



Criteria for Attributing Conflicting Narrations to *Taqīyya* in *Tahdhīb al-Ahkām*: A Comprehensive Study of the Criterion of Conformity with the ‘Āmma (Sunnis) with an Examination of One Case

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(Received: July 2025, Accepted: November 2025)

DOI: 10.22034/HSR.2025.52125.1098

Abstract

One of the observable phenomena in jurisprudential *Hadīth* texts is their contradiction (*Ta‘āruḍ*), which makes it difficult to understand their true intent. There are several methods for dealing with this category of narrations. *Shaykh Tūsī*, in his book *Tahdhīb al-Ahkām*,

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utilized multiple approaches to resolve conflicting narrations. One of these is attributing the narration to *Taqīyya* (dissimulation). Based on the narrative texts of the Ahl al-Bayt (AS) regarding the discrepancy in *hadīths*, it becomes clear that various factors contributed to these differences, one of which is *Taqīyya*. The present study aims to answer the following questions: ‘What are *Shaykh Tūsī*’s criteria for attributing narrations to *Taqīyya*?’ ‘To what extent does the attribution to *Taqīyya* align with the *Fatwas* (religious decrees) and narrative sources of the Ahl al-Sunna (Sunnis)?’ ‘Are the reconciliatory interpretations presented in this case considered arbitrary reconciliations or are they based on valid evidences and signs?’ Using a descriptive-analytical method and examining the book *Tahdhīb al-Ahkām*, the researchers concluded that *Shaykh Tūsī*’s criteria for attributing a narration to *Taqīyya* are not solely limited to conformity with the views of the ‘Āmma (Sunnis); other standards also exist. With respect to the latter two questions, a specific case study was rigorously validated, and it was observed that in that instance, the attribution to *Taqīyya* based on conformity with the views of the ‘Āmma, and its reconciliatory interpretations, lack strong argumentative support. It appears that this method was predominantly adopted with the aim of reducing narrative conflicts. The authors’ objective in presenting this case is to create a reasonable doubt regarding the *Taqīyya*-based attributions and reconciliatory interpretations proposed by *Shaykh Tūsī*, so that researchers avoid uninvestigated acceptance and analyze

the narrations and viewpoints with greater scrutiny. This study demonstrates that *Shaykh Tūsī* utilized arbitrary reconciliation in presenting some of the reconciliatory interpretations.

Keywords: Attribution to *Taqīyya*, *Tahdhīb al-Āhkām*, Conformity with ‘Āmma, Conflicting Narration, Reconciliatory Interpretations, Arbitrary Reconciliation.

Introduction

After people turned away from the Ahl al-Bayt (AS) and the divine Caliphate was diverted from its true path, the impeccable Imams (AS) resorted to the method of *Taqīyya* to preserve and safeguard the true principles and subsidiary rulings of Islam.

In Islamic culture, especially within the Shi'a denomination, *Taqīyya* means concealing one's religious beliefs in circumstances where expressing them could lead to dangers such as threats to the lives or property of Muslims (Shaykh Mufīd, 1993 AD/1414 AH: 137). Therefore, attributing narrations to *Taqīyya* somehow demonstrates how religious teachings can be best utilized in difficult circumstances to prevent problems.

Consequently, the Imams (AS) sometimes used *Taqīyya* due to specific expediencies and unique situations, stating the actual ruling at another time and place, which caused apparent contradiction among different groups of narrations. *Shaykh Tūsī*, the author of a vast collection of Shi'a narrations with jurisprudential application, **83**

addressed these conflicts by identifying the *Taqīyya*-based narrations and attributing the conflicting narrations to *Taqīyya*, thus explaining their issuance as a result of dissimulation.

In this research, the authors intend to pursue three main goals by analyzing a number of instances where narrations were attributed to *Taqīyya*:

The first is to extract, analyze, and classify *Shaykh Tūsī*'s criteria for attributing narrations to *Taqīyya* by utilizing evidence from the book *Tahdhīb*. The purpose of this section is to demonstrate that, from *Shaykh Tūsī*'s perspective, the sole criterion for attributing a narration to *Taqīyya* was not merely conformity with the view of the Ahl al-Sunna, but that other factors and considerations were also influential in this process.

The second goal is the validation and examination of the content compliance of the narrations that were attributed to *Taqīyya* solely due to their conformity with the *'Āmma*. The authors endeavor to assess the degree of their conformity by comparing these narrations with the *fatwas* and narrative sources of the Ahl al-Sunna through a case study, verifying the existence of the ruling or conflicting narrations in the general jurisprudential and *Hadīth* sources, and consequently evaluating the correctness or incorrectness of these attributions.

The third goal is the validation of the reconciliatory interpretations stated beneath the narrations. Reconciliation among conflicting narrations generally occurs in two ways:

First, reconciliation based on strong evidence and signs, which possesses high academic and argumentative validity, providing a logical and coherent explanation for the narrative conflict;

Second is arbitrary reconciliation, which is mostly used to avoid the problem of contradiction and conflict among narrations. This type of reconciliation has less logical soundness and is sometimes regarded as a temporary and non-systematic solution.

The authors have also critiqued some of the reconciliatory interpretations for the narrations in the case study through meticulous *Hadīth* and jurisprudential investigations. This examination is an effort to prove that such attributions and reconciliatory interpretations are not the result of precise analysis and methodical *Hadīth* attribution, but rather are seen more as a way of avoiding confrontation with conflicting narrations and the complexities of understanding them.

1. Research Background

The authors' search through articles, theses, and related sources led to the conclusion that four relevant articles have been written on this topic so far:

The first article, entitled "A Hypothesis on the Attribution of Narrations to *Taqīyya* from the Viewpoint of *Shaykh Tūsī*" (Madadi al-Musawi, 2013 AD/1393 SH), examines the criteria adopted by *Shaykh Tūsī* for attributing a narration to *Taqīyya* and its relationship **85**

with the preceding eras, seeking to discover the main reason for the difference between the two periods. The author believes that the difference between these two periods is due to *Shaykh Tūsī*'s differing foundational principles from other jurists.

