



ISSN Print: 2664-9799
ISSN Online: 2664-9802
IJHER 2025; 7(1): 377-383
www.humanitiesjournal.net
Received: 23-01-2025
Accepted: 26-02-2025

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Selected issues from the fatwas of Imam Al-Haytami in the chapter on tayammum: A comparative study

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DOI: <https://www.doi.org/10.33545/26649799.2025.v7.i1d.168>

Abstract

Imam Al-Haitami (d. 974 AH) excelled in various arts and sciences, such as jurisprudence, interpretation, readings, Arabic, and others. Researchers have dealt with some of these sciences to highlight his identity in them, and in this research, I sought to shed light on his jurisprudential personality through a study Three selected issues in the chapter on Tayammum that the Imam gave a fatwa for, a comparative study. It is worth noting that Imam Al-Haitami did not write a book on this art, but rather his student Al-Fakihi (d. 982 AH) compiled all his fatwas in a book called Al-Fatawa Al-Fiqhi Al-Kubra. He arranged them according to the known sections of jurisprudence.

Keywords: Sensory, event, demand, loss, legal

Introduction

In the name of God, and all praise is due to God, who created His creation, perfected it, and perfected it. He revealed the Book, explained it, taught it, and provided understanding of it in His verses to those He chose and honored. Peace and blessings be upon the leader of the pious and the best of prophets and messengers, the truthful and trustworthy, the master of the first and the last, the son of Abdullah, our Prophet Muhammad, peace and blessings be upon him, his family, and all his companions, and those who follow his guidance until the Day of Judgment.

God, the Almighty, has singled us out with rulings and pillars that have never been applied in any other religion. This is what has made us proud of our eternal religion until the Day of Judgment. Muslim scholars continue to derive rulings from the depths of books, books of Islamic jurisprudence, and study its issues by mentioning its issues and citing its evidence, in service to this pure religion.

In this research, we have addressed selected issues related to tayammum from the fatwas of Imam al-Haytami, and studied them in a comparative manner. **Significance of the Research:** The importance of this research stems from the importance of its subject matter. The science of jurisprudence helps clarify the rulings on issues, enabling those responsible to act upon them, especially those topics that touch upon the individual Muslim on a personal level. This helps them recognize what is permissible and practice it, and what is forbidden and avoid it. The importance of this research also lies in highlighting the jurisprudential character of one of the scholars of this nation, demonstrating his stature in this field.

Difficulties

We mentioned in the research summary that Imam al-Haytami did not write works on jurisprudence. The issues that are the subject of this research represent his fatwas, which his student compiled into a book. Therefore, when examining these fatwas, we find that they often lack textual evidence, references, or rational conclusions, which Imam al-Haytami draws from scholars of his Shafi'i school of thought.

Research Methodology

The researchers followed a consistent methodology in writing this research, as follows:

1. Mentioning the schools of thought of the jurists on each issue, relying on the authoritative books of each school of thought.

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2. Including the transmitted and rational evidence of the jurists for each of the four schools of thought.
3. Definition of prominent figures.
4. References to the Noble Qur'anic verses in the margin, limiting them to the point of reference within the verse.
5. References to the Noble Prophetic Hadiths from their sources, including the book, chapter, volume, page, and hadith number, and the ruling on hadiths other than the two Sahihs.
6. References to the full book card when they are first mentioned in the margin.
7. Abbreviations of some terms, including: (H) Hijri, (M) Gregorian, (T) died, (H) hadith, (T) edition, (ND) without date, (ND) without edition.

Previous Studies

When searching websites, I found many studies that studied various sciences by Imam al-Haytami, such as interpretation and others. However, I selected those related to the science of jurisprudence. Among these studies:

1. Fatwas based on legitimate tricks by Imam Ibn Hajar al-Haytami in his book *Al-Fatawa al-Fiqhiyya al-Kubra* (An Applied Study). Prof. Dr. Numan Sarhan Attia, *Journal of the College of Imam al-A'zam University*, 2023, Issue 146.
2. Ibn Hajar al-Haytami's additions to al-Nawawi in his book *Tuhfat al-Muhtaj Sharh al-Minhaj* (On the Book of Purification): Selected Examples, Omar Hassan Ali Jassim, *Education for Modern Specialized Studies*, 2023, Issue 6.
3. The rule of custom is established and its jurisprudential applications in the book *Al-Fatawa al-Fiqhiyya al-Kubra* by Imam Ibn Hajar al-Haytami (d. 974 AH): An Applied Study, Salah Mohsen Hammadi Ayed, Prof. Dr. Ahmed Khalaf Abbas Samiran, *Al-Baheth Journal of Islamic Sciences*, 2023, Volume (1), Issue (2).

