

Legal Age of Bulugh For Girls

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What follows is a summary of a number of discussions held by me and three other seminarians, where arguments of numerous jurists on the legal age of maturity (bulugh) for girls were investigated. Even though we find a classical scholar considering menstruation as the criterion for the obligation of fasting in the month of Ramadan, the popular opinion amongst Shi'i Imami jurists has been that the age of bulugh for girls for all religious duties including fasting is nine lunar years.

However, there are other jurists who do not believe nine to be an indicator of bulugh but rather other signs of puberty up until the age of thirteen. If no signs of puberty are seen in a girl beyond thirteen then she is to be considered of legal age at the completion of thirteen years.

Opinions Of Shi'i Scholars

1. Bulugh at Nine Years

This has been the popular opinion ever since the time of Shaykh al-Tusi (d. 460) up until today. Listing all the scholars who held this view would be unnecessarily lengthening the post. For recent times see for example Imam Khomeyni (d. 1989 CE)¹ or Sayyid Sistani's opinion on the matter.² Sayyid Ahmad Madadi issues an obligatory precaution for nine years.³

Bulugh at Ten Years .2

Shaykh al-Tusi (d. 460) in one section of his al-Mabsut⁴, Qutub al-Din Rawandi in his Fiqh al-Quran⁵ and Ibn Hamzah in his al-Wasilah⁶ all say the age of maturity for girls is ten years. On a side note, multiple opinions can be seen in the works of Shaykh al-Tusi or ascribed to him by later scholars, such as nine years, ten years, menstruation or thirteen years, other signs of puberty and even fifteen years.

Bulugh at Menstruation or Thirteen Years .3

Amongst classical scholars, Shaykh al-Saduq believed bulugh was marked by menstruation, particularly when it came to the obligation of fasting⁷. In contemporary times a number of jurists say the age of bulugh is menstruation or thirteen years. Jurists such as Sayyid

Fadlullah⁸, Yusuf Sani⁹, Muhammad Ya qubi¹⁰, Hadi Marifat¹¹, and Taqi Modarresi¹². Most of those who hold this opinion also believe that a girl can reach bulugh before the age of thirteen if signs of puberty other than menstruation are shown. This is similar to the view of the majority of jurists regarding the age of bulugh for boys where fifteen lunar years is considered the age of bulugh, but any signs of puberty – such as a wet-dream or growth of coarse pubic hair – before the age of fifteen will also make them legally responsible

Bulugh Solely Through Puberty .4

These scholars believe the age of legal maturity is the same as biological puberty and that age has no role to play in it at all. For example, Ibrahim Jannati believes bulugh is attained through menstruation alone, and that if a girl does not menstruate then she should go with the age her close relatives and family members¹³

Bulugh According to Type of Responsibility .5

Mulla Fayd Kashani leans towards the view that bulugh differs depending on what the responsibility happens to be¹⁴. He says this is why traditions allude to different ages and signs in the chapters concerning fasting, prayers, capital punishment, and so on. Although he does not seem to expand on this view in any further detail.

The only major scholar who fully accepted this view and expanded on it in some detail was Ayatullah Sadiqi Tehrani (d. 2011). He divides bulugh based on six different stages. His view¹⁵ can be summarized as follows:

1. Prayer becomes obligatory once a child has achieved the mental potential necessary to reach an understanding, however basic it may be, of God and religion (~10 years).
2. Fasting becomes obligatory once a juvenile is physically capable of handling such significant strain without suffering too much loss in function (~13 years).
3. Marriage becomes possible when adolescents go through physical puberty in a sexual and reproductive capacity. Thus, girls would naturally pass this milestone earlier than boys in general.
4. Economic burdens and duties take effect when a teenager obtains financial maturity (rushd).
5. Enjoining good & forbidding evil become obligatory once a young adult has cultivated social maturity (rushd) to the degree that (s)he has developed some sort of social standing.
6. Jihad becomes obligatory upon men, who have neared their physical prime, with the robustness needed for it.

Opinions Of Sunni Scholars

For their academic worth, the views of some Sunni jurists will be summarized below:

1) Imam Shafi i: Menstruation or fifteen years¹⁶.

2) Abdullah b. Qudamah while citing different opinions mentions: Ejaculation of sperm from the vagina in the case of a hermaphrodite, or menstruation, or coarse pubic hair, or fifteen, or seventeen-years – the last two due to a difference of opinion amongst certain jurists¹⁷.

3) Abu al-Barakat: Eighteen-years, or ejaculation, or menstruation, pregnancy, or coarse pubic hair¹⁸.

4) Haskafi: Wet-dream, or menstruation, or pregnancy, or nine years¹⁹.

5) Dr. Sa di Abu Habib says the Hanbali view is: Wet-dream, or fifteen years, or pubic hair, or menstruation, or pregnancy²⁰.