The second article, entitled "The Harmony of Attribution to *Taqīyya* with the Preferred Criteria of the *Akhbār Ilājīyya* (Conflict-Resolving Narrations) in the Approach of *Shaykh al-Tā'ifa*" (Muhamrami, Hasanzadeh, Pour Jamal, 2019 AD/1399 AH), analyzes *Shaykh Tūsī*'s performance in attributing narrations to *Taqīyya*. The authors of this research, focusing on the order of preferences in the *Maqbūlat 'Umar ibn Hanzala*, consider *Shaykh Tūsī*'s reasoning in attributing narrations to *Taqīyya* to be flawed and believe that *Shaykh Tūsī* lacks a specific criterion in choosing the preferences. They argue that, according to the *Maqbūla*, the preferences concerning issuance should take precedence over other preferences. The authors criticize *Shaykh Tūsī*'s method by providing various examples.

The third article, entitled "*Taqīyya* and its Role in the Conflict of Narrations with a Focus on *Shaykh Tūsī*'s Performance in *al-Istibṣār*," (Kazemi, Zare'i Madou'iyya, 2019 AD/1399 AH) initially discusses the linguistic and terminological interpretation of *Taqīyya* and its impact on creating conflict among narrations. It then enumerates the criteria for attributing a narration to *Taqīyya*, a list which appears to be incomplete. The authors believe that *Shaykh Tūsī* proceeded to resolve

Shaykh's work makes it unnecessary to refer to the rules of conflict resolution, as this perspective of *Shaykh Tūsī* is one step prior to applying the rules of conflict resolution.

The fourth article, entitled "The Effect of Conformity with the 'Āmma in Identifying Juristic *Taqīyya* Narrations," (Hamdullahi, Aref, 2022 AD/1401 AH) seeks to prove "Juristic *Taqīyya*" as a category of *Taqīyya*. The authors believe that the key indicator for identifying Juristic *Taqīyya* narrations is conformity with the 'Āmma.

The authors of the present article utilized a descriptive-analytical method to achieve their three aforementioned goals. To reduce the length of the article, the authors were compelled to omit the translation of some phrases and the *Hadīth* chain of authorities (*Asānīd*).

2. Criteria for Attribution to *Taqīyya* from the Viewpoint of *Shaykh Tūsī*

Shaykh Tūsī sometimes attributed conflicting narrations to *Taqīyya* in his book *Tahdhīb al-Āhkām*. However, the criteria he adopted for such attribution were not uniform and were not limited to the well-known criterion of conformity with the 'Āmma. Contrary to expectation, he did not merely suffice with the criterion of agreement between the narration and the *fatwas* and *hadīths* of the Ahl al-Sunna, but in some cases, he attributed the conflicting narration to *Taqīyya* based on other criteria as well. In this article, the authors will present a list of these criteria and discuss a prominent example.

2-1. Fear or Adherence to the Ruler of the Time

In the chapter on "Supplements to the Jurisprudence of Marriage" (*Min al-Zīyādāt fī Fiqh al-Nikāh*) in *Kitāb al-Nikāh*, *Shaykh Tūsī* recounts a narration from Imam *Kāzīm* (AS) concerning the ruling on women observing *hijāb* (veiling) when an eunuch enters upon them, which prohibits the eunuch from looking at the woman's hair and beard, and necessitates the observance of *hijāb*. He then narrates another *hadīth* from Imam *Ridā* (AS) that suggests the permissibility of looking and the non-necessity of *hijāb* for women upon the entry of a eunuch.

The report is as follows: "And from him, from *Muhammad ibn Ismā'īl*, who said: "I asked *Abū al-Hasan* (AS) about the head-covering of free women from eunuchs." He said: "They used to enter upon the daughters of *Abūl Hasan* (AS) and they would not cover their heads."

Muhammad ibn al-Hasan said: "This narration was issued in the manner of *Taqīyya*, and the practice is according to the first narration. The permissibility in the second narration was granted due to *Taqīyya* from the ruler of the time."

The *Shaykh* attributed the second narration to *Taqīyya*. He believes this narration was issued due to fear of the ruler of the time. Evidence supporting this is that immediately after narrating this *hadīth*, *Shaykh Tūsī* mentions another narration that can be considered as evidence for the *Taqīyya* nature of the previous narration.

when he (AS) was asked about that, he said: Hold back from this and did not answer him. And this indicates what we mentioned of *Taqīyya*." (Tūsī, 1986 AD/1407 AH (a): 7, 480)

2-2. Contradiction with the Qur'an

In our narrative sources, contradiction with the Qur'an is presented as a criterion for identifying unauthentic *hadīths* (Kashshī, 1988 AD/1409 AH: 224).

In the chapter on "The Description of *Wudū* (Ablution), its Obligatory, *Sunna*, and Preferred Parts" (Ṣifāt al-*Wuḍū'* wa al-Fard Minhu wa al-*Sunna* wa al-Faḍīla Fīhi) in *Kitāb al-Tahāra*, the late *Shaykh Tūsī* narrates a *hadīth* that indicates the necessity of wiping the ears in *Wudū*. Subsequently, he narrates another *hadīth* that rules the necessity of wiping the back of the head in *Wudū*.

Shaykh Tūsī's report in *Tahdhīb* is:

"He said: I asked *Abū 'Abdillāh* (AS): "Are the ears part of the head?" He said: "Yes." I said: "So, when I wipe my head, do I wipe my ears?" He said: "Yes." It is as if I am looking at my father, and on his neck there was a fold of skin, and he used to shave his head when he cut his hair; it is as if I am looking at him and the water is flowing down his neck."

"And what he also narrated from *Fadāla* from *al-Husayn ibn Abī al-'Alā'*, who said: *Abū 'Abdillāh* (AS) said: "Wipe the head on its front and its back."

"So, they are attributed to *Taqīyya* because they contradict the Qur'an, as we mentioned." (Tūsī, 1986 AD/1407 AH (a): 1, 62)

Shaykh, by considering the verse of *Wudū* (al-Mā'ida: 6) and the narrations issued in its interpretation, deemed these two narrations to be in opposition to the teachings of the Book of God and considered them to be in conflict with the Qur'an.

Another example related to this is found in the book *Tahdhīb* (Tūsī, 1986 AD/1407 AH: 1, 280). This action by the Shaykh in attributing narrations that contradict the Qur'an to *Taqīyya* shows that his perspective in this attribution was beyond mere conformity with the 'Āmma.

