

Another correspondence between MIn Taha and his student

[MIn Yaqub wrote]

as-salamu alaykum wa rahmatuLlah,

Imam al-Haramayn in his *Nihayah* (2, 163) mentions first an issue *qawlayn*; considering which limbs must be placed down onto the ground in *sujud*. Thereafter, he brings up the issue of the exposure of certain limbs in *sujud* as another issue; also an issue of *qawlayn*. It seems from this that the issue of which limbs must be placed on the ground for a valid *sajdah* and the exposed of them in *sujud* are distinctly separate issues.

Imam Ghazzali explains the two issues likewise, both being issues of *qawlayn*. (*Fath al-Aziz*, 1, 520) Commenting on Imam Ghazzali's words Imam Rafi'i says:

وإذا أوجبنا وضع الركبتين والقدمين فلا نوجب كشفهما

Imam Nawawi considers placing the seven limbs on the ground as obligatory. And, the conflict that you mentioned between him and Rafi'i seems apparent. In his *Tahqiq* (108) he says *bi wujub hi 'ala al-madhhab*. In *Sharh al-Muhadhdhab* he says *inna hu al-Arjah fi al-dalil wa al-mukhtar al-sahih*. He indicates that Imam Shafi'i leaned towards this *tarjih* in his *Umm*. It does seem like Imam Shafi'i goes that way in his *Umm* (1, 99) wherein he says *fa in sajada 'ala zahri kaffayhi*. Also, Tabari held this view; so did Abu Nasr al-Maqdisi and Shaykh Abu Hamid. In the *asl* of *Rawdah* the *tarjih* is given to it not being obligatory, and Imam Nawawi in the *ziyadah* again states his view; that in fact it is obligatory. (1, 256) He continued to express this opinion in his *Minhaj*; and the commentators such as Khatib Shirbini, brought forth explanations of the evidence. Such as the *hadith* of Bukhari and Muslim:

أمرت أن أسجد على سبعة أعظم...

In *Sharh Sahih Muslim* (4, 208) Imam Nawawi comments on this *hadith* again mentioning the issue of what must be placed on the ground *qawlayn*. And subsequently, mentions the issue of exposing them as *qawlayn*. He says in this text that with the relied-upon opinion being the seven limbs touching the ground, then still the knees and the hands do not need to be exposed.

Here I noticed an interesting wording, wherein Imam Nawawi says:

قوله صلى الله عليه وسلم سبعة أعظم أي أعضاء فسمى كل عضو عظما وإن كان فيه عظام كثيرة

Anyway maybe you have some insights into this wording? I am taking in from it that a portion of each limb suffices for the *sujud*.

I noticed that Imrani in his *Bayan* (2, 219) cites *Sahib al-Furu* as holding the opinion that *sujud* on the *zahir* of the feet is sufficient. Be that as it may, most seem to shy away from that stance.

For example, Khatib Shirbini (*Mughni al-Muhtaj*, 1, 260) maintains that the *batin* of the toes must be what touches the ground. Defining that to be what is opposite to the *zahir* of them or a *harf* from them. I read into his mention of *zahir* and *harf*, that the top portion of the toes i.e. the side that generally has a toenail and the tips of the toes.

Bujayrami commenting on Khatib (2, 178-79) mentions that the toes are considered even if only a portion from one of the toes on each foot.

I have two questions that came from this reading. The first, some modern day footgear could hinder the *batin* of the toes from touching. Like for example, steel-toed work boots or heavy winter boots. If the footgear would hinder any portion of the toes from touching, so would this be problematic to praying in them?

The second question is that *Sahib Kifayat al-Akhyar* seems to contend that Imam Nawawi's opinion is the *azhar* according to him whilst the *azhar* according to Imam Shafi'i is what Rafi'i opined. Are their other post-Nawawi scholars who went this way?

Salams,

Yaqub

[Min Taha replied]

Wa `alaykum salam wa rahmatuLlahi wa barakatuh

In the case of hard inflexible footwear I am of the opinion that the footwear itself should be regarded as a kind of extension of the foot itself. Since it is sufficient to place the atraf of the toes on the earth, placing the tips of such shoes, too, should suffice. But have not seen any naql on the issue.

I think you may have misread the text of *Kifayat al-Akhyar*. What I see him mentioning is simply that the *azhar* according to Rafi'i is that placing the hands, knees and feet is not *wajib*, while according to Nawawi it is *wajib*. He does not make reference to an *azhar* according to Imam Shafi'i.

I am not aware of any of the Muta'akhhirin siding with Rafi'i on the issue. However, Shirwani quotes something from the hashiyah on *Tuhfah* by Sayyid 'Umar Basri (student of both Ibn Hajar and Ramli) in which a question mark is placed on the applicability of the hadith on the strength of which Nawawi's *tarjih* rests.

