among the rites of Islam that the Messenger of God, peace and blessings be upon him, instituted for Muslims, and [similarly] caring for the poor by feeding them during the month of Ramaḍān is one of the commendable norms (*sunan*) of Islam. For the Prophet had said: "whoever provides breakfast food for one who is fasting, he receives akin to his reward, and giving the poor [Qur'ān] reciters help is a righteous act (*'amal ṣāliḥ*) at any time, and whoever supports them is a partner in their reward. And as for the establishment of a seasonal festival (*mawsim*) that is not among the lawful (*shar'iyyah*) festivals, such as some of the nights of Rabī' al-Awwal, which is said to be the night of the *mawlid*, or some of the nights of Rajab, or the 18th day of Dhū al-Hijjah or the first Friday prayer of Rajab or the eighth of Shawwāl, which the ignorant call the festival of the godly (*'īd al-abrār*), these are among the innovations (*bida'*) that the ancestors (*salaf*) did not recommend nor did they practice, and God Sublime and Exalted knows best.[60]

As a legal question, the *mawlid* is thus an innovation (*bid'ah*) and, consonant with Ibn Taymiyyah's general approach to *bid'ah* (as seen in the previous chapter), is reprehensible. Since the pious ancestors (*salaf*) did not observe the festival, which also implies that no textual source exists condoning the practice, the festival is not lawful.

Given the simplicity of Ibn Taymiyyah's legal position on the *mawlid*, his circuitous approach to answering the question is puzzling. First, Ibn Taymiyyah describes the festivals that are lawful and that represent opportunities for pious and righteous deeds. Then, he lists several festivals that Muslims have innovated. Among these is the Prophet's birthday, for which there is no precedent in the practice of the early ancestors. Why does Ibn Taymiyyah review licit festivals before addressing the *mawlid* as one in

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[59] Lit., the days of drying strips of meat; celebrated as festive days, when the pilgrim stays in Mīna and throws pebbles at *al-jamarāt*. See, Rudi Paret and William Graham, s.v. "*Tashrīḳ*," *EI*², 10: 356a.

[60] Ibn Taymiyyah, *Majmū'at fatāwā*, 1:312.

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the general category of innovated festivals? While the first half of the *fatwā* might seem like an odd digression, from his longer discussion in *al-Iqtiḍā'* we will see that Ibn Taymiyyah is practicing what he there preaches. He argues there that one should not censure a Muslim from celebrating the *mawlid* unless one recommends normative occasions into which the hapless celebrant can channel his pious urges. Thus, Ibn Taymiyyah recommends a number of normative occasions for piety before he succinctly dismisses the whole group of innovated festivals.

In his treatment of the *mawlid* in *al-Iqtiḍā'*, Ibn Taymiyyah first states his legal position by situating the festival within his typology of innovations. Yet, he does not stop with the *mawlid*'s legal status but deepens the discussion by recognizing and addressing the psychological and spiritual aspects of devotional practice that can often stand in tension with the legal categories.

The subject of the Prophet's birthday arises within the context of Ibn Taymiyyah's discussion of innovations connected to particular times.[61] The Prophet's birthday stands as an actual day in Islamic history, but not a day identified by the Divine law as worthy of special attention.[62] The observance of the *mawlid* is a [reprehensible] innovation, since it lacks textual attestation or a precedent in the practice of the ancestors. In Ibn

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[61] Ibn Taymiyyah, *Iqtiḍa'*, 2:123-128. My translation of these passages was done in consultation with Memon, *Ibn Taimīya's Struggle Against Popular Religion*, 243-5.

[62] Ibn Taymiyyah distinguishes between three types of time-related innovations: (1) Days that were never venerated in Islamic law (*sharī'ah*) nor by the ancestors (*salaf*), and without any reason for veneration (e.g., the first Thursday of Rajab/*raghā'ib* prayer); (2) Days that commemorate an actual event in the Prophet's life but one that was not marked as special by Islamic law nor by the ancestors, which Ibn Taymiyyah regards as a Jewish or Christian tendency (e.g., the Prophet's birthday); and (3) Innovated practices on days venerated by the *sharī'ah* (e.g., 'Ashūrah) (Ibn Taymiyyah, *Iqtiḍa'*, 122-3). Ibn Taymiyyah does note that people disagree about the Prophet's actual birthday (Ibid., 123).

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Taymiyyah's view, since the Prophet's companions – who loved and venerated him best, and were the most diligent in performing good works – did not institute a celebration for the Prophet's birthday when it would have been natural to do so, clearly the *mawlid* ought not to be celebrated. This position reflects Ibn Taymiyyah's general view (seen earlier) that the absence of a precedent in the practice of the *salaf* is equivalent to a prohibition. At the same time, Ibn Taymiyyah recognizes that people observe the *mawlid* for different reasons and should be recompensed according to their intentions. Some observe the *mawlid* out of a desire to imitate the Christian celebration of Jesus' birthday on Christmas. This intention is reprehensible, as Ibn Taymiyyah amply demonstrates throughout this monograph. However, he recognizes that others observe the *mawlid* out of great love and reverence for the Prophet. Ibn Taymiyyah believes that these people should be rewarded for their pious purpose (as well as for their analytical reasoning (*ijtihād*) in determining the *mawlid* to be lawful, however misguided), even though the celebrants are punished for the innovation.[63] Later, he articulates this idea in stronger terms: "A person may venerate the *mawlid* and make it a festival (*mawsim*), and deserve a **great reward** (*ajr aẓīm*) because of his **good purpose** (*li-ḥusn qaṣdihi*) and his veneration of the Prophet."[64] Rather than dismissing the pious purpose of *mawlid* celebrants, Ibn Taymiyyah acknowledges them and even anticipates their being rewarded. On the other hand, their good intentions do not change the status of the *mawlid* as a reprehensible innovation.

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[63] Ibid., 123.

[64] Ibid, 126, bolded text for emphasis. This sentence is taken out of context by some 20th century Sufi groups to claim that Ibn Taymiyyah supported the *mawlid* celebration. See, for example, Muhammad Hisham Kabbani, *Encyclopedia of Islamic Doctrine* (Mountain View, CA: As-Sunnah Foundation of America, 1998), 3:15.

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Through his discussion of the *mawlid*, Ibn Taymiyyah develops a hierarchy of religious behavior by taking into account the letter and spirit of the law. The ideal Muslim, what Ibn Taymiyyah later calls the rightly-guided Muslim, expresses his love for the Prophet by

> following him and obeying him and following his command, and the revival of his way (*sunnah*) internally and externally and spreading what he revealed, and striving for this by one's heart, hand and tongue, for this is the way of the earliest Muslims, of the Emigrants (*muhājirīn*) and Helpers (*anṣār*), and those who followed them in righteousness.[65]

Although Ibn Taymiyyah appreciates the love of the Prophet expressed in the *mawlid* celebration, he sees it as clearly inferior to the love expressed through following the Prophet's normative way (*sunnah*) as embodied in the practice of the first Muslim community. With a touch of sarcasm, Ibn Taymiyyah notes that those who are diligent in practicing these kinds of innovations, "with their good purpose and effort that brings them reward," are often lax about obeying the Prophet's express command.[66] He compares this pious type to those who adorn their Qur'āns but don't read from them, or those who read from the Qur'ān but do not follow [what they read], and a long list of practices that reflect an excessive concern with the external and superficial rather than the content (of the Law and its prescriptions). Ibn Taymiyyah sees this tendency on a continuum with an increasing gap between the external and internal, reflected in the

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[65] Ibn Taymiyyah, *Iqtiḍā'*, 2:124.

[66] Ibid.

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ḥadīth he cites: "The more evil the deed of the people, the more adorned their sanctuaries."[67]

Unlike the ideal of the early community, the community contemporaneous with Ibn Taymiyyah is one that echoes the status of the *mawlid* – a composite of good and bad elements:

> Know that an act may have good elements, incorporated from the licit (*mashrū'*), and evil elements, such as being an innovation (*bid'ah*); and thus the act is good according to the legally ordained elements included and evil in proportion to the degree of abandoning the [normative] religion, as is the state of the hypocrites (*munāfiqūn*) and sinners (*fāsiqūn*). In later times, many of the community have fallen sway (*ubtuliya*) to this.[68]

The later community of Ibn Taymiyyah's time represents a different reality to that of the early community, as it combines prescribed practices and pious intentions with innovated and deviant ones.[69]

Given this reality, Ibn Taymiyyah advocates a responsive and constructive approach to encourage others to follow the Prophet's Sunnah.[70] First, one should be a model of righteous behavior, adhering to the Sunnah and practicing good works. Second, one should intelligently encourage others to follow the Sunnah, that is by paying close attention to the religious and emotional context of the practitioner:

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[67] Ibid., citing from *Sunan Ibn Mājah*, Book of Mosques and Congregational Prayer (*al-masājid wal-jamā'āt)*, Chapter 2:790, 109.

[68] Ibn Taymiyyah, *Iqtiḍa'*, 124-5.

[69] Parenthetically, it is interesting to note that Ibn Taymiyyah here views the observance of innovations as a subcategory of sin and not of heresy.

[70] Ibid., 125.

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> If you see someone observing [the *mawlid*] and you know that s/he would only abandon it for worse, do not summon him to abandon an evil deed for an even worse deed, or to enjoin him to abandon something obligatory or commendable that [its abandonment] would be worse than observing this reprehensible deed (*makrūh*). But if there was a good element in the innovated practice (*bid'ah*), substitute it for a licit good (*khayr mashrū'*) to the best of your ability. Since people don't relinquish something without something [to replace it], and it is not necessary to abandon something good except for something equally good or better...[71]

Although he is clear about the *mawlid*'s legal status, Ibn Taymiyyah demonstrates a keen awareness of the emotional and psychological elements at play in religious practice. He urges that one should not admonish a *mawlid* observer to abandon his practice without providing a substitute normative practice through which he could channel pious inclinations.

Here, Ibn Taymiyyah sets up two sets of religious expectations. The Muslim who engages in innovated practices out of misdirected piety may be rewarded greatly for his intentions (as cited above), whereas the rightly-guided believer (*mu'min musaddad*) would not be rewarded: "as I said earlier to you what is [considered] good (*yaḥsun*) for some people is detestable for the rightly-guided believer."[72] He brings a precedent from the eponym of his school, Aḥmad b. Ḥanbal, who responded to reports of a ruler spending 1,000 dinar on a copy of the Qur'ān, by saying, "Let him, for this is the best way to spend money". Ibn Taymiyyah explains:

> This despite his legal position (*madhhabuh*) that adorning Qur'ān copies is reprehensible. Some disciples interpreted [his statement] that the prince spent [money] on fine paper and calligraphy. However, this was not

[71] Ibid.

[72] Ibid., 126.

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> Aḥmad's intention, rather his intention was that this deed had a benefit (*maṣlaḥah*) as well as a negative element (*mafsadah*) that rendered [the deed] reprehensible.[73]

Just as Aḥmad b. Ḥanbal appreciated the preference of spending money on a Qur'ān relative to spending the money on "immoral books, such as entertainment and poetry, or Persian or Greek philosophy," so too Ibn Taymiyyah develops the notion of relative goods among popular practices.[74]

As sarcastic as he was regarding the excessive focus on the externals of devotional innovations, Ibn Taymiyyah has equally harsh words for those who condemn the innovations of others without promoting the good or performing good works themselves. He asserts that many of those who reject innovations of the devotional and civil realms (*bida' al-'ibadāt wal-'adāt*) are found lacking in their own observance of norms (*sunan*) or in exhorting others to do so. Moreover, Ibn Taymiyyah goes so far as to suggest that

> perhaps their state is worse than one who observes these acts of worship (*'ibādāt*) that include an reprehensible element. The true religion commands the good/reputable (*ma'rūf*) and forbids the disreputable, neither of which can be achieved without the other, so that no disreputable be prohibited unless there is sufficient exhortation for the reputable.[75]

Ibn Taymiyyah here teaches etiquette of how one should advocate for the religion, which goes far beyond censuring popular innovations. In certain ways, those who stress the prohibited over the permitted are as bad as those who develop innovated ways of enjoining the good.

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[73] Ibid.

[74] Ibid., 126-127.

[75] Ibid., 126.

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Similarly, those who observe innovated practices out of a misdirected pious intention are better than idlers who comply with the law but have no real desire for worship and devotion. In summing up this section, Ibn Taymiyyah states:

> If a man takes upon himself to perform some of these devotional acts (*man ta'abbada bi-ba'ḍ hādhihi al-'ibadāt*) that include a reprehensible element (*min al-karāhah*) – such as continual fasting (*wiṣāl*), categorical renunciation of desires, etc., or keeping night vigil during religiously insignificant nights, for instance the first night of Rajab, etc. – the condition of such a man is at any rate better than that of an idler (*baṭṭāl*) who is altogether devoid of any desire to worship God and to obey Him. Rather, many of these people who reject these [devotional practices] also show a marked indifference to the beneficial knowledge and righteous deeds within the category of devotional acts, or to any one of them. They neither like to worship nor desire [to do so]; but being unable to show their attitude in the case of the licit precepts, they turn their energy against these [devotional innovations].[76]

As in the comparison with the critics of innovations who neglect their own practice, the idler who disdainfully performs prescribed duties behaves with no positive spiritual motivation. Ibn Taymiyyah criticizes both groups for ignoring the inextricable link between the positive and negative commandments. In contrast, the dedicated practitioner of certain devotional innovations suffers from perhaps an excess of positive spiritual motivation, which Ibn Taymiyyah regards as in some ways superior to the former two categories.

While Ibn Taymiyyah's comparisons can be dismissed as polemics, they also serve to draw the practitioner of devotional innovations into the circle of the normative community rather than leave him outside. Ibn Taymiyyah recognizes the reality of

[76] Ibid., 128.

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popular practice and is able to sift between the positive and negative elements within it without confusing it with the ideal state that he strives for (for himself and for his community). Throughout this section, he seeks to identify and channel the positive spiritual motivation imbedded for some in the *mawlid* (and other innovated) festival(s) towards prescribed normative festivals. With this background, we can now understand better the structure of Ibn Taymiyyah's *fatwā* on the *mawlid.* By identifying a number of opportunities for hosting banquets and doing good works, Ibn Taymiyyah sought to transfer the efforts exerted for the innovated festivals to legally endorsed time periods and observances.

5. Conclusion

Of the six jurists surveyed, three approved of some form of the *mawlid* practice as a good innovation (*bid'ah ḥasanah*) and three generally disapproved of the practice, calling the practice an innovation in the negative sense. While all agreed that the *mawlid* is an innovation, the former used the term descriptively and sought further evidence to determine its status whereas the latter regarded the label of *bid'ah* as a normative statement, sufficient for determining its legal status. These debates demonstrate that jurists used the category of *bid'ah* in substantively different ways, buttressing each with contrasting legal arguments.

The analysis of the jurists' arguments gives us two preliminary conclusions to the debates over *bid'ah.* First, those who use *bid'ah* as a normative term, such as Fākihānī, Ibn al-Ḥājj and Ibn Taymiyyah, reject the possibility of any new devotional practices. If a practice has no explicit textual source or a precedent from the early community, they

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regard it as a deviation. Since there are no favorable devotional innovations, the corpus of devotional practices is set and cannot be expanded. In contrast, for those who use *bid'ah* descriptively, the labeling of an act as an innovation does not determine its legal status. Rather, the legal status is determined either by gauging the piety of the practitioner's intentions and practices, as in the case of Abū Shamah, or by a combination of examining intentions and locating a legal basis through analogy, according to Ibn Ḥajar and Suyūṭī. In other words, those who define *bid'ah* descriptively envision the possibility for the expansion of the corpus of normative devotional practices. For Abū Shāmah, Suyūṭī and Ibn Ḥajar, the *mawlid* is a pious act (*qurbah*) and its main purpose is expressing gratitude to God and seeking nearness to Him (*taqarrub*). In Suyūṭī and Ibn Ḥajar's case, they mine the Prophet's words and deeds for 'teaching moments' that serve as justifications for new articulations of Islamic devotional practice.

Second, these jurists disagree regarding the relevance and legal consequences of the piety of a practitioner's intentions, however misguided in application. On this issue, Fākihānī and Ibn Taymiyyah differ. Fākihānī does not acknowledge the pious impulse of *mawlid* observers, but sees them as gluttonous idlers. In contrast, Ibn Taymiyyah recognizes the pious intentions of some *mawlid* observers and even anticipates a reward for their intentions. However, piety for Ibn Taymiyyah is irrelevant in determining the legal status of the *mawlid*.[77] For Suyūṭī and Abū Shamah, however, the pious intention of the original innovator and observers is central to the *mawlid*'s status as a commendable

[77] Interestingly, both discuss the category of idlers but in opposite ways. While Fākihānī equates the *mawlid* observers with idlers, Ibn Taymiyyah views idlers as the opposite of the observers of innovated practices. The former are lazy and uninterested in devotional acts whereas the latter suffer from an excessive or misguided pietism.

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innovated practice. For Abū Shamah, the piety of one's intention and practice is sufficient for the act to be considered a good innovation (*bid'ah ḥasanah*). Suyūṭī looks as well to establish a link to the canonical sources by means of analogy. Thus, our first case provides key evidence for our claim that medieval jurists engaged in protracted legal debates over allowing new practices to enter the corpus of Islamic devotional practices. Moreover, by closely examining the arguments marshaled, we have demonstrated that this debate reflected different conceptions of the Sunnah and of the relevance of piety.

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CHAPTER FOUR:

CASE STUDY – THE *RAGHĀ'IB* PRAYER

1. Introduction

The second case study examines the medieval debates regarding the legality of *ṣalāt al-raghā'ib* (the prayers of desirable gifts), a special prayer recited on the first Thursday evening of the month of Rajab and sometimes on the evening prior to the fifteenth of the month of Sha'bān.[1] At the end of a day of fasting, the petitioner, in this lengthy prayer, asks God to fulfill his great desires. The angels intercede on this night to ensure that God forgives the servant's sins and fulfills these desires. Bolstered by an alleged *ḥadīth* in which the Prophet praises this practice, the prayer became highly popular in the medieval period; it originated in 11th century Jerusalem and spread throughout the Muslim world.[2]

While the Prophet's *mawlid* festival was celebrated by rulers, scholars and laypeople alike, the *raghā'ib* prayer seems to have been highly popular among laypeople despite the censure of most jurists.[3] Political rulers periodically endorsed or prohibited the prayer in

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[1] M. J. Kister, "'Rajab is the Month of God...' A Study in the Persistence of an Early Tradition," in *Israel Oriental Studies* 1 (1971): 216. The term "*raghā'ib*" is plural for *raghībah* or *raghbah* (Lane, *An Arabic-English Lexicon*, 1:1111), denoting a thing desired for a large gift, and, by extension, "a large recompense that one desires to obtain [in the world to come] by prayer" (Murtaḍā al-Zabīdī, *Tāj al-'Arūs*, 2:510). See also, Ibn Manẓūr, who derives the name of *ṣalāt al-raghā'ib* from the sense of a person hoping for a great reward. *Lisān al-'Arab*, 5:255.

