


# Sabab or Hikma? : The Relationship between Muḥādāt al-Nisā' (Adjacency with Women) and the İstibāh

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## Abstract

When man and woman pray adjacent to each other in a congregational prayer under certain conditions, this constitutes the phenomenon referred to in classical manuals of Islamic law as *muḥādāt* (adjacency with women). There are various scenarios under which *muḥādāt* can lead either the invalidation of the prayer of the man or the woman or even worse all the participants. The *sababs* (reasons) behind the relevant legal rulings on *muḥādāt* in its various scenarios are outlined in detail in classical manuals of the Ḥanafī school, which will also be presented here briefly. This paper, however, seeks to find out the *ḥikma* (the philosophy of law), as opposed to, the *sabab*, behind invalidation of prayer in congregational prayer in cases of *muḥādāt*. In fact, it particularly attempts to answer, for the first time in literature, the question of why the prayer of a man praying adjacent to a woman becomes invalid if they pray in congregation and yet it remains valid if they pray by themselves even when they pray adjacent to each other. Similarly, despite being performed in congregation, why does not adjacency cause invalidation of prayer in funeral prayers. What is it with congregational regular prayers that makes the difference? This question seems to have never been asked in the previous literature and thus constitutes an important gap. In an effort to fill this gap, this paper, falling back upon classical manuals of Ḥanafī *Fiqh*, argues that this seems to have much to do with the legal ruling on *istibāh* (doubtfulness) with regard to the position of the *imām* in congregational prayers, which requires participants to maintain sight of the *imām* directly or indirectly, which, as will be illustrated, seems to be hindered when *muḥādāt* occurs, thus causing the invalidation of prayer. Filling this gap becomes urgent and relevant especially when one considers the fact that this gap has been misused in recent scholarship to accuse Ḥanafīs of not relying on the Qurʾān and the Sunna for law-making in Islamic law and instead simply repeating the laws that existed before. It was also maintained by some contemporary scholars, again partly by using this gap in the literature, that *uṣūl al-fiqh* was used not to derive laws from the sources of Islamic law, the primary ones of which are Qurʾān and the Sunna, as claimed by classical jurists, but rather to cover up this surreptitious use of existing laws and then making them appear as laws derived from the Qurʾān and the Sunna. By exploring the philosophy of law behind the legal ruling on *muḥādāt*, the present work illustrates that these accusations have no basis. Finally, revealing the relationship between *istibāh* and *muḥādāt al-nisā'* for the first time also has the cumulative effect of substantiating idea that it is far more objective and feasible to rely on *sabab* (reason) or *'illa* (*ratio legis*), whichever applies, as opposed to *ḥikma* (the philosophy of law) in deriving laws from the sources of Islamic law.

## Keywords

Islamic law, Muḥādāt al-Nisā', İstibāh, Sabab, 'illa, Hikma

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Dizinlenme Bilgisi



# Sebep mi Hikmet mi?: Muhazat-ı Nisa (Kadınla Cemaatle Namazda Aynı Hizada Bulunma) ve İştibah Arasındaki İlişki

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## Öz

Belirli şartlar altında, erkek ve kadının cemaatle namazda aynı hizada bulunmaları, İslam hukuku kaynaklarında muhâzât-ı nisâ' (kadınla aynı hizada bulunma) adı verilen bir duruma sebebiyet verir. Muhâzât'ın, erkeğin, kadının, ya da daha da kötüsü, tüm cemaatin namazının bozulmasına sebep olabileceği farklı senaryolar vardır. Makalede de kısaca değinileceği üzere, bu durumlarla ilgili hükümlerin sebepleri Haneî Fıkhı'nın temel klasik kaynaklarında detaylı bir şekilde ortaya konmuştur. Ancak bu makale, cemaatle namaz kılarken muhâzât durumlarında namazın bozulmasının arkasındaki sebebi değil, hikmeti (hukuk felsefesini) bulmaya çalışmaktadır. Esasen, ilk defa şu sorulara cevap bulmayı amaçlamaktadır: Kadınla aynı hizada namaz kılan bir erkeğin namazının, cemaatle namaz kılarken bozulmasının ama tek başlarına kılmaları ya da cemaatle cenaze namazı kılmaları halinde bozulmamasının arkasında yatan hikmet nedir? Normal cemaatle namazın hangi özelliği bu farka sebep olmaktadır? Bu sorular, alanda önemli bir boşluğu temsil etmektedir. Bu boşluğu doldurmak amacıyla, Haneî Fıkhı'nın temel klasik kaynaklarına dayanarak suretiyle makale, söz konusu durumun, cemaatle namazlarda imamın bulunduğu pozisyona dair şüphe oluşması (iştibâh) ile yakından alakalı olduğunu savunmaktadır. İştibâha dair ahkâm, cemaatin imamı direkt ya da indirekt olarak görebilme imkânına sürekli sahip olmayı gerektirmektedir ki bu imkan, muhâzât durumlarında, makalede gösterileceği üzere, akamete uğrayarak namazın bozulmasına yol açmaktadır. Haneîlerin hüküm koyarken, Kur'an ve Sünnet'e dayanmadıkları; aksine önceden var olan hükümleri tekrar ettiklerine dair son dönemlerde kaleme alınan ilmi çalışmalarda Haneîlere yöneltilen suçlamaların, literatürdeki bu boşluğun kötüye kullanımı neticesinde gerçekleştirilmiş olduğu da dikkate alındığında, bu boşluğun doldurulmasının önemi ve yerindeliği anlaşılacaktır. Yine, bu boşluğu da kullanarak bazı modern yazarlarca, usûl-ı fikhın, İslam hukukunun, klasik hukukçular tarafından ilk iki temel kaynağı olduğu iddia edilen Kuran ve Sünnet'ten hüküm elde etmek için kullanılmadığı iddia edilmektedir. Aksine, var olan kanunların kullanılıp, bunların sanki Kuran ve Sünnet'ten çıkarılmış kanunlar gibi gösterilmesinin örtbas edilmesi için, usûl-ı fikhın kullanıldığı iddia edilmiştir. Muhâzâta dair kanunların arkasında yatan hikmetlerin ne olduğunu araştırmak suretiyle makale, söz konusu suçlamaların hiçbir dayanağının olmadığını da göstermektedir. İştibâh ile muhâzât-ı nisâ' arasındaki ilişkiyi ilk defa ortaya çıkarmanın, İslam hukukunun kaynaklarından hüküm çıkarmada, hikmet yerine, sebep ya da illete, hangisi söz konusu ise, dayanmanın mukayese edilemeyecek derecede objektif ve uygulanabilir olduğu fikrini de genel olarak desteklemektedir.

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Abstracting and Indexes



## Introduction

Prayer (*ṣalāh*) is one of the pillars of Islam, and performing prayer in congregation is very significant in Islam. In fact, there are various kinds of *ṣalāh* and though some can only be performed individually, as is the case with regular *nāfila/sunna* (recommended) prayers like *tahajjud* in the Ḥanafī school, the majority of prayers are either (i) recommended, or (ii) obligatory, to be performed in congregation.<sup>1</sup> Thus, congregational prayers play a major role in Muslim daily life.

