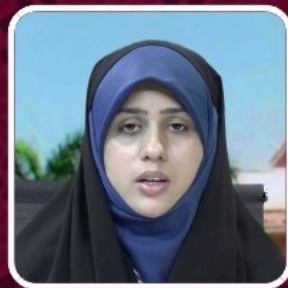


# **Examining Selected Jurisprudential Differences Among Muslims**

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# Examining Selected Jurisprudential Differences Among Muslims

Zahra Naqavi

Translated by Howraa Safieddine

## [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 Wudhu' (ablution), Adhan (the call to prayer), prayer, Khums, Tawaf Al-Nisa, 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 (Shafa'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.

## Wudhu' (Ablution)

All Muslims agree that performing Wudhu' is necessary before prayer (Salat). The famous Hadith by the Prophet (S), 'There is no prayer but with purification,'<sup>1</sup> verifies this. Where Muslims differ, however, is in the way Wudhu' is performed. This difference comes from two different interpretation of the following verse where God states:

***"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 Wudhu':

### A) 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 Wudhu'. The reasons for their claim are the following:

#### Hadith From The Ahlul Bayt

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

### 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 Wudhu'. Their reason for this claim is due to the apparent meaning of the verse because the preposition 'Ila' (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 Ila 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 Ahadith on this subject.

Third, the preposition 'Ila' 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.<sup>3</sup>

### C) Difference In The Way The Feet Are Wiped

The Shi'as 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.” (5:6)***

According to this verse, the word Arjulikum (feet) is in conjunction with Ru'usikum (heads). According to some 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'usikum 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'.<sup>4</sup>

Second, existing traditions in both Sunni and Shi'a sources denote the wiping of the feet. Rafi' Ibn Rifa'ah says, “I sat next to the Holy Prophet (S) who said concerning Wudhu':

Prayer is not valid unless one performs Wudhu' 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.<sup>5</sup>

Similarly, the late Kulayni narrates via Muhammad Ibn Muslim that Imam Sadiq (a.s.) said, “Wipe the front of your head and wipe your feet.”<sup>6</sup>

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."<sup>7</sup> Tabari also quotes Ibn Abbas as saying, "Wudhu' involves two washes and two wipes."<sup>8</sup>

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

## 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. Adhan

Among the guaranteed Mustahab (recommended) acts in Islam are Adhan (call to prayer) and Iqama (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 Ala Khayr Al-Amal ('Rise up for the best of deeds') in Adhan and Iqama needed or not?

Sayyid Murtada in Al-Intisar believes that saying the invocation (Dhikr) "Hayya Ala Khayr Al-Amal" in Adhan and Iqama are among those matters which are specific to the Twelver Shi'as. Shi'a scholars unanimously agree upon the reason for its obligation. Sayyid Murtada 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.<sup>10</sup>

Allamah Hilli holds that Shi'a scholars have consensus about this phrase being part of Adhan and Iqama due to the most frequently narrated Ahadith (Mutawatir).<sup>11</sup>

After referring to the words of Shi'a scholars about this phrase, the author of Jawahir Al-Kalam writes: "Based on a famous Fatwa, Adhan includes 18 parts and Hayya Ala Khayr Al-Amal is included in it; in this respect Adhan and Iqama do not differ from one another."<sup>12</sup>

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 Adhan.<sup>13</sup> For example, Ammar and Umar, two sons of Hafs, related from their father that when Bilal Habashi would say the Adhan, he would also say "Hayya Ala Khayr Al-Amal."<sup>14</sup> Nafi relates that Abdullah Ibn Umar, after saying "Hayya Alal-Falah" ('Rise up for salvation') would sometimes include "Hayya Ala Khayr Al-Amal."<sup>15</sup>

The Imams (a.s.): Numerous Hadith have been received in this regard from the Imams (a.s.). For example, Imam Ali (a.s.), in his address to Ibn Nubah who would recite “Hayya Ala Khayr Al-Amal” in his Adhan, said, “Greetings to those who say justice and say to the prayer, ‘Hello and welcome!’”<sup>16</sup> Abu Bakr Hadrami and Kulayb Asadi narrated from Imam Sadiq (a.s.) that he would invoke Hayya Ala Khayr Al-Amal in his Adhan.<sup>17</sup>

## 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 Isha (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 al-Fadilat) 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 (S) and infallible Imams (a.s.) 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 Sanan who quotes Imam Sadiq (a.s.) as saying, “The Holy Prophet (S) combined his Zuhr and Asr as well as Maghrib and Isha prayers during his travel because he was in a hurry.”