2-3. Contradiction with Consensus

From the perspective of *Shaykh Tūsī*, the consensus of Muslims, especially the correct sect (Shi'a), is one of the fundamental criteria for accepting narrations and acting upon their content (Tūsī, 1969 AD/1390 AH: 1, 4).

In the chapter on "The Number of Sections of *Adhān* (Call to Prayer) and *Iqāma* (Second Call to Prayer) and their Description" ("Adad Fusūl al-*Adhān* wa al-*Iqāma* wa Waṣfihimā) in *Kitāb al-Ṣalāt*, he initially narrates two *hadīths* that consider the phrase "*al-Ṣalātu Khayrun min al-Nawm*" (Prayer is better than sleep) to be part of the *Sunna*.

The two reports are:

"As for what was narrated... from *Abī Baṣīr* from *Abū 'Abdillāh* 90 (AS), he said: "The call and the *Tathwīb* (the aforementioned phrase)

in the *Iqāma* are from the *Sunna*."

"And what was narrated... *Muhammad ibn Muslim* from *Abū Ja'far* (AS), he said: "My father used to call out *al-Šalātu Khayrun min al-Nawm* in his house..." (Tūsī: 1986 AD/1407 AH (a): 2, 62)

The Shaykh, considering the consensus of the Shi'a sect on omitting this phrase in the *Adhān*, attributed these two narrations to *Taqīyya*.

His statement in *Tahdhīb* is: "And what resembles these two *hadīths* that include the mention of these phrases, they are attributed to *Taqīyya* due to the consensus of the sect on abandoning practice with them." (ibid.)

In another section of *Tahdhīb*, the late *Shaykh Tūsī* also attributed a narration to *Taqīyya* simply because it was unique (*shādhah*) and contradicted the *Mashhūr* (well-known) and the consensus of the true sect. In the second volume of *Tahdhīb*, *Kitāb al-Šalāt*, page 75, he attributed a *hadīth* indicating that the person praying behind the Imam should say "*Āmīn*" after the end of *Sūrah al-Hamd* to *Taqīyya* due to the uniqueness of the narration (contradiction with consensus and the well-known view).

2-4. Conformity with the *Fatwas* of the First Two Caliphs

Revocable divorce is a type of divorce where, after the specific formula is pronounced, a period called *Iddā* (waiting period) begins. During this time, the woman cannot marry another man, and the husband has the right to revoke the divorce and restore the marital

relationship. If the man revokes the divorce, he still retains the right to divorce her twice more. If the man does not revoke the divorce and the *Idda* ends, the woman can marry another man.

The question raised is: If the woman marries another man after the *Idda* ends, then separates from her second husband and returns to her former husband with a new contract, how many times can this man divorce her?

Shaykh Tūsī includes two narrations in *Tahdhīb* that state the man has the right to two divorces remaining.

The report is: "From *Abū Ja'far* (AS) that *Ali* (AS) used to say concerning a man who divorces his wife once, then marries her after another husband, that she is with him according to what remained of her divorces."

"...He said: "I said to him: "It has been narrated from *Abū 'Abdillāh* (AS) concerning a man who divorces his wife according to the Book and the *Sunna*, and she separates from him with one [divorce], and she marries another husband, and he dies or divorces her, and she returns to her first husband, that she is with him for two divorces, and one has passed." He wrote: "They spoke the truth." (ibid: 8, 34)

Subsequently, he attributes these two narrations to *Taqīyya*. He believes this *Fatwa* was issued in adherence to the second Caliph, as he had initiated such an innovation. *Shaykh Tūsī*, in this context, narrates a *hadīth* as evidence to confirm his attribution.

regarding the narrations we presented is that they are attributed to a type of *Taqīyya*, because it is the doctrine of 'Umar, and it is possible that the situation necessitated him (AS) to give a *Fatwa* that conforms with his doctrine. What indicates this is what was narrated... from 'Amr *ibn Thābit* from 'Abdillāh *ibn 'Aqīl ibn Abī Tālib*, who said: "Two men disagreed over the judgment of Ali (AS) and 'Umar concerning a woman whom her husband divorced once or twice, and she married another, and he divorced her or died, and when her *Iddā* ended, the first [husband] married her." 'Umar said: "She is with him according to what remained of the divorces." And *Amīr al-Mu'minīn* (Ali) (AS) said: "Glory be to God, does it nullify three but not nullify one?" (ibid: 32)

Shaykh provided another example of this criterion in the discussion of inheritance. He narrated two *hadīths*, and then, considering their contradiction with another set of narrations, he attributed their issuance to adherence to the judgment of the first Caliph (ibid: 9, 313).

2-5. Conformity with the Views of the 'Āmma

The criterion of conformity with the views of the 'Āmma (Sunnis) is one of the important indicators in the process of narrative validation, which the Ahl al-Bayt (AS) taught their companions, especially for the correct understanding and interpretation of *hadīths*.

In a narration from Imam *Sādiq* (AS), it is stated: "From *Abū 'Abdillāh* (AS), he said: "What you hear from me that resembles the 93

saying of the people (*al-nās*, i.e., the *‘Āmma*), there is *Taqīyya* in it, and what you hear from me that does not resemble the saying of the people, there is no *Taqīyya* in it." (ibid: 8, 98)

In this *hadīth*, the Imam (AS), while instructing his companions, reminds them that *fatwas* that conform to the view of the *‘Āmma* from the impeccable Imams (AS) are, in many cases, a result of *Taqīyya*. This instruction from the Imam (AS) implicitly emphasizes the necessity for *Muhaddithūn* (hadith narrators) and jurists to be aware of the *fatwas* of the *‘Āmma* and their different opinions in jurisprudential fields and the actions of the legally obligated. Naturally, this creates an academic responsibility for the *Muhaddithūn*, as they need to have sufficient knowledge of the jurisprudential views of other schools and denominations, in addition to a precise understanding of the religious texts, in order to correctly analyze the narrations.

