Offering Complete or Shortened Prayers? The Traveler's *Salat* at the "Holy Places"

Liyakat Takim
University of Denver
Denver, Colorado

The provenance of a distinct Shiʿi school of law can be traced to the time of the fifth Shiʿi imam, Muhammad al-Baqir (d. 735).[1] Respected by and contemporary to many Sunni jurists in Medina and Kufa, he is credited with laying the foundations of what was later called the Jaʿfari school of law. Al-Baqir is also the first Shiʿi figure from whom a vast corpus of *hadith* literature has been transmitted. His legal formulations were later elaborated on by his son, the sixth Shiʿi imam, Jaʿfar al-Sadiq (d. 765) after whom the school was named. Al-Sadiq was contemporary to prominent Sunni jurists like Abu Hanifa (d. 767) and Malik b. Anas (d. 795).

One of the legal issues confronting Muslim jurists was the question of whether a traveler should reduce the number of cycles in her/his prayers. The Qurʾān had allowed a traveler to shorten her/his prayers. It stated, "When you travel, there is no blame on you if you shorten your prayers, for fear that the unbelievers may attack you; for the unbelievers are clear enemies to you" (4:101). Based on this verse and other supporting traditions, Shiʿi jurists, who wrote in the tenth and eleventh centuries, stipulated that a traveler must shorten her/his afternoon (*zuhr, ʿasr*) and night (*ʿisha'*) prayers to two cycles (*rakʿas*), instead of the mandatory four cycles which s/he would normally recite at her/his place of residence. However, if the traveler stayed at a place for more than ten days, the jurists stated that s/he would no longer be considered a traveler and would then have to offer the complete (*tamam*) prayers. Shiʿi jurists also stipulated that if the traveler journeys to any of the holy places, s/he has a choice between offering the complete and the shortened (*taqsir*) prayers even if the traveler stays there for less than ten days.

In this article, I discuss the prayer of a traveler at places designated as holy in Shiʿi *hadith* and juridical literature. After examining the traditions on praying at the holy places, I will investigate the factors that were significant in determining which sites were deemed to be sacred.

The article will also examine the process by which a prominent jurist of the last century, Ayatullah al-Sayyid Abu al-Qasim al-Khuʾi (d. 1992) issued a *fatwa* (juridical edict) regarding the offering of prayers at the holy places. I will demonstrate how, by employing certain methodological devices and principles established in *usul al-fiqh* (the science of inferring juridical rulings from textual and rational sources), al-Khuʾi was able to harmonize apparently contradictory traditions so as to deduce an edict on praying at the holy places. As we shall see, the process of issuing a juridical edict involves a nuanced analysis and synthesis of revelatory sources and human reasoning.

In addition, the article will discuss the significance of the biographical science (*ʿilm al-rijal*) in inferring a juridical ruling on prayers at the holy places. I will demonstrate that the principles established in biographical dictionaries had major ramifications in deriving the juridical ruling on the issue. In the process, we will see that polemical and political factors played important roles in the designation of sacred space in Shiʿism.

The Shiʿi View on the Prayers of a Traveler

Shiʿi jurists are unanimous in ruling that a traveler must offer the *qasr* (shortened) *salat* unless s/he sojourns at a place for more than ten days.[2] This edict is based on the Qurʾānic verse cited above (4:101). In addition, the Shiʿis depend on traditions reported from their imams. Muhammad al-Baqir, for example, was asked by two prominent disciples, Zurara b. Aʿyan (d. 767) and Muhammad b. Muslim al-Thaqafi (d. 767), how a traveler should offer prayers and of how many cycles. The imam is reported to have stated,

> The Almighty Allah says: 'When you travel on earth there is no blame on you if you shorten your prayer . . .' so the *qasr* is obligatory when traveling just as the complete prayers are obligatory [to recite] at home.' They said: 'We said to him: 'He (God) said: 'There is no blame on you if you shorten the prayer,' He did not say [you must] shorten the prayer, so how can He make it compulsory just as He made the *tamam* compulsory?' He (al-Baqir) replied, 'Did the Almighty not say regarding the *Safa* and *Marwa*,[3] one who performs the pilgrimage or the *ʿumra*, 'there is no blame on him that he should walk between them;' don't you see that walking between them is obligatory, legislated, because Allah, the Almighty, has mentioned it in His book and His Prophet performed it? Similarly, the shortening [of prayers] on a journey is something which the Prophet of God performed and Allah has mentioned in the book.'[4]

The Shiʿi insistence that a traveler can offer only the *qasr* prayer means that if a person deliberately offers the complete prayer when traveling, s/he must repeat it, reciting the *qasr* prayer this time. If, on the other hand, s/he does not know of this ruling then s/he does not have to repeat the prayer."[5]

Shiʿi jurists link the praying of *qasr* with the breaking of the fast. For the Shiʿis, just as it is prohibited for a traveler to offer the complete prayer, it is also prohibited for her/him to fast. They base their argument for the obligation of breaking the fast when traveling on the Qurʾānic verse, "Those of you who witness the month of *Ramadhan* (at home) should fast, those who are sick or on a journey should fast a number of other days, God wishes ease for you, He does not wish difficulty" (2:185). In addition, the Shiʿis depend on traditions from the imams in vindicating this ruling. Jaʿfar al-Sadiq, for example, is reported to have said, "One who travels must break his fast and shorten the prayers unless his journey is a sin against Allah the Almighty, the most Glorious."[6]

Conflicting Traditions in Shiʿi *Hadith* Literature

Before I discuss how a jurist arrives at a juridical decision on the shortening of the prayer and the significance of the holy places, it is essential to discuss the reasons for the contradictory traditions in Shiʿi *hadith* literature and the process of harmonizing variant traditions in Shiʿism. Just like the Sunni *hadith* literature, Shiʿi legal texts are characterized by the presence of contradictory traditions reported from authoritative sources, the imams. From the very beginning, this factor led to Shiʿi jurists issuing variant edicts on the same issue. The existence of disparate Shiʿi traditions and the concomitant divergent rulings in the legal field were acknowledged by Muhammad b. al-Hasan Tusi (d. 1067) who states, "I have found them [the Righteous Sect] differing in the legal rulings (*ahkam*). One of them issues a *fatwa*, which his contemporary does not. These differences exist in all chapters of jurisprudence from those concerning the laws on ritual purity (*al-tahara*) to the chapter on indemnity (*al-diyat*) and on the questions of worship . . ."[7] Tusi was complaining about the differences (*al-ikhtilaf*) in the religious practices of the righteous sect, which he identified to be the Shiʿis. According to Tusi, the differences between the Shiʿi jurists were greater than the differences between Abu Hanifa, Shafiʿi, and Malik.[8] To construct a proper and unified legal system, it was essential to develop a technique for resolving the mass of sound but often-contradictory Shiʿi *hadith*. It was also necessary to explain and justify the differences.