Based on these opinions it can be seen that setting bulugh at nine years for girls is a unique Shi i Imami view, and Sunni scholars generally mark bulugh as signs of puberty or at a much higher age. The opinion of nine years amongst Sunni jurists is a rare one

Quranic Verses

:There are five verses that apparently refer to the notion of bulugh. These verses are as follows

يَا أَيُّهَا الَّذِينَ آمَنُوا لِيَسْتَأْذِنَكُمْ الَّذِينَ مَلَكَتْ أَيْمَانُكُمْ وَالَّذِينَ لَمْ يَبْلُغُوا الْحُلُمَ مِنْكُمْ ثَلَاثَ مَرَّاتٍ مِّن قَبْلِ صَلَاةِ الْفَجْرِ وَحِينَ تَضَعُونَ ثِيَابَكُمْ مِّنَ الظَّهْرِ وَمِنَ الْغَدَاةِ ثَلَاثَ عَوْرَاتٍ لَّكُمْ لَيْسَ عَلَيْكُمْ وَلَا عَلَيْهِمْ جُنَاحٌ بَعْدَھُنَّ طَوَافُونَ عَلَيْكُمْ بَعْضُكُمْ عَلَى بَعْضٍ كَذَلِكَ يُبَيِّنُ اللَّهُ لَكُمْ الْآيَاتِ وَاللَّهُ عَلِيمٌ حَكِيمٌ

O you who have faith! Let your permission be sought by your slaves and those of you who have not reached puberty (lam yablughu) three times: before the dawn prayer, and when you put off your garments at noon, and after the night prayer. These are three times of privacy for you. Apart from these, it is not sinful of you or them to frequent one another [freely]. Thus does [Allah clarify the signs for you, and Allah is all-knowing, all-wise. [24:58

وَإِذَا بَلَغَ الْأَطْفَالُ مِنْكُمُ الْحُلُمَ فَلْيَسْتَأْذِنُوا كَمَا اسْتَأْذَنَ الَّذِينَ مِن قَبْلِهِمْ كَذَلِكَ يُبَيِّنُ اللَّهُ لَكُمْ آيَاتِهِ وَاللَّهُ عَلِيمٌ حَكِيمٌ

When your children reach puberty (al-hulum), let them ask permission [at all times] just as those who asked permission before them. Thus does Allah clarify His signs for you, and Allah is all-knowing, all-wise. [24:59]

.These two verses connect the idea of seeking permission to puberty

وَابْتَلُوا الْيَتَامَى حَتَّى إِذَا بَلَغُوا النِّكَاحَ فَإِنْ آنَسْتُمْ مِنْهُمْ رُشْدًا فَادْفَعُوا إِلَيْهِمْ أَمْوَالَهُمْ وَلَا تَأْكُلُوهَا إِسْرَافًا وَبِدَارًا أَنْ يَكْبَرُوا وَمَنْ كَانَ غَنِيًّا فَلْيَسْتَعْفِفْ وَمَنْ كَانَ فَقِيرًا فَلْيَأْكُلْ بِالْمَعْرُوفِ فَإِذَا دَفَعْتُمْ إِلَيْهِمْ أَمْوَالَهُمْ فَأَشْهَدُوا عَلَيْهِمْ وَكَفَى بِاللَّهِ حَسِيبًا

Test the orphans when they reach the age of marriage (hatta idha balaghu al-nikah). Then if you discern in them maturity (rushdan), deliver to them their property. And do not consume it lavishly and hastily lest they should grow up. As for him who is well-off, let him be abstemious, and as for him who is poor, let him eat in an honourable manner. And when you deliver to them their property, take witnesses over them, and Allah suffices as reckoner. [4:6]

Test the orphans when they have reached an age of marriage and if you find them to be mature .then you can give them their properties

وَلَا تَقْرَبُوا مَالَ الْيَتِيمِ إِلَّا بِالَّتِي هِيَ أَحْسَنُ حَتَّى يَبْلُغَ أَشُدَّهُ وَأَوْفُوا الْكَيْلَ وَالْمِيزَانَ بِالْقِسْطِ لَا نُكَلِّفُ نَفْسًا إِلَّا وُسْعَهَا وَإِذَا قُلْتُمْ فَاعْدِلُوا وَلَوْ كَانَ ذَا قُرْبَىٰ وَبِعَهْدِ اللَّهِ أَوْفُوا ذَلِكُمْ وَصَاكُم بِهِ لَعَلَّكُمْ تَذَكَّرُونَ

Do not approach the orphan's property, except in the best [possible] manner, until he comes of age (hatta yablugha ashudda-hu). And observe fully the measure and the balance with justice.' We task no soul except according to its capacity. 'And when you speak, be fair, even if it were a relative; and fulfill Allah's covenant. This is what He enjoins upon you so that you may take [admonition.]' [6:152]

وَلَا تَقْرَبُوا مَالَ الْيَتِيمِ إِلَّا بِالَّتِي هِيَ أَحْسَنُ حَتَّى يَبْلُغَ أَشُدَّهُ وَأَوْفُوا بِالْعَهْدِ إِنَّ الْعَهْدَ كَانَ مَسْئُولًا

Do not approach the orphan's property except in the best manner until he comes of age (hatta yablugha ashudda-hu). And fulfill the covenants; indeed all covenants are accountable. [17:34]

The last two verses are also related to orphans and their treatment. Three terms are used in these verses, namely hulum, nikah and rushd – all having been subject to slightly different interpretations by exegetes. These verses refer to certain parameters that become applicable upon those who reach (yablughu) one of these three terms. The word hulum is generally understood as sexual maturity although some have opined it refers to a wet-dream; nikah is a reference to the age where a child is physically capable of engaging in sexual intercourse; and rushd is generally a reference to intellectual maturity.

As it can be seen however, there is absolutely nothing in these verses that defines bulugh with a specific age, either for boys or for girls. In fact, even the majority of the jurists in their

discussions have not concerned themselves too extensively with these verses and have focused their discussion primarily on the traditions since that is where we get an indication that this age of maturity is defined by a certain age range. As such, this post will not expand on these words in any further detail

Traditions

There are numerous traditions regarding the general subject of bulugh, but as will be seen, many of these traditions are not authentic. Furthermore, some traditions speak about the bulugh of boys specifically, others about the bulugh of girls, while some others speak in general terms regarding all children. Moreover, the narrations are often found in chapters concerning different subject matters. For example, some traditions are found in the chapters regarding capital punishment, some in the section of marriage, some in the section concerning orphans, some in the section of prayers, or fasting and so on.

