



ISSN 2645-9132  
Volume: 4 Issue: 1 (July 2021)

## An Analytical Evaluation of The Sectarian Perspectives of The Ruling on Staying Overnight at Minā

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<b>Article Information</b>		
<b>Type</b> Research Article		
<b>Received</b> 15 Nisan 2021	<b>Accepted</b> 29 July 2021	<b>Published</b> 31 July 2021
<b>Cite as</b> Yiğit, Yaşar. "An Analytical Evaluation of The Sectarian Perspectives of The Ruling on Staying Overnight at Minā". <i>ULUM</i> 4/1 (2021), 81-97.		
<b>Research / Publication Ethics</b> This article was reviewed by at least two referees, a similarity report was obtained using Turnitin, and compliance with research/publication ethics was confirmed.		
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# An Analytical Evaluation of The Sectarian Perspectives of The Ruling on Staying Overnight at Minā<sup>1</sup>

## Abstract

An examination of the history would reveal that almost every religion or belief system possesses a form of pilgrimage with its own unique rituals and requirements. The hajj in Islam, on the other hand, is an act of fard worship that Muslims with the necessary conditions and qualifications are obliged to perform. The hajj is a form of worship that offers both individuals and Islamic societies wisdom and many beauties. It is an annual Muslim/Islamic gathering that includes religious, social, cultural, political and economic activities. On the other hand, as the hajj is performed at certain times and in limited locations, it stands out as a form of worship that naturally contains all kinds of challenges, particularly due to temporally and spatially oriented tasks and restrictions. This is because it requires a journey, a certain time frame and being in a limited place and involves its own difficulties, no matter how much the conditions have been improved over time and no matter what the opportunities are.

The time of spending the night at Minā coincides with the Tarwiyah day before Arafat and the nights of the 2nd, 3rd and 4th days of the Eid after the Muzdalifa. The fukaha agree that it is sunnah to stay overnight at Minā on the day of Tarwiyah (8th day of Dhu al-Hijjah). On the other hand, the fuqaha have different views on the ruling of staying overnight at Minā, during the nights of Tashriq days. It should be noted that although the famous Islamic law schools' rulings on pilgrimage differ, they commonly think that it is sunnah, mustahabb or wājib to spend the night at Minā on the days of tashriq.

Globally considered, worship is taabbudi in its nature, yet this does not imply that one should ignore the quest for achieving its purposeful gains. To confine worship to only certain norms and places, far from its intended goals, is in sharp contrast with the rationale for Islam's ordering worship and the objectives it wants to achieve. Identifying and eliminating the issues that cannot be considered within the scope of the hajj, which includes many symbolic pilgrimage rituals, not only could contribute to the establishment of a healthy basis for worship but also could help eliminate the possible challenges, risks and dangers. Therefore, the Qur'anic verses related to the hajj and the normative practices and words of the Prophet (PBUH) play a major role in the performance of the pilgrimage. A belief or action that is not based on this does not qualify as worship. However, not every word and action of the Prophet can be considered as an authoritative religious order. It is hardly appropriate to infer a religious provision out of what the Prophet did, where he went or rested or the route he took during his expedition, unless he clearly stated or defined a particular action of his as a component of worship. Thus, we can evaluate the Prophet's (PBUH) overnight stay at Minā

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<sup>1</sup> This study is the revised version of the paper presented at the International Symposium "Hajj in the Context of Changing and Developing Conditions," organized by the Presidency of Religious Affairs on April 01-03, 2021. The paper was rewritten by reviewing its scope and content.

on the night of the Tarwiyah day before the day of Arafat and on the days of tashriq after Arafat from a religious perspective.

### Keywords

Hajj, Overnight at Minā, Tarwiyah Day, Tashriq Days

## İslam Hukuk Ekollerinin Mina'da Gecelemenin Hükümüne İlişkin Görüşlerinin Analitik Bir Değerlendirmesi

### Öz

Tarihsel sürece bakıldığında hemen her din ya da inancın kendine özgü şekil ve şartları muhtevi bir hac şekli olduğu görülür. İslam dininde ise hac; gerekli şartları ve yeterlilikleri taşıyan Müslümanların yerine getirmekle yükümlü olduğu farz bir ibadettir. Hac, gerek birey gerekse İslam toplumları açısından nice hikmet ve güzelliği bünyesinde barındıran bir ibadet biçimidir. İçerisinde dinî, sosyal, kültürel, siyasi ve ekonomik aktiviteleri muhtevi yıllık bir Müslüman/İslam buluşması niteliğindedir. Diğer taraftan hangi açıdan bakılırsa bakılsın hac ibadeti muayyen zamanda, mahdut mekanlarda eda edildiğinden zamansal ve mekânsal tayin ve tahditler nedeniyle edasında doğal olarak türlü zorluk ve meşakkatleri barındıran bir ibadet biçimi olarak dikkat çekmektedir. Neticede bir seferi, muayyen bir zamanı, mahdut bir mekânı iktiza eden hac ibadeti, imkânlar hangi düzeyde olursa olsun sonuçta meşakkat ve zorluktan azade değildir.

Mina'da gecelemenin zamanı; Arafat vakfesi öncesinde terviye günü ve Müzdelife vakfesinden sonra bayramın 2, 3 ve 4. günlerinin gecelerinin Mina'da geçirilmesini kapsamaktadır. Fukaha, terviye günü (zilhicce ayının 8. günü) Mina'da gecelemenin sünnet olduğu konusunda görüş birliği içindedir. Buna karşılık fukaha teşrik günlerinin gecelerinde Mina'da gecelemenin hükmü konusunda farklı görüşlere sahiptirler. Şu kadar var ki meşhur İslam hukuk ekollerinin hac ibadeti bağlamında hükmü farklılık gösterse de teşrik günlerinde Mina'da gecelemenin sünnet, müstehap veya vacip olduğu şeklinde bir görüşe sahip olduklarını görüyoruz.

İbadetlerin genel manada taabbudi oluşu, onların amaçsal kazanımlarına ilişkin hedeflerin tahakkukunun göz ardı edilmesini gerektirmez. Makâsîd ve amaçlardan uzak bir şekilde ibadeti sadece bazı norm ve mekânlara hapsetmek, İslam'ın ibadetleri emrediş gerekçesine ve gerçekleştirmek istediği amaçlara aykırıdır. Sembolik birçok menâsiki mündemiç hac ibadetinin gereği kapsamında değerlendirilemeyecek hususları tenkîh ve tefrik ibadetin sağlıklı bir zemine oturmasına hem katkı sağlayacak hem de beraberinde söz konusu meşakkat ve zorluğu, risk ve tehlikeyi bertaraf imkânı olacaktır. Dolayısıyla hac ibadetine ilişkin ayetler ve Hz. Peygamber'in teşri nitelikli uygulama ve sözleri haccın ifasında belirleyicidir. Bu zemine oturmayan bir inanç veya eylem ibadet niteliği taşımaz. Ancak Hz. Peygamber'in her söz ve eylemi de âmir bir hüküm olarak telakki edilemez. Hz. Peygamber açıkça bir beyanda bulunmamış veya uygulamasını ibadetin bir parçası olarak ifade etmemiş ise, onun ibadetin ifası bağlamında uğradığı, dinlendiği, yol olarak belirlendiği bir mekânı, bir zamanı ibadet anlayışıyla dinî bir hükme bağlamak isabetli değildir. Buradan hareketle Hz. Peygamber'in Arafat öncesi terviye gününün gecesi ve Arafat sonrası teşrik günlerinde Mina'da gecelemesini dinî bağlamda değerlendirebiliriz.

### Anahtar Kelimeler

Hac, Mina'da Gecelemek, Terviye Günü, Teşrik Günleri

### Introduction

An examination of the history of humanity reveals that, although in different forms, faith or belief stands out as a key phenomenon that has always existed in humanity. Similarly, in close connection with this, almost every religion or belief system has had its own rituals of worship. In revelation-based religions, worship, as an extension of belief/faith, is a set of duties that its followers are obliged to fulfill as a requirement for their servitude to Allah. The verb “worship” means “to serve for”. The concept of “worship”, which derives from the Arabic root word “`ubudiyah”, refers to the submission, loyalty, devotion and servitude of a person to Allah.<sup>2</sup> In the Islamic literature, the concepts of 'ubudiyah' and 'ibadah' have been used to refer to the sensitivity of servitude, which means that people always lead their lives in the consciousness of respect and obedience to Allah. Whereas performing certain actions stands out in worship, the state, moral and spiritual essence gained through the actions above have strong influence in `ubudiyah. Thus, this state and consciousness have strongly been emphasized in the Sufi sources; therefore, it is often argued that `ubudiyah is considered superior to worship and that the aim of worship is to reach the state of `ubudiyah.<sup>3</sup> In fact, worship has an undeniable function, not only in strengthening the bond of man with the Creator but also in forming a meaningful basis for life, existence and the realization of existence and finally in viewing the concepts of existence and non-existence from a different perspective. Therefore, ontologically considered, belief or disbelief emerges as a phenomenon that is as old as humanity. Regardless of the belief, religious practices consist of worship specific to certain places and time frames. The main purpose of religion in general and that of worship in particular is to control the behavior of the individual and to direct it in line with the interests of the individual and society. In other words, the intended aim is to maintain social order and to ensure that individuals lead their lives in harmony by placing the individual's behavior on a correct and healthy ground through religious beliefs and practices.

In fact, Islam, the last true religion that Almighty Allah presented humanity through the Holy Prophet considers every action, attitude and behavior of humans in their daily lives as worship/servitude, thereby organizing life through divine messages. In this respect, the concept of worship is not constrained with certain practices that involve only a certain walk of life. In fact, examples of valuable worship in the form of daily actions might include the effort made by a person to provide sustenance for his/her family, a nice word said to someone, removing an object that might hurt people off the road and contributing to the survival of a living being.<sup>4</sup> However, aside from this general meaning of worship which encompasses life, in a more specific sense, the practical forms of worship such as prayer, fasting, zakat and pilgrimage in Islam truly stand out. Some types of worship in question are only physical; some are financial, and some have both physical and financial dimensions. In addition, some acts of worship such as prayer are performed daily,

<sup>2</sup> Mustafa Sinanoğlu, “ibadet”, *Türkiye Diyanet Vakfı İslâm Ansiklopedisi* (İstanbul: TDV Yayınları, 1999), 19/233.

<sup>3</sup> Semih Ceyhan, “Ubudiyet”, *Türkiye Diyanet Vakfı İslâm Ansiklopedisi* (İstanbul: TDV Yayınları, 2012), 42/32-33.

<sup>4</sup> Muhammad b. Ismail al-Bukhari, *Al-Jāmi' al-Sahih* (İstanbul: Çağrı Publications, 1992), “al-Sulh”, 11, “Jihad”, 72, 128; Abū al-Ḥusayn Muslim ibn al-Ḥajjāj, *Sahih Muslim* (İstanbul: Çağrı Publications, 1992), “Zakat”, 56.

some others such as fasting are done annually, and those such as pilgrimage almost once in a lifetime. No matter what kind of worship it is, its form, requirements and conditions are determined by the Sharī'a; in other words, by Allah and His Messenger. It is Allah and His Messenger who determine what is good and what is a sin; that is, the halal and harām.<sup>5</sup> In this regard, an attitude or behavior that is not ordered by Allah and His Messenger cannot be considered as worship. However, worship, together with its formal requirements and details, evolved through the words and practices of the Prophet.

Worship is generally described as taabbudi.<sup>6</sup> The term "taabbudi" is used to refer to religious regulations in which the creator tests pure devotion, or such a purpose is apparent. In a narrower sense, the being taabbudi means to accept a religious obligation, the rationale for which cannot be appreciated by reason and which is fulfilled only because it is the order or prohibition of the Sharī'a.<sup>7</sup> Therefore, the worship in question must be performed in the same manner in which it is ordered to be performed in the religion, so that it could be accepted by Allah. The worship of pilgrimage occupies a unique position in terms of its requirements, the way it is performed, its time and place. This is because it is commonly known that many rituals are performed in a symbolic way during the worship of hajj.

On the other hand, throughout history, almost every religion or belief system has had a pilgrimage with its own unique rituals and requirements. In essence, pilgrimage is based on the belief in the manifestation of divinity in a place. The idea of a holy place is often accepted as the common basis of pilgrimage in all religions. Similarly, one of the most important common points in some of them, if not all, is the understanding of a sacred time.<sup>8</sup> In fact, places that are considered sacred in various belief systems are hardly different from other places in terms of being physical places. However, it should be noted that the manifestation of divinity in the related place, the occurrence of an event related to faith, or the connection of the place with a religious person makes the place different from others and makes it sacred. What is interesting about such a place is that it is directly related to the element of sacredness attributed to it. The concept of holy places and visiting such places have existed in all belief systems throughout history. The reason for visiting holy places is to obtain the material, spiritual and moral benefits that the holy place can bestow, due to its sacredness. In return for the effort made during the pilgrimage, which generally involves a trip to a sacred place or temple, many benefits may be expected, such as eliminating a physical ailment or doing good deeds for the afterlife. Clearly, pilgrimage does exist in divine religions although pilgrimage in each of these differs in its nature. For instance, it is well known that pilgrimage with certain rituals exists in Judaism and Christianity.<sup>9</sup>

The hajj in Islam is an obligatory act of worship that Muslims who meet the requirements and have the necessary qualifications are obliged to perform. The obligation of the hajj is well established by the

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<sup>5</sup> Al Imran 3/50; At-Tawbah 9/29.

<sup>6</sup> For details, see Abdullah Kahraman, "İslam Hukuk Düşüncesinde Taabbudî Hükümler ve Taabbudiyâtın Sahası Üzerine Bir Değerlendirme", *İslam Hukuku Araştırmaları Dergisi* 2 (2003), 25-57.

<sup>7</sup> Abū Ishāq İbrāhīm ibn Mūsā al-Shātībī, *Al-Muwafaqaat fi Usūl al-Sharī'ah* (Beirut: 1986), 2/ 318-319; Shah Walīullāh Aḥmad b. Abd al-Rahman Al-Dahlawī, *Hujjat Allah al-Baligha* (Beirut: 1990), 1/385.

<sup>8</sup> See Ö. Faruk Harman, "Hac", *Türkiye Diyanet Vakfı İslâm Ansiklopedisi* (İstanbul: TDV Yayınları, 1996), 14/382; Ali Erbaş, "İslam Dışı Dinlerde Hac", *Sakarya Üniversitesi İlahiyat Fakültesi Dergisi* 5 (2002), 97-120.

<sup>9</sup> Harman, "Hac", 14/382; Erbaş, *İslam Dışı Dinlerde Hac*, 97.

Qurʾān, sunnah and idjmāʿ.<sup>10</sup> In fact, in the Holy Qurʾān, Allah states that the hajj is a fard act of worship: “In it are clear signs [such as] the standing place of Abraham. And whoever enters it [i.e., the Ḥarām] shall be safe. And [due] to Allah from the people is a pilgrimage to the House - for whoever is able to find thereto a way. But whoever disbelieves [i.e., refuses] - then indeed, Allah is free from need of the worlds.”<sup>11</sup> The Prophet said, “Islam is founded on five basic pillars: “Bearing witness that there is no god but Allah and that Muhammad is the messenger of Allah, performing prayers properly, paying zakat, performing pilgrimage and fasting in Ramadan.”<sup>12</sup> As is clear from his words, pilgrimage is one of these five pillars.<sup>13</sup> Furthermore, although the Qurʾān mentions the essentials of prayer, fasting and zakat, it spares more space for the hajj and explains its wisdom, the way of performing the acts of worship included in it, the prohibitions involved, the history of the places where the hajj is performed.<sup>14</sup> However, the hajj, which occurs in relatively larger period of time and includes many forms of worship and appropriate behavior, was further clarified through the words and practices of the Prophet.<sup>15</sup> Moreover, all Islamic scholars since the time of the Companions to the present have unanimously agreed that it is fard for a person who meets the necessary requirements to perform the hajj once in their lifetime.<sup>16</sup>

The hajj stands out as a form of worship, which has always had its internal challenges as well as wisdom in its performance. Addressing Prophet Abraham, Almighty Allah said, “Proclaim among men the Pilgrimage: they will come to you on foot and on every lean camel, coming from every remote path.”<sup>17</sup> In this verse, the existence of this hardship/difficulty is implied. Undoubtedly, the factors that cause challenges have varied over time in history. In fact, no matter how much the conditions have been improved over time and no matter what the opportunities are, the hajj requires a journey, a certain time frame and being in a limited place and therefore involves its own challenges. This should not be considered as a negative attitude towards the essence of pilgrimage. In fact, although the nature of the pilgrimage, the factors that cause the challenges vary across time, the existence of difficulties is not temporary but valid for all times. Indeed, the term *istiṭāʿa* stands out as one of the key and yet comprehensive concepts in the obligation of the hajj.<sup>18</sup> Today, although the existence of *istiṭāʿa* in terms of economic and health conditions is sufficient for the hajj to be obligatory, it may not provide sufficient opportunity for obligation in performing it. In other words, *istiṭāʿa* is a flexible concept open to different interpretations in terms of time and place, both for the obliged and the responsibility itself. Moreover, the most obvious evidence for this is that millions of people do not have

<sup>10</sup> Abd al-Rahman Al-Jaziri, *Kitab al-Fiqh 'Ala al-Mazahib al-Arba'ah* (Beirut: Dar al-hayat al-Turas al-Arabi, 1986), 1/631.

<sup>11</sup> Al-Imran 33/97.

<sup>12</sup> Al-Bukhārī, “Al-īmān”, 8; al-Muslim, “al-īmān”, 19-22.

<sup>13</sup> Al-Bukhārī, “al-īmān”, 1, 2; al-Muslim, “al-īmān”, 19-22; Muhammad b. Isa al-Tirmidhī, *al-Sunan* (İstanbul: Çağrı Publications, 1992), “al-īmān”, 3.

<sup>14</sup> See al-Baqarah 2/125-128, 158, 189, 196-203, 217; al-Imran 3/96-97; al-Ma'idah 5/1-2, 95-97; al-Tawba 9/1-3, 19; al-Hajj 22/25-37; al-Fath 48/25-27.

<sup>15</sup> Rahmi Yaran, “Hac”, *Türkiye Diyanet Vakfı İslâm Ansiklopedisi* (İstanbul: TDV Yayınları, 1996), 14/410.

<sup>16</sup> Abū 'Abdullah Muhammad bin Ahmad bin Rushd, *Bidayat al-Mujtahid Wa Nihayat al-Muqtasid* (Cairo: 1981), 1/318; al-Jaziri, *Kitab al-Fiqh*, 1/631; Salim Ögüt, “Hac”, *Türkiye Diyanet Vakfı İslâm Ansiklopedisi* (İstanbul: TDV Yayınları, 1996), 14/389.

<sup>17</sup> Al-Hajj 22/27.

<sup>18</sup> For the scope of the concept of *istiṭāʿa*, see Wahba al-Zuhaili, *al-Fiqh al-Islami wa Adilataha* (Damascus: Dar al-Fikr, 1985), 3/25.

the opportunity to perform the hajj, due to transportation, housing and spatial limitations, despite their meeting the requirements of obligation.

This paper analyzes the sectarian views on the issue through the lens of the fiqh aspects of staying overnight at Minā, during the hajj, which is based on the performance of certain rituals in certain places and at certain times. This is because the pilgrims perform the hajj based on the sectarian views to which they belong, so they consider staying overnight at Minā as a requirement of the pilgrimage regardless of what the circumstances are and tend to perform it as a ritual of the hajj; this brings many risks. Therefore, it is essential that we re-evaluate the current perception and practice under today's conditions from different perspectives. The focus of our research is the evaluation of the views of Islamic schools of law on the issue.

## 1. Staying Overnight at Minā on the Nights of Tarwiyah and Tashriq Days

### 1.1. The Location Minā and Its Boundaries

Minā is the place where some hajj rituals, such as devil-stoning and sacrificing are performed. In the Arabic language, the place where people gather or blood is shed is called "Minā", and it is reported that Prophet Adam wished for paradise in this place and that Almighty Allah bestowed His favor upon Prophet Abraham or all his servants in this place.<sup>19</sup> Moreover, the rationale for naming this place as Minā is also known to be people's gathering here on the days of Eid and sacrificing in the hope of being sure of His punishment by praying to Allah.<sup>20</sup>

Located between Mecca and Muzdalifa, Minā is approximately seven kilometers to the northeast of Masjid al-Harām and within the borders of the Haram. It is the place where the hajj worship/rituals such as stoning the devil and sacrificing are performed and the pilgrims stay at during the days Eid. Therefore, it is important to precisely identify the boundaries of this place so as not to cross into the territory of Minā during the day of Muzdalifa.<sup>21</sup> According to hadīths and historical sources, Minā is bordered with Jamrat al-ʿAqabah towards the direction of Mecca in the west and Muhassir valley in the east. To the north is Mount Kabul, which extends from ʿAqabah to Muhassir valley, and to the south is Mount Sebir, which also extends from ʿAqabah and to Muhassir valley. The faces of these two mountains facing Minā are within the Sharīʿ limits of Minā, whereas their reverse sides, the place where the Pledges of al-ʿAqabah took place and the Muhassir valley are all outside the Sharīʿ limits. A committee, established under the Ministry of Hajj in Saudi Arabia to determine the borders of Minā and Muzdalifa, identified the borders through a topographic study in 1973. The Prophet stated that Minā, which covers an area of 812 hectares, cannot be anyone's private property as it is a common place of worship like Arafat and Muzdalifa.<sup>22</sup>

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<sup>19</sup> Abū 'Abdullah Muhammad ibn Ahmad ibn Abū Bakr al-Ansari al-Qurtubi, *Jami' li-Ahkam al-Qur'an* (Beirut: 1965), 3/7.

<sup>20</sup> Mehmet Şener, "Mina", *Türkiye Diyanet Vakfı İslâm Ansiklopedisi* (İstanbul: TDV Yayınları, 2005), 30/96.

<sup>21</sup> Şener, "Mina", 30/96.

<sup>22</sup> Al-Zuhaili, *al-Fiqh al-Islami wa Adilataha*, 3/193; Şener, "Mina", 30/96; Abdullah Tırabzon, *Hac İbadetinde Yasak Davranışlar* (İstanbul: İstanbul Üniversitesi Sosyal Bilimler Enstitüsü, Doktora Tezi 2008), 68.

## 1.2. The Time of Staying Overnight at Minā

The time of spending the night at Minā coincides with the Tarwiyah day before Arafat and the nights of the 2nd, 3rd and 4th days of the Eid after the Muzdalifa. During his pilgrimage, the Prophet spent the nights of both the days of Tarwiyah and the days of Tashriq at Minā.<sup>23</sup> Islamic jurists unanimously agree that it is sunnah to spend the night at Minā on the day of Tarwiyah.<sup>24</sup> On the other hand, they differ in their views regarding the ruling on staying overnight at Minā on the nights of Tashriq days.<sup>25</sup> In short, it should be noted that although the famous Islamic law schools' rulings on pilgrimage differ, they commonly think that it is a sunnah or mustahabb to spend the night at Minā on the days of Tashriq.<sup>26</sup>

### 1.2.1. Staying Overnight at Minā on the Day of Tarwiyah

Tarwiyah is significant in that it is the first day of performing the rituals of the hajj. It is the name given to the 8th day of the month of Dhu al-Hijjah, when the pilgrims depart from Mecca for Minā. One could make an inference about the root of the word: Since people could not find water at Minā, they would give their riders as much water as they could drink, and they themselves would drink it until being full. This day is known as the day of "Tarwiyah", which is the noun form of word "rawwa", which means "took water with him".<sup>27</sup>

Islamic jurists unanimously agree that it is sunnah to spend the night at Minā on the day of Tarwiyah.<sup>28</sup> More specifically, it is sunnah to perform the morning prayer in Mecca on the 8th day of Dhul-Hijjah and to go to Minā after sunrise and to go to Arafat after the morning prayer on the day of Arafat, thereby performing the five daily prayers (i.e., noon, afternoon, evening, night and morning prayers) and spending the night at Minā.<sup>29</sup> If possible, it is considered more appropriate to stay in a place close to Hayf Masjid, where the Prophet stayed at Minā.<sup>30</sup>

<sup>23</sup> Al-Bukhārī, "The Hajj", 82,83; al-Muslim, "The Hajj", 336; Ibn Abi Dawud, Suleyman al-Esh'as as-Sijistani, *al-Sunan* (İstanbul: Çağrı Yayınları, 1992), "al-Manasik", 57,58; al-Tirmidhī, "The Hajj", 50, 112; Abū 'Abdillāh Muḥammad ibn Yazid Ibn Mājah, *al-Sunan* (İstanbul: Çağrı Publications, 1992), "al-Manasik", 51, 80, 84.

<sup>24</sup> Al-Zuḥailī, *al-Fiqh al-Islami wa Adilataha*, 3/204.

<sup>25</sup> 'Ala' al-Din Abū Bakr b. Mas'ud al-Kasani, *Bada'i' al-Sana'i' fi Tartib al-Shara'i'* (Beirut: Dar Al-Kutub al-Ilmiyyah, 1986), 2/159; Shams ad-Din al-Ramli, *Nihāyat al-muhtāj ilā sharh al.* Beirut: Dar Al-Kutub al-Ilmiyyah, 2003), 3/300; Muhammad b. Ahmad al-Shirbīnī, *Mughni al-muhtaj ila ma'rifat al-ma'ani al-Minhaj* (Mısır:1958), 1/504; al-Zuḥailī, *al-Fiqh al-Islami wa Adilataha*, 3/204.

<sup>26</sup> Al-Kasani, *Bada'i' al-Sana'i' fi Tartib al-Shara'i'*, 2/151; Muhammad b. Ahmad al-Sarakhsi, *Kitab al-Mabsut* (Beirut: Dar Al Marifah, 1978), 4/52; Abū Muḥammad 'Abd Allāh b. Aḥmad b. Muḥammad Ibn Qudāmah, *al-Mughni* (Beirut: Dar Al-Kutub Al-Ilmiyyah, ts.), 3/473; Said b. Abd al-Kadir Bashnafar, *al-Mughni fi fiqh al-hajji wa al-umrah* (Jeddah: Maktabat al-Ilm, 1993), 288.

<sup>27</sup> Salim Öğüt, "Terviye", *Türkiye Diyanet Vakfı İslâm Ansiklopedisi* (İstanbul: TDV Yayınları, 2011), 40/ 520.

<sup>28</sup> Al-Zuḥailī, *al-Fiqh al-Islami wa Adilataha*, 3/204.

<sup>29</sup> Al-Zuḥailī, *al-Fiqh al-Islami wa Adilataha*, 3/211. For related hadiths, see al-Muslim, "The Hajj", 147; Ibn Majah, "al-Manasik", 84; Abū Muḥammad Abdullah b. Abd al-Rahman al-Darimi, *al-Sunan* (İstanbul: Çağrı Publications, 1992), "al-Manasik", 34.

<sup>30</sup> Öğüt, "Terviye", 520.



The practice of the Prophet in his pilgrimage is mentioned to prove that it is sunnah to spend the night at Minā before the day of Arafat.<sup>31</sup> In fact, according to what Jabir b. Abdullah, Anas b. Malik and Ibn Abbas narrated about how the Prophet performed the hajj, the Messenger of Allah went to Minā on the day of Tarwiyah and performed the noon, afternoon, evening, night and morning prayers on the day of Arafat at Minā and then set out for Arafat.<sup>32</sup> Except for this, no other practice is reported about how he performed the hajj.<sup>33</sup> As a result, Islamic jurists agree that it is sunnah to spend the night at Minā on the 8th day of Dhul-Hijjah.<sup>34</sup> Although it is considered that the abandonment of this practice of the Prophet is not a defect in terms of hajj rituals and that it does not bear any penalties, it is noteworthy that it is evaluated as an unpleasant behavior because of abandoning the Sunnah.<sup>35</sup> On the other hand, it is stated that the abandonment of the Sunnah does not lead to any punishment or sanction from a religious perspective. According to a report narrated by Ibn Abi Shayba from Ata, Hadrat Aisha spent the whole night connecting the 8th day of Dhul-Hijjah to the 9th in Mecca.<sup>36</sup> Undoubtedly, the attitude and behavior of the Prophet is the only criterion in considering a word or action as a part of worship. It is not possible to attribute a religious ruling in the form of sunnah, wājib or bad deed to this action, particularly if the Prophet's saying something about performing or neglecting the act is out of question. Moreover, before the waqfa of Arafat, which is one of challenging pillars of the hajj, the available space under current conditions could obviously lead to serious risks, difficulties and concerns if the aforementioned practice is done. The existence of millions of pilgrims in a limited space at the same time runs the risk of causing many pilgrims to abandon their worship at the beginning of the hajj, due to issues related to subsistence, accommodation and health. Therefore, instead of considering the practice of the Prophet as a part of the hajj, it seems more appropriate to consider it as a strategic practice intended to help the pilgrims have a rest before the day of Arafat, to ensure the peacefulness of the worship at Arafat. From a religious perspective, the ruling on action of the Prophet would be that "resting" is sunnah, and the practical implication of this for us is "having a rest". Therefore, the practice mentioned earlier is not a spatial sunnah limited to Minā but is intended to ensure that the pilgrims have a rest in an appropriate place on their trip to Arafat. In this respect, the practice of the Prophet is not sunnah that is related to space and time.

### 1.2.2. Staying Overnight at Minā on the Days of Tashriq

The term tashriq refers to the act of uttering takbir with special words following the obligatory prayers on certain days of the month of Dhul-Hijjah. These takbirs chanted in the mentioned period are called "tashriq takbirs", and the days when takbirs are chanted are called "days of tashriq".<sup>37</sup>

<sup>31</sup> Al-Kasani, *Bada'i' al-Sana'i*, 2/151.

<sup>32</sup> Al-Bukhārī, "The Hajj", 82,83; al-Muslim, "The Hajj", 336; Abū Dawud, "*al-Manasik*", 57,58; al-Tirmidhī, "The Hajj", 50, 112; Ibn Majah, "*al-Manasik*", 51,84.

<sup>33</sup> Hüseyin Kayapınar, "Arafat Öncesi ve Muzdalife Sonrası Minā'da Gecelemenin Hükümü", *Türkiye'de Hac Organizasyonu Sempozyumu* (Ankara: Diyanet İşleri Başkanlığı Yayınları, 2007), 355.

<sup>34</sup> Al-Zuhailī, *al-Fiqh al-Islami wa Adilataha*, 3/204.

<sup>35</sup> Sharahsi, *al-Mabsut*, 4/53; al-Zuhailī, *al-Fiqh al-Islami wa Adilataha*, 3/204; Bashnafar, *al-Mughni*, 289.

<sup>36</sup> Abū Bakr 'Abdullah bin Muhammad Ibn Abi Shaybah, *Musannaf*, (Riyadh: 2015), 8/324.

<sup>37</sup> Fahrettin Atar, "Teşrik", *Türkiye Diyanet Vakfı İslâm Ansiklopedisi* (İstanbul: TDV Yayınları, 2011), 40/575.

In line with the type, place and time of hajj rituals that are performed intensely between the 9th and 13th days of Dhul-Hijjah, the 8th day of this month is “Tarwiyah”; the 9th is “Arafat”; the 10th is “Nahr/Zabh”, and the 11 to 13th days are called the days of tashriq. In addition, the first three days of the Eid al-Adha, which is four days in duration, are called "ayyam-i-nahr" because sacrifice can be performed during these days.<sup>38</sup> Although it is common to call the three days after the first day of the Eid as days of tashriq, there are also those who increase the number to five days by adding the days of Arafat and Nahr. The pilgrims spend their 11th to 13th nights at Minā, and they throw stones at al-Jamarat on these days. The reason why these three days and the takbirs recited after the prayers were given the name Tashriq included such explanations as laying the meat of the sacrifices that were slaughtered on the first day of the Eid on stones and drying them in the sun, starting the Eid prayer at the time of the ishraq on the first day of the Eid, and most of the takbirs recited after the obligatory prayers coincide with these days.<sup>39</sup>

What formed the basis of the views of the fuqaha were the verse about the rituals of the hajj at Minā “And bear God in mind during the appointed days; but he who hurries away within two days shall incur no sin, and he who tarries longer shall incur no sin, provided that he is conscious of God. Hence, remain conscious of God, and know that unto Him you shall be gathered”<sup>40</sup> and the practices of the Prophet. The expression “appointed days” “أَيَّامٍ مَّعْدُودَاتٍ” in this verse is a key concept with respect to the ruling on staying overnight at Minā. In commentaries, different interpretations have been offered, regarding the meaning attributed to both the whole verse and the expression “أَيَّامٍ مَّعْدُودَاتٍ” “certain days”.<sup>41</sup> Influenced by the perspectives of their own sects, some commentators interpreted the verse as an indication of the necessity of staying overnight at Minā.<sup>42</sup> However, Islamic jurists justifiably preferred not to cite the verse in question in their discussions about the ruling on staying overnight at Minā because there is no expression or decree in the verse that obliges the pilgrims to spend the days of tashriq at Minā. However, it should be noted that the verse mentions returning from Minā because it mentions the usual practices during the hajj. On the other hand, the reason for the revelation of this verse also gives an idea about how to interpret its implications accurately. That is, the Jahiliyya Arab society had two different practices with respect to leaving Minā or staying there. Some people would condemn those who hurriedly returned to Mecca on the day of An-Nafr/the first three days of the feast and would consider them sinners. On the other hand, some others regarded those who delayed leaving Minā to the second day of An-Nafr (i.e., the fourth day of the feast) as sinners. Almighty Allah revealed this verse to disclaim both understandings that belonged to the Age of Ignorance.<sup>43</sup> “فَمَنْ تَعَجَّلَ فِي يَوْمَيْنِ فَلَا أَثْمَ عَلَيْهِ وَمَنْ تَأَخَّرَ فَلَا أَثْمَ عَلَيْهِ” “Then whoever is early in leaving after two days, there is no sin on him, and whoever leaves later, there is no sin on him, either.” These words justify the reason for the revelation of the verse. Therefore, the verse explains the permission given for returning to Mecca or another place before the end of the third day by completing

<sup>38</sup> Atar, “Teşrik”, 40/575.

<sup>39</sup> Atar, “Teşrik”, 40/575.

<sup>40</sup> Al Baqarah 2/203.

<sup>41</sup> For the interpretation of the verse, see Abū al-Barakat al-Nasafi Abdullah b. Ahmed al-Nasafi, *Madarik al-Tanzil* (İstanbul: Kahraman Publications, 1984), 1/103; Fahrudin Muhammed b. Omar al-Razi, *al-Tafsir al-Kabir* (Beirut: 1981), 5/208; M. Hamdi Yazır Elmali’lı, *Hak Dini Kur’an Dili* (İstanbul: Eser Neşriyat, ts.), 2/730.

<sup>42</sup> Razi, *al-Tafsir al-Kabir*, 5/212.

<sup>43</sup> Nasafi, *Madarik al-Tanzil*, 1,103.

the act of stoning the devil, which is one of the rituals performed at Minā, within in two days, rather than staying at Minā during the days mentioned above. Moreover, it is emphasized that if the stoning of the devil is left for the fourth day, contrary to the perceptions of the Jahiliyya Arab society, there is no sin in this. In fact, the Prophet said, “*Hajj is Arafat; Hajj is Arafat; Hajj is Arafat. The amount of time spent at Minā is three days. There is no sin on a person who hastens to return after completing the necessary rituals within two days. There is no sin for a person who fails to complete them and falls behind, either. Whoever meets Arafat on the morning of Eid, before the dawn, completes the pilgrimage.*”<sup>44</sup> This hadīth also explains the verse above. Here, one should not limit the departure from Minā only with Mecca on these specific days. Pilgrims may have to leave for different places as well. In fact, by his comment “If pilgrims hasten to go to their homeland,”<sup>45</sup> Elmalılı Hamdi Yazır pointed out that the verse allows this. According to most jurists, the days in which the pilgrims make dhikr of Allah on certain days in the verse refer to the days of Tashriq, and dhikr refers to Tashriq takbirs.<sup>46</sup> These takbirs symbolize declaration of the majesty of Allah through the participation of all Muslims from around the world in the takbirs and dhikrs rising from the Ka’ba by the pilgrims, who are considered the guests of Allah.<sup>47</sup>

### 1.3. The Practice of the Prophet

The worship of hajj was made obligatory in the 9th year of the Hijra, and the Prophet performed the hajj once in his lifetime. In the sources, the only pilgrimage that the Prophet performed is referred to as “Hajjat al-Islam/Islamic pilgrimage”; it is also known as “Hajjat al-Bala’/Tabli’ pilgrimage” because it teaches all the rules and morals of the hajj, along with halal and harām, and finally as “Hajjat al-Kamal wa al-Tamam” because the verse that states the completion of the religion was revealed at Arafat on the day of Arafat. This pilgrimage became famous with the name “the Farewell Hajj”, particularly after the Prophet’s death, not only because it coincided with the last year of his life but also because he said,<sup>48</sup> “Maybe I will not be able to meet you here forever after this year”<sup>49</sup> In short, the practices of the Prophet regarding the hajj determine how it should be performed.

In Islamic law, worship is taabbudi. Since worship is based on transmission rather than reason, inference and explanations about the form of worship cannot go beyond personal interpretation. This is because the Prophet said, “*Adopt your practices, actions and behavior/rituals during the pilgrimage from me. I don't know, maybe I won't be able to perform another hajj after this one.*”<sup>50</sup>

During the Farewell Hajj, the Messenger of Allah departed from Abtah, where he resided in Mecca, for Minā on the eighth day of Dhul-Hijjah/Tarwiyah at mid-morning. The Prophet and his Companions, who came to Minā by travelling nearly 7 kilometers, performed the noon, afternoon, evening, night and morning

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<sup>44</sup> Al-Tirmidhī, “Tafsir al-Qur’ān”, 2975.

<sup>45</sup> Elmalılı, *Hak Dini Kur’an Dili*, 2/731.

<sup>46</sup> Al-Baqarah 2/203.

<sup>47</sup> Atar, “Teşrik”, 40/575.

<sup>48</sup> Mukadder Arif Yüksel, *Siyer, Hadis ve Tefsir Bağlamında Haccın Ahkâmı ve Menâsiki*, (Çorum: Basılmamış Doktora Tezi, 2017), 32.

<sup>49</sup> Al-Muslim, “The Hajj”, 310.

<sup>50</sup> Al-Muslim, “The Hajj”, 310.

prayers there. Then they set off again at mid-morning<sup>51</sup> and reached the border of Arafat towards the noon after covering approximately 14 kilometers.<sup>52</sup> The Prophet and many of his Companions traveled on foot on this road. Along with this tiring journey, they spent a busy day at Arafat with prayers, dhikr and invocation to Allah. After the sunset, they moved from Arafat on foot, covering 14 kilometers and reached Muzdalifa at night. Performing the morning prayer at its first time, they remembered Allah with takbirs, tahlils and tahmids in Al-Mash'ar Al-Ḥarām<sup>53</sup> and set off for Minā before sunrise. The Messenger of Allah first threw stones at Jamrat al-ʿAqabah in the morning. On the second and third days of the Eid, he delayed devil-stoning until afternoon. On the fourth day, the Prophet finished stoning by throwing stones at al-Jamarat and returned to Mecca.<sup>54</sup> This is the practice of the Prophet during the days of Tarwiyah and Tashriq. It should be noted that while there are acts and behavior that can be considered as the rituals of the hajj during these days, there are also practices that hardly have the characteristics of worship. Moreover, when the practice related to Minā is analyzed and evaluated based on concepts such as rationale, wisdom, maslahat, hardship, convenience and necessity, it would be quite easy to distinguish the components that qualify as worship. The identification and analysis of the legislative nature of the authority of the Prophet in this practice takes on supreme importance.<sup>55</sup>

## 2. Sectarian Views on Staying Overnight at Minā

Staying overnight at Minā means spending the nights of the days of Tarwiyah and Tashriq at Minā. However, there is no ruling in the Qurʾān and Sunnah on staying overnight at Minā. However, as the Prophet stayed at Minā for three nights until the 4th day of the Eid and the night of Tarwiyah during the Farewell Hajj, Islamic legal schools put forward different opinions about the ruling of staying overnight at Minā; they make inferences in the form of sunnah, mustahabb and wādjib.

Islamic jurists agree that it is sunnah to stay overnight at Minā on the night of the 8th day of Tarwiyah/Dhul-Hijjah. On the other hand, they put different perspectives on the ruling of staying overnight at Minā on the 2nd, 3rd and 4th nights of Eid al-Adha, which are referred to as Tashriq days. According to a perspective reported from the Hanafi school, Imam Shafiʿī and Ahmet b. Hanbal, it is sunnah to stay overnight at Minā during the nights of Tashriq days.<sup>56</sup> According to the Shafi'i, Mālikī and Hanbalī sects, it is wādjib to spend more than half of the nights connecting the 1st day to the 2nd, the 2nd to the 3rd and the

<sup>51</sup> Ibn Abi Shaybah, *Musannaf*, 8/362.

<sup>52</sup> Tırabzon, *Hac İbadetinde Yasak Davranışlar*, 188.

<sup>53</sup> For more information, see Salim Ögüt, "Meş'ar-i Haram", *Türkiye Diyanet Vakfı İslâm Ansiklopedisi* (İstanbul: TDV Yayınları, 2004), 29/361.

<sup>54</sup> Tırabzon, *Hac İbadetinde Yasak Davranışlar*, 189.

<sup>55</sup> For more information, see Murteza Bedir, "Sünnet", *Türkiye Diyanet Vakfı İslâm Ansiklopedisi* (İstanbul: TDV Yayınları, 2010), 38/150-153.

<sup>56</sup> Sharahsi, *al-Mabsut*, 4/68; Bashnafar, *al-Mughni*, 289.

3rd to the 4th day of Eid al-Adha. If this duty is not fulfilled without an excuse, Damm is required as a punishment.<sup>57</sup> The Zaidiyyah madhhab, on the other hand, is of the opinion that it is fard to stay overnight at Minā. In his work titled al-Bahru Al-Zahrah, Yahya b. al-Murtaza (d. 840), a Zaidi scholar, lists the fards of the hajj and includes staying overnight at Minā as one of them. He even notes that Imam Shafi'ī and Imam Malik share the same opinion.<sup>58</sup>

The jurists who think that it is sunnah to stay overnight at Minā on the days of Tashriq cite the Prophet's permission to his uncle, Abbas,<sup>59</sup> on the grounds that he had the duty of distributing water to the pilgrims,<sup>60</sup> and mention the fact that Abbas spent those nights in Mecca as evidence to prove that it is not wājib to stay overnight at Minā. This is because if staying overnight at Minā were wājib, the Prophet would not have allowed him to do so.<sup>61</sup> Furthermore, the permission given by the Prophet to the camel herders is considered as an indication that it is not wājib to stay overnight there.<sup>62</sup> His words narrated by Ibn Abbas, "After throwing stones at al-Jamarat, stay wherever you want at night"<sup>63</sup> also indicate that it is not wājib to stay overnight at Minā.<sup>64</sup> In addition, jurists of this view state that the Prophet's staying overnight at Minā on the nights of Tashriq days cannot be regarded as fard or wājib. This is particularly because the Prophet neither uttered a word nor provided a sign that could be considered as evidence for a ruling that could be described as fard or wājib.<sup>65</sup>

On the other hand, Shafi'ī, Hanbalī and Mālikī jurists believe that it is wājib to stay overnight in Mina, and they base their opinion on the fact that the Prophet spent his nights at Minā. Furthermore, these sects evaluate staying overnight at Minā in the context of the rituals of pilgrimage and cite the hadīth of the Prophet, "Learn the practices related to pilgrimage from me"<sup>66</sup> as evidence for their views. On the other hand, the fact that the Prophet did not give anyone permission but his uncle, Abbas, because of his duty of serving the pilgrims water, is mentioned as the most important evidence for the necessity of staying overnight at Minā.<sup>67</sup>

## Conclusion

<sup>57</sup> Ibn Qudāmah, *al-Mughnī*, 5/46-47; Muḥammad ibn Aḥmad al-Shirbīnī, *Mughnī al-muḥtāj ilā ma'rifat ma'ānī alfāz al-Minhāj*, thk., A. Muhammad Muawwad ve Adil Ahmad al-Mawcud (Beirut: Dar Al-Kutub Al-Ilmiyyah, 1994), 2/265.

<sup>58</sup> Kayapınar, "Arafat Öncesi ve Muzdalifa Sonrası Minā'da Gecelemenin Hükmü", 362.

<sup>59</sup> For more information, see M. Sabri Küçükaşçı, "Sikâye", *Türkiye Diyanet Vakfı İslâm Ansiklopedisi* (İstanbul: TDV Yayınları, 2009), 37/177-178.

<sup>60</sup> Al-Bukhārī, "The Hajj", 75, 133; al-Muslim, "The Hajj", 346; Abū Dawud, "al-Manasik", 80; Ibn Abi Shaybah, *Musannaf*, 8/324

<sup>61</sup> Al-Kasani, *Bada'i' al-Sana'i'*, 2/159; Sharahsi, *al-Mabsut*, 4/68; al-Zuhailī, *al-Fiqh al-Islam* 3/204; Bashnafar, *al-Mughni*, 289.

<sup>62</sup> Abū Dawud, "al-Manasik", 77.

<sup>63</sup> Ibn Abi Shaybah, *Musannaf*, 8/324.

<sup>64</sup> Kayapınar, "Arafat Öncesi ve Muzdalifa Sonrası Mina'da Gecelemenin Hükmü", 361.

<sup>65</sup> Abū Muḥammad 'Alī ibn Aḥmad ibn Sa'īd ibn Ḥazm, *al-Muhalla* (Beirut: ts.), 7/184.

<sup>66</sup> Muslim, "The Hajj", 310.

<sup>67</sup> Ibn Qudāmah, *Al-Muqni'*, 3/473; Muhyi-al-Din Abū Zakariya Yahya bin Sharaf bin Muri al-Nawawi, *Kitab al-Majmu' sharh al-Mu-hadhab* (Cidde: ts.), 8/223, 224.

The hajj is a form of worship that must be performed only once in a lifetime by Muslims who meet its requirements; it offers many beauties and wisdom for both individuals and Islamic societies. The hajj is an annual Muslim/Islamic gathering with religious, social, cultural, political and economic activities. That is, with the worship of hajj, people go on a religious trip that involves time, places, history, yesterday, today and the future. The hajj, in the temporal and spatial sense, is the source of many memories evoked moment by moment, which constitute the chain of values that are considered sacred and have taken their place in the memory of faith among Muslims. The hajj is a universal worship that enables individuals to socialize in an international community and obtain vision and extend their horizon. On the other hand, regardless of different perspectives, the hajj stands out as a form of worship which naturally houses all kinds of challenges as it is performed at certain times and in constrained places. The conditions and opportunities change in the worship of hajj over time; what remains unchanged is the existence of various challenges.

Worship is often taabbudi in its nature. Analyses and interpretations that could isolate worship from its maqāsīd and legislative nature and render it dysfunctional would undoubtedly contradict the purposes of religion. The fact that the worship is taabbudi in general does not mean one should ignore the quest for the realization of its gains. The confinement of worship to only certain norms and places, away from its maqāsīd and purpose, conflicts not only with the rationale for why Islam orders worship but also the goals it wants to achieve. For example, circumambulation cannot be seen as only going around the Ka'ba a certain number of times; the Arafat and Muzdalifa waqfas are not solely waiting for a certain time in the related places, and stoning the devil does not solely consist of throwing a certain number of stones at a certain place. In other words, worship in general, the hajj in particular, is hardly a mechanical ritual or form of worship, isolated from its essence and confined to the act of conforming to certain norms. In this respect, the hajj hardly consists of being present in certain places during the day or night and waste time being involved in meaningless acts or attitude that can be described as heedlessness. Undoubtedly, besides maintaining maximum physical and spiritual integrity that renders worship acceptable and blessed, the intention and behavior towards realizing the purpose of the Shari'ah are also significant. It is particularly important to distinguish between the acts that are required by the Shari'ah as a part of worship and those that hardly have the characteristics of worship. In this respect, identifying the issues that cannot be considered as a requirement of the hajj, which is characterized with many symbolic rituals, could not only contribute to the proper performing of the worship, but it could also offer an opportunity to eliminate the challenges, risk and danger involved. Therefore, the verses related to the hajj, along with the legislative practices and words of the Prophet are the only guiding principles in the performance of the hajj. A belief or action that is not based on this would naturally not have the quality of acceptable worship from a religious perspective. However, not every word and action of the Prophet could be regarded as an authoritative religious order. Because the Prophet did not make a clear statement about his practice or hardly mentioned it as a part of the worship, it would not be appropriate to attribute everything he did, every place that he visited, rested at and accepted as a route while performing the worship to a divine ruling on an act of worship. Thus, we can evaluate the Prophet's overnight stay at Minā on the night of the Tarwiyah day before the day of Arafat and on the days of Tashriq after Arafat from a religious perspective. As noted earlier, Islamic jurists agree that it is sunnah to stay overnight at Minā on the day of Tarwiyah. Staying overnight at Minā on the days of

Tashriq is considered sunnah by Hanafis, and wādhib by other sects. Zaydis, on the other hand, state that it is fard to stay overnight at Minā on these days.

It is essential that the following questions be addressed to form a solid basis for the issue under discussion, particularly to ensure the consistency of the conclusion to be reached. Is it a religious practice to stay overnight at Minā or to spend the nights of the days of Tashriq at Minā before the waqfa of Arafat; in other words, is it a practice which is thawab if performed or a bad deed if abandoned? Or is this a practice intended for resting and fresh vigor before a difficult process, at the beginning of the performance of some pillars that form the basis for the hajj? Positive or negative answers to these questions would play a key role in characterizing the practice with a ruling, such as sunnah or wādhib. If the practice of the Prophet is a need-based one to keep the pilgrims vigorous as they are tired or would be tired before the waqfa of Arafat or on the days of stoning/al-Jamarat, this practice would not be considered as wādhib or sunnah; therefore, it would not be considered to have the quality of worship. If the Prophet's practice is considered as an act of worship, then it must be re-assessed based on permission versus azimat, maslahat versus mafsadat and necessity. Only then would it be possible to arrive at a conclusion about whether it is sunnah or wādhib.

It should be noted that spending the night at Minā during the hajj, both on the night of the day of Tarwiyah and on the days of Tashriq is not a ritual or a form of worship to which we can attribute a religious ruling, such as sunnah or wādhib. This is because to perform the Arafat waqfa, which is one of the pillars of the hajj, the Prophet had to travel approximately 25 kilometers. Given the conditions regarding transportation, housing, subsistence and health during the time of the Prophet, it would have been very difficult to cover this distance with a mass of 100 thousand pilgrims without taking a break. Making evaluations without reference to current transportation, housing, subsistence, health facilities and conditions, which are utterly different from those in the time of the Prophet, may lead to inaccurate conclusions.

The Messenger of Allah covered this distance in two parts. The Prophet's taking a break at Minā, rather than in Muzdalifa, was aimed at preventing possible confusion among the Companions with the Muzdalifa waqfa. Moreover, it could be easier to reach the site of Jamarāt from Minā on the days of Tashriq. Minā attracts attention and gains meaning mostly due to the Jamarāt site. There is no direct message of the Prophet about staying overnight at Minā, during both Tarwiyah and Tashriq days. Based on the conditions of his time, the Prophet worked out a strategy for the trip to Arafat and devil-stoning at the Jamarāt on the return journey from Arafat. Based on this strategy, he made a choice that Minā would be the most appropriate place as a resting spot for more vigorous and peaceful performance of the rest of the worship. Therefore, we can say that the relative/non-accidental rationale for staying overnight at Minā is "having a rest". In this respect, one could comment on whether resting in this place is sunnah or wādhib in the performance of worship with the highest motivation on the days of Tarwiyah and Tashriq. From this point of view, practices that are intended to keep the pilgrims fit and vigorous before and after the Arafat waqfa can be considered as sunnah. Therefore, having a rest is not sunnah, depending on space and time related to Minā, and it is not appropriate to limit the place of this rest to Minā. If it is possible for the pilgrims to have a rest in hotels in Mecca, the practices intended for helping the pilgrims take a rest before the waqfa of Arafat and on Eid days can be considered as sunnah.

The fact that Shafi'is and similar sects consider staying overnight at Minā as wājib during the nights of the Eid could be considered as a maslahat-based approach to emphasize the necessity of resting in these places, rather than as evidence for its being wājib. Even today, although transportation, subsistence and accommodation opportunities are quite favorable, gathering of millions of pilgrims in the same place and their staying overnight at Minā would be a very difficult activity with various risks. In fact, due to the events of stampede in recent times, thousands of Muslims, who wanted to perform the sunnah or wājib acts, have been injured or lost their lives in these places. Considering the set of rules or values that the religion aims to preserve, there is no room for a discussion regarding human life's being in the first place. Therefore, the ruling on staying overnight in places like Minā should be assessed through an approach in which human life is considered and in which not only the bodily but also the spiritual aspects of worship and its maqāsīd are considered in all processes. To draw the right conclusions on this issue, the perspectives of the fuqaha should not be considered as fixed, unchangeable ideas that are abstracted from the context of maqāsīd and maslahat.

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