

EXAMINING SELECTED JURISPRUDENTIAL DIFFERENCES AMONG MUSLIMS

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ABSTRACT: Following the demise of the Holy Prophet (s), intellectual and ideological distinctions between Shi‘as and Sunnis prompted jurisprudential differences among them. These differences existed between the two groups for a long time and they continue to this day. The purpose of this study is to take a brief overview at some of the jurisprudential differences between Shia‘s and Sunnis in matters such as *wudu* (ablution), *adhān* (the call to prayer), prayer, *khums*, *Tawāf al-Nisā*, and fasting. By examining the evidence from both sides concerning each matter, it is possible to conclude that the Shi‘a view in the issues is closer to God’s true verdict.

Introduction

The physical and spiritual presence of the Holy Prophet of Islam (s) was itself considered one of the reasons for unity among Muslims. The disputes that existed among Muslims began to appear the day the Prophet (s) died, and the differences about the successorship of the Prophet (s) extended to differences in jurisprudential and practical laws. These differences slowly reached theological doctrines such as intercession (*shafā‘ah*) and return (*raj‘a*). Thus, the root cause of any differences is the dispute concerning the principle of Imamah. This

paper briefly examines some of the jurisprudential differences between Shi‘as and Sunnis in addition to evidence from both sides.

Wudu (Ablution)

All Muslims agree that performing wudu is necessary before prayer (*salat*). The famous hadith by the Prophet (s), ‘There is no prayer but with purification,’¹ verifies this. Where Muslims differ, however, is in the way wudu is performed. This difference comes from two different interpretation of the following verse where God states:

يا ايها الذين آمنوا اذا قمتم الى الصلاة فاغسلوا وجوهكم و أيديكم الى المرافق و امسحوا برؤوسكم و ارجلكم الى الكعبين

O you who have faith! When you stand up for prayer, wash your faces and your hands up to the elbows, and wipe a part of your heads and your feet, up to the ankles. (5:6)

The different interpretations of this verse have resulted in two main differences in the way Muslims perform their wudu:

1. Difference in the way the forearms are washed

Interpreting this verse, the Shi‘a consider it necessary to wash the forearms from the elbows downward; washing the opposite way invalidates the wudu. The reasons for their claim are the following:

a. Hadith from the Ahlul Bayt (a)

Sheikh Tusi narrated on this subject that both Bukayr and Zurarah asked Imam Baqir (a) about the way the Prophet (a) performed his wudu. They were told that during the washing of the forearms, the Prophet (s) washed from his elbow down to his fingertips.²

¹ *Man lā Yahduruhu al-Faqīh*, vol. 1, p. 33; Sunnis relate a hadith from the Prophet (s) in a similar way: “God does not accept prayer but with purification.” *Sunan ibn Majah*, vol. 1, p. 100; *Sunan at-Tirmidhi*, vol. 1, p. 3.

² *Kitab al-Khilāf*, vol. 1, p. 78-79.

b. Intellectual Argument

Note the following example: When we tell an artist to paint a wall up to the top, we mean ‘paint the entire wall’; anyone with common sense would begin painting at the top and end at the bottom.

On the other hand, Sunnis believe that according to the verse, the forearms should be washed starting from the fingertips going up to the elbow, but the reverse is also fine and does not invalidate the wudu. Their reason for this claim is due to the apparent meaning of the verse because the preposition *ilā* (إلى) denotes the end. Thus, the elbow should be the last part of the forearm to be washed.

Analysis:

First of all, the usage of the preposition *ilā* intends to specify the amount necessary for washing the forearms. This means that the entire forearm must be washed up to the elbow; the order in which the forearms are washed has been assigned to the Prophet (s) and his rightful successors.

Second, if the aforementioned meaning is not taken, the verse does not specify the amount necessary for washing and in order to eliminate its inconclusiveness, one must refer to the hadiths on this subject.

Third, the preposition *ilā* only refers to ‘an end’ for a motion when it is preceded by the preposition *min* (من) comes before it; in this verse it does not.³

c. Difference in the way the feet are wiped

The Shi‘a all emphasize on wiping the feet as opposed to washing them. The following are reasons for their claim:

First, in verse 6 of chapter *al-Ma'idah*, God says, “And wipe a part of your head and your feet.” According to this verse, the word *arjulikum* (feet) is in conjunction with *ru'usikum* (heads). According to some

³ *Fi Rehab Ahlul Bayt (a)*, p. 15.

recitations, *arjul* is recited with *kasrah* (that is, *arjulikum*). This makes it obvious that feet must be wiped as the head is wiped. According to others, it is recited with a *fatha* (that is, *arjulikum*). Again, in the state of *nasb*, the wiping of the feet can be inferred because *ru'ūsikum* is in a dative state; it should have been *ru'usakum* but for the preposition *bi*. In other words, the object 'feet' is for the verb 'wipe'.⁴

Second, existing traditions in both Sunni and Shi'a sources denote the wiping of the feet. Rāfi' ibn Rifā'ah says, "I sat next to the Holy Prophet (s) who said concerning wudu:

إنها لا تتم صلاة لاحد حتى يسيغ الوضوء كما أمره الله تعالى . يغسل وجهه ويديه إلى المرفقين ، ويمسح برأسه ورجليه إلى الكعيبين.

Prayer is not valid unless one performs wudu the way God has commanded. One must wash his face and his hands up to the elbows and the head and feet are wiped up to the ankles.⁵

Similarly, the late Kulayni narrates via Muhammad ibn Muslim that Imam Sadiq (a) said, "Wipe the front of your head and wipe your feet."⁶

Third, the actions and sayings of some of the companions of the Prophet (s) suggest that wiping the feet is the correct way. For example, Ibn Abbas says in this regard: "The people have only washed their feet and I discovered in God's book the rule of wiping the feet."⁷ Tabari also quotes Ibn Abbas as saying, "Wudu involves two washes and two wipes."⁸

⁴ *Al-Intisar lil-Sayyid Murtada*, p. 106.