Shaykh Tūsī, as one of the greatest Shi'a jurists with a special mastery over the *fatwas* of the *‘Āmma*, sought to resolve the narrative conflicts. Especially in cases where narrations were consistent with the views of the *‘Āmma*, he interpreted those narrations based on the concept of *Taqīyya*. In his book *Tahdhīb*, he used various phrases to express this matter, which indicates his precision and deep knowledge in applying narrations to the views of the *‘Āmma* and his accurate understanding of the discussions on *Taqīyya*.

to *Taqīyya* are mainly as follows:

- "*Li'anna Dhālika Madhhab Ba'd al-Āmma*" (Because that is the doctrine of some of the 'Āmma);
- "*Muwāfiq li Madhhab aw li Madhāhib Ba'd al-Āmma*" (Conforming to the doctrine or doctrines of some of the 'Āmma);
- "*Muwāfiq li al-Āmma*" (Conforming to the 'Āmma);
- "*Yuwāfiq al-Āmma*" (Conforms to the 'Āmma);
- "*Muwāfiq li Madhhab aw Madhāhib Kathīr al-Āmma*" (Conforming to the doctrine or doctrines of many of the 'Āmma);
- "*Muwāfiq li Qawl al-Āmma*" (Conforming to the saying of the 'Āmma);
- "*Muwāfiq li Ba'd al-Āmma*" (Conforming to some of the 'Āmma);
- "*Dhālika Madhhab Ba'd Fuqahā' al-Āmma*" (That is the doctrine of some of the jurists of the 'Āmma).

Although these phrases may initially appear to be merely stylistic variations, a closer examination reveals that they demonstrate *Shaykh Tūsī*'s depth and academic precision in recognizing and mastering the views and jurisprudential *Fatwas* of the 'Āmma and his extensive awareness of their various schools and sects.

It is worth mentioning that *Shaykh al-Tā'ifa* sometimes attributed a narration to *Taqīyya* by considering the Sunni narrators present in the *Isnād* (chain of narration) (For example cf. *ibid*: 1, 32 and 59; 6, 168; 7, 317; 9, 368).

This approach shows that the Shaykh's view in identifying the views of the *'Āmma* went beyond conformity with their *fatwas* and included analytical studies of the *Isnād*. However, in two cases, although a Sunni narrator was present in the *Isnād*, *Taqīyya* was not mentioned, and the narration was rejected and set aside (ibid: 4, 316; 9, 41).

Shaykh Tūsī, in the eighth chapter of *Kitāb al-Salāt*, narrates a collection of *hadīths* to prove that the Night Prayer is performed in sets of two separate *Rak'ahs*. He even rules that it is not permissible to omit the *Salām* (salutation) between the *Shaf'* (two *Rak'ahs*) and *Witr* (one *Rak'ah*) prayers. However, he then narrates the following three *hadīths* that contradict this rule:

1. "...He said: "I asked *Abū 'Abdillāh* (AS) about the *Taslīm* (salutation) in the two *Rak'ahs* of *Witr*." He said: "If you wish, you may salute, and if you wish, you may not salute."
2. "...He said: "I said to *Abū 'Abdillāh* (AS): "Should I salute in the two *Rak'ahs* of *Witr*?" He said: "If you wish, you may salute, and if you wish, you may not salute."
3. "...He said: "I asked *Al-'Abd al-Ṣāliḥ* (AS) about the *Witr* prayer."

He said: "Join it (*Silhū*)."

After narrating these three *hadīths*, he attempts to resolve the conflict among them and proposes three reconciliatory interpretations beneath them. In one of these interpretations, he states: "And it is permissible that these narrations were issued in the manner of *Taqīyya*

issued in this manner should not be acted upon." (ibid.)

What is clearly understood from this statement is his explicit affirmation of the conformity of these narrations with the view of a considerable number of the Ahl al-Sunna, to the extent that he considers this *fatwa* to be consistent with the doctrine of a large group of them.

1. Validation of the Attribution of Narrations to *Taqīyya*

Based on the authors' studies and investigations, the majority of cases of attribution to *Taqīyya* in *Tahdhīb* are based on the conformity of these narrations with the views and *fatwas* of the 'Āmma. However, this necessitates a precise validation process; a process in which the degree of alignment of these conflicting narrations with the rulings or narrations found in the jurisprudential and *Hadīth* sources of the 'Āmma is systematically examined, and consequently, the correctness or incorrectness of these attributions is critiqued.

It is essential to examine whether such attributions are the product of academic analysis and conformity with the principles of methodical *Hadīth* attribution, or merely a strategy to avoid narrative conflict and the complexities of understanding them. The authors believe that *Shaykh Tūsī*'s academic standing and his mastery over the views of the Ahl al-Sunna are beyond any doubt or dispute. Nevertheless, it is possible that in some of his analyses regarding *Taqīyya*-based attributions, the desired precision was not fully observed. Therefore, in order to create a reasonable doubt concerning these attributions and **97**

reconciliatory interpretations, the most recent example will be examined and validated. This is so that researchers exercise greater reflection in accepting such attributions.

To validate the reconciliatory interpretations presented and this specific attribution, we are obliged to undergo three stages to reveal the criteria for attribution to *Taqīyya* and the reconciliatory interpretations.

3-1. Stage One: Examination of the Most Important and Earliest *Hadīth* Collections of the ‘Āmma

Since *Shaykh Tūsī* attributed some conflicting narrations to their conformity with the ‘Āmma, it is necessary to ascertain the view of the ‘Āmma on this matter to reveal the extent of the validity of this attribution. For this purpose, we searched for the discussed topic in three authoritative narrative-jurisprudential books of the ‘Āmma and present the results to the readers.

1) *Ṣahīḥ al-Bukhārī*

Ṣahīḥ Bukhārī is one of the most authoritative *Hadīth* sources of the Ahl al-Sunna, compiled by *Muhammad ibn Ismā’īl al-Bukhārī* (d. 256 AH), and holds a special position among jurists and *Muḥaddithūn* as one of the two main *Hadīth* references of the Ahl al-Sunna. In the chapter on "Ṣalāt al-Witr," *Bukhārī* narrated with his *Isnād* from *Ibn ‘Abbās* that he observed the Prophet's (PBUH) worship one night, and 98 in describing that night with full details, he said:

"...Then he performed *Wudū* (ablution) and perfected the *Wudū*... Then he prayed two *Rak'ahs*, then two *Rak'ahs*, and then he performed *Witr*... Then he left and performed the *Fajr* (morning) prayer." (Bukhārī, 1989 AD/1410 AH: 2, 219)

2) *Ṣahīh Muslim*

Ṣahīh Muslim, after *Ṣahīh Bukhārī*, is considered one of the most authoritative narrative-jurisprudential books among the Ahl al-Sunna. This *Hadīth* collection was compiled by *Muslim ibn al-Hajjāj al-Qushayrī al-Nīsābūrī* (d. 261 AH).