Several reasons can be cited for the disparity in traditions and the concomitant *ikhtilaf* in Shiʿi jurisprudence:

> For the Shiʿis, the imams had to dissimulate (*taqiyya*) due to the purported dangers to their lives. This was a major contributory factor that led to the differences in traditions from the imams. The question of *taqiyya* must be examined in the light of the socio-political circumstances under which the imams and their close associates lived. In the Shiʿi view, *taqiyya* was to be performed not only against the caliphs but also against the Sunni majority.[9] The afore-mentioned Zurara is reported to have noted that Muhammad al-Baqir gave three conflicting answers to the same question posed by him and two other disciples from Kufa. When Zurara questioned the imam about the different responses, al-Baqir is reported to have said, "O Zurara, this is better for us and [more conducive] to our and your survival. If you [all] agreed on a matter, people would have believed you and [thereby] followed us. That [would have meant] less [chances of] survival for us and you."[10]

It was in the interests of the Shiʿis that they be given conflicting answers so as not to depict a unified image to the Sunni majority. This would reduce the threat of the Shiʿis in the eyes of the Sunnis.[11] In another tradition, Abu Basir al-Asadi (d. 767) is reported to have asked al-Sadiq about the *qunut* (supplication) in the *salat*. The imam had reportedly told him: "[Perform it] in the prayer which you recite loudly (a reference to the morning and evening prayers)." Abu Basir then said, "But I asked your father about this and he said that it was to be recited in all the five canonical prayers." Al-Sadiq replied, "May God have mercy on my father. The companions of my father came and asked him and he replied them [according to] the truth; then they came to me in a state of doubt; I answered them (*aftaytuhum*) according to the dictates of *taqiyya*."[12]

For the Shiʿis, *taqiyya* is an essential tool for explaining the inconsistencies in traditions. In fact, the eighteenth-century Akhbari scholar Yusuf al-Bahrani (d. 1772), states that all contradictions among traditions are due to the fact that the imams were forced to dissimulate.[13] If the element of dissimulation were factored in, there would be no disparity among traditions.

Furthermore, *taqiyya* was an important consideration in Shiʿi legal discourse. According to Devin Stewart, Shiʿi jurists in the medieval period were excluded from participating in Muslim legal discourse as their beliefs and practices were deemed heretical. These jurists resorted to *taqiyya* by concealing their beliefs and modifying their identities in order to participate more fully in Sunni educational and juridical institutions.[14] In fact many Shiʿi jurists participated in legal discourse by posing as Shafiʿis because the rulings of Shafiʿi were often close to those adopted by the Shiʿis.[15]

The Shiʿis resorted to *taqiyya* at the political level to conceal their Shiʿi affiliations. This enabled them to interact with the wider Muslim community while maintaining their distinctive beliefs. In the biographical works, the

imams' derogatory remarks against some of their eminent disciples are often construed as arising from the need to protect the lives of these disciples.[16] In the texts on *usul al-fiqh*, *taqiyya* is invoked to explain traditions that contravene Shiʿi views and to reduce conflicts between traditions. It was essential that the Shiʿis respond to the charges leveled against them. Many of their adversaries claimed that the responses given by one imam conflicted with those given by another imam. It was also essential to explain the diverse answers allegedly uttered by an imam to the same question. Thus, *taqiyya* became an important tool used by Shiʿi jurists to resolve contradictions between traditions and to issue a juridical opinion on an issue.

In addition, as I have shown elsewhere, the differences reported between the disciples and the imams combined with the differences among the disciples themselves may have contributed to the proliferation of contradictory *hadith*.[17] According to the Shiʿi biographer Kashshi (d. 978), disciples like Abu al-Khattab (d. 755), an alleged extremist, had differed from the imams on ritual issues whereas others like Zurara, Muhammad b. Muslim, and Hisham b. al-Hakam (d. 807) had allegedly held variant theological views. The disciples' personal interpretation of the teachings of the imams led them to maintain distinct legal/theological views.

A study of Shiʿi biographical texts suggests that there were intense arguments and polemicized discourses among the companions of the imams. The controversies among them sometimes resulted in serious disputes and generated much antagonism within the Shiʿi ranks, often leading the disciples to label each other as infidels.[18] Many of these companions of the imams even composed tracts refuting the views of their fellow Shiʿi peers.[19] This was an important factor in the dissipation of conflicting traditions in Shiʿi *hadith* literature.

In addition, various extremist groups are accused of interpolating the traditions of the imams. Yunus b. ʿAbd a-Rahman (d. 823) had heard and recorded Shiʿi traditions when he visited Kufa. When he went to Medina, he presented these to the eighth imam, ʿAli al-Rida (d. 818). The imam denied that these were uttered by al-Sadiq or al-Kazim and blamed Abu al-Khattab and his companions for fabricating their *hadiths*.[20] These differences were, in all probability, major contributory factors in the propagation of disparate traditions.

The Process of Harmonization of Traditions

The presence of disparate traditions was obviously a major obstacle to creating a unified legal system and to the derivation of juridical rulings. As in Sunni jurisprudence, it was left to *usul al-fiqh* to delineate principles that could create harmony within the chaos engendered by such variant traditions. Here,

although I will not delve into the process of harmonizing traditions since this is beyond the scope of this paper, I will mention those aspects relevant to the process of issuing a *fatwa*.

Usul al-fiqh is seen as positing principles and methodology through which a jurist may interpret or derive the law from both revelatory and rational sources.[21] The Shiʿis resorted to principles established in *usul al-fiqh* to resolve the problem of contradictory traditions. In Shiʿism, as in Sunnism, the principle of abrogation (*naskh*) was restricted to the Prophet's time. Since the imams were seen as the guardians of the *sharīʿa*, they could only elaborate on, rather than abrogate, a ruling established by the Qurʾān and the Prophet.[22] Thus, the Shiʿis could not appeal to the principle of abrogation to explain contradictory traditions.

Given the fact that the Shiʿis could not claim that an imam had abrogated the traditions of the Prophet or other imams, they attempted to reconcile *(al-jamʿ)* variant traditions. A jurist could claim, for example, that a tradition was universal in its applicability whereas an opposing tradition was restricted to a particular historical occasion. In deciding between contradictory traditions, Tusi, for example, states that a jurist must first compare these with the Qurʾān and the Sunni ruling on the same issue. That tradition which agrees with the Qurʾān is to be accepted at the expense of its counterpart. The *hadith*, which opposes the Sunni ruling on the same issue, was to be preferred to that which agrees with their ruling.[23]

When reconciliation through such methods proved impossible, Shiʿi jurists devised a systematic elimination of the less favorable *(marjuh)* traditions. Since it was the disciples of the imams who reported traditions from them, it was natural that, in the absence of other indicators, (*qara'in* pl. of *qarina*),[24] *usuli* discussions on the principles of deciding between dissonant reports centered on the qualities of the reporters, utilizing the authentications and biographical details provided by Shiʿi biographical scholars. It was here that the disciples of the imams (the *rijal*), who reported traditions from them, played a decisive role in determining the rulings that a jurist might issue. It is due to the close link between *usul al-fiqh* and the biographical dictionaries that *usul* works contain a chapter on the *murajjahat* (the established criteria for the preponderance of one tradition over another). In this chapter, the qualities *(sifat)* of the reporters are discussed and the criteria for the acceptance or rejection (*tarh*) of traditions elaborated.

The Shiʿi exercise of reconciling contradictory traditions must be understood by the doctrinal underpinning that governs the process of harmonization. The doctrine of *ʿisma* (infallibility of the imam) and the impossibility of abrogation after the Prophet meant that the imams could not contradict themselves. Where possible, contradictions could be construed as

arising from weak links in the chains of transmission (*asanid* pl. of *isnad*). When this was not possible, to protect the doctrines of *ʿisma* and the knowledge (*ʿilm*) of the imam, it was deemed essential to resolve the incongruity by subjective interpretations of what an imam possibly meant by a particular statement or by appealing to *taqiyya*. When the traditions could not be harmonized through these means either, the qualities of the transmitters of sound traditions were compared so that some traditions could be preferred over others.