⁵ *Sunan Ibn Majah*, vol. 1, p. 156; *Musnad Hamidi*, vol. 1, p. 26.

⁶ *Kafi*, vol. 3, p. 29.

⁷ *Sunan Ibn Majah*, vol. 1, p. 56.

⁸ *Jami' al-Bayan*, vol. 6, p. 175.

Fourth, the opinion of some Sunni exegetes suggests their agreement with the Shi'a view. Tabari relates from 'Akramah and Qutādah that they also consider wiping the feet as God's ruling.⁹

Prayer

Prayer is a principle shared by all religions. Likewise, all Muslims agree that saying ritual prayer is an obligation and rejecting it bars one from the religion. Having said this, Muslims differ about some of its particulars, a few of which are discussed below:

1. Adhān

Among the guaranteed *mustahab* (recommended) acts in Islam are *adhān* (call to prayer) and *iqāma* (call to line up for prayer). Muslims – including Shi'as and Sunnis – are unanimous in this regard; where they differ is in its parts and components. In other words, is saying *Hayya 'alā khayr al-'amal* ('Rise up for the best of deeds') in *adhān* and *iqāma* needed or not?

1. Sayyid Murtada in *al-Intisār* believes that saying the invocation (*dhikr*) "*Hayya 'alā khayr al-'amal*" in *adhān* and *iqāma* are among those matters which are specific to the Twelver Shi'as. Shi'a scholars unanimously agree upon the reason for its obligation. Sayyid Murtadh also adds that according to the remarks of Sunni scholars, this invocation was at times said during the age of the Prophet (s) but was afterwards abrogated and removed. In his turn, Sayyid Murtada rejects this idea and takes it to be ungrounded.¹⁰

⁹ Ibid., p. 176.

¹⁰ *Al-Intisar*, p. 137.

2. ‘Allamah Hilli holds that Shi‘a scholars have consensus about this phrase being part of adhan and iqama due to the most frequently narrated hadiths (*mutawātir*).¹¹
3. After referring to the words of Shi‘a scholars about this phrase, the author of *Jawāhir al-Kalām* writes: “Based on a famous fatwa, adhān includes 18 parts and *Hayya ‘alā khayr al-‘amal* is included in it; in this respect adhan and iqama do not differ from one another.”¹²

In order to prove their claim, the Twelver Shi‘a refer to the practice of the companions of the Prophet (s) as well as available hadiths from the Imams:

- The companions of the Prophet (s): In Sunni as well as Shi‘a sources, there are reports that well-known figures such as Bilal Habashi, Abdullah ibn ‘Umar, and Sahl ibn Hunayf used to invoke this phrase during their adhān.¹³ For example, ‘Ammār and ‘Umar, two sons of Hafs, related from their father that when Bilal Habashi would say the adhan, he would also say “*Hayya ‘alā khayr al-‘amal*.”¹⁴ Nāfi‘ relates that Abdullah ibn ‘Umar, after saying “*Hayya ‘alal-falāh*” (‘Rise up for salvation’) would sometimes include “*Hayya ‘alā khayr al-‘amal*.”¹⁵
- The Imams (a): Numerous hadith have been received in this regard from the Imams (a). For example, Imam Ali (a), in his address to

¹¹ *Tadhkirat al-Fuqaha*, vol. 3, p. 42.

¹² *Jawahir al-Kalam*, vol. 9, p. 81-82.

¹³ It should be noted that for the Shi‘a the practice of the companion is a valid proof, if it can help us understand the practice of the Prophet (s). However, for Sunnis all the companions of the Prophet (s) in whatever they did or said are *hujjah* (proof).

¹⁴ *Kanz al-‘Ummāl*, vol. 4, p. 266.

¹⁵ *Al-Sunan al-Kubrā* by Bayhaqi, vol. 1, p. 424. It has to be noted that one cannot simply dismiss these hadiths if they are not mentioned in *Sahih* of Muslim or *Sahih* of Bukhari, because there are many hadiths that are accepted by Sunni scholars which are not cited in the *Sahihayn*. For example, Hākim al-Nishaburi has compiled five-volume hadith collection and he claims that all the hadiths in it were authentic according to the conditions of either *Sahih* al-Bukhari or *Sahih* Muslim, or both.

Ibn Nubāh who would recite “*Hayya ‘alā khayr al-‘amal*” in his adhan, said, “Greetings to those who say justice and say to the prayer, ‘Hello and welcome!’”¹⁶ Abu Bakr Haḍrami and Kulayb Asadi narrated from Imam Sadiq (a) that he would invoke *Hayya ‘alā khayr al-‘amal* in his adhan.¹⁷

2. *Separating or combining two prayers*

Can there be a gap in time between the two *zuhr* (noon) and ‘*asr* (afternoon) or *maghrib* (sunset) and ‘*ishā* (night) prayers? Shi‘a and Sunnis have different views regarding this issue.