In the chapter on "The Night Prayer and the Number of *Rak'ahs* of the Prophet (PBUH) at Night, and that *Witr* is One *Rak'ah*, and that One *Rak'ah* is a Valid Prayer," (*Ṣalāt al-Layl wa 'Adad Raka'āt al-Nabī fī al-Layl, wa Anna al-Witr Rak'a, wa Anna al-Rak'a Ṣalāt Ṣahīha*) Muslim narrates the following two *hadīths*:

1. "...From 'Ā'isha: "The Messenger of Allāh used to pray eleven *Rak'ahs* at night, performing *Witr* with one of them."
2. "And... from 'Ā'isha... she said: "The Messenger of Allāh used to pray, between finishing the 'Ishā' prayer (which people call *al-Atama*) until the *Fajr* (dawn), eleven *Rak'ahs*." He would salute between every two *Rak'ahs*, and perform *Witr* with one." (Muslim, 1991 AD/1412 AH: 1, 508)

It is noteworthy that the first mentioned narration is also reported in the book *al-Muwatta'* by *Mālik ibn Anas* (d. 179 AH), one of the earliest narrative sources of the Ahl al-Sunna, in the chapter on "*Salāt al-Layl*." (Mālik, 1993 AD/1414 AH: 159)

3) *Musnad Ahmad ibn Hanbal*

Musnad Ahmad ibn Hanbal, the most famous work of *Ahmad ibn Hanbal* *Bağdādī* (d. 241 AH), is considered one of the important works of the Ahl al-Sunna. He narrated in the *Musnad* of *'Abdullāh ibn 'Umar* as follows:

"From *Ibn 'Umar*: When he was asked about *Witr*, he said: As for me, if I perform *Witr* before sleeping, and then I wish to pray at night, I would make an even number of the *Witr* that has passed with one *Rak'ah*, then I would pray two *Rak'ahs* at a time, two *Rak'ahs* at a time. Then, when I finish my prayer, I would perform *Witr* with one *Rak'ah*..." (Ibn Hanbal, 1995 AD/1416 AH: 10, 329)

The examination of the authoritative *Hadīth* collections of the Ahl al-Sunna, which hold a special status and credibility among them, clearly shows that the issue of the Night Prayers being two *Rak'ahs* at a time, the *Shaf'* prayer being two *Rak'ahs*, and the *Witr* prayer being a single *Rak'ah*, along with the necessity of separation between them, is explicitly stated in these sources. Furthermore, these narrations were reported by some of the most prominent narrators of the Ahl al-Sunna, such as *'Abdullāh ibn 'Abbās*, *'Abdullāh ibn 'Umar*, and *'Ā'ishah*, the

wife of the Prophet (PBUH); narrators whose traditions are of a high degree of trustworthiness among the scholars of the Ahl al-Sunna.

It should be noted that there are narrations in the *Hadīth* collections of the 'Āmma that refer to the combined *Shaf'* and *Witr* prayers as the *Witr* prayer (Ibn Ḥanbal, 1995 AD/1416 AH: 4, 457).

We will explain later that this category of narrations is the basis for the ruling on the necessity of joining *Shaf'* and *Witr* without the permissibility of a *Taslīm* between them. However, it seems that the word "*Witr*" is a general title that includes the Night Prayer (*Nawāfil al-Layl*) and the *Witr* prayer specifically.

Evidence for this statement is the narration: "The Messenger of Allāh (PBUH) said: "The *Witr* is a right upon every Muslim." So, whoever wishes to perform *Witr* with five, let him do so, and whoever wishes to perform *Witr* with three, let him do so, and whoever wishes to perform *Witr* with one, let him do so." (Abī Dāwūd, 1999 AD/1420 AH: 2, 618)

3-2. Stage Two: Examination of Some of the Most Famous Jurisprudential Books of the Four Schools

In this section, the authors analyze and examine the most important jurisprudential and *Fatwa* sources of the four schools of the Ahl al-Sunna regarding this matter. The main goal of this examination is to assess the validity and robustness of the reconciliatory interpretations presented by *Shaykh Tūsī* beneath those three narrations. The jurisprudential views of **101**

these schools are presented in alphabetical order.

1) **Ḥanbālī**

Ibn Qudāma (d. 620 AH), one of the most famous *Ḥanbālī* jurists, discussed this matter in detail in his well-known book *al-Mughnī*. His statement contains two main points that can be inferred:

First, the author issued a *fatwa* regarding the performance of the *Witr* prayer as one *Rak‘ah*. *Ibn Qudāma* said: "Issue: He said: (And *Witr* is one *Rak‘ah*). Ahmad explicitly stated this, saying: We adopt the view that *Witr* is one *Rak‘ah*..."

Second, he enumerated a considerable number of Companions who held the same view as the *Ḥanbālī* School's *Fatwa* and confirmed this view by citing the *Fatwas* of jurists such as *Mālik*, *Shāfi‘ī*, and *Awzā‘ī* (*Ibn Qudāma*, 1968 AD/1388 AH: 2, 110). He also did not mention the necessity of joining the two prayers or even the option of joining them.

2) **Ḥanafī**

Muhammad ibn Hasan Shaybānī (d. 189 AH), a student of *Abū Hanīfa*, reported in his book *al-Āthār* (a *Hadīth* book), in the chapter on *Witr* in *Kitāb al-Ṣalāt*, as follows: "From ‘Umar ibn al-Khaṭṭāb that he said: "I would not like that I leave *Witr* with three *Rak‘ahs*, even if I were given red camels (a great fortune)." "Muhammad said: "And we adopt this. *Witr* is three *Rak‘ahs*, and there is no separation between them with a *Taslīm*. And it is the saying of *Abū Hanīfa*." (al-

In this brief statement, *Shaybānī* pointed out three key points: First, he attributes the basis of the *Hanafīs*' *Fatwa* regarding the non-permissibility of separation to the narration of the second Caliph. Second, he clearly expresses the *Fatwa* of the *Hanafī* School using the phrase "*Wa bihi Na'khudh*" (And we adopt this). Third, he considers *Abū Hanīfa*'s opinion on this matter to be in conformity with the narration of 'Umar.