As such, I will only be putting the translations of those traditions that are immediately relevant and were directly used by the jurists in their jurisprudential discussion concerning the bulugh of girls. This means traditions that solely speak about the bulugh of boys are not being mentioned. I will put up the translations of traditions in order of how they appear in volume 1, page 474 onwards of Jam i al-Ahadith of Ayatullah Borojerdi, but the Arabic of every tradition will not be posted as to not lengthen the post

Tradition 1

Muhammad b. Ibrahim b. Ishaq from Abd al-Aziz b. Yahya from Muhammad b. Zakariyyah from Ahmad b. Abi Abdillah al-Kufi from Sulayman b. Hafs al-Marwazi from al-Rida (a) who said: The pen does not write for a child until bulugh.²¹

The chain of this tradition is weak due to Sulayman b. Hafs al-Marwazi. There is no explicit tawthiq given to him in the words of the scholars, and Sayyid al-Khu'i only initially deemed him reliable due to his appearance in Kamil al-Ziyarat (a view Sayyid al-Khu'i himself retracted near the end of his life).

Though this specific tradition is not from the four primary books, Sulayman has approximately 13 traditions (omitting repetitions) in those four works, most of them in Tahdhib al-Ahkam. According to Sayyid Shubayri Zanjani, the content of eight of these traditions is extremely strange and cannot be reconciled. Even if one of those eight could be reconciled, the rest cannot be. The content of his traditions generally conveys meanings that no jurist has ever given a verdict on. For example, one of his tradition suggests that gargling and rinsing your nose while fasting invalidates your fast and as well as necessitates a penalty. In another

tradition it says that the Sa – an ancient measurement of volume – is five mudd, even though the correct opinion is four. In yet another tradition it says Umrah Tamattu has a Tawaf al-Nisa' despite the verdict of jurists saying it does not. In another tradition of he mentions the condition for shortening the prayer as two farsakh – back and forth – even though the opinion of the jurists is four farsakh.

As such, besides the fact that we do not know if he was trustworthy, the contents of his traditions makes it even less likely for anyone to attain assurance and conviction in what he is reporting, let alone permit us to for purpose of deriving a law

Tradition 2

Muhammad b. Yahya from Ahmad b. Muhammad from Ibn Mahbub from Abd al- Aziz al- Abdi from Hamzah b. Humran said: I asked Aba Ja far (a), 'When is it required for a boy to be taken to charge for a complete capital punishment and that it be implemented on him?' He (a) replied: 'When he is no longer considered an orphan and can comprehend things. For that stage, there is a known description. When a boy gets a wet-dream, or reaches 15 years, or grows pubic hair before that, then the complete capital punishment is implemented on him and he is taken to charge with it.'

I asked, 'When does the complete capital punishment become applicable upon a girl and that she be taken to charge with it?' He (a) said: 'A girl is not like a boy. If a girl marries and is penetrated through intercourse while she is 9 years of age, she is no longer considered an orphan, her wealth is given back to her, she is able to conduct transactions and the complete capital punishment is applicable upon her and is taken to charge for it. A boy cannot conduct transactions until he is no longer considered an orphan, which is when he reaches the age of 15 years, or gets a wet-dream, or grows pubic hair before that.²²'

Najashi explicitly calls Abd al- Aziz weak²³. The only way to strengthen this tradition is if someone accepts the premise of Ashab al-Ijma and considers Ibn Mahbub from those narrators. Sayyid Zanjani considers this tradition to be reliable and takes the approach that since Hasan b. Mahbub and other scholars relied on Abd al- Aziz's works and transmitted his traditions, that gives us enough assurance that the transmissions were reliable.

Another issue in the chain is Hamzah b. Humran who does not have explicit tawthiq either. Sayyid Zanjani considers him reliable since his books were also transmitted by companions such as Ibn Abi Umayr and Safwan b. Yahya. Although with the methodology employed by Sayyid al-Khu'i, Hamzah cannot be considered reliable

Tradition 3

Muhammad b. Yahya from Ahmad b. Muhammad from Ibn Mahbub from Abi Ayyub al-Khazzaz from Yazid al-Kunasi from Abi Ja far (a): 'When a girl reaches 9 years of age, she is no longer considered an orphan, she can be married off and the complete capital punishment can be implemented upon her.' I said, 'If a father marries off his boy and he has intercourse with his spouse, while he does not comprehend, is that stage enough for capital punishment to be applicable on him?' The Imam (a) replied: As for a complete capital punishment that is implemented upon a man, then no. However, he can be whipped in all penal cases in accordance with his age. He can be taken to charge with that between that age and up until 15 years – the limitations set by Allah are not invalidated for the sake of His creation and the rights of the Muslims between each other are not invalidated.²⁴

There is no explicit tawthiq for Yazid al-Kunasi, however, Sayyid Zanjani has attempted to strengthen him through two ways:

1) We find great companions and scholars relying on his traditions, such as Abu Ayyub al-Khazzaz, Hisham b. Salim, Jamil b. Salih, and these were not people who would constantly transmit from someone who they deemed unreliable. This approach could generally work for those who are simply looking to arrive at mere speculation and accept the probativity of speculation in these situations.