The Shi‘a believe that performing every prayer during its prescribed time (*waqt-e faḍilat*) is preferable. Hence, it is better, according to the first verdict, to separate the two prayers. However, due to hardships and difficulties that arise from separating the two, especially in congregational prayers, the Prophet (a) and infallible Imams (a) have ruled it permissible to combine them. Therefore, although the Shi‘a do not deny that it is recommended (*mustahab*) to separate two prayers, combining the two has been accepted. Herein, we can point to a hadith by Abdullah bin Sanān who quotes Imam Sadiq (a) as saying, “The Holy Prophet (s) combined his *zuhr* and ‘*asr* as well as *maghrib* and ‘*ishā* prayers during his travel because he was in a hurry.” Then Imam Sadiq (a) said, “Separating the two is better.”¹⁸ In addition, Sunni sources include hadiths that show the possibility of combining of two prayers without there being any excuse.¹⁹

On the other hand, Sunni jurisprudential texts have not presented merely one view. Sarkhasi, a jurist from the Hanafi sect, in his book entitled *al-Mabsūt*, does not consider it permissible to combine two prayers except in two places: ‘*Arafāt* and *Muzdalifah*. He says that

¹⁶ *Man la Yahduruhu al-Faqih*, vol. 1, p. 287-288.

¹⁷ *Ibid.*, p. 289-290.

¹⁸ *Wasa’il al-Shia*, vol. 4, p. 220.

¹⁹ More of this hadith will be mentioned.

Shafi'i permits combining prayers during travel and when it rains.²⁰ Similarly, he considers Malik as someone who, in addition to travel and rain, permits combining the prayers when ill. Yet according to Mabsūt's narrations, he makes it clear that Ahmad ibn Hanbal permits combining two prayers even when not in a state of travel.²¹

Considering what has been said, one can claim that most Sunni jurists do not permit the combining of two prayers except in special circumstances. Their evidence for this claim can be explained as follows:

First of all, the verse 2:238: "*Be watchful of your prayers, and [especially] the middle prayer...*" suggests that prayer should be recited during its own specific time.

Secondly, the verse 4:103: "*...for the prayer is indeed a timed prescription for the faithful*" means that prayer should be read during its set time.²²

Thirdly, it has been narrated from Ibn Abbas that the Holy Prophet (s) said, "Whoever combines two prayers without an excuse, one of the doors of greater sins will open to him."²³

Fourthly, Bayhaqi has narrated that 'Umar ibn Khattāb wrote to Abu Musa Ash'ari that combining two prayers is one of the greater sins except when there is an excuse.²⁴

Evaluation

Before commenting on the above arguments, it should be noted that

²⁰ Shafi'i himself, in *Kitāb al-Umm*, has narrated a hadith from the Holy Prophet (s) in which he combined two prayers in the battle of Khandaq as well as Arafat. *Kitāb al-Umm*, vol. 1, p. 106.

²¹ *Al-Mabsut*, vol. 1, p. 149.

²² *Ibid.* Qur'an, 4:103

²³ *Mustadrak Hakim*, vol. 1, p. 275.

²⁴ *Al-Sunan al-Kubra*, vol. 1, p. 169.

the differences among different schools of Islam is rooted in their differences in the principle of Imamah, and if there was consensus in the principal, these differences would not have ensued.

With this, in reply to the first two reasons, these two verses only emphasize the importance of prayer and paying special attention to the time for prayer respectively. This by itself does not specify the timing for each prayer. Also, this does not contradict the permission to combine two prayers, which can be seen in the *sirah* – the practices - of the Holy Prophet (s).

If the hadith narrated by the Sunnis were to be accepted, in response it can be said that this hadith is inconsistent with numerous hadiths that have been narrated from the Prophet (s), just as Ibn Abbas narrated that the Prophet (s) combined two prayers without an excuse and when it was not raining.²⁵ Ibn Abbas has also narrated that he, along with the Prophet (s), combined the two zuhr and ‘asr or maghrib and ‘ishā prayers.²⁶ These hadiths are so strong that the great Sunni exegete Alūsi acknowledged that combining two prayers has been emphasized in the traditions of Sahihayn.²⁷

3. Is Bismillah a part of a chapter?

Among the differences raised between Sunnis and Shi‘as is whether *bismillah* (*‘In the Name of God, Most Beneficent, Most Merciful’*) is a part of any *surah* (a chapter of the Qur’an) – in which case it is obligatory to recite it with the *surah* in prayer – or is not a part of a *surah* – in which case it is not obligatory to read alongside the *surah* in prayer.

The Shi‘a Imams and, in following them, the Shi‘a scholars, all agree

²⁵ *Sahih Muslim*, vol. 1, p. 152.

²⁶ *Ibid.*; *al-Mabsut Sarkhasi*, vol. 1, p. 149. Hadiths confirming permission to combine two prayers are not limited to the two traditions mentioned.

²⁷ *Tafsir Ruh al-Ma‘ani*, vol. 15, p. 132-133 as cited in *Al-Jam‘ bayn al-Salātayn* by Mohammad Reza Mudarresi, p. 8.

that bismillah is a part of every surah, except for the Chapter *Tawbah*. Thus, it is obligatory in prayer to recite bismillah with the surah. Doing otherwise renders the prayer invalid.²⁸ In this regard, in addition to citing the practice of Muslims,²⁹ one can adhere to many Sunni and Shi‘a hadiths:

- a. Mua‘āwiya ibn ‘Ammar says, “I asked Imam Sadiq (a), ‘When I get ready to pray, should I also say “*Bismi-llāhir-rahmānir-rahim*” when reciting surah *Hamd*?’ Imam (a) replied, ‘Yes.’ I asked, ‘Should I also recite it when I read the [second] surah [in prayer]?’ He replied, ‘Yes.’”³⁰
- b. Ibn Qudāmah, in his book, relates from Umm Salamah that the Holy Prophet (s) would utter “*Bismi-llahir-rahmānir-rahim* in his prayer.”³¹

This is while Sunni scholars do not have a consensus on this issue. Shafi‘i explicitly considers it correct that bismillah is a part of the chapter *Hamd*. On the other hand, he regards it invalid to consider bismillah as a part of the rest of the chapters.³² Similarly, despite the fact that Ibn Qudāmah of the Hanbali sect deems most scholars to believe that bismillah is a part of every chapter, he considers Malik as disagreeing with this view, even for the chapter *Hamd*.³³

In justifying their own view, those opposed to the Shi‘a view may adhere to the following two hadiths:

- a. Qutāda, via Anas bin Malik, has narrated that the Prophet (s), Abu Bakr, ‘Umar, and ‘Uthman would recite the chapter *Hamd* in their prayer beginning with the verse “*Al-hamdu lillāhi rabbil-‘ālamīn*”(1:1) – “All praise belongs to Allah, Lord of all the

²⁸ *Al-Mabsut al-Shaikh al-Tusi*, vol. 1, p. 105.