Then Imam Sadiq (a.s.) said, “Separating the two is better.”<sup>18</sup> In addition, Sunni sources include Hadiths that show the possibility of combining of two prayers without there being any excuse.<sup>19</sup>

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-Mabsut, does not consider it permissible to combine two prayers except in two places: Arafat and Muzdalifah. He says that Shafi’i permits combining prayers during travel and when it rains.<sup>20</sup>

Similarly, he considers Malik as someone who, in addition to travel and rain, permits combining the prayers when ill. Yet according to Mabsut’s narrations, he makes it clear that Ahmad Ibn Hanbal permits combining two prayers even when not in a state of travel.<sup>21</sup>

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:

***“Be watchful of your prayers, and [especially] the middle prayer...” (2:238)***

This verse suggests that prayer should be recited during its own specific time.

***“...for the prayer is indeed a timed prescription for the faithful” (4: 103)***

Secondly, the verse above 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 Khattab 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 the differences among different schools of Islam is rooted in their differences in the principle of Imamah, and if there were 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 Ahadith 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 Isha prayers.[26](#) These Ahadith are so strong that the great Sunni exegete Alusi 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 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 Ahadith:

1. Mua‘awiya Ibn ‘Ammar says, “I asked Imam Sadiq (a.s.), ‘When I get ready to pray, should I also say “Bismi–llahir–Rahmanir–Rahim” when reciting Surah Hamd?’ Imam (a.s.) replied, ‘Yes.’ I asked, ‘Should I also recite it when I read the [second] Surah [in prayer]?’ He replied, ‘Yes.’”[30](#)

2. Ibn Qudamah, in his book, relates from Umm Salamah that the Holy Prophet (S) would utter “Bismi-llahir-Rahmanir-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 Qudamah 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 Ahadith:

1. Qutada, 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 Lillahi Rabbil-Alamin” ;

***“All praise belongs to Allah, Lord of all the worlds”(1: 1).***[34](#)

2. Abdullah Bin Mughaffil says, “While praying, my father heard me recite Bismi-llahir-Rahmanir-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 it is obligatory.

Following the teachings of the Prophet (S) and the Ahlul Bayt (a.s.), Shi’a jurists have ruled it obligatory to pray qasr during travel for prayers consisting of four-Rakas.[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 Khattab 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 Sirah of Muslims, a Jafi 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](#)

Imran Ibn Hasin also says, "I performed the Hajj with the Prophet (S), 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 to[48](#) 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" (4: 101)***

Meaning, there is no problem with praying Qasr. This interpretation only fits with having choice between Qasr and complete.[52](#)

Secondly, there are Ahadith that suggests choice between Qasr and full prayer for a traveller. For example, Muslim narrates from Ya'la 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 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”(2: 158)***

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 Safa 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 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 Ahadith 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 Azaim). 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.s.):

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 caliphs Umar Bin Khattab and Uthman[63](#) as well as the Sirah of companions like Abu Hurayrah[64](#) who in their prayers, have recited Surahs with Sajdah verses and have prostrated on the spot.

## **6. The Number Of Takbirs In The Funeral Prayer**

### **6. The number of Takbirs[65](#) 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 Wajib Kifa'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 Ahadith from the Prophet (S) and infallible Imams (a.s.) regarding this. For instance, Imam Sadiq (a.s.) 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.s.) 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-Majmu 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 obligatory.[71](#)

Along the same lines, Bukhari has introduced a chapter in his book entitled 'Takbir upon the deceased are four' and has narrated Ahadith 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.s.), 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)**

Concerning this, Yahya Ibn Abil-Ala narrates from Imam Sadiq (a.s.) 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 Malik are of the same opinion.

The Sunnis adhered to Ahadith 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 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 Ahadith, 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:

***“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...,” (8:41)***

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 Ahadith have been narrated about this from the pure Imams. Sama‘ah says, “I asked Imam Kazim (a.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 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](#)

## Tawaf An-Nisa

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 (Wajib) and recommended (Mustahab) acts, an important one of which is the circumambulation (Tawaf) of the Ka‘ba. Tawaf itself includes different types, which is where Shi‘as and Sunnis differ. The primary difference among the Sunni and Shia concerns Tawaf An-Nisa.

The Shi‘a believe that Tawaf An-Nisa 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 Tawaf An-Nisa.[85](#) Consistent with the Shi'a traditions, Tawaf An-Nisa existed even during Prophet Adam[86](#) and Prophet Nuh's[87](#) Hajj performance.

However, in Sunni jurisprudence, essentially Tawaf An-Nisa has not been mentioned. On the other hand, Tawaf Al-Qudum, Tawaf Al-Ifadah, and Tawaf Al-Wida have been discussed.[88](#)

## Temporary Marriage

Another issue differing among the Muslims is the permissibility or impermissibility of temporary marriage (i.e., Mutah). 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, Mutah 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 Jubayr[90](#), Ibn Mas'ud, Jabir Bin Abdullah Ansari and Umran Ibn Hasin[91](#) in the following manner:

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

Jabir Bin Abdullah and Salmah Ibn Akwa have narrated, "The Prophet's (S) herald announced that the Prophet (S) has allowed you to do Mutah."[92](#)

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.

Ibn Abbas says: "Mutah 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.<sup>95</sup> Their arguments are as follows:

First, the Prophet (S) has forbidden it. Rabi Bin Sabrah has said, “The Prophet (S) has forbidden Mutah in his farewell pilgrimage and said, ‘I have allowed Mutah and God has forbidden it until the Day of Resurrection. In addition, Imam Ali (a.s.) said that on the day of the Battle of Khaybar, the Prophet (S) made Mutah prohibited (Haram).<sup>96</sup>

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.

### Evaluation

In reply to the first argument, it should be noted that the two traditions cited in Sunni sources about banning Mutah contradict each other. According to one of them, Mutah 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.<sup>97</sup>

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 Mutah during the time of the Messenger of God (S) and Abu Bakr, until Umar forbade us from this act.”<sup>98</sup>

Also, in his book, Bayhaqi narrated from Umar who said, “Indeed, there were two types of Mutah during the time of the Prophet (S); I forbid them both, and I will punish those who practice it. They are: Mutah of Women and Mut’ah of the Pilgrimage.”<sup>99</sup>

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 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 Wudhu', 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 Ala 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 Zuhr 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 Tawaf An-Nisa in Hajj is necessary.
10. The Shi'a believe that the Qur'anic ruling about Mutah has not been abrogated and it was practiced in the time of the Prophet (S). So it is still permissible and is considered a legal type of marriage.

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- [1.](#) Man La Yahduruhi Al-Faqh, 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-Khilaf, vol. 1, p. 78-79.
  - [3.](#) Fi Rehab Ahlul Bayt (a.s.), p. 15.
  - [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.
  - [9.](#) Ibid., p. 176.
  - [10.](#) Al-Intisar, p. 137.
  - [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 Shia 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-Ummal, vol. 4, p. 266.
  - [15.](#) Al-Sunan Al-Kubra by Bayhaqi, vol. 1, p. 424. It has to be noted that one cannot simply dismiss these Ahadith if they are not mentioned in Sahih of Muslim or Sahih of Bukhari, because there are many Ahadith that are accepted by Sunni scholars which are not cited in the Sahihayn. For example, Hakim Al-Nishaburi has compiled five-volume Hadith collection and he claims that all the Ahadith in it were authentic according to the conditions of either Sahih Al-Bukhari or Sahih Muslim, or both.
  - [16.](#) Man La Yahduruhi 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.
- [20.](#) Shafi'i himself, in Kitab 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. Kitab 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.
- [25.](#) Sahih Muslim, vol. 1, p. 152.
- [26.](#) Ibid; Al-Mabsut Sarkhasi, vol. 1, p. 149. Ahadith 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-Salatayn by Mohammad Reza Mudarresi, p. 8.
- [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.](#) Kafi, 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.
- [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.
- [39.](#) i.e., Thuhr, Asr, and Isha
- [40.](#) Kitab Al-Khilaf, vol. 1, p. 569.
- [41.](#) Ibid.
- [42.](#) Sahih Muslim, vol. 2, p. 143.
- [43.](#) Sunan Al-Tirmidhi, vol. 2, p. 28.
- [44.](#) Ibid.
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- [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.
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- [57.](#) Surat Al-Baqarah, verse 158.
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- [59.](#) Ibid., p. 39–40.
- [60.](#) Ibid., p. 42–45.
- [61.](#) Al-Nehayat Al-Shaikh Al-Tusi, p. 77; Shara-i Wa-i-Islam, vol. 1, p. 65.
- [62.](#) Al-Kafi, vol. 3, p. 318.
- [63.](#) Al-Muhalla 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 Yahduruhi Al-Faqih, vol. 1, p. 164.
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- [76.](#) Man La Yahduruhi Al-Faqz, 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.
- [79.](#) Sahih Muslim, vol. 3, p. 141-142.
- [80.](#) Sunan Tirmidhi, vol. 2, p. 107.
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- [82.](#) Wasa'il Al-Shia, vol. 9, p. 503.
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- [84.](#) Kitab Al-Umm, vol. 2, p. 88-89.
- [85.](#) Kitab Al-Khalaf, vol. 2, p. 348.
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- [87.](#) Ibid., p. 212.
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- [97.](#) Al-Sunan Al-Kubra Li Al-Bayhaqi, vol. 7, p. 706.
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