

## Ruling On Offering the Funeral of a Stillborn Child

Darulifta Ahlesunnat (Dawateislami)

### Question

What do the noble scholars and jurists of Islamic law say about the following: There is a hadith in Sunan Abi-Dawood which states that the funeral will be offered upon a stillborn child. Please guide us in light of shari'ah whether the funeral salah of a stillborn child will be offered or not. If not, then what is the meaning of the hadith?

### Answer

بِسْمِ اللّٰهِ الرَّحْمٰنِ الرَّحِیْمِ  
الْجَوَابُ بِعَوْنِ الْمَلِكِ الْوَهَّابِ اَللّٰهُمَّ هِدَايَةَ الْحَقِّ وَالصَّوَابِ

A stillborn child is a child that is lost through miscarriage before completing the pregnancy period (i.e., it is miscarried before six months). If such a child is born dead, its funeral salah will not be offered regardless of whether its limbs had formed. This is because the rules of the deceased (those who passed away after being alive), such as ritual bath, shrouding, and funeral salah, do not apply in its case. Therefore, it will simply be washed, wrapped in a piece of cloth, and buried. However, it is Mustahab to give it a name so that it can intercede for its parents on the day of judgement.

Regarding a stillborn child, it is stated in Mirqat al-Mafateeh:

أى: الولد الساقط قبل ستة أشهر

Translation: Al-Saqt (السقط) is a child that dies in its mother's womb before six months. (Mirqat al-Mafateeh, Vol. 03, p. 1253, Publ. Dar al-Fikr, Beirut)

The funeral salah is not offered upon the child who died in its mother's womb.

Regarding this, it is narrated in Musannaf Ibn Abi-Shaybah, Sunan al-Tirmizi, and Musnad Ahmad (cited from Musannaf):

عن جابر قال: اذا استهل الصبي صلي عليه وورث واذا لم يستهل لم يورث ولم يصل عليه

Translation: It is narrated that Jabir رضي الله تعالى عنه said: If a child cries at the time of birth, funeral salah is offered for him and he inherits. But if he did not cry at the time of birth (i.e., it was born dead), it does not inherit nor is salah offered upon him.

(Musannaf Ibn Abi-Shaybah, Vol. 06, p. 287, Publ. Maktabah al-Rushd, Riyadh)

Under the hadith narrated in Sunan al-Tirmizi, Allamah 'Ali Qari Hanafi رحمه الله تعالى عليه (d. 1014 AH/ 1605 CE) writes:

صححه ابن حبان والحاكم وقال: إنه على شرط الشيخين

Translation: Ibn Hibban and al-Hakim have graded it Sahih. Imam Hakim stated: It is according to the conditions of Shaykhain. (Mirqat al-Mafateeh, Vol. 03, p. 1214, Publ. Dar al-Fikr, Beirut)

Mufti Muhammad Ahmad Yar Khan Na'eemi رحمه الله تعالى عليه (d. 1391 AH/ 1971 CE)

writes:

اگر بچہ زندہ پیدا ہو کر مر جائے جس کی زندگی اس کی چیخ یا حرکت سے معلوم ہو جائے تب تو اس کی نماز جنازہ بھی ہے اور اس کا نام بھی رکھا جائے گا، اس کا باقاعدہ کفن و دفن بھی ہوگا، اس پر میراث کے احکام بھی جاری ہوں گے، اگر مردہ ہی پیدا ہو تو وہ گراہوا حمل ہے، جس پر یہ کوئی حکم (غسل و کفن بطریق

مسنون اور نماز جنازہ جاری نہیں صرف ایک کپڑے میں لپیٹ کر گڑھے میں داب (دفن) دیا جائے گا۔۔۔ اس حدیث کو ابن جناب نے صحیح کہا اور حاکم نے فرمایا کہ یہ علی شرط شیخین ہے۔