²⁹ Refer to *al-Dar al-Manthur li-al-Suyuti*, vol. 1, p. 7.

³⁰ *Kafī*, vol. 3, p. 312-313.

³¹ *Al-Mughni*, vol. 1, p. 520.

³² *Kitab al-Umm*, vol. 1, p. 129-130.

³³ *Al-Mughni*, vol. 1, p. 521.

worlds”.³⁴

- b. Abdullah bin Mughaffil says, “While praying, my father heard me recite *bismi-llāhir-rahmānir-rahim*. He forbade me from doing this and said, ‘I prayed with the Holy Prophet (s), Abu Bakr, ‘Umar, and ‘Uthman and none of them began their recitation with bismillah’.”³⁵

Evaluation

Shafi’i, one of those opposed to the first hadith, in reply to the mentioned hadith says, “What is meant by this hadith is that the Prophet (s) and the three Caliphs would recite the *Fatiha* before the chapter. This means that he would begin recitation with the chapter *Hamd*.”³⁶

Moreover, it can be said that these two hadiths are in conflict with numerous and stronger hadiths which indicate that bismillah is a part of each chapter of the Qur’an.³⁷

4. Rules regarding prayer during travel

Another difference among Muslims that deals with prayer concerns the prayer of a traveller. All Muslims agree that praying *qasr*³⁸ when travelling over long distances is a lawful matter. The Qur’an says:

When you journey in the land, there is no sin upon you in shortening the prayers, if you fear that the faithless may trouble you; indeed the faithless are your manifest enemies. (4:101)

They differ, however, in whether praying *qasr* is merely permitted or

³⁴ *Sunan al-Tirmidhi*, vol. 1, p. 155.

³⁵ *Ibid.*, p. 154-155.

³⁶ *Ibid.*, p. 156.

³⁷ For further reading refer to *al-Durr al-Manthur*, vol. 1, p. 7.

³⁸ Shortening the four unit prayers to two units when travelling over long distances

it is obligatory.

Following the teachings of the Prophet (a) and the Ahlul Bayt (a), Shi'a jurists have ruled it obligatory to pray qasr during travel for prayers consisting of four-rak'as.³⁹ This means that if someone knowingly does not pray qasr for a four-rak'a prayer during travel, he must repeat his prayer.⁴⁰ Shaykh Tusi holds that there is a consensus among the Shi'a regarding this view and has similarly introduced 'Umar ibn Khattāb as agreeing with the Shi'a on this matter.⁴¹

According to the Sunna of the Prophet (s), many hadiths narrated by Sunnis can be noted. For example, Ibn Abbas says, "God has prescribed - through the word of your prophet - to pray two rak'as during travel."⁴²

Regarding the *sira* of Muslims, a Jāfi' quotes Abdullah ibn 'Umar as saying, "I travelled with the Holy Prophet (s), Abu Bakr, and 'Uthman who prayed two rak'as for their zuhr and 'asr prayers and they did not do such a thing before and after their trip; and if I was there before or after the trip, I also would have prayed the full prayer."⁴³

In another hadith, Abdullah bin 'Umar narrates: "The Holy Prophet (s), Abu Bakr, 'Umar, and 'Uthman would continuously pray qasr during their travels."

After relating this hadith, Tirmidhi writes: "Practicing in accordance with this hadith is affirmed according to most scholars of the companions of the Prophet (s) and others."⁴⁴

'Imrān ibn Hasin also says, "I performed the Hajj with the Prophet (s),

³⁹ i.e., Thuhr, 'Asr, and 'Isha

⁴⁰ *Kitab al-Khilāf*, vol. 1, p. 569.

⁴¹ *Ibid.*

⁴² *Sahih Muslim*, vol. 2, p. 143.

⁴³ *Sunan al-Tirmidhi*, vol. 2, p. 28.

⁴⁴ *Ibid.*

Abu Bakr, ‘Umar, and ‘Uthman and everyone prayed qasr.’⁴⁵

However, there is no consensus among the Sunni jurists in this regard. Abu Hanifa, like the Shi‘a, considers qasr prayer obligatory upon the traveller.⁴⁶ Similarly, Malik, like the Shi‘a, considers it a confirmed Sunna of the Prophet (s) in that there is no account of the Prophet (s) praying his prayers in full.⁴⁷

On the other hand, Shafi‘i believes that a traveller may choose to either pray qasr or not to⁴⁸ even though qasr is better.⁴⁹ Muhyi al-Din al-Nawawi, a Shafi‘i jurist, attributes this view to ‘Uthman ibn ‘Affan, Sa‘d ibn Abi Waqqas, ‘Aisha, Abdullah bin ‘Amir and others.⁵⁰ Hanabilah too, like the Shafi‘i, considers it optional for the traveller to pray qasr or complete.⁵¹ Those who permit a traveller to pray either qasr or full may bring forth the following reasons:

First of all, in the verse, God says, *‘There is no sin upon you’*. Meaning, there is no problem with praying qasr. This interpretation only fits with having choice between qasr and complete.⁵²

Secondly, there are hadiths that suggests choice between qasr and full prayer for a traveller. For example, Muslim narrates from Ya‘lā ibn Umayyah who said, ‘I asked ‘Umar ibn Khattab about the verse *‘...there is no sin upon you in shortening the prayers, if you fear that the faithless may trouble you...’*. He said, ‘I asked the Prophet (s) about this and he (s) said, ‘Qasr in prayer is a charity that God, through it, has favoured you so accept His charity.’⁵³ Some Sunni scholars argue that as accepting charity is not mandatory, it is also

⁴⁵ Ibid., p. 29.