[2] See below for jurists' attestations of the prayer's origins.

[3] The modern-day legacies of these two innovations are also different. The *raghā'ib* prayer's popularity motivated jurists, until the modern period, to write treatises on the subject. See, for example, Ibn 'Ābidīn (d. 1306/1888)'s comment on the prayer's reprehensible status in his gloss on al-Ḥaskafī's *Durr al-Mukhtār*, *Radd al-Mukhtār*, eds., 'Ādil Aḥmad 'Abd al-Mawjūd and 'Alī Muḥammad Mu'awwaḍ (Beirut:

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accordance with political exigency and, occasionally, with their religious intuitions. One might expect that the *raghā'ib* prayer would have been more acceptable to jurists because it drew on established precedents of prayer devotion. It thus fit within the corpus of normative practices, in contrast to the *mawlid* celebrations, for which no clear precedent in form existed. However, most jurists who supported some form of *mawlid* celebration rejected the *raghā'ib* prayer as a reprehensible innovation.

The *raghā'ib* prayer is one of many supererogatory and legally dubious practices associated with the month of Rajab. Myriad weak *aḥādīth* relate the venerability of the months of Rajab and Sha'bān, echoing pre-Islamic Arabian practices.[4] Numerous statements are attributed to the Prophet extolling the months of Rajab and Sha'bān alongside or directly beneath Ramadān in the hierarchy of holy months, such as the statement: "Rajab is the month of God, Sha'bān is my month, Ramadan is the month of my people."[5] Despite attempts by jurists to reject the importance of these months in the

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Dār al-Kutub al-'Ilmiyyah, 1994), 2: 471. However, the prayer no longer commands widespread attention or practice in contemporary Muslim society, exceptions in certain Sufi circles and in current-day Turkey. Nevertheless, the debates sparked by the prayer continue to be of interest to contemporary Muslim scholars. My interest in the prayer was originally sparked by two late 20th century editions of the debates between Ibn al-Ṣalāḥ and Ibn 'Abd al-Salām on the *raghā'ib* prayer: one, by Muḥammad Zuhayr al-Shāwīsh, a student of Muḥammad al-Albānī, entitled, *Musājalah 'Ilmiyyah bayn al-imāmayn al-jalīlayn al-'Izz b. 'Abd al-Salām wa-Ibn al-Ṣalāḥ* (Beirut: al-Maktab al-Islāmī, 1960); and the second, edited by Iyād Khālid al-Ṭabbā', *Risālah fī dhamm ṣalāt al-raghā'ib wa-risālah fī radd jawāz ṣalāt al-raghā'ib* (Beirut and Damascus: Dār al-Fikr, 2001), as part of the effort to publish Ibn 'Abd al-Salām's works. Shāwīsh, editor of the 1960 edition, explains his motivation to publish this pamphlet "now when no one practices *ṣalāt al-raghā'ib* except Sufis and old people (*'ajā'iz*)," as both a way to reclaim Islamic history and a way to draw general rules for *sunnah* and *bid'ah* (Shawīsh, ed., *Musājalah 'ilmiyyah*, 12). He clarifies his own position as rejecting the possibility of adding devotional practices when he says, "The true Muslim...knows that the religion was completed, and revelation had been cut off, and the whole truth [can be found] in the Book of God and the Sunna of His Prophet." (Ibid., 13).

[4] Kister, "Rajab is the Month of God," 191.

[5] This *ḥadīth* is not found in any of the nine canonical collections, but appears in nine later collections, including Suyūṭī's *al-Jāmi' al-saghīr fī aḥādīth al-bashīr wal-nadhīr* (Samandrī, La'ilpūr: al-Maktabah al-Islāmiyyah, 1394/1974), 2:21. Similar *aḥādīth* extolling the virtues of fasting during the month of Rajab,

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Islamic calendar, numerous Muslims tenaciously venerated these months, through special prayers and extensive fasting.[6] The *raghā'ib* prayer, as one practice of Rajab, thus offers a lens for seeing how jurists negotiated between persistent popular practices and their own commitment to authorize practices through textual precedent.

In the following section we will survey the positions of the main jurists that have informed our discussion of devotional innovations in order to understand why the *raghā'ib* prayer was problematic. The proponents of the *raghā'ib* prayer came mainly from Sufi backgrounds; they rely on the endorsement of 'Abd al-Qādir al-Jilānī[7] (d. 560/1166) and Abū Ḥāmid al-Ghazzālī[8] (d. 505/1111), who accept the authenticity of the supporting *ḥadīth*. Detractors of the prayer include those who reject all devotional innovations as well as some who argue in favor of other ones, such as the *mawlid*. As we will see, the detractors main misgiving is that the prayer, which is based on a fabricated *ḥadīth*, masquerades as a Prophetic norm.

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as God's month, abound and can be found in the genre of Hadith collections in praise of Rajab, e.g., Abū Muḥammad al-Khallāl (d. 439/1047), *Faḍā'il shahr Rajab* (Beirut: Dār Ibn Ḥazm, 1996).

[6] The popularity of these practices can be measured by the sheer number of jurists' writings against them. It is striking that I found many more references to the *raghā'ib* prayer in the *kutub al-bida'* literature than I did for the *mawlid al-nabī*. The first part of this chapter surveys some of these writings on the *raghā'ib* prayer.

[7] Born in 470/1077-8 in the Persian region of Djilān, Muḥy al-Dīn 'Abd al-Qādir al-Jilānī was a Ḥanbalī theologian and preacher. Jilānī was a Sufi master who gave his name to the order of the Qādiryyah. For further biographical information, see W. Braune, s.v., "'Abd al-Ḳādir al-Djilānī (or Djīlī)," *EI²*, 1:69a-170a.

[8] Born in Ṭūs near Khurasān in 450/1058, Abū Ḥāmid Muḥammad al-Ghazzālī was a great theologian, religious thinker, Shāfi'ī jurist and mystic. For further biographical information, see W. M. Watt, s.v., "Ghazālī," *EI²*, 2:1038b-1041a.

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Though the case might appear to be a clear-cut debate over the status of a weak *ḥadīth*, the prayer becomes the subject of a vehement debate over the application of *bid'ah* categories between Ibn 'Abd al-Salām (d. 600/1262) and Taqī al-Dīn b. al-Ṣalāḥ[9] (d. , two prominent jurists of 13th century Damascus.[10] Ibn al-Ṣalāḥ, unlike other supporters of the *raghā'ib* prayer, acknowledges that the prayer is an innovation (*bid'ah*), and that its *ḥadīth* is false. He nevertheless defends the prayer as a commendable innovation, based on the merit of all prayer and on the devotion of the people to the practice. Ibn al-Ṣalāḥ's treatise, like Suyūṭī's *fatwā* on the *mawlid*, is one of the few legal documents dedicated to supporting a devotional innovation. Ibn 'Abd al-Salām, who follows the majority view on the prayer, extends his critique beyond the associated *ḥadīth* to develop a comprehensive polemic against the prayer as a whole and in its details. The jurists both delve into the content and structure of the prayer more minutely than other jurists had. Their exchanges thus offer a rare opportunity for understanding how two prominent jurists understand and apply the category of *bid'ah*.

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[9] Born in 577/1181 at Sharakhān near Shahrazūr, Taqī al-Dīn Abū 'Amr b. al- Ṣalāḥ was a leading Shāfi'ī jurist and Hadith scholar in Damascus. For further biographical information, see J. Robson, s.v., "Ibn al-Ṣalāḥ," *EI*², 3:927a; and Brockelmann, *GAL*, 1:359-360. See also the biographical entries in al-Dhahabī, *Tadhkirat al-ḥuffāẓ*, ed., Zakariyyā 'Umayrāt (Beirut: Dār al-Kutub al-'Ilmiyyah, 1998), 3: 149-151, and by Ibn al- Ṣalāḥ's student, Abū 'Abbās Muḥammad b. Khallikān, *Wafayyāt al-a'yān wa-anbā' abnā' al-zamān*, ed. Yūsuf 'Alī Ṭawīl and Maryam Qāsim Ṭawīl (Beirut: Dār al-Kutub al-'Ilmiyyah, 1998), 3: 212-4.

[10] Their biting parries became paradigmatic of how scholars ought not to address each other. Tāj al-Dīn al-Subkī includes our debating pair in the "auspicious" list of the notorious fights between scholars. The list is found in his entry on al-Ḥārith al-Muḥāsabī: "Beware and take care not to pay attention to what happened between Abū Ḥanīfah and Sufyān al-Thawrī, or between Mālik and Abī Dhi'b, or between Aḥmad b. Ṣāliḥ and al-Nasā'ī, or between Aḥmad b. Ḥanbal and al-Ḥārith al-Muḥāsabī, and so on, until the time of the Shaykh 'Izz al-Dīn b. 'Abd al-Salām and the Shaykh Taqī al-Dīn b. al-Ṣalāḥ, and if you occupy yourself [with these sharp debates], I fear perdition for you." al-Subkī, *Ṭabaqāt al-Shāfi'iyyah al-kubrā*, ed, Muṣṭafā 'Abd al-Qādir Aḥmad 'Aṭā (Beirut: Dār al-Kutub al-'Ilmiyyah), 1:475.

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The second part of this case study examines the legal arguments found in four texts that Ibn ʻAbd al-Salām and Ibn al-Ṣalāḥ wrote regarding the prayer.[11] In addition to shedding light on how these jurists understand the scope of *bidʻah*, this debate complicates the conclusions drawn from our first case study. As we have seen, jurists who support a descriptive approach to *bidʻah*, that is, one that allows for the possibility of commendable innovations, endorse the *mawlid*; those who maintain a strictly normative approach reject the *mawlid*. In the case of the *raghā'ib* prayer, however, the two jurists both accept a descriptive approach, yet they disagree over the status of this particular practice. Although Ibn ʻAbd al-Salām and Ibn al-Ṣalāḥ are both open to expanding the corpus of devotional practices by means of textual analogy, they privilege different values that lead to opposite positions. Ibn ʻAbd al-Salām, who rejects the prayer, is primarily concerned with preserving the supremacy of law and ensuring that new practices conform to both its letter and spirit. Ibn al-Ṣalāḥ, who originally rejects the prayer but subsequently becomes its staunchest defender, uses *bidʻah* as a way to reconcile the law and the pious aspirations of the people. The purpose of this case is to refine our understanding of how and when medieval jurists, who are open to expanding the corpus of devotional practices, use the category of *bidʻah ḥasanah* to endorse devotional innovations.

2. Description of the *raghā'ib* Prayer

To understand better the juristic position on the prayer, we need a more detailed understanding of the prayer itself. The format of the *ragha'ib* prayer is quite intricate and

[11] The texts are found in the two published collections cited above in n. 3. The two editions, while based on different manuscripts, generally agree. In my discussion of the Ibn ʻAbd al-Salām-Ibn al-Ṣalāḥ debate, I refer to the edition of Iyād Khālid al-Ṭabbāʻ, though I reference Muḥammad Zuhayr al-Shāwīsh's edition in the two cases when the editions disagree.

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extensive, requiring multiple repetitions of verses and prayer cycles. In his *Ihyā' 'ulūm al-dīn*, Ghazzālī cites the alleged Prophetic *ḥadīth* that describes the fast/prayer combination, which he calls the Rajab prayer:

> As for the Rajab prayer (*ṣalāt al-rajab*), it was transmitted by chain (*isnād*) upon the authority of the Messenger of God, peace and blessings be upon him, that he said: 'Whoever fasts the first Thursday of Rajab then prays between the evening and night prayers[12] twelve prayer cycles (*rak'āt*), each divided by a *taslīmah*, with each cycle including one recitation of the *fātiḥah*, three repetitions of [Sūrah 97 that begins], "We have indeed revealed this [message] in the night of power (*Innā anzalnāhu fī laylat al-qadar*)" and twelve repetitions of [Sūrah 112 that begins], "Say: He is Allah, the One and Only (*Qul: huwa Allāh aḥad*)", and then after completing his prayer (i.e., after the twelve cycles), he prays for me (i.e., the Prophet) 70 times saying, "O God! Pray for Muḥammad the untutored Prophet and for his family (*Allāhum ṣalli 'alā Muḥammad al-nabī' al-ummī' wa-'alā ālihi*)," then does a full prostration and says 70 times in the prostrated position, "Most majestic and holy, Lord of angels and spirits (*sabūḥ qudūs rabb al-malā'ikah wal-rūḥ)*," and then he raises his head and says 70 times, "My Lord! Forgive me and overlook that which You know, for you are the most powerful and generous (*Rabbī ughfur wa-urḥum wa-tajāwuz ammā ta'lamu, innaka anta al-a'azz al-akram)*," and then prostrates a second time and repeats what he said in the first prostration, and finally, remaining in the prostrated position, he asks after his personal needs – they will be fulfilled.'[13]

The *raghā'ib* prayer is made up of two main parts. The first is a series of twelve prayer cycles with stipulated Quranic passages. The second consists of two full prostrations accompanied by praise utterances. At the end of this elaborate set of formulae, a person may ask that God grant his needs and desires. Various *aḥādīth* ascribed to the Prophet state that, during this night, the angels gather around the Ka'bah and intercede for those

[12] The text says between *'ishā'* and *'atamah*, but the meaning is clearly between *maghrib* and *'ishā'*. Abū Shāmah regards this slip of terms as proof that the *ḥadīth* was fabricated, since the Prophet forbade calling the *maghrib* prayer by the name *'ishā'* and the *'ishā'* prayer by the name, *'atamah*. Abū Shāmah, *al-Bā'ith*, 61.

[13] Abū Ḥāmid al-Ghazzālī, *Iḥyā' 'ulūm al-dīn*, ed., Muḥammad al-Dālī Balṭah (Beirut: al-Maktabah al-'Aṣriyyah, 1996), 1: 283. A more complete version of the *ḥadīth* is cited in Ibn al-Jawzī, *Kitāb al-Mawḍū'āt* (Riyadh: Maktabat Aḍwā' al-Salaf, 1997/1418), 2:436-7. Interestingly, the 1998 edition of *Iḥyā' 'ulūm al-dīn*, published by *Dār al-Arqam* in Beirut, omits this section.

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who fast during Rajab. It is further stated that "every servant of God, with no exception, who prays this prayer will have all his sins forgiven even if they are (as much) as the foam of the sea and numbering the number of leaves of the trees, and he will intercede for seven hundred of his people at the Day of Resurrection."[14] According to Ibn al-Ḥājj, the prayer was conducted congregationally with a prayer leader. By his time, the prayer evening had begun to resemble a popular festival, with both men and women participating and the mosques illuminated with torches and lanterns.[15]

3. General Overview of Legal Positions

3.1 Supporters

Both 'Abd al-Qādir al-Jilānī and Ghazzālī accept the normative status of the *raghā'ib* prayer, based on this *ḥadīth*.[16] Moreover, Ghazzālī adds to his support of the prayer by praising the Jerusalem community's devotion to it. The value of popular custom takes on greater weight in the later opinion of Ibn al-Ṣalāḥ, who upholds the importance of allowing the people to worship God in their customary ways. In contrast to the prayer's other supporters, Ibn al-Ṣalāḥ grounds this prayer in texts that endorse prayer in general.

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[14] Kister, "Rajab is the Month of God," 216, summarizing various *aḥādīth*, cited, *inter alia*, in 'Abd al-Qādir al-Jilānī, *al-Ghunyah li-ṭālib ṭarīq al-ḥaqq* (Cairo: Maktabat wa-Maṭba'at Muṣṭafā al-Bābī al-Ḥalabī wa-Awlādihi, 1956), 182. For a full list, see p. 216, n. 154 (though of different editions). Given the potential rewards mentioned in these *aḥādīth*, it is not surprising that the prayer gained such popularity and loyalty. Abū Shāmah makes a similar point in *al-Bā'ith*, 61. The gap between the magnificent rewards promised by weak *aḥadīth* and the more sober rewards promised by jurists is a subject worthy of further consideration.

[15] Ibn al-Ḥajj, *al-Madkhal*, 1:211. Ibn al-Ḥajj had special derision for the custom of illuminating the mosques, which he saw as akin to embellishing mosques and Qur'ān copies, and as the first step towards idolatry. In particular, mosque illumination reminded him of fire-worship ceremonies (Ibid., 1:221).

[16] Abū Shāmah mentions another supporter of the prayer, Razīn b. Mu'āwiyah (d.535/1140), the *ḥadīth* scholar and author of *Tajrīd al-Ṣiḥāḥ al-Sittah* (aka *Jāmi' al-Ṣiḥāḥ*).

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In Jilānī's treatise, *al-Ghunyah li-ṭālib ṭarīq al-ḥaqq* (The Indispensable [Guide] for the Seeker of the True Path), he cites a longer version of the above *ḥadīth* and a chain of transmission leading back to the Prophet Muḥammad through his Companion, Anas b. Mālik. Jilānī indicates his acceptance of the *ḥadīth*'s reliability by citing this chain; he does not comment on the practice itself, in accordance with his practice in this section of the book.[17]

Ghazzālī, after citing the above *ḥadīth* in *al-Iḥyā'*, declares the prayer to have the status of a recommended (*mustaḥabbah*) act. Ghazzālī does not recreate the *ḥadīth*'s chain of transmission, but does note its weak status as a unitary *ḥadīth*.[18] The *raghā'ib* prayer thus lacks the status of well-attested, recommended prayers, such as the ones for Ramadan or the two canonical festivals although it falls into their category of prayers recurring annually. Despite the prayer's weak textual grounding, Ghazzālī expresses his admiration for the prayer: "But, I saw the people of Jerusalem, all together (*bi-ijmā'ihim*), eagerly performing it and not allowing its abandonment, and I wanted to mention it

[17] The *ḥadīth* is cited under the section heading of "Regarding the assessment of the virtue of fasting on the first Thursday of Rajab and the prayer on the evening [prior to] Friday," although it seems that it is not in the original text (as the heading is placed in parentheses). 'Abd al-Qādir al-Jilānī, *al-Ghunyah*, 1:181-2. In his *fatwā* condemning the practice, Nawawī mentions Ghazzālī and Abū Ṭālib al-Makkī as the main supporters of the practice (Nawawī, *Fatwā al-Imām al-Nawawī* (also known as, *al-Masā'il al-manthūrah*) *al-thāniyah*, ed., Aḥmad Ḥasan Jābir Rajab (Cairo: Rūz al-Yūsuf, 1411/1990), 1:31, Question no. 66). However, in *Qūt al-qulūb*, Abū Ṭālib omits the first Thursday evening in his list of fifteen commendable nights [of prayer] of the year, while including three other days from Rajab (i.e., the first day, the 15th and the 27th). He does, however, include the 15th of Sha'bān, in which the *Alfiyyah* prayer – of 100 prayer cycles of ten repetitions of the 112th chapter of the Qur'ān – should be recited. The other eleven opportunities that he mentions are the last six nights of Ramadan, the first and tenth days of Muḥarram, the night of 'Arafah on the ninth of Dhū al-Ḥijjah, and the evenings of the two canonical festivals. Abū Ṭālib al-Makkī, *Qūt al-qulūb*, ed., Sa'īd Nusayb Mukārim (Beirut: Dār Ṣādir, 1995), 135-137.