There are certain rules with regard to the order by which participants of congregation need to line up. Some of these are so important that breaking them would result in invalidation of prayer. Due to its legal consequence of invalidating prayer, one type of breaking of these rules are given a specific name, '*muḥādāt al-nisā'*' (adjacency with women), the details of which often found in manuals of Islamic law in chapters on congregational prayers.<sup>2</sup>

I will discuss some of these later in this paper,<sup>3</sup> but suffice it to say here that *muḥādāt al-nisā'* (or simply *muḥādāt*) refers to a situation where man and woman pray adjacent to each other in a congregational prayer following the same *imām* under certain circumstances, and when it takes place, it leads to invalidation of prayer.<sup>4</sup>

There are various scenarios, where the number of participants whose prayers become invalid due to the occurrence of *muḥādāt* differ from each other. To illustrate the significance of this concept, I will next provide an excerpt from a discussion between Abū Ḥanīfa and his famous disciple Muḥammad al-Ṣaybānī.

In the excerpt, al-Ṣaybānī asks his teacher about an extreme case of *muḥādāt* in terms of its legal consequence. His remarks, as found in his vital reference source for the Ḥanafī school, namely *al-Aṣl*, are as follows:

"قلت: أ رأيت امرأة صلت بحذاء الإمام تأتم به وهو يؤم القوم ويؤمها؟ قال: صلاة الإمام والقوم والمرأة جميعا فاسدة."<sup>5</sup>

This translates into English as the following:

I said: What is your view on a woman who prays in alignment with the *imām*, while she is following him [as the *imām*] and he is leading the congregation, which includes her? He replied: The prayers of the *imām*, the congregation, and the woman altogether are invalid.

The excerpt shows that in cases where an *imām* and a female participant, who is following him, pray in the same row, the prayer of the *imām* becomes invalid, and this automatically invalidates the rest of the participants' prayers in the congregation.

Hence, it is vital that participants of congregational prayers, which as noted above, play a major role in Muslim life, should be aware of these rules lest they cause invalidation of prayers of some and in some cases even the whole congregation, as illustrated in the excerpt from *al-Aṣl* above.

While adjacency leads to invalidation of prayer in congregational prayer, it does not do so in individual (*munfarid*) prayers or funeral (*janāza*) prayers. This paper attempts to uncover the *ḥikma* (philosophy of law) behind the fact that adjacency law, unlike the case in congregational regular prayers, does not cause invalidation of prayer in funeral<sup>6</sup> and individual prayers.

In doing so, the present work relies on major manuals of Islamic law within the Ḥanafī school. It shows that the *sababs* (reasons) behind the fact that adjacency cause invalidation of prayer in congregational prayer and not in individual or funeral prayer are well explained in classical manuals. It argues, however, that the *ḥikma* (the philosophy of law) behind this has not been explored thoroughly in the previous literature, classical or otherwise. This paper identifies this gap and attempts to fill it for the first time.

The significance of such an endeavor is largely due to the fact that this gap has provided the basis for contemporary misinterpretations with regard to Ḥanafī process of law-making. In fact, Sadeghi, for instance, claimed that Ḥanafīs rely on previous scholars' opinions and not the Qur'ān and the Sunna.<sup>7</sup> He further claimed that *uṣūl al-fiqh* with its hard-to-understand-rules

<sup>1</sup> See, al-Maydānī, 'Abd al-Ġanī al-Ġanīmī, *al-Lubāb fī Ṣarḥ al-Kitāb* (Istanbul: Āsītāna, n.d.), I, 55-111; Molla Khusraw, *Durar al-Ḥukkām Ṣarḥ Ḡurar al-Aḥkām* (Istanbul: Fazilet Neşriyat, 2015), I, 50-94.

<sup>2</sup> See, for instance, Molla Khusraw, *Durar*, I, 90.

<sup>3</sup> See sections 3.2 below.

<sup>4</sup> Molla Khusraw, *Durar*, I, 90-91. Al-Maydānī, *al-Lubāb*, I, 67.

<sup>5</sup> Al-Ṣaybānī, Muḥammad b. al-Ḥasan, *al-Aṣl*, ed. Muḥammad Boynukalın (Dār Ibn Ḥazm: Beirut, 2012), I, 161-163.

<sup>6</sup> When I say funeral, I really mean congregational funeral prayers, as otherwise, it would also fall under the category of 'individual prayers.'

<sup>7</sup> Behnam Sadeghi, *The Logic of Law Making in Islam* (New York: Cambridge University Press, 2013), xxi.

functioned largely to make it appear that Islamic law relied on these two sources while in reality, he went on to say, it repeated the existing laws.<sup>8</sup>

Before exploring the details of the *hikma* behind the fact that adjacency causes invalidation only in congregational prayer,<sup>9</sup> In an effort to help pave the way for the main subject of this paper, I will first discuss various prayers that can be performed in congregation in the next section.

## 1. Congregational Prayers

Some *ṣalāh* can be performed in congregation in the Ḥanafī school. The five daily *ṣalawāt* (pl. of *ṣalāh*) are *farḍ* (obligatory) upon men and women who have reached their puberty and who are intelligent,<sup>10</sup> and performing them in congregation in mosques are seen at least as *sunna mu'akkada* (highly recommended *sunna*) for Muslim men within the Ḥanafī law.<sup>11</sup> If for any reason a Muslim man cannot partake in congregation in mosque to perform a daily prayer, it is recommended that they perform it at their homes in congregation with their families.<sup>12</sup> Likewise, *tarāwīḥ* prayers, which are performed during the month of Ramaḍān, are recommended to be performed in congregation in mosques.<sup>13</sup>

Some of the *ṣalawāt* (pl. of *ṣalāh*) can only be performed in congregation such as Friday prayers and Eid prayers.<sup>14</sup> Friday prayers in mosques, for instance, are obligatory upon every free man who has reached his puberty and who is intelligent and who is not *musāfir* (traveler) under certain other circumstances.<sup>15</sup> Similarly, Eid prayers, which are *wājib* in Ḥanafī school, can only be performed in congregation as well.<sup>16</sup> There are other types of prayers that fall either of these two categories, such as funeral prayer.<sup>17</sup> Thus, performing prayer in congregation is an integral part of Muslim life.<sup>18</sup>

Women and children can also attend congregational prayers, and when they do so, there are certain rules with respect to the prayer space of each gender and children. In fact, all the participants need to pray in spaces dedicated to them.

If they do not pray in their dedicated spaces, this might lead to either (i) *karāha* (repugnance), as in the case of children praying within man's lines without any acceptable reason, or worse, (ii) invalidation of prayers, as in the case of man praying adjacent to a woman. This paper is about the latter.

<sup>8</sup> Sadeghi argues that Qur'ān and the Sunna as well as the rules of textual interpretation found which are part of *uṣūl al-fiqh* did not shape the laws in the Ḥanafī school of law (see Sadeghi, *The Logic of Law Making*, xxi). He also makes the following remarks: "One cannot assume that these normative and philosophical discussions describe the historical reality of how the law developed in practice." (See Sadeghi, *The Logic of Law Making*, 34-35).