⁴⁶ *Kitab al-Majmu’ li-Muhyi al-Din al-Nawawi*, vol. 4, p. 337.

⁴⁷ *Kitab al-Khalaf*, vol. 1, p. 569; *al-Qasr fi al-safar ‘ala Dhow’ al-Kitab wa al-Sunnah*, p. 5.

⁴⁸ *Kitab al-Umm*, vol. 1, p. 207-208.

⁴⁹ *Kitab al-Majmu’ li-Muhyi al-Din al-Nawawi*, vol. 4, p. 337.

⁵⁰ Ibid.

⁵¹ *Al-Mughni*, vol. 2, p. 90-95.

⁵² *Kitab al-Majmu’ li-Muhyi al-Din al-Nawawi*, vol. 4, p. 339.

⁵³ *Al-Sunan al-Kubra li al-Bayhaqi*, vol. 3, p. 141.

unnecessary to pray qasr during travel.⁵⁴ It has been reported that Aisha said, “We were with the Prophet (s) on a trip. He prayed qasr and did not fast but I prayed full and fasted. The Prophet (s) said to me, ‘Well done, O Aisha’.”⁵⁵ Similarly, she has narrated that while travelling, the Holy Prophet (s) would pray qasr as well as complete.⁵⁶

Evaluation

Concerning the first reason, it must be said that the interpretation for ‘*there is no sin upon you*’ does not necessarily mean permission and choice because the Holy Quran, in another verse, states, “*Indeed Safa and Marwah are among Allah’s sacraments. So whoever makes hajj to the House, or performs the ‘umrah, there is no sin upon him to circuit between them.*”⁵⁷ Concerning this verse, no jurist has given a verdict that a pilgrim may choose whether or not to perform Sa‘yi between Safā and Marwa. Also, about the verse under discussion, God intends to say that it is wrong to think there is a problem in doing so. This means that those who consider qasr prayer a deficiency and regard it prohibited realize that it is not the case.⁵⁸

As for the hadith by ‘Umar ibn Khattab from the Prophet (s), it can be said that, firstly, the command to accept this charity infers its obligation. Secondly, even though people have the right to choose whether or not to accept one another’s charity, when the Wise God gives something to the people in the name of charity, it suggests there is a public interest (*maslaha*) in it, and therefore it is required to accept it.⁵⁹

Likewise, concerning Aisha’s first hadith from the Prophet (s), some researchers, after carefully looking at the *sirah* and life history of the

⁵⁴ *Al-Qasr fi al-safar ‘ala Dhow’ al-Kitab wa al-Sunnah*, p. 38.

⁵⁵ *Al-Sunan al-Kubra li al-Bayhaqi*, vol. 3, p. 142.

⁵⁶ *Kitab al-Majmu’ li-Muhyi al-Din al-Nawawi*, vol. 4, p. 340.

⁵⁷ *Surat al-Baqarah*, verse 158.

⁵⁸ *Al-Qasr fi al-safar ‘ala Dhow’ al-Kitab wa al-Sunnah*, p. 13.

⁵⁹ *Ibid.*, p. 39-40.

Prophet (s), have answered thus: In addition to the weak chain of narrations, it has been narrated by Aisha that the Prophet (s) went to Mecca in the month of Ramadan to perform the individual ‘Umrah whilst Sunni historians attest to the fact that he never went to perform the individual ‘Umrah in the month of Ramadan. Meanwhile, how is it conceivable that Aisha, who would observe the Prophet (s) and companions not fasting and praying qasr, conversely fast and pray complete prayers? This point is so astonishing that Ibn Taymiyya ruled this hadith as false.⁶⁰

According to Aisha’s second hadith, it may also be said that this hadith contradicts many hadiths that Aisha herself, as well as other esteemed Sunnis, narrated from the Prophet (s) concerning the necessity of qasr prayer during travel.

5. *Reciting in prayer a surah with the verses of sajdah (prostration)*

Another difference between Sunnis and Shi‘as regarding prayer is the permissibility or impermissibility of reciting surahs in prayer that include verses of prostration (*suwar ‘azā’im*). The Shi‘a believe that reciting a surah that includes a sajdah verse invalidates the prayer because reading such a surah requires one to prostrate during the prayer, which is an extra action and nullifies the prayer; if one does not prostrate, he has committed a sin.⁶¹ Zurarah narrates the following from Imam al-Sadiq (a):

Do not recite from the surahs that include sajdah verses since prostration [caused by reading a surah with a sajadah verse] is something extra in prayers.⁶²

Sunnis, on the other hand, consider it permissible to recite surahs that have a sajdah verse. Regarding this, they resort to the *sirah* of the

⁶⁰ Ibid., p. 42-45.

⁶¹ *Al-Nehayat al-Shaikh al-Tusi*, p. 77; *Shara-i’ wa-l-Islam*, vol. 1, p. 65.

⁶² *Al-Kafi*, vol. 3, p. 318.

caliphs ‘Umar bin Khattab and ‘Uthman⁶³ as well as the *sirah* of companions like Abu Hurayrah⁶⁴ who in their prayers, have recited surahs with sajdah verses and have prostrated on the spot.