[18] It is interesting that Ghazzālī does not take issue with the reliability of the transmitters, as will the opponents of the practice, but rather with the dearth of transmission chains.

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(*īrādahā*)."[19] When Ghazzālī admires the determination of the people of the prayer, he echoes Abū Shāmah and Suyūṭī's statements, both of whom count the people's piety as a reason to support the *mawlid*. By weighting the significance of the Jerusalem community's devotion to the *raghā'ib* prayer, Ghazzālī foreshadows Ibn al-Ṣalāḥ's idea that popular attachment to a devotional practice should, in fact, be given legal weight.[20]

As we will see below, Ibn al-Ṣalāḥ also endorses the *raghā'ib* practice, but differs from Jilānī and Ghazzālī by rejecting the authenticity of the *ḥadīth*. Ibn al-Ṣalāḥ originally rejected the public recitation of the prayer as a reprehensible innovation, but he later changed his legal position and accepted the prayer based on the general merit of prayer and fasting. Moreover, he sees the popular attachment to this devotional act as a reason to support the prayer, since it benefits the people spiritually.

3.2 Opponents

Before the 12th century, the juristic opponents of the prayer decried its lack of an authentic source; afterwards, they added the objection that it also had a fabricated "canonical" source. Many condemnations of the prayer are found in collections of fabricated *ḥadīth*s, such as Ibn Jawzī's *al-Mawḍū'āt*. Jurists who condemn most if not all devotional innovations, such as Ṭurṭūshī and Ibn Taymiyyah, further identify the *raghā'ib* prayer service as a devotional act with no precedent in early Islam. Other

[19] Ghazzālī, *Iḥyā'*, 1:283.

[20] In his commentary on *Iḥyā' 'ulūm al-dīn*, Murtaḍā al-Zabīdī cites at length the opposition to the practice and the assertion of the *ḥadīth*'s fabrication by scholars such as Ibn 'Abd al-Salām, Nawawī, and Ibn al-Jawzī, including Nawawī's quote that one should ignore what Ghazzālī (and Abū Ṭālib al-Makkī) said. Murtaḍā al-Zabīdī, *Itḥāf al-sādah al-muttaqīn bi-sharḥ asrār iḥyā' 'ulūm al-dīn* (Beirut: Dār Iḥyā' al-Turāth al-'Arabī, 1970), 422-5.

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detractors, such as Ibn ʻAbd al-Salām, Abū Shāmah, (Nawawī) and Suyūṭī, who were inclined to accept other devotional innovations, argue that the prayer exceeds the parameters of a commendable innovation since it violates several legal prescriptions and masquerades as a normative prayer of canonical standing. Each juristic opponent of the prayer adds his own construction, which, when taken together, offer us a better picture of how the status of this prayer was determined.

Opponents of a devotional act often identify the act's late originator in order to undermine its authenticity in early Islam. Ṭurṭūshī, who focuses his discussion of the *raghā'ib* prayer almost exclusively on its origin, cites the opinion of Abū Muḥammad al-Maqdisī,[21] i.e., of Jerusalem, as to how the prayer came to be celebrated:

> We never had, in Jerusalem, the *raghā'ib* prayer that is [now] said in Rajab and Shaʻbān. The first [time] it happened here was in 448[AH], [when] a man from Nablus, known as Ibn Abī al-Ḥamrā', who was a beautiful [Qur'ān] reciter, came to Jerusalem. And he stood and prayed in the al-Aqṣā mosque on the evening of the 15th of Shaʻbān, and one person entered behind him (*aḥrama khalfahu*), and then a third and fourth [man] joined them, and by the time he was finished they comprised a large group. Then he came next year and a large group of people prayed with him and it spread within the [Aqṣā] mosque and the prayer became well known in the mosque and in peoples' homes, then it became established as if it was a norm (*sunnah*) until today.[22]

According to Maqdisī, the prayer was first recited during Shaʻbān in 5th/11th century Jerusalem and rapidly became popular and widespread. In the next generation, the prayer was attached to the first Thursday evening of Rajab, as al-Maqdisī explains: "the Rajab prayer did not occur among us until after 480[AH/1087CE], and we had not seen it or

[21] Abū Shāmah writes that he believes the man to be ʻAbd al-ʻAzīz b. Aḥmad b. Ibrāhīm al-Maqdisī, whom Mukā b. ʻAbd al-Salām al-Ramīlī described as a trustworthy source (*shaykh al-thiqah*). Abū Shāmah, *al-Bāʻith*, 52.

[22] Ṭurṭūshī, *al-Ḥawādith wal-bidaʻ*, 266-7.

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heard it before then)."[23] Ṭurṭūshī deemed the determination of the prayer's late origin to be sufficient grounds to reject it as a reprehensible innovation. He does not mention the alleged *ḥadīth* associated with the practice, which might suggest that it was fabricated later.

While Ṭurṭūshī rejects the prayer owing to its late origin, most of the other opponents of the prayer – regardless of their approach to *bid'ah* – ground their opposition in the lack of an authentic textual source. These jurists express concern, and in some cases anger, at the existence of a fabricated *ḥadīth*, which supposedly justified the prayer deeply angers and which encouraged strong popular support of the prayer based on its alleged status as a Prophetic norm. Ibn al-Jawzī, in his book on fabricated *ḥadīth*s, *al-Mawḍū'āt*, cites the *ḥadīth* associated with the *raghā'ib* prayer and identifies Ibn Jahḍam, the 5th/11th century Mekkan Sufi leader, as the one generally accused of fabricating the *ḥadīth* as well as of lying about other ones.[24] Ibn al-Jawzī additionally criticizes the prayer for its excessive and strenuous requirements. He sarcastically praises the ingenuity of the fabricator:

> The one who fabricated it achieved something creative (*abda'a*, [a play on *bid'ah*]), for one who prays it is required to fast [beforehand], and perhaps the day was very hot, and if he fasted then he would not be able to eat until he prayed the post-sunset (*maghrib*) prayer, and then stand in [the *raghā'ib* prayer], with its long praise utterances (*tasbīḥ*) and long

[23] Ibid., 267.

[24] Ibn Jahḍam (d. 414/1049), also known as Abū al-Ḥasan al-Mudallas, was the author of *Bahjat al-asrār*. See Ibn Jahḍam's biographical entry in Shams al-Dīn Muḥammad al-Dhahabī, *Mizān al-i'tidāl fī naqd al-rijāl* (Beirut: Dār al-Kutub al-'Ilmiyyah, 1995/1416), 5:172, No. 5885, which records the accusation of Ibn Jahdam's fabrication of the [*ḥadīth* of the] *raghā'ib* prayer as well as his being guilty of lying (*kidhb*). Ibn Jahḍam is reputed to have confessed to the forgery of this tradition before his death (See Abū Shāmah, *al-Bā'ith*, 61, citing various sources). Ibn Jahḍam apparently did a poor job of choosing transmitters, as several *ḥadīth* specialists claim that they do not recognize many of the transmitters in the chain. See Ibn al-Jawzi, *Kitāb al-Mawḍu'āt*, ed., Nūr al-Dīn b. Shukrī b. 'Alī Būyājaylār (Riyadh: Maktabat Aḍwā' al-Salaf, 1997), 438; and Abū Shāmah, *al-Bā'ith*, citing several sources, 61-2.

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> prostration cycles, and he would suffer greatly. But I am jealous for Ramaḍan and its night (*tarāwīḥ*) prayer, how can it compete with this! For this [prayer] is greater and more beautiful according to the people and those that do not attend the [normative] congregational prayers attend it.[25]

Ibn al-Jawzī, like many other jurists, complains that innovated devotional acts draw more popular attention than do the normative ones. The *raghā'ib* prayer, with its alleged Prophetic *ḥadīth*, its promises of extraordinary rewards and its challenging set of tasks, tempts the masses into what Ibn al-Jawzī perceives as misplaced devotion. In his estimation, the *raghā'ib* prayer is reprehensible both for masquerading as a normative devotional act and for leading the people away from the practice of truly normative devotional acts.

As we will see, Ibn 'Abd al-Salām rejects the practice owing to its lack of an authentic textual source and also because many aspects of the prayer conflict with Islamic law. In his view, scholars who perpetuate the practice are complicit in the popular misconception that the prayer is a *sunnah* and based on an authoritative source. Ibn 'Abd al-Salām does seem to allow certain new supererogatory prayers based on the general virtue of prayer. He requires, however, that such prayers do not oppose any aspect of the Law and that they remain optional devotional practices that are recited either privately by individuals, or only sporadically by congregations.

Ibn 'Abd al-Salām's students follow their master's approach and criticize Ibn al-Ṣalāḥ's methods and conclusions. Abū Shāmah wrote his treatise against innovations, *al-Bā'ith*,

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[25] Ibn al-Jawzī, *al-Mawḍū'āt*, 2:438.

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in response to his teacher's debates with Ibn al-Ṣalāḥ on the *raghā'ib* controversy.[26] He provides the most detailed context and description of the two jurists' debates. Like Ibn 'Abd al-Salām, he rejects Ibn al-Ṣalāḥ's contention that the *raghā'ib* prayer is acceptable owing to the general merits of prayer; he argues that the general norm applies only to prayers that do not conflict with the Law.[27] He further criticizes Ibn al-Ṣalāḥ's change of opinion, stating that, despite Ibn al-Ṣalāḥ's status as a righteous scholar and jurist, he changed his position "to suit the whim of the Sulṭān and the masses of the time."[28] Abū Shāmah concludes that "we accept his first *ijtihād* that agrees with the evidentiary proofs and the opinions of others and reject his second *ijtihād* that he alone holds, especially when his first *ijtihād* was in the state of agreement between the two men and the second was of disagreement."[29] In Abū Shāmah's view, Ibn al-Ṣalāḥ betrayed the juristic consensus and changed his position in order to placate the masses.

Nawawī contends that the prayer's popularity across the Muslim world is irrelevant to its legal status. In a *fatwā* responding to the question regarding the status of the *raghā'ib* prayer – whether it is *sunnah* and worthy of merit (*faḍīlah*) or an innovation – Nawawī unambiguously declares the prayer to be "a detestable innovation that is reprehensible (*munkar*) in the utmost, encompassing several reprehensible acts (*munkarāt*)."[30] He

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[26] Abū Shāmah, *al-Bā'ith*, 19.

[27] Abū Shāmah also studied with Ibn al-Ṣalāḥ. Since his extensive discussion of the subject follows the debate between Ibn 'Abd al-Salām and Ibn al-Ṣalāḥ, often sharpening points raised by Ibn 'Abd al-Salām, I will return to Abū Shāmah's views as part of the next section.

[28] Abū Shāmah, *al-Bā'ith*, 64.

[29] Ibid., 65.

[30] Nawawī, *Fatwā al-Imām al-Nawawī*, 1:31.

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instructs his readers to ignore the practice's immense popularity and to discount its scholarly supporters: "One should not be deceived by the multitude of its practitioners in many countries, nor by its mention in [Abū Ṭālib al-Makkī's] *Qūt al-qulūb* or *Iḥyā' 'ulūm al-dīn*, and the like, for [the prayer] it is [nevertheless] a futile innovation."[31] Nawawi starkly rejects the notion that popular consensus in favor of an act could serve as proof for its authority.[32]

Ibn al- Ḥājj maintains a slightly softer position on the Rajab practice. He regards the prayer as a supererogatory devotional act that could be performed only privately, by the individual. In *al-Madkhal*, he discusses the prayer, together with the other Rajab events, as an example of the many innovations that were added to the three lawful festivals (*'īdayn* and *'Āshūrā'*). The Rajab festivals fit in the category of "festivals that are identified with the Law but are not."[33] Unlike most of the raghā'ib prayer's opponents, Ibn al- Ḥājj regards Rajab as a holy and blessed month that is worthy of veneration. The *salaf*, however, honored this month only with additional devotional acts (*bi-ziyādat al-'ibādah fīh*), and not with food, dance, lavish banquets and gifts.[34]

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[31] Ibid.

[32] Although Nawawī does not specify what aspects of the prayer he regards as reprehensible, he implies his position by citing two kinds of sources: *aḥādīth* decrying innovations in general; and the Qur'ān verse that enjoins believers to solve disputes by recourse to the Qur'ān (4:59). Nawawī writes, "Upon disagreement, one should return to God's Book, and not follow the ignorant nor be deceived by the errors of the sinful..." (Nawawī, *Fatwā al-Imām al-Nawawī*, 1:32). Nawawī's position here, in his wholesale rejection of innovations, seems very different from his general treatment of *bid'ah*, which allowed for positive and negative innovations.

[33] Ibn al-Ḥājj, *al-Madkhal*, 1: 210.

[34] Ibid., 211.

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Ibn al- Ḥājj opposes the *raghā'ib* prayer because it takes the form of a lawful public prayer, since it is performed in mosques congregationally and is led by a prayer leader. Moreover, the practice has become associated with forbidden and corrupt deeds, such as the intermingling of men and women at night (for unknown purposes), and the squandering of mosque funds for additional fuel (*wuqūd*) and lamps. Ibn al- Ḥājj cites Ṭurṭūshī's judgment that the prayer was a recent, and thus reprehensible, innovation; he remarks wryly that Ṭurṭūshī arrived at this conclusion even without knowledge of the corrupt deeds that Ibn al- Ḥājj witnessed in his day.[35]

Ibn al- Ḥājj, the Mālikī, recognizes al-Ghazzālī's support for the prayer based on the *ḥadīth* with which it was associated; he thus distinguishes himself from Nawawī, who disregards Ghazzālī's assent despite belonging to the same Shāfi'ī legal school. In light of this *ḥadīth*, Ibn al- Ḥājj concedes that a person may perform the prayer individually in his own home, as is the custom with supererogatory (*nawāfil*) prayers. He explains that, since its supporting *ḥadīth* is weak, the prayer should be not be performed regularly as if it were a duty, nor should it be performed in public, in order to avoid taking the form of a public religious rite (*sha'īrah ẓāhirah min sha'ā'ir al-dīn*). To illustrate this he, like Ghazzālī, juxtaposes the *raghā'ib* prayer with that of the *tarāwīḥ* (Ramadan night prayer), which he represents as the archetypal supererogatory prayer. According to Ibn al-Ḥājj, only the *tarāwīḥ* prayer with its sound legal basis should be recited congregationally.[36] Ibn al- Ḥājj thus regards the *raghā'ib* prayer as an acceptable

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[35] Ibid.

[36] Ibid.

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supererogatory practice to be performed privately and intermittently but not as a public religious rite.[37]

Ibn Taymiyyah wrote legal opinions against this public prayer innovation, but he went further and influenced the ruler of Syria to abolish the practice. With the rising tide of opposition to the Ibn Taymiyyah's opinions, however, the prayer was revived in the Umayyad mosque in Damascus on February 19, 1307.[38] Ibn Taymiyyah rejects the prayer because of its fabricated *ḥadīth* and because it takes the shape of an established festival. In a *fatwā* on the status of the prayer, Ibn Taymiyyah rules that it is a reprehensible innovation. He states that neither the prayer nor any other practice venerating this night has a precedent in the Prophet's Sunnah, in the records of the pious ancestors, or in the writings of early great scholars. Furthermore, he concurs with the view that the alleged Prophetic *ḥadīth* associated with the prayer was fabricated.[39]

Ibn Taymiyyah also discusses the status of the *raghā'ib* prayer in a *fatwā* on supererogatory prayers in general.[40] Here, the petitioner asks about a similar supererogatory prayer service that was recited congregationally between the months of Rajab and Ramadan. As with the *fatwā* on the *mawlid*, Ibn Taymiyyah takes this

[37] Ibid. Ibn al- Ḥājj does prohibit all recitations of the *raghā'ib* prayer for Mālikī jurists and practitioners, since the prayer violates the Mālikī principle forbidding multiple recitations of a Qur'ān chapter in one prayer cycle.

[38] Laoust, "*La Bibliographie d'Ibn Taimīya d'après Ibn Kathīr*," in *Bulletin d'Études Orientales de l'Institut Français de Damas* 9 (1942): 139, cited in Memon, *Ibn Taimīya's Struggle*, 334 n. 3.

[39] Ibn Taymiyyah, M*ajmu'at al-fawāwā*, 1: 149.

[40] Ibid., 2:2.

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opportunity to set theoretical distinctions between types of supererogatory prayers. He stipulates a limited category of established prayers to be said publicly and congregationally; as opposed to a broader set of prayers to be said individually and informally in small groups.[41] In keeping with his other opinions, Ibn Taymiyyah construes the Prophet's example as the limit of one's practices, and not as a precedent to be further interpreted.

After limiting the number of prayers that can be recited congregationally on a regular basis, Ibn Taymiyyah attacks the establishment of other congregational prayers that delineate a specified numbers of prayer cycles, of passages to recite, and of appointed times. He asserts that the *raghā'ib* prayer, like the *Alfiyyah* prayer recited on the first and 27th of Rajab and on the 15th of Sha'bān, is a reprehensible prayer that assumes the false shape of a devotional norm. He regards the perpetuation of such innovated prayers as inviting future dangers: "Opening this kind of door necessitates the alteration of the laws of Islam and shares the fate of those who legislated in religion what God did not permit."[42] The *raghā'ib prayer* is thus reprehensible both inherently and because it corrupts the system that distinguishes between voluntary and obligatory acts.

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[41] Ibn Taymiyyah distinguishes between two types of optional prayers: (1) organized congregational prayers that have been established as norms and are always prayed congregationally, such as the prayers upon an eclipse or for rain and the Ramadan night prayers; and (2) those prayers that are not established as congregational, such as night prayers, the optional prayers linked to the five canonical prayers (*sunan al-rawātib*), and the prayer when one enters a mosque. While the first type is always prayed congregationally, the second type may be prayed in congregation occasionally (Ibid.). However, if the second type is prayed regularly in congregation, it is considered a reprehensible innovation, since the Prophet and his Companions were not accustomed to pray the additional prayers congregationally. It is true that the Prophet would occasionally perform these prayers with others, but if he did so it would be with one other person, and usually he would pray alone. This rule applies to the legally established voluntary prayers (*al-taṭawu'āt al-masnūnah*). Ibid., 2:3

[42] Ibid.

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Finally, Suyūṭī, the great defender of the *mawlid*'s status as a commendable innovation, follows the majority's opposition to the *raghā'ib* prayer. In his anthology of fabricated *aḥādīth*, Suyūṭī cites the *raghā'ib ḥadīth* and declares it to be fabricated based on the authority of Ibn Jawzī.[43] In his treatise on *bid'ah, al-Amr bil-ittibā'*, Suyūṭī follows Abū Shāmah's designation and places the prayer in the category of devotional practices that the people mistakenly believe are acts of obedience (*'ṭā'ah*) and drawing near to God (*qurbah*).[44] Like other jurists, Suyūṭī is most concerned with the prayer's false *ḥadīth* and its false status as a legal obligation and a *sunnah*.[45] He relays the consensus of scholars who prohibit participation in any part of this day, and who proscribed fasting, praying, preparing food, displaying decorations, or any act to make this day seem special. Suyūṭī then confirms the late origins of the *ḥadīth* and the prayer, and cited the report of Ibn Diḥyah (d. 633/1235-6) that Ibn Jahḍam is reputed to have fabricated the *ḥadīth*, along with Ṭurṭūshī's report on the prayer's origins in 5th/11th century Jerusalem.[46]

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[43] Suyūṭī, *al-La'ālī al-masnū'ah fī al-aḥādīth al-mawḍū'ah* (Beirut: Dār al-Kutub al-'Ilmiyyah, 1996), 2:47-8.