<sup>9</sup> When I say congregational prayer, I really refer to congregational regular prayers that have rukū' and sujūd, which excludes funeral prayers.

<sup>10</sup> Molla Khusraw, *Durar*, I, 50. Menstruating women and those with postnatal bleeding do not perform the daily prayers or any other prayer nor do they recite the Qur'ān, even from the memory (for more information on this matter, see 'Abd al-Ġanī al-Ġanīmī al-Maydānī, *al-Lubāb*, I, 37-38).

<sup>11</sup> The original Arabic reads: "الجماعة سنة مؤكدة، وقيل فرض، للرجال" This translates as "Congregational prayers are *sunna mu'akkada* for men. And it is said that they are *farḍ* (obligatory) [upon men]" (see Molla Khusraw, *Durar*, I, 84. There were other scholars who argued for it being *wājib* (for more information, see al-Šurunbulālī, Ḥasan b. 'Ammār b. 'Alī al-Wafā'ī al-Miṣrī, *Ġunya Zawī al-Aḥkām fī Buġya Durar al-Ḥukām* (Istanbul: Fazilet Neşriyat, 2015), I, 84-85).

<sup>12</sup> Congregation within their homes with one's family members would not be as good as attending the congregation in mosques (see al-Šurunbulālī, *Ġunya*, I, 84.)

<sup>13</sup> In this regard, al-Maydānī mentions the following: "يستحب أن يجتمع الناس في شهر رمضان بعد العشاء فيصلي بهم إمامهم خمس ترويحاً...", which translates as "It is *muṣtaḥabb* that people gather together in the month of Ramadan after the 'Iṣā prayer and the *imām* leads them in prayer five *tarwīḥa*..." (see al-Maydānī, *al-Lubāb*, I, 100).

<sup>14</sup> Al-Maydānī, *al-Lubāb*, I, 89-93.

<sup>15</sup> Al-Maydānī, *al-Lubāb*, I, 91. Al-Maydānī notes that Friday prayers can only be performed in congregation and the number of the participants other than the *imām* has to be at least is three. Here are his remarks on this: "ومن شرائطها الجماعة وأقلهم عند أبي حنيفة ثلاثة". This paper is specifically concerned with congregational prayers that include men and women. If a woman attends a Friday prayer on their dedicated space without causing adjacency, her prayer will still be valid despite the fact that women are forbidden from attending the Friday prayers, as noted by al-Maydānī who makes, when commenting on al-Qudūrī's following remarks, "ولاتجب الجمعة على مسافر ولا امرأة", the following remarks: "لأنها منهيّة عن الخروج" (see al-Maydānī, *al-Lubāb*, I, 91.)

<sup>16</sup> In this regard al-Maydānī makes the following remarks: "اشتراط لها م اشترط للجمعة خلا الخطبة", which translates as "The requirements of the Friday prayers are required for it [i.e. the Eid prayers] except for the *khuṭba*" (see al-Maydānī, *al-Lubāb*, I, 93).

<sup>17</sup> Another type of prayer that can be performed in congregation in Ḥanafī school is the Prayer of *Kusūf* (Solar eclipse) (see al-Maydānī, *al-Lubāb*, I, 97). According to the two prominent students of Abū Ḥanīfa, the Prayer of *Istisqā'* (Asking for Rain) is also performed in congregation (see al-Maydānī, *al-Lubāb*, I, 99), unlike the view of Abū Ḥanīfa who notes "فان صلى الناس وحدانا جاز". (see al-Maydānī, *al-Lubāb*, I, 98). Similarly, there is no congregational Prayer of *Khusūf* (Lunar eclipse) (see al-Maydānī, *al-Lubāb*, I, 97.)

<sup>18</sup> For other forms of congregational prayers like *tarāwīḥ*, see al-Maydānī, *al-Lubāb*, I, 93-108.

## 2. Dedicated Spaces of Participants in Congregational Regular Prayers

Participants in congregational prayers need to line up behind the *imām* as in the order of men, children, hermaphrodites (if there is any), last but not least, women, as noted in major Ḥanafī manuals of Islamic law.<sup>19</sup>

Al-Maydānī notes that a line of children should be formed only if there is more than one child present. If it is only a single child, then the child joins the lines of men or women, whichever applies, probably to the far end of the line. However, a hermaphrodite stands alone and never joins the lines of men or women.<sup>20</sup>

If a child, for instance, leaves its dedicated place in children's lines and joins one of the lines of men, without any excuse such as being the only child present as noted above, this leads to *karāha* (repugnance), which is not good but nevertheless does not lead to invalidation of any one's prayer.<sup>21</sup>

On the other hand, if a woman joins one of the lines of men, or vice versa, then this leads to invalidation of the prayer(s) of (a) participant(s) if certain conditions are met.<sup>22</sup> One of these conditions is that the prayer of men and women praying adjacent to each other must be the same, both following the same *imām*.<sup>23</sup>

If, however, men and women pray individually (i.e. not in congregation), their adjacency does not invalidate any one's prayer. Similarly, if the congregational prayer is a funeral prayer, adjacency does not cause invalidation.

In short, adjacency does not have the legal effect that is seen in regular congregational prayers when it comes to individual and congregational funeral prayers. Next, I will present reasons (*sababs*) behind this.

### 3. The Reasons (*Sababs* or *Ratio Legis*) for the Adjacency Laws

The reasons (*sababs*<sup>24</sup>) for the invalidation of prayer when adjacency takes place rests upon laws provided by one of the two lawgivers in Islamic law, namely the Prophet, which are discussed in classical manuals.<sup>25</sup> In other words, the legal rulings of classical jurists on *muḥādāt* rely on the Prophetic traditions.

In this section, I will first consider (i) the contemporary misunderstanding with regard to adjacency laws in an effort to show the relevance of this study to today. Then, I will discuss the *sababs* behind adjacency laws, thus presenting, rather briefly, (ii) the *sabab* why adjacency has the effect of invalidating prayer in cases of congregational regular prayers and (iii) the *sabab* why adjacency does not have the effect of invalidating prayer in funeral prayers as well as (iv) in individual prayers.

#### 3.1. Misunderstandings with regard to the Adjacency Laws

*Muḥādāt* has recently been explored not for its own sake but for the sake of its use to argue for another, a rather larger, claim, the details of which I will cover below.

<sup>19</sup> Molla Khusraw notes, "ويصف الرجال فالصبيان فالخنثى فالنساء" (Men, then children, then hermaphrodites, and then women line up [in congregational prayers] (see Molla Khusraw, *Ġurar al-Aḥkām* (Istanbul: Fazilet Neşriyat, 2015), I, 89-90). See also, al-Margīnānī, Burhān al-Dīn Abī al-Ḥasan 'Alī b. Abī Bakr al-Farḡānī, *al-Hidāya Šarḥ Bidāya al-Mubtadī*, ed. Muḥammad 'Adnān Darwīš (Beirut: Dār al-Arḡam, n.d.), 70.

<sup>20</sup> Al-Maydānī notes, "ويصف الإمام الرجال ثم الصبيان إن تعدوا فلو واحد دخل في الصف ولا يقوم وحده ثم الخنثي ولو منفردة ثم النساء." (Al-Maydānī, *al-Lubāb*, I, 67).