Furthermore, *Burhān al-Dīn 'Alī ibn Abī Bakr Marghīnānī* (d. 593 AH), a prominent *Hanafī* jurist, explicitly stated two important issues from the words of *Abū Hanīfa* in his jurisprudential work *al-Hidāya*, *Sharh Bidāyat al-Mubtadī*, in the chapter on "*Ṣalāt al-Witr*."

First, according to *Abū Hanīfa*, he considered the *Witr* prayer to be a religious obligation and a *Sunna* (a rank lower than an obligatory duty). Second, he expressed *Abū Hanīfa*'s *Fatwa* regarding the manner of performing these three *Rak'ahs* as follows: "He said: The *Witr* is three *Rak'ahs*, and there is no separation between them with a *Salām*."

The *Witr* prayer consists of three continuous *Rak'ahs* with no *Salām* given between them. He then presents the basis for *Abū Hanīfa*'s *Fatwa*, saying: "Because 'Ā'isha narrated that the Prophet (PBUH) used to perform *Witr* with three." (Marghīnānī, 1989 AD/1410 AH: 1, 70 and 71)

3) *hāfi'i*

The book *Al-Umm*, authored by *Muhammad ibn Idrīs al-Shāfi'i* (d. 103

204 AH), is one of the main and authoritative sources of *Shāfi'i* jurisprudence, containing the *fatwas* of the founder of this school. In the chapter on "What is narrated about *Witr* with One *Rak'ah*" (*Mā Jā'a fī al-Witr bi-Rak'a Wāhida*) in *Kitāb al-Salāt*, as the title of the chapter suggests, he distinguished between the *Shaf'* and *Witr* prayers and issued a *fatwa* on the permissibility of performing the *Witr* prayer as a single independent *Rak'ah* (Shāfi'i, n.d.: 1, 140).

This jurisprudential view of *Shāfi'i* was also transmitted by Ibn Rushd *al-Qurṭubī* (d. 595 AH) in his book *Bidāyat al-Mujtahid wa Nihāyat al-Muqtaṣid*, in the chapter on "*al-Qawl fī al-Witr*", as follows: "And *Shāfi'i* said: *Witr* is one *Rak'ah*" (Ibn Rushd *al-Qurṭubī*, *Bidāyat al-Mujtahid wa Nihāyat al-Muqtaṣid*) (Qurṭubī, 2011 AD/1432 AH: 2, 66).

It is worth noting that *Shāfi'i* also considers the performance of supererogatory prayers (*Nawāfil*) with more than two *Rak'ahs* to be permissible, provided that the *Tashahhud* (testification) is recited after every two *Rak'ahs* without a *Salām*. However, he states that completing the prayer with a *salām* after every two *Rak'ahs* is superior (Tūsī, 1986 AD/1407 AH (b): 1, 527).

Abū Zakariyyā Muhyī al-Dīn Nawawī (d. 676 AH), in his book *al-Majmū'* (one of the important jurisprudential sources in the *Shāfi'i* school), in the chapter on "*Salāt al-Taṭawwu'* (Supererogatory Prayer)", issued a *fatwa* that is slightly different from al-*Shāfi'i*'s view, 104 considering the *Witr* prayer to be an emphasized *Sunna** that can be

performed as a single *Rak‘ah*. After ruling in favor of the superiority of saluting after every two *Rak‘ahs*, he subsequently ruled as follows: "If he intends to combine them with a single *Tashahhud* at the end of all of them, it is permissible. And if he intends them with two *Tashahhuds* and a single *Salām*, sitting in the last and the one before it, it is permissible." (Nawawī, n.d.: 4, 17)

4) *Mālikī*

Alī ibn Khalaf al-Manūfi Mālikī (d. 939 AH), in *Kifāyat al-Tālib al-Rabbānī*, in the chapter on "The Ruling of *Shaf'* and *Witr* and their Description" (*Hukm al-Shaf'* wa *al-Witr wa Sifātihimā*), said: "Then, after he performs the two *Rak‘ahs* of *Shaf'*, he performs the *Witr*... and the best, as will follow, is that it be a single *Rak‘ah* immediately following the *Shaf'*." (Manūfi, 1988 AD/1409 AH: 552)

Therefore, the *Mālikī* school rules in favor of separation between these two prayers and the performance of the *Witr* prayer as a single *Rak‘ah*. It was previously mentioned that Ibn *Qudāma* attributed the same *fatwa* to *Mālik*.

The search in the narrative and jurisprudential books of the ‘Āmma has concluded. To complete the research, *al-Khilāf* (The Disagreement), a book by *Shaykh Tūsī*, was consulted. The author, in a section of this book, examines the *fatwas* and views of the ‘Āmma regarding supererogatory prayers (*Nawāfil*) and also presents the views of the Shi'a school on this matter.

After the Shi'a *Fatwa*, *Shaykh Tūsī* presented the view of *Shāfi'i*. *Shāfi'i* issued a three-stage *Fatwa* concerning supererogatory prayers: first, he said the best is to pray two *Rak'ahs* at a time; then he said one can join more than two *Rak'ahs*, provided the *Tashahhud* is recited after every two *Rak'ahs* without a *Salām*; and finally, he issued a *Fatwa* that one can pray four to ten *Rak'ahs* together without reciting the *Tashahhud*, and recite the *Tashahhud* and give the *Salām* in the last *Rak'ah*.

Shaykh al-Tā'ifa also considered *Mālik* to be of the same opinion as *Shāfi'i*. However, *Abū Hanīfa* also gave the same opinion with a slight difference (Tūsī, 1986 AD/1407 AH (b): 1, 527).

Then, in another section of *al-Khilāf*, he explained the manner of Night Prayer according to the four schools. In this section, *Shaykh Tūsī* addressed the difference of opinion between *Abū Hanīfa* and *Thawrī* and the other schools regarding the manner of performing the three *Rak'ahs* of *Shaf'* and *Witr*. He considered *Mālik* and *Shāfi'i* to be in agreement with the Shi'a view, but considered *Abū Hanīfa* and *Sufyān Thawrī*, two jurists of the 'Āmma, to be the only jurists who issued a *Fatwa* on the necessity of joining *Shaf'* and *Witr*, because they do not consider a single *Rak'ah* to be a valid prayer.