2) Proving that Yazid al-Kunasi is the same individual as Yazid Abu Khalid al-Qummat. Sayyid Zanjani cites a number of alibis to suggest these two names are actually one individual. The latter has an explicit tawthiq in the words of Najashi. In that case this chain would definitely be considered authentic (sahih). Some of these alibis are: a) The name Yazid was not a very common name, unlike Muhammad, Hasan, Ali and so on; b) Abu Khalid al-Qummat was a Kufan and al-Kunasi is a title given to those who were from the vicinity of Kunas in Kufa; c) Both are companions of Imam Baqir and Imam Sadiq and a number of the Imams' companions narrate from both these two names as per what is written in the manuscripts; d) Najashi mentions Yazid Abu Khalid al-Qummat while Shaykh al-Tusi mentions Yazid Abu Khalid al-Kunasi in his al-Rijal – if these were two different individuals then as per standard expectation, both of these scholars should have mentioned two separate individuals with two separate names.

.These are all alibis that suggest both these names belong to one person

Tradition 4

Muhammad b. Yahya from Ahmad b. Muhammad b. Isa from Muhammad b. Yahya from Talha b. Zayd from Abi Abdillah (a): 'Children of Muslims are considered intercessors with accepted intercession before Allah. When they become twelve years old they can have good

deeds and when they mature (al-hulum) then sins are written against them.^{25'}

This tradition is weak due to Talha b. Zayd who has no tawthiq. He was also a Batri, although there is a discussion amongst scholars on whether that would be enough to reject his tradition. Batris are those Muslims who believe Ali (a) to be the rightful authority after the Prophet (S), but that wilayah is from those matters that can be delegated to others and that this is what Ali (a) did due to the best interest of the Muslim community. Many Sunni scholars during the time of the Imams were Batris and there are signs in history which show Abu Hanifah to have held such a view as well.

Tradition 5

Muhammad b. al-Hasan b. Ahmad b. al-Walid narrated to us (Shaykh al-Saduq) from Muhammad b. al-Hasan al-Saffar from al- Abbas b. Ma ruf from Muhammad b. Sinan from Talha b. Zayd from Ja far b. Muhammad from his father (a) – the same as above²⁶. This tradition is weak due to the reason mentioned in the previous tradition.

Tradition 6

Muhammad b. Ali b. Mahbub from Muhammad b. al-Husayn from al-Hasan b. Ali from Amr b. Sa id from Musaddiq b. Sadaqa from Ammar al-Sabati from Abi Abdillah (a): I asked him about a boy, when is prayers obligatory upon him. He (a) replied, 'When he is 13 years old. If he has had a wet-dream before that, then prayers are obligatory upon him at that point and the pen begins to record his deeds. A girl is likewise, when she is 13 years old, or if she has her period before that, then prayers is obligatory upon her and the pen records her deeds.'²⁷ This tradition is considered reliable (muwaththaq), though it has a number of Fatahi narrators, they are trustworthy.

Tradition 7

Humayd b. Ziyad from al-Hasan b. Sama ah from Ja far b. Sama ah from Adam Bayya al-Lu'lu from Abdillah b. Sinan from Abi Abdillah who said: 'When a boy reaches 13 years of age, good and bad deeds are recorded for him and he is punished. When a girl turns 9 years old, then likewise, and that is because she menstruates at the age of 9.'^{28'} This tradition is reliable (muwaththaq), though it has a number of Waqifi narrators, they are trustworthy.

Tradition 8

My father narrated to me (Shaykh al-Saduq) from 'Ali b. Ibrahim b. Hashim from his father, from Muhammad b. Abi 'Umayr from more than one person, from Abi 'Abdillah who said: 'The

limit of bulugh for a girl is 9 years.^{29'}

This tradition is weak because it is mursal – though it could depend on whether one accepts
.the mursalat of Muhammad b. Abi Umayr

Tradition 9

Muhammad b. Ahmad b. Yahya from Muhammad b. Isa from Sulayman b. Hafs al-Marwazi from a man (a) who said: 'When a boy completes 8 years and he can manage his affairs, then the obligations and penalties are applicable. When 9 years are complete for a girl, then likewise.^{30'}

This tradition is weak due to Sulayman b. Hafs al-Marwazi – the same narrator in the first report. This is one of those traditions of Sulayman that Sayyid Shubayri Zanjani believes is
.strange and cannot be reconciled

Tradition 10

Ali b. al-Hasan from al- Abdi from al-Hasan b. Rashid from al- Askari (a) who said: 'When a boy reaches 8 years, he is able to take care of his own wealth and the obligations and legal penalties are applied on him, and when 7 years (in some manuscripts: 9 years) are completed for a girl, then likewise for her.^{31'}

This tradition could be considered weak due to Shaykh al-Tusi's path to Ali b. al-Hasan, which has Ali b. Muhammad b. al-Zubayr in the chain. He has no explicit tawthiq. Although, some scholars have tried to strengthen this path through a number of ways, whose details do not concern us in this post. If someone accepts one of those methods, then this tradition would be
. (considered reliable (muwaththaq

Tradition 11

Al-Husayn b. Sa'id from al-Qasim b. Muhammad from Ali (b. Abi Hamza) from Abi Basir from Abi Abdillah (a) who said: 'When a boy gets a wet-dream then upon him is the fast, and when a girl menstruates then upon her is the fasting and the covering (khimar) except if she is a slave, then there is no covering upon her, except if she likes to cover up, but upon her is the fast.^{32'}

Even though Qasim b. Muhammad was a Waqifi, some scholars have deemed him trustworthy
. (and have therefore graded this tradition as reliable (muwaththaq

Tradition 12

In another tradition: When a boy gets a wet-dream then upon him is fast, and when a woman menstruates then upon her is fasting^{33.}

The above tradition would be considered weak as it has no chain of narrators, unless someone accepts the mursalat of Shaykh Saduq. In any case, the above tradition is the fifth and last tradition Shaykh Saduq cites in the chapter where he brings traditions mentioning the time when children are to begin fasting. After mentioning this last tradition he writes:

The meanings of these reports – all of them – agree that a boy is to fast when he reaches between nine to fourteen years or fifteen years and gets a wet-dream. Likewise, a girl when she menstruates. The obligation of fasting upon them two is after a wet-dream and after menstruation and anything before that is for training purposes³⁴.