<sup>21</sup> Al-Maydānī, *al-Lubāb*, I, 67.

<sup>22</sup> For instance, Molla Khusraw lists the following conditions for *muḥādāt* to take place and cause invalidation of prayer: 1) *al-Mukuttu fī makāni l-muḥādāti qadra adā'i ruknīn* (Remaining in the place of adjacency as much as to complete the performance of a constituent part of the prayer [such as a *sajda* (prostration)], 2) *Kawnu l-muḥādīyati muštahātan* (For the woman with whom adjacency takes place to be able to have intercourse), so Molla Khusraw goes on to say, adjacency with an insane female or a child would not cause invalidation of prayer, 3) *Kawnu ṣalātu-humā dāta rukū'in wa-sujūdīn* (For their prayers to be one that has *rukū'* and *sujūd*), so, he further notes, adjacency does not cause invalidation of prayer in funeral prayers, 4) *Kawnu ṣ-ṣalāti muštarikatan bayna-humā* (For the prayer to be a congregational prayer both partake) 5) *Kawnu-humā fī makānīn bi-lā ḥā'ilīn* (For them to be in a place without any barrier [in between male and female participant], because, as noted by Molla Khusraw, *li-anna-hū yarfa'u l-muḥādāta* (It [i.e. the barrier] cancels adjacency) 6) *Kawnu jihati-himā muttahaḍatan* (For their direction to be the same), so if they pray towards different directions, which Molla Khusraw notes, cannot take place only within the Ka'ba or in a very dark night, adjacency does not lead to invalidation of prayer 7) *An yanwiya imāmata-hā* (For him [i.e. the *imām*] to have made the *niyya* (intention) to be her *imām* in prayer (see Molla Khusraw, *Durar*, I, 90-91). If adjacency takes place when these conditions are met, it leads to invalidation of prayer. If man right away signals woman to go behind and woman does not comply, then the prayer of woman becomes invalid and not his prayer. However, if man does not signal her, then his prayer becomes invalid, (see al-Maydānī, *al-Lubāb*, I, 67.)

<sup>23</sup> Molla Khusraw, *Durar*, I, 90-91 and al-Maydānī, *al-Lubāb*, I, 67.

<sup>24</sup> On the difference between *sabab* (reason) and *'illa* (ratio legis) as well as on difference between *sabab* and *hikma*, see İbrahim Kâfi Dönmez, "Sebeup", *TDV İslâm Ansiklopedisi*, <https://islamansiklopedisi.org.tr/sebeup--fikih> (11.10.2023). See also Bünyamin Korucu, "Fıkıhta İnsan Davranışının Ölçülmesi" *Universal Journal of Theology* 5 / 2 (Aralık 2020): 43-76.

<sup>25</sup> The tradition that makes it obligatory for men to keep women behind relative to their positions is "أخروهن من حيث أخرهن الله", which translates "Keep them behind where God has kept them behind." (See Al-Sarakhsī, Abū Bakr Šams al-A'imma Muḥammad b. Abū Sahl Aḥmad, *al-Mabsūṭ* (Beirut: Dār al-Ma'rifa, n.d.), I, 184.) For an analysis of this tradition, see 3.2. below.



Ḥanafī legal manuals apparently demonstrate no explicit interest in the *ḥikma* behind the adjacency law, which, though is fine, constitutes a gap in the literature. Filling this gap becomes urgent due to its misuse to accuse Ḥanafīs of not relying on the sources of Islamic law, the primary ones of which are the Qurʾān and the Sunna, during the process of law-making.

As a matter of fact, taking for granted the idea that *uṣūl al-fiqh* did not shape Islamic law,<sup>26</sup> Sadeghi argues that it was status quo that shaped Islamic law. In an effort to support this, he goes on to use three *furūʿ* subjects, one of which is the matter of *muḥādāt*.

In this regard, Sadeghi accuses al-Sarakhsī in particular and classical jurists in general of making up ad hoc stipulations during the process of law-making with regard to *muḥādāt*. In an attempt to provide support for his accusations, he goes on to look at several scenarios of men and women praying adjacent to each other and the legal rulings that apply to these scenarios in the Ḥanafī school. He considers (i) adjacency in regular congregational prayers, (ii) adjacency in congregational funeral prayers, and (iii) adjacency in regular congregational prayers, but with a barrier between men and women. The problem occurs when Sadeghi expects that adjacency in all the three scenarios to have the same legal effect according to the Ḥanafī *uṣūl al-fiqh* despite the fact that he never demonstrates that Ḥanafī *uṣūl al-fiqh* on this matter leads to invalidation of prayer in all the three cases.<sup>27</sup>

Then he surprisingly supposes that such an expectation of himself has to be shared by classical jurists as well. When it does not, he accuses them of not following the Qurʾān and the Sunna and instead what they follow, he further assumes, must be the status quo, i.e. the opinions of previous jurists, and ultimately, it seems, the laws of the *Jāhiliyya*, as claimed by Vishanoff,<sup>28</sup> which Sadeghi's study seems to function as a supplement to.<sup>29</sup>

On the other hand, al-Sarakhsī explicitly mentions the reasons why adjacency causes invalidation of prayers in (i) as opposed to (ii) and (iii), which will be explored in detail below.<sup>30</sup> Suffice it to say here, however, that adjacency in (i) causes invalidation of prayer due to the tradition which commands men to keep women behind relative to their position.<sup>31</sup> Adjacency in (ii) does not cause invalidation of prayer because of the existence of a tradition that states that women are not allowed in joining the funeral prayers.<sup>32</sup> Al-Sarakhsī goes on to say that, therefore, there is no dedicated space for women in funeral prayers.<sup>33</sup> Hence, men do not have to make sure to keep women behind in funeral prayer (i). Similarly, adjacency in (iii) does not cause invalidation of prayer simply because adjacency does not really exist between men and women due to the barrier that stands between them.<sup>34</sup>

As such, it is clear from al-Sarakhsī's treatment that adjacency does not have the same legal effect in all the three cases. Yet, Sadeghi seems to ignore this and expects adjacency to have the same legal effect in all the three cases.<sup>35</sup> And when it does not, Sadeghi accuses Ḥanafīs of not following the Qurʾān and the Sunna.

To provide further support to his claims Sadeghi appeals to what al-Sarakhsī mentions as *ḥikma* behind the fact that adjacency does not have the same legal effect in (ii) and (iii) with the case (i). al-Sarakhsī notes that it is the occurrence of sexual thoughts

<sup>26</sup> Among the proponents of this idea are Sherman Jackson (Sherman Jackson, "Fiction and Formalism: Toward a Functional Analysis of *uṣūl al-fiqh*," in *Studies in Islamic Legal Theory*, ed. Bernard Weiss, (Leiden: E. J. Brill, 2002), 177-201) and David Vishanoff (David R. Vishanoff, "Early Islamic Hermeneutics: Language, Speech, and Meaning in Preclassical Legal Theory" (PhD diss., Emory University, 2004), 153, <http://david.vishanoff.com/wp-content/uploads/Dissertation.pdf>.)

<sup>27</sup> Sadeghi, *The Logic of Law Making*, 60-63.