Research Plan

The study required the research to include two sections:

- **Section One:** A Brief History of Imam al-Haytami's Life
- **Section Two:** A Study of Imam al-Haytami's Fatwas (A Comparative Study). It includes three topics:
 - **Section One:** The Requirement of Dust for the Earth Used for Tayammum
 - **Section Two:** The Requirement of Water for Tayammum
 - **Section Three:** Tayammum for Minor and Major Impurity
- This is followed by a conclusion in which we present the most important findings and a list of sources and references.

A brief history of imam al-haytami

His Name, Kunya, and Lineage

He is Ahmad ibn Muhammad Badr al-Din ibn Muhammad Shams al-Din ibn Ali Nur al-Din ibn Hajar al-Haytami al-Sa'di al-Ansari al-Shafi'i, Abu al-Abbas. His grandfather was called Hajar because, although he was one of the most prominent men of his people, he was often silent, speaking only when necessary.

Second: The Birth of Imam al-Haytami

He was born in the month of Rajab (909 AH) in the Gharbia Governorate, one of Egypt's governorates, specifically in the neighborhood of Abu al-Haytham, to which he was named.

Third: Among Imam al-Haytami's Teachers

The Imam acquired his knowledge from some scholars of the tenth century AH, particularly those who were based in Egypt. Among these are:

1. Sheikh al-Islam Judge Zakariya al-Shafi'i.
2. Sheikh Imam al-Mu'ammal al-Zayni Abd al-Haq al-Sunbati.
3. Shams ibn Abi al-Hama'il.
4. Al-Shams Al-Samhudi, and many others.

Fourth: Among Imam Al-Haytami's Students

Numerous students studied under Imam Al-Haytami, due to their large number. People flocked to learn from him and were proud of their affiliation with him. Among these were: Wajih Al-Din Abd Al-Rahman Al-Amoudi, Muhammad ibn Ahmad Al-Fakihi.

Fifth: Imam Al-Haytami's Scholarly Biography

The Imam's father died when he was young, and he was taken care of by the two Imams, Shams Al-Din ibn Abi Al-Hamayel and Shams Al-Din Al-Shinawi. The latter transferred him from Abu Al-Haytham's birthplace to the shrine of Sidi Ahmed Al-Badawi. Here, his scholarly journey began, where he studied the principles of the sciences. Then, in 924 AH, he was transferred to Al-Azhar University, where he studied under the scholars of Egypt after having memorized the Qur'an as a child. He was then authorized to issue fatwas and teach before the age of twenty. His proficiency in various sciences varied, including interpretation, hadith, theology, jurisprudence and its principles, inheritance law, and arithmetic.

Sixth: The School of Imam al-Haytami

Imam al-Haytami followed the Shafi'i school of thought, as is evident from his writings. He stated this in the introduction to his book, saying: "He arranged these according to the order of the chapters of our jurisprudence, O Shafi'is."

Seventh: Among the Works of Imam al-Haytami

Some of the Imam's works are printed, and some are still in manuscript form:

The printed works include

- *Al-Zawaajir 'an Iqtiraf al-Kaba'ir* (The Prohibitions Against Committing Major Sins), a book that incites and warns against committing major sins and transgressions.
- *Al-Nukhba al-Jalilah fi al-Khutab al-Jazilah* (The Noble Selections in the Serious Sermons), which contains selected sermons.
- *Al-Sawaiq al-Muhriqah fi al-Radd 'ala Ahl al-Bida' wa al-Zandaqa* (The Burning Thunderbolts in Response to the People of Innovation and Heresy), and others.