6. *The number of takbirs⁶⁵ in the funeral prayer*

One of the compulsory acts accepted by all Muslims is praying for the deceased. Moreover, both Shi‘a and Sunni jurists have affirmed that the funeral prayer is a *wājib kifā’i*.⁶⁶ Where they differ is in the number of takbirs for the funeral prayer.

Shi‘a jurists believe that five takbirs must be said in the funeral prayer.⁶⁷ The late Kulayni and Shaykh Tusi have narrated numerous hadiths from the Prophet (s) and infallible Imams (a) regarding this. For instance, Imam Sadiq (a) has narrated from the Prophet (s) who said, “The Almighty God has made obligatory five prayers and has made one takbir from each prayer for the deceased.”⁶⁸ Imam al-Baqir (a) also narrates: “The Prophet (s) prayed over his son Ibrahim and recited five takbirs.”⁶⁹

In contrast, Sunni jurists consider only four takbirs as mandatory for the funeral prayer. Regarding this, after presenting a hadith from Abu Hurayra, Shafi‘i has given a fatwa requiring four takbirs in prayer.⁷⁰ Similarly, Muhyi al-Din al-Nawawi in *al-Majmū’* regards ‘Umar ibn Khattab, Abdullah ibn ‘Umar, and Zayd ibn Thabit to have recited four takbirs in the funeral prayer. He also relates from Zaid bin Arqam and Ibn Masud the obligation for reciting five takbirs while he relates from Ibn Abbas and Anas bin Malik who consider three takbirs to be

⁶³ *Al-Muhallā* by Ibn Hazm, vol. 5, p. 108-109.

⁶⁴ *Sahih Muslim*, vol. 2, p. 89.

⁶⁵ The Arabic word for the phrase ‘*Allahu Akbar*’ – ‘God is Great.’

⁶⁶ The collective obligation on all Muslims until it is performed by one or a few among them, thus relieving the rest of the obligation. *Kitab al-Sarair*, vol. 1, p. 359; *Kitab al-Majmu’ li-Muhyi al-Din al-Nawawi*, vol. 5, p. 211.

⁶⁷ *Kitab al-Khalaf*, vol. 1, p. 724; *Kitab al-Sarair ibn Idris Hilli*, vol. 1, p. 359-360.

⁶⁸ *Al-Kafi*, vol. 3, p. 181; *Man la Yahduruhu al-Faqih*, vol. 1, p. 164.

⁶⁹ *Al-Istibsar*, vol. 1, p. 474.

⁷⁰ *Kitab al-Umm*, vol. 1, p. 308.

obligatory.⁷¹

Along the same lines, Bukhari has introduced a chapter in his book entitled ‘*Takbir upon the deceased are four*’ and has narrated hadiths which show that the *sirah* of the Prophet (s) was reciting four takbirs in the funeral prayer.⁷² One example is a hadith narrated by Abu Hurayra. In this hadith, the Prophet (s) uttered four takbirs in the funeral prayer of Najashi.⁷³

In criticism of the Sunni view, it can be said that since there are differences found in Sunni sources (e.g., some believing in five or even three takbirs) that have been narrated by respected people like Ibn Mas‘ud and Ibn Abbas, verifies the uncertainty of the obligation to recite four takbirs.⁷⁴

7. *Fasting during travel*

In accordance with the Qur’an, both Shi‘as and Sunnis have given a fatwa on the obligation of fasting in the month of Ramadan. However, what has caused this disparity is whether it is obligatory upon the traveller to fast or break it in the month of Ramadan. The Shi‘a, in following the verses of the Qur’an and hadiths from the Prophet (s) and pure Imams (a), believe that the fast of a traveller is void. Sheikh Tusi says regarding this: “For every trip that requires qasr prayer, breaking fast is also required.”⁷⁵ Concerning this issue, the Quran states:

And as for someone who is sick or on a journey, let it be a [similar] number of other days. Allah desires ease for you, and He does not desire hardship for you.
(2:185)

⁷¹ *Al-Majmou’*, vol. 5, p. 231.

⁷² *Sahih Bukhari*, vol. 2, p. 91; *Sahih Muslim*, vol. 3, p. 54-55.

⁷³ *Ibid.*

⁷⁴ *Al-Majmou’*, vol. 5, p. 231.

⁷⁵ *Kitab al-Khalaf*, vol. 2, p. 201.

Concerning this, Yahya ibn Abil-‘Alā narrates from Imam Sadiq (a) who said, “The traveller fasting in the month of Ramadan is like the one not fasting in his homeland.” He then narrates that a man went to the Prophet (s) and said, “Should we fast in the month of Ramadan while travelling?” The Prophet (s) answered, “No.” The man said, “It is easy for me.” The Prophet (s) said, “God has established the instruction that the sick and the traveller of my nation must not fast in the month of Ramadan. Does anyone like it when he gives another charity and the latter rejects it?”⁷⁶

However, the Sunni leaders and jurists believe that a traveller in the month of Ramadan may choose whether or not to fast. Muhyi al-Din al-Nawawi Shafi‘i, Abu Hanifa, Ahmad Hanbal, and Mālik are of the same opinion.

The Sunnis adhered to hadiths from the Prophet (s) concerning this issue. One such hadith is by Aisha who said, “Hamzah ibn ‘Amr al-Aslami asked the Prophet (s) during his trip in hajj, ‘Should I fast while travelling?’ The Prophet (s) answered, ‘You may fast if you wish and you also have the choice to avoid it.’”⁷⁷

Evaluations

In reviewing the Sunni hadith sources, it becomes clear that the hadiths available in those sources are of two categories. The first category points to the permissibility of fasting during travel; the second one points to the impermissibility of fasting during travel.