<sup>28</sup> Vishanoff, "Early Islamic Hermeneutics", 3.

<sup>29</sup> Ahmet Topal, "The Role of the Arabic Language in *istinbāt al-ḥukm* within the Context of Criminal law: A General Framework for Inquiry into the Linguistic Categories of *uṣūl al-fiqh* of the Ḥanafī school of law" (PhD diss., Leeds University, 2020), 72.

<sup>30</sup> For more information, see section 3.2., 3.3., and 3.4. below.

<sup>31</sup> The tradition that functions as the *sabab* (reason) for this particular legal ruling of adjacency is "أخروهن من حيث أخرهن الله", which translates "Keep them behind where God has kept them behind" (see al-Sarakhsī, *al-Mabsūt*, I, 184.)

<sup>32</sup> Al-Maydānī, *al-Lubāb*, I, 68. See also al-Sarakhsī, *al-Mabsūt*, I, 184.

<sup>33</sup> See al-Sarakhsī, *al-Mabsūt*, I, 184. See also al-Ka'sānī, 'Alā al-Dīn Abū Bakr b. Mas'ūd al-Kāsānī al-Ḥanafī, *Badā'ī' al-ṣanā'ī' fī Tartīb al-Sharā'ī'* (Beirut: Dār al-Kitāb 'Arabiyya, 1974), I, 310. He notes the following: "ولا ينبغي للنساء أن يخرجن في الجنائز لأن النبي صلى الله عليه وسلم نهاهن عن ذلك." This translates as 'It is not appropriate for women to go out to attend funeral prayers because the Prophet (peace and blessings of Allāh be upon him) forbade them [i.e. women] from doing so. For the translation of the expression of لا ينبغي see Wehr and Cowan, *A Dictionary of Modern Written Arabic*, 517; Edward William, Lane, *An Arabic-English Lexicon Derived from the Best and Most Copious Eastern Sources* (Beirut: Librairie du Liban, 1968), 83.)

<sup>34</sup> Al-Maydānī, *al-Lubāb*, I, 67. Similarly, if there is an opening between male participant and the female participant who is praying behind the male and the extend of this opening is as large as to allow another person to pray on, as noted by al-Maydānī when he says "ادناها قدر ما يقوم فيه المصلي", which translates as "The smallest of it [i.e. the opening that saves prayer from being invalidated] is as large as to allow a prayer to pray on", then this opening functions like a barrier as well, as noted by al-Maydānī where he says "الفرجة تقوم مقام الحائل", which translates as "The opening functions like a barrier" (see al-Maydānī, *al-Lubāb*, I, 67.)

<sup>35</sup> That is why, it seems, he speaks of the tradition that commands men to keep women behind as "the operative principle" (Sadeghi, *The Logic of Law Making*, 63, and Topal, "The Role of the Arabic Language in *istinbāt al-ḥukm*,"78.)

in man's mind during regular congregational prayers that is really behind the invalidation of men's prayer when adjacency occurs.

Discrepancies with regard to Sadeghi's argument and errors associated with his whole enterprise, which he makes use of *muḥādāt* and other *furū'* subjects to support, have been refuted elsewhere.<sup>36</sup> However, they have nevertheless left one thing unanswered: What is it with congregational regular prayer that might be the *hikma* behind the invalidation of prayer in cases of *muḥādāt*?

In addition to providing an answer to this question, this paper also seeks to answer the question of what is it with congregational funeral prayers that, unlike the case in regular congregational prayers, adjacency does not invalidate prayer in them? Similarly, it also seeks to answer to the question of why adjacency does not invalidate prayer in case where man and woman pray individually.

To provide answers to these questions, I will first explore within the Ḥanafī school adjacency rulings in various types of prayers, namely congregational regular prayers, congregational funeral prayers, and individual prayers.

### 3.2. Adjacency in Congregational Regular Prayers

The term 'congregational regular prayer' is used in this work to refer to congregational prayers with *rukū'* and *sujūd*, which excludes 'funeral prayer,' which, although can be prayed, and is recommended to be prayed, in congregation, does not have *rukū'* or *sujūd*.

Al-Ṣaybānī makes the following remarks as to how adjacency affects the prayer of participants in congregational regular prayers:

"قلت: رأيت إمرأتا صلت مع القوم في الصف وهي تصلي بصلاة الإمام ما حالها و حال من كان بجنبها من الرجال؟ قال: أما صلاتها فتامة وصلاة القوم كلهم جميعا تامة ما خلا الرجل الذي كان عن يمينها والذي كان عن يسارها والذي خلفها بحيالها فإن هؤلاء الثلاثة يعيدون الصلاة. قلت: لم؟ قال: لأن هؤلاء الثلاثة قد ستروا من خلفهم من الرجال وصار كل واحد منهم بمنزلة الحائط بين المرأة وأصحابه."<sup>37</sup>

This translates into English as the following:

I said: What is your opinion on a woman who prays with a congregation in a line of prayer, and she is following the *imām* in the prayer? What is her situation and the situation of those male participants praying adjacent to her? He replied: As to her prayer, it is complete. And the prayer of the congregation all of them are complete with the exception of the man who was on her right, the man who was on her left, and the man who was right behind her. And certainly those three men will re-perform the prayer. I said: Why? He replied: This is because those three have become a *sutra* (barrier) for those men behind them and [thus] each one of them become like a wall between the woman and his friends.

The excerpt from al-Ṣaybānī clearly proves that if there is no barrier between man and woman, adjacency leads to invalidation of prayer, as is the case with the scenario mentioned in the excerpt where the prayers of the three male participants who were praying on her right, left and right behind her have become invalid. Therefore, adjacency invalidates prayer of men in congregational regular prayers.

The excerpt also demonstrates that a barrier between woman and man prevents adjacency, thus saving the prayer from invalidation. Al-Sarakhsī explains this clearly:

"ولا تفسد صلاة من هو على يمين من هو على يمينها ومن على يسار من هو على يسارها إذ هناك حائل بينها وبينها بمنزلة الاسطوانة<sup>38</sup> أو كان من الثياب."<sup>39</sup>

This translates into English as follows:

The prayer of the one who is on the right of the person on her right and that of the one who is on the left of the person on her left. This is because there is an obstacle between her and the two males, which [stands between them] like a column, or like one that is made of cloth.

This excerpt debunks the accusations directed towards Ḥanafīs by Sadeghi. Unlike what he claims, a barrier makes a difference in terms of the legal effect of adjacency, as noted in the excerpt.

There remains one question that might come to the mind with regard to this excerpt: Why is it that adjacency only invalidates

<sup>36</sup> Topal, "The Role of the Arabic Language in *istinbāḥ al-ḥukm*," 72-84.

<sup>37</sup> Al-Ṣaybānī, *al-Aṣl*, I, 161-162.

<sup>38</sup> The word *أسطوانة* is translated into English as "column" (see, for instance, Wehr and Cowan, *A Dictionary of Modern Written Arabic*, 20).