[44] Suyūṭī, *al-Amr bil-ittibā'*, 73. The subject of this discussion is the person who believes that the Prophet's general statements on the merit of prayer apply to all times and places, despite the Prophet's prohibition of prayer during particular hours of the day (e.g., sunrise and sunset) (Ibid., 74-75), and or of singling out particular nights for prayer (e.g., the evening before Friday). Ibid., 76.

[45] Ibid., 77.

[46] Abū al-Khaṭṭāb 'Umar b. Ḥasan Ibn Diḥyah, *Adā' mā wajab min bayān waḍ' al-waḍā'īn fī Rajab*, ed., Muḥammad Zuhayr al-Shāwīsh and Muḥammad Nāṣir al-Dīn al-Albānī (Beirut: *al-Maktab al-Islāmī*, 1998), 54. The editor of this volume is the same student of Al-Albānī who produced the volume on the debates between Ibn 'Abd al-Salām and Ibn al-Ṣalāḥ on the prayer. Al-Albānī's glosses on this text are included in the footnotes.

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Suyūṭī's selective citation is most striking owing to the subtle affinity he has with Ibn 'Abd al-Salām's position over that of Ibn al-Ṣalāḥ. I call it subtle because Suyūṭī does not acknowledge the debate between the two jurists and he claims to follow Ibn al-Ṣalāḥ's opinion. However, he cites only Ibn al-Ṣalāḥ's original position and the more restrictive of Ibn al-Ṣalāḥ's two *fatwās*, which he quotes almost verbatim.[47] As Abū Shāmah noted several centuries earlier, we side with Ibn al-Ṣalāḥ's first *ijtihād*, but not with his second. Suyūṭī then summarizes Ibn 'Abd al-Salām's main argument against the prayer, but mentions Ibn 'Abd al-Salām's name only in reference to his last point regarding the problem with the two final prostrations.[48] As a synthesizer, Suyūṭī resurrects Ibn al-Ṣalāḥ's original legal view on the *raghā'ib* to create the illusion of juristic consensus against the prayer.

As this brief survey shows, the *raghā'ib* prayer gained few juristic proponents and many opponents. While each jurist formulates the problem slightly differently, three recurring concerns regarding the status of the prayer are distinguishable. The first of these

[47] Is it possible that Suyūṭī didn't know that Ibn al-Ṣalāḥ's change of heart? It is unlikely since he cites both Ibn 'Abd al-Salām's treatise, which already contains an oblique reference to Ibn al-Ṣalāḥ, and Abū Shāmah's *al-Bā'ith*, which explicitly discusses Ibn al-Ṣalāḥ's later positions. Suyūṭī bases his rejection on the prayer's false *ḥadīth* and on the evening's lack of special distinction. In contrast, he does esteem the special virtue of the night of the 15th of Sha'bān and recommends that one spend the evening in prayer. However, he cautions against turning either of the two nights into a seasonal festival (*mawṣim*) and a public rite (*shi'ār*), by performing the prayers congregationally and by lighting the mosque at night (Suyūṭī, *al-Amr bil-ittibā'*, 79). The editor of this edition of *al-Amr bil-ittibā'* likely did not have the full text of Ibn al-Ṣalāḥ's *fatwā* in front of him, because he only attributes the first paragraph, regarding the *raghā'ib* prayer, to Ibn al-Ṣalāḥ and assumes the rest to be Suyūṭī's own writing. See *al-Amr bil-ittibā'*, 78-9.

[48] Suyūṭī mentions the following problems with the prayer: It transgresses the Prophet's prohibition against singling out Thursday night for prayer; it conflicts with the norms of quietude (*sunan al-sukūn*) and humble presence (*khushū'*) in prayer; it contravenes the norms of supererogatory prayer, such that private and individual prayer is considered superior; it ignores the Prophet's mandate to expedite the breakfast by not lengthening the evening prayer on fast days; and finally, it includes two reprehensible prostrations at the end of the prayer. Ibid., 77-78.

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concerns and the main issue for jurists is the legal basis of the prayer. Those jurists who, like Ṭurṭūshī and Ibn Taymiyyah, reject all innovations, reject the prayer because it lacks a textual precedent. Most other jurists similarly judge the prayer's legality in accordance with how they viewed its supporting *ḥadīth*. Ghazzālī, Jilānī and, to some extent, Ibn al-Ḥājj endorse the prayer because they accept the reliability of the *ḥadīth*. Most jurists, however, reject the *ḥadīth* and strongly decry the prayer's popular status as *sunnah* because they saw the practice as a patently reprehensible innovation; the fury expressed by Ibn Jawzī and by Nawawi reflects their frustration with the popular devotion to false norms instead of to authentic norms. For most jurists who are open to new devotional practices, the presence of a fabricated *ḥadīth* endorsing the prayer precludes the possibility of calling this prayer a commendable innovation. In the next section, we will see how Ibn 'Abd al-Salām takes this approach one step further and argues that scholars who endorse the *raghā'ib* practice are perpetuating a lie about the Prophet. In sharp contrast, Ibn al-Ṣalāḥ radically shifts the focus of the debate by dismissing the *ḥadīth*, while identifying the general merit of prayer as a completely different legal basis for the prayer.

The second concern regarding the prayer is its controversial form: it takes the shape of a *sunnah* prayer, because it occurs congregationally, in public, and has all the trappings of a recurring festival. As Ibn al-Ḥājj points out, non-canonical supererogatory prayers should generally be performed individually, in private and only occasionally. Hence, Ibn al-Ḥājj permits one to recite the *raghā'ib* prayer only under those conditions. The *raghā'ib* prayer's form also irks Ibn Taymiyyah who sharply separated the category of

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congregational supererogatory prayers from all other supererogatory prayers, which are permissible only in private. As we will see, Ibn ʻAbd al-Salām reiterates and sharpens the concern that the prayer, through its form, blurs the boundary between canonical and other prayers.

The relevance of popular attachment to this prayer is the third concern about which jurists debate. While Ghazzālī admires the Jerusalem Muslims' devotion to this prayer, Nawawī sees the prayer's widespread popularity as utterly irrelevant. Moreover, Ibn al-Jawzī perceives the prayer's popularity as actually insulting to normative prayers, and as evidence that the boundaries between categories of prayer had collapsed. Ibn al-Ṣalāḥ, who drew criticism from Abū Shāmah and others that he was merely appeasing the people, asserts that the people should be allowed to worship in the manner to which they have become accustomed. His debate with Ibn ʻAbd al-Salām reflects their different approaches to assessing which factors are determinants of a devotional act's legal status.

In the next section, we will examine Ibn ʻAbd al-Salām's and Ibn al-Ṣalāḥ's approaches in detail. While both jurists admit the possibility of a commendable devotional innovation, they differ on whether the prayer's form, content and legal basis allow it to be ruled commendable. Their debate enriches our understanding of the categories of devotional innovations developed previously by creating room for two competing ways of incorporating new devotional acts into the legal system.

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4. The Debate Between Ibn ʻAbd al-Salām and Ibn al-Ṣalāḥ

Background

Ibn ʻAbd al-Salām, according to Abū Shāmah, first preached against the *raghā'ib* prayer on the Friday before the beginning of Rajab at the Umayyad Mosque in 637/1240.[49] Ibn ʻAbd al-Salām's sermon deeply troubled the masses. Many who felt devoted to this prayer argued that it falls under the general rubric of prayer and should thus be considered an act of obedience (*'ṭā'ah*) and of drawing near to God (*qurbah*).[50] Ibn ʻAbd al-Salām soon published his sermon under the title, *Risālah fī dhamm ṣalāt al-raghā'ib* (*Treatise on the Censure of the Raghā'ib Prayer*).[51] Ibn al-Ṣalāḥ, who sympathized with the masses, rebutted Ibn ʻAbd al-Salām in his *Risālah fī jawāz ṣalāt al-raghā'ib* (*Treatise on the Permissibility of the Raghā'ib Prayer*). According to Abū Shamah, Ibn al-Ṣalāḥ in this treatise departed from the position he had taken in two *fatwā*s written before

[49] Abū Shāmah, *al-Bā'ith*, 64. Sections of the treatises also can be found in Tāj al-Dīn al-Subkī, *Ṭabaqāt al-Shafi'iyyah al-kubrā*, 4:383-385, under heading, "*sharḥ ḥāl ṣalāt al-raghā'ib...*"

[50] Abū Shāmah, *al-Bā'ith*, 64.

[51] The titles mentioned here are the ones found in the manuscript used by Iyyād Khālid al-Ṭabbā'. Ṭabbā', in his introduction on p. 19, explains that the titles he uses are based on the manuscript even though the previous printed editions use different titles, by which he likely meant the Shāwīsh edition. The Shāwīsh edition cites titles found in the manuscript from which he worked. Ibn al-Ṣalāḥ's first treatise, in the Shāwīsh edition, is called, "*al-Targhīb 'an ṣalāt al-raghā'ib al-mawḍū'ah wa-bayān mā fīhā min mukhālafat al-sunan al-mashrū'ah* (*Awakening an aversion to the fabricated raghā'ib prayer and clarifying that which conflicts with legally prescribed norms*)." Ibn al-Ṣalāḥ's response is entitled, "*al-Radd 'alā al-tarhīb 'an ṣalāt al-raghā'ib wa-bayān mā fīhā min mukhālafat al-sunan al-mashrū'ah* (*A Rebuttal of 'Discouraging the raghā'ib prayer and clarifying that which conflicts with legal norms'*)." Finally, Ibn ʻAbd al-Salām's counter-response is called, "*Tafnīd radd Ibn al-Ṣalāḥ* (*The refutation of Ibn al-Ṣalāḥ's rebuttal*)." The first term of Ibn ʻAbd al-Salām's treatise, "*targhīb*" might be a copyist's error and should read "*targhīb*." Abū Shāmah refers to Ibn ʻAbd al-Salām's first treatise as *al-Tarhīb 'an ṣalāt al-raghā'ib (Discouraging the raghā'ib prayer)*, which makes more sense and preserves the parallelism between the names of Ibn ʻAbd al-Salām's title and Ibn al-Salāḥ's title. However, the word "*targhīb*" is also a play on the name of the prayer, "*raghā'ib*." Although it is possible that the titles of the Shāwīsh edition are more authentic, I cite the titles of the Ṭabbā' edition to conform with the page citations of these texts.

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620/1223.[52] Ibn ʻAbd al-Salām subsequently wrote a polemical counter-response to Ibn al-Ṣalāḥ, which he called, *Risālah fī radd jawāz ṣalāt al-raghā'ib* (*Treatise on the Rejection of 'the Permissibility of the Raghā'ib Prayer'*). These four texts – i.e., the three treatises and the early *fatwā*s of Ibn al-Ṣalāḥ – illustrate the differences between two jurists who both maintain the possibility of devotional innovations but disagree over the status of a particular one.

In the following section, we will consider the argument of each text. We will then compare the two jurists' positions on three issues that inform our broader discussion, namely, how they define and apply the category of *bid'ah*; whether or not they incorporate extra-textual sources in determining the status of the prayer; and whether or not they restrict new prayers to the private domain. By focusing on these three issues, we will tease apart the approaches of two jurists who endorse a descriptive approach to *bid'ah*. Ultimately, the key difference between Ibn al-Ṣalāḥ and Ibn ʻAbd al-Salām concerns the hierarchy of values that they employ to determine what kind of *bid'ah* the *raghā'ib* prayer is. While Ibn ʻAbd al-Salām prioritizes the need for the prayer to conform to the Islamic norms of prayer, Ibn al-Ṣalāḥ privileges the value of any prayer and its importance to the people over the value of preventing all conflict with Islamic norms.

[52] Abū Shāmah cites Ibn al-Ṣalāḥ's two *fatwā*s (*al-Bā'ith*, 62), as does Ibn ʻAbd al-Salām at the end of his second treatise (together with his comments). However, I did not locate them in the collection, *Fatāwā wa-masā'il Ibn al-Ṣalāḥ fī tafsīr wal-ḥadīth wal-uṣūl wal-fiqh*, ed., ʻAbd al-Muʻṭī Amīn Qalʻajī (Beirut: Dār al-Maʻrifah, 1987).

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4.1 Introduction to the Four Texts and Basic Outline of their Arguments

Early *Fatwā*s by Ibn al-Ṣalāḥ

Ibn al-Ṣalāḥ originally regarded the congregational recitation of the prayer to be reprehensible, but allowed for its recitation in private. In his two *fatwā*s on the *raghā'ib* prayer, Ibn al-Ṣalāḥ rules that the prayer is an innovation originating in the 5th/11th century and that its supporting *ḥadīth* is fabricated.[53] Although, in his opinion, the night holds no special distinction, Ibn al-Ṣalāḥ permits the individual to pray *al-raghā'ib* as a supererogatory prayer, since additional prayers between the final two daily prayers are commendable every night.[54] He also allows, according to one edition of the first *fatwā*, that a group could pray it together since there is no harm in uttering supererogatory prayers in congregation.[55] If, however, the congregational recitation of the prayer is mistaken as a Prophetic norm (*sunnah*) and among the clear rites of the religion (*min sha'ā'ir al-dīn al-ẓāhirah*), then it is among the reprehensible innovations.[56] He adds, in

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[53] Ibn al-Ṣalāḥ, in Ibn 'Abd al-Salām, "*Risālah fī radd jawāz ṣalāt al-raghā'ib*," 67. In the first *fatwā*, the petitioner asks about the status of the congregational *raghā'ib* prayer and about the veracity of its supporting *ḥadīth*. The petitioner in the second *fatwā* asks Ibn al-Ṣalāḥ to comment on a challenge he heard by one who rejects the special status of the night of *raghā'ib* and the 15th of Sha'bān, and claims that the use of oil to light the mosques for them is forbidden as they are innovations and [those nights] have no virtue, nor is there a supporting *ḥadīth*.

[54] Ibid., 66. Interestingly, he does regard the night of the 15th of Sha'bān as possessing special virtue (*tafḍīl*), and he recommends spending the night in devotion (*iḥyā'uhā bil-'ibādah mustaḥabb*), but only in individual prayer. The congregational *alfiyyah* prayer, however, has no legal basis.

[55] The two texts have different versions of this line. The al-Ṭabbā' edition has the line above, but notes the variation in manuscripts (Ibid., 66). The Shāwīsh edition reads: "and there is no harm in the individual praying it generally" (Ibn al-Ṣalāḥ, in *Musājalah 'Ilmiyyah*, 40). In my view, the first version is correct for several reasons. Although the first version might seem controversial, the second version seems redundant given the sentence prior. Also, Ibn al-Ṣalāḥ's sentence that immediately follows the disputed sentence (i.e., that if the gathering for the prayer takes on the status of *sunnah*...) only makes sense if the previous one referred to the congregational recitation of prayer. Finally, the first version matches Ibn al-Ṣalāḥ's later statement regarding Shāfi'ī's position on the permissibility of supererogatory prayers in congregation. Ibn al-Ṣalāḥ, "*Risālah fī jawāz ṣalāt al-raghā'ib*," 49-50.

[56] Ibn al-Ṣalāḥ, in Ibn 'Abd al-Salām, "*Risālah fī radd jawāz ṣalāt al-raghā'ib*," 66.

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his second *fatwā*, a prohibition against spending extra funds on oil (*al-waqīd*) to light the mosque on that night.[57] He concludes both *fatwā*s with a brief statement of wonder at the people's care to perform these prayer nights in contrast to their laxity regarding practices that were definitely established by the Prophet.

Although Ibn al-Ṣalāḥ eventually reverses his primary legal opinion as to the status of a public *raghā'ib* rite, one can find traces of his later position in his earliest writings. His main concern, later echoed by Ibn al-Ḥājj, is to prevent innovated practices from being mistaken for public and normative ones, or from becoming more popular. Ibn al-Ḥājj grudgingly allows individual prayer only because of its associated weak *ḥadīth*. Ibn al-Ṣalāḥ, in contrast, rejects the *ḥadīth* from the outset but permits the recitation of the *raghā'ib* prayer by individuals because he locates the prayer in the open-ended category of supererogatory prayer. Though he never questions that the *raghā'īb* prayer is an innovation, he regards only the public act of *raghā'īb*, which masqueraded as a Prophetic norm, as a reprehensible one. Even in his early phase, Ibn al-Ṣalāḥ is more receptive to the *raghā'ib* prayer than most other jurists. He permits a more expansive conception of devotional acts than most of his fellow jurists.

[57] Ibid., 68. In the second *fatwā*, Ibn al-Ṣalāḥ expresses concern that the night of *raghā'ib* and the 15th of Sha'bān might each become an established seasonal festival (*mawsim*) in addition to being a public rite (*shi'ār*).

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Ibn 'Abd al-Salām, *Risālah fī dhamm ṣalāt al-raghā'ib*

In his first treatise, "On the censure of the *raghā'ib* prayer," Ibn 'Abd al-Salām criticizes both its general lack of proper legal grounds and its particular problematic parts.[58] His argument divides into four sections. In his introduction, he determines the *raghā'ib* prayer to be a reprehensible innovation within his classification system of *bid'ah* (here, reduced to three values of commendable, neutral and reprehensible). Next, he focuses on issues that should concern scholars – in particular, the prayer's false, yet popular status as a Prophetic norm. He maintained that, for this reason alone, scholars should not recite the prayer because their support creates the illusion that it possesses normative status and would lead to implicit lies about the Prophet.[59] By participating in this innovation, both scholar and layperson "would encourage the fabricating innovators in their fabrication and slander;" this assistance of prohibited acts is in and of itself forbidden by law.[60]

Ibn 'Abd al-Salām raises five sets of problems concerning the content of the prayer, including aspects that directly conflict with the laws on prayer and those that are not deemed appropriate for prayer. First, the multiple repetitions and actions required (e.g.,

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[58] Most of Ibn 'Abd al-Salām's first treatise is cited in Tāj al-Dī al-Subkī, *Ṭabaqāt al-Shāfi'īyyah al-kubrā*, at the end of his entry on Ibn 'Abd al-Salām, 4:383, no. 1183. The text in the *Ṭabaqāt* ends with Ibn 'Abd al-Salām's final point on restricting the Prophetic statement "*al-ṣalāh khayr mawdū'*," yet the words cited point to a different meaning than in the other editions. Here, Ibn 'Abd al-Salām is quoted as saying that this *ḥadīth* only refers to prescribed prayers ("*fa-inna dhalika mukhtaṣṣ bi-ṣalāt mashrū'ah*"), whereas in the other editions, he is cited as saying that this *ḥadīth* only refers to prayers that don't conflict with the Law. Ibn 'Abd al-Salām, "*Risālah fī dhamm ṣalāt al-raghā'ib*," 38.