Translation: If a child is alive at birth but then dies, and it is known that it was alive by crying or movement, the funeral salah will be performed upon the child, he will be named, and a proper shrouding and burial will be carried out. Also, the rulings of inheritance will apply. **But if it is born dead, it is classified as a miscarried child, to which these rulings (bathing, shrouding according to the sunnah, funeral salah) do not apply. It will simply be wrapped in a single piece of cloth and buried in the ground...** Ibn Hibban graded this Sahih, and Hakim states that it is according to the conditions of Shaykhain. (Mir'at al-Manajeeh Sharh Mishkat al-Masabeeh, Vol. 02, p. 462, Publ. Hasan Publishers, Lahore)

The rulings of the deceased do not apply to the child who is born dead. Thus, Allamah Burhan-Uddin Marghinani رحمۃ اللہ تعالیٰ علیہ (d. 593 AH/ 1196 CE) writes:

(ومن استهل بعد الولادة سمي وغسل وصلي عليه) لقوله عليه السلام: إذا استهل المولود صلي عليه، وإن لم يستهل لم يصل عليه وإن الاستهلال دلالة الحياة فتحقق في حقه سنة الموتى (وان لم يستهل أدرج في خرقة) كرامة لبني آدم (ولم يصل عليه) لماروينا، ويغسل في غير الظاهر من الرواية لأنه نفس من وجه، وهو المختار

(Al-Hidayah, Vol. 01, p. 91, Publ. Dar Ihya' al-Turas al-'Arabiyy, Beirut)

### **Explanation of the hadith referenced in the question:**

The hadith and its translation are as follows:

It is narrated in Sunan Abi-Dawood:

عن المغيرة بن شعبه، وأحسب أن أهل زياد أخبروني أنه رفعه إلى النبي صلى الله عليه وآله وسلم قال: الراكب يسير خلف الجنائز، والماشي يمشي خلفها، وأمامها، وعن يمينها، وعن يسارها قريباً منها، والسقط يصلي عليه، ويدعى لوالديه بالمغفرة والرحمة

Translation: It is narrated from al-Mughirah Bin Shu'bah رضي الله تعالى عنه that the Noble Rasool ﷺ said: A mounted person should proceed behind the funeral procession.

Those on foot should proceed behind it, ahead of it, to its right and its left, close to it. **Funeral salah should be offered for the miscarried child**, and supplications of forgiveness and mercy should be made for its parents. (Sunan Abi-Dawood, Vol. 03, p. 205, Publ. Al-Maktabah al-'Asriyah, Sidon, Beirut)

(1) The words of the hadith “والسقط يصلي عليه” (Funeral salah should be offered for the miscarried child) are specific to the case that any signs of life are shown in the child, such as any movement or noise. Otherwise, there is a clear prohibition in the hadith to offer funeral salah for a child that is born dead. For example, the narration referenced above states “إذا استهل الصبي صلي عليه” (When a child shows signs of life at the time of birth, funeral salah should be offered for him).

Thus, it is stated in Faid al-Qadeer and Lam'aat al-Tanqeeh Sharh Mishkat al-Masabeeh (cited from Lam'aat):

(والسقط يصلي عليه) الولد لغير تمام، فعندنا وعند الشافعي هذا مخصوص بأن يستهل، وهو أن يكون منه ما يدل على الحياة من حركة عضو أو رفع صوت۔۔۔ وروى النسائي عن جابر: (إذا استهل الصبي صلي عليه وورث)، ورواه الحاكم عن أبي الزبير، وقال: صحيح.

Translation: “Funeral salah should be offered for the miscarried child” refers to the child that is miscarried before birth. According to us (Ahnaf) and al-Shafi'i, this is restricted to istihlal, i.e., any action that indicates life, such as movement of the body

or making noise. Al-Nasa'i narrates from Jabir رضي الله تعالى عنه: "When a child makes noise at the time of birth, funeral salah will be offered for him, and he will inherit." Al-Hakim narrates this from Abu al-Zubair, and he said: It is Sahih. (Lam'aat al-Tanqeeh Fi Sharh Mishkat al-Masabeeh, Vol. 04, p. 144, Publ. Dar al-Nawadir, Damascus)  
It is stated in al-Tajreed Lil-Qudoori, Fath Bab al-'Inayah, and al-Binayah Sharh al-Hidayah (cited from al-Tajreed):