In his attempts at resolving the disparities between traditions, Tusi, for example, demonstrates the unreliability in some traditions caused by weak links in the *isnad* or by remarking that a particular transmitter is a Sunni *(ʿammi)* whose traditions must be rejected.[25] When the *isnads* were sound, Tusi harmonizes the traditions by various forms of interpretation, imposing, in the process, his own precommitments on the traditions. In one such tradition, al-Sadiq is reported to have forbidden the consumption of the leftovers of Jews. An opposing tradition permits the performance of the *wudu'* (ritual ablution) from a vessel containing the remnants of water drunk by a Jew, an act that would have made the water impure. To resolve the inconsistency, Tusi reinterprets the tradition and states that the Jew may have become a Muslim, and therefore the water remained in a pure state (although no such conversion is reported in the tradition).[26] Tusi's synthesis of *usul al-fiqh* and interpretation of traditions suggest that both reasoning and the revelatory source of law contribute to his argument. In his attempts at harmonizing dissonant traditions, Tusi often employs *usul al-fiqh* to vindicate a conclusion reached by reasoning.

The harmonization of traditions was an attempt to make unity out of the disunity that was caused by a mass of conflicting traditions. Above all, the canonization and standardization of Shiʿi law demanded that traditions be harmonized. The preceding discussion of the contradictory traditions and the role of the *rijal* in resolving these contradictions further indicates that *usul al-fiqh,* together with *ʿilm al-rijal*, were both used in solving a major problem facing Shiʿi jurists — that of establishing principles of harmonization so that a jurist could deduce a ruling given the conflicting traditions.

The Process of Deriving the *Fatwa* on Prayers at the Holy Places

The discussion on *usul al-fiqh* and principles of resolving contradictory traditions was essential so as to comprehend the tools used by a jurist in arriving at a juridical decision. In this section, I intend to examine how a famous jurist of the last century, Ayatullah al-Khu'i, derives a ruling regarding the prayers to be offered at the holy places, i.e., Mecca, Medina, and the

mosques in Kufa and Kerbala. As I have mentioned above, Shiʿi law states that a traveler must shorten her/his prayer if s/he stays at a place for less than ten days. However, the ruling on the prayers to be offered at the holy places by a traveler is different from that at other places. Most Shiʿi jurists have ruled that when a traveler arrives at any of the designated holy places, s/he has a choice between performing the complete or shortened prayers.[27]

At the outset, it is important to mention that the traditions on offering prayers at the holy places are ambiguous and often contradict each other. Thus, in order to issue a *fatwa* on the topic, a jurist must examine all the traditions cited in various genres of Shiʿi literature and try to harmonize contradictory traditions. The traditions on the prayers at the holy places are of three types: those that indicate the incumbency to perform the complete prayer (*tamam*), those that require the traveler to shorten her/his prayer (*taqsir*), and those that offer a traveler a choice between the two (*takhyir*).

Al-Khu'i appropriates principles established in *usul al-fiqh* to resolve contrariety in traditions. Before he examines the traditions, al-Khu'i states that the *tamam* traditions can be harmonized with the *takhyir* reports by employing an *usuli* principle called *al-jamʿ al-ʿurfi*. The principle stipulates that when confronted with contradictory traditions, a jurist must first try to harmonize their contents before scrutinizing the *isnad* appended to the traditions. In the present example, the principle of *al-jamʿ al-ʿurfi* is used to interpret the commands mentioned in the *tamam* traditions to refer to strong preference *(afdal)* rather than incumbency *(wujub)* to perform the complete prayer. Manuals on *usul al-fiqh* contain discussions of commands, countermands, injunctions, and their possible significations. These chapters seek to establish and define the relationships between the observable features of language and the specification of meaning. Whether a word or phrase is interpreted according to one or another of its possible meanings will depend, according to the rules of *usul al-fiqh,* on the availability of so-called "contextual indicators."[28] Thus, for example, the apparent connotation of a command, according to the *usulis,* is that of incumbency. However, when a tradition that includes an instruction or command to perform an act is confronted with one that allows its opposite, a jurist (*faqih*) can interpret the incumbency to connote strong preference *(afdaliyya)* so as to harmonize the traditions.

By this interpretation, a *faqih* 'lifts his hand' from the apparent signification of a command (that of incumbency) and interprets it to signify strong preference (*fa yarfaʿu al-yad ʿan zuhur al-amr fi al-taʿyin wa yahmiluhu alaʿ1-takhyir*).[29] The process makes the traditions requiring the offering of complete prayers compatible with those indicating that a traveler may choose between the two types of prayers. Having stated the *usuli* principle that he will

use, al-Khu'i then examines the traditions offering a traveler a choice between the complete or shortened prayers. This genre of traditions is called the *takhyir* traditions. In one of these, ʿAli b. Yaqtin (d. 798–9) is reported to have asked Musa al-Kazim (d. 799), the seventh Shiʿi imam, about shortening the prayer in Mecca. The imam reportedly said, "Perform the complete prayer, but it is not obligatory [to do so]. I merely love for you what I love for myself" (a reference to the preference of saying the complete *salat).*[30]

Upon further examination, this tradition demonstrates the role of the biographical sciences (*ʿilm al-rijal*) in the inference of a ruling. The above tradition has been reported by Ismaʿil b. Murar,[31] who has not been authenticated in the biographical works. However, he has been cited by ʿAli b. Ibrahim al-Qummi (d. 919) in his *tafsir* work. The author, according to a principle established in *ʿilm al-rijal*, cites traditions from reliable reporters only.[32] Due to Ismaʿil's inclusion in one of al-Qummi's *isnad*, al-Khu'i maintains that he is authenticated and therefore deemed a reliable transmitter of traditions.

Al-Khu'i then contrasts the *takhyir* with the *tamam* traditions. Some of the latter explicitly state that the complete *salat* must be performed even if one is merely passing through Mecca or Medina. For example, ʿAbd al-Rahman b. al-Hajjaj asked al-Sadiq whether the complete prayer should be offered in Mecca. Al-Sadiq reportedly told him to offer the complete prayer even if he was to pray only once in the holy city.[33] In another tradition that has been deemed to be authentic (*sahih*),[34] Masmaʿ b. ʿAbd al-Malik is told by the imam, "If you enter Mecca, then perform the complete prayer [from] the day you enter it."

To resolve the inconsistencies between traditions, al-Khu'i resorts to the 'lifting of the hand' and construes the commands in the *tamam* traditions to signify strong preference. By this interpretation, the *tamam* traditions are harmonized with the *takhyir* traditions. Rather than ruling on the incumbency of praying the *tamam,* al-Khu'i rules that it is merely preferable to perform the complete prayers.

It is in a tradition such as the one cited from Masmaʿ b. ʿAbd al-Malik that the close links between the biographical texts and *usul al-fiqh* can be comprehended. The *isnad* appended to the tradition includes ʿAli b. Abi Jid,[35] who has not been authenticated in the biographical works. Al-Khu'i reminds us that another accepted principle in the biographical sciences is that Ahmad b. ʿAli Najashi's (d. 1058–9) teachers were all reliable (*thiqa*).[36] ʿAli b. Abi Jid was one of his teachers, and another accepted principle is that Najashi would report from an unreliable narrator only if there was a reliable transmitter between himself and the reporter.[37] Because of this principle, Ibn Abi Jid is authenticated and the tradition is construed as being reliable. A principle

established in *ʿilm al-rijal* is therefore invoked to raise an apparently weak tradition to the level of *sahih* from which a juridical ruling can be inferred.[38]

The juristic authority of the *rijal* is contingent, to a large degree, on their validation in the biographical dictionaries. Provided the transmitters have been authenticated in the biographical works, a jurist can cite the traditions they report as sound proof in support of his legal judgment. The importance of *ʿilm al-rijal* and the biographical texts, therefore, lies in their assessment of which transmitters of traditions are accepted as reliable, which, in turn, determines the community's religious practices.