[59] Ibid., 28-29.

[60] Ibid., 29.

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keeping track by counting on a hand) contradict the normative mode of praying with stillness (*sukūn*) and with a submissive and humble presence (*khushū'*).[61] As he explains,

> It conflicts with the Prophetic norm (*sunnah*) of the humility of the heart and its submissiveness and presence in prayer and its pouring out [of the heart] towards God, and its recognizing God's greatness and exalted state and standing (accepting) of the meaning of reading [the Qur'ān] and remembrance [of God's name]; and when he notices the number of *sūrahs* in his heart, he turns away from God and opposes God by a matter that God did not legislate for him in prayer."[62]

Second, the congregational aspect of the prayer breaks with established patterns of supererogatory prayers, which, with few exceptions, are to be said individually and in one's home.[63] Third, the combination of fasting and a long evening prayer conflicts with the Prophetic norm of expediting the breakfast and of refraining from prayer when one is excessively hungry and externally occupied.[64] Fourth, the two prostrations at the end of the prayer are reprehensible aberrations from the conditions, patterns and times of normative prayer.[65] The repetition of praise passages therein violates the normative modes of prayer, and the content of the praise passages depart from the conventions

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[61] Ibid., 29-30.

[62] Ibid., 30

[63] Ibid.

[64] Ibid.

[65] Ibid., 31.

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outlined by the Prophet.[66] The fifth and last objection is that the prayer violates the Prophet's injunction against singling out the evening before Friday for prayer.[67]

These problems justify Ibn 'Abd al-Salām's legal ruling, since he defines a reprehensible innovation as one that does not agree with the Law and conflicts with it. Perhaps in anticipation of Ibn al-Ṣalāḥ's main argument, Ibn 'Abd al-Salām rejects the application of the general canonical sources that support all prayer for the same reason.[68] He concludes his first treatise with a series of rhetorical arguments intended to persuade people to abandon the practice. In his view, supporters of the *raghā'ib* prayer deny the authority of the jurists who are heirs to the normative tradition of the Prophet and his Companions.[69]

In sum, Ibn 'Abd al-Salām scrutinizes the *ragha'ib* prayer primarily as it related to the Islamic legal precepts regarding prayer. His approach is clearcut: if the practice conflicts

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[66] Ibid., 34. Ibn 'Abd al-Salām states that the Prophet instructed the people to recite, "Praise the name of your Lord Exalted (*sabbiḥ ism rabbika al-a'lā*)" (from Q87:1) during prostration (See, for example, *Musnad al-Imām Aḥmad, Musnad al-Shāmiyyīn, Ḥadīth 'Uqbah b. 'Āmir*, Hadith No. 17414, 28:630). He adds that if the phrase, "Most majestic and holy, Lord of angels and spirits/souls (*sabūḥ qudūs rabb al-malā'ikah wal-rūḥ*)," is to be recited, it must be accompanied by the phrase, "Praise to my Lord the Exalted (*subḥāna rabbī al-a'lā*)."

[67] Ibid., 32-3. The Prophet's statement, "Do not single out the evening prior to Friday for [additional] night vigils and do not single out Friday for fasting, except if it is [part of] a [longer] fast by an individual," is cited in *Ṣaḥīḥ Muslim*, Chapter on Fasting (*ṣiyām*), Chapter 24: Hadith No. 2740, 1: 453.

[68] Ibn 'Abd al-Salām, "*Risālah fī dhamm ṣalāt al-raghā'ib*," 38. In what appears to be an afterward, Ibn 'Abd al-Salām criticizes those would-be scholars who support the *raghā'ib* prayer. He first deprecates the statements issued by two "men" who he describes as aspiring to issue legal opinions but are far from it. He attributes their written support of the *raghā'ib* prayer to their vain need to justify their participation in the prayer once they learned that it was an innovation. He calls upon them to put aside their vanity and embrace the truth of the prayer's reprehensibility. Ibn 'Abd al-Salām separately excoriates a certain scholar who recognized the spurious status of the *raghā'ib ḥadīth* yet endorsed the prayer nevertheless. By this oblique reference to Ibn al-Ṣalāḥ, we learn that Ibn al-Ṣalāḥ had changed his position by the time that Ibn 'Abd al-Salām published this treatise. However, it seems from the chronology of events that if Ibn 'Abd al-Salām must have included this comment in his treatise but not in original sermon.

[69] Ibid., 35.

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with the law, it is reprehensible. He judges the prayer in terms of conformity with the norms of prayer. Other considerations, like the general merit of prayer, are distinctly secondary to him.

Ibn al-Ṣalāḥ, *Risālah fī jawāz ṣalāt al-raghā'ib*

Ibn al-Ṣalāḥ launches his "Treatise on the permissibility of the *raghā'ib* prayer," by emphasizing the value of enabling the people to worship as they are accustomed. In a departure from his earlier position, he affirms that the congregational recitation of *al-raghā'ib* is a commendable innovation. While he wrote the treatise in response to a petition by anxious practitioners of the prayer, he devotes much of his argument to rebutting Ibn 'Abd al-Salām's criticisms, as well as the criticisms of earlier scholars. As noted earlier, Ibn al-Ṣalāḥ recognized the prayer as a devotional innovation; this was consistent with his original position and with that of Ibn 'Abd al-Salām. Ibn al-Ṣalāḥ identifies the prayer as a post-formative development and rejects the *ḥadīth* as fabricated. However, unlike Ibn 'Abd al-Salām, he does not regard the existence of a popular false *ḥadīth* as sufficient reason to condemn the prayer. He thus distinguishes himself from other supporters of the prayer by accepting the main criticism of the opposition and clearing the way for a new defense.

For Ibn al-Ṣalāḥ, the implication of a false *ḥadīth* is simply the need to provide a different legal basis for the *raghā'ib* prayer. Ibn al-Ṣalāḥ instead grounds the *raghā'ib* prayer in the numerous textual supports for the general merit of prayer, and establishes a

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'commendable unless proven otherwise' rule for prayer.[70] Among these supports are general statements by the Prophet about prayer, such as his aphorisms, "Prayer is light (*al-ṣalāh nūr*)"[71] and "Know that the best of your deeds is prayer."[72] Ibn al-Ṣalāḥ finds more direct support for the basic structure of the prayer in the Prophet's comment, "whoever prays after the *maghrib* prayer 20 prayer cycles, God will build him a house in Paradise," since the *raghā'ib* prayer's 12 cycles after the *maghrib* prayer falls within the 20 cycles recommended by the *ḥadīth*.[73] He bolsters these legal bases with the observation that many new prayers that have entered Muslim devotional life rely upon the universal virtue of prayer.[74] Thus, Ibn al-Ṣalāḥ first grounds the *raghā'ib* prayer in the numerous canonical proof texts praising prayer and the fact of post-Prophetic prayers in Muslim devotional life.

In response to Ibn 'Abd al-Salām's claim that key problems in the *raghā'ib* prayer make it a reprehensible innovation, Ibn al-Ṣalāḥ marshals legal argumentation where he can, mostly by citing the opinion of Shāfi'ī or the example of the *salaf*. Where he cannot muster a legal argument, he returns to one of two meta-legal ideas. First, Ibn al-Ṣalāḥ

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[70] Ibn al-Ṣalāḥ, "*Risālah fī jawāz ṣalāt al-raghā'ib*," 45.

[71] *Ṣaḥīḥ Muslim*, Book of Purity (*ṭahārah*), Chapter 1: Hadith No. 556, 1:114.

[72] *Sunan Ibn Mājah*, Book of Purity and Its Norms (al-*ṭahārah wa-sunanihā*), Chapter 4: Hadith No. 290, 45-6.

[73] "*Risālah fī jawāz ṣalāt al-raghā'ib*," 46. The comment is transmitted by 'Ā'ishah. *Sunan al-Tirmidhī*, Book of Prayer, Chapter 209: Hadith No. 437, 1: 128. Ibn al-Ṣalāḥ notes that Tirmidhī brings it as a comment but does not call it a weak *ḥadīth*. Ibn 'Abd al-Salām, in his rebuttal, calls foul and argues that one cannot use a "comment (*ta'līq*) for determining the law. Ibn 'Abd al-Salām, "*Risālah fī radd jawāz ṣalāt al-raghā'ib*," 58.

[74] Ibn al-Ṣalāḥ, "*Risālah fī jawāz ṣalāt al-raghā'ib*," 46. See below for an exact citation and for further discussion on this point.

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distinguishes between what he regards as the most important components of the *raghā'ib* and other, more problematic, components; his approach here resembles that of Suyūṭī's approach to the *mawlid.* Second, he stresses the value of maintaining this controversial practice because it benefits the people spiritually; it provided them with a devotional act to which they had grown accustomed.[75] Ibn al-Ṣalāḥ concludes with a petition to scholars to omit the problematic parts of the prayer as they see fit, but to allow the people to continue their devotional practice during this evening.

Ibn al-Ṣalāḥ radically departs from previous positions when he defends the prayer as a commendable innovation grounded in the general virtue of prayer. While he might have followed Ghazzālī's opinion and advocated the prayer on the basis of a weak *ḥadīth*, Ibn al-Ṣalāḥ choose to reject Ghazzālī's reading and, instead, to directly identify the *raghā'ib* prayer as an innovation.[76] While he admits that there are a few problems with the prayer, Ibn al-Ṣalāḥ maintains that they are not so deleterious as to vitiate the prayer entirely. In contrast to his original position, and that of Ibn 'Abd al-Salām, he considers the benefits of encouraging worship to be more important than those of maintaining absolute

[75] Deeply disturbed by Ibn al-Ṣalāḥ's change of legal view, Muḥammad Zuhayr al-Shāwīsh and his teacher, al-Albānī, see this idea as "the secret of Ibn al-Ṣalāḥ's confusion here." In their view, "he did not take a scholarly position on this case but a position of accommodation/reconciliation ("*lam yaqif min hadhihi qaḍiyyah mawqifan 'ilmiyyan bal mawqifan tawfīqiyyan*") (*Musājalah 'ilmiyyah*, 9). Given Ibn al-Ṣalāḥ's recognized piety, he can hardly be accused of following his whim in supporting this innovation. Shāwīsh thus surmises that Ibn al-Ṣalāḥ was afraid that, if stripped of this devotional act, the people would abandon the normative religion for worse. Shāwīsh and Albānī see this interpretation as a way to restore Ibn al-Ṣalāḥ's credibility even while they shun his position (Shāwīsh and Albānī, "Introduction," in *Musājalah 'ilmiyyah*, no page number). Shāwīsh's comment raises important questions regarding the role of the jurist as community leader. When a jurist takes community interests into account, or marshals legal evidence to support community actions, is he still determining the law? See my discussion of this issue below in the next section.

[76] Ibn 'Abd al-Salām, "*Risālah fī jawāz ṣalāt al-raghā'ib,*" 45.

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boundaries between categories of acts. Ibn al-Ṣalāḥ is willing even to expand the category of public rites of religion.

Ibn 'Abd al-Salām, *Risālah fī radd jawāz ṣalāt al-raghā'ib*

Ibn 'Abd al-Salām, in the "Treatise on the rejection of 'The Permissibility of the *raghā'ib* prayer,'" reframes the debate and identifies the key areas of contention. He presents himself as a sober-minded jurist who wishes only to protect the people from forbidden acts. In his first treatise, Ibn 'Abd al-Salām rejected the *raghā'ib* prayer because of its fabricated *ḥadīth* and because it conflicted with legal norms. Then, "someone" (*ba'ḍ al-nās*) arose to oppose his view, seeking to attach the label of *bid'ah ḥasanah* by virtue of its being a prayer.[77] Ibn 'Abd al-Salām, in that earlier treatise, rejected this legal basis because the *raghā'ib* prayer conflicts with other laws. Furthermore, this opponent slandered Ibn 'Abd al-Salām by charging him with preventing people from acts of devotion (*'ibādah*), when, in fact, he was preventing the people against performing a problem-laden prayer.[78] In reframing this debate, Ibn 'Abd al-Salām identifies three main issues of contention: the application of the *bid'ah ḥasanah* label; the relevance of popular devotion to an act's status; and the question of whether one judges the act as a whole or for its parts. Ibn 'Abd al-Salām goes on to refute Ibn al-Salāḥ's argument point by point.

During this second round of debate, Ibn 'Abd al-Salām reiterates his main concerns about the prayer and clarifies his position on devotional innovations. Ibn 'Abd al-Salām, unlike

[77] Ibn 'Abd al-Salām, "*Risālah fī radd jawāz ṣalāt al-raghā'ib*," 55. To be fair, Ibn al-Ṣalāḥ refers to Ibn 'Abd al-Salām in the same disrespectful way. Cf., Ibn al-Ṣalāḥ, "*Risālah fī jawāz ṣalāt al-raghā'ib*," 43.

[78] Ibn 'Abd al-Salām, "*Risālah fī radd jawāz ṣalāt al-raghā'ib*," 55.

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his rival, regards the problematic components of the *raghā'ib* prayer as inseparable from the prayer as a whole. He regards the problematic components of the prayer, such as its convening on Thursday evening, as defining features of the prayer. He expresses repeatedly his concern that scholarly approval of this prayer perpetuates its false status as a *sunnah* and a public rite (*shi'ār*). As for new devotional practices, he agrees with Ibn al-Ṣalāḥ's position that the canonical texts commend the virtue of prayer in an unqualified way and countenance theoretically the articulation of new supererogatory prayers so long as they do not conflict with the Law. At the same time, Ibn 'Abd al-Salām recasts his *bid'ah* classification system to emphasize that commendable devotional innovations are the exception to the general rule. In discussing the general issue of devotional innovations, Ibn 'Abd al-Salām reiterates his concern for maintaining clear boundaries between established normative acts and others. In his second treatise, Ibn 'Abd al-Salām introduces no new points but uses Ibn al-Ṣalāḥ's writings to sharpen his own original definition of *bid'ah* and to stress his concerns about adding new public rites.

4.2 Discussion of Three Issues of Contention

The debate between these two jurists elucidates three significant differences in how jurists determine the boundaries of normative devotional practice. These points of differences relate to the definition and application of *bid'ah ḥasanah*; the possibility of allowing the public recitation of the *raghā'ib* prayer; and the relevance of community custom in determining the law. In the next section, I analyze further the two positions on each of these issues.

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4.2.1 Definitions of *bid'ah* Revisited

This series of debates centers on the criteria the two jurists use to apply the category of *bid'ah ḥasanah* to a devotional act. Both jurists acknowledge that *ṣalāt al-raghā'ib* is an innovation, and both subscribe to the legal possibility of a commendable devotional innovation.[79] But, they disagree over whether the *raghā'ib* prayer constitutes a commendable devotional innovation. To understand their disagreement, we need to see how they define and apply the category of *bid'ah ḥasanah* and the sources they use to support their positions.

In his early *fatwā*s, Ibn al-Ṣalāḥ does not use the term *bid'ah ḥasanah,* though he allows the recitation of the *raghā'ib* prayer as an instance of the open-ended category of supererogatory prayer. He does call the congregational recitation of the *raghā'ib* prayer a reprehensible innovation if it is assumed to be a Prophetic norm (*sunnah*) and a public rite (*min sha'ā'ir al-dīn al-ẓāhirah*).[80] For Ibn al-Ṣalāḥ, the criterion that distinguishes a reprehensible prayer act from a permissible one is its perceived status. He is concerned mainly to prevent a supererogatory prayer from taking the form of a higher-status *sunnah* prayer. While both are commendable acts, only acts with explicit precedents in the Prophet's practice can be performed at regular intervals as distinct rites.[81]

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[79] See Ibn 'Abd al-Salām, "*Risālah fī dhamm ṣalāt al-raghā'ib*," 27-8, and Ibn al- al-Ṣalāḥ, "*Risālah fī jawāz ṣalāt al-raghā'ib*," 44.

[80] See below for a discussion of the distinction between public and private acts.

[81] That is, Prophetically-established norms are commendable in and of themselves, not because they are instances of the open-ended category of supererogatory prayer. One can see how easily a congregationally-recited supererogatory prayer could be misconstrued as a distinct rite in and of itself, since gathering for a prayer necessitates a specific time and place to gather. Nevertheless, as we discuss below, Shāfi'ī rules that there is no harm in reciting supererogatory prayer congregationally.

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Though Ibn ʻAbd al-Salām shares Ibn al-Ṣalāḥ's original concern with blurred categorizations and false perceptions, he is as concerned with the prayer's problematic content. He labels the prayer a reprehensible innovation owing to both its false status as a *sunnah* and its many conflicts with Islamic law. In his first treatise, Ibn ʻAbd al-Salām introduces a simplified version of the classification system that he presents in *al-Qawāʻid,* comprising neutral innovations, such as variations in food and dress; commendable innovations, those that conform with legal principles (*qawāʻid al-sharīʻah*), such as the *tarāwīḥ* prayer; and disapproved innovations that conflict with the Law or lead to a conflict with the Law, such as the *raghāʼib* prayer.[82] As in *al-Qawāʻid,* Ibn ʻAbd al-Salām stipulates that commendable innovations must both conform with the principles of law and not conflict with the law. While these two criteria might seem redundant, his discussion of the *raghāʼib* prayer's status makes clear that there is a distinction. When he judges the *raghāʼib* prayer to be a reprehensible innovation, Ibn ʻAbd al-Salām cites not only aspects that are in direct conflict with the Law but also those that do not conform with the principles of normative prayer. Chief among the direct violations of the law is the prayer's false attribution: the practice of *al-raghāʼib* constitutes the grave offense of lying (or perpetuating a lie) about the Prophet.[83] Moreover, the prayer violates the Prophetic injunction against singling out Thursday

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[82] The other difference between the two presentations is that here Ibn ʻAbd al-Salām describes the general principle grounding good innovations as "other types of pious acts (*birr*) that did not occur during the first era; for they follow the doing of good (*iṣtināʻ al-maʻrūf*) that the Sharīʻah brought, as well as the assistance for piety and God-fearing (*birr wa-taqwā*)." Ibn ʻAbd al-Salām, "*Risālah fī dhamm ṣalāṭ al-raghāʼib,*" 26. In *al-Qawāʻid,* Ibn ʻAbd al-Salām uses the word "*iḥsān*" instead of "*birr.*" Ibn ʻAbd al-Salām, *al-Qawāʻid al-kubrā*, 337. See my discussion of the two terms in the section on Ibn ʻAbd al-Salām in Chapter Two.

[83] Ibn ʻAbd al-Salām, "*Risālah fī dhamm ṣalāṭ al-raghāʼib,*" 27.

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evening for prayer.[84] Yet, most of the remaining objections mentioned above do not constitute direct violations of prayer, but depart from proper behavior in prayer. For example, the multiple repetitions of *surah*s within a prayer cycle requires one to count and, therefore, departs from proper humility and quietude in prayer. The prayer's lengthy requirements following a day of fasting undermines the norm of not praying when one is distracted by hunger. New prayers must not violate Islamic law, and, in the view of Ibn 'Abd al-Salām, they must follow the spirit of normative practice. Combined, these two types of restrictions sharply limit the kinds of devotional practices that could be considered commendable innovations.