As can be seen, most of the traditions are not authentic and do not meet academic scrutiny for one to be able to use them to legislate law, Others can be graded as muwaththaq depending on a jurist's personal premises established in Ilm al-Rijal. Hence, for purposes of brevity, this post will only focus on two or three main traditions which have been the subject of most scholarly discussions on this topic. These narrations are #6 and #7. In narration #6, the age for bulugh is mentioned as thirteen, whereas in narration #7 the age for bulugh is mentioned as nine, although interestingly the reason for it as mentioned in the tradition itself is that it is the age when a girl menstruates.

Other traditions depending on one's premises in the sciences of hadith and rijal can allow them to accept a few more traditions such as narration #8 which explicitly defines the age of bulugh for a girl as nine years, and as well as narration #11 and #12 which, though are specifically regarding the fast of the month of Ramadan, consider its obligation to be when a girl menstruates.

In any scenario, a scholar's hermeneutical presumptions will either allow them to look at these traditions and consider this to be a case of having to deal with contradictions in the reports, or they will argue that there are no contradictions to begin with. Those that believe there is a contradiction in these reports say that the contradiction is between the ages nine and thirteen, or between ages nine and other signs of bulugh such as menstruation and growth of coarse pubic hair.

.What follows is a description of how both these camps reconcile and interpret these traditions

Reconciling Contradictions

The majority of scholars read these traditions and understand contradiction from it. As a preliminary, there is a difference of opinion amongst jurists whether the word bulugh has been redefined by the Shari ah or not. In other words, though bulugh has a common meaning linguistically, is it being used in its linguistic meaning in the traditions. If it is being used in a meaning other than it, then bulugh cannot be both at the age of nine and thirteen.

The notion that a word with a common meaning in day to day conversation can be redefined by the Shari'ah is not uncommon in jurisprudential discussions. For example, while the term 'capacity' may mean something very straightforward in day to day conversation, but when Allah (swt) says one should make the pilgrimage when they have the 'capacity' to do so, over here a very specific definition constructed by the Shari'ah is implied. Here capacity refers to not just the physical ability to travel to Makkah, but rather other conditions as well such as financial capacity, sufficient time, and so on.

An example that relates to our present discussion is menstruation. The Shari'ah has defined menstruation as blood that is seen with certain qualities after the age of nine. If a girl were to see blood before the age of nine, even if it is a consequence of the exact same biological process that occurs after the age of nine, this blood is not to be considered menstruation. If the word bulugh is not being used in its linguistic meaning, then what role does the number nine play in these traditions? These scholars might argue that it is not biological puberty that is relevant, rather the numerical value nine itself is relevant. On the contrary, most scholars believe that the Shari'ah has not redefined the word bulugh. If that is the case, then these scholars will argue that the Shari'ah has considered nine as a submissive path (al-tariqiyyah al-ta'abbudiyyah) to ascertaining bulugh³⁵.

When jurists enter into discussions of apparent contradictions, they first attempt to justify the contradiction through ways that are reasonably understood and acceptable in language :convention. In this context, Ayatullah Muhsini says

و مقتضى الجمع بينهما حمل الحديث الأول على الاستحباب

As per standards of reconciling between these two traditions, the first hadith (regarding nine years) should be predicated on istihbab (recommendation). In other words, one can reasonably justify that the Imams (a) may have said nine years on some occasions because they were mentioning the recommended age a girl should be asked to fulfill religious obligations. Whereas, when the Imams (a) mention thirteen, they are referring to the age when religious duties become obligatory on the girl. This is one way of reconciling this tradition, hence Ayatullah Muhsini himself goes on to :conclude

و إن تمّ ما ذكرناه فبلوغ الصبية بدم الحيض و استعدادها للنكاح أو أن يأتي عليها ثلاث عشرة سنة

If the argument we have mentioned is complete, then the bulugh of a girl is through menstruation and her ability to engage in sexual intercourse, or if she turns thirteen years old. Not all jurists agree with the above reconciliation and some openly critique it³⁶. Hence, they resort to the most commonly cited reason for siding with the narrations mentioning nine and that is the claim of consensus or popularity of the fatwa. This argument can be seen in the words of many jurists.

Despite saying that the traditions on nine years of age are weak, Muhammad Ali Amuli (d. 1009) prefers the ruling to be nine based on precaution given the popularity of the ruling amongst the jurists. Sayyid Muhammad Tabatabai (d. 1231) says that the primary argument for nine years is consensus of the jurists on the matter³⁷. He says the other view in the face of such a consensus is to be considered a rare view, not enough to be binding. Sahib al-Jawahir (d. 1266) explicitly claims that the view is unique to this school of thought and it is popular amongst our jurists³⁸. Sayyid Ali Shubbar (d. 1393) cites both popularity and consensus as his main argument³⁹. Though Ayatullah Behjat (d. 1430) does not explicitly mention his approach on the rulings of girls, but when discussing the bulugh of boys, he says that the popularity of the ruling leads us to prefer the traditions that say fifteen over other traditions⁴⁰. It is not far-fetched to assume he would have made a similar argument for the age of nine.