I would add here that Nawawi's *tarjih* rests not only upon the hadith, but also upon the fact that Imam Shafi'i himself appears to have given preference to the *qawl* that Nawawi prefers. We generally state that in cases of *ikhtilaf* it is to the Shaykhayn that we look for *tarjih*, and that in assigning *tarjih* the Shaykhayn are guided either by *quwwat al-dalil* or by *akthariyyah*. This statement, while by and large correct, does happen to be somewhat elliptical, in that it overlooks another important rule of *tarjih*. The rule I refer to is that which Sayyid Umar's students, Ibn al-Jammal, states in his treatise of *taqlid*, *Fath al-Majid*. He writes (and I quote from a copy of the book which we are presently editing):

وإذا رجح الشافعي رحمه الله تعالى شيئاً من القولين أو الأقوال فهو الراجح. ويعلم ذلك بأمر:

[1] التأخير

[2] فالنص على الرجحان

[3] فالتفريع عليه وحده

[4] فالقول عن مقابله: إنه مدخول أو يلزمه فساد

[5] فإفراده في محل

[6] فموافقة مذهب مجتهد لتقويته به.

كذا بالمعنى في التحفة أخذاً من الروضة في بعضه...

وإذا لم يرجح الشافعي شيئاً من القولين أو الأقوال واختلف ترجيح الأصحاب، فالذي عليه محققوا المتأخرين أن المعتمد الراجح ما اتفق عليه الشيخان

[MI Yaqub wrote]

wa alaykum salam wa rahmatuLlahi wa barakatuHu,

JazakaAllah khayran. After reopening *Kifayah* I realized that I did misquote from it. AstaghfiruLlah.

After reading the passage that you sent I would like to clarify. If Imam Shafi'i himself gave *tarjih* to something, so then his *tarjih* would take preference over that of Shaykhayn?

Yaqub

[MIn Taha replied]

Yes you have understood the passage correctly. However, in my experience it rarely happens that Imam Shafi'i actually pronounces *tarjih*. Where one is able to discern chronological sequence (as in instances of *qadim-jadid*) the sequence in itself becomes an implicit form of *tarjih*, in the sense that the former is repealed by the latter. However, explicit *tarjih* by Imam Shafi'i is something I don't think commonly occurs. This probably explains why it is rarely mentioned by those who discuss the rules of *tarjih*.

As for your question specifically, whether the *tarjih* of Imam Shafi'i would take precedence over the *tarjih* of the Shaykhayn, I have at the moment no statistics nor examples to substantiate an answer, but what would theorise is that the Shaykhayn's *trjih* would (hopefully) fall in line with that of Imam Shafi'i, invariably. At any rate, it is a phenomenon worth studying.

I have just now inspected the text from *al-Umm* to ascertain whether we have an actual case of *tarjih* by Imam Shafi'i on this point. The case in question is one of the very few cases in which Imam Shafi'i states two *qawls* at the same place; normally the two *qawls* are found in different works, or stated in different parts of the same work, implying chronological separation. The phenomenon of stating two *qawls* at the same place occurs in only a handful of cases. The only indication of *tarjih* I see in this instance is where he states, after the first of the two *qawls*:

وهذا مذهب يوافق الحديث

I have read the text very hastily so I might have missed something. Knowing Imam Shafi'i's devotion to *hadith*, I think it would be fair to say that this from him is in fact a form of *tarjih*. ملءاً للالاو.

However something else caught my eye as I was scanning through this text. He discusses the issue of the feet actually touching the ground where the person happens to be wearing *khuffs* or sandals.

وأحب إذا لم يكن الرجل متخففا أن يفضي بقدميه إلى الأرض، ولا يسجد منتعلا فتحول النعلان بين قدميه والأرض، فإن أفضى بركبتيه إلى الأرض أو ستر قدميه من الأرض فلا شيء عليه لأنه قد يسجد منتعلا ومتخففا ولا يفضي بقدميه إلى الأرض

The first section in red says that one should not make *sujud* in sandals since in this case the sandals would come between his feet and the earth. This, however, is merely what is preferable and not necessary as shown firstly by the fact that the previous sentence starts with بح (I prefer), and secondly, the second section in red states clearly, in substantiation of the validity of the *salah* where the knees are uncovered for *sujud*, that *sujud* is sometimes made in leather socks and sandals without the actual feet touching the ground.

If one couples this with the fact that *salah* was commonly made (even ordered by *RasuluLah* *sallaLlahu `alayhi* *wasallam* to be made) in sandals, and that no command to remove the sandals was ever given, despite the fact

that sandals form a substantial barrier between the feet and the ground, I think it gives credence to what I stated about the shoe being regarded as an extension of the foot.