Among his manuscript works are

- *Musnads of Ibn Hajar al-Haytami*.
- *Mukhtasar al-Ni'mah al-Kubra 'ala al-'Alam bi-Mawlid Sayyid Bani Adam* (The Summary of the Greatest Blessing on the Scholars Regarding the Birth of the Master of the Children of Adam).

- Al-Fath al-Mubeen fi Sharh al-Arba'in (The Clear Victory in Explanation of the Forty Hadiths).
- Al-Khairat al-Hasan fi Mana'iqb Abu Hanifa al-Nu'man.
- A commentary on the clarification of rituals, and other matters.

Eighth: The death of Imam al-Haytami

When researching specialized sources, I found no disagreement among scholars regarding the date of his death. He died on Monday, Rajab (974 AH), and was buried in Mecca in al-Mu'alla in the cemetery of the Tabariyyin.

Fatwas of Imam al-Haytami

Requiring Dust for the Earth Used for Tayammum

First: What Imam al-Haytami issued a fatwa on

(He was asked) about the statement of al-Minhaj and others regarding tayammum, "and with sand containing dust." Does what is meant by sand dust refer to what is obtained from the soil, not what is created from the sand itself, as evidenced by what may be implied by al-Minhaj's statement that one performs tayammum with soil, even if it is sand? Or is the meaning more general?

Al-Minhaj only expressed this expression because the dust created from the sand itself is called soil. Otherwise, the statement of the commentator al-Mahalli after al-Minhaj's statement, as previously stated, "because it is from the layers of the earth and is similar to soil" Would have been lost.

(He replied) by saying: "The saint Abu Zur'ah has stated that sand dust is not called dirt. The expression of Al-Hawi like Al-Rawdh and Al-Irshad and the expression of our Sheikh in Sharh Al-Bahjah is that he calls it. Then some of the commentators of Al-Irshad said: He used sand dust as an example to indicate that it is of the same type as dirt or one of the layers of the earth. It is possible that it is an analogy for what is permissible to perform tayammum with other than dirt, with dirt. Abu Zur'ah's words may be interpreted as meaning that he does not call it literally, and the words of others as meaning that he calls it metaphorically. This is indicated by the expression of the aforementioned Sharh Al-Irshad, where he allowed it to be an analogy and an analogy. Yes, Al-Mawardi's saying: Sand is of two types: that which has dust, in which case tayammum is permissible because it is of the same type as dirt. And that which does not have dust, then it is not, because of the absence of dust, not because it is outside of The name "soil" clearly indicates that both are called "soil" in reality, unless what is mentioned is interpreted. By contemplating what has been established, the statement of Al-Manhaj becomes clear, along with the statement of the distinguished commentator, I mean Al-Jalal Al-Mahalli, and that there is no contradiction between them for the validity of tayammum with it, whether we say that it is literal or metaphorical soil. Al-Ghazzi's statement: "If sand is crushed and becomes dust, tayammum with it is valid, unlike crushed stone," is refuted by their statement: "It is not valid with fine sand because it is very small pebbles like pounded stones." If you ask: What is the difference between pounded sand and dust, even if we are certain that it is sand? I say: The difference is that dust is not small pebbles or anything close to that, but rather it is something that separates from those pebbles by means of some adhering to one another or something similar. Thus, it has the meaning of the actual dust of soil, unlike pounded sand, which is not removed by pounding, even if it is exaggerated in its being small pebbles. Very much so, there

was no meaning of dust in it, and God knows best.

Second: The opinions of the jurists on the issue

The jurists differed on the ruling on the requirement of dust, with two schools of thought

The first school of thought: It is required that the dust be dusty. This is the opinion of Abu Yusuf and Muhammad ibn al-Hasan of the Hanafi, Shafi'i and Hanbali. This is what Imam al-Haytami issued a fatwa on.

Evidence for the first school of thought

The proponents of this school of thought cited a number of evidences from the Qur'an and Sunnah.