<sup>39</sup> Al-Sarakhsī, *al-Mabsūṭ*, I, 184.

male participant's prayer and not the other way around or even not the prayers of both parties of adjacency? The answer to this question lies in the *sabab* (reason) behind this legal ruling, a tradition from the Prophet, which reads as the following:

"أخروهن من حيث أخرهن الله."<sup>40</sup>

This translates into English as follows:

Keep [the 2<sup>nd</sup> male person plural] them [the 3<sup>rd</sup> female person plural] behind where<sup>41</sup> God has kept them [the 3<sup>rd</sup> female person plural] behind.

In the excerpt, the addressees of the command are men because the verb "أخّر" (keep behind) is conjugated for the second male person plural. In this regard, al-Sarakhsī makes the following remarks:

"والمراد من الأمر بتأخيرها لأجل الصلاة. فكان من فرائض صلته."<sup>42</sup>

This translates into English as the following:

The intended meaning of the command of keeping her behind is for prayer. Hence, this becomes from among the requirements of his prayer.

Thus, relying on this tradition, Ḥanafis argue that it is the responsibility of men to keep women behind in congregational regular prayers.<sup>43</sup> And when this responsibility of him goes unattended, then this constitutes a breach in the laws of prayer for the man. As a result, his prayer becomes invalid.

In this regard, al-Sarakhsī makes the following remarks:

"فإذا ترك تفسد صلته وإنما لا تفسد صلاتها لأن الخطاب بالتأخير للرجل وهو يمكنه أن يأخرها من غير أن يتأخر بأن يتقدم عليها."<sup>44</sup>

This translates into English as the following:

Once he neglects [his responsibility of keeping women behind in regular congregational prayers,] his prayer becomes invalid, and her prayer does not. This is because the command of keeping behind is [addressed] to men. And it is possible for him to keep her behind without remaining behind [simply] by going before her. Thus, this tradition constitutes the *sabab* (reason) for the legal ruling of adjacency in congregational regular prayers, which brings me to discuss the legal rulings on adjacency in another type of congregational prayer, namely (i) funeral prayer.

### 3.3. Adjacency in Congregational Funeral Prayers

Adjacency in congregational funeral prayers does not cause invalidation of prayer in any way. The *sabab* (reason) for this is explained in classical manuals, as in *al-Mabsūt*:

"ولهذا لا تفسد صلاة الجنائز بالمحاذاة. لأنها ليس بصلاة مطلقة هي مناجاة بل هي قضاء لحق الميت. ثم ليس لها في الصلاة على الجنائز مقام لكونها منهيّة عن الخروج في الجنائز."<sup>45</sup>

This translates into English as follows:

That is why the funeral prayer does not become invalid due to adjacency. This is because it is not a prayer *per se* in the sense that it is a dialog with God; rather, it is paying tribute to the deceased. Moreover, she has no space for herself in funeral prayer, for she is forbidden from going out to attend funerals.

The excerpt shows that the *sabab* (reason) why this ruling does not apply to funeral prayers is the fact that there is no dedicated space for women here. Hence, the tradition that requires men to keep women behind does not have any legal effect in funeral prayers. In effect, the scope of the command that requires men to keep women behind in congregational prayers is limited by the tradition that forbids women from attending funerals.

Funeral prayers are not the only kind of prayer where adjacency does not cause invalidation of prayer. In fact, adjacency in individual prayers does not cause invalidation either, the *sabab* (reason) of which will be explored next.

<sup>40</sup> Al-Sarakhsī, *al-Mabsūt*, I, 184.

<sup>41</sup> For the translation of the expression "من حيث", see, Wehr and Cowan, *A Dictionary of Modern Written Arabic*, 257.

<sup>42</sup> Al-Sarakhsī, *al-Mabsūt*, I, 184.

<sup>43</sup> Al-Sarakhsī, *al-Mabsūt*, I, 184.

<sup>44</sup> Al-Sarakhsī, *al-Mabsūt*, I, 184.

<sup>45</sup> Al-Sarakhsī, *al-Mabsūt*, I, 184.



### 3.4. Adjacency in Individual Prayers

Adjacency between man and woman in cases where each prays individually does not invalidate anyone's prayer.<sup>46</sup> The reason (*sabab*) for this is, as noted by al-Sarakhsī,<sup>47</sup> the tradition going back to the Prophet's (P.b.u.H) wife 'Ā'īša (may God be pleased with her,) who narrates:

"كان رسول الله صلى الله عليه وسلم يصلي بالليل وأنا نائمة بين يديه معترضة كاعتراض الجنائز فكان إذا سجد خنست رجلي وإذا قام مددتها."<sup>48</sup>

This translates into English as the following:

The Prophet would pray at night while I was sleeping in front of him, lying across just as a *janāza* would, so I would draw back my legs as he was prostrating and would stretch them forth as he was standing up.

Relying on this tradition, al-Sarakhsī notes that adjacency causes invalidation of prayer only if man and woman pray in congregation.<sup>49</sup> On this point, he notes:

"المحاذاة ما لم تكن في صلاة مشتركة لا تؤثر في صلاتها الا فسادا حتى ان الرجل والمرأة إذا وقفا في مكان واحد فصلى كل واحد منهما وحده لا تفسد صلاة الرجل لأن الترتيب في المقام إنما يلزمه عند المشاركة كالترتيب بين المقتدي والإمام."<sup>50</sup>

This translates into English as the following:

When adjacency [between man and woman] is not in a congregational prayer, it does not affect her prayer save [due to another cause] for invalidation [of prayer, such as bleeding]. In fact, if man and woman align in one space, and each one of them pray individually, this does not invalidate man's prayer. This is because arrangement of the position[s] is obligatory upon him only in congregation just as the arrangement between the *muqtadī* [i.e. follower in prayer] and the *imām* [i.e. leader in prayer] [is required only in congregational prayers].

As such, according to Ḥanafīs, adjacency does not have the legal effect of invalidating prayer if man and woman pray individually. Most importantly, the *sabab* (reason) for this is the tradition of 'Ā'īša mentioned above.

I have thus covered the *sababs* for the varying legal rulings of Ḥanafīs on adjacency in different types of prayers that are relevant to the matter in hand, namely congregational regular prayers, congregational funeral prayers, and individual prayers.

I can now discuss, falling back upon classical manuals of Islamic jurisprudence, the *hikma* (philosophy of law) behind these adjacency laws.

### 4. The Hikma (Philosophy of Law) behind the Adjacency Laws

Though classical manuals do provide some insights into the *hikma* behind the fact that adjacency laws, there seems to be no thorough explanation of the *hikma* behind them.

In addition to explaining the *sabab* (reason) behind adjacency law on congregational regular prayers, which I have presented in the previous section, al-Sarakhsī also speaks of the *hikma* behind this legal ruling, making the following remarks:

"وهذا لأن حال الصلاة حال المناجاة فلا ينبغي ان يخطر بباله شيء من معاني الشهوة فيه. ومحاذاة المرأة إياه لا تنفك عن ذلك عادة."<sup>51</sup>

This translates into English as follows:

This is because the state of prayer is the state of *munājāh* (dialog with God),<sup>52</sup> and no concepts of lust should occur to him in it. And, adjacency with women is usually not free from this.