It is important to note at this point that there was much confusion within the Shiʿi ranks regarding the imams' rulings on offering prayers at the holy places. This can be corroborated from the following tradition. ʿAli b. Mahzayar (n.d.) states that he wrote to Muhammad b. ʿAli al-Jawad (d. 835), the ninth imam, "There are many conflicting traditions from your fathers regarding the offering of the complete or shortened prayers at the two *harams*.[39] Some of them instruct us to offer the complete prayer even if one is praying there only once. Others state that one should offer the shortened prayer as long as one does not intend to stay there for more than ten days . . . ." Al-Jawad is reported to have replied, "You know, may God have mercy on you, of the merits of offering prayers at the two *harams*, and other [holy places]. I would wish that when you enter the two *harams*, you should not shorten the prayers; rather, you should busy yourself with a lot of prayers." ʿAli b. Mahzayar adds that he later met al-Jawad and asked him what he meant by the two *harams*. He said, "[The ones] in Mecca and Medina."[40] The tradition highlights another important point; apart from the type of prayer to be offered, the Shiʿis were also unsure of the specific boundaries of the holy places.[41]

Al-Khu'i then turns to those traditions that instruct the traveler to shorten his prayers. Many traditions state that, even at the holy places, it is incumbent to shorten the prayer (*qasr*). Al-Rida, for example, reportedly told a disciple, "Perform the *qasr* in Mecca and Medina so long as you have resolved not to stay there for ten days or more."[42] The *taqsir* traditions clearly contradict the *takhyir* and *tamam* traditions. Moreover, al-Khu'i continues, eminent disciples like Safwan b. Yahya (d. 825) and Muhammad b. Abi ʿUmayr (d. 832) used to shorten their prayers even at the holy places.

In examining the traditions on the incumbency to perform the *qasr* prayers, one encounters a rather strange report. A *sahih* tradition states that the shortened prayers should be offered only when a person is in the state of *ihram*.[43] Al-Khu'i appears to be puzzled by the *hadith* and cites a familiar slogan when a jurist is unable to resolve an issue, "*la budda ʿan narudda ʿilmaha ila ahliha*" (It is necessary to return the understanding of it to its owner). The term signifies that the author has not been able to find a

satisfactory explanation to the tradition since the incumbency of performing the *qasr* when one is in the state of *ihram* has not been reported from anyone else. Al-Khu'i therefore 'returns' the question to its owner, i.e., the imam. The tradition could not be rejected as it was *sahih*. It could not be accepted or harmonized either as it opposed the commonly accepted ruling on the issue. The only solution was to return the tradition to its source, the imam.

To resolve the dichotomy between the *taqsir*, *takhyir*, and *tamam* traditions, al-Khu'i claims that it is necessary to interpret the commands in the *taqsir* traditions and the practice of some eminent disciples of the imams (that of reciting the *qasr* only) as arising from *taqiyya*. To corroborate his point that the *taqsir* traditions can be harmonized with the *tamam* and *takhyir* traditions, al-Khu'i states that the Sunnis do not observe the special sanctity (*al-khususiyya*) of the holy places. For them, the ruling for a traveler at these and other places is the same, i.e., *qasr*.[44] As for the imams, they observed the *khususiyya* of the holy places. If the imams instructed their associates to offer the shortened prayers at the holy places and if (like the Sunni view), this was the actual ruling, there would be no difference in the ruling on praying at these and other places, i.e., a Shi'i would have to shorten her/his prayers at the holy places just as s/he would have to pray the *qasr* at other places when s/he traveled. If the ruling was to offer the *qasr* at all places, then why, al-Khu'i asks, did the imams specifically instruct their followers to perform the *qasr* at the holy sites? Would their instructions not have been superfluous?

At this point, al-Khu'i goes beyond the principles established in *usul al-fiqh* to vindicate his ruling on the issue. For him, the existence of the *taqsir* traditions is a firm indication (*al-qarina al-qati'a*) that the holy places had some special significance. Stated differently, the mere presence of reports of the imams instructing their followers to shorten their prayers at the holy places indicates that the ruling for praying at these sites was special. The imams instructed their followers to pray the *qasr* there for a special reason, i.e., to protect the identity of their followers.

Taqiyya, al-Khu'i continues, is of two types. At times, a particular command is issued due to the presence of a person against whom one should dissimulate. There could, for example, be a Sunni in the audience. At other times, Shi'is are required to dissimulate and perform an act in a particular way as the purpose of the act (rather than the command itself) is to hide the identity of the Shi'is so that their true affiliations may not be revealed.[45] In the issue under discussion, *taqiyya* was for the act (offering the shortened prayer) itself so as to hide the identity of the Shi'is.

Moreover, al-Khu'i continues, *taqiyya* in these traditions must be understood in its proper historical context. It is to be remembered that the Shi'is often traveled with the Sunnis to the holy places (especially during the

pilgrimage season). The Shiʿis shortened their prayers during their journey to the holy places. If, after reaching a holy place, they suddenly reverted to offering the complete prayers, their Shiʿi identity would no longer remain covert as their acts would differ from those of the Sunnis. If their identity as the followers of the imams would be revealed, their lives would be endangered.

Therefore, al-Khu'i states, to safeguard their lives and property, the Shiʿis were instructed to offer the shortened prayers. Moreover, this rationalization also explains why eminent companions like Safwan b. Yahya and others shortened their prayers at the holy places.[46] This view is corroborated by a tradition reported by ʿAbd al-Rahman b. al-Hajjaj (n.d.). He said, "I asked al-Kazim that Hisham has reported from you that you told them [the Shiʿis] to offer the complete prayer at the two *harams*, and that was due to the [presence] of the people." The imam is reported to have told him, "No. My grandfathers and I offered the complete prayer when we entered Mecca but we hid it from the people."[47] The report indicates that the imams would offer the complete prayer at the holy places but would conceal it from the masses. Al-Khu'i states that since the imams offered the complete prayer in secrecy at the holy places, the tradition suggests that the reports instructing the Shiʿis to pray the shortened prayers was due to *taqiyya* and that the common practice among the majority of the Muslims was to offer the *qasr*. If the Shiʿis were required to offer the *qasr* at the holy places like everyone else, then there would have been no need for the traditions instructing the Shiʿis to offer the *qasr*.[48]

Al-Khu'i uses the rhetorical device supplied by *usul al-fiqh* not only to validate his *fatwa* but systematically to eliminate competing traditions and to negate any possible opposition to his edict. He posits the possible presence of Sunnis in the crowd to vindicate the practices of some prominent companions of the imams (offering the shortened prayers) and to invalidate divergent Shiʿi traditions (the imams' instruction to offer *qasr* at the holy places). Interestingly, al-Khu'i does not cite a single historical instance which led to the issuing of any of the *qasr* traditions. He predicates his discourse within an *usuli* framework so as to present his hermeneutic as a valid interpretation of traditions. He also constructs certain historical scenarios in the mind of the reader so as to justify the issuance of an apparently aberrant tradition. Thus, at certain points in his analysis, al-Khu'i uses legal theory (especially the principle of *taqiyya*) to validate rather than determine a legal position.