As an example of the combined restrictions that Ibn 'Abd al-Salām enjoins, he criticizes the two individual prostrations (*sujūdatayn*) at the end of the prayer both for violating particular laws and the proper framework for devotional acts:

> The two prostrations are reprehensible (*makrūhatān*), for the law (*sharī'ah*) did not intend for acts of drawing near to God (*taqarrub min allah*) [to occur through] an isolated prostration that has no occasion (*lā sabab lahā*), for pious acts (*al-qurab*) have occasions (*asbāb*) and conditions (*sharā'iṭ*) and [designated] times (*awqāt*) and basic elements (*arkān*), without which [the act] is not correct. Just as God Exalted cannot be approached (*lā yutaqqarabu*) by standing at 'Arafah and Muzdalifah, throwing pebbles, and rushing between Safā and Marwah without the ritual framework (*al-nusuk*) that occurs in its [appointed] time, with its occasions and conditions, likewise, God cannot be approached by an isolated prostration, even though it [constitutes] a pious act (*qurbah*) unless there was a correct occasion (*sabab ṣaḥīḥ*). Similarly, God Exalted and Sublime cannot be approached in prayer or fasting at all times. Perhaps the ignorant approached God with that which distances them from God, since they did not understand [otherwise].[85]

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[84] Ibid., 32-3. See n. 67 above for *ḥadīth* reference.

[85] Ibn 'Abd al-Salām, "*Risālah fī dhamm ṣalāṭ al-raghā'ib*," 31.

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In this passage, Ibn 'Abd al-Salām emphasizes that a person is not at liberty to approach God in any way that he chooses. While he subsequently stipulates that a person may not pray or fast during forbidden times, here he asserts that it is insufficient for the devotional innovation merely to avoid particular violations of the law. All devotional acts must fit into the ritual framework established by law, by means of proper causes, conditions and times.[86] By requiring that all new acts fit into the frameworks established by devotional law, Ibn 'Abd al-Salām demonstrates a distinctly conservative interest in preserving the normative modes of prayer.

In contrast to Ibn 'Abd al-Salām's restrictive approach, Ibn al-Ṣalāḥ stakes out an 'innocent until proven guilty' position regarding prayer innovations. Ibn al-Ṣalāḥ employs a slightly different definition of *bid'ah ḥasanah* than does Ibn 'Abd al-Salām, namely as an unprecedented act that has a basis in the Qur'ān and Sunnah.[87] This requirement to locate a textual basis for devotional innovations might seem more restrictive than Ibn 'Abd al-Salām's demand that innovations agree with the law. In fact, however, this requirement assumes that the canonical texts remain subject to later interpretation and elaboration on devotional matters. Ibn al-Ṣalāḥ grounds the *raghā'ib* prayer in the numerous *ḥādīth* passages that extol the virtues of prayer. He uses the canonical support for prayer to argue that innovated prayers should be considered lawful unless proven otherwise:

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[86] Although *nusuk* is usually translated as the ceremonies particularly of the pilgrimage, I believe that Ibn 'Abd al-Salām is using the term here to convey the notion that ritual acts cannot be separated from their legally stipulated contexts. An individual act, such as the prostration, thus loses its meaning and efficacy if it is not linked to previously established norms of when, where and how to perform a prostration.

[87] Ibn al-Ṣalāḥ, "*Risālah fī jawāz ṣalāṭ al-raghā'ib*," 46. See the citation at the end of this paragraph.

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> It is quite often that we have acceptable prayers that include a specific form, for which no specific source (*naṣṣ khāṣṣ*) from the Book or Sunnah was revealed; and it is not said "it is an innovation (*bid'ah*)", but were someone to call it an innovation, he would say however, it is a good innovation (*bid'ah ḥasanah*) because it derives from a [general] source (*aṣl*) in the Book and Sunnah.[88]

Many prayers lack textual support for their particular form. New prayers do not require specific authorizing sources to be lawful, but rely entirely upon the general permissibility of prayer.[89] Ibn al-Ṣalāḥ argues that prayers without specific legal bases are generally not called innovations in the normative sense. But, if they were to be recognized as innovations, in the descriptive sense, then these prayers would be called good innovations because a general legal basis can be established. The *raghā'ib* prayer, though it lacks an explicit source of support, should, at the very least, be considered a commendable

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[88] Ibid.

[89] To solidify the claim that general sources are sufficient for supporting specific prayers, Ibn al-Ṣalāḥ introduces a hypothetical prayer of numerous novel elements that no one would reject:

> For example, were a person to pray in the dark of night 15 prayer cycles followed by one salutary phrase of conclusion (*taslīmah*)*, and recite one verse in each cycle, each time taken from one of fifteen successive chapters, and each cycle has a special supplication (*du'a'*). This prayer is acceptable not rejected, and no one would say: 'this is an innovated and rejected prayer since no source from the Book or Sunnah was revealed about it with this description.' Ibn al-Ṣalāḥ, "*Risālah fī jawāz ṣalāt al-raghā'ib*," 47.

Ibn al-Ṣalāḥ is not describing an existing prayer, but one that he invents deliberately to demonstrate his larger point. Several aspects of the prayer are uncommon, such as the number 15 and the recitation of one verse from each Qur'ān chapter, but not impermissible. Although clear differences exist between this prayer and *al-raghā'ib*, notably the absence of a congregational element, the point he makes here is well taken. That is, the category of prayer is subject to numerous (if not infinite) iterations and thus it is illogical to claim that every prayer needs its own source. In response to Ibn al-Ṣalāḥ's hypothetical prayer, Ibn 'Abd al-Salām accepts that certain innovated prayers are commendable but argues that the *raghā'ib* prayer does not fit into that category and instead is reprehensible (Ibn 'Abd al-Salām, "*Risālah fī radd jawāz ṣalāt al-raghā'ib*," 59). Thus, he accepts in principle the idea of new iterations of prayers, so long as the prayers maintain the traditional characteristics established by law.

(*The structure of fifteen *rak'āt* followed by one *taslīmah* signifies that the fifteen cycles are considered one unit with no interruptions, and that at the end of the fifteen, the prayer will be concluded. My thanks to Ahmad Ahmad for explaining this concept to me.)

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innovation.[90] Thus, Ibn al-Ṣalāḥ begins with the premise that the *raghā'ib* prayer, like all prayer, is meritorious. As Suyūṭī would later argue in the case of *mawlid*, Ibn al-Ṣalāḥ maintains that the essentially commendable nature of the *raghā'ib* prayer is not undermined by its problematic aspects.

In his second treatise, Ibn 'Abd al-Salām revisits the definition and application of *bid'ah* and develops what seems to be a new approach. In response to Ibn al-Ṣalāḥ's claim that the prayer is a commendable innovation despite its fabricated *ḥadīth*, Ibn 'Abd al-Salām writes:

> We raise an objection against him, then, by the statement of the Messenger of God, peace and blessings be upon him, "The worst matters are their novelties, for every innovation is an error." And the good innovations **were excluded from that [statement]** – that is, every innovation that does not conflict with the [Prophetic] norms (*sunan*) but conforms with them – and the rest remains under the generality of his statement, "the worst matters are their novelties, for every innovation is an error," and the *raghā'ib* prayer is not part of what was excluded [from the general statement] such that [the prayer] would be linked to it analogically (*ḥatā tulḥaqa bihā qiyāsan*).[91]

At first glance, Ibn 'Abd al-Salām's statement seems to contradict his own definition of *bid'ah* in the first treatise and in *al-Qawā'id.* Whereas, in those places, he defines *bid'ah* as an unprecedented act whose status must be determined, he argues here that *bid'ah* is generally reprehensible and that commendable innovations are only exceptions to that rule.[92] Although he seems to have shifted from a descriptive to a suspicious approach to

[90] Ibid., 50. Ibn al-Ṣalāḥ later emphasizes this point when he compares the merit of the innovated prayer to the classic paradigm of the positive innovation, namely, the development and specialization of the Islamic sciences.

[91] Ibid., 57-8, bolded words for emphasis.

[92] Ibn 'Abd al-Salām does cite the *ḥadīth "kull bid'ah ḍalālah,"* in his first treatise, but there he uses it to support his idea that innovated acts that conflict with the law are reprehensible (Ibn 'Abd al-Salām,

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bid'ah, he actually shifts only his definition's emphasis and not its meaning. This shift in emphasis helps clarify the restrictions placed on devotional innovations in the first treatise. If the general rule regarding innovations follows the language of the *ḥadīth*, then it is logical that the standards would be stricter for any exceptions to this rule.[93] Ibn 'Abd al-Salām thus employs a 'guilty until proven innocent' standard.

The definitions that Ibn 'Abd al-Salām and Ibn al-Ṣalāḥ develop in these four texts lead them in contrary directions: the first chooses to search for conflicts with the law, the second seeks to examine canonical material for supportive texts. They apply different criteria for their distinct purposes. Ibn 'Abd al-Salām is primarily concerned with preserving the law and the normative framework of prayer. Ibn al-Ṣalāḥ stresses upholding this prayer, which has become a popular custom. He investigates whether there is sufficient legal ground to prevent the people from participating in a beloved devotional rite. Their opposite rulings thus reflect a debate about which values to privilege—constancy with the traditional norms of law or responsiveness to the people.

4.2.2 Can Community Custom Be a Source of Law?

This juxtaposition of values – which we can describe in shorthand as adhering to text-based norms versus esteeming the pious practices of the people – informs the broader debate about the relevance of extra-textual factors in determining the law. In what seems to be a break with juristic consensus, Ibn al-Ṣalāḥ asserts that the people should be able to

"*Risālah fī dhamm ṣalāṭ al-raghā'ib*," 37), whereas here he interprets the phrase as a general rule that innovated acts are reprehensible.

[93] It also gives us an insight into how Ibn 'Abd al-Salām interprets the *ḥadīth* passage while maintaining the possibility of commendable innovations, as I discuss in the conclusion to this chapter.

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worship God in the ways that they have become accustomed.[94] Ibn al-Ṣalāḥ's rationale is less populist than it might initially sound. His assertion does not stem from a belief that the masses hold an independent source of religious wisdom.[95] Rather, he wants jurists to be sensitive to how the people worship God and he advocates the perpetuation of the *raghā'ib* prayer for the sake of religious continuity. Ibn al-Ṣalāḥ expresses this idea most clearly when he admits that the two prostrations at the end of the prayer might be regarded as reprehensible. He underscores the importance of omitting such parts rather than rejecting the whole, "for the purpose is for the people to remain engaged in worship (*'ibādah*) during this time as they are accustomed to."[96] If, in his view, the role of the jurist is to encourage the worship of God, it is more important to preserve popular devotional acts than to scrupulously follow the most rigid application of the law. Although jurists like Abū Shāmah dismiss Ibn al-Ṣalāḥ's treatise as departing from law to accommodate the people, Ibn al-Ṣalāḥ's method of legal argumentation suggests that, for him, the consideration of the people's practice has legal relevance. Ibn al-Ṣalāḥ's

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[94] Is Ibn al-Ṣalāḥ proposing a radical and exceptional idea or is he tapping into a hitherto overlooked juristic stream? To my knowledge, it is a rare and lonely voice in Islamic law that advocates popular custom as a source for devotional law. Even early modern jurists, such as Khayr al-Dīn al-Ramlī, who advocate a greater role for custom, explicitly exclude the realm of devotional law (Haim Gerber, "Rigidity vs. Openness in Late Classical Islamic Law: The Case of the 17th Century Palestinian *muftī* Khayr al-Din al-Ramli." *Islamic Law and Society* 5, no. 2 (1998)). That is not to say that jurists were not aware of the influence of neighboring cultures on Muslim popular practice (as we discuss with regard to Ibn Taymiyyah and Ibn al-Ḥajj), but that jurists did not sanction these practices formally. For these reasons, Ibn al-Ṣalāḥ's insistence that the people should be able to worship God in the manner that they are accustomed is quite intriguing. Whether or not it points to a larger as yet neglected trend in legal literature is for further investigation. Given how vehement was the subsequent juristic criticism of him on this point, it does not seem to have made a significant mark on subsequent jurists. However, it is possible that Ibn al-Ṣalāḥ's perspective represents the many jurists against whom reformists, such as Ibn Taymiyyah and Shāṭibī, fulminated.

[95] If this was Ibn al-Ṣalāḥ's intention, one would expect him to cite relevant sources such as the famous *ḥadīth*, "my people do not agree upon error."

[96] Ibn al-Ṣalāḥ, "*Risālah fī jawāz ṣalāt al-raghā'ib*," 48.

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responsiveness reflects his belief that the jurist is responsible for the community's religious welfare.

Ibn 'Abd al-Salām conceptualizes the law in far narrower terms. At the beginning of his second treatise, Ibn 'Abd al-Salām formulates this issue as between one who follows the people and one who follows the Prophet:

> And he began to slander me [saying] that I prevented the people from [performing] a devotional act (*'ibādah*), but I did not prevent it for being a devotional act; rather I rejected it because of its [problematic] qualities, forbidding just as the Prophet, peace be upon him, forbade...prayers during the reprehensible times.[97]

Ibn 'Abd al-Salām emphasizes this jurist's responsibility to ensure that the people's behavior is consistent with the law. In his view, the law flows only in one direction, namely from the scholars to the people. He therefore contemptuously derides Ibn al-Ṣalāḥ's valuation of popular custom: "And he [i.e., Ibn al-Ṣalāḥ] posited the custom (*i'tiyād*) of those who have no knowledge as a proof for the practice of a forbidden innovation, but only the masses practice it and those who do not have a foot planted in the science of the law."[98] Ibn 'Abd al-Salām believes that the law is the sole determinant of an innovation's status, and that only those with an expert knowledge of the law could be proper interpreters. He thus dismisses the notion that the law can be modified owing to concerns for the people's religious welfare; he explicitly rejects the idea that this welfare can be achieved by reprehensible acts.[99]

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[97] Ibn 'Abd al-Salām, "*Risālah fī radd jawāz ṣalāt al-raghā'ib*," 55.

[98] Ibid., 56.

[99] Ibid.

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Not only does Ibn ‘Abd al-Salām reject community custom as irrelevant to determining the law, but he regards it as a threat to his authority as a jurist. In several places, he alludes to the jurists' sole authority to interpret the Prophet's legacy. He draws a parallel at the beginning of his second treatise, for example, between his rejection of the *raghā'ib* prayer and the Prophet's rejection of prayers at wrong times. Similarly, in his conclusion to the first treatise, Ibn ‘Abd al-Salām, justifies his condemnation of the prayer as a reprehensible innovation by pointing out that none of the scholars, "who are the paragons of the religion and the leaders of the Muslims," from the Companions through the scions of early Islamic law, "with their intense concern over teaching the people the obligatory and commendable [practices] (*ma'a shiddat ḥirṣihim 'alā ta'līm al-nās al-farā'iḍ wal-sunan*)" – mentions the prayer.[100] Ibn ‘Abd al-Salām sees the jurists as the keepers of the normative tradition originating with the Prophet and as the sole teachers authorized to impart this tradition to the people. He thus views the observance of the prayer as a rejection of the jurists' authority. This conception of the jurist's role leaves no room for the responsiveness or even the tolerance of Ibn al-Ṣalāḥ's approach.

This debate elucidates the broader tension between the two jurists' conceptions of legal determination and the role of the jurist. Whereas Ibn ‘Abd al-Salām approaches this case with a narrow conception of legal rules and norms, Ibn al-Ṣalāḥ incorporates the meta-legal concern of the people's religious needs.[101] Ibn ‘Abd al-Salām regards the

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[100] Ibn ‘Abd al-Salām, "*Risālah fī dhamm ṣalāt al-raghā'ib*," 35.

[101] As mentioned above, contemporary Muslim scholar Muḥammad Zuhayr al-Shāwīsh views Ibn al-Ṣalāḥ's approach as stepping beyond the parameters of law towards accommodating the people. Shāwīsh's perspective betrays a narrow conception of the law that is reminiscent of one side of a debate between two

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incorporation of popular custom as an affront to the authority of the jurist, while Ibn al-Ṣalāh accepts a reactive role that he demonstrates by changing his legal opinion. These differences are pertinent to our understanding of the boundaries of normative practice. The approach that considers extra-textual factors and that values responsiveness to popular practice is likely to be more conducive to expanding the boundaries of normative devotional practice.

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contemporary scholars of Jewish law regarding the boundaries of Jewish law (*halakhah*). Haym Soloveitchik interprets Maimonides' Epistle on Martyrdom (*Iggeret ha-Shmad*), as an example of when jurists depart from the parameters of law. The epistle deals with the status of North African Jews who accepted Islam under threat of death or expulsion. According to Soloveitchik, Maimonides departs the obvious legal ruling against these Conversos and proposes a loophole way for the forced converts to return to Judaism. Soloveitchik writes:

> As a legal defense the *Iggeret ha-Shmad* [Epistle on Martyrdom] is inexplicable, but not as a work of rhetoric, in the classic (and medieval) sense of the term—as a pamphlet aimed not at truth but at suasion, at moving people by all means at hand toward a given course of action. The Iggeret ha-Shemad is not a halakhic work, not a responsum, but to use a modern term, a propagandistic tract, written with a single purpose in mind – to counteract the effects of a letter of indictment [calling on Jews to martyr themselves rather than convert] that had gained great currency and threatened to wreak havoc on the Moroccan community. H. Soloveitchik, "Maimonides' *Iggeret ha-Shmad*: Law and Rhetoric," in *Rabbi Joseph H. Lookstein Memorial Volume*, ed., L. Landman (New York: Ktav, 1980), 306.

Soloveitchik asserts that Maimonides went beyond the boundaries of Jewish law in order to address a crisis in the Jewish community. The parameters of what constitutes "law" are narrow, but a jurist can choose to transgress those boundaries to accomplish larger religious goals. David Hartman counters this reading of Maimonides by arguing against such a narrow conception of lawmaking:

> Rather it testifies that the halakhic jurist is not confined exclusively to the explicit legal rules of the halakhic code, but may legitimately ascribe legal weight to the other principles, values and goals that are integral to the halakhic tradition. David Hartman, "Discussion on The Epistle on Martyrdom" in *Crisis and Leadership: Epistles of Maimonides.* Transl., Abraham Halkin (Philadelphia: Jewish Publication Society of America, 1985), 47.

Hartman proposes that Jewish law incorporates meta-legal values and concerns into the process of law-making. The Soloveitchik-Hartman debate suggests one way to understand the debate between Ibn 'Abd al-Salām and Ibn al-Ṣalāḥ, and in particular, Hartman's approach provides us with a way to interpret Ibn al-Ṣalāḥ's suprising move of incorporating the people's religious welfare into his legal argument.

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4.2.3 Can a Devotional Innovation Become a Public Rite of Religion?