As for the Qur'an

1. The Almighty says in the verse on tayammum: (...then wipe your faces and your hands with it...).

The significance of this is that wiping requires that it be done with a part of it, and that which has no dust, such as a rock, cannot be wiped with anything of it. Therefore, the apparent meaning requires that it be from the soil that is wiped on the face and hands. If nothing of it sticks to the hand, then it is not permissible to wipe with it, and so it is not permissible.

2. The Almighty's statement

The significance of this is: "Describing soil as pure requires that it has dust". This is based on the view that pure soil is the growing soil.

From the Sunnah

1. The hadith of Ali ibn Abi Talib, may God be pleased with him, who said: The Messenger of God, may God bless him and grant him peace, said: "I have been given what no other prophet was given." We said: "O Messenger of God, what is that?" He said: "I have been aided by terror, I have been given the keys to the earth, I have been named Ahmad, dust has been made a means of purification for me, and my nation has been made the best of nations."

The evidence: That which does not come into contact with the place of purity is not pure, and this can only occur if dust adheres to the part of the body being wiped. The Second School of Thought: Dust is not a condition for the earth used for tayammum. This is the view of the Hanafis and Malikis.

Evidence for the Second School of Thought

The proponents of this school of thought cited a number of proofs from the Qur'an and Sunnah.

Regarding the Qur'an

1. The Almighty's statement: (...pure earth...).

The evidence: The apparent meaning of His statement □ □ is general, encompassing all that rises to the earth without being specific.

From the Sunnah

1. The hadith of Abu al-Juhaym ibn al-Harith ibn al-Summah al-Ansari (may Allah be pleased with him) who said: "The Prophet (peace and blessings be upon him) approached from the direction of Bir Jamal (may Allah be pleased with him) and was met by a man who greeted him. The Prophet (peace and blessings be upon him) did not respond until he turned to the wall and

wiped his face and hands, then returned the greeting.” The evidence for this is: “The wall is smooth and free of dust.” If dust had been a condition, the Prophet (peace and blessings be upon him) would not have performed tayammum with it.

- The hadith of Abd al-Rahman ibn Abza (may Allah be pleased with him) on the authority of his father, who said: A man came to Umar ibn al-Khattab and said: I became ritually impure, but I did not find water. Ammar ibn Yasir (may Allah be pleased with him) said to Umar ibn al-Khattab: Do you not remember that you and I were on a journey, and you did not pray, but I covered myself with my clothes and prayed? He mentioned that to the Prophet (peace and blessings of Allah be upon him), and the Prophet (peace and blessings of Allah be upon him) said: This would have been sufficient for you. So the Prophet (peace and blessings of Allah be upon him) struck the ground with his hands. And he blew into them, then wiped his face and hands with them.

The evidence is: "Blowing removes the dust and dirt that has stuck to the hand." If dust had been a condition, the Prophet (peace and blessings of Allah be upon him) would not have blown it.

- The hadith of Imran ibn Husayn (may Allah be pleased with him): The Messenger of Allah (peace and blessings of Allah be upon him) saw a man who had isolated himself and had not prayed with the people. He said, "O so-and-so, what prevented you from praying with the people?" He said: O Messenger of Allah, I have become ritually impure and there is no water. He said: (Use earth, for it is sufficient for you).

Evidence: The hadith is general, like the noble verse, because the definitive definite article (al) is included in the singular word (earth), so it includes all parts of the earth, and it is not limited to dust.

Discussion of the evidence

The proponents of the first school of thought, who stipulated that dust should be present in the earth, responded to the evidence of the proponents of the second school of thought, based on the hadith of Abu al-Jahim (may Allah be pleased with him). They said: A wall is inseparable from dust, and a person wiping with his hand is not free of dust, and this is evident from observation. They also responded to the hadith of Abd al-Rahman ibn Abza (may Allah be pleased with him).

Requesting Water for Tayammum

First: What Imam al-Haythami said (Fatwa)

A question was asked about legal loss. Is it the same as physical loss if travelers carry something they don't need immediately but will need later, such that a prior search for water is not required for the validity of their Tayammum? Or can it be said that physical loss is a condition of knowing that there is no water available? So, when they know that the water does not exceed their need for drinking or the like, the loss is equal, unlike if there is still uncertainty about whether it exceeds their need or not, and what is the ruling on that?