This excerpt provides some insights into the *hikma* behind the adjacency laws. In fact, it demonstrates that the adjacency ruling that requires men to keep women behind in congregational regular prayers is to keep men's mind free from lusty thoughts even the slightest one of which is certainly not desired when praying to God. The invalidation of prayer does not apply to funeral prayers, however. Would not such thoughts occur during funeral prayers?

<sup>46</sup> Al-Sarakhsī, *al-Mabsūt*, I, 185. See also al-Maydānī, *al-Lubāb*, I, 67.

<sup>47</sup> Al-Sarakhsī, *al-Mabsūt*, I, 185.

<sup>48</sup> Imām Mālik, *al-Muwatta'*, I, 117 and al-Bukhārī, *Amal fī al-Ṣalāh*, 10.

<sup>49</sup> Al-Sarakhsī, *al-Mabsūt*, I, 185.

<sup>50</sup> Al-Sarakhsī, *al-Mabsūt*, I, 185.

<sup>51</sup> Al-Sarakhsī, *al-Mabsūt*, I, 185.

<sup>52</sup> Wehr and Cowan, *A Dictionary of Modern Written Arabic*, 1110.

One could say that “Well, there are no bending or prostration in funeral prayers<sup>53</sup> that could potentially increase the likelihood of the occurrence of such thoughts in men’s minds.” However, if woman and man pray, say, a *sunna* (recommended) prayer, next to each other individually, this does not lead to invalidation of prayer either, where there are bending and prostration, too. Thus, having *rukūʿ* and *sujūd* does not seem to be what makes the difference. As a result, there seems to be nothing unique to congregational regular prayers to this end, I would conclude.

Since there is nothing unique to them when it comes to the occurrence of sexual thoughts in cases of adjacency, then the mere occurrence of lusty thoughts may not be the *hikma* behind the variant adjacency rulings in different types of prayers. As otherwise, we would expect the adjacency ruling in congregational regular prayers to be in effect in congregational funeral prayers and individual prayers, too, which, we know is not the case.

Then, I would further argue, there might be something that is unique to congregational regular prayers that might be causing another problem which itself invalidates prayer only in congregational regular prayers. However, what could it be?

A dialog between Al-Şaybānī and Abū Ḥanīfa with regard to a complete line of women between the *imām* and the rest of the lines of men, seems to be relevant here. Here are al-Şaybānī’s remarks:

"قلت: رأيت رجلا صلى بقوم رجال ونساء فكان صف تام نساء وهن خلف الإمام وخلف ذلك صفان من الرجال؟ قال: صلاة الصفين فاسدة و صلاة القوم ممن هو أمام النساء و النساء كلهن تامة. قلت: لم ، وإذا كانت المرأة واحدة أفسدت صلاة الذي من خلفها ولم تفسد صلاة الذي من خلف أولئك كما أنه لو كان صفا من النساء أفسدت صلاة الذي خلفهن والذي خلف ذلك أيضا؟ قال: هما في القياس سواء، ولكن أستحسن.<sup>54</sup>"

This translates into English as follows:

I said: What is your view on [the case where] a man who leads a congregation of men and women in prayer and there is a complete line of women behind the *imām* and behind them two lines of men? He responded: the prayers of the two lines are invalid. And the prayers of the congregation consisting of the *imām* of the women and all women are complete. I said: Why? When it was [only] one woman, it invalidated the prayer of the one [i.e. male] behind her and not the prayers of those [male participants] behind those [participants who line up with the one whose prayer was invalidated]. This is similar to the case where it was a [complete] line of women. [Why] would it invalidate the prayer of those male [participants] who are behind these women as well as those male [participants] behind them [i.e. the males right behind the female line]? He said: These are the same in *qiyās*. However, I make *istiḥsān* [i.e. leave my own *qiyās* in favor of a *naṣṣ* (law)].

Thus, a complete line of women between the *imām* and male participants cause invalidation of prayer, and Abū Ḥanīfa says that he is making *istiḥsān*, that is, he is relying on a *naṣṣ* (law) on the matter in hand instead of his own *qiyās*.

Although the excerpt from al-Şaybānī does not provide any information what this *naṣṣ* is, we can nevertheless find this information in *al-Mabsūṭ*, where al-Sarakhsī speaks of a tradition by which Ḥanafis make the aforementioned *istiḥsān*. Al-Sarakhsī makes the following remarks on this:

"فإن كان صف تام من النساء وراءهن صفوف من الرجال فسدت صلاة تلك الصفوف كلها إستحسانا. والقياس مثل الأول أنه لا تفسد الا صلاة صف واحد خلف صفوف النساء لأن تحقق المحاذاة في حقهم. ولكن أستحسن حديث عمر رضي الله عنه تعالى موقوفا عليه مرفوعا الى رسول الله صلى الله عليه وسلم من كان بينه وبين الإمام نهر او طريق او صف من النساء فلا صلاة له.<sup>55</sup>"

This translates into English as follows:

If there is a complete line of women and behind them are lines of men, the prayers of all these lines [of men] become invalid *istiḥsānan* [i.e. leaving *qiyās* in favor of a law on this, which is, in this case, a tradition]. The analogy on this is like the first that it invalidates only the prayer of one line [of males] who pray behind the line of women. This is because adjacency occurs for them. However, I favor the *mawqūf* tradition of ‘Umar (may God be pleased with him) that goes back to the Prophet (God’s peace and blessings be upon him): “For whomever there is a river or road, or a complete line of women between him/her and the *imām*, his/her prayer is not valid.

Thus, the *naṣṣ* which Abū Ḥanīfa leaves *qiyās* in favor of is the tradition narrated from ‘Umar in which it is said that a complete line of women between the *imām* and male participants invalidates the prayers of those males.

The number of male lines behind the complete line of women does not matter. Regardless of their number, all male lines’ prayers will be invalid, as noted by al-Şaybānī:

<sup>53</sup> Al-Maydānī, *al-Lubāb*, I, 107.

<sup>54</sup> Al-Şaybānī, *al-Aṣl*, I, 162.

<sup>55</sup> Al-Sarakhsī, *al-Mabsūṭ*, I, 184.

"إذا كان صف من النساء تام أفسدت صلاة من خلفهن من الرجال وإن كانوا عشرين صفا."<sup>56</sup>

This translates into English as follows:

When there is a complete line of women, it invalidates the prayers of those males behind those line of women even if these males make up 20 lines.

As seen in the excerpts mentioned above, the *sabab* behind the fact that a complete line of women invalidates all male lines behind is the law on this, which is the tradition from ‘Umar (May God be pleased with him).

Al-Sarakhsī also speaks of the *hikma* behind the fact that a complete line of women between the *imām* and male participants, making the following remarks:

"لأن صف من النساء بمنزلة الحائط بين المقتدي وبين الإمام و وجود الحائط الكبير الذي ليس عليه فرجة بين المقتدي والإمام يمنع صحة الإقتداء. فكذلك في صف من النساء."<sup>57</sup>

This translates into English as follows:

This is because a complete line of women functions like a wall between the participant and the *imām*. And the existence of a tall wall that has no hole on it between the participant and the *imām* prevents the validity of the prayer. The same is true for a complete line of women.

This excerpt from al-Sarakhsī indicates that a line of women is like a tall wall that has no hole on it between *muqtadī* and *imām*. But in what sense would a complete line of women be like such a wall?