3-3. Stage Three: Examination of Shi'a Narrative and Jurisprudential Books

106 Before attributing those three narrations to *Taqīyya*, *Shaykh al-Tā'ifa*

proposed a reconciliatory interpretation. In this interpretation, he stated: "For these narrations do not contradict what we mentioned, because they include the option of *Taslīm*, and whoever says to join it, does not permit *Taslīm* in it in any manner; and since there is an option in them, we attribute it to the specific *Taslīm*, which is that in our view, whoever says "*al-Salām ‘Alaynā wa ‘alā ‘Ibādillāh al-Šāliḥīn*" in the *Tashahhud*, his prayer has ended. If he says, after that, "*al-Salām ‘Alaykum wa Rahmatullāh*," it is permissible, and if he does not say it, it is also permissible. So, the option only concerned this type of *Taslīm*. And if there was an explicit prohibition of *Taslīm* in them, it would not be obligatory to act upon them, because the *hadīths* that we established for the obligation of *Taslīm* are more numerous, and it is not permissible to abandon the more numerous for the less numerous except with evidence that prevents it." (Tūsī, 1986 AD/1407 AH: 2, 129)

Shaykh Tūsī, in this statement, suggests that the narrations under discussion could refer to the permissibility of option in giving the *Salām* between the *Shaf‘* and *Witr* prayers. This means that the intended *Salām* is the specific *Salām* of "*al-Salām ‘Alaynā wa ‘alā ‘Ibādillāh al-Šāliḥīn*," which concludes the prayer. He then explicitly states that whoever believes in the non-permissibility of *Taslīm* between these two prayers should not give the *Salām*. Finally, he emphasizes that the view of prohibiting *Taslīm* is unacceptable because the *fatwa* of prohibition, in comparison with the narrations **107**

indicating the obligation of *Salām*, lacks validity and authority.

4. Review and Evaluation of the Reconciliatory Interpretation Presented by the Shaykh

When *Shaykh Tūsī* speaks of the view of option in *Taslīm* and the view of joining the two prayers without *Salām*, he should have, if they existed, introduced the Shi'a *Muḥaddithūn* or jurists who held such an opinion. However, he did not do this. Therefore, the authors, focusing on Shi'a narrative and jurisprudential sources, compiled the views and *fatwas* of jurists before the sixth century AH to systematically evaluate the basis of this reconciliatory interpretation.

This examination was conducted to discover the possible existence of similar reconciliatory interpretations or similarities in the *fatwas* and transmission of *hadīths* before *Shaykh Tūsī*, to determine whether *Shaykh Tūsī* was the innovator of these interpretations or if they were derived from the principles of his predecessors. Furthermore, this process also aims to broadly and systematically explain the approach of jurists of the first six centuries in dealing with this collection of narrations and to provide a framework for the re-examination and validation of the attribution to *Taqīyya*.

The late *Kulaynī* (d. 329 AH), in *al-Kāfi*, in the chapter on "*Salāt al-Nawāfil*", presented a collection of narrations that, by their explicit or implicit meaning, indicate the separation between *Shaf'* and *Witr*; and in these narrations, there is no mention of the option in *taslīm* or

the necessity of joining (Kulaynī, 1986 AD/1407 AH: 3, 442).

Qādī Ibn Ḥayyūn Maghribī (d. 363 AH), in his book *Ta’wīl al-Da’ā’im*, in the ninth session of the sixth volume, chapter on "Mentioning the *Sunna* Prayer," (Fī Dhikr al-Ṣalāt al-Sunna) explicitly stated the separation between the two prayers of *Shaf’* and *Witr* (Ibn Hayyūn, n.d.: 1, 358).

The late *Ṣadūq* (d. 381 AH), in his book *al-Muqni‘* (a book of transmitted jurisprudence), in the chapter on "*Ṣalāt al-Layl*," stated: "And separate between *Shaf’* and *Witr* with a *Taslīma*." (*Ṣadūq*, 1994 AD/1415 AH: 133) This statement confirms that the late *Ṣadūq* based his understanding of the narrations of this chapter on the separation and distinction between *Shaf’* and *Witr*, and he accepted this category of narrations. It is worth mentioning that he explicitly stated in the introduction of the book that what he narrates is mostly *hadīths* from which he has only removed the chains of authorities (*Asānīd*) (*ibid*: 5).

The late *Shaykh Mufīd* (d. 413 AH), in his book *al-Muqni‘a*, after explaining the manner of the five daily prayers and their supererogatory prayers and mentioning the recommended acts, when he discusses the Night Prayer, he ruled, like the late *Ṣadūq*, in favor of separation and distinction between the two prayers of *Shaf’* and *Witr* (*Mufīd*, 1989 AD/1410 AH: 123).

The late *Abū al-Ṣalāḥ Halabī* (d. 447 AH), in his jurisprudential work *al-Kāfti fī al-Fiqh* (Halabī, n.d.: 159), and the late *Sallār* **109**

Daylamī (d. 448 AH), in his book *al-Marāsim* (Sallār 1983 AD/1404 AH: 81), both agreed on the necessity of separation between these two prayers.

On the other hand, the late *Shaykh Tūsī* (d. 460 AH), in his *Fatwa* book, *al-Nihāya fī Mujarrad al-Fiqh wa al-Fatwā* (Tūsī, 1979 AD/1400 AH: 120), explicitly ruled in favor of the separation of the *Shaf‘* prayer from the *Witr* prayer.

Qādī Ibn Barrāj (d. 481 AH) adopted the same view in *al-Muhadhdhab* (Ibn Barrāj, 1985 AD/1406 AH: 1, 135).

Ibn Idrīs Hillī (d. 597 AH), in his prominent jurisprudential work *al-Sarā’ir*, in the chapter on "The Number of Prayers and the Number of their *Rak‘ahs*, Obligatory and Recommended," (A‘dād al-Ṣalāt wa ‘Adad Raka‘ātihā min al-Mifrūd wa al-Masnūn) explicitly states that the Night Prayer consists of eleven *Rak‘ahs*, and in every two *Rak‘ahs*, one *Tashahhud* and *Salām* must be recited. He further emphasizes that all supererogatory prayers must be performed in this manner, and no change or modification is permissible in this regard (Ibn Idrīs 1980 AD/1401 AH: 1, 193).