He replied: “They have stated that whoever has water with him and needs it for a respectable thirst of his own or

someone else, such as his companions, even if it is a temporary situation, should perform tayammum even if he thinks there is water in the final situation, to ward off the harm that will befall him, immediate or expected. Hence, he said in al-Jawahir: ‘The companion is not meant to be someone who is in contact with others in particular, but if he knows that someone in the caravan needs him for his thirst, immediately or in the future, he must perform tayammum and give him water when needed.’ It appears that he must go back and forth if he is able to. What is more correct is that when he knows or thinks it is likely that someone in the caravan will need it, he must stock up on it if he is able to, otherwise he is not required to do so. No one is required to seek water unless he imagines that it is water within the limits of proximity or relief, with its condition, in excess of what people or their animals need to drink. Otherwise, he is not required to seek it, because it is futile. And by what has been established, it is known that the presence of water when there is a need for it, immediately or in the future, is like its physical absence, and that when it is known that it does not exceed their need, it is like its absence, so it is not...” It must be sought, and it is not permissible to use it.

Second: The opinions of the jurists on the issue:

The jurists stipulated seeking water for tayammum unless one is certain of its unavailability, as detailed below:

Seeking according to the Hanafi school

According to the Hanafi school, if no one is present to inform one of the proximity of water, nor does one suspect that water is close, one is not obligated to seek it. Even if one performs tayammum and then prays before seeking it, and then it appears that water is nearby, then his prayer is valid. It is recommended for him to seek it if he is hopeful that water will be available.

Evidence

The Hanafis relied on a number of rational proofs:

- The condition for seeking water is the absence of water, and this condition has been met in appearance, as a desert is often a place where water is absent, unlike urban areas.
- Seeking water is of no use if one does not hear of water.
- If it occurs and is cut off from its people, harm will befall him.

Requesting water according to the Maliki school

According to the Maliki school, the person who is missing water is obligated to request water for each prayer, whether he knows its presence in that place, or is in doubt or suspicion. Ibn Marzuq favored the view that it is not obligatory to request water if he suspects its presence. This is only because he suspects its absence, and suspicion is a legal principle in Islamic law. However, if the person seeking water is obligated to request it, he should request it in a manner that does not constitute difficulty.

If the person seeking water moves from the place where he sought water for the first prayer to another place, or remains in the place where he initially sought water, but suspects, or is certain, that water has appeared, or is in doubt about its presence, then he is not obligated to request it, because it was later confirmed that it did not appear.

The Maliki school concludes that he is only obligated to request water in three cases

- **First:** If he is certain of its presence in the place where he is.
- **Second:** If he suspects the presence of water in the place where he is.
- **Third:** If he doubts its presence or its absence from it.

Requesting according to the Shafi'i school of thought

According to the Shafi'i school of thought, if a traveler or resident is certain that he has lost water, he should perform tayammum without seeking it; because seeking what is known to be lacking is futile, as if he is in some desert sand. It has been said that seeking is necessary, because it is not necessary to say to someone who is seeking that he did not find it. If any doubt or suspicion occurs to him, then he must then seek it, although he does not have to seek it from each person specifically. Rather, it is sufficient in this matter for him to call out a general call, either himself or his authorized representative. He should also look around him in all four directions. If he does not find it, he should specifically seek it in a place of greenery or where birds gather, as an extra precaution.

Seeking water according to the Hanbalis

According to the Hanbalis, seeking water is obligatory when the time for prayer begins. This search must be done from one's baggage, nearby areas, and with one's companions. This is the case if one is convinced it is likely to be found in one's baggage, in a hole, or in a place where birds flock. This is the doctrine. A narration from Imam Ahmad states that seeking water is not obligatory.

The proponents of the doctrine cited evidence from the Qur'an

1. The Almighty's statement

The evidence

Because it is not said that one did not find water except for one who sought it. Moreover, tayammum is an alternative, so it is not permissible to switch to it before seeking a substitute.

Imam Ahmad cited rational evidence

1. Because he apparently lacks water, so he is not obligated to seek it.
2. Because the seeker is definitely not aware of water, not even apparently, so he is similar to someone who seeks it.