Sayyid Muhammad Tabatabai Hakim cites popularity for the age of nine as well and says it results in assurance that these traditions were uttered, and others are left speculative⁴¹. Sayyid Sadiq Ruhani also cites popularity as one of his arguments to prefer the traditions that say nine as opposed to thirteen or other signs of puberty⁴².

The recourse to consensus and popularity is a very common way to prefer a certain opinion over another in cases of apparent contradiction. It should however be mentioned, there is no doubt that there has never been a consensus on this matter and a difference of opinion can be traced back as early as 4th century hijri, in the words of Shaykh Saduq. The claims to consensus in the words of jurist are based on leniency and them considering opposing opinions to be rarely held by any jurist.

As for popularity, if one believes that it is to such an extent that it can lead them to knowledge and confidence in what the law ought to be, then it becomes binding. However, some scholars have questioned the recourse to popularity on this issue – given its later development – and whether it is enough for one to attain such knowledge.

Another way some jurists have preferred the ruling of nine over thirteen is by resorting to a principle that says, if there are contradictory reports and one of the reports is in accordance

with the view of the non-Shi'a, then that report in accordance with the non-Shi'a is to be abandoned and the other report is to be taken.

Given this principle, some – like Sayyid Kazim al-Ha'iri – argue that the narrations on thirteen are in accordance with the rulings given by the jurists of the Ahl al-Sunnah⁴³. In other words, the Ahl al-Sunnah jurists have not issued a verdict on nine years, whereas they have given a verdict for thirteen years. Since there is a contradiction in our reports between nine and thirteen, the report that says thirteen is to be abandoned given its accordance with the rulings of the Ahl al-Sunnah.

The aforementioned principle could possibly be used by those who accept it in general, however, their application can be responded back to by showing a few Sunni jurists who also believed the age of bulugh for girls to be nine. In which case applying this principle to prefer nine over thirteen would be problematic.

These are the major approaches taken to reconcile these traditions to arrive at the ruling of nine. In the works of some of the scholars, one finds other points mentioned as well. Such as the fact that they understand the narrations mentioning menstruation as only an indicator of bulugh, not bulugh itself. Hence, some have said that the narrations mentioning menstruation are only to be used in scenarios where the age of a girl is not known, like if she was an orphan and there is no information about her age⁴⁴.

A few have also implied that the ruling permitting intercourse with a girl from age nine indicates bulugh is at nine. However, this is not a very strong argument and most scholars have not put forth this point since it is plausible for intercourse to have been allowed from the age of nine, but that religious duties become obligatory at a later age. The possibility of such a distinction can be seen in the rulings of the Ahl al-Sunnah who may permit intercourse at the .age of nine, despite considering the age of bulugh at a much later age

No Contradiction

There are a number of jurists such as Ibrahim Jannati, Hadi Marifat or Shaykh Muhammad Ya qubi, who do not treat these traditions as a case of contradiction. One of their key presumptions is that bulugh in these traditions is being used in its linguistic meaning and that it means nothing other than biological puberty. The different signs mentioned in the traditions and even the different ages such as 9, 12, 13 are all indicative of when biological puberty generally takes place.

For this post, we will only look at the arguments put forth by Muhammad Ya qubi, a jurisconsult in Iraq. He treats this topic at length in volume four of his Fiqh al-Khilaf and concludes that the number nine is mentioned in four set of traditions. The first set appears to

define bulugh itself with the age nine, the second set mentions nine as the age when one can have intercourse with a girl, the third set mentions it in context of when capital punishment can be applied, and the fourth set refers to it in context of when one has intercourse with a girl before the age of nine she becomes permanently prohibited on him.

He argues that other than the first set of traditions, the others are not concerned with defining bulugh, rather they merely concern legal permissibility of engaging in intercourse, or when capital punishment is to be implemented and so on. In other words, within traditions related to intercourse, one can entertain the possibility that bulugh does not have to be the same as when intercourse is permitted. In traditions relating to capital punishment, the number nine can be interpreted as when a girl can potentially be taken to court for a crime, as that is when she reaches the potential for bulugh, not that it is indeed the age she is to be punished even if she has not reached biological puberty.

Hence, he focuses his discussion primarily on the first set of traditions which are directly concerned with bulugh itself. He first establishes that the criterion for legal responsibilities is bulugh. The concept of bulugh has a well-known linguistic meaning amongst people and in the Arabic language. It is nothing other than biological puberty. As such, the narrations which mention the number nine are not taking the numerical value as a definition of bulugh. If that were to be the case, then all the traditions defining bulugh with menstruation or growth of pubic hair would be rendered meaningless since most girls do not encounter these biological changes at nine and in fact any blood seen before nine is not treated as menstruation. All these traditions put together prevent us from taking the numerical value nine as the definition of bulugh. On the contrary, these other traditions are simply reiterating and pointing us towards a matter which humans are already familiar with⁴⁵.

One of the traditions (#7 in our post) considers bulugh to be at nine because that is when a girl menstruates. Ya qubi believes this tradition is beneficial because it shows that it is menstruation which is seen as a sign of bulugh, not the number nine itself. Ya qubi does not believe the majority of girls menstruate at nine, thus he explains this tradition by saying it is referring to the potential of a girl menstruating from nine onwards and that there is no possibility of her menstruating before the age of nine, subsequently establishing the impossibility of bulugh before the age of nine⁴⁶. Although he does not ignore the possibility of a decent segment of girls menstruating at nine and quotes Imam al-Shafi i who has said: The girls of Tihamah menstruate at 9 years⁴⁷. Tihamah refers to the coastal plain of the Arabian Peninsula beside the Red Sea and it was an area known for its severe hot climate. In addition, it is not totally uncommon for girls under the age of ten to menstruate even today⁴⁸.