احتجوا: بما روى المغيرة بن شعبة رضي الله عنه أن النبي صلى الله تعالى عليه وآله وسلم قال: (السقط يصلى عليه، ويدعوا له بالمغفرة و  
الرحمة) قلنا: هذا محمول على من علمت حياته، بدلالة الخبر الآخر

Translation: Some people took the narration of al-Mughirah Ibn Shu'bah رضي الله تعالى عنه as proof (for funeral salah for the stillborn child), in which he states that the Noble Rasool ﷺ said: "Funeral salah should be offered for the miscarried child, and supplications of forgiveness and mercy should be made for its parents". We say: This is for the child about whom it was known that he was alive. Another narration indicates this. (Al-Tajreed Lil-Qudoori, Vol. 03, p. 1070, Publ. Cairo)

**(2) In this narration, instruction was given to offer the funeral salah for the child without any restrictions, whereas other narrations restricted offering the funeral salah of the child with the condition of istihlal (showing signs of life). The principle is that if one narration is unrestricted and another narration is restricted, the restricted narration takes precedence.**

Thus, Mulla 'Ali Qari Hanafi رحمه الله تعالى (d. 1014 AH/ 1605 CE) writes:

وأما معارضته بما رواه الترمذي من حديث المغيرة وصححه: أنه عليه الصلاة والسلام قال: (السقط يصلى عليه. إلخ) فساقطة؛ إذا حصر  
مقدم على الإطلاق عند التعارض

Translation: As for the contradiction between the narration of al-Tirmizi (which he has graded Sahih) and the hadith of al-Mughirah in which he said that the Rasool ﷺ said: "Funeral salah should be offered for the miscarried child", this contradiction is inconsiderable because when there is a contradiction, restriction takes precedence over the unrestricted. (Mirqat al-Mafateeh, Vol. 03, p. 1204, Publ. Dar al-Fikr, Beirut)

**(3) Regarding the narration being referred to in the question, the jurists have written that the hadith gives a general permission regarding the child's funeral salah. However, other narrations clearly prohibit the funeral salah of the child that is born dead. When there is a contradiction between two such ahadith, one of which gives general permission and the other states prohibition, the narration that states the prohibition takes precedence.**

Thus, Shaykh Muhaqqiq, Shah Abdul-Haq Muhaddith Dehlwi رحمه الله تعالى (d. 1052 AH / 1642 CE) writes:

الحظر مقدم على الإطلاق عند التعارض

Translation: When there is a contradiction, the prohibition is preferred over general permission. (Lam'aat al-Tanqeeh Fi Sharh Mishkat al-Masabeeh, Vol. 04, p. 144, Publ. Dar al-Nawadir, Damascus)

Imam Kamal-Uddin Ibn Hummam رحمه الله تعالى (d. 861 AH/ 1456 CE) writes:

وأمامعارضته بما رواه الترمذي من حديث المغيرة وصححه أنه عليه الصلاة والسلام قال «السقط يصلى عليه ويدعى لوالديه بالمغفرة و  
الرحمة» فساقطة، إذ الحظر مقدم على الإطلاق عند التعارض

Translation: As for the contradiction between the narration of al-Tirmizi (which he has graded Sahih) and the hadith of al-Mughirah that he said: “Funeral salah should be offered for the miscarried child”, this contradiction is inconsiderable because when there is a contradiction in any ruling, prohibition takes precedence over general permission. (Fath al-Qadeer, Vol. 02, p. 133, Publ. Dar al-Fikr, Lebanon)

وَاللّٰهُ اَعْلَمُ عَزَّ وَجَلَّ وَرَسُوْلُهُ اَعْلَمُ صَلَّى اللّٰهُ تَعَالٰى عَلَيْهِ وَاٰلِهٖ وَسَلَّمَ

(Allah Almighty knows best and His Messenger صَلَّى اللّٰهُ عَلَيْهِ وَاٰلِهٖ وَسَلَّمَ knows best.)

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*Dar-ul-Ifta Ahlesunnat (Dawat-e-Islami)*



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