Preference

Researchers believe that tayammum is a permissible act when water is not available, so there is no need to seek it. This is because doing so could lead to delaying and missing the prayer time, on the one hand, and because water is often needed for drinking, preparing food, and the like, so it is preferable. And God knows best.

Tayammum for minor and major impurity

The Fatwa of Imam al-Haythami

Imam al-Haythami was asked: Is one tayammum sufficient for someone who has major and minor ritual impurity, just as a full ablution is sufficient for him, or not, given the weakness of the permissibility of tayammum?

He replied: "Yes, one tayammum is sufficient for both, and this is clear and obvious. What is disputed is whether the inclusion of ablution in ritual bathing applies here based on the commonality that they are two forms of purification in each case, achieved by a single act, or is there a distinction based on the fact that ablution and ritual bathing are different in name and essence? A dispute arose over inclusion, because those who consider this difference to be inconsistent prevent inclusion, while those who believe that ritual bathing achieves the purpose of ablution and more include it, which is the more correct view, because purifications are based on overlap, and because the focus is on achieving the purpose, even if by a single act.

As for the dry ablution for minor ritual impurity and the dry ablution for major ritual impurity, their reality, meaning, form, and purpose are one and the same. Therefore, it cannot be imagined with the inclusion, as there is no basis for it here, and because the command to perform two consecutive dry ablutions is required so that what is performed dry ablution for becomes permissible, which resembles frivolity. Because if he performs tayammum first to make prayer permissible, then he makes it permissible for it. Therefore, requiring a second tayammum is futile and pointless. The lack of inclusion here is only conceivable, according to the weak opinion, that the intention to remove ritual impurity is sufficient. However, according to the more correct opinion, which requires the intention to make it permissible, whether one is in a state of ritual impurity or major ritual impurity, this is inconceivable. Therefore, if he intends to make it permissible when performing ritual impurity, and then performs the minor ritual impurity, or vice versa, it does not harm, according to consensus.

The Opinions of the Jurists on the Issue

The jurists differed on the issue of whether a person who is required to perform two or more tayammums is required to make one intention to replace the remaining ritual impurity, or whether two intentions are required, according to two schools of thought:

The first school of thought: One tayammum with one intention suffices for both ritual impurities. This is the opinion of the Hanafis and Shafi'is. This is also the opinion of Imam al-Haythami.

Evidence for the first school of thought

The proponents of the first school of thought provided rational evidence:

1. Their purity is the same, so one is nullified by the action of the other, such as urine and feces.
2. Tayammum lacks the intention to become a purification, as it is not a true purification, but rather a purification prescribed by Islamic law for necessity.

The second school of thought: A single tayammum is not valid. This is the view of the Malikis and the Hanbalis.

Evidence for the second school of thought:

The proponents of the second school of thought cited evidence from the Sunnah and rational evidence.

As for the Sunnah:

1. The statement of the Prophet (peace and blessings of Allah be upon him): "Actions are but by intention, and each person will have but that which he intended..."

The evidence: If one did not intend major ritual impurity, it does not suffice for it, as they are two different causes, and the intention to perform one of them does not suffice for the other, as in Hajj and Umrah.

Rational evidence

1. Because they are two forms of purification, one cannot be performed with the intention of the other.
2. Tayammum does not remove ritual impurity, but rather permits prayer. Therefore, it is necessary to specify the purpose for which tayammum was performed, which requires ritual bathing and ablution.

Preference

Researchers believe that the most correct view is that of the proponents of the first school of thought, and God knows best. This is because tayammum for minor and major ritual impurity is a single matter, with a single reality and a single purpose. If two tayammums were performed, the matter would be futile and unnecessary. And God knows best.

Conclusion

The most important findings the researchers reached through this research:

1. Imam al-Haytami's diversity in his generalities.
2. Imam al-Haytami's agreement with the views of the proponents of the Shafi'i school of thought on the issues we studied in this research.
3. He presents the opinions mentioned in each issue and refers them to their authors and the books in which they are mentioned.
4. He discusses the opinions of the scholars of his school of thought and responds to them.
5. Our final supplication is that all praise is due to God, Lord of the Worlds.

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