The preceding discussion shows that, for the Shiʿis, *taqiyya* becomes a convenient tool to explain conflicting reports, a tool that Sunni jurists did not have recourse to. It is within the context of sectarian polemics that *taqiyya* is utilized in Shiʿi *usul al-fiqh*. *Taqiyya* is used to resolve tensions within Shiʿi

hadith literature and to harmonize conflicting traditions. The ability of the Shiʿi jurists to use *taqiyya* to harmonize conflicting traditions is one of the elements that distinguishes Shiʿi *usul al-fiqh* from its Sunni counterpart.

Al-Khuʾi concludes that, after harmonizing the conflicting reports regarding the complete or shortened prayers, or the choice between them, the latter is the correct ruling although offering the complete prayer is strongly preferred due to the special sanctity of the holy places. By using various *usul* and *rijal* principles, two types of harmonization occur: those between *tamam* and *takhyir* traditions (by using the principle of *al-jamʿal-ʿurfi*) and between *taqsir* and *takhyir* traditions (by appealing to *taqiyya*). Biographical principles and authentications in the *rijal* works are also used to elevate traditions to the level of *sahih* so that they can be used as evidential proofs in deducing a particular ruling.

The Boundaries of the Holy Places

The discourse on prayers at the holy places is intertwined with defining their boundaries. Most traditions from the imams indicate that, in Mecca and Medina, the choice between offering the complete or shortened prayers is extended to the entire city. Due to conflicting traditions, Shiʿi jurists are divided over what constitutes the boundaries of the sacred areas. Al-Sharif al-Murtada (d. 1044) had defied the understanding reached by most Shiʿi jurists by claiming that the *qasr* is not to be recited at any of the holy places. According to him, a traveler has to offer the full prayer at all the holy places. In addition, he broadened the definition of a holy place to incorporate the shrines of all the imams.[49]

Al-Saduq (d. 991), on the other hand, maintained that the complete prayer can be offered at the holy places only if a traveler stays at a place for more than ten days. He narrates a tradition from al-Rida, which states that one should pray *qasr* at the holy places unless s/he stays there for more than ten days. Thus, for al-Saduq, the ruling at the holy places is the same as any other place. However, he also recommends that a traveler should sojourn at the holy places for more than ten days (thereby allowing her/him to perform the *tamam* prayers) due to the sanctity of the place (*li sharafi'l-buqʿa*).[50]

According to Tusi, it is recommended to offer the complete prayer at the holy places. He identifies these as the cities of Mecca and Medina and the mosques of Kufa and Kerbala.[51] To vindicate his position, Tusi cites a tradition which states that the complete prayer may be offered at the *harams* of God, of the Prophet, of ʿAli, and of al-Husayn.[52] Muhammad b. Idris (d. 1201), on the other hand, does not accept the view that the whole of Mecca and Medina are to be considered holy. He claims a consensus of the community (*ijmaʿ*) on excluding the cities of Mecca and Medina, thus confining the notion of the

sacred area to the mosques in these cities.[53] ʿAllama al-Hilli (d. 1325) and Shahid I (d. 1354) agree with Ibn Idris, claiming that only the four mosques are included in the ruling.[54] They cite a tradition reported from al-Sadiq, which suggests that the cities of Mecca and Medina are to be excluded from this ruling.[55]

Clearly, there is some dispute as to what area is considered sacred in Mecca and Medina. Most Shiʿi jurists agree that the entire cities of Mecca and Medina are included in the definition of the term *haram*. After examining all the traditions available on the topic, al-Khu'i rules that the choice to offer the complete or shortened prayer is applicable to the entire cities of Mecca and Medina. He further states that traditions that oppose this view have weak chains of transmission.[56]

Shiʿi traditions are not so clear on defining the sacred areas in Kufa and Kerbala. Many traditions state that the choice of offering the prayer is restricted to the *haram*. However, since the term *haram* is ambiguous, there is much debate on defining the boundaries of the *haram* in Kufa and Kerbala. Does the term cover the whole city, like Mecca and Medina or is it restricted to the mosque?

To resolve contrariety in these traditions, al-Khu'i invokes another *usuli* principle called *al-zuhur al-lafzi* (the apparent meaning of a word). He maintains that when a jurist is not sure of the applicability of a word, he must apply the apparent signification of the word to its minimum extent, i.e., the degree to which he is certain that the term is applicable (*al-qadr al-mutayaqqan*). In this instance, jurists are agreed that the term *haram* is, at the very least, applied to the mosque. However, al-Khu'i notes that other reliable traditions specifically identify the boundary of the *haram* in Kufa. One tradition states that the *haram* of ʿAli is the whole city of Kufa, not just the mosque.[57] In another *sahih* tradition, ʿAli is reported to have said, "Just as Mecca is the *haram* of God, and Medina is the *haram* of the Prophet, Kufa is my *haram*."[58] Based on this and other traditions, which state that the *haram* applies to the city of Kufa, al-Khu'i rules that the choice between offering the complete or shortened prayers is applied to the whole city of Kufa.[59] Al-Khu'i cautions that, contrary to what some jurists have ruled, this does not include Najaf. This is because Najaf lies outside the limits of the city of Kufa.[60] This view is shared by al-Khu'i's student, Ayatullah al-Seestani. He states that a traveler can offer full prayers in the entire cities of Mecca, Medina, and Kufa.[61]

Interestingly, al-Khu'i states in his juridical treatise, *Minhaj al-Salihin*, that a traveler can choose to pray either the *qasr* or complete prayer in the cities of Mecca and Medina, but only in the mosques of Kufa and Kerbala. However, he revises this view later and rules that the sanctity of Kufa is extended to the whole city.[62] It is also to be noted that, in the juridical tracts, there is no

discussion as to why these places have been designated as holy to the exclusion of the sites where other imams are buried. Al-Khu'i is more interested in deriving the juridical ruling than in discussing the merits of these places or why these areas have been deemed to be more holy than others.

As far as the prayers in Kerbala are concerned, al-Khu'i notes that three different types of traditions have been transmitted regarding the prayers there. Some state that the option of offering the complete prayer is available at the *haram* of al-Husayn whereas others mention the grave of al-Husayn. Al-Khu'i adds that other traditions specifically mention al-Ha'ir.[63] However, none of these traditions is reliable as they have weak *isnads*.[64]

Some reliable traditions state that the choice between offering the complete or shortened prayers is only applicable at the *haram*. Al-Khu'i maintains that this can cover the whole of Kerbala, just as it has been applied to the whole of Mecca, Medina, and Kufa. On the other hand, *haram* could have a more restrictive application, referring only to the courtyard of the shrine complex and the surrounding areas. This view was accepted by Muhammad al-Baqir al-Majlisi (d. 1699).[65]

Some traditions restrict the applicability of the term *haram* to the pavilion or veranda of the mosque[66] whereas others confine its usage to the walls and enclosure of the *haram*. Based on the *usuli* principle of the apparent usage of a term (*al-zuhur al-lafzi*), al-Khu'i claims that the walls and the enclosure are the very least to which the term refers today. It is within the precincts of the shrine that the traveler can choose to pray the complete or shortened prayers. At all other places, s/he should offer the full version.[67] The term *haram* does not apply to the pavilion or the courtyard of the mosque. Al-Khu'i justifies this position by stating that he applied the term *haram* to refer to areas beyond the precincts of the mosques in Mecca, Medina, and Kufa due to special proofs (*dala'il*), which are absent in the case of Kerbala.[68] Ayatullah al-Seestani is even more precise in delineating the boundaries of the *haram* in Kerbala. According to him, a visitor can offer full prayers in the *haram* of al-Husayn up to a distance of twenty-five arm lengths from the tomb of al-Husayn.[69]

The Significance of the Holy Places

The discussion of the prayers at and boundaries of the holy places should be contextualized within the framework of the significance of these sites. Unfortunately, juridical manuals on prayers at the holy places are characterized by a discourse on the boundaries rather than significance of these locations. For the Shi'is, all the places where their imams are buried are considered to be sacred. Hence, Shi'is are encouraged to perform pilgrimage to the shrines of all the imams.[70] However, as is evident from my discussion of the prayers at the holy places, some areas are evidently more holy than others. What is so

significant about these places? Why is the shrine of ʿAli in Najaf or those of the other imams excluded from the list of holy places? Why is only the shrine of al-Husayn seen as holy and not the entire city of Kerbala? Why is there a controversy as to whether the whole city or only the mosque of Kufa is holy?