In the debate about the *raghā'ib* prayer, the most salient issue for jurists who consider the expansion of the corpus of devotional practices, is the differing implications of congregational versus individual prayer. Islamic law, as we have noted, applies much stricter criteria for public prayer than it does for private prayer. While congregational prayer is more preferable to individual prayer, the public performance of congregational prayer is limited generally to canonically mandated occasions.[102] The boundaries of private prayer are more open-ended and subject to fewer restrictions.[103] As a new prayer, most jurists considered the *raghā'ib* prayer to fit within the category of supererogatory prayer and thus to be subject to the appropriate limitations. The fact that the masses perform the prayer congregationally adds to jurists' concern that the people mistakenly believe the prayer to be a public rite and a *sunnah*. Against juristic consensus, Ibn al-Ṣalāḥ suggests the novel idea that the prayer can be said congregationally as a public rite although it lacks a specific support in the canonical sources. The juristic debate between Ibn 'Abd al-Salām and Ibn al-Ṣalāḥ thus focuses on two related questions: First, can this prayer be recited congregationally? And second, what does the congregational recitation of prayer signify to those who perform it?

[102] There is a subtle difference between congregational prayer and public prayer that emerges from these discussions. The laws of *imāmah* enjoin two or more worshippers to pray as a group (see, for example, Ibn Abī Zayd al-Qayrawānī, *Matn al-Risālah* (Beirut: Dār al-Fikr, 1996), 33). These collective prayers, however, can occur in private or public settings. See Ibn Taymiyyah's distinction between public and private prayers in note 41 above in this Chapter. Ibn 'Abd al-Salām seems concerned particularly with the public performance of the *raghā'ib* prayer, as we discuss below.

[103] As Ibn al-Ṣalāḥ points out, Shāfi'ī law prefers that supererogatory prayer occur privately but the public recitation of the prayer is not forbidden. See Ibn al-Ṣalāḥ, "*Risālah fī jawāz ṣalāt al-raghā'ib*," 49-50.

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In his early *fatwās*, Ibn al-Ṣalāḥ allows for the individual and, according to certain manuscripts, for congregational recitations of the prayer, as a supererogatory prayer. Ibn al-Ṣalāḥ is concerned, however, that people do not misunderstand the status of the prayer: "But if the gathering [of people for the prayer] it is taken to be a *sunnah* and if the prayer is taken to be a clear rite of religion, then it is a reprehensible innovation."[104] If the people mistakenly believe that the congregational recitation of the *raghā'ib* prayer is a Prophetically-based norm and a public rite of religion, it is reprehensible.

Ibn 'Abd al-Salām, in his first treatise, rejects the public and congregational recitation of the *raghā'ib* prayer but for a different reason. In his view, the norms of supererogatory prayer (*sunnat al-nawāfil*) clearly stipulate that additional prayers should be recited only individually in one's home (with the exceptions laid out by the law). He thus distinguishes between supererogatory private prayer on the one hand and canonical public prayer on the other hand, based on the *ḥadīth*: "the prayer of a person in his house is more preferable than prayer in the mosque except for the canonical ones (*al-maktūbah*)"[105] In this first treatise, Ibn 'Abd al-Salām rejects the public recitation of the raghā'ib prayer because it violates the norm associated with supererogatory prayer.

Although Ibn 'Abd al-Salām here does not expressly link the congregational form of the *raghā'ib* prayer with its false status as a public rite, Ibn al-Ṣalāḥ seizes upon this implicit link in his rebuttal. As Ibn al-Ṣalāḥ points out, the canonical sources specify when one

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[104] Ibn al-Ṣalāḥ, in Ibn 'Abd al-Salām, "*Risālah fī radd jawāz ṣalāt al-raghā'ib*," 66.

[105] Ibn 'Abd al-Salām, "*Risālah fī dhamm ṣalāt al-raghā'ib*," 30. For the *ḥadīth* cited, see *Ṣaḥīḥ Bukhārī*, Book of the Call to Prayer (*adhān*), Chapter 81: Hadith No. 737, 1:140-1.

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should pray in congregation, they do not state that one may not pray congregationally on *other* occasions.[106] He cites Shāfi'ī, who says, "there is no harm in [using] a prayer leader for supererogatory prayers (*nawāfil*)," based on several *aḥādīth* that the Prophet would occasionally lead others in praying during the night.[107] Ibn al-Ṣalāḥ instead supplies Ibn 'Abd al-Salām with a different motive for rejecting the congregational recitation of the *raghā'ib* prayer, namely "that the prayer has become a clear and novel rite (*shi'āran ẓāhiran ḥādithan*) and the emergence of a [novel] clear rite of religion is forbidden (*wa-yamtani'u iẓhār shi'ar ẓāhir fī al-dīn*)."[108] In Ibn al-Ṣalāḥ's view, Ibn 'Abd al-Salām prohibits the congregational recitation of the *raghā'ib* prayer only because the people regard the prayer as a public rite of religion, which conflicts with the generally accepted prohibition of changing the religion. Although Ibn 'Abd al-Salām does not articulate this stipulation in the first treatise, he confirms Ibn al-Ṣalāḥ's interpretative leap in his second treatise.

Ibn al-Ṣalāḥ, surprisingly, agrees with 'Abd al-Salām's implication that the congregational recitation of *al-raghā'ib* is inextricably linked to its false status of a public rite (*shi'ār*). However, unlike his early *fatāwā* where he regards this as a problem, Ibn al-Ṣalāḥ here embraces the idea that prayer has become a public rite: "The key point here derives from the fact that [the *raghā'ib* prayer] is a devotional act that has a basis in the Law (*innahā 'ibādah lahā aṣl fī al-sharī'ah*), reflecting a yearning that emerged and

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[106] Ibn al-Ṣalāḥ, "*Risālah fī jawāz ṣalāt al-raghā'ib*,"49.

[107] Ibid., 49-50. Ibn al-Ṣalāḥ cites Shāfi'ī as he is quoted in *Mukhtaṣar al-Rabī'*.

[108] Ibid., 50. It is not altogether clear to me what the phrase, "*wa-yamtani'u iẓhār shi'ar ẓāhir fī al-dīn*" means. I have suggested that it signifies the idea that new public rites of religion are forbidden, but the syntax seems a bit awkward and leads me to wonder if the text was corrupted in some way.

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grew."[109] Ibn al-Ṣalāḥ fully acknowledges that the people regard the *raghā'ib* prayer as a public rite of religion. The prayer, in his view, is an *'ibādah* that possesses a firm legal basis and that reflects a popular need. He supports this radical idea – that one may add public rites to the religion – by explicitly comparing the *raghā'ib* innovation to the establishment of the religious sciences, which are public rites that were introduced after the formation of Islam (*shi'ār ẓāhir hadatha fī al-dīn lam yakun fī ṣadr al-islām*).[110] This point arguably constitutes Ibn al-Ṣalāḥ's most significant shift in opinion. In his *fatwā*s, he was most concerned to maintain the boundaries between normative and optional prayer. In this text, he changes his position and argues that, with a legal basis and a clear popular need, new public rites can emerge even if they are not *sunnah* in the strict sense of having been expressly mandated by the Prophet. Opposing the mainstream approach, Ibn al-Ṣalāḥ thus suggests that the corpus of *public* devotional acts can be expanded.

Our discussion comes full circle in Ibn 'Abd al-Salām's second treatise, in which he accepts the idea of optional congregational optional prayers, but rejects the *raghā'ib* prayer. In this text, Ibn 'Abd al-Salām backtracks and argues that he never prohibited the public recitation of optional prayers. In accordance with his requirement that new prayers adhere to both the laws and normative modes of prayer, Ibn 'Abd al-Salām emphasizes that the "norm" of optional prayers is to recite them individually. While he admits that the Prophet prayed optional prayers with others, he also notes that the Prophet did so only occasionally when no one would mistake the prayers for being a *sunnah*. He

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[109] Ibid.

[110] Ibid., 51.

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asserts that, in the case of the *raghā'ib* prayer, the congregational form is inextricably linked to the prayer's false status as a *sunnah* and *shi'ār*:

> The difference between them [i.e., Ānis and 'Itbān b. Mālik who prayed with the Prophet] and the *raghā'ib* prayer is that the congregational form (*al-iqtidā'*, lit. following [an *imām*]) in the *raghā'ib* prayer creates the illusion for the masses that it is a *sunnah* and rite of religion.[111]

While one is permitted legally to perform an optional prayer congregationally, the proper mode of optional prayers is individually. This permission, however, does not apply to the *raghā'ib* prayer since the congregational format is taken to mean that the prayer possesses the status of a *sunnah*.

It is in his response to Ibn al-Ṣalāḥ's proposition that Ibn 'Abd al-Salām's position crystallizes. He asserts that the real problem with the prayer's congregational form is that it leads the people to blur the boundaries between a *sunnah* and an extra prayer – between public rites and rites that should be private. Unlike Ibn al-Ṣalāḥ who ultimately distinguishes between a *sunnah* and a *shi'ār*, Ibn 'Abd al-Salām does not recognize the possibility of a new public rite that is not a *sunnah*. In Ibn 'Abd al-Salām's universe of devotional acts, there is no room for a commendable devotional innovation that takes the form of a public rite.

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[111] Ibn 'Abd al-Salām, "*Risālah fī radd jawāz ṣalāt al-raghā'ib*," 63.

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The debate regarding the acceptability of public versus private recitations of the *raghā'ib* prayer reveals two distinct juristic strategies for judging the legal status of a devotional innovation. Ibn 'Abd al-Salām limits innovated prayers to the private domain and rejects public recitations; that is, he views the categories of *sunnah* and *shi'ār* as identical. While Ibn 'Abd al-Salām admits the possibility of new prayers, he includes them in the well-established category of additional prayers (*nawāfil*). Ibn al-Ṣalāḥ, on the other hand, includes the *raghā'ib* prayer in the general category of meritorious prayer and thus allows this public rite that does not have the status of *sunnah*. In making this allowance, Ibn al-Ṣalāḥ shifts his emphasis from that of preserving strict legal categories to that of meeting popular religious needs; in doing so, he supports a new public rite. Thus, while Ibn 'Abd al-Salām attempts to insert new practices into established categories, Ibn al-Ṣalāḥ displays a readiness to create a new category of a non-canonical public rite.

4.3 Conclusion

Ibn 'Abd al-Salām and Ibn al-Ṣalāḥ's juristic assessments present two radically different images of the *raghā'ib* prayer. Ibn 'Abd al-Salām perceives the prayer as a highly problematic prayer that breaks many rules. The prayer has a false legal basis and undeservedly carries the status of a canonical act. Its congregational and public form further contributes to the popular misperception that the prayer is a *sunnah*. Besides its faulty legal basis and form, the prayer's content violates direct laws and conflicts with the norms of prayer. And in a final "affront" to the law, the prayer's main proponents are the masses who are ignorant of the legal sciences. In Ibn al-Ṣalāḥ's starkly different assessment, the prayer is an act of worship that is sanctioned by those canonical sources

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that support all forms of prayer and is perpetuated by devoted practitioners. While Ibn al-Ṣalāḥ admits that some aspects of the prayer are problematic, he rules that its legal basis and religious benefit are paramount. The jurists' opposing perceptions lead to opposing legal rulings: Ibn 'Abd al-Salām declares the *raghā'ib* prayer to be a reprehensible innovation and Ibn al-Ṣalāḥ considers it a commendable one.

Given their opposite perceptions of the prayer, the two jurists' lengthy debate might be seen as a rhetorical joust to justify each of their interpretations. Ibn al-Ṣalāḥ seeks legal ways to justify the prayer while Ibn 'Abd al-Salām seeks to undermine its popularity. While medieval and modern scholars have argued that Ibn al-Ṣalāḥ steps beyond the bounds of law in order to accommodate the people, I suggest that this is precisely what the underlying debate is about: Should Muslim jurists take into account broader factors such as the religious interests and attachments of the people? Can devotional categories evolve? The jurists' opposing positions on these underlying questions suggest profound legal implications.

This debate epitomizes the tension between preserving the supremacy of text-based norms and being responsive to human religious needs. This tension shapes both the jurists' legal methods and their conceptions of their own roles as jurists. Ibn 'Abd al-Salām, who wants popular practices to fit into pre-established legal categories, focuses not only on preventing transgressions of the law, but also on ensuring that new devotional acts conform to the normative framework established by the legal tradition and by the Sunnah. In contrast, Ibn al-Ṣalāḥ, who wants to carve out legal space for this particular

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practice, assumes that, 'if there is no direct prohibition, then it is permitted.'[112] Their definitions of *bid'ah* reflect their vantage points. Ibn 'Abd al-Salām uses *bid'ah* to expand the domain of law while Ibn al-Ṣalāḥ uses *bid'ah* to incorporate popular devotional practice. As for their own roles, Ibn 'Abd al-Salām sees the aim of the jurist to correct public practice in light of Islamic law. Ibn 'Abd al-Salām took his position as community leader seriously enough to use the pulpit to prevent his constituents from sin.[113] Recall that khutbah against the *raghā'ib* prayer began the debate. Ibn al-Ṣalāḥ here perceives the jurist's role to be more akin to that of a mediator between the textual and living traditions. He identifies a value in the popular practice of the *raghā'ib* prayer and renders classical categories more flexible in order to meet the people's religious needs.

5. Broader Implications for the Boundaries of Devotional Law

Although it is tempting to draw general patterns from the cases of the *mawlid* and the *raghā'ib* prayer, the discrepancies between them point to a more complicated scenario. Abū Shāmah supports the *mawlid* as a *bid'ah ḥasanah* but few other practices. Suyūṭī's creative work to recommend the *mawlid* does not lead him to expand the boundaries of devotional law for the *raghā'ib* prayer. It is likely that Suyūṭī rejected the prayer because of the fabricated *ḥadīth*, but he shows no indication of interest in the question. The

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[112] A good example of their contrasting (broad vs. narrow) ways of reading legal texts can be seen in their interpretation of Shāfi'ī's remark, "there is no harm in having a prayer leader for supererogatory prayers (*lā bās fī al-imāmah bil-nawāfil*)." Ibn 'Abd al-Salām inteprets "*lā bās*" to indicate the lack of a prohibition, but a preference in the other direction. That is, congregational prayers are not be encouraged, especially given the other *ḥadīth* indicating the Prophet's preference for reciting supererogatory prayers in private. Ibn al-Ṣalāḥ in turn interprets "*lā bās*" to mean simply that it is permissible.

[113] According to Abū Shāmah, Ibn 'Abd al-Salām would often preach from his pulpit about reviving legally prescribed norms (*sunan*) and destroying innovations (*bida'*). Abū Shāmah, *al-Bā'ith*, 64.

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following two anecdotes raise further questions regarding the consistent positions that jurists take with regard to devotional innovations.

Despite Ibn al-Ṣalāḥ's monumental defense of the *raghā'ib* prayer as a *bid'ah ḥasanah*, he maintains a much more restrictive position on additions to the pilgrimage rite. Abū Shāmah tells a story of his experience studying Ibn al-Ṣalāḥ's *Book of the Pilgrimage Rites* (*kitāb al-manāsik*) with the author. Ibn al-Ṣalāḥ quoted Abū Muḥammad's[114] statement, "I saw people, when they finished the rite of rushing [back and forth between Safā and Marwah culminating] at Marwah, sometimes (*rubbamā*) they prayed two prayer cycles on the expanse of Marwah, and that is good and an additional act of obedience (*ḥasan wa-ziyādat*[115] *ṭā'ah*), but one cannot confirm that it is based on the Prophet, peace and blessings be upon him ." Ibn al-Ṣalāḥ then said, "it must be reprehensible because it is an innovation of a public rite (*ibtidā' shi'ār*)." And then Abū Shāmah replied, "Indeed this must be the master's [position] regarding the *raghā'ib* prayer, for it [too] is an innovation of a public rite and so it is reprehensible [as well]!" Ibn al-Ṣalāḥ only smiled and did not respond (*tabassama wa-lam yarudd*). Abū Shāmah concludes this account by pointing out the chronology of these events – Ibn al-Ṣalāḥ wrote his book on pilgrimage rites in 634/1237, that is after the initial *fatwā*s on the *raghā'ib* prayer but prior to the "*raghā'ib* incident" in 637/1240. Their conversation occurred only in

[114] Abū Shāmah might be referring to Ibn 'Abd al-Salām here, whose *kunyā* is Abū Muḥammad. Also, it makes sense in the context of the story, since Ibn al-Ṣalāḥ and Ibn 'Abd al-Salām were in fact contemporaries. However, Abū Shāmah generally refers to him in *al-Bā'ith* as "*al-faqīh Abū Muḥammad*," (cf., *al-Bā'ith*, 66), and there certainly are other Abū Muḥammads that lived during Ibn al-Ṣalāḥ's time. If the Abū Muḥammad mentioned is the same Ibn 'Abd al-Salām, it adds further weight to the idea that jurists approached these issues on a case-by-case basis, paying attention to the relevant textual and extra-textual issues.

[115] The text reads "*dhiyādah*," but it is most probably a typographic error. Ibid., 89.

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639/1242. Abū Shāmah concludes, "his position on the pilgrimage rite agrees with his early two *fatwās*, this being the truth (i.e., correct position)."[116]

While there are many ways to interpret a smile, it is safe to say that Ibn al-Ṣalāḥ acknowledged the appearance of inconsistency. Although Abū Shāmah interpreted Ibn al-Ṣalāḥ's smile and silence to mean that his later position on *al-raghā'ib* was a deviation from his original correct opinion, the smile might also indicate that Abū Shāmah failed to grasp the intricacies of each particular case. It might suggest that Abū Shāmah did not appreciate what, in the *raghā'ib* case, motivated Ibn al-Salāḥ to rethink his earlier position against public devotional innovations.

Ṭurṭūshī provides an anecdote that offers insight into the challenges of maintaining narrow boundaries of devotional life. Towards the end of Ṭurṭūshī's entry on the *raghā'ib* prayer, he casts doubt on his informant's reliability by accusing Abū Muḥammad al-Maqdisī of participating in the very innovated practice that he derides: "And I said to him: 'But I saw you praying it in the congregation!' and he said, 'Yes! And may God forgive me for it.'"[117] In this vignette, we can glimpse the internal conflict of a scholar who perceives himself both as a protector of the boundaries of devotional law and as a practitioner and community member.[118]

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[116] Ibid.

[117] Ṭurṭūshī, *al-Ḥawādith wal-bida'*, 267.

[118] It is further interesting that Ṭurṭūshī shares this exchange with his readers, perhaps to indicate how widespread and seductive is the tendency to engage in innovated practices.

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Both anecdotes remind us of the tensions that scholars face when they seek to determine normative devotional practice. While the juristic classifications of *bid'ah* lend themselves to general theories, the anecdotes and cases suggest that jurists addressed non-textual devotional acts on a case-by-case basis. Jurists, it seems, distinguished between a theoretical openness to permitting devotional innovations and a willingness to endorse such practices across the board. In the following conclusion, I summarize the criteria that jurists invoke to identify when jurists apply their definitions of *bid'ah ḥasanah* to particular cases. I realize, of course, that these criteria do not explain Ibn al-Ṣalāḥ's smile.