The following hadiths can be mentioned from the second category:

- a. The Prophet (s) said, “Fasting during travel is not righteous.”⁷⁸
- b. During the Conquest of Mecca, they informed the Prophet (s) that

⁷⁶ *Man lā Yahduruhu al-Faqīh*, vol. 2, p. 140.

⁷⁷ *Sahih Bukhari*, vol. 2, p. 237; *Sunan Tirmidhi*, vol. 2, p. 107.

⁷⁸ *Ibid.*, p. 238; *Sahih Muslim*, vol. 3, p. 144; *Sunan Tirmidhi*, *Ibid.*

a number of Muslims were fasting. The Prophet (s) said twice, "They are sinners."⁷⁹

It is worth mentioning that in *Sunan of Tirmidhi*, this hadith has been recognized as correct.⁸⁰

Considering these hadiths, it can no longer be said that a traveller can fast in the month of Ramadan.

Khums

Among the obligatory acts shared by all Muslims is khums. Consistent with the holy verse (8:41), "*Know that whatever thing you may come by, a fifth of it is for Allah and the Apostle, for the relatives and the orphans, for the needy and the traveller...*," Muslims consider it obligatory to pay khums. However, there are differences between Shi'as and Sunnis regarding the items to which khums belongs.

The Shi'a believe that khums is applicable to seven items, including the earnings from business and trade. Sheikh Tusi writes: "Khums is obligatory for all profit obtained from trade, produce and fruit... None of the jurists (i.e., the four Sunni imams) agree with us in this matter."⁸¹

Numerous hadiths have been narrated about this from the pure Imams. Samā'ah says, "I asked Imam Kazim (s) regarding khums. The Imam replied, 'Khums is for everything that people profit from, be it a little or a lot.'"⁸²

On the other hand, even though Sunnis accept khums as a divine obligation, they consider it obligatory for only a few things such as spoils of war, minerals, and treasure. Also, profits from trade are not

⁷⁹ *Sahih Muslim*, vol. 3, p. 141-142.

⁸⁰ *Sunan Tirmidhi*, vol. 2, p. 107.

⁸¹ *Kitab al-Khilaf*, vol. 2, p. 118.

⁸² *Wasa'il al-Shia*, vol. 9, p. 503.

subject to khums.

It is worth noting that Sunni jurists have not allocated a special section in their jurisprudence and related books to khums; they only bring it up amid discussions on zakat and jihad.⁸³ Even Shafi'i, in his book *al-Umm*, despite having the belief that during the lifetime of the Prophet (s) his family would receive khums instead of zakat, has not discussed khums independently.⁸⁴

Tawāf an-Nisā

One of the very important duties prescribed for all Muslims is the performance of hajj, which is obligatory on every able person. The Almighty God has greatly stressed on the performance of hajj. Like all other duties, hajj includes obligatory (*wājib*) and recommended (*mustahab*) acts, an important one of which is the circumambulation (*tawāf*) of the Ka'ba. Tawāf itself includes different types, which is where Shi'as and Sunnis differ. The primary difference among the Sunni and Shia concerns Tawāf an-Nisā.

The Shi'a believe that Tawāf an-Nisā is obligatory in two situations: the first is in *hajj al-tamattu'* after the end of hajj deeds; and second, in *'umrah mufradah* after performing the *'umrah* rituals. The Shi'a believe that the permissibility of having marital relation with one's spouse becomes only lawful again after performing the *Tawāf an-Nisā*.⁸⁵ Consistent with the Shi'a traditions, *Tawāf an-Nisā* existed even during Prophet Adam⁸⁶ and Prophet Nuh's⁸⁷ hajj performance.

However, in Sunni jurisprudence, essentially *Tawāf an-Nisā* has not been mentioned. On the other hand, *Tawāf al-Qudūm*, *Tawāf al-*

⁸³ *Ma' al-Shia al-Ithna Ashari fi al-Usul wa al-Furu'*, vol. 4, p. 168.

⁸⁴ *Kitab al-Umm*, vol. 2, p. 88-89.

⁸⁵ *Kitab al-Khalaf*, vol. 2, p. 348.

⁸⁶ *Al-Kafi*, vol. 4, p. 190-191.

⁸⁷ *Ibid.*, p. 212.

Ifādah, and *Tawāf al-Widā'* have been discussed.⁸⁸

Temporary Marriage

Another issue differing among the Muslims is the permissibility or impermissibility of temporary marriage (i.e., *mut'ah*). In other words, the religion of Islam has greatly recommended marriage and consider it the sunnah of the Prophet (s). Marriage can take place in two ways: permanent marriage and temporary marriage. All Muslims accept the first type of marriage, though there are differences concerning the second type.

The Shi'a believe that according to the Qur'an as well as traditions, *mut'ah* is permitted and lawful.⁸⁹ Their arguments for its lawfulness include:

1. The Holy Qur'an:

...For the enjoyment you have had from them thereby, give them their dowries, by way of settlement... (4:24)

What is interesting is that this verse has been read by great personalities like Ibn Abbas, Ubayy ibn Ka'b, Sa'id ibn Jubayr⁹⁰, Ibn Mas'ud, Jabir bin Abdullah Ansari and 'Umran ibn Hasin⁹¹ in the following manner:

فما استمتعتم به منهن الى اجل مسمى فاتوهن اجورهن فريضة

For the enjoyment you have had from them thereby for a specified term, give them their dowries, by way of settlement.

2. Traditions and *sirah* of the companions of the Prophet (s):

⁸⁸ *Kitab al-Majmu'*, vol. 9.

⁸⁹ *Kitab al-Khalaf*, vol. 4, p. 340.

⁹⁰ *Jami' al-Bayan Tabari*, vol. 5, p. 18; *Tafsir al-Qurtubi*, vol. 5, p. 130.

