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An Evaluation of the Fiqh Views on the Muzdalifa Waqfa and its Time

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Abstract

The hajj is an act of worship that contains various challenges. One of the places where people experience difficulties during the hajj is Muzdalifa. Although there are different opinions among the schools of Islamic law, the waqfa of Muzdalifa is a religious duty that must be fulfilled according to most scholars. It requires penalty to abandon it unless there is a valid excuse. Even though the Prophet himself performed the waqfa of Muzdalifa between the fajr al-sādiq and sunrise, he allowed the old, sick and weak, as well as those having difficulty in walking, including her wife Hadrat Sawda, to go from Muzdalifa to Minā at night. The rationale for this practice, according to most Islamic jurists, is to avoid possible stampede. Given that approximately three million people perform the hajj every year and that a certain area is allocated at Muzdalifa for each country, the stampede is relatively greater today. Therefore, those who are considered as excused people, as well as those with concerns about stampede, can act according to the opinion of the Shāfi'ī and Hanbalī schools and perform the waqfa of Muzdalifa after midnight. Due to some obligatory cases or necessities, it is possible to perform the waqfa before midnight in line with the opinion of Mālikī scholars. This study aims to reveal whether the waqfa of Muzdalifa can be performed during a period other than its usual time and identify the effects of stampede, which is commonly experienced today sometimes resulting in loss of life, during the waqfa of Muzdalifa. We believe that the present study could contribute to the elimination of concerns about the validity of the waqfa of Muzdalifa.

Keywords

Islamic Law, Muzdalifa, al-Mash'ār al-Harām, Waqfa, Stampede, Difficulty

Müzdelifelife Vakfesi ve Zamanı Hakkındaki Fıkhî Görüşlere İlişkin Bir Değerlendirme

Öz

Hac, birçok açıdan zorlukları içinde barındıran bir ibadettir. Bu zorlukların yaşandığı yerlerden biri Müzdelife'dir. Vakti konusunda İslam hukuk ekolleri arasında farklı görüşler bulunmakla birlikte, fakihlerin çoğunluğuna göre, Müzdelife vakfesi dinen yerine getirilmesi gerekli bir görevdir. Geçerli bir mazeret olmadıkça, terk edilmesi cezayı gerektirir. Hz. Peygamber, Müzdelife vakfesini fecr-i sâdik ile güneşin doğuşu arasında yapmakla birlikte, aralarında eşi Hz. Sevde'nin de bulunduğu yaşlı, hasta, zayıf ve yürüme güçlüğü çeken bazı kimselerin gecedan Müzdelife'den Mina'ya gitmelerine izin vermiştir. Bunun sebebi fakihlerin genel kanaatine göre izdihamdır. Günümüzde her yıl yaklaşık üç milyon kişinin hac ibadetini yerine getirdiği ve Müzdelife'de her ülke için belli bir alan tahsis edildiği düşünüldüğünde, bugün izdiham geçmişe kıyasla daha fazladır. Bu itibarla, mazeret grubunda yer alan kişilerle izdiham korkusu taşıyanlar, Şâfiî ve Hanbelî mezheplerinin görüşleri doğrultusunda gece yarısından sonra Müzdelife vakfesini yapabilirler. Zarurî hal-lerde Mâlikî fakihlerinin görüşleri doğrultusunda, gece yarısını beklemeden vakfe yapmaları da mümkündür. Çalışmanın amacı, hacda yaşanan bir problem olarak Müzdelife vakfesinin vakti dışında yapılıp yapılamayacağını, yine günümüzde yoğun olarak yaşanan, bazen can kayıplarına da sebebiyet veren izdihamın,

Müzdelife vakfesine etkilerini ortaya koymaktır. Böyle bir çalışmanın, Müzdelife vakfesinin geçerliliği konusunda oluşan tereddütlerin giderilmesine de katkı sağlayacağı değerlendirilmektedir.

Anahtar Kelimeler

İslam Hukuku, Müzdelife, Meş'ar-i Harâm, Vakfe, İzdiham, Meşakkat

Introduction

The hajj is one of the five pillars of Islam. It is fard for Muslims who can afford it and meet its basic requirements. As pilgrims perform the hajj only once in their lifetime, it is very important for them to perform this worship properly and safely. This worship obviously poses some difficulties due to its nature, along with the difficulties arising from the high global demand for pilgrimage and the difficulties arising from the inability to fully meet this great demand under available conditions. The Prophet's asking Allah for ease in performing the hajj implies the difficulties inherent in this worship.¹ Today, approximately three million people perform the hajj every year. Since the number of people who have lost their lives due to stampede during the last forty years is over 2200,² the hajj clearly poses some serious difficulties in terms of the performance of worship itself, besides the challenges related with the differences in language, culture and understanding.

Both national and international bodies organizing pilgrimage are known to take a series of organizational and religious measures to facilitate this worship. Pilgrims sometimes have hesitation as to whether their worship is performed in line with the procedure, particularly because the worship performed based on the measures taken sometimes conflict with the provisions put forth by a particular sect which the pilgrims belong to or because the provisions of permission are considered due to some emerging needs. Similarly, the related institutions sometimes face criticisms, as the provisions of the Hanafî sect, which is the most commonly accepted sect in Turkey, are not followed, as regards certain issues related to the hajj. One of them is related to the time of the waqfa of Muzdalifa, which is the topic this paper addresses. As commonly known, Muzdalifa is one of the areas where stampede is experienced intensely. Performing the waqfa at this place is one of the critical duties completed during the hajj.

In our research, in addition to the basic sources and classical works related to pilgrimage, we used current works and scholarly studies carried out both in Turkey and in different Islamic countries on the rituals of the hajj. For example, Mukadder Arif Yüksel's work titled *The Rules of Hajj according of Siyar, Hadith and Tafsir*, which deals with the history, meaning and wisdom of pilgrimage, along with the concepts and provisions related to it, is a comprehensive study. However, the rulings regarding Muzdalifa and waqfa are provided under general headings.

Abdullah Tırabzon's work titled "*Prohibited Actions during the Hajj*", in which he systematically addresses the hajj, is more closely related to our subject as it addresses such issues as the place of Muzdalifa, the time of the waqfa and staying overnight at Muzdalifa. However, as this work has a broader outlook on

¹ Muhammad b. Ismail al-Bukhârî, al-Jâmi' al-Sahîh, (Istanbul: Çağrı Publications, 1992), "The Hajj", 2; al-Muslim b. al-Ḥajjāj, Al-Jâmi' al-Şahîh, (Istanbul: Çağrı Publications, 1992), "The Hajj", 2.

² Türkiye Radyo Televizyon Kurumu (TRT), "*TRT Haber*", (Accessed May 8, 2021).

the provisions of the hajj, problem-oriented specific issues such as Muzdalifa waqfa's being performed outside of its usual time and stampede are discussed extensively. We can say that Ali bin Nasar al-Shaalan's work *Al-Nawazil fi al-Hajj* bears some similarities.

In connection with stampede, we would like to highlight the importance of Khalid bin Abdullah Al-Muslih's works *al-Ziham wa al-Asaruhu fi al-Nusuk*, *al-Maqāsid al-sharī'ah*, *Asaruhu al-tatawwur al-fatwa fi ahkam al-mabit al-Muzdalifa*. Ali Kumaş's study titled "A Problem Encountered in the Hajj: The Timing of the Muzdalifa Waqfa" is closely related to our research and includes some conclusions further supported by the present study. However, it focuses on the timing of the Muzdalifa waqfa. The solution of the problems confronted while performing the Muzdalifa waqfa is closely related to the concept of istiṭā'a, along with such rules of thumb as the protection of life, convenience, and the elimination of hardships. The concept istiṭā'a per se can be the subject of an independent study.

The present research suggested that "stampede" is a specific legal excuse in the context of eliminating the difficulties experienced while performing the Muzdalifa waqfa. Our evaluations of the views and approaches in these works are presented in the relevant sections of this study.

This study investigates whether the Muzdalifa waqfa can be performed outside of its regular time, due to the difficulties caused by staying overnight at Muzdalifa and performing the waqfa itself. Similarly, this study also addresses the influence of stampede on the waqfa of Muzdalifa as a life-threatening challenge encountered while performing the pilgrimage today. Undoubtedly, the jurisprudence on these issues is closely related to the place, time and ruling of the waqfa, as well as to other rituals. For this reason, these issues are also addressed in detail.

1. Background to the Study

Muzdalifa, a name derived from the root z-l-f, which means "to approach" and "to bring closer", and derived from the verbal noun "iftial", is a place where pilgrims coming from Arafat during the hajj season engage in prayer, dhikr and worship and spiritually get closer to Allah.³ It is also claimed that Muzdalifa got this name as the pilgrims arrive at Muzdalifa or Minā by descending from Arafat.⁴ Still another etymological explanation is that the name Muzdalifa was derived from "zulfa", which means "an earlier part of the night" particularly because the pilgrims arrive here in the first part of the night from Arafat.⁵ Alī al-Qārī (d. 1014/1605) states that Muzdalifa got this name because it is a flat place and believes that this explanation

³ Abu al-Fadl Jamal al-Din Muhamad bin Mukkaram Ibn Manzūr, *Lisan Al-'Arab* (Beirut: Dar Sadir, 1410/1990), 9/138; Nur al-Din Itr, *al-Hajj wal-umrah fi al-fiqh al-Islami* (Beirut: Muassasah al-Risalah, 1984), 96; Dursun Ali Şeker, "Müzdelife", *Türkiye Diyanet Vakfı İslâm Ansiklopedisi* (İstanbul: TDV Yayınları, 2006), 32/239.

⁴ Ibn Manzur, *Lisān al-'Arab*, 9/138; Abū Abdillāh Muhammad b. Ahmad al-Ansari al-Qurtubī, *al-jami' li ahkam al-Qur'an* (Beirut: Dar al-Kutub al-'Ilmiyah, n.d.), 2/279; Abū'l-Wafa Burhān al-Dīn Ibrahim b. Ali Ibn Farḥūn, *Irshād al-sālik ilā ashraf al-masālik*, Ed. Abū Muḥammad al-Hādī Abū'l-Ajfan (Riyadh: Maktabat al-Ubaykan, 2002), 403.

⁵ Abū Zakariyyā' Yahya b. Sharaf al-Nawawī, *al-Majmu*, Ed. and tlk. Muhammad Najib Muti'i' (Jeddah: Maktabat al-Irshad, n.d.), 8/146; Ibn Manzur, *Lisān al-'Arab*, 9/138-139; Abū'l-Hasan 'Alī al-Qārī, *al-Maslak al-mutaqassit fi'l-mansak al-mutawassit* (Makkah: n.d. 1328), 108.

sounds more credible.⁶ The Muzdalifa region is also known as "Jam" as it is the place where the maghrib and isha'a prayers are combined or where the pilgrims gather for the waqfa.⁷

Muzdalifa is a holy place that was also considered valuable in the pre-Islamic period. Based on their own understanding, the Jāhiliyah Arabs maintained the traditions of performing waqfa, sacrificing and performing tawaf at the Ka'ba. Considering themselves as "people of the Ḥarām" and "friends of Allah", the Quraysh and fellow tribes believed that they were in a privileged position. They performed the waqfa on the Hill of Kuzah at Muzdalifa instead of Arafat. Other Arab tribes came to Muzdalifa after performing the waqfa at Arafat. After the rise of Islam, the wādjiḥ waqfa was performed at Muzdalifa, the fard waqfa at Arafat.⁸

Muzdalifa covers an area of approximately 963 hectares. It is located in the region from the strait between two hills located in the Arafat direction to the Muhassir valley in the direction of Minā. It is surrounded by Zat al-Salim and Zumarah in the south and Mount Sebir in the north.⁹ While some scholars claim that the Al-Mash'ar Al-Ḥarām, mentioned in the Qur'ān, covers the whole of Muzdalifa, there are also those who state that what is meant by this is Kuzah Hill,¹⁰ and this is a widely held view.¹¹ A majority of fiqh scholars support this.¹²

The waqfa must be performed within the boundaries of Muzdalifa, and the night must be spent there. According to the Hanafī sect, it is considered makruh to perform the waqfa in the Muhassir valley and it is stated that the waqfa performed there becomes invalid.¹³ The Hanafīs supported their claim with the hadīth "The whole Arafat is a place of waqfa but be wary of performing it in the Valley Urana, and the whole Muzdalifa is a place of waqfa, but do not perform the waqfa in the valley of Muhassir."¹⁴

⁶ 'Alī al-Qārī, *al-Maslak al-mutaqassit*, 108.

⁷ Shams al-Din Muhammad b. Husam al-Din al-Quhustānī, *Jami' al-rumūzi al-riwaya fi Sharḥ Mukhtasar al-Wiqāyah*, (Beirut: Dar al-Kutub al-'Ilmiyah, 2019), 2/239; Muhammad Rawas Kal'aji-Hāmid Sādik Kanibi, *Mu'jam lughah al-fuqaha'* (Beirut: Dar al-Nafais, 1988), 166.

⁸ Şeker, "Müzdelife", 32/239.

⁹ Abū Muhammad Badr al-Din Mahmud b. Ahmad al-Ayni, *Umdat al-Qari fi Sharḥ al-Bukhārī* (Beirut: Dar al-Fikr, n.d.), 10/16; Abd al-Karim Zaydān, *Jami' bi al-Fiqh al-Islami al-Mufassal* (Beirut: Muassasah al-Risalah, 2012), 2/227; Şeker, "Müzdelife", 32/239.

¹⁰ Ibn Nujaym, Zayn al-Abidin b. Ibrahim b. Muhammad, *al-Bahr al-Raiq shrah Kanz-ud-dqaiq* (Beirut: Dar al-Kutub al-'Ilmiyah, 1997), 2/600; 'Alī al-Qārī, *al-Maslak al-mutaqassit*, 108; Abū Mansur Muhammad b. Mukrim b. Sha'ban al-Kirmānī, *al-Masalik fi al-Manasik* (Beirut: Dar al-Bashair al-Islamiyyah, 2003), 540.

¹¹ Al-Nawawī, *al-Majmu*, 8/148, 157; Abū Ishāq Ibrahim b. Ali al-Firūzābādī al-Shirāzī, *al-Muhazzab* (Beirut: Dar al-Kutub al-'Ilmiyah, 1995), 1/413; Ali Kumaş, "Hacda Karşılaşılan Bir Problem: Müzdelife Vakfesinin Zamanlaması", *Uluslararası Sosyal Araştırmalar Dergisi* 9/42 (Şubat 2016), 1879.

¹² Shams al-Din Muhammad b. Muhammad al-Shirbīnī, *Mughnī al-muhtaj ila ma'rifat al-ma'ani al-Minhaj*, Ed. and tlk. Ali Muhammad Muawad et al (Beirut: Dar al-Kutub al-'Ilmiyah, 1994), 2/266; Abd al-Gani al-Ganimi al-Dimashqī al-Maidānī, *al-Lubab fi Sharḥ al-Kitāb*, Ed. Muhammad Muhyi al-Din Abd al-Ḥamid (Beirut: Dar Ihya al-Turath al-Arabi, 1985), 1/190; Salim, Ögüt, "Meş'ar-i Harām", *Türkiye Diyanet Vakfı İslām Ansiklopedisi* (Ankara: TDV Publications, 2004), 29/361.

¹³ 'Ala' al-Din Abū Bakr b. Mas'ud al-Ḳāshānī, *Bada'i' al-Sana'i' fi Tartib al-Shara'i'* (Beirut: Dar al-Kutub al-Arabiyyah, 1982), 2/136; Abū'l-Hasan Ali b. Abi Bakr al-Marghīnānī, *al-hidāya fi Sharḥ Bidayat al-Mubtadi* (Istanbul: Dar al-Kahraman, 1986), 1/146; Ibn Nujaym, *al-Bahr al-Raiq*, 2/600-601.

¹⁴ Mālik b. Anas, *al-Muwatta'* (Istanbul: Çağrı Publications, 1992), "The Hajj", 166, 167; Abū 'Abd Allāh Muhammad b. Yazid al-Qazwini Ibn Māja, *al-Sunan* (Istanbul: Çağrı Publications, 1992), "al-Manasik", 55.

2. The Acts of Worship at Muzdalifa

Performing the maghrib and isha'a prayers in combination, staying overnight and performing the waqfa are among the duties that must be fulfilled at Muzdalifa.¹⁵ These were the practices the Prophet and there is no disagreement among the sects on these.¹⁶

Fiqh scholars agree that it is sunnah to perform the maghrib prayer after the waqfa of Arafat, not on the way, but in combination with the ish'a prayer at Muzdalifa.¹⁷ However, it can be performed during the trip for the fear that that the time of the ish'a prayer might be over upon arriving at Muzdalifa.¹⁸

According to Ahmad b. Hanbal (d. 241/855) and some Hanafī and Shafī'ī jurists, the practice of combining the maghrib and ish'a prayers at the evening time or the prayers performed at a place other than Muzdalifa during the night are valid. Although such practices are incongruous with what the Prophet did, there is no need to repeat the prayer.¹⁹ On the other hand, according to other scholars such as Abū Hanifah, Malik, Davud al-Zahiri and Ibn Hazm, this is not permissible, so the prayer must be repeated. Unless there is a legitimate reason, the prayers performed on the way to Muzdalifa must be performed again.²⁰

According to Hanafī jurists, to be able to perform the evening and night prayers together, it is essential that one wear ihram. However, being on travel is not necessary because it is the worship of hajj that is the reason for combining these two prayers. Therefore, those who live in Mecca, Muzdalifa or Minā are also allowed to combine the prayers. According to sunnah, it is advisable to perform the evening and night prayers in congregation. However, these prayers can also be performed individually.²¹ According to Hanbalī and Shafī'ī jurists, the reason for combining prayers is not pilgrimage but traveling.²² The Shafī'īs based their opinion on the narration that the Prophet led the aforementioned prayers with one Adhan and two Iqāms and did not perform supererogatory prayers in between.²³ This view is attributed to such Hanafī scholars as

¹⁵ Abdullah Tırabzon, *Hac İbadetinde Yasak Davranışlar*, (İstanbul: İstanbul Üniversitesi, Sosyal Bilimler Enstitüsü, Doktora Tezi, 2008), 177.

¹⁶ Shams al-Din Abū'l-Faraj al-Maqdisī, *al-Sharh al-kabir ala metn al-Mukni'* (Beirut: Dar al-Fikr, 1984), 3/446; Abū Bakr Ibn al-Arabi, *Ahkam al-Qur'an*, Ed. Ali Muhammad Bajawi (b.y.: Dar Ihya al- Kutub al-Arabiyyah, 1987), 1/137.

¹⁷ Abū Bakr Muhammad b. Ibrahim Ibn Munzir, *Kitab al-idjma'*, Ed. Abdulkadir Şener (Ankara: Gaye Publishing, 1983), 58; Shams al-Aimma Muhammad b. Ahmad as-Al-Sarakhsi, *al-Mabsut* (Beirut: Dar al-Fikr, 1986), 4/62; Ibn Qudāmah, *Muwaffak al-Din Abi Muhammad 'Abd Allāh b. Ahmad, al-Mughni* (Beirut: Dar al-Fikr, 1984), 3/446; al-Qurtubī, *al-jami' li ahkam al-Qur'an*, 2/279.

¹⁸ Quhustānī, *Jami' al-rumūzi al-riwaya*, 2/240; al-Qurtubī, *al-jami' li ahkam al-Qur'an*, 2/279; Mehmet, Şener, "Müzdelife", *Türkiye Diyanet Vakfı İslām Ansiklopedisi* (İstanbul: TDV Yayınları, 2006), 32/240.

¹⁹ Abū Bakr Ahmad Ibn 'Alī al-Rāzī al-Jassās, *Ahkam al-Qur'an*, Ed. Muhammad Sadiq Kamhawi (Beirut: Dar Ihya al-Turath al-Arabiyyah, 1985), 1/390; al-Nawawī, *al-Majmu*, 8/151; al-Marghīnānī, *Al-hidāya*, 1/146; Ibn Qudāmah, *al-Mughni*, 3/449.

²⁰ Al-Marghīnānī, *al-hidāya*, 1/145; Ibn Qudāmah, *al-Mughni*, 5/449; Ibn Sa'īd al-Tanūkhī al- Sahnūn, *Al-Mudawwana al-Kubra* (Beirut: Dar al-Kutub al-İlmiyyah, 1994), 1/432; al-Maqdisī, *al-Sharh al-kabir*, 3/449; Abū Muhammad Ali b. Ahmad Ibn Hazm, *al-Muhalla bi'l-asar*, Ed. Abd al-Gaffar Suleiman al-Bandari (Beirut: Dar al-Kutub al-İlmiyyah, n.d.), 5/125; Ibn Farhūn, *Irshād al-sālik*, 405.

²¹ Ibn Nujaym, *al-Bahr al-Raiq*, 2/597; Şener, "Müzdelife", 32/240.

²² Al-Shīrāzī, *al-Muhazzab*, 1/413.

²³ Abū Zakariyyā' Yahya b. Sharaf al-Nawawī, *Kitab al-izah fi'l-hajji wa'l-umra* (Beirut: Dar al-Bashair al-Islamiyyah, 1994), 295. Al-al-Muslim, "The Hajj", 147. al-Qurtubī, *al-jami' li ahkam al-Qur'an*, 2/281.

Zufar (d. 158/775) ve Abu Jafar at-Tahavi (d. 321/933).²⁴ This perspective which is favored among the Hanafis is performing it with the Adhan and Iqāmah.²⁵

According to the Mālikīs, who adopt a different approach to this issue, if those who perform the Arafat waqfa together with the person who guides the pilgrims (the imam),²⁶ they perform the jam together when they come to Muzdalifa with the imam. However, if they come after the imam, they perform the prayer on their own in jam. According to the Mālikīs, every prayer is performed at its own time, unless the waqfa is performed with the imam. In such a case, only those who are travelling perform the ish'a prayer the shorter way, while others perform their prayers in full. Hanbalī jurists, based on the related narrations, stated that it is necessary to say the Iqāmat separately for the maghrib and ish'a prayers, but they also stated that two prayers can be performed with one Iqāmat.²⁷ It is considered makruh to perform sunnah prayers between the two fards in the prayers performed in combination both at Arafat and Muzdalifa.²⁸ Performing the maghrib prayer at night-time is not kada (make up) but ada (on time).²⁹

For the Muzdalifa waqfa to be valid, the Arafat waqfa must be performed in Ihram, within the borders of Muzdalifa and at the time reserved for it. It is commonly considered as sunnah to perform the waqfa around Mashar al-Ḥarām, to perform the morning prayer on the day of Eid in time, and to spend the night by worshipping.³⁰ It is sunnah to be busy with dhikr, tasbehat, prayer and tawbah after the morning prayer and to set out for Minā before the sun rises in line with the practice of the Prophet. Hanafī jurists stated that it is mustahab to perform the Muzdalifa waqfa at Mash'ār al-Ḥarām. It is sunnah according to scholars who are not Hanafīs.³¹

The states of menstruation and being junub do not prevent a pilgrim from performing the waqfa and stoning the devil at Arafat, nor do they prevent the performing of the Muzdalifa waqfa.³² However, based on the principle of performing the worships in complete understanding of material and spiritual cleanliness or purification, it is considered mustahab to perform them by getting rid of such situations.³³ In Muzdalifa, as in other acts of worship to be performed during the hajj, acting based on the Prophet's warning, "O people!

²⁴ Kamal al-Din Muhammad b. 'Abd al-Wāhid Ibn al-Humam, *Fath al-Qadir* (Beirut: Dar al-Fikr, n.d.), 2/478-479.

²⁵ 'Abd Allāh b. Mahmud b. Mawdud al-Mawsili, *al-Ikhtiyar li-Ta'lim Masa'il al-Mukhtar* (Istanbul: Çağrı Publications, 1984), 1/151; Ibn Nujaym, *al-Bahr al-Raiq*, 2/596.

²⁶ The imam is the person appointed by the head of state to manage the affairs related to the Hajj. See Ibn Qudāmah, *al-Mughnī*, 3/445.

²⁷ Al-Maqdisī, *al-Sharh al-kabīr*, 3/446; Ibn Qudāmah, *al-Mughnī*, 3/446; Muhammad b. Ahmad al-Dusuqi, *Hashiyat Al-Dusuqi 'Ala Al-Sharh Al-Kabir* (Beirut: Dar al-Kutub al-'Ilmiyah, 1996), 2/265.

²⁸ Mawsili, *al-Ikhtiyar*, 1/151; al-Maqdisī, *al-Sharh al-kabīr*, 3/446.

²⁹ Abū Bakr b. Ali al-Haddad, *al-Jawharat al-nayyira* (Istanbul: Fazilet Publication, 1978), 1/202; Ismail Karagoz, "Müzdelife'de Yapılacak Görevler", *Türkiye'de Hac Organizasyonu Sempozyumu*, ed. Mehmet Bulut (Ankara: Diyanet İşleri Başkanlığı Yayınları, 2007), 280. However, there are some scholars who regard night prayer as a ritual and evening prayer as a kadha prayer. See Ibn Nujaym, *al-Bahr al-Raiq*, 2/597.

³⁰ Ibn Qudāmah, *al-Mughnī*, 3/449.

³¹ Al-Shirbīnī, *Mughnī al-muhtaj*, 2/264-265; Mawsili, *al-Ikhtiyar*, 1/152; Ibn Farḥūn, *Irshād al-sālik*, 1/403.

³² Al-Ḳāshānī, *Bada'i*, 2/136; Zaydān, *al-Mufasssal*, 2/230.

³³ Şener, "Müzdelife", 32/240.

Walk in peace,”³⁴ it can be considered as acts in line with the Sunnah to avoid stampede or chaos, and to stay away from acts that would disturb the peace of worship or violate security can also be considered as acts in line with the Sunnah.

3. The Ruling on the Waqfa of Muzdalifa

With the following verse, Almighty God orders pilgrims to do dhikr of Him at Muzdalifa: “You will be committing no sin if [during the pilgrimage] you seek to obtain any bounty from your Sustainer. And when you surge downward in multitudes from 'Arafat, remember God at al-Mash‘ār al-Harām, and remember Him as the One who guided you after you had indeed been lost on your way.”³⁵ It is noted that what is meant by “zikr” in the verse is either the Muzdalifa waqfa or night prayer.³⁶ The Prophet said: “Whoever performs the (morning) prayer with us and goes on to perform waqfa until the time for leaving, provided that he/she has already performed Arafat waqfa, his hajj is complete”.³⁷ This hadīth implies that it is necessary to perform waqfa at Arafat and Muzdalifa.

Besides these, the fact that the Messenger of Allah went to Mash‘ār al-Harām in his Farewell Hajj and performed waqfa³⁸ is considered as evidence for the necessity of performing the waqfa.³⁹ However, it is possible to address the approaches to the ruling of the Muzdalifa waqfa.

3.1. The Scholars Who Think that Muzdalifa Waqfa is Fard

These scholars include Abdullah b. Zubayr, Ibn Abbas, Alkama, Ikrimah, Aswad b. Yazid, Sha’bi, Kasim b. Sallam, Abu Bakr b. Huzaymah and Ibn Hazm.⁴⁰ According to these scholars, Allah’s decree that the pilgrims must do dhikr at Muzdalifa in the following verse is the evidence showing that the waqfa is fard:⁴¹ “You will be committing no sin if [during the pilgrimage] you seek to obtain any bounty from your Sustainer. And when you surge downward in multitudes from 'Arafat, remember God at al-Mash‘ār al-Harām, and remember Him as the One who guided you after you had indeed been lost on your way.”⁴²

³⁴ Al-Muslim, “The Hajj”, 147; Abū Dāwūd, Hafiz Suleiman b. al-Ash‘ath al-Sijistānī, *al-Sunan* (Istanbul: Çağrı Publications, 1992), “al-Manasik”, 57.

³⁵ *Kur’an Yolu Meâlî*, Trans. Hayreddin Karaman et al. (Ankara, Diyanet İşleri Başkanlığı Yayınları, 2017), al-Baqarah 2/198.

³⁶ Al-Ḳāshānī, *Bada’i’*, 2/136.

³⁷ Abū Dāwūd, “al-Manasik”, 69; Abū Abd al-Rahmān Ahmad b. Shuayb al-Nasā’ī, *al-Sunan*, (Istanbul: Çağrı Publications, 1992), 211; al-Tirmidhī, “The Hajj”, 57.

³⁸ Al-Muslim, “The Hajj”, 147; Abū Dāwūd, “al-Manasik”, 57-67; Abū Isa Muhammad b. Isa b. Sarwa al-Tirmidhī, *al-Sunan* (Istanbul: Çağrı Publications, 1992), “The Hajj”, 53; Ibn Māja, “al-Manasik”, 84.

³⁹ Abd al-Rahman al-Jazarī, *Kitab al-fiqh ‘ala al-madhahib al-arba’ah* (Istanbul: Çağrı Publications, 1987), 1/665-666.

⁴⁰ Al-Ḳāshānī, *Bada’i’*, 2/135; al-Qurtubī, *al-jami’ li ahkam al-Qur’ān*, 2/279; al-Marghīnānī, *al-hidāya*, 1/146; Mahmud b. Ahmad b. Musa b. Ahmad b. Husayin Badr al-Din al-Ayni, *al-Binaya Sharh al-Hidaya*. Ed. Ayman Salih Sha’ban (Beirut: Dar al-Kutub al-‘Ilmiyah, 2012), 4/236; Ibn Hazm, *al-Muhalla*, 5/128-129; Ibn Qudāmah, *al-Mughni*, 3/450.

⁴¹ Al-Sarakhsi, *al-Mabsut*, 4/63; Ibn Hazm, *al-Muhalla*, V, 126; al-Ḳāshānī, *Bada’i’*, 1/135; al-Qurtubī, *al-jami’ li ahkam al-Qur’ān*, 2/282; al-Ayni, *al-Binaya*, 4/236.

⁴² Al-Baqarah 2/198.

Those who hold this view cite the third verse of Surah at-Tawba as evidence that waqfa is fard.⁴³ This verse mentions the day of "hajj-i akbar," which, in the Prophet's words, is the first day of Eid al-Adha.⁴⁴ This particular day is an important time in that includes other rituals related to the hajj, such as stoning the devil, sacrificing and shaving, as well as fards such as ifada tawaf, so the Muzdalifa waqfa's being fard is associated with the importance this day. It is stated that Muzdalifa waqfa is the most appropriate worship to be fard on the first day of Eid.⁴⁵

The Prophet said: "Whoever the performs waqfa at Muzdalifa together with the imam and people until he leaves, his pilgrimage will be complete, and whoever does not perform waqfa here (at Muzdalifa) together with the imam and people, his pilgrimage will not be complete."⁴⁶ The waqfa of Muzdalifa is seen as a rukn as this hadith mentions the waqfa at Muzdalifa as a requirement for the completion of the hajj.⁴⁷

The jurists who supported this view claimed that the waqfa of Muzdalifa is fard on the grounds that the waqfas of Arafat and Muzdalifa are sequentially mentioned in the verse "And when you surge downward in multitudes from 'Arafat, remember God at Mash'ar al-Harām, and remember Him..."⁴⁸ The Prophet said, "I sacrificed here. The whole Minā is a place for sacrifice. During your journey in Minā, perform the sacrifice. I performed the waqfa here (at Arafat); the whole Arafat is a place for waqfa. I performed the waqfa here (at Muzdalifa); the whole Muzdalifa is a place for waqfa".⁴⁹ The sequential mentioning of the two waqfas in this hadith led these jurists to make the interpretation that the ruling on these two waqfas is the same.⁵⁰

According to the jurists who claim that the waqfa of Muzdalifa is fard, the hadith "The hajj is Arafat"⁵¹ hardly means that there are no other fards for the hajj. For example, although it is not mentioned in this hadith, the fuqaha agree that the ifada tawaf is fard. These jurists do not agree with objection that two fards cannot take place at one time as the waqfa of Arafat can be performed until the time of the imsāk.⁵² According to the jurists holding this view, abandoning the waqfa invalidates the hajj.⁵³

⁴³ The following is stated in this verse: "And a proclamation from God and His Apostle [is herewith made] unto all mankind on this day of the Greatest Pilgrimage: God disavows all who ascribe divinity to aught beside Him, and [so does] His Apostle. Hence, if you repent, it shall be for your own good, and if you turn away, then know that you can never elude God! And unto those who are bent on denying the truth give thou [O Prophet] the tidings of grievous chastisement."

⁴⁴ Al-Bukhārī, "The Hajj", 132; Abū Dāwūd, "al-Manasik", 66; Ibn Māja, "al-Manasik", 76. For more information, see Ibn Qudāmah, *al-Mughnī*, 3/479.

⁴⁵ Ibn Hazm, *al-Muhalla*, 5/127-128.

⁴⁶ Abū Dāwūd, "al-Manasik", 69; al-Tirmidhī, "The Hajj", 57; Nasai, "al-Manasik", 211; Abū Muhammad 'Abd Allāh b. Abd al-Rahman al-Dārimī, *al-Sunan* (Istanbul: Çağrı Publications, 1992), "al-Manasik", 54; Ahmad b. Hanbal, *al-Musnad* (Istanbul: Çağrı Publications, 1992), 4/260-261. In opposition to the criticism that this hadith is weak, they claim that it is authentic. See Ali b. Nasser al-Sha'lan, *al-Nawazil fi'l-hajj* (Riyadh: Dar al-Tawhid wa al-Nashr, 2010), 403.

⁴⁷ Al-Sarakhsi, *al-Mabsut*, 4/63; Ibn Hazm, *al-Muhalla*, 5/127.

⁴⁸ Al-Baqarah 2/198.

⁴⁹ Al-Muslim, "The Hajj", 149.

⁵⁰ Abū Ja'far al-Ṭahāwī, *Sharh Maani al-Asaar* (Beirut: Dar al-Kutub al-'Ilmiyah, 2013), 2/284.

⁵¹ Abū Dāwūd, "al-Manasik", 57; al-Tirmidhī, "Tafsir", 3; Ibn Māja, "al-Manasik", 57.

⁵² Kumaş, "Hac'da Karşılaşılan Bir Problem: Müzdelife Vakfesinin Zamanlaması", 1881.

⁵³ Al-Sarakhsi, *al-Mabsut*, 4/63; Ibn Hazm, *al-Muhalla*, 5/126; al-Ayni, *al-Binaya*, 4/236; Abū al-Walid Muhammad b. Ahmad Ibn Rushd, *Bidayat al-Mujtahid wa-Nihayat al-Muqtasid* (Beirut: Dar al-Marifah, 1988), 2/350; Al-Jassas, *Ahkam al-Qur'an*, 1/390.

3.2. Jurists Who Think that the Waqfa of Muzdalifa is Wājib

Most scholars, including Hanafī, Shafī'ī, Mālikī and Hanbalī jurists, think that the Waqfa of Muzdalifa is wājib.⁵⁴ These jurists based their views on some hadiths. It is narrated that Urwa b. Mudarris, one of the Companions of the Prophet, visited him and stated that he was pushing his mount too hard, and he was exhausted, and he explained that he performed a waqfa on every hill he visited and asked if he had completed his hajj. In response, the Messenger of Allah stated that the pilgrimage is complete for a person who performed the morning prayer with him at Muzdalifa and had made the Arafat waqfa beforehand.⁵⁵

According to these jurists, the expression “being complete” indicates that the Muzdalifa waqfa is wājib because wājib completes fard.⁵⁶ The Prophet said, “The hajj is Arafat. Whoever catches up with the night of Arafat before the dawn on the night of Jam (al-Muzdalifa), his hajj is complete.”⁵⁷ In this hadith, he stressed the waqfa of Arafat and noted that it an indispensable rukn of the hajj. If the waqfa of Muzdalifa were fard, the Prophet would not state that performing the waqfa of Arafat would complete the hajj.

Most scholars also state that what is meant by "dhikr" in the 198th verse of Surat al-Baqarah might be prayer. They stated that the Muzdalifa waqfa is wājib not only because staying overnight at Muzdalifa was not mentioned in the hadith narrated by Urwa b. Mudarris but also because the Prophet allowed some of his family members to go to Minā during the night due to their excuses.⁵⁸

Not performing the Muzdalifa waqfa due to an excuse is considered as evidence for its being wājib because abandoning fard is not possible.⁵⁹ This idea of its being wājib was criticized by those claiming that the Prophet gave permission to some people, due to their excuses after they performed the waqfa at night, but this criticism was rejected by others, who thought that the waqfa must be done after the time of the morning prayer comes.⁶⁰ The narrations about incomplete hajj, caused by the failure to perform the Muzdalifa waqfa, were interpreted by these scholars as the pilgrimage would not be performed in a perfect sense if it is not done.

The jurists, who claim that the waqfa of Muzdalifa is wājib, do not accept the idea that two fards cannot be fulfilled at a time, which is raised as an objection against them. Again, they criticize the inference that as the waqfa of Muzdalifa and waqfa of Arafat are mentioned together, their ruling is the same; they

⁵⁴ Al-Sarakhsi, *al-Mabsut*, 4/63; al-Shirbinī, *Mughnī al-muhtaj*, 2/264; Makdisī, *al-Sharh al-Kabir*, 3/449; Dusuqi, *Khashiya*, 2/265; Muhammad Emin b. Omer b. Abidin, *Radd al-Muhtar 'ala al-Durr al-Mukhtār*, Ed. and tlk. Husam al-Din b. Muhammad Salih Farfur (Damascus: Dar al-Bashair, 2000), 7/111.

⁵⁵ Abū Dāwūd, “al-Manasik”, 69; al-Tirmidhī, “The Hajj”, 57; al-Nasā'ī, “al-Manasik”, 211; Ibn Māja, “al-Manasik”, 57; Ahmad b. Hanbal, 4/261

⁵⁶ Al-Ḳāshānī, *Bada'i*, 2/135; Karagoz, “Müzdelife'de Yapılacak Görevler”, 277.

⁵⁷ Abū Dāwūd, “al-Manasik”, 69; al-Nasā'ī, “al-Manasik”, 211; Ibn Māja, “al-Manasik”, 57.

⁵⁸ Al-Jassas, *Ahkam al-Qur'ān*, 1/390; Ibn al-Arabi, *Ahkam al-Qur'ān*, 1/138; Ibn Rushd, *Bidayat al-Mujtahid*, 2/350.

⁵⁹ Ḳāshānī, *Bada'i*, 135-136; Ibn al-Humam, *Fath al-Qadir*, 2/483; Akmal al-Din Muhammad b. Mahmud Babarti, *Sharh al-'Inayah al-Hidayah* (Beirut: Dar al-Fikr, n.d.), 2/482; Sha'lan, *al-Nawazil fi'l-hajj*, 404.

⁶⁰ Al-Ayni, *al-Binaya*, 4/236-237; Kumaş, “Hac'da Karşılaşılan Bir Problem: Müzdelife Vakfesinin Zamanlaması”, 1882.

say that this view lacks basis. They claim that if one acted on such an implication, sacrificing would also be a rukn. However, there are no jurists who say that the sacrifice during the pilgrimage is fard.⁶¹

According to the Hanafis,⁶² who consider the proof (subut) and implication (dalalat) aspect of the verses with a technical approach to the distinction between fard and wādjib, the fact that something is fard depends on the presence of definite evidence in terms of proof and implication. As there is no consensus among the scholars about the indication of the decree "remembering Allah at Mash'ār al-Harām" in the relevant verse, there is no certainty on this issue. Some jurists state that remembering Allah at Muzdalifa refers to the evening and night prayers.⁶³ According to these jurists, a person who performs the waqfa at Muzdalifa but does not do dhikr fulfills his hajj provided that he performs other duties.⁶⁴ On the other hand, there is an agreement among the scholars that it is not fard to do dhikr of Allah at Muzdalifa. This is an indication that the waqfa is not a rukn.⁶⁵

As the hadīths mentioning the waqfa of Muzdalifa bear the quality of *khābar al-āḥād* and such hadīths also expresses presumption, this is considered as evidence by the jurists who hold the view that knowledge based on presumption cannot be enough for fard.⁶⁶ It is thought that another indication of waqfa's being wādjib, not fard, is the fact that the completion of the hajj is conditioned upon the performance of the Arafat and Muzdalifa waqfas and that the Muzdalifa waqfa could be abandoned, due to an excuse, as mentioned in the hadīth reporting the case of Urwa bin Mudarris.⁶⁷

3.3. Perspectives on the Muzdalifa Waqfa as Sunnah

Some Shafi'i and Mālikī scholars, al-Awzai, and reportedly Ahmed b. Hanbal stated that the waqfa of Muzdalifa is sunnah.⁶⁸ There are also scholars who find it more accurate that the waqfa of Muzdalifa is sunnah as it functions as a preparatory act and means for stoning the devil and the ifada tawaf.⁶⁹

⁶¹ Kumaş, "Hac'da Karşılaşılan Bir Problem: Müzdelife Vakfesinin Zamanlaması", 1882.

⁶² Unlike the Hanafis, the Shafi'is do not make a distinction between fard and wādjib. According to them, rukn and wādjib are obligatory duties in terms of both meaning and ruling. However, there is a difference in the worship of Hajj. If a wādjib were not performed, although the hajj would be incomplete, it would not break. It is possible to compensate for this deficiency by offering a sacrifice. If one of the rukns of the hajj is not fulfilled, it is deemed invalid and must be performed again. Sacrifice cannot make up for such a deficiency. There are also differences between the Hanafis and the Shafi'is regarding the rukns and wādjibs of the hajj. See Mehmet Keskin, *Şafii Fıkhi* (Ankara: Diyanet İşleri Başkanlığı Yayınları, 2016), 635, 664.

⁶³ Al-Ḳāshānī, *Bada'i*, 2/135.

⁶⁴ Al-Ḳāshānī, *Bada'i*, 2/135; al-ʿAynī, *al-Binaya*, 4/236; al-Qurtubī, *al-jamī' li ahkam al-Qurʿān*, 2/282; Ibn Qudāmah, *al-Mughnī*, 3/450.

⁶⁵ Al-Ṭahāwī, *Sharh Maani al Asaar*, 2/284; al-ʿAynī, *al-Binaya*, 4/236; Babarti, *Sharh al-'Inayah*, 2/482.

⁶⁶ Kumaş, "Hac'da Karşılaşılan Bir Problem: Müzdelife Vakfesinin Zamanlaması", 1881. *Khābar al-wāḥid* involves some doubt, and a rule of thumb is that the ruling of fard is not certain if doubt exists. See al-Ghazzālī, Abū Ḥāmid, *al-Mustasfa min ʿilm al-usūl* (Madinah: Sharikat al-Madīna al-Munawwara, 2008), 1/212-213; Abū Ya'la Muhammad b. Nizam al-Dīn al-Ansari, *Fawātih al-Raḥamūt bi-Sharḥ Musallam al-thubūt* (Egypt: al-Matbaat al-Amiriya, 1324), 121. For the opposing perspectives, see Sahip Beroje, "Zannī Bilginin Mahiyeti, Dindeki Yeri ve Önemi", *e-Şarkiyat İlmi Araştırmalar Dergisi* 9/2 (Kasım 2017), 972.

⁶⁷ Ḳāshānī, *Bada'i*, 2/135; al-ʿAynī, *al-Binaya*, 4/236-237; Zafar Ahmad b. Latif al-Tahanawi al-Osmāni, *i'laul-sunan* (Pakistan: Idarat al-Qurʿān wa'l-Ulum al-Islamiyyah, 1994), 10/136.

⁶⁸ Al-ʿAynī, *al-Binaya*, 4/236; Tahanawi, *I'la' al-Sunan*, 10/138; Ibn Farḥūn, *Irshād al-sālik*, 1/406; al-Shirbīnī, *Mughnī al-muhtaj*, 2/264.

⁶⁹ Kumaş, "Hac'da Karşılaşılan Bir Problem: Müzdelife Vakfesinin Zamanlaması", 1882; Karagöz, "Müzdelife'de Yapılacak Görevler", 277.

4. How to Perform the Muzdalifa Waqfa

The waqfa, which comes foremost among the worship performed at Muzdalifa, means “to stop, wait or stand”. As a fiqh term, it refers to a pilgrim’s standing at a particular place while performing the hajj.⁷⁰

The Prophet headed towards Muzdalifa after the Arafat waqfa during his pilgrimage, which he performed once in his lifetime, and stayed near Kuzah Hill (nuzûl). He combined maghrib and ish’a prayers within the time of the latter (jam al-ta’khir) and spent the night there (al-Mabîṭ).⁷¹ He performed his morning prayer just before dawn and came to Kuzah Hill.⁷² Here he turned to the qibla and uttered takbir and tahlil until the daylight. In his speech, he stated that the whole of Muzdalifa was the place of waqfa. Contrary to the practice of the Jāhiliyya Arabs, he stayed here until the time of Isfar⁷³ and left for Minā before the sunrise. He prayed for his ummah at Muzdalifa, as well as at Arafat. When the related narrations are examined, it is seen that the Prophet worshipped at Muzdalifa in this way, and there is no disagreement among the jurists regarding this issue.⁷⁴

The Prophet allowed some people to travel to Minā at night, due to their excuses, such as illness, weakness or being overweight. Hadrat Aisha said the following about this issue: “*We arrived at Muzdalifa. Sawda binti Zam’a was an overweight and inactive woman. She asked the Prophet for a permission to begin the trip to Minā at night, and he allowed her.*”⁷⁵ Hadrat Aisha regretted that she had not asked the Prophet for a permission to go to Minā early and that she had not performed the morning prayer there and had not finished the task of devil-stoning before stampede.⁷⁶

Being one of the people who were allowed to go to Minā at night during the Farewell Hajj, Um al-Habibah, one of the wives of Prophet Muhammad narrated: “*We would travel to Minā from Muzdalifa during the dark of the night.*”⁷⁷ Similarly, Ibn Abbas reported that Prophet Muhammad sent him to Minā from Muzdalifa at night.⁷⁸ However, the Prophet warned the people whom he permitted to leave for Minā at night, due to their excuses, not to begin to stone the devil before sunrise.⁷⁹

⁷⁰ Menderes Gürkan, “Vakfe”, *Türkiye Diyanet Vakfı İslâm Ansiklopedisi* (İstanbul: TDV Yayınları, 2012), 42/463.

⁷¹ Al-Bukhārī, “The Hajj”, 96-97; Abū Dāwūd, “al-Manasik”, 57; al-Dārimī, “al-Manasik”, 34. Mabîṭ means having a rest. Nuzûl means unloading the goods; it involves a period of time for getting prepared for a rest. See Ibn Farḥūn, *Irshād al-sālik*, 1/406.

⁷² Al-Nawawī, *al-Majmu*, 8/143-144; Abdüsselâm Ari, “Müzdelife’de Yapılacak Görevler”, *Türkiye’de Hac Organizasyonu Sempozyumu*, ed. Mehmet Bulut (Ankara: Diyanet İşleri Başkanlığı Yayınları, 2007), 285.

⁷³ Al-isfar is a short period of time, just before the dawn, which is only enough for performing two rakats of prayer, See Ibn Nuja’ym, *al-Bahr al-Raiq*, 2/601.

⁷⁴ Ibn al-Arabi, *Ahkam al-Qur’ân*, 1/137. For the hadiths, see al-Muslim, “The Hajj”, 147; al-Tirmidhī, “The Hajj”, 53, 60; Abū Dāwūd, “al-Manasik”, 57-67; Ibn Māja, “al-Manasik”, 84. Ahmad b. Hanbal, 4/14-15.

⁷⁵ Al-Bukhārī, “The Hajj”, 97; al-Muslim, “The Hajj”, 294.

⁷⁶ Al-Bukhārī, “The Hajj”, 98; al-Muslim, “The Hajj”, 294; Ibn Māja, “al-Manasik”, 62; al-Ṭahāwī, *Sharh Maani al-Asaar*, 2/286.

⁷⁷ Al-Muslim, “The Hajj”, 299; al-Nasā’ī, “Menasik al-Hajj”, 208.

⁷⁸ Al-Bukhārī, “The Hajj”, 98; al-Muslim, “The Hajj”, 300; al-Tirmidhī, “The Hajj”, 58.

⁷⁹ Al-Ṭahāwī, *Sharh Maani al-Asaar*, 2/293; Al-Jassas, *Ahkam al-Qur’ân*, 1/391; al-‘Aynī, *Umdat al-Qari*, 10/15; Şeker, “Müzdelife”, 32/239.

What remains highly critical is what particular time of the night the people with excuses were allowed to go to Minā. We can say that the expressions such as "galas", "sehar", "layl", "qabl al-subh" in the related hadīths are quite informative in this regard. Galas refers to the darkness at the end of the night;⁸⁰ sehar is the end of the night;⁸¹ layl is the time from sunset to dawn,⁸² and qabl al-subh means before morning. Based on the meanings of these expressions and according to the hadīths which include the expressions "galas", "sehar" and "qabl al-subh", it is understood that the Prophet sent those who had excuses to Minā after midnight. On the other hand, the hadīths in which the concept of layl is mentioned imply that he sent them to Minā before midnight. It is these concepts that is one of the reasons for the disagreement between the sects on the issue.⁸³

Although there is a disagreement about the time when those with an excuse arrive at Minā, the jurists unanimously agree that people should move to Minā before the sunrise after the Muzdalifa waqfa.⁸⁴ In hadith sources, it is reported that Hadrat Umar performed the waqfa after doing the morning prayer at Muzdalifa, and that the polytheists did not move to Minā until the sun came up. Therefore, in opposition to the polytheists, the Prophet set out for Minā before the sun came up after performing the waqfa.⁸⁵

It is considered as mustahab to spend the night at Muzdalifa with worship, dhikr, and prayer, to collect stones from here to stone the devil, to go to Kuzah Hill after performing the morning prayer, to turn to the Ka'ba and pray there, chant takbir and tahlil and to cross the Muhassir valley quickly.⁸⁶ Although it is considered makruh to leave Muzdalifa without performing the morning prayer, this does not require punishment.⁸⁷

5. Staying Overnight at Muzdalifa

Staying overnight refers to the act of being at Muzdalifa between the night of Arafat and the morning the Eid. Most scholars think that staying overnight at Muzdalifa is not a rukn.⁸⁸ However, there are also others who support the opposite view. According to some scholars, such as Abd Allah ibn al-Zubayr, Ikrime, Sha'bi, Ibrahim al-Nakhai, Alqama, Aswad b. Yazid, Lays b. Sa'd, Ewza'i, Hasan al-Basri, Rafii and Ibn al-Hazm, staying overnight at Muzdalifa is a rukn, just like the waqfa of Arafat. Therefore, the hajj is invalid unless it is done.⁸⁹

⁸⁰ Quhustānī, *Jami' al-rumūzi al-riwaya*, 2/240; Ibn Nujaym, *al-Bahr al-Raiq*, 2/599.

⁸¹ Ibrahim Unays et al, *al-Mu'jam al-Wasit* (Istanbul: al-Maktabat al-Islamiyyah, n.d.), 1/419.

⁸² Ibrahim Unays et al, *al-Mu'jam al-Wasit*, 2/850.

⁸³ Karagöz, "Müzdelife'de Yapılacak Görevler", 273.

⁸⁴ Al-Maqdisī, *al-Sharh al-kabīr*, 3/452.

⁸⁵ Al-Bukhārī, "The Hajj", 99; al-Muslim, "The Hajj", 151, al-Tirmidhī, "The Hajj", 60; Ibn Māja, "al-Manasik", 61.

⁸⁶ Muzaffar al-Din Ahmad b. Ali b. Sa'lab b. Saati, *Majma' al-bahrayn wa-multaqā al-nayyirayn fi al-fiqh al-Islami*, (Beirut: Dar al-Kutub al-'Ilmiyah, 2005), 228; al-Shirbīnī, *Mughni al-muhtaj*, 2/264-265; Mawsili, *al-Ikhtiyar*, 1/152; Ibn Farhūn, *Irshād al-sālik*, 1/403.

⁸⁷ Al-Kāshānī, *Bada'i'*, 2/136; Ibn 'Ābidīn, *Radd al-Muhtār 'ala al-Durr al-Mukhtār*. Ed. ve tlk. Husam al-Din b. Muhammad Salih Farfur, 7/114.

⁸⁸ Al-Qurtubī, *al-jami' li ahkam al-Qur'an*, 2/281.

⁸⁹ Ibn Hazm, *al-Muhalla*, 5/126-127; Al-Sarakhsi, *al-Mabsut*, 4/63; al-'Aynī, *al-Binaya*, 4/236; al-Shirbīnī, *Mughni al-muhtaj*, 2/264; al-Qurtubī, *Al-jami' li ahkam al-Qur'an*, 2/281.

According to scholars, such as Qatādah and Abu Sawr, it is wādʿjib to stay overnight at Muzdalifa, based on the authentic opinion of Shafīʿī (d. 204/820), Imam Malik (d. 179/795) and Ahmed bin Hanbal. According to those who consider staying overnight as wādʿjib, although the hajj is still valid if it is abandoned, damm as expiation (kaffarah) is necessary.⁹⁰

According to the Hanafīs and some Shafīʿī and Mālikī scholars, it is sunnah to spend most of the night at Muzdalifa until the fajr al-sādiq.⁹¹ According to narrations from the Hanbalīs, it is mustahab to stay overnight at Muzdalifa.⁹² The Mālikīs regard it as wājib to stay for a short period at any time during the night and as sunnah to stay until the fajr al-sādiq.⁹³ Therefore, from their perspective, if pilgrims stop at Muzdalifa, unpack their stuff and stay there for a short time to eat and drink, it means they have completed the wādʿjib waqfa. The time for this is any period from the sunset to the fajr al-sādiq.⁹⁴

The scholars who consider staying overnight at Muzdalifa as a rukn base their view on the verse “You will be committing no sin if [during the pilgrimage] you seek to obtain any bounty from your Sustainer. And when you surge downward in multitudes from Arafat, remember God at the holy place, and remember Him as the One who guided you after you had indeed been lost on your way”⁹⁵ and the Prophet’s hadīth “Whoever performs the prayer with us and performs waqfa until he leaves, he completes the hajj, provided that he has already performed the waqfa of Arafat.”⁹⁶ Moreover, the evidence they present also include the hadīth, “Whoever does not stay overnight at Muzdalifa misses the hajj”. The jurists who state that staying overnight is wādʿjib cite the hadīth “The hajj is Arafat. Whoever comes over there before the fajr prayer on the night of Al-Muzdalifa, his hajj will be complete.”^{97 98}

Shafīʿī and Hanbalī jurists consider it sufficient even to stop by at a time between midnight and the fajr al-sādiq to meet the requirement of staying overnight at Muzdalifa. A person who fails to stay at Muzdalifa during that time, even for a short time, must offer Damm.⁹⁹ According to the Shafīʿī sect, there is no punishment for those who leave Muzdalifa because of their excuses. Among the excused are shepherds, patients, caregivers, people who foresee a possibility of harm to their life or property and those who are in charge of distributing water to pilgrims.¹⁰⁰ It is the Mālikīs who assign the widest time period as the duration the stay.

According to the Hanafīs, there is no narration stating that staying overnight at Muzdalifa could replace the waqfa. According to traditional sources fiqh, the reason for staying overnight at Muzdalifa is to be

⁹⁰ Ibn Qudāmah, *al-Mughnī*, 3/450; al-Shīrāzī, *al-Muhazzab*, 1/413; al-Shirbīnī, *Mughnī al-muhtaj*, 2/264; al-Qurtubī, *Al-jami’ li ahkam al-Qurʿān*, 2/281.

⁹¹ Al-Ḳāshānī, *Bada’i*, 2/136; al-Nawawī, *al-Majmu*, 8/154; al-Shīrāzī, *al-Muhazzab*, 1/413; Ibn Nujaym, *al-Bahr al-Raiq*, 2/600; Ibn ‘Ābidīn, *Radd al-muhtar*, 7/111.

⁹² Al-Maqdisī, *al-Sharh al-kabīr*, 3/450.

⁹³ Dusuqī, *Khashiya*, 2/265; al-Qurtubī, *al-jami’ li ahkam al-Qurʿān*, 2/281.

⁹⁴ Abū al-Barakat Ahmad b. Muhammad al-Dardir, *al-Sharh al-Kabir* (Beirut: Dar al-Kutub al-‘Ilmiyah, 1996), 2/265; Dusuqī, *Khashiya*, 2/265.

⁹⁵ Al-Baqarah 2/198.

⁹⁶ Abū Dāwūd, “al-Manasik”, 69; al-Nasāʿī, “al-Manasik”, 211; al-Tirmidhī, “The Hajj”, 57.

⁹⁷ Abū Dāwūd, “al-Manasik”, 69; al-Nasāʿī, “al-Manasik”, 211; Ibn Māja, “al-Manasik”, 57; Ahmad b. Hanbal, 4/ 261.

⁹⁸ Ibn Qudāmah, *al-Mughnī*, 3/451.

⁹⁹ al-Shīrāzī, *al-Muhazzab*, 1/413; al-Shirbīnī, *Mughnī al-muhtaj*, 2/264; Ibn Qudāmah, *al-Mughnī*, 3/450.

¹⁰⁰ Al-Shirbīnī, *Mughnī al-muhtaj*, 2/265.

able to perform the waqfa at the initial portion of time of the morning prayer.¹⁰¹ In a sense, staying overnight is intended for being ready for the waqfa; it is not independent worship per se.¹⁰² There are also scholars thinking that staying overnight is a natural need; it is not a part of worship.¹⁰³ Furthermore, we should also note that there are contemporary scholars who explain the purpose of staying overnight with reasons such as dhikr, glorifying the rituals of the hajj, developing the awareness of equality, opposing the polytheists who left Muzdalifa after sunrise, and following the practice of the Prophet.¹⁰⁴ We think that staying overnight is not a rukn based on the existing evidence, and it would be more accurate to consider it as sunnah based on the actual practice of the Prophet.

6. The Time of Muzdalifa Waqfa

Although it is clearly stated that the dhikr of Allah should be done at Muzdalifa, as ordered in the following verse which forms the basis of the provisions regarding the Muzdalifa "When you surge downward in multitudes from 'Arafat, remember God at al-Mash'ār al-Harām,"¹⁰⁵ it is not specified when this dhikr should take place.¹⁰⁶ Different views on this issue have emerged among the sects, based on the verse above and the practice of the Prophet, along with the interpretations these two. The Hanafīs based their practice on the time between the fajr al-sādiq, when the Prophet performed the waqfa, and the sunrise,¹⁰⁷ and the Shafi'is and Hanbalīs on the time between midnight of the day that connects the day of Arafat to the Eid and the sunrise. Midnight is the middle of the time between the sunset and morning prayer.¹⁰⁸ Mālikī jurists, on the other hand, state that it can be done at a time between sunset on the evening of Arafat and the sunrise on the morning of Eid. According to the Mālikīs, who assign the widest amount of time for the waqfa, staying at Muzdalifa for a short time within the specified interval is considered sufficient for it.¹⁰⁹

According to some scholars, including Ahmad b. Hanbal, the time of the Muzdalifa waqfa is after the disappearance of the moon at night. They based their opinions on a practice that is attributed to Hadrat Asma, Hadrat Abu Bakr's daughter. According to the narration, Hadrat Asma stayed at Muzdalifa and departed for Minā at night after the moon had set. After performing the task of stoning Jamrat al-Aqabah at Minā, she performed the morning prayer there. Her slave Abdullah said: "Mother! We acted early in stoning the devil." Hadrat Asma responded: "Son! The Messenger of Allah gave permission to women to do so".¹¹⁰

To further support their views, the Mālikīs draw attention to the fact that when the Prophet's wife, Hadrat Sawda, was allowed to go to Minā at night because of her excuse, the Prophet did not limit this permission to a certain time. However, this view of the Mālikīs is criticized on the grounds that the last third of

¹⁰¹ Al-Ḳāshānī, *Bada'i'*, 2/136; Alī al-Qārī, *al-Maslak al-mutaqassit*, 109.

¹⁰² Ibn Nujaym, *al-Bahr al-Raiq*, 2/600; Al-Kirmānī, *al-Masālik fi al-manāsik*, 544.

¹⁰³ Tırabzon, *Hac İbadetinde Yasak Davranışlar*, 179.

¹⁰⁴ Ahmad Muhammad Ali al-Ramisa vd., "Al-maqāsid al-sharī'ah wa asarruha ala tatawwur al-fatwa fi' ahkam al-mabit fi' al-Muzdalifa", *Jurnal Fiqh* 15 (2018), 122-125.

¹⁰⁵ Al-Baqarah 2/198.

¹⁰⁶ Arı, "Müzdelife'de Yapılacak Görevler", 284.

¹⁰⁷ Al-Marghīnānī, *al-hidāya*, 1/146; al-Ḳāshānī, *Bada'i'*, 2/136; Ibn Nujaym, *al-Bahr al-Raiq*, 2/600.

¹⁰⁸ Al-Shirbīnī, *Mughnī al-muhtaj*, 2/264-265; Ibn Qudāmah, *al-Mughnī*, 3/451.

¹⁰⁹ Dardir, *al-Sharh al-Kabir*, 2/265-266.

¹¹⁰ Imām Mālik, "The Hajj", 172; Al-Bukhārī, "The Hajj", 98; al-Muslim, "The Hajj", 297; Abū Dāwūd, "al-Manasik", 66; al-Nasā'ī, "The Hajj", 214.

the night was mentioned as the time of the Muzdalifa waqfa in the narration from Hadrat Asma. On the other hand, it is also stated that if a short stay at Muzdalifa at night were sufficient for waqfa, it would not make sense for the Prophet to give permission to some people due to their excuses. Therefore, this view is not correct as other people may leave Muzdalifa at an early time in that case.¹¹¹

The Hanafīs based their opinion regarding the time of the Muzdalifa waqfa on the hadīth: "*Whoever performs the (morning) prayer with us and goes on to perform waqfa until the time for leaving, provided that he/she has already performed Arafat waqfa, his hajj will be complete.*"¹¹² The Hanafīs think that the Prophet performed the waqfa after the imsāk.¹¹³ Therefore, the waqfa performed outside of this time is invalid. The time of the waqfa is the period between the fajr al-sādiq and sunrise, when the Prophet performed the waqfa. According to the Hanafī jurists, those who went to Minā during the Farewell Hajj without performing the Muzdalifa waqfa did this because of their excuses, and they did it in accordance with the permission of the Prophet.¹¹⁴

The Hanafīs consider the Prophet's sending some women, children and the weak, particularly his wife, Sawda bint Zam'a, to Minā at night, due to their excuses. They stress that there is no information indicating that the waqfa must be performed after midnight.¹¹⁵ Hadrat Asma's practice also contradicts the views of Shafī'ī, Mālikī and Hanbalī scholars, as it shows that the duration of the waqfa covers the time until the last third of the night.

Considering the expressions "galas", "sehar", "qabl al-subh" mentioned in the hadīths, the Shafī'īs and Hanbalīs stated that the Muzdalifa waqfa performed before midnight would not be valid. According to the Mālikīs, who evaluate the expression "layl/night" in the hadīths as absolute, staying for a short time that would suffice to perform the evening and night prayers and to eat and drink would be considered enough for the validity of the Muzdalifa waqfa.¹¹⁶ Performing the Muzdalifa waqfa at a time between the fajr al-sādiq and sunrise is wādhib according to Hanafī scholars, while the majority of scholars think that it is sunnah. Ibn Hazm stated that it is fard for males.¹¹⁷

According to the Shafī'īs and Hanbalīs, no punishment is required for those who perform the waqfa after midnight, whether they leave Muzdalifa voluntarily or because of an excuse. However, those who do it before this time must offer sacrifice. It is sunnah to continue the waqfa until daylight. The Shafī'īs and Hanbalīs state that the Prophet's sending some people to Minā at night is not related to the state of having an excuse. They interpreted the narrations in the related hadīths based on "absolute permission". They claim that the persons mentioned cannot be considered as having an excuse. Even if they are, this cannot be considered as a justification for a prohibited act.¹¹⁸

¹¹¹ Sha'lan, *al-Nawazil fi'l-hajj*, 416; Kumaş, "Hacda Karşılaşılan Bir Problem: Müzdelife Vakfesinin Zamanlaması", 1884.

¹¹² Abū Dāwūd, "al-Manasik", 69; al-Nasā'ī, "al-Manasik", 211; al-Tirmidhī, "The Hajj", 57.

¹¹³ Abū Dāwūd, "al-Manasik", 70; al-Tirmidhī, "The Hajj", 57; al-Nasā'ī, "al-Manasik", 211.

¹¹⁴ Al-Jassas, *Ahkam al-Qur'ān*, 1/391; Ibn Nujaym, *al-Bahr al-Raiq*, 2/600.

¹¹⁵ Tahanawi, *I'la' al-Sunan*, 10/140-141; al-Kirmānī, *al-Masālik fi al-manāsik*, 544.

¹¹⁶ Ibn Qudāmah, *al-Mughnī*, 3/451; Sa'īd b. Abd al-Kadir Bashnafar, *al-Mughnī fi fiqh al hajji wa'l umra* (Beirut: Dar al-Ibn al-Hazm, 2003), 257; Abd al-Rahman al-Jazarī, *Kitab al-fiqh 'ala al-madhahib al-arba'ah*, 1/666-667.

¹¹⁷ Ibn Qudāmah, *al-Mughnī*, 3/451-452; al-Shirbīnī, *Mughnī al-muhtaj*, 2/265.

¹¹⁸ Al-Shirbīnī, *Mughnī al-muhtaj*, 2/264-265; Ibn Qudāmah, *al-Mughnī*, 3/451.

Based on these views, one could say that the Prophet's allowing the weak, sick, old and those with difficulty in walking to go to Minā at night are generally associated with the "state of necessity" by jurists.¹¹⁹ The sources of fiqh state that some Companions acted this way after the death of the Prophet. For this reason, there are some jurists who even accept it as sunnah to send women, the weak and children to Minā during the second half of the night so as not to cause stampede that may occur during the stoning of Jamrat al-Aqabah and not to harm the awe and peaceful performance of the worship.¹²⁰

It is known that the number of people who performed the Farewell Hajj under the conditions back then was more than one hundred thousand. Today, about three million people perform the hajj each year. Therefore, one could say that the conditions are more difficult today than in the past. Based on the current practice, since a separate area is allocated for certain country groups at Muzdalifa, in cases where it is not possible for all the pilgrims of the relevant country to be simultaneously present in this area, stampede that could occur due to this is a necessity rather than an excuse. It is also considered that no punishment is required since it is not done due to the mentioned excuse.¹²¹

Since it is sunnah for women and the weak, according to the Shafi'i sect, to throw stones at Jamrat al-Aqaba after midnight due to a stampede, people in this situation can also perform the stoning of the devil.¹²²

7. The Duration of the Waqfa

According to Hanafī, Shafi'i and Hanbalī scholars, who constitute the majority of the jurists, being at Muzdalifa for a short time at the appointed time or passing through the area is accepted as the rukn of the waqfa. However, what concords well with the sunnah is to continue the waqfa after the fajr al-sādiq, until full daylight (isfar). It is accepted as sunnah to perform the morning prayer at its first time, to be busy with dhikr, prayer, tasbih and tahlil until the light is clear and to set out for Minā before sunrise.¹²³ The waqfa is valid regardless of its being performed knowingly or unknowingly, while asleep or awake, on foot or by vehicle, with or without wuḍū, in a state of being junub, menstruation or puerperium and with or without intention.¹²⁴

Although some Shafi'i jurists, such as Ahmad b. Hanbal Hanbal and Rafi, said that more than half of the night must be spent at Muzdalifa for the waqfa to be valid, this view was not accepted within the sect. These jurists based their opinion on Hadrat Asma's words, "We used to do this in the time of the Messenger of Allah".¹²⁵ According to Abdullah, the slave of Hadrat Asma, she stayed at Muzdalifa and set off for Minā after the moon set. Following the devil-stoning at Jamrat al-Aqabah at Minā, she returned to Minā and performed the morning prayer there. Her slave said, "Mother, I think we did the stoning of the devil in the dark."

¹¹⁹ Bukhārī, "The Hajj", 98; al-Muslim, "The Hajj", 293, 303-304.

¹²⁰ Al-Nawawī, al-Majmu, 8/156; al-Shirbīnī, *Mughnī al-muhtaj*, 2/265; Şener, "Müzdelife", 32/240.

¹²¹ Arı, "Müzdelife'de Yapılacak Görevler", 286.

¹²² Al-Shirbīnī, *Mughnī al-muhtaj*, 2/265.

¹²³ Al-Ḳāshānī, *Bada'i'c*, 2/135-136; *Quhustānī, Jamī' al-rumūzi al-riwaya*, 2/240; Ibn 'Ābidīn, *Radd al-muhtar*, 7/111; al-Shirbīnī, *Mughnī al-muhtaj*, 2/264; Ibn Nujaym, *al-Bahr al-Raiq*, 2/600; Şener, "Müzdelife", 32/240.

¹²⁴ Al-Ḳāshānī, *Bada'i'c*, 2/136; Ibn 'Ābidīn, *Radd al-muhtar*, 7/111; al-Shirbīnī, *Mughnī al-muhtaj*, 2/262

¹²⁵ Imām Mālik, "The Hajj", 172; al-Muslim, "The Hajj", 297; Abū Dāwūd, "al-Manasik", 66; al-Nasā'ī, "The Hajj", 214.

Hadrat Asma responded: *Son, the Messenger of Allah gave women permission to do so.*¹²⁶ When Ata b. Abi Rebah asked Hadrat Asma if it was right for him to come to Minā just before dawn, Hadrat Asma stated that they did the same with the Prophet.¹²⁷ The fact that the moon sets in the last third of the night on that specific day is presented as corroborating evidence.

According to the Mālikī school, what counts is to stay at Muzdalifa. This involves unloading their stuff from the mount and waiting there, even for a short time. There is no penalty for those who leave Muzdalifa after staying there at any part of the night.¹²⁸

8. The Possibility and Constraints of the Performing the Muzdalifa Waqfa out of Its Time

It is essential that the Muzdalifa waqfa be performed on time. There is also a consensus that no punishment will be required for those who cannot perform it, due to an excuse. However, jurists have put forward different opinions about what the excuse covers. Based on the common opinion of the jurists, weakness is seen as a valid excuse to go to Minā before the fajr al-sādiq.¹²⁹ The "weak" people who were highlighted in the narrations about the Prophet's sending some of his family members to Minā at night were women, children, and servants.¹³⁰ Aynī states that in addition to these, patients and the elderly are also included in this group, as these groups share the same reason for going to Minā early at night.¹³¹ Fadl b. Abbas reported that the Prophet allowed the sons of Hashim to go to Minā at night. After the death of the Prophet, Ibn Umar sent weak members of his family to Minā at night, based on the Prophet's practice.¹³² Similarly, Asma bint Abi Bakr came to Minā at night after the moon had set; after she had performed the morning prayer at Minā, she stoned the devil.¹³³ There are narratives stating that Talha bin Ubaydullah sent women and children to Minā at night.¹³⁴

al-Bukhārī, who demonstrated the depth of his knowledge of fiqh through his remarkable way of choosing the chapter titles, gave the title "The person who sends weak family members at the night" to the section about the hajj in his work *al-Jamiu's-sahih*. He stated that after performing the Muzdalifa waqfa they went to Minā after the setting of the moon.¹³⁵ Another informative title was given by Muslim in his *al-Jamiu's-sahih* on the same issue, the statement that weak people are sent to Minā at night due to stampede.¹³⁶ The

¹²⁶ Al-Bukhārī "The Hajj", 98; al-Muslim, "The Hajj", 297; Abū Dāwūd, "al-Manasik", 66; al-Nasā'ī, "The Hajj", 214; Imām Mālik, "The Hajj", 172.

¹²⁷ Some hadith sources report that Hadrat Asma said, "We used to do this with a person who is more honorable than you are". See Imām Mālik, "The Hajj", 56; al-Nasā'ī, "Menasik al-Hajj", 214.

¹²⁸ Sahnūn, *al-Mudawwana*, 1/432-433.

¹²⁹ Al-Ṭahāwī, *Sharh Maani al-Asaar*, 2/285; Ibn Qudāmah, *al-Mughnī*, 3/452.

¹³⁰ Muhammad b. Ali al-Shawkānī, *Nayl al-awṭār sharḥ muntaqā al-akhbār min aḥādīth al-abrar* (Cairo: Dar al-Hadith, n.d.), 5/64.

¹³¹ Al-ʿAynī, *Umdat al-Qari*, 10/15.

¹³² Bukhārī, "The Hajj", 98; al-Muslim, "The Hajj", 304; Imām Mālik, "The Hajj", 56.

¹³³ Al-Bukhārī, "The Hajj", 98; al-Muslim, "The Hajj", 297; Imām Mālik, "The Hajj", 56.

¹³⁴ Imām Mālik, "The Hajj", 56.

¹³⁵ Al-Bukhārī, "The Hajj", 98.

¹³⁶ See al-Muslim, "The Hajj", 208.

narratives that shed light on this issue are not limited to these.¹³⁷ We can say that "weakness" and "stampede" were influential in going to Minā early.

The Hanafis state that the Muzdalifa waqfa should be performed between the fajr al-sādiq and the sunrise and that it is wādhib. Furthermore, they note that if it is abandoned or performed outside of its time without a legitimate excuse, damm is necessary.¹³⁸ Sickness, weakness, old age, stampede for women, the need to reach Minā in time and not being able to perform the Muzdalifa waqfa due to the late Arafat waqfa were considered as legitimate excuses.¹³⁹

The Hanafis put forward the following evidence for this: The Prophet allowed his wife Sawda to go to Minā at night. It is known that Hadrat Sawda was an overweight and inactive woman.¹⁴⁰ Hadrat Aisha narrates that Hadrat Sawda set out before stampede, due to her excuse, and reported regretting that she did not ask the Prophet for a permission to go to Minā in time, just as Hadrat Sawda did.¹⁴¹ Similarly, the Prophet sent his wife, Umm Salama, to Minā at night, and she stoned the devil before the time of the morning prayer and went to the Ka'ba for ifada tawaf.¹⁴² The narrator of the hadīth says that Ata b. Abi Rabah performed the waqfa of Muzdalifa in this way until his death.¹⁴³ Umm Habiba, one of the wives of the Prophet, also stated that the Messenger of Allah gave her permission to go from Muzdalifa to Minā at night.¹⁴⁴

In another narration on the issue, the words of Ibn Abbas, who was a child, indicate that he was among those who were allowed to go to Minā from Muzdalifa at night:¹⁴⁵ *"I was one of the people whom the Prophet sent to Minā early, along with the weak ones from his family, on the night of Muzdalifa"*.¹⁴⁶

According to Mālikī jurists, it is not necessary to have an excuse for going to Minā after a short stay at Muzdalifa in the evening. Those who do not have the opportunity to stay overnight at Muzdalifa can also abandon the waqfa. No penalty is required for this.¹⁴⁷ Women and children can leave Muzdalifa early, due to the permission given by the Prophet.¹⁴⁸

According to the narration, *"Abdullah b. Omar used to allow the weak in his family to set out earlier, and they would perform the waqfa at night near al-Mash'ār al-Harām and remember Allah with the prayers they knew. Then they would set out before the imam performed the waqfa and left Muzdalifa. Some of them would arrive at Minā at the specified time to perform the morning prayer, and some would come to Minā after performing it. When they came to the place of devil-stoning, they would throw stones at Jamrat al-Aqabah."*¹⁴⁹ Ibn Umar states that the Prophet gave such

¹³⁷ For different examples, see Karagöz, "Müzdelife'de Yapılacak Görevler", 271-272.

¹³⁸ Muzaffar al-Din Ahmad b. Ali b. Sa'lab b. Saati, *Majma' al-bahrayn wa-multaqā al-nayyirayn fī al-fiqh al-Islami*, (Beirut: Dar al-Kutub al-Ilmiyah, 2005), 245; al-Marghinānī, *al-hidāya*, 1/167; Zaydān, *al-Mufassal*, 2/230.

¹³⁹ Al-Sarakhsi, *al-Mabsut*, 4/63; *al-ʿAynī, al-Binaya*, 4/237; *al-Jazarī, Kitāb al-fiqh 'ala al-madhahib al-arba'ah*, 1/666.

¹⁴⁰ Al-Bukhārī, "The Hajj", 98; al-Muslim, "The Hajj", 293; al-Nasā'ī, "The Hajj", 209; Ibn Māja, "al-Manasik", 62.

¹⁴¹ Al-Muslim, "The Hajj", 294. For similar narrations of this hadīth, see Al-Bukhārī, "The Hajj", 98; al-Dārimī, "al-Manasik", 53

¹⁴² Abū Dāwūd, "al-Manasik", 66; Imām Mālik, "The Hajj", 173.

¹⁴³ Al-Nasā'ī, *"Menasik al-Hajj"*, 223; al-Ṭahāwī, *Sharh Maani al Asaar*, 2/291.

¹⁴⁴ Al-Muslim, "The Hajj", 298; al-Nasā'ī, "The Hajj", 208; al-Dārimī, "al-Manasik", 53.

¹⁴⁵ This narrative also reveals that Ibn Abbas reached the age of puberty. See Ibn Hazm, *al-Muhalla*, 5/128.

¹⁴⁶ Al-Bukhārī, "The Hajj", 98; al-Muslim, "The Hajj", 300, 301, 302; Abū Dāwūd, "al-Manasik", 66; Ibn Māja, "al-Manasik", 62.

¹⁴⁷ Sahnūn, *al-Mudawwana*, 1/432; Ibn Farḥūn, *Irshād al-sālik*, 1/406.

¹⁴⁸ Al-Dardir, *al-Sharh al-Kabir*, 2/266; Ibn Farḥūn, *Irshād al-sālik*, 1/412.

¹⁴⁹ Al-Ṭahāwī, *Sharh Maani al Asaar*, 2/292.

people permission.¹⁵⁰ In another narration, Abdullah bin Abbas said, “The Messenger of Allah allowed me and the weak members of his family to set out early. We performed the morning prayer at Minā and then threw stones at the Jamrat al-Aqabah.”¹⁵¹ The hadīths on this subject are accepted as evidence that the weak can go to Minā at any time of the night.¹⁵²

As understood from these narrations, the Prophet allowed women and the weak to perform the Muzdalifa waqfa at night, and the Hanafīs expanded the scope of this. Contemporary jurists also state that it is permissible for the weak (among males or females) and the elderly to move to Minā after midnight, based on the case of the people who received a permission of the Prophet.¹⁵³ Based on this practice, it is also stated that the scope of this permission can be extended, particularly in cases where the safety of life is a concern. Furthermore, Hadrat Aisha’s regretting not asking for a permission after seeing that Hadrat Sawda received permission from the Prophet, could imply, according to some interpretations, that the scope of the permission could be extended without an excuse.¹⁵⁴

Shafi’ī jurists state that it is permissible to stay overnight and perform the waqfa outside of its time or abandon it altogether, due to such excuses as female’s menstruation and puerperality, performing the waqfa at Arafat, being in danger of life or property, taking care of the sick or looking for an escaped slave. It is also accepted that such cases do not require any penalties, due to their being legitimate excuses.¹⁵⁵ Shafi’ī jurists state that women and the weak can go to Minā from Muzdalifa only after midnight, based on the relevant provisions. This is justified by the absolute evaluation of the related verses and hadīths¹⁵⁶ and the intention to stone the devil before stampede occurs as the reason for their early departure.¹⁵⁷

Hanbali jurists think that in any case, if the Muzdalifa waqfa is abandoned, then punishment is essential. However, if the performance of the waqfa becomes difficult or a need arises to abandon it due to carrying water or shepherding animals as duties of serving the pilgrims, no penalty is required in line with the principle of convenience and the rulings related to permission.¹⁵⁸ What is accepted as an excuse by the Hanbalīs are related to the Prophet's permission to those who are herding animals and carrying water to serve the pilgrims to leave early at night.¹⁵⁹ In line with this permission, there are those who think that the Muzdalifa waqfa would not be wādʿjib for patients who need the help and support of others or people who are busy with pilgrimage services, such as those who serve the disabled, security guards and health personnel.¹⁶⁰

¹⁵⁰ Al-Bukhārī, “The Hajj”, 98; al-Muslim, “The Hajj”, 304.

¹⁵¹ Al-Ṭaḥāwī, *Sharh Maani al Asaar*, 2/291; al-Nasā’ī, “al-Manasik al-Hajj”, 214.

¹⁵² Al-Shawkānī, *Nayl al-awṭār*, 5/64-65.

¹⁵³ Abd al-Aziz b. Baz et al., *Fatawa al-Hajj wa’l-Umrah wa’l Ziyārat*, *Prep.* Muhammad b. Abd al-Aziz al-Musnid (Riyadh: Dar al-Watan, n.d.), 98; Zaydān, *al-Mufasssal*, 2/232-233.

¹⁵⁴ Kumaş, “Hacda Karşılaşılan Bir Problem: Müzdelife Vakfesinin Zamanlaması”, 1886.

¹⁵⁵ Shirbinī, *Mughnī al-muhtaj*, 2/264.

¹⁵⁶ Al-Bukhārī, “The Hajj”, 98; al-Muslim, “The Hajj”, 304; Imām Mālik, “The Hajj”, 171; al-Dārimī, “al-Manasik”, 53.

¹⁵⁷ Al-Nawawī, *al-Majmu*, 8/143-156; al-Shirbinī, *Mughnī al-muhtaj*, 2/265.

¹⁵⁸ Al-Maqdisī, *al-Sharh al-kabīr*, 3/450.

¹⁵⁹ For the hadīths about this issue, see Imām Mālik, “The Hajj”, 21, 218; Abū Dāwūd, “al-Manasik”, 78; al-Nasā’ī, “The Hajj”, 225; Ibn Māja, “al-Manasik”, 67; Ahmad b. Hanbal, V, 450.

¹⁶⁰ Al-Maqdisī, *al-Sharh al-kabīr*, 3/450; al-Shirbinī, *Mughnī al-muhtaj*, 2/265. Ibn ‘Abd Allāh Khalid al-Muslih, “*al-Zihām wa-atharuhu fī ahkām al-nusuk (al-Hajj wa al-umra)*”, *Majallat al-Jamia al-Imam*, 5, (Shawwal 1428), 57-58.

There are also scholars who consider those obliged to accompany people who cannot perform the waqfa due to their legitimate excuses in the same way.¹⁶¹

While performing the Muzdalifa waqfa, it is possible to act based on the general principle that "Trouble attracts ease"¹⁶² due to the difficulties or necessities that arise as the time and conditions change. Where there is difficulty, there is ease. This is because where there is necessity, prohibitions become permissible. In cases of hardship, rules (azimat) are replaced by permissions (rukhsat).¹⁶³ The Prophet facilitated the duties much as possible while performing the pilgrimage, and this is a guiding principle.¹⁶⁴ On the other hand, an excuse is accepted as a legitimate reason for the delay or abandonment of a worship.¹⁶⁵ However, we believe that it is very important that the trouble and difficulties are real and appropriate. This is because every worship poses some difficulties. The difficulties that could function as criteria should go beyond the usual limits and should be intolerable or life-threatening.¹⁶⁶ Jurists describe diseases that remove the obligation of hajj as those that cause "unusual hardships," which could be an informative guide in understanding the nature of the hardships.¹⁶⁷ In other cases, it would be appropriate to act according to the rules. As it is known and commonly accepted, being cautious in worship is recommended.¹⁶⁸

9. Fiqh Approaches to the Impact of Stampede on Muzdalifa Waqfa

Although it is clear that the Prophet allowed his wife Hadrat Sawda, along with a group of Companions, to go to Minā at night for reasons such as weakness, sickness, old age and walking difficulties, the relationship between these reasons and stampede is very important.

Bukhārī commentator Aynī states that the reason why the Prophet sent some of his family members to Minā at night was the "fear of stampede".¹⁶⁹ Ibn Nujaym, a Hanafī jurist, further clarifies the issue by citing Burhan ad-din al-Bukhārī¹⁷⁰ and states that the fear of stampede is a legitimate excuse for moving from Muzdalifa to Minā at night, without making any distinction between men and women.¹⁷¹

¹⁶¹ Zaydān, *al-Mufasssal*, 2/234.

¹⁶² Al-Majallah, Article 17

¹⁶³ Abd al-Wahab Khallaf, *ʿIlm usul al-fiqh* (Istanbul: al-Maktabat al-Islamiyyah, 1984), 138-139; Ibn ʿAbd Allāh Khalid al-Muslih, "al-Zihām wa-atharuhu fī ahkām al-nusuk", 57.

¹⁶⁴ Mücahit Çolak-Murat Çınar, "İslâm Hukukunda Kolaylaştırma İlkesinin Haccın Rükünlerinde Günümüz Uygulaması", *Afyon Kocatepe Üniversitesi Sosyal Bilimler Dergisi* 20/3 (Aralık 2018), 66.

¹⁶⁵ Ibn al-Humam, *Fath al-Qadir*, 2/483.

¹⁶⁶ For similar perspectives, see al-Ramisa, "Al-maqāsīd al-sharīʿah wa asarruha ala tatawwur al-fatwa fi' ahkam al-mabit fi' al-Muzdalifa", 130.

¹⁶⁷ Al-Shīrāzī, al-Muhazzab, 1/361.

¹⁶⁸ Abū Bakr b. Ali al-Haddad, *al-Jawharat al-nayyira* (Istanbul: Fazilet Publishing, 1978), 1/75; Abd al-Gani al-Ganimi al-Dimashqi al-Maidānī, *al-Lubab fi Sharh al-Kitab*, Ed. Muhammad Muhyi al-Din Abd al-Ḥamid (Beirut: Dar Ihya al-Turath al-Arabi, 1985), 1/77.

¹⁶⁹ Al-ʿAynī, *Umdat al-Qari*, 10/15.

¹⁷⁰ Burhān al-Dīn Mahmud b. Ahmad Abd al-Aziz al-Bukhārī (d. 616/1219) is one of the Hanafi fiqh scholars. For his work titled *al-Muḥit al-Burhānī* and for more information, see Mustafa Uzunpostalcı, "Burhāneddin el-Buhārī, *Türkiye Diyanat Vakfı İslam Ansiklopedisi* (Istanbul: TDV Yayınları, 1992), 6/435-437.

¹⁷¹ Ibn Nujaym, al-Bahr al-Raiq, 2/600. For the same perspective, see ʿAbd Allāh Hâlid b. al-Muslih, "al-Zihām wa-atharuhu fī ahkām al-nusuk", *Al-Majallah al-Jami'at al-Imam* 5, (Shawwal 1428), 57-58.

Ibn Abidin, one of the late Hanafī jurists, states that stampede is an excuse for being exempted from the Muzdalifa waqfa and adds that no punishment is required for the person who abandons the Muzdalifa waqfa to perform the devil-stoning as soon as possible for the fear of stampede. His words “There is no doubt that the stampede while stoning of the devil and on the way to Minā is certain in our time” indicate that stampede is inevitable and that this will remove the necessity of the Muzdalifa waqfa. However, he notes that a similar stampede is also possible while stoning the devil, and since this could profoundly affect the Muzdalifa waqfa and could lead to the danger of its disappearance, it would be more appropriate for the permission on this issue to be restricted with women.¹⁷² The prevailing perspective in the Hanafī sect is that stampede allows only women to perform the Muzdalifa waqfa outside its regular time.¹⁷³ However, there are also Hanafī jurists who consider stampede as a valid excuse for men as well. According to these jurists, there is no penalty for a person who does not perform the waqfa due to stampede.¹⁷⁴ According to some contemporary scholars, for stampede to be legally acceptable as an excuse, it must be based on the belief that it is highly probable. There is not any difference between men and women or between the strong and weak in this, either. This is because this stampede is closely related to the life-threatening danger caused by devil-stoning.¹⁷⁵

Hanafī jurists accept that a person who is worried about possible stampede can move to Muzdalifa before the person (the imam) responsible for guiding the pilgrims, without crossing the border of Arafat. Although this is not directly related to the Muzdalifa waqfa, it is critical in that stampede is considered as a legally valid reason.¹⁷⁶

Muzdalifa is one of the places where stampede is most quite common today. It is clear that men and women hardly differ in the extent to which they face danger of life. Given that the Prophet sent some children, along with women, to Minā early, it is understood that the reason for this precaution is not necessarily related to women but to the possible damage that may occur due to stampede. This opinion is also expressed by some contemporary scholars.¹⁷⁷ In this regard, we also support the opinions and warnings that the obligation of staying overnight at Muzdalifa will be eliminated, due to the highly possible life dangers that might be caused by the intense crowd and stampede experienced today, and that necessary measures should be taken to protect the pilgrims from the dangers of stampede.¹⁷⁸

According to the Shafī'ī and Hanbalī sects, stampede is seen as an excuse affecting the performance of the Muzdalifa waqfa.¹⁷⁹ According to this approach, stampede is a cause of difficulty, and an ease is offered

¹⁷² Ibn 'Abidin, *Radd al-muhtar*, 7/112.

¹⁷³ Al-Sarakhsi, *al-Mabsut*, 4/63; al-Marghinānī, *al-hidāya*, 1/146.

¹⁷⁴ Ibn Nujaym, *al-Bahr al-Raiq*, 2/600

¹⁷⁵ Al-Sha'lan, *al-Nawazil fi'l-hajj*, 434; Usaymin, *Majmu Fatawa*, 82; Ibn 'Abd Allāh, “*al-Zihām wa-atharuhu fi ahkām al-nusuk*”, 57-58.

¹⁷⁶ Al-Marghinānī, *al-hidāya*, 1/145; al-'Aynī, *al-Binaya*, 4/227; Ibn Nujaym, *al-Bahr al-Raiq*, 2/596.

¹⁷⁷ Al-Sha'lan, *al-Nawazil fi'l-hajj*, 433; Ibn 'Abd Allāh, “*al-Zihām wa-atharuhu fi ahkām al-nusuk*”, 57. Seen in the related hadīths, such expressions as “before humans go there” or “before the crowd” seem to imply the fear of stampede. For the hadīths, see al-Bukhārī, “The Hajj”, 98; al-Dārimī, “al-Manasik”, 53; al-Nasā'ī, “The Hajj”, 214.

¹⁷⁸ al-Ramisa, “Al-maqāsīd al-sharī'ah wa asarruha ala tatawwur al-fatwa fi' ahkam al-mabit fi' al-Muzdalifa”, 130-131.

¹⁷⁹ Al-Nawawī, *al-Majmu*, 8/156; al-Sha'lan, *al-Nawazil fi'l-hajj*, 431-432.

against a challenge.¹⁸⁰ The reason why the Prophet allowed the weak to go to Minā at night is stampede and other possible damages.¹⁸¹

In addition to the majority of madhab imams, some contemporary scholars think that stampede should be accepted as an excuse.¹⁸² According to jurists who hold this view, people who may be harmed due to the possible stampede during stoning of the devil, as well as due to reasons such as weakness, old age, illness, and obesity, could perform the waqfa at Muzdalifa between the evening of Arafat and the sunrise on the morning of Eid. If this is not possible, they can go to their place of residence in Mecca without waiting. However, it is more virtuous for people who can afford it and who may not be affected by stampede, to perform the waqfa until the time of isfar, following the morning prayer on the day of Eid and to move to Minā before the sun rises, in line with the practice of the Prophet.¹⁸³

Although there are some narrower perspectives, the majority of jurists think that, due to stampede, the waqfa of Muzdalifa can be performed out of its time. At his point, the following question arises: Why is it out of question to abandon the Arafat waqfa even though there is a more intense stampede at Arafat? Jurists state that the reason for this is the Prophet's giving a permission for the waqfa of Muzdalifa. Another explanation is that the Arafat waqfa is one of the pillars of the hajj, while the Muzdalifa waqfa is not, from the perspective of the majority.¹⁸⁴

Under modern conditions, it is possible to say that, based on the practice of the Prophet regarding the weak, the Muzdalifa waqfa can be performed after midnight, as suggested by the Shafi'ī and Hanbalīs, or at a suitable time between the time of the evening prayer and the fajr al-sādiq, based on the opinions of Mālikī jurists.¹⁸⁵ Undoubtedly, the purpose is to prevent damage and loss of life that may occur due to stampede. Although we support these perspectives, it is crucial that the current conditions be evaluated accurately. We think that the warning given by Ibn Abidin that Muzdalifa might be entirely abandoned over time is a legitimate concern. Therefore, it would be appropriate for the authorities to make arrangements and plans because it is good to act prudently, in accordance with the Prophet's command, "Take the hajj rituals from me. Do what I ordered you."¹⁸⁶

Conclusion

The hajj is an act of worship that involves various challenges. The Prophet's asking Allah for ease to perform the hajj implies these difficulties. For the worship of the hajj to be fard and to be performed, "being capable" is the basic requirement. A rule of thumb related with worship is that "Obeying entails istiṭā'a".

¹⁸⁰ Baqarah, 2/286; Hajj, 33/78. al-Sha'lan, *al-Nawazil fi'l-hajj*, 432.

¹⁸¹ Al-Sha'lan, *al-Nawazil fi'l-hajj*, 431; Muhammad b. Salih Usaymin, *Majmu Fatawa* (Riyadh: Dar al-Surayya, 2004), 23/82; Zaydān, *al-Mufassal*, 2/233.

¹⁸² Al-ʿAynī, *al-Binaya*, 4/235; al-Sha'lan, *al-Nawazil fi'l-hajj*, 431; Zaydān, *al-Mufassal*, 2/232-233.

¹⁸³ Usaymin, *Majmu Fatawa*, 23/82-83; Zaydān, *al-Mufassal*, 2/233.

¹⁸⁴ Ibn Abidin, *Radd al-Muhtār 'ala al-Durr al-Mukhtār*, 7/112.

¹⁸⁵ Tırabzon, *Hac İbadetinde Yasak Davranışlar*, 206.

¹⁸⁶ Al-Muslim, "The Hajj", 310.

Therefore, “istiṭā‘a” is a key concept in performing the pilgrimage. Although the concept of “istiṭā‘a” expressed in the verse “...pilgrimage unto the Temple is a duty owed to God by all people who are able to undertake it...”¹⁸⁷ is generally understood as the trip to the Ka‘ba and the provision of food necessary for the pilgrimage and the return of the pilgrimage, it is also related to other acts worship that must be performed during the pilgrimage.

Today, since the demand for pilgrimage is high, despite a limited number of pilgrims accepted due to various reasons, there is a need for a re-evaluation of the concept of "istiṭā‘a" in terms of both being able to travel for the pilgrimage and to perform it. A topic of further investigation is to identify the scope and limitations of istiṭā‘a for each ritual.

Performing the Muzdalifa waqfa is one of the significant acts of worship performed during the hajj. Although there are different opinions among the madhhabs about its time, the majority of Islamic jurists think that the performance of the Muzdalifa waqfa is a necessary obligation and failing to perform it requires punishment unless there is a valid excuse.

Despite the less prevailing views that consider staying overnight at Muzdalifa as a rukn of the hajj, the views that consider it as wādjib or sunnah are widely held. We agree with the views that consider it as sunnah, due to the evidence presented.

Globally considered, stampede is a serious obstacle that makes it difficult to perform the pilgrimage. Considering the deaths caused by stampede in recent history, its causing life-threatening danger is highly probable. Stampede is the reason why some people, including the Prophet’s wife Sawda bint Zam‘a, were allowed to go to Minā at night.¹⁸⁸ Given that more than three million people perform the waqfa at Muzdalifa between certain hours and that the same place is allocated for certain countries at Muzdalifa, staying overnight at Muzdalifa and performing the waqfa after the fajr al-sādiq clearly pose certain difficulties.

Today, stampede is an excuse that should be considered while performing the Muzdalifa waqfa and during overnight stays, due to the difficulties it causes and the possible risk of life-threatening danger. This also concords well with Shari‘ purpose of ensuring convenience and eliminating hardship. In this respect, we also find it noteworthy that some scholars consider the possibility of life-threatening stampede as a real danger to life and think that failing to act on the principle of convenience in the event of stampede runs counter to the purpose of the Shari‘a.¹⁸⁹

As a result of our research on the subject, it can be said that the weak, the sick, the elderly and those who have difficulty walking, as well as those who may be harmed due to stampede, can go to Minā or their places of residence in Mecca after midnight, in line with the views of the Hanbalī and Shafī‘ī sects. Whenever the need arises, in line with the views of Mālikī jurists, who offer a wider time frame for the Muzdalifa waqfa, it is also possible to perform the Muzdalifa waqfa without waiting for midnight. We can say decision-making

¹⁸⁷ Āl ‘Imrān 3/97. Also see al-Baqarah, 2/286.

¹⁸⁸ Zaydān, *al-Mufassal*, 2/234; Ibn ‘Abd Allāh, “*al-Zihām wa-atharuhu fī ahkām al-nusuk*”, 57.

¹⁸⁹ Al-Ramisa, “*Al-maqāsīd al-shari‘ah wa asarruha ala tatawwur al-fatwa fi’ ahkam al-mabit fi’ al-Muzdalifa*”, 131, 134.

regarding this issue is directly related to the responsibility of taking all measures so that the hajj can be performed in safety and peace of mind.

When the Prophet was asked, during the Farewell Hajj, about the case of the people who performed a prayer earlier or later, he replied, "There is no room for difficulty".¹⁹⁰ The conventional wisdom tells us that the principle of eliminating the hardship and ensuring convenience also goes well with the case of the hajj.

Safety of life is one of the top-priority values that Islam aims to protect. Overcoming difficulties is a fundamental aim that religious rules intend to achieve.¹⁹¹ Though all types of worship include some internal challenges, the purpose is to serve for Allah and to achieve redemption and purification. However, it is very important to assess the conditions realistically and not to allow arbitrariness. Worship is taabbudi in its nature. A rule of thumb is to conform to the practices of the Prophet. If this cannot be achieved due to challenges or necessity, it is possible to take advantage of convenience and permissions. While doing this, it would be appropriate to adhere to the rule "What is permissible due to necessity is lawful to the extent that it meets the necessity, not more than that".¹⁹² Here, besides the opinions within the sect, the provisions from different sects can also be used when need arises. Acting based on different sectarian views, which are based on the same source, despite differences in their methods, could contribute to the fulfillment of the hajj, which is characterized with various difficulties, as well as to the fulfillment of the worship in peace and security. Doubtlessly, this understanding complies not only with the fact that the ummah's disagreement is mercy and but also with the principle of convenience in Islam.

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¹⁹⁰ Ibn Māja, "al-Manasik", 74.

¹⁹¹ Muhammad al-Tahir Ibn Ashur, *Maqāsid al-sharī‘ah al-Islamiyyah*, (Tunissiya: Sharikat al-Tunissiya, n.d.), 124.

¹⁹² Al-Majallah, Article 22.

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