4-1. Results of the Validation of Attribution to *Taqīyya* and Reconciliatory Interpretations

Following the meticulous examination of the different stages, the results are presented, taking into account each sentence of the

- 1) *Shaykh Tūsī*, initially, when reconciling these narrations, explicitly stated that the sum of these three narrations ruled in favor of the option of *Salām* between *Shaf'* and *Witr*. This is despite the fact that none of the Shi'a jurists before *Shaykh Tūsī* accepted such a theory. This is because, in the Shi'a school, supererogatory and *Nawāfil* prayers are performed only as two *Rak'ahs* at a time, with a *Salām* after the *Tashahhud* of the second *Rak'ah*. Moreover, the permissibility of performing *Witr* as a single *Rak'ah* is established by certain evidence. Therefore, this reconciliatory interpretation is mostly evaluated as an arbitrary reconciliation.
- 2) Subsequently, *Shaykh Tūsī* stated: "*Wa man yaqūlu bi ṣilatihā fa innahu lā Yujawwiz al-taslīm fīhā 'alā Wajhin*" (And whoever says to join it, does not permit *taslīm* in it in any manner). In this statement, he referred to the proponents of joining, but did not specify who these people are. As mentioned, only two of the 'Āmma jurists—namely *Abū Hanīfa* and *Sufyān al-Thawrī*—believe in the necessity of joining the two prayers of *Shaf'* and *Witr*, because they do not consider a single *Rak'ah* prayer to be permissible. Therefore, given the impossibility of attributing this interpretation to *Taqīyya*, this reconciliation is also considered an arbitrary reconciliation, as there is no clear evidence for it; rather, the well-known view among the Ahl al-Sunna is the permissibility of *Taslīm* between them.
- 3) The continuation of *Shaykh Tūsī*'s statement is: "*Wa idhā Kāna fīhā al-Ikhtiyār fa Nahnu Nahmiluhu... Hādhā al-Darb min al-Taslīm*" **111**

(And since there is an option in them, we attribute it... to this type of *Taslīm*). This statement has no evidence in any of the narrative and jurisprudential books of both the Shi'a and Sunni schools. Therefore, this reconciliatory interpretation is completely arbitrary (*Tabarru'i*) and without any evidence or proof.

4) *Shaykh Tūsī*'s statement: "*Wa law Kāna fīhā Ṣariḥ bi al-Nahy 'an al-Taslīm lam Yajib al-'Amal bihā li anna mā Athbatnāhu fī Wujūb al-Taslīm min al-Akhbār Akthar wa lā Yajūz al-'Udūl 'an al-Akthar ilā al-Aqall illā li Dalīl Yamna 'minhu*" (And if there was an explicit prohibition of *Taslīm* in them, it would not be obligatory to act upon them, because the *hadīths* that we established for the obligation of *Taslīm* are more numerous, and it is not permissible to abandon the more numerous for the less numerous except with evidence that prevents it), is completely correct, and both schools agree on this statement.

5) Subsequently, *Shaykh Tūsī* stated: "*Wa Yajūz an Takūna Hādhīhi al-Akhbār Kharajat 'alā ṭarīq al-Taqīyya li annahā Muwāfiqat li Madhāhib al-'Āmma wa mā Yakhruju 'alā Hādhā al-Wajh lā Yajib al-'amal bihī*" (And it is permissible that these narrations were issued in the manner of *Taqīyya* because they conform to the doctrines of the *'Āmma*, and what is issued in this manner should not be acted upon). This statement of *Shaykh Tūsī* is criticizable from two aspects: "First, as stated, the permissibility of joining belongs to

the Shāfi‘ī school, and the necessity of joining belongs to the *Hanafī* school." However, *Shaykh Tūsī* performed the reconciliation among the narrations without referring to the *Fatwas* of these two schools. Second, *Shaykh Tūsī* stated that the ruling in these three narrations conforms to the "Doctrines" of the 'Āmma. In reality, only *Abū Hanīfa* and *Sufyān al-Thawrī* believe in the necessity of joining, and the Shāfi‘īs prioritize separation. Therefore, the use of the word "doctrines" in the plural form is not precise and appropriate.

6) *Shaykh Tūsī*, at the end of his discussion on *Taqīyya*, stated: "Wa mā Yakhruju 'alā Hādhā al-Wajh lā Yajib al-‘Amal bihī" (And what is issued in this manner should not be acted upon). The implication of this is the non-authority of this category of narrations. And what lacks authority is set aside, and there is no need to reconcile it with conflicting narrations.

Conclusion

- 1) *Shaykh Tūsī*, in *Tahdhīb al-Āhkām*, attributed some narrations to *Taqīyya* to resolve the conflict among them.
- 2) He considered the criteria for attribution to *Taqīyya* to be multiple standards, including the conformity of the narration with the *fatwas* of the Ahl al-Sunna, fear of the ruler, contradiction with the Qur'an, contradiction with *Ijmā‘* (consensus), and conformity with the *Fatwas* of the first two Caliphs.
- 3) The *Shaykh*, with his deep mastery over Sunni jurisprudence, used **113**

diverse phrases in his attempt to resolve narrative conflicts that aligned with the views of the *‘Āmma*, and this variety of expression stems from his precision.

- 4) By examining a case study from *Tahdhīb al-Āhkām*, the authors aimed to create a logical conjecture to prove that some of the Shaykh's *Taqīyya*-based attributions are solely based on the conformity of the narration with some views of the *‘Āmma*, and not a result of precise and methodical *Hadīth* analysis and its evidences. Therefore, it is appropriate for researchers, when accepting such attributions, to avoid uninvestigated and unexamined reliance and to analyze the narrations and viewpoints with greater precision and reflection.
- 5) The examination of that single case gave rise to the conjecture that some of the reconciliatory interpretations presented within the framework of *Taqīyya* are arbitrary reconciliations (unsubstantiated) or lack evidence.
- 6) Finally, the possibility is raised that, considering the introduction of *Tahdhīb*, it is not unlikely that some of the reconciliatory interpretations presented in this work were mentioned with the aim of teaching and explaining the method of reconciling conflicting narrations, and not for the purpose of inferring a practical ruling (Tūsī, 1986 AD/1407 AH (a): 1, 3).

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