⁹¹ *Asl al-Shia wa Usuliha*, p. 254.

There are also traditions in the Sunni sources about this, some of which include:

- a. Jabir bin Abdullah and Salmah ibn Akwa' have narrated, "The Prophet's (s) herald announced that the Prophet (s) has allowed you to do mut'ah."⁹²
- b. Jabir bin Abdullah says: "To the testament of the Messenger of God (s) and Abu Bakr, we had mut'ah until 'Umar forbade us from this practice."⁹³

According to the last hadith, this practice occurred even during Abu Bakr's caliphate and was announced forbidden during the second caliphate.

- c. Ibn Abbas says: "Mut'ah was a blessing from God for the Prophet's (s) Ummah. Had it not been forbidden, no one would find the need to commit adultery except for a few people."⁹⁴

Sunni jurists, in following their four Imams, have given a fatwa forbidding temporary marriage.⁹⁵ Their arguments are as follows:

First, the Prophet (s) has forbidden it. Rabi' bin Sabrah has said, "The Prophet (s) has forbidden mut'ah in his farewell pilgrimage and said, 'I have allowed mut'ah and God has forbidden it until the Day of Resurrection.' In addition, Imam Ali (a) said that on the day of the Battle of Khaybar, the Prophet (s) made mut'ah prohibited (*harām*)."⁹⁶

Second, the verse considered by the Shi'a has been abrogated by other verses such as "*except from their spouses or what their right hands possess*" (23:6), since this verse restricts sexual relation to two cases.

⁹² *Sahih Muslim*, vol. 4, p. 130.

⁹³ *Ibid.*, p. 131.

⁹⁴ *Al-Nihayah ibn Athir*, vol. 2, p. 488.

⁹⁵ *Al-Mughni Ibn Qadamah*, vol. 7, p. 571; *Al-Majmu*, vol. 252.

⁹⁶ *Sunan Tirmidhi*, vol. 2, p. 295.

Evaluation

In reply to the first argument, it should be noted that the two traditions cited in Sunni sources about banning mut‘ah contradict each other. According to one of them, mut‘ah was forbidden from the day of Khaybar, but the other hadith suggests that it was forbidden in the farewell pilgrimage of the Prophet (s) to Mecca. There is yet another hadith that suggests it was forbidden from the day of the Conquest of Mecca.⁹⁷

Moreover, how can the Prophet (s) cancel the ruling of the Qur’an? If the ruling of the Qur’an were to be cancelled it must have been done by God Himself and mentioned in the Qur’an. God is the only lawmaker. This is known as unity with respect to legislation (*tawhid tashri‘i*).

Furthermore, these traditions contradict other Sunni traditions which indicate that the banning took place in the time of the second Caliph. For example, Jabir ibn Abdullah says, “We used to perform mut‘ah during the time of the Messenger of God (s) and Abu Bakr, until ‘Umar forbade us from this act.”⁹⁸ Also, in his book, Bayhaqi narrated from ‘Umar who said, “Indeed, there were two types of mut‘ah during the time of the Prophet (s); I forbid them both, and I will punish those who practice it. They are: Mut‘ah of Women and Mut‘ah of the Pilgrimage.”⁹⁹

In reply to second argument, it should be noted that verse 23:6 does not abrogate verse 4:24, because spouse (*zawj*) includes both one’s permanently married spouse and one’s temporarily married spouse.

Thus, temporary marriage is a lawful matter and was approved by

⁹⁷ *Al-Sunan al-Kubra li al-Bayhaqi*, vol. 7, p. 706.

⁹⁸ *Sahih Muslim*, vol. 4, p. 131.

⁹⁹ *Al-Sunan al-Kubra li al-Bayhaqi*, vol. 7, p. 706. The original text is as follows:
 انهما كانتا متعتان على عهد رسول الله صلى الله عليه وسلم وانا انهى عنهما واعقاب عليهما
 احداهما متعة النساء... والاخرى متعة الحج.

both the Holy Prophet (s) and Abu Bakr, although it was forbidden by Umar bin Khattab.

Conclusion

The results obtained from this paper include:

1. In wudu, the Shi'a wash their forearms from top to bottom and consider wiping the feet a must. In contrast, Sunnis regard it correct to wash the forearms in any direction and have given a fatwa for washing – as opposed to wiping - the feet.
2. The Shi'a are required to say “*Hayya ‘alā khayr al-‘amal*” in the adhan and iqama; however, Sunnis maintain it is not a part of adhan and iqama.
3. Contrary to Sunnis, Shi'as believe that although separating the two tuhr and ‘asr as well as maghrib and isha prayers is better, there is no problem in choosing to combine the two.
4. Shi'as regard bismillah to be a part of every surah, except for surah *Tawbah* and believe that it is mandatory to be recited in the daily prayers. This is while Shafi'i – one of the Sunni Imams – regards bismillah as a part of surah *Hamd* only and Malik rejects bismillah as even being a part of surah *Hamd*. Other Sunni jurists agree with the Shi'a opinion about this.
5. Shi'as regard praying qasr during travel as obligatory. On the other hand, Sunnis differ in this area.
6. Concerning the funeral prayer, the Shi'a rule five takbirs obligatory while Sunnis believe in four takbirs.
7. Contrary to the Sunnis who believe a traveller may choose whether or not to fast, the Shi'a have given a fatwa nullifying the fast of a traveller.

8. The Shi'a hold that khums is applicable to one's earning though business, trade and salary.
9. The Shi'a believe that performing *Tawāf an-Nisā* in Hajj is necessary.
10. The Shi'a believe that the Qur'anic ruling about mut'ah has not been abrogated and it was practised in the time of the Prophet (a). So it is still permissible and is considered a legal type of marriage.

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