I believe that this has to do with the fact that when proceeded with a complete line of women, none of the men praying behind can maintain sight of the *imām* due to the mere fact that if they do so, they will inevitably see women in front of them, which would most likely cause, according to the Ḥanafī jurists, sexual thoughts to occur in their minds.

If they cannot maintain sight of the *imām* in congregational prayer, this, as in the case of a tall wall with no hole on it between the *imām* and the *muqtadī*, would lead to *istibāh* for the participants with regard to the position of the *imām* in the congregational prayer.<sup>58</sup> As noted by al-Sarakhsī, the prayers of those males who pray behind a complete line of women become invalid, as in the case of following the *imām* behind a tall wall with no hole on it.<sup>59</sup>

As such, the *hikma* behind the fact that adjacency causes invalidation of prayer in congregational regular prayer has much to do with the fact that the occurrence of sexual thoughts would lead to *istibāh* only in these prayers, which is something that I will explain with some more detail below.

One could avoid such thoughts by fixing their gaze to their *sujūd* place, lest see the women in the front. Or they could even close their eyes completely, despite the fact that closing one’s eyes during prayer is considered a repugnant (*karīh*) act.<sup>60</sup> Thus, a Muslim male would choose to do so to avoid a worse situation of having sexual thoughts cross his mind during prayer.

This does not cause any issue with respect to the validity of their prayers in individual prayer. However, when it comes to congregational regular prayers, for these men to act this way during prayer would also mean that they could not look towards the *imām*. As a result, they would not be able to see the *imām*, directly or indirectly.<sup>61</sup> Thus, a complete line of women would prevent all those men who pray behind from maintaining sight of the *imām*.

The *istibāh* that thus seems to be the *hikma* behind the adjacency legal ruling on congregational regular prayer does not seem to occur in congregational funeral prayers out of adjacency. This is because there is only one state an *imām* can be at in a congregational funeral prayer, that is, *qiyām*. Since there are no different positions that an *imām* can be at in funeral prayers, there is no doubt that can occur in a given participant’s mind with regard to the position of the *imām*. Therefore, *istibāh* does not seem to occur in congregational funeral prayers. Hence, adjacency does not seem to lead to the invalidation of prayer in congregational funeral prayers.

As to the adjacency ruling in individual prayers, there is no *imām* that a given participant needs to follow. Hence, no *istibāh* with

<sup>56</sup> Al-Šaybānī, *al-Aṣl*, I, 162.

<sup>57</sup> Al-Sarakhsī, *al-Mabsūt*, I, 184.

<sup>58</sup> Molla Khusraw, *Durar*, I, 92.

<sup>59</sup> Al-Sarakhsī, *al-Mabsūt*, I, 184.

<sup>60</sup> Normally, closing one’s eyes in prayer is *makrūh*, as mentioned by Molla Khusraw in his *al-Durar*, where he says “*kuriha...tajmīdu ‘aynay-hi li-n-nahyi ‘an-hu*” (It is repugnant... to close one’s eyes due to ban on it) (see Molla Khusraw, *Durar*, I, 106.)

<sup>61</sup> For more information on this, see Ahmet Topal, *Tracing the Influence of Islamic Law on Architecture* (Gümüşev: Istanbul, 2023), 60.

regard to the position of the *imām* can occur in individual prayer out of adjacency simply because there is no *imām* to follow to begin with.

In short, for adjacency to have a legal effect of invalidating prayer, it seems to me as a *hikma* and not as a *sabab* that there has to be *iştibāh* in a given participant's mind with regard to the position of the *imām* in prayer. Thus, there are two constituent elements to look into: (i) an *imām* and a follower (which we could summarize as "an *iqtidā'*") and (ii) different positions of the *imām*. Funeral prayers lack (ii), while individual prayers lack (i). Therefore, it seems that adjacency does not lead to invalidation of prayer in neither of the two. On the other hand, regular congregational prayers have both (i) and (ii). Thus, it seems that adjacency leads to invalidation of prayer in them.

The ongoing discussion on the *hikma* behind the adjacency law should suggest that it is not feasible to rely on *hikma* for the process of law-making in Islamic law. This is because *hikma* in its very nature tend to be subjective whereas *sabab* or *'illa*, whichever applies, is objective. The *hikma* behind the adjacency law in congregational prayer, that is, the occurrence of *iştibāh*, represents this, too. The *hikma* behind the adjacency law may sound well in explaining why adjacency causes invalidation in congregational regular prayers while it does not in funeral or individual prayers. However, it is by no means flawless.

As a matter of fact, although *iştibāh* explains why adjacency in congregational regular prayers causes invalidation of prayer for male participants, it cannot explain, why the prayer of the *imām* becomes invalid if adjacency takes place between him and a female participant. At the end of the day, the *imām* does not have to maintain his own sight, as he already knows his own position in prayer. Therefore, this paper generally supports the idea that relying on *sabab* or *'illa* rather than *hikma*, for law-making in Islamic law constitutes a far more objective and feasible approach.

## Conclusion

Unlike the case in regular congregational prayers, in individual (*munfarid*) and congregational funeral (*janāza*) prayers, adjacency (*muḥādāt*) does not lead to invalidation of prayer. Classical manuals of Islamic law clearly mention the *sababs* (reasons) behind this. Each of these *sababs* are discussed in sections 3.2, 3.3, and 3.4. above. However, when it comes to the *hikma* behind it, there seems to be a gap in the literature, classical or otherwise.

The *hikma* behind the fact that adjacency causes invalidation of prayer only in congregational regular prayers should be the fact that in neither individual prayers nor congregational funeral prayers *iştibāh* occurs as a result of the occurrence of sexual thoughts in men's minds. In fact, in individual prayers there is no participant following an *imām*, so no *iştibāh* with regard to the position of the *imām* can occur for anyone even if one closes his eyes to avoid seeing women adjacent to him. In funeral prayers there are no variant positions that the *imām* can be at. In fact, the *imām* is always in the state of *qiyām*. Hence, there can be no *iştibāh* with regard to the position of the *imām* in funeral prayers due to the occurrence of sexual thoughts.

However, as to *hikma* behind the fact that adjacency leads to invalidation of prayer in regular congregational prayers, it seems to be that adjacency in these prayers lead to *iştibāh* with regard to the position of the *imām*. In fact, as noted above according to Ḥanafī jurists, lusty thoughts will come, in most cases, to a male participant's mind when praying adjacent to a female participant. However, even the slightest sexual thought is not wanted in prayer. Therefore, wanting to avoid the occurrence of any sexual thoughts in his mind, he would most likely keep his gaze lowered or eyes closed. Once he does this, he would be unable to see the *imām* directly or indirectly. Thus he would have doubts with regard to the position of the *imām* in the prayer.

As such, the *hikma* behind the fact that adjacency cause invalidation of prayer only in congregational regular prayers is that occurrence of lusty thoughts leads to *iştibāh* in only congregational regular prayers.

By revealing what I considered to be the *hikma* behind the adjacency law, this paper generally illustrates that it is far more reliable to base legal rulings on *sabab* rather than *hikma* for law-making, as the former is objective while the latter is subjective.

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