Although Najaf enjoys an elevated status as the burial site of ʿAli,[71] in the juridical and devotional literature, Kufa out-ranks Najaf. It is reported from al-Sadiq that if people knew the merits of the mosque in Kufa, they would even crawl to get there.[72] It is said to be a place where one's desires can be fulfilled. Over a thousand prophets are reported to have prayed there. Shiʿi devotional literature maintains that even the Prophet prayed in this mosque when he ascended to the heavens[73] and that the twelfth Imam, the Mahdi, will pray in it when he reappears.[74]

In a tradition that seeks to accentuate the importance of the mosque of Kufa, al-Baqir reportedly stated that an obligatory prayer offered there is equivalent to performing an accepted pilgrimage (*hajj*) and a thousand prayers offered in another mosque, whereas a voluntary prayer is counted as one *ʿumra*.[75] When asked what was the most holy site after the *haram* in Mecca and Medina, al-Sadiq reportedly said that Kufa is the most sacred because many prophets are buried there.[76]

In his juridical tract, Ayatullah Seestani states that great emphasis is laid on offering prayers in a mosque in Islam. He indicates that the mosque in Mecca is superior to all the mosques, and after it, the order of priority is as follows: the Prophet's mosque in Medina, the mosque in Kufa, and the Aqsa mosque in Jerusalam.[77] However, Ayatullah Seestani also states that it is better to pray in the shrines of the imams than in a mosque. He further states that the reward for offering prayers in the shrine of ʿAli is equivalent to two hundred thousand prayers.[78]

Shiʿi devotional texts also accentuate the merits of the mosque of Kufa. More specifically, they mention acts of worship that are to be performed at various pillars located in the mosque in Kufa. For example, various prayers and supplications are to be recited at the pillar of Abraham. Similarly, the bench of judgment is of historical importance as it comprised a building within the mosque compound where ʿAli would judge between litigants.[79] The seventh pillar located inside the mosque compound is where God reportedly offered Adam the chance to repent.[80]

Apart from its mosque, the city of Kufa has historical and eschatological significance. Historically, Kufa was important for the Shiʿis as it was the seat of ʿAli's government.[81] In the eighth and ninth centuries, it was a center of Shiʿi intellectual activities, and some of the imams' most prominent disciples lived and taught there. Traditions also state that Kufa will be the place where the twelfth imam, the Mahdi, will reside after he reappears. It is in Kufa, according

to a tradition cited by Tusi, that the believers will assemble when the Mahdi reappears from his occultation. The mosque of Kufa will be his seat of government, and the mosque of Sahla, which is located close to Kufa, will be his treasury.[82]

Many traditions also stress the importance of the other holy place Kerbala, where al-Husayn (d. 680), the grandson of the Prophet, was martyred and buried. The merits of Kerbala can be discerned from the following tradition reported from Jaʿfar al-Sadiq. Muʿawiya b. Wahhab (n.d.) reports hearing a very moving and emotional supplication recited by al-Sadiq, imploring God to reward and have mercy on those visiting the grave of al-Husayn in Kerbala. When he finished, al-Sadiq is reported to have told Muʿawiya,

> O Muʿawiya! There are more who pray for his [al-Husayn's] visitors in the heavens than those on earth. Do not leave [visiting] it for fear of anyone, and whoever abandons [visiting] it due to fear he will regret it, wishing that he had stayed until he was buried there. Would you not wish that Allah sees you covered with the prayers of the Prophet, ʿAli, Fatima, and the infallible imams? Would you not like to be among those with whom the angels will shake hands tomorrow? Would you not like to be among those who will have no sins tomorrow? Or be among those who the Prophet of Allah will shake hands with?[83]

Traditions recorded by Ibn Qawlawayh (d. 980) state that even the sand of Kerbala has special merit. The believer is urged to prostrate on it and have it placed in his grave. Since it is believed to possess curative powers, it is even recommended to consume the sand of Kerbala.[84] Another tradition equates visiting the shrine of al-Husayn with visiting God and his throne.[85]

Although the traditions mention the sanctity of the mosques in Kufa and Kerbala, they do not state why these places are so special. While it is clear that Kerbala is the place where al-Husayn was martyred and buried, there is no imam buried in Kufa. It is possible to surmise that the real significance of the mosque of Kufa is that ʿAli was martyred there. It is the martyrdom factor that endows sanctity to a site. It is possibly for this factor that Kufa, rather than Najaf, enjoys special status. The fact that the traditions mention the merits of the mosque in Kufa more than the shrine of ʿAli and that a traveler can offer the complete prayer in Kufa but not in Najaf corroborates the point that the place of martyrdom, rather than the shrine, is endowed with special sanctity.

The view that the site where an imam was martyred is interwoven with its being accorded special sanctity is also corroborated by the juridical opinion that when one visits the place where al-Husayn was martyred and buried, s/he is allowed to choose between offering the shortened or complete prayer. Significantly, this ruling is applicable only at the place of martyrdom, the shrine of al-Husayn, and, as I have discussed, does not even apply to the courtyard

of the mosque or to the city of Kerbala. Similarly, as I have discussed, some jurists have opined that the same ruling applies to the mosque of Kufa rather than to the entire city of Kufa.

It is important to remember that it was only at these two places, the mosques in Kufa and Kerbala, that the imams were martyred. All the other imams were reportedly poisoned[86] or, in the case of the twelfth imam, believed to be in a state of occultation. This further substantiates my contention that sacred space is connected with martyrdom in Shiʿi Islam. The connection between martyrdom and the special sanctity of a place can also be discerned from a report that, when a visitor visits Kerbala, s/he should replicate the condition of al-Husayn before he was martyred. Jaʿfar al-Sadiq, for example, is reported to have instructed his followers to visit the grave of al-Husayn in a state of sorrow and grief. They are also recommended to be hungry and thirsty since al-Husayn died without food or drink.[87]

The salutations (*ziyara*) offered to al-Husayn in Kerbala also demonstrate the connection between the martyrdom of al-Husayn and the sanctity of his burial site. In one of the *ziyara*, the pilgrim states, "Allah has made this earth pure because of [your] being there."[88] In addition, many of the events surrounding al-Husayn's martyrdom are mentioned in the *ziyara*. By recollecting the events of Kerbala, the *ziyara* at the holy places helps the pilgrim internalize the martyrdom and sufferings of al-Husayn and revives a spirit of revolt within him. Lamentations and wailing at the sacred sites are integrated with various forms of powerful invocations and complaints about injustices and violations of rights.[89] By recollecting al-Husayn's sufferings at a holy site, the *ziyara* further cements the connection between martyrdom and sacred space in Shiʿism.