6. Conclusion

The *raghā'ib* case confirms our hypothesis that jurists used the category of *bid'ah ḥasanah* as a legal tool to endorse devotional practices with no explicit textual source. The debate about the *raghā'ib* prayer also refines our understanding of when and how jurists use the category of *bid'ah.* In Chapter Two, we distinguished between two theoretical approaches to defining and applying *bid'ah.* Some jurists regard *bid'ah* as a normative term: they determine any innovation to be reprehensible or forbidden. Others regard *bid'ah* as a descriptive term: for them, an act's date of inception does not automatically imply a legal status. In practice, some jurists consistently oppose post-formative devotional practices while most others shift between normative and descriptive approaches when assessing devotional innovations. With the insight gained from our case studies, we can delineate two slightly different approaches. The first approach, exemplified by Ibn Taymiyyah, consistently rejects the possibility of expanding the

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boundaries of devotional practices and regards the term "*bid'ah ḥasanah*" as an oxymoron. The second approach includes those who express an openness to using *bid'ah* descriptively and to incorporating devotional innovations by the category of a *bid'ah ḥasanah*. However, these same jurists express concern over the spread of *bid'ah* generally – some of them being the authors of anti-*bid'ah* tracts – and often refer to *bid'ah* normatively.[119] In other words, there are no consistent defenders of expanding the boundaries of devotional practice *on the practical level*. Rather, as mentioned earlier, jurists such as Suyūṭī and Ibn al-Ṣalāḥ use the language of *bid'ah* selectively with regard to practices that they consider to be meritorious.

Moreover, several jurists take what I would call a suspicious position towards *bid'ah* acts. For example, in applying the category of *bid'ah* to the *mawlid*, Ibn Ḥajar al-'Asqalānī started with the premise that most innovated acts are reprehensible. He secondarily concedes that if, despite its basis as an innovation, an act can be shown to possess benefits, it is a good innovation. Similarly, when Ibn 'Abd al-Salām applies his *bid'ah* classification system to the practical case of the *raghā'ib* prayer, he limits his support for innovated practices to a few meritorious exceptions. This suspicious approach solves the exegetical/legal bind that we discussed in the beginning of Chapter Two; jurists heed the *bid'ah ḥadīth* while preserving room for special cases of meritorious devotional innovations. While they are by no means sufficient to establish

[119] In a *fatwā* on the difference between the *mubtadi'* and the *fāsiq* (sinner) , Ibn al-Ṣalāḥ describes *bid'ah* is a corruption of belief/doctrine (*'aqīdah*) while *fisq* can be a corruption of belief or just action (Ibn al-Ṣalāḥ, *Fatāwā wa-masā'il Ibn al-Ṣalāḥ*, 219). In other words, Ibn al-Ṣalāḥ's reliance on *bid'ah ḥasanah* to support the *raghā'ib* prayer does not prevent him from taking a general position that *bid'ah* is legally problematic.

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general rules, these cases do provide examples of the kinds of criteria that jurists use to assess whether a particular practice constitutes a worthy exception to the negative rule. For the second group of jurists, *bid'ah ḥasanah* becomes a way to endorse particular devotional innovations on a case-by-case basis, based on the arguable merits of an act.

As these cases have demonstrated, a large part of the debate concerns the relevant criteria for determining the status of a devotional practice. Based on our analysis of the legal arguments marshaled for and against the *mawlid* and the *raghā'ib* prayer, we can identify four types of criteria invoked:

- Does the act have an explicit precedent in text or early history?
- Does the practice agree with and/or conflict with previously established norms of Islamic law, such as the norms for supererogatory practices?
- Can one locate a textual basis for the act by means of analogy, and does that constitute sufficient proof?
- Are there relevant extra-textual factors, such as the act's pious purpose or popular attachment, that influence the legal decision?

Although each jurist approaches the *bid'ah* cases differently, we can identify shared tendencies among jurists who reject the possibility of devotional innovations, and shared tendencies among those who accept their possibility. Jurists, such as Ibn Taymiyyah, who maintain a consistently normative stance against innovations, focus solely on the lack of explicit precedents. Here, devotional innovations conflict with Islamic law at the macro-level, because they transgress the *ḥadīth* against innovations. For these jurists, there is no need to examine the details of the act that is, by its nature, forbidden. These jurists reject the possibility of using a textual analogy (*qiyās*) or extra-texual factors to support devotional innovations; for them, the corpus of devotional practices is closed.

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In contrast, jurists who endorse a particular practice take a different interpretative stance on the *bid'ah ḥadīth*, at minimum by reading an exception clause into the *ḥadīth*. When these jurists examine the act for confluence with Islamic law, they look at the details of the practice. Ibn 'Abd al-Salām, in particular, emphasizes that a devotional innovation must agree with the rules of Islamic law and the norms of practice. The main supporters of the devotional innovations that we have examined (i.e., Suyūṭī, Ibn Ḥajar and Ibn al-Ṣalāḥ) ground their practices in an analogous passage from the Ḥadīth. They imply that they see the Ḥadith as subject to further interpretation even on devotional matters. With the exception of Ibn 'Abd al-Salām, the jurists who express an openness to devotional innovations each accept extra-textual supports. In the first case, the pro-*mawlid* jurists point to the pious purpose of the act. In the *raghā'ib* prayer case, Ibn al-Ṣalāḥ emphasizes the value of letting the people worship according to their custom. This brief summary of relevant criteria demonstrates that the debate over *bid'ah* also has ramifications for broader debates over how to interpret the Prophet's Sunnah, and how to jurists make legal decisions.

Even when we identify the criteria, we cannot fully explain why a jurist like Ibn al-Ṣalāḥ would defend the highly contentious *raghā'ib* prayer while he condemns a few supererogatory prayer cycles (*rak'āt*) on pilgrimage. Given that no jurist consistently endorses all devotional innovation, what motivates a jurist to defend a particular practice? It seems that we can only answer this question if we take a thicker view of the role of the jurist in the life of the Muslim community. These borderline cases illuminate the tension among the various roles that jurists play: protectors of the law's supreme position to

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dictate normative behavior; community leaders or at least community authorities on religious practice; and religious practitioners. As the anecdotes in the epilogue indicate, the living tradition of the community sometimes requires jurists to make decisions that seem to be contrary to a narrow interpretation of the law. These medieval legal debates about devotional innovations illustrate the ongoing conflict for jurists as to whether the evolving spiritual needs of the community should be part of lawmaking or beyond its purview.

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CONCLUSION

This study reveals a sustained legal debate over the permissibility of devotional innovations throughout the Islamic Middle Period. By exploring the treatment of *bid'ah* in the treatises against innovations, in related discussions found in the treatises on legal rules, and in legal opinions on specific cases of devotional innovations, we show that jurists deliberated extensively the possibility of permitting pious practices that lacked explicit precedents in the canonical literature. Moreover, by analyzing their elaborate typologies of *bid'ah* and the operative principles involved in when and how jurists applied the different types of *bid'ah* to specific cases, we demonstrate that jurists used *bid'ah* as a way of negotiating between the normative tradition and the living tradition of their own Muslim communities.

One of the main findings of this study is that jurists on both sides of the *bid'ah* debate constructed actively the boundary between the normative tradition and living tradition with regard to devotional law. Jurists who used *bid'ah* as a descriptive term, demonstrated their willingness to examine the content of a popular practice in addition to its link to the canonical sources. These jurists, while generally supporting the strict criteria for determining the boundaries of *'ibādāt*, created a tool for circumventing those strictures in exceptionally meritorious cases. The tool, i.e., *bid'ah ḥasanah*, was thus a way for jurists to incorporate acts that had no established status and to expand the boundaries of devotional law to cover new devotional acts.

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In addition to giving voice to those jurists who permitted certain devotional innovations, this study highlights the legal architecture designed by normatively-inclined jurists to construct narrow boundaries between the normative tradition and the living tradition. Jurists who used *bid'ah* only as a normative term of indictment developed simultaneously the principle that the boundaries of *'ibādāt* are limited exclusively to acts that have explicit indications in the canonical sources. While this principle can be found in numerous *aḥādīth* especially in the post-Prophetic period, the presence of important exceptions to this view by 'Umar b. al-Khaṭṭāb and al-Ḥasan al-Baṣrī suggests that the lines were not as clear as the Hadith collectors maintained. Instead, this study suggests that the legal principle, "the basis of *'ibādāt* is prohibition," was developed and constructed by Mālikī and Ḥanbalī jurists over time. Indeed, the current scholarly assumption that this principle represents the consensus of jurists is a testament to the overwhelming influence of Ibn Taymiyyah and Shāṭibī upon modern scholars.[1]

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[1] Modern scholarly interest in Shāṭibī among Muslims can be traced back to the writings of Muḥammad Rashīd Riḍā (d. 1353/1935). Riḍā was highly influenced by Shāṭibī's *al-I'tiṣām*, and was responsible for rediscovering Shāṭibī's *I'tiṣām* and for editing and publishing the first modern edition serially in *al-Manār* in 1913. Riḍā regards *al-I'tiṣām* as a peerless work, by far the most sophisticated and grounded of the many treatises on *bid'ah*. He claims Shāṭibī as one of the few heroes of the medieval period – one of greatest *renewers* (*a'ẓam al-mujaddidīn*) of Islam, on the same level as Ibn Khaldūn. In his introduction to *al-I'tiṣām*, Riḍā identifies the proliferation of innovations as the primary cause for the decline in Muslim power and prestige. The absolute condemnation of *bid'ah* allows Riḍā to assert that the weakened state of the contemporary Muslim world has not been caused by the religion itself but by the manifestation of religion in Muslim life. The first step to reforming and renewal Muslim culture is thus to remove all innovations. The most logical method of sparking a second revival is to return to the true religion that was the inspiration for the first Arab renaissance. Shāṭibī's absolute rejection of all *bida'*, in the sense of devotional innovations, combined with his bold program of reform by means of *maṣlaḥah* provided both the diagnosis and the prescription for the problems that Riḍā observes in early 20th c. Islam (Muḥammad Rashīd Riḍā, "Introduction to *al-I'tiṣām* (*al-ta'rīf bi-kitāb al-I'tiṣām*)," *al-Manār* 17/10 (end of Shawwāl 1332/Sept. 20, 1914): 745-752 (internal pagination – 94-101)). Subsequent Salafīs – across the spectrum – would agree to this basic assessment and would similarly adopt (or perhaps adapt) Shāṭibī's approach to *bid'ah* as a basic element of their reform programs. And, as many others have recognized, Salafī approaches to Islam have had a dramatic influence on both Muslim and Western scholars of Islam.

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1. The Interplay between Normative Islam and Popular Islam

This study highlights the diversity of juristic approaches to the boundaries of Islamic devotional law. As I suggested at the end of Chapter Two, the debate over the use of *bid'ah* can be understood partly as one of strategy – will a relatively flexible or rigid boundary be more successful at drawing the normative and living traditions closer together? That is not to say that jurists were divided over the importance of grounding practices in the textual tradition from which they drew their authority as experts. Rather, jurists developed different strategies for edifying the public and keeping the textual tradition relevant to people's lives (and perhaps even maintaining their own relevance as religious leaders in light of competition from other religious "experts," such as Sufi leaders). While others have suggested that jurists defended and even participated in controversial popular practices, this study highlights the variety of methods used by jurists to evaluate these practices with legal categories. One method, albeit extreme, was Ibn al-Ṣalāḥ's willingness to change his legal position in light of the popular devotion to the *raghā'ib* prayer. Another, less controversial, approach was Suyūṭī's attempt to develop a sanitized "normative" version of the *mawlid al-nabī* festival. A third method, on the other side of the *bid'ah* debate, was Ibn Taymiyyah's distinction between the pious motivations of *mawlid* practitioners and their reprehensible actions. Each of these methods reflects the jurist's attempt to develop clear yet adaptive criteria for addressing popular devotional practices of his time. The interactive environment that emerges adds further strength to the work of previous scholarship on the treatises against innovations.

Moreover, the legal debates over devotional innovations expose the fallacy that the

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conflict over so-called "popular practices" was only between jurists and laypeople. The very fact that jurists disagreed over the legal status of devotional innovations undermines this illusion of juristic uniformity. Indeed, one can argue that the development of a genre of legal literature on innovations further suggests that jurists were writing primarily to counter the predilections of the other scholars and jurists.[2] The problem of scholarly participation in devotional innovations is evident from the delightful vignette brought by Ṭurṭūshī of the scholar who attested both to the *raghā'ib* prayer's recent origin and to his own participation in it. Similarly, and in larger scale, it has been argued that Shāṭibī wrote *al-I'tiṣām* primarily as a counter-attack on those Mālikī jurists who accused him of being an innovator when he challenged local practice.[3] Although the voices of those Mālikī jurists are silent, they represented the majority legal opinion. Shāṭibī's approach to devotional innovations, in contrast, represented the counter-cultural position in his society. Finally, the spectrum of juristic positions on various innovations brought by Wansharīsī confirms that jurists debated each other over the status of devotional innovations. All of these examples strengthen the idea that the debate between normative and popular religion should be seen also as a debate within normative Islam.

[2] As I discuss in the Introduction, Boaz Shoshan mention briefly this idea and Jonathan Berkey alludes to it as well. This study, in addition to strengthening their assertions, demonstrates that leading jurists of the Middle Period participated in these debates. The shift from an intended scholarly audience to an audience of both scholars and laypeople is one of the most significant differences between *bid'ah* literature in the pre-modern period and the anti-*bid'ah* manuals written in the contemporary period. Contemporary treatises on *bid'ah* are written usually for a broad audience and often take the form of an encyclopedia or dictionary, which allows one to look up a particular practice and learn whether or not it is an innovation.

[3] I am indebted here to Muhammad Khalid Masud, who shared with me his insights into Shāṭibī's position within his own 8th/14th century Granadan society.

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2. Conceptions of Devotional Law

The debate over the uses of *bid'ah* to evaluate devotional innovations cannot be understood merely as a difference in strategy. The focus on innovations in devotional law also exposes a basic difference among jurists regarding the ways they conceived of the category of *'ibādāt*. Shāṭibī regarded *'ibādāt* as acts that have inscrutable rationales and thus cannot be extended. That is, the rejection of innovations was integral to his definition of *'ibādāt*. Both he and Ibn Taymiyyah understood devotional law to be solely acts of obedience to the divine will and thus demanded that all devotional acts be linked to explicit indications in the canonical sources. Suyūṭī and the other Shāfi'ī jurists, by contrast, felt that they could infer principles from devotional acts and applied these principles to a limited set of new devotional acts. For these jurists, innovations were rejected because they did not conform to proper legal parameters.

Both of these juristic approaches to devotional acts could find support in the Prophetic paradigm. As I suggested in the Introduction, the Prophet embodied two modes of worship: fixed and open-ended. It is possible that jurists were able to value the piety within certain devotional innovations because they had recourse to the open-ended model of the Prophet's supererogatory devotional practices. The problem for jurists was that these devotional innovations did not fit the legal parameters of the supererogatory practices, but often took on the characteristics of the canonical rites. Nevertheless, jurists relied on the dichotomy of canonical and supererogatory practices to assess the status of devotional innovations. As the following table shows, jurists established a hierarchy of

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parameters, with each pair reflecting the distinction between the stricter standard applied to the canonical rites and the more flexible standard applied to supererogatory practices:

	Legal status	People involved	Location	Form	Frequency
Rigid	Obligatory	Collective	Public	Fixed	Regular
Flexible	Recommended/Permissible	Individual	Private	Variable	Occasional

Jurists, independently of their position on *bid'ah*, applied stricter standards for the acts that had characteristics that are found in the first row of the table than those in the second row. Jurists generally agreed about the legal status of extreme cases. In the case of the *raghā'ib* prayer, the overwhelming majority of jurists rejected the prayer because it resembled too closely a canonical rite, namely it was recited congregationally in the mosque and demanded a fixed time and form. On the other side of the spectrum, jurists tended to be most flexible in their legal assessments when it came to prayers said occasionally by individuals in their homes. Disagreement among jurists occurred over acts that took on some but not all of the characteristics of canonical rites. Thus, Ibn 'Abd al-Salām was more tolerant of the individual and private recitation of the *raghā'ib* prayer. Ibn Taymiyyah, by contrast, rejected any practice that took on the characteristic of regular frequency. These distinctions help us identify that the real concern of jurists was to protect the distinctiveness of the canonical rites. In the language of more than one jurist, the greatest concern was not to "change the religion." If one regarded devotional law as having inscrutable rationales, as Ibn Taymiyyah and Shāṭibī did, then perhaps all the characteristics of a canonical practice would be considered integral and any resemblance between practices would blur the boundary between the divine religion and human actions. However, if one regarded devotional practices as at least partially

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intelligible, then perhaps one would allow more of a crossover between the canonical rites and devotional innovations.

The most significant difference that emerges among jurists' approaches to devotional law is the conflict over the application of traditions from the Prophet to new devotional practices. If changing the religion is impossible, how could individual jurists use the Prophet's *sunnah* to extend the boundaries of devotional law? How is it that the overwhelming majority of jurists agreed that changes in the religion were prohibited, but jurists still debated whether certain devotional innovations were legally permitted? Here, I found it helpful to borrow from recent scholarship on types of canon and, in particular, Moshe Halbertal's discussion regarding the consequences of a sealed canon for the text-centered community in his *People of the Book: Canon, Meaning and Authority*. As Halbertal explains, in a sealed canon, "the status of the textual elements is exclusive, and no new texts of equal importance may be added."[4] Once a text is sealed, its meaning is endowed with increased breadth and depth and the only way to obtain new information is through interpreting the text.[5] In a similar way, I would suggest that, by the time these issues were debated, the corpus of the Prophet's devotional practices functioned as a sealed canon for subsequent jurists. While some jurists regarded the canon as sealed even to further interpretation, others argued that the Prophetic canon could be further interpreted and expanded without sacrificing the integrity of the canon itself. In this way,

[4] Moshe Halbertal, *People of the Book: Canon, Meaning and Authority* (Cambridge: Harvard University Press, 1997), 16.

[5] Ibid., 18-19.

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the Prophet's *sunnah* devotional practices can be both perfect and subject to further interpretation.

3. Further Questions

This study examined one particular element of the broader subject of the way that jurists dealt with the array of controversial devotional practices that permeated and enlivened Muslim religious life throughout its history. The element analyzed here was the small class of devotional practices that all sides recognized to be innovations, in the sense of practices that developed after the formative period of Islam. The next step would be to take on the larger and messier category of pervasive devotional practices that had a contested status, i.e., practices that its juristic proponents regarded as *sunnah* and its opponents regarded as *bid'ah.*

The largest category of these practices are Sufi rituals, such as recitation circles (*dhikr*) of God's names and Quran passages, and auditory sessions (*samā'*) that often incorporated music and even dance (*raqṣ*), and visitations to shrines (*ziyārah*). My dissertation alludes to and touches on the "Sufi variable." Further research is needed to explore both the impact of Sufi ideas and practices on the jurists studied and the relationship between these jurists and the corpus of Sufi practices. At this stage, we can note merely that all of the jurists who permitted devotional innovations identified with the mystical devotional tradition, but not all Sufi-oriented jurists permitted non-text-based devotional practices. An examination of juristic attitudes towards Sufi practices would have to consider not

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only the status of individual practices but the development of an entire spiritual discipline following the Prophet's time.

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