In conclusion, Ya qubi says that the number nine mentioned in traditions has to be interpreted in one of the two following ways: the possibility of a girl beginning her bulugh after nine, or the impossibility of her reaching bulugh before the age of nine⁴⁹. Neither of these meanings permit us to legislate nine as an official starting point for all girls all over the world. He concludes his discussion by reiterating that bulugh is a natural well-known phenomenon where bodily, physiological and physiological changes take place. A girl before nine cannot be considered to have reached bulugh and after nine she has the biological potential for it. This potential is realized once signs of puberty are seen and become apparent. This rule is applicable up until thirteen years. If no signs of puberty are seen in a girl after thirteen, then she is to be considered legally responsible since such a delay in puberty is unnatural and abnormal. This is based on a principle extrapolated from inductive research in jurisprudential issues, where we find that whenever something goes beyond normal parameters, we are to treat the subject matter as how it would have been treated in normal circumstances. According to Ya qubi, when it comes to acts of worship, it is legally recommended for them to begin their acts of worship early, especially given independent evidence for it in traditions. .Although they do not have to repeat any missed acts of worship

Further Research

A thought that was shared at the end of our discussion was that if one were to take the view that bulugh on average occurs between the age of nine and thirteen as this is when biological signs of puberty are shown, and a delay in puberty is to be treated as an abnormality, then what implications could that have if in a certain locality the average age of puberty is different? Medical research is very clear that on average, girls reach puberty between the ages of eight-and-a-half and thirteen⁵⁰. This is similar to what is seen in the traditions, with both the lower and higher numerical value mentioned, especially if one presumes there is no contradiction in them. However, research has also shown that this average can shift depending on ethnicity, environmental conditions, nutrition, geographic location and even genetics. As an example, research has consistently shown that girls living in really high altitudes begin to menstruate a few years later on average, and in essence begin puberty significantly later than nine.^{51 52 53 54 55}

If this were the case, then would it be possible for a jurist who also accepts the premise that Islamic laws, in general, are subject to time and place, to issue a verdict that would be in accordance with the average age of puberty in these locations? For example, if the average age of puberty for girls in a certain location is between 12-16, would it imply that the age of bulugh is to be determined between this age range. This is something that was not discussed in the

works of proponents of this view and may perhaps be a discussion that will be held in the near future.

Works Looked At

In conclusion, a list of the numerous works of jurisprudence looked at for this discussion will be listed. There are many supplementary discussions within these works that I have not typed up in this post for the sake of brevity.

1. Ibn Idris al-Hilli (d. 598)
Ajjwibah Masa'il wa Rasa'il fi Mukhtalif Funun al-Ma rifah
Al-Sara'ir al-Hawi li-Tahrir al-Fatawa
2. Allamah al-Hilli (d. 726)
Qawa id al-Ahkam fi Ma rifah al-Halal wa al-Haram
3. Sayyid Amin al-Din (d. 754)
Kanz al-Fawa'id fi Hall Mushkilat al-Qawa id
4. Fakhr al-Muhaqqiqin (d. 771)
Idah al-Fawa'id fi Sharh Mushkilat al-Qawa id
5. Al-Suyuri (d. 826)
Al-Tanqih al-Ra'i li-Mukhtasar al-Shara i
6. Jamal al-Din al-Hilli (d. 841)
Al-Muhadhdhab al-Bari fi Sharh al-Mukhtasar al-Nafi
7. Muhaqqiq Karaki (d. 940)
Jami al-Maqasid fi Sharh al-Qawa id
8. Al-Shahid al-Thani (d. 966)
Sharh al-Lum ah
Masalik al-Afham ila Tanqih Shara i al-Islam
9. Muqaddas Ahmad Ardibili (d. 993)
Zubdah al-Bayan fi Ahkam al-Quran
- Majma al-Fa'idah wa al-Burhan fi Sharh Irshad al-Adhhan
10. Sayyid Muhammad b. Ali Amuli (d. 1009)
Madarik al-Ahkam fi Sharh Shara i al-Islam
11. Mir Sayyid Ahmad Amili (d.1060)
Manahij al-Akhyar fi Sharh al-Istibsar
12. Jawad Kazimi (d. 1065)
Masalik al-Afham ila Ayat al-Ahkam
13. Salih Mazandarani (d. 1081 or 1086)

Sharh Furu al-Kafi

14. Yusuf al-Bahrani (d. 1186)

Al-Hada'iq al-Nadira fi Ahkam al-I'tiraf al-Tahirah

15. Muhammad Baqir al-Bihbahani (d. 1205)

Masabih al-Zilam

16. Kashif al-Ghita (d. 1228)

Kashf al-Ghita an Mubhamat al-Shari'ah al-Ghurra

17. Sayyid Ali Tabatabai (d. 1231)

Riyad al-Masa'il

18. Mirza Qumi (d. 1231)

Ghana'im al-Ayyam fi Masa'il al-Halal wa al-Haram

19. Sayyid Mujahid Tabatabai (d. 1242)

Kitab al-Manahil

20. Hasan b. Ja'far Kashif al-Ghita (d. 1262)

Anwar al-Fiqah – Kitab al-Siyam

21. Sahib al-Jawahir (d. 1266)

Jawahir al-Kalam fi Sharh Shara'i al-Islam

22. Muhaqqiq Damad (d. 1388)

Kitab al-Salat

23. Sayyid Ali Shubbar (d. 1393)

Al-Amal al-Abqa fi Sharh al-Urwah al-Wuthqa

24. Sayyid Ahmad Khwansari (d. 1405)

Jami al-Madarik fi Sharh Mukhtasar al-Nafi

25. Sayyid Muhammad Baqir al-Sadr (d. 1421)

Ma Wara' al-Fiqh

26. Sayyid Muhammad Hasan Shushtari (d. 1429)

Didgah-haye Nau Dar Huquq

27. Muhammad Taqi Behjat (d. 1430)

Jami al-Masa'il

28. Muhammad Hadi Marfat (d. 2007 CE)

Bulugh-i Dukhtaran

29. Sayyid Kazim Hai'ri

Fiqh al-Uqud

30. Ja'far Subhani

Al-Bulugh wa Haqiqatuhu wa Alamatuhu wa Ahkamuhu

31. Sayyid Muhammad Tabatabai Hakim

Masail Mu'asirah fi Fiqh al-Qada

32. Sayyid Sadiq Ruhani

Fiqh al-Sadiq

33. Muhammad Asif Muhsini

Al-Fiqh wa al-Masa'il Tibbiyyah

34. Muhammad Ya'qubi

Fiqh al-Khilaf – Buhuth Istidlaliyyah fi Masa'il Fiqhiyyah Khilafiyyah

Notes

1. Istifta'at, v. 6, pg. 563, # 7776. Also see 7777, 7778 and 7783 for similar response.
2. Minhaj al-Salihin, v. 2, #1069
3. Response on official website.
4. Al-Mabsut fi Fiqh al-Imamiyyah, v. 1, pg. 266
5. Fiqh al-Quran, v. 2, pg. 311
6. Al-Wasilah ila Nayl al-Fadilah, pg. 137
7. Man La Yahduruhu al-Faqih, v. 3, pg. 461.
8. Response on official website
9. Response on official website.
10. Subul al-Islam: al-Risalah al-Amaliyyah, Issue #1 in Shurut al-Taklif.
11. In his paper, Bulugh-i Dukhtaran.
12. Response on official website.
13. #13 on official website.
14. Mafatih al-Shara'i, v. 1, pg. 14.
15. Risaleh Tawdih al-Masa'il, pg. 36-37. Age estimates have been provided by Ayatullah Tehrani himself.
16. Kitab al-Umm, v. 2, pg. 220
17. Al-Mughni, v. 4, pg. 513-515.
18. Al-Sharh al-Kabir, v. 3, pg. 293.
19. Al-Durr al-Mukhtar, v. 6, pg. 448.
20. Al-Qamus al-Fiqhi, pg. 42.
21. Mustadrak al-Wasa'il, vol. 1, pg. 87, quoting from Shaykh al-Saduq's Fadail al-Ashhur al-Thalatha.
22. Usul al-Kafi, vol. 7, pg. 197; Tahdhib al-Ahkam, vol. 10, pg. 37; al-Sara'ir, pg. 482, quoting

- from Kitab al-Mashaykha of Hasan b. Mahbub.
23. Rijal al-Najashi, pg. 244, entry #641
24. Usul al-Kafi, vol. 7, pg. 198; Tahdhib al-Ahkam, vol. 10, pg. 37.
25. Usul al-Kafi, vol. 6, pg. 3.
26. Kitab al-Tawhid, pg. 392.
27. Tahdhib al-Ahkam, vol. 2, pg. 380.
28. Usul al-Kafi, vol. 7, pg. 78; Tahdhib al-Ahkam, vol. 9, pg. 184.
29. Al-Khisal, pg. 421.
30. Tahdhib al-Ahkam vol. 10, pg. 120; al-Istibsar, vol. 4, pg. 249.
31. Tahdhib al-Ahkam, vol. 9, pg. 183.
32. Tahdhib al-Ahkam, vol. 4, pg. 327 and al-Istibsar, vol. 2, pg. 123.
33. Al-Faqih, vol. 2, pg. 122.
34. Ibid.
35. Al-Manat fi Bulugh al-Fatat, by al-Sayyid Mujtaba al-Nur Mufidi, pg. 73.
36. Masa'il Mu'asarah fi Fiqh al-Qada', pg. 10.
37. Riyad al-Masa'il, v. 9, pg. 244.
38. Jawahir al-Kalam fi Sharh Shara'i al-Islam, v. 26, pg. 38.
39. Al-Amal al-Abqa fi Sharh al-Urwah al-Wuthqa, v. 1, pg. 7.
40. Jami' al-Masa'il, v. 3, pg. 81.
41. Masa'il Mu'asarah fi Fiqh al-Qada', pg. 7.
42. Fiqh al-Sadiq, v. 20, pg. 110
43. Fiqh al-Uqud, pg. 119-128
44. Al-Manat fi Bulugh al-Fatat, pg. 279.
45. Fiqh al-Khilaf, v. 4, pg. 188.
46. Ibid, pg. 251.
47. Kitab al-Umm, Imam al-Shafi'i, v. 5, pg. 229
48. In research conducted in Basrah, 7.3% of girls out of 446 participants were found to have experienced early menarche below ten years. See: Age at menarche and menstrual cycle pattern among school girls in Basrah, by Dr. Amal
49. Fiqh al-Khilaf, v. 4, pg. 253.
50. Female Puberty: A Comprehensive Guide for Clinicians, ed. Jennifer E. Dietrich, pg. 2.
51. See: Age at menarche at sea level and high altitude in Peruvian women of different ethnic background
52. See: Ages at menopause and menarche in a high-altitude Himalayan population

- 53. See: The effect of altitude on adolescent growth and development
- 54. See: The effects of high altitude on age at menarche and menopause
- 55. See: Variations in the age at menarche due to physical exercise and altitude