It should also be noted that the massacre of al-Husayn and his forces at Kerbala and ʿAli's martyrdom in Kufa were important milestones in Shiʿi history as they affirmed notions of injustices endured by the progeny of the Prophet and exacerbated a passion for martyrdom. Due to the martyrdom factor, both Kufa and Kerbala have become symbols of opposition to and victims of oppression. Although all the shrines are considered to be holy, those at Kerbala and Kufa have assumed special status. These two sites have also assumed political connotations, since they symbolize defiance and opposition to the Umayyads and provide hope against adversity, which the Shiʿis endured. Thus, it is plausible to maintain that, apart from the martyrdom factor, these two places have been seen as sacred due to the political symbolism they represent. The designation of sacred space affirms Shiʿi values of martyrdom and political opposition.

Shiʿi sacred space also helps to assert the differentiation from the Sunnite other. In this way, sacred space becomes a polemic device to construct

boundaries of identity and exclusion. It also identifies and marginalizes the 'other' and affirms Shi'i values and aspirations. At the holy places, the sufferings of the imams are remembered, their values internalized, and opposition to tyranny mobilized. In all probability, it was because of the political symbolism associated with Kufa that there were various anti-Umayyad Shi'i uprisings like those of Mukhtar b. 'Ubayd al-Thaqafi (d. 685) and Zayd b. 'Ali (d. 740).

Conclusion

In this paper, I have examined the process by which a juridical ruling on prayers at the holy places is derived. This examination required a discussion on *usul al-fiqh* and the principles of harmonizing contradictory traditions. The structure of the *hadith* literature and the need to produce a uniform legal code demanded order and explanation, which were provided by *usul al-fiqh*. It established principles by which unity and harmony could be established from inconsistency and contradiction. Various concepts were employed to resolve inconsistencies between traditions. The net effect was to replace chaos and arbitrary reasoning with more strictly defined principles for deriving the law.

The paper has demonstrated the nuanced analysis that is involved in the derivation of a juridical edict. In the case under consideration, various *usul* principles were used to harmonize conflicting traditions. These included the 'lifting of the hand', *taqiyya*, and applying the apparent signification of a term. By using principles that are explicated in *usul al-fiqh*, two types of harmonization occur in arriving at the *fatwa* on praying at the holy places: between those traditions that call for the offering of *tamam* and *takhyir* prayers and between *taqsir* and *takhyir* traditions.

Al-Khu'i employs legal theory to validate the opinions he issues. His arguments suggest that his interpretation and legal rulings are dictated by an application of the principles posited in *usul al-fiqh*. However, the strict application of legal theory does not always lead to a derivation of a legal practice. At times, al-Khu'i interprets and stretches traditions beyond their apparent signification so as to resolve conflicting traditions. He uses legal theory to validate rather than determine legal practice.

I have argued that certain holy places are more sacred than others in Shi'i devotional and juridical tracts. Kufa and Kerbala have been designated as sacred space since special events occurred there, i.e., the martyrdom of 'Ali and al-Husayn. In all probability, it was the martyrdom factor that elevated the sanctity of these places and made them more sacred than the shrines of the other imams.

Endnotes

1. In this paper, the term Shiʿis will be used to refer exclusively to the Twelver Shiʿis. Thus, it will not include a discussion on other Shiʿi groups like the Zaydi and Ismaʿili Shiʿis.

2. On the Shiʿi view regarding the incumbency to shorten the prayer when sojourning at a place for less than ten days see Muhammad b. ʿAli b. al-Husayn al-Saduq, *Man La Yahduruhu'l Faqih*, 4 vols. (Qum, 1983), 1:278–79; Muhammad b. al-Hasan Tusi, *Tahdhib al-Ahkam*, 10 vols. (Tehran: Dar al-Kutub al-Islamiyya, n.d.), 2:12 ff; *Al-Mabsut*, 8 vols. (Tehran: al-Matbaʿa al-Haydariyya, 1967), 1:136; Jaʿfar b. al-Hasan Muhaqqiq al-Hilli, *Sharaʿi al-Islam fi Fiqh al-Halal wa'l-Haram*, 4 vols. (Najaf: n.p., 1969), 1:132.

3. These refer to the two mountains in Mecca. Pilgrims are required to walk between them as part of the *hajj* rituals.

4. Al-Saduq, *Man La Yahduruh*, 1:278–79.

5. Ayatullah al-Uzama Syed ʿAli al-Husaini Seestani, *Islamic Laws*: *English Version of Taudhihul Masae'l* (London, 1994), 255.

6. Muhammad Sharaf al-Din al-Musawi, *Questions of Jurisprudence*, trans. Liyakatali Takim (Toronto, 1995), 50.

7. Muhammad b. al-Hasan Tusi, *ʿUddat al-Usul* (Tehran, 1983), 354.

8. *Ibid*., 358.

9. See Mahmud Hashimi, *Taʿrud al-Adilla al-Sharʿiyya* (compiled notes of lectures delivered in Najaf by Muhammad al-Baqir al-Sadr) (Beirut, 1975).

10. Muhammad b. Yaʿqub al-Kulayni, *Al-Kafi fi ʿIlm al-Din*, 6 vols. (Tehran, n.d.), 1:84–5. See also Hasan b. Musa al-Nawbakhti, *Firaq al-Shiʿa* (Najaf, 1936), 60, where al-Baqir is reported to have given conflicting answers to the Zaydi, ʿAmr b. Riyah.

11. Robert Gleave, *Inevitable Doubt: Two Theories of Shiʿi Jurisprudence* (Leiden, 2000), 137.

12. Kulayni, *al-Kafi*, 3:339. Yusuf Bahrani lists six reports when the imams gave differing response to the same question. Gleave, *Inevitable Doubt*, 34.

13. Gleave, *Inevitable Doubt*, 115.

14. Devin Stewart, *Islamic Legal Orthodoxy: Twelver Shiite Response to the Sunni Legal* System (Salt Lake City: Utah, 1998), 101.

15. *Ibid*., 62, 103.

16. Liyakatali Takim, "Evolution in the Biographical Profiles of Two *Hadith* Transmitters," in *Shiʿite Heritage: Essays on Classical and Modern Traditions*, ed. Lynda Clarke (Binghamton, 2001).

17. *Ibid*.

18. See Hossein Modarresi, *An Introduction to Shiʿi Law: A Bibliographical Study* (London, 1984), 26–28.

19. See for example, Muhammad b. al-Hasan Tusi, *Kitab al-Fihrist* (Qumm, 1983), 175.

20. Muhammad b. ʿUmar Kashshi, *Ikhtiyar Maʿrifa al-Rijal*, ed. al-Mustafawi (Mashhad, 1969), 224–25. In another tradition, Fayd b. Mukhtar (n.d.) complained to al-Sadiq of the contradictory Shiʿi *hadiths* that were circulated in Kufa. The imam directed Fayd to Zurara, thus further emphasizing the role of the disciples as the bearers of the imams' normative traditions. See *ibid*., 135–36.

21. The view that actual law is logically derived from principles established in Islamic legal theory has been contested by many scholars. Mohammed Fadel, for example, argues that, in many cases, the actual impact of *usul al-fiqh* on the working out of the law was quite minimal. Sherman Jackson calls the dictum that Islamic legal theory is the exclusive determinant of the content of Islamic law a fiction. See Mohammed Fadel, "'*Istihsan* is Nine-Tenths of the Law': The Puzzling Relationship of *Usul* to *Furuʿ* in the Maliki *Madhhab*,"

in Bernard Weiss, *Studies in Islamic Legal Theory* (Leiden, 2002); Sherman Jackson, "Fiction and Formalism: Toward a Functional Analysis of *Usul al-Fiqh*," in Weiss, *Studies in Islamic*.

22. Jaʿfar b. al-Hasan Muhaqqiq al-Hilli, *Maʿarij al-Usul* (Qum, 1983), 156.

23. Tusi, *ʿUdda*, 375–77.

24. For a list of these indicators, see Muhammad b. al-Hasan Tusi, *al-Istibsar Fi Ma Ikhtalafa min al-Akhbar*, 4 vols. (Beirut, 1985), 1:3; Liyakatali Takim, "The *Rijal* of the Shiʿi Imams as Depicted in Imami Biographical Literature," (Ph.D. thesis., School of Oriental and African Studies, 1990), chapter six.

25. See for example his attempts at reconciling variant traditions in al-*Istibsar*, 1:48.

26. *Ibid*. Even the eminent disciples could report traditions that were in complete contrast with the accepted ruling. See for example Zurara's tradition in *ibid*., 1:223.

27. As I shall discuss, Shiʿi jurists differ regarding the boundaries of the holy places.

28. See Jackson, "Fiction and Formalism," 192.

29. Murtada al-Burujardi, *Mustanad al-ʿUrwa al-Wuthqa* (Compiled notes of lectures delivered by al-Khu'i in Najaf), 8 vols. (n.p., n.d.), 8:400.

30. Tusi, *Tahdhib al-Ahkam*, 1:570.

31. On whom see Abu al-Qasim al-Khu'i, *Muʿjam Rijal al-Hadith*, 23 vols. (Beirut, 1983), 3:183.

32. See Asaf Muhsini, *Buhuth fi ʿIlm al-Rijal* (Qum, 1983), 65–66 on the controversy surrounding this principle.

33. Tusi, *Tahdhib*, 1:568; *al-Istibsar*, 1:170.

34. In Shiʿism, a *sahih hadith* is that which is consecutively linked from its last reporter to the infallible imam from whom the tradition originated, provided that every single reporter in every generation of the transmission is a Shiʿi, veracious, and accurate in his memorization and transmission of the tradition. See Abd al-Hadi al-Fadli, *Introduction to Hadith Including Dirayat al-Hadith*, trans. Nazmina Virjee (London, 2002), 128.

35. On whom see al-Khu'i, *Muʿjam*, 11:253.

36. *Ibid*., 1:50; Ahmad b. ʿAli Najashi, *Kitab al-Rijal* (Qum, 1976), 63.

37. Burujardi, *Mustanad*, 8:403.

38. It is apparently weak because Ibn Abi Jid has not been authenticated in the biographical works. It is raised to the level of *sahih* as he was one of Najashi's teachers.

39. The term *haram* is derived from the word *harim*, and refers to that which is sacred, inviolable, or sanctified. See Edward Lane's Arab-English Lexicon, "*Haram*," 8 vols. (Lahore, 1982), 2:553.

40. Tusi, *Tahdhib*, 1:569; *al-Istibsar*, 1:171.

41. See the discussion on this below.

42. Al-Saduq, *Man La Yahduruh*, 1:144; *ʿUyun Akhbar al-Rida* (Mashhad, n.d.), 190.

43. This refers to the state a pilgrim is required to enter into in order to perform the pilgrimage. The term also refers to the special garb that the pilgrim wears.

44. However, al-Khu'i also indicates that some Sunni *fuqaha'* have opted for *takhyir*.

45. Burujardi, *Mustanad*, 8:407.

46. *Ibid*.

47. Tusi, *Tahdhib*, 1:569.

48. Burujardi, Mustanad, 8:410.

49. See ʿAli Asghar al-Mawarid, *Silsila al-Yanabiʿ al-Fiqhiyya*, 23 vols. (Beirut, 1990), 3:187, citing al-Murtada's *Kitab al-ʿilm wa'l ʿamal*.

50. Al-Saduq, *Man La Yahduruh*, 1:283.

51. This view is also supported by many other jurists. According to al-Muhaqqiq al-Hilli, a traveler has the choice to offer the complete or shortened prayer in Mecca, Medina, the mosque of Kufa and the shrine in Kerbala. See *Sharaʿi al-Islam*, 1:132.

52. Tusi, *al-Mabsut*, 1:141.
53. Al-Mawarid, *Silsila al-Yanabi'*, 4:754, citing Ibn al-Idris, *al-Sara'ir*.
54. Al-Mawarid, *Silsila al-Yanabi'*, 4:942, 4:958, citing al-Hilli's *Qawa'id al-Ahkam*. Some traditions state that the *tamam* should be offered in the *haram* in Mecca and Medina. See *ibid*., 3:432.
55. Tusi, *Tahdhib*, 1:570; *al-Istibsar*, 1:172.
56. Burujardi, Mustanad, 8:414.
57. Burujardi, *Mustanad*, 416.
58. Tusi, *Tahdhib*, 2:5.
59. Burujardi, Mustanad, 8:417.
60. *Ibid*., 418.
61. Seestani, *Islamic Laws*, 254.
62. Al-Khu'i cautions that one cannot fast at these four holy places. See al-Khu'i, *Minhaj al-Salihin*, 2 vols. (n.p., n.d), 9th edition, 1:267.
63. This refers to the site where al-Husayn has been buried in Kerbala.
64. Burujardi, *Mustanad*, 8:418.
65. Muhammad al-Baqir al-Majlisi, *Bihar al-Anwar*: *al-Jami'a Lidurari Akhbar al-A'imma al-Athar*, 110 vols. (Beirut, 1983), 89:89.
66. Burujardi, Mustanad, 8:419.
67. *Ibid*., 8:419–420.
68. *Ibid*., 8:420.
69. Seestani, *Islamic Laws,* 254.
70. See Liyakat Takim, "Charismatic Appeal or Communitas: Visitation to the Shrines of the Imams," in *The Journal of Ritual Studies*, 18:2, (2004).
71. On the merits of the pilgrimage to 'Ali's shrine in Najaf see Husayn Talib, *Ziyarat Guide: Selected Supplications*, trans. Liyakat Takim (Toronto, 2000), 2–4.
72. *Ibid*., 19.
73. Ibn Qawlawayh, *Kamil al-Ziyarat* (Najaf, 1938), 28.
74. Talib, *Ziyarat*, 19.
75. Ibn Qawlawayh, *Kamil*, 28. *'Umra* refers to the pilgrimage to Mecca in an off-season.
76. *Ibid*., 30.
77. Seestani, *Islamic Laws*, 171.
78. *Ibid*.
79. Talib, *Ziyarat Guide*, 24.
80. *Ibid*., 27.
81. Tusi, *Kitab al-Ghayba* (Tehran, 1977), 276.
82. *Ibid*., 273.
83. Talib, *Ziyarat Guide*, 65.
84. Ibn Qawlawayh, *Kamil*, 285, 275.
85. *Ibid*., 147.
86. This view is challenged by al-Mufid in his *Kitab al-Irshad*. He states that there is no proof to suggest that the ninth imam, Muhammad b. 'Ali al-Jawad (d. 835), was poisoned. See Muhammad b. Muhammad. b. al-Nu'man al-Mufid, *Kitab al-Irshad*, trans. I. Howard (London, 1981), 495.
87. Mahmoud Ayoub, *Redemptive Suffering in Islam* (New York, 1978), 188.
88. See 'Abbas al-Qummi, *Mafatih al-Jinan* (Qum, 1991), 345.
89. See Takim, "Charismatic Appeal or Communitas," in *The Journal of